

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County

DeAndrea G. Benjamin, Circuit Court Judge

RECEIVED

Jan 19 2021

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRIAN NEIL WHITE,

APPELLANT

APPELLATE CASE NO. 2019-001971

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #92 (RECORDED PHONE CALL).

State of South Carolina,)
)
 vs.) Transcript of Record
)
Brian Neil White,)
)
 Defendant.)
)

November 18-22, 2019
Columbia, South Carolina

B E F O R E:

The Honorable DeAndrea Gist Benjamin, Judge; and a jury

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Circuit Court Reporter
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Realtime Verbatim Reporter

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S-12	Photograph	216	225
S-13	Photograph	216	225
S-14	Photograph	216	225

E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
1				
2				
3	S-15	Photograph	216	225
4	S-16	Photograph	216	225
5	S-17	Photograph	216	225
6	S-18	Photograph	216	225
7	S-19	Photograph	216	225
8	S-20	Photograph	216	225
9	S-21	Photograph	216	225
10	S-22	Photograph	216	225
11	S-23	Photograph	216	225
12	S-24	Photograph	216	225
13	S-25	Photograph	216	225
14	S-26	Photograph	216	225
15	S-27	Photograph	216	225
16	S-28	Photograph	216	225
17	S-29	Photograph	216	225
18	S-30	Photograph	216	225
19	S-31	Photograph	216	225
20	S-32	Photograph	216	225
21	S-33	Photograph	216	225
22	S-34	Photograph	216	225
23	S-35	Photograph	216	225
24	S-36	Photograph	216	225
25	S-37	Photograph	216	225

<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
1				
2				
3	S-38	Photograph	216	225
4	S-39	Photograph	216	225
5	S-40	Photograph	216	225
6	S-41	Photograph	216	225
7	S-42	Photograph	216	225
8	S-43	Photograph	216	225
9	S-44	Photograph	216	225
10	S-45	Photograph	216	225
11	S-46	Photograph	216	225
12	S-47	Photograph	216	225
13	S-48	Photograph	216	225
14	S-49	Photograph	216	225
15	S-50	Photograph	216	225
16	S-51	Photograph	216	225
17	S-52	Photograph	216	225
18	S-53	Photograph	216	225
19	S-54	Photograph	216	225
20	S-55	Photograph	216	225
21	S-56	Photograph	216	225
22	S-57	Photograph	216	225
23	S-58	Photograph	216	225
24	S-59	Photograph	216	225
25	S-60	Photograph	216	225

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E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
1				
2				
3	S-61	Photograph	216	225
4	S-62	Photograph	216	225
5	S-63	Photograph	216	225
6	S-64	Projectile	221	444
7	S-65	Projectile	221	449
8	S-66	Swab	221	843
9	S-67	Cartridges	221	451
10	S-68	Diagram	242	243
11	S-69	Jacket	244	245
12	S-70	Box of Clothing	252	255
13	S-71	Projectiles	252	455
14	S-72	Buccal Swab	252	855
15	S-73	Photograph	278	314
16	S-74	Photograph	278	314
17	S-75	Photograph	278	314
18	S-76	Photograph	278	360
19	S-77	Photograph	278	360
20	S-78	Swab/Envelope	401	843
21	S-79	Swab/Envelope	401	844
22	S-80	Swab/Bag	401	845
23	S-81	Swab/Bag	401	844
24	S-82	Swab/Bag	401	846
25	S-83	Metal Fragments	407	457

1	<u>E X H I B I T S</u>			
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
2				
3	S-84	Gun/Magazine	407	441
4	S-85	Phone Records	407	463
5	S-86	Photo Lineup	470	488
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7	S-88	Photograph	518	531
8	S-89	Photograph	518	531
9	S-90	Photograph	518	531
10	S-91	Phone Report	518	718
11	S-92	CD	581	583
12	S-93	Photograph	588	589
13	S-94	Photograph	588	589
14	S-95	Photograph	588	589
15	S-96	Photograph	661	707
16	S-97	Photograph	661	
17	S-98	Photograph	661	707
18	S-99	Photograph	661	
19	S-100	Photograph	661	
20	S-101	Photograph	661	707
21	S-102	Photograph	661	707
22	S-103	Photograph	661	
23	S-104	Photograph	661	
24	S-105	Photograph	661	707
25	S-106	Photograph	661	

<u>E X H I B I T S</u>				
	<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
1				
2				
3	S-107	Photograph	661	707
4	S-108	Photograph	661	707
5	S-109	Photograph	661	707
6	S-110	Photograph	661	707
7	S-111	Photograph	661	707
8	S-112	Photograph	661	707
9	S-113	Photograph	661	707
10	S-114	Photograph	661	707
11	S-115	Photograph	661	707
12	S-116	Photograph	661	823
13	S-117	Photograph	661	823
14	S-118	Photograph	661	823
15	S-119	Photograph	661	823
16	S-120	Photograph	661	826
17	S-121	Photograph	661	826
18	S-122	Photograph	661	826
19	S-123	Photograph	661	826
20	S-124	Photograph	661	826
21	S-125	Photograph	661	826
22	S-126	Photograph	661	826
23	S-127	Photograph	661	826
24	S-128	Photograph	661	826
25	S-129	Photograph	661	826

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NO.	DESCRIPTION	I.D.	EVID.
S-130	Diagram	672	743
S-131	Photograph	774	826
S-132	Photograph	774	826
S-133	Photograph	826	827
S-134	Photograph	826	827
D-1	Photograph	164	725
D-2	Phone Records	464	
D-3	Disc	661	
D-4	Phone Records-Crystal Posey	661	
D-5	Phone Records-Nicole Bryant	661	
D-6	*NUMBER SKIPPED BY REPORTER*		
D-7	Statement-Bryant	871	
D-8	Consent to Search-Bryant	875	
D-9	Photograph	966	967

1 TRIAL DAY 1 - 11/18/19

2 (Whereupon, the proceeding commenced at 12:00 p.m.)

3 (Whereupon, Court's Exhibit 1 was premarked for
4 identification prior to the commencement of the
5 proceeding.)

6 THE COURT: All right. All right. You want to call
7 the case?

8 MS. SAMPSON: Thank you, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. SAMPSON: May it please the Court. The state
11 calls *State v. Brian White*.

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

13 MS. SAMPSON: Do you need me to call the indictment?

14 THE COURT: Yes, ma'am.

15 MS. SAMPSON: Okay. Indictment No. 2019-GS-40-3681,
16 indictment for murder.

17 THE COURT: All right. So the plan is to pick the
18 jury, break for lunch, and then come back and do
19 pretrial. And I -- my understanding is you all will --
20 will start the -- pick the jury, release them, do
21 pretrial, and then start with openings and with the
22 actual trial tomorrow. Is that everybody's
23 understanding?

24 MS. EIGENBROT: Yes, Your Honor.

25 MS. SAMPSON: Yes, Your Honor.

1 Again, I recognize the extenuating circumstances the
2 state was dealing with. However, you know, this case is
3 now three years old. It's been scheduled twice and moved
4 twice. So I just feel like, at this point, discovery
5 should essentially be closed.

6 THE COURT: All right. So that handles everybody's
7 renewed motions for Rule 5 and *Brady* and anything else.

8 Is that everything regarding *Brady* renewal?

9 MS. SAMPSON: Yes, ma'am.

10 THE COURT: All right. And then, we'll do the *Denno*

11 ---

12 MS. SAMPSON: Yes, ma'am.

13 THE COURT: --- after.

14 MS. SAMPSON: And just for the record, I know we're
15 about to move on to the defendant's motions. They have a
16 motion to exclude the recorded controlled calls. The
17 state had no intentions of introducing those calls.

18 THE COURT: I'm sorry. They have a motion to do
19 what, now?

20 MS. SAMPSON: It -- it's No. 6 on their list, motion
21 to exclude recorded controlled calls made by Shena Nicole
22 Bryant. The state was not intending on introducing
23 those.

24 THE COURT: All right.

25 MS. SAMPSON: And just for the record, we have

1 discussed with the defense their motion to exclude
2 autopsy photographs. I have explained, due to my
3 schedule and being in trial and due to the -- Dr. Durso's
4 schedule, we have not been able to get together to review
5 which photographs she feels she may need. I explained we
6 will be doing that with her Wednesday afternoon or
7 Thursday morning before she testifies. So we would need
8 to deal with that before she testifies.

9 I can't do it today. I don't even know that she
10 would want to use the photographs for sure.

11 THE COURT: All right.

12 MS. PINNOCK: We have no problem ---

13 THE COURT: So we'll ---

14 MS. PINNOCK: --- holding off ---

15 THE COURT: --- do these ---

16 MS. PINNOCK: --- on that.

17 THE COURT: --- we can just do -- she's not
18 testifying until ---

19 MS. SAMPSON: It'll be Thursday morning.

20 THE COURT: Okay. So we'll -- sometime between now
21 and Wednesday, when we take a break, we can hear that
22 motion.

23 MS. PINNOCK: Yes, ma'am.

24 THE COURT: And that's the photographs. All right.
25 And then, the motion to settle the record of all

1 witnesses?

2 MS. EIGENBROT: Yes, Your Honor. There are multiple
3 lay witnesses in this case, mainly Ms. Shena Nicole
4 Bryant and Crystal Posey. I know the state turned over a
5 -- a rap sheet for Ms. Posey at some point. But I have
6 not received any updates about any potential new arrests.

7 We also have a young lady by the name of Brittany
8 Steen, I believe, would be a potential lay witness. And
9 I don't think I've ever received any rap sheet for her
10 either. And so I just wanted to see if there was any
11 updated rap sheets and if -- discuss any eligible
12 convictions.

13 MS. SAMPSON: For the record, Your Honor, I'm going
14 to hand them -- we ran them this morning, I believe.
15 This is Randell Wilson's. He does have a rap sheet.
16 Nita Rabon does not have a rap sheet.

17 Shena Bryant, that is her -- Shena Nicole Bryant,
18 that is hers. Samuel Knowles does not have a rap sheet.
19 Crystal Bryant, that is her rap sheet -- Crystal Posey, I
20 guess, she is now. And Jerry Rabon does not have a rap
21 sheet.

22 I just realized, we did run Brittany Steen. But I
23 don't -- this is not correct, because she does. She was
24 arrested. And this does not have her current arrest on
25 it. So I'm going to run it again and will provide it to

1 the defense before she testifies.

2 THE COURT: All right. All right. So that takes
3 care of No. 3.

4 And No. 4 is a motion to exclude the autopsy
5 photographs. And we will discuss that on Wednesday.

6 And then, that takes us to No. 5, motion to exclude
7 jail calls made by defendant.

8 MS. EIGENBROT: That's correct, Your Honor. Your
9 Honor, Mr. White was arrested December 8th of 2016.
10 Based on the nature of his charges, bond was not heard in
11 magistrate court and he remained detained.

12 We did move for bond, I believe, in July of 2017.
13 And a bond was granted. However, it was something out of
14 his range. And so thus he's -- he's been detained this
15 entire time.

16 I'm sure, as Your Honor is aware, there is a
17 telecommunications company that supplies phone calls and
18 records those phone calls at the detention center. The
19 detention center currently uses AmTel. AmTel, like I
20 said, records these phone calls.

21 And more of my issue is that they provide them
22 directly to the solicitor's office. So the -- the
23 solicitor's office has access to these phone calls almost
24 in real time, along with law enforcement. And that's
25 really what this argument's more centered on, Your Honor.

1 We believe that this violates the South Carolina
2 Rules of Criminal Procedure. Rule 5(b)(2) is part of the
3 discovery rules, Your Honor. Under this rule the state
4 is not permitted to receive discovery from the defense
5 unless and until we decide to use it in our case-in-
6 chief.

7 So essentially, what they're doing when these get --
8 they get these direct phone calls are obtaining potential
9 discovery against our client. While we're not present,
10 we're not there to communicate with him over the phone
11 calls. But essentially, they're getting statements from
12 him and/or other potential witnesses, depending on who
13 he's talking to.

14 The state has provided us with two phone calls that
15 I believe they may intend to introduce, one of which is
16 to his stepmother. The other is to young lady named
17 Kelly Gould, who was a good friend of Mr. White's. Ms.
18 Gould actually knows a lot of the witnesses in this case,
19 especially Ms. Shena Nicole Bryant, and was spending time
20 with her after Brian's arrest, along with Ms. Crystal
21 Posey.

22 But so for that, Your Honor, we are under no
23 obligation to disclose any of our -- our defense, any of
24 our client's statements, any of -- or any witness
25 statements that have been made to us. But essentially,

1 when the solicitor's office and law enforcement have
2 direct access to these phone calls, they're basically
3 going on a roundabout way of getting that discovery that
4 would not normally be provided to them, unless a defense
5 was using it in their case-in-chief, as they are
6 generally statements made by the defendant and/or family
7 and friends of his.

8 So, Your Honor, we believe it violates that rule.
9 We also believe that these jail phone calls violate
10 numerous constitutional rights, including the Equal
11 Protection Clause under the constitution, Your Honor.

12 Mr. White is a pretrial detainee. He has not been
13 convicted of his crimes. And as such, under *Turner v.*
14 *Safley*, he is still entitled to constitutional rights.

15 Now, recognizing that these rights are somewhat
16 curtailed because he is an incarcerated setting, he still
17 is entitled to these rights, mainly the first -- his
18 right to first -- or first -- under the First Amendment
19 right of free speech. But, Your Honor, there's a slew of
20 cases that I've handed up, *Turner v. Safley*, *Bell v.*
21 *Wolfish*. And these cases kind of address how to
22 determine whether or not state action kind of stomps on
23 those constitutional rights.

24 And essentially, we would argue, in these cases, in
25 this situation they are violating these rights, as they

1 don't have any real basis for the objectives of -- of the
2 incarcerative setting. So for instance, Your Honor, the
3 Court in *Wolfish* kind of addressed these nonpunitive
4 penological interests, which include a client's
5 rehabilitation, prevention of future crimes, and ensuring
6 safety of other inmates.

7 And that's generally what the courts have kind of
8 relied on as a reason to record these phone calls: claim
9 that they're using it to, I guess, keep people safe while
10 they're detained and kind of make sure nothing's
11 happening in the detention center. And while we
12 recognize that courts have agreed that that's allowable,
13 again, what I have issue with is the fact that the
14 solicitor's office and law enforcement have direct access
15 to these phone calls.

16 The courts have also determined that it is -- the
17 safety and the running of detention centers is best left
18 to the detention centers themselves. And so by providing
19 direct access to these phone calls, they're kind of,
20 again, overstepping what would be required. They're not
21 -- the solicitor's office has no dealings with ensuring
22 the safety of anything going on at the detention center.
23 They do not work for the detention center. They do not
24 work in the detention center. And neither does the
25 Richland County Sheriff's Department.

1 And when you look at -- you also have to go and look
2 at these factors that *Safley* weighs out. Those includes
3 the nexus between the regulation and the neutral
4 government interests justifying it; the availability of
5 alternate means of exercising that right; the impact any
6 accommodation for the right will have on inmates, staff,
7 and resources; and the proportionality of the regulation
8 to the issue it reportedly addresses.

9 Again, there is no nexus between the solicitor's
10 office having direct access to these phone calls to the
11 state's administration of the detention center. Again,
12 they're not staffed with running it, controlling it, or
13 dealing with any of the inmates, unless they're here at
14 the courthouse.

15 You know, and as far as an alternative means for a
16 defendant to communicate with people on the outside, Your
17 Honor, we would argue that none of the other available
18 options kind of equate to a phone call. They can write
19 letters. They can e-mail. And they're allowed in-person
20 visitations.

21 Letter -- the U.S. Postal Service takes much longer
22 to communicate. So if there is some type of an emergency
23 a defendant has to relay to somebody on the outside, the
24 most -- the most readily available way to do that is a
25 phone call, not by writing a letter.

1 And that includes communicating with their
2 attorneys. The e-mail is the same situation: again, a
3 little bit faster, but those also are recorded and are
4 subject to warrantless searches, as are the letters that
5 are being written to and from the jail.

6 The in-person visitations, Your Honor, those take
7 place at booths. They're not even in person. It's a
8 video -- essential -- is it -- basically, it's like a
9 video feed. They sit in their dorm and communicate with
10 somebody on the outside.

11 But those are even subject to limitations, Your
12 Honor. The dorms have special schedules. It's -- Mr.
13 White couldn't have a family just come visit whenever he
14 wants to. They can only come on the days that the jail
15 has -- has scheduled for them. There is limitations to
16 how many people can come. And unfortunately, those --
17 sometimes family and friends on the outside also have
18 their own stuff to contend with, like work schedules,
19 transportation issues, childcare services, and those
20 types of things. So ---

21 (Off the record briefly.)

22 MS. EIGENBROT: --- phone calls are basically the
23 easiest way to communicate, especially for them at the
24 detention center. And so we would argue that there's no
25 other available means. So basically, the solicitor's

1 office is cutting off any way to effectively communicate
2 with anybody on the outside.

3 Your Honor, and, you know, I recognize that there
4 are arguments about, "Well, they've consented to being
5 recorded by making these phone calls." There's a
6 recording that plays every time this phone call comes on,
7 which is true. But again, if there's no other real
8 alternative to communicate with somebody on the outside,
9 are they really actually consenting?

10 They're -- that's the way they communicate. It's
11 the way they reach out to other people. That's how they
12 attempt to, you know, keep in touch with family, which is
13 part of their rehabilitation.

14 Your Honor, and a lot of times with the -- the
15 knowledge that solicitors and law enforcement have direct
16 have direct access to these phone calls, it keeps
17 inmates, pretrial detainees, from, you know, expressing
18 themselves and using their freedom of speech. Just this
19 mere knowledge of the state being -- having the
20 capabilities they have can chill their free speech. And
21 that was found unconstitutional in -- in *Laird v. Tatum*,
22 Your Honor.

23 (Off the record briefly.)

24 MS. EIGENBROT: And, you know -- and this also, I
25 think, violates the Equal Protection Clause, Your Honor,

1 mainly by the fact that pretrial detainees that remain
2 incarcerated are treated differently than those who are
3 on bond. Recognizing that, you know, we have a bond
4 system set in place for reasons, we understand that.
5 However, when somebody is detained, the fact that the
6 solicitor's office and law enforcement can just go get
7 all their recorded phone calls puts them in a different
8 position than those that are on bond.

9 They have to still get a search warrant to do
10 anything with their phones. They're -- they have to get
11 search warrants to come in their homes, to do all of that
12 other stuff. Is -- is -- the pretrial detainees that
13 remain incarcerated are being treated differently with
14 these phone calls. And again, so we think that also
15 violates their right to -- their equal-protection rights.

16 And then, you know, Your Honor, I also would like to
17 address that it does also violate their Fourth Amendment
18 rights. Recognizing there's a limited -- a limited
19 privacy in the jail, that doesn't take away from the fact
20 that he -- these rights still do exist. And I just want
21 to point out some of the cases that I've referenced in
22 the memorandum, which is *Katz v. United States*, where
23 they found there was still a reasonable expectation of
24 privacy in a public telephone booth, where the law
25 enforcement had put a recording device on top of the

1 telephone booth. That Court ruled that it was -- that he
2 still had a reasonable expectation of privacy.

3 Recognizing that these phones are in the middle of a
4 dorm, it is a little bit of different situation.
5 However, the recording itself, I think, is similar. And
6 in *Carpenter v. United States*, they -- that Court
7 recognized there is a reasonable expectation of privacy
8 in cell-site locations. And they -- the reason I bring
9 that case up is it kind of differentiates between older
10 cases, where older cases kind of talk about big, broad,
11 general things like a pen register, where they record all
12 the -- the phone numbers they're penning in, and record
13 -- the bank records from *United States v. Miller*.

14 But *Carpenter* basically says we have to reevaluate
15 each situation with the growing technology. Originally,
16 these phones calls were not, I guess, digital, in effect.
17 Like, they weren't going directly to some portal that
18 solicitors and law enforcement had direct access to.
19 They still had to do subpoenas. They still had to do
20 search warrants to gain these phone calls to further
21 their investigation.

22 Now they don't have to do that. So I think this
23 warrants another look under the Fourth Amendment.
24 Because I think an individual stuck in a jail, having to
25 dial a phone number, falls kind of in between the pen

1 register. Because in the pen-register case, they're
2 taking some type of action; they're dialing the phone
3 number.

4 But this is also, I think, more analogous to the
5 cell-site location in -- in the *Carpenter* case by the
6 mere fact that, again, this is one of their only ways to
7 communicate. So it's kind of an indispensable technology
8 to them while they're stuck in an incarcerative setting
9 and trying to communicate with people on the outside.

10 And again, Your Honor, I think it also probably
11 touches a little bit on the Sixth Amendment, just simply
12 because it kind of -- it can destroy client
13 confidentiality between attorney and -- between attorney
14 and their client. And again, our clients --
15 specifically, our indigent clients are placed in a
16 different -- or, you know, placed in an extreme
17 disadvantage because they are remaining incarcerated, as
18 opposed to being on the outside and being subject to
19 search warrants and whatnot.

20 So, Your Honor, for those reasons, we would move to
21 exclude these. And I believe there is another case that
22 was just handed to me by Mr. Robert Bank, *State v.*
23 *Ellefson*, where they do -- where the Court here in South
24 Carolina addresses some letters that were written from a
25 detention center, where the Court essentially agreed that

1 some letters sent by the defendant should have been
2 excluded ---

3 (Off the record briefly.)

4 MS. EIGENBROT: And I think it talks a little bit
5 about the voluntariness and their ability to refuse, I
6 guess -- to kind of waive their right to privacy.

7 THE COURT: What's the cite for it?

8 MS. EIGENBROT: Your Honor, it is 266 S.C. 494.

9 THE COURT: And it's *State v.* what?

10 MS. EIGENBROT: *Ellefson*, E-l-l-e-f-s-o-n.

11 MS. PINNOCK: Your Honor, if I can approach, if
12 you'd like a copy?

13 THE COURT: Sure.

14 MR. MARSH: We have a copy for the state, Your
15 Honor.

16 THE COURT: One moment. You can continue.

17 MS. EIGENBROT: And, Your Honor, I -- I -- just
18 again, it's -- it's one of those -- it's a situation
19 where I feel like the solicitor's office having direct
20 access to these phone calls is really what -- what I'm
21 more pointed on; not the overall idea of recording the
22 phone calls, but simply that they have direct access to
23 them.

24 And again, I do -- do think it warrants a new look,
25 as the technology and situations for pretrial detainees

1 change.

2 THE COURT: All right. Thank you.

3 Yes, ma'am.

4 MS. SAMPSON: Thank you, Your Honor. May it please
5 the Court. I'm at a little bit of a disadvantage because
6 I received all of these cases probably an hour ago. But
7 what I would state, Your Honor, as to the use of the
8 calls is if you look at all of the case law that was
9 cited by Ms. Eigenbrot, with the exception of the last
10 case as a South Carolina case, they are all Supreme Court
11 cases, not dealing necessarily with just South Carolina
12 Constitution, but the U.S. Constitution.

13 But what I would point out is even under *Turner v.*
14 *Safley*, in that case they were talking about not having
15 any rights to do something. For example, in that case,
16 the -- they were wanting to regulate whether an inmate
17 could get married at all. They were regulating whether
18 an inmate could send letters at all.

19 That is not what this is about. They are allowed to
20 make phone calls, period. The cases she cited have to do
21 with the restriction of doing a right at all.

22 That would be, to me, a difference. Because they
23 can make phone calls. They are just told that they are
24 going to be recorded. They're not restricting their
25 ability to make a call. They can make the call.

1 In all of the cases she cites where they're talking
2 about the right being violated, they were not allowed to
3 do it at all. Or, for example, in *Bell v. Wolfish*, they
4 were required to do -- put two inmates in a single-
5 occupancy cell. They were not allowed to bring in
6 certain books to read at all. They were prohibited from
7 bringing in certain food at all.

8 They were made -- were -- were required to remain
9 outside of their rooms during inspections. So they were
10 restricting their freedom in total. They weren't saying,
11 "You can do any of these things." Unlike what we are
12 talking about, they're allowed to make the phone calls.
13 They're just recorded.

14 As to our having access to them, that's been a
15 recent thing. And what I mean by recent, it's not
16 something that we've had for several years. We do have
17 access to those calls. However, we -- I -- there is no
18 one here -- and I think she cites that in there -- that
19 is constantly listening, recording, or doing anything
20 with those calls.

21 The two calls that she's talking about were given to
22 her years ago. I mean, we -- these weren't something he
23 did yesterday. These were done when he first got
24 arrested.

25 In the past what we have had to do and what we

1 continue to do if we listen to any of their other jail
2 calls, we have to provide them to this defense. If they
3 ask for their jail calls at all, we provide them to the
4 defense.

5 So they actually have the same access that we have.
6 They just have to request it. They can subpoena the same
7 calls that we can subpoena. And they have done that
8 before, where they've subpoenaed the calls if they want
9 them.

10 So I don't see how this is a violation of his
11 rights, when they have the ability to have the same
12 access that we have. They just have to request it. If I
13 want the calls, we've had to subpoena the calls
14 ourselves, because it's not unlimited access. If the
15 jail chooses to take away our access, which they've done
16 before, or they've restricted our access, not giving us
17 access to the jail calls, which has happened, because
18 they're allowed to do that, then we have to go through
19 the subpoena process, just as they do.

20 So I don't see how the fact that the calls can be
21 recorded or can be listened to by our office or by the
22 sheriff's department keeps them from being able to assert
23 their right to free speech and use the phone. Because
24 they can. They just have to do it knowing it can be
25 recorded.

111

1 Is that fair? I'm not here to decide whether that's
2 fair or not. And I don't think that that's what Your
3 Honor is here for either. It's whether it limits their
4 ability to make a call at all.

5 And they're not limited in that respect. That would
6 be perhaps a protection violation. And there are times
7 when that is restricted. If there is a riot at the jail,
8 if they are on lockdown at the jail, they can't make any
9 calls, period. And that's the jail's determination, not
10 our determination.

11 If they're in trouble and put on lockdown by
12 themselves, they can't make a call. The jail has the
13 ability to totally restrict what they do. If they're on
14 lockdown, they can't write letters. They can't have
15 visitors. All of those things are done by the detention
16 center, not by us. And it's allowed.

17 The case law that she cites to you as reasons to why
18 all, again, go back to completely doing away with their
19 right. And that's not what this is doing. She does cite
20 some cases that have to do with privacy violations.

21 But they're -- and if I had time to go look at them,
22 there are -- there is the same case law that says because
23 someone is incarcerated, their -- some of their privacy
24 -- some of their privacy rights will be violated. That's
25 part and parcel with being incarcerated. Whether it's

1 pretrial or posttrial, that comes with the territory.

2 I understand that in this situation, he was unable
3 to make bond and that may have restricted his ability to
4 make phone calls. I don't know if he made any phone
5 calls other than the two that we have, because I never --
6 and I've told her this -- did not bother to listen to any
7 of his calls. If I had, I would have provided it to her,
8 as we're required to do.

9 Because of that, Your Honor, because they have the
10 same access to the calls as we do, because he's not
11 restricted from making calls in total, he just knows that
12 they're -- he knows and is told that they could be
13 monitored and recorded if he chooses to make those, it's
14 the state's position that the introduction of the calls
15 is not -- should not be prohibited simply because he --
16 they're recorded. She can't -- has not pointed to any
17 case in South Carolina that says such. The cases that
18 she does point to have nothing to do with in a jail
19 situation.

20 The one that she points out, *Katz*, has to do with
21 someone who's on a public telephone in a public place
22 being recorded and not knowing he's being recorded. And
23 the Court held that there needed to be some sort of
24 warrant for that and that they needed -- that there
25 needed to be some other things done. It actually didn't

1 say it couldn't be done.

2 And so that would be different than the situation
3 that we have, where he's told that it's recorded prior to
4 making the call. And then, it is -- and such is done.

5 So to use these cases to support her argument is a
6 little bit of a misconstruction of the law, Your Honor.
7 And I would ask that you go ahead and allow, if we choose
8 to introduce the calls, that we be allowed to do so.

9 I understand their objection will be continuous at
10 that point. But if we're able to lay the foundation and
11 the proper authentication of the calls, I believe, based
12 on the case law, that it would be proper for those to
13 come in.

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

15 MS. EIGENBROT: And, Your Honor, I -- I want to be
16 very clear about what I'm arguing. It is not that he has
17 not had access to making the phone calls. My concern is
18 that the solicitors and law enforcement have direct
19 access to them.

20 Going in a roundabout way, allowing them to obtain
21 potential incriminating evidence against pretrial
22 detainees without having to go through the appropriate
23 steps, like obtaining a search warrant, by getting a
24 subpoena, by, I guess -- even -- and -- I mean, just
25 because I have access by -- by sending a subpoena to the

1 jail doesn't necessarily mean that them having them
2 having the direct access that they have changes anything.
3 Again, that access allows them to listen in time with the
4 individual making the phone call.

5 Again, I think it violates the rules of discovery,
6 because it can be events from the defense that would not
7 necessarily be provided to the state until trial came up
8 and it was put -- placed in our case-in-chief. And it's
9 not that he -- again, it's not him having access to the
10 phone calls, Your Honor. It is the mere knowledge that
11 him making a phone call can give evidence to -- directly
12 to the state if he says something untoward about his
13 case; that they just -- the -- that don't -- aren't
14 required to get a search warrant; that they're not
15 required to take further steps to make sure that his
16 rights are still in place.

17 You know, it's -- your right to free speech is he
18 has a right to call whoever he wants to call and make
19 whatever statements he wants to make. He can -- you
20 know, we don't allow phone calls from the jail to our
21 office because the solicitor's office has access to the
22 phone calls the way they do. So he couldn't call me and
23 tell me exactly what's on his mind about his case until I
24 come down to the detention center.

25 And so -- and that -- and with -- that mere

1 knowledge takes away his ability to communicate with me
2 unless I'm present at the detention center, which is also
3 why sometimes our clients say the things they say on the
4 jail phone calls. You know, I believe one of these phone
5 calls was made before he actually had an assigned
6 attorney to warn him about how dangerous these phone
7 calls can be.

8 And, Your Honor, it -- no. These cases are not
9 directly on point. But that's because I don't think it's
10 been addressed by the Supreme Court about the solicitor's
11 office and law enforcement having direct access to the
12 phone calls. That is a very specific argument that we're
13 making. It is their direct access that is the problem.

14 And we think that access is what violates these
15 rights and equal protection without going through the
16 constitutional process of, again, obtaining search
17 warrant and the like. I mean, it's nothing -- because
18 their -- their access to the phone calls has nothing to
19 do with running the detention center. And that's why
20 they're -- they've been allowed for so long to record
21 these phone calls, is because -- because the courts have
22 said it's okay to record them; it's for the purposes of
23 safety in this environment.

24 But these -- these agencies don't have anything to
25 do with that. The detention center runs itself. They

1 are not -- it's not part of the sheriff's department.
2 It's not part of the solicitor's office.

3 So I want to be very clear that that -- the -- the
4 point I am trying to make, Your Honor, is that direct
5 access, that -- the ability to listen to the phone calls
6 as they're being made, essentially, or right after
7 they're made is what we have a problem with and what we
8 think violates his constitutional rights.

9 THE COURT: All right. Anything in response?

10 MS. SAMPSON: Beg the Court's indulgence.

11 (Off the record briefly.)

12 MS. SAMPSON: Your Honor, the only thing I would add
13 is Ms. Eigenbrot just said that -- and she said it
14 earlier, and I should've addressed it -- that if they --
15 it -- it chills their effect to be able to talk to their
16 attorneys. There's actually a rule in place. If we --
17 we don't even -- if it's the -- the P.D.'s number pops
18 up, nobody listens to it.

19 If it's a defense attorney's -- but it has happened
20 that the defense attorney -- we didn't know who it was,
21 because they called their cell phone. The minute that we
22 realized that it was an attorney, (a) we turned it over
23 and told them, "Hey, we've stopped listening"; but (b) we
24 have an obligation to not listen to that.

25 If they choose to talk to their mama, their

1 girlfriend, their whoever on the jail call about what
2 their attorney said, they -- it is told to them more than
3 once on the call that these calls are being recorded. It
4 says that every time they use the phone.

5 Furthermore, this particular defendant waived his
6 right -- he did an advice of rights with Truluck -- with
7 Investigator Truluck twice before he even got arrested on
8 this charge. And then he gave a full confession at that
9 point. So he was advised of the dangers of talking to
10 anyone about his case and did it anyway; waived those
11 rights and did it anyway.

12 So I just think it's clear to -- or that there is no
13 case law in South Carolina, as she's addressed, that says
14 that this cannot happen. They're trying to make case law
15 that it cannot happen. But that's not where we are, Your
16 Honor.

17 He's allowed to make calls. The calls are
18 monitored. And he's told that they're monitored and
19 recorded. They're not monitored by our office. They --
20 we do allow to have access, as are they. If they would
21 like to have them, they can subpoena them.

22 Based on all that, Your Honor, we'd ask that, if we
23 choose to use the jail calls, that they be allowed in, if
24 they can be authenticated.

25 THE COURT: All right. I'm going to take a look at

1 the cases this evening. And then, I'll get back with you
2 -- I'll give you all a ruling in the morning before we
3 get started. I'll just -- I want to read over everything
4 that is here.

5 MS. EIGENBROT: And, Your Honor, we would just ask
6 that the memorandum we turned in would be made part of
7 the Court's record as an exhibit.

8 THE COURT: It's in the file, right? Did you clock
9 it in?

10 MS. EIGENBROT: No, Your Honor.

11 THE COURT: So you want it made a part of the -- you
12 want it a Court exhibit? I mean, because if ---

13 MS. EIGENBROT: Yes, Your Honor.

14 THE COURT: --- it's in -- if y'all file stuff, it
15 shows up in the file and it's -- I think, for purposes of
16 appeal, you get it that way ---

17 MS. EIGENBROT: Okay, Your Honor.

18 THE COURT: --- it'll get to Court. But I don't
19 have a problem making it a part of the Court record.

20 Court Exhibit 2?

21 THE COURT REPORTER: Yes, Your Honor.

22 THE COURT: Two.

23 MS. EIGENBROT: Thank you, Your Honor.

24 THE COURT: You have a copy for the court reporter?
25 Because ---

1 MS. EIGENBROT: Yes.

2 THE COURT: --- I need to keep my copy so I can
3 review it.

4 (Whereupon, Court's Exhibit 2 was marked for
5 identification.)

6 (Off the record briefly.)

7 THE COURT: All right. She's going to check on
8 state grand jury. I don't -- I don't know where they
9 are. But yeah. I'll get back with you -- a ruling on
10 that in the morning. I mean, when are they -- when are
11 the potential calls going to come in, if -- if they come
12 in?

13 MS. SAMPSON: Probably not till Wednesday, Your
14 Honor.

15 THE COURT: All right. And then, is it something
16 you plan on discussing in openings?

17 MS. SAMPSON: If Your Honor tells us not to,
18 clearly, we won't. I don't think Mr. McGlothlin is doing
19 it. I don't think Mr. Sam is doing it. And I -- he
20 didn't intend on bringing up the jail calls in his
21 opening.

22 THE COURT: All right. I'll get you a ruling
23 before. I want to take a look at it before -- I'll take
24 a look at it and -- and get you all -- just so -- from my
25 understanding, the solicitor's office has an access

1 number or something that -- some way to access the calls
2 or ---

3 MS. SAMPSON: Under normal circumstances, what it
4 is, is they've given us a password that -- for our
5 investigators that we can use to then log in to the --
6 their AlTel [sic] system. And based on that, if you want
7 to put in somebody's name, then you can pull up any calls
8 that they've made.

9 These two calls were actually not done by our
10 office. They were done by the sheriff's department upon
11 his arrest. So I have never listened to any of Brian
12 White's phone calls since he's been in jail. So I
13 couldn't tell you if he made any more calls.

14 These were done by Investigator Truluck during his
15 investigation of this case. Mr. White got -- the
16 incident happened on December 8th of 2016. He was
17 arrested later that day.

18 So he was in -- under arrest the entire time after
19 this case. And the calls were made very early. I want
20 to say in the beginning of December, but I'd need to look
21 -- I -- please don't hold me to that date. But they were
22 done in December.

23 And so -- I think that's right. If I'm saying it
24 wrong, somebody correct me. But they were done early on.
25 They were not even done by myself or my office at the

1 solicitor's office. They were done by Investigator
2 Truluck.

3 So just to be clear: It wasn't something where we
4 listened to it and then gave Ms. Eigenbrot anything. Mr.
5 -- Investigator Truluck did it and provided it as part of
6 his case to us and to Ms. Eigenbrot.

7 So I think that's important as well, now that you've
8 brought it up; that that would be a difference in what
9 they're talking about, at least for these two calls.
10 They were not part of some -- us going out and
11 investigating or us even -- us -- and by us, I mean the
12 solicitor's office -- listening to his calls. It was
13 done by Investigator Truluck early on it investigation.

14 But yes. We do have access their calls. But it is
15 through a password system. And they have cut it off
16 before when we've been trying to listen to calls and
17 they've been doing stuff or whatever it is. Sometimes we
18 cannot have access to them. It's not a system that we
19 keep together, nor is it a system that we control.

20 We've had to subpoena the same calls as -- in the
21 same manner as the defense at -- at times because we
22 haven't had access. So it's not a constant thing that we
23 always have access to.

24 But that is how it is -- we do have access, is
25 through -- you go onto AlTel [sic]. They have given us a

1 password that we can use. And that is how we access it.

2 And if -- if one of us accesses it, you can't tell
3 the difference between me accessing it, my investigator
4 accessing it. It just says the office, essentially.

5 THE COURT: So she said -- and I know you're saying
6 that that was -- that that's not the case here; it
7 doesn't apply here. But just for my understanding, real
8 time -- she said you all can listen to the phone calls in
9 real time?

10 MS. SAMPSON: I have been told that we can do that.
11 I have never tried. Every time I have done it, it -- the
12 call has been completed and recorded in their -- in
13 AlTel's recording.

14 THE COURT: Uh-huh.

15 MS. SAMPSON: And then, I've -- I -- I -- according
16 to Mr. McGlothin, you can do real time. But I don't know
17 how. And I've never tried. I've only done it listening
18 to past calls.

19 Now, they are immediate, meaning as soon as you hang
20 up, you can see that somebody was just on the phone and
21 they've hung up when I have tried to do it. And I'm
22 saying AlTel, but it's AmTel -- is the name of the
23 system, not AlTel.

24 But it -- it could be. I'm not going to stand here,
25 Your Honor, and say it -- that you can't have live-

1 listening, at-the-moment calls. I'm not going to say
2 that. I can only say what I personally have done. And I
3 have only done it when the call has ended. You can -- it
4 immediately comes up and shows you that a call had been
5 made and ended.

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

7 MS. EIGENBROT: And, Your Honor, that -- that's kind
8 of actually to point, though, is Ms. Sampson just said
9 it. Investigator Truluck did this for the purposes of
10 his investigation in order to attempt to find
11 incriminating evidence that was done without a search
12 warrant. And, Your Honor, the calls themselves were made
13 on December 16th of 2016, and, I believe, January 27th of
14 2016.

15 THE COURT: One more time?

16 MS. EIGENBROT: December 16th of 2016 and January
17 27th of 2016 -- oh, sorry -- 2017.

18 THE COURT: Okay. All right.

19 MS. SAMPSON: And -- and again, I don't want to -- I
20 want to make it clear: I couldn't remember the dates as
21 I was standing here. But I ---

22 THE COURT: Uh-huh.

23 MS. SAMPSON: --- knew it was part of Investigator
24 Truluck's investigation. It was not something that we as
25 solicitors have done. He -- he did it as part of his

1 investigation and provided it to both sides at that point
2 -- or provided it to me so that we could provide it to
3 the defense.

4 THE COURT: All right. All right.

5 (Off the record briefly.)

6 THE COURT: All right. If y'all give me a second to
7 hear this and then I'll -- it shouldn't take very long.

8 (Off the record from 3:21 p.m. until 3:29 p.m.)

9 THE COURT: Okay. All right. We'll be -- we are
10 back on the record on Brian Neil White.

11 MS. SAMPSON: Thank you, Your Honor. May it please
12 the Court. It's my understanding -- or just so -- for
13 the Court's awareness, the defendant, as I stated
14 earlier, was arrested and charged in December with this
15 murder. During -- he initially was arrested for child --
16 a child support issue. But during his arrest for that,
17 they speak with him. He does an advice of rights and
18 gives a confession.

19 It's my understanding that the defense is not
20 conceding that the -- the statement was made voluntarily,
21 knowingly, and intelligently, with the advice of rights.
22 So at this point we would ask to have a *Jackson v. Denno*
23 hearing to determine the voluntariness of the statement.

24 THE COURT: All right.

25 MS. SAMPSON: Thank you, Your Honor. At this time

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 125

1 the state would call would call Cris -- or Ronald Cris
2 Truluck to the stand.

3 (Whereupon, the witness came forward.)

4 CRIS TRULUCK, having been first duly sworn,
5 testified as follows:

6 DEPUTY CLERK OF COURT: Thank you. Have a seat in
7 the witness stand, please.

8 THE WITNESS: (Complied.)

9 DEPUTY CLERK OF COURT: State your name for the
10 record.

11 THE WITNESS: Sgt. Cris Truluck.

12 DIRECT EXAMINATION

13 BY MS. SAMPSON:

14 Q Investigator Truluck, where do you work?

15 A Richland County Sheriff's Department.

16 Q And how long have you worked there?

17 A Almost ten years.

18 Q And what do you do there now?

19 A I am a sergeant over the burglary unit.

20 Q And back in December of 2016, was that your role?

21 A No.

22 Q What was your role then?

23 A I was a investigator in the major-crimes unit and
24 assigned as a primary homicide investigator also.

25 Q And as a homicide investigator, what were your

1 duties?

2 A To -- we would go on a on-call rotation, the way it
3 works. And we're -- if you're on call every six weeks,
4 if there is a homicide that occurs that on-call time, you
5 would -- you would be the primary investigator. However,
6 if homicides occurred during the daytime, they usually
7 have a primary, which myself, that wasn't on-call to
8 investigate that case.

9 So I was assigned a case the morning of this
10 incident to investigate.

11 Q Okay. And can you tell the Court a little bit about
12 how your investigation started?

13 A It was actually earlier that morning. I would get a
14 call from Sgt. Rob Martin, who has since retired. He was
15 sergeant in major crimes at the time. I was en route to
16 work when the -- he had called me and asked me to respond
17 to Patricia Drive in reference to this incident.

18 Q And did you respond?

19 A Yes, I did.

20 Q And what did you find when you got there?

21 A When I got there, Sgt. Martin was already there.
22 The scene was roped off. I observed the white van in the
23 driveway in front of the residence; debris from a
24 shooting, glass, blood. And there were several witnesses
25 there that we had spoken to.

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1 Q And just to speed it along since this is just about
2 the defendant's statement, was the defendant there at
3 that time?

4 A No, ma'am.

5 Q Okay. Were you made aware at that time that the
6 defendant might be a suspect?

7 A Yes.

8 Q And how were you made aware of that?

9 A I had briefly spoke to Sgt. Martin, who had informed
10 me that he spoke to two of the witnesses there, which
11 would be Crystal and Nicole. They had brought up Brian
12 White's name. Also, a deputy had brought up his name,
13 too, as being stopped. So at that point, whether he was
14 actually a suspect, he was definitely of interest.

15 Q And when you say interest, a person of interest? Is
16 that ---

17 A Yes, person of interest.

18 Q Okay. And so when did you get an opportunity to
19 speak with the defendant?

20 A Not until he was arrested later on that day.

21 Q So was it the same day of the incident?

22 A Yes, ma'am.

23 Q Okay. And how was he taken into custody?

24 A Lt. Eisenhower and Capt. McDonald actually responded
25 back to the incident location to make contact with

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 128

1 Crystal Posey. Just by chance, when they got there, they
2 saw the defendant's vehicle there. And he was standing
3 on the porch. So at that point they took him into
4 custody. I think he had a -- actually taken him into
5 custody at that time was for a child support ---

6 Q Okay.

7 A --- warrant.

8 Q And so he was arrested -- was he arrested at that
9 point?

10 A Yes.

11 Q Was he free to go at that point?

12 A No.

13 Q And so what did you -- what happened once he got to
14 headquarters?

15 A I was notified of his arrest. We would -- once he
16 got there, we went to the Pineview office, which wasn't
17 headquarters. It was the one there at 1931 Pineview. He
18 was brought into Capt. McDonald's office, where myself
19 and Sgt. Martin interviewed him.

20 Q Okay. And do -- just for clarification, do you see
21 the defendant -- the person you spoke to here today?

22 A Yes, ma'am.

23 Q Where is he?

24 A It was the gentleman in the white T-shirt.

25 MS. SAMPSON: Okay. Just for the record, Your

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 129

1 Honor, he has ---

2 A Or dress shirt. Excuse me.

3 MS. SAMPSON: Sorry. He has identified the
4 defendant, Brian White.

5 Q Okay. And so what happened once Mr. White got to
6 Pineview with you?

7 A Myself and Sgt. Martin would interview him. Prior
8 to interviewing him, he was -- I personally read him his
9 *Miranda* rights, which he did sign, stating that
10 understood his rights.

11 Q And can you tell the -- the Court how you do that?

12 A Yes. It is a form. Do you have the form?

13 Q I'm going to ---

14 MS. SAMPSON: May I approach, Your Honor?

15 THE COURT: Uh-huh.

16 MS. SAMPSON: And I'm going to hand Your Honor a
17 copy, just so you can have it.

18 THE COURT: Thank you.

19 A It's a standardized Richland County Sheriff's
20 Department advisement-of-rights forms that we use. At
21 the top of it, it has the defendant's name, where you
22 fill that in; where the interview occurred; the officers
23 present; the date and the time that his rights were read
24 to him.

25 Q And I'll show you what's been marked as State's

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 130

1 Exhibit No. 1 and see if you recognize that.

2 A Yes, ma'am.

3 Q And what is that?

4 A This was the advisement of rights that he was read.

5 Q And is that a fair and accurate copy of what you did
6 with him?

7 A Yes, ma'am.

8 Q Okay. And can you read to the -- or tell the Court:
9 Did you read every one of those rights to him?

10 A Yes.

11 Q What rights were those?

12 A In this form, by each statement there is a little
13 block, which is for a check mark. I would read each
14 right to him and put a check by it as I read it. Would
15 you like for me to read each one?

16 Q Well, I -- and I've -- I did provide the Court a
17 copy of it. But let me just ask you this: There are
18 initials beside each box. What does that represent?

19 A Well, the way they normally do it is I will read
20 the person each one of their rights. And then, this
21 particular form, like I said, it has a check box. So I
22 would check that box.

23 I would also, prior to reading his rights, I would
24 ask them what their education level is. And normally,
25 it's a "Did you graduate from high school?" or "Where did

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 131

1 you go to high school?" If it's graduated or not or if
2 it's college, I would put that. In this case he said the
3 highest his education level was 11th grade.

4 My next question is -- is: "Can you read and
5 write?" And my standard practice is I always write what
6 the quoted answer was, whether it was "Yes"; "Yes, sir";
7 whatever it was. In this particular case, it was "Yes."

8 I would begin each right -- again, as I mentioned, I
9 would read the right and put a check mark through it.
10 And then I would turn it to him. I would ask the
11 defendant did they understand their rights; and if so,
12 put a -- have their initials and put it right beside each
13 right that I read and sign in both places.

14 Q And did he do that in this case?

15 A Yes.

16 Q Did you force him to do that?

17 A No.

18 Q Did you require -- did you not let him have water or
19 food?

20 A No.

21 Q Did you not let him go to the bathroom or do
22 anything like that?

23 A No.

24 Q Okay. And after you advised him of his rights, did
25 he speak with you?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 132

1 A Yes, he did.

2 Q Did you force him to do that?

3 A No, ma'am.

4 Q Did you keep him from getting water or food or
5 anything like that?

6 A No, ma'am.

7 Q Okay. And what happened when you first spoke with
8 him? What did he tell you?

9 A Want to go into his statement ---

10 Q Well ---

11 A --- or ---

12 Q --- did -- let me ask you this: Did you talk to him
13 first, or did you talk to him and do his statement at the
14 same time?

15 A No. Normally, the way this went is that we talked
16 first about the case. Sgt. Martin was taking notes. I
17 did most of the talking with him. Of course, Sgt. Martin
18 would intervene at times. He would give a confession
19 post-Miranda, at which time we moved from Capt.
20 McDonald's office to Sgt. Martin's office, where Sgt.
21 Martin actually typed a written statement from him.

22 Q And what, if anything, happened between going from
23 McDonald's office to Martin's office?

24 A Besides we fed him.

25 Q That's what I was -- what happened ---

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 133

1 A Yes.

2 Q --- after that occurred?

3 A I believe it was Capt. McDonald went to McDonald's
4 and got him something to eat and provided him with food
5 as the written statement was being typed.

6 Q And did you state you weren't going to feed him
7 unless he gave you a statement?

8 A No, ma'am.

9 Q Okay. And so what happened then at that point?
10 What -- did he eat, or what happened?

11 A He actually ate while we were typing the statement.
12 When it was done, Sgt. Martin would review the statement
13 with him, and then he signed it.

14 Q And did you allow him to look at it and make any
15 additions or subtractions if he wanted to?

16 A Yes.

17 Q And did ---

18 A Matter of fact, on the -- on the statement, there's
19 two portions of it. One is that you're signing your
20 statement. And the second portion is that you receive a
21 copy of your statement, which he signed both places and
22 on all three of the pages.

23 MS. SAMPSON: Hold on one second.

24 (Off the record briefly.)

25 MS. SAMPSON: I'm going to hand the Court a copy of

1 what's been marked as State's Exhibit No. 2.

2 Q And I ask if you recognize this.

3 A Yes, ma'am. That would be the statement that was
4 taken.

5 Q And is that Mr. White's signature at the bottom of
6 all -- each page?

7 A Yes, ma'am.

8 Q Okay. And in making this -- and your -- is that
9 your signature as a witness, or are you the notary?

10 A No. I am the notary.

11 Q Were you there that entire time he made the
12 statement?

13 A Yes, ma'am.

14 Q Okay. And during that was he required to make this
15 statement?

16 A No.

17 Q Did he ever ask to stop ---

18 A No, ma'am.

19 Q --- talking? I'm sorry.

20 A No, ma'am.

21 Q Did he ever ask to speak with a lawyer?

22 A No.

23 Q If he had done that, would would've happened?

24 A We would immediately stop.

25 Q Okay. Did you force him in any way to make this

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 135

1 statement?

2 A No, ma'am.

3 Q And what happened after he made that statement?

4 A Of course, after he made the statement, he was
5 allowed to finish eating, which I believe he already did.
6 He would sign it and eventually be transported to Alvin
7 S. Glenn ---

8 Q And you ---

9 A --- Detention Center.

10 Q --- don't have to go into the details of the
11 statement. I'm sure we'll get to that later. But did he
12 confess to murder at that point?

13 A Yes, ma'am.

14 Q Did he implicate anyone else being involved in the
15 shooting?

16 A No, ma'am.

17 Q Okay.

18 MS. SAMPSON: Beg the Court's indulgence.

19 (Off the record briefly.)

20 Q And just to be clear: Did he seem to understand
21 you?

22 A Yes.

23 Q Did he seem -- what, if any, problems did he have in
24 understanding you or seem to have in understanding you?

25 A None whatsoever.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 136

1 Q Did he seem like he was inebriated or on any kind of
2 medication?

3 A No, ma'am.

4 MS. SAMPSON: That'd be it, Your Honor.

5 Q Thank you. Answer any questions the defense has.

6 THE COURT: Yes, ma'am.

7 MS. EIGENBROT: Thank you, Your Honor. May it
8 please the Court.

9 CROSS-EXAMINATION

10 BY MS. EIGENBROT:

11 Q Sgt. Truluck, Brian was 24 at the time of this
12 interview, correct?

13 A If you say so. I don't know exactly how old he was.

14 Q Early 20s, though, right?

15 A Okay. Yes.

16 Q And he told you that he had an 11th grade education?

17 A Yes.

18 Q So he never graduated from high school?

19 A That's correct.

20 Q And there was no GED that you asked about?

21 A No.

22 Q Now, prior to doing this interview, did you run his
23 record?

24 A No. Not that I recall. I can't say I did. But I
25 don't -- I'm -- I'm pretty sure it was done when his name

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 137

1 came up, but I don't recall doing it myself.

2 Q But at that point in time, you knew of no major
3 arrests in his history?

4 A Yes.

5 Q So he -- going through some type of interrogation
6 like this was not something he'd done before, to your
7 knowledge?

8 A To my knowledge, no.

9 Q And he gets picked up by Eisenhower and McDonald at
10 approximately 4 p.m., correct?

11 A Yes.

12 Q And you guys arrested him for the child support
13 warrant?

14 A I think by then we also have established probable
15 cause to charge him as well.

16 Q So you were already getting the warrants?

17 A Yes.

18 Q So he was basically going to be arrested at that
19 point ---

20 A Yes.

21 Q --- no matter what?

22 A Uh-huh.

23 Q And you mentioned bringing him to the Pineville
24 [sic] office?

25 A Yes.

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 138

1 Q Is that where your office was located at the time?

2 A Yes.

3 Q And so when he's transported, he's under arrest, so
4 he's also handcuffed, correct?

5 A Uh-huh.

6 Q And he remains handcuffed?

7 A Normally -- I don't recall how we did it. But
8 normally, in the interview setting, they will be either
9 handcuffed to a chair or handcuffed in front of them or
10 maybe shackled. I don't recall exactly what it was. But
11 we never do an interview like this, especially handcuffed
12 behind. So if anything, he would either be in --
13 handcuffed in the front or to a chair.

14 Q He was in -- effectively, though, in ---

15 A Yes.

16 Q --- custody in -- under arrest? Okay.

17 A Yes.

18 Q He's not allowed to leave?

19 A No.

20 Q Now, you don't speak to him immediately, right? You
21 -- somebody speaks to Crystal first?

22 A We had been talking to them throughout the day.

23 Q But when you -- when -- I mean, Eisenhower and
24 McDonald went back to Crystal's house to pick her up,
25 she's then brought in and also is interviewed prior to

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 139

1 speaking to him?

2 A I don't remember if they brought her back. But the
3 goal was going there to get her. So they possibly did
4 double back and get her again. But that was why they
5 originally went there. He just happened to be there on
6 the doorsteps.

7 We had already spoken to her once. And I believe
8 things arose that we wanted to talk to her some more.

9 Q And once -- but once he gets there, he does not --
10 you don't talk to him immediately; he sits there for a
11 little bit?

12 A That's possible. Probably wasn't too long, though.

13 Q And then, you mentioned taking him to McDonald's
14 office?

15 A Yes. The reason being he -- his office was bigger.
16 There was a conference table there. We were able to sit
17 at the conference table where -- where we did the
18 interview.

19 Q And that -- so that's not where the computer's
20 located?

21 A No. No. The computer that we'd actually took the
22 statement in was in Sgt. Martin's office. I think the
23 interview room that we have now weren't really set up for
24 that at the time.

25 Q So you read him his rights at 6:04 p.m., based on

1 your advice-of-rights form, correct?

2 A Yeah. Yes, ma'am.

3 Q And you talked to him for a little bit?

4 A Yes.

5 Q I think you said you were the one doing the bulk of
6 the talking?

7 A Yes, ma'am.

8 Q And at some point he mentioned some drug use the
9 night before?

10 A I do recall that.

11 Q Did he tell you that he took Xanax?

12 A I don't recall exactly what he told me he took. I
13 believe we -- I -- like I said, I'm pretty sure he did
14 some -- yeah -- by him doing some drugs.

15 I kind of know where you're going with this.
16 However, he was very coherent. He didn't seem like he
17 was under the influence. He was talking fine.

18 He seemed to be understanding everything I was
19 saying. His voice or speech wasn't slurred. He seemed
20 to be doing fine for me to carry on.

21 Q So he definitely mentioned drug use. Now -- and
22 based on the circumstances of everything at this point
23 that you knew, he also hadn't had much sleep.

24 A I don't know how much that he had.

25 Q Well, based on the allegations, he is with Nicole

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 141

1 and Crystal the night before, right?

2 A Yes.

3 Q I think arrives back at the Marriott around two
4 o'clock in the morning; is that right?

5 A Yeah.

6 Q And he's there for a few hours; is that right?

7 A That's correct.

8 Q And then, you have him on video leaving at
9 approximately six o'clock in the morning, say; is that
10 about right?

11 A Yes.

12 Q So if he slept the entire time he was at the
13 Marriott, a total of four hours would be the extent of
14 it, correct?

15 A I -- I can agree with that.

16 Q Because then, you have -- you -- you know, you have
17 him going to Alex's house, right?

18 A Yes.

19 Q And then -- then, allegedly, is when he is shooting
20 Mr. Turner?

21 A Yes.

22 Q Now ---

23 A I would say it's been -- it was probably a busy
24 night for him.

25 Q So safe to say, though, not a whole lot of sleep,

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 142

1 and it's been approximately a 24-hour period at this
2 point?

3 A Yeah. I can't say how much he'd had but ---

4 Q And you continued to interrogate him?

5 A I continued interviewing. Yes, ma'am.

6 Q And he denies being at the scene at first?

7 A At first, yes.

8 Q And then that's when you confront him with what
9 Nicole has talked to you about?

10 A Yes.

11 Q And you had Nicole up there for several hours as
12 well, right?

13 A Yes, ma'am.

14 Q And eventually, he gives you what you want; he tells
15 you he's the shooter?

16 A Well, he confesses to the crime. Yes, ma'am.

17 Q And you're actually the one that goes and gets him
18 the McDonald's.

19 A I don't think I did. I think it was Capt. McDonald.

20 Q So you stayed with him the entire time?

21 A I'm not going to swear to it. But it was a
22 possibility. I mean, we are talking, what, three years
23 ago, so I believe someone else went.

24 Q Okay. But the food gets back while Investigator
25 Martin or Sgt. Martin is typing up the statement?

CROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 143

1 A Yes.

2 Q And I believe the time on the statement itself is
3 7:13 p.m.

4 A Yes, ma'am.

5 Q And I guess McDonald brings him some McDonald's at
6 that point.

7 A Yes, ma'am.

8 Q And he's eating -- Brian's eating.

9 A Yes. I think, even in Capt. McDonald's follow-up,
10 he states that he went and got the food. But I'll have
11 to clear that up later.

12 Q And Sgt. Martin actually is the one that types the
13 statement.

14 A Yes.

15 Q Brian does not type this statement.

16 A Correct.

17 Q And while he's eating, you guys go over it and he
18 signs it.

19 A Yes.

20 Q And then you take him to the Alvin S. Glenn
21 Detention Center.

22 A I believe I did.

23 Q And when you go take somebody to the Alvin S. Glenn
24 Detention or usually book them in with their warrant,
25 correct?

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 144

1 A Yes.

2 Q And in these situations where there's a statement
3 provided, you book them in with their statement, correct?

4 A Yes.

5 Q And the statement was put into his property at that
6 point in time.

7 A He would've been given his statement. Now, where he
8 -- what he did with it and where it went, a lot of times
9 they don't go in their property. The Alvin S. Glenn --
10 the detention officers, they'll let them stick it in
11 their pockets. Numerous times I've -- I've seen them let
12 them fold them up, put them in their pocket, and take
13 them to the dorm with them.

14 Q But you can't say for sure that's what Brian did in
15 this case.

16 A I can't say what happened to it. No, ma'am.

17 MS. EIGENBROT: Beg the Court's indulgence.

18 (Off the record briefly.)

19 Q Thank you, Sergeant. I have no further questions.

20 THE COURT: All right. Yes, ma'am. Any redirect?

21 MS. SAMPSON: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. SAMPSON:

24 Q Ms. Eigenbrot just asked you about whether he'd had
25 any sleep. Did Mr. White ask to take a nap or seem to be

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 145

1 tired?

2 A No. Once again, like I said, he -- he seemed to be
3 fine. He understood what I was talking about. I know,
4 with my experience, if -- if they're at a state where
5 they're falling asleep or they're too intoxicated, not to
6 continue with the interview.

7 Q Was there any ---

8 A I -- there was not a problem.

9 Q Were there any indications of that with him?

10 A No, ma'am.

11 Q Okay. And she asked about the statement. Did --
12 was he able to give you particular details about what
13 happened?

14 A Yes.

15 Q Any problems in his pattern of speech or anything to
16 -- to indicate to you that he was high or having problems
17 speaking?

18 A No, ma'am.

19 Q Anything -- anything in his demeanor his actions
20 that showed you that he was having trouble recalling or
21 speaking to you?

22 A No. He was very polite the whole time. I -- I
23 mean, it was never any cross words with anybody. He was
24 -- again, he seemed to be very understanding and polite,
25 and it was never any issues that I noticed.

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 146

1 Q And in fact, he gave you consent to search for DNA
2 and his car?

3 A Yes.

4 Q All right. And was he able to do all that without
5 any trouble?

6 A Yes, ma'am.

7 MS. SAMPSON: Beg the Court's indulgence.

8 (Off the record briefly.)

9 Q Have you ever -- just to clarify, have you -- you
10 said that you -- in your time as an officer, you've dealt
11 with people giving statements. Have you ever spoken to
12 someone who is intoxicated?

13 A Yes. I actually, not too long on a -- a separate
14 situation -- it was a murder case -- interview I was
15 doing of a female suspect where, as I spoke to her, her
16 eyes would roll up in her head and she'd nod her head.
17 And, you know, that one was being recorded. And clearly,
18 you know, it was like we -- I told her we couldn't
19 continue. So I stopped it.

20 Q Okay.

21 A But I've done that numerous times.

22 Q Any indication of that with Mr. White?

23 A No, ma'am.

24 Q Okay.

25 MS. SAMPSON: No further questions, Your Honor.

RECROSS-EXAMINATION BY MS. EIGENBROT - CRIS TRULUCK 147

1 MS. EIGENBROT: Just very briefly, Your Honor.

2 THE COURT: Yes.

3 RECROSS-EXAMINATION

4 BY MS. EIGENBROT:

5 Q Sgt. Truluck, you mentioned that you didn't notice
6 any issues in his pattern of speech, correct?

7 A Correct.

8 Q Had you ever spoken to Mr. White before this day?

9 A No.

10 Q All right. Thank you.

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

12 THE WITNESS: Thank you, ma'am.

13 (Whereupon, the witness exited the witness stand.)

14 THE COURT: All right. I'll be glad to hear from
15 you all.

16 MS. SAMPSON: Thank you, Your Honor. May it please
17 the Court. At this point I think the state has
18 established that the defendant's statement was given
19 freely, voluntarily, knowingly, and intelligently, having
20 been advised of his rights and waiving such. I have
21 provided to the Court as exhibits the advice of rights
22 that was signed by the defendant and the actual statement
23 that he was given. There's been no indication that the
24 defendant was forced or threatened in any manner to give
25 the statement; that he was coerced at all.

1 There was -- you've heard from Investigator Truluck.
2 And the defense -- I don't think they plan on putting up
3 the defendant. But there's been no other testimony that
4 it was anything but freely and voluntarily given.

5 Therefore, we'd ask that we be -- we be allowed to
6 introduce the statement.

7 THE COURT: Yes, ma'am.

8 MS. EIGENBROT: Just briefly, Your Honor. Based on
9 the testimony we've received here today, Your Honor, I
10 think it's very clear that my client was in custody and
11 he was being interrogated. However, there's -- I don't
12 think there's any question that Sgt. Truluck complied
13 with *Miranda* in this case.

14 Our -- our bigger issue is with the voluntariness of
15 this -- of the statement itself, Your Honor. There are
16 several factors to -- to consider when determining
17 voluntariness of a statement. I would like to point out
18 mainly the background of the accused.

19 At this point, Your Honor, Mr. White was extremely
20 young, early 20s. As far as anyone knew, he had never
21 been in any major trouble before; certainly, never
22 questioned by law enforcement. And as such, along with
23 his limited educational background, and 11th grade
24 education and no GED, would lend itself to suggest that
25 he -- his background would make it a -- a little bit more

1 difficult for him to completely understand what was going
2 on and the dangers of speaking to law enforcement without
3 an attorney.

4 And just based on the totality of the circumstances,
5 Your Honor, there was some testimony that Mr. White did
6 tell law enforcement he -- there about some drug use. I
7 recognize that law enforcement is saying that he didn't
8 notice any signs of intoxication at the time of the
9 interview. However, considering the fact that he
10 admitted to drug use at some point the night prior, the
11 limited amount of sleep he likely had, and just the
12 stressful situation of itself, we would look -- ask Your
13 Honor to consider the totality of the circumstances and
14 how that may have affected his ability to voluntarily
15 provide a statement to law enforcement.

16 So for those reasons, Your Honor, we would ask you
17 to consider excluding the statement at this point in
18 time.

19 THE COURT: All right. Anything else?

20 MS. SAMPSON: The only thing I would say, Your
21 Honor, since she brought up drug use: The standard isn't
22 whether he's had any drugs. The standard would be
23 whether such use inhibited him in any manner of
24 understanding his rights. There was absolutely no
25 testimony as to that.

1 The only testimony elicited that he might've taken
2 drugs the night before -- and as Investigator Truluck
3 told you, this was done at four in the afternoon. If you
4 look at the statement it -- that was provided to the
5 Court, it's -- actually says it's done at 1800 hours,
6 which would be six o'clock.

7 So there would have to be some evidence that the
8 drug use inhibited his ability to understand the rights
9 that he was waiving. And there was no such testimony.
10 Therefore, we'd ask again that the statement be admitted.

11 THE COURT: All right. The Court makes the
12 following findings: that the defendant was in custody at
13 the time the statement was given; that the defendant was
14 given his *Miranda* rights; and that the defendant signed
15 an advice-of-rights form. In that form the defendant
16 indicated that he -- and initialed that he had an 11th
17 grade education and that he could read and write.

18 There's testimony that the defendant was not -- the
19 statement was not given under duress. The defendant was
20 provided food, given the opportunity to review the
21 statement, and then given a copy of the statement.

22 Based on the totality of the circumstances or the
23 evidence presented before the Court today, I do find that
24 the defendant freely, voluntarily, and intelligently gave
25 the statement to the investigator based on a -- and I

1 didn't say -- based on a preponderance of the evidence
2 before this Court. So I will allow the statement to be
3 entered. All right.

4 MS. SAMPSON: Thank you, Your Honor.

5 THE COURT: Thank you.

6 Do I need to -- is this just my copy of the
7 statement?

8 MS. SAMPSON: Oh. You can keep it if you want, but
9 I ---

10 THE COURT: Okay.

11 MS. SAMPSON: --- have more. Okay.

12 THE COURT: All right. Any other motions that we
13 need to take up?

14 MS. SAMPSON: Not from the state, Your Honor.

15 THE COURT: Anything?

16 MS. EIGENBROT: Nothing from the defense, Your
17 Honor.

18 THE COURT: All right. So the only outstanding
19 motion I need to rule on is regarding -- I need to rule
20 on the jail calls. And then we'll hear the motion
21 regarding the autopsy photographs, if any, on Wednesday.

22 MS. SAMPSON: Yes, ma'am. And it might -- it might
23 be Thursday. But I will try to do them Wednesday. I'm
24 going to talk to her and see if she can come in Wednesday
25 and -- maybe before we -- at the end of the Court ---

1 THE COURT: All right. But those won't be used at
2 all in opening statements, then?

3 MS. SAMPSON: No -- no, ma'am.

4 THE COURT: All right. So we will, like I said,
5 work on the -- look at the case law on that other motion
6 regarding the phone calls. And start at 9:30 -- I want
7 to start a little bit early if there's anything we need
8 to take up. Because I'd like to start with the jury at
9 9:30, if that's possible.

10 MS. SAMPSON: Your Honor, if I may, because I -- I'm
11 not blaming Ms. Eigenbrot. But because of the lateness
12 of getting the motion, if I could have until close of
13 business today to give you any case law that I see in
14 response to her motion.

15 THE COURT: That's fine.

16 MS. SAMPSON: Thank you, Your Honor.

17 THE COURT: I'll take -- and we -- we may take this
18 up in the morning; we may take it up over a lunch break.
19 I mean, because you said you don't need it. You won't be
20 using the calls until ---

21 MS. SAMPSON: No, ma'am.

22 THE COURT: And I've been kind of thinking up here
23 about the motion. I'm -- I'm -- I understand her
24 position regarding the solicitors but that -- having the
25 call. But it may be narrowed to, at this point, law

1 enforcement being ---

2 MS. EIGENBROT: Your Honor, in that memorandum I
3 voice my objections to both solicitor and law enforcement
4 having the direct access they do.

5 THE COURT: Okay. All right. So I say that to say,
6 if you're going to -- any -- because the -- the -- it --
7 this isn't as -- as a result of -- this is not a call
8 that was retrieved as a result of any -- any action by
9 the solicitor's office using the pass code. It's
10 regarding the investigator. So if there's any cases --
11 I'm just -- so to help you limit your case law search for
12 the evening, it's -- as to the law -- law enforcement and
13 the investigator using the calls in the course of his
14 investigation.

15 MS. SAMPSON: And if I need to put -- I probably --
16 I could've asked him while he was on the stand. But if I
17 need to put it in through Investigator Truluck, he would
18 tell the Court that he is the one that obtained -- or
19 someone from the sheriff's department obtained those
20 calls. It was not the solicitor's office by ---

21 THE COURT: Well, you ---

22 MS. SAMPSON: --- us listening.

23 THE COURT: --- know what? I would like to hear the
24 process of -- about how he went about doing it.

25 MS. SAMPSON: Do you want to do that now?

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 154

1 THE COURT: Yes.

2 MS. SAMPSON: Okay.

3 (Whereupon, the witness came forward.)

4 THE COURT: And you're still under oath. Yes, sir.

5 THE WITNESS: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MS. SAMPSON:

8 Q Investigator Truluck, you're already under oath. Do
9 you need your notes, or do you have ---

10 A No, no. I'm good.

11 Q Okay. So can you tell the Court how you obtained --
12 there are two jail calls. I believe one is in December
13 and one is in January of 2018 [sic]. But they're both
14 after the defendant was arrested and placed at Alvin S.
15 Glenn Detention Center, correct?

16 A Yeah. So if we're going to try to narrow down to
17 dates and times, I would need to -- the time I put it in
18 evidence. But I can explain the process to you, Judge,
19 if you'd like.

20 Normally, when a defendant gets arrested, he is
21 booked into jail and he's given a ID number. AmTel,
22 which is their phone service, they record all calls. All
23 calls that -- the telephones that are at the jail are
24 marked that the calls are recorded. And prior to the
25 call even beginning, it -- it is a specific line that

DIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 155

1 it's automated that tells you again these calls are
2 recorded.

3 So -- and we also had that policy at the sheriff's
4 department too. If you use our phones, they're all
5 marked as recorded.

6 However, normally what you do, you get their ID
7 number that they are given. And you can go to the AmTel
8 website and put in that PIN number or that ID number.
9 And you can set a date -- a -- a time range on it.

10 Now, as was brought up before, there is a section
11 where you can listen live. But it's a crap shoot. You
12 might get -- click on it and see their name that they are
13 making a live call.

14 But that's very rare that you can do that. However,
15 that is a possibility. Me personally, I've never done
16 that. I've never been able to do that.

17 This process you put down and it -- it lists all the
18 calls and the times that are made. All's you ever have
19 to do is you click on it and you can listen to the call.

20 Q And did you do that in this case?

21 A Yes.

22 Q And how many calls did you provide to my office?

23 A Two that I recall putting in the -- in the ACIS
24 system.

25 Q And you provided those as part of your investigative

1 package to our office?

2 A Yes, ma'am.

3 Q And I then -- well, you wouldn't know that part.

4 But I didn't -- did our office have anything to do with
5 the -- with the downloading or involving of those calls?

6 A No, ma'am.

7 Q Okay. And is that normal procedure for you to -- to
8 do that, or have you done it in the past?

9 A Yes. That is normal. It's -- it's pretty much
10 standard, especially for any kind of major-crimes
11 investigations.

12 Q Okay.

13 MS. SAMPSON: Anything else you want me to ask him
14 about?

15 THE COURT: No. I don't -- see if she has any
16 questions. Any questions from ---

17 MS. PINNOCK: Briefly, Your Honor.

18 THE COURT: Uh-huh.

19 MS. PINNOCK: If it please the Court.

20 CROSS-EXAMINATION

21 BY MS. PINNOCK:

22 Q Investigator -- or Sergeant, right?

23 A Yeah. That's fine.

24 Q Okay.

25 A However you want it.

CROSS-EXAMINATION BY MS. PINNOCK - CRIS TRULUCK 157

1 Q Can you tell the Court what part of, I guess,
2 detention center security you're in charge of?

3 A The security at the detention center?

4 Q Yes.

5 A None.

6 Q None.

7 You're not employed there?

8 A No.

9 Q They don't cut you a check for anything?

10 A (No audible response.)

11 Q So you accessing these calls, you said, are just for
12 your investigation?

13 A Yes.

14 Q What date did you get the search warrant?

15 A I'm sorry?

16 Q Did you get a search warrant?

17 A No.

18 Q Have you ever gotten a search warrant to pull ---

19 A Never. No.

20 Q And it's solely for investigation?

21 A Yes.

22 Q And Brian White was in custody at that point?

23 A Yes.

24 Q So you just wanted to see what he was having -- what
25 he had to say?

1 A Well, again, you look -- you look to see if there's
2 investigative leads that are -- are produced by the
3 telephone call, which ---

4 Q Right. But he was already in ---

5 A Numerous times there have been ---

6 Q He was already in custody?

7 A Yes.

8 Q Okay. And you took out the warrants, you testified
9 before, prior to even interviewing him?

10 A Yes.

11 Q So either way, he was already in jail ---

12 A I don't recall ---

13 Q --- or charged ---

14 A --- just to just be specific on the warrant, I don't
15 recall for sure if we were in the process of getting it
16 done or if he went on the warrant worksheet. But that
17 was in the process.

18 Q Okay.

19 A So I'd have to look at a date on the warrant to see
20 exactly when.

21 Q Okay. And when you click on the calls, you don't
22 know who he's calling, right?

23 A You can find that out. Yes. There is a section you
24 can go to and find that out. So, I mean, if I knew that
25 was his attorney -- or let's just say I knew that it was

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 159

1 the public defender's office -- however, I've never seen
2 -- been able to -- to click on the info button and see
3 where it goes to a attorney's office.

4 So I don't know whether those calls are already
5 screened. But in my experience, I've never seen that
6 happen.

7 Q Okay.

8 A However, I do know that if does go to the attorney,
9 not to listen to it.

10 Q Correct. And again, this is just for investigative
11 purposes; has nothing to do with jail security?

12 A That is our purpose.

13 Q Nothing to do with safety of Mr. White or other
14 inmates in the jail?

15 A That's the sheriff's department's purpose of it.

16 Q And you just open a website, click on a button; you
17 can listen to all of his phone calls?

18 A Yes.

19 Q All right.

20 MS. PINNOCK: Thank you, Your Honor.

21 MS. SAMPSON: Just briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MS. SAMPSON:

24 Q She asked you about jail safety and all that. It
25 could be used by your office for that. But in this case

REDIRECT EXAMINATION BY MS. SAMPSON - CRIS TRULUCK 160

1 it wasn't, correct?

2 A As -- as a matter of fact, it has been used. Not me
3 personally, but I know of instances where listening to
4 jail calls where they intercept things that might be
5 going on in the jail.

6 Q Okay. And in this case that's not what your purpose
7 was?

8 A No. This did not happen in this case?

9 Q Thank you. No further questions.

10 THE COURT: All right. You can step down. Thank
11 you.

12 THE WITNESS: All right.

13 (Whereupon, the witness exited the witness stand.)

14 THE COURT: I do have one question about the calls.
15 You don't -- you can stand right there. So does the call
16 -- when they get on the call, it says that the call is
17 recorded and may be monitored; is that what it said?

18 THE WITNESS: That was exactly right. It's
19 prerecorded on every phone call. So it's my
20 understanding that the person making the call and the
21 person receiving the call both hears that recording that
22 this -- this is a recorded call.

23 THE COURT: And it just -- does it say monitored by
24 who, or it just says it's being recorded and monitored?

25 THE WITNESS: Does it say what?

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1 THE COURT: Does it say monitored by who, or does it
2 just say it's monitored?

3 THE WITNESS: Oh. That -- I don't know, Your Honor.
4 I would -- I don't recall. I would have to go back and
5 -- I mean, I'd be more than happy to let you listen to it
6 as well if you'd like to do that.

7 THE COURT: All right. All right. Thank you.

8 MS. SAMPSON: Just -- I believe, Your Honor -- and
9 I've listened to a lot of these. But I'm positive it
10 just says this call is monitored and recorded ---

11 MR. MARSH: By the AmTel ---

12 MS. SAMPSON: -- by AmTel. It doesn't ---

13 THE COURT: Okay.

14 MS. SAMPSON: --- say by -- by the -- by the
15 company.

16 THE COURT: Uh-huh.

17 MS. SAMPSON: Not by ---

18 THE COURT: Okay.

19 MS. SAMPSON: --- any particular law enforcement.
20 But it does tell them it could be used.

21 THE COURT: It says it can ---

22 MS. SAMPSON: It says ---

23 THE COURT: --- be used ---

24 MS. SAMPSON: --- that this call may be monitored
25 and recorded. And I -- I'd have to listen to it to say

1 if it says is -- is it -- can it be used. But I can't
2 remember that part. But it does them this call is
3 recorded and monitored.

4 THE COURT: All right.

5 MS. EIGENBROT: And, Your Honor, I believe it says
6 the call -- this call may be recorded for the safety
7 purposes. So I think the recording itself indicates to
8 them that, yes, it's being recorded and possibly
9 monitored. But it's for the purpose of the safety of the
10 detention center.

11 THE COURT: All right. All right.

12 MS. SAMPSON: And we can play it tomorrow, Your
13 Honor, if you want to hear the beginning, just to be
14 sure.

15 THE COURT: Yes.

16 MS. SAMPSON: I'm sorry. I should stand up.

17 THE COURT: Okay.

18 MS. SAMPSON: We can play it now, actually, if we
19 needed to. But -- well, let me not lie. I don't know if
20 I brought it down here. I don't know if I brought it
21 down here or not.

22 (Off the record briefly.)

23 MS. SAMPSON: Yeah. I've got one, if you want to
24 hear the beginning part ---

25 THE COURT: Yes.

1 MS. SAMPSON: --- I can ---

2 THE COURT: That's fine.

3 (Off the record briefly.)

4 (Whereupon, a portion of audio was played in open
5 court.)

6 MS. SAMPSON: Sorry, Your Honor.

7 THE COURT: Okay.

8 MS. SAMPSON: So there -- and they all start, more
9 or less -- they change their recording sometimes. But
10 that's the one -- that is the actual call we would try to
11 introduce, the beginning of the actual call.

12 THE COURT: Okay. All right. All right. So I'll
13 see you all maybe about 9 -- 9:00/9:15 in the morning.

14 MS. SAMPSON: Yes, ma'am.

15 THE COURT: All right. All right. Thank you.

16 MR. MARSH: Thank you, Your Honor.

17 MS. SAMPSON: Thank you.

18 (Whereupon, the proceeding adjourned at 4:10 p.m.)
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TRIAL DAY 2 - 11/19/19

(Whereupon, the proceeding resumed at 9:29 a.m.)

(Whereupon, Defendant's Exhibit 1 was premarked for identification prior to the resumption of the proceeding.)

THE COURT: All right. All right. We can do it now or during one of the breaks. I want to talk about the phone calls. You said it's not coming up this morning, right?

MS. SAMPSON: I mean, I -- however Your Honor wants to do it.

THE COURT: I mean, I'm glad to hear it now.

MS. SAMPSON: We weren't planning on mentioning them in opening.

THE COURT: Okay.

MS. SAMPSON: And I don't know about the defense, but ---

MS. EIGENBROT: No, Your Honor.

THE COURT: Okay. I do -- I did receive a memo from the state regarding the phone calls.

MS. SAMPSON: Yes, Your Honor. And there should've been case law attached to it.

THE COURT: Okay.

MS. SAMPSON: I have copies of it if you do not.

THE COURT: If you have copies, we'll take them.

1 That's fine.

2 MS. SAMPSON: I will warn you, my copies are not
3 stapled.

4 THE COURT: Oh, no. That's fine.

5 If not, we can go ahead and bring them on in and we
6 can ---

7 MS. SAMPSON: They're not ---

8 THE COURT: --- have ---

9 MS. SAMPSON: --- stapled.

10 THE COURT: Okay. We can have this conversation
11 regarding the calls sometime today during a break or --
12 you said -- I think you said it would be probably
13 tomorrow before you really even get into that, right?

14 MS. SAMPSON: I mean, we would at least be this
15 afternoon, probably tomorrow. It depends on how fast
16 things go.

17 THE COURT: Okay. Well, let's go ahead and get
18 started.

19 MS. SAMPSON: You -- I'm sorry. You want to do the
20 argument now or you ---

21 THE COURT: Unh-unh.

22 MS. SAMPSON: --- want to ---

23 THE COURT: I said let's go ---

24 MS. SAMPSON: Okay.

25 THE COURT: --- ahead and get started. They -- all

1 the jurors are here?

2 THE BAILIFF: Yes, ma'am.

3 THE COURT: All right. You may bring them in.

4 (Off the record from 9:31 until 9:35.)

5 (Whereupon, the jury entered the courtroom at 9:35
6 a.m.)

7 THE BAILIFF: Jury is seated, Judge.

8 THE COURT: All right. Thank you.

9 All right. Good morning, ladies and gentlemen of
10 the jury. I hope you had a restful evening. At this
11 time we are ready to begin with the -- the case of the
12 *State v. Brian Neil White*.

13 Before we do that, I am going to ask the clerk to --
14 I'm going to ask you to stand and raise your right hand
15 and ask the clerk to administer the oath to you.

16 (Whereupon, the jury was duly sworn at 9:36 a.m.)

17 DEPUTY CLERK OF COURT: Thank you.

18 THE COURT: All right. Thank you.

19 Madam court reporter, please let the record reflect
20 that all the jurors have responded in the affirmative to
21 the oath.

22 INTRODUCTION BY THE COURT

23 THE COURT: Ladies and gentlemen of the jury, what I
24 will say is -- what I will -- all right. Thank you. You
25 good? All right.

1 defense. Please pay close attention to the opening
2 statements of parties.

3 MR. MCGLOTHIN: May it please the Court?

4 THE COURT: Yes, sir.

5 OPENING STATEMENT BY MR. MCGLOTHIN

6 MR. MCGLOTHIN: "I'm a come back here and wait and
7 handle this." This is what the defendant, Brian White,
8 texted to Brittany Steen just hours before he shot and
9 killed James Turner. He stood outside his van and fired
10 nine shots through the window.

11 Good morning, ladies and gentlemen. My name's Sam
12 McGlothlin. I'm an assistant solicitor here in the
13 Richland County Solicitor's Office. Myself, along with
14 April Sampson and Harrison Pratt, are charged with
15 proving cases -- criminal cases that occur here in
16 Richland and Kershaw Counties. And today we're here to
17 prove to you that Brian White murdered James Turner.

18 The evidence will show that on the night of December
19 7th of 2016, Brian White was hanging out at the Marriott
20 Hotel just down the street from here. He was there with,
21 among other people, his friend, Nicole Bryant. Nicole
22 will tell you, at one time they were in a relationship
23 together, but at this time they were just friends.

24 While they were there at the hotel, Nicole received
25 a phone call from her mother, Crystal Posey. Her mom

1 told her that she -- that her boyfriend, James Turner,
2 was supposed to pick her up from work but never showed
3 up; that she was -- she was angry because when Crystal
4 got back to their home, she found that their TV was
5 missing.

6 Crystal will tell you, when she got off work, James
7 was nowhere to be found. She showed up at the house, and
8 he wasn't there. But their TV was gone.

9 Now, James was no saint. He -- he had drug
10 problems. And she assumed that he stole her TV to buy
11 drugs. Hearing her mom was upset, Nicole will tell you
12 that she went back to their home on Patricia Drive, along
13 with Brian and two of their friends, Brittany Steen and
14 Elexia Tucker.

15 Now, Brittany will tell you that on the way there
16 and once they arrived at the home, Nicole was shook up;
17 she was angry. She was mad and -- and anxious about what
18 James had done. She'll tell you that while they were
19 there at the house, both Crystal and Nicole were -- you
20 know, didn't want James around anymore and how Brian
21 actually texted her while they were both there, sitting
22 in the same room, saying: "I'm going to handle this."
23 Now, Brittany will tell you she left with Brian and
24 Elexia and Nicole and Crystal stayed there at the home on
25 -- on Patricia Drive.

1 You'll also hear from Jerry Rabon, who says that
2 Brian showed up at his home, where Brian had been staying
3 for the last couple weeks. Jerry will tell you, he woke
4 up to Brian in the other room, going through his things.
5 Brian asked him if he could borrow a rifle.

6 Jerry said -- Jerry will tell you, he didn't have
7 any ammunition for his rifle. But he lent him his Smith
8 & Wesson 9-millimeter. The evidence will show that this
9 was the gun used to murder James Turner.

10 Now, Nicole Bryant will also tell you that she was
11 awoken around 6:45 a.m. the following -- that same
12 morning -- excuse me -- December 8th to the sound of
13 gunshots just outside her home. She went outside. She
14 found James, lying face-first and covered in blood, shot
15 in his van just outside their home. She told her mom
16 what happened, and -- and Crystal called 911.

17 You'll hear from Deputy Cahill and Deputy Grill of
18 the Richland County Sheriff's Department, who both
19 responded to the scene that morning. They'll tell you --
20 Deputy Cahill will tell you, while he was on his way
21 there, he was actually flagged down by Brian White just
22 around the corner. And Brian told him he was actually
23 just -- just by the home when it happened. He -- he felt
24 bullets whiz by his head. And the evidence will show
25 that multiple other witnesses spoke with Brian there

1 around the scene that morning that -- and he gave that
2 same story to them as well.

3 James Turner was -- EMS will tell you, they showed
4 up and tried to treat James but, inevitably, weren't able
5 to save his life and he was -- he was dead when they got
6 to the hospital. Later that afternoon, Brian would give
7 a statement to investigators with the Richland County
8 Sheriff's Department and actually confess to shooting and
9 killing James Turner in his van right outside his home.

10 Now, as you heard Judge Benjamin say, she's going to
11 charge you on the law at the end of the case. But I did
12 want to touch on a few things. Brian White is charged
13 with murder in this case. And murder in South Carolina
14 is defined as: the killing of any person with malice
15 aforethought, either express or implied.

16 Malice is the doing of a wrongful act intentionally
17 without just cause or excuse. And while malice
18 aforethought is required, that malice doesn't need --
19 doesn't -- it doesn't need to exist for any appreciable
20 amount of time before it happens, before the act occurs.
21 It can occur at the time the act occurs.

22 Now, it's our job to prove -- we're required to
23 prove every element of this charge beyond a reasonable
24 doubt. Reasonable doubt is one which would cause a
25 reasonable person to hesitate to act. We don't have to

1 prove it beyond any doubt, but beyond a reasonable doubt.
2 This is a high burden in the State of South Carolina, but
3 we gladly accept it in this case.

4 As I mentioned, in order to prove our case, you'll
5 hear testimony from witnesses and -- and you'll see all
6 the evidence. And you'll hear from the men and women who
7 played a part in this investigation. I'd like to sit
8 here and tell you that all of it's going to be exciting.

9 But this isn't television. It's -- some of it's
10 going to be a little boring. It's -- the rules require
11 us to do things a certain way sometimes. You'll hear
12 from people who may have just moved a piece of evidence
13 in a room at the sheriff's department.

14 I ask that you still pay attention to this, but know
15 that we're doing this a specific way for a reason. And
16 it's because we have to. We have to do it within the
17 rules in order to give you the full information in this
18 case.

19 While we present our case, I want to leave you with
20 a few questions to think about while we show you
21 everything. The first one: Who is the only person we
22 know that both had the gun that was used to kill James
23 Turner and was seen near the crime scene?

24 The second question I want you to think about is:
25 Does all the evidence collected by Richland County

1 Sheriff's Department and -- and what the witnesses have
2 said corroborate what Brian White's statement to Richland
3 County was? In other words, does the evidence support
4 what he told them happened that afternoon?

5 And finally: Who is the person that said they did
6 it?

7 Now, once you've heard all this testimony and seen
8 all the evidence, we'll come back before you for our
9 closing argument. Then it will be your turn to make the
10 final decision in this case. At the end we'll ask you to
11 find -- to make the only reasonable conclusion that the
12 evidence supports. And we'll ask that you find Brian
13 White guilty in the murder of James Turner. Thank you.

14 THE COURT: All right. Thank you.

15 Yes, sir.

16 MR. MARSH: Thank you, Your Honor. May it please
17 the Court.

18 OPENING STATEMENT BY MR. MARSH

19 MR. MARSH: Morning. My name is Rich Marsh. I'm
20 one of the attorneys for Brian White, who's seated along
21 with Megan Eigenbrot and Tracy Pinnock.

22 Ladies and gentlemen of the jury, on December 8th,
23 2016, Brian found himself in quite a predicament. That's
24 a huge understatement, actually. He had just witnessed
25 his ex-girlfriend unload a handgun into the work van of

1 his ex -- of his ex-girlfriend's boyfriend's -- ex-
2 girlfriend's mother's work van.

3 His world split. His reality was unraveling. Now,
4 we all know that love makes people do crazy things.

5 And on that morning in December, Brian was no
6 different. Brian made mistakes. He should've told law
7 enforcement what he knew when he first spoke with them,
8 when he first spoke with Deputy Cahill.

9 But this case isn't about Brian's mistakes. This
10 case is about the mistakes that the government made in
11 their investigation, the things that they didn't do.
12 Brian is seated before you today, accused of murder
13 because the government jumped to the wrong conclusions
14 and they took shortcuts. And because they took
15 shortcuts, they didn't get to the truth.

16 Brian is standing trial for murder, instead of
17 Scott's shooter, Shena Nicole Bryant. And just as an
18 aside, James Scott Turner is who was shot. He goes by
19 Scott. So if you hear Scott or James, that is who we are
20 -- we are referring to.

21 The state wants you to believe that after Brian
22 became the suspect in -- in Scott's case, that he agreed
23 to an interview and promptly confessed to murder. While
24 terribly convenient, that's not what happened.

25 In this trial we're going to show you that while

1 Brian was present when Nicole shot Scott, he was not
2 aware of her intentions and he did not shoot her [sic].
3 We'll also show you the breakdown in the investigative
4 process. We'll show you how things came to pass as they
5 have and how that happened after Brian became their prime
6 suspect.

7 And I want to be clear: We are not saying that
8 every time law enforcement makes a mistake or has bad
9 judgment, that there are sinister motives or dishonesty.
10 But even innocent mistakes and bad judgment can cause
11 unjust consequences, especially if they are not fixed.

12 Now, it would probably be ineffective and somewhat
13 redundant for me to try to explain to you, as much as I'd
14 like to, everything I expect you to hear, characterize
15 how I -- I believe it happened, and go through it like
16 that. That -- that simply will not work.

17 However, I would like to ask you to listen very
18 carefully to each of the witnesses. Don't have the same
19 first impressions or jump to conclusions. Listen to all
20 of the witnesses and all of the evidence before you
21 decide what really happened.

22 I would, however, like you to consider and pay
23 particular attention to a couple of things that will be
24 important in this case. The first is the lack of
25 evidence. The investigations -- I'd like you to think

1 about the things you aren't hearing about, those parts of
2 the investigations that simply never happened.

3 Brian became the first -- became their prime suspect
4 within a couple of hours that morning. Now, to be clear,
5 I don't fault law enforcement for beginning to
6 investigate Brian. Brian kind of bumbled his way into
7 their field of view. You just heard about that:
8 flagging down Jeffrey Cahill; pointing them to where the
9 -- the home was, where the shooting happened. And like
10 Nicole and Crystal, he was aware of the issues with Scott
11 and what was going on there. And like them, he was also
12 present near the scene at the time.

13 And investigation makes sense. And I don't believe
14 law enforcement is lying to you when they tell you that
15 they believe they got their guy. But they made the call
16 too early, and they got it wrong. And while I don't
17 blame law enforcement for beginning an investigation into
18 Brian, I do blame them for putting blinders on and
19 failing to do what they should have done after Brian
20 became their suspect.

21 The things -- there are things that you will not
22 hear about because they did not happen. The government
23 never tested for any gunshot residue, not Brian, not
24 Nicole, not Crystal, despite their presence at the scene.
25 Brian told law enforcement where he could find -- where

1 they could find his clothes to test them; they never did.

2 Brian consented to having his car searched. He
3 provided law enforcement DNA. They didn't collect DNA
4 from Nicole. They never tested it. They didn't take it,
5 despite the fact that she was present and despite the
6 fact that you'll hear about how law enforcement suspected
7 her of dishonesty and possible involvement in Scott's
8 shooting.

9 The test that the government could have done to nail
10 down who actually shot a gun that morning didn't happen.
11 The government never took those tests.

12 And after hearing from all of the witnesses, I think
13 you'll come to agree that there are a lot of holes and
14 inconsistencies about what you're being told and why they
15 happened. And that led -- leads me to the next thing
16 that I'd like you to pay particular attention to, is the
17 why. The why is important.

18 Brian did not have a motive to kill Scott Turner.
19 Brian wasn't left stranded without a ride, his
20 possessions presumably sold for crack, and then locked
21 out and left high and dry the night before. Brian wasn't
22 the one keeping record of every time Scott had failed
23 them in some way, every time they had gotten upset and
24 worked out -- worked up about him over the past few
25 months.

1 Now, you're going to hear about a number of text
2 messages and phone -- cell phone records. And the beauty
3 of today's technology, even back in 2016, is that they
4 provide a -- to the extent that they have been preserved,
5 they -- they give you a time-stamped time line of the
6 events. You'll be able to match up with what people are
7 saying, what they are telling the investigators and what
8 they're actually doing. And you'll be able to decide
9 that based on what information the government had,
10 whether they were moving on credible evidence, whether
11 there was other stuff that they should have plumbed the
12 depths of and figured out what happened.

13 I'd also like you to pay particular close attention
14 to those phone records, when you hear about them, to
15 determine who had a motive to kill Scott Turner. I think
16 that Nicole and Crystal's hostility will be clear and
17 that you'll see Nicole had a motive.

18 Now, the state is going to tell you, none of that
19 matters. They have Brian White's written statement, his
20 confession. And I encourage you to take note when
21 assessing whether you believe Brian made this statement.
22 You'll also -- you're going to hear from Brian and what
23 he's going to tell you and what he should have told law
24 enforcement three years ago.

25 You'll also hear from the state's witnesses and be

1 able to come to your own determinations about their
2 credibility. But the thing you won't hear is a recording
3 of Brian confessing to shooting Scott. The investigators
4 chose not to video-record or audio-record Brian's
5 supposed confession.

6 Stated simply, Brian didn't make -- Brian didn't
7 shoot Scott. He didn't tell investigators he shot Scott.
8 And they have no recording of it because he never said
9 it.

10 I want you to consider who benefits by there not
11 being a recording of Brian saying he shot Scott. Me?
12 No. I'd love to have the evidence, the recording of what
13 Brian said that day.

14 The state's lawyers? They'd love it, too, if it
15 said -- if you were able to hear what they're saying it
16 says it says. Y'all would benefit as well by a -- being
17 able to hear it. The Court would benefit.

18 I want you to ask yourselves who the only person or
19 the only group of people who would benefit that -- the
20 people who benefit from there being a lack of recording
21 are the state's investigators, the people who, after
22 Brian became a suspect, needed evidence.

23 I ask you, members of the jury, to withhold your
24 judgment, till you've heard from the all -- all of the
25 evidence and heard from all of the witnesses. I'm

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1 confident that after hearing from all of them and
2 considering all of the evidence, you will come to a
3 verdict in this case that is fair. We expect you to --
4 after you have -- we believe the prosecution will not be
5 able to prove that it was Brian that shot Scott Turner.
6 And we expect that after you deliberate and carefully
7 weigh all the evidence, you will return the only possible
8 verdict: a verdict of not guilty. Thank you.

9 THE COURT: All right. You ready to call your first
10 witness?

11 MR. MCGLOTHIN: The state calls Jeffrey Cahill.

12 (Whereupon, the witness came forward.)

13 JEFFREY CAHILL, having been first duly sworn,
14 testified as follows:

15 DEPUTY CLERK OF COURT: Have a seat in the witness
16 stand, please.

17 THE WITNESS: (Complied.)

18 DEPUTY CLERK OF COURT: State your name for the
19 record.

20 THE WITNESS: Jeffrey Cahill.

21 DIRECT EXAMINATION

22 BY MR. MCGLOTHIN:

23 Q Good morning, Deputy Cahill. How are you ---

24 A Good ---

25 Q --- today?

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1 A --- sir.

2 Q Where do you work, Deputy Cahill?

3 A Currently, I'm with the Pickens County Sheriff's
4 Office. At the time of these events, I was with the
5 Richland County Sheriff's Office.

6 Q Okay. And what did you do at that time for the
7 Richland County Sheriff's Department?

8 A I was a uniform road-patrol deputy.

9 Q So what does that mean? What do -- what were your
10 duties?

11 A Basically, the primary responsibility is answering
12 calls for service. When people contact the sheriff's
13 office or call 911, request a deputy to come out there,
14 whether emergency or nonemergency, I'm -- I'm one of the
15 units that will -- will come out there, assess the
16 situation, and proceed from there.

17 Q And were you called out to the scene of -- of this
18 -- this incident?

19 A Yes, sir. On December 8th of 2016, just before 7
20 a.m., I was dispatched to [REDACTED] Patricia Drive, [REDACTED] It
21 came out as a -- as a shooting incident.

22 Q Okay. Is that incident location in Richland County?

23 A Yes, sir. It's in a Columbia ZIP code in an
24 unincorporated part of Richland County, South Carolina.

25 Q Okay. And what did you observe when you arrived

DIRECT EXAMINATION BY MR. MCGLOTHIN - JEFFREY CAHILL 188

1 there on the scene?

2 A So once I arrived on scene, Richland County EMS was
3 attending to a patient. He was inside of a van parked
4 outside of a residence. EMS was attending to the patient
5 from the -- the passenger side of the vehicle.

6 I walked around to the driver side. I noticed on
7 this van, the front-driver window had been shattered. I
8 noticed multiple shell casings on the ground just outside
9 the driver door.

10 Inside the vehicle a male patient was seated in the
11 driver seat, but slumped over towards the passenger side.
12 His face was covered in blood. But at that point I
13 couldn't determine the source of the blood or any -- any
14 physical injuries.

15 Q Was anybody else there on the scene, besides
16 yourself and EMS?

17 A Crystal Posey was the original complainant that I
18 spoke to. She's the one that called 911. And I did
19 speak to her while I was on scene.

20 Q Okay. What is your general procedure when you show
21 up to a scene like this?

22 A So as a -- as a road deputy, as one of the first
23 ones on scene, what I would do is start to secure the
24 scene; make sure nobody else comes or goes; make sure
25 there's no further danger, such as, in this case being a

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1 shooting incident, make sure there's not still somebody
2 with a weapon that could put other responders in danger.
3 It's also my responsibility to locate potential witnesses
4 for our investigators and go ahead and make those
5 notifications to get our -- our crime scene investigator
6 and our criminal investigators out to the scene.

7 Q And did you do that in this case?

8 A Yes, sir. I contacted -- our procedure is to go
9 through the front desk. I requested the on-call crime
10 scene investigator, which was Investigator Lee. And
11 then, I also spoke to Lt. Eisenhower with our criminal-
12 investigations unit.

13 Q And did -- at -- at some point did crime scene
14 arrive?

15 A Yes, sir. Crime scene Investigator Lee did respond
16 to the scene, as well as units from our -- our criminal-
17 investigations division.

18 Q Okay. So you stated you talked to Crystal. Did you
19 talk to anybody else while you were there on the scene?

20 A So while I was responding to the scene, near the
21 intersection of -- I think it's Woodford Road and -- and
22 Hilo Street, I was flagged down by a male person walking
23 towards me. I slowed down. He -- he told me that he was
24 actually near the scene when this happened.

25 What he told me was that he had been smoking a

CROSS-EXAMINATION BY MR. MARSH - JEFFREY CAHILL 190

1 cigarette, were his words, nearby and that he, quote,
2 felt bullets whiz by him while he was smoking that
3 cigarette.

4 I did tell him to go -- because I -- at the time I
5 didn't know EMS was already on scene. Situations like
6 this, sometimes they wait for -- for law enforcement to
7 get there and make sure it's safe. We didn't have, at
8 the sheriff's office, anybody else on scene. So I told
9 this person to go ahead and call 911 with his information
10 so we could contact him later, and then I proceeded on to
11 the incident location.

12 Q Did you get that individual's name?

13 A Yeah. He told his name was Brian White.

14 Q Okay.

15 MR. MCGLOTHIN: Beg the Court's indulgence for just
16 a moment.

17 (Off the record briefly.)

18 Q Thank you, Deputy Cahill. Please answer any
19 questions that the defense might have for you.

20 CROSS-EXAMINATION

21 BY MR. MARSH:

22 Q Deputy Cahill, it was Brian that flagged you down
23 while you were en route?

24 A Yes, sir.

25 Q He let you know where the -- the house was?

CROSS-EXAMINATION BY MR. MARSH - JEFFREY CAHILL 191

1 A I think he did kind of point out to me where the --
2 at least the general location was, how to get there.

3 Q And he gave you his name as Brian White, his -- his
4 correct name?

5 A Yes, sir.

6 Q Okay.

7 MR. MARSH: No further questions for this witness.
8 Thank you, Your Honor.

9 THE COURT: Mr. ---

10 MR. MCGLOTHIN: No further questions.

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

12 (Off the record briefly.)

13 MR. MCGLOTHIN: Your Honor, may this witness be
14 released?

15 THE COURT: Yes. Any objection to this witness
16 being excused?

17 MS. EIGENBROT: No objection, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. MCGLOTHIN: Thank you.

20 THE COURT: You're free to leave.

21 (Whereupon, the witness exited the witness stand.)

22 MR. PRATT: The state calls Richard Hill.

23 (Whereupon, the witness came forward.)

24 RICHARD HILL, having been first duly sworn,
25 testified as follows:

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1 DEPUTY CLERK OF COURT: Thank you. Have a seat in
2 the witness stand, please.

3 THE WITNESS: (Complied.)

4 DEPUTY CLERK OF COURT: State your name on the
5 record.

6 THE WITNESS: It's Richard Hill.

7 DIRECT EXAMINATION

8 BY MR. PRATT:

9 Q Good morning, Mr. Hill.

10 A Good morning.

11 Q Can you tell us where you're employed?

12 A Currently, I'm employed at MedTrust Medical
13 Transport as a paramedic. During the time of this call,
14 I was employed at Richland County EMS.

15 Q And that would've been on December of 2016?

16 A Yes. December 8th of 2016.

17 Q Okay. And you were working that day, that morning?

18 A I was.

19 Q What was your position with the Richland County EMS?

20 A I was a paramedic crew chief.

21 Q And what were your duties as that?

22 A I was the senior member of the response team
23 responsible for basic and advanced life support of sick
24 and injured patients as we're called out to them.

25 Q And do you require any special training to get that

1 position?

2 A You do. There is -- you start out as a basic EMT,
3 which generally takes about six months. And then, there
4 is another 18 months of training to become a paramedic.

5 Q Okay. I want to direct your attention to the
6 morning of December 8, 2016. Did you come into contact
7 with the victim in this case, James Turner?

8 A I did.

9 Q And where did you see the victim?

10 A He was in a white van in a parking -- I would say
11 parking area next to some trailers. The vehicle had the
12 driver-side window blown out. And it was on the ground.

13 Q Okay. And where -- like, addresswise, where was
14 that van?

15 A Oh, it was [REDACTED] Patricia Drive, [REDACTED]

16 Q And do you know if that was in Richland County?

17 A It is in Richland County, yes.

18 Q Okay. Do you know about what time you came into
19 contact with the victim?

20 A We arrived on scene at 7:04. Because of our close
21 proximity to where the victim was, it couldn't have taken
22 us more than a couple minutes to get over to the -- to
23 the truck and assess the situation -- or the van and
24 assess the situation.

25 Q Okay. And what was the -- what was Turner's

DIRECT EXAMINATION BY MR. PRATT - RICHARD HILL 194

1 condition when you arrived?

2 A So he was in the driver seat, slumped to the right.
3 He was pulseless and apneic at that time.

4 Q And you said he didn't have a pulse?

5 A Correct. There was no pulse.

6 Q Did you notice any other injuries?

7 A He did have some bleeding on his head. And when I
8 did remove his -- the hood that he had over his head, he
9 had what appeared to be gunshot wounds to the left side
10 of his head and to the temporal region.

11 Q Okay. How would you describe his breathing?

12 A There -- there -- at that point there was none. He
13 was -- he was pulseless and apneic at that point.

14 Q Okay. Was he responsive at all?

15 A No.

16 Q After you observed these injuries, what did you do
17 to help Mr. Turner?

18 A Okay. So at that point I was assessing him from the
19 driver side of the vehicle. We came around to the
20 passenger side of the vehicle and -- so we could assess
21 him a little bit better. And at that point part of our
22 procedure is to open the airway to see if get any
23 response. And he did have what we describe as agonal
24 gasp, which is considered to be not a sign of life.
25 However, if that takes place, we generally will work

1 those patients, whether or not if their -- if their
2 injuries are incompatible with life or not.

3 Q Okay. So how was the -- how was Mr. Turner
4 transferred from his vehicle to the ambulance?

5 A So because he was a trauma victim, we did put a C-
6 collar on him, which is a cervical-neck collar, to keep
7 his head in line. And we put him on a long spine board,
8 which is basically a long, plastic board to secure them
9 onto. It helps with movement of the patient and also
10 keeps them from having any further neck or spinal injury.

11 Q Okay. And once he was placed in the ambulance, what
12 further procedures did you do to help him?

13 A We were able to assist his ventilations with a bag
14 mask. So we were providing him oxygen. We would
15 establish IV access and give him fluids and medication to
16 try to get his heart to start beating again.

17 Q Okay. And were you able to do all of this by
18 yourself?

19 A No. And generally, in these case we have a fire
20 department -- fire department personnel that drive our
21 ambulance. And both providers are in the back with the
22 patient.

23 Q Okay. In this particular case, was the fire
24 department respond and help you?

25 A Yes.

DIRECT EXAMINATION BY MR. PRATT - RICHARD HILL 196

1 Q What was their role with assisting you?

2 A They assisted us with getting the patient out of the
3 -- out of the van and loaded into the ambulance. And
4 they also had the driver that drove us to Richland.

5 Q Richland? Can you elaborate what -- what you mean
6 by Richland?

7 A Oh, I'm sorry. Palmetto Health Richland. It's the
8 trauma center for the Midlands area.

9 Q Okay. And during transportation, did you notice any
10 other injuries?

11 A So part of -- part of our care is to completely what
12 they call trauma-strip the patient. So we removed all of
13 his clothing. And the majority of the injuries were to
14 the left-temporal area of the skull, left shoulder, and
15 chest.

16 Q Okay. And what -- what did those injuries look
17 like?

18 A They were consistent with gunshot injuries. They
19 appeared to be small, circular entrance wounds.

20 Q Okay. And all of the information that you gathered
21 at the scene and during transportation, did you relay
22 that information to the hospital?

23 A I did.

24 MR. PRATT: Beg the Court's indulgence for one
25 second.

1 (Off the record briefly.)

2 Q No further questions. Please answer any questions
3 defense has for you.

4 CROSS-EXAMINATION

5 BY MR. MARSH:

6 Q Good morning.

7 A Good morning.

8 Q You didn't see who pulled the trigger, did you?

9 A I did not.

10 MR. MARSH: No further questions for this witness,
11 Your Honor.

12 THE COURT: All right. Any redirect?

13 MR. PRATT: No redirect, Your Honor. May the ---

14 THE COURT: All right.

15 MR. PRATT: --- witness be released?

16 THE COURT: Any objection to this witness being
17 excused?

18 MR. MARSH: No objection, Your Honor.

19 THE COURT: All right, sir. You're free to leave.
20 Thank you.

21 THE WITNESS: Okay.

22 (Whereupon, the witness exited the witness stand.)

23 (Off the record briefly.)

24 MR. PRATT: The state calls Aaron Grill.

25 (Whereupon, the witness came forward.)

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1 AARON GRILL, having been first duly sworn,
2 testified as follows:

3 DEPUTY CLERK OF COURT: Thank you. Have a seat in
4 the witness stand, please.

5 THE WITNESS: (Complied.)

6 DEPUTY CLERK OF COURT: State your name for the
7 record.

8 THE WITNESS: My name is Aaron Grill.

9 DIRECT EXAMINATION

10 BY MR. PRATT:

11 Q Good morning, Mr. Grill. Can you please tell the
12 jury where you're employed?

13 A I am currently employed with the Richland County
14 Sheriff's Department as a criminal investigator.

15 Q And how long have you been employed with the
16 Richland County Sheriff's Department?

17 A Since, I believe, November of 2015.

18 Q And what is your -- what is your current position?

19 A I'm an investigator currently, working burglary.

20 Q Investigator. And how long have you had that
21 position?

22 A Approximately 20 months, almost two years.

23 Q What position did you have prior to that role?

24 A Prior to that, I was on the uniform-patrol division
25 in what -- in Richland County we refer to as Region 1.

1 Q Region 1?

2 A (No audible response.)

3 Q And how long were you in that role?

4 A From probably around June or July of 2016 up until
5 March 2018. And I became an investigator.

6 Q Okay. So you were in that role on December 8th,
7 2016?

8 A Yes, sir.

9 Q I want to direct you to that particular day, that
10 morning. Did you get involved with the case against
11 Brian White?

12 A Yes, sir. I never came into contact with Mr. White.
13 But I was dispatched to a shots-fired call at the
14 incident location, [REDACTED] Patricia. I was the -- I believe
15 the second responding deputy there. Deputy Cahill was
16 the first initial responding.

17 And when I arrived at the location, as I was walking
18 up -- because I saw the ambulance, EMS, and Deputy Cahill
19 at the incident location. As I was walking up, EMS was
20 already -- had the victim on a stretcher, leaving the
21 scene.

22 I contacted Deputy Cahill; asked what he needed,
23 because I was there, basically, in support of him at this
24 time. Because he was the initial responding officer. He
25 asked me to set up the crime scene tape to cordon off the

DIRECT EXAMINATION BY MR. PRATT - AARON GRILL 200

1 entrance into the trailer-park area.

2 So I went back to my car; got crime scene tape; put
3 it up across the way. And I began what is known as a
4 crime scene log at that point.

5 Q Okay. So you maintain that crime scene log?

6 A Yes, sir.

7 Q Did you document who went in and out of the crime
8 scene?

9 A Yes. Initially, because EMS and fire and all that
10 had already left, I spoke with Deputy Cahill and dispatch
11 and figured out who was there; put them on the log. And
12 then, at that point forward, anyone who came to that
13 scene was time-stamped, name, what their unit affiliation
14 was and why they were there. And that was documented by
15 me.

16 Q Okay. Now, while you were, I guess, keeping that
17 log, did you talk to any witnesses?

18 A Yes, sir. I was approached by a gentleman named
19 Samuel Knowles. He stated that he lived at 1632 ---

20 MR. MARSH: Objection.

21 Q Without ---

22 THE COURT: Hold on ---

23 Q --- getting into ---

24 THE COURT: --- one second. What's the objection?

25 MR. MARSH: Hearsay, Your Honor.

DIRECT EXAMINATION BY MR. PRATT - AARON GRILL 201

1 THE COURT: All right. Objection is sustained.

2 MR. PRATT: Thank you.

3 THE COURT: Just ---

4 Q Without getting into what you guys talked about, you
5 said that you got in contact with a witness named Samuel
6 Knowles?

7 A Yes, sir.

8 Q Did you get a phone number from them?

9 A I did.

10 Q And did you relay the information given to you to
11 your superior?

12 A Yes, sir.

13 Q And ---

14 A Everything that Mr. Knowles told me, to include his
15 contact information, was turned over to Sgt. Martin, who
16 was the crime scene -- or not crime scene -- the
17 investigator that came out to the scene.

18 Q Did you allow anyone into the crime scene that
19 wasn't authorized?

20 A No, sir.

21 Q Okay.

22 MR. PRATT: Beg the Court's indulgence.

23 (Off the record briefly.)

24 MR. PRATT: Your Honor -- Your Honor, I'm
25 approaching the court reporter to get these marked.

DIRECT EXAMINATION BY MR. PRATT - AARON GRILL 202

1 THE COURT REPORTER: Mr. Pratt, these will be
2 State's 3, 4, and 5.

3 MR. PRATT: Yes.

4 (Whereupon, State's Exhibits 3 through 5 were marked
5 for identification.)

6 MR. PRATT: Thank you.

7 THE COURT REPORTER: Yes, sir.

8 MR. PRATT: I'm now showing what's been marked as
9 State's Exhibit 3, 4, and 5 to defense counsel.

10 Q Investigator Grill, I will now show you what's been
11 previously marked as State's Exhibit 5. Do you recognize
12 this image?

13 A Can you come closer? I believe it's upside down.
14 Yes, sir, I do.

15 Q What is that?

16 A This is the marked incident location on Patricia and
17 the surrounding areas ---

18 Q Okay. And ---

19 A --- of a satellite view.

20 Q And you previously stated that you worked in Region
21 1. Is that within your region?

22 A Yes, sir.

23 Q Would you say that you have a knowledge about the
24 streets and the mapping of that area?

25 A Yes, sir.

1 Q And is that picture an accurate depiction of the
2 streets that it indicates?

3 A It is, sir.

4 Q Is -- does it depict the incident location that you
5 responded to?

6 A Yes, sir. It is on the left-hand corner of this.

7 Q Okay. I'm also going to show you what's been marked
8 as State's Exhibit 4 and 5. And can you tell me what
9 these are?

10 A Number 4 is -- I believe that they may be apartments
11 or duplex sort of housing, which is directly across the
12 street from the incident location. And -- excuse me.
13 This is No. 3. It is a view from Patricia into the
14 incident location, the trailer-park community.

15 Q Okay.

16 MR. PRATT: All right. Your Honor, the state would
17 offer into evidence State's Exhibit 3, 4, and 5.

18 THE COURT: Any objection?

19 MR. MARSH: No objection, Your Honor.

20 THE COURT: All right. So 3, 4, and 5 will be
21 entered without objection.

22 (Whereupon, State's Exhibits 3 through 5 were
23 entered into evidence.)

24 MR. MARSH: Thanks.

25 MR. PRATT: Your Honor, may the witness step down?

DIRECT EXAMINATION BY MR. PRATT - AARON GRILL 204

1 THE COURT: Yes, sir. You may step down.

2 (Whereupon, the witness exited the witness stand.)

3 (Off the record briefly.)

4 Q This blown-up picture on the SMART Board that you
5 see as -- marked as -- been admitted as State's Exhibit
6 5, on this map, can you show where the incident location
7 that you responded to was?

8 A Yes, sir. That would be [REDACTED], kind of surrounded
9 in these cluster of trailers. It's right where the No. 4
10 is located.

11 Q Okay. And which route did you take to get to the
12 incident location?

13 A I'm not recalling if I came -- I believe I came from
14 the Hazelwood side and I came down Patricia and parked on
15 the Patricia Drive without turning into the trailer-park
16 units. I believe I parked right here on the road on
17 Patricia.

18 Q Okay. I'm showing you what's been admitted as
19 State's Exhibit 3. Can you describe what we're looking
20 at?

21 A Yeah. This is the sole entrance into the -- the
22 trailer-park community for any sort of vehicles or
23 anything like that. Where the photo is taken on the
24 front side here, this is from Patricia. And back here
25 and on the left would be [REDACTED].

DIRECT EXAMINATION BY MR. PRATT - AARON GRILL 205

1 Q And I'm now showing you what's been marked as -- or
2 as -- what's been admitted as State's Exhibit 4. Can you
3 please describe what this is?

4 A These are the duplex or apartment buildings directly
5 across the street from the incident location, from that
6 entrance of the incident location.

7 Q Okay. So on -- in comparison, this is the opposite
8 side?

9 A Yes, sir.

10 Q Okay.

11 MR. PRATT: Beg the Court's indulgence.

12 (Off the record briefly.)

13 Q Going back to what's been marked as State's Exhibit
14 5, can you see the intersection of Woodrow and Hilo
15 Street?

16 A Woodford and Hilo is directly right here, sir.

17 Q Okay. And that's in the center of the map?

18 A Yes, sir.

19 Q Okay. You can regain your seat. No further
20 questions.

21 (Whereupon, the witness resumed the witness stand.)

22 MR. MARSH: Your Honor, we have no questions for
23 this witness.

24 THE COURT: All right. Thank you. You may step
25 down, sir.

DIRECT EXAMINATION BY MS. SAMPSON - HEATHER COLLINS 206

1 Any objection to this witness being excused?

2 MR. MARSH: No objection, Your Honor.

3 THE COURT: All right. Thank you.

4 (Whereupon, the witness exited the witness stand.)

5 (Off the record briefly.)

6 MS. SAMPSON: May we proceed, Your Honor?

7 THE COURT: Call your next witness.

8 MS. SAMPSON: Thank you. The state calls Heather
9 Collins.

10 (Whereupon, the witness came forward.)

11 HEATHER COLLINS, having been first duly sworn,
12 testified as follows:

13 DEPUTY CLERK OF COURT: Thank you. Have a seat in
14 the witness stand, please.

15 THE WITNESS: (Complied.)

16 DEPUTY CLERK OF COURT: State your name for the
17 record.

18 THE WITNESS: Heather Collins.

19 DIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q Ms. Collins, where do you work?

22 A I am employed at Columbia-Richland 911.

23 Q And what do you do there?

24 A I am the custodian of records.

25 Q And as the custodian of records, what do you do?

DIRECT EXAMINATION BY MS. SAMPSON - HEATHER COLLINS 207

1 A Basically, I'm responsible for archiving and
2 preserving all 911 audio that comes through our center.

3 Q And can you tell the jury: How does a 911 call come
4 into the center? How does that work?

5 A 911 calls typically come in on what is called a
6 trunk line. It is a dedicated phone line. When they are
7 received, we receive something known as a ANI-ALI, which
8 basically provides a location and a number, depending on
9 -- how advanced it is can vary on the exactness of that
10 information and depending on the type of phone line on
11 which it's coming in.

12 So if you call from a landline, obviously, that's
13 tied to a piece of dirt. So we will get a physical
14 address. However, cell phones are dependent upon GPS
15 satellites and cell towers.

16 Q And so when someone calls 911, is there a recording
17 made of that?

18 A Yes, ma'am.

19 Q And how are they kept?

20 A We have archives of them in locked files, as where
21 -- as well as an electronic database that houses some
22 recording.

23 Q Okay. And are they kept in the normal course of
24 your business?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - HEATHER COLLINS 208

1 (Whereupon, State's Exhibit 6 was marked for
2 identification.)

3 MS. SAMPSON: Okay. I'm showing the defense what's
4 marked as State's 6. May I approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 Q I'm going to show you what's been marked as State's
8 Exhibit 6 and ask if you recognize it.

9 A Yes, ma'am, I do.

10 Q What is that?

11 A This is going to be the audio copy of the 911 calls
12 for the state -- for the case. I'm sorry.

13 Q So they would be from December 8th of 2016?

14 A Yes, ma'am.

15 Q And how do you know that that is that call?

16 A Because they are marked with my initials and the
17 date.

18 Q Thank you. And you've listened to the call?

19 A Yes, ma'am.

20 Q Was it altered in any way?

21 A No, ma'am.

22 Q That's a fair and accurate copy ---

23 A Yes, ma'am.

24 Q --- of the call?

25 MS. SAMPSON: At this time, Your Honor, we'd ask to

DIRECT EXAMINATION BY MS. SAMPSON - HEATHER COLLINS 209

1 introduce that Exhibit No. 6 into evidence.

2 THE COURT: Any objection?

3 MS. EIGENBROT: No objection, Your Honor.

4 THE COURT: All right. It will be entered without
5 objection.

6 (Whereupon, State's Exhibit 6 was entered into
7 evidence.)

8 MS. SAMPSON: Thank you. May I publish the call,
9 Your Honor?

10 THE COURT: Yes, ma'am.

11 (Off the record briefly.)

12 (Whereupon, an audio recording was published in open
13 court.)

14 Q And is that the entirety of the call?

15 A Yes, ma'am.

16 Q Okay.

17 I have no further questions, Your Honor.

18 THE COURT: Any questions from defense?

19 MS. EIGENBROT: No questions, Your Honor. And we
20 have no objection to her being excused.

21 THE COURT: All right. Ma'am, you may step down.
22 And you're free to leave.

23 THE WITNESS: Thank you.

24 (Whereupon, the witness exited the witness stand.)

25 MR. MCGLOTHIN: The state calls Samuel Knowles.

DIRECT EXAMINATION BY MR. MCGLOTHIN - SAMUEL KNOWLES 210

1 (Whereupon, the witness came forward.)

2 SAMUEL KNOWLES, having been first duly sworn,
3 testified as follows:

4 DEPUTY CLERK OF COURT: Thank you. Have a seat in
5 the witness stand, please.

6 THE WITNESS: (Complied.)

7 DEPUTY CLERK OF COURT: State your name for the
8 record.

9 THE WITNESS: Samuel Knowles.

10 DIRECT EXAMINATION

11 BY MR. MCGLOTHIN:

12 Q Good morning, Mr. Knowles. How are you?

13 A Good morning. Good. Thank you.

14 Q And do you go by Samuel?

15 A I go by Chuck ---

16 Q Okay.

17 A --- my middle name. Yeah.

18 Q And what do you do, Mr. Knowles?

19 A I currently work for Department of the Army Civilian
20 Police on Fort Jackson.

21 Q Okay. And is that what you were doing back in 2016?

22 A Yes.

23 Q Okay. And where do you live?

24 A I live on Woodford Road, which is right around the
25 corner from Patricia Drive.

DIRECT EXAMINATION BY MR. MCGLOTHIN - SAMUEL KNOWLES 211

1 Q And were you living there in December of 2016?

2 A Yes.

3 Q Okay. So can you describe what was going on, on the
4 morning of December 8th, 2016?

5 A I had just left my house and was going to Walmart.
6 And as I turned onto Patricia Drive, I heard maybe what
7 sounded like five or six gunshots right near the trailer
8 park. And there was apartments right across the street
9 somewhere right in that area. And I did a quick look
10 left and right, just to see if anybody was running from
11 the area. I didn't see anybody.

12 And I circled the block, went back home, and pulled
13 in my driveway just to make sure my kids were okay.
14 Because they were still there; they hadn't left for
15 school yet.

16 Q How many ---

17 A And then ---

18 Q --- kids do you have?

19 A Three.

20 Q Okay.

21 A Uh-huh.

22 Q How old were they at the time?

23 A Let's see. Three years ago, so that'd have been 12,
24 10, and 8.

25 Q Okay. And so what happened when you -- when you got

DIRECT EXAMINATION BY MR. MCGLOTHIN - SAMUEL KNOWLES 212

1 back to your house?

2 A I pulled in the driveway. And I noticed there was
3 two people standing across the street from my house right
4 at the edge of the road. And one was a black gentleman;
5 one was a white gentleman.

6 And I got out of the van. And I walked over. I
7 said, "You guys hear any gunshots?"

8 And they both said, "Yes." And the white gentleman
9 said, "They came from the trailer park, and I just ran
10 from over there because the bullets were flying past my
11 head."

12 Q And could you describe what this -- what the white
13 gentleman looked like?

14 A He was average build, I would say, maybe five-
15 six/five-seven. He had on all black. I think it was a
16 black hoodie-type sweatshirt and either black or dark-
17 color pants and glasses.

18 Q And so what did you do? Did you talk to anybody
19 else?

20 A I did. I went actually around to Patricia, just to
21 make sure nobody was laying in the roadway or needed help
22 or anything. And as I went around, the ambulance was
23 already in the trailer lot. And I could hear the deputy
24 coming down Woodford from the other end.

25 And I stayed there, just to -- till he got there and

DIRECT EXAMINATION BY MR. MCGLOTHIN - SAMUEL KNOWLES 213

1 talked to him briefly and gave him the information about
2 the two people I saw across the street from my house and,
3 you know, that that might be a pretty good witness
4 because he just ran from there. And I actually went back
5 around to my street to see if they were still there so I
6 could direct them back over to the deputy that was there
7 on the scene. But they had already left. And ---

8 Q And did you ---

9 A --- I was ---

10 Q --- give a written statement in this case?

11 A I did.

12 Q Okay. And you gave all the information you had?

13 A Yes, correct.

14 MR. MCGLOTHIN: Beg the Court's indulgence for just
15 a moment.

16 (Off the record briefly.)

17 Q I'm going to show you what's been entered as State's
18 Exhibit 5. Do you recognize what this is?

19 A This is a picture of -- looks like the neighborhood
20 that I live in with Woodford Road and Patricia Drive.

21 Q And is your home located there on the map?

22 A Yes, it is.

23 Q And if you wouldn't mind, just showing it to the
24 jury and pointing where your home is located.

25 A Okay. I want to make sure I get the right one here.

CROSS-EXAMINATION BY MR. MARSH - SAMUEL KNOWLES 214

1 My house is right here on Woodford Road.

2 Q And where is Patricia Drive in -- in ---

3 A At the end of Woodford, this is Patricia Drive right
4 here.

5 Q Okay. Thank you very much. Please answer any
6 questions the defense may have.

7 THE COURT: Yes, sir.

8 MR. MARSH: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. MARSH:

11 Q Mr. Knowles, I believe you testified that after you
12 heard the gunshots, you looked around?

13 A Correct.

14 Q And you didn't see anyone running?

15 A I did not.

16 Q And you -- you don't have -- you didn't see anyone
17 pull a trigger, did you, on that gun?

18 A No, sir.

19 Q All right.

20 MR. MARSH: No further questions, and we have no
21 objection to this witness being excused, Your Honor.

22 THE COURT: All right. You -- anything on redirect?

23 MR. MCGLOTHIN: No, Your Honor.

24 THE COURT: All right. You may step down. You're
25 free to leave.

1 THE WITNESS: Yes, ma'am. Thank you.

2 (Whereupon, the witness exited the witness stand.)

3 MR. MCGLOTHIN: May we approach, Your Honor?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was held off the
6 record in the presence of the jury, but out of the
7 hearing of the jury.)

8 THE COURT: All right. Ladies and gentlemen of the
9 jury, at this time, we are going to take our morning
10 break. I think we've been going a little over an hour.
11 We'll go ahead and take our morning break.

12 Please do not discuss the case with each other.
13 We'll go ahead and take about a ten- or fifteen-minute
14 break. And we will receive you all back in shortly.

15 They should have some drinks and snacks back there
16 for you. Thank you.

17 (Whereupon, the jury exited the courtroom at 10:53
18 a.m.)

19 (Off the record briefly.)

20 THE COURT: All right. Let's take about 15 minutes.
21 I know that way she'll have a break because you all need
22 to premark some photos, is what they tell me. All right.
23 Thank you.

24 MR. MCGLOTHIN: Thank you, Your Honor.

25 (Off the record from 10:54 a.m. until 11:25 a.m.)

1 (Whereupon, State's Exhibits 7 through 63 were
2 premarked for identification while off the record.)

3 THE COURT: All right. We ready? Y'all can bring
4 them on in.

5 THE BAILIFF: All right.

6 (Off the record briefly.)

7 (Whereupon, the jury entered the courtroom at 11:27
8 a.m.)

9 THE BAILIFF: The jury is seated, Judge.

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, we will continue on with the case. I'll ask the
12 state to call their next witness.

13 MR. MCGLOTHIN: The state calls Timothy Lee.

14 (Whereupon, the witness came forward.)

15 TIMOTHY LEE, having been first duly sworn,
16 testified as follows:

17 DEPUTY CLERK OF COURT: Thank you. Have a seat in
18 the witness stand, please.

19 THE WITNESS: (Complied.)

20 DEPUTY CLERK OF COURT: State ---

21 THE WITNESS: Timothy ---

22 DEPUTY CLERK OF COURT: --- your name ---

23 THE WITNESS: --- Lee ---

24 DEPUTY CLERK OF COURT: --- for the ---

25 THE WITNESS: --- L-e-e.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 217

1 DEPUTY CLERK OF COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MCGLOTHIN:

4 Q Is it Investigator Lee?

5 A Sgt. Lee.

6 Q Sgt?

7 A (No audible response.)

8 Q Good morning, Sgt. Lee.

9 A Good morning.

10 Q How are you?

11 A Very good.

12 Q Where do you work?

13 A Richland County Sheriff's Department, Crime Scene
14 Unit.

15 Q Okay. And what do you do there?

16 A I'm the sergeant over the crime scene unit.

17 Q So what does that mean?

18 A It -- it varies. Mostly, I -- I manage the day-to-
19 day operations of the unit. That's pretty much what my
20 job is. But I do respond to calls, autopsies, wherever
21 I'm needed as well.

22 Q So when you say respond to calls, can you give a
23 brief outline of your duties, should you be called?

24 A Crime scene unit exists to document, collect,
25 process, and to present evidence. So if we are called

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 218

1 upon to come to a scene, whether it's a car break-in to a
2 homicide to a suicide, whatever it is, that's what we
3 will do. We will respond. We will process, document,
4 and present, as we are today.

5 Q And were you still in that same role back in 2016?

6 A I was an investigator -- crime scene investigator.
7 Yes.

8 Q And did you respond to Patricia Drive on December
9 8th, 2016?

10 A I did.

11 Q And what did you do when you got there?

12 A I arrived -- arrived at [REDACTED] Patricia Drive on
13 December 8, 2016, at about 8:08. I was requested to come
14 out for a shooting incident that appeared to be a
15 homicide.

16 When I got out there, I made contact with the line
17 units, Deputy Cahill and Deputy Grill. They had the
18 scene secured. There was crime scene tape around the --
19 the perimeter of -- of [REDACTED] and also crime scene tape at
20 the beginning of the mobile-home park. So they were
21 restricting access.

22 I signed into the crime scene log, and I began to
23 look over the scene to begin my processing.

24 Q And so what would be the first thing -- what was the
25 first thing you did to process the scene?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 219

1 A First thing I always do -- excuse me -- first thing
2 I always do when I respond to a scene is I look over the
3 scene so I don't get too close, don't step on any
4 evidence. And then, I begin documenting with
5 photography: overall shots, showing the way it looked as
6 it was right there before I move in to touch anything,
7 move anything of that.

8 So that's what I did. I observed a white van, a
9 Dodge van. Appeared to have glass broken, and I could
10 see some shell casings that were on the ground near the
11 driver's door.

12 Q And so you processed the scene. What did you do
13 after that?

14 A With this scene I marked cartridge casings after --
15 after doing photography on the vehicle. I could see
16 impact points. I could see a projectile in the
17 passenger's door skin on the exterior. I could see one
18 there. I marked that.

19 And then I marked the cartridge casings on the
20 ground. More overall shots -- we always take lots of
21 shots. And I collected -- appears to be eight 9-
22 millimeter fired cartridge casings. I documented that
23 the inside of the vehicle had what appeared to be blood
24 in it.

25 There was a cell phone that was in on the console.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 220

1 I documented that. I turned that over to an
2 investigator. And then I documented the projectile that
3 was in the door on the passenger side before you ever
4 move the vehicle, so you don't want to lose that
5 evidence. Documented that and collected that.

6 Q When you say you collected these items, can you
7 briefly describe what that means?

8 A Collection can be anything from packaging in paper.
9 If it's bloody items, it could go into plastic bags
10 temporarily for transport for drying. In this case they
11 were fired cartridge casings. They were put in small
12 manilla envelopes. Same way with the projectile: It was
13 put in a small envelope; packaged in my vehicle for
14 transport back to the lab.

15 Q And so once you were done there, what was the next
16 kind of thing that you -- what -- what was your next duty
17 in this case?

18 A Finishing up on this scene, once we decided that we
19 have done -- we've documented everything; we've collected
20 everything that we needed to. The -- the van was
21 transported by a tow truck up to our forensics garage,
22 which is located behind headquarters. It's just a --
23 what it sounds like. It's a garage that we use to
24 process. It's a secure building.

25 So the on-call supervisor for the unit at the time

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 221

1 was Investigator Polis. She escorted the vehicle up
2 there, maintaining chain of custody. I finished at the
3 scene. And then I collected the crime scene log, and we
4 opened up the area.

5 And I responded back to headquarters. At that time
6 I processed the cartridge casings in our lab, doing so
7 trying to find fingerprints on them. Did not get any
8 fingerprints. Casings -- it's hard to get fingerprints
9 off of, because the heat that's generated by a gun. So I
10 swabbed it for possible DNA and packaged them back up to
11 be put back into evidence.

12 (Whereupon, State's Exhibits 64 through 67 were
13 marked for identification.)

14 Q And I'm going to show you what's been marked as
15 State's Exhibit 64 through 67. Do you recognize those
16 items?

17 A I do.

18 Q And what are they?

19 A First item is going to be the fired cartridge
20 casings. That is my signature. I remember packaging
21 them.

22 Same way with this. This is the projectile, marked
23 No. 1, my signature, and the date on the bottom of the
24 chain.

25 This is a projectile marked No. 8. It was a

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 222

1 different -- an additional projectile that was found in
2 the door later on when I processed in the -- in the
3 garage.

4 And this is going to be a swab of the processed
5 cartridge casings, my signature, and date.

6 Q And how do you know that those are the items that
7 you just said?

8 A We have an evidence log, which is a -- just a
9 description of what it is that's packaged in here. And
10 we have to initial and date and note what's in it.

11 Q And is this in accordance with your normal
12 procedure?

13 A Right. It's standard protocol.

14 Q And what do you do with that -- with those items?
15 What did you do with those items once you had been --
16 once they had been collected?

17 A Any evidence that's collected gets submitted to our
18 evidence room, where it's held. It's logged in; it's
19 held.

20 Q Do those items appear to be tampered with in any way
21 -- from the condition that you collected them in?

22 A It appears that they've been opened by somebody else
23 for examination, which you'll see somebody else's initial
24 be -- usually on the bottom of it. Mine will be across
25 the top when you first put it in.

1 Q Okay. And does it appear to be in the same
2 condition as when you processed it -- or when you
3 collected it?

4 A The envelope appears to be. Do you want me to
5 remove anything from it?

6 Q Could you say which -- which of those items that is?

7 A All of them have been opened ---

8 Q Okay.

9 A --- for court purposes. But the packaging looks to
10 be the same ---

11 Q Okay.

12 A --- you know, except for other examination.

13 Q Is it -- other than the opening, does there to
14 appear to be anything different about those items?

15 A No.

16 Q Thank you. So -- I'm sorry to backtrack on you.
17 But could you tell us a little bit about what you did to
18 process the van once it was -- once it -- after it had
19 been towed?

20 A Once the van was towed to the forensics garage, it's
21 going to be, of course, more documentation with
22 photography. You want to take lots of photographs.
23 You're going to process -- usually, on a scene like this
24 on a vehicle, you're going to make sure you process the
25 exterior of the vehicle using black powders. In this

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 224

1 case that's what I did: try to obtain latent prints.

2 I did obtain one latent print off of, I believe, the
3 driver's -- let me refer to my notes -- exterior of the
4 driver's door had one positive lift. And all that is, is
5 just powder adheres to the oils.

6 Y'all seen on television. Lift it with clear tape;
7 put it on a backer card. And they're able to look at it
8 when they're doing the examination with the latent-print
9 section.

10 That's what was -- that's what I did. That's what
11 was submitted in as well. I also -- also took a swab
12 from that area and from the smudge area of the handle as
13 well for possible DNA.

14 Additionally, I documented the interior of the
15 vehicle for the bloodstains. And I was able to locate
16 another projectile that was in the actual door casing on
17 the passenger's door. I had to remove the panel in order
18 to -- to -- to get it at the bottom.

19 Q All right. Investigator Lee, I'm going to show you
20 what's been marked as State's 7 through 63. Please take
21 a look through those and tell me if you recognize them.

22 A These are going to be my photographs and also
23 photographs taken by Investigator Polis of the scene and
24 from the processing in the forensic garage.

25 Q Was Investigator Polis there at the scene with you?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 225

1 A At the time of those photographs, yes.

2 Q And do those photographs fairly and accurately
3 depict the scene as you saw it that day?

4 A They do.

5 Q Okay.

6 MR. MCGLOTHIN: At this time the state would move
7 State's 7 through 63 into evidence.

8 THE COURT: Any objection?

9 MS. PINNOCK: No objection. No objection, Your
10 Honor.

11 THE COURT: All right. They'll be entered without
12 objection, 7 through 63.

13 MR. MCGLOTHIN: Thank you, Your Honor.

14 (Whereupon, State's Exhibits 7 through 63 were
15 entered into evidence.)

16 MR. MCGLOTHIN: At this time I'd like to publish
17 them to the jury as well.

18 Q Investigator Lee, if you could please step down.

19 (Whereupon, the witness exited the witness stand.)

20 Q I'm showing what's been marked as State's 7. What
21 is that?

22 A This is the van that was located at the scene.
23 Picture of the broken glass on the ground and the glass
24 broken in the door as well.

25 Q And -- and as you mentioned, why do you take

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 226

1 pictures of just the area?

2 A Well, you want to see what -- what it looked like.
3 It's great for presentation for y'all to see. You can
4 see what I saw. And it documents any evidence. And it
5 just captures it.

6 Q Okay. And I'm going to show you State's 8. And
7 what is that?

8 A This is going to be the ground area at the driver's
9 door. They're hard to see, but there are fired cartridge
10 casings that I will begin marking, one there and you'll
11 see a couple more. Once you start marking them, it's a
12 little more visual.

13 Q And what is the importance of taking a picture
14 before you mark them?

15 A It just shows the area prior to any disturbance
16 done. You're going to disturb it once you start putting
17 down markers.

18 Q Okay. And I'm going to show you State's 9.

19 A Additional, this is the glass from the window.
20 Here's one of the cartridge casings -- fired cartridge
21 casings.

22 Q And State's 10?

23 A Same area. There's additional cartridge casings
24 right here.

25 Q And State's 11?

1 A This is a view from the driver's door -- open
2 driver's door to the passenger side of the vehicle.

3 Q Did you see anything significant with -- while
4 looking at the interior of the car here?

5 A Well, there's blood that was on items that are
6 there.

7 Q And State's 12?

8 A This is the cell phone that was located on the
9 console area I turned over to investigations.

10 Q State's 13?

11 A This is from the other side, from the passenger side
12 in. There's some blood on some items right here. You
13 can see some defects in the seat.

14 Q When you say defects, what do you mean?

15 A Defects could be anything from being cut or torn to
16 a gunshot. So it might be an impact point. It's
17 something you want to look at a little bit more.

18 Q And State's 14?

19 A Another shot of close-up area: blood, other items
20 that were possibly on here that you want to look at.

21 Q Okay. And State's 15?

22 A Passenger's door area. These are going to be
23 possible impact points from -- from a firearm. These are
24 areas you want to document and look at additionally.

25 Q And what is this?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 228

1 A He had some sort of a -- victim had some sort of a
2 sweatshirt hung up, I guess, to block the light on the
3 passenger-side door.

4 Q And that was there when you arrived?

5 A Yes.

6 Q And State's 16?

7 A This is additional defects in the door from possible
8 gunshots.

9 Q And this is that same door as ---

10 A Same door ---

11 Q --- State's 15?

12 A --- passenger's door. Yes.

13 Q And State's 17?

14 A This is the exterior of the passenger-side door.
15 These are defects in the door. I marked No 1. You can
16 see a projectile that's sticking out just slightly.

17 Q And ---

18 A Another ---

19 Q --- State's 18?

20 A Close-up of the actual -- little bit more -- copper
21 projectile.

22 Q And that copper projectile is what you see there in
23 the middle pokinmg out?

24 A Correct.

25 Q And State's 19?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 229

1 A Marked it No 1. Same -- same location.

2 Q So why do you use those markers?

3 A Markers help us to be able to track evidence, if you
4 start collecting from here and there and you don't
5 remember where it is. But when you look back at your
6 photographs that you see, okay, I marked that No. 1; I
7 remember what that is. That piece of evidence might be
8 important to where something else you marked may not be
9 as important. So it helps with other areas, other
10 discipline, if we do firearms examinations, so forth.

11 Q And State's 20?

12 A This is once I removed it from the door. This is
13 the actual projectile.

14 Q And was that preserved?

15 A It was.

16 Q Okay. And State's 21?

17 A In -- this is a shot into the cargo area of the van,
18 showing that it appears to be a work van with some types
19 of tools.

20 Q And that was the condition you found it in?

21 A Right.

22 Q Okay. State's 22?

23 A Fired cartridge casings we previously discussed.

24 This is me marking them A through H.

25 Q And why did -- you've got letters here instead of

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 230

1 numbers. Why do you use letters now?

2 A You could use either. It -- it doesn't matter.

3 This time I used -- I used this. But usually, what I'll

4 do is I'll mark anything on the ground with letters and

5 then possibly impacts or projectiles with numbers. It's

6 just easier for me. Each person does it differently.

7 Q And State's 23?

8 A It's another shot of the cartridge casings, shown

9 all in one area.

10 Q And State's 24?

11 A Additional.

12 Q And going back to State's 23, how big was this space

13 here? Enough space for another car to park?

14 A A small car. Maybe 7 feet.

15 Q Okay. So State's 25?

16 A It's a close-up of Marker A, showing the cartridge

17 casing.

18 Q And why do you do these really close shots here?

19 A Well, you can see what it is. And there's also a

20 scale. If this was to be some other item of evidence

21 that we needed to look at, the scale helps us understand

22 the size of it. Right now I didn't know what caliber it

23 was. Yeah. So this gives us a size of the cartridge.

24 If it was a .22, it'd be much smaller and so forth.

25 Q Okay. And State's 26?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 231

1 A Cartridge casing marked B, again.

2 Q And these are all those same ones that we just saw
3 in the photo before that showed them all?

4 A Yes.

5 Q All right.

6 A It's just close-up shots of them.

7 Q All next to the vehicle?

8 A Yes.

9 Q Okay. State's 27?

10 A Cartridge casing marked C.

11 Q Same with 28?

12 A Marked D.

13 Q 29?

14 A Marked E.

15 Q 30?

16 A Marked F.

17 Q 31?

18 A Right next to it, marked G.

19 Q And that's this -- the partial you hear -- you see
20 here is F?

21 A Yeah.

22 Q Okay. And?

23 A The last one, marked H.

24 Q And I'm showing you two -- I believe that's States
25 32.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 232

1 A Okay.

2 Q And then, State's 33? What is that showing?

3 A It's just another angle of it from the front of the
4 vehicle, showing the cartridge casings.

5 Q And why do you take multiple pictures of those ---

6 A Helps ---

7 Q --- the same thing?

8 A Helps to visualize the area, see it at a different
9 angle.

10 Q And what is State's 34?

11 A This was a -- this is next to the passenger side of
12 the van. And this is a tree that had come down and was
13 partial cut up, very kind of crowded in there with this
14 -- this tree down as well.

15 Q And is that the wheel of the van there on the left
16 side of the photo?

17 A That is.

18 Q Okay. And State's 35? What is that?

19 A Investigator Polis took this photograph. This is
20 just a continuation from my markers. And there was
21 evidence that she found over here on the passenger side
22 around the trees.

23 Q And State's 36?

24 A It's a close-up of one of her markers. And this is
25 going to be a fragment of a possible projectile.

1 Q And is it pictured there?

2 A I'm sorry.

3 Q Is that fragment pictured in -- in -- in ---

4 A Right.

5 Q --- this photograph?

6 A Right here, yes.

7 Q And then, State's 37?

8 A It's a close-up of the fragment, marked I.

9 Q Okay. And you said that's a bullet fragment,
10 correct?

11 A Probably a jacketing from around the bullet, most
12 likely.

13 Q Okay. And State's 38?

14 A And this is another partial fragment right here.

15 Q And where in relation to Marker I is this?

16 A I don't recall.

17 Q Okay.

18 A I think they were pretty close together. But I
19 don't know specifically.

20 Q Was -- do you know if J -- Marker J was also by that
21 downed tree as well?

22 A They both were around the -- the downed tree, the
23 cut-up tree.

24 Q Okay. Now I'm going to show you State's 39. What
25 is that?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 234

1 A This is the van towed in and secured into our
2 forensics garage.

3 Q And when you say forensics garage, what does that
4 mean?

5 A It's a building that we use to process in a
6 controlled environment.

7 Q Is it a secured building?

8 A It is.

9 Q Okay.

10 A Only crime scene has access to it.

11 Q And State's 40?

12 A This is a shot through the driver's window of the
13 same van.

14 Q Is the glass there in the ---

15 A Some of it.

16 Q Okay. But the major portion of it is gone?

17 A Yes.

18 Q Okay. State's 41?

19 A Additional shots with the door open, looking inside
20 the van, glass on the floor, glass on the seat.

21 Q And what -- what's going on with the seat belt
22 there?

23 A Seat belt will usually be put through the steering
24 wheel by the tow truck driver. That keeps the wheel from
25 turning so it doesn't get all wonky when we're trying to

1 pull it off the truck.

2 Q And State's 42?

3 A This is where I began documenting the impact points
4 that we discussed earlier: impacts to the seat, impacts
5 to the door. And I'll use opposite of what I marked
6 evidence with in this case. You know, it's going to be
7 the numbers to show the defendant defects that are in
8 there.

9 Q Okay. And what is -- what is this sticking out from
10 under the seat there?

11 A This is called trajectory rods. We use them on
12 reconstruction. In this case I used them to basically
13 track to try to find additional projectiles.

14 Q Okay. And is there actually a second one there ---

15 A There is ---

16 Q --- as well?

17 A --- there's a green one here. And then, the yellow
18 track.

19 Q Okay. And this is State's 43. Are those, those
20 same rods, just from the other side there?

21 A These are just different angle from the actual
22 passenger side.

23 Q Okay. And State's 44?

24 A This is a little closer view of the rods coming
25 through the seat -- passenger seat.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 236

1 Q And why do you have this labeled? I see a 1-2 here
2 and a 1-2 there, both one with an A and one with a B.
3 What's the significance of that?

4 A When the items aren't connected together, especially
5 when we have walls, it's easier to track using it that
6 way. If we were to put a laser on the other -- like this
7 for a distance, I could find another impact down here.
8 And it'll help me track that.

9 If I find something at the end of that course, which
10 is usually a projectile, then I can say that this was a
11 definite path.

12 Q Okay. State's 45?

13 A This was just another angle of the edge of the seat,
14 showing how the rods are coming in.

15 Q Okay. And what's the significance of that?

16 A It's just visual.

17 Q Okay. And State's 46?

18 A Bottom of the seat as, you know, exit points. You
19 see the stuffing coming out of here, the curls. That's
20 usually an indication of a path as well.

21 Q And State's 47?

22 A It's just a close-up of that as well.

23 Q Is there any ---

24 A I'm sorry?

25 Q Never mind. I apologize. State's 48?

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 237

1 A This is the inside of the passenger's door that I
2 marked 1 through 7. And these are just different
3 defects.

4 Q And the -- and again, I see that this is 1-C.
5 What's the significance of that C?

6 A When the doors close, I can use -- usually, I can
7 use a rod to be able to establish a path. So if I have
8 1, I can say 1-A. Down here would be 1-B where it hits
9 the door; 1-C where it maybe comes out of the door; and
10 so forth.

11 Q Okay. And 49?

12 A Close-up of the impact points on the interior of the
13 door.

14 Q And same with 50?

15 A Same, yes.

16 Q And that's on the passenger door, correct?

17 A Passenger's door, yes.

18 Q Okay. And 51?

19 A Passenger's door, again, from the -- the edge of the
20 seat forward.

21 Q And this has the door closed, correct?

22 A Correct.

23 Q Okay. And 52?

24 A That's just using the scale to give us size of the
25 -- the impacts are.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 238

1 Q Okay. 53?

2 A This is just a slight -- slightly off from the
3 console to where I can actually see down with the door
4 closed to give a visual. You see how the two rods touch
5 right here as they come out. So that gives me the path.

6 Q Okay. And what is this? Is that ---

7 A This right here?

8 Q --- right portion of the seat?

9 A No. That's blood.

10 Q Okay. And 47? Excuse me.

11 A That's another impact using scales to get the size
12 of the impact.

13 Q And that is -- that's State's 54. Excuse me.

14 And 55?

15 A Once I determined that there wasn't -- all of them
16 didn't go through the door -- so there's -- there's
17 consistent holes all the way through, I know that there
18 could be some more evidence in there, a possible
19 projectile. So I disassembled the door; pulled out the
20 speaker so I could see down inside.

21 Q And that gave you -- did that give you access to the
22 -- shell of the actual door itself?

23 A Well, yes.

24 Q Okay. And this is -- I believe State's 56?

25 A One of the projectiles was actually in the bottom of

1 the door. So I was able to locate the evidence.

2 Q Again, so on 55, that's -- State 56 is showing
3 what's inside this hole?

4 A Correct.

5 Q Okay. And then, 57?

6 A And I gave it a marker of No. 8.

7 Q And that was in sequence with the other ones on the
8 door?

9 A Correct.

10 Q Okay. So that's State's ---

11 A And that's the projectile ---

12 Q --- 58.

13 A --- I removed from the bottom of the door.

14 Q And then, in State's 59?

15 A Exterior shot showing 1, 2, 4, 5, and 6 actually
16 perforated through. So these are going to be the exiting
17 holes coming out of the door.

18 Q So why isn't there a 3?

19 A Because that's probably what was found inside.

20 Q Okay.

21 A It hit a rail or hit something that stopped it in
22 order to for it to stay in there.

23 Q Okay. And now, State's 60?

24 A These are close-ups with scale of the impact points.

25 Q And those are the same impacts from the -- from

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 240

1 State's 59 ---

2 A Correct.

3 Q --- here at the bottom?

4 A Some exterior shots. Yes.

5 Q And State's 61?

6 A Same with this. It's just close-up scale of No. 4.

7 Q And 62?

8 A Number 5 -- No. 4 and 5 together.

9 Q Still on that same passenger door?

10 A Yes.

11 Q Okay. And then, 63?

12 A Number 6, exterior of the passenger's door.

13 Q All right. And thank you very much. You can take a
14 seat, please.

15 (Whereupon, the witness resumed the witness stand.)

16 MR. MCGLOTHIN: Beg the Court's indulgence for just
17 one moment.

18 (Off the record briefly.)

19 Q Investigator Lee, did you have the opportunity to
20 process any other vehicles in this case?

21 A I did.

22 Q What was that vehicle?

23 A On December 16th I was notified that we had a
24 vehicle that was towed to our forensics compound, which
25 is just an open-lot, gated area that's secured. The

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 241

1 vehicle was a 1989 Oldsmobile Cutlass, gray in color.

2 And I met with Investigator Truluck out at the compound
3 yard, and he was present during the search of the
4 vehicle.

5 Q And what kind of processing did you do there, if
6 any?

7 A I -- I processed the exterior of the driver -- I
8 processed the driver's door area with black powder. No
9 results for any latent prints. And then, I collected, at
10 his request, swabs of the interior of the driver's door
11 handle, the steering wheel, and the gear shift, the
12 passenger-side front-door interior handle. All these
13 items were submitted into evidence and property.

14 Q And you said that the -- you did fingerprint, but
15 they were negative?

16 A Right.

17 Q Did you collect any clothing in this case?

18 A Not from this vehicle. But I did take clothing.
19 Once autopsy was completed and clothing was dried, I took
20 that clothing from one of our drying cabinets, which is
21 located in our forensics garage. And I submitted that
22 into evidence and property.

23 Q Do you know where those clothes came from?

24 A They were the victim's clothes from autopsy.

25 Q Okay. And you secured -- excuse me -- secured them

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 242

1 in the -- into property or ---

2 A I submitted them to evidence and property. Yes,
3 sir.

4 Q Thank you.

5 MR. MCGLOTHIN: Beg the Court's indulgence for just
6 a moment.

7 (Off the record briefly.)

8 Q Investigator Lee, I'm going to take you back to the
9 scene you processed on December the 8th, 20 -- excuse me
10 -- 2016. Did you have an opportunity to do a diagram of
11 that scene?

12 A I did.

13 Q Is that common practice?

14 A Usually, if you have evidence that you can diagram
15 and mark and -- and actually describe the area by
16 documenting it that way, we will.

17 Q Okay.

18 MR. MCGLOTHIN: Beg the Court's indulgence for just
19 a moment.

20 (Off the record briefly.)

21 THE COURT REPORTER: Your Honor, I'm marking State's
22 68 for identification.

23 THE COURT: All right.

24 (Whereupon, State's Exhibit 68 was marked for
25 identification.)

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 243

1 MR. MCGLOTHIN: Thank you.

2 Q Investigator Lee, could you -- excuse me -- please
3 look at State's 68 and tell me if you recognize it.

4 A Yeah. This is the scale -- or the sketch that I did
5 off of my rough sketch that I had at the scene. It gives
6 a little more clarity.

7 Q And did -- does that fairly and accurately reflect
8 the scene as you saw it that day?

9 A What's that?

10 Q Does it fairly and accurately reflect the scene as
11 you saw it that day?

12 A It does.

13 Q Okay.

14 MR. MCGLOTHIN: At this point we'd ask that State's
15 68 be admitted into evidence.

16 THE COURT: Any objection?

17 MS. PINNOCK: No objection, Your Honor.

18 THE COURT: All right. 68 will enter -- be entered
19 without objection.

20 (Whereupon, State's Exhibit 68 was entered into
21 evidence.)

22 Q Thank you, Investigator Lee.

23 MR. MCGLOTHIN: Beg the Court's indulgence once
24 again.

25 (Off the record briefly.)

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 244

1 (Whereupon, State's Exhibit 69 was marked for
2 identification.)

3 Q Investigator Lee, I'm going to show you what's been
4 marked as State's 69 for identification. Please tell me
5 if you recognize that.

6 A This is a white-and-tan jacket that had red-brown
7 stains on it. It's my initials and the date submitted
8 was 12/12/2016.

9 Q And do you know where that was collected?

10 A I looked at my notes real quick. Yes. It was
11 removed from the vehicle when I processed the vehicle
12 inside the forensics garage. The white-and-tan jacket
13 with red-brown stains was on the passenger seat.

14 Q And you stated that your initials are on there.

15 A Yes. My signature and my initials is on the -- the
16 label.

17 Q And is that the box ---

18 A As well as on the box.

19 Q Is it -- is -- and is that box still sealed?

20 A It is.

21 Q And in the condition that you collected it in?

22 A Yes.

23 MR. MCGLOTHIN: At this time we'd admit State's 69
24 into evidence.

25 THE WITNESS: Yes.

DIRECT EXAMINATION BY MR. MCGLOTHIN - TIMOTHY LEE 245

1 MS. PINNOCK: No objection, Your Honor.

2 Q And I'm going to give you ---

3 THE COURT: All right.

4 (Whereupon, State's Exhibit 69 was entered into
5 evidence.)

6 Q --- a pair of scissors. If you would please open
7 Item 60 -- it's that box there.

8 THE WITNESS: Is it okay if I step down?

9 THE COURT: Yes.

10 (Whereupon, the witness exited the witness stand.)

11 Q Could you please show the jury what is contained
12 inside that box.

13 A This is craft paper that's wrapped around the
14 jacket.

15 Q Is that normal in the collection ---

16 A Yes.

17 Q --- process?

18 A Yes. Or you want me to take it out?

19 Q Please.

20 A (Complied.)

21 Q And if you would please show that to the jury.

22 A (Complied.)

23 Q Thank you.

24 (Whereupon, the witness resumed the witness stand.)

25 Q And you've stated that jacket was found inside the

CROSS-EXAMINATION BY MS. PINNOCK - TIMOTHY LEE 246

1 van?

2 A Yes, sir.

3 Q Thank you, Investigator Lee. Please answer any
4 questions the defense may have for you.

5 A All right.

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: May it please the Court, Your Honor.

8 CROSS-EXAMINATION

9 BY MS. PINNOCK:

10 Q Sgt. Lee, just very briefly, when you arrive on the
11 scene, you don't just walk in and start just taking
12 pictures and collecting. You kind of get a rundown of
13 what they're looking for, right?

14 A Correct.

15 Q And so when you processed the -- the '89 Oldsmobile
16 ---

17 A Okay.

18 Q --- you said you met Investigator Truluck there?

19 A I'm sure -- I think my notes said that. Yes.

20 Q Okay. Did -- and at that point we can assume that
21 you got some sort of rundown of what you're looking for?
22 Or did he just -- did he just say process the car?

23 A No. If -- if he showed up on the scene, he's going
24 to look for specific things that he's privilege to in the
25 case.

1 Q Okay. So if he had asked you to look for certain
2 clothing items, you would've looked for those items,
3 right?

4 A Yes. That's correct.

5 MS. PINNOCK: Beg the Court's indulgence.

6 THE COURT: Uh-huh.

7 (Off the record briefly.)

8 Q And do you do -- do you collect GSR kits if you're
9 asked to do that?

10 A We do, yes.

11 Q Okay. Did Investigator Truluck ask you to do that
12 in this case?

13 A I don't recall collecting one. No.

14 Q Okay.

15 MS. PINNOCK: Thank you, Your Honor. No further
16 questions.

17 THE WITNESS: All right.

18 MR. MCGLOTHIN: No further questions, Your Honor.

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

20 Any objection to this witness being excused?

21 MS. PINNOCK: No, Your Honor.

22 THE COURT: All right. You're free to leave, sir.

23 THE WITNESS: Thank you.

24 (Whereupon, the witness exited the witness stand.)

25 THE COURT: All right. Call your next witness.

DIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 248

1 MR. MCGLOTHIN: The state calls Harold Bouknight.

2 (Whereupon, the witness came forward.)

3 HAROLD BOUKNIGHT, having been first duly sworn,
4 testified as follows:

5 DEPUTY CLERK OF COURT: Thank you. Have a seat in
6 the witness stand, please.

7 THE WITNESS: (Complied.)

8 DEPUTY CLERK OF COURT: State your name for the
9 record.

10 THE WITNESS: Harold Bouknight.

11 THE COURT: Yes, sir. Oh. One second.

12 MR. MCGLOTHIN: Beg the Court's indulgence.

13 (Off the record briefly.)

14 MR. MCGLOTHIN: I apologize, Your Honor.

15 THE COURT: All right. Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. MCGLOTHIN:

18 Q Is it Investigator Bouknight?

19 A Lieutenant.

20 Q Lt Bouknight -- I apologize -- Lt. Bouknight, where
21 do you work?

22 A Richland County Sheriff's Department, Crime Scene
23 Unit.

24 Q And how long have you worked there?

25 A At Richland County since 2002. And I've been in

DIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 249

1 crime scene since 2005.

2 Q Okay. And what are your duties as a lieutenant in
3 the crime scene unit?

4 A As a lieutenant in the crime scene unit, I'm also
5 the assistant laboratory director for our crime scene
6 latent forensic science unit. I -- I handle paperwork,
7 scheduling, respond to crime scenes to assist as needed.
8 As supervisor on call, sometimes I -- depending on if
9 we're short-staffed, I'll respond to crime scenes to
10 process them myself. I respond to autopsies; process
11 vehicles; do bloodstain analysis, if needed; CSU
12 reconstruction; latent-print processing and comparisons
13 and examinations; footwear processing, collection; and
14 also, the IT administration of the forensic science unit.

15 Q And were those the same duties you had back in 2016?

16 A No. I -- I was a sergeant for that time. I'm --
17 Sam Richards was the lieutenant. At that time I was a
18 supervisor, but I was not the supervisor on call and had
19 way less administrative duties at that time. So I would
20 respond to crime scenes and process things with more --
21 at that time than I do now.

22 Q And were you called out on -- excuse me -- December
23 8th of 2016?

24 A I was not called out. I responded to the autopsy at
25 -- for the victim in this case.

DIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 250

1 Q Okay. And what did you do when you arrived there?

2 A You -- the standard things that things that we do at
3 an autopsy: We photograph the body bag. And then,
4 whenever the body bag is opened, we'll work with the
5 coroner's office and the pathologist and their assistant
6 to photograph any areas of interest that the coroner's
7 office will point out or the pathologist; any injuries
8 that could be from, you know, bullet, stab wound,
9 whatever. And then, if there's nothing like that, if
10 they had heart problems, we'll photograph that also to
11 show any -- if it was a natural death.

12 We'll take photographs. We take -- if the person's
13 been shot, we'll take gunshot residue, which is -- you've
14 seen on TV where they take the tabs and dab it on the
15 people's hands. We'll do that. Take fingerprints, nail
16 scrapings, head hairs, pubic hairs if we deem that
17 necessary; any clothing.

18 And then, any evidence that's collected by the
19 pathologist during that case, such as projectiles or
20 anything like that, they'll be transferred to us. And
21 then, that'll go to our evidence and property unit. And
22 then, our firearm and toolmark examiners will look at
23 this projectiles.

24 Q And what is the point -- excuse me -- what's the
25 significance of collecting all of these items in cases?

DIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 251

1 A Well, as far as, you know, collecting postmortem
2 prints and things like that, the person may not have a
3 record; may not have been fingerprinted before. So if we
4 find fingerprints at a scene in a vehicle, then we need
5 to be able to eliminate those fingerprints as the
6 victim's or else it'll just go as, you know, we never
7 matched them.

8 So we take -- usually, if it's a homicide, if we
9 think it's anything suspicious, we'll take fingerprints
10 and palm prints because if you look in the palm of your
11 hand, all those ridges on there, it's friction-ridge
12 skin. And that's what is -- allows you to help pick up a
13 glass and things like that when it's wet. It's like
14 treads on a tire. You have them on the palms of your
15 hand and the soles of your feet and your fingers and
16 toes.

17 And they are created before you're born while you're
18 still in the womb. Your fingerprints are created and
19 they don't change until you die and your body decomposes,
20 barring any scarring or disease.

21 Q And did you follow that procedure in this case?

22 A I did.

23 Q Okay. So what all did you collect from the autopsy
24 that day?

25 A That day I collected gunshot-residue kit; a buccal

DIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 252

1 swab, which is just as a swab as a DNA standard, from the
2 inside of the victim's mouth; postmortem fingerprints and
3 palm prints; nail scrapings; the clothing the victim was
4 wearing; items from the pockets in -- that the victim had
5 on; and nail scrapings; and then, two projectiles.

6 Q And did you take photographs while you were there as
7 well?

8 A I did.

9 MR. MCGLOTHIN: Beg the Court's indulgence for just
10 a moment.

11 (Off the record briefly.)

12 (Whereupon, State's Exhibits 70 through 72 were
13 marked for identification.)

14 Q Lt. Bouknight, I'm going to show you what's been
15 marked as State's Exhibit 70 for identification, 71 for
16 identification, and 72 for identification. Could you
17 please take a look at those items and tell me if you
18 recognize these?

19 A This is the packaging of the buccal swab that I
20 collected from the victim, James Turner. And this is the
21 packaging for the two projectiles that I collected from
22 Dr. Durso at the autopsy. And this is an evidence label
23 with clothing listed on it that ---

24 Q And how do you know those are what you say they are?

25 A Because I wrote it on the evidence label.

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1 Q And do you do that every time you collect something?

2 A Yes. It -- if we collect evidence and put it -- and
3 turn it in, we'll write it on the evidence label.

4 Q And your signature is on all those items?

5 A Yes. It -- on these two, not this one.

6 Q Okay. And do all of those items appear to be in the
7 same state as when you collected them, as far as 71 ---

8 A I'm going to say ---

9 Q --- and 72?

10 A --- no, sir. Because it's been opened by a DNA
11 analyst.

12 Q How do you know that?

13 A Because they sealed it at the bottom. You can see
14 where I sealed it here. And they didn't break my seal.
15 But they opened it here at the bottom. And then, after
16 they were through processing it, they resealed it.

17 Same thing with the projectiles. My seal remained
18 unbroken. And whenever they were processing it, they --
19 whenever they were done, they resealed it.

20 Q And I know we covered this already. But what did
21 you do with those items after you collected them?

22 A Packaged them into these envelopes and turned them
23 in to evidence.

24 Q And why do you do that?

25 A For them to go anywhere else or to even remain

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1 secured, they have to be turned in to evidence and
2 property. It's our secure location at our headquarters
3 where chain of custody is kept. So we can track -- once
4 it -- whenever we collect something, then we keep a chain
5 of custody of that, whether it's a paper chain that we
6 write stuff down on; or, whenever it's turned in to
7 evidence, that they enter it into our database-management
8 system and it's given a bar code.

9 Each item is given a bar code. And then, whenever
10 something is checked out, it's scanned with a bar code
11 scanner to that person. Each person has their own bar
12 code. And so they're scanned. And so anytime it goes
13 between individuals, after that it's scanned.

14 Q And did you tamper with those items prior to
15 collecting them in any way?

16 A No, I did not.

17 Q Okay.

18 MR. MCGLOTHIN: At this time we'd move State's 70
19 into evidence.

20 THE COURT: Any objection?

21 MS. PINNOCK: I'm sorry. It's 75 ---

22 MR. MCGLOTHIN: It's just the box.

23 MS. PINNOCK: No objection, Your Honor.

24 MR. MCGLOTHIN: Thank you.

25 THE COURT: All right. That will be entered without

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1 objection.

2 (Whereupon, State's Exhibit 70 was entered into
3 evidence.)

4 MR. MCGLOTHIN: Beg the Court's indulgence for just
5 a moment.

6 (Off the record briefly.)

7 Q Thank you, Investigator Bouknight. If you'd please
8 just answer any questions the defense may have.

9 A Yes, sir.

10 MS. PINNOCK: Please the Court, Your Honor?

11 THE COURT: Yes.

12 CROSS-EXAMINATION

13 BY MS. PINNOCK:

14 Q Investigator, you work for Richland County, right?

15 A (No audible response.)

16 Q You work for Richland County Sheriff's Department?

17 A Yes, ma'am, I do.

18 Q And when you respond to scenes, it's at the request
19 of investigators on cases, right?

20 A Not all the time. No, ma'am. Usually, it could be
21 a -- a deputy can ask me to respond. I have responded to
22 requests of the coroner's office before or as a follow-up
23 to a case that I'm involved in.

24 Q Okay. But there's a purpose for you to show up
25 somewhere?

CROSS-EXAMINATION BY MS. PINNOCK - HAROLD BOUKNIGHT 256

1 A Yes, it is.

2 Q And when you get there, you have certain things that
3 you are asked to do or that you're following up on?

4 A Yeah. It would be one, the other, or both.

5 Q Okay. And I want to start with the -- you attended
6 the autopsy with Mr. Turner?

7 A Yes, ma'am.

8 Q And you mentioned that you did GSR kit on his hands?

9 A Yes, ma'am.

10 Q Can you explain why you do that?

11 A Because gunshot residue is fragile evidence. And if
12 -- especially if the -- it's a gunshot wound or gunshot
13 victim, we will take it. Because at autopsy, that's
14 pretty much our last chance to collect any evidence
15 before the body goes to wherever it's going, funeral home
16 or what have you. And gunshot residue can show us some
17 things. Mainly, it just -- if someone was within the
18 vicinity of a firearm being discharged.

19 Q Okay. So that's not something you would test for
20 that was in a stabbing case?

21 A Not -- unless we had evidence that someone did fire
22 a gun, like fired cartridge casings at a scene, we
23 typically wouldn't collect gunshot residue from a
24 stabbing victim.

25 Q Okay. And it's a simple test: sticky paper on the

CROSS-EXAMINATION BY MS. PINNOCK - HAROLD BOUKNIGHT 257

1 front and back and ---

2 A It's ---

3 Q --- then it's submitted for testing, right?

4 A It's tabs that come from a manufacturer. They
5 supply us with their sticky tabs. And I can't remember
6 at what point it switched over. But now we only have two
7 that are just left hand and right hand.

8 I can't remember if these were the four tabs, where
9 it was left back, left palm, right back, right palm. And
10 then, those are forwarded to SLED for their -- to do
11 trace analysis on.

12 Q And when you're -- when there's an investigation
13 going on, you know, you respond to a scene, let's say, on
14 Monday. If, on Wednesday, you know, the deputy or the
15 investigator or something comes up that you need to look
16 back into, look further into, you can still go back out
17 and process -- further process a scene, right?

18 A It depends on the scene.

19 Q Well, let's say it's a car.

20 A If it's car?

21 Q Uh-huh.

22 A Yes, ma'am. Depending on what we're looking for,
23 then, yes, ma'am. We typically could go back out and
24 reprocess something. But if it's something that we've
25 swabbed for DNA, we're not going to be able to process it

REDIRECT EXAMINATION BY MR. MCGLOTHIN - HAROLD BOUKNIGHT 258

1 for latents because latent prints are 99 percent water.

2 Q Okay.

3 A So whenever -- if you swab those, it's going to get
4 rid of them.

5 Q Let me just clarify. If you're looking for a shirt,
6 you can go back three days later and look for a shirt?

7 A Yeah. We can go search for something.

8 Q Okay.

9 MS. PINNOCK: Beg the Court's indulgence.

10 (Off the record briefly.)

11 MS. PINNOCK: Thank you, Your Honor. No further
12 questions.

13 THE COURT: Yes, sir.

14 MR. MCGLOTHIN: Briefly, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. MCGLOTHIN:

17 Q Lt. Bouknight, defense asked you about going back
18 out to a scene. Is that always -- are you always going
19 to be fruitful in finding items when you go back out to a
20 scene?

21 A No, sir. It depends on the nature of a crime scene:
22 where it's located; how dynamic the scene could be; you
23 know, if the scene has been secured if we knew about it;
24 if we'd released a scene. It -- weather conditions;
25 something can be washed away.

RE CROSS-EXAMINATION BY MS. PINNOCK - HAROLD BOUKNIGHT 259

1 Q Okay. So part of the reason you -- things could no
2 longer be there if you went acknowledge later on; is it
3 fair to say?

4 A Correct.

5 Q Thank you. Nothing further.

6 MS. PINNOCK: Your Honor, briefly?

7 THE COURT: Yes, ma'am.

8 RE CROSS-EXAMINATION

9 BY MS. PINNOCK:

10 Q If you have a car in an impound lot, that's a
11 secured scene, right?

12 A Yes. The -- our compound is secured.

13 Q Right. So you could go back out two years later and
14 look inside this car, right?

15 A Yes, we could.

16 MS. PINNOCK: Thank you, Your Honor.

17 MR. MCGLOTHIN: Nothing further.

18 THE COURT: All right. You may step down. Any
19 objection to this witness being excused?

20 MS. PINNOCK: No, Your Honor.

21 (Whereupon, the witness exited the witness stand.)

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

23 (Whereupon, a bench conference was held off the
24 record in the presence of the jury, but out of the
25 hearing of the jury.)

1 THE COURT: All right. Ladies and gentlemen of the
2 jury, it is about 12:25. We are going to take a break --
3 lunch break right now. And I'm going to have you all
4 come back at 2:30. So it's -- that'll give you time to
5 get out of the building, get to your car, coming back --
6 get -- because it takes a minute. I know you all are
7 across the street.

8 So we will start back at 2:30. Please do not
9 discuss the case. As I have stated to you, please do not
10 do any independent research, no social media/networking
11 regarding anything in the case. We will see you at 2:30.
12 And have a great lunch. Thank you.

13 (Whereupon, the jury exited the courtroom at 12:25
14 p.m.)

15 (Off the record briefly.)

16 THE COURT: All right. Two-thirty?

17 MS. SAMPSON: Your Honor, if you want -- I don't
18 know if you want to take up the phone call, since we have
19 a longer lunch ---

20 THE COURT: Well, we ---

21 MS. SAMPSON: --- if you want ---

22 THE COURT: --- can do ---

23 MS. SAMPSON: --- to do that.

24 THE COURT: --- that now ---

25 MS. SAMPSON: Not now ---

1 THE COURT: --- if you all ---

2 MS. SAMPSON: --- but I ---

3 THE COURT: --- want ---

4 MS. SAMPSON: --- meant ---

5 THE COURT: No. We can do it now if you want.

6 MS. SAMPSON: Okay. I didn't know if you want to do
7 it now or ---

8 THE COURT: Unh-unh.

9 MS. SAMPSON: --- later.

10 THE COURT: That's fine. We can. I think I've got
11 everything that I need. I've had a chance to read over
12 everything.

13 MS. SAMPSON: You have or you haven't?

14 THE COURT: I have.

15 MS. SAMPSON: Okay.

16 THE COURT: The cases.

17 MS. SAMPSON: I'm sorry.

18 THE COURT: So I'll be glad to -- it is Ms.
19 Eigenbrot's motion. I think you put the motion on the
20 record and she asked for time to respond. So I'll give
21 her a chance to respond and then give you a chance to
22 respond.

23 MS. EIGENBROT: Yes, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. SAMPSON: Thank you, Your Honor. May it please

1 the Court. I have provided to Your Honor a memorandum in
2 support of the introduction of the phone calls.

3 But basically, Your Honor, it's my understanding
4 they're objecting to -- twofold. But the problem that I
5 foresee is that it doesn't violate any -- any rules that
6 are in place. There's a federal law, and I gave it to
7 Your Honor, that is cited by South Carolina and by the
8 federal courts that there is an exception for recording
9 calls if it's done by law enforcement. It doesn't say
10 anything that it has to be done for the safety of
11 anybody.

12 It is literally there is an exception under the
13 federal statute. Title 3 is the statute. It's 18 U.S.C.
14 Section 251 2(c), which says that law enforcement is
15 allowed to be -- to audiotape and -- any phone calls.

16 The courts have looked at this when it -- in terms
17 of when it talks about jail calls and specifically said
18 that it's not an unreasonable search and seizure, more
19 specifically because it tells you that that's what
20 they're doing.

21 In the cases that they quoted and gave to Your
22 Honor, the person on the call had no idea that they were
23 being recorded. In this particular case, not only is the
24 defendant told he's recorded; the person he calls is told
25 they're recorded. So both parties know the calls are

1 being recorded.

2 They talk about this being a First Amendment
3 violation or a violation of his right to free speech.
4 But there -- free speech isn't unfettered. The courts
5 have held that you can limit free speech, especially when
6 someone's incarcerated. Free speech has time, place, and
7 location restrictions. That's all that the Court -- this
8 has done.

9 They're not restricting that he can make calls.
10 They're allowing them to be recorded. I think they're
11 talking -- some of the things that may -- Your Honor may
12 be concerned with is the fact that they're saying that we
13 have the ability to listen to the calls.

14 But that's not what happened in this case. In fact,
15 what happened in this case is Investigator Truluck
16 listened to those calls and provided them to everyone.
17 So their -- their problem with it maybe being a Rule 5
18 violation, it was provided in the same manner that all
19 the rest of the discovery is provided and that
20 Investigator Truluck got it and provided it to us.

21 I provided the Court with case law that supports the
22 government being able or any law enforcement agency being
23 able to record these calls and it not being a violation
24 of Fourth Amendment. In fact, it -- *United States v.*
25 *Jacobsen, United States v. Castellanos* are the two major

1 cases. But both of those allow for this. They
2 specifically allowed for this. And it wasn't a right-to-
3 privacy violation because all parties are told.

4 And lastly, Your Honor, I didn't put this in my
5 memo. But I would add to Your Honor that there's case
6 law -- and you, I'm sure, are aware -- that once there's
7 a third party involved, you lose some right to your
8 expectation of privacy. In this case AmTel is the third
9 party. They record all of these. They could provide it
10 to whomever they want to.

11 When the call is given, it says: "This call is
12 recorded and monitored." It doesn't say by AmTel. It
13 doesn't say by who. It could've been recorded by Your
14 Honor for all he knew. And he made the call anyway.

15 They may not like it because he's incarcerated at
16 the time he's making these calls. But that is the law.
17 I don't get to change the law, and neither do they. That
18 is the law as we have it.

19 And therefore, Your Honor, based on the case law
20 that I've provided to Your Honor, based on the fact that
21 there is no South Carolina case that they can cite that
22 says that this is not appropriate, the only case law that
23 I could find -- I gave to Your Honor was *State v. Martin*.
24 And it's a not-reported case from 2017 by the Court of
25 Appeals. And it was this exact same thing. And the

1 Court allowed it.

2 Now, I -- I understand that that doesn't have
3 precedential -- precedential value -- precedential value.
4 But in looking at that, it gives you the exact case law.
5 And it's exactly on point to this case. And based on all
6 of that, Your Honor -- and again, the fact that we didn't
7 collect the calls; law enforcement did -- and that it
8 doesn't have to be for the purposes of security but
9 simply done by law enforcement, period, I think the calls
10 should be admitted.

11 THE COURT: All right. Real quick, the -- you
12 didn't address the equal-protection argument. They're --
13 it -- they -- they also said that it's a violation of his
14 -- under equal protection because he's detained.
15 Detainees, I think, is what they're saying versus people
16 who are bonded out. I'm not sure if ---

17 MS. SAMPSON: Well, and, Your Honor, he has -- he
18 has other methods of doing this. He can talk to them in
19 person. He can write letters. I guess, at -- at -- at
20 that point when he was doing this, he'd just gotten
21 there.

22 But there are other means for him to access and make
23 -- he can talk to them in person. Those aren't monitored
24 at all, if that's what they're worried about. If it's
25 that he can't communicate in order to further his

1 defense, those calls aren't monitored and they aren't
2 listened to. We're not even allowed to do that.

3 If we even hear or get the thought that it's a --
4 it's a -- as Truluck told you -- Investigator Truluck
5 told you, if we even get the thought that it might be an
6 attorney, we have to cut the call off. There is case law
7 on that.

8 So he has the same right to speak to people as
9 anybody else on the street. He just doesn't have access
10 to those people unless they come to the jail for him to
11 talk to them. That is part of being incarcerated.

12 Unfortunately, he couldn't make bond or he's charged
13 with a crime that bond wasn't allowed. He did eventually
14 get bond set. He just can't make it. That,
15 unfortunately, is part of being in jail.

16 I mean, he doesn't get the same -- he doesn't have
17 some of the same other rights that someone outside of the
18 jail would. For example, he can't access certain
19 witnesses because he can't go get them. That's not an
20 equal-protection violation. That's just, unfortunately,
21 part of the system when you cannot make bond.

22 The fact that he can't make a call that's not
23 recorded does -- is not an equal-protection violation.
24 It is a manner of how our system works.

25 THE COURT: All right. Thank you.

1 MS. EIGENBROT: Thank you, Your Honor. May it
2 please the Court. Your Honor, as to -- as to the
3 solicitor's first point about this not violating any
4 federal laws, the rule that the solicitor is citing to is
5 essentially a federal wiretapping allowance. There's
6 still things that they're required to do in order to
7 listen in on people's conversations. That's besides the
8 point.

9 I'm not -- and I'm not arguing that the jail or
10 AmTel is not allowed to record and/or monitor these phone
11 calls. That has been litigated, Your Honor, recognizing
12 that that is in -- that the recording of those phone
13 calls is needed for the safety and assurances of the
14 detention center.

15 Again, it goes back to solicitors and law
16 enforcement having direct access to these phone calls
17 without any other further protections in place. As I
18 stated the -- the before, Mr. White stands in -- in the
19 detention center as an innocent individual. And he still
20 has constitutional rights. While limited and curtailed
21 by his incarceration, that doesn't mean they disappear
22 completely.

23 And when I cited to the *Carpenter* case in my memo,
24 that's kind of what I'm referring to. That case said
25 that future courts should consider the nature of the

1 particular documents sought and limitations on any
2 legitimate expectation of privacy concerning their
3 content -- content.

4 This Court also cautioned government agents against
5 uncritically extending this third-party doctrine or the
6 consent or law enforcement exception to cases involving
7 emerging technology. And again, Your Honor, that case
8 was referring to cell phone-location data. Essentially,
9 when we use our cell phones, the cell phone companies are
10 storing our data. And law enforcement was accessing that
11 without search warrants or any other, again, protections.

12 And essentially, that's what I'm analyzing or
13 analogizing the jail phone calls to at this point, Your
14 Honor. As they -- that technology has grown and has
15 become digital phone calls that may have access to
16 without the protections of search warrants, without the
17 protections of anything else, that it needs to be look at
18 -- looked at again.

19 And essentially, they -- they're not even naming any
20 reasonable suspicion as to why they're listening or
21 further investigating these phone calls, aside from the
22 fact that, "Oh, they're arrested; I'm going to listen to
23 their phone calls because they might say something."

24 And that kind -- it just goes beyond the scope of
25 what some of our privacy rights entail. And what I

1 mentioned prior in my arguments is Mr. White being able
2 to use those jail phone call -- jail phones to
3 communicate with people on the outside is indispensable
4 for him. Being incarcerated is, for lack of a better
5 word, awful.

6 You're sitting there with other individuals charged
7 with crimes. He wants connection with the outside. He
8 should be able to have that connection without the ear of
9 the solicitor and law enforcement constantly listening.

10 And again, in *Carpenter* one of the things they
11 brought up was the fact that we can't function in society
12 without cell phones. So is it fair to allow law
13 enforcement to just get that data without going through
14 the appropriate constitutional steps, when we need to use
15 our cell phones? And the answer to that was no. And
16 they required that.

17 And Ms. Sampson talked about the alternatives. And
18 again, I mentioned in the memorandum why those
19 alternatives are not to the same level as making phone
20 calls. I'm not going to reiterate all of those things.
21 But that is one of the purposes -- or one of the reasons
22 I believe that this extends -- it goes beyond what they
23 should be allowed to do, Your Honor.

24 And as far as the right to privacy, Your Honor, one
25 of the things I want to also mention is the fact that

1 there are phone calls, as the state mentioned, that he is
2 allowed to have some type of privacy right or there is a
3 reasonable expectation of privacy. If he were to be
4 allowed to call my office, they would not be allowed to
5 listen to that conversation.

6 But he's in the same situation that he is when he
7 makes any other phone call, aside from the fact that he's
8 calling me. He's in the same -- he's in the same phone
9 bank in the same dorm, making the same -- standing in the
10 same place that he'd be making any other phone calls to
11 anybody else. And the fact is if he can reasonably
12 expect to call me with privacy and he's sitting in a dorm
13 full of other inmates, then we can extend that reasonable
14 expectation of privacy to him making other phone calls.

15 Again, when it comes to the recording and the
16 consent issue, I would just go back again to the fact
17 that there's no other way of communication that quickly.
18 He can -- sure, he can write letters. But again, the
19 jail can still monitor those letters.

20 The in-person visitations, those are monitored as
21 well. Those individuals sit at booths. There's a C.O.
22 that sits right there and listens to the entire
23 conversation.

24 And so again, Your Honor, I -- I think the -- the
25 consent issue is simply that he has no other choice but

1 to use these phones. So is it really consent when it's
2 the only option they have to communicate with family and
3 friends? And remaining and keeping those connections,
4 Your Honor, is part of the -- the rehabilitation and what
5 they need in order to enter the community again.

6 So those are just my responses. Everything else, I
7 believe, was laid out in the memorandum, as far as the
8 constitutional arguments and the equal protection, Your
9 Honor.

10 THE COURT: All right.

11 MS. SAMPSON: Your Honor, if I may, just one thing
12 she said?

13 THE COURT: Yes, ma'am.

14 MS. SAMPSON: I just need to cover one thing she
15 said in that -- she talked about the communication -- he
16 shouldn't expect privacy because he can communicate with
17 her in privacy but not others. The only reason hers is,
18 is because there's a privilege that is attached. It's
19 not some separate privacy. It's that attorney-client
20 communications are privileged.

21 We couldn't listen to that in this courtroom. It
22 has nothing to do with it being on the phone. It's that
23 conversation can't be listened to at all. What she's
24 talking about in terms of the phone call, he can choose
25 what he talks about on the phone call. He doesn't have

1 to talk about his case.

2 If he wasn't talking about his case, we wouldn't be
3 having this conversation. He can talk about baseball.
4 He can talk about anything else. He can talk to the
5 outside world about anything else. We wouldn't be
6 talking about this. We wouldn't be trying to introduce
7 the calls.

8 But once you choose in that call to talk about your
9 case, that's where you come into some problems. And
10 that's what -- they're recorded for everything. But
11 that's why it's trying to be introduced.

12 And again, Your Honor, we didn't have anything to do
13 with this. Investigator Truluck did this. And it's a
14 choice. We're not saying he can't talk on the phone.
15 It's what he can talk about.

16 It's whether it can be monitored. And the case that
17 she cites -- and then I'm going to sit down -- that she
18 just read to you about *Carpenter*, it was talking about
19 whether your location was private and whether your
20 movement was private and whether a person using their
21 phone knew that. People just using their phone,
22 especially when this case was done, did not know that
23 necessarily.

24 He knows his calls are being recorded because he's
25 told more than once. So it's -- it's misnomer to say

1 that *Carpenter* stands for the understanding that you
2 can't -- it would be a violation of his rights to do this
3 of his right to privacy, when it's not. In this case
4 they're talking about your right to privacy of your
5 movements.

6 Everybody knows where he is. This isn't about his
7 movements, as it was in *Katz* and dealing with your --
8 your GPS and your phone because it was telling people
9 where you were, not what you were saying. And you had no
10 idea. Our case is different and can be differentiated
11 between this case.

12 THE COURT: All right. All right. Well, I have
13 taken a look at all the cases that you all have cited.
14 I'm pretty familiar with *Carpenter* because I've signed
15 search warrants probably every day for phones.

16 But I -- in looking at -- and -- and I'll try to
17 address -- I think there was -- there were four different
18 reasons why they're saying that the calls are not
19 admissible. The first deal with, I guess, the Sixth
20 Amendment and the 5(b)(2) South Carolina Rules of Civil
21 -- I'm Rules of Criminal Procedure 5(b)(2) regarding
22 disclosure.

23 Just to address that issue, I -- I think -- or I
24 find that the solicitor's office in this case received
25 the -- the solicitor's office received the -- the phone

1 records and, I believe, immediately turned them over in
2 the course of -- of turning over discovery as it normally
3 would. And for that reason, I do not find that there is
4 a violation under Rule 5(b)(2).

5 The events that -- my understanding, from testimony,
6 is that the investigating officer gave the calls to the
7 solicitor's office with no request by the prosecution.
8 And the prosecution disclosed, pursuant to *Brady* and
9 *Riddle* and all that other Rule 5 -- disclosed the phone
10 calls to the defense. So I do not find that it's a
11 violation under 5(b)(2).

12 Equal protection -- I think Ms. Sampson is correct
13 when she says obviously the -- the protections that
14 someone has in the jail versus a class of -- of persons
15 that are not detained are limited by virtue of that
16 person being detained. And so I do not find that the --
17 and he does have access to use the phone.

18 The question is: Does he have access to, I guess,
19 discuss what he wants to discuss? For purposes of equal
20 protection, I do not find that this is a violation of his
21 equal-protection rights.

22 In considering the Fourth Amendment, I have taken a
23 look at the Omnibus Crime Control and Safe Streets Act,
24 which prohibits the interception of any wire, oral, or
25 electronic communication in the absence of a court order

1 in law -- court order, law enforcement, and consent
2 exception applies to the interception of telephone
3 recordings.

4 So here, they said law enforcement could not do it
5 without a court order. But there are two exceptions.
6 And one of those exceptions that is -- is stated and
7 subsequently in court cases is the exception for law
8 enforcement to record conversations or to review recorded
9 conversations kept in an ordinary course of business that
10 were -- were monitored as a -- and here, it says a
11 security measure.

12 The second exception was consent. And it states
13 that an inmate using a phone -- and I'm actually looking
14 at that. I did look at that *Martin* case, although it's
15 unpublished. It's a Court of Appeals case. And it's --
16 I think it's 2017, so it's pretty recent.

17 And in that case, they said -- that was a SCDC case,
18 where the phones were being recorded and, once again, it
19 says that you're -- because the inmates are put -- put on
20 notice that the call is being monitored and they continue
21 to talk, that they are consenting to the conversation
22 being monitored and recorded.

23 Also, in looking at the case in *Katz*, the two-prong
24 test, where it talks about the subjective or objective
25 expectation of privacy in prison phone calls. In here --

1 in *Katz* it said because the defendant was placed on
2 notice of -- defendant was placed on notice that the
3 calls are being monitored, that the defendant did not --
4 not have his subjective or -- or -- nor an objective
5 expectation of privacy because he's been placed on notice
6 that the calls are being recorded.

7 For those reasons, I am going to -- this Court is
8 going to allow the calls to come in. I am not addressing
9 the issue regarding the solicitor's office because this
10 does not apply to the calls from the solicitor's office.
11 I guess we'll have to deal with that issue at a later
12 date. But it should be -- we'll -- well, we will see
13 what -- if the Court does not make a decision regarding
14 that before then.

15 But I think, because of the law enforcement
16 exception, that these calls are -- will be -- that these
17 calls -- I find that these calls will -- are admissible
18 because of the law enforcement exception and because of
19 the consent exception. This Court is not addressing the
20 issue as to the calls being monitored by the solicitors,
21 because it's not applicable to this case.

22 All right.

23 MS. SAMPSON: Thank you, Your Honor.

24 MS. EIGENBROT: Thank you, Your Honor.

25 THE COURT: Thank you. All right. So we'll see you

1 all at 2:30.

2 MS. SAMPSON: Thank you, Your Honor.

3 THE COURT: Uh-huh.

4 (Off the record from 12:47 p.m. until 2:40 p.m.)

5 THE COURT: All right. We ready?

6 MS. SAMPSON: Yes, Your Honor. Before we bring the
7 jury back, there's just a -- one housekeeping matter.
8 The defense and I have entered into some stipulations. I
9 have made them written. And I was going to make them a
10 Court's exhibit.

11 THE COURT: All right.

12 MS. SAMPSON: Basically, the defense has stipulated
13 that chain of custody on the buccal swab of the victim,
14 the fingerprint card of the victim, the tissue samples of
15 the victim, and the fingerprint collected from the van
16 does not have to be -- the chain of custody on those
17 items does not have to be proven ---

18 THE COURT: Okay.

19 MS. SAMPSON: --- for their admissibility; and then,
20 that we did not need to have a hearing about the out-of-
21 court identifications made by two -- two people who
22 actually knew the defendant for years prior to this.

23 THE COURT: All right. So is that correct?

24 MS. EIGENBROT: That's correct, Your Honor.

25 THE COURT: All right. So we're going to mark that

1 as State's exhibit ---

2 MS. SAMPSON: Court's exhibit.

3 THE COURT: Okay. Court Exhibit?

4 THE COURT REPORTER: Your Honor, this will Court's
5 Exhibit 3.

6 THE COURT: All right.

7 (Whereupon, Court's Exhibit 3 was marked for
8 identification.)

9 (Off the record briefly.)

10 (Whereupon, State's Exhibits 73 through 77 were
11 marked for identification.)

12 THE COURT: Do you all want me to publish this to
13 the jury when, now?

14 MS. EIGENBROT: I don't think it needs to be ---

15 MS. SAMPSON: It doesn't ---

16 MS. EIGENBROT: --- published ---

17 MS. SAMPSON: --- need to be ---

18 MS. EIGENBROT: --- to the jury, Your Honor. I
19 think ---

20 THE COURT: Okay.

21 MS. EIGENBROT: --- Ms. Sampson just wanted to make
22 sure that that understanding ---

23 THE COURT: Okay.

24 MS. EIGENBROT: --- was placed ---

25 THE COURT: I just ---

1 MS. EIGENBROT: --- on the record.

2 THE COURT: --- wanted to make sure. I didn't --
3 yeah. Okay. That's what I was thinking. Okay. All
4 right.

5 (Off the record briefly.)

6 MS. SAMPSON: That's it, Your Honor.

7 THE COURT: All right. We ready to -- we ready to
8 bring ---

9 MS. SAMPSON: The state's ready.

10 THE COURT: Ready to bring them in?

11 MS. EIGENBROT: We're ready, Your Honor. Thank you.

12 THE COURT: All right.

13 (Off the record briefly.)

14 (Whereupon, the jury entered the courtroom at 2:44
15 p.m.)

16 THE BAILIFF: The jury is present, Judge.

17 THE COURT: All right. Ladies and gentlemen of the
18 jury, I hope you had a good lunch. At this time we will
19 continue with the state's case. I'll ask the state to
20 call their next witness.

21 MR. PRATT: The state calls Randell Wilson.

22 (Whereupon, the witness came forward.)

23 RANDELL WILSON, having been first duly sworn,
24 testified as follows:

25 DEPUTY CLERK OF COURT: Thank you. Have a seat in

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 280

1 the witness stand.

2 THE BAILIFF: Right here. Uh-huh.

3 THE WITNESS: (Complied.)

4 DEPUTY CLERK OF COURT: State your name for the
5 record and spell you first and last name for the court
6 reporter, please.

7 THE WITNESS: Randell Wilson. First name, R-a-n-d-
8 e-l-l.

9 DEPUTY CLERK OF COURT: Last name?

10 THE WITNESS: Last, W-i-l-s-o-n.

11 DEPUTY CLERK OF COURT: Thank you.

12 DIRECT EXAMINATION

13 BY MR. PRATT:

14 Q Good afternoon, Mr. Wilson. Can you please tell the
15 jury where you live?

16 A [REDACTED] Woodford Road.

17 Q And how long have you lived there?

18 A About four years.

19 Q And were you living there on December 8th, 2016?

20 A Yes, sir.

21 Q And are you currently employed?

22 A No, sir. Stay-at-home dad.

23 Q Okay. I want to direct your attention to the
24 morning of December 8th, 2016. Do you recall that
25 morning?

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 281

1 A Well, not really. But I -- I woke up, probably not
2 that -- earlier that morning because we heard some
3 gunshots and kids was getting up. So, you know, we got
4 babies. You got to be -- be cautious.

5 Q So it'd be fair to say you remember some things, but
6 some things you might not remember so well?

7 A Yes, sir.

8 Q Now, you said you heard gunshots. Do you remember
9 or recall about what time you heard those?

10 A No, sir.

11 Q Do you know if it was in the evening? Was it later
12 in the day?

13 A No, sir. I think it might've been -- I don't know
14 -- maybe the evening.

15 Q Maybe the evening?

16 A Maybe.

17 Q But you're not sure?

18 A Not sure.

19 Q Okay. Did you see anyone shooting?

20 A No, sir, not at all.

21 Q Okay. I want to ask you: You do have a -- a prior
22 record; is that correct?

23 A (Gestured.)

24 THE COURT REPORTER: Sir, I ---

25 A Yes, sir.

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 282

1 THE COURT REPORTER: I just -- I need you to answer
2 out loud, instead of nodding your head. Thank you.

3 THE WITNESS: Okay.

4 Q And that would consist of a burglary conviction from
5 2011?

6 A Yes, sir.

7 Q And two counts of pointing and presenting in 2014?

8 A Yes, sir.

9 Q And a malicious injury to personal property in 2014?

10 A Yes, sir.

11 Q And another burglary in 2014?

12 A Yes, sir.

13 Q Okay. Now, do you happen to know a person by the
14 name of Brian White?

15 A Yes, sir.

16 Q And how do you know them?

17 A Went to school together.

18 Q And what school was that? Was it elementary school?
19 middle school?

20 A I think we might've went to middle school and high
21 school together.

22 Q Middle school and high school?

23 A Southeast Middle and, I think, Lower Richland High
24 School.

25 Q Okay. So how long would you say you've known him?

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 283

1 A Probably for a while.

2 Q Over ten years?

3 A Probably say that.

4 Q And have you ever talked to him before?

5 A Well, not after high school.

6 Q Not after high school?

7 A No, sir.

8 Q Did you ever have any communications with him ever
9 after high school?

10 A No, sir. I might've seen him walking to the store
11 maybe once or twice ---

12 Q Okay.

13 A --- and spoke. That's it.

14 Q Okay. If you saw him, would you notice him?

15 A Oh, yes, sir.

16 Q Do you see him in this courtroom today?

17 A Yes, sir.

18 Q Can you identify what he's wearing and where he's
19 sitting?

20 A White shirt, collar, button up, glasses.

21 Q Okay.

22 MR. PRATT: Let the record reflect that the witness
23 has identified the defendant.

24 THE COURT: Yes, sir.

25 MR. PRATT: Thank you.

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 284

1 Q I want to ask you: Do you see -- do you recall
2 seeing Brian on the morning of December 8th, 2016?

3 A Well, I seen him -- I seen him that day.

4 Q You see him that day?

5 A Yes, sir.

6 Q Do you remember talking to him?

7 A Just speaking to him and that's it.

8 Q Okay. Do you remember what you talked about?

9 A I probably asked him how he was doing and just
10 regular old talk and that's it. And just he went on his
11 way; I went my way.

12 Q Okay. Do you recall if you talked about the
13 shooting?

14 A No, sir.

15 Q Do you recall if that was the last time you spoke to
16 Brian?

17 A Yes, sir. That's the last time I spoke to Brian.

18 Q Okay. Do you also happen to know a person by the
19 name of Samuel Knowles?

20 A No, sir.

21 Q No?

22 A Never heard of him.

23 Q Is your home near Patricia Drive?

24 A Yes, sir.

25 Q Do you know if it's near [REDACTED] Patricia -- Patricia

1 Drive?

2 A Depends on where [REDACTED] [sic] is located.

3 Q Okay.

4 A I don't know the address.

5 Q Just a second.

6 (Off the record briefly.)

7 MR. PRATT: May I approach?

8 THE COURT: Yes.

9 Q I'm showing you what's been marked as State's
10 Exhibit 5. Do you recognize what that is?

11 A What, the Ford over here?

12 Q (Indicated.)

13 A Okay. Yes, sir.

14 Q And what is that?

15 A That's off Patricia Drive, I guess, right off
16 Patricia Drive.

17 Q Do you see your home on that map?

18 A Almost exactly behind my house almost.

19 Q Okay. There is a small red dot pin on the map.

20 A Yeah.

21 Q Is that ---

22 A Yes, sir.

23 Q --- near where you live?

24 A Yes, sir.

25 Q Okay. No further questions. Please answer any

DIRECT EXAMINATION BY MR. PRATT - RANDELL WILSON 286

1 questions the defense might have for you.

2 A Yes, sir.

3 MR. MARSH: Your -- Your Honor, we don't have any
4 questions for Mr. Wilson.

5 THE COURT: All right, sir. You may step down. Any
6 objection to this witness being excused?

7 MR. MARSH: No, Your Honor.

8 THE COURT: All right. You're free to leave, sir.
9 Thank you.

10 THE WITNESS: Thank you.

11 (Whereupon, the witness exited the witness stand.)

12 (Off the record briefly.)

13 THE COURT: Call your next witness.

14 MS. SAMPSON: Thank you, Your Honor. The state
15 calls Crystal Posey.

16 (Whereupon, the witness came forward.)

17 CRYSTAL POSEY, having been first duly sworn,
18 testified as follows:

19 DEPUTY CLERK OF COURT: Thank you. Have a seat in
20 the witness stand, please.

21 THE WITNESS: (Complied.)

22 DEPUTY CLERK OF COURT: State your name for the
23 record and spell it for the court reporter, please.

24 THE WITNESS: Crystal, C-r-y-s-t-a-l; Posey, P-o-s-
25 e-y.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 287

1 DEPUTY CLERK OF COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MS. SAMPSON:

4 Q Hey, Crystal.

5 A Hey.

6 Q You a little nervous?

7 A Well, a little.

8 Q Let me ask you: Do you -- do you often cry,
9 Crystal?

10 A Since all this, yeah.

11 Q Okay. So, Crystal, can you tell the jury a little
12 bit about yourself? Where do you work?

13 A I clean homes for a living. I'm over five apartment
14 complexes for Power Properties. It's off of Percival
15 Road. And I clean homes -- well, apartments -- move-
16 ins/move-outs for them.

17 Q And where do you currently live?

18 A I live in Elgin.

19 Q And does -- does anyone live with you?

20 A Yes, ma'am.

21 Q Who lives with you?

22 A My girlfriend, my daughter, and another roommate.

23 Q And who's your daughter?

24 A Shena Nicole Bryant.

25 Q Okay. I want to kind of talk to you a little bit

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 288

1 about December of 2016, okay? Where did you live then?

2 A [REDACTED] Patricia Drive, [REDACTED].

3 Q Okay. And where were you working back then?

4 A I was a manager for four years at Hardee's on
5 Garners Ferry Road for Ms. Diane Knotts.

6 Q Okay. And that's where you were working back then?

7 A Yes, ma'am.

8 Q And at that time who lived with you in the trailer?

9 A Me; my daughter, Nicole; Brian lived there for a
10 year. Him and Nicole separated six months. And then he
11 moved out. And Scott was doing his thing for almost a
12 year.

13 Q Okay.

14 A And ---

15 Q Did Scott live there with you all?

16 A Yeah, he did. And we lived there for several years.

17 Q Okay. And do you see Brian White in the courtroom?

18 A Yes, ma'am, I do.

19 Q Can you tell us what he has on?

20 A Yes, ma'am, I can. A white shirt and glasses.

21 Q Is he -- where is he sitting?

22 A He's sitting on the left-hand side of me.

23 MS. SAMPSON: Your Honor, at this time I'd ask that
24 the record reflect that she's identified the defendant.

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

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 289

1 Q Now, how long had you known James Scott Turner?

2 A Me and Scott, we went way back. We were together
3 almost eight years. When we went to file taxes, they
4 said we were common law. When all this happened, I
5 didn't even get a word where he was buried at.

6 Q Okay. But you'd known him for about eight years
7 before his death?

8 A Probably nine -- nine. Because we were together
9 eight. I knew him, like, a year before we actually got
10 together.

11 Q Okay. And what about Brian White? How long had you
12 known him?

13 A I had known Brian. He started working at Tokyo
14 Grill. My daughter was a manager at Tokyo Grill off of
15 -- right across from Garners Ferry Walmart. I'm not sure
16 the -- Patterson Road, I think. And he went in and
17 applied for a job. And my daughter actually hired him.

18 Q Do you remember how long they -- that you knew him
19 before this incident happened?

20 A No, ma'am.

21 Q That's fine. Did you know him longer or Mr. Turner
22 longer?

23 A Oh. Definitely Scott. I mean, we were together. I
24 mean, we were a couple. At -- we were almost like
25 husband and wife, just without papers.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 290

1 Q In fact, didn't Crystal [sic] sometimes call him her
2 stepfather?

3 A Yes, ma'am.

4 Q So I want to talk to you about December 7th of 2016,
5 so the day before. What did you do that day?

6 A The day before.

7 Q Because this went with -- from the 7th into the 8th.
8 So what were you doing on the 7th?

9 A On December the 7th, I was managing Hardee's, like
10 always.

11 Q Do you remember what time your ---

12 A Yes, ma'am ---

13 Q --- shift was?

14 A --- I do. My shift was from 2 to close.

15 Q So what ---

16 A And ---

17 Q --- time was closing?

18 A Close at 10. Well, lobby closes at 9; drive-
19 through, 10. I didn't get out till 11.

20 Q Okay. And ---

21 A Sometimes after.

22 Q Had you driven to work?

23 A No, ma'am. I have ---

24 Q How ---

25 A --- no license.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 291

1 Q How did you get to work that day?

2 A Scott, with my new car that I cosigned for.

3 Q So he took you to work?

4 A Yeah.

5 Q Okay. And what was supposed to happen when you got
6 off from work?

7 A He was supposed to be there to pick me up.

8 Q And did that happen?

9 A No, ma'am.

10 Q So what did you do when he wasn't there?

11 A First off, I cried. Because I'd been going through
12 it for a year. Okay? And then I asked a little coworker
13 could she give me a ride home, and she said yeah.

14 Q Okay. And did you try to call Scott?

15 A I did.

16 Q Did you reach him?

17 A No. He -- he would never reply to texts or answer a
18 call when he was high.

19 Q And so you thought that he was high?

20 A Yes, ma'am.

21 Q High on what?

22 A Crack. It'd been going on for a year. I had called
23 Richland County out to my address on another occasion.

24 But -- it was the -- that summer, the ---

25 Q Before this happened?

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 292

1 A Yes, ma'am. And he had come in on one of his
2 binges. And I was actually off from work, I think, that
3 day. And he was telling me get out the house.

4 Q And I don't want you to go into what he said. But
5 was it unusual for him to go missing? Is that what
6 you're telling us?

7 A No. It was not unusual at this point in time.

8 Q Okay. So when he didn't answer you on the phone or
9 anything that night ---

10 A I already knew.

11 Q Okay. And so what did you -- so you went home? You
12 had you coworker take you home?

13 A Yes, ma'am.

14 Q And what did you see when you got home?

15 A Well, first, I had to break in. Then, when ---

16 Q Why did ---

17 A --- I looked ---

18 Q --- you have to break in?

19 A Because I had no house key. It was on the car keys.

20 Q Okay.

21 A Okay?

22 Q And so you broke in?

23 A Uh-huh.

24 Q And what -- I'm sorry. You got to say "yes" or
25 "no."

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 293

1 A Yes, ma'am.

2 Q Okay. And what did you find once you got in your
3 home?

4 A Well, my bedroom's -- as soon as you walk in the
5 front door, my bedroom is on the right. And I
6 automatically look in my room. And my -- I think it was
7 a 45-inch flat-screen gone. I already knew.

8 Q So what did you think had happened to your TV?

9 A I already knew. Scott got it.

10 Q Okay. And what did you think he had done with it?

11 A Sold it or pawned it for drugs.

12 Q And had that happened before?

13 A Yes, ma'am.

14 Q Okay. So what did you do at that point?

15 A Started crying. Then I went and put my uniform in
16 the washer. Then I showered; done my normal routine.
17 And then I contacted my daughter and told her I needed
18 her at home.

19 Q And did she come home?

20 A Yes, ma'am.

21 Q Okay. And once she got home, who came home -- who
22 came to the home with her?

23 A My daughter, Brian, and two of his friends.

24 Q Okay. And where -- was Scott there at all?

25 A No, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 294

1 Q Okay. And once everybody's at your house, do y'all
2 talk about anything?

3 A We talk. I was crying. They was telling me it'd be
4 okay, Mom, you know, and things like that. Other than
5 that, there was nothing really said or anything. And
6 then Brian and his two friends left. Nicole stayed with
7 me.

8 Q Okay.

9 A And then me and Nicole talked for a little bit. And
10 then I went to bed, and she went to bed.

11 Q Was it -- was it fair to say that you were upset?

12 A Yes, ma'am, it was very fair to say that.

13 Q Could you tell if Nicole was upset?

14 A Nicole was upset, probably because of me.

15 Q And what about Brian? Could you tell if he was
16 upset?

17 A He was probably -- probably, I would say, angry.

18 Q Okay. And so did -- you went to bed?

19 A Well, I mean, not right then.

20 Q No. I'm saying at some point ---

21 A Yes ---

22 Q --- not ---

23 A --- ma'am.

24 Q And so ---

25 A You know, after you close, you got to unwind.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 295

1 Q Okay. So eventually, you go to sleep. That's all.

2 A Yes, ma'am.

3 Q All right. And at that point when you go to sleep,
4 is Scott there?

5 A No, ma'am.

6 Q Who's in the house when you go to sleep?

7 A Just me and my daughter.

8 Q Okay. So what happens next? How do you wake up?

9 A I wake up to gunshots.

10 Q And what do you do when you hear gunshots?

11 A I run to my front door. I open my front door.

12 Q And I'm going to stop you. When you going to the
13 front door, is Nicole there?

14 A When I go to my front door, I holler for Nicole.

15 And by that time I had done opened the front door and saw
16 the van driver-side window blown out.

17 Q And so the van is right -- is the van right in front
18 of your front door?

19 A Yes, ma'am.

20 Q Okay. And where is Nicole?

21 A She was in the very back room.

22 Q All right. So she's in the house?

23 A She -- yes, ma'am. She met me at the front door.

24 As I opened it, she was the -- when I hollered for her,
25 she was at -- come to the front door.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 296

1 Q She wasn't outside?

2 A No, ma'am.

3 Q Okay. Well, did you see anybody outside?

4 A No, ma'am. At that -- I mean, I heard the gunshots.
5 But I didn't see anyone.

6 Q Okay. Do you go outside at that point?

7 A I -- yes, ma'am.

8 Q And what did you see when you went outside?

9 A The driver side of the van was blew out. And, of
10 course, my daughter goes and opens the van door. And she
11 said, "Mom, step back. I do not want you to see this.
12 Go call 911 and go grab some towels."

13 Q And did you do that?

14 A Yes, ma'am, I did.

15 Q Okay. And the jury has already heard, but you
16 called 911?

17 A Yes, ma'am.

18 Q Okay. So that's you that they hear on the phone?

19 A Yes, ma'am. That's me.

20 Q And while you're on the phone with 911, what are you
21 doing?

22 A Just tripping. I'm, like, this can't be happening
23 to me.

24 Q Do you get the towel?

25 A I get the towels and ---

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 297

1 Q And ---

2 A --- give them to my daughter. She gets in the van
3 and puts them on his head to try to stop the bleeding.

4 Q And while this is ---

5 A But he ---

6 Q --- going on, do you see anybody else in the area?

7 A No, ma'am. No one.

8 Q All right.

9 A Me and my daughter -- just me and my daughter and
10 Scott.

11 Q And an ambulance comes?

12 A (No audible response.)

13 Q I just need you to say "yes" or "no." I'm sorry.

14 A Yes, ma'am.

15 Q All right.

16 A I'm sorry.

17 Q You're fine. You're fine. I'm going to try to get
18 you through this so we can stop ---

19 A Thank you.

20 Q --- okay?

21 Do police arrive?

22 A Yes, ma'am.

23 Q All right. And were you able to talk to police at
24 that point?

25 A I -- I did. I -- I knew I was in shock and I knew a

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 298

1 lot was going on. I was trying to call my boss at the
2 time and everything. But yes, ma'am.

3 Q Okay. And did you give them consent to search your
4 house?

5 A Yes, ma'am, I did.

6 Q Okay. Did you have any problems doing that? Did
7 you care if they ---

8 A No, ma'am.

9 Q --- searched?

10 And were you willing to talk to police?

11 A Yes, ma'am.

12 Q At some point they leave?

13 A Yes, ma'am.

14 Q Okay. Who's at the house once the police leave?

15 A Me and my daughter.

16 Q Okay. Is Brian there?

17 A No.

18 Q Do you talk to him at all? Do you talk to him?

19 A Do I talk?

20 Q Yes. After the shooting.

21 A No.

22 Q Okay. Do you know if Nicole ---

23 A Oh. Now, he -- I'm sorry.

24 Q That's okay.

25 A Because he did come to the house. And that's where

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 299

1 they arrested him for ---

2 Q I'm talking ---

3 A --- child ---

4 Q --- about before they show up.

5 A No -- no. He came back. He came to the house after
6 the shooting had happened. And then, the police pulled
7 up and said that they had a bench warrant for his ---

8 MS. PINNOCK: Your Honor, objection.

9 THE COURT: Hold on.

10 A --- arrest.

11 THE COURT: Let me see y'all a second.

12 (Whereupon, a bench conference was held off the
13 record in the presence of the jury, but out of the
14 hearing of the jury.)

15 THE COURT: Ladies and gentlemen of the jury, I'm
16 going to send you all out for a short moment. Please do
17 not discuss the case.

18 (Whereupon, the jury exited the courtroom at 3:06
19 p.m.)

20 THE COURT: All right. If you could put the
21 objection on the record, please.

22 MS. PINNOCK: Certainly, Your Honor. Your Honor, I
23 would object to this witness testifying about any bench
24 warrants or child support. We were not told by the
25 solicitor's office they were going to be having her

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 300

1 testify to that. You know, I don't know -- I -- I guess
2 it doesn't qualify as a criminal conviction. But it
3 could be ---

4 MR. MARSH: Prejudicial.

5 MS. PINNOCK: --- you know ---

6 (Whereupon, Ms. Pinnock and Mr. Marsh conferred.)

7 MS. PINNOCK: --- prejudicial for the jury to hear
8 that there was a bench warrant. If he -- if they need to
9 get testimony that he was taken into custody, that was --
10 that's never been an issue. But I don't see how being
11 arrested for a bench warrant in child support has
12 anything to do with why he was taken into custody. We
13 can stipulate he was taken into custody on December 8th.

14 MS. SAMPSON: He wasn't simply taken into custody,
15 Your Honor. He was under arrest. We -- they did not
16 object to any of this when we did it in the pretrial
17 hearing.

18 They did not have it on their list of motions. So I
19 did not think they objected to the jury hearing about him
20 being arrested for child support. Had I known they had
21 an issue, we could've addressed this already. But they
22 didn't say anything.

23 He was -- he wasn't just in custody. Because at
24 that point they were still investigating. To say he was
25 in custody makes it sound like exactly what they're

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 301

1 saying is they went straight to him and arrested him
2 before they had any evidence. They didn't.

3 They arrested him for the child support warrant.
4 They ended up continuing to charge him with the murder.
5 But when they come to the house to get him, at that point
6 they were not arresting him for this charge.

7 MS. PINNOCK: Your Honor, I'm sorry. To make a
8 comparison, if he had -- if Mr. White had been arrested
9 for a completely separate criminal offense, we would be
10 having the same conversation. He was taken into custody.
11 He was in custody. Nobody's saying he wasn't in custody.
12 There being a bench warrant is extremely -- I mean,
13 everybody knows what a bench warrant is.

14 He's behind on child support to the point where they
15 have issued an arrest warrant for him to go to jail.
16 It's not -- it's not relevant. It should never have been
17 brought up.

18 And I guess we're both guilty of assuming that the
19 other person wasn't going to do something. But we would
20 object to any testimony about it.

21 THE COURT: All right. So what is the jury supposed
22 to think that he was taken into custody for? Because Mr.
23 Marsh has -- has, from what I've heard from the theme of
24 your -- your defense from his opening statement, it's
25 saying that they didn't -- basically, that the police

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 302

1 went and jumped and arrested him and did not do any
2 investigation.

3 MS. PINNOCK: Well ---

4 THE COURT: So ---

5 MS. PINNOCK: I'm sorry.

6 THE COURT: --- under the doctrine of completeness,
7 what are we -- what are we -- if we say he was taken into
8 custody, the jury is going to automatically assume he was
9 taken into custody for this. So what do -- what -- I
10 understand you're going to stipulate, but what are we --
11 why is he being taken into custody? Because it wasn't
12 for this. From the -- from the testimony of the officer
13 that we've already heard, he wasn't taken into custody
14 for this. He wasn't -- he was under arrest for the child
15 support ---

16 MS. PINNOCK: Well ---

17 THE COURT: --- which is a civil action, not ---

18 MS. PINNOCK: Yes, ma'am. Your Honor ---

19 THE COURT: --- criminal.

20 MS. PINNOCK: --- I would point out, I believe that
21 Mr. Marsh said that they weren't -- we were not
22 questioning why the investigators went to talk to him. So
23 if they would like to just say that he was taken in for
24 questioning, that's fine.

25 And second, Your Honor, I believe it was

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 303

1 Investigator Truluck that testified yesterday, saying
2 that they were already drawing up warrants. They were
3 going to arrest him anyway. So it wasn't just that he
4 had this bench warrant sitting out there. They were
5 going to place Brian White under arrest.

6 So he can be picked up, taken in for questioning.
7 They were going to have the arrest warrants ready for
8 him, regardless of what he said. So I don't think we
9 would be stretching it if we say he was taken into
10 custody and then they later arrested him.

11 MS. SAMPSON: But, Your Honor, that's actually not
12 what happened. That would be stretching it. They went
13 there to talk to her. He happened to be there. And
14 because he had a child support warrant, he got arrested.

15 THE WITNESS: That is correct.

16 MS. SAMPSON: Stop ---

17 THE COURT: Okay, ma'am.

18 MS. SAMPSON: --- you can't talk.

19 THE COURT: You ---

20 THE WITNESS: I'm sorry.

21 THE COURT: They're -- you -- you don't ---

22 THE WITNESS: I'm sorry.

23 THE COURT: --- have to respond while the ---

24 THE WITNESS: I'm sorry.

25 THE COURT: --- while -- while we're ---

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 304

1 MS. SAMPSON: They did not come there to place him
2 in custody. They did not come there to do any of that.
3 They went there to talk to her. He happened to be there.
4 And they took him under arrest.

5 Their whole theme and what they keep doing -- we've
6 seen it already -- is that they rushed to judgment. And
7 so it plays right into what they're saying, that they
8 show up and just arrest him.

9 If I don't get to put in context, he was arrested
10 for something else. They don't have to say it was child
11 support. I can limit it to he was arrested for something
12 else. If that's what they want it -- I just need it to
13 be clear to the jury, they did not show up and just
14 arrest Brian White for murder right that minute. Because
15 they didn't.

16 Was he going to draw up warrants? What Truluck --
17 Mr. -- Investigator Truluck said was they were looking
18 into drawing up warrants. They hadn't done any of that.
19 They don't do the warrants till he get there and starts
20 confessing. And that's what he testified to.

21 MS. PINNOCK: And, Your Honor, I -- I have to
22 disagree. He testified yesterday and he put in his
23 report, after he spoke to Crystal -- after he spoke to
24 Nicole Bryant at headquarters, he started drawing up
25 warrants. I mean, he can testify to that when he gets

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 305

1 back on the stand.

2 But that is what he testified to yesterday. He was
3 asked directly where they were in the process. He said
4 he didn't know if he had them, but he'd said he had
5 started the process of getting them. So either way, he
6 was going to be taken in for questioning.

7 They were just getting his basic information; that
8 they're going to be picking him; and they were going to
9 be placing him under arrest.

10 MS. SAMPSON: But again, that is not what happened.
11 She wants us to say something different than what
12 happened, period. They didn't show up at the house and
13 -- to arrest him for this charge. That didn't happen.

14 MS. PINNOCK: Your Honor, they can take him in for
15 questioning.

16 MS. SAMPSON: They didn't take him in for
17 questioning.

18 THE COURT: But ---

19 MS. SAMPSON: They took ---

20 THE COURT: But ---

21 MS. SAMPSON: --- him in ---

22 THE COURT: --- questioning ---

23 MS. SAMPSON: --- because he was ---

24 THE COURT: --- about what?

25 MS. SAMPSON: --- under arrest.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 306

1 THE COURT: This case?

2 MS. PINNOCK: Yes, ma'am. About ---

3 THE COURT: But that's ---

4 MS. PINNOCK: --- this case.

5 THE COURT: --- not -- but that -- but we can't make
6 up facts. If that's not the facts, we can't up the
7 facts. Now, I -- what we can do is say he was -- I don't
8 know if you want to say picked up for something else,
9 just because it -- it -- it -- it leaves that out there.

10 MS. SAMPSON: I can say, if -- if -- if Your Honor
11 wants, that he was arrested on an outstanding charge
12 unrelated to this case?

13 MS. PINNOCK: That ---

14 MS. EIGENBROT: No. That ---

15 MS. SAMPSON: On a civil charge unrelated to this
16 case? I don't care how you word it. But I need it to be
17 clear to the jury that he wasn't under arrest for this
18 case.

19 THE COURT: So what you can probably do is just say
20 he was picked up on this -- a -- it -- it was something
21 regarding a civil matter, which it was -- it was a child
22 support, which is not criminal; it's civil -- and say
23 that it was regarding a civil matter.

24 MS. SAMPSON: And I can lead her, when they come out
25 and say, "Was he picked up -- when he got under arrest,

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 307

1 was he arrested on a civil matter?" She will say, "Yes."
2 That'll be the end of it from her.

3 THE COURT: I wouldn't even -- you can just say
4 picked up; I wouldn't even say arrested, but taken in
5 regarding a civil matter.

6 MS. SAMPSON: On a -- on a civil matter.

7 MS. PINNOCK: Your Honor, I would -- respectfully, I
8 -- I don't think that it would be a -- it's not -- we
9 would not be creating facts, you know, if we just said he
10 was taken in. I think that is the safest way to go about
11 it, is just he was taken in.

12 He was at the house when law enforcement showed up.
13 They were going to pick up Ms. Posey. Brian White was
14 there. They have every intention of either talking to
15 him or they want to say they weren't going to arrest him
16 at that point.

17 They were going to speak to him. They had already
18 spoken to Shena Nicole Bryant. They were going to talk
19 to Brian White. Nobody in here can pretend like they
20 weren't.

21 So I think the safest way to do is just say he was
22 taken in. He was at the house. He was taken in.

23 MS. SAMPSON: And again, if their theme and theory
24 wasn't a rush to us taking him in, then that might not be
25 a problem.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 308

1 THE COURT: If that -- I mean, if that wasn't -- he
2 just stood up in front of the jury in opening statements
3 and said that this is a rush to judgment; they went and
4 -- I can't -- I'm not saying word for word. But they
5 rushed to judgment; they went in. They arrested him
6 without looking at anything else or anybody else and went
7 straight to him and arrested him.

8 So now you want me to allow the witness to testify
9 that he just came -- she -- they come speak to her
10 regarding this incident and then he's taken in, which is
11 not what was testified to by the officer on yesterday.
12 He said they went there to speak to her; he shows up.

13 MS. SAMPSON: And they arrest him on the ---

14 THE COURT: And they ---

15 MS. SAMPSON: --- bench ---

16 THE COURT: --- and that he had a -- a bench warrant
17 for child support. So I'm going to overrule the
18 objection. But I am going to direct you to rephrase the
19 question.

20 MS. SAMPSON: I can lead her, if that's okay with
21 everybody. I will just tell her -- tell her the question
22 as a leading question in this particular thing and move
23 on.

24 THE COURT: Just that he was taken in for something
25 on -- on a civil matter.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 309

1 MS. SAMPSON: Do you understand that? I'm going to
2 ask you -- I'm going to ask her and make sure she
3 understands ---

4 THE COURT: Yes.

5 MS. SAMPSON: --- since I can't talk to her.

6 I'm going to ask you: Was he taken in on a civil
7 matter at ---

8 THE WITNESS: Just say ---

9 MS. SAMPSON: --- that time?

10 THE WITNESS: --- yes?

11 MS. SAMPSON: You're just going to say yes.

12 THE WITNESS: Yes, ma'am.

13 THE COURT: All right. Let's bring them back in.
14 You can bring them in.

15 (Off the record briefly.)

16 (Whereupon, the jury entered the courtroom at 3:17
17 p.m.)

18 THE BAILIFF: The jury is seated, Judge.

19 THE COURT: All right. Please rephrase the
20 question.

21 MS. SAMPSON: Thank you, Your Honor.

22 DIRECT EXAMINATION BY MS. SAMPSON CONTINUED.

23 Q Ms. Posey, when the police arrived, they took the
24 defendant into custody on a separate matter, correct?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 310

1 Q All right. And did you also go to police at that
2 point?

3 A Yes, ma'am.

4 Q And where -- what happened when you got to the
5 police station?

6 A I was interrogated.

7 Q Okay. And, in fact, did they give you an advice-of-
8 rights form? Do you remember?

9 A No, ma'am.

10 Q Would seeing it help refresh your memory?

11 A Probably. I'm sorry. Yes, ma'am.

12 Q That's -- okay.

13 MS. SAMPSON: May I approach the witness, Your
14 Honor?

15 THE COURT: Yes.

16 Q All right, Ms. Posey. I want to show you this. Do
17 you recognize that?

18 A Yes, ma'am. That's my signature.

19 Q And is this an advice-of-rights that they read to
20 you that day?

21 A Yes, ma'am.

22 Q And so they did read you your rights?

23 A Yes, ma'am.

24 Q All right. And then they talked to you?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 311

1 Q Okay. Did you have any trouble talking to them?

2 And by trouble, I mean did you care whether you talked to
3 them or not?

4 A No.

5 Q All right. And were you -- how -- what was -- were
6 you upset?

7 A Yes, ma'am.

8 Q Were you ---

9 A Of course.

10 Q --- able to -- were you able to fully talk to them?

11 A I can't recall. I mean, I know I was traumatized.

12 I was probably in shock. I probably wasn't in the
13 greatest state of mind to talk. No, ma'am.

14 Q Do you remember if you were crying a lot?

15 A I probably -- probably was. I was hurt.

16 Q All right. And -- but you did talk to them as best
17 you could?

18 A Yeah.

19 Q All right.

20 A My best knowledge.

21 Q And then you went home?

22 A Yes, ma'am.

23 Q All right. This is going to sound like a crazy
24 question. But did you have anything to do with shooting
25 Scott Turner?

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 312

1 A No, ma'am.

2 Q All right. Did your daughter ever say she had
3 anything to do with ---

4 MS. PINNOCK: Objection ---

5 Q --- the shooting?

6 A No ---

7 MS. PINNOCK: --- Your Honor. Calls for hearsay.

8 THE COURT: Sustained.

9 Q Did your daughter ever indicate to you that she did
10 anything to Scott Turner?

11 A No ---

12 MS. PINNOCK: Objection ---

13 A --- ma'am.

14 MS. PINNOCK: --- Your Honor. Calls for a
15 conclusion.

16 THE COURT: Sustained.

17 Q What, if any, information do you have that your
18 daughter did anything to Scott Turner?

19 MS. PINNOCK: Objection, Your Honor: hearsay.

20 MS. SAMPSON: I said: What, if any, information.

21 THE COURT: Overruled.

22 Q What, if any, information do you have that your
23 daughter did anything to Scott Turner?

24 A I don't have any information.

25 Q And you were there that day?

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 313

1 A Yes, ma'am. That night? Yes, ma'am.

2 Q Thank you. I have no -- oh, wait. Yes, I do.

3 Sorry. The pictures. Crystal, I'm going to show you

4 what's been marked as State's Exhibit 73, 74, and 75.

5 I'll show you these and ask if you recognize them.

6 A Yes, ma'am.

7 Q And what ---

8 A I recognize that, that, and that.

9 Q Okay. And what are they?

10 A Two of those is a back cut. It's a little cut

11 people used to come through in and out ---

12 Q Okay.

13 A --- black, white.

14 Q And what's State's Exhibit 75?

15 A 75 is the street the little cut leads to, which is

16 Hilo Street ---

17 Q Okay.

18 A --- the street behind Patricia Drive.

19 Q And do these pictures fairly and accurately show

20 what it looked like?

21 A Yes, ma'am.

22 MS. SAMPSON: At this time, Your Honor, we'd ask to

23 introduce State's Exhibits 73, 74, and 75.

24 THE COURT: Any objection?

25 MS. SAMPSON: No, Your Honor.

DIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 314

1 THE COURT: That's 73 through ---

2 MS. SAMPSON: --- 75.

3 THE COURT: All right. Without objection.

4 (Whereupon, State's Exhibits 73 through 75 were
5 entered into evidence.)

6 Q Okay. And -- and I'm just going to show the jury
7 while I stand here. Okay. So is this the cut that you
8 were talking about?

9 A Yes, ma'am. My trailer set here. The neighbor's
10 trailer set here. That little cut was on the corner of
11 the neighbor's trailer.

12 Q Okay. So you could walk to ---

13 A Yes, ma'am. The other side.

14 Q Okay. So it cut through to a road?

15 A Yeah.

16 Q All right.

17 A To Hilo.

18 Q To Hilo?

19 A (No audible response.)

20 Q And then, you said 75?

21 A That's Hilo.

22 Q Where does -- can you put your finger on where it
23 would come out?

24 A Right here, along this street right here.

25 Q Okay. So kind of where -- in the picture, where the

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 315

1 trash can is?

2 A Yes, ma'am. On the -- the trash can has to be on
3 the side of the road. So yes, ma'am. Hilo.

4 Q All right. And that -- you knew it as the cut?

5 A I know it as the cut. That's what it was called.

6 Q Okay.

7 MS. SAMPSON: No further questions now, Your Honor.

8 Q Please answer has any questions the defense has.

9 A Yes, ma'am.

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

11 MS. PINNOCK: Please the Court, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. PINNOCK:

14 Q Hey, Ms. Posey.

15 A Hey, how are you?

16 Q I'm good. How are you?

17 A I'm -- I'm holding on.

18 Q All right.

19 A Thank you for asking.

20 Q Of course. I would just like to start -- in
21 December of '16, you were living on Patricia, right?

22 A Yes, ma'am.

23 Q Can you kind of walk me through the layout of your
24 house? Do you want to draw?

25 A I can.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 316

1 MS. PINNOCK: Can she step down, Your Honor?

2 THE COURT: Yes.

3 (Whereupon, the witness exited the witness stand.)

4 A I mean, I'm not a good drawer.

5 Q No. You're good.

6 A Okay. So say this is my front door.

7 Q Uh-huh.

8 A You go in. My master bedroom.

9 Q Okay.

10 A Then, right here, living room. Hall -- well,
11 kitchen.

12 Q Uh-huh.

13 A Hallway. Bathroom. On the very end, Nicole's room.

14 Q Okay.

15 A It was only a two-bedroom.

16 Q Okay. Great. Thank you.

17 A My whole trailer.

18 (Whereupon, the witness resumed the witness stand.)

19 Q So is it fair to say -- I guess let me put this
20 back. All right. With your front door, you had, like, a
21 -- two steps coming up?

22 A It's like -- it was, like, maybe three or four.

23 Q Okay.

24 A I told you I wasn't a good drawer.

25 Q No. You're fine.

1 A Yeah.

2 Q It works.

3 A Okay.

4 Q And if somebody were to pull in the main driveway,
5 this is your parking area, right?

6 A That would be my parking area.

7 Q Okay.

8 A And the main driveway -- well, there was a trailer
9 here ---

10 Q Uh-huh.

11 A --- a trailer here, our trailer, and the one across
12 from us.

13 Q Okay. So everybody kind of stayed -- shared the
14 same ---

15 A Shared the ---

16 Q --- area?

17 A --- same driveway.

18 Q Okay. And specifically on December 8th, do you
19 remember where the white van was parked?

20 A In the -- in our driveway.

21 Q In your driveway?

22 A (No audible response.)

23 Q So right in front of your door right here?

24 A Yeah.

25 Q And it was pulled head-in, right?

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 318

1 A Uh-huh.

2 Q Okay. So ---

3 A I ---

4 Q --- right in ---

5 A --- wouldn't say it was that far up to the porch,

6 though. Maybe back like ---

7 Q Oh.

8 A --- right there.

9 Q Okay. A little bit back this way?

10 A Yeah. Put it -- yeah.

11 Q I'm not an artist either.

12 A Most of the ---

13 Q So that's that ---

14 A --- time we ---

15 Q --- right here ---

16 A --- understand each other.

17 Q So that's the front, and that's the back?

18 A Yes, ma'am.

19 Q Okay. And you said you'd been -- you were with

20 Scott for a number of years ---

21 A Yes, ma'am.

22 Q --- right?

23 And you're fairly close with Nicole?

24 A (No audible response.)

25 Q Is she your only daughter?

1 A She is my only daughter.

2 Q Only ---

3 A I have ---

4 Q --- child?

5 A --- stepchildren. No, ma'am.

6 Q Oh, okay.

7 A I was married for 15 years as well before Scott.

8 Q Okay. And this ---

9 A So I have -- I have actually five stepchildren.

10 Q But they don't live with you?

11 A No, ma'am.

12 Q Okay. And how long -- let's say in the past ten
13 years, has Nicole lived with you over the past ten years
14 or is it kind of off and on?

15 A No. She's been basically with me most of her life.

16 Q So y'all know pretty much everything there is to
17 know about each other, right?

18 A (No audible response.)

19 Q Y'all are close.

20 A We're ---

21 Q You have a good ---

22 A We're close.

23 Q --- relationship, right?

24 A But we -- we don't -- there's some things I don't
25 tell my child, just like no one else would.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 320

1 Q Right. I wouldn't share ---

2 A You know ---

3 Q --- things with ---

4 A --- what I'm saying?

5 Q --- my daughter either.

6 A Yeah. So ---

7 Q Right. But y'all do talk a lot, right?

8 A Yes.

9 Q When things are going well, you share with each
10 other?

11 A Yeah.

12 Q And when things aren't going so well?

13 A Yes.

14 Q And y'all have each other's backs? You're always
15 going to be there for her?

16 A Yeah. I'm her mother.

17 Q And she's always -- she's always been there for you?

18 A Of course. That's my daughter.

19 Q And in 2016 -- December of 2016, Brian had just
20 recently moved out, right?

21 A He had been moved out, like, probably -- I would say
22 anywhere between five to six months. He had left that
23 summer.

24 Q Okay.

25 A And -- yeah.

1 Q But he wasn't gone ---

2 A No.

3 Q --- right? He ---

4 A He was ---

5 Q --- was still ---

6 A --- moved out.

7 Q Would you still see him?

8 A No. I didn't see him except for that one night.

9 Him and Nicole even quit talking.

10 Q When did that ---

11 A So no, ma'am.

12 Q When? Do you remember?

13 A Excuse me?

14 Q Do you remember when they stopped talking?

15 A When he moved out.

16 Q So as far as you know, they had no conversations, no
17 communication?

18 A Oh. Now, she had her own phone and all that.

19 Q Okay.

20 A So -- and she's of age. So I don't tell her who to
21 talk to.

22 Q But you never saw him at your house from the summer
23 until December 8th?

24 A Unh-unh. Not that I recall, I do not.

25 Q Did Nicole ever tell you he was there?

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 322

1 A Excuse me?

2 Q Did Nicole ever tell you he was there?

3 A When?

4 Q Before December 8th.

5 A He wasn't there.

6 Q Okay. Did he ever give you rides to work?

7 A Brian?

8 Q Yeah.

9 A He took me one time. Yeah.

10 Q Okay. When was that?

11 A Actually, I don't even remember when that was. It
12 was probably one day when Scott had the car and I
13 couldn't get to work.

14 Q Okay. But that was prior to December of 2016,
15 right?

16 A That was probably -- I couldn't even tell you what
17 my -- I can't remember ---

18 Q Okay.

19 A --- what month -- when -- when that was.

20 Q Did you have Brian's cell phone number?

21 A Did I have ---

22 Q Yes, ma'am.

23 A --- Brian's cell phone? Yes, ma'am, I do.

24 Q Okay. And so let's just say before he and Nicole
25 broke up, you would use it? Sometimes you'd call him?

1 text him? Because he lived in the house with you.

2 A When him and Nicole broke up? No, ma'am.

3 Q No, ma'am.

4 A He did ---

5 Q Before ---

6 A --- not. Before ---

7 Q Yeah.

8 A --- they broke up ---

9 Q Uh-huh.

10 A --- did I text him?

11 Q Right. Did you have communication with him?

12 A Yeah. I had ---

13 Q Okay.

14 A --- communication with him ---

15 Q Okay.

16 A --- and my daughter.

17 Q Because everybody lived together?

18 A Yeah.

19 Q It's not uncommon ---

20 A Unh-unh.

21 Q --- right?

22 Now, how -- let me just jump to December 7th of
23 2016. You said you got to work; Scott dropped you off?

24 A December when?

25 Q December 7th of ---

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 324

1 A Yeah.

2 Q --- 2016?

3 A Uh-huh.

4 Q What car was he driving?

5 A The one I went in debt for. It was a Dodge -- not a
6 Dodge -- a 2012 Ford Fusion ---

7 Q All right.

8 A --- that I cosigned for because he didn't have proof
9 of work.

10 Q And so that's the car that he left Hardee's with?

11 A That's the -- yeah. That's the car he drove all the
12 time.

13 Q And he was supposed to pick you up at what time?

14 A When I close Hardee's.

15 Q And you had -- you had been communicating with him
16 throughout the night, right?

17 A Well, when I first started texting me, he would text
18 back. And then, the later on the night got, he stopped
19 textings and stopped replying. So I knew what was up.

20 Q Right. And that just went on throughout the
21 evening? Since you went to work -- you went -- you said
22 you went there about two o'clock?

23 A Yeah.

24 Q Up until he stopped responding, which was about ten?

25 A Uh-huh. And I already knew what -- what was up

1 then.

2 Q Okay. Because you confronted him about it?

3 A No. Actually, he -- he -- he come to me and told me
4 his problem.

5 Q On this night?

6 A I -- no, not on ---

7 Q Okay.

8 A --- this night. No.

9 Q But on this night, you confronted him via text about
10 being intoxicated, right?

11 A On a text message ---

12 Q Yes, ma'am.

13 A --- you said?

14 Q You said you could hear it ---

15 A I got ---

16 Q --- in his voice.

17 A Yeah, I could hear it in his voice.

18 Q You knew something was up?

19 A Yeah.

20 Q And that kind of sparked a little bit of an
21 argument; is it fair to say?

22 A No, it's not fair to say.

23 Q You didn't tell him to just don't worry about coming
24 to get you?

25 A No, ma'am, I did not.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 326

1 Q Nicole didn't text you, saying that Scott had called
2 her, trying to figure out why you were mad at him?

3 A No.

4 MS. PINNOCK: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q Okay. So you're saying he didn't tell you that he
7 would be there in 15 minutes or at 10:15?

8 A Who, Scott?

9 Q Yes.

10 A Yes. He did say that. But he never came.

11 Q Yes, ma'am. I know he never came.

12 A Never ---

13 Q But that's something that he told you?

14 A That's some -- that's something he was good at.

15 Q And you're saying that Nicole never texted you
16 because Scott called her, dragging her into this tiff
17 that y'all were having?

18 A Who said that?

19 Q It's -- I'm just reading the phone records, ma'am.

20 A No.

21 Q You never had that conversation?

22 A That Nicole was drug -- do what? I'm not
23 understanding.

24 Q Did ---

25 A I'm not ---

1 Q --- did ---

2 A --- understanding ---

3 Q --- Nicole ---

4 A --- what you're saying.

5 Q --- text you, saying ---

6 A And ---

7 Q --- that Scott had called her because he was trying
8 to figure out why you were upset with him and accusing
9 him of being intoxicated?

10 A Not that I recall.

11 Q Okay.

12 A Unh-unh.

13 Q But what we do know is that Scott never showed up?

14 A Yeah. True.

15 Q How many times did you call Nicole when you didn't
16 think Scott was coming to get you?

17 A I don't know.

18 Q Okay. Did you call and text or just call?

19 A Called and text.

20 Q Okay. And she didn't originally initially respond
21 to you, right?

22 A No, she did not.

23 Q Okay. Because she was out, hanging out; she thought
24 ---

25 A Uh-huh.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 328

1 Q --- that you had a ride home?

2 A Uh-huh.

3 Q So ---

4 A Yes, ma'am.

5 Q --- when she finally got back in touch with you, you
6 were already at the house?

7 A Uh-huh. Yes, ma'am.

8 Q You were rightfully upset?

9 A Yes, ma'am.

10 Q You said you had to break in?

11 A Uh-huh.

12 Q And what ---

13 A Yes, ma'am.

14 Q --- door did you go through?

15 A The front ---

16 Q Front ---

17 A --- door.

18 Q --- door? Okay.

19 A That's -- actually -- well, no. It had a back door
20 too. But the back door was kind of -- we sealed it off.

21 Q Okay.

22 A So actually, that was really the only way ---

23 Q Okay.

24 A --- we used. So yeah. I had to break in.

25 Q And then, you find out that your stuff is missing

1 again?

2 A Yes, ma'am.

3 Q And you had already told us, this is not the first
4 time he had taken your stuff; it's not the first time he
5 kind of abandoned you; it was not uncommon for him to
6 just disappear for weeks at a time; is that right?

7 A That's right. Yes, ma'am.

8 Q And what you wanted from him was honestly for him to
9 get better so y'all could be together, right?

10 A Yes, ma'am. Actually, I went to AA meetings with
11 him to support him, even though I didn't do what he did.
12 I went to support him. Me and my daughter went with him.

13 Q So she knew the pain and the hurt that you were
14 feeling?

15 A Yeah. Because she felt it too.

16 Q And on that night when she got there, she showed up,
17 you said, with Brian and two other girls, right?

18 A Brought my daughter home.

19 Q Okay. And do you know -- was it Brian's car? Do
20 you know?

21 A I'm -- I didn't look outside.

22 Q Okay.

23 A I sat on the couch. I was crying. You know, I was
24 trying to unwind from work. And ---

25 Q Uh-huh.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 330

1 A --- then, all this was going on. I was just trying
2 to calm myself, you know.

3 Q Yeah. I understand.

4 A So, you know, a lot of people say they understand
5 me. But they don't understand me. Because they haven't
6 been what I've been through. I've been through a lot.

7 Q Going through addiction is -- is tough. Anybody ---

8 A And that wants help.

9 Q Anybody who's been through it understands ---

10 A Oh, it's not addiction.

11 Q No, not ---

12 A It's ---

13 Q --- for you; just to support somebody who is
14 addicted.

15 A It's hard. And I'm going to tell you: This is not
16 easy for me today.

17 Q No, ma'am. And I -- nobody would expect it to be.

18 So do you -- you said you don't remember what y'all
19 talked about?

20 A I don't recall what we talked about. It's been
21 three years ago.

22 Q Yes, ma'am. And I can't ---

23 A I'm ---

24 Q --- tell you ---

25 A --- almost ---

1 Q --- what I did ---

2 A --- 50.

3 Q --- a month ago. So ---

4 A Exactly.

5 Q --- it's fine.

6 A I'm almost 50. I don't remember three years ago.

7 Q Ms. Posey, do you -- do you remember about how long
8 everybody was at the house before Brian the other two ---

9 A They ---

10 Q --- girls left?

11 A --- wasn't -- it wasn't long. They -- everybody
12 spoke and he introduced me to every -- who it was. And
13 then, you know, he told -- they told Nicole bye. Nicole
14 told them bye. And Nicole stayed with me and held me and
15 told me, "Mama, it's going to be okay."

16 Q And as far as you know, after you went to bed,
17 Nicole called it a night, right?

18 A Nicole went to bed when I went to bed.

19 Q But you don't know if she went to sleep; you just
20 know she went to her -- her room, right?

21 A She went to her room.

22 Q Okay.

23 A Yes, ma'am. Oh. And I had two Yorkies. If she
24 would've left or anything, I would've knew. They
25 would've barked ---

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 332

1 Q Okay.

2 A --- at her. Yes, ma'am.

3 Q Now, you went and spoke with Investigator Truluck,
4 correct?

5 A Yes, ma'am.

6 Q And Ms. Sampson just asked you and you just
7 identified, he advised you of your rights?

8 A Yes, ma'am.

9 Q Okay. Did he tell you why?

10 A What, advise me ---

11 Q Yes, ma'am.

12 A --- of my rights?

13 Q Or did ---

14 A It was ---

15 Q --- he say that ---

16 A --- the law.

17 Q --- was just practice?

18 A Yeah.

19 Q Okay. But you didn't give him a written statement
20 when you went the second time. The only information --
21 the only statement that he wrote was given on the scene
22 with one of the responding officers, right?

23 A The -- when I went in with Truluck, I think he
24 recorded it. I'm not sure. Or if I wrote it, I'm not
25 sure.

1 Q Okay.

2 A I don't -- I don't remember.

3 Q Okay.

4 A I'm sorry.

5 MS. PINNOCK: Begging the Court's indulgence, Your
6 Honor.

7 A Thank you, ma'am.

8 (Off the record briefly.)

9 Q All right, Ms. Posey. Just a couple more things.
10 You said that you were woken up at 6:59 to gunshots?

11 A I don't remember the time.

12 Q But that's what ---

13 A But ---

14 Q --- woke you up?

15 A --- yes, ma'am. Yes, ma'am.

16 Q Okay.

17 A Multiple gunshots, not just one, not two, not three.
18 And I'm pretty sure it was more than four.

19 Q Okay. So you signed a consent to search your phone
20 on December 8th.

21 A Yes, ma'am. To Officer Truluck.

22 Q And you gave him your phone?

23 A Yes, ma'am, I did. And he kept it ---

24 Q Okay.

25 A --- for a while. Then he returned it.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 334

1 Q So on December 8th, 2016, at 5:21 a.m. (As read):
2 "This m.f. just came in." You sent that to Nicole?

3 A When?

4 Q December 8th, 2016, at 5:21 a.m.

5 A I don't ---

6 Q You didn't ---

7 A --- remember ---

8 Q --- send that?

9 A --- that.

10 Q Okay.

11 A I don't remember that. No. Because I didn't see
12 him.

13 Q Okay. And he ---

14 A That might've been another night. It wasn't that
15 night.

16 Q I'm just reading them from ---

17 A Because he didn't ---

18 Q --- just ---

19 A --- come in.

20 Q --- reading them from your records, Ms. Posey.

21 MS. SAMPSON: Your Honor, if she's going to read
22 from records that she wants her to say that they are, I
23 think she needs to show them to her.

24 MS. PINNOCK: I'd be happy to.

25 THE COURT: All right. Just show her where -- what

1 you're referring to in there.

2 Q Okay. Line 185, that's right here.

3 A That's whose number?

4 Q Nicole.

5 A Okay. And what?

6 Q That is a sent text message to your daughter ---

7 A From who?

8 Q From ---

9 A Where's ---

10 Q --- your phone ---

11 A --- that?

12 Q --- number.

13 A Where's my number at?

14 Q (As read): "This m.f. just came in."

15 A Where's my number?

16 Q Well, I'll be happy to show you all of them, if
17 you'd like to see. You might need to ---

18 A He didn't even come in the house. So how -- why
19 would I text "This m.f. just came in"?

20 Q No, ma'am. I wasn't there. I'm just ---

21 A Exactly.

22 Q --- asking is that text message in ---

23 A All right.

24 Q --- your records. That's what it says, right?

25 A That's what it said.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 336

1 Q Okay.

2 A But that's incorrect.

3 Q Okay.

4 MS. PINNOCK: Beg the Court's indulgence one moment,
5 Your Honor.

6 (Off the record briefly.)

7 MS. PINNOCK: Bear with me, Your Honor.

8 Q And, Ms. Posey, I just wanted to clarify one more
9 issue with you. You said that after Nicole and Brian
10 split up, you didn't see him. Really, maybe once he gave
11 you a ride and then he showed up on December 8th?

12 A I -- to be honest with you, when they split up, I
13 don't -- I don't recall how many I seen or talked to
14 Brian when they split up. Because Brian would text me:
15 "Mom, will you talk to Nicole?" and stuff like that. So
16 I don't really recall how many times I seen or spoke with
17 him.

18 Q Okay. And you said that he was never at your house?

19 A Excuse me?

20 Q You don't recall him ever being at the house?

21 A He used to live at my house.

22 Q After they broke up, ma'am.

23 A After they broke up, yes, ma'am. He did come to ---

24 Q He did.

25 A --- my house. When he brought Nicole home with his

1 friends December the 7th.

2 Q Okay. But not before that?

3 A No, ma'am. Here for me? I mean, if it is, like I
4 say, I'm three years older now. I'm almost 50. I don't
5 recall what ---

6 Q That's fine. You recognize that number right here?

7 A No, I don't.

8 Q That's not Nicole's number?

9 A No. That's not my daughter's number.

10 Q It wasn't in 2016?

11 A Well, it might've been in 2016. But in 2019, no,
12 ma'am.

13 Q Okay. Just read this right here for me. That's
14 Nicole texting you, telling you that Brian's over,
15 smoking, right?

16 MS. SAMPSON: Objection, Your Honor.

17 A I mean ---

18 MS. SAMPSON: She just ---

19 THE COURT: Hold up.

20 MS. SAMPSON: --- said she doesn't recognize the
21 number. So she ---

22 THE WITNESS: No.

23 MS. SAMPSON: --- can't lead ---

24 THE COURT: No.

25 MS. SAMPSON: --- her and ---

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 338

1 THE WITNESS: I didn't ---

2 THE COURT: Hold on.

3 MS. SAMPSON: --- tell her that ---

4 THE WITNESS: --- I don't ---

5 THE COURT: Hold on. Hold on.

6 THE WITNESS: --- recognize ---

7 THE COURT: Hold on one second, ma'am. The
8 objection is sustained. Rephrase the question.

9 MS. PINNOCK: Yes, Your Honor.

10 Q Does the text message say that Brian is at the
11 house, smoking?

12 MS. SAMPSON: And now I'm going to object to
13 hearsay. Because this is all out-of-court statements.
14 And I don't ---

15 THE COURT: All right.

16 MS. SAMPSON: --- know whose they are.

17 THE COURT: All right. Let's rephrase the question.
18 Objection is sustained. Rephrase the question and ask
19 her and then give her opportunity to respond and then ---

20 MS. PINNOCK: Yes, ma'am.

21 THE COURT: --- show her the text message.

22 Q Ms. Posey, did you send a text on December 4th,
23 2016, where you -- I'm sorry. Did you receive a text on
24 December 4th, 2016, that says: "Yeah. Okay."

25 MS. SAMPSON: Your Honor ---

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 339

1 Q "Okay if you" ---

2 MS. SAMPSON: --- it's still ---

3 Q --- "stay here" ---

4 MS. SAMPSON: --- hearsay. It's a statement from
5 someone else that she's saying she received.

6 MS. PINNOCK: Your Honor, I can move on to the next
7 one.

8 THE COURT: All right.

9 MS. SAMPSON: If it's going to be another text
10 message ---

11 THE COURT: If it's from her, she can ---

12 MS. SAMPSON: She ---

13 MS. PINNOCK: Yes, ma'am.

14 MS. SAMPSON: Okay.

15 THE COURT: All right.

16 Q Ms. Posey, on December 4th did you send a text,
17 saying that Brian is picking you up?

18 A I don't recall.

19 Q Okay. On December 2nd did you send a text, saying:
20 "Tell him to be here at 10:15, please" in order for him
21 to pick you up?

22 A I don't recall that either.

23 Q Okay. On December 1st did you send one, saying:
24 "Make sure Brian picks me up"?

25 A No. I don't remember none of those texts. I mean,

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 340

1 you're asking me to remember something that I'm telling
2 you I don't remember.

3 Q Okay.

4 MS. PINNOCK: Last time, I promise, Your Honor.

5 THE COURT: All right.

6 Q Ms. Posey, when you were describing, you know,
7 everything you were going through pretty much the entire
8 year of 2016, isn't it true, it had gotten to the point
9 where you were documenting things on your calendar that
10 were happening?

11 A No, ma'am.

12 Q No?

13 A No, ma'am, it's not.

14 Q Do you recall what kind of phone you had in 2016?

15 A Oh. On my phone?

16 Q Yes, ma'am.

17 A I had a ZTE.

18 Q Okay. And on your calendar you would -- I mean,
19 that's something that people can put, like, doctors
20 appointments on?

21 A Right.

22 Q You had your work schedule up there?

23 A I don't recall ---

24 Q You don't ---

25 A --- if I had my work schedule or whatever on there.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 341

1 Q You could have it documented if you miss a day at
2 work so your time -- your time sheet was accurate, right?

3 A Do what, now?

4 Q If you had to call in sick ---

5 A Uh-huh.

6 Q --- you could've -- you could've put that in your
7 calendar, you know, just ---

8 A Uh-huh.

9 Q --- out of work ---

10 A But I ---

11 Q --- sick?

12 A --- usually don't take notes on my phone. No,
13 ma'am, I don't.

14 Q Okay. So there would be no reason, according to
15 you, that there would be inserts on your calendar,
16 documenting Scott's comings and goings?

17 A Scott leaving ---

18 Q Right.

19 A --- on my calendar, yes, ma'am, there is. On the
20 dates he would leave and how many times a month he would
21 leave ---

22 Q Yes, ma'am.

23 A --- and how long he would stay gone. Yes, ma'am.
24 That is on the ZTE. But not any longer.

25 Q Okay.

CROSS-EXAMINATION BY MS. PINNOCK - CRYSTAL POSEY 342

1 A Mr. Truluck, pretty -- I'm pretty sure, is aware of
2 that.

3 Q All right. Thank you very much.

4 A Thank you.

5 THE COURT: One second ---

6 MS. SAMPSON: Oh, wait ---

7 THE COURT: --- ma'am.

8 THE DEPUTY: Ma'am.

9 MS. SAMPSON: --- wait, wait.

10 THE COURT: Ma'am?

11 THE WITNESS: Oh.

12 THE COURT: Ma'am?

13 THE WITNESS: I'm sorry.

14 THE COURT: You got to wait for me to tell you to

15 ---

16 THE WITNESS: Oh.

17 THE COURT: --- step down.

18 THE WITNESS: I'm sorry. I ain't never been in
19 court before ---

20 THE COURT: Okay.

21 THE WITNESS: --- honey.

22 THE COURT: Hold on.

23 THE WITNESS: I'm sorry.

24 THE COURT: Hold on. Hold on one second.

25 All right. Any redirect?

REDIRECT EXAMINATION BY MS. SAMPSON - CRYSTAL POSEY 343

1 MS. SAMPSON: Just briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. SAMPSON:

4 Q Almost done. All right. Ms. Posey, she asked you
5 some questions about your relationship with your
6 daughter. On the day in question, when all this happened
7 that morning, where was you daughter when you heard the
8 gunshots?

9 A Excuse me?

10 Q Where was Nicole when you heard the gunshots?

11 A In the trailer.

12 Q With you?

13 A With me.

14 Q And how do you know that?

15 A Because she met me at the front door, and we both
16 opened it -- well, I opened the front door and she helped
17 me with Scott.

18 Q So she went outside when you went outside?

19 A Yes, ma'am.

20 THE WITNESS: May I be excused?

21 MS. SAMPSON: Hold on a second.

22 THE COURT: Hold on, ma'am. Ma'am, I will let you
23 know when you're excused. Hold on one second.

24 MS. SAMPSON: No further questions, Your Honor.

25 THE WITNESS: It's just been ---

1 THE COURT: Hold on one second. Just respond to
2 questions.

3 All right. Anything else?

4 MS. PINNOCK: No, Your Honor.

5 THE COURT: All right. You may step down. Any
6 objection ---

7 THE WITNESS: Thank you.

8 THE COURT: --- to this witness being excused?

9 (Whereupon, the witness exited the witness stand.)

10 MS. PINNOCK: No, ma'am.

11 THE COURT: All right. Ma'am, you're free to leave.
12 Thank you.

13 THE WITNESS: Thank you.

14 MS. SAMPSON: Do you want us to -- the next one's
15 kind of ---

16 THE COURT: Call your next witness.

17 MS. SAMPSON: Okay. The state calls Nicole Bryant
18 -- Shena.

19 (Off the record briefly.)

20 (Whereupon, the witness came forward.)

21 SHENA NICOLE BRYANT, having been first duly
22 sworn, testified as follows:

23 DEPUTY CLERK OF COURT: Thank you. Have a seat in
24 the witness stand, please.

25 THE WITNESS: (Complied.)

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 345

1 DEPUTY CLERK OF COURT: State your name for the
2 record and spell it for the court reporter.

3 THE WITNESS: Shena Bryant, S-h-e-n-a, B-r-y-a-n-t.

4 DIRECT EXAMINATION

5 BY MS. SAMPSON:

6 Q Good afternoon, Ms. Bryant.

7 A Good afternoon.

8 Q So do you go by Nicole or Shena or both?

9 A Nicole.

10 Q Nicole?

11 A (No audible response.)

12 Q I'm going to need you to speak into that microphone.

13 A Nicole.

14 Q All right. So people call you by your middle name?

15 A Yes, ma'am.

16 Q Okay. And how old are you, Nicole?

17 A I'm 30.

18 Q Okay. And where do you live right now?

19 A With my mother.

20 Q In Elgin?

21 A Yes, ma'am.

22 Q What do you do for a living?

23 A I work at Shell.

24 Q At the Shell gas station?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 346

1 Q Okay. How long have you worked there?

2 A Almost two months now.

3 Q Okay.

4 A And I also help her clean. So I work -- I work two
5 jobs. I help her clean.

6 Q Okay. So you help with her cleaning business?

7 A Uh-huh.

8 Q Okay. So back in 2016 where did you work then?

9 A I believe it was Tokyo Grill.

10 Q Tokyo Grill. Okay.

11 And how did you come to know the defendant?

12 A He came in there, wanting to get a job. And I had
13 got him to write down his information. And I had younger
14 people in there that wasn't wanting to do their job. So
15 I fired them, and I called him and asked him to come in
16 for an interview.

17 Q Okay. And did you hire him?

18 A Yes, I did.

19 Q All right. And at some point did you guys from
20 being coworkers to something else?

21 A Yes, ma'am.

22 Q How long did you know him before you guys started
23 dating?

24 A It was a few months.

25 Q Okay. And ---

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 347

1 A Uh-huh.

2 Q --- how long did you know him before you all started
3 living together?

4 A It was about five months.

5 Q Okay. And where did you all live?

6 A [REDACTED] Patricia Drive.

7 Q Okay. And who lived there with you?

8 A It was me, him, my mom, and Scott.

9 Q Okay. And so you knew Scott Turner as well?

10 A Yes.

11 Q Okay. What was your relationship like with Scott
12 Turner?

13 A It was fine. It -- he just did my mom wrong, you
14 know ---

15 Q And when ---

16 A --- with the -- on the binges and all that stuff,
17 you know. It hurt her really bad.

18 Q Okay. So that's what you mean by he did her wrong,
19 was the ---

20 A Yeah.

21 Q --- going on the drug binges?

22 A Yes, ma'am.

23 Q All right. Did you have any -- other than his --
24 his drug abuse problem, did you have any problems with
25 him?

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 348

1 A No, ma'am. I mean, like my mother said prior, we
2 went to AA meetings with him, you know, try to help to
3 support, you know, to get clean and, you know, pull
4 through with us and, you know, be a family like he
5 wanted. So -- but every time it seemed like it was
6 getting there, it just collapsed again.

7 Q Okay. And it's already been some testimony. But
8 you and Brian, you said, were living together. When did
9 you all stop living together?

10 A We broke up. But he had stayed a couple nights on
11 the couch until he could go to his sister, Kelly's, or
12 somewhere else. And he had a car.

13 Q Okay. So do you remember if it was the summertime
14 or -- do you have any idea of what time it was when you
15 stopped living ---

16 A It was ---

17 Q --- together?

18 A --- like, maybe, like, August/September ---

19 Q Okay.

20 A --- maybe.

21 Q Of the year that all this happened?

22 A Yes, ma'am.

23 Q Okay. And did you guys continue to be friends after
24 that?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 349

1 Q Okay. And ---

2 A Because I told him I -- that we wanted to -- I
3 wanted to remain friends with him. Because I didn't --
4 you know, that wasn't anything like, you know, "Get out
5 of my life," you know, nothing like that. It -- I'm not
6 that type of person. And it's just -- I would just
7 rather be friends.

8 Q And were y'all able to be friends?

9 A Yes, ma'am.

10 Q Okay. Did you have any indications of whether he
11 wanted to be more than friends?

12 A Not that I know of.

13 Q Okay. So while we're talking about Mr. White, do
14 you see him in the courtroom?

15 A Yes, ma'am.

16 Q What does he have on?

17 A The white, button-up, collar shirt.

18 Q And where is he sitting?

19 A To the left.

20 MS. SAMPSON: At this time, Your Honor, I'd ask that
21 the record reflect that the witness has identified Brian
22 White.

23 THE COURT: So noted for the record.

24 Q Okay. So I want to move you to December 7th of
25 2016.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 350

1 A Yes, ma'am.

2 Q You were living at Patricia Drive at that point?

3 A Yes, ma'am.

4 Q What were your plans that day?

5 A I was working. I worked all day that day. That
6 night me and Brian and Brittany and Brittany's girlfriend
7 had went to the Marriott.

8 Q And I'm going to stop you for a minute. In the
9 daytime did you do anything with Brian, like go to the
10 doctor or anything?

11 A (No audible response.)

12 Q You don't ---

13 A No.

14 Q --- remember if you did that or not?

15 A No, ma'am. I don't ---

16 Q Okay.

17 A --- recall that.

18 Q So you then -- I -- I interrupted you. But you went
19 to hang out with his friends?

20 A Yes, ma'am.

21 Q Did you know his friends?

22 A I knew of them. But I didn't know them, know them.

23 Q Okay.

24 A No, ma'am.

25 Q Did you see Mr. Turner that day?

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 351

1 A Unh-unh. No, ma'am, I ---

2 Q Okay.

3 A --- did not.

4 Q So how did you and Brian get together that day?

5 A I believe he had called me or something and was,
6 like, "We have a room. Do you want to come chill, you
7 know, have -- sit in the hot tub, whatnot?"

8 And I was, like, "Sure, you know. I'll sit in the
9 hot tub."

10 Q Right.

11 A I mean, what's that going to hurt, you know. I
12 needed to relax anyway.

13 Q So did -- how did you get to the hotel?

14 A He came and got me.

15 Q From where?

16 A Patricia Drive.

17 Q Was anybody home when he came and got you?

18 A No.

19 Q Just you?

20 A Just ---

21 Q Okay.

22 A --- me.

23 Q So where did you all go once he picked you up?

24 A To the Marriott.

25 Q Okay. And do you remember what time that was?

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 352

1 A About nine-ish/ten.

2 Q Okay.

3 A Ten-ish.

4 Q All right. And so what did y'all do once you got to
5 the hotel?

6 A We went upstairs to the room. He changed clothes.
7 And we all changed clothes and went down to the hot tub.

8 Q And where ---

9 A And so ---

10 Q --- you put your phone while you were in the hot
11 tub?

12 A My phone?

13 Q Yes.

14 A I don't remember if I left in the room or if I had
15 sitting beside the hot tub. I don't ---

16 Q Okay.

17 THE COURT: Hold on one second.

18 A --- I don't remember.

19 THE COURT: Hold on one second.

20 THE COURT REPORTER: I'm sorry, Your Honor.

21 (Off the record briefly.)

22 THE COURT REPORTER: I apologize, Your Honor.

23 THE COURT: You ready?

24 THE COURT REPORTER: Yes, ma'am.

25 Q All right. So you don't -- do you remember if you

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 353

1 left your phone in the room or took it to the hot tub?

2 A I don't remember.

3 Q Okay. That's fine. Do you remember how long you
4 all -- was -- did everybody go to the hot tub or just you
5 and Brian?

6 A All of us.

7 Q Okay. Do you remember how long you all were there?

8 A Maybe 30/45 minutes.

9 Q Okay. And what did you after you left the hot tub?

10 A I had went back upstairs, dried off, put my clothes
11 back on. My mom had contacted me.

12 Q Okay. And what was -- what had happened at that
13 point to her?

14 A She was crying, irate, saying she had to break into
15 the house; her TV was gone; and that Scott was still
16 gone; and he hadn't returned home yet.

17 Q And you said she was crying?

18 A She was irate. Yeah. She was ---

19 Q So what ---

20 A --- very upset.

21 Q --- did you do -- what did you do?

22 A I got him to take me to my mother ASAP.

23 Q And by him, who's him?

24 A Brian White to take me to my mother ---

25 Q And ---

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 354

1 A --- ASAP.

2 Q --- did he take you?

3 A Yes, ma'am.

4 Q Did anyone come with you?

5 A Yes, ma'am.

6 Q Who came with you?

7 A Brittany and her girlfriend.

8 Q Okay. So what did y'all do once you got to the
9 house?

10 A We went in; sat down; tried to calm Mom down. And
11 then, they had left after, you know, they -- they were
12 telling her it's going to be all right, you know;
13 everybody, you know, struggles with this and that.

14 Q And while you were at the house, are there any
15 conversations about what should happen to Scott Turner?

16 A No, ma'am.

17 Q Okay. Does -- did anything happen with -- does
18 Bryan say anything about anything that should happen to
19 Scott?

20 A No.

21 Q Okay. So what happens once -- did they leave or
22 stay?

23 A They leave.

24 Q Okay. And what happens then?

25 A I comfort my mother.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 355

1 Q Okay. Do you continue to talk to Scott via text or
2 phone?

3 A No. I text him one time later on that night. And
4 that was it.

5 Q Okay. Did you ever talk to him about any -- getting
6 rid of James or doing anything to Mr. Turner?

7 A No, ma'am.

8 Q Okay. Do you remember him saying that he would take
9 care of Mr. Turner?

10 A Yes, ma'am.

11 Q When did he say that?

12 A Well, he said that -- not to worry about it; that he
13 would take care of it. And ---

14 Q When did ---

15 A --- by that ---

16 Q --- he say that?

17 A --- I mean ---

18 Q I'm sorry.

19 THE COURT: Hold on ---

20 Q When did he ---

21 THE COURT: Hold on ---

22 Q --- say that?

23 THE COURT: --- one second.

24 THE COURT REPORTER: I'm sorry, Your Honor.

25 THE COURT: That's okay.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 356

1 (Off the record briefly.)

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, we're going to take about a ten-minute break. This
4 will be our afternoon break. We'll take about ten
5 minutes. All right. Thank you.

6 (Whereupon, the jury exited the courtroom at 3:58
7 p.m.)

8 THE COURT: All right. Let's take about ten
9 minutes.

10 Ma'am, you may step down. However, you cannot
11 discuss your testimony with anyone. Ma'am?

12 THE WITNESS: Yes, ma'am.

13 THE COURT: You cannot discuss your testimony with
14 anyone. So it's probably best not just to talk to anyone
15 at all. All right?

16 THE WITNESS: Yes, ma'am.

17 MS. SAMPSON: Don't talk to your mom or anybody or
18 me either.

19 THE WITNESS: I'm not talking to anyone.

20 THE COURT: All right. We'll take about ten
21 minutes.

22 (Off the record from 3:58 p.m. until 4:08 p.m.)

23 THE COURT: All right. We ready?

24 MS. SAMPSON: Yes, ma'am.

25 THE COURT: Bring them on in.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 357

1 THE BAILIFF: Yes, Your Honor.

2 (Off the record briefly.)

3 (Whereupon, the jury entered the courtroom at 4:09
4 p.m.)

5 THE BAILIFF: The jury is seated, Your Honor.

6 THE COURT: All right. We will continue with direct
7 examination of Ms. Bryant.

8 MS. SAMPSON: Thank you, Your Honor.

9 DIRECT EXAMINATION BY MS. SAMPSON CONTINUED.

10 Q Before we broke, you stated that Brian said
11 something to the effect of "I'll take care of it" or
12 "I'll handle that." What did you think he meant?

13 A That he -- I thought -- I thought he meant, like,
14 that he would whoop his ass or -- excuse my language.

15 Q You can -- I mean, that's what you said?

16 A Beat his ass or something.

17 Q And who did you think -- who were you talking about
18 when you say that?

19 A Scott -- Brian ---

20 Q Okay.

21 A --- and Scott.

22 Q All right. So what happened after you two -- after
23 the -- this conversation? Did you go to bed, or what
24 happened that night?

25 A You know, I went in and me and my mom watched a

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 358

1 movie and stuff and ---

2 Q And I need you to speak into that microphone.

3 A Yes. We went into the house and watched a movie,
4 and then I went to bed.

5 Q Then you went to bed?

6 A Uh-huh.

7 Q I need you ---

8 A Yes, ma'am.

9 Q And what -- how -- what woke you up?

10 A Gunshots.

11 Q And what did you do when you heard the gunshots?

12 A I jumped up and I ran to my mom. And she was
13 already at the front door. And so ---

14 Q So when you ---

15 A --- so we ---

16 Q --- heard the gunshots, you were in your bedroom?

17 A Uh-huh. Yes, ma'am.

18 Q Okay. And that's -- I think you said you ran to the
19 door and your mother's already there?

20 A Yes, ma'am.

21 Q So what did you do then?

22 A I ran outside and I saw the -- I saw the van shot up
23 and everything. So I told her to call 911 and not to
24 come over there because I didn't want her any more
25 traumatized than she already was; I'd rather it be me

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 359

1 traumatized than her, because she's been through enough.

2 Q Okay. So what did you do?

3 A I asked her to grab me some towels so I could stop
4 -- try to stop the bleeding.

5 Q Could you see that he was bleeding?

6 A Yes, ma'am.

7 Q Okay. And where was Mr. Turner?

8 A He was laying in the van ---

9 Q Okay.

10 A --- like -- like he was trying to sleep in the front
11 seat or ---

12 Q Okay.

13 A --- something.

14 Q So he was laying down?

15 A Yes.

16 Q Not like the seat was reclined, but laid into ---

17 A No.

18 Q --- the passenger side?

19 A It was like he was laying in both seats, the driver
20 seat and the passenger seat.

21 Q I got you. And so what did you do at that point?

22 A I grabbed the towels and I tried to put them where
23 the -- like, on his neck and stuff and the ambulance got
24 -- until the ambulance got there.

25 Q Do you remember if you went to the driver side or

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 360

1 the passenger side?

2 A I went to the driver side.

3 Q And then, you -- I think you said the ambulance
4 came?

5 A The ambulance came and opened up the passenger side.

6 Q And when you went outside after hearing gunshots,
7 did you see anybody outside?

8 A No, ma'am, I did not.

9 Q All right. I'm going to show you what's been marked
10 as State's 77 and 76. Can you take a look at these for
11 me and tell me if you recognize them?

12 A Yes, ma'am. That's our mailbox, and that is the van
13 that I found him in.

14 Q And do those pictures fairly and accurately show
15 what everything looked at back -- looked like in 2016?

16 A Yes, ma'am.

17 MS. SAMPSON: At this time, Your Honor, I'd ask to
18 introduce State's Exhibit 76 and 77.

19 MS. PINNOCK: No objection.

20 THE COURT: All right. They'll be entered without
21 objection.

22 (Whereupon, State's Exhibits 76 and 77 were entered
23 into evidence.)

24 Q Okay. And you said that 76, this is your mailbox?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 361

1 Q And where -- are these, like, right in front of your
2 trailer, or where are these?

3 A Those are next to the road.

4 Q Okay. So if you're driving towards the driveway,
5 they're right there on ---

6 A They're right ---

7 Q --- Patricia?

8 A --- they're all right there and -- as you turn in to
9 the driveway.

10 Q Okay.

11 A You ---

12 Q And ---

13 A --- literally have to get out your car to get the
14 mail and then ---

15 Q Okay. And then, State's 77, that's how you found
16 the van?

17 A Yes, ma'am.

18 Q Now, the doors are both open. Were they like that
19 when you walked up?

20 A No.

21 Q How were they when you ---

22 A They were ---

23 Q --- walked up?

24 A --- closed.

25 Q Both of them?

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 362

1 A (No audible response.)

2 Q Both of them were closed?

3 A Yes, ma'am.

4 Q All right. So what did you do after the ambulance
5 came? What did you do?

6 A We started getting interrogated by Officer Truluck.

7 Q At your ---

8 A We ---

9 Q --- at your house?

10 A Yes, ma'am.

11 Q Okay. Did you have any problems talking with him?

12 A No, ma'am.

13 Q All right.

14 A None at all.

15 Q So what happened? Did he stay or leave or what
16 happened?

17 A Yeah. He stayed. And we were there, talking. And
18 I asked if I could go in the house and get some socks
19 because it -- it was really cold.

20 Q So did you have shoes on?

21 A No, I ---

22 Q So ---

23 A --- did not.

24 Q You ran out there with no shoes on?

25 A Yes.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 363

1 Q Okay. And did he let you go get socks?

2 A No.

3 Q So what happened after that?

4 A We were still outside, you know, talking to him.

5 Q And was your -- what was your mom's demeanor like?

6 Was she calm or ---

7 A No.

8 Q --- crying ---

9 A She was crying.

10 Q Okay. And do you remember if she had on shoes or
11 not?

12 A No. I don't believe she did. I don't remember.

13 Q All right.

14 A I believe she had her housecoat on. But I didn't
15 have a jacket or anything. I believe I had, like, a tank
16 top, like the wife-beater, the white ones, one of those
17 on and some basketball shorts, I believe.

18 Q Do you remember what the weather was like? Was it
19 hot ---

20 A It was ---

21 Q --- or cold?

22 A --- cold.

23 Q Cold?

24 A That morning. Yes, ma'am.

25 Q Okay. All right. So he talks to you all. At some

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 364

1 point do the police leave?

2 A Yes.

3 Q Okay.

4 A Later on in the day.

5 Q While they're there, are you getting any -- are you
6 speaking or doing anything to your phone?

7 A No.

8 Q Okay. Do you get -- do they take your phone?

9 A Yes.

10 Q Do you give them permission to search your phone?

11 A Yes.

12 Q Okay. Did you have any problems doing that?

13 A No.

14 Q Did you talk to them at all about Brian at that
15 point?

16 A When they questioned me, yes, ma'am.

17 Q Okay. Did you tell them what you told the jury
18 about him saying he would take care of it?

19 A Yes, ma'am.

20 Q Okay. Did you ever hear back from Brian?

21 A No.

22 Q Did you talk to him at all that day after this
23 happened?

24 A After this happened?

25 Q (No audible response.)

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 365

1 A They made me call him.

2 MS. PINNOCK: Objection, Your Honor. May we
3 approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference was held off the
6 record in the presence of the jury, but out of the
7 hearing of the jury.)

8 Q Did the cops -- did Investigator Truluck or any
9 officer make you call the defendant at some point?

10 A Yes.

11 Q Other than that phone call, did you talk to him that
12 day?

13 A No.

14 Q Okay.

15 A Not that I -- not after everything. No, ma'am.

16 Q All right.

17 A Not that I remember.

18 Q Not that you remember?

19 A (No audible response.)

20 Q Do you remember if you texted him back and forth at
21 all that day?

22 A Not at -- not until I got to the interrogation.

23 Q Okay.

24 A I gave them my phone and everything.

25 Q You gave them your phone?

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 366

1 A (No audible response.)

2 Q Do you remember telling the police that he texted
3 you: "I took care of that" and what you thought that
4 meant after it was over?

5 A Yes.

6 Q Okay.

7 A Because ---

8 Q What did you think that meant?

9 A I mean, it was obvious the ---

10 Q I need you to tell ---

11 A Scott ---

12 Q --- the jury what you thought it meant.

13 A That Scott was gone.

14 Q And what did you mean by Scott was gone?

15 A That he had got shot.

16 Q And how did that -- how did you think that had to do
17 Brian at all? Why did him saying "I took care of that"
18 -- what did you think that meant in relation to Mr.
19 Turner?

20 A I -- I thought that he meant -- I thought he was
21 going to beat his ass. But apparently, it went further
22 than it was intended, I guess. I'm not sure.

23 Q Okay. Did you ask or do anything to -- to imply
24 that you wanted Mr. Turner shot?

25 A No, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 367

1 Q Did you ask Mr. White to do anything to Mr. Turner?

2 A No, ma'am.

3 Q Did you shoot Mr. Turner?

4 A No, ma'am.

5 Q You ever shot a gun?

6 A No, ma'am. I shot a BB gun.

7 Q A BB gun?

8 A Yeah.

9 Q Okay. On December 8th did you shoot a gun?

10 A No, ma'am, I did not.

11 Q Did you see who shot Mr. Turner?

12 A No, ma'am, I did not.

13 Q And do you remember, when you spoke with
14 Investigator Truluck, did he read you your rights before
15 you spoke with him?

16 A Yes, he did.

17 Q Okay. And you signed the advice-of-rights form? Do
18 you remember that?

19 A Yes, ma'am.

20 Q Okay. And you talked to him anyway?

21 A Yes, ma'am.

22 Q Okay.

23 A Because I don't have anything to hide.

24 Q All right. Let me just be clear: Were you upset
25 with Mr. Turner the night this happened, the night when

DIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 368

1 you found out he'd sold the TV?

2 A I mean, I was upset, but not upset enough to murder
3 a man, you know, take someone's life. I -- I couldn't
4 imagine doing that.

5 Q Okay.

6 MS. SAMPSON: Beg the Court's indulgence.

7 (Off the record briefly.)

8 Q And I had -- excuse me. I had your mother show us
9 the cut. Did you ever use the cut?

10 A Did I ever use the cut?

11 Q Right.

12 A Maybe once, to walk to the store.

13 Q Okay. So people know about it ---

14 A Yeah.

15 Q --- I guess, is what ---

16 A You can take a shortcut to go to Hazelwood to get to
17 the store.

18 Q So going through the cut, did you ever walk through
19 the cut or does -- tell Brian there's a cut?

20 A Everybody knew about the cut.

21 Q Okay.

22 MS. SAMPSON: No further questions, Your Honor.

23 Q Please answer anything the defense has.

24 A Uh-huh.

25 THE COURT: All right.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 369

1 MS. PINNOCK: Please the Court, Your Honor?

2 THE COURT: Yes, ma'am.

3 CROSS-EXAMINATION

4 BY MS. PINNOCK:

5 Q (As read): "You're not going to keep putting my
6 mother through this all year long. I'm tired of watching
7 it keep happening and I promise, no more."

8 You remember sending that?

9 A Yes, I do.

10 Q When did you send that?

11 A I believe it was the night before.

12 Q And who did you send that to, Scott?

13 A Scott.

14 Q And that was at 1:44 a.m.?

15 A Yes.

16 Q Okay. What -- about what time did you go to bed?

17 A I don't remember.

18 Q But we know you got back to the house 12 or a little
19 after?

20 A Yeah. It was like 12:30/12:45.

21 Q Okay. And you testified that Brian drove you back?

22 A Yes.

23 Q And that Brittany and Elexia were with you?

24 A I guess that's their name.

25 Q Okay. So you weren't friends with them?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 370

1 A No.

2 Q And the only reason that you went over to the hotel
3 was because Brian invited you?

4 A Yes.

5 Q Y'all were not dating?

6 A No.

7 Q But you said you were friends?

8 A Yes.

9 Q And there was no indication, according to you, that
10 he wanted to be more?

11 A No.

12 Q You're pretty close with your mom, right?

13 A Of course.

14 Q Y'all talk about things, you know, things that
15 happen in life?

16 A If she needs me, then she'll come to me.

17 Q Okay.

18 A And if I need her, I'll go to her.

19 Q Okay. And you do that in phone calls, in person?

20 A Yes, ma'am.

21 Q Text messages?

22 A Yes, ma'am. But now I have a therapist so ---

23 Q Okay. But back in December of 2016 -- I mean, even
24 before that, you live with your mother; y'all had a very
25 close relationship?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 371

1 A Yes, ma'am.

2 Q And as you said, if she needed you, you'd be there?

3 A Yeah.

4 Q If you need her, she'd be there?

5 A Yes.

6 Q And you've lived with her since December of 2016?

7 A Yes, ma'am.

8 Q And you lived with her prior to that?

9 A Yes, ma'am.

10 Q So every day since this incident date, y'all have
11 lived in the same house?

12 A Yes.

13 Q Okay. Did y'all work together back then, or did I
14 get that wrong?

15 A No.

16 Q No? Okay.

17 Now, you mentioned that Scott did your mom wrong.

18 And that's because ---

19 A Yes.

20 Q --- he was struggling with addiction, right?

21 A Yes.

22 Q And he did you wrong also? Would you agree with
23 that?

24 A Yes.

25 Q He stole your stuff?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 372

1 A Yes, ma'am.

2 Q He caused your mother pain?

3 A Yes, ma'am.

4 Q He caused you pain?

5 A Yes, ma'am.

6 Q He pretty much caused pain to everybody who ---

7 A Around him.

8 Q --- you came -- yeah -- he came around.

9 Almost to the point where you'd -- you didn't think
10 he really had any love for anybody outside of him, right?

11 A I just went numb.

12 Q Okay. So that's how bad it affected you ---

13 A Yes, ma'am.

14 Q --- is you'd shut off ---

15 A I don't ---

16 Q --- emotionally?

17 A Yeah. I just shut off. Like now, I'm just numb.

18 That's why I go to mental health and stuff now, is
19 because ---

20 Q Okay.

21 A --- I'm just numb. I just don't know what to do
22 anymore.

23 Q Okay. Outside -- after you and Brian broke up, he
24 would still hang out at your house, right?

25 A Yes, ma'am. Sometimes.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 373

1 Q And you would call him when you -- when you needed a
2 ride, right?

3 A Sometimes. Not all the time. I -- I walk. I've
4 walked my mother to work before in the rain.

5 Q Okay. But you would call Brian sometimes to pick
6 your mother up to go to work?

7 A Maybe a couple times. Yes, ma'am.

8 Q Okay. And she had his number?

9 A No, ma'am.

10 Q So she could've ---

11 A --- called ---

12 Q --- as far as ---

13 A --- herself ---

14 Q --- you know ---

15 A Yes.

16 Q I'm sorry. Go ahead?

17 A I said yes. She could've called him.

18 Q Okay. So it was not uncommon for Brian to be at --
19 either in contact with you or at your house?

20 A No.

21 Q Okay. And in the days leading up to why we're here,
22 I don't believe y'all were hanging out, but you had been
23 in contact with him, right?

24 A Yeah. We didn't hang out after everything happened.

25 Q Right. Not after December 8th. But ---

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 374

1 A Yes.

2 Q --- leading up to December 8th, it was not uncommon
3 for y'all to hang out?

4 A Unh-unh.

5 Q And you said you don't recall him taking you a
6 doctor ---

7 A No.

8 Q --- earlier on the 7th?

9 A No, I don't recall that.

10 Q And you said the only person at your house when you
11 got home -- you -- you testified from work, you were by
12 yourself; Scott was not there?

13 A No.

14 Q Okay. Now, when you went to the Marriott, you said
15 that you left your phone either on the charger or in the
16 room?

17 A No. I left it either in the room or beside that hot
18 tub. I don't -- I don't recall.

19 Q Okay. But there were a number of missed calls and
20 missed text messages from your mom?

21 A Yes, ma'am.

22 Q And you had actually been talking to her earlier
23 that evening while she was at work, correct?

24 A Checking on her. Yes.

25 Q And you told her, at some point leading up to Scott

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 375

1 failing to show up that Scott called you, trying to
2 figure out why he'd just been cursed out by your mother,
3 right?

4 A Yes. Because he was out. And we have GPS on the
5 car and all that. So we knew he was out on a binge
6 again.

7 Q Okay. But Scott got in touch with you?

8 A Yes.

9 Q And then you ---

10 A Because ---

11 Q --- got in touch ---

12 A --- he'd always ---

13 Q --- with your ---

14 A --- call me when they got into it or something,
15 talking about -- trying to bring me -- pull me into the
16 middle of it.

17 Q And that ---

18 A When it ---

19 Q --- happened more than once?

20 A Yes.

21 Q Okay. So that was probably weighing pretty heavy on
22 you too?

23 A Yes, ma'am.

24 Q You got your own life, your own personal stuff, and
25 you're also having to deal with the dramas between your

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 376

1 mom and Scott?

2 A Yes, ma'am.

3 Q Okay. So you get in touch with her prior to her
4 getting off work. And y'all are discussing the
5 argument/tiff that's going on between your mom and Scott?

6 A Yes, ma'am.

7 Q And then, you go out to enjoy your evening, where
8 you're -- you're hanging out with your friends to enjoy
9 your evening?

10 A Yes, ma'am.

11 Q You come back to your phone, and the bottom has
12 fallen out?

13 A Yes, ma'am.

14 Q Scott did not pick up your mom yet?

15 A Yes, ma'am.

16 Q She was in hysterics, right?

17 A Yes, ma'am.

18 Q I believe you said she -- you described her as
19 irate?

20 A Yes.

21 Q Okay.

22 A Like very upset, crying. Because this has happened
23 more than once.

24 Q And so your first instinct, which is understandable,
25 is to go be with your mother?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 377

1 A Yes, ma'am.

2 Q So you ask Brian to take you home, where your mother
3 is?

4 A Yes, ma'am.

5 Q Now, this -- was the van there when you got there?

6 A No, ma'am.

7 Q The van was gone?

8 A Yes.

9 Q Okay. So when Brian pulled his car in, he pulled
10 up, I guess, you know, in front of your front door?

11 A Uh-huh.

12 Q Everybody gets out of the car, goes inside, and we
13 had this sit-down

14 A Yes.

15 Q How long was everybody at your house?

16 A Maybe 15/20 minutes.

17 Q Okay.

18 A It wasn't ---

19 Q And ---

20 A --- very long.

21 Q Not very long?

22 A No, ma'am.

23 Q And after that, Brian and the other two left?

24 A Yes.

25 Q And again, the other two were Brittany and Elexia?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 378

1 A Yes.

2 Q Okay. And that's when you say you go to bed. Well,
3 you watch a movie with your mom?

4 A Yeah.

5 Q You go to bed?

6 A (No audible response.)

7 Q Right?

8 A Yes.

9 Q Did you -- did you say what time you went to bed?

10 A I don't remember.

11 Q Okay.

12 A I don't remember what time I went to bed.

13 Q But then, you were awakened by gunshots?

14 A Yes, ma'am.

15 Q And you ---

16 A Right.

17 Q --- had no contact with Brian from the time he left
18 your house ---

19 A No, ma'am.

20 Q --- throughout the -- throughout the night into the
21 next day?

22 A No, ma'am.

23 Q None?

24 A No.

25 Q You didn't call him?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 379

1 A No.

2 Q You didn't text him?

3 A He text me and said: "Are y'all okay?" because he
4 heard that the house got shot up or something.

5 Q That was the next day, correct?

6 A Yes.

7 Q The night leading into it, you're ---

8 A No.

9 Q --- saying you didn't make any phone calls?

10 A No.

11 Q You didn't make any text messages ---

12 A No.

13 Q --- to Brian White's phone?

14 A Not ---

15 Q Right?

16 A Not that I recall.

17 Q Okay. So what you're saying is you did not call him
18 and tell him that you were worried that Scott was going
19 to come back to the house, armed?

20 A I don't recall that.

21 Q You didn't -- you don't remember saying that you
22 heard he was now carrying a gun and you needed
23 protection?

24 A No, ma'am.

25 Q You didn't tell him to meet you outside just in case

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 380

1 Scott came back?

2 A No, ma'am.

3 Q You didn't tell him where to park his car if he came
4 back?

5 A No, ma'am.

6 Q And you're saying that you were sleeping until the
7 gunshots went off?

8 A Yes, ma'am.

9 Q Now, you mentioned that you had no problem giving
10 over your cell phone to law enforcement?

11 A No, ma'am.

12 Q And you signed a consent to search?

13 A Yes, ma'am.

14 Q But isn't it true that when you were talking to
15 Investigator Truluck, you told him that something weird
16 happened to your phone ---

17 A Yes.

18 Q --- and it must've fallen out of the car, gotten
19 pushed up under the porch, and you didn't see it until
20 the next day? Isn't that what you told him?

21 A Yes.

22 Q And then, you changed that story?

23 A How did ---

24 Q Correct?

25 A --- I change that story? I don't recall that. I

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 381

1 don't remember any of that.

2 Q You don't remember telling Investigator Truluck that
3 on December 8th?

4 A No. But I remember giving him my phone.

5 Q Okay.

6 A I didn't have no problem giving him my phone.

7 Q Do you remember telling him that Brittany gave you a
8 ride back to your house?

9 A I said -- I said Brian, Brittany, and Brittany's
10 girlfriend, is what I said.

11 Q You remember giving your written statement, Ms.
12 Bryant?

13 A Yes, I do. I have it right here.

14 Q You have it front of you?

15 A Yes, I do.

16 Q All right. Go ahead and point out for me, then,
17 where you ---

18 A It says ---

19 Q --- tell Investigator -- hold on -- where you tell
20 Investigator Truluck that Brian, Brittany, and Elexia
21 brought you home to get -- to be with your mom?

22 A I said Brittany and them brought me home.

23 Q Okay. And then, you say what? You had to call
24 Brian on the phone because you're indicating Brian wasn't
25 there, right?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 382

1 A That was after they had left. Yes.

2 Q After they left?

3 A Yes.

4 Q So you -- okay. So now we're saying you called him
5 after he left the house?

6 A After they left, yes.

7 Q Okay. So -- okay. I need to be clear. So you get
8 the call from your mom; you go home to help your mom?

9 A Yes.

10 Q You get to your house; everybody has a sit-down,
11 where you're talking about what Scott just did to your
12 mom?

13 A No. We're trying to calm her down.

14 Q Okay. Did everybody know why you were there to calm
15 her down?

16 A No.

17 Q Is it safe to assume that?

18 A No. I wasn't putting their business out there. It
19 wasn't for everyone to be known.

20 Q Okay. So everybody's trying to calm your mom down
21 for unknown reasons, and then ---

22 A No. Brian knew why the reasons. But Brittany and
23 them did not.

24 Q So if Brian knew the reason you were trying to calm
25 him down, why would you have to call him after he left

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 383

1 your house to tell him what happened?

2 A Because he was, like, my best friend. He was ---

3 Q So you had to call him to tell him again?

4 A Call him and tell him again? I ---

5 Q Yes, ma'am.

6 A --- could -- I could call on anyone.

7 Q Okay. That's what -- but that's -- that's what --
8 how you're describing this?

9 A I don't remember.

10 Q You have it front of you, Ms. Bryant.

11 A Okay. Yeah.

12 Q Is it ---

13 A And I ---

14 Q --- your ---

15 A --- said Brittany and them ---

16 Q Uh-huh.

17 A --- took me home.

18 Q Okay.

19 A Okay? Them would be Brian, Brittany, and Elexia.

20 Q Okay.

21 A That's ---

22 Q So ---

23 A --- all I have to say.

24 Q What I'm asking is: Explain to us why you said one
25 thing to Investigator Truluck in December of 2008 [sic].

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 384

1 You told him (as read): "I had -- I called Brian. I
2 hung up. And then I didn't hear from him again." He was
3 there, right? According to what you're saying ---

4 A He was ---

5 Q --- now?

6 A --- where?

7 Q At your house.

8 A When?

9 Q On December 8th, 2016, was Brian White at your house
10 with you and your mother?

11 A Oh, no. I'm talking about December the 7th ---

12 Q Okay.

13 A --- the night of that. That's what I'm talking
14 about. He was not there on December the 8th. It was me
15 and mother on December the 8th.

16 Q Okay. Well, we can go with December 2nd [sic], the
17 night before the -- the shots went off -- late
18 night/early morning.

19 A Yeah.

20 Q Okay. So now your testifying that ---

21 A He was ---

22 Q --- he was ---

23 A --- not there.

24 Q --- there?

25 A No.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 385

1 Q He was not there?

2 A No, he was not.

3 Q Okay.

4 A He was not in my home. It was me and my mother.
5 That's it.

6 Q Okay.

7 A Yes, ma'am.

8 Q So you also told him you didn't have any contact
9 with Brian from whenever he left your house until the
10 next day, right?

11 A What does this say? It ---

12 Q I'm asking ---

13 A --- says I ---

14 Q --- you ---

15 A --- called him, correct? Okay.

16 Q Ms. Bryant, you told Investigator Truluck that you
17 had no contact with Brian after he left your house.

18 A They made me call him when I got to the
19 interrogation.

20 Q Okay.

21 A So, I mean, I -- what are you coming out of the air
22 with this question ---

23 Q Before the ---

24 A --- for?

25 Q --- shots went off ---

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 386

1 A Before the shots went off, what about it? Did I
2 have contact with him? No, I did not.

3 Q Thank you.

4 A That's -- I've done said that five times.

5 Q And you were sleeping?

6 A Yes, I was sleeping.

7 Q You were not texting?

8 A No, I wasn't.

9 Q You were not calling?

10 A No. For what?

11 Q And this is your room, right, on this side of the
12 house?

13 A Yes.

14 Q So when Scott's van was in the driveway, where it
15 had not been the night before, if you were to look from
16 your room window towards the front of your house, you
17 would see the back of his van, correct?

18 A If you look out my window.

19 Q Yes, ma'am.

20 A Yes.

21 Q Okay.

22 A There's bushes and stuff there.

23 Q Right. But you would be looking ---

24 A You can see the van. Yes.

25 Q You can see the van?

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 387

1 A Yes.

2 Q All you'd have to do is move the blinds over?

3 A Yeah.

4 Q And you can see the back of the van?

5 A Yes.

6 MS. PINNOCK: Beg the Court's indulgence.

7 (Off the record briefly.)

8 Q You signed a consent to search your cell phone?

9 A Yes.

10 Q Okay. And that was on December 8th of 2016?

11 A Yes.

12 Q And you were woken up to gunshots?

13 A Yes.

14 Q That would be right before seven o'clock?

15 A It was around seven. Yes, ma'am.

16 Q So a photograph that was taken from your phone at
17 5:36 a.m., you didn't take that?

18 A What photograph?

19 Q The photograph -- I'll show it to me.

20 A Well, show it to me.

21 (Off the record briefly.)

22 MS. PINNOCK: Let the record reflect I'm showing the
23 witness what's been premarked for ID as Defendant's 1.

24 A I don't even know what that is.

25 Q Well, let's look at it together.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 388

1 A I'm ---

2 Q Does that ---

3 A --- looking ---

4 Q --- look like ---

5 A --- at it.

6 Q --- the back of the van from your window ---

7 A No.

8 Q --- two windows, your neighbor's house?

9 A No, it doesn't.

10 Q The blinds in your room?

11 A No.

12 Q And that you didn't take the picture?

13 A No.

14 Q At 5:30 in the morning?

15 A No, I ---

16 Q Because you ---

17 A --- did not.

18 Q --- were asleep, right?

19 A Yes.

20 Q Okay.

21 A I mean, that -- I can't even tell what that picture
22 is.

23 Q Okay. Well, let's say it's not a van. But you
24 still didn't take the picture of this on your phone?

25 A No, I did not.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 389

1 Q Okay.

2 A For what?

3 Q So you also weren't sending text messages at -- bear
4 with me -- 4:59 a.m.?

5 A No, I was not.

6 Q Five o'clock?

7 A No, I was not.

8 Q Okay. Were you receiving any text messages around
9 then?

10 A I was asleep.

11 Q Okay. So you didn't send or receive anything at
12 5:01?

13 A I was asleep.

14 Q 5:03?

15 A I was asleep.

16 Q 5:04?

17 A I was asleep.

18 Q 5:06?

19 A (No audible response.)

20 Q Did you send that one?

21 A No. I was asleep.

22 Q 5:07?

23 A Dear Jesus.

24 Q 5:07?

25 A I was asleep.

CROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 390

1 Q Okay. Did you send the one at 5:09?

2 A I was asleep.

3 Q Okay. So none of the text messages that were on
4 your phone were actually sent from ---

5 A From me ---

6 Q --- your phone?

7 A --- no.

8 Q Okay. So who had the phone?

9 A I don't know. It wasn't me. I didn't text nothing.
10 I was asleep.

11 Q Okay.

12 A How I'm going text someone and I'm sleep?

13 Q Okay.

14 A I put my phone on silent, and I turn it off
15 sometimes. I don't like to be bothered by my phone when
16 I'm ---

17 Q Was it ---

18 A --- sleeping.

19 Q --- in your possession when you went to the
20 sheriff's department?

21 A Yes.

22 Q Okay. So is it safe to assume that it was in your
23 possession from the time you went to bed to the time you
24 woke up?

25 A I mean, I don't know. I mean, I gave it to him. It

REDIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 391

1 was there. I gave it to him.

2 Q Okay.

3 MS. PINNOCK: Beg the Court's indulgence.

4 (Off the record briefly.)

5 MS. PINNOCK: Thank you. I have no further
6 questions.

7 THE COURT: All right. Any redirect?

8 MS. SAMPSON: Briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. SAMPSON:

11 Q Nicole, do you still have your statement?

12 A Yes, ma'am, I do.

13 Q And what she was asking you about, where you were
14 talking to Investigator Truluck, does it kind of go back
15 and forth between Friday -- between the 7th and the 8th?
16 Like, how you're talking, it's not like you're talking
17 about at this time I did this ---

18 MS. PINNOCK: Objection.

19 Q --- and then ---

20 MS. PINNOCK: She's leading.

21 Q --- this time?

22 A Yes, ma'am.

23 THE COURT: Sustained. No leading.

24 Q How does it go in there?

25 A It's back and forth.

REDIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 392

1 Q Okay. And were you trying to -- what, if anything,
2 were you trying to do when you were talking with
3 Investigator Truluck?

4 A Oh. I was deleting some messages. But it wasn't
5 anything to do with this.

6 Q Okay. And were you trying ---

7 A I can tell you what it was about, if you would like
8 me to.

9 Q That's okay. I don't want to get into anything I'm
10 not supposed to get into.

11 A Okay.

12 Q When you spoke with Investigator Truluck, were you
13 trying to be truthful or lying?

14 A Truthful.

15 Q Okay. And ---

16 A I have nothing to hide.

17 Q And she asked you about text messages you might've
18 sent. Have you seen those text messages in the last
19 three years?

20 A No, ma'am, I have not.

21 Q Okay. Do you remember everything you did that day?

22 A No, ma'am, I do not. I've been in ICU and life
23 support; I almost died.

24 Q Since that time?

25 A Yes, ma'am.

REDIRECT EXAMINATION BY MS. SAMPSON - SHENA NICOLE BRYANT 393

1 Q Okay. And she asked you about the close
2 relationship with your mom. I think you said this. But
3 you had a close relationship with Mr. White as well,
4 didn't you?

5 A Of course. Very close.

6 Q Okay.

7 A I love him.

8 Q And despite loving him, what did you tell police
9 about what he said he was going to do to Mr. Turner?

10 A That he was going to take care of it and handle it.

11 Q And after the shooting, did he say that he had taken
12 care of it?

13 A Yes, ma'am.

14 Q Okay.

15 MS. SAMPSON: Beg the Court's indulgence.

16 (Off the record briefly.)

17 Q She asked you about looking out of your window. Did
18 you look out of your window that night?

19 A No, ma'am. For what?

20 Q Did you even -- did you hear Mr. Turner come back
21 home?

22 A No, ma'am, I did not.

23 Q Okay. Did you see him come back home?

24 A No, ma'am. I don't constantly look out my window
25 like nosy people so ---

RECROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 394

1 Q Were you expecting him to come back?

2 A No.

3 Q All right.

4 MS. SAMPSON: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q You said that once you went to bed that night -- you
7 didn't know what time -- but the next thing that woke you
8 up was gunshots?

9 A Yes, ma'am.

10 Q Did you go by Jerry Rabon's house that day?

11 A Who?

12 Q Jerry Rabon -- or Alex Rabon.

13 A I don't even know who that is.

14 Q Did you get a gun that day?

15 A I've never touched a gun.

16 Q On the 7th through the 8th, you didn't go by
17 anybody's house and borrow a gun?

18 A No, ma'am.

19 Q Okay.

20 MS. SAMPSON: No further questions, Your Honor.

21 THE COURT: Yes, ma'am.

22 RECROSS-EXAMINATION

23 BY MS. PINNOCK:

24 Q Ms. Bryant, you ---

25 A Yes.

RECROSS-EXAMINATION BY MS. PINNOCK - SHENA NICOLE BRYANT 395

1 Q --- your mom texted you, saying that she heard a car
2 come back in the driveway, didn't she? Prior to Scott
3 getting shot.

4 A I don't remember.

5 Q You don't remember?

6 A No.

7 Q Okay. And you also don't remember the text that she
8 sent to your phone, saying (as read): "This m.f." ---

9 MS. SAMPSON: Objection ---

10 Q --- "just" ---

11 MS. SAMPSON: --- Your Honor.

12 Q --- "came in"?

13 MS. SAMPSON: Texts from her mother, that's hearsay.

14 THE COURT: All right.

15 MS. PINNOCK: Your Honor, I'm ---

16 THE COURT: Hold on.

17 MS. PINNOCK: --- not offering it for the truth.

18 THE COURT: Hold on. All right. Sustained. All
19 right.

20 Q And you're saying that you did nothing else; you
21 were sleeping; and somebody else was using your phone
22 between the hours of one and seven?

23 A I don't know if someone else was using my phone.
24 But I sure didn't.

25 Q Okay.

DIRECT EXAMINATION BY MR. PRATT - ASHLEIGH DIXON 396

1 A So -- thank you.

2 Q Thank you.

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

4 (Whereupon, the witness exited the witness stand.)

5 THE COURT: Any objection to this witness being
6 excused?

7 MS. SAMPSON: Not from the state, Your Honor.

8 MS. PINNOCK: No, Your Honor.

9 THE COURT: All right. You're free to leave.

10 (Off the record briefly.)

11 THE COURT: Ms. Sampson?

12 MR. PRATT: The state calls Ashleigh Dixon.

13 (Whereupon, the witness came forward.)

14 ASHLEIGH DIXON, having been first duly sworn,
15 testified as follows:

16 DEPUTY CLERK OF COURT: Thank you. Have a seat in
17 the witness stand, please.

18 THE WITNESS: (Complied.)

19 DEPUTY CLERK OF COURT: State your name for the
20 record and spell it for the court reporter, please.

21 THE WITNESS: Ashleigh Dixon, A-s-h-l-e-i-g-h,
22 D-i-x-o-n.

23 DIRECT EXAMINATION

24 BY MR. PRATT:

25 Q Good afternoon, Ms. Dixon. Can you tell the jury

1 where you're currently employed?

2 A Richland County Sheriff's Department in the DNA lab.

3 Q And how long have you been employed with Richland
4 County Sheriff's Department?

5 A Eleven years.

6 Q And what is your particular title?

7 A I am a serologist.

8 Q Okay. And what are your duties as a serologist?

9 A So I assist analysts in casework and screen items of
10 evidence for biological fluids.

11 Q Okay. And were you involved with this particular
12 case against Brian White?

13 A Yes, sir.

14 Q What was your involvement?

15 A I picked up evidence and processed it for the
16 analyst in this case.

17 Q As a -- you said you took up evidence. Do you know
18 what particular pieces of evidence you touched?

19 A Yes, sir.

20 Q I'll go through what's been marked as State's
21 Exhibit 66. Take a look at that. Do you recognize that?

22 A Yes, sir.

23 Q What is that?

24 A It is a swab from fired cartridge casings, marked A
25 through H.

DIRECT EXAMINATION BY MR. PRATT - ASHLEIGH DIXON 398

1 Q And how do you know that?

2 A It's labeled here with our evidence label. And it's
3 got my initials on here.

4 Q All right. So is that one of the items that you
5 touched?

6 A Yes, sir.

7 MR. PRATT: Beg the Court's indulgence.

8 (Off the record briefly.)

9 Q Where did you first obtain that piece of evidence?

10 A Just a second. I got it from the evidence room on
11 September 1st of 2017.

12 Q And was the custody of that evidence documented?

13 A Yes, sir. It's in our system called ACIS. It --
14 it's our chain of custody.

15 Q Okay. And what was the condition when you first
16 received that evidence?

17 A The -- the package wasn't tampered with. It was --
18 it was fine.

19 Q Okay. And what did you end up doing with it?

20 A So I took a cutting with sterile scissors. And it
21 looks like a -- a cotton swab. I took a cutting of that;
22 put it in a tube, a small tube; and then passed the tube
23 over to our analyst for further analysis.

24 Q Okay. And how was that cutting stored?

25 A In our laboratory.

1 Q And what was the condition when you stored it?

2 A It was a black-powder-like stain on the cutting. So
3 we put it in a tube; I put the top back on. And then, it
4 sits in a rack until the analyst can do a further
5 analysis.

6 Q Was there any -- did you do anything that would've
7 changed the nature of that cutting?

8 A No.

9 Q Okay. Did you tamper with the evidence in any way?

10 A No, sir.

11 Q Did you expose the sample?

12 A No, sir.

13 Q Does the item appear to be in the same condition as
14 when you possessed it?

15 A I -- you talking about now?

16 Q Yes.

17 A I would have to look at the item, like ---

18 Q Okay.

19 A --- open up the -- the ---

20 Q The packaging ---

21 A --- package.

22 Q --- I mean.

23 A Yes.

24 Q What, if anything, would you say is different about
25 the packaging?

DIRECT EXAMINATION BY MR. PRATT - ASHLEIGH DIXON 400

1 A I don't see anything different, other than where I
2 opened it and sealed it back ---

3 Q Okay.

4 A --- when I returned it back to the evidence room.

5 Q All right. Thank you. And I'm going to show you
6 what's been marked as State's Exhibit 72. Do you
7 recognize that?

8 A Yes.

9 Q And what is that?

10 A It's a buccal swab from Victim Turner.

11 Q And when did you first obtain it?

12 A September 1st, 2017.

13 Q Okay. And what was the condition of it when you
14 received it?

15 A It wasn't tampered with or -- it was fine.

16 Q Okay. And what did you do with that swab?

17 A Just like the other swab, I took a cutting of it,
18 put it in a tube, sealed the tube, and gave it back to --
19 and -- and put it in a rack for the analyst to do further
20 analysis.

21 Q Okay. And where was it stored?

22 A In the DNA lab.

23 Q And what was the condition of it when you stored it?

24 A It was a reddish-brown stain. It was just a cutting
25 I put in the tube.

DIRECT EXAMINATION BY MR. PRATT - ASHLEIGH DIXON 401

1 Q Okay. And did you do anything that would've changed
2 the nature of it?

3 A No.

4 Q Did you tamper with it in any way?

5 A No, sir.

6 Q Did you expose it in ---

7 A No, sir.

8 Q --- any way?

9 A No, sir.

10 Q Does it seem to be in the same condition,
11 packaging-wise, than -- than when you received it?

12 A Yes, sir.

13 Q What, if anything, is different about it?

14 A I don't see anything different.

15 Q Okay.

16 (Off the record briefly.)

17 THE COURT REPORTER: Sir?

18 MR. PRATT: Can I get these marked?

19 THE COURT REPORTER: Any particular order?

20 MR. PRATT: No, ma'am.

21 THE COURT REPORTER: Okay.

22 (Whereupon, State's Exhibits 78 through 82 were
23 marked for identification.)

24 MR. PRATT: Thank you.

25 THE COURT REPORTER: Yes, sir.

DIRECT EXAMINATION BY MR. PRATT - ASHLEIGH DIXON 402

1 (Off the record briefly.)

2 Q I'm going to show you what's been marked as State's
3 Exhibit 82, 81, 80, 79, and 78. Do you recognize those
4 items?

5 A Yes, sir.

6 Q Were these items in evidence that you touched?

7 A Yes, sir.

8 Q Okay. And are they in the same condition as when
9 you received them?

10 A Yes. Except for I cut the bottom to open it.

11 Q Okay. Other than that, are -- is the condition the
12 same?

13 A Yes.

14 Q Did you do anything? Did you tamper with it?

15 A No, sir.

16 Q Did you expose the evidence?

17 A No, sir.

18 Q What was the condition when the evidence was stored?

19 A I seal it up every time. After I process one piece
20 of evidence, I seal it up. So it's -- other than the
21 cutting I take for, it's in fine condition.

22 Q Okay. Is there anything different about those items
23 than when you handled them?

24 A No, sir.

25 MR. PRATT: No further questions.

1 MS. PINNOCK: No questions, Your Honor.

2 THE COURT: All right. You may step down. Any
3 objection to this witness being excused?

4 MS. SAMPSON: Not from the state, Your Honor.

5 MS. PINNOCK: No, ma'am.

6 (Whereupon, the witness exited the witness stand.)

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

8 (Whereupon, a bench conference was held off the
9 record in the presence of the jury, but out of the
10 hearing of the jury.)

11 THE COURT: All right. Ladies and gentlemen of the
12 jury, that's going to be -- that's going to be our last
13 witness for today. We'll start back fresh in the morning
14 at 9:30. I guess we'll start back at 9:30 in the
15 morning.

16 Remember, do not do any -- do not discuss the case.
17 When you get home, your friends, your family, your
18 relatives will all want to know what you're doing down
19 there at the courthouse. Tell them you'll talk to them
20 about it at the end of the week, but that you cannot
21 speak with them about it at this time.

22 Please do not do any independent research, no
23 texting, no social media regarding anything that's going
24 on here in the courtroom. Have a wonderful evening, and
25 we will see you all at 9:30 in the morning.

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TRIAL DAY 3 - 11/20/19

(Whereupon, the proceeding resumed at 9:53 a.m.)

(Whereupon, State'S Exhibits 83 through 85 were
premarked for identification prior to the resumption
of the proceeding.)

THE COURT: Good morning, you may be seated. All
right. We ready?

MS. SAMPSON: Yes, ma'am.

THE COURT: Y'all ready?

MS. EIGENBROT: Yes, Your Honor.

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

(Off the record briefly.)

(Whereupon the jury entered the courtroom at 9:54
a.m.)

THE COURT: All right. Good morning, ladies and
gentlemen of the jury. I hope you had a restful evening.
At this time, we are ready to start back up. We will
have the state call their next witness.

MR. PRATT: Thank you, Your Honor. The state calls
Patricia Hart.

(Whereupon, the witness came forward.)

PATRICIA HART, having been first duly sworn,
testified as follows:

DEPUTY CLERK OF COURT: Thank you. Have a seat in
the witness stand, please.

DIRECT EXAMINATION BY MR. PRATT - PATRICIA HART 408

1 THE WITNESS: (Complied.)

2 DEPUTY CLERK OF COURT: State your name for the
3 record and spell it for the court reporter, please.

4 THE WITNESS: Patricia Hart, H-a-r-t.

5 DIRECT EXAMINATION

6 BY MR. PRATT:

7 Q Good morning, Ms. Hart.

8 A Good morning.

9 Q Can you please tell the jury where you're currently
10 employed?

11 A Richland County Sheriff's Department.

12 Q And how long have you been employed by Richland
13 County Sheriff's Department?

14 A For almost five years.

15 Q And what's your current title with the Richland
16 County Sheriff's Department?

17 A I work in the firearms section.

18 Q Okay. And what are your duties working in the
19 firearm...

20 A I work -- I do the ballistics on the -- the guns for
21 the NIBIN system.

22 Q Okay. And back in December to -- December 2016
23 until December 2017, where were you working, or what
24 position did you hold?

25 A I was part-time in the evidence and property room,

DIRECT EXAMINATION BY MR. PRATT - PATRICIA HART 409

1 plus still worked in the firearm section.

2 Q Okay. Did you happen to become involved with the
3 case against Brian White?

4 A Yes, I did.

5 Q And what was your involvement?

6 A I logged in evidence as it was being turned in.

7 Q Okay. And show you -- showing you what's been
8 marked as State's Exhibit -- State's Exhibit 64, 65, 66,
9 67, and 71. Can you take a look at those items? And
10 when you're done looking at them, can you let me know if
11 you recognize those items?

12 A Yes, I recognize these items.

13 Q Have you had a chance to review the property report
14 in this particular case?

15 A Yes, I did.

16 Q Are there any corrections that need to be made to
17 that property report?

18 A Yes, sir. But it's not with these items. It is
19 with items -- different items that I had checked out to
20 Amanda Metz. But the management system has it going from
21 Amanda Metz to Amanda Metz, when it should be -- and we
22 did memorandum of record, stating that those items should
23 have been -- come from me to Amanda.

24 Q Okay. And what date are you referencing on that
25 property report?

1 A January 31st, 2017.

2 Q And which particular items does that include?

3 A That's Items 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13,
4 14, 21, 22, 29, and 30.

5 Q All right. Thank you. Now, with regard to the
6 items that you have up there, did you touch those items?

7 A Yes.

8 Q And what was the condition when you received those
9 items?

10 A The items are sealed, and we log them in and put bar
11 codes on them and place them in storage ---

12 Q Did ---

13 A --- down in evidence and property.

14 Q And what did you do with those items?

15 A When I put them in the management system, I print
16 out the bar code and I'll put a bin -- I'll have to look
17 on the -- because they change throughout. I'd have to
18 look on the property report to -- exactly what bin they
19 went into.

20 Q Let me ask you this: Did you document when you
21 moved evidence from one place to another?

22 A Yes, sir. It's all in the ---

23 Q And ---

24 A --- evidence.

25 Q And as far as you recognize, are they in the same

DIRECT EXAMINATION BY MR. PRATT - PATRICIA HART 411

1 condition from when you received them to when you drop
2 them to the next location?

3 A No. I noticed they've all been opened up and
4 resealed by other people. When I got them, they just had
5 the one seal.

6 Q Okay. Other than the fact that they've been opened
7 up and resealed, is there any other difference that you
8 notice?

9 A No.

10 Q Okay. Did you do anything to tamper with the items?

11 A No, I didn't.

12 Q Did you do anything that could have exposed the
13 items to corruption?

14 A No, I didn't.

15 Q I'm going to show you what's been marked as State's
16 Exhibit 84. Can you tell me if you recognize what that
17 is?

18 A Yes, sir. This is Item 29 and 30, which is the
19 Smith and Wesson 9-millimeter and the magazine.

20 Q And did you happen to come into contact with this
21 piece of evidence in the case?

22 A It was turned in to evidence, sealed, and I logged
23 it in and placed it into our latents bin for processing
24 in the lab.

25 Q And when you -- what was the condition of the item

1 when you came into contact with it?

2 A They were in the box already sealed.

3 Q Okay. And is there anything difference that you
4 notice in the evidence?

5 A I can see that it's been opened up and resealed and
6 other labels have been put on it.

7 Q Other than that, is it substantially in the same
8 condition as when you remember coming into contact with
9 it?

10 A Yes, sir.

11 Q Did you do anything to tamper with the evidence?

12 A No, I didn't.

13 Q Did you do anything to expose the evidence to
14 corruption?

15 A No, I didn't.

16 Q Looking at that item, the gun, did you -- when did
17 you get that item?

18 A I have to look at the report, but I can tell you in
19 second.

20 Q Okay.

21 A I received it on December 12th, 2016, at 9:24, time
22 I logged it in from Investigator Ronald Truluck and put
23 it in the bin.

24 Q Thank you. And did you deliver that item to anyone?

25 A Yes. Later on the same day at 11:51, I transferred

DIRECT EXAMINATION BY MR. PRATT - PATRICIA HART 413

1 the item from evidence in custody of Kristen Polis, who
2 works up in latents.

3 Q Okay. And did you happen to come into contact with
4 the item again?

5 A Let me see. Yes. On December 16th at 11:49 I
6 received the item from Kristen Polis and put it back in
7 evidence on our Shelf L-5.

8 Q All right. Thank you. And is that transfer of the
9 property, is that done in the normal course of business?

10 A Yes. Everything is done in our management system.

11 Q Okay. Put that back. Do you still have Item 64,
12 65, 66, 67, and 71?

13 A I handed back all the items.

14 Q I'll just give them back to you real quick. Item 64
15 -- what's been marked as State's Exhibit 64, can you
16 describe what that item is?

17 A This item was a projectile, Marker No. 1.

18 Q And what about Item 65, for State's Exhibit 65?

19 A It's a projectile marked Item 8 -- or No. 8. Sorry.

20 Q And what about State's Exhibit 66?

21 A It was a swab from a fired cartridge case marked A
22 -- A through H, I'm sorry.

23 Q And Item 67?

24 A 67, they were fired cartridge cases. They were
25 Marker A, B, C, D, E, F, G, and H.

1 Q And State's Exhibit 71?

2 A They were projectiles from the head and projectile
3 from the right wrist.

4 Q Now, with those particular items, can you identify
5 who you received those items from, when you -- where --
6 when and who you received those items from?

7 A Okay. They were received from Timothy Lee.

8 Q All of them?

9 A Item 21 and 22 were received from Michael Bouknight
10 .

11 Q When did -- when did you receive that from
12 Bouknight?

13 A They were received on December 9th at 10:04.

14 Q And where -- what did you do with the evidence? Did
15 you give it to anyone, with respect to what's on the
16 evidence property report, 21 and 22?

17 A Items 21 and 22 were given to Amanda Metz.

18 Q All right. Thank you.

19 A On February 18th.

20 Q All right. What's been marked as State's Exhibit
21 67, items -- evidence property report 7 through 14, can
22 you give the date and who you received those items from?

23 A They were received in evidence on January 9th at
24 10:00 ---

25 Q From ---

DIRECT EXAMINATION BY MR. PRATT - PATRICIA HART 415

1 A --- Melody Galinski.

2 Q You received them from Melody Galinski?

3 A We received them from Tim Lee. But Melody is the
4 one that checked those in.

5 Q Okay. And is that done in the normal course of
6 business?

7 A Yes.

8 Q And I -- what's been marked as State's Exhibit 66,
9 item -- evidence property report No. 4, can you give the
10 date and time or the date of when you received it and who
11 you received it from?

12 A Item 4 was received from Timothy Lee, and Melody is
13 the one who checked those in.

14 Q And is that done within the normal course of
15 business?

16 A Yes.

17 Q Now State's Exhibit 65 -- what's been marked as
18 property report No. 5?

19 A They were received from Timothy Lee and checked in
20 by Melody Galinski.

21 Q And is that done within the normal course of
22 business?

23 A Yes, it is.

24 Q And then, the last item, State's Exhibit 64,
25 property report No. 6.

CROSS-EXAMINATION BY MS. PINNOCK - PATRICIA HART 416

1 A Received on December 9th from Timothy Lee by Melody
2 Galinski.

3 Q And is that done within the normal course of
4 business?

5 A Yes, it is.

6 MR. PRATT: Beg the Court's indulgence.

7 (Off the record briefly.)

8 MR. PRATT: No further questions.

9 THE COURT: Yes, ma'am.

10 MS. PINNOCK: Just very briefly, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. PINNOCK:

13 Q Did you say that you received the Item 84 on
14 December 12th?

15 A Hold on one minute. I'll check the records. We
16 don't have an Item 84.

17 Q I'm sorry. It was State's No. 84. I apologize.

18 A No worries.

19 Q I have the number for you. That's the number that
20 it would be under.

21 (Off the record briefly.)

22 A Yes, I received Item 29 and 30 on December 12th at
23 9:24 from Ronald Truluck.

24 Q Thank you.

25 MS. PINNOCK: Thank you, Your Honor.

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 417

1 THE COURT: Yes, sir.

2 MR. PRATT: No further questions.

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

4 Any objection to this witness being excused?

5 (Whereupon, the witness exited the witness stand.)

6 MS. SAMPSON: No, Your Honor.

7 THE COURT: Call your next witness.

8 MR. MCGLOTHIN: State calls Kristen Polis.

9 (Whereupon, the witness came forward.)

10 KRISTEN POLIS, having been first duly sworn,
11 testified as follows:

12 DEPUTY CLERK OF COURT: Thank you. Have a seat in
13 the witness stand, please.

14 THE WITNESS: (Complied.)

15 DEPUTY CLERK OF COURT: State your name; spell it
16 for the court reporter.

17 THE WITNESS: My name is Kristen Polis, P-o-l-i-s.

18 DIRECT EXAMINATION

19 BY MR. MCGLOTHIN:

20 Q Good morning, Investigator Polis. How are you?

21 A Good morning. I'm fine.

22 Q Could you please tell the jury where you work?

23 A At the Richland County Sheriff's Department.

24 Q What do you do there?

25 A I'm currently a full-time latent-print analyst,

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 418

1 doing fingerprint work. At the time of this case, I was
2 the senior analyst in the crime scene section.

3 Q So did you play a role in the investigation of this
4 case?

5 A I did.

6 Q Okay. Did you respond to the scene?

7 A Yes, I did. I responded to assist Investigator Lee.
8 At that time he was Investigator Lee, now Sergeant Lee.
9 And I searched -- I assisted in searching the area to try
10 to find any additional evidence. He had been there,
11 working for a period of time before I arrived to help him
12 finish up.

13 Q Were you able to find any evidence?

14 A We did. We located two additional metal fragments
15 that we collected from the ground area there on -- at
16 that scene.

17 Q I'm showing what's been marked for ID as State's
18 Exhibit 83. Do you recognize this item?

19 A Yes. This is the packaging for the two metal
20 fragments that were labeled with the letter J and the
21 letter I.

22 Q Okay. And were those the -- the fragments you
23 mentioned finding at the scene?

24 A Yes.

25 Q And how do you know that's what that is?

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 419

1 A I recognize this to be my packaging. You can see
2 the original seal is still intact here, although it has
3 been opened and other work has been done.

4 Q And is that in the condition as -- the same
5 condition as when you collected it?

6 A As best I can tell, but the packaging was -- yes.

7 Q Okay. And what did you do with that item after --
8 where did it go next?

9 A After we collect items, we package them as we see
10 here, and then they are submitted to our evidence and
11 property section.

12 Q And when they're submitted to -- when you said
13 they're submitted to evidence and property, what is --
14 what is that? Can you explain what that means?

15 A We are basically turning all the items over to them,
16 and they are going to maintain custody of them. And as
17 needed, they will check them out for additional testing
18 by other disciplines. That was the conclusion of what I
19 did with this item, these items.

20 Q Are those items generally placed in some sort of
21 secure container or locker when they're turned in?

22 A When we turn them over to them, yes. They have a
23 whole system for inventorying and cataloging locations of
24 the items. The entire evidence section itself is secure.

25 Q And when they are put in these items, do they -- or

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 420

1 in these secure containers, are they immediately picked
2 up by someone else, after you've turned them in?

3 A At some point. So for example, we have lockers and
4 then there's also a large bin that we can drop things
5 into. Because at three in the morning, there's not
6 anybody there working in the evidence section. So there
7 are secured areas to put everything. In this case, this
8 item I have marked was submitted person to person, which
9 meant that I handed it to the evidence section. Somebody
10 took it at that time. And then, they would go through
11 their process of data entry.

12 Q And do you know who had that item after -- after
13 you?

14 A According to the property report, it was Melody
15 Galinski.

16 Q Okay. Did you do anything to change the nature of
17 that item before you turned it in?

18 A I did not.

19 Q And did it appear to be tampered with in any way
20 when you turned it in?

21 A No.

22 Q Okay. So going back to the scene, did you do
23 anything else while you were there?

24 A In addition to the evidence search and the
25 collection that we discussed, when we completed

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 421

1 everything, I followed the tow truck with a Dodge Ram van
2 back to our headquarters, where we have a secured
3 forensic garage, and placed that item into the garage.

4 Q Okay. Did you have a chance to process any items
5 that were collected there at the scene, or any items in
6 general on this case?

7 A Yes.

8 Q What were those items?

9 A At a later date, December the 15th, I processed a
10 Smith & Wesson 9-millimeter handgun and a magazine with
11 two unfired cartridges.

12 Q Okay. I'm going to show you what's been marked for
13 identification as State's Exhibit 84. Do you recognize
14 that?

15 A Yes, I do.

16 Q What is that?

17 A This is the Smith & Wesson 9-millimeter handgun,
18 Serial No. HET2967. There's also a magazine. And then,
19 there are two unfired cartridges in an envelope.

20 Q And is that the same one that you processed?

21 A Yes, sir.

22 Q And how do you know?

23 A Identifying it by the serial number and also my
24 handwriting is here in the packaging.

25 Q And does it appear to be in the same condition as

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 422

1 when you analyzed it?

2 A Yes.

3 Q Does it appear to have been tampered with at all?

4 A No.

5 Q So what exactly did you do with that handgun?

6 A I was trying to get fingerprints from this weapon.

7 So our process for doing that is cyanoacrylate fuming and
8 black powder. Basically, cyanoacrylate fuming is we have
9 a large chamber in our laboratory and you place items of
10 evidence in there and you close it off and it cuts off
11 all airflow to that chamber. And then, there's a warming
12 plate inside there, like a warmer that you set your
13 coffee cup on. It's basically the same thing.

14 And it has a little aluminum container. We put
15 cyanoacrylate, which is the fancy name for superglue --
16 you put superglue there on that warming plate. And then,
17 there's also a humidifier inside that chamber. So when
18 you close and secure the chamber, basically, the humidity
19 level within the chamber will start to rise, and the
20 combination of the humidity and the heat on that
21 superglue is going to create fumes that will be in that
22 chamber. And they will settle on any items that are
23 inside the chamber.

24 And like you would expect with superglue, it will
25 harden and basically that's going to help protect any

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 423

1 evidence that might be present on the item. So
2 fingerprints are mostly made of moisture. They're very
3 fragile. It's very easy for them to be damaged.

4 So this is the first step for us in trying to
5 preserve anything that might be on that item. At the
6 conclusion of the fuming, the fuming chamber will purge,
7 which basically gets all of the fumes out so that we
8 don't breathe any of those in, and we can remove the
9 item. We can examine it and see -- at that point,
10 sometimes you can see a fingerprint or some ridge detail,
11 which is basically the lines that are in your
12 fingerprint. Maybe not enough, but you can maybe see
13 something at that point.

14 Then we will use black powder. The black -- the
15 powder is formulated to adhere to those residues that we
16 leave behind as we touch things, so that will take that
17 fingerprint and help us visually be able to see it.

18 If we are able to get a fingerprint, we have a
19 couple of different ways that we can preserve it. We can
20 photograph it. We can lift it with tape and place it on
21 a fingerprint card, which probably is the most -- that's
22 primarily the way that we work with fingerprints in our
23 agency, is through fingerprint cards. And, then that
24 item will go for further examination.

25 Q And were you able to get fingerprints on this item?

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 424

1 A I did not.

2 Q Okay. Did you do any other processing of this item?

3 A I also collected two swabs, one from the gun and one
4 swab from the magazine and the two unfired bullets.

5 Q I'll show you what's been marked for ID as State's
6 78. Do you recognize that?

7 A I do.

8 Q And what is that?

9 A These are the two swabs that I just described.

10 Q Okay. And how do you know those are the same swabs?

11 A I recognize the description here on the packaging.
12 This is obviously my handwriting, and it describes the
13 first one as the swab from Smith & Wesson 9-millimeter
14 handgun, Serial No. HET2967, and then one swab from
15 magazine and two unfired cartridges.

16 Q And do they appear to be in the same condition as
17 when you put them in that?

18 A The packaging does. It's clearly been opened. My
19 original seal was here, but it's been opened and other
20 work has been done with these. The packaging is
21 basically as I prepared it.

22 Q And does it appear to have been tampered -- other
23 than the -- opening the bond, it didn't appear to be
24 tampered with in any way?

25 A No.

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 425

1 Q And who did you -- when you were done with that
2 item, what did you do with it?

3 A I submitted this item to the evidence and property
4 section. It was placed in their drop box, which is the
5 box I was describing to you as if nobody's there, you put
6 the items into the box and they're secured there. Nobody
7 can open it except the evidence section.

8 Q Okay. And I think I failed to ask this. On the
9 last items, No. 29 and 30, what did you do with those
10 items once you were done with them?

11 A What are 29 and 30?

12 Q Excuse me, it's State's -- I apologize. It's
13 State's 84.

14 A Those items were also returned to the evidence and
15 property section.

16 Q Do you know who handled them after you?

17 A I do not. And I do not have that documentation with
18 me.

19 Q Okay. So what other role did you play in this case?

20 A The only over activity in the case was a
21 verification for a latent print comparison that was
22 completed by Investigator Odom.

23 Q And what is that?

24 A In our process, when we have a fingerprint that
25 we're trying to identify, we go through and do a

DIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTEN POLIS 426

1 comparison which is where we're looking at that
2 fingerprint compared to a known print of an individual.
3 And as part of that entire process, we have a step called
4 verification, which is a second examination. So another
5 examiner completed a comparison, and then gave that work
6 to me and I did my own examination to verify her results.

7 Q And what -- this may be a dumb question, but what's
8 the purpose of doing that?

9 A To ensure that two people who are trained to
10 competency in this area reach the same conclusion with
11 the evidence.

12 Q Thank you. With all these items that you -- you had
13 a part with in this case, did you follow the proper
14 procedure -- standard procedure for collecting,
15 processing, and storing those items?

16 A Yes, I did.

17 Q Okay.

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

19 (Off the record briefly.)

20 Q Thank you, Investigator Polis. Please answer any
21 questions the defense may have.

22 THE COURT: Yes, ma'am.

23 MS. PINNOCK: Thank you, Your Honor. Very briefly
24 -- very briefly, if it pleases the Court.

25 THE COURT: Yes, ma'am.

CROSS-EXAMINATION BY MS. PINNOCK - KRISTEN POLIS 427

1 CROSS-EXAMINATION

2 BY MS. PINNOCK:

3 Q Investigator, where did you -- do you have any
4 documentation on where you took the swab from?

5 A Yes.

6 Q Could you just let us know where that came from?

7 A Yes. The first swab came from the gun itself, so
8 that would have been running the swab over the outer
9 surface of the gun.

10 Q The -- like the whole surface or ---

11 A Yes.

12 Q Okay.

13 A Yes. And the second one was collected from the
14 magazine and the two unfired cartridges.

15 So the way that we do that is we have a -- a swab
16 that's in sterile packaging. We take it out and we
17 moisten it with distilled water. And then, you just
18 basically rub that over the surface of the item, just
19 trying to -- to pick up any residues or any -- any
20 evidence that might be there from that item if we had it
21 on that swab.

22 Q Thank you.

23 A Yes, ma'am.

24 THE COURT: Anything else?

25 MR. MCGLOTHIN: Just very briefly.

REDIRECT EXAMINATION BY MR. MCGLOTHIN - KRISTIN POLIS 428

1 REDIRECT EXAMINATION

2 BY MR. MCGLOTHIN:

3 Q When you process an item, do you always find
4 evidence on it?

5 A No.

6 Q Thank you.

7 MR. MCGLOTHIN: Nothing further.

8 THE COURT: All right. You may step down. Any
9 objection to this witness being excused?

10 MS. PINNOCK: No, Your Honor.

11 (Whereupon, the witness exited the witness stand.)

12 THE COURT: You're free to leave, ma'am.

13 (Off the record briefly.)

14 THE COURT: Call your next witness.

15 MS. SAMPSON: Thank you, Your Honor. State calls
16 Amanda Metz.

17 (Whereupon, the witness came forward.)

18 AMANDA METZ, having been first duly sworn,
19 testified as follows:

20 DEPUTY CLERK OF COURT: Thank you. Have a seat in
21 the witness stand.

22 THE WITNESS: (Complied.)

23 DEPUTY CLERK OF COURT: State your name for the
24 record and spell it for the court reporter.

25 THE WITNESS: Amanda Metz, M-e-t-z.

DIRECT EXAMINATION BY MS. SAMPSON - AMANDA METZ 429

1 DIRECT EXAMINATION

2 BY MS. SAMPSON:

3 Q Good morning.

4 A Good morning.

5 Q Can you speak into that microphone? You speak kind
6 of soft.

7 A Good morning. Sorry.

8 Q There you go.

9 A I'm getting the fall-time/wintertime crud so . . .

10 Q I feel you. Can you tell the jury where you work?

11 A I work at the Richland County Forensic Sciences
12 Laboratory in the firearm and toolmark section.

13 Q And what do you do there?

14 A My primary duties are to examine firearms and
15 ammunition components and other tools and their marks for
16 forensic evidence and then present my findings to the
17 Court.

18 Q And how long have you been with the Sheriff's
19 Department?

20 A Approximately nine years.

21 Q Okay. And what kind of training did you receive in
22 order to do this?

23 A I actually -- I have a bachelor of arts in both
24 anthropology and art history and a master of science in
25 forensic archaeology and international crime scene

1 investigation. I actually came to Richland County
2 Sheriff's Department and then worked the road for about a
3 year and a half; was pulled up into the forensic sciences
4 laboratory.

5 From there I completed essentially another master's.
6 I did a very extensive three-year in-house training and
7 of those three years, one of those years was spent at the
8 ATF National Firearm Examiners Academy up in Maryland.
9 And then from that time, I came back to Richland County
10 and completed approximately 300 supervised case work
11 during my training, and then was deemed competent with a
12 competency test as well as a proficiency test.

13 And since that time, I've completed approximate
14 approximately 600 cases. And I'm a member of our
15 professional organization, the Association of Firearm and
16 Toolmark Examiners, as well as having been -- I guess
17 qualified as a firearm and toolmark examiner in the
18 courts of South Carolina.

19 Q And do you have to continue to get training, or once
20 you do training, you're done?

21 A Well, training and learning is always an ongoing
22 process. We have peer-reviewed journals that people
23 publish articles that we maintain our knowledge. But
24 then, also yearly we do a proficiency test that's given
25 to us by an external agency. And we do both our firearms

DIRECT EXAMINATION BY MS. SAMPSON - AMANDA METZ 431

1 identification as well as our other sub disciplines,
2 which consist of serial number restoration, toolmark,
3 which is technically the overall encompassing firearms
4 investigation, but dealing more with cable cutters, cut
5 chain-link fence, etc., as well as distance
6 determination.

7 Q And I believe you said this, but you've been
8 qualified as an expert before?

9 A Yes.

10 Q In what field?

11 A In firearm and toolmark identification.

12 MS. SAMPSON: At this time, Your Honor, we'd ask
13 that Ms. Metz be qualified as an expert in the field of
14 firearms and tool examination -- toolmark examination.

15 THE COURT: Toolmark?

16 MS. SAMPSON: Toolmark examination. Yes, ma'am.

17 THE COURT: Any voir dire?

18 MS. PINNOCK: No, Your Honor, but I do believe we
19 have a matter of law we would need to take up prior to
20 any testimony being offered.

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, I'm going to send you back for a brief moment.
23 Thank you.

24 (Whereupon, the jury exited the courtroom at 10:32
25 a.m.)

DIRECT EXAMINATION BY MS. SAMPSON - AMANDA METZ 432

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

2 MS. PINNOCK: Thank you, Your Honor. May it please
3 the Court. Your Honor, at this point, I don't believe
4 the state has established a chain of -- to have the
5 ballistics expert talk about any comparisons made between
6 the shell casings -- any sort of fragments and this gun
7 that we have had no testimony about where it came from.
8 So without some sort of -- you know, some supporting
9 testimony about why we are testing this weapon, then it's
10 just in evidence.

11 They have not established a chain to have this
12 witness make the connection. There is that possibility
13 they will not be able to establish the chain to get the
14 weapon introduced into evidence, so I think it's a little
15 premature to have the ballistics expert testify about
16 comparisons without having laid that proper foundation.

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

18 MS. SAMPSON: I'm not -- and maybe I'm just not
19 understanding what Ms. Pinnock is talking about. We've
20 had every person in the chain of come in and talk about
21 it coming through evidence.

22 If she's -- if she's trying to say that she can't
23 say that that is the gun that killed the victim, we're
24 not saying that at this point. We're saying she's coming
25 in to say the evidence that she's been providing that

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1 that gunshot the bullets that she was provided.

2 THE COURT: One more time?

3 MS. SAMPSON: I think if I understand Ms. Pinnock's
4 argument is that -- we're not -- this expert can't say
5 that that is the gun that shot the victim. What she is
6 coming here to say and what we were about to go into is
7 that the gun that had been provided to her shot the
8 bullets that had been provided to her. And we've
9 established the chain.

10 THE COURT: That the gun -- that the bullets ---

11 MS. SAMPSON: That are up there, that everybody has
12 discussed belong to the gun that has been discussed and
13 that she tested both of those and they match each other.

14 THE COURT: And that's all she's saying?

15 MS. SAMPSON: Yes, ma'am.

16 MS. PINNOCK: That is the issue. Matching this gun
17 that we don't even know where this gun came from at this
18 point. All we know is it's in evidence. It's not -- I'm
19 sorry. It's not even been admitted into evidence.

20 They've showed there was a weapon that was tested.
21 The issue is the base foundation of where this weapon
22 came from. There's been no connection to that weapon to
23 this case up to this point.

24 All we know is there is a weapon submitted by
25 Investigator Truluck on December 12th. If the state

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1 cannot lay a foundation to properly introduce the weapon
2 into evidence, we have another legal issue that comes up,
3 because then, there will have been testimony from an
4 expert connecting shell casings from a scene that, by all
5 accounts, they're arguing are the shell casings from the
6 bullets that killed Mr. Turner to a gun that potentially
7 will not be introduced into evidence.

8 So all we know is that it was turned into evidence.
9 We don't know where it came from. We don't know how it's
10 connected to this case. They have not laid that
11 foundation.

12 They have established it's been put into evidence.
13 It's been swabbed; it's been fingerprinted; it's been
14 tested. We don't have any foundation on where it came
15 from.

16 MS. SAMPSON: For chain and for her to do that -- I
17 don't have to do that for her. She is -- I'm not
18 required to go in the order that they would like me to go
19 in. I have to establish chain of custody of that gun and
20 chain of custody on the bullets, and I have.

21 What she -- I can introduce it into evidence through
22 this witness; I have to do a chain first. She is the
23 last person in this chain. That's why we haven't
24 introduced it into evidence.

25 So once we introduce it, if we can't make the

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1 connection, then they can argue that's a credibility
2 issue, not an admissibility issue. If we don't connect
3 this gun somehow to this case, then that's a credibility
4 case.

5 THE COURT: Well, that's what it sounds like: It
6 goes to weight. They can't -- they can't -- she's not
7 testifying that your client shot the gun.

8 MS. PINNOCK: No, ma'am. It's the beginning of the
9 chain that's missing. So we had the last person, but not
10 how we got here. There's got to be some testimony
11 provided somewhere that starts the chain.

12 MS. SAMPSON: We had that first person.

13 MS. PINNOCK: No, ma'am. We have not had any
14 testimony about where this gun came from.

15 MS. SAMPSON: Hart -- Patricia Hart testified that
16 she received it from Truluck. Just testified to that,
17 and then we went through the rest of the chain. She's
18 the last person in the chain.

19 MS. PINNOCK: With all due respect, Your Honor,
20 Investigator Truluck is not the first person in the
21 chain.

22 MS. SAMPSON: For the gun, he is the first person in
23 this chain.

24 THE COURT: For purposes of -- y'all are mincing
25 words. Legally, he is the first person in the chain that

1 -- but what she's saying is where did you get the gun?

2 MS. SAMPSON: And, Your Honor, again, that -- there
3 is nothing in the rules that require me to do that first.
4 I have to start the chain and get the chain in, and then
5 get the evidence in. If I can't connect it with Truluck
6 of where he got the gun from, that's going to be a
7 problem that I'm going to have later. And they can
8 bluster me on that all day if they want to as far as to
9 weight. It doesn't make it inadmissible.

10 MS. PINNOCK: Your Honor, then I would just say,
11 then, any testimony about the gun is irrelevant. We have
12 no connection with that gun and getting an expert to
13 testify about this gun because there's no connection made
14 to Brian White.

15 MS. SAMPSON: And it's not ---

16 MS. PINNOCK: If it's relevant, then have her
17 testify to it.

18 MS. SAMPSON: It's not relevant now, but I can make
19 the relevancy later. I don't have to do it to make the
20 relevancy now.

21 THE COURT: I will allow her to testify only to --
22 she can't -- until -- she can only testify to where she
23 is in this chain, what she did, and -- y'all have to
24 connect the dots, and I can't tell them how to try their
25 case. They get to decide.

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1 And if they don't connect the dot, you get the --
2 well, you know what you got to do. If they can't connect
3 the dots to where the gun -- I mean, you just got a gun
4 that you kind of wasting our time on the chain if they
5 can't connect the dots. But I mean, they got -- it's
6 their burden of proof.

7 All right. I'm going to overrule the objection.
8 But she's only testifying to the gun, the shell casings;
9 these are the bullets that shot out?

10 MS. SAMPSON: Yes, ma'am.

11 THE COURT: All right. But any -- any issue as to
12 her expertise, no questions about that?

13 MS. PINNOCK: No, ma'am.

14 THE COURT: Let's bring them back in.

15 THE WITNESS: I'm sorry. I just want to make sure I
16 can testify to ---

17 MS. SAMPSON: Mr. Dye, shut the door.

18 THE COURT: Hold on. Yeah, we need to make sure
19 we're clear.

20 THE WITNESS: I can testify to my report, correct?
21 I don't say anything about anybody touching the gun. I
22 just -- my report is this gun fired these cartridge cases
23 and bullets. I don't have anything to do with any other
24 people or ---

25 THE COURT: That's fine.

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1 MS. SAMPSON: You're fine.

2 (Whereupon the jury entered the courtroom at 10:40
3 a.m.)

4 THE COURT: All right.

5 THE BAILIFF: Jury is seated, Your Honor.

6 MS. SAMPSON: At this time, I'd ask to introduce --
7 to have Ms. Metz qualified as an expert in the field of
8 firearm and toolmark examination.

9 MS. PINNOCK: No objection.

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, normally a person cannot give opinion testimony.
12 Normally when a person testifies, they must testify as to
13 what they either saw, heard, or sensed by smell or
14 something of that nature.

15 However, there is an exception when someone is
16 qualified because of education or experience. They are
17 permitted to give their opinion in certain areas if the
18 Court qualifies them that way. This witness will be
19 qualified in the area of firearm and toolmark examination
20 to give opinion testimony in that area.

21 That does not mean that you must accept the opinion,
22 but it is evidence for you to use in any way you see fit
23 and give it the weight and credibility you will believe
24 is appropriate. Thank you.

25 Yes, ma'am.

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1 MS. SAMPSON: Thank you, Your Honor.

2 DIRECT EXAMINATION BY MS. SAMPSON CONTINUED.

3 Q So Ms. Metz, I'm going to go over some stuff with
4 you. So when you receive such -- anything like a gun,
5 what do you do when you receive it?

6 A So when I receive a firearm, I'll receive it from
7 our evidence and property section. I bring it into my
8 laboratory. I first -- well, first I make sure it's
9 sealed before I take it from evidence and property.

10 Q And I'm going to stop you so we can start with each
11 step.

12 A Sure.

13 Q So State's Exhibit Number 84, can you tell the jury
14 what that is?

15 A Yes. State's Exhibit 84 are my Items 29 and 30. 29
16 is a Smith & Wesson, Model SD9VE. It's a 9-millimeter
17 Luger caliber pistol, Serial No. HET2967. Item 30 is a
18 Smith & Wesson magazine assembly, and two unfired 9-
19 millimeter Luger caliber cartridges.

20 Q And I interrupted you. So when you received that,
21 what was the condition it was in when you received it?

22 A It was sealed when I received it from evidence and
23 property. If it's not sealed, I don't accept it. I take
24 it into our laboratory and from there open it -- and
25 again, a visual, physical examination of the firearm,

1 making sure that it's not broken, looking for any trace
2 evidence. I'm making sure it functions proper, any
3 safeties present are functioning properly, and then
4 document that I've received the firearm and the other
5 items in the box. From there, I take the firearm and we
6 have a big 500-gallon water tank.

7 Q Before you get into that, I'm going to ---

8 A Sure.

9 Q --- interrupt you for a second. So did you do all
10 that that you described in terms of looking at this
11 particular gun and testing it?

12 A Yes.

13 Q And you looked at it already. Does it look to be in
14 the same condition as when you received it?

15 A Yes, correct.

16 Q Changed in any manner?

17 A Other than my initials and the case number that I
18 write on it, no.

19 MS. SAMPSON: At this time, I'd ask to introduce
20 State's Exhibit 84 into evidence.

21 THE COURT: 84?

22 MS. SAMPSON: Yes, ma'am.

23 THE COURT: Any objection?

24 MS. PINNOCK: Your Honor, I would just renew our
25 previous objection.

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1 THE COURT: All right, yes. So it will be entered
2 over the objection of the defense.

3 (Whereupon, State's Exhibit 84 was entered into
4 evidence.)

5 Q So now you can show it to the jury. So what is this
6 that's in the box?

7 A So first of all, this is safe. No ammunition in it;
8 action is open. This is a Smith & Wesson Model SD9VE, 9-
9 millimeter Luger caliber pistol. Pistol just means it's
10 designed to be fired from your hand versus a long gun
11 that's designed to be fired from your shoulder, and
12 versus the revolver, the old cowboy guns. A pistol has a
13 single chamber and barrel that are integral, meaning
14 they're one and the same, so the chamber and barrel and
15 part of each other.

16 With pistols they also extract and eject cartridge
17 cases. This is important sometimes for scenes.
18 Revolvers, unless somebody decides to reload at the
19 scene, will not leave cartridge cases behind, but a
20 pistol, they extract and eject and are left at scene,
21 barring any -- anyone messing with the cartridge cases
22 that are extracted and ejected.

23 Q And you stated you checked that gun to make sure it
24 was in working order?

25 A Correct. Yes. So this particular firearm has

1 internal safeties as well as external safeties. So the
2 trigger here is a safety trigger, so you have to pull it
3 in a certain manner to disengage the safety so that it
4 will actually fire. If it's not held correctly or pulled
5 correctly, the safety will engage and you can't fire this
6 firearm.

7 Q Okay. But you were able to fire and it worked?

8 A Yes, correct. All the safeties function properly on
9 this firearm.

10 Q What was the other thing that you received?

11 A So I received a -- it's a Smith & Wesson magazine.
12 Smith & Wesson likes to label their stuff. So that's how
13 I know it's Smith & Wesson.

14 And they also are nice enough and they label the
15 caliber that's supposed to be used in this. So 9-
16 millimeter Luger caliber ammunition is to be used in
17 this. And I also received two unfired 9-millimeter Luger
18 caliber cartridges. And this is the correct magazine to
19 be used in that firearm.

20 Q And when you say cartridges, is that what laymen
21 call bullets?

22 A Yes. So some people will refer to cartridges as
23 bullets; however, a cartridge is the full package. It's
24 a cartridge case with the gunpowder inside and the
25 bullet, the projectile that strikes your target seated

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1 inside of that. So bullet is not a technical
2 technically correct term for a cartridge because the
3 bullet is actually what goes down and out the barrel and
4 strikes your target.

5 Q Did you look at anything else in this case?

6 A Yes. I received quite a bit.

7 Q I'm going to show you first State's Exhibit 64,
8 which is your Item 6. Do you recognize that?

9 A I recognize that powder packaging.

10 Q Don't show it to the jury yet.

11 A Yes. I recognize State's Exhibit 64 as my Item 6.

12 Q And is it changed in any manner from when you
13 received it?

14 A No.

15 Q How do you know that that's what you received?

16 A Our process is to initial and case number and item
17 number things that we receive, even the actual evidence
18 itself. So my initials and the item number are on the
19 projectile, which is what it is. It's a fired metal
20 jacketed bullet. And my initials and item number and
21 case number are all over everything.

22 MS. SAMPSON: At this time I'd do -- introduce
23 State's Exhibit 64 into evidence.

24 THE COURT: 64?

25 MS. SAMPSON: Yes, ma'am.

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1 THE COURT: Any objection? Same objection?

2 MS. PINNOCK: Yes, Your Honor.

3 THE COURT: All right. It will be entered over
4 objection.

5 (Whereupon, State's Exhibit 64 was entered into
6 evidence.)

7 Q So what did you do with this particular piece of
8 evidence?

9 A So Item 6 -- again, all evidence that I received, I
10 received in a sealed manner from our evidence and
11 property section. And then I do the same thing. I open
12 the package and physically and visually examine it to
13 determine caliber. I weigh it to help me determine that.
14 And then I begin looking at the riflings that's on
15 bullets.

16 So when a firearm is manufactured, the barrel is
17 manufactured with rifling. And the manufacturer decides
18 how they want to do that rifling. There's rifling called
19 conventional rifling, which is very sharp corners, so we
20 call them lands and grooves. So it's a flat surface and
21 a sharp 90, and then a plateau and then another sharp 90.
22 Then, there's polygonal, which is more hills and valleys.

23 During that process of manufacturing, they decide
24 how many lands and grooves do they want. Do they want it
25 going right? Do they want it going left? It doesn't

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1 really matter; they just like to do their own thing.

2 And then, when it's manufactured during the
3 manufacturing processes, microscopic imperfections during
4 that process are left inside the barrel in the form of
5 nicks, spurs, and cuts. And those microscopic
6 imperfections are when the bullet is fired and passes
7 down and out the barrel, those microscopic imperfections
8 are transferred on to the bullet that goes through the
9 barrel. So it's like a little -- it's like a fingerprint
10 essentially for that particular barrel for that
11 particular firearm.

12 And so that's what I start looking at. I start
13 looking at how many lands and grooves, what direction of
14 twist is it going, how wide are they. And then, those
15 are what we call class characteristics.

16 So if you think of shoes, shoe is a very big genre.
17 Are we talking high heels? Are we talking sneakers? Are
18 we talking about basketball shoes? Are we talking about
19 dress shoes?

20 So that would be a narrowing class characteristic.
21 What type of shoe are you talking about? And then is it
22 red? Is it blue? What color? Does it have laces?
23 Doesn't it have laces?

24 So that's what we look at first with -- with any of
25 our evidence or fired cartridge cases in our bullets. We

1 look at the class characteristics first to make sure that
2 the firearm -- if we receive a firearm, do they even
3 match those same class characteristics. If they don't,
4 obviously, that would be like saying your one left high
5 heel and someone's left right sneaker are obviously not
6 from the same pair of shoes. And so that kind of leads
7 us down the direction of narrowing things down.

8 Q And so did you look at all that for that particular
9 ---

10 A I did. That's going to be for all of the fired
11 evidence I received: all fired bullets, all fired
12 cartridge cases.

13 Q So we're going to start with that. What did you
14 determine on that piece of evidence, 64?

15 A So this particular piece of evidence, item -- my
16 Item 6, it's a 9-millimeter Luger bullet ---

17 Q You can show it to the jury now.

18 A Oh, I can show it now? Not that it helps you guys
19 because -- and it's conventionally rifled, so it's got
20 sharp lands and grooves. And it's five right, meaning
21 there are five lands and five grooves with a right twist.
22 And that's -- helps me start my examination of should I
23 even look at it compared to a firearm that I received.

24 Q And did you do that in this case?

25 A I did. So in this case a Smith & Wesson is rifled

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1 five right conventional. So then, I have to start a
2 whole new process of with the firearm, we have a 500-
3 gallon tank of water. When we receive a firearm, we have
4 to create known standards. So we have to create five
5 bullets and five cartridge cases that we know came from
6 that firearm.

7 And so to do that, we test fire it into the big old
8 tank of water. We have a net that catches the cartridge
9 cases. Because as I said, they are extracted and ejected
10 from the firearm, so we need to catch them. And then the
11 bullets are fired into water.

12 And the reason we do water is because water will
13 slow and stop the bullet without imparting any other
14 marks. So if you remember, I'm looking at those
15 microscopic imperfections on the bullet. So we don't
16 want to impart outside marks on those projectiles or on
17 those bullets. And so -- should I?

18 Q Did you do that in this case?

19 A Yes, I did, I did in that this case.

20 Q With this gun? With this ---

21 A Correct, yes.

22 Q And what were you able to determine in reference to
23 that gun and that bullet?

24 A So when I make my known standards, I compare them to
25 each other first so that I know that the firearm is

1 marking. Because even though they have microscopic
2 imperfections, it might not mark in a manner that I can
3 do anything with, that I can look at and say yes, I can
4 tell that these are fired from the same firearm.

5 So once I do that and establish that they reproduce
6 those microscopic imperfections, then I also look at my
7 unknowns to each other. So I like to look at what
8 bullets do I have? Are they all from one gun?

9 So I did that in this case. I look at all my
10 bullets together first and determine if they're from the
11 same firearm. And in this case, they were. Then I
12 compare them to my known standards. And in this case,
13 this firearm fired -- if I'm just speaking about Item 6,
14 Item 6 projectile.

15 Q So that bullet you were provided, the projectile you
16 were provided matches with the gun that you were
17 provided?

18 A Correct. So this projectile, this bullet was fired
19 by that firearm.

20 Q And now I'm going to move on to State's Exhibit 65,
21 which is Item 5 on your exhibit. I won't have you go
22 through the same -- did you test it that way ---

23 A Sure.

24 Q --- but could you look at it and tell the jury if
25 it's in the same condition when you received it? Don't

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1 show it to them yet.

2 A It is, yes.

3 Q And did you tamper with it or change it in any way?

4 A Just with my markings so that I know this is indeed
5 my Item 5.

6 Q Okay. And does this seem to be in the same
7 condition as before?

8 A Yes.

9 MS. SAMPSON: At this time, I'd ask to introduce
10 State's Exhibit 65.

11 THE COURT: Any objection?

12 MS. PINNOCK: Same objection, Your Honor.

13 THE COURT: All right. Over the objection it'll be
14 admitted.

15 (Whereupon, State's Exhibit 65 was entered into
16 evidence.)

17 Q And now you can go ahead and open it. Is it pretty
18 much what you said to at home about 64 the same as
19 with 65?

20 A Yes, exactly the same.

21 Q And it is -- you can show them. Same bullet, same
22 type of bullet?

23 A Yes. Yes. This is a 9-millimeter Luger bullet,
24 conventional five right. And as I said, I like to
25 compare my unknowns, my evidence to each other first. So

1 I had already determined these projectiles were fired by
2 one firearm, by the same firearm.

3 Q The two that we just did, they were received from
4 whom? Like, where did they start from? On the bottom it
5 says ---

6 A Well, let me ---

7 Q You can look through your report, but it does say on
8 the package?

9 A Well, let's see. This says it was submitted by T.
10 Lee. I know that's ---

11 Q That's all I need.

12 A Okay.

13 Q So Tim Lee?

14 A Tim Lee, yes.

15 Q And the same on the other one?

16 A Correct, yes.

17 Q So did you open -- I'm sorry. I took it from you.

18 A I did.

19 Q You opened it?

20 A Yes.

21 Q And State's Exhibit 67?

22 A Yes.

23 Q Do you recognize that?

24 A Yes.

25 Q Are they in the same condition as when you received

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1 them?

2 A Yes, again, other than the markings that I put on
3 them.

4 Q Did you change them in any way ---

5 A I don't ---

6 Q --- other than examining them?

7 A I don't alter them in any way. I ascribe them, so
8 it's a metal pen, essentially. But we mark them in an
9 area that doesn't have marks.

10 Q Other than that, did you change it in any way?

11 A No.

12 MS. SAMPSON: At this time, I'd ask to introduce
13 State's Exhibit 67 into evidence.

14 THE COURT: Same objection?

15 MS. PINNOCK: Yes, Your Honor.

16 THE COURT: All right. It will be entered over the
17 objection.

18 (Whereupon, State's Exhibit 67 was entered into
19 evidence.)

20 Q So now you can open those. Are those 67, which is a
21 lot of cases?

22 A Yes.

23 Q How are those different from the ones that I just
24 showed you, 64 and 65?

25 A So what you showed me before were the bullets.

1 They're what go down and out the barrel and strike your
2 target. Cartridge cases are the bottom part of an
3 unfired cartridge. So they're what house the gunpowder.

4 These are what are extracted and ejected from a
5 firearm. And these are touched by or touch different
6 parts of the firearm than the bullet does. The bullet
7 goes down and out the barrel.

8 The cartridge case strikes actually several parts of
9 the firearm. And each one of those parts goes through
10 tons of manufacturing processes, all of which leave
11 microscopic imperfections, which is what I'm looking at.
12 And so when we get a cartridge case, we look at breech
13 face marks -- could I see the firearms?

14 Q Sure. You want the actual gun?

15 A Yes. So this part back here is the breech face.
16 And when a cartridge is fired, the gunpowder turns into a
17 rapidly expanding gas. So the metal is softer than what
18 the gases can handle, and you get expansion and power and
19 heat.

20 And so the cartridge case is slammed against the
21 back of this breech face, which actually is what starts
22 the process of the firearm extracting and ejecting the
23 cartridge case. So the partridge case will strike the
24 breech face, and any of those microscopic imperfections
25 on here will transferred on to that cartridge case.

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1 Then, you also have -- the hole here is the firing-
2 pin aperture, which is where the firing pin comes out to
3 strike your primer for -- that little nickel circle.
4 It's what starts the whole process of firing your
5 cartridge. And so each one of these parts leaves its own
6 fingerprint, essentially. So this gun has several teeny
7 tiny little fingerprints to create its one big
8 fingerprint.

9 So again, I created standards that I knew came from
10 this firearm, evaluated those, and also evaluated all of
11 my evidence cartridge cases to each other before ever
12 comparing it to this to see if they all came from one
13 firearm, and they did.

14 Q And so I just want to break this down. I need to
15 reach the package. So you received what it said is FCC,
16 marked A through H?

17 A Correct.

18 Q And FCC is fired casing cartridge, or what is that?

19 A Fired cartridge case.

20 Q And you received A through H?

21 A I did, yes. And the only reason I know that is
22 because whoever -- I believe it was Tim Lee.

23 Q That's correct?

24 A He marks the packaging with what marker number he
25 has given it. So I know that my Item 14 is his marker H.

1 Q And all the A through H that you collected or
2 received, rather, matched that gun?

3 A Correct. They were all fired by this firearm.

4 Q Let's move on to State's Exhibit 71. And we only
5 showed the jury one. Are all the rest of them the same?

6 A Yes, correct.

7 Q All right. So State's Exhibit 71, do you recognize
8 that?

9 A Yes. State's Exhibit 71 are my Items 21 and 22
10 received from evidence and property.

11 Q Okay. And what are those? What are they before you
12 show them to the jury?

13 A They are projectiles.

14 Q And ---

15 A Bullets.

16 Q Do you receive -- did you change them in any way
17 once you received, while you're testing them?

18 A I cleaned them because these are from autopsies, so
19 I cleaned them and removed any biological materials so
20 that I could handle them without gloves and then put them
21 in a new envelope. So that is the only thing I did.

22 Q So can you tell if that's the envelope you put them
23 in?

24 A Yes, that's correct.

25 Q How do you know that?

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1 A Because I initial and case -- case number, item
2 number, I ascribe everything.

3 MS. SAMPSON: At this time, I'd ask to introduce it
4 as Exhibit 71 into evidence.

5 THE COURT: Same objection?

6 MS. PINNOCK: Yes, ma'am.

7 THE COURT: It will be submitted over the objection.
8 (Whereupon, State's Exhibit 71 was entered into
9 evidence.)

10 Q So what -- and you said those were -- how are they
11 different from the others we've been talking about?

12 A So these came from autopsy and were collected by
13 Harold Bouknight from our crime scene lab. And so when
14 they come from autopsy, they come in bags and are marked
15 by our pathologist. And then, once I receive them in the
16 lab, I will take them out and put them in a bleach
17 solution and spray them with hospital-grade disinfectant,
18 kind of, you know, get any gross parts that are left on
19 there off. And then we package them in an envelope that
20 I mark as repackaged after cleaning with the case number
21 and item number.

22 Q And did you do this in this case?

23 A I did.

24 Q And what did you do once they were cleaned?

25 A So once they were cleaned, I followed the same

1 procedures as I do with all my other prior evidence, and
2 I compared these to the projectiles, the bullets that we
3 already looked at, my Items 5 and 6, and determined
4 whether they were from the same firearm with the same
5 characteristics.

6 Q And what was your conclusion on these two items?

7 A These two items were fired by that firearm.

8 Q And you did the same testing procedure for those as
9 the others?

10 A Correct, yes.

11 Q Did it matter that those went through -- does it
12 change anything that those went through a body and those
13 were given to you in some other manner?

14 A These particular ones, no. It can. It depends on
15 what part of the body it strikes. It depends on how long
16 it's inside of a body.

17 It just is -- it's dependent, but these particular
18 bullets, no. It didn't matter where they came from.
19 They were marked sufficiently enough for me to identify
20 them to that firearm.

21 Q So in conclusion -- well, wait. And there's two
22 more. I'm sorry. Almost done. Sorry. And you also
23 received what's State's Exhibit 83? Did you receive that
24 as well?

25 A I need scissors.

DIRECT EXAMINATION BY MS. SAMPSON - AMANDA METZ 457

1 Q Scissors. Before you can open it, can you tell what
2 if that's something you received just by the outside of
3 it?

4 A It is. So as been discussed, we have -- our
5 evidence and property section has a management system and
6 gives them bar codes and these are bar coded Item 1 and
7 Item 2 which I received.

8 Q Okay. Open it, but don't show it.

9 A I'm not going to take these out because they're very
10 small, but yes. These -- I recognize the outer packaging
11 as what Items 1 and 2 were.

12 Q And did you change them other than testing?

13 A I did not.

14 MS. SAMPSON: At this time, I'd ask to introduce
15 State's Exhibit 83 into evidence.

16 THE COURT: Same objection?

17 MS. PINNOCK: Yes, Your Honor.

18 THE COURT: It will be entered over the objection of
19 defense.

20 (Whereupon, State's Exhibit Number 83 was entered
21 into evidence.)

22 Q And what -- now -- can you tell the jury what show
23 us are and how they're different from the other things
24 that we looked at?

25 A Yes. So Item 1 is a metal fragment labeled marker

1 J, and this metal fragment is consistent with a bullet-
2 jacket fragment. So some bullets are manufactured with
3 an outer metal jacket and a lead core, and these
4 particular firearms -- I'm sorry -- these particular
5 bullets were manufactured with a metal jacket.

6 When they strike a target, they will sometimes
7 fragment, fracture and become teeny tiny little pieces
8 and that's essentially like -- I can't even -- I think
9 it's right here. It's very small, and this is a bullet-
10 jacket fragment. The reason I know that is because of
11 its color and it had -- the lands and grooves we talked
12 about. It had evidence that there are lands and grooves,
13 so that way I know it's a bullet-jacket fragment and not
14 just a random piece of metal.

15 Q And were you able to test those to determine what
16 kind of gun they came from?

17 A So Item 1, no. There were no marks of value, so it
18 was unsuitable for microscopic comparison. So that's how
19 I -- how I determine whether a bullet or cartridge case
20 comes from a particular firearm or the same firearm.

21 We have what's called a comparison microscope,
22 essentially just two microscopes joined together with an
23 ocular bridge that allows me to look at two separate
24 things at the same time under the same magnification and
25 lighting. And so this had nothing for me to look at, so

DIRECT EXAMINATION BY MS. SAMPSON - AMANDA METZ 459

1 it's unsuitable for microscopic comparison.

2 Q And is that unusual with a metal fragment?

3 A It's not. And then, Item 2 metal fragments were --
4 looks like just one -- just one metal fragment is also a
5 bullet-jacket fragment. This one, however, did have a
6 little bit more of the rifling on it, the microscopic
7 imperfections we look at. But due to damage and its
8 small nature, I was not able to say one way or the other.

9 I could tell that it was not from this firearm. But
10 I also couldn't tell you it's from this firearm. It's
11 called inconclusive. It's essentially the gray area we
12 give ourselves when there's not enough present to either
13 make a conclusion that it is the firearm or it's not the
14 firearm.

15 Q And is that unusual with the fragment?

16 A It is not unusual, even with full bullets sometimes.

17 Q So in conclusion, you were given eight cartridge
18 casings and those all came from that gun?

19 A Correct, yes.

20 Q And you were given four fired metal-jacket bullets
21 and those all came from that gun?

22 A Correct, yes.

23 Q And the two unmarked -- the two unfired that were in
24 the magazine could be used in that gun as well?

25 A Correct. They're the correct caliber for use in

DIRECT EXAMINATION BY MR. MCGLOTHIN - RONALD WHITT 460

1 that firearm.

2 (Off the record briefly.)

3 Q Thank you. I have no further questions.

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

5 MS. PINNOCK: We have no questions, Your Honor.

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

7 MS. SAMPSON: May she be excused, Your Honor?

8 THE COURT: Any objection to this witness being
9 excused?

10 MS. PINNOCK: No, ma'am.

11 THE COURT: All right. Thank you.

12 (Whereupon, the witness exited the witness stand.)

13 MR. MCGLOTHIN: The state calls Ronald Whitt.

14 (Whereupon, the witness came forward.)

15 (Off the record briefly.)

16 RONALD WHITT, after having been first duly
17 sworn, testified under oath as follows:

18 DIRECT EXAMINATION

19 BY MR. MCGLOTHIN:

20 Q Good morning, Mr. Whitt. How are you?

21 A Good morning.

22 Q Mr. Whitt, where do you work?

23 A I work for T-Mobile.

24 Q And what do you do for T-Mobile?

25 A I am in a group known as the law enforcement

DIRECT EXAMINATION BY MR. MCGLOTHIN - RONALD WHITT 461

1 relations group.

2 Q What does that mean?

3 A In our group, primarily the bulk of our work is
4 production of records when we receive an appropriate
5 legal demand. We also provide assistance on a 24/7 basis
6 to 911 and law enforcement with emergencies involving
7 cell phones. And then, we also appear in court, as I am
8 today, to verify and attest to T-Mobile records.

9 Q Okay. And did you receive a request for records in
10 this case regarding the phone number 803-529-3777?

11 A Yes.

12 Q And were you able to produce records for that?

13 A Yes.

14 Q And just briefly, how are they -- these records
15 collected and stored?

16 A All our records are maintained electronically in a
17 database.

18 Q Is that database secure?

19 A Yes.

20 Q And are they changed in any way between the time
21 they're collected and when they are submitted for any
22 number of reasons ---

23 A The information is gathered contemporaneously with
24 the event happening and then stored in the secure
25 database.

DIRECT EXAMINATION BY MR. MCGLOTHIN - RONALD WHITT 462

1 Q And are they stored in the regular course of
2 business?

3 A Yes.

4 Q I'm going to show you what's been marked for
5 identification as State's 85. Again, show you what's
6 been marked for identification as State's 85. Do you
7 recognize that?

8 A Yes.

9 Q What is that?

10 A Reports associated with the number you previously
11 read off. First page, we refer to this as a subscriber-
12 information page. It shows the individual associated
13 with that phone number. And then, the last pages, the
14 long spreadsheet is a call-detail report for that same
15 number for the time frame shown on the records.

16 Q And -- and those records -- those are from -- are
17 the same records that match the phone number that was
18 requested in this case?

19 A Yes.

20 MR. MCGLOTHIN: At this point, the state would move
21 to enter State's 85.

22 THE COURT: Any objection?

23 MS. EIGENBROT: No objection, Your Honor.

24 THE COURT: All right. It will be admitted without
25 objection.

CROSS-EXAMINATION BY MS. PINNOCK - RONALD WHITT 463

1 (Whereupon, State's Exhibit Number 85 was entered
2 into evidence.)

3 Q Who is the subscriber on this information?

4 A The name shown for this phone number is Brian White.

5 Q Is there an address given?

6 A Yes.

7 Q What is that address?

8 A It shows [REDACTED] Patricia Drive in Columbia, South
9 Carolina.

10 Q Thank you. Nothing further. Please answer any
11 questions the defense may have.

12 THE COURT: Yes, ma'am.

13 MS. PINNOCK: Thank you, Your Honor. May it please
14 the Court.

15 CROSS-EXAMINATION

16 BY MS. PINNOCK:

17 Q Mr. Whitt, did you receive any other record requests
18 in this case, or was it just the 377 number?

19 A I'm sorry?

20 Q I'm sorry. I'm usually too loud. Did you only
21 receive one records request, or did you receive multiple
22 ones for this case?

23 A For this case, I only reviewed the -- for this
24 request on here. I'm not aware of any other requests.

25 Q Okay.

1 A Was not asked to look for any.

2 Q Okay. So the solicitor's office or Investigator
3 Truluck didn't ask you to look at any records associated
4 with the number ending in 1955?

5 A Again, the records here are for a number ending in
6 3777.

7 Q Okay.

8 A Are the only ones that I'm aware of.

9 Q That's it?

10 A Again, that's the only one I'm currently aware of.
11 We receive approximately a thousand questions every day
12 for records, so ---

13 Q Okay.

14 A This is the one I'm aware of right now.

15 THE COURT: Beg the Court's indulgence.

16 (Off the record briefly.)

17 Q Would you recognize other records from T-Mobile if I
18 were to provide them to you?

19 A If the format -- yeah. I would recognize if they
20 were in our format. Yes.

21 MS. PINNOCK: I would like to mark this for ID
22 purposes.

23 (Whereupon, Defendant's Exhibit 2 was marked for
24 identification.)

25 Q Okay. I'm going to show you what was just marked as

CROSS-EXAMINATION BY MS. PINNOCK - RONALD WHITT 465

1 Defendant's Exhibit 2, just for ID purposes. Do you
2 recognize that?

3 A Yes.

4 Q And what is that?

5 A It's a call-detail report for the number that's
6 shown here on the record.

7 Q I'm sorry?

8 A Yeah. I recognize the record. Yeah.

9 Q Okay. And the ---

10 A From a different number.

11 Q And the requested number ends in 1955, correct?

12 A The last four is 1955.

13 Q Okay. And you said these are call detail. Are you
14 familiar with these reports?

15 A Yes.

16 Q Like how to interpret them and ---

17 A Absolutely.

18 Q So can you explain to the jury, if you're looking at
19 let's say cell tower information, can -- can these
20 records give you somebody's location?

21 A No.

22 Q No?

23 A Not somebody.

24 Q I'm sorry? Or where the phone is. Can you view the
25 phone's location?

1 A It gives you a general idea where the handset is.

2 Q Okay. And these records indicate activity that
3 happened on the phone at the particular time?

4 A Well, the records have -- show the date; it will
5 show the time.

6 Q Right.

7 A You have to do some adjustment for these records for
8 local time.

9 Q Okay.

10 A And for a call or text being made overseas.

11 Q And how do you establish local time?

12 A Our time for the records, two things are in 24-hour
13 format, sometimes referred to as military time. Our
14 records are kept in what's known as UTC, which is
15 coordinated universal time. That is a time standard, not
16 a time zone.

17 Q Okay.

18 A So for your local time zone, depending on the time
19 of the year, whether it's daylight savings or not
20 daylight savings, you have to do a little math. So for
21 these records are December, so it's not daylight savings.
22 So for the time shown on these records, you would
23 subtract five hours.

24 Q And that would be the same for the records that you
25 were asked to look at, the number ending in 77?

CROSS-EXAMINATION BY MS. PINNOCK - RONALD WHITT 467

1 A All the records.

2 Q All records? Okay.

3 And can you tell us why -- or is it possible for
4 information to appear on your T-Mobile records versus
5 another, let's just say law enforcement, cell phone
6 printout? Do you pull your information from the same
7 places, or how do you get your information?

8 A I'm not sure what you mean by law enforcement
9 printout.

10 Q How do you get these records? Where do you pull
11 this information from?

12 A From a central database. When we receive a legal
13 demand, it generally has a phone number. We refer to
14 that as a target number ---

15 Q Okay.

16 A --- and a specific date range. We have an automated
17 system. We plug in those two data points. And whether
18 you're pulling to check with or without cell site
19 depending on the question, hit enter, and then it pulls
20 the record information and it populates in a report like
21 this.

22 Q Okay. So you said cell phone -- does that mean
23 you're pulling these from the cell towers that are used?

24 A Again, if it's requested and authorized by a legal
25 demand -- not all legal demands request cell site. If

REDIRECT EXAMINATION BY MR. MCGLOTHIN - RONALD WHITT 468

1 that additional information is requested and authorized,
2 then it will show on the record.

3 Q Okay.

4 MS. PINNOCK: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q And one last question: Can you tell me on the --
7 who requested the records with the number ending in 1955?

8 A It shows the requestor as Cris, C-r-i-s; Truluck,
9 T-r-u-l-u-c-k.

10 Q All right. Thank you.

11 MS. PINNOCK: Thank you, Your Honor.

12 THE COURT: Thank you. Any redirect?

13 REDIRECT EXAMINATION

14 BY MR. MCGLOTHIN:

15 Q Mr. Whitt, you only work for T-Mobile, correct?

16 A I'm sorry?

17 Q You only work for T-Mobile?

18 A I'm a direct employee. Yes.

19 Q You don't work for AT&T or Sprint?

20 A No. T-Mobile and Metro are the brand names.

21 Q So no one would request a Sprint phone or AT&T phone
22 from you -- or even if they did, you wouldn't be able to?

23 A Well, we do receive legal demands with numbers that
24 are not ours. And we have what we call unable to
25 respond. And we send back and say: "Hey, you wanted

REDIRECT EXAMINATION BY MR. MCGLOTHIN - RONALD WHITT 469

1 this number, this date range; it's not our number."

2 And we can see whose it is. There's a program you
3 can use to see what carrier has the number. Then, we'll
4 let them know it belongs to AT&T, Sprint, whomever.

5 Q All right. Thank you. No further questions.

6 THE COURT: Anything else?

7 MS. PINNOCK: No, Your Honor.

8 THE COURT: All right. You may step down. Any
9 objection to this witness being excused?

10 MS. PINNOCK: No, Your Honor.

11 (Whereupon, the witness exited the witness stand.)

12 (Off the record briefly.)

13 THE COURT: All right. Call -- call your next
14 witness.

15 MS. SAMPSON: The state calls Jerry Rabon.

16 (Off the record briefly.)

17 (Whereupon, the witness came forward.)

18 JERRY RABON, after first having been duly
19 sworn, testified under oath as follows:

20 DEPUTY CLERK OF COURT: Thank you. Have a seat in
21 the witness stand, please.

22 THE BAILIFF: Watch your step.

23 THE WITNESS: (Complied.)

24 DEPUTY CLERK OF COURT: State your name for the
25 record and spell it for the court reporter, please.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 470

1 THE WITNESS: Can you repeat that, please?

2 DEPUTY CLERK OF COURT: State your name for the
3 record and spell it for the court reporter, please.

4 THE WITNESS: It's Jerry Alexander Rabon:
5 J-e-r-r-y; Alexander, A-l-e-x-a-n-d-e-r; and Rabon is
6 R-a-b as in boy-o-n.

7 (Off the record briefly.)

8 THE COURT REPORTER: This will be State's 86.
9 (Whereupon, State's Exhibit 86 was marked for
10 identification.)

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Good morning, Jerry.

14 A Good morning.

15 Q How old are you?

16 A 27 years old.

17 Q And where do you currently live -- not the address,
18 but what part of Columbia?

19 A Hopkins.

20 Q Hopkins?

21 A Yes, ma'am.

22 Q All right. And do you know the defendant, Brian
23 White?

24 A I do.

25 Q And how do you know Brian?

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 471

1 A I went to school with him.

2 Q So how long have you known him?

3 A Since the sixth grade.

4 Q Okay.

5 A I don't know exact years.

6 Q Okay. Would -- how would you characterize your
7 friendship -- good friends? see him all the time? Or how
8 is it?

9 A We were good friends, seeing each other all the
10 time.

11 Q Okay. And back in December of 2016, how often did
12 you see Brian?

13 A Well, he was staying with me, so pretty often.

14 Q Okay. And what -- why was -- how did it come that
15 he was staying with you?

16 A Well, he texted me one day, asking me if he could
17 sleep in his car inside my yard. I told him no; he could
18 stay on my couch. And that kind of led from that from
19 there.

20 Q Do you remember what -- I need you to speak up a
21 little bit.

22 A Okay. Yes, ma'am.

23 Q Do you remember what time of year this was when he
24 started staying with you?

25 A I don't -- I don't remember the exact time. No,

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 472

1 ma'am.

2 Q Do you remember how long he stayed with you?

3 A I want to say it was about a month, a little bit
4 longer probably.

5 Q And are you married?

6 A Yes, ma'am.

7 Q And do you have any children?

8 A I do. I have one children ---

9 Q Okay.

10 A --- one child. Sorry.

11 Q And so did they live in the house with you, all of
12 you all?

13 A They did.

14 Q Okay. So it was -- at that time, you -- Mr. White
15 slept on the couch -- your wife ---

16 A Uh-huh.

17 Q --- and your child?

18 A Yes, ma'am.

19 Q That's correct?

20 Okay. So I want to move you to actually December
21 7th through 8th. Were you working at that time?

22 A I was.

23 Q Where did you work?

24 A I worked at G&E Parts -- Parts Center off of Bluff
25 Road.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 473

1 Q Okay. And how about your wife? Did she work?

2 A I don't -- I don't think she did.

3 Q Okay. And the morning of December 8th, what were
4 your plans for that day?

5 A Go to work.

6 Q Go to work?

7 A Yes, ma'am.

8 Q What time did you normally go to work?

9 A I normally leave for the house at 7:45. But there
10 -- I got to be at work by 8:30.

11 Q You have to be at work at 8:30?

12 A Uh-huh.

13 Q Okay. I'm sorry. You got to say "yes" or "no."

14 A Oh. I'm sorry. Yes, ma'am.

15 Q Okay. And does your -- was your child in school at
16 the time or anything?

17 A No, ma'am.

18 Q Okay. So what, if anything, happened that morning?

19 A You said ---

20 Q What ---

21 A --- what if ---

22 Q What, if anything, happened with Mr. White that
23 morning?

24 A I'm -- I'm no -- I don't understand ---

25 Q The morning ---

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 474

1 A --- the question.

2 Q --- of the 8th, what happened?

3 A Uh-huh.

4 Q Can you tell the jury what happened that morning?

5 A Oh. Yes, ma'am, I can. They -- he came to my house
6 -- I believe it was around 5/5:30. I don't know the
7 exact time because I didn't -- I didn't look, to be
8 honest with you.

9 I heard a noise in one of my rooms, so I got up to
10 -- to investigate, to see what it was. And it -- he was
11 -- Brian was in my -- in -- in my spare bedroom, where he
12 was -- had -- had his clothes and stuff like that.

13 And I asked him -- I was, like, "What are you
14 doing?"

15 He said that his boss had a coyote down on his
16 property and he was trying to get clothes up so that way
17 can go help his boss go coyote-hunting. So I said,
18 "Okay. Cool."

19 And so he -- and then he asked me if he could use my
20 rifle to go coyote-hunting. I said I -- I ---

21 Q And I want the just ask you: Has he ---

22 A Okay.

23 Q --- ever asked to use your rifle before?

24 A No, ma'am.

25 Q Okay. So what did you do once he asked you for a

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 475

1 rifle?

2 A Well, I told him I didn't have any bullets for my --
3 for my rifle. I told him I do have some for my pistol,
4 though. So he asked if he could use that.

5 I said, "Yeah, sure. I just need you to give me the
6 address to your boss and everything like that so that way
7 I know where you are." And I told him how to properly
8 carry it in his car; if he gets pulled over, what to say
9 to the police ---

10 Q And why did ---

11 A --- that he had ---

12 Q --- you do that? Why were you telling him these
13 things?

14 A Just I didn't want him to -- to get in trouble or
15 anything like that, if he got, you know, pull over with
16 it in his car.

17 Q Okay. So you told him what to do and ---

18 A Uh-huh.

19 Q --- where to carry the gun?

20 A Yes, ma'am.

21 Q All right. Did you provide him with any bullets?

22 A Well, there was already ammunition in ---

23 Q Okay.

24 A --- the magazine. Yes, ma'am.

25 Q Do you remember how many were in the magazine?

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 476

1 A I do not.

2 Q Okay. Did you have -- did y'all have to look for
3 the gun, or did you know where it was?

4 A We did have to look for it for a minute. I -- I
5 couldn't find it at first.

6 Q But you were able to find it?

7 A Yes, ma'am. We were able to find it.

8 Q And would you recognize it if -- would you recognize
9 your gun?

10 A Yes. Yes, ma'am.

11 Q I want to show you what's been introduced as State's
12 Exhibit ---

13 A Okay.

14 Q --- 84 and see if you recognize that gun.

15 A Okay. I do.

16 Q And what is it?

17 A It's a Smith & Wesson 9-millimeter.

18 Q I'm sorry?

19 A A Smith & Wesson 9-millimeter.

20 Q Is that your gun?

21 A Yes, ma'am.

22 Q You can pick it up.

23 A I don't want to ---

24 Q It's not ---

25 A --- pick it up.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 477

1 Q --- it's not loaded.

2 A Okay.

3 Q We've already been through this.

4 A Okay.

5 Q I forgot you weren't in here.

6 A Yes, ma'am. This -- this -- it looks a lot like the
7 pistol I had. Yes, ma'am.

8 Q Okay. And have you seen that pistol since December
9 of 2016?

10 A I have not.

11 Q Okay. So as far -- and I think you said that this
12 appears to be the same gun?

13 A It appears to be the same ---

14 Q And you ---

15 A --- gun. Yes, ma'am.

16 Q --- gave that to Brian White?

17 A Yes, ma'am.

18 Q All right. What happened that -- once you gave him
19 the gun? Did he leave? stay? What happened?

20 A He left.

21 Q Okay. Do you remember how long he was at your
22 house?

23 A I -- if I had to guess, I would say roughly 20
24 minutes.

25 Q Okay. Did -- did you mind him taking your gun?

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 478

1 A No, ma'am. I mean, not really. No, ma'am.

2 Q Okay. What was his demeanor like while he was
3 asking you for the gun?

4 A He seemed calm to me.

5 Q Okay. How did he seem about finding the gun? Did
6 he really need it, or did he act like he didn't care, or
7 ---

8 A To me, he acted like he just -- to be honest, he
9 just said, "Here it is. I found it."

10 Q Okay.

11 A There was no real emotion to it.

12 Q Okay. All right. So did you say -- what did you do
13 at that point?

14 A At the point where he got the gun?

15 Q Yes.

16 A Well, just besides telling him how to carry it and
17 everything like that and just reminded him to text me the
18 address, and that was -- that was really it. He -- when
19 -- he left, and I went back to bed.

20 Q Did he ever text you the address?

21 A He did not.

22 Q Okay.

23 A No, ma'am.

24 Q Did he call you and give you the address?

25 A No, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 479

1 Q Okay. So you said you went back to bed?

2 A I did.

3 Q Did you get back up ever?

4 A I did. I got up roughly around seven to get ready
5 for work.

6 Q Okay. And did you see Mr. White again that morning?

7 A I did. I -- I saw him whenever I left out of my --
8 my house. Yes, ma'am.

9 Q And what -- do you remember what time that was?

10 A It was around 7:45. Yes, ma'am.

11 Q And where was he when you saw him?

12 A In my yard in his car.

13 Q In his car?

14 A Yes, ma'am.

15 Q And what was he doing?

16 A He was on the phone with his girlfriend.

17 Q Okay. And how do you know he was on the phone with
18 his girlfriend?

19 A He had her on speakerphone.

20 Q Okay. Did you ask him what happened -- did he give
21 you your gun back?

22 A He did. He handed it to me when I walked up to his
23 car. Yes, ma'am.

24 Q And did he say -- or tell you anything about what
25 had happened with the ---

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 480

1 A Yes. Yes, he did. He -- he told me -- he -- he
2 actually didn't tell me. He told his girlfriend to tell
3 me what happened over the phone.

4 Q And I'm going to stop -- I'm talking about with ---

5 A Uh-huh.

6 Q --- the gun. Did he tell you?

7 A Oh. Yes. Yes, ma'am. I'm sorry. He told me that
8 he shot a bunch of times but missed ---

9 Q At ---

10 A --- at the coyote.

11 Q Did -- at the coyote, so he told you he ---

12 A Yes, ma'am.

13 Q --- shot at some coyotes but missed?

14 A Yes, ma'am.

15 Q Okay. And you -- you -- I interrupted you, but you
16 said that he had -- he had him on speakerphone. What
17 happened with the phone -- or he had someone on
18 speakerphone?

19 A Yeah. He had his girlfriend on the speakerphone.
20 Yes, ma'am. She -- he had -- he told her to tell her
21 what happened that -- excuse me -- to tell me what
22 happened. I'm sorry. And she said that her -- she
23 walked outside and found her stepdad shot.

24 Q Shot. Okay. And do you know his girlfriend's name,
25 the girlfriend at the time?

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 481

1 A Yes, yes. Nicole ---

2 Q Nicole.

3 A --- I believe.

4 Q Okay. Did you know her at all?

5 A Not really.

6 Q Okay. And so after you heard this conversation,
7 what did you do?

8 A I -- I thought it was crazy. I didn't -- I didn't
9 -- my -- I mean, beyond -- besides that, I got in my car
10 to go to work.

11 Q Okay. And do you remember what Brian's car looked
12 like at the time?

13 A I want -- I want to say it was a grayish-goldish
14 color. It was a little beat up.

15 Q Did it ---

16 A It was ---

17 Q --- have any rust or any -- or any kind of
18 characteristics on it?

19 A I did see rust, some paint -- faded paint, stuff
20 like that.

21 Q Okay.

22 A Yes, ma'am.

23 Q And how long had -- do you remember how long you'd
24 had that gun prior to that day?

25 A Oh, yes, ma'am. I bought it at tax time.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 482

1 Q You bought it -- so how -- like ---

2 A Roughly around February. Yes, ma'am.

3 Q Of ---

4 A I'm sorry.

5 Q --- what year?

6 A Of that same year. I can't remember ---

7 Q So of ---

8 A --- the exact ---

9 Q --- 2016 ---

10 A --- year.

11 Q --- or ---

12 A 2016.

13 Q Okay.

14 A Yes, ma'am.

15 Q Okay. And you said today you don't remember how
16 many bullets were in it.

17 A Uh-huh.

18 Q This was how long ago?

19 A What was long ---

20 Q How long did we -- did you -- this happen, three
21 years ago?

22 A Three years ago, I believe. Yes, ma'am.

23 Q Did you give a statement to police?

24 A Yes, ma'am.

25 Q Would -- do you remember everything that was in your

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 483

1 statement?

2 A I -- I do not.

3 Q Okay. Would seeing your statement help refresh your
4 memory?

5 A It might. Yes, ma'am.

6 (Off the record briefly.)

7 Q I'm going to show you this and see if you recognize
8 it.

9 A Okay.

10 Q Do you know what that is?

11 A Yes, ma'am. It's my statement.

12 Q Okay. And did you -- when -- do you see the date
13 where you gave it on December 12th at the top?

14 A Yes, ma'am. December 12th, 2016.

15 Q And is that when you gave it, as far as you can
16 remember?

17 A As far as I can remember, yes, ma'am.

18 Q Okay. I'm going to direct your attention to page 3.

19 A Okay.

20 Q And let me ask you this: When you talked to police
21 ---

22 A Uh-huh.

23 Q --- were you trying to be truthful?

24 A Yes, ma'am.

25 Q Okay. So can you look on page 3 for me?

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 484

1 A Yes, ma'am.

2 Q And I want you to just read the second question and
3 answer to yourself.

4 A Okay. Okay. Well ---

5 Q Does that sound -- now, can you -- you -- does --
6 does that help you remember how many bullets were in the
7 gun?

8 A Not a hundred percent. No, ma'am.

9 Q How many did you tell the cops at the time were in
10 the gun?

11 A It says I told them there's 12 to 14 rounds.

12 Q Okay. Would you say it was a whole lot less or a
13 whole lot more than that? Could it have been around 12
14 to 14?

15 A It -- it -- it could have definitely been around
16 that much.

17 Q Okay.

18 A Yes, ma'am.

19 Q All right. So after you went to work ---

20 A Uh-huh.

21 Q --- was there ever a time -- and you said Brian gave
22 you the gun back that morning?

23 A Yes, ma'am.

24 Q What did you do with it?

25 A I loaded it in -- put it in my car -- put it in my

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 485

1 glove box.

2 Q Okay. At any point did you start -- what did you do
3 with the gun after that?

4 A What did I do with the gun?

5 Q Yes, sir?

6 A I put it in my car.

7 Q And then after that like ---

8 A Oh, and then after I put it into my car?

9 Q Yes.

10 A I drove to work. My wife, I believe, took the car
11 that day, and so had it.

12 Q So she had the car and took you to work?

13 A I believe so.

14 Q Okay.

15 A Yes, ma'am, if I can remember correctly.

16 Q That's fine. Did there ever come a time where you
17 called police about your gun?

18 A About the gun -- yes, ma'am. I believe that night,
19 yes -- yes, ma'am, I did.

20 Q And why did you do that?

21 A I kept receiving phone calls, saying that he had
22 been arrested for murder.

23 Q He who?

24 A Brian. Brian White. I apologize.

25 Q Okay. That's fine. And why did you call the

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 486

1 police?

2 A Because as -- start -- things started leading
3 together in my head. And it just seemed to me that if he
4 was arrested for murder for killing this man, and he had
5 my pistol, it might had have made sense that he would've
6 used my gun to kill him.

7 Q Okay. And so you called the police?

8 A I did, yes, ma'am.

9 Q Okay.

10 A I called Richland County Police Department.

11 Q Did they come speak with you?

12 A They did not, actually. They told me to call back
13 the next day.

14 Q And did you?

15 A I -- I tried. I called Columbia Police Department
16 the next day.

17 Q Okay.

18 A Yes, ma'am.

19 Q And did they come then?

20 A They did.

21 Q All right.

22 A Detective Truluck came out.

23 Q And what happened with the gun at that point?

24 A Detective Truluck came to where my wife was at that
25 moment and got -- got the gun. I think he got some

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 487

1 samples as well, DNA samples from her.

2 Q And did you consent to give DNA samples?

3 A Yes.

4 Q Okay.

5 A Yes, ma'am.

6 Q And did you talk -- did you -- we've already talked
7 about you gave him a written statement?

8 A Uh huh. Yes, ma'am.

9 Q I'm going to show you what's been marked as State's
10 Exhibit 86. And where did you go to give the statement?
11 Do you remember? Did you do it at your house, or did you
12 go to ---

13 A No, no, no.

14 Q --- the police ---

15 A The statement was given off of Garners Ferry Road,
16 where the -- I think it's in front of the -- the -- the
17 BILO that's ---

18 Q Like a ---

19 A --- down there ---

20 Q --- police office or ---

21 A Yeah, yeah. It was a police office. It was a
22 special victims place, I think.

23 Q Okay. And I'm going to show you what's been marked
24 State's Exhibit 86.

25 A Uh huh.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 488

1 Q When you gave the statement, did you do anything
2 else?

3 A Oh, I -- I did point him out on this paperwork.

4 Q And is ---

5 A Yes, ma'am.

6 Q --- that a fair and accurate copy of you identifying
7 the defendant?

8 A Yes, ma'am.

9 Q Okay.

10 MS. SAMPSON: At this time, I'd ask to introduce
11 State's Exhibit 86 into evidence.

12 THE COURT: Any objection?

13 MS. EIGENBROT: No objection, Your Honor.

14 THE COURT: It'll be entered without objection.

15 (Whereupon, State's Exhibit 86 was entered into
16 evidence.)

17 Q So in that -- when he did that, what did he ask you
18 to do with that?

19 A He asked me to point Brian White out.

20 Q And were you able to do that?

21 A Yes, ma'am.

22 Q I want to show it to the jurors. So this is you
23 pointing out your identification of Mr. White?

24 A Yes, ma'am.

25 Q Okay. And did he suggest to you who to pick out or

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 489

1 anything like that?

2 A No, ma'am, not at all.

3 Q Okay. And do you see Mr. White in the courtroom
4 today?

5 A I do. Yes, ma'am.

6 Q Where is he?

7 A He's right there.

8 Q What is he wearing?

9 A He's wearing a blue button up with a striped tie.

10 MS. SAMPSON: Let the record reflect that he has
11 identified the defendant.

12 THE COURT: So noted for the record.

13 MS. SAMPSON: Beg the Court's indulgence.

14 (Off the record briefly.)

15 Q And, Mr. Rabon, do you remember what your phone
16 number was back then?

17 A I do not. No, ma'am.

18 Q Okay. Do you know a Fred Williamson?

19 A It doesn't ring a bell. No, ma'am.

20 Q So do you recognize the number 803-445-7482?

21 A Okay. Yes, ma'am, I do.

22 Q And whose number is that?

23 A That's -- that's my current number. Yeah.

24 Q That's your current number? Was it ---

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 490

1 Q --- could it have been your number back then in
2 2016?

3 A It -- it's a possibility, it could have. I changed
4 phones, so I couldn't remember if the number changed as
5 well.

6 Q Okay. And would it surprise you if it was
7 registered to Fred Williamson?

8 A Yes, ma'am.

9 Q Okay.

10 A Little bit.

11 Q Okay. But you're sure your number is 445-7482?

12 A 803-445-7482.

13 Q Okay.

14 A Yes, ma'am.

15 Q Okay. Thank you.

16 A Yes, ma'am.

17 MS. SAMPSON: Beg the Court's indulgence.

18 (Off the record briefly.)

19 Q And you said that you and Brian were friends. Did
20 y'all text each other?

21 A Yes, ma'am.

22 Q Okay.

23 (Off the record briefly.)

24 Q And do you remember if you texted him that day, the
25 7th or ---

DIRECT EXAMINATION BY MS. SAMPSON - JERRY ALEXANDER RABON 491

1 A The day ---

2 Q --- the 8th?

3 A --- of? The 7th. Yes, ma'am.

4 Q Okay. And do you remember what his number was?

5 A I do not.

6 Q Okay.

7 A No, ma'am.

8 MS. SAMPSON: Hold on --- beg the Court's
9 indulgence.

10 (Off the record briefly.)

11 Q And I'm going to show you -- it's a record real
12 quick.

13 A Okay.

14 Q I just ask you -- so this -- it's hard to read. But
15 this number right here, 445-7482 ---

16 A Uh-huh.

17 Q --- that's your number, correct?

18 A Yes, ma'am.

19 Q And there are some text messages back and forth. Do
20 you recognize that these are from you or to you?

21 A Uh-huh. Yes, ma'am. Those are from me.

22 Q Okay. They are from you?

23 A Yes, ma'am.

24 Q Okay. Thank you.

25 MS. SAMPSON: No further questions at this time,

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 492

1 Your Honor.

2 Q Please answer anything the defense has.

3 A Yes, ma'am.

4 THE COURT: Yes, ma'am.

5 MS. EIGENBROT: Thank you, Your Honor. May it
6 please the Court.

7 CROSS-EXAMINATION

8 BY MS. EIGENBROT:

9 Q Good morning, Mr. Rabon. How are you doing today?

10 A I'm all right. How about yourself?

11 Q Can't complain. I just want to ask a few follow-up
12 questions.

13 A Yes, ma'am.

14 Q And I know you've known Brian for a very long time?

15 A Yes, ma'am.

16 Q Good friends, right?

17 A We were. Yes, ma'am.

18 Q And I think you mentioned you used to spend a lot of
19 time together?

20 A Yes, ma'am.

21 Q Do you recall when you stopped spending so much time
22 together?

23 A I'll say roughly -- I can't remember exactly, to be
24 honest with you. I -- I would -- I would guess about the
25 age of 17/18.

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 493

1 Q But you still were in contact? I mean, you would
2 see each other and talk when you saw each other?

3 A Oh, when we saw each other, yes, ma'am. But it
4 wasn't often at all.

5 Q And then, he reached out to you about staying ---

6 A Yes, ma'am.

7 Q --- in your front yard?

8 A Yes, ma'am.

9 Q But you, being a good friend said, no, you can sleep
10 on my couch?

11 A Yes, ma'am.

12 Q And your understanding at the time was he was kind
13 of homeless, like he didn't have a solid foundation at
14 this point?

15 A Yes, ma'am.

16 Q And that was him and Nicole were having some issues,
17 or had broken up?

18 A I don't remember that part, but I -- it -- it -- if
19 that's the case, then yes, ma'am.

20 Q Now, I know you mentioned you didn't really know
21 her.

22 A Uh huh.

23 Q Had never met her, right?

24 A Had I ever met her?

25 Q Yes.

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 494

1 A I believe I met her one time.

2 Q One time?

3 A I believe.

4 Q But you had no major interactions with her?

5 A No, ma'am, not at all.

6 Q And -- but you knew Brian was still spending time
7 with her occasionally ---

8 A Yes, ma'am.

9 Q --- right?

10 Now, I know we talked a little bit about him coming
11 to the house to get the gun that morning?

12 A Yes, ma'am.

13 Q He left right after he got the gun, correct?

14 A Yes, ma'am.

15 Q And you mentioned you went back to bed?

16 A Yes, ma'am.

17 Q So you did not go with him?

18 A No, ma'am. No, ma'am.

19 Q You didn't see him from the time he left until he
20 showed back up in your yard when you left for work at
21 7:45, right?

22 A No, ma'am.

23 Q Now, I know you mentioned, when you're leaving at
24 7:45, he's parked in your driveway or your yard, right?

25 A Yes, ma'am.

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 495

1 Q And you mentioned he's on the phone?

2 A Yes, ma'am.

3 Q You didn't hear that entire conversation, correct?

4 A Not the entire conversation, no, ma'am.

5 Q He was already on the phone when you came outside?

6 A Yes, ma'am.

7 Q And then he puts it on speaker, right?

8 A Yes, ma'am.

9 Q And Nicole kind of says what happened; is that
10 right?

11 A Yes. Well, he -- he told her to explain what
12 happened. Yes, ma'am.

13 Q And then, I believe, as you mentioned, you received
14 the -- he gave you the gun back right then and there,
15 right?

16 A Yes, ma'am.

17 Q And you touched it at that point?

18 A Yes, ma'am.

19 Q Put it back in your car?

20 A Yes, ma'am.

21 Q Then your wife had your car?

22 A Yes, ma'am.

23 Q And she was the one that met law enforcement to
24 provide the gun to law enforcement, right?

25 A Yes, ma'am.

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 496

1 Q Now, I know, Mr. Rabon, that you mentioned that you
2 call law enforcement when you realized Brian had been
3 arrested?

4 A Uh-huh.

5 Q That was the only reason you called law enforcement,
6 though, was because he got arrested, right?

7 A Yes, ma'am. He was arrested for murder.

8 MS. EIGENBROT: Beg the Court's indulgence.

9 (Off the record briefly.)

10 Q Mr. Rabon, I do want to go back real fast. When
11 Brian came to the house first ---

12 A Uh-huh.

13 Q --- he asked for a rifle first, right?

14 A Yes, ma'am.

15 Q And then you told him there were no bullets ---

16 A Yes, ma'am.

17 Q --- is that correct?

18 And so you said, "I have the pistol with bullets,
19 though," right?

20 A Yes, ma'am.

21 Q And I want to go back to that phone conversation.
22 You don't know how long he had been sitting in your front
23 yard at that point?

24 A I don't. No, ma'am.

25 Q Thank you, Mr. Rabon.

CROSS-EXAMINATION BY MS. EIGENBROT - JERRY ALEXANDER RABON 497

1 MS. EIGENBROT: I don't have any further questions,
2 Your Honor.

3 A Yes, ma'am.

4 THE COURT: Any redirect?

5 MS. SAMPSON: No, ma'am.

6 THE COURT: All right. Mr. Rabon, you may step
7 down. Any objection to this witness being excused?

8 (Whereupon, the witness exited the witness stand.)

9 MS. SAMPSON: Not from ---

10 MS. PINNOCK: No, Your Honor.

11 MS. SAMPSON: --- the state.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, we're going to take a break right now, about 15-
14 minute break -- 10-to-15-minute break for you to refresh
15 yourselves. We also need a break up here.

16 And so remember, do not discuss the case while you
17 all are back there. And they should have some drinks and
18 snacks for you. Thank you.

19 (Whereupon, the jury exited the courtroom at 11:44
20 p.m.)

21 THE COURT: All right. We'll take about 15 minutes
22 and start back at 12. You have witnesses -- we're going
23 to probably just break for lunch around one?

24 MS. SAMPSON: Yeah. We can do that. Yes -- yes,
25 ma'am.

1 THE COURT: Okay. All right. Thank you.

2 (Off the record from 11:45 a.m. to 12:06 p.m.)

3 THE COURT: All right. We ready?

4 MS. SAMPSON: Yes, ma'am.

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

6 THE BAILIFF: Yes, ma'am.

7 (Whereupon, the jury entered the courtroom at 12:07
8 p.m.)

9 THE BAILIFF: The jury is seated, Your Honor.

10 THE COURT: All right. We're ready to state -- for
11 the state to call their next witness.

12 MR. MCGLOTHIN: Thank you, Your Honor. The state
13 calls Nita Rabon.

14 (Whereupon, the witness came forward.)

15 NITA RABON, after first having been duly sworn,
16 testified under oath as follows:

17 DEPUTY CLERK OF COURT: Thank you. Have a seat in
18 the witness stand.

19 THE BAILIFF: Watch your step.

20 THE WITNESS: (Complied.)

21 DEPUTY CLERK OF COURT: State your name for the
22 record and spell it for the court reporter.

23 THE WITNESS: Okay. My name is Nita Rabon:

24 N-i-t-a, R-a-b-o-n.

25 THE COURT: All right. Yes, sir.

DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 499

1 DIRECT EXAMINATION

2 BY MR. MCGLOTHIN:

3 Q Good morning, Ms. Rabon. How are you?

4 A I'm okay. How are you?

5 Q Good. Could you please tell the jury where you
6 live?

7 A Right now I live on [REDACTED] Southeast Sedgewood Road,
8 Hopkins, South Carolina 29061.

9 Q Okay. And who do you live with?

10 A I live with my husband Alex -- well, Jerry, and my
11 daughter, Abish.

12 Q How old -- how young -- how old is your daughter?

13 A She's 3. She'll be 4 in January.

14 Q Where did you live back in December of 2016?

15 A We lived in a trailer park off of Leesburg --
16 Leesburg Road, Ashley Acres. I think it's now Beverly
17 Hills.

18 Q And what were you doing on the morning of December
19 8th, 2016?

20 A I was sleeping.

21 Q At some point, did you come into contact with Brian
22 White?

23 A Yes, I did.

24 Q Okay. Could you tell the jury about that -- about
25 what, if any, contact you had with him?

DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 500

1 A I know I woke up and him and my husband were looking
2 for something, and I was in the bedroom. I don't tend to
3 socialize very much. So -- and he was talking with
4 Brian, and then I saw Brian again when we were leaving to
5 take my husband to work.

6 Q Okay. Do you remember about what time that first --
7 when you saw your husband with Brian that morning, do you
8 remember about what time that was?

9 A It was somewhere in between 5 to 5:30.

10 Q And the second time, do you remember about what time
11 that was?

12 A It was around 7:45 when we normally leave to take my
13 husband.

14 Q And did you know Brian well?

15 A Yes, sort of. I don't know him very well.

16 Q How did you know him?

17 A I know him through my husband.

18 Q Okay. Was he living with you at the time?

19 A Yes. He was staying on our couch.

20 Q About how long had he been sleeping on your couch?

21 A Maybe a couple of weeks.

22 Q You said you went to work that day?

23 A Yes, I took my husband to work. I -- I wasn't
24 working.

25 Q Were you working?

DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 501

1 A No. I was a stay-at-home mom at the time.

2 Q Okay. Did you drive?

3 A I can't remember.

4 Q Okay. But you -- the two of you went to take him to
5 work?

6 A Yes.

7 Q Did -- excuse me. Your husband, Jerry -- excuse me
8 -- Alex for this -- is that name you use for him?

9 A Yes. I call him Alex.

10 Q Okay. Alex, did he own a Smith & Wesson pistol?

11 A I don't know what type of gun it was, but I knew it
12 was a handgun.

13 Q Okay. Did he have it with him that morning when he
14 went to work?

15 A Yes.

16 Q Where did he have it?

17 A I believe it was in the glove compartment while we
18 were driving.

19 Q Okay. Did you learn anything about that gun?

20 A Can you elaborate?

21 Q Later in that day, did you -- did you interact with
22 that gun at all?

23 A I gave it to a detective.

24 Q Okay. Could you tell us about what led to you
25 giving it to the detective?

DIRECT EXAMINATION BY MR. MCGLOTHIN - NITA RABON 502

1 A Well, we had heard that Brian had been arrested, and
2 my husband -- before we learned that he had been
3 arrested, I believe my husband had put the gun in a bag
4 and put it in the trunk of the car. Because I don't like
5 guns, and I don't feel comfortable driving with it very
6 close to me. So I always tell him to put it back there.

7 And then we found out that Brian had been arrested.
8 And he told me not to touch it; that there was detective
9 coming over to where I was and -- to collect the gun from
10 us.

11 Q Okay. And where did you meet the detectives?

12 A I met the detective at my grandmother's house.

13 Q Do you remember what his name was?

14 A Detective Truluck, I think.

15 Q Did you touch the gun at all?

16 A I don't remember.

17 Q Okay. But you provided it to Investigator Truluck?

18 A Yes.

19 Q And you mentioned it was in a bag at the time?

20 A Yes.

21 Q Okay. Just to backtrack, earlier in that morning,
22 was your husband with you between those two interactions
23 with Brian that morning?

24 A Yes.

25 Q Were -- were the two of you asleep?

CROSS-EXAMINATION BY MS. EIGENBROT - NITA RABON 503

1 A Yeah. We had gone back to sleep.

2 Q And then later on that day, he was at work?

3 A Yes. He was at work and I was at my grandmother's.

4 Q All right. Thank you. No further questions.

5 Please answer any questions the defense may have.

6 A Okay.

7 THE COURT: Yes, ma'am.

8 MS. EIGENBROT: Just briefly.

9 CROSS-EXAMINATION

10 BY MS. EIGENBROT:

11 Q Good morning, Ms. Rabon.

12 A Good morning.

13 Q Now, I know you talked a little bit about turning
14 over the Smith & Wesson to Detective Truluck, correct?

15 A Yes, ma'am.

16 Q Now, was that same day that Brian got arrested, or
17 was it the day after?

18 A I'm not sure. I know it was around the time. The
19 days kind of go together for me.

20 Q And I know it's been a long time, but it was
21 December 8th, 2016, that Brian got arrested. Does that
22 date sound familiar?

23 A I don't remember.

24 Q Okay. But you believe it was either that same day
25 or the day after, correct?

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 504

1 A Somewhere around there.

2 Q Okay. Thank you, Ms. Rabon.

3 A No problem.

4 MR. MCGLOTHIN: Nothing further, Your Honor.

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

6 Any objection to this witness being excused?

7 MS. EIGENBROT: No objection, Your Honor.

8 THE COURT: All right. You're free to leave.

9 THE BAILIFF: Watch your step.

10 (Whereupon, the witness exited the witness stand.)

11 MS. SAMPSON: The state calls Jennifer Brown.

12 (Whereupon, the witness came forward.)

13 JENNIFER BROWN, having been first duly sworn,
14 testified as follows:

15 DEPUTY CLERK OF COURT: Thank you. Have a seat in
16 the witness stand.

17 THE WITNESS: (Complied.)

18 DEPUTY CLERK OF COURT: State your name for the
19 record and spell it for the court reporter.

20 THE WITNESS: Uh-huh. My name is Jennifer Michelle
21 Guard Brown. And Jennifer, J-e-n-n-i-f-e-r; Michelle,
22 M-i-c-h-e-l-l-e; Guard, G-u-a-r-d; and Brown, B-r-o-w-n.

23 DIRECT EXAMINATION

24 BY MS. SAMPSON:

25 Q Good afternoon.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 505

1 A Good afternoon.

2 Q Can you tell the jury where you work?

3 A Yeah. I work at the South Carolina Law Enforcement
4 Division, commonly known as SLED.

5 Q And what do you do at SLED?

6 A I'm a forensic toxicologist.

7 Q Can you tell the jury: What is a forensic
8 toxicologist?

9 A Sure. A forensic toxicologist is a person who
10 analyzes biological samples for the presence or absence
11 of drugs and then reports the results and interprets for
12 courts of law, for coroners, pathologists, police
13 officers, a little bit of everybody.

14 Q And what is your education background?

15 A I have a bachelor of science in chemistry at the
16 University of South Carolina, but we also have an
17 extensive in-house program at SLED to be trained for
18 toxicology.

19 Q And can you tell the jury a little bit about that
20 training?

21 A Sure. The first portion of my training was blood-
22 alcohol analysis. It's an extensive program. The whole
23 thing takes about a year, or at least when I did it. So
24 we have lectures associated with that and tests
25 associated with the lectures for blood-alcohol analysis

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 506

1 and then given a test that you have to pass, along with
2 learning how to analyze the samples. And then, you're
3 given X amount of samples, and you have to compare that
4 to a known.

5 And then, after that portion, we're given a mock
6 trial. If we don't pass the mock trial, I wouldn't be
7 here. And then from there, we continue on to our drug
8 training. So that's learning how to extract the
9 different drugs out of biological matrices, how to
10 interpret that. And then, once I'm done with that
11 portion of my training, mock trial again, and then if I
12 don't pass that, I wouldn't be here.

13 Q So you passed everything?

14 A Yep.

15 Q And how long have you been doing this?

16 A It will be 13 years in January.

17 Q And do you get ongoing education, or do you just do
18 that once and that's it?

19 A No. We try to do as much ongoing training as we can
20 possible, whether it be i- house, online, or going to
21 different conferences.

22 Q And have you ever been qualified as an expert?

23 A Yes.

24 Q And what were you qualified as an expert in?

25 A In toxicology or forensic toxicology.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 507

1 Q And was this in South Carolina?

2 A Yes.

3 MS. SAMPSON: Your Honor, at this time, I'd ask to
4 qualify Ms. Brown as an expert in forensic toxicology.

5 THE COURT: Any voir dire?

6 MS. EIGENBROT: No, Your Honor. No objection.

7 THE COURT: All right. Ladies and gentlemen of the
8 jury, Ms. Brown will be qualified as an expert in the
9 area of forensic toxicology to give opinion testimony in
10 that matter. Thank you.

11 Q So can you tell the jury: What do you do when you
12 first receive a sample or any samples that you test?

13 A Sure. It -- it depends what kind of case we get in.
14 But generally, you're going to review the data that's
15 already given to you, along with the history to kind of
16 know where to work the case. So -- and it depends on the
17 type of case on what further is done. So if something is
18 positive, we need to confirm it or quantitate it.
19 Depending on the case, it might go on for additional
20 testing besides just confirming the drugs that screen
21 positive.

22 Q So I wanted you to look at what you did in this case
23 and tell the jury about that.

24 A Sure. In this case ----

25 Q And before you start, this is what you were doing

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 508

1 back in 2016?

2 A Correct. What was done in this case was it was the
3 blood was analyzed for volatiles, which is like your
4 ethanol, and -- which is your drinking alcohol. And
5 then, a drug screen was done on the sample and then
6 whatever was screened positive was confirmed.

7 Q And ---

8 A And quantitated.

9 Q --- how does the blood come to you? Like, how do
10 you get it?

11 A It comes into a heat-sealed pouch. And I'm sorry
12 that we don't have something I can show you. But it's a
13 heat-sealed pouch. And then, the evidence is contained
14 within.

15 It's also photographed by our department so you have
16 a history of the inventory. We don't necessarily keep
17 every single, like, baggy it came in. But it's all
18 photographed to preserve what it looks like.

19 And then, I'll have it in a heat-sealed pouch, so
20 when I need to pipette out a sample, then I'll strike
21 through the bag, and it's tamper-evident too, so if
22 something's been cut and not sealed back, we'll know. So
23 I will cut into the bag and pipette out what I need to.

24 Q And would you test something if it didn't come
25 properly sealed?

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1 A No. It would be something that I would have to go
2 to my lieutenant, let them know, and then further make
3 decisions on what to do.

4 Q So in this case, you received blood. Was it
5 properly sealed?

6 A Yes.

7 Q Okay. And did you take photographs and do what you
8 just said?

9 A Yes. It was inventoried by our technicians.

10 Q And did you receive any other samples?

11 A Yes. Besides that, we received urine, brain, liver,
12 kidney, and ocular.

13 Q Did you test all of that or just the blood?

14 A No. It depends on the type of case. But
15 traditionally, in this type case, it will be only the
16 blood unless we run out of sample.

17 Q Okay. So you tested the blood in this case?

18 A Uh-huh.

19 Q How do you test the blood?

20 A Not an easy question, per se, but we have different
21 instrumentation we use. Depending on the type of sample
22 and the type of analysis needed will depend on the
23 instrumentation. So essentially, easy way of saying it
24 is we pipette out a sample. We extract the sample with
25 the known extraction methodology, and then we'll put it

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 510

1 on the instrumentation along with calibrators and
2 controls and all the quality control we need to.

3 It will run on our instrumentation. We'll get our
4 results; put together a quality-control pack. That
5 quality-control pack is then given to someone to review.
6 Once it's reviewed approved, then we process and get data
7 back, and then it will be approved from there and given
8 to ---

9 Q And was that done in this case?

10 A Yes.

11 Q And can you tell the jury what testing -- what you
12 found in your testing?

13 A Yes. So in this case, the femoral blood screened
14 positive for cocaine metabolite and cannabinoids. So it
15 confirmed and quantitated positive for cocaine at a 0.07
16 milligram per liter; benzoylecgonine, which is also known
17 as BE, which is a metabolite of cocaine at greater than 1
18 milligram per liter; tetrahydrocannabinol, which is the
19 active component in marijuana, and to make it short, THC,
20 and that was at a 2.8 microgram per liter; and then 11
21 carboxy tetrahydrocannabinol, so metabolite of marijuana,
22 active part of -- the THC being the active part. And so
23 that was at 5.1 micrograms per liter.

24 Q Okay. So I'm going to break that down. That's a
25 whole lot of stuff.

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 511

1 A Yes.

2 Q So is it -- do you have who this -- the blood that
3 you were testing, who it was?

4 A Yes. The label -- so we put on our reports how
5 everything is labeled. So the label would have said
6 femoral blood and then we say labeled, James Turner, and
7 then we have for this portion, the coroner has a specific
8 number associated with their cases. So we have it
9 written down as FA 16 441, and then it says RCCO for
10 Richland County Coroner's Office. And 2016 00 3557.

11 Q And you said femoral blood. Is that different from
12 regular blood, like ---

13 A They just tell you the location in which they took
14 the blood.

15 Q And so let's start with your first test. You said
16 he tested positive for cocaine?

17 A Correct.

18 Q And is that active cocaine, or what does that mean?

19 A Yes, that means it is active. So when we see
20 cocaine itself, we know that it's active at that point.

21 Q Is there anyway to tell when that cocaine was
22 ingested or however?

23 A No. Because unfortunately, we don't know what the
24 starting concentration is. So I can't tell you
25 necessarily if they took a high dose and where -- you

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 512

1 know, it's been hours and hours later, or if they took a
2 very small dose and it's current.

3 Q And what about the metabolites?

4 A The metabolites in this case, we have what we
5 consider high concentration of benzoylecgonine. And so
6 typically that level is going to be that high if they
7 took a higher dose. And in this case, cocaine is a drug
8 that has a half-life of about an hour. It takes --
9 depending ----

10 Q What does a half-life mean?

11 A So it's the time it takes half the drug to be out of
12 your system. So let's say you start at one and you have
13 a half-life of an hour. So an hour later, you'll be at
14 0.5 whatever the units are, and then an hour later,
15 you'll be at 0.25 and so on and so forth. So cocaine is
16 a drug that has a half-life of about an hour. And so
17 depending on the starting concentration, we can see it
18 anywhere from six and eight half-lives.

19 Q Okay. And based on that, can you tell how long the
20 metabolites have been in his system or how long it took
21 to get to that level of metabolites?

22 A I can't necessarily tell you if it's a like a 1 to
23 1. So if you get one cocaine unit and you get one BE,
24 but benzoylecgonine, BE, has a half-life of six hours.
25 So we'll actually see it longer. Same thing again,

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 513

1 depending on what the starting concentration is -- you
2 can see it for six to eight half-lives. So in this case,
3 six hours times six to eight, so 36 to 48 hours.

4 Q Is that your estimation of ---

5 A Right. I can't necessarily say it was this time,
6 but yeah.

7 Q Okay. And what about -- you said there was active
8 THC?

9 A There is active THC. But there has been some
10 research done to say that in death cases, I can't
11 necessarily tell you if that was active at the time
12 because THC is a unique drug in that it actually is fat
13 soluble. So what that means is -- especially with
14 chronic users, it will actually go into your fat and then
15 over time, especially after death, it can come back out
16 of your fat. And so we don't necessarily know if that is
17 because it was like a chronic use and leeching back out
18 of the fat, or that was something where it was active at
19 the time and so -- used at the time.

20 Q So just so I understand what you're saying, with the
21 cocaine, when you say it's active, you can say it's
22 active because it doesn't move after death?

23 A Right.

24 Q Marijuana can move after death. Is that the short
25 version of what you said?

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1 A Yes. And, I mean, it all depends on concentrations,
2 chronic use. There's some factors, but yeah.

3 Q And then, there was also with the marijuana
4 metabolites of marijuana?

5 A Yes. We had one of the metabolites of marijuana,
6 which is inactive. And that's the 11-carboxy
7 tetrahydrocannabinol or THC, so 11-carboxy THC. There is
8 another one, but that was not found.

9 Q And can you -- how long can metabolites be in your
10 system, or is there -- for marijuana?

11 A Oh, I don't remember -- sorry -- the half-life off
12 the top of my head for marijuana. But depending -- like
13 I said, just depends on the concentration, really, that
14 you start with, so no. But depending on the
15 concentration and half-life, in theory, six to eight
16 half-lives.

17 Q And I've heard that marijuana can be in your system
18 30 days. Is that true?

19 A I mean, it really would depend on what you're
20 taking, but at that same time, it's very more likely if
21 that's the case then you're chronically using it.

22 Q And the levels that you find, is there anyway to
23 establish how a person reacts with those levels in their
24 system?

25 A Alcohol is a unique thing in that you can say at

DIRECT EXAMINATION BY MS. SAMPSON - JENNIFER BROWN 515

1 this concentration you have these effects. You don't
2 necessarily have that with other drugs. You have
3 generalized types of things. So cocaine is a drug in
4 which you have an early-stage and a late-stage effects.
5 So your early stage is stimulant type of effects. So you
6 have the euphoria, the excitation, some other unique
7 things like sexual arousal and stuff with cocaine.

8 But when you crash or come down off of cocaine, you
9 have what we consider late-stage effects, which is
10 similar to that of a CNS depressant, so more like
11 alcohol. So you'll have the dysphoria, but also then you
12 said -- so THC, I can't necessarily tell you that was
13 active, but that is a type of drug that you'll have more
14 of the relaxed effects and possibly drowsiness, sedation.

15 Q And the levels that were shown in this, can you tell
16 whether it's -- the person was going up or down on
17 cocaine?

18 A No. I would say it's probably more likely to be
19 towards the late stage because of the higher level of the
20 metabolite of cocaine, but I can't necessarily
21 definitively say, especially in a death type of case
22 where we don't have anything else to go off of.

23 MS. SAMPSON: Beg the Court's indulgence.

24 (Off the record briefly.)

25 MS. SAMPSON: Thank you. No further questions, Your

CROSS-EXAMINATION BY MS. EIGENBROT - JENNIFER BROWN 516

1 Honor.

2 Q Please answer any questions the defense has.

3 THE COURT: Yes, ma'am.

4 MS. EIGENBROT: Thank you, Your Honor. May it
5 please the Court.

6 CROSS-EXAMINATION

7 BY MS. EIGENBROT:

8 Q Ms. Brown, I just have one question for you. You
9 can only test items that you receive during the course of
10 your business, correct?

11 A Sure.

12 Q Thank you.

13 A Yep.

14 THE COURT: All right. Anything else?

15 MS. SAMPSON: No, ma'am.

16 THE COURT: All right. You may step down. Any
17 objection to this witness being excused?

18 MS. EIGENBROT: No objection, Your Honor.

19 THE COURT: Ma'am, you're free to leave.

20 THE BAILIFF: Watch your step.

21 THE WITNESS: Uh-huh.

22 (Whereupon, the witness exited the witness stand.)

23 MS. SAMPSON: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the

1 record in the presence of the jury, but out of the
2 hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, they tell me that the next witness may take a
5 little bit longer, and it's about 12:30. And so I think
6 this is probably a good time for us to take our lunch
7 break. To give you all an opportunity to get in and out,
8 we'll start back at two o'clock. We'll start back at two
9 o'clock.

10 Remember, please do not discuss the case with
11 anyone. Please do not -- it's also improper for you to
12 form any opinion at this point in time. So I will see
13 you all back at two o'clock. Have a good lunch. Thank
14 you.

15 (Whereupon, the jury exited the courtroom at 12:31
16 p.m.)

17 THE COURT: No. I was just wondering who ---

18 MS. SAMPSON: I -- I don't know. If that's who --
19 well, is that who you're talking about?

20 THE COURT: Yeah.

21 MS. SAMPSON: I don't know who that is.

22 THE COURT: But they've been in here for the trial.
23 I was -- let -- let me see you ---

24 MS. SAMPSON: Yeah.

25 THE COURT: --- all one second.

1 (Whereupon, a bench conference was held off the
2 record.)

3 (Off the record briefly.)

4 THE COURT: All right. So we'll see you all back at
5 two.

6 (Off the record from 12:35 p.m. to 2:26 p.m.)

7 (Whereupon, State's Exhibits 87 through 91 were
8 marked for identification while off the record.)

9 THE COURT: All right. We ready?

10 MS. SAMPSON: Yes, ma'am.

11 THE COURT: Okay. Let's bring them in.

12 THE BAILIFF: Yes, Your Honor.

13 (Whereupon, the jury entered the courtroom at 2:26
14 p.m.)

15 THE BAILIFF: Jury is seated, Your Honor.

16 THE COURT: All right. I hope you all had a good
17 lunch. We're ready to -- we will continue with our case.
18 I'll ask the state to call their next witness.

19 MR. MCGLOTHIN: Thank you, Your Honor. The state
20 calls Brittany Steen.

21 (Whereupon, the witness came forward.)

22 BRITTANY STEEN, having been first duly sworn,
23 testified as follows:

24 DEPUTY CLERK OF COURT: Thank you. Have a seat in
25 the witness stand, please.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 519

1 THE WITNESS: (Complied.)

2 DEPUTY CLERK OF COURT: State your name for the
3 record and spell your name for the court reporter.

4 THE WITNESS: Brittany Steen: B-r-i-t-t-a-n-y; last
5 name, S-t-e-e-n.

6 DIRECT EXAMINATION

7 BY MR. MCGLOTHIN:

8 Q Good morning, Brittany. How are you today?

9 A All right.

10 Q How old are you?

11 A How old am I?

12 Q Yes.

13 A 25.

14 Q Okay. And where did you go to high school?

15 A Lower Richland.

16 Q Okay. Do you know Brian White?

17 A Yes, I do.

18 Q How long have you known him?

19 A Ten-plus years.

20 Q Okay. How did you first meet him?

21 A Honestly? He was my boyfriend before I was gay.

22 Q And how long -- you said that was about ten years
23 ago?

24 A Yes, sir.

25 Q And do you live here in Columbia?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 520

1 A Yes, I do.

2 Q And how long have you lived here?

3 A My whole life.

4 Q I'm going to take you back to December 7th of 2016.

5 Do you remember that day?

6 A Yes, sir.

7 Q What were you doing that evening?

8 A I was obviously in court. I was in court for two
9 weeks during that time for the entire time I was here. I
10 was in court every day.

11 Q And were -- was that involving you?

12 A No, it was -- it was the Nathan Martinez case. My
13 wife was a victim.

14 Q Okay. And were you staying here in town?

15 A They had us staying at the -- it's a motel on
16 Hampton street. I think it's the Marriott. Not sure of
17 their name anymore.

18 Q So you had a room there at the Marriott?

19 A Yeah. They paid for it.

20 Q And were you there that evening?

21 A Yes.

22 Q Who were you there with?

23 A My wife. And then, later on that evening -- later
24 on that night, Brian came over.

25 Q And who is your wife?

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1 A Elexia Tucker.

2 Q Okay. So can you kind of describe what y'all were
3 doing at the hotel that evening?

4 A Honestly, Brian hit me up; said he wanted to bring
5 this chick to the hotel so they could get in the hot tub
6 and, you know, chill without having to pay for a very
7 expensive hotel. So basically that's what we did. We
8 went up to the room; we got dressed.

9 We went down to the pool. We didn't get in the
10 pool. But we were in the hot tub, and we were in the
11 gym.

12 Q And when you say "this chick," who are you referring
13 to?

14 A The Nicole girl.

15 Q Did you know her at all?

16 A No. Just hearsay.

17 Q But did you meet her that day?

18 A Yes, I did.

19 Q So what happened while y'all were there? Any -- did
20 anything specific happen while y'all were there in the --
21 or in the hot tub?

22 A Not in the hot tub, no, sir.

23 Q Okay. Well, what about after?

24 A After we were done in the hot tub and whatnot, we
25 went upstairs to the hotel. And whenever we did, Brian

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 522

1 and Nicole took their phones because we didn't have them
2 downstairs with us -- they checked their phones, and
3 their phones had been blown up by Nicole's mother.

4 Q Do you know who Nicole's mom was?

5 A I met her that night.

6 Q Okay. What -- did you get a sense of what was going
7 on?

8 A Her crackhead boyfriend had stole the TV and a DVD
9 player again.

10 Q And how did Nicole -- what was her demeanor like
11 when she found this out?

12 A She was mad. She instantly started freaking out;
13 started yelling, telling her mom to calm down. She was
14 on the way; she was on the way; she was on the way.

15 Q What about Brian?

16 A Brian was -- he was mad. You know, he was like
17 again, you know. He was just as well trying to get to
18 her as well. She was saying that she was actually locked
19 out of the house, which I didn't understand how she knew
20 the TV was gone if she was locked out of the house. But
21 she said she was locked out of the house and that we
22 needed to come and unlock the door for her.

23 Q And ---

24 A And smoke with her because she was mad, I guess.

25 Q And you're going to have to verbalize everything so

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 523

1 the court reporter can take it down, just -- just so
2 you're aware. So did you go over to ---

3 A Yes, we did.

4 Q --- to her mom's house?

5 A Yeah.

6 Q Who all went?

7 A Me, Brian, Elexia, and the girl, Nicole.

8 Q Do you know about what time that was?

9 A Honestly, I gave a statement and I thought I knew
10 what times it was. But whenever I spoke with the private
11 investigator and she retraced my phone pings, I was
12 actually behind on time by -- or ahead of time, something
13 like that by like an hour or so. So my timing was
14 actually off.

15 Q So -- but -- I mean, were we talking 11 p.m, or 3
16 a.m. the next morning?

17 A No. I would -- I would say between 10 and 12, I
18 would say.

19 Q So do you remember who drove?

20 A Brian did.

21 Q Did everybody get in his car?

22 A Yes.

23 Q What -- what did he drive?

24 A A little gray Oldsmobile. It was very old.

25 Q Was there anything characteristic about it that you

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 524

1 remember?

2 A It was ugly. It was beat up. It looked like
3 something that wouldn't even drive anymore.

4 Q Okay. So what happened when you got to -- to their
5 home?

6 A She wanted us to go to the store and get -- the
7 mother, sorry, wanted us to go to the store and get her a
8 pack of cigarettes. So me and my wife drove from that
9 house to the El Cheapo right there on -- on Leesburg.
10 And I brought everybody a pack of cigarettes, and then we
11 headed back to her house.

12 Q Okay. And what happened when you got back there?
13 Well, let's say when you got back, who was there?

14 A Brian, Nicole, the mother; and then, me and my wife,
15 of course.

16 Q What was -- what was Crystal's demeanor like, the
17 mother, when you got there?

18 A Panic. She was, like, in hysterics. She said she
19 was tired of it. She's tired of this crackhead doing
20 this to her. She's, you know, in hysterics, basically.
21 She's crying, and then she's mad, and then she's crying,
22 and then she's mad, and she's crying, and she's mad. She
23 was just in all around hysterics over a flat-screen TV.

24 Q And what about Nicole?

25 A She was more than in hysterics. She was mad, you

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 525

1 know. She was -- basically, all in all, I had to explain
2 it. She was tired of seeing her mother get treated like
3 this by someone, basically.

4 Q And what about Brian?

5 A Brian did his little knee shake as always. He, of
6 course, got mad, but he was just sitting over there
7 shaking his knee, mostly.

8 Q What do you mean by shaking his knee?

9 A (Gestured.) Like this. I mean, I don't know how to
10 ---

11 Q I understand.

12 A Yeah, okay.

13 Q It's hard to put into words. And so did you talk to
14 Brian while you were there?

15 A Yes.

16 Q And what did y'all talk about?

17 A And -- are you asking if -- while we were texting,
18 or are you asking while we were speaking verbally?

19 Q Were you texting that night as well?

20 A Yes, we were.

21 Q Well, what did he say -- what did you talk about
22 verbally?

23 A Verbally, not too much. Mostly who is going to roll
24 this blunt or hit or stuff like that?

25 Q Okay. And what about the texts?

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1 A The texts was more of this -- he was basically
2 telling me the same thing, like he was tired of the dude
3 doing the mom and the girl like that too. And so he was
4 -- he was mad and I was telling him that: You know, it's
5 not worth it, bro. It's a TV. You know, it's not worth
6 it.

7 Q Okay. And did he say he was going to do anything
8 about it?

9 A The only thing he said was, "I'm going to handle
10 it."

11 Q Was that -- just to be clear, was that text or
12 verbal?

13 A I do not remember.

14 Q Okay. So at some point, did you leave the house?

15 A Yes. Me, Brian, and my wife did.

16 Q Do you remember when that was?

17 A In between -- I want to say 2 a.m. and 3 a.m, I want
18 to say. Like I said, this was three years ago.

19 Q I understand. And so would you say you were there
20 for a long time or ---

21 A Yeah. We were there long enough to smoke two blunts
22 and chop it up for a little bit.

23 Q Okay. So then, did you ride back to the hotel with
24 Brian?

25 A Yes.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 527

1 Q In his car?

2 A Yes.

3 Q Okay. Did you have any more conversations with him
4 on the way back?

5 A Not really. I was -- I had popped a lot of pills
6 that night, as had Brian, and as had my wife. Pretty
7 much the car ride back, Brittany was sick, so ---

8 Q But Nicole and Crystal did not come back with you?

9 A No, they did not. They wanted to -- well, Brian
10 wanted them to. And the mom was like, you know, I'm
11 good, you know, I'm going to stay here, so that was that.

12 Q What do you mean by Brian wanted them to?

13 A Brian figured that the crackhead dude was coming
14 back that night and they were already mad and upset. So
15 Brian said just go to the hotel for tonight with us.

16 Q Okay.

17 A There's an extra bed. There's no problem. Y'all
18 can just sleep with me, and that was it.

19 Q Were you okay with that?

20 A Yeah.

21 Q And ---

22 A I mean, I didn't like the girl, but I wasn't going
23 to tell him no. That was one of my best friends.

24 Q So -- but what happened when you got back to the
25 hotel?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 528

1 A When we got back to the hotel, I threw up on the way
2 in the hotel. And into the elevator, I threw up again.
3 And then, into the hotel room I threw up again.

4 Brian walked in shortly after that. I passed out
5 within the first ten minutes of being there. After I
6 walked into the bedroom -- after I walked into the hotel
7 room and threw up, I passed up within the first ten to
8 fifteen minutes of being there. But Brian did lay down
9 next to me in the bed, and I asked him if he was going to
10 sleep, and he said yeah.

11 Q Okay. So when did you wake up?

12 A Roughly about seven-something that morning, I want
13 to say. And I woke up and I went downstairs immediately
14 to smoke a cigarette, because it was a nonsmoking hotel.

15 Q Was Brian there when you woke up?

16 A No, he wasn't.

17 Q Okay. When was the next time you'd see Brian?

18 A I didn't. I seen him in bond court the next time.

19 Q You don't remember talking to him sometime between
20 7:45 and 8 a.m.?

21 A Oh, yeah. I'm sorry. Yes. There was a phone call.
22 Yes, there was. I'm sorry.

23 Q What did you talk about on that phone call?

24 A Okay. I don't remember who called who, but I asked
25 him where he was because, of course, I went to sleep and

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 529

1 he was next to me, and I woke up, he wasn't. So I asked
2 him where he was. He told me he was on the way to Alex's
3 house, which is Jerry Rabon, to pick up some more clean
4 clothes, which is to come back to the hotel to take a
5 shower.

6 Q Okay.

7 A I was letting him stay there because supposedly Alex
8 was making him live in the car outside, not on the couch.

9 Q Okay. Did he mention anything about ---

10 A Yes.

11 Q --- Scott during that?

12 A Yes. He said, "Do you remember the crackhead that
13 we were talking about last night?"

14 And I said, "Yes."

15 And he goes, "Well, he's on the way to the hospital.
16 He got shot last night."

17 And I said, "Well, that must have been a crack
18 dealer."

19 There may have been a few other words in between,
20 but to sum it up, that was the conversation.

21 Q I'm going to show you what's been marked State's 88
22 for ID. Can you tell me if you recognize these?

23 A Yep.

24 Q What do those show?

25 A This is me and my wife walking into the hotel with

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 530

1 Brian walking into the hotel.

2 Q You can't show it to the jury.

3 A Oh, sorry.

4 Q But you can just look at it.

5 A Brian walking in and me and my wife walking in as
6 well. And then, this one is all four of us walking out,
7 I'm assuming. And here's me stumbling back in.

8 Q And do you -- does that accurately -- accurately
9 reflect your movements that night and basically ---

10 A Yeah.

11 Q --- when I say you, the whole group going to and
12 from the hotel?

13 A Yes, sir. I'm assuming this first one that you
14 handed me was probably us coming in from smoking the
15 first blunt.

16 Q Okay. And when would that have been?

17 A When they first got there. So ---

18 Q Earlier on ---

19 A --- I would ---

20 Q --- the 7th?

21 A Huh?

22 Q On the 7th?

23 A Yeah, when they first got there ---

24 Q Okay.

25 A --- on the 7th, if that's the correct date, I guess.

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1 Q Thank you.

2 MR. MCGLOTHIN: At this point, the state would ask
3 that State's 89 -- or excuse me -- 88, 89, and 90 be
4 admitted into evidence.

5 THE COURT: Any objections, 88 through 90?

6 MR. MARSH: No objection, Your Honor.

7 THE COURT: All right. Without objection they'll be
8 entered.

9 MR. MCGLOTHIN: Thank you, Your Honor.

10 (Whereupon, State's Exhibits 88 through 90 were
11 entered into evidence.)

12 MR. MCGLOTHIN: Beg the Court's indulgence for just
13 one minute.

14 (Off the record briefly.)

15 Q You said you do remember texting Brian that night?

16 A Yes, sir.

17 Q Okay. Was it a lot or a little?

18 A I -- like I said, I was messed up. But from the
19 text messages that -- that I got showed, it was a decent
20 amount of text messages, it seemed.

21 Q Do you remember talking to him about -- you made
22 mention of the comment about handling this?

23 A Uh-huh.

24 Q Do you remember the conversation that kind of flowed
25 from that?

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1 A Yeah, I think. He said he was going to handle it.
2 And I basically, you know -- honestly in my mind, I blew
3 it off because he's not like that. He's not that type to
4 even remotely get violent.

5 But, you know, I played my role. I -- "Bro, you
6 don't need to do that. You know, this is the
7 consequences. This is going to happen if you do," you
8 know what I'm saying?

9 If you could show me the text messages I could
10 probably evaluate a little bit better, but like I said,
11 this was three years ago.

12 Q If I show you the text messages, would that help
13 your ---

14 A Yeah.

15 Q --- memory?

16 A That's what I'm saying.

17 Q All right.

18 MR. MCGLOTHIN: I'm going to show her what's been
19 marked State's 87. This is the -- the text report.

20 Q And this the setting and looking through it. And
21 I'm going to direct your attention to . . .

22 So starting here at the bottom and onto the next
23 page if you -- see if that may help your memory.

24 A All right. Where -- which -- where at on the
25 bottom?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 533

1 Q Let me grab my copy.

2 (Off the record briefly.)

3 Q Sorry about that. So if you look -- if you see the
4 numbers there on the left side of the page?

5 A Okay. I understand that these are his text messages
6 now. Okay.

7 Q Yes. And -- and so do you see your phone number at
8 the time there?

9 A Yes, sir.

10 Q Okay. So I'm looking at number -- excuse me. We'll
11 start at No. 215, about midway down.

12 A Okay.

13 Q Going up from there?

14 A Going up?

15 Q Yes.

16 A Okay. You said 215, right?

17 Q Yep. It'll -- it'll be marked 215 in the far-left
18 side.

19 A Okay. Now, what's your question again?

20 Q So do you remember talking to him about kind of
21 helping him that night?

22 A Not necessarily helping him. I was more or less
23 just trying to get my aggravating ass wife home.

24 Q And is -- is the message at 211 what you mean by
25 that?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 534

1 A Yeah ---

2 Q All right.

3 A --- pretty much.

4 Q Okay.

5 A Well, actually ---

6 Q And what did ---

7 A --- that message 211 isn't from me.

8 Q It's -- it's to you; is that correct?

9 A Right ---

10 Q Okay.

11 A --- correct. Yeah.

12 Q And what did -- and that's -- do you remember him
13 sending that text?

14 A Honestly, I -- I don't really remember half of these
15 texts.

16 Q Okay.

17 A But, I mean, they're here. I mean, I remember
18 blankly, like, texting him, trying to -- like let's go,
19 let's go, let's go.

20 Q And how -- were you texting him -- do you remember
21 texting him throughout the night?

22 A What do ---

23 Q And into ---

24 A --- you mean ----

25 Q --- the morning?

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 535

1 A --- throughout the night?

2 Q Like well ---

3 A After I got back to the hotel?

4 Q No, no.

5 A No.

6 Q No. Before that.

7 A Before that ---

8 Q Like while ---

9 A --- yes.

10 Q --- you were at Crystal and Nicole's house?

11 A I was texting him back.

12 Q Okay.

13 A Yeah.

14 Q And after that?

15 A I don't recall ---

16 Q Okay.

17 A --- too many text messages after that. I remember
18 talking to him that morning. And then I texted him later
19 on that evening when everybody was in court as well,
20 because he was supposed to come to the -- come back to
21 the hotel whenever I was done in court. Or he was
22 supposed to come back before then, but he was supposed to
23 be there when I got back from court, and he wasn't.

24 Q Okay.

25 MR. MCGLOTHIN: Beg the Court's indulgence for just

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 536

1 a minute.

2 (Off the record briefly.)

3 Q So you don't actually remember receiving No. 211
4 there?

5 A Honestly, I don't really too much remember any of
6 these.

7 Q Okay.

8 A I -- if you read my statement, I was pretty far off,
9 like . . .

10 Q So you don't remember him saying that he -- asking
11 that he bring Nicole and his mom to the hotel room back
12 with you tonight and then coming back here and waiting
13 and handling this?

14 A I don't remember the text messages. But, like, as
15 far as, like, remembering what happened that night, I do
16 remember him wanting them to come.

17 Q Okay. But you said he said something to the effect
18 of that earlier too, verbally, correct?

19 A To the mom?

20 Q No. To you regarding handling this.

21 A That's all he said, though.

22 Q Okay.

23 A He's just going to handle it.

24 Q Okay. Do you remember his demeanor at the time?

25 A I'm going to handle it. Like, that's it.

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1 Q Not ---

2 A Like ---

3 Q --- you couldn't ---

4 A I mean, he wasn't like -- he's sitting just like
5 he's sitting now. You know, like, he was normal. I
6 mean, yeah, he was mad. But he wasn't furious, like.

7 Q Okay.

8 A He just felt some type of way. There's a difference
9 in feeling some type of way and -- and being completely
10 and utterly pissed off.

11 Q So I'm going to draw your attention to 209 there.
12 So you don't remember texting him about taking his car
13 and how it would get boxed in?

14 A I said the whole boxed in thing because like I said,
15 I was trying to get my wife back to the hotel room. I
16 was honestly just doing anything to -- saying anything to
17 get her back to the hotel room.

18 Q But you remember ---

19 A Whether ---

20 Q --- sending ---

21 A --- I had to take the car or not.

22 Q But you remember sending that?

23 A I remember telling him that I would take the car.

24 Q Okay.

25 A I don't remember that entire message, so ---

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1 Q Okay. Do you remember him responding that he was
2 already planning on leaving the car down the road?

3 A I do not. But it's here, so, I mean ---

4 Q Okay.

5 A --- but it was sent. I mean, they're just text
6 messages from three years ago. So ---

7 Q Okay.

8 A --- I mean, I can remember a little bit man ---

9 Q But is that ---

10 A --- but ---

11 Q --- is -- is that phone number the phone you had at
12 the time?

13 A Yeah, I believe ---

14 Q Okay.

15 A --- so. Yeah.

16 Q Were you -- hearing that from Brian, were you
17 concerned at all?

18 A Honestly, like I said, Brian's not like that. He's
19 always -- he's soft, you know. He's not -- and when he
20 says stuff like that, you don't take it to heart. You
21 just listen to him and let it -- let him get it off his
22 chest.

23 He's not -- he's soft. He's not a fighter. He's
24 not a -- you know, an aggressor. He's -- he's soft. I
25 mean, I don't know any other way to put it. So to answer

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 539

1 your question, I just honestly ignored, you know ---

2 Q I understand.

3 MR. MCGLOTHIN: Beg the Court's indulgence for just
4 one moment.

5 (Off the record briefly.)

6 Q So I'm going to take you back a little ways here.
7 Back when you're at the house where Crystal and Nicole,
8 yourself, Elexia, and Brian, all there. You mentioned
9 their demeanor was angry?

10 A Yeah.

11 Q It is -- is that ---

12 A The women were just being very dramatic about the
13 situation, like, yeah. They were angry, know what I'm
14 saying, but they were being very dramatic about it. It
15 was a -- it wouldn't have -- it shouldn't have blew up
16 like that, but you know what I mean.

17 Q Did they make any mention of what they were going to
18 do?

19 A The mama said she didn't want him around anymore. I
20 do remember that.

21 Q Okay. Do you remember them saying something about
22 beating his ass?

23 A Being what?

24 Q Beating his ass?

25 A The daughter, I believe, said something about

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1 beating his ass. If I'm not mistaken, she wanted his ass
2 beat, is what she said.

3 Q Okay. And we already talked a little bit about what
4 Brian said. But when Brian said he was going to handle
5 this, how did Nicole and Crystal respond to that, if at
6 all?

7 A They were just amongst each other. They weren't --
8 I don't think they believed him either.

9 Q Okay.

10 A Yeah.

11 Q But they didn't -- you didn't hear them say anything
12 about trying to stop him.

13 A I'm -- no.

14 Q Okay.

15 A Right. Not that I recall.

16 Q And you said you don't remember any conversation in
17 the car ride back?

18 A No, sir.

19 Q Okay.

20 A I don't -- I don't -- I don't remember much from the
21 way back.

22 Q Do you remember giving a statement in this case?

23 A Yes, sir.

24 Q Okay.

25 A I was forced to.

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 541

1 Q If -- if I show you a copy of it, would -- might
2 that help?

3 A Yeah.

4 Q Okay. I'm talking specifically about ---

5 A This one right here?

6 Q This one right here. And tell me if that refreshes
7 your recollection.

8 A I don't recall that. But if I said it at that
9 point, it may have happened. I mean, it honestly
10 probably happened, if I said it at that point. I don't
11 recall it today, though.

12 Q So you don't remember saying that when you were in
13 the car going back to the hotel, that he -- that Brian
14 pulled out a pair of brass knuckles?

15 A I do not remember that, but obviously I said it.

16 Q Okay. And that, again, he said he was going to
17 handle this?

18 A If I said it, then I ---

19 Q Okay.

20 A --- I just don't remember saying it.

21 Q But you do remember giving this statement?

22 A Yes, I remember ---

23 Q Okay.

24 A --- giving the statement.

25 Q And is that your signature there at the bottom of

DIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 542

1 the page?

2 A Yes, sir, it is.

3 Q Okay.

4 MR. MCGLOTHIN: Beg the Court's indulgence.

5 (Off the record briefly.)

6 Q I want to draw your attention back to that question
7 and answer that we were just referring to. Could you
8 actually read what's written there?

9 A That one statement you just showed me?

10 Q Yes.

11 A Okay. It says ---

12 Q Starting with the question.

13 A (As read): "Did Brian ever say how he was going to
14 handle Scott?"

15 "No. When we were in this car going back to the
16 hotel, Brian pulled out a pair of brass knuckles and
17 again said he was going to handle this nigga."

18 Q What was the last word on that?

19 A Nigga.

20 MR. MARSH: Objection.

21 Q Okay.

22 MR. MARSH: Relevant ---

23 THE COURT: What's ---

24 MR. MARSH: --- overly prejudicial.

25 THE COURT: Objection overruled.

1 MR. MCGLOTHIN: Thank you.

2 Q And, Brittany, just kind of in conclusion here,
3 you're actually charged in this case, aren't you?

4 A Yes.

5 Q Okay. And you're charged with conspiracy?

6 A Yes, sir.

7 Q Okay. We haven't -- the solicitor's office hasn't
8 promised you anything for this testimony at all, have we?

9 A Oh, no, sir.

10 Q And we haven't made you any promises, any --
11 anything like that?

12 A No, sir.

13 Q And you actually gave this statement prior to ---

14 A Well, I gave this statement because Cris Truluck
15 wouldn't let me go to bond court unless I gave it.

16 Q Okay. But this -- but your testimony here today is
17 not in return for any sort of benefit ---

18 A No.

19 Q --- for you?

20 A It's illegal.

21 Q Okay. Thank you. Please ---

22 A Uh-huh.

23 Q --- answer any questions the defense has.

24 THE COURT: Yes, sir, Mr. Marsh.

25 MR. MARSH: Thank you, Your Honor. May it please

1 the Court.

2 CROSS-EXAMINATION

3 BY MR. MARSH:

4 Q Brittany, I wanted to start by asking you -- you
5 were asked a bit about some phone call records. Do you
6 recall your phone number at that time in 2016?

7 A It -- it -- it -- it looks -- it looks familiar.
8 Yes, sir.

9 Q Okay.

10 A So ---

11 Q Could -- could -- could -- and what was that phone
12 number?

13 A You want me to read it off?

14 Q Yes, please.

15 A 910-260-9844.

16 Q Okay. Is that still your phone number?

17 A No, sir.

18 Q Okay. You mentioned that you'd known Brian for --
19 for ten-plus years and you -- y'all had actually dated at
20 some point. Around -- you said 25 now. How old were
21 y'all when y'all dated?

22 A I was in sixth grade, I want to say.

23 Q Okay. So quite a bit -- a bit ways back?

24 A Yeah.

25 Q Okay. And I think you mentioned you had not met

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 545

1 Nicole, but you -- I -- I -- but had heard about her from
2 Brian?

3 A Yeah, I had heard about her. But the first time
4 meeting her was at the hotel.

5 Q Okay. What did you know about Brian and Nicole's
6 relationship prior to meeting her?

7 A When Brian came to the hotel, he was telling me they
8 wasn't fucking. She was pretending that she had some
9 type of medical condition or something.

10 She didn't seem like she was too interested in Brian
11 at no -- in no way possible, you know. She just --
12 honestly to me, it seemed like a -- something that made
13 him feel all right and then something that made her not
14 be alone. That's -- when you look at it, that -- that's
15 how it seemed to me.

16 Q Fair enough. You had made a distinction between
17 feeling some kind of way, as you put it, which was how
18 Brian was, and what you described as completely and
19 utterly pissed off. Was there anyone at Crystal's house
20 when you when there that night that seemed completely and
21 utterly pissed off?

22 A Nicole, the daughter.

23 Q What about Crystal? Was -- was she more just upset
24 or angry ---

25 A Honestly ---

1 Q --- or both?

2 A --- she's a crazy bitch. She was going back and
3 forth ---

4 Q A mixture ---

5 A --- and ---

6 Q --- of both?

7 A Yeah. Like, she's crazy.

8 Q Okay. And do you recall that evening there being
9 any mention of a gun, getting a gun?

10 A No, sir.

11 Q Do you recall Brian ever saying he was going to get
12 a gun ---

13 A No, sir.

14 Q --- in reference to handling it or anything like
15 that?

16 A No, sir. Not that I recall.

17 Q In fact, you never saw a gun that night?

18 A No, sir.

19 Q Or that morning?

20 A No, sir.

21 Q The state asked you a couple of questions regarding
22 your statement. Do you still have that in front of you?

23 A Uh-huh.

24 Q Well, let me stop with that. Do you recall anyone
25 actually picking anything up, making a threat, or making

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 547

1 an exclamation about a threat?

2 A Not that I recall.

3 Q Could you read the middle question and answer just
4 to yourself to ---

5 A Which page?

6 Q --- refresh your recollection on page 3 of your
7 statement?

8 A You said read it to myself?

9 Q Yeah, just to refresh ---

10 A Okay.

11 Q --- your recollection.

12 A Yeah.

13 Q Do you now recall anyone picking anything up, making
14 any ---

15 A No, sir.

16 Q --- or not making any threats, but saying that they
17 could handle things themselves?

18 MR. MCGLOTHIN: Objection, Your Honor. He's asking
19 for hearsay.

20 MR. MARSH: Okay.

21 THE COURT: Sustained.

22 Q Did you see anyone pick up an ashtray?

23 A The -- if I'm not mistaken, the mother did.

24 Q Okay.

25 A Yes.

1 Q The state also asked you a couple of questions about
2 a text message that you sent to Brian related to a car;
3 is that correct?

4 A Yes, sir.

5 Q Do you recall ever speaking with Brian about the
6 issues with his car prior to that evening or that
7 morning?

8 A Can you explain that a little bit?

9 Q Sure. Had -- had -- were you aware of the -- I
10 think you -- you -- there were some issues about
11 releasing the -- let me move back to the text message
12 exactly. You mentioned an issue with the tags in your
13 text message to Brian; is that correct?

14 A Yes, sir.

15 Q Were you aware of that issue with his tags prior to
16 that evening?

17 A I don't ---

18 Q Okay. If -- if ---

19 A Yeah, I think so. I mean ---

20 Q If -- if it would help you, we've -- if you look at
21 the text messages, they -- they gave you a number. This
22 one is going to be No. 246, if you could read that to
23 refresh your recollection, silently.

24 A You said 226?

25 Q 246.

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1 A 246. I -- I don't have a 246. Mine ends at 229.

2 Q I have a copy of that as well. There's 246 right
3 there. Looks like they didn't give you all of it.

4 A Okay. And what were you asking?

5 Q Just read -- read to yourself No. 246, and then I'm
6 going to ask you the question again after you've
7 refreshed your recollection.

8 A Okay.

9 Q So did -- did -- were you aware of Brian's issues
10 with his tags?

11 A Yes.

12 Q And did you give him any advice on -- on needing to
13 take care of that issue?

14 A Yeah.

15 Q And I'm sorry. I -- I'll give this back to you just
16 now. Could you let me know at what time -- did you text
17 Brian about that, the issue with his tags?

18 A Yes.

19 Q And what time did you do that on December 7th?

20 A It was 5:55.

21 Q And y'all hadn't -- had you met Nicole at this
22 point?

23 A No, I do not believe so.

24 Q You'd never met ---

25 A I should have still been at court.

1 Q Okay. You hadn't met Crystal?

2 A No, I do not ---

3 Q So you ---

4 A --- believe so.

5 Q --- were just sending advice to Brian about his tags
6 because Brian is your friend?

7 A Yes.

8 Q Okay. Thank you. You also mentioned that
9 Investigator Truluck wouldn't let you go to bond court
10 before you provided a statement?

11 A Yes, sir. I was actually -- he called me and said
12 that I was either going to be a suspect or I was going to
13 be a witness.

14 Q Okay.

15 A And I basically told him I didn't have anything to
16 do with the case that he was working on. And next thing
17 I knew, there were U.S. Marshals at my house, arresting
18 me.

19 Q What were you arrested for?

20 A Conspiracy to commit a murder.

21 Q What's your understanding of why they investigated
22 you and arrested you?

23 A These text ---

24 MR. MCGLOTHIN: Objection.

25 A --- messages.

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1 THE COURT: Hold ---

2 MR. MCGLOTHIN: Speculation.

3 THE COURT: Sustained.

4 Q What was the process in which you provided your
5 statement to Investigator Truluck? How did that actually
6 play out?

7 A We -- they took me in the room at first and he
8 basically talked to me first. I gave him my statement
9 verbally, and he didn't type anything. Then we went over
10 it again, and he didn't type anything. And then the
11 third time, he typed it.

12 Then, whenever after he typed it, he gave it to me
13 to sign it. And I had to make him go back and make
14 corrections. I proofread it.

15 Q What kind of corrections did you need to make?

16 A If I still had the other one, I would be able to
17 tell you. But it was just certain -- the way he was
18 wording things, it wasn't ---

19 Q You ---

20 A the way that I was trying to word it.

21 Q Were you provided a copy of the one that you
22 revised?

23 A Yes, sir.

24 Q Okay. Were you a -- were you provided a copy with
25 the first one that you received, the first ---

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1 A No.

2 Q --- one you did?

3 A No, sir. Because I didn't sign it.

4 Q Okay. So you only ---

5 A He threw ---

6 Q --- get the copy back when you signed it?

7 A Yes, sir.

8 Q Okay.

9 MR. MARSH: Beg the Court's indulgence.

10 (Off the record briefly.)

11 Q Brittany, do you usually read things before signing
12 them? Do you always -- is that your practice?

13 A No. Honestly, I only did it because it was Truluck.

14 Q Why is that?

15 MR. MCGLOTHIN: Objection.

16 A He ---

17 MR. MCGLOTHIN: I think this calls for character
18 testimony.

19 THE COURT: Is she about to say what he said?
20 Because she can't.

21 MR. MARSH: I don't know what she's going to
22 respond, Your Honor.

23 MR. MCGLOTHIN: May we approach, Your Honor?

24 THE COURT: Yes.

25 (Whereupon, a bench conference was held off the

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1 record in the presence of the jury, but out of the
2 hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen of the
4 jury, we'll send you all out for a brief second.

5 (Whereupon, the jury exited the courtroom at 3:08
6 p.m.)

7 (Off the record briefly.)

8 THE COURT: All right. You can go ahead and ask her
9 the question in-camera.

10 THE WITNESS: Me?

11 THE COURT: No. He's going to ask the ---

12 THE WITNESS: Oh.

13 THE COURT: --- question and we're going to see what
14 you're going to say.

15 THE WITNESS: Oh.

16 Q Sorry. I forgot my question, the way I had phrased
17 it. But, Brittany ---

18 A What prior history?

19 Q Sorry?

20 A What prior ---

21 THE COURT: No. You asked ---

22 A --- history?

23 THE COURT: No. The question was: Was there a
24 particular reason why you read over the statement this
25 time. I think you said, "Do you normally read over stuff

1 before you sign it?" She said, "No."

2 MR. MARSH: Thank you, Your Honor.

3 THE COURT: See, y'all don't think I'm listening.
4 Okay.

5 A Basically, we had a prior interaction when I was, I
6 want to say, 15 -- maybe 14. Truluck tried to arrest me
7 on 13 burglary charges. If I'm not mistaken, it was 13.

8 He snatched me out of the house; put me in
9 handcuffs. And my DNA cleared my name, of course. But
10 he had supposedly had a video of something that looked
11 like me. And because of that, he came on someone else's
12 property and arrested me and searched their house for
13 absolutely no reason.

14 MR. MCGLOTHIN: Your Honor, I think we're -- again,
15 I think this -- while not directly, it is a character
16 attack on Investigator Truluck in dealing with
17 information that has nothing to do with this trial. It's
18 from -- and I'm trying to do the math in my head -- but
19 at least ten years ago in a completely separate case that
20 has nothing to do with this, other than the idea that she
21 doesn't believe our investigator because she got caught
22 up on charges that didn't end up being her.

23 THE COURT: I don't know -- she didn't say anything
24 about believe. She just said she just went back and -- I
25 think she didn't trust him, is what she's saying.

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1 MR. MCGLOTHIN: Right.

2 MR. MARSH: Your Honor -- yeah.

3 THE COURT: And she can -- let's try not to get into
4 what happened ten years ago. She can just say: Based on
5 my previous interactions with him, I don't -- I don't --
6 I don't trust -- she can say she don't trust him or
7 whatever she want to say about him. That's her opinion.

8 MR. MCGLOTHIN: That's fine. As long -- I -- I just
9 want to keep out the -- the prior -- the -- the actual
10 information of the -- of the prior incident, not
11 necessarily that she doesn't trust him for just a -- for
12 the record.

13 THE COURT: We can add -- you understand, ma'am?

14 THE WITNESS: No. I need you to explain to me what
15 I'm ---

16 THE COURT: So the problem with getting into that
17 incident is we get into it with you here; when
18 Investigator Truluck gets on the stand, they can ask him
19 about the incident and what happened. And -- and it
20 really has nothing to do with this case right here, other
21 than you -- his question to you was why did you read this
22 statement before you signed it. And ---

23 MR. MARSH: A perfectly ---

24 THE COURT: --- I don't want ---

25 MR. MARSH: --- honest ---

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1 THE COURT: --- to put words in your mouth.

2 MR. MARSH: --- summary -- yeah ---

3 THE COURT: But -- but if you can summarize it
4 without getting into the facts of what actually happened.
5 You follow me?

6 THE WITNESS: So I just need ---

7 THE COURT: If it -- if -- if it's because something
8 happened before and you don't trust him -- to answer his
9 question, his question is why did you go back and check
10 behind Truluck.

11 THE WITNESS: Because I don't trust Truluck because
12 of prior ---

13 MR. MARSH: Interactions.

14 THE WITNESS: --- like, interactions. Is that ---

15 MR. MARSH: However you want ---

16 THE COURT: Wherever -- however ---

17 MR. MARSH: --- to phrase it.

18 THE COURT: --- you want ---

19 THE WITNESS: Is that okay to phrase it that way,
20 though?

21 MR. MARSH: Yeah. Just -- we ---

22 THE COURT: I just ---

23 THE WITNESS: Okay.

24 THE COURT: --- I'm not going to tell you what to
25 say. I just don't want you to get into ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 557

1 THE WITNESS: No. I just don't want to say too much
2 in front of the jury.

3 MR. MARSH: That's our ---

4 THE COURT: I appreciate that.

5 MR. MARSH: Yeah. That's our ---

6 THE WITNESS: Trying to ---

7 MR. MARSH: --- concern too.

8 THE WITNESS: --- follow your ---

9 MR. MCGLOTHIN: No. Can we ---

10 THE WITNESS: --- rules here.

11 MR. MCGLOTHIN: Can we just go with I don't trust
12 him because of a prior interaction? I -- is that?

13 THE COURT: It's -- it -- I mean, of course, I don't
14 want to tell her witness what to say.

15 MR. MCGLOTHIN: Right.

16 THE COURT: But if she can avoid getting into what
17 the interaction was ---

18 MR. MARSH: Yeah.

19 THE COURT: --- of the ---

20 MR. MARSH: We're not ---

21 THE COURT: --- details ---

22 MR. MARSH: --- we're not trying to get into ---

23 THE COURT: The details of the -- whatever the
24 interaction was ten years ago that led to this distrust,
25 I don't ---

CROSS-EXAMINATION BY MR. MARSH - BRITTANY STEEN 558

1 MR. MARSH: Yeah. We'd need ---

2 THE COURT: Okay.

3 MR. MARSH: --- the sentiment, not the specifics.

4 THE COURT: Huh?

5 MR. MARSH: We need how she felt in making the
6 statement, not the specifics of what happened however
7 long ago.

8 THE COURT: If -- unless you want y'all want to just
9 go back and retry that case too.

10 MR. MARSH: Nope, nope, nope, nope. We'd -- we'd --
11 I'd like to be done this week.

12 THE COURT: Okay. All right.

13 MR. MCGLOTHIN: Thank you, Your Honor.

14 THE COURT: All right. Everybody good? We can
15 bring them in?

16 All right. You can bring them back in.

17 (Off the record briefly.)

18 (Whereupon the jury entered the courtroom at 3:14
19 p.m.)

20 THE BAILIFF: Jury is seated, Your Honor.

21 THE COURT: All right. Yes, sir.

22 MR. MARSH: Thank you, Your Honor.

23 CROSS-EXAMINATION BY MR. MARSH CONTINUED.

24 Q Brittany, was there a particular reason you decided
25 to read it -- see about revisions?

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 559

1 A Yes. Because I don't trust Officer Truluck because
2 of prior interaction.

3 Q Thank you.

4 MR. MARSH: No further questions, Your Honor.

5 THE COURT: All right. Thank you.

6 Yes, sir.

7 MR. MCGLOTHIN: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. MCGLOTHIN:

10 Q Brittany, the defense just -- they were asking you
11 about specifically Nicole being pissed off ---

12 A Uh-huh.

13 Q --- prior. But you actually said that everybody was
14 mad, correct?

15 A I mean, everybody felt some type of way. Yes. But
16 Nicole was more pissed off than anybody, which is what I
17 thought they were asking me.

18 Q Okay. And I'm going to refer to your -- your
19 statement again. On page 2, if you will, right in the
20 middle of the -- starting right here, "They all started
21 talking . . ."

22 A Yeah. They all started talking shit.

23 Q Could you please read there until ---

24 A Well ---

25 Q --- dude ---

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 560

1 A --- give me your paper because ---

2 Q No.

3 A --- yours is underlined. All right.

4 Q I'll follow along on this one.

5 A (As read): "They all started talking shit and after
6 -- after they got high, she wasn't as pissed off anymore.
7 They were saying how they were going to beat his ass and
8 shit. They said that they didn't want him living at the
9 house anymore. It was Brian, Nikki, and the mom talking
10 about it. After a little bit, Brian mentioned him
11 waiting -- him waiting the girl and mom coming back to
12 the motel with us so he could stay there and wait on old
13 dude."

14 Q Okay.

15 A I do not recall that, but I guess I said it.

16 Q Okay. And when you -- you made this statement back
17 in 2016 ---

18 A Yeah.

19 Q --- correct?

20 A Yeah.

21 Q And when you made this statement, as you just told
22 the -- the defense, you actually went back to make
23 changes that you felt didn't correctly word it?

24 A Yeah.

25 Q But is this -- but you were trying to tell the truth

REDIRECT EXAMINATION BY MR. MCGLOTHIN - BRITTANY STEEN 561

1 then, and that's why you did that, right?

2 A Yeah. I'm still trying to tell the truth.

3 Q Okay.

4 MR. MCGLOTHIN: Beg the Court's indulgence.

5 (Off the record briefly.)

6 MR. MCGLOTHIN: All right. No further questions.

7 THE COURT: Yes, sir. Anything else, Mr. Marsh?

8 MR. MARSH: No further questions, Your Honor.

9 THE COURT: Any objection to this witness being
10 excused?

11 MR. MCGLOTHIN: No, Your Honor.

12 MR. MARSH: No, Your Honor.

13 THE COURT: All right. Ma'am, you're free to leave.

14 THE WITNESS: Oh, man. They don't have the text
15 message?

16 (Whereupon, the witness exited the witness stand.)

17 (Off the record briefly.)

18 MR. PRATT: The state calls Trisha Odom.

19 (Whereupon, the witness came forward.)

20 TRISHA ODOM, having been first duly sworn,
21 testified as follows:

22 DEPUTY CLERK OF COURT: Thank you. Have a seat in
23 the witness stand.

24 THE WITNESS: (Complied.)

25 DEPUTY CLERK OF COURT: State your name for the

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 562

1 record and spell it for the court reporter.

2 THE WITNESS: Trisha Collins Odom. The spelling of
3 my last name is O-d-o-m.

4 DIRECT EXAMINATION

5 BY MR. PRATT:

6 Q Good afternoon, Trisha Odom. What's your title?

7 A I'm an investigator.

8 Q Investigator. And where are you currently employed?

9 A At the Richland County Sheriff's Department.

10 Q And how long have you worked there?

11 A For 20 years.

12 Q And how long have you been an investigator?

13 A For 19 1/2 years.

14 Q So it's fair to say that was your position back in
15 2016?

16 A Yes.

17 Q And what do you do at the Richland County Sheriff's
18 Department?

19 A I'm a senior latent-prints analyst. I take all of
20 the -- I'm one of the people who take the fingerprints
21 collected from crime scenes and try to identify them.

22 Q Okay. And what are the -- does your position
23 require any special education, certification, or
24 training?

25 A I've had a number of courses, yes.

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 563

1 Q Does your position, like, require those things,
2 though?

3 A It does not, but it's very helpful.

4 Q Are the methods that you use to analyze fingerprints
5 accepted in your field of study?

6 A Yes.

7 Q Would you say that the average person knows how to
8 analyze fingerprints?

9 A No, probably not.

10 Q Can you give the jury your educational background?

11 A Sure. I have a degree in criminal justice from the
12 University of South Carolina. In addition, I'm a
13 certified Class 1 police officer in the State of South
14 Carolina. And I have taken a number of courses that are
15 involved in the crime scene area. The ones that would be
16 applicable for what I'm doing now with latent prints
17 would be latent -- advanced latent analysis, logical
18 latent analysis, analysis of distortion in latent prints,
19 latent prints reducing erroneous exclusions, complex
20 latent-print examination, forensic ridgeology, basic
21 fingerprints, and advanced palm-print training.

22 Q Okay. Do you have any certifications?

23 A Yes. I'm certified as a latent-print examiner
24 through the International Association for Identification.

25 Q What kind of training do you do to keep up those

1 certifications?

2 A The same type of training that I just read out.

3 Q Okay. How long would you say you've been analyzing
4 fingerprints?

5 A Almost from the first day that I started in the
6 crime scene unit, or what we called forensics back then,
7 which has been -- it will be 20 years in December.

8 Q Have you ever been qualified as an expert in court?

9 A I have, approximately 35 times.

10 Q And what were you qualified as an expert in?

11 A Latent-print analysis or comparison.

12 MR. PRATT: At this time, I'd like to have the
13 witness as an expert to give opinion testimony.

14 THE COURT: In? As an expert in?

15 MR. PRATT: I'm sorry, in latent print and analysis
16 -- fingerprint analysis.

17 THE COURT: In latent-print analysis.

18 MR. PRATT: Yes.

19 THE COURT: Any voir dire?

20 MS. PINNOCK: No, Your Honor. No objection.

21 THE COURT: All right. Ladies and gentlemen of the
22 jury, this witness will be qualified as an expert in
23 latent-print analysis to give expert opinion in that
24 area. You can give that opinion whatever weight you feel
25 or desire. All right.

DIRECT EXAMINATION BY MR. PRATT - TRISHA ODOM 565

1 MR. PRATT: Thank you, Your Honor.

2 Q Were you involved in the case against Brian White?

3 A Yes, I was.

4 Q And what was your involvement?

5 A I was given a latent print that was ---

6 Q Pause right there -- I'm sorry. Can you go into
7 what a latent print is?

8 A Sure. A latent print -- we use the term latent
9 print as an umbrella term for any kind of print that's
10 collected from a crime scene.

11 Q Okay. Now, in this particular case, how did you
12 figure out the source of the latent print?

13 A In this particular case, I was given the latents,
14 and -- via an AFIS hit, I was given the name of a
15 possible subject.

16 Q Okay. And what do you do when you get that name,
17 that possible subject?

18 A So what we'll do is get the known fingerprint card
19 and we'll take that and compare it to the crime scene
20 print, the latent print, and we'll look at the small
21 details that are within the fingerprint and try to
22 determine if they were made by the same source.

23 Q And in this case, where did that latent print come
24 from or off of?

25 A It came from the exterior of driver's door on 2001

1 Dodge van.

2 Q Okay. And are the standards that you used in this
3 particular case -- are the standards you used to compare
4 the prints before and match -- sorry. Are the standards
5 you used in this case, are those the ones, the same ones
6 you talked about earlier, the ones that are universally
7 accepted or ---

8 A As far as the ---

9 Q --- or the ones that you used?

10 A --- methodology?

11 Q Yes.

12 A Yes, that's correct.

13 Q And were you able to make a match of that print?

14 A I was.

15 Q And who did that print come back to?

16 A To a James Turner.

17 Q James Turner?

18 Let me ask this: Are there always prints in
19 criminal cases?

20 A No.

21 Q If prints are found, are there always -- are you
22 always able to find a match to those prints?

23 A No.

24 Q Is it uncommon to not find prints in criminal cases?

25 A I don't have any statistics on that, but it's not a

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 567

1 huge surprise if no latents are developed from a crime
2 scene.

3 MR. PRATT: Beg the Court's indulgence.

4 (Off the record briefly.)

5 MR. PRATT: No further questions.

6 THE COURT: Yes, ma'am.

7 MS. PINNOCK: No questions, Your Honor.

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

9 Any objection to this witness being excused?

10 MS. PINNOCK: No, Your Honor.

11 MR. PRATT: Not from the state.

12 THE COURT: All right. You're free to leave, ma'am.

13 THE BAILIFF: Watch your step.

14 (Whereupon, the witness exited the witness stand.)

15 MS. SAMPSON: The state calls Megan Fletcher.

16 THE COURT: Megan Fletcher? Okay.

17 (Whereupon, the witness came forward.)

18 MEGAN FLETCHER, having been first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. SAMPSON:

22 Q Can you spell your first and last name?

23 A My name is Megan Fletcher, M-e-g-a-n;

24 F-l-e-t-c-h-e-r.

25 Q And where do you work?

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 568

1 A I work for the South Carolina Law Enforcement
2 Division, commonly known as SLED, in the forensic-
3 services laboratory in the trace-evidence department.

4 Q And how long have you worked there?

5 A I've worked there approximately 12 years.

6 Q And what do you do there?

7 A In the trace-evidence department, I perform analyses
8 in gunshot residue, fire debris, paint, fibers,
9 explosive, pressure-sensitive tape, and general,
10 physical, chemical unknowns.

11 Q And do you receive training on how to do that?

12 A Yes, ma'am, I do.

13 Q Can you tell the jury what your educational
14 background is?

15 A I have a bachelor's degree from Chatham College in
16 biochemistry and English. I also have my master's of
17 forensic science from Marshall University, emphasizing in
18 computer forensics and forensic chemistry.

19 Q And in order to do your job, do you get training at
20 SLED or before you can go to SLED?

21 A While at SLED, I underwent in-house training for
22 every single discipline I'm competent and proficient to
23 perform analysis. So for each discipline, say gunshot
24 residue, I underwent a yearlong training program, and
25 that included oral, practical, and written examinations

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 569

1 regarding the history of the analysis of gunshot residue,
2 the instrumentations that's used, and how it's applicable
3 to forensics.

4 Q And let's just focus specifically on gunshot
5 residue. That training, do you have to get certified, or
6 how does that work?

7 A After my training program, I complete a competency
8 test that ensures that I'm able to perform the analyses
9 and SLED deems me competent.

10 Q And has that been done?

11 A Yes, ma'am, it has.

12 Q And have you ever been qualified as an expert
13 before?

14 A Yes, ma'am, approximately 29 times.

15 Q And have you ever been qualified as an expert in a
16 gunshot residue analysis?

17 A Yes, ma'am, I have.

18 MS. SAMPSON: At this time, Your Honor, I'd ask that
19 Ms. Fletcher be qualified as an expert in the field of
20 gunshot-residue examination.

21 THE COURT: Any voir dire?

22 MS. PINNOCK: No, Your Honor. No objection.

23 THE COURT: Ladies and gentlemen of the jury, this
24 witness will be qualified as an expert in gunshot-residue
25 examination.

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 570

1 MS. SAMPSON: Thank you, Your Honor.

2 Q So can you tell the jury: What is gunshot residue?

3 A So gunshot residue is everything that comes out of a
4 gun when it's fired. That includes the projectile
5 itself, the smoke, the fire, and also something that we
6 refer to as gunshot-primer residue. And that is the
7 components that come from the primer of the cartridge or
8 the case. And that's what I'm actually analyzing when I
9 analyze for gunshot residue. Gunshot-primer residue are
10 particles that are characteristic of that are molten or
11 round particles that contain the elements lead, barium,
12 and antimony.

13 Q And lead, barium, and antimony, those are the three
14 elements that are in gunshot residue?

15 A Yes, ma'am, they're the three elements that are in
16 the primer residue.

17 Q And if you find -- if you don't find all three, do
18 you still say it's gunshot residue? Can you explain how
19 that works?

20 A So in order for me to determine that it's
21 characteristic of gunshot-primer residue, it must contain
22 all three elements: lead, barium, and antimony. They
23 must be in a single particle, and that particle must look
24 round or molten so it looks like it's undergone high heat
25 or high pressure.

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 571

1 Q And how did you get evidence to test? How does that
2 work?

3 A Evidence is usually received into the laboratory
4 from an outside agency or from our own crime scene unit.
5 It's submitted to our evidence-control department, and
6 from the evidence-control department, it is then brought
7 up to our department for analysis.

8 Q And so I'm going to talk to you specifically about
9 testing, say, a victim for gunshot residue. If you know
10 that a victim had been shot, is it normal to test the kit
11 that you receive for gunshot residue?

12 A We will analyze the gunshot-residue kit. However,
13 there's very limited information that we can obtain from
14 that. Because the person has sustained a gunshot wound,
15 we do expect to find gunshot-primer residue on that
16 person. The gunshot residue comes out of the gun and it
17 travels along with the bullet. So essentially, it will
18 also travel towards the victim.

19 Q And I said a gunshot-residue kit. What is that?

20 A A gunshot-residue kit is the collection kit used to
21 test for any materials that are on an individual's hands.
22 And any individual who has been suspected to be in the
23 vicinity of a gun when it was fired can be tested.
24 Essentially, it's -- it looks like a stamp with a sticky
25 surface, and it's used to collect any material that's on

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 572

1 the person's hands.

2 Q And how long does gunshot residue stay on a person?

3 A On a living individual, gunshot-primer residue will
4 last on an individual for up to six hours. It only lasts
5 for six hours because it's an extremely fragile type of
6 evidence that's very easily transferred. So every
7 movement that somebody makes has a potential to remove it
8 from your hands. So if you wipe your hands, wash your
9 hands, stick your hands in your pocket, every time you
10 touch something else, you have the potential to remove
11 that evidence.

12 Q So if someone shoots a gun at, say, 8 and they're
13 not tested until 8 p.m, would you expect to find gunshot
14 residue? Would you even try?

15 A We would not analyze that GSR kit in our laboratory.

16 Q Because of what?

17 A Because in our in-house studies as well as external
18 studies by other individuals, it's been determined that
19 the prime opportunity to collect gunshot residue from an
20 individual is between the hours and one and four hours.
21 In our laboratory we will extend it to six hours;
22 however, beyond that time frame, any gunshot residue that
23 is remaining on somebody's hands has probably been
24 recontaminated.

25 Q So just to be clear, if somebody is not arrested

DIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 573

1 after -- if someone is not tested six -- more than six
2 hours after a shooting, it wouldn't do you any good to do
3 that kit. Is that what you're saying?

4 A SLED will not analyze a kit that's been collected
5 after six hours from the time of the incident.

6 Q And is that known to law enforcement? Like, do they
7 get -- does law enforcement get told this?

8 A Yes, ma'am. We have an evidence mission manual
9 which states that.

10 Q And so did you get -- receive anything in this case?

11 A In this particular case, we did receive one GSR kit
12 from James Turner.

13 Q And did you all test that?

14 A No, ma'am. There was no testing performed on this
15 test.

16 Q And to your knowledge, that's the victim in this
17 case?

18 A Yes, to my knowledge.

19 Q And, again, I think you said this, but would you
20 expect to find gunshot residue on a victim that's shot
21 six times?

22 A Yes, ma'am. I would expect to find gunshot residue
23 on any individual who has been shot, especially if it's
24 six times. In about 75 percent of our cases at SLED,
25 victims test positive for gunshot-primer residue.

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 574

1 Q And gunshot residue is done on the hands, correct?

2 A Yes, ma'am.

3 Q What if they were shot through the hand? Would you
4 expect to find gunshot residue?

5 A Yes, ma'am, I would.

6 Q Would it tell you anything if they had gunshot
7 residue on their hands if they were shot through the
8 hand?

9 A I would just be able to say that it was -- that it
10 was present. I wouldn't be able to offer any opinion as
11 to how it got there.

12 Q Thank you.

13 MS. SAMPSON: No further questions, Your Honor.

14 THE COURT: Yes, ma'am.

15 MS. PINNOCK: May it please the Court, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. PINNOCK:

18 Q How are you?

19 A I'm fine. How are you?

20 Q I'm doing well. Forgive me. You'll have to catch
21 me up just a little bit. You said there's two -- there's
22 two types of primer involved with shooting guns or ---

23 A There's a primer associated with the cartridge in a
24 gun, and that primer is what we're actually looking for
25 when we test for gunshot-primer residue.

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 575

1 Q And on guns isn't it true that it can eject --
2 depending on the make of the gun and, you know, I guess
3 where the openings are, that powder can escape from any
4 opening on a weapon?

5 A Yes, ma'am. On a semiautomatic the majority of it
6 comes out the muzzle of the gun, but can also come out of
7 the ejector port. On a revolver it will also come out of
8 the muzzle, but it will also come out through the
9 cylinder gaps on a revolver.

10 Q Okay. And that's how a person gets it on their hand
11 if someone is holding the gun, it would -- it somehow a
12 cloud would get on their hands?

13 A Yes, ma'am. It creates a cloud when that gun is
14 fired and then it deposits on anything within a vicinity.

15 Q What is that vicinity? Is it like a distance that
16 you work with or ---

17 A It's largely based on the type of gun, the type of
18 ammunition, and it's very specific to specific incidents.
19 So -- but in general, it can go about 3 feet to the
20 sides, 2 feet backwards. And then, there's been one
21 study that will put it approximately 18 meters or 60 feet
22 in front of the -- in front of the gun.

23 Q Okay. So if somebody fires a gun, you would expect,
24 if they were tested within that time period, to have some
25 evidence of gunshot residue on their hands?

DIRECT EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 576

1 A I wouldn't expect it because there are so many
2 variables that can remove it, but we will test it to
3 determine whether there is.

4 Q Isn't it also possible that GSR can get on a
5 person's clothing?

6 A Yes, ma'am, it is.

7 Q And the clothing can be tested if it's submitted,
8 right?

9 A Yes.

10 Q And the way you get -- you said the way you get
11 items to test -- either an outside agency or your own
12 investigators will submit it to your evidence control
13 department and then it comes to you for testing?

14 A Yes, ma'am, that's correct.

15 Q And so if an item -- let's say, you know, shirts,
16 were not submitted to SLED for testing, you would not
17 have had the opportunity to test it?

18 A That's correct.

19 Q And if the GSR kit was not done on someone's hands
20 within the parameter, within that one- to four-hour, you
21 know, good time period, you wouldn't have the opportunity
22 to test it?

23 A It's six hours, but that's correct.

24 Q Okay. So the only way you get any evidence to test
25 is if the law enforcement investigator submits it for

REDIRECT EXAMINATION BY MS. SAMPSON - MEGAN FLETCHER 577

1 testing?

2 A That is correct.

3 MS. PINNOCK: Beg the Court's indulgence.

4 (Off the record briefly.)

5 MS. PINNOCK: Thank you. I have no further
6 questions.

7 THE COURT: Yes, ma'am.

8 MS. SAMPSON: Just briefly, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. SAMPSON:

11 Q She asked you about clothing and testing clothing.
12 You said gunshot residue is fragile, correct?

13 A That's correct, yes.

14 Q So if clothing was put with other clothing with the
15 gunshot residue, would the gunshot residue come off?

16 A So for clothing, gunshot residue will remain until
17 it's actively removed. So any disturbance of that
18 clothing -- washing it, placing it in other -- in a
19 laundry basket, shaking it out, all of those activities
20 can remove the gunshot-primer residue.

21 Q So if it's put in a trunk with other clothing, that
22 could ---

23 A It could. Because every time it touches something
24 else, it has the potential to transfer.

25 Q And this -- and she asked you about -- you have to

RECROSS-EXAMINATION BY MS. PINNOCK - MEGAN FLETCHER 578

1 wait until things are submitted to you. Again, you tell
2 law enforcement if it's past the four- to six-hour
3 window, we're not going to test it even if you submit it,
4 correct?

5 A Yes. Law enforcement in our state is under the
6 understanding that after six hours, we will not test a
7 GSR kit from a living individual.

8 MS. SAMPSON: No further questions, Your Honor.

9 MS. PINNOCK: Very quickly, Your Honor.

10 THE COURT: Yes, ma'am.

11 RECROSS-EXAMINATION

12 BY MS. PINNOCK:

13 Q Just to clarify with clothing, you can't say that
14 there's no GSR present; or if it is present, how that can
15 be tested to find out, right?

16 A That's correct.

17 Q Okay. Thank you.

18 THE COURT: All right. You may step down. Any
19 objection to this witness being excused?

20 MS. PINNOCK: No, Your Honor.

21 (Whereupon, the witness exited the witness stand.)

22 (Off the record briefly.)

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, at this time, we will go ahead and take our
25 afternoon break. We will take about ten minutes for a

1 break. Please do not discuss the case. Thank you.

2 (Whereupon, the jury exited the courtroom at 3:38
3 p.m.)

4 THE COURT: And if the attorneys can hold tight one
5 second.

6 (Off the record briefly.)

7 THE COURT: All right. There's an issue you had --
8 you want to -- the e-mail?

9 MS. EIGENBROT: Yes.

10 THE COURT: Okay.

11 MS. EIGENBROT: I haven't -- Honor, I have not asked
12 because we -- she was the one that informed us. I don't
13 know how that all happened either.

14 MS. SAMPSON: What? Huh?

15 THE COURT: She informed you -- my law clerk?

16 MS. PINNOCK: So, Your Honor, I guess I'll put it on
17 the record, then. I filed a subpoena in this case with
18 the Richland County Sheriff's Department. The subpoena
19 was served on Ms. Joanna McDuffie, their legal counsel.
20 The request was for the department's new policies on
21 audio/video recording suspect interrogations.

22 At this point we did ask that Ms. McDuffie have that
23 material provided to us by Monday, the start of trial.

24 At this point I have not received it. I anticipating --
25 anticipate needing it for possible cross-examination with

1 the investigators.

2 It has now come to my attention that Ms. McDuffie
3 may have handed off the subpoena to either somebody at
4 the sheriff's department on this case or the state
5 themselves. I have yet to receive anything, but I -- I
6 don't know. She -- and she has not returned any of our
7 phone calls or any of our ---

8 THE COURT: Let me ---

9 MS. EIGENBROT: --- e-mails at this point.

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

11 MS. SAMPSON: I will tell you this is the first I've
12 heard of it, for the record.

13 THE COURT: Okay.

14 (Whereupon, a bench conference was held off the
15 record.)

16 (Off the record from 3:42 p.m. to 4:01 p.m.)

17 THE COURT: Y'all ready?

18 MS. SAMPSON: Yeah -- I'm sorry. Yes, ma'am.

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

20 (Off the record briefly.)

21 (Whereupon, State's Exhibit 92 was marked for
22 identification.)

23 (Whereupon the jury entered the courtroom at 4:02
24 p.m.)

25 THE BAILIFF: Jury is seated, Your Honor.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 581

1 THE COURT: All right. Call your next witness.

2 MS. SAMPSON: Thank you, Your Honor. The state
3 calls Robert Waters.

4 (Whereupon, the witness came forward.)

5 ROBERT WATERS, having been first duly sworn,
6 testified as follows:

7 DEPUTY CLERK OF COURT: Thank you. Have a seat in
8 the witness stand, please.

9 THE WITNESS:

10 DEPUTY CLERK OF COURT: State your name for the
11 record and spell it for the court reporter, please.

12 THE WITNESS: Robert Waters: R-o-b-e-r-t,
13 W-a-t-e-r-s.

14 DIRECT EXAMINATION

15 BY MS. SAMPSON:

16 Q Good afternoon.

17 A How you doing, ma'am?

18 Q Where do you work?

19 A Alvin S. Glenn Detention Center.

20 Q And what do can you do there?

21 A I work in professional standards.

22 Q What is professional standards?

23 A It's internal affairs. Investigations.

24 Q And as part of your job, do you keep records?

25 A Yes, ma'am.

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 582

1 Q And can you tell the jury about the jail call
2 system? How do people make calls from the jail?

3 A Okay. When an individual is supposed to enter into
4 the jail, they're given an inmate number. Once they're
5 given an inmate number, they take that inmate number and
6 they use -- they set it up to make a four-digit PIN
7 numbers so that they can make calls. Any time they make
8 a call, all calls are prepaid by the family -- by the
9 family members.

10 Q Using that system, do you all keep those calls?

11 A Yes, ma'am. I'm the custodian of the calls.

12 Q And how do you keep the calls?

13 A They're managed through the company. As long as we
14 have the system, we can hold them up to five, five years.

15 Q I'm going to show you what's been marked as State's
16 Exhibit 92.

17 MS. SAMPSON: May I approach, Your Honor?

18 THE COURT: Yes.

19 Q And do you recognize State's Number 92?

20 A Yes, ma'am.

21 Q And what is that?

22 A It's a jail call from Alvin S. Glenn Detention
23 Center.

24 Q And is that a call that's kept in the normal course
25 of your business?

DIRECT EXAMINATION BY MS. SAMPSON - ROBERT WATERS 583

1 A Yes, ma'am.

2 Q And was -- you listened to this call?

3 A Yes, ma'am.

4 Q And was it -- is there anything different from that
5 call? Was it kept in the manner that it should have
6 been?

7 A It was.

8 MS. SAMPSON: At this time, Your Honor, I'd ask to
9 introduce State's Exhibit 92 into evidence.

10 THE COURT: Any objection?

11 MS. EIGENBROT: Your Honor, we would just renew our
12 earlier objections.

13 THE COURT: All right. It'll be entered over the
14 objection of the defense. And what's the number on that
15 one?

16 MS. SAMPSON: 92.

17 (Whereupon, State's Exhibit Number 92 was entered
18 into evidence.)

19 THE COURT: Yes, ma'am.

20 Q And just to be clear, you couldn't tell anybody who
21 was on that call, correct?

22 A No, ma'am.

23 Q Okay.

24 MS. SAMPSON: No further questions, Your Honor.

25 THE COURT: Any cross?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 584

1 MS. EIGENBROT: No cross, Your Honor.

2 THE COURT: All right, sir. You may step down.

3 Any objection to this witness being excused?

4 MS. SAMPSON: Not from the state, Your Honor.

5 MS. EIGENBROT: No, Your Honor.

6 THE COURT: All right, sir. You're free to leave.

7 (Whereupon, the witness exited the witness stand.)

8 MS. SAMPSON: May I proceed?

9 THE COURT: Yes. Call your next ---

10 MS. SAMPSON: The state calls Scott McDonald.

11 (Whereupon, the witness came forward.)

12 SCOTT McDONALD, having been first duly sworn,
13 testified as follows:

14 DEPUTY CLERK OF COURT: Thank you. Have a seat in
15 the witness stand, please.

16 THE WITNESS: (Complied.)

17 DEPUTY CLERK OF COURT: State your name for the
18 record and spell it for the court reporter.

19 THE WITNESS: Scott McDonald: S-c-o-t-t,
20 M-c-D-o-n-a-l-d.

21 DIRECT EXAMINATION

22 BY MS. SAMPSON:

23 Q Good afternoon.

24 A Good afternoon.

25 Q Can you tell the jury where you work?

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 585

1 A The Richland County Sheriff's Department.

2 Q And what do you do there?

3 A Currently, I'm a captain over property crimes,
4 burglary.

5 Q You're a captain?

6 A Yes.

7 Q Okay. Can you kind of walk them through how you got
8 to be a captain?

9 A I started out in investigations back in 1994 and
10 kind of worked my way up. I started in burglary.
11 Eventually I became sergeant in burglary a few years
12 after that. I then switched over to major crimes, which
13 was robberies, assaults, homicide, suicides, that type OF
14 thing; and worked in robbery for several years until I
15 made lieutenant. And after several years of being a
16 lieutenant, I did work up to the rank of captain about
17 five years ago.

18 Q So back in December of 2017 [sic], you were a
19 captain at that time?

20 A Yes.

21 Q And can you tell the jury how you became involved in
22 this case?

23 A As a captain in major crimes, I was responsible for
24 helping to supervise and assist any investigations that
25 may fall under my purview: assaults, carjackings,

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 586

1 robberies, homicides, suicides. This was a homicide that
2 had happened that morning. I was briefed by my
3 lieutenant, Kevin Eisenhower, when he had gotten words
4 and we made plans to assign to it, and Investigator
5 Truluck and Sgt. Robert Martin were assigned to look into
6 this further.

7 Q And is it normal for there to be two investigators
8 involved?

9 A Yes. We always have a lead and what we call a
10 secondary.

11 Q And did you go to the scene?

12 A I did later in the day. I did not that morning.

13 Q So what was your role in this case?

14 A I was checking in -- our office was down at Pineview
15 at the time, and I was checking in with Sgt. Martin and
16 Investigator Truluck throughout the morning as the case
17 was developing and more information was coming in.

18 Q And is that normally how you relay information to
19 each other?

20 A Right.

21 Q So what -- did you ever get any information about
22 Crystal Posey?

23 A Yes. Later in this afternoon, I had gotten word
24 from Investigator Truluck that Nicole Bryant had admitted
25 that Mr. White had committed this murder. They then did

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 587

1 a pretextual phone call where he confessed on that as
2 well. And at that point, after they took that statement,
3 it was decided we needed to talk to Crystal Posey further
4 to see if she had any knowledge or involvement in this
5 case.

6 Q And so what did you do based on that?

7 A Lt. Eisenhower and I myself rode to the incident
8 location on Patricia Drive and we were in my vehicle. As
9 we arrived, saw a white male talking to Ms. Posey outside
10 the vehicles. Kevin and I both looked at each other. I
11 said, "That looks like Brian White," and he agreed.

12 We got out. Lt. Eisenhower asked the white male his
13 name. He indicated it was Brian White.

14 Q And I want to stop you right there. At that point
15 the jury has already heard that he was then taken into
16 custody for something else unrelated. Did you talk to
17 him at that point?

18 A We asked for consent to search his vehicle.

19 Q Did he give it to you?

20 A He did.

21 Q So what did you do based on getting that consent to
22 search?

23 A I stayed with Mr. White in my vehicle, who was
24 handcuffed in my backseat. Lt. Eisenhower then searched
25 the vehicle.

DIRECT EXAMINATION BY MS. SAMPSON - SCOTT MCDONALD 588

1 Q Right then?

2 A Yes.

3 Q And did you know what you were searching for at that
4 point?

5 A Not exactly. We knew a firearm had been involved in
6 this, so we obviously were looking for the gun and for
7 the other evidence that may pertain to the case.

8 Q And did you find a gun in the vehicle at this time?

9 A No, we did not.

10 Q So what did you do to the vehicle -- or what did you
11 have done to the vehicle at that time?

12 A I had the vehicle towed to our impound to be further
13 searched and processed.

14 Q And is that normal procedure?

15 A Yes.

16 (Whereupon, State's Exhibit 93 through 95 were
17 marked for identification.)

18 MS. SAMPSON: I'm showing the defense what's been
19 marked as State's Exhibit 93, 94, and 95.

20 May I approach, Your Honor?

21 THE COURT: Yes.

22 Q Show you what's been marked 93, 94, 95 and ask if
23 you recognize it?

24 A Yes. This was the car belonged to Brian White that
25 we encountered when we showed up at the crime scene later

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

THE STATE,

RESPONDENT,

V.

BRIAN NEIL WHITE,

APPELLANT

CERTIFICATE OF SERVICE

RECEIVED

Jan 19 2021

SC Court of Appeals

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 Scott Matthews, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is smatthews2@scag.gov, this 19th day of January, 2021.

s/Susan B. Hackett

Susan B. Hackett
Appellate Defender