

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

R. Scott Sprouse, Circuit Court Judge

CASE NO.: 2019-000722

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SC Court of Appeals

Adriel N. Garnett, ... Appellant,

vs.

State of South Carolina, ... Respondent.

RECORD ON APPEAL

ALAN WILSON
Attorney General
W. JEFFREY YOUNG
Chief Deputy Attorney General
DONALD ZELENKA
Deputy Attorney General
MELODY J. BROWN
Senior Assistant Deputy Attorney General
THE HONORABLE BARRY J. BARNETT
Solicitor, 7th Judicial Circuit

TOMMY A. THOMAS
Bar No.: 005536
Post Office Box 88
Irmo, SC 29063
(803) 732-5507

ATTORNEY FOR APPELLANT

J. ANTHONY MABRY
Office of Attorney General
P.O. Box 11589
Columbia, SC 29211

ATTORNEY FOR APPELLANT

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1 (White female comes forward.)
2 Says the State?
3 MS. JORDAN: Please present this juror.
4 THE CLERK: Says the defense?
5 MR. NEELY: Please swear this juror.
6 THE CLERK: Number 133, Joshua Means.
7 (Black male comes forward.)
8 What says the State?
9 MS. JORDAN: Please present this juror.
10 THE CLERK: What says defense?
11 MR. NEELY: Please swear this juror.
12 THE CLERK: Number 20, Linda Brown.
13 (White woman comes forward.)
14 Says the State?
15 MS. JORDAN: Please present this juror.
16 THE CLERK: What says defense?
17 MR. NEELY: Please swear this juror.
18 THE COURT: We'll go with one alternate. Is that
19 agreeable, one?
20 MR. NEELY: Yeah.
21 THE COURT: One alternate?
22 MS. JORDAN: Yes, Your Honor.
23 THE CLERK: Number 154, Jeffrey Randall.
24 (White male comes forward.)
25 What says the State?

1 MS. JORDAN: Please present this juror.

2 THE CLERK: Says defense?

3 MR. NEELY: Please excuse this juror.

4 THE CLERK: Number 37, Sonya Copeland.

5 (Black female comes forward.)

6 Says the State?

7 MS. JORDAN: Please present this juror.

8 THE CLERK: Says defense?

9 MR. NEELY: Please swear this juror.

10 THE COURT: Anything concerning the method or
11 manner of selection of the jury from the State?

12 MS. JORDAN: None from the State, Your Honor.

13 THE COURT: Any from the defense?

14 MR. NEELY: Not at this time, Your Honor.

15 THE COURT: All right. Ladies and gentlemen,
16 congratulations on being selected on the first jury.
17 Let me speak to those who unfortunately did not get to
18 be a part of this jury. I appreciate your time and your
19 patience while we went through the jury qualification
20 process and also the jury selection process.

21 At this time I'm gonna ask, if you would, to exit
22 the courtroom. The bailiffs will show you how to leave
23 the building. I'm gonna ask, if you would, to please
24 call back to that telephone number after 6 o'clock
25 tonight and you can receive instructions about your

1 service tomorrow if, in fact, you are needed tomorrow.

2 But, again, thank you for your time and your
3 patience from going through this process. You may go
4 with the bailiff. Please exit the courtroom quietly and
5 we will continue to work.

6 (Jury panel leaves the courtroom at 12:19 p.m.)

7 THE COURT: All right. Ladies and gentlemen,
8 congratulations on being selected our first jury for the
9 week. Let me give you a couple of preliminary
10 instructions. What you're going to be asked to do in
11 this trial is to engage in deliberations, and as a
12 result of your deliberations, you are going to be asked
13 to write a verdict in this case.

14 I need to give you the first instructions, is
15 that you're not to engage in any discussions about this
16 case. You're not to begin your deliberations about
17 anything involving this case until we've reached the end
18 of this case. That's when after all of the evidence has
19 been presented, the lawyers have made their arguments
20 and I instructed you on the law, only at that point are
21 you to have any discussions among yourselves or anyone
22 else about anything involving the case.

23 So that means that during break time or at the --
24 or at night, don't start talking about the case coming
25 and going from the courthouse. Don't talk about this

1 case. You can go home and the natural question is gonna
2 be, oh, great, you got selected on a jury, what kind of
3 case is it? Just very politely tell your family and
4 your friends that the judge has instructed me I cannot
5 talk about this case at all while the case is going on.

6 You can tell them that you'll talk about it until
7 they're blue in the face after the case is over, but
8 until you begin your deliberations at the end of
9 this case is the only time you can have any discussions
10 among yourselves or anyone else about anything else
11 involved in the case.

12 Also, you've now heard an introduction to the
13 case and you've heard a little bit about the facts of
14 the case. I've introduced you to some legal concepts by
15 announcing the charges. When you engage in your
16 deliberations and the decisions you're going to make in
17 this case, you're to engage in your deliberations and
18 your decisions you reach are made solely on the
19 information you receive in this courtroom.

20 So I need you to listen to the evidence, listen
21 to the lawyers, listen to the Court, but within your own
22 ranks or when you go home, do not do any type of
23 independent research or investigation. Do not try to
24 pull it up if you think there's been anything on the
25 internet or in the newspaper. Do not do any type of

1 research like that.

2 You're gonna hear probably locations and
3 addresses. Do not try to drive around and find out
4 where this took place. Even if it's like, you know,
5 well, gosh, I need to find out more about the judge. Do
6 not even go and Google my name or any of the lawyers'
7 names because the information -- because the decisions
8 you make are to be based solely on the information you
9 receive in this courtroom.

10 So even if I use a word that you don't quite
11 think you understand, do not pull Webster's dictionary
12 off the shelf and go look it up. Allow us, the lawyers,
13 the Court and the witnesses to give you the information
14 you need in order to make the decisions you will make in
15 this case.

16 Given the hour that it is, and there's some
17 things that I have to do, I have to do some work in this
18 case outside of your presence with the lawyers, I'm
19 gonna ask, if you would, to please be back in the jury
20 deliberation room by 2:15. That should give us enough
21 time to conclude some work we have to do and also allow
22 the staff to take a lunch break.

23 But, again, congratulations on being selected as
24 our first jury for the week. We'll let you go with the
25 bailiff. And when we return, I will ask that Ms.

1 Greene, you will serve as foreperson of this jury, but
2 I'll give you further instructions on that later on in
3 this case. But you may go with the bailiff and she'll
4 show you out.

5 (Jury leaves courtroom at 12:24 p.m.)

6 THE COURT: Okay. What are the pretrial issues?

7 MS. JORDAN: Your Honor, on behalf of the State,
8 we would ask for several things. We had a Motion for
9 Third-Party Guilt that we have previously given to the
10 defense. It's my understanding from Mr. -- if I may
11 approach, I'll bring a copy to the Court.

12 Mr. Neely told me last week, I believe it was in
13 chambers with Your Honor, maybe a week and a half ago,
14 that they would consent to this motion. I just,
15 however, wanted to officially make it in the written
16 form and on the record.

17 MR. NEELY: Your Honor, if you recall, in
18 December of last year, Your Honor heard a Stand Your
19 Ground Motion where we were seeking immunity from
20 prosecution on this very charge where my client took the
21 witness stand and told Your Honor that he did shoot Mr.
22 Gilliam, so I don't believe we will be seeking
23 third-party guilt.

24 THE COURT: Okay.

25 MS. JORDAN: Thank you, Your Honor. Your Honor,

1 our next matter is that we have agreed to chain of
2 custody stipulations in that we are going to be calling
3 the person who left the item, then jumping forward to --
4 for judicial economy, and because I don't think there's
5 any issues here to the person who analyzed the evidence.

6 MR. NEELY: That's our agreement, Your Honor.

7 THE COURT: Okay.

8 MS. JORDAN: Your Honor, we would also ask the
9 Court -- and I apologize, I can't put my hands on it
10 right now. We would ask the Court to take judicial
11 notice and inform the jury that one of the potential
12 witnesses in this case that they may hear the name of is
13 Tavis Jeter and that Mr. Jeter has passed away unrelated
14 to anything due with this case. I have his autopsy
15 report. I can look through my files now or bring a copy
16 to the Court later.

17 THE COURT: Why would I want that?

18 MS. JORDAN: Just as a factual basis that he has
19 passed. I know as an officer of the court, you could
20 also take my word for it. Mr. Smith is handling the
21 case in which he is the deceased victim.

22 THE COURT: Okay.

23 MR. NEELY: Judge, the only thing I would ask is
24 if you do inform the jury that Tavis Jeter is
25 unavailable during the course of this trial because he

1 has asked that a jury instruction be given at the
2 appropriate time, that they are not to consider that
3 with any greater weight than if you were -- with any
4 greater weight because he's deceased for one side or the
5 other.

6 THE COURT: All right. I guess I'm perplexed
7 because I'm not real sure I understand Travis (sic)
8 Jeter's role in this case and why they would need to
9 know that he had passed away, other than that if it
10 comes up that they might hear that he passed away, so...

11 MS. JORDAN: Your Honor, Tavis Jeter was a
12 witness who was standing with Mr. Garnett when he, in
13 the State's version, gunned down Cecil Gilliam. We
14 don't want the jury to wonder why we are not calling a
15 witness because this witness is unavailable to us due to
16 his unrelated death.

17 THE COURT: Okay. I mean, I can see why the
18 State would want to know why we didn't call this
19 particular witness because this witness has now passed
20 away. I mean, is there -- do you agree, I mean do you
21 have reason to believe that he passed away due to
22 something related to this case?

23 MR. NEELY: No, sir.

24 THE COURT: Okay.

25 MR. NEELY: I believe he was murdered Memorial

1 Day of this past year, which was unrelated to this.

2 THE COURT: Okay. I mean, I think it's fine for
3 the jury to know all that.

4 MS. JORDAN: And, Your Honor, I was just -- I was
5 just inquiring if the Court would take judicial notice
6 of it, inform the jury of that. If not, I have one of
7 the off -- the officer who signed the warrant against
8 the person who killed him. I have him on the jury list.
9 I also have Dr. David Wren, who performed the autopsy.

10 MR. NEELY: I do object to that. I think there
11 is an inference to be drawn by the jury if a State's
12 witness is asked by a State's attorney about an
13 unavailable witness, that inference to be drawn is that
14 that person would have corroborating evidence to the
15 State's version of events.

16 I'll point Your Honor back to the order that you
17 issued in denying our Stand Your Ground Motion because I
18 failed to call Tavis Jeter to the stand. The inference
19 the Court made was that he had information favorable to
20 the State. So if Your Honor, who has been a practicing
21 attorney and has been on the bench for a number of
22 years, had made that inference, 12 people, who this is
23 their first foray into the legal system, it's certainly
24 possible that they could make that same deference. And
25 the burden of proof is squarely on the State's shoulders

1 here, and I don't want to have to try something else to
2 them when I don't have to prove anything to begin with.

3 THE COURT: Well, so you're okay, you're
4 agreeable with me then saying that he's not unavailable,
5 unavailable because he's passed away and he's passed
6 away for events unrelated to this case?

7 MR. NEELY: Absolutely, Your Honor. You're an
8 unbiased party and I don't think that leads to a
9 difference one way or the other.

10 THE COURT: Okay. Then I'll just tell them that.

11 MS. JORDAN: That's perfect.

12 THE COURT: All right. Okay.

13 MS. JORDAN: Your Honor, our next thing is that
14 we -- and I know we're putting the cart way before the
15 horse, but this one I know when the Court starts a
16 trial, you want to be able to go through with that
17 trial. We do have pictures that we are seeking to
18 introduce that do depict Cecil Gilliam's body during his
19 autopsy.

20 We are offering not to pull photographs, but we
21 are offering some edited out pictures where we take away
22 Mr. Gilliam's face and we take away private areas of Mr.
23 Gilliam and as much of the photos as we can but to still
24 show the point that we're trying to get across, which
25 are the injuries to him.

1 And like I've stated, I know I may be putting the
2 cart way ahead of the horse by bringing this to the
3 Court's attention now, but I did want the Court to know
4 that. I offered to show Mr. Neely earlier some
5 photographs that we do seek to try to introduce during
6 the trial of the case.

7 I have, as the Court's aware, you have an exhibit
8 list and I have already premarked multiple photographs.
9 I did not, however, mark the autopsy photographs yet
10 because I have a few different options I would like to
11 argue to the Court on those. And this may be better
12 flushed out when we get to the forensic investigator who
13 took the pictures or with Dr. Wren, who performed the
14 autopsy.

15 MR. NEELY: I object, Your Honor, on 403
16 prejudicial, it's more prejudicial than probative what
17 they're trying to show is his injury during the course
18 of this case. They'll have Dr. Wren, who's gonna come
19 in and testify as to the entry wounds, as to the exit
20 wounds, as to the cause of death, as to the injuries
21 sustained by Mr. Gilliam.

22 They're gonna have a diagram that Dr. Wren drew,
23 depicting the entry wounds and the exit wounds. To show
24 actual autopsy photos, number one, I believe it's
25 cumulative upon what Dr. Wren is gonna testify to. And,

1 Judge, the autopsy photos they're graphic in nature.

2 As much editing that the State wants to do to
3 show autopsy photos with an individual that is cut open
4 to show wounds, I believe that it prejudices the jury
5 against my client, so I would object to any of the
6 autopsy photos coming in. And, again, as we see the
7 relevance of it as the trial unfolds, I might make an
8 objection on HIPAA grounds as well.

9 THE COURT: I haven't seen the photographs. Do
10 you have the photographs?

11 MS. JORDAN: Yes, Your Honor. Your Honor, would
12 you like us to approach? I could show both at the same
13 time.

14 THE COURT: (Nods head up and down.)
15 (Whereupon, attorneys approached the bench.)

16 MS. JORDAN: This is 71. And what the Court will
17 see with each picture is a full picture, an edited out
18 picture in color, and an edited out picture in black and
19 white. We are asking that we show the edited out
20 picture in color.

21 THE COURT: Cut out this part?

22 MS. JORDAN: Yes, Your Honor. We have cut out
23 Mr. Gilliam's face and we've cut out his private area.
24 The Court has heard the case and the arguments in this
25 case, and the forensics for us is huge to mett -- to not

1 only meet our burden of beyond a reasonable doubt as to
2 murder, but also to meet our burden of disproving
3 self-defense beyond a reasonable doubt.

4 Your Honor, in this one I have two different
5 ones, and I would only seek to put in one photograph.
6 And it's the same situation in that I'm only asking for
7 either the color photograph where we have taken out
8 everything but the wound to Mr. Gilliam's arm. And I
9 presented the Court with an edited version in color and
10 in black and white as well. I only seek one of those
11 two pictures. I just wanted the Court to have options.

12 Next, Your Honor, is Number 7 -- what the State
13 would mark as Number 73, which are autopsy photographs
14 showing the leg, Mr. Gilliam's legs. I've cut out as
15 much of his buttocks area as I could. These show these
16 rods placed in there by Dr. Wren.

17 Next, Your Honor, is 74. 74 is also a depiction
18 of the victim's -- let's see where -- it's kind of hard
19 to tell what it is, Your Honor, when you take away all
20 of that, so I'd ask to put in the entire picture or just
21 to put in just above what Dr. Wren refers to as the
22 gluteal cleft, also referred to as his buttock crack.
23 It is a gunshot wound to decedent's back.

24 75 is a photograph of Mr. Gilliam's right arm.
25 And in his right arm is a re-entry to the wound. And

1 Dr. Wren, we'd also anticipate, and I believe testified
2 at the previous hearings, that he was able to cut a
3 bullet out of Mr. Gilliam's hands -- hand.

4 Next, Your Honor, is an alternative to that
5 picture, which is another wound on Mr. Gilliam's hands.
6 I would only seek to introduce one of those two.

7 I have case law I'd like to present to the Court,
8 either now or at a later time, when we continue arguing
9 it so the Court can see the relevance of this. And,
10 Your Honor, the investigator who took the photographs is
11 not available today. He would be available tomorrow.
12 That would be the earliest that we would seek to
13 introduce these sets of photographs.

14 THE COURT: Okay. Do you have that case law?

15 MS. JORDAN: Yes, Your Honor.

16 THE COURT: I'm familiar with the case that Judge
17 Couch had.

18 MS. JORDAN: That is one, Your Honor. That's
19 *Andrés Torres*, under 390 S.C. 618. I'm making sure I've
20 got two copies. The other is State versus Henry Gray
21 under 408 S.C. 601. State versus Mark Martucci under
22 380 S.C. 3232.

23 MR. MACDONALD: Do you have copies?

24 MS. JORDAN: I do. I'm dividing it all. And
25 finally, Your Honor, State versus Brandy Holder 382 S.C.

1 278. And I have copies for the Court and defense
2 counsel.

3 Your Honor, if I may, I would just like to put on
4 the record that, as we're standing at the bench, this
5 case rests for the State a lot on the gunshot wounds to
6 convince the jury that he committed murder with malice
7 aforethought and to disprove the defense's allegations
8 of self-defense.

9 Your Honor, the wounds in this case, as the Court
10 may recall, he had -- our victim was shot at eight
11 times, had eight -- had seven initial entry wounds. Two
12 of them were to the side left, what I refer to as kind
13 of gut, stomach area, but came out the right stomach
14 area, basically through the flesh.

15 There was another gunshot wound to the back,
16 which is gonna be referred to as State's Exhibit Number
17 or gunshot wound Number 8. That bullet wound also took
18 basically a similar, slightly angled different
19 trajectory as the ones in the front.

20 Your Honor, in addition to those two in the side
21 and the one in the back, he also had four additional
22 ones to the back. One was just above the, the butt
23 crease that came up into our victim and was -- and
24 basically went out his right shoulder area or armpit
25 area. There were two that are depicted in those

1 photographs that go into the victim's back of his right
2 left leg and come out his front.

3 In addition, Your Honor, I believe that I think
4 that I covered them -- I'm sorry, I did miss one. The
5 one that is to the right shoulder or right arm that goes
6 from the back to the front. Your Honor, I did not have
7 raw pictures of every single one of these, but I've
8 provided the Court, I believe, with all of the raw
9 pictures that I do have.

10 I believe this is very helpful to the jury to be
11 able to see and understand what Dr. Wren saw and how he
12 perceived everything that day. I know that Mr. Neely
13 has a copy of the diagram that was drawn by Dr. David
14 Wren, who is present here, Your Honor. And I can
15 provide the Court with two of those that we would seek
16 to introduce, which I have marked as State's Exhibits
17 Number 26 and 27.

18 One contained arrow lines and one does not. I
19 present those to you to kind of hopefully rebut the
20 argument that's coming that the jury's gonna have those
21 pictures but, Your Honor, that's a one-dimensional image
22 that you have to imagine folding the paper to get that
23 image in your head to get the front and the back
24 correctly.

25 I believe that the jury could use these

1 photographs from the autopsy, they're owed the
2 photographs of the autopsy and not enflame -- that these
3 photographs are not used -- they're not incredibly
4 prejudicial. We're not putting them there for a
5 tendency to suggest a decision on an improper basis,
6 commonly they're not necessarily the emotional ones,
7 we're putting them in there because they serve to
8 corroborate testimony.

9 And we do not believe it would be an abuse of the
10 Court's discretion to admit the edited photographs that
11 we seek to enter in. We bear the burden in two
12 instances here and we want to make sure the jury has a
13 clear picture of what happened that night from our
14 perspective.

15 MR. NEELY: First of all, Your Honor, the State
16 bearing the burden of proof has nothing to do with this
17 evidence, but because they bear two burdens, this case
18 just has one because they have to disprove self-defense.
19 And they also have to prove beyond a reasonable doubt
20 burden is not a grounds for admissibility in this case.
21 So I would ask the Court not to consider that at all.

22 Second, State v. Andres Torres, I don't believe
23 is applicable at all in this case. That was the death
24 penalty case that the Supreme Court found that those
25 autopsy pictures were appropriate in sentencing. In

1 that case, I don't believe Torres is relevant to this
2 case.

3 As to the others, Your Honor, while quickly
4 glancing through these -- through the case law, my
5 understanding is that these were the means that they had
6 necessary to prove their case. In this case we can
7 differentiate from the other three because we're not
8 describing injuries. Those pictures aren't just
9 depicting injuries done to Cecil Gilliam.

10 One was a child abuse case where a child was
11 beaten and there were internal organ issues, and so the
12 pictures were of the internal organs. And that helped
13 the jury make their finding.

14 In this case, Dr. Wren has done an excellent job
15 of both in the autopsy report when he appeared before
16 the Court last December describing the wounds and in
17 drawing the diagram that we've already put before the
18 Court.

19 Your Honor, the pictures that the Court has
20 aren't just merely of the injuries to Cecil Gilliam,
21 they are injuries -- they're the pictures that have rods
22 through them showing directions of the bullet, bullet
23 path. They're not just showing the injuries, which also
24 distinguishes this from the other case because it's not
25 just showing what happened on February 6th at 4 o'clock

1 in the morning, it's showing what happened on February
2 6th between noon and 6 o'clock when Dr. Wren added to
3 what was done. And so those rods actually have
4 absolutely nothing to do with what occurred at 4 o'clock
5 in the morning, whether it was murder or whether it was
6 self-defense.

7 He did an adequate job. He did an incredible job
8 in December of last year presenting to this Court
9 testimony of his findings during the autopsy and
10 presenting these exact diagrams to the Court. This
11 Court was able to understand and make a ruling in that
12 case without relying on autopsy photos. So, again,
13 there are other means that are, that are much less
14 likely to produce, to arouse passion in our jury, than
15 what the State is attempting to permit. Again, it's
16 collaborative, it's cumulative. The testimony will be
17 provided by Dr. Wren.

18 It will be provided in the diagrams that the
19 State is gonna seek to introduce, so it just builds on
20 itself and it is very likely to arouse passion. So I
21 would ask that you not admit the pictures, Your Honor.

22 THE COURT: All right. Anything else?

23 MS. JORDAN: Your Honor, we would just point that
24 under 403 we do believe these are highly relevant and
25 far outweigh any prejudicial matter from prejudicial

1 issues that they may show. And while it bears to help
2 the jury understand what happened, Dr. Wren will be
3 testifying on that as well.

4 Like I said, I believe we presented to the Court
5 of several different options of what to give to the jury
6 or not give to the jury. I would ask to allow the
7 pictures to come in. If those do not come in, I would
8 ask for pictures that I could print over the night
9 recess without the rods.

10 I just believe that the pictures are far or -- I
11 believe this charge isn't great because these pictures
12 give the jury a far better understanding of what's going
13 on. And they're looking at each individual or each set
14 of wounds; whereas, the diagram is giving an overall
15 view of the entire body.

16 MR. NEELY: Judge, it sounds to me like what the
17 State's argument is, is that they want to show the rod
18 because it helps the jury understand the directions that
19 the bullet was traveling. That's the exact same
20 information that is presented in those diagrams without
21 the jury having to see autopsy photos. Which, again,
22 the Court has to weigh prejudicial versus probative.

23 While the direction they're traveling is
24 absolutely probative to the State's case, there is a way
25 for them to present that evidence without the jury

1 having to see autopsy photos. So, again, I believe the
2 prejudicial value of those pictures would outweigh the
3 probative value under 403(b).

4 THE COURT: All right. I'll take a look at it.
5 Any other pretrial?

6 MS. JORDAN: Your Honor, we do intend to
7 introduce evidence of flight. I didn't know if Mr.
8 Neely had any arguments as to our information regarding
9 flight. And as to that, I will turn it over to Mr.
10 Smith.

11 MR. SMITH: Your Honor, I don't know if it's
12 necessary to make an argument if they're not challenging
13 it. We just wanted, for purposes of opening arguments,
14 to know if we're gonna be able to go into that or if
15 that's gonna be something that the Court's not gonna
16 allow us to go into.

17 MR. NEELY: And, Judge, I think that off the bat
18 I have to concede that flight itself is admissible.

19 THE COURT: Okay.

20 MR. NEELY: It's admissible. However, Your
21 Honor, I don't know how far the State wants to go. To
22 give the Court a little background, my client is from
23 Goose Creek, South Carolina. When this happened, he
24 left Woodruff at about 7:30 in the morning. He went
25 back to Charleston. And then in July of this year he

1 was in Columbia, South Carolina where he was in
2 basically a bar fight and he was arrested for public
3 disorderly conduct and giving false information to the
4 police.

5 Judge, I believe that the State can introduce
6 evidence that he did not stick around in Woodruff. I
7 believe that they can introduce evidence that he was
8 gone for five months. But, Judge, as far as the
9 subsequent arrest on completely unrelated charges, that
10 is not admissible. I believe that if the Court is
11 inclined to let the State go into that, that we need to
12 have an entire Lyle hearing on that.

13 THE COURT: Are you all gonna go that far?

14 MR. SMITH: Into the conduct as far as the bar
15 fight?

16 THE COURT: The fact that he got arrested and
17 that's how we found him and that kind of thing?

18 MR. SMITH: We were planning on going into that.
19 Not necessarily concerned about the bar fight, but all
20 the charges he got arrested for, essentially him lying
21 and fighting officers, we believe, for the service of
22 these warrants, to try to evade service of these
23 warrants.

24 He actually didn't even get charged with assault
25 and battery. They did not charge him with the

1 underlying thing that they initially got out with him.

2 THE COURT: I mean, I can see that you -- giving
3 false information, saying that he gave false information
4 to hide himself versus he gave false information and got
5 arrested for that. It's two different ways of
6 approaching it. I think the first would be better than
7 saying that he got arrested.

8 MR. SMITH: He, he pled to it.

9 MR. NEELY: Judge.

10 MR. SMITH: It's a conviction.

11 MR. NEELY: Sorry.

12 MR. SMITH: Go ahead.

13 THE COURT: But he's not testifying yet.

14 MR. SMITH: I feel like -- and we're gonna treat
15 the open argument like we don't know if Mr. Garnett's
16 gonna testify or not. We're not gonna mention and start
17 working on the defeating, you know, self-defense. We're
18 just gonna lay out the facts. We're not trying to
19 burden shift.

20 MR. NEELY: Evidence of false information falls
21 under the 404(b) character, Judge. It's another bad
22 act, who is subject to that same Lyle evidence. And he
23 might have been convicted of it, Judge, but it's nexus
24 to the actual crime of murder is so unattainable to the
25 actual charge of whether or not he committed murder. He

1 might not have wanted to have been captured on the
2 murder warrant, but it has nothing to do with whether or
3 not he actually committed murder or whether he was
4 acting in self-defense.

5 The case law on Lyle is very clear, it has to be
6 part of the res gestae. It has to be so intertwined
7 with the actual charge that he's on trial for as to help
8 the trier of fact make the -- reach a conclusion as to
9 whether he committed the crime charged.

10 If lying to the police officers, giving a false
11 name in Columbia, South Carolina five months later has
12 nothing to do with his conduct on the morning of
13 February 6th. So any mention of being charged with
14 false arrest or giving false information to police I
15 think should be excluded under 404(b).

16 MR. SMITH: That's gonna be an argument we were
17 anticipating. Your Honor, State v. Martin, and we've
18 got copies of that, is, I think, the best case on this.
19 I also have copies of State v. Pagan as well. The
20 language that I think is favorable to the defense comes
21 from State v. Pagan, because I believe that case is
22 distinguishable once it's read. I'll hand up copies to
23 the Court.

24 Your Honor, the thing that we believe
25 differentiates this case, ultimately questions of flight

1 or questions of evasive answers are ruled under 403.
2 The question is if there is a sufficient nexus between
3 the crime that's charged and the evasive conduct or the
4 flight.

5 Something that differentiates this case from all
6 others, at least as I was able to research, Your Honor,
7 is we've had the Stand Your Ground hearing where Mr.
8 Garnett acknowledged he was aware of the fact that he
9 had warrants out for him two days, I believe, after this
10 incident occurred. He stayed on the run for five or six
11 months after that.

12 One of the difficulties they have in *Martin* is
13 because of the time and distance proximity. It was a
14 South Carolina charge. When he's approached by officers
15 it's occurring in Georgia, it was actually a year later.
16 One of the things the Court points to is that they have
17 no knowledge that *Martin* is aware of even an
18 investigation, much less a warrant on him.

19 There's no knowledge that he knew that that -- I
20 think it was a bank robbery -- that other people had
21 been arrested; that they have given names. He had never
22 spoken to law enforcement about that.

23 And we're not able to go inside of his mind and
24 determine why he tried to walk away from the officer at
25 the apartment complex that day. In this case we have

1 testimony from Mr. Garnett acknowledging that he did
2 know that he had a murder warrant.

3 We just believe certainly -- and there's, I
4 believe, in Martin, he was on probation as well. We're
5 fine if Mr. Garnett chooses to take the stand and wants
6 to give an alternate explanation for why he ran and was
7 evasive. We just believe that that information should
8 be able to be presented to the jury.

9 Whether he was running and giving evasive answers
10 because of his knowledge of a murder warrant or whether
11 he was giving evasive answers and fleeing the
12 jurisdiction because of the bar fight and whatever else.
13 I just think the jury would be the best determiner of
14 that because we do know specifically that he was aware
15 of the murder warrants, and that's what distinguishes it
16 from these other cases.

17 MR. NEELY: Judge, 404(b) has five very specific
18 exceptions -- acceptances (sic) to, to the rule of
19 private acts not -- or other bad acts not being
20 admissible in court. It doesn't go to prove to show
21 identity. It doesn't go to show common scheme or plan.
22 It doesn't go to show modus operandi.

23 Judge, it doesn't meet any of the requirements.
24 There's not a sufficient nexus between the arrest in
25 July, a bar fight, and giving false information because

1 he doesn't want to be arrested, whether or not he knows
2 about the murder warrant or not. Sure, he doesn't want
3 to be taken into custody.

4 But, again, what the State has alleged is that on
5 February 6th of 2016, he acted with malice aforethought
6 and took the life of Cecil Gilliam. What he did five
7 months later has absolutely nothing to do with his
8 conduct on the night of February 6th. Again, all of the
9 case law going back to the 1912 case, State v. Lyle, has
10 to do with the appropriate nexus. It has to do with the
11 res gestae.

12 Are the, are the charges so intertwined as to be
13 able to -- as to assist the trier of fact in being able
14 to determine it? Here the trier -- the entire story of
15 whether or not he committed murder on the night of
16 February 6th can be told without any evidence of
17 February 6th.

18 Now, again, the case law says that the State can
19 go into flight, but that's it, Judge. They can't go
20 into other bad acts. It might be probative to the
21 State's case under 403, but it's still excluded under
22 404(b) and all the pertinent case law in this state.

23 MR. SMITH: If you read the cases, there is no
24 mention of 404(b) at all. It's a, it's a 403 question.
25 The charge that you would get is it's a guilty

1 conscience. So, yes, we're not saying that if, you
2 know, there is evidence of what he did there that
3 necessarily proves that he's the person that shot, but
4 it shows a guilty mind; that he's aware of the charges
5 and he does not want to face it.

6 The case law going all the way back talks about a
7 person with a guilty, you know, a guilty conscience
8 runs; a person who doesn't, stands and faces the
9 charges. That's the type of charge we're looking for.
10 I'm not trying to get in prior bad acts. We're trying
11 to get in the act of being evasive and the act of flying
12 and fleeing the jurisdiction. And under 403, we believe
13 that there is a sufficient relationship between the
14 flight and the murder.

15 The question would be, is he running solely
16 because of what happened at the bar or is he potentially
17 running because of the murder warrant that he's
18 acknowledged that he had? Pagan, I believe is the case
19 where he's out on bond for murder and he flees. And the
20 State tried to introduce that. They did not let that in
21 because they said he's already been arrested on this
22 charge and that he's trying to avoid a bond revocation,
23 essentially is what the reason he was running in there,
24 so that has nothing to do with the murder charge because
25 he'd already been arrested.

1 The one piece of language that comes, that's bad,
2 I think, in *Martin*, most of *Martin*, I think is in favor
3 of the State's position is the part about it being
4 unconnected. The investigators not being out there
5 investigating the murder when the subsequent evasive
6 events or flight happens.

7 And in this case we think it's totally different.
8 But the warrant hasn't been served. He's giving evasive
9 answers and trying to walk away from officers in order
10 to evade capture. And that's the heart of evidence of
11 flight. It just needs to be balanced with 403.

12 THE COURT: All right. I'll let you know.
13 Anything else pretrial?

14 MS. JORDAN: Your Honor, I would like to know how
15 to address if someone I feel is testifying differently
16 than they did during the hearing back in December of
17 2017. Do I refer to the prior sworn testimony? I just
18 don't want to refer to it in any way that would cause
19 any trouble.

20 MR. NEELY: I don't know I don't have a solution
21 to that, unfortunately.

22 THE COURT: Well, you're the one who will have to
23 -- I mean, I could offer a suggestion, but you're the
24 one that has to defend in the event that this case goes
25 south, as well as the State is gonna have their ---

1 MR. NEELY: Could I have lunchtime to think about
2 that, Judge?

3 THE COURT: Okay. You can have lunchtime to
4 think about it. Anything else?

5 MS. JORDAN: Your Honor, from the State, I don't
6 believe so right now.

7 THE COURT: All right. Let's try to get back
8 together about 2 o'clock. I've got the jury coming in
9 at 2:15.

10 MR. NEELY: I do have a number of other pretrial
11 motions, Your Honor.

12 THE COURT: You do?

13 MR. NEELY: Yes, sir.

14 THE COURT: What are they?

15 MR. NEELY: Judge, first and foremost, I have to
16 move to renew my Stand Your Ground Motion that we did
17 back in December of 2016. And what I will point out to
18 the Court is there has been further evidence turned over
19 since we've had that hearing and I think it's relevant
20 to the Court in making a decision. So I actually do
21 have some witnesses to call as it pertains to that
22 motion.

23 THE COURT: You want a second Stand Your Ground
24 hearing?

25 MR. NEELY: Judge, I'm moving to renew my motion

1 because there's new evidence that has been turned over
2 to the Court or to the defense and I think it's
3 pertinent in the Court making a decision, yes, sir.

4 THE COURT: All right. What else?

5 MR. NEELY: Judge, I was informed about a month
6 ago that the State intends to call a jailhouse snitch to
7 the stand, so I would move to exclude testimony from
8 that particular witness. And then, Judge, lastly, my
9 last motion is to preclude the State from referring to
10 Cecil Gilliam as the victim in this case. Would you
11 like to hear argument or would you like to wait until
12 after lunch, Your Honor?

13 THE COURT: On that last one, what's your basis
14 for saying they shouldn't use the phrase victim?

15 MR. NEELY: Judge, referring to Cecil ---

16 THE COURT: In a nutshell what is it?

17 MR. NEELY: It erodes the presumption of
18 innocence. In this case my client is claiming
19 self-defense in this case. Referring to Mr. Gilliam as
20 a victim insinuates that a crime has occurred. It's
21 self-defense so no crime has occurred, so he's entitled
22 to the presumption of the innocence under the state and
23 federal Constitutions.

24 THE COURT: All right. We'll do those later.

25 MR. NEELY: Yes, sir.

1 THE COURT: Anything else you're gonna bring up
2 pretrial?

3 MR. NEELY: Those would be it, Your Honor.

4 THE COURT: All right. Let's try to get back
5 together about 2 o'clock. In the event that we have to
6 do a second Stand Your Ground hearing, we would not be
7 starting this case today.

8 MR. NEELY: Yes, sir.

9 MR. SMITH: Your Honor, may I approach for a
10 minute?

11 (A bench conference was held off the record.)

12 (A lunch recess was had from 1:01 p.m. - 2:24
13 p.m.)

14 THE COURT: All right. We had a brief, we had a
15 brief meeting *in chambers*, indicated that I would not be
16 making a ruling on the parts of the photographs at this
17 time. My information was that it probably would not be
18 admissible, but it's difficult for me to do the
19 necessary analysis based on testimony I heard a year
20 ago, and so I would like for the testimony to be felt.

21 And one suggestion maybe to the State, if they do
22 come in, in some way or fashion, the black and whites
23 are less inflammatory than --

24 MS. JORDAN: Yes, Your Honor.

25 THE COURT: -- colors. The -- all right. But

1 that I did feel that the issue that Mr. Smith has raised
2 about the opening statement that I did feel like flight
3 could be brought up in opening statement, as well as
4 giving false information. I felt that was appropriate
5 based on my understanding of the facts of the case are
6 at this juncture.

7 Mr. Neely had a Stand Your Ground issue we were
8 going to address.

9 MR. NEELY: Yes, sir. If I could briefly
10 backtrack to jury voir dire, I meant to put on the
11 record at the time my objection to the Court not asking
12 question numbers 13 and 14 on defendant's voir dire. As
13 to -- they were questions pertaining to a jury's belief
14 about self-defense never being appropriate. And I
15 believe that that goes to a jury's state of mind.

16 If they don't believe that self-defense is
17 appropriate, then ultimately they can't make a finding
18 in favor of my client because our entire defense is
19 self-defense. So I would ask that the Court note my
20 objection and make defendant's voir dire that's been
21 provided to the Court a Court's exhibit.

22 (Court's Exhibit Number 1, Defendant's Voir Dire,
23 was marked for identification.)

24 (Court's Exhibit Number 1 was entered into the
25 record.)

1 THE COURT: Well, I appreciate your efforts, but
2 I think it's difficult for a trial court to go
3 retrospectively back to say that you're protected on the
4 record. You placed it on the record, but I cannot tell
5 you that you have now preserved those issues for review.

6 MR. NEELY: Understood.

7 THE COURT: Okay.

8 MR. NEELY: And, Judge, at this time I would like
9 to revisit our Stand Your Ground Motion. Your Honor, in
10 2017 I filed a motion on behalf of Mr. Garnett seeking
11 immunity under the Protection of Persons and Property
12 Act. A hearing was held over the days of December 6th
13 and December 7th. Your Honor issued an order denying
14 defense's motion on December 18th of 2017.

15 I believe, as a matter of course, I have to at
16 least renew that motion before the Court now. I would
17 like to offer new testimony in light of new evidence
18 that has been turned over by the State. So at this time
19 I would like to call witnesses.

20 MS. JORDAN: Your Honor, we would just -- it's
21 our understanding the evidence he seeks to introduce is
22 an additional toxicology test that was done on vials of
23 blood after the Stand Your Ground hearing, and we've
24 heard some of Mr. Neely's, what I would refer to as
25 defects in our case. We sought to remedy those. He had

1 on the stand their testimony about there were additional
2 vials of blood at the coroner's office. We had one of
3 those vials of blood, I believe also additional organs
4 sent down to SLED for further testing.

5 Your Honor, as to the DNA that he is also seeking
6 to introduce, Mr. Neely was well aware at the time we
7 had the hearing that we did not have that evidence
8 tested and that we would be seeking to have it tested,
9 but at the time of the hearing it was not tested. Just
10 to put that on the record that we were not concealing
11 anything prior to that hearing.

12 MR. NEELY: Judge, she refers to them as defects
13 in her case. I would agree that there are defects in
14 her case, but I would also say that when we had that
15 hearing in December of 2017, my client had been in
16 custody since July of 2016. So it was a matter of
17 course to have that case heard before Your Honor.

18 Now, Judge, the blood alcohol content levels that
19 we intend to introduce today, what happened from a
20 factual standpoint is as evidence was collected in this
21 case, Dr. Wren did an autopsy and collected a vial of
22 blood. The coroner sent it to SLED for testing. Those
23 results came back in March of 2016. So over
24 two-and-a-half years ago those results of the blood
25 alcohol content of the toxicology screen on Mr. Gilliam

1 came back.

2 What those test results showed and what the SLED
3 forensic toxicologist testified to before the Court in
4 December of last year was that there were five different
5 tests done and those readings were inconclusive because
6 they were so far apart. I believe each reading was 8
7 percent apart. And so what they were able -- what the
8 SLED forensic toxicologist was able to testify to last
9 December was that Mr. Gilliam had ethanol in his system
10 at the time and he was unable to say at what level.

11 What Dr. Wren testified to on that same day in
12 December is that as a matter of practice for every
13 autopsy he does, he takes two vials of blood. When SLED
14 got -- when the State got those results back in March of
15 2016, it's our contention that they should have sent the
16 second blood for testing because those results have come
17 back from the second vial of blood and we were able to
18 get an actual reading on that. And I think that that's
19 information that the Court should consider.

20 As far as the blood analysis goes, on the knife
21 and on the railings of the house, as best as I can tell,
22 Your Honor, from the chain of custody, it doesn't look
23 like it made its way down to the South Carolina Law
24 Enforcement Division until August of this year. Judge,
25 that's two years after my client was in custody without

1 a bond. So justice delayed is justice denied. So...

2 THE COURT: Are you arguing for a speedy trial or
3 are you arguing for a ---

4 MR. NEELY: I just want the Court to know
5 factually where we are and why it's significant for us
6 to call these witnesses today.

7 THE COURT: Well, we've already done a Stand Your
8 Ground and at the Stand Your Ground hearing, who has the
9 burden of proof?

10 MR. NEELY: I do, Your Honor. However, those
11 pieces of evidence are not in Mr. Garnett's custody.
12 They're not in my custody. They're in the custody of
13 the State. I don't have the ability to send them to the
14 State Law Enforcement Division. That's the sole
15 providence of the State. I don't have that ability. So
16 when the State doesn't perform those tests, that's
17 evidence that is being withheld from us.

18 THE COURT: I did the Stand Your Ground at your
19 request.

20 MR. NEELY: Yes, sir.

21 THE COURT: Whenever you wanted me to do it.

22 MR. NEELY: Yes, sir.

23 THE COURT: You can always ask the Court for
24 assistance in obtaining information if you think that
25 you needed something from the State they didn't have.

1 MR. NEELY: Yes, sir. And I'll be honest, until
2 Dr. Wren testified at that hearing, I was unaware that
3 it was a matter of course that two vials were taken.

4 THE COURT: All right. Let's do this. Why don't
5 I send the jury home for the day and we'll start first
6 thing in the morning. We'll take care of all pretrial
7 stuff today. Do you have any witnesses that are here
8 that need to be done?

9 MS. JORDAN: No, Your Honor. I have witnesses
10 that are here. It was my understanding everybody is
11 available to come back. I do have Chief Ryan with
12 Woodruff, who I believe has a flight tomorrow. We just
13 need to go through the evidence and have it marked what
14 we intend to introduce because the evidence will go back
15 to -- what we do not seek to introduce will go back to
16 Woodruff.

17 THE COURT: Okay. Do you intend to call the
18 chief as a witness?

19 MS. JORDAN: No, sir, Your Honor. He would be in
20 the chain because he wasn't the chief at this time. He
21 would just be in the chain and we've already stipulated
22 that we're not going into the chain in this case.

23 Your Honor, just to briefly address, the DNA was
24 initially sent in 2018 to the Greenville Crime Lab.
25 They were not gonna be able to process it in time for

1 this trial, then it was sent to SLED.

2 THE COURT: All right. Will you be able to do
3 this trial in two days?

4 MS. JORDAN: I believe we will, Your Honor.

5 THE COURT: All right.

6 MS. JORDAN: But I, I don't want to be held firm
7 to that. I do have one witness here, Ms. Westfield, and
8 I haven't checked with her to see if she would also be
9 available to come back tomorrow as well.

10 THE COURT: Okay. Let's bring the forelady out.
11 That would be ---

12 THE BAILIFF: Her name was Greene.

13 THE COURT: Ms. Greene, yes.

14 THE CLERK: Judge, there's two Greens.

15 THE COURT: Linzy Greene.

16 THE BAILIFF: Yes, sir.

17 (A juror enters the courtroom at 2:35 p.m.)

18 THE COURT: No. I'm sorry.

19 THE BAILIFF: Okay.

20 (Juror leaves the courtroom.)

21 (Madam Forelady enters the courtroom at 2:36
22 p.m.)

23 THE COURT: All right. Ms. Greene, you are our
24 foreperson for this jury, and part of your
25 responsibility is you have to act as the Court's

1 spokesperson back in that room. There are times in this
2 trial -- I want you to explain to the jury that there
3 are things I have to do with the lawyers that have to be
4 done outside of your presence, outside of the jury's
5 presence. It looks like we've got several hours of work
6 that I have to do with these people before I can bring
7 the jury back, so I don't want to hold the jury locked
8 in the back.

9 And so what I'd like to do is for you to tell the
10 jury that they are free to go home or back to their jobs
11 for the rest of the day. Tell them that they need to be
12 back in the jury deliberation room by 9:30 in the
13 morning. They have to be back. Remind them of, one,
14 they cannot talk to anyone about anything involving the
15 case, including themselves. And, two, they cannot do
16 any type of independent research into anything about the
17 case. Do you think you can tell them that?

18 MADAM FORELADY: Yes, sir. 9:30 in the morning,
19 correct?

20 THE COURT: Correct. And to thank them for their
21 service and that we're going to continue to work. Thank
22 you very much.

23 (Madam Forelady leaves courtroom at 2:37 p.m.)

24 MS. JORDAN: Your Honor, could I briefly just let
25 two of my witnesses go, unless Mr. Neely has them under

1 subpoena and want them to remain? Mr. Dallison and Mr.
2 Nichols.

3 MR. NEELY: No objection.

4 THE COURT: Okay.

5 MS. JORDAN: Unless they'd like to remain, they
6 can go and come back in the morning at 9:30.

7 THE COURT: Okay.

8 MS. JORDAN: Thank you.

9 MS. JORDAN: Same with Ms. Westfield as well.

10 THE COURT: Okay. Yes, sir, Mr. Neely.

11 MR. NEELY: Yes, sir. Thank you, Judge. At this
12 time we would call Jared Castellani. I butchered that
13 last name, I apologize.

14 THE COURT: Just come on up here, we'll let the
15 clerk of court swear you in.

16 (Witness comes forward.)

17 THE CLERK: Place your left hand on the Bible and
18 raise your right, please. (Complies.)

19 Do you solemnly swear that the testimony you're
20 about to give will be the truth, the whole truth and
21 nothing but the truth so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Thank you. Have a seat.

24 THE COURT: Sir, just have a seat in the red
25 chair and pull the red chair up to the microphone.

1 JARED CASTELLANI,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. NEELY:

5 Q. All right. Just state your name and spell your
6 last name.

7 A. Jared Castellani, C-A-S-T-E-L-L-A-N-I.

8 Q. All right. And you're currently employed where?

9 A. I work for SLED, South Carolina Law Enforcement
10 Division.

11 Q. In what capacity?

12 A. I am a forensic toxicologist.

13 Q. All right. And what does that entail?

14 A. I test biological fluids for the presence or
15 absence of drugs, toxins or alcohol, and then report
16 these findings for, of course, pathologists or coroners.

17 Q. Okay. And how long have you been in that role?

18 A. I've worked at SLED for approximately
19 four-and-a-half years.

20 Q. All in the role as forensic toxicologist?

21 A. As a forensic toxicologist, yes.

22 Q. Okay. And what is your training?

23 A. I have a Bachelor of Science in biochemistry from
24 the University of Scranton and a Master of Science in
25 forensic science from Arcadia University. In addition

1 to my schooling, when we are hired on by SLED, we are
2 required to undergo a toxicology training program, which
3 begins with training in blood alcohol testing and it
4 continues with other drugs, whether they be elicited or
5 un-elicited substances.

6 Q. Okay. So what -- so your training in blood
7 alcohol testing, what does that entail?

8 A. Specifically there are two parts for blood
9 alcohol testing. There's going to be a classroom
10 portion and a practical lab portion. In the classroom
11 portion we learn about our standard operating procedures
12 on how we conduct blood alcohol testing in our lab, in
13 addition to learning about the pharmacology of ethanol.

14 Q. I'm sorry, I'm gonna stop you right there. Can
15 you use layman terms for me, pharmacological ---

16 A. Basically how, how something like ethanol gets
17 absorbed into our body, it distributes, how it affects
18 an individual's abilities to either, in our case, most
19 of the time it's in terms of driving cases, how they
20 affect an individual to drive a vehicle. They would act
21 similar in whether they were driving a car or walking
22 around on the street.

23 Q. Okay. And in the last four-and-a-half years
24 while you've been at SLED, what other training as it
25 relates to BAC have you had?

1 A. Additionally, I've gone to the Borkenstein
2 alcohol course in Indiana, which is led by senior
3 toxicologists throughout the country.

4 Q. Okay. Specifically lets talk about blood that
5 you tested pertaining to Cecil Derrell Gilliam. Is
6 that, is that familiar to you?

7 A. Yes.

8 Q. And do you recognize that?

9 A. Yes.

10 Q. Okay. And what is that?

11 A. It is the toxicology report that was issued for
12 this case.

13 Q. Okay. And what was the date that that report was
14 issued?

15 A. The report was issued on March 17th, 2016.

16 Q. Okay. Are you the one that issued the report?

17 A. Yes.

18 Q. Okay. And summarize the report for us.

19 A. Essentially a blood alcohol test and a drug
20 screen was performed on it. The blood alcohol test
21 showed the presence of ethanol. It was negative for
22 methanol, isotone and isopropanol. And then the drug
23 screen was negative for all 12 panels that we screened
24 for.

25 Q. Okay. But ethanol was present?

1 A. Yes.

2 Q. Okay. Were you able to have a reading back in
3 March of 2016?

4 A. Ethanol was present, but we were not able to get
5 an accurate value.

6 Q. Okay. Since March of 2016 have you been able to
7 test a different sample from Cecil Gilliam?

8 A. A secondary blood sample was submitted to the lab
9 and we did test it, yes.

10 Q. All right. Let me back up for a second. In your
11 role as forensic toxicologist, do you often do the
12 testing yourself?

13 A. It depends. We usually rotate who is doing blood
14 alcohol testing on any, on any given week, so if I
15 didn't do it, somebody else would have done it who has
16 also gone through the training program. What I would
17 have done, as any toxicologist, would be to review the
18 quality control, verify that the testing was done
19 appropriately, and then I would have issued a report.

20 Q. Okay. So in both of these reports, the one that
21 you're currently holding and the one that's on the stand
22 in front of you, you issued those reports?

23 A. Yes.

24 Q. Okay. And did you actually do the testing
25 yourself?

1 A. Based on the report, I wouldn't be able to tell
2 you that. I'd have to look at our -- at the raw data.

3 Q. Okay.

4 A. Or at the chain of custody.

5 Q. But you signed off on that report?

6 A. Yes.

7 Q. Okay. So you at least went back and verified
8 that it was done correctly?

9 A. Correct.

10 Q. And then you issued that report?

11 A. Yes.

12 Q. All right. So that report that you're holding,
13 when was that issued?

14 A. The second report was issued on January 23rd,
15 2018.

16 Q. Okay. And what was the blood alcohol of Mr.
17 Gilliam?

18 A. It was a .186 percent.

19 Q. Okay. And you testified previously that as part
20 of your training you studied the effects of various
21 blood alcohol contents on, on the human body?

22 A. Yes.

23 Q. Okay. And a .186, what kind of behavior would
24 you expect to see?

25 A. Well, at any -- at any level alcohol is gonna act

1 as a CNS depressant. So as the levels get increasingly
2 higher, more significant effects are gonna be seen. So
3 at lower levels an individual will start to show
4 decreased inhibitions. It will progress to affect a
5 person's visual acuity. A person's balance or motor
6 coordinations. Their cognitive functions are going to
7 be affected.

8 At this level a person could start to show
9 dizziness. They may be drowsy as well. In terms of
10 visual acuity, their double vision could possibly be
11 seen. In addition to that, a person's peripheral
12 visions will be affected. Things of that nature.

13 Q. Okay. One of the things you mentioned is lowered
14 inhibitions?

15 A. Yes.

16 Q. Okay. Now, you've never met Cecil Gilliam?

17 A. No.

18 Q. Okay. So you don't know what kind of drunk he
19 was?

20 A. No.

21 Q. Okay. You just know that on February 6th, the
22 day that he passed away when that blood was collected,
23 he had a blood alcohol content of .186?

24 A. Yes.

25 MR. NEELY: Nothing further.

CROSS-EXAMINATION

BY MR. SMITH:

Q. Is it possible for you to say what he would have been like that night?

A. Other than the signs and symptoms that are associated with that, I wouldn't be able to tell you exactly, exactly how he was acting, no.

Q. Is it possible for different people based off of tolerance -- I don't know if tolerance would be the scientific term, but to behave differently at a .18 than somebody else who doesn't drink at a .18?

A. There, there could be slight differences. Alcohol has been studied extensively, so if a person, for instance, a person was an alcoholic and they drank more, they might be able to metabolize alcohol faster, so they would require more ethanol to get to a specific level. Now, the signs and symptoms associated with those levels would still be the same regardless of how many drinks it took you to get to a specific level.

Q. Do you have any concern about the delay of the second sample or any of the manner in which it was collected, time, as far as affecting your result?

A. I don't know how the sample was kept at the other lab. Once it gets into our lab, we notated that it was in gray-top tubes or has a preservative and an

1 anticoagulant. We keep our samples refrigerated until
2 testing, so in terms of when it's at our facility I do
3 not have any issues with it.

4 Q. But I mean, I guess what I'm -- it doesn't
5 ferment or something with time where it suddenly becomes
6 more alcoholic, the content of it? Is that possible?

7 A. Again, the sample was in a gray-top tube so it
8 does have a preservative in it. So those preservatives
9 are usually good about keeping samples.

10 Q. Okay. What is decreased inhibitions mean?

11 A. The easiest way I would be able to put it is if
12 you have a shy individual and you give them some
13 alcohol, people refer to it as liquid courage, so they
14 might be more adventurous. They might speak to someone
15 that they normally wouldn't, for instance. Be more
16 talkative.

17 Q. Are there anything else that it could be? I
18 mean, it could just be any number of behaviors that
19 maybe wouldn't normally ---

20 A. It could be, yeah. It couldn't be able to
21 specify what behavior it would be -- would cause.

22 Q. I know you can't say specifically what was
23 occurring on him, but you wouldn't, I guess, be
24 surprised if the victim had, I think you said, double
25 vision, dizziness, drowsiness, balance and motor

1 function issues and visual acuity problems, you wouldn't
2 be surprised if all that was, was present?

3 A. I wouldn't.

4 MR. SMITH: I don't have any further questions,
5 Your Honor.

6 THE COURT: Any redirect limited to what he went
7 into?

8 REDIRECT EXAMINATION

9 BY MR. NEELY:

10 Q. Those are typical signs, but they're not present
11 in every person?

12 A. They're typical. There could be slight
13 variations for individual, for variability between
14 individuals, yes.

15 MR. NEELY: Okay, thank you. Nothing further.

16 THE COURT: Thank you, sir, you may step down.
17 Watch your step as you're stepping down.

18 (Witness leaves witness stand.)

19 MR. NEELY: I call Katherine Leisy.

20 THE COURT: Just come right up here and let the
21 clerk of court swear you in.

22 (Witness comes forward.)

23 THE CLERK: If you'll place your left hand on the
24 Bible and raise your right. (Complies.)

25 Do you solemnly swear that the testimony you're

1 about to give will be the truth, the whole truth and
2 nothing but the truth so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Thank you. Have a seat there.

5 KATHERINE LEISY,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. NEELY:

9 Q. Give us your name and spell your last name.

10 A. Katherine Leisy, L-E-I-S-Y.

11 Q. All right. Where do you currently work, Ms.
12 Leisy?

13 A. I work for the South Carolina Law Enforcement
14 Division.

15 Q. And how long have you been employed there?

16 A. Twelve years.

17 Q. What role are you currently employed as?

18 A. I have spent my entire time at SLED employed as a
19 forensic scientist assigned to the DNA case work
20 department.

21 Q. Okay. Give us your educational background,
22 please.

23 A. I have a Bachelor in Science degree in genetic
24 engineering from Cedar Crest College in Allentown,
25 Pennsylvania.

1 Q. Okay. After college did you go straight to SLED
2 or were you employed somewhere else?

3 A. I was first employed at a research facility that
4 performed gene pooling in Maryland. I also spent
5 approximately four years as a forensic DNA analyst at a
6 private testing facility that at the time was known as
7 Work Excel Mark in Germantown, Maryland, where I
8 performed the same types of tests and analyses I do at
9 SLED.

10 Q. Okay. So what specific training have you had as
11 it relates to your job?

12 A. Once I was hired by SLED I was trained by other
13 court qualify analysts in all the different types of
14 tests and analysis I'm required to perform. I'm also
15 required to perform continuing education, which consists
16 of training seminars or conferences that introduce new
17 concepts in forensic DNA testing.

18 Q. Okay. So as it pertains to your actual job, what
19 do you actually do?

20 A. I'm responsible for processing forensic cases.
21 Essentially my job is to try to develop DNA profiles
22 from unidentified biological materials and compare them
23 to the DNA profiles with known individuals to try and
24 determine if that individual could be a contributor to
25 that profile.

1 Q. Okay. And how does that process work?

2 A. The first step in the process is DNA extraction,
3 so we're removing or isolating DNA from a particular
4 item that we're interested in testing. We then perform
5 what's referred to as amplification. So we're making
6 copies of the specific locations in DNA that we're
7 interested in testing.

8 Those locations, once we get results for them,
9 give us what we refer to as a DNA profile. If we're
10 able to develop a DNA profile from an item of evidence,
11 it can then be compared to the DNA profile of a known
12 individual for comparison.

13 Q. Did you do that process for Cecil Derrell
14 Gilliam?

15 A. I did test several items related to a case with
16 the victim as Cecil Gilliam, yes, sir.

17 Q. Okay. Do you have your report with you?

18 A. Yes, sir.

19 Q. Okay. All right. And what did you use to
20 extract Mr. Gilliam's DNA?

21 A. For the known standard for Mr. Gilliam, I used
22 what was identified as a portion of liver tissue.

23 Q. Okay. And you are absolutely confident that that
24 is Mr. Gilliam's?

25 A. That's how it was identified as it was submitted

1 to me.

2 Q. Okay. And, again, you've never met Mr. Gilliam?

3 A. No, sir.

4 Q. But what was sent to you was labeled Cecil
5 Gilliam?

6 A. That's correct.

7 Q. Okay. And you had the opportunity to compare
8 that standard to several items that were sent to you?

9 A. That's correct.

10 Q. Okay. Specifically, I want to direct your
11 attention to Item 9. It's also labeled as knife blade
12 18. Let's back up. Let's go to knife handle 17 first.
13 So what steps did you take?

14 A. This would be identified as SLED Item Number 8.
15 Again, the description was swabs from knife handle. The
16 first step that I performed was a preliminary test,
17 screening for the possible presence of blood. For this
18 particular item that test was negative. I was then able
19 to develop a DNA profile that was suitable for
20 comparison from the knife handle.

21 Q. Okay. And what was the result of that
22 comparison?

23 A. For that particular comparison, I performed what
24 we refer to as a likelihood ratio. That comparison was
25 used or, excuse me, determined using the propositions or

1 the hypotheses that the DNA profile being interpreted
2 originated from a mixture of two individuals.

3 The first possible explanation for this mixture
4 was that Cecil Gilliam and an unidentified, unrelated
5 individual contributed to the mixture. The second
6 possible explanation or hypotheses was that two
7 unidentified, unrelated individuals contributed to this
8 mixture. And in following the calculations, it was
9 determined that the DNA profile developed is
10 approximately 550 septillion times more likely that
11 Cecil Gilliam and an unrelated individual contributed to
12 the mixture than if two unidentified, unrelated
13 individuals contributed.

14 Q. Okay. So what does that mean?

15 A. So a likelihood ratio is simply a mathematical
16 comparison between the probability of two potential
17 explanations for a scenario. So in DNA testing, our
18 scenario is the DNA profile that was developed. So for
19 this particular case, again, the first hypothesis or
20 possible explanation that Mr. Gilliam and a second
21 unidentified, unrelated individual contributed. And we
22 compared that to the second explanation or hypothesis
23 that is two unidentified, unrelated individuals. The
24 likelihood ratio gives strength or support to whichever
25 of those two explanations is more likely to be the

1 explanation for that profile.

2 Q. Okay. The more likely explanation is what?

3 A. Again, it's approximately -- that we would see
4 this DNA profile as approximately 550 septillion times
5 more likely that it is a -- that Cecil Gilliam and an
6 unidentified, unrelated individual contributed than if
7 two unidentified, unrelated individuals contributed.

8 Q. Okay. Now, let me point you to swab from
9 evidence Item Number 9, the knife blade Number 18.

10 A. Well, Item Number 9 again identifies knife blade
11 again performs a preliminary serological test so we can
12 put a possible presence of blood. On this item it was
13 positive for the possible presence of blood. In this
14 particular case a partial DNA profile was developed and
15 it was interpreted as to that it originated from a
16 single source.

17 The two possible explanations that I compared,
18 first, that Cecil Gilliam contributed the DNA profile.
19 The second explanation being that an unidentified,
20 unrelated individual contributed. And the likelihood
21 ratio determined was that the DNA profile is
22 approximately 32 quadrillion times more likely if Cecil
23 Gilliam contributed the DNA than if an unrelated,
24 unidentified individual contributed the DNA.

25 Q. Okay. So the logical conclusion is that the

1 blood on the knife is Cecil Gilliam's?

2 A. I can't make an identification with this type of
3 analysis. Again, it's a measure of how many times more
4 likely we are to see this profile given one scenario
5 versus the other.

6 THE COURT: Okay. I'm gonna ask -- I wrote while
7 I was making notes, Number 8 I just wrote knife. Was
8 that the knife handle?

9 MR. NEELY: Yes, sir. Number 8 was the knife
10 handle. Number 9 is the knife blade.

11 THE COURT: Thank you.

12 MR. NEELY: But they're from the same knife.

13 THE COURT: Okay.

14 MR. NEELY: I have nothing further.

15 MS. JORDAN: Your Honor, just a few brief
16 questions.

17 CROSS-EXAMINATION

18 BY MS. JORDAN:

19 Q. As to Number 8, was that a blood -- did it test
20 positive presumptive testing for blood or was it a
21 different source of DNA?

22 A. That particular swab tested negative for the
23 possible presence of blood. The DNA could have come
24 from, what we refer to as touch DNA or skin cells. It
25 could just be that the small portion of swab that I

1 tested was negative for blood and there was a small
2 blood source somewhere else on the swab. I can't
3 determine exactly what the source would have been.

4 Q. Okay. And I'm just gonna briefly go through the
5 remaining items that were not covered by Mr. Neely. As
6 to item, SLED Item Number 4, swabs from sidewalk, left
7 of entrance door, what was your conclusion as to that?

8 A. My initial serological testing would indicate the
9 positive presence of blood, which presumptively a
10 partial DNA profile was developed and was interpreted as
11 it originated from a simple source. The DNA profile
12 developed is approximately 12 septillion times more
13 likely if Cecil contributed the profile than if an
14 unidentified, unrelated individual contributed to the
15 profile.

16 Q. Okay. I'm gonna hand you now SLED's Number 6,
17 which is listed as a swab from the left side at end of
18 ramp.

19 A. Also with that item, my initial presumptive
20 testing for blood was positive and became the possible
21 presence of blood. A DNA profile suitable for
22 comparison was obtained and was interpreted assuming it
23 originated from a simple source. The DNA profile
24 developed is approximately 970 septillion times more
25 likely if Cecil Gilliam contributed to the DNA profile,

1 than if an unidentified, unrelated individual
2 contributed to the profile.

3 Q. Okay. I'm gonna continue on with SLED Number 6,
4 which is listed as a swab from the left-hand rail at end
5 of ramp.

6 A. I'm sorry, I thought we just did Number 6.

7 Q. I apologize. Let me ask you this. For five and
8 for six, were those both attributed to Cecil Gilliam?

9 A. The results were the same for SLED Items 5, 6 and
10 7.

11 Q. Okay. And seven being swab from the garage wall
12 of residence?

13 A. That's correct.

14 Q. All of those were positive to Cecil Gilliam's
15 blood?

16 A. Again, I can't make an identification with this
17 form of testing, but it would be approximately 970
18 septillion times more likely to see this profile if
19 Cecil Gilliam was a contributor than if an unidentified,
20 unrelated individual was a contributor.

21 MS. JORDAN: Your Honor, I'd like to make a copy
22 of this, put it as an exhibit for this hearing purposes
23 just so the Court has a copy of it.

24 MR. NEELY: I don't have any objection.

25 THE COURT: Without objection.

1 COURT REPORTER: Do you want to make it a Court's
2 exhibit?

3 THE COURT: Do you want it a Court's exhibit?

4 MS. JORDAN: That will be fine, Your Honor.

5 We've already pre-labeled a lot of stuff for the trial.

6 THE COURT: Okay.

7 (Whereupon, Court's Exhibit Number 2, Forensic
8 Report, was marked for identification.)

9 (Whereupon, Court's Exhibit Number 2 was entered
10 into the record.)

11 MS. JORDAN: Your Honor, I have no further
12 questions for Ms. Leisy.

13 THE COURT: Any redirect related to what she went
14 into?

15 MR. NEELY: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. NEELY:

18 Q. The entire knife was sent to you?

19 A. No, sir. I received just swabs from the handle
20 and the blade.

21 Q. Okay. So you don't know what part of the knife
22 was swabbed?

23 A. Again, it's just based on what the --

24 MS. JORDAN: Your Honor, I --

25 THE WITNESS: -- script you get.

1 MS. JORDAN: -- object. This is outside the
2 scope of cross-examination.

3 MR. NEELY: Judge ---

4 THE COURT: I'll let him go into it. There's not
5 the jury present.

6 MR. NEELY: Well, on cross-examination she
7 elicited a response that said she ---

8 THE COURT: I said that you can go into it.

9 MR. NEELY: Thank you, Judge.

10 BY MR. NEELY:

11 Q. You don't know what portion was swabbed?

12 A. Correct. My explanation of my reporting is based
13 on the description of the item as it is sent to SLED.
14 So SLED Item 8 was described as the knife handle and
15 SLED Item 9 is a knife blade. That's as much on it as I
16 have.

17 Q. So it could have been a square centimeter of the
18 knife?

19 A. Correct. I don't know how much or exactly from
20 where the sample was taken.

21 Q. Okay. So you don't know that there was blood on
22 the knife handle at all. All you can say is that Cecil
23 Gilliam's DNA, and again you can't say it, but the
24 likelihood is that it matches?

25 A. Correct. It's just my analysis is based on what

1 is present on the swab once it's sent to SLED. I don't
2 actually receive the knife. I don't test it myself.

3 MR. NEELY: Okay. Nothing further.

4 THE COURT: Thank you, ma'am, you may step down.

5 THE WITNESS: Thank you.

6 (Witness leaves witness stand.)

7 MR. NEELY: Can I have one moment, Your Honor?

8 THE COURT: (Nods head up and down.)

9 MR. NEELY: Judge, I don't have any more
10 witnesses to call for this hearing.

11 THE COURT: Any reason why the two SLED agents
12 couldn't be excused?

13 MS. JORDAN: Your Honor, I have no need to put
14 them up for the rest of the day. I will be calling Ms.

15 Leisy back to the stand either tomorrow afternoon or
16 Wednesday morning.

17 MR. NEELY: And I have Mr. Castellani subpoenaed
18 as well, Judge, for when we present our case in chief.

19 THE COURT: Are you gonna use Mr. Castellani as
20 well?

21 MS. JORDAN: No, sir.

22 THE COURT: Okay. All right. For today's
23 purposes, the witnesses can be excused, but be sure that
24 whoever y'all are working with, that you understand when
25 you need to come back, okay?

1 MS. LEISY: Yes, sir.

2 THE COURT: Thank you all very much.

3 (Whereupon, witnesses Castellani and Leisy left
4 the courtroom.)

5 THE COURT: You don't have any more witnesses,
6 but you're trying to find something?

7 MR. NEELY: Yes, sir. If I could have one
8 moment.

9 THE COURT: All right.

10 MR. NEELY: If I may approach, Your Honor?
11 That's your order denying the motion previously and a
12 copy of State V. Scott.

13 Judge, at this time I would again ask the Court
14 to find that Adriel Garnett is entitled to immunity
15 under the Protection of Persons and Property Act.
16 Judge, I would point you to your order denying
17 defendant's motion dated December 18th of 2017. In it
18 on the second page the Court noted: That while there is
19 some circumstantial evidence that the victim may have
20 been the aggressor with the knife.

21 Judge, I just handed up and I handed to the State
22 a recent Supreme Court opinion called State v. Scott.
23 In it Mr. Scott was granted immunity. The conclusion,
24 Judge, states that there is evidence in the record to
25 support Scott's use of deadly force. Judge, again, this

1 Court found that there is some evidence that the victim
2 was acting as the aggressor.

3 The new evidence that the Court has just heard is
4 that on the morning of February 6th, 2016, Cecil Gilliam
5 had a blood alcohol content of .186. Nobody that
6 testified before the Court can say what exactly a .186
7 would do to Cecil himself, but Mr. Castellani testified
8 that it would lower inhibitions. It would give a person
9 what's commonly referred to as liquid courage. It might
10 make him act more adventurous. It might lead to any
11 number of behaviors that you wouldn't ordinarily see
12 when that person is sober.

13 So, Judge, previously you had denied our motion,
14 but there was only evidence that when Dr. Wren went into
15 his stomach during the autopsy he smelled beer and there
16 was ethanol in his system. Now we actually have a blood
17 alcohol content and it's .186, more than double the
18 legal limit. A dangerous level of consumption. A level
19 that can lead to, in some circumstances, vomiting and
20 dizziness. Or it leads to lowered inhibitions with
21 grievous consequences.

22 Judge, you also heard from Ms. Leisy that there
23 was a knife present on the scene. And from her the
24 Court heard that Cecil Gilliam's DNA was on both the
25 handle and the knife. It was our contention at the

1 first Stand Your Ground hearing that, and Adriel
2 testified to that, that he was holding that knife. That
3 Cecil Gilliam was holding that knife as he was coming
4 down the ramp. And Adriel fired eight shots in
5 self-defense as Cecil came down.

6 Dr. Wren testified at the December hearing that
7 there was one wound that started on the left side,
8 passed through the right-side of the body and injured
9 the wrist of Mr. Gilliam. Adriel testified that that
10 was the hand that Cecil Gilliam was holding the knife
11 in. Adriel's the only person who has the ability to
12 testify to that, Judge. He is the only witness. The
13 State is unable to call anybody to refute that. Adriel
14 is the only one who can testify to that. And the DNA
15 evidence would support that.

16 Your Honor, what I was looking for, and I
17 appreciate the Court for giving me the opportunity to
18 find my notes. At the Stand Your Ground hearing on
19 December 6th, investigative officer, Rogert Talanges,
20 testified before the Court. His testimony then, Judge,
21 and I'll just start reading:

22 This is the pocket knife that was located to the
23 right side near the garage just above the victim. It's
24 a lock, it's a black handle locked blade style knife.
25 What I did is, once collected we went back to the lab

1 myself and I rephotographed and then checked the knife
2 and located red substance on it. (Ends reading.)

3 Again, Ms. Leisy's testimony was that her test
4 tested presumptive positive for blood on the knife
5 blade, but not on the handle. However, she testified
6 she didn't know where the swabs came from, but that Mr.
7 Gilliam's DNA was on the handle as well.

8 Ms. Jordan says -- Ms. Jordan asked him: Where
9 did you locate the red substance?

10 He says: On the blade.

11 Followup question: Did you also locate it on the
12 handle?

13 Answer: On the handle, that's correct, and both
14 were swabbed for DNA.

15 So the officer who collected the evidence
16 testified that there was red substance that
17 presumptively testified (sic) for blood on both the
18 handle and the knife. What the Court heard today is
19 that both tested positive for -- both would be a match
20 for DNA evidence for Mr. Gilliam. One just didn't
21 happen to test positive in the SLED lab based on the
22 sample, presumptively for blood.

23 So we have DNA blood on both on the knife found
24 directly beside Mr. Gilliam's body, which corroborated
25 Adriel's story. We've got Mr. Gilliam's blood alcohol

1 content of .186. Adriel's version of events from that
2 night, Judge, are the only version of events. There is
3 nobody else to present evidence to this Court as to what
4 happened that night. There were 22 people, 22 people at
5 406 Sharp Street.

6 The only person the State could find to testify
7 at that hearing in December was Mr. Higgins, who's in
8 the courtroom here today. And his testimony on December
9 6th, and his statement to law enforcement on February
10 6th of 2016, was that he was inside playing pool when he
11 heard what he at first thought were firecrackers, but
12 then he realized they were gunshots. And he said he
13 heard three gunshots and then he looked out the window
14 and saw Adriel fire the shots.

15 Judge, Adriel at no point has denied that he
16 fired those shots. And in no way has he denied that.
17 What he has testified before the Court is that he fired
18 in self-defense. So we have a decedent with blood
19 alcohol content of .186, incredibly drunk. We have a
20 knife that my client says the decedent was holding while
21 he was coming at him as an aggressor.

22 The Court found previously that there was
23 evidence that the victim was, was acting as an
24 aggressor. We've got nobody to refute Adriel's story.
25 It's a one-sided story. And the State has nothing but a

1 theory to present to the Court, and that is a -- that is
2 not a ground to deny my client's motion.

3 Dr. Wren testified that Cecil Gilliam was 6 foot,
4 2 and weighed 262 pounds on the day of his autopsy.
5 Adriel previously testified that he is 5 foot, 8 and
6 weighs 210 pounds. So there is an incredible size
7 difference in the, in the two of them.

8 Judge, the other issue that I would like to raise
9 before the Court, as far as it goes, is the absence of
10 Tavis Jeter. In the Court's order denying my motion,
11 there was an unexplained absence of Tavis Jeter and I, I
12 guess I just didn't do a good job last December of
13 explaining his absence.

14 What I should have told the Court is I'm unable
15 to get him to court because that young man has not come
16 to court without handcuffs and a bench warrant. He
17 never has, he never will. And unfortunately, Judge,
18 where I stand today, I'm not able to undo that mistake
19 on behalf of my client because Mr. Jeter lost his life
20 in May of this year, so I don't have the ability to put
21 him on the witness stand and have him testify before the
22 Court.

23 So, Judge, I would ask that you not consider the
24 absence of Mr. Jeter when you consider my new motion for
25 Stand Your Ground. But, again, the Court now has

1 evidence of the decedent's blood alcohol content. We
2 now have further evidence that Mr. Gilliam's DNA was all
3 over that knife.

4 We have Adriel's version of events that he was
5 being attacked and that Mr. Gilliam was the aggressor.
6 And it's the only version of events, Judge. I believe
7 that when it's just an ever so slight tipping of the
8 scale, which is all preponderance of the evidence is,
9 that burden's been met.

10 MS. JORDAN: Your Honor, it's the State's
11 position here today that nothing significant has changed
12 to grant the -- to require the Court to grant the order
13 -- or grant the defendant's motion for immunity.

14 As to the DNA on the knife, Your Honor, at no
15 time during that hearing back in December do I recall
16 any of us disputing the fact that Cecil had that knife.
17 So the DNA, whether or not it was on that knife or not,
18 I do not see how it factors into play here other than
19 just to state that he did have the knife. The Court
20 knew the allegations from this defendant that the
21 defendant had the knife in his hand. That was the story
22 that he gave.

23 If you read through the Court's order, you have,
24 you have in there on page two where you talk about the
25 credibility and the believability of a witness. And the

1 credibility simply means believability. Here the
2 defendant's flight from the scene and his evasion from
3 the police after the shooting substantially affects his
4 credibility.

5 I don't recall anything in the Court's order, and
6 I may be wrong, that states that the alcohol level or
7 the lack of alcohol level on the victim played into the
8 Court's ruling here. You heard Mr. Castellani testify
9 that the behavior could go from anything from visual
10 agility -- acuity, I apologize, balance and motor
11 function issues. The person could show dizziness or
12 drowsiness. Double vision could occur. And his
13 peripheral vision could be impaired.

14 Your Honor, those to me are things that cut both
15 ways here. They account for our victim being out there,
16 being defenseless based upon issues with his vision
17 issues, with his stability when he was shot and attacked
18 by Adriel with the eight shots, seven that hit him.

19 Your Honor, as to -- we just, we rest upon the
20 fact of what all -- that this testimony today does not
21 change the Court's ruling as it's put out in the order.
22 Mr. Neely referenced the gunshot wound to the decedent's
23 hand, to Cecil's hand. Your Honor, it's my
24 understanding from Dr. Wren that that is a reinjury
25 wound. That it came from one of the wounds.

1 It came into the left, exited the right and then
2 entered into his hand. And that his hand would have had
3 to have been extended or right by his side when that
4 bullet went in, not following the defendant's story that
5 he was coming at him with a knife. Unless this was a
6 magic bullet that went in, out and then bounced off the
7 arm and hit right here. (Indicating.)

8 This is not the only version of events that
9 occurred that night. We do not have Cecil here, but
10 what we do have are the forensic officers who testified
11 as to the locations of the shell casings, the one fired
12 bullet, the strike mark in the railings and now
13 confirmation that it was the victim's blood starting at
14 the front door or the side door of his house, all the
15 way down to the garage wall. All the victim's.

16 Your Honor, we have, in addition to all the
17 forensic evidence, we also have Dr. Wren and the
18 positioning of the bullets. I would not go back into
19 the positioning of the bullets because I think we've
20 covered those very well in the motions back in December
21 of 2017, as well as earlier today in our pretrial
22 motions. Just to say seven entry wounds. Two to the
23 side that went through the body, left to right. Five in
24 the back.

25 Your Honor, we would also, if the Court is

1 inclined -- or we would also renew our motion regarding
2 the Constitutionality of this statute, if the Court is
3 inclined to grant Mr. Neely's motion as well.

4 THE COURT: Reply? Oh, I'm sorry, were y'all
5 finished?

6 MS. JORDAN: Your Honor, just I'd also point out,
7 too, is the Court referenced in here the flight from the
8 jurisdiction and how that impacts his credibility and
9 his consciousness of guilt. Your Honor, I would also
10 point out there are two portions of the transcript that
11 I just wanted to highlight. And I could make these a
12 Court's exhibit if need be, but under Page 139, which is
13 Adriel Garnett's direct examination by Mr. Neely,
14 starting at lines 13:

15 His answer is: I put my hands -- I put my hands
16 in the air and I was, like, you know what I'm saying? I
17 was like what is this for, man? He said -- or he just
18 -- he was just, you know, I don't know if he was drunk
19 or anything, but he was just talking loud or just loud
20 talking basically. You know what I'm saying? Coming at
21 me negative. Negatively saying stuff about my mom. All
22 of that type of stuff. Oh, your daddy and all of that
23 type of crazy stuff. You know what I'm saying?

24 Your Honor, he also, in reference to this knife,
25 just to remind the Court, on Pages 163 into 164, I asked

1 him on cross what happened to his knife during all these
2 shots.

3 Defendant's response was: I don't know. Like,
4 you see how small it was, it's dark outside.

5 My question back was: So you knew the knife was
6 small?

7 His response was: Yes, ma'am.

8 Your Honor, I can make this a Court's exhibit if
9 need be.

10 THE COURT: Whatever you prefer.

11 MS. JORDAN: I would like to, just for purposes
12 of the records.

13 (Court's Exhibit Number 3, Portions of
14 Transcript, was marked for identification.)

15 (Court's Exhibit Number 3 was entered into the
16 record.)

17 THE COURT: Any reply?

18 MR. NEELY: Yes, sir. Judge, first of all, this
19 is the first time I've heard the State concede that
20 there was a knife that night. So the State's position
21 now is that Cecil Gilliam had a knife on the morning of
22 February 6th, of 2016. That's the first time there
23 hasn't been a denial by the State of that.

24 So now we have the State conceding that Mr.
25 Gilliam had a knife. Now, what the State just said is

1 that on cross-examination Adriel said that the knife was
2 small. Again, the State's officer, when he was on the
3 witness stand on redirect, I asked him if I wanted to
4 gut Mr. MacDonald like a fish, would I be able to
5 accomplish that with that knife? And his response to
6 that was yes, that's a cutting knife.

7 So, again, it might have been a small knife,
8 because, again, the judge -- the knife only had a
9 two-inch blade. But a two-inch blade is able to do a
10 lot of damage if it hits the right part. The case law
11 is very clear. You don't have to wait for somebody to
12 get a drop on you. You don't have to wait.

13 The law is if you feel, if a reasonable person in
14 your shoes would feel like there was an immediate
15 threat. And Adriel testified that it was his knife or
16 it was Cecil's knife. And the State concedes that Mr.
17 Gilliam had a knife.

18 Judge, the argument that the State makes about
19 the shell casing, because again they rely on Deputy
20 Talanges's chart that was previously shown to the Court
21 last December of the shell casings. That's an erroneous
22 argument, Judge. That argument is gone.

23 Christina Henderson, who was one of the first
24 responders who works for Emergency Medical Services,
25 testified that she was in such a rush to get to Mr.

1 Gilliam to attempt to save his life that she kicked the
2 shell casings. She testified that what she remembers
3 from that morning is hearing clank, clank, clank as the
4 shell casings went rolling. So we don't know the
5 position of the shell casings. So that doesn't tell us
6 anything about where Adriel was standing.

7 Judge, I would point back to what the State just
8 made a Court's exhibit about Adriel's direct examination
9 about the words that Mr. Gilliam was speaking to him,
10 talking about his mother, talking loud, about talking
11 boisterous at him. Judge, fighting words along with
12 action tend to prove, not disprove self-defense.

13 And, Judge, I would say that further corroborates
14 Adriel's story because what we've heard this morning is
15 that -- or this afternoon is that Cecil Gilliam had a
16 blood alcohol content of .186. That liquid courage.
17 That more adventurous. Talking to people you wouldn't
18 normally talk to. Talking in a manner you wouldn't
19 normally talk to. Raising your voice when you've had
20 alcohol. Those are signs and symptoms of alcohol
21 consumption.

22 And he might not have known that Cecil Gilliam
23 was drunk, but what he did know is that this man had a
24 knife and was making all sorts of threats about him.
25 And as he tried to back away to his car, that man kept

1 coming at him. That man with an incredible size
2 difference kept coming at him. And so he had one
3 choice.

4 He testified to this Court that he had one choice
5 and that was act in self-defense. It was his life or it
6 was Cecil Gilliam's life. The State concedes that there
7 was a knife. The State concedes that Cecil Gilliam had
8 a knife on the morning of February 6th of 2016.

9 And, Judge, common sense has to play a role in
10 what we're doing. This man is sitting here fighting for
11 his life. Common sense has to play a role and common
12 sense is you don't bring a knife to a gun fight. It
13 doesn't work the other way around.

14 Judge, if the 9 millimeter is out, an equal
15 response is not pull a pocket knife out. Law dictates
16 if the knife is out first, a gun is an equal reaction.
17 But it doesn't work the other way around. That's a
18 fallacy. So, Judge, I would say that that tends to
19 corroborate his story and he's entitled to immunity.

20 MS. JORDAN: Your Honor, may I briefly address
21 this conceding of the knife?

22 THE COURT: Briefly.

23 MR. JORDAN: We're conceding that there was a
24 knife present and the knife was found near Cecil. We
25 are not conceding when and at what point in time that

1 knife was pulled.

2 THE COURT: So is the defense conceding the
3 unConstitutionality of the statute?

4 MR. NEELY: Not in the slightest, Judge. I'll
5 rest on my previous arguments that are in the
6 transcript.

7 THE COURT: All right. Now, let's see. You had
8 other things?

9 MR. NEELY: Yes, sir. Judge, the State has
10 informed me, and I ended up changing course a little bit
11 today, but previously they had informed me that they
12 intend to call Phillip James Childers to the stand and
13 that his testimony would be that my client made some
14 sort of confession to him in the jail. Judge, this
15 raises a much larger issue. And so what I'm moving
16 before the Court is to preclude the testimony of Mr.
17 Childers.

18 But, Judge, what I would like to back up to, and
19 the ultimate ground for my exclusion of that testimony
20 is a number of discovery violations that continue to
21 happen, not just in this case with these particular
22 solicitors, but with the entire Seventh Circuit
23 Solicitor's Office.

24 THE COURT: You're gonna review all of them?

25 MR. NEELY: I intend to, Your Honor. Judge, what

1 I've handed up to the Court, and I'm willing to make it
2 a Court's exhibit, is a copy of the Seventh Judicial
3 Circuit Public Index as it pertains to this case. What
4 the Court will note I highlighted in orange is that
5 since the Stand Your Ground hearing in this case, there
6 have been 12 pieces -- 12 affidavits of discovery filed
7 in this case. Since this case was placed on a docket, I
8 received nine new pieces of discovery.

9 And, Judge, some of those things are SLED
10 results, chain of custody. Some of them are body cam
11 footage. And some -- and those body cams, it's not like
12 we've gone back and done a new investigation in this
13 case. Those body cams were in existence on the morning
14 of February 6th, of 2016, but I didn't receive them
15 until October of this year, well over two-and-a-half
16 years later.

17 Judge, there is a constant pattern in this
18 circuit of as we get closer to trial there's a drip,
19 drip, drip that gets bigger and bigger and bigger as
20 pieces of discovery get turned over. Sometimes it's as
21 innocuous as a body cam. Sometimes it's my client's
22 interrogation. It happens in every single case. Things
23 get turned over at the very last minute.

24 Judge, we sat in your office two weeks ago and
25 had a chambers conference. During that conference, I

1 specifically requested, made a request of the Court,
2 made a request of the Solicitor's Office for
3 confidential informant information as it pertains to
4 Cecil Gilliam. And that was based on the new
5 information provided to me about Mr. James Childers and
6 his accusations against my client.

7 We didn't make a determination as to
8 admissibility that day, but the Court advised the State
9 to turn over the CI file. Judge, I received the State
10 file. To me, Judge, one, it's absolutely relevant to my
11 case, Mr. Gilliam being a CI. It's absolutely relevant
12 him being a CI in Federal Court or -- right, in Federal
13 Court because if I had that information to me, it could
14 be pertinent to my defense of Mr. Garnett.

15 It's not for the State to dictate to me what is
16 and is not relevant in my preparing my defense of my
17 client. And that e-mail is ludicrous actually. There's
18 nothing stopping them previously from calling Lance
19 Crick (phonetic), who used to work in that office from
20 calling them and getting that information.

21 And currently they actually employ an assistant
22 U.S. attorney, so they absolutely have access to that
23 file. The standard in discovery, the standard under
24 Lyle isn't, whoops, sorry, I couldn't get it. That's
25 not the standard for turning over information, Judge.

1 It's the State's absolute duty to do it.

2 And more specifically, I've requested that
3 information. It's not just that that information exists
4 and they couldn't get it; it's that I've actually
5 requested, the Court has told them to give it to me, and
6 then they just couldn't get it. So they didn't do it,
7 even though all she had to do was go down the hall and
8 ask Ms. Wells to give her that information.

9 Now, Judge, as it pertains specifically to this
10 motion, on top of all the other discovery violations, as
11 it specifically pertains to this motion with Mr.
12 Childers, Judge, the only information I received is a
13 one paragraph synopsis of a meeting that took place on
14 August 31st. And that wasn't a statement given by Mr.
15 Childers, that wasn't an audio recording given by Mr.
16 Childers, it was an investigator from the Seventh
17 Circuit Solicitor's office.

18 Since that time I filed a motion to reveal the
19 deal. Judge, what we've entitled reveal the deal.

20 MS. JORDAN: Your Honor, I've never seen this
21 motion.

22 MR. NEELY: Clocked and filed.

23 MS. JORDAN: Your Honor, I've not seen this
24 motion. I don't know if it's been served on me and I
25 haven't seen it, but I'm not aware of this motion.

1 THE COURT: Dated -- well, it's stamped October
2 the 8th. Does the State not get a copy of it?

3 MR. NEELY: Judge, if it was clocked and filed,
4 it was served. And we can get our investigator who
5 clocked the file down here to testify, if we need to.

6 MS. JORDAN: Or if I can just have a copy.

7 MR. NEELY: Well, Judge, as it pertains to that
8 motion and -- again, I have nothing by way of defending
9 my client and he's Constitutionally entitled to present
10 a full and complete defense, but I haven't been given
11 sentencing sheets from Federal Court. I haven't been
12 given any motions by his federal public defender as it
13 pertains to downward departures or request for downward
14 departures in that court.

15 I haven't been given any communications between
16 Mr. Childers, his lawyer and the State or the federal
17 government. I've been given absolutely nothing. And
18 under State vs. Simms, I'm absolutely entitled to go as
19 far -- to go forward with any of the underlying charges
20 that he's looking to receive a downward departure on,
21 but I've been given none of that information. So this
22 is just another discovery violation on top of discovery
23 violation on top of discovery violation. And, Judge ---

24 THE COURT: Well, maybe they're not gonna use
25 him.

1 MR. NEELY: Well, what I'm asking is for the
2 Court to absolutely tell them that they can't use him
3 because, Judge, where we're at at this point, not just
4 with this case, not just in my representation of Mr.
5 Garnett, but where I'm at with my representation of the
6 other 200 clients that I have, or where Mr. MacDonald's
7 at with his representation of 200 clients that he has.

8 Where we are at the Public Defender's office is
9 every single time we have a trial of any significance,
10 discovery pours in at the eleventh hour. And, Judge,
11 it's not fair to our clients, it's not fair to the
12 attorneys. But our clients are the ones that are
13 supposed to be Constitutionally protected in these
14 situations, but instead time and time again, once we get
15 past that first appearance where the Court says that we
16 can file for an administrative dismissal.

17 Once we get past that, we see the State asking
18 for a continuance and asking for a continuance and
19 asking for a continuance and the Court granting that
20 motion time and time and time again. Judge, at some
21 point there has to be a remedy that's gonna teach the
22 State that you cannot have these violations, and the
23 remedy is exclusion.

24 And what I would ask, because the most grievous
25 discovery violations ---

1 THE COURT: I've dismissed cases before.

2 MR. NEELY: Yes, sir. The problem I have in this
3 case is that if I don't know what's out there, how can I
4 ask the Court to dismiss? If it's something that is
5 thrown at me two-and-a-half years after the inception of
6 this case, how can I make that motion before the Court?
7 So what I would ask is that the Court exclude the
8 testimony of this individual because, Judge, nothing has
9 -- we're here, we're ready to try the case and nothing
10 has been given to me.

11 THE COURT: Nothing on this ---

12 MR. NEELY: On this individual, yes, sir.

13 THE COURT: Y'all can't find anything on this
14 individual?

15 MS. JORDAN: Your Honor, we handed over the --
16 his plea agreement from Federal Court that references
17 that he does testify truthfully. I guess that -- and I
18 don't have the exact wordings, but I can get a copy of
19 it out of my box to give to the Court. He could ask
20 potentially for a downward departure. We've made no
21 offers or no deals with him.

22 And, Your Honor, this is the first time I am
23 seeing this Reveal The Deal motion. I have not seen it
24 up until this point. This is the first time that I have
25 seen it, in all candor with the Court.

1 As to discovery violations on every other case
2 that's out there, I can't speak to those. I can speak
3 to what's occurred in this case. Your Honor, under Rule
4 5 of the Criminal Rules of Procedures, we have a
5 continuing duty to disclose. We've met with this
6 witness -- this witness gave us this statement in August
7 of this year. He had previously indicated that he
8 wanted to meet with us, but wouldn't meet with us or met
9 with us but would not talk until he was going to be no
10 longer in the custody of the Spartanburg County
11 Detention Facility.

12 We met with him. Our investigator's write-up was
13 provided. We also, I believe, provided the defendant's
14 or that defendant's, Mr. Childer's, rap sheet in this
15 case. Your Honor, all of the other information is not
16 -- we have turned over information where we realized
17 that we did not have stuff.

18 The DNA has always been outstanding. That was
19 turned over recently. The chain was turned over once
20 the DNA was finished. The body cams, Chief Ryan is
21 here. I went over to Woodruff to review their file to
22 make sure nothing was missing and realized that there
23 was one body cam from Officer Henson on there. I
24 immediately made a copy, brought it back and it was
25 turned over.

1 As to the body cams of Michelle Pearson or
2 Michelle Black, in speaking with her preparing for the
3 trial she stated I have, you know, I turned on my body
4 cam. I didn't have body cams. My paralegal went back
5 and searched through Michelle's name and found those
6 body cams.

7 We're not intentionally hiding any information
8 from Mr. Neely, Mr. MacDonald or any member of the
9 Public Defender's office, Your Honor. We have a
10 continuing duty to disclose, which we have constantly
11 done and which is seen by the turning over of
12 information as we receive it. I don't believe that
13 there's anything intentional on our part that we are
14 hiding anything that's out there.

15 For clarification, Lance Kirk did not work in our
16 office. His wife, Cindy, also didn't. And this is the
17 first time that he's raised a discovery violations and
18 issues with me.

19 MR. NEELY: If I might?

20 THE COURT: Briefly.

21 MR. NEELY: Of course she has not offered him a
22 deal, he is a federal inmate. He is a warden of the
23 Federal Bureau of Prisons. He's doing a ten-year
24 federal sentence, as best I can tell from the plea
25 agreement.

1 Again, that was issued in January. That's an
2 initial plea agreement and done in Federal Court that
3 has nothing to do with the final sentencing. I have no
4 idea how much time the gentleman got. I have no idea if
5 there's been any motions as far as downward departures
6 go that his attorney has filed on his behalf. I have no
7 idea what the outcome of the case was. That is all
8 information that I believe I am entitled to.

9 Again, the State can get from their AUSA in their
10 office because, actually, it's my understanding that
11 Jenny Wells actually prosecuted that case in Federal
12 Court. So they absolutely have access to every single
13 piece of -- to every single document that's going on in
14 this man's case, as he seeks relief from whatever
15 possible sentence he's gonna get.

16 As far as the Henson and Pearson body cam, I'm
17 not necessarily alleging malicious intent on the part of
18 the State. I understand that Ms. Jordan went to the
19 Woodruff Police Department and she saw that there were
20 new body cams in -- that there were body cams in
21 evidence that she didn't have and she made me a copy as
22 soon as she saw it.

23 That's not the standard. That knowledge is
24 imputed to the State. So that's the whole purpose of
25 the administrative dismissal is that when law

1 enforcement doesn't turn it over, it's not that that
2 stuff hasn't been turned over and that the State doesn't
3 know what evidence there is, it's that law enforcement
4 isn't complying because that information is imputed to
5 the State.

6 So the fact that they don't know it's there and
7 they turn it over as soon as they get it, that's not the
8 standard. It's still in violation of the discovery
9 rules that we have. So, again, the remedy in this case,
10 what will stop this from happening in the future is
11 exclusion. And it's the exclusion of Mr. Childers in
12 this case.

13 THE COURT: All right. The State now has a copy
14 of your motion. She said that that is the first time
15 that she's taken a look at it. We're not beginning
16 trial until tomorrow. What the State received -- I
17 didn't read the motion when you handed it up. I don't
18 know what it is that's in there. See what you can do
19 about getting whatever it is that he has in there to
20 him. And we'll then decide whether or not y'all are
21 gonna use him or not.

22 MS. JORDAN: Okay. And that's a -- and, Your
23 Honor, that is a decision that we have not made yet,
24 whether or not we use him. We have discussed resting on
25 just the basics of our case, which we believe are

1 sufficient with the forensics and the Dr. Wren that we
2 do have.

3 I will point out that Mr. Neely stated he did not
4 know what this defendant was sentenced to. It's in the
5 page provided by Scott Howell. It states that:
6 Childers was sentenced this year to a 10-year BOP
7 sentence on a federal gun charge prosecuted by Jennifer
8 Wells.

9 THE COURT: Okay. You had a third issue? Oh,
10 that was the issue of the not wanting the State to refer
11 to the deceased as the victim.

12 MR. NEELY: Yes, sir. Would you like further
13 argument on that?

14 THE COURT: (Nods head up and down.)

15 MR. NEELY: Bear with me one second, Your Honor.
16 Right. Judge, what we're asking is the Court not refer
17 to Mr. Gilliam as the victim, but instead as deceased or
18 the decedent and all parties in this case. Judge, Mr.
19 Garnett is presumed innocent. He's -- that -- the
20 presumption of innocence is guaranteed under the state
21 and federal Constitutions and the 14th Amendment of the
22 United States Constitution and Article 1, Section 3 of
23 the state Constitution.

24 Judge, it's elementary that an accused is
25 presumed innocent until proven guilty and that the

1 burden is upon the State to prove the accused committed
2 the crime charged. He has a right to rely entirely upon
3 this presumption of innocence and the weakness of the
4 State's case against him. Judge, that is from
5 State vs. Premis, 564 SE 2d. 103.

6 Judge, when in a case like this where we're
7 claiming self-defense when the decedent is referred to
8 as the victim, this instantly legitimizes the State's
9 claim that a crime has taken place and it places the
10 defendant, Mr. Garnett, in the position where he has to
11 rebut that term itself in order to maintain his cloak of
12 innocence.

13 Because he asserts self-defense, the core dispute
14 in this case is whether a crime occurred at all. If the
15 jury is gonna find that Adriel was acting in
16 self-defense, then they have to find that he's not
17 guilty of murder and that the murder did not occur, but
18 that he was merely defending himself.

19 Judge, in South Carolina the term victim refers
20 to someone who has suffered a wrong, which is a crime.
21 Victim means a person who suffers direct and threatened
22 physical, psychological or financial harm as a result of
23 the commission or attempt to commission a crime against
24 him. The term victim also includes a person's spouse,
25 parent, child or law enforcement representative of a

1 crime who is deceased, who is a minor or who is
2 incompetent, or who is a homicide victim or who is
3 physically or psychologically incapacitated. That's
4 from Article 1, Section 24, Subsection C2 of the South
5 Carolina Constitution.

6 Judge, I believe it would be an error to refer to
7 Mr. Gilliam in this case as a victim when the existence
8 of the crime is in dispute. The term victim is gonna
9 create a bias that assumes the commission of a crime
10 prior to any such determination being made by the jury,
11 and it's accordingly inconsistent with the presumption
12 of innocence.

13 Under the South Carolina Victim's Bill of Rights
14 and the Constitution, no right is established to be
15 referred to as a victim during a trial, nor is there any
16 such understanding the definitions of victim under the
17 South -- under South Carolina statutory scheme.

18 Judge, also at trial references to Mr. Gilliam as
19 a victim would improperly express a personal belief that
20 the State is telling the truth; that the State's
21 witnesses are telling the truth, and that the defendant
22 is guilty. The implicit notion attached to the term
23 victim suggests an inference of guilt which is highly
24 improper in this case where the jury is tasked with
25 finding whether or not a crime has actually occurred.

1 The law recognizes it's improper for the
2 prosecutor or the Court to express a personal belief in
3 the credibility of a prosecution witness. Improper
4 vouching occurs when the prosecution places the
5 government's prestige behind a witness by making
6 explicit personal assurances of a witness's veracity, or
7 where a prosecutor implicitly vouches for the witness's
8 veracity by indicating the information not presented to
9 the jury supports the testimony.

10 And, Judge, as far as you're concerned as well,
11 it says that trial judge must refrain from any comment
12 which tends to indicate his opinion as to the weight of
13 sufficiency of the evidence, the credibility of
14 witnesses, the guilt of an accused or at any fact in
15 controversy.

16 The sensitive nature of this case requires that
17 all parties use content neutral terms to ensure civility
18 and reduce any commentary which would infect the trial
19 with unfairness to make the trial a denial of due
20 process.

21 So, Your Honor, we would ask that during the
22 course of the trial until such time as the jury finds
23 that Mr. Gilliam is or is not a victim of a crime, that
24 we would refrain from that term and refer to him as the
25 decedent.

1 THE COURT: Okay.

2 MS. JORDAN: First of all, we don't think our
3 case is weak, as he -- as is referenced in the case that
4 he talked about. Your Honor, labels are given to people
5 and in our case the labels are that he is the victim of
6 this crime. He is the person who has suffered a wrong.

7 The jury will get to decide what they feel about
8 that wrong, but he is a victim in our case. I have no
9 problem if he wants the Court not to refer to him as a
10 victim. My concern is you heard the DNA expert from
11 SLED refer to Cecil as the victim on the stand. If any
12 of that stuff is coming in, I don't think it's
13 prejudicial to the defendant to have them referred to as
14 the victim.

15 THE COURT: All right. You were reading
16 something that sounded like that you were quoting
17 something when you referenced that it was improper for a
18 prosecutor or the Court to refer to the victim as the
19 victim. If that is -- if you were really quoting or is
20 that -- as opposed to just reading prepared materials,
21 share that with the State, let them take a look at it.
22 And then -- because I'm sure the State will do as they
23 are Constitutionally required to do.

24 I will, since the State says that they don't have
25 an issue with the Court not referring to the victim, the

1 Court will do anything that it can in referencing any
2 remarks that are made by the Court by not referring to
3 the deceased as a victim. Do you follow me, Mr. Neely?

4 MR. NEELY: I'm sorry, Judge. Could you repeat
5 that? I apologize.

6 THE COURT: All right. On the materials that you
7 were reading, it sounded like you were quoting. So if
8 you were actually quoting from a case or something,
9 share that with the State, let them take a look at it,
10 they will check the source. If they agree that that is
11 what Constitutionally they're required to do, I'm sure
12 that they will do it.

13 I will, since the State says they don't have an
14 issue with the Court not referring to the deceased as a
15 victim, the Court will not refer to the victim -- not
16 gonna refer to the deceased as a victim. Okay?

17 MR. NEELY: Yes, sir. I'll share that case law
18 with them. But, again ---

19 THE COURT: Otherwise, I think that it is proper
20 for you to, on however you want to do it through the
21 course of trial, to point that out through
22 cross-examination.

23 MR. NEELY: Yes, sir.

24 THE COURT: All right. Anything else, Mr. Neely?

25 MR. NEELY: Nothing, Judge.

1 THE COURT: All right. Let's see the lawyers
2 back in chambers. We'll go off -- anything else from
3 the State?

4 MS. JORDAN: No, sir, Your Honor.

5 THE COURT: All right.

6 (Court's Exhibit Number 4, Public Index, was
7 marked for identification.)

8 (Court's Exhibit Number 5, E-Mail From Ms.
9 Jordan, was marked for identification.)

10 (Court's Exhibits 4 and 5 were entered into the
11 record.)

12

13 (Whereupon, court concluded at 3:47 p.m.)

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15 --- THIS ENDS DAY ONE OF TRIAL --

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1 THE STATE VS. ADRIEL GARNETT, DAY TWO OF TRIAL

2 THE COURT: All right. Yesterday we had a
3 conference *in chambers* and I indicated to the attorneys
4 that on the renewed Stand Your Ground Motion that I am
5 not changing my earlier decision. I still believe that
6 the earlier decision issued by the Court is the
7 appropriate determination.

8 Also, I indicated that the photographs that the
9 State had offered that, my understanding upon reflection
10 of what Dr. Wren testified to at the previous Stand Your
11 Ground hearing, that if in fact he was able to testify
12 in a similar fashion that I saw that the probative value
13 of those photographs without waving prejudicial effect,
14 and will allow him, provided that he laid the proper
15 foundation and testified and that you can use.

16 Of course, if he changes his testimony, then I
17 don't think they would have much probative value. But I
18 would also indicate to the State my desire would be that
19 they use the black and white photographs as opposed to
20 the color photographs and that the photographs would be
21 the ones that work edited down.

22 And that I would allow the provisional
23 photographs to become a Court's Exhibit to the
24 proceeding that would not go back to the jury. But I
25 had also indicated to the State that my desire would be

1 that they could use the black and white photographs, as
2 opposed to the colored photographs and that the
3 photographs would be the ones that worked edited down.
4 And I will allow the original photographs to become a
5 Court's Exhibit to the proceeding that would not go back
6 to the jury.

7 Anything else before we bring the jury in?

8 MS. JORDAN: Nothing from the State, Your Honor.

9 MR. NEELY: Yes, sir, briefly. First, as far as
10 the State's motion on flight, I believe that we
11 discussed that on the record and maybe back *in chambers*
12 too. Could I have a clarification from the Court as to
13 what you will and will not allow the State to go into?

14 THE COURT: Well, allowing to go into it. Okay.
15 My understanding of the testimony is going -- and that
16 what Mr. Smith is asked to do is referenced in a
17 homecoming statement and that I would allow him to make
18 a reference to the flight in the opening statement.

19 And that I had cautioned Mr. Smith that, you
20 know, since I don't have access -- heard the testimony,
21 the testimony may very well turn out to not be what you
22 argue in opening statement. But I would allow him to
23 make reference to the flight and to make reference to
24 the, if he desired, to make reference to false
25 information that I'm told that he was given at the time

1 of his being captured or arrested in Columbia.

2 MR. NEELY: Okay. Just so we're all on the same
3 page, are you gonna allow him to speak to the fact that
4 he was arrested for the false information charge or just
5 that when asked what his name was he gave a different
6 name?

7 THE COURT: Do you intend to argue his arrest or
8 just intend to argue that he gave false information?

9 MR. SMITH: Part of it is gonna have to include
10 the arrest because that's how they identify him as
11 Adriel Garnett. He gets fingerprinted at the jail as a
12 part of being arrested. So I don't, I don't know how he
13 can say that it was Adriel Garnett or how we can dance
14 around the fact that he was arrested for the conduct
15 that we're saying that he did.

16 I thought the concern was somewhat about the bar,
17 the fight that kind of initiated the contact. And I
18 told the officer when I was speaking with him last
19 night, that might be something we address prior to his
20 testimony about whether, exactly how he would say that
21 this encounter occurred.

22 But I was planning on indicating he was arrested
23 as a part of this because he resist -- I mean, he was
24 tazed and taken into custody as a part of -- because
25 he's just saying that -- because I don't know how they

1 arrest him and identify him as Adriel Garnett without
2 saying that he got arrested for those things. They did
3 not approach him knowing that he was Adriel Garnett
4 arresting him for murder.

5 THE COURT: Uh-huh.

6 MR. SMITH: So there would have been no reason to
7 take him into custody except for the false info, failure
8 to follow a police command, I believe is what they
9 charged him with and admissible level resisting arrest,
10 is what they charged him with.

11 MR. NEELY: Judge, that's not an issue in this
12 case. That's a false flag being put up in front of the
13 jury. What the State wants to get into, if I understand
14 their argument yesterday under State v. Martin, is that
15 him giving false information to the police to evade the
16 arrest on the murder warrant because of his previous
17 testimony, is an indication, at least to the State, as
18 far as their argument to the jury goes, of a guilty
19 conscience.

20 But once you start going into the arrest, him
21 getting tazed, him being booked into the Richland County
22 Jail on separate charges, him giving false information
23 at that point, then you actually do need to do a Lyle
24 test under 404(b) for other bad acts because that's
25 exactly what that is.

1 THE COURT: All right. But what we're talking
2 about is not the actual testimony yet of the officer.
3 We're just talking about what Mr. Smith is going to be
4 allowed to say in his opening statement. If he goes
5 that far, I think it's logical, and I don't think it's
6 prejudicial, to allow this type of argument to allow him
7 to lay the factual background as to how -- what happened
8 that led to the arrest.

9 And that he was in Columbia and he got arrested,
10 you know, we don't have to reach -- we're not gonna try
11 the fact that he got arrested or whether he was guilty
12 of a crime at the time he was arrested. But the way he
13 was -- the fact that he was arrested for whatever reason
14 and then he gave false information, I think he is
15 entitled to argue that that is an indication of flight;
16 that he's trying to hide himself, so...

17 All right. Anything else?

18 MR. NEELY: And one more for clarification
19 purposes, Your Honor, on defense's argument to preclude
20 the State from referring to Mr. Gilliam as a victim. I
21 think by the end of the day yesterday I wasn't fully on
22 the same page with the Court. What, what I was mostly
23 reciting to the Court was a, was a previously drafted
24 motion.

25 The case law that I was citing, a case cited as

1 State v. Primus, which is 564 S.E.2d at 103. The, the
2 law from that says that it's elementary that an accused
3 is presumed innocent until proven guilty; and that the
4 burden is upon the State to prove the accused committed
5 the crime charged; and he has a right to rely entirely
6 upon this presumption of innocence and the weakness of
7 the State's case against him; and that that presumption
8 of innocence stays with him until the State has met
9 their burden with the jury.

10 The second case that I refer to is a case called
11 State v. Schuler, which is 545 S.E.2d 805. And that
12 case stands for the principle that it's improper
13 vouching -- an improper vouching occurs when the
14 prosecution places the government's prestige behind the
15 witness by making explicit personal assurances of a
16 witness's veracity or where a prosecutor implicitly
17 vouches for a witness's veracity by indicating
18 information not presented to the jury supports the
19 testimony.

20 That's the case law that was cited.

21 THE COURT: Did you bring them copies of the
22 case, like I asked?

23 MR. NEELY: I gave them to them yesterday.

24 THE COURT: All right. Then the State, you know,
25 my -- I, I do not intend to reference the deceased as a

1 victim.

2 MR. NEELY: Right. My argument was also to keep
3 them from referring to him as a victim, because at some
4 where what we're raising is a self-defense argument --

5 Q. Uh-huh.

6 A. -- that presumption of innocence resides with Mr.
7 Garnett all the way up until the point that a jury finds
8 him guilty of the crime that the State's indicted him
9 on. For the State to, to vouch for their claim by
10 calling him a victim implies that a crime has occurred.

11 But if the jury finds that it's self-defense, no
12 crime has occurred so it's improper for him to call him
13 a victim. He wouldn't be entitled to anything under the
14 Victim's Bill of Rights, or he wouldn't be defined as a
15 victim by South Carolina statutory scheme.

16 THE COURT: All right. Have y'all had a chance
17 to look at those cases?

18 MR. SMITH: Your Honor, to me your jury charge
19 covers that. It's gonna say that the presumption stays
20 with him. We're advocates. We're going to call him a
21 murderer because we think he's guilty of a murder. That
22 does not mean it's not evidence, which a jury charge
23 always covers.

24 And if some witness refers to him as the victim,
25 the jury charge covers that. He's not gonna be

1 convicted because the State calls him a victim ten
2 times. He's gonna be convicted because of the evidence
3 that we put forward. We're an advocate. We're fine
4 with the Court to remain neutral, certainly not calling
5 him a victim, but it just seems -- I don't really
6 understand the point.

7 THE COURT: All right.

8 MR. SMITH: The evidence has to overcome the
9 presumption of guilt, not how many times we call Mr.
10 Gilliam a victim.

11 THE COURT: All right. And you'll be allowed to,
12 if you choose to, to cross-examine any witnesses that
13 might happen to refer to the deceased as a victim on my
14 issue.

15 MR. NEELY: Thank you, Your Honor.

16 THE COURT: Anything else?

17 MR. NEELY: (Shakes head back and forth.)

18 THE COURT: All right. Let's bring them in.

19 (Jury enters the courtroom at 9:44 a.m.)

20 THE COURT: Good morning, ladies and gentlemen.
21 We're now going to begin the trial of the case, but
22 before we begin the trial in the case, the Clerk of
23 Court needs to administer an oath to you, so I would ask
24 that you stand and raise your right hand and respond out
25 loud when she asks you to do so.

1 THE CLERK: Do you solemnly swear in the case
2 about to be tried to truly try the issues joined in this
3 case and a true verdict rendered according to the law
4 and evidence so help you God?

5 THE JURY: I do. (All affirmed.)

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

7 THE COURT: Ladies and gentlemen, before we begin
8 this trial, I want to tell you that the trial probably
9 will be different from what you might expect. Many
10 people do not have a chance to attend an actual court
11 session, as you are doing now, and may think from
12 watching television or movies or reading books, trials
13 are always full of high drama, intense action and
14 riveting circumstances.

15 While all of these things may be true at times,
16 this trial is not for entertainment. It is a
17 fundamental part of our democracy. And trials are often
18 slow, deliberate and repetitive, just the opposite of
19 what you might have seen on television or in a movie or
20 read about in a book.

21 This courtroom is a place of honor dedicated to
22 the protection and preservation of citizens' rights
23 through what many have called the greatest justice
24 system ever created. The attorneys appearing before you
25 are advocates for the parties they represent. But first

1 and foremost, they are officers of the court, sworn to
2 uphold the integrity and fairness of our judicial system
3 and to help you in a search for the truth.

4 You should expect them to be professional,
5 competent and ethical in the representation of their
6 client's interests, but remember that you have taken an
7 oath to try this case and reach a fair and just verdict.
8 And you are also expected to be professional, reasonable
9 and ethical. So I thank you for accepting the important
10 responsibility of jury service and for your contribution
11 today to our justice system.

12 Now, ladies and gentlemen, what I say now is
13 intended to serve as an introduction to the trial of
14 this case. My remarks are not a charge on the law in
15 this case. I will instruct you on the law applicable to
16 this case at the end of the trial before you retire to
17 consider your verdict. This is merely an explanation of
18 the procedures that we will follow in this trial of this
19 case so that you may better understand what's happening.

20 The defendant is charged by way of indictment
21 filed with this court with crimes of murder and the
22 possession of a weapon during commission of a violent
23 crime. The elements of these charges will be explained
24 to you later.

25 Now, the indictment is simply the charge by which

1 the case is brought into court, and it is not in any
2 sense evidence of any of the allegations contained in
3 the indictment. The defendant has pled not guilty to
4 this indictment. The State, therefore, has the burden
5 of proving each of the elements of the indictment beyond
6 a reasonable doubt. And it will be your duty, ladies
7 and gentlemen, to decide whether the State has met that
8 burden.

9 Your purpose as jurors is to find and determine
10 the facts. You are the sole judge of the facts. If at
11 any time I make any comment regarding the facts, you
12 must disregard my comment. You are to determine the
13 facts from the testimony you hear and the other evidence
14 introduced in this court.

15 It is up to you to determine the inferences from
16 which you feel may be properly drawn from the evidence
17 that is presented. It is especially important that you
18 perform your duty of determining the facts diligently
19 and conscientiously because ordinarily there is no way
20 to correct an erroneous determination of fact that is
21 made by a jury.

22 On the other hand, with equal emphasis of the
23 same law that makes you the judge of the facts, makes me
24 the judge of the law. The law as given by the Court is
25 the only law that you may consider. You must accept it

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1 and bottle it even though you may disagree with it. I
2 cannot tell you what the facts are and you cannot
3 disagree with me about what the law is or should be.

4 Your job is to take the law as I give it to you
5 and apply it to the facts as you find them from the
6 testimony of the witnesses and any other evidence that
7 is introduced. After doing that, you will render your
8 verdict, a true and just verdict under the solemn oath
9 that you just took as jurors.

10 Now, until I advise you to begin your
11 deliberations, you must not discuss the case with
12 anyone, including your fellow jurors, friends, family
13 members and anyone that is involved in this case. This
14 includes discussions that are to take place face-to-face
15 and those by telephone, e-mail, text, blog or any other
16 method of communication.

17 You must not use a computer, a cellphone or other
18 electronic devices with communication capability at any
19 time while in this courtroom or during the
20 deliberations. During your break for meals or
21 overnight, if necessary, you may use those devices.

22 However, as I instructed you yesterday, you
23 cannot do any type of independent research or
24 investigation and you cannot have any type of
25 communications with anyone about anything involving this

1 case until you begin your deliberations at the end of
2 this trial.

3 Now, during this trial do not read, listen to or
4 watch any news reports about this case. This includes
5 anything that might be in the newspapers or on the
6 internet, radio or television. You must not consider
7 anything you may have read or heard about this case
8 outside of the courtroom, whether before or during the
9 trial of this case. After the case is submitted to you,
10 you must discuss it only in the jury room with your
11 fellow jurors.

12 Now, the attorneys and the parties in this case
13 have been advised that they are not to talk to you at
14 all. So if you see anyone involved in this case and
15 they do not even say hello to you, they're not being
16 unfriendly or rude to you, they're simply following my
17 instructions.

18 Now, it is important that you keep an open mind
19 and not decide any issue in this case until all the
20 evidence has been presented, the parties have made their
21 closing arguments, and I have instructed you on the law
22 in this case.

23 It is your solemn responsibility to determine
24 whether the State has met its burden of proof. And your
25 verdict must be based solely on the evidence as it is

1 presented to you during this trial and the law as I
2 instruct you during this trial and at the close of the
3 trial.

4 In just a moment, the solicitor will make what is
5 called an opening statement in which the solicitor will
6 explain to you the issues in the case, or at least what
7 the solicitor thinks the issues are in the case. The
8 attorney for the defendant may also make their opening
9 statement, although he is not required to do so.

10 Now, I want to just tell you their opening
11 statements is not evidence in this case. It is only
12 their contention as to what the issues are. The
13 evidence in this case will be presented to you by
14 testimony from the witnesses from the witness stand and
15 any exhibits that may be introduced during the course of
16 this trial.

17 From time to time, ladies and gentlemen, you may
18 hear one of the lawyers say something like, Your Honor,
19 I believe we have a question of law or a matter of law
20 to discuss with you, or they may say, Your Honor, may we
21 approach the bench?

22 Or sometimes I, myself, may find it necessary to
23 excuse you from the courtroom for a short while so that
24 the attorneys and I can discuss what is known as matters
25 of law. The reason for this is because you are the

1 judges of the facts in a case, and sometimes when I am
2 discussing matters of law with the attorneys, it may be
3 necessary for me to make some comment as to the facts in
4 connection with ruling on whether or not a particular
5 law applies or not.

6 I'm not supposed to tell you what I think about
7 the facts, so I will excuse you from the courtroom while
8 the attorneys are gonna have the discussions about
9 matters of law so that you will not in anyway be
10 influenced by anything that I say.

11 Now, in determining what the true facts are in
12 this case, you must decide whether or not the testimony
13 of a witness is believable. It will be my
14 responsibility to rule as a matter of law whether
15 certain testimony is admissible at all or not, but once
16 the testimony is admitted, whether or not you believe it
17 is solely for you to determine.

18 In determining and deciding whether to believe a
19 witness, you have the right to consider the interest of
20 any witness, the bias of any witness, the prejudice of
21 any witness, the opportunity for the witness to have
22 seen the matters and things by which the witness may
23 testify and the way the witness acts on the witness
24 stand.

25 You have a right to consider anything that is in

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1 the record that will help you evaluate the testimony of
2 the witnesses. That means that it is your duty to pay
3 close attention to the witnesses; to observe the
4 witnesses; to listen to the witnesses; and to pay close
5 attention to the attorneys and to the Court.

6 Do not let your thoughts wander, but give strict
7 attention to the testimony in this case so that at the
8 end of all the testimony, after the arguments of counsel
9 and the charge on the law by the Court, you will then be
10 in a position to determine what the true facts are and
11 apply the law to those facts and thus render a true and
12 just verdict.

13 And it is your added duty, Madam Foreperson, to
14 preside in the jury room and to be the jury spokesperson
15 here in the court. It will also be your duty to write
16 the verdict for the jury, but I will give you further
17 instructions about that at the conclusion of this case.

18 Now, in order to preserve everyone's rights I
19 will give the parties an opportunity to object to
20 anything that I have said. Any objections to my
21 comments from the State?

22 MS. JORDAN: No, sir, Your Honor.

23 THE COURT: Any from the defense?

24 MR. NEELY: None, Your Honor.

25 THE COURT: At this time we will receive the

1 opening statements of counsel.

2 MR. SMITH: Thank you, Your Honor.

3 OPENING STATEMENT

4 BY MR. SMITH:

5 Ladies and gentlemen, we're here because Cecil
6 Gilliam is dead. Cecil Gilliam died on February 6th,
7 2016, on his property right outside of a building in
8 which he had a get together of family and friends, some
9 of which are in the courtroom, some of which you'll hear
10 from.

11 He died in the arms of his friends and his
12 family. And he died because Adriel Garnett shot him,
13 not once, not twice, not three times, not four times,
14 not five times, not six times, but seven times. And he
15 shot at him an eighth time but he missed. Seven shots
16 in Cecil Gilliam's body.

17 You'll hear from the pathologist about the path
18 of those bullets. Five of them went in his back. Five
19 shots in the back. He did that to Cecil Gilliam and
20 that's why he's dead and that's why we're here today.

21 And as Cecil was dying with his wife watching,
22 his mom holding him, his friend, Jim, holding him,
23 begging him to stay here with us, he was trying to leave
24 town. He went to his family members and asked them to
25 get him out of town.

1 When that didn't work, he got somebody else to
2 pick him up. And he ended up going to Columbia and then
3 to Charleston. And he does not get found -- this
4 incident happened on February 6th, 2016. Warrants were
5 signed two days later in this case. Warrants for murder
6 and possession of a weapon during a violent crime, which
7 we're here for today.

8 He is not picked up until July 17th of 2016, By
9 two police officers, one of which you'll hear from later
10 today, in Columbia, South Carolina.

11 MR. NEELY: Objection, Your Honor.

12 THE COURT: All right. Ladies and gentlemen, I
13 have instructed you the arguments of counsel are not
14 evidence in the case.

15 You may go ahead, sir.

16 BY MR. SMITH:

17 He was picked up in Columbia, South Carolina.
18 When he's approached by officers, he tries to walk away
19 from the officers. When the officers catch up to him,
20 he pushes the officers.

21 MR. NEELY: Objection.

22 THE COURT: All right. You may continue.

23 BY MR. SMITH:

24 He pushes the officers and ultimately they get
25 control of him and then he gives a fake name.

1 MR. NEELY: Objection.

2 THE COURT: All right. Go ahead, sir.

3 BY MR. SMITH:

4 They're later to determine that it was not in the
5 name that he had given to them through him saying who he
6 was, but it was Adriel Garnett and that he was wanted
7 out of Spartanburg for murder. And that's why we're
8 here today because Cecil Gilliam was killed by Adriel
9 Garnett.

10 Five shots in the back, two through the side on
11 his own property with his own family there. And he
12 passed away. And while that was happening, he ran. And
13 that's what guilty people do. He ran and he didn't get
14 caught for five-and-a-half months. Thank you.

15 OPENING STATEMENT

16 BY MR. NEELY:

17 Mr. Smith and Ms. Jordan want the 13 of you to
18 believe that Adriel Garnett is a cold-blooded killer,
19 that he's an assassin, that he's a murderer. He's none
20 of those things.

21 The truth of the matter is, on the morning of
22 February 6th, 2016, at 4 o'clock, as Adriel stood
23 outside of Cecil Gilliam's property and he stood at the
24 bottom of a ramp, he wasn't any of those things. Cecil
25 Gilliam came at him with a knife. What Adriel was, was

1 desperate. He was down. It was his only option. It
2 was do or die.

3 It's been 998 days since February 6th of 2016.
4 And even where Adriel sits here today, I know what he's
5 wondering is how in the world did I get here. Adriel is
6 not from Spartanburg. He's from Beaufort, down in
7 Berkeley County in Bonfire City.

8 On January 29th of 2016, his great-grandmother
9 passed away. And so Adriel came up from Goose Creek to
10 bury a family member, to bury a loved one. For most of
11 that week he stayed at his Aunt Brittany's house. He
12 stayed at his Grandpa Bruce's house. And he spent time
13 with his family, wanting to love them.

14 After about a week, cabin fever set in. A buddy
15 calls and says, let's go out. So on February 6th they
16 went out, they had a good time. And they wound up at
17 405 Sharpe Street, Cecil Gilliam's liquor house. And he
18 was there, not just for a short period of time, but he
19 was there for a couple of hours playing pool, hanging
20 out with friends.

21 About 4 o'clock in the morning he goes outside to
22 smoke a cigarette. And as he's standing out there in
23 front of a very, very, very drunk Cecil Gilliam who
24 comes outside and he pulls a knife. And he says, if you
25 move, I'm gonna gut you like a fish. And Adriel took

1 him seriously because when he turned around Cecil
2 Gilliam's holding the knife.

3 And so as Adriel tried to back down, he ran
4 because the car, if he'd gotten there, it was only about
5 20 feet away. As he backed down the ramp, Cecil talked
6 louder and louder and made threats and talked about
7 Adriel's family and threatened him still holding that
8 knife.

9 As Adriel tried to get to the car, Cecil came at
10 him. And he came at him with a knife. And Adriel had
11 one option. He couldn't get to his car. He couldn't
12 get away. He made a choice. It was his life or it was
13 Cecil's life. And so he acted in self-defense. And he
14 pulled out his gun that he has in the waistband of his
15 jeans and he shot him.

16 And he did fire that gun eight times. He fired
17 that gun eight times because Cecil Gilliam kept trying
18 to get up. The man holding the knife trying to stab
19 him, kept trying to get up. And at 4 o'clock in the
20 morning, that man kept trying to get up. He wasn't sure
21 if he was safe yet.

22 Once he felt safe, he got in his car and he went
23 back to his Aunt Brittany's house. And he immediately
24 woke her up and he said, I had to kill Cecil because it
25 was self-defense. He was coming at me with a knife. He

1 told his aunt that. And she called the Woodruff Police
2 Department and said he's here, he just shot Cecil, come
3 get him.

4 An hour later they still weren't there, so she
5 called again. The man who just shot Cecil Gilliam, the
6 man whose death you're investigating right now at 405
7 Sharpe Street, he's here, come get him. Law enforcement
8 didn't respond until 7:30.

9 For two hours, Adriel, who had never been in a
10 situation like this before, was pacing and thinking and
11 worrying and playing out the worst possible scenario in
12 his head. And so after two hours of thoughts, these
13 thoughts running through his head, he was desperate. He
14 was down to what he thought was his only option. And he
15 did something incredibly stupid, he left and went back
16 home. He went to Charleston.

17 And he did, he stayed gone for five months. And
18 then when he finally did have an encounter with law
19 enforcement, he was getting desperate. And he was down
20 to what he thought was his only option and he lied. He
21 gave them a fake name. He did.

22 Where he sits today, I know he regrets that. He
23 could have dealt with this a while ago, but we're here
24 today to deal with this. And, ladies and gentlemen,
25 it's very important for you to understand that where we

1 sit today, Adriel does not have to prove a single thing.

2 Adriel does not have to prove that he's not
3 guilty. It is their job to prove to you beyond a
4 reasonable doubt that he committed the crime of murder.
5 It is also their job to prove to you beyond a reasonable
6 doubt that he was not acting in self-defense.

7 I believe that at the end of this trial we will
8 prove to you that he was acting in self-defense, but
9 that's not our job. He doesn't have to prove anything.
10 They have to prove to you beyond a reasonable doubt that
11 he was not acting in self-defense.

12 I got married a couple months ago. And in the
13 months leading up to the wedding, in the weeks leading
14 up to the wedding, more and more frequently I kept
15 waking up in the middle of the night and having these
16 nightmares that things with the wedding would go wrong.
17 My tux didn't have the pants, or the caterer went to the
18 wrong place, or the band played the wrong song for the
19 first dance. But every time I would wake up to that
20 nightmare, it was just a nightmare and I was able to go
21 back to sleep. And then I married my wife on August
22 25th of this year and everything went off perfect.

23 For the last 998 days, Adriel's been living the
24 nightmare. But unlike my nightmares, he can't wake
25 himself up for this. He doesn't have that option to

1 just go back to sleep and this all would be a bad dream.
2 But, ladies and gentlemen, you can wake him up from that
3 nightmare by doing the right thing and at the end of
4 this trial find him not guilty.

5 THE COURT: Is the State ready to call their
6 first witness?

7 MR. SMITH: We are, Your Honor. The State calls
8 James Dallison.

9 (Witness comes forward.)

10 THE COURT: Sir, just come right up here and let
11 the clerk of court swear you in, please.

12 THE CLERK: Place your left hand on the Bible and
13 raise your right. (Complies.)

14 Do you solemnly swear that the testimony --

15 MS. JORDAN: May we approach?

16 THE CLERK: -- you're about to give will be the
17 truth, the whole truth and nothing but the truth so help
18 you God?

19 THE WITNESS: Yes, ma'am.

20 (A bench conference was held off the record.)

21 JAMES DALLISON,
22 having been duly sworn, testified as follows:

23 DIRECT-EXAMINATION

24 BY MR. SMITH:

25 Q. Good morning, Jim. Will you state your name for

1 the court reporter.

2 A. James Dallison.

3 THE COURT: Okay. Sir, if you will, I need for
4 you to slide up to that microphone. Thank you, sir.

5 BY MR. SMITH:

6 Q. Did you know Cecil Gilliam?

7 A. Yes.

8 Q. How did you know him?

9 A. Known him over many of years. You know, known
10 him, he grew up with some of my boys.

11 Q. Are you older than Cecil?

12 A. Yes, I am.

13 Q. Do you know how long you'd known him before this
14 incident?

15 A. Oh, it's been over 15 years or more.

16 Q. Was it normal for you to go to gatherings at his
17 property on Sharpe Street in Woodruff?

18 A. Yes.

19 Q. Okay. What type of events would he have there at
20 that property?

21 A. Family parties, you know, get together's and
22 things.

23 Q. And the property we're talking about, the
24 incident happened outside. I don't think you actually
25 saw what happened out there, but can you kind of

1 describe the building that Cecil had come out of at
2 where y'all had been at before this happened.

3 A. It's a, it's a building with, with rooms,
4 kitchen, pool and tables in the next room.

5 Q. Okay.

6 A. If you walk into -- if you walk into the front
7 door, there's tables and all. And then you go into a
8 kitchen area, bar area like. And then on the far side
9 is the pool, like shoot pool and games.

10 Q. And did people play cards and stuff in that front
11 room?

12 A. Yes.

13 Q. And drink and socialize?

14 A. Yes.

15 Q. And then there's -- is there a ramp that goes out
16 of the pool room?

17 A. Yes. That's only -- in fact, that room right
18 there, there's a double door and there's a ramp there.
19 And on the other side of it, down that ramp is the
20 garage there. (Indicating.)

21 Q. All right. And what were you doing this night
22 before this incident happened?

23 A. I was -- well, we had the birthday party. And as
24 the birthday party settled down, I went behind the bar
25 with Cecil. And we were behind the bar and -- well,

1 earlier, earlier they were shooting pool. The guys were
2 shooting pool in the pool room and drinking.

3 Then it like cleared out and three gentlemen came
4 to the bar and...

5 Q. Is one of those gentlemen --

6 A. Yes.

7 Q. -- Adriel Garnett?

8 A. Yes.

9 Q. Do you know him?

10 A. No, I don't.

11 Q. Does he -- I mean, does he got family or
12 something? Why would he have been there, do you know?

13 A. I don't know.

14 Q. Okay. Is it normal? I mean, these get
15 together, are they normally friends and family, stuff
16 like that, or is it just...

17 A. Well, like sometimes it's an open party thing.

18 Q. Uh-huh.

19 A. You know? And people come in, shoot pool, drink,
20 you know?

21 Q. All right. So you said Mr. Garnett and two other
22 people came inside?

23 A. Yeah. To where I was, behind the bar with Cecil.

24 Q. All right. What happened then?

25 A. He poured them three drinks and they -- a word

1 came, but it wasn't like, you know, like who's gonna pay
2 for the drinks? And whatever you call him said, I don't
3 know, man.

4 So Cecil said, well, somebody's gotta pay for the
5 drinks. If they ain't gonna pay for the drinks, they
6 ain't gonna go ahead. And they took the drinks. They
7 paid for the drinks. And there really was no
8 conversation after that.

9 Q. There was a little bit of a, I guess, a
10 disagreement or something over ---

11 A. Well, it wasn't -- he wasn't really talking other
12 than he was talking to the other guy who ordered the
13 drinks.

14 Q. Okay. All right. So then what happened after
15 that?

16 A. Well, they left and went back out through the ---

17 Q. Those three individuals?

18 A. Yeah.

19 Q. And Cecil said I don't understand why this --

20 MR. NEELY: Objection.

21 THE WITNESS: This fellow ---

22 MR. NEELY: Objection, Your Honor, that's
23 hearsay.

24 THE COURT: Sustain the objection.

25 THE WITNESS: He said, I don't understand why

1 this ---

2 MR. NEELY: Objection, Your Honor.

3 BY MR. SMITH:

4 Q. Just don't say what Cecil said, but just what,
5 generally what did y'all do after those three people
6 left?

7 A. We stood there and we had a little conversation.

8 Q. All right. Do you know how long that lasted?

9 A. No more than about five or ten minutes.

10 Q. Was Cecil heated during that conversation?

11 A. No, he wasn't.

12 Q. Okay. Just a normal ---

13 A. Normal, yeah.

14 Q. Just like the rest of the conversation y'all had
15 that night?

16 A. Yeah.

17 Q. All right. And then, and then what happened
18 after you and Cecil had talked for a while?

19 A. Well, he drank a beer and came out behind the bar
20 and went and sit and talked to some of the ladies that
21 were sitting out at the table.

22 Q. All right. And then what happened?

23 A. Then after that he got up and I thought he was
24 gonna shoot pool, going back to the pool room.

25 Q. Can you, from where you're at at the bar, can you

1 see into the pool room?

2 A. I can.

3 Q. A little? Like ---

4 A. Yeah. I can't, I can't see where the door is,
5 but I can see, you know, the part getting to the pool
6 room there.

7 Q. Okay. All right. So Cecil goes back to play
8 pool, and this is, you think, 10 to 15 minutes after
9 the, the thing at the bar had happened?

10 A. Yes.

11 Q. All right. And then what happened after that?

12 A. Well, from -- I thought he went back in there and
13 the next thing I heard was pop, pop, pop. So, I mean,
14 and everybody jumped up. They ran and his mother said,
15 oh, my God and she tore outside. Cecil had been shot.

16 So I hit the door and went out the door. By the
17 time I got outside the door, he was laying on his
18 stomach, so I flipped him over. There was a young lady
19 out there also. I told her to get something to put up
20 under his head. Put a jacket. There was a jacket to
21 put up under his head and raise him up.

22 And I was talking to him. I said, stay with me,
23 Son. Stay with me. And he was like, (indicating), took
24 breaths, in three breaths he was gone.

25 Q. When you say he was laying on his stomach, do you

1 mean he was face down or on his side or...

2 A. Face down.

3 Q. Okay. Did you ever hear -- I know you weren't in
4 the pool room. Did you hear any sort of argument or
5 anything out of the ordinary prior to those three shots
6 that you heard?

7 A. No, I didn't.

8 Q. Did you ever see Cecil Gilliam with a knife that
9 night?

10 A. No, I didn't.

11 Q. Did you see a knife when you ---

12 MR. NEELY: Objection, Your Honor, leading.

13 THE COURT: I'll allow him to go ahead.

14 BY MR. SMITH:

15 Q. Did you see a knife when you went out there?

16 A. No.

17 MR. SMITH: Please answer any questions the
18 defense has.

19 CROSS-EXAMINATION

20 BY MR. NEELY:

21 Q. What you just described to the jury, you said
22 that there was a birthday party happening that night.

23 A. Yes.

24 Q. Okay. And you also told the solicitor just now
25 sometimes at Cecil's it's an open party that night?

1 A. Yes.

2 Q. Okay. You said when these three gentlemen
3 approached the bar, that Cecil was charging them for
4 drinks.

5 A. Yes.

6 Q. Okay. So it was common for Cecil to charge
7 people for drinks?

8 A. Yes.

9 Q. Okay. So what Cecil was running there was more
10 like a business for him.

11 A. Yes. Pretty much so, I guess.

12 Q. Okay. So now, you said these three gentlemen
13 approached the bar and Cecil poured three drinks.

14 A. Yes.

15 Q. He told them how much it was gonna be.

16 A. Yes.

17 Q. At first one of the guys didn't really want to
18 pay.

19 A. Yes.

20 Q. Okay. Now, you said Cecil wasn't really talking
21 to this gentlemen here, correct?

22 A. Right.

23 Q. Okay. He was talking to another one of the
24 gentlemen.

25 A. Right.

1 Q. Right. So any disagreement was between Cecil and
2 the other guy?

3 A. Right.

4 Q. Okay. Now, you said once the drinks were
5 actually paid for, those three gentlemen left the bar
6 area.

7 A. Yes.

8 Q. Okay. And once they left the bar area, you and
9 Cecil stayed in the bar area.

10 A. Yes.

11 Q. Okay. And y'all had a conversation for about 10
12 to 15 minutes.

13 A. Correct.

14 Q. All right. And then once that conversation was
15 over, you just told us that Cecil went to talk to some
16 of the ladies that were present.

17 A. Yes.

18 Q. Okay. And then you thought once that
19 conversation was over, Cecil was going into the pool
20 room to shoot a game of pool.

21 A. Right.

22 Q. All right. From where you're sitting, you can
23 kind of see the billiards room.

24 A. Partial of it.

25 Q. Okay.

1 A. I can't see all of it. You see, you could just
2 partially see partials of it the way, you know, from
3 where I was standing, and that's behind the bar.

4 Q. Okay. Were you able to see the doors?

5 A. No, you could not see the doors.

6 Q. Okay. So when Cecil went outside you didn't see
7 had him go outside.

8 A. No, I didn't.

9 Q. All right. So if he had something in his hand
10 when he went outside, you wouldn't have seen that.

11 A. No.

12 Q. All right. And, again, you testified that you
13 didn't hear any disagreement when Cecil went outside.

14 A. No, I didn't hear nothing.

15 Q. Okay. But you don't know what happened outside.

16 A. No, I don't.

17 Q. You can't testify about any altercation between
18 Mr. Garnett and Cecil Gilliam.

19 A. No, I can't.

20 Q. You don't know what happened in the moments
21 before you heard the pop, pop, pop.

22 A. No, I don't.

23 Q. Once you heard the pop, pop, pop you ran outside.

24 A. Yes.

25 Q. Your friend is lying face down.

1 A. Yes.

2 Q. He was not laying on his back, he was face down.

3 A. Face down.

4 Q. You rolled him over.

5 A. Yes, I did.

6 Q. Did you place the pink towel under his head?

7 A. No, I didn't.

8 Q. Do you know who did that?

9 A. There was a young lady that did it. She -- I
10 told her, I said raise his head. I said, somebody get
11 something to put up under his head. Somebody brought a
12 towel out --

13 Q. Okay.

14 A. -- put it up under his head.

15 MR. NEELY: All right. Thank you.

16 THE COURT: Any redirect limited to what he went
17 into?

18 MR. SMITH: No, Your Honor.

19 THE COURT: Thank you, sir. You may step down.
20 Watch your step as you're stepping down, sir.

21 THE WITNESS: Yes, sir.

22 (Witness leaves witness stand.)

23 THE COURT: Is the State ready to call their next
24 witness?

25 MS. JORDAN: Yes, Your Honor. The State calls

1 Ronald Higgins.

2 (Witness comes forward.)

3 THE COURT: Sir, just come on up here and let the
4 clerk of court swear you in.

5 THE CLERK: Place your left hand on the Bible,
6 please, and raise your right. (Complies.)

7 Do you solemnly swear that the testimony you're
8 about to give will be the truth, the whole truth and
9 nothing but the truth so help you God?

10 THE WITNESS: I do.

11 THE COURT: Sir, just have a seat in the red
12 chair and pull the red chair up to the microphone.

13 RONALD HIGGINS,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. JORDAN:

17 Q. Please state your name for the record.

18 A. Ronald Higgins.

19 Q. Okay. Mr. Higgins, do you know Cecil Gilliam?

20 A. I do.

21 Q. How did you know Cecil Gilliam?

22 A. We come up together.

23 Q. What do you mean by "come up together"?

24 A. As kids. My grandma used to keep them and he
25 stayed with us a lot.

1 Q. Okay. Is that in Woodruff?

2 A. Yes.

3 Q. Okay. I'm gonna take you all the way back to
4 February the 6th of 2016. What were you doing before
5 you -- did you eventually go to Cecil's place?

6 A. Yes, I did.

7 Q. And what were you doing before that?

8 A. At work.

9 Q. And where do you work?

10 A. Bottle Warehouse in Moore, South Carolina.

11 Q. Okay. So when you got off work, did you
12 immediately go over to Cecil's house or Cecil's place?

13 A. Yes.

14 Q. Okay. And what did you do when you got there?

15 A. I mean, I walked in. I wasn't there long.
16 Stopped at the bar and talked to him and Jim, and I went
17 on back to the pool room but then sat down.

18 Q. Okay. What was your purpose to go there that
19 night?

20 A. I live in Woodruff, ain't nowhere else to go.

21 Q. Okay. About what time of night was it?

22 A. Oh, man. It was after 3:30.

23 Q. Okay. Did you see the defendant there?

24 A. Yeah. I'm just guessing. You can't just back
25 and quote me. That was two years ago, I don't remember

1 the exact time because it was any time, like, three or
2 four in the morning.

3 Q. Okay. It was after you got off work. And what
4 shift do you normally work? Do you normally work first
5 shift or second shift?

6 A. I work like second and part of third.

7 Q. Okay.

8 A. It just depends on what time you get finished.
9 You don't have a set time there.

10 Q. Yes, sir. Did you see the defendant there that
11 night?

12 A. Yes, I did.

13 Q. Okay. Did you know the defendant before this
14 night?

15 A. I did not.

16 Q. Okay. Did you ever have a chance to shoot pool
17 with Cecil that night?

18 A. I did not.

19 Q. Okay. Tell the jury what happened that night,
20 starting with you're in the pool room.

21 A. Oh, I was waiting on Cecil to come shoot.

22 Q. Okay. And Cecil at that point in time was still
23 in ---

24 MR. NEELY: Objection; leading, Your Honor.

25 THE COURT: All right. It is. Do you want to

1 rephrase?

2 MS. JORDAN: Yes, sir.

3 BY MS. JORDAN:

4 Q. Where was Cecil while you were waiting on him to
5 play pool initially?

6 A. He was supposed to have stopped at the table, but
7 he went outside.

8 Q. Okay. Do you know why he went outside?

9 A. He stayed out there a long time.

10 Q. Okay. When he went outside -- I'm gonna show you
11 a picture that's previously been marked as State's
12 Exhibit Number 32.

13 (Attorneys converse off the record.)

14 I'm gonna show you what's previously been marked
15 as State's 32 and ask if you recognize that.

16 A. Yes, I do.

17 Q. Okay. Is that -- what is this?

18 A. That is right when you walk in the door, right
19 behind the pool table to see them play.

20 Q. Okay. With the exception of the blinds, does
21 that picture fairly and accurately depict that scene as
22 it was that night?

23 A. Yes.

24 MS. JORDAN: Your Honor, at this time the State
25 would move Number 32 into evidence.

DIRECT EXAMINATION OF RONALD HIGGINS BY MS. JORDAN

1 MR. NEELY: No objection.

2 THE COURT: Without objection it'll be admitted.

3 (State's Exhibit number 32 was entered into the
4 record.)

5 MS. JORDAN: May I publish it to the jury?

6 THE COURT: Yes, ma'am.

7 MR. NEELY: Are you calling that State's 1?

8 MS. JORDAN: No. On the exhibit list it's 32.

9 MR. NEELY: Okay.

10 BY MS. JORDAN:

11 Q. While I'm showing this picture, I'm going to
12 show you one more picture, State's Number 23. Do you
13 recognize that scene as well?

14 A. Yes, I do.

15 Q. Okay. Is that a fair and accurate depiction of
16 the outside of Cecil's residence on the night of
17 February the 6th?

18 A. Yes.

19 Q. And back to State's 32. I don't know what that
20 little dot is that's on the screen. Can you tell the
21 jury what is inside, right directly inside of those
22 doors that are the French doors that are closed?

23 A. You step in probably like, just roughly guessing,
24 six to eight feet and the pool table is sitting directly
25 behind those double doors.

1 Q. Okay. And I'm gonna use this pointer. What --
2 can you tell the jury what's in this area of the
3 residence or this establishment. (Indicating.)

4 A. That's where they sat and played cards at in
5 that.

6 Q. Okay. So that's what would be called like the
7 front room?

8 A. Yes.

9 Q. Okay. Are these the doors that -- which doors
10 did Cecil come out of that night?

11 A. Those two doors right there. (Indicating.)

12 Q. Okay. And were the blinds, when Cecil went out
13 those doors, were the blinds opened or closed?

14 A. I'm not for sure.

15 Q. Okay. Let me show you what's been marked already
16 as State's Exhibit Number 23. Is that the view -- if
17 you were standing inside those doors, is that the view
18 you would have outside?

19 MR. NEELY: Objection. This is not in evidence,
20 Your Honor.

21 MS. JORDAN: I apologize, Your Honor. Your
22 Honor, the State would move Number 23 into evidence.

23 MR. NEELY: I object. The foundation hasn't been
24 properly laid. He just said he doesn't remember how the
25 blinds were that night.

1 THE COURT: Well, the foundation goes to the
2 document, and he's already testified that he's seen the
3 documents.

4 MS. JORDAN: I apologize, Your Honor. May I
5 publish it to the jury again?

6 THE COURT: I'll allow it into evidence. You may
7 publish.

8 (State's Exhibit Number 23 was entered into the
9 record.)

10 BY MS. JORDAN:

11 Q. Mr. Higgins, does this help refresh your memory
12 as to whether or not the blinds and the door were
13 opened?

14 A. I couldn't tell you.

15 Q. Okay. Were you able to at any point while Mr.
16 Gilliam was outside, did you look out those doors?

17 A. Yes, I did.

18 Q. Were you able to see outside?

19 A. I don't know whether I opened the door and looked
20 or just turned around to look.

21 Q. Okay.

22 A. I was ready to shoot pool and then I'm like,
23 what's taking him so long? What's taking him so long?

24 Q. Okay. So when Mr. Gilliam went out -- when Cecil
25 went outside, how long was he outside?

1 A. He wasn't out there that long. I can't put an
2 exact time on that.

3 Q. Okay.

4 A. But it wasn't like no 30, 40 minutes or nothing
5 like that.

6 Q. Okay. But was it -- well, how would you term it,
7 as a few second or a few minutes?

8 MR. NEELY: Objection; leading.

9 THE COURT: I'll allow it, go ahead.

10 THE WITNESS: A few minutes.

11 BY MS. JORDAN:

12 Q. Okay. And this is a few minutes before you heard
13 something. What did you hear?

14 A. Well, no, not a gunshot.

15 Q. Okay.

16 A. At the time, I did not -- I heard the third shot
17 before I even -- it even dawned on me that it was a
18 gunshot.

19 Q. And what did you think initially that it was?

20 A. Firecracker, I guess. I heard pop pop pop. And
21 I'm like, whoa. When I laid the pool stick down, I'm
22 like whose gunshots? And I'm going home, but I looked
23 out the door and I see the defendant, he was shoot'n
24 down.

25 Q. Okay. Well, when you ---

1 A. They say he got shot seven times. I didn't hear
2 but four shots.

3 Q. Okay. You've testified that you heard three.

4 A. Yeah.

5 Q. And when did you hear that fourth one?

6 A. When I turned around. And the first thing I
7 thought, I said, well the little young guys are blowing
8 off steam, you know, because he was shoot'n straight
9 down like this. (Indicating.)

10 Q. Okay. And ---

11 A. So I grabbed my stick and I was fixing to break
12 the pool ball and ---

13 Q. When you say "this young guy," who was the young
14 guy?

15 A. That one right there. (Indicating.)

16 Q. Okay. And I'm gonna give you this Lazer pointer
17 and see if you could show the jury by pressing this
18 button where you saw the defendant standing when you saw
19 the fourth shot.

20 A. Right there, right there on the corner of the
21 building right there. (Indicating.)

22 Q. Okay.

23 A. But right in this area right here. (Indicating.)

24 Q. And you're indicating in the lower right-hand
25 corner or left-hand corner ---

1 A. Right by the corner right here. (Indicating.)

2 MR. SMITH: That's the right.

3 BY MS. JORDAN:

4 Q. Right-hand corner --

5 A. Yes.

6 Q. -- of the building next to the lamp. Okay. In
7 which direction was he firing that shot?

8 A. Over past that red, over that way right there.
9 (Indicating.)

10 Q. Okay. What did you do after you looked out the
11 window?

12 A. Well, actually I -- the first thing I thought of
13 is it was a little young guy blowing off steam. I
14 didn't think nothing. It never crossed me that he had
15 to kill him, but then once I got ready to break I'm
16 like, oh, man, my people is out there.

17 Q. Okay. And by your people, who do you mean?

18 A. Cecil.

19 Q. Okay.

20 A. And when I walked down the ramp I was calling for
21 him. Calling for him, like I'm looking and looking.
22 I'm like, where you at, Bro? I'll never forget he was
23 laying right over there. (Indicating.)

24 Q. Okay. And the area that you're pointing in,
25 that's also where you saw the defendant shooting?

1 A. Yes. In that direction, yes.

2 Q. Okay. I'm gonna take you back to while you were
3 waiting to play pool. When you were waiting to play
4 pool, did you at any point look out the window or the
5 door?

6 A. I did, but I don't know if I opened the door and
7 looked or just turned around and looked. I remember
8 Cecil was standing right here. (Indicating.)

9 Q. Okay.

10 A. Facing that way right there. Facing this house,
11 the back right there. He had his forearm against the
12 railing right there. (Indicating.)

13 Q. Okay.

14 A. As soon you come out the door.

15 Q. And this was prior to hearing the shots?

16 A. (Nods head up and down.)

17 Q. Okay. Can you ---

18 THE COURT: If you would, respond verbally.

19 THE WITNESS: Yes.

20 THE COURT: Thank you.

21 BY MS JORDAN:

22 Q. When you say he was looking to the left of the
23 photograph over the railing, what -- can you tell the
24 jury what's back there.

25 A. Normally it's just a living area back there.

1 Q. Okay. When you saw Cecil leaning on the railing
2 looking back toward his home, where did you see the
3 defendant?

4 A. Right there on the corner of the house.

5 Q. Okay. Was anybody else with the defendant?

6 A. Yeah, a guy we call Twin.

7 Q. Okay. Do you know Twin's name or Twin's last
8 name?

9 A. Big Tav and Little Tav, what we call them. I
10 don't know any more.

11 Q. Okay. But he is -- I'm just gonna ask a stupid
12 question, but he is a twin?

13 A. Yeah, he a Jeter.

14 Q. Okay. So he's a Jeter twin?

15 A. (Nods head up and down.)

16 Q. Okay. Do you have any recollection as to how
17 soon after you looked out and saw Cecil facing his home
18 that you heard what you initially thought was
19 firecrackers?

20 A. It's hard. I can't keep up with Tav like that,
21 but I wasn't over there but 20 or 30 minutes.

22 Q. Okay.

23 A. So by the time I got there, I wasn't there long.
24 It was, it was over with.

25 Q. Okay. When you were there, did you see -- did

DIRECT EXAMINATION OF RONALD HIGGINS BY MS. JORDAN

1 Cecil in any way seem to be upset or agitated about
2 anything?

3 MR. NEELY: Objection; leading.

4 THE COURT: I'll allow that question.

5 THE WITNESS: I did not.

6 MS. JORDAN: Okay. Your Honor, may I have a
7 moment?

8 THE COURT: (Nods head up and down.)

9 BY MS. JORDAN:

10 Q. Mr. Higgins, I'm gonna take you back to when
11 Cecil walked out that door. When Cecil walked out that
12 door, was he carrying anything?

13 A. I didn't see him toting anything.

14 Q. Okay. Do you know -- when Cecil went out there,
15 do you know if he was called out or he just walked out?

16 A. I couldn't tell you that.

17 Q. Okay. But he did go out. Did he -- when he
18 walked out, how did he walk out?

19 A. Honestly, I thought he was gonna stop and shoot
20 pool.

21 Q. Okay.

22 A. And he just kept going by the table.

23 Q. Okay.

24 A. So I waited five -- it seemed like forever
25 because I was ready to shoot. It was probably about

1 five, six, seven minutes, I guess.

2 Q. Okay. After the twins and this defendant, after
3 you saw the defendant shooting, do you know what
4 happened to them afterwards?

5 A. I do not.

6 Q. Okay. When you went out there to check on Cecil,
7 was the defendant out there?

8 A. No. And I insinuated earlier that they left in a
9 Camaro.

10 Q. Yes, sir.

11 A. The reason I said that was because we all are
12 like family and it's about the same people there all the
13 time.

14 Q. Yes, sir.

15 A. When I got out, I walked over and I said that's a
16 really nice car. And I was looking at that car. And
17 when we got back outside, one person -- two people left
18 and their car was gone. That's why I hadn't seen them
19 earlier. I actually didn't see them physically get in
20 the car, but I knew everybody else. All the people that
21 I knew because that's why I had said they left in the
22 Camaro.

23 Q. Okay. But when you came back out and found Cecil
24 on the ground, the defendant was not present?

25 A. No, ma'am.

1 Q. Was the twin present?

2 A. No, ma'am.

3 Q. Was anyone else outside other than Cecil?

4 A. No, ma'am.

5 Q. And how did you find Cecil lying?

6 A. I tried to think about that. I really don't know
7 whether he was face down. I really don't know. I just
8 remember seeing a white t-shirt with red on it. I'll
9 never forget that. I just remember he had a lot of
10 holes in his shirt. I can't recall whether he's face up
11 or face down, but...

12 Q. And what color was that Camaro that you saw
13 outside?

14 A. I honestly couldn't tell you, ma'am. I have no
15 earthly idea. It's been a while.

16 Q. Please answer any questions that Mr. Neely may
17 have.

18 CROSS-EXAMINATION

19 BY MR. NEELY:

20 Q. Mr. Higgins, when you got off work you went
21 straight to Cecil's?

22 A. Yes.

23 Q. Okay. And you went back to the bar area.

24 A. Yes.

25 Q. And you had a conversation with Jim.

- 1 A. Jim. I just spoke.
- 2 Q. And you had a conversation with Cecil?
- 3 A. Yes.
- 4 Q. Okay.
- 5 A. I was just speaking. I just had got there.
- 6 Q. Okay. So you were just saying hello?
- 7 A. Yeah.
- 8 Q. Okay. And then you went over to the pool room?
- 9 A. Yes.
- 10 Q. You were gonna shoot a game of pool?
- 11 A. Yes.
- 12 Q. Okay. You were going to play with Cecil?
- 13 A. Yes. He said he had the next round.
- 14 Q. Okay. And that means he was next up on the
- 15 table.
- 16 A. Yes.
- 17 Q. All right. And Cecil came into the pool room,
- 18 which is directly on the other side of those doors,
- 19 correct?
- 20 A. Yes.
- 21 Q. Okay. When Cecil came to that room, you thought
- 22 he was coming to shoot pool with you?
- 23 A. Yes.
- 24 Q. All right. Instead he kept going, correct?
- 25 A. Yes.

1 Q. And he went out those doors?

2 A. Yes.

3 Q. Okay. Now, let me ask you this, when he went out
4 those doors, did he back out?

5 A. I doubt it.

6 Q. Okay. Did he walk out the door like a normal
7 person?

8 A. Yes.

9 Q. So you wouldn't have seen what was going on with
10 the front of Cecil's body.

11 A. I wouldn't.

12 Q. Okay. And so your testimony, what you just told
13 us, was you didn't see Cecil carry anything, correct?

14 A. I didn't.

15 Q. Okay. Now, you don't remember how the blinds
16 were that night, correct?

17 A. I do not.

18 Q. All right. And you don't remember if you were
19 looking out the blinds?

20 A. I don't know if I walked, opened the door or just
21 looked out the glass.

22 Q. Okay. Two-and-a-half years ago when this
23 happened --

24 A. Uh-huh.

25 Q. -- and what you just testified to today, you

1 heard three shots, correct?

2 A. Yeah. Before I turned around, yes.

3 Q. Okay. You didn't see those shots.

4 A. I did not.

5 Q. You heard those shots.

6 A. Yes.

7 Q. Okay. It wasn't until the fourth shot --

8 A. Yes.

9 Q. -- that you turned around.

10 A. Yes.

11 Q. All right. And when you turned around, those
12 three shots had already been fired, correct?

13 A. Yes.

14 Q. All right. You were in here for opening
15 statements, correct? When Mr. Smith got up here and
16 said that there were eight shots fired.

17 A. Yes.

18 Q. Okay. You recall hearing four?

19 A. Yes.

20 Q. Okay. Now, you testified just a minute ago that
21 when you saw that fourth shot, you saw Mr. Garnett
22 shooting down.

23 A. Down.

24 Q. Okay. In that moment you just told us that you
25 just thought somebody was just blowing off steam,

1 correct?

2 A. That's the first thing I said.

3 Q. Okay. You didn't see Cecil?

4 A. I did not.

5 Q. You don't know where Cecil was at that moment.

6 In that moment you didn't know where Cecil was.

7 A. Not at that exact moment.

8 Q. Okay. So you had no idea what position his body
9 was in, correct?

10 A. Correct.

11 Q. You didn't witness anything that happened prior
12 to those shots being fired, correct?

13 A. Correct.

14 MR. NEELY: Thank you, Judge. Nothing further.

15 THE COURT: Any redirect limited to what he went
16 into?

17 MS. JORDAN: Yes, Your Honor, just briefly.

18 REDIRECT EXAMINATION

19 BY MS. JORDAN:

20 Q. When Cecil walked out of the first room into the
21 -- or into the pool room to go out the doors, could you
22 see the front of Cecil?

23 A. Yes.

24 Q. Did you see anything in his hands when he was
25 facing you before he walked right out the door?

1 A. I did not.

2 Q. And he went straight out the door?

3 A. Yes.

4 Q. Okay. When you heard the -- when you saw the
5 fourth shot, you were looking out the window or you were
6 looking out down toward ---

7 MR. NEELY: Objection, Your Honor; leading.

8 THE COURT: I'm gonna allow her to ask it.

9 BY MS. JORDAN:

10 Q. When you heard the fourth shot, you were looking
11 outside.

12 A. Yes.

13 Q. Did you have time to open the door or did you
14 look through the window?

15 A. I still can't recall that. I just remember
16 seeing him shoot. I thought, I thought he was shooting
17 in the ground. I just remember that --

18 Q. Okay.

19 A. Distinctive.

20 Q. Okay. The last time you saw Cecil he was
21 standing up.

22 A. Yes.

23 MS. JORDAN: Nothing further, Your Honor.

24 THE COURT: All right. Thank you, sir. You may
25 step down. Watch your step as you're stepping down.

1 THE WITNESS: Yes, sir.

2 (Witness leaves witness stand.)

3 THE COURT: And you can give that to the lawyer,
4 yes, sir.

5 MS. JORDAN: Your Honor, may I step outside for
6 just one moment?

7 THE COURT: (Nods head up and down.)

8 MS. JORDAN: Your Honor, the State calls Brittany
9 Westfield.

10 THE COURT: Ma'am, just come on up here and let
11 the clerk of court swear you in.

12 (Witness comes forward.)

13 THE CLERK: Place your left hand on the Bible and
14 raise your right. (Complies.)

15 Do you solemnly swear that the testimony you're
16 about to give will be the truth, the whole truth and
17 nothing but the truth so help you God?

18 THE WITNESS: Yes.

19 THE COURT: Just have a seat at the red chair and
20 pull the red chair up to the microphone, if you would.

21 (Complies.)

22 BRITTANY WESTFIELD,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. JORDAN:

1 Q. Please state your name for the record.

2 A. Brittany Westfield.

3 Q. And, Ms. Westfield, how do you know the
4 defendant?

5 A. That's my nephew.

6 Q. Okay. Does he live in Woodruff or in Spartanburg
7 County?

8 A. No.

9 Q. Okay. Where was he living in February 2016?

10 A. Goose Creek.

11 Q. Okay. Can you tell the jury what brought Adriel
12 to town.

13 A. We had a death in the family. My grandmother
14 passed away.

15 Q. Okay. And was he staying at your home?

16 A. Yes.

17 Q. And who else lives in that home?

18 A. My father and my daughter.

19 Q. Okay. And who is your father?

20 A. Bruce Westfield.

21 Q. Okay. And how old is your daughter?

22 A. She was three at the time.

23 Q. Okay. So the two adults in there were you and
24 your grand -- your father?

25 A. Yes.

1 Q. So the defendant's grandfather?

2 A. Yes.

3 Q. Okay. How long was Adriel staying at your home?

4 A. Oh, about a week.

5 Q. Okay. The -- on the late evening hours of
6 February 5th, did the defendant borrow anything from
7 you?

8 A. My car.

9 Q. Okay. And what kind of car did you drive?

10 A. A Camaro.

11 Q. Okay. What color?

12 A. Dark Gray.

13 Q. Okay. What was the purpose of him borrowing your
14 car?

15 A. He just told me he wanted to go to Spartanburg
16 and Woodruff.

17 Q. Okay. And you let him?

18 A. Yes.

19 Q. Okay. Did you become concerned at any point when
20 your car wasn't returned?

21 A. Yes.

22 Q. What did you do?

23 A. I called him.

24 Q. Okay. Did -- was he -- what did he state when
25 you called him?

1 A. The first time I called him, he just said that he
2 was at a party at Cecil's house. And then I said, okay,
3 what time are you coming home? And so he said soon, so
4 we hung up. And I did call him again, but he didn't
5 answer the second time.

6 Q. Okay. So you were concerned that your car wasn't
7 back?

8 A. Yes.

9 Q. Okay. I'm just gonna show you ---

10 (Attorneys conferred off the record.)

11 MS. JORDAN: Your Honor, may we approach?

12 THE COURT: (Nods head up and down.)

13 (A bench conference occurred off the record.)

14 (State's Exhibit Number 77, Photo of Passenger
15 Side of Car, was marked for identification.)

16 (State's Exhibit Number 78, Photo of Driver's
17 Side of Car, was marked for identification.)

18 (State's Exhibit Number 79, Photo of Passenger's
19 Side of Car, was marked for identification.)

20 (State's Exhibit Number 80, Photo of Driver's
21 Side of Car Outside, was marked for identification.)

22 (State's Exhibit Number 81, Photo of Driver's
23 Side Door, was marked for identification.)

24 BY MS. JORDAN:

25 Q. Brittany, I'm gonna show you a series of

1 photographs that are marked 77 through 81 and ask if you
2 recognize what those photographs are of.

3 A. That's on the driver's side.

4 Q. As to 77?

5 A. Passenger.

6 Q. 78?

7 A. The driver.

8 Q. 79?

9 A. Passenger.

10 Q. 80?

11 A. Driver.

12 Q. Is it the inside or outside?

13 A. The outside.

14 Q. Okay. And 81?

15 A. Driver's side door.

16 Q. Brittany, do these pictures depict your vehicle
17 as it was when it was returned to you by your uncle --
18 by your nephew?

19 A. Yes.

20 Q. Okay. Did you notice any damage to that vehicle?

21 A. No.

22 Q. Any damage outside the vehicle?

23 A. No.

24 Q. Any damage inside?

25 A. No.

1 Q. Brittany, if you would, tell the jury about when
2 your nephew came back home.

3 A. Um, I was ---

4 MS. JORDAN: Your Honor, I apologize. May I move
5 State's 76 and 81 -- through 81 into evidence?

6 MR. NEELY: Objection; it's cumulative.

7 THE COURT: All right. We'll allow it, 76
8 through 81.

9 (State's Exhibits 76 through 81 were entered into
10 the record.)

11 THE WITNESS: Do you want me to answer?

12 BY MS. JORDAN:

13 Q. Yes, ma'am.

14 A. I was sleeping when he got there and he came and
15 woke me up. And he had to shake me a couple times
16 because it was like four in the morning, five. And he
17 told me that he wanted me to take him to Columbia. And
18 so I was like why? And so he told me that he needed to
19 go because he had shot Cecil. And I said, why? And he
20 told me that Cecil had tried to come at him with a
21 knife.

22 Q. Ma'am, if you'll just tell us what you did after
23 speaking with ---

24 MR. NEELY: Judge, she asked the question, the
25 witness is answering.

1 THE COURT: All right. The witness can answer.

2 THE WITNESS: He told me that Cecil tried to come
3 at him with a knife and gut him like a fish.

4 BY MS. JORDAN:

5 Q. Okay. Did he stay at your house?

6 A. Yes.

7 Q. Initially?

8 A. Yes.

9 Q. Okay. Did you give him a ride to Columbia?

10 A. No.

11 Q. Did he offer you money to take him to Columbia?

12 A. Yes.

13 Q. How much?

14 A. I don't remember.

15 Q. Do you recall previously giving a statement to
16 law enforcement with the Sheriff's Department on the
17 early morning hours of February the 6th, 2016?

18 A. Yes. I believe it was around 8 o'clock that
19 morning.

20 Q. Yes, ma'am. I'm just gonna use your statement to
21 refresh your memory and ask you to look at it.

22 Paul, do you need to see this?

23 MR. NEELY: Just for a second.

24 BY MS. JORDAN:

25 Q. And ask if I can draw your attention to the first

1 line on the second page right here. Actually, go ahead
2 and start it with the bottom. Does that help refresh
3 your recollection as to how much money --

4 A. Yes.

5 Q. -- he offered you?

6 A. Yes.

7 Q. So how much money did he offer you to take him
8 out of town?

9 A. \$100.

10 Q. Okay. After that, what did you do?

11 A. Well, I got up and we went into the kitchen.

12 Q. Okay.

13 A. And so I was asking him why because we know Cecil
14 Gilliam. I've known him since I was a child.

15 Q. Okay.

16 A. And so has he.

17 Q. And so although your nephew lived out of town, he
18 did know this family?

19 A. Yes.

20 Q. Okay. How was your nephew, the defendant, acting
21 when he came in?

22 A. He was scared.

23 Q. Okay. How else?

24 A. He was pacing the floors.

25 Q. Okay. Did he use the phone to make any other

1 phone calls?

2 A. Yes.

3 Q. Who did he call?

4 A. He called my cousin.

5 Q. Who is your cousin?

6 A. Shane.

7 Q. Okay. Did you hear him talking to Shane?

8 A. Yes. We were standing together.

9 Q. Okay. What was he telling Shane?

10 A. He just asked him -- he told him what happened
11 and he asked him the same thing.

12 Q. Same thing being?

13 A. To drive him to Columbia.

14 Q. Okay. Did your nephew use the phone to call law
15 enforcement?

16 A. No. I called law enforcement.

17 Q. Okay. Tell, tell the jury about that. When you
18 called law enforcement, did someone respond?

19 A. I called law enforcement, I think, the first time
20 around 5:30 that morning, and I told them who I was. I
21 told them who he was. I told them what happened. I
22 told them the address, where we were. I told them that
23 he told me it was self-defense. And I told them that
24 they needed to come.

25 Q. Okay. When you say you called law enforcement,

1 who exactly did you call?

2 A. Um, I don't know if I dialed 911 or if I dialed
3 to the Police Department. I don't remember.

4 Q. When you say "Police Department", do you mean
5 Woodruff?

6 A. Uh-huh. Yes.

7 Q. Okay. And, one, did you -- did you call law
8 enforcement another time?

9 A. I did. I called law enforcement probably an hour
10 later. Told them the same thing again. He was still at
11 the house. He had not left the house. And I told them
12 that as well. And that was before the sun came up.

13 Q. Okay. Would he -- when you say he had not left
14 the house, didn't he eventually leave the house?

15 A. When I called law enforcement the second time, he
16 was still at the house.

17 Q. Okay. But did he eventually leave?

18 A. Probably around 7:45.

19 Q. Okay. After law enforcement had been called?

20 A. Twice, yes.

21 Q. Okay. Did he leave and stay gone?

22 A. When he finally left, yes. He walked in and out
23 of the house pacing --

24 Q. Multiple times?

25 A. -- but he didn't leave.

1 Q. Was he gone for several minutes during any of
2 this time when he'd go in and out of the home?

3 A. Yes.

4 Q. Okay. When you spoke with or when you saw your
5 nephew that day in your home, did you notice any
6 injuries to him?

7 A. After he came back from Cecil's house?

8 Q. Yes, ma'am.

9 A. Not that I remember, no.

10 Q. Okay. But you saw him with -- did you have the
11 light on?

12 A. No. We only had the kitchen light on because my
13 father was sleeping.

14 Q. Okay. But your father eventually woke up.

15 A. Yes. But it was like 5:30 in the morning, so we
16 just had the kitchen light on.

17 Q. Okay. But you could see the defendant?

18 A. Yes.

19 Q. Did you make any comments to your nephew?

20 A. Regarding what?

21 Q. Regarding what he should do and why he should do
22 it.

23 A. I told him since it was self-defense that he
24 needed to wait for the police to come and tell them what
25 happened.

1 Q. Okay. But he did not wait.

2 A. We waited for hours.

3 Q. You waited, but did he?

4 A. He waited also.

5 Q. But he eventually left.

6 A. After hours of calling law enforcement two times.

7 I would think that when we call 911 and it's an
8 emergency they're going to respond. And I explained to
9 them what happened, who I was, who he was, where we
10 lived and they did not respond.

11 Q. Okay. But you remained there.

12 A. And he did, too, for hours.

13 Q. But when officers got there to your house around
14 7:45 was he there?

15 A. No.

16 Q. He left.

17 A. He finally left, yes.

18 Q. Did you recall telling your nephew anything about
19 whether or not you wanted to get in trouble?

20 A. Yes, I did, because I work for the State.

21 Q. And what did you say?

22 A. I said I work for the State, so I have to report
23 this.

24 Q. Okay. Did you also tell him that you didn't want
25 to get in trouble for him?

1 A. Yes.

2 Q. Okay. Did you also tell him to hang up the
3 phone?

4 A. Yes.

5 Q. Because no one should get in trouble for it?

6 A. Yes.

7 MS. JORDAN: Okay. Your Honor, may I have a
8 moment?

9 THE COURT: (Nods head up and down.)

10 BY MS. JORDAN:

11 Q. After the early morning hours of February the
12 6th, did you ever see or hear from your nephew again?

13 A. No.

14 Q. Did you talk to him on the phone?

15 A. No.

16 Q. Were you aware ---

17 MR. NEELY: Objection; leading.

18 THE COURT: I'll allow it. Go ahead.

19 BY MS. JORDAN:

20 Q. Were you aware that he had any outstanding
21 warrants in connection to Cecil's death?

22 A. After it started going on the news.

23 Q. Okay. And what was on the news?

24 A. Just that he was wanted for murder.

25 Q. Okay. So your testimony is that from February

1 the 6th on, you did not talk to your nephew any?

2 A. No.

3 Q. Please answer any questions Mr. Neely may have.

4 MR. NEELY: One moment, Your Honor. Nothing from
5 this witness, Your Honor.

6 THE COURT: Thank you, ma'am. You may step down.
7 Watch your step as you're stepping down.

8 Would the lawyers approach a moment..

9 (Witness leaves witness stand.)

10 (A bench conference was held off the record.)

11 THE COURT: Yes, ma'am.

12 MS. JORDAN: Your Honor, the State calls Bruce
13 Westfield.

14 THE COURT: Just come on right up here and we'll
15 let the clerk of court swear you in.

16 (Witness comes forward.)

17 THE CLERK: If you'll place your left hand on the
18 Bible and raise your right, please. (Complies.)

19 Do you solemnly swear that the testimony you are
20 about to give will be the truth, the whole truth and
21 nothing but the truth so help you God?

22 THE WITNESS: I do.

23 THE CLERK: Be seated.

24 BRUCE WESTFIELD,
25 having been duly sworn, testified as follows:

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DIRECT EXAMINATION

BY MS. JORDAN:

Q. Please state your name for the record.

A. Bruce Westfield.

Q. Mr. Westfield, how do you know the defendant?

A. He's my grandson.

Q. Okay. Back on February the 6th of 2016, was he staying at your home?

A. Yes.

Q. Okay. What's the address of your home?

A. 3797 Highway 417, Woodruff.

Q. Okay. Is that in the City of Woodruff or just in Spartanburg County?

A. I can't hear, so you have to speak up.

Q. Sorry. Is that in the City of Woodruff or --

A. No.

Q. -- just in Spartanburg County?

A. No. It's in Spartanburg County.

Q. Okay. Does your nephew -- did the defendant normally live with you?

A. No. He came up for my mother's funeral.

Q. Okay. In the early morning hours of February the 6th, did something wake you up?

A. Yes, my daughter.

Q. Okay. When she woke you up, what did you find?

1 A. Well, she told me ---

2 Q. If you'll just tell me what you found.

3 MR. NEELY: She asked a question and he's
4 attempting to answer.

5 THE COURT: All right.

6 MS. JORDAN: I asked him what he found, not --

7 THE COURT: All right.

8 MS. JORDAN: -- what he heard.

9 THE COURT: All right. If you would, everybody's
10 spoken over each other, so the court reporter needs to
11 be able to have a clear record. Just ask the question
12 one more time.

13 BY MS. JORDAN:

14 Q. When you woke up, what did you find?

15 A. What do you mean what did I find?

16 Q. Who was in your home?

17 A. Well, Adriel. Well, when I, when I woke up,
18 Brittany was only in there, in the house.

19 Q. Okay.

20 A. And then she said, you need to talk to Adrien
21 because I asked her what happened.

22 Q. Okay. And did you speak to Adriel?

23 A. Not right then. Then I went out, I looked
24 outside, you know, for him. Then I went back to my
25 room. Then I came back out, then he came in.

1 Q. Okay. So when you looked outside for him the
2 first time you did not see him?

3 A. No.

4 Q. Okay. The second time when he came back in, how
5 did he appear?

6 A. He, he was just looking. Like he was just pacing
7 and he couldn't be still and you know. And anyway, I
8 just started, you know, talking to him, asking what was
9 going on.

10 Q. Well, after you spoke with him, what did you tell
11 him?

12 A. I told him -- well, he told me --

13 Q. Well, what did -- I'm sorry. What did you tell
14 him?

15 A. I told, I told him -- well, he told me -- what
16 I'm saying what I need to tell what he told me and then
17 I can respond to what I told him.

18 Q. But my question is what did you tell him after
19 speaking with him?

20 A. Oh, I told him you need to turn yourself in. If
21 it was self-defense, I said you need to turn yourself
22 in.

23 Q. Okay. And did he?

24 A. Not at the time, but my daughter, after she
25 called, she dialed, she had called already. Called, you

1 know, I don't know if she dialed 911 or what she called.

2 Q. Were you present when she did this the first
3 time?

4 A. No. I was, I was still in my room.

5 Q. Okay. Were you present when she called law
6 enforcement the second time?

7 A. Well, she, she went back to the back of the room
8 to call them.

9 Q. Okay. And when she called law enforcement, did
10 he remain?

11 A. He was, he was pacing in and out of the house.

12 Q. Okay. And when law enforcement arrived at your
13 house, was he present?

14 A. Yes. It's two -- it's over two hours later.

15 Q. But when law enforcement arrived at your home,
16 was the defendant present?

17 A. No, he wasn't.

18 Q. Okay. Where did he go?

19 A. He left out of the house probably about 20
20 minutes before they, before they came.

21 Q. Okay.

22 A. He, he just said he had to go. He was scared.

23 Q. So he had to leave?

24 A. Uh-huh.

25 Q. Knowing the police were coming, he left?

1 A. Yeah, I assume. Uh-huh.

2 Q. How far do you live from the Woodruff Police
3 Department?

4 A. I live probably eight miles.

5 Q. Okay.

6 A. I'm really right on the border. If I cross over
7 the road I'll be in Greer.

8 Q. Okay. Were you aware that any warrants were
9 pending for your grandson after he left your home?

10 A. No. Only thing, what I seen on TV.

11 Q. Okay. And in the multiple months that your
12 grandson was gone, did you speak with him?

13 A. No.

14 Q. Okay. You didn't talk to him at all?

15 A. I never, never spoke to him. Only when he was
16 here in the county.

17 Q. Okay. And do you recall when that was?

18 A. No.

19 Q. Please answer any questions Mr. Neely may have.

20 CROSS-EXAMINATION

21 BY MR. NEELY:

22 Q. Hey, Bruce.

23 A. Uh-huh.

24 Q. Adriel was pacing back and forth?

25 A. Uh-huh.

418

1 Q. Sorry, you have to say yes or no, Bruce.

2 A. Oh, yes.

3 Q. Okay. He appeared agitated?

4 A. Yes.

5 Q. Scared?

6 A. Yes.

7 Q. And you told him that it was self-defense so he
8 needs to turn himself in?

9 A. Yes.

10 Q. You told him that based on what he told you?

11 A. Yes.

12 Q. Did he appear drunk?

13 A. No. He was just, I don't know. I don't know
14 how, he just looked --

15 Q. Not himself.

16 A. -- like a wild person. You know what I mean? He
17 was just, you know, I'd never seen him like that.

18 Q. Scared.

19 A. Uh-huh.

20 Q. Thank you, Bruce.

21 A. Uh-huh.

22 THE COURT: Any redirect?

23 MS. JORDAN: No, sir, Your Honor.

24 THE COURT: Thank you, sir. You may step down.

25 Watch your step as you get out.

1 (Witness leaves witness stand.)

2 Ladies and gentlemen, we're gonna take a short
3 recess. I need to remind you that you cannot have any
4 discussions among yourselves or anyone else about
5 anything involved in the case. As well, you can't
6 conduct any type of independent research or
7 investigation.

8 You may go with the bailiff back to the jury
9 deliberation room and we'll get you back here shortly.

10 (Jury leaves the courtroom at 11:04 a.m.)

11 We'll step down for a few moments.

12 (A recess was had from 11:04 a.m. - 11:31 a.m.)

13 (State's Exhibit Number 1, Fired Cartridge Case,
14 was marked for identification.)

15 (State's Exhibit Number 2, Fired Cartridge Case,
16 was marked for identification.)

17 (State's Exhibit Number 3, Fired Cartridge Case,
18 was marked for identification.)

19 (State's Exhibit Number 4, Fired Cartridge Case,
20 was marked for identification.)

21 (State's Exhibit Number 5, Fired Cartridge Case,
22 was marked for identification.)

23 (State's Exhibit Number 6, Fired Cartridge Case,
24 was marked for identification.)

25 (State's Exhibit Number 7, Fired Cartridge Case,

1 was marked for identification.)

2 (State's Exhibit Number 8, Fired Cartridge Case,
3 was marked for identification.)

4 (State's Exhibit Number 9, Pocket Knife, was
5 marked for identification.)

6 (State's Exhibit Number 10, Fired Projectile, was
7 marked for identification.)

8 (State's Exhibit Number 11, Swabs - Left Entrance
9 Door, was marked for identification.)

10 (State's Exhibit Number 12, Swabs - Left-hand
11 Ramp, was marked for identification.)

12 (State's Exhibit Number 13, Swabs - Left Side of
13 Ramp, was marked for identification.)

14 (State's Exhibit Number 14, Swabs - Garage Side
15 Wall Area Near Ramp, was marked for identification.)

16 (State's Exhibit Number 15, Victim's Pants, was
17 marked for identification.)

18 (State's Exhibit Number 16, Victim's Shirt, was
19 marked for identification.)

20 (State's Exhibit Number 17, Swabs - Knife Handle,
21 was marked for identification.)

22 (State's Exhibit Number 18, Swabs - Knife Blade,
23 was marked for identification.)

24 (State's Exhibit Number 19, Fired Projectile -
25 Autopsy Right Hand, was marked for identification.)

1 (State's Exhibit Number 20, Fired Projectile -
2 Autopsy Right Shoulder Area, was marked for
3 identification.)

4 (State's Exhibit Number 21, Fired Projectile -
5 Autopsy Hip Area/Right Butt, was marked for
6 identification.)

7 (State's Exhibit Number 22, BWC - Officer Josh
8 Hollifield, was marked for identification.)

9 MS. JORDAN: Your Honor, just for the record, I
10 have shown defense counsel multiple exhibits that I
11 intend to introduce to my next witness, including
12 State's 1 through 10. I believe the Court has the
13 exhibit list. One through eight are shell casings.
14 Nine is a knife. Ten is a shell casing. I'm sorry, ten
15 is the projectile.

16 I have also shown him a diagram of State's 24,
17 that while not done by this officer, I'm gonna ask the
18 offer if he recognizes it and if it's a fair and
19 accurate depiction. The next officer would be the
20 officer who actually made the diagram.

21 Your Honor, we also seek to admit through this
22 next witness 28 through 68. It's my understanding that
23 the defense does have some objection to them and we
24 thought we would just put this on the record before the
25 jury came back in.

1 THE COURT: All right.

2 MR. NEELY: That's correct, Your Honor. The
3 pictures are numbered State's 28 through 68. I would
4 object to State's 47, 50, 51 and 52. Just go ahead and
5 show Your Honor.

6 MS. JORDAN: Yes, sir. Do you mind if we
7 approach for your review?

8 THE COURT: Uh-huh.

9 MS. JORDAN: Your Honor, this is 48.

10 MR. NEELY: Forty-seven.

11 MS. JORDAN: Forty-seven.

12 THE COURT: Your objection?

13 MR. NEELY: Judge, that's a picture of a dead
14 body. It's likely to arouse passion in the jury which
15 would make it more prejudicial than probative in this
16 case. And I believe what the State is intending to
17 introduce, evidence marked as eight and nine, so they
18 can do that without showing Mr. Gilliam's body.

19 THE COURT: I would intend to agree.

20 MS. JORDAN: That's fine.

21 THE COURT: If that is what the purpose of the
22 photograph is, just the location of eight and nine,
23 somehow remove the body.

24 MS. JORDAN: Your Honor, we'll withdraw State's
25 47.

1 THE COURT: Okay.

2 MS. JORDAN: Your Honor, just for the Court's
3 purposes, on Number 48 there is a chunk in the corner
4 missing. I did edit that picture to take out the
5 victim's head.

6 MR. NEELY: Your Honor, I would object to that on
7 the same grounds as 47. I believe what they're
8 intending to ---

9 MS. JORDAN: 50 and 51, they go together.

10 MR. NEELY: 50 and 51? All right. And actually
11 52 all under the same objection, Your Honor. They're
12 all likely to arouse passion from the jury. It would be
13 more prejudicial than probative.

14 I believe what they're attempting to show before
15 the Court is they're gonna have Dr. Wren testify this
16 afternoon or in the morning and he'll go into great
17 detail about the exact locations of the wounds. He's
18 drawn a diagram that will likely be in evidence. That
19 can be done. And all of these wounds can be described
20 by Dr. Wren without showing these pictures to the jury.

21 THE COURT: And the purpose of these photographs
22 are gonna be for what?

23 MS. JORDAN: Your Honor, it is to, as I stated in
24 the pretrial motions in reference to the autopsy
25 photographs, it is to show the location of the wound on

1 the body.

2 MR. NEELY: And, again, Judge, Dr. Wren can
3 testify to that and show the diagram and get the exact
4 same information across without showing pictures of a
5 dead body to the jury.

6 THE COURT: Let me ask you this, on number --

7 MR. NEELY: 52.

8 THE COURT: -- 52, what is that? (Indicating.)

9 MS. JORDAN: Your Honor, that's blood coming from
10 just above his underwear. This is on his back side.

11 THE COURT: Okay.

12 MS. JORDAN: That is the shot that he took to the
13 back just above the -- just above his bottom.

14 THE COURT: And we -- in one of the black and
15 white photographs they show that.

16 MS. JORDAN: Yes, Your Honor. And as to that one
17 I would inquire as to whether I would be able to get in
18 just the small, basically two-inch photograph or the
19 entire photograph that also shows the, the rear of the
20 defendant.

21 THE COURT: I thought you had a couple already
22 edited.

23 MS. JORDAN: I do. I have an edited version and
24 a full black and white.

25 THE COURT: Let's do the edited version.

1 MS. JORDAN: Okay.

2 THE COURT: I think -- so I think you can, as far
3 as 52, you can get that location through the black and
4 white photograph?

5 MS. JORDAN: Yes, sir.

6 THE COURT: Yeah.

7 MS. JORDAN: I'm gonna put this in.

8 THE COURT: Yeah. And ---

9 MS. JORDAN: Your Honor, my position on 51, 50
10 and 51, is that while you do see Cecil's kind of the
11 stomach area in one of the photographs, you see a closed
12 body. And in 51, more specifically, it's just a
13 close-up of the gunshot wound to his pants. We will be
14 seeking to introduce his pants through Investigator
15 Talanges. He is going to be our second witness.

16 THE COURT: And the pants will reflect the entry
17 of the bullet wound?

18 MS. JORDAN: Yes, Your Honor.

19 THE COURT: Yeah.

20 MR. NEELY: So they can show the pants, Your
21 Honor, and they'll have Dr. Wren with his diagram to
22 show the entry and the exit wounds. They don't need
23 these photos to get that point across.

24 THE COURT: I agree, if that's the purpose of why
25 you were gonna admit them. I would agree that the

1 prejudicial effect is going to be outweighed by the
2 probative value, given the fact that you'll have other
3 sources of information to establish for defense.

4 MS. JORDAN: Okay, Your Honor, thank you.

5 MR. NEELY: Thank you, Your Honor.

6 MS. JORDAN: I am going to pass these, since
7 they've already been marked, to the court reporter for
8 keeping. If I may have a moment just to note those
9 numbers on my list.

10 THE COURT: Okay.

11 (State's Exhibits 50, 51 and 52 were withdrawn
12 from The State.)

13 MS. JORDAN: Your Honor, if I could just ask to
14 borrow a pair of scissors to open a box at the
15 appropriate time.

16 THE COURT: Anything else before we bring the
17 jury in?

18 MS. JORDAN: Nothing from the State, Your Honor.

19 MR. NEELY: Nothing from the defense.

20 THE COURT: All right. Let's bring them in. And
21 your next witness will be?

22 MS. JORDAN: Coby Stepp, investigator with the
23 Sheriff's Department.

24 THE COURT: Sir, you can just go ahead and stand
25 right here, and then when the jury comes in, Ms. Jordan

1 can announce you as the next witness.

2 THE WITNESS: Yes, sir.

3 THE COURT: Yeah, just stand right there. Is the
4 State ready?

5 (Jury enters the courtroom at 11:40 a.m.)

6 THE COURT: Is the State ready to call their next
7 witness?

8 MS. JORDAN: Yes, Your Honor, we are. The State
9 calls Investigator Coby Stepp with the Spartanburg
10 County Sheriff's Department.

11 THE COURT: All right.

12 THE CLERK: Sir, place your left hand on the
13 Bible and raise your right hand, please. (Complies.)

14 Do you solemnly swear that the testimony you're
15 about to give will be the truth, the whole truth and
16 nothing but the truth so help you God?

17 THE WITNESS: So help me God.

18 THE COURT: Sir, just have a seat in the red
19 chair and pull the red chair up to the microphone.

20 JAMES COBY STEPP,
21 having been duly sworn, testified as follows:

22 DIRECT-EXAMINATION

23 BY MS. JORDAN:

24 Q. Please state your name for the record.

25 A. Investigator James Coby Stepp.

1 Q. Okay. Investigator Stepp, where are you
2 currently employed?

3 A. Spartanburg County Sheriff's Department.

4 Q. How long have you been employed there?

5 A. About to finish 20 years, about to start 21.

6 Q. Okay. Did you work in law enforcement previous
7 to coming to the Sheriff's Department?

8 A. Yes. Probation and Parole.

9 Q. Okay. What is your current position at the
10 Sheriff's Department?

11 A. Crime scene investigator.

12 Q. How long have you been in that position?

13 A. Since April of 2011.

14 Q. Okay. What kind of training do you have for the
15 -- for your position as a crime scene investigator?

16 A. Well, I have two degrees in college, but they're
17 not forensics. And I had special training courses that
18 they sent me to throughout my years in forensics for
19 specific training.

20 Q. Okay. Did you have an occasion to work a scene
21 at 405 Sharpe Street on February the 6th of 2016?

22 A. Yes, ma'am.

23 Q. Okay. What county is that located in?

24 A. It's in, it's in Spartanburg County in the city
25 limits of Woodruff.

1 Q. Okay. Can you tell the jury what you were called
2 out to do that day?

3 A. I was called out to a death investigation at the
4 time.

5 Q. Okay. About what time were you called to that
6 location?

7 A. I received the call about five in the morning.

8 Q. Okay. And what time did you arrive?

9 A. About 6:20 a.m.

10 Q. Okay. What was the purpose of your arrival there
11 that day?

12 A. To begin to assess the crime scene.

13 Q. Okay. And what did you do when you first
14 arrived?

15 A. We got, myself and Investigator Talanges, met
16 because we're on the same team and began to assess the
17 crime scene.

18 Q. Okay. And as part of your assessment of the
19 crime scene, did you take photographs?

20 A. Overall photographs, yes.

21 Q. Okay. Did you also mark items that were present
22 at the scene?

23 A. Marked items that were present at the scene.

24 Q. Did you eventually collect some items?

25 A. And I eventually collected some items, yes.

1 Q. Okay. I am going to start out with State's
2 Exhibit Number 24. I'm going to ask if you recognize
3 State's Exhibit Number 24.

4 A. Yes. This is a diagram that Investigator
5 Talanges made of the scene.

6 Q. Okay. And while you didn't make it, can you
7 state whether or not it's a fair and accurate depiction
8 of the scene as you found it upon your arrival?

9 A. Yes, this was very much so.

10 MS. JORDAN: Okay. Your Honor, at this point in
11 time we'd move State's Exhibit Number 24 into evidence.

12 MR. NEELY: No objection.

13 THE COURT: Without objection.

14 MS. JORDAN: And I'd ask to publish it to the
15 jury.

16 THE COURT: Yes, ma'am.

17 (State's Exhibit Number 24 was entered into the
18 record.)

19 BY MS. JORDAN:

20 Q. Investigator Stepp, I'm gonna use this just as a
21 reference to go back and forth between the photographs
22 and some exhibits with you. Can you explain to the jury
23 what the numbers are on there, what they indicate?

24 A. The numbers on the diagram represents the
25 evidence that was located to be collected at the crime

1 scene.

2 Q. Okay. Do you also have a key to those numbers?

3 A. Yes.

4 Q. Investigator Talanges also included a key?

5 A. Yes. He always includes the key.

6 Q. Okay. As part of your job, did you collect items
7 one through ten?

8 A. As part of my job I did collect items one
9 through ten on scene.

10 Q. Okay. I'm gonna start off with photographs and
11 mix those items into the photograph. I'm gonna show you
12 first a grouping of State's 28 through 31 and ask if you
13 can look at those photographs and identify them.

14 A. Yes.

15 Q. Are State's Exhibits 28 through 31 photographs
16 that you took that morning at 405 Sharpe Street?

17 A. Yes, ma'am, they are.

18 Q. Are they fair and accurate depictions of what you
19 saw when you arrived?

20 A. They are.

21 MS. JORDAN: Your Honor, at this time we would
22 move these exhibits 31 -- 28 through 31 into evidence.

23 MR. NEELY: No objection.

24 THE COURT: Without objection.

25 (State's Exhibit Numbers 28 through 31 were

1 entered into the record.)

2 BY MS. JORDAN:

3 Q. I'm gonna place each one of these up here and
4 just let you tell the jury what they are. Some of them
5 may be very similar.

6 A. Right.

7 Q. Can you tell the jury what you see in State's 28.

8 A. That's the overall wide angle of the taped off
9 area where the body is behind the sheet. And that's
10 just an overall general area before placards and things
11 like that are laid out to mark that.

12 Q. Okay. I'll show you State's 29.

13 A. That's another area where we began to mark. We
14 see some of the yellow placards. Just another wide
15 angle to show proximity for where we're gonna begin to
16 zoom in.

17 Q. Okay.

18 A. Also, what you're showing now are actually wide
19 angles. As we go in, we start zeroing in the closer we
20 get to the items that were collected.

21 Q. Okay. And in this case the blanket is up for
22 what purpose?

23 A. To keep the body from public view.

24 Q. I'll show you State's 30.

25 A. That was one of the earlier photographs before we

1 actually started going in there and marking. And that's
2 just another overall area showing the proximity of where
3 the body is in reference -- relation to the house and
4 the building.

5 Q. Okay. And finally, 31.

6 A. That's just an up-close area showing the ramp
7 that goes up to the right side of the house in between
8 the buildings and the location of the body that's on the
9 other side of that sheet.

10 Q. Okay. I am next gonna show you, we're at a good
11 stopping point, State's 33 through 41.
12 Investigator Stepp, if you'll look at State's 33 through
13 41. Do you recognize those photographs?

14 A. Yes, ma'am.

15 Q. And are those again photographs that you took
16 during the early morning hours of February the --

17 A. Those --

18 Q. -- 6th at Sharpe Street?

19 A. Those are my photographs.

20 Q. Do they fairly and accurately depict the scene as
21 you found it?

22 A. Yes, they do.

23 MS. JORDAN: Your Honor, at this time we would
24 move State's Exhibits Number 33 to 41 into evidence.

25 MR. NEELY: No objection.

1 THE COURT: Without objection.

2 MS. JORDAN: And ask to publish to the jury.

3 THE COURT: Yes, ma'am.

4 (State's Exhibits 33 through 41 were entered into
5 the record.)

6 BY MS. JORDAN:

7 Q. I'm, again, gonna go through these pictures
8 individually starting with State's 33. Can you tell the
9 jury what you can see -- and there's a pointer in front
10 of you if you need to use that -- what you see in
11 State's 33.

12 A. I'm standing just in front of the sheet area
13 where the body's back this way, shooting back towards
14 the front area of the residence and the driveway. And
15 all these placards here mark various items of evidence
16 that have already been marked for collection.

17 (Indicating.)

18 Q. Okay.

19 A. It's kind of an overall shot of it, just to give
20 you a wide-angle view of it.

21 Q. And I believe I have a few more views just for
22 you to tell the jury about. 34.

23 A. As you can see, that's up close to the ramp,
24 where one was in between the ramp and the home and the
25 casings up this way and down here. (Indicating.) Just

1 showing a more closer up view where you can get a better
2 overall shot and see what you can look at more closely.

3 Q. Referencing back to State's Number 24, one
4 through eight markers are for shell casings?

5 A. Yes. One through eight are for shell casings.

6 Q. Okay. I've got another overall view under
7 State's Number 35.

8 A. And that's standing at the back, shooting back
9 towards the body. Once again, just an overall, just to
10 kind of give you an idea of where the various items are
11 located.

12 Q. Okay. And zeroing into State's 36.

13 A. That's evidence item Number 1, a shell casing.

14 Q. Okay. Can you tell the jury what you do as far
15 as marking them and what you do after you marked them
16 and photographed them.

17 A. What we do is we mark them, we're photographing
18 them, we're packaging them, and collect them and seal
19 them and turn them into evidence.

20 Q. Okay. I'm gonna hand you what's been marked as
21 State's Exhibit Number 1 and ask if you recognize the
22 information we got for that.

23 A. Yep. This is the shell casing that I see.

24 MS. JORDAN: Okay. Your Honor, at this time we'd
25 move State's Exhibit Number one into evidence. I'm

1 sorry, it is Number 1, into evidence.

2 MR. NEELY: No objection.

3 THE COURT: Without objection.

4 (State's Exhibit Number 1 was entered into the
5 record.)

6 BY MS. JORDAN:

7 Q. Okay. Can you tell the jury what State's Exhibit
8 Number 1 is in reference to State's Exhibit Number 36.

9 A. In reference to?

10 Q. This picture that's up on the allograph.

11 A. Okay. Number 1 is a shell casing PMC 9
12 millimeter Luger brand.

13 Q. Okay. And the marking on the picture that is
14 State's Exhibit Number 34 -- 36, I'm sorry.

15 A. Yes, on number one.

16 Q. Okay. That's the --

17 A. The marker.

18 Q. -- item that was collected?

19 A. Yes, ma'am.

20 Q. I'm gonna show you State's Number 37.

21 A. Those are shell casings two and three.

22 Q. Okay. I'm now gonna show you what's previously
23 been marked as State's Exhibit Number 2 and 3, and ask
24 if you can identify these two items.

25 A. Yes. Those are evidence Items Number 2 and

1 Number 3. And they both are marked PMC 9 millimeter
2 Luger's shell casings.

3 Q. Okay. And did you collect those --

4 A. Yes, I did.

5 Q. -- from the scene?

6 A. Yes, I did.

7 MS. JORDAN: Your Honor, at this time we would
8 move State's 2 and 3 into evidence.

9 MR. NEELY: No objection.

10 THE COURT: Without objection.

11 (State's Exhibit Numbers 2 and 3 were entered
12 into the record.)

13 BY MS. JORDAN:

14 Q. And just for purposes of the jury to make sure
15 they understand, inside of those one, two, and three are
16 the shell casings that were found and marked one, two
17 and three in State's exhibits, the photographs?

18 A. Yes, ma'am, they are.

19 Q. Okay. I'm gonna move to State's 38.

20 A. Number 4 is another shell casing.

21 Q. Okay. And I'm group two of these together.

22 Gonna move to State's Number 5 -- I'm sorry, State's
23 Exhibit Number 39.

24 A. That's the evidence Item Number 5, another shell
25 casing.

1 Q. Okay. And State's Exhibit Number 40.

2 A. Number six would be another shell casing.

3 Q. Okay. Then also referenced in State's Exhibit
4 Number 41.

5 A. Close-up of Number 6. And, if I recall, medical
6 personnel placed that beside there because they think
7 they bumped it.

8 Q. Okay. I'm gonna show you now what's been marked
9 State's 4, 5 and 6, and also ask if you can identify
10 State's 4, 5 and 6.

11 A. Yes. Those are the shell casings that I
12 collected and packaged on scene. And Number 4 is
13 stamped PMC 9 millimeter Luger and 5 and 6 are stamped
14 S&B 9 by 1974, head stamps.

15 Q. You collected those items on the morning of the
16 6th of February, 2016?

17 A. Yes, ma'am.

18 MS. JORDAN: Okay. Your Honor, we would move
19 State's 4, 5 and 6 into evidence.

20 MR. NEELY: No objection.

21 THE COURT: Without objection.

22 (State's Exhibit Numbers 4, 5 and 6 were entered
23 into the record.)

24 MS. JORDAN: I'll grab some more photographs.
25 Your Honor, may we approach?

1 THE COURT: (Nods head up and down.)

2 (A bench conference was held off the record.)

3 THE COURT: Ladies and gentlemen, this is one of
4 those times I've got to take a matter of law up with the
5 attorneys outside of your presence, so I again remind
6 you not to have any discussions among yourselves about
7 anything involving the case, but you can retire back to
8 the jury deliberation room and we'll get you back
9 shortly.

10 (Jury leaves the courtroom at 11:58 a.m.)

11 THE COURT: Yes, ma'am or yes, sir.

12 MS. JORDAN: Your Honor, I was next seeking to
13 introduce 42, 43, with the understanding there's no
14 objection to those.

15 MR. NEELY: That's correct.

16 MS. JORDAN: And the next photographs, Your
17 Honor, are 44 and 45. Just for the record, I have
18 removed State's 46, and I'll pass that to the court
19 reporter. And I will not seek to introduce it. It's
20 very similar to 47 that the Court has already ruled on.

21 MR. NEELY: Correct, Your Honor. And my argument
22 would be that State's 44 and State's 45 are also very
23 similar to State's 47, which the Court has previously
24 ruled on as being more prejudicial than probative. The
25 purpose that the State seeks to introduce them for is to

1 show the location of Mr. Gilliam's foot to the ramp.
2 This picture can be edited, if that's what the Court so
3 wishes, but I would object on the same grounds as my
4 previous objection.

5 MS. JORDAN: Your Honor, and we would just state
6 that this is just showing his feet and his legs.
7 There's no noticeable blood pooling, as there were in
8 the State's exhibits that we are not going to be showing
9 to the jury, involving decedent's pants. But these do
10 show the victim's feet in location in very close
11 proximity to the end of this ramp.

12 THE COURT: All right. And I've reviewed those
13 photographs and do believe, based on my understanding of
14 the factual presentation, the location of the victim to
15 the ramp is material to this case and do not believe
16 that the photographs incite any type of emotional
17 response and they are not of the nature of those other
18 photographs that show a lot of blood and body parts and
19 all that, so I believe the probative value outweighs any
20 prejudicial effects. I believe the prejudicial effects
21 to be minimal.

22 MR. NEELY: Yes, sir.

23 MS. JORDAN: Thank you, Your Honor.

24 THE COURT: Anything else?

25 MS. NEELY: Nothing from the defense.

1 THE COURT: All right. Let's bring them back.

2 While we bring the jury back, do the lawyers want
3 to approach, please.

4 THE BAILIFF: Do you want me to tell them to
5 wait?

6 THE COURT: No. Just go ahead and bring them
7 back in.

8 THE BAILIFF: Okay.

9 (A bench conference was held off the record.)

10 (The jury enters the courtroom at 12:03 p.m.)

11 BY MS. JORDAN:

12 Q. Investigator Stepp, I believe we're up to State's
13 42, 43, 44, and 45. I'm gonna hand these to you.

14 A. Okay.

15 Q. Ask if you recognize those and if they are fair
16 and accurate depictions of the photographs -- or if they
17 are the photographs that you took of the scene that
18 morning.

19 A. Yes, those are photographs I took also.

20 MS. JORDAN: Okay. Your Honor, at this time we
21 would move those State's exhibits into evidence, 42, 43,
22 44 and 45.

23 MR. NEELY: My previous objection to 44 and 45,
24 Your Honor.

25 THE COURT: All right. I'll admit them.

1 MS. JORDAN: I'd ask to publish them to the jury.

2 THE COURT: Yes, ma'am.

3 (State's Exhibit Numbers 42 through 45 were
4 entered into the record.)

5 BY MS. JORDAN:

6 Q. I'm gonna show State's 42 on the Elmo. Tell the
7 jury ---

8 A. Seven will be another shell casing located on the
9 ground.

10 Q. I'll show you State's Exhibit Number 7, ask you
11 to identify that.

12 A. A 9 millimeter PMC Luger shell casing, that is
13 correct.

14 Q. Is that an item that you recovered from the scene
15 that day?

16 A. That's what I recovered.

17 MS. JORDAN: Your Honor, we'd move State's
18 Exhibit Number 7 into evidence.

19 MR. NEELY: No objection.

20 THE COURT: Without objection.

21 (State's Exhibit Number 7 was entered into the
22 record.)

23 BY MS. JORDAN:

24 Q. Thank you. And State's Exhibit Number 7 in
25 reference is --

1 A. In the photograph ---

2 Q. -- Marker 7 under State's 42?

3 A. Placard 7, yes, ma'am.

4 Q. Okay. I'm gonna move to these photographs under
5 43, State's 43.

6 A. That's once again back behind the sheet, just
7 showing an overall shot around the lamp and up the side
8 of the residence back toward the driveway.

9 Q. Okay. State's Number 44.

10 A. That's an area showing an overall area, the lamp
11 area in relation to the shell casing that was collected
12 in relation to how close it was to the body.

13 Q. Okay. And finally for this round, State's 45.

14 A. Showing overall area. Basically, I was just kind
15 of zooming in where you see the scale that was later
16 collected by Deputy Talanges, just showing an area that
17 we scaled for fresh black/brown matter, which would be
18 just tested for blood.

19 Q. Okay. I'm gonna point up to the very top there
20 and ask if you can identify that marker, although it's
21 halfway ---

22 A. It looks like Number 6. It should be a shell
23 casing. Or it could be eight.

24 Q. I'm gonna reference you back to State's 24.

25 A. Okay.

1 Q. And it's hard for you to see. I see that now.

2 A. Yeah.

3 Q. And would that be State's Number 8?

4 A. Yes. That would be Number 8, just below the
5 ramp.

6 Q. Number 8 is up next to --

7 A. It's just a shell casing.

8 Q. -- the -- Mr. Cecil's right leg?

9 A. Yes, ma'am.

10 Q. Okay. I'm gonna show you State's Exhibit Number
11 8 and ask you to identify that.

12 A. 9 millimeter PMC Luger shell casing, collected by
13 myself. This is correct.

14 Q. Okay. So that would be the Number 8 that's --

15 A. Number 8.

16 Q. -- documented in State's 24 and State's 45?

17 A. Yes, ma'am.

18 MS. JORDAN: Your Honor, may I move State's
19 Exhibit Number 8 into evidence? Did I do that already?

20 MR. NEELY: No objection.

21 THE COURT: Without objection.

22 (State's Exhibit Number 8 was entered into the
23 record.)

24 MS. JORDAN: Your Honor, may we approach?

25 THE COURT: All right.

DIRECT EXAMINATION OF COBY STEPP BY MS. JORDAN

1 MS. JORDAN: I'd like to approach.

2 (A bench conference was held off the record.)

3 BY MS. JORDAN:

4 Q. Your Honor, at this time I'm -- actually, I need
5 to show the witness. I'm showing the witness now 46, 47
6 and 48 -- I'm sorry, 46, 47 and 49. I'd ask if you
7 recognize those photographs.

8 A. Yes. Those are the photographs I took on the
9 scene.

10 Q. Are they fair and accurate depictions?

11 A. Yes, ma'am.

12 MS. JORDAN: Your Honor, I seem to have misplaced
13 State's Exhibit Number 48. While Mr. Smith looks for
14 it, I'll go through the -- may I approach to see if it's
15 up at the bench?

16 THE COURT: (Nods head up and down.)

17 BY MS. JORDAN:

18 Q. As to -- you stated these are fair and accurate
19 depictions under 47, 46 and 49?

20 A. Yes, ma'am.

21 MS. JORDAN: Your Honor, at this point in time
22 I'd move to admit State's Exhibit Numbers 47, 46 and 49
23 into evidence.

24 MR. NEELY: Judge, I had previously objected, but
25 I withdraw that objection.

1 THE COURT: All right. They'll be admitted.

2 (State's Exhibit Numbers 47, 46 and 49 were
3 entered into the record.)

4 BY MS. JORDAN:

5 Q. Let's start with State's 46. I believe that's
6 Number 8, the shell casing that we previously discussed.
7 Can you tell the jury what's found at Number 9?

8 A. Yes. Number 9 was the black handle pocket knife,
9 open blade, on the ground.

10 Q. Okay. I'm gonna show you what's been marked as
11 State's Exhibit Number 9 and ask if you could identify
12 this based upon your writing on the outside.

13 A. That is my writing and I did package this item
14 that was collected on that scene.

15 Q. Okay. Would you tell the jury what it is.

16 A. It is a black handled pocket knife. It was open
17 bladed when it was on the scene.

18 MS. JORDAN: Okay. Your Honor, we'd, at this
19 point in time, move State's Exhibit Number 9 into
20 evidence.

21 MR. NEELY: No objection.

22 THE COURT: Without objection.

23 (State's Exhibit Number 9 was entered into the
24 record.)

25 BY MS. JORDAN:

1 Q. I'll show you State's Exhibit Number 47. Can you
2 tell the jury what's indicated on State's Number 47.

3 A. It's just showing a more closer angle of eight
4 and nine. Evidence items eight and nine and other areas
5 that we scaled for later for DNA samples.

6 Q. Okay. And finally, State's Exhibit -- or finally
7 for right now, State's Exhibit Number 49.

8 A. That was a fired projectile located on the
9 ground. Evidence Item Number 10.

10 Q. Okay. I'm gonna show you State's Exhibit Number
11 10, and ask if you have any -- could you tell the jury
12 what that is.

13 A. It's a fired projectile that was located on the
14 ground.

15 MS. JORDAN: Okay. Your Honor, we would move
16 State's Exhibit Number 10 at this time.

17 MR. NEELY: No objection, Your Honor.

18 THE COURT: Without objection.

19 (State's Exhibit Number 10 was entered into the
20 record.)

21 BY MS. JORDAN:

22 Q. And just for clarification, is State's Exhibit
23 Number 10 the item located on -- marked and located on
24 State's Exhibit Number 49?

25 A. Yes. Those are items that were collected.

1 MS. JORDAN: Your Honor, I apologize. Your
2 Honor, I've got State's 48 right here.

3 BY MS. JORDAN:

4 Q. Officer Stepp, I'm gonna hand you State's 48 and
5 ask if you recognize that.

6 A. Yes, I do. It's a photograph I've taken out of
7 ten, the projectile.

8 Q. And it fairly and accurately depicts it as you
9 found it on that day?

10 A. Yes, it is.

11 MS. JORDAN: Your Honor, at this time we'd move
12 State's 48 into evidence.

13 MR. NEELY: No objection.

14 THE COURT: Without objection.

15 (State's Exhibit Number 48 was entered into the
16 record.)

17 BY MS. JORDAN:

18 Q. Now, I'm gonna hand you a series of photographs
19 labeled 53 through 68.

20 A. Okay.

21 Q. And ask you to take a look at those.

22 A. Yes. Those are active evolving photographs I
23 took on the scene.

24 MS. JORDAN: Your Honor, at this time we'd move
25 this collection of photographs into evidence. State's

1 53 to 68.

2 MR. NEELY: No objection.

3 THE COURT: Without objection.

4 (State's Exhibit Numbers 53 through 68 were
5 entered into the record.)

6 BY MS. JORDAN:

7 Q. Okay. As to State's Exhibit Number 63, can you
8 tell the jury -- I'm sorry, 53. Can you show -- can you
9 tell the jury the -- what this is a photograph of.

10 A. It's basically an overall photograph up toward
11 the left corner of the ramp coming out of the house,
12 kind of zeroing in on a possible projectile impact area
13 there, and will be zooming in on some possible blood
14 splatter of the area, along the railing.

15 Q. Okay. I'm gonna show you State's Number 54. Can
16 you tell the jury what that is.

17 A. That's the one I showed you. It's a close-up of
18 a possible projectile impact area as located on that
19 wood in the rail right there. (Indicating.)

20 Q. And just for purposes of the jury, going back to
21 the previous exhibit, 53, can you point that out again.

22 A. (Indicating.)

23 Q. Okay, then you -- State's Exhibit Number 55.

24 A. Kind of zero in looking -- again, taken overall
25 of some areas that we're gonna try to scale for some

1 possible DNA.

2 Q. Okay. 56.

3 A. We begin to put some placards down. Red matter
4 on the ramp going up, 11, 13 and the ramp area.

5 Q. Okay. And is 57, does it also have ruler type
6 markings on it?

7 A. Yes.

8 Q. Okay. Can you indicate what the one -- we've
9 talked about the bullet strike, the possible bullet
10 strike. Can you indicate what the one is, the L-shaped
11 one near the door.

12 A. This one? (Indicating.)

13 Q. Yes, sir.

14 A. Dry red matter.

15 Q. Okay. I was to show you State's 58. Is that a
16 close-up version of what we just saw?

17 A. Yes. That's the close-up version of the
18 droplets.

19 Q. And 59.

20 A. Just showing that it reacted quick check to the
21 presence of blood.

22 Q. Okay. Can you explain to the jury what that is
23 that you're doing or that Officer Talanges is doing
24 right there.

25 A. Well, that's Deputy Talanges. Used our quick

1 check kit which reacts to the presence of blood. And if
2 it reacts, it changes color. And if it shows a color
3 presence, then it shows positive -- it field tests
4 positive for blood.

5 Q. I'm gonna show you some more images, State's 60.

6 A. Kind of zero in right in there areas of possible
7 splatter. (Indicating.)

8 Q. And a close-up version of Number 61.

9 A. The side of where we just photographed before
10 without the scale and the placard.

11 Q. I'm gonna direct your attention down to the
12 reddish green area. Could you explain to the jury what
13 that is.

14 A. That's what Deputy -- Investigator Talanges used
15 that area to test it for the presence of blood.

16 Q. Okay. I'm gonna show you State's Exhibit Number
17 62.

18 A. That's just a wide angle scaled area that was
19 before the placard was placed of that same area we just
20 discussed.

21 Q. And 63 is a close-up image of what we've already
22 seen?

23 A. Right. Close-up image.

24 Q. Okay. And 64.

25 A. It's at the edge of the lamp. Once again,

1 droplets above. Dry reddish matter on the wood.

2 Q. Sixty-five.

3 A. Scaled with a placard and scale, just a close-up
4 of the area showing what we're gonna test and collect.

5 Q. Okay. And 66.

6 A. It's the area on the brick right here that we
7 observed as a droplet of matter, red matter.

8 Q. Okay. And that area going back to State's 24, is
9 that -- actually I'm gonna go to State's -- going back
10 to State's 32, can you point to the area where those
11 bricks are in State's 32, roughly.

12 A. Right over here in this area. (Indicating.)

13 Q. The small individual red bricks.

14 A. Okay.

15 Q. Okay.

16 A. Yeah, the small red bricks, that's correct.

17 Q. State's 67.

18 A. That's the area on the outbuilding. If you're
19 facing it, it's to the left area there was a splatter of
20 dry reddish/brown material on the wall.

21 Q. Okay. And ---

22 A. Exterior wall.

23 Q. In referencing back to State's Exhibit Number 24,
24 is that this building that has labels on it, B and D?

25 A. Yes.

1 Q. Okay. That's the wall there?

2 A. (Nods head up and down.)

3 Q. And then finally 68.

4 A. This shows a close-up area once we've placard it
5 and then scaled it in the area that we were looking at.

6 Q. Did your crime scene partner on the scene that
7 day, he would have been the one who collected swabs?

8 A. Yes, ma'am.

9 Q. Okay. Thank you. While you were there on scene
10 did you also -- how long do you believe that you stayed
11 on scene that day?

12 A. Several hours.

13 Q. Okay. And during your time there, did you search
14 in and around this area?

15 A. Yes, all that area.

16 Q. Okay. Did you, other than what have already been
17 indicated, did you find any additional items in this
18 area?

19 A. I didn't collect anything else.

20 Q. Is there any indication -- I'm now going back to
21 the shell casings that you have numbered one through
22 eight. Is there any indication as to -- those indicate
23 how you found the shell casings; is that correct?

24 A. That's correct. That's how I found them when I
25 arrived on scene after law enforcement personnel cleared

1 the scene, secured the scene and medical personnel went
2 into the scene for life saving measures.

3 Q. Just going back quickly to State's Exhibit Number
4 24, is that a fair and accurate representation of the
5 location of the hands on Cecil Gilliam's body?

6 A. Yes. From what I do recall, yes, that is fair
7 and accurate.

8 MS. JORDAN: Okay. Please answer any questions
9 that Mr. Neely may have.

10 CROSS-EXAMINATION

11 BY MR. NEELY:

12 Q. You testified earlier that you're going into your
13 21st year of law enforcement?

14 A. Yes, sir.

15 Q. Okay. For 21 years you've been with the
16 Sheriff's Office?

17 A. Yes, sir.

18 Q. Okay. Before that you were with Probation --

19 A. Probation.

20 Q. -- Pardon and Parole? All right. And before
21 that you had no other prior law enforcement experience?

22 A. No, sir.

23 Q. Okay. So when you started your law enforcement
24 career, you attended the Criminal Justice Academy?

25 A. Correct.

1 Q. All right. And that's in Columbia, South
2 Carolina?

3 A. Correct.

4 Q. All right. Did you take the agent course?

5 A. Yeah.

6 Q. Right?

7 A. Yes, sir.

8 Q. So for eight weeks you learned how to be a law
9 enforcement officer?

10 A. That's correct.

11 Q. Okay. You took classes in driving a car?

12 A. Uh-huh. Yes, sir.

13 Q. You took classes in firing a weapon?

14 A. Yes.

15 Q. You took classes in legals?

16 A. Yes.

17 Q. You took a class on an incident report, right?

18 A. Yes.

19 Q. Okay. And during all of your classes, what they
20 taught you, as far as your role as a law enforcement
21 officer, anytime you investigate a case you want to be
22 thorough?

23 A. Yes, sir.

24 Q. You want to be complete?

25 A. Yes.

1 Q. You want to be accurate?

2 A. Yes.

3 Q. For the last 21 years throughout you've applied
4 that training, correct?

5 A. I have.

6 Q. Every investigation you go to you're thorough?

7 A. To the best of my ability, yes, sir.

8 Q. Okay. You're complete?

9 A. Yes, sir.

10 Q. You're accurate?

11 A. Yes, sir. What the scene dictates.

12 Q. And in this case you wrote an incident report.

13 A. Yes, sir.

14 Q. Okay. And over the last 20 years you've probably
15 written hundreds of incident reports?

16 A. Yes, sir.

17 Q. Maybe thousands?

18 A. Uh-huh.

19 Q. You've read a bunch of incident reports.

20 A. A bunch.

21 Q. And in each one, you're thorough?

22 A. Yes, sir.

23 Q. And you're complete?

24 A. Yes, sir.

25 Q. And you're accurate?

1 A. Yes, sir.

2 Q. On the morning of February 6th, you responded at
3 5 o'clock in the morning, correct? Or you were called
4 at 5 o'clock in the morning?

5 A. Called at five, yes, sir.

6 Q. Okay. You made it out there about 5:20?

7 A. 6:20.

8 Q. About 6:20.

9 A. Yes, sir.

10 Q. Okay. So an hour, about an hour-and-a-half after
11 you were called when you got to the scene.

12 A. That's correct.

13 Q. All right. The original 911 call in this case
14 came about 4 o'clock in the morning.

15 A. Okay.

16 Q. Okay. Prior to your arrival on scene, you don't
17 know what previously happened there?

18 A. I do not know what happened there prior to my
19 arrival.

20 Q. Why ---

21 A. Just that I'm being called to a scene.

22 Q. Okay. Prior to your arrival, the first
23 responding officer, you don't know who was in the crime
24 scene.

25 A. That's correct, outside of the officers there

1 that usually clear the scene for safety purposes.

2 Q. Prior to the arrival of those first officers.

3 A. Oh, no.

4 Q. You don't know who was in or around the crime
5 scene?

6 A. I do not.

7 Q. Okay. You don't know if anybody was near Mr.
8 Gilliam's body?

9 A. I do -- I do not.

10 Q. You don't know if anybody messed with any of the
11 evidence that you would collect?

12 A. You're saying prior to law enforcement and
13 medical personnel?

14 Q. Yes, sir.

15 A. No, I can't answer to that.

16 Q. Now, I believe previously you've testified that
17 you've been an investigator since about 2011?

18 A. Yes, sir.

19 Q. Okay. Now, to be called an investigator you had
20 to take -- you had to get specialized training, correct?

21 A. Yes, sir.

22 Q. Okay. And since 2011, over the last seven years,
23 you've taken ongoing education requirements?

24 A. Various courses they send us to for training.

25 Q. Yes, sir. Okay. And as part of that training

CROSS-EXAMINATION OF COBY STEPP BY MR. NEELY

1 you've learned how to process scenes?

2 A. Yes.

3 Q. All right. And, again, you want to be thorough
4 and complete and accurate when you process those scenes?

5 A. Yes, sir.

6 Q. All right. There's, there's a technique to
7 processing a scene, isn't there?

8 A. Yes, sir.

9 Q. Okay. When you go to process a scene, you
10 attempt to do it the same way every time, correct?

11 A. Yes, sir. Unless circumstances dictate
12 otherwise. You know, that could happen sometimes.

13 Q. Sure. But most of the time you attempt to do it
14 the exact same way?

15 A. Yes, sir.

16 Q. So on State's 24, you started with evidence item
17 Number 1, correct?

18 A. Yes, sir. Started with one.

19 Q. And you laid the placards as you came across the
20 pieces of evidence --

21 A. Looking inward, yes, sir.

22 Q. And you worked back towards Number 10.

23 A. Correct.

24 Q. Okay.

25 A. That's what I did.

1 Q. You testified previously when the solicitor was
2 showing you one of those pictures, that there was an
3 item that emergency medical services had like ---

4 A. They didn't lay it. They said they had probably
5 had bumped it.

6 Q. Okay. So prior to your arrival on scene, an EMS
7 worker had advised you that they might have bumped some
8 of the shell casings?

9 A. That particular one that I was notified. I was
10 just notified to one.

11 Q. Okay. So as far as these shell casings are
12 numbered, they don't have any significance as for shots
13 fired, correct?

14 A. Obviously just a number of shots fired, but
15 obviously, you know, spent shell casing there's a shot
16 fired.

17 Q. Right. But you can't say that number one was
18 fired before number two, correct?

19 A. Nope.

20 Q. All right.

21 A. No, sir.

22 Q. In fact, when you arrived on scene, EMS was still
23 there, correct?

24 A. Correct.

25 Q. All right. And they had their equipment near Mr.

1 Gilliam's body?

2 A. If I recall, two bags and also a body board. A
3 board, you know, like they're gonna get someone out of
4 there quickly to render, you know, if they think they're
5 still alive, if I'm not mistaken.

6 Q. Correct. And that body board would have been
7 located directly on top of Number 9, correct?

8 A. The knife, if I recall.

9 Q. So when you got there, you weren't able to
10 actually see the knife.

11 A. That's correct?

12 Q. All right. And it was still dark when you got
13 there?

14 A. Yeah, it was dark when I got there.

15 Q. All right. So you waited until it was light to
16 start thoroughly processing the scene?

17 A. Well, not necessarily wait until it's light, wait
18 until search warrants and things get there to properly
19 go ahead and do things. I can take my overall
20 photographs like outside.

21 Q. Sure.

22 A. And then we wait on things like that to get
23 there.

24 Q. Once it was daylight you sent EMS away?

25 A. Didn't really say -- they kind of stayed there

1 waiting on their equipment.

2 Q. Okay. And then once their role is done, they
3 removed their backboard and that's when you discovered
4 Item Number 9.

5 A. We got in there and actually removed it for them
6 and gave it to them and then discovered it.

7 Q. Okay. Again, you arrived there about 6:20 in the
8 morning?

9 A. That's correct.

10 Q. You weren't there prior to being called.

11 A. No, I was not.

12 Q. You don't know what led to this incident, do you?

13 A. Do not.

14 Q. All right, thank you.

15 A. Okay.

16 MR. NEELY: Nothing further.

17 THE COURT: Any redirect on what he went into?

18 MS. JORDAN: No, sir, Your Honor. May this
19 witness be excused?

20 THE COURT: Thank you, sir. You may step down,
21 and watch your step as you're stepping down.

22 Any reason why this witness cannot be excused?

23 MR. NEELY: None, Your Honor.

24 THE COURT: Sir, you may be excused as well.

25 THE WITNESS: Thank you.

1 THE COURT: Yes, sir.

2 (Witness leaves witness stand and the courtroom.)

3 MR. NEELY: Can we approach, Your Honor?

4 THE COURT: (Nods head up and down.)

5 (A bench conference was held off the record.)

6 MS. JORDAN: Your Honor, the State would call

7 Joshua Hollifield.

8 THE COURT: Just come right up here and let the
9 clerk of court swear you in.

10 (Witness comes forward.)

11 THE CLERK: Place your left hand on the Bible and
12 raise your right. (Complies.)

13 Do you solemnly swear that the testimony you're
14 about to give will be the truth, the whole truth and
15 nothing but the truth so help you God?

16 THE WITNESS: Yes, ma'am.

17 THE CLERK: Thank you. Be seated.

18 JOSHUA HOLLIFIELD,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. JORDAN:

22 Q. Please state your name for the record.

23 A. Joshua Hollifield.

24 Q. Where are you currently employed?

25 A. Spartanburg County Sheriff's Office.

1 Q. What is your title at the Sheriff's Department?

2 A. Investigator.

3 Q. How long have you been employed by the Sheriff's
4 Department?

5 A. Five years.

6 Q. How long have you been in investigations?

7 A. A little over six months.

8 Q. Okay. So let me take you back to February the
9 6th, 2016. What was your position then?

10 A. Road deputy.

11 Q. Okay. And as a road deputy were you working that
12 morning and did you respond to the scene on Sharpe
13 Street in Woodruff?

14 A. Yes, I did.

15 Q. What county was that in?

16 A. It's in Spartanburg County.

17 Q. Okay. What time did you arrive?

18 A. 4:04, a little after the call came in.

19 Q. A little after four?

20 A. Yeah.

21 Q. And that's in the a.m. or p.m.?

22 A. A.M.

23 Q. Okay. When you arrived on scene, what did you
24 find?

25 A. EMS crews were already on scene. I believe one

1 Woodruff officer was already on scene. There was a
2 large crowd.

3 Q. Okay.

4 A. We tried to get everybody inside because the body
5 was at the back of the residence.

6 Q. Okay. Were there family members present of the
7 deceased?

8 A. Yes, there was.

9 Q. Okay. I'm gonna show what's previously been
10 marked as State's Exhibit Number 22.

11 (Conversation occurred between attorneys off the
12 record.)

13 I'm gonna show you State's Exhibit Number 22 and
14 ask if you know what this is.

15 A. Yes. That would be my body camera footage.

16 Q. Okay. Is this just a small portion of your body
17 cam from that night?

18 A. Yes. Yes, ma'am.

19 Q. How do you know it's in this envelope?

20 A. I've already watched it.

21 Q. Okay. Did you, after you watched it, did you
22 initial ---

23 A. Yes.

24 Q. I'm sorry, did you sign this envelope?

25 A. Yes, ma'am.

1 Q. Okay. And is it a fair and accurate
2 representation of the part of your body cam that's on
3 here?

4 A. Yes, ma'am.

5 MS. JORDAN: Okay. Your Honor, at this time I
6 seek to admit State's Number 22 into evidence and
7 publish it to the jury.

8 MR. NEELY: No objection.

9 THE COURT: Without objection.

10 (State's Exhibit Number 22 was entered into the
11 record.)

12 BY MS. JORDAN:

13 Q. Officer, you have watched this before, can you
14 give the jury just an idea of what they're about to see.

15 A. I walk up the ramp. The body's at the end of the
16 ramp. I observed people looking out the back window and
17 being family members and also friends, don't want them
18 to see that, so I walk in and close the blinds, ask them
19 to step back from the door.

20 Q. So when you arrived on scene, the blinds were
21 open to those French door windows?

22 A. Yes.

23 Q. Okay.

24 THE COURT: Is there audio?

25 MS. JORDAN: Your Honor, it's, it's not relevant

1 audio.

2 THE COURT: Okay.

3 (Plays video without audio.)

4 BY MS. JORDAN:

5 Q. So just briefly again, what did, what did State's
6 22 just show the jury?

7 A. Just where I walked up the ramp and shut the
8 blinds so nobody could see out and observe the body.

9 Q. Okay. So in the remainder of the time that you
10 were there on scene, what did you do?

11 A. Crowd control.

12 Q. Okay. Did you also help Deputy Black, who I
13 believe we see in the video, with some crime scene tape?

14 A. Yes.

15 Q. Placed that up?

16 A. Yes.

17 MS. JORDAN: Okay. Please answer any questions
18 Mr. Neely may have.

19 CROSS-EXAMINATION

20 BY MR. NEELY:

21 Q. Did you just testify that when you arrived there,
22 was the EMS crew on scene?

23 A. Yes, sir.

24 Q. Okay. And there was also Police Officer Bassett
25 from the Woodruff Police Department?

1 A. Yes, sir.

2 Q. All right. There was also, I believe what you
3 testified, there was a large crowd on scene.

4 A. Yes, sir.

5 Q. All right. When you say a large crowd, about ten
6 people?

7 A. I couldn't tell you exactly how many.

8 Q. Say 15?

9 A. Maybe 15.

10 Q. Maybe 20?

11 A. I'm not sure.

12 Q. Okay. Now, you responded almost immediately
13 after the 911 call came in, correct?

14 A. Yes, sir.

15 Q. All right. But, again, you weren't the first
16 officer on the scene?

17 A. No, sir.

18 Q. All right. What the solicitor just showed us was
19 you walking up that ramp and shutting those blinds,
20 correct?

21 A. Yes, sir.

22 Q. All right. Prior to your arrival, you don't know
23 if somebody had opened those blinds, do you?

24 A. I am not aware.

25 Q. All we know is that at that moment in time those

1 blinds were open, right?

2 A. Yes, sir.

3 Q. And that you shut them?

4 A. Yes, sir.

5 Q. But, again, you don't know the state of those
6 blinds prior to your arrival?

7 A. No, sir.

8 Q. All right. Thank you.

9 THE COURT: Any redirect?

10 MS. JORDAN: No, Your Honor. May this witness be
11 excused?

12 THE COURT: Mr. Neely?

13 MR. NEELY: No objection.

14 THE COURT: Thank you, sir. You may watch your
15 step as you're stepping down. And you may be excused,
16 sir.

17 (Witness leaves witness stand and courtroom.)

18 All right, ladies and gentlemen. Taking a look
19 at the hour that it is, we're gonna take a lunch break.
20 Taking a look at the clock that's on the wall, I'm gonna
21 ask, if you would, to please be back in the jury
22 deliberation room by 15 minutes past 2 and we will
23 resume the presentation of the evidence.

24 Again, I need to remind you, don't have any
25 discussion among yourselves or with anyone else, not

1 anything involving the case. Also, do not do any type
2 of independent research or investigation either, but you
3 may go with the bailiff.

4 (Jury leaves courtroom at 12:43 p.m.)

5 THE COURT: All right. We'll go off the record.

6 (A lunch recess was had from 12:43 p.m. - 2:18
7 p.m.)

8 THE COURT: Okay. Is the State ready to call
9 their next witness?

10 MR. SMITH: We are, Your Honor.

11 MR. NEELY: Yes, Your Honor.

12 THE COURT: All right. Let's bring them in.

13 (The jury enters the courtroom at 2:17 p.m.)

14 THE COURT: Is the State ready to call their next
15 witness?

16 MR. SMITH: We are, Your Honor.

17 THE COURT: Yes, sir.

18 MR. SMITH: The State calls Investigator Robert
19 Talanges.

20 THE COURT: Sir, just come on up here and let the
21 clerk of court swear you in.

22 THE CLERK: Place your left hand on the Bible and
23 raise your right. (Complies.)

24 Do you solemnly swear the testimony you're about
25 to give will be the truth, the whole truth and nothing

1 but the truth?

2 THE WITNESS: I do.

3 THE CLERK: Thank you.

4 THE COURT: Sir, just have seat in the red chair
5 and pull the red chair up to the microphone, if you
6 would.

7 THE WITNESS: Sure.

8 ROBERT TALANGES,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. SMITH:

12 Q. Will you please state your name and rank for the
13 jury.

14 A. Robert Charles Talanges. Master Deputy,
15 Spartanburg County Sheriff's Office.

16 Q. How long have you been with the sheriff's office?

17 A. Going on 14 years.

18 Q. Did you have any prior experience in law
19 enforcement before that?

20 A. Yes, I did. I worked -- started off at the City
21 of Woodruff back in 1989, went to the City of
22 Spartanburg in 1990 to 2005, and then in 2005 until the
23 present time at the sheriff's office.

24 Q. And what is your -- what was your role on

25 February 6th of 2016 at the sheriff's office?

1 A. I was crime scene investigator. I was the lead
2 officer on this case.

3 Q. And what does a crime scene investigator do?

4 A. We process any and all crime scenes that were
5 gonna be responded to.

6 Q. Does that include collect -- process means
7 collection of evidence and ---

8 A. Process is the collection of evidence, all the
9 documentation, packing of evidence, submitting it for
10 analysis. Anything that pertains to the case.

11 Q. Did you have any special training and experience
12 in order to be qualified to do that job?

13 A. Just many years of experience, then numerous
14 classes and courses throughout my career.

15 Q. What about for collection of blood or potential
16 blood? I mean, you don't ultimately know if it's blood
17 when you collect it, but a collection of DNA material or
18 blood material.

19 A. They've got classes that they teach either
20 in-house or at the academy they were teaching blood,
21 like a blood splatter class or a blood collection class.
22 Preservation of blood.

23 Q. And you've taken those classes?

24 A. Yes.

25 Q. Did you respond on February 6th, 2016, to 408

1 Sharpe Street?

2 A. Yes, I did.

3 Q. What was the call, the nature of the call?

4 A. Received phone call or respond to that location
5 at 406, which is in the city limits of Woodruff in
6 Spartanburg County. Was referenced to a, they told me
7 on the phone, it was a homicide call, but it was
8 actually a death investigation. And that's how it was
9 relayed. Whoever called me made mention of homicide.

10 Q. Okay. And you had a partner, I guess, in the
11 crime scene processing on this case; is that correct?

12 A. Our unit's divided, we have two of us. And you
13 met my partner earlier, which was Coby Stepp and myself.
14 That is our unit at crime processing team.

15 Q. And I know you initially responded to the scene
16 and you left, is that right, to go do something else?

17 A. Responded to different locations as requested by
18 investigators responding to the Woodruff Police
19 Department, as well as -- I think it's on Highway 417 in
20 Woodruff.

21 Q. Okay. And then you ultimately were brought back
22 to the incident location?

23 A. Several times, correct.

24 Q. All right. I want to talk about that, that
25 second time that you come back there. Had, I guess,

1 Investigator Stepp, had he been marking evidence while
2 you were out doing those other tasks or potential
3 evidence for collection?

4 A. First off, before the documentation of the scene
5 as we see it as we arrive, Coby -- well, Deputy Stepp,
6 he -- his assignment was to fully document the scene
7 while I ran to Woodruff Police Department. I had a
8 couple tasks there. I came back, and it was still dark
9 hours at that time.

10 Then I responded out to Highway 417 for another
11 response in reference to this case. And when I got
12 back, he, he had marked some items that he had located
13 in evidence.

14 Q. Okay. So it's actually a third time at the crime
15 scene?

16 A. Correct.

17 Q. Okay. Did you help at all in searching for
18 potential items of evidentiary value?

19 A. Yes, I did.

20 Q. Was that on those earlier trips or at all?

21 A. On my first arrival, our first time on the scene,
22 what we were doing is basically -- because it was an
23 exterior location, we were outside and we are looking
24 for any type of physical evidence. We knew it was a
25 shooting involved, so we were looking for shell casings,

1 any type of bullets, and also blood splatter.

2 Q. And did you or Investigator Stepp end up
3 identifying several potential, I guess, presumptive
4 blood tests on the scene?

5 A. We worked in conjunction with each other and,
6 yes, we did.

7 Q. Okay. These are previous exhibits. I'm gonna
8 show you State's Exhibit 56. I want to start with Item
9 11, up there by those French doors. What is that?

10 A. It's a marking where there's some, it was a red
11 color, as he said, matter, or I'd be calling it a red
12 substance in this location. And it tested positive --
13 field tested positive for blood.

14 Q. Okay. This is a zoomed-in picture. This is
15 State's Exhibit 58. What is that?

16 A. This is your blood splatter right here.
17 (Indicating.)

18 Q. And that's where the placard for Item 11 -- I
19 know the --

20 A. Yeah.

21 Q. -- placard was up on the railing, but...

22 A. All in that area; that's correct. (Indicating.)

23 Q. And this is State's Exhibit 59. Can you explain
24 what that is?

25 A. This here is a field presumptive test in, what we

1 deal with, is a Q-tip, sterile Q-tip swab. We're able
2 to use with distilled water. And we'll take a sample of
3 an area. And there's a chemical that we use. It's
4 called a quick tech.

5 And what it does, if it's blood, it'll come back
6 and it'll turn blue. If it's not blood, it'll make --
7 it doesn't change color whatsoever, so blue indicates a
8 positive for us.

9 Q. All right. And at that point do you collect the
10 sample?

11 A. No. We -- well, we collected a sample from that
12 area, but it was later on. We were making sure that
13 areas that we are checking were positive for blood
14 before we collected them.

15 Q. Okay. So after, after you've done the
16 presumptive test, did you end up collecting some of the
17 material from this, this photograph?

18 A. Yes, I did.

19 Q. All right. And how -- can you explain how you
20 end up collecting a sample of presumptive blood or
21 potential blood.

22 A. Clean, we use sterile swabs. We use distilled
23 water, and you wet moisten the Q-tip swab and basically
24 just wipe it on the, the area that you're collecting.
25 Then we package it into a, a card box to keep it from

1 being contaminated when you're sealing it.

2 Q. And then what do you do with the sample when you
3 leave the crime scene?

4 A. It was in an evidence envelope.

5 Q. At the sheriff's office?

6 A. No, on the scene.

7 Q. Okay.

8 A. Because each is numbered. That's Number 11, so
9 it was put in an envelope, number, Item Number 11.

10 Q. Okay.

11 A. Date and time collected.

12 Q. And then when you end up leaving the scene and
13 going back to the sheriff's office, what do you do with
14 the evidence that's collected?

15 A. The whole evidence envelope's not filled out and
16 we'll go back and be able to put in, like, what's been
17 collected. Again, and we'll seal it and put it in
18 evidence. Well, to put it in secure storage because
19 Woodruff is gonna come collect whatever physical
20 evidence that we've taken from the scene. They were
21 gonna submit it for further analysis.

22 Q. Is that because the sheriff's office was kind of
23 a support role in this case?

24 A. We were an assisting agency for them, that's
25 correct.

1 Q. Okay. I'm gonna hand you what's been marked as
2 State's Exhibit 11 and ask if you can identify that.

3 A. It's gonna be two Q-tip swabs, blood, and it was
4 collected on the sixth at nine before 6 a.m., side wall,
5 left of entrance door, red area for the 405 Sharpe
6 Street, and I did collect it.

7 Q. So that's the sample that you took from this
8 picture?

9 A. That's correct.

10 MR. SMITH: At this time we would move State's
11 Exhibit 11 into evidence.

12 MR. NEELY: No objection, Your Honor.

13 THE COURT: Without objection, State's 11.

14 (State's Exhibit Number 11 was entered into
15 record.)

16 BY MR. SMITH:

17 Q. I'm gonna show you State's Exhibit 61, and ask if
18 you can identify what that is.

19 A. This is another area on the, I guess you would
20 want to call it, the hand rail or ramp area. And it's
21 Number 12, and it's showing more blood splatter.

22 Q. And this is State's Exhibit 63.

23 A. This is where we did the first test I did here in
24 which it turned blue, testing positive for blood.

25 Q. Did you collect this sample as well?

1 A. Yeah, the sample was collected.

2 Q. I'm gonna hand you what's been marked as State's
3 Exhibit 12 and ask if you can identify what that is.

4 A. Exhibit 12, Inventory Number 12, which is Item 12
5 for us: Two Q-tip swabs, which is blood collected on
6 the sixth at 9:48 a.m. It says left-hand rail, end of
7 ramp at 405 Sharpe Street. And I did collect this.

8 Q. Okay. So it indicates this is -- it's a little
9 bit hard to tell in the picture, but it was taken at
10 the, at the end of the ramp?

11 A. End of the ramp area, correct.

12 Q. Down away from the house?

13 A. Away from the house.

14 Q. All right. And that's the sample that you took
15 from Placard 12?

16 A. Correct.

17 MR. SMITH: At this time, we would like to move
18 State's Exhibit 12 into evidence.

19 MR. NEELY: No objection.

20 THE COURT: Without objection.

21 (State's Exhibit Number 12 was entered into the
22 record.)

23 BY MR. SMITH:

24 Q. I'll show you State's Exhibit 65 and ask if you
25 can identify what that is.

1 A. It would be evidence Number 13. And this is at
2 the end of ramp. You can see the ground here.

3 (Indicating.) It's gonna be more debris of blood
4 splatter.

5 Q. Is this kind of below where 12 was taken? Twelve
6 was up on the railing and this is ---

7 A. Twelve would be on the railing, thirteen would be
8 below it. That's right behind the area that you would
9 step on the boards.

10 Q. And did you collect a sample of this material?

11 A. Yes, I did.

12 Q. I'm gonna show you what's been marked as State's
13 Exhibit 13 and ask if you can identify that.

14 A. It'll be our inventory Number 13. It would be
15 two Q-tip swabs, blood, collected on 2/6/16 at 9:51 a.m.
16 It says left side end of ramp at 2200 1st Street and I
17 did collect it.

18 MR. SMITH: All right. Your Honor at this time
19 I'd move State's Exhibit 13 into evidence.

20 MR. NEELY: No objection.

21 THE COURT: Without objection.

22 (State's Exhibit Number 13 was entered into
23 evidence.)

24 BY MR. SMITH:

25 Q. This is State's Exhibit 67. It's a little bit

1 difficult to see the number, but do you know what that
2 is?

3 A. Yeah. This is where we found more blood splatter
4 on the side of the wall. It's the building or garage
5 area where victim was lying there.

6 Q. This one is State's Exhibit 14 -- or not --
7 excuse me. This is State's Exhibit 68, but you can read
8 the placard on it better. What is that a picture of?

9 A. It's showing where a bunch of blood splatter was
10 at.

11 Q. Okay. And did you collect a sample from that?

12 A. Yes, I did.

13 Q. I'm gonna hand you what's been marked as State's
14 Exhibit 14 and ask if you can identify what that is.

15 A. It's gonna be inventory Number 14. Two Q-tip
16 swabs, blood. It was collected on 2/6/16 at 9:54 a.m.
17 This is on garage wall at residence. And I did collect
18 it at Sharpe Street, [redacted] Street (sic).

19 MR. SMITH: Your Honor, at this time I'd move
20 State's Exhibit 14 into evidence.

21 MR. NEELY: No objection.

22 THE COURT: Without objection.

23 (State's Exhibit Number 14 was entered into
24 evidence.)

25 BY MR. SMITH:

1 Q. Okay. After, after you left the crime scene, did
2 you end up going back to the sheriff's office for
3 further processing at a later date of other items in
4 this case?

5 A. On the same day, yes, I did.

6 Q. Okay. And what did you do at the sheriff's
7 office?

8 A. When I got back there, Coby Stepp or Deputy Stepp
9 and I, we were packaging or finished up writing all the
10 information on the evidence envelopes. And I
11 photographed to scale the black pocket knife and the
12 blood on the blade area.

13 Q. Was that something that Investigator Stepp had
14 collected?

15 A. Yes.

16 Q. But you ---

17 A. Evidence Number 9 that he collected.

18 Q. Is there a reason you -- they would have not
19 collected the sample on the scene there?

20 A. We're preserving it as a unit. Then when we get
21 back to the lab we can do more intense or more searching
22 or processing of that unit. You don't want to do that
23 in the field --

24 Q. Okay.

25 A. -- for contamination purposes.

1 Q. I guess you can carry a knife. You can't really
2 rip off paneling off of the house. Is that ---

3 A. Right.

4 Q. Okay. Let me back up for one second, I forgot
5 something. Previously State's Exhibit 24 was entered
6 into evidence. It's a diagram of the crime scene.

7 A. Yes, sir.

8 Q. Did you do that?

9 A. Yes, I did.

10 Q. How do you produce that?

11 A. Make a rough sketch at the incident location,
12 then we took scale measurements where everything's, what
13 do you call it? It's not to scale, but we take
14 approximate measurements. Because I can't say whether
15 anything's been moved prior to my getting there, but I
16 measured everything that could be measured at the
17 location. We triangulate two different areas. It says
18 point A -- it says A and B and C and D. We mark or we
19 measure to the specific item numbers. I do a rough
20 sketch. And then when I go to the office, then I
21 transfer that onto a CAT system or a computer draft type
22 system that we have.

23 Q. Okay.

24 A. Drawing what we have.

25 Q. And the, what you're talking about with the

1 measurements, does that -- do you also generate a
2 document showing the measurements?

3 A. Yes. Yes, I do.

4 Q. I'm gonna hand you, once I show it to Mr.
5 Neely... I'm gonna hand you State's Exhibit 25, ask if
6 you can identify what that is.

7 A. It's gonna be the sketch key measurements for the
8 405 Sharpe Street incident location.

9 MR. SMITH: Your Honor, at this time we'd like to
10 move State's Exhibit 25 into evidence.

11 MR. NEELY: Objection, Your Honor. That document
12 is hearsay.

13 THE COURT: I'll allow it.

14 MR. SMITH: Thank you, Your Honor.

15 (State's Exhibit Number 25 was entered into
16 evidence.)

17 THE COURT: Let the record reflect that I did
18 review the document.

19 MR. SMITH: It's admitted, Your Honor?

20 THE COURT: Yes.

21 BY MR. SMITH:

22 Q. All right. I've got to get this marked legible.
23 Can you explain how this, how this chart works? How
24 would a person read it to determine the measurements?

25 A. If you could put up the main diagram first --

1 Q. I will do that.

2 A. -- it would be a whole lot easier.

3 Q. Is that good?

4 A. Yes, that's fine. What we do is we've got -- we
5 take two stationary locations and something that's not
6 gonna be moved is readily pushed out of the way. And
7 we're using one end of the garage for B and one end for
8 an A. And then we have the corner of the house as C.
9 And then we have corner, front corner of the garage is
10 D.

11 And everything is triangulated to each and every
12 number. And, as you can see, Item Number 1 you've got C
13 and D. So Item 1 here, D come across here and C come
14 down so we get an estimated, like 71 inches.

15 (Indicating.) And then we've got ---

16 Q. Fourteen? No, 14-4, possibly?

17 A. Yeah. Fourteen feet, which is seven foot, three
18 inches from that corner to -- from D -- from C 7.3
19 inches. And then you have D, which is gonna be 14.4
20 inches, approximately. And that's how each, each item
21 on there is triangulated.

22 You've got C and D because of how the scene is.
23 It would be nearly impossible to go from B to Number 1
24 because you'd have to go through a wall. So that would
25 give you a correct or semi-accurate measurement. So you

1 go to the closest point that you can use.

2 Q. All right. Can you -- did you do measurements of
3 the ramp?

4 A. Yeah. I'm sure it's in here.

5 Q. I'm just gonna hand it to you and see if you can
6 read it.

7 A. We're at 7 feet wide by 12 feet long, is what it
8 is; 7 wide, 12 long. This is just a copy of what he has
9 on the screen there.

10 Q. I'm gonna hand you what's been marked as State's
11 Exhibits 69 and 70. These are State's Exhibits 69 and
12 70, and ask if you can identify what these are.

13 A. Yeah. These are pictures of the black handle of
14 the knife that was collected at the scene. It's showing
15 a red substance on it.

16 Q. And did you measure the, the knife, I guess,
17 total length and length of the blade or...

18 A. Yes, I did. Well, there should be a better
19 picture than that but, yeah, it's been scaled.

20 MR. SMITH: Your Honor, we'd move State's
21 Exhibits 69 and 70 into evidence.

22 MR. NEELY: No objection.

23 THE COURT: Without objection.

24 (State's Exhibits 69 and 70 were entered into the
25 record.)

1 BY MR. SMITH:

2 Q. Are the dots on that what you're referring to
3 bloody matter or potential ---

4 A. If you put up the next picture up so we can see.

5 Q. This is State's Exhibit 69. Previously we were
6 looking at 70.

7 A. Yeah.

8 Q. Okay. And did you do a presumptive test on that,
9 just like you did on the other?

10 A. I think I did. I'm not 100 percent positive. I
11 think I did.

12 Q. Okay.

13 A. And I swabbed the blade here, and I also did
14 touch DNA on the handle.

15 Q. And what -- we've talked about taking potential
16 blood matter. What is touch DNA? How does that work?

17 A. That's where you, of course, it's the same way of
18 collecting blood from a scene. What you're doing is,
19 it's like a texture surface or a surface where someone
20 had handled it at some point. When you handle
21 something, you're gonna lose -- skin will come off and
22 it will actually stick or sweat. Just grab any object,
23 you're gonna leave, most of the time, touch DNA behind.
24 Whether it's gonna leave sweat or it's gonna leave skin
25 that's gonna be left behind on the object.

1 Q. Is it collected in a similar manner with like a
2 Q-tip type?

3 A. Same way it is.

4 Q. Okay. I'm gonna hand you State's Exhibits 17 and
5 18 and ask if you can identify what these two are.

6 A. Seventeen is gonna be two Q-tip swabs from
7 evidence Number 9, which is the knife handle area. This
8 is gonna be touch DNA. And this is gonna be two Q-tip
9 swabs from an item number. That's gonna be a blade
10 area, so it's gonna be the blood area.

11 MR. SMITH: Your Honor, at this time we'd move
12 State's 17 and 18 into evidence.

13 MR. NEELY: No objection.

14 THE COURT: Without objection.

15 (State's Exhibit Numbers 17 and 18 were entered
16 into the record.)

17 BY MR. SMITH:

18 Q. Did you attend the autopsy of Cecil Gilliam?

19 A. Yes, I did.

20 Q. What's the purpose of you attending an autopsy?

21 A. To photo document all injuries, collect any
22 physical evidence from the scene at the morgue.

23 Q. Is it typical to take clothing?

24 A. Clothing. Let's see, I take clothing,
25 cellphones. Whatever evidence is on the -- or whatever

1 items are on the victim at that time I take.

2 Q. Did you collect evidence off -- clothing items
3 off of Mr. Gilliam in this case?

4 A. Yes, I did.

5 Q. I'm gonna hand you State's Exhibits 15 and 16.
6 State's Exhibit 16 -- 15 and 16, and ask if you can
7 identify what these are. I believe they are your Item
8 Number 22 and 19. I'll let you do that.

9 A. Nineteen is gonna be a white t-shirt, size
10 extra-large Jockey brand. It was collected at 101 West
11 Main Street, which would be Spartanburg Regional Park,
12 at 15:06 p.m. hours. It's gonna be the shirt that he
13 was wearing.

14 Q. Now, you refer to this as Item 19. That's your
15 sheriff's office number.

16 This is State's Exhibit 16. We'd like to move
17 this into evidence, Your Honor.

18 MR. NEELY: Objection. Can we approach?

19 THE COURT: Y'all want to approach?

20 (A bench conference was held off the record.)

21 THE COURT: All right. Ladies and gentlemen,
22 this is one of those times where I have to have a --
23 take up a matter outside of your presence with the
24 lawyers, so I'd ask you to retire back to the jury
25 deliberation room. Do not discuss anything to anyone

1 about any part of the case.

2 (Whereupon, jury leaves the courtroom at
3 2:45 p.m.)

4 THE COURT: All right. Mr. Neely.

5 MR. NEELY: Thank you, Judge. As it pertains to
6 both items the State is seeking to introduce, both of
7 those items are covered in Mr. Gilliam's blood. The
8 shirt that Mr. Smith just attempted to introduce into
9 evidence -- so much so that it's seeping from the
10 evidence bag. Judge, there's no relevant purpose in
11 introducing those to establish that Mr. Gilliam was
12 shot.

13 Dr. Wren will testify tomorrow that Mr. Gilliam
14 was, in fact, shot. He'll testify about the wounds that
15 he suffered, that he died from, but introducing the
16 bloody shirt does nothing but to enflame the jury. So
17 there's no relevant purpose to the trial. It's
18 incredibly prejudicial to my client and it's not
19 outweighed by the probative value of either of these
20 items of evidence.

21 MR. SMITH: Your Honor, we believe that it's a
22 tangible thing that the jury can look at, that allows
23 them to see where the bullets came in. And in this
24 case, the placement of the bullets on the body is
25 essential. And while there is blood on it, it's the

1 matter of the person that was shot seven times. I think
2 the jury knows that he probably bled some. I don't
3 think it's unduly prejudicial to point that its
4 probative value is substantially outweighed.

5 THE COURT: All right. I don't know. They're in
6 a bag, I can't see them, so... Can you establish for
7 the record that he's opening those.

8 MR. SMITH: For those here, I am opening State's
9 Exhibit 16.

10 THE COURT: And while he's doing that, if he --
11 if they are allowed back with the jury, there are
12 certain protocols of blood born pathogens that have to
13 be filed. Have we got that lined up?

14 MS. JORDAN: We have two extra, we have two extra
15 bags, Your Honor, if need be. I believe that the shirt
16 should fit into this bag and we can have someone seal
17 it, if need be. And then you also have a bigger bag for
18 the pants.

19 MR. NEELY: Judge, if this is, if this is what
20 we're gonna send back to the jury, then they're not
21 gonna be able to look and see where the bullets went in.
22 All they're gonna look and see when they're back there
23 with this tangible item of evidence is a blood-soaked
24 shirt.

25 MS. JORDAN: We could also provide them with

1 gloves as well.

2 MR. NEELY: And, Judge, if I could point out --
3 and I think one of my witnesses tomorrow is going to be
4 an EMS first responder. That shirt was actually cut up
5 so that they could get to Mr. Gilliam. So that shirt's
6 not intact. That shirt's not the way he was wearing it
7 at the time that this incident took place. So it
8 doesn't actually serve any relevant purpose to show
9 where the wounds were because that shirt's been cut.

10 It's been sent to SLED to be swabbed to be tested
11 for blood. That shirt is not at all in the condition
12 that it was at 4 o'clock in the morning on February 6th.
13 So, again, the only value that that has is to enflame
14 the jury because, again, that's a blood-soaked shirt.

15 MR. SMITH: Your Honor, it's in the condition
16 that he's found it in. And I would also argue that
17 things can potentially be gleamed off the pooling of
18 blood. And that would be something that Dr. Wren would
19 not be able to testify to because he doesn't look at
20 crime scene pictures that could be relevant to how the
21 victim was positioned, which I believe everybody is in
22 agreement is an important matter in this case.

23 But all the items are collected as they're found.
24 I mean, none of our witnesses are in the position to
25 know everything that happened prior to them receiving

1 that.

2 THE COURT: Can I see the other bag as well?

3 MR. SMITH: That's State's Exhibit 15.

4 Investigator Talanges is opening it.

5 MR. NEELY: Judge, I don't believe the shirt will
6 show how the victim died or how it was found there. The
7 State has already put up the witness that testified that
8 he died face down and then rolled over onto his stomach,
9 so that's already in evidence.

10 THE COURT: All right. And you're gonna use the
11 pants for what purpose?

12 MR. SMITH: Showing bullet placement, Your Honor.

13 MR. NEELY: Judge, when we were arguing pretrial
14 motions yesterday, the Court saw two different diagrams
15 drawn by Dr. Wren, the pathologist, who showed bullet
16 placement on Mr. Gilliam. He can actually speak to that
17 better than the investigators on the stand, and
18 certainly better than a pair of pants.

19 This information is being elicited. So, again,
20 this is going to be in during Dr. Wren's testimony
21 tomorrow. But sending this stuff back doesn't serve any
22 relevant purpose to this case and it's unfairly
23 prejudicial.

24 THE COURT: All right. I'm gonna allow it to be
25 presented into evidence and be published to -- and be

1 published to the jury. I am, depending on how the
2 testimony develops, I might not want to have it taken
3 back to the jury due to the fact that I have some
4 blood-born pathogen issues involved. You know, but if
5 it is used by other witnesses in a way that they need to
6 have it back there, of course I would let it back there.
7 But I will allow it to be admitted into evidence.

8 MR. NEELY: Thank you, Your Honor.

9 MR. SMITH: Thank you, Your Honor.

10 THE COURT: Because I do believe it's very
11 probative of, of what actually happened in this case.
12 It's the actual evidence. It's not something that the
13 party has created or tried to manipulate in such a way
14 as to enflame the jury against exactly what happened.

15 Okay. Anything else before we bring the jury in?

16 MS. JORDAN: Your Honor, may we have a moment?

17 THE COURT: (Nods head up and down.)

18 MR. SMITH: No, Your Honor. Are they admitted
19 into evidence or do you want to do that when the jury
20 comes in?

21 THE COURT: It's left up to you.

22 MR. SMITH: Okay.

23 (The jury enters the courtroom at 2:55 p.m.)

24 THE COURT: Yes, sir, Mr. Smith.

25 MR. SMITH: Your Honor, at this time we would

1 like to move State's Exhibit 16 into evidence with
2 permission to publish it to the jury, or Investigator
3 Talanges to publish it to the jury.

4 THE COURT: All right. Subject to the prior
5 objection, I'll allow it.

6 (State's Exhibit Number 16 was entered into
7 evidence.)

8 THE WITNESS: Do you want the shirt first?

9 MR. SMITH: Yes.

10 (Witness shows jury State's Exhibit 16.)

11 BY MR. SMITH:

12 Q. And the way you're showing them the shirt, that's
13 as it would have been worn, but the shirt has been cut,
14 it appears?

15 A. Yes, EMS personnel did on scene.

16 Q. All right. That's good.

17 THE WITNESS: Do you want me to show them some
18 more, sir?

19 BY MR. SMITH:

20 Q. That's good.

21 A. Okay.

22 Q. I've previously handed you State's Exhibit 15,
23 but before you pull it out of there, can you describe
24 what that is.

25 A. It's gonna be the tan pants from the victim.

1 Q. Collected from Cecil Gilliam at his autopsy?

2 A. Yes. And at about 15:08 p.m. on the sixth.

3 MR. SMITH: Your Honor, at this time we'd move
4 State's Exhibit 15 into evidence with permission to
5 publish to the jury.

6 Hold on unpacking it.

7 THE COURT: Subject to the prior objection I'll
8 allow it.

9 (State's Exhibit Number 15 was entered into the
10 record.)

11 (Witness shows Exhibit Number 15 to the jury.)

12 BY MR. SMITH:

13 Q. Thank you. When you're at an autopsy for a
14 shooting, what does Dr. Wren do as far as potentially
15 collecting evidence as a part of the autopsy?

16 A. He ---

17 MR. NEELY: Objection. Dr. Wren can testify to
18 that.

19 THE COURT: Do you want to rephrase the question.

20 BY MR. SMITH:

21 Q. Did Dr. Wren recover anything from the body that
22 was of evidentiary value to you?

23 A. Yeah, he did. We got 1, 2, 3 -- I show three
24 projectiles which would be bullets.

25 Q. And does he remove those from the decedent's

1 body?

2 A. Yes, he does.

3 Q. And then you take them into evidence?

4 A. Correct, I do.

5 Q. I'll hand you what's been marked as State's
6 Exhibits 19, 20 and 21, and ask if you can identify what
7 these are. I know you've got different evidence numbers
8 on them, but...

9 A. My evidence, Inventory Evidence Number 6, which
10 would be one projectile. It was collected on the sixth
11 at 18:15 p.m., from the right hand of the victim.

12 Collected at the morgue, which is at 444 State Street.
13 Street.

14 Twenty-seven is gonna be a projectile I collected
15 at 18:15. It came from Dr. Wren. Both -- all of them
16 did. Out of the right shoulder area of the victim. And
17 the third one is gonna be a projectile of the right hip
18 area, buttocks area, is where the last one came from,
19 from the victim.

20 MR. SMITH: Your Honor, at this time we'd move
21 State's Exhibits 19, 20 and 21 into evidence.

22 MR. NEELY: No objection.

23 THE COURT: Without objection.

24 (State's Exhibit Numbers 19, 20 and 21 were
25 entered into the record.

1 MR. SMITH: I don't have any further questions.

2 CROSS-EXAMINATION

3 BY MR. NEELY:

4 Q. You've been in law enforcement for close to 30
5 years?

6 A. Approximately, yes, sir.

7 Q. Okay. And you started your law enforcement
8 career the exact same way everybody else does, right, at
9 the Criminal Justice Academy?

10 A. Yes, sir.

11 Q. All right. You took an eight-week course as
12 well?

13 A. Yes, sir.

14 Q. All right. And you learned what everybody
15 learned at the Criminal Justice Academy, how to shoot a
16 gun?

17 A. Yes, sir.

18 Q. How to drive a car?

19 A. Correct.

20 Q. Legals.

21 A. Legals.

22 Q. How to investigate a case?

23 A. Yes, sir.

24 Q. How to write an incident report?

25 A. Yes, sir.

1 Q. And, again, they taught you what they teach
2 everybody at the Criminal Justice Academy because you
3 want to be thorough?

4 A. Yes, sir.

5 Q. And you want to be accurate?

6 A. Yes.

7 Q. And you want to be complete?

8 A. That's correct.

9 Q. And in your career you've written hundreds of
10 incident reports?

11 A. Yes, sir.

12 Q. Probably thousands of incident reports.

13 A. Quite a few.

14 Q. And in each and every one of those you've been
15 thorough?

16 A. Yes, sir.

17 Q. And you've been accurate?

18 A. As accurate as can be.

19 Q. And you've been complete with those incident
20 reports?

21 A. Yes.

22 Q. All right. Cause the purpose of incident reports
23 are to refresh your memory about what happened on the
24 day of the incident, correct?

25 A. That is correct.