

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
DeAndrea G. Benjamin, Circuit Court Judge

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Dec 09 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ROSHAMEL DONSHEA PARKER,

APPELLANT

APPELLATE CASE NO. 2020-000453

RECORD ON APPEAL

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	)	Court of General Sessions
County of Richland	)	
		2019-GS-40-0107
		2019-GS-40-0109
		2019-GS-40-0110
		2019-GS-40-0112
State of South Carolina	)	
vs.	)	Transcript of Record
	)	
	)	
Roshamel D. Parker	)	
Defendant	)	

March 2nd - March 5, 2020
Columbia, South Carolina

B E F O R E:

Honorable DeAndrea G. Benjamin, Judge

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Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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(DW) - Denotes Defense Witness
(SW) - Denotes State's Witness

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State's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	DVD		X	364
2	Photo		X	76
2A	Bag			495
3	Photo		X	116
4	Photo		X	128
5	Photo		X	128
6	Photo		X	128
7	Photo		X	128
8	Photo		X	128
9	Photo		X	128
10	Photo		X	128
11	Photo		X	128
12	Photo		X	128
13	Photo		X	128
14	Photo		X	128
15	Photo		X	128
16	Photo		X	128
17	Photo		X	128
18	Photo		X	128
19	Photo		X	128
20	Photo		X	128
21	Photo		X	128
22	Photo		X	128
23	Photo		X	128
24	Photo		X	128
25	Photo		X	128

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	23	Photo		X	128
4	24	Incident Report	X		122
5	25	Photo		X	178
6	26	Photo		X	178
7	27	Photo		X	178
8	28	Photo		X	178
9	29	Photo		X	178
10	30	Photo		X	178
11	31	Photo		X	178
12	32	Photo		X	178
13	33	Photo		X	178
14	34	Photo		X	178
15	35	Photo		X	178
16	36	Photo		X	178
17	37	Photo		X	178
18	38	Photo		X	178
19	39	Photo		X	178
20	40	Photo		X	178
21	41	Photo		X	178
22	42	Photo		X	178
23	43	Photo		X	178
24	44	Photo		X	178
25	45	Photo		X	178

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	46	Photo		X	178
4	47	Photo		X	178
5	48	Photo		X	178
6	49	Photo		X	178
7	50	Photo		X	178
8	51	Photo		X	178
9	52	Photo		X	178
10	53	Photo		X	178
11	54	Photo		X	178
12	55	Photo		X	178
13	56	Photo		X	178
14	57	Photo		X	178
15	58	Photo		X	178
16	59	Photo		X	178
17	60	Photo		X	178
18	61	Photo		X	178
19	62	Photo		X	178
20	63	Photo		X	178
21	64	Photo		X	178
22	65	Photo		X	178
23	66	Photo		X	178
24	67	Photo		X	178
25	68	Photo		X	178

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	69	Photo		X	178
4	70	Photo		X	178
5	71	Photo		X	178
6	72	Photo		X	178
7	73	Photo		X	178
8	74	Photo		X	178
9	75	Photo		X	178
10	76	Photo		X	178
11	77	Photo		X	178
12	78	Photo		X	178
13	79	Photo		X	178
14	80	Photo		X	178
15	81	Photo		X	178
16	82	Photo		X	178
17	83	Photo		X	178
18	84	Photo		X	178
19	85	Photo		X	178
20	86	Photo		X	178
21	87	Photo		X	178
22	88	Photo		X	178
23	89	Photo		X	178
24	90	Photo		X	178
25	91	Photo		X	178

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	92	Photo		X	178
4	93	Photo		X	178
5	94	Photo		X	178
6	95	Photo		X	178
7	96	Photo		X	178
8	97	Photo		X	178
9	98	Photo		X	178
10	99	Photo		X	178
11	100	Photo		X	178
12	101	Photo		X	178
13	102	Photo		X	178
14	103	Photo		X	178
15	104	Photo		X	178
16	105	Photo		X	178
17	106	Photo		X	178
18	107	Photo		X	178
19	108	Photo		X	178
20	109	Photo		X	178
21	110	Photo		X	178
22	111	Photo		X	178
23	112	Photo		X	178
24	113	Photo		X	178
25	114	Photo		X	178

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	115	Swabs		X	210
4	116	Swabs		X	210
5	117	Money		X	205
6	118	Shell Casings		X	180
7	119	Marijuana		X	207
8	120	Shell Casings		X	180
9	121	Gun		X	205
10	122	Gun		X	205
11	123	Sketch		X	183
12	124	Sketch		X	183
13	125	Map-Photo		X	425
14	126	Body Sketch		X	299
15	127	Body Sketch		X	299
16	128	Photo		X	241
17	129	Photo		X	241
18	130	Photo		X	241
19	131	Photo		X	241
20	132	Photo		X	241
21	133	Photo		X	241
22	134	Photo		X	241
23	135	Projectile	X		593
24	136	Note		X	257
25	137	DVD		X	164

1	<u>State's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	138	Currency		X	244
4	139	Photo		X	311
5	140	Photo		X	311
6	141	Photo		X	311
7	142	Search Warrant	X		362
8	143	Search Warrant	X		362
9	144	Photo Lineup		X	395
10	145	Photo Lineup		X	393
11	146	DVD		X	432
12	147	Note		X	438

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1	<u>Defendant's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	1	DVD		X	169
4	2	Photo		X	212
5	3	Diagram/Board		X	216
6	4	Photo		X	367
7	5	Photo		X	367
8	6	Photo		X	367
9	7	Photo		X	367
10	8	Photo		X	367
11	9	Google Map		X	465
12	10	Photo		X	452
13	11	Jimmy Rogers DVD		X	410
14	12	Labonte DVD		X	397
15	13	Brink DVD		X	397
16	14	Corley DVD		X	397
17	15	Owens DVD	X		593
18	16	Mostella DVD	X		593
19					
20					
21					
22					
23					
24					
25					

1	<u>Court's</u>				
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
3	1	Jury Note	X		155
4	2	Jury Charge	X		578
5					
6					
7					
8					
9					
10					
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1 THE COURT: All right. We're going to call -- have
2 the State call the case.

3 MR. POTTS: The State calls Roshamel Parker.

4 THE COURT: All right. And it's indictment -- which
5 indictment are y'all going forward on?

6 MR. POTTS: Your Honor, 2019-GS-40-0107, 0109, 0110
7 and 0112.

8 THE COURT: All right. So I have the panel ready to
9 -- I have your requested voir dire. And let's see, how do
10 you pronounce his name, Roshamel?

11 MS. ZMROCZEK: Roshamel.

12 THE COURT: Roshamel?

13 MR. PARKER: Yes.

14 THE COURT: Okay. Donshea?

15 MR. PARKER: Yes, ma'am.

16 THE COURT: All right. Just a couple of preliminary
17 things before we bring the jury in. Ms. Zmroczek?

18 MS. ZMROCZEK: Just very briefly, Your Honor. We had
19 spoken in-chambers and there were several late
20 negotiations with the State, as late as Friday at 5:00.
21 We were -- made an offer for Mr. Parker to plea to
22 voluntary for 15 years. Your Honor, I did relay that
23 offer to Mr. Parker. Obviously he understands what he is
24 facing if he is convicted of the charges. And he and I
25 had several opportunities to discuss that and it's my

1 understanding that he's still ready to move forward.

2 THE COURT: All right. Mr. Parker, let me have you
3 stand up and raise your right hand. All right.

4 ROSHAMEL PARKER, being
5 first duly sworn, testified as follows:

6 THE COURT: All right. So, Mr. Parker, you were
7 charged in this case with murder, attempted murder,
8 attempted armed robbery and possession of a weapon during
9 the commission of a violent crime. You understand that,
10 sir?

11 MR. PARKER: Yes, ma'am.

12 THE COURT: You understand that murder in the State
13 carries up to life in prison without parole? You
14 understand that?

15 MR. PARKER: Yes, ma'am.

16 THE COURT: You understand that the attempted murder
17 carries -- what does it carry, thirty?

18 MS. ZMROCZEK: Thirty.

19 THE COURT: Thirty. The attempted armed robbery
20 carries 20 years?

21 MR. POTTS: Yes, ma'am.

22 THE COURT: And the weapon during a violent crime
23 carries five -- five years, minimum of five years. So you
24 understand I can run all of that consecutive and you are
25 facing up to life in prison. You understand that?

1 MR. PARKER: Yes, ma'am.

2 THE COURT: You understand your attorney has given --
3 told you what the State has offered and you -- is that
4 your understanding of the offer?

5 MR. PARKER: Yes, ma'am.

6 THE COURT: All right. And I understand -- you
7 understand you have the right to a jury trial. You
8 understand you have the right in this case to remain
9 silent. If you do not testify I will instruct them they
10 cannot hold that against you. With that being said, the
11 offer from the State will expire once we swear the jury
12 today. You understand that, sir?

13 MR. PARKER: Yes, ma'am.

14 THE COURT: And if you are convicted on these
15 charges, on the murder charge it carries a minimum of
16 thirty years and a maximum of life. You understand that?

17 MR. PARKER: Yes, ma'am.

18 THE COURT: All right. Knowing all of that, sir, do
19 you still wish to go forward and reject the plea offer in
20 this case?

21 MR. PARKER: Yes, ma'am.

22 THE COURT: All right. Thank you. And also, even if
23 he -- let me say this. On the attempted murder -- the
24 attempted armed robbery is classified as violent also.

25 MS. ZMROCZEK: That's right.

1 MR. POTTS: That's right.

2 THE COURT: Yeah. So all of those -- even if you are
3 acquitted on one charge, the other ones are -- except for
4 the possession of a weapon of a violent crime, you
5 understand those are eighty-five percents?

6 MR. PARKER: Yes, ma'am.

7 THE COURT: So any sentence you get you'll have to
8 serve eighty-five percent on those and they're classified
9 as violent and strikes and all that. Y'all have gone over
10 all that?

11 MR. PARKER: Yes, ma'am.

12 THE COURT: Okay, all right. Knowing all that you
13 still wish to proceed?

14 MR. PARKER: Yes, ma'am.

15 THE COURT: All right. Thank you. Are we ready to
16 bring the jury in?

17 MR. POTTS: The State's ready, Your Honor.

18 MS. ZMROCZEK: The Defense is ready.

19 THE COURT: All right. Bring them on in.

20 (Whereupon, the jury came into open court at
21 approximately 12:02 p.m.)

22 THE COURT: Hello again. It's me again. All right.
23 Ladies and gentlemen of the jury, at this time we are
24 about to pick -- begin the trial of the case of the State
25 of South Carolina against Roshamel Parker. Before we

1 select the jury there are several questions that I have to
2 ask of you to determine if you can be fair and impartial
3 jurors of this case. I remind you that you are still
4 under the oath that you took about an hour or so ago
5 during jury qualifications. If there is any question that
6 you do not wish to answer in front of everyone I'll give
7 you an opportunity to speak with me privately. If you do
8 not understand a question, ask me to repeat it and I'll
9 try to better explain it. If you're not sure if it
10 applies to you stand up anyway and we'll -- we'll ask you
11 more questions to determine if it applies or if it does
12 not apply. Remember, there are no right answers or wrong
13 answers. We just want truthful answers from you. So if
14 anything that I ask that you're not sure about, please
15 stand, state your juror number, and if you don't know your
16 juror number, state your name. We have a list of all the
17 numbers. All right. Ladies and gentlemen of the jury,
18 once again we are starting the case of the State of South
19 Carolina versus Roshamel Parker. I have four indictments
20 here before me. And I'm going to tell you that the
21 indictments in the case are simply the charge by -- is
22 simply the charge by which the case is brought into court.
23 It is not in any sense any evidence in this case against
24 the Defendant. These are allegations that the State must
25 prove beyond a reasonable doubt to twelve jurors in this

1 case.

2 The first indictment I have is indictment
3 2019-GS-40-107, the State of South Carolina, County of
4 Richland, Court of General Sessions. The State versus
5 Roshamel Donshea Parker. This is an indictment for
6 murder. The indictment reads that Roshamel Donshea Parker
7 did in Richland County on or about March 25th, 2018 kill
8 the alleged victim in this case, Cory Jenkins, with malice
9 aforethought either expressed or implied by means of a
10 gunshot and the victim did die as approximate result
11 thereof. All in violation of Section 16-310 of the South
12 Carolina Code of Laws as amended.

13 The second indictment that I have is 2019-GS-40-0109.
14 Once again, the State of South Carolina versus Roshamel
15 Donshea Parker. This is an indictment for attempted
16 murder. It reads the allegations in the case are that
17 Roshamel Donshea Parker did in Richland County on or about
18 March 25th, 2018 did with the intent to kill, attempt to
19 kill Jimmy Rogers with malice aforethought, either
20 expressed or implied. All in violation of South Carolina
21 Code 16-329 as amended.

22 The next indictment is 2019-GS-40-110, Roshamel
23 Donshea Parker is charged with attempted armed robbery.
24 And the allegations in this indictment read that Roshamel
25 Donshea Parker did along with co-defendants of Richland

1 County, on or about March 25th, 2018, while armed with a
2 deadly weapon attempt to take and carry away the personal
3 property for -- from, or in the immediate presence of Cory
4 Jenkins with the intent to deprive him/her of possession
5 by use of force, threats or intimidation in violation of
6 Section 16-11-330 of the South Carolina Code of Laws.

7 And the last indictment is 2019-GS-40-112. And this
8 is an indictment for possession of a weapon during the
9 commission of a violent crime. And the allegations in
10 that indictment are that Roshamel Donshea Parker did in
11 Richland County, on or about March 25th, 2018, possess a
12 firearm or visibly display what appeared to be a firearm
13 during the commission or attempted commission of a violent
14 crime in violation of Section 16-23-490 of the Code of
15 Laws. Ladies and gentlemen of the jury, I remind you that
16 once again that these are indictments. Those are the
17 charging papers that brings the Defendant before the
18 Court. As I explained to you the -- what I've read to you
19 are allegations. The Defendant in this case has pled not
20 guilty to these indictments and the State, therefore, has
21 the burden of proving beyond a reasonable doubt each and
22 every element of the indictment. All right. As I stated,
23 there's a list of questions that I have to ask of you to
24 determine if you can be fair and impartial jurors to both
25 the State and the Defendant in this case. I will ask at

1 this time if Mr. Parker can stand and face the jury.

2 (Whereupon, Defendant stands and faces the jury
3 panel.)

4 THE COURT: All right. Thank you, Mr. Parker, you
5 may be seated. Ladies and gentleman of the jury, once
6 again, the -- the indictment -- the deceased victim in
7 this case is Cory Jenkins. The other victim is Mr. Jimmy
8 -- alleged victim is Mr. Jimmy Rogers. Is he --

9 MR. POTTS: He's not here, your Honor.

10 THE COURT: Has anyone ever been related by blood or
11 marriage to the Defendant in this case, Mr. Parker, or
12 either one of the victims in this case, Mr. Rogers --
13 Jimmy Rogers or Mr. Cory Jenkins? If so, please stand.

14 (No response.)

15 THE COURT: Has any member of the jury panel had a
16 close personal or social relationship with either the
17 Defendant in this case, Mr. Parker, or the victims in the
18 case, Mr. Jimmy Rogers and Mr. Cory Jenkins? If so,
19 please stand.

20 (No response.)

21 THE COURT: The following is a list of potential
22 witnesses to be called in the case. I will go through the
23 list and then I'll ask you if you know any one on the
24 list. It's a pretty lengthy list, so if you think you
25 know someone just stand up and we'll try to give you more

1 information. It may be the person you know and it may not
2 be. Jimmy Rogers, I've already said that name. Alicia
3 Dinwiddie. And if any of these witnesses are in the
4 courtroom I'd ask that they stand. Barbara Moorer, David
5 Bryant, Monica Weston, Shakirah Chapman, Rose Marie
6 Mashack, Daniel Mitchell, Renara Burgess, Jevante
7 Richmond, Gwan Perry. Lieutenant Robert Waters with the
8 Alvin S. Glenn Detention Center; Cinammon Wright, EMS;
9 Kevin Ackley, EMS; Jonathan Howdysshell, EMS; Ray Rose,
10 Prisma Health Richland; Custodian of Records at Prisma
11 Health Richland; Jane Powell, Richland County Coroner's
12 Office; Officer Mark Benson with the Columbia Police
13 Department; Officer Jonathan Brayboy with CPD. That's
14 Columbia Police Department. Officer Aubrey Kelly, CPD;
15 Officer Joshua Robinson, CPD; Officer Randy Benson, CPD;
16 Officer Daniel Labonte, CPD; Officer Richard Corley, CPD;
17 Officer Forrest Fulmore, CPD; Corporal Benjamin Arrowood,
18 CPD; Officer George Potash, CPD; Officer George Wise, CPD;
19 Officer Donna White, CPD --

20 MS. ZMROCZEK: Your Honor, I believe it's Martin.
21 You said White.

22 THE COURT: Donna --

23 MS. ZMROCZEK: Martin.

24 THE COURT: Martin. I'm sorry. Donna Martin, CPD;
25 Officer Lakita Anderson, CPD; Sergeant Jeffrey Brink,

1 Lieutenant Michael Blair. The next couple of officers are
2 with CPD. Investigator Zachary Jackson, Investigator
3 Emmitt Gilliam, Investigator Robert McCracken, Investigator
4 Stephen Narewski, Investigator Chauncey Duckett,
5 Investigator -- this is Investigator Duckett.
6 Investigator Tyrone Pugh, Investigator Nicholas Scott,
7 Investigator Wayne Montgomery. Thank you. All right.
8 Special Agent Brian Hudak with the South Carolina Law
9 Enforcement Division, also known as SLED; James W. Green
10 with SLED; Ryan O. Dewane with SLED; Lieutenant Jennifer
11 Nates with SLED; Jackie M. Davis with SLED; Doris
12 Yarborough with SLED; Charlotte Mickens with SLED; Jamie
13 Hall, SLED; Bethany Davidson, SLED; and Dr. Amy Durso,
14 she's a pathologist. Ladies and gentlemen of the jury,
15 has anyone ever been related by blood or marriage to any
16 of the people I have -- I'm sorry. I found another list.
17 Roshamel Parker, and I've already called his name. Cory
18 Cornelius Jenkins. If any -- and these are some of the
19 alleged victims family members, I believe. If you're in
20 the courtroom, please stand. Roslyn Belton Hook.

21 (Whereupon, Ms. Hook stands.)

22 THE COURT: Thank you. Davant Jenkins, Megan
23 Brunson, Albert Belton, Ruth Chavis.

24 (Whereupon, Ms. Chavis stands.)

25 THE COURT: Thank you, ma'am. Ronald Canzater, Jr.;

1 Casey Ayers with the Richland County Sheriff's Department;
2 William Norris, Matthew McCoy with the Columbia Police
3 Department and Jared Castellani with SLED. Ladies and
4 gentlemen of the jury, is there any member of the jury
5 panel that's related by blood or marriage to any of the
6 people I have just listed, or if you've ever had a close
7 personal or social relationship with any of these people,
8 or a business relationship with any of these people, I ask
9 that you stand. Yes, sir. Your jury number?

10 JUROR NO. 31: Thirty-one.

11 THE COURT: And which potential witness?

12 JURY NO. 31: Ms. Jane Powell with the Coroner's
13 Office.

14 THE COURT: And is it a social or business or --

15 JUROR NO. 31: Social.

16 THE COURT: And the fact that she may be a potential
17 witness in this case, would that affect your ability to be
18 fair and impartial in this trial?

19 JUROR NO. 31: No, ma'am.

20 THE COURT: All right. Thank you, sir. And that's
21 Juror number 31. Yes, ma'am?

22 JUROR NO. 305: 305.

23 THE COURT: Yes, ma'am.

24 JUROR NO. 305: Bethany Davidson.

25 THE COURT: And she is with SLED, right?

1 JUROR NO. 305: Right.

2 THE COURT: And is that a personal or business?

3 JUROR NO. 305: It's business and social.

4 THE COURT: And the fact that you know and have a
5 business and personal relationship with Bethany Davidson
6 who is a potential witness, would that affect your ability
7 to be fair and impartial in trial?

8 JUROR NO. 305: No, ma'am.

9 THE COURT: All right. Thank you. Anyone else? I
10 called a lot of names. Does anyone need me to repeat any
11 of the names? All right. All right. So the attorneys in
12 this case for the State, representing the Fifth Circuit
13 Solicitor's Office, are Mr. Carter Potts.

14 (Whereupon, Mr. Potts stands.)

15 THE COURT: Thank you. And Mr. Lamar Fyall.

16 (Whereupon, Mr. Fyall stands.)

17 THE COURT: And they are with the Solicitor's -- the
18 Fifth Circuit Solicitor's Office which is Richland and
19 Kershaw County. Representing the Defendant in this case
20 is Ms. Aimee Zmroczek.

21 MS. ZMROCZEK: And also at the table, Your Honor, I
22 have my investigators Brian and Jennifer Setree.

23 THE COURT: Thank you. And anyone regarding
24 investigators --

25 MR. POTTS: Your Honor, this is Nina Allen, my

1 paralegal.

2 THE COURT: All right, Ms. Allen. Thank you. Has
3 any member of the jury panel ever been represented by any
4 of the attorneys involved in this case or if you've had
5 any dealings with the Fifth Circuit Solicitor's Office and
6 any of the attorney's in this case, please stand.

7 (No response.)

8 THE COURT: Has anyone ever been related by blood or
9 marriage to or have a close personal social relationship
10 with any of the attorneys involved in this case or anyone
11 in their office? Do you have any dealings with anyone in
12 the Solicitor's Office or in Ms. Zmroczek's office?

13 (No response.)

14 JUROR NO. 190: Your Honor, Juror 190, Samuel McNair.
15 Mr. Potts and I went to middle school and in time have
16 been social acquaintances since then. But it would not --
17 it would not cause me to render an unfair verdict.

18 THE COURT: So let me ask this. Would any of that
19 affect your ability to be fair and impartial to both the
20 State and the Defense?

21 JUROR NO. 190: No, Your Honor, it would not.

22 THE COURT: All right, thank you.

23 JUROR NO. 190: Thank you, ma'am.

24 THE COURT: Yes, sir. Your juror number?

25 JUROR NO. 307: 307.

1 THE COURT: Yes, sir.

2 JUROR NO. 307: I know the Setree's, business and
3 social.

4 THE COURT: And would that affect your ability to be
5 fair and impartial in this trial, the fact that you know
6 them on a business and social --

7 JUROR NO. 307: No.

8 THE COURT: All right. And you're Juror 307; is that
9 right?

10 JUROR NO. 307: Yes.

11 THE COURT: All right, thank you. Anyone else? Has
12 any member of the jury panel formed or expressed an
13 opinion about any issue or matter involved in this case?
14 If so, please stand.

15 (No response.)

16 THE COURT: Has any member of the jury panel aware of
17 any bias or prejudice towards either the State or the
18 Defendant in this case?

19 (No response.)

20 THE COURT: Is there any member of the jury panel who
21 is a member of or contributor to any group which has its
22 primary concern with the promotion of law enforcement or
23 victim's rights? These groups would include, but
24 certainly not limited to, MADD, which is Mothers Against
25 Drunk Driving; SADD, Students Against Drunk Driving; CAVE,

1 Citizens Against Violent Crimes. Any group whose primary
2 concern is the promotion of law enforcement? If so,
3 please stand.

4 (No response.)

5 THE COURT: Is any member of the jury panel employed
6 by, related by blood or marriage to, or a friend or
7 acquaintance with anyone employed by the Attorney
8 General's Office, the Solicitor's Office or any
9 prosecuting attorney's office, US Attorney's Office. If
10 you're related by blood or marriage or have a friend or
11 acquaintance with anyone employed at any of those
12 prosecuting agencies or offices.

13 (No response.)

14 THE COURT: Okay. Does anyone follow or comment on
15 any social media pages -- law enforcement social media
16 pages or organization? If you follow any law enforcement
17 organizations on social media.

18 (No response.)

19 THE COURT: Has anyone been a witness in a Court case
20 before? Yes, ma'am.

21 JUROR NO. 213: I was a witness for an adoption.

22 THE COURT: Okay. What's your --

23 JUROR NO. 213: 213.

24 THE COURT: And, ma'am, would that affect your
25 ability to be fair and impartial in this trial?

1 JUROR NO. 213: No, ma'am.

2 THE COURT: Thank you. Is any member -- oh, I'm
3 sorry. Yes, ma'am.

4 JUROR NO. 25: 25. I was a witness in a permit case
5 for DHEC.

6 THE COURT: And would that affect your ability to be
7 fair and impartial in this trial?

8 JUROR NO. 25: No ma'am.

9 THE COURT: Thank you. Has any member of the panel,
10 any member of a potential juror's family been in the past
11 employed by any local, state or federal law enforcement
12 agency including, but not limited to, the City of Columbia
13 Police Department, the Richland County Sheriff's
14 Department, the State Law Enforcement Division, or the
15 Federal Bureau of Investigation, also known as the FBI.
16 If you have a family member who has been employed in the
17 past by any of these agencies, please stand.

18 (No response.)

19 THE COURT: Yes, ma'am. Your juror number.

20 JUROR NO. 302: 302. My son is a US Marshal.

21 THE COURT: And the fact that your son is a US
22 Marshal, would that affect your ability to be fair and
23 impartial in this trial?

24 JUROR NO. 302: No, ma'am.

25 THE COURT: Thank you. Anyone else? Any other law

1 enforcement agency family member? All right. Is any
2 member of the jury panel, their immediate family or close
3 friend been the victim of or a witness to a violent crime.
4 If you or anyone in your immediate family has been the
5 victim of or a witness to a violent crime. Yes, ma'am.

6 JUROR NO. 177: My parents were killed by a drunk
7 driver.

8 THE COURT: What's your Juror number?

9 JUROR NO. 177: 177.

10 THE COURT: All right. And, ma'am, would that affect
11 your ability to be fair and impartial in this trial?

12 JUROR NO. 177: No, Your Honor.

13 THE COURT: You said no?

14 JUROR NO. 177: No.

15 THE COURT: Thank you. Yes, ma'am.

16 JUROR NO. 211: 211, our home was broken into.

17 THE COURT: And the fact that your home was broken
18 into, would that affect your ability to be fair and
19 impartial in this trial?

20 JUROR NO. 211: No, Ma'am.

21 THE COURT: All right, thank you. Anyone else? Is
22 any member of the jury panel read or heard anything about
23 this case today or before today?

24 (No response.)

25 THE COURT: Is there anything in the nature of the

1 allegations in this case that would cause any member of
2 the jury panel a problem sitting as an impartial juror?

3 (No response.)

4 THE COURT: Is any member of the jury panel inclined
5 to think that a person is guilty of some crime simply
6 because he was arrested?

7 (No response.)

8 THE COURT: Do you -- does any member of the jury
9 panel believe that drugs -- the consumption of drugs and
10 alcohol are morally wrong or -- morally wrong that would
11 affect your ability to be fair and impartial in this
12 trial? Do you have any moral beliefs regarding alcohol or
13 drugs that would affect your ability to be fair and
14 impartial in this trial?

15 (No response.)

16 THE COURT: All right. This case involves testimony
17 about the use and selling of marijuana at ■ Sampson
18 Circle, which is in the Greenvview neighborhood of North
19 Columbia. Is there any reason why you believe that you
20 cannot be fair and impartial in this trial based on that
21 information that I've just given you that will likely come
22 out in testimony, that this incident occurred in the
23 Greenvview neighborhood.

24 (No response.)

25 THE COURT: Has any member of the jury panel, their

1 immediate family or close friend ever had a drug or
2 alcohol abuse problem? If so, please stand. Yes sir,
3 your juror number.

4 JUROR NO. 239: 239.

5 THE COURT: Yes.

6 JUROR NO. 239: My brother had a cocaine addiction
7 before his death and my parents were divorced due to my
8 father having an alcohol abuse problem.

9 THE COURT: And so, would any of that affect your
10 ability to be fair and impartial in this trial?

11 JUROR NO. 239: Yes ma'am, it would.

12 THE COURT: It would. Thank you. You're Juror 239?

13 JUROR NO. 239: Yes, ma'am.

14 THE COURT: Yes, ma'am.

15 JUROR NO. 210: I'm Juror 210. My brother, four
16 years younger than me, is an alcoholic.

17 THE COURT: All right. And, ma'am, would that affect
18 your ability to be fair and impartial in this trial?

19 JUROR NO. 210: No, ma'am.

20 THE COURT: Thank you. Yes, ma'am.

21 JUROR NO. 135: 135, and I have a brother that has --
22 alcohol problem.

23 THE COURT: And, ma'am, would that affect your
24 ability to be fair and impartial in this trial?

25 JUROR NO. 135: No, ma'am.

1 THE COURT: All right. Thank you. Do you feel you
2 can fairly decide a case involving the State on one side
3 and an individual accused of violating the law on the
4 other side? If you can be fair and impartial. If you
5 cannot, please stand.

6 (No response.)

7 THE COURT: Does anyone have feelings -- such strong
8 feelings about firearms that you could not be fair and
9 impartial in a case involving using or alleged use of a
10 firearm? If so, please stand.

11 (No response.)

12 THE COURT: Does anyone have such strong feelings
13 about marijuana that you could not be fair and impartial
14 in a case involving the alleged use of and sell of
15 marijuana? If so, please stand.

16 (No response.)

17 THE COURT: Does any member of the jury panel have
18 such strong feelings for or against law enforcement that
19 you would be unable to give both sides a fair trial?

20 (No response.)

21 THE COURT: Regardless of your opinion regarding a
22 particular --

23 MS. ZMROCZEK: Your Honor.

24 MR. POTTS: Your Honor.

25 THE COURT: Oh, yes sir.

1 JUROR NO. 239: 239 again.

2 THE COURT: All right. And you have concerns about
3 being fair and impartial regarding law enforcement?

4 JUROR NO. 239: Uh-huh. (Affirmative).

5 THE COURT: All right. Thank you. And then
6 regardless of any opinion you may have concerning a
7 particular law, does any -- would you be able to set aside
8 your feelings and follow the law as stated by the Court?
9 Is there anyone who thinks that they cannot follow the law
10 as stated by the Court?

11 (No response.)

12 THE COURT: Is anyone a patron of S&A Seafood? Where
13 is S&A Seafood? It is down Sunset Drive. Is anyone a
14 patron of S&A Seafood? My law clerk says it's down Sunset
15 Drive. And is anyone employed -- did anyone employ the
16 services of or use Albert's Lawn Services?

17 (No response.)

18 THE COURT: Is there any member of the jury panel who
19 has their immediate family or close friend been accused of
20 a violent crime? If you've been accused -- if a family
21 member has been accused of a violent crime? Yes, ma'am.

22 JUROR NO. 210: 210.

23 THE COURT: Yes, ma'am.

24 JUROR NO. 210: My baby brother is accused of
25 attempted murder of my brother that's four years younger

1 than him.

2 THE COURT: And is that here in Richland County?

3 JUROR NO. 210: Yes, ma'am.

4 THE COURT: All right. Is the Solicitor's Office
5 handling that?

6 JUROR NO. 210: I don't know.

7 THE COURT: You don't know. All right. And, ma'am,
8 would that affect your ability to be fair and impartial in
9 this trial?

10 JUROR NO. 210: No, ma'am.

11 THE COURT: Yes, sir.

12 JUROR NO. 239: 239.

13 THE COURT: Yes.

14 JUROR NO. 239: The night my brother died he
15 attempted to rob a store at gunpoint. And previous to my
16 parents splitting up my father, due to his alcohol
17 problem, was accused of abuse and battery of my mother.

18 THE COURT: All right. And Juror 239, would that
19 affect your ability to be fair and impartial in this
20 trial?

21 JUROR NO. 239: Yes.

22 THE COURT: All right, thank you. Yes, ma'am.

23 JUROR NO. 215: 215.

24 THE COURT: Yes, ma'am.

25 JUROR NO. 215: My brother is currently incarcerated

1 for involuntary manslaughter.

2 THE COURT: And is that here in Richland?

3 JUROR NO. 215: Yes, ma'am.

4 THE COURT: Has that been handled by the Solicitor's
5 Office, this office?

6 JUROR NO. 215: It was about ten, fifteen years ago.
7 I don't remember.

8 THE COURT: And would that affect your ability,
9 ma'am, to be fair and impartial in this trial?

10 JUROR NO. 215: No, ma'am.

11 THE COURT: All right, thank you. And you're Juror
12 215, correct?

13 JUROR NO. 215: Yes, ma'am.

14 THE COURT: Ladies and gentlemen of the jury, do you
15 know of any reason whatsoever, with an emphasis being
16 placed -- particular emphasis being placed on your ability
17 to be fair and impartial jurors in this case? Any reason
18 whatsoever why you should not serve on the jury with an
19 emphasis being placed on being fair and impartial to both
20 the State and the Defendant in this case? If so, please
21 stand.

22 (No response.)

23 THE COURT: Is there anyone that wishes to speak with
24 me privately about any of the questions that I've just
25 gone over? Yes, come on down. We are going to stand

1 right here by the Court Reporter. When I say privately,
2 the attorneys and the Court Reporter. Yes, sir.

3 JUROR NO 239: My brother died of a self-inflicted
4 gunshot wound. And to go back to what you were asking
5 about the police, never had a positive experience towards
6 the police. I was held at gunpoint at my own house for no
7 reason but a false call. And I blame the police for my
8 brother -- I don't have anything positive to say on their
9 behalf.

10 THE COURT: Yes, sir.

11 JUROR NO 172: I work for South Carolina, contract
12 for the Department of Justice. I just wanted to make sure
13 nothing was going to be a problem.

14 THE COURT: What kind of contract?

15 JUROR NO 172: With facilities of the National
16 Center--

17 THE COURT: Okay. Would that affect your ability to
18 be fair and impartial in this trial?

19 JUROR NO 172: No, ma'am.

20 THE COURT: All right. Thank you. Attorneys, are
21 you ready for jury selection?

22 MR. POTTS: The State's ready, Your Honor.

23 MS. ZMROCZEK: The Defense is ready, Your Honor.

24 THE COURT: All right. Ladies and gentlemen of the
25 jury, at this time we will select a jury in this case.

1 When your name is called you're going to come down to the
2 microphone. You're going to face the audience, face the
3 attorneys and the audience. And you will state your juror
4 number, your name, where you work and where your spouse
5 works if you are married, or a significant other or if
6 you're married. A significant other, or if you're
7 married, a spouse. And then the lawyers, there's a
8 process that we have to go through. The lawyers from the
9 State will say please seat the juror. If they say please
10 seat the juror, they will turn to Ms. Zmroczek and she
11 will either say please seat or please strike. If she says
12 please seat, then you will go sit in the jury box. If she
13 says strike, we'll have you sit on the back row. The
14 Bailiffs -- but the Bailiffs will help you through this,
15 so do not worry. Please bring your belongings with you so
16 if you are seated on the jury you can just go straight to
17 the jury box. All right. I'll turn it over to the Clerk.

18 MADAM CLERK: Juror number 174, if you'll come
19 forward.

20 JUROR NO. 174: I'm Brittany Luthren. I work for
21 MSA. I'm a pharmacist, and my husband is -- works in
22 dental sales with Premier Dental.

23 MADAM CLERK: What says the State?

24 MR. POTTS: Please present the juror.

25 MADAM CLERK: What says the Defense?

1 MS. ZMROCZEK: Please seat the juror.

2 MADAM CLERK: Please have a seat in the jury box.

3 Juror number 54.

4 MS. ZMROCZEK: I'm sorry. 54?

5 MADAM CLERK: 54.

6 JUROR NO. 54: Kenya Conyers, 54. I work at Hope

7 Baptist Church and I'm a preschool teacher.

8 MADAM CLERK: What says the State?

9 MR. POTTS: Please present the juror.

10 MADAM CLERK: What says the Defense?

11 MS. ZMROCZEK: Please seat the juror.

12 MADAM CLERK: Please have a seat in the jury box.

13 Juror number 280.

14 JUROR NO. 280: My name is Molly Walker and I work at

15 AT&T and my husband is self-employed as a brick mason.

16 MADAM CLERK: What says the State?

17 MR. POTTS: Please present the juror.

18 MADAM CLERK: What says the Defense?

19 MS. ZMROCZEK: Please excuse the juror from this

20 trial.

21 MADAM CLERK: Please return to the back of the

22 courtroom. Juror number 144.

23 JUROR NO. 144: Lisa Jenkins and I'm a program

24 coordinator for the State Department of Education.

25 MADAM CLERK: What says the State?

1 MR. POTTS: Please present the juror.

2 MADAM CLERK: What says the Defense?

3 MS. ZMROCZEK: Please seat the juror.

4 MADAM CLERK: Please have a seat in the jury box.

5 Juror number 195.

6 JUROR NO. 195: Josephine Moody. I work at Blue
7 Cross Blue Shield of South Carolina. My husband's
8 retired, disabled veteran.

9 MADAM CLERK: What says the State?

10 MR. POTTS: Please excuse the juror.

11 MADAM CLERK: Please return to the back of the
12 courtroom. Juror number 292.

13 JUROR NO. 292: I'm 292, Kennetha Wilson. I'm a
14 registered nurse. I currently work with a temp agency at
15 Blue Cross Blue Shield as a case manager.

16 MADAM CLERK: What says the State?

17 MR. POTTS: Please present the juror.

18 MADAM CLERK: What says the Defense?

19 MS. ZMROCZEK: Please excuse the juror from this
20 trial.

21 MADAM CLERK: Please return to the back of the
22 courtroom. Juror number 245.

23 JUROR NO. 245: My name is Louis Sbardella, 245. I'm
24 an IT technician. My wife is a social worker.

25 MADAM CLERK: What says the State?

1 MR. POTTS: Please present the juror.

2 MS. ZMROCZEK: Please seat the juror.

3 MADAM CLERK: Please have a seat in the jury box.

4 Juror number 43.

5 JUROR NO. 43: Latonya Canty, 43, social worker.

6 MADAM CLERK: What says the State?

7 MR. POTTS: Please present the juror.

8 MADAM CLERK: What says the Defense?

9 MS. ZMROCZEK: Please seat the juror.

10 MADAM CLERK: Please have a seat in the jury box.

11 Juror number 190.

12 JUROR NO. 190: Cole Mcnaire. My wife and I both
13 work for Building Families in Adoption and Surrogacy Law,
14 an agency here in Columbia.

15 MADAM CLERK: What says the State?

16 MR. POTTS: Please present the juror.

17 MADAM CLERK: What says the Defense?

18 MS. ZMROCZEK: Please excuse the juror from this
19 trial.

20 MADAM CLERK: Please return to the back of the
21 courtroom. Juror number 131.

22 JUROR NO. 131: 131, Charles Holbrook. I work for --
23 Arnold.

24 MADAM CLERK: What says the State?

25 MR. POTTS: Please present the juror.

1 MADAM CLERK: What says the Defense?

2 MS. ZMROCZEK: Please seat the juror.

3 MADAM CLERK: Please have a seat in the jury box.

4 Juror number 31.

5 JUROR NO. 31: 31, Gary Brock. I'm an attorney for
6 the Department of the Army, Fort Jackson. My wife is a
7 paralegal.

8 MADAM CLERK: What says the State?

9 MR. POTTS: Please excuse the juror.

10 MADAM CLERK: Please return to the back of the
11 courtroom. Juror number 83.

12 JUROR NO. 83: My name is Mona Foster and I'm a
13 merchandising specialist.

14 MADAM CLERK: What says the State?

15 MR. POTTS: Please excuse the juror.

16 MADAM CLERK: Please return to the back of the
17 courtroom. Juror number 191.

18 JUROR NO. 191: 191, William Melven. I work for
19 Presbyterian Communities of South Carolina. My wife works
20 for School District 5 of Lexington-Richland County.

21 MADAM CLERK: What says the State?

22 MR. POTTS: Please present the Juror.

23 MADAM CLERK: What says the Defense?

24 MS. ZMROCZEK: Please excuse the juror from this
25 trial.

1 MADAM CLERK: Please return to the back of the
2 courtroom. Juror number 95.

3 JUROR NO. 95: Juror 95, Patricia Geddings. I'm
4 retired.

5 MADAM CLERK: What says the State?

6 MR. POTTS: Please present this juror.

7 MADAM CLERK: What says the Defense?

8 MS. ZMROCZEK: Please excuse the juror from this
9 trial.

10 MADAM CLERK: Please return to the back of the
11 courtroom. Juror number 234.

12 JUROR NO. 234: 234, Leticia Reid. I work at
13 Palmetto GBA.

14 MADAM CLERK: What says the State?

15 MR. POTTS: Please present the juror.

16 MADAM CLERK: What says the Defense?

17 MS. ZMROCZEK: Please seat the juror.

18 MADAM CLERK: Please have a seat in the jury box.
19 Juror number 294.

20 JUROR NO. 294: Number 294, Robert Woodard. I do IT
21 sales for Spectrum Enterprise. My wife works at our
22 church.

23 MADAM CLERK: What says the State?

24 MR. POTTS: Please present the juror.

25 MADAM CLERK: What says the Defense?

1 MS. ZMROCZEK: Please seat the juror.

2 MADAM CLERK: Please have a seat in the jury box.

3 Juror number 204.

4 JUROR NO. 204: I'm 204. My name is Scott Norene.

5 I'm a sales representative for Gun Deals and my wife is a

6 sales representative with Single Care.

7 MADAM CLERK: What says the State?

8 MR. POTTS: Please present the juror.

9 MADAM CLERK: What says the Defense?

10 MS. ZMROCZEK: Please excuse the juror from this

11 trial.

12 MADAM CLERK: Please return to the back of the

13 courtroom. Juror number 206.

14 JUROR NO. 206: My name is B.J. O'conner. I go by

15 Billie Jo. I'm chief nursing officer for Palmetto Surgery

16 Center and my husband is self-employed in automotive

17 sales.

18 MADAM CLERK: What says the State?

19 MR. POTTS: Please present this juror.

20 MADAM CLERK: What says the Defense?

21 MS. ZMROCZEK: Please seat the juror for this trial.

22 MADAM CLERK: Please have a seat in the jury box.

23 Juror number 281.

24 JUROR NO. 281: I'm juror number 281. My name is

25 Phillis Walker. I'm retired.

1 MADAM CLERK: What says the State?

2 MR. POTTS: Please excuse the Juror.

3 MADAM CLERK: Please return to the back of the
4 courtroom. Juror number 215.

5 JUROR NO. 215: 215, Thelma Pabon. I'm a regional
6 organizing director.

7 MADAM CLERK: What says the State?

8 MR. POTTS: Beg your indulgence. Please seat this
9 juror.

10 MADAM CLERK: What says the Defense?

11 MS. ZMROCZEK: Please seat this juror.

12 MADAM CLERK: Please have a seat in the jury box.
13 Juror number 184.

14 JUROR NO. 184: 184, Wilmer Massanet. I'm a
15 radiation therapist and my wife is a estate director for
16 an insurance company.

17 MADAM CLERK: What says the State?

18 MR. POTTS: Please present this juror.

19 MADAM CLERK: What says the Defense?

20 MS. ZMROCZEK: Please seat this juror.

21 MADAM CLERK: Please have a seat in the jury box.
22 Juror number 172.

23 JUROR NO. 172: 172, Matthew Long. I work in
24 facilities and my wife is an organizer.

25 MADAM CLERK: What says the State?

1 MR. POTTS: Please present this juror.

2 MADAM CLERK: What says the Defense?

3 MS. ZMROCZEK: Please excuse the juror from this
4 trial.

5 MADAM CLERK: Please return to the back of the
6 courtroom. Juror number 93.

7 JUROR NO. 93: 93, John Gardner. I work at ASISC.

8 MADAM CLERK: What says the State?

9 MR. POTTS: Please present the juror.

10 MADAM CLERK: What says the Defense?

11 MS. ZMROCZEK: Please seat the juror.

12 MADAM CLERK: Please have a seat in the jury box.
13 Juror number 61.

14 JUROR NO. 61: No. 61, Lawrence Depasquale. I'm a
15 regional restaurant manager. My wife's a housewife.

16 MADAM CLERK: What says the State?

17 MR. POTTS: Please present the juror.

18 MADAM CLERK: What says the Defense?

19 MS. ZMROCZEK: Please seat the juror.

20 MADAM CLERK: Please have a seat in the jury box.
21 Juror number 259.

22 JUROR NO. 259: 259, Brandi Barnes. I'm a childcare
23 director. My husband is an operator.

24 MADAM CLERK: What says the State?

25 MR. POTTS: Please present the juror.

1 MADAM CLERK: What says the Defense?

2 MS. ZMROCZEK: Please seat the juror.

3 MADAM CLERK: Please have a seat in the jury box.

4 THE COURT: All right. Anything -- anything from the
5 State or the Defense before I release the remaining of the
6 jury?

7 MR. POTTS: Nothing from the State, Your Honor.

8 MS. ZMROCZEK: Nothing, Your Honor.

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, for those of you who were not selected I am going to
11 send you back down to the jury room for further
12 instructions. If I do not see you again this week, have a
13 wonderful week and thank you for your cooperation and
14 participation. Thank you.

15 (Whereupon, the remaining jury panel was excused from
16 the courtroom.)

17 THE COURT: Let me see you all one second.

18 (Whereupon, a bench conference was held in the
19 presence of the jury but out of the hearing of the
20 jury.)

21 THE COURT: Ladies and gentlemen of the jury, for
22 those of you who were selected, we're going to send you
23 back in the jury room in a second and then send you to
24 lunch, because it is after 1:00 o'clock. It's like 1:05,
25 so we're going to send you to lunch. There are some

1 matters that I need to take up outside your presence with
2 the attorneys. And so, we will ask that you -- and that's
3 going to take a little bit of time. So I'm going to ask
4 that you all come back at 3:00 o'clock. So we will see
5 you back at 3:00 o'clock. Please do not discuss the case
6 with anyone. You don't know any more than what I've
7 already told you, but please do not discuss the case with
8 anyone. Please do not -- please do not do any independent
9 research regarding the case while you're here. That means
10 no going on the internet, researching any issues. I'm not
11 sure if there's anything in the newspaper or anything
12 online regarding this case, but I would ask that you not
13 do any independent research regarding the case or looking
14 up any articles or any issue, like the lawyers or the
15 Judge, or anything that -- involving anything that's going
16 on in the courtroom. You can go online. You can do
17 research on whatever else you want to look at, but nothing
18 involving any issues in this case. I also ask that you
19 refrain from posting anything regarding anything going on
20 in the case on your social media networks. So no posting
21 that you got selected on a jury, nothing about anything
22 that's going on here at 1701 Main Street. I am going to
23 -- please do not discuss the case with each other. You
24 have told us thus far that you can be very impartial and
25 being fair and impartial means that you have to hear both

1 sides, then you have to hear the law. And you, after you
2 hear the law, closing arguments from both sides and
3 charging the law from the Court, after that then you'll be
4 able to deliberate with each other regarding the case.
5 Until then -- until then when you're in the jury room
6 discuss something other than the case. All right? Have a
7 wonderful lunch and we'll see you all back at 3:00
8 o'clock, then we'll show you -- you're going to go back
9 out this door. They'll show you the jury room and where
10 you are supposed to return. All right? One other thing.
11 I'm going to ask that you all pay close attention, so that
12 means sitting up in your chairs. No one's sleeping. If
13 you think you need to stand up and take a stretch break,
14 please do so. If you think you need some water or
15 something let the Bailiffs know, but we need everyone to
16 pay attention, because when you deliberate it is the
17 deliberation of all the jurors. All right? Thank you.

18 (Whereupon, the jury was excused from open court for
19 a lunch break.)

20 THE COURT: Any objections to what I said or my
21 comments to the jury?

22 MR. POTTS: Nothing from the State, Your Honor.

23 MS. ZMROCZEK: None from the Defense.

24 THE COURT: All right. So it's about ten after. Do
25 you all want to run and grab something to eat and then

1 start back at 2:00? I'm sure that's what the deputies and
2 the -- our Court reporter, you ready to get some lunch?
3 And then we'll start back with motions. If there are any
4 motions that we can take up, like I know there's one
5 identification, a Biggers that we need to do right before.
6 Is that the only Biggers?

7 MR. POTTS: Yes, Your Honor.

8 THE COURT: Yeah. So we'll do that before that
9 witness. So I think we'll start back at 2:00 and work
10 from 2:00 -- from 2:00 o'clock to 3:00 o'clock and go from
11 there.

12 MS. ZMROCZEK: Thank you, Your Honor.

13 THE COURT: All right. So I'll see you all at 2:00
14 o'clock.

15 (Whereupon, a lunch break was taken.)

16 MR. POTTS: Your Honor, all motions are included on
17 the Defense's motion list, Your Honor.

18 THE COURT: So you want me to go -- let's go through
19 the ones we can check off.

20 MS. ZMROCZEK: Well, so --

21 THE COURT: Number one is taken care of.

22 MS. ZMROCZEK: Number one is taken care of. Number
23 two, Your Honor, I can argue. I think it's pretty
24 straight forward. Do you have the indictments? I'm
25 referring specifically to indictment 2019-GS-40-110. It's

1 the indictment for attempted armed robbery. The language
2 says that, Roshamel Donshea Parker did, along with
3 co-defendants, plural, in Richland County on or about
4 March 25th, 2018 while armed with a deadly weapon, attempt
5 to take and carry away the personal property from or in
6 the immediate presence of Cory Jenkins with the intent to
7 deprive him, slash, her of possession by use of force,
8 threats, et cetera. Your Honor, we move to quash this
9 indictment. And I'm looking -- I'm looking at the
10 Criminal Offenses book, the most recent edition, where it
11 talks about the attempted armed robbery which falls under
12 Statute Code 16-11-330. The elements are, Taking or
13 attempting, or attempted taking, and to carrying away of,
14 3, the personal property; 4, of another; 5, with intent to
15 deprive with possession; 6, by use of force, threats or
16 intimidation; and 7, while armed with a deadly weapon or
17 possession which the victim would believe was a deadly
18 weapon. Your Honor, as I'm looking -- and this is State
19 v. H-I-O-T-T. The cite is 276 SC 72. It's 276 S.E. 2d
20 163, 1981. That case says, Your Honor, that the
21 indictment must have a sufficient description of the
22 property taken. You know, and I know that the typical
23 argument when moving to quash indictments is, oh, it's
24 just a notice document. Exactly, this is a notice
25 document. We have no idea what he is accused of

1 attempting to take away. And clearly that's outside the
2 case law, Your Honor. We would ask that this indictment
3 be quashed. Obviously we can still go forward with the
4 rest of the indictments. We're not taking issue with
5 those. But with this type of indictment in particular we
6 would move to quash.

7 THE COURT: Yes, sir.

8 MR. POTTS: And, Your Honor, I'm just going to take a
9 second. Your Honor, give me a second to look at the
10 citation she gives. 276 SC --

11 MS. ZMROCZEK: 276 SC 72, or 276 S.E. 2d 163. It's a
12 1981.

13 MR. POTTS: Your Honor, I think first -- let me check
14 one thing in this case, Your Honor. Beg the Court's
15 indulgence. I guess, Your Honor, two -- I have two
16 arguments in this case, Your Honor, about this. Your
17 Honor, this crime, by nature of being attempted armed
18 robbery or armed robbery in this case was not successfully
19 completed. There were no goods or items that were taken
20 from the presence of the victim in this case. To say that
21 the State should particularize which goods were going to
22 be taken from the victim before this incident occurred
23 creates a situation where we have to say something like
24 personal items, because we don't know what would have been
25 taken had the armed robbery been completed. Your Honor,

1 we -- I think the State would contend the fact that would
2 probably reflect that could be the marijuana that was at
3 issue here, Your Honor. But the fact is, because the
4 transaction of the crime was not complete and, in fact,
5 stopped at the demand of -- you know, of the plan for
6 armed robbery and then a -- a demand that was not
7 complete. To put the State in a box that says you must
8 alleged this was the item he wanted to take when there
9 were no items taken and there was no particularized demand
10 made is an unreachable standard the State cannot make.
11 Additionally, Your Honor, I mean, if it is the Court's
12 belief that that is not the case, then we would ask the
13 chance to amend the indictment to include personal items
14 and/or marijuana, because that is what the State
15 immediately believes was the goal here. But because there
16 were no known goods exchanged hands, because nothing left
17 the body of Mr. Jenkins until after his death, I cannot
18 tell you for certainty that's what their goal was. I
19 mean, it makes a lot of sense and that certainly would be
20 the obvious answer. But to say that it couldn't have been
21 his cell phone, or something else of that nature, is an
22 impossible for the State -- because this crime was not
23 completed, and because the very nature of the attempt
24 charge. But once again, Your Honor, if that does not
25 satisfy you, we'll amend it to include the marijuana.

1 THE COURT: Yes, ma'am.

2 MS. ZMROCZEK: And, Your Honor, I mean, obviously
3 this was indicted over a year ago and it says that
4 Investigator Duckett was the witness. So, you know, in
5 order -- when he sat there in front of the Grand Jury
6 obviously it's secret, so I don't know what he says. But,
7 I mean, he has to -- to -- according to the case law he
8 has to tell them what -- what was attempted -- you know,
9 what the property was. Even -- you know, even if he's not
10 one-hundred percent sure he still has to give a
11 description. We don't have any description besides
12 personal property. Mr. Potts just named, I think, at
13 least two. I think he said a cell phone or marijuana, you
14 know, but when this was presented to the Grand Jury as an
15 attempted armed robbery, meaning that he and co-defendants
16 attempted to take away property, we've just got to know
17 what that is, Your Honor. And so, obviously this case has
18 been pending for quite some time. We've filed several
19 speedy trial motions. We -- you know, we're here today.
20 We're ready to go. These indictments weren't even
21 presented within the 90 days as prescribed by the Rule,
22 under Rule 3(c), but -- but they were presented. And
23 again, over a year ago, which was even a year after
24 they've had this case. So, Your Honor, we would argue
25 that any -- any moving for amending indictments is just

1 not the proper procedure at this point and that this
2 indictment should be quashed. Obviously we can still go
3 forward on the other three, but this one in particular.

4 MR. POTTS: Your Honor, if I may briefly just reply?

5 THE COURT: Yes.

6 MR. POTTS: In the case she cites, Your Honor, State
7 v. Hiott, the original indictment says, "Such goods or
8 monies being described: a toothbrush." The toothbrush was
9 -- the Court found that the toothbrush was properly
10 stricken from the indictment, Your Honor, after the State
11 failed to prove it. However, I believe it says that --
12 after that, Your Honor, "The goods or monies was
13 sufficient for the crime of attempted armed robbery."
14 It's how I read this case now. If I'm misreading at the
15 moment, I do apologize.

16 THE COURT: That's why I was asking for my purpose as
17 to -- it also says that you can say goods or -- goods and
18 money.

19 MS. ZMROCZEK: Again, it doesn't even give that
20 description, Your Honor.

21 THE COURT: I'm looking at some other cases on here
22 that they have. That they are not required to provide any
23 description more than what circumstances permit, which
24 would make it -- I think there's a difference between the
25 attempted and the armed robbery in that the indictment is

1 based on the circumstances that nothing was actually --
2 I'm assuming they say it was an attempted armed robbery
3 that nothing was actually taken. There was just the
4 attempt. And so, there are no items for them to describe.
5 Now, if it was an armed robbery, you -- I think they would
6 probably have to say. In that case they were talking
7 about the toothbrush, or they'd have to say it was
8 marijuana or whatever it was. But because it's an
9 attempted, under the circumstances I'm going to find that
10 the indictment is sufficient. It says personal property
11 in his possession, in possession of Cory Jenkins with the
12 intent to deprive him. I think the language of the
13 indictment is sufficient. So I am going to deny the
14 motion to quash the indictment, 2019-GS-40-110.

15 MS. ZMROCZEK: In light of that ruling, Your Honor,
16 could we ask that the State now put on the record what
17 they intend to say was the object of Cory Jenkins? I know
18 personal property and I know that he didn't take it, but
19 he didn't live there. So obviously his personal property
20 is very limited. Are they -- I mean, are they -- is it
21 their theory, are they alleging that they were there to
22 rob the drugs?

23 MR. POTTS: I mean, the whole idea is that -- Your
24 Honor, I think it's -- it's the same thing. It's an
25 unfair burden on the State to say, to particularize what I

1 believe that they was there to arm rob. I think the
2 evidence will show there's a compelling case that it was
3 the marijuana. But if the fact comes out later that it
4 was not, in fact, the marijuana or in fact, it was his
5 cell phone, or it was his shoes, or it was his shirt, you
6 know, it's hard for me -- it's hard for the State to say
7 what because he never articulated what he was trying to
8 take. And my theory of the case is obviously, you'll find
9 that out. Thank you, Your Honor.

10 THE COURT: Well, I'm not requiring him to amend the
11 indictment, so --

12 MS. ZMROCZEK: Right.

13 THE COURT: And I don't know if I can make them tell
14 you the theory of the case.

15 MS. ZMROCZEK: No, no. That's fine.

16 THE COURT: But I think it's fair to assume that,
17 from what I've heard thus far, that they're going to make
18 some allegation that your client was there to steal
19 marijuana. And he was selling marijuana.

20 MS. ZMROCZEK: Thank you. Your Honor, three should
21 be pretty quick. Obviously we're here for trial today.
22 But we have filed several speedy trial motions and several
23 bond motions in this case. And Mr. -- this incident
24 happened in March of 2018 and here we are in 2020 finally
25 -- finally getting to trial on this case, Your Honor. And

1 it's not for lack of Defense trying to get this on the
2 trial docket. So we would just preserve that motion.

3 THE COURT: It's already been ruled on?

4 MS. ZMROCZEK: It has not.

5 THE COURT: All right. Well -- yes, sir.

6 MR. POTTS: Your Honor, we went before Judge Clyburn
7 Pope on the speedy trial motion, Your Honor, and that was
8 when the State received the deadline to try this case by
9 March 30th or receive a bond. So I think that's the
10 ruling on this issue right there.

11 MS. ZMROCZEK: And I believe it was March 2nd, Your
12 Honor. And here's our concern, and I just -- I understand
13 that that is her ruling. But what we're seeing a trend is
14 attorneys -- is that when people file for bond or speedy
15 trials they're given a really long time for the State to
16 be able to do that. And, Your Honor, we're just -- as
17 Defense attorneys and certainly as incarcerated
18 Defendants, concerned that the Constitution says, you
19 know, right to a speedy trial. The rules say, you know,
20 indictment within 90 days. All of these things that don't
21 -- that don't routinely happen. And so, we just don't
22 want it -- we want to make sure that we preserve our
23 position that saying that, you know, when somebody files
24 multiple bond motions and multiple speedy trial motions
25 and they're finally ruled upon. But then they're ruled

1 upon by saying, okay, as long as it's tried some far --
2 you know, six or however many, in this case a year, in the
3 future, because it was actually heard by Judge Cooper
4 first and then secondly by Judge Pope. So we just want to
5 make sure that we preserve our position on the record that
6 that setting a bond date, or must try by date out for
7 several months for no apparent reason other than just it's
8 been a long time, we would argue is just not
9 constitutional.

10 THE COURT: All right. I'm going to deny the motion
11 to dismiss. It was, the motion was heard and rescheduled
12 and was told to try it, whether it was March 2nd or March
13 30th, today is March 2nd and we are ready to go forward.

14 MS. ZMROCZEK: Thank you.

15 THE COURT: Motion, discovery item?

16 MS. ZMROCZEK: I think we've done that, Your Honor.
17 I think that we've -- I think that we've had enough
18 conversations where we've been able to do that. So we
19 would argue that four has already been --

20 THE COURT: Number 5.

21 MS. ZMROCZEK: So, Your Honor, we -- in our original
22 discovery, which we filed back in 2018, we requested
23 Giglio material, which includes but not limited to
24 complaints of misconduct from police departments, internal
25 units, all those things that fall under -- under Giglio,

1 as well as witnesses. And where witnesses come in, Your
2 Honor, specifically there has been mention, and it's not
3 -- I think it's something that the State could easily find
4 out. I brought it to their attention yesterday regarding
5 that apparently there was another incident where someone
6 was shot and possibly killed in Mr. Rogers' same home.
7 And we had asked the -- we had asked the State to look
8 into that. I don't know that they've had an opportunity
9 to speak with Mr. Rogers yet. So that may be one that we
10 have to hold.

11 MR. POTTS: Your Honor, I asked Investigator Duckett
12 to look into it and we did not find anything. Obviously
13 we'll continue. If we do find something, we'll let her
14 know.

15 MS. ZMROCZEK: I think six, your Honor, we are going
16 to have to hold on until the witness is available.

17 THE COURT: Yeah, we'll do it tomorrow.

18 MS. ZMROCZEK: All right. Seven, so seven, Your
19 Honor, is a motion to suppress any jail calls. And I have
20 two separate arguments for this. I have a Rule 5
21 violation and a constitutional violation. On -- last week
22 when we were in Your Honor's office, and you may have
23 heard us talking, I don't know. But I received two
24 emails. One with a recorded attachment from 2018, a
25 separate with two recorded attachments from 2018 as well.

1 The single phone call, Your Honor, is allegedly made under
2 somebody else's PIN. That information hasn't -- I don't
3 know whose PIN, it hasn't been provided to me. And like I
4 said, these were just delivered -- even though they were
5 2018 calls, they were just provided to us on last, I
6 believe, Wednesday or Thursday. I don't want to misspeak.
7 And then the other two I guess come from the Defendant's
8 PIN, because we still haven't been provided that
9 information. But, Your Honor, so the first argument we
10 would make is that because of the late disclosure of these
11 phone calls that they should be withheld, unless and until
12 my client gets on the stand. But second -- so that would
13 be our Rule 5 argument. The Constitutional argument, Your
14 Honor -- and I believe this has been brought up in front
15 of you before about recording of jail phone calls. And
16 there's a case, Your Honor. It's -- and I can hand it up,
17 and I have copies for the State. It's State v.
18 E-L-L-E-F-S-O-N. It's 224 S.E. 2d 666, and it's a 1976
19 case, Your Honor. I'll hand it up. I have a copy for the
20 State as well. So in this case, Your Honor, it appears
21 that when the emails were forwarded to me from Mr. Potts,
22 that it says that Investigator Duckett just found these.
23 And obviously the jail phone calls are recorded reportedly
24 for jail safety, for witness safety. In this case
25 specifically it seems to be a last minute investigation

1 tool. This isn't something that they were continuing to
2 monitor and follow. This was -- we have trial next week,
3 so I'm going to go through and see what I can find. I
4 don't even know how this phone call from somebody else's
5 PIN was even discovered or -- I don't -- I don't know
6 anything about it. But what I do know is it's simply --
7 the government -- the police in this case combing through
8 jail phone calls, which have not been provided to us. We
9 have not been provided all the jail phone calls. We were
10 just sent these three and it was just done last week. And
11 it simply seems to be just an investigative tool, Your
12 Honor. And I know that -- I imagine that the State's
13 going to argue, well, there's that consent to know that
14 it's being recorded. But this has been a topic of
15 constitutional arguments for a long time. And our state
16 seems to afford the right -- more stringent rights to
17 these conversations, Your Honor, because regardless of
18 that little blurb at the beginning, "All these jail phone
19 calls are recorded," there are -- our State seems to say
20 that that's not enough. It's not -- that's not enough to
21 -- when you're using it as an investigative tool it's
22 simply not enough to have that little blurb. And
23 certainly the Fourth Amendment in the constitutional
24 issues, Your Honor, would outweigh any of those -- any of
25 those arguments. And I believe that -- that's why I

1 handed up that eight page memo on that, Your Honor. I
2 outlined in detail the constitutional arguments. But
3 obviously didn't include the Brady or the Rule 5
4 arguments.

5 THE COURT: Are we going to get into the jail phone
6 calls today?

7 MR. POTTS: No, Your Honor.

8 MS. ZMROCZEK: I don't think we are.

9 THE COURT: All right. Let me take a look at your
10 motion you have. And I would like to hear from the State
11 briefly regarding any response but let me take a look at
12 it. I -- there was other cases, but they were more recent
13 than '76. So I'm assuming you're just saying the
14 constitutionality of the recording. Are the police
15 listening to the calls or the --

16 MS. ZMROCZEK: Right, the police are listening.

17 THE COURT: The other case I had it was the
18 Solicitor's Office listening to the calls.

19 MR. POTTS: Right, Your Honor.

20 MR. ZMROCZEK: Well, it was provided to me by the --
21 by the Solicitor's Office. So, you know, yeah.

22 THE COURT: But they don't -- I was trying to -- they
23 have a code. So these calls came from the Investigator?

24 MR. POTTS: Correct, Your Honor. We did not discover
25 these phone calls, Investigator Duckett did.

1 THE COURT: All right. I need to pull what I have on
2 that.

3 MR. POTTS: Just, Your Honor -- just briefly, Your
4 Honor, talking about S.E. Code Section 17-30-110(a).

5 THE COURT: What is it again?

6 MR. POTTS: 17-30-110(a). Your Honor, it's -- it
7 covers it pretty well in her motion, Your Honor. That is
8 the Wiretap Act, Your Honor. And I believe the Court of
9 Appeals has exclusive jurisdiction over issues involving
10 that Act. And so, if she wishes to make this motion on
11 that. I believe the current, correct, is the Court of
12 Appeals. And obviously she--

13 MS. ZMROCZEK: -- and I would agree that they have
14 the jurisdiction, Your Honor. However, since they were
15 just turned over to me at the end of last week, that would
16 -- that would then necessitate me to request a continuance
17 for my client who has been sitting in jail waiting for his
18 trial, which is why we would rely on the discovery motion
19 violation as opposed to any constitutional--

20 THE COURT: -- help me understand this. So he did
21 not have the -- did he have the jail phone calls in his
22 possession?

23 MR. POTTS: Your Honor, my understanding is he did
24 not until he listened to them. And then he sent them to
25 me. Your Honor, I guess -- let me put it this way, Your

1 Honor. We allege that Mr. Parker was not using his own
2 PIN number at the jail, he was using somebody else's. And
3 there was -- so it was not -- it would not be in the
4 normal scope of his jail phone calls. This is something
5 that Investigator Duckett was looking for separately,
6 after we talk about some of the issues. And some of the
7 reason that there might exist something like this. I
8 believe within 24 hours of finding it, would that be a
9 fair assessment, Mr. Duckett? Of finding these phone
10 calls he forwarded them on to me and then I immediately
11 forwarded them on to Ms. Zmroczek. There was no -- no
12 greater time period than, I would say, 24 hours at the
13 very most, where these phone calls were known to the State
14 and not sent to the Defense.

15 THE COURT: This -- I was trying to figure out was
16 the -- you said it was a violation, he just discovered --

17 MS. ZMROCZEK: Well --

18 THE COURT: -- my understanding is the jail is the
19 one that technically -- and this company, I can't remember
20 the name of the company that they contract with, are the
21 custodians of the jail phone calls.

22 MS. ZMROCZEK: Right. But the police don't have to
23 go through them. They have their own access to it in that
24 they're all part of the --

25 THE COURT: -- I understand.

1 MS. ZMROCZEK: Yeah, the law enforcement. So we
2 would argue that, you know, whatever this -- having these
3 discussions, you know, and asking him to go back and look
4 through, I don't know when that occurred, Your Honor.

5 MR. POTTS: If you want me to respond to that I can,
6 Your Honor, otherwise I --

7 THE COURT: Yeah, I'm going to take a look at it and
8 we'll discuss it. I'm just trying to figure out what --
9 so the argument is that it's the constitutionality of the
10 jail phone calls. And that they just turned over the
11 calls that they just got.

12 MS. ZMROCZEK: Right. And so, in order for me to
13 raise that constitutionality issue, Your Honor, according
14 to the statute I would have to take it to the Court of
15 Appeals which would require, you know, filing a motion in
16 this case which would then delay this trial. Which
17 obviously we just talked about earlier, we've been trying
18 to, you know, get this case on the trial docket. So it
19 kind of puts me in a rock and hard place because, sure, I
20 can -- I can challenge it, but then Mr. Parker has to give
21 up his constitutional rights to a speedy trial again and
22 sit in jail just because they just turned it over to me.

23 MR. POTTS: Sit in jail for, under your impression,
24 until today. I just want to put that on the record, too.

25 MS. ZMROCZEK: I'm sorry.

1 MR. POTTS: I mean, you would argue that he would sit
2 in jail until today, correct?

3 MS. ZMROCZEK: Right, right. I mean, sure. I mean,
4 sure. If the Judge is going to honor Judge Pope's order
5 and let him out on bond while I appeal this issue, then --
6 or while I challenge this issue --

7 MR. POTTS: I don't think --

8 MS. ZMROCZEK: -- then we would certainly agree to
9 that, Your Honor.

10 THE COURT: All right. I'll come back to that
11 motion.

12 MS. ZMROCZEK: Okay.

13 THE COURT: Next, Number eight.

14 MS. ZMROCZEK: Number eight. So this is the Jackson
15 v. Denno hearing. And I believe -- I have two things
16 written, Your Honor, so there -- and I know that we know
17 this case and you only know bits and pieces of it. So
18 I'll try to build on that. So on March 25th three people,
19 four people went to the hospital. Three of them were
20 still alive and Mr. Parker was one of those. Mr. Parker
21 was shot in the face, in the left mandible. He had a
22 broken -- he had a broken jaw. He's still got -- he's
23 still got the bullet in his left ear. He was intubated
24 immediately. He was in ICU for several weeks. He was
25 actually in the hospital, I believe three weeks, Your

1 Honor, at least in ICU. And during that time he was not
2 under arrest. They did have -- well, I don't want to --
3 there's a question of whether or not somebody was outside
4 the door. How they acquired this -- this written piece of
5 paper. So apparently Mr. Parker had written a note. And
6 I believe the State has a copy of it and I believe that
7 they intend on introducing it. So we would have several
8 arguments, just depending on what the testimony is about
9 how they acquired that. So I don't want to preempt my
10 argument with --

11 THE COURT: You mean based on the hospital notes?

12 MS. ZMROCZEK: Yes, ma'am. He was in the hospital
13 and supposedly he wrote something down on a piece of
14 paper. It's intercepted somehow by the Government. So we
15 would argue -- depending on what they say and how they got
16 it, we would argue that it's either a violation of the
17 Fourth Amendment where they just took his property without
18 any search warrant because he certainly wasn't under
19 arrest. That would be our main argument for that.

20 THE COURT: Yeah, because any notes that he write in
21 the hospital--

22 MS. ZMROCZEK: No, no, no. The hospital -- I'm
23 sorry. The hospital didn't write -- do you have a copy of
24 it?

25 THE COURT: Yeah, because, I mean, any other notes

1 would not be subject to -- if it's not subject to
2 interrogation, I'm not sure how it's Denno.

3 MS. ZMROCZEK: Right. It's a -- it was a handwritten
4 -- it was a note that he wrote on a piece of paper. It's
5 not hospital notes, if that makes sense.

6 THE COURT: Okay. Yes, sir. Call your first
7 witness. We're going to Denno, right?

8 MR. POTTS: Sure. We can handle the note first or
9 the Denno.

10 THE COURT: I think that he -- well, she wants to
11 know how he acquired it.

12 MR. POTTS: The note was handed to him -- well, I'll
13 let Mr. Fyall handle it.

14 MR. FYALL: I think the note issue, Your Honor, is
15 pretty well -- the note was handed to a staff that worked
16 at the hospital. And then that staff member said, this
17 looks suspicious, whatever, and handed it to law
18 enforcement. So that note was not acquired by law
19 enforcement through any search, seizure, anything. It was
20 handed to a third party who worked at the hospital and
21 that person handed it to a law enforcement officer. That
22 is definitely not interrogation. It was written by the
23 Defendant. I mean, there was a law enforcement officer
24 outside his door, Your Honor, standing guard. But no one
25 questioned him. There was no questioning from anyone

1 affiliated with law enforcement.

2 MS. ZMROCZEK: And so, Your Honor, it may just be --
3 it may just be an issue that we need to be aware if they
4 -- if and when they try to introduce it in trial. We can
5 -- we can take that part up then. But the second -- the
6 second part of that motion, Your Honor, is there was a 12
7 page handwritten statement that -- but, and again, are you
8 all going to seek to introduce that or not seek to
9 introduce that?

10 MR. POTTS: We'll do the Denno.

11 THE COURT: Call your first witness.

12 MR. POTTS: State calls Investigator Chauncey
13 Duckett.

14 CHAUNCEY DUCKETT, being
15 first duly sworn, testified as follows:

16 MADAM CLERK: Please have a seat, state your full
17 name for the record.

18 THE WITNESS: Investigator Chauncey Duckett, City of
19 Columbia Police Department.

20 DIRECT EXAMINATION-Jackson v. Denno

21 By Mr. Potts:

22 Q Investigator Duckett, where are you currently
23 employed?

24 A City of Columbia Police Department.

25 Q And what is in your role there?

1 A I'm assigned to the violent crimes, missing persons
2 unit.

3 Q And I'm just going to skip the rigmarole, if that's
4 all right. Were you assigned to the State v. Roshamel
5 Parker and Gwan Perry?

6 A Yes, I was.

7 Q What was your role in that case?

8 A I was the lead investigator.

9 Q Now, April 2nd of 2018 were you still the lead
10 investigator in the case?

11 A Yes, sir.

12 Q Did you have an opportunity to speak with Mr. Parker?

13 A I did.

14 Q Can you tell the Court a little bit about how that
15 came about?

16 A Okay. I was notified that Mr. Parker, the Defendant,
17 had requested to speak to the investigator at the time.

18 Q How did that request get to you?

19 A It came to me by the officer who was on guard duty
20 with Mr. Parker at the time, because he was under arrest.

21 Q And so -- so he was still in the hospital and there
22 was a guard on him because he was already under arrest?

23 A Yes, sir.

24 Q And so he reached out to that guard?

25 A Yes. He requested a guard, at which time he notified

1 me that he wished to speak.

2 Q Now, when we say speak, how was Mr. Parker
3 communicating at that time?

4 A He was writing because of his medical condition. He
5 couldn't talk, so he was writing.

6 Q Did you decide to go meet with him that day?

7 A Yes, sir. At that time me and Investigator
8 Montgomery responded to the hospital to meet with the
9 Defendant upon his request.

10 Q And then who else was with y'all?

11 A I believe it was Officer Brewer who activated her
12 body cam for the entirety.

13 Q So y'all's interaction with him that day, or I guess,
14 the process of writing this statement, that was recorded?

15 A Yes, sir.

16 Q So when you go talk to him what's the procedure you
17 went through?

18 A Initially, due to the fact that he was under arrest
19 at that time, I initially advised him of his rights before
20 we started talking about it.

21 Q Did you -- when you say his rights, what kind of
22 rights are we talking about here?

23 A His Miranda rights.

24 Q Now, let's talk about the setting this was in. Did
25 y'all -- where was this?

1 A This was at 3301 Harden Street which is now known as
2 Prisma Health Hospital.

3 Q So you didn't take him down to headquarters?

4 A No, sir. We didn't move him at all.

5 Q Right. And why was that?

6 A His medical condition. He was still receiving
7 medical treatment. It wouldn't be in the best prudent
8 procedure to even attempt to do anything like that.

9 Q Did you all provide him with any material comforts?
10 Did you take him out of his bed?

11 A No, we didn't move him at all.

12 Q So you stayed in his room? You all were in his room?

13 A He stayed in his room where he was at.

14 Q Now, I guess you all weren't in the position to offer
15 him drinks and stuff like that, were you?

16 A We were not. But again, he was in the hospital, so
17 he was a button away from getting anything that he needed
18 from the hospital staff that would provide him that.

19 Q And y'all didn't tell him he couldn't ask for a nurse
20 at any point?

21 A Oh, absolutely not.

22 Q And so, after you read him his Miranda rights, tell
23 me about the process of how this statement came about.

24 A Okay. Because Mr. Parker could not speak at the time
25 we conducted his interview, I would write a question down

1 and he wrote his answer in response to the question. And
2 that continued throughout, I believe it was, 20 -- 20
3 minutes. And that's how that 12 page statement came into
4 play.

5 Q Now, was there some point in the beginning where he
6 wasn't -- where you weren't asking questions and he was
7 just writing?

8 A If I remember correctly it was.

9 Q Let me show you this. I guess we can staple this
10 first.

11 MR. POTTS: We can mark this for ID.

12 (Whereupon, State's Exhibit number 2 was marked for
13 identification purposes only.)

14 Q I'm going to show you what's marked as State's
15 Exhibit number 2. What is that?

16 A That is the note correspondence between me and Mr.
17 Parker.

18 Q And as to the note, it's on a weird kind of paper.
19 Why is it on that kind of paper?

20 A That's just my notepad I had at that time.

21 Q So it's not an official form you all use at CPD or
22 anything?

23 A No, sir. This is just my notepad.

24 MR. POTTS: At this time I'd like to offer into
25 evidence for the purposes of this hearing State's Exhibit

1 number 2.

2 THE COURT: What number?

3 MR. POTTS: Number 2, Your Honor.

4 THE COURT: All right. For purposes of this --

5 MS. ZMROCZEK: For the purposes of this hearing.

6 THE COURT: No objection?

7 MS. ZMROCZEK: No objection, Your Honor.

8 THE COURT: Okay.

9 (Whereupon, State's Exhibit number 2 was admitted
10 into evidence.)

11 Q I guess, would you mind reading for the Court and
12 just tell the Court, as you go through it, how this note
13 went, how this conversation via note went.

14 A Okay. Just to make sure I understand you correctly,
15 you just want me to read this page by page?

16 Q Right. And when you get to something that -- where
17 something particular happens, if anything particular
18 happens, just let the Court know what happened at that
19 time.

20 A Okay. The note started with Roshamel Parker and he
21 stated, "I want to know how you charging me when you --
22 when really I'm the victim, man. I'm going to be all the
23 way real. Whatever you want to know, I'm going to tell
24 you right now."

25 THE COURT REPORTER: Let me take that staple out.

1 Judge, I'll fix it in just a moment so he can read this.

2 A First off, you not gone keep the truth from the air,
3 right. Well, first off, I went to ■ Samson Circle to buy
4 two bags of weed. Me and the guy, Murder, (phonetic), did
5 business over there 10 times. I owed Murder off the last
6 time I shopped with him. He wanted 3,800 for the two. I
7 only bought 35. And I called and told him that his uncle
8 house is the trap. So when I pulled up Murder doing his
9 usual, if you ain't got what you owe then you might as
10 well dip. I thought he was BS'g so we in the kitchen and
11 I told him I only had brought 35. He said, Naw, Trill,
12 you BS'g. I got more people pulling up for these. I
13 said, Bro, you know we AI, stop BS'g. He said, not this
14 time. So I say, take this 35 and I'm going to get it off
15 and bring it right back. His jued started knocking. So I
16 asked, you going to let me do it? I had a Glock 23 in my
17 bread. He said, no. So the man seen my tool and when I
18 was about to count the bread out, and shot me in my face.
19 No lie. I'm in the kitchen just thinking I'm dead. My
20 Junior only thing that I remember calling my name, so I
21 said I can't be dead. I remember feeling around in my
22 blood in the kitchen thinking this man ain't shoot me. So
23 with both my eyes gone, I feel my gun and I let off one
24 shot just to see if I was dreaming but I wasn't. I didn't
25 aim at no one. I was so in shock and bloody, I couldn't

1 see or hear anything but my Junior. I crawl to the door
2 reaching for the handle. I think I fell through the whole
3 screen. I crawl to my serve car. Got dropped off at the
4 hospital. I ain't no killer or robber. Every time I came
5 at that man it was respect. Even his uncle used to tax
6 just for letting us jug out his house. So when I heard
7 what happened to him, I'm not going to lie, I didn't give
8 a fuck. If my Junior ain't snap me out that trauma I
9 would have died in that kitchen and he would have still
10 been serving Junior, serving, I believe. So I can't say I
11 feel remorse from that nigger cause he shot me in my face
12 when all I ever did was good business with him. He just a
13 scary trapper but he ain't care about my kids and life,
14 all the money I brought him. So I can't say I feel sorry
15 for him honestly. And this just the truth of my story.
16 Nigger was still serving with me bleeding to death in the
17 kitchen, word. I crawled out that MF with nothing. I
18 left everything. This on my kids and dead momma.

19 I asked him a question. Who is Junior?

20 He said, my son.

21 I asked him, Who was with you?

22 I got Serve to bring me. He a smoker. I don't want
23 to incriminate him. He never went in or nothing,
24 crackhead.

25 Someone went in the house with you. Who was it?

1 No one. Me and Murder don't do business like that.
2 Ask his uncle. I did talk to his uncle and other people.
3 That's how I know you were not alone. I never saw no one.
4 Just me in the kitchen with Murder. His uncle stayed in
5 the front. Like I said, it's a trap.

6 If you said you only shot one time, explain how
7 Murder was hit more than five times if you were the only
8 one in the house.

9 I don't know. I never heard no shots. My whole life
10 flashed before me. I never knew what happened to them
11 until a day or two later. Only reason I shot from the
12 floor was to see if I was alive and not dreaming. This on
13 my dead mom and kids.

14 Why not say who was with you. Are you fearful from
15 retaliation?

16 No. I just wanted to give what I knew honestly. I
17 wish he wasn't dead cause I would kill him myself. Bro,
18 you don't understand and he point blank ranged me in the
19 kitchen and left me there. I don't know how long or came
20 through, but if I did I would say. But I couldn't see,
21 Bro. I got shot in my face for reaching for cash.
22 Whoever did probably thought I was dead already cause even
23 I did. But on my dead mama and kids, I saw no one, Bro.
24 Just me and him and Unc.

25 If you are truly a victim you've got to tell it all.

1 The whole truth. I don't care about the weed. It is not
2 important. If you shot one time, who let off the other
3 shots?

4 I had to be shot already. And like I said, I didn't
5 aim at no one or nothing. It was like my son and God was
6 waking me up and I couldn't see or talk. I crawled, Bro,
7 and fell through the screen. And when I got here I passed
8 out.

9 Did you always take a gun when you went to buy from
10 him? Where did you meet Murder?

11 Always, and at that trap, his uncle's spot. He could
12 probably tell you a lot more, but ask anyone. I always do
13 good business and keep my face clean. That's why this
14 shit hurt so bad. I can't believe he shot me still.

15 And this is him answering the second part of the
16 question is, Where did you meet Murder.

17 Through another plug, we been doing business over
18 like a year now. He just a ping pong, me when Bro out of
19 town. I just found out his name was Cory. My gun should
20 have been in the kitchen in my blood. If it wasn't, you
21 got to talk to his uncle and trap and them cause this is
22 the realist I've ever been on my kids and dead momma. And
23 they only -- they the only people I love. Glock 23 or 30.

24 Who is Gwan, and then in parenthesis, (Gwany)?

25 He says, I know Gwany.

1 Was he with you?

2 He said, hell no. I saw him at the hospital when I
3 got here though but I couldn't talk. The bullet fractured
4 my jaw.

5 I asked him, Anything else you want to tell me.

6 What do you want to know? I just want to take care
7 of my kids, man. My Serve, he's scary. Ask anyone. I
8 think he saw that Glock but that was where my money was.

9 Tell me your Serve name, is what I asked him.

10 He said, I got my Serve to call her Jabo. I would
11 give you his number but I don't know where none of my shit
12 is, on my mom phone or nothing.

13 I asked him, So is there no one I can talk to to
14 verify your story?

15 He said, just go back and investigate, Bro. I gave
16 you facts. You can put my life on the line. I keep
17 business discrete out here. If y'all let my girl come, I
18 know she'll verify whatever but this my side. I don't
19 know what else you want to know, Bro, for real. Okay. He
20 said, don't charge me for giving you the truth. Unc going
21 to hold back for real. This my side. Let my fam see me
22 or call them or something. They worried. After this I'll
23 never sell a gram or touch a gun again. Y'all ain't find
24 my gun?

25 That was the end of the statement.

1 Q Okay. So as you said, this process took 20 minutes?

2 A Roughly. Yes, sir.

3 Q How did --

4 MR. POTTS: I guess, Madam Court Reporter, would it
5 be better if we mark this?

6 COURT REPORTER: Yeah, let me count the pages on
7 there.

8 MR. POTTS: If I may, Your Honor.

9 Q Now, as you were talking --

10 COURT REPORTER: Judge, I'm making this as 2A. The
11 bag for it to go in.

12 THE COURT: All right.

13 COURT REPORTER: Is that all right?

14 THE COURT: That's fine.

15 MS. ZMROCZEK: For purposes of this hearing, Your
16 Honor, we would object to the bag going in.

17 THE COURT: You would --

18 MS. ZMROCZEK: I would object to the bag going in as
19 opposed to just the statement.

20 THE COURT: For the purposes of keeping the pages
21 together.

22 MS. ZMROCZEK: Okay.

23 COURT REPORTER: I'm going to have to staple them.
24 So the pages will be 2 and the bag will be 2A.

25 (Whereupon, State's Exhibit number 2A was marked for

1 identification purposes.)

2 Q Now, as you were talking to Mr. Parker was he
3 answering your questions responsibly?

4 A Yes, sir.

5 Q Did he seem to have any problems answering your
6 questions?

7 A No, sir. Mr. Parker was freely talking -- or freely
8 writing what he wanted to tell me.

9 Q Did the narrative he gave you, did that make sense in
10 a logical fashion? Not whether it was true or not, but
11 did it make sense in a logical fashion to you?

12 A Somewhat.

13 Q Did he seem to be aware of his surroundings, what was
14 going on?

15 A He did.

16 Q Did he seem to know who he was talking to?

17 A Yes, sir.

18 Q Did it appear that the medications he was taking at
19 the hospital in any way impair his ability to make a
20 statement like that to you?

21 A Not to my knowledge, but, you know --

22 Q From your observations?

23 A From my observations he seemed coherent enough for me
24 to speak to him.

25 MR. POTTS: Beg the Court's indulgence. No further

1 questions, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. ZMROCZEK: Thank you.

4 CROSS-EXAMINATION

5 By Ms. Zmroczek:

6 Q And -- shows you reading the rights to him?

7 A Yes, ma'am.

8 Q And how did he indicate that he understood those
9 rights?

10 A He nodded his head when I asked him.

11 Q But certainly he was capable of writing, right?

12 A Yes, ma'am.

13 Q Was there a reason that you just didn't have a waiver
14 of Miranda form?

15 A I just didn't have one with me at that time.

16 Q And you had already charged him at this point?

17 A Yes, ma'am.

18 Q Had you served the warrants on him?

19 A I don't know if they had been served on him.

20 Q When did you make the decision to charge him?

21 A I couldn't tell you the exact date. I'd have to look
22 at my case notes to be able to tell you exactly when we
23 decided to charge.

24 MS. ZMROCZEK: That's all the questions I have, Your
25 Honor.

1 THE COURT: Anything else from the State?

2 MR. POTTS: No further questions, Your Honor.

3 THE COURT: All right. Please step down.

4 MS. ZMROCZEK: So, Your Honor, the objection I would
5 have to the bag going in is it has all of this other
6 information about victim and charge is murder and things
7 like that. I would argue that that is not proper. If
8 they -- you know, if they want to put it in a separate
9 Manilla envelope to keep all the pages --

10 THE COURT: That's fine, as long as -- yeah, we can
11 put it in a separate clean jacket.

12 MR. POTTS: Sure. I guess, Your Honor, all have that
13 information on them, whether it's for firearm or it's for
14 the buccal swabs. Everything that we don't take out of
15 the bag is -- you know, the jury knows this is a murder
16 case. They know who the alleged victim is. They know
17 this is law enforcement's perspective. I mean, I'm fine
18 to put that in a different envelope, Your Honor.

19 THE COURT: That's fine. Just put it in a marked.
20 All right. I'll be glad to hear from you all regarding
21 Denno.

22 MR. POTTS: Your Honor, the State contends that that
23 statement, according to Investigator Duckett and from all
24 appearances, it appears to be completely knowingly and
25 voluntarily, the witness rights and Miranda. Gave a

1 voluntary statement to Investigator Duckett for which he
2 states was coherent and there was no force, no, you know,
3 coercion. Nothing -- nothing of any improper -- the fact
4 the Defendant himself asked to speak to Duckett, was
5 completely voluntary in nature, knowing and voluntary
6 waiver. And so, we ask that you allow the statement to
7 come out.

8 MS. ZMROCZEK: Your Honor, I think, after hearing his
9 testimony I don't have a good faith basis to argue this.

10 THE COURT: I do find that the statement was
11 voluntary -- that based on a preponderance of the evidence
12 and hearing the testimony before the Court, that the
13 Defendant in this case was advised of his Miranda rights
14 and do find that the statement was voluntarily given. The
15 fact that the Defendant in this case initiated the contact
16 with the Investigator and at that time voluntarily gave
17 the written statements because he could not speak between
18 he and the investigator at that time. For that reason,
19 based on a preponderance of the evidence, I will allow the
20 statement in, in a clean envelope marked whatever, 2A.
21 All right.

22 MS. ZMROCZEK: Your Honor, I know we don't have a
23 jury here, so we want to skip, I think we can--

24 THE COURT: Motion to -- if you make a motion to
25 sequester --

1 MS. ZMROCZEK: Yes.

2 THE COURT: -- exclude witnesses prior to opening. I
3 think if she makes a motion to sequester witnesses the
4 Court grants it.

5 MR. POTTS: Your Honor, it's only discretion, Your
6 Honor. We just ask that Investigator Duckett and
7 Montgomery--

8 THE COURT: -- oh, obviously they can stay. And then
9 who the alleged victims.

10 MS. ZMROCZEK: Certainly. And I don't believe
11 they're going to testify.

12 THE COURT: And then there's a motion to reveal the
13 deal, including any promises of leniencies by officers to
14 any surviving -- I assume you're talking about Mr. Jimmy
15 Rogers and --

16 MS. ZMROCZEK: That's correct. And then, Your Honor,
17 there's -- there's a snitch that they have cultivated from
18 the jail.

19 THE COURT: What's the name?

20 MR. POTTS: Jevante Richmond.

21 MS. ZMROCZEK: Richmond.

22 MR. POTTS: On our witness list, Your Honor.

23 THE COURT: Has any offers or deals been made -- I
24 know no offers have been made to --

25 MR. POTTS: I told Ms. Davis that, while I haven't

1 contemplated what to do with her client, obviously
2 testified and was helpful and truthful that, you know, I
3 would -- what I said was to Ms. Davis -- I said something
4 like, you know, think about a cap or something like that.
5 But it wasn't specific as we got with Ms. Davis' client.

6 MS. ZMROCZEK: Which I think if they testify -- when
7 they testify, Your Honor, we can revisit that and just
8 make sure it's done before then.

9 MR. POTTS: Jevante Richmond's, I actually had this
10 on some State level charges. He had, that arose, he was
11 arrested for my charges and then the Fed's decided to
12 indict him on -- basically a bigger superceding case --

13 THE COURT: Yes, sir.

14 MR. POTTS: -- involving the same conduct on my
15 charges. Before I realized he was -- given the statement
16 and before I realized he was a witness in this case I
17 offered to, as soon as he finishes Federal stuff, to
18 either pled him or give him time served. Subsequent to
19 that offer I found out -- I was given his statement and
20 found out he was, in fact, a potential witness in this
21 case. So I have -- the one thing I did do, and I told him
22 that his offer he had prior to me finding out that he was
23 a witness still stood and that I was not going to threaten
24 with his current pending State charges anything new. I
25 told him regardless if he testified for me or not I would

1 either do what I agreed to do before.

2 MS. ZMROCZEK: That's fine.

3 THE COURT: That's sufficient?

4 MS. ZMROCZEK: That's sufficient. Thank you.

5 THE COURT: Motion for production of oral statements
6 or written anywhere--

7 MS. ZMROCZEK: So sometimes they subsequently talk to
8 people and they make a different statement, Your Honor. I
9 don't know that I've had that experience with this
10 Prosecutor. But other Prosector's, sometimes they don't
11 pass along any changes in their written statements but I'm
12 sure this Prosecutor will.

13 MR. POTTS: Your Honor, there is always new details
14 come up, but there's nothing substantial or contradictory
15 in the statements that we have gotten from law enforcement
16 and lay witnesses compared to the statements they had
17 given us. Some witnesses have given several different
18 versions of what happened and, you know, that's -- but
19 she's aware of those different versions.

20 MS. ZMROCZEK: Yeah, I have those.

21 THE COURT: All right. Number 12.

22 MS. ZMROCZEK: And we talked about that. I think
23 that they were going to -- it was just Mr. Rogers' rap
24 sheet which I don't think he's testifying today. So
25 they're going to get me a cleaner copy of that.

1 MR. POTTS: A clean copy of Mr. Rogers' record?

2 MS. ZMROCZEK: I cannot read it, no. Oh, sorry. I
3 told Mr. Fyall. And then I have received most resumes --

4 THE COURT: The CV's for the experts?

5 MS. ZMROCZEK: I have and if they just have any more.
6 Obviously we need to talk about the photos tonight. Oh,
7 15 is a duplicate. So, Your Honor, that may be a more
8 difficult issue. I don't know -- well, I don't know if it
9 is or not.

10 THE COURT: Are you all trying to get any of the Lyle
11 evidence in against the Defendant?

12 MR. POTTS: No, that's not -- it just kind of
13 depends. At this point I don't. But obviously things
14 could change depending on the flow of the case, Your
15 Honor.

16 THE COURT: We will handle those as given.

17 MR. POTTS: Just so that Your Honor knows, Mr.
18 Jenkins and this Defendant met while in prison. I think I
19 would -- I think I can get around that at this time.
20 That's kind of why I think I say no.

21 THE COURT: Right.

22 MR. POTTS: And if it becomes an issue we'll -- I'll
23 bring it to the Court's attention if I think it's an
24 issue.

25 THE COURT: All right.

1 MS. ZMROCZEK: And then they're reading -- just
2 reading -- re-reading the Coroner's report and some of the
3 police reports there was mention of gang, so hopefully
4 that will stay out.

5 MR. POTTS: It's my goal not to illicit any gang.

6 MS. ZMROCZEK: Okay.

7 MR. POTTS: Except for, there is some parlance used
8 in some of these notes you're talking about.

9 MS. ZMROCZEK: Some what?

10 MR. POTTS: Some parlance used in some of these
11 notes. For instance, it's a trap house. He's a trapper.
12 Rather than saying -- I will ask, what does this mean to
13 you, and I'm going to --

14 MS. ZMROCZEK: You're going to --

15 MR. POTTS: My questions to Mr. Duckett.

16 MS. ZMROCZEK: Okay.

17 MR. POTTS: What is -- when he says trap, what does
18 that -- what's that mean, because you knew what it meant
19 unless you would have asked.

20 MS. ZMROCZEK: Then, Your Honor, I would just ask for
21 his training and his CV as well, just so I can challenge
22 that if I need to.

23 THE COURT: Well, you will lay a foundation as
24 knowing as a police officer.

25 MS. ZMROCZEK: Right.

1 THE COURT: But -- I mean, that statement alone,
2 there's stuff in there --

3 MS. ZMROCZEK: Exactly.

4 THE COURT: -- that the jury probably didn't know
5 what a plug is.

6 MS. ZMROCZEK: Right. Right. My concern is that if
7 he goes on to infer what certain things --

8 MR. POTTS: Unless the -- I don't plan on having
9 anyone say, member of a gang or this gang or that gang.
10 Obviously if it becomes relevant then I will bring it up
11 to the Court at the appropriate time.

12 THE COURT: Was there anything in the statement to
13 indicate he was in a --

14 MR. POTTS: No, there's not.

15 MS. ZMROCZEK: It was just street talk.

16 MR. POTTS: Just street talk.

17 THE COURT: Yes.

18 MR. POTTS: And so, I would ask him on that basis,
19 you know. And I'll instruct him not to go into gang. I
20 can foresee a situation where that does happen -- but I
21 don't anticipate it happening.

22 MS. ZMROCZEK: And then the last thing I forgot to
23 put on here but I'm glad I remembered it. Your Honor,
24 there -- so the 23 that Mr. Parker says was his gun, they
25 provided a report that it was a -- it came back stolen. I

1 would ask that that be excluded.

2 THE COURT: Under what theory?

3 MS. ZMROCZEK: Ma'am?

4 THE COURT: Under what theory?

5 MS. ZMROCZEK: Under 404(b). That the gun that he
6 admits to having comes back stolen. He's not charged with
7 possession of a stolen pistol. He's not charged with any
8 of those. He's certainly charged with a pistol but I
9 think that -- mentioning that gun came back stolen would
10 implicate him in some other crime that he hasn't been
11 charged with. And we don't have any information about
12 when it -- you know, I know when it was stolen but we
13 don't know what the investigation was into how he came to
14 be in its possession. So we would argue that, Your Honor,
15 is certainly evidence that is not relevant. And it's
16 certainly bad character evidence if brought into this
17 case.

18 THE COURT: Yes, sir.

19 MR. POTTS: Your Honor, at this -- at this point I
20 don't see that to be particularly relevant. However, I do
21 reserve the right to --

22 THE COURT: -- all right. Excluding pictures? I
23 thought we were going to --

24 MS. ZMROCZEK: We're going to -- yeah, we're going to
25 do that. And then 20, Your Honor --

1 THE COURT: 19, settle stipulations?

2 MR. POTTS: Your Honor --

3 MS. ZMROCZEK: It's stipulated to chain.

4 THE COURT: All right.

5 MS. ZMROCZEK: 20, I don't believe is relevant, Your
6 Honor, unless the co-defendant comes and testifies in a
7 way that is harmful to the case. But unless and until
8 that happens I don't think that we need to rehash that at
9 this point.

10 THE COURT: Yes. Other than just putting on the
11 record that he did have -- pretrial statuses regarding
12 with the State, Ms. Zmroczek and Ms. Davis who represents
13 the co-defendant --

14 MS. ZMROCZEK: Yes.

15 THE COURT: -- regarding some discussions that
16 actually pertain more to the State. So that won't become
17 an issue as he takes the stand.

18 MS. ZMROCZEK: Right. Right. And 21, I believe they
19 already addressed, Your Honor.

20 MR. POTTS: We did.

21 MS. ZMROCZEK: 22, so to limit, slash, clarify the
22 use of the word, victim. And I even noticed it this
23 morning when we were talking about like the attempted
24 murder victim versus the decedent. Obviously, that in and
25 of itself, you know, generates an emotional kind of

1 connotation effect. And especially after you just heard
2 Mr. Parker's statement where he says he's the victim. And
3 not to mention that there's a murder charge and an
4 attempted murder charge, it can get confusing just with
5 the term, victim.

6 THE COURT: I think the State, it's their theory in
7 the case that he is not the victim and that the victim is
8 the deceased person and that the victim -- so they can say
9 that -- use the term, victim. I guess try their best to
10 say alleged victim, alleged victim.

11 MS. ZMROCZEK: Right, yeah.

12 THE COURT: I'll try to continue to do that. I think
13 the same thing for you, so --

14 MS. ZMROCZEK: Right.

15 THE COURT: -- you may have said, you know --

16 MS. ZMROCZEK: Right.

17 THE COURT: -- victim in here. But I will try to
18 say, alleged victim or the decedent.

19 MS. ZMROCZEK: Right.

20 THE COURT: But when reading the -- that's when I
21 read the indictments, I was trying to use the word,
22 alleged. But in terms of the State's case they present --
23 their theory of the case that these are the victims and
24 he's not.

25 MS. ZMROCZEK: Certainly, and it just -- sometimes,

1 you know, it gets used repetitively. So we just want to
2 -- obviously if we feel like it's an issue, we'll raise it
3 at that point.

4 THE COURT: I mean, it is the victim, but that's
5 their position that they are victims, you have got
6 somebody that is deceased.

7 MS. ZMROCZEK: Right.

8 THE COURT: The victim, yeah, I mean, I'm not sure
9 how you get around that.

10 MS. ZMROCZEK: Right. And again, I don't think it'll
11 be an issue. I just wanted to bring it to your attention.
12 And then the last one which is duplicate. We already
13 discussed.

14 THE COURT: All right. Are you all ready for
15 openings?

16 MR. POTTS: I want to do the -- I guess, let me -- I
17 do want to clarify for number 23. Right. I guess in my
18 conference with Ms. Zmroczek we had discussed --

19 MS. ZMROCZEK: I'm sorry. What?

20 MR. POTTS: Sorry. In our conference we discussed
21 other things. For instance, there is a note that she
22 references and, motion number eight, right. The other, we
23 did not discuss, right now as being another act. And
24 while the State, let me be clear here while the State
25 consents to 404(b) as proper, we don't -- we do not think

1 that -- I just want to -- there are items that we may
2 disagree on as far as that and we need to have a proper
3 hearing at the appropriate time.

4 MS. ZMROCZEK: And as of bad act, Your Honor, the one
5 -- the one bad act, I guess, that we, I think, can't get
6 around res gestae is the marijuana, the purchasing of
7 marijuana which is -- it already came up in voir dire. I
8 just don't think we can get around that. So I spoke with
9 my client and he has agreed that that bad act is one that
10 we -- that's the only bad act that we would not challenge.

11 MR. POTTS: I guess they interpreted, the hospital
12 notice as witness tampering rather than as being in
13 furtherance of this crime/conspiracy.

14 MS. ZMROCZEK: And I think we --

15 MR. POTTS: We obviously have disagreements on that
16 act.

17 MS. ZMROCZEK: Well, I think we can bring that up
18 before it comes in. I don't think you're going to use
19 that in opening, are you?

20 MR. POTTS: And, I guess, I also want to get into
21 404(b) as far as, I guess, the victim goes.

22 MS. ZMROCZEK: I don't know yet.

23 THE COURT: Huh? You said you don't know?

24 MR. POTTS: I mean, okay. As long as, I think,--

25 MS. ZMROCZEK: It won't come in -- I won't mention it

1 before the Court makes a ruling on it.

2 MR. POTTS: Sure.

3 MS. ZMROCZEK: Fair enough.

4 MR. POTTS: But as fair -- I think we should both try
5 and abide by the rule.

6 MS. ZMROCZEK: I'm not going to get into opening and
7 say 90 days before, I'm not going to do that. So, yeah.

8 MR. POTTS: That was my main worry, yes.

9 THE COURT: All right. You ready Ms. Zmroczek?

10 MS. ZMROCZEK: Sure.

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

12 (Whereupon, the jury came into open court at
13 approximately 3:26 p.m.)

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, I hope that you had a good lunch. Sorry for the
16 delay. Sometimes we were -- we were in here working hard
17 trying to resolve some legal matters that I cannot discuss
18 in front of you. So I try to estimate the time --
19 guesstimate the time as best as possible, but a lot of
20 times I am off on the time. So thank you and I appreciate
21 your patience. At this time I will ask the -- I will ask
22 the Clerk to swear the jurors.

23 MADAM CLERK: Ladies and gentlemen of the jury,
24 please stand and raise your right hand to be sworn. At
25 the end of the statement that I'm about to give you,

1 please respond by saying I do.

2 (Whereupon, the jury was sworn at approximately 3:28
3 p.m.)

4 THE COURT: Thank you. You may be seated. Ladies
5 and gentlemen of the jury, what I will now say is intended
6 to serve as an introduction to the trial of this case.
7 These remarks are not a charge on the law in this case. I
8 will instruct you on the law applicable to this case at
9 the end of the trial before you retire to consider your
10 verdict. This is merely an explanation of the procedure
11 that we will follow in the trial of this case so that you
12 may better understand what may be happening. Ladies and
13 gentlemen of the jury, you are not to take any notes
14 during the trial. In this case, once again, the Defendant
15 is charged with murder, attempted murder, attempted armed
16 robbery and possession of a weapon during the commission
17 of a violent crime, the elements of which will be
18 explained to you later. The indictments, again, in this
19 case are simply the charges by which the case is brought
20 into court. It is not in any sense any evidence of any of
21 the allegations it contains. The Defendant in this case
22 has pled not guilty to these indictments. The State
23 therefore has the burden of proving each of the elements
24 of the indictment beyond a reasonable doubt. And it will
25 be your duty, ladies and gentlemen, to decide whether the

1 State has met that burden. Your purpose as jurors is to
2 find and determine the facts. You are the sole judges of
3 the facts in the case, and if at any time I make any
4 comment on any of the facts you must disregard it. You
5 are to determine the facts from the testimony you hear and
6 the other evidence introduced in court. It is up to you
7 to determine the inferences which you feel may properly be
8 drawn from the evidence. It is especially important that
9 you perform your duty of determining the facts diligently
10 and conscientiously because ordinarily there's no way to
11 correct an erroneous determination of the facts by a jury.
12 On the other hand and with equal emphasis, the same law
13 that makes you the judges of the facts makes me the Judge
14 of the law. The law as given by the Court is the only law
15 you may consider. You must accept and follow it even
16 though you may disagree with it. I cannot tell you what
17 the facts are and you cannot disagree with me about what
18 the law is or what the law should be. Your job is to take
19 the law as I give it to you and apply it to the facts as
20 you find them from the testimony of the witnesses and any
21 other evidence that is introduced. After doing that, you
22 will render your verdict, a verdict under the solemn oath
23 that you've just taken as jurors. Until I begin -- until
24 I tell you that you may begin to deliberate you must not
25 discuss this case with anyone, including your fellow

1 jurors, friends, family members and anyone involved in
2 this case. The attorneys and the parties in this case
3 have been advised that they are not to talk to you at all.
4 So if you see anyone involved in the case and they do not
5 say hello, they're not being rude or unfriendly. They are
6 just following my instructions. You must decide this case
7 solely on the evidence presented here in the courtroom.
8 That means during this trial you must not conduct any
9 independent research about this case, the facts of the
10 case, the evidence presented in the case, or the people or
11 organizations involved in any way in the case. Please do
12 not try to find out information from any source outside
13 the courtroom. In other words, you must not look at
14 dictionaries or other reference material such as the
15 internet, websites or blogs, or use any other electronic
16 tools to get information about this case or to help you
17 decide the case. You may not use computers, cell phones,
18 Smart Phones, tablets, the internet or other tools of
19 technology with communication capabilities at any time
20 while you are in the courtroom or during your
21 deliberations. During your breaks for meals and
22 overnight, if necessary, you may use these devices.
23 However, you must not use these devices to communicate
24 with anyone about the case until the case is over. This
25 means that you are not to use -- not to use phone calls,

1 emails, text message, instant messages, Twitter, or any
2 blog, chat room or website, including Facebook, LinkedIn,
3 You Tube, whatever -- he could probably tell you all the
4 social networks, I can't, in this case. This includes any
5 information about a party or witness, an attorney or a
6 court reporter, any news accounts about the case. And
7 when I say court reporter, court officer, research of any
8 topics raised, any topics you may think would be helpful
9 in deciding or any testimony presented by any witnesses.
10 Please do not read, listen or watch any news reports about
11 this case. You must not consider anything you may have
12 read or heard about the case outside the courtroom whether
13 before or during the trial. Any information on the
14 television or radio, the internet or from other sources
15 might be wrong or incomplete. In our judicial system it
16 is important that you are not to be influenced by anything
17 or anyone outside this courtroom. If you become aware of
18 another juror's violation of these instructions, please
19 inform me immediately. It is important that you keep an
20 open mind and not decide any issue in the case until you
21 have received all of the evidence, the parties have made
22 their closing arguments and I have instructed you on the
23 law in this case. It is your solemn responsibility to
24 determine the guilt or innocence of the Defendant and your
25 verdict must be based solely on the evidence as it is

1 presented to you in this trial and on the law as I
2 instruct you during and at the close of the trial. Now,
3 in just a moment the Solicitor will make what is called an
4 opening statement in which the Solicitor will explain to
5 you the issues in this case, or at least what the
6 Solicitor thinks the issues are in the case. The attorney
7 for the Defendant also has an opportunity to make an
8 opening statement, although she is not required to do so.
9 What the attorneys tell you during their opening
10 statements is not evidence in this case, it is only their
11 contention as to what the issues are. The evidence in
12 this case will be presented to you by testimony of sworn
13 witnesses from the witness stand, by exhibits that are
14 entered into evidence -- and exhibits that are entered
15 into evidence. From time to time during the trial you may
16 hear one of the lawyers say something like, "Your Honor, I
17 believe we have a question of law or a matter of law to
18 discuss with you," or, "Your Honor, may we approach the
19 bench," or sometimes I may find it necessary to send you
20 all out of the courtroom for a short while so the
21 attorneys and I can discuss a matter of law. The reason
22 for this is -- the reason for this is because you are the
23 judges of the facts in this case, and sometimes when I am
24 ruling on the admissibility of whether a particular law
25 applies I may have to comment on a fact. I am not

1 supposed to tell you what I think the facts are, so I will
2 excuse you from the courtroom so that you will not be
3 influenced by anything that I may say in ruling on a
4 particular issue. You must decide whether or not the
5 testimony of the witnesses, the witnesses is believable.
6 It will be my responsibility to rule as a matter of law as
7 to whether certain testimony is admitted at all or not.
8 But once the testimony is admitted, whether or not you
9 believe it is solely for you to determine. In deciding
10 whether to believe if it is, you have the right to
11 consider the interest of any witness, the bias of any
12 witness, the prejudice of any witness, the opportunity for
13 the witness to have seen the matters and the things about
14 which the witness may testify and the way the witness acts
15 on the witness stand. You have the right to consider
16 anything that is in the record that will help you evaluate
17 the testimony of the witnesses. That means that it is
18 your duty to pay close attention to these witnesses, to
19 observe the witnesses, to listen to the witnesses and to
20 pay close attention to the attorneys and the Court.
21 Please do not let your thoughts wonder, but give strict
22 attention to the testimony in this case so that at the end
23 of all of the testimony, after the arguments of counsel,
24 and the charge on the law by the Court, you'll be able to
25 apply the law to those facts and thus render a verdict.

1 In order to preserve everyone's rights I'll give the
2 parties an opportunity to object to anything that I said.
3 Any objections or exceptions from the State?

4 MR. POTTS: No, Your Honor.

5 THE COURT: Any from the Defense?

6 MS. ZMROCZEK: No, Your Honor.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, please pay close attention to the attorneys. First
9 you will hear from Mr. Fyall on behalf of the State and
10 then you will hear from Ms. Zmroczek on behalf of the
11 Defendant. Yes, sir.

12 MR. FYALL: Thank you, Your Honor. May it please the
13 Court?

14 THE COURT: Yes, sir.

15 MR. FYALL: Good afternoon. Ladies and gentlemen,
16 this case, if you boil it down, it's simplified. It's
17 about three things. It's about coordination, it's about
18 the crime and then it's about the coverup. The
19 coordination was Roshamel Parker and another individual
20 set up a drug deal with the victim, Cory Jenkins. But
21 they didn't want to do a drug deal, they wanted to do a
22 robbery. And when Mr. Jenkins decided to try to defend
23 himself that robbery turned into a murder. And he managed
24 to shoot Mr. Parker and he managed to shoot his
25 co-defendant and they all ended up at the hospital. In

1 that moment what do you do? There's a dead man on the
2 floor of a house and you've been shot in the mouth and
3 you're in the hospital with your co-defendant and the
4 other victim who you tried to shoot. At that point you
5 try to cover it up. My name is Lamar Fyall and I
6 represent the State along with Carter Potts. And we're
7 here because of those actions, Roshamel Parker who's
8 charged with murder, attempted armed robbery, attempted
9 murder and possession of weapon during the commission of a
10 violent crime. So on March 25th, 2018, and this is from
11 his own statement to law enforcement, he went there to do
12 a drug deal with Mr. Cory Jenkins for somewhere between
13 \$3,500 and \$3,800 worth of marijuana. And he wasn't
14 alone. He had someone else with him, because we know he
15 was there because swabs were taken and his DNA was found
16 there, because the gun that he admits he had was left
17 there. But when asked who else was there he said, no one,
18 just me. Why? Cover up. He goes to the hospital. Jimmy
19 Rogers, who was also at the home when the shooting took
20 place and they tried to kill him too, he gets shot and he
21 goes to the hospital. And another individual named Gwan
22 Perry who was also shot ends up at the hospital, all
23 within a matter of moments. Now, we're not going to try
24 to sugarcoat. Okay? It's illegal to sell marijuana. If
25 you take that fact, put it in your pocket and carry it

1 with you for the rest of this trial. But even though
2 marijuana, to use it, to sell it, to buy it is illegal,
3 the punishment for that is not death. And Cory Jenkins
4 did not deserve to die at the hands of Roshamel Parker and
5 Gwan Perry just so they could steal his drugs, set up a
6 drug transaction so they could steal his drugs. Whatever
7 you think about people who buy or sell marijuana, one
8 things for certain, Cory Jenkins' life was worth more than
9 \$3,500.00 dollars. And Roshamel's actions, and the
10 evidence in this case is worth you finding him guilty
11 beyond a reasonable doubt, beyond a reasonable doubt,
12 proof that leaves you firmly convinced of the Defendant's
13 guilt. That's our burden. We're going to meet that
14 burden. We're asking you at the end of this trial to find
15 Roshamel Parker guilty of murder, attempted murder,
16 attempted armed robbery and possession of a weapon in the
17 commission of a violent crime because Cory Jenkins' life
18 was worth a little more, I'd say a lot more, than the
19 money they were going to get from robbing him. Thank you.

20 THE COURT: Thank you. Yes, ma'am.

21 MS. ZMROCZEK: Thank you, Your Honor. May it please
22 the Court. Good afternoon. Mr. Fyall and I agree on
23 several things, his words, coordination, crime and
24 coverup. Because ladies and gentlemen, at the end of this
25 trial what you're going to find is that Cory Jenkins and

1 Jimmy Rogers engaged in all of these. Cory Jenkins was a
2 drug dealer. Roshamel Parker is a drug buyer. He is not
3 charged with buying drugs. He is not charged with selling
4 drugs. That is a fact that Mr. Fyall asked you to keep in
5 your pocket but you can't use it to help find him guilty
6 of what they actually charged him with. The coordination
7 comes when the drug dealer contacts Jimmy Rogers to deal
8 drugs out of his house. What we call a trap house.
9 You'll hear about that. You'll hear about that there were
10 lots of transactions that occurred with lots of different
11 people. It's what happens. The crime that was actually
12 committed began when Cory Jenkins took a nine millimeter
13 and blew a hole in Roshamel Parker's face, at which time
14 he hits the ground. You don't have to take my word for
15 it. You don't even have to take his statement for it
16 because the evidence -- the evidence will prove that to
17 you. The beauty of physical evidence is that we can't
18 make it lie, we can't change it, it is what it is. So the
19 crime happens when for whatever reason Jenkins shoots my
20 client in the face. Just like Mr. Fyall said, probably
21 because he didn't have enough money. You'll hear how Mr.
22 Jenkins was high on marijuana that night, as was my
23 client, Mr. Parker. He's -- he buys drugs. I'm not
24 excusing that behavior, but I'm not admitting that that
25 behavior requires these charges. You'll hear about the

1 other crime that Mr. Rogers, the trap house owner, who was
2 not only high on marijuana but also cocaine that evening,
3 after the shootout goes down at his house, he takes all
4 the guns and all the drugs and hides them in the woods.
5 That's a crime and a coverup. You'll hear about what the
6 evidence -- the physical evidence shows whose DNA is
7 where, whose DNA is on what guns. And at the end of this
8 you're going to have a lot of questions because Mr.
9 Jenkins is dead, and that is not lost on the Defense.
10 Anytime a human loses their life it is tragic, and that is
11 certainly the case. But tragedy does not equal a charge
12 and all these charges that Mr. Perry and Mr. Parker have
13 been charged with. Mr. Perry's not here. He's what they
14 call a co-defendant. You'll learn more about Mr. Perry
15 through the evidence. You'll learn that Mr. Perry's
16 bullets were the one that they pulled out of the fatal
17 injuries of Mr. Jenkins. Because, ladies and gentlemen,
18 you can't murder somebody and you can't attempt to murder
19 somebody when you're laying on the ground with your face
20 with a bullet in it, deaf. A bullet lodged in your ear.
21 That's not murder. There was certainly coordination,
22 crime and coverup and unfortunately that resulted in the
23 death of Mr. Jenkins. At the end of this case you're
24 going to have serious, serious doubts and serious
25 questions as to Mr. Parker's involvement in this case. No

1 doubt whatsoever that he went there to buy drugs. But as
2 far as all the charges, murder, attempted murder, armed --
3 attempted armed robbery, possession of a weapon during the
4 commission of a violent crime, the State is going to give
5 you many, many reasons to doubt, and all they had to do
6 was follow their own evidence -- follow their own physical
7 evidence to figure out what happened. And ladies and
8 gentlemen, I'm confident at the end of the trial you'll be
9 able to figure out what happened. We'll lay it out for
10 you. We'll try to do it as concisely and as clearly as we
11 can because this is a very -- to sit in judgment of
12 someone is a very important duty. That's why we asked you
13 all these questions and picked and choose, and please
14 seat, don't seat, because each of you said that you could
15 be fair and impartial and that you could follow the law.
16 And ladies and gentlemen, after the evidence is presented
17 in this case and you do that, then you will come to the
18 just verdict that Mr. Parker is not guilty of any of the
19 crimes that he is charged with. Thank you.

20 THE COURT: All right. I'm going to ask the State to
21 call their first witness.

22 MR. POTTS: Your Honor, can we approach?

23 THE COURT: Okay.

24 (Whereupon, a bench conference was held in the
25 presence of the jury but out of the hearing of the

1 jury.)

2 THE COURT: Ladies and gentlemen of the jury, I think
3 our first witness is -- should be here, they told me, at
4 4:00 o'clock, so we're going to take a short break for you
5 all. We'll take up some matters of law while you all are
6 out taking a break. But let me ask, does anyone need to
7 leave right at 5:00 o'clock today? And I'll let you all
8 know ahead of time. Sometimes we'll work to 5:30, 6:00
9 o'clock, depending on where we are in the witness'
10 testimony. I don't like to stop and try and finish the
11 witness. Sometimes we can't avoid it just because of the
12 time. If someone has any issues with any time commitments
13 or children to pick up or something, please let the
14 Bailiffs know and we will try to work as best as possible
15 around your schedule, but the goal is to finish this week.
16 And so, I'm going to play it by ear and try to get all of
17 the -- try to get all the evidence in before the end of
18 the week. So we're going to take about a 10 minute break
19 and then we'll bring you back in as soon as that witness
20 is here. All right? Thank you. Please do not discuss
21 the case.

22 (Whereupon, the jury was excused from the courtroom
23 for a break.)

24 THE COURT: I know Mr. Potts looked funny when I said
25 the goal was to finish by the end of the week, because I

1 know you all said y'all should be done. But I say that to
2 them because, if not, we'll -- to kind of explain to them
3 why we may work a little bit longer because, if not, I'll
4 get notes saying I need to leave at 5:00. I can't come
5 until 10:00 and all that. So if we do that, then we will
6 be into next week.

7 MR. POTTS: Your Honor, we will finish--

8 THE COURT: -- oh, no, no, no, no. No. I know what
9 I said was contrary to what you all told me, but I said
10 that to them so they will know that we're working towards
11 their goal. Yes.

12 MS. ZMROCZEK: May I use the restroom?

13 THE COURT: Okay. So you're going to -- we're going
14 to all take a break.

15 MR. POTTS: Yes, ma'am.

16 MS. ZMROCZEK: Thank you.

17 (Whereupon, a short break was taken.)

18 THE COURT: Are we ready? Anything else -- what
19 about the next witness? Do we need to do -- that's the
20 one with the photos? Have you all agreed on the photos?

21 MS. ZMROCZEK: So I think we're going to introduce
22 some photos in through this witness and I have had a
23 chance to look at them. I think we are still marking
24 them. But -- but I have no objections to the ones that --
25 for this witness.

1 THE COURT: What about for the next witness, because
2 --

3 MS. ZMROCZEK: I think they're --

4 THE COURT: -- we have two witnesses maybe? Jurors
5 have said they're fine. One lady said she needs to leave
6 by 6:15. Other than that, we can at least maybe work
7 until 5:30.

8 MS. ZMROCZEK: That's fine. Carter, so she might
9 need to leave at like 5:30.

10 THE COURT: What juror said what now? One juror just
11 said she needed to leave by 6:15.

12 MR. POTTS: Your Honor, may we approach?

13 THE COURT: Uh-huh.

14 (Whereupon, a bench conference was held.)

15 THE COURT: Let's bring them in.

16 (Whereupon, the jury came into open court at
17 approximately 4:13 p.m.)

18 THE COURT: All right. Mr. Potts, please call your
19 first witness.

20 MR. POTTS: Thank you, Your Honor. State calls
21 Corporal Arrowood.

22 BENJAMIN ARROWOOD, being
23 first duly sworn, testified as follows:

24 MADAM CLERK: Please have a seat. State your full
25 name.

1 THE WITNESS: Corporal Benjamin Arrowood, Columbia
2 Police Department.

3 DIRECT EXAMINATION

4 By Mr. Potts:

5 Q Corporal Arrowood, how long have you worked with the
6 Columbia Police Department?

7 A Right about nine years.

8 Q And you say you're a Corporal. What are your duties
9 as a Corporal?

10 A Essentially a mix of a shift supervisor in charge of
11 the other officers that are on shift, major crime scene
12 management, major incidents that come up or may need
13 responses for us. Also help with the day-to-day duties,
14 and also response to emergent calls.

15 Q So does that mean you don't have an office somewhere?

16 A Kind of. There's a primary office where we're at,
17 but we do a lot of work out of our patrol vehicles still.

18 Q Now, one of those things was responding to major
19 crimes. Is that -- is that something that you just do on
20 a regular basis?

21 A Yes.

22 Q How many guys are you supervisor of on your -- would
23 you call it a --

24 A Squad.

25 Q Squad.

1 A Yeah, it ranges depending on how many people are
2 there a day, but we're staffed for 10 in the region where
3 this occurred -- happened.

4 Q And so, we talk about the region this occurred at.
5 Did you respond to [REDACTED] Samson Circle on March 25th, 2018?

6 A I did.

7 Q And why did you respond there?

8 A We had a call that came out as a shots fired call
9 with an individual hit. From that, of course, it was a
10 major crime. And in getting that in order to try to get
11 on scene to see what we have.

12 Q Now, were you the first person on scene?

13 A No. Myself and Officer Robinson arrived relatively
14 close together, but he arrived there before I did but
15 almost at the same time.

16 Q Okay. So you all were basically just about the same
17 time but he beat you by a little bit?

18 A Yes.

19 Q So what did you all -- I guess let me do this. I'm
20 going to show you what's been marked as State's Exhibit
21 number 3. Can you tell me what that is?

22 A This would be the front side of the house of where
23 the incident occurred at [REDACTED] Samson Circle.

24 MR. POTTS: At this time I'd like to offer into
25 evidence State's Exhibit number 3, please.

1 THE COURT: Any objection?

2 MS. ZMROCZEK: Without objection, Your Honor.

3 THE COURT: All right. Number 3 will be entered
4 without objection.

5 (Whereupon, State's Exhibit number 3 was admitted
6 into evidence.)

7 Q And, Officer, I'm going to ask you to stand down, if
8 that's okay.

9 (Whereupon, the witness stepped down from the witness
10 stand.)

11 Q Now, this is going to be a little weird. So I'm
12 going to ask you to stand on this side. I'm going to
13 stand on this side so the Court Reporter has to be able to
14 hear everything you say. All right? Just make sure you
15 speak up. So what did you say this was again?

16 A It's the front side of the house where the incident
17 occurred at, it's ■ Samson Circle.

18 Q Now, ■ Samson Circle, that's in Columbia?

19 A Yes. It's in the City of Columbia and also in the
20 County of Richland.

21 Q All right. So this kind of edge here and this edge
22 here, is that the full size of the house?

23 A Yes. It almost encompasses the entire front side of
24 the house off of there, just past the edge. You can
25 actually see on the bottom of it it's actually the corner

1 of the house.

2 Q It's -- you'd call it a small house, wouldn't you?

3 A Yes.

4 Q Okay. Now, is this the house as you kind of came
5 upon it that night?

6 A Yes.

7 Q What is that in the middle of the doorway at the
8 house?

9 A That's the deceased in the incident. As we came up
10 it was a little more hectic than -- than that. But as we
11 came up he was blocking the doorway as we went to go make
12 entry to try to see what exactly we had going on.

13 Q So he's about right there? I'm gesturing to the
14 middle of State's Exhibit number 3, right about just right
15 there when you all arrived as well, in the same position?

16 A Yes. We didn't move him at all.

17 Q Thank you. You can have a seat back there.

18 (Whereupon, the witness returns to the witness
19 stand.)

20 Q So, Corporal Arrowood, you said that when you first
21 arrived -- when you arrived you said it was more chaotic
22 than that. I guess tell the jury a little bit about what
23 was the first sort of things you saw when you arrived at
24 that address?

25 A So as we pulled up, both myself and Officer Robinson,

1 there was a person standing in the doorway like he was, I
2 almost want to say, flagged us down from the roadway as we
3 pulled up to indicate the location where it was at to make
4 sure we're at the right place. We then followed him down
5 to the front side of the house. Immediately upon coming
6 to the front side of the house I observed the victim, he
7 was -- appeared to be deceased at the time. And then
8 another individual sitting inside on the couch and he'd
9 been shot in the arm. And just the inside of the house
10 upon coming up to it, it looked like there was some sort
11 of struggle. It was all in disarray.

12 Q So you saw the deceased right by where you said he
13 was. And then also in the house was another man who'd
14 been shot?

15 A Correct.

16 Q Did you have the opportunity to get his information?

17 A I think Officer Robinson ended up getting it. He was
18 kind of quiet initially when we were trying to talk to him
19 about it. Probably in shock.

20 Q Now, the person who had flagged you down, were they
21 injured in any way?

22 A No.

23 Q I guess, you said everything was in kind of disarray.
24 What does that mean? Were things just like not put away
25 properly, or what was it like?

1 A The typical setup of a house, things are typically in
2 their own spot. But it was kind of like some stuff was
3 moved over in places which wouldn't be consistent with how
4 somebody typically -- there was stuff laying on the floor,
5 as well as where the victim was laying at, compared where
6 couches and stuff would be at. Just everything seemed
7 like it was just strung around.

8 Q Now, was there -- was the house clean?

9 A Past that initial area, relatively.

10 Q I guess -- I guess what I mean, was -- was it bloody
11 in any way?

12 A Yes, it -- there was blood in the entire foyer area,
13 living room. It was kind of the same spot. Blood from
14 there led into the kitchen and outside to the steps there
15 as well.

16 Q Now, when you first approached the man you observed
17 lying on the -- kind of in that foyer, right in front of
18 the doorway what, if anything, did you do with him?

19 A Made a visual observation about what was going on
20 first. And then after that I went to go check for a
21 pulse, at which point in time when I did that I confirmed
22 that there was no pulse.

23 Q And I think you said earlier he did not appear to be
24 alive to you?

25 A No.

1 Q And so, you double checked that though with the
2 person?

3 A Correct.

4 Q So once you do that and you've arrived at the scene
5 where you have someone who has died, what do you do?
6 What's your job at that point?

7 A Even -- even after me doing my check we still have
8 EMS, fire respond out. I think they were pretty quick to
9 get there right after that. They had a truck shortly
10 after we pulled up on scene to confirm the information
11 that I gathered. I notified my immediate supervisor,
12 which was Sergeant Brink, and tried to ascertain what we
13 have on scene, what type of immediate leads we can develop
14 and other possible victims or suspects of the incident
15 that occurred.

16 Q Okay. So how would you go about doing those last
17 things you talked about? I mean, obviously you contact
18 Sergeant Brink by radio, I assume?

19 A Right.

20 Q And then, so how would you do the rest of the stuff
21 you're talking about?

22 A So as we pull up the individual we had originally, he
23 would be a witness, or at least a point of contact for the
24 incident we had because he was actually able to give us
25 some information. So talking to him, trying to gather

1 information from him, who made contact with him, how did
2 he find out about what occurred, where was he at when it
3 did occur, so that we would try to figure out if there was
4 additional people that we needed to be looking for or
5 suspect vehicle descriptions or suspect descriptions,
6 anything that we could gather in order to try to get us
7 information on where to start looking next.

8 Q Yeah. I guess so before you talked to him, did you
9 ascertain whether there was anyone else inside the home?

10 A Yes. Initially when we made contact with -- the
11 person that was sitting down, after that we then cleared
12 the house to confirm that there was no other victims or
13 suspects inside.

14 Q So you knew that there was no one else around?

15 A Correct.

16 Q Did the other person, were they -- the other person
17 who was shot, were they able to speak?

18 A Very limitly. It was hard to get information from
19 him, at least initially. So I think we were able to maybe
20 get his name from him, but as far as the series of events
21 he didn't disclose any information to myself.

22 Q Okay. But there was more than just you there at this
23 point, correct?

24 A Correct. Several other officers started arriving on
25 scene at that point in time, notifications to

1 investigations and command staff has been done as well.
2 So they would be notified and start coming there as well.
3 Q All right. So, I guess, as you go and once you can
4 secure the scene and find out there's nothing else there,
5 there's no one else there, did you -- were you able to
6 determine -- did you find out any new information
7 immediately at the scene?

8 A I want to say we got a possible vehicle description
9 of where it was at, and then possibly another individual
10 that could have been in the house at the time that was
11 located a few houses away from there. So we started
12 trying to canvas the area, knock on doors and try to get
13 more information from that. Then information for a
14 possible vehicle description was given out over the radio
15 to be BOLO'd out for other units and agencies to be on the
16 lookout.

17 Q Okay. Did any other information come in via the
18 radio? Would it help to look at your report?

19 A Sure.

20 MR. POTTS: Beg the Court's indulgence.

21 (Whereupon, State's Exhibit 24 was marked for
22 identification only.)

23 Q I'm going to show you what's been marked as State's
24 exhibit 24 for ID only. Take a look at that. Take a
25 review of it, and when you're done just look up towards

1 me.

2 A Okay.

3 Q Just read the whole thing.

4 A Okay.

5 Q You're good? Okay. So did any other information
6 come up over the radio or anything?

7 A Yes. Information from dispatch leading to two other
8 people with gunshot wounds that were brought to the
9 hospital.

10 Q Okay. And how soon after you had arrived did this
11 information come over?

12 A I want to say it was relatively soon after that. I
13 don't know the exact minute --

14 Q Right.

15 A -- count to that, but a short amount of time after.

16 Q And so, is it at that point you then start trying to
17 canvas and talk to people around? You said canvas
18 earlier, I believe, or maybe I heard it --

19 A Correct.

20 Q What does that mean?

21 A Essentially the canvas is to go around the area in
22 order to try to locate any information of people who were
23 witnesses that had information to the events that
24 occurred, to anything that they heard or saw to try to get
25 some information to follow-up on.

1 Q Did you gather any information of anyone who had seen
2 anything that night?

3 A We had some people come up to us. The primary
4 information I got was from the initial person we made
5 contact with.

6 Q Did any of those people tell you they had seen or
7 heard anything themselves?

8 A No.

9 Q So as you go and talk to people and try to -- just
10 try to -- you're trying to figure out things for -- what's
11 the purpose of talking to these people?

12 A Say again?

13 Q What's the purpose for talking to these people?

14 A Just trying to see what information that they have,
15 if they knew anybody that had any connections with this or
16 anyone who possibly would have been on the scene in order
17 to try to get some type of lead or what direction we
18 needed to go towards.

19 Q And so, are you recording this stuff down for later
20 use?

21 A Correct.

22 Q And who do you want to give it to?

23 A Whatever investigator we get on scene, whether it be
24 a primary investigator that ends up showing up or a case
25 agent. And then we end up giving them that information,

1 trying to relay that to them.

2 Q I guess can you describe briefly how your job is
3 different from the Investigator's job?

4 A So our primary function on patrol, while we are
5 trying to get information for the investigation, our
6 primary is scene security and safety and initial lead
7 development. So it's just basic information we get from
8 their investigations. Take the information we get or
9 additional information they've gotten while they've been
10 on scene and they do more in-depth follow-up with
11 information and try and track down further leads developed
12 from that initial information.

13 Q Now, I think you said earlier the scene was secured.
14 What does that mean?

15 A To make sure -- in this instance, we crime scene tape
16 to make sure that nobody's going to cross or contaminate
17 the area that we have that we were using as our primary
18 crime scene. So making sure that there was no other
19 additional, like I said, victims, suspects, third parties
20 that would be involved in it, to make sure that nothing
21 would be tampered with there on the scene.

22 Q And that's something you guys on the road, is that
23 something you all set up, the crime scene tape and such?

24 A Correct.

25 Q Okay. And in a case like this where you have a home,

1 how do you set up a crime scene?

2 A It kind of varies based off the incident that you
3 have. But we try to envelope the area around the incident
4 location. So for this we try to go out a house or two on
5 each side where we saw the evidence, at least what we
6 initially saw the evidence of, according to where the
7 incident occurred.

8 Q So you find the area where you've seen the evidence
9 yourself --

10 A Correct.

11 Q -- and you, follow-up a little bit just in case you
12 missed something else?

13 A Correct.

14 Q Is that what you all did in this case?

15 A Yes.

16 Q Did -- and then once you've kind of finished talking
17 with people what is your role as a Corporal then on the
18 scene?

19 A More of direction as far as what the other officers
20 were doing, or as need be, directing to assist
21 investigations. If they need something done, follow-up
22 while we're trying to deliberate on what they have
23 directly in front of them. Of course, as we got
24 information from other people at the hospital they get
25 other officers to go down there and try to secure those

1 other crime scenes where the other individuals that are
2 involved are at and try to see if that correlates with
3 what we have there on scene.

4 Q So -- okay. And so, you try and coordinate the other
5 officers and figure this out. Did you -- when you do your
6 initial -- when you did your initial sweep of the home
7 when you first got there, you said you were looking for
8 other individuals and what else?

9 A Other victims or suspects or evidence that's possibly
10 used in that crime.

11 Q Looking for weapons and such too?

12 A Correct.

13 Q Did you find any in the home?

14 A No.

15 Q Later on did -- was it brought to your attention that
16 something else was found?

17 A Yes.

18 MR. POTTS: Beg the Court's indulgence.

19 MS. ZMROCZEK: What number?

20 MR. POTTS: 4 through 23.

21 MS. ZMROCZEK: Without objection, Your Honor.

22 MR. POTTS: Let me do my thing first.

23 Q I'm going to show you what's been marked as State's
24 Exhibit number 4 through 23. Just take a look at all
25 those and when you're finished looking at them let me

1 know.

2 A Okay.

3 Q Now, State's 4 through 23 that I just gave you and
4 had you look at, what are those?

5 A These are photos of the area where additional
6 evidence was located after the initial search inside the
7 home.

8 Q And did you -- is this the part where you -- when
9 this stuff was located were you able to go out and see it
10 yourself?

11 A Yes.

12 MR. POTTS: At this time, Your Honor, I offer State's
13 Exhibit numbers 4 through 23.

14 THE COURT: 4 through 23?

15 MR. POTTS: Yes, Your Honor.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: No objection.

18 THE COURT: All right. Those will be entered without
19 objection.

20 (Whereupon, State's Exhibit numbers 4 through 23 were
21 admitted into evidence.)

22 MR. POTTS: Your Honor, once again, I ask the officer
23 to step down with me to go through those. May I approach?

24 THE COURT: Yes.

25 MR. POTTS: Thank you, Your Honor.

1 (Whereupon, the witness steps down from the witness
2 stand.)

3 Q And once again Officer -- good. It took me a long
4 time to figure that one out. So I want to show you
5 State's Exhibit number 4. What is this a photograph of?

6 A This is the backside of the property where a
7 telephone pole is at. I want to say it's where the pile
8 of bricks is at on the backside of the residence.

9 Q We'll get to the pile of bricks in a minute. What's
10 this yellow thing right here?

11 A That is the crime scene tape.

12 Q And so that's -- I guess that's kind of going towards
13 the house in that span of crime scene we talked about?

14 A Correct.

15 Q Now, over here on -- right there on the left-hand
16 side of the picture, would that be the pile of bricks
17 you're talking about there that you mentioned?

18 A Correct.

19 Q So you weren't the ones who discovered this pile of
20 bricks and other things we're going to talk about in these
21 photos, are you?

22 A Right.

23 Q But they were brought to your attention, correct?

24 A Yes, they were.

25 Q State's Exhibit 5. If you could tell the jury what

1 is State's Exhibit number 5, please.

2 A That would be a closer photo of what you just
3 observed, a telephone pole and a pile of bricks next to it
4 on the corner of the property.

5 Q That would be the pile of bricks right there?

6 A Correct.

7 Q And then State's number 6 on the right-hand side
8 corner. Would that be the bricks?

9 A Yes sir, on the left-hand side.

10 Q And then State's number 7, what is that?

11 A Again, a closer view of the pile of bricks.

12 Q State's Exhibit number 8. What is this?

13 A So this is even a closer view of the same pile of
14 bricks. As you can see, some of the bricks have blood on
15 them and then next to that is some cash next to the bloody
16 brick.

17 Q Now, I guess, is that something you normally expect
18 to see in a pile of bricks?

19 A No.

20 Q And so, we see a bloody brick, one over here?

21 A Correct. You can see the discoloration on it.

22 Q And the cash would be right there --

23 A Correct.

24 Q -- close to the, about the middle of the photograph.
25 What's this right here slightly to the left of that \$10

1 bill in the photograph?

2 A That would also be more money that's under there. It
3 also has blood on it.

4 Q I understand it's blood. Did you test it for blood
5 yourself?

6 A I did not.

7 Q But it would be a red stain of some sort?

8 A Correct.

9 Q And then Exhibit number 9 is a better picture of
10 that, a little marker, right?

11 A Correct.

12 Q State's 10, same thing?

13 A Correct.

14 Q State's 11. What is State's 11?

15 A It's a brick from that same pile of bricks. A closer
16 view and also has a red staining on it.

17 Q Now, this red staining, does it appear to have been
18 smeared in any way?

19 A Yes.

20 Q And then State's 12?

21 A That would be the cash initially saw in the other
22 photo with the red stain on the corner of it.

23 Q Now, we move on to a different part of the yard,
24 State's number 13, correct?

25 A Correct.

1 Q Now, what's -- what's this we're seeing here in
2 State's number 13?

3 A It's, again, on the corner of the yard. It's
4 essentially a bush with some underbrush kind of next to a
5 fence.

6 Q What's this -- what's this white item in the center
7 of State's number 13?

8 A That would be a plastic bag, if I'm not mistaken.

9 MS. ZMROCZEK: Your Honor, if I could ask him to
10 speak up just a bit.

11 A It would be a plastic bag.

12 MS. ZMROCZEK: I'm right here and I can barely hear
13 him.

14 THE COURT: Can you speak up a little bit.

15 COURT REPORTER: And, Mr. Potts, if you could slow
16 down.

17 MR. POTTS: I'll be glad to.

18 Q So in State's number 14 is that a closer view of that
19 plastic bag?

20 A It is, and as you can see there's the initial white
21 plastic bag you saw. And there's also a brown or tan
22 colored one. And then below it there's also a black
23 object that is a firearm.

24 Q Now, you said black object, really just the center of
25 the photograph down a little bit, correct?

1 A Correct.

2 Q Right about there where my finger is?

3 A Correct.

4 Q Would it be partially obscured by the white bag?

5 A It would.

6 Q Exhibit number 15, what is that?

7 A It's a closer view of the original bags you saw in
8 the photo right before that with another bag inside those
9 bags with other material inside of those bags.

10 Q Okay. Now, the -- I guess, the clear plastic bags
11 inside the white bag, did you have an opportunity to see
12 what might have been inside those bags?

13 A Yes.

14 Q And without saying exactly -- well, did it appear to
15 be a green plant-like substance?

16 A It did.

17 Q And that would be inside these two clear plastic
18 bags?

19 A Correct.

20 Q State's number 16?

21 A Again, that's a few of those same bags that we just
22 discussed in the prior photo and a closer view of the
23 black object which gives more definition to the form of it
24 to the firearm.

25 Q And so -- and there is -- okay. Now State's number

1 17. Is this another area?

2 A It is. It's close proximity to that though.

3 Q And then, I guess, describe what it is in State's 17.

4 A From there you have an Investigator that's pointing
5 down into a bush. So that kind of mark that they observed
6 something because it's obscured. You wouldn't be able to
7 see the marker from that picture based off it being
8 obscured from the foliage.

9 Q Exhibit number 18. Would this be that same firearm
10 from the plastic bags?

11 A Correct.

12 Q And what can -- what can you tell me about the
13 plastic -- about the firearm in these pictures that is --
14 wouldn't necessarily be there normally?

15 A So as you can see in the middle of the photo here for
16 the firearm, there's more red stain on the firearm around
17 the area where the trigger's at and where you typically
18 hold it.

19 Q And State's number 19. Is that, once again, I guess,
20 in reference to State's number 17?

21 A Correct. That's where the investigator was pointing
22 down at the object that was inside of the foliage. And as
23 you can see in the middle of that photo there is, again,
24 another black object that would appear to be a firearm.

25 Q State's number 20, same thing?

1 A Correct. They were able to mark it. And again,
2 that's just a closer view of that firearm.

3 Q State's 21?

4 A That would be the same firearm in the previous photos
5 which also appears to have the red staining around the
6 handle where the trigger guard's at.

7 Q And this is a separate firearm from the one we also
8 took the other red stain, correct?

9 A Correct. These are two different ones.

10 Q State's number 22?

11 A Again, an additional photo of that firearm.

12 Q And finally, number 23.

13 A And a closeup, more clear photo, of the same firearm.

14 MR. POTTS: Thank you, sir. Please take your seat
15 again.

16 (Whereupon, witness returns to the witness stand.)

17 Q Now, Corporal, were you involved in the collection of
18 these items?

19 A I don't personally collect it. That was -- the crime
20 scene investigator does that, but I was there.

21 Q And the little placards we saw, that's something you
22 do?

23 A No. That -- that would have been with a crime scene
24 investigator.

25 Q Did you touch or manipulate these items in any way?

1 A I did not.

2 Q You just observed where they were?

3 A Correct.

4 Q So once these items were brought to your attention,
5 what's kind of the next step in your role at the scene?

6 A So to make contact with the crime scene investigator,
7 as well as the investigators that are on scene that are
8 investigating the actual incident itself. Direct them to
9 the information that we've just got which is evidence
10 that's found on scene, so that way everybody's on the same
11 page off where the investigation's going.

12 Q And once that's done, what's -- what does your
13 continuing role at the scene become?

14 A Mainly to make sure information is disseminated, or
15 given to everybody that's involved. That way if one
16 person is doing one thing the other is informed of that as
17 well. So again, everybody can go forward on where we're
18 going with the case.

19 MR. POTTS: Beg the Court's indulgence one second.
20 Corporal Arrowood, I have no further questions at this
21 time. Answer any questions the Defense may have for you.

22 MS. ZMROCZEK: May it please the Court?

23 THE COURT: Yes.

24 MS. ZMROCZEK: Thank you.

25 CROSS-EXAMINATION

1 By Ms. Zmroczek:

2 Q Corporal Arrowood, I think you said that you have
3 been with the Department about nine years?

4 A Yes.

5 Q And are you -- is Corporal still your rank?

6 A Correct.

7 Q You are on patrol?

8 A Yes.

9 Q And you're kind of like the boss on patrol, right?

10 A Essentially.

11 Q Okay. Is that uniform that you have on, is that what
12 you wear every day when you go to work?

13 A Typically, yes.

14 Q If you don't mind standing up for me and facing the
15 jury.

16 (Whereupon, witness stands.)

17 Q And so, describe to the jury what we're looking at
18 here?

19 A This is pretty much a standard United States police
20 uniform. I have equipment on me; uniform, belt, camera,
21 whatever essentially we will need.

22 Q Excellent. Let's talk about that. If you don't mind
23 standing just for a bit. I'm sorry if we stare at you
24 just for a little bit. So you have your utility belt
25 where you have like a flashlight. It's over here, right?

1 A Well, I --

2 Q -- and a gun?

3 A Right.

4 Q And then some -- a cell phone, maybe some pepper
5 spray, some other essentials?

6 A Right.

7 Q And then what's this right here?

8 A This is the body camera.

9 Q And is that where you generally wear your body
10 camera?

11 A Yes.

12 Q Okay. Have a seat. Were you -- were you wearing the
13 body camera that day?

14 A Yes.

15 Q Okay. And you were able to record -- how do body
16 cameras work?

17 A They function pretty much as a video recorder. You
18 can activate it, deactivate it based off of a button.

19 Q Okay. And, in fact, you have policies that require
20 you to activate it whenever you have contact with the
21 public?

22 A Correct.

23 Q Okay. So you -- so you go to ■ Samson. Is it
24 Circle?

25 A Yes.

1 Q How did you know to go there?

2 A We were dispatched out onto a call from there.

3 Q So tell the jury what dispatched means. What does
4 that mean?

5 A Whenever somebody calls the police it generates a
6 call for service. From there our call-takers and
7 dispatchers then notify us to go handle whatever situation
8 that they're being called out.

9 Q So they received information either through a 911
10 call or just through a call, and then they give you that
11 information so that you can go to where you need to go?

12 A Correct.

13 Q And what -- about what time did you arrive there that
14 evening at [REDACTED] Samson Circle?

15 A I do not know the exact timeframe. It wasn't too
16 terribly long after the call was dispatched out to us.

17 Q So you basically, as a patrol, you don't just sit in
18 one spot all night, do you?

19 A No.

20 Q Good. You like to travel around and be available?

21 A Right.

22 Q So if -- let's say if a call comes out, does it just
23 go to you or does it go to multiple units?

24 A Depending on what the nature of the call is, depends
25 on how many people or how widespread that they do a

1 response for.

2 Q But generally you don't recall it taking you that
3 long to get there?

4 A No.

5 Q And when you got there, I assume you saw State's 3,
6 and this is kind of what it looked like as you were -- as
7 you were -- as you were walking up to the scene, right?

8 A Correct.

9 Q And you said the house was kind of small?

10 A Yes.

11 Q Would you agree with me it's around 600 square feet
12 or so?

13 A Probably somewhere around in there.

14 Q And it sits on a piece of property --

15 A Yes.

16 Q -- right? So now, when you got there you said that
17 you made sure -- or you saw a person on the ground, right?

18 A Correct.

19 Q And he did not have a pulse? You couldn't detect a
20 pulse?

21 A Right.

22 Q And then did you then enter the house?

23 A Not immediately after that, but not too terribly long
24 either.

25 Q Okay. And you said that another person was sitting

1 on the couch?

2 A Correct.

3 Q And now, when you entered the house, I think you said
4 you wanted to secure the scene, right?

5 A Right.

6 Q Are you wearing any sort of protective clothing at
7 that point?

8 A Mainly just what's on me as to that.

9 Q So, because what you don't want to do is, I think,
10 you don't want to contaminate the scene, right?

11 A Right.

12 Q You don't want to move things?

13 A Correct.

14 Q So if a TV is on you -- or off you don't want to turn
15 it on or off? You leave it like it's found, right?

16 A Correct.

17 Q Do you recall the TV being on when you walked in that
18 house that night?

19 A Not directly. I do not remember off the top of my
20 head.

21 Q You don't -- you don't remember?

22 A No.

23 Q You recall just securing the house to make sure that
24 there were no other people inside?

25 A Correct.

1 Q And then you came back outside?

2 A Correct.

3 Q And you said that there were some people that had
4 started to gather?

5 A Right.

6 Q Neighbors and such?

7 A Right.

8 Q And family members, too, right?

9 A Right.

10 Q Of Mr. Jenkins?

11 A I'm not sure exactly what -- whose family members
12 were who that showed up.

13 Q Do you have your report there in front of you?

14 A Yes.

15 Q So I asked you about your report. So when you write
16 a report, when do you write that report generally?

17 A Not too terribly long after an incident takes place.
18 Typically like a few hours, depending.

19 Q And why do you do that?

20 A To try to be able to make sure everything gets put
21 down on the report.

22 Q So to put everything that's important in there,
23 right?

24 A Correct.

25 Q So that two and some odd years later when I'm asking

1 questions you can refer to that report, right?

2 A Right.

3 Q After referring to your report do you recall family
4 members of Mr. Jenkins appearing on scene?

5 A Yes.

6 Q In fact, because they saw his car, his red Cadillac
7 there?

8 A Correct.

9 Q And so, you had these people and they're kind of
10 giving you information?

11 A Right.

12 Q And I know you talked about trying to find out -- you
13 were trying to find out what had happened?

14 A Correct.

15 Q Or to the best of your -- to the best of your
16 knowledge at that point, right?

17 A Yes.

18 Q Because that's important when you're gathering
19 information so you know kind of how to investigate, right?

20 A Yes.

21 Q So you want to make sure that that information that
22 you're getting is accurate --

23 A Right.

24 Q -- and truthful --

25 A Yeah.

1 Q -- and correct?

2 A Correct.

3 Q So that way a proper investigation can be done?

4 A Yes.

5 Q And I think you said you wanted to make sure you
6 secured the scene, you secured the scene so that nobody --
7 nothing was tampered, right?

8 A Correct.

9 Q What is -- tell the jury what tamper means.

10 A Move, manipulate, compromise integrity.

11 Q Compromise the integrity, right?

12 A Right.

13 Q You don't want -- you want to make sure -- it's best
14 to have a scene that nobody's messed with basically,
15 right?

16 A As much as you can.

17 Q As much as you can. And so, 41 -- we looked at all
18 these pictures. So if the house -- and obviously this is
19 not to scale. But this is the house and the front door
20 here. And then we saw the pictures of 4 that kind of had
21 the backyard along the fence line. Is that -- is that
22 where those items that we just looked from all those
23 pictures were found?

24 A Correct.

25 Q And they were not inside the house, right?

1 A Right.

2 Q In fact, they were like under bricks and some were in
3 bushes and some -- some were in another bush and some
4 bags, right?

5 A Correct.

6 Q You didn't do that?

7 A No.

8 Q You didn't change that scene?

9 A No.

10 Q You didn't try to cover any of that stuff up?

11 A No.

12 Q Okay. All you did was notice it and then make sure
13 that it was documented so when crime scene got there they
14 could do what they do?

15 A Correct.

16 Q Okay. And so, I'm showing you State's 21, 22 and 23
17 --

18 A Yeah.

19 Q -- right? Now, so this -- 22 is kind of -- kind of a
20 far away picture of a gun that you found -- or that you
21 discovered -- that was discovered in the bushes, right?

22 A Correct.

23 Q And at that point no one had picked it up?

24 A Right.

25 Q No one -- no officer had tried to render it safe?

1 A Correct.

2 Q And, in fact, 23 is a really closeup picture of that,
3 right?

4 A Yes.

5 Q And no one had tried to render it safe at that point
6 either, right?

7 A No.

8 Q So if that gun is jammed, that's not something that
9 you would have done, right? That's just -- that's what --
10 that's what it looked like?

11 A Right.

12 Q As it was laying in the back of the woods?

13 A Correct.

14 MS. ZMROCZEK: I have no further questions. Thank
15 you.

16 THE COURT: Redirect?

17 MR. POTTS: Yes, Your Honor.

18 REDIRECT EXAMINATION

19 By Mr. Potts:

20 Q Corporal, Ms. Zmroczek talked about your body camera,
21 correct?

22 A Yes.

23 Q And you are equipped with one?

24 A Correct.

25 Q In fact, so is most the officers on your shift,

1 correct?

2 A Yes.

3 Q Is it always all of them?

4 A It's everybody, for some reason, gets changed in the
5 middle of a shift.

6 Q Who -- are investigators equipped with body cameras?

7 A No.

8 Q What makes the distinction who has a body camera and
9 who doesn't?

10 A Primary focus on who's dealing with the day-to-day
11 interactions with the general public. So with us, with
12 patrol, everything we do is dealing with the general
13 public.

14 Q So, I guess, would it be fair to say with a uniform
15 like that on pretty likely you're going to have a body
16 camera?

17 A Yes.

18 Q Was yours working that evening?

19 A Yes.

20 Q Did you have it turned on?

21 A I did.

22 Q What do you all do when you're at a scene like this
23 and you have body camera footage? What do you do with it
24 at the end of the day?

25 A We end up offloading it, and from there we tag it

1 with a case number and relevant information of the case.

2 Q All of you all do that?

3 A Yes.

4 Q And where does it go?

5 A It's stored on a centralized server.

6 Q And then who gets to look at it?

7 A The investigators that are assigned to the case.

8 Q And did you have your body camera on this case?

9 A Yeah.

10 Q So do you know who the lead investigator in this case
11 was?

12 A I want to say it was -- it was either Montgomery or
13 Duckett. I want to say possibly Duckett.

14 Q So Investigator Duckett had access to all the body
15 cameras, including yours, from that evening?

16 A Correct.

17 Q Now, I guess, one other thing. Ms. Zmroczek talked
18 to you about trying to gather truthful and correct
19 information. I think those were her words.

20 A Yes.

21 Q Do you make the determination whether information
22 that's coming to you was truthful and correct?

23 A Only for further investigation are you able to do
24 that.

25 Q So are you just kind of taking in all information?

1 A Correct.

2 Q So whether it could be complete, and excuse my term
3 here, bupkis, and you would still just record it because
4 that's your job, correct?

5 A Correct.

6 Q You don't follow-up on it, correct?

7 A Not past that initial point, no.

8 Q You're goal is to gather -- gather as much as you
9 can?

10 A Correct.

11 MR. POTTS: Beg the Court's indulgence.

12 Q And one more thing, talking about tampering of crime
13 scenes and such. So the first thing when you get there,
14 get to ■ Samson Circle, could you immediately tell if it
15 was a crime scene?

16 A Yes. Upon initial contact.

17 Q How could you tell?

18 A The initial thing immediate to us was the dispatch.
19 From there, the person waving arms for us to go over
20 there. And then, of course, the deceased in the middle of
21 the front door.

22 Q And then you still went in anyway, right?

23 A Correct.

24 Q There were pools of blood on the floor, weren't
25 there?

1 A Correct.

2 Q Yet you still went in. Why, if you can't tamper with
3 a crime scene, if you can't leave it -- why would you go
4 in?

5 A To be able to make sure there's no additional victims
6 or suspects that are inside there for essentially scene
7 safety and security. That's the point.

8 Q So, I guess, it would be best to say, do you try and
9 minimize the damage you do to a crime scene when you go
10 inside?

11 A Yes. We use as much due care as we possibly can.

12 Q But, I guess, the most important thing is keeping the
13 crime scene completely untouched?

14 A Correct.

15 MR. POTTS: Thank you. No further questions.

16 MS. ZMROCZEK: Just very briefly quick follow-up.

17 RECROSS-EXAMINATION

18 By Ms. Zmroczek:

19 Q When he was talking about tampering, and certainly
20 you are careful because you are trained to not mess with a
21 crime scene, right?

22 A Correct.

23 Q But until you get there, you don't know who else has
24 tampered with the crime scene, right?

25 A Right.

1 Q So the evidence that we saw, those pictures were as
2 you found them. You didn't put them there. You -- nobody
3 -- nobody in CPD did that, right?

4 A Correct.

5 Q That was all done prior to you all getting there?

6 A Yes.

7 MS. ZMROCZEK: Thank you. No further questions.

8 THE COURT: All right. Officer, you may step down.
9 (Whereupon, the witness steps down from the witness
10 stand.)

11 THE COURT: Any objections to this witness being
12 excused?

13 MR. POTTS: None from the State, Your Honor.

14 MS. ZMROCZEK: None from the Defense.

15 THE COURT: All right. Let me see you all one
16 second.

17 (Whereupon, a bench conference was held in the
18 presence of the jury but out of the hearing of the
19 jury.)

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, they tell me that the next witness will take us --
22 will take a little bit longer, so we're going to go ahead
23 and take our evening break. I know it's been a long day
24 for you all having to come here and we had to move from
25 one room to the next. So we're going to go ahead and take

1 our evening break. It's about 5:00 o'clock now anyway.
2 Tomorrow we will not start until about 10 o'clock because
3 there's some other matters that I need to take up before
4 then. So instead of you all coming and sitting in the
5 jury room, we'll have you come in at 10 o'clock in the
6 morning. Remember, please do not discuss the case. Do
7 not do any independent research or anything regarding the
8 case. Your family members are going to want to know what
9 it is you're doing down there at the Court House and what
10 kind of case you got picked on. Tell them you will tell
11 them about it at the end of -- all about it at the end of
12 the week. But until then, please do not discuss the case
13 with anyone, and we will see you tomorrow at 10 o'clock
14 a.m. Thank you. Have a good evening.

15 (Whereupon, the jury was excused from open court for
16 the day.)

17 THE COURT: All right. Anything we need to take up
18 so that we can go ahead and get started in the morning,
19 pictures, anything?

20 MR. POTTS: I think, Ms. Zmroczek can hang around a
21 little bit. I'll show her the pictures I'll get into
22 tomorrow. I'm not planning on doing autopsy, unless it
23 becomes somehow relevant. I'll let the Court and Ms.
24 Zmroczek know I need to get some of those in. And then
25 otherwise, I think that's probably -- and we need to

1 discuss redaction of the body cam. I will -- I do intend
2 to show some of that with Officer Robinson tomorrow. You
3 may have things you wanted redacted out of that. We
4 haven't talked about that.

5 MS. ZMROCZEK: Yeah. We can talk about that tonight.

6 THE COURT: Okay. All right. Thank you.

7 MS. ZMROCZEK: Thank you.

8 MR. POTTS: Thank you.

9 THE COURT: See you all in the morning. I know you
10 said it may be a little later than 10:00.

11 (Whereupon, the trial will resume the next morning at
12 10:00 a.m.)

13 March 3, 2020

14 THE COURT: I'll just place on the record -- I'll
15 hear from Ms. Zmroczek. We were supposed to start Court
16 at 10:00 o'clock and it is currently 2:00 -- at 10 o'clock
17 a.m. and it's currently 2:18 p.m. Ms. Zmroczek informed
18 us on yesterday that she had a Federal jury selection for
19 Judge Anderson this morning at 9:00 o'clock a.m. She
20 thought it would be done by 10:00 o'clock, 10:15 at the
21 latest. And I'll let you say anything else for the
22 record. And the only reason I'm putting this on the
23 record is because we received notes from the jury because
24 they were here and they were sending notes. And I spoke
25 to them twice. I'll put that on the record once we get

1 this finished.

2 MS. ZMROCZEK: Thank you. Yes, Your Honor. In fact,
3 when I showed up for jury selections there were obviously
4 delays. At some point they -- the Judge had to toss the
5 panel that we had chosen and we had to pick another panel.
6 And at that point I advised him that I was in the middle
7 of a trial, that I had to leave, and he cited me the
8 Federal Speedy Trial Act and told me that I couldn't
9 leave, at which time I asked him to call -- or have his
10 Law Clerk to call the Court to let them know where I was.
11 And then, I guess there was some miscommunication between
12 the Clerk, because I actually was finished around 12:00,
13 which kind of is still lunchtime, and -- but am here and
14 present and ready to go.

15 THE COURT: Thank you. The jurors earlier this
16 morning, probably about 10:45, I think, knocked on the
17 door and asked what -- what was the holdup for the most
18 part. And I went back and explained to them that there
19 was -- one of the attorneys had a hearing in Federal Court
20 and that we were waiting on that attorney to return. I
21 did not say which attorney it was. I did not say he, she.
22 I just referred to the attorney as the attorney. So I'm
23 putting that on the record. And then maybe about 12:00
24 o'clock, maybe it -- it was around the same time that the
25 Law Clerk called, we received a note, which was Exhibit 1.

1 (Whereupon, Court's Exhibit 1 was admitted into
2 evidence.)

3 THE COURT: In the interim I ordered them lunch, so
4 they would have lunch as we intended on Ms. Zmroczek
5 getting here and just working and working through lunch,
6 so I ordered lunch. And I got Exhibit 1, and they said,
7 "Can we please have an update." So Court Exhibit number
8 1, which will be marked for the record. And I think I
9 received that, and then I received a call from Judge
10 Anderson. I explained to them that the motions were --
11 that the hearing was taking longer than expected, and that
12 the Clerk indicated to me that it would probably be an
13 hour and a half to two hours before Ms. Zmroczek would be
14 done over there. And so, therefore, we sent the jury out
15 and told them to be back at 2:30. They, I believe, came
16 back early to eat their lunch.

17 MS. ZMROCZEK: And when you told them you just said
18 the attorney, right?

19 THE COURT: No, I didn't say your name.

20 MS. ZMROCZEK: Excellent.

21 THE COURT: And they did not see any other -- anyone
22 else that had come in the courtroom. So I said the
23 attorney. I did not say, she, he, just the attorney. So
24 that was the extent of the conversation with the jury.
25 But I do want, any time I have a conversation with the

1 jury I do put that on the record. I believe the Clerk was
2 there with me -- yeah, Mr. Tolbert was there with me when
3 I spoke with him. Are you ready to call the jury?
4 Anything we need to take up before then? Are they all
5 here? It's not 2:30 yet.

6 MS. ZMROCZEK: I think, Your Honor, what we were
7 discussing with your Law Clerk when you took the bench was
8 that Mr. Potts had anticipated in the handwritten note
9 that we had talked about yesterday that we said at the
10 Jackson v. Denno. So it is a note, Your Honor, that was
11 purportedly written by my client. And they -- it says
12 something to the effect of -- which he was high on
13 medication when he wrote this note, it's completely an
14 incoherent note. But that's the issue they want to focus
15 on. We would argue, Your Honor, that that is -- that
16 doesn't have anything to do with the past crime. What the
17 State's position is, is that they're threatening a witness
18 or intimidating a witness, or trying to take out a
19 witness, or -- that's always been the State's position, as
20 far as I understand. And we would argue that that is
21 certainly not relevant and highly prejudicial since it
22 doesn't have anything to do with the elements of the crime
23 that he is on trial for. Certainly if they wanted to
24 charge him with intimidating a witness or any of those
25 things they could have and still may, I don't know. But

1 at this point, to let that in and then to argue whatever
2 inference they want to argue in closing I think would be
3 highly improper. Because threatening to do something to
4 somebody in the future is completely different than being
5 on trial for something that you've -- that you've already
6 been arrested for. And it doesn't -- it doesn't relate
7 back. It doesn't say, I should have killed you when I had
8 the chance or, you know, it doesn't -- there's not -- the
9 only nexus is the person who we must assume is the person
10 because it doesn't say Mr. Rogers or anything like that,
11 it just says Unc. So that in and of itself is vague. But
12 that coupled with what they -- I think the State wants to
13 argue is an inference, we would argue is improper, not
14 relevant under 403. And it's certainly, under a balancing
15 test, more prejudicial than probative.

16 THE COURT: Thank you.

17 MR. POTTS: Your Honor, if I may, just I'll -- I'm
18 going to read the note for the record. Call this number.
19 Tell them to tell Bam the same thing, 803-800-5388. Tell
20 her to tell them if they wanna see me and Gwany free again
21 to swerve on Unc and fast. WhoBang, Bread, Jefe, Marlo.
22 Tell her to relay the message to them. Appreciate you.
23 And then on the back, it's folded in half. It says, swing
24 back in 20 minutes or 20 minute. Your Honor, we believe
25 this note's very much -- she says it doesn't have a nexus

1 of the crime itself, but he gives the nexus when he says,
2 If you want to see me and Gwany free again. That is the
3 nexus -- that is -- it's about this case. Gwany is her
4 co-defendant, Gwan Perry. And the evidence will show Unc
5 is the nickname for Jimmy Rogers. He's saying this to,
6 swerve on him and fast. Knowing that Mr. Rogers is the
7 only living victim -- only living witness besides Mr.
8 Perry to the incident itself makes it, I think readily
9 apparent to the State and I hope to the Court, the
10 importance of this note and why it's relevant to the case.
11 It's part of the res gestae of the crime, Your Honor.
12 Just because a crime has -- the murder has been committed
13 does not mean the crime has not continued thereon after.
14 Certainly there are lots of parts and parcel of that part
15 of the crime.

16 THE COURT: And the allegation is that he was in the
17 hospital when he wrote this?

18 MR. POTTS: Sorry, Your Honor?

19 THE COURT: He was still in the hospital when he
20 wrote this?

21 MR. POTTS: Correct, Your Honor, he was. This was
22 the note we discussed yesterday where it was passed on to
23 him orally and passed it on to a law enforcement officer.
24 And, Your Honor, we would argue that evidence of a coverup
25 of a crime is in and itself evidence of the crime itself.

1 THE COURT: All right.

2 MS. ZMROCZEK: And additionally, Your Honor, if you
3 do find that it's admissible, we would then have
4 authentication and foundation arguments as well.

5 (Whereupon, State's Exhibit number 136 was marked for
6 identification.)

7 MR. POTTS: Your Honor, we've marked it as State's
8 number 136.

9 MS. ZMROCZEK: I'm sorry. I missed that number.

10 MR. POTTS: 136.

11 THE COURT: While we're looking, I'm trying to see
12 what I can find as -- Ms. Zmroczek, do you have anything
13 to say that it is -- to support your position? Their
14 position is that it is in furtherance of the crime because
15 it's part of a coverup. Do you have anything that
16 supports your -- your position regarding me keeping it
17 out?

18 MS. ZMROCZEK: Well, Your Honor, I don't think he's
19 charged with a coverup. I think that was something that
20 they used in their opening. But I think, you know, when
21 you're looking at -- my concern is this, is that if they
22 want to lay the foundation and then get it in, you know, I
23 just don't -- I don't -- I don't know that anybody besides
24 the person who wrote it can testify as to it's meaning and
25 intent. And certainly there's -- there are reasonable

1 inferences that are, you know, allowed to be argued in
2 closing. My concern is that it just at some point becomes
3 some sort of like confession or motive or something.
4 Because at this point in the trial -- and I'm not quite
5 sure how they're going to get from -- from him they're
6 going to get it in and what testimony is going to be
7 allowed surrounding that, other than reading it which -- I
8 mean, it can -- you know, people can read it. It is what
9 it is on its face. So obviously our concern is just, you
10 know, how far it goes once it gets -- if it gets in.

11 THE COURT: All right. In reviewing -- in reviewing
12 the -- what has been marked as State's Exhibit 136 for ID
13 purposes?

14 COURT REPORTER: Yes, ma'am.

15 THE COURT: I do find that it is relevant. It goes
16 to -- this was written in the hospital shortly after the
17 incident. Obviously they're going to have to lay a
18 foundation to get it in, and as to how they -- who had it
19 and where it came from. But I do think that it's relevant
20 and in weighing and I have done a balancing test as to --
21 I think Ms. Zmroczek was saying that it's highly
22 prejudicial to the Defendant, prejudiced to the Defendant
23 and it weighs out the probative value of it. I disagree
24 and I am going to allow it as relevant. And the State
25 will have to lay the proper foundation to get it in at

1 this point. All right.

2 MR. POTTS: Thank you, Your Honor.

3 THE COURT: It's still marked only for ID purposes.
4 If you can lay a foundation to get it in, then we'll go
5 from there. And I'll be glad to entertain any objections
6 that Ms. Zmroczek has.

7 MR. POTTS: Thank you, Your Honor.

8 MS. ZMROCZEK: Thank you, Your Honor.

9 THE COURT: Are we ready for the jury? Anything else
10 we need to take up, because I don't want to bring them in
11 and take them back out unless, if there's something that
12 is going to come up that is an issue.

13 MS. ZMROCZEK: No. I think I've watched their body
14 cams. I have showed them my body cams. So I think we're
15 all in agreement on that.

16 MR. POTTS: Right. And you saw the pictures
17 yesterday.

18 MS. ZMROCZEK: Yeah.

19 MR. POTTS: And, Your Honor, we do have one matter I
20 wanted to make the Court aware before we end for the day.
21 We have a witness who we might be asking for a bench
22 warrant on. I just wanted to bring it up, we want to make
23 sure we do it before we end for the day.

24 THE COURT: All right. Let me know. You said -- you
25 had something, Ms. Zmroczek?

1 MS. ZMROCZEK: No.

2 MR. POTTS: And we're ready for the jury.

3 THE COURT: We're still missing one?

4 (Whereupon, a short break was taken.)

5 THE COURT: Are you all ready?

6 MR. POTTS: Yes, ma'am.

7 MS. ZMROCZEK: Yes, ma'am.

8 THE COURT: All right. You can bring them in.

9 (Whereupon, the jury came into open court at
10 approximately 2:37 p.m.)

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, thank you for your patience. We are now ready to
13 start. We will ask the State to call their next witness.

14 MR. FYALL: Thank you, Your Honor. The State calls
15 Officer Robinson, City of Columbia Police Department.

16 DARREN ROBINSON, being
17 first duly sworn, testified as follows:

18 MADAM CLERK: Please have a seat. State your full
19 name for the record.

20 DIRECT EXAMINATION

21 By Mr. Fyall:

22 Q Officer Robinson, state your full name for the
23 record, please.

24 A Darren Rafael, (phonetic), Robinson.

25 Q Can you spell your first name?

1 A D-A-R-R-E-N.

2 Q Where are you employed?

3 A The City of Columbia Police Department.

4 Q How long have you been there?

5 A Four and a half years.

6 Q And what is your current duty?

7 A I'm on the community response team, north region.

8 Q And two years ago on March 25th, 2018 were you
9 working at the City of Columbia Police Department?

10 A I was.

11 Q All right. And did you respond to [REDACTED] Samson Circle?

12 A Yes.

13 Q Can you tell us what happened when you arrived?

14 A Yes. When I arrived on scene I saw the victim laying
15 close to the front door. There was a male subject. I
16 believe his name was Mr. Rogers. He was trying to perform
17 CPR, but I saw that he was unresponsive at the time.

18 Q You saw that who was unresponsive?

19 A The victim, Cory.

20 Q And so, when you saw that Cory was unresponsive what
21 did you say to Mr. Rogers?

22 A First I told him to move out of the way just to see
23 if there was anything that I could do, and then I began
24 questioning Mr. Rogers. And that's when I saw that he was
25 also shot in the arm.

1 Q I am going to show you what's been marked as State's
2 137. Have you seen that before?

3 A Yes.

4 Q Can you tell us what that is?

5 A It's body camera footage.

6 Q Your body camera footage?

7 A Yes.

8 Q And does this footage represent the scene and your
9 conversation with Mr. Rogers when you appeared on the
10 scene?

11 A Yes.

12 MR. FYALL: All right. At this time the State seeks
13 to enter 137 into evidence.

14 MS. ZMROCZEK: Without objection.

15 THE COURT: All right. State's 137 --

16 MR. FYALL: Yes, Your Honor.

17 THE COURT: -- will be entered without objection.

18 (Whereupon, State's Exhibit number 137 was admitted
19 into evidence.)

20 MR. FYALL: Permission to publish to the jury.

21 THE COURT: Yes.

22 MR. FYALL: If you could step down, Officer Robinson.
23 (Whereupon, the witness stepped down from the witness
24 stand.)

25 MR. FYALL: I'm going to have you stand on this side

1 of the TV, and so talk loud so the Court Reporter can hear
2 you. And I'll try to talk loud myself.

3 (Whereupon, State's Exhibit number 137 was published
4 for the jury.)

5 Q You just now said you believe he's 10-7. What's that
6 mean?

7 A That means he's deceased.

8 Q Could you notice anything on him when you saw him?

9 A The first thing I saw was he had an apparent gunshot
10 wound to the face area.

11 Q All right. Thank you.

12 A You're welcome.

13 (Whereupon, State's Exhibit number 137 continued to
14 play for the jury.)

15 Q So you talked to him. What's the purpose of that?

16 A Just to see if we could get any type of information
17 that would assist us in --

18 COURT REPORTER: I can't hear him.

19 Q Speak up.

20 A I'm sorry. I started to question him just to see if
21 he knew anything and if he could give any type of
22 information that could help the units that were outside
23 trying to figure out, circulating, anything that we could
24 use to aid us in catching the person responsible.

25 Q All right. So at this point you're still trying to

1 see if the shooter might be on scene or in the area --

2 A Yes.

3 Q -- anything like that?

4 (Whereupon, State's Exhibit number 137 continued to
5 play for the jury.)

6 MR. FYALL: All right. You can take the stand.

7 (Whereupon, the witness returns to the witness
8 stand.)

9 Q Officer Robinson, I noticed you on that camera you
10 said, The house is clear. What does that mean?

11 A In that certain type of situation we clear the house
12 to make sure there's no other victims or nobody's hiding
13 with a gun. So when I said the house is was clear, that
14 means that there was no other threat, there was nobody
15 else hurt at the time.

16 Q Also we heard you mention that you saw blood in the
17 other rooms. Did you see anything else while you were on
18 scene?

19 A There was blood throughout the living room area, the
20 kitchen area and there were shell casings as well.

21 Q And you identified both victims on the scene.
22 Obviously you asked Mr. Rogers for his ID. Did some
23 family members of Mr. Cory Jenkins, did they arrive at
24 some point?

25 A Yes.

1 Q And after you dealt with that initial situation and
2 cleared the house, what was your duties involving this
3 case after that?

4 A After we cleared the house I went outside to talk to
5 a few neighbors just to see if they seen or heard
6 anything. I also helped secure the perimeter for crowd
7 control.

8 Q All right. And securing the perimeter for crowd
9 control, what's the purpose of that?

10 A Just to make sure that our scene isn't contaminated,
11 or nobody crosses through.

12 MR. FYALL: Beg the Court's indulgence. Nothing
13 further. Please answer any questions from the Defense.

14 CROSS-EXAMINATION

15 By Ms. Zmroczek:

16 Q Good afternoon, Officer Robinson.

17 A Good afternoon.

18 Q You were one of the very first responders, right?

19 A Yes.

20 Q And when you got there, when you got to see Mr.
21 Rogers performing CPR, right?

22 A Yes.

23 Q And he had his phone in one hand and he was just kind
24 of pressing up and down on Cory, wasn't he? That's what
25 -- that's what --

1 A I inferred that he was trying to perform CPR. Yes,
2 ma'am.

3 Q Right. And you had no idea that he had prior to you
4 arriving --

5 MR. FYALL: I'm going to object, Your Honor. I think
6 she's asking him to speculate because he's prefaced her
7 question by saying he had no idea. So that's a lack of
8 personal knowledge.

9 MS. ZMROCZEK: I'll rephrase the question, Your
10 Honor.

11 THE COURT: Yes, ma'am, objection is -- objection is
12 sustained. Please rephrase the question.

13 Q Your body cam doesn't -- I know that it stopped
14 roughly there, but it actually continues to video, right?

15 A Yes.

16 Q And, in fact, Mr. Rogers started yelling at you
17 saying, don't treat me like this, I'm the victim. Right?

18 A I don't recall.

19 Q You don't recall?

20 A No, ma'am.

21 Q So when you're wearing your body cams you download
22 them at the end of every shift, right?

23 A Yes.

24 Q And they go -- they go to a server --

25 A Correct.

1 Q -- where you can retrieve them later, right?

2 A Correct.

3 Q And they capture -- they capture everything that's on
4 your body cam, right?

5 A Yes.

6 Q I'm showing you State's 1 which are -- it's just a
7 more complete version of that --

8 THE COURT: Wait a minute.

9 COURT REPORTER: I didn't hear what she said because
10 the TV came on. Sorry, Judge.

11 THE COURT: So this is 137? Which exhibit is this?

12 MS. ZMROCZEK: This is -- this is Defendant's 1.

13 THE COURT: Defendant. You said State.

14 MS. ZMROCZEK: Oh, I'm sorry.

15 THE COURT: So this is Defendant's 1?

16 MS. ZMROCZEK: Yes.

17 THE COURT: Any objection?

18 MR. FYALL: No, Your Honor.

19 THE COURT: All right. Yes, ma'am. Defendant's 1
20 will be entered without objection, and you wish to publish
21 it to the jury.

22 MS. ZMROCZEK: I do. Thank you.

23 (Whereupon, Defendant's Exhibit number 1 was admitted
24 into evidence.)

25 Q Now, when you turned your body cam on -- before it

1 starts playing because I know it's loud. When you -- when
2 do you activate your body cam?

3 A As far as just in general?

4 Q Like when you get out of the vehicle or -- right?

5 A I believe I activated mine while I was still in the
6 car as I was approaching the house.

7 Q Okay. And then we see you got into the house?

8 A Correct.

9 (Whereupon, Defendant's Exhibit number 1 was
10 published for the jury.)

11 MS. ZMROCZEK: And I believe we watched this, so I'm
12 not going to make you watch the whole thing again, so I'll
13 fast-forward a little bit.

14 (Whereupon, Defendant's Exhibit number 1 continued to
15 play for the jury.)

16 Q Did that refresh your recollection about him
17 reminding you all that he was the victim in this case?

18 A Yes, that's what he said.

19 Q That's what he said?

20 A Uh-huh. (Affirmative).

21 Q And then I think you said after that you just made
22 sure that you maintained -- you cleared the residence and
23 maintained the perimeter so that there was no
24 contamination?

25 A Yes. Cleared the residence. Went outside and talked

1 to a few witnesses, or neighbors. And yes, secured the
2 perimeter.

3 MS. ZMROCZEK: Thank you. I have no further
4 questions.

5 MR. FYALL: Very briefly on redirect, Your Honor.

6 REDIRECT EXAMINATION

7 By Mr. Fyall:

8 Q I believe her question was, do you remember him
9 yelling about being the victim. Was he yelling right
10 there?

11 A No.

12 Q Okay.

13 A No.

14 Q And was he, indeed, shot?

15 A Yes, he was.

16 MS. ZMROCZEK: Objection, Your Honor, speculation.

17 THE COURT: Overruled.

18 Q You can answer.

19 A Yes, he was shot.

20 MR. FYALL: Thank you. No further questions.

21 THE COURT: Anything else?

22 MS. ZMROCZEK: Nothing further.

23 THE COURT: All right, sir. You may step down. Call
24 your next witness.

25 MR. POTTS: The State calls Investigator Jackson.

1 ZACHARY JACKSON, being
2 first duly sworn, testified as follows:

3 MADAM CLERK: Please have a seat. State your full
4 name for the record.

5 THE WITNESS: Zachary Jackson, Columbia City Police
6 Department Crime Scene Unit.

7 DIRECT EXAMINATION

8 By Mr. Potts:

9 Q Got ahead of me there. Investigator Jackson, so you
10 work in the crime scene unit?

11 A Yes, sir.

12 Q What does that mean?

13 A We do evidence collection, photographs, documentation
14 of scenes, and other miscellaneous items like
15 fingerprinting, DNA collection to submit to other agencies
16 and such.

17 Q So, like how do you get involved with a case?

18 A When a case is -- after the initial response from
19 patrol officers, depending on the case, they'll notify
20 investigations. And they'll also notify crime scene over
21 the radio to respond to the scene for documentation
22 purposes, evidence and collection and such.

23 Q And so, that's kind of your whole job, right?

24 A Yes.

25 Q To go there and --

1 A I only respond out to stuff when I'm notified to come
2 out to it.

3 Q So what kind of -- I guess you mentioned DNA,
4 fingerprints. What other kind of evidence collection do
5 you do?

6 A A lot of -- the majority of physical evidence, such
7 as items on scene that would be prevalent to a case,
8 photographs of any injuries, damage to property, clothing
9 from victims and subjects. Kind of physical evidence such
10 as that.

11 Q And so, I guess your role was just to gather all this
12 stuff up for it later to be analyzed?

13 A Yes.

14 Q Do you do any -- do you do DNA analysis yourself?

15 A No. Any DNA analysis we do we have to submit to
16 SLED.

17 Q Like for firearms analysis they -- I guess your main
18 job is to get the stuff so it can later be --

19 A Yes. It can later be processed by either internal or
20 an external agency.

21 Q And in this case -- well, were you working in the
22 crime scene investigator job back in March of 2018?

23 A Yes, sir.

24 Q Did you have an opportunity to respond to Samson
25 Circle on March 25th of that year?

1 A Yes, sir.

2 Q So do you recall kind of the sequence of events that
3 you going there that night?

4 A More or less I received a call over the radio --

5 Q Uh-huh. (Affirmative).

6 A -- stating that they had an incident. So a shooting
7 incident at the address at Samson Circle and that they
8 needed a crime scene to respond out there. From there I
9 left my office at Bluff Road and headed straight out
10 there.

11 Q Okay. So when you get there who was in charge of
12 that crime scene stuff? Was it just you?

13 A It was me originally, then another did arrive on
14 scene, Potash. However, he left to go to a secondary
15 scene at the hospital.

16 Q So you all -- that means you all could have more than
17 one scene?

18 A Most likely. Some situations we do have more than
19 one scene.

20 Q And in this case -- in this case your -- the place
21 you were in charge was ■ Samson Circle?

22 A Yes, sir.

23 Q Can I ask you to start by walking the jury through
24 kind of what you did while you were there. What sort of
25 things were you looking for?

1 A When I first arrive on scene most the time I will do
2 a full walk through of the location to see what's going
3 on, what items are on the ground, where -- the state of
4 the location. Particular things for physical evidence and
5 such. From there I'll start doing overview photos where
6 I'll start out as a long-range shot which will show the
7 opening, the front of the location, side, back. And then
8 you move in closer and closer as you go through your
9 photos. And then after the photos are done you
10 re-document items you're going to collect, and then more
11 -- it's more documentation for photos and such things.

12 Q I'm going to show you what's already in evidence,
13 State's Exhibits 3 through 23.

14 A Okay.

15 Q Take a look at those real quick for me. Are those
16 all the photographs you took?

17 A Yes, sir.

18 Q Do you recall how many photographs you took in this
19 case?

20 A It was a little over 300. I think about, if I
21 remember right. It's on my report.

22 Q Is that your report you have you're referring to
23 right there?

24 A Yes, sir.

25 Q Okay. If you need to refresh your recollection, feel

1 free to look at it.

2 A 363 photographs.

3 Q That's a lot of photographs.

4 A Yeah, that's almost about average for me sometimes
5 for most scenes.

6 Q So those were all photographs you took that night?

7 A Yes, sir.

8 Q Now, I said -- you go through the scene, I think you
9 said, three different times?

10 A More or less, yes. The first scene will -- the first
11 time I go through will generally be a walk through. I'll
12 usually have an investigator with me or the sergeant on
13 duty that was at the scene. So usually it's more of a
14 initial, what do we have. What do we have here, what do
15 we have there, you know, just to kind of get everything
16 started rolling in my head before I start doing my photos
17 to really start where I want to start with my photos and
18 go from there. It's more of a kind of figuring out what's
19 going on at scene, because they let you know what kind of
20 incident it is over the radio, but they won't really give
21 you too much specifics until I actually get there. And
22 that's what the initial first walk through kind of thing
23 is, to really kind of see what I got going on and
24 grasping.

25 Q As you said, you took a whole bunch of photos in this

1 case.

2 A Yes.

3 Q I'm going to show you State's 25 through -- 25
4 through 114, look at those very quickly for me.

5 MS. ZMROCZEK: Your Honor, we reviewed those. We
6 didn't have no objection to them.

7 THE COURT: All right. And those are?

8 MR. POTTS: Photographs, Your Honor, of the crime
9 scene, State's 25 through 114.

10 THE COURT: 115?

11 MR. POTTS: 114, Your Honor.

12 THE COURT REPORTER: You said 25 through 114?

13 MR. POTTS: It's 114.

14 Q So you recognize those, sir?

15 A Yes, sir.

16 Q And what are they?

17 A Photographs from my -- now, you know, out of order.
18 But it's a mixture of -- from my initial photographs, and
19 then the later on secondary photographs where I do --
20 where I have actually my evidence placards out.

21 Q Okay. These are photographs you took of the scene
22 that evening?

23 A Yes, sir.

24 Q Do they truly and accurately reflect the way you saw
25 the scene that evening?

1 A Yes, sir.

2 MR. POTTS: At this time, Your Honor, I'd like to
3 offer into evidence State's Exhibit numbers 25 through
4 114.

5 THE COURT: And that's without objection, those will
6 be entered. 25 through 114 will be entered without
7 objection.

8 MR. POTTS: Thank you, Your Honor.

9 (Whereupon, State's Exhibit numbers 25 through 114
10 were entered into evidence.)

11 Q So once you start taking those photographs and once
12 you've marked everything through it, what would you say
13 the next step was?

14 A After the initial photographs of the overview, a
15 closeup and a more evidentiary photograph, which is more
16 of zoomed in onto the item. It's then done again with the
17 actual evidence placards out, just notating items that is
18 going to be collected that I see, you know, readily needs
19 to be collected. There's not really a reason to way --
20 the way I number. It's usually when I come across it,
21 it's the next number in the list.

22 Q Okay. So does that mean that if you don't have one
23 item, you come to see it later, it might have a way later
24 number than the ones next to it?

25 A Yes. If it's, say for instance, something under the

1 TV or under a couch, and as we do our initial overview
2 where we can see everything and then we find something
3 later that would have been right beside something, like
4 number -- it would be like right beside. Say for example,
5 number 6, it would be later marked in like 30 or something
6 depending on the items we get.

7 Q Right.

8 A If it's found later it has to go in order of when it
9 was collected.

10 Q Okay. So that's how you start picking the things up?

11 A Yes.

12 Q What sort of items did you collect in this case?

13 A In this case there was numerous shell casings within
14 the residence. There was a few projectiles that were on
15 the floor as well. There was a cell phone. Outside -- I
16 was later notified of items outside of the residence, such
17 as firearms and cash and other plant-like material and
18 bags.

19 Q So when you first arrived you did not know about
20 anything in the backyard?

21 A No. That was later on I was notified by
22 investigation of those items.

23 Q Okay. So was that part of the initial walk through?

24 A No, I didn't -- I did an initial walk around the
25 house to get the exterior. To see, you know, the exterior

1 of the house, but didn't see those items when I did an
2 initial walk through, no.

3 MS. ZMROCZEK: Your Honor, I see all of this
4 evidence. If it will help move things along we can -- we
5 will stipulate to the foundation of this evidence and we
6 would allow it to be moved in without having to lay that
7 foundation.

8 MR. POTTS: Thank you.

9 Q I guess quickly, I'm going to show you State's
10 Exhibit 118 and 120. The shell casings you collected.
11 And those are all from this residence?

12 A Yes, sir.

13 MR. POTTS: At this time I'd like to offer into
14 evidence State's Exhibit numbers 118 and 120.

15 THE COURT: All right. Those will be entered without
16 objection.

17 (Whereupon, State's Exhibit numbers 118 and 120 were
18 admitted into evidence.)

19 Q So -- and you collected, I guess, a lot of different
20 items in this house, correct?

21 A Yes, sir.

22 Q Not just shell casings but also, as you said, some
23 sort of projectiles --

24 A Yes.

25 Q -- collected. And the firearms?

1 A The firearms were collected outside, yeah. And there
2 was also -- we did also collect several DNA swabs from the
3 red stains around the residence on the floor as well.

4 Q Okay. I'm going to show you what is marked as
5 State's 115 and 116. Are those swabs that you took, or
6 you or with the person who took --

7 A Yes, sir.

8 MR. POTTS: At this time I'd like to offer into
9 evidence both --

10 Q Is your answer the same for both items?

11 A Yeah, these -- these DNA swabs were taken at the
12 residence. These would have been done at our processing
13 room, or the actual firearms themselves.

14 Q So State's 116 would be at the residence themselves?

15 A Yes.

16 Q And that's State's --

17 A That would have been at the residence. And that
18 would have been done at the processing lab at 117 Bluff
19 Road when all the items had been collected.

20 Q 115 would be from the lab, correct, later?

21 A Yes, from our processing lab.

22 Q I just want to keep it clear for the record.

23 A Yes, yes.

24 Q Why were some DNA swabs taken at the scene and some
25 swabs taken later at the processing?

1 A The scene -- the swabs that were taken at the scene
2 were from ready -- red stain samples that were on the
3 floor in the living room and then the kitchen. The actual
4 swabs that were taken at the processing room were after we
5 have collected all the items and we had returned to our
6 processing lab to have everything packaged and sealed for
7 being turned into evidence. Investigations requested me
8 to take samples from the red stains that were located on
9 the firearms and the plastic bags that were located
10 outside. We didn't do those on scene. I wanted to have
11 them in a more controlled environment in the processing
12 room downstairs at 715 Bluff Road near my office.

13 Q So I guess this would be, one is for swabs at the
14 scene itself, the other is from items taken from the
15 scene?

16 A Yes.

17 Q When you finished going through the home did you
18 create any diagrams reflecting what you found?

19 A Yes. Most major incidents we do, do diagramming and
20 grafting of the actual scene as we collected items, and
21 the items and furniture and stuff in the floor. It's an
22 overview sketch of the scene.

23 Q I'm going to show you what is marked as State's
24 Exhibit numbers 123 and 124. Can you tell me what those
25 are, please?

1 A This is a rough -- rough model of how the location
2 appeared to be of an overview of items that were collected
3 and where the general location of everything. It's not to
4 scale with measurements. It's showing the general
5 location each item was collected from the scene. This one
6 is a draft without the legend on it.

7 Q Would you mind saying which exhibit number that is?

8 A 123. Number 123 is the model without the clutter of
9 the legend which would say which item is. And number 124
10 is the same diagram, however it has the marker numbers,
11 lines drawn to each item collected, and the legend that
12 also shows what each item is for easy determination.

13 Q Thank you.

14 MR. POTT: At this time, Your Honor, I'd like to
15 offer into evidence State's Exhibit numbers 123 and 124.

16 THE COURT: Any objection?

17 MS. ZMROCZEK: Without objection.

18 THE COUNTER: To be entered without objection.

19 (Whereupon, State's Exhibit numbers 123 and 124 were
20 admitted into evidence.)

21 MR. POTTS: Investigator, do you mind stepping down
22 from the witness stand with me real quick?

23 THE WITNESS: Okay.

24 MR. POTTS: And if you could bring these photographs.

25 (Whereupon, witness steps down from the witness

1 stand.)

2 Q And that's a bigger version -- a bigger version of
3 State's number 26. You've got to -- I'm going to ask you
4 to stand on this side and speak up so that way the Court
5 Reporter can hear you. Now, this over here on the right,
6 what is this?

7 A That over there is actually the front door to the
8 location. I'm standing inside the living room. If you
9 come in the front door you turn to the left. I'm on --
10 towards the -- as far back as I could get, due to the
11 couches and furniture and such.

12 Q That's Mr. Jenkins' body, correct?

13 A Yes, the decedent.

14 Q And this is kind of, I guess, what you saw
15 immediately to the left of the front door?

16 A Yes.

17 Q State's 27. That's a better view of that area?

18 A It's -- from what this is, is I'll do a shot of here,
19 and as I move across the room I'll turn and get more of an
20 opening view to kind of just get everything in that
21 general area. But I'm still standing in about the same
22 spot I was for the original -- the other photo.

23 Q And as to State's 28. This is a view where? The
24 front of the house?

25 A This is the front sidewalk leading up to the house.

1 Q State's 29. So what do you have here?

2 A This is where -- right here where this number 17 is,
3 is the approximate location where the decedent was laying
4 after he had been removed by, removal and the Coroner's
5 Office. Here we have red stains that are out on the front
6 porch of the location, along with the broken glass from
7 the front storm window. That was also broken as well.
8 These glass shards would have been underneath him, along
9 with the red stains that were there.

10 Q And as you said, your later set of pictures is where
11 you would have had the markers, correct?

12 A Yes, this is the later set of pictures. I would have
13 an earlier picture of this same and would also be here.

14 Q And this is just a different view of that?

15 A Yeah, it's a more -- it's a closer view, but it's
16 more of an upright view as well.

17 Q And State's number 30?

18 A 42?

19 Q 42. I apologize.

20 A This is just more of an interior, just direct shot
21 into the house from the actual front doorway.

22 Q And this is once the victim's body has been removed,
23 correct?

24 A Yes.

25 Q And I see you have three different placards here.

1 What would that mean?

2 A Those are number 17, 16 and 13. Number 16 and 17, I
3 believe, if I remember correctly, were not located until
4 after he had been removed from the location. So they were
5 underneath him.

6 Q Would be shell casings?

7 A Yes, sir. They were shell casings.

8 Q State's 31, similar to State's 30.

9 A Yes.

10 Q Now, where are we in the house?

11 A This is just inside the kitchen looking towards the
12 backside door.

13 Q State's number 33. And so, what is this going on
14 right here?

15 A There's red stains on the floor inside the kitchen,
16 however I did identify what looked to -- would appear to
17 be footwear impressions in the red stains, which appear to
18 be moving towards the back door. However, I can't really
19 say if they were moving to the back door or if they were
20 coming in. It's just they were identifiable footwear
21 impressions in the red stains.

22 Q Okay. I'm showing State's 123. This is your
23 diagram, correct?

24 A Yes.

25 Q And this lower right quadrant here, that would be --

1 this is what you were talking about?

2 A That would be the kitchen. Yes, sir.

3 Q Okay. And so, as we go through the house, switching
4 back and forth to State's 123, 124. Okay?

5 A All right.

6 Q So this is adjacent to -- this would be the front
7 door right here at the bottom of the sketch, and then that
8 side door there to the right?

9 A Yes, sir.

10 Q What about State's -- what was that again?

11 A 32.

12 Q 32. Okay. 33, is that -- what is that?

13 A That is a more detailed shot of the red stains that
14 are located in the kitchen of the residence.

15 Q And then number 10 up there, what is that?

16 A That is --

17 Q Is that the red stains or --

18 A That is actually to the shell casings that was
19 located just inside the kitchen as well.

20 Q And then back here, we are back in that front room?

21 A Yes. We're moved up closer to try to get more of a
22 shot of the doorway, the front entrance area and towards
23 the kitchen.

24 Q This would be State's 34?

25 A 34, yes.

1 Q And 35, just kind of a --

2 A -- it's more of a up close towards the door going
3 back into the exterior location.

4 COURT REPORTER: I didn't get his last -- he kind of
5 went down. You have to keep your voice up. I didn't hear
6 the last answer.

7 THE WITNESS: Oh, I'm sorry.

8 A Repeat number 34?

9 Q Yes, sir.

10 A It's a more open view of the doorway and the entryway
11 to the actual residence.

12 Q State's 36?

13 A 36.

14 Q 37?

15 A Yeah. 37 is -- this is when I started doing the
16 overviews of all my placards that would be located
17 throughout the residence when I started marking items of
18 interest and items of evidence that is going to be
19 collected afterwards. This is trying to get the best shot
20 of numbers 18 and 8. I put from the location of the items
21 of the room and where they were located.

22 Q Now, as to these shots --

23 A -- they're more looking down towards them. You will
24 get a -- before these in line of photos, when you actually
25 have all the photos together you'll see a more straight on

1 shot. And then as I get closer I start going down towards
2 them so I can get an actual detailed shot of them.

3 Q And these, 7, 6, 14, 4, 18. These numbers were --
4 what do they reflect?

5 A Just items of interest, like --

6 Q Are most of them shell casings?

7 A Most of them were shell casings, I believe. When you
8 got more towards 8 and 18 they were projectiles. I would
9 have to refer to my diagram to really tell you exactly.

10 Q Okay. So this area right here is where on State's
11 124?

12 A It would be right here along this wall. It would
13 have been along here, along the floor in front of this
14 couch. That was along the front wall inside the
15 residence.

16 Q All right. Exhibit we're on now?

17 A 39.

18 Q State's 39. This, I guess --

19 A This is a more backed up shot to show an overview of
20 all the items that were located in this section and the
21 placards that's assessed to them.

22 Q State's 40?

23 A This is another kind of overview showing, you know,
24 more of the items along the room, as well as defects onto
25 the front TV screen.

1 Q Okay. Defects --

2 A Most projectile defects.

3 Q Do you call those bullet holes?

4 A They're projectile strikes.

5 Q And State's 2, what is that?

6 A That -- number 2, I believe, is a -- it's a red stain
7 that's located on the front porch of the location just
8 outside the door.

9 Q And State's 44, just another --

10 A Another showing of the more overview shot of number
11 8, 40 and 13, as well as the bullet strikes -- or
12 projectile strikes, I should say, to the front of the TV
13 as well.

14 Q And is the TV on?

15 A Yes, it is on. It was on when we were there as well.

16 Q 45. It's more blood trail, right?

17 A It's red stains and also number 13 is actually
18 marking -- that was located on the floor inside the
19 location.

20 Q And State's 48?

21 A Number 48 is marker number 11. It's marking a shell
22 casing located in the kitchen area.

23 Q And it's another shot --

24 A Another shot.

25 Q -- State's 49 going from that front area?

1 A Yeah. From that front area going towards to show 13
2 -- I mean, not 13; 3, 16 and 10.

3 Q This is the cell phone?

4 A Yes, sir.

5 Q State's 49. Is that a better view of that shell
6 casing?

7 A It's a more closer view. And then, there would have
8 been one more after that would show more detail to the
9 actual shell casing.

10 Q And State's 51?

11 A 52.

12 Q State's 10, another shell casing?

13 A Yes. Yes, sir.

14 Q Sorry. Not State's 10. I apologize. State's 53 and
15 54 would be a closer up view?

16 A Yes, sir.

17 Q State's 58?

18 A Marker number 12. It's also another shell casing.

19 Q And State's 59?

20 A And that is a more up close detailed view of it, as
21 well.

22 Q And State's 110?

23 A That's number 16, which is also a shell casing
24 located on the floor in the living room. Number 17 is the
25 up close of another shell casing that was located on the

1 floor and numbers 17 and 16 were located underneath the
2 victim inside the location.

3 Q Is that State's number 60?

4 A Yes.

5 Q And it's a better view, 61, of that area?

6 A Yes, sir. To show the shell casing, but also, the
7 area that it was located in, as well.

8 Q State's 63?

9 A It's the -- number 15 is marking another shell casing
10 inside the residence, as well.

11 Q And State's 64?

12 A 64. Yeah. It is just an up close version of the --

13 COURT REPORTER: You all kind of going down again.

14 MR. POTTS: Sorry about that.

15 Q State's 65?

16 A 60 -- that's 64.

17 Q 64. I apologize.

18 A It's just an overview of the shell casing located
19 inside the residence.

20 Q 65?

21 A 65. It's marker number nine. I'd have to get a
22 closer view of it to really -- it's a projectile located
23 on the ground.

24 Q Which would be State's 66?

25 A Yes. It's a projectile and number eight is also

1 another close view of another projectile located inside
2 the location on the floor.

3 Q 67. State's 67.

4 A State's 67.

5 Q And that's kind of where it is in 68?

6 A And that's showing a generalization of the area it
7 was located. Yes.

8 Q State's 69?

9 A That is also another shell casing later located.
10 Hence the marker number 22.

11 Q So this is one that you did not find in your initial
12 search?

13 A Not originally. It was tucked away under a table
14 next to a couch, I believe. We didn't readily see it
15 openly and in plain view. I had to kind of look around
16 for it.

17 Q And State's 70, a closer view?

18 A And that's just a more up close version of it.

19 Q State's 71?

20 A Number six placard, which is a projectile fragment.

21 Q And State's 72?

22 A And that -- number 72 is number seven, which is
23 another shell casing located in between the couch and
24 another chair.

25 Q And then, State's 73?

1 A And that's just the other view to kind of show where
2 it is in the -- that's 73.

3 Q State's 74?

4 A Number 14 is another shell casing located in the
5 residence.

6 Q And State's 75?

7 A And number five is another projectile fragment on the
8 floor of the location.

9 Q State's 76?

10 A 76 would have been just an overview showing those
11 placards leading to that location over to number seven.

12 Q And State's 77?

13 A This is a shot from just inside the doorway. It's
14 showing towards the back of the residence, which that door
15 leads into a back bedroom.

16 Q Now, State's 123. Where is that back bedroom on the
17 diagram?

18 A That back bedroom would have been right here
19 (indicating). I was standing approximately about there
20 (indicating) when I took the photo.

21 Q On this diagram, on these red things. What are these
22 red things you marked?

23 A The red marks on the diagram would have been
24 locations that I located red stains on the floor or on top
25 of items inside the location.

1 Q And now--

2 A -- number 77.

3 Q State's 78?

4 A 78. This is in the back bedroom. There was a
5 cabinet that was opened. However, there was also red
6 stains on the floor and around it and leading to it, as
7 well --

8 Q These red stains are --

9 A -- and leading away.

10 Q -- substantially smaller than the other ones?

11 A Most likely drops, but they're not -- they're just
12 small, red stains. Yes. Compared to everything else in
13 the residence.

14 Q And this is State's, I believe, 78.

15 A And these are red stains that were located on the
16 blue bed sheet that was on the bed inside that same room,
17 as well.

18 Q And State's 79.

19 A And that just shows a more overview shot of the
20 stains that are on the bed along with some of the floor,
21 as well.

22 Q And State's 80?

23 A And that is just an up-close shot of one of the red
24 stains located on the floor in that bedroom, as well.

25 Q State's 81?

1 A That is a close-up of one near the foot of the
2 cabinet that's in that location.

3 Q That open cabinet?

4 A Yes.

5 Q State's 82?

6 A This is a more just straight on shot than some of the
7 other red stains on the floor and on the cabinet.

8 Q State's 83?

9 A 85.

10 Q 85. I apologize.

11 A This is a singular red stain that I located. It was
12 on a dresser drawer that seemed to be pulled out, but I
13 didn't locate, really, any others.

14 Q State's 86?

15 A More red stains located on the floor near the actual
16 bed. You can see up here (indicating) is where the other
17 red stains would have been, on the bed sheet, as well.

18 Q And State's 89?

19 A This is -- 89. There are red stains located on the
20 front porch of the location near that glass.

21 Q The broken glass?

22 A Where the broken glass is. It would have been
23 outside on the front like patio area.

24 Q And State's 90?

25 A State's 90. It's the location -- it's red stains on

1 the floor in between the entryway leading towards the
2 kitchen. So this would be the patio and you'd walk to go
3 into the kitchen and these are red stains that are on the
4 floor in the previous two locations.

5 Q Okay. And this one here (indicating)?

6 A This one is where I would have been doing my overview
7 of the kitchen. I would have started going straight on
8 from where the doorway or the entryway was and I'd
9 probably move over towards the left doing a sweeping
10 motion with my camera.

11 Q This is State's 91?

12 A Yes, sir.

13 Q And where would this be on State's 123?

14 A This would have been approximately right here
15 (indicating) on the location. It's moving straight into
16 the kitchen.

17 Q State's 92?

18 A That would have been from the same location, but now,
19 I'm moving over and turning the camera to get a better
20 shot of just the open area of the kitchen.

21 Q Are these those footprints from earlier?

22 A The footwear impressions. Yes.

23 Q Yes, sir. And this one, though, is intact, correct?

24 A Yes, sir. The door -- that door, I did not observe
25 any defects or damage to it and the storm door on the

1 outside wasn't damaged at all.

2 Q And this is State's 95, I think.

3 A Yeah. This is a more downward shot and it's 93.

4 Q 93. I apologize.

5 A A more downward shot to the red stains on the floor
6 as well as the red stain shoe wear impressions. Not shoe
7 wear, footwear impressions. Excuse me.

8 Q And you're saying footwear impressions. Here's
9 State's 94. Describe what you're seeing there.

10 A To me, it appears to be a footwear impression. This
11 (indicating) being the front of the foot where the toe and
12 the balls of the feet would be. It can show a direction
13 of travel. However, it can also show someone just
14 standing in that location that had stepped in red stains
15 and transferred it to a new surface.

16 Q And that would be -- the front of that would be
17 heading towards the doorway?

18 A Yes. It would be heading towards the doorway.

19 Q And this would be State, I believe -- can you remind
20 me?

21 A 95.

22 Q 95 would be a closer view?

23 A Yes, sir.

24 Q 96?

25 A This is one that's also a footwear impression.

1 However, this would have been the heel of the foot and
2 this is leading to the front of it and that's facing away
3 from the door. So the front of the foot would be facing
4 away from the door.

5 Q State's 96?

6 A 97.

7 Q 97. Yes.

8 A It's another red footwear impression located in the
9 kitchen nearby the others.

10 Q 96 and 98 is showing the --

11 A It's showing there's several right there at the
12 entryway of the door. I believe they would be kind of
13 overlapping, but can't really tell which one's heading in
14 and out of the location, at that doorway right there.

15 Q And State's 98 is more footwear impressions?

16 A 99.

17 Q I'm sorry. 99.

18 A 99 is that same picture as 98, but it's an up-close
19 version, an overview to show, you know, the different
20 impression patterns.

21 Q And State's 100, where is this?

22 A This is the doorframe that connects the exterior and
23 interior of the side door of the location and that's a red
24 footwear impression on the metal, I guess, storm door kind
25 of siding.

1 Q State's 101?

2 A This is a singular red stain, which was located on
3 the exterior patio and the side door. Like on the --

4 Q So outside that side door?

5 A Yes. It would have been outside the side door.

6 Q State's 107?

7 A This is a more backed up overview of that location as
8 well as the side door.

9 Q State's 108, that's that same kitchen area leading
10 out that way (indicating)?

11 A Hold on a second.

12 Q What's the next one you have?

13 A The next one I have is 111.

14 Q 111.

15 A Yeah.

16 Q Is this State's 111?

17 A Yes.

18 Q What is State's 111 showing?

19 A Those are red stains on the roadway in front of the
20 location. That sewer drain is in front of the location in
21 the middle of the road. There's red stains on the sewer
22 drain lid and also, in the -- on the roadway in front of
23 the location.

24 Q Okay. And then, finally, State's 113. What is that?

25 A 113. That is one of the firearms that was located in

1 the bushes behind the location with red stains on it, as
2 well.

3 Q Let's go to State's 123 again. So I know -- I
4 believe you said earlier this was not to scale?

5 A No, sir.

6 Q So where would the red stains in the street be?

7 A I do not have that actually on me.

8 Q So it's not on your diagram?

9 A It's not on my -- no. The actual roadway is not.

10 Q And then -- we didn't really talk about these things
11 back here on this top right. Tell the jury about that a
12 little bit.

13 A There was some bushes in the back along the fence
14 line as well as a stack of bricks. It was later advised
15 to me by investigations that they had located a firearm in
16 a bush that stood off by the side itself behind the
17 location as well as other items and another firearm
18 located in the bushes behind the location near the fence
19 line, as well as U.S. currency and red stains along the
20 bricks that were also back there behind the location and
21 that would have been up there in the back.

22 Q Okay. So these two weapons were some distance apart?

23 A Yes.

24 Q But the currency and the two bags of the green
25 material and the other firearm --

1 A -- were all within reaching distance, almost.

2 Q Thank you. You can take a seat. So let's talk about
3 the items that were in the back yard. What did you
4 recover from there?

5 A The back yard. I'm going to have to reference my
6 report real quick.

7 Q Yeah. Please, if you need to refresh your
8 recollection.

9 A All right. The items in the back were marked numbers
10 19 through 22 in my report. The items. Number 19 was
11 the, it was a singular black in color Smith & Wesson M&P9
12 Shield handgun with red stains on it, which was located in
13 the singular bush behind the location off away from the
14 other items as well.

15 Q I'm going to show you what is marked as State's 122.
16 Do you recognize that?

17 A Yes, sir.

18 Q Is that the box you would -- I guess, what is that
19 box?

20 A This is one of our standard gun boxes. We -- if we
21 get a firearm from any location, we'll usually put these
22 in here along with the ammunition but they will be
23 separated and usually in a different bag. But it's still
24 in the same box kept together and it'd be zip tied down in
25 the box so it doesn't move. And then, we can take this

1 whole box and submit it to SLED for any kind of DNA
2 testing and anything like that. Fingerprints, as well.

3 Q Or for other firearms testing?

4 A Yes. For other firearm testing that they do.

5 Q Is that how you last saw this box?

6 A Not with all these SLED labels on it, but the
7 biohazard stickers and the handwriting on it is all mine
8 as well.

9 Q And what did you put in that box originally?

10 A It was just a Smith & Wesson M&P9 nine millimeter
11 handgun.

12 Q Did you recover any other firearms?

13 A Sir?

14 Q Sorry. Did you recover any other firearms?

15 A There was one other firearm, yes sir, recovered from
16 the location. It was located in the bushes near the back
17 fence along with the other items. It was a Glock 23 40
18 caliber handgun, black in color.

19 Q I am showing --

20 A It also had red stains on it as well.

21 Q I'm going to show you what's marked as State's
22 Exhibit number 121.

23 A This would have been the Glock box that I filled out
24 for it.

25 Q Sorry. Could you speak up for me, please?

1 A Sorry. That would have been the gun box for the
2 Glock 40 that I filled out and labeled with biohazard
3 stickers so no one messed with it at all.

4 Q But that box -- since you closed it up and labeled it
5 with biohazard stickers, that box has been opened, hasn't
6 it?

7 A Yes. The SLED stickers show that it's been to SLED
8 and it's been processed, most likely, by them.

9 Q Did you collect anything else in that back yard?

10 A In the back yard, there was a numerous amount of U.S.
11 currency that was underneath some bricks along the fence
12 line. The bricks had red stains on them as well.

13 Q I'm going to show you what's been marked as State's
14 Exhibit number 117.

15 A I marked it as a large amount of currency in my
16 report.

17 Q Do you recognize that?

18 A This would have been the evidence envelope that I put
19 the U.S. currency in. That's my handwriting on the front
20 of it.

21 MR. POTTS: At this time --

22 Q So you do recognize that as the -- this would be the
23 currency you found that evening?

24 A Yes. This is the currency I found.

25 MR. POTTS: I'd like to offer into evidence State's

1 Exhibit number 117 at this time.

2 MS. ZMROCZEK: No objection.

3 THE COURT: Any objection?

4 MS. ZMROCZEK: No.

5 THE COURT: Exhibit 117?

6 MR. POTTS: Yes, Your Honor.

7 THE COURT: What did you do with 121?

8 MR. POTTS: 121 and 122 I have not put in yet.

9 THE COURT: Okay. All right. Without objection.

10 MR. POTTS: Unless --

11 THE COURT: That will be in --

12 MR. POTTS: -- Ms. Zmroczek doesn't object to 121 and
13 122.

14 MS. ZMROCZEK: The guns?

15 MR. POTTS: Uh-huh (affirmative response).

16 MS. ZMROCZEK: No objection, Your Honor.

17 MR. POTTS: Well, at this time, the State will go
18 ahead and admit 121 and 122.

19 THE COURT: All right. Those are in without
20 objection.

21 (Whereupon, State's Exhibit numbers 117, 121 and 122
22 were admitted into evidence.)

23 Q So the currency, the two firearms. What else did you
24 collect from back there?

25 A There were two grocery bags. One white and one brown

1 in color. Each contained a clear plastic bag with a large
2 amount of green, plant like material in it.

3 Q When you say green, plant like material --

4 A Yes, sir.

5 Q -- did it have --

6 A It had the odor of marijuana to it. However, I
7 didn't have a field test kit to really test it on-scene to
8 see if it was marijuana, but experience and training led
9 me to believe it was marijuana.

10 Q I'm going to show you what is marked as State's
11 number 119.

12 MS. ZMROCZEK: No objection, Your Honor.

13 Q Can you open it up?

14 A Yeah. If I can, tear it open. Now it's open.

15 Q I apologize.

16 A No. That's fine. Okay. This is where both, I
17 believe, the grocery bags were collected as well and put
18 inside the clear plastic envelope.

19 Q All right. So for purposes of this, we'll put this
20 bag back inside State's 117. So this was the marijuana
21 you collected that evening, correct?

22 A Yes, sir.

23 MR. POTTS: The State would offer into evidence
24 State's number 119 at this time.

25 THE COURT: No objection?

1 MS. ZMROCZEK: No objection.

2 THE COURT: 119 is without objection.

3 MR. POTTS: Thank you.

4 (Whereupon, State's Exhibit number 119 was admitted
5 into evidence).

6 Q So Investigator, while you're taking the swab, how
7 does this swab taking process work?

8 A It varies from time to time, but it's usually a
9 straightforward thing. The only thing that varies is when
10 we use the application of sterile water to usually wet the
11 surface of the swab to get a -- to collect a sample from
12 the location. However, most of the red stains were still
13 visibly wet and we were easily able to swab into the red
14 stains to get a sample collected from it.

15 Q Okay. And so every red stain you found, when you
16 took a swab, how would you avoid getting them confused?

17 A When we take a swab from it, we'll take it and we
18 have a swab container such as those items there.

19 Q And you say those items there. You're talking about
20 State's --

21 A -- whichever ones they were.

22 Q Number 116 and 115?

23 A Yes, sir. But for the sake of the residence, it
24 would be these right here (indicating). What is this?
25 116.

1 Q State's 116.

2 A Yes. Each item would be collected. When the swab is
3 taken, we get a DNA box like this. One end would be
4 sealed and we'd place the swabs into it, close the box up
5 and seal the other side. And then write on it what time
6 we collected it, where we collected it from and who
7 collected it as well.

8 Q Okay. So you're saying where you collected it from.
9 Would you just say the residence or would you --

10 A You would say kind of the area it's located at. Like
11 for instance, one of these locations on my swab box was --
12 it's a kitchen cabinet. So it'd be from the kitchen
13 cabinet and there would also be a photograph assigned to
14 the red stain on the kitchen cabinet as well.

15 Q Now, there were a lot of red stains in that building.
16 How were you able to determine which red stains to take a
17 sample of?

18 A Usually when we collect red stains, it's
19 investigator's discretion, where he wants them from.
20 Usually we'll take one from where the decedent's located.
21 And then we'll move onto towards a larger stain which is
22 off away from it just to kind of go through the path of
23 where the red stains are located and any outlying red
24 stains that would be off by themselves.

25 Q And you say the Investigator. Which Investigator --

1 are you talking about yourself? Because you're an
2 Investigator.

3 A It would have been Investigator Duckett. He would
4 have been the lead Investigator on-scene.

5 Q And so how long does this whole process, these 300
6 photographs, these swabs, all these shell casings, how
7 long -- collecting and doing all of this, how long does
8 this all take you?

9 A It can vary scene to scene. It can take at least a
10 couple of hours. At the most, it can take, you know, 8 to
11 12 hours at the most. That's the longest I've ever been
12 on a scene.

13 Q In this case, you were there for many hours, weren't
14 you?

15 A Yes, sir.

16 Q And so when you finished gathering all of this
17 evidence, what did you decide to do? What was your next
18 step?

19 A Once we collect everything that we're going to
20 collect from the scene, I'll load it into my truck to be
21 taken down to Bluff Road so they can finalize placing it
22 into evidence bags, getting them labeled correctly,
23 getting them sealed so, you know, no one can go in and
24 tamper with them while they're in the evidence room.

25 Q And it's secure there?

1 A Yes, sir. Once it's released from me to the evidence
2 room, they have to go through our evidence procedure to
3 actually get something out of the room. Yes.

4 MR. POTTS: Beg the Court's indulgence for one
5 second.

6 Q And State's 115 and 116, those were the swabs you
7 were talking about earlier --

8 A Yes.

9 Q -- correct?

10 MR. POTTS: At this time, I'd like to offer into
11 evidence State's numbers 115 and 116.

12 THE COURT: Any objection?

13 MS. ZMROCZEK: No objection, Your Honor.

14 (Whereupon, State's Exhibit numbers 115 and 116 were
15 admitted into evidence.)

16 MR. POTTS: Thank you, Investigator Jackson. I have
17 no further questions. Answer any questions the Defense
18 has for you.

19 THE COURT: Yes, ma'am. Ms. Zmroczek.

20 MS. ZMROCZEK: Thank you, Your Honor. May it please
21 the Court.

22 CROSS-EXAMINATION

23 By Ms. Zmroczek:

24 Q It's Investigator?

25 A Crime scene.

1 Q Crime scene?

2 A Yes, ma'am.

3 Q Crime scene agent. Crime Scene Agent Jackson, you
4 would agree with me that the crime scene can tell a story?

5 A Yes, ma'am.

6 Q It helps kind of fill in the gaps of things that
7 science has created, right?

8 A Yes, ma'am.

9 Q For example, if somebody gets shot, then we'll see
10 the red stuff possibly being at the scene, right?

11 A Yes, ma'am.

12 Q And then, if we test that red stuff, it'll -- it can
13 help us understand where someone was standing or
14 positioning or moving throughout the crime scene, right?

15 A Yes, ma'am.

16 Q And that's important when we're trying to understand
17 what happened, right?

18 A Yes, ma'am.

19 Q So you go through a lot of training to be able to do
20 this?

21 A I would say so. Yes, ma'am.

22 Q And then, like you said, it was up to the
23 Investigators to determine which areas to swab and test
24 and things like that?

25 A Yes, ma'am. Their discretion.

1 Q Okay. I just want to -- I'm not going to go through
2 all those pictures again, but I want to show you what's
3 been marked for ID as Defendant's Exhibit 2. Do you
4 recognize that as the location we were just talking about?

5 A Yes, ma'am.

6 Q And the sewer --

7 A Sewer drain. Yes, ma'am.

8 Q Sewer drain in the middle.

9 MS. ZMROCZEK: Your Honor, at this time, we would
10 move Defendant's 2 into evidence.

11 THE COURT: Any objection?

12 MR. POTTS: No, Your Honor.

13 (Whereupon, Defendant's Exhibit number 2 was admitted
14 into evidence.)

15 Q So the sewer drain -- oh, sorry. Bad habit. The
16 sewer drain is a little bit -- I'm just coming out the
17 front door just a little bit adjacent, correct? It's in
18 the middle of the road?

19 A In the middle of the road. Yes.

20 Q Okay. So if you're drawing a straight line, it
21 obviously wouldn't go to the door, but it would --

22 A It would go to the front of the residence.

23 Q To the front of the residence. And you talked a lot
24 about doing the walk through. And then, you initially
25 didn't see the items that were in the outside, right?

1 A Yes, ma'am.

2 Q Those were actually hidden from you?

3 A From plain sight. Yes, ma'am.

4 Q From plain sight. You -- I want to show you
5 Defendant's 3. Now, obviously you turned over your crime
6 scene dialogue, right?

7 A Diagram.

8 Q Diagram.

9 A Yes, ma'am.

10 Q And it was -- and it contained the legend?

11 A Yes, ma'am.

12 Q You were missing a couple of numbers, right?

13 A Yes. Number one and two.

14 Q Number one and number two?

15 A Yes.

16 Q Would you agree that as they've been written in, they
17 fairly and accurately represent their location?

18 A Yes, ma'am.

19 Q And then, you also took some swabs that were assigned
20 additional numbers. Is that correct?

21 A In my report, they were numbers of just item
22 collected. They didn't actually have a photo marker or
23 anything applied to them.

24 Q Right. Right. But they had an identification
25 number, right?

1 A Yes, ma'am. And that was done at Bluff Road.

2 Q That was done at Bluff --

3 A Not actually on-scene.

4 Q Right. Right. Right. So can you just -- you have
5 that list of those numbers?

6 A Yes, ma'am.

7 Q And those were for the swabs, right? So I'm
8 beginning with 26, maybe.

9 A I believe it's 25.

10 Q Yeah. 25.

11 A Yes, ma'am.

12 Q Okay. Is 25 correctly identified on this diagram?

13 A Yes, ma'am.

14 Q Okay. Is 26 correctly identified?

15 A Yes, ma'am.

16 Q 27? We're going to go through them all.

17 A Yeah, I just need to double check. Yes, ma'am.

18 Q 28?

19 A Yes, ma'am.

20 Q 29? Where is -- here in the roadway.

21 A Yes, ma'am.

22 Q 30?

23 A And 30 was on the sewer drain. Yes, ma'am.

24 Q Okay. And then, back in the back yard, we have 31
25 and 32?

1 A Yes, ma'am.

2 Q Those are correctly identified, as well?

3 A Yes, ma'am.

4 Q 33, 34 and 35?

5 A They would be -- if I did those on-scene, yes.

6 Q And then, 36 and 37 and 38, those -- right. If you
7 had done them on-scene --

8 A They would have been marked, but many swabs that are
9 taken from the location don't actually have photo number
10 markers assigned and that's what these numbers are on my
11 diagram is actually the photo marker number.

12 Q Right. Right. Right. So -- but just adding in the
13 swab numbers helps us to get an overall picture, right?

14 A More or less, yes.

15 Q Okay. So even though you didn't collect 36, 37 and
16 38 while you were at the scene, you collected it from this
17 firearm, would that be accurate?

18 A Yes, ma'am.

19 Q Okay. And the same with 33, 34 and 35, all of those?

20 A Yes, ma'am.

21 Q There's no number markers, but --

22 A No.

23 Q -- but it helps us understand what we're referring
24 to?

25 A Yes.

1 Q And then, other people, for example, SLED can receive
2 that evidence. So that's the number that they would refer
3 to as an item number, right?

4 A SLED, I believe, numbers their things differently
5 than what I actually have labeled on my report. So I
6 can't really say what they would number theirs as.

7 Q But your investigators, everything in y'all's report
8 would reflect your numbers, right?

9 A It would be what I collected the number as.

10 MS. ZMROCZEK: Okay. Your Honor, at this time, we
11 would move Defendant's 3 into evidence.

12 THE COURT: Any objection?

13 MR. POTTS: Without objection, Your Honor.

14 (Whereupon, Defendant's Exhibit number 3 was admitted
15 into evidence.)

16 Q And so this diagram -- and I'll ask you questions,
17 and then if you need to come down and look, you certainly
18 can, but -- and I think you have a smaller version of it,
19 actually. Do you have those with you?

20 A I think they're over there (indicating).

21 MS. ZMROCZEK: Thank you.

22 Q Okay. That way, we can keep you on the stand and
23 loud, and then the jury can still see. All right. So
24 obviously, 124 doesn't have the swab numbers, but it does
25 have the evidence identifiers, right?

1 A Yes, ma'am.

2 Q Now, there are some areas of red material that was
3 not swabbed, right?

4 A Yes, ma'am.

5 Q And again, that's not in your discretion?

6 A No. Most of the swabs will come from the
7 Investigator wanting, you know, collection from certain
8 areas.

9 Q Okay. I'm going to hand you these and I'm not going
10 to go through them all, but for example, State's 3, right
11 on top, the picture shows the front door and it shows the
12 screen is out of the storm door. Is that correct?

13 A Yes, ma'am.

14 Q Okay. And so when you go and you take overall crime
15 scene photos, you obviously try not to alter it in any
16 way?

17 A No, ma'am.

18 Q All right. And you have people that have been there,
19 first responders and the like that have inadvertently
20 entered the crime scene, you know, for medical treatment
21 and things like that, right?

22 A Yes, ma'am.

23 Q But in general, they aren't breaking out windows or
24 plugging in TVs or anything like that?

25 A No, ma'am.

1 Q Okay. So the overall scene is hopefully as close to
2 as it was before anybody got there?

3 A It's -- yes.

4 Q Okay. And you said that when you were inside -- you
5 would agree with me this house is less than 600 square
6 feet?

7 A It was a pretty small house. Yes.

8 Q Okay. And in fact, I think you said that in the main
9 room right when you enter, there was a lot -- there were a
10 lot of items, stereo speakers, a giant TV, those sorts of
11 things?

12 A Yes, ma'am.

13 Q Okay. And did that make it difficult to maneuver in
14 and out?

15 A A little bit. Yes.

16 Q All right. But everything was in the way that you
17 found it, right?

18 A From what I remember, yes.

19 Q There were also -- we saw about some of the
20 projectiles in the TV. I think -- is that what you called
21 them?

22 A Projectile strikes.

23 Q Projectile strikes. What's the difference?

24 A A projectile strike is when, you know, a projectile
25 strikes a surface and leaves a defect onto the item that

1 it strikes.

2 Q So do we know where those projectiles are?

3 A I believe, if I have all my photos and things, that
4 they did exit through the back or in through the back. I
5 can't be sure of which direction they came from. However,
6 there were holes on both sides of the TV.

7 Q Okay. And there were holes in the walls?

8 A Yes, ma'am.

9 Q And there were holes in the doors?

10 A I don't believe doors. I would have to look at all
11 my photos again to really remember that.

12 Q Were there defects on the outsides of the TV?

13 A Like the sides of it?

14 Q Correct.

15 A Not that I remember, ma'am.

16 Q Okay. So let me ask you this. Is there -- is it
17 part of y'all's training to be able to kind of triangulate
18 or to talk about bullet paths and things like that?

19 A I did not have that training --

20 Q You do --

21 A -- at that time.

22 Q Okay. You do now? Working on it?

23 A Yeah. I mean, I've got training now. It's just I
24 did not have it at the time. So I did not do any of the
25 projectile trajectories or anything.

1 Q And you're not the only person that works at CPD that
2 does this?

3 A That does crime scene?

4 Q Right.

5 A There's others. Yes, ma'am.

6 Q Okay. So are there people that -- for example, you
7 talked about footwear impressions and how they can maybe
8 give a direction and also, do a little bit of comparison
9 to known shoes. Is that correct?

10 A You can. Yes.

11 Q Okay. But that wasn't done in this case?

12 A I do believe we took photographs of the officers that
13 were inside the location, the bottom of their shoes as
14 well, just to see if those were the officers footprints or
15 shoe prints -- excuse me, footwear prints.

16 Q And I believe you took like 10 photos. So there were
17 some officers --

18 A We located the officers that actually went in
19 initially to document the bottom of their shoes to see,
20 you know, if it was them or anything like that.

21 Q Right. In fact, when you go in, you wear little
22 booties on your --

23 A Shoe covers. Yes, ma'am.

24 Q Shoe covers. I like booties. So even after you find
25 that there's not a match between the officers, someone

1 could, for example, take the person who's living there
2 shoe that was collected at the hospital and compare it to
3 what you found on the floor, right?

4 A If they have that training, yes.

5 Q Okay. And does anyone at CPD have that training?

6 A I'm not sure. I don't know what the other --
7 training my other cohorts in the crime scene unit have.

8 Q And sometimes, you all, what's the word I'm looking
9 for, service it out to SLED?

10 A It depends on the case. Most of the things that we
11 send to SLED is just for DNA or fingerprint results. If
12 they were going to come to the scene, they would have been
13 at the scene. Yes.

14 Q All right. And then, that's, again, not a decision
15 that you make, correct?

16 A No, ma'am. I do not have the authority for that.

17 Q You -- we talked about the TV being on and the foot
18 impressions and there were a lot of shell casings, right?

19 A There was a good number. Yes, ma'am.

20 Q So what's the difference between -- you talked about
21 a projectile strike. And then, we have some pictures of
22 shell casings and then other items like from a bullet that
23 are not the casings. I can't remember what those are
24 called.

25 A The projectile.

1 Q Yes. Projectiles. And then, for example, number --
2 item eight. Do you have your --

3 A I do have --

4 Q Okay. Thank you.

5 A -- number eight.

6 Q What's the word I'm looking for?

7 A Projectile.

8 Q So how are -- casings and things, how are those
9 different?

10 A The shell casing is -- when a gun is fired, it
11 produces a shell casing. It's the cartridge that the
12 bullet comes from.

13 Q Fragment. That's the word I was looking for. I knew
14 it'd come to me. So you found some fragments, as well,
15 right?

16 A Yes, ma'am.

17 Q Okay. So what are fragments? How do they get --

18 A Fragments -- projectile fragments are pieces of the
19 actual projectile that have broken apart after striking a
20 surface.

21 Q Okay. It could -- like goes through a body or just
22 any type of surface?

23 A They function very weird. I don't know the pure, you
24 know, physics behind the projectile. But when they strike
25 surfaces, when they go through bodies, fabric, clothing,

1 hard surfaces they will tend to deform and break apart.

2 Q Okay. Can you pull up number -- picture 67?

3 A I will try to do it as quick as possible.

4 Q It's actually 63.

5 A 63. Got it.

6 Q Is that a projectile by the TV?

7 A No, ma'am. That is --

8 Q What's that?

9 A -- a shell casing.

10 Q That's shell casing. Okay.

11 A Yes, ma'am.

12 Q All right. So that's the one I am thinking of,
13 though. So this shell casing, you found behind the TV,
14 which would be item number -- what item number was that?

15 A Behind the TV. That is actually not the TV. The
16 number 15. That's actually, I believe, a furnace --

17 Q A furnace. Okay.

18 A -- that's against the back wall and that's in front
19 of it.

20 Q Okay. So that's item 15 right there --

21 A Yes, ma'am.

22 Q -- in front of the furnace?

23 A Yes.

24 Q There we go. And I notice, on the little diagram
25 that you're holding, it has two little cartridges. Is

1 that just --

2 A It's just the only kind of clip art I could find
3 inside our system that was a shell casing.

4 Q Okay. So --

5 A It didn't have a singular one on there that I could
6 fit small enough onto the page.

7 Q Okay. So when it shows two, it's actually just --

8 A It's just one.

9 Q It's just one.

10 A That's why I have also the not to scale because I
11 couldn't find just a singular one on that little system.
12 That's all it is.

13 Q A little will get you creative. When you look at
14 this, do you see any red stains on this shell casing?

15 A Yes, ma'am.

16 Q Okay. And so obviously, you found some shell casings
17 underneath Mr. Jenkins?

18 A Yes, ma'am.

19 Q And those were clearly covered --

20 A They had red stains on them.

21 Q Red stains on them, as well, but this one was not
22 located anywhere near a body, was it?

23 A No, ma'am.

24 Q Is there any way to explain how it has red coloring
25 on it?

1 A A number of things could have happened. When the
2 initial EMS comes inside, it could have been in the red
3 stains and got moved by people moving in to try to
4 resuscitate the victim.

5 Q Inadvertently?

6 A Inadvertently moved.

7 Q So there are some things that we just don't know?

8 A Shell casings do tend to take weird bounces and they
9 go different locations. They're very hard to discriminate
10 sometimes when they're moving around.

11 Q And then, item number -- picture number 78?

12 A You said, 78?

13 Q 78. Yes. So item 78 -- excuse me. State's Exhibit
14 78 is a picture of this back bedroom?

15 A Yes, ma'am.

16 Q With the red stains in it, correct?

17 A Uh-huh (affirmative response).

18 Q And it's a closeup of the --

19 A The corner of the cabinet.

20 Q Yes. The open cabinet. And inside that cabinet,
21 there are some -- would you agree with me that there are
22 some plastic bags?

23 A They look like paper bags. Paper bags on the left
24 side. I mean, I would have to really look in my photos
25 again. I couldn't really tell you if that's a plastic bag

1 or a paper bag.

2 Q Okay. Well, let me ask you this. The marijuana that
3 you -- marijuana like substance that you found in the
4 backyard, was it also wrapped in plastic-like bags?

5 A It was in a plastic bag, but it was also in a grocery
6 bag.

7 Q In a -- that's the word I'm looking for. Grocery
8 bag.

9 A Yeah.

10 Q So it was sealed in a FoodSaver kind of bag but then
11 it was placed in like a grocery bag?

12 A Yeah. I'd have to look at it again to really say if
13 it was a FoodSaver bag in it.

14 Q Okay. I'm certainly -- but some sort of --

15 A Yeah.

16 Q Okay. And again, like you said, the crime scene
17 photos and the crime scene itself kind of help tell a
18 story with the physical evidence, right?

19 A Yes, ma'am.

20 Q Okay. Lastly, I wanted to ask you about the two
21 firearms that have been entered that were found in the
22 yard.

23 A Yes, ma'am.

24 Q You recall those. So there's one item number 19,
25 which is the nine millimeter?

1 A Yes, ma'am.

2 Q And that was kind of in a bush by itself, correct?

3 A Yes.

4 Q Okay. And did you actually locate that weapon?

5 A No, ma'am. I did not.

6 Q Okay. Were you there when it was recovered?

7 A I was the one that recovered it from -- yes.

8 Q So when you recovered it, you're trained to render
9 firearms safe, correct?

10 A Yes, ma'am.

11 Q Okay. And you did that in this case?

12 A Yes, ma'am.

13 Q Before you did that in this case, what, if anything,
14 did you notice about that gun?

15 A If I could see my photo of the actual --

16 Q Sure.

17 A And it's in here again. I'd have to really look at
18 it because off the top of my head, I can't really describe
19 it to you.

20 Q I'll ask it this way. If you recall it being -- I'm
21 showing you State's 21. Is that the nine millimeter?

22 A Yes, ma'am.

23 Q Okay. Do you recall it being jammed?

24 A It was out-of-battery.

25 Q What does that mean?

1 A It's where the slide is not fully locked in. It
2 shouldn't be able to fire if it's out-of-battery.

3 Q Okay. And how does that happen?

4 A It could be a malfunction in the weapon, a jam or
5 something's stuck in it.

6 Q Okay. So there's several different ways?

7 A It could be varying. Yes, ma'am.

8 Q But in the state that you found it before you
9 rendered it safe, and hopefully after, it could not fire a
10 weapon, right? Could not fire projectiles.

11 A Regardless, I treat every weapon as if they can fire
12 until I, myself, render it safe.

13 Q Yeah. You wanted to render it safe?

14 A Yes, ma'am.

15 MS. ZMROCZEK: Okay. Perfect. I believe those are
16 all the questions I have. Thank you so much.

17 THE COURT: All right. Redirect?

18 MR. POTTS: No, Your Honor.

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

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 THE COURT: All right. Ladies and gentlemen of the
23 jury, at this time, we'll take our afternoon break. We'll
24 take about 10 minutes and that way you can refresh
25 yourself. I'll see if they can adjust the temperature.

1 It's controlled somewhere else. So by the time they
2 adjust it, we'll probably be gone, but we'll see if they
3 can adjust the temperature. All right. Thank you.
4 Please don't discuss the case.

5 (Whereupon, the jury was excused from open court for
6 a break.)

7 THE COURT: All right. We will go ahead and take
8 about a 10 minute break and we'll come back.

9 MR. POTTS: Ready to go. And we have one witness,
10 Your Honor, that needs to go this afternoon.

11 THE COURT: All right. All right. Well --

12 MS. ZMROCZEK: I'm prepared, Your Honor.

13 THE COURT: Huh?

14 MS. ZMROCZEK: I'm prepared.

15 MR. POTTS: We're going until 6:00? Is that what you
16 said?

17 THE COURT: We'll see how long it takes. We will
18 take about ten minutes.

19 (Whereupon, a short break was taken.)

20 THE COURT: All right. Bring them in, but please
21 make sure your cell phones are off. Yes, ma'am.

22 MS. ZMROCZEK: For the record --

23 THE COURT: Hold on one second. He already opened
24 the door --

25 COURT REPORTER: Okay. Go ahead.

1 THE COURT: -- for the jury.

2 MS. ZMROCZEK: I agree to all the photos. I was just
3 trying to let him know just to try to -- the only thing I
4 don't agree to is that letter. So -- and I tried to -- I
5 know that that is in his brain.

6 MR. POTTS: I'm going to do my best to not.

7 THE COURT: Okay, bring them in.

8 (Whereupon, the jury came into open court at
9 approximately 4:33 p.m.)

10 THE COURT: All right. Thank you. Call your next
11 witness.

12 MR. POTTS: The State calls Officer Bailey.

13 MICHAL BAILEY, being
14 first duly sworn, testified as follows:

15 THE WITNESS: Officer Michael Bailey, M-I-C-H-A-L.
16 Bailey is B-A-I-L-E-Y.

17 DIRECT EXAMINATION

18 By Mr. Potts:

19 Q Officer Bailey, you are currently with the Columbia
20 Police Department?

21 A I am.

22 Q And you were in that duty back in March 25th of 2018,
23 correct?

24 A Yes.

25 Q Did you have an opportunity to respond to ■ Samson

1 Circle on that day?

2 A I did.

3 Q Just tell the jury a little bit about what you did
4 there.

5 A I was on with Richland Patrol, as I am on most
6 evenings and we got a call about shots being fired on
7 Samson Circle. I arrived on-scene and a subsequent call
8 came out that there was gunshot victims at the hospital.
9 So I then responded there.

10 Q Okay. And were you able to make contact with those
11 -- at the hospital?

12 A Just one particular one. The other ones were
13 incapacitated, he was actually shot in the face.

14 Q And which one were you able to talk to?

15 A Perry. Subject Perry.

16 Q Gwan Perry?

17 A Gwan Perry. Yeah.

18 Q And what did you ask him?

19 A We talked about where he -- what happened. I tried
20 to get him to tell me what was going on. Him and I, we
21 knew each other from the street. I'm working out there.
22 He's working out there.

23 THE COURT: Hold on one second. She's -- yes, ma'am.

24 MS. ZMROCZEK: Your Honor, I may have an objection if
25 he's --

1 MR. POTTS: I think that's about as far as I'm
2 getting into it.

3 Q You just know him from the streets?

4 A Yes.

5 Q Mr. Perry?

6 A Yes. I am.

7 Q And so is it common practice for you all to question
8 gunshot victims when they come to the hospital?

9 A Yes. We're trying to figure out who shot him.

10 Q Did you ask Mr. Perry that question?

11 A I did.

12 Q And what did he tell you?

13 MS. ZMROCZEK: Objection, Your Honor.

14 MR. POTTS: Can we approach?

15 (Whereupon, a bench conference was held in the
16 presence of the jury but out of the hearing of the
17 jury.)

18 Q Officer Bailey.

19 A Yes.

20 Q Did you ask him where he got shot?

21 A Yes.

22 Q And what did he tell you?

23 A He said he was shot -- at first, he wouldn't tell me.
24 Then I was talking to him and he said he got shot on James
25 Street.

1 Q Did he tell you who shot him?

2 A Yeah. He said a guy named Maniac.

3 Q Did you have any other involvement in this case?

4 A No.

5 Q Did you relay that information to other law
6 enforcement officers?

7 A I did. While I was seeing him, I made contact with
8 additional law enforcement who were on the original crime
9 scene and I gave them information to go and respond to
10 James Street to kind of ascertain a crime scene.

11 MR. POTTS: Thank you. No further questions.

12 THE WITNESS: Thank you.

13 CROSS-EXAMINATION

14 By Ms. Zmroczek:

15 Q Officer Bailey, when you were questioning 18-year-old
16 Gwan in the hospital room, you were aware that there were
17 other officers with body cameras around?

18 A Yeah.

19 Q Okay. And so if one of those body cameras caught you
20 leaning over him and yelling at him saying, don't lie to
21 me, I know you're lying to me, would that be accurate?

22 A No.

23 MS. ZMROCZEK: No further questions.

24 MR. POTTS: No redirect, Your Honor.

25 THE COURT: All right. You may step down. Any

1 objection to this witness being excused?

2 MR. POTTS: None from the State, Your Honor.

3 MS. ZMROCZEK: No.

4 (Whereupon, the witness stepped down from the witness
5 stand.)

6 THE COURT: Call your next witness.

7 MR. FYALL: The State calls Sergeant Brink.

8 JEFFREY BRINK, being
9 first duly sworn, testified as follows:

10 THE WITNESS: Sergeant Jeffrey Brink, J-E-F-F-R-E-Y
11 B-R-I-N-K.

12 DIRECT EXAMINATION

13 By Mr. Fyall:

14 Q Thank you, Sergeant Brink. Can you just tell us
15 where you're employed?

16 A City of Columbia Police Department.

17 Q How long have you been there?

18 A This is my 12th year.

19 Q And currently, you're a sergeant?

20 A I am an investigator sergeant currently.

21 Q And what was your role back on March 25th of 2018?
22 What was your rank then?

23 A Patrol sergeant.

24 Q All right. And you were assigned to the task of
25 dealing with the incident at ■ Samson Circle?

1 A Yes. Upon arrival, I already had officers and my
2 corporal on-scene. I just immediately got on-scene and
3 started taking over the supervisory task. Making sure the
4 crime scene was, you know, kept under control, evidence
5 was preserved, started making proper notifications to
6 investigations as well as crime scene. Just typical
7 supervisory tasks.

8 Q And we've heard a lot about that. After you left
9 there, did you go to James Street?

10 A Yeah. I was notified by an investigator at the
11 hospital that one of the subjects and one of the possible
12 suspects stated that they were involved -- they were shot.
13 They had gunshot wounds and they stated that the incident
14 occurred off of James Street in front of a white house.
15 Once I got that information, myself and I believe three
16 other officers went to that location and checked James
17 Street in front of every white house, checked the roadway
18 and the front yards and we were unable to locate any
19 evidence of a shooting at that location.

20 Q Tell us exactly what you mean. When you checked
21 James Street, what exactly --

22 A We exited our vehicles, turned on our spotlights and
23 checked the roadway to see if there were any brass
24 casings. Typical evidence. Any red stains, any blood
25 evidence, shell casings, gun parts. Anything that would

1 indicate that a shooting occurred there.

2 Q And did you find any of that stuff?

3 A We did not.

4 Q All right. Were you ever dispatched back there later
5 because someone -- dispatch had called about gunshots and
6 gunfire in that area?

7 A No.

8 MR. FYALL: Thank you. No further questions.

9 CROSS-EXAMINATION

10 By Ms. Zmroczek:

11 Q Sergeant --

12 A Yes, ma'am.

13 Q Sergeant Brink, when you -- before you went to
14 investigate James Street, you did some other investigation
15 in this case?

16 A Yes, ma'am. While I was on-scene.

17 Q On-scene at Samson?

18 A ■ Samson Circle. Yes.

19 Q Okay. And, of course, you had your body cam on?

20 A I believe so. Yes.

21 Q And you were directing -- kind of trying to direct
22 everyone?

23 A Yeah. It was pretty chaotic, but yeah. That's part
24 of my role is to assign tasks to officers that are
25 arriving on-scene and just make sure we're doing what

1 we're supposed to be doing.

2 Q And not only did you have numerous officers, you had
3 fire engine unit?

4 A I believe so. Yes. And EMS was also there.

5 Q And EMS?

6 A Yes.

7 Q And then, there were some bystanders, as well, right?

8 A Yeah. I believe so.

9 Q Okay. And do you recall -- do you -- tell the jury
10 how you described that scene that night.

11 A How I described it then or now?

12 Q How -- let me ask it this way. Did you call it --
13 did you refer to it numerous times as a shootout?

14 A Well, when I was in the residence, there was
15 multiple, what I observed to be multiple, what appeared to
16 be bullet holes throughout the residence.

17 Q In fact, you even talked about triangulation, that it
18 all happened in this 10 by 10 foot area. Is that right?

19 A It appeared to be a lot of bullet holes in the same
20 area. Yes.

21 Q And you had learned that there were two people
22 injured at ■ Samson. But by the time that you had gotten
23 to ■ Samson, you had learned that there were already two
24 additional gunshot victims at the hospital. Is that
25 correct?

1 A I believe that was actually delayed. While I was
2 on-scene at that location is when we were notified that
3 there were other people hit at the hospital.

4 Q Okay. So they were already at the hospital and you
5 were at the scene?

6 A To my best recollection. Yes.

7 MS. ZMROCZEK: Thank you. No further questions.

8 MR. FYALL: Nothing further, Your Honor.

9 THE COURT: All right. Call your next witness.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 THE COURT: Any objection to this witness being
14 excused?

15 MR. FYALL: None from the State.

16 MS. ZMROCZEK: None from the Defense.

17 THE COURT: Call your next witness.

18 MR. POTTS: The State calls Investigator Potash.

19 GEORGE POTASH, being
20 first duly sworn, testified as follows:

21 THE WITNESS: My name is George Potash, G-E-O-R-G-E,
22 last name P-O-T-A-S-H.

23 DIRECT EXAMINATION

24 By Mr. Potts:

25 Q Investigator Potash, where are you employed?

1 A I'm employed for the City of Columbia Police
2 Department.

3 Q And what's your job there?

4 A I am a patrolman assigned to the crime scene
5 investigations unit.

6 Q So what does that mean you do?

7 A Basically, what our job is, is to -- working under
8 the investigations division, directly under investigators.
9 We identify a document and collect it.

10 Q In this case, were you working in that field back in
11 March of 2018?

12 A I was.

13 Q Did you respond to [REDACTED] Samson Circle on that day --

14 A Yes.

15 Q -- on March 25th? Please tell the jury a little bit
16 about what happened when you responded there.

17 A Basically, what happened was, I responded to Samson
18 Circle. I made contact with Officer Jackson and he
19 directed me to go to the hospital to make contact with
20 individuals there as well as Investigator McCoy, who was
21 present. So I left Samson Circle and went to Richland
22 Memorial Hospital down at Prisma.

23 Q Now, please describe what was happening. What was
24 going on at Richland Memorial Hospital? I guess it would
25 have been Palmetto Health Richland back then.

1 A Right. There were several subjects in the trauma
2 bays and being seen in the ER with what appeared to be
3 gunshot wounds.

4 Q Can you tell -- do you know who those individuals
5 were?

6 A Yes. I was able to document their names. The first
7 one was Jimmy Rogers, a Gwan Perry and a Roshamel Parker.

8 Q Now, were you able to see those individuals?

9 A I was and I was able to take some pictures.

10 Q Tell me about the process of going to go see them and
11 take those pictures.

12 A Basically, what we're doing is, we're working around
13 the medical care givers. We're trying to stay out of
14 their way while we're trying to document the identity of
15 the people that are there and when possible, any injuries
16 that are on them.

17 Q I'm going to show you what's been marked as State's
18 128 through 134.

19 A So these are photos I took.

20 Q Are these the photos of the individuals who responded
21 to the hospital with gunshot wounds?

22 A Yes.

23 MR. POTTS: I'd like to offer into evidence State's
24 128 through 134.

25 MS. ZMROCZEK: No objection.

1 (Whereupon, State's Exhibit numbers 128 through 134
2 were admitted into evidence.)

3 Q State's 128, is that Jimmy Rogers?

4 A Unfortunately, it's been about two years. So I do
5 not know visually. I only know the individuals that I
6 took photos of and their identities were recorded in my
7 report.

8 Q All right. So did you record where Jimmy Rogers was
9 shot?

10 A Yes. Jimmy Rogers had one wound in the right arm,
11 lower.

12 Q I'm going to show you State's 129. Does that appear
13 to be a wound to the right arm?

14 A Yes.

15 Q And we have -- State's 128.

16 A Yes.

17 Q Can you tell me where the injuries to Mr. Roshamel
18 Parker were?

19 A He had one wound to his face, left cheek.

20 Q Okay. I'm going to show you State's 130 and 131.
21 Are those --

22 A Yes.

23 Q And the last individual was -- who was it again?

24 A And the last individual would be Gwan Perry.

25 Q Okay. And State's 132, 133 and 134 show the last

1 individual?

2 A Yes. Show the wounds to the thigh. Left thigh. One
3 in the thigh and one in the calf.

4 Q So when you made contact with these individuals in
5 some cases, some of them were able to speak and some of
6 them were not, correct?

7 A Uh-huh. (Affirmative.)

8 Q Did you collect -- well, let me ask you this.
9 Besides taking photographs, did you try and gather any
10 other evidence from these individuals?

11 A Yes. I did. At the direction of Investigator McCoy,
12 I collected the clothing that had been removed from the
13 parties by the medical staff and that was located in the
14 rooms with the individuals. I also took gunshot residue
15 tests and I also collected buccal sample from Mr. Perry.

16 Q What's a buccal sample?

17 A Basically, what a buccal sample is, is it's a DNA
18 sample taken from the inside of the cheek. It's just
19 using swabs rubbed on the inside of the cheek and
20 packaged.

21 Q Now, these gunshot residue tests, can you explain to
22 the jury how you collect that?

23 A Sure. Basically, a gunshot residue test is very
24 simple. South Carolina has moved to a scanning electron
25 microscope test. The way we collect our samples for that

1 is, there are two containers in a gunshot residue test and
2 each container consists of a cap. And then, on the
3 inside, you have a carbon disc.

4 Q Well, I guess, how -- what did you do in preparation
5 for the gunshot residue test?

6 A Basically, opened up the container, exposing the
7 carbon disc with the adhesive, and just tapped on the
8 ends.

9 Q And then, what did you do with that?

10 A Then they were sealed in an envelope.

11 Q Did you take one from Mr. Rogers, Mr. Perry and Mr.
12 Parker?

13 A Yes. 23:01 hours from Mr. Rogers, 23:35 hours from
14 Mr. Perry and 03:02 hours from Mr. Parker.

15 Q So that was significantly later than the other two,
16 correct?

17 A Yes.

18 Q And then, you submit that -- and that test goes to
19 SLED, the GSR test?

20 A Yes.

21 Q Now, these clothes, did you go through these clothes
22 when you collected them?

23 A Yes. I did.

24 Q Anything of note found in these clothes?

25 A I did note that there was 13 one dollar bills and

1 five \$20 dollar bills from Mr. Perry's clothing.

2 Q From Gwan Perry's clothing. I'm going to show you
3 what's been marked as State's 138.

4 A Yes. That's my packaging.

5 Q Is that the money you collected from Mr. Perry?

6 A I would believe so. It's my packaging and it's
7 marked biohazard because there was some contamination
8 biomaterial. The only way I could be sure is to open the
9 package up and look.

10 Q And so the packaging is yours?

11 A The packaging is mine.

12 MR. POTTS: I'd like to offer into evidence State's
13 138.

14 THE COURT: You said, no objection?

15 MS. ZMROCZEK: Correct.

16 (Whereupon, State's Exhibit number 138 was admitted
17 into evidence.)

18 MR. POTTS: And I believe I already did 129 through
19 -- 128 through 133.

20 COURT REPORTER: 128 through 133 --

21 MR. POTTS: Beg the Court's indulgence.

22 A If I may, one thing I would like to make a note of in
23 regard to the gunshot residue tests. The parties did have
24 bags on their hands to protect their hands for testing. I
25 also collected those bags and submitted them.

1 Q So I guess when they came to you, they had bags on
2 their hands?

3 A Yes.

4 MR. POTTS: Thank you. No further questions. Answer
5 any questions the Defense has.

6 THE COURT: Yes, ma'am.

7 MS. ZMROCZEK: Thank you.

8 CROSS-EXAMINATION

9 By Ms. Zmroczek:

10 Q Is it Investigator Potash?

11 A Patrolman.

12 Q You collected the clothing. I want to talk about
13 that first.

14 A Yes.

15 Q And so you go to the hospital. You actually -- did
16 you -- you collected clothing items from Mr. Parker, Mr.
17 Perry and Mr. Rogers?

18 A Well, it was the clothing that the hospital stated
19 belonged to them. The clothing was no longer on them or
20 in their control.

21 Q Right. Right. Right. So you got it?

22 A Yes.

23 Q And that included all of their clothes as well as
24 their shoes?

25 A Yes.

1 Q Okay. So -- and you collected those. And then you
2 turned them into evidence, right?

3 A Yes. Now, they had to be placed and dried first
4 because, you know, they were heavily contaminated with
5 biological material. So they had to be dried before they
6 could be packaged and submitted.

7 Q And then, after you do that and they're in evidence,
8 there's nothing stopping you from taking shoes and
9 comparing them to footwear impressions that you find at
10 the scene, is there?

11 A Generally, no, as long as we're made aware of that
12 and in this case, generally an investigator would request
13 it.

14 Q Okay. And then, also you described taking the
15 gunshot residue.

16 A Yes.

17 Q You actually took four. Isn't that correct?

18 A Let me see. I have three listed. Is there a --
19 let's see. Jimmy Rogers, Gwan Perry, Parker and no, I did
20 not.

21 Q Did somebody else collect the fourth one?

22 A Yes. George Wise.

23 Q Fantastic. You -- but you said that they are all
24 collected when the hands are bagged? Is that the
25 terminology?

1 A Well, bagging the hands is something that was
2 popularized on TV. Generally, it's recognized that for
3 gunshot residue, it's not really necessary. Just
4 attorneys like it. So we do it, but it is not required.

5 Q Because you can still, even if an item isn't --

6 A The SEM test is fairly accurate and as long as you're
7 within the timeframe, generally the gunshot residue is not
8 absorbed by the skin or washed or wiped off.

9 Q And that's generally, I think, six hours? Is that
10 the timeframe?

11 A There are a lot of factors that go into that.
12 Caliber, number of rounds fired, you even have
13 environmental factors as well as the human body. In fact,
14 for a deceased individual, there's really no time limit
15 because there's no absorption.

16 Q And then, I believe you were going to explain -- can
17 you explain how the gunshot residue is actually collected
18 from the hands?

19 A Well, as I was going to say earlier, the only real
20 difference -- what I would add is, the small little
21 cylinders that we use, when we open them up, it consists
22 of a carbon disc with an adhesive on it and that adhesive
23 actually picks up the gunshot residue parts. And then we
24 submit that test.

25 Q And so do you take the whole hand and swab the whole

1 thing or do you do different areas?

2 A The new kits that have come out with SLED use two
3 cylinders, one for the left hand and one for the right
4 hand. And we utilize the same cylinder to go all around
5 the hand as best we can. A hand, maybe a little bit above
6 the wrist, just that general area.

7 Q So there's no cross-contamination between the left
8 hand and the right hand?

9 A No. There is none and the cylinders are actually
10 sealed. As we take the sample, we close it and it's
11 sealed and then it's placed in the envelopes. And then,
12 of course, there's an evidence seal on the envelopes.

13 Q And the reason, I think you said you sometimes go up
14 around the wrist, as well, right?

15 A Yes.

16 Q And is that because the residue is coming --

17 A It can. Yes.

18 Q Okay. And that's another area to be tested, right?

19 A Well, it's basically the same area. Gunshot residue
20 is basically a cloud of particles that comes from the
21 weapon when it's fired and that's what we're looking for.
22 So we're looking for where the cloud would be, which would
23 be generally around the hands because that's what you're
24 going to be holding the firearm with.

25 Q So -- and when you're testing for it, you're testing

1 to see if someone fired a weapon, right?

2 A Well, we're testing to see if they were in proximity
3 of a fired weapon.

4 Q And how close is that proximity when you're talking
5 about that cloud?

6 A Again, it depends on circumstances. Any number of
7 them. Environmental factors, firearm, type of firearm.
8 There's just too many variables to really say.

9 Q But once it's on there, it doesn't fall off as easily
10 as people used to think it did, right?

11 A Well, it can fall off, it can be wiped off, but you
12 are generally going to have enough left that you'll be
13 able to test within reason.

14 MS. ZMROCZEK: Thank you.

15 THE COURT: Redirect?

16 MR. POTTS: No, Your Honor.

17 THE COURT: All right. You may step down. Any
18 objection to this witness being excused?

19 MR. POTTS: None from the State, Your Honor.

20 MS. ZMROCZEK: None from the Defense.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 THE COURT: Call your next witness.

24 MR. POTTS: The State calls Ray Rose.

25 RAY ROSE, being

1 first duly sworn, testified as follows:

2 THE WITNESS: My name is Ray Rose. The first name is
3 R-A-Y, last name is R-O-S-E.

4 DIRECT EXAMINATION

5 By Mr. Potts:

6 Q Thank you, Mr. Rose. Where do you work?

7 A Right now, I'm at McLeod. I was at Richland.

8 Q We'll get there in a second. So what do you do now?

9 A Patient caretaker.

10 Q Okay. And you worked back in -- at Palmetto Health
11 Richland back in 2018?

12 A Yes, sir.

13 Q And what was your role back in late March, early
14 April of 2018?

15 A Basically, to aid patients. Especially, when we had
16 trauma patients. Make sure the patient had everything
17 they need, aid and everything else.

18 Q Now, was there ever a time when law enforcement would
19 have somebody there who was under their care, but also
20 under y'all's care?

21 A Yes, sir.

22 Q And describe kind of how that would go just in the
23 general sense.

24 A Basically, we'll continue doing our care if law
25 enforcement is still there. Even if they're not there,

1 we'll still do what we have to do for the patient. Also,
2 if there's anything that's outside of the norm that's come
3 from the patient, we'll let the officer know the process.

4 Q Now -- so it was not -- it was something that you all
5 experienced every once in a while to have an officer
6 outside of a patient's room during their stay at the
7 hospital?

8 A Correct.

9 Q Now, let me bring your attention back to, I believe,
10 it was April 1st of 2018. Were you working at the
11 hospital at that time?

12 A Yes, sir.

13 Q And did you -- I guess, did anything in particular
14 happen to you that day where you had to bring it to the
15 attention of law enforcement?

16 A A note was given to me.

17 Q I'm going to show you what has been marked for ID
18 only as State's number 136. Let me know if you recognize
19 that.

20 A Yes, sir.

21 Q Is that the note we're talking about here?

22 A Yes, sir.

23 Q And how are you able to know that's what we're
24 talking about? Don't say anything that's actually written
25 on it --

1 A Okay.

2 Q -- if that's how you're identifying it.

3 A That's not how I'm identifying it. Because it's like
4 I only received like one note when I was working at the
5 old hospital.

6 MS. ZMROCZEK: I'm sorry. I can't hear, Your Honor.

7 A There was only one note that was given from a patient
8 from the old hospital when law enforcement was sitting
9 with a patient.

10 Q So when that note was given to you, what did you do
11 with it?

12 A I gave it to law enforcement outside of the door.

13 Q So you were in there alone with the patient?

14 A Correct.

15 Q Now, I know it's been almost two years, but is the
16 person who handed you the note -- do you see him here in
17 the courtroom here today?

18 A Yes, sir.

19 Q Can you describe what they're wearing, please, for
20 the jury?

21 A A white collared shirt.

22 Q And where are they sitting?

23 A Right there (indicating).

24 MR. POTTS: Okay. He's pointing towards the
25 Defendant, Your Honor.

1 Q Did you read the note?

2 A No, sir.

3 Q You just handed it directly to the law enforcement
4 officer outside?

5 A Yes, sir.

6 MR. POTTS: Thank you. Beg the Court's indulgence
7 for one second. Thank you, Mr. Rose. I have no further
8 questions.

9 CROSS-EXAMINATION

10 By Ms. Zmroczek:

11 Q Do you recall the day that this was given to you?

12 A I don't recall the exact date because it was like a
13 couple of years ago.

14 Q A couple of years ago?

15 A Correct.

16 Q And it was just something that was handed to you?

17 A Correct. From the patient.

18 Q Okay. Did you witness it being written?

19 A I didn't because nobody else was in the room.

20 Q I can't hear you. I'm sorry.

21 A I did not.

22 MS. ZMROCZEK: Okay. Thank you. No further
23 questions, Your Honor.

24 THE COURT: Yes, sir. Any redirect?

25 MR. POTTS: Just briefly, Your Honor.

REDIRECT EXAMINATION

By Mr. Potts:

Q Why did you go into the room that day? Do you recall?

A More than likely, it was the patient had called out, had needed something, but I don't recall exactly what it is.

MR. POTTS: No further questions.

THE COURT: All right. You may step down. Any objection to this witness being excused?

MR. POTTS: None from the State, Your Honor.

MS. ZMROCZEK: None from the Defense.

THE COURT: All right, sir. You're free to leave.

(Whereupon, the witness stepped down from the witness stand.)

THE COURT: Let me see you all for one second.

(Whereupon, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Call your next witness.

MR. FYALL: The State calls Officer Fulmore.

THE COURT: There's one of the jurors that needs to leave around, by 6:00 to pick a child up. Thank you.

MR. FYALL: The State calls Officer Forrest Fulmore.

FORREST FULMORE, being

1 first duly sworn, testified as follows:

2 THE WITNESS: The first name is Forrest,
3 F-O-R-R-E-S-T, middle initial is M as in Mary, last name
4 is Fulmore, F-U-L-M-O-R-E.

5 DIRECT EXAMINATION

6 By Mr. Fyall

7 Q All right. Officer Fulmore, how are you?

8 A Doing well.

9 Q Can you tell us where you're employed?

10 A Columbia Police Department.

11 Q What are you -- what's your current title?

12 A Master police officer.

13 Q And you were employed with the Columbia Police
14 Department on March 31st and into April 1st of 2018?

15 A That's correct.

16 Q Can you tell us what you were doing late that night
17 into the early morning of April 1st?

18 A It'd be prisoner guard duty that particular day. I
19 don't remember how many hours I ended up working, but --

20 Q Speak up a little bit for me.

21 A Prisoner guard duty.

22 Q And tell me what that is.

23 A It's a detail where I guess patrol officers or
24 sometimes, officers from different divisions, they have to
25 sit on, I guess, people that are not free to leave if that

1 makes sense.

2 Q Got it. And when that's going on, besides hospital
3 staff, is anybody else allowed in and outside of that
4 room?

5 A No one's allowed in. No one's allowed out.

6 Q All right. And you were there to make sure that
7 happened?

8 A As always.

9 Q Did anyone come in or out besides hospital staff?

10 A No one came in and out.

11 Q All right. Was anything given to you by hospital
12 staff while you were on guard duty?

13 A Yeah. There was a piece of paper that had writing on
14 the front and back of it.

15 Q I want to show you what's been marked as State's 136.
16 Can you tell me if you recognize that?

17 A That's correct. I do recognize it.

18 Q What is it?

19 A It's a note that was passed to me from the hospital
20 nurse personnel that went inside the room on that
21 particular date. And as a matter of fact, I was in the
22 room when this was handed to me.

23 MR. FYALL: Your Honor, at this point, I'd like to
24 move Exhibit 136 into evidence.

25 THE COURT: 136?

1 MR. FYALL: Yes, ma'am.

2 THE COURT: Any objection?

3 MS. ZMROCZEK: Yes, Your Honor.

4 THE COURT: Same objection?

5 MS. ZMROCZEK: To authentication.

6 THE COURT: All right. Yes, ma'am. Let me hear from
7 you.

8 MS. ZMROCZEK: Do you want me to argue it in front of
9 the jury? We can approach.

10 THE COURT: Yes. You're saying authentication.

11 (Whereupon, a bench conference was held in the
12 presence of the jury but out of the hearing of the
13 jury.)

14 THE COURT: All right. The objection is overruled
15 and that is -- 136 will be entered over the objection of
16 the Defense.

17 (Whereupon, State's Exhibit number 136 was admitted
18 into evidence.)

19 Q I'm going to hand you 136 again and can you read that
20 to the jury? I'm sorry. You don't have to read the
21 number.

22 A It starts from left to right. It says, Tell her to
23 tell them if they wanna see me again -- see me and Gwany
24 free again, to swerve on Unc and fast. WhoBang, Bread,
25 Jefe, Marlow, tell her to relay the message to --, I don't

1 know what this says. Says, to the and then it says
2 appreciate you.

3 Q All right. And then, what's the backside of it say?

4 A Swing back in 20 minutes.

5 Q All right. On the front side at the top, it gives a
6 number to call?

7 A There is a number. Would you like me to --

8 MR. FYALL: No. That's fine. Beg the Court's
9 indulgence.

10 Q Now, before the nurse tried to come into the room,
11 did Mr. Parker try to get you to come in?

12 A Did he try -- I don't remember one-hundred percent
13 sure. I'm pretty sure not because there was like a
14 curtain that separated us.

15 Q All right. I'm going to show you your report.

16 MR. FYALL: If I can approach, Your Honor.

17 THE COURT: Yes, sir.

18 A So, yeah. So yes, the report does state that he
19 motioned for me or the hospital staff to come to his bed.

20 Q Okay. And so the hospital staff ended up coming?

21 A That's correct.

22 Q Did you see whether or not he was writing at that
23 time?

24 A I did.

25 Q Was he?

1 A That's correct.

2 MR. FYALL: No further questions.

3 CROSS-EXAMINATION

4 By Ms. Zmroczek:

5 Q You were on prisoner duty?

6 A That's correct.

7 Q Okay. And do you recall what part of the hospital
8 that was?

9 A What's your question again?

10 Q Do you recall what part of the hospital that was?

11 A I can't say one-hundred percent. No, ma'am.

12 Q Okay. So do you recall -- you certainly recall
13 working at that unit at that time, though, in prisoner
14 detention?

15 A That's correct.

16 Q And if I told you that it was the ICU, would that
17 refresh your recollection?

18 A Based on, I guess, the events that took place, I
19 would assume so, yes.

20 Q Okay. There was severe injuries to Mr. Parker?

21 A I don't know that.

22 Q Okay. He couldn't speak to you, right? In fact, I
23 think you said he motioned, right?

24 A That's correct.

25 Q He couldn't speak because he had a tube all the way

1 intubated in his throat, right?

2 A I couldn't say one-hundred percent.

3 Q Okay. And do you recall that he was hooked up to IV
4 medication?

5 A I think that is standard protocol anytime someone's
6 in the hospital. So, correct.

7 MS. ZMROCZEK: No further questions, Your Honor.

8 THE COURT: All right. Any redirect?

9 MR. FYALL: No, ma'am.

10 THE COURT: All right. You may step down. Any
11 objection to this witness being excused?

12 MR. FYALL: None from the State, Your Honor.

13 MS. ZMROCZEK: None from the Defense.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 THE COURT: Call your next witness.

17 MR. FYALL: The State calls Ryan Dewane.

18 RYAN DEWANE, being
19 first duly sworn, testified as follows:

20 THE WITNESS: Ryan Dewane, D-E-W-A-N-E.

21 DIRECT EXAMINATION

22 By Mr. Fyall:

23 Q Ms. Dewane, how are you doing?

24 MS. ZMROCZEK: And Your Honor, we would stipulate to
25 her qualifications as an expert in DNA.

1 THE COURT: All right. Do you want to still --

2 MR. FYALL: I will. If Your Honor wants to give the
3 charge.

4 THE COURT: All right. Ladies and gentlemen of the
5 jury, ordinarily a person cannot testify -- normally a
6 person cannot testify opinion testimony. When a person
7 testifies, they must testify as to what they either saw,
8 heard or smell or something of that nature. However,
9 there is an exception if someone is qualified because of
10 education or experience, they're permitted to give their
11 opinion in certain areas if the Court qualifies them in
12 that way. This witness will be qualified as an expert in
13 the area of --

14 MR. FYALL: DNA analysis.

15 THE COURT: -- DNA analysis to give opinion testimony
16 in that area. That does not mean that you must accept the
17 opinion but it is evidence for you to use in any way you
18 see fit and give the weight and credibility you believe it
19 to be is appropriate. All right.

20 MR. FYALL: Thank you.

21 Q Obviously, I know a lot about your qualifications.
22 I'm just going into it since you've been qualified as an
23 expert. Just give us a brief description to the jury about
24 your background and training in DNA.

25 A I have a Bachelor of Science degree in biology,

1 pre-professional, from Appalachian State University in
2 Boone, North Carolina. I also have two minors in
3 Chemistry and in English. During my education, I
4 completed courses in molecular biology, genetics,
5 biochemistry and statistics. These four courses are
6 considered the foundations of forensic biology. Upon
7 being hired at SLED, I underwent an extensive training
8 program. This training program included practice samples,
9 training samples, mock cases, written exams for DNA and
10 serology, report writing exam, oral exam, competency and a
11 mock court exam.

12 Q And you go through regular training at SLED to keep
13 up with the practices and science?

14 A Yes, we have annual training.

15 Q And you were given some items of evidence from the
16 City of Columbia Police Department to test in this case?

17 A That is correct.

18 Q And just for reference, I think these have already
19 been admitted as State's 115 and 116. Were you also given
20 some DNA samples?

21 A I was.

22 Q What known standards did you have?

23 A I received SLED item number seven, which was a known
24 standard from Cory Jenkins; SLED item number eight, which
25 was a known standard from Roshamel Parker; and SLED item

1 number nine, which was a known standard from Gwan Perry,
2 Jr.

3 Q All right. And what do you use known standards for?

4 A We use known standards to compare to the evidence.

5 Q And what is a known standard?

6 A A known standard is a standard that's taken directly
7 off of an individual. In this case, they were buccal
8 swabs which are swabs from the inside of someone's cheek.

9 Q And you compared those to just DNA evidence from some
10 outside source to see if they matched, essentially?

11 A That's correct.

12 Q All right. And in this case you were given several
13 items from Columbia Police Department?

14 A Yes.

15 Q And were those items labeled?

16 A They were.

17 Q And did you label them?

18 A I did not. They were labeled by the submitting
19 agency.

20 Q All right. Did you have anything to do with the
21 crime scene when they were collected, any sort of personal
22 knowledge of the case when you're doing this analysis?

23 A No. I received items from the crime scene and they
24 were labeled from the officers who collected them.

25 Q All right. And so can you just go through your

1 report, the item number, what it was labeled as as you
2 received it and then what your findings were.

3 A For SLED item 21, it was a swab from red stain in
4 roadway. The result of this was, presumptive testing for
5 blood was positive. The DNA profile matches the DNA
6 profile of Roshamel Parker. The probability of randomly
7 selecting an unrelated individual having the DNA profile
8 matching this item is approximately one in 130,000,000
9 novillion.

10 Q Okay. And how many -- how large is the number?
11 130,000,000, I think?

12 A The novillion has 30 zeros whereas billion has nine.

13 Q All right. And you said that was -- that matched the
14 profile of Roshamel Parker?

15 A That is correct.

16 Q When you're testing DNA, what do you compare?

17 A We're comparing the DNA profile developed from the
18 evidence to the DNA profile of any known individuals
19 associated with the case.

20 Q All right. And when you break that down, what are
21 some of the parts of the DNA that you're comparing to the
22 sample?

23 A From the DNA, we develop a visual representation of
24 that and that's what we refer to as the DNA profile. It's
25 in the form of numbers. And so we compare the numbers

1 from the evidence to the numbers from the known
2 individuals and if they match then we will calculate a
3 statistic to put weight on that match.

4 Q All right. Is the weight essentially based on how
5 many numbers match compared to the known standard?

6 A Yes. It's how many numbers match. If there are more
7 numbers that match, it'll be higher and it's based on the
8 frequency or how often we would expect to see that type of
9 DNA pattern in the population.

10 Q All right. And so for item number 21 with Mr.
11 Roshamel Parker, how many of the numbers, we should say,
12 from item 21 match Mr. Parker's DNA?

13 A We test 24 locations on the DNA and all of those
14 locations matched.

15 Q So all 24?

16 A That's correct.

17 Q Okay. Can you tell us about item number 22?

18 A Item number 22 was swab from red stain on kitchen
19 cabinet. The result of this was a presumptive testing for
20 blood was positive. The DNA profile is from unidentified
21 male individual A.

22 Q And the unidentified male individual A, obviously you
23 didn't have his known standard?

24 A That's correct.

25 Q All right. Number 23?

1 A 23 is swab from red stain from tree branch.

2 Presumptive testing for blood was positive. The DNA
3 profile is from unidentified male individual A.

4 Q All right. And that's the same individual A from 22?

5 A That is correct.

6 Q All right. Number 24?

7 A Swab from red stain from floor near rack.

8 Presumptive testing for blood was positive. The DNA
9 profile matches the DNA profile of Roshamel Parker. The
10 probability of randomly selecting an unrelated individual
11 having a DNA profile matching this item is approximately
12 one in 130,000,000 novillion.

13 Q All right. And again, 130,000,000 novillion is a big
14 number. Was that the same 24 out of 24 locations that
15 were --

16 A That is correct.

17 Q All right. And can you tell us about item number 25?

18 A Swab from red stain from sewer in roadway.

19 Presumptive testing for blood was positive. The DNA
20 profile matches the DNA profile of Roshamel Parker. The
21 probability of randomly selecting an unrelated individual
22 having a DNA profile matching this item is approximately
23 one in 130,000,000 novillion.

24 Q Okay. And number 26? And again, these numbers that
25 we have here are the numbers you assigned them at SLED?

1 A Can you repeat that?

2 Q The numbers we've been going through so far, 21
3 through 26, they're the numbers that you assigned them at
4 SLED?

5 A That's correct.

6 Q All right. So CPD may have a different number?

7 A That's correct.

8 Q Okay. All right. I'm sorry. Number 26?

9 A Swab from red stain from outside bricks where money
10 was located. Presumptive testing for blood was positive.
11 The DNA profile is from unidentified male individual A.

12 Q Okay. And that's the same individual that we talked
13 about before?

14 A That is correct.

15 Q Okay. And number 27?

16 A Swab from red stain from kitchen floor near back
17 door. Presumptive testing for blood was positive. The DNA
18 profile is from unidentified male individual A.

19 Q All right. And number 28?

20 A Swab from Glock 23 trigger and trigger guard.
21 Presumptive testing for blood was positive. The DNA
22 profile is a mixture of at least two individuals. The
23 partial DNA profile of the major contributor matches the
24 DNA profile of Cory Jenkins. The probability of randomly
25 selecting an unrelated individual having a DNA profile

1 matching the major contributor to this mixture is
2 approximately one in 2.2 octillion. Due to the inability
3 to calculate a statistic, no further interpretation will
4 be offered regarding the minor contributor.

5 Q What does that mean, regarding the minor contributor?

6 A I did not have enough information for the minor
7 contributor to calculate a statistic. So no comparisons
8 can be made to the minor.

9 Q All right. But the major contributor matched the DNA
10 of Cory Jenkins?

11 A That's correct.

12 Q And number 29?

13 A Swab from Glock 23 handle. Presumptive testing for
14 blood was positive. The DNA profile is a mixture of at
15 least three individuals. Due to the inability to
16 calculate a statistic, no further interpretation will be
17 offered.

18 Q And so based on the amount of information you had,
19 you couldn't -- go ahead.

20 A That's correct. Some profiles are too complex where
21 I cannot pull out a single profile to compare it to and
22 this may have been that case or there's not enough
23 information available to perform a statistic. But I can
24 tell it's a mixture of at least three and beyond that I
25 can't do any comparisons.

1 Q And item number 30?

2 A Swab from Glock 23 slide. Presumptive testing for
3 blood was positive. The DNA profile is a mixture of at
4 least four individuals. Due to the inability to calculate
5 a statistic, no further interpretation will be offered.

6 Q Okay. And number 31, what was that labeled?

7 A Swab from Smith & Wesson nine millimeter trigger and
8 trigger guard. Presumptive testing for blood was
9 positive. The DNA profile is a mixture of at least three
10 individuals. The DNA profile of the major component is a
11 mixture consistent with being from two individuals. Cory
12 Jenkins is included as a possible contributor to the major
13 component of this mixture. The probability of randomly
14 selecting an unrelated individual who could have
15 contributed to the major component of this mixture is
16 approximately one in 140,000. Roshamel Parker and Gwan
17 Perry, Jr., are excluded as contributors to the major
18 component of this mixture. Due to the inability to
19 calculate a statistic no further interpretation will be
20 offered regarding the minor component of this mixture.

21 Q So for item 31, it's labeled a swab from the Smith &
22 Wesson nine millimeter trigger and trigger guard. How are
23 you able to exclude -- how do you exclude Roshamel Parker
24 and Gwan Perry as contributing?

25 A So for this profile, I was able to pull out two

1 contributors of the three that had a lot of DNA. So I
2 could compare to those two profiles and of those two, I
3 can tell that Roshamel Parker and Gwan Perry, Jr., are
4 both excluded. However, there is a third profile that is
5 much lower and I can't do any comparisons to that.

6 Q And also from the Smith & Wesson nine millimeter,
7 item number 32?

8 A Presumptive testing for blood was positive. The DNA
9 profile is a mixture of at least two individuals. The
10 partial DNA profile of the major contributor is from
11 unidentified male individual A. The partial DNA profile
12 of the minor contributor is insufficient for
13 interpretation.

14 Q Okay. And that's the same male individual A from all
15 throughout your report?

16 A That is correct.

17 Q And that's labeled a swab from the nine millimeter
18 slide?

19 A That is correct.

20 Q And number 33?

21 A Swab from Smith & Wesson nine millimeter handle.
22 Presumptive testing for blood was positive. The DNA
23 profile is a mixture of at least two individuals. The
24 partial DNA profile of the major contributor is from
25 unidentified male individual A. Due to the inability to

1 calculate a statistic, no further interpretation will be
2 offered regarding the minor contributor.

3 Q Was any further testing done on this item?

4 A No.

5 Q And on each of these items, the presumptive tests for
6 blood was positive?

7 A That is correct.

8 MR. FYALL: Beg the Court's indulgence.

9 Q All right. So for this case, can you tell me again
10 the three known standards you have?

11 A I had known standards from Cory Jenkins, Roshamel
12 Parker and Gwan Perry, Jr.

13 Q All right. But you don't have the known standard
14 from anyone by the name of Jimmy Rogers?

15 A I do not.

16 Q And the item identified male individual A that you
17 reference in your report is the same person all
18 throughout? Those are matching DNA?

19 A That is correct.

20 MR. FYALL: Nothing further.

21 THE COURT: Yes, ma'am.

22 MS. ZMROCZEK: Thank you.

23 CROSS-EXAMINATION

24 By Ms. Zmroczek:

25 Q Ms. Dewane, I think you said you can get DNA, the

1 known standards, fairly simple to get a buccal swab,
2 right?

3 A That is correct.

4 Q All you've got to do is take a -- I mean, it's not
5 contaminated? They have a procedure that it's just like a
6 swab and you stick it in somebody's mouth and that's it,
7 right?

8 A That is correct.

9 Q It takes about two seconds?

10 A Uh-huh (affirmative response).

11 Q And you -- when were these tests -- tell the jury
12 when you completed these tests.

13 A I received the evidence from our evidence control on
14 June 5th of 2018.

15 Q And then, your results I think were sometime around a
16 few weeks later?

17 A The report was finalized on July 11th of 2018.

18 Q And when you receive these swabs, they have -- SLED
19 has very particular procedures in order to receive the
20 evidence, right?

21 A That is correct.

22 Q Because you don't do it -- like a bunch of swabs
23 thrown into one place so that they can all mix around,
24 right?

25 A That is correct.

1 Q So if that is -- if they aren't properly collected
2 and properly preserved, then you can't test them?

3 A That is correct.

4 Q But in this case, you were able to test swabs from
5 the kitchen and all the other areas that you identified,
6 right?

7 A That is correct.

8 Q And you have this individual A who comes back to
9 blood on a brick, blood on the trigger and a trigger --
10 what was the -- trigger guard?

11 A The trigger slide -- the slide and the handle.

12 Q Slide and handle. And then, on another gun, it came
13 back on the trigger and trigger guard? And I'm looking at
14 results 30 -- 32 is the slide and the handle, right?

15 A Right.

16 Q And then, the Glock 23 -- yeah. The Glock 23 comes
17 back to Cory Jenkins, right?

18 A That is correct.

19 Q An unidentified male?

20 A I can't say if it's an unidentified male. This one
21 only matched Cory Jenkins, and then I have a secondary
22 person and then a third. But I cannot identify.

23 Q Okay. And you have a fifth page to your report. Is
24 that correct?

25 A Yes, ma'am.

1 Q Okay. And what do you -- when you put notes at the
2 end of your report, who are those notes for?

3 A They're for law enforcement or solicitors or anyone
4 who would need the report.

5 Q And what did you tell them as far as DNA comparisons
6 in this case?

7 A I wrote, DNA comparisons can be conducted following
8 the submission of a known standard from Jimmy Rogers.

9 Q So since July of 2018, July of 2019, December of
10 2019, January of 2020, February of 2020, have you ever
11 received a known standard from Jimmy Rogers?

12 A I have not.

13 Q And blood -- the blood DNA that is identified -- so
14 you don't know anything about the areas? That's just
15 what's presented to you? It's just the swab, right?

16 A That is correct.

17 Q So as we heard from the crime scene guy who collected
18 it, we would rely on what he described and what you
19 tested, right?

20 A That is correct.

21 Q So I think that you said blood in the kitchen came
22 back to Cory -- excuse me, came back to Roshamel Parker?

23 A I have kitchen cabinet as unidentified male
24 individual A.

25 Q And then, look at number -- sorry. 24, it's

1 identified as blood near a rack.

2 A That's correct and that matched Roshamel Parker.

3 Q That matched Roshamel Parker. So that means that
4 Roshamel Parker's blood would have had to have been there
5 in order to get one-hundred percent novillion million
6 match, right?

7 A The DNA profile matched Roshamel Parker, but I can't
8 say anything beyond that.

9 Q Okay. So his blood was on whatever was swabbed?

10 A The blood on the swab matched.

11 Q Matched him exactly?

12 A Yeah.

13 Q And you had several -- you had some contributors that
14 you weren't able to identify. But you were actually able
15 to exclude and I'm talking about item 31?

16 A That is correct.

17 Q So we're talking about the nine millimeter trigger
18 and trigger guard, you have a mixture of three people,
19 right?

20 A That is correct.

21 Q But we know for sure that it couldn't be Roshamel
22 Parker?

23 A For the major component, which is the main two
24 contributors. I can't do any comparisons to that minor
25 third contributor.

1 Q Okay. And when they're excluded as contributors to
2 the major component, and then -- so there's a difference
3 between a match and including and excluded, right?

4 A That is correct.

5 Q Explain to the jury a little bit about that.

6 A So for this item, it was a major component. So that
7 was two individuals out of three. And so when I'm
8 comparing someone to that, it's actually mixture
9 statistics. So I'm calculating the statistic that they
10 could possibly be included in the mixture, not as an
11 individual profile.

12 Q And that nine millimeter trigger and trigger guard
13 included Cory Jenkins as a possible contributor?

14 A That is correct.

15 MS. ZMROCZEK: No further questions. Thank you.

16 THE COURT: Any redirect?

17 MR. FYALL: Briefly, Your Honor.

18 REDIRECT EXAMINATION

19 By Mr. Fyall:

20 Q I just want to touch back on item number 31 again.
21 Can you tell us again what that's labeled?

22 A Item number 31 is swab from Smith & Wesson nine
23 millimeter trigger and trigger guard.

24 Q And when you excluded Roshamel Parker and Gwan Perry,
25 that is to the major contributor in the mixture?

1 A That is to the major component, which is the main two
2 contributors of that three.

3 Q All right. And as to the third --

4 A I can't do any comparisons to the minor third
5 contributor.

6 MR. FYALL: All right. Thank you. Nothing further.

7 MS. ZMROCZEK: I have nothing further, Your Honor.

8 THE COURT: All right. You may step down. Any
9 objection to this witness being excused?

10 MR. FYALL: None from the State.

11 THE COURT: All right, ma'am. You're free to leave.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. FYALL: May we approach, Your Honor.

15 THE COURT: Yes.

16 (Whereupon, a bench conference was held in the
17 presence of the jury but out of the hearing of the
18 jury.)

19 THE COURT: Call your next witness. I think this is
20 the last one for today.

21 MR. FYALL: The State calls Lieutenant Jennifer
22 Nates.

23 JENNIFER NATES, being
24 first duly sworn, testified as follows:

25 THE WITNESS: Jennifer Nates, N-A-T-E-S.

1 THE COURT: Yes, sir.

2 MR. FYALL: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 By Mr. Fyall:

5 Q Lieutenant Nates, where are you currently employed?

6 A I'm employed by the South Carolina Law Enforcement
7 Division.

8 Q How -- I'm sorry. How long have you been there?

9 A It will be --

10 MS. ZMROCZEK: We stipulate, Your Honor.

11 THE COURT: All right. Once again, ladies and
12 gentlemen -- what is she an expert in?

13 MS. ZMROCZEK: Gunshot residue analysis.

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, this witness will -- is it Lieutenant, ma'am?

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Lieutenant Nates will be qualified as an
18 expert in gunshot residue analysis to give opinion
19 testimony in that area. Once again, that does not mean
20 that you have to accept the opinion, but it is evidence
21 for you to use in any way you see fit and give it the
22 weight and credibility you believe is appropriate. Thank
23 you. Yes, sir.

24 MR. FYALL: Thank you.

25 Q Lieutenant Nates, I believe I asked you how long

1 you've been at SLED.

2 A Approximately 22 years.

3 Q All right. And what is your current role there?

4 A I am considered lieutenant, which just means I'm a
5 supervisor over the forensic unit. Specifically the trace
6 evidence section.

7 Q And can you give us just a little bit of your
8 training and background when it comes to trace evidence?

9 A I received a Bachelor of Science degree in chemistry
10 from a small state school in Pennsylvania called
11 California University of Pennsylvania. Once I received my
12 degree, I took part in an internship at SLED and decided
13 that was where I wanted to follow a career path. I
14 started my career there in the drug analysis department.
15 I worked there for a year, concluded the training program
16 and worked drug cases. An opening became available in
17 trace evidence and I requested a transfer and I then began
18 a five year training program in that department under the
19 lieutenant of the department at that time as a senior
20 analyst. A lot of the training is on-the-job training
21 because you can't just go somewhere and see case work. So
22 I would work cases with them. I took courses and classes
23 that dealt with the types of analysis I would perform, the
24 types of instrumentation I would use and the types of
25 conclusions that you could draw from the analysis of that

1 evidence. I continue to take proficiency tests yearly and
2 also take courses and classes when they become available.

3 Q All right. And at this point in your career, you
4 actually train other people in trace evidence analysis?

5 A I do. After I became a senior analyst and I was in
6 the department for about six years, the senior analysts do
7 begin training other employees and I am now responsible
8 for training any employees that come into the department.

9 Q All right. And about how many times have you
10 testified as an expert in court?

11 A I think 144.

12 Q All right. It's a little hot so I'm going to try to
13 narrow this down as much as I can. Did you receive an
14 item in this case to test for GSR or gunshot residue?

15 A I received several gunshot residue kits in this case
16 to test for the presence of gunshot residue.

17 Q Okay. And what were those kits labeled?

18 A The kit that was logged in, which means the evidence,
19 comes in through SLED and is assigned a laboratory number
20 and an item number. The kit that was assigned item number
21 three was a GSR kit from Jimmy Rogers.

22 Q What about item number four? What was that?

23 A Item number four was a GSR kit from Gwan Perry.

24 Q And number five?

25 A And when I read these names, this is how the officer

1 writes the name on the GSR kit. It may or may not be
2 correct.

3 Q For all you know, it could be --

4 A Yes.

5 Q -- the wrong name.

6 A Item five was a GSR kit from Roshamel Parker and item
7 six was a GSR kit from Cory Cornelius Jenkins.

8 Q All right. And before we get into the individual
9 results, can you tell us a little bit about GSR and how
10 you test for it?

11 A Gunshot residue is a term that the forensic community
12 uses to describe any and all residue that is produced when
13 a firearm is discharged. Our laboratory specifically
14 analyzes for what is called PGSR or primer gunshot
15 residue. This is gunshot residue that is specific to the
16 primer in the cartridge, which is the back end where the
17 bullet is. We look for elements that are produced during
18 this high pressure activity of when the gun is discharged.
19 When the gun is discharged, the firing pin will hit the
20 primer composition. It ignites -- it gives a little spark
21 and it will ignite the gunpowder. The gunpowder burns,
22 builds in pressure, and then it projects the bullet out of
23 the gun. When this happens, you have a lot of high heat
24 and high pressure. So the metallic portion of the primer
25 will vaporize. It then condenses when it pools and it

1 forms droplets. Very microscopic particles of what we
2 call gunshot residue or primer gunshot residue that
3 contains barium, antimony and lead. The presence of these
4 three elements make that unique to gunshot residue.

5 Q All right. When you find gunshot residue, can that
6 tell you that the person with the gunshot residue on them
7 actually shot a gun?

8 A No. If I find gunshot residue on a person, it can
9 mean one of three things. It can mean that person
10 discharged a firearm, which means they fired the weapon.
11 It can mean they were near the weapon when someone else
12 fired it and it can also mean that they handled an object
13 that had gunshot residue on it and transferred it to their
14 hands.

15 Q All right. But you can't look at GSR and sort of
16 make a determination of someone --

17 A -- I am not able to make that determination with the
18 presence of gunshot residue.

19 Q All right. And so for the items you have for the GSR
20 kit for Jimmy Rogers, Gwan Perry, Roshamel Parker and Cory
21 Jenkins, did you -- can you tell us what your results were
22 for those?

23 A In this case, on each of the GSR kits, I found
24 particles characteristic of primer gunshot residue, which
25 means when I used the microscope and I analyzed them, I

1 found microscopic particles containing the elements of
2 barium, antimony and lead, which signified they were
3 particles of gunshot residue. I found multiple particles
4 on each of the GSR kits.

5 Q When you said you found multiple particles, again,
6 can you -- in your training and expertise, can you use
7 that to say, this person must have fired and this person
8 didn't or any of those conclusions?

9 A No. Gunshot residue is very fragile and it's a very
10 sporadic, random event. I can fire a gun one time and
11 have five particles deposited, fire again and have two.
12 So there's no rhyme or reason as to how much is going to
13 be deposited. I can just tell you it's present. They
14 could have fired a gun, been near a weapon when it was
15 discharged or handled an item with gunshot residue on it.

16 MR. FYALL: Beg the Court's indulgence.

17 Q When you say in the vicinity of a gun that was
18 discharged or close to someone that fired a gun, do you
19 have any idea how close that might be?

20 A It can depend on the caliber of the gun and the
21 conditions in which it was fired. If you're in a small
22 enclosed space, more than likely, anybody in that room
23 will have gunshot residue on them. A vehicle, anyone in
24 that car, if the gun is discharged from within it, will
25 have GSR on them. There are some studies that were

1 performed by the Canadian -- the Royal Canadian Mounted
2 Police that showed that gunshot residue can travel up to
3 approximately, I think it was, 80 feet. They did the
4 study in meters. So I'd have to convert it, but normally
5 -- one of the studies showed that up to three feet to the
6 sides, they had as much as the shooter on them. Three
7 feet behind the shooter had as much GSR as the actual
8 shooter. So it can travel that far along the path of that
9 bullet. Now, on those longer distances, I don't expect to
10 find it very far from the point of impact of the bullet.

11 MR. FYALL: Got it. Thank you. No further
12 questions.

13 MS. ZMROCZEK: Very briefly.

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION

16 By Ms. Zmroczek:

17 Q You were able to calculate the number of
18 characteristic particles?

19 A What we do is, we -- when we analyze the evidence,
20 the instrument will determine how many potential particles
21 are present on the portion that it analyzed. I then go in
22 and verify the number of particles. So there could be
23 more than what I verified, but I did verify a certain
24 number on each of them, yes.

25 Q And how many did you verify on each? Well, let's

1 start with Jimmy Rogers.

2 A On Jimmy Rogers, I verified eight -- excuse me, eight
3 particles.

4 Q How many did you verify on Gwan Perry?

5 A I also verified eight particles.

6 Q How many did you verify on Cory Jenkins?

7 A On Cory Jenkins, I verified eight, but I only
8 analyzed two of the particle lifts.

9 Q And then, how many particles did you verify on
10 Roshamel Parker?

11 A I verified six.

12 MS. ZMROCZEK: Thank you. No further questions.

13 THE COURT: Redirect?

14 MR. FYALL: Yes.

15 REDIRECT EXAMINATION

16 By Mr. Fyall:

17 Q And again, she asked you about the number of
18 particles you verified. That has nothing to do with
19 distinguishing between who shot, who was in the vicinity
20 or who transferred or handled an item that was fired,
21 correct?

22 A It does not. It just shows how many that I verified
23 to make the call.

24 MR. FYALL: Thank you. No further questions.

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

1 (Whereupon, the witness stepped down from the witness
2 stand.)

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, it is 5:52 and we are going to take our evening
5 break. I'll remind you that you are not to do -- have any
6 discussions regarding this case, that you're not to do any
7 independent research, no social networking regarding the
8 case or anything that's going on here in the courtroom. I
9 believe there was some matters that I need to take up. So
10 I'm just going to tell you all to come in at 10:00 and we
11 will be ready to go at 10:00 o'clock in the morning. The
12 lawyers and I will be here before then, but we'll be ready
13 to go at 10:00 o'clock. So we'll see you all at 10:00
14 a.m. in the morning. Thank you. And I will work on that
15 air.

16 (Whereupon, the jury was excused from open court for
17 the day.)

18 THE COURT: Yes, sir.

19 MR. POTTS: Your Honor --

20 THE COURT: I know we need to put the stuff on the
21 record from the two motions -- the two bench conferences.
22 But, yes sir.

23 MR. POTTS: Your Honor, yes, I just have a matter to
24 address.

25 THE COURT: Okay. All right. So there was a motion

1 -- there was an objection from Ms. Zmroczek.

2 MS. ZMROCZEK: Yes. Regarding Gwan Perry's statement
3 at the hospital.

4 MR. FYALL: Yes, Your Honor. She objected to the
5 officer testifying that Gwan told him he was shot on James
6 Street. The State's position was, it was not hearsay
7 because we weren't using it for its truth. The fact we're
8 using it for is untrue. Therefore, it wasn't hearsay.

9 THE COURT: Yes, ma'am.

10 MS. ZMROCZEK: And then, I'd just argue relevance if
11 they weren't asserting it for its truth. But that was our
12 only position on that.

13 THE COURT: All right. And that objection was
14 overruled. I just wanted to put it on the record that the
15 Court's finding was that it was not being offered for the
16 truth of the matter asserted. I believe they said it was
17 being offered to -- so the officer could testify, I think,
18 it was as to why he went to James Street, then he went to
19 the next location. And then, there was another --

20 MS. ZMROCZEK: -- the handwriting authentication.

21 THE COURT: Yes. I'll be glad to hear from you.
22 That was an objection as to Exhibit number 136.

23 MS. ZMROCZEK: That's correct, Your Honor. At first
24 -- well, not at first. Obviously, I had argued that it
25 could be potentially viewed as some future bad act

1 depending on how it's spun, I think, at closings. But my
2 issues also dealt with foundation, which I believe they
3 did lay the foundation. But my other issue, Your Honor,
4 was with authentication and -- which he testified under
5 oath that he received it and didn't see it. And then
6 changed his testimony and said he saw him writing it. So
7 I'm a little unclear as to --

8 THE COURT: -- well, I thought the officer said he
9 saw him writing it.

10 MS. ZMROCZEK: Right. Right. The officer. At first
11 he said he just received it. But then when he went back
12 and got his notes -- which is fine, Your Honor. But my
13 argument just was that, again, they've had this for over
14 two years and not done any handwriting analysis. So we
15 wanted to make sure that we preserved that for the record
16 as well.

17 THE COURT: All right. Yes, sir.

18 MR. FYALL: Yes, Your Honor. I believe that just
19 goes to the weight of the evidence. The testimony showed
20 that the only individual in that room besides hospital
21 staff was Mr. Parker and that he handed that note to a
22 member of the hospital staff and gave it to law
23 enforcement. I think foundation and authentication is
24 covered by the two witnesses that testified in
25 conjunction.

1 THE COURT: All right. Thank you. That objection
2 was overruled and it was entered over the objection,
3 exhibit 136. All right. Yes, sir.

4 MR. POTTS: Your Honor, it has come -- we had
5 requested Mr. Jimmy Rogers to appear in court at 9:30
6 yesterday and 9:30 this morning. He has failed to show up
7 both times. Our Investigator properly served him, Your
8 Honor. And so at this time we're requesting a bench
9 warrant to compel him to come to court. And we want to
10 hear testimony from Mr. Rogers about --

11 THE COURT: Any objection?

12 MS. ZMROCZEK: No objection here, Your Honor.

13 MR. POTTS: And just for the full picture, Your
14 Honor. He is -- yesterday, he told us he was sick. We do
15 understand that he had a medical procedure last week and
16 he is -- does have some sort of liver cancer, is our
17 information. Today he says he has gotten sicker and has
18 diarrhea. We asked him to, once again, be here or go to
19 the doctor and neither one happened, Your Honor. So we
20 ask for a bench warrant.

21 THE COURT: You've asked him for a doctor's excuse?

22 MR. POTTS: He told us he was going to go to the ER.
23 And then, we asked him if he had and he's like, well, I'm
24 waiting. Your Honor, we have not received a doctor's
25 excuse. A doctor of his called us yesterday but it was a

1 mental health doctor. And we explained to that person
2 that he had to be in court.

3 THE COURT: All right. Well, I'll issue a bench
4 warrant for his arrest.

5 MR. POTTS: Thank you, Your Honor.

6 THE COURT: Make sure you have the supporting
7 documentation. Yes, ma'am.

8 MS. ZMROCZEK: And Your Honor, we would just ask if
9 it can be relayed to the jail, if he is picked up, to make
10 sure that there is a void, (phonetic), for various
11 reasons.

12 THE COURT: Yes, ma'am.

13 MR. POTTS: That's all the State has, Your Honor.

14 THE COURT: All right. Thank you. Was there
15 something we were supposed to take up tomorrow? There was
16 something else on her motion.

17 MS. ZMROCZEK: Your Honor, it's jail phone calls, I'm
18 guessing because that's the only other thing I had left.

19 THE COURT: Yeah. It's the motion to suppress any
20 jail phone calls.

21 MS. ZMROCZEK: And as Mr. Potts and I had argued, he
22 was like, well she could, you know, file a motion to
23 continue and take it to the Court of Appeals. And I said,
24 sure, if they would allow my client to get out on bond as
25 he was supposed to be.

1 MR. POTTS: We don't intend to use it in our
2 case-in-chief.

3 MS. ZMROCZEK: You don't. Okay. As long as they
4 don't, then I don't think it'll be an issue.

5 MR. POTTS: It may be rebuttal.

6 MS. ZMROCZEK: Right.

7 THE COURT: All right. So we'll deal with that at
8 that time. I'm just looking over this list. Is there
9 anything --

10 MS. ZMROCZEK: I guess just -- Your Honor, just for
11 timing because obviously, you know, my schedule was
12 screwed up a little bit today. So I want to make sure
13 that we're efficient and ready to go with our case. Is
14 there any way to know how long the State will go?

15 MR. POTTS: I expected it to be done on Wednesday. I
16 still expect it to be done on Wednesday.

17 MS. ZMROCZEK: By tomorrow?

18 THE COURT: You just don't know if it's morning or
19 afternoon?

20 MR. POTTS: I don't know. That is what we are going
21 to talk about and discuss.

22 THE COURT: We'll probably do -- we'll probably -- if
23 we start right at 10:00 sharp. We'll start at 10:00 and
24 stop around 1:00 for lunch. I'll send them out to lunch
25 because I want to -- you know, I ordered lunch today

1 because I thought you were going to come in and we were
2 going to have them eat for 30 minutes and come back. They
3 get a little agitated by ordering lunch every day.

4 MS. ZMROCZEK: That's why we want to make sure that
5 we are prepared.

6 MR. POTTS: I will say, Your Honor, I expect --

7 THE COURT: And I know I'm going to have to order it
8 probably on Thursday.

9 MR. POTTS: I think we'll be finished, if not around
10 the noon time break.

11 MS. ZMROCZEK: Tomorrow?

12 MR. POTTS: We're going to be finished tomorrow.

13 THE COURT: All right. So there's a chance that you
14 have a witness, if you are putting up witnesses, if you
15 choose to do so. If so, you may want to have them
16 available tomorrow afternoon just in case on standby.

17 MS. ZMROCZEK: Okay. Perfect.

18 THE COURT: Yeah. Because like I said, if they
19 finish tomorrow with their witnesses, it's probably going
20 to be cutting it close to finishing by lunchtime, I'm
21 guessing. Even if you're finished by lunch, then we've
22 got the afternoon.

23 MR. POTTS: It might be a little after lunch,
24 probably.

25 THE COURT: Huh?

1 MR. POTTS: My guess is, a little after lunch.

2 THE COURT: Yeah. Then, even if she puts up
3 witnesses tomorrow afternoon, we probably won't argue and
4 charge until Thursday. So with that being said, I don't
5 want to order lunch tomorrow and again on Thursday. Plus,
6 we don't even have options that work, a whole lot of
7 options. I'll probably break tomorrow for lunch and send
8 them to lunch and we'll start again probably about 2:30.
9 So if you have some folks -- if you have everybody on
10 standby. By lunchtime you will have a better idea?

11 MS. ZMROCZEK: I will. Yes.

12 THE COURT: Okay. Like I said -- we all will have a
13 better idea as to where they are in the case.

14 MS. ZMROCZEK: Perfect.

15 THE COURT: If they're going to finish or if they
16 will have a couple more witnesses after. All right.

17 (Whereupon, the trial will resume the next morning at
18 9:30 a.m.)

19 March 4, 2020

20 THE COURT: Let's bring the jury in.

21 (Whereupon, the jury came into open court at
22 approximately 10:00 a.m.)

23 THE COURT: Good morning, ladies and gentlemen of the
24 jury. I hope that you had a restful evening. We have a
25 note. I will try to, today I will try my best. Tomorrow,

1 I cannot promise. So if there's any arrangements that you
2 think you can make, but I'll try, we will try to,
3 depending on where we are in the testimony, we'll be done.
4 At 5:00 o'clock, it is kind of hard. It just depends on
5 where we are, but we'll try really hard.

6 MS. ZMROCZEK: May we approach, Your Honor.

7 (Whereupon, a bench conference was held in the
8 presence of the jury but out of the hearing of the
9 jury.)

10 THE COURT: I can't assure you. All right. We're
11 going to keep working and hopefully, it'll work out.

12 MS. ZMROCZEK: Thank you.

13 THE COURT: Thank you. All right. I'm going to ask
14 the State to call their next witness.

15 MR. POTTS: The State calls Dr. Amy Durso.

16 DR. AMY DURSO, being
17 first duly sworn, testified as follows:

18 THE WITNESS: Amy Durso, D-U-R-S-O.

19 DIRECT EXAMINATION

20 By Mr. Potts:

21 Q Good morning, Dr. Durso.

22 A Good morning.

23 Q Where are you currently employed?

24 A I am currently employed by Professional Pathology
25 Services. But primarily my role is to do forensic

1 autopsies for the Richland County Coroner's Office.

2 Q So what's a forensic autopsy?

3 A So a forensic autopsy is an autopsy ordered by a
4 medical examiner or coroner and the whole point of an
5 autopsy is to examine a body after death, document any
6 injuries, illnesses, anything out of the norm. Also, just
7 defining characteristics of the body and at the end, you
8 know, document all of that in a report and come up the
9 cause of death.

10 Q So you said it's requested by the coroner. When does
11 the coroner request those kind of things typically?

12 A Typically, if it's something unexpected or if it's
13 something where there's foul play. So anything where
14 there's gunshot wounds would definitely get the coroner to
15 request an autopsy.

16 Q What kind of training have you had as far as being a
17 forensic pathologist?

18 MS. ZMROCZEK: And, Your Honor, we stipulate to her
19 credentials as an expert in forensic pathology.

20 THE COURT: All right. Ladies and gentlemen of the
21 jury, Dr. Durso will be qualified in the area of forensic
22 pathology to give opinion testimony in that area. That
23 does not mean that you must accept this opinion. But it
24 is evidence for you to use in any way you see fit and give
25 it the weight and credibility you believe is appropriate.

1 All right.

2 Q So briefly, Dr. Durso, tell the jury a little bit
3 about your training and experience as a forensic
4 pathologist.

5 A Right. So after college, I completed four years of
6 medical school at the University of North Carolina in
7 Chapel Hill. I then did four years of training --
8 residency training in pathology at Wake Forest University
9 and after those four years, I stayed on for an additional
10 year at Wake Forest to do an extra year of training
11 specifically in the field of forensic pathology, which is
12 just autopsies. General pathology includes autopsies, but
13 also looking at, diagnosing tumors, learning about the
14 blood bank. All that sort of things. So it's a lot
15 broader.

16 Q So I guess -- I don't think I have to qualify you as
17 an expert. I think we've done that. So did you have an
18 opportunity to examine anything in this case, anyone in
19 this case. I guess dealing with people would be your
20 specialty?

21 A Right. People are my specialty. Yeah. I was
22 requested by the Richland County Coroner's Office to do an
23 autopsy on Cory Jenkins, which I did on March 26th of 2018
24 at 9:00 o'clock in the morning.

25 Q Can you walk the jury as to kind of how that process

1 works and how -- the autopsy and what -- I guess where you
2 start and how you go about your business.

3 A Right. So a Corner's Office autopsy, there's always,
4 especially in a case where there's gunshot wounds. So
5 someone from the Corner's Office would be there as well as
6 someone from law enforcement to take pictures. What we do
7 is we take the body out, make sure we have the right body,
8 identify, weigh, measure and look at the outside of the
9 body. So we have a whole external examination that we do,
10 documenting body length, weight, identifying marks, any
11 external injuries, that sort of thing. After that we open
12 the body. We do that by making this Y shaped incision
13 over the front of the body. At that point, we're able to
14 reflect the skin back, remove the front of the rib cage
15 and at that point we can see all of the organs. And then
16 we document any abnormal collections of fluid like blood.
17 We examine each of the organs. If there's gunshot wounds,
18 we trace the paths of the bullets through the body
19 documenting any injuries. And after that's all done, we
20 are able to make incisions in the back of the head to
21 remove the back of the skull to also examine the brain.
22 It's pretty much the same thing whether it's a gunshot
23 wound or a natural death. But obviously there's a lot
24 more findings in a gunshot wound. We have to trace
25 projectile paths but the general procedure is the same.

1 Q Okay. So when you were examining the body of Cory
2 Jenkins you followed that general procedure?

3 A Yes.

4 Q When you first observed him were there any things
5 that immediately came to mind?

6 A Right. There were numerous gunshot wounds, obvious,
7 on the body and there was blood on the body. So right
8 away, you know, we had a lot to document on the external
9 exam. So each hole to the body that has the
10 characteristics of a gunshot wound we document where it's
11 located and its characteristics. Whether it looks like an
12 entrance or exit wound. If it's an entrance wound, we
13 look at stuff like soot and stippling to see if, maybe, we
14 can tell the range of the gunfire. And then once we open
15 the body we try to match up the entrance wounds with the
16 exit wounds and sometimes, there's exits, re-entrances and
17 re-exits. They can get very complicated but we try our
18 best to line everything up.

19 Q Do bullets always travel in a straight path through a
20 body?

21 A Yes.

22 Q Now, I'm going to show you what is marked as State's
23 exhibit numbers 126 and 127. Do you recognize those?

24 A I do. So 126 and 127 are photocopies of the external
25 exam diagram I made in this -- diagrams I made in this

1 case. One has kind of all of the findings listed and one
2 is mainly just the gunshot wounds.

3 Q And as we go through talking about --

4 MR. POTTS: I guess, at this point, I'd like to offer
5 into evidence State's 126 and 127.

6 MS. ZMROCZEK: Without objection, Your Honor.

7 THE COURT: 126 and 127, without objection.

8 (Whereupon, State's exhibit numbers 126 and 127 were
9 admitted into evidence).

10 Q Dr. Durso, as we go about talking about the various
11 wounds Mr. Jenkins sustained, would it help you to have
12 the jury be able to see those documents -- those pictures?

13 A Yes.

14 Q Dr. Durso, could you step down for me?

15 A Yeah.

16 Q All right, Doctor. So, Doctor, how do you typically
17 -- I guess, it looks -- how do you start labeling these
18 various wounds you found?

19 A As soon as I see a wound, I just give it an arbitrary
20 letter. I start with A and go right down to the next
21 wound I see and at the end I kind of line them all up.
22 And again -- so I'll have listed, gunshot wound number
23 one, two, three, four and five, but they're not in the
24 order that they necessarily occurred or their severity.
25 It's just a way for me to kind of keep track of which one

1 is which. So I usually just kind of start -- try to start
2 from the top and I work my way down which is what I did in
3 this case. So do you want me just to go through them one
4 by one?

5 Q Please, Doctor.

6 A Okay. There's a total of five gunshot wounds that I
7 was able to document in this case. The first one enters
8 here at A here on the left cheek. As you can see, I kind
9 of -- I'm not the best artist but these little dots around
10 the wound is what we call stippling. So some of the
11 things that we look for in these -- the entrance wounds is
12 soot and stippling. So soot is when the gun is about --
13 up to about six inches away. So that means the actual
14 soot coming out the end of the gun is able to deposit onto
15 the body which means, like I said, it's within six inches.
16 Stippling is the actual gunpowder. So the little flakes
17 or balls of gunpowder come out and actually leave these
18 tiny little abrasions on the skin.

19 Q An abrasion being?

20 A Like a tiny little scrape. Like a tiny scrape from
21 these tiny little almost microscopic grains. But when you
22 see them on the body it's like a bunch of little dots,
23 lead dots. And so that's within 18 to 24 inches. But
24 when I see both soot and stippling, that kind of narrows
25 it down to being between one to six inches. So less than

1 one I would see more like just soot and searing of the
2 skin. But in this case of gunshot wound -- the entrance
3 wound A, I saw soot and stippling. So this gun discharged
4 between one to six inches away from his face. So this is
5 a fairly close wound.

6 Q Okay. And so it discharged in the face
7 approximately, I guess, it would be on this right side.

8 A Left.

9 Q Sorry. Left side. Thank you.

10 A And then, it goes through the face. It kind of
11 briefly exits and re-enters at what's called B. Like it
12 just kind of -- because of the angle of the face it kind
13 of just goes out and comes right back in. It then travels
14 through the mouth. So the jaw is broken and several teeth
15 are dislodged from going through the mouth. It then comes
16 out here at C (indicating). It's kind of underneath --
17 it's hard to draw underneath on the side. So it goes in
18 here and it comes out around this area (indicating). So
19 it's going this way (indicating). At this point we find a
20 jacket. It's kind of lodged in this wound. So the outer
21 part of the projectile was found. A copper colored jacket
22 along with a tooth that got pushed down.

23 Q So the bullet, I guess, is one of two different
24 parts?

25 A Right. So the jacket is kind of the outer layer and

1 then the lead core is the silver part that's inside.

2 Q And so you found, I guess, the outside part?

3 A Right. They often separate, get caught or snagged on
4 the soft tissue or the bone, especially. If it hits that
5 it might separate. So in this case it did separate. And
6 then the lead core went back into the body. So that goes
7 back in here (indicating). So, again, it's kind of going
8 in here (indicating), briefly comes out, goes back in and
9 goes through the mouth. Most of it comes out here
10 (indicating), the lead core. We get the tooth and the
11 jacket here (indicating). And then the lead core itself
12 goes back into the body right here (indicating), just
13 above the area of the clavicle. And then the lead core we
14 find just within the soft tissue not too far down from
15 there. It did not enter the pleural cavity, it did not
16 hit any major vessels in the neck. So this wound alone,
17 while it would have been quite painful going through the
18 jaw and causing all these fractures and teeth to be
19 extracted, it's not necessarily fatal. With proper
20 medical care and preventing infection and that sort of
21 thing this potentially is a very survivable wound. So
22 that's the first one I described in my report.

23 Q And so I think you said it was a little bit left to
24 right?

25 A Right. So it's left to right, downwards and just

1 very slightly, front to back because for it to go back in
2 here (indicating), it would have to be going front to
3 back. So his head might have been down just a little bit
4 at that point.

5 Q Okay. Can you, in fact, say where his head was when
6 that shot occurred?

7 A For it all to line up, I mean, just very slightly for
8 it to go back in, slightly tilted forward.

9 Q And what about the second wound?

10 A So the second wound I'm going to talk about starts at
11 what we called -- I called L here on the back of the left
12 wrist. So this is back here on the back of the wrist.
13 This also had soot and stippling. So I saw the soot, the
14 black stuff, right there in the wound as well as the tiny
15 little abrasions from the gunpowder. So, again, this is
16 between one to six inches. The gun had to be, the end of
17 the gun, one to six inches away from his wrist and I was
18 actually able to line -- so it goes in here (indicating),
19 comes out the other side of the wrist. This is M. And
20 then re-enters the body here (indicating) up on the left
21 chest. So that means his arm would have had to have been
22 up somewhere with the left arm flexed for it to go back in
23 and this had a very distinctive wound characteristic that
24 you see with intermediary targets. So there were
25 pronounced little abrasions around it and it was very

1 irregular looking. So usually, when the bullet comes out
2 of the gun, it's spinning and it goes and it makes a nice,
3 round hole. But once it hits something it starts to
4 tumble. So it makes a very irregular entrance which this
5 one had and it lined up perfectly with the hand bent.

6 Q So when it has no regular entrance, that means it hit
7 something else first?

8 A Right.

9 Q And that fit with L and M?

10 A It fits perfectly, yes.

11 Q And what else can you tell me about that second one?

12 A Right. So after it re-enters the chest here
13 (indicating), it's traveling mainly downwards. Front to
14 back, but mainly downwards and slightly left to right. So
15 it's really a pretty steep angle going down. So it
16 actually ends up hitting kind of into the abdominal cavity
17 and then it hits the aorta. So your aorta is about yay
18 round. It's an artery. It's the main blood vessel that
19 comes out the heart and gives all the blood flow to the
20 lower limbs. And so this has a lot of pressure in it and
21 a lot of blood in it and you bleed very quickly from these
22 wounds. So this hit the aorta, which would have caused
23 very, very rapid blood loss and this is pretty much a
24 fatal wound, you know, unless you could stop the bleeding
25 immediately. Like if you're already in the hospital, you

1 could maybe stop it, but this is pretty much a fatal wound
2 once it hits that. And then the projectile was actually
3 floating within the blood that we collected within the
4 abdominal cavity. So there was about two liters. So if
5 you think about a soda bottle full of blood, that's about
6 what he had in his abdominal cavity.

7 Q I assume that's not common?

8 A It's not supposed to -- you're not supposed to have
9 any blood or any fluid in your abdominal cavity. So that,
10 we collected.

11 Q Now, can you say for certain that it's fluid from
12 that shot?

13 A So there was another wound that also contributed to
14 that amount of blood. But that aorta wound alone would
15 have been fatal without even talking about this wound.

16 Q Just that one gunshot, it would have been fatal by
17 itself?

18 A Yes.

19 Q And then, there's still three more to go. So let's
20 look at the third gunshot wound.

21 A All right. So the third one, the entrance wound I
22 labeled G here. It was on the right side of the chest and
23 it really just kind of goes through the skin and
24 subcutaneous tissue. So just soft tissues and exits here
25 at I. So it just kind of goes in and comes right back

1 out. It does not hit any major organs. It doesn't enter
2 the chest cavity. It really is just kind of a flesh
3 wound, as they call it. It would not be deadly at all.
4 Painful, but not deadly.

5 Q You said subcutaneous. What does that mean?

6 A Just the fat and the stuff underlying your skin.
7 That tissue. So it's not anything that would be expected
8 to cause massive bleeding or anything like that. So that
9 wound is going downwards. Slightly left to right and
10 front to back, but mainly downwards. So the next one,
11 number four, I'm going to talk about. The entrance wound
12 is labeled -- I'm sorry.

13 Q One more question about number three. You said the
14 first two were within one to six inches. What about
15 number three?

16 A So three didn't have soot or stippling. So we call
17 that indeterminate range because if there's no soot or
18 stippling. You want to assume that is greater than two
19 feet because there's no stippling. But the one thing I
20 can't tell at autopsy is if it went through something else
21 first. If there was a glass window, a door, super thick
22 clothing, thin clothing, it just goes right through like
23 it's not there. But if you were wearing like a thick
24 jacket, something like that, it would block that soot and
25 stippling from going through. And since I was not there

1 to see to determine that, I call it indeterminate range.

2 So sometimes, with further information and seeing it

3 definitely didn't go through anything, I can say, well, it

4 was at least two feet away. But I did not have that

5 information at the time of the autopsy.

6 Q What about number four?

7 A Number four. The entrance is F here on the left

8 lower chest. So right about here (indicating). This one

9 had soot and searing of the skin. So this is a very close

10 range wound. So it actually kind of burned the skin

11 around it and had soot, no stippling. So this means it's

12 within an inch. So this is very close. Whoever shot him

13 -- the end of the gun was very, very close to his body

14 when it was discharged and this one goes through the ribs

15 here on the left side. It hits the spleen, which is just

16 under these ribs. That bleeds a lot. It then goes

17 through the stomach. So the stomach contents are now

18 expelled into the peritoneal cavity and into the stomach

19 cavity. So that's a big risk for infection. And then it

20 hits the liver, which is also a very, very vascular organ,

21 which means it has a lot of blood vessels. It bleeds very

22 fast and it bleeds a lot and it also hits the inferior

23 vena cava. So we talked about the aorta being the major

24 artery. Well, the vena cava is the major vein that

25 carries all the blood flow back up and because it's a

1 vein, it doesn't have quite as much pressure. It's not
2 going to bleed out as fast but it still carries quite a
3 bit of blood. And so with this one hitting the spleen,
4 the liver and the inferior vena cava, we have stomach
5 contents mixed in with that. This is also very much a
6 fatal wound on its own, very unlikely to survive this by
7 itself. And again, we got two liters of blood out of the
8 abdomen. But I can't tell which blood spilled out of the
9 aorta from the second gunshot wound I described and what
10 came out of the vena cava. That's a lot of blood. So
11 those both contributed towards that amount of blood.

12 Q And can you tell me -- I guess, we'll get to that in
13 a little bit. And so this one was mostly left to right
14 and a little bit down, correct?

15 A Right. So this one's going -- the others were kind
16 of going a lot more downward. So this one's going more
17 left to right than anything. Slightly downwards, but more
18 left to right.

19 Q Were there anymore gunshot wounds that you found?

20 A Yeah. There's one more. There's -- J is the
21 entrance wound here on the back of the right upper arm.
22 So it's going in right here (indicating) and it comes out
23 K, right here (indicating). So this one just goes through
24 the arm. It goes through the muscle and does not hit the
25 bone. So again, this is not a fatal wound. It would have

1 been painful but not fatal, with proper medical attention
2 to prevent infection and that sort of thing. And it's
3 going back to front. But again, I have no way of knowing
4 if his arm was lifted up in the air or that sort of thing.
5 Arms move a lot. So I have no way of telling since it
6 didn't re-enter the body, what position his arm was in
7 with that one.

8 Q Right. So you can't really say downward or anything
9 because the arm could be in any shape or fashion?

10 A Right.

11 Q Okay. Now, Doctor, based on your examination of
12 these various gunshot wounds, can you tell me which ones
13 happened first and second?

14 A No.

15 Q Can you tell me which one he died from of the two,
16 two or number four?

17 A No. One of those or both.

18 Q One of them?

19 A Well, each one could have killed him. Obviously,
20 with both, they definitely killed him.

21 Q And then did you find anything else, Doctor, outside
22 of the gunshot wounds in your examination?

23 A There were two little, what we call, sharp force
24 injuries. Very superficial to the left hand. Like there
25 was broken glass in the body bag along with him. So there

1 must have been some broken glass at the scene. There were
2 two tiny cuts to his hand but nothing that would have
3 caused death. We document everything, so, yeah.

4 Q Thank you, Doctor. Anything else from these diagrams
5 that the jury needs to hear about?

6 A No.

7 Q Thank you, Doctor. Now, Doctor, you mentioned you
8 were able to recover some of the projectiles at the
9 autopsy?

10 A Yes.

11 Q Can you remind me which ones, which two?

12 A So the first one I described that involved the face
13 and kind of goes through the -- comes out the chin and
14 re-enters. We got the copper colored jacket from here and
15 the lead core from the chest. So two parts to the same
16 projectile. And then also on the second gunshot wound,
17 the one that goes through the aorta, we recovered the
18 projectile from the blood in the abdomen.

19 Q I'm going to show you State's number 139 and 140.
20 Are those photographs of the jacket and the lead core from
21 that first one we were talking?

22 A Yes. They are photographs of those, yes.

23 MR. POTTS: At this time, I'd like to offer into
24 evidence State's number 139 and 140.

25 THE COURT: Any objection?

1 MS. ZMROCZEK: All without objection, Your Honor.

2 THE COURT: 139 and 140, without objection.

3 (Whereupon, State's exhibit numbers 139 and 140 were
4 admitted into evidence).

5 MR. POTTS: So 141 would be without objection, as
6 well.

7 (Whereupon, State's Exhibit 141 was admitted into
8 evidence.)

9 Q And so 141 would be the projectile recovered from
10 wound number two?

11 A Right. From the abdomen.

12 Q Thank you, Doctor. In your examination of the body,
13 once you got past the items you did in your diagram and
14 did your thorough examination of the body including the Y
15 incision and so forth, was there anything else of note
16 that you determined that contributed to his death?

17 A No. There were no natural diseases or anything that
18 would have contributed to his death. He was otherwise
19 healthy.

20 Q Now, you amended your report later after receiving a
21 report from SLED regarding toxicology. Can you tell the
22 jury about that?

23 A Right. So in all of our autopsies we collect fluids
24 to send for toxicology testing so we know what was in the
25 system at the time of death and he was no exception. So

1 let's see. Blood was sent off in this case to SLED and it
2 came back positive for basically several metabolites of
3 marijuana, tetrahydrocannabinol or THC were in his system.
4 Again, they did not contribute to his death. And then
5 there was a small amount of ethanol or alcohol. It was at
6 .01. So, you know, .08 is the legal limit for driving.
7 So this is a very tiny amount.

8 Q So doctor, while you were doing your examination, you
9 mentioned that the Coroner's Office is there with you.
10 Was Columbia Police Department there with you as well?

11 A Yes.

12 Q And they collected the projectiles from you, correct?

13 A Yes.

14 Q They also tested for GSR and stuff like that?

15 A Yes. They collect all that evidence. Yes.

16 Q And you gathered Mr. Jenkins' DNA at that point?

17 A Right.

18 MR. POTTS: Beg the Court's indulgence.

19 Q Dr. Durso, after receiving gunshot wounds number two
20 and number four, would Mr. Jenkins have been incapacitated
21 immediately?

22 A No. So for incapacitation, we're really look for
23 something to go hit the brain, the spinal cord, something
24 like that. And while he would have bled out, it would
25 take at least several minutes for that to happen and he

1 would be conscious immediately afterwards. And some
2 people, even after having gunshot wounds, are able to run
3 a short distance. So he would not be immediately
4 incapacitated, no.

5 Q But you don't know, in this case, whether he was able
6 to move or not, right? You can't say because you were not
7 at the scene?

8 A Right. Whether he got up and ran, I do not know.

9 Q The wound that's from -- to the left wrist in number
10 two -- scratch that, Doctor. Thank you so much.

11 CROSS-EXAMINATION

12 By Ms. Zmroczek:

13 Q Good morning, Ms. Durso.

14 A Morning.

15 Q Excuse me. So much like a crime scene, a forensic
16 autopsy can also help tell a story, right?

17 A Sometimes.

18 Q Right. And basically, what you presented to the jury
19 were science findings, right?

20 A Right.

21 Q I mean, things happen when bullets hit a body --

22 A Yes.

23 Q -- and that's what you're here to provide? So -- and
24 you said, I believe, that bullets travel straight?

25 A Right.

1 Q So meaning --

2 A They don't curve around a corner. Yeah.

3 Q Right. They don't come up from underneath, and then

4 --

5 A Right.

6 Q -- make a loop and go down? It can't do any of those
7 things?

8 A No.

9 Q Okay. So using that information about stuff at the
10 crime scene, that kind of helps put together a little bit
11 about what happened --

12 A I'm sure --

13 Q -- scientifically?

14 A Yes. Yes.

15 Q So for example, I think you said gunshot number two
16 -- and I know that it wasn't the second gunshot.

17 A Right. I have no idea what order they happened in.

18 Q Right. So that would have knocked out teeth? That
19 was the one that went --

20 A Yes.

21 Q And so you actually found one tooth still with the
22 projectile that was recovered, right?

23 A Yes.

24 Q By taking that and then going back to the scene,
25 which I know is not your job, but going back to the scene

1 and like looking for teeth, that could kind of help
2 understand where that took place, right?

3 A Sure. Yes.

4 Q Okay. Sorry, my contacts are giving me trouble this
5 morning. You talked about number -- so number two, you
6 were able to recover the projectile. And then, what we'll
7 call gunshot wound number four, which was the one with the
8 inferior vena cava in the abdomen, you were also able to
9 --

10 A The aorta in the abdomen. Yes.

11 Q The aorta in the abdomen. And then -- so you were
12 able to recover two projectiles?

13 A Yes.

14 Q And then, what those do is, those get sent to SLED
15 and they can be tested about what kind of gun they came
16 from and those --

17 A Right. I defer all of that to them. Yes.

18 Q And then, you were talking about -- excuse me. You
19 were talking about the toxicology findings.

20 A Yes.

21 Q And there were several different metabolites and I
22 know you're not a toxicologist.

23 A Right.

24 Q But you certainly interpret them as to what they -- I
25 mean -- they found different levels of metabolites?

1 A Right.

2 Q And wouldn't that indicate, in your training, as
3 ingested at different times or body -- when the body takes
4 in a chemical such as alcohol or marijuana, it breaks
5 down --

6 A Right.

7 Q -- the substance? And so that's why we'll see
8 different levels of metabolites?

9 A Right.

10 Q Okay. Some will take -- if you use it like right
11 away, for example, if you have six beers and get in a car,
12 and then you get a blood test, it could be higher than if
13 you have six beers, watch eight movies, and then go home.
14 It will be a different result?

15 A Right. Your body -- the body is metabolizing it.
16 Yes, as time passes.

17 Q And do you have the different -- the three different
18 numbers, results in the toxicology --

19 A I do.

20 Q Okay. What were those?

21 A So tetrahydrocannabinol was six nanograms per
22 milliliter, 11-hydroxy-tetrahydrocannabinol was 3.3
23 nanograms per milliliter and
24 11-carboxy-tetrahydrocannabinol was 27 nanograms per
25 milliliter.

1 Q And I think you even demonstrated with number two --
2 I know you're not there at the scene. So you don't know
3 what happened. If body parts are moving --

4 A Right. People don't just stand there like our
5 diagrams in a position and get shot. If so my life would
6 be a lot easier but it does not work that way.

7 Q And so -- but what you are able to do is just line it
8 up scientifically through entrance wounds and exit wounds
9 and things like that?

10 A Right.

11 Q And how tall was Mr. Jenkins? Do you know that?

12 A Yeah. He was 73 inches tall. So six foot, one inch
13 tall.

14 Q So he's six foot, one. And then, how much did he
15 weigh?

16 A 199 pounds.

17 Q And you said that the paths of, certainly, the fatal
18 ones were downward?

19 A Yeah, I believe they were both downwards, yes. One
20 was more kind of across, but, yeah, one downwards.

21 Q One was more kind of across?

22 A Yeah.

23 Q But one was down?

24 A Yes.

25 MS. ZMROCZEK: Okay. No further questions. Thank

1 you.

2 REDIRECT EXAMINATION

3 By Mr. Potts:

4 Q I just want to clarify one thing. This is our last
5 question, Dr. Durso. You said wound number four was one
6 of the two fatal wounds?

7 A Yes.

8 Q And that was the one that was almost across the
9 chest, correct?

10 A Let me just --

11 Q Yeah. Please, refer to your report.

12 A Right. That's the one that goes in the left lower
13 chest and it got the spleen and the liver. So that one's
14 kind of going more across and the other one that was more
15 fatal was the one that kind of went through --

16 Q That's the one that was going from --

17 A Going down through the wrist and that one was more
18 downwards, but also, it was left to right.

19 MR. POTTS: Okay. Thank you so much, Doctor.

20 THE COURT: Anything else?

21 MS. ZMROCZEK: Nothing further.

22 THE COURT: You may step down.

23 THE WITNESS: All right. Thank you.

24 (Whereupon, the witness stepped down from the witness
25 stand).

1 THE COURT: Any objections to this witness being
2 excused?

3 MR. POTTS: No objection, Your Honor, from the State.

4 MS. ZMROCZEK: No objections.

5 THE COURT: Call your next witness.

6 MR. POTTS: The State calls Investigator Green.

7 AGENT JAMES GREEN, being
8 first duly sworn, testified as follows:

9 THE WITNESS: James Green, common spelling.

10 DIRECT EXAMINATION

11 By Mr. Potts:

12 Q I guess it would be Agent Green? Is that --

13 A Yes, sir.

14 Q Agent Green, just tell the jury a little bit about
15 where you're employed and what you do there.

16 A I'm employed by the South Carolina Law Enforcement
17 Division, commonly referred to as SLED, and I'm a forensic
18 scientist in the firearms department of the forensic
19 services laboratory.

20 Q So what is your role in the -- I guess what does that
21 mean your role is in the firearms laboratory?

22 A When a case is submitted to the laboratory involving
23 firearms related evidence, fired bullets, fired cartridge
24 cases or firearms, it's submitted to my department. If
25 the case is assigned to me I will examine it

1 microscopically to see if the cartridge cases and/or
2 bullets were fired by one gun, two guns, three guns, four
3 guns and if there are firearms submitted, to see if those
4 ammunition components were fired by the submitted
5 firearms.

6 MS. ZMROCZEK: Yeah. Your Honor, we do not object to
7 Agent Green being qualified as an expert in firearm
8 analysis.

9 THE COURT: Is that what you're --

10 MS. ZMROCZEK: Firearm and toolmark.

11 MR. POTTS: Firearm and toolmark analysis, Your
12 Honor.

13 THE COURT: Firearm and toolmark analysis. All
14 right. Ladies and gentlemen of the jury, Agent Green will
15 be qualified as an expert in the area of firearm and
16 toolmark analysis to give opinion testimony in that area.
17 That does not mean that you must accept the opinion but it
18 is evidence for you to consider in any way you see fit and
19 give it the weight and credibility you believe is
20 appropriate. Thank you.

21 MR. POTTS: Thank you.

22 Q Agent Green, describe for the jury just very briefly
23 about your training in this area.

24 A I have a bachelor's degree and a master's degree from
25 Charleston Southern. And when I started at SLED back in

1 2005, I started the firearm and toolmark course of
2 instruction by a three to three and a half, sometimes four
3 year course of instruction in an apprentice type fashion
4 studying under court qualified firearms examiners learning
5 to do what I do now.

6 Q Now, did you have the opportunity to examine any
7 firearms or any shell casings or projectiles in this case?

8 A Yes, sir.

9 Q I'm going to show you what's been marked as State's
10 Exhibit number 118 first.

11 MS. ZMROCZEK: All of these are without objection,
12 Your Honor.

13 THE COURT: What's the number?

14 MR. POTTS: 118. It should already be in evidence,
15 Your Honor.

16 THE COURT: Are they already in?

17 MS. ZMROCZEK: Yeah.

18 COURT REPORTER: Yeah.

19 Q Are those the nine millimeter shell casings you were
20 able to examine?

21 A Yes, sir. State's Exhibits 118 are SLED items 10
22 through 12. They are the fired nine millimeter Luger
23 caliber cartridge cases I examined in this case.

24 Q Okay. I guess we need to back up a little bit. How
25 many shell casings did you receive in this case?

1 A I received a total of 11. Eight .40 S&W caliber and
2 three nine millimeter Luger caliber.

3 Q Now, when you say S&W caliber -- you've got to come
4 up with--

5 A -- S&W stands for Smith & Wesson. It's just the name
6 of the caliber. Smith & Wesson was instrumental in
7 designing that cartridge. So to the victor go the spoils.
8 They designed it, they get to name it.

9 Q And so -- yeah. That's a .40, you said?

10 A Yes, sir.

11 Q And the other ones were nine millimeter?

12 A Yes, sir.

13 Q Now -- so nine millimeter sounds easy. That's a
14 number size.

15 A Yes, sir. It's the metric designation. The diameter
16 of the bullet is actually .355 inches.

17 Q And what about for the .40?

18 A It is .40.

19 Q So you can tell by looking at these two things that
20 they are different sized shell casings?

21 A Yes, sir.

22 Q Okay. So those three were the three nine millimeter
23 shell casings sent in to you?

24 A Yes, sir. State's Exhibits 118 were the three nine
25 millimeter Luger caliber cartridge casings that were

1 submitted.

2 Q Okay. Now, State's number 120.

3 A Yes, sir. State's exhibit 120 were the .40 S&W
4 caliber cartridges -- excuse me, cartridge cases that were
5 received in this case.

6 Q And how many of those did you receive in this case?

7 A I received eight .40's.

8 Q Were all of the .40's uniform?

9 A They were all the same caliber but they were
10 different brands as well.

11 Q That's the question I really meant to ask. Were they
12 all the same brands? The answer's no, correct?

13 A Correct. They are not the same brand.

14 Q Now, I'm going to show you State's 122 and 121.

15 A Yes, sir. State's exhibit 122 is the Smith & Wesson
16 nine millimeter pistol I examined in this case. And while
17 I'm opening the box, ladies and gentlemen of the jury, if
18 you see me looking at the evidence and sort of rotating it
19 around in my hands to see -- when firearms evidence is
20 submitted to the laboratory, what we'll do is we'll get an
21 electric pencil or like a dremel tool and we'll inscribe
22 the lab number, item number and initials on them. So if
23 it goes to court, we can know that's what we're looking
24 at. So that's what I'm doing is making sure what's handed
25 to me, even though some are in a sealed box, there are

1 certain things that I actually examined.

2 Q And who did seal this box?

3 A I did.

4 Q And both these guns, are they loaded or armed at this
5 time when you put them in the box?

6 A No, sir. I don't return anything that's loaded.
7 Every firearm I return is unloaded. Yes, sir. State's
8 exhibit 121 is the Glock .40 caliber pistol I examined in
9 this case.

10 Q Okay. Now, when these two pistols come to you, what
11 is the first thing you do with them?

12 A The first thing I do when I get them is, I just take
13 a photograph of the packaging so when I send it back,
14 they'll know how it was packaged. Then, I'll open it up,
15 inventory everything in the box, see if anything's
16 biohazardous, if there's any blood or any type of material
17 on there and deal with that appropriately. And then I
18 will start photographing the make, model, caliber, serial
19 number. All the pertinent information, recording that on
20 our work sheets. And then what I'll do is, I'll test fire
21 the firearms to get cartridge cases and bullets that I
22 know were fired out of that gun because I fired them
23 myself. And I use those tests as my tests -- my examples
24 of knowns to compare with the unfired -- excuse me, the
25 fired, the unknowns that were submitted in this case.

1 Q Okay. Now, the firearm in State's exhibit number
2 122 -- show the jury. Was this gun fired when you
3 received it?

4 A Yes, sir.

5 Q Now, I see you have some other bags here with this
6 firearm. A bag -- I guess tell me what these bags are in
7 turn.

8 A Also received with State's exhibit 122. It was not
9 only the Smith & Wesson pistol, it also had a magazine
10 with it and four unfired cartridges.

11 Q Would this be the magazine?

12 A Yes, sir. Along with State's exhibit 121. You can
13 see the pistol in the box and it also had a magazine and
14 some unfired cartridges with it as well.

15 Q All right. So the first thing you do is test fire
16 them. And what about 121, would that fire as well?

17 A Yes, sir.

18 Q So both guns were working?

19 A Yes, sir. At the time, I had them both firing and in
20 working order.

21 Q Now, you had these shell casings, I guess you said.
22 What did you call them, known standards?

23 A Well, the tests are what I know to be fired. So I
24 call those knowns. The evidence submitted are unknown
25 until I match them to a particular firearm, if I'm able

1 to.

2 Q Were you able to -- did you compare these shell
3 casings with your knowns in this case?

4 A Yes, sir. One of the things I do is, I actually
5 compare all of the unknowns or all of the evidence
6 cartridge cases with each other first. And then -- before
7 I even start test firing the guns, because simply so I
8 know how many work sheets I need to do I fill out. There
9 can be 77 cartridge cases all fired by one gun. I'll put
10 them all in one worksheet. So I'll microscopically
11 compare those cartridge cases with each other using our
12 comparison microscopes. There's two microscopes connected
13 by a single optical bridge that lets us look at two
14 objects simultaneously. What I'm looking for is tiny
15 striations or scratches that are put on the breech face or
16 the firing pin impressions of those cartridge cases when
17 they are fired.

18 Q Does each gun leave unique imprints on cartridge
19 casings?

20 A Yes, sir. Each gun will mark an ammunition component
21 individually or uniquely. I've taken part in several
22 studies where they went and had consecutively made
23 firearms pulled off the assembly line and given to people
24 like me so we can test fire them. And then they'll send
25 the tests out and you can tell there's some similarities

1 because you'd think consecutively made items using the
2 same tool are going to have some similarities. But if
3 you're trained and you know what you're looking for you
4 can see those subtle differences that make each individual
5 item unique.

6 Q I guess you said there was more -- it sounded like
7 you said there was more than just shell casings that you
8 can match to a firearm. Is that correct?

9 A Yes, sir. You can match bullets or projectiles as
10 well.

11 Q And how would you go about doing that?

12 A The same way. When I get the test specimens -- when
13 we collect the cartridge cases we also collect the bullets
14 and we'll compare those microscopically as well.

15 Q So when you were able to -- so you're comparing both
16 the shell casing known and bullet known from your test
17 firing?

18 A Yes, sir. To the unknowns or the evidence submitted
19 in the case.

20 Q When you examined the evidence in this case that was
21 submitted to you, what were you able to determine about
22 the shell casings of those two weapons?

23 A Yes, sir. State's exhibit 100 -- excuse me, 118,
24 which were the three fired nine millimeter Luger caliber
25 cartridge cases were fired by State's exhibit 122, the

1 Smith & Wesson M&P Shield pistol. So once I got the nine
2 millimeter gun -- I know that nine millimeters can be
3 fired in some .40's but these were not because I actually
4 cross-compared them. So before I even started looking at
5 the test specimens, I knew based on looking at the
6 cartridge cases I had three different guns that were
7 submitted to me.

8 Q What were you saying about nine millimeters firing
9 .40 shells?

10 A Some .40's will fire nine millimeter if the extractor
11 will hold it. A lot of them won't, but some will. So I
12 always -- when they're somewhat similar in caliber, like
13 if it'll fit, but it's not the right, I'll compare those
14 as well just to make sure because I don't want to be wrong
15 and say, just based on caliber, this wasn't fired by that
16 gun. I'm going to microscopically prove it.

17 Q And so in this case, you were able to determine that
18 none of these .40's were fired from that -- the nine
19 millimeter wouldn't hold the .40's?

20 A No. The nine millimeter will not hold a .40. It's
21 too big, but a .40 will hold a nine since it's smaller.

22 Q Okay. So the other way around. You'll able to --

23 A Yes, sir.

24 Q -- say that these nine millimeter shell casings did
25 not come from a .40?

1 A Correct.

2 Q What about these .40 caliber shell casings? State's
3 number --

4 A -- the 120.

5 Q Thank you.

6 A Yes, sir. State's exhibit 120 were the .40 caliber
7 cartridge cases. In those eight cartridge cases I had two
8 different guns. Two of the cartridge cases were fired by
9 State's exhibit 121, the Glock pistol that was submitted
10 in this case. And there were six cartridge cases that
11 were fired by a third gun which was never submitted.

12 Q So there is another gun that, theoretically, if
13 found, could be run against these remaining shell casings?

14 A Yes, sir.

15 Q What else was submitted to you as far as testing
16 goes?

17 A State's -- excuse me. SLED items 34, 35 and 36 were
18 projectiles from autopsy.

19 Q Okay. So those projectiles, what were they? Were
20 they jackets?

21 A SLED item 34 was a bullet core, SLED item 35 was a
22 fired bullet and SLED item 36 was the jacket of a bullet.

23 Q I'm going to show you State's 139 and 140. Those are
24 the items found at autopsy. Those are the ones you
25 examined in this case, correct, the jacket and the core?

1 A It looks like the two SLED items 34 and 36 that were
2 submitted.

3 Q And then, the --

4 A Yes, sir. That looks like the bullet. State's
5 exhibit 141 looks like the SLED item 35 bullet.

6 Q From your examination of the two -- the three
7 projectiles recovered at autopsy, what were you able to
8 determine?

9 A The caliber of the -- I'm sorry. I don't remember
10 the State's exhibit number, but the caliber of the core.
11 It was consistent with being a lead core loaded into
12 jacketed bullets and some .40 S&W and 10 millimeter auto
13 caliber cartridges. I say .40 and 10 because both of
14 those calibers use the same diameter bullet and the same
15 weight bullet. So without a gun I can't say which one is
16 the two. The core bore no marks of value. Even if you
17 gave me the gun and said, James, this core came from that
18 gun, I'd never be able to say because there were just no
19 marks on it. It was just a core. When I'm talking about
20 a core, think about M&Ms. Everybody likes M&Ms. You've
21 got the chocolate coating -- excuse me, the chocolate
22 inside, which is like the core of the bullet. And you've
23 got the candy coating of the M&M, which is like the jacket
24 of the bullet. Sometimes, when it hits -- if you drop an
25 M&M on the floor, sometimes it comes apart. Same thing

1 with a bullet. Sometimes the jacket and the core
2 separate. If the jacket and the core separate that core
3 never touched the barrel of the rifle, the barrel, excuse
4 me, rifle barrel. It would be a rifle or a pistol or a
5 revolver. Since it never touched it, it's not going to
6 take on any markings. It's going to be un-simple,
7 (phonetic), indication.

8 Q You mentioned a rifle. As far as a rifle and pistol
9 -- please explain to the jury what you mean by -- when you
10 talk about rifling with a pistol.

11 A Rifling with a pistol?

12 Q Yeah. If you can explain why you'd mention --
13 talking about pistols in this case.

14 A Yes.

15 Q Rifles.

16 A Well --

17 Q The word, rifle.

18 A Rifling is a term we use for what's put in the barrel
19 of a rifled firearm. Just because it's a rifled firearm
20 doesn't mean it has to be a rifle. It can be a pistol or
21 a revolver. Sometimes shotguns have rifled barrels and
22 what those are is lands and grooves in the barrel that
23 imparts a spin on the projectile. If you watch TV, you
24 watch football and you see a quarterback throw a pass, he
25 throws a nice, tight spiral. It's usually very accurate

1 and goes where you want it to. Same thing with bullets.

2 The rifling in a barrel imparts a spin on that projectile

3 which stabilizes it in-flight and makes it more accurate.

4 As a byproduct of that rifling, it leaves those individual

5 markings on those projectiles, which we are then able to

6 sometimes link back to a particular firearm.

7 Q But the core in this case would never have touched

8 that rifling. So it would not have any markings on it

9 from the firearm?

10 A Correct.

11 Q What about the other -- what about the jacket alone

12 without the core?

13 A The jacket alone without the core, it was consistent

14 with being a jacket from a jacketed bullet loaded into

15 some nine millimeter Luger caliber cartridges.

16 Q And what about the -- when you say consistent, what

17 does that mean?

18 A I'm sorry. I misspoke. It was consistent with being

19 a .40.

20 Q I apologize.

21 A The bullet jacket was a .40.

22 Q Okay. So it was not a nine millimeter? It was a

23 .40?

24 A Correct. I'm sorry. It was a .40.

25 Q And the -- but could you tell what gun it came from?

1 A I'll get to that in just a second.

2 Q Okay. Well then, I guess, tell me about the other --

3 A Yes.

4 Q -- jacketed projectile.

5 A The other -- the full bullet was consistent with
6 being a bullet loaded into a .40 or 10 caliber cartridge.
7 .40 S&W or 10 millimeter auto caliber cartridge. So I had
8 a bullet and a jacket with the same caliber. So I
9 microscopically compared them. They both had the same
10 number of lands and grooves, same direction of twist.
11 Everything was there. So I had all the characteristics I
12 needed to look at to say these could have been fired by
13 the same firearm. So then I microscopically compared them
14 and I concluded that the bullet and the bullet jacket were
15 both fired by the same firearm. I put the general rifling
16 characteristics into a program that the FBI gives us and
17 the only gun that we know of, based on that program, that
18 could have fired that bullet and that jacket is a 10
19 millimeter Smith & Wesson or a .40 S&W, Smith & Wesson,
20 brand pistol.

21 Q And would that be consistent with the .40 caliber
22 shell casings you found at the scene?

23 A Yes. As far as caliber, yes.

24 Q Were you able to determine if those projectiles came
25 from either firearm submitted to you from the police

1 department?

2 A Yes sir, I was and no. The projectiles from autopsy
3 were not fired by State's exhibits 121 or 122.

4 Q So the two projectiles recovered from autopsy were
5 not from State's 121 and 122. However, we did find shell
6 cases from both. You were able to determine that there
7 were shell cases from both found at the scene?

8 A Yes, sir. Well, both State's exhibits 121 and 122
9 had evidence cartridge cases submitted to me. The
10 projectiles from autopsy were negated as being fired by
11 both of those firearms.

12 Q Now, the unidentified firearm we discussed earlier in
13 regards to the firearm and the other shell casings found
14 at the scene, would that firearm be, theoretically,
15 compatible with these projectiles or should I ask that
16 question in a better way?

17 A I think I know what you're getting at.

18 Q Phrase it for me that makes more sense.

19 A Okay. Well, the -- we're going to say the group of
20 cartridge cases in State's exhibit 120 that were submitted
21 to me that were not fired by either one of the two
22 firearms submitted, those cartridge cases have
23 characteristics on them, class characteristics that I
24 think means they were fired by a Smith & Wesson. Smith &
25 Wesson, the M&P series pistols, have very distinctive

1 firing pin apertures and they have mold lines in the
2 firing pin. I'm not saying one-hundred percent chance
3 those unidentified -- the guns that weren't submitted --
4 those cartridge cases were fired by a Smith & Wesson. But
5 there's a lot of things to suggest that they may have been
6 fired by a Smith & Wesson.

7 Q And those cartridge casings could be consistent with
8 the two projectiles found at autopsy?

9 A Well, they're the same caliber and if they fire them
10 while it's submitted, then I could compare both the
11 projectiles and the cartridge cases with that firearm.

12 Q But unless and until a firearm is submitted, that is
13 all we can tell about that?

14 A Yes, sir.

15 MR. POTTS: Beg the Court's indulgence. Thank you,
16 Agent Green. No further questions. Answer any questions
17 Ms. Zmroczek has.

18 MS. ZMROCZEK: Thank you.

19 CROSS-EXAMINATION

20 By Ms. Zmroczek:

21 Q Good morning, Agent Green.

22 A Good morning.

23 Q I was trying to get some pictures so I didn't have to
24 dig through them. I wanted to show you, it's already in
25 evidence, State's 21, 22 and 23.

1 A Okay.

2 Q Is that -- that is a picture of State's 122, correct?

3 A It's the same make and model, but I can't see the
4 serial number. So I can't say it is, but it's the same
5 make and model.

6 Q And so when CPD collects their evidence, they give it
7 a number and then you guys give things a different number
8 in your lab, right?

9 A Yes, ma'am.

10 Q Or as it comes in?

11 A Well, when it's pre-logged into our system and then
12 logged in, every piece get its own individual item number.
13 And oftentimes, it's not the same number that the
14 submitting agency gives it. So it could be CPD item one,
15 it could be SLED item 362.

16 Q Okay. So -- but if they submitted this gun, which is
17 122, right? This is the nine?

18 A Yes, ma'am.

19 Q Okay. Sorry. There are a lot of different guns. So
20 is it okay if I call this the nine and that the 23. Is
21 that accurate?

22 A Well, you'd say nine and .40, but yeah.

23 Q Right. Well, when I say 23, it's because there's
24 another .40 gun that's --

25 A Got you. Yes, ma'am.

1 Q So for that reason, I'm trying to keep them straight.
2 So we have -- if this one's the nine, 122's the nine,
3 120 --

4 A One.

5 Q -- 1 is the 23 --

6 A Right.

7 Q -- which is also a .40 caliber --

8 A Well, it's a Glock model 23.

9 Q Yeah. So a Glock model 23. And then there's another
10 .40 gun out there that you don't have?

11 A Correct.

12 Q Well, there are several that you don't have, but --

13 A Right. In this case, yes ma'am.

14 Q Okay. So this one, 122, this same gun, what do you
15 notice about the position of this gun as its found on the
16 ground? Particularly, the slide.

17 A Well the magazine is inserted into the magazine well
18 and the slide is partially open. The firearm is not in
19 battery.

20 Q Okay. So in layman's terms, if I picked up that gun
21 just like it is and tried to fire it, would it fire?

22 A No.

23 Q Okay. Is that -- in one way, it appeared jammed?

24 A Yes, ma'am.

25 Q Okay. And I understand that there are various

1 scientific terms.

2 A Right.

3 Q I am dumbing it down for me, but --

4 A There is something that's keeping that slide from
5 being closed.

6 Q Okay. And -- right. And therefore, not operable in
7 that condition?

8 A In that condition right there, correct.

9 Q But once it's rendered safe and they unjam it or
10 slide it back to where everything lines up, then when you
11 fired it, when you got it, no problems?

12 A Correct.

13 Q And how many times did you fire it?

14 A Let me look at my notes. I usually fire it three or
15 four times. The reason why I fire firearms multiple times
16 is once, you can pretty much get any gun to fire once.
17 Sometimes a gun may not work consistently with different
18 brands of ammunition. But if you fire it multiple times,
19 even as few times as three you can sometimes see, if you
20 know what you're looking for, if there's an issue with it.
21 I fired that pistol three times and didn't notice anything
22 while I was firing it.

23 Q No issues with it?

24 A Yes, ma'am.

25 Q All right. And then the 121, that's what I'm calling

1 the 23. It's a .40 caliber, right?

2 A Yes, ma'am.

3 Q But that's what I'm calling the 23?

4 A Correct.

5 Q All right. And so I'm going to ask you to step down
6 because there are a lot of bullets and casings and things
7 that were submitted in this case, correct?

8 A Well, not as much as -- there were some submitted.

9 Q Right. I guess when I say a lot, what I'm trying to
10 -- and just stand here just so she can hear you.

11 A Yes, ma'am.

12 Q You keep your voice up pretty well, though.

13 A Yes, ma'am.

14 Q But let's switch sides. So if you'll come this way
15 (indicating). And I want to make sure that all the jurors
16 can hear you. Okay. Good. So when these items are
17 submitted, like I said, CPD gives them a number?

18 A Correct.

19 Q And then, we have to -- we or somebody has to go back
20 and compare them with your numbers to line up, for
21 example, the two items that were shot from what I'm
22 calling the 23?

23 A Correct.

24 Q We have to figure out where those were collected here
25 at the crime scene?

1 A Yes, ma'am.

2 Q Okay. So do you happen to have the numbers lined up
3 or do you receive pictures to help you identify, for
4 example, number 11 and item number 23?

5 A I'd need to see something with those.

6 Q Okay.

7 A When stuff's submitted to the laboratory, sometimes
8 submitting agencies will say one fired .40 S&W caliber
9 cartridge case from marker one, from marker two. And if
10 they do that, I will go through and put that in quotes in
11 my report so I know where it came from.

12 Q So I'm handing you a photograph. This is State's 52.
13 This is item number 11, item number 11. So do you recall
14 which one that matches up to in yours?

15 A No. I do not. I don't -- this is foreign. I've
16 never seen this.

17 Q Right.

18 A So I don't know what came from what. I just know my
19 results.

20 Q Okay. So your results though, when compared to these
21 results -- I know you can't do it because you haven't seen
22 it. But when it is done, you can present -- well, number
23 23 is not number 23 in yours, but 23 was identified as a
24 different number in yours, right?

25 A Well, it would be, yes.

1 Q Okay. And so when we do that though, then we can
2 line up the different --

3 MR. POTTS: Objection. Calls for speculation.

4 THE COURT: Sustained.

5 MS. ZMROCZEK: I'm not asking him to identify it.
6 I'm just asking him if we can do that. For example, his
7 --

8 THE COURT: Hold on. Rephrase the question.

9 Q Okay. Let me rephrase it so I'm not as confusing.
10 These CPD numbers are different than your numbers?

11 A Yes.

12 Q But your numbers could be matched up to the CPD
13 numbers so that we can find out the results, right?

14 A Yes.

15 Q They're all compatible?

16 A Correct.

17 Q Perfect. That's the question I'm asking. So
18 typically -- and I know that there are things that can
19 affect bullet trajectory, right?

20 A Yes, ma'am.

21 Q But typically, when you fire a bullet, explain to the
22 jury how that works and you can do that from the stand.
23 You don't have to stand down here. Not when you fire a
24 bullet, when you fire a gun.

25 A Right. How -- what exactly are you looking for? Are

1 you looking for --

2 Q Which way do they go? Let's say, which way the
3 casing goes, generally, when you're firing a gun.

4 A Okay. What she's asking about is an ejection
5 pattern. Let me first say, that's not something we test
6 at SLED because there are so many variables. If every one
7 of you -- if I give you my pistol and every one of you
8 shoots it, it's going to eject differently for each single
9 person based on height, strength of the grip, angle of the
10 gun and that kind of stuff. There are certain things that
11 we cannot replicate from a particular crime. So we do not
12 do ejection pattern testing. However, State's exhibits
13 121 and 122, they're both pistols, they both eject the
14 fired cartridge cases when they're fired if the gun's
15 working properly. There's a very general rule with
16 State's exhibits 121 and 122, the cartridge cases will go
17 back and to the right based on the ejector being on the
18 left side of the firearm and the extractor being on the
19 right. When the extractor and the slide move rearward,
20 it's holding the cartridge case here (indicating) and when
21 it hits the ejector, it will very generally go back and to
22 the right. Having said that, that's not always the case.
23 I was shooting the other day at work and I had a cartridge
24 case actually go that way (indicating), which I cannot
25 explain, which is the reason why we don't do this type of

1 testing. But very generally, usually back and to the
2 right is where they go.

3 Q And then, also what happens is, in crime scenes, not
4 only are there variables, for example, if a gun is being
5 held this way, this way (indicating) or like you said,
6 height, things like that. But also if a shell casing is
7 on the ground and somebody is going through the house,
8 they may inadvertently move that casing, right?

9 A Yes, ma'am. If you have people going through the
10 crime scene or people leaving the crime scene or people
11 coming to the crime scene as well as intervening objects.
12 If I shoot my gun down here (indicating), it could hit
13 this bannister and go that way, it could go this way
14 (indicating), it could fall straight down. There's a
15 whole bunch of variables that could determine what ends up
16 where at a crime scene.

17 Q And just so we're very clear. The two projectiles
18 that you were able to do some testing on and that you
19 recovered -- that were recovered from autopsy and were
20 provided to you did not come from either one of these guns
21 and most specifically, did not come from the 23?

22 A Correct.

23 Q What I call the 23.

24 A Yes, ma'am. They did not come from State's exhibit
25 121 or 122.

1 Q Okay. So what you have with all of your evidence is
2 there were at least three guns --

3 A Yes, ma'am.

4 Q -- creating all this evidence? What I call the 23,
5 which was shooting .40 cal's, right?

6 A Yes, ma'am.

7 Q You have the nine millimeter, which was shooting the
8 nine millimeter?

9 A Yes, ma'am.

10 Q And then, we have some unknown .40 caliber gun?

11 A Right. There's one or two.

12 Q One or two.

13 A And I say that -- if I had the gun, I could
14 potentially match all the cartridge cases. And the two
15 projectiles that I was able to do something with from
16 autopsy back to their firearm or conversely, I could match
17 the cartridge cases, but not the projectiles. So there's
18 one or two based upon the stuff I don't have.

19 MS. ZMROCZEK: I think those are all the questions I
20 have for you. Thank you.

21 MR. POTTS: Just briefly.

22 THE COURT: Yes, sir.

23 REDIRECT EXAMINATION

24 By Mr. Potts:

25 Q The shell casing stuff is a little confusing to me,

1 but it seems to be that what you were saying is, they can
2 just kind of go anywhere and everywhere?

3 A Yes, sir.

4 Q There's no particular pattern of -- I guess, there's
5 a lot of chaos in where shell casings end up?

6 A Yes, sir. Some agencies out there do ejection
7 pattern testing. However, because of all the different
8 variables, we don't have the resources to do it and
9 there's no way to replicate it because you'd have to get
10 temperature and everything else. So, yes. There's no
11 rhyme or reason to where they go, except for very
12 generally. Usually back and to the right, but things
13 happen.

14 Q At the end, you said there were one or two other
15 firearms. All of the -- all of these shell casings that
16 were fired by a firearm you haven't tested all came from
17 the same gun, correct?

18 A Correct.

19 Q And the two projectiles -- I guess I'm calling them
20 two, but really the three projectiles --

21 A Right. Yes, sir.

22 Q -- that were recovered came from the same gun, you
23 just can't say whether it's two guns or the same gun,
24 correct?

25 A Correct. It's possible that there were two different

1 guns shooting the cartridge cases and the bullets. But
2 it's not probable, if that makes any sense. Because that
3 would have meant that somebody would have to pick up all
4 the bullets that they shot out of this gun while leaving
5 all of the cartridge cases and somebody would have to pick
6 up all of the cartridge cases and leave the bullets. So
7 it's possible, but not probable, but I cannot definitively
8 say that without a firearm that I could compare it to the
9 bullets and the cartridge cases.

10 Q And no firearm has been submitted to you that would
11 -- in this case or in any case that would reflect that,
12 correct?

13 A Correct. There's only -- the only two firearms
14 submitted were State's exhibits 121 and 122 in this case.

15 Q I guess, is there a database or anything you put
16 shell casings like those ones you found in this case in,
17 in case that firearm ever came up?

18 A Yes, sir. There's the Integrated Ballistics
19 Identification System or what we call IBIS, I-B-I-S. It's
20 a very complex mathematical algorithm. It looks at pixels
21 and gives them scores and I put a test cartridge case from
22 State's exhibit 121 and 122 and one of the cartridge cases
23 from the group that I did not identify back to a firearm
24 in there and it continuously searches North Carolina,
25 Georgia, South Carolina. And we can search the entire

1 world if there's a lead developed. And what it does is,
2 it looks at all of the images from firearms or evidence
3 that were entered to see if there is a possible lead
4 that's been developed.

5 Q And nothing has come back on these unidentified shell
6 casings, correct?

7 A To this point, no sir.

8 MR. POTTS: Thank you. No further questions.

9 MS. ZMROCZEK: Just very briefly.

10 RECROSS-EXAMINATION

11 By Ms. Zmroczek:

12 Q So I know we're probably thinking it's all super
13 complicated. So I'm trying to keep it easy. For the
14 purposes of all of the evidence that you tested and that
15 we have submitted, basically there are at least three
16 different guns, possibly four?

17 A Correct. At the minimum, there's three.

18 Q At the minimum, there's three. The 23, what I call
19 the 23?

20 A Right.

21 Q The nine, and then some unknown .40?

22 A Correct. State's exhibits 121 and 122, the two
23 pistols that were submitted. And then the unknown gun
24 that fired those other cartridge cases. Yes.

25 Q And not only did they fire those cartridges, those

1 also were found in the body?

2 A I'm sorry?

3 Q And the ones that were found in the body?

4 A Right. And the projectiles. Yes.

5 MS. ZMROCZEK: Thank you. No further questions.

6 THE COURT: All right. You may step down. Any
7 objection to this witness being excused?

8 MR. POTTS: None from the State, Your Honor.

9 THE COURT: All right, sir --

10 MS. ZMROCZEK: None from the Defense.

11 THE COURT: Sir, you're free to leave.

12 (Whereupon, witness stepped down from the witness
13 stand.)

14 THE COURT: All right. Ladies and gentlemen of the
15 jury, at this time we will take our morning break. I
16 think we've been going about an hour and a half. So we'll
17 go ahead and take our morning break. And then we'll
18 receive you all back in the courtroom in about 10 minutes.
19 Please, do not discuss the case. Do not discuss any
20 issues from the case. Thank you.

21 (Whereupon, the jury was excused from open court for
22 a break.)

23 THE COURT: All right. Let's take about 10 minutes.

24 (Whereupon, a short break was taken.)

25 MR. POTTS: Your Honor, I do have one matter I'd like

1 to bring up. While I imagine we'll probably get to
2 Investigator Duckett before lunch, one of the questions I
3 planned on asking him. I wanted to --

4 THE COURT: I'm sorry. I'm sorry. I can't
5 understand you.

6 MR. POTTS: Sorry. There's a question I'm going to
7 -- I plan to ask Investigator Duckett. I know it's going
8 to draw an objection. So I'd like to hash it out before I
9 put him on the stand.

10 THE COURT: What's that question?

11 MR. POTTS: That question is, during the course of
12 his investigation, did he determine whether or not Mr.
13 Parker was eligible to carry a firearm. Eligible to carry
14 a firearm.

15 MS. ZMROCZEK: Objection.

16 THE COURT: And what's the objection?

17 MS. ZMROCZEK: It's improper character evidence. It
18 doesn't matter to the elements of this case whether or not
19 he was allowed to carry a firearm or not. I mean, all
20 it's saying is he has a prior conviction because he can't
21 carry a firearm. That's the only reason you can't carry a
22 firearm.

23 THE COURT: Well, there's other reasons you can't.

24 MS. ZMROCZEK: Right.

25 MR. POTTS: There are lots of other reasons why you

1 can't.

2 MS. ZMROCZEK: Right. Right.

3 THE COURT: That's not the only reason you can't
4 carry a firearm.

5 MS. ZMROCZEK: True.

6 THE COURT: And so you're going to ask him --

7 MR. POTTS: Just that specific question. Then I'm
8 not going to go any further into it and then we'll leave
9 it.

10 MS. ZMROCZEK: I mean, A, it's just improper. Nobody
11 was allowed to have firearms in this case. But they all
12 did. But again, I think that they're trying to head off a
13 self-defense case. If they are, Your Honor, let me just
14 lay it out there for you. I'm not raising self-defense.
15 I'm not asking for self-defense. I'm not bringing it in.

16 THE COURT: I can't base it --

17 MS. ZMROCZEK: Right.

18 THE COURT: -- base the case on what you say right
19 now.

20 MS. ZMROCZEK: Right. But I can tell you that I
21 still believe that that is improper even in the case law,
22 separate from the new State v Williams which I know deals
23 with guns at illegal drug deals. But that's still under
24 the case law, someone's allowed to have a gun and use it
25 in self-defense even if they're prohibited from carrying

1 it.

2 THE COURT: Now, there's other case law on that too.

3 MS. ZMROCZEK: Right.

4 THE COURT: This is the thing. The State -- I
5 understand you're saying you're not going to present
6 self-defense. But the --

7 MS. ZMROCZEK: But if I do, then they can recall him
8 and ask that question.

9 THE COURT: But they have the burden --

10 MS. ZMROCZEK: Right.

11 THE COURT: -- of disproving self-defense.

12 MS. ZMROCZEK: Once I raise it.

13 THE COURT: No. I think they are, they can try to
14 disprove it in their case-in-chief too. I mean, of course
15 -- I think in their presentation they can also attempt to
16 -- I'm going to allow it in as long as it's limited to --

17 MS. ZMROCZEK: I just want to make sure that the
18 record's clear that I'm objecting. That is just improper
19 character evidence and I understand that you're going to
20 allow it in. But I want to make sure that that objection
21 is clear.

22 THE COURT: But as long as there is no discussion
23 regarding why he can't carry firearms.

24 MR. POTTS: Your Honor, I can limit myself to that
25 question. I ask, his answer, and then that would be it.

1 MS. ZMROCZEK: And just so they know --

2 THE COURT: Do you have any case law to support your
3 theory that it is improper character evidence, the fact
4 that he was -- the issue is them having to be able to --
5 first of all, the question is whether or not it's improper
6 character evidence. That's the first question. The
7 second question is probative value. Does the probative
8 value outweigh the prejudicial effect. And here the
9 probative value, I'm assuming, is them asking the
10 investigator that because -- in anticipation of a
11 potential self-defense claim by the Defense.

12 MS. ZMROCZEK: And I understand their position. But
13 I would argue if I did raise the self-defense claim then
14 there's absolutely nothing that would keep them from
15 recalling Duckett or whomever and ask them that question,
16 was he allowed to carry the gun.

17 MR. POTTS: And just in response to that, Your Honor.
18 I think it's our intent at this time to offer into
19 evidence his statement. His statement gives, well, I
20 think a legally flawed self-defense argument because it
21 could be interpreted as a self-defense argument and that's
22 partly why we're trying to head this off.

23 THE COURT: Now, there was some discussion on Monday
24 about getting into whether or not the gun was stolen.

25 MR. POTTS: Completely --

1 THE COURT: I just want to make sure we're all on the
2 same page. There's no discussion regarding the fact that
3 the gun was stolen?

4 MS. ZMROCZEK: That's not planned, right?

5 MR. POTTS: No.

6 THE COURT: I just wanted to put that on the record.
7 Okay.

8 MS. ZMROCZEK: Thank you. And, Your Honor, again,
9 looking at 404(b) and just the other crimes, wrongs or
10 acts, evidence of other crimes which in this case would be
11 illegal carrying of a pistol. Wrongs or acts is not
12 admissible to prove character of a person in order to show
13 action. However, it's admissible to show motive,
14 identity, existence of crime, scheme or plan, absence of
15 mistake or accident or intent. So just so that that
16 argument is preserved and since you're going to allow that
17 argument in, Your Honor --

18 THE COURT: Hold on one second. I was asking you for
19 any -- do you have any case law to support --

20 MS. ZMROCZEK: That issue, I don't. I don't at this
21 point, Your Honor.

22 THE COURT: So in the statement -- and I heard the
23 statement yesterday -- I mean, Monday. In the statement,
24 there's some discussion when he's saying he's the victim.

25 MS. ZMROCZEK: Right. He was shot in the face. He

1 doesn't say that he shot in self-defense. He doesn't say
2 anything. He literally says, I walked in -- and the
3 statement's in there, but something to the effect of, I
4 was in the kitchen, he asked me to pull out my money or my
5 bread and he shoots me in the face.

6 THE COURT: Do you know -- the Williams case came out
7 in 2019?

8 MS. ZMROCZEK: '19.

9 THE COURT: And so it's a little bit different than
10 if you're not saying you can always arm yourself --

11 MS. ZMROCZEK: That's what I'm saying. And I
12 understand -- and that's honestly why I'm not even raising
13 self-defense. Because I think, in this case, that would
14 preclude -- I couldn't find a way to distinguish it. I
15 think that that would preclude me from raising it. I
16 don't think I have enough distinctions in this case based
17 on that most recent opinion in Williams, which is why I
18 haven't -- you know, I don't think it's legally proper for
19 me to do so. And that's my concern about them bringing it
20 in is because they know I can't argue that.

21 THE COURT: So let's do this. Because the only
22 reason you're offering it is for purposes of self-defense.
23 Is that correct?

24 MR. POTTS: Well, Your Honor, we do have other
25 reasons for offering it as well. I think it also goes to

1 the issue of malice. This Defendant knew that he couldn't
2 carry a firearm --

3 MS. ZMROCZEK: Which is --

4 MR. POTTS: -- went into this drug transaction with a
5 firearm that he knew he was ineligible to have. I think
6 that goes back to the malice that we have to prove as an
7 element of this offense. Now, I'm not saying why he can't
8 have a firearm because there's lots of reasons, but I
9 think it efficiently goes to malice.

10 MS. ZMROCZEK: Your Honor, the case law is very clear
11 in the fact, most recently, that it said they can't argue
12 that just having a gun is malice. Very clear.

13 THE COURT: What case?

14 MS. ZMROCZEK: If I may, while they pull up
15 Montgomery -- because I don't think they're going to get
16 that testimony in through Montgomery.

17 THE COURT: Does that come in through Montgomery?

18 MR. POTTS: It does not, Your Honor.

19 THE COURT: Okay. Yeah. Let's go ahead and -- and
20 that will give me an opportunity to do some research on
21 the issue. Let me say this. I think that if -- for
22 self-defense purposes, that you could recall and put in
23 the fact that -- if she claims self-defense. Now, for
24 purposes of malice, I need to think about that and look at
25 the case law and see what it says regarding entering the

1 gun for purposes of showing malice. I mean, I guess my
2 thinking on that right off the cuff is whether or not he
3 could legally carry it or not. He could carry it -- how
4 does that show--

5 MR. POTTS: It shows more ill intent than the --
6 knowing or violating -- to bring to a situation that's
7 already dangerous that you know you cannot have, it shows
8 more of the malicious -- maliciousness towards generality
9 and fatally bent on mischief.

10 THE COURT: I will -- we'll discuss that before we
11 get into Investigator Duckett. Let's go ahead and bring
12 the jury back in.

13 MR. POTTS: Thank you, Your Honor.

14 THE COURT: Depending on how long Montgomery is going
15 to take because I'm assuming Duckett is going to take how
16 long?

17 MR. POTTS: I think Investigator Duckett will be on
18 the bench I think -- probably be a half hour or so. But
19 from what they're talking about of what they want to get
20 in from him, cross identifying SLED numbers and such, I
21 know that part will probably be a while in and of itself.

22 THE COURT: I mean, I'm not trying to hold you all to
23 a time. I'm just trying to figure out what time I'm going
24 to let the jury go to lunch and I'm assuming Montgomery is
25 going to be about 30 minutes?

1 MR. POTTS: Montgomery will be shorter, Your Honor.

2 On my end, I just want to get a few key facts from him.

3 MS. ZMROCZEK: These are much better now and I'll

4 look at that case.

5 THE COURT: All right. Let's bring the jury.

6 (Whereupon, the jury came into open court at

7 approximately 11:57 a.m.)

8 THE COURT: All right. Call your next witness.

9 MR. POTTS: Thank you, Your Honor. State calls
10 Investigator Wayne Montgomery.

11 WAYNE MONTGOMERY, being
12 first duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Potts:

15 Q Investigator Montgomery, where are you employed?

16 A I'm currently employed at the City of Columbia Police
17 Department.

18 Q And what's your role there?

19 A I'm assigned to criminal investigations. I work in
20 the violent crime section.

21 Q Excuse me. Describe to the jury what the violent
22 crime section is.

23 A We respond to assaults, robberies, homicide cases.
24 We work primarily any suspicious death investigations,
25 things of such.

1 Q Now, did you become -- did you have a chance to get
2 involved in this case?

3 A Yes, I did.

4 Q Now, are you the lead investigator on this case?

5 A No, I am not.

6 Q Who was the lead investigator on this case?

7 A Investigator Chauncey Duckett.

8 Q Can you tell the jury about -- a little about your
9 relationship -- work relationship with Chauncey Duckett?

10 A Generally we worked a lot of cases together. This
11 particular evening I was unavailable initially, however I
12 responded the next day. We work very closely together on
13 most of our cases. So I worked closely with him on the
14 second day and beyond the rest of the case.

15 Q Would you say you all are kind of a team? Would that
16 be a fair way of describing it?

17 A Yes, sir. You could say that.

18 Q So -- now, I'm not going to go through the entire
19 investigation with you. Mr. Duckett is the lead
20 investigator, correct?

21 A That is correct. Yes, sir.

22 Q But from, I guess, the 26th on, you were heavily
23 involved in the case?

24 A Yes.

25 Q Now, are you doing interviews or what kind of things

1 are you doing in this case as it developed and as it's
2 going on?

3 A I assist in interviews as a secondary person to the
4 lead investigator. I may do some other tasks that I may
5 be assigned from the lead investigator. A few things may
6 be separate but I report all that information or anything
7 that I find to the lead investigator of the case.

8 Q Now -- so in these interviews, I guess you're kind of
9 second pedal?

10 A Yes. In many interviews that he conducts, I'm
11 actually there also at the same time.

12 Q On the 27th of March, did you go with him to serve a
13 search warrant at the hospital?

14 A Yes.

15 Q Can you tell the jury a little bit about that search
16 warrant and what happened?

17 A This was the search warrant for?

18 Q I guess, the search warrant on Mr. Parker.

19 A Yeah. This was a search warrant for, I believe, his
20 DNA. I was present at the time. This was just for
21 comparison to the evidence in the case.

22 Q And so describe that process. What do you all do?

23 A In this case, I believe we had a search warrant. So
24 executed the search warrant, which is a very simple
25 invasive procedure. We use -- it has been explained

1 previously. We use a Q-tip, layman's terms, it goes
2 inside their mouth to collect saliva and then placed
3 inside a box. That box is labeled and then turned in as
4 evidence.

5 Q Was Mr. Parker able to talk and communicate with you
6 all at this time?

7 A He communicated with us.

8 Q Okay. Now, as -- then, you all turned in that swab
9 to a property room?

10 A Yes, sir. That's correct.

11 Q And then, eventually, to SLED?

12 A Yes.

13 Q Did you then execute any other search warrants?

14 A I believe I assisted on a vehicle -- two vehicles,
15 additionally, which would be the victim's vehicle and then
16 the vehicle we identified -- that was in the yard that we
17 believed belonged to Mr. Rogers.

18 Q Can you tell me what, if anything, you found while
19 executing the search warrant on the vehicle of Jimmy
20 Rogers?

21 A May I see the return?

22 MR. POTTS: Beg the Court's indulgence.

23 (Whereupon, State's Exhibit number 142 was marked for
24 identification only.)

25 Q All right. I'm going to show you a copy of number

1 142 for ID only. Does that refresh your recollection?

2 A That is correct.

3 Q So what, if anything, did you recover from Mr.
4 Rogers' car as a result of the search warrant?

5 A Based off the return order, we took a photograph of
6 the vehicle and actually no items were collected from the
7 vehicle at the time.

8 Q Now, you said you served a second search warrant on a
9 vehicle, as well, that day?

10 A Yes, sir.

11 Q Tell me about that. What did you all -- whose
12 vehicle was that and how did you execute that search
13 warrant?

14 A I believe that was Mr. Jenkins' vehicle. We obtained
15 a search warrant for that vehicle based off the incident.
16 The vehicle was inside the curtilage of the property or
17 yard. So we executed a search warrant.

18 Q And the property, was it still in Mr. Rogers' yard?

19 A Yes, sir.

20 Q What, if anything, did you find during the execution
21 of that search warrant?

22 A I need --

23 Q Do you need to refresh your recollection?

24 A Yes. To be accurate, if I can, sir, please.

25 Q I'll show you State's number 143 and once again, for

1 ID only.

2 (Whereupon, State's Exhibit 143 was marked for
3 identification only.)

4 A Thank you. Ladies and gentlemen, we received -- we
5 took photographs of the vehicle as well as a plastic bag
6 containing a green, plant like material, eight boxes of
7 what was believed to be some oil, cannabis oil and a black
8 in color flip phone.

9 Q Okay. And what is cannabis oil?

10 A I believe to be, it's some sort of derivative from --
11 to be honest with you, I'm not real familiar with it other
12 than it's associated with a product of THC, possibly,
13 marijuana.

14 Q A marijuana product?

15 A Somewhat. Yes.

16 Q Okay. Is it -- are both of those items contraband in
17 the State of South Carolina?

18 A Yes, contraband, yes.

19 Q Is that the extent of what you found in that
20 vehicle --

21 A In these --

22 Q -- of evidentiary value?

23 A Yes, sir. In both of these vehicles, that's the
24 extent of it.

25 Q On April 2nd, did you have another opportunity to

1 visit the hospital?

2 A Yes.

3 Q What was the purpose of that -- and did you go alone?

4 A No. I accompanied Investigator Duckett.

5 Q And what was the purpose of that trip to the
6 hospital?

7 A We was requested to -- the investigators were
8 requested to be spoken with. So Investigator Duckett
9 informed me and I accompanied him to the hospital.

10 Q Okay. Who requested to speak with you all?

11 A The Defendant.

12 Q And the Defendant in this case being?

13 A Mr. Parker.

14 Q And just describe briefly for the jury where Mr.
15 Parker is sitting and what he's wearing.

16 A Currently, Mr. Parker is sitting on the Defense table
17 with the glasses and braids in his hair, white shirt.

18 MR. POTTS: Thank you. Let the record reflect he's
19 identified the Defendant.

20 Q So when you all went to the hospital to talk to him,
21 how did that -- how -- just give the jury -- where was he
22 and how did that go?

23 A He was in the hospital in a hospital bed. We
24 recorded the interview on, I believe, it was a body worn
25 camera so that we could accurately -- give an accurate

1 account of what happened and how he was dialoguing with
2 us.

3 Q You say dialoguing with you all. Was he talking to
4 you all?

5 A Mainly writing. He was writing his answers or
6 whatever he wanted to say to us.

7 Q And who was asking questions?

8 A Investigator Duckett was asking questions. I may
9 have asked him a couple of questions during the interview,
10 but I believe, primarily, it was the lead investigator.

11 Q Now, I'm going to show you what's marked as State's
12 Exhibit number 1. Is that a copy of the body cam video
13 from that day?

14 A Yes, it is. It is.

15 Q Excuse me. I apologize for the coughing.

16 MR. POTTS: I'd like to offer into evidence, at this
17 time, State's exhibit number 1.

18 MS. ZMROCZEK: Without objection, Your Honor.

19 THE COURT: That's number 1. It will be entered
20 without objection.

21 MR. POTTS: Thank you.

22 (Whereupon, State's exhibit number 1 was admitted
23 into evidence).

24 Q Now, you say body camera. Do you or Investigator
25 Duckett wear body cameras yourselves?

1 A No, sir. Generally, we -- just because of the nature
2 of our job, we use body cameras to aid in our process.
3 However, we're not issued body cameras.

4 Q So you all just bring along another -- or have
5 another officer just come stand in who had a body camera?

6 A Yes. Or we'll borrow one from -- any extra body
7 cameras and place them to where we can see the person that
8 we're interviewing at the time.

9 Q Is y'all's interaction with him caught entirely on
10 that body camera?

11 A I believe so. It catches a lot. It may have some
12 sections where it doesn't catch a full body shot or
13 something, but our interaction is on video.

14 Q Okay. So there's large portions of that tape where
15 it's just really audio and like, maybe, the heads of some
16 people, right?

17 A Yes. If the person who's standing there is moving.
18 I believe the officer may have moved or something. So it
19 may get out of direct focus of all of us at moments.

20 Q But the conversation you all were having was mostly
21 written down, correct?

22 A Yes. And there's still audio on the body camera.

23 Q Right. Before you all took a statement from -- or
24 talked to Mr. Parker, did Investigator Duckett read him
25 his Miranda rights?

1 A Yes, sir. He did.

2 Q Is that captured on that video?

3 A Yes, sir.

4 Q Did -- Mr. Parker, when you all were talking to him,
5 did he seem to be aware of his surroundings?

6 A Yes, sir. He did.

7 Q Did he seem to be drugged up or have any issue
8 identifying you all as law enforcement or have any
9 problems with the conversation?

10 A No indication of such.

11 Q As far as you were aware, he seemed to be fully
12 active and aware of his surroundings and what was going
13 on?

14 A Yes, sir.

15 Q But once again, Investigator Duckett was the one who
16 actually was doing the correspondence?

17 A Yeah. He's the primary investigator. Yes, sir.

18 Q After that discussion, did you continue to be
19 involved with this case with Investigator Duckett until
20 today?

21 A Yes. Until its conclusion.

22 MR. POTTS: Beg the Court's indulgence for one
23 second. Thank you, Investigator Montgomery. Please,
24 answer any questions Ms. Zmroczek has for you.

25 THE WITNESS: Yes, sir.

CROSS-EXAMINATION

By Ms. Zmroczek:

Q He was asking you about the search warrant --

A Yes, ma'am.

Q -- that you executed? And I'm going to show you 4 through 8, Defendant's 4 through 8. Are those photos from that search warrant?

A Thank you kindly. Yes, ma'am. These appear to be the photographs that were taken at the time of the search warrant.

MS. ZMROCZEK: Your Honor, at this time, we would move Defendant's 4 through 8 into --

THE COURT: 4 through 8?

MS. ZMROCZEK: 8. Yes.

THE COURT: Any objection?

MR. POTTS: Without objection, Your Honor.

(Whereupon, Defendant's exhibit numbers 4 through 8 were admitted into evidence.)

Q And again, those were just the items that were found in the vehicle, which was the red Cadillac?

A Yes, ma'am.

Q And that belonged to Cory Jenkins?

A Yes, ma'am. The decedent.

Q And I think you were talking about -- excuse me. You were talking about -- there was obviously what appeared to

1 be just straight green, leafy marijuana like in a bag,
2 right?

3 A Yes, ma'am. That's what it appeared --

4 Q And then, there were also these items which I'm
5 showing you, 6 and 7. Are those the items that are
6 typically associated with the THC inhalers or --

7 A I'm not sure what they're used for, but --

8 Q Yeah.

9 A -- it's associated. Yes.

10 Q Okay. Those were the only items that you found in
11 the vehicle?

12 A I believe -- besides the photographs that we took.

13 Q Yes.

14 A Those are the only things we took from the vehicle.

15 MS. ZMROCZEK: Thank you. No further questions.

16 MR. POTTS: No further questions, Your Honor.

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

18 THE WITNESS: Thank you kindly.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, it's about 12:15 and it's close to lunch time and
23 the next witness may take some time, which will push us
24 well into our lunch break. So we're going to go ahead and
25 let you all take your lunch break. There's a couple of

1 matters I need to take up with them. So in an effort not
2 to have you all waiting back in the jury room, we're going
3 to have you back at 2:00 o'clock. That will give you time
4 to get out of the building, get to your cars, and then
5 tell them to let you in. So we'll have you back in the
6 jury room at 2:00 o'clock. Please do not discuss the case
7 with anyone and also, I'm going to ask juror number 294,
8 Mr. Woodard to sub as our Foreman and the bailiffs will
9 show you where you need to sit. Actually, you all can
10 just -- the two of you can just change seats when you come
11 back and I will explain to you what your responsibilities
12 are when I read the jury charge. At this point, you don't
13 have to do anything, but I'll explain to you at the end.

14 THE JUROR: All right.

15 THE COURT: Thank you.

16 (Whereupon, the jury was excused from open court for
17 a lunch break.)

18 THE COURT: All right. So on the issue -- let me
19 look at this issue. You said --

20 MS. ZMROCZEK: I just emailed everybody --

21 THE COURT: Let me just ask you this while -- so Mr.
22 Potts, under Belcher, of course, the Court says -- you all
23 are all familiar with State versus Belcher. You can't use
24 a gun to infer malice. So how do we use an illegal gun to
25 infer malice? Just the use -- the simple use of a gun --

1 MS. ZMROCZEK: Well -- and, actually, there's an
2 update since Belcher, Your Honor. It's State v Burdette.
3 That's what I just emailed. It's B-U-R-D-E-T-T-E. It
4 says, a jury instruction that malice can be inferred from
5 the use of a deadly weapon is improper, et al. So it's
6 not just in self-defense.

7 MR. POTTS: Well, I'm not asking for a jury charge.

8 MS. ZMROCZEK: Right.

9 MR. POTTS: My last understanding, and, maybe, I'm
10 behind the times on this, was that I was allowed to argue
11 that and that might have changed.

12 MS. ZMROCZEK: You can argue a gun. You can argue
13 whatever you want to argue, but you can't say --

14 THE COURT: I know the Court -- I know the case law
15 is pretty clear that the Court cannot charge that the use
16 of a gun is an inference of malice.

17 MR. POTTS: And I was not --

18 THE COURT: Yeah. I understand that. But my concern
19 is, you're saying you want to enter the fact that he
20 wasn't able to carry a gun to show malice, which we all
21 know that the case law says that that's not proper. That
22 you can't use -- you can't use a gun to infer malice. I
23 understand what you're saying.

24 MR. POTTS: The Court can't charge that, but I think
25 the law is that I can still argue it. Now, that might

1 have changed. The last I remember is that I can still
2 argue that fact and the Court's not allowed to charge it,
3 but I'll need to refresh myself on that.

4 THE COURT: All right. So for purposes of getting it
5 in to show malice. And we can talk about this -- I'll
6 keep -- we'll keep searching. But I have concerns about
7 that if that's -- if you're trying to get it in to show
8 malice just because we know that the Court has been pretty
9 clear that you can't use it to show malice. The Court
10 definitely can't charge it. Whether or not you can argue
11 it, we'll get to that after lunch. On the self-defense
12 issue though, I do think that you can use it because you
13 have to rebut the self-defense argument if it's brought up
14 by -- I think -- let me say this. In reading 404(b), it
15 would probably be improper character evidence under 404(b)
16 until she brings in self-defense. Now, if you're going to
17 stand up and say he's the victim -- I mean, that's what
18 he's saying in his statement is that he's the victim.

19 MS. ZMROCZEK: But there's different -- I think that
20 there's different interpretations of it. He's not saying
21 I'm the victim because I had to shoot in self-defense. He
22 doesn't go on -- he doesn't even say I had to shoot. He
23 doesn't ever say that. He says I am the victim, period,
24 because he was shot in the face. I mean, that doesn't
25 mean self-defense. Self-defense means that you shoot

1 somebody because you're in fear for your life. There's no
2 proof that he shot anybody. I mean, we've had the gun
3 guy, we've had the doctor up. They've all said that the
4 objects they recovered from the body match the phantom
5 gun. The gun -- the .40 that's not here. They don't
6 match the 23 that he admits to and I know it's not a 23,
7 but for clarity purposes, the 23 that he admits to in that
8 statement. He said, that was my gun. Both the doctor and
9 the SLED agent, Jamie Green, just testified to that the
10 projectiles and everything that they were able to recover
11 from the body of Cory Jenkins come back to a third gun,
12 not to either one of those two guns that we have in
13 evidence and not to the gun, which is in evidence, that he
14 admits to having.

15 MR. POTTS: There were two references to him being
16 the victim, Your Honor. The first is the very first part
17 of that, I want to know how you're charging me when I
18 really am -- when really, I'm the victim, man. Whatever
19 you want to know, I'm going to tell you right now. And
20 then, secondly, Investigator Duckett -- I don't care about
21 the weed. It's not important. You shot one time, but
22 what about the other shots? I didn't aim at no one or
23 nothing because it was my son -- because it was like my
24 son. You know, there's these references to him being a
25 victim and about how -- I think it's -- my problem is that

1 if she starts arguing he had no choice or he's the real
2 victim here in her closing, I'm suddenly out of luck.

3 MS. ZMROCZEK: And that would be improper and I
4 should be sanctioned for that if those words ever come out
5 of my mouth and I understand that we're like predicting
6 the future. But as an officer of the court -- I mean, he
7 can't put in evidence just hoping to cut off an improper
8 argument from me. I shouldn't make that improper argument
9 in the first place. And I am not going to make that
10 improper argument. And I know that -- oh, you say that
11 now. Well, there are certainly remedies, you know, if
12 that happens. One of which will be the Judge, you know,
13 that's just improper and as an officer of the court, I
14 can't do that and I wouldn't do that. You can make proper
15 references in evidence that are -- you know, that are
16 appropriate. I don't think that's appropriate in this
17 case. There's no proof he shot the victim and the one
18 shot that he fires, he explains he did that when he was on
19 the ground and I think the evidence supports that and I'm
20 not going to argue anything different.

21 THE COURT: Let me think about it over lunch and I
22 will get back with you all.

23 MR. POTTS: Thank you, Your Honor.

24 THE COURT: There's a couple of things. First of
25 all, is it 404? Second of all, does it -- and if it's

1 404, are you getting it in under an exception, which
2 exception are you getting it in under. And then there's
3 the issue of -- I mean, because we know it's a gun. If
4 you're getting it in under motive, the fact that it's
5 illegal -- it's a gun. I don't know how that is relevant
6 to the fact that it's legal versus -- I mean, it's a gun.
7 And then, the next issue is the issue regarding
8 self-defense and you all being able to rebut a
9 self-defense. And then, the question of, does that letter
10 arise to him claiming self-defense by him saying that he
11 is the victim. So I need to think about that and I'll do
12 that over lunch.

13 MR. POTTS: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (Whereupon, a lunch break was taken.)

16 THE COURT: My law clerk has told me that you all
17 found Mr. Jimmy Rogers.

18 MR. POTTS: We did, Your Honor.

19 THE COURT: All right. And that there was one or two
20 issues that we needed to resolve?

21 MR. POTTS: Your Honor, at Mr. Rogers' request, we
22 approached the Court to ask if we could clear the
23 courtroom for his testimony. I know there are
24 Constitutional victims and, of course, the Defendant
25 obviously has a right to having as Defendants' --

1 Co-Defendants' attorney, Jim Davis, has. I could consent
2 to the Defense, Your Honor. We went ahead and did that if
3 that's okay with Your Honor.

4 THE COURT: So we're clearing -- so who else needs to
5 leave? No one?

6 MR. POTTS: Your Honor, yeah. I think we're good.

7 MS. ZMROCZEK: We're clear.

8 MR. POTTS: Right.

9 THE COURT: Is he your next witness?

10 MR. POTTS: He is, Your Honor. And we still need to
11 do a Biggers hearing, which I think we can do in an
12 abbreviated fashion.

13 THE COURT: Yeah. Okay. All right. Bring him on in
14 then.

15 MS. ZMROCZEK: Well, and then we also, I think, Your
16 Honor, need to clear his record.

17 MR. POTTS: Yeah. Thank you.

18 THE COURT: And then, I've got to -- after that, I'll
19 rule on the other issue.

20 MR. POTTS: Your Honor, we would add -- I guess, I'll
21 let Mr. Fyall handle this because he's the one that's been
22 going through it.

23 MR. FYALL: I believe, Your Honor, within the 10 year
24 period for -- the 10 years of past confinement for crimes
25 that carry more than one year, it would be an ABHAN from

1 2008 and a grand larceny from 2012.

2 THE COURT: And you want to impeach him on, I'm
3 assuming, the grand larceny?

4 MS. ZMROCZEK: I think those are all fair game.
5 There also are a couple of Magistrate ones that are --
6 like obtaining property by false pretense. Even though
7 it's a Magistrate and outside of the one year -- 10 years,
8 it's a crime of dishonesty.

9 MR. FYALL: I believe it still has to be within 10
10 years.

11 MS. ZMROCZEK: It does not.

12 MR. POTTS: Well, I think at that point, it goes to
13 -- the Court has to do a balancing test is my
14 understanding.

15 THE COURT: What about the ABHAN?

16 MR. FYALL: The ABHAN carried more than one year and
17 he was released from it within 10 years.

18 MR. POTTS: Nine years and nine months ago is when he
19 was released from it.

20 THE COURT: Yeah. Okay.

21 MR. POTTS: The associated charges, he would have
22 been released before the 10 --

23 THE COURT: And then, the 10 years on false pretense?

24 MR. POTTS: 1996. That one, Aimee?

25 MS. ZMROCZEK: That one.

1 THE COURT: You all go ahead and bring him in. Are
2 we ready for the Biggers?

3 MS. ZMROCZEK: And the burglary second, violent, also
4 is in 2008.

5 MR. FYALL: Right, but he was released from that in
6 2009.

7 MS. ZMROCZEK: In when?

8 MR. FYALL: 2009.

9 MS. ZMROCZEK: That's four years.

10 MR. POTTS: So the four years would have expired
11 before the five years and the five years expired on July
12 1st of 2010.

13 MR. FYALL: With his credits and his good time, he
14 got out from the burglary --

15 MS. ZMROCZEK: I mean, do you have a release date
16 from SCDC on you?

17 MR. POTTS: Yes. July 30th of 2010.

18 MS. ZMROCZEK: Okay.

19 MR. FYALL: For the ABHAN.

20 MR. POTTS: For the ABHAN and the -- the ABHAN had a
21 one year longer sentence than the burglary did.

22 MS. ZMROCZEK: Right. And his release date was when?

23 MR. POTTS: July 30th of 2010.

24 MS. ZMROCZEK: 2010?

25 MR. POTTS: Yes, ma'am.

1 THE COURT: All right. So are we on -- the burg,
2 second is out, right?

3 MR. ZMROCZEK: Yes. I would agree.

4 THE COURT: And so the only one you all aren't
5 agreeing on is the obtaining goods by false pretense. You
6 know, it says, the way this is written is always -- it has
7 that word, and. Evidence that any witness been convicted
8 shall be admitted if it involved dishonesty or a false
9 statement regardless of the punishment. Which would be
10 D -- I mean, which would be two and what she is saying is
11 over -- so if it's regardless of the punishment, that I
12 assume would be regardless of the time that it carries.
13 But I assume the State is saying that it has to be within
14 the 10 period -- 10 year period of time?

15 MR. POTTS: Your Honor, I think what our position is,
16 is that because it is so remote and it is over 24 years
17 old, it has no relevant value. It has no pertinent value
18 and little relevance in this case at all even for
19 impeachment because it is literally 24 years old.

20 MS. ZMROCZEK: And that's something -- I can tell
21 that they don't --

22 THE COURT: Well, I'll let the State argue that.
23 Maybe I'd look at it a little bit more but he has a grand
24 larceny from 2012 which is a crime of dishonesty because
25 of the larceny. And so the obtaining goods under false

1 pretenses from 1990 -- the Magistrate level crime is -- I
2 mean, you all are going to argue to the jury that that was
3 so old but what are you going to say about the one from
4 2012?

5 MR. POTTS: The one from 2012 is admissible.

6 THE COURT: I know. No. I understand. That's my
7 point. He already has a grand larceny from 2012. I just
8 think the obtaining goods under false pretenses, when you
9 start thinking about the probative value outweighing the
10 prejudicial effect, it's no -- how's it any different
11 than -- I mean, he's already going to have in his record
12 that he has a grand larceny.

13 MR. FYALL: Correct. The grand larceny is just
14 admissible on its face. The obtaining goods under false
15 pretense is a Magistrate level charge that carries time
16 from 20 years ago. I'm not sure how that's probative.

17 THE COURT: Well, it says dishonesty or false
18 statement regardless of the punishment. So take away the
19 Magistrate level fine. Your position is just because it's
20 over 20 years old?

21 MR. FYALL: Yes. Under subsection B, Your Honor can
22 find that probative value, if the Court -- specific facts
23 and circumstances, it fairly outweighs the prejudicial
24 effects. And technically, we're supposed to do written
25 notes. I mean, I think she had a copy of the RAP sheet

1 she couldn't read.

2 THE COURT: So the ruling's going to be, I will allow
3 it in. I don't find that it outweighs any prejudicial
4 effect because he's already got another crime of larceny,
5 which is a crime of dishonesty that's coming in in 2012.
6 I know it's an old one and you all are going to argue that
7 it's old. It will, even though -- y'all don't know
8 anything about it, but, I mean, you can argue that it's 24
9 years old. I will allow it in. All right. Are we ready?

10 MR. FYALL: Yes, Your Honor.

11 THE COURT: All right. So you're going to speak into
12 the microphone. You all pull that microphone up to him.

13 JIMMY ROGERS, being
14 first duly sworn, testified as follows:

15 THE WITNESS: Jimmy Rogers.

16 DIRECT EXAMINATION

17 By Mr. Fyall:

18 Q Mr. Rogers, just for the purpose of this hearing, I'm
19 going to ask you a few questions. On March 25th of 2018,
20 you would have been living at ■ Samson Circle?

21 A Yes, sir.

22 Q And sometime in that time, you witnessed the
23 incident?

24 A Yes, but could you --

25 COURT REPORTER: I can't hear him. Lamar, I can't

1 hear.

2 MR. FYALL: Okay. Excuse me, sir --

3 THE COURT: Try to speak in the mic, sir.

4 THE WITNESS: Yes, ma'am.

5 COURT REPORTER: I didn't get that last sentence he
6 said.

7 MR. FYALL: He asked me to make a claim to the Court
8 while I'm here. And, Your Honor, we were talking about
9 before, Mr. Rogers did not respond to a subpoena. He was
10 uncooperative in this case. And so we had to send law
11 enforcement to pick him up this morning.

12 THE COURT: I'm aware. I signed the bench warrant.
13 So I know what -- I know they had to go get you on a bench
14 warrant because you didn't show up for court.

15 Q All right. And so on March 25th of 2018, you
16 witnessed the shooting incident?

17 A Yes.

18 Q And did you have an opportunity to view the people
19 involved in that incident?

20 A Yes.

21 Q And one of the individuals, had you seen that person
22 before?

23 A Yes.

24 Q How did you see him before?

25 A He came in my house.

1 Q Okay. Who did he come to see?

2 A Cory.

3 Q All right. So you had saw him previously, and then
4 you saw him again on March 25th?

5 A Yes.

6 Q And did you talk to law enforcement about that?

7 A I gave a statement to one of the officers. To Mr.
8 Duckett, I believe.

9 Q To Mr. Duckett. And I believe you told Mr. Duckett
10 that you could possibly identify one of the people?

11 A Excuse me?

12 Q I believe you told Mr. Duckett you could possibly
13 identify one of the people?

14 A Yes. I can.

15 Q All right. And he showed you a photo lineup?

16 A Yeah.

17 Q I'm going to show you what's been marked as State's
18 Exhibit number 145.

19 MS. ZMROCZEK: For the purposes of this hearing, Your
20 Honor, both of them are fine.

21 THE COURT: No objection?

22 MS. ZMROCZEK: Not for the purposes of this hearing.

23 THE COURT: All right. For ID purposes.

24 (Whereupon, State's exhibit number 145 was marked for
25 identification only.)

1 Q All right. Is that the photo lineup you received?

2 A Yeah.

3 Q And did you circle number four on that photo lineup?

4 A Yes.

5 Q And is that your signature?

6 A Yeah.

7 Q All right. Did -- Investigator Duckett or
8 Investigator Montgomery, did they influence you or coerce
9 you in any way to try to tell you who to pick in that
10 lineup?

11 A No.

12 Q All right. And as you said, that was -- the
13 individual in that lineup, you had seen before and on the
14 night of the incident?

15 A Right. Yes, sir.

16 Q During that incident, how did you see him? How did
17 you come in contact with him?

18 A I let him in my house.

19 Q You let him in your house. You got a good look at
20 him?

21 A No, sir.

22 Q Okay. And did you see him --

23 A I mean, not know him personally. He knew my face
24 because I'd been discussed to him. And I want to make it
25 plain, please. I'm only here to make sure Cory's mama

1 gets justice for her son.

2 MS. ZMROCZEK: Your Honor, if that comes in we would
3 object. That is irrelevant and not proper to be in front
4 of the jury.

5 MR. FYALL: We'll take care of that.

6 THE COURT: She's objecting as to relevance as to the
7 last statement, then I can move on.

8 MR. FYALL: For the purpose of this hearing, Your
9 Honor --

10 THE COURT: I don't know. He can testify as to what
11 he --

12 MS. ZMROCZEK: Right. I mean, for the purposes --
13 yeah.

14 Q All right. And do you see him in the courtroom here
15 today?

16 A Yes.

17 Q Can you tell me what he's wearing?

18 A A white shirt.

19 Q And what kind of hairstyle does he have?

20 A Dreads or something--

21 MR. FYALL: Let the record reflect that he has
22 identified the Defendant, Your Honor. No further
23 questions at this time.

24 CROSS-EXAMINATION

25 By Ms. Zmroczek:

1 Q Mr. Rogers, you said you knew Mr. Parker because he'd
2 been to your house before, right?

3 A Yes.

4 Q In fact, he'd bought drugs upwards of eight times or
5 nine times before this date from your house?

6 A I don't know about that.

7 Q Okay. Why was he at your house?

8 A He came to see Cory.

9 Q Okay. To buy drugs?

10 A If that's what they was doing, yeah.

11 Q Okay. And you recall when you picked out this
12 statement -- when you picked him out, that was in an
13 interview room with the investigators, right?

14 A I think so.

15 Q And then, when you pointed him out after you signed
16 your name, you said, I think that's him, didn't you?

17 A No. I know that's him.

18 MS. ZMROCZEK: Your Honor, at this time, we would --
19 I already have it cued up just for the purposes of this
20 hearing.

21 THE COURT: That's fine.

22 MS. ZMROCZEK: Okay. Is it number 11?

23 COURT REPORTER: Jimmy Rogers is number 11.

24 MS. ZMROCZEK: There it is. Yeah. Defendant's 11,
25 Your Honor.

1 (Whereupon, Defendant's exhibit number 11, a video
2 was played for the Court.)

3 THE COURT: What's the problem?

4 MS. ZMROCZEK: It's just stopped playing for some
5 reason.

6 (Whereupon, a break was taken.)

7 MS. ZMROCZEK: And, Your Honor, while I try to sort
8 this out, we'll just not deal with that at this point.
9 I'll try to sort it out while he's testifying. If I can
10 get the CD to make sure it plays, but that's all the
11 questions we have at this point, Your Honor. And if
12 they're not moving in -- are you all just moving in his ID
13 or are you all going to move in the other one as well?

14 MR. FYALL: Yes.

15 MS. ZMROCZEK: Okay. That's fine. I don't have any
16 questions, Your Honor.

17 THE COURT: I'll be glad to hear from you all
18 regarding the Biggers.

19 MR. FYALL: Yes, Your Honor. Based on the
20 testimonies that he wasn't influenced, coerced or
21 suggested to that he had seen him at least once before and
22 that he knows him. I believe the record was going to
23 reflect that he put his hand about a foot away from his
24 face and about having seen him a time before. Even if he
25 said he was only eighty percent sure, I think that the

1 evidence suggests that there was no -- nothing unduly
2 suggested or prejudicial that would lead to an irreparable
3 harm misidentification under the case law. We feel the
4 photo lineup in for ID should be allowed.

5 MS. ZMROCZEK: I think, based on their presentation
6 we have no objection, Your Honor.

7 THE COURT: All right. This Court does find that the
8 out-of-court identification process was non-suggested,
9 that the witness has testified here today that he knew the
10 Defendant, had previously seen him at his house before,
11 that he also picked him out in a lineup and that he was
12 sure that it was him. Based on the fact that's regarding
13 reliability, I do find that the out-of-court
14 identification is reliable for purposes of this hearing
15 and that the identification is admissible. All right.
16 Are we ready to get started?

17 MR. FYALL: Yes, ma'am.

18 THE COURT: All right. So I think Mr. Rogers has
19 already made it clear. So just so we're clear as to what
20 he's saying in front of the jury and not in front of the
21 jury that you're here because I issued a bench -- they
22 asked me to issue a bench warrant for you because you
23 didn't come with the subpoena. So you don't have to
24 discuss any of that in front of -- unless they bring --
25 ask you the question, you don't have -- just answer the

1 question. You don't have to answer that -- you don't have
2 to bring that up in front of the jury. You've already
3 said that you're here -- you told the Court because you
4 want the mother to receive justice. That does not need to
5 be brought up in front of the jury. So you just need to
6 respond to the questions that they ask and the questions
7 that she asks. All right?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: All right. Thank you. And then, as soon
10 as you're finished in here, they'll release you from your
11 subpoena and send you on your way. All right?

12 THE WITNESS: Thank you, ma'am.

13 THE COURT: All right. Are we ready to bring them
14 in? And then, I'll deal with -- because we're going to
15 stop and let Mr. Rogers leave. And then, I'll send --
16 stop and put the jurors out -- send the jurors out and let
17 Mr. Rogers leave, and then I'll rule on that issue with
18 the investigator. All right?

19 MS. ZMROCZEK: Thank you.

20 THE COURT: They said you had surgery last week.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: So we'll get you in and out of here. All
23 right?

24 THE WITNESS: Yes, ma'am.

25 (Whereupon, the jury came into open court at

1 approximately 2:40 p.m.)

2 THE COURT: All right. Thank you. Call your next
3 witness.

4 MR. FYALL: The State calls Jimmy Rogers.

5 THE COURT: Ladies and gentlemen of the jury, this is
6 Mr. Rogers. He's already up here. You can go ahead and
7 swear in the witness.

8 JIMMY ROGERS, being
9 first duly sworn, testified as follows:

10 THE WITNESS: Jimmy Rogers.

11 DIRECT EXAMINATION

12 By Mr. Fyall:

13 Q All right, Mr. Rogers. I know you're not feeling
14 well. So I'll try to be brief. Okay?

15 A Yes, sir.

16 Q All right. On March 25th of 2018, you were staying
17 at ■ Samson Circle?

18 A Yes, sir.

19 Q Can you tell us what happened that night?

20 A Okay. Cory came down to the house. He had a bad
21 cold and me and him was talking. And then he said, let's
22 go to the store and we went to the store. He got some
23 orange juice and we came back and a neighbor up the street
24 gave me a big wide-screen TV and Cory and another fella
25 was helping me put it in. We put it in and I think he

1 said some friends was going to stop by, you know, and I
2 didn't pay it no attention. I didn't know it was the
3 Defendant. I knew him through Cory. I don't know of him,
4 I don't know what he do or how he do it. All I know is,
5 he's been to my house and I let them in.

6 Q When you say them, what are you talking about?

7 A It was two gentlemen.

8 Q Okay. Do you see one of those gentlemen in court
9 here today?

10 A Yes. I do.

11 Q Can you tell me what he's wearing?

12 A A white shirt.

13 Q And does he have anything on his face?

14 A I can't see that far.

15 Q Do you see what type of hairstyle he has?

16 A It looks like it's dreads or something.

17 MR. FYALL: All right. Let the record reflect the
18 witness has identified the Defendant.

19 Q Can you tell us what happened once you let them in?

20 A Okay. Him and his associate and Cory went in -- they
21 went in the kitchen first. He went in and Cory went in
22 behind him with a bag. I was in the back room to the left
23 and as I was coming out, somebody said, you know what it
24 is.

25 Q You know what it is.

1 A Boom, boom, boom. That's all I saw and the next
2 thing I know, Cory was backing up on me. He had been hit
3 and I threw up my arm to try to keep from me being hit and
4 I think Cory saved my life.

5 Q I'm sorry.

6 A And after all that, it was all -- I fell behind the
7 TV. Cory fell and Cory, thank God, he shot both of them
8 because I'm sure they was going to kill me because they
9 shot at the TV that I was laying behind, but then --

10 Q Okay. Let me stop you right there. At some point
11 did you get shot?

12 A Yes.

13 Q Can you tell us when that happened?

14 A When Cory was backing up. When he was falling
15 backwards, he fell up against me and it was -- the house
16 was all -- and I threw up my arm and something hit me
17 through the arm and I fell behind the chair and Cory fell.

18 Q All right. After that, what did you do?

19 A I tried to resuscitate Cory and I picked up
20 everything Cory had at my house.

21 Q When you say you picked up everything, what are you
22 talking about?

23 A I picked up the bag, I picked up the pistol, some
24 money and I threw it out. I panicked and I'm sorry, but I
25 just didn't know what else to do.

1 Q You said you panicked?

2 A Yes.

3 Q Since there was guns and drugs --

4 MS. ZMROCZEK: Objection, Your Honor. Leading.

5 Q Why did you panic?

6 THE COURT: Sustained.

7 A Because I knew that if all this mess was in my house,
8 then pretty much I was going to be implicated in something
9 in some kind of way. And it was just a -- I panicked and
10 I threw everything out the house. And then I was the last
11 one to see Cory alive.

12 Q When you -- and so when you first talked to law
13 enforcement, you didn't tell them about putting the stuff
14 in the back yard?

15 A Uh-uh, (negative response).

16 Q All right. And was it because you had the same
17 concerns?

18 A Yeah. Really, I didn't have anything to do with it.

19 Q I understand that. And I'm going to show you what's
20 been marked as State's 145. Do you recognize that?

21 A I recognize my name.

22 Q Yes. Is that the photo lineup law enforcement showed
23 you?

24 A Yes. Yeah.

25 Q And that's your signature right there on the bottom?

1 A Yes.

2 Q And right there (indicating), you see where you
3 selected photo number four?

4 A Yes.

5 Q And when you talked to law enforcement, did you tell
6 them whether or not you could recognize the individual
7 that came to your house?

8 A I think I did.

9 Q All right. And they showed you a photo lineup?

10 A Yes.

11 MR. FYALL: Your Honor, at this time, the State
12 submits State's 145 into evidence.

13 MS. ZMROCZEK: Without objection, Your Honor.

14 THE COURT: Without objection. That's -- what's the
15 number again?

16 MR. FYALL: 145.

17 THE COURT: All right. Number 145 admitted without
18 objection.

19 (Whereupon, State's exhibit number 145 was admitted
20 into evidence.)

21 MR. FYALL: Permission to publish the jury, Your
22 Honor.

23 THE COURT: Yes, sir.

24 (Whereupon, State's exhibit number 145 was published
25 to the jury.)

1 Q And they showed you a second lineup, as well?

2 A Excuse me?

3 Q They showed you a second lineup, as well?

4 A It's possible. You know, a lot of things was going
5 on. I don't know.

6 Q I'm going to ask you if you recognize that. State's
7 Number 144.

8 A I see my signature on it.

9 Q And that's your initials right there under picture
10 number three?

11 A Yeah.

12 Q All right. The second individual that was with the
13 Defendant who you identified earlier, did you know him?

14 A No.

15 Q That was your first time seeing him?

16 A Yeah.

17 Q Did you see him again that day?

18 A I think I saw him come through the hospital ward.
19 When they was attending me, I think he rolled through on
20 the gurney or something.

21 Q And that's the individual that's on State's 144, the
22 other individual?

23 A Yeah.

24 MR. FYALL: At this time, Your Honor, the State seeks
25 to submit State's 144 into evidence.

1 THE COURT: Any objection?

2 MS. ZMROCZEK: It would be without objection, Your
3 Honor.

4 (Whereupon, State's exhibit number 144 was admitted
5 into evidence.)

6 MR. FYALL: Permission to approach, Your Honor.

7 THE COURT: All right. Yes, sir.

8 MR. FYALL: Lastly -- beg the Court's indulgence.

9 Q When you were in the house and you said someone said
10 -- what did you say they said?

11 A You know what it is.

12 Q You know what it is. Was that Cory that said that?

13 A No.

14 Q You know Cory's voice?

15 A I don't think he had a reason to say that.

16 MS. ZMROCZEK: Objection, Your Honor. He asked him
17 if he knew Cory and he said he didn't think he had a
18 reason. He didn't say he knows his voice.

19 THE COURT: All right. Objection sustained.
20 Rephrase the question or ask the question, and then you
21 answer the question -- listen closely and answer it.

22 Q Was it Cory that said, you know what it is?

23 A No.

24 Q And how long had you known Cory at that point?

25 A I knew some friends of Cory's that stayed across the

1 street from me and I might have known Cory about six
2 months. It's just -- sorry.

3 Q It's fine. And lastly, you said when the stuff was
4 in your house, you panicked and you put it out back. I
5 mean, you have just some prior convictions, correct? You
6 have --

7 A Sure. Yeah. Sure.

8 Q And so you have an ABHAN from 2008?

9 A Yeah.

10 Q And a grand larceny from 2012, correct?

11 A Yes.

12 Q And then, obtaining goods under false pretense from
13 1996, correct?

14 A Yes.

15 Q And initially, when we talked to you about this case,
16 Mr. Rogers, you didn't want to come and testify?

17 A No.

18 Q And --

19 A Because I had my reasons.

20 Q You had your reasons. And eventually, we had to send
21 law enforcement to come and pick you up, correct?

22 A Yes. And I think that was very, very wrong.

23 MR. FYALL: Beg the Court's indulgence. No further
24 questions.

25 THE COURT: Let me see you all for one second.

1 (Whereupon, a bench conference was held in the
2 presence of the jury but out of the hearing of the
3 jury.)

4 MS. ZMROCZEK: Your Honor, before we start, I'm going
5 to move into evidence what's been marked as Defendant's
6 exhibits 12, 13 and 14.

7 THE COURT: Any objection?

8 MR. FYALL: No ma'am.

9 (Whereupon, Defendant's exhibit numbers 12, 13 and 14
10 were admitted into evidence.)

11 CROSS-EXAMINATION

12 By Ms. Zmroczek;

13 Q Mr. Rogers, you recall the police coming to your
14 house that night, right?

15 A Yes.

16 Q And I'm talking about the night of March 25th of
17 2018, right?

18 A Yes.

19 Q And they didn't come because -- you didn't call 911,
20 right?

21 A My neighbor did.

22 Q Right. So you didn't call 911?

23 A My neighbor did.

24 Q Right. I want to show you what's already been into
25 evidence as Defendant's exhibit 1. Okay? Can you see

1 this okay?

2 A Yeah.

3 MS. ZMROCZEK: Can everybody see this?

4 (Whereupon, Defendant's exhibit number 1, a video,
5 was published to the jury.)

6 Q Okay. So that person was you, right?

7 A I didn't see it.

8 Q Okay. I'll show it again.

9 (Whereupon, Defendant's exhibit number 1, a video,
10 was published to the jury.)

11 Q That person, that's you, right?

12 A Yes. It is.

13 (Whereupon, the video continues to play.)

14 Q Right there in your hand -- and right there in your
15 hand, you're holding your cell phone, right?

16 A Yeah.

17 (Whereupon, the video continues to play.)

18 Q So Mr. Rogers, you recognize that -- I mean, you
19 haven't seen this video before, but that's you in the
20 video, right?

21 A Yeah. That's me.

22 Q Okay. And that's Officer Robinson, who you may or
23 may not know, but he's asking you, who did this, right?

24 A I don't know.

25 Q Okay. And you tell him you don't know who did it?

1 A Ma'am, I was so distressed, I might have said -- all
2 I can say is, whatever was said.

3 Q Right.

4 A I mean, they're asking me this here two minutes after
5 my house turned into a slaughter house. I didn't know --
6 I might have said this and said that. But it's irrelevant
7 to me. I know what I did and I'm not on trial.

8 Q So let's talk about that. You are not on trial --

9 A Right.

10 Q -- and you know what you did, right? That includes
11 -- and I won't play it for the jury right now, but 13, 14
12 and 12 were all body cams of officers asking you, who did
13 this, what happened. And you saying, I don't know, right?
14 Right?

15 A Ma'am, I'm saying that at that time, there was a lot
16 of things -- a lot of questions being shot at me. And,
17 you know -- I don't know. I don't know. All I know is
18 what I said.

19 Q Right. So you said Cory opened the door, but today,
20 you're testifying that you opened the door. Do you recall
21 which it was? Who opened the door?

22 A I think it was me.

23 Q Okay. You think it was you. So you opened the door
24 and you said that you knew Mr. Parker because he'd been to
25 your house before, right?

1 A Right.

2 Q And he'd been to your house before to buy drugs?

3 A He didn't buy any drugs that time.

4 Q The other times that he had been to your house?

5 A Right.

6 Q What was he doing at your house the other times?

7 A Just talking to Cory.

8 Q Just talking to Cory, but Cory didn't live there?

9 A No.

10 Q You knew Cory sold drugs?

11 A Yeah.

12 Q You use drugs?

13 MR. FYALL: Objection, Your Honor.

14 A No, ma'am.

15 THE COURT: Hold on one second.

16 A Wait a minute.

17 THE COURT: Hold on one second, sir.

18 A Wait a minute.

19 THE COURT: Hold on one second, sir.

20 (Whereupon, a bench conference was held in the
21 presence of the jury but out of the hearing of the
22 jury.)

23 THE COURT: Objection is sustained. Please rephrase
24 the question.

25 Q Let me reask this question. Mr. Rogers, were you

1 using drugs that evening?

2 A I probably had.

3 Q Okay. In fact, you tested positive at the hospital
4 for marijuana use?

5 A Right.

6 Q And cocaine use?

7 A I don't know about all that.

8 Q You don't remember?

9 A They didn't bring me a toxicology.

10 Q They what?

11 A They didn't show me nothing.

12 Q Okay. Would it help to see it?

13 MR. FYALL: I would object to that, as well, Your
14 Honor.

15 MS. ZMROCZEK: Just to refresh his memory. We're not
16 putting it in.

17 THE COURT: Well, he just said he didn't see it. So
18 objection sustained. You've got to lay a foundation. He
19 said he didn't see the toxicology.

20 MS. ZMROCZEK: Did you say sustained or overruled?
21 I'm sorry.

22 THE COURT: I said sustained. He said he didn't see
23 it. You can't refresh his memory with something he didn't
24 see.

25 Q All right. So you would agree that you were in the

1 hospital that night, right?

2 A Excuse me?

3 Q You were at the hospital?

4 A Yes.

5 Q Okay. So you just haven't seen your toxicology
6 reports?

7 A I didn't know they did one.

8 Q Okay. So you didn't know they did one and you
9 haven't seen them?

10 A Right. You know, if I did, it hasn't registered in
11 my head. I'm not -- you know, I don't know if I -- they
12 didn't tell me they was doing that.

13 Q Okay. So let's move on. You're at the house that
14 evening and you say today that Cory and another fella
15 helped you move a TV?

16 A Right.

17 Q Who's the other fella?

18 A There is a friend -- a friend in the community.

19 Q Okay. Does he have a name?

20 A They call him Red.

21 Q They call him Red. When did you tell the police
22 about Red being over there?

23 A I done forgot, ma'am. I don't know.

24 Q Okay. I'm going to show you Defendant's 3. Do you
25 recognize this sketch to be your house?

1 A I don't know. I don't understand that.

2 Q Okay. Does this look like a drawing of your house?

3 A I don't understand it.

4 Q Okay. I understand --

5 A I don't know what I'm looking at.

6 Q Okay. I'll show you a picture and see if that helps.

7 Do you know what your house looks like?

8 A Yeah. I know what my house looks like. It don't
9 look nothing like that.

10 Q Okay. Does it look like this (indicating).
11 Defendant's number 2.

12 A I can't see it. Yeah. That's my house right here
13 (indicating).

14 Q Okay. That's your house, right? And behind your
15 house are some woods, right? A fence lined with some
16 bricks and some trees --

17 A Yeah.

18 Q -- and some woods?

19 A I think so.

20 Q You think so? I'll show you some pictures. Why
21 don't you flip through State's 4 through 17 and see if
22 that refreshes your recollection. Does that refresh your
23 recollection, Mr. Rogers, of what your house that you've
24 lived in for four years looks like?

25 A Yeah. Those pictures looks like my house.

1 Q Okay. And so those are the back of your house
2 because your testimony is that you panicked and you took
3 these guns and drugs and you -- and money and tossed it --
4 just threw them in the back yard, right?

5 A I threw them in the back yard beside, you know, the
6 fence, I think. I'm not sure.

7 Q Okay. So what you really did though, is you took the
8 guns and you told the police when you sat down with Mr.
9 Duckett and Mr. McCoy, who's not here -- do you remember
10 that you went the next day to CPD to talk to them?

11 A I think.

12 Q You think so. Okay. And when you talked to them,
13 you told them -- they said, look, we found some stuff in
14 your back yard. They said that to you, right?

15 A Uh-huh (affirmative response).

16 Q And then, you said, man, don't jam me up, because
17 Jimmy Rogers was worried about Jimmy Rogers, right? You
18 didn't want to go to jail?

19 A Did you hear me say that?

20 Q Do you want to hear -- did I hear you say that? I
21 have heard you say that. Would it refresh your
22 recollection to hear you say that?

23 A That I don't want to go to jail?

24 Q That you didn't want to get hemmed up, messed up.

25 A I didn't.

1 Q You didn't want to get messed up?

2 A I was already messed up.

3 Q Right. So what -- because what you had done -- what
4 the police had learned is that you had taken two guns and
5 you took one gun, a nine millimeter, and you had hid it in
6 a bush. You placed it down in a bush.

7 A I threw it outside the fence.

8 Q You threw it -- so your testimony is you threw it
9 outside the fence?

10 A Yes, ma'am. Not outside.

11 Q By the fence?

12 A By the fence.

13 Q Okay. So if the police found this nine millimeter in
14 the bottom of a bush, you don't know how that happened?

15 A In the bottom of a bush?

16 Q Uh-huh (affirmative response).

17 A I don't know.

18 Q Okay. So let's talk about the bricks where they
19 found the money. In fact, you had to take the bricks and
20 move it and pry the money up under there and put it on
21 top, right?

22 A I didn't see that.

23 Q Okay. I'm not asking you if you saw it. Did you do
24 it?

25 A I may have.

1 Q Okay. So that requires a little bit more than just
2 throwing it in the yard. You were actively trying to hide
3 it, weren't you?

4 A No. I wasn't.

5 Q Okay. And I'm showing you State's 9, a picture of
6 the bricks with the money covered underneath it. You put
7 that money right there, right?

8 A I threw it up against the fence.

9 Q Okay. So your testimony under oath is that you threw
10 it up against the fence and you don't know how it ends up
11 underneath these bricks?

12 A I don't know if it's under those bricks.

13 Q Okay. Well, here is a picture of State's 10 where
14 it's lifted -- the brick is lifted up --

15 A That don't look like it's under no bricks there.

16 Q Right. Because it's here, and then here
17 (indicating).

18 A This here is the same picture.

19 Q Okay. So after you take -- and it wasn't just the
20 money. You had two bags of marijuana, right?

21 A I don't know what was in the bags.

22 Q You don't know what was in the bags? You don't know
23 that it was marijuana?

24 A I don't know how much.

25 Q Okay. But you knew it was marijuana?

1 A Yes.

2 Q Okay. And so you took that marijuana and you threw
3 it in the yard?

4 A Yes.

5 Q And you did all of that while you were in a panic,
6 but you didn't call 911?

7 A My neighbor called 911.

8 Q I understand, but you called your daughter?

9 A Because the speed dial is right there. It wasn't
10 like I went through my phone looking for it. You know, I
11 didn't know what else to do.

12 Q You didn't know what else to do. So instead of
13 calling 911, you called your daughter, right?

14 A Yes.

15 Q Okay. So then, they come with all these different
16 body cams that are in evidence. They all talk to you and
17 are asking you what happened. Then you go to the
18 hospital, right?

19 A I think so. Yes.

20 Q And then, when you get out of the hospital -- when
21 you're in the hospital, they have some more people asking
22 you questions about what happened, right?

23 A A lot of people was asking me questions.

24 Q A lot of people. And the first time that you say to
25 anyone that, hey, I think I know one of the guys is the

1 next day when Duckett and McCoy bring you back into CPD's
2 office, right?

3 A I don't know it was the next day or that night.

4 Q Okay. You didn't stay in the hospital very long?

5 A Not overnight.

6 Q Not even overnight. Okay.

7 A They wanted to keep me.

8 Q They wanted to keep you, but you wanted to go home?

9 A I wanted to go home.

10 Q Okay. So you talked to the police officers the next
11 day and they recorded that interview, right?

12 A I don't know what they did.

13 Q Okay. So they were asking you some questions. They
14 were telling you, hey, we found some stuff in the back
15 yard, we need to talk to you about it --

16 A Uh-huh (affirmative response).

17 Q -- right? And you were like, don't get me in
18 trouble?

19 A I told them the truth.

20 Q Okay. And the truth that you told them that day was
21 that --

22 A Huh?

23 Q I'm getting there. Was that they asked you where you
24 found the guns and you told them you found both of the
25 guns --

1 A Ma'am, I was so confused. I don't know what -- I
2 can't say I found the pistol right here and right there.
3 All I know is what happened, ma'am.

4 MS. ZMROCZEK: Your Honor, at this time, we would ask
5 to enter into evidence that recording, Defendant's 11.

6 THE COURT: Any objection?

7 MS. ZMROCZEK: I could -- we could ask the jury to
8 step out. I could play it for him and ask him if it, at
9 all, refreshes his recollection.

10 (Whereupon, a bench conference was held in the
11 presence of the jury but out of the hearing of the
12 jury.)

13 Q Did you tell the police that you found the two guns
14 by Cory's body?

15 A I don't recollect that. I maybe had said that.

16 Q Okay. Did you --

17 A I have said a lot of things.

18 Q Okay. Did you tell them that when you heard him say,
19 you know what it is, it was after Cory was gurgling?
20 That's what you told the police, right?

21 A Ma'am. It was very confusing in there. I mean, I
22 don't -- I can't pinpoint when somebody's gurgling or
23 twitch their leg or something like that. This is a crime
24 -- this is a slaughterhouse and you can't pinpoint me with
25 every little detail. I'm shot too and I'm a victim,

1 ma'am, and I just can't recollect every little second.

2 Q Okay. So would it refresh your recollection to watch
3 that interview?

4 A I don't need to watch no interview, ma'am. I have
5 nothing else to say. But what I said on that statement
6 and I want to go home so I can get back in the bed because
7 I'm very sick and I'm sick because of the fact that I have
8 cancer and I was on chemo when this happened. This
9 interrupted my whole chemo. I lost my house, my job, my
10 life. Almost lost my life in one night and I don't
11 appreciate being treated like this here because I didn't
12 want to come, but I knew that I didn't want the memory
13 of --

14 Q Thank you.

15 THE COURT: Let's ask the question and then you
16 answer the question.

17 MS. ZMROCZEK: Thank you.

18 Q So would it refresh your recollection as to what you
19 said if you could watch the video of the interview?

20 A I'm sorry. I don't remember.

21 MS. ZMROCZEK: Your Honor, at this time, we would
22 move Defendant's 11 in.

23 MR. FYALL: No objection.

24 MS. ZMROCZEK: Thank you.

25 (Whereupon, Defendant's exhibit number 11 was

1 admitted into evidence.)

2 Q And I'm not going to make you watch the whole thing,
3 Mr. Rogers, because I know that you're sick and you would
4 like to go home. But I just want to make sure that what
5 we have in evidence is you. Okay?

6 (Whereupon, Defendant's exhibit number 11, a video,
7 was published to the jury.)

8 Q Okay. Who is that right there (indicating).

9 A I can't see his face.

10 (Whereupon, the video continued to play.)

11 Q Does that help?

12 A Yeah. That's me.

13 Q Okay. That's you?

14 A Yes, ma'am.

15 Q And that's the police asking you questions?

16 (Whereupon, the video continued to play.)

17 Q And you said right there, Mr. Kelly told me to tell
18 you all the truth. You knew Mr. Kelly. He works for the
19 police department, right?

20 A Yes.

21 Q He's in narcotics, right?

22 A I don't know that.

23 Q Okay. So you -- they go on -- so like I said, I'm
24 not going to make you sit through the whole thing because
25 you don't feel well. But you would agree with me that

1 what you said on March 26th of 2018 at 1:24 p.m. was
2 recorded and that that's you, right?

3 A Yes. It looks -- yeah. That's me.

4 Q And that whatever you said, that was your voice
5 responding to Duckett and McCoy's questions?

6 A Yes.

7 Q Okay. I'm not going to battle with you about what
8 you said -- you don't remember. I understand that was a
9 long time ago. But on that day it was fresh in your mind,
10 right?

11 A Ma'am, my mind was so confused then, I don't know
12 because I know that I -- that anything wrong -- the
13 commander in chief told me to tell the truth and that's
14 what I did.

15 Q Right. And so in there, in that truth that you told
16 them that day, that you found the two guns over Cory, then
17 that would have been the truth, right?

18 A I don't know. I don't know about no guns --

19 Q -- you didn't see anybody shooting a gun that night,
20 did you?

21 A Ma'am?

22 Q You did not see anyone shoot a gun that night, did
23 you?

24 A It was chaos. I knew who was in the house.

25 Q Right. You know who was in your house, but here's my

1 question. It's real simple. I'll say it slow. You did
2 not see anyone shooting a gun that night, did you?

3 A I saw two people in front --

4 Q Right.

5 A -- of me and Cory's right here (indicating). I don't
6 have a gun.

7 Q Right.

8 A There's four people in the house, but four people got
9 shot. So you do the math.

10 Q Okay. Well, it's not a math question. It's just a
11 simple question but I see you don't want to answer it. So
12 we'll move on. You certainly -- you said there were four
13 people and three --

14 A No.

15 Q Four people got shot. You didn't have a gun. So you
16 weren't standing by any guns, were you?

17 A I was behind Cory.

18 Q You were behind Cory?

19 A I was behind Cory.

20 Q And so Cory had a gun in his hand when you were
21 behind him?

22 A Evidently.

23 Q Evidently, but you didn't see it?

24 A Ma'am?

25 Q But you did not see it?

1 A I didn't see him actually have a gun, but there was a
2 lot of discharge in the house. And I don't -- you know, I
3 mean, who's going to count apples and oranges if he's
4 being killed.

5 Q And Mr. Rogers, you also -- you went -- there was
6 blood in your bedroom. Do you remember that?

7 A No.

8 Q You don't remember that. So you don't have any idea
9 how that blood got into your bedroom?

10 A It was probably mine.

11 Q Okay. Because you had to go into the bedroom to get
12 the marijuana so that you could put it in the yard?

13 A Huh?

14 Q I'll move on. Mr. Rogers --

15 A Hold up. Hold up.

16 Q Sure.

17 A Did I make the statement that marijuana was in there?

18 Q No. No. I'm asking you -- no. I'm asking you if
19 that's where you got it from.

20 A No.

21 Q Okay. So why did you go in your room?

22 A I don't know.

23 Q Okay. You would agree with me that when the police
24 got there, you were helping Cory, and then you sat inside,
25 and then they took you outside and you never went back in

1 your house?

2 A I don't know. Well, if I went to the police -- the
3 ambulance or police stopped and then I couldn't have went
4 back, back then. I maybe came in my house later. I
5 cleaned it up.

6 Q You cleaned it up?

7 A Yes, ma'am.

8 MS. ZMROCZEK: All right. That's fair enough. Beg
9 the Court's indulgence.

10 Q Mr. Rogers, last question. When Cory would come to
11 your house to sell drugs, he would give you a little cut
12 of that, wouldn't he? That money.

13 A Yeah. He would give me a couple dollars.

14 Q So that he could sell the drugs from your house?

15 A No. Not -- Cory very seldom came to my house. I
16 mean, my house was not a drug house and if you did your
17 homework you could see I'm not a drug dealer.

18 Q Right, but Cory is.

19 A Do you have facts of that? Okay. I mean, there's
20 nothing -- it's no mystery.

21 MS. ZMROCZEK: Thank you. Those are all the
22 questions --

23 A But I don't know him to be no major drug dealer. As
24 a matter of fact, I really didn't know that much about his
25 business.

1 MS. ZMROCZEK: Okay. Those are all the questions I
2 have for you, Mr. Rogers. Thank you.

3 THE COURT: All right. Redirect.

4 MR. FYALL: Very brief, Your Honor.

5 REDIRECT EXAMINATION

6 By Mr. Fyall:

7 Q When law enforcement first came to your house after
8 the incident, Mr. Rogers, when they showed up, what was
9 going on?

10 A Wait a minute. When they first showed up?

11 Q Yes, sir.

12 A I think my neighbor was there and I, maybe, was
13 laying over Cory.

14 Q Right. So Cory was shot in front of you?

15 A Yes.

16 Q And you had been shot, as well?

17 A Yeah.

18 Q Do you think you were clear-headed at that point?

19 A I don't think nobody was clear-headed.

20 MR. FYALL: Beg the Court's indulgence.

21 Q All the stuff Ms. Zmroczek was asking you about and
22 we talked about it, the -- you putting the stuff in the
23 backyard and all that stuff. Was that before or after --
24 I think you described it as a slaughterhouse. Was that
25 before or after the shooting took place?

1 A Directly after and like I said, I panicked.

2 Q No problem. And I believe you also testified that
3 you went to the kitchen and you heard someone say, you
4 know what it is?

5 A Yes.

6 MR. FYALL: No further questions.

7 MS. ZMROCZEK: Nothing further, Your Honor.

8 (Whereupon, the witness stepped down from the witness
9 stand.)

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, there's a matter involved we need to take up while
12 he's leaving. It's a matter to take up outside your
13 presence. So I'm going to send you all out for about five
14 minutes. Thank you. Please, do not discuss the case.

15 (Whereupon, the jury was excused from open court.)

16 THE COURT: All right.

17 MR. POTTS: Your Honor, does Investigator Duckett
18 have time to use the bathroom?

19 THE COURT: Yes. He can go while we move along. I
20 don't think -- unless you all want him in here.

21 MR. POTTS: Your Honor, I don't need him in here.

22 MS. ZMROCZEK: We have one matter, Your Honor, we can
23 take up. I guess, when he gets back is fine before he
24 testifies.

25 THE COURT: All right. Are you all ready to go on

1 the record on that issue?

2 MR. POTTS: Yes, Your Honor.

3 THE COURT: All right. So after reviewing the -- is
4 there any follow-up, Mr. Potts?

5 MR. POTTS: Your Honor, I think our argument hasn't
6 changed. Certainly, you have got the case law, I think,
7 that prohibits Your Honor from saying anything about
8 weapons with malice.

9 THE COURT: Yeah.

10 MR. POTTS: Obviously, I think I can still argue it
11 was a part of the chain of circumstances or events. You
12 know, there's the -- there is something, I think,
13 additional with a person who's prohibited from having a
14 weapon who had a weapon. I think it additionally goes
15 through that extra step and that's the argument we're
16 making on this, Your Honor.

17 THE COURT: All right.

18 MS. ZMROCZEK: Your Honor, we'd just argue again that
19 it's improper character.

20 THE COURT: All right. I am going to exclude the
21 testimony regarding the evidence testimony coming in that
22 he could not legally -- that he could not legally carry a
23 gun. I do not find that it is relevant. I also find it
24 to be -- whether the gun was legally carried or not
25 legally carried, it's a gun and for purposes of

1 self-defense, if it is brought up, then I will allow you
2 all to -- I'll either listen to -- if self-defense is
3 claimed by the Defense at any point then I will allow --
4 just for purposes of the self-defense, being able to rebut
5 the self-defense argument. I will allow them to get into
6 the fact that he could not legally have a gun, which is
7 still a gun. Bringing the gun -- if you want to get into
8 the portion of self-defense that talks about bringing upon
9 the difficulty, him bringing a gun period whether or not
10 it was legal or illegal could be viewed as bringing upon
11 the difficulty. But let's see if they raise the issue
12 regarding self-defense. Then we'll revisit this, but for
13 purposes of the case-in-chief and bringing it in, I'm not
14 going to allow, I don't find that it is relevant. And I
15 also think it would be improper if the Court -- if it is
16 not an accurate statement of the law regarding malice,
17 then I think it would be improper for the State to put
18 that in before the jury. And also, improper character
19 evidence.

20 MR. POTTS: If I can be clear, Your Honor. I still
21 intend to argue some variation of the firearm negates
22 malice, which I think I can do under the current case law.

23 THE COURT: You're going to --

24 MR. POTTS: For arguments rather than -- and ask the
25 Court to charge --

1 THE COURT: No, but how are you going to argue that
2 it's illegal --

3 MR. POTTS: No. Not that part, Your Honor. Just the
4 firearm in and of itself.

5 THE COURT: Yeah. The only thing I'm concerned about
6 is getting in that he could not legally carry the gun or
7 that the gun was stolen.

8 MR. POTTS: On that part, I will stay --

9 MS. ZMROCZEK: -- the other issue, Your Honor, is --
10 so we just had Mr. Rogers here. They had a full
11 opportunity to question him. I cross-examined him. They
12 even redirected. Not one time did they ask him what his
13 nickname was. Therefore, Your Honor, if they intend to
14 have Duckett interpret what swerve on up means, and then
15 they say, do you know his nickname -- his, Jimmy Rogers'
16 nickname to be Unc. Your Honor, that is -- that's a
17 question that would have been proper for Mr. Rogers. It
18 is not proper for Mr. Duckett to speculate who that is.
19 So we would argue that that -- I just want to preempt that
20 because obviously, I'm going to object to it if that's
21 where they go, but he was here. They had an opportunity
22 to ask him that. They did not. That is -- so to relate
23 Unc to him by Duckett would be improper.

24 MR. POTTS: Your Honor, obviously, people have street
25 names. Duckett investigated. He knows the people's

1 names. They have aliases. He has discovered these things
2 in the course of his investigation. Witnesses refer to
3 other witnesses as is very common and the fact of the
4 matter is the fact that his name was Roshamel Parker.
5 It's something that Duckett can testify to because that's
6 what he will have described him as and know him as. These
7 two things come part and parcel. Regardless, the
8 Defendant in his written statement refers to himself. So
9 it's coming in anyway.

10 MS. ZMROCZEK: It can come in through what it's come
11 in, but they can't --

12 THE COURT: All right. I'm going to allow it and if
13 he can testify to it and he knows his name and how he
14 knows that that's him, I will allow it in. I think it's
15 been said -- a couple of times I read about uncle or Unc
16 or something. So I thought one of the other officers or
17 somebody testified.

18 MS. ZMROCZEK: The person reading the statement did
19 because that's what it said in the statement.

20 THE COURT: And the statement's already been admitted
21 in?

22 MR. POTTS: Yes, Your Honor.

23 MS. ZMROCZEK: Yeah. The statement's been ruled
24 upon. My issue is that they're going to try to now fill
25 in the blanks that Mr. Rogers wouldn't or chose not to

1 testify to.

2 THE COURT: Or they didn't ask him. All right. Are
3 you all ready to call your next witness? So I am -- the
4 objection is overruled. Are you all ready to call your
5 next witness?

6 MR. POTTS: The State's ready, Your Honor.

7 THE COURT: Bring them on in.

8 (Whereupon, the jury came into open court at
9 approximately 3:42 p.m.)

10 THE COURT: All right. I'm going to ask the State to
11 call their next witness.

12 MR. POTTS: The State calls Chauncey Duckett.

13 CHAUNCEY DUCKETT, being
14 first duly sworn, testified as follows:

15 THE WITNESS: Chauncey Duckett.

16 DIRECT EXAMINATION

17 By Mr. Potts:

18 Q Investigator Duckett, where are you employed?

19 A City of Columbia Police Department.

20 Q And what's your role there, sir?

21 A Right now, I'm assigned to the violent crimes against
22 persons unit.

23 Q And before we talk a little bit about that, were you
24 assigned there back in March of 2018?

25 A Yes, sir. I was.

1 Q What is your role in the case we're here for today?

2 A I was the lead investigator on this case.

3 Q So what's the lead investigator? What's that mean?

4 A It means that I'm the investigator that's assigned as
5 a main point of contact and the main person to investigate
6 the case.

7 Q Does that mean like a lot of things just kind of go
8 through you?

9 A Essentially, everything involving this case.

10 Q So how did you first get involved?

11 A I happened to be up next for the next homicide that
12 occurred in the city. So at that time, I was called and
13 notified of the incident that occurred on Samson Circle
14 and I responded.

15 Q So I guess can you describe to the jury what the
16 scene was like when you first got there at [REDACTED] Samson
17 Circle?

18 A Okay. So by the time I get to the scene, it's
19 already contained. Crime scene tape is already up. Crime
20 scene was already on-scene, as well. So we had the crime
21 scene tape up. A couple of the supervisors were there, as
22 well, and I approached the supervisors and asked them for
23 a brief on, currently, what we had at this time.

24 Q And they -- I guess, they kind of filled you in on
25 what had been happening at that point?

1 A Yes, sir. We had -- Mr. Rogers was already
2 transported to the hospital at this time. I was advised
3 that there were two more potential victims at the hospital
4 at that time that was suffering gunshot wounds as well as,
5 the decedent was still on-scene at the time.

6 Q Now, I guess you were out there and put in charge.
7 How do you go about reacting when you first get to the
8 scene, once you've got that briefing?

9 A Okay. Initially, the first thing I want to do is, I
10 want to see everything as it is. So I'll take an initial
11 walk through and locate just a visual on what is there,
12 whether it be blood, gunshots, a projectile, defects that
13 are within the residence and take a walk around just to
14 kind of get my bearings on what we have at this time.

15 Q And what, if anything, did you find of particular
16 interest?

17 A I noticed a large amount of blood, obviously, in the
18 kitchen area with a lot of shoe -- footwear impressions
19 leaning towards the rear of the residence, the side door.
20 There were shell casings, some were obviously visible at
21 that time as well as, unfortunately, the decedent there at
22 the front door.

23 Q And so what about those shoe prints -- I guess, the
24 shoe impressions, you called them?

25 A Footwear impressions.

1 Q What struck you about them?

2 A There were just too many back and forth at that time.
3 So it just led me to believe that somebody was in and out
4 of the door after the incident occurred. When I noticed
5 that, that's when I advised patrol to make sure we
6 searched the rear of the residence as well as the
7 neighbor's. It was an open fence. So there's no privacy
8 fences. So just make sure we searched the back, the
9 general area, for any additional evidence.

10 Q So I want to show you what's marked as State's 125.
11 Is that just a picture of [REDACTED] Samson Circle?

12 A Yes, sir. An overview picture.

13 MS. ZMROCZEK: No objection, Your Honor.

14 THE COURT: What's the number?

15 MR. POTTS: State's 125, Your Honor.

16 THE COURT: All right. It'll be entered into
17 evidence.

18 (Whereupon, State's exhibit number 125 was admitted
19 into evidence.)

20 Q And this is just a top down view of the residence,
21 correct?

22 A Yes, sir.

23 Q And so you were talking about -- there's no gap,
24 there's no privacy fences between the houses?

25 A Correct. Yes, sir.

1 Q So I guess, at that point when you advised patrolmen
2 on-scene to go search back there, had anyone found
3 anything yet?

4 A I believe they found it when I had already left to
5 head to the hospital.

6 Q Okay. So -- but before you directed them --

7 A Nothing was found before I directed them. Yes, sir.

8 Q And then, what did you -- so once you directed them,
9 did you go out and search yourself?

10 A No, sir. Not at that time.

11 Q And why is that?

12 A I just wanted to get to the hospital to speak to the
13 living witness at that time, living victim.

14 Q Is that what you did?

15 A Yes, sir.

16 Q Now, at some point, you are notified about the things
17 in the back yard. Is that while you were on the way to
18 the hospital?

19 A I believe it's while I was at the hospital. I
20 couldn't tell you whether it was right when I was pulling
21 up or while I was there.

22 Q So why, rather than continue looking at the scene,
23 did you go to the hospital?

24 A Like I said, I wanted to speak with Mr. Rogers. He
25 was a living victim and also, a witness to the crime that

1 happened there. So I wanted to gather as much information
2 from him as I could at that time personally.

3 Q And so walk me through what happened at the hospital.
4 What was going on?

5 A There was a lot of chaos at the hospital,
6 unfortunately. We had the two additional individuals show
7 up with the gunshot wounds and they obviously had some
8 family or friends with them at the time, as well. So the
9 hospital staff was trying to, I guess, sort out that
10 situation. Unfortunately, the trauma bays at Richland
11 Hospital are typically full. Mr. Rogers was in the
12 hallway on a gurney at the time.

13 Q Did you have an opportunity to speak with him
14 briefly?

15 A I briefly spoke with Mr. Rogers. Yes, I did.

16 Q And then, what was your next step?

17 A I gathered some of the information that Mr. Rogers
18 provided. Obviously, at this time, he was telling us
19 that, you know, he really didn't know too much at this
20 time about what happened other than two people came in and
21 shot him.

22 Q So after you talked to Mr. Rogers, then you go back
23 to the scene?

24 A I respond back to the crime scene.

25 Q Once you -- sorry. Once you got the information that

1 he was saying, you go back to the scene?

2 A I responded back to the crime scene. Yes, sir.

3 Q And what was your role there then?

4 A Crime scene was still processing the scene and I went
5 to assist them with processing. A lot of the times when
6 crime scene is processing the scene, I like to be involved
7 to make sure certain evidence is collected as well. So I
8 will also assist them in collecting DNA samples from
9 potentially blood or any other places that I think might
10 be necessary as well.

11 Q Did you collect any of the DNA samples in this case?

12 A I did collect a few DNA samples in this case.

13 Q And so I think we heard from Investigator Jackson,
14 and you were here for that, that a lot of the samples he
15 does were directed by the Investigator and that would be
16 you in this case, correct?

17 A Yes sir, it would be.

18 Q And how would you direct him to take samples of the
19 blood?

20 A Okay. Just based on the crime scene and what I seen.
21 The obvious blood at where the decedent was, we collected
22 a sample from there. There were blood droplets in other
23 places that I believe somebody was traveling. So we
24 obviously wanted to collect that. There were blood
25 droplets that were collected at the sewer in the roadway.

1 Obviously, we wanted to collect that because that showed
2 that, potentially, somebody was walking that direction
3 actively bleeding, which obviously, wasn't the decedent.
4 And we believed that the other victim was still in the
5 house at the time and did not make it to the roadway,
6 which would be Mr. Rogers. So I believed that that DNA
7 collection would be important.

8 Q Was there -- is there a reason why you wanted to
9 focus on droplets?

10 A Yes. Because the droplets, like I said, show someone
11 that's actively bleeding.

12 Q So the CSI, Jackson, are you there for a lot of that
13 collection that he's doing?

14 A Yes, sir.

15 Q Are you walking through with him?

16 A Yes, sir. At certain times, I went to collect a few
17 different things. So we weren't like right in the same
18 room.

19 Q So what's the sort of things that started happening
20 next as far as when you start finishing up at the crime
21 scene?

22 A I received some information that the individuals at
23 the hospital provided some information on where they were
24 potentially injured at. So at that time, we directed
25 officers to check those areas, as well.

1 Q And did anything come from that?

2 A No additional evidence was located to support that a
3 shooting occurred at either one of those locations.

4 Q Did you next try and look at the 911 calls at 911
5 communications?

6 A I responded to 911 and listened to the 911 calls. I
7 did. Yes, sir.

8 Q Were there any leads or further investigation that
9 you determined needed to be done based on that?

10 A No additional information was found from the 911
11 calls.

12 Q So at this point -- around what time were you doing
13 the 911 communications?

14 A It was approximately 4:00 a.m.

15 Q And so this event -- I guess, this is on March 26th
16 at this point?

17 A Yes, sir.

18 Q Do you -- when do you sleep?

19 A At this point, I had not been to sleep yet. It's not
20 unusual in a case like this that we'll just continue to
21 work as long as we have leads to follow-up on.

22 Q So I guess after 911, what did you -- what was the
23 next kind of big lead you had?

24 A At this point, I, myself, wanted to respond to James
25 Street. We're starting to get daylight and based on the

1 information that we received that one of the individuals
2 who was at the hospital said he was shot on James Street.
3 So we responded -- I believe myself and Investigator McCoy
4 responded to James Street. We're starting to get sunlight
5 now. So we believe that we'll do another check to see if
6 we can locate any shell casings or blood in the roadway or
7 anything that would help support the fact that the
8 shooting occurred on James Street, based on the
9 information that we had. So we just wanted to double
10 check to make sure that we're doing the best investigation
11 we can possibly do at this time.

12 Q And did you find anything?

13 A I found nothing.

14 Q Did you, around 10:00 a.m., go back to the hospital?

15 A Yes, sir.

16 Q And what were you doing there?

17 A Myself and then Investigator Montgomery responded to
18 the hospital to retrieve the video from the two additional
19 individuals who were shot being dropped off at the
20 hospital.

21 Q And so what does that video show?

22 A It shows the first individual, Gwan Perry, being
23 dropped off and entering the -- he's being assisted into
24 the front door of the emergency room. Less than a minute
25 later, the Defendant, Mr. Roshamel Parker, is seen walking

1 at a fast pace across the parking lot into the ER as well.

2 Q And all of that was hours earlier back when they
3 first went to the hospital?

4 A Yes, sir.

5 MR. POTTS: At this time, I'd offer into evidence
6 number 146.

7 MS. ZMROCZEK: Without objection, Your Honor.

8 Q Is this the video --

9 THE COURT: What number is that?

10 MR. POTTS: It's Number 146, Your Honor.

11 Q Is this the video?

12 A Yes, sir. That is the video.

13 MR. POTTS: I'd like to offer into evidence State's
14 146, I believe, without objection.

15 THE COURT: It will entered without objection.

16 (Whereupon, State's exhibit number 146 was admitted
17 into evidence.)

18 Q And so are you just by yourself or with Investigator
19 Montgomery this whole time or how is this process of
20 investigation working?

21 A Okay. Essentially, at this point, it's down to me
22 and Investigator Montgomery.

23 Q And then what is the next big thing that, I guess,
24 you were able to do in this case?

25 A Okay. It took a little while to get through the

1 video and actually get that collected. So that took
2 approximately two and a half hours before it was collected
3 just being directed from one spot to another in the
4 hospital. And then, the person downloading it -- excuse
5 me, didn't download it correctly. So we waited on that
6 and once that was collected, I was notified that Mr.
7 Rogers was also released from the hospital.

8 Q Did you take him down -- not did you personally take
9 him down, but did he get taken down to the Columbia Police
10 Department?

11 A Yes. He was transported down to Columbia Police
12 Department.

13 Q And I guess the video we saw earlier, I believe it
14 was Defense --

15 MR. POTTS: That's number 11, Ms. Zmroczek?

16 MS. ZMROCZEK: Which number?

17 MR. POTTS: The one -- interview with Mr. Rogers.

18 COURT REPORTER: It's 11.

19 Q Defendant's 11. That was you interviewing Mr.
20 Rogers, correct?

21 A Yes, sir. That is correct.

22 Q Can you explain to me, I guess, some of the coarse
23 language you used? Because, Mr. Duckett, you seem like a
24 perfectly nice guy.

25 A So when dealing with individuals, I like to relate to

1 them as best I can. So regardless of age, demographics or
2 whatnot, I'm going to relate to them as best I can to make
3 sure that they understand what I'm saying and we can
4 communicate on the same level.

5 Q What is the goal?

6 A The goal, at this point, is to obtain as much
7 information as I possibly can to further this
8 investigation.

9 Q And so you ended up interviewing him for a while. He
10 provides information, which of course, I guess we can talk
11 about some of that since it's now in evidence. But this
12 -- he ends up giving a statement that is different, in
13 some respects, than what he had earlier said, is that fair
14 to say?

15 A That's common.

16 Q But then -- and this whole thing -- your interaction
17 with him is recorded, correct?

18 A Of course. Yes, sir.

19 Q At that time, I guess, as you were interviewing, did
20 you have an opportunity to show him State's 144 and
21 State's 145, photo lineups?

22 A Yes, sir. I did.

23 Q And did he -- who did he identify in State's 144?

24 A In State's 144, Mr. Rogers identified Gwan Perry.

25 Q And then, in State's 145?

1 A In State's 145, he identified Roshamel Parker.

2 Q And who did Mr. Rogers say those two individuals
3 were?

4 A He said that those were the two individuals that came
5 into his house and started shooting.

6 Q So now that you had that -- I guess, now that you had
7 confirmation that they were -- from Mr. Rogers, they were
8 involved, what was the next step you took? I guess let me
9 ask what you're looking at right there.

10 A These are my case notes.

11 Q And why do you have case notes?

12 A It'd be hard for me to remember everything that was
13 done two years ago on a homicide case and obviously, I
14 still actively work homicide cases. So it'd be hard to
15 remember every detail without proper notes.

16 Q And so your case notes are just -- how would you
17 describe them?

18 A These are my notes about what I write about what
19 happens throughout this case from start to finish.

20 Q Thank you. Sorry. I apologize. So after talking
21 with Mr. Rogers, what was your next step?

22 A This is at the time that me and Investigator
23 Montgomery responded to the hospital and we had a search
24 warrant for the DNA collection of Mr. Parker.

25 Q At that point, did you consult with my office?

1 A Yes, sir. I did.

2 MS. ZMROCZEK: Your Honor, may we approach?

3 (Whereupon, a bench conference was held in the
4 presence of the jury but out of the hearing of the
5 jury.)

6 Q And then -- excuse me. And at that point,
7 Investigator Montgomery and McCoy went and did the search
8 warrants on Mr. Rogers' car and the victim, Cory Jenkins'
9 car, correct?

10 A Yes, sir. That was completed.

11 Q Did you have the opportunity again on the 29th to
12 talk to Jimmy Rogers again?

13 A I did. I spoke with Mr. Rogers again.

14 Q And was -- so that would be -- this time, again, I
15 guess would be the third time you talked to him?

16 A This would be the third time I spoke with Mr. Rogers.
17 I just -- I wanted to confirm as much as I possibly could
18 about the interactions and what occurred in that
19 residence. By this time, through the course of the
20 investigation, we determined that there were four
21 individuals in that residence at the time and all four of
22 them were shot. So I wanted to make sure that Mr. Rogers
23 understood that we had that information and if there was
24 anymore information that he could provide to assist in
25 this investigation.

1 Q So once you finished talking with Mr. Rogers, did
2 you, at that point, hear from -- I guess, did you hear
3 anything from Officer Fulmore?

4 A Yes. I was notified from Officer Fulmore.

5 Q And what did Officer Fulmore tell you?

6 A He advised me that he had received a note that was
7 passed to the hospital staff. And then, the hospital
8 staff had passed it to him from the Defendant.

9 Q And is that the note we talked about earlier? I'm
10 not sure which State's Exhibit it was, but the one Officer
11 Fulmore and Mr. Rose testified to?

12 A Yes, sir. That is correct.

13 Q Did you receive any other notes from the Defendant?

14 A I didn't personally receive any other notes from the
15 Defendant. But he did provide, I believe, a note to the
16 officer on guard duty indicating that he wanted to speak.

17 Q I'll show you State's 147.

18 MS. ZMROCZEK: Without objection, Your Honor.

19 A Yes, sir.

20 MR. POTTS: I'd like to offer into evidence then,
21 State's 147.

22 THE COURT: What was the number?

23 MR. POTTS: 147, Your Honor.

24 THE COURT: You said without objection?

25 MS. ZMROCZEK: Correct, Your Honor.

1 (Whereupon, State's exhibit number 147 was admitted
2 into evidence.)

3 Q So what does that note say?

4 A This note says, Tell Duncan Police I'm willing to
5 talk to Investigators.

6 Q And that was given to you not by him, but it made its
7 way to you?

8 A Yes.

9 Q So did you go talk to him?

10 A At that time, me and Investigator Montgomery
11 responded to the hospital.

12 Q And I guess this is a couple of days after that
13 interaction with Fulmore?

14 A Approximately, two, I believe. One or two days
15 later.

16 Q So tell the jury a little bit about your interactions
17 with Mr. Parker that day at the hospital.

18 A Okay. Me and Investigator Montgomery responded to
19 the hospital at the request of the Defendant who stated
20 that he wanted to speak to us. At this point, with him
21 being a Defendant, he was advised of his Miranda rights
22 before we decided to speak with him. Due to his injury to
23 his mouth, he wasn't able to talk. So our complete
24 interaction was also recorded on body cam but it was also
25 written back and forth through a notepad that I had with

1 me. So I would write a question, he would write an answer
2 and it continued like that for approximately 20 to 25
3 minutes.

4 Q The video that's already in evidence of that
5 interaction, is that most -- was that just the Miranda
6 warnings mostly, and then you all just sitting there
7 writing back and forth?

8 A Essentially, that's what it is.

9 Q I'm going to show you State's exhibit number 2.

10 A Yes, sir.

11 Q Is that, I guess, the written conversation between
12 you and Mr. Parker?

13 A Yes sir, it is.

14 Q And just so the record's clear, when I say Mr.
15 Parker, who am I talking about?

16 A We're talking about the Defendant here, Roshamel
17 Parker.

18 Q And what's he wearing?

19 A Today he's wearing a white shirt, glasses, I believe
20 too have dreads braided backwards.

21 Q Would you please read the conversation you had with
22 the Defendant, verbatim?

23 A Entirety?

24 Q In its entirety.

25 A Yes, sir. After he was advised of his Miranda

1 rights, he wrote down, I want to know how you're charging
2 me when really I'm the victim, man. I'm going to be all
3 the way real. Whatever you want to know, I'm going to
4 tell you right now. First off, you not going to keep the
5 truth from the air, right? Well, first off, I went to [REDACTED]
6 Samson Circle to buy two bags of weed. Me and the guy,
7 Murder, did business there over 10 times. I owed Murder
8 off the last time I shopped with him. He wanted 3,800 for
9 two bags. I only bought 35 and I called and told him that
10 his uncle house is the trap. So when I pull up, Murder
11 doing his usual. If you ain't got what you owe then you
12 might as well dip. I thought he was BS'g. So we in the
13 kitchen and I told him I only had bought 35. He said, no,
14 Trill, you BS'g. I got more people pulling up for these.
15 I said, Bro, you know we Al. Stop BS'g. He said, not
16 this time. So I say, take this 35. I'm going to get it
17 off and bring it right back. His juggs starting knocking.
18 So I asked, you going to let me do it? I had a Glock 23
19 in my bread. He said, no. So serve. The man seen my
20 tool when I was about to count the bread out and he shot
21 me in my face. No lie. I'm in the kitchen just thinking
22 I'm dead. My Junior, only thing that I remember, calling
23 my name. So I said, I can't be dead. I remember feeling
24 around in my blood in the kitchen thinking, this man ain't
25 shoot me. So with both eyes gone, I feel my gun, I let

1 one shot off to see if I was dreaming, but I wasn't. I
2 didn't aim at no one because I was so in shock and bloody,
3 I couldn't see or hear anything but my Junior. I crawled
4 to the door reaching for the handle. I think I fell
5 through the whole screen. I crawled to my serve car, got
6 dropped off on the hospital. I ain't no killer or robber.
7 Every time I came at that man it was respect. Even his
8 uncle used to tax me just for letting us jugg out his
9 house. So when I heard what happened to him, I ain't even
10 going to lie, I didn't give a fuck. If my Junior ain't
11 snapped me out that trauma I would have died in that
12 kitchen and he would have still been serving. I believe
13 so. I can't say I feel remorse for that nigga because he
14 shot me in my face when all I ever did was good business
15 with him. He just a scary trapper but he ain't care about
16 my kids and my life. All the money I bought him. So I
17 can't say I feel sorry for him honestly and this just the
18 truth of my story. Nigga was still serving with me
19 bleeding to death in the kitchen. Word. I crawled out
20 that MF with nothing. I left everything. This on my kids
21 and my dead mama.

22 I asked him, Who is Junior?

23 He replied, My son.

24 I asked him, Who was with you?

25 He replied, I got Serve to bring me. He a smoker. I

1 don't want to incriminate him. He never went in or
2 nothing and in parentheses, (Crackhead).

3 I asked him, Someone was with you in the house. Who
4 was it?

5 He responded, No one. Me and Murder don't do
6 business like that. Ask his uncle.

7 I asked him, I did talk to his uncle and other
8 people. That's how I know you were not alone.

9 I never saw no one. Just me in the kitchen with
10 Murder. His uncle stayed in the front. Like I said, it's
11 a trap.

12 I said, If you said you only shot one time, explain
13 how Murder was hit more than five times if you were the
14 only one in the house.

15 He responded with, IDK which is commonly known as I
16 don't know. I never heard no shots. My whole life
17 flashed before me. I never knew what happened to them
18 until a day or two later. The only reason I shot from the
19 floor was to see if I was alive and not dreaming. This on
20 my dead mama and kids.

21 Why not say who was with you? Are you fearful from
22 retaliation?

23 He replied with, No. I just wanted to give what I
24 knew, honestly. I wish he wasn't dead because I would
25 kill him myself. Bro, you don't understand. He

1 point-blank ranged me in the kitchen and left me there.
2 IDK how long or come through before. If I did, I would
3 say, but I can't see, Bro. I got shot in my face for
4 reaching for cash. Whoever did probably thought I was
5 dead already because even I did. But on my dead mama and
6 kids I saw no one, Bro. Just me and him and Unc.

7 I asked him, If you are truly a victim, you've got to
8 tell it all. The whole truth. I don't care about the
9 weed. It is not important. If you shot one time, who let
10 off the other shots?

11 I had to be shot already and like I said, I didn't
12 aim at no one or nothing. It was like my son and God was
13 waking me up. I couldn't see or talk. I crawled, Bro. I
14 fell through the screen. When I got here, I passed out.

15 I asked him, Did you always take a gun when you went
16 to buy from him? And I asked him a second part to that
17 question, which was, Where did you meet Murder?

18 His response to the first part was, always. Then, he
19 said, in at the trap, his uncle's spot. He can probably
20 tell you a lot more but ask anyone. I always do good
21 business and keep my face clean. That's why this shit
22 hurts so bad. I can't believe he shot me still. Through
23 another plug, we've been doing business over like a year
24 now. He's just a ping pong, me when Bro out of town. I
25 just found out his name was Cory. My gun should have been

1 in the kitchen in my blood. If it wasn't, you've got to
2 talk to his uncle and trap him because this the realest
3 I've ever been on my kids and dead mama. And they the
4 only people I love. Glock 23 or 30.

5 I asked him, Who is Gwan? And in parentheses,
6 (Gwany).

7 He said, I know Gwan.

8 I said, Was he with you?

9 He said, Hell, no. I saw him at the hospital when I
10 got there, though, but couldn't talk. The bullet
11 fractured my jaw.

12 I asked him, Anything else you want to tell me?

13 What do you want to know? I just want to take care
14 of my kids man. My serve, he's scary. Ask anyone. I
15 think he saw that Glock, but that was where my money was.

16 Tell me your serve's name, is what I asked him.

17 He said, I got my serve to call Jabo. I would give
18 you his number but I don't know where none of my shit is
19 on my mom's phone or nothing.

20 I asked him, So is there anyone that I can talk to,
21 to verify your story?

22 He said, Just go back and investigate, Bro. I gave
23 you facts. Even put my life on the line. I keep business
24 discreet out here. If you all let my girl come, I know
25 she'll verify whatever, but this my side. I don't know

1 what else you want to know, Bro. For real. Okay. He
2 said, Don't charge me for giving you the truth. Unc going
3 to hold back for real. This my side. Let my fam see me
4 or call them or something. They worry. After this, I'll
5 never sell another gram or touch a gun again. You all
6 ain't find my gun?

7 That was the end of the statement.

8 Q Thank you. So in that statement, a couple of times,
9 the term Unc is used. Through the course of your
10 investigation, did you determine who Unc was?

11 A Through the course of the investigation, we
12 determined that -- and found out that Unc was a common
13 nickname for Mr. Jimmy Rogers.

14 Q So was he kind of like Cory's uncle?

15 A I guess you can call it a street name that, you know,
16 most younger people would call the older people. But he
17 called him Unc as well as -- obviously, the Defendant
18 called him Unc, as well.

19 Q Based on that statement from Mr. Rogers, was there
20 anything else you could follow-up on?

21 A He provided no additional information to follow-up on
22 to verify whether he was being honest. I couldn't get the
23 serve's name who dropped him off or anyone's information
24 who aided or assisted in taking him to the hospital or
25 taking him from the scene.

1 Q Did you -- I guess, in the furtherance of your
2 investigation, did you all gather some cell phones in this
3 case?

4 A We did. We collected, I think, maybe four cell
5 phones in this case.

6 Q Did you submit them for analysis?

7 A They were submitted to SLED for processing. Yes,
8 sir.

9 Q Did anything of evidentiary value come out of that?

10 A Nothing additional came from the phones. No, sir.

11 Q Did -- I guess, once he was released from the
12 hospital, did you serve arrest warrants on Mr. Parker?
13 Not you, personally --

14 A I personally did not serve the arrest warrants on Mr.
15 Parker. Once we determined that he was -- the probable
16 cause exists for the arrest, a guard detail was set on him
17 as well. I believe that was on the 30th of March and once
18 he was released from medical care, he was served with the
19 search warrants and then transported to the jail.

20 Q Now, is that where your investigation stopped in this
21 case?

22 A No. The investigation will continue. Just because
23 someone is arrested, that's not the end of the
24 investigation.

25 Q And eventually, I guess, Gwan Perry, the Codefendant,

1 he was arrested, too?

2 A Yes, sir.

3 Q Did you, at some point, receive -- who submits stuff
4 to SLED to be processed or analyzed?

5 A I usually take care of most of the evidence that
6 needs to be submitted and transported over there to be
7 processed on my cases.

8 Q And when they have the results, where does it go?

9 A The results are sent back to me via their server
10 online.

11 Q Once you got the DNA results, why didn't you go get a
12 sample from Jimmy Rogers?

13 A Based on the investigation, like I said, we were
14 pretty confident that there were four individuals in the
15 residence. The DNA came back and provided three of those
16 individuals who we knew. And through the investigation,
17 we knew that Jimmy Rogers is the one who moved the drugs
18 outside because he said that he did that. He told us that
19 he moved the guns outside. So the blood on the bricks and
20 the money and all that information, we knew who that
21 belonged to. So collecting a sample from Jimmy Rogers to
22 say that Jimmy Rogers was at home and Jimmy Rogers did
23 what Jimmy Rogers told us he did didn't seem prudent at
24 that time.

25 MR. POTTS: Beg the Court's indulgence for one

1 second.

2 Q Just a couple of things that I just want to clear up.
3 In the -- I guess, once you did arrest warrants for Mr.
4 Parker, you also did arrest warrants for Mr. Perry,
5 correct?

6 A Yes, sir.

7 Q Did you all -- as you went to serve him -- again,
8 it's not you, but as people did serve those warrants on
9 Mr. Perry, did you all have trouble finding him?

10 A Yeah. We had a very difficult time locating Mr. Gwan
11 Perry. He was obviously attempting to evade us. He
12 deactivated his Facebook page and kind of closed down all
13 lines of communication towards him.

14 Q And then, State's 147 and State's number, I believe,
15 2 and -- let me back up. When you got State's number 147
16 and, I guess, the thing saying he wants to talk to you,
17 Mr. Parker wanted to talk to Duncan, that was -- you acted
18 on that immediately, correct?

19 A Yes, sir. Unfortunately, people mispronounce my name
20 as Duncan a lot instead of Duckett. So I'm familiar with
21 Duncan being a request for myself.

22 Q I mean, you were the lead investigator in the case?

23 A I was. Yes, sir.

24 Q Now, I've just got one more quick line of questioning
25 to ask you about. Go back to that March 26th of 2018

1 interview you did with Jimmy Rogers. That video is in
2 evidence now. Do you recall asking him what, you know
3 what it is, means?

4 A Yes, sir. I do recall asking him that and that was
5 based on his statement and him saying that he heard, you
6 know what it is. And I asked him what that meant and he
7 said, I know that to mean that this is a robbery.

8 MR. POTTS: Beg the Court's indulgence for one
9 moment. Thank you, Investigator. No further questions.
10 Answer any questions the Defense has.

11 THE WITNESS: Yes, sir.

12 CROSS-EXAMINATION

13 By Ms. Zmroczek:

14 Q Good afternoon, Investigator Duckett.

15 A Good afternoon, ma'am.

16 Q So I wanted to try to talk to you about a few things.
17 The first thing is, you said -- so Mr. Parker wrote down
18 his statement and he gave it to you, right?

19 A Yes, ma'am.

20 Q And then you said that he provided nothing that you
21 could corroborate his statement, right?

22 A Nothing that would corroborate what he said.

23 Q Not a darn thing?

24 A No, ma'am.

25 Q Not even the DNA in the kitchen floor that came back

1 to him? That corroborates being shot in the kitchen,
2 doesn't it?

3 A We already collected all that evidence. He provided
4 nothing additional.

5 Q I understand.

6 A Okay.

7 Q But let me ask the question this way. He tells you
8 he was shot in the kitchen?

9 A Yes, ma'am.

10 Q You find his DNA, blood, in the kitchen?

11 A Yes, ma'am.

12 Q Do those two things corroborate each other?

13 A At the time that I spoke to Mr. Parker, the blood
14 that was collected was not tested to verify that it was
15 Roshamel Parker at that time.

16 Q I got you.

17 A Yes, ma'am.

18 Q But I can ask the question again.

19 A Okay.

20 Q Regardless of when you talked to him and when it was
21 tested, my question is this. Now, is that statement
22 corroborated?

23 A That he was in the kitchen?

24 Q Yes.

25 A Yes, ma'am. It is.

1 Q Okay. Is the statement -- he tells you that he shot
2 one round from the 23. I know it's not a 23, but --

3 A I understand.

4 Q -- but for purposes of me, it's going to be a 23. He
5 shot one round from the ground --

6 A That's what he says.

7 Q -- right? And we typically know that bullets eject
8 back and to the right, typically, right? You've shot guns
9 before, right?

10 A Yes, ma'am.

11 Q Is that typical in your experience?

12 A Yes, ma'am. Typically.

13 Q So I want to show you Defendant's 10 and ask you if
14 you recognize that picture.

15 A Do you mind if I look at it, please?

16 Q Absolutely.

17 THE COURT: Is that one in, Ms. Zmroczek?

18 MS. ZMROCZEK: It's ID for now.

19 THE COURT: Okay.

20 A These look like photographs that were taken by --
21 this photograph appears to be taken by Officer Jackson.

22 Q By Officer Jackson while you all were at the crime
23 scene, right?

24 A Yes, ma'am.

25 Q And so -- and it has a little number, I think. An ID

1 marker. That would be the City's marker?

2 A Indicating Number 23?

3 Q Right.

4 A Yes, ma'am.

5 MS. ZMROCZEK: Your Honor, at this time, we would
6 move Defendant's 10 into evidence.

7 THE COURT: Any objection?

8 MR. POTTS: I just want to be able to see it.

9 THE COURT: No objection?

10 MR. POTTS: No objection, Your Honor.

11 THE COURT: All right. Defendant's 10 will be
12 entered without objection.

13 (Whereupon, Defendant's exhibit number 10 was
14 admitted into evidence.)

15 Q Okay. So 23, this would be 23.

16 A Yes, ma'am.

17 Q Okay. So that would be this wire rack thing in the
18 kitchen?

19 A Yes, ma'am.

20 Q Okay. So that could also corroborate his statement
21 that he shot one shot from the floor right there, right?

22 A Yes, ma'am.

23 Q Okay. Did you know that Cory's gun had jammed?

24 A When we located the gun, we found that it was
25 out-of-battery at the time. Yes, ma'am.

1 Q And also -- the video's in. Also, do you recall Mr.
2 Rogers -- I want to talk about him for a second. Now, he
3 says -- well, regardless of what he said. You wouldn't
4 take an interview and base your whole investigation off of
5 that if someone were shocked or out of their mind, right?

6 A I'm not sure what you're asking.

7 Q You -- when you're interviewing somebody and it's
8 video recorded, you're interrogating them or interviewing
9 them, you want to make sure that the information that they
10 give you is something that you'll want to follow-up on,
11 right?

12 A Yes, ma'am.

13 Q So if they're just like completely out of their mind,
14 you would want to -- in fact, I think you interviewed him
15 twice before this was recorded, right?

16 A I interviewed Mr. Rogers several times.

17 Q Okay. So when he tells you on the 26th that he found
18 those two guns right by Cory's body, do you have any
19 reason to doubt him?

20 A On where he found them at?

21 Q Right.

22 A At that point, I didn't find no reason to doubt where
23 the guns were actually located. No, ma'am.

24 Q Right.

25 A Other than they were in the residence.

1 Q Right. And he maintained in that video that he never
2 saw anybody with guns?

3 A In the interview video?

4 Q Yes.

5 A Maybe. I'm not too sure exactly what he said about
6 whether he saw somebody with guns or not.

7 Q Okay. And that's fine. Let me ask this. The video
8 is already in. It's what you all provided.

9 A Yes, ma'am.

10 Q Certainly, you can't go back and edit -- nobody's
11 edited it to like put words in people's mouths, right?

12 A No, ma'am.

13 Q So whatever is said on there is said on there?

14 A What is said is said. Correct.

15 Q Okay. So -- but we know that the two guns were
16 found. That they were found, one back in this bush, tree,
17 whatever, and then the other's over here (indicating),
18 right?

19 A Yes, ma'am.

20 Q And now, I know that you said that there was no need
21 to test Mr. Rogers' blood, but you recall telling him in
22 that interview, I think we played a little portion of it,
23 that we've got your DNA, we're going to test it against
24 you. Is that going to come back to you. And he says, no.
25 He said that, right?

1 A Yes, ma'am. I remember him saying that.

2 Q And you're like, come on, dude, we know you hid the
3 guns, we're not trying to jam you up for that or whatever.
4 But still -- so I just want to make sure that as the jury
5 gets this case and they get to evaluate it -- so you are
6 not denying that this blood found in the bricks belonging
7 to unidentified person A would be Jimmy Rogers?

8 A No, ma'am.

9 Q In fact, that's what you believe --

10 A Yes, ma'am.

11 Q -- right? So that would mean that that blood droplet
12 found right there by the door, the side door, that comes
13 back to unidentifiable individual A would also be Mr.
14 Rogers --

15 A Yes, ma'am.

16 Q -- right? You didn't test the blood in the bedroom,
17 but what is -- I mean, in your investigation and your
18 theory, do you have any reason to doubt that this is the
19 blood of Mr. Rogers?

20 A Mr. Rogers moved throughout that house very
21 frequently that night before we arrived. So we believe
22 that that is his as well.

23 Q Okay. And in fact, did you find any other
24 paraphernalia in his room besides his dentures?

25 A I don't recall finding anything else, paraphernalia.

1 Are you speaking of actual drugs?

2 Q No.

3 A Could you be a little more specific, please?

4 Q Pipes. Yes. If the coroner's report reports a crack
5 pipe, would you have any reason to doubt that?

6 A No. I wouldn't doubt it.

7 Q Okay. All right. And then, you have -- obviously,
8 we've got bullets all over the place. Excuse me. Shell
9 casings. I have been corrected. Shell casings, right?
10 And even fragments because there were people that were
11 shot through TVs, everything. There were a lot of things
12 that had damage, right?

13 A Yes, ma'am.

14 Q Okay. So what you do after you take the evidence
15 that you -- off that you collect from the scene and
16 whatnot and you give that to SLED and they test it, right?

17 A Uh-huh (affirmative response). Yes, ma'am.

18 Q Sorry. And then, they give it back to you, right?

19 A The results? The findings? Yes, ma'am.

20 Q And then, that way, you can kind of line up and see
21 what the evidence shows us, right?

22 A Yes, ma'am.

23 Q Because again, like I asked Investigator Jackson, the
24 crime scene helps tell the story?

25 A It does. Yes, ma'am.

1 Q Okay. So here, we have items number 11 and 23,
2 which, excuse me, are Defendant's 10, Defendant's --
3 State's 32 and State's 52 along with SLED's shell casings,
4 right?

5 A Okay.

6 Q And those come back to matching -- so 11 and 23 come
7 back to matching item, what I call, gun number 23, right?

8 A The Glock 23.

9 Q The Glock 23. Those match, right?

10 A Yes, ma'am.

11 Q Okay. And so then, we have -- then, we have all of
12 the nine shell casings collected from SLED, right?

13 A Yes, ma'am.

14 Q And they come back to items 15, 10 and 16, right?

15 A Yes, ma'am.

16 Q Okay. So we have -- and what that does is -- and
17 obviously, there were some people that were purposely
18 moving stuff. And then, there were some first responders
19 that inadvertently moved stuff. But generally, where
20 those shell casings were when you all got there and
21 documented by Jackson, that's where they were, right?

22 A That's where they were when we arrived on-scene.
23 That is correct.

24 Q Right. In fact, I think, teeth that we heard about
25 today from the autopsy. Teeth that were identified as 13

1 over in the front, right?

2 A Yes, ma'am.

3 Q And that kind of helps us understand like when that
4 fatal shot fired by whoever had that third gun, that kind
5 of helps us understand where that occurred, right? Unless
6 he came into the living room and blew out his teeth.

7 Obviously, we don't know exactly, but it helps us?

8 A It can aid. It's not -- you can't rely upon the
9 location of shell casings to tell you where someone was
10 standing. They can take bounces. As you can see from the
11 photographs, there's a lot of materials and items in that
12 residence. So we couldn't tell you exactly where each
13 person was based on the location of shell casings alone.

14 Q Right. Six -- then, we have six shell casings that
15 come back -- and these nine millimeter shell casings were
16 matched by Jamie Green to the nine millimeter gun that was
17 found in the bushes?

18 A Yes, ma'am.

19 Q Okay. And then, we have all of these shell casings,
20 all of these that come back to an unknown .40 caliber
21 gun --

22 A That is correct.

23 Q -- right? We don't have that gun?

24 A We do not have that gun.

25 Q Okay. So what we know is that Cory -- and I believe

1 there's -- in the statement that you read, excuse me, it
2 keeps referring to somebody as Murder?

3 A Uh-huh (affirmative response). Yes, ma'am.

4 Q Who's that?

5 A Murder, through the investigation that we found out,
6 was Cory's nickname that --

7 Q That's his nickname?

8 A -- that Roshamel called him.

9 Q Okay. And he was a drug dealer?

10 A Yes, ma'am.

11 Q Okay. He mostly dealt with marijuana from what you
12 found?

13 A Through my investigation, that's what I determined.

14 Q And Mr. Parker bought drugs?

15 A Mr. Parker, yes. He bought drugs.

16 Q Okay. Did Mr. Perry buy drugs?

17 A Did he buy drugs this time?

18 Q Right.

19 A I mean, I couldn't tell you -- obviously, nobody
20 bought drugs this evening.

21 Q But people knew that drugs were being sold out of
22 Samson Circle?

23 A I couldn't answer that.

24 Q Okay. But at least, on this day, we know?

25 A Yes, ma'am. We knew.

1 Q Okay. And in fact, there was a lot of mention in
2 that statement about a trap or a trapper. What's -- tell
3 the jury what that means, if they don't know.

4 A You're asking me to interpret that?

5 Q Uh-huh (affirmative response).

6 A Okay.

7 Q If you can. If through your --

8 A Through my investigation and my experience, a trap is
9 known as a location in which people sell drugs out of. A
10 trapper is also a common moniker used for someone who
11 sells drugs.

12 Q Okay. And in fact, Mr. Parker admitted to his
13 illegal -- of buying drugs and he said he'd been there
14 quite a few times, right?

15 A He admitted to buying drugs and he, in his statement,
16 admitted that he was buying drugs so that he could, in his
17 own words, move them and he'll bring the other money back.

18 Q Right. And he admitted to buying them from that
19 place?

20 A Yes, ma'am.

21 Q Okay. And so if we're trying to -- obviously, we
22 can't just rely on shell casings because like you said,
23 those can get moved, but certainly -- how about
24 footprints?

25 A What about them?

1 Q They can't be moved once they're put there, right?

2 A Those footwear impressions? No, ma'am. Once they
3 are there, they are there.

4 Q Okay. So if these footprints were tested -- footwear
5 impressions were tested and they come back to Mr. Rogers,
6 then that would -- you know, that would show which way he
7 went out the door to go hide the stuff, right?

8 A It would confirm his story.

9 Q Okay. Talking about things that confirm stories.
10 What did Mr. Parker tell you about how he got out of that
11 house?

12 A He said he fell through the screen door.

13 Q In fact, do you recall the screen being out?

14 A Of the front door, but I believe the decedent was
15 laying there, as well.

16 Q Right. The decedent was laying to the side, right?
17 Right?

18 A Yes, ma'am. He was in the doorway.

19 Q But -- and he was inside the house?

20 A Yes, ma'am.

21 Q Okay. I'm going to show you State's 25. What does
22 that depict?

23 A It depicts a screen door with, it appears to be,
24 broken glass and blood.

25 Q And where's the screen?

1 A There is no screen here.

2 Q Right. Is it hanging out of it?

3 A There's no screen. I don't see the screen. Okay. I
4 see the screen. Yes. It appears to be broken.

5 Q Okay. So again, that would corroborate what Mr.
6 Parker told you in his statement, right?

7 A Yes. Yes, ma'am.

8 Q Okay. All right. Because when there are different
9 statements being given, like you said, you want to
10 corroborate to see who's telling the truth?

11 A Yes, ma'am.

12 Q And what lines up and what doesn't line up --

13 A Of course.

14 Q -- right? In fact, Mr. Rogers told you he never saw
15 a gun and that -- but yet, we know that he has gunshot
16 residue on his hands, right? You don't deny that?

17 A Which statement are we referring to where he said he
18 never saw a gun?

19 Q The recorded one.

20 A I believe there's two recorded statements from Mr.
21 Rogers, correct?

22 Q Yeah. The one -- the interview that you all did the
23 next day where he had time to come in and talk to you all?

24 A Initially, he said he never saw a gun and he also
25 said that he saw the guns and moved them.

1 Q Okay. Right. Right. Right. He saw the guns and
2 moved them but I meant being shot, right?

3 A I guess you can say that. I'm not sure. I think I
4 said that earlier.

5 Q And so the videos that are in evidence, obviously, we
6 didn't get to see them. But what they show are Mr. Parker
7 being dropped off at the hospital, right?

8 A Yes, ma'am.

9 Q And he goes in, right?

10 A Yes, ma'am.

11 Q And then, there's a separate car -- a very short
12 time -- a short time later, a separate car, right?

13 A Yes, ma'am.

14 Q And that is the car dropping off Mr. Perry?

15 A That's incorrect. Gwan was dropped off first. Mr.
16 Parker was dropped off second.

17 Q Either way. My mistake. Certainly, my mistake, but
18 my point being, they weren't in the same car?

19 A No, ma'am. They were not in the same vehicle.

20 Q So -- and he says, I was by myself. At least, he
21 showed up to the hospital by himself. And by himself, I
22 mean, without Mr. Parker -- Mr. Perry, right?

23 A You can infer that.

24 Q Certainly. He told you that he had \$3,500.00
25 dollars. He, Mr. Parker told you he had \$3,500.00 dollars

1 to come buy some weed, right?

2 A Yes, ma'am. That's what he said.

3 Q And he was going to repackage it and sell it or
4 whatever. But how much money did you find in the woods?

5 A I believe it was, maybe, \$1,900.00 dollars.
6 Something like that. If I had to guess off the top --

7 Q It was a significant amount, but not \$3,000.00?

8 A It was not \$3,500.00 dollars. No, ma'am.

9 Q All right. How much did you find on Mr. Parker's
10 property when you all collected it in the hospital?

11 A I don't recall.

12 Q None?

13 A I don't recall finding any money on his property.

14 Q You found \$113.00 dollars off Mr. Perry's property?

15 A Yes, ma'am.

16 Q Okay. How much -- based on your training and
17 experience, how much do you typically -- sorry. That's me
18 having to slow down. How much do you typically purchase
19 an ounce of marijuana for?

20 A I don't work in narcotics. So I couldn't tell you
21 about how much drugs or whatnot costs.

22 Q Okay. But that money was still on Mr. Perry when he
23 got to the hospital?

24 A \$113.00 dollars was collected from his clothing.

25 Q Okay. The -- I'm going to show you what's been

1 marked for ID as Defendant's 9. Do you recognize that?

2 A This appears to be a Google Map.

3 Q A Google Map of the area from [REDACTED] Samson -- it's
4 showing the distance between [REDACTED] Samson Circle and the
5 hospital, right?

6 A Yes, ma'am. That's what it appears to be.

7 MS. ZMROCZEK: Your Honor, at this time, we would
8 move Defendant's 9 into evidence.

9 THE COURT: Any objection?

10 MR. POTTS: No, Your Honor.

11 (Whereupon, Defendant's exhibit number 9 was admitted
12 into evidence.)

13 Q Now, there are several routes or several ways that
14 you can get to a place from another place, right?

15 A Yes, ma'am. Several.

16 Q The beauty of Google Maps is that it gives you a
17 couple of options and kind of the quickest ways, right?

18 A Yes, ma'am.

19 Q Okay. So you would agree that it's not a very long
20 distance from [REDACTED] Samson Circle to the hospital?

21 A It is not.

22 Q Okay. And in fact, you received information that as
23 you all were on the scene, these two people are already at
24 the hospital?

25 A As -- yes, ma'am.

1 Q Okay. There was no DNA -- none of this blood in the
2 kitchen came back to matching Cory Jenkins, correct?

3 A No, ma'am. Not that I know of.

4 Q Okay. So the blood in the kitchen we know belongs to
5 Mr. Parker and I'm going to say who we all believe is Mr.
6 Rogers?

7 A Yes, ma'am.

8 Q Okay. And no blood came back anywhere matching to
9 Mr. Perry?

10 A Inside the residence?

11 Q Inside of the residence.

12 A No, ma'am. Not that I know of.

13 Q Okay. And in fact, Mr. Parker told you that he
14 busted through -- fell through the screen door and comes
15 out of the front door, right?

16 A He didn't say the front door or the back door.

17 Q Right. Right.

18 A He said --

19 Q Sorry. He just said the screen?

20 A The screen door. Yes, ma'am.

21 Q Right. The screen door and the back door to the
22 kitchen does not have a screen on it? It's just a storm
23 door? If you recall. If you don't --

24 A I don't recall which one had the screen and which
25 not.

1 Q Okay. But you would agree that State's 25, item
2 number two, would be here (indicating), item number two
3 being the front door?

4 A Yes, ma'am.

5 Q And then, he tells you that he stumbles out to the
6 road to get picked up and we actually find his -- you, not
7 me, find his blood in the road and on the sewer?

8 A On the sewer. Yes, ma'am.

9 Q Okay. And in the road?

10 A I believe so.

11 Q So we're able to take the science and match it up to
12 his statement, right?

13 A Yes, ma'am.

14 MS. ZMROCZEK: Okay. Beg the Court's indulgence.

15 Q And then, lastly, in the recorded statement I've been
16 talking about with Mr. Rogers, right?

17 A Yes, ma'am.

18 Q He told you that -- in that interview that he thought
19 he was just shot accidentally, right?

20 A He may have mentioned something like that.

21 Q If it's recorded and it's on there, then that's what
22 he said, right?

23 A Yes, ma'am.

24 MS. ZMROCZEK: Okay. I have no further questions.

25 Thank you.

1 THE COURT: Redirect.

2 MR. POTTS: Just very briefly, Your Honor.

3 REDIRECT EXAMINATION

4 By Mr. Potts:

5 Q In Mr. Parker's statements, where does he say Gwan
6 Perry was?

7 A He says he wasn't there.

8 Q Who does he say shot Cory?

9 A He says he doesn't know.

10 Q How many times did he fire?

11 A He said one time.

12 Q Is any of that true?

13 A No, sir.

14 Q This house, how big is it?

15 A I would guess this house was less than 600 square
16 feet.

17 Q And how far is the kitchen from that front room?

18 A No further than me and the last person in the back of
19 the jury box.

20 MR. POTTS: Thank you. No further questions.

21 RECROSS-EXAMINATION

22 By Ms. Zmroczek:

23 Q You said that it's not true that he didn't know that
24 Mr. Perry was there?

25 A At the house?

1 Q Right.

2 A He said in his statement -- I asked him, was Gwany
3 and was he there and he said, no.

4 Q He said -- right. Because he said -- and then, you
5 asked, well, who else was there. I don't know. I was
6 laying shot in the face on the floor.

7 A That's what he said.

8 Q Okay. So it's your testimony that he should have
9 known who else was buying drugs in that house?

10 A It's my testimony that it's a very small house and it
11 would be like the jury not being able to see you in the
12 house.

13 Q Okay. But the jury's sitting upright, right?

14 A Yes, ma'am.

15 Q They're not shot with a gun, with a bullet that's
16 lodged in their ear, so the person is now deaf in that
17 side, they're not in that position, right?

18 A Of course not.

19 Q And they're not laying on the ground with blood on
20 the kitchen floor that we know has come back to Mr.
21 Parker, right?

22 A Of course not.

23 Q Right. So it's certainly possible that somebody else
24 could have come to buy drugs and he didn't know because he
25 was lying half dead on the floor, right?

1 A Based on the investigation, there was nobody that
2 came in that house after the shooting occurred.

3 Q Right, but let's say that -- you're basing that they
4 came in together on what Mr. Rogers told you. Is that
5 correct?

6 A Yes, ma'am.

7 MS. ZMROCZEK: Okay. Thank you. Nothing further,
8 Your Honor.

9 THE COURT: All right. You may step down,
10 Investigator.

11 (Whereupon, the witness stepped down from the witness
12 stand.)

13 THE COURT: All right. I'm going to ask the State to
14 call your next witness.

15 MR. POTTS: Your Honor, at this time, the State rests
16 its case.

17 THE COURT: All right. Thank you. All right.
18 Ladies and gentlemen of the jury, there is a matter of law
19 that I need to take up outside of your presence. I am
20 going to send you all out for a short moment and we will
21 receive you back in the court shortly. Thank you.

22 (Whereupon, the jury was excused from open court for
23 a break.)

24 THE COURT: All right. I will be glad to entertain
25 any motion.

1 MS. ZMROCZEK: Your Honor, right now, we have a
2 motion, based on Rule 19, for a directed verdict on all
3 counts and I'll individually address them. So, Your
4 Honor, the evidence provided by the State to the jury at
5 this point does not lead to meet the required elements.
6 Starting specifically with murder. Again, it is the
7 killing of another with malice aforethought. What we
8 have, Your Honor, is Dr. Durso's testimony that three
9 shots -- there were three shots from which no projectiles
10 were recovered. But none of those were fatal. That there
11 were two projectiles recovered from the two fatal wounds
12 that both matched a .40 -- an unknown gun that obviously
13 does not come back to Mr. Parker. That would be the basis
14 for that. Moving on to attempted murder, Your Honor, and
15 I've argued this a million times and PCR many times
16 because attempted murder has the specific requirement of a
17 specific intent to kill. Even today, Mr. Rogers'
18 testimony is that he doesn't know how he got shot and he
19 was just in there. He was standing behind Cory. That
20 just, you know, he got shot. There's no evidence A, that
21 Mr. Parker shot him; or B, that there was any specific
22 intent to kill. So we would argue that -- specifically,
23 on the attempted murder, that those elements have not been
24 met to prove that case. With regards to the attempted
25 murder, Your Honor, we would -- excuse me, the armed

1 robbery. I would make the same argument that I had
2 previously made. There's just no evidence of any attempt
3 to arm rob anything. In fact, as the statement that they
4 put in said, Mr. Parker shows up with \$3,500.00 dollars
5 which is not on him when he gets to the hospital. There's
6 just not any substantial -- even substantial
7 circumstantial evidence, Your Honor, to show that this
8 was, in any way, an armed robbery or an attempted armed
9 robbery. And then, lastly, Your Honor, with the
10 possession of a weapon during the commission of a violent
11 crime, would obviously depend on your rulings of the three
12 previous motions. So for those reasons, but specifically
13 with the attempted murder and the attempted armed robbery,
14 we would move for a directed verdict.

15 THE COURT: All right. Yes, sir.

16 MR. FYALL: Thank you, Your Honor. I think the
17 evidence in the record one, clearly shows that Mr. Parker
18 went to ■ Samson Circle for a drug deal. The evidence
19 also shows, based on the record, that when they walked
20 into the door one individual, either Mr. Parker or his
21 Codefendant said, you know what it is. The State's
22 already -- and that's already in the record, that phrase
23 for an armed robbery being attempted, not completed
24 because at that point there was a shootout or a
25 slaughterhouse, as Mr. Rogers put it. Now, whether or not

1 Mr. Parker's bullet actually struck Mr. Jenkins would be
2 irrelevant at that point. The hand of one is the hand of
3 all, Your Honor. Because at that point, Mr. Parker comes
4 into the house to do an armed robbery with the Codefendant
5 and then turns into a murder. So under the hand of one is
6 the hand of all theory, he would be just as responsible
7 for those events. Nonetheless, there are other wounds on
8 Mr. Jenkins that very well could have come from Mr.
9 Parker's gun. The attempted murder, Your Honor. There is
10 a specific intent to kill standard required under the law.
11 However, there's also the doctrine of transferred intent
12 and as Mr. Rogers testified, he was behind Cory who was
13 being shot at and he put his arm up and got shot. So
14 under the doctrine of transferred intent, that intent to
15 kill Cory Jenkins, who is now deceased, is transferred to
16 the injury suffered by Mr. Rogers. And obviously, if Your
17 Honor agrees with us on that, then the possession of a
18 weapon in the commission of a violent crime speaks for
19 itself.

20 THE COURT: All right. In listening to the testimony
21 and the exhibits and the evidence before the Court, I'm
22 going to respectfully deny the motion of the Defense for a
23 directed verdict as to murder. Testimony of Mr. Rogers,
24 raises a scintilla of evidence, it raises a question of
25 fact for the jury to decide. He testified that there were

1 two people that came in and that they made a comment
2 regarding, you know what it is, I think that was the
3 language, and that shots were fired thereafter. Then
4 shots were fired by the decedent in this case. For those
5 reasons, I'm going to deny the motion for a directed
6 motion as to the murder. As to the attempted murder and
7 attempted armed robbery. Obviously, attempted murder
8 requires specific intent. In listening to the testimony,
9 once again, of Mr. Rogers who would be the -- I think
10 based on everyone's testimony here today, would have been
11 the only witness there. He testified that shots were
12 being fired at the decedent in this case and that he was
13 standing in front and pulled his arm up and as a result
14 was shot -- is shot in the arm. For that reason, I am
15 going to deny the doctrine of transferred intent and deny
16 the motion for a directed verdict as to the attempted
17 murder. And as to the attempted armed robbery, although
18 there is probably -- I guess, a scintilla of evidence of
19 an armed robbery, that statement regarding, you know what
20 it is and the testimony of, once again, Mr. Rogers, I am
21 going to allow it in. And thus, the possession of a
22 weapon during a violent crime. Based on those rulings
23 that will be charged to the jury, also. So the motion for
24 directed verdict is denied as to all four charges.

25 MS. ZMROCZEK: Thank you.

1 THE COURT: All right. So what I'll try to do is
2 read your client his rights, but we have one juror that
3 needs to leave around 5:00.

4 MS. ZMROCZEK: Your Honor, we're resting.

5 THE COURT: All right. Let me -- but I still need to
6 read -- you know I have to read that.

7 MR. POTTS: Certainly.

8 THE COURT: Read him his rights to see if he wishes
9 to testify. So if you could get him to stand up and raise
10 his right hand.

11 ROSHAMEL PARKER, being
12 first duly sworn, testified as follows:

13 THE COURT: All right. And so you're Mr. Roshamel
14 Parker. Is that correct?

15 MR. PARKER: Yes, ma'am.

16 THE COURT: And so you have been sitting through the
17 trial. And now you've heard that the State has rested and
18 we are -- at this time, there's certain rights that I need
19 to explain to you. If you do not understand anything I
20 say, please let me know. If you want me to explain
21 anything in more detail, please let me know. Do you
22 understand?

23 MR. PARKER: Yes, ma'am.

24 THE COURT: All right. We are now in the stage of
25 the trial where you may present your defense. You have

1 the right to claim the protections given to you by the
2 Fifth Amendment to the Constitution of the United States.

3 This amendment states in part, no person shall be
4 compelled in any criminal case to be a witness against
5 themselves. This means that you cannot be required to
6 testify in this case. You have the right to testify on
7 your own behalf. However, no one can make you testify.
8 This is a personal right and no one can waive this right
9 except you. If you decide to testify you will be subject
10 to the same rules that governs other witnesses and you may
11 be examined and cross-examined of any relevant issue in
12 this case. In addition, if you have any convictions
13 involving dishonesty or false statements or for crimes
14 punishable by imprisonment for more than one year and this
15 Court determines that the probative value of admitting
16 this outweighs its prejudicial effect to you, the
17 Solicitor will be able to introduce your record to attack
18 your credibility. And you've gone over that with him, his
19 record?

20 MS. ZMROCZEK: We have, Your Honor.

21 THE COURT: -- and priors? All right.

22 MS. ZMROCZEK: Yes.

23 THE COURT: And what may be admissible?

24 MS. ZMROCZEK: Yes.

25 THE COURT: All right. If you decide to testify this

1 decision is on your part and must be freely, voluntarily
2 and intelligently made with the knowledge and the
3 protections of the Fifth Amendment and the consequences of
4 your decision to testify. If you decide not to testify, I
5 will instruct the jury that they cannot give the fact that
6 you did not testify any consideration whatsoever and that
7 there is to be absolutely no prejudice to you because you
8 did not testify. It is left entirely up to you whether or
9 not you testify. You may talk with your attorney, your
10 family and friends or anyone else, but the final decision
11 is left up to you entirely. Do you understand what I've
12 explained to you?

13 MR. PARKER: Yes, ma'am.

14 THE COURT: Do you have any questions what about I've
15 explained to you?

16 MR. PARKER: No, ma'am.

17 THE COURT: And have you discussed with your lawyer
18 whether you should or should not testify?

19 MR. PARKER: Yes, ma'am.

20 THE COURT: And do you wish to talk with your lawyer
21 anymore at this time?

22 MR. PARKER: No, ma'am.

23 THE COURT: And do you wish to testify?

24 MR. PARKER: No, ma'am.

25 THE COURT: All right. Thank you, sir. And just for

1 the record, do you need to speak with him any further
2 regarding this at this time?

3 MS. ZMROCZEK: I don't, Your Honor. We've discussed
4 it.

5 THE COURT: All right. So I will bring the jurors
6 in. I will let you rest on the record. We will need to
7 go over the charge, probably. Didn't you send an email to
8 -- she will email you, send your jury charge request. We
9 can go over the charge. I'm trying to decide what time I
10 need to tell them to come in, in the morning so they will
11 not have to wait. I was thinking about 10:00 and then
12 giving them -- we will order lunch for them. So maybe
13 about 10:00? Do you think we'll be ready by then?

14 MS. ZMROCZEK: We'll be ready. If we can talk about
15 charges today, yes, we will be ready.

16 THE COURT: Okay. All right. Let's bring them back
17 in.

18 (Whereupon, the jury came into open court at
19 approximately 5:00 p.m.)

20 THE COURT: Thank you. All right. Ladies and
21 gentlemen of the jury, the State has rested. At this
22 time, I will ask the Defense if they have any witnesses to
23 call.

24 MS. ZMROCZEK: Your Honor, at this time, the Defense
25 would rest.

1 THE COURT: All right. Thank you. All right.

2 Ladies and gentlemen of the jury, the State has rested and

3 the Defense has rested. That means that we are ready for

4 closing arguments and the charge of the law, but not

5 tonight because one of the jurors needs to leave at 5:00,

6 it is 5:01. And so I am going to go ahead and release you

7 all for the evening. I'll have you back at 10:00 o'clock.

8 She will take your orders when you get here for lunch.

9 We'll have lunch delivered tomorrow. Following -- once

10 you receive the charge on the law, then you'll have your

11 lunch and begin deliberations sometime shortly thereafter.

12 At least, that's the plan. So we'll have you back in the

13 jury room at 10:00 o'clock. You do, at this point, have

14 all the evidence. However, you have not heard the

15 arguments of the parties and you have not heard the charge

16 on the law. So until you have done that, you cannot

17 discuss this case with each other. You cannot -- it's

18 also improper for you to form any opinion at this point in

19 time in your mind until you have received the law and

20 closing arguments. You cannot discuss this case with your

21 family members. I'll remind you, please, do not do any

22 independent research or anything regarding this case or

23 any issue that has come up in this case over the course of

24 the last -- today's Wednesday, the last three days. Go

25 home, think about something else, have a wonderful evening

1 and we will see you all back at 10:00 o'clock in the
2 morning. She'll take your orders at 10:00, and then we'll
3 get you in here shortly thereafter. All right. Thank
4 you.

5 (Whereupon, the jury was released from open court for
6 the day.)

7 THE COURT: All right. Anything else we need to put
8 on the record before we go over the jury charges?

9 MS. ZMROCZEK: Yes, Your Honor. I also need to renew
10 all of my motions and obviously, I just made this directed
11 verdict motion. So as they were walking in, I didn't want
12 to interrupt.

13 THE COURT: That's fine.

14 MS. ZMROCZEK: To renew all of those motions as well.

15 MR. POTTS: Your Honor, we just ask that Your Honor,
16 and all the--

17 COURT REPORTER: I can't hear you.

18 MR. POTTS: Your Honor, we just ask that Your Honor
19 continue as it was on the previous rulings. Thank you.

20 THE COURT: All right. So all of the previous
21 rulings will stand. He said, even the ones that were
22 against them too. All the previous rulings will stand and
23 now we can move onto the charge conference. I did have an
24 opportunity to look at Ms. Zmroczek's request to charge
25 and they are pretty similar, looks pretty similar to what

1 I normally charge. I noticed that she had one in there
2 for mere presence, which I'm going to assume you all are
3 not objecting to?

4 MR. POTTS: No, Your Honor.

5 THE COURT: And then, she also had one for third
6 party guilt. I tried to pull the ones up that I thought
7 may draw some type of an objection but I wasn't -- the
8 other ones are pretty standard.

9 MS. ZMROCZEK: There was. And, Your Honor, I mean,
10 obviously, I would argue that there is more than
11 substantial evidence. There's -- you know, there's
12 evidence of third party guilt in this unknown gun and the
13 projectiles that were pulled out of the body of Mr.
14 Jenkins coming back to that unknown gun. Not to mention
15 at least five casings that belonged to that gun. For
16 those reasons, we think that there is a substantial amount
17 of evidence to request a third party guilt charge.

18 THE COURT: Yes, sir.

19 MR. POTTS: I -- on the charge--

20 THE COURT: You said what now?

21 MR. POTTS: I haven't had a chance to see her -- I
22 got that email when I was, in fact, I was talking to Ms.
23 Zmroczek at the time I received the email. So I haven't
24 had a chance to thoroughly go through it yet.

25 THE COURT: Yeah. She -- everything is pretty

1 standard. It looks like the statute for the most part.
2 Those are the ones that I saw up here. Of course, y'all
3 are down there working, reading and working. But
4 everything seems to be statutory. I mean, the only one
5 was third party guilt and I don't know if you all have
6 decided one way or the other, if you have an opinion on
7 that or not.

8 MR. POTTS: I have not formed an opinion on that.

9 THE COURT: And based on Mr. Fyall's arguments during
10 the directed verdict stage, I'm assuming you all are
11 asking for the hand of one hand of all?

12 MR. POTTS: Yes, Your Honor.

13 THE COURT: Do you have a position?

14 MS. ZMROCZEK: Your Honor, I mean, we would obviously
15 object to that. There's been no evidence that they were
16 together. But for, like you said, the various scintilla,
17 which I don't know if that is enough to get a charge on,
18 Your Honor. But the fact that the last witness that they
19 just put in shows them arriving to the hospital in two
20 separate cars, his statement that they were not together.
21 For that reason, we would argue that the hand of one, the
22 hand of all would not be proper in this case. But if it
23 is allowed, then we would strongly argue for the third
24 party guilt because I think that, you know, if there's a
25 charge on the law about this accomplice liability theory,

1 then I think that there -- especially, under the Supreme
2 Court of the United States v. Holmes, that we get the same
3 consideration in a charge under third party guilt.

4 THE COURT: Yes, sir.

5 MR. POTTS: I think it's -- I guess, I'm just trying
6 to think, Your Honor. Obviously, we do believe that the
7 hand of one is the hand of all has to be charged in this
8 case. As it is tied to third party guilt, I don't -- I
9 guess, I worry about -- because the hand of one is the
10 hand of all talks about both of them acting in concert and
11 so forth. I don't think there's a confusion with third
12 party guilt there. I don't think it's necessary to do one
13 and have the other. I don't think they're as -- they are
14 tied as the Defense seems to indicate. I'm looking at her
15 third party guilt charge now, Your Honor.

16 THE COURT: Is that the one from--

17 MS. ZMROCZEK: Your Honor, it's one that I pulled
18 from Judge McMahon, who used it in a trial. I emailed his
19 former law clerk who sent it to me because that's one that
20 he had generated. And so that's the one that I generally
21 use.

22 THE COURT: I'm pretty sure that's the one.

23 MS. ZMROCZEK: I don't have a copy.

24 THE COURT: I'm pretty sure that is that. Let me
25 double check. I do find that there is evidence, once

1 again, based on Mr. Rogers' testimony. He has testified
2 that they came in the door together and that they were --
3 he didn't use the word acting in concert, but he's
4 testified that they were there together, they were acting
5 together. And because of that, I will allow testimony --
6 I mean, the jury charge -- accomplice liability jury
7 charge. To the third party guilt jury charge --

8 MR. FYALL: Your Honor, I haven't done this in a
9 while and I might need to look it up, but I think if -- I
10 think the law requires -- I don't know if the Defendant
11 assert.

12 THE COURT: No. The charge specifically says that
13 the Defendant can assert. But with that being said, I
14 believe in the statements y'all put in.

15 MR. POTTS: In his statement.

16 THE COURT: In his statement --

17 MR. POTTS: Yes.

18 THE COURT: -- he's saying --

19 MR. POTTS: That's what I'm saying. If you just take
20 his statement as it stands --

21 THE COURT: Yeah.

22 MR. POTTS: -- it could be.

23 THE COURT: Yeah. He says in his statement, I'm the
24 victim. I was just there. Then, he said, I was just
25 there for a drug transaction and I ended up getting shot.

1 Unless you all can show me something in the morning as to
2 why not, I mean, my inclination is to charge third party
3 --

4 MR. FYALL: I'll look it up. I just think there's
5 some distinction in the case law between, I didn't do it
6 and that person did. I'll have to look that up.

7 MS. ZMROCZEK: But I would argue that the distinction
8 is, there's a dead person. He says he didn't do it. So
9 naturally, you know, somebody else would have done it.

10 THE COURT: And I'll also take into consideration --
11 I think she makes a good point that -- the other bullets,
12 the other gun, all of that into consideration. So like I
13 said, I'm inclined -- my inclination at this point is to
14 charge it, unless you all give me something else in the
15 morning that says something different. Any other proposed
16 charges? I know even though I did request it earlier. If
17 there's anything else, I think we're going to start maybe
18 about a quarter till. And then, email -- so what I
19 normally would do is to have my law clerk take what you
20 want me to discuss today, she's already started working on
21 the jury charge, email it to you all tonight. Then we
22 come in in the morning and let me know if there's any
23 changes, any objections and we can go from there. By the
24 time they are finished eating, ordering it will be about
25 10:15.

1 MR. POTTS: And we do have like four we're looking
2 at, Your Honor.

3 THE COURT: You have four other requests?

4 MR. POTTS: Four charges we're just looking at, Your
5 Honor. I'm going to send them to you, hopefully, in the
6 next 20 or 30 minutes.

7 THE COURT: Okay. And you know what? So you send
8 those tonight, a copy to Ms. Zmroczek. If you don't
9 object, say, I don't object. Just so, at least, I know
10 which ones to focus down on.

11 MS. ZMROCZEK: Yeah. That's fine.

12 THE COURT: And if I need to pull any research on
13 them tonight, then I can do that tonight. And then that
14 will move quickly in the morning.

15 MR. POTTS: Thank you, Your Honor.

16 THE COURT: All right. And then, we'll be prepared
17 to go -- straight after the charge conference, go into the
18 closing arguments. And so, Madam Clerk -- is she still in
19 here? Yeah. We'll order lunch for them if you could just
20 have those ready. All right. So I'll see you all about
21 9:30.

22 MS. ZMROCZEK: Thank you.

23 MR. POTTS: Thank you, Your Honor.

24 (Whereupon, the trial will resume the next morning at
25 9:30 a.m.)

1 March 5, 2020

2 MR. FYALL: Your Honor, I submitted on the third
3 party guilt charge. Page 29, the bottom of page 28 and
4 the beginning of page 29, there is one part that I think
5 --

6 THE COURT: All right. So what language?

7 MR. FYALL: So I just had it on the computer, but I
8 believe I put that Defendant contended there's evidence
9 supporting -- indicating that someone other than he may
10 have committed the crime of murder and attempted murder
11 and acted separate and apart from him.

12 THE COURT: And that evidence raises a reasonable
13 doubt with respect to the Defendant's guilt?

14 MR. FYALL: That's what I present.

15 THE COURT: Do you have a problem with that?

16 MS. ZMROCZEK: No. No. No.

17 MR. FYALL: I just think --

18 MS. ZMROCZEK: Yes.

19 MR. FYALL: Different issue between a hand of one,
20 hand of all and their defense because, that is -- to act
21 separate and apart.

22 THE COURT: What about the separately and apart? You
23 want it to say, The Defendant contends that there is
24 evidence before you indicating that someone acting
25 separately and apart from him may have committed the

1 crimes of murder and attempted murder and that evidence
2 raises a reasonable doubt with respect to the Defendant's
3 guilt.

4 MR. FYALL: Yes.

5 THE COURT: Aimee, what's your -- any position
6 regarding what I just read? Do you want me to read it
7 again?

8 MS. ZMROCZEK: Yes, please.

9 THE COURT: You want me to hear it again?

10 MS. ZMROCZEK: Yeah.

11 THE COURT: The Defendant contends that there is
12 evidence before you indicating that someone acting
13 separately and apart from him may have committed the
14 crimes of murder and attempted murder and that evidence
15 brings a reasonable doubt with respect to the Defendant's
16 guilt. I think that's what you are asking for?

17 MR. FYALL: Yes.

18 THE COURT: Okay.

19 MS. ZMROCZEK: Yeah. I think that's --

20 THE COURT: Okay. All right. So we'll add that
21 language in. All right. What else do we need to --

22 MR. FYALL: And I submitted the specific intent
23 language. I think that and your attempt language, I think
24 it's implicative. If you want to keep it in, I'm fine.
25 If not, I'm fine.

1 THE COURT: Give me a page.

2 MR. FYALL: 19.

3 THE COURT: You said, 19?

4 MR. FYALL: All right. So it says, An intent
5 includes the specific intent to do a particular act along
6 with the act, falling short of the act intended. That's
7 essentially the same thing. So if you want to take out
8 the specific intent part.

9 THE COURT: All right. So you withdraw your request
10 for that?

11 MR. FYALL: Yeah.

12 THE COURT: Okay. And we'll use the one that's
13 already in there.

14 MS. ZMROCZEK: And I think what we had discussed
15 yesterday, I mean, like I said, this issue with attempted
16 murder is so convoluted. One opinion I just read recently
17 said that it almost makes it more -- you have to prove
18 more on attempted murder than you do in a murder.

19 MR. FYALL: If you want to keep it in, I'd keep it
20 in.

21 THE COURT: I sat on -- I was a visiting justice and
22 I sat on State v. Kinney. So I am very familiar.

23 MS. ZMROCZEK: State v. Kinney got overturned on a
24 PCR twice.

25 THE COURT: Yes. Yes. So it's -- the way the

1 statute is written, yes.

2 MS. ZMROCZEK: And the only thing, Your Honor. I
3 have a bunch of stuff to get --

4 THE COURT: Let's finish with him because he's asked
5 for a felony murder also.

6 MR. FYALL: Yes.

7 THE COURT: All right. If one intentionally kills
8 another in the commission of a felony, the inference of
9 malice may arise. If facts be proven beyond a reasonable
10 doubt sufficient to raise an inference of malice to your
11 satisfaction, the inference would simply be an evidentiary
12 fact to be taken into consideration by you along with the
13 other evidence in the case and you may give it as much
14 weight as you determine it should receive. The law also
15 allows you to infer malice if you conclude that the -- was
16 a proximate or direct result of the commission of a
17 felony. Under South Carolina law, attempted armed robbery
18 is a felony.

19 MS. ZMROCZEK: So here's the issue that I have with
20 that. One is, it seems a way to kind of backdoor the gun
21 into a malice. But two, as you ruled on your directed
22 verdict yesterday, you know, that one statement that was
23 said, you know, you know what it is was the scintilla of
24 evidence.

25 THE COURT: I think it comes in. But I think we need

1 to put something in there that says -- and I don't know
2 how best to do it. Well, the best way, well it needs
3 something that says you have got to find him guilty on the
4 attempted armed robbery in order to find on the felony
5 murder.

6 MS. ZMROCZEK: Right.

7 THE COURT: Because that is the only thing that would
8 make it a felony murder.

9 MS. ZMROCZEK: See, and that was one of my concerns
10 was, you know, that the jury without even being told, but
11 in their own minds say, well, I bet buying or selling weed
12 is a felony.

13 THE COURT: When he says --

14 MS. ZMROCZEK: -- it specifically -- right.

15 THE COURT: Yeah. But I think you need to have
16 something in there, Mr. Fyall, that says that you must
17 find him guilty on the attempted armed robbery in order to
18 find him guilty of felony murder. And I don't want to
19 confuse them. My concern is confusing them on the other
20 murder charge.

21 MR. FYALL: What page is that on?

22 THE COURT: Did you insert it in there? It is on
23 page 19.

24 MS. ZMROCZEK: Something -- much like the gun charge
25 that, like you did on the verdict form, like in order to

1 find him guilty of possession of a weapon.

2 THE COURT: I guess, what -- and then, felony murder
3 doesn't, I mean --

4 MR. FYALL: Why don't we just include attempted armed
5 robbery into the middle of the charge. So where it says,
6 The fact proven beyond a reasonable doubt sufficient to
7 raise -- I'm just trying to figure out a way to word it
8 into that.

9 THE COURT: And facts proven beyond a reasonable
10 doubt of attempted armed robbery. I am just concerned,
11 you know, putting that language in there -- my only
12 concern is that the jury's going to be -- are y'all sure
13 y'all want this charge, you are not sure. I think you're
14 going to confuse them because they're going to think,
15 well, we're going to have to find him guilty of attempted
16 armed robbery in order to find him guilty of the murder.

17 MS. ZMROCZEK: Which that's what the --

18 THE COURT: -- for the felony murder.

19 MS. ZMROCZEK: Right. I just think it's confusing,
20 Your Honor. Are they getting a copy of the charge?

21 THE COURT: Uh-huh (affirmative response).

22 MS. ZMROCZEK: And that's my other concern, too, is
23 then just part and parcel.

24 THE COURT: I can tell you that the first question is
25 going to be --

1 MS. ZMROCZEK: Right.

2 THE COURT: -- well, where's the one on the verdict
3 form for felony murder --

4 MS. ZMROCZEK: Right.

5 THE COURT: -- because we don't have, you know,
6 different degrees because they watch TV and you've got
7 felony one, felony two -- I mean, murder one, murder two.

8 MS. ZMROCZEK: Murder two.

9 THE COURT: Yes. We don't have that.

10 MS. ZMROCZEK: Thank you, Law & Order.

11 THE COURT: Is there something you can put in the
12 verdict form? I'm wondering if under the -- instead of
13 just doing it as saying felony murder -- which I don't
14 know about the title -- murder is felony, felony murder.
15 I don't know if I like the way that that, the subtopic.

16 MS. ZMROCZEK: Yeah. Especially, like you said --
17 because if they get a copy of the charge, it's going to be
18 like a separate --

19 THE COURT: Maybe, that's the problem is the
20 subtitle. It just says, If one intentionally kills
21 another in the commission of a felony, the inference of
22 malice may arise. If it said that instead of having the
23 label as felony murder, I still think it might be
24 confusing.

25 MR. FYALL: We can take it out, Your Honor.

1 THE COURT: All right. Anything else from the State?

2 MR. POTTS: Well, Your Honor, one more thing. As to
3 the verdict form. Number two on the verdict form, one,
4 three and four all say the indictment alleging the
5 offense. Number two doesn't say alleging, just to keep it
6 all parallel.

7 THE COURT: Yeah. All right. Do you want me to go
8 to Ms. Zmroczek and come back to you?

9 MR. FYALL: Yes, Your Honor.

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

11 MS. ZMROCZEK: Just I have a lot of moving parts
12 that, I just don't want to like scramble around while the
13 jury's sitting in. So if we could take a break in between
14 and I'm talking like very short. Five minutes just so I
15 can get everything together.

16 THE COURT: So you want me to bring them in -- I
17 don't expect him to be very long.

18 MS. ZMROCZEK: Is that PowerPoint?

19 MR. FYALL: It's not long.

20 MS. ZMROCZEK: Well, or if I can just go ahead and
21 get it all ready now.

22 MR. FYALL: Yeah. You can do that.

23 THE COURT: Why don't you go ahead and do that so we
24 can keep moving?

25 MS. ZMROCZEK: Perfect. That's fine.

1 COURT REPORTER: Can I ask the attorneys. There was
2 a question yesterday evening about one of the exhibit's.
3 The 2, 2A of the notes that were read. I did not have it
4 in evidence and I just want to make sure on the record
5 that we --

6 MR. POTTS: And I think that both the State and the
7 Defense agree to enter number 2 into evidence.

8 THE COURT: She has it on her's, she has it entered
9 into evidence. She said there was just a question about
10 2A because there was a bag. The bag, and we put it in a
11 new bag. Number 2, it was only entered through the
12 Jackson v. Denno.

13 COURT REPORTER: Okay. That's what I was thinking.

14 MS. ZMROCZEK: That's what I thought, too, Your
15 Honor. It was published. So we have no objection to
16 getting it in.

17 THE COURT: All right. So we'll enter number 2 and
18 2A --

19 MR. POTTS: Yes.

20 THE COURT: -- without objection.

21 COURT REPORTER: Okay. Thank you, Judge.

22 (Whereupon, State's exhibit numbers 2 and 2A were
23 entered into evidence.)

24 MR. FYALL: Your Honor, and I think this is a typo
25 just on the general charge. But in the last paragraph of

1 page 19, going into 20 with the attempt charge. It says,
2 intent means intending the result which actually occurs.
3 And that's technically wrong because the result didn't
4 occur. I think it's supposed to say, intending a certain
5 result to actually occur or something like that.

6 THE COURT: Intent means intending a result which --
7 you want it to say which was supposed to occur?

8 MR. FYALL: Yeah. Something like that because the
9 whole point of intent is that --

10 MS. ZMROCZEK: You could say, which intended to
11 occur, but that's too many intended's.

12 THE COURT: Yeah. That's what I was thinking.
13 That's exactly what I was thinking because I was going to
14 say, intent means, the intended result which intended to
15 occur. But I think -- yeah. Intent means, intending the
16 result which was supposed to occur, not accidental or
17 involuntary.

18 MR. POTTS: Is that in your way of seeing the jury?

19 THE COURT: It's fine. Are you all ready?

20 MS. ZMROCZEK: Yes.

21 THE COURT: Are you ready?

22 MR. POTTS: The State's ready, Your Honor.

23 THE COURT: All right. Have you got all your stuff
24 set up?

25 MS. ZMROCZEK: I do. Thank you.

1 THE COURT: All right. Are the jurors ready?

2 MADAM CLERK: I believe they are. All of them are
3 here.

4 THE COURT: Okay. We will bring them in.

5 (Whereupon, the jury came into open court at
6 approximately 10:19 a.m.)

7 THE COURT: All right. Good morning, ladies and
8 gentlemen of the jury. I hope you had a restful evening.
9 At this time, we are ready for closing arguments. As I
10 explained to you yesterday, we'll have closing arguments
11 and a charge on the law. And then, at some point this
12 morning or this afternoon, you all will be able to begin
13 your deliberations. First, you will hear from the State.
14 Then you will hear from Ms. Zmroczek on behalf of the
15 Defendant. And then the State will have an opportunity to
16 rebut anything that she, in her closing, says. So listen
17 -- please pay close attention to the attorneys and their
18 arguments at this time. Thank you.

19 MR. POTTS: Thank you, Your Honor. May it please the
20 Court. Good morning, ladies and gentlemen. As my
21 co-counsel, Lamar Fyall, told you in the very beginning of
22 this case, this case really focuses on three things. It's
23 about three C's. Coordination, crime and the cover-up of
24 the murder of Cory Jenkins, the attempted murder of Jimmy
25 Rogers and the armed robbery of Cory Jenkins. So I'm

1 going to go through those things in order and I'm going to
2 tell you all a little bit about the law in this case. The
3 Judge will explain it to you a little more in depth later.
4 And now I will -- the facts to help you understand. There
5 are some things that were presented this week that I
6 didn't -- we didn't necessarily make the connections on
7 why they were important at the time when we presented them
8 to you. This is my chance to talk to you and tell you why
9 they are important and what they show. And I'm going to
10 do that this morning. All right? So why is coordination
11 important? Well, in South Carolina, we have a law called
12 the hand of one is the hand of all and that basically says
13 that when a crime is committed by two or more people who
14 are acting together in the commission of a crime or an
15 offense, the act of one is the act of both or all of them.
16 If both are together, acting together, assisting each
17 other in the commission the offense, the act of one is the
18 act of all. And so we say the hand of one is the hand of
19 all. All right. So when two people are acting together,
20 what one does is attributed to the other. Now, how do we
21 have coordination in this case. Well, first of all, we
22 have the fact that Gwan Perry and Roshamel Parker came
23 together to Jimmy Rogers' house. They came together to do
24 that, they both came at the same time. Jimmy Rogers told
25 you when he opened the door, they both came in. He had

1 met Roshamel before, but he'd never met Gwan. He also
2 told you that -- in his initial statements -- you also
3 heard an initial statement at the scene that two men just
4 came in, right. They are acting together, they are a
5 pair. They then lead Cory into the kitchen. So Cory
6 follows them, the two of them, into the kitchen. All
7 right. And then you hear, you know what it is. And Jimmy
8 put that pretty well. He started, bam, bam, bam, bam,
9 bam. It's more evidence that they're acting together in
10 their desire to rob him. They arrive at the hospital at
11 almost the same time and we'll get to why that's important
12 in just a second. And finally, we have a note that's
13 passed to Ray Rose at the hospital talking about Gwan
14 before he's even talked to law enforcement. And that
15 timeline is very important and here's that note. It's
16 State's 136. You'll have it back in the jury room.

17 Call this number. Tell them to tell Bam the same
18 thing. And then it gives the number. Tell her to tell
19 them if they want to see me and Gwany free again, to
20 swerve on Unc and fast. WhoBang, Bread, Jefe, Marlow,
21 tell her to relay the message to them. Appreciate you. On
22 the back, Swing back in 20 minutes.

23 Before he's even given a statement, before he'd
24 talked to law enforcement, he's already telling him, Ray
25 Rose, to relay this information about Gwan Perry. They

1 were there together and they were working together. Now,
2 this is State's number 111 and it's a picture of the
3 victim's blood, we heard from the DNA expert. Now, this
4 right here (indicating) -- Mr. Potts, what's the big deal.
5 It's a little bit of blood on the sewer. We know he
6 walked out that way. Well, if we look at State's 125,
7 it's the overhead shot from Google Maps. That sewer drain
8 -- the sewer drain cap is in the middle of the street.
9 All right. It's not on the side. It's right smack-dab in
10 the middle like most sewer drain caps and that's where the
11 blood trail stops. It leads from the house in this
12 direction, straight there (indicating). Why does it stop
13 right there. Because that's where he got in the car.
14 There was a car in the middle of the street waiting to
15 pick them up. That's why that trail suddenly grows cold.
16 This isn't a situation where, I've got to go get in the
17 car and drive off. The car is already in the middle of
18 the street. They wanted a quick getaway. They wanted to
19 be able to get out of there fast because they knew what
20 they were up to because they were acting together to
21 commit this armed robbery. Now, let's talk about the
22 second C, the crime itself. Okay, ladies and gentlemen.
23 Now, you all have heard from a lot of experts. You heard
24 from Jamie Green talking about firearms. Dr. Durso, she
25 told you about the wounds she found on Cory's body. Agent

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROSHAMEL DONSHEA PARKER,

APPELLANT

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon William M. Blich, Jr., Esquire, at the primary e-mail address listed in the Attorney Information System (AIS) which is wblitch@scag.gov; and a copy of the Record on Appeal has been served on Roshamel Donshea Parker, 359056, at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, SC 29210, this 9th day of December, 2020.

s/Susan B. Hackett

Susan B. Hackett
Appellate Defender