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SC Court of Appeals

THE STATE OF SOUTH
CAROLINA

In The Court of
Appeals

APPEAL FROM RICHLAND
COUNTY Court of Common
Please

Frank R. Addy, Circuit Court
Judge

Case No. 2019-001794

The State, ... Respondent,

v.

Dameion E. Thomas, ... Appellant,

SUPPLEMENTAL RECORD ON APPEAL

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1 State of South Carolina)
2 County of Edgefield) In the Court
3 State of South Carolina,) Of General Sessions
4 Plaintiff,) Indictment No.: 2017-GS-19-00062,
5 vs.) 00063, 00064, 00065
6 Dameion Edwin Thomas,)
7 Defendant.) Excerpt Transcript of Record
_____)

8

9

October 7, 2019

10

Edgefield, South Carolina

11

12 BEFORE:

13

The Honorable Frank Addy, Judge

14

15 APPEARANCES:

16

17

Sutania Fuller, Assistant State Solicitor
Robert McNair, Assistant State Solicitor
Attorneys for the State/Plaintiff

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19

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Everett Chandler, Esquire
Benjamin Moore, Esquire
Attorneys for the Defendant

21 ALSO PRESENT:

22

Dameion Edwin Thomas

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EXHIBITS

COURT'S

NO.	DESCRIPTION	ID	EVDS.
1	DMH Medical Report	30	
2	5/9/2019 and 9/9/2019 Documents	30	

1 Thereupon, the following proceedings were had,

2 * * * * *

3 THE COURT: Housekeeping wise, I know that my clerk
4 did receive an e-mail on Friday from the defense. The
5 Court was informed by the Clerk of Court here in
6 Edgefield that the lead investigator apparently had a
7 rather serious medical episode and has been hospitalized
8 and I think is going to undergo surgery on Wednesday.
9 The State indicated they were still capable of moving
10 forward despite his absence. What's the name of the
11 gentleman?

12 MS. FULLER: Your Honor, it's Investigator Jimmy
13 Smith, and just to make sure you have all the right
14 information, we were initially told that surgery was
15 scheduled, but apparently due to other health
16 complications there will be more complications if they go
17 forward with surgery but I know he's been transported to
18 a different hospital so he's still in the hospital but
19 the surgery is not scheduled for this week.

20 THE COURT: All right. Mr. Chandler, you had
21 indicated that you felt that Mr. Smith's presence or
22 testimony might be needed during the course of your
23 presentation or what's the -- I want to go ahead and
24 address the issue of continuance at this point in time.

25 MR. CHANDLER: May it please the Court. I think we

1 have handed up our motion, our formal motion for a
2 continuance. We are making this motion based on Rule
3 7(b) which is the continuance because of the absence of
4 witness. Beyond that we are pursuant to Rule 7(c) of the
5 South Carolina Rules of Criminal Procedure we are also
6 offering other good cause for which there should be a
7 continuance. We do believe that our client --
8 Investigator Jimmy Smith is a material witness and we'll
9 give you an opportunity to read the entire motion.

10 THE COURT: All right. Let me hear from you on that
11 question then because I know absolutely nothing about
12 what Mr. Smith may know or testify to as it relates to
13 this case.

14 MR. CHANDLER: Your Honor, as you're aware, we are
15 required to swear as we have in the motion that this
16 motion is not intended for a delay but made solely
17 because we cannot go safely to trial without the
18 testimony of Jimmy Smith. As I indicated in the e-mail,
19 we do not want to divulge the defense strategy so as to
20 specifics of why his presence would be material and why
21 he would be a material witness under the rule, Your
22 Honor, we would ask for a meeting with Your Honor in
23 chambers, ex parte meeting with Your Honor in chambers on
24 the record.

25 THE COURT: All right. Typically that's how I've

1 handled this in the past, any problem with that sort of
2 situation so I can be apprised. Can you -- Well, before
3 I do that, can you give me, somebody give me an overview
4 of what you anticipate Mr. Smith's role in this case
5 having been?

6 MS. FULLER: Yes, Your Honor. So Investigator
7 Smith, of course, was the case officer in this case. He
8 was lead investigator in this. When we were apprised of
9 that situation even in trial prep, of course, he's
10 gathering information from witnesses and so, of course,
11 cumulative testimony we would be putting up because he
12 can't testify to what they said so calling witnesses to
13 just relay what they know about the case is truly our
14 intention and even once we went through everything we
15 realized we can present the case without his testimony.

16 There are several things that he did along with SLED
17 Agent Phillip Turner who was present for probably those
18 key things that probably need to be cross examined from
19 witnesses, used for cross examination purposes. So
20 Phillip Turner would be testifying and also would be
21 available to get that information in if it's necessary.
22 But a lot of this case is witness statements, SLED,
23 forensics, and all of that type of information, Your
24 Honor.

25 So in looking at going under 7(b) and arguing that

1 the witness is unavailable, it says like under oath he
2 needs to state what testimony he would be presenting and
3 the grounds for that belief and I'm not sure much of what
4 he would be relevant for would probably be if someone
5 testified incorrectly from what he documented in his
6 notes per se, but that's gonna be once the trial gets
7 started and you see if the witnesses testifying are
8 lying, you know, or consistent with what they shared with
9 law enforcement three years ago or even up to recently in
10 prepping the case. So in terms of independent testimony
11 I'm not sure what defense counsel is arguing that he
12 would be presenting in court that we can't present
13 through other means because other people and other
14 officers were present.

15 THE COURT: Okay. Well, before I meet with Mr.
16 Chandler, I assume that the State's provided Investigator
17 Smith's notes to the defense and that if a witness were
18 to testify contrary to how the investigator documented
19 that testimony, the State would have no issue with
20 permitting impeachment even though Mr. Smith is not
21 available?

22 MS. FULLER: If I can just caveat that with if the
23 foundation is laid properly and is proper impeachment
24 then, of course, but if it's - it would just have to
25 depend on that. But, Your Honor, I would definitely be

1 working around that because we definitely want this case
2 to go forward.

3 THE COURT: Sure.

4 MS. FULLER: As long as it's proper impeachment I
5 don't think counsel and I have any problem with that.

6 THE COURT: Okay. Mr. Chandler also raised a few
7 other matters concerning GSR being provided 30 days from,
8 within 30 days from today, additional new evidence of
9 forensic pathologist, key witness statement from a
10 witness by the name of Lewis, and an alleged confession
11 from Glover. Can you speak to that?

12 MS. FULLER: Yes, Your Honor.

13 MR. CHANDLER: Your Honor, if I may, I would like to
14 expound on those. I didn't go into detail, but I would
15 like to expound before we move from 7(b). I would
16 indicate that this case, the incident occurred on October
17 the 9th. The lead investigator, Investigator Smith was,
18 only had assistance from the SLED agent who was only
19 providing assistance starting on December the 13th.
20 October the 13th. Excuse me. October the 13th. And for
21 that period of time Mr. Smith was investigating this by
22 himself. More specifically, Your Honor, on October 11th
23 Jimmy Smith actually had a call with my client where my
24 client was completely cooperative and had given him some
25 key information where he was able to get some additional

1 information that would show a number of things about how
2 cooperative my client was, how consistent he was with a
3 number of his statements. That's just a small portion.
4 We'll get into a lot more detail, Your Honor, without
5 revealing, with respect to that issue without revealing
6 defense strategy and, of course, we try my best to
7 protect all of my client's constitutional rights.

8 THE COURT: Sure. Okay. The other items though
9 that you mentioned.

10 MR. CHANDLER: Sure. Your Honor, the reality of it
11 is for three - I've been representing Mr. Thomas for
12 three years and it was only since we had our status
13 conference in Saluda, we moved from a data dump that
14 started about 9/9/19 which you know, Your Honor, included
15 information that both State, defense, and Your Honor were
16 also included in that and was trying to handle the
17 McNaughton issues and criminal responsibility issues,
18 that entire issue. Part of this evidence is some new
19 stuff. We didn't include this in the motion, Your Honor,
20 but I confirmed it with the State, that included in the
21 data dump that occurred on September the 9th was a CD
22 that was half of a investigative discussion that my
23 client had that you had that was half of that CD. We
24 didn't get half of it until September 9th.

25 Your Honor, the State's had, you know, frankly it

1 wasn't -- Yeah. We didn't get it until September the
2 9th. The reality of it is, Your Honor, the State has had
3 three years to prepare for this case. Within the last 30
4 days, less than 30 days we've been given mountains of
5 information. That alone, Your Honor, I understand. I
6 have been a prosecutor. I know how you have to go and
7 reinvestigate a case. I know you have to work it up, but
8 even in discussions, Your Honor, the State has talked
9 about since our meetings with you that their case has
10 gotten substantially stronger.

11 Your Honor, they even acknowledged that the
12 information that they dumped on us on September the 9th
13 has been material enough for them to take away stances,
14 pretrial stances that we, or pretrial potential
15 resolutions of the case that we had talked about before.
16 Our position is, as important as this case is, the State
17 should not be in a posture or should not be able to be in
18 a posture where they're moving forward from a trial delay
19 for a few terms versus a potential life sentence. We are
20 asking a premium on justice and my client's
21 constitutional rights, Your Honor. A few months delay
22 only prejudices my client, and the unavailability of the
23 State's leading investigator is not the fault of my
24 client and it's our position that Mr. Thomas is in fact
25 entitled to every constitutional safeguard.

1 If we move forward, Your Honor, it basically
2 threatens to undermine the basic constitutional precepts.
3 He has a right and as a result we are, we believe that
4 moving forward would deny my client effective assistance
5 of counsel and as a result of all of that, Your Honor,
6 that we believe that that data dump does not give us
7 opportunity, under the circumstances of all of the mental
8 health things that we had to take care of, does not give
9 us the opportunity to thoroughly counter some of this
10 information that was presented. And, Your Honor, that is
11 in addition to the more important issue of not having the
12 lead investigator and the cumulative information that we
13 want to share with you in chambers on the record.

14 THE COURT: Ms. Fuller.

15 MS. FULLER: Thank you, Your Honor. Your Honor,
16 just so you have full background in this case, as you
17 know I primarily practice in Lexington so I'm just on to
18 assist in this case, but when I did come on back on April
19 2nd is when we gave defense counsel trial notice for
20 October 7th. If you remember, roughly around that time
21 is when we received the six month calendar so we had an
22 idea of when the next term in Edgefield would be. So
23 from that date April 2nd is when he had, he was put on
24 notice as well as reciprocal Rule 5 of this case.

25 On May 9th in an effort to make sure defense counsel

1 had all discovery in this case since the case has had
2 several hands, I know you know we had former prosecutors
3 leave out here and they initially had this case, on May
4 9th my paralegal and I put together everything that we
5 had since everything was kind of all over the place and
6 we turned over 315 pages and 12 disks at that time and
7 the message to defense counsel through his paralegal was
8 let me know if there's anything in there that you notice
9 that you're missing. I have done my due diligence, so
10 has Mr. McNair to go through and make sure we have
11 everything law enforcement has, but if there's anything
12 that you're requesting in advance of trial, please let us
13 know. We didn't get any responses.

14 On July 16th we turned over additional four pages of
15 discovery. So I don't want you to think that this was a
16 data dump 30 days before trial. That's not my practice.
17 On July 16th we turned over an additional four pages. On
18 July 24th of 2019 we turned over an additional 58 pages,
19 of course, discovering things that are out there. On
20 August 28th we turned over an additional seven pages of
21 discovery as well as autopsy photos that we didn't have.
22 It took us a while to get them since Dr. Ross retired and
23 went to Charleston and it was an older case, as well as a
24 disk from SLED.

25 On September 5th we turned over five pages along

1 with the rest of that interview and that was dated
2 September 5th of 2019, Your Honor, so a little over a
3 month ago. Particularly with the interview we always had
4 a portion of it and from our review of the case back in
5 April and May I made several requests to law enforcement,
6 hey, is this the entire reporting? Because I don't - it
7 starts kind of in the middle of it. I think when you
8 received it, you would have had two audio files on there.
9 It wasn't until preparing the case for trial and
10 typically for murder cases we set out four weeks prior to
11 to sit down and really hammer it down and focus in on it.
12 We're not preparing it for three solid years. We
13 wouldn't try anything if that's what we did. So that's
14 when our Investigator Quattlebaum was over there and
15 noticed that there was an interview disk on their server
16 labeled interview one and, of course, that gave us
17 concern because we've been asking for all of it.

18 My paralegal sat down with the file. Former
19 paralegals sat down. We've gone through it. This was
20 just an oversight. As soon as we obtained that second
21 part of that first portion of the interview, we turned
22 that over. What defense counsel had for nearly three
23 years though were the notes from that interview which has
24 been in the officer's report. It gives you a summary of
25 what he said in the car. It gives you a summary of what

1 he said in the interview, just didn't have the actual
2 audio recording. So I will tell the Court on September
3 5th once we discovered it that was provided to defense
4 counsel and that's a month prior to trial which I believe
5 is plenty of time to listen to a 45 minute audio.

6 On September 9th we turned over another 11 pages
7 including a video that we just discovered from meeting
8 with a witness that she recorded the fire. Her grandson
9 did. He was curious and he recorded it driving down the
10 road. Law enforcement didn't know about it. It's not
11 something the grandson said. It's something we didn't
12 know. As soon as we got it we turned it over. On
13 September 10th we turned over an additional three pages
14 of discovery. On September 20th we turned over an
15 additional 77 pages of discovery. I believe this may be
16 the updated SLED chain of custody, and those are roughly
17 50, 60 pages long.

18 Once we - once preparing for trial, meeting with
19 Lieutenant Nates, she mentioned that for some reason back
20 then the particle lifts that were swabbed of the other
21 clothing items that they had in their possession back
22 then, it wasn't tested and so at that point I said, well,
23 we have enough time before trial. Can you get this done?
24 And she said if I get the items that day, I'll go ahead
25 and test them. What they did three years ago once they

1 had the pants tested and that came back positive for
2 gunshot residue, Your Honor, so for three years which was
3 the basis of the arrest in December of '16 they had
4 knowledge that gunshot residue was in play. It's not any
5 new information per se because if they wanted a gunshot
6 residue expert, they could have had one because that was
7 gonna be evidence introduced. They were on notice of
8 that from December of '16 when the warrants were served.

9 On September 23rd an additional -- I misspoke on the
10 77 pages, Your Honor. That was not the SLED. The 77
11 pages on the 23rd was the SLED chain of custody. I
12 apologize. And then most recently the last set which was
13 110 pages, defense counsel requested all of the rap
14 sheets of the witnesses on our witness list and so
15 combine that with I think one additional summary made up
16 those 110. So those are essentially rap sheets of
17 witnesses on our witness list which we typically don't
18 have to turn over until they testify if we should call
19 them, but we turned everyone on our witness list, we
20 provided them with our witness list in advance which, of
21 course, is not required by the rules, we have done
22 everything we can by Mr. McNair calling him, giving him a
23 heads up of what's coming so it's not anything alarming.

24 If there was something extremely alarming, Your
25 Honor, the State would be standing before you saying,

1 hey, we just, I don't know, located a new fingerprint or
2 something which is not the case, but if it was something
3 that was truly alarming, we would be standing before you
4 probably in agreement with his request for continuance,
5 but nothing listed out is new per se. He listed out
6 potential new evidence of the forensic pathologist. He's
7 had the autopsy report since back then. He was free to
8 call the doctor preparing for trial last week. Dr. Ross
9 isn't - for all of the cases that I have had with her,
10 she's not someone that I prep throughout the three years.
11 She's someone I can call literally a week before trial
12 and review her report, just her phrasing on how she
13 explained her write up which, it's written in English but
14 for us it's plainer English when she actually talks to
15 you and I believe, I wasn't part of that conversation but
16 I'm assuming Mr. McNair just relayed specifically what
17 was written in her report how she would say it, explain
18 it which is something defense counsel has had for, I
19 mean, two and a half years, three years. He could have
20 called her himself and she would have said the same
21 thing. That's not new.

22 Key witness statement from Kayleigh Lewis that he
23 indicated he received on the 9th, the only thing that was
24 in there in the investigator's handwritten note that he's
25 had since initially on the case, I re-turned over in May

1 of this year just so we had everything, those all in his
2 handwritten notes, her name has always been in there.
3 Since she's a State witness in this case, we turned over
4 a summary of what she would testify in advance which we
5 technically could have waited to right before she took
6 the stand, Your Honor, because the rules allow us to do
7 that. We didn't. We turned it over a month in advance.
8 I don't see how we could be penalized for doing that when
9 we don't even have to when there was nothing necessarily
10 identifying the statement of the defendant, it's nothing
11 of that nature.

12 The alleged confession that was obtained by Steven
13 Glover, Steven Glover's name has been in discovery. His
14 statement was taken back in August, I want to say August
15 of 2017. That's been in the discovery. He's always had
16 knowledge of that. The additional specifics of who,
17 what, where, when, where you were sitting, all of that
18 information, he's an anticipated witness. We turned over
19 a witness statement in advance that the rules do not
20 require us to do a month before trial but we did. And I
21 don't see how we can be penalized for that either.

22 So, Your Honor, in terms of 7(c) I would completely
23 object and reject that any of those - any of that that
24 was turned over should be a reason for a continuance. I
25 mean, I believe counsel had plenty of time to prepare and

1 we gave - we normally don't have that much notice to give
2 of trial but we gave notice from April so all of these
3 names have been in there and he could have made request
4 of us but I think we went above and beyond so we don't
5 force a continuance. We want this case gone. It's been
6 almost three years. The family deserves closure.
7 Frankly the schedule out here, you know we only have
8 terms of court four times a year. I mean, a continuance
9 would push us back into January and, Your Honor, you and
10 I already have another trial in January in Lexington so
11 it's just gonna be problematic because I won't be
12 available for the next term of Court out here. We just
13 got that court calendar so then you're looking at April
14 maybe. I'm not sure when it is, but we're ready to go
15 forward. We'll be as accommodating as possible.

16 We understand Investigator Jimmy Smith isn't
17 available and should the defense had wished to call him
18 in their case in chief because there's nothing that says
19 we have to, I haven't - I'm sure he's gonna relay to you
20 what other material information, but anything we would
21 argue would probably be cumulative testimony and so I'm
22 not, I can't really say for sure what he's anticipating
23 him testifying to as his witness potentially because we
24 have expressed to the Court we can go forward without
25 him. We reviewed the necessary Rules of Evidence. We're

1 ready to go forward without him and we just really want
2 this case resolved.

3 I apologize for being long winded but this is
4 important and I'm really, really requesting, Your Honor,
5 that we go forward with trial. I think we can to
6 everything we can to protect the defendant's rights in
7 this and I think defense counsel has had sufficient time
8 to prepare for it.

9 MR. CHANDLER: Your Honor, if I may. Just, the
10 State starts, mentions that they will be penalized.
11 First of all, Your Honor, the State is not being
12 penalized for my client's constitutional rights being
13 protected. In fact, the only person who is actually
14 suffering any prejudice is my client for having to be
15 incarcerated for a few more months possibly.

16 With respect to Steven Glover, Your Honor, there's a
17 difference between knowing somebody is being interviewed
18 and Steven Glover now is relaying a direct admission of
19 guilt. I am not gonna say that the State is being
20 disingenuous in their description of Steven Glover's
21 testimony, but just to say that they know that they spoke
22 with him as opposed to the new evidence of him hearing my
23 client admit some level of guilt is an entirely different
24 thing and that's the same thing with the GSR.

25 Your Honor, the GSR is actually, the new GSR is on a

1 different article of clothing. To say that we know that
2 GSR is in play, that's disingenuous, Your Honor, because
3 if you don't have it tested and you test it less than 30
4 days out and dump it on the defense, we're not saying
5 that they're at fault. They're working their case up.
6 They're doing their job. I said it before, this is not
7 saying anything bad about the State because the State
8 doesn't need to defend themselves. Who needs defense is
9 my client whose constitutional rights are at risk and one
10 of the constitutional rights just happens to be his right
11 to confront his accuser and that happens to be a lead
12 investigator where there are times where the only
13 interaction is between him and Mr. -- And I only mention
14 that because she mentioned it -- is my client and the
15 lead investigator Jimmy Smith.

16 With respect to the data dump, we're not trying to
17 blame the State for getting information late and for
18 working up their case when there were some gaps in their
19 case, but all we're saying is that is a lot. You've
20 heard her run through a lot of information. We're not
21 talking about fault. We're talking about the fact that
22 all of that came through after a status conference where
23 everything seemed to be settled. They sit down and look
24 at their case and then they see that there's a lot of
25 holes in it and they fill it up. It's not the duty of my

1 client to test GSR when we know that the State has to
2 test it. But if the State tests it at the last minute or
3 gets some different opinion evidence from an expert like
4 Dr. Ross, obviously we need time to investigate it.

5 Again, the main thrust of our motion is the more
6 critical motion regarding the critical witness, the lead
7 investigator. But we believe that there are Rule 7(c)
8 violations alone to warrant a continuance in this case.
9 And if the State really thought it was so important and
10 the delay was so important, why would they wait? I have
11 represented him for three years. They wait 30 days out
12 to start getting all of this information. If the concern
13 for the victims were - the State could have - we've sat
14 down and gone over evidence and that date of notice and
15 we came to this date. We agreed to this date. This
16 wasn't the State saying this date. We talked and we
17 agreed to this date because I was looking at the evidence
18 that they have and lo and behold I did not know that the
19 State was going to reinvestigate the case and dump so
20 much information and key information of key witnesses and
21 reintroducing and having testing of key items.

22 Your Honor, after we got the GSR report, we
23 literally went to the evidence locker with my client to
24 look at his clothes with the State witnesses and asked is
25 there anything else. Because my gosh, we don't know.

1 What else have y'all sent up? Because if this is the way
2 they're operating, all I'm saying is, they can
3 investigate their case, but they can't investigate their
4 case at the last minute. Three years have passed.
5 They've investigated their case within a month before
6 trial and then dump this information and then talk about
7 how important this trial is. If it's that important, do
8 this a year ago. If it's that important, do it two years
9 ago. If it's that important, do it two and a half years
10 ago. My client deserves better. It's his life that's on
11 the line. Nobody else's. He's the only one that's
12 prejudiced by a delay and he's asking for it.

13 THE COURT: Okay. Let's talk specifics. The new
14 article of clothing that the GSR was found on, what
15 article of clothing are you talking about?

16 MS. FULLER: Yes, Your Honor. So Back in 2017 they
17 tested the pants he was wearing at the time that we
18 believe he was wearing during the murder. That was
19 tested back then and it came back positive for gunshot
20 residue. So I wasn't being disingenuous when I say
21 gunshot residue has always been in play because they
22 found it on his clothes. What was collected but the,
23 uhm, particle lifts from his shoes came back positive for
24 gunshot residue and then particle lifts from his shirt he
25 was wearing came back positive for gunshot residue.

1 MR. CHANDLER: Your Honor, the new the item was his
2 shirt.

3 MS. FULLER: The new item --

4 MR. CHANDLER: The new item was his shirt.

5 MS. FULLER: -- are the pants - are the shoes, the
6 shirt and the head band were the new items in the report
7 that all came back positive for gunshot residue.

8 THE COURT: All right. Is there a reason that those
9 items weren't tested sooner?

10 MS. FULLER: Your Honor, I can't speak for a former
11 prosecutor who had the case back then. I can only speak
12 for myself when I reviewed it getting ready for trial
13 realizing that it was since particles were done and for
14 some reason it wasn't tested. I can't speak for that.

15 THE COURT: Okay. Can you speak to or just so that
16 I have an idea about how relevant potentially this new
17 evidence is, what's the State alleging in terms of a
18 murder weapon that was used?

19 MS. FULLER: The murder weapon we allege that we
20 believe was used was a .22 rifle, long rifle. The
21 clothes in terms of our timeline when we believe they
22 last had communication with anyone and which would be an
23 hour or so prior to the defendant showing up at a gas
24 station on camera wearing these clothes. I believe when
25 the clothes were seized, there was some confusion in

1 terms of which one -- I'm not sure what the breakdown was
2 but all of them were sent to SLED. When I pulled up the
3 video, I took a snip, I sent it to SLED and I said this
4 is the long shirt. She opened all of them. She said
5 this is the only one that matches the video and that's
6 what she tested. I think there was some confusion back
7 then and in an effort to get what she could get tested
8 they only tested the pants. I don't know who made the
9 decision not to test everything. They had it. They did
10 the particle lifts in 2016. Some particles were
11 collected except for on the shirts. The particles were
12 collected on the shoes back then and they were sealed and
13 particles were collected on the do rag that he was
14 wearing at the time of the video and those were sealed.
15 It wasn't until now they weren't.

16 The report, the initial GSR report defense counsel
17 has had since December and so on there it says literally
18 the items that were seized, particles done, no testing
19 done, no analysis performed. So it's just when I really
20 dived in to look at it that there's no analysis
21 performed. What happened. And I asked her is this
22 something that we need to delay the case for. Is this
23 something gun, trace evidence can that be tested in a
24 certain amount of time period. She said yes. You can
25 get it done within ten days and so that's when she did

1 it.

2 THE COURT: How many shots do y'all think were
3 fired?

4 MS. FULLER: We know for sure that six shots were
5 fired.

6 THE COURT: How many?

7 MS. FULLER: Six.

8 THE COURT: Six?

9 MS. FULLER: Yes. The male victim is deceased. He
10 had four gunshot wounds and the female had two.

11 THE COURT: Okay. So obviously this isn't like the
12 kind of .22 that you give a kid that just has a breach
13 load and you put in a single shot? It would be something
14 where you chamber rounds?

15 MS. FULLER: We believe. Yes.

16 THE COURT: Okay. All right. And as it relates to
17 the alleged confession from Steven Glover --

18 MS. FULLER: Yes, Your Honor. I'm gonna hand you
19 the investigator's report because I don't like being
20 accused of being disingenuous so I'm just gonna have you
21 read -- May I approach?

22 THE COURT: Sure.

23 MS. FULLER: -- what was -- I apologize. This is,
24 it just has highlights, but no notes on it -- what was
25 summarized by the investigator back on August 16th, 2017.

1 What defense is referring to is receiving a summary by
2 our investigator in trial prep which just elaborates more
3 on what was recorded there. (Proffering.)

4 THE COURT: So is the document that you have handed
5 me, this was previously provided to the defense?

6 MS. FULLER: It was provided back when the case was
7 originally made and then my practice is to turn it over
8 all again and so that's why the top page stamped where it
9 says, I believe May 9th maybe, would have been when it
10 was all re-provided, reorganized so we can all - some
11 things he has didn't have page numbers on it so we can
12 talk about the same thing at the same time if he needs
13 to. So he had that back then and then he got it again in
14 May this year.

15 MR. CHANDLER: Your Honor, I would like to see that.
16 I don't know what you're reading and I just --

17 THE COURT: Sorry.

18 MR. CHANDLER: That's all right.

19 THE COURT: (Proffering.) So what was provided on
20 September the 9th per Mr. Chandler's motion was a more
21 detailed statement from Mr. Glover?

22 MS. FULLER: Yes, Your Honor, and I do have that
23 summary if you want to look at that.

24 THE COURT: Okay.

25 MR. CHANDLER: Then I would like to look at it,

1 too.

2 THE COURT: Go ahead and let Mr. Chandler take a
3 look at it, Solicitor.

4 MS. FULLER: This is what he would have received
5 from our -- We met with Steven Glover on September 5th
6 preparing for trial and this is something that was
7 provided to him on September 9th of 2019 page 2 of 11 of
8 discovery.

9 THE COURT: Okay. So the documents that you're
10 handing to him now, you said that those were created
11 September the 5th or they were --

12 MR. CHANDLER: September the 9th.

13 MS. FULLER: They were prepared - they were notes
14 typed up by our investigator after our interview on the
15 5th.

16 THE COURT: Okay.

17 MS. FULLER: Yes. But it was provided, a full
18 summary of a bunch of different people we spoke to we
19 turned over at one time on the 9th.

20 THE COURT: So this isn't a document that's existed
21 for three years what Mr. Chandler is currently looking
22 at?

23 MS. FULLER: No. This just was -- Again, we're not
24 necessarily required to, but in advance of trial to
25 streamline things so there isn't an argument that we just

1 turned over the morning of, I know some prosecutors do,
2 as soon as they call the witness, they'll hand you a
3 summary of our trial prep interview, we turned it over a
4 month in advance, Your Honor.

5 MR. CHANDLER: Your Honor, the second to the last
6 statement is significantly different and you will see the
7 difference. The second to the last bullet point is
8 significantly different from what you read earlier.

9 MS. FULLER: Your Honor, I don't think I need to
10 made an argument about witness statements and what they
11 found following, follow up, while we're following up on
12 questions. (Proffering.)

13 THE COURT: The second to the last on the first
14 page, Mr. Chandler?

15 MR. CHANDLER: On the second -- the second to last
16 bullet point. Significantly different, Your Honor, and
17 frankly material. You go from a hearsay statement to I
18 heard directly and I think that's significant. Glover is
19 talking about other people's statements that we first
20 received and all we knew up until less than a month
21 before trial was Glover's relaying hearsay statements and
22 now he is offering a first hand account less than a month
23 before trial.

24 MS. FULLER: I would disagree with that
25 interpretation of the summary and so did Steven Glover.

1 We asked him. He told us, he was like, yeah, I told the
2 investigators all this, but the details we got into
3 because we need to know, you know, who, what, where,
4 when, why. So I would disagree with that interpretation
5 of the officer's notes.

6 THE COURT: I would tend to agree with you,
7 Solicitor. I'm looking at the narrative by Investigator
8 Smith and it seems to relate to a first person account
9 from Mr. Glover and then Mr. Glover relates again the
10 first person account in the next to last bullet point on
11 the interview of September the 5th of 2019. So let's do
12 this. We'll go ahead and take a break. I'll ask my
13 court reporter to set up in chambers and I'll have a
14 private conversation with Mr. Chandler and we will see
15 where this is going.

16 As it relates to the other items that Mr. Chandler
17 takes issue with, the other discovery that was provided,
18 Mr. Chandler, I respect your position, but I don't think
19 that those are so surprising as to warrant necessarily
20 continuing this down the road. The Solicitor has pointed
21 out providing a detailed witness statement prior to the
22 witness testifying. I know in some parts of this state
23 they don't even prepare, they don't even write it down.
24 The attorney takes personal notes and that's it when they
25 interview these witnesses. So the fact that maybe you

1 got some of these statements that are more detailed from
2 them when they actually interviewed the witnesses early
3 last month I don't necessarily see that as a reason to
4 continue the case.

5 And again, the additional GSR, if we're talking
6 about nine shots being fired from a .22, I'm sorry, six
7 shots being fired, at least six from a .22, the fact that
8 GSR is discovered on the pants and the head band and the
9 shirt and the shoes, I mean, it was on the pants so I
10 think that any additional GSR testing, that simply
11 indicates cumulative evidence as opposed to something
12 that's brand new. If you had gotten perhaps a GSR sample
13 from the pants that was negative for GSR and then all of
14 a sudden they test the shirt and the do-rag or the shoes
15 and it comes back as positive, that might be a different
16 matter entirely because that changes the posture of the
17 case, but in this case you already have a positive result
18 for GSR. It shouldn't be a surprise especially if six
19 shots are fired from admittedly a low caliber weapon. If
20 six shots are fired, you're gonna get more GSR than if
21 you only fired perhaps one shot from a small caliber
22 weapon so I don't know that those issues are so new or
23 surprising to the defense as to warrant a continuance,
24 but we'll go off the record out here. You have one other
25 thing, Ms. Fuller?

1 MS. FULLER: Yes, Your Honor. I know you're going
2 off the record ex parte. Should I argue my argument in
3 terms of 7(b) now or after you have spoken to him?

4 THE COURT: Let me, so I can get a feel for what he
5 is --

6 MS. FULLER: Okay.

7 THE COURT: -- saying and what his position is, why
8 Mr. Smith is so absolutely necessary. The biggest
9 problem I always have in this kind of a situation is
10 obviously after meeting with counsel I have questions
11 about, okay, well, this, that, and the other but I'm
12 somewhat between a rock and a hard place in that I'm not
13 able to be as candid or as inquisitive out here as I am
14 back there but we'll take it as it comes. Let me talk to
15 him first.

16 MS. FULLER: Okay. Thank you, Your Honor. Your
17 Honor, do you need me to make copies of that and make it
18 a part of the record?

19 THE COURT: Yeah. What we're gonna do, if you
20 could, go ahead and make copies of the May 9th document
21 and the September 9th documents. Those will be Court's
22 2, and then we'll introduce the report from doctor
23 whoever at DMH as Court's 1.

24 MS. FULLER: Thank you, Your Honor.

25 (Whereupon, Court's Exhibits #1 and #2 marked for

1 identification.)

2 THE COURT: We'll let the court reporter go ahead
3 and do that and break down and set up back in the
4 chambers. We'll be at ease.

5 (Whereupon, the following proceedings were conducted
6 in chambers ex parte between the Court and defense
7 counsel.)

8 THE COURT: Okay. We'll go on the record. We're
9 going on the record and the record will reflect that this
10 conversation is taking place ex parte in chambers in the
11 Edgefield Courthouse. Mr. Chandler is here and it's Ben
12 -- What's your name again, sir?

13 MR. MOORE: Moore.

14 THE COURT: Moore.

15 MR. MOORE: Like Benjamin Moore Paint.

16 THE COURT: Okay.

17 MR. MOORE: You'll remember it forever now.

18 THE COURT: I will. Mr. Moore is here and, of
19 course, the purpose of this hearing is to let Mr.
20 Chandler tell me about Mr. Smith and the reasons that the
21 defense feels that his presence here is key so I'll turn
22 it over to you.

23 MR. CHANDLER: Your Honor, I have Benjamin Moore
24 here. We split up duties. We knew this was a very
25 important part of what we had to do today to talk about

1 the importance of Jimmy Smith. I appreciate the
2 opportunity to do this in chambers because we do believe
3 this is key. I will tell you, Your Honor, that Jimmy
4 makes a great defense witness so much that when the
5 initial charges, financial transaction card fraud was
6 presented at the preliminary hearing, we had the case
7 dismissed because of his, some of the issues that we're
8 gonna talk about as to some of the factual issues that he
9 would get mixed up. Some of it is gonna be very key and
10 the cumulative nature of it goes directly, Your Honor,
11 it's our position, the criminal nature of it goes
12 directly to our challenging the caliber of the
13 investigation and pursuant to Kyle versus Whitman which
14 is a Supreme Court case, that the conduct of defendant's,
15 the conduct of defense lawyers is to be able to discredit
16 the caliber of the investigation or even the decision to
17 charge the defendant, and we believe that without that
18 opportunity that this case is severely inhibited and it
19 could be cured easily with a few months compared to the
20 three years that the State has already delayed this case
21 and I would turn it over to Benjamin Moore with the
22 history.

23 THE COURT: Sure. Go ahead and give me the
24 specifics, if you could.

25 MR. MOORE: Okay, Your Honor. As we have discussed,

1 as you probably know at this point the State has a strong
2 case and really most of our defense would be going to
3 criticizing the investigation basically saying that they
4 got off on the wrong foot, that they got tunnel vision
5 and looked at only evidence that was favorable to their
6 case, and that the investigation wasn't done very well.
7 And I know Your Honor has seen this many times, but it is
8 one of these situations where to be quite frank here in
9 chambers, you know, there's not an alibi, there's not any
10 real realistic thing that anybody else did it or anything
11 like this. This is one of them that the State
12 investigation can't prove their case because they didn't
13 go do a good job and I know we've all been there but to
14 be quite honest --

15 THE COURT: I've defended those cases as well so I
16 know exactly what you're talking about.

17 MR. MOORE: Yes. Right. Right. So I'll get to
18 really the biggest thing. You heard that the clothing is
19 very important. In Investigator Smith's report he
20 initially says that our client was wearing blue jeans on
21 the video. As you heard it's sweat pants that were
22 tested and came back with the GSR, but he actually puts
23 in his report that the defendant was wearing blue jeans
24 not sweat pants and he's the only one to say that. We
25 don't know - he's the only source of that. We do have

1 some notes from Turner. He did kind of a chronology, not
2 really necessarily a report but a SLED chronology of his
3 involvement, but Smith is the only source of that.

4 To go further, Mr. Thomas, the defendant, the
5 evidence will show that he went to this convenient store.
6 He's on the convenient store video and obviously the
7 clothing in question is later tested, but initially
8 Investigator Smith says it's blue jeans at the store.
9 Mr. Thomas is later seen on video at some apartment
10 projects. There's a video there. And Investigator Smith
11 says that the defendant has changed clothes on that video
12 and that's in his report. And obviously, and then later
13 says that, in his report, that the clothes that were
14 tested were the ones seen on the video from the projects,
15 video two.

16 So the ability to bring into question the clothing
17 from which the GSR - obviously earlier in the timeline he
18 has, we can bring that out to the jury to have some doubt
19 that he had different clothing. They're alleging that
20 he's going from the shooting and the first place that
21 they get him on the video camera is the store and he's
22 saying that they tested the clothing that he changed into
23 at the projects, then what's coming positive for GSR is
24 the clothes he changed into, not the clothes he would
25 have had immediately following the alleged murder. So

1 this is a big deal and it doesn't come from any other
2 source than Investigator Smith from his report and we
3 think that is obviously a huge deal.

4 Beyond that there's all kinds of stuff that we would
5 like to cross examine him on. You heard the Solicitor
6 talk about the differences in the statement. Mr. Glover
7 originally said he did tell Investigator Smith that.
8 Well, obviously we would like to question, cross examine
9 him about that scenario. That's just something that was
10 just brought up. We would like to cross examine him
11 about why the GSR results, the things that weren't
12 tested, why he didn't send them to testing when he got
13 the results back and it was only the pants. We actually
14 think GSR only being on the pants is very different from
15 GSR being on all the clothing. And the defendant gave a
16 statement that he had been shooting, he's kind of vague,
17 but basically a few days prior and that's where the
18 gunshot residue comes from.

19 Well, originally a big part of our defense was going
20 to be if the GSR was only on the pants, was that he was
21 shooting another day and he wasn't wearing the pants in
22 question, but he wasn't wearing the same shirt, hat,
23 shoes, and it was consistent with his story that he was
24 shooting another day. So I know, I get Your Honor's
25 point about it not being a huge surprise but it did - we

1 did have - we were thinking we had something there. We
2 really did. Plus with this other stuff. And we weren't
3 really looking to challenge or get any expert involved
4 because we like the GSR results we had originally. We
5 thought it was actually advantageous. We would like to
6 ask him why an arson expert was not consulted or used to
7 determine if the fire was intentional or accidental.

8 Another point of this is he has initial evidence
9 where he has the statement from the defendant, he has the
10 videos we've talked about, and he has some timeline
11 witnesses that are very favorable to the State that
12 basically puts the defendant in the victim's car on
13 camera soon after like when their cell phones go dead and
14 so forth, and a good timeline would put him basically
15 going back to the scene and basically the theory is that
16 he shot them in the early afternoon, returned to the
17 scene and burned the house down.

18 But anyway, they had all of that but Investigator
19 Smith did not believe he had probable cause at that point
20 to make an arrest. He waited. He was concerned, from
21 his report it shows that he was concerned about flight
22 and the defendant fleeing, but he doesn't - he waits for
23 the GSR to make the arrest and quite frankly part of our
24 defense is if he had hesitation to act on the probable
25 cause at that point, then the jury should look less

1 favorably or take that into account when they look at the
2 timeline evidence, the video evidence, and the
3 defendant's statement which we actually think is the
4 strongest part of their case. We think the GSR is a nice
5 bonus obviously, but we actually believe that his, our
6 defendant's statement and that timeline and being in the
7 victim's vehicle is really what kills us.

8 And then there's jailhouse snitches like Mr. Glover
9 and other people that we feel like we could do some
10 damage with and if we could weaken the case as far as
11 even the investigator had problems with the initial
12 evidence which we think is the strongest, if he's
13 hesitating to act on probable cause, we think that the
14 jury should hesitate to act on reasonable doubt.

15 THE COURT: Well, let me ask you about that. How
16 long did it take for the GSR to come back on the pants?
17 What was the time frame?

18 MR. MOORE: The time frame was, this happened
19 October 9th, they collected the pants on October 13th,
20 and it came back, I believe --

21 THE COURT: In December?

22 MR. MOORE: It was in December. Mid December and
23 that's when they made the arrest. They arrested him on
24 the financial transaction card fraud because they wanted
25 to get him locked up. They were concerned about him

1 fleeing, but they hesitated on the other charges until
2 they got the GSR results. Now, we think, as I pointed
3 out earlier, only getting it on the pants, arguably does
4 that help with probable cause or not? Because you
5 certainly could think that he wasn't wearing the other
6 pants. It seems like you would want the other stuff to
7 test to confirm.

8 THE COURT: Sure.

9 MR. MOORE: But that's more kind of, it's the kind
10 of stuff we would like to talk about. As the Solicitor
11 mentioned, the Kayleigh Lewis witness who is a very
12 strong witness on their timeline says that the victims
13 were supposed to meet her at 2:30 to watch a ball game
14 and never showed up. She was in his notes as the
15 Solicitor mentioned. We would certainly like to cross
16 examine him about why he didn't get a statement from her
17 and certainly we're gonna be saying that she's coming
18 late in the game with almost this too good to be true
19 statement. And actually the statement that led to the
20 evaluation, I haven't personally seen, and I think that's
21 from someone named Randy Deas, about the defendant
22 hearing voices, but he was also in his list and it begs
23 the question why wasn't the person interviewed.
24 Obviously we would say they're on the victims' side.
25 They're making things up at the last minute and that type

1 of thing.

2 THE COURT: So was Lewis on the investigator's list,
3 witness list, and what does she testify to again?

4 MR. MOORE: She was in the investigator's notes and
5 we have his written notes. He has very poor handwriting
6 and Investigator Smith did tell me he did type them up to
7 the Solicitor that I and Mr. Chandler requested. We
8 haven't gotten them yet. I'm sure that's something that
9 can be cured. But Kayleigh Lewis is mentioned in his
10 notes, but we're not aware of any kind of statement until
11 the September 5th interview that we received the contents
12 of September 9th so... But she is a big witness because
13 she's right in the middle of that timeline about the time
14 they believe he committed the murder, maybe half an hour
15 before they were supposed to be at her house to watch the
16 South Carolina/Georgia game that was played on Sunday
17 because of the hurricane. I first thought what in the
18 world is this woman saying, but I looked it up and I
19 actually went to that game and I was like, yeah. She's
20 talking about a Carolina game on a Sunday, I was like,
21 woo.

22 THE COURT: I think I was there, too.

23 MR. MOORE: Yeah. Anyway, we have issues about the
24 defendant's interviews. They interview him during an
25 interrogation without Miranda. Probably you heard it but

1 he does leave afterwards but they arrest him the next day
2 and but certainly at least where the jury, you know,
3 you're working your way around his Miranda, you know, and
4 you have probable cause to arrest him but you made sure
5 you didn't because you didn't want to Mirandize him
6 but...

7 THE COURT: Was that the December interview that was
8 recorded that we're talking about, the tape recording?

9 MR. MOORE: This interview happened October 13th and
10 that's the one that - he interviewed the defendant
11 October 11th, a preliminary phone interview before SLED
12 Agent Turner was on the case. SLED Agent Turner comes on
13 the case on the 13th, they interview the defendant and
14 that's the recorded interview that we're talking about
15 where we recently got the first half of which is really
16 the meat of it where he says the really damaging things
17 and as she stated, the Solicitor stated that the things
18 were in the notes, but part of our looking at it very
19 differently getting it on audio our client saying it is
20 Investigator Smith had a lot of things wrong in his
21 report and we felt like it was only in his report we
22 could do a lot to discredit him so that's why there was a
23 big difference getting our guy saying it as opposed to it
24 just being in Investigator Smith's report because he does
25 have some things that are factually wrong.

1 When we went to go through the evidence locker and
2 looked at the evidence, I asked him if the car keys were
3 ever found. Our theory is our client said, hey, I went
4 back and gave them the car keys. He says they weren't.
5 We go through the evidence. I actually pulled them out
6 and there were cars keys in evidence. Just a lot, a lot
7 that we would like to cross examine him on. There is a
8 reference to taking a picture of the defendant's body to
9 see if he had any burns from basically setting the house
10 on fire and there were none. Those pictures have never
11 evidently haven't been found, haven't gotten an answer on
12 that, but we certainly would like to cross examine him
13 and if those pictures are gone, we would love to cross
14 examine him about what happened to them.

15 THE COURT: When was that photo supposedly taken?

16 MR. MOORE: It was in October.

17 THE COURT: After the SLED agent got involved?

18 MR. MOORE: The SLED agent was involved.

19 THE COURT: Okay.

20 MR. MOORE: The SLED agent was involved. Actually
21 that would be another thing to cross Smith on. It's in
22 the SLED agent's notes, but not in Investigator Smith's
23 report.

24 THE COURT: The photo was in the SLED agent's notes
25 but not in Smith's?

1 MR. MOORE: Yes. And the photo as far as we know is
2 lost. They may have it.

3 THE COURT: Anything else big that you can relay?

4 MR. MOORE: One thing that's in his notes, the
5 timeline is just huge to this case. It's really the
6 strength of their case in my opinion. In his notes
7 there's a witness, a neighbor who saw the defendant, says
8 that she saw the defendant's car drive by. I mean the
9 victim's car driving by, but obviously they believe that
10 the defendant was in it and in his notes he has the time
11 at 16:15 which would be about 4:15 in the afternoon which
12 would be a lot better for us but in his report he has it
13 as 18:15 or 6:15 p.m.

14 THE COURT: Well, 6:15, I mean, that could have just
15 been a --

16 MR. MOORE: It could have been, but we would like to
17 cross examine him.

18 THE COURT: 16:15 an opposed to 6:15, I mean, that's
19 --

20 MR. MOORE: Right. Well, there's a lot of things we
21 would like to cross examine him about. And he could also
22 - he's the one who can establish our client was
23 cooperative in the beginning. He's the one who told him
24 that he was on the 10/11 statement about being in the,
25 using the victims' credit card, using the victims' car,

1 that he was - that he did go buy cigarettes and that
2 statement was - he's the only one who can confirm that
3 the victim - the defendant gave that statement and we
4 think it's important to show that the defendant has been
5 consistent in what he's saying from the beginning from
6 the initial interview on the 11th and on the subsequent
7 interview on the 13th and really to us but...

8 MR. CHANDLER: Your Honor, those are statements that
9 stipulations just don't really, are not as effective for
10 the purposes of us effectively representing Mr. Thomas.

11 THE COURT: Yeah. I hear you. The flip side of
12 that is though that to the extent that Mr. Smith or
13 Investigator Smith would be questioned about this, he
14 would probably have pretty good experience. This guy
15 sounds like he's somewhat of a veteran so he's gonna have
16 an explanation for the discrepancies and so what I'm
17 thinking about potentially doing is just giving y'all a
18 great deal more latitude in terms of questioning the SLED
19 agent, allowing some of the potentially hearsay type
20 stuff from the incident report, allow that to come in
21 through other witnesses and I would simply have to go out
22 there and explain to the State that, you know, look,
23 there may be times where they're gonna be seeking to
24 introduce something which, you know, is in the gray area
25 of the law as opposed to something, you know, black and

1 white. I'm gonna let them go into the gray a little bit
2 more here than I otherwise would.

3 MR. CHANDLER: Your Honor, if I may.

4 THE COURT: Sure.

5 MR. CHANDLER: He's not that veteran. That's why we
6 got it dismissed at the prelims and this guy is gonna
7 foul this up and this is important for our client and the
8 only remedy is to try it a couple of months later, Your
9 Honor, and this is, you know, Your Honor, there's a lot
10 weighing on us. We've done everything. We've contorted
11 ourselves, especially with the DMH stuff to speed
12 everything up and I just think that this whole process
13 has lost focus on my client's rights.

14 THE COURT: Well, that's my point though is that if
15 you're trying - if you're putting the investigation on
16 trial, having the person that you're on trial, letting
17 that be a TIA, you're putting the investigation on trial
18 in many respects works to your benefit because they're
19 not in a position to refute a lot of what you're gonna be
20 bringing out and so, you know --

21 MR. CHANDLER: Jimmy Smith is not gonna effectively
22 refute it. This guy is the guy that we got the prelim
23 won on because he can't. He will fumble it up and he
24 will jumble it up and that's why we need him. We need
25 him there. I don't want to put some guy on trial who's

1 -- Look, if I'm the prosecutor who's fighting for his
2 life. You know what I'm saying? Yeah. And the defense
3 can't put him on a man who's fighting for his life on
4 trial. And again, Your Honor, the simple remedy is to
5 give us these months in light of all of this other stuff
6 going on. We've been bending over backwards. My poor
7 client is here involved in all this stuff we're doing.
8 We're introducing this new stuff. We're hearing about
9 new stuff and I get it, but there is a simple remedy
10 here, Your Honor, and there's a whole lot -- You know
11 there's a whole lot riding on it.

12 THE COURT: I understand. The flip side of it is
13 though if they're gonna be producing first person
14 witnesses, then you will have the benefit of crossing
15 those witnesses and again to take this conversation full
16 circle to the extent that you can put Smith on trial for
17 shoddy a investigation, it's better for your client if
18 that's a TIA as opposed to Smith being here. I really
19 don't --

20 MR. CHANDLER: Your Honor, I'm not - Your Honor, I'm
21 really --

22 MR. MOORE: Your Honor, this is Edgefield, a small
23 town. People know he's in the hospital. They're gonna
24 be sympathetic when we put him on trial.

25 MR. CHANDLER: Your Honor, it is not better. We

1 need him. He is the guy that we need. Jimmy is a friend
2 of mine, but Jimmy does not do well and when I knew he
3 was on the case, this is not my first rodeo with him, I
4 knew we were gonna do well in that prelim. I know what
5 -- This is who we need on the stand for the purposes of
6 protecting our client. Your Honor, the premium has to be
7 on my client's rights to the best defense.

8 THE COURT: And I don't disagree with that and I'm
9 gonna think about this and have a cigarette before I go
10 out there and give you a ruling, but I'm just telling you
11 the way that I'm kind of leaning here so that we can just
12 have this conversation back here and not have it out
13 there and let y'all respond so, you know, I'm not
14 definitively saying no to the continuance because I am
15 gonna reflect on it just a tad, and I hear what you're
16 saying about Smith and I hear that sometimes when you've
17 got a strong case against you, I hear you a hundred
18 percent. Sometimes when you've got a strong case, the
19 best thing that you can do is put something else on
20 trial, put somebody else on trial and that's the
21 investigation in this case.

22 MR. CHANDLER: So it really is all we have, Your
23 Honor. And, you know, in a case like this, Your Honor,
24 where all I'm asking is for a chance for my client to be
25 able to have the best defense. I think this really makes

1 me ineffective. It really doesn't allow me to do my best
2 for my client.

3 THE COURT: It sounds like you're doing everything
4 that you are being asked. Whether or not I continue it
5 is entirely, you know, that's my call.

6 MR. CHANDLER: Without any question. And I'm not
7 even talking about, you know, certainly, and I hope it
8 didn't come across as a threat, Your Honor.

9 THE COURT: Oh, no.

10 MR. CHANDLER: Your Honor, I know your interest in
11 the whole process you have to be fair but, Your Honor,
12 the flip side, my client is the only one prejudiced by
13 this delay. He's the only one prejudiced by this delay
14 and the premium of saying we've got to do this now as
15 opposed to three or four months kind of flies - it's
16 almost laughable when you talk about three years passing
17 and the State really putting focus on this case in the
18 last month to speed this up at this time and in light of
19 Jimmy Smith's absence.

20 THE COURT: Yeah. I'm just taking down these items
21 here and I'm doing it back here because I can't do it out
22 there.

23 MR. CHANDLER: Yes.

24 THE COURT: You know, the blue jeans thing.

25 MR. CHANDLER: That's huge. Yeah. That's huge

1 because you said it. The GSR on the wrong clothes,
2 that's huge, Your Honor.

3 THE COURT: Well, these videos, and I haven't seen
4 them, but they're often grainy. You can't really tell
5 whether it's blue jeans. You can't really tell whether
6 it's sweat pants.

7 MR. CHANDLER: Not this video.

8 THE COURT: This is a clear one?

9 MR. CHANDLER: It's clear. It's clear. It's just -
10 and all we have is change of clothes. Your Honor, this
11 is huge. I mean, it really is. And one other thing,
12 Your Honor, and then I'm gonna pause. The rules, I read
13 the rules and they require that I swear under oath and I
14 just don't want to miss it so I just want to make it
15 clear that we swear under oath.

16 THE COURT: No problem.

17 MR. CHANDLER: Okay.

18 THE COURT: I'm taking y'all's representations as
19 being under oath so that's not a problem.

20 MR. CHANDLER: In that same way my position is that
21 this is not a delay tactic.

22 THE COURT: I agree.

23 MR. CHANDLER: This is clearly something that this
24 guy is material. This is our case. He is our case and I
25 think it really goes directly to the confrontation

1 clause. This is our case.

2 THE COURT: Okay. The Glover statement, I didn't
3 see any difference between those two statements.

4 MR. MOORE: Well, he originally says that he heard
5 other people saying that Thomas talked about doing the
6 murder. Now he's saying he heard it directly. Now, he
7 did say that he heard him say he got fed up, but he
8 didn't hear the - he originally said he heard the other
9 two people talking about that Thomas said that he killed
10 two people and burned the house down. Now he's saying,
11 he said that he heard it directly and he's saying that he
12 told Investigator Smith that in the first place.

13 THE COURT: Well, that's how it reads from Smith's
14 narrative that was introduced as Court's 2.

15 MR. MOORE: Well, there's also a statement, I
16 believe, that I could get for you. I don't believe I
17 brought it back with me. But there's a very short
18 written statement and I guess that would be another Jimmy
19 Smith special. A lot of what Jimmy puts in his report
20 isn't consistent with reality and I don't think it's -- I
21 think Jimmy's an honest guy but Jimmy writes weird things
22 in his reports. I don't know how he thinks the guy was
23 wearing blue jeans, but I really -- I don't know. If you
24 watch this video, you'll be like no, no. It's clear.

25 MR. CHANDLER: The TIA is just a non starter. It

1 undermines what we're doing. Jimmy is loved in this
2 community and I love him, too, frankly. I mean, he's a
3 friend of mine. That's why when I first heard about it,
4 I was like, oh, my gosh, because Randy, Lieutenant Randy
5 Duran said this thing is not gonna go next week. I said,
6 why, Randy? What's going on? He said Jimmy's sick. He
7 can't be here. The lieutenant knows we can't try this
8 case without Jimmy.

9 THE COURT: Well, I'm thinking that a lot of this
10 stuff you can get in. Not bringing in the arson expert,
11 that's a great question for the SLED guy.

12 MR. CHANDLER: Yeah. But it's even greater for the
13 same guy who didn't get the - who sees jeans. I mean,
14 who doesn't see - who sees jeans on a video that's sweat
15 pants. I keep saying, Your Honor, the reason --

16 MR. MOORE: He's the adviser versus the guy who
17 makes the call.

18 MR. CHANDLER: You've got the adviser. You've got
19 the best - you give them the best witness. Our best
20 witness is not the professional, you know, the more
21 seasoned, the more professional. This seasoned guy is
22 seasoned at doing what he did in this case and I'm a
23 witness. I promise you. I've gotten reductions,
24 dismissals, and to try him in his absence --

25 THE COURT: I know, but usually the context of this

1 and - usually the context is that the witness is
2 absolutely necessary because maybe they're an alibi
3 witness. The rule, if you really look at it,
4 contemplates the witness being essential to definitively
5 prove something affirmative like Thomas was not present
6 at the scene of the crime, or I saw somebody else not
7 Thomas go into that house with a .22 rile, or something
8 like that as opposed to a witness who --

9 MR. CHANDLER: Talks about it?

10 THE COURT: -- is a lousy cop is what you're
11 saying.

12 MR. CHANDLER: Oh, no. The caliber of the
13 investigation. That's why we call it the caliber of the
14 investigation is a common defense tactic. It is used.
15 It's allowed and that's what we are operating under.

16 THE COURT: Let me see that. Do you have that case?

17 MR. CHANDLER: Yes (proffering.)

18 THE COURT: I would like to take a look at it.

19 MR. CHANDLER: And I highlighted the relevant
20 portion on page 11. And this is a Brady issue.

21 THE COURT: I get you. I understand. What I'm
22 still struggling with is that, and I know you're telling
23 me it's a strong case against your guy, that he did it
24 and usually the witness would be a fact witness or some
25 expert or somebody who has become unavailable as opposed

1 to just a cop who did a lousy job and if it's - that's
2 what I'm having a hard time with.

3 MR. CHANDLER: There's a fact guy there that he was
4 wearing jeans. There's a fact guy there that the pants
5 test were tested may not be the pants with the GSR.
6 That's a fact that's out there that only he - that we can
7 bring out with him.

8 THE COURT: I will let you do it with other
9 witnesses I'm telling you.

10 MR. CHANDLER: Your Honor, you're tying my hands
11 behind my back.

12 THE COURT: I'm actually I'm trying to untie your
13 hands as much as possible.

14 MR. CHANDLER: No, sir. You can untie my hands,
15 give us the continuance. Give us the continuance to
16 allow him to be made available so that we can then cross
17 examine him and offer the best defense for my client. He
18 is the only one that's prejudiced. He's the only one
19 that gets to sit behind these bars during that time.
20 He's willing to do that for this opportunity. If I was
21 him, I would want it. If I was him, I would want -- Your
22 Honor, you have given me a lot of latitude. I know. I
23 know I have interrupted you a lot, but if I was him, I
24 would want me doing this. If he was representing me, I
25 would want me here as much as saying please, please,

1 please give me this chance. Give me this chance.

2 THE COURT: All right. Let me think about it.

3 MR. CHANDLER: Yes, sir.

4 THE COURT: Let me just think about it. Give me 10
5 or 15 minutes. All right. Going off the record.

6 (Whereupon, the ex parte in chambers conference was
7 concluded.)

8 (Short break.)

9 BAILIFF: All rise.

10 THE COURT: Have a seat please. Thank you. Okay.
11 We're gonna go back on the record in the State versus Mr.
12 Thomas and, of course, the record will reflect that I did
13 have an ex parte discussion with Mr. Chandler and Mr.
14 Moore in chambers about the grounds for their request for
15 a continuance, and the Court has also had an opportunity
16 to review again Rule 7 of the Rules of Criminal
17 Procedure.

18 The discussion in chambers centered on a variety of
19 items basically by my count roughly 11 items of varying
20 degrees of probative value that the defense has raised as
21 grounds for wanting a continuance for Mr. Smith, and just
22 so that the record is clear, I do understand the general
23 trial strategy that the defense was hoping to employ.

24 When I look at Rule 7, it applies primarily to a
25 fact witness, someone who is so key to a party's case

1 that their attendance is just absolutely necessary in
2 order for a trial to be fair and it is regrettable that
3 Mr. Smith is not present with us, but having reviewed the
4 trial strategy the defense wishes to put forward candidly
5 speaking the Court is not able to say that this case
6 should not go forward. Putting it another way, I feel
7 like a continuance is not necessary in this case for the
8 reasons that I expressed to defense counsel in chambers.

9 I have reviewed Rule 7. Again, I don't see where
10 the material, or whether the testimony of the officer
11 would be so material to any issue involved in this case
12 because again I'm hearing that we will be hearing from
13 the first party witnesses, the individuals who
14 Investigator Smith actually did affirmatively interview.
15 I do understand the defense's strategy but this is not a
16 situation where much of his testimony would simply not be
17 able to be elicited. Quite the contrary, I'm going to be
18 inclined to allow the defense a great deal of latitude to
19 elicit testimony about the points that they made in
20 chambers with me pursuant to their trial strategy. So to
21 the extent that the defense may ask questions that
22 venture a little bit more into the gray than I otherwise
23 would permit, in an effort to be as fair as possible to
24 all sides, I'm gonna let them go into that gray a little
25 bit more than I normally would so that they can pursue

1 the strategy that they are hoping to pursue in defense of
2 this case.

3 But again, I do not see that Investigator Smith is
4 such an absolutely necessary witness as to warrant a
5 continuance so in the Court's discretion the Court will
6 be denying the defendant's motion for a continuance for
7 those reasons, okay? Are there any other pretrial
8 matters that we need to address?

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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 7th day of October, 201.

11 I FURTHER CERTIFY that the forgoing 55 pages
12 constitute a true and accurate excerpt record of said
13 proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 9th day of Janaury, 2020.

18

19

By:s/Steven E. LeBlanc

20

21

Steven E. LeBlanc, Sr., R.P.R.
Eleventh Circuit Court Reporter
State of South Carolina.

22

23

24

25

1 cause existed.

2 Q. But you're not aware of any additional evidence
3 gained as to that charge from that interview?

4 A. No, sir.

5 Q. The testimony as I understand it was that y'all got
6 in the car, y'all put him in your car, I guess Investigator
7 Smith -- Whose car was it?

8 A. Investigator Smith's.

9 Q. And just tell us how everyone was situated in the
10 car, who was sitting where?

11 A. I was sitting behind Investigator Smith,
12 Investigator Smith was driving. He was in the front passenger
13 seat, the defendant was.

14 Q. And it appears from your testimony that some of the
15 interrogation took place inside the car. Y'all discussed the
16 clothes and so forth while you were riding to the scene?

17 A. It wasn't an interrogation in the car, sir. We were
18 just having a conversation in the car.

19 Q. What did you discuss in the car?

20 A. We said, can we get those clothes and he started
21 actually asking us questions, so I guess, I mean, we were
22 going to get the clothes in the car. We had - there wasn't an
23 interview going on. We weren't intending to interview him in
24 the car. We were intending to interview him at the Sheriff's
25 Office.

1 (Short break.)

2 BAILIFF: All rise.

3 THE COURT: Thank you. Please have a seat.
4 Solicitor, will you please call the case for trial.

5 MR. McNAIR: Yes, sir, Your Honor. Thank you. Your
6 Honor, the State calls the case of the State versus
7 Dameion Thomas, indictment 2017-GS-19-00063 true bill
8 indicted for murder and indictment 2017-GS-19-00064 also
9 true bill indicted for murder. The defendant is present
10 in the courtroom and the State is ready for trial, Your
11 Honor.

12 THE COURT: Mr. Chandler, the subject of the earlier
13 matters that we addressed, the defense is ready to
14 proceed, correct?

15 MR. CHANDLER: Yes, Your Honor.

16 THE COURT: Subject to the earlier objections and
17 rulings that the Court has already addressed.

18 MR. CHANDLER: Thank you, Your Honor.

19 THE COURT: All right. Ladies and gentlemen, we're
20 about to begin jury selection on the case of the State of
21 South Carolina versus Dameion Edwin Thomas and I have
22 been handed up two indictments. They charge Mr. Thomas
23 with the offenses of murder. I will tell you at the
24 outset, ladies and gentlemen, that the fact that Mr.
25 Thomas was charged and indicted in this case, of course,

1 Some of the firemen that were there with the fire truck were
2 already fighting the flames so then I went to work.

3 Q. So I'm gonna break down some of, I'm trying to think
4 of a better word for lingo but for myself, when you say a full
5 working fire, what does that mean?

6 A. That there is fire showing. There is visible fire
7 that's --

8 Q. As opposed to do we say a non working fire? That's
9 my ignorance.

10 A. So sometimes we get a call and it may not be a fire
11 and we go and we have to inspect to find the fire. This was a
12 fully involved working house fire.

13 Q. When you arrived on scene, can you tell me whether
14 or not you had knowledge if anyone was in the residence?

15 A. Well, not first-hand knowledge, but I was told at
16 the scene that there possibly could be two people inside.

17 Q. So were you basically on scene looking to rescue
18 potentially?

19 A. Uhm, at the point when I got there, it was not going
20 to be possible to be a rescue. It was more of a search
21 effort.

22 Q. What makes you say that?

23 A. Just the amount of flames. It was a fully involved
24 house fire. It's a very low chance of survival.

25 Q. Based on how much fire --

1 A. Yes, ma'am.

2 Q. -- was in the structure? And you started, I may
3 have interrupted you, you starting saying you went to work.
4 Would you describe to the jury how you were dressed?

5 A. I was dressed in full fireman bunker gear, boots,
6 pants, jacket, helmet, gloves.

7 Q. Would you have been carrying a water house as
8 well?

9 A. I was.

10 Q. Take me through, how did you make entry into the
11 home?

12 A. I circled to the backside of the house and I entered
13 through the back door. A lot of the bigger flames had been
14 knocked down at this point. There was still a good bit of
15 fire so we still had in our mind that there could be people in
16 the house so I went in through the back door and worked my way
17 towards the front extinguishing fire and looking around as I
18 went.

19 Q. And so is it safe to say you have the water hose in
20 your hand and you're actually working, physically working to
21 put out the flames as you're walking through the residence?

22 A. Yes, ma'am.

23 Q. Can you go ahead and describe to the jury what you
24 first saw when you, or what you saw when you entered the
25 residence?

1 A. The first thing that really stands out in my mind is
2 I came across into the living area I came across some dogs
3 that were in the fire that had perished in what I would
4 consider the den area.

5 Q. When you say some, do you recall how many dogs were
6 in the home?

7 A. I don't recall exactly. I remember there be being
8 multiple. Two of them really stand out to me because they
9 were bigger animals pitbullish.

10 Q. Could you tell whether or not they were in kennels
11 or cages in the home?

12 A. The ones I saw were not in kennels. There were
13 kennels in the area, but these were free.

14 Q. So they were just, I don't want to say scattered,
15 but they were just in different parts of the den area that you
16 referred to?

17 A. That's right.

18 Q. Did you have any difficulties walking through the
19 home when you entered through the back?

20 A. To the best of my recollection there was some debris
21 that had fallen from the ceiling when it collapsed. There's
22 always a little bit of difficulty, but nothing that couldn't
23 be overcome.

24 Q. How was the floor when you first entered that
25 area?

1 A. So the back of the house, the floor was in pretty
2 good shape. The den was in good shape. It had not collapsed.
3 It was a solid floor through there.

4 Q. Take me through, once you cleared the den area,
5 where did you go next?

6 A. So I moved through the den and checked the bedroom
7 on the right, entered through the bedroom door continuing to
8 put water on the flames that were still there, still going and
9 so I entered into the bedroom where the victims were found.

10 Q. Go ahead, and if you may, if you can, describe to
11 the jury how you actually located the victims and where they
12 were in the bedroom.

13 A. Well, it was dark, very smokey, still some fire
14 going here and there so I came to the edge of the door and
15 continued to fight the fire and that's when I noticed that I
16 felt like there was someone on the floor on the left side of
17 the bedroom against the wall so I moved in a little bit closer
18 to where I could kind of see and I knew at that moment that
19 there was somebody there. The floor was not intact through
20 there so I sort of held tight there and continued to fight the
21 fire.

22 Q. When you say the floor was not intact, are you
23 suggesting that the floor had collapsed?

24 A. The floor had burned through in that area.

25 Q. And so how did you make your way through the

1 bedroom?

2 A. Well, now at that point I went and got a little bit
3 of help.

4 Q. Go ahead and tell the jury about that.

5 A. So at that point I knew that I had found one of the
6 victims and as I was kind of backing out I noticed the second
7 one on the bed so at that point I went and got one of my
8 officers and said, okay, come in here with me. So, you know,
9 he verified what we were doing. He sent some additional help
10 in to help me and then at that point went to straddling the
11 floor joists just sort of getting over in that area so we
12 could see what we had to do to continue.

13 Q. You mentioned there was a second individual on the
14 bed. Can you describe the bed for the jury?

15 A. Really the only thing that was left at that point
16 was the springs of the mattress, a little bit of the frame
17 maybe, but there was not much left and then the victim on
18 top.

19 Q. Referring to the first victim you located on the
20 floor, was there anything about the first victim that stood
21 out to you or could you tell whether or not it was a male or a
22 female?

23 A. Once I got close, I assumed it was a female. The
24 position she was in allowed for her back not to be burnt in
25 its entirety and there was still some hair down her back so in

1 adjourn to the back and we will be back on the record
2 shortly. Thank you.

3 (Whereupon, the jury entered the jury room at 10:58
4 a.m.)

5 (Short break.)

6 BAILIFF: All rise.

7 THE COURT: Have a seat please. Let's have the jury
8 in please.

9 (Whereupon, the jury entered the courtroom at 11:15
10 a.m.)

11 THE COURT: The record will reflect the jury is back
12 and seated. Solicitor, call your next witness please.

13 MS. FULLER: The State calls Jonathan Harley.

14 Thereupon,

15 JONATHAN HARLING

16 after having been first duly sworn, testified as follows,

17 THE CLERK: Please have a seat. Once you're seated,
18 state your full name spelling your last please.

19 THE WITNESS: My full name is Jonathan Talbert
20 Harling. My last name is H-a-r-l-i-n-g.

21 DIRECT EXAMINATION

22 BY MS. FULLER:

23 Q. Mr. Harling, can you go ahead and introduce yourself
24 to the jury. Do you live here in Edgefield County?

25 A. I do. I am a resident of Edgefield.

1 Q. How long have you lived here?

2 A. All my life other than college so 42 years.

3 Q. And can you tell me what you do for a living as
4 related to this case?

5 A. Well, I'm in marketing. I work for a marketing
6 firm, but I'm a member of the, I'm a volunteer fireman for
7 Edgefield Fire Department.

8 Q. How long have you been a volunteer fireman?

9 A. 12 years.

10 Q. Can you explain to the jury what type of training
11 and experience you have in terms of as it relates to being a
12 firefighter?

13 A. Sure. Each month we are required to attend a number
14 of drills. We typically have about two to three drills per
15 month. We do have onsite training and it's anything from -
16 and then as far as the drills it's anything from testing
17 hoses, checking equipment, checking air packs. We have done
18 some modified type training.

19 Q. This is something that you do on a regular basis for
20 the last 12 years?

21 A. Correct.

22 Q. Now, just talking about why we're here, October 9th,
23 2016, do you recall responding to an incident location as it
24 relates to this case?

25 A. I do.

1 Q. Do you recall where that incident location is?

2 A. It was on Marigold Street.

3 Q. Is that here in Edgefield County?

4 A. Yes. It is.

5 Q. And I'm not sure if you have the report with you,
6 but do you recall what time the alarm went off in this case?

7 A. It was around 6:45. I was attending Edgefield First
8 Baptist Church here in town at the time.

9 Q. So roughly for you guys getting notified it was 6:45
10 on October 9th?

11 A. Thereabouts. Correct.

12 Q. I'll go ahead and write that up here. I'm writing
13 October 9th, 2016, and I'm gonna write fire alarm
14 approximately 6:45 p.m.; is that accurate?

15 A. Yes. It is.

16 Q. You said you were attending you said church?

17 A. Yes. I was.

18 Q. And when you got the call about the fire, how did
19 you arrive on scene?

20 A. I was in one of the fire trucks.

21 Q. So is that you left church and went to the fire
22 station?

23 A. Yes. I left church, went immediately to the fire
24 station, got in a truck, and then we went from the fire
25 station directly to the house.

1 Q. Do you recall how long it took you to respond?

2 A. Within minutes just because the church is just about
3 across the street from the fire department.

4 Q. Okay. I'm gonna go ahead and show you what's been
5 marked for ID as State's Exhibit 18. I'll ask you do you
6 recognize it?

7 A. I do.

8 Q. How do you recognize it?

9 A. This is the, around the town on Main Street. The
10 fire department is here across from the Edgefield Fuel
11 Store.

12 Q. Do you recognize the incident location on here as
13 well?

14 A. Yes. When we left the fire station, we went through
15 Main Street, took a right on Buncombe and then hopped on
16 Highway 25 north and took a left on the business route, or
17 excuse me, the truck route of 25 and then a left on Marigold
18 Street.

19 MS. FULLER: At this time, Your Honor, the State
20 seeks to move State's Exhibit 18 into evidence.

21 MR. CHANDLER: Without objection.

22 THE COURT: 18 is in evidence.

23 MS. FULLER: Permission to publish and permission
24 for the witness to step down, Your Honor.

25 THE COURT: Sure.

1 BY MS. FULLER:

2 Q. Mr. Harling, if you could step down and show us
3 exactly what you just showed myself and the Judge, if you can
4 show that to the jury as well.

5 A. (Witness complies.) Sure.

6 Q. I'm gonna hand you a little pointer that we have
7 here and if you can describe to the jury exactly where the
8 fire station was where you were and exactly what you just
9 described.

10 A. Sure. The fire station is located in this general
11 area on Main Street. We left the station, came down Main
12 Street, we took a right on Buncombe, we connected to Highway
13 25 north towards Greenwood, we took a left onto the truck
14 route of Highway 25 and then an immediate left onto Marigold
15 until we got to the house that was on fire.

16 Q. Thank you. You can take your seat. I appreciate
17 it.

18 A. (Witness complies.)

19 Q. Can you go ahead and describe for the jury once you
20 arrived on scene describe the scene for the jury.

21 A. Sure. When I arrived in the fire truck, the house
22 was fully involved at the time. I immediately exited the
23 truck and started pulling hoses or a hose and began fighting
24 the fire from the front of the house.

25 Q. I'm gonna show you what's already in evidence. I

1 believe it's State's Exhibit 5. Looking at State's Exhibit 5
2 can you describe the front of the house? Is that what we see
3 in State's Exhibit 5?

4 A. I'm sorry?

5 Q. Can you see this?

6 A. Yes. I can.

7 Q. Is what you described as fighting the fire from the
8 front of the house?

9 A. That's the front porch and the bedroom is to the
10 left.

11 Q. When you describe fighting the fire from the front
12 of the house, is this what you're referring to?

13 A. Yes. It is.

14 Q. And go ahead and take the jury through what you did
15 next once you entered the home.

16 A. So after the fire was out and at a safe, it became
17 safe for us to enter the house without air packs, I was on the
18 front and I talked to an officer who was on the front porch
19 and I asked him what I needed to do next and he said to enter
20 the house and support one of the other fireman Lee Holmes and
21 at that time as I entered the house I took a left and Lee
22 pointed to the two bodies that were in the house.

23 Q. And I'm gonna show you what's already in evidence as
24 State's 11. Do you recognize this?

25 A. I do.

1 Q. And based on what you were just testifying to, can
2 you go ahead and step down and point to what you saw when you
3 entered the home. Is this what you're referring to?

4 A. It is. As we - as I entered the house there were a
5 couple of dogs that were dead at the time in the front living
6 room. When I turned left, Lee pointed out the two bodies to
7 make me aware that there were bodies in there. There was one
8 laying on the floor to the left of the bed on its back and
9 there was another body face down, knees up in the area on the
10 springs of the mattress.

11 Q. And that's what's depicted here in State's 11?

12 A. It is.

13 Q. And while you were in -- I'll ask you the step down
14 at this point.

15 A. (Witness complies.)

16 Q. -- in the bedroom what if anything else of evidence
17 did you find in the bedroom?

18 A. Sure. At some point during the night I noticed that
19 there was a what appeared to be a gun barrel sticking out of
20 the mattress springs. I could see approximately four to five
21 inches of the gun barrel.

22 Q. Now, if you would step down and point out on this
23 photograph where exactly you saw the gun barrel.

24 A. (Witness complies.)

25 Q. Or if you want to point on the TV.

1 A. Sure. Sure. So we're coming in the side of, the
2 side door, in this general area would appear to be the left
3 forearm, but I saw the gun barrel sticking out of the mattress
4 spring around the right forearm.

5 Q. I'm gonna show you what's been marked for ID as
6 State's 19. I'm asking do you recognize this?

7 A. I do. I handed the gun barrel to one of the
8 officers, Edgefield Fire Department, and he then proceeded to
9 hand it to a police officer.

10 Q. So what's depicted in this photograph is the gun
11 barrel?

12 A. It appears so.

13 Q. And this is what you would have retrieved from the
14 springs?

15 A. Correct. From the springs. Correct.

16 MS. FULLER: At this time, Your Honor, the State
17 seeks to move State's Exhibit 19 into evidence.

18 MR. CHANDLER: Without objection.

19 THE COURT: State's 19 is in evidence.

20 BY MS. FULLER:

21 Q. In looking at this, this happens to be what you just
22 described as the barrel sticking out of the mattress and
23 springs?

24 A. Correct. It was at a kind of vertical angle
25 connected to some of the springs.

1 Q. I'm gonna show you 20, what's been pre-marked for ID
2 as State's Exhibit 20 and just for identification at this
3 time, and I'm gonna ask you do you recognize this?

4 A. I do.

5 Q. Is this what you just described as being a barrel?

6 A. I could see it, yeah, sticking out. That's when I
7 retrieved it and gave it to the officer.

8 MS. FULLER: Your Honor, I'll actually move this
9 into evidence at this time, State's 20.

10 MR. CHANDLER: Without objection.

11 THE COURT: State's 20 will be in evidence.

12 BY MS. FULLER:

13 Q. I'm gonna leave it in this bag, but can you describe
14 to the jury what portion or is this the entire thing sticking
15 out when you located it?

16 A. Yes. This was the only part of what appeared to be
17 the gun that I saw at the time. As I mentioned earlier, I
18 could see the top of the barrel to like I said four to five
19 inches sticking out of the springs.

20 Q. You can take your seat.

21 A. (Witness complies.)

22 Q. Thank you so much. You're the one that located the
23 barrel that day in the springs of the mattress. Did you see
24 any other portion or part of the gun?

25 A. I did not.

1 Q. Was there any effort made by you and law enforcement
2 that night to locate any portions of the gun?

3 A. Once we removed the bodies, we did continue to look
4 on the ground where the floor had collapsed but didn't find
5 anything else remaining of the firearm.

6 Q. I'm gonna show you a photograph. When you described
7 looking around where the floor had collapsed, I'm gonna show
8 you what's been marked for ID as State's 15 and I'm gonna ask
9 you do you recognize this?

10 A. I do.

11 Q. What is this a picture of?

12 A. This is a photo showing from the back to the front
13 of the house. This is the bedroom on the left, the bed
14 springs you can see are against the sidewall of the house, and
15 we entered from the left of this image.

16 Q. Okay. Now, is this photograph a daytime photo or a
17 nighttime photo?

18 A. Daytime.

19 Q. So this is not a photograph from the night of the
20 fire?

21 A. Correct.

22 Q. But you recognize this as being a photo of the
23 bedroom?

24 A. The bedroom. Correct.

25 MS. FULLER: Your Honor, at this time the State

1 seeks to move into evidence State's 15.

2 MR. CHANDLER: Without objection, Your Honor.

3 THE COURT: State's 15 is in.

4 BY MS. FULLER:

5 Q. You were describing that you looked underneath.

6 This is not a photo from that night, but can you describe to
7 the jury what you mean by underneath just to clarify what you
8 were describing?

9 A. Sure. We hopped down from the pieces of wood there
10 supporting the house down onto the floor around the cinder
11 blocks and we basically searched through all the rubble there
12 for any type of evidence, anything that would help this
13 situation.

14 Q. And in looking at this photo, it's a daytime
15 photograph, we don't see any floors in this photograph,
16 correct, like the actual flooring?

17 A. Only there was a piece up closer to the front of the
18 house, but not in that bedroom, correct.

19 Q. So when you were searching, would you have been
20 standing on, I'm not sure if they're called planks in there or
21 would you have been --

22 A. Joists.

23 Q. -- in the gravel underneath? You said joists?

24 A. Well, we did both. We were up on the planks as you
25 referred to, the joists, but then we also got down on the

1 ground up underneath.

2 Q. You would have done that that night --

3 A. Correct.

4 Q. -- after you removed the bodies?

5 A. Correct.

6 Q. Since we have a few other photographs, do you
7 recognize this? This is State's 12.

8 A. I do. That's from the front of the house at an
9 angled view.

10 Q. This is a daytime photograph after the fire was
11 contained?

12 A. Correct. This is the bedroom that the bodies were
13 found in and this was the front porch.

14 Q. Looking at 13.

15 A. That's a side view.

16 Q. And 14.

17 A. That's in the bedroom looking out to the street.

18 Q. And 16 and 17.

19 A. Yes. Both are still of the bedroom, different
20 angles.

21 MS. FULLER: These are all daytime photographs after
22 the fire was cleared. At this time, Your Honor, the
23 State seeks to move 12, 13, 14, 16 and 17 into
24 evidence.

25 MR. CHANDLER: Without objection.

1 THE COURT: 12, 13, 14, 16, 17 are in.

2 MS. FULLER: And I'll publish State's 12, 13, 14, 16
3 and 17.

4 BY MS. FULLER:

5 Q. And all of those photographs are different angles of
6 that main bedroom showing the destruction there as opposed to
7 the rest of the house that was somewhat still had a
8 structure?

9 A. Correct.

10 Q. One last thing for ID at this point. State's 4, I'm
11 gonna ask you do you recognize this as a basic sketch of the
12 structure that you entered on Marigold Street?

13 A. It is. This is the front porch. I entered in from
14 the front door. I did notice a dog or two in the den area and
15 took a left and this was the left bedroom where the bodies
16 were found.

17 Q. So it's not to scale. This is somewhat a sketch of
18 the structure you entered on Marigold Street?

19 A. It's very close.

20 MS. FULLER: That's State's 4 for ID at this time.
21 I believe that's it from the State at this point, Your
22 Honor.

23 THE COURT: Mr. Chandler.

24 MR. CHANDLER: Thank you, Your Honor.

25

1 CROSS EXAMINATION

2 BY MR. CHANDLER:

3 Q. Good morning, Mr. Harling.

4 A. Good morning.

5 Q. How are you?

6 A. Good.

7 Q. Mr. Harling, you said that you work for a marketing
8 firm?

9 A. I do.

10 Q. And volunteer at the local fire department?

11 A. Yes, sir.

12 Q. How long have you been a volunteer?

13 A. 12 years.

14 Q. Know this community pretty well?

15 A. Pretty well. Yes, sir.

16 Q. You had indicated that you went down to the area
17 below the bed?

18 A. Yes, sir.

19 Q. And you searched. Did you find anything else while
20 you were searching?

21 A. I don't recall.

22 Q. You don't recall. So the only thing while you guys
23 were going through there the only thing that you found under
24 there --

25 A. Well, we may have found some, you know, a few little

1 personal things, but nothing of a firearm or anything like
2 that.

3 Q. So you were just looking for a firearm?

4 A. No, sir. We were looking for anything that could
5 have been salvaged at that time from a personal standpoint.

6 Q. What personal things did you find?

7 A. Honestly I don't remember.

8 Q. You don't remember anything? Did you happen to see
9 an ashtray? Was there an ash tray there?

10 A. There could have been.

11 Q. You had indicated that you believe that you arrived
12 there at 6:55?

13 A. We got the call around 6:45.

14 Q. You got there shortly after that?

15 A. Correct.

16 Q. You said within minutes?

17 A. Correct.

18 Q. So some minutes after 6:45?

19 A. We got the call. I was attending church at
20 Edgefield First Baptist Church which is here in town, so it
21 didn't take me long to arrive at the fire station, within
22 minutes I was able to hop in the truck and leave the fire
23 station and arrive on scene, all total possibly five
24 minutes.

25 Q. Okay. So from the call at 6:45 to at most 6:50?

1 A. Thereabouts. Yes, sir.

2 MR. CHANDLER: Thank you so much.

3 THE WITNESS: Yes, sir.

4 MS. FULLER: Briefly, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. FULLER:

7 Q. Mr. Harling, I'm gonna show you this record from the
8 fire department.

9 A. Sure.

10 Q. Do you know what time it reflects that you guy were
11 10-23?

12 A. 6:43. Is that what you're talking about there?

13 Q. That you arrived on scene.

14 A. I'm sorry. The alarm went out at 18:43 which is
15 6:43, then we left the fire station at 6:44 and arrived at
16 6:47.

17 Q. And you're reading off of the fire report?

18 A. The fire report.

19 Q. So when he said approximately 6:45, you were just
20 giving a general approximate time?

21 A. Exactly.

22 MS. FULLER: Okay. No further questions, Your
23 Honor.

24 MR. CHANDLER: Just brief.

25

1 RE CROSS EXAMINATION

2 BY MR. CHANDLER:

3 Q. What's 10-23 just for the jury? I'm not well versed
4 on it. They may be and I don't know.

5 A. Sure 10-23, we've arrived on scene.

6 MR. CHANDLER: Okay. No further questions.

7 THE COURT: Sir, thank you for coming. Solicitor,
8 please call your next witness.

9 MS. FULLER: The State calls Curtis Morris.
10 Thereupon,

11 CURTIS MORRIS

12 after having been first duly sworn, testified as follows,

13 THE CLERK: Please have a seat. Once you're seated,
14 state your full name spelling your last please.

15 THE WITNESS: Curtis Morris, M-o-r-r-i-s.

16 DIRECT EXAMINATION

17 BY MR. McNAIR:

18 Q. Investigator Morris, give the jury a little bit of
19 your background in law enforcement.

20 A. I started in law enforcement in 1998, started with
21 the Sheriff's Office in 2005 and became the crime scene and
22 forensic investigator in 2008.

23 Q. How many years total have you been in law
24 enforcement?

25 A. 20.

1 Q. All right. Where were you working back in October
2 of 2016?

3 A. Edgefield County Sheriff's Office.

4 Q. What was your position at that time?

5 A. Crime scene forensic investigator.

6 Q. Did you hold any other duties while you were
7 there?

8 A. Evidence technician.

9 Q. How long were you a crime scene investigator for
10 Edgefield Sheriff's Department?

11 A. From 2008 until I retired in 2018.

12 Q. Now, on October 9th of 2016, did you respond to 374
13 Marigold Street?

14 A. Yes. I did.

15 Q. Is that in Edgefield County?

16 A. Yes, sir.

17 Q. What time did you respond to that location? Or what
18 time did the 911 call come in? Let's start with that.

19 A. I'm sorry?

20 Q. What time did the 911 call come in?

21 A. The original call came in at 18:43. Excuse me.
22 6:43 p.m.

23 Q. 6:43 p.m. Okay. What time did you get on the
24 scene?

25 A. I arrived on scene at 7:39 p.m.

1 Q. Why were you called out there that night?

2 A. I was called because of a structure fire with two
3 deceased persons found inside.

4 Q. What information were you aware of prior to arriving
5 on scene? Anything other than that?

6 A. No, sir. That was it.

7 Q. So you just knew there were two bodies inside a
8 structure fire at that time?

9 A. Yes, sir.

10 Q. Did you know it was a murder at that time?

11 A. No, sir.

12 Q. Describe for the jury I guess as a crime scene
13 investigator what your role is once you get on the scene.

14 A. Initially is to photograph the scene as is, as it
15 stands as well as collect evidence and preserve that
16 evidence.

17 Q. What was going on when you first got there? Was the
18 house still on fire?

19 A. Most of it was out. It was still smoking a little
20 bit. The fire department were still in suppression efforts.

21 Q. When you first got there, what did you do?

22 A. Initially I did a walk around of the scene. Initial
23 walk around, and then I photographs the scene itself.

24 Q. Did you ultimately go inside the residence?

25 A. Yes, sir. I did.

1 Q. Did you take photographs?

2 A. Yes, sir. I did.

3 Q. Did you view the bodies?

4 A. Yes, sir. I did.

5 Q. Were you able to tell anything about how they died
6 by looking at the bodies?

7 A. No, sir.

8 Q. Were they unrecognizable?

9 A. Yes, sir.

10 Q. Did you end up collecting anything from the scene
11 that night?

12 A. Several items I collected. Yes, sir.

13 Q. I'll show you what's already been admitted as
14 State's 20. Can you identify that?

15 A. Yes, sir.

16 Q. What is that?

17 A. The barrel of a firearm.

18 Q. Were you present when that was collected?

19 A. Yes, sir. I was.

20 Q. What did you do with it?

21 A. I bagged it in this bag itself, put the information
22 on it and secured it in the crime scene unit.

23 Q. As evidence custodian did you ultimately secure that
24 in the evidence room at Edgefield?

25 A. Yes, sir.

1 Q. Did you transport this to SLED at some point as
2 well?

3 A. Yes, sir.

4 Q. Did you take pictures of the scene that night?

5 A. Yes. I did.

6 Q. These are out of order, but State's 5 through 11,
7 they're already in evidence, but are these photos that you
8 took from the scene that night?

9 A. Yes, sir. I took these photos.

10 Q. All right. If you want to step down for a second
11 and we'll display them on the TV screen and explain to the
12 jury what they depict.

13 A. (Witness complies.)

14 Q. State's 5, what are we looking at here?

15 A. This would be the front of the incident location.
16 This is where the ladder is leaning into the bedroom where the
17 decedents were.

18 Q. So your back would be to Marigold Street as you're
19 photographing this?

20 A. Yes, sir.

21 Q. State's 6.

22 A. This would be the rear of the house with the ramp
23 going up into the enclosed back porch.

24 Q. Can you see where the bedroom is from this
25 picture?

1 A. It would be tough, but in the corner of this blue
2 note on the right bottom what appears to be a light, that
3 would be that bedroom.

4 Q. Going back to State's 5, where is the bedroom
5 located on this picture?

6 A. Where the fireman is standing where that ladder is
7 propped up against that wall.

8 Q. Was the worst damage in the house in that area?

9 A. Yes, sir. That was the main bedroom.

10 Q. State's 7.

11 A. This was the interior of the house. This is where
12 the dogs appeared to have been kept in the dog kennel there.

13 Q. Do you recall how many kennels were in the house?

14 A. Not by memory. No, sir.

15 Q. Were there any dogs in the kennels?

16 A. No, sir.

17 Q. State's 8.

18 A. This is the interior of the house as well showing
19 the burn patterns on the doors and where the light is if
20 you're looking in towards the back door area.

21 Q. Use this pointer to point out what you are showing
22 in this picture. You can point right here.

23 A. This area right here, this would have been looking
24 out to the rear of the house and this picture is also showing
25 burn patterns on the wood showing where the fire burned.

1 Q. Okay. And where is the bedroom in relation to this
2 picture?

3 A. It would actually be behind where I'm taking the
4 photos from.

5 Q. What do the burn patterns there indicate to you?

6 A. To me the fire was progressing in this direction
7 away from the main area in this direction.

8 Q. And where does the most fire damage appear to be,
9 the ceiling area or the floor area of this particular room?

10 A. This particular room would be high in this area.

11 Q. What does that indicate to you?

12 A. The fire was hot.

13 Q. All right. Does that indicate to you that the fire
14 originated in this area?

15 A. No, sir.

16 Q. Does it indicate that the fire spread to this
17 area?

18 A. Yes, sir.

19 Q. Where does it appear that this fire originated?

20 A. It appeared from where I was taking this photograph
21 from in the same bedroom.

22 Q. What did you notice about the floor of the bedroom
23 where the two bodies were?

24 A. There was none. It burned.

25 Q. Is that the only area of the house where the floor

1 was burned up completely?

2 A. Completely. Yes, sir.

3 Q. What does that indicate to you?

4 A. That indicates the area of origin.

5 Q. State's 9.

6 A. This picture was facing towards Marigold Street
7 where I took the photo from inside the house facing out
8 towards Marigold. The right side of the photo in this area is
9 where the decedents are.

10 Q. State's 10, what does that show?

11 A. This is a photo taken of the kitchen showing the
12 oven, the oven door down and food inside the oven itself.

13 Q. Was that oven open when you first arrived on
14 scene?

15 A. Yes, sir.

16 Q. There appears to be food inside. Was there anything
17 else inside the oven?

18 A. I believe there were some tongs. I don't know if
19 you can really see it on this picture. It would be in this
20 general area here.

21 Q. Okay.

22 A. It's hard to see it, but they're right here.

23 Q. Okay. State's 11, what does this show?

24 A. This is a picture I had taken that's been altered to
25 black and white. My originals are in color. This actually

1 shows the decedents in their original position.

2 Q. This is the bedroom area with the two bodies,
3 correct?

4 A. Yes, sir.

5 Q. Can you point out to the jury where the bodies
6 are?

7 A. One body is here, the other body is here.

8 Q. What was the, I guess, the location or position of
9 the body on the left hand side of this photo?

10 A. On the left is the female victim. She was face up.
11 The male victim was face down.

12 Q. All right. Have a seat please.

13 A. (Witness complies.)

14 Q. Now, you mentioned as a crime scene investigator you
15 secured the scene with crime scene tape?

16 A. Yes, sir.

17 Q. When you left on Sunday night, at some point was the
18 crime scene still secured?

19 A. The tape was still up. Yes, sir.

20 Q. When you left on Sunday after processing the scene
21 and seeing everything, did you know this was a murder at that
22 time?

23 A. No, sir.

24 Q. Did you know this was a murder on Monday the 10th?

25 A. No, sir.

1 Q. At that time did you still believe it was a house
2 fire?

3 A. That's what we believed.

4 Q. As CSI did you attend the autopsy in this case on
5 October 11th of 2016?

6 A. Yes. I did.

7 Q. Who were the victims identified at autopsy?

8 A. One was identified as being decedent one Charles
9 Deas. I hope I'm pronouncing that correctly. And the second
10 one is Andrea S. Deas.

11 Q. Were you present when x-rays were done at autopsy?

12 A. Yes. I was.

13 Q. What did you learn at autopsy?

14 A. That the victims had been shot.

15 Q. Now, as part of the autopsy -- Who conducted the
16 autopsy by the way?

17 A. Dr. Ross.

18 Q. During autopsy, were any projectiles collected?

19 A. Yes. There were.

20 Q. Who collected those projectiles?

21 A. That would have been Dr. Ross.

22 Q. Were you present when she collected those?

23 A. Yes.

24 Q. Did she turn them over to you?

25 A. Yes.

1 Q. Did you secure those?

2 A. Yes, sir. I did.

3 Q. Did you transport those to the evidence room in
4 Edgefield?

5 A. Yes, sir. I did.

6 Q. Did you ultimately transport those to SLED for
7 testing?

8 A. Yes. I did.

9 Q. I'll show you State's 22 for identification. Tell
10 me, can you identify this?

11 A. Yes. This is the evidence that was turned over to
12 SLED, one of their bags bearing my signature.

13 Q. All right. What exactly is that item?

14 A. These are projectiles. Excuse me. Spent rounds
15 from Charles Deas' body.

16 Q. Collected at autopsy?

17 A. Yes, sir.

18 MR. McNAIR: Your Honor, we would offer State's 22
19 into evidence at this time.

20 THE COURT: Any objection?

21 MR. CHANDLER: I would just like to look at them.

22 THE COURT: Yeah. Show that to Mr. Chandler.

23 MR. McNAIR: (Proffering.)

24 MR. CHANDLER: Without objection.

25 THE COURT: Without objection State's 22 is in

1 evidence.

2 BY MR. McNAIR:

3 Q. I also show you State's 24 and ask you if you can
4 identify this?

5 A. Yes. Also a SLED evidence bag bearing my signature
6 with the name Andrea Deas.

7 Q. Those are the projectiles collected from Andrea Deas
8 at autopsy?

9 A. Yes, sir.

10 MR. McNAIR: Your Honor, we would offer State's 24
11 into evidence as well.

12 MR. CHANDLER: Without objection, Your Honor.

13 THE COURT: State's 24 is in evidence.

14 BY MR. McNAIR:

15 Q. Now, after attending the autopsy and learning this
16 was not a house fire and they died of gunshot wounds, what did
17 you do at that point?

18 A. I called Investigator Smith and advised him of
19 that.

20 Q. Did you go back to the scene?

21 A. Sir?

22 Q. Did you go back to the scene?

23 A. Yes, sir. I did.

24 Q. What day was that?

25 A. I believe that would have been the 12th. I believe

1 it was the 12th.

2 Q. Do you have your report up there?

3 A. This is my initial.

4 Q. Do you recall going back to the scene the same day
5 as the autopsy?

6 A. Say again please.

7 Q. Do you recall going back to the scene the same day
8 as the autopsy?

9 A. Yes.

10 Q. All right. So that would have been on the 11th,
11 right?

12 A. The 11th. Right. Yes, sir.

13 Q. So you and Investigator Smith went back to the
14 scene?

15 A. To serve a search warrant. Yes, sir.

16 Q. What in particular were you looking for on that
17 day?

18 A. Any other evidence of the crime itself.

19 Q. What did y'all do when you got there?

20 A. Initially take more photographs, photographed the
21 scene again and then under the area of origin the bedroom
22 myself and Investigator Smith went through all the debris up
23 under that bedroom under what was left of the floor joists.

24 Q. Did you locate anything on that day, any other
25 evidence?

1 A. There were several items that were picked up that
2 day. I believe one was a .22 casing and some rings.

3 Q. I'll show you State's 54. Can you identify this
4 item?

5 A. Yes, sir.

6 Q. What is that?

7 A. It's a spent .22 caliber casing from the burnt
8 debris up under the residence.

9 Q. Was that collected by you?

10 A. Yes. The bag bears my signature.

11 MR. McNAIR: Your Honor, we would offer State's 54
12 into evidence at this time.

13 THE COURT: Without objection?

14 MR. CHANDLER: Without objection.

15 THE COURT: All right. State's 54 is in.

16 BY MR. McNAIR:

17 Q. Where did you locate this item?

18 A. It was found in the debris up under that bedroom.

19 Q. What area of the bedroom?

20 A. It had been under the flooring so it was on the
21 ground.

22 Q. Was that item secured by you and ultimately
23 transported to SLED for testing?

24 A. Yes.

25 Q. I'll show you State's 21 and ask you to identify

1 this. You can open the bag.

2 A. (Witness complies.) Yes. I collected these
3 items.

4 Q. What are those items?

5 A. A set of keys and a ring from again the debris up
6 under the house, the burnt debris.

7 MR. McNAIR: Your Honor, we would offer State's 21
8 into evidence at this point.

9 MR. CHANDLER: Without objection.

10 THE COURT: Without objection State's 21 is in.

11 BY MR. McNAIR:

12 Q. These items were also found in the bedroom area?

13 A. On the ground up under where the bedroom would have
14 been.

15 Q. Did you take more photographs at the scene that day
16 as well?

17 A. I did.

18 Q. Will you step down for one second please.

19 A. (Witness complies.)

20 Q. What are we looking at in State's 13?

21 A. This is a daytime photo again of the house at 374
22 Marigold Street.

23 Q. What side of the house are we looking at right
24 here?

25 A. This would be the front of the house as well. This

1 is the bedroom here.

2 Q. This would be the bedroom area?

3 A. This would be the bedroom area here.

4 Q. Okay. State's 14.

5 A. This is a photo taken from inside the house standing
6 off of the bedroom itself looking out toward Marigold
7 Street.

8 Q. Do you have a memory of where the casing was
9 collected based on this photo?

10 A. Based on this photo it would be tough. It's on the
11 ground itself.

12 Q. Is it near the bed area?

13 A. Yes. It would have been -- It's hard to do this
14 with this picture. It was on the ground under this area
15 here.

16 Q. Where was the barrel found?

17 A. The barrel was found here as well in this general
18 area to my knowledge. This is a better photograph of that
19 same area, the same bedroom. The casing would have been found
20 in this general area here.

21 Q. So the barrel and the casing were found in the
22 general area of the bed?

23 A. Correct.

24 Q. What about the ring?

25 A. The ring was in the debris. I believe this area

1 right in here.

2 Q. Okay. So the jury can see, State's 21, that's the
3 ring that was found? What does that appear to be?

4 A. A wedding band.

5 Q. That was found near the bed area as well?

6 A. Yes. On the ground.

7 Q. Near where the male victim was located?

8 A. Yes, sir.

9 Q. State's 12.

10 A. Again, a photograph taken from 374 Marigold Street
11 as shown by the mailbox. This was taken at kind of an angle.
12 The front of the street - the front of the house is here.
13 This would have been the corner this angle is taken from.

14 Q. Again, that's the bedroom that we're looking at on
15 the front left?

16 A. Yes.

17 Q. State's 17.

18 A. This is a direct straight in view, same bedroom.

19 Q. State's 17, again, that's the bedroom area?

20 A. Yes, sir. That's actually from inside the house.

21 Q. 14 I believe we have already seen.

22 A. Yes, sir.

23 Q. Okay. You can have a seat.

24 A. (Witness complies.)

25 Q. Now, once you attended the autopsy and y'all

1 realized this was a murder, was the family notified by the
2 Sheriff's Department?

3 A. Yes, sir.

4 Q. Did y'all have a person of interest at that point?

5 A. Yes, sir. We did.

6 Q. Who was that?

7 A. Be the defendant Dameion --

8 Q. Dameion Thomas?

9 A. Dameion Thomas. Excuse me.

10 Q. Why was he a person of interest?

11 A. To my understanding he was the last person driving
12 the victims' vehicle.

13 Q. When you got there I guess on the 9th, was there a
14 vehicle on the scene?

15 A. Yes, sir.

16 Q. Other than a law enforcement vehicle?

17 A. Yes, sir.

18 Q. Do you recall what kind of vehicle that was? Was it
19 a 2015 Hyundai? Does that sound about right?

20 A. 2015 Hyundai Sonata gray.

21 Q. Were you able to determine who that vehicle belonged
22 to?

23 A. One Charles Buddy Deas.

24 Q. What address was that vehicle registered to?

25 A. Registered to 374 Marigold Street, Edgefield, South

1 Carolina.

2 Q. And that's who was ultimately identified as a victim
3 at autopsy, correct?

4 A. Yes, sir.

5 Q. Now, will you explain for the jury just kind of the
6 normal standard procedures that the Edgefield County Sheriff's
7 Department for identifying and storing evidence back when you
8 were there in 2016?

9 A. Once the evidence is collected it's bagged in either
10 paper or plastic bags, sealed and placed inside a secured
11 evidence storage area room specifically for evidence.

12 Q. When somebody collects a piece of evidence and puts
13 it in the bag, how would they identify that item?

14 A. With a case number, their signature and what the
15 item is.

16 Q. And did you receive items of evidence identified as
17 clothing items of Mr. Thomas in this case?

18 A. Yes, sir. I did.

19 Q. I'm gonna show you State's -- I guess we'll go
20 through them individually -- State's 27. Can you identify
21 that item as an item that you received into evidence?

22 A. Yes.

23 Q. Okay. And how was that item packaged when you
24 received it?

25 A. In this bag here was inside a SLED sealed bag with

1 Investigator Smith's name on it.

2 Q. So it was received by you individually bagged in a
3 sealed bag?

4 A. Yes, sir.

5 Q. And based on the evidence bag who collected that
6 item?

7 A. This would have been Investigator Smith.

8 Q. Does it have the date that the item was collected?

9 A. It's hard to do in this bag.

10 Q. Do you need to open the bag to see?

11 A. I would have to.

12 Q. Okay.

13 A. (Witness complies.)

14 Q. And the bag you're pulling out is the bag that you
15 received the item in?

16 A. Yes. The date is 10/13/16 at 21:00 hours.

17 Q. Okay. And that was collected by Investigator
18 Smith?

19 A. Correct.

20 Q. What is that item represented to be?

21 A. One black, gray and white tennis shoe from suspect
22 Dameion Thomas.

23 Q. All right. Now, when you received that item into
24 evidence, what did you do with it?

25 A. The evidence was checked for the seal and placed in

1 the secure evidence room.

2 Q. Did you ultimately transport that item to SLED?

3 A. Yes. I did.

4 Q. I show you State's 28 for identification.

5 A. Yes.

6 Q. Is the evidence bag inside the SLED bag?

7 A. It is. I would have to open it.

8 Q. You can open it.

9 A. (Witness complies.) Date sealed 10/13/16 at 21:05
10 hours.

11 Q. Who was that item collected by?

12 A. Investigator J. Smith.

13 Q. When you received that item, was it in a sealed
14 bag?

15 A. Yes.

16 Q. Did you secure that item in the evidence room at the
17 Sheriff's Department?

18 A. I did.

19 Q. Ultimately did you transport that item to SLED?

20 A. I did.

21 Q. What is that item represented to be?

22 A. A black, gray and white tennis shoe from suspect
23 Dameion Thomas.

24 Q. Okay. State's 30 for identification, is that an
25 item that was received by you in evidence?

1 A. This isn't the original bag, but yes.

2 Q. Is that an Edgefield evidence bag?

3 A. Yes.

4 Q. Okay. Now, based on I guess the bag itself who
5 collected that item?

6 A. That was recovered by Investigator J. Smith.

7 Q. On what date?

8 A. 10/13/2016 at 21:00.

9 Q. What does item represent to be?

10 A. It is one pair of black pants belonging to suspect
11 Dameion Thomas.

12 Q. Was that item received by you in evidence?

13 A. Yes.

14 Q. Was it individually bagged in a secure bag when you
15 received it?

16 A. Yes.

17 Q. Did you ultimately transport this item to SLED?

18 A. I did.

19 Q. All right. State's 29.

20 A. Yes, sir.

21 Q. What is that item represented to be?

22 A. A gray T-shirt.

23 Q. When was it collected?

24 A. 10/13/16 at 21:23 hours.

25 Q. Again by Investigator Smith?

1 A. Yes, sir.

2 Q. Was that received by you in evidence in a secure
3 bag?

4 A. Yes.

5 Q. Did you ultimately transport that item to SLED?

6 A. I did.

7 Q. All right. Investigator Morris, I'm gonna show you
8 State's 4. Can you identify this?

9 A. Yes, sir.

10 Q. Is that something you did?

11 A. I did.

12 Q. What is it?

13 A. It is a drawing of the scene itself from that
14 night.

15 Q. All right. Now, is it to scale?

16 A. No, sir.

17 Q. But it fairly represents the general layout of the
18 house and where things were found in the house, correct?

19 A. As close as I could get it. Yes, sir.

20 MR. McNAIR: Your Honor, we would offer State's 4
21 into evidence.

22 THE COURT: Any objection?

23 MR. CHANDLER: No objection.

24 THE COURT: State's 4 is in evidence.

25 BY MR. McNAIR:

1 Q. Would you step down for a second.

2 A. (Witness complies.)

3 Q. Explain to the jury I guess what this sketch is
4 showing us.

5 A. This is a scene diagram from 374 Marigold Street
6 showing the structure itself, A, B, and C side as well as the
7 closed in back porch, front porch, bodies of the decedents and
8 general position of the animals.

9 Q. A side would be the front of the house?

10 A. Yes, sir.

11 Q. This would be the front door?

12 A. Yes, sir.

13 Q. The bedroom would be on the far left side --

14 A. Yes, sir.

15 Q. -- as we see in the pictures?

16 A. It would be the A/B corner.

17 Q. How many dogs ultimately did you observe in the
18 house?

19 A. Four I believe.

20 Q. Were you able to tell what area of the house these
21 dogs were found in?

22 A. I would call it the living room area.

23 Q. And the location of these dogs is all pretty much in
24 the middle of the room?

25 A. Yes.

1 Q. They weren't near any exits?

2 A. No.

3 Q. Doors, windows, anything like that?

4 A. No, sir.

5 Q. Were you able to observe any injuries on the dogs?

6 A. No, sir.

7 Q. Were they too burned?

8 A. They were burned but they still had some hair. They
9 were identifiable as animals.

10 Q. Okay. And based here on the bottom silhouette would
11 indicate where the female individual was located?

12 A. Yes. This one here.

13 Q. And this would indicate the male victim on the
14 bed?

15 A. Yes, sir.

16 Q. Thank you. Please take your seat?

17 A. (Witness complies.)

18 Q. Just a few more questions. Was the victims'
19 vehicle, the Hyundai processed on October 9th? Did anybody go
20 through the vehicle that night while you were on scene?

21 A. Not to my knowledge. No, sir.

22 Q. When you went back on the 11th, was the vehicle
23 still there?

24 A. Yes, sir.

25 Q. What did you do with the vehicle at that point?

1 A. The vehicle was towed to the Edgefield County
2 Sheriff's Office impound lot.

3 Q. That's a secured area?

4 A. Yes, sir.

5 Q. And that vehicle was ultimately processed by SLED?

6 A. Yes, sir.

7 Q. Prior to being towed, had anybody been inside of
8 that vehicle and processed it?

9 A. For processing? No.

10 Q. I'm gonna show you State's 55 just to have you
11 identify it. Is that an item that you transported to SLED?

12 A. Give me one second please. No, sir. This was
13 picked up by me. It was not submitted by me.

14 Q. I'm sorry. That was picked up from SLED by you?

15 A. By me. Yes, sir.

16 Q. And brought back to the Edgefield Sheriff's
17 Department, correct?

18 A. Yes, sir.

19 Q. And put in a secured area in Edgefield Sheriff's
20 Department, right?

21 A. Yes, sir.

22 Q. One other question. I think this is common sense,
23 but how does a fire affect your ability as a crime scene
24 investigator to collect evidence?

25 A. In general fire destroys evidence, doesn't leave a

1 whole lot there.

2 Q. In this case was there any possibility of finding
3 blood or collecting DNA or fingerprints or anything like
4 that?

5 A. Fingerprints, no. Blood, possibly, but not
6 generally.

7 Q. Did you see any signs of blood?

8 A. We looked. We could not find any.

9 MR. McNAIR: That's all the questions I have at this
10 point. Please answer anything Mr. Chandler has.

11 THE COURT: Mr. Chandler.

12 CROSS EXAMINATION

13 BY MR. CHANDLER:

14 Q. Good afternoon, Investigator Morris. How are you
15 doing?

16 A. All right, sir. Yourself?

17 Q. I'm well. Thank you for asking. Those items that
18 you recently unsealed, were you present during the collection
19 of those items?

20 A. I'm sorry. It's hard for me to hear you.

21 Q. The items that you recently unsealed using the
22 pocket knife, I believe, were you present when those items
23 were collected?

24 A. No, sir.

25 Q. Isn't it true, Investigator Morris, that you found

1 an ashtray among the items?

2 A. Yes, sir.

3 Q. And also upon arrival isn't it also true that it was
4 your understanding that a gun was actually found under what
5 appeared to be the male victim?

6 A. Yes, sir.

7 Q. Okay. You had mentioned the vehicle that was in the
8 yard?

9 A. Yes, sir.

10 Q. Did you have an opportunity to look into that
11 vehicle?

12 A. Yes, sir.

13 Q. I guess on a scale of pristine to clean to messy
14 what would you say that that car was generally?

15 A. It wasn't perfect. I mean, it was fairly
16 cluttered.

17 Q. It was very cluttered?

18 A. Fairly cluttered.

19 Q. Fairly cluttered. Would that make it messy? Would
20 you say messy?

21 A. Your interpretation. Yes, sir.

22 Q. I'm asking for yours.

23 A. Yes, sir. It could be considered that.

24 Q. Okay. During your investigation, was an arson
25 expert called to the scene?

1 A. Investigator Smith is the arson investigator for the
2 county. I just assisted on that part.

3 Q. Investigator Smith?

4 A. Sir?

5 Q. You said Investigator Smith?

6 A. Yes, sir.

7 Q. To your knowledge is Investigator Smith a certified
8 arson expert?

9 A. I do not know. I can't answer that one.

10 Q. So what about when you involved SLED, was there any
11 SLED expert that had a specialty in arson called to this
12 matter?

13 A. Do they have one?

14 Q. No. Were they called? To your knowledge were they
15 called?

16 A. Oh, no, sir. Not to my knowledge. No, sir.

17 Q. And you said that Investigator Smith is your local
18 expert?

19 A. Yes, sir.

20 Q. Okay. But you don't know if he's certified,
21 trained?

22 A. He's been through classes, but I don't know about
23 certification. I can't speak to that.

24 Q. You had talked about finding some car keys. Where
25 exactly did you find the car keys again?

1 A. Again, all that was in the debris of the house.

2 Q. In the debris like where specifically?

3 A. Under the bedroom where the main fire was. It was
4 in that debris there.

5 Q. That's the same location where the bodies were?

6 A. Yes, sir.

7 Q. So the keys were with the bodies?

8 A. They were --

9 Q. In general?

10 A. In general. Yes, sir.

11 MR. CHANDLER: No further questions. Thank you.

12 REDIRECT EXAMINATION

13 BY MR. McNAIR:

14 Q. Very quickly. Do you know where Jimmie Smith is
15 this week, Investigator Smith?

16 A. My understanding is that he's in the University
17 Hospital with heart problems.

18 Q. So he's unavailable to be here this week, correct?

19 A. Correct, sir.

20 Q. Regarding the keys found at the house, was there
21 another older abandoned vehicle found at the victims'
22 residence?

23 A. You're testing my memory.

24 Q. You took all the pictures of the crime scene,
25 correct?

1 with them?

2 THE WITNESS: They rolled it there and then they
3 took it with them.

4 MR. CHANDLER: Thank you, Your Honor. No further
5 questions.

6 THE COURT: Anything on redirect?

7 MS. FULLER: Nothing, Your Honor.

8 THE COURT: You may step down. Call your next
9 witness.

10 MR. McNAIR: The State calls Kayleigh Lewis.
11 Thereupon,

12 KAYLEIGH LEWIS
13 after having been first duly sworn, testified as follows,

14 THE CLERK: Please have a seat. Once you're seated,
15 state your full name spelling your last please.

16 THE WITNESS: My name is Kayleigh Lewis,
17 L-e-w-i-s.

18 DIRECT EXAMINATION

19 BY MR. McNAIR:

20 Q. Ms. Lewis, how are you doing today?

21 A. Okay.

22 Q. Where are you from originally?

23 A. Warrenville, South Carolina.

24 Q. Where are you living these days?

25 A. Same place.

1 Q. Same place?

2 A. Yes, sir.

3 Q. Do you work?

4 A. Yes, sir.

5 Q. Where do you work?

6 A. Home Depot.

7 Q. How long have you been there?

8 A. About two, three weeks.

9 Q. Do you have any kids?

10 A. Two. I have a girl. She's about to be eight and a
11 son about to be four.

12 Q. Tell the jury how you knew Andie and Buddy Deas?

13 A. Uhm, I have known Andie since we were kids.

14 Q. Did y'all grow up together?

15 A. Pretty much. Yes, sir.

16 Q. How would you describe your relationship with
17 Andie?

18 A. We were inseparable.

19 Q. Were you best friend?

20 A. More than that. We were like sisters.

21 Q. How did you know Buddy?

22 A. Through Andie when they first started dating.

23 Q. Were Buddy and Andie married?

24 A. After being together for about two or three years
25 ultimately, yes.

1 Q. Ultimately they got married, right?

2 A. Yes, sir. At my house.

3 Q. How long had they been married prior to their
4 death?

5 A. Two years.

6 Q. About two years?

7 A. Maybe. Maybe three.

8 Q. Now, where was there wedding held?

9 A. At my house.

10 Q. Were you in the wedding?

11 A. Yes, sir.

12 Q. Was Mr. Thomas in the wedding?

13 A. Yes, sir.

14 Q. What was his role?

15 A. He was the -- I was the maid of honor and he was the
16 best man.

17 Q. Did you know Mr. Thomas prior to the wedding?

18 A. I only met him once before the wedding.

19 Q. Then you saw him at the wedding?

20 A. Yes, sir.

21 Q. Did you ever see him after the wedding?

22 A. Once. We ran into each other at Walmart.

23 Q. Have you ever hung out together, anything like
24 that?

25 A. No, sir.

1 Q. You just saw him three times?

2 A. Yes, sir.

3 Q. Now, where did Buddy and Andie live?

4 A. On Marigold.

5 Q. How long had they been in that house?

6 A. I want to say -- They moved so much. They might
7 have been there maybe two, three years.

8 Q. So they were there for two or three years prior to
9 their death?

10 A. Yes, sir. I want to say that's right.

11 Q. Had you been over there before?

12 A. Yes, sir.

13 Q. Lots of times?

14 A. Plenty of times.

15 Q. Had you ever seen Mr. Thomas over there before?

16 A. No, sir.

17 Q. Prior to their death, how often would you speak to
18 Andie?

19 A. Just about every day.

20 Q. On the phone?

21 A. On the phone. We talked. We texted. Facebook
22 messages. Sometimes she would pop up at my house.

23 Q. How often, if you were to guess, how many times a
24 week would you see her?

25 A. Maybe three, four times a week.

1 Q. So you talked almost daily to her and see her three
2 to four times a week?

3 A. Yes, sir.

4 Q. Where would you typically see her?

5 A. She would either come by the house or I would go to
6 her house. Usually on the weekends we was always together.

7 Q. So you would see Buddy regularly, too?

8 A. Yes, sir.

9 Q. Would you also talk to Buddy?

10 A. Yes, sir.

11 Q. How would you talk to Buddy?

12 A. Like he was a family member. I mean, technically
13 kind of was.

14 Q. Would you talk to him on the phone, too?

15 A. Yeah. Texting and Facebook. He would also come
16 over to the house a lot.

17 Q. So prior to their death, is it fair to say you
18 regularly talked to both of them?

19 A. Yes, sir.

20 Q. You regularly saw both of them?

21 A. Yes, sir.

22 Q. When was the last time you saw them prior to their
23 death?

24 A. The weekend before. I went out there. I was gonna
25 help clean up and everything. Buddy wanted to see the kids.

1 My son was just a baby then so he was gonna watch them while
2 me and Andie was cleaning up the house because they was gonna
3 start working on it.

4 Q. So you went to their house the weekend before?

5 A. Mm-hmm.

6 Q. Do you remember if it was Friday or Saturday or
7 Sunday?

8 A. I want to say it was a Saturday.

9 Q. Was anybody there other than you and Buddy and
10 Andie?

11 A. And my kids.

12 Q. And your kids. At some point did you learn that Mr.
13 Thomas started staying there after that weekend?

14 A. Yes. Well, from what I was told by Andie, Buddy was
15 helping him out and letting him stay there to go back and
16 forth to work from Amick.

17 Q. Do you know when Mr. Thomas started staying at their
18 house?

19 A. Not exactly.

20 Q. Well, tell us about their work situation. Where did
21 Buddy and Andie work?

22 A. They was both at Amick Farms.

23 Q. Do you know where Mr. Thomas worked?

24 A. From what I remember he was working there.

25 Q. Okay. And do you know how Mr. Thomas would get to

1 work?

2 A. No, sir.

3 Q. Do you know whether or not Buddy and Andie ever took
4 him to work?

5 A. I remember Andie saying a couple times Buddy took
6 him to work.

7 Q. But based on your conversations with Andie, was it
8 your understanding that he was staying there that week after
9 the last weekend you had seen them?

10 A. Yes, sir.

11 Q. Did you ever talk to Andie during that time frame
12 when Mr. Thomas was staying at their house prior to their
13 death?

14 A. Yes, sir.

15 Q. Did Andie ever express to you how she felt about Mr.
16 Thomas being there?

17 A. Yes, sir.

18 Q. And how did she express she felt?

19 A. She didn't like it.

20 Q. Okay. Did you ever talk to Buddy about that?

21 A. No, sir.

22 Q. When did you first learn that they had died?

23 A. I got, received a call from Andie's mother around
24 9:00 at night.

25 Q. Was that on the day of the fire?

1 A. Yes, sir.

2 Q. On October 9th of 2016?

3 A. Yes, sir.

4 Q. Now, had you made plans to see them that day?

5 A. Yes, sir.

6 Q. What did y'all plan to do?

7 A. We was planning on having a get-together for the
8 Georgia/Carolina game.

9 Q. This was a Sunday, right?

10 A. Yes, sir. It was cancelled on Saturday because of
11 the hurricane.

12 Q. What time was that game supposed to be?

13 A. It was around two, 2:00 I think it was.

14 Q. Two?

15 A. I think so.

16 Q. And you had planned to see them that day?

17 A. Yes, sir. They was supposed to come by and pick me
18 and the kids up.

19 Q. Did they ever show up and pick you up?

20 A. No, sir.

21 Q. When was the -- Did you ever talk to Andie or Buddy
22 that day on Sunday, October 9th?

23 A. Not on the 9th. No, sir. But I did message Buddy
24 after the game.

25 Q. Was that message ever read?

1 A. No, sir.

2 Q. Now, how did you message Buddy?

3 A. On Facebook.

4 Q. So you were Facebook friends with Buddy?

5 A. Yes, sir.

6 Q. And Andie?

7 A. Yes, sir.

8 Q. And you communicated with both of them over Facebook
9 in the past?

10 A. Yes, sir.

11 Q. I'm gonna show you State's Exhibit 31 and ask you if
12 you recognize that?

13 A. Yes, sir.

14 Q. What is that?

15 A. My message to Buddy.

16 Q. Is that a screen shot of the message that you sent
17 to Buddy?

18 A. Yes, sir.

19 Q. Is that what you provided to law enforcement?

20 A. Yes, sir.

21 Q. Does that fairly and accurately represent your
22 message to Buddy that day?

23 A. Yes, sir.

24 MR. McNAIR: Your Honor, we offer State's 31 into
25 evidence.

1 MR. CHANDLER: Without objection.

2 THE COURT: Without objection State's 31 is in.

3 BY MR. McCNAIR:

4 Q. Can you just read for the jury what that last
5 message you sent to Buddy was?

6 A. How about them Bulldogs.

7 Q. What time did you send that message?

8 A. 4:27 p.m.

9 Q. Was that message ever read by Buddy?

10 A. No, sir.

11 Q. How are you able to tell that?

12 A. Because if it was, his little picture and circle dot
13 would be at the message.

14 Q. Why did you send that message to Buddy? Was he a
15 Bulldog fan?

16 A. No. He was a Carolina fan. Me and Andie would
17 always give him heck about the Carolina Gamecocks. Me and
18 Andie were Bulldogs.

19 Q. This is gonna sound like a ridiculous question, but
20 since October 9th of 2016 have you ever heard from Buddy or
21 Andie again?

22 A. I wish, but no, sir.

23 Q. Is it unusual for them to go this long of a period
24 without ever contacting you?

25 A. Yes, sir.

1 Q. You mentioned you were friends with them on
2 Facebook, correct?

3 A. Yes, sir.

4 Q. Have you seen any recent post or activity on their
5 Facebook accounts?

6 A. No, sir.

7 Q. I show you State's 21. Do you recognize that?

8 A. Yes, sir.

9 Q. What is that?

10 A. That's Buddy's wedding band.

11 Q. How do you recognize it?

12 A. Because I helped Andie pick it out.

13 Q. State's 33, do you recognize that?

14 A. Yes, sir.

15 Q. State's 32, what is that?

16 A. That's the car that belonged to Andie and Buddy.

17 Q. Can you tell us how Andie felt about this car?

18 A. That was her baby.

19 Q. How did she feel about other people driving that
20 car?

21 A. She would not let nobody drive that car, not even
22 me, not even my dad. When he offered to let her drive his
23 Camaro, she said no.

24 MR. McNAIR: I don't have any further questions.
25 Please answer anything Mr. Chandler has.

1 THE COURT: Mr. Chandler.

2 CROSS EXAMINATION

3 BY MR. CHANDLER:

4 Q. Good afternoon, Ms. Lewis.

5 A. Hi.

6 Q. Do you need some time? I'll give you some time.

7 Take your time. You stated that the Deas were scheduled to
8 see you earlier on Sunday to watch the game?

9 A. Yes, sir.

10 Q. They were coming over to your place?

11 A. Yes, sir.

12 Q. Did you have any idea from your discussion with them
13 what they were doing earlier?

14 A. No, sir.

15 Q. You don't know what they had planned?

16 A. (Witness shaking head.)

17 Q. And you, you're sharing this information today that
18 Andie and Buddy were scheduled to see you. When was the first
19 time you shared that with the Solicitor's Office?

20 A. It was a couple nights after the murder when I had
21 to come up here and talk to Investigator Smith.

22 Q. You shared that with the Solicitor's Office or
23 Investigator Smith?

24 A. Investigator Smith.

25 Q. You told him this. You said Andie, you and Andie

1 knew each other since you were kids?

2 A. (Witness nodding head.)

3 Q. She was your best friend?

4 A. (Witness nodding head.)

5 Q. She was a sister?

6 A. (Witness nodding head.)

7 Q. Was she a good Bulldog fan as well or was she a
8 Gamecock?

9 A. Bulldog.

10 Q. She was a Bulldog. You said how about those
11 Bulldogs. Was Buddy a Bulldog fan?

12 A. No. He was a Carolina fan.

13 Q. So it was you and Andie against Buddy. With respect
14 to the car or the cars, did Buddy and Andie have any other car
15 that was operable?

16 A. No, sir.

17 Q. They didn't have any other car?

18 A. (Witness shaking head.)

19 Q. With respect to Investigator Smith, did he ask you
20 for a written statement?

21 A. I honestly don't remember if I did do one or not.

22 Q. Have you ever done a written statement?

23 Not for this case, no. Not that I can remember.

24 MR. CHANDLER: No further questions.

25 THE COURT: Any redirect?

1 MR. McNAIR: Nothing further, Your Honor.

2 THE COURT: Ma'am, thank you very much. You may
3 step down. Good to go or free to stay. Ladies and
4 gentlemen, we're gonna go ahead and take our lunch break
5 at this point in time. I'm gonna ask if you would please
6 be back in the jury room I'm gonna say -- I've got a bond
7 matter that I need to take up before I get lunch myself
8 and, of course, court personnel need to get lunch, too,
9 so I'm gonna ask that you be back in the jury room please
10 no later than 2:30. That will give everybody here a
11 chance hopefully to grab a bite. It's a little bit
12 longer lunch break than would be normal. Please again
13 don't talk about the case with anyone. I'll see y'all
14 back here at 2:30. Have a great lunch. Thank you.

15 (Whereupon, the jury was released for lunch break at
16 1:00 p.m.)

17 THE COURT: That easel at times is blocking my line
18 of sight between -- I know one of the jurors was trying
19 to see Mr. Chandler, was trying to peek around the thing
20 so in the future I guess one y'all have it up, Robby,
21 just pull it down or stick it over to the side somehow so
22 that it's not blocking our sight.

23 MR. McNAIR: Okay.

24 THE COURT: We're at ease. Have a good lunch. I'm
25 gonna keep working.

1 (Lunch break.)

2 BAILIFF: All rise.

3 THE COURT: Please be seated.

4 MR. McNAIR: Judge, before the jury comes back,
5 I want to go ahead and make you aware for this next
6 witness we're gonna seek to introduce Bank of America
7 records. We have provided Mr. Chandler with our notice
8 of intent to rely on statute 19-5-520 that allows for a
9 certificate of authenticity to lieu of testimony so we
10 are gonna introduce those records through this next
11 witness. All it is is a line item that shows a debit
12 card transaction at Edgefield Fuel Store that the
13 defendant made while he's in the victims' vehicle.

14 MR. CHANDLER: Without objection, Your Honor.

15 THE COURT: Very good. Let's have the jury then
16 please.

17 (Whereupon, the jury entered the courtroom at 2:36
18 p.m.)

19 THE COURT: The record will reflect the jury is back
20 and seated. Of course we are still on the State's case
21 in chief at this point in time. Solicitor, call your
22 next witness please.

23 MR. McNAIR: The State calls Phillip Turner.

24

25

1 Thereupon,

2 PHILLIP TURNER

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. Once you're seated,
5 state your full name spelling your last please.

6 THE WITNESS: Special Agent Phillip Turner,
7 T-u-r-n-e-r.

8 DIRECT EXAMINATION

9 BY MR. McNAIR:

10 Q. Agent Turner, where do you work?

11 A. I work for the South Carolina Law Enforcement
12 Division.

13 Q. How long have you been with SLED?

14 A. I've been with SLED for seven years.

15 Q. What's your current position there?

16 A. I'm a senior special agent in the Midlands region of
17 investigative services.

18 Q. Do you have any prior law enforcement experience
19 before that?

20 A. Yes, sir. Prior to that I worked for the North
21 Augusta Department of Public Safety.

22 Q. How long did you work there?

23 A. Eleven years.

24 Q. In your role as a SLED agent do you assist other
25 agencies?

1 A. Yes, sir.

2 Q. In October of 2016 were you called in to assist
3 Edgefield County Sheriff's Department in this case?

4 A. Yes, sir. I was.

5 Q. When did you first become involved in this case?

6 A. I was assigned the case on October 12th, 2016 which
7 basically means I was contacted by telephone and asked to come
8 help them with it. On October the 13th is the first day I
9 made physical contact and responded down here to work on the
10 case.

11 Q. Who was actually the lead investigator on the
12 case?

13 A. The lead investigator was Investigator Jimmie
14 Smith.

15 Q. He's out on medical leave this week; is that
16 correct?

17 A. Yes, sir. He is.

18 Q. On the 13th what was the first thing you did when
19 you became involved?

20 A. I met with Investigator Smith and he and I sat down
21 and reviewed the case so far.

22 Q. All right. Now, after reviewing the case, was there
23 anybody in particular that you wanted to talk to on the
24 13th?

25 A. The defendant Mr. Dameion Thomas.

1 Q. Why did you want to speak to him?

2 A. Mr. Thomas from what we understood was a roommate or
3 had been staying with the deceased. He was what we understood
4 to be their closest friend and almost like a family member.

5 Q. Were you aware of any other things involving
6 Mr. Thomas that made him a person that you wanted to talk
7 to?

8 A. Yes, sir. We understood or it was told to me that
9 he had been seen using the victims' credit card or debit card
10 on the day of their death as well as driving their vehicle
11 around town.

12 Q. Based on what you understood at the time was he the
13 last person to have contact with the victims?

14 A. Yes, sir.

15 Q. Were you ultimately able to make contact with Mr.
16 Thomas?

17 A. Yes, sir.

18 Q. When was that?

19 A. Around lunch time, a little after on October 13th.

20 Q. How did y'all make contact with him?

21 A. By telephone.

22 Q. Did you speak with him?

23 A. No, sir. Investigator Smith spoke with him.

24 Q. Were you present for that phone conversation?

25 A. Yes, sir. I was in the vehicle.

1 Q. After that phone conversation, where did y'all go to
2 meet Mr. Thomas?

3 A. We met at a barber shop on Highway 23 toward
4 Johnston.

5 Q. Was anybody with him?

6 A. His cousin brought him up there.

7 Q. Well, tell us about the conversation. What did you
8 tell him when you first interacted with him?

9 A. He met us in the parking lot of the barber shop.
10 She brought him up there. He agreed to meet. We told him we
11 would like to go over things because he may have something to
12 explain being the closest person to the family and to the
13 deceased. He agreed to go for a ride with us in the car. He
14 got in Investigator Smith's unmarked Ford car. I believe it's
15 a Taurus. He jumps in the front seat of the car, front
16 passenger seat. Investigator Smith's driving. I'm riding in
17 the back seat of the vehicle as we start down Highway 23
18 having a conversation.

19 Q. I guess, why did y'all tell him that you wanted to
20 meet with him when you first made contact with him that day?

21 A. We wanted to go through, he was the last person we
22 knew or we thought to have seen or known the victims to be
23 alive, the last to have seen them or have contact with them.
24 We wanted to go through that as well as explain some other
25 things and answer some questions we had at that time.

1 Q. Did you bring up anything about the clothing he was
2 wearing?

3 A. Yes, sir. We did. We asked if he would mind
4 providing us with the clothes that he would have been wearing
5 on the date that they died.

6 Q. When did you first tell him that?

7 A. When we got inside the vehicle.

8 Q. Okay. Just after you informed him that you wanted
9 to see his clothes, tell the jury about the conversation after
10 that. Did you take notes of this conversation by the way?

11 A. Yes, sir.

12 Q. If you want to refer to your notes --

13 A. I will.

14 Q. -- for accuracy, that would be fine.

15 A. Uhm, what happens, we told him that we needed to see
16 his clothes. We explained the reason being that it would
17 exclude him from being a suspect and what we wanted to do with
18 the clothes was submit them to our laboratory. SLED runs a
19 forensic lab in Columbia for the State. We wanted to provide
20 his clothes to be able to say that no trace evidence or
21 anything that would link him to the crime was there. He
22 agreed to allow us to do that. So as we're riding down the
23 road, he says, what are y'all looking for? Why do you want my
24 clothes? What's gonna be on my clothes? So I said, well,
25 whoever did this, we're gonna test for some trace, you know,

1 just trace evidence on the clotting. He said, what are y'all
2 gonna be testing for? So I said, you know, gunshot residue,
3 accelerants, blood or hydrocarbons.

4 Q. Stop right there. Explain just generally what
5 accelerants are?

6 A. Accelerants are anything -- It's kind of self
7 explanatory -- that accelerates a fire, I guess the easiest
8 way to do it. So you've got your gasoline, anything like that
9 to use to make a fire burn faster or easier.

10 Q. And hydrocarbons?

11 A. Hydrocarbons are like the byproducts of fire. Like
12 if you're around smoking, how your clothes smell like smoke.
13 Well, they kind of absorb that which are the hydrocarbons go
14 into the clothing and it's detectable through testing.

15 Q. So after you told him you wanted to get his clothes
16 to test for those things, what was his response?

17 A. Mr. Thomas became quiet for a few moments before he
18 said that he may have Buddy Deas' blood on his clothing. I,
19 of course, asked why would you have the deceased victim's
20 blood on your clothes? He said, well, we were working on
21 something around the house a few days earlier when Buddy cut
22 himself, cut his finger and he slung blood and got blood all
23 over my clothes. On his pants I believe. So I asked him, I
24 said, were you wearing those same clothes? He said, yes.
25 Same clothes a few days earlier. I said, okay. So he gets

1 quiet for a few more moments and he starts explaining that,
2 hey, well, I may have gunshot residue on my clothing. Same
3 clothes? He said, yes. I said, why is that? He said, well,
4 he and Buddy Deas were out shooting Buddy's .22 rifle behind
5 the house a few days prior wearing the same clothes again.
6 Okay. So he became quiet for a few more moments before asking
7 us what are hydrocarbons. So I explained to him just kind of
8 like what I told y'all a minute ago. He says, well, they
9 may be on my clothes because he had been around a fire a few
10 days early while wearing the same clothes. I said, of course,
11 the same exact clothes again? He said yeah. So a few moments
12 later he then explains that he would have accelerants on those
13 same clothing as well. Of course, we asked why. He said,
14 well, gasoline. I was pouring gasoline in my car out of a
15 milk jug so I got gasoline on my clothes, you know. And, of
16 course, we questioned it. What do you mean? You know, you
17 have all these things I'm looking for on the exact same
18 clothes? He said, yeah. He explained that he didn't have a
19 whole lot of clothes because he had been living from place to
20 place and he had been wearing the same clothes for several
21 days.

22 Q. Where were y'all heading when you were riding with
23 him?

24 A. He told us to go to his cousin's house. Her name is
25 Crystal Thomas. So that's where his clothing would be

1 located. Originally he said that the clothes had been
2 laundered and then Crystal said, no, they weren't. He said
3 she and he was gonna show us where they were at her house.

4 Q. Was Crystal there when y'all showed up at her house?

5 A. She was.

6 Q. What happened once y'all got to her house?

7 A. Once we got to her house, he gave consent to search.
8 His vehicle was parked on the left hand side of the residence.
9 If you're looking at Ms. Thomas' house, I believe it was
10 backed in on the left-hand side. He took us to the car and
11 showed us, said that's my shirt, a gray long-sleeved T-shirt
12 that he had been wearing, then we went over by a shed. There
13 was what looked like a comforter bag, you know, a heavy kind
14 of plastic bag with a zipper on it. He pointed at that and
15 showed us a pair of tennis shoes he had been wearing and
16 turned those over to us. We left from there shortly
17 thereafter. Those were photographed and collected, of course,
18 and took it somewhere else.

19 Q. Before we move on, who were those items actually
20 collected by?

21 A. Investigator Smith.

22 Q. And they were collected in your presence?

23 A. Yes, sir.

24 Q. And those were the items Mr. Thomas pointed out he
25 was wearing that day?

1 A. Yes, sir.

2 Q. Were you present when Investigator Smith bagged and
3 secured those items?

4 A. Yes, sir. He bagged them before we left the
5 scene.

6 Q. Were those items individually bagged?

7 A. Yes, sir.

8 Q. After leaving Crystal Thomas' house, where did y'all
9 go?

10 A. We went to Crystal Thomas' mother's house which is
11 right up the street. That is where his clothes were, the
12 other clothing he had. I guess she was gonna do his laundry
13 for him so they were over at her house.

14 Q. What item of clothing did you find at that
15 location?

16 A. His pants that he had been wearing that day. He
17 identified them and turned them over to us. Those were as
18 well collected by Investigator Smith and secured as
19 evidence.

20 Q. I'm going to show you what's marked as State's
21 Exhibit 37, 38, 39, 40 and 41. Take a look at those and tell
22 me if you recognize those?

23 A. Yes, sir. I do.

24 Q. Look at them in total.

25 A. Yes, sir. I do.

1 Q. Were those all photos taken from Crystal Thomas'
2 house that day and Crystal Thomas' mother's house that day
3 where the clothes were collected?

4 A. Yes, sir.

5 Q. Do they fairly and accurately depict where the
6 clothes were located?

7 A. Yes, sir.

8 MR. McNAIR: Your Honor, we would offer these in
9 evidence at this time State's 37 through 41.

10 MR. CHANDLER: Without objection.

11 THE COURT: Without objection 37 through 41 are in.

12 BY MR. McNAIR:

13 Q. Agent Turner, could you step down for one second?

14 A. (Witness complies.)

15 Q. State's 37, what does this show us?

16 A. This is just like I said a comforter bag, a heavy
17 clear plastic bag over the tennis shoes.

18 Q. Where was that comforter bag located?

19 A. I was underneath the shed beside Crystal Thomas'
20 house.

21 Q. There was two tennis shoes in that bag?

22 A. Yes. You can see one right there and one right
23 there.

24 Q. Those are the shoes that Mr. Thomas identified that
25 he wore that day?

1 A. Yes, sir.

2 Q. And they were collected by Jimmie Smith in your
3 presence?

4 A. Yes, sir.

5 Q. 38 is another picture of the same thing?

6 A. Yes, sir. It's just the bag zipped up, another
7 picture of the bag from the back.

8 Q. Okay. 39.

9 A. This is the interior of Mr. Thomas' car. As we
10 said, he gave us consent to search. He had shown us that this
11 was a long sleeve gray T-shirt. That's what was collected.

12 Q. That's his vehicle right there?

13 A. Yes, sir.

14 Q. State's 40, whose vehicle is this?

15 A. Mr. Thomas'.

16 Q. All right. He had a paper tag on his vehicle at the
17 time?

18 A. Yes, sir.

19 Q. Did y'all search his vehicle that day?

20 A. Yes, sir.

21 Q. Thoroughly?

22 A. Yes, sir.

23 Q. Was it processed at a later time?

24 A. It was processed later at the Sheriff's Office
25 sometime after that.

1 Q. Okay. State's 41.

2 A. You see the black pants. This is at Crystal Thomas'
3 mother's house. These are the pants that he identified to us
4 that he was wearing on the date that the Deas passed away.

5 Q. Have your seat. Thank you.

6 A. (Witness complies.)

7 Q. Do you have any gloves with you?

8 A. I do.

9 Q. Do you have a knife?

10 A. I do.

11 Q. I show you State's 27. All right. State's 27, is
12 that the shoes we just saw in the photographs collected by
13 Jimmie Smith on the 13th?

14 A. Yes, sir.

15 Q. That's the shoes identified by Mr. Thomas that he
16 was wearing on the 9th, correct?

17 A. Yes, sir.

18 MR. McNAIR: Your Honor, we would offer State's 27
19 into evidence at this point.

20 MR. CHANDLER: I do have an objection and would like
21 to take it up outside the presence of the jury.

22 THE COURT: Ladies and gentlemen of the jury, if you
23 would return to the back for a few moments. Let me talk
24 to the lawyers. Don't discuss the case.

25 (Whereupon, the jury entered the jury room at 2:54

1 p.m.)

2 THE COURT: Mr. Chandler, you have an objection?

3 MR. CHANDLER: Yes, Your Honor. With respect to the
4 particular item that was asked to be entered into
5 evidence and any other evidence that was collected by
6 Investigator Smith we would ask that it be excluded as
7 improper foundation without establishing chain of custody
8 again that Investigator Smith is not available today.

9 THE COURT: Okay. I understand. You want to put
10 the State's position on the record as it relates to this,
11 Solicitor.

12 MR. McNAIR: Your Honor, he testified he was present
13 for the collection. These are non fungible uniquely
14 identifiable objects that he saw. He was with the
15 defendant when he pointed them out so as far as that,
16 they can be entered. There's no issue for chain entering
17 items themselves. Maybe for testing subsequently there
18 might be a chain issue, but for these items just being
19 entered at this time, he can recognize them, he can
20 identify them.

21 THE COURT: I would tend to agree. I don't know
22 that there's a chain issue here because these items
23 aren't fungible. He's identified them as being the same
24 ones that he and Investigator Smith collected and Smith
25 bagged them in his presence so I think as it relates to

1 the shoes and the other items of clothing as long as he
2 can identify them as being the ones the defendant
3 indicated belonged to the defendant then admissibility
4 would be appropriate, but I will note your objection to
5 State's 27 as well as the other items which I assume are
6 coming in shortly, right?

7 MR. McNAIR: Yes, sir.

8 MR. CHANDLER: Thank you, Your Honor.

9 THE COURT: Let's have the jury please.

10 (Whereupon, the jury entered the courtroom at 2:57
11 p.m.)

12 THE COURT: The jury is back and seated. Solicitor,
13 I think you had moved, when we left off, 27 into
14 evidence. 27 is in evidence subject to the earlier
15 objection.

16 MR. McNAIR: Thank you, Your Honor.

17 BY MR. McNAIR:

18 Q. All right. State's 28, if you would open that and
19 tell us whether or not you recognize that.

20 A. It will be the left shoe shown in the picture
21 earlier.

22 Q. Again, collected by Jimmie Smith in your presence on
23 the 13th?

24 A. Yes, sir.

25 Q. Bagged and secured in your presence?

1 A. Yes, sir.

2 MR. McNAIR: Your Honor, we would offer State's 28
3 into evidence at this time.

4 THE COURT: Subject to the earlier objection 28 is
5 in evidence.

6 BY MR. McNAIR:

7 Q. State's 29, do you recognize that item?

8 A. Yes, sir. It's a gray long sleeved T-shirt that was
9 collected in front of me by Investigator Smith and submitted
10 as evidence.

11 MR. McNAIR: Your Honor, we would offer State's 29
12 into evidence.

13 THE COURT: 29 is in evidence subject to the earlier
14 objection.

15 BY MR. McNAIR:

16 Q. State's 30, tell us whether or not you recognize
17 that item.

18 A. They're inside out right now. Flip them right side
19 out. These are the pants that were collected from Mr.
20 Thomas.

21 Q. All right. Again, those were collected in your
22 presence by Jimmie Smith on the 13th?

23 A. Yes, sir.

24 Q. Bagged and secured in your presence?

25 A. Yes, sir.

1 MR. McNAIR: Your Honor, we would offer State's 30
2 into evidence at this time.

3 THE COURT: Subject to the earlier objection State's
4 30 is in evidence.

5 BY MR. McNAIR:

6 Q. Now, in the course of your investigation did you
7 review two videos allegedly of the defendant?

8 A. Yes, sir.

9 Q. Where were those videos from?

10 A. One is from the gas station right here in town and
11 the other one is from the housing projects.

12 Q. And that would be Gary Street?

13 A. Yes, sir.

14 Q. I'll show you what's marked as State's 50. Can you
15 tell us whether or not you have reviewed that video?

16 A. I have, sir.

17 Q. Do you recognize the individual in that video?

18 A. Yes, sir.

19 Q. Who was it?

20 A. Dameion Thomas.

21 Q. I'll show you State's 43. Did you review that
22 video?

23 A. Yes, sir.

24 Q. What is that video from?

25 A. This is the one from the Edgefield Fuel Store where

1 he is allegedly using their debit card.

2 Q. Do you recognize the individual in that video?

3 A. Yes, sir.

4 Q. Who was it?

5 A. Dameion Thomas.

6 Q. Now, after collecting the clothes and leaving
7 Crystal Thomas' house, where did y'all go after that?

8 A. We left, went to Crystal Thomas' house, then we went
9 to her mother's house and got the remainder of the clothes and
10 then after that we went to the Edgefield County Sheriff's
11 Office.

12 Q. What did you tell Mr. Thomas that you wanted to do
13 at that point prior to leaving?

14 A. To talk to him. To sit down and do a formal
15 interview.

16 Q. Did he agree to go with y'all?

17 A. Yes, sir.

18 Q. How did y'all get to the Sheriff's Department?

19 A. We rode in Investigator Smith's Edgefield County
20 Sheriff's Office vehicle.

21 Q. Once y'all got to the Sheriff's Department, where
22 did y'all go?

23 A. We went to the conference room right here off the
24 side door. It's your second door on the right.

25 Q. Who was present for that interview?

1 A. Investigator Smith, myself and Dameion Thomas.

2 Q. What did you tell Mr. Thomas prior to starting the
3 interview?

4 A. That it was just an interview. That he free to
5 leave at any time. I even showed him how to get out of the
6 building. Made sure he knew the building wasn't locked so
7 there wasn't any way he thought he was being held there and
8 that he could stop at any time.

9 Q. Based on what you observed did he appear to
10 understand that?

11 A. Yes, sir.

12 Q. Did he agree to talk to y'all after that?

13 A. Yes, sir.

14 Q. Was that interview recorded?

15 A. It was.

16 Q. I'll show you State's 42.

17 A. Yes, sir.

18 Q. Have you listened to that disk?

19 A. I have.

20 Q. Are those your initials on the disk?

21 A. It is.

22 Q. Is that a fair and accurate recording of y'all's
23 interview with Mr. Thomas at the Sheriff's Department on the
24 13th?

25 A. Yes, sir.

1 MR. McNAIR: Your Honor, we would ask that State's
2 42 be admitted into evidence at this point and published
3 to the jury.

4 THE COURT: Subject to all prior rulings and
5 objections we addressed yesterday State's 42 is in
6 evidence and you may publish.

7 MR. McNAIR: Thank you, Your Honor.

8 THE COURT: What's the length of that audio?

9 MR. McNAIR: It's probably close to an hour, Your
10 Honor.

11 THE COURT: About an hour?

12 MR. McNAIR: Yes, sir.

13 THE COURT: All right. Ladies and gentlemen, you
14 just had a break. I have not really had one. I'm gonna
15 take a break because I anticipate needing one between now
16 and the conclusion of this audio so we're just gonna take
17 a 10 minute comfort break for everybody here in the
18 courtroom who have been working so if you would adjourn
19 to the back for just a few moments. Don't discuss this
20 case. One thing I do want to mention to you and this is
21 something that I discussed with the attorneys as it
22 relates to this audio, in an effort to get rid of the
23 parts that have no relevancy to this case, idle chitchat,
24 I did have the Solicitor edit this video so there's some
25 stuff in there, you may hear a break and that's because

1 they trail off and start talking about stuff that has
2 absolutely nothing to do with this case so we tried to
3 condense it down as much as we could for you so if you do
4 hear a break, it's because I told them to pull that stuff
5 out because it's got nothing to do with what we have on
6 trial here, okay? So adjourn for a few moments. Go
7 ahead and take a comfort break for yourselves. We'll be
8 back in a few minutes, okay?

9 (Whereupon, the jury entered the jury room at 3:08
10 p.m.)

11 THE COURT: All right. We'll go ahead and take a
12 break for ourselves, about 10 minutes. Agent, you don't
13 need to sit up there while we're playing the tape. You
14 get comfortable back there. Be at ease for a few
15 moments.

16 (Short break.)

17 BAILIFF: All rise.

18 THE COURT: Please be seated. While the jury is
19 coming in, get the next witness in so we can get him out.
20 So the record is clear, this is a witness who came from
21 out of town and we'll take with the consent of defense
22 that testimony real quick. Perhaps there will be another
23 before we play the audio so let's have the jury please.

24 (Whereupon, the jury entered the courtroom at 3:20
25 p.m.)

1 THE COURT: Ladies and gentlemen of the jury, when
2 we took that break, I discussed the logistics of this
3 trial with the attorneys. We have a witness here just
4 from out of town and in an effort to get to that witness,
5 they're going to be a very brief witness, in an effort to
6 get them back to their hometown today and keep them from
7 having to come back tomorrow we're gonna take him out of
8 order, take his testimony out of order before we play the
9 audio interview State's 42. So at this point, Solicitor,
10 call the next witness.

11 MS. FULLER: Thank you, Your Honor. The State calls
12 Colby Perry.
13 Thereupon,

14 COLBY PERRY
15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. Once you're seated,
17 state your full name spelling your last please.

18 THE WITNESS: The first name is Colby, last name
19 Perry, P-e-r-r-y.

20 DIRECT EXAMINATION

21 BY MS. FULLER:

22 Q. Mr. Perry, can you introduce yourself to the jury.
23 Where are you currently employed?

24 A. I'm currently employed -- I'm retired and I work
25 about 10 hours a week with a convenience store called Split

1 MR. McNAIR: Yes, sir.

2 THE COURT: You may proceed.

3 Thereupon,

4 PHILLIP TURNER

5 after having been previously first duly sworn, testified

6 further as follows,

7 DIRECT EXAMINATION CONTINUED

8 BY MR. McNAIR:

9 Q. Agent Turner, just to clarify what was said in that
10 recording, when you asked him why he might have Buddy's blood
11 on him, he said Buddy cut his finger on that Thursday
12 morning?

13 A. Yes, sir.

14 Q. Which would have been October 6th?

15 A. Yes, sir.

16 Q. When you asked him about why he might have gunshot
17 residue on him, he said he and Buddy shot that gun on Monday
18 and Wednesday of the week prior to his death which would have
19 been October 3rd and 5th?

20 A. Yes, sir.

21 Q. When you asked him when he got there on October 9th
22 the day they were killed, he said that he got there a little
23 bit after lunch; is that correct?

24 A. Yes, sir.

25 Q. He said at that time that they were the only two

1 people there other than himself and that they were alive,
2 correct?

3 A. Yes, sir.

4 Q. Now, what was - there's lots of different variations
5 of the story that we heard on that recording. What was the
6 very first story that he told you about his whereabouts that
7 day?

8 A. The first story is that he had been at his cousin's
9 house overnight, then he came home and he said I was there to
10 get my stuff originally as if he was moving out. Then he said
11 he left there and went to - this thing changes a lot - he
12 borrowed their car and their bank card, then he went to get
13 cigarettes at the Amoco and went by the barber shop and then I
14 think he said he went home or took the car back after that.

15 Q. Okay. Once he got back to the house after the
16 barber shop, did he leave shortly thereafter?

17 A. Yes, sir. He said he left after that.

18 Q. That story, I don't know how to describe it, but it
19 continued to kind of evolve and different people became
20 involved and --

21 MR. CHANDLER: Objection, Your Honor. There's a
22 considerable amount of leading.

23 THE COURT: Sustained. Rephrase please.

24 BY MR. McNAIR:

25 Q. As you all continued to question him, did he add

1 other people into his story?

2 A. Continuously. This story evolved with people, with
3 thing, with everything that he talked about it evolved
4 continuously until the very end.

5 Q. Did he continue to add different places where he had
6 been that day?

7 A. Yes, sir.

8 Q. Regardless of the version of the story that he was
9 telling, what was the longest period of time he said he had
10 been gone from the house that day after he borrowed the bank
11 card before he got back?

12 A. I believe it was just a couple of hours, hours. It
13 was very short.

14 Q. Now, once he got, once he said he got the bank card
15 from Mr. Deas from the house and when he went to the Amoco to
16 get cigarettes and the barber shop and came back, what was the
17 longest period of time he said he was gone before he got back
18 to the victims' house that day and he gave them the bank card
19 back that day?

20 A. It wasn't long. I can't remember. It was a short
21 period of time.

22 Q. Would it be accurate if he said a little over 30
23 minutes?

24 MR. CHANDLER: Your Honor --

25 BY THE WITNESS:

1 A. Yeah. I remember it was less than an hour. An hour
2 or less.

3 MR. McNAIR: It's on the recording.

4 BY THE WITNESS:

5 A. Yeah. We can listen to the recording.

6 THE COURT: If need be, we can handle it by either
7 replaying the recording or it can be addressed in some
8 fashion so fair enough.

9 MR. McNAIR: Yes, sir.

10 BY MR. McNAIR:

11 Q. So it was a short period of time?

12 A. Yeah. Yes, sir.

13 Q. Now, where did he say the victims were located when
14 he got back to the residence from using the bank card?

15 A. In the bedroom.

16 Q. Was anybody else at the house when he got back and
17 saw them in the bedroom?

18 A. No, sir. Just them.

19 Q. And what did he say about when he got back in
20 relation to the afternoon, evening, nighttime?

21 A. I believe it was around lunch time.

22 Q. That's when he got there. When did he say he got
23 back after using the card and going to the barber shop?

24 A. Early afternoon.

25 Q. We'll let the recording speak for itself. When he

1 says he got back to the residence and saw the two victims in
2 the bedroom, what did he say was on the bed?

3 A. .22 bullets.

4 Q. Did he say he saw the gun?

5 A. No, sir. He didn't say he saw the gun.

6 Q. Now, initially what did he say in regards to telling
7 Buddy and Andie about him going to work that night?

8 A. Initially what he told Buddy and Andie? I can't
9 remember. There was so many.

10 Q. Did he tell you what he told Buddy and Andie about
11 whether or not he was going to work that night?

12 A. I can't recall for sure. We'd have to play it. I
13 just listened to that and I'm more confused every time I
14 listen to it because he changed his story so much.

15 MR. CHANDLER: Your Honor.

16 THE COURT: Sustained. Sustained. The jury is
17 instructed to disregard.

18 BY MR. McNAIR:

19 Q. When did he say he first learned of their death?

20 A. Their death was Monday.

21 Q. Who did he learn that from?

22 A. His father I believe.

23 Q. And he was asked why he didn't go by the house to
24 see them or to check on them or whatever and what was his
25 explanation for that?

1 A. Because the police were up there. Number 1, he said
2 he didn't have a phone. That's why he didn't call them, and
3 two, he said the police were up there and he didn't want to
4 deal with the police.

5 Q. And on Monday did anybody know this was a murder?
6 Monday, October 10th, did anybody know this was a murder?

7 A. No, sir.

8 Q. And he was asked about why he may have Andie's blood
9 on his clothes, and what was his explanation for that?

10 A. He went back and forth on that she may have had a
11 drop of blood on his shoe or something like that, but I
12 remember him saying that Buddy was slinging blood on him as
13 they were making a sandwich, but he may have had Andie's, a
14 drop here and there, but I don't remember anything beyond
15 that.

16 Q. And this interview with him was four days after the
17 death of the man he called brother during this interview,
18 right?

19 A. Yes, sir.

20 Q. Was he able to recall any times from that day?

21 A. No, sir.

22 Q. Was there one time that did stick out in his mind?

23 A. The only time that he recalled - that I recall him
24 saying was six p.m. that he called in sick to work.

25 Q. Did y'all follow up on that?

1 A. Yes, sir.

2 Q. Were you able to verify whether or not he actually
3 called in?

4 A. They hadn't heard from him.

5 Q. Now, when you asked him about accelerants such as
6 gas, what was his initial response to that?

7 A. Originally he said he had used a jug to put gas in
8 his car and that may be how it got on him.

9 Q. Do you recall him mentioning anything about a
10 lawnmower?

11 A. He said -- I'm trying to remember. Uhm, I think he
12 said something about cutting his cousin Crystal's grass.

13 Q. That would have been on Sunday, correct?

14 A. Yes, sir.

15 Q. Then you just testified that he said he got gas in a
16 jug?

17 A. Yes, sir.

18 Q. That was on Sunday?

19 A. Yes, sir.

20 Q. Did that later change to be another day?

21 A. The gas in the jug I think he changed to Monday,
22 then he brought up -- I'll let you go ahead. It gets into
23 something you don't want me to. Go ahead.

24 Q. That's good enough. Do you remember him bringing up
25 anything about where that jug may have been located?

1 A. At Crystal's house in the shed.

2 Q. Is there any other location where he thought he may
3 have seen it that he brought up?

4 A. I can't recall.

5 Q. Did he mention anything about it being in his car?

6 A. Specifically I don't remember. I don't want to
7 misquote this.

8 Q. That's fine. Now, you asked him also about
9 hydrocarbons such as smoke and whether or not he had been
10 burning anything lately. What was his initial response to
11 that?

12 A. He said he had been at his cousin's house who had
13 been burning stuff, that he may have gotten it from there.

14 Q. And that was on Sunday?

15 A. Yes, sir.

16 Q. That would be some sort of trash fire that he was
17 talking about?

18 A. Yes, sir. He said his cousin was burning trash out
19 in the yard.

20 Q. Do you recall what his response was prior to him
21 bringing that trash fire up?

22 A. When we were driving him there, he said he had been
23 around a fire or they had been out burning stuff when we were
24 driving around in the car. I remember him saying that fire.
25 I'm trying to remember the other one, the other version of the

1 story.

2 Q. Okay. Now, you have testified previously that when
3 you went to Crystal Thomas' residence with the defendant, he
4 was pointing out the clothes he was wearing that day?

5 A. Yes, sir.

6 Q. Were those clothes consistent with what you saw him
7 wearing on those videos the day of the murder?

8 A. Yes, sir. Well, in the store he's wearing a long
9 sleeve shirt, black pants and all that. On the one where he's
10 on Gary Hill Road he does have a sleeveless shirt on but it's
11 gray, same black pants it appears.

12 Q. But the long sleeve shirt shown in the Edgefield
13 Fuel video at 2:44 is the shirt he indicated that he was
14 wearing that day?

15 A. Yes, sir.

16 Q. Now, during your conversation with him during your
17 interview, did he start backing off the fact that he was
18 wearing those clothes?

19 A. Yes. At times he would. He went back and forth
20 with different things, a sleeveless shirt versus a long sleeve
21 shirt. He mentioned both at some point though the shirt he
22 identified to us was a long sleeve one.

23 Q. All right. I'm gonna show you what's marked as
24 State's Exhibit 56. It's already in evidence. State's 56,
25 bank records for Charles Deas. Can you look at those and tell

1 us what transaction you see on those records?

2 A. There's one for EFC3 on October the 9th which posted
3 October 11th, 2016, for \$6.09.

4 Q. Is that Buddy Deas or Charles Deas' debit card?

5 A. Yes, sir.

6 Q. That purchase was made when?

7 A. On October the 9th.

8 Q. Okay. And that's consistent with what we saw on the
9 Edgefield Fuel video?

10 A. Yes, sir.

11 Q. Now, after your interview with the defendant on the
12 13th, did he leave that day?

13 A. Yes, sir.

14 Q. How did he leave?

15 A. Left with his father.

16 Q. So he had other family members show up at the
17 Sheriff's Department?

18 A. Yes, sir.

19 Q. And was he free to leave at any time he wished
20 during his interview with y'all?

21 A. Yes, sir. That's one of the pauses is him walking
22 outside to smoke a cigarette.

23 Q. So at that time he was not in custody, he was not
24 under arrest, correct?

25 A. No, sir.

1 Q. How would you describe I guess him at that point?

2 A. He was a person of interest.

3 Q. Now, so this was October 13th. When did y'all
4 actually get a warrant for murder for his arrest?

5 A. December -- and I'll give you the exact here in just
6 a moment -- on December 15th, 2016.

7 Q. Why was the decision made to get the warrants at
8 that time?

9 A. On December the 14th I was contacted by our
10 forensics laboratory and they told us that gunshot residue had
11 been found on his pants and also on the steering wheel of the
12 victims' vehicle.

13 MR. McNAIR: All right. That's all the questions I
14 have. Please answer any questions Mr. Chandler has.

15 THE COURT: One housekeeping matter. Mr. McNair,
16 you indicated State's 56 is in evidence. According to my
17 notes it's not yet. I don't think there's any objection
18 to State's 56.

19 MR. CHANDLER: No objection.

20 THE COURT: So if you move that in evidence, it's in
21 evidence without objection.

22 MR. McNAIR: Thank you, Your Honor.

23 THE COURT: All right. Now, Ladies and gentlemen,
24 speaking with the attorneys I anticipate that the rest of
25 the examination of this witness may take us a little bit

1 over time so we're gonna go ahead and break for the
2 evening in the middle of this witness' testimony and
3 resume tomorrow morning at 9:30, all right? So go ahead
4 and do enjoy your evening. Do not talk about the case,
5 but do be back at 9:30 tomorrow. I think we're pretty
6 much on schedule as far as how things are rolling in this
7 case and will have this case to you sooner hopefully
8 rather than later. Have a great night. Don't talk about
9 the case. See you in the morning at 9:30. Thank you.

10 (Whereupon, the jury was released for the evening at
11 4:46 p.m.)

12 THE COURT: Before we go off the record, Ms. Fuller
13 did indicate to me one small mistake in editing the audio
14 recording. Apparently she already spoke to Mr. Chandler
15 about this. The portion that I ruled that could come in
16 about possibly dealing with pills or something, it was
17 inadvertently omitted from the final edit so however
18 y'all want to handle that or you can think about it
19 tonight, we can always replay it tomorrow and we can
20 simply explain to the jury that there was one portion
21 that got omitted or something. I don't know where that
22 occurs in terms of the tape. I think you'll cut another
23 one. Maybe you've already done it to substitute so...

24 MS. FULLER: It's back there. We would have to go
25 get it.

1 THE COURT: Sure. So we can either explain it to
2 the jury that way that there a slight over editing of the
3 tape and we can play it for them then or you can ask for
4 it to be played. However y'all want to figure that out.
5 Let's figure it out that way. I'm assuming after we
6 finish with this witness tomorrow you're anticipating
7 mostly SLED people testifying?

8 MS. FULLER: No, Your Honor. We thought we would be
9 ahead of schedule. This actually pushes us back. I
10 thought we were gonna actually finish cross today. It
11 looks like we'll go into Thursday afternoon. I just want
12 to put that out there.

13 THE COURT: Okay.

14 MS. FULLER: We thought, I guess I just thought to
15 start at two today and I didn't expect us to go that
16 long. We wanted to do three more witnesses today. That
17 would have kept us on track for Wednesday close of
18 business but it's pushing us back.

19 THE COURT: How many more do y'all have?

20 MS. FULLER: Probably we have a good --

21 MR. McNAIR: About 50.

22 (Laughing.)

23 MS. FULLER: We have 18.

24 THE COURT: 18?

25 MS. FULLER: Yeah.

1 THE COURT: Okay. We'll just have to see how it
2 goes.

3 MS. FULLER: Yeah. Just for scheduling to let you
4 know we'll probably run into Thursday with our case.

5 THE COURT: Let's see. Okay. We'll move as quickly
6 as we can tomorrow and with luck maybe we can get most of
7 those not knocked out. The SLED witnesses shouldn't take
8 too long. You were thinking of calling some of those
9 tomorrow, right?

10 MS. FULLER: In the afternoon, yes.

11 THE COURT: Okay. Good enough. See you all in the
12 morning. Thank you.

13 (Whereupon, court was adjourned for the day at 5:00
14 p.m.)

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1 October 9, 2019

2 BAILIFF: All rise.

3 THE COURT: Thank you. Good morning. Please be
4 seated. We'll go back on the record in the State versus
5 Mr. Thomas. I'll ask that the record reflect that a few
6 moments ago I had a brief conversation in chambers with
7 the defense counsel, an ex parte discussion. As I
8 alluded to when we began the case due to the
9 unavailability of Investigator Smith I was gonna be
10 inclined to give Mr. Chandler and Mr. Moore more leeway
11 perhaps than I normally would in terms of getting to
12 certain things that the investigator, Investigator Smith
13 put in his incident report and so the only way that I can
14 see out of fairness to the defense allowing that to
15 happen is for them to examine this witness, I'm kind of
16 treating the current witness as an extension of
17 Investigator Smith. It seems like they were somewhat
18 partners in this, and I'm not necessarily saying that
19 everything Mr. Smith knew was imputed to this witness but
20 at the same time I'm gonna allow them or give them more
21 latitude than I normally would in terms of questioning
22 this witness about various things that were reported in
23 the incident report by Investigator Smith so I just want
24 that out there for the record. Ms. Fuller.

25 MS. FULLER: Yes. Just for clarification, I know

1 that when we had that conference, I know we talked about
2 impeachment. I wasn't sure - I didn't understand it to
3 be the details of the report of his conversation with
4 witnesses I'm assuming. Just so we're clear, if that's
5 the case, say if Jimmie was on the stand and they're
6 asking him a question that we would be entitled to object
7 to --

8 THE COURT: Right.

9 MS. FULLER: -- it would still apply so at this
10 point in the trial there's nothing that has been set up
11 for impeachment. There hasn't been - not all witnesses
12 have testified yet so if they're trying to elicit
13 testimony or even if they're trying to elicit other
14 conversations with their client, it would be self serving
15 hearsay, so I just want to be clear that we would still,
16 even if it was Jimmie Smith on the stand, we would still
17 be entitled to object to October 9th conversation or
18 October 11th conversation or things -- I'm not sure how
19 far they plan to go. I just want to - if the same rules
20 for objecting to Jimmie still would apply or would come
21 in.

22 THE COURT: Sure. And feel free to object to any
23 question that they ask. I'm simply giving you, and I
24 wanted the record to reflect the reason why I probably,
25 if it's within the context of what we had discussed in

1 chambers, I'm gonna be overruling that objection and
2 allowing this witness to testify about those things that
3 are in the incident report. It shouldn't be anything
4 that's a surprise to you, but be basically stuff that the
5 investigator stated in the incident report or uncovered
6 in other documents so I'm kind of treating the two
7 witnesses as one. I'm presuming that the current witness
8 has reviewed the incident report and would be in a
9 position to say yes, it's reflected in the incident
10 report, X, so I think this isn't something that I think
11 you're being sandbagged on.

12 MS. FULLER: Okay. And just also -- I'm sorry.
13 This is kind of different for me as well. I just want to
14 -- If we have some latitude, we may need to approach for
15 clarification on something, and if he testifies that he
16 doesn't recall something in the report or doesn't know,
17 would he then be subject to impeachment by the other
18 officer's report? I just want to know all the rules
19 before we go into it, Judge. I'm sorry.

20 THE COURT: Basically if he were to say I don't --
21 If it's something in the incident report and something
22 that the answer is I don't recall, then Mr. Moore and Mr.
23 Chandler could simply approach him with the incident
24 report, show him the incident report, the portion that's
25 underlined, whatever it is they're trying to elicit and

1 then he can give an answer. So we'll use the incident
2 report to refresh his recollection even though maybe he
3 wasn't the specific author of that incident report.
4 Again, what I'm trying to do here, and this is new ground
5 for me, too, Ms. Fuller, because typically the chief
6 investigator is available for trial and for the reasons
7 we put on the record on Monday I thought it best to go
8 ahead and move forward and allow this type of questioning
9 so as to be fair to all concerned in the trial. So
10 that's how we'll handle it. If you need to approach,
11 just ask. I don't think this is gonna be anything that's
12 gonna be a surprise to you.

13 MS. FULLER: Okay. Thank you, Your Honor.

14 MR. MOORE: Your Honor, I spoke to Mr. McNair about
15 the first thing and Ms. Fuller wasn't here and he didn't
16 have a problem with it. That's the -- But it would fit
17 into what she was just talking about.

18 THE COURT: Right. Right.

19 MR. MOORE: And that's why - it's gonna be like
20 maybe the second question so I thought I would go ahead
21 and state it.

22 THE COURT: If they object, I'll simply overrule it
23 because I think I know what y'all are looking to getting
24 at. I think we will be in good shape. It's, as I said,
25 fair for you to be able to elicit that because it's

1 something that normally wouldn't come out had Mr. Smith
2 been present.

3 MR. MOORE: And the other things like I told you in
4 chambers would be - the first thing is it wouldn't have
5 been in his personal knowledge that they're talking
6 about. The other things are things that he would have
7 personal knowledge about. He wouldn't necessarily have
8 personal knowledge about what was written, but he has
9 personal knowledge about what he's talking about.

10 THE COURT: Right. Let's see how it goes.

11 MR. CHANDLER: Your Honor, I have one other matter
12 as to the relevant portion that was excluded mistakenly.
13 We would, we spoke with State's counsel and we are in
14 agreement to start at the question that led to the
15 statement that was left out and just end with his answer
16 so that relevant portion of it.

17 THE COURT: That's fine. I'm assuming you have that
18 queued up at whichever point and I'll simply explain to
19 the jury that there was a small mistake in editing and
20 this portion should have been played yesterday for them.
21 Do you know where that is?

22 MR. CHANDLER: We would like for you to play it
23 because it was a portion that was supposed to be played
24 to end your direct of Mr. Turner.

25 MS. FULLER: Your Honor, since it's outside the

1 presence of the jury, we'll just do a substitution if
2 that's okay. Do you need a written order or just order
3 from the bench.

4 THE COURT: No. We'll just substitute the disk for
5 the other disk. I'm assuming the same evidence stamp is
6 on the old disk, so just pull the old disk out of that CD
7 rom sleeve and slip the new one in. Mr. Chandler, you
8 were wanting that played before you begin your cross?

9 MR. CHANDLER: Yes, Your Honor, as a kind of
10 conclusion of their direct.

11 THE COURT: Sure.

12 MS. FULLER: For the record, we'll be playing 25
13 minutes into the audio to 26:13.

14 THE COURT: Okay. If you could go ahead and cue up
15 that part and then when they come out, I'll simply
16 explain to the jury that there was a brief portion that
17 was inadvertently omitted during the editing and we'll
18 take it from there. Do we need to put another stamp on
19 the new disk or --

20 MS. FULLER: We did. I slashed through this. I
21 just wanted to know what he wants to do for his records.

22 THE COURT: Just hang on to it, I guess. Keep it.
23 We'll use the other one in evidence.

24 MS. FULLER: Okay.

25 THE COURT: While they're queuing that up, we'll get

1 the jury please.

2 (Whereupon, the jury entered the courtroom at 9:46
3 p.m.)

4 THE COURT: Ladies and gentlemen of the jury,
5 welcome back. I trust y'all had a pleasant evening last
6 night. We are, of course, still involved in the trial of
7 the State versus Mr. Thomas. One thing that we're going
8 to do in a moment, yesterday when you heard the audio
9 interview of the defendant, roughly 15 seconds of that
10 interview was inadvertently edited out and so we didn't
11 realize that until the CD rom was played so we're gonna
12 play for you just that roughly 15, 20 seconds of the
13 interview which inadvertently was removed and then we'll
14 proceed with the cross examination of the witness who was
15 testifying yesterday. So at this point go ahead and play
16 that deleted excerpt.

17 (Playing a portion of State's Exhibit #42.)

18 THE COURT: All right. At this point, Mr. Turner,
19 come on back up. Of course, you're still under oath.
20 Thereupon,

21 PHILLIP TURNER
22 after having been previously duly sworn, testified further as
23 follows,

24 THE COURT: Mr. Chandler, your witness.

25

1 CROSS EXAMINATION

2 BY MR. CHANDLER:

3 Q. Good morning, Agent Turner. How are you doing this
4 morning?

5 A. Doing well. How are you?

6 Q. Doing well. Thank you. Now, I think on direct you
7 had indicated that you actually began working on this case on
8 October the 13th?

9 A. Yes, sir.

10 Q. You were assigned earlier?

11 A. The 12th I was notified about the case and made
12 contact and set up a time to meet on the 13th.

13 Q. And I remember during your direct you had talked
14 about that we were told that he had used a credit card. Isn't
15 it true that, in fact, Mr. Thomas was the one that told
16 Investigator Smith that he used the credit card, that Buddy,
17 his friend Buddy gave him permission to use the credit card?

18 A. I don't know.

19 Q. You don't know. And that he gave him permission to
20 use the vehicle as well?

21 A. Are you talking about before I became involved what
22 was told to Investigator Smith?

23 Q. Yes.

24 A. I don't know how that came to be.

25 Q. Have you had an opportunity to review the report in

1 this case?

2 A. Yes, sir.

3 Q. And would a review of the report refresh your memory
4 or at least assist your understanding of what was shared with
5 Investigator Smith?

6 A. Sure. If you would like to show me which portion
7 you're referring to, I'll be more than happy to look at it.

8 Q. It starts October the 11th.

9 A. I can read to you what Investigator Smith is
10 reporting, but I wasn't there to verify it.

11 Q. Please read.

12 A. Okay. It says, on 10/11/16 while interviewing
13 suspect Dameion he told IO, which generally means
14 investigating officer, I'm making an assumption here, that he
15 was given the credit card of victim Charles and their car to
16 go to town and get a pack of cigarettes. IO, investigating
17 officer, did get cash register tape from 10/9 of 2016.

18 Q. Thank you. So that shows that, in fact, it was
19 Dameion. So there was no grand investigative efforts that
20 went out -- Dameion told him that he had permission to use the
21 car, correct?

22 A. I can tell you what I just read. That's all I know.
23 I'm not gonna infer anything else.

24 Q. Sure. Sure. And from that it's fair also to say
25 that it was Dameion that told him, hey, look, he wasn't hiding

1 it. Hey, look, I was given permission to use this credit card
2 at that time?

3 A. That's what's reported by Investigator Smith.

4 Q. All right. Also isn't it true that initially at the
5 beginning of this case Investigator Smith had indicated that
6 Dameion was wearing blue jeans while at the store and maybe
7 after that that he changed clothes?

8 A. Are we referring to the same report?

9 Q. Yes.

10 A. At the bottom?

11 Q. Yes.

12 A. I found it in my file. And I'll read it. It says,
13 Dameion told investigating officer that he was wearing blue
14 jeans - or black pants, a gray sleeveless T-shirt at the
15 store. The video showed Dameion wearing blue jeans and a long
16 sleeve gray shirt.

17 Q. So basically Dameion told him what he was wearing,
18 but the officer lays out in his report, Investigator Smith
19 says that he was wearing blue jeans?

20 A. That's what his report says.

21 Q. Isn't it also true that in that report, since you've
22 been looking at it, that on 10/18, which you would have been
23 now apprised of it, that Investigator Smith indicated that
24 Dameion Thomas changed clothes from the blue jeans to some
25 black pants?

1 A. I don't understand your question. Try that again.
2 I'm sorry.

3 Q. Didn't Investigator Smith indicate that Dameion had
4 changed clothes at an apartment complex?

5 A. Where would that be on this report? I'm sorry.

6 Q. October 18th.

7 A. I'm trying to go through mine to make sure. I don't
8 know if you can see what I'm looking at, but our reports are
9 somewhat different in shape and size so I have to verify a
10 report that doesn't look like mine.

11 Q. October 18th.

12 A. October 18th. Investigating officer contacted Keith
13 Coleman with the South Carolina Housing Authority. Keith
14 provided investigating officer with video footage form the
15 main entrance to the Gary Street Apartments. While watching
16 the video investigating officer observed that around 15:12
17 hours which is 3:12 p.m. on October the 9th, 2016 the 2015
18 Hyundai of the victims Charles - of victim Charles entered the
19 complex and parked. Investigating officer also observed the
20 suspect Dameion and Willie Thomas exit the car and walked
21 across the street. About 10 minutes later both persons got
22 back into the car and exited the parking lot turning right
23 heading towards Mims Street. In the video at Gary Street
24 Apartments Dameion is seen wearing a sleeveless T-shirt and
25 black pants. The clothing is different than what Dameion was

1 wearing 30 minutes prior at the convenient store buying the
2 cigarettes.

3 Q. So he said he was wearing some different clothes so
4 it appears as if according to this report Mr. Thomas had
5 changed clothes according to this report?

6 A. That's what the report says.

7 Q. And the pants that investigator, the black pants
8 that Investigator Smith says that my client changed into were
9 actually the pants that you had indicated had the GSR on?

10 A. Per the report. Yes, sir.

11 Q. And he had also indicated, of course, per the
12 recording that he had done some shooting earlier that week as
13 well?

14 A. Yes, sir.

15 Q. Didn't in your investigation you and Investigator
16 Smith take pictures of Dameion Thomas?

17 A. I did not take pictures of Dameion Thomas. I
18 believe it would be Investigator Curtis. I can't think of
19 Curtis' last name. Curtis Morris.

20 Q. Are you sure it wasn't Investigator Smith that took
21 those pictures?

22 A. I wasn't there to take those pictures. I was in the
23 building, but I didn't go in the room when they took the
24 pictures.

25 Q. Do you know if there were any burn marks found on my

1 client?

2 A. What was reported to me, no, there weren't.

3 Q. Took pictures of his entire body?

4 A. From what I was told. I never looked at the
5 pictures.

6 Q. And no burn marks at all?

7 A. From what was reported to me.

8 Q. Prior to getting the clothes from my client, you
9 didn't Mirandize him, did you?

10 A. No, sir.

11 Q. Why not?

12 A. It was just an interview.

13 Q. Just an interview?

14 A. Yes, sir.

15 Q. He was just a regular guy?

16 A. He showed up voluntarily. He was free to leave.
17 Under the rules and the law it's not necessary to Mirandize
18 him.

19 Q. When you had this extensive conversation with him,
20 you didn't let him know what his rights were?

21 A. I told him he was free to leave at any time. I
22 actually even showed him how to get out of the building. He
23 left at several times. He went outside to smoke cigarettes.
24 He even ate a hamburger in the parking lot that day. His
25 family came to visit him. He's pretty well apprised that he's

1 free to leave.

2 Q. Did you tell him about his right to remain silent?

3 A. No, sir.

4 Q. You didn't tell him about his right. Did you tell
5 him about his right to retain an attorney?

6 A. No, sir.

7 Q. That long conversation we just listened to while
8 you're interrogating our client, you don't offer him any
9 rights that he has?

10 A. No, sir. He wasn't in custody. He wasn't under
11 arrest. He was free to leave.

12 Q. Wasn't he a suspect at that time?

13 A. He was a person of interest.

14 Q. Wasn't this an interrogation?

15 A. No, sir. It was an interview.

16 Q. To somebody who shows up, you tell them about an
17 opportunity to plead, opportunity to help themselves, you tell
18 that to anybody that shows up?

19 A. If they're being untruthful and we get to the point
20 where I've, from the moment we walk in we're lying, we're
21 being deceitful, we're getting to the point where I don't know
22 why he's lying or what is, I did offer him that to say if you
23 did something wrong, right now would be a good time to tell
24 me.

25 Q. And even then during that interrogation, even then

1 he's not a suspect? You're saying right now that this guy
2 that you're interrogating for all of this time, it was almost
3 an hour that we're listening to, that you're saying that this
4 guy was not a suspect?

5 A. Are you talking to me?

6 Q. Yes. I am. And I'm asking the question again. Are
7 you saying that this guy -- You're going to say this, say it
8 to them. Are you saying that this guy was not a suspect?

9 A. He was a person of interest. He initially that day
10 started out as a witness. He was the closest person --

11 MR. CHANDLER: Your Honor, I would ask that you
12 direct the witness to answer the question.

13 THE COURT: I'm taking his answer as no, he was a
14 person of interest, but you can follow up.

15 BY MR. CHANDLER:

16 Q. And so you're saying no, he was not a suspect?

17 A. Not at that time.

18 Q. Mr. Thomas - you said earlier Mr. Thomas shared that
19 he had permission to drive the car and use the car. Didn't he
20 offer you the clothing?

21 A. Yes, sir.

22 Q. Assisted you in that. Told you where it was?

23 A. Yes, sir.

24 Q. And yet you still interrogated him on these serious
25 charges?

1 A. We still interviewed him and talked with him.

2 Q. And by that time you knew he was the last person
3 that saw them according to your statements earlier?

4 A. Yes, sir.

5 Q. And that according to you, you got him on video.
6 According to you, you see him using the credit card?

7 A. Yes, sir.

8 Q. Still not a suspect?

9 A. He was a witness and a person of interest. At the
10 end of the day, you know, we were dealing with what we had.
11 We did allow him to leave. He left under his own free will
12 and accord.

13 Q. After that conversation, why didn't you arrest my
14 client? Did you have -- You didn't have enough to arrest
15 him?

16 A. No, sir.

17 Q. Why not?

18 A. Why didn't I have enough to arrest him on a murder
19 charge?

20 Q. Yeah.

21 A. I had suspicion, but I didn't have proof and per my
22 standards, my personal standards and the SLED credo I try to
23 go by, I didn't feel that it was prudent at that time. I'm
24 not gonna make a case until I'm a hundred percent positive
25 especially a case as serious as this, sir. I mean, that would

1 be the worst miscarriage of justice to publicly accuse or
2 publicly ruin a man's reputation falsely when I'm not sure of
3 it myself. So when he left that night, I wasn't there in my
4 mind.

5 Q. Did you have probable cause to arrest him?

6 A. For what?

7 Q. For murder?

8 A. No, sir. I didn't feel I did.

9 Q. When did you share the first half of this
10 interview?

11 A. Sir.

12 Q. When did you share the first half of this interview
13 with the State?

14 A. When did I share it with the State?

15 Q. Yes.

16 A. The first half of the recorded interview?

17 Q. Yes.

18 A. They've had the recorded interview since the case
19 file was turned over.

20 Q. They've had the entire recorded interview since the
21 case file was turned over?

22 MR. McNAIR: Objection, Your Honor. That's calling
23 for speculation that he had no knowledge of.

24 MR. CHANDLER: Well, he didn't say he had -- Excuse
25 me, Your Honor.

1 THE COURT: Well --

2 BY THE WITNESS

3 A. I apologize. It would be me speculating they had
4 the report this all whole. I apologize. Under my
5 understanding and general principle, when any agency turns
6 over the case file, that would have been provided. I was not
7 there personally to see that no more than I was there for
8 three things you had me read previously.

9 BY MR. CHANDLER:

10 Q. So that means you didn't even know that it was
11 turned over three weeks ago, did you?

12 A. No, sir.

13 MR. McNAIR: Objection, Your Honor.

14 MR. CHANDLER: Okay.

15 MR. McNAIR: Relevance.

16 THE COURT: All right. It was turned over. I
17 realize your position. It was turned over late and
18 wasn't provided as promptly as you would otherwise
19 appreciate, but he's got no knowledge of that so
20 sustained. Keep moving.

21 BY MR. CHANDLER:

22 Q. Now, at some point you thought that there was
23 probable cause?

24 A. Yes, sir.

25 Q. And you did arrest my client?

1 A. He was arrested.

2 Q. Okay. Where was he when he was arrested?

3 A. In Greenwood.

4 Q. Where?

5 A. At a rehab facility.

6 Q. He was at a rehab facility in where you say?

7 A. Greenwood, South Carolina.

8 Q. How did you find out he was at a rehab facility?

9 A. His father told me.

10 Q. Did you go to the rehab facility?

11 A. No, sir.

12 Q. Did you send someone to get him?

13 A. I did not personally. No, sir.

14 Q. But it's you're understanding that he was picked
15 up?

16 A. You want me to tell you what I think?

17 Q. Yeah. I want to know what you know, not what you
18 think.

19 A. Well, what I was present for is we went to his
20 father's house and spoke to his father, his mother was also
21 present, and they told us he was at a rehabilitation facility
22 for his drug use in Greenwood, South Carolina.

23 Q. Thank you.

24 A. I was present when Investigator Smith --

25 THE COURT: That's enough.

1 THE WITNESS: Well, I could probably answer the rest
2 of that.

3 THE COURT: That's enough. Thank you. Don't go any
4 further.

5 MR. CHANDLER: No further questions.

6 THE COURT: Redirect.

7 REDIRECT EXAMINATION

8 BY MR. McNAIR:

9 Q. Agent Turner, you read off of Investigator Smith's
10 report that the defendant told Investigator Smith that he had
11 permission to use the victims' car that day, correct?

12 A. Yes, sir.

13 Q. But isn't it true that he drove his own car to the
14 victims' house on that same day?

15 A. Yes, sir.

16 Q. And he asked you, Mr. Chandler asked you about the
17 part in Investigator Smith's report where he documented that
18 the defendant was wearing jeans. Have you viewed the video
19 from the Edgefield Fuel Store and the Gary Street
20 Apartments?

21 A. Yes, sir.

22 Q. Is he wearing jeans in those videos?

23 A. It appears to me he's wearing the black pants.

24 Q. The same black pants that you collected from Crystal
25 Thomas' residence?

1 A. Yes, sir. That's what it appears.

2 Q. I'm gonna show you what's been marked as State's
3 Exhibit 51 for identification. Take a look at that.

4 A. (Witness complies.) Yes, sir.

5 Q. Do those appear to be the same black pants that you
6 collected from Crystal Thomas' residence?

7 A. Yes, sir.

8 Q. Do those appear to be jeans to you?

9 A. No, sir.

10 Q. So that's a mistake in Investigator Smith's
11 report?

12 A. It would appear that way, sir.

13 Q. I'm gonna show you what's in evidence as State's 47.

14 A. Yes, sir.

15 Q. What is that a picture of?

16 A. This is a picture from the store.

17 Q. Which store?

18 A. The Amoco as we call it, the Edgefield Convenient
19 Store.

20 Q. At 2:44 on October 9th, correct?

21 A. Yes, sir. It says 2:45 and 16 seconds.

22 Q. Is he wearing jeans in this picture?

23 A. No, sir. If you look, you can see the stripe down
24 the left leg of the pants which is consistent, if you look
25 closely, I don't know if you can see it on that projector or

1 not, but on the left leg you will see a stripe down the pants
2 leg. It's faint but you can see it right there. I can point
3 it out to you, which also matches the same stripe which would
4 be consistent with the same stripe that you can see on the
5 Gary Street video and as well on the pants that are in
6 evidence right now.

7 Q. Okay. And what type of shirt is he wearing in
8 State's 47?

9 A. That is a long sleeve gray T-shirt.

10 Q. Investigator Smith documented that the defendant
11 told him he was wearing a sleeveless T-shirt; is that
12 correct?

13 A. Yes, sir.

14 Q. But on this video it's clear he was wearing a long
15 sleeve T-shirt, correct?

16 A. Yes, sir.

17 Q. Can you tell whether or not he has a shirt
18 underneath that long sleeve shirt?

19 A. It would appear as though he does. You can see that
20 there is a break in the color line from the skin of his neck
21 and the long sleeve T-shirt. It appears to be a different
22 shade of gray.

23 Q. And was he wearing this long sleeve shirt in the
24 Gary Street video?

25 A. No, sir. He wasn't.

1 Q. But he was wearing the same pants?

2 A. Yes, sir.

3 Q. And the Edgefield Fuel video happened before the
4 Gary Street video, right?

5 A. Yes, sir.

6 Q. And Investigator Smith documented that the defendant
7 pulled up to Gary Street at 3:15 p.m. on the 9th in the
8 victims' vehicle, correct?

9 A. Yes, sir.

10 Q. Now, he was asking you a lot about the status of the
11 investigation at the point you spoke to Mr. Thomas and you
12 testified that at that time all y'all knew is that he had used
13 the victims' vehicle and his card on the day of the murder,
14 correct?

15 A. Yes, sir.

16 Q. And it was your understanding that he was the last
17 person to be with the victims that day?

18 A. Yes, sir.

19 Q. So at that point when you initially went to talk to
20 him, what is he in your mind?

21 A. When we initially went to talk to him, he would be a
22 witness.

23 Q. Okay. And what stage of the investigation were you
24 in at that point?

25 A. The infancy for me.

1 Q. Now, after the course of the interview, did your
2 opinion of his involvement change?

3 A. Yes, sir. It changed throughout the day and then
4 after that.

5 Q. Why was that?

6 A. As things developed, of course, our opinion of
7 things changed just like in normal life. As we started that
8 day he was the closest, the person who lived with the victims,
9 he would be the closest knowledge. We had no other suspect
10 coming in. He would be our witness. He's the last person who
11 would know more about it than anyone. So that's where we
12 started was with him because he showed up that day. Then as
13 the day progressed, he definitely right off became a person of
14 interest as he lied right off the bat saying the clothes were
15 dirty, had been washed, his cousin straightened it out, and
16 several other inconsistencies, and it became clear to us and
17 then the statements about what would be found on the clothes
18 heightened our awareness of him and what we were dealing with.
19 As we continued through the day and at the end of the day
20 after the interviews and all were completed and we allowed him
21 to leave, we reviewed what we had and what we thought we would
22 be finding on the clothes once the lab got through and he did
23 become the suspect.

24 Q. Now, I guess you just testified that he said some
25 things that you felt were inconsistent or lies?

1 A. Yes, sir.

2 Q. Which would raise a red flag in your mind
3 obviously?

4 A. Yes, sir.

5 Q. But after that interview, do you have enough to
6 arrest somebody based on lies alone?

7 A. No, sir.

8 Q. When was he ultimately arrested for murder in this
9 case?

10 A. December 15th.

11 Q. That was two months later, right?

12 A. Yes, sir.

13 Q. Why was the decision made to arrest him at that
14 point again?

15 A. We had physical evidence to go along with
16 everything, the totality, what we call a totality of
17 circumstances. When we put it all together what we have at
18 that moment and once we had the physical evidence to go along
19 with the statements that he had made and all the other
20 evidence with him in the vehicle and everything else we had,
21 at that point we felt that it was prudent and we had probable
22 cause to move forward.

23 Q. And what physical evidence did you have?

24 A. The gunshot residue on the clothing and of what we
25 had been told from the lab that that pretty much made --

1 Q. And where else was the gunshot residue found other
2 than his clothing?

3 A. On the steering wheel of the victims' vehicle.

4 Q. That he was driving on the day of the murder?

5 A. Yes, sir.

6 Q. Did you have evidence that anybody else drove that
7 vehicle on October 9th?

8 A. No, sir.

9 Q. Now, even though you didn't formally give him what's
10 known as the Miranda Warnings telling him he had the right to
11 remain silent, didn't you tell him that he didn't have to talk
12 to you?

13 A. Yes, sir.

14 Q. In fact, on the recording didn't you say he could
15 tell you to pound sand if he wanted to?

16 A. Yes, sir.

17 Q. And you showed him the exits?

18 A. Yes, sir.

19 Q. And he knew he could leave if he wanted to?

20 A. Absolutely.

21 Q. And he chose to talk to you?

22 A. He shows to stay.

23 MR. McNAIR: Nothing further, Your Honor.

24 THE COURT: Any recross?

25 MR. CHANDLER: None, Your Honor.

1 Thereupon,

2 WILLIE PAUL THOMAS

3 after having been first duly sworn, testified as follows,

4 THE CLERK: Please have a seat. Once you're seated,
5 state your full name spelling your last please.

6 THE WITNESS: Willie Paul Thomas, T-h-o-m-a-s.

7 DIRECT EXAMINATION

8 BY MR. McNAIR:

9 Q. Mr. Thomas, how are you doing today?

10 A. I'm doing all right.

11 Q. You don't want to be here, do you?

12 A. No, sir.

13 Q. You're here because we subpoenaed you, right?

14 A. Yes, sir.

15 Q. Tell the jury how you know the defendant Mr.

16 Thomas?

17 A. He's my cousin.

18 Q. First cousin? Second cousin?

19 A. Third.

20 Q. Third cousin?

21 A. Yes, sir.

22 Q. All right. Now, on October 9th of 2016, the day
23 this incident happened, did you see the defendant that day?

24 A. Yes, sir.

25 Q. Had you seen him prior to that day?

- 1 A. Yes, sir.
- 2 Q. When did you see him before October 9th?
- 3 A. The Saturday.
- 4 Q. The Saturday before, October 8th?
- 5 A. Yes, sir.
- 6 Q. Where did you see him on October 8th?
- 7 A. He came by my house.
- 8 Q. Where was your house located?
- 9 A. 331 Gary Hill Road.
- 10 Q. Did you live there with anybody?
- 11 A. Yes.
- 12 Q. Who did you live there with?
- 13 A. Tammy Griffin.
- 14 Q. Is that your girlfriend?
- 15 A. Yes.
- 16 Q. How long had y'all been living in that house?
- 17 A. We just had moved in that Saturday.
- 18 Q. You moved in that day, October 8th?
- 19 A. Yes, sir.
- 20 Q. How did the defendant know you lived there?
- 21 A. He went to my mother house and my brother showed him
- 22 where I stayed.
- 23 Q. Prior to October 8th, prior to you seeing him that
- 24 day, when was the last time you had seen him?
- 25 A. It had been some years, sir.

1 Q. Can you guess how many years?

2 A. Probably eight to 10 years.

3 Q. Eight to 10 years before October 8th?

4 A. Yes, sir.

5 Q. Did y'all do anything or what did y'all do on
6 October 8th when he showed up at your house?

7 A. We really didn't do nothing then because I told him
8 I was still moving in so I had told him to come back later
9 sometime and he said he would.

10 Q. Okay. So y'all didn't hang out or do anything that
11 day?

12 A. No, sir.

13 Q. What car was he in that day?

14 A. Like a little white car.

15 Q. Did he get out of his car?

16 A. No, sir.

17 Q. So he literally just stopped by?

18 A. Yes, sir.

19 Q. All right. So after he left on the 8th, you said
20 you saw him again on the 9th?

21 A. Yes, sir.

22 Q. Where did you see him on the 9th?

23 A. He came back to the house.

24 Q. About what time did he show up on the 9th?

25 A. I would say probably about 2:30, 3:00.

1 Q. 2:30 or 3:00?

2 A. Yes, sir.

3 Q. What vehicle was he in at that time?

4 A. He was like in a gray Hyundai or something like
5 that.

6 Q. So it was a different vehicle than on the 8th?

7 A. Yes, sir.

8 Q. Did you ask him about the vehicle?

9 A. No, sir.

10 Q. Did he say anything about the vehicle?

11 A. No, sir.

12 Q. Do you know where he was coming from?

13 A. No, sir.

14 Q. What did he say to you when he pulled up?

15 A. Uhm, I can't remember. Uhm, he just got out, he
16 came in and we sat down and started talking, tripping and,
17 uhm, I think we started doing a little cocaine.

18 Q. That was at your house?

19 A. Yes, sir.

20 Q. Did you stay at your house or did you go somewhere
21 else after that?

22 A. We left.

23 Q. Where did y'all go?

24 A. To Gary Street.

25 Q. Gary Street Apartments?

- 1 A. Yes, sir.
- 2 Q. Just you and him?
- 3 A. Yes, sir.
- 4 Q. Y'all were in that same gray vehicle?
- 5 A. Yes, sir.
- 6 Q. Why did y'all go to Gary Street?
- 7 A. We went to go purchase some moonshine and a couple
- 8 beers for the Sunday game.
- 9 Q. For the football game?
- 10 A. Yes, sir.
- 11 Q. Do you remember what game it was?
- 12 A. No, sir.
- 13 Q. Do you remember what time the game started?
- 14 A. I think the game was on at 1:00.
- 15 Q. Where did y'all go to purchase alcohol?
- 16 A. Down in The Hole right across from the projects.
- 17 Q. How long did y'all stay down in The Hole?
- 18 A. Probably about 10, 15 minutes.
- 19 Q. 10 to 15 minutes?
- 20 A. Yes, sir.
- 21 Q. Where did you go after that?
- 22 A. We went across town.
- 23 Q. Where to?
- 24 A. Uhm, Buncombe.
- 25 Q. Buncombe?

- 1 A. Yes, sir. Buncombe Street.
- 2 Q. Why did y'all go to Buncombe?
- 3 A. To purchase some more cocaine, sir.
- 4 Q. Who wanted to purchase cocaine?
- 5 A. Dameion.
- 6 Q. Just you and him that went to Buncombe initially?
- 7 A. Yes, sir.
- 8 Q. Did y'all try to purchase cocaine?
- 9 A. Yes, sir.
- 10 Q. Were you able to?
- 11 A. No, sir.
- 12 Q. What happened when you got to Buncombe?
- 13 A. I guess when the person came to the door, he seen an
- 14 unfamiliar face and he wouldn't let me get it then.
- 15 Q. Okay. So what did y'all do after that?
- 16 A. We left and we went back to the barber shop.
- 17 Q. What happened at the barber shop?
- 18 A. That's where we see Ralph, Polo, we started talking
- 19 to him and started messing with Eddie a little bit and then
- 20 Polo said he could go get it.
- 21 Q. What barber shop was it?
- 22 A. Perfections.
- 23 Q. Perfections?
- 24 A. Yes.
- 25 Q. Who owns that barber shop?

- 1 A. Eddie Butler.
- 2 Q. Eddie Butler?
- 3 A. Yes.
- 4 Q. When you got to the barber shop, you saw Ralph?
- 5 A. Yes.
- 6 Q. He goes by the name Polo?
- 7 A. Yes, sir.
- 8 Q. And what did y'all do after y'all saw Polo?
- 9 A. He went with us back across town to purchase cocaine
- 10 for us.
- 11 Q. Did you go back to the same place?
- 12 A. Yes.
- 13 Q. In Buncombe?
- 14 A. Yes, sir. But we drove him down the road and turned
- 15 back around.
- 16 Q. So he was able to go to the house and purchase
- 17 cocaine?
- 18 A. Yes, sir.
- 19 Q. Who did he purchase cocaine for?
- 20 A. Dameion.
- 21 Q. And how was he able to purchase it?
- 22 A. He had a 20 dollar bill.
- 23 Q. Who gave him the \$20.00?
- 24 A. Dameion.
- 25 Q. Now, after you all end up getting cocaine from

1 Buncombe Street, where did you go after that?

2 A. One Step Ahead.

3 Q. What is that?

4 A. Like a little social club.

5 Q. Where is it?

6 A. Right up the road on, it's on Mims Street right up
7 the road from the barber shop.

8 Q. The barber shop is on Mims Street?

9 A. Yes, sir.

10 Q. And then One Step is on Mims Street, too?

11 A. Yes, sir.

12 Q. How far away are they?

13 A. Probably four or five houses apart.

14 Q. You can walk between the two?

15 A. Yes. You can.

16 Q. What was going on at the One Step?

17 A. They had a nice little road out there. They was
18 watching the football game. I think they was cooking
19 something outside so we stopped by there. There was a nice
20 crowd out there.

21 Q. Did y'all hang out there for a while?

22 A. Yes, sir.

23 Q. Where did you go after that?

24 A. We dropped Polo back off at the barber shop and then
25 we went back to my house.

1 Q. So did y'all drive from One Step to the barber
2 shop?

3 A. Yes.

4 Q. You dropped Polo off?

5 A. Yes, sir.

6 Q. And then you and Dameion left together and went back
7 to your house?

8 A. Yes, sir.

9 Q. What happened when you got back to your house?

10 A. When we got out, we came and sat down and my old
11 lady fixed him a plate, he received the plate and he left.

12 Q. Okay. Why did he leave?

13 A. Because it was about 5:30, 6:00 so my old lady, she
14 was working at Amick at that time and she usually lay down
15 about that time.

16 Q. How does she feel about people being at your house?

17 A. Oh, she never really wanted him there then because
18 we was just moving in and I had mentioned something about he
19 wanted to spend the night and she ain't really want to go for
20 that because we had just moved in. She said she wasn't gonna
21 start with that.

22 Q. Okay. How did it come up that he was gonna spend
23 the night at your house?

24 A. I think he asked me before we was leaving out the
25 door.

1 Q. He asked you?

2 A. Yeah. He said I might come back and spend the night
3 with you tonight.

4 Q. And you told your girlfriend about that?

5 A. Yes, sir.

6 Q. And how did she feel about that?

7 A. She said she didn't want him to stay there because
8 we just started there because we just had moved in. I told
9 her since I ain't seen my cousin in so long, I was like, you
10 know, I'm gonna let him back in. When he come back in with
11 me, I told him to come back, you know, after she go to work
12 about 11:00.

13 Q. Okay. So you told him he could come back later that
14 night?

15 A. Yes, sir.

16 Q. And he left you said -- What time do you think he
17 left, 5:30, 6:00 is what you said?

18 A. Probably about 5:30 something, 5:45.

19 Q. And he left with a plate of food?

20 A. Yes, sir.

21 Q. What did he tell you before he left with that plate
22 of food?

23 A. What did he tell me? He just told me he'll be back
24 later on.

25 Q. He told you he was coming back later on?

1 A. Yes, sir.

2 Q. Did he come back later on?

3 A. Yes. He did.

4 Q. What time did he get back?

5 A. Probably about 10:15, 10:20.

6 Q. Was your girlfriend still there?

7 A. Yes. She was.

8 Q. How was her reaction to that?

9 A. She said, I told you I ain't want nobody staying
10 here. I said, I ain't seen my cousin so long so I told you
11 that. So when he came on up, he gave me a ride to my mother
12 house because something happened, her ride didn't show up to
13 get her so he took me down to my mother house right down the
14 road to 7 Glenn Drive to get my mother to take her to work.

15 Q. So did he end up spending the night at your house
16 that night after all?

17 A. Yes. He did.

18 Q. When did he leave?

19 A. That Monday morning.

20 Q. Monday morning he left?

21 A. Yes.

22 Q. Did you see him again after Monday morning?

23 A. Yes.

24 Q. When did you see him again?

25 A. Later on that Monday night he spent the night

1 again.

2 Q. Spent the night with you on Monday night?

3 A. Yes, sir.

4 Q. At any point on Sunday did you make a trash fire in
5 your yard?

6 A. No, sir.

7 Q. At any point on Sunday did you and Mr. Thomas shoot
8 a gun?

9 A. No, sir.

10 Q. At any point on Sunday did you get gas in a can?

11 A. No, sir.

12 Q. Mr. Thomas, do you recognize the two individuals in
13 this photo State's 51?

14 A. Yes, sir.

15 Q. Who is that?

16 A. Me and Dameion.

17 Q. Where is that?

18 A. The projects.

19 Q. Gary Street?

20 A. Gary Street. Yes, sir.

21 Q. I'm gonna show you State's 59 and ask whether or not
22 you recognize this?

23 A. Yes, sir.

24 Q. What is that?

25 A. That's the white car right there that he was in.

1 MR. McNAIR: Your Honor, we would offer State's 59
2 into evidence.

3 MR. CHANDLER: No objection.

4 THE COURT: No objection. State's 59 is in.

5 BY MR. McNAIR:

6 Q. All right. So this is the white car that you saw
7 him in on the 8th?

8 A. Yes, sir.

9 Q. Did you see what car he was in when he came back
10 around 10 or so on the 9th?

11 A. Yes, sir.

12 Q. Was it that same car?

13 A. No, sir.

14 Q. So he had changed cars?

15 A. Yes, sir.

16 Q. State's 33, do you recognize that vehicle?

17 A. Yes, sir.

18 Q. Is that the one you rode around with him in on
19 October 9th?

20 A. Yes, sir.

21 Q. But you didn't know whose vehicle that was?

22 A. No.

23 Q. Did y'all ever discuss him going to work on
24 Sunday?

25 A. No, sir.

1 Q. Did he ever mention anything about calling in
2 sick?

3 A. No, sir.

4 MR. McNAIR: Thanks for being here. That's all the
5 questions I have.

6 THE WITNESS: All right.

7 CROSS EXAMINATION

8 BY MR. CHANDLER:

9 Q. Good morning, Mr. Thomas. How are you doing, sir?

10 A. All right, sir. How you doing?

11 Q. I'm doing well. Thank you for asking. Mr. Thomas,
12 do you remember talking to my associate?

13 A. Yes, sir.

14 Q. And isn't it true that you had indicated that during
15 that time that you spent with Mr. Thomas he was acting
16 normal?

17 A. Yes, sir.

18 Q. You had mentioned that when he came -- I couldn't
19 really - it was unclear to me whether you said he was doing
20 cocaine or both of y'all?

21 A. Both of us.

22 Q. Both of you were?

23 A. Yes, sir.

24 Q. And I know you went to get some moonshine, but were
25 you guys drinking moonshine as well?

1 A. Yes, sir.

2 Q. Doing cocaine and drinking moonshine?

3 A. Yes, sir.

4 MR. CHANDLER: No further questions.

5 THE COURT: Thank you, sir. You're free to go.

6 MS. FULLER: Thank you, Your Honor. The State calls
7 Eddie Butler.

8 Thereupon,

9 EDDIE BUTLER

10 after having been first duly sworn, testified as follows,

11 THE CLERK: Please have a seat. Once you're seated,
12 state your full name spelling your last please.

13 THE WITNESS: Eddie L. Butler, B-u-t-l-e-r.

14 DIRECT EXAMINATION

15 BY MS. FULLER:

16 Q. Good morning, Mr. Butler. Where do you work?

17 A. At Classic Cuts Barber Shop.

18 Q. And where is that located?

19 A. Here in Edgefield.

20 Q. On what street?

21 A. Mims Street.

22 Q. Has it always been called Classic Cuts?

23 A. Yes.

24 Q. I want to talk to you specifically about why you're
25 here today. Do you recall speaking with law enforcement back

1 MR. CHANDLER: Thank you.

2 MS. FULLER: Thank you, Your Honor.

3 THE COURT: Let's have the jury please.

4 (Whereupon, the jury entered the courtroom at 11:08
5 a.m.)

6 THE COURT: The jury is back. Solicitor, call your
7 next witness please.

8 MS. FULLER: Thank you, Your Honor. The State calls
9 Steven Glover.

10 Thereupon,

11 STEVEN GLOVER

12 after having been first duly sworn, testified as follows,

13 THE CLERK: Please have a seat. Once you're seated,
14 state your full name spelling your last please.

15 THE WITNESS: My name is Steven Russell Glover.
16 Last name G-l-o-v-e-r.

17 DIRECT EXAMINATION

18 BY MS. FULLER:

19 Q. Thank you, Mr. Glover. Mr. Glover, do you know the
20 defendant Dameion Thomas?

21 A. Yes, ma'am. I do.

22 Q. How do you know him?

23 A. He's my distant cousin on my grandfather's side.

24 Q. I'm gonna ask you to speak up a little bit.

25 A. I'm sorry. He's my distant cousin on my

1 grandfather's side.

2 Q. So you guys are family?

3 A. Yes, ma'am.

4 Q. Mr. Glover, before we get started, back in 2018 were
5 you convicted of two charges, harassment and indecent
6 exposure?

7 A. Yes, ma'am.

8 Q. And you pled guilty to those charges?

9 A. Yes, ma'am. I did.

10 Q. Mr. Glover, do you also have a drug addiction?

11 A. I did.

12 Q. Okay.

13 A. Yes, ma'am. I did have a drug addiction, crack
14 cocaine. I was using.

15 Q. How long did you have that addiction?

16 A. A lot of years. For over 30 years. A lot of
17 years.

18 Q. And how long have you been clean?

19 A. Since May of this year.

20 Q. This year?

21 A. Yes, ma'am.

22 Q. So back in 2016 you battled with that addiction at
23 that time?

24 A. Yes, ma'am. I did.

25 Q. I want to speak specifically about this case. Back

1 on October 9th, 2016, that's why we are here, around that time
2 did you have an opportunity to be around the defendant Mr.
3 Thomas?

4 A. Uhm, could you repeat the question? I'm sorry.

5 Q. Did you interact with the defendant Mr. Thomas back
6 in October of 2016?

7 A. Yes, ma'am. I did.

8 Q. And as it relates to this case, do you recall seeing
9 him around that time period --

10 A. Yes, ma'am.

11 Q. -- of October 9th, 2016?

12 A. Yes, ma'am.

13 Q. Where were you when you saw him?

14 A. I was at another friend of mine's house. We were
15 sitting around talking. I was using back then and when
16 Dameion came in, I was sitting at the kitchen table, me and --
17 I don't if I can call this other guy's name.

18 Q. You can. Who were you with?

19 A. Calvin. Calvin Henderson. We were sitting --

20 Q. Calvin Hammond?

21 A. Hammond. I'm sorry. Calvin Hammond.

22 MR. CHANDLER: Objection, Your Honor. She's
23 leading. He clearly said Henderson.

24 BY THE WITNESS:

25 A. Well, actually I apologize for that.

1 THE COURT: We'll get clarification on that so
2 overruled. Go ahead.

3 BY MS. FULLER:

4 Q. Did you say Calvin Henderson?

5 A. Yes, ma'am, I did but unintentionally.

6 Q. You mean Calvin Hammond?

7 A. Yes, ma'am.

8 MR. CHANDLER: Objection, Your Honor. Leading.

9 THE COURT: Overruled. We're trying to identify the
10 people. Go ahead please.

11 BY MS. FULLER:

12 Q. So you were at his residence. Go ahead and tell the
13 jury and myself, you left off that Dameion came over?

14 A. Yes, ma'am. He did.

15 Q. How did Dameion -- How would you describe him? How
16 did he look when he came over?

17 A. He might have been kind of nervous or like he might
18 have done something or something.

19 Q. And that was your impression about seeing him?

20 A. Yes, ma'am. Looking at the expression on his
21 face.

22 Q. And then what did he do when he came over?

23 A. When he came over, me and Calvin were sitting at the
24 table and, uhm, he came and asked Calvin can I talk to you for
25 a moment and, uhm, Cal got up from the table and walked to the

1 kitchen probably about 10 feet away from where I was
2 sitting.

3 Q. So say you're at the table and you said 10 feet
4 away?

5 A. Yes, ma'am.

6 Q. Or tell me how far, was it about this far
7 (indicating)?

8 A. Probably. Exact. Something like that right there
9 about where you're at right there. There was no door to the
10 kitchen.

11 Q. So they just moved away from the table you were at
12 to the kitchen area is my understanding?

13 A. Yes, ma'am. From the dining area.

14 Q. Around here?

15 A. Yes, ma'am.

16 Q. And you were sitting at the table?

17 A. Mm-hmm.

18 Q. And what, if anything, happened next?

19 A. Well, he asked Calvin could he talk to him for a
20 moment and I clearly heard him tell Calvin that he had fucked
21 up. Excuse me, but that was his exact word, that he had just
22 killed two people.

23 Q. Okay. And after that what happened?

24 A. Cal came back into the, came into the dining area
25 where I was sitting at. He said, man, did you just now hear

1 what he said, he had done killed two people.

2 MR. CHANDLER: Objection.

3 BY THE WITNESS:

4 A. We didn't really believe --

5 THE COURT: Hold on a second, sir, one second.

6 What's the objection?

7 MR. CHANDLER: Hearsay.

8 THE COURT: Y'all approach.

9 (Side bar off the record.)

10 THE COURT: Objection sustained. Solicitor,
11 rephrase or ask another more specific and narrow question
12 please.

13 MS. FULLER: Thank you.

14 BY MS. FULLER:

15 Q. So after Calvin and Dameion were about 10 feet away
16 from you and your testimony is you heard the defendant say to
17 Calvin, you heard this yourself, that he f'd up, but you said
18 the real word?

19 A. Yes, ma'am.

20 Q. And that he done killed two people?

21 A. Exactly.

22 Q. Okay. After that, did Dameion come out or did
23 Calvin come out first?

24 A. Calvin came out first and Dameion came out walking
25 behind him.

1 Q. Okay. Did Dameion say anything else after that?

2 A. No.

3 Q. How long did Dameion stay?

4 A. Probably maybe 30 or 40 seconds, I guess about
5 something like that and he left.

6 Q. And did Dameion arrive with anybody?

7 A. Yes, ma'am. He did.

8 Q. Was that other individual inside with you guys?

9 A. No, ma'am. He never got out of the vehicle.

10 Q. I'm sorry.

11 A. He never got out of the vehicle. The other guy
12 never got out.

13 Q. So the other person stayed inside the vehicle, he
14 never got out?

15 A. Exactly.

16 Q. Okay. And I'm just repeating to make sure it's
17 clear because for some reason if it's not, I'm not clear,
18 completely clear. After that did you ever tell law
19 enforcement that day what Dameion said?

20 A. No, ma'am. No, ma'am.

21 Q. Do you recall speaking to law enforcement, speaking
22 to the police back in August of 2017 about a year later?

23 A. Yes, ma'am.

24 Q. And that's when you spoke to them?

25 A. Yes, ma'am.

1 Q. Why didn't you immediately call the police and tell
2 them what Dameion said?

3 A. I wasn't gonna get involved in it.

4 Q. And did you reach out to the police to finally tell
5 them?

6 A. Yes. When they came to Aiken County jail where I
7 was.

8 Q. So they came to you while you were being held --

9 A. Yes, ma'am.

10 Q. -- on the charges that you pled to?

11 A. Exactly.

12 Q. While you were being held, they came to you to ask
13 you about it?

14 A. Yes, ma'am. They did.

15 Q. Is that when you told them?

16 A. Yes, ma'am. It was.

17 Q. And why are you now sharing that today, too?

18 A. Mainly because it's the truth. That's one of the
19 reasons why I'm sharing it. It's the truth. I mean, before I
20 just didn't want to get involved in it so since the police
21 came to me and questioned me, I'm not gonna lie about it.

22 Q. Okay. Thank you. And just to be clear, when
23 Dameion came and told you this, the time frame of him saying
24 that, was it, do you know if it was the day of or the day
25 after this happened?

1 A. My guess is probably the day of. The reason why I
2 say that is because I know about two or three days later after
3 he had told Calvin that that I overheard, we saw it on the
4 news.

5 Q. You saw it on the news?

6 A. Yes, ma'am.

7 Q. You saw that two people were killed?

8 A. Exactly. And we started putting things together in
9 our head that he probably is telling the truth.

10 Q. I'm sorry. I'm having a hard time hearing. You
11 said --

12 A. I'm sorry. Me and Calvin started putting things
13 together. After he said that, he's probably telling the
14 truth. He probably did do it.

15 Q. So initially you weren't sure if it was true or not,
16 then you saw it on the news and you're saying you put two and
17 two together?

18 A. Yes, ma'am.

19 Q. I'm just making sure I can hear you. For some
20 reason I'm having a hard time.

21 A. Because my voice is hoarse. I'm sorry.

22 MS. FULLER: No. It's okay. Thank you, Mr. Glover.

23 THE WITNESS: Yes, ma'am.

24 CROSS EXAMINATION

25 BY MR. CHANDLER:

1 Q. Good morning, Mr. Glover. How are you doing?

2 A. Good morning, sir. I'm good. Yourself?

3 Q. I'm well. Thank you for asking. Mr. Glover, you
4 said you were incarcerated when you were talking to law
5 enforcement?

6 A. Yes, sir. I was.

7 Q. And I see you're not incarcerated any more, but yet
8 you were facing indecent exposure charges?

9 A. Yes, sir.

10 Q. Spent some time in jail, in prison, right?

11 A. Yes, sir.

12 Q. And also harassment?

13 A. Mm-hmm.

14 Q. But after talking to them, sharing with what you
15 know, you're out and you're free right now?

16 A. Sir?

17 Q. You're out and you're free right now?

18 A. Yes, sir. Of course.

19 Q. Isn't it true that you told Investigator Smith that
20 this happened early in the afternoon?

21 A. Now, what happened early in the afternoon?

22 Q. Your interactions with my client?

23 A. It was early in the afternoon that he came -- No.
24 It was pushing somewhat right at dark when Dameion came back.
25 Calvin, when me and Calvin was sitting there at the dining

1 room table. It was right at dark. It wasn't quite dark.

2 Q. And today in court under oath you're now saying that
3 you were at Calvin's house?

4 A. Yes, sir. I was.

5 Q. Okay. And where does Calvin live?

6 A. I can't tell you the exact address, but he stay on
7 Highway 19 and I can take you straight to his house right
8 now.

9 Q. On that day were you doing any drugs?

10 A. Yes.

11 Q. What were you doing?

12 A. Crack.

13 Q. Crack cocaine?

14 A. Yes.

15 Q. Does crack cocaine sometimes affect your memory?

16 A. Ain't no affect my memory enough to know what I was
17 listening to seriously. I ain't smoke no more than probably
18 about \$10.00 worth of crack was the amount of money I had.

19 Q. So you had some crack and crack does not affect your
20 memory at all?

21 A. No, sir. Not like -- I don't know really how you
22 mean that.

23 MR. CHANDLER: No further questions.

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

1 MS. FULLER: Your Honor, do I get redirect?

2 THE COURT: Oh, yes. I'm sorry. I didn't realize
3 you had a question. Go ahead please.

4 REDIRECT EXAMINATION

5 BY MS. FULLER:

6 Q. Just to clarify, Mr. Glover, you didn't get any
7 deals or promises from the State on those pending charges that
8 you had in Aiken, correct?

9 A. No, ma'am. I didn't. I did the full time. They
10 gave me three years and I did it.

11 Q. You don't have to get into that. The rules don't
12 require you to do that, but the point is you spoke to the
13 police in 2017 and you didn't plead - you didn't get out until
14 2018, correct?

15 A. Exactly.

16 Q. And we didn't promise you any deals or you didn't
17 get any benefit from testifying or even speaking to the police
18 that day?

19 A. No, ma'am.

20 MS. FULLER: Okay. No further questions.

21 THE COURT: Sir, thank you. Now you can go. Call
22 your text witness.

23 MS. FULLER: The State calls Patricia Bourbeau.
24 Thereupon,

25 PATRICIA BOURBEAU

1 after having been first duly sworn, testified as follows,

2 THE CLERK: Please have a seat. Once you're seated,
3 state your full name spelling your last please.

4 THE WITNESS: Patricia Bourbeau, B-o-u-r-b-e-a-u.

5 DIRECT EXAMINATION

6 BY MS. FULLER:

7 Q. Thank you, Ms. Bourbeau. Where are you currently
8 employed?

9 A. With the South Carolina Department of Motor
10 Vehicles.

11 Q. What is your position there?

12 A. I'm the branch manager.

13 Q. Which branch do you currently manage?

14 A. The North Augusta branch.

15 Q. For this case does the South Carolina Department of
16 Motor Vehicles receive a subpoena as it relates to Charles and
17 Andrea Deas?

18 A. Yes, ma'am.

19 Q. Were you the individual that they sent to come here
20 to testify today as to those records that are maintained by
21 the Department of Motor Vehicles?

22 A. Yes, ma'am.

23 Q. Did you have an opportunity to review those records
24 before coming here today?

25 A. I did. Yes, ma'am.

1 me with my investigation. I was able to determine that the
2 barrel did have some manufacturer's marks. It had the
3 manufacturer as well as a model that the gun barrel could have
4 come from along with a caliber as well.

5 Q. So were you able to determine what make and model
6 weapon that barrel came from?

7 A. Yes, sir. The writing on the barrel indicated it
8 was a CBC or Mossberg. CBC is a company that actually made
9 it. It's a Brazilian company imported by Mossberg which is a
10 United States company, and they also had a model of 702 which
11 is a semi automatic rifle, and also had a caliber listed .22
12 long rifle caliber. It also had a number that I found on the
13 barrel which could possibly indicate the serial number of the
14 firearm. Now, the firearm itself would have a serial number
15 on the receiver so that's actually considered a firearm, but
16 other parts of firearms could have a serial number that may
17 match what's on the receiver itself. Being this is the only
18 component of the firearm that I received, I recorded the
19 number as a possible serial number.

20 Q. So it was a Mossberg semi automatic .22 caliber
21 rifle?

22 A. That's correct.

23 Q. When you talk about the receiver, what part of the
24 gun is that?

25 A. The receiver is basically the frame.

1 same lab number. In this case it is L1614083 and it contains
2 sub items which are particle lifts that I analyzed.

3 Q. Who did you receive those items from?

4 A. I would have received - I received them twice
5 because I received them from Ila Simmons and then I received
6 them again when they were resubmitted. I think they came up
7 through Jaime Hall.

8 Q. Okay. Can you tell us what item 16.1 is in State's
9 55?

10 A. 16.1 which is in this package in one of these boxes
11 is a particle lift collected from the right black, gray and
12 white Nike shoe.

13 Q. Did you analyze that particle lift?

14 A. I did.

15 Q. What did you find?

16 A. I analyzed the particle lift from the right shoe and
17 I found particles characteristic of gunshot primer residue.

18 Q. All right. And item 17.1, what is that item
19 described as?

20 A. 17.1 is a particle lift collected from the left
21 black, gray and white Nike shoe.

22 Q. What did you find on that item?

23 A. On 17.1 I also found particles characteristic of
24 gunshot primer residue.

25 Q. Item 23.1, how is that described?

1 A. 23.1 was a pair of black pants with a white stripe
2 down each leg was item 23, and 23.1 were the particle lifts
3 collected from the pants.

4 Q. What did you find on those pants?

5 A. On the particle lift collected from the pants I
6 found particles characteristic of gunshot primer residue.

7 Q. And let me show you now State's 99 and ask you if
8 you recognize this or can identify it?

9 A. This is the same packaging with the laboratory
10 number also contained their number to let you know there were
11 multiple items within this package. These are particle lifts
12 that were collected from a gray shirt and they have my
13 initials and date on them when they came into my custody for
14 analysis.

15 Q. Who conducted those particle lifts?

16 A. Who conducted them?

17 Q. Who did them?

18 A. Collected them?

19 Q. Collected them.

20 A. These were collected by the technician in the trace
21 section. Her name is Jaime Hall and she collected them in my
22 presence while I was taking notes for the case.

23 Q. Did you analyze those items as well?

24 A. I did.

25 Q. What were your results regarding those items

1 specifically 21.1?

2 A. So item 21 was a long sleeve gray, you specified a
3 gray T-shirt. Particle lifts were collected from it and I
4 found particles characteristic of gunshot primer residue on
5 the shirt.

6 Q. How many particles did you find on the shirt?

7 MR. McNAIR: Your Honor, while she's looking for
8 that, we would offer State's 99 into evidence at this
9 point.

10 THE COURT: Any objection to State's 99?

11 MR. CHANDLER: Without objection, Your Honor.

12 THE COURT: It's in evidence.

13 BY THE WITNESS:

14 A. May I elaborate on that answer?

15 BY MR. McNAIR:

16 Q. Mm-hmm.

17 A. When you say how many did I find, the particle lifts
18 are analyzed using a scanning electron microscope. We load,
19 what we call load the instrument, so we put our samples into
20 the instrument, set up the parameters for where we are telling
21 the instrument to analyze. So it uses an electron beam which
22 is kind of like a beam of light to go over each area of the
23 particle lift. It determines, it may say, okay, I found 20
24 particles that I have said, the instrument tells us are what
25 your specifications are for gunshot residue. We as the

1 analyst have to go back in, relocate all those particles and
2 take an x-ray of them to determine if they really truly are a
3 three component particle because the way a scanning electron
4 microscope works some elements such as calcium, arsenic and
5 titanium can interfere. They have close peaks with the peaks
6 of interest that we look for. So sometimes it's doing a quick
7 scan and it may see titanium and classify it as barium so as
8 the analyst we have to go back and determine which ones truly
9 are the gunshot primer residue so in this case on the shirt
10 I went back to 12 particles and confirmed those 12 particles
11 as primer gunshot residue.

12 Q. Were there potentially more and you just stopped at
13 12?

14 A. There could be. Yes, sir.

15 Q. What area of the shirt was particles located on?

16 A. When we collect from shirts, this shirt was a pretty
17 large shirt. Normally we collect from the chest and the
18 sleeves, in this case since it was large and the way you
19 collect them, if you can see these, that tiny bottom part of
20 it has adhesive on it so there's only so much adhesive that
21 can be used before it's not gonna pick up anything so in this
22 case we collected from the right and left sleeve, the right
23 and left chest and the cuffs of the shirt.

24 Q. Did you find gunshot particles on all of those
25 locations?

1 A. I did.

2 Q. What does that indicate to you?

3 A. That that shirt was potentially in the vicinity to
4 the discharge of a firearm.

5 Q. I'll show you one more item. State's 100. Can you
6 identify that?

7 A. Yes, sir. This is the GSR kit that I was checking
8 from a gray Hyundai Sonata.

9 Q. Did you analyze a lift that was collected from the
10 steering wheel of that vehicle identified as SLED item 27.3?

11 A. I did.

12 Q. What were your results?

13 A. On the sample that was collected from the steering
14 wheel of the gray Hyundai Sonata which was item 27.3 I found
15 one particle of gunshot primer residue.

16 Q. All right. So the fact that you found gunshot
17 residue on every article of clothing that was submitted to you
18 as being worn by the defendant, what does that indicate to
19 you?

20 A. That that clothing was potentially in the vicinity
21 to the discharge of a firearm.

22 Q. Just to clarify, when you say in the vicinity,
23 you're including somebody who had fired the firearm, right?

24 A. Correct. Firing it or being in the vicinity to the
25 discharge of that firearm.

1 MR. McNAIR: That's all the questions I have. Thank
2 you.

3 THE COURT: Mr. Chandler.

4 CROSS EXAMINATION

5 BY MR. CHANDLER:

6 Q. Good afternoon.

7 A. Hey.

8 Q. If the clothes are in a bag --

9 A. Can you speak up a little bit?

10 Q. If the clothes are in a bag --

11 A. Yes, sir.

12 Q. --could the gunshot and clothing within the bag,
13 could gunshot residue be transferred from one item of clothing
14 to another if they were kept in an enclosed in bag?

15 A. It can be. If we receive - like if I receive pants
16 and a shirt and a jacket and they're all in one bag and I find
17 gunshot residue, I report it as one item because I don't know
18 which item it originated from. Usually when we receive
19 evidence it is in its own individual bag.

20 Q. Right. But if it was originally found there, when
21 commingled they could spread GSR throughout each item?

22 A. That could happen. Yes.

23 Q. You went through some of the items that you tested.
24 I had a few questions about some that you tested as well.
25 Item 17.1, did you test that?

1 A. Yes, sir. I did.

2 Q. And what were your results on that?

3 A. You're speaking of the particle lift from the left
4 shoe?

5 Q. That is correct.

6 A. Yes. I found particles characteristic of gunshot
7 primer residue.

8 Q. On particle 17.1?

9 A. Yes.

10 Q. When did you find that?

11 A. I'm sorry.

12 Q. When did you find that?

13 A. When did I find it?

14 Q. What date that you tested?

15 A. This was done on a supplemental report. Excuse me
16 while I find the exact date for you. Now, the particle lifts
17 from 16 and 17 which were the two shoes, they were collected
18 on 10/18/2016 and at that time we did not analyze them. We
19 had several correspondences back and forth and we had only
20 analyzed some of the clothing. They were then resubmitted and
21 at that time is when I analyzed them.

22 Q. And when were they resubmitted?

23 A. They were resubmitted on or about 8/22/2019.

24 Q. What was that again?

25 A. On or about 8/22/2019, sometime around there.

1 Q. When did you complete your testing and give your
2 results?

3 A. The particle lifts went onto the instrument on
4 8/23/2019 and I completed that run on 8/30/2019.

5 Q. When did you finally issue your report?

6 A. The supplemental report was approved by another
7 examiner on September 10th, 2019.

8 Q. Collected in 2016 and a report was submitted in
9 2019?

10 A. That is correct.

11 Q. Item number 16, did you test item number 16?

12 A. I did not test item 16. I tested the particle lift
13 that was collected from item 16.

14 Q. What was the result from that?

15 A. That was particles characteristic of gunshot primer
16 residue were found.

17 Q. When did you test that one again?

18 A. I tested those the same time I tested item 17.1.

19 Q. Pardon me?

20 A. I tested them the same time I tested 17.1.

21 Q. Item number 23, when did you test that?

22 A. Item 23?

23 Q. Yes.

24 A. Item 23 was the black pants with the stripe down
25 each leg. I did not test the pants. I tested the particle

1 lifts that were collected from the pants and they were tested,
2 the run that they were put on was on December 9th, 2016.

3 Q. What were the results?

4 A. The results on 23.1 were particles characteristic of
5 gunshot primer residue were found.

6 Q. Item number 26, when was it tested?

7 A. Item 26 was a black head wrap. The particle lifts
8 were collected from it in 2016. It was resubmitted and tested
9 the same time I tested the shoes.

10 Q. When was that?

11 A. The run for that one went on 8/23/2019.

12 Q. Received in '16 but tested in 2019?

13 A. Originally received in '16, collected in '16, and
14 then resubmitted and tested in 2019.

15 Q. Item number 27, what was that?

16 A. 27?

17 Q. Yes.

18 A. 27 was a GSR kit collected from a gray 2015 Hyundai
19 Sonata.

20 Q. Were particles from that testing, tested from that
21 vehicle tested?

22 A. They were. There were four particle lifts submitted
23 from that vehicle.

24 Q. What were the results of that?

25 A. For the particle lift from the driver's door handle

1 interior there was no gunshot primer residue found.

2 Q. So none on the handle?

3 A. Not on the driver's door handle interior. The
4 particle lift labeled driver's door armrest, there was no
5 primer gunshot residue found. The particle lift labeled
6 steering wheel, there was one particle of gunshot primer
7 residue found and the particle lift labeled gear shift there
8 was no gunshot primer residue found.

9 Q. None on the gear shift?

10 A. No, sir.

11 Q. Item number 28, when was that collected?

12 A. 28 was a red and black Nike shoe. They were
13 collected in 2016, the particle lifts were collected from the
14 shoes.

15 Q. When were the particles tested?

16 A. They were not tested.

17 Q. So what did you test and give results to in 2019?

18 A. In 2019?

19 Q. Yes.

20 A. The report was approved on September 10th, 2019.

21 Q. What items were tested then?

22 A. The items that were tested at that time were 16.1,
23 17.1. There were several shirts that were inventoried but no
24 analysis was performed on them.

25 Q. None were performed on those shirts?

1 A. On those specific shirts because we opened each
2 individual package to observe the shirt to determine if it was
3 long or short sleeved. We were only interested in a long
4 sleeved shirt is the information I was given to test. So if I
5 opened up the bag, broke the seal and pulled the shirt out and
6 it was short sleeved, all I did was inventory it and not do
7 any analysis on it. So item 18 was a short sleeved gray
8 T-shirt and I did no analysis. Item 20 was a sleeveless gray
9 T-shirt. I did no analysis. Item 21 was a long sleeved gray
10 T-shirt, particle lifts were collected from it and I performed
11 analysis on those.

12 Q. And just in summary, what about the items that were
13 tested in 2016?

14 A. The items that were tested in 2016 are in the
15 original report that was issued. We do not add them to the
16 supplemental report, it's only the additional information.

17 Q. What were those items again?

18 A. The ones that were originally tested?

19 Q. Yes.

20 A. The items that were originally tested were, we had
21 the shoes and we collected particle lifts from them, but we
22 did not perform an analysis. So I analyzed particle lifts
23 collected from a pair of black pants with a stripe down the
24 side, there was a head wrap we collected particle lifts from
25 but we did not perform the analysis at that time, a GSR kit

1 from a 2015 Hyundai Sonata was analyzed in 2016, and there was
2 also item 28 was not analyzed at that time which were particle
3 lifts from another pair of Nike shoes.

4 MR. CHANDLER: Your Honor, at this time the defense
5 would ask that both of those reports be entered as
6 defense exhibits.

7 THE COURT: Any objection?

8 MR. McNAIR: Can we approach?

9 THE COURT: Sure.

10 (Side bar off the record.)

11 THE COURT: We'll hold off on ruling on that request
12 and address that at the end of business today is we could
13 please.

14 MR. CHANDLER: No further questions.

15 THE COURT: Redirect.

16 MR. McNAIR: Real quick.

17 REDIRECT EXAMINATION

18 BY MR. McNAIR:

19 Q. Lieutenant Nates, the items I guess that were
20 submitted to SLED that were particle lifts collected, they
21 were received by SLED individually bagged, correct?

22 A. Which items?

23 Q. The two shoes that tested positive for GSR, the long
24 sleeved gray shirt and the black pants, when they were
25 received by SLED, they were in individual bags, correct?

1 A. They were which is why we reported the shoes
2 separately because they were in individual bags as were all of
3 the shirts.

4 Q. So based on that way they were bagged, there was no
5 risk of transfer between those items?

6 A. Not how they were received to us. No.

7 Q. Now, some items were received back in 2016 and y'all
8 did particle lifts on them at that time but they weren't
9 actually tested?

10 A. That is correct.

11 Q. But when the particle lifts are done by Ila Simmons
12 or whoever, those particle lifts were then bagged and sealed,
13 correct?

14 A. They are. If this is the original container that
15 she placed the particle lifts in and within it is a holder for
16 particle lifts that is sealed and initialed, so the particle
17 lifts are placed inside of it, the lid is closed, and then
18 they're sealed in the bag.

19 Q. So even though you didn't test them in 2016, when we
20 made the decision to send them back for testing this year,
21 they were still bagged and sealed, correct?

22 A. They were. And we would not have analyzed them had
23 our seals been broken because we don't know what would have
24 happened to them had the seals not been intact.

25 Q. Now, he asked you about the possibility of transfer,

1 but you testified earlier that based on the number and
2 location of the particles on the shirt does that indicate
3 transfer from one item to another to you?

4 A. Not in my opinion. No.

5 Q. In your opinion that was somebody in the vicinity of
6 a fired weapon, correct?

7 A. Correct.

8 Q. Including somebody who could have shot that
9 weapon?

10 A. Yes.

11 MR. McNAIR: Thank you.

12 THE COURT: Brief recross.

13 RECROSS EXAMINATION

14 BY MR. CHANDLER:

15 Q. Now, Lieutenant Nates, you have no way of knowing
16 what condition and what way each item was found when it was
17 first collected?

18 A. I do not. I only now how I receive it to the lab.

19 Q. All right. So you wouldn't even know if it was next
20 to items of clothing would you like in a bag?

21 A. I have no knowledge of that.

22 Q. Just to be clear, there were a number of items that
23 were submitted that were not requested to be tested?

24 A. Yes. I had several in this case short-sleeved
25 T-shirts or sleeveless T-shirts that I did not test.

1 MR. CHANDLER: Thank you.

2 MR. McNAIR: Can I ask one quick brief redirect?

3 THE COURT: Sure.

4 REDIRECT EXAMINATION CONTINUED

5 BY MR. McNAIR:

6 Q. Lieutenant Nates, did you actually see a picture
7 from a video of the defendant in this case?

8 A. I did. I was emailed a picture to help me determine
9 which shirt I needed to test.

10 Q. Right. Is that why you decided to test the long
11 sleeved gray shirt?

12 A. Yes. After seeing the picture and speaking with the
13 Solicitor, I was only looking for a long sleeved shirt.

14 MR. McNAIR: Thank you.

15 THE COURT: Agent Nates, you're free to go. Thank
16 you very much for coming. Have a good day. Call your
17 next witness please.

18 MS. FULLER: Thank you, Your Honor. The State calls
19 Catherine Leisy.

20 Thereupon,

21 CATHERINE LEISY

22 after having been first duly sworn, testified as follows,

23 THE CLERK: Please have a seat. Once you're seated,
24 state your full name spelling your last please.

25 THE WITNESS: Catherine Leisy, L-e-i-s-y.

1 Q. So referring to Andrea Deas first, can you describe
2 to the jury her gunshot wounds?

3 A. Yes. There was a bullet fragment in the left front
4 of the skull, a bullet, and a lot of the skull was absent, but
5 we could see an entrance gunshot wound in the left back of the
6 skull.

7 Q. What, if anything, did that indicate about where she
8 was shot in terms of her body?

9 A. Bullets go straight so this particular bullet went
10 from back to front.

11 Q. So Andrea Deas, that gunshot wound that you
12 identified in her skull was from the back of her head to the
13 front?

14 A. Correct.

15 Q. Regarding her second gunshot wound, what did the
16 x-ray reveal?

17 A. There was a bullet in the left - in the right chest
18 cavity.

19 Q. And since the bullet was left in the right chest
20 cavity, what, if anything, would that indicate in terms of how
21 she was shot in the chest?

22 A. It's difficult to know, but a lot of the left chest
23 was charred away, but there were wounds in the heart and the
24 right lung and the left lung so it looked like the bullet went
25 basically left to right and back to front.

1 Q. So that would say that she was shot in the back and
2 the bullet path was from left to right?

3 A. The left back, left side towards the back and ended
4 up in the right chest.

5 Q. In regards to time of death, is that something you
6 can normally determine from an autopsy?

7 A. No.

8 Q. In this case were you able to determine, you
9 described that her body was burned, were you able to determine
10 whether or not she was alive at the time of the burning or was
11 she deceased at that time?

12 A. She was deceased.

13 Q. What indication of that from your examination was
14 present?

15 A. The fact that she did not have soot in her airways.
16 If you die within a house fire, then you're breathing in smoke
17 and the soot deposits in the airway.

18 Q. Can you explain to the jury what exactly is soot? I
19 know that's not commonly understood.

20 A. Smoke.

21 Q. Just smoke?

22 A. From a fire. Yes.

23 Q. And as it relates to Andrea Deas, you indicated
24 there was no indication of soot, that she was deceased at the
25 time of the fire?

1 A. Correct.

2 Q. Could she have just been deceased for several hours
3 prior to that fire?

4 A. Yes.

5 Q. I want to take a look at her stomach. Can you
6 describe whether or not her stomach was intact?

7 A. It was intact and it held a small amount of liquid
8 which could have been bile. No food. No food fragments.

9 Q. So there was no food present in her stomach?

10 A. Correct.

11 Q. Looking at the overall autopsy that you performed as
12 it relates to Charles Deas, you indicated, you confirmed that
13 he was Caucasian. Was his teeth and eyes also charred?

14 A. Correct. Yes.

15 Q. You indicated, can you tell me whether or not any
16 hair was present?

17 A. I didn't see any hair. No.

18 Q. You described in this case that you also had to do
19 an x-ray on him?

20 A. Yes.

21 Q. What, if anything, did the x-rays reveal?

22 A. Saw fragments of bullets in his head in the right
23 mandible and the base of the left skull and then a bullet, a
24 couple bullets in the chest.

25 Q. So looking at the gunshot wounds of the head, can

1 you go ahead and describe to the jury what, if anything, you
2 can tell from the path of travel of those gunshot wounds?

3 A. A lot of the skull was fragmented away and charred
4 so we couldn't, didn't have any exact entrance wounds in his
5 remaining skull, but we found one, some fragments of bullet in
6 the right jaw and some in the base of the skull on the left
7 side which indicates to me that the projectile probably went
8 from the back or the top of the head forward and downward.

9 Q. So it either would come from the back where I'm
10 pointing to my head or the back, the top of the skull or the
11 lower back of the head?

12 A. Yes.

13 Q. So you're indicating that based on where the
14 fragments were located it appears that he was shot from the
15 back in the back of the head?

16 A. He could have been. Yes.

17 Q. Again, in terms of the gunshot wounds of the chest,
18 what exactly did the x-rays reveal?

19 A. The bullets, there were two bullets under the skin
20 of the, under the right lateral chest, skin of the right
21 lateral chest.

22 Q. What, if anything, did that indicate in terms of the
23 path of travel of that projectile?

24 A. Well, again, some injury was to the lungs and heart,
25 mostly the right. So in the left chest it was greatly charred

1 away so again those bullets probably went left to right and
2 probably sort of towards the back to the front.

3 Q. So that's confirming that the chest shots were also
4 from the back and then the bullet path was from left to
5 right?

6 A. The left side towards the back.

7 Q. The left side. The same question for Charles as I
8 did for Andrea, could you determine whether or not he was
9 deceased prior to the fire?

10 A. Yes. Again, he did not have soot in his airway.

11 Q. In regards to both individuals, were you able to
12 determine, see any signs of decomposition?

13 A. No.

14 Q. What, if anything, would that indicate?

15 A. It would indicate that there was a long period of
16 time between the death and the fire, but that's very dependent
17 on the temperature and other factors.

18 Q. So they could have been dead within several hours of
19 that fire?

20 A. Yes.

21 Q. And not beyond 24 hours?

22 A. I wouldn't think so.

23 Q. Because there was no signs of decomposition.

24 In regards to Charles' stomach, can you tell me whether or not
25 his stomach was intact as well?

1 MADAM FORELADY: (Proffering.)

2 THE COURT: Mr. Reel, publish please, sir.

3 THE CLERK: The State of South Carolina, County of
4 Edgefield. State of South Carolina, Plaintiff, versus
5 Dameion Edwin Thomas, Defendant. Court of General
6 Sessions. Indictment numbers 2017-GS-19-063 and 064.
7 Count number 1, we, the jury, find in the above captioned
8 case on the murder charge - on the charge of murder of
9 Andrea "Andie" Deas unanimously find Dameion Edwin Thomas
10 guilty. Charge number 2, we, the jury, in the above
11 captioned case on the charge of murder of Charles "Buddy"
12 Deas unanimously find Dameion Edwin Thomas guilty.
13 Signed by Ms. Finley, the foreperson.

14 THE COURT: Ladies and gentlemen, if this is your
15 verdict, please indicate by raising your right hand. The
16 record will reflect all 12 hands went up. Anything prior
17 to discharge of the jury from the State?

18 MS. FULLER: No, sir, Your Honor.

19 THE COURT: Anything from the defense?

20 MR. CHANDLER: Your Honor, the defense would
21 respectfully ask the jury be polled.

22 THE COURT: Ladies and gentlemen of the jury, in a
23 moment the Clerk of Court is gonna poll you individually.
24 What he's going to do is will call your name. When your
25 name is called, just raise your hand. He's gonna ask you

1 Mr. Thomas, the family over here, Mr. Deas,
2 Mr. Sanford, what they said to me was that they feel like
3 this was a betrayal. I have no doubt that you and Buddy
4 were friends and I wish I could answer that question of
5 why. I've been struggling with that throughout this
6 trial, but maybe it doesn't matter. I mean, maybe it
7 just does not matter why this happened. It's tragic
8 enough that it happened and so perhaps it doesn't really
9 mean anything to know why.

10 Mr. Thomas, you killed two people, okay? You burned
11 their bodies. You tried to get away with this. You took
12 away all of their tomorrows. That's what I am saying,
13 and in light of everything that I have heard, even though
14 you don't have a substantial prior criminal history, Mr.
15 Thomas, I think the most appropriate sentence in this
16 case is, in fact, life on both counts. So that would be
17 the sentence of the Court. You are committed to the
18 Department of Corrections for the balance of your life.

19 I do wish you luck, Mr. Thomas. Just to let you
20 know, you have 10 days to file any notice of intent to
21 appeal, one year after exhaustion of any appeals you can
22 file any action for post conviction relief so if you want
23 to file a notice of intent to appeal, you need to tell
24 your attorney to do it today, okay, sir?

25 DAMEION THOMAS: Yes, sir.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

s/Tyrone J. Walls

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ATTORNEY FOR APPELLANT

RECEIVED

Feb 19 2021

SC Court of Appeals

This 18th day of February 2021

RECEIVED**Feb 19 2021****SC Court of Appeals**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Frank R. Addy, Circuit Court Judge

Case No. 2019-001794

The State, ... Respondent,

v.

Dameion E. Thomas, ... Appellant,

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon W. Joseph Maye, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is, DDAlessio@scag.gov, this 18th day of February, 2021.

Respectfully Submitted,

S/ Tyrone J. walls

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