VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Greenville County

Honorable Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SAMUEL HAWKINS, JR.,

APPELLANT.

APPELLATE CASE NO. 2019-001645

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A Goes without saying, I'm sure.
Q And when you say in all of our questionings, "I believed at the time," are you making up what you told the police?
A No.
Q Are you saying that because that's what the defendant told you at the time?
A Yes, ma'am.
MS. HINTON: That's all I have.
THE COURT: Yes, sir.

RECROSS EXAMINATION

BY MR. SCALZO:
Q Do you remember talking to Detective Flavell and at one point him basically saying to you, "You know how close you came," implying that you were going to be arrested?
A Yes, sir.
Q And again, your attorney says at the beginning, "We want to be a witness, not a defendant;" isn't that right?
A Yes, sir.
THE COURT: Yes, ma'am.

FURTHER REDIRECT EXAMINATION

BY MS. HINTON:
Q And prior to you coming to the police on November 6th, did anyone know that Sam had had that conversation with you?

A No, ma'am.
Q So did Detective Flavell call you and say, "I know what Sam said to you. You need to come in and tell me"?
A No, ma'am.
Q To the best of your knowledge, was that the first that Detective Flavell had ever heard of that?
A Best of my knowledge, yes, ma'am.
THE COURT: Mr. Scalzo, anything?

FURTHER RECROSS EXAMINATION

BY MR. SCALZO:
Q Took two days. And of course, Detective Flavell hadn't heard anything about another guy because you're the only one, the first person to say it, right?
A I ---
Q That you know of.
A That I know of.
MR. SCALZO: All right. Thanks.
THE COURT: Anything else?
MS. HINTON: No, Your Honor.
THE COURT: Sir, you can step down.
THE WITNESS: Thank you.
MS. HINTON: May he be excused, Your Honor?
THE COURT: Any objection to his being excused?
MR. SCALZO: No, ma'am.
THE COURT: Thank you.

Everybody doing okay? Anybody need a break?

MS. HINTON: Thank you, Your Honor. The State rests.

THE COURT: All right. Ladies and gentlemen, if you will -- well, will the attorneys approach for a moment?

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Ladies and gentlemen, we have come to the conclusion of the State's case, as you heard. That necessitates that I take up some legal matters with the attorneys.

Just to let you know, I was talking with the attorneys at the bench. They think this case is going to be in your hands tomorrow. So we anticipate that.

I'm planning on bringing lunch in for you all tomorrow. So you know, so far as if anybody brings lunch or makes lunch plans or whatever, we'll provide some -- we will be providing lunch and that you will order. And if anybody has any dietary restrictions or anything like that, if you'd just let the bailiff know this before you leave this evening, then we'll try to at least pick a menu to choose from that will -- that might fit that bill.

Even though the State has rested, the case is not to you yet. We've got a little bit more to do before the case is in your hands. If you'll -- but we're going to go ahead and break for this evening. If you'll be back in your jury deliberation room tomorrow morning at 9:30,

MR. SCALZO: Yes, ma'am.

THE COURT: All right. Very well.

(WHEREUPON, the jury entered the courtroom at 9:33 a.m.)

THE COURT: Good morning, ladies and gentlemen. We are now ready to pick up with the defense's case.

Mr. Scalzo.

MR. SCALZO: May it please the Court, Your Honor.

THE COURT: Yes.

MR. SCALZO: The defense would call Dr. Kimberly Collins.

THE COURT: All right. Very well. If you would come forward and be sworn, please.

THE CLERK: Ma'am, if you'll please place your left hand on the Bible and raise your right hand.

WHEREUPON,

KIMBERLY COLLINS

after having been duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated, and please state your name for the record.

THE WITNESS: Kim Collins, C-O-L-L-I-N-S.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. SCALZO:

Q Dr. Collins, what do you do for a living?

A I'm a physician, and I specialize in forensic

pathology.
Q And how long have you been doing that?
A Since 1994.
Q Did you go to medical school?
A Yes, I did. I went to medical school in Augusta, Georgia, at Medical College of Georgia.
Q And when was that?
A That was from ‘81 -- sorry -- ‘85 to ‘89.
Q Okay. Did you prepare a curriculum vitae in this case?
A Yes, I did.
Q Is that a fancy way of saying "resume"?
A Yes.
Q Can I show you what's been marked as Defense Exhibit 2?
A Yes. This ---
Q Go ahead.
A Uh-huh.
Q Is that what you prepared?
A Yes.
Q Can you take a look at it? Has it been changed or altered in any way?
A No. All the pages appear to be here.
MR. SCALZO: Okay. Your Honor, I’d offer this as Defense Exhibit 2.

THE COURT: Any objection?
MS. HINTON: No, Your Honor.
THE COURT: It's so admitted.
MR. SCALZO: Okay. I'm going to ---
MS. HINTON: And we would certainly stipulate to her qualifications.
THE COURT: All right. Very well.
(WHEREUPON, Defendant's Exhibit Number 2 was admitted into evidence.)
BY MR. SCALZO:
Q I'll let you hold that for a second. And then, I'm going to ask you a couple of questions about it.
It says in there that among the jobs that you've had, you were the chief deputy medical examiner in Charleston County?
A I was deputy chief and then I was chief medical examiner, yes.
Q And how long were you in the Charleston Medical Examiner's Office?
A I believe that was until 2008.
Q Okay. And do you also teach?
A Yes. I taught the medical students, the dental students, and I also taught at Medical College of Georgia.
Q Okay. Do you still teach?
A Yes. But now I teach residents -- pathology

residents and forensic fellows.
Q Okay. And what is your sort of primary job?
A My primary job is practicing forensic pathology. I work at both the offices in Charleston and in Newberry, South Carolina. So Newberry serves the -- pretty much the Upstate of South Carolina for all of our forensic cases, and then I do the autopsies for Charleston County.
Q Okay. Excuse me. Can you talk about -- have you worked on criminal cases before?
A Yes, I have.
Q And how many would you guess you've worked on?
A A few thousand. I've performed about 3,500 autopsies.
Q Okay. Have you performed autopsies on skeletal remains?
A Many, yes.
Q Have you performed autopsies on murder cases?
A Yes.
Q Okay. Have you worked to try to identify skeletal remains?
A Yes, I have. I've identified them through dental records and also through radiographs. And if it's a complicated, meaning maybe they don't have a fillings in their teeth, they don't have any hardware in their body for the radiographs, then we'd use DNA and we go to the

DNA identification. And those are the scientific methods.
Q Okay. And often -- how many times have you done that, would you say?
A I know skeleton -- skeletal remains, been hundreds of those. Sometimes we will have an identification, but we'll try to confirm identification. That's part of the autopsy itself on either skeletonized remains or non-skeletonized remains.
Q Okay. Have you testified as an expert?
A Yes, I have.
Q And an expert in forensic pathology?
A Yes.
Q How many times would you say you've been found to be an expert?
A 300 to 400, including depositions.
Q Okay. And has that been in South Carolina?
A That's been South Carolina, federal, military, state court. Yes.
Q Okay.
A Oh, and South Carolina, as well as throughout the county in state and military and federal court.
MR. SCALZO: Okay. Judge, I would offer her as an expert in forensic pathology.
THE COURT: Any objection?
MS. HINTON: No, Your Honor.

THE COURT: All right. Ladies and gentlemen, I've explained an expert witness to you before in this case. This expert is qualified to give her opinion in the area of forensic pathology and her reasons behind that opinion. You can use that opinion in any way you see fit.

Yes, sir.

MR. SCALZO: Thank you, Your Honor.

BY MR. SCALZO:

Q Just to round out a couple of things on your qualifications ---

A Yes.

Q --- just so that the jury understands, are you licensed?

A Yes, I am.

Q And where are you licensed?

A In Georgia, South Carolina, and North Carolina.

Q And do you have certifications?

A Yes. I have board certification in anatomic pathology, clinical pathology, which is like laboratory medicine, all the laboratories in the hospital, and then I have a certification in forensic pathology.

Q And explain to the jury what it means to be board certified. What's involved in getting certified?

A Well, you have to train at an accredited program. So I did my pathology at Wake Forest University, and that was

five years for pathology, general pathology. And I did anatomic and clinical pathology. And pathology, I'm sure you know, is the diagnosis of diseases, and we go through either biopsies -- and everyone I know has been treated by a pathologist, if you've ever given a blood sample, had a Pap smear, given a urine sample, had a biopsy, all of that comes into pathology.

And then forensic pathology takes all of those laboratories, hematology, chemistry, and then we use pathology and its laboratories in the investigation of cause of death, manner of death, also any diseases that might be in the decedent because so many of those we now know are passed down or familial, and also with identification.

Q Okay. Thank you.

Let's talk about -- you talked a little bit about forensic pathology. Did I ask you to do anything in this case?

A No. You just provided some records for me to review.

Q Okay. And did you review them?

A Yes.

Q I didn't ask you to conduct an autopsy, is that what you mean?

A You did not, no.

Q Right.

A I was consulted just to review materials.
Q Okay. And do you have a list of the materials that you did review?
A Yes, I do.
Q And we can go over that for a second. Can you give me a general list of the things that you looked at?
A I can read -- I typed them up. You want me to read them off?
Q Okay. Sure.
A Okay. Greenville County Sheriff's Office incident report, Greenville County Sheriff's Office supplemental report, Greenville County Forensic Division Crime Scene Investigation Report, a black-and-white photograph of the scene, Greenville County Forensic Division Crime Scene Investigation Report Number 2, Greenville County Coroner's Report, Greenville County Sheriff's Office Supplemental Report, National Medical Services Laboratory Toxicology Report, Autopsy Report A13511, Greenville County Forensic Division Crime Scene Investigation Report Number 3, Forensic Latent Prints Analysis Report, 291 photographs of the scene and the decedent, an anthropology report, and the 16-minute video of the crime scene.
Q Okay. Thank you. Let’s start with -- tell the jury what "autopsy" means.
A “Autopsy” means to see for one's self. So you're

looking at an individual, a decedent, and for yourself, you're looking to determine medically and scientifically what that body has to tell you. That is your last -- is the patient. And as a pathologist or a forensic pathologist, you're the last physician to see your patient. They are our patients.

And so we will do a head-to-toe examination, like a surgical procedure, not only looking for a cause of death, but again looking for any abnormalities, anything congenital to be passed on, any diseases that may not even be associated with the cause of death. And seeing for one's self also means looking under the microscope at all the tissues from all of the organs. And then we also use this time to -- as I mentioned, in laboratory medicine with the different laboratories, we use this time to take specimens to send to those labs: blood, urine, pieces of tissue, possible DNA that would go to the pathology molecular department. And so this is the time and the only time, the last time this individual, our patient, will be seen by a physician. Sometimes we'll even, on certain cases, X-ray the body.

Q Okay. And in this case did you review an autopsy that you did not conduct?

A Yes, I did.

Q And have you done that before?

A Oh, yes.
Q Any guess on how many times?
A Probably hundreds of times.
Q Okay. Is it common for that to happen in the field of forensic pathology?
A It's -- it's very common. It's common in medicine. Everyone knows that it's wise to get a second opinion, have a second eye, have someone else look at materials.
Q Are you aware of other forensic pathologists looking at autopsies that -- autopsies that you've conducted?
A Of course.
Q All right. And let's talk about -- can you talk about, to the jury, some of the difficulties that may exist in a case like this where there are skeletal remains ---
A Yes.
Q --- for an autopsy or forensic pathologist.
A Okay. With skeletal remains, depending on how much is left with the skeleton itself, what is difficult is identification, for one. And so we can go through the scientific identification, which is dental, fingerprints, and DNA. You often don't have fingerprints with a skeletonized remain.
We also -- if it's to a severe or marked degree of skeletonization, you also do not have the organs to look

at, so you cannot see the brain, you cannot see the heart, if something happened with the heart, liver, kidneys, et cetera.

So -- but what you are left with is a lot of information. So you can X-ray the body. You can find any trauma from gunshot wounds, fractures, knife wounds on the bones, you can also look at any of the skin that's remaining and see if there are any perforations to that, and sometimes there can be some tissue that's within the body. You can take that tissue, and now the toxicology laboratories are so advanced that they can take the tissue and they can make it into a solution to look for certain drugs and chemicals that may have been with the body.

Q Okay. And there's been testimony in the case that amphetamine was found in the body in this case. Are you familiar with that?

A Yes.

Q And did you look at the toxicology report?

A Yes. That was National Medical Services. That's the largest forensic pathology laboratory -- toxicology laboratory in the country. And pretty much, that's what all the 46 counties in South Carolina use as well as across the country.

Q Do you have any reason to question that lab's results?

A No. Not at all.
Q And we'll come back to that in a little bit to talk about the significance in this case of the amphetamine. I'm sorry.
Can you talk about when you're conducting an autopsy and you're either ruling something in or ruling something out, you know, what are you doing and how do you approach that issue?
A Sure. When we receive a call that we have a body, we get a little bit of a history but we know that history changes a lot. And what history we're looking at is maybe where the individual was found, position of the body, what was around the body, that type of information. And then, getting into the autopsy, the way that we approach it is we treat every autopsy the same, meaning we conduct the procedure the same on everyone. We don't get a tunnel vision and think, oh, I think I know what this is, so I'm just going to look at this aspect. Instead, we look at the entire body. And we take sections, we dissect the organs, and as I mentioned, we X-ray a lot of the times.
Q You were saying you do it the same way. Are you saying you do it like in the same order?
A Yes.
Q Like there's a step-by-step process?
A For the most part, yes. You don't -- there's some

things you must do in a particular order. And then some dissections, if you want to examine a part of the body first, you might do that, but you're always going to look at the other parts of the body also. You owe that to your patient, the decedent, you owe that to their family to conduct a complete autopsy and provide a report to the family. It's -- it is part of the medical record.

Q Okay. You're obviously familiar with Dr. Fulcher's report. You mentioned that that was something that you reviewed?

A Yes, sir.

Q And it was testified yesterday that his cause of death was homicidal violence of unknown means. Are you familiar with what he said?

A Yes.

Q Have you -- you reviewed his report.

A Yes, sir.

Q And you talked about reviewing those items in the case. Do you agree with his cause of death?

A No, I do not.

Q Before we talk a little bit more about his cause of death and your opinion about that, do you agree with the medical findings that he made about the body?

A Oh. I agree with what he saw in the body. It correlated well with the pictures and with the

anthropology report that we received, so I have no problem with his conducting of the autopsy, the examination, the radiographs he took. This was a case he wanted to do radiographs. He submitted tissue, which was proper to submit it to the toxicology laboratory, examined the body and also referred it to a forensic anthropologist. I agree with all of that.

Q And do you recall in his report -- and if you need to look at it, I can give you a copy -- that many times, he said there was no trauma?

A Yes.

Q Did you -- do you agree with that finding?

A Yes, I do.

Q Now, with regard to cause of death, let's talk about what cause of death means and then let's have you talk about his opinion. Explain to the jury what cause of death means for you.

A Okay. The cause of death is that thing or that situation, that abnormality that caused you to go from living, at one point in time, to dying on that day. So a cause of death is going to be something such as a heart attack. It's going to be liver failure, a stroke, a gunshot wound. It’s going to be something that tells the family, tells medical records why that person died, why is that person not living. But for some cause, that person

would be living. What is that cause?
Q And is it like the rest of life where there are some instances where you can say this is what it is and other instances where you can't say what it is ---
A Sure.
Q --- as a cause of death?
A Sometimes there's no information such as with certain skeletal remains, you don't have anything to look at. I've examined remains from African-American grave sites, Native American findings. You have only some skeletal remains to look at. I have no idea what happened, what was the cause of death, why that person died on that day. I don't know. I would say "undetermined."
Q And you mentioned undetermined. What is your opinion about what should have been the cause of death in this case?
A Undetermined.
Q Why?
A There was nothing. The body was atraumatic.
Q What does "atraumatic" mean?
A No trauma was to the body both by direct examination, by radiographs, by forensic anthropology examination. There were no findings except normal changes to the body such as in the vertebra, just some changes due to age. There was nothing there that told me why on that day she

stopped living. I cannot tell you. Based on the autopsy, based on the crime scene video, I cannot take that autopsy report and say, oh, by reading this, this is why she died. no one can do that on this report.

Q And the term "homicidal violence of unknown means," first, explain how you understand it and then let's talk about whether it's appropriate. So what did you understand that to mean?

A Looking at the cause of death, I interpret -- I've never used that as a cause of death, but I interpreted it that by his examination and his consultation, meaning the anthropologist, the toxicology lab, the radiographs, that he was able to determine how this person died, and it was by the hand of another person.

Q Is that what "homicide" means?

A Yes.

Q And you said you've never used that cause of death before. Why not?

A Because if -- homicide, number one, is not a cause. That's a manner of death, and there are five manners of death.

Now, I cannot look at this individual and say that -- what the cause was. There was nothing at the scene that would point me in the direction of homicide or there was no trauma to the body, so homicidal violence would not be

a cause. If you were going to use the word “homicide,” it would be in the manner of death.

Q And explain a little more what "manner of death" means after you take your ---

A Uh-huh. Manner of death, you take the cause and then you say how -- what were the circumstances that brought this about? And you've got five choices: you've got homicide, death by the hand of another; suicide, death by one's own hand; accident; natural, which is the most common manner of death; and then you have undetermined. Now, sometimes, we’ll add a sixth one called "pending," and that means we haven't received the toxicology back, we haven’t received the anthropology report back. So we’re going to wait a little bit until we get all of our information in. But those are the five manners.

Q Okay. And is it common to see homicidal or reference to homicide in the cause of death?

A No.

Q Why not?

A Because that’s a manner.

Q And ---

A That tells -- that tells the family, that tells law enforcement nothing. It doesn’t tell the cause of death. Homicidal violence doesn't tell you how that -- what caused that person to die on that day.

Q Okay. In the opinion, he also says -- on his last page, he says that analysis of the body revealed no readily identifiable trauma. Do you agree with that?
A Yes, I do.
Q He then says, "Although examination of the body did not reveal a definitive pattern of injury, police and coroner investigation indicates that the decedent was likely killed by another person." What is your thought about that statement?
A Then that would be under the police investigative report or the coroner's investigative report. None of that -- that line, that last sentence, that did not come from the autopsy.
Q When you mean it did not come from the autopsy, explain that further.
A Nothing in that autopsy pointed towards that last -- I don't have it in front of me, the last phrase that you read: "Indicates that the decedent was likely killed by another person." Could that be the case? Sure. Could I determine that from autopsy? No. Could I determine that from the scene? No.

In certain situations, you know that the scene is very indicative of a homicide such as if a baby who can't walk is found five miles from its house in the woods or if a body is found in a cellar locked in a trunk. Yeah. The

scene means a lot then.

But in this case, there was nothing at the scene. The body doesn't have any trauma. So are we talking about the cause of death? Are we talking about the place of death or improper disposable of a body? What do we -- we don't know, not based on the autopsy.

Q Okay. And let's talk about the amphetamine for a second. What does the amphetamine's presence in the body from the reports that you've looked at say to you?

A They say to me in a person this -- of this age, why would there be amphetamines? Well, you have amphetamines from Adderall. I'm not aware of any prescription that she was on Adderall. You've got some prescriptions that are off label now. They are using them for Parkinson's or Alzheimer's, and that would not be the situation here. And the most common reason that we see amphetamines in the blood or in the tissue, probably nationwide, is methamphetamine.

Q And to be fair, is there enough amphetamine from the medical evidence to establish overdose?

A No. And there's not anything in the medical evidence to say methamphetamine, but that would be at the top of my list. Right now, just like with the autopsy report, I would not over-interpret the toxicology report. What we have is amphetamine at a level of 70, I believe, period.

We don't know what type or how she ingested a type of chemical or drug or pharmaceutical prescription, that has amphetamine in it.

Q And would you have put in the cause of death or the manner of death anything related conclusively to amphetamine?

A No. I would list that in my final autopsy diagnoses as toxicology of tissue positive for amphetamine equals 70, and I believe it's nanograms per milliliter.

Q Okay. Let's move to strangulation. Strangulation was mentioned yesterday ---

A Okay.

Q --- as a possibility by Dr. Fulcher. So can we talk about as a forensic pathologist, what are you looking for if you're -- what would you -- what would you see that would tell you strangulation may have occurred in a case?

A In a skeletal remain case?

Q Well, start with a non-skeletal remain case, and then we can go there.

A Okay. Depending on the age of the decedent, meaning their ability to resist strangulation or fight back, et cetera, we find neck compression, we find fractures, hemorrhage into the muscles of the neck. Because with strangulation, you're not necessarily just closing off your airway. You're closing off the blood vessels where

you feel your own pulse. And so that would be strangulation. That would be manual strangulation. Or if there were a ligature present, it would be from a ligature strangulation. Once you get to ---

Q Tell me what a -- sorry, tell me what a ligature ---

A Oh. A ligature is anything that you use to strangle someone: a belt, a rope, electric cord, anything like that.

Now, once we get to the age of 30, our larynx, our voice box and structures in our neck calcify. They begin to calcify. And so, for instance, in a 5-year-old, if a 5-year-old was strangled, you might not have any fractures at all in their neck because they're not calcified. They're very bendable. But once you get to about the age of 30 and above, they start to calcify. And so any squeezing with your hand with a ligature, more likely than not, you're going to have fractures of those structures of the neck.

Q And is it more than one structure that would -- could be fractured?

A The most common structures that are fractured are the hyoid bone, which sits above your voice box and the larynx. The larynx is a cartilage that turns to calcium almost like a bone. And so those are the structures that calcify with strangulation.

Q Okay. And in this case, was there any trauma to those bones ---

A No, there was not.

Q --- or the -- the -- the larynx.

A There -- the neck structures had no fractures.

Q Okay. And as a forensic pathologist looking at that, do you draw a conclusion from that? Do you not draw a conclusion from that? What do you do with that?

A What we have is pertinent and negative, meaning I don't see anything that points me in the direction of strangulation. Could it be strangulation? It could be. It could be that -- you only need about five pounds of pressure to compress the vessels on your neck, and that would be strangulation. So could that have happened without fracturing the hyoid or the larynx? Sure. It could, but I don't have any signs of that.

Q Would you -- given the lack of signs of that as you just say, would you declare that to be a homicidal violence that would have caused her death based on this autopsy?

A There's nothing there that looks even violent. There's nothing there that would say this is not an accident or an overdose or a natural disease, a stroke. We have people dying of heart attacks in their 40s. An aspiration case where you vomit and you aspirate. There’s

so many causes of death. There's just pages and pages, but you can't determine because you don't have any organs to look at.

Q And talk about how you deal with, as a forensic pathologist and in writing a report and drawing a conclusion, all the possibilities and either narrowing it down or not narrowing it down and eliminating it. Because it sounds like there's thousands of possibilities for someone to -- cause of death. How do you deal with that in the evidence?

A In a person that's not skeletonized, you rule out entities, you rule out heart attack, you rule out cancer, stroke. So you're in the process of looking at every organ and ruling out one that could -- or a change under the microscope that could be the cause of death, could be the reason that person stopped living on that day. That's -- so that's kind of ruling out. And then you look for positives. You look for pertinent positives: coronary artery disease, or liver disease, cirrhosis. And so that's how you go through the process. It's just like if you go to a general practitioner, to your doctor, they're going to rule things in, they're going to rule things out, but they need to have evidence to do both of that.

Q And when you diagnose, do you deal with the pertinent positives or the pertinent negatives?

A Well, you can say what the person didn't have. If you have a pertinent positive, then that would lead you to say the most probable -- or cause of death or the diagnosis in this patient is X based on blank.

Q Okay. One moment.

From this autopsy -- excuse me. From this autopsy, can you tell if she was killed at the house? In this case I'm talking about, not in any other autopsy.

A No. You can't tell where she was killed, no. Not -- no. You can't tell on this case on this body did she die where she was discovered? Did she die somewhere else and someone moved her? There's no way, in this case, you can tell that.

Q Because of what?

A There's no evidence to show one place over the other. In certain cases, we can do that. But in these skeletonized remains, you cannot because there's just nothing to point us in one location or another.

MR. SCALZO: Okay. That's all I have for right now, Judge.

THE COURT: All right. Yes, ma'am.

MS. HINTON: Thank you.

CROSS EXAMINATION

BY MS. HINTON:

Q Good morning, Dr. Collins.

A Good morning.
Q You are here to testify that this is not a homicide at all in your expert opinion; is that correct?
A No. I did not say that. I said that, in my opinion, this is undetermined.
Q Well, you said in your letter that you referenced earlier that the scene nor the physical findings are indicative of homicide. Is that what you said?
A That's correct.
Q And you have no reason to discount that Dr. Fulcher is also qualified in forensic pathology, correct?
A No. And I totally agreed with his report except the cause and manner.
Q Okay. And when dealing with a patient, dead or alive, it is important to gather as much information as possible; is that correct?
A That's correct.
Q And you would want patient background, correct?
A Yes.
Q Patient medical history?
A Yes.
Q Family history?
A Sometimes.
Q To know where the victim was found?
A I don't think that would help me know where the

victim was found.
Q No. I'm asking do you want to know that information.
A Sure.
Q Okay.
A And the position.
Q Right. And it would be even better if you got to go there yourself, correct?
A Either go there or photographs or video.
Q Okay. So you're saying a photograph or a video is just the same as actually being present?
A In some circumstances, yes.
Q And as you said, you would want to know the position of the body, correct?
A Yes.
Q And again, even better to see it firsthand and assess it for yourself, correct?
A Not necessarily.
Q And you would want to review what the police have, correct?
A Some of the material would be useful. A lot of it would be useful to their job for their report.
Q Okay. And even better to speak to law enforcement?
A No. Not necessarily.
Q Okay.
A And in South Carolina, we're really not allowed to.

We speak with the coroners only.
Q And you would want to perform the autopsy yourself. That's the best way of dealing with it, correct?
A Not necessarily.
Q You would at least want to be present for it. That's the best way to deal with it, correct?
A No.
Q And in your expert opinion, it's the best practice to know as much information as possible; is that right?
A Sure. Some of that information is extraneous and would not have anything to do with the cause and manner of death.
Q Okay. And in your expert opinion, the best practice is to go to the scene, correct?
A If we could go to every scene, that would be nice.
Q Okay. And you would want to see it for yourself, correct?
A If I was asked to go to the scene, I'd definitely go. It would not change my opinion.
Q And you would want to talk to police, correct?
A Not necessarily.
Q And you would want to learn the information as they were learning it, correct?
A I don't know what that means.
Q Well, you would want to know the information as they

know it, right? You would want to know everything that they knew at that moment, correct?
A No. I want to perform a medical procedure, and much of that information has nothing to do with pathology or forensic pathology.
Q Okay. And you've done none of those things, correct? You have not been to the scene.
A I've just seen the video and the photographs.
Q Okay. So is that a "no," you've not been to the scene?
A That's correct.
Q And you have not gathered the medical history of Misty Johnson, correct?
A Correct.
Q And you have not spoken to police?
A No, I have not.
Q And you did not personally view the body at the scene.
A No.
Q And you did not personally view the position of the body.
A That's correct.
Q And you were not there when the body was scooped up from the ground.
A No, I was not.

Q And you were not present for the autopsy.
A That is correct.
Q So even if you disagree with what Dr. Fulcher ultimately determined, you would agree that a person who has done all those things, go to the scene, see where the body is found, see the position, be there when it was removed, perform the autopsy, talk to the police, is the best person to evaluate the case.
A Not at all.
Q And they would also be the best person to determine the cause of death.
A Not at all. No. I totally disagree with that.
Q Okay. And you have great expertise in asphyxiation, correct?
A I have expertise in forensic pathology, and that's part of it, yes.
Q Okay. And you've studied it.
A Yes. I think Dr. Fulcher and I both studied it.
Q And you taught it.
A Yes.
Q And you've been published about it.
A I know in a lot of my publications and textbooks, yes.
Q Okay. And in layman's terms, asphyxiation is a lack of oxygen to the brain; is that correct?

A Yes.
Q Okay. And it's a process; is that right?
A Yes. Dying is a process.
Q Okay. And specifically with asphyxiation, you pass out first, right?
A Yes.
Q And you go into a coma, correct?
A Possibly, or you have a seizure.
Q And then you basically become brain-dead, correct?
A Well, if you die, yes.
Q Okay. And as a result of that, you die, correct?
A Yes.
Q And it can be quick, correct?
A Yes.
Q But it's not instant, right?
A It depends on if it's -- if it's an airway cut off, if it's a vein cut off, or if it's an arterial cut, and if it's intermittent or not.
Q Okay. And asphyxia comes in many forms; is that correct?
A Yes.
Q Okay. You can be strangled.
A Yes.
Q You can be smothered.
A Yes.

Q You can be choked.
A Yes.
Q You can inhale chemicals.
A Yes.
Q You can drown?
A Yes.
Q All of those fall under asphyxia.
A Yes.
Q And intentional asphyxiation by another person would be a homicide; is that correct?
A Yes.
Q And that can occur in many different ways; is that right?
A Yes.
Q All right. You can put your hands around someone's neck or throat.
A Yes.
Q You can put an object over the person's face or nose.
A Yes.
Q You can put an object in someone's mouth.
A Yes.
Q Or it can be any combination of those; is that correct?
A Yes. That's correct.
Q And asphyxia can be very difficult to determine; is

that correct?
A That is correct.
Q And you can have findings of asphyxia.
A Yes.
Q And you can have no findings at all of asphyxia.
A That's correct.
Q And the findings that you could possibly have in a case of a smothering or strangulation or a combination of both, a lot of those could be mostly superficial; is that correct?
A You mean on the skin?
Q Correct.
A Yes.
Q Petechiae, right?
A In strangulation, yes.
Q Okay. Bruising.
A You can, yes.
Q Redness.
A Yes.
Q Okay. And all those would go away with time, correct?
A No.
Q Those would not go away with time?
A Such as petechiae? No. They don't just go away. They would with decomposition.

Q Okay. So if a body had been decomposing for six weeks, you're not going to be able to find any evidence of that, correct?
A That's correct.
Q Okay. And it can be even more difficult if someone used a soft object such as a pillow to asphyxiate someone, correct?
A Yes. If the person didn't fight back, yes.
Q Okay. And if you use a pillow, there's not going to be any real damage to the skin; is that correct?
A More likely than not. There might be to the mouth.
Q Okay. Well, there's likely not going to be any oral injuries either; is that correct?
A Maybe not.
Q And there's probably not going to be any broken bones, correct?
A Correct.
Q And there's probably not going to be any markings left behind, correct?
A Often there are not.
Q So the absence of findings does not negate asphyxia.
A Asphyxia or smothering?
Q Well, smothering is a form of asphyxia, correct?
A So you wonder in all of those?
Q Sure.

A No. An absence of finding is actually -- with smothering, the only way to diagnose smothering is by confession of the perpetrator.
Q Okay. So you could asphyxiate someone and leave no signs on the body.
A Yes.
Q Okay. And so to a reasonable degree of medical certainty, you cannot say that Misty Johnson did not die from asphyxia, correct?
A That's correct.
Q You have testified many times before, correct?
A Yes.
Q And you've been paid to testify many times before, correct?
A Yes.
Q And you testified in Buffalo, New York, in 2014, in a case of Candace Cartagena. Do you remember that case?
A Yes.
Q And that was a smothering of a girl on a bed with a pillow; is that correct?
A Yes.
Q And in that case, you testified for the prosecution, correct?
A Yes.
Q And they asked you if you would describe for them

your professional or physiological approach to how you conduct a forensic investigation and the process you go through. Do you recall that?

A No.

Q Okay. Here's a copy of the transcript from your testimony.

A Uh-huh.

Q It's on page 1031.

A Okay.

Q All right. Do you see where I'm talking about on line 12? That's where the question is.

A Yes.

Q All right. And down on -- starting on line 19, what was your answer to that question?

A "The first thing we always want to remember is that we're physicians, first of all, and just as when you're treating a living patient, you would never treat a living patient or operate on a living patient without talking to the patient, getting the history, finding out their background, their medical history, their family history."

Q Keep going.

A "The same goes for a forensic case. When there is a decedent, we want to know everything that we can before we begin the autopsy. We want to know the medical records. We want to know of any past surgeries." Keep going?

Q Uh-huh.
A "Any past drug use, any past allergies, family history, because so many of these diseases are inherited. We want to know where the individual was found, when he or she was last seen alive, the position of the body at the scene. Hopefully, we're able to go to the scene and take photographs and assess it ourselves, but otherwise, we definitely need that information before we begin the surgical procedure or the medical procedure, which is the autopsy."
Q Okay. And then right under that, they followed up with another question. "What are those materials that you would like to" -- and then he stops and says -- "that you insist upon reviewing?" And what was your answer?
A "Past medical records, police report, EMS, first responders report, hospital emergency records, family and witness statements, family histories, any details of the scene or the death scene."
Q Okay. And you testified that -- in this case you testified that many numerous documented cases of asphyxia have no injuries, correct?
A Correct.
Q And they asked you on page 1037 at line 17 -- and this is after y'all define all the different subcategories of asphyxia -- that, "Can an individual die as a result of

some combination of smothering in conjunction with neck or chest compressions?" And what was your response?

A Definitely.

Q Okay. And then they asked you, "Can the issue of whether an object, say a pillow" -- and I'm on page 1040 at line 18 -- "whether that was used during the course of an asphyxial event can affect the presence of positive findings indicative or suspicious for asphyxia?" And what was your answer to that?

A "Yes. I mean exactly 100 percent."

Q Okay. And then on the next page, you said, "All you need to do is block off the air enough so that the person cannot survive without low oxygen"; is that correct?

A If you're talking about smothering, yes.

Q Okay.

A I don't see where you're reading, but ---

Q I'm sorry. Line 4.

A Oh, yes. We're talking about smothering with a fluffy object.

Q Okay. And then in line 8 they ask you, on that same page, "So assuming for the sake of argument that a pillow is used to intentionally, purposefully, homicidally asphyxiate another to death, you would not necessarily expect to see -- if this was an 8-year-old child to expect to see a broken hyoid bone." And what was your response?

A No. Not at all.
Q And then on page 1047 at line 16, the Court actually asked you a question. And they say, "How would you ever know that the person died from asphyxia?" And what was your response?
A Where am I now?
Q Page 1047, line 16.
A Okay. Now we're talking about the children. I said, "It's very difficult. That's what's prompted the investigators, like I mentioned, with nanny cams, because you have a suspicion."
Q Keep going.
A "That's why it's important to get a past medical history, do the complete autopsy and rule out other causes of death."
Q Keep going.
A "If, in the end, you have nothing at all on the body and nothing is positive -- is positive, then many times it's advisable to call a death 'undetermined,' so that people or investigators can keep the case open to continue investigating what's happened to this person."
Q Okay. So in that statement, do you think the best practice is to continue to gather information when you think you're potentially dealing with a death by asphyxia, correct?

A Yes.
Q Okay. You also prepared a letter in response to this case, correct?
A Yes.
Q Okay. Do you have a copy of it up there?
A Yes.
Q All right. And the first page is your qualifications, so we can skip straight to the second page. And at the top of that, you -- and you've already read for the jury all of the items that you reviewed in this case, correct?
A Yes.
Q Okay. And missing from my copy and maybe on yours is that you also reviewed a 16-minute video from the scene, correct?
A Yes. I guess the letter was written before I received the video.
Q Okay. And you did not review a Greenville Police Department report, correct?
A No. Correct. It was Greenville Sheriff's.
Q Okay. Are you aware, Dr. Collins, that this is a Greenville Police Department case?
A No.
Q Okay. So of all the documents that we have in this case, you've reviewed these and these, but not the other

500 pages.

MR. SCALZO: Judge, she can't see what she's showing her.

THE COURT: Overruled. Go ahead.

THE WITNESS: I reviewed what I was provided.

BY MS. HINTON:

Q Of course. But you did not review a Greenville Police Department report.

A Correct.

Q And you did not review any witness statements.

A Correct.

Q And you said when you're making a second opinion, you often rely on information that you received, correct?

A Yes.

Q And wouldn't you want the information from the agency that actually conducted the investigation?

A If I was aware of other documents.

Q That would have been helpful, correct?

A It might have been. Depends on what it said.

Q Okay. You go on in your letter to give some, I'll say, facts about this case. You say that she was last seen alive on September 12, 2013, as she left the sports bar, correct?

A Yes.

Q But that is not actually true, correct?

A I don't know.
Q She actually was last seen by the defendant by his own statement. Were you aware of that?
A No.
Q At her home?
A No.
Q You then say, "A bag with her cell phone was later found near the sports bar." Can you tell me where that is in the evidence?
A Where in the -- no. Not off the top of my head. It was in one of these that I listed.
Q Okay. Well, can you tell me where?
A No.
Q Are you aware that there's been no testimony to that whatsoever?
A No.
Q You also say that she was positively identified by dental records and DNA. But that's not correct either; is it?
A I believe that was correct with the dental records.
Q Correct. But not by DNA.
A I'll have to look back. I thought that she had some DNA.
Q Do you want to look at the autopsy report?
A Oh, I don't know if it's in the autopsy report or if

it's in some of the other listed items.
Q You say that she was found wrapped in a blanket but you did not mention that she was naked, correct?
A Correct.
Q And you said that with the body were a bag of flowers, a Subway bag, and a dildo, correct?
A Yes.
Q Okay. But she was not actually found with a bag of flowers. Are you aware of that?
A No.
Q She was actually found with a bag with a floral design on it beside her body.
A Okay.
Q You also said that there were no signs of struggle or foul play at her house, correct ---
A Yes.
Q --- at the bottom of that paragraph? Okay. But you actually didn't review any report that had to do with her house, correct?
A Only what was listed in the items that I gave.
Q Okay. And in anywhere of those items, did any of those people that you reviewed their items go to the house?
A I don't recall.
Q And so you did not review the witness statements of

Rebecca Kennelly and Susan Jago who said that her living room, the furniture had been disturbed, correct?
A Correct.
Q And you did not review the fact that they said that her bedroom had been disturbed, correct?
A Correct.
Q The candlesticks had been knocked over, correct?
A I did not read that information.
Q And you said that no bones, which would include the hyoid bone and larynx, showed signs of trauma; is that correct?
A Correct.
Q But she was, in fact, missing the left wing of her hyoid bone; is that correct?
A That wasn’t traumatic. She doesn’t have a hinged hyoid.
Q But you don't mention that, correct?
A Well, there are no signs of trauma.
Q And then you go on to say that amphetamine or methamphetamine toxicity could likely be the cause of death, correct?
A Correct.
Q But you just testified earlier that nothing in her medical evidence says that this was methamphetamine, correct?

A Correct.
Q And it very well could have been a prescription for Adderall, correct?
A Correct.
Q Because you do not have her medical history, correct?
A That's correct.
Q And you rule out death by strangulation, but you don't say anything about death by suffocation, correct?
A Correct.
Q And you could, in fact, hold someone’s neck and smother them with a pillow at the some time, correct?
A Yes.
Q And just because you grabbed someone’s neck does not mean that you grab it hard enough to break a bone, correct?
A That's correct.
Q So is it your theory that Misty Johnson got naked, wrapped herself in two blankets and a rug, holding a sandwich bag, flowers, and a dildo, and walked from her home to Whispering Hollow?
A No.
Q How did it factor into your expert medical opinion the fact that the defendant's boxers were found in her front yard, even though he says they never had a sexual relationship? How did that factor into your opinion?

A It doesn't factor in the medical opinion, no.
Q How did it factor into your opinion that he did not show for work in the same time that the victim went missing?
A It does not affect my opinion on Dr. Fulcher's autopsy.
Q How did his multiple inconsistencies and his various statements to law enforcement factor into your opinion?
A None.
Q How did the fact that he was found in her missing vehicle factor into your opinion?
A Did not.
Q How did the defendant throwing away a trash bag full of evidence from a car, including a pillow from her couch in the living room that was disturbed, factor into your opinion?
A Not in the forensic autopsy report.
Q How did the fact that he googled "stages of decomposition" before her identity was released factor into your medical opinion?
A It did -- it did not. I did not know that, but it would not.
Q How did the defendant confessing to his best friend that he killed her factor into your medical opinion?
A It did not.

Q Did you know that?
A No.
Q Dr. Collins, how much have they paid you to be here for your testimony today?
A They haven't paid me anything, but they will pay me.
Q And what will they pay you?
A For two days, it's $7,000.
MS. HINTON: That's all I have.

REDIRECT EXAMINATION

BY MR. SCALZO:
Q Dr. Collins, she just asked you about a whole bunch of facts about what Sam may have done, may not have done, you kept saying it wouldn't have factored into your opinion, right?
A Correct.
Q Explain why it wouldn't have factored into your opinion.
A It would -- I'm looking at the autopsy, I'm looking at the scene. I don't know what -- that doesn't help me with the cause or manner of death. I don't know the witnesses. Is it hearsay? Who are these witnesses? It's not going to change -- it didn't change what Dr. Fulcher saw. It doesn't change what I saw. It's not going to change the cause of death, which we don't know still.
Q Is it appropriate for you to use those things to

formulate a cause of death if you don't know the ---
A No. Not based -- based on -- what I have is the medicine. The police investigators will take the autopsy report, or Dr. Fulcher's report, and then they -- as was listed, they have a lot of other evidence, their investigation that they're doing. In this case, the autopsy cause of death does not -- is unable to help us.
Q You said that autopsy, it means to see for one's self, right?
A Yes.
Q And the seeing is of the body; is that right?
A Yes.
Q Is it your job to take a theory by the police or the prosecution or anybody else and decide whether or not that theory is the cause of death?
A No. The facts that are in front of me is the medicine, the science. They will determine whether the witness's statements are true, what happened, whether it's the sheriff's department for the County or the police of the city or the coroner's investigation. What I would do -- I am doing is I'm looking at the body. The body tells a story. Sometimes the scene helps. If it's not a decomposed body, you see a pattern injury, you want to know at the scene was there something that matches this pattern. And so certain times, scene investigation

information is important. And then sometimes, it may be important to investigators, but it really doesn't help me any.

Q Is your -- I mean, are you part of the investigation with the police as a forensic pathologist?

A No. We're neutral.

Q And what do you mean by that?

A That means that we do not work for the police, we don't work for the defendant or the defense. We work for the patient. That is our patient, and the truth is there. And I've worked with attorneys who have asked me to review cases. They don't like what I have to say, but it helps them rule in or rule out things. And then a few months later, they might -- they'll come back and ask me to look at another case. And at that time, it helps them put the pieces together.

Q Okay. This case from New York that the prosecutor was asking you about was about smothering, apparently.

A Yes.

Q Are the facts the same in this case -- in this New York case as this case here in South Carolina?

A No.

Q Are you saying that it's not possible or are you saying it didn't happen?

A In this case?

Q Yes.
A I'm sorry.
Q I probably made that confusing.
Are you saying -- talk about the difference between saying as a forensic pathologist something is possible and something happened.
A Oh. There's a -- like I mentioned earlier, there's a list of possibilities of why this person died. The more decomposed the body is, the less information we have, the less information we're able to obtain. Could it happen? There's pages and pages of things that could have happened. Did it happen? I can't tell you now.
Q Do you say a cause of death based on a possibility or do you say a cause of death based on definitive facts that you can point to?
A We base on the medicine, the science, and the facts. Now, let's say, for instance, someone is found with a gunshot wound to the chest. Now, maybe they also got smothered. I can't say that based on autopsy, but I can tell you what I see and what I find, and then the rest of the information would be up to ballistics and the police investigators.
Q And in this case, if you had seen a ligature around the neck, would that have ---
A Yes.

Q --- would that have changed your opinion about the cause of death?
A It could be around the neck, near the neck, they would be able to do DNA on the ligature. And so, yeah, you put the pieces, the science together, though. Yes. That would have said the most likely cause of death would be a strangulation.
Q Is that because you then would have had a positive piece of information?
A Yes. To do otherwise is just misleading the police investigators, misleading the families, misleading the jury.

MR. SCALZO: That's all I have, Judge.

THE COURT: Anything else?

MS. HINTON: Very briefly.

THE COURT: Sure.

RECROSS EXAMINATION

BY MS. HINTON:
Q You said that the facts in that case that you testified in New York are different from the facts in this case, correct?
A Yes.
Q But you don’t know the facts in this case, do you?
A The facts meaning the facts of the body. This was not a decomposed body in New York. This ---

Q But the only thing that you reviewed in this case is what they gave you to review, correct?
A Correct.
Q You did not review these two binders worth of information, correct?
A I reviewed the pathology and the forensic pathology, which is my area. I'm not going to review fingerprints. I'm not going to review the police investigation. I'm not going to review their professional interviewers who are trained -- hopefully, trained forensic interviewers of witnesses. That's not what I do.
Q You reviewed a latent print report in this case.
A I was provided it. It did not play a role in my opinion.
Q And according to your testimony in that case in New York, you want to know family statements, witness statements, all of those things, correct? That was your ---
A Family history, medical history. This little girl was not decomposed. So did she -- was she prone to have cardiac arrhythmias? Was she on medication? Did she have a family history of certain clotting disorders? That would come into play. To look at a skeleton, that wouldn’t help me much.
Q You said witness statements in your testimony out of

New York. You said, "If available, past medical records, police reports, EMS or first responders reports, hospital emergency records, witness statements, family history." That was your testimony in New York?

A And I agree with that.

Q So you're telling this jury that the fact that the defendant confessed to his best friend that he killed her and did this (demonstrating) with his hands would not have factored into your expert medical opinion at all.

A I did not receive a witness statement. I don't know who this individual is. I don't know if they were interviewed by a trained forensic investigator, interviewer. I have no idea. So far, it's just hearsay that I'm hearing right now.

Q Right. Because you have no idea because you didn't look at it, correct?

A Correct. I looked at the forensic pathology.

FURTHER REDIRECT EXAMINATION

BY MR. SCALZO:

Q Is there any trauma to the neck that would indicate strangulation?

A No.

Q Would it be relevant if there was trauma?

A Yes.

Q From a medical standpoint?

A Yes.
Q And when you said "history," are you talking -- what kind -- explain the difference between history and the case file from the investigator. What do you mean by history?
A It depends on the case. It could be someone collapses at work. I want to know their medical history. It could be, in this case, history of where the body was found, how long the body had been there, history in the autopsy. It all depends on each case.
Q Would the medical history in this case tell you whether or not she was strangled?
A No.
Q Would the medical history in this case tell you whether or not she was smothered?
A No.
Q Is there medical evidence that you could turn around to say, even if there was a confession, she was smothered? Beside the confession, I mean.
A Of the perpetrator?
Q Yes. If the perpetrator says, “I smothered her,” there's still no medical evidence that says she was smothered; isn’t that right?
A Correct. But by the confession of the perpetrator, then it would be smothering ---

Q Okay.
A --- and the manner would be homicide.
Q Same thing with strangulation. If they said it was strangled, there's still no medical evidence of strangled. They're relying on the confession.
A Correct.
Q And in this case there is no medical evidence from ---
A There ---
Q --- your point of view?
A Correct.
MR. SCALZO: Okay. That's it. Thank you.
THE COURT: Anything else?
MS. HINTON: No.
THE COURT: All right. Doctor, you may step down.
Mr. Scalzo, do you anticipate your next witness being about the same length?
MR. SCALZO: I don't know how long, Judge. Yeah, probably.
THE COURT: All right. Ladies and gentlemen, I -- let's step to your jury deliberation room for about ten minutes for a quick break.
(WHEREUPON, the jury exits the courtroom at 10:37 a.m.)
THE COURT: And would you like for the doctor to be excused?

MR. SCALZO: Sure.

THE COURT: All right, then. Thank you for being here.

We'll be in recess for ten minutes.

MR. SCALZO: Thank you, Judge.

THE COURT: Thank you.

(WHEREUPON, a recess is taken at 10:38 a.m.)

(WHEREUPON, the jury entered the courtroom at 10:56 a.m.)

THE COURT: All right. Ladies and gentlemen, we're ready to proceed.

Mr. Scalzo?

MR. SCALZO: Thank you, Judge. The defense calls Samuel Hawkins.

THE CLERK: Sir, if you would please come forward. Place your left hand on the Bible and raise your right hand.

WHEREUPON,

SAMUEL HAWKINS, JUNIOR

after having been duly sworn, testified as follows:

THE CLERK: Thank you. Please be seated, and please state your name for the record.

THE WITNESS: Samuel Hawkins, Junior.

THE CLERK: Thank you.

///

///

DIRECT EXAMINATION

BY MR. SCALZO:

Q Sam, did you kill Misty?

A I did not.

Q Did you wrap her body in a blanket?

A I did not.

Q Did you dispose of her body?

A I did not.

Q Did you dump her body at 110 Whispering Hollow Road?

A I'm not even exactly sure where that is. I did not.

Q Did you lie to people about Misty's car?

A I did.

Q Did you lie to people about Misty getting into another car?

A I did.

Q Did you lie to the police about Misty's car?

A I did.

Q Why did you lie?

A Fear. I had gotten some information later in the day that something had obviously gone terribly awry, and I panicked. A moment of cowardice, selfishness, but fear.

Q Do you think you should have lied?

A No, I do not.

Q All right. Let's -- let's -- let's let the jury kind of find out a little bit about you and then let's talk

more about the case. How old are you?
A 39 now.
Q Are you married?
A No. I'm divorced.
Q Do you have any children?
A I do. Three.
Q How old are they?
A Now 20, 18, and 15.
Q Do you have any grandchildren?
A I have one and one on the way. My granddaughter is 2 now.
Q And where DO you live?
A In downtown Greenville, Central Avenue.
Q Who do you live with?
A My godfather.
Q Do you have other family that lives here?
A Sure. My father lives here, as well.
Q What kind of work do you do?
A I've worked in the restaurant industry. Six years ago, it would have been about 11 years to date at that time.
Q Okay. And did you work at one place? more than one place?
A Multiple restaurants around Greenville, some of them overlapping.

Q Have you ever had difficulty getting a job as a server or a bartender in Greenville?
A Absolutely not.
Q And what specific jobs have you had?
A Bartender, bar manager, sommelier for two wine restaurants, and assistant general manager.
Q Okay. Were you convicted of a breach of trust in 2012?
A I was.
Q I want to talk about you meeting Misty, okay?
A Uh-huh.
Q Did you meet her at a restaurant?
A Our initial meeting actually was at a friend's.
Q At a what?
A A mutual friend of ours, our initial meeting.
Q Okay. Thank you. When was that?
A 2012.
Q Okay. And describe to the jury the relationship you eventually had.
A Just really good friends. Generally speaking, we get off work very late at night. If you're a closing bartender, you may not leave work until 3:30 in the morning, regularly. There's very few people you can find that can even recognize that that's a normal thing to do, frankly. The vast majority of us are deep into sleep at

that point. So the rest of our community being so close-knit, we ended up always at the same places, hanging out with the same people at or around the same times. There's very few places to go at that time in the morning, obviously, as well.

Q Okay. And did you ever date Misty?

A No.

Q Did you ever have sex with Misty?

A No.

Q Did you ever kiss Misty?

A There was an exchange that happened once. One too many drinks and an awkward situation where she did kiss me. That's been talked about previous times with other people.

Q Did you tell anybody about the kiss?

A I did. My girlfriend for one, as well as we -- I had spoken with the neighbors about it on a different occasion.

Q Did the fact of having the kiss ever cause a problem -- first, let's talk about did it ever cause a problem with Misty?

A Uh-huh. Well, no. No problems with Misty, in actuality, the next day, she actually text messaged me and apologized for it.

Q Did it cause you a problem with Nicole or any other

friends?
A There was the obvious uncomfortableness because I had to tell my girlfriend that another woman and I had a kiss. And -- but we worked through it and got through it.
Q All right. Did you and Misty ever discuss dating each other?
A The topic had -- and I can't remember exactly what context or under what circumstances it came up, but we did go through the conversation at one time.
Q Okay. Did -- were you upset that you weren't dating?
A No, no. Not at all. It wasn't a desire of mine.
Q Okay. How often did y'all hang out?
A Fairly regularly, but also very inconsistently. We could go a month and I'd -- I could see her three or four times that week, and then not for a month. Work schedules, friend circles are constantly evolving and shifting, and, obviously, life happens.
Q I guess let's -- when you would all hang out -- let's talk about her house, okay?
A Uh-huh.
Q Did you hang out at her house?
A Yes.
Q I'm talking right now prior to the September 2013 dates for right now. We'll talk about that in a minute. But prior to that, did you hang out at her house?

A Yes. If we weren't at a restaurant, it was always her house.
Q Did you hang out alone at her house?
A No. Not always.
Q Just you and her?
A Not always. Not always.
Q Okay. What would y'all do when hanging out?
A Generally, drinking, talking, watching YouTube videos, a movie night once. We even grilled out once at 4:30 in the morning.
Q Did you hang out inside, outside the house?
A Always generally outside. Being smokers, she didn't smoke inside the house. I prefer to sit outside anyway.
Q Okay. Have you ever slept over at her house?
A Sure.
Q Have you ever -- and again, I'm talking about before September 12, 2013, have you ever used her car?
A Yes.
Q Talk a little bit about the circumstances of using her car, again, before September.
A Very often. I would run into her where I would leave work and ride to various other locations, bars, other people's houses with other individuals, so I wouldn't have my vehicle. Whenever we would leave to go back to her house, I would ride with her. Once I'm there, I'm either

stranded or have to sort out the transportation. I've borrowed her car to run home for clothes. I've borrowed her car to deliver things to my children. I've borrowed her car to make trips to the store. Just general life.

Q Had you ever kept the car longer than you were supposed to?

A Certainly.

Q Can you give us an example?

A On at least one occasion, I borrowed her car. In the course of doing so, my plans changed and I had a whole lot more I needed to do. I was neglectful in notifying her to the change of my plan of how long that was going to take and the extended timeframe, and I got back several hours later than I should have.

Q Did it ever cause a problem in your relationship with her?

A I won't say that she was happy about it, but our -- obviously, our friendship continued.

Q Were you -- were you a good friend to Misty?

A We -- are we speaking before?

Q Yeah. Let's talk about before September and talk about your overall relationship.

A I believe I was.

Q Okay. Are there times when you weren't so good of a friend to her?

A Yes.
Q Okay. Talk about that.
A Mainly, at that particular time at life, I was, obviously, behaving more like a child. I'd like to say sometimes 30 going on 20, but it may have been 30 going on a bit younger than that. As a -- at that time, as a father of three, I was content to live like a bachelor and not make all of the decisions that people generally should make. So sometimes I looked at other people with very little concern for what they may need from me or what they may need me to do or what their life may need them to do and just take -- and think purely of my intentions and actions.
Q Okay. And did that happen with Misty sometimes?
A It did.
Q Did it happen involving using her car?
A Yes. Certainly, numerous occasions.
Q So let's move to September 12, 2013. And well, before, had you ever been kicked off of Misty’s porch before?
A Certainly.
Q And talk about the getting kicked off. What does that mean?
A She was not the sort to get into a yelling match with anyone, not to mention it’s three or 4:00 in the morning

and the neighbors lived relatively close. But that just wasn't something that was her personality, wasn't mine and most of the people that we kept the company of. So frankly, when she was done with you, quote/unquote, for the day, she just went in the house and closed the door. Very rarely was there a "Get out," or "All right. Everybody get off my porch," or anything to that effect. She went in her house, closed the door, and cut the lights off. And you sat out there if you wanted or you left, your choice.

Q And there was talk from Susan Jago about everybody having been kicked off the porch before.

A Correct.

Q What did you understand Susan to mean?

A A particular incident that we were referencing is the last time she had been kicked off the porch. It would have been when Misty's father was visiting. Some interaction happened that night that lead to Misty and her having some sort of a falling out. Susan was sent packing all of the 40 feet back to her house.

Q Were they not friends after that?

A On that -- the time when me and Susan were talking about it, I know that they weren't speaking.

Q Okay.

A But that was still relatively fresh and subject to

change.
Q Right. Okay. Did it ever cause a problem in your relationship in one of those instances where she was like, "I'm done. I'm going in the house"?
A No. Frankly, I thought very little of any time where she's done that. She -- it maybe happened to me once or twice. It happened to Rebecca Kennelly. Actually, me and Rebecca were both left stranded out there on at least two occasions, which is actually how I got to know Rebecca a good deal better than I may -- would have if it were just the group standing around. She and I didn't really have all that much in common. But no. As -- as a particular point of contention, absolutely not.
Q So let -- let's -- how did you get to Misty's house on the 12th?
A I had been downtown Greenville after, I believe, was a double shift at work that day and bumped into a friend of mine, Christopher Hammond, who has already testified here, if I'm not mistaken. He and I basically barhopped a little bit around Main Street before we eventually head back to his house. Had a few beers there. I think we were actually playing video games that night. At some point, I get into a message string with Misty, and we make basically an agreement that I was going to come over and hang out for a while.

Q Could you have -- I'm sorry. Could you have initiated that message?
A Very likely, I could have.
Q Okay. And you're talking about the beer. There's been testimony about the PBR, the Pabst Blue Ribbon. Would that be the beer y'all were drinking?
A Absolutely. It was.
Q How did Chris -- he testified. Did he drive you over there?
A He did.
Q And did you take something with you?
A I took the remainder of the beer that we had been drinking that night, the PBR twelve-pack.
Q You talked about, just now, messaging to say to hang out?
A Uh-huh.
Q How did you all communicate normally if you weren't obviously in the same spot?
A Generally speaking, I communicated with everyone by one of several different Internet apps, whether it were kind of a knock-off hack of FaceTime or various instant messengers, particularly Facebook Instant Messenger, my Google Gmail account, Instagram, and a few others.
Q Okay. And would it have been strange for you to message Misty that night about hanging out?

A Absolutely not.
Q And from her responses to you, what did you -- did you think it was okay to come over?
A Certainly. She actually made the comment that she had -- we needed to catch up, she had some things to fill me in on.
Q Okay. And I'm still talking about that night. Did you ask to use her car?
A I did.
Q What was her response to that?
A That it would be no problem.
Q Okay. Did you have to explain to her what you meant -- why you needed to use the car?
A Oh, I think I made a mention to the fact that I would need to go to the store to get more beer because, frankly, we had just a partial twelve-pack that was left. And, you know, I lived on candy at the time and needed cigarettes. So ---
Q Did you end up using her car?
A Certainly did.
Q How long from the time you got there till the time that you used the car?
A I couldn’t be too specific. It wasn’t very long though because what we -- what I brought with me, the remainder of the twelve-pack wouldn’t have lasted an hour.

Q And how'd you get the keys or the keys to the car?
A She gave me the spare key to her car.
Q And how long would you guess you were gone?
A The store that I went to would be maybe a ten-minute drive on a good day. The store clerk that was there I know, as well. We spent some time chatting outside. I may have been gone 30 minutes.
Q Okay. When you got back, what do you all do?
A I came back with a bottle of wine, some beer, cigarettes for both and my candy supply. And we sat on the porch talking -- drinking those and talking.
Q Okay. At some point did you get in an argument?
A I wouldn't define it as so much an argument as I made a comment that she didn't like.
Q Okay. So what were y'all talking about?
A She had made comments to me that she ---
MR. RICHARDSON: Your Honor, I'm going to object to anything that the victim said.
THE COURT: I'm going to allow this, at least at this point. It doesn't sound like it's being offered ---
MR. SCALZO: No. It's just to describe the argument, the context of it.
THE WITNESS: We were having a discussion that she had been playing -- she had had someone staying at her house for the previous four or five days that she was

unhappy with having there. I came to know later that it was an ex-boyfriend-become-boyfriend again. But essentially, what we were talking about was how she was going to deal with that whole situation.

BY MR. SCALZO:

Q Okay. And then ultimately, did you have a disagreement in how she should deal with that?

A Certainly.

Q And what did you say?

A Her course of action was a little more soft -- light-handed than I would have personally gone with. And then I said something to the effect of, “You’re being an idiot.”

Q And what did you mean that she was being an idiot about?

A This is her home. She lives there alone. She pays all the bills there. There's no reason why anybody should be there she doesn’t want there. Tell him to get out.

Q Are you telling ---

A Effectively.

Q --- her those thoughts?

A Right.

Q So what was her reaction when you said, “You’re being an idiot”?

A If she said anything else after that, it was very

little. She went inside the house and closed the door.
Q All right. And what did you understand that to mean?
A Basically, time to go.
Q All right. Did you follow her inside the house?
A No.
Q What did you do?
A I did sit there for a bit longer before eventually going over to Rebecca Kennelly's, who lived directly across the street. I believe it was her and her boyfriend at the time, Jim.
Q Before we talk about your being over there, were you angry or upset when -- after she turned around and went inside the house?
A No. Again, this is -- this is an interaction we've had several times. We've had this interaction with multiple people accounted for. Just par for business.
Q Okay. And do you have an idea about what time this might be?
A I couldn't be certain. It's early in the morning.
Q And you said you went to Rebecca Kennelly's house?
A Correct.
Q She testified earlier.
A Uh-huh.
Q Why were you going to Rebecca's?
A Honestly, I was going to see if I could get a ride

from her, to give me a ride back home.
Q Okay. And she said -- did you knock on the door, as the jury heard earlier?
A I did.
Q And what happened?
A For some reason or another, someone knocking on her door in the morning scared her. Instead of looking out the door or anything else for that matter that would seem more logical, she went and hid in the bedroom with her dogs.
Q Okay. Did you mean to scare her?
A Absolutely not.
Q Okay. When Jim came on the scene and you talked to Jim ---
A Uh-huh.
Q --- did he seem upset at the time?
A Well, he had just had to charge home from work for what he ---
Q Right.
A --- probably thought was a home invasion.
Q Right.
A And so he was agitated, irritated. His comments to me were, “Shit, Sam. You scared the shit out of Rebecca,” which, obviously, confused me a tad, but ---
Q Right.

A --- you know.
Q My real question is, did that make you angry? Did Jim being angry make you angry?
A No, no.
Q Did he ask you to leave?
A I asked him for -- I told him why I was there, and asked him if he would give me a ride. And he indicated that he had to go and deal with this and I left the situation there.
Q Uh-huh. And is that when you went to Susan Jago's?
A Correct.
Q And that’s ---
A By that point, I had already been messaging with her.
Q Okay. Did you tell her that you had just been knocking on the door?
A I did.
Q And did you eventually get to Susan Jago's house?
A I did. Right across the street.
Q And what did y'all do?
A She and I sat on her porch and talked over -- reminisced for a few -- I couldn’t be certain that's how long we were.
Q Okay. At some -- were you mad?
A No, no.
Q Did she ask you about being upset or being angry?

A No.
Q Okay. At some point does she go back inside her house?
A She does.
Q And what does she say to you about ---
A She's going to finish getting ready for work and I was more than welcome to sit outside and -- while I arranged how I was going to be leaving that day.
Q Had you explained to her what you were trying to do?
A I was attempting to contact somebody for a ride.
Q And how long are you on the porch, Susan's porch?
A That, I couldn't be certain of. It's been six years, frankly.
Q What makes you decide to leave her porch?
A I ---
Q And what were you going to do? What makes you decide to leave and what were you going to do?
A Well, I mean, at that particular point, I couldn't be -- why I left her porch particularly. But I did realize while I was sitting there that I still had the spare key to Misty's car in my pocket.
Q Okay. And what were you going to do?
A At that point I had decided that I was just going to take her car and go home for little bit.
Q All right. Did you do that?

A I did.
Q Did you ask her first?
A I did not.
Q Did you have to go to work that day?
A I was supposed to.
Q And did you go?
A I did not.
Q Why not?
A I, honestly, decided I was quitting the job.
Q Okay.
A And it was -- it was -- while it's nice to give people notice that you're going to quit a job, that's not something that commonly happens in the restaurant business. It's -- they're usually gut, last-minute decisions that happen.
Q And we saw from the record that you had not shown up a couple of days before.
A Correct.
Q Is that true that you didn't show up?
A Yes. Practically for the same thing.
Q So when you got in her car, where did you go?
A I left her residence and drove towards mine.
Q Okay. Did you go to your house?
A I did.
Q What did you do when you got there?

A I spoke with my godfather for a bit about some trivial matter, something around the house. I grabbed the phone charger. And I couldn't be more specific than that. Just some odds and ends around the room.
Q And you heard from Misty?
A I had not.
Q At some point you left the house?
A I did.
Q Do you know how long it was?
A I couldn't be specific.
Q All right. And where did you go from leaving your house?
A Headed back towards Misty's house.
Q Okay. And did you get to her house?
A I did.
Q And what did you do there?
A Well, I attempted to ascertain was she over whatever she was going through at that particular moment, and instead what I found was she wasn't home.
Q Okay. How did you figure out she wasn't home?
A The front door was unlocked, so I went in. And there -- no one there.
Q Okay. Did you immediately leave or did you stay?
A I stayed for a while, anticipating her return sometime soon.

Q Okay. What did you do while you were there?
A Sat, charged my phone, smoked a cigarette.
Q Okay. Did you ---
A Milled around.
Q Did you -- there were beer cans and trash and all the stuff that's been put into evidence here. Did you collect that stuff?
A When I -- towards when I was leaving, yes.
Q Okay. Why?
A Well, there was trash all over the porch and there was daylight now. And it looked like a bar on the porch.
Q Okay. And what was your plan to do with it?
A To get rid of the trash that was on the porch.
Q Were you trying to hide something?
A There was nothing to hide.
Q Okay. Did you intentionally take the pillow?
A There was no pillow recovered from the porch. That pillow was inside the car already.
Q Okay. What about the folder? There was a green folder that was in the ---
A Also inside the car.
Q Okay. The cigarette packs, those were on the porch?
A Some of them were on the porch. I believe there were some inside the car, as well.
Q Okay. So after you get in the car, what were you

planning to do?
A At that point, since I decided that I obviously wasn't going to go to work that day, and probably one of the most random, ridiculous decisions of my life, I decided that I was going to drop in on a friend of mine in Charlotte.
Q Matt?
A Yes.
Q Before we get to Matt, I've got to ask you, did you see Misty's purse inside the house?
A I noticed some bags and stuff on the table, but I didn't ---
Q Did you take any money out of her purse?
A No. Certainly not.
Q Did you have money of your own?
A Absolutely.
Q Her former employer, the Ale House guy, was in here and he was showing the ---
A Dennis.
Q --- receipt of tips.
A Uh-huh.
Q At the time, you were working as what?
A A bartender.
Q And did you get paid in tips?
A Certainly.

Q Had you worked the days before that?
A Certainly.
Q Tips in cash?
A All cash.
Q Okay. Is that the money that you had?
A That and some other cash, yes.
Q Okay. So you're going to Charlotte?
A Uh-huh.
Q And first, tell us the route you take to get to Charlotte.
A Out Lowndes Hill to Pleasantburg Drive, Pleasantburg Drive to 385, and 385 to 85, and 85 to Charlotte.
Q Okay. Did you ever stop and go to Whispering Hollow Road off of 85?
A I have no idea where that is.
Q At the time did you know where it was?
A No.
Q When do you think you arrived in Charlotte?
A Before 5:00. And I can only be general about that because I believe I -- that gave me time to park and transit to a bar that I eventually got to before I sent some messages to people.
Q Okay. So you sending -- you were sending some message -- who were you sending messages to?
A I sent messages to Matt Boyce, just to let him know

I've appeared, I've dropped in in town. I used a couple of other apps to message and talk with a few other people at the time, as well.

Q Okay. Did you eventually make arrangements to meet up with somebody?

A After a little bit of a headache, I did eventually get to him and make arrangements for him to drop in and meet me downtown in Charlotte.

Q Did y'all meet?

A We did.

Q Where'd you meet at?

A The Epicenter is what I understand it to be called now.

Q Okay. And what did you do from there?

A After a little bit more of a headache navigating the crowds where we could actually intersect, he and I went to another quieter place, because the Epicenter, on a good night, probably has 20,000 people in it.

Q Okay. And do you remember where that place was that you went to? The quieter place.

A It's a place that he knew of. I -- I ---

Q Okay.

A We drove probably 15 minutes to get there, so I couldn't tell you.

Q How long were you there?

A Hour or two.
Q And then what did you do after -- well, let's start with what did you talk about?
A I did brief him on how I came to end up in Charlotte that day, that I had taken a friend of mine's car, and that, you know, she's probably going to be overly irate with me.
Q Okay. And at that point had you heard anything about Misty being missing?
A By that point it's late enough in the night where I have seen some messages and I've seen some Facebook posts from people and I've also been asked some questions from people that have led me to believe that she has also not shown up for work.
Q Okay. Is there a point in time that stands out to you as something's up?
A It's starting -- when I see the earnestness with which everyone else is passing information back and forth, it becomes readily obvious to me that something is horribly wrong.
Q Okay. So explain what's going on in your head at the time when you make that realization.
A To be quite frank, the thought that I had in my mind at that time, Misty is missing, not where she's supposed to be, and I have her car. This story doesn't look --

there's nothing that I can say, there's nothing that I can do that's going to make this look in any way that's remotely acceptable. And it's panic at that point because it becomes a situation where I -- I've probably thought three weeks later down the road by the time and enough TV and cop dramas and stupidity. All-out panic sets in.

Q All right. And what kind of decisions are you making at that point?

A Fear-driven, panic-driven ---

Q Okay.

A --- and entirely selfish decisions.

Q Did you -- how much longer did you stay in Charlotte?

A I could only rough it based on the times that I arrived at other places. I had to be leaving there by 1 a.m.

Q Okay.

A Somewhere in there.

Q Did you think that Misty was dead?

A No. No one's dead at this point.

Q Why didn't you just leave her car in Charlotte?

A Because no one's dead at this point.

Q Did you drive back to Greenville -- you said about 1 a.m.?

A Yes.

Q Where did you go?

A I went to Junior's Sports Bar, which is located behind Haywood Mall.
Q All right. So Junior's is one of the things we've seen earlier in the case.
A Certainly.
Q It's been described almost like a club or something like that you had to be a member of.
A It's an amusement parlor. There's pool tables and video games, and you need to be a member after a certain time at night.
Q Okay. And is that someplace you've been often?
A Often.
Q What was the point of going there?
A That's where everyone else is. And I would say everyone else, this is everyone from the -- where Misty works, this is everyone that I would have normally socialized with downtown, this is everybody who -- this is the nexus for where everybody, at some point, ends up here or another bar. So I started there.
Q Okay. And at that -- had you been receiving Facebook messages?
A Oh. Absolutely.
Q Had you been sending Facebook messages ---
A Absolutely.
Q --- in response to those?

A Certainly.
Q Had you been sending truthful Facebook messages?
A I had not.
Q Well, let me ask it straight up. Did you lie on the Facebook message about her getting into a car with another guy?
A I did.
Q Did you describe the color of the car?
A I did.
Q Did you describe the guy?
A I, vaguely, yes, did.
Q Was any of that true?
A It was not.
Q Why are you saying all of that?
A That message was sent to Rebecca. And again, I am -- everyone is concerned that this -- something has gone wrong. And her line of questioning just set in my panic more than what it had already been. Honestly, I can't be -- I don't know why, at that point, I decided that I was just going to do my best to distance myself from this, but that's what it was. Just let me just send Rebecca someplace else.
Q Okay. And so we saw the video. You parked at Coop's, which is across the street. Were you trying to hide the car? Why park at Coop's?

A At that time, I want to say, as I came up the road, I saw what looked like a full parking lot to me, so I pulled into Coop's parking lot.
Q Had you been to Coop's before or in that parking lot before?
A Certainly.
Q And inside Coop's, we heard that you met -- Quincy was there.
A Among other people, yes.
Q And at some point does Quincy ask for a ride or do you offer? How did that take place?
A Quincy approached me and asked me if I was going straight home that night. I indicated that I probably would be. I'd be heading back downtown anyway, at the very least. And he asked me if I would give him, Nick, and Chad a ride.
Q Okay. What'd you say to that?
A Sure. No problem.
Q When you and Quincy go to the car, we saw on the video you all go out first and then you go to the car. Did you, in fact, ask Quincy to take the bag out of the car, the trash bag and get rid of it?
A Right. I realized at that point that there was just a bunch of -- a bunch of crap in the car. There was no place for anybody to sit. There was some junk on the

backseat. The pillow was on the backseat, if I'm not mistaken, and the garbage bag, obviously.
Q Okay. Were you trying to hide it?
A No. There was nothing in there to hide.
Q And did you think about the folder being hers? And why would you let him throw out the folder? Why?
A I didn't know what was in the folder. It was just a folder. It appeared to me to be junk stuff. It was actually kind of sprawled out on the floor.
Q Okay. So from there we heard that y'all went to Chad's house; is that right?
A I learned later that was Chad's house, but it's -- I actually knew his roommate better than I knew him.
Q Okay. And was it accurate you drank beer and were on your phone?
A Actually, a glass of wine, and then on the phone.
Q About how long do you think you were there?
A I couldn't -- I -- long enough to finish a glass of wine.
Q Okay. And where did you go from there?
A I went home.
Q And when you got home, where did you park the car?
A In front of my house at that time where my godfather's car, my girlfriend's car, which basically would take up the entire drive directly in front of my

house on the street. At that point, there's a small indentation of a driveway just across the street from my house that we've used for overflow parking for as long as I can remember. It was actually my permanent park for quite some time. And I just parked the car there.

Q Is that what we saw on the picture ---

A It is.

Q --- yesterday? The AT&T -- or maybe it was Monday. The AT&T ---

A The old AT&T building, correct.

Q And were you trying to hide the car?

A Certainly not.

Q Is there any place on -- at your godfather's house that you could have put the car where people wouldn't see?

A Sure. The driveway, which is inclined at a very steep angle; behind the house; the garage; anyplace but the front of the house.

Q Okay. The next -- I guess it was the next day or morning, or not even the next morning. You're already in the morning. In the morning, at some point did the police come to you, knock on the door?

A That wasn't until -- that was -- that would have been Friday morning ---

Q Okay.

A --- that I got home. They didn't come to my house

until Saturday morning, I believe.
Q Okay. And -- but at some point, they're coming to your house. We've heard the officers testify about that.
A Correct.
Q And the first time you see them is -- they're inside the house?
A He's knocking on my bedroom door.
Q Okay. And did you have an idea about what it might be about?
A I didn't know who it was until I opened the door.
Q Okay. And then when you saw them, did you have an idea about what it was about?
A No. I didn't have an opportunity to think about what anything was about. His very first thing he -- he noticed that I was standing there and he saw my girlfriend behind me. And the first question he actually asked is, "Are you Misty?" to her.
Q Uh-huh.
A At that point I realized why he was there.
Q Okay. And do you remember lying to the police officer?
A When we went back out front, I did. Yes.
Q Okay. Why?
A Once again, we were -- we were -- I had already started this train in motion where I -- trying to distance

and separate myself from this because, frankly, I don't know what happened. And at that time, I just really wanted the chance to figure out what was going on.

Q Okay. So after they leave, at some point, do you delete Facebook messages?

A Yes.

Q And let's first talk about, did you delete the Facebook messages between you and Matt?

A I did.

Q Why did you do that?

A Once I realized -- from the way the officer questioned me, it left no question in my mind that I was Suspect Number 1. And based on his statements, I decided that I -- you know what? I told him I went to Charlotte. I might have -- and I told him that Matt brought me back. I needed to let Matt know that I told them that he brought me back.

Q And did you, in fact, send Matt a message to tell them that?

A I did.

Q And is that the messages that you deleted?

A I did.

Q Did you then delete Facebook messages between you and Nicole?

A I did.

Q Your girlfriend.
A I did.
Q Why did you delete those?
A It was just in the course of -- I deleted all the messages from the day from everyone.
Q Okay. So there were other people, as well?
A Certainly.
Q And what was your goal there?
A Just I could see where this was going. Again, the detective that came to my house was very specific in his line of questioning and his manner of questioning, and I knew that that wasn't going to be the last time that we spoke. And I, frankly, saw no reason to subject anybody else to that.
Q Okay. Did you ever live with Matt in Simpsonville?
A Live? No.
Q You were at his house.
A I was at his house.
Q But you did not live there?
A No.
Q I want to sort of fast-forward a little bit to when the body was found in October.
A Uh-huh.
Q Do you remember learning about a body being found?
A Certainly. We were actually -- Matt and I, at that

point, were working for an events company here in town. And we had been setting up an event -- or actually, tearing down the event in Spartanburg at a hotel there. As we were leaving for the day, there was some message traffic between people that we know about a newsflash of remains being found. Not very -- very shortly, within five or ten minutes after that -- because I had already been in contact with counsel by that point based on how everything was going.

Q Let's let the jury understand what's going on. So did you get a message from a Grant Varner?

A I did.

Q Who is Grant Varner at the time?

A Grant Varner, at that time, was my lawyer.

Q All right. And is he telling you that ---

MR. RICHARDSON: Objection to any communication between him and his attorney, and also it's hearsay.

MR. SCALZO: I'm simply offering it to show his conduct. It's inconsequential.

THE COURT: I'll allow that. I'll allow that.

BY MR. SCALZO:

Q Did he tell you they had found a body?

A He told me that, based on the information that they received, that the detectives believed it was her.

Q Okay. And did you receive another phone call from

another attorney?
A Yes. From James Craven.
Q Were those two attorneys working together?
A They were.
Q Did you get this same basic -- same information?
A He had confirmed from another source that that's exactly who they thought it was.
Q All right. Do you remember seeing any news stories?
A WYFF 4 and, I believe, FOX may have run a story.
Q All right. So I think there's already been some testimony or evidence, did you start doing any Google searches?
A I did.
Q Why?
A The information that I had gotten from them that we had ascertained from different other people and different information that was floating around is that they had found decomposing remains. And I wanted to ascertain exactly what that meant. There's a whole other string of searches that happened in that time frame that are me gathering information as to exactly what that meant.
Q And let's be clear. So they referenced a Google search of decomposing bodies.
A Uh-huh.
Q That would -- you did do that?

A I did.
Q Are there other Google searches that are on the same topic that they actually did not show?
A There's an entire train of thought following along with this that they did not show.
Q Okay. All right. Did you -- so that's like the 31st of October, or 30th? She was found on the 30th. When did the news -- do you remember when the news stories come out?
A It would have been that same day, the first talk starts.
Q Okay. Do you remember being arrested on November 4th?
A I do.
Q And did you know you were going to be arrested?
A No. We ---
Q Well, then did you think you were going to be arrested?
A No, no. I didn't think I was going to be arrested.
Q Were you worried about being arrested?
A Certainly.
Q All right. So right before you were arrested ---
A Uh-huh.
Q --- you heard Matt?
A Uh-huh.

Q Did you confess to Matt?
A Absolutely not.
Q Did you tell him that you killed Misty?
A Absolutely not.
Q Did you tell him that you hit another guy?
A Absolutely not.
Q Did you tell him you thought you had killed a guy?
A No. Absolutely not.
Q Did you then end up talking to the police -- after they've arrested you, obviously, have another conversation with the police?
A I do.
Q Are you still in the same MO of lying? Are there some things that you lied about when you talked to the police? Do you remember if you did?
A That night, my conversation, both with the officer who took me into custody and with Flavell, there wasn't a lot that was discussed, frankly. I made some inquiries with the officer who was arresting me as to why exactly he was arresting me. They sent a pretty large contingent of people to do something that even at that point seemed rather ridiculous, considering they'd never been to my house to look for me or anything like that. So dealing with the shock of the hundred pound dog was thrust in my face, I eventually get to Detective Flavell and he starts

asking me questions as to, basically, so tell him what happened. That's not a question that I can answer today, so I couldn't answer it then either. I simply asked him, you know, "Can you tell me how she died?"

And his answer was no -- or "violently," actually. When I asked him what exactly that meant, his response to me was just, "Violently."

Q Okay. I guess I'll end where I started. Did you kill Misty?

A I did not.

Q Did you wrap her body up in a blanket?

A Absolutely not.

Q Do you know who did it?

A No, I do not.

MR. SCALZO: That's all I have for right now.

THE COURT: All right. Mr. Richardson.

MR. RICHARDSON: Please the Court.

THE COURT: Yes.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q Do you recall in the interview you had with the police that you told them that you had -- you couldn't remember what you and Misty talked about? Do you recall that?

A I couldn't remember with any detail.

Q Well, you just gave a lot of detail to this jury six years later. But then you had no detail, did you?
A I chose not to give them much detail.
Q Well, that's very convenient.
Now, of course, you talk about to this jury what the victim and you talked about on that porch.
A Uh-huh.
Q Right?
A I did.
Q Of course, I can’t bring the victim in here, right?
A No, you can't.
Q So what we’re hearing is just what you’re saying happened between you and the victim.
A Correct.
Q Right?
A Correct.
Q You admit now, today, that you had her car.
A I did.
Q This is the first time we’re hearing this story, isn't it?
A It is.
Q The first time we -- this story comes out is not to the police.
A No, it's not.
Q It’s to this jury when you're on trial for murder.

A It is.
Q The house that Misty lived in, you were in several times, right?
A Numerous.
Q Many times.
A Numerous.
Q You were very familiar with the house, right?
A Yes.
Q You were familiar with the doors and the goings ins and out, right?
A Generally, yes.
Q Okay. Now let's talk about a little bit the night that you went over to Misty's. That night you had worked actually the evening before; is that right?
A Yes.
Q Okay. And when you got off work, you went downtown, you started drinking.
A Sure, yes.
Q Okay. And, in fact, you meet up with Chris Hammond.
A Correct.
Q Okay. And y'all continued to drink, right?
A Correct.
Q In fact, you go to his house and you continue to drink.
A Correct.

Q And then at that point in time -- well, let me ask you this. Your bike was at Chris Hammond's house, right?
A It was.
Q That was your mode of transportation, correct?
A That day, yes.
Q Well, your car -- you didn't have a car, right?
A I had access to several cars. But no, not that day.
Q Okay. So your mode of transportation was a bike.
A That day.
Q Okay. And you left it at Chris Hammond's house, correct?
A I did.
Q And it's Chris Hammond that took you over to Misty's house, as you testified, right?
A Correct.
Q You didn't tell the police that, did you?
A I did not.
Q Throughout this -- this case, the only thing that's not -- the car is not the only thing you lied about. You lied about several different things.
A I did.
Q And, in fact, you lied about Chris Hammond taking you over there.
A I did.
Q That was one of your first lies.

A I did.
Q Because you didn't want him to be talked to by the police, did you?
A I didn't want him to be bothered by the police.
Q Bother ---
A I didn't think there was any reason why he needed to be involved.
Q Well, that's convenient for you, because you didn't want -- the fact of the matter is, you didn't want the police to talk to Chris Hammond, did you?
A There's no reason for them not to talk to him. There's nothing that he could tell them that was of any consequence.
Q Then why didn't you tell him that Chris Hammond took him over -- took you over?
A Because I didn't want him to be involved.
Q Exactly. Because you did not want the police to talk to him. That's the bottom line. In fact, you did tell him. You said, "I don't want you more involved."
A Correct.
Q Okay. But you were hiding Chris Hammond. You were hiding Chris Hammond from the police.
A I wouldn't use those words, but you choose to.
Q Well, you certainly -- by hiding, I mean, you didn't disclose to the police anything about Chris Hammond.

A No. I didn't disclose anything about Chris Hammond.
Q In fact, it was -- they found out that through their own investigation.
A Through my Facebook contact with him, yes.
Q But not from you.
A No. Not from me.
Q When you left your bike at Chris Hammond's and you went to Misty's, you didn't take your bike with you to Misty's.
A I did not.
Q So it was your intent to stay the night with her, was it not?
A It was not.
Q It was not?
A No.
Q Well, you claim this is -- there was no type of sexual relationship.
A There was not.
Q Okay. Well, on the porch, y'all are drinking beer; is that right?
A Sure.
Q And this beer, it's PBR.
A Correct.
Q And it's the beer that we found, right?
A The beer you found ---

Q Beer cans that we found ---
A Yes.
Q --- with your DNA on them.
A I believe -- yeah. Some of them did.
Q Okay. And, I mean, today, as you come in to -- and tell this jury, you're admitting that you had that beer can and you threw it away because you're caught with it, right?
A Caught with?
Q The testimony that was just presented to this jury establishes that you had those beer cans, but at the time when all this was going down, you lied to the police and told them you did not have those beer cans.
A I don't remember a time them ever asking me about having beer cans.
Q You don’t recall the police officers questioning you and you saying that Misty must've cleaned up the beer cans?
A I vaguely remember the discussion. I can't say for sure. It has been six years.
Q I understand. But you told the police that Misty must've cleaned up the beer cans.
A If that's what they -- if that's what’s in the interview, then I must have.
Q Okay. Because you didn’t want the police to know

about those beer cans, right?
A No. They were just trash on the porch. I left out --
Q If it's just trash on the porch, then why do you not tell them that you got the beer cans and you went and threw it away at Coop's?
A I had, honestly, at the point, planned to be as uncooperative with them as possible.
Q That's right. You had not been cooperative at all throughout this first part of this case, have you?
A No, I have not.
Q And Misty is a friend of yours.
A Yes.
Q A good friend.
A Yes.
Q You know she's missing.
A I did, at that point, yes.
Q And your idea to help find Misty is to go to Charlotte and party.
A The time that I was in Charlotte -- that I decided to go to Charlotte, no one's missing.
Q Well, you just testified that while you were in Charlotte that it came out that Misty was missing and you knew it then; is that not correct?
A Several hours after I had already went to Charlotte.

Q Okay. You remain in Charlotte, and then you come back. And where do you go when you come back?
A To where everyone else is that has any information.
Q You went to Junior's.
A To where everyone else is that has any information.
Q That's not my question. I asked you, “Where’d you go?"
A I went to Junior's.
Q Okay. So you're in Charlotte, you're partying, you’re in Misty's car, and the grand decision, when you know that people are looking for her, of you, is, “I’m going to go to Junior's and drink.”
A I will go to Junior's where everyone else is that’s looking for her.
Q Did you drink at Junior’s?
A I believe I had a beer at Junior’s.
Q Well, you were there for two hours.
A Yes, I was.
Q So you were there for two hours and all you drank was one beer?
A Correct.
Q Okay. When you are over at Misty's house and you go to Susan Jago’s house or Jago ---
A Uh-huh.
Q --- do you remember that?

A Well, after going to Rebecca's house, yes, going to Jago's house.
Q And the conversation with Susan is about Misty's boyfriend. Do you remember that?
A We had gotten into that discussion, yes.
Q Well, you asked about it. You asked about her having a boyfriend.
A No. That wasn't exactly the dialogue.
Q Well, did you hear the testimony of Susan Jago?
A I did hear her testimony, yes.
Q Well, you talked about her boyfriend, didn't you?
A She and I did talk about her boyfriend.
Q You also talked about how you were -- that she was pissed off at you.
A That she was pissy with me. There's a difference.
Q All right. Well, you also talked about how you were irritated.
A Irritated at the situation.
Q But you were irritated.
A I wouldn't put too much gravity behind that word.
Q I'm not asking you to put gravity behind it. I am asking you, you testified -- you said that you were irritated.
A I may have said something along those lines. I can't tell you for sure exactly what I said.

Q Well, irritated is mad, right?
A No, it's not.
Q And -- but you have a conversation about her having a boyfriend, and that was a concern of yours, right?
A She and I had a conversation as to exactly the same conversation that I had with Misty.
Q This -- this is not my question. You had a conversation about Misty's boyfriend.
A About the conversation me and Misty had about her boyfriend.
Q Okay. You had a conversation with Susie about her boyfriend.
A About the conversation that I had with Misty about the boyfriend.
Q Okay. And this is right after you leave Misty's house; is that not correct?
A After going over to Rebecca’s house.
Q But soon thereafter.
A Relatively.
Q And you were not happy about the fact that she had a boyfriend.
A That is of no consequence to me.
Q Well, you -- you certainly were talking about it. You certainly were concerned about it; is that right?
A I was -- "concerned" is not the word to use either.

Q Well, were you interested in it?
A I was interested to the point where I repeated to her the conversation that I had had with Misty.
Q And that -- that's what I'm getting at. You had a conversation about her boyfriend.
A I had a conversation with her about what me and Misty had talked about concerning the boyfriend.
Q And you've heard testimony that your boxer shorts were found in the front yard.
A That is what I've heard.
Q You heard that testimony. Do you deny it?
A Obviously not. They came from somewhere.
Q Well, it's your boxer shorts, right?
A Obviously.
Q Do you wear your boxer shorts on top of your pants?
A No. Not regularly.
Q So if you take your boxer shorts off, you become naked, right?
A Certainly.
Q Now, you testified you went back to Susie's -- excuse me -- Misty's car and got the spare key.
A Correct.
Q Right?
A Correct.
Q And drove away. And when you returned to her house,

what time was it?
A I couldn't ---
Q Was it the afternoon?
A I could tell you the sun was up in the sky. I couldn't be any more specific than that. It was six years ago.
Q Well, I would help you out except this is the first I've heard this story.
So when you come back to her house and she's not there, you take her car again, right?
A After some time sitting there, yes.
Q Okay. So is this a good long period of time? Is it several hours that you -- when you come back?
A I'd be guessing.
Q You don't have any idea? You've been real specific about a lot of the other stuff. You don't know this?
A I can tell you it wasn't raining that day. I couldn't tell you ---
Q You can't tell me if it's morning or afternoon?
A It's not late in the afternoon; it's not too early in the afternoon. I'd say around -- somewhere around midday.
Q Okay. When you come back with the car and she's missing, it's your testimony that when you initially got the car, she was still at the house, right?
A When I initially got the car, as far as I know, she's

inside the house, yes.
Q Okay. We've been through your messages. At no time, did Misty text you and say, “Where’s my car?”
A No, she didn’t.
Q At no time did you have any communication through text message or Facebook message from Missy regarding her car at all.
A No. I had not.
Q And at this point in time, you've received the car and keep it for three days, right?
A That is how it ended up working out, certainly. But it was not the intention.
Q The car was found on Saturday morning by the police.
A Correct.
Q Now, she's been missing for two or three days now. She's been missing since Thursday. The car is found by the police. You don't go to the police about the car, do you?
A I do not.
Q And, in fact, as I said, the car is not the only thing you lied about. You misled people all through this case. You misled the police when they came to your house.
A Correct.
Q And this is your good friend who is missing for three days now.

A Correct.
Q You misled the police. You tell them you have no idea how her car got in your car lot.
A That is what I said.
Q That's not very helpful in trying to find her, is it?
A It is not.
Q It's also not very helpful in telling Rebecca -- Rebecca was looking for her, wasn't she?
A As best as she was able to.
Q Okay. She was looking for her, wasn't she?
A She was making inquiries of people, the same as I.
Q It's not helpful to tell the police and to tell Rebecca, who is looking for her, that she got into a car with a white guy in a white car. That's not helpful, is it?
A It is not.
Q In fact, that type of communication and that lie could lead these investigators on a total goose chase on what happened to her.
A It certainly could have.
Q It probably did, didn't it?
A I couldn't speculate to that.
Q And it didn't end there. She's gone. Her body is found six weeks later.
A Seven.

Q Okay. Seven weeks later. Even better. Six to seven weeks, she's missing. Now, she's not just missing three days. She's missing seven weeks.
A True.
Q And seven weeks, you do not give one iota of information to the police or to anybody else to help find her, did you?
A At that point, my counselor recommended that I stay quiet.
Q So when did you seek out this lawyer?
A Immediately after the cop -- the interaction with the detective at my bedroom door. It was the next phone call that I made.
Q After you had a -- were you placed under arrest?
A I was not.
Q In fact, your lies even go deeper than that. You lied about when you got to her house that you had to wait for her 20 minutes. Do you recall that? To Misty's house.
A I don't recall the statement, no.
Q You don't recall initially saying you had to wait 20 minutes for her to get there?
A I don't recall the initial statement, no.
Q Well, your lies -- when you -- you're lying about every little thing. I mean, isn't -- this isn't just one

lie because you got caught with the car. And the reason why we're here today and you're saying that you had to lie about that is because you got caught with the car, right? This is a convenient story for you because you're caught. We have you with the car, right?

A The reason why I lied to them is because I feared where their investigation was going.

Q Today you're saying you have the car ---

A Yes.

Q --- that you had the car. Okay. This is the first time we've heard this.

A Yes.

Q And my question to you is, you've seen the testimony, this jury has seen the testimony and also seen the pictures. You were caught with her car. That's why you're telling them this story today.

A Yes. It is how we ended up here today.

Q Matt Boyce is a good friend of yours.

A He was.

Q Well, he's not a good friend now because he came in and told you -- told this jury that you admitted to killing Misty, right?

A Because he came here and told a lie.

Q So this is your good friend who's come in here and told a lie against his best friend. He described you as

his best friend.
A He did.
Q So he came in here and told this jury his best friend murdered somebody.
A He did.
Q And, in fact, you were at his house right before he was arrested, weren't you?
A Right before I was arrested. I was. Yes.
Q Right before you were arrested. So we're now -- we're at Junior's and you're partying while Misty is missing.
A That'd be a mischaracterization.
Q You're at Junior's.
A I'm at Junior's.
Q You stay there for two hours.
A Yes.
Q And you're drinking.
A I had a beer.
Q Misty's missing, right?
A She is.
Q Okay. And you meet up with Quincy.
A Amongst other people, yes.
Q Okay. Well, I'm asking about Quincy right now.
A Okay.
Q You met up with Quincy.

A I saw Quincy there, yes.
Q And you agree that y'all got together and you were going to give him a ride; is that correct?
A He asked me if I would give him, Nick, and Chad a ride back downtown on my way.
Q Okay. Now, you say that this trash bag that you had Quincy throw away -- you admit to having Quincy throw away this trash bag.
A I asked Quincy to make room for himself to sit, yes.
Q This was an SUV.
A It is.
Q Has a back area, doesn't it?
A I'm sorry?
Q It has a back, rear area, doesn't it?
A Certainly.
Q So you asked Quincy to throw away this trash.
A Correct.
Q Which had a pillow from her house.
A Also perceived to be trash, but it was in the car.
Q Well, the beer cans are in there with the pillow.
A I'd put that the other way around. The pillow is in there with the beer cans. The cans were already ---
Q They were together in the ---
A The cans were already inside the bag. I had him add the pillow to the bag to make room in the car.

Q Okay. I didn't hear Quincy testify to that.
A I didn't hear Quincy testify to anything concerning the bag other than he put it in there.
Q Okay. You had Quincy throw away this stuff; is that right?
A I asked Quincy to make room for himself. What he chose to do with it, I can't say.
Q And did ---
A At that time ---
Q Well ---
A At that time, I didn't ---
Q We'll move on.
A --- know where ---
Q The jury heard what Quincy said.
A Correct.
Q But one thing you told them is, "You didn't see me in this car."
A We never had that discussion.
Q You deny that, too?
A Correct.
Q Quincy is a friend of yours, too, right?
A Quincy is someone that I have known for some -- for quite a while.
Q As he testified to.
So now we have Friend Number 2 lying. So so far,

your contribution to finding Misty is not going to the police, is to throwing away evidence, and not telling anybody about her car -- about Misty's car. That's your contribution in helping find her -- her -- your good friend.

A (No audible response.)

Q And you -- you -- you Facebook, right? You do Facebook messaging, right?

A Amongst others.

Q Yeah. And your Facebook name on there is Samuel Hawkins?

A I believe so.

Q Okay. And did you live in Brooklyn at one time or are you from Brooklyn?

A I'm originally from Brooklyn, Coney Island.

Q And so you agree with me that you logged onto her Internet account at 1:26 on the 12th.

A I couldn’t tell you an exact time.

Q Well, you were there. You admit to being there, right?

A Yes.

Q Okay.

A I was at the house.

Q You mentioned deleting messages.

A Sure.

Q You deleted messages with your girlfriend, right?
A Amongst others.
Q Okay. Let me ask you this. Where are the keys to the car?
A The key?
Q Yeah.
A Single key. It's -- six years ago, it was in my house.
Q Did you give it to the police?
A I did not.
Q Did you ever tell the police about it?
A I did not.
Q Where is it today?
A I don't know where my own keys are today.
Q So you don't know where that key is?
A I do not.
Q That key that goes to a vehicle to a person that is missing and now dead. Maybe you threw it away.
A I did not.
Q Can I make that suggestion?
A If you please.
Q And, I mean, obviously, you want the jury to believe this story that you've come in and told for the first time today, right?
A Obviously.

Q But you -- you haven't always been credible, have you?
A I have not.
Q In fact, when you committed that breach of trust, that was not being credible. That was lying.
A I pled guilty to that.
Q I understand that. That's not my question. That was lying. That was cheating, wasn't it?
A I -- you want to go specifically into what that was?
Q I'm asking you a question. Is that breach of trust a deceitful crime?
A The breach of trust was a crime.
Q It's a deceitful crime.
A I wouldn't describe it like that.
Q That's why they call it "breach of trust."

Now, were you -- so we're six weeks -- and then you say seven weeks, whatever the time is -- and you've done nothing to help find Misty. You haven't looked for her or anything in this time period. It becomes known to the public on October 31st that a body is found.

A Correct.
Q You remember this? You saw that in the news report, didn't you?
A We saw a news report that afternoon, yes.
Q Okay. And instead of inquiring about as far as is

this Misty, because we don't know it's Misty at this time, do you?
A (No audible response.)
Q You don't know that's Misty out there.
A My lawyers told me that the police believed that it was.
Q Your lawyers didn’t know it because it had not been released yet.
A My lawyers told me that they believed -- the police believed it was.
Q You're talking about a belief. You did not know the identity of that body when it came out.
A If my lawyers had told me the sky was purple, the sky would be purple.
Q Well, did you ever see on a news report that this body has been identified as Misty Johnson?
A Not until days later.
Q You saw -- what you saw was that this body was found on Whispering Hollow Road.
A At that time I didn’t even see where the body was found.
Q Okay. You see that a body has been found.
A Correct.
Q And what you do is you contact your lawyers immediately.

A No. My lawyers contacted me.
Q Your lawyers contacted you?
A Correct.
Q Are they here today?
A They're not.
Q They're not here today?
A No, no. I don't believe so.
Q So we're going on what you're saying.
A We can call them.
Q And what you decide to do is look at levels of decomposition.
A Amongst many other things.
Q Okay. But I'm talking about this right now. You googled that and you went to Wikipedia about that.
A Among other things.
Q You were interested on what happens to a body over a six- or seven-week period of time, weren't you?
A The time period was seven weeks, and I had googled many things.
Q But you are interested in that after you heard that report, right?
A After speaking with my attorneys about what they had learned about how the body was found, yes, I did start googling things to find out more information.
Q And from that point on, when you're arrested, the

first thing you asked the officer is, "How did she die?"
A Because it's the only thing I could possibly care about.
Q I'm sorry?
A It was the only thing I cared about at that moment.
Q And when you found that it was Misty's body, did you go to the police?
A I didn't get confirmation, 100 percent, that it was Misty's body until the police had already arrested me.
Q That's right. You did not know it was Misty's body, did you?
A Not 100 percent.
Q Okay.
A All I had was the comment and word of my lawyers.
Q And, in fact, when you were messaging Rebecca, she challenged you, at the very least, saying you're going to be a suspect, you need to help me find Misty. Do you remember that?
A I was sitting in my counselor's office when that message came in.
Q Okay. You never responded to that message, did you?
A On my counselor's advice.
Q You were in his office?
A If I'm not mistaken. We -- we were -- I was in his presence. We met in and out of office.

Q And when was that? What time was that?
A I -- whatever -- around the time the message was. Or at least around the time when I saw the message.
Q Well, let me ask you this. The message that I'm talking about is, "WTF Sam. No answer. Misty is missing. MIA." You remember the message, right? Very last one.
A I've read through the discovery and I've seen the messages.
Q That message was sent at 10:23 p.m. Do you want to look at it?
A I'll take your word.
Q Yet you were with your lawyers in their office.
A James Craven, who was one of my attorneys at that time, has been my friend for 17 years. The vast majority of times that he and I met over the course of that seven weeks were what you would consider not office hours.
Q So in all of this, in this entire period of time, you were in no way helpful in finding Misty.
A I was not.
MR. RICHARDSON: Beg the Court's indulgence.
THE COURT: Certainly.
MR. RICHARDSON: That's all the questions I have. Thank you.
THE COURT: Mr. Scalzo, anything on redirect?
MR. SCALZO: If I could have one moment, Judge.

THE COURT: Certainly.

MR. SCALZO: I don't have any further questions, Judge.

THE COURT: All right. Sir, you can step down.

Anything else from the defense?

MR. SCALZO: No, ma'am. Can I just have a moment to figure out whether we need to go forward with any other witnesses?

THE COURT: All right. All right. Very well.

(Pause in proceedings.)

MR. SCALZO: Judge, the defense would rest.

THE COURT: All right. Does the State anticipate anything else?

MS. HINTON: No, Your Honor.

THE COURT: All right then.

All right. Ladies and gentlemen, I don't know if your lunch is here yet. We have concluded all the testimony and evidence in this case. The case is not in your hands yet.

THE BAILIFF: No, ma'am. It's not in yet.

THE COURT: Okay. I am going to ask you to step to your jury deliberation room. It may be that you've got a few minutes. If anybody wants to stand outside or something like that, we're going to start back about 1:00. We're going to have your lunch brought in for you, as I

be in recess until about 1:00.

(WHEREUPON, a recess is taken at 12:14 p.m.)

THE COURT: One last thing I do not bring up is -- and I don't know if there's an objection from either side -- but because the indictments -- or one of the indictments is amended in this case, I did a verdict form. All right. So I think I have some language in my written charge about the indictments, but I'll talk about the verdict form instead.

All right. We're ready to bring the jury back in? I understand they're finished with lunch.

MS. HINTON: The State's ready.

MR. SCALZO: Yes.

THE COURT: All right. Very good.

(WHEREUPON, the jury entered the courtroom at 1:08 p.m.)

CLOSING ARGUMENTS

THE COURT: All right. We're ready to begin with closing arguments.

MS. HINTON: Your Honor, may it please the Court.

THE COURT: Yes.

MS. HINTON: Mr. Scalzo.

Six years ago today, Misty Johnson breathed her last breath. Misty Johnson left work. She went to Junior's, stayed for approximately 40 minutes, and then she left to go home to meet her friend Sam. They drink, they argue,

then the victim goes back into her home, locks the door, and goes to bed.

The defendant cannot get a ride back to his home. Something that he tells law enforcement was "pretty damn irritating." He re-enters the home. At some point, his pants come off, his boxers come off and a dildo was used. There's a struggle in her living room, and the defendant suffocates her with a pillow and strangles her. He then wraps her in her bedding, loads her in the back of her car, dumps her body on Whispering Hollow Road, and takes off to Charlotte.

I cannot give you a play-by-play of what happened in that house, and that is not what the law requires. You will not hear the judge charge you that we must give you a play-by-play. You will not even hear the judge charge you that we had to give you a cause of death. What you will hear the judge charge you is that we must prove beyond a reasonable doubt that the defendant killed the victim with malice aforethought. Not how, not a play-by-play, but that he murdered her.

I want to talk briefly about the defendant's case. First, it was Trey, and then there was a mystery person in a white car, and then maybe it's not a homicide at all. Maybe she overdosed. And I want to start with Trey.

The best that they've got is a threat that no one

testified that they heard, a threat that law enforcement testified Trey denied, that his own manager at Ale House couldn't recall a threat or that he was fired for it, and that Misty was thinking about possibly breaking up with him. No evidence that Trey knew about it, no evidence that they argued, no evidence that Trey was at Missy's house on September 12th. That, ladies and gentlemen, is suspicion, at best.

This white car, and that's something that the defendant brought to the table, this mystery white car pulled up, which, I believe now, he's saying was a total lie. And then their expert witness, which I will get to shortly.

I'm going to ask you to discount what their expert witness said, and not because she's not qualified -- she is very qualified. You'll have a copy of her CV -- but because she didn't review anything related to this case. She did not review the police report from the investigating agency. She did not review witness statements. She did not hear anything or know anything about the defendant's confession and how he said he killed her to his best friend. So I'm going to ask that you not rely on any of her testimony.

What she did say was it could be strangulation, it could be suffocation, that those don't always leave behind

signs and symptoms, certainly not when a body has decomposed for six weeks. And she also says that while amphetamines could mean methamphetamines, nothing in her medical evidence says that it was meth. She said it was a possibility. Well, where is the drug paraphernalia? Where are the needles? Where are the pipes? Where are the baggies? Drug activity does not happen in a vacuum. You have to use something to use drugs. And where's the testimony by anyone, including the defendant himself, that the victim was using methamphetamine? He was with her. If she had been using methamphetamine, why didn't he tell somebody? I submit to you that that is not true at all.

Now, I want to talk about the defendant. He says to you that when he is in Charlotte on September 12th, that he gets information that things have gone terribly awry from Rebecca Kennelly. That message comes in at 9:04, Eastern. And that message is, "Hey, Sam. No worries. I was sleeping and the dogs just went crazy. I got scared and hid in Jim's room. I didn't even look outside to see who it was. Anyhoo, have you seen Misty at all since this morning? We're looking for her. She isn't picking up the phone and hasn't been home for a while. Just a little worried. Give us a call if you know anything. Thanks, exclamation point."

I submit to you that is not a message of something

that has gone terribly awry. Misty Johnson, at best, as far as Rebecca Kennelly knows because she didn't get home until around 9:00, has been unheard from a couple of hours. The only person who knew that things had gone terribly awry was the person who did it, and that's Samuel Hawkins, and that is why he went into a panic.

He says they have never dated and they have never had sex, and he has no explanation for how his pants and his boxers came off. He has no explanation why his best friend, Matthew Boyce, would tell you that they had a romantic relationship. He lied about remembering his conversation with Misty Johnson and what they talked about. And you can hear that in his interview that he told police he couldn't remember. "She was irritated. What about? I don't really know." I would submit to you that the reason he didn't want to say that is because then he would look jealous. They're talking about her boyfriend, and that might make it look like something else happened. He tells you over and over again he's not irritated, but he sure said that in his interview.

He says he goes back to his house, and her front door is unlocked. And I will get to why I do not think that that is true at all. I will tell you in a few minutes that I don't think he left her house at all. Not at that time. He tells you he goes back, her front door is

unlocked, and he goes in, hangs out, charges his phone. She's not there. Okay. Prior to that, he tells you he's already taken her car. Misty Johnson would have had to have walked out of her front door, out of her house -- and you can hear in his testimony that she parks to the left in what is presumably a very small front yard -- and never sends him a message and says, "Hey. Where's my car?" That's because Misty Johnson didn't leave that house alive. The only time she left that house that day was after the defendant had already killed her.

He cleans up and puts the trash in his car. He says he's not trying to hide anything. Well, then why don't you put it in the trash can? Who cleans up trash and then puts it in their car when you're at a house and there is a perfectly good trash can there?

He tells you he did not know at that time that he was going to be arrested. He didn't think he was going to be arrested, yet you heard Officer Irick tell you that when he was arrested, he nodded and said, "I understand." And I'll elaborate a little bit more on that in a little bit.

He tells you that he deleted everyone's Facebook messages from that day, but that's not true. You will have back there with you Rebecca Kennelly's messages with him and Susie Jago's messages with him. The messages that he deleted were with the two people who happened to be

closest to him, his best friend Matthew Boyce and his girlfriend Nicole Overholt. What in the world were in those messages?

He led law enforcement on a wild goose chase for seven weeks, while someone that he tells Rebecca Kennelly in his Facebook messages, "She's my best friend. I really need her right now." All the while, he lies to everyone. And when he can't lie anymore, he ghosts them. He doesn't respond to Rebecca Kennelly, he doesn't respond to Susie Jago, he doesn't respond to Quincy Cleveland. He never goes back out. Chris Hammond doesn't see him. And the one time that Chris Hammond sees him and he starts asking him about Misty, what does he say? "I don't want you any more involved." And that's because Chris Hammond, unbeknownst to him, took Sam Hawkins to a murder scene.

We do agree with the defense that the defendant lied a whole lot. He lied about pretty much everything. How he got to the victim's house? Lie. Who was there first? Lie. Where'd the beer came from? Lie. That he walked home. Lie. That he didn't take her car. Lie. That he didn't clean up beer cans. Lie. That he didn't take the beer cans with him. Lie. That Chris, last name unknown, person unknown, took him to Charlotte. Lie. That Matt Boyce brought him home. Lie. That he didn't know why the victim's car was there. Lie.

Six years later, he wants to come in here and take that witness stand and say, "I know I lied about everything when my best friend was missing, but believe me now. I did do some of these bad things, but just not all of them." That is not reasonable. That does not make sense.

I'm going to explain to you how we know what we know because our facts are rooted in evidence. The defense's facts are rooted in his own lies. The timeline is here because the times in this case are admittedly confusing.

9/12/2013 at 2:26 p.m., Misty Johnson arrives at Junior's bar. We know that because it's State's Exhibit 1. You can view it. She worked at the Ale House that night. She had stayed approximately 40 minutes, because at 3:01 a.m., she leaves Junior's bar alone. And again, you can see that in State's Exhibit Number 1. She leaves in her two-door, 2003, green Ford Explorer. And she leaves because she's going to meet the defendant at her house.

On 9/12 around 4 a.m., the defendant arrives at Misty's residence at [redacted] Oakland Drive. We know that from the defendant's statement, which is State's 27 that you will have back there with you. He says he walks from his house to the victim's house, which we know now to be a lie; that he gives her a hug; he uses the bathroom; and

then they sit and drink until 6:00 or 7:00.

At 7:00, the victim gets mad, goes into her house, and closes the door. For at least an hour, at that point, the defendant continues to hang around, even though he's pretty damn irritated. I would submit to you that he's hanging around because he's not done yet. This conversation is not over.

We know that he hangs around because at nine -- on 9/12 at 8:16 a.m., after being kicked off of her porch, he messages Rebecca Kennelly through Facebook that he needs a ride. And that's State's 44. He's been kicked off her porch at 7 a.m., and now he's waited an hour and 16 minutes. And he lives two and a half miles from this girl. And you'll hear in State's 1 -- excuse me -- State's 27, he walks everywhere. Walking for him is no big deal. He could have been home, worst case scenario, 45 minutes, and yet he's lingering.

Then at 8:39 a.m., he Facebooks Susie Jago. And he tells her he's waiting for a ride and Susie comes out onto the porch when she talks to the defendant. And this is an important conversation, because the defendant asked her, according to Susie Jago, if she's been seeing anyone. And Susan Jago tells him that she's been seeing a guy named Trey. And I submit to you that a single man doesn't go to a single woman's house at 4 a.m. in the morning when he's

been drinking for a long time for anything other than a sexual encounter. He didn't go. Not at that time. And now, he found out that she's been seeing somebody else. And that for him is a tipping point. That is the catalyst for why he did what he did. And at that point he has been hanging around for an hour and 39 minutes.

Almost two hours later from when he's been kicked off the porch, Susie goes inside and the defendant's still there. Now he knows that she's been seeing someone. He's been left out in the cold. And once again, he told police that's pretty damn irritating.

He tells you he walks home, and that's a lie. And he told you that was a lie. But we also know it was a lie because Jim Sawyer said he comes out at 9:00 or 9:15 and never sees the defendant. I submit to you, at that point, the defendant has re-entered the victim's house and he re-entered uninvited. Jim Sawyer doesn't tell you he sees you -- sees him on Susie's porch or sees him on the porch of Misty's. And you will hear in the defendant's statement that they only hang out on the front porch because the back porch has bugs. No. By 9:00 or 9:15, he is back in that house.

10:30 a.m., the defendant "no calls, no shows" for work. And how do we know that? State's 65, which is his work records. He didn't show because he killed the victim

and he was stuck inside of her home, because at Misty's house, the neighbors are very close. And he can see, from her front window, the cars that are still there, and he cannot leave at this point.

He has the pillow. The furniture has been moved. The laptop is in her car. Her cell phone is gone. And I submit to you if that's not insignificant -- because the way you communicate with someone on Facebook is through an electronic device, and he was trying to remove every piece of evidence that put him at that house, including his prior Facebook messages with her.

He tells you that he knows that her keys are at the front door. And that's in the interview with State's 27. He knows where her keys are hanging. He goes in, and that is when the struggle ensues, and that is when his pants come off, that is when he smothers her, and that is when he strangles her. And now he must wait.

And we know -- or even though he did tell you that he went back inside, that he had to go back inside because State's 9, you can see that the trash can where he got the trash bag from is not accessible from the outside. He had to re-enter to get that trash bag and clean up all the evidence of him being there. You will have that trash bag back there with you and you will also have the same bag from Misty's house where those trash bags came from.

9/12 at 12:30 p.m. in the afternoon, Susie Jago leaves for work and Misty's car is still at her house. So even if he left, which I submit to you he did not, he is back at her house at 12:30 because Misty's car is there. According to what the defendant told law enforcement, he never went back in that house. He left walking. He doesn't know what happened.

Today he conveniently comes back and tells you, "Oh, yeah. I did go back into the house, actually." That's pretty damning information, which is why he lied to police about it. He doesn't want police to know that he's back at the crime scene when he is supposed to be at work and during the time that she's been killed. But from his own statements today, he told you that. He is looking out the front windows of Misty Johnson's house, waiting for his opportunity to move her body.

And he gets it. Because between 2:00 and 2:45, while Rebecca Kennelly is already at work, Jim Sawyer's at work, Susie Jago's left for work, Randy Jago leaves to go pick up Susie Jago's children. And she said that's about a 45-minute process. And that is when the defendant covers the victim in bedding so that she can't be seen and loads her into her own vehicle and leaves behind, in the vehicle, one piece of bedding, a mattress pad. I submit to you that this was part of what Mr. Hawkins used to wrap

Misty Johnson up and he left it behind. And you will have State's 51 back there with you, as well, which is the mattress pad, which had her DNA on it. And we also know that some of her bedding was laying in the floor. Because a body is not easy to cover, he grabbed anything that he could find.

He tells you he leaves for Charlotte between 2 and 3 p.m. That's what he said in his interview. He leaves with Chris, remember? Because he doesn't want to be seen in the victim's car and know that they have it. I submit to you that he actually left for Charlotte around 3:15, because at 3:16 is the last time that Misty's phone pings near her residence.

Now, 3:16, Misty's car is pinging at her house -- near her house on Oakland Drive. And the last call that she receives is from Trey. And you will have Trey's phone records back there, and you will also have this very helpful spreadsheet about all the calls and texts that Misty received. Trey calls her at -- or excuse me, sends her a text message at 3:16. Sam Hawkins then loads up Misty and he loads up her phone too, because that might show that they had been communicating and he's got to hide that.

Trey calls her at 3:30, and at 3:30, Misty's phone pings at the Hilton Tower, which is in this general area.

And at that point Sam Hawkins has a revelation that he needs to get rid of that phone, so he throws it out. And we know that because her phone continues to ping there until it loses connection with the tower, meaning it died or it was turned off.

Trey calls at 3:47, 4:09, 4:30, 4:42. And the reason that his map starts at, I believe, 3:47 is because -- and you can see on his records, unless there is a duration of a call, unless he leaves a voicemail, it doesn't pick up a tower. For whatever reason in 2013, that didn't happen. But regardless, he's pinging near PF Chang's, which just happens to be where he works. PF Chang's is not near the Hilton. PF Chang's is down here (indicating).

And I don't know if any of you have ever tried to get to Woodruff Road, really, at any time of the day, but certainly in the afternoon, it's not a quick process. So if it was Trey, he would have had to have passed the Hilton at 3:30, gone and dumped her body on Whispering Hollow and gotten back to work at PF Chang's in 17 minutes. I submit to you that is not possible.

It would make -- and get to Whispering Hollow Road and drag her body to the edge, mind you. It makes more sense that the person whose whereabouts are completely unaccounted for is the one who was with Misty Johnson. Why would Trey call Misty at the exact time that he's

sitting by her cell phone? Why would he subject himself to potentially pinging at the crime scene if he did it? Why would he call her while he was with her? And why would he continue to call her no less than 15 times when she went missing if he knew what happened to her? That's the work of someone who cares about somebody else and is trying to figure out where she is. Because from the time that Misty Johnson couldn't be heard from to the time that her cell phone records are no longer sent to us because that's as long as the search warrant was, Trey calls her over and over.

9/13/2013 at 3:30 a.m., the defendant arrives at Junior's in Misty's car, but that's not where he parks. He parks across the street at Coop's, and he parks across there because he doesn't want anybody to see him in Misty's vehicle. And you can see him park across the street in State's 18 and State's 19. And you can see other cars on there. And if you watch the whole video -- the video actually covers two days. But if you watch the whole video, everybody else who's parked there is going into the gym. And you can watch that, you can view that. It's 5:00 in the morning. This is a 24-hour fitness center. People are going into the gym. The only person on that video that I've seen who's parking at Coop's and walking across the street is Sam Hawkins. There are

plenty of cars rolling in and out of Junior's that don't look like they were looking for a parking space to me.

And what does he tell Quincy? "You did not see me in this car," in all capital letters. Quincy told you it was stern. "You did not see me in this car."

5:15 a.m., Quincy dumps a bag of trash in the wood line at Coop's, and in that bag were beer cans with the defendant's DNA, a pillow with the victim's saliva. And we would submit to you that that pillow is the murder weapon, because the living room of Misty Johnson's house had been disturbed, furniture was out of place. And you can see the photographs that this pillow came from her living room. And it makes no sense whatsoever that Misty Johnson would take a pillow from her living room and put it in her car. But it does make sense that if the defendant used that to kill her, that he needs to throw that away, too.

At 10 a.m. on September 14th, Misty's vehicle is found across the street from the defendant's residence. We know that the defendant is aware long before this, but at least by this time, that the victim is missing. Ten to 15 times in his interview he denies knowing anything about her car, even when confronted with the fact that it was parked across the street from his house. And the reason that he cannot admit that at that time is because he

killed her.

This is quite possibly the most part of this timeline. On October 30, 2013, a decomposed body is found at the end of Whispering Hollow Road. And when you have a decomposed body, you can't just look at it and say who it is, and you can’t be so callous as to just throw a name out there. Misty Johnson's identity was not released on October 30, 2013. No one has testified to that. In addition, no one’s testified that it was released on October 31, 2013 either.

She was wrapped in her own bedding. She was at a remote end of a dead-end road. Her arm was extended above her head as if someone drug her as far as she could go before they fell off the ledge, someone who did not want her to be found.

The body is not identified on October 31st, and we know from all the testimony that dental records had to be overnighted from Georgia. So at best, she was identified on November 1st, at best. And I assure you that law enforcement did not call Samuel Hawkins’s lawyers to say, “Hey. We think we found Misty.” The first people that they would call would probably be her family who has been looking for her for seven weeks. And what happens? We get a release that a decomposed body was found on Whispering Hollow.

And Sam Hawkins, at 7:39 p.m., googled "stages of decomposition," and he admits that to you. You've got the evidence that he did it. You've got his phone extraction. There was one person on this planet who knew with 100 percent certainty, on October 31, 2013, that that body was Misty Johnson, and that's Sam Hawkins, because he did it. He put her there.

He doesn't google "Whispering Hollow Road" to try to figure out where that is. He googles "stages of decomposition." And he googles that because he wants to know what the police are going to be able to tell, and we know that because you can listen to his interview from November 4, 2013. And I will get to that in a minute.

And then on November 4th, the gig is up for Sam Hawkins and he finally breaks because the body has been found and he knows that it's over and he's sobbing. Not for Misty Johnson, because you can watch his interviews, and they are callous and they are cold. His best friend, and he can't bother to show any emotion whatsoever. He cries not for Misty Johnson, but for Sam Hawkins. And he tells Matt Boyce, who very reluctantly testified -- and I would submit to you that makes him more credible because he's here in front of his very best friend, and he knows that he's about to deliver to you very damning information and he doesn't want to do it. And I can't say that I

would feel any differently if my best friend had come to me and confessed. He doesn't want to be the one to nail it to Sam Hawkins. But what he told you, "He told me he murdered her and he said 'I killed her.'"

And I asked him, "Sam" -- or "Matt, you keep saying I believe that this happened. I believe that the -- is it because you're making this up or because that's what Sam told you?"

And he said, "that's what Sam told me."

And I asked him, "Is there anywhere in the world that you'd rather be other than right here?" He does not want to be right here testifying in front of his very best friend.

He strangled her. Matt Boyce said he strangled her, and he admitted that he did tell police that. He did his hands like this (demonstrating) and he said, "I killed her." He finally admitted that. But frankly, whether he strangled her or not, once again, is not the most important thing here. Because the law says that he had to kill her. It doesn't say that we had to prove that he strangled her, although I would submit to you that that is part of what he did.

We know that a short time later, Matt Boyce says that he tells the defendant where he can go to a pool hall. And at that point, Sam Hawkins is arrested. He was put in

the back of a car and he says, “What is this for?”

And the officer tells him, “Murder.”

And Sam responds, “I understand.”

I don't care if I had shoplifted a piece of gum and that's what you were accusing me of, if I didn’t do it, I'm not telling you that I understand, and I'm certainly not telling you I understand for a murder that I didn’t commit. But Sam Hawkins, on November 4th, is a defeated Sam Hawkins, because it's over for him.

There are many things that the defense cannot explain to you: why he entered and took his boxers off; why he's throwing away evidence, specifically the pillow; how he has a wad of cash and the victim’s $140 are missing; why he failed to show to work on the same day at the same time that the victim is killed; why he lied for six years about the car, even after he was charged with murder. I'll tell you what I'm going to say. "Hold On. I did take her car, but I did not kill her." I'm not nodding and saying, "I understand."

He sat up here emotionless. The only time he ever cried was when Doug really got into him and once again the gig was up and he couldn’t explain his way out of it anymore.

I want you to look at Rebecca Kennelly’s Facebook and he lies that he continues to tell her and Susie Jago and

how he's so concerned about Misty. And you tell me if that matches the person in either one of those. That is not someone who was concerned about Misty Johnson, his very good friend.

On November 4th, after he's arrested, he's brought into the Law Enforcement Center in the interview room. And what Detective Flavell says to him, and you can see it on the interview, is, "Sam, I just want to know why. What happened?"

And Detective Flavell goes to say something else and Sam interrupts him and he says, "Actually, I have a question. How'd she die?" That's not a question. That's a challenge. And here they are, six years later, submitting the same challenge to you.

Well, figured it out then. How did she die? He discarded Misty Johnson like a piece of trash. And to quote their expert, "If the defendant -- defendant confessed, that's the way you can tell. If the defendant said it was smothering, then it was smothering and it's a homicide."

If the defendant said, "I killed her," and he's doing like this (demonstrating), then he killed her. And he's doing like this (demonstrating). And it's a homicide and it's a murder. He killed her, and he killed her with malice, and that means ill will, hatred. He was

irritated, and he busted back into her house and he killed her. And he knew that the door didn't lock because he told you on the stand he had been in and out of those doors before.

Sam Hawkins, for six years and every day this week, has walked in and out of this courtroom, just like y'all have, an innocent person. But that ends if you determine beyond a reasonable doubt that he murdered Misty Johnson and that he stole her car. Misty Johnson did not get the ending that she deserved, but I am asking that you give this case the ending that it deserves, and I'm asking that you find him guilty of murder and grand larceny. Thank you.

THE COURT: Mr. Scalzo.

MR. SCALZO: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. SCALZO: Ladies and gentlemen, the same person who dumped Misty's body was not the same person who drove the car. You were born, but not yesterday. You don't have the state of mind, the planning, the wherewithal to say, "I've got to get rid of a body of a person I know, but I'm incapable of getting rid of the car, I'm incapable of getting rid of" -- now, we found out -- today's Thursday. It's been a long week. So on Monday, they didn't know that the murder weapon was this pillow. Did

you? I didn't. Nobody did. Because they didn't tell you the murder weapon was the pillow until however long ago that was.

So you mean to tell me -- talk -- to steal a phrase, you mean to tell me that the person who dumps the body -- because why? Why do you dump a body? Because you don't want somebody to find it, right? Because you think that's going to prove that you did something to them, right?

There's a pillow. You know you used the pillow. I can understand if the pillow had blood on it that you didn't think was going to be there and you had no idea and you didn't even realize it and you would never even know to get rid of the pillow. Think about this, new story: He strangled her and then he used the pillow.

So let me ask you this. When Dr. Fulcher got on the stand, what was he adamant about? Strangulation. He was adamant about strangulation. Why? Cause Matt Boyce hadn't testified yet. And Matt Boyce, they were thinking strangulation. If it goes the way we want, strangulation is the key. Fulcher is up. Strangulation's in. Didn't go that way, did it? And I -- I'll submit to you that the reason they didn't tell you about a pillow on day one is because they weren't sure about Matt Boyce from day one either. Matt Boyce has been all over the place. Put Matt Boyce aside for a second.

The same person who dumped the body is not the person in the car, is not the person that's going to drive around with a pillow, is not the person that's going to get three people that can go and testify about it and say, "Hey. I'll give you a ride. Yeah. And oh, by the way, would you get rid of this murder weapon for me and don't tell anybody about it?" But I'm going to keep the car, the car that's in her name of the body that I dumped that I'm not supposed to have anybody know about three days later. None of that makes sense.

I'm going to drive to Charlotte where I could have just walked away from the car. Bye. Now I've got a body here and a car here. Same person who dumped that body is not the same person driving that car. Why is he driving the car?

He told you. He gets a message in Charlotte. She's missing. You don't think somebody's dead. He's not going to get rid of her car when he thinks she's only not showing up, missing. It's a building moment. It's not an immediate thing like they want you to think. It's a building moment. That's why he's talking about getting the message while he's in Charlotte, going, "Oh. She's still missing? I haven't heard from her." Now it starts to build. And he's going, "I got her car." That was the time to drop it and walk away. But he didn't do that.

Why?

Because he didn't -- if he knew the body was -- if he didn't kill her, then he knows he needs to keep the car. None of what he did makes sense unless -- what did I tell you from the beginning of this case? Suspicion. If you take a suspicion and you take a theory and I say this is what it is -- I'm afraid to let you in on this -- you're human beings. And guess what you will do? You will make everything fit into the suspicion or the theory. Even if you don't want to, it's just natural. It's just what we do, right?

Example -- or Exhibit A, Dr. Fulcher. The man got up on the stand and told you he wasn't a scientist, he was a physician first, that he didn't have any medical evidence to tell you what caused the death, but he had a theory. Did he give you the benefit of the doubt that you've been listening to the evidence since Monday? No. You're a wimp if you can't come up with a theory and put it all together.

And what did Dr. Collins say? She didn't tell you what happened. She didn't say, "No. Sam Hawkins is innocent. I couldn't prove it. You should trust me." She didn't say any of that. She came in and said, "I'm a scientist, I'm a physician. I can tell you what I know, and what I know is there's no trauma to the body, there's

no evidence that there was strangulation, and there's no evidence of suffocation. Is it possible? Yes." But that's not what Dr. Fulcher left you with.

Dr. Fulcher left you with the certainty of him. He was going to tell you that it was strangulation. Why? Because it was still based on Matt Boyce. The same person that drove that car is not the same person that dumped the body.

Another thing you didn't know. At the beginning of this case, did you have a timeline for when she was killed? Did the State tell you what their theory was for when she was killed? No, they did not. Now, they are trying to tell you that he's over there, they get into an argument. Fair enough. He kind of says there's an argument or dispute. He conceded that. He actually is conceding that all along. He is lying. He told you he was lying. And we're going to talk about why I think that makes actually more sense then they give credit to. But he tells you he gets into an argument.

He goes to the neighbor. He knocks on their door and says, "Hey. Can you give me a ride?" It's not the actions of a raving lunatic man who is all pissed off because he didn't get to have sex with somebody he wanted to have sex with. He goes to the second neighbor within minutes and says, "Knocked on her door and I think I

scared her or whatever. But do you mind if I sit on your porch?"

"Yeah. Sure."

They sit down next to each other. She's sitting down next to a person that is raging with all of this emotion that they'll kill somebody. And she's like yeah, you know. Shooting the breeze. "I'm going to go inside. Sure. No problem. Just sit there."

All of that is going on and he's building to this point where he's going to rush over and kill her after having told two people that he was there and had an argument with them? And he then, he's still so enraged after he's killed her and now he's got to go, "I got to dump the body." He's going to take the body, put it in the car and not get rid of the pillow. He's not going to take the cell phone. He's going to take the cell phone and throw it over here. That doesn't make sense. That's not the actions of a person who dumped the body. He held onto that car for many days afterwards.

They want you to say you had the car, therefore, you must have killed her. Except that only works if your theory is that he killed her and you work your way backwards. And then what you do is you start just putting everything into play. Oh, you start with you killed her. Now, everything you do funnels through and now it makes

sense. That's not how evidence works. That's how Fulcher works, but that's not how evidence works.

It's a great analogy, even though it's part of the case. Fulcher never even told you what an autopsy was. Dr. Collins told you what "autopsy" meant, right? You look at the body and you see what evidence do you have from the body. You don't go get an opinion about what your theory is about what caused the death and then go find evidence that supports your theory about what caused the death. You go and you look at the body and say, "I've got this piece of evidence. I got this piece of evidence. If I put them all together, where does it lead?"

Because if you do it the other way, human beings, as infallible as we like to think we are, we will connect the dots, even if those dots make no sense. And that's what's going on in this case. The dots don't make sense. The person who drove the car is not the person who dumped the body.

Here's another problem. You mean to tell me that if you're just looking for evidence, the evidence is going to lead you where it's going to lead you. You don't have a theory that you're trying to fit the evidence into. When Matt Boyce tells you, "Well, he told me he punched the guy, thought he killed the guy and had to turn on her and kill her and that's all I know," we haven't even gotten to

the strangulation maybe. Not yet. That's what he tells you. And you're supposed to believe that? Where's the body? Where's the other guy coming forward and saying, "Yeah. I was over there, and he hit me, and now Misty is missing. I don't even know what the hell's going on"? Nothing.

Step back. They're going to say, well, it's a convenient story and six years later . . . How is that a convenient story? You know, there's only two ways you confess to something. You say you did it and you spill out everything and you're just basically honest and straightforward and you say you did it, right? Or you kind of tell a story that you shave to your benefit, cause otherwise, you just say it to it would not be a benefit. How is that story a benefit to Sam? He's going to bring in another victim and doesn't even explain legitimately why he would kill Misty? It's a completely contrived story. It's so contrived he couldn't even tell it. He believed it. "Oh. Look at my original statement. You know, I don't really want to say anything here."

Listen, you might not like being up on the stand. It might not be comfortable. It might be your best friend. But if you're confident that the man actually told you what he did, actually told you that he killed somebody, you'll look people in the eye and you'll say, "I remember

him saying that," and in especially in light of the fact that you've known the guy. You mean to tell me, in his life, this doesn't stand out as a point in time? "There's got to be everything before Sam confessed to me and then everything after." And he don't remember? He can tell you maybe he doesn't like it and I'm sorry and this is so difficult for me, which he really didn't even say. There's no way to believe a guy who says, "Yeah. It's been a long time. I don't really remember my friend confessed to not almost killing one person, and then actually killing another." Talk about not following logic. Talk about not really happening. That's not really happening.

We need to get back to the law. I believe the judge is going to tell you, among a lot of things, but one of the things I think the judge is going to tell you is the facts and circumstances that merely place upon the defendant a grave suspicion of the crime charged or that merely raised a speculation or conjecture of the defendant's guilt are not sufficient to authorize a conviction of the accused. It's just a fancy way of saying, "If you don't have enough reasonable evidence beyond a reasonable doubt, you can't just pick a theory and say, 'It kind of looks like he did it.'" That's what we talked about at the beginning of this case. Suspicion

does that. Suspicion is when you say, “Yeah. I guess so. Kind of looks that way.”

We’re so -- the word "suspicion" has kind of a negative feeling, right? We don’t usually say we’re suspicious about something unless it’s kind of negative. But it isn’t any different than a guess. We just use "guess" sort of more as a positive spin. So if I say, "I suspect that restaurant is pretty good," it’s my guess, right? The only way I’m going to know it’s good is when I go -- it’s not even when I look at it. It’s not even when I sit down and they bring this plate of food to me. I may go, “Wow. It looks pretty good.” It’s not even when I smell it. It’s when I taste it and I put it in my mouth. The guesswork is over.

But if I don’t get to eat it and I get to sit there and look at it and smell it, now I’m starting to go, “Well, you told me it was a good restaurant. Maybe it really is good.” But I don’t know until I eat it. That’s what this is about. Because if you don’t do it that way, there’s things that you miss.

I don’t know if Trey did it, and this whole trial has not been about proving Trey did it. It’s about saying when you’re looking to find evidence of somebody’s guilt, you look at the evidence. And if you ignore the evidence that’s in front of you that might pull you away from the

suspicion you have, then you should know you're making a mistake. Because what happened?

There was credible evidence to look at Trey. There were reasons to go back and talk to him. Maybe it would have panned out. Maybe he would have had a good explanation for where he was and the phone all that time. I don't know. But the whole problem is you don't know, and you're being asked to decide that the evidence proves beyond a reasonable doubt that he's the only one that did it. And there's a viable suspect running around out there that you haven't nailed down. That's the problem. That's the whole thing about Trey. That's the whole thing about not talking to people. And what it's telling you is, when you have suspicion, it allows you -- let's -- I'll give it unintentionally. It doesn't mean they're sitting there planning to railroad the guy. No. It's more subtle than that.

Suspicion -- it doesn't have to be that they planned to do this. It's that you will let the suspicion take hold, and now everything is funneled through the suspicion.

The guy driving the car is not the guy that dumped the body. If you are suspicious, then you think the guy driving the car is dumping the body and you ignore all the other rational things that the same person would have

done, like gotten rid of the murder weapon. You don't not get rid of the murder weapon that you know is the murder weapon, and you certainly don't give it to a guy so he can come into court and say, "Yep. Gave me the murder weapon. Sure did."

Everything is nefarious. Everything is suspicious. He parks at Coop's. He doesn't want to be seen. He walked into Junior's. There's a camera on the side of Coop's. The officer said -- I said, "Did you have to go ask for the camera?"

"No. I saw the camera on the side of Coop's. There's people going in and out of Coop's. It's right there."

I mean, it wasn't like he parked it in the woods, walked out of the woods. "Oh. I don't know where the car is," and went back in. The person driving the car is not the person who dumped the body.

He takes the car back to this house. You don't think he could have moved some cars, put the car in the back of his property? He's going to leave it right on the street where somebody could drive by and see it? He's not hiding the car. He's not hiding the car which is why the person driving the car isn't the person that killed her.

The shorts. Goes back to suspicion. What did the solicitor just say to you? I submit to you that a guy

going over to a house at 3:00 or 4:00 in the morning wants more, right? Sounds like a very suspicious statement. But if you do what I do, which is work normal hours in a courtroom, that's when it's suspicious. But if you are a bartender and a server and you hang out with all bartenders and servers and they work -- they work when we're not working, which is after 5:00. And we go out to eat, we go out to the bar, we do all of that. They've got to close down at 2:00, 3:00 in the morning, and then they all hang out together.

But you see what the suspicion did? Because if I didn't tell you all that, the suspicion would have said, "Oh, yeah. 3:00, 4:00 in the morning, guy going over to a girl's house. Something's up." Except that something's not up if I said it was 3:00 or 4:00 in the afternoon. But to them, it is 3:00 or 4:00 in the afternoon because that's how their life schedule is shifted. But when you have suspicion, you now make it work, right? Because why? You started with a conclusion in mind, and that's what this entire thing has been about from day one. The conclusion has been in the mind and now everything has to line up.

Is it bumpy? Yeah. Life is bumpy. You know what's perfect? A guy that gets up on the stand with a perfect theory of how it happened and you would ignore the other

imperfect part of the theory, which is some other person's running around out there who's been hit and has never come forward. That didn't happen either.

So the law says they have to prove this case beyond a reasonable doubt. Suspicion isn't beyond a reasonable doubt. Guessing isn't beyond a reasonable doubt. Evidence and proof mean something. The conclusion isn't proof. Evidence is proof. That's why we spent so much time talking to Dr. Collins. It's why I was not very happy with Dr. Fulcher, because he wasn't talking about evidence. He was talking about a conclusion, and his conclusion didn't have evidence.

I could understand if they had a broken hyoid bone or some other medical piece of evidence that they say, "You know what? There it is. There's my medical evidence. I can draw a conclusion." Listen, if you can't draw a conclusion, you just want to say it's possible, then just get up on the stand and say that, which is what Dr. Collins said.

Another thing. They wanted to say, "Oh, this is a convenient story six years later." Come on. First of all, you can see the text messages, the Facebook messages from Kennelly. Kennelly's saying basically the day of, you're the first -- you're the prime suspect. You don't think he got the message? You don't think the chatter got

to him? You don't think he knew the police are thinking, I'm the guy? You don't think the concern he had that he was going to be the one holding the bag because he had the car if they didn't know what happened to her that that -- he would be the one? You don't think that's sort of going on in his head? It didn't occur to him? And he's going to run to the police and say, "I really hope that you're going to not believe everybody else that suspects me," and you will not do what? This?

Their argument is the exact same regardless of what he says. What they're doing is they're trying to take -- they are ignoring the reasonable basis for his lie. Should he have lied? No. But is it understandable that he lied? Pretty much. It wasn't the best thing. It didn't help with the investigation, and perhaps he should have put the investigation ahead. But that doesn't prove murder, because that's what the argument was to you. Somehow, it had to -- it's binary. You're either helping find Misty or you're not and you did it, right? No. Life is pretty grey. Two things can be going on at the same time. If you think that somebody is going to say you did it and you have her car and now you don't have an explanation because you can't find her, I think it's pretty reasonable for you to think, I've got a problem.

Now, some of us may have chosen to say, "You know

what? I've got a problem, but I think I need to find -- help find my friend," and some of us might have chosen to do what he did. Regardless of which choice you make, that doesn't prove you killed her. That's not consistent. The person driving the car is not the person who dumped the body. The person going to the neighbor, knocking on the door is not the person going back to kill her, knowing that those two people are there as witnesses.

Let me talk about the methamphetamine -- or the amphetamine, to be more accurate. A lot like Trey, I'm not saying she overdosed. I don't know, and neither do you. And just like you don't know if Trey did it or not, that's the problem.

Interestingly, the medical evidence, there's only one piece of medical evidence that's positive, right, that's actually a piece of evidence. Everything else is what we would like to say "a negative," right? It doesn't exist. So it lends itself to this possibility. There's only one positive piece of evidence is the amphetamine. Yeah.

Is it a reasonable conclusion that maybe she didn't overdose? I guess. But that's not -- that's not how this thing works. That's not evidence that she didn't overdose and she was strangled. I mean, think about how backwards that is. To try to figure out what happened, you say there's no possibility of overdosing, even though there's

evidence. But certainly, because there's a possibility that strangulation doesn't break the hyoid bone, it must be strangulation. I mean, there's no doubt. Does that strike you as logical? Does that strike you as actually adhering to your oath to make sure that the State has proven beyond a reasonable doubt their theory, their conclusions? It isn't.

There's a reason why we have this standard and there's a reason why you have to take an oath, as of here, sitting in this courtroom, as opposed to being in the coffee shop or being at home or whatever where you don't have to take an oath. You can suspect all you want all day long. It changes when you sit in that seat. You took an oath. The oath is the law says can't just be a mere speculation, can't be just a guess, can't be just a suspicion. You have to prove beyond a reasonable doubt whatever it is you allege, even if that true allegation don't come up until the end of the case. That's what you took an oath to do, and it's really hard to do sometimes.

Because we're not used to being that exact and that precise and demanding that level of a standard of proving something. We're not used to that in our every day lives. We can go about just kind of talking about it, yeah, it's not consequential to us. It's consequential now.

You took an oath to make sure that the government,

before it can take somebody's freedom away, meets the standard that the law says they should meet, and suspicion doesn't meet the standard. And the person driving the car is not the person who dumped the body.

Don't bring a new injustice on top of an old injustice. Like I said to you at the beginning of this case, there's nobody here saying that it was fair or just or good or anything positive that she died and was killed. The thing we're saying is, because we don't know, don't let a new injustice be created. That's what we're saying.

I'm thanking you for your time this week. Really.

THE COURT: Thank you.

Ms. Hinton?

MS. HINTON: Thank you, Your Honor.

Mr. Scalzo told you that people confess in two ways: they confess in full or they shade it to their benefit. And that's exactly what Sam Hawkins did when he talked to Matthew Boyce. Because it makes no sense and paints him in a terrible light for him to walk in there and kill a completely innocent person, which is exactly what he did.

So instead, he concocts yet another lie about how he punched somebody and then he had no choice but to kill her. Because even in confessing to this best friend, he cannot tell the truth, because he still does not want to be that guy. Well, he is that guy. And I'll tell you,

the guy who's driving the car, who's got all the evidence, is not only the person who dumped the body, is the person that killed her, too.

CHARGE ON THE LAW

THE COURT: Thank you.

Mr. Foreperson, ladies and gentlemen of the jury, you have seen and heard the evidence presented as well as arguments of counsel. It now becomes my duty and obligation to instruct you on the law applicable in this case. It will then be your duty and obligation to begin your deliberations, through which process you will decide the facts, apply the law as instructed by the Court, and determine whether or not the state has met its burden of proof in this case.

It is your exclusive duty to determine the facts in this case. You do that based upon your own common sense examination and evaluation of the testimony and other evidence received during the trial of this case. You twelve jurors alone will decide what weight, value, and effect that is to be given to any particular testimony or other evidence received. Your ultimate goal is to determine whether the State has met its burden of proof in this case, and in so doing, you will have fulfilled your obligation as jurors.

In this case the State of South Carolina, through the

circuit solicitor, has charged the defendant with the criminal offenses known as murder and grand larceny. The allegations charging the defendant with these crimes are set forth in the indictments that had been previously explained to you. The indictments are not evidence in this case and may not be considered by you as evidence against the defendant.

As to each of the charges set forth in the indictments, the defendant has entered a plea of not guilty. That plea of not guilty has, therefore, placed upon the State the burden of proving the allegations that are set forth in the indictments; the burden of proving each of the essential elements of any crimes charged; and, therefore, the burden of proving the guilt of the defendant to the satisfaction of you twelve jurors beyond a reasonable doubt, before a verdict of guilty could be returned as to any indictment.

The burden is never upon a defendant to prove that he is not guilty or to prove that he is innocent because, in some cases, that might not be possible. The burden is always upon the State, because they have made the allegations, to prove the defendant guilty beyond a reasonable doubt.

You are further instructed that it is a vital, important, and cardinal rule of law that every defendant

in a criminal trial, no matter how serious the offense might be for which he stands charged, shall always be presumed innocent of that charge. And that presumption of innocence shall be with the defendant from the moment of his arrest, and throughout the course of the criminal process, and even throughout the course of the actual trial.

The presumption of innocence shall be with the defendant even as you go into the jury room to begin your deliberations, and that presumption of innocence shall be with him there and be with him forever unless you twelve jurors determine that he is no longer entitled to that presumption of innocence. It is only if, unless, and until you are satisfied of the defendant's guilt beyond a reasonable doubt that he would no longer be entitled to that presumption of innocence.

I remind you that, during this trial, you and I have certain duties to perform. As the trial judge, it's my responsibility to preside over the trial of this case, and I also have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case, you must disregard that testimony. You are to consider only the testimony which has been presented from this

witness stand, any exhibits which have been made a part of the record in this case, and any stipulations of counsel.

I have the additional duty to charge you the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case, and it is your duty to accept and apply the law as I now state it to you. If you already have any idea as to what the law is or what the law ought to be and it does not agree with what I tell you now the law is, you must abandon this idea, because you are sworn to accept the law and apply it exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in a case. Since you, the jury, are the sole judge of the facts in this case, you are not to infer from what I have said during the progress of this trial in ruling upon the admissibility of evidence, or otherwise, or anything that I say now during the course of this instruction to you, that I have any opinion about the facts in this case. I do not. The law does not allow me to have an opinion about the facts in this case. This is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, value, weight, and truth of the

evidence presented during this trial.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases where you were only told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or preponderance of the evidence. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt. Reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases, the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find the defendant guilty. If, on the other hand, you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of the doubt and find him not guilty.

Facts and circumstances that merely place upon the defendant a grave suspicion of the crime charged or that merely raise a speculation or conjecture of the

defendant's guilt are not sufficient to authorize a conviction of the accused.

There are two types of evidence which are generally presented during a trial: direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, such as an eyewitness. It is evidence which immediately establishes the main fact to be proved.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge and observation.

The law makes absolutely no distinction between the weight or value to be given to either direct or circumstantial evidence, nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all of the evidence in the case. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

Necessarily, you must determine the credibility of witnesses who have testified in this case. Credibility simply means believability. It becomes your duty as

jurors to analyze and evaluate the evidence to determine if the State has met its burden of proof in this case.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one witness; you may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness; you may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety; you may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case; you may also consider the appearance and manner of a witness while on the witness stand.

The rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses we call "expert witnesses." A witness who, by education, experience -- and experience, has become some -- an expert in some art, science, profession, or calling, may state an opinion as to relevant and material matter in which the witness claims to be an expert, and may also state the reasons for that opinion.

You should consider any expert opinion received in evidence in this case and, like any other evidence, give

it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witness's -- an expert witness's testimony is to be given no greater weight than that of other witnesses simply because the witness is an expert. Further, you are not required to accept an expert's opinion, even though it is not contradicted.

Statements alleged to have been made by the defendant have been admitted into evidence in this case. While the Court has determined that the statements are admissible, I instruct you that you make the ultimate decision of whether or not the defendant made the statements. If the defendant did make the statements, you must determine whether the statements were made by the defendant voluntarily and of his own free will. That means that the statements were not caused by pressure, force, fear, threats, coercion, intimidation or by hope or a promise of leniency or a reward of any kind.

In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning. Some of the

factors you must consider are: one, the age of the defendant; two, the defendant's education or lack of education; three, the defendant's mental ability or capacity; four, the defendant's IQ or intelligence; five, the defendant's background and environment; six, the place and length of detention; seven, the nature of the questioning; and eight, the advice or lack thereof to the defendant of his constitutional rights, including but not limited to the right to remain silent, that any statement could be used against him in the court of law, the right to have a lawyer present, that if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost and that he could stop making a statement at any time.

You must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement. The State has the burden of proving beyond a reasonable doubt that the statements, the alleged statements were voluntary. If you determine it was, you may give the statements any further consideration you deem proper. You must decide what weight, if any, should be given to the alleged statements. If you determine the alleged statements were not the free and voluntary statement of the defendant, you should not consider the statements at all.

In order to establish criminal liability, the State must also prove criminal intent. For a particular crime, the mental state required might be purpose, intent, knowledge, recklessness, or criminal negligence. The State must prove criminal intent beyond a reasonable doubt. Criminal intent is a matter that must be determined by the jury from the facts of the case.

There is no way to prove criminal intent to a mathematical certainty, so the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you determine whether or not the element requiring intent was present. It is not necessary to establish intent by direct evidence. Intent may be established by circumstantial evidence or by taking into consideration the acts of the parties and all the facts and circumstances of the case.

Criminal intent is a mental state of conscious wrongdoing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed in this case.

The defendant is charged with murder. The State must prove beyond a reasonable doubt that the defendant killed another person with malice aforethought.

Malice is hatred, ill will, or hostility towards another person. It is the intentional doing of a wrongful

act without just cause or excuse and with an intent to inflict an injury or under circumstances that the law will infer an evil intent. Malice aforethought does not require that malice exists for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and act.

Malice aforethought may be express or inferred. These terms, "express" or "inferred," do not mean different kinds of malice, but merely the manner in which the malice may be shown to exist. That is either by direct evidence or by inference from the facts and circumstances which are proved.

Express malice is shown when a person speaks words which express hatred or ill will for another -- for another or when the person prepared beforehand to do the act which was later accomplished. For example, lying in wait for a person or any other acts of preparation going to show that the deed was with -- within the defendant's mind would be express malice.

The defendant is also charged with grand larceny. The State must prove beyond a reasonable doubt that the defendant took and carried away the property of another against the will or without the consent of the other

person. The slightest removal of the property or the complete possession of the property, even for an instant, by the defendant, is enough to show a taking and carrying away of the property. The State must also prove beyond a reasonable doubt that the defendant intended to permanently deprive the owner of the property. Finally, the state must prove that the value of the thing taken was $2,000 or more.

Ladies and gentlemen, your verdicts must be unanimous ones.

Mr. Foreperson, when the jury agrees on the verdicts, you'll write the verdicts on the verdict form, which I believe is self-explanatory, and sign your name as foreperson and date it. Then if you'll activate the light in the jury deliberation room to signal that you've reached a verdict, we'll receive you back into the courtroom at that time.

I ask that you now return to your jury room, but don't begin deliberations until you're told to do so by the bailiff. There's a few matters that I must discuss with the attorneys first. Thank you so much for your service in this case.

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

THE COURT: Any objection to my charge on the law from the State?

MS. HINTON: No, Your Honor. But I did have one matter.

So do you have an objection?

MR. SCALZO: I don't have any objections, Judge.

THE COURT: Okay.

MS. HINTON: The only thing that dawned on me is I don't know that we ever put on the record that the interviews had been redacted by agreement, and I just don't want them to think that they aren't working because they're muted. So I don't know if we just wait and see if they have that question or how we want to handle it. But I didn't want them to think that they were broken because they couldn't hear certain portions.

THE COURT: Mr. Scalzo, do you have a -- do you have a suggestion for that? I don't mind bringing them back in and telling them that.

MR. SCALZO: What would you say to them, Judge?

THE COURT: Just that there are relevant portions that have been redacted from the videos in this case and they will go mute for some portions of time. We don't want them to think that they're missing something or that they're broken.

MR. SCALZO: Okay.

THE COURT: Okay. Will you bring the jury back in?

Let me just say while the jury is coming back in, I

thought this was an exceptionally well tried case on both sides. Exceptionally well tried case. I know there's some new public defenders in the back and some different people. That was a great case to see tried from both sides.

MR. SCALZO: Thank you, Judge.

MS. HINTON: Thank you.

THE COURT: Once we excuse them, I'll ask y'all to go through and make sure all the exhibits are together. Here is our verdict form. Just double-check me on the verdict form. I actually did this one myself.

(WHEREUPON, the jury entered the courtroom at 2:28 p.m.)

THE COURT: I'm sorry. I forgot to tell you something. With everything that I said, I forgot something very important to tell you, that is, you're going to have certain videos and, I believe, an audio recording back in the jury room with you. We have a laptop that has nothing else on it, no access to Internet or anything like that, if you would like to use that laptop. We also have some rubber gloves if anybody wants to take a look at or inspect any of the evidence whatsoever. All right.

I did not instruct you about that. One thing about the videos and audios, there are certain portions that have been redacted or have been cut out by my order

because they're just not relevant to this case. You did not need to hear them. So the videos will become muted at that point. I don't want you to feel like you're missing something from my video. You're not. When it goes mute, it's just something that doesn't have anything to do with this case. All right?

So with all that being said, I really am going to let you go back to your jury room. You'll get all the exhibits in just a moment and the verdict form and that will be your signal to start deliberating.

(WHEREUPON, the jury exits the courtroom at 2:29 p.m.)

THE COURT: All right. I want you all to get the exhibits together. Once you all agree on it, we'll send it back with the verdict form.

(WHEREUPON, a recess is taken at 2:30 p.m.)

THE COURT: All right. We're on the record. We've got a question from the jury. Could we review the police statement from Matthew Boyce, the transcript? They have in -- bracketed "transcript." My understanding is that that's not in evidence, that it was just -- he was just questioned about that and they must rely on his testimony. So I'm happy to say that is not in evidence or I could say that is not in evidence, you must rely on his testimony in the trial of the case. Any thoughts on that from the State?

MR. RICHARDSON: I believe that latter would be the better one.

THE COURT: Okay. Mr. Scalzo?

MR. SCALZO: I think you would have to say that is not in evidence. It can't be provided to you, essentially, is what you're telling them, right? I mean, they have to decide what they want to do, is what my position -- it's not -- we shouldn't be telling them what to do. We should just be answering their question. They are not allowed to have it because it's not in evidence. Some version of that.

THE COURT: Yes, ma'am.

MS. HINTON: Yeah. And I would rather be more clear about the transcript itself is not in evidence. I don't want them to think that we're commenting on whether or not they even heard that, if that makes sense.

MR. SCALZO: Yeah. Yeah.

MS. HINTON: Because we did reference it.

THE COURT: The transcript is not in evidence?

MR. SCALZO: Because that's what they asked for, right, Judge?

MS. HINTON: A copy of the transcript is not entered as evidence or something to that effect.

THE COURT: The transcript was not entered into evidence. Then I'll just sign and date it.

MR. SCALZO: Thank you, Judge.

THE COURT: All right. And eventually, we'll mark this as -- I think we already have a Court's exhibit, so Court's Exhibit Number 2?

COURT REPORTER: Yes.

THE COURT: All right. Just to let you know for planning purposes, the jury's asked for snacks. So all right. We'll be in recess pending a verdict.

(WHEREUPON, a recess is taken at 5:17 p.m.)

THE COURT: All right. It's my understanding that the jury's reached a verdict. Let me just start by saying that this is an emotional day, I know, for everybody involved. And I understand that there might be some folks who, if the verdict goes one way or another, they wouldn’t be able -- I was just saying that this is an emotional day for everyone. And if the verdict were to go one way or another way, some folks might feel like they can't handle it. I -- and I understand that. I can understand that. But if you feel that way, if you feel like you can't handle it on either -- if the verdict goes either way and sit here and give this jury the respect they deserve, then I need you to leave the courtroom now.

And the reason is they just didn’t ask to be involved in this case. They're the only people who had no idea what they were getting into when they came in here this

week. They deserve our respect. I don't know anything about the verdict, but if there is any kind of outburst or anything like that, I am going to have to deal with it very harshly.

As you can tell, we have a very significant deputy presence in the courtroom. And I promise you that I -- no matter what the situation is, if we have an outburst, I'm going to have to take folks into custody and I just need to let you know that my contempt powers without -- without a trial or anything are up to six months in jail. I always hate to have that talk with anybody because I know it is such an emotional day, but I -- I'm -- but I sincerely mean it for everyone involved. All right.

I'm going to ask you to go get the jury.

And I'm going to ask anybody who feels like they can't stay in here for the verdict to leave at this point.

(WHEREUPON, the jury entered the courtroom at 7:40 p.m.)

THE COURT: Mr. Foreperson, it's my understanding that the jury has reached a verdict; is that correct?

JUROR FOREPERSON: That's correct, Your Honor.

THE COURT: Would you please give the jury verdict form to the bailiff. Thank you.

Madam Clerk, I'll ask you to publish it.

VERDICT

THE CLERK: All right. Your Honor, in the case of

2014-GS-23-3303A and 3304, the State of South Carolina vs. Samuel Hawkins, as to the charge of murder, we, the jury, by -- unanimously find the defendant guilty. As to the charge of grand larceny, we, the jury, unanimously find the defendant guilty. This is signed by Andrew -- excuse me, Daniel Andrew, our foreperson.

Ladies and gentlemen, if you agree this -- these are the verdicts you reached in your deliberation room, would you please raise your right hand.

(All jurors raised their right hands.)

THE CLERK: I thank you.

THE COURT: Any motion from the State before we release the jury?

MS. HINTON: No, Your Honor.

THE COURT: Any from the defense?

MR. SCALZO: I would just simply renew all of my prior motions, Judge.

THE COURT: Thank you. Thank you.

Ladies and gentlemen, I speak on behalf of everybody involved in this. Thank you so much for your service this week. I'm not going to hold you up. I'm going to ask you to step back to your jury deliberation room and get your things, and I want to come back there and say goodbye to you before you leave.

(WHEREUPON, the jury exits the courtroom at 7:42 p.m.)

THE COURT: We'll move to sentencing in just a moment, but I want to excuse the jury.

(Pause in proceedings.)

THE COURT: All right. Is everyone ready to move to sentencing?

MR. SCALZO: Yes, ma'am.

THE COURT: All right. To begin with, I know the defendant has been in jail for some time. What credit does he have?

MS. HINTON: 2,139 days, Your Honor.

THE COURT: All right. I just wanted to make sure. Is there anything -- of course, I've heard the facts over the week. Is there anything that the State would like to add?

MS. HINTON: Your Honor, the victim's sister-in-law, whose name also happens to be Misty Johnson, has prepared something for you to read.

THE COURT: Okay. Thank you.

(Pause in proceedings.)

THE COURT: Thank you, ma'am. I don't know which one of you is Misty, but thank you. She sounded like she was a wonderful woman, and she certainly has had -- though she's not here, she's had so much family support throughout this trial. And I just want to say to you -- you all, that I'm so sorry for your loss and I'm so sorry

for what your family has gone through.

MS. HINTON: And Your Honor, we would like to be heard ---

THE COURT: Absolutely.

MS. HINTON: --- regarding sentencing, at the appropriate time.

Your Honor, it's the State's position that this is about as cold, callous, unnecessary of a death that Mr. Richardson and I have ever seen. This was six agonizing weeks for this family, and we think that, given all the circumstances, that a life sentence or its equivalent is appropriate in this case.

THE COURT: Okay. Thank you.

Mr. Scalzo.

MR. SCALZO: May it please the Court, Your Honor. Obviously, you know he's been in jail since November 4, 2013. On the stand, you heard about his background as far as having some children. He has had family here today.

From the standpoint of how we got here, it had always been -- there has never been any other option other than the charges that were presented to the jury. That was all that there ever was. So this is not -- this is not a situation from a legal standpoint that was very many other alternatives or options. I'll say it that way.

Given the legal consequences to certain types of

mitigation, my advice to Mr. Hawkins was that I would just simply make a request for 30 years. Obviously, the murder charge is the more significant and serious charge. So I will make that request on his behalf.

And I've discussed with him, he doesn't have anything -- any statements or anything to make, Your Honor.

THE COURT: I understand.

MR. SCALZO: So that's where we stand, Judge.

SENTENCING

THE COURT: As the prosecutor in this case said, Mr. Hawkins, this was -- this is about as cold as it gets. I don't know the circumstances that led up to her death at that -- at that moment, but dumping somebody's body like that and leaving them and their family to suffer and leaving them just to rot away with no -- destroying physical evidence and everything, but to dump her naked in the manner in which she was dumped was just really horrible.

As I said, I don't know exactly the circumstances that led up to it. I do take into account the suffering that -- that you've caused. And it is immense, can't even be measured. I take into account your age, of course, then I take into account your prior record. It is limited. I take into account the opportunities that you had to explain this situation, not necessarily in court,

but when -- but early on to help bring some closure to this family who was suffering, and the fact that you didn't.

Based upon all those things, the sentence of the Court is 45 years, credit for 239 days, and five years credit for 200 -- excuse me, 2,139 days, and five years, credit 239 days -- 2,139 days.

And to the family, I wish you the best of luck. I hope, in some way, this closes maybe some tiny part of the suffering for you for this, but I know that that will never end. But thank you all for being here all week and being here to support her. Thank you. All right.

MR. SCALZO: Thank you, Judge.

MR. RICHARDSON: Thank you, Your Honor.

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

(WHEREUPON, proceedings concluded at 7:53 p.m.)

THE STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)	IN THE COURT OF GENERAL SESSIONS THIRTEENTH JUDICIAL CIRCUIT
THE STATE	)	Indictment Nos.: 2014-GS-23-003304
v.	)	**MOTION TO QUASH INDICTMENT**
SAMUEL HAWKINS,	)	
DEFENDANT.	)	

COMES NOW the defendant, **Samuel Hawkins**, by and through his undersigned counsel, and moves this Court for an Order Quashing the Indictment for the charge of murder because the indictment fails to allege, as is required by S.C. Code of Laws § 17-19-30, "the manner in which the death of the deceased was caused" and is thus in violation of § 17-19-30.

The following is submitted in support of this motion:

1. This case is scheduled for trial on September 9, 2019;

2. This motion challenges the sufficiency of the indictment under § 17-19-30 and, therefore, is being made prior to the jury being sworn, *State v. Gentry*, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005);

3. On April 22, 2014, the State presented to a Greenville County Grand Jury an indictment alleging the following:

> That SAMUEL HAWKINS JR did in Greenville County, on or about the 12th day of September , 2013, unlawfully and with malice aforethought kill MISTY JOHNSON, and that MISTY JOHNSON died as a proximate cause thereof. This is in violation of § 16-03-0010 of the South Carolina Code of Laws (1976) as amended.

4. No manner of death is alleged in the indictment as required by S.C. Code of Laws § 17-19-30;

5. No manner of death is described, alleged, or opined in the report of the pathologist in this case;

6. Discovery appears to be complete in this case, at least with regard to the manner of death;

7. The manner of death is a disputed fact in this case and its exclusion from the indictment is not a scrivener's error that can be corrected by amendment; and

8. The abscence of the manner of death renders the indictment insufficient and defective. It therefore must be quashed.

WHEREFORE, for the above-stated reasons as well as any other reasons which may appear to this Court, Mr. Hawkins prays that this Court grant his motion and order the indictment quashed.

Respectfully submitted,

GREENVILLE COUNTY PUBLIC DEFENDER

By: _____

Christopher D. Scalzo , Esq.
Bar No. 70522
Attorney for Defendant
305 E. North Street, Suite 123
Greenville, SC 29601
(864) 467-8522

Greenville, SC
Date: August 19, 2019

STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT
)
2013AZ3206029S2
The State of South Carolina,) Indictment #: 2014 GS-23-003304
)
v.) **ORDER**
)
Samuel Hawkins Jr.,)
)
Defendant)
)
)

19 AUG 29 PM 2:47
Paul Wickensimer CCC GVL SC

On August 28th, 2019, this matter came before the Court as part of Defendant's Motion to Quash the Indictment pursuant to S.C. Code Ann. § 17-19-30. Following arguments from the defense, the State moved to amend the indictment pursuant to S.C. Code Ann. § 17-19-100 to reflect that the Defendant killed the victim through homicidal violence of unknown means. The Court denied the Defendant's motion to quash the indictment and granted the State's motion to amend the indictment.

IT IS SO ORDERED.

August 21, 2019

Letitia H. Verdin

Circuit Judge

WITNESSES

C H Flavell CHF

Greenville Police Department

DOA: 11/4/2013 DOB: [redacted] BM

SSN: [redacted]

ARREST WARRANT NUMBER
DIRECT PRESENTMENT

ACTION OF GRAND JURY
TRUE BILL

Ricky T. Hall
FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-23- 003303A
BCS

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April **TERM 2014**

THE STATE

vs.

SAMUEL HAWKINS, JR.

Indictment for

3420 ✓

GRAND LARCENY

VIOLATION § 16-13-0030

ENTERED ACCT

690

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
GRAND LARCENY

At a Court of General Sessions, convened on the Grand Jurors of Greenville County present upon their oath: APR 2 2 2014

That SAMUEL HAWKINS, JR. did in Greenville County, on or about the 12th day of September, 2013, feloniously take and carry away the personal property of MISTY JOHNSON to wit: a 2003 Ford Explorer, with a total value of more than Two Thousand Dollars with the intent to deprive the owner permanently of such property. This is in violation of §16-13-0030 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR 015 305

WITNESSES

C H Flavell

Greenville Police Department

11/4/2013

ARREST WARRANT NUMBER
2013A2320602952

ACTION OF GRAND JURY
TRUE BILL

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-23- 003304
BCS

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April TERM 2014

THE STATE

vs.

SAMUEL HAWKINS, JR.

0116 **Indictment for**

MURDER

VIOLATION § 16-03-0010

ENTERED ACCT

692

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
MURDER

At a Court of General Sessions, convened on APR 2 2 2014 the Grand Jurors of Greenville County present upon their oath:

That SAMUEL HAWKINS, JR. did in Greenville County, on or about the 12th day of September, 2013, unlawfully and with malice aforethought kill MISTY JOHNSON, and that MISTY JOHNSON died as a proximate result thereof. This is in violation of §16-03-0010 of the South Carolina Code of Laws (1976) as amended.

through homicidal violence by unknown means

JW

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SOLICITOR 015305

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

894 1392545

COUNTY OF Greenville)
STATE VS.)
Samuel Hawkins Jr)
AKA:)
Race: BLACK Sex: M Age: 39)
DOB: [redacted] SS#: [redacted])
Address: 12 CENTRAL AV)
City,State,Zip: GREENVILLE, SC)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

INDICTMENT/CASE#: 2014GS2303303A
A/W#: 2014GS2303303A
Date of Offense: 9/12/2013
S.C. Code § : 16-13-0030(B)
CDR Code #: 3420

SENTENCE SHEET

0-5

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Larceny / Grand Larceny, value more than $2,000 but less than $10,000

in violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3420 ✓
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hinton, Brandi Batson	77844	Defendant	SCALZO, CHRISTOPHER Attorney for Defendant	70522
	SC Bar#			SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 5 days/months/years of ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 139 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐**Deferred** ☐**Def. Waives Hearing** ☐**Ordered** **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Paul B. Wickensimer
Court Reporter: Smith

Presiding Judge
Judge Code: 2162
Sentence Date: 9-12-19

SCCA/217 (04/2018)

STATE OF SOUTH CAROLINA)
COUNTY OF Greenville)
STATE VS.)
Samuel Hawkins Jr)
AKA:)
Race: BLACK Sex: M Age: 39)
DOB: [redacted] SS#: [redacted])
Address: 12 Central Ave)
City,State,Zip: Greenville, SC 296011506)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 695

INDICTMENT/CASE#: 2014GS2303304
A/W#: 2013A2320602952
Date of Offense: 9/12/2013
S.C. Code § : 16-03-0010, 0020
CDR Code #: 0116

SENTENCE SHEET

30 - Life

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐PLEADS
TO: Murder (gs)

in violation of § 16-03-0010, 0020 of the S.C. Code of Laws, bearing CDR Code # 0116
☐NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☒Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Brandi Hinton
Hinton, Brandi Batson | 77844 SC Bar# | Defendant | PROPST, CHARLES Attorney for Defendant | 100399 SC Bar#

WHEREFORE, the Defendant is committed to the ☐ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 45 days/months/years or ☐ under the **Youthful Offender Act** not to exceed ____ years
and/or to pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment
of $____; plus costs and assessments as applicable*; the balance is suspended with **probation** for ____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____

X ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 913 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐**Deferred** ☐**Def. Waives Hearing** ☐**Ordered** **PTUP** _____

Total: $ _____ plus 20% fee: _____ $ _____

Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		$
§14-1-206 (Assessments 107.5 %)		$
§14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§56-5-2995 (DUI Assessment)	$12	$
§56-1-286 (DUI Breath Test)	$25	$
Proviso (Public Def/Probation)	$500	$
§14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§14-1-213 (Drug Court Surcharge)	$150	$
§50-21-114(BUI Breath Test Fee)	$50	$
§56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 3.75
TOTAL		$ 128.75

_____ days/hours Public Service Employment

Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Paul B. Wickensemen
Court Reporter: Smith

Presiding Judge: [signature]
Judge Code: 2162
Sentence Date: 9-12-19

SCCA/217 (04/2018)