

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Appeal from Greenville County
Honorable Robin B. Stillwell, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

CURTIS ALLEN BABB,

APPELLANT

APPELLATE CASE NO 2019-001529

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 5 (VIDEO OF EXTERIOR OF VICTIM’S HOUSE)
STATE’S EXHIBIT NO. 28 (CD)
STATE’S EXHIBIT NO. 39 (AUDIO OF WIDEMAN’S INTERVIEW)
STATE’S EXHIBIT NO. 42 (VIDEO RECORDING OF LOOPER’S INTERVIEW)

1 don't have it. So if she's saying it's available,
2 that's fine, maybe we could just walk back when we
3 have a minute and she can show it to me.

4 THE COURT: Yeah, that's fine. Again, you look
5 at it over lunch and if there's an issue that
6 remains, then bring it up before we qualify our jury.
7 Before we pick our jury, okay.

8 MS. HENRY: All right, give me one second. All
9 right, it's essentially the same motion related to
10 the shotgun. So, essentially, as far as I'm aware of
11 the State's facts that Connell Wells is one of their
12 witnesses and was at one point a co-defendant. He
13 claims that he was shot in the knee during like the
14 last part of -- or by Curtis Babb, who's my client.
15 There is no forensic evidence at the scene or
16 anything else to corroborate this. This is just part
17 of Mr. Wells' version of events. They -- it's
18 essential -- so they never charged Curtis Babb with
19 the shooting of Connell Wells with the shotgun. He's
20 not on the docket for it. They never indicted him
21 for it. It's my position that any introduction of
22 any evidence related to the shotgun is a prior bad
23 act and would not be admissible.

24 THE COURT: Okay. All right. What evidence of
25 the shotgun do you intend to introduce?

1 MS. OWENS: Well, Your Honor, as the facts -- as
2 they're presented, I think the Court will learn a
3 little bit more about the incident. The short of it
4 is, three people entered into this house on Cox
5 Street. At some point during that home invasion,
6 Mr. Wells was shot. He was transported back to
7 Shemwood Crossing, which is an apartment complex in
8 the city limits. The city police responded to a 911
9 call of a shooting at Shemwood Crossing and arrived
10 to find Mr. Brown and Mr. Wells in one of the
11 apartments.

12 Mr. Wells was transported to the hospital,
13 treated for that shotgun wound. Some shotgun
14 wadding, pellets and material were collected from the
15 apartment at Shemwood Crossing. Of course, that
16 report, photographs and all evidence related to that
17 city case has all been made available to the Defense.
18 So, the evidence is going to be that Mr. Wells was
19 shot with a shotgun at some point.

20 About a week later --

21 THE COURT: I presume that he had wounds
22 consistent with that?

23 MS. OWENS: I believe so, Your Honor. I believe
24 there were quite graphic, quite severe.

25 About a week later, perhaps, two weeks later,

1 the sheriff's office were assisting Mauldin Police
2 Department in investigating a series of robberies in
3 Mauldin. They conducted a search warrant at a house
4 on Shirley Street in the county and during that
5 search warrant uncovered a variety of handguns, one
6 of which was a shotgun. The police interviewed the
7 person who was the target of that search warrant, the
8 target of those robberies, who, ultimately, was
9 charged and pled guilty to those robberies, about
10 each of the guns and, in turn, referenced this
11 particular shotgun. It was that defendant's recorded
12 statement to police, that Mr. Babb delivered that
13 shotgun to him and asked him to hold it.

14 Now, the next day, Investigator McCalmont spoke
15 with Connell Wells again and this time for the
16 purpose of identifying more information, more details
17 about the shotgun. It was noted by Investigator
18 McCalmont and a variety of law enforcement officers
19 in the case that Connell Wells described the shotgun
20 as a bolt action shotgun. This is apparently a
21 particularly unusual type of shotgun. The fact that
22 the shotgun retrieved from the house on Shirley
23 Street is also a bolt action shotgun, that, according
24 to the person in possession of it, was received by
25 Curtis Babb. It is that defendants -- he has a

1 relationship with a relative of Mr. Babb, Deashia
2 Babb, or had at the time. That is the connection.

3 So, it is probative, of course, to this
4 Defendant's role in this home invasion having been
5 armed with the shotgun, as the evidence will be, that
6 a shotgun was connected to him just a few days later
7 and happens to be a victim's particularly unique
8 variety. So, that is why that gun is probative.

9 MS. HENRY: Your Honor, just really, really
10 briefly.

11 THE COURT: Yes, ma'am.

12 MS. HENRY: I apologize. Okay, we're not
13 arguing that Wells was not at some point shot with a
14 shotgun. We're not. Okay, no one's arguing he has
15 an injury to his knee, that he was potentially got
16 with a shotgun. What we're arguing is they never
17 tested it, they never fired it, they never compared
18 it to what was in Wells' leg.

19 In addition, there's no evidence that it was
20 ever fired in -- during the commission of this crime.
21 There is no forensic evidence that shows a shotgun
22 was ever fired inside [REDACTED] Cox Street, which is where
23 this crime happened. There's no blood splatter,
24 there's no shotgun pellets, there's zero to support
25 that a shotgun was ever fired as part of this.

1 So, whether Wells was shot or not, like bringing
2 all this evidence in and allowing Wells to testify to
3 and everybody else, what they're testifying to is
4 potentially a prior bad act or a later bad act,
5 however you want to think about it. A crime --
6 something that's complete not associated with this,
7 that just threw shade at my client.

8 THE COURT: Where was the shotgun found?

9 MS. HENRY: At somebody else's house. No
10 fingerprints link back to my guy, nothing.

11 THE COURT: Except -- what is the evidence that
12 links it to the crime, Mr. Wells, potentially?

13 MS. HENRY: Yes, that's it.

14 MS. OWENS: Mr. Looper, the person who had the
15 shotgun, is, of course, prepared to say that the
16 shotgun came from Curtis Babb, that he asked him to
17 hold it for him.

18 MS. HENRY: That's also not my understanding. I
19 interviewed Mr. Looper in the past two weeks and he
20 says that that is not true.

21 THE COURT: So, we've got some disagreement as
22 to what the evidence is going to show in this case at
23 this point, right? So, it's difficult for me to rule
24 in limine in a vacuum without understanding the
25 context in which it may be introduced. I agree that

1 unlike our previous motion, this could be construed
2 as a prior bad act, so we have to look at it in
3 context with Rule 404.

4 So, it may fall into a exception, ultimately, if
5 we can -- if it is determined that it is relevant.
6 It may be admissible under a 404(b) analysis to show
7 identity or the existence of common scheme of plan or
8 intent. It may be. That remains to be seen. I
9 don't know yet and I can't make an intelligent
10 decision with respect to that issue yet. So, what
11 we'll have to do is make those objections
12 contemporaneously and then take it up in context with
13 the evidence that's been admitted at the time.

14 MS. HENRY: Your Honor, I don't think that I
15 have any other motions. Thank you very much, I
16 appreciate it.

17 THE COURT: Yes, ma'am.

18 Mr. Robinson.

19 MR. ROBINSON: May it please the Court?

20 THE COURT: Yes, sir.

21 MR. ROBINSON: Judge, the first motion I have is
22 a motion to suppress evidence of flight in this case.
23 I'm expecting them to try to use -- he is from
24 Baltimore.

25 THE COURT: Let me ask a question first.

1 THE CLERK: Please stand and the correct
2 response will be, I will.

3 (WHEREUPON, the jury was sworn.)

4 THE COURT: All right, Ms. Gary, Ms. Owens.

5 OPENING STATEMENT

6 MS. GARY: Thank you, Your Honor, may it please
7 the Court.

8 Good afternoon, ladies and gentlemen. This case
9 is all about what happened on December 8th of 2016 at
10 [REDACTED] Cox Street. That is a home here in Greenville
11 County and what some people call the Poe Mill
12 community. The evidence in this case will show you
13 that in the early morning hours of that day, James
14 Moss, who lived in that home, was startled by the
15 sound of his front door being kicked in, and then he
16 heard gunshots. He hid in his closet until the
17 voices and the commotion in his house were gone. He
18 immediately ran out the back door and drove to nearby
19 Poinsett Highway where he called the police.

20 When the Greenville County responded to that
21 home, they found Clinton Pearson deceased in the
22 front room of that home. Greenville County Sheriff's
23 investigators and forensics units responded and
24 throughout their investigation, later determined that
25 Mr. Pearson had been killed during a botched armed

1 robbery. They also determined that Mr. Pearson was
2 killed by three people, Connell Wells, Curtis Babb
3 and William Brown.

4 Necessarily, anything that happens between the
5 hours of 2:00 and 3:00 in the morning is going to be
6 under the cover of darkness. In December, you don't
7 expect a lot of people to be outside on their porches
8 or meandering through the streets. The evidence will
9 show you that [REDACTED] Cox Street sits at the end of Cox
10 Street. That's a dead end road. It is for those
11 reasons why cases like this are rarely ever solved
12 unless they're solved from the inside out. And
13 that's what happened in this case.

14 The judge has already mentioned to you that you
15 will hear several different kinds of evidence in this
16 case. And we've already told you you're going to
17 hear from several witnesses from the State. They
18 will testify. You will see some video and some
19 photos. You will have some actual tangible objects
20 to hold in your hand. You will hear from the inside.
21 You'll hear from several people who spoke to both
22 Curtis Babb and William Brown in the hours, the days
23 and the weeks immediately following Clinton Pearson's
24 murder.

25 The judge has already told you that we, as the

1 State, have the burden of proof in each and every
2 criminal case to prove both Defendants guilty of all
3 five crimes. That means at the end of this case, we
4 have to have left each of you firmly convinced of
5 each man's guilty. I find it helpful at the
6 beginning of the trial to know what it is that we
7 have to prove to you before the evidence is presented
8 to you.

9 The judge told you that each man is charged with
10 burglary in the first degree. That means that we
11 have to prove to you that each man broke in or
12 entered into a home of another person, at night, with
13 the intent to commit a crime while he was inside.

14 The judge also told you that each man is charge
15 with attempted armed robbery. For that charge, we
16 must prove to you that each man attempted to take
17 something of value from another person and while
18 doing so, was armed with a weapon.

19 Each man is also charged with conspiracy. We
20 must prove to you that these two men combined with
21 two or more people -- excuse me, when there's a
22 combination of two or more people to do an unlawful
23 act. I think possession of a weapon during the
24 commission of a violent crime is fairly
25 self-explanatory. I don't know how else I could say

1 it to you. But that is the fourth charge with which
2 each man is charged.

3 And finally, each man is charged with Clinton
4 Pearson's murder. Under our law, that means we must
5 prove to you that each man unlawfully killed
6 Mr. Pearson with malice aforethought.

7 You may be wondering how three people could have
8 been charged with Mr. Pearson's murder. In South
9 Carolina, we recognize a doctrine called accomplice
10 liability. Sometimes we refer to it as the hand of
11 one is the hand of all. The judge will tell you
12 about this later, but I wanted you to know at the
13 outset what that means, that means when two or more
14 people combine to commit a crime and one of them
15 commits a homicide, each of them is as guilty of that
16 homicide as if they were the shooter themselves.

17 Ladies and gentlemen, we appreciate your
18 service, we appreciate your time and your attention.
19 We look forward to the chance to come talk to you
20 again. Thank you so much.

21 THE COURT: Ms. Henry.

22 OPENING STATEMENT

23 MS. HENRY: All right, ladies and gentlemen, I
24 represent Curtis Babb. I just want to make that
25 really clear before we start. I know that it can get

1 confusing when you've got multiple co-defendants.
2 So, my client, Curtis, did not do this. I'm going to
3 keep it real clear for you. Essentially, what our
4 case is, is that Curtis was not there, Curtis has an
5 alibi. The government, the State, has absolutely no
6 forensic evidence that links my client, Curtis Babb,
7 to any of this. And the witnesses that the State is
8 going to put in front of you are essentially
9 unreliable, untrustworthy -- [indiscernible].

10 (WHEREUPON, Ms. Henry was whispering to the
11 jury.)

12 MS. HENRY: Now, the evidence is going to show
13 that this did happen early in the morning on December
14 8th of 2016, so almost three years ago. And that
15 Curtis, at that time, was in a different state. And
16 not in North Carolina or Georgia, but out of town in
17 Pennsylvania, a nine-and-a-half, ten-hour drive from
18 here. The evidence will show he was Pennsylvania
19 working for a company called Masquerade by Usry,
20 doing loading and unloading pods for them. And
21 you're going to hear from the owner of that company,
22 Kathy Taylor and Curtis's direct manager, Cecelia
23 Perez. And they're going to tell you that on
24 Wednesday, December 7th at 8:00 a.m., Curtis checked
25 in with Cecelia Perez for work. That he worked all

1 day and at 5:00 p.m., he checked in with her again
2 and left work. And that on December 8th at 8:00
3 a.m., he was back there in Allentown, Pennsylvania
4 for work, checking in with Cecelia Perez, worked all
5 day and, again, at 5:00 p.m., he checked out with
6 Ms. Cecelia Perez. The evidence is going to show
7 that it is physically impossible for Curtis Babb to
8 have done this because he was not here.

9 Now, the government's case against Curtis is
10 based entirely on witness testimony. And the
11 evidence is going to show that the government's
12 witnesses are unreliable, not credible and that many
13 of these witness have got huge incentives to lie to
14 you, to please the prosecution and to please the
15 police. I want all of you thinking about that,
16 paying attention to that when you listen to the
17 government's witnesses.

18 I also want to remind you that the evidence is
19 going to show that there is no forensic or physical
20 evidence that was collected at any of the scenes that
21 connects my client to any of this. And this is a
22 murder. No forensics. Now, the government has to
23 prove to each of you beyond a reasonable doubt every
24 element of each of these crimes. And they can't.

25 Now, what is beyond a reasonable doubt? The

1 judge, of course, is going to instruct you the law on
2 this. I know that everyone has kind of heard of
3 that. Everyone that's watched Law & Order or some
4 other kind of show has a good idea about what that
5 means. But I do want to remind you that it's the
6 highest burden of proof that we have. It's higher
7 than the burden of proof that's required than to
8 remove someone's children. I just want you to keep
9 that in the forefront of your mind.

10 Now, what is a reasonable doubt? It's simply
11 any doubt that you have a reason for. It's anything
12 in this case that makes you unsure, that makes you
13 hesitate. That is a reasonable doubt.

14 Now, instead, what the government is going to be
15 asking you to do is to convict somebody of murder
16 based on unreliable witnesses. Now, you're going to
17 be getting a ton of information this week. Most of
18 that is going to be in the form of testimony, so
19 witnesses. And I know that you're going to listen
20 carefully to what everybody is saying. And as the
21 judge mentioned earlier, I know you're going to
22 reserve judgment until you hear from everybody. And
23 I want you to remember that we put up our witnesses
24 last. And I want you to weigh -- I know you're going
25 to weigh all of the statements for the truth and the

1 believability and their credibility.

2 I also want you to be asking yourself when
3 you're listening to all of these witnesses, does this
4 seem like the truth? Do I believe this person? Do
5 they have mental health issues, drug issues, other
6 issues that would make me doubt what they're saying,
7 doubt their memory? Do I trust their memory? What
8 do they have to gain from lying to you? Are they
9 hoping to get leniency or help from the State? And
10 finally, is what they're saying, does that match any
11 kind of forensic evidence that's been presented here
12 today. Any of it?

13 I also want you to ask yourself because there
14 are two Co-defendants, is what they're talking about,
15 does that apply to Curtis Babb? Because if it
16 doesn't, you can't consider it when it comes to his
17 conviction or whether he's guilty of any of this. I
18 do want y'all to think about that.

19 I also want to remind you that none of the
20 police testifying in this case were at these scenes
21 when these incidents happened. They came after.
22 They did their job, they collected evidence, but they
23 personally did not witness what happened. They're
24 people just like you or me, they make mistakes, they
25 make misjudgments and the same impression, the same

1 as any normal person. I want you to think about that
2 when you listen to their testimony. And think about
3 that when you consider the kind of weight that you're
4 given, okay?

5 Now, after you've heard all of this evidence, we
6 feel confident the solicitor's office will have
7 failed to prove to you beyond a reasonable doubt that
8 my client killed Mr. Pearson. And they're going to
9 fail to prove that to you because my client has an
10 alibi, because he was not there, because he's not
11 guilty. And at the end of this, I'm going to come
12 back and I'm going to ask all of you for a verdict of
13 not guilty.

14 THE COURT: Mr. Robinson.

15 OPENING STATEMENT

16 MR. ROBINSON: You definitely can see me coming,
17 can't you? My name is Scott Robinson. I practice
18 here in Greenville County. And I have an easy job, a
19 very easy job because my client, William Shane
20 Fordham Brown, wasn't there when all this happened.
21 He was just not there.

22 Let me tell you what happened. I'm going to
23 take you back to this night, this morning. He's at
24 home. He's at home at [REDACTED] Shemwood. It's over off
25 of Augusta Road behind -- it's near -- there's a

1 Goodwill on the corner. It's back that way, a big
2 apartment complex. He and Kia, Nakia Sims, were at
3 home. They hear a bashing on the door. Knocking
4 really, really hard, boom, boom, boom, boom.
5 Screaming. They go downstairs. It's a two-story
6 townhome. Upstairs, you have three bedrooms and a
7 bathroom. Downstairs, you had a kitchen, a living
8 room and a bathroom. The back door is right off the
9 kitchen.

10 There's really, really loud, help. It's Connell
11 Wells, Connell Wells, Jr., one of the State's
12 witnesses. Connell Wells is bleeding profusely from
13 his leg. He's all over the place. They let him in.
14 He goes there because Nakia has got some medical
15 training. She worked for a doctor at that time.
16 It's a company called Pain Management. They have
17 offices in Greenville, Easley and Spartanburg. He
18 comes to the door, they put him on the couch bleeding
19 profusely. He's screaming at this point. This a
20 horrible, horrible wound. Kia cuts the pants so she
21 can make a tourniquet, so she can wrap it up, make
22 sure it stops bleeding. She used some of her medical
23 training to do that.

24 She and Shane William Fordham Brown, they take
25 him to the couch, put him down. This is where's

1 there a problem for Connell. He tells them don't
2 call the police, don't call 911. But here's what we
3 have, we have a guy that's bleeding profusely from
4 his leg, he's turning blue, his hands are turning
5 blue. Shane decides I've got to do something. He
6 goes in the kitchen, he calls 911 to get help.

7 And you'll hear -- tomorrow or the next day,
8 you'll hear his 911 call. You'll hear that. You'll
9 hear what he says and what happens. You'll also at
10 some point hear from Kia as well. She and Shane
11 tried to save this guy. They thought -- Shane
12 thought he was doing the right thing by calling 911
13 and getting help getting him to the hospital.

14 Ladies and gentlemen, that's why Shane is here,
15 because he called 911 and the police against what
16 Mr. Wells wanted him to do. And he blames -- Connell
17 Wells blames Shane for his problems with the law.

18 This case is about an alibi. Now, you've all
19 watched different programs, you've read and so forth,
20 I think all of you know what an alibi is. It means
21 that I wasn't there when something happened. If
22 someone tells you, listen, I got a basketball or
23 something like that. And you know they don't have a
24 basketball --

25 (WHEREUPON, Mr. Robinson whispering to the

1 jury.)

2 MR. ROBINSON: Basically, it's impossible for
3 that person to be there. Shane was in a totally
4 different place, totally different place trying to
5 help this guy. And what does he do, he turns around
6 and says well, Shane had something to do with this
7 thing. But as Ms. Henry said, there is no forensic
8 evidence, there is no physical evidence of anything.
9 All the police are relying on is Connell Wells'
10 statement, the statement of people who are familiar
11 and know Connell Wells. They got nothing else.

12 When y'all came here today, you know, we know
13 you don't want to be here. Who wants to be sitting
14 on a jury in the summertime? But you've got a real
15 important job. Because what you bring to this is
16 common sense. That's really what this is about. The
17 law is not -- the lawyers are not smarter than
18 anybody else, believe me, it's all about common
19 sense. What makes sense to y'all? If you use your
20 common sense and you apply the law as the judge gives
21 it to you with the standard being reasonable doubt,
22 you're going to reach one conclusion and one
23 conclusion only. First, the State hasn't met its
24 burden in this case. And most importantly, Shane
25 William Fordham Brown is innocent of these charges.

1 I want to thank you very much for listening to
2 me. I'll try not to make very much noise, but it
3 will sound like I'm backing up in just a second.
4 Excuse me. Thank you very much.

5 THE COURT: All right, ladies and gentlemen of
6 the jury, we're going to adjourn for the afternoon.
7 I don't want to start with presentation of any
8 evidence today because I know no one told you this
9 morning when you came to the courthouse that you
10 might be here after 5:00. So, I'm not going to keep
11 you after 5:00. As we go forward this week, I'm
12 going to try to keep it at a, basically, regular
13 business schedule, start at 9:00 and end at 5:00.
14 However, if we do see that things are starting to run
15 longer than we anticipated, then I might run after
16 5:00 or later than 5:00 maybe a couple of days.
17 Again, depending on where we are in the trial of the
18 case. What I want to make sure of is that we don't
19 go into late Friday or Saturday, which I'm going to
20 do everything in my power to keep us from doing.

21 Okay, so if you would be back, please, tomorrow
22 morning at 9:00. Please be on time. Not out of
23 consideration for me or for the parties, but out of
24 consideration for each other, because we're not going
25 to be able to start until we have all 14 of you. So,

1 yesterday, we closed with the opening statements from
2 each party. And today, we'll begin with the
3 introduction of evidence. The State will begin.

4 At this point, I defer to Ms. Owens. You may
5 call your first witness.

6 MS. OWENS: Thank you, Your Honor, may it please
7 the Court. The State calls Mr. James Moss.

8 If you would, sir, come up and be sworn. We'll
9 make sure you get up there.

10 THE CLERK: Place your left hand on the Bible
11 raise your right hand.

12 JAMES MOSS, after being duly sworn, testified as
13 follows:

14 THE CLERK: Thank you.

15 THE COURT: He can stay right there. If there's
16 an issue with hearing, I'll turn up the volume.

17 THE CLERK: Please state your name for the
18 record.

19 THE WITNESS: My name is James Russell Moss.

20 THE COURT: Mr. Moss, I'll ask you to speak up
21 when you testify. And, also, the people who need to
22 hear you are the jury, okay?

23 THE WITNESS: All right, sir.

24 THE COURT: So, if you'll look toward Ms. Owens
25 and then speak in that direction, I think they'll

JAMES MOSS-DIRECT BY MS. OWENS

1 probably be able to hear you.

2 THE CLERK: If you can look to your left. There
3 you go.

4 DIRECT EXAMINATION

5 BY MS. OWENS:

6 Q Mr. Moss, I'm standing way far away from you to
7 be sure that I can hear you, okay?

8 A All right.

9 Q All right. Mr. Moss, do you have trouble
10 seeing?

11 A Yes, ma'am.

12 Q Are you able to see at all?

13 A All I see -- all I can see, you know, I see
14 blurry all around. Close around, I can see some like
15 black or red real good, but now, I see a lot of clouds.

16 Q Okay. Okay. I know that you may not be able to
17 see me. I'm not going to ask you to look at anything. I
18 just want to ask you some real basic questions.

19 A All right.

20 Q Generally speaking, Mr. Moss, where do you live?

21 A I live at [REDACTED] West Parker Road now.

22 Q Okay. How long have you lived in Greenville?

23 A Ever since I was four years old.

24 Q All right, your whole life?

25 A Yes, ma'am.

JAMES MOSS-DIRECT BY MS. OWENS

1 Q Do you remember where you were living back in
2 December of 2016?

3 A I think I was living on Cox Street.

4 Q Yes, sir. Do you remember the address?

5 A No, ma'am, not right offhand, I don't.

6 Q Do you remember what the house looked like?

7 A Yes, ma'am. It was a dead-end street down there
8 next to the railroad tracks.

9 Q Did anybody else live with you in that house?

10 A Yes, ma'am.

11 Q Who lived with you there?

12 A Well, I had some people that were help paying
13 the rent. Some of them had -- some of them was gone to
14 the hospital and some them was in jail.

15 Q All right. So, did you rent space in that house
16 all the time?

17 A Yes, ma'am.

18 Q On the night that this incident happened that
19 brings us here to trial, how many other people were living
20 in your house? Renting space from you in that house?

21 A Just one more person.

22 Q And who was that?

23 A A lady named Tracie. There was another lady
24 living there, but she was in the hospital?

25 Q All right. Do you remember whether you let

JAMES MOSS-DIRECT BY MS. OWENS

1 somebody pay you to sleep on the couch?

2 A He had said he was, but he hadn't give me no
3 money, you know. He said, I'm going to work and I'll be
4 back and I'm going to give you some money. He never did
5 give it to me.

6 Q Even though he never paid you, do you know
7 whether he was sleeping in your house that night?

8 A Yes, he supposed to spend the night because we
9 sit there and talked.

10 Q Did you know his name?

11 A I hadn't met him about -- I ain't knowed him --
12 I ain't even knowed him five hours. He said, I'm going to
13 work and I'll be back. You know what I mean?

14 Q I do. Did he just sleep at your house that one
15 night?

16 A He wasn't there the whole night, you know the
17 bigger part of the night.

18 Q I see. Okay. Now, I'm going to ask you some
19 questions about what you remember that night. It's
20 important that you testify about what you saw and what you
21 heard and not what anybody else told you, okay?

22 A All right.

23 Q What do you remember about that night?

24 A Okay. That night he come in, he brought me and
25 him some food. I ate.

JAMES MOSS-DIRECT BY MS. OWENS

1 And he said, Well, I'm going to go eat my
2 food.

3 So, I laid down about 1:00 and he told me
4 to go in my room, so I went in my room. I went in there,
5 I'd say about hour, somebody kick the door said, you know,
6 they said some bad words. I don't know if you want me to
7 speak them words or not.

8 Q Well, unfortunately, sir, I do. If you will
9 tell me what you heard those people say.

10 A Said, Motherfucker, you got my money? And
11 started shooting.

12 Q Do you remember about how many shots you heard?

13 A Pretty good many of them. Then they kicked the
14 door in the other room, they shot in the other room. I
15 went in my room and I got up in the closet.

16 Q Now, did you stay in the close this whole time?

17 A Yes, ma'am.

18 Q Did you ever talk to the people that you heard
19 come inside that house?

20 MR. ROBINSON: Your Honor --

21 THE WITNESS: No, ma'am.

22 THE COURT: Hold on.

23 MR. ROBINSON: I object. It's assuming facts
24 not in evidence. They haven't established if it was
25 person or persons.

JAMES MOSS-DIRECT BY MS. OWENS

1 THE COURT: Okay. I overrule.

2 You may proceed.

3 MS. OWENS: Thank you, Your Honor.

4 BY MS. OWENS:

5 Q Did you ever speak to any of these people that
6 you heard come into your house?

7 A No, ma'am.

8 Q Do you know if they saw you?

9 A I don't know. I don't care if they did. You
10 know, as I seen first person come in shooting, I barely
11 seen him. Then I was back there in the room back there.
12 I was scared. After a while, they kicked the door next to
13 me and they shot in there about three times. I got up in
14 the closet. I didn't come out till all the commotion had
15 stopped.

16 Q How long do you think you stayed in that closet?

17 A Twenty, 25, 30 minutes.

18 Q Do you remember seeing anybody in the house
19 while you were hiding in that closet?

20 A Before I got in the closet, I seen the person
21 that [indiscernible] not long ago, I seen him come in the
22 house. Nobody else I seen come in there.

23 Q Now, I know we just talked about you having some
24 problems seeing here today?

25 A Yes, ma'am.

JAMES MOSS-DIRECT BY MS. OWENS

1 Q Were you able to see a little bit differently
2 back in December of 2016?

3 A Yes, ma'am.

4 Q Now, what has happened to your vision since
5 then?

6 A Well, I was driving back then. Then I got
7 glaucoma and I've got these cataracts on both eyes now.

8 Q Okay. Do you remember what the person that you
9 saw come into the house looked like?

10 A Well, he was, he was about five-foot something
11 and he had a hood on. But I could see, I could see -- I
12 couldn't see too much of it, but I could see the gun he
13 had in his hand.

14 Q Do you remember anything about what that gun
15 looked like?

16 A All I see was a little small gun, you know, and
17 I started getting on back in the room.

18 Q Now, you mentioned that you stayed in the closet
19 until the commotion stopped?

20 A Yes, ma'am.

21 Q What did you do next?

22 A I got my clothes on -- I looked over there in
23 the living room, I didn't see nobody, so I ducked in my
24 room and got my clothes on and I called the police. They
25 told me to stay at the house. I told them I'd be up on

JAMES MOSS-DIRECT BY MS. OWENS

1 the road. And that's where they come up there, that's
2 where I was.

3 Q So did you leave the house?

4 A Yes, ma'am.

5 Q Where did you go?

6 A Up there right up on Poinsett Highway.

7 Q Did you meet with the police up there?

8 A Yes, ma'am.

9 Q Do you remember what kind of car you were
10 driving back in December of 2016?

11 A Yes, ma'am. It was a Ford -- let me get my mind
12 straight. I just sold it not too long ago. No, ma'am,
13 it's not coming to me right now.

14 Q Well, that's okay. If you can't remember,
15 that's fine. What happened after you talked to police
16 there on Poinsett Highway?

17 A Well, they called the ambulance down there. And
18 they sent them down there. They said there's a body in
19 the floor. We're going to contain you, we arresting you,
20 you know what I mean. They contained me, you know. And
21 then after that, I got kind of sick. They had to take me
22 over to the hospital.

23 Q Okay. Did you go to the hospital that night?

24 A Yes, ma'am.

25 Q Now, do you remember how long you lived in that

JAMES MOSS-DIRECT BY MS. OWENS

1 house on Cox Street?

2 A Maybe a year or more or less, you know.

3 Q Did you rent that house from somebody?

4 A Yes, ma'am.

5 Q Had there been any other incidents at that house
6 while you were living there?

7 A Well, they say lot of stuff happened before I
8 moved in there. And I had called the police a couple
9 times, you know, because people circling around the house.
10 You know, they would go all the way around and come back
11 around. So, I parked my car where people couldn't go
12 around the house.

13 Q Where did you park your car?

14 A I parked my car on the right-hand side. It had
15 two driveways, one drive way went all the way around the
16 house and come back around.

17 Q All right, sir.

18 MS. OWENS: Mr. Moss, I'm not going to ask you
19 anymore questions, but some other attorneys are going
20 to ask you questions, okay. So, if you'll just
21 answer their questions, I'd appreciate it.

22 THE WITNESS: All right, no problem.

23 MS. OWENS: Thank you, sir.

24 THE WITNESS: All right.

25 THE COURT: Ms. Henry.

CROSS-EXAMINATION

Q Okay. And you remember after you left Cox Street, you went O'Reilly's Auto Parts on Poinsett Highway?

JAMES MOSS-CROSS BY MS. HENRY

1 A Yes, ma'am, up there in the median.

2 Q Okay. And you were waiting for EMS to arrive.

3 Do you remember a police officer that came and talked to
4 you?

5 A I don't know his name. We sat up there about
6 two hours.

7 Q Okay. Significant amount of time. And he was a
8 police officer and you talked to him, right?

9 A Yes, ma'am.

10 Q Okay. Do you remember telling Officer Belding
11 that -- or describing the person that you saw at the house
12 as a short, young, dark-skin-toned black male.

13 A Yeah.

14 Q Do you remember telling them that?

15 A Yes, ma'am.

16 Q Does that sound about right?

17 A Yes, ma'am.

18 Q Okay. So, short, young, dark-skin black male.

19 Okay. All right. Do you also -- let's see, you also
20 remember -- and you may have already testified to this,
21 you stop me if I'm wrong. But it's my understanding that
22 what you heard after you were in that closet, that you
23 heard someone kick in the door and yell, essentially,
24 where's my money?

25 A I wasn't in the closet then.

JAMES MOSS-CROSS BY MR. ROBINSON

1 Q You weren't?

2 A I was in the bedroom.

3 Q Okay. So, you were just in the bedroom. But
4 that's what you heard?

5 A Yes, ma'am.

6 Q And you only heard one voice?

7 A I heard more voices on the outside, but I never
8 seen nobody else.

9 Q So, you only saw the one person?

10 A Yes, ma'am.

11 Q After they kicked the door in is when you heard
12 the gunshots?

13 A Yes, ma'am.

14 Q Okay.

15 MS. HENRY: I don't have any other questions.

16 Mr. Moss, I really appreciate it.

17 THE WITNESS: All right.

18 MR. ROBINSON: May it please the Court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. ROBINSON:

22 Q Mr. Moss, can you hear me?

23 A Yes, sir.

24 Q I'm Scott Robinson, I represent William Shane
25 Fordham Brown.

JAMES MOSS-CROSS BY MR. ROBINSON

1 A All right.

2 Q It's nice to meet you.

3 A Same to you, sir.

4 Q Mr. Brown, I'm going follow up with some
5 questions I have for you. Do you remember talking to a
6 Officer McCalmont? One of the investigators in this case?

7 A You talking to me?

8 Q I'm talking to you, yes.

9 A Talk a little louder, I can't hear you.

10 Q I'm sorry. I'm not loud as I should be.

11 A Yeah.

12 Q Do you remember talking to an Investigator
13 McCalmont?

14 A Where, at the hospital?

15 Q Maybe at the hospital. You talked to many
16 officers, but do you remember him? He was the lead
17 officer in the case?

18 A Well, I met the one. Then one took me to the
19 hospital and somebody come there and talked to me.

20 Q Okay. Now, do you remember telling Investigator
21 McCalmont that you heard the suspect and victim -- and the
22 victim, I imagine that would be the person that got shot,
23 is that right? The victim is the person that got shot?

24 A Yes, sir.

25 Q That they began -- the victim and the suspect

JAMES MOSS-CROSS BY MR. ROBINSON

1 began to yell at one another. Then the suspect and the
2 victim began running around the house, do you remember
3 that? Do you remember telling Officer McCalmont that?

4 MS. OWENS: Your Honor, I object to this line of
5 questioning. I believe this information is not
6 related to Investigator McCalmont.

7 MR. ROBINSON: It is.

8 THE COURT: It's code five investigation report?

9 MR. ROBINSON: It's got Mr. McCalmont's name on
10 it.

11 THE COURT: All right, I respectfully overrule.
12 You can object as we go forward. I just don't know
13 where we are right now.

14 MS. OWENS: Yes, sir, Your Honor. Thank you.

15 BY MR. ROBINSON:

16 Q And that the suspect and the victim began to
17 yell at one another and then the suspect and victim began
18 running around the house. Do you remember them running
19 around the house?

20 A No, sir, I don't remember them running around
21 the house.

22 Q Okay. So, you don't remember telling
23 Investigator McCalmont that the victim and the suspect,
24 suspects were running around the house, you don't remember
25 that?

JAMES MOSS-CROSS BY MR. ROBINSON

1 A Well, what I remember -- but what I remember, I
2 told them that they come in, they went out on the porch.
3 It pinged across the street, they took a picture of it. I
4 heard -- he was on the outside, but when he took -- I
5 thought he shot him inside, but the film said he shot him
6 on the outside. I heard a bunch of shooting, so, you
7 know, I froze up.

8 Q Okay. And continuing on to what you may have
9 told Officer McCalmont -- or Investigator McCalmont. You
10 caught a glimpse you said of the suspect and the victim
11 run past the opening to the bedroom. Do you remember
12 telling him that?

13 A No, sir.

14 Q Okay.

15 A I remember this, I told them that when the
16 shooting started, the suspect come in, he kicked the door
17 next to me and shot in three times. I remember that, but
18 I don't remember saying that something running around the
19 house.

20 Q So, let's talk about that. So, what you're
21 telling me and telling this jury, is that there was one
22 suspect kicked in the door and shot three times, is that
23 what you remember?

24 A Well, I don't remember how many suspects, I know
25 what I seen and what I heard.

JAMES MOSS-CROSS BY MR. ROBINSON

1 Q But one suspect shot three times, the victim,
2 you remember that, don't you?

3 A Yeah, I remember telling him he shot.

4 Q Okay. So, there was only one suspect; is that
5 right?

6 A Yeah.

7 Q Okay. And you also described this suspect.
8 Now, am I talking loud enough that you can hear me?

9 A I can hear you, sir.

10 Q That's great. Usually, I have to have a
11 microphone.

12 A I hear you pretty good.

13 Q But you recall hearing that suspect, that single
14 suspect say where is my money, do you remember that?

15 A Yes, sir.

16 Q And you also remember that when you described
17 this one suspect, this one black man, that this one
18 suspect was short, black man, five-foot tall maybe, around
19 five foot, five-foot-one and that he had dark skin.
20 Remember that?

21 A Yes, sir.

22 Q Okay.

23 A But --

24 Q Yes, sir.

25 A All I know what the investigator told me, said

JAMES MOSS-REDIRECT BY MS. OWENS

1 they went next door and got the film. The people film
2 kicking the door --

3 MS. HENRY: Objection, Your Honor.

4 THE COURT: What's the basis of the objection?

5 MS. HENRY: Your Honor, I don't believe that
6 the -- I don't think that that's what was asked.

7 THE COURT: Restate the question, okay.

8 MR. ROBINSON: I have no more questions, Your
9 Honor.

10 THE COURT: All right, good. Thank you very
11 much. I appreciate it.

12 MR. ROBINSON: Thank you, Mr. Moss. Nice to
13 meet you.

14 THE WITNESS: You're welcome.

15 MR. ROBINSON: You have a good day.

16 THE COURT: All right, Ms. Owens, do you have
17 any redirect, ma'am?

18 MS. OWENS: Very briefly, Your Honor.

19 THE COURT: Yes, ma'am.

20 REDIRECT EXAMINATION

21 BY MS. OWENS:

22 Q Mr. Moss, I just want to make sure that I
23 understand what it is you remember seeing that night.

24 A Yes, ma'am.

25 Q Okay. You testified that you heard some

JAMES MOSS-REDIRECT BY MS. OWENS

1 shouting?

2 A Yes, ma'am.

3 Q And that you heard, I believe you testified, two
4 more voices?

5 A Yes, ma'am. The two voices that I heard was on
6 the outside. I don't know if they come in or not. You
7 know, like I said, when the shooting start, I was dipping
8 out and I went in that room and everything.

9 Q Do you remember hearing multiple voices?

10 A Yes, ma'am.

11 Q Okay. Now, I want to ask you a little bit more
12 about who you remember seeing. Could you describe again
13 for the jury who you saw while you were hiding in that
14 closet?

15 A Well, I seen this guy. I peeked enough around
16 the corner. The way I thought he was, he had a hood on,
17 but I could see the gun in his hand, you know. And I say
18 about five foot and he had a hood on.

19 Q Did he seem very short to you?

20 A Yes, ma'am.

21 Q Okay. And do you remember anything about what
22 that gun looked like?

23 A It was a small gun. I couldn't see it all
24 because I just peek enough around the corner.

25 Q Okay.

JUDSON BELDING-DIRECT BY MS. OWENS

1 I'm also concerned that your notes are right there
2 laying out in front of the jury. So, just ask
3 questions from there.

4 And with respect to any recross-examination, I'm
5 not going to allow recross-examination unless you
6 have a short and specific question that you need to
7 ask. Okay. And advise me, if you don't advise me,
8 I'm going to excuse the jury [verbatim] after
9 redirect, okay.

10 Okay. All right. You may call your next
11 witness.

12 MS. OWENS: Your Honor, may it please the Court,
13 the State calls Deputy Judson Belding.

14 Deputy, please come up and be sworn.

15 THE CLERK: Place your left hand on the Bible
16 raise your right hand.

17 JUDSON BELDING, after being duly sworn,
18 testified as follows:

19 THE CLERK: Thank you, please take a seat.
20 State your name for the record.

21 THE WITNESS: Judson Belding.

22 DIRECT EXAMINATION

23 BY MS. OWENS:

24 Q Deputy, where are you employed?

25 A Greenville County Sheriff's Office.

JUDSON BELDING-DIRECT BY MS. OWENS

1 Q What's your current assignment?

2 A Investigator in narcotics.

3 Q How long have you worked for the sheriff's
4 office?

5 A Five and a half years or so.

6 Q Now, what was your specific assignment at the
7 sheriff's office back in December of 2016?

8 A I was on uniform patrol.

9 Q Generally speaking, what are your
10 responsibilities on uniform patrol?

11 A Responding to calls for service when someone
12 calls into the dispatch and responding to a location where
13 law enforcement is needed or requested.

14 Q Forgive me for this question, but are calls for
15 service 911 calls?

16 A Yes, ma'am.

17 Q Okay. Now, do you remember being dispatched to
18 the call that's the subject of this trial here today?

19 A Yes, ma'am.

20 Q Do you remember where you responded?

21 A I responded to O'Reilly's Auto Parts on Poinsett
22 Highway. And I found the complainant with his vehicle in
23 the median of Poinsett Highway in front of O'Reilly's Auto
24 Parts.

25 Q Now, you refer to him as the complainant, who

JUDSON BELDING-DIRECT BY MS. OWENS

1 was that person?

2 A James Moss.

3 Q In police speak, what does complainant mean, who
4 is that?

5 A He's the one that called 911 for assistance.

6 Q Do you remember -- you may have just said this.
7 Do you remember what kind of car he was driving?

8 A It was a gray Ford Explorer.

9 Q I'm going to show you State's Exhibit 1, take a
10 look at that. Do you recognize what that photograph
11 depicts?

12 A This is the vehicle that Mr. Moss was in when I
13 met with him out in front of O'Reilly's Auto Parts the
14 night of this incident.

15 Q Is that an accurate depiction of how the scene
16 looked there that you responded to on Poinsett Highway?

17 A Yes, ma'am.

18 MS. OWENS: Your Honor, with the Court's
19 permission, I'd like to submit State's Exhibit 1?

20 MS. HENRY: No objection, Your Honor.

21 MR. ROBINSON: No objection.

22 THE COURT: All right. Without objection, the
23 same is admitted.

24 (WHEREUPON, State's Exhibit No. 1 was admitted
25 into evidence.)

JUDSON BELDING-DIRECT BY MS. OWENS

1 BY MS. OWENS:

2 Q Now, while meeting with Mr. Moss, the
3 complainant there in the median, what did you do? What is
4 your role in the case at that point?

5 A At that point, I was gathering information about
6 why he called and seeking to give him assistance.

7 Q While you're there meeting with him, what is
8 happening with respect to this case?

9 A Other deputies would have been responding to the
10 incident location itself.

11 Q Did you ever go to the incident location?

12 A No, ma'am.

13 Q What happened while you were there with Mr. Moss
14 speaking with him?

15 A Mr. Moss told me that he was at his residence at
16 [REDACTED] Cox Street and that he was asleep. And he heard the
17 door get kicked opened and that woke him up.

18 MS. HENRY: Objection, Your Honor, I apologize,
19 that's hearsay.

20 THE COURT: All right. At this point, I don't
21 think it's offered to prove the truth of the matter
22 asserted, so I'll overrule it at this point.

23 All right, you may proceed.

24 BY MS. OWENS:

25 Q Well, I don't know that it's necessary that we

JUDSON BELDING-DIRECT BY MS. OWENS

1 talk any more about what he told you necessarily, but what
2 did you do next?

3 A I spoke to him briefly. He stated that he was
4 having chest pains --

5 MS. HENRY: Objection, Your Honor, again,
6 hearsay.

7 THE COURT: All right. I don't know what you're
8 going to say to that. I had the benefit of hearing
9 the response before. What's your position on that?

10 MS. OWENS: Your Honor, the fact that he's
11 having chest pains -- I'm just trying to get us down
12 the road. I'm not interested in eliciting anything
13 that he said.

14 THE COURT: I understand. I'll allow it to the
15 extent that it's just establishing the scene.

16 MS. OWENS: Yes, sir.

17 THE COURT: Substantive issues -- I sustain
18 hearsay. I haven't heard anything substantive yet, I
19 think you're just establishing the scene. So,
20 sustain and just caution you not to introduce
21 hearsay.

22 MS. OWENS: Yes, sir. Thank you, Your Honor.

23 THE COURT: Yes, ma'am.

24 BY MS. OWENS:

25 Q What, basically, happens next right there in the

JUDSON BELDING-CROSS BY MS. HENRY

1 median?

2 A The ambulance comes and gets Mr. Moss and we go
3 seek medical attention for Mr. Moss.

4 Q Do you remember whether you or other deputies
5 secured his car there that night?

6 A I know that it was secured. I don't recall
7 exact names of people who would have done it.

8 Q Do you know if it was towed from the scene that
9 night?

10 A I don't know for sure. I went behind the
11 ambulance to the hospital with Mr. Moss.

12 Q Okay. And after staying there at the hospital
13 with Mr. Moss, did have any other role in the
14 investigation?

15 A No, ma'am.

16 Q Did you pass along the information that Mr. Moss
17 had given you to the homicide investigators?

18 A I documented it in a supplemental report.

19 MS. OWENS: Okay, thank you. I don't have any
20 additional questions for you. If you would, answer
21 any questions that Ms. Henry or Mr. Robinson may
22 have.

23 MS. HENRY: Just really, really briefly.

24 THE COURT: Yes, ma'am.

25 CROSS-EXAMINATION

JUDSON BELDING-CROSS BY MS. HENRY

1 BY MS. HENRY:

2 Q Officer Belding, were you aware that my client
3 is six-feet, three-inches tall?

4 A I don't know that I know your client.

5 MS. HENRY: Mr. Babb, will you stand up for me?

6 MS. OWENS: Objection, Your Honor.

7 THE COURT: No, I'll overrule. She can have him
8 stand up as a demonstrative tool to aid in the
9 testimony.

10 (WHEREUPON, Mr. Babb stood.)

11 BY MS. HENRY:

12 Q Officer Belding, does Mr. Babb seem short to
13 you?

14 MS. OWENS: I object, Your Honor, this calls for
15 speculation.

16 BY MS. HENRY:

17 Q Does he seem --

18 THE COURT: Overrule, you can ask the question.

19 Go ahead.

20 BY MS. HENRY:

21 Q Does he seem short to you?

22 A Compared to what?

23 Q Compared to someone who is, perhaps, five-one?

24 A No, he would be taller than someone who is
25 five-one.

JUDSON BELDING-CROSS BY MR. ROBINSON

1 MS. HENRY: Thank you, I don't have any other
2 questions.

3 THE COURT: Mr. Robinson.

4 CROSS-EXAMINATION

5 BY MR. ROBINSON:

6 Q Officer Belding, do you have a copy of your
7 report, your supplemental report?

8 A There's one in the records.

9 Q It's going to be Page 2 of your supplemental
10 report, do you have that with you?

11 A No.

12 Q Did you bring anything today with you regarding
13 this case?

14 A My knowledge of the case, sir.

15 Q Would it refresh your memory if I showed you a
16 copy of a page of your report regarding your conversation
17 with Mr. Moss? Would it refresh your memory?

18 A Yeah, I don't know what question you need me to
19 refresh my memory on, but I'll take a look at it.

20 THE COURT: Ms. Henry, can you help him or
21 whomever is fine.

22 BY MR. ROBINSON:

23 Q I'm going to ask you to look at this report,
24 Page 1 or 2 of the report that you did. See if you
25 remember that?

JUDSON BELDING-CROSS BY MR. ROBINSON

1 A Yes, sir.

2 Q And that is a copy -- that is Page 1 of the
3 report that you filled out; is that correct?

4 A Correct.

5 Q When that report was made by you, that was the
6 knowledge that you had right around the time that you met
7 with Mr. Moss; is that correct?

8 A It was on the same day, yes, sir.

9 Q Okay.

10 MR. ROBINSON: Your Honor, I wanted -- I'm not
11 going to get it marked.

12 BY MR. ROBINSON:

13 Q But Officer, I want you to look at that report
14 and tell the jury -- read out loud to the jury the second
15 paragraph of that report.

16 MS. OWENS: Objection, Your Honor. It's
17 improper impeachment.

18 THE COURT: Okay. You can ask him specific
19 questions about what he said in his report.

20 BY MR. ROBINSON:

21 Q What did you say in your report regarding your
22 conversation with Mr. Moss?

23 MS. OWENS: Your Honor, I continue to object to
24 the extent that he's asking the officer to read from
25 his report.

JUDSON BELDING-CROSS BY MR. ROBINSON

1 THE COURT: Do you have a specific question or
2 specific point you want to make about his assertions
3 in the report?

4 MR. ROBINSON: I do. Your Honor, he has -- he
5 has written in his report his conversation with
6 Mr. Moss. That's in the report, that's all I'm
7 asking him, if he has knowledge of what he wrote.

8 THE COURT: Well, you can ask him does he have
9 knowledge of what he wrote.

10 BY MR. ROBINSON:

11 Q Do you have knowledge of what you wrote?

12 A Yes, sir.

13 Q Okay. And what is your recollection of that?

14 MS. OWENS: Your Honor, I object to this.

15 THE COURT: I'm going to overrule. He can
16 paraphrase what he said. I think he's already
17 offered some of that into evidence.

18 What I'm trying to avoid now is a word-for-word
19 publication unless we are in conformance with the
20 rules of evidence. But if you want to ask him
21 surgical questions about did you represent this, did
22 you represent that, you're welcome to do that. But a
23 general recitation of his account is okay.

24 MR. ROBINSON: That's fine, Your Honor.

25 THE COURT: Okay.

JUDSON BELDING-CROSS BY MR. ROBINSON

1 BY MR. ROBINSON:

2 Q Can you give the jury a general recitation of
3 your knowledge?

4 A Yeah. When I spoke with Mr. Moss, he said that
5 there was a friend of his roommate asleep on the couch
6 when he went to bed. And that he was woken up by the
7 front door being kicked in. He heard someone say, Where
8 is my money? And then he heard gunshots. After the
9 gunshots, he hid in his closet. And while looking back
10 towards the doorway of his room, he observed a male that
11 he described as a short, young, dark-skin-toned black male
12 go by the doorway of his room, go into the room of his
13 roommate. After this, when he felt it was safe to do so,
14 he quickly went out the back, got into his vehicle and
15 called 911 for help.

16 Q Thank you. I'm going to let my client
17 Mr. William Fordham Brown stand.

18 (WHEREUPON, Mr. Brown stood.)

19 BY MR. ROBINSON:

20 Q Mr. Brown is six-foot-three. Do you believe
21 that Mr. Brown is a short, dark-skinned black man?

22 A If we're comparing him to the same five-foot-one
23 individual, no.

24 Q Would you agree with me that he's not dark
25 skinned?

TIRISSA JOHNSON-DIRECT BY MS. OWENS

1 A I don't know how to answer that.

2 MR. ROBINSON: That's all the questions I have.

3 Thank you, Officer. I'm going to get the report
4 back, if I could.

5 Thank you, Judge.

6 THE COURT: Yes, sir.

7 Redirect, Ms. Owens?

8 MS. OWENS: Nothing on redirect, Your Honor.

9 THE COURT: Okay. Thank you, Officer. I
10 appreciate you being here. Just leave everything
11 right there.

12 Okay, call your next witness.

13 MS. OWENS: Thank you, Your Honor, the State
14 calls Ms. Tirissa Johnson.

15 Ms. Johnson, please come up and be sworn.

16 THE CLERK: Place your left hand on the Bible
17 and raise your right hand.

18 TIRISSA JOHNSON, after being duly sworn,
19 testified as follows:

20 THE CLERK: Please take a seat and state your
21 name for the record.

22 THE WITNESS: Tirissa Johnson.

23 DIRECT EXAMINATION

24 BY MS. OWENS:

25 Q Ms. Johnson, where do you work?

TIRISSA JOHNSON-DIRECT BY MS. OWENS

1 A The Greenville County Sheriff's Office within
2 the communications division.

3 Q How long have you worked at the sheriff's
4 office?

5 A Twenty-one years.

6 Q What's your assignment at the sheriff's office?

7 A My main duties are researching 911 calls and
8 pulling those recordings.

9 Q And does your system also record radio traffic
10 between deputies and dispatchers?

11 A It does.

12 Q All right. Do you regularly appear in court to
13 testify about those recordings and records?

14 A Yes, I do.

15 Q Okay. How are 911 calls reported by the
16 sheriff's office dispatch system?

17 A They are digitally electronically simultaneously
18 recorded.

19 Q I'm going to show you State's Exhibit 2. Do you
20 recognize that item?

21 A I do.

22 Q How do you recognize it?

23 A This was the copy of the original call that I
24 listened to this morning.

25 Q And after having an opportunity to review it, is

TIRISSA JOHNSON-DIRECT BY MS. OWENS

1 that an accurate depiction of the 911 call that was
2 received by the sheriff's office dispatch system on
3 December 8th of 2016?

4 A It is.

5 Q Now, are these recordings kept in the regular
6 course of business for the sheriff's office?

7 A They are.

8 Q Are all calls recorded?

9 A Yes, they are.

10 Q Does anyone at the sheriff's office or anyone
11 else have the ability to alter the recordings that are
12 kept by the sheriff's office dispatch system?

13 A No.

14 Q Okay. Is the recording contained on State's
15 Exhibit 2 that you've reviewed a complete and accurate
16 recording of the call as it was received on December 8th
17 of 2016?

18 A It is. I listened to the original call as well.

19 Q Do you know what time that call was received?

20 A Not exactly. I know it was around 3:00 a.m.

21 Q Okay.

22 MS. OWENS: Your Honor, at this time, the State
23 would move to admit State's Exhibit 2. And with the
24 Court's permission, I'd like to publish it.

25 THE COURT: Objections from the Defense?

TIRISSA JOHNSON-DIRECT BY MS. OWENS

1 MS. HENRY: No, Your Honor.

2 THE COURT: Mr. Robinson?

3 MR. ROBINSON: No, Judge.

4 THE COURT: All right, same is admitted. You
5 may publish, ma'am.

6 (WHEREUPON, State's Exhibit No. 2 was admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 2 was
9 published.)

10 MS. OWENS: Thank you, Ms. Johnson. I don't
11 have any additional questions. If you would, answer
12 any questions these attorneys may have.

13 THE COURT: Ms. Henry?

14 MS. HENRY: No, Your Honor.

15 THE COURT: Mr. Robinson?

16 MR. ROBINSON: I have no questions, Judge.

17 THE COURT: Thank you. I appreciate you being
18 here.

19 Okay. You may call your next witness.

20 MS. OWENS: Your Honor, the State calls Deputy
21 Joshua Shaw.

22 Deputy, if you would, sir, come up and be sworn.

23 THE CLERK: Place your left hand on the Bible,
24 raise your right hand.

25 JOSHUA SHAW, after being duly sworn, testified

JOSHUA SHAW-DIRECT BY MS. OWENS

1 as follows:

2 THE CLERK: Thank you. Please take a seat.

3 State your name for the record.

4 THE WITNESS: My name is Joshua Shaw. I'm a
5 deputy with the Greenville County Sheriff's Office.

6 DIRECT EXAMINATION

7 BY MS. OWENS:

8 Q Deputy, what is your current assignment at the
9 sheriff's office?

10 A I'm currently assigned to community patrol
11 division.

12 Q How long have you been working at the sheriff's
13 office?

14 A Three years, ten months.

15 Q What are your assignments in community patrol?

16 A Meeting with community leaders, discussing major
17 problems in communities and trying to find solutions to
18 those problems.

19 Q Now, were you working in that same capacity back
20 in December of 2016?

21 A No, ma'am. I was assigned to Delta Platoon
22 uniform patrol.

23 Q Generally speaking, what does that mean? What
24 is your role as a deputy with uniform patrol?

25 A Primary role is respond to calls for service for

JOSHUA SHAW-DIRECT BY MS. OWENS

1 citizens of Greenville County.

2 Q Do you remember being dispatched to a call on
3 Cox Street?

4 A I do, ma'am.

5 Q Is that location inside Greenville County?

6 A It is.

7 Q Do you remember what time you were dispatched to
8 that call?

9 A If I recall correctly, it was 3:12 a.m --
10 correction, 3:13 a.m.

11 Q How long do you think it took you to arrive
12 after being assigned that call?

13 A Approximately five minutes.

14 Q And did anybody else go to that location with
15 you?

16 A Sergeant May, my supervisor, responded to the
17 incident location with me at the time.

18 Q What did you see when you arrived?

19 A When I arrived, I observed a small resident
20 structure. At the front porch, there was a broken front
21 door with the glass door damaged along with the door
22 frame. Upon entering up onto the porch, I observed damage
23 to the glass, to the right of the main entry door. And
24 then Sergeant May and I made entry into the house.

25 Q Why?

JOSHUA SHAW-DIRECT BY MS. OWENS

1 A We had received reports from a bystander that
2 there may be an injured person inside the residence.

3 Q When you entered the house, what did you see?

4 A To the immediate right -- well, walking through
5 the door, over the damaged door and stuff like that, to
6 the right, there was a person lying on the floor, an
7 unidentified black male, nonresponsive to verbal stimulus,
8 wasn't moving, didn't see any sign of breathing, covered
9 with a, if I recall correct, a black cloth that looked to
10 be a matching curtain hanging on the wall.

11 Q Did you check to see if that person was alive?

12 A I did. I checked his wrist for any sign of
13 pulse and there was no sign of life whatsoever.

14 Q Now, you mentioned that you noticed when you
15 arrived that the door was opened?

16 A Correct.

17 Q Did you notice anything of investigative value
18 about that damage? Or about what you saw with the door
19 being opened?

20 A I could tell based on the damage that that door
21 was kicked in.

22 Q Now, did you search the rest of the house for
23 anybody else?

24 A I did a primary sweep of the house to make sure
25 there was no one else in the residence.

JOSHUA SHAW-DIRECT BY MS. OWENS

1 Q Why do you do that?

2 A Officer safety reasons and to make sure that no
3 one else was in the house or any subjects or anything that
4 could cause anybody any harm or anyone hiding, anyone else
5 that could be injured.

6 Q Did you find anybody else inside?

7 A No, ma'am.

8 Q Did you have to force open any doors to be able
9 to search that house?

10 A No, ma'am.

11 Q Did you find any doors of that house to be
12 locked?

13 A No, ma'am.

14 Q Okay. I'm going to show you State's Exhibit 3.
15 Take a look at that item and tell me whether you recognize
16 it?

17 A I do, ma'am. That's the main entry door off of
18 the porch to the front of the residence.

19 Q And is that an accurate depiction of the front
20 door as you found it when you arrived on the scene that
21 night?

22 A Yes, ma'am.

23 MS. OWENS: Your Honor, I'd offer State's
24 Exhibit 3. And with the Court's permission, I'd like
25 to go ahead and publish it.

JOSHUA SHAW-DIRECT BY MS. OWENS

1 THE COURT: Any objection?

2 MS. HENRY: No objection, Your Honor.

3 MR. ROBINSON: No objection.

4 THE COURT: All right. The same is admitted.

5 You may publish it.

6 MS. OWENS: Thank you, Your Honor.

7 THE COURT: Yes, ma'am.

8 (WHEREUPON, State's Exhibit No. 3 was admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 3 was
11 published.)

12 BY MS. OWENS:

13 Q Deputy, I've got State's Exhibit 3 up on the
14 projector. Could you describe for the jury what it is
15 this photograph depicts?

16 A So, on the far side, we see the glare in the
17 glass, that was the storm door. On the right, you see the
18 right of the white main door with a footprint on the door.
19 There was damage around the doorknob. And you can see on
20 the floor there are what's left of the door casing that's
21 actually kicked out from around the door.

22 Q All right. I'm going to show you State's
23 Exhibit 4, ask you if you recognize that item?

24 A Yes, ma'am, I do.

25 Q Is it an accurate depiction of what it depicts?

JOSHUA SHAW-DIRECT BY MS. OWENS

1 A Yes, ma'am.

2 Q What does that picture depict?

3 A The picture is, basically, a broader view of
4 what you see there. There's a living room with the couch
5 from the interior view. And you can see the couch along
6 with the window to the left.

7 MS. OWENS: Your Honor, I'd offer State's
8 Exhibit 4.

9 THE COURT: Any objections?

10 MS. HENRY: No objection.

11 MR. ROBINSON: No objection.

12 THE COURT: All right, no objection the same is
13 admitted.

14 MS. OWENS: With the Court's permission, I'd
15 like to publish State's Exhibit 4 as well.

16 THE COURT: Yes, ma'am, you may.

17 (WHEREUPON, State's Exhibit No. 4 was admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 4 was
20 published.)

21 BY MS. OWENS:

22 Q Now, Deputy, I've got State's Exhibit 4 up on
23 the screen now. Could you describe for the jury what we
24 see in this photograph?

25 A Yes, ma'am. As you can see the door from a

JOSHUA SHAW-DIRECT BY MS. OWENS

1 broader view, I believe this is taken from the kitchen
2 area, the couch to the right. And there's a couch to the
3 left where the unresponsive victim was found lying on the
4 ground in front of that couch with the black drape over
5 him.

6 Q Now, earlier, you testified that you saw some
7 damage to a front window?

8 A Yes, ma'am.

9 Q Okay. Is that window depicted in this
10 photograph?

11 A Yes, the window to left is the window that was
12 damaged.

13 Q And what's on the other side of this wall that
14 is depicted in this photograph?

15 A The door wall is the main porch.

16 Q So, would you have approached from this door?

17 A Yes, ma'am, that's the door we came through.

18 Q Okay. Is this the door as you found it standing
19 open?

20 A Yes, ma'am.

21 Q All right. Now, when uniform patrol deputies
22 are called to a scene like this, what happens next?

23 A Typically, once we do a primary sweep of the
24 residence or whatever the location is to make sure there's
25 nothing else going on that needs our immediate attention,

JOSHUA SHAW-DIRECT BY MS. OWENS

1 we, basically, step back, secure the perimeter, then
2 supervisor generally calls in whatever appropriate
3 investigator or whatever we need to the scene in order to
4 further the investigation.

5 Q Would the deputies on the scene have -- in
6 addition to securing the perimeter, contacted emergency
7 medical services?

8 A Yes.

9 Q Would the deputies have contacted forensic
10 technicians?

11 A Yes.

12 Q And in this particular case, would the deputies
13 have made contact with homicide investigators?

14 A Yes.

15 Q Now, do the deputies who respond to the 911 call
16 conduct any investigation?

17 A It's situational, depending -- but in this case
18 there was not much investigation to do. The only person I
19 had any interaction with conversation-wise was, I believe,
20 a bystander, Tracie Patton, if I recall correctly who she
21 is.

22 Q Did you pass along what information she shared
23 with you to those investigators?

24 A I did.

25 Q Okay. Did you attempt to locate any

JOSHUA SHAW-DIRECT BY MS. OWENS

1 surveillance video in this case?

2 A Yes, we did. I was advised by another deputy
3 that the location across the street was, if I recall, a
4 tanning company of some sort. Actually, they had cameras
5 on the exterior of the building. And Sergeant May
6 actually made contact with the key holder for that
7 building. And I believe he -- I don't know what the
8 results of that was.

9 Q Nonetheless, you passed that information along
10 to the investigators?

11 A (The witness nods.) Correct.

12 Q Now, once investigators arrived on the scene and
13 took over the actual investigation, what did you do?

14 A I'm, essentially, there as support personnel for
15 them. Whatever they need me to do.

16 Q All right. After collecting that information,
17 securing the scene and making contact with the necessary
18 individuals, did you have any other involvement in the
19 investigation?

20 A No, ma'am.

21 MS. OWENS: All right, sir. I don't have any
22 additional questions for you. If you would, answer
23 any questions that Ms. Henry or Mr. Robinson may
24 have.

25 THE WITNESS: Yes, ma'am.

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 MS. HENRY: I don't have any questions, Officer.

2 Thank you.

3 THE COURT: Mr. Robinson.

4 CROSS-EXAMINATION

5 BY MR. ROBINSON:

6 Q Officer Shaw, did anyone take any GSR, like
7 gunshot residue testing, of Mr. Moss?

8 A I can't testify to that, sir, I have no
9 knowledge of it.

10 Q Okay. Did you see anyone take any fingerprints?
11 Because I think you mentioned a black curtain over the
12 victim; is that correct?

13 A Correct.

14 Q Did you see anyone take fingerprints or try to
15 get fingerprints off to help with the investigation?

16 A Again, I can't testify to that. I have no
17 knowledge of it.

18 MR. ROBINSON: Thank you. That's all I have.

19 THE COURT: Redirect?

20 MS. OWENS: No redirect, Your Honor.

21 THE COURT: All right. Thank you, Officer. You
22 may step down.

23 Okay, ladies and gentlemen, we're going to take
24 a short break. I want you to make a decision while
25 you're in your jury room, okay. You know that we've

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 you want to order in or go out, let the bailiff know.
2 If you want me to order lunch for you, then let me
3 know and we'll go ahead and get the menus and we'll
4 distribute those so that we can go ahead and order so
5 we'll be ready when it's time, okay.

6 So, please don't discuss the case. We'll come
7 back in about 10 or 15 minutes, depending on how long
8 it takes y'all to make a decision on whether you want
9 to order or not, okay. So, you can follow
10 Mr. Cleary. Thank you.

11 (WHEREUPON, the jury left open court at
12 approximately 10:41 a.m.)

13 THE COURT: All right, counsel, we'll take about
14 a 10 minute break and we'll come back in and resume.
15 Thank you.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: Okay, Ms. Henry, I understand you
18 have a issue to take up?

19 MS. HENRY: Yes, Your Honor. I just need to
20 know if they plan to introduce the crime scene video.
21 I think that Ms. -- I'm sorry Ms. Gary told me that
22 they only plan to introduce the portion that is
23 related to the outside of the house. Normally, that
24 would be fine, but it's my understanding from -- we
25 subpoenaed a bunch of -- I guess [REDACTED] Cox Street has

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 been involved in a lot of shootings and a lot of
2 violence. We've got I don't know how many incident
3 reports related to that house.

4 THE COURT: Yes, ma'am.

5 MS. HENRY: It's my understanding from talking
6 to officers involved that there is a lot of -- there
7 are a lot of other bullet holes and other items that
8 have been damaged by other robberies, other shootings
9 that had happened at [REDACTED] Cox Street.

10 THE COURT: Yes, ma'am.

11 MS. HENRY: So, we would object to that
12 generalized video coming in, especially anything
13 coming in that's not actually related to this crime.
14 And I think that's unavoidable if they're going to
15 show the crime scene video. That's just my
16 objection.

17 THE COURT: Yes, ma'am.

18 Ms. Gary.

19 MS. GARY: Thank you, Your Honor, may it please
20 the Court.

21 THE COURT: Yes, ma'am.

22 MS. GARY: Your Honor, this video is offered to
23 show this home in the state in which the forensics
24 officers found it. It's offered to show the jury
25 that they did not alter anything, tamper with

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 anything prior to collecting evidence. My officer is
2 prepared to explain to the jury what those other
3 bullet holes -- what incident they coincide with. He
4 actually researched himself, called back to his
5 office and was able to account for every other bullet
6 hole located in that home on the exterior. I plan to
7 ask him about that so as not to confuse the jury, and
8 to explain what those are and why he was not
9 interested in them and that they do not relate to
10 this case.

11 So again, to the extent that the State just
12 intends to offer that video to show them the crime
13 scene as it existed at the time, you know, we think
14 that's something for the jury to consider, but I
15 think it will be explained in full. She's certainly
16 welcome to cross-examine him on those issues. Thank
17 you.

18 MS. HENRY: I think this is a very serious 403
19 issue. I think that looking at a bunch of extra
20 bullet holes and damage to a house not related to
21 this crime is really problematic, Your Honor.

22 THE COURT: Well, subject to appropriate
23 authentication, I'll allow the video. I do think
24 that the officer will be subject to
25 cross-examination. And I'm not certain that adheres

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 to the benefit of the State or the defense. I don't
2 know what they'll make of the additional bullet
3 holes. I mean, you never know what 12 deliberating
4 jurors are going to think about that.

5 MR. ROBINSON: Your Honor.

6 THE COURT: Yes, sir.

7 MR. ROBINSON: We actually subpoenaed Captain
8 Moran sometime this week. We got all the records,
9 all the reports on that street. It was just a large
10 amount -- Cox Street, a large amount of drive-bys,
11 all that kind of stuff.

12 THE COURT: Yes, sir.

13 MR. ROBINSON: So, it's a lot of information,
14 but she's going to be coming when they finish their
15 case, obviously.

16 THE COURT: Okay. Understand, of course, the
17 witness is going to be subject to cross-examination.
18 So, you can ask him questions regarding all that.

19 MR. ROBINSON: It sounds to me, Your Honor,
20 they're going to have him as an expert on gunshot. I
21 mean, that's what she seems to be indicating.

22 THE COURT: I didn't gather that.

23 MS. GARY: No, sir, that's not my intention at
24 all.

25 MS. HENRY: And, Your Honor, I apologize, one

JOSHUA SHAW-CROSS BY MR. ROBINSON

1 more additional issue. I just want to make sure --
2 I'll wait. We'll see what happens. I apologize.

3 THE COURT: Okay.

4 All right. Bring the jury in, please.

5 By the way, counsel, I left them with the
6 question of whether they wanted to order in or go
7 out, they decided to order. So, we effected the
8 order, so just know we'll have a fairly short lunch.
9 We'll go, again, as late as 6:00, it's going to be a
10 long day. I put you on notice of that now that I
11 want to get as much evidence into the record as we
12 can today.

13 (WHEREUPON, the jury came into open court at
14 approximately 11:06 a.m.)

15 THE COURT: All right, Ms. Gary, you want to
16 call your next witness, ma'am?

17 MS. GARY: Yes, Your Honor, may it please the
18 Court. The State calls Dustin Kretschmar.

19 THE CLERK: Place your left hand on the Bible
20 raise, your right hand.

21 DUSTIN KRETSCHMAR, after being duly sworn,
22 testified as follows:

23 THE CLERK: Thank you. Please take a seat and
24 state your name for the record.

25 THE WITNESS: Dustin Kretschmar.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

DIRECT EXAMINATION

BY MS. GARY:

Q Good morning, Mr. Kretschmar, where do you work, sir?

A I own a pet sitting business.

Q Okay. Is that here in Greenville?

A It is.

Q Were you previously employed by the Department of Public Safety?

A Yes, ma'am.

Q Okay. Tell the jury what you did for that department.

A I was forensic technician.

Q What is a forensic technician?

A We respond to crime scenes and collect and document evidence.

Q And how long did you work as a forensic technician?

A About eight years.

Q When you were employed as a forensic technician, were you in any sort of supervisor capacity?

A I was an FTO.

Q And what is that?

A It is a field training officer for new officers.

Q Okay. And when did you leave the forensic

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 department?

2 A About a year and a half ago.

3 Q Were you working as a forensic tech in the early
4 morning hours of December 8th, 2016?

5 A Yes, ma'am.

6 Q Did you respond to the house that's the subject
7 of this case?

8 A Yeah.

9 Q Do you recall where you responded?

10 A Not the specific address.

11 Q Okay. Who was on the scene of that residence
12 when you responded?

13 A Deputy Coroner Gary Sessions and also
14 Investigator McCalmont.

15 Q On a scene like this, what does a forensic
16 technician do first?

17 A When we respond to a scene, we'll get in touch
18 with the investigator or office on scene just to get a
19 general idea of what's going on so we'll have a direction
20 to go when we start searching the premises.

21 Q Why is that helpful for you in your capacity as
22 a forensic technician?

23 A It gives us an idea of where to start and what
24 to look for and what not to look for when we start
25 searching the property.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Q And you said it's your job to collect evidence;
2 is that correct?

3 A Yes, ma'am.

4 Q Okay. What did you do first on this specific
5 scene?

6 A I spoke with Investigator McCalmont and then
7 there was also another individual on scene, I believe her
8 name was Tracie Patton. And she had arrived before I did,
9 but we took pictures of her and collected gunshot residue
10 kit from her.

11 Q Okay. Tell us about that. Why did you do that?

12 A Anybody on scene, on a crime scene where a gun
13 has been fired, we'll collect a gunshot residue kit to
14 collect any trace evidence that might be on her hands.

15 Q At this point on the scene, did the
16 investigators have any leads or any idea what happened in
17 this case?

18 A Not to my knowledge.

19 Q So, are you just collecting any evidence you
20 think can be potentially helpful?

21 A Yes, ma'am.

22 Q Generally speaking, what is the procedure that
23 you use or that all forensic technicians use to collect
24 evidence on a scene? Do you start outside?

25 A Yes, ma'am. We'll start outside, make sure we

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 document everything with photographs just so we have
2 everything in its original place. Then, typically, we'll
3 collect anything that might be in the way or if we need to
4 work our way inside, then we'll document everything inside
5 and do the same process as far as collection goes.

6 Q Do you do all that documentation before you
7 touch anything?

8 A Yes, ma'am.

9 Q Why do you do that?

10 A We don't want to disturb any evidence before --
11 we want to preserve the integrity of the scene for the
12 photographs.

13 Q Okay. You mentioned that you take photographs
14 of the outside, do you also take video?

15 A Yes, ma'am.

16 Q Mr. Kretschmar, I'm going to show you what's
17 been marked as State's Exhibit 5, just ask you do you
18 recognize that?

19 A Yes, ma'am.

20 Q What is that?

21 A That is the DVD of the video that we took of the
22 scene.

23 Q In this case?

24 A Yes, ma'am.

25 Q Have you reviewed it prior to coming to court

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 today?

2 A Yes, ma'am.

3 Q Did you initial that video?

4 A Yes, ma'am.

5 Q Okay. Did it appear to have been altered in any
6 way?

7 A No, ma'am.

8 MS. GARY: Your Honor, at this time, the State
9 would offer State's Exhibit 5 into evidence and ask
10 the Court's permission to publish?

11 THE COURT: Yes, ma'am.

12 MS. HENRY: Objection, Your Honor, may we
13 approach?

14 THE COURT: Sure.

15 (WHEREUPON, an of-the-record bench conference
16 was held in the presence of the jury but out of
17 the hearing of the jury.)

18 THE COURT: Okay. Yes, ma'am, Ms. Henry, I know
19 you want to pose your objection, ma'am.

20 MS. HENRY: Your Honor, just objection to
21 foundation that was laid. It's my understanding that
22 it was Officer -- my understanding this officer did
23 not actually take this video. I think the
24 appropriate officer, the officer -- actually, the
25 author of the video should be the person to testify

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 to authenticate what's on the tape.

2 THE COURT: Okay. You can ask him the remaining
3 question regarding the authentication. How he knows
4 of it of his own personal knowledge and can he
5 authenticate the veracity of the video. Then
6 assuming that he can do that, then I'll overrule the
7 objection.

8 MS. GARY: Yes, sir, thank you so much.

9 BY MS. GARY:

10 Q Mr. Kretschmar, who took this video, sir?

11 A Forensic technician Blake Wolfe.

12 Q Okay. What were you doing while Forensic
13 Technician Wolfe took this photograph?

14 A I was photographing the same scene.

15 Q Okay. Were you walking along side of him?

16 A Yes, ma'am.

17 Q And, again, you testified you viewed this video
18 prior to coming to court today; is that right?

19 A Yes, ma'am.

20 Q Does it accurately portray the scene as you
21 viewed it at [REDACTED] Cox Street on December 8th, 2016?

22 A Yes, ma'am.

23 Q Had not been altered at all?

24 A No, ma'am.

25 MS. GARY: Okay, thank you so much.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Your Honor, at this time, again, the State would
2 ask to admit State's Exhibit 5 and publish the same
3 to the jury.

4 THE COURT: Okay, subject to both objections
5 that you have posed, I'll overrule the same and admit
6 it into evidence.

7 MS. GARY: Thank you, Judge.

8 THE COURT: Yes, ma'am.

9 (WHEREUPON, State's Exhibit No. 5 was admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 5 was
12 published.)

13 BY MS. GARY:

14 Q Sir, we noticed in that video the video
15 portrayed a number of bullet holes on the exterior of this
16 residence. Were you able in any way to connect those to
17 this case?

18 A No, ma'am. The ones on the side of the house
19 had partial pieces of our scale tape already attached to
20 the residence when we got there. So, to verify where
21 those came from, we contacted our office, our records and
22 found a previous record earlier, I believe that year, one
23 of our officers had responded out to that same residence
24 for a shooting that was in a different case.

25 Q Were you able to account for all those bullet

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 holes on the outside of that home?

2 A Yes, ma'am.

3 Q So, you concluded that they were not part of
4 this case?

5 A Correct.

6 Q Okay. We also saw in your video you focused on
7 shell casings outside the home. Tell the jury, what is
8 shell casings?

9 A Shell casing is a spent cartridge casing. When
10 you fire a gun, it will be ejected out of the firearm and
11 that what's left over behind on the ground.

12 Q Okay. Did you collect shell casings in this
13 case?

14 A Yes, ma'am.

15 Q Okay. I'm going to show you, sir, a number of
16 photos that have been marked State's Exhibit 6 through 13
17 and 17 and ask you if you would take a look at those?

18 A (The witness complies.)

19 Q And, generally speaking, sir, what do those
20 photos depict?

21 A Those are the exterior of the residence. Some
22 pictures are cartridge casings, then there's one of the
23 interior bedroom door as well.

24 Q Are these photos you took of this scene?

25 A Yes, ma'am.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Q Are they altered at all?

2 A No, ma'am.

3 Q Do they appear to be fair and accurate?

4 A Yes, ma'am.

5 MS. GARY: Your Honor, at this time, I would
6 seek to introduce State's Exhibits 6 through 13 and
7 17 into evidence.

8 MS. HENRY: No objection, Your Honor.

9 MR. ROBINSON: No objection.

10 THE COURT: Okay. Without objection, the same
11 are admitted.

12 (WHEREUPON, State's Exhibits Nos. 6-13 and 17
13 were admitted into evidence.)

14 BY MS. GARY:

15 Q Sir, I'm going to draw your attention to State's
16 Exhibit 10. If you would, would you tell the jury the
17 process you're undertaking when you're collecting physical
18 evidence in a case? How do you label it, how do you
19 collect it, things like that?

20 A So, initially, we'll photograph and document
21 everything. In this case, with photographs and video.
22 Then we'll collect it, place it in a bag or container.
23 And then it is taken back to our crime scene office where
24 it is securely packaged, then transported to our property
25 and evidence.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Q And in State's Exhibit 10, what are those yellow
2 items that we see on the ground?

3 A Those are placards for each piece of evidence
4 that we are going to collect, we'll number them. And in
5 this case, we have two on the ground for the cartridges,
6 the cartridge casings that are on the ground there.

7 Q Okay. Do the numbers on those placards
8 correspond to the label that you given an item you
9 collect?

10 A Yes, ma'am.

11 Q Okay. And that's how you keep everything
12 straight?

13 A Yes, ma'am.

14 Q Okay. I'm also going to show you State's
15 Exhibit 11. And ask you, sir, if you would tell the jury,
16 what it is that is depicted there?

17 A That's the picture of the cartridge casing on
18 the ground next to the front porch.

19 Q Okay. And same question about State's Exhibit
20 12, what are we seeing there?

21 A The same, the other cartridge casing on the
22 ground as well.

23 Q Finally, as to State's Exhibit 13?

24 A That is the front porch with the damaged window
25 and the cartridge next to the damaged window.

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Q Okay. All total, how many shell casings did you
2 collect on this scene?

3 A Three.

4 Q Did you know the caliber?

5 A It was a 40-caliber cartridge casing.

6 Q Were they all the same, 40-caliber?

7 A Yes, ma'am.

8 Q I'm also going to show you, sir, what has been
9 marked as State's Exhibits 14, 15 and 16. I'm going to
10 ask you, sir, if you recognize those?

11 A Yes, ma'am. Those are the cartridge casings
12 that were collected on scene.

13 Q How do you know that's what those are?

14 A We create a label for each piece of evidence
15 that we collect. Then we also seal the packaging and then
16 initial and date the seal on each piece of evidence.

17 Q Are your initials on the seal of each of those
18 items?

19 A Yes, ma'am.

20 Q Now, are they still sealed?

21 A Yes, ma'am.

22 Q I don't have scissors to offer you, if you
23 could, open those and make sure those are the items that
24 you put into those envelopes?

25 A (The witness complies.)

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 Q Do each of those items appear to be in the same
2 manner as it was when you packaged it that night?

3 A Yes, ma'am.

4 Q Have any of them been altered at all?

5 A No, ma'am.

6 Q Thank you so much, sir. Sir, after you
7 collected all the evidence from the exterior of this home,
8 what did you do next?

9 A Once the search warrant was obtained, we go
10 inside the residence and do the same process regarding
11 photograph the entire interior. Then video as well and
12 focus in on any items of interest inside the residence.

13 Q I jumped ahead of myself a little bit. What did
14 you notice about the front door of that home when you
15 arrived?

16 A It was damaged. And, specifically, around the
17 doorknob area, there was a footwear impression just
18 underneath the doorknob, I believe.

19 Q Okay. Tell us about this house generally. How
20 is this home laid out?

21 A When you enter the residence through the front
22 porch, there's a living, there's a kitchen in the back of
23 the house, then you have two bedrooms and a bathroom.

24 Q As part of your processing and collecting
25 evidence, did you tend to the victim's body?

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 A Yes, ma'am.

2 Q Tell us about that.

3 A So we, again, document everything before we move
4 anything, touch anything. And then he appeared to have a
5 small cut on one of the fingers, but also a cell phone. I
6 can't remember which hand it was in. He was also wearing
7 a black and white sweatshirt.

8 Q Did you collect all those items?

9 A I did not collect -- I don't recall actually.

10 Q Okay. Do you recall finding glass inside that
11 home?

12 A Yes, ma'am. So, regarding the front porch
13 window, it had gunshot holes through the window. And
14 there were several fragments of what looked like
15 plexiglass inside the window sill, on the interior of the
16 window sill. But also the holes themselves appeared to be
17 pushed in towards the inside of the house.

18 Q Okay. Let me show you State's Exhibit 9. What
19 is depicted in State's Exhibit 9?

20 A That is the exterior of the front porch window.

21 Q Is that the window to which you were just
22 referring?

23 A Yes, ma'am.

24 Q Was that the window in which you located bullet
25 holes?

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 A Yes, ma'am.

2 Q Okay. Thank you. Did you search the entire
3 house for evidence?

4 A Yes, ma'am.

5 Q Do you recall finding any interior doors with
6 damage to them?

7 A Yes, ma'am. The rear back bedroom door had
8 damage around the doorknob and the door frame.

9 Q Okay. Also, going to show you State's Exhibit
10 17. If you would, describe for the jury what damage you
11 observed around that door frame?

12 A So, on the doorframe right where the latch goes
13 into the frame, it's cracked and splintered.

14 Q Okay. Do you recall if there was any sort of
15 mark or impression on that door?

16 A Yes, ma'am. Just underneath and to the side of
17 the doorknob, there's a dirty footwear impression with
18 weighty tread path.

19 Q Thank you, sir. After you photographed and
20 collected evidence from inside the home, did you have an
21 opportunity to collect evidence from James Moss?

22 A Yes, ma'am. When he arrived on scene, we
23 photographed him as well and collected a gunshot residue
24 kit from him as well as his shoes and his clothing.

25 Q You collected his shoes?

DUSTIN KRETSCHMAR-DIRECT BY MS. GARY

1 A Yes, ma'am.

2 Q Okay. What do you do with evidence after you
3 collect it from a crime scene?

4 A So, it's transported back to our crime scene
5 office. Any further processing that might need to be done
6 regarding anything further, fingerprint processing or
7 collection of evidence from that item, we'll take care of
8 that at our crime scene office. That will be packaged and
9 transported to our property and evidence section.

10 Q Are you personally responsible for packing that
11 evidence?

12 A Yes, ma'am.

13 Q Do you also take care of sealing it?

14 A Yes, ma'am.

15 Q You initial your seals you create?

16 A Yes, ma'am.

17 Q Is it in your possession?

18 A Yes, ma'am.

19 Q Where do you take it when you're satisfied that
20 everything is properly packaged and sealed and everything
21 has been processed?

22 A Then it's transported to our property and
23 evidence section.

24 Q Where is that located?

25 A Over at the law enforcement center, downtown.

DUSTIN KRETSCHMAR-CROSS BY MS. HENRY

1 Q Is that what you did with the evidence in this
2 case?

3 A Yes, ma'am.

4 Q Is all of that documented?

5 A Yes, ma'am.

6 Q Okay. After you submitted your evidence in
7 property and evidence, did you have any further
8 involvement in this case?

9 A No, ma'am.

10 MS. GARY: I believe that's all I have. Answer
11 any questions that Ms. Henry or Mr. Robinson has.
12 Thank you.

13 THE COURT: Yes, ma'am.

14 CROSS-EXAMINATION

15 BY MS. HENRY:.

16 Q All right, Mr. Kretschmar, just a couple of
17 questions for you, okay?

18 A Okay.

19 Q Okay. So, your job, as I understand it, is,
20 basically, collect anything from the scene that might be
21 evidence?

22 A Yes, ma'am.

23 Q So, if you saw something that you thought was
24 evidence there, you wouldn't not collect it?

25 A Correct.

DUSTIN KRETSCHMAR-CROSS BY MS. HENRY

1 Q All right. So, you would collect any
2 projectiles?

3 A Yes, ma'am.

4 Q You would swab or collect anything that might be
5 blood?

6 A Yes, ma'am.

7 Q You take pictures of anything that looked like
8 any kind of evidence?

9 A Yes, ma'am.

10 Q That would include any kind of identification
11 you saw there, documents or ID, things like that?

12 A Yes, ma'am.

13 Q So, anything that might have had fingerprints on
14 it, credit cards, blood, shoe prints, cell phone, you
15 would collect all of that?

16 A Yes, ma'am.

17 Q And, in fact, if you found items that looked
18 like projectiles, it's my understanding -- we agree that
19 you would go to great lengths to retrieve those?

20 A Yes, ma'am.

21 Q Okay. So, if you saw something that was,
22 perhaps, like embedded in the wall or the couch, you would
23 cut that?

24 A Yes, ma'am.

25 Q And you're very careful and you wrote a report

DUSTIN KRETSCHMAR-CROSS BY MS. HENRY

1 in this case?

2 A Yes, ma'am, I did.

3 Q So, in this case, in particular, you did collect
4 several swabs to test for DNA; is that accurate?

5 A Yes, ma'am.

6 Q Okay. You also collected fingerprints from the
7 house?

8 A Yes, ma'am.

9 Q And you collected clothes and shoes?

10 A Yes, ma'am.

11 Q Do you know how many pairs of shoes you
12 collected from this house?

13 A I would have to refer to my report.

14 Q Was it more than two?

15 A Pairs of shoes?

16 Q Yes.

17 A Again, I'd have to look at my report.

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

19 A Not on me, no, ma'am.

20 Q All right. In this case, you actually collected
21 the entire front door of the house; is that correct?

22 A Yes, ma'am.

23 Q Because it had a shoe mark on it?

24 A Correct.

25 Q Okay. So, sounds like you guys were very

DUSTIN KRETSCHMAR-CROSS BY MS. HENRY

1 thorough. So, the cartridges you found, you said you
2 found three?

3 A I'm sorry?

4 Q You said you found three cartridges, right?

5 A Yes, ma'am.

6 Q All right. And they all belong to a 40-caliber
7 pistol?

8 A Yes, ma'am.

9 Q So, that pistol -- is that a handgun?

10 A Yes, ma'am.

11 Q Okay. Did you find any other projectiles or any
12 or cartridges belonging to any other weapon?

13 A No.

14 Q Okay. I also want to talk to you a little bit
15 about that video. All right. So, you're not -- you're
16 not testifying here that the majority of those bullet
17 holes that were in that house are from this incident?

18 A Correct.

19 Q So, everything that we saw on that tape that has
20 tape beside it is from something else?

21 A Correct.

22 Q Okay. All right. So, was the plan just to
23 confuse the jury? Why would you show that with all the
24 additional -- you know, don't answer it. Don't answer it.
25 I apologize.

DUSTIN KRETSCHMAR-CROSS BY MR. ROBINSON

1 MS. HENRY: I don't have any other questions
2 right now.

3 THE COURT: Mr. Robinson.

4 MR. ROBINSON: May it please the Court?

5 THE COURT: Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. ROBINSON:

8 Q Officer, is it Kretschner?

9 A Kretschmar.

10 Q Kretschmar?

11 A Yes, sir.

12 Q Officer Kretschmar, as far as -- I don't mean to
13 follow up and ask the same questions as Ms. Henry, but you
14 don't know the age of these shell casings or when they
15 were fired or anything like that about them, do you?

16 A No, sir.

17 Q So, they could be -- now, did you go back to
18 check out the history of Cox Street to see if there had
19 been other shootings there?

20 A Just in reference to the projectiles that were
21 on the side of the house.

22 Q Okay. So, you agree with me, though, that there
23 were other shootings at that residence or around that
24 place on Cox Street?

25 A Yes, sir.

DUSTIN KRETSCHMAR-CROSS BY MR. ROBINSON

1 Q Okay. So, you don't know the age of cartridges.
2 Now, in your job as a forensics technician, did you take
3 any further training in fingerprints?

4 A Yes, sir.

5 Q You did. Did you take any fingerprints at the
6 scene of the covering of the victim?

7 A I'm sorry, say that again.

8 Q Did you take any fingerprints on the cover?
9 There was a black cover on top --

10 A Oh, the curtain.

11 Q Curtain, yes, sir.

12 A No.

13 Q Do you know if anyone did?

14 A No, sir.

15 Q Now, in terms of -- I think you testified on
16 direct examination that you didn't get a history and you
17 didn't have any background when you started your analysis;
18 is that correct?

19 A Correct.

20 Q So, you didn't speak to Officer McCalmont?

21 A I'm sorry, I did speak with Officer McCalmont
22 and Deputy Porter when I first arrived.

23 Q Okay. Did you bring a copy of your file with
24 your reports today?

25 A No, sir.

DUSTIN KRETSCHMAR-CROSS BY MR. ROBINSON

1 Q Would it refresh your memory if I showed you a
2 crime scene investigation report that you filled out?

3 A Yes, sir.

4 Q Okay. Does that refresh your memory of your
5 report?

6 A Yes, sir.

7 Q It does. Can you, for the jury, paraphrase what
8 background you got from Investigator McCalmont?

9 MS. GARY: Your Honor, I have to object at this
10 time. That's hearsay.

11 THE COURT: Is that a code five investigation
12 report?

13 MR. ROBINSON: It's an investigation report,
14 yes.

15 THE COURT: Again, don't read it into the
16 record, but you can discuss what you talked about.

17 MS. GARY: Your Honor, my objection is that
18 he's -- Mr. Kretschmar is repeating what another
19 officer told them.

20 THE COURT: Okay, I understand. I understand.
21 Is that other officer going to take the stand?

22 MS. GARY: Later in the trial, yes, sir.

23 THE COURT: All right, I sustain the objection.

24 MS. GARY: Thank you.

25 MR. ROBINSON: All right.

JENNIE COLEY-DIRECT BY MS. GARY

1 Then I have no other questions then. Thank you.

2 THE COURT: Any redirect?

3 MS. GARY: No, sir, thank you.

4 THE COURT: Thank you, Officer, I appreciate it.

5 You may step down.

6 MS. GARY: Your Honor, at this time, the State
7 calls Jennie Coley.

8 THE CLERK: Please place your left hand on the
9 Bible and raise your right hand.

10 JENNIE COLEY, after being duly sworn, testified
11 as follows:

12 THE CLERK: Please take a seat and state your
13 name for the record.

14 THE WITNESS: Jennie Coley.

15 DIRECT EXAMINATION

16 BY MS. GARY:

17 Q Good morning, Ms. Coley. If you would, tell the
18 jury where you work, please, ma'am.

19 A I work for Greenville County Department of
20 Public Safety Forensic Division, property and evidence
21 section.

22 Q Okay. We've heard a little bit of talk this
23 morning about property and evidence. If you would, tell
24 the jury what that is.

25 A We accept items submitted by law enforcement and

JENNIE COLEY-DIRECT BY MS. GARY

1 we record those items, package them, store them.

2 Q Okay. Where is property and evidence located?

3 A 4 McGee Street, Greenville, South Carolina.

4 Q Is that inside the law enforcement center?

5 A Yes, we're in the basement.

6 Q What is your job title, ma'am?

7 A Administrative support specialist.

8 Q If you would, can you tell the jury what you do
9 on a daily basis at property and evidence?

10 A I accept items submitted by law enforcement. I
11 record those items, package them, and store them in a
12 secured location.

13 Q And you said you accept items from law
14 enforcement. Do you accept from multiple agencies around
15 our county or our state?

16 A Typically, we hold items for Greenville County
17 and Greenville City, but we accept items for testing for
18 other agencies.

19 Q Okay. Tell the jury, if you would, what happen,
20 typically, when a officer brings you a piece of evidence.

21 A He records them on the property and evidence
22 sheet. We review those sheets, compare them with the
23 items they want to submit. We take those items and we
24 record them in our computer system and we package them and
25 then place them in a secured location.

JENNIE COLEY-DIRECT BY MS. GARY

1 Q Okay. Is all the evidence stored at 4 McGee
2 Street?

3 A No, we do have other outside locations.

4 Q Okay. Who all has access to evidence that
5 you're storing?

6 A We have five employees, property and evidence
7 employees.

8 Q So, your facility is secured?

9 A Yes.

10 Q Okay. If someone who is not employed with
11 property and evidencing accesses evidence, is that somehow
12 recorded?

13 A Yes. We have an evidence log that they would
14 have to sign on, or either they can check those items out
15 through a computer system.

16 Q When an officer brings you personally an item of
17 evidence to submit to property and evidence, is it part of
18 your job to make sure that evidence is properly packaged?

19 A Yes.

20 Q Do you also have to make sure it's sealed?

21 A If the item requires sealing, yes.

22 Q Did you receive evidence from Dustin Kretschmar,
23 a forensic technician, on December 14th, 2016 as it
24 relates to this case?

25 A I did.

JENNIE COLEY-DIRECT BY MS. GARY

1 Q Would you please tell the jury what you received
2 from him? And I'm going to draw your attention to
3 particularly three shell casings. Do you recall receiving
4 those?

5 A I do.

6 Q Okay. I'm going to show you what is in front of
7 you and has been marked as State's Exhibits 14, 15 and 16.
8 If you would, ma'am, just take the look at those items and
9 tell us if you recognize those?

10 A Yes, I do.

11 Q Okay. And what are those?

12 A Those are cartridges.

13 Q How do you know that that's what inside those
14 envelopes?

15 A We have a bar code label that tells us exactly
16 what's in them.

17 Q Okay. When you received each of these items
18 from Forensic Technician Kretschmar, you would have
19 personally viewed the items to make sure the items were
20 correct?

21 A No, because they sealed.

22 Q Ma'am, if you would, please, look in State's
23 Exhibit 14, what's been marked as such. Just take a look
24 at what's inside. Does it appear to be altered at all,
25 ma'am?

JENNIE COLEY-DIRECT BY MS. GARY

1 A No.

2 Q Would you do the same items State's 15 and 16,
3 excuse me?

4 A (The witness complies.)

5 Q Do those appear to have been altered at all?

6 A No.

7 Q Again, of course, with the exception that
8 they're now opened; is that correct?

9 A Correct.

10 Q Okay.

11 MS. GARY: Your Honor, at this time, the State
12 would offer Exhibits 14, 15 and 16 into evidence.

13 THE COURT: Okay. Any objection?

14 MS. HENRY: No objection.

15 THE COURT: Any objection?

16 MR. ROBINSON: No objection.

17 THE COURT: All right, without objection, the
18 same is admitted.

19 (WHEREUPON, State's Exhibits Nos. 14-16 were
20 admitted into evidence.)

21 BY MS. GARY:

22 Q Ms. Coley, other than receiving items from
23 Forensic Technician Kretschmar, those items you just
24 referred to, did you have any further involvement in this
25 case?

MICHAEL WARD-DIRECT BY MS. GARY

1 A No, I did not.

2 MS. GARY: Those are all my questions, ma'am.

3 Thank you so much. Answer any questions that

4 Ms. Henry or Mr. Robinson may have.

5 MS. HENRY: No questions, Your Honor.

6 MR. ROBINSON: No questions.

7 THE COURT: Thank you, ma'am, I appreciate you
8 being here. You may step down. You're excused.

9 MS. GARY: Your Honor, at this time, the State
10 calls Dr. Michael Ward.

11 THE COURT: Okay.

12 THE CLERK: Please place your left hand on the
13 Bible and raise your right hand.

14 MICHAEL WARD, after being duly sworn, testified
15 as follows:

16 THE CLERK: Thank you. Please have a seat and
17 state your name for the record.

18 THE WITNESS: Michael Eugene Ward.

19 DIRECT EXAMINATION

20 BY MS. GARY:

21 Q Good morning, Dr. Ward. If you would please,
22 tell the jury what do you do for a living.

23 A I'm a forensic pathologist and I work as the
24 medical examiner for Greenville County.

25 Q Are you, in fact, our chief medical examiner?

MICHAEL WARD-DIRECT BY MS. GARY

1 A I am.

2 Q How long have you been a medical examiner?

3 A For 24 years.

4 Q Tell the jury what all your duties involve.

5 A My duties involve investigating deaths that
6 occur in Greenville County to determine cause and manner
7 of death.

8 Q Do you perform autopsies in your job?

9 A I do.

10 Q Tell the jury what is the purpose of an autopsy?

11 A An autopsy is a detailed, physical examination
12 performed on someone who has died in an effort to
13 determine how and why they died, to document any natural
14 disease that they may have or, in this case, any trauma
15 that may be present.

16 Q So, in your job, are you determining someone's
17 cause of death?

18 A I am.

19 Q Are you also determining their manner of death?

20 A Yes.

21 Q How are those two different?

22 A A cause of death is what actually started the
23 ball rolling down the hill that resulted in that person's
24 death. So, in this case, gunshot wounds, or a heart
25 attack. Manner of death is the circumstances surrounding

MICHAEL WARD-DIRECT BY MS. GARY

1 the death, be it natural death, accidental death or
2 homicide.

3 Q Okay. Would you please detail your educational
4 background for the jury?

5 A I have a Bachelor's Degree in biology from the
6 University of Alabama. I received my Masters Degree in
7 forensic science from the University of Alabama in
8 Birmingham. I received my medical decree from the
9 University of South Alabama, which is in Mobile. I did a
10 four-year anatomic pathology residency at the Medical
11 University of South Carolina in Charleston. I had a
12 one-year fellowship in forensic pathology at the
13 University of New Mexico, which is in Albuquerque. I'm
14 certified by the American Board of Pathology in both
15 anatomic and forensic pathology.

16 Q Are you also a licensed medical doctor?

17 A I am.

18 Q What sort of training, specific training did you
19 receive to become a medical examiner?

20 A The residency program, which was at MUSC, is a
21 program designed to teach pathology. Pathology is the
22 study of disease and disease processes and how they affect
23 man. Part of that is learning to do the autopsy. My
24 fellowship, which was in forensic pathology, was
25 specifically designed as a training in forensic pathology

MICHAEL WARD-DIRECT BY MS. GARY

1 to use the autopsy, investigative techniques to determine
2 cause and manner of death.

3 Q Okay. You mentioned that you are board
4 certified by the America Board of Pathology. Do you have
5 to participate in ongoing training and certification to
6 maintain that?

7 A Yes, I do.

8 Q Okay. Over the course of your career as the
9 medical examiner, approximately how many autopsies have
10 you performed?

11 A Over 5,000.

12 Q Have you testified in court as a expert witness
13 before?

14 A Yes, I have.

15 Q Have you been so qualified as an expert in
16 forensic pathology?

17 A Yes, I have.

18 Q Thank you, Doctor.

19 MS. GARY: Your Honor, at this time, the State
20 would offer Dr. Michael Ward as a expert in the field
21 of forensic pathology. We'd also ask Your Honor to
22 find the method by which Dr. Ward reached his
23 conclusion is reliable.

24 THE COURT: All right. Any voir dire or
25 exceptions?

MICHAEL WARD-DIRECT BY MS. GARY

1 MS. HENRY: No, Your Honor.

2 THE COURT: Mr. Robinson?

3 MR. ROBINSON: No, Judge.

4 THE COURT: All right. Ladies and gentlemen,
5 the State has offered Dr. Ward as an expert witness.
6 Now, a party to a lawsuit may offer a witness as a
7 expert witness because of his or her respective
8 education, expertise or experience in a given field.

9 And the reason they may want to offer that
10 witness as an expert witness is because expert
11 witnesses can offer opinion testimony that regular
12 lay witnesses can't otherwise offer. And that
13 opinion is offered to assist the triers of fact in
14 their evaluation of the evidence.

15 Now, understand that when a witness is qualified
16 as an expert witness, that doesn't mean that the
17 value of that witness's testimony is any greater.
18 All it means is they have the requisite education,
19 experience and expertise in a given field. So, when
20 you receive an expert witness's testimony, you
21 receive it just like any other piece of evidence that
22 you receive in this case. That is, you determine in
23 your discretion whether it's credible and you
24 determine what weight or what value it has in your
25 determination, just like you consider any other piece

MICHAEL WARD-DIRECT BY MS. GARY

1 of evidence that you receive in this case. So,
2 expert witness's testimony is not preferred over any
3 other piece of evidence. It's just like any other
4 piece of evidence.

5 So, he is so qualified. You may proceed, ma'am.

6 MS. GARY: Thank you, Your Honor, may it please
7 the Court.

8 BY MS. GARY:

9 Q Dr. Ward, were you, in fact, the chief medical
10 examiner in 2016?

11 A Yes, I was.

12 Q Were you working in that same capacity that you
13 just described to the jury back in 2016?

14 A I was.

15 Q Did you perform the autopsy on Clinton Pearson?

16 A I did.

17 Q When did you do that?

18 A On December 8th, 2016, beginning at 9:00 a.m.

19 Q Do you recall where that was performed?

20 A It was performed at the autopsy facility at
21 Greenville Memorial Hospital.

22 Q Okay. What did you notice as a result of your
23 external examination of Mr. Pearson?

24 A That Mr. Pearson had multiple gunshot wounds.

25 Q How many did you note?

MICHAEL WARD-DIRECT BY MS. GARY

1 A There were three.

2 Q Are you able, Dr. Ward, to arrange those wounds
3 in any sort of chronological order?

4 A I was not, no.

5 Q So, if you would, please tell the jury about the
6 first gunshot wound that you noted. Where was that
7 located?

8 A The first gunshot wound that was described was
9 located in the right upper chest, roughly, just to the
10 right of his nipple. It passed from below upward through
11 the skin and musculature on the right chest and then
12 existed right beneath the right clavicle. So, it went in
13 here, came out beneath the right clavicle, and then
14 reentered into his right neck. After it reentered the
15 right neck, it went through the musculature of the neck,
16 upward through the first cervical vertebrae and into what
17 we call the cranial vault where the brain lives. It
18 passed through the pons and into the left side of the
19 brain impacting the bone near the top of the head and came
20 to rest within the scalp just covering the bone to the
21 left side of the midline.

22 Q Would that wound have been fatal?

23 A It would have been.

24 Q Are you able to draw any conclusions -- or were
25 you able to draw any conclusions about that bullet's path?

MICHAEL WARD-DIRECT BY MS. GARY

1 You mentioned it was shot from below. Could you tell the
2 jury about that?

3 A Well, the path through Mr. Pearson, if he were
4 standing in the upright position, would be from his front
5 to his back, from his right to his left and from below
6 upward. Given that scenario, the most reasonable -- so
7 the shooter had to be below Mr. Pearson or Mr. Pearson had
8 to be lying somewhat supine to get that type of direction.

9 Q Okay. Were you able to determine from how far
10 away that shot was fired?

11 A I was not.

12 Q Okay. In your work, are you sometimes able to
13 determine that?

14 A Yes, we can. There are components of a gunshot
15 that -- I'm sorry, let me rephrase. When you fire a
16 weapon, we all realize that the bullet comes out of the
17 barrel of the gun. Other objects come out the barrel as
18 well. Soot, unburned gun powder also exit the barrel of
19 the gun. These will travel for a certain distance,
20 sometimes striking a target and allowing us to be able to
21 determine the range of fire. We did not see any gunshot
22 residue on the clothing of Mr. Pearson at the time of
23 autopsy.

24 Q Okay. Dr. Ward, did you remove a projectile
25 from that first gunshot wound?

MICHAEL WARD-DIRECT BY MS. GARY

1 A Yes, I did.

2 Q Tell the jury, what is a projectile?

3 A The projectile is what we would call a bullet.
4 So, this is -- once you fire a bullet, the projectile is
5 the lead and jacket portion that travels through the air
6 striking the target. Once it strikes the target, we call
7 that a projectile as opposed to a bullet.

8 Q What did you note about the first projectile?

9 A That it was a medium caliber, semi-jacketed
10 hollow point projectile that had been moderately distorted
11 by impacting tissue and bone.

12 Q And would a 40-caliber be considered a medium
13 caliber?

14 A Yes, it would.

15 Q Okay, thank you, Dr. Ward. As to the second
16 wound that you located on Mr. Pearson, tell the jury where
17 was that located?

18 A The second gunshot wound was to Mr. Pearson's
19 right lower chest. So, it's right at the lower margin of
20 the ribcage. Again, on the right side. This one went
21 through the ribs, into the chest cavity, traumatizing the
22 right hemi-diaphragm, which is the muscle that we use to
23 breathe. It traumatized the underlying liver, and then
24 into the right lower lobe of lung, exiting the back of the
25 chest cavity and terminating its course within the

MICHAEL WARD-DIRECT BY MS. GARY

1 subcutaneous tissues of the right shoulder. So again, it
2 went from his front to his back, very slightly from his
3 right to his left, and then also upward.

4 Q Okay. Would that wound have also been fatal?

5 A It's certainly a potential fatal wound. It
6 would not have been an immediate fatal wound.

7 Q Did you recover a projectile from that wound as
8 well?

9 A Yes, I did.

10 Q Would you please describe that to the jury?

11 A That projectile was described as a
12 medium-caliber, moderately deformed, semi-jacketed
13 projectile. It was recovered in two fragments. As a lead
14 core and as the copper-colored jacket. So, they had
15 separated, but traveled together.

16 Q Dr. Ward, what is an intermediate target defect?

17 A Intermediate target defect is if a projectile
18 passes through something else before it hits the target,
19 very often, that tissue or substance that it passes
20 through first will impact the outside of the body leaving
21 marks. And that we call intermediate target defect.

22 Q Would you expect to find intermediate target
23 defect on a wound if a bullet had passed through glass?

24 A It's certainly possible. However, other things
25 may shield that body from that target defect. Certainly,

MICHAEL WARD-DIRECT BY MS. GARY

1 clothing may have done that.

2 Q And did you -- tell the jury, please, about the
3 final gunshot wound that you located on Mr. Pearson.
4 Where was that found?

5 A Gunshot wound number three was located on the
6 left lateral or the left side of the chest. It passed
7 through the ribs on the left side into the lower lobe of
8 the left lung and terminated its course within the --
9 beneath the skin of the left midback.

10 Q Would that wound have also been fatal or
11 potentially fatal?

12 A It certainly would have been potentially fatal,
13 especially given in combination with gunshot wound number
14 two. You have two traumatizing wounds, one to each lung,
15 it could, certainly, be potentially fatal.

16 Q Did you collect a projectile from that wound as
17 well?

18 A Yes, I did.

19 Q Would you please describe that projectile to the
20 jury?

21 A It was a similar projectile, medium-caliber,
22 semi-jacketed, hollow point projectile.

23 Q Thank you. Did you find any other trauma to
24 Mr. Pearson's body besides those gunshot wounds?

25 A Yes. He had an abrasion or a deep scratch to

MICHAEL WARD-CROSS BY MS. HENRY

1 the left temple region and he had a laceration to the tip
2 of his thumb.

3 Q Dr. Ward, as a result of your autopsy and based,
4 of course, on your training and experience, were you able
5 to determine the cause of death in this case?

6 A Yes, I did.

7 Q What was that?

8 A Mr. Pearson died as a result of gunshot wounds
9 of the chest.

10 Q Your training and experience and your
11 examination in this case, did you determine the manner of
12 his death?

13 A Yes, I did.

14 Q What was that?

15 A The manner of death would be homicide.

16 MS. GARY: Thank you, Dr. Ward, I believe those
17 are all my questions. Please answer any questions
18 Ms. Henry or Mr. Robinson might have. Thank you.

19 THE COURT: Ms. Henry.

20 CROSS-EXAMINATION

21 BY MS. HENRY:

22 Q Just really quick, Dr. Ward. So, you're just
23 going to tell us what killed Mr. Pearson?

24 A I'm sorry?

25 Q You're here to tell us what killed Mr. Pearson?

MICHAEL WARD-CROSS BY MR. ROBINSON

1 A Yes, that's part of my testimony, yes, ma'am.

2 Q But you can't tell who killed Mr. Pearson or who
3 shot Mr. Pearson?

4 A No, I cannot.

5 MS. HENRY: I don't have any other questions.

6 THE COURT: Mr. Robinson.

7 CROSS-EXAMINATION

8 BY MR. ROBINSON:

9 Q Good morning, Doctor.

10 A Good morning.

11 Q Doctor, I think you testified that all three of
12 these gunshot wounds were going upward; is that correct?

13 A Yes, they were.

14 Q Going upward. And I think in your report --
15 you've got a copy of your report, don't you?

16 A Yes, I do.

17 Q And when you did your autopsy of the victim in
18 this case, did you determine how tall he was?

19 A I did.

20 Q How tall was he?

21 A Mr. Pearson was 71-inches tall or in length,
22 which is five feet 11-inches.

23 Q And in terms of the -- you noticed different --
24 you noticed a laceration and a cut; is that correct?

25 A A laceration and an abrasion.

MICHAEL WARD-CROSS BY MR. ROBINSON

1 Q And an abrasion, okay. What did that indicate
2 to you?

3 A Well, the abrasion was very superficial, could
4 have been caused by any number of things, even him
5 collapsing at the time after receiving a gunshot wound.
6 The trauma or the laceration to the thumb was fairly
7 nonspecific. I'm not sure what that wound was from.

8 Q Dr. Ward, in your experience, you've got a
9 five-foot-eleven person and a upward-traveling bullet, is
10 it your opinion that the victim in this case was standing
11 versus laying down?

12 A Not necessarily, no.

13 Q But could he have been standing when he received
14 one of these wounds in this case?

15 A He could have been standing when he received, at
16 least, one of the wounds, yes.

17 Q Okay. So, if there was the upward wound, he
18 could have been standing and he could have collapsed; is
19 that right?

20 A That's correct.

21 Q Okay.

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

23 THE COURT: Yes, sir.

24 MR. ROBINSON: Thank you, Dr. Ward. That's all
25 I have.

RYAN WEEKS-DIRECT BY MS. GARY

1 THE COURT: Any redirect?

2 MS. GARY: No, thank you, Judge.

3 THE COURT: Thank you, Dr. Ward, I appreciate
4 you being here. You may be excused.

5 Yes, ma'am, you may call your next witness.

6 MS. GARY: Thank you, Your Honor, the State
7 calls Ryan Weeks.

8 Sir, please come forward and be sworn.

9 THE CLERK: Place your left hand on the Bible
10 and raise your right.

11 RYAN WEEKS, after being duly sworn, testified as
12 follows:

13 THE CLERK: Thank you. Please take a seat and
14 state your name for the record.

15 THE WITNESS: Ryan Weeks.

16 DIRECT EXAMINATION

17 BY MS. GARY:

18 Q Good morning, Officer Weeks. It might be fairly
19 obvious, but where do you work, sir?

20 A I work for the Greenville City Police
21 Department.

22 Q What do you do for the Greenville City Police
23 Department?

24 A Right now, my current position is K-9 handler.

25 Q How long have you worked there?

RYAN WEEKS-DIRECT BY MS. GARY

1 A Roughly, eight years.

2 Q So, you were working for the City in December of
3 2016?

4 A Yes.

5 Q In what capacity were you working then?

6 A At the time, I was a patrol officer working the
7 Charlie beat area.

8 Q What are your duties when you're a patrol
9 officer?

10 A We respond to calls that we receive in from
11 dispatch, calls for service, when time allows proactive
12 work.

13 Q Would a call for service include a 911 call?

14 A Yes.

15 Q Did you respond to a residence in Greenville
16 County on December 8th, 2016?

17 A Yes.

18 Q Tell us where you responded.

19 A It was [REDACTED] Shemwood Lane. It was an apartment
20 complex. We got a phone call, I believe it was a 911
21 call, that we had a gunshot victim. That's where we
22 responded to.

23 Q To which apartment did you respond?

24 A Off the top of my head, I don't remember what
25 the apartment number was.

RYAN WEEKS-DIRECT BY MS. GARY

1 Q Okay. Did you write a report in this case?

2 A Yes, ma'am.

3 Q If I showed you that report, would it refresh
4 your memory on the apartment number?

5 A Absolutely.

6 Q Okay.

7 A It was Apartment [REDACTED].

8 Q Okay. What time did you respond to that
9 apartment, sir?

10 A It was about -- it was late. It was about five
11 o'clock in the morning.

12 Q So, when you say late, that seems early. Were
13 you working night shift?

14 A Yes, I was.

15 Q Would the time you responded be noted in your
16 report?

17 A Yes.

18 Q If you would, take a minute and refresh your
19 memory of that time.

20 A Report says 5:14.

21 Q In the morning?

22 A Yes, ma'am, a.m.

23 Q What did you see when you responded to that
24 home?

25 A It was dark. I went to the door. There was no

RYAN WEEKS-DIRECT BY MS. GARY

1 confusion or anything outside, but we knocked on the door
2 and we witnessed an individual sitting on the couch inside
3 the apartment. He had a wrap on one of his legs, right
4 around his knee. The rags around his knee seemed to be
5 covered in what looked to be blood.

6 Q Did you identify that person?

7 A Yes.

8 Q Who was that?

9 A Connell Wells.

10 Q Who else was inside that apartment, sir?

11 A There was another female that was inside that
12 apartment. We spoke with her. I believe she was mopping
13 up the kitchen when we got there. I think she rendered
14 aid to Mr. Connell Wells, I believe is what she said.

15 Q What is her name?

16 A Her name Kia, Kia Sims.

17 Q Okay. At some point, was EMS called for
18 Mr. Wells?

19 A Yes.

20 Q Did you personally view his injuries?

21 A After EMS arrived, I did. I didn't tend to any
22 of his injuries.

23 MS. HENRY: Objection, Your Honor. May we
24 approach?

25 THE COURT: Sure.

RYAN WEEKS-DIRECT BY MS. GARY

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: All right, ladies and gentlemen, I'm
5 going to send you out of the courtroom for just a few
6 minutes. Oftentimes, issues come up relating to the
7 introduction of evidence that I must necessarily hear
8 outside of your presence because the evidence may be
9 admissible and it may not be admissible. But it's
10 important for me to hear it and be able to get a full
11 explanation of not only what it is, but why it's
12 being introduced so I can answer the question and
13 make a decision.

14 So, I'm going to ask you to return to your jury
15 room. Hopefully, it's not going to take very long.
16 We'll come back in when we resolve the issue..

17 (WHEREUPON, the jury left open court at
18 approximately 12:11 p.m.)

19 THE COURT: Yes, ma'am.

20 MS. HENRY: I apologize, Your Honor. I just
21 want to renew my objection to any kind of information
22 being introduced relating to the shotgun, that
23 includes Connell Wells' injury. It's my
24 understanding from the evidence in this case that
25 it's going to be undisputed that my client did not

RYAN WEEKS-DIRECT BY MS. GARY

1 shoot Mr. Pearson. There's going to be significant
2 dispute, I believe, that the shotgun injury even
3 happened in this house or related at all to this
4 crime.

5 You just heard testimony from Officer
6 Kretschmar. There is absolutely no evidence
7 whatsoever that the shotgun was fired or that Connell
8 Wells was injured at the house that Mr. Pearson was
9 killed in. Connell Wells -- the injury of Connell
10 Wells, my client, has not been charged with. It's
11 not on the docket today. It's a prior bad act. I
12 don't understand how it comes in.

13 THE COURT: Prior bad act on whose part?

14 MS. HENRY: My understanding is that the State
15 is planning to allege that my client shot Connell
16 Wells with a shotgun. And as far as I can tell,
17 that's not on the docket. He hasn't been charged
18 with it. It's a prior bad act. None of the forensic
19 evidence that we have that I've been given
20 suggests -- and you just heard from Officer
21 Kretschmar, who collected at the [REDACTED] Cox Street,
22 there was no evidence that a shotgun was fired.
23 There was no evidence or blood connected that was
24 connected to any of that. And I just don't know --
25 you heard -- the pathologist testified the victim was

RYAN WEEKS-DIRECT BY MS. GARY

1 killed by medium weight slugs. No testimony
2 whatsoever that his death was connected to a shotgun.
3 I just -- yeah.

4 THE COURT: Okay. So, what's the relevance and
5 for what purposes is it being introduced?

6 MS. GARY: Thank you, Your Honor. The State's
7 theory of the case is that Mr. Wells was shot by
8 Mr. Babb with a shotgun during the commission of this
9 robbery and this murder. I'm eliciting this
10 information from this officer because he personally
11 perceived Mr. Wells' injury. There's a photo of the
12 shotgun wadding that came out of Mr. Wells' leg,
13 which is what I was going to introduce in just a
14 minute.

15 Certainly, we have not yet gotten to the portion
16 of the trial where Your Honor and the jury will hear
17 the testimony about Mr. Babb having been armed with a
18 shotgun and having disposed of it later. Certainly,
19 Mr. Babb does not have to have been charged with any
20 sort of bad act for it -- even if this were such,
21 which it is not. We're not offering it to prove
22 anything about his character, Your Honor. If
23 anything, it goes to his identity as a participant in
24 this crime. There will be additional corroborating
25 evidence that Mr. Babb was so armed and did, in fact,

RYAN WEEKS-DIRECT BY MS. GARY

1 shoot Mr. Moss. We simply haven't gotten to that
2 point yet.

3 THE COURT: So, the allegation is it's not a
4 prior bad act, it's part of this operative set of
5 facts that are on trial today?

6 MS. GARY: Absolutely, Your Honor, yes, sir.

7 THE COURT: All right, Ms. Henry.

8 MS. HENRY: Your Honor, we're not disputing that
9 Connell Wells was shot in the leg at some point. He
10 may have been shot with a shotgun, I have no idea.
11 But I don't see any medical records or anything else
12 related to Connell Wells in evidence right now to
13 show that he was. Other than -- that's it, this is
14 what we have. At least, as of right now, it's my
15 understanding that absent any kind of connection to
16 this crime, this should not come in. And I just
17 don't see how it's not a prior bad act. I mean, the
18 whole point of putting it in is to show that my
19 client shot Connell and to bolster what I'm assuming
20 they believe will be Connell's testimony.

21 THE COURT: All right. I'm going to overrule
22 the objection. Based on what I know about the case
23 so far, I haven't seen all the evidence, it's not
24 being introduced as a prior bad act. It certainly
25 isn't being introduced as a prior bad act right now.

RYAN WEEKS-DIRECT BY MS. GARY

1 It's being introduced as a response to a call and the
2 identification of a victim of a crime.

3 Now, I haven't heard any connection yet, as you
4 suggest, Ms. Henry, between either of the defendants
5 in this. However, my presumption is it's relevant to
6 the crime that is on trial during today. And I
7 presume that based on the State's theory of the case
8 and the explanation of what it means. So, I don't
9 see it as a prior bad act. And in introducing the
10 evidence of an injury, I don't think that, at this
11 juncture, amounts to a prior bad act of the Defendant
12 in this case. Okay.

13 So, I'm going to respectfully overrule it. I
14 find that it is relevant to the proceeding. And I
15 find that it's not a prior bad act under Rule 404(b).
16 Now, obviously, the State's got some work to do to
17 connect the dots. It's not in evidence yet, but I'm
18 going to allow them to introduce it, okay.

19 MS. GARY: Thank you, Judge.

20 THE COURT: Okay. All right, bring them back
21 in, please.

22 MR. ROBINSON: Your Honor, I would join with
23 Ms. Henry's objection as well.

24 THE COURT: Okay, you're protected on the record
25 in that regard, sir.

RYAN WEEKS-DIRECT BY MS. GARY

1 (WHEREUPON, the jury came into open court at
2 approximately 12:16 p.m.)

3 THE COURT: Ms. Gary, you may proceed, ma'am.

4 MS. GARY: Thank you, Your Honor, may it please
5 the Court.

6 BY MS. GARY:

7 Q Officer Weeks, did you personally perceive
8 Mr. Wells' gunshot wound?

9 A Yes.

10 Q Will you tell the jury about what you saw?

11 A When I entered the apartment when we first got
12 there, he was sitting on the couch with his leg on the
13 coffee table and his leg was bandaged up in some kind of
14 clothing, some kind of cloth. Clothing was soaked in what
15 appeared to be blood. EMS was called to the scene. When
16 EMS arrived on scene, that's when they removed the
17 bandaging and I did witness a large injury to his -- I
18 believe, it was his right, his right knee. His right knee
19 area. Did appear to be a gunshot wound. And when EMS
20 began assessing the injury to his leg, they did advise
21 that they were able --

22 MR. ROBINSON: Objection, Your Honor, hearsay.

23 THE COURT: Okay. What's the hearsay, sir?

24 MR. ROBINSON: He's trying to testify what EMS
25 said. They're not here. Out-of-court statement

RYAN WEEKS-DIRECT BY MS. GARY

1 offered for the truth of the matter asserted.

2 THE COURT: Will you rephrase the question?

3 MS. GARY: Absolutely, yes, sir.

4 BY MS. GARY:

5 Q Did you perceive what we sometimes refer to as
6 pellets on Mr. Wells' body or even inside his body?

7 A Yes. After the bandages were removed, I did
8 personally witness shotgun pellets that -- they actually
9 fell out of the bandaging, out of his leg when the
10 bandaging was removed. Also, was a plastic, what's called
11 shotgun wad. It's pretty unique to a shotgun shell that
12 was also inside that bandaging and inside his wound.

13 Q Sir, I'm going to show you what's been marked as
14 State's Exhibit 19. If you would, just tell us if you
15 recognize that?

16 A Yes.

17 Q What is that a photo of?

18 A This is a photo of where -- so Mr. Wells was
19 sitting here at the top of the picture on this couch with
20 his leg on this coffee table with this towel and
21 bandaging. Also, next to this towel is the shotgun wad
22 that I was referring to. It was removed from the wound.

23 Q Is that accurate portrayal of what you
24 personally saw that night?

25 A Yes.

RYAN WEEKS-DIRECT BY MS. GARY

1 Q Has it been altered at all?

2 A No.

3 MS. GARY: Your Honor, at this time, we would
4 offer State's Exhibit 19 into evidence.

5 THE COURT: Objection?

6 MS. GARY: That's what I showed you earlier.

7 THE COURT: Objections?

8 MS. HENRY: No, Your Honor.

9 MR. ROBINSON: No, Judge.

10 THE COURT: Okay, same is admitted.

11 MS. GARY: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit No. 19 was admitted
13 into evidence.)

14 MS. GARY: Thank you, Your Honor. At this time,
15 we'd like to publish State's 19.

16 (WHEREUPON, State's Exhibit NO. 19 was
17 published.)

18 BY MS. GARY:

19 Q Officer, while we wait for that to boot up,
20 would you describe, please, to the jury, when someone is
21 shot by a shotgun, does a shotgun release a projectile
22 like a pistol?

23 MS. HENRY: Objection Your, Honor. I don't
24 believe they've established he's an expert on guns.

25 THE COURT: Okay. I don't think that's within

RYAN WEEKS-DIRECT BY MS. GARY

1 the purview of an expert's testimony. If it goes
2 much beyond that, then I think you may be right, but
3 I'll allow that question. I think that's within the
4 knowledge of a layperson.

5 MS. GARY: Thank you, Judge.

6 THE WITNESS: Typical shotgun shells have what's
7 called a shot, it's a shot shell. The shot and shell
8 itself is filled with numerous pellets that come out
9 of the shell when it's fired.

10 BY MS. GARY:

11 Q Those pellets, describe to the jury what they
12 look like.

13 A They're tiny like BB's almost. They're real
14 small, BB-looking balls.

15 Q Okay. You also mentioned shotgun wadding
16 earlier. Tell us what that is.

17 A It's the interior of the shotgun shell that
18 holds packaging, holds the inside of the shell together.
19 And it's also expelled from the end of the shotgun shell
20 when a round is fired.

21 Q Sir, I believe you have a laser pointer in front
22 of you on the stand. If you would use that and
23 demonstrate on State's Exhibit 19 for this jury. Is there
24 shotgun wadding located in this photo?

25 A Right there.

RYAN WEEKS-DIRECT BY MS. GARY

1 Q Are you able to see whether or not there are
2 pellets in this photo?

3 A I couldn't see it in this picture. I did see
4 them on scene lying on the table. If I could see the
5 picture again.

6 MS. GARY: You can turn the lights back on.

7 Thank you.

8 THE WITNESS: Yes.

9 BY MS. GARY:

10 Q So, you are able to see pellets in State's
11 Exhibit 19?

12 A Yes.

13 Q Okay. Thank you, Officer Weeks. What did you
14 do after -- when EMS arrived and was tending to Mr. Wells,
15 what did you do next?

16 A I began talking to other people that were on the
17 scene. I believe there were only two other people on
18 scene.

19 Q Did you speak with Ms. Sims?

20 A I did.

21 Q Did you also encounter a William Brown in that
22 apartment?

23 A Yes.

24 Q Did you speak with him?

25 A Yes.

RYAN WEEKS-DIRECT BY MS. GARY

1 Q Did you or other officers locate a vehicle near
2 that apartment?

3 A Yes.

4 Q Tell the jury about that.

5 A So, there was a red Crown Victoria that was
6 directly in front of the apartment [REDACTED] that we were at.
7 While I was speaking with Ms. Sims and other people out on
8 scene and trying to speak with supervisors and EMS,
9 another officer was walking around and advised that he
10 located this red Crown Vic in front of the apartment.

11 Q To whom did that car belong, sir?

12 A We ran the tag on the vehicle -- we asked
13 Ms. Sims first and she stated that the car belonged to
14 Mr. Wells. We verified through the DVM running the tag on
15 the computer that the vehicle was registered to
16 Mr. Connell Wells.

17 Q I'm going to ask you to look at what's been
18 marked as State's Exhibit 18 and ask you if you recognize
19 that?

20 A Yes.

21 Q And what's portrayed in that, sir?

22 A This is the vehicle that we were just speaking
23 about with the apartment just in front of it with officers
24 holding to secure the scene in front of this vehicle.

25 Q Okay. Does that appear to be a fair and

RYAN WEEKS-DIRECT BY MS. GARY

1 accurate representation of the vehicle that you saw that
2 night?

3 A Yes, ma'am.

4 Q Has it been altered at all?

5 A No, ma'am.

6 MS. GARY: Your Honor, at this time, the State
7 would offer State's Exhibit 18 into evidence.

8 THE COURT: Objections?

9 MS. HENRY: No objection.

10 MR. ROBINSON: No objection.

11 THE COURT: All right, without objection, the
12 same is admitted.

13 (WHEREUPON, State's Exhibit No. 18 was admitted
14 into evidence.)

15 MS. GARY: Thank you, Judge. We would also like
16 to publish the same.

17 THE COURT: Yes, ma'am.

18 (WHEREUPON, State's Exhibit No. 18 was
19 published.)

20 BY MS. GARY:

21 Q Officer, you can use that same pointer, if
22 you're able. And can you show the jury where [REDACTED] is
23 located?

24 A Is right here where these other officers are
25 standing.

RYAN WEEKS-DIRECT BY MS. GARY

1 Q Okay. Is that -- what is that yellow tape we
2 see in that photo?

3 A That's crime scene tape.

4 Q Would that be put up by you or somebody in your
5 agency?

6 A Someone in our agency. I didn't myself put that
7 up, but someone in our agency would have.

8 Q What is the purpose of that?

9 A The purpose of it is to secure evidence that was
10 found in that car of a gunshot or some of kind injury that
11 took place in or around this vehicle.

12 Q Okay. Did you personally look inside that
13 vehicle?

14 A Yes.

15 Q What did you see?

16 A There was a large amount of what appeared to be
17 blood in the back seat of the vehicle.

18 Q All right, sir. Was forensics called out to
19 this scene?

20 A Yes.

21 Q Okay. And were you present when they arrived?

22 A I was not present when they arrived.

23 Q Okay. Would someone else in your agency have
24 left that vehicle -- excuse me, stood by with that
25 vehicle?

RYAN WEEKS-CROSS BY MS. HENRY

1 A Yes.

2 Q Okay. Would that conclude your involvement in
3 this case, I guess?

4 A Yes, ma'am.

5 MS. GARY: I believe those are all my questions.
6 If you would answer any questions Ms. Henry and
7 Mr. Robinson might have. Thank you so much.

8 THE COURT: Ms. Henry.

9 CROSS-EXAMINATION

10 BY MS. HENRY:

11 Q I just want to make sure I understand just a
12 couple of quick things, Officer Weeks. So, when you
13 observed Connell Wells' injury, you said that it was
14 soaked in blood. Is that an accurate description?

15 A Yes, ma'am. When we first went in the toweling
16 and bandaging that he had on his leg, it appeared to be
17 soaked in blood.

18 Q Okay. One of the exhibits that -- photographs
19 that they showed you of the table, you can see behind the
20 table, correct? There's blood on the floor?

21 A Correct.

22 Q And you also testified, I think, that inside the
23 red Crown Victoria, there was a large amount of blood in
24 this vehicle?

25 A Yes.

RYAN WEEKS-CROSS BY MR. ROBINSON

1 Q So, Connell Wells bled a lot from this injury?

2 A Presumably.

3 MS. HENRY: I don't have any other questions
4 right now.

5 THE COURT: Mr. Robinson.

6 CROSS-EXAMINATION

7 BY MR. ROBINSON:

8 Q Officer Weeks, did you bring a copy of your file
9 with you?

10 A What was that question, I'm sorry?

11 Q Did you bring your -- did you bring your file
12 with you?

13 A My file?

14 Q Yeah.

15 A No, sir, this is the only paperwork I have on
16 this incident, is this report that I have sitting in front
17 of me.

18 Q You've got the report in front of you?

19 A Yes, sir.

20 Q I think you also when you were at the scene,
21 according to this, I'm looking at Page 1 of the
22 supplemental report?

23 A Okay.

24 Q Can you turn to that?

25 A Yes, sir.

RYAN WEEKS-CROSS BY MR. ROBINSON

1 Q You spoke to Connell Wells, didn't you?

2 A Yes, sir.

3 Q What did Connell Wells tell you happened?

4 MS. GARY: Your Honor, I have to object, it's
5 hearsay.

6 THE COURT: I sustain that objection.

7 MR. ROBINSON: I have no more questions. Thank
8 you.

9 THE COURT: Any redirect?

10 MS. GARY: No, sir, Your Honor, thank you.

11 THE COURT: All right. Thank you, Officer, I
12 appreciate your being here. You may step down.

13 MS. HENRY: Your Honor, Officer Weeks has also
14 been subpoenaed by my office. I'm not able to
15 release him at this point. Just standby.

16 THE COURT: Officer Weeks, you remain under
17 subpoena. You don't have to standby in court, but it
18 may be that you're called later, so just be
19 available, okay. All right. Thank you, sir.

20 Okay, call your next witness.

21 MS. GARY: Your Honor, the State calls Nakia
22 Sims.

23 Your Honor, it appears that our next witness,
24 Ms. Sims, is not here. We'll take that matter up
25 with the Court at a later time. Let's move on.

1 THE COURT: I'm not either. I'm anxious to see.

2 MS. HENRY: If he does, however, end up taking
3 the Fifth on portions of this, it could effect
4 proffer and our ability to confront him as an
5 accuser. Again, I have an idea what this guy is
6 going to say. I just want to put that on the record
7 that that is an additional problem related to having
8 this guy testifying like this. Is that -- you know.

9 THE COURT: I understand.

10 MS. HENRY: Okay.

11 THE COURT: It's one of those things that --
12 it's a unique set of circumstances. We're just going
13 to see -- you just have to see how it plays out.

14 Okay. Bring the jury in, please.

15 (WHEREUPON, the jury came into open court at
16 approximately 1:34 p.m.)

17 THE COURT: Okay. All right, Ms. Owens, you may
18 call your next witness, ma'am.

19 MS. OWENS: Thank you, Your Honor, may it please
20 the Court. The State calls Mr. Connell Wells.

21 Mr. Wells, please come up and be sworn.

22 THE CLERK: Please place your left hand on the
23 Bible, raise your right hand.

24 CONNELL WELLS, after being duly sworn, testified
25 as follows:

1 THE CLERK: Thank you. Please take a seat.

2 State your name for the record.

3 THE WITNESS: Connell Wells.

4 DIRECT EXAMINATION

5 BY MS. OWENS:

6 Q Mr. Wells, are you currently in the custody of
7 South Carolina Department of Corrections?

8 A Yes, ma'am.

9 Q And are you currently serving a sentence for
10 murder?

11 A Yes, ma'am.

12 Q Did you plead guilty to murder on March 4th of
13 2019?

14 A Yes, ma'am.

15 Q Were you sentenced to a term of 30 years for
16 your participation in a murder that occurred on December
17 8th, 2016?

18 A Yes, ma'am.

19 Q When you committed that crime, who were you
20 with?

21 A I plead the Fifth.

22 THE COURT: I'll allow him to invoke his Fifth
23 Amendment privilege. You can continue to ask
24 questions.

25

CONNELL WELLS-DIRECT BY MS. OWENS

1 BY MS. OWENS:

2 Q At the time of your guilty plea on March 4th,
3 2019, did you tell the Court who you were with when you
4 committed that crime?

5 A I plead the Fifth.

6 THE COURT: I'll allow him to proceed. Go
7 ahead.

8 BY MS. OWENS:

9 Q Did you meet with Investigator Chris McCalmont
10 at the hospital on December 8th of 2016?

11 A I plead the Fifth, ma'am.

12 THE COURT: You may proceed.

13 BY MS. OWENS:

14 Q Do you remember having a conversation with
15 Investigator McCalmont on December 8th of 2016 about what
16 happened on -- earlier that morning?

17 A Plead the Fifth, ma'am.

18 THE COURT: You may proceed.

19 BY MS. OWENS:

20 Q Were you shot on December 8th, 2016?

21 A I plead the Fifth.

22 THE COURT: I'm going to require you to answer
23 that question, sir. I don't think that's
24 incriminating in any way, shape or form.

25 THE WITNESS: Yes, ma'am.

CONNELL WELLS-DIRECT BY MS. OWENS

1 BY MS. OWENS:

2 Q Were you wounded by a shotgun?

3 MS. HENRY: Objection, Your Honor. May we
4 approach?

5 THE COURT: Sure, you may.

6 (WHEREUPON, an off-the-record bench conference
7 was held in the presence of the jury but out of
8 the hearing of the jury.)

9 THE COURT: You may proceed, Ms. Owens.

10 BY MS. OWENS:

11 Q Did you speak to Investigator McCalmont with the
12 sheriff's office on December 9th of 2016?

13 A I plead the Fifth, ma'am.

14 Q I'm going to show you State's Exhibit 20. Do
15 you recognize this document?

16 A I plead the Fifth, ma'am.

17 Q Did you speak to Investigator McCalmont again on
18 December 22nd, 2016?

19 A I plead the Fifth, ma'am.

20 Q I'm going to show you State's Exhibit 21, do you
21 recognize that document?

22 A I plead the Fifth, ma'am.

23 Q I'm going to show you State's Exhibit 22, do you
24 recognize that document?

25 A I plead the Fifth, ma'am.

CONNELL WELLS-DIRECT BY MS. OWENS

1 Q Did you and your attorney meet with Investigator
2 McCalmont in March of 2017?

3 A I plead the Fifth, ma'am.

4 Q During your conversations with police, do you
5 remember ever identifying who you were with when you
6 committed the crime on December 8th, 2016?

7 A I plead the Fifth, ma'am.

8 Q At the time of your arrest, was your nickname
9 Butta?

10 A No, ma'am.

11 Q That wasn't your nickname?

12 A Huh-uh.

13 Q What was your nickname?

14 A Lukeman.

15 Q I'm sorry?

16 A Lukeman.

17 Q Did you tell the police that was your nickname?

18 A I plead the Fifth, ma'am.

19 MS. OWENS: I don't have any other questions.

20 THE COURT: Any cross-examination?

21 MS. HENRY: No, Your Honor.

22 THE COURT: Mr. Robinson?

23 MR. ROBINSON: No, sir.

24 THE COURT: Okay. All right, thank you, sir.

25 You can step down.

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 You may call your next witness.

2 MS. GARY: The State calls Investigator Chris
3 McCalmont.

4 THE CLERK: Please place your left hand on the
5 Bible raise your right hand.

6 CHRISTOPHER MCCALMONT, after being duly sworn,
7 testified as follows:

8 THE CLERK: Please take a seat and state your
9 name for the record.

10 THE WITNESS: My name is Christopher McCalmont.

11 DIRECT EXAMINATION

12 BY MS. GARY:

13 Q Good afternoon, Officer -- Investigator, in
14 fact. Where do you work, sir?

15 A At Greenville County Sheriff's Office.

16 Q How long have you worked there?

17 A I've been employed since 2005, so about 14
18 years.

19 Q What's your assignment today?

20 A I'm assigned to our school enforcement unit.
21 So, I'm employed by the sheriff's office, but my primary
22 role is to the school district of Greenville County.

23 Q Okay. What was your assignment in December of
24 2016?

25 A Violent crimes investigations.

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Q Tell the jury a little bit about what you did
2 when you were in violent crimes investigations.

3 A So, traditionally, uniform patrol division will
4 go out and initiate a police report when a crime has
5 occurred. There's several crimes that would get assigned
6 to the violent crimes unit that I worked in, to include
7 armed robbery, attempted armed robbery, homicides,
8 potential suicides and some missing persons if the missing
9 person case seem somewhat suspicion. Then it would fall
10 onto the violent crimes unit to actually conduct the
11 followup investigation into that initial report that was
12 initiated by the uniform patrol division.

13 Q Did you respond to a scene at [REDACTED] Cox Street on
14 December 8th, 2016?

15 A I did.

16 Q Is that home in Greenville County?

17 A It is.

18 Q Okay. What day of the week was December 8th,
19 2016?

20 A Thursday.

21 Q Okay. At some point after your arrival on that
22 scene -- actually, what time did you arrive on the scene?

23 A I don't know that I can speak directly for what
24 time that I arrived on scene. I know that I received --
25 it was late night or early morning, I guess would be the

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 best way to describe it. I got a phone call from another
2 investigator, Investigator Newman, at around four o'clock
3 or just after 4:00 a.m. on that day. And then -- I was,
4 obviously, sleeping and I had to wake up, get showered and
5 get dressed, then respond to the scene.

6 Q Okay. At some point after your arrival, did you
7 become the lead investigator in this case?

8 A I did.

9 Q Tell the jury what your role is when you're the
10 lead investigator.

11 A It's a multitude of things. Some of the tasks I
12 would take on myself and physically do, task myself.
13 Naturally, with a case of this magnitude, you can imagine
14 there are a lot of things have to happen at one time, so
15 some things get delegated out to other people or I'll ask
16 for from other person. One person physically can't -- you
17 just can't do it on your own.

18 Q Just so the jury will have an idea, who was on
19 the scene when you arrived?

20 A I mean, mainly, uniform patrol division. So,
21 uniform patrol deputies and when I got there, a lady named
22 Tracie Patton was also there.

23 Q Were the forensic technicians on the scene when
24 you arrived or did they arrive shortly thereafter?

25 A I believe they arrived after I did.

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Q Okay. Did you speak with any neighbors, with
2 Ms. Patton?

3 A Did I speak with any neighbors or Ms. Patton?
4 Yes, I spoke to some neighbors and Ms. Patton.

5 Q Did you speak with other officers?

6 A I did.

7 Q Why do you do those things?

8 A To try to get -- wrap my head around exactly
9 what they know and how they're going to tell me it
10 happened so I can try to begin the process of
11 investigating and trying to officially find out what
12 happened.

13 Q Did you go inside the home?

14 A I did.

15 Q What did you see when you went inside the home?

16 A I would describe it as a smaller, an older mill
17 home is the way that I would describe it. When you walk
18 into the front door off the front porch, you immediately
19 entered what I would consider the living loom. If you
20 continue straight deeper into the house, you would go into
21 the kitchen area. There was a wall on the left-hand side
22 as you came in the front door. I would say halfway or so
23 down that wall, there was a doorway that went over towards
24 the left side of the house. Once you went through that
25 doorway, there was a bathroom and two bedrooms, one

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 bedroom in the front and one in the back.

2 Q Did you see any signs of forced entry into that
3 home?

4 A The front door to me appeared to have been
5 forced opened.

6 Q Did you see any signs that home had been
7 searched?

8 A Yes. I don't know that I would necessarily use
9 the word completely ransacked, but there was stuff that
10 looked a mess.

11 Q Okay. You mentioned that you spoke with Tracie
12 Patton?

13 A I did.

14 Q Did you direct or ask forensics to collect any
15 evidence from her?

16 A I ask her for permission, and then I also ask
17 forensics.

18 Q Okay. What type of evidence was that?

19 A Mainly, I believe they took photographs of her,
20 I think, and what we would call -- what I would ask for
21 forensics is gunshot residue.

22 Q Okay. At this point in your investigation, did
23 you really have any information?

24 A I had no idea who might be responsible for this.

25 Q Okay. Did you ever have reason to believe that

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Ms. Patton was involved in this crime?

2 A No.

3 Q Did you determine how she knew Mr. Pearson, the
4 victim in this case?

5 A To the best of my knowledge, Mr. Pearson was
6 there as a guest for a night or two. I think that he
7 probably had some level of knowledge or had maybe met her
8 and James Moss along the way somewhere. I don't know that
9 I would necessarily consider them friends. Maybe more of
10 an acquaintance. They knew each other somehow.

11 Q Okay. At some point while you were on scene at
12 Cox Street, did you learn of a man by the name of James
13 Moss?

14 A Yes.

15 Q What did you learn about him and where he was
16 located?

17 A So, what I learned about was that he lived at
18 the location with Tracie Patton, the two of them lived
19 there together. And that contact had initially been made
20 by law enforcement with him while he was in his car on
21 Poinsett Highway.

22 Q Okay. At some point, did you have the
23 opportunity to speak with Mr. Moss?

24 A I don't remember ever speaking to him directly
25 in great deal, but I did speak to him momentarily.

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Q Okay. Did you also direct or ask the same
2 evidence be collected from him as it was collected from
3 Ms. Patton?

4 A Yes.

5 Q Did you collect anything else from him?

6 A Yes.

7 Q What did you collect?

8 A Shoes and clothes, if I recall correctly.

9 Q Do you have a copy of your report in front of
10 you?

11 A I have a copy of my report. I do not have one
12 that forensics would have documented exactly the items
13 that were taken.

14 Q Okay.

15 A I do know for a fact that it was gunshot residue
16 and shoes. I'm not entirely positive about the clothes.

17 Q Okay, that's fair enough. Did you ever
18 determine -- did the evidence ever suggest to you that
19 Mr. Moss was in any way involved in this crime?

20 A No.

21 Q Okay. Again, your role as the lead investigator
22 on a scene like this, are you charged with or responsible
23 for helping identify potentially helpful pieces of
24 evidence?

25 A Yes.

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Q Did you do that in this case?

2 A Yes.

3 Q Did you draw attention to or take possession of
4 the victim's cell phone at some point?

5 A Yes. I took possession of his cell phone
6 because of its location at the scene. At the time, I
7 believed it belonged to the victim.

8 Q Did you use that phone to advance your
9 investigation at all?

10 A I tried.

11 Q Tell us about that.

12 A I obtained a search warrant for it. And I asked
13 some other deputies that have more training and experience
14 in the collection of digital data, what we might call a
15 cell phone download. I presented the facts as I knew them
16 to a judge and obtained a search warrant for this cell
17 phone and took that search warrant and the phone to
18 another deputy that conducted this download.

19 Q Did anything off of Mr. Pearson's cell phone
20 advance your investigation at all?

21 A No.

22 Q Were you present when the forensic technicians
23 were collecting evidence from this home?

24 A I was.

25 Q Did they collect shell casings?

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 A They did.

2 Q Okay. We've heard testimony about that. How
3 many shell casings were there?

4 A Three.

5 Q And what caliber were they?

6 A 40-caliber.

7 Q Were they all the same caliber?

8 A Yes.

9 Q Is a 40-caliber bullet shot by a 40-caliber
10 pistol?

11 A Yes.

12 Q Okay. Investigator, based on those casings and
13 based on the projectiles that were taken from
14 Mr. Pearson's body, did you at some point determine
15 anything about this murder weapon? Did you make any
16 determinations about what it might have been?

17 A I mean, I believe it to be a 40-caliber gun that
18 was used.

19 Q Okay. Investigator, did you collect other pairs
20 of shoes besides those you collected from Mr. Moss?

21 A During the case, yes.

22 Q Okay. And from whom all did you collect those
23 shoes?

24 A We collected some during a search warrant at
25 another location. And --

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 Q Did you collect shoes from Connell Wells?

2 A Yes, I believe so.

3 Q Did you collect shoes from Curtis Babb?

4 A No, ma'am.

5 Q Why not?

6 A Well, we weren't able to immediately locate him
7 in order to get shoes from him.

8 Q Okay. Were all the shoes that you collected
9 submitted to be compared to the photos taken of the shoe
10 prints left on this house at Cox Street?

11 A Yes.

12 Q And as the lead investigator, did the results of
13 those analysis get reported to you?

14 A Yes, ma'am.

15 Q Okay. Did those advance this investigation at
16 all?

17 A Other than the fact that none of the shoes were
18 a match to the shoe prints found at the scene, no, ma'am.

19 Q Okay. Thank you, Officer. We saw earlier,
20 though, the video of the exterior of this home. It
21 appeared to show a business across the street. Can you
22 tell the jury what that is?

23 A Yes. So, I don't know that I would call it a
24 warehouse per se, but when you enter it, it is a
25 warehouse-type environment. The name of the business at

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 the time, I don't know if it still is or not, was Waldun's
2 Tanning. It was not tanning beds as most people might
3 think. This was an animal hide tanning facility. So,
4 hunters might send their game to this place to be cured
5 and tanned and preserved. And that's what this business
6 is across the street, that's the business they conducted.

7 Q Does that business have surveillance cameras?

8 A It did.

9 Q Did you review the surveillance camera footage
10 that day?

11 A I did.

12 Q Was anything on that video that you personally
13 viewed helpful or did it advance your investigation at
14 all?

15 A No.

16 Q Did it, in fact, show anything on Cox Street
17 that you -- of value?

18 A Nothing of value, no.

19 Q Okay.

20 A Nothing of value that would tend to identify
21 anybody involved in this incident.

22 Q Okay. And you personally viewed it?

23 A Yes.

24 Q Did you or anyone else from the sheriff's office
25 or forensics locate any large quantities of guns or drugs

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 or money inside that home?

2 A No.

3 Q Investigator, based on your training and
4 experience with the sheriff's office, did that home on Cox
5 Street appear to be the home where a large number of drugs
6 are sold?

7 A Based on --

8 MS. HENRY: Objection, Your Honor.

9 THE COURT: Okay. I'll sustain the objection.

10 MS. GARY: Thank you, Judge.

11 BY MS. GARY:

12 Q Investigator, did you speak with Connell Wells
13 at Greenville Memorial Hospital on December 8th, 2016?

14 A I did.

15 Q What was his demeanor at that time?

16 A When I initially made contact with Mr. Wells, he
17 was just out of surgery. And I wasn't able to talk to him
18 because he seemed to be -- obviously, not willingly, but
19 under the influence of anesthesia from his surgery, so I
20 wasn't able to talk him when I first made contact with
21 him.

22 Q Okay. Did you make another attempt to speak
23 with him?

24 A Yes. Several hours later -- the first time I
25 made contact with him, I ask the hospital staff if they

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 could notify us when he was no longer -- when the
2 anesthesia had wore off, I guess, basically, in plain
3 terms and that they thought he would be able to talk to
4 us.

5 Q Okay. And, again, this occurred also on
6 December 8, 2016?

7 A Yes, several hours later.

8 Q Did you threaten him or coerce him in any way to
9 talk to you?

10 A No, ma'am.

11 Q Did you suggest any names to him or tell him who
12 you thought might be involved in this crime?

13 A I had no idea. There would be no way for me to
14 be able to do that.

15 Q So, you had no suspects at that time?

16 A Other than him, no, no, ma'am.

17 Q Okay. After speaking with Mr. Wells, were you
18 able to corroborate details from his initial statement to
19 you of what you saw at the crime scene?

20 MS. HENRY: Objection, Your Honor. I have a
21 motion I feel like we need to discuss.

22 THE COURT: I'm going to sustain the objection.
23 You may move on.

24 MS. GARY: Okay.

25

CHRISTOPHER MCCALMONT-DIRECT BY MS. GARY

1 BY MS. GARY:

2 Q Investigator, at the time you spoke with
3 Mr. Wells that first -- excuse me, the first time you were
4 able to speak with him at the hospital, would he have had
5 the opportunity to know what happened at Cox Street had he
6 not been there?

7 MS. HENRY: Objection, Your Honor.

8 MR. ROBINSON: Your Honor, objection, that calls
9 for speculation.

10 THE COURT: We're going to take a quick break.
11 Ladies and gentlemen, we'll take a very, very quick
12 break. I ask you to return to your jury room. We'll
13 be back in just a few minutes.

14 (WHEREUPON, the jury left open court at
15 approximately 2:00 p.m.)

16 THE COURT: I don't know exactly where you're
17 going, I have some concerns, though. I want to make
18 sure that you're not trying to shoehorn in some way,
19 some how, Mr. Wells' statement. I think that if you
20 were progressively to try to make those types of
21 insinuations or introduction of a statement from
22 Mr. Wells without the proper authentication, even if
23 the State were to get a conviction for the State, it
24 would be of no profit. So, I want to be real careful
25 going forward of the questions that we ask and what

1 MS. OWENS: We're ready to proceed.

2 THE COURT: Okay, bring the jury in, please.

3 (WHEREUPON, the jury came into open court at
4 approximately 10:39 p.m.)

5 THE COURT: All right, good morning ladies and
6 gentlemen, I'm sorry I kept you waiting, I apologize
7 to you for that. Sometimes these issues take longer
8 than I anticipate. When we're talking about
9 constitutional due process and matters of that sort,
10 sometimes it just takes a lot longer to get through
11 it than one might anticipate at first instance.

12 So, having said that, ladies and gentlemen,
13 we'll resume testimony in the case.

14 So, Ms. Gary, your witness, ma'am.

15 MS. GARY: Thank you, Your Honor, may it please
16 the Court?

17 THE COURT: Yes, ma'am.

18 CONTINUED DIRECT EXAMINATION

19 BY MS. GARY:

20 Q Good morning, Investigator.

21 A Good morning.

22 Q We left off yesterday in the middle. I'm going
23 to circle back just a little bit, okay? You testified you
24 responded to a scene at [REDACTED] Cox Street; is that correct?

25 A Yes, ma'am, that's correct.

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 Q Okay. And remind us again when you responded
2 there?

3 A That was December of -- December the 8th, 2016.
4 And I initially got a phone call from Investigator Newman
5 at a little after 4:00 a.m.

6 Q Okay. When you left that scene at Cox Street,
7 where did you go, sir?

8 A When I left the scene at Cox Street, if I recall
9 correctly, I probably went back to the office to start
10 evaluating some stuff and doing research.

11 Q At some point, did you go to Greenville Memorial
12 Hospital?

13 A I did.

14 Q Why did you go there?

15 A To speak with a person there, a patient at the
16 hospital named Connell Wells.

17 Q Did you speak to him?

18 A I made contact with him at that point.

19 Q Ultimately, as that day, December 8th, unfolded,
20 did you speak to him?

21 A Yes.

22 Q And did you have another opportunity on another
23 day?

24 A Yes, I did.

25 Q What day was that?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 A The next day, December the 9th.

2 Q And you spoke with him again that day?

3 A I did.

4 Q Did you have a third opportunity to interview
5 Mr. Wells?

6 A Yes, I did.

7 Q What date was that?

8 A December the 22nd, if I recall correctly.

9 Q Okay. Thank you, sir. I'm going to circle you
10 back to December the 8th. After your initial conversation
11 with Mr. Wells, what did you do next?

12 A Conducted research into information that I
13 gathered from speaking with him.

14 Q Okay. We heard testimony about an apartment at
15 Shemwood Crossing. At some point in your investigation
16 did you go to Shemwood Crossing?

17 A Yes, I did.

18 Q When did you do that?

19 MR. ROBINSON: Your Honor, I'm going object to
20 these questions at this point based on the ruling you
21 made previously.

22 THE COURT: Okay, overruled.

23 You may continue.

24 MS. GARY: Thank you, Your Honor.

25

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 BY MS. GARY:

2 Q Investigator, do you know when you responded to
3 Shemwood Crossing?

4 A Yes, ma'am, give me one second, please.

5 Q That's fine.

6 A December the 9th, 2016.

7 Q So, the day after this murder happened?

8 A That's correct.

9 Q Okay. Do you recall which apartment you went to
10 there?

11 A [REDACTED].

12 Q Why did you go there, sir?

13 MS. HENRY: Objection, Your Honor, may we
14 approach?

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, an off-the-record bench conference
17 was held in the presence of the jury but out of
18 the hearing of the jury.)

19 THE COURT: Yes, ma'am, Ms. Henry?

20 MS. HENRY: Just objection, I feel like this
21 portion of the testimony is going to be irrelevant or
22 not relevant to this case. That's the basis of my
23 objection.

24 THE COURT: Okay. All right. I respectfully
25 overrule. I think the conduct of his investigation

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 is very relevant and topical to the issues that are
2 before the Court, so I'll allow you to proceed.

3 MS. GARY: Thank you, Your Honor.

4 BY MS. GARY:

5 Q Investigator, why did you respond to [REDACTED] at
6 Shemwood Crossing?

7 A Information that I received during the
8 investigation --

9 MS. HENRY: Your Honor, objection.

10 MR. ROBINSON: Objection, hearsay, Your Honor.

11 MS. HENRY: Your Honor, I think that given your
12 ruling from previous, that referring to information
13 that he received from someone that is not testifying
14 is inappropriate.

15 THE COURT: Okay, I respectfully overrule. That
16 testimony is not offered for the truth of the matter
17 asserted. It's, essentially, establishing why he
18 went to that residence. So, respectfully overrule.

19 You may continue.

20 MS. GARY: Thank you, Your Honor.

21 BY MS. GARY:

22 Q Continue, sir.

23 A Information that I received during the
24 investigation led me to understand that Connell Wells had
25 been in that apartment at one point when the city police

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 responded there. And, ultimately, after realizing that he
2 was involved in this crime --

3 MS. HENRY: Objection, Your Honor.

4 THE COURT: Okay, I sustain that.

5 BY MS. GARY:

6 Q Let me ask you, did you execute a search warrant
7 on that apartment --

8 MS. HENRY: Your Honor, I ask that be stricken
9 from record, too.

10 THE COURT: Okay, strike it.

11 MS. HENRY: Thank you, Your Honor.

12 MS. GARY: Sorry to speak over her, Judge.

13 THE COURT: Go ahead.

14 BY MS. GARY:

15 Q Officer, did you execute a search warrant at
16 that apartment?

17 A Yes, I did.

18 Q And do you recall who you spoke to, just the
19 name of an individual you might have spoken to at that
20 apartment?

21 A Nakia Sims.

22 Q Okay. What's her relationship to that
23 apartment?

24 A A resident.

25 Q Okay. Do you recall talking to anyone else

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 there?

2 A There was another female there, yes.

3 Q Okay. Do you know her name?

4 A No, I'm sorry, I can't recall that right now. I
5 know there was another female there that day, that
6 evening.

7 Q In executing that search warrant, sir, what
8 items of value to your investigation did you find?

9 A We took several pieces of evidence, to include
10 some documents and tennis shoes, amongst some other
11 things.

12 Q So, was it your understanding that anyone else
13 lived or had items of personal belonging in that
14 apartment?

15 A Yes, ma'am.

16 Q Who would that be?

17 A William Shane Fordham Brown.

18 Q Is that whose shoes you took?

19 A That's my belief, yes, ma'am.

20 Q Was it your understanding that Mr. Brown lived
21 in that apartment?

22 A I would say on and off.

23 Q Okay. That's okay. Are these shoes -- you
24 testified yesterday about shoes having been compared to a
25 footprint left at this crime scene. Would the shoes you

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 collected from [REDACTED] have been included in that comparison?

2 A Yes, ma'am.

3 Q Okay. As lead investigator, Officer McCalmont,
4 I know we talked yesterday about your role, is part of
5 your role as lead investigator to obtain the results of
6 analysis done on -- we mentioned shoes, but also on
7 fingerprints?

8 A Yes, ma'am, it is.

9 Q Were fingerprints collected from the scene at
10 Cox Street?

11 A I don't recall if any were collected from the
12 scene -- from that scene.

13 Q Okay. Again, yesterday, you mentioned that part
14 of your role as lead investigator is to talk to the
15 forensic technicians?

16 A Correct.

17 Q Was Connell's car collected as part of this
18 case?

19 A It was.

20 MS. HENRY: Objection, Your Honor.

21 THE COURT: Okay, what's the objection?

22 MS. HENRY: Your Honor, everything related to
23 this without that testimony is not only irrelevant
24 under 401, but, also, has serious 403 issue.

25 THE COURT: All right, I respectfully deny.

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 MS. GARY: Thank you.

2 BY MS. GARY:

3 Q Officer, was Mr. Wells' car collected?

4 A Yes, ma'am, it was.

5 Q And did a forensic technician from the
6 department of public safety process that car?

7 A Yes, ma'am.

8 Q Okay. Were his findings, the evidence that he
9 collected, were those reported to you?

10 A Yes.

11 Q Okay. Were some of the items that he collected
12 submitted for fingerprint analysis?

13 A Yes.

14 Q Were there any -- did any of those results
15 advance your investigation in any way?

16 A Yes.

17 Q Okay. Tell us about that.

18 A There were fingerprints on that car that were
19 matched to Connell Wells and William Shane Fordham Brown.

20 Q Okay. Officer, I'm going to take you in time a
21 little bit forward. Do you recall responding to a search
22 warrant at ■ Shirley Street, which I believe is in the
23 city limits of Greenville?

24 A Yes, I do.

25 Q Do you know when you did that?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 A Yes, ma'am, but just one second, please.

2 Q Okay.

3 A I went out to ■ Shirley Street on December the
4 21st, 2016.

5 Q Okay, thank you, sir. I think I got a little
6 bit ahead of myself, Officer. At some point through your
7 investigation, from December 8th onward, sir, were you
8 able to identify two additional suspects in this case?

9 MS. HENRY: Objection, Your Honor. This is
10 directly from testimony that's not been put into
11 evidence.

12 THE COURT: Okay. All right, I'm going to
13 respectfully deny it.

14 You may ask the question.

15 MS. GARY: Thank you, Your Honor.

16 BY MS. GARY:

17 Q I'll state it again. Throughout your
18 investigation, in addition to Mr. Wells, did you identify
19 two other suspects in this case?

20 A Yes, I did.

21 Q Who are they?

22 A Curtis Allen Babb, Jr. and William Shane Fordham
23 Brown.

24 Q Okay. Now, let's talk again about the Shirley
25 Street residence. Why did you go there, sir?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 A I received a phone call from Investigator
2 Maltby, who also worked for the sheriff's office. He
3 initially asked me to come out there because he was
4 assisting the Mauldin -- I think it was the Mauldin City
5 Police Department as well as the Greenville City Police
6 Department, effect a search warrant out there. And he
7 asked me to bring him a digital camera so photographs
8 could be taken out there.

9 Q Did you do that?

10 A I did.

11 Q Okay. Did you speak to someone at that
12 residence?

13 A Yes.

14 Q Did you speak to her about one of your suspects
15 in this case?

16 A I did.

17 Q What is that individual's name, the lady to whom
18 you spoke?

19 A Deashia Babb.

20 Q Okay. Were you able to determine whether or not
21 she was related to either of the individuals in this case?

22 A I was.

23 Q And who was that?

24 A Curtis Babb.

25 Q And how are they related?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 MS. HENRY: Your Honor, objection. I think I
2 have a motion to take up outside the presence of the
3 jury.

4 THE COURT: Okay. All right. Ladies and
5 gentlemen, I'm sorry, please go back your jury room
6 and we'll come back in.

7 (WHEREUPON, the jury left open court at
8 approximately 10:51 a.m.)

9 THE COURT: Okay, yes, ma'am.

10 MS. HENRY: Your Honor, again, I apologize. My
11 understanding, at least, from the way the trajectory
12 is looking, I believe they're questioning him about
13 Deashia Babb and they're attempting to get
14 information related to, I believe, Shyheim Looper.
15 This is the shotgun all over again. And without
16 Connell Wells' testimony, there's no basis for the
17 introduction of any of this information. It's
18 completely irrelevant and it's certainly a prior bad
19 act. I'm not even sure how they're planning to get
20 that in or what the relevance would be in discussing
21 it without Connell Wells' testimony linking it to
22 this crime. Again, I repeat, there are no forensics.
23 Their own witness testified there are no forensics
24 linking any kind of shotgun firing or possession to
25 the scene other than Connell Wells' testimony, which

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 is not admissible.

2 In addition, their own pathologist testified the
3 victim at [REDACTED] Cox Street, the victim that we're all
4 here for -- the reason we're all here, was shot with
5 a .40 caliber pistol. So, any admission related to
6 the shotgun I believe at this point that have been
7 rendered irrelevant have a serious 403 problem. I
8 mean, I do not see how given the circumstances in
9 this trial right now that it could be admissible
10 under Rule 403.

11 THE COURT: All right, position of the State?

12 MS. GARY: Yes, Your Honor. It's, of course,
13 the State's position that this evidence goes directly
14 to the res gestae that we must prove in this case,
15 Your Honor. I think Your Honor has very clearly
16 ruled that this is in no way related to a prior bad
17 act. It is not being admitted for that purpose. It
18 is incredibly probative, especially in light of
19 Mr. Wells' testimony yesterday that he was shot by a
20 shotgun, and by the other evidence this jury has
21 already received about his gunshot wounds.

22 Judge, the shooting took place during this
23 crime. It is in no way a prior bad act. This
24 investigator is certainly entitled and allowed under
25 the rules to testify has to the information that he

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 learned and that he, himself, gleaned from his
2 investigation and the road down which it took him.
3 So respectfully, Judge, I believe that it is wholly
4 admissible.

5 MS. HENRY: Your Honor, I will say again, they
6 have presented zero evidence that shotgun was linked
7 to this crime. Zero.

8 THE COURT: Yes, ma'am. That sounds more
9 appropriately like an argument in directed verdict to
10 me. I don't know -- I don't know what ultimately the
11 evidence is going to demonstrate. I do want to make
12 clear to the defense that the effect of my previous
13 ruling was not to gut the State's case. It was
14 simply to disallow the admission of that statement.
15 I don't know what additional evidence the State has.
16 But by and through their investigating officer,
17 they're just asking him how did you conduct your
18 investigation. And if they're not eliciting those
19 statements from the Defense, then I find that it's
20 not hearsay and it is relevant to the conduct of the
21 investigation.

22 With respect to 403, I acknowledge that,
23 ultimately, if it's inculpatory, it's prejudicial by
24 its very definition. But I do find that it is
25 probative to the State's case if they are to proceed

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 under the same. Under a 403 analysis, I do find that
2 its probative value outweighs its prejudicial effect.

3 MS. HENRY: Again, I just want to put on the
4 record that the State has presented evidence that the
5 victim was killed by a .40 caliber weapon. They
6 presented zero evidence that a shotgun was used in
7 this individual's murder or that a shotgun was even
8 present at the scene. And that they're going to be
9 to allowed to present evidence that a shotgun entered
10 Mr. Wells in a separate act as part of their case.

11 THE COURT: I understand. And I appreciate
12 that. Understand, that's appropriately a motion to
13 directed verdict. Because, essentially, what you're
14 asking the Court to do is not allow the State to
15 present their case. Because you're saying they can't
16 admit evidence because they've admitted no evidence.

17 MS. HENRY: Well, I'm saying they can't admit
18 evidence because it's not relevant to a crime that
19 they've alleged and that they have -- I mean, they
20 said someone was shot with a .40 caliber weapon.
21 Their own witnesses have testified that that's what
22 happened. There's no evidence that they've presented
23 at this point, certainly, I don't think they're going
24 to, that this individual was killed with anything but
25 a .40 caliber weapon. My position is not that this

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 is a directed verdict motion, that this testimony is
2 entirely irrelevant.

3 THE COURT: You don't think it's a directed
4 verdict motion because you wouldn't have made it at
5 this point if you thought it was a directed verdict
6 motion. That's the way the State -- that's the way
7 the Court interprets it. Just know, again, the
8 effect of telling the State they can't put evidence
9 in the record to prove their case is, in effect, not
10 allowing them to try their case. I don't know where
11 the shotgun evidence is going to lead. But, clearly,
12 it's relevant. Clearly, it's relevant. Okay.

13 All right. So.

14 MR. ROBINSON: Judge.

15 THE COURT: Yes, sir.

16 MR. ROBINSON: Okay, I think my objection is
17 going to go to hearsay in this case. Because I think
18 the questions they're asking this officer, it's
19 definitely offered for the truth of the matter
20 asserted. They're, basically, saying well, from what
21 you've gathered from this witness, statements and
22 things like that, what did you get? That is hearsay.
23 It's offered for the truth of the matter asserted. I
24 don't think that -- that's my objection to him
25 testifying like that.

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 THE COURT: I understand. I want you to remain
2 sensitive to that and continue to pose
3 contemporaneous objections to testimony that is
4 offered. Up to now, heretofore, his testimony has,
5 essentially, been I went here because of this. He
6 hasn't offered any statements or any substantive
7 portion or synopsis of the statement that Mr. Wells
8 may have given. If he does, clearly, that's
9 inappropriate. But right now, he's just saying I
10 went here, I saw this. I went here, I saw this. I
11 think that's clearly permissible under the rules and
12 I don't think that's hearsay.

13 MR. ROBINSON: Your Honor, I agree as far as
14 that goes. If you listen to the questions that the
15 solicitor's asking, I have no problem with him saying
16 well, he went from Cox Street to Shemwood, then to
17 Shirley Street and so forth. That's not a problem.
18 But the problem that I'm seeing with hearsay is what
19 they're asking him is -- the question she's posing,
20 as a result in talking to X, Y and Z, did you go
21 here? That's hearsay. But it's offered for the
22 truth of the matter asserted.

23 THE COURT: I understand what you're saying and
24 I don't think it's hearsay. I think you're
25 mischaracterizing it from an advocate's perspective,

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 okay. And I'm finding that it is appropriate. So, I
2 respectfully overrule the objection.

3 All right, you can bring them.

4 (WHEREUPON, the jury came into open court at
5 approximately 10:58 a.m.)

6 THE COURT: Yes, ma'am, Ms. Gary.

7 MS. GARY: Thank you, Your Honor, may it please
8 the Court?

9 THE COURT: Yes, ma'am.

10 BY MS. GARY:

11 Q Investigator, we were talking about a residence
12 at Shirley Street, is that your recollection?

13 A Yes, ma'am.

14 Q Okay. You said you spoke to Deashia Babb; is
15 that correct?

16 A I did.

17 Q During that search warrant, did you locate a
18 shotgun?

19 A Yes, we did.

20 Q Describe that shotgun to this jury, please.

21 A I would describe it as a bolt-action shotgun and
22 the stock had been sawed off on it. Thus, making it
23 appear to be a sawed off bolt-action shotgun.

24 Q What is a bolt-action shotgun?

25 A So, there's -- in the world of shotguns, there's

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 three main ways that a shotgun will operate. One of them
2 being semi-automatic. So, when you shoot the shotgun, you
3 pull the trigger, the gun goes through an automatic
4 cycling procedure, ejecting the shell that was just shot
5 and loading a new live or unfired shell into the gun to be
6 shot.

7 The next common type of shotgun will be a
8 pump action shotgun, being that when you pull the trigger,
9 the gun fires. And there's a sliding mechanism that you
10 hold with one hand. You physically have to slide that
11 back. When you slide it back, it extracts and ejects the
12 shell that was just shot. And when you slide it back
13 forward, it loads a new shell into the shotgun making it
14 ready to be fired again.

15 The third kind, like the one that was found
16 that we're talking about now, is a bolt-action shotgun.
17 This type of action is more commonly seen in rifles, not
18 so much in shotguns. But the way that it operates is you
19 fire a round, then you have to reach up with a hand,
20 physically move a lever or a handle thing up, slide it
21 back, it ejects the spent shell. You slide it forward, it
22 loads the new shell in. You rotate the handle back down
23 locking it into place and then the gun is then ready to
24 fire again.

25 Q Thank you, officer. So, is a bolt-action

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 shotgun fairly unusual?

2 MR. ROBINSON: Objection, Your Honor, I think
3 some sort of foundation.

4 THE COURT: Okay, I'll let him answer that
5 question of his own personal knowledge and opinion.

6 THE WITNESS: This particularly is the only
7 bolt-action shotgun that I have ever personally seen.
8 So, based on my experience, it would be rare.

9 BY MS. GARY:

10 Q As a result of the search warrant at Shirley
11 Street, was an individual by the name of Shyheim Looper
12 charged with unrelated crimes?

13 A Yes, sir.

14 Q Okay. And by unrelated crimes, unrelated to
15 this case?

16 A Yes.

17 Q Did you and other members of the sheriff's
18 office have a chance to interview Mr. Looper?

19 A We did.

20 Q When did you do that?

21 A That would have been the -- if I'm not mistaken,
22 that would have been the following day.

23 Q Okay. Sir, I'm going to show you what has been
24 marked as State's Exhibit 24 and simply ask you if you
25 recognize that?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 A Yes, ma'am, I do.

2 Q Okay. Is that a photo -- excuse me, rather,
3 what is that?

4 A That is a photograph of Curtis Allen Babb, Jr.

5 Q Without telling us what Mr. Looper told you, is
6 that an item you showed to Mr. Looper?

7 A Yes, it is.

8 Q Does it appear to be an accurate reflection of
9 that item on that day?

10 A Yes, it does.

11 Q Does it appear to have been altered at all?

12 A No, ma'am.

13 Q Okay. Thank you, sir. Now, Investigator
14 McCalmont, we have discussed three opportunities that you
15 had to speak to Connell Wells. Did you have a fourth
16 opportunity?

17 A Yes.

18 Q When was that, sir?

19 A Much, much later. A day in March of 2017, if
20 I'm not mistaken.

21 Q Okay.

22 A I'm sorry, that would have been -- yes,
23 March 2017.

24 Q Okay. With whom all did you meet on that date?

25 A I met with Connell Wells and his attorney at the

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 time.

2 Q Okay.

3 MR. ROBINSON: Your Honor, I have to take this
4 up outside the presence of the jury, Judge.

5 THE COURT: I don't know what it is yet and I
6 don't know for what purpose it's being offered if, in
7 fact, it's being offered.

8 MS. GARY: Thank you, Your Honor.

9 BY MS. GARY:

10 Q This is State's Exhibit 22. I would hand this
11 item to Investigator McCalmont and ask you, sir, if you
12 recognize what that item is?

13 MR. ROBINSON: Your Honor, I'm going to object
14 to this question. I object to this and ask that I be
15 heard outside the presence of the jury.

16 THE COURT: Ladies and gentlemen, we're going to
17 take a very brief break. I apologize to you. We'll
18 come back in as soon as we can.

19 (WHEREUPON, the jury left open court at
20 approximately 11:04 a.m.)

21 THE COURT: Okay. All right, so what's this
22 document?

23 MS. GARY: Your Honor, this is State's Exhibit
24 22. It is a typed letter that Mr. Wells received.
25 It is a threatening letter. Mr. Wells and his

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 BY MS. GARY:

2 Q Investigator, you mentioned when you responded
3 to [REDACTED] Shemwood Crossing, tell us again, you said that
4 you had reason to believe William Brown lived there; is
5 that correct?

6 A Yes.

7 Q Was Mr. Brown at [REDACTED] Shemwood Crossing on
8 December 9th when you were there?

9 A No, ma'am.

10 Q During your investigation, did you learn of
11 another possible residence in Greenville County for
12 Mr. Brown?

13 A Yes.

14 Q Okay. And generally, where was that residence?

15 A Mauldin.

16 Q Okay. And did you or other members of the
17 sheriff's office go to that home in an attempt to locate
18 Mr. Brown?

19 A Yes.

20 Q And was he there?

21 A No, ma'am.

22 Q And again, would that attempt have been in the
23 days following this crime?

24 A That would be correct.

25 Q Okay. Investigator, at some point, did you have

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 an opportunity to speak to Mr. Brown?

2 A I did.

3 Q Where did you do that?

4 MR. ROBINSON: Your Honor, objection. I think
5 the Court has already ruled on this. I think it's
6 irrelevant regarding what she's going into.

7 THE COURT: The officer's discussion with
8 Mr. Brown?

9 MR. ROBINSON: Where the discussions took place.
10 I think you've already rule on that, Judge.

11 THE COURT: I don't know that I have. In any
12 event, I'm going to overrule the objection. You may
13 ask him that question. Now, you can pose
14 contemporaneous objections to questions that follow,
15 but with respect to that question, I don't think
16 there's an issue.

17 You may proceed.

18 MS. GARY: Thank you, Judge.

19 BY MS. GARY:

20 Q Investigator, where did you talk to Mr. Brown?

21 A In Baltimore.

22 Q What state is that in?

23 A I'm sorry, Maryland.

24 Q When did you do that?

25 A January the 17th.

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 Q Of what year, sir?

2 A 2017.

3 Q Okay.

4 MR. ROBINSON: I'm going to object to State's
5 Exhibit 25, Your Honor.

6 THE COURT: All right, I don't know what it is.

7 BY MS. GARY:

8 Q Investigator, I'm going to show you two items.
9 One has been marked as State's Exhibit 25 and one is
10 State's Exhibit 26. If you can look at those and tell us
11 if you recognize them, sir?

12 A Yes, ma'am, I do.

13 Q Okay, we'll go one at a time. What is depicted
14 in State's Exhibit 25?

15 A This is a still image taken from a video
16 surveillance system that was in the room when myself and
17 Investigator Evett were speaking with William.

18 Q With Mr. Brown?

19 A Yes, ma'am.

20 Q So, that interview was recorded?

21 A Yes.

22 Q Does this appear to be a fair and accurate
23 depiction of a screen shoot from that video, sir?

24 A Yes, ma'am, it does.

25 Q Does it appear to have been altered at all?

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 A No.

2 MS. GARY: Your Honor, at this time, the State
3 would offer State's Exhibit 25 into evidence.

4 MR. ROBINSON: Your Honor, my objection, Judge,
5 is a 403 objection, obviously, where it took place.

6 THE COURT: All right. I'll respectfully
7 overrule the objection. The same is admitted.

8 (WHEREUPON, State's Exhibit No. 25 was admitted
9 into evidence.)

10 MS. GARY: Your Honor, ask permission to publish
11 at this time?

12 THE COURT: Yes, ma'am, you may.

13 (WHEREUPON, State's Exhibit NO. 25 was
14 published.)

15 BY MS. GARY:

16 Q Investigator, while we wait for this machine to
17 boot up, what's happening in this photo, which is State's
18 Exhibit 25?

19 A So, if you're looking at the photograph from the
20 left to the right, the left most person is Mr. Brown. The
21 one in this middle is me. And then the one farthest to
22 the right is Investigator Evett. What specifically is
23 happening in this photograph is we are going over a
24 Miranda rights form with Mr. Brown.

25 Q Okay. Is that the form Mr. Brown appears to

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 have in front of him in this photo?

2 A Yes, ma'am.

3 Q Did he, in fact, sign that form?

4 A Yes, ma'am.

5 Q Okay. And that is again, when we say Mr. Brown,
6 we're talking about William -- tell us who we're talking
7 about?

8 A William Shane Fordham Brown.

9 Q Okay. And along those lines, sir, you said you
10 recognized State's Exhibit 26. If you would, please tell
11 the jury what that is.

12 A Yes, ma'am. This is the form that I just spoke
13 about, the advisement of his Miranda rights.

14 Q Okay. Was that -- who completes this form, sir?

15 A So, this form specifically, I will present to
16 somebody who I want to talk to where this form might be --
17 or somebody's rights might be required. I will go over
18 the form with them. I will read them the top half line by
19 line. And before reading it to them, explain to them that
20 there's a spot next to each line. There's the line there.
21 Then I ask them to put their initials on it if they
22 understand what I've read to them. So, if they put their
23 initials on that line, that's telling me that they
24 understand what I've just read to them.

25 The next portion is what's titled a Waiver

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 of Rights. That's a short paragraph that I generally have
2 the person who I'm wanting to speak with read out loud to
3 me. Then there's a section below that for their signature
4 if they're willing to talk. And then a portion for their
5 personal information, where they print their name,
6 address, social security number, birthday, that sort of
7 stuff. Then to the right of that section is two spots
8 where a witness can sign. In this particular case, myself
9 and Investigator Evett signed as witnesses.

10 Q Does that appear to be a fair and accurate
11 depiction of the form filled out by Mr. Brown in this
12 case?

13 A Yes, it does.

14 Q Has it been altered at all?

15 A I'm sorry, has it been altered at all?

16 Q Yes, sir.

17 A No, ma'am.

18 Q Okay.

19 MS. GARY: Your Honor, at this time, we would
20 offer State's Exhibit 26 into evidence.

21 THE COURT: All right, objection, sir?

22 Mr. Robinson?

23 MR. ROBINSON: No objection.

24 MS. GARY: So, we request to publish this as
25 well.

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 THE COURT: Yes, ma'am.

2 MS. GARY: Thank you, Judge.

3 (WHEREUPON, State's Exhibit No. 26 was admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 26 was
6 published.)

7 BY MS. GARY:

8 Q Investigator, you should have a laser pointer up
9 there with you, sir. If you would just show the jury on
10 State's Exhibit 26, which portion of this form would
11 Mr. Brown himself have filed out.

12 A On this particular form, what he wrote would be
13 these initials here. These are the lines that I spoke
14 about, so I would have read that line. Then if he
15 understood it, he would have initialed. Then we move to
16 this line, if he understood, he would initial and so on
17 all the way down to here. Generally, I would have him
18 read this paragraph right here out loud. If he
19 understands that, he would initial there. And then if he
20 agrees to speak with us after being advised of these
21 rights, he would sign there. In this case, I had him fill
22 out his personal information here. And this is where
23 myself -- where I signed and where Investigator Evett
24 signed.

25 Q Okay, sir. Again, is it your testimony that the

CHRIS MCCALMONT-CONTINUED DIRECT BY MS. GARY

1 handwriting from Mr. Brown in this document is what is
2 depicted in State's Exhibit 25 that he's actually writing;
3 is that correct?

4 A Yes, ma'am. This -- these initials here, he
5 wrote. That one there, he wrote. Then this information
6 that -- I know it's difficult to see, that I'm trying to
7 circle, he wrote.

8 Q Thank you, sir. Finally, Investigator, when was
9 Curtis Babb arrested in this case?

10 A January 27th of 2016.

11 Q Where did that happen?

12 MS. HENRY: Objection, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. HENRY: May we approach?

15 THE COURT: Sure.

16 (WHEREUPON, an off-the-record bench conference
17 was held in the presence of the jury but out of
18 the hearing of the jury.)

19 THE COURT: Okay, Ms. Henry, you want to put
20 that on the record?

21 MS. HENRY: Your Honor, I do. I object to this
22 line of questioning for the reasons that we discussed
23 at the bench.

24 THE COURT: Okay. Good enough. I think that
25 I'll respectfully overrule the objection.

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 You may pose the question.

2 BY MS. GARY:

3 Q Where was he arrested, sir?

4 A New York.

5 MS. GARY: Investigator, I believe those are all
6 my questions for now. Thank you so much. If you
7 would answer any questions Ms. Henry or Mr. Robinson
8 may pose to you. Thank you, sir.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: Ms. Henry, any questions?

11 MS. HENRY: Yes.

12 CROSS-EXAMINATION

13 BY MS. HENRY:

14 Q Okay. So, Officer McCalmont, this happened --
15 Mr. Pearson was killed at [REDACTED] Cox Street; is that correct?

16 A Yes.

17 Q Okay. All right. That happened the late night
18 of December 7th, early morning, December 8th, 2016?

19 A My best recollection was December the 8th.

20 Q Between 1:00 a.m. and 3:00 a.m.?

21 A Early morning hours.

22 Q Okay. And that's Thursday, correct?

23 A That was a Thursday.

24 Q That's in the middle of the work week?

25 A Towards the end.

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 Q For some. For some. Okay. And Mr. Pearson was
2 killed -- from Mr. Pearson's body, you recovered .40
3 caliber bullets, is that your understanding?

4 A Not me personally, but yes.

5 Q As part of your investigation?

6 A Yes.

7 Q So, Mr. Pearson -- was Mr. Pearson killed with a
8 shotgun?

9 A No, ma'am, that's not my understanding.

10 Q All right, thank you. So, I also want to ask
11 you about two of the search warrants that you served. So,
12 you personally executed two search warrants; is that
13 correct? One on [REDACTED] Shemwood?

14 A Yes.

15 Q And one for an LG touchscreen?

16 A I obtained two. I would say the one for the
17 phone would have been executed by somebody else.

18 Q Okay. All right. But you signed for those
19 search warrants?

20 A Correct.

21 Q All right. So, the one for Shemwood Lane,
22 Apartment [REDACTED], you requested a search warrant for any
23 physical evidence, fingerprints, DNA, hair fibers, body
24 fluids, weapons, guns, ammunition, clothing, linens,
25 drugs, credit cards, ID, documents, cell phones,

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 computers, forensic video and all other items of
2 evidentiary value, is that about right on the search
3 warrant?

4 A That sounds correct, yes.

5 Q So, did any of the items that you collected from
6 apartment [REDACTED] come back connected to Curtis Babb?

7 A No, ma'am.

8 Q Okay. So, you also executed a search warrant
9 for a white LG touchscreen from a phone that you located
10 at the incident where this actually happened, [REDACTED] Cox
11 Street; is that correct?

12 A Yes, ma'am.

13 Q All right. So, that search warrant was for all
14 call logs, text messages, video, pictures, voicemails,
15 social media, GPS and any other data?

16 A That sounds correct.

17 Q From that phone. Okay, thank you. Did any of
18 the items collected from that phone come back to Curtis
19 Babb?

20 A No, ma'am.

21 Q Okay. Now, we've already heard from Officer
22 Kretschmar, but you the lead investigator on this. Did
23 you find anything belonging to Curtis Babb at the scene
24 from [REDACTED] Cox Street? Wallet, shoes, anything that came
25 back connected to Curtis Babb?

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 A No, ma'am.

2 Q All right. Let's see. You also dumped several
3 other cell phones. And by dumped, I mean, that you got
4 all the data off those phones. Did you find any cell
5 phone data connecting Curtis Babb to any of these
6 incidents from any of the cell phones that you guys
7 investigated?

8 A Not that I'm aware of, no.

9 Q All right. In the course of your entire
10 investigation, did you find any fingerprints belonging to
11 Curtis Babb at the scene on Cox Street?

12 A I'm sorry, say that again.

13 Q Did you find any fingerprints belonging to
14 Curtis Babb from [REDACTED] Cox Street?

15 A No, but all indications that I had --

16 Q Objection, I'm not asking you. Just answer my
17 questions.

18 A I understand, but I'd like to answer it
19 completely.

20 Q Well, did you find fingerprints at Cox Street or
21 not? I mean, that seems like yes or no question. If you
22 did, then say so, but my understanding is that you said
23 you didn't. So, did you find fingerprints belonging to my
24 client at Cox Street?

25 A I think the question requires more than a yes or

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 no answer so it's not deceiving.

2 Q Did you find fingerprints or not?

3 A There were no fingerprints that were found at
4 the scene that were a match to Curtis Babb, but I --

5 Q Thank you.

6 A -- wouldn't expect there to have been. I guess
7 what I'm getting at, all indications that I know of --

8 Q No, sir, no one has asked you about this.

9 MS. GARY: Your Honor, this witness is allowed
10 to explain his answer.

11 THE COURT: I'll sustain, you can answer the
12 question. Now, if he says something that's
13 objectionable, you can object to that and make a
14 motion to strike it, but I don't know what he's going
15 to say. He's certainly allowed to explain his
16 answer.

17 MS. HENRY: Your Honor, I believe he's going to
18 be making an assumption that no one else has
19 testified to.

20 THE COURT: See, I don't know that.

21 MS. HENRY: He's also being nonresponsive to my
22 question, which he's already answered.

23 THE COURT: I understand your position.

24 MS. HENRY: Thank you, Your Honor.

25 THE COURT: The jury is in the best position to

CHRIS MCCALMONT-CROSS BY MS. HENRY

1 determine whether he's nonresponsive or not. I would
2 not take a position with regard to that. That's the
3 role of the jury.

4 So, if you want to qualify your answer, you may
5 do that. Understanding, of course, all the rules
6 that this Court has already made about admissibility
7 and non-admissibility, okay.

8 THE WITNESS: Yes, sir.

9 The physical evidence that we uncovered in this
10 case would lead me to believe that the people
11 involved were wearing gloves, so it wouldn't surprise
12 me.

13 MS. HENRY: Objection, Your Honor, there's been
14 absolutely no testimony to that fact.

15 THE COURT: Okay. All right. I'll respectfully
16 overrule the objection. The jury is hearing this.
17 Of course, you're going to have the opportunity to
18 argue that to them.

19 BY MS. HENRY:

20 Q All right. Did you find any fingerprints
21 belonging to Curtis Babb in or on Connell Wells' car?

22 A No, ma'am.

23 Q Okay. Did you find any DNA or blood belonging
24 to Curtis Babb at the scene at Cox Street or the Shemwood
25 apartment or Connell Wells' car?

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 A No, ma'am.

2 Q Okay. You collected shoe prints from the front
3 door at the scene; is that correct? Or someone helping
4 you conduct your investigation did, there was a shoe
5 print?

6 A Yes, that is correct.

7 Q Okay. I apologize, Officer McCalmont, give me
8 one second, okay. All right. When did you interview
9 Kathy Taylor?

10 A I'm sorry?

11 Q Did you interview Kathy Taylor?

12 A Kathy Taylor?

13 Q You never interviewed a woman named Kathy
14 Taylor? That's okay if the answer is no.

15 A I don't know, give me one second, please.

16 Q Absolutely, take your time.

17 A No, ma'am, I don't remember that name.

18 Q Okay. Did you interview Cecelia Perez?

19 A I don't remember that name either.

20 MS. HENRY: Okay, I don't have any other
21 questions.

22 THE COURT: Okay, Mr. Robinson.

23 MR. ROBINSON: May it please the Court.

24 CROSS-EXAMINATION

25 BY MR. ROBINSON:

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 Q Investigator, I want to take you back to Cox
2 Street. You've got your reports, don't you, in front of
3 you?

4 A Yes, sir, I have the one that I wrote, yes, sir.

5 Q Okay. As far as what was found on Cox Street
6 when they went in to look at the inside of the house, they
7 found -- they found drug paraphernalia, true?

8 A Yes, sir, a small amount, that would be fair to
9 say.

10 Q They found a crack pipe, right?

11 A Yes, sir.

12 Q And pushrods?

13 A That's correct.

14 Q And razor blades?

15 A That sounds correct.

16 Q Okay. Can you tell the jury, what do razor
17 blades have to do with miscellaneous paraphernalia and
18 crack pipes?

19 A Well, sometimes, something sharp is needed to
20 separate drugs.

21 Q Also, too, you had an opportunity -- I think
22 Ms. -- the solicitor talked about this. Forensics got the
23 shoes of Mr. James; is that correct?

24 A Are you referring to James Moss?

25 Q Yes, sir.

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 A Yes, we did.

2 Q And based on your -- talking to -- you were
3 notified by forensics that his shoes actually look similar
4 to the shoe prints that were found at the scene on the
5 front door; isn't that correct?

6 A Similar, but not a match, yes.

7 Q But your report that you did at that time back
8 in 2016, you put in your report that the shoes looked
9 similar, Mr. James' shoes looked similar to the shoe
10 prints which were found at the scene on the door; is that
11 right? Is that true?

12 A That would be accurate.

13 Q Okay.

14 A But it would just be that, that I thought they
15 looked similar. It wasn't like an actual test or
16 evaluation. They just looked similar.

17 Q Now, there's testimony earlier about these video
18 cameras that were located across the street. You remember
19 that?

20 A Yes, sir, at Waldun's Tanning.

21 Q And these -- from your understanding back then,
22 the cameras were working, weren't they?

23 A Some.

24 Q Some cameras were working?

25 A That's correct.

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 Q Did you testify to that previously? I thought
2 you said that the cameras were working?

3 A I believe I testified that I reviewed camera
4 footage from there. I don't know that there's a line of
5 questioning about how many were functioning or not.

6 Q Okay. Let's just -- so you would admit, then,
7 that while there were some that may have not have been
8 working at the time, that there were cameras that were
9 working, correct?

10 A Yes. At least, one was working, that would be
11 correct.

12 Q Okay. These cameras overlooked. They were
13 actually facing towards the house that's the subject of
14 this murder of Mr. Pearson; isn't that correct?

15 A No, that's not correct.

16 Q They weren't facing the house?

17 A Not the ones that were working, no, sir.

18 Q Where were they facing?

19 A Up Cox Street in the opposite direction.

20 Q Okay. And you made the decision to not share
21 these -- or not to keep these so either the solicitor or
22 defense attorneys or someone could examine them to see if
23 they were helpful. You decided to get rid of them, didn't
24 you? Or to not record them?

25 A No, sir, that wouldn't be fair. To get rid of

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 them would indicate that I obtained a copy and then
2 willing got rid of it. I never retained a copy of the
3 video because there was no evidence on it one way or the
4 other about this case.

5 Q But that was your decision. You made that call,
6 didn't you?

7 A Yes, sir, I did.

8 Q So no one else, be it defense attorneys or
9 anyone else, could have looked at that and said well, that
10 may have had something that would have helped this case or
11 exonerated people or whatever. You made that decision,
12 correct?

13 A I made the decision not to collect a video that
14 had no evidence, that would be correct.

15 Q But that was your decision and your decision
16 alone, correct?

17 MS. GARY: Your Honor, asked and answered
18 several times.

19 THE COURT: I sustain.

20 You can move on, sir.

21 MR. ROBINSON: Okay.

22 BY MR. ROBINSON:

23 Q And I think you talked about this bolt-action
24 shotgun that you thought was unusual, I think. Remember
25 saying that?

CHRIS MCCALMOT-REDIRECT BY MS. GARY

1 A I believe the word I used was rare, but, yes,
2 sir.

3 Q Rare, unusual, okay. But you don't have -- you
4 did no testing connecting that particular gun to the -- to
5 any of the shots that were found in Mr. Wells' leg, isn't
6 that correct? You have nothing that ties that to any of
7 this case, do you? That particular shotgun?

8 A No, sir.

9 MR. ROBINSON: Thank you, Officer. That's all I
10 have.

11 THE COURT: Okay, yes, ma'am, redirect?

12 MS. GARY: Three very brief points, Your Honor.

13 THE COURT: Yes, ma'am.

14 REDIRECT EXAMINATION

15 BY MS. GARY:

16 Q Officer, why were you never able to obtain shoes
17 from Curtis Babb?

18 A Well, he wasn't located, like I said, until the
19 27th of January 2017, in New York. It was just not
20 feasible --

21 MS. HENRY: Objection, Your Honor. Renew my
22 objection previously.

23 THE COURT: Okay. Okay. Respectfully
24 overruled.

25

CHRIS MCCALMOT-REDIRECT BY MS. GARY

1 BY MS. GARY:

2 Q Investigator, have you ever heard of anyone
3 named Kathy Taylor?

4 A I mean, I'm sure at some point in my life maybe
5 I've met somebody named, but not revolving around this
6 case, no, ma'am. That name's never been brought up.

7 Q Have you ever heard of anyone named Cecelia
8 Perez as it relates to this case?

9 A No, ma'am.

10 Q Investigator, what did that surveillance video
11 show you?

12 A Nighttime.

13 MS. GARY: Okay. Thank you.

14 THE COURT: Okay. All right, thank you,
15 Officer. You can step down.

16 All right, ladies and gentlemen, I'm going to
17 take another break, not for y'all, but for me. Y'all
18 have had several breaks and I told y'all we wanted to
19 avoid that, but we didn't. But I haven't had a
20 break. So, when you go back -- like yesterday, I
21 ordered lunch for you, and I'll do that again today.
22 I heard that some of you thought -- that some of you
23 said if I had been -- if I had known I had to stay in
24 the jury room, I wouldn't have said bring in lunch.
25 I think you heard me say that you could go out of the

1 MS. OWENS: May it please the Court, Your Honor?

2 THE COURT: Yes, ma'am.

3 MS. OWENS: The State calls Mr. Damean Wideman.

4 I believe Mr. Wideman is taking a break outside.

5 If it pleases the Court, we'll just move to our next
6 set of witnesses.

7 THE COURT: Yeah, that's fine.

8 MS. GARY: Your Honor, the State calls Dar Shaw.

9 THE CLERK: Place your left hand on the Bible
10 raise your right hand.

11 DARWIN SHAW, after being duly sworn, testified
12 as follows:

13 THE CLERK: Thank you, please take a seat.

14 State your name for the record.

15 THE WITNESS: Darwin Shaw, S-H-A-W.

16 DIRECT EXAMINATION

17 BY MS. GARY:

18 Q Good afternoon, Mr. Shaw. I keep wanting to
19 call you Sergeant Shaw. What is your current employment
20 status, sir?

21 A I'm retired.

22 Q Okay. From where did you retire?

23 A From the Greenville County forensics division.

24 Q What was your job at the Greenville County
25 forensics division?

DAR SHAW-DIRECT BY MS. GARY

1 A I was a sergeant for 18 years. I worked for the
2 division for 19.

3 Q Okay. Was your work that of a forensic
4 technician?

5 A It was.

6 Q We heard a little bit of testimony about that,
7 but tell the jury what you did when you were working that
8 job.

9 A As not only as a supervisor, but working as a
10 technician, our job was to work crime scenes for every
11 agency within the -- within Greenville County, all the
12 municipalities. We did everything from taking
13 photographs, collecting physical evidence, processing for
14 fingerprints, collecting evidence, DNA evidence.
15 Basically, everything that an investigator would do, we
16 worked the -- we did the physical part of it as far as
17 collecting evidence.

18 Q Okay. In your supervisor capacity, were you
19 also still responding to calls for service?

20 A Yes, I was.

21 Q Were you working in that capacity in December of
22 2016?

23 A I was.

24 Q Specifically, sir, on December 8th of 2016, did
25 you process a large item of evidence in this case?

DAR SHAW-DIRECT BY MS. GARY

1 A I did.

2 Q What was that item?

3 A It was a vehicle.

4 Q Okay. Where did this processing take place?

5 A It was at the crime scene office. We had a bay
6 downstairs that had a hydraulic lift. So, a lot of our
7 major crime scene vehicles, we would have done at our
8 office because we had access to the equipment.

9 Q Okay. Would that car have been brought to your
10 office by -- who would have brought that car to your
11 office?

12 A Well, a tow service would have brought it in.

13 Q Okay.

14 MS. HENRY: Your Honor, I'm going to renew my
15 objection to anything related to this being brought
16 in. Again, I think it's a relevance issue. I think
17 it's a 403 issue. Again, if we could approach
18 briefly about this.

19 THE COURT: Anything related to the car?

20 MS. HENRY: Yes, Your Honor.

21 THE COURT: Okay, you can come forward.

22 (WHEREUPON, an off-the-record bench conference
23 was held in the presence of the jury but out of
24 the hearing of the jury.)

25 (WHEREUPON, State's Exhibits Nos. 29-33 were

DAR SHAW-DIRECT BY MS. GARY

1 marked for identification only.)

2 BY MS. GARY:

3 Q Mr. Shaw, I want to draw your attention to a
4 number of photos. The first of which has been marked
5 State's Exhibit 29, sir. If you would just take a look at
6 that and tell me if you recognize it?

7 A I do.

8 Q What is that, sir?

9 A It's a -- the vehicle, it's on the driver's
10 side, indicating -- and there's a piece of evidence tape
11 on the hood which shows the vehicle was sealed prior to my
12 beginning processing it.

13 Q Okay. Is that a photo you took, sir?

14 A It is.

15 Q Is that a fair and accurate representation of
16 this car as you received it on December 8th, 2016?

17 A Yes, it is.

18 Q Has it been altered at all?

19 A No, it has not.

20 Q Thank you, sir.

21 MS. GARY: Your Honor, at this time, I'd offer
22 State's Exhibit 29 into evidence.

23 THE COURT: Okay. Subject to Mr. Babb's
24 objection.

25 Mr. Robinson, do you have an objection, sir?

DAR SHAW-DIRECT BY MS. GARY

1 MR. ROBINSON: I join with Ms. Henry.

2 THE COURT: All right, I overrule the same. The
3 same is admitted.

4 (WHEREUPON, State's Exhibit No. 29 was admitted
5 into evidence.)

6 BY MS. GARY:

7 Q Mr. Shaw, what is the first thing you do when
8 you receive a large item or any item of evidence to
9 process?

10 A Well, the first thing we'll do is take
11 photographs. In this particular case, took photographs of
12 the exterior of the vehicle. Once the exterior was done,
13 opened up the vehicle, took photographs of the inside of
14 the vehicle.

15 Q Do you do that before you touch anything?

16 A Yes, that's correct.

17 Q Or remove anything?

18 A Yes.

19 Q You testified that you did take those
20 photographs in this case?

21 A I did.

22 Q Okay, sir, what do you recall seeing inside this
23 vehicle?

24 A There was different pieces of evidence,
25 potential evidence on the seats. I remember there being

DAR SHAW-DIRECT BY MS. GARY

1 a -- like a stocking mask, a handkerchief. There was a
2 boot. I don't remember -- there was some, looked like
3 blood in different areas of the vehicle, on the outside as
4 well as on the inside.

5 Q Okay. What type of evidence do you typically
6 collect first in a case, sir?

7 A First thing we'll do is I will take, like, swabs
8 for DNA, particularly on the exterior of the vehicle.
9 Normally, do like the door handles on the outside, door
10 handles on the inside. That way, we're free to handle the
11 vehicle for getting in and out. If there's any blood
12 evidence, we would want to document it. The last thing
13 we're going to do is process for fingerprints so there's
14 no contamination with the powder with anything on the
15 inside of the vehicle.

16 Q Okay. Did you do that swabbing in this case?

17 A I did.

18 Q Okay. What is the next thing you did in this
19 case?

20 A After the swabs were done, I took swabs, a
21 couple of swabs of suspected blood and then began
22 collecting evidence from the interior of the vehicle.

23 Q Okay. Sir, I'm going to show you what's been
24 marked as State's Exhibits 30 through 33, just ask you to
25 take a look at those, sir.

DAR SHAW-DIRECT BY MS. GARY

1 A (The witness complies.)

2 Q Do you recognize each of those?

3 A I do.

4 Q Generally speaking, are those photographs taken
5 from your examination of this vehicle?

6 A Yes, they would.

7 Q Do they appear to have been altered at all?

8 A Not from the point that I got the vehicle, no.

9 Q Again, these are photographs that you personally
10 took?

11 A I did.

12 Q Thank you.

13 MS. GARY: Your Honor, at this time, we offer
14 State's Exhibits 30 through 33 into evidence.

15 THE COURT: Objection?

16 MR. ROBINSON: May I see them, Judge?

17 MS. GARY: You saw them.

18 MR. ROBINSON: No objection.

19 THE COURT: Okay, without objection, the same is
20 admitted.

21 MS. GARY: Thank you. Request to publish these
22 to the jury?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, State's Exhibits Nos. 30-33 were
25 admitted into evidence.)

DAR SHAW-DIRECT BY MS. GARY

1 (WHEREUPON, State's Exhibit Nos. 30 through 33
2 were published.)

3 BY MS. GARY:

4 Q Officer Shaw, I'm going to show you State's
5 Exhibit 31. What is depicted in that photo, sir?

6 A That is a photograph of, looked like blood on
7 the rear seat on the passenger side.

8 Q This is the rear of the vehicle?

9 A It is.

10 Q What else did you note about the rear of that
11 vehicle?

12 A There were other areas of possible blood on the
13 exterior as well as on the molding around the door on that
14 side.

15 Q Did you collect any items of evidence from the
16 rear of that car?

17 A I would have to look at my report to see
18 specifically what was collected.

19 Q Okay. Do you have copy of that with you?

20 A I don't.

21 Q Okay, I can hand that to you if that will
22 refresh your memory. And, specifically, sir, let me
23 rephrase my question, did you collect a black hooded
24 sweatshirt from the rear of that vehicle?

25 A I did. That was DS-12, which was a black hooded

DAR SHAW-DIRECT BY MS. GARY

1 sweatshirt, which was from the rear passenger floorboard.

2 Q Okay. Sir, tell the jury, when you collect a
3 item like that, how do you package it?

4 A Usually, it will go into a paper bag. But there
5 are specific items, my initials are DS, so any piece of
6 evidence that I collect would be under the initial DS,
7 then a number. So, say that was DS-12, I would put DS-12,
8 the date, the time it was collected and what the evidence
9 was.

10 Q Okay.

11 (WHEREUPON, State's Exhibit No. 34 was marked
12 for identification only.)

13 BY MS. GARY:

14 Q Sir, I'm going to hand you what's been marked
15 State's Exhibit 34 and ask you if you can tell us what
16 that is?

17 A This is item DS-12, consist of clothing, a black
18 hooded sweatshirt from the rear passenger floorboard. I
19 put it in a paper bag sealed with evidence tape and my
20 initials are on the bag as well as on the evidence tape.

21 Q From where are you reading that information? Is
22 there a label affixed to that?

23 A Bar code -- for all the evidence that we
24 collect, a bar code is made for each piece of evidence.
25 So, it's kept -- we can keep track of it in property and

DAR SHAW-DIRECT BY MS. GARY

1 evidence under the bar code.

2 Q Okay. Sir, I'm going to ask you to open that.
3 Without showing it to the jury, just look inside.

4 A (The witness complies.)

5 Q Sir, does that hooded sweatshirt appear to have
6 been altered in any way?

7 A It does not.

8 Q Is it a fair and accurate -- the sweatshirt that
9 you collected that day?

10 A It is.

11 Q Okay, thank you so much. What other items did
12 you collect in the rear of that vehicle? And
13 specifically, sir, did you collect a brown ski mask out of
14 that car?

15 A There was a brown stocking mask with eyeholes
16 from the rear passenger floorboard as well, a black hoodie
17 with a red bandanna in the pocket, a cell phone. There
18 was a black gym bag from the front passenger floorboard.

19 Q Okay. I'm going to just again draw your
20 attention to the rear of that vehicle. You testified you
21 collected a brown ski mask; is that right?

22 A Correct.

23 Q Okay. Again, sir, how would that item have been
24 packaged?

25 A It would have been packaged the same, put in a

DAR SHAW-DIRECT BY MS. GARY

1 paper bag, sealed with evidence tape. It would have been
2 initialed by me and a bar code would have been made out
3 for that particular piece of evidence.

4 Q Okay.

5 (WHEREUPON, State's Exhibit No. 35 was marked
6 for identification only.)

7 MS. HENRY: Your Honor, I just renew my
8 objections. I don't understand the relevance of
9 this. It came out of Connell Wells' car and so far,
10 there's been no established link to either of the
11 Defendants.

12 THE COURT: All right, I'll respectfully
13 overrule.

14 BY MS. GARY:

15 Q Sir, if you would, please, take a look at
16 State's Exhibit 35. And again, without showing it to the
17 jury, if you will, just tell us what that is.

18 A The label indicates DS-13 as a brown ski mask
19 with eyeholes from the rear passenger floorboard.

20 Q All right. If you would, sir, also, please open
21 that item as well.

22 A (The witness complies.)

23 Q Sir, does that item, again, appear to be the
24 mask that you collected from this vehicle?

25 A It is.

DAR SHAW-DIRECT BY MS. GARY

1 Q And has it been altered at all?

2 A It has not.

3 Q Was that package still sealed?

4 A It was.

5 Q Okay. Thank you, sir.

6 MS. GARY: Your Honor, at this time, we would
7 seek to admit State's Exhibit 30 -- no, no, I'm
8 sorry, we're not going to do that yet. I apologize.
9 I got ahead of myself.

10 BY MS. GARY:

11 Q Officer, I'm going to show you State's Exhibit
12 30. What portion of the vehicle are we seeing in this
13 photo?

14 A Well, that is the front passenger seat.

15 Q Okay. Did you collect that item that we're
16 seeing depicted in State's Exhibit 30?

17 A I did.

18 Q What is that, sir? Let me ask it this way,
19 Officer, did you collect a black hoodie with a red
20 bandanna in the pocket from the front of that vehicle?

21 A I did. I believe in the report, that's what I
22 was looking for, the particular -- all right, DS-14 was a
23 black hoodie with a red bandanna in the pocket.

24 (WHEREUPON, State's Exhibit No. 36 was marked
25 for identification only.)

DAR SHAW-DIRECT BY MS. GARY

1 BY MS. GARY:

2 Q So, I'm going to show you State's Exhibit 36
3 and, again, ask if you -- tell the jury whether or not you
4 recognize this.

5 MS. HENRY: Your Honor, same objection.

6 THE COURT: Yes, ma'am, you're protected on the
7 record in that regard. Overruled.

8 THE WITNESS: This is item DS-14, labeled as
9 black hoodie with red bandanna in the pocket. This
10 is off of the bar code. It's also packaged and has
11 my initials on the back of the packaging.

12 BY MS. GARY:

13 Q Okay. Again, sir, if you would please open up
14 that item and see what's inside.

15 A (The witness complies.)

16 (WHEREUPON, State's Exhibit No. 37 was marked
17 for identification only.)

18 BY MS. GARY:

19 Q Okay, sir, did that item appear to be the black
20 hoodie and the red bandanna that you collected from the
21 front seat of this vehicle?

22 A It is.

23 Q Has it been altered at all?

24 A It has not.

25 Q Again, that package was sealed with your

DAR SHAW-DIRECT BY MS. GARY

1 initials?

2 A It was.

3 Q Also, draw your attention to State's Exhibit 30,
4 once again, what is this item in the front passenger
5 floorboard, sir?

6 A It was a gym bag.

7 Q Okay. Did you collect that item?

8 A I did.

9 Q Okay. Would that be packaged in the same way as
10 all the other items we discussed?

11 A Yes, ma'am, it would.

12 Q Sir, going to show you State's Exhibit 37 and,
13 again, ask you if you can tell us what that is, sir?

14 A Bar code indicates that it is a black gym bag
15 from the front passenger floorboard in the same type of
16 packaging with evidence tape and my initials on the back.

17 Q If you would, please, do the same thing, open
18 that item for me.

19 A (The witness complies.)

20 Q Sir, again, does that item appear to be the
21 black bag collected from the front passenger floorboard in
22 this case?

23 A It is.

24 Q Has it been altered in any way?

25 A It has not.

DAR SHAW-DIRECT BY MS. GARY

1 Q Thank you so much. Officer, I'm going to show
2 you State's Exhibit 32.

3 Can we adjust the lights a little bit?

4 Thank you.

5 Officer, we see -- what is this No. 18 we
6 see depicted in this exhibit?

7 A Eighteen is a handkerchief with two pairs of
8 gloves wrapped inside of the hankie.

9 Q What is that yellow marker that the jury can
10 see?

11 A That is an evidence label. Every piece of
12 evidence that's collected, we normally put an evidence
13 marker next to it. So it corresponds -- DS-18 would be
14 the 18th piece of evidence. And that's how it's marked,
15 by using a placard.

16 Q Is that a system that you and other forensic
17 technicians use to keep track of evidence before you
18 collect it?

19 A It is.

20 Q Okay.

21 (WHEREUPON, State's Exhibit No. 38 was marked
22 for identification only.)

23 BY MS. GARY:

24 Q Officer, I'm going to show you one more item,
25 what's been marked as State's Exhibit 38, and ask you,

DAR SHAW-DIRECT BY MS. GARY

1 sir, one more time if you can tell us what's inside that
2 item?

3 A This item is labeled as DS-18, a red bandanna
4 with two pair of gloves wrapped inside.

5 Q If you will do the same, sir, if you will open
6 that item for me.

7 A (The witness complies.)

8 Q And again, sir, does State's Exhibit 38 appear
9 to contain the red bandanna with gloves inside that you
10 collected from the trunk of this vehicle?

11 A It is.

12 Q Okay. None of them appear to have been altered
13 at all?

14 A No, they have not.

15 Q Thank you so much, sir. Let me show you one
16 final evidence that's in evidence as State's Exhibit 33.
17 If you would, just if you can see it, what portion of
18 vehicle is this?

19 A Looks like the console.

20 Q What's depicted in that photo, sir?

21 A A pair of gloves.

22 Q Okay. Now, Officer, necessarily, I've been
23 asking you about specific pieces of evidence. Did you
24 collect a number of items of evidence in this case?

25 A I did.

DAR SHAW-CROSS BY MS. HENRY

1 Q In fact, in cases like this, was it your
2 practice to collect any potential piece of evidence you
3 might find inside a vehicle like this?

4 A Yes, it was.

5 Q Did you do that in this case?

6 A I did.

7 Q Okay.

8 MS. GARY: I believe those are all of my
9 questions. Thank you so much, sir.

10 THE COURT: Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MS. HENRY:

13 Q Stop me if you need to. My voice -- I talk kind
14 of fast and a little bit low. All right, just a couple of
15 quick questions. So Sergeant Shaw, so you collected
16 everything that you've mentioned today out of a 2001 Ford
17 Crown Victoria?

18 A Correct.

19 Q And I don't know if you were here earlier, but
20 you know whether that's Connell Wells' car?

21 A I am not aware. I know I found a wallet in the
22 vehicle with that name on it -- in the wallet.

23 Q Did you find any other wallets or any other
24 identification that belonged to anybody else?

25 A I did not.

DAR SHAW-CROSS BY MS. HENRY

1 Q Okay. All right. And all of the items that you
2 mentioned were collected just out of the vehicle?

3 A I'm sorry?

4 Q All of the items that you mentioned today were
5 collected only out of this vehicle?

6 A That's correct.

7 Q Okay. You also collected fingerprints off of
8 this car?

9 A I did.

10 Q You didn't -- you didn't do the analysis,
11 correct? You sent that off to somebody else?

12 A That's right, it goes to the latent division.

13 Q Okay, great. Then did you collect anything
14 related to a .40 caliber gun?

15 A I did not.

16 Q Okay.

17 All right, I don't have any other
18 questions, I appreciate it.

19 THE COURT: Mr. Robinson?

20 MR. ROBINSON: No questions, Judge.

21 THE COURT: Okay, any redirect?

22 MS. GARY: No, sir, Your Honor. Thank you so
23 much.

24 THE COURT: Mr. Shaw, you can be excused, thank
25 you very much. I appreciate you being here.

1 Okay. You can call your next witness.

2 MS. OWENS: Your Honor, once again, I find
3 myself up against the lunch hour. I just want to
4 apprise the Court the next witness has a potential to
5 be lengthy.

6 THE COURT: I don't think our lunch is here.
7 It's not here yet, is it?

8 THE BAILIFF: No.

9 THE COURT: Let's go ahead.

10 MS. HENRY: Can we take a small, very short
11 break, Your Honor? I apologize.

12 THE COURT: All right, let's take a break,
13 ladies and gentlemen. We'll come back in in just a
14 few minutes.

15 (WHEREUPON, the jury left open court at
16 approximately 12:27 p.m.)

17 THE COURT: Okay, we'll come back in a few
18 minutes.

19 (WHEREUPON, a short break was taken.)

20 (WHEREUPON, Defendant's Exhibit No. 1 was marked
21 for identification only.)

22 THE COURT: So, we ready for the jury?

23 MS. OWENS: I intend to call Damean Wideman.

24 THE COURT: Okay.

25 MS. HENRY: I do have an objection --

1 the Court.

2 If you would, sir, please come up and be sworn.

3 THE CLERK: Place your left hand on the Bible
4 raise your right hand.

5 DAMEAN WIDEMAN, after being duly sworn,
6 testified as follows:

7 THE CLERK: Thank you. Please take a seat and
8 state your name for the record.

9 THE WITNESS: Damean Wideman.

10 DIRECT EXAMINATION

11 BY MS. OWENS:

12 Q Mr. Wideman, I'm going to stand way back here so
13 I can be sure everybody in the courtroom can hear you. If
14 you could speak up loud enough so that I can hear you,
15 everybody can hear you, okay? Do you understand?

16 A Yes, ma'am.

17 Q Okay. Mr. Wideman, you don't want to be here,
18 do you?

19 A No, ma'am.

20 Q Why not?

21 A I've been working all night, I'm tired.

22 Q Well, we'll try to keep this brief. Generally
23 speaking, where do you live? I don't need your address,
24 just general?

25 A Live in Simpsonville.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q How old are you?

2 A Thirty-eight.

3 Q What date is your birthday on?

4 A [REDACTED].

5 Q Of what month?

6 A [REDACTED].

7 Q How long have you lived in the Greenville area,
8 this area of the country?

9 A About 16 years.

10 Q Do you remember where you were living in
11 December of 2016?

12 A Piedmont Manor in Mauldin.

13 Q You said Piedmont Manor?

14 A Yeah.

15 Q Is that the name of the apartment complex?

16 A Yeah.

17 Q Is that apartment complex sometimes known as
18 Shemwood Crossing?

19 A Same apartment complex.

20 Q Same thing, okay. How long had you lived in
21 Piedmont Manor, Shemwood Crossing?

22 A I don't even remember.

23 Q Okay. Do you remember what apartment you lived
24 in?

25 A No, I stayed in a lot of them.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q Do you remember which apartment you were living
2 in in December of 2016?

3 A No, ma'am, I really don't remember.

4 Q Do you remember who else you were living with in
5 December of 2016?

6 A I really don't recall that. I have stayed a lot
7 of places.

8 Q Mr. Wideman, do you know Curtis Babb?

9 A Know of him.

10 Q How do you know of him?

11 A Through the apartment complex neighborhood.

12 Q Did you know him from Shemwood Crossing, that
13 apartment complex?

14 A No.

15 Q Then what apartment complex?

16 A No apartment complex, I just know of him.

17 Q Then I'm sorry --

18 A I know of him.

19 Q I'm sorry, sir, I just don't understand your
20 answer. I thought I heard you say you knew him from the
21 apartment complex?

22 A No, that's what you asked me.

23 Q Okay. How do you know of him?

24 A I know of him. I worked with him. I know of
25 him.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q Did you ever speak to him?

2 A I speak to a lot of people.

3 Q I appreciate that, sir, but my question was, did
4 you ever speak to Curtis Babb?

5 A Yeah, on different occasions.

6 Q Okay. Do you remember speaking to him in
7 December of 2016?

8 A No, ma'am, I really don't remember too much from
9 2016. I don't remember too much from last week.

10 Q You mentioned that you know of him, what was
11 your relationship like?

12 A Break that down for me.

13 Q That's okay. Did you hang out as friends?

14 A No. Just hang around whatever.

15 Q Did you socialize together?

16 A From time to time.

17 Q Do you recognize the person that you know as
18 Curtis Babb in the courtroom today?

19 A I plead the Fifth, ma'am. I rather not even
20 talk.

21 THE COURT: You need to answer the question,
22 sir.

23 THE WITNESS: I plead the Fifth.

24 THE COURT: All right, sir. On what basis are
25 you pleading the Fifth Amendment, sir?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 THE WITNESS: Safe of me.

2 THE COURT: Okay. All right, well that's not a
3 legitimate reason to plead the Fifth Amendment, sir.
4 You're -- under the law, you're required to answer
5 the question. You can answer I don't know. You can
6 answer it any way that you think is appropriate and
7 honest, but you have to answer the question, sir.

8 THE WITNESS: Yeah, I see him.

9 BY MS. OWENS:

10 Q Could you identify him for the jury, please?
11 Tell the jury what he's wearing.

12 A Suit, tie.

13 Q Well, I'm sorry, there's a lot of people over
14 there wearing a suit and tie. I'm afraid you're going to
15 have to be a little more specific.

16 A Gray shirt.

17 Q All right, thank you, sir. Do you know William
18 Brown?

19 A Yes, I guess. I don't know him by William
20 Brown.

21 Q How do you know him?

22 A From the neighborhood.

23 Q All right. What do you know him as if you don't
24 know him as William Brown?

25 A Little nephew.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 MS. OWENS: Your Honor, with the Court's
2 permission, I'd like to treat this witness as
3 hostile.

4 THE COURT: You may, ma'am.

5 MS. OWENS: Thank you, Your Honor.

6 BY MS. OWENS:

7 Q Do you know William Brown as Deuce?

8 A Yes.

9 Q How do you know him?

10 A From the neighborhood.

11 Q Shemwood Crossing, is that the neighborhood that
12 you're referring to?

13 A Yes, ma'am.

14 Q Okay. What was your relationship with Deuce
15 like?

16 A Like a nephew.

17 Q I'm sorry, I just don't understand what you're
18 saying. Are you saying he's a nephew?

19 A He's like a nephew.

20 Q Are the two of you blood related?

21 A No.

22 Q Okay. Why do you think of him as a nephew?

23 A I'm 38, he's younger than me. He be behind me.

24 Q Do the two of you socialize?

25 A From time to time.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q Back in December of 2016, how long had you known
2 Deuce?

3 A I really can't remember.

4 Q You didn't tell police that you known him for
5 several years at that point?

6 A No, I said I've known of him. Didn't know him
7 several years. Like I said, I have known him that long.

8 Q Forgive me, I'm going to have to ask you to
9 explain the distinction between knowing somebody and
10 knowing of them. What does that mean?

11 A That's when -- I don't know you, I don't know of
12 you.

13 Q Did you -- you just testified that the two of
14 you socialized from time to time?

15 A We have.

16 Q And you testified that you think of him as a
17 nephew?

18 A Yes.

19 Q Okay. But it's your testimony that you know of
20 him?

21 A He be around some of my people, that's what I'm
22 trying to explain to you.

23 Q I appreciate the explanation, sir. Would you
24 point out for the jury who you know as Deuce if you see
25 him in the courtroom today?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A (The witness points.)

2 Q Could you tell the jury what he's wearing?

3 A No, actually, I can't see nothing but his head.

4 Q Well, would you mind standing up so you can get
5 a better view of him?

6 A Black shirt.

7 Q I'm sorry, you said a black shirt?

8 A Well, I guess, a vest, that's what I see.

9 Q I just want to make sure we're talking about the
10 same person. Is he seated over at the Defense table in a
11 black vest?

12 A Yes.

13 Q That's the person you know as Deuce?

14 A Yes.

15 Q All right. Do you know who Connell Wells is?

16 A Once again, I guess I can say no.

17 Q Right, you could say no. I'm asking you for the
18 truth. Do you know him?

19 A I don't know. I don't know of him by that name.

20 Q Then how do you know him? What name do you know
21 him by?

22 A Butta. Know him from the neighborhood.

23 Q All right. Did the two of you socialize, you
24 and Butta?

25 A No, not really.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q Did you know what kind of car Butta drove?

2 A Yeah.

3 Q Which car was that?

4 A He drove a red car.

5 Q A red -- do you know what about kind of red car?

6 A Crown Vic, Mercury, or something. I just know
7 it was red.

8 Q Do you remember telling the police that you knew
9 him to drive a red Crown Vic?

10 A I don't remember telling the police, yeah,
11 that's the car that he drives.

12 Q So, you don't remember telling them that?

13 A No, I just told you I don't remember too much of
14 anything.

15 Q Okay. Do you remember the night of the incident
16 that's the subject of this trial? That would have been
17 December 7th of 2016?

18 A Do I remember the incident?

19 Q Yeah, do you remember the night of this
20 incident, anything about it?

21 A You got to clarify for me.

22 Q No problem. What do you remember seeing with
23 respect to that red Crown Vic that night?

24 A What do I remember seeing about it?

25 Q Yes, sir.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A It's a red car. You got clear it up for me.

2 Q Okay. That's all right. We'll do it a little
3 bit more painfully, I'm sorry. I'm sorry?

4 A I say you got to lead me and you just -- you
5 going to have to lead me, I don't know what you're asking
6 me.

7 Q Okay. Do you remember talking to the police on
8 December 14th of 2016?

9 A Yeah, I guess.

10 Q I'm sorry, sir, either you do or you don't?

11 A I really don't.

12 Q You do not remember?

13 A I don't remember too much of anything. You got
14 to help me out.

15 Q You do not remember speaking to the police on
16 December 14th of 2016?

17 A I don't remember the date, but yes, I remember
18 speaking to the police, but no, I don't remember no dates.

19 Q Do you remember speaking to several different
20 police officers that day?

21 A Yes, a lot of them. A whole lot of them.

22 Q Do you remember about how long you talked to
23 them?

24 A Yeah, for a long time.

25 Q Was it for several hours?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A Yeah. A lot of hours.

2 Q At the time that you were talking to them, do
3 you remember telling them that you had been trying to get
4 in touch with police for days before December 14th?

5 A Yes, I do.

6 Q Do you remember telling the police that you had
7 been trying to met up with Michelle Lentz of the
8 Greenville City Police Department?

9 A Yes, I do.

10 Q Do you remember talking to them about being
11 unable to meet with Officer Lentz and driving on the 14th
12 to come down to the law enforcement center to meet with
13 them that day yourself?

14 A Yes, I do.

15 Q Okay. Did you tell the police during that
16 conversation that the reason you needed to speak with them
17 is because Curtis Babb had been threatening you?

18 A I told them I was threatened by several people
19 in the neighborhood, not just by Mr. Babb.

20 Q I appreciate that. I'm sorry that I'm going to
21 have to recircle and get a little bit more specific. Did
22 you tell the police on December 14th, repeatedly, that you
23 had been threatened by Curtis Babb?

24 A Yes, I did.

25 Q When had Mr. Babb threatened you?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A We had an argument at work.

2 Q I understand that, sir. When did Mr. Babb
3 threaten you?

4 A I mean, what are you looking for?

5 Q When, meaning what day, time or any other
6 markers of time that you can think of, when did Mr. Babb
7 threaten you?

8 A It was on a day. I can't give you a specific
9 date. I don't remember.

10 Q Okay. Do you remember telling the police during
11 your interview repeatedly that he had threatened you the
12 night before?

13 A The night before what?

14 Q The night before your interview. In the
15 interview, you would have called it yesterday?

16 A I just told you we got to arguing at work, so.

17 Q I'm afraid that's not an answer to my question,
18 sir. Do you remember telling the police --

19 A No, I don't.

20 Q Okay. Do you remember telling the police why
21 Curtis Babb had threatened you?

22 A No, I really don't.

23 Q Okay. Did you tell the police that Mr. Babb
24 threatened you because he believed that you were telling
25 people about this robbery on December 8th of 2016?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A No, I don't.

2 Q Did you tell the police that Mr. Babb had
3 invited you to come with him to participate in a robbery
4 on December 8th of 2016?

5 A No, I don't.

6 Q Did you tell the police that Mr. Babb asked you
7 for a pair of gloves to use during this robbery on
8 December 8th of 2016?

9 A No.

10 Q Do you remember speaking specifically with
11 Investigator Newman during your interview on December
12 14th?

13 A Yeah.

14 MR. GRAVELEE: Your Honor, may we approach?

15 THE COURT: What is your connection to this
16 case, sir?

17 MR. GRAVELEE: I represent Mr. Wideman.

18 THE COURT: Okay, come on up. Come on up.

19 (WHEREUPON, an off-the-record bench conference
20 was held in the presence of the jury but out of
21 the hearing of the jury.)

22 THE COURT: Ladies and gentlemen of the jury,
23 just for purposes of the record, this is Max Gravelee
24 he's an attorney here in Greenville, apparently, and
25 you and I just found out at the same time, he

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 represents this witness on unrelated charges in
2 another case. And he has talked to his client about
3 Constitutional protections. Didn't want y'all to
4 think that anything was being hidden from you or that
5 things were happening that I wasn't willing to
6 disclose to you.

7 So, having said that, you may proceed, ma'am.

8 MS. OWENS: Thank you, Your Honor.

9 BY MS. OWENS:

10 Q We left off with you speaking to Investigator
11 Newman. You just told the jury that you remembered
12 speaking to Bubba Newman, right?

13 A Yes.

14 Q Did you tell Investigator Newman that Curtis
15 Babb had threatened you the night before you talked to the
16 police, December 13th?

17 A Yes.

18 Q What did you tell Investigator Newman about what
19 Curtis Babb said to you?

20 A I told you we got into a heated argument. I
21 said he said some things, I said some things, but --

22 THE COURT REPORTER: I'm sorry, I can't hear
23 you.

24 THE COURT: That was my fault, sir, I turned it
25 off. Start over and the question, please.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 THE WITNESS: I said -- I told him we both had
2 words, a pretty heated argument. I said but he told
3 me he'd kill me. He never said nothing to me like
4 that.

5 BY MS. GARY:

6 Q Why did he tell you he was going to kill you?

7 A Because he said it had come back to him I was
8 spreading rumors on him.

9 Q Did you tell Investigator Newman that when Curt
10 invited you to join them in the robbery that they believed
11 there was a half a brick of cocaine in that house that
12 they were going to rob?

13 A I told them that's what was said.

14 Q Do you remember talking to Investigator Newman
15 about the conversation you had with Deuce?

16 A That I had with Deuce?

17 Q Yes, sir.

18 A No, I don't recall.

19 Q Okay. You testified earlier that you knew
20 Deuce -- I'm sorry, knew of Deuce, do you know which
21 apartment Deuce stayed at in Shemwood?

22 A I can't remember a number.

23 Q Did you tell the police it was [REDACTED]?

24 A That may be correct.

25 Q Do you know whether that's correct?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A I also stayed at [REDACTED] for a period of time.

2 Q Okay. I appreciate that. Do you know whether
3 Deuce stayed in [REDACTED]?

4 A He was there some of the time.

5 Q Okay. Did you describe to Investigator Newman
6 during that conversation on December 14th, that you
7 watched Butta, Deuce and Curt get suited and booted for
8 the robbery?

9 A No. I told Bubba Newman it was said they got
10 suited and booted.

11 Q So, you did not tell Investigator Newman that
12 you watched the three go into a vacant apartment in your
13 building and exchange gloves and guns?

14 A I told him that's what was said. He tried to
15 lead me. He tried to tell me what to say.

16 Q Okay. It's your testimony, then, today that you
17 did not tell Investigator Newman that that's what you saw?

18 A No, I never told him that's what I was saw. I
19 told him that's what I overheard saying.

20 Q Do you remember specifically describing gloves
21 that you saw the three Defendants wearing?

22 A I told him the gloves that we wear to work.

23 Q You did not tell Investigator Newman
24 specifically the gloves that you saw, Deuce, Curtis Babb
25 and Butta putting on before they left to go commit this

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 robbery?

2 A I just told you, yes, I told him about the
3 gloves from where I work, those are the gloves that I wear
4 to work.

5 Q I'm sorry, sir, I understand your frustration,
6 but I'm trying to ask a very precise question. Did you
7 tell Investigator Newman that you saw those three
8 Defendants put on those gloves?

9 A I don't remember.

10 Q Okay. Did you tell Investigator Newman that you
11 spoke to Deuce after the police had cleared out the next
12 morning, December 8th, after the ambulance left?

13 A Yes.

14 Q What do you remember about that conversation
15 today?

16 A Nothing much.

17 Q Okay. Do you remember telling Investigator
18 Newman on December 14th that Deuce told you he shot
19 through the window?

20 A I don't recall.

21 Q Did you tell Investigator Newman that Deuce told
22 you that they pulled the victim off the couch to check if
23 he was dead?

24 A I don't recall.

25 Q Did you tell Investigator Newman that Deuce told

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 you they sent Butta to go search the house and when he
2 returned to the living room, Curt shot him in the knee
3 with a shotgun?

4 A Yeah, I mean -- yeah.

5 Q Did you tell Investigator Newman that Deuce told
6 you he dragged Butta back to the car from the house?

7 A Yes.

8 Q Did you tell Investigator Newman that you
9 watched as that red Crown Victoria arrived back at
10 Shemwood Crossing before dawn on December 8th of 2016?

11 A Yes.

12 Q Did you tell Investigator Newman that you
13 watched Deuce and Curt drag Butta to the back door of [REDACTED]
14 and put him inside?

15 A No.

16 Q Did you tell Investigator Newman during your
17 conversation on December 14th that you saw Curt run down
18 the hill a few minutes later after they dropped off Butta
19 in [REDACTED]?

20 A I don't remember.

21 Q Did you tell Investigator Newman that a few
22 moments after you saw Curt run down the hill that you saw
23 Deuce also run down the hill in the same direction?

24 A No.

25 Q Did you tell Investigator Newman that you saw

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Deuce return to apartment [REDACTED] just before the ambulance
2 showed up?

3 A Yes.

4 Q And then did you tell Investigator Newman that
5 you talked to Deuce after the police had cleared out?

6 A Yes.

7 Q Did you tell Investigator Newman that Deuce told
8 you he had given a statement to police?

9 A No.

10 Q Did you also tell Investigator Newman that you
11 spoke to Curt later on that day on December 8th of 2016?

12 A Yes, we had a conversation.

13 Q Do you remember telling Investigator Newman that
14 Curt was angry that you been talking about what you had
15 seen and heard related to the robbery?

16 A That's not what I told him.

17 Q Okay. What did you tell him?

18 A I told him we had a conversation, Curt was upset
19 with me because, like I told you previously, people had
20 been saying that I was spreading rumors.

21 Q What rumors was he upset about you spreading?

22 A That somebody said he killed somebody. I think
23 it's time to be upset if somebody said I killed somebody.

24 Q I'm going to show you State's Exhibit 27, do you
25 recognize that document?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

- 1 A Yeah.
- 2 Q How do you recognize it?
- 3 A That's the picture they showed me.
- 4 Q Did you sign that document?
- 5 A Yes, I signed it.
- 6 Q Is that your signature on that document?
- 7 A There's not a signature on it.
- 8 Q Is that your handwriting on that document?
- 9 A Yeah.
- 10 Q What did you write on that document?
- 11 A I know him as Deuce.
- 12 Q Is that photograph the person that you know to
- 13 be Deuce?
- 14 A I know him as Deuce.
- 15 Q Do you remember speaking to a different
- 16 investigator, Investigator David Picone that day?
- 17 A I don't recall.
- 18 Q Do you remember whether you told Investigator
- 19 Picone that you had been threatened by Curtis Babb the
- 20 night before you came to talk to the police?
- 21 A I think so.
- 22 Q Did you tell Investigator Picone that you knew
- 23 Curtis Babb to carry a shotgun and a duffel bag?
- 24 A I don't recall. I might have.
- 25 Q Do you remember speaking to a different

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 investigator, Investigator Chad Maltby?

2 A I don't recall. I spoke to a lot of them.

3 Q Do you recall whether you told Investigator
4 Maltby that you had seen Curt earlier that morning, the
5 morning that you came to the police station?

6 A Yes.

7 Q Where had you seen Curt earlier that morning?

8 A Right outside my house.

9 Q Still in Shemwood Crossing?

10 A Yeah.

11 Q Do you remember telling Investigator Maltby
12 specifically what Curt was wearing that morning?

13 A I think so, I'm not sure.

14 Q All right. Did you tell Investigator Maltby
15 that Curt had threatened you the night before you came and
16 talked to police that day on the 14th?

17 A I believe so.

18 Q Did you also tell Investigator Maltby that Curt
19 carry a shotgun a black duffel bag?

20 A I don't recall.

21 Q Do you remember speaking with Detective Russ
22 Irvin who works with the Greenville City Police
23 Department?

24 A I might have. I don't remember, ma'am.

25 Q All right. Do you remember whether you told

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Investigator Irvin that you had been invited to go with
2 Deuce and Curt to commit this robbery?

3 A I don't remember.

4 Q Do you remember you also spoke to some agents
5 with the Federal Bureau of Alcohol, Tobacco, Firearms and
6 Explosives, ATF?

7 A Yeah, I spoke to several different people.

8 Q Do you remember telling Special Agent Ashley
9 Asbill that Curt had threatened you to your face?

10 A Yes.

11 Q Did the police ever ask you to sign a statement
12 about what you had told them that day?

13 A I believe so, I'm not sure. I believe so.

14 Q Do you remember whether you ever signed a
15 statement about what you told them?

16 A I believe so.

17 Q Now, we touched on it very briefly at the
18 outset, but I want to make sure it's clear. Were you
19 under arrest at the time of the conversation with police?

20 A Yes, I was.

21 Q Do you remember for what charges you were under
22 arrest?

23 A Allegedly, driving under suspicion.

24 Q Were you also charged with disregarding a stop
25 sign?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A I had eight or nine different charges.

2 Q Do you know whether you were charged with being
3 a habitual traffic offender?

4 A No, I wasn't.

5 Q Okay. You don't -- it's your testimony you
6 weren't charged with that?

7 A Not to my recollection, no.

8 Q Okay. Nonetheless, are all those charges
9 resolved?

10 A No.

11 Q You haven't already pled guilty to that series
12 of offenses?

13 A Yeah, I been to court.

14 Q And I apologize, perhaps, that question was
15 unclear. Are those charges still active at all?

16 A No.

17 Q Okay. How did it happen that you were arrested
18 for driving and then ended up speaking to investigators
19 about this case?

20 A I was already on my way downtown to talk and
21 meet with Michelle.

22 Q Yes, sir I understand that. But what happened
23 when you got arrested?

24 A I told them like where I was headed. She knew I
25 didn't have a license. She told me just try to get there

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 as soon as possible.

2 Q Okay. Did you tell the police who arrested you
3 for driving that that's what you needed to do? I'm sorry,
4 I'm just trying to get to where you got from the side of
5 the road to talk to investigators?

6 A I wasn't on the side of road.

7 Q Whatever road on which you were traveling when
8 you got arrested. When you got handcuffs put on you --

9 A Okay, that's better, because I wasn't on any
10 road.

11 Q How did you get from being under arrest
12 somewhere out in the county?

13 A Allegedly, they was taking me to meet with
14 Michelle and said that Michelle wanted to meet with me and
15 Bubba.

16 Q I'm sorry to keep digging at this, but it's
17 important that I understand. You said allegedly they were
18 taking you to meet with Michelle?

19 A Yeah, allegedly.

20 Q Okay. How did they know you were -- you needed
21 to meet with Mitchell?

22 A Because I told them where I was going.

23 Q Okay. Did you tell the police at the time of
24 your arrest that you needed to speak with them?

25 A Yes, I did.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q So, did they take you up to speak with
2 investigators because you asked them to?

3 A Allegedly, that's what they said, but that's not
4 what they did.

5 Q Okay. Well, then, what happened?

6 A They told me they were taking me to meet
7 Michelle and speak with Bubba, but they didn't take me to
8 meet with Michelle at all. They took me to a room and
9 grilled --

10 May I speak?

11 THE COURT: Sure.

12 THE WITNESS: They took me into a room and
13 grilled the shit out of me.

14 BY MS. OWENS:

15 Q I'm sorry?

16 A They took me to a room and just pressured the
17 shit out of me, that's what they did.

18 Q Who pressured you?

19 A You just called all their names, everybody I
20 allegedly spoke with.

21 Q Okay. So, is it your testimony that each of
22 those police that you spoke to pressured you to speak to
23 them?

24 A They did. Because I only wanted to talk to one
25 person.

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 Q What did they do to pressure you?

2 A Well, when I was talking to Michelle about being
3 threatened, I got pressured by other persons, well, you
4 know, if you just do this and you just do that, we can
5 help you do this and we can help you do that.

6 Q So, is it your testimony today that what you
7 told the police was not true?

8 A That's not what I'm saying. I don't know
9 whether it's true or not. I told the police what I had
10 overheard.

11 Q Mr. Wideman, have you been threatened since the
12 time you talked to the police on the 14th?

13 A Yeah, I been threatened several times.

14 Q By whom?

15 A By both. I been threatened by people out in the
16 neighborhood. I been also threatened by the prosecution
17 in the courtroom, so.

18 Q I'm sorry, you've been threatened by me?

19 A I said prosecutors, I didn't call your name. I
20 know your name.

21 Q Okay. Have you and I ever met before today?

22 A No, I never met you, but I been threatened by
23 the solicitor's office. If I don't this, I don't do that,
24 I will be arrested.

25 Q Who threatened you at the solicitor's office?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 A I don't know. That's what happen when you get a
2 phone call says Greenville County on the phone, we need
3 you to be here.

4 I said, Well, I'm subpoenaed, I know I
5 supposed to be here.

6 Well, sir, if you don't do this for us
7 helping them, then, you know, they will lock you up, they
8 will find a reason to lock you up.

9 I been threaten on four or five different
10 occasions.

11 Q So, with respect to the solicitor's office, your
12 testimony is that you were threatened that if you did not
13 comply with the subpoena that you would be arrested?

14 A No, that -- we wouldn't leave it that sweet.
15 No, that's not what I'm saying.

16 Q I'm sorry, sir, I'm just trying to figure out
17 what you're talking about.

18 A Well, what I'm saying is, I'm not saying if I
19 don't comply to a court order subpoenaing, then I will
20 arrested for not showing up in court, no, that's not what
21 I'm saying. I was told by somebody in the solicitor's
22 office when I got the phone call that if I didn't show
23 up -- it would be best that I show up and just go along
24 with the prosecution want for me or you be locked up. I
25 say how can I be locked up? What would I be locked for?

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 They say, well, I'm pretty sure we can find something to
2 lock you up for. You got an extensive record.

3 Q When did this conversation take place?

4 A Which one?

5 Q This one that you just described.

6 A This one just took place, what, last Thursday,
7 last Friday?

8 Q When you got here this morning, do you remember
9 talking to staff from the solicitor's office?

10 A This morning?

11 Q Yes.

12 A No. When I got here this morning, I went
13 grabbed me a bite to eat and I came on up. And Ms. Coleen
14 met me outside.

15 Q Did you not tell them that you were just here to
16 do the right thing?

17 A This morning? No, ma'am.

18 Q That's not what you said.

19 A No, ma'am. Ma'am, when I got here this
20 morning -- do you know what time I got here this morning?

21 Q No, sir, I don't. I've been in trial.

22 A Exactly. I was in Mauldin before I came here.
23 I didn't get here this morning. I got here almost noon.

24 Q At the very beginning of this conversation with
25 police when you got upstairs at the law enforcement

DAMEAN WIDEMAN-DIRECT BY MS. OWENS

1 center, do you remember also talking to an Investigator
2 Chris Pletcher? I'm sorry, it may have been deputy at the
3 time, in a regular uniform.

4 A Chris? Chris?

5 MS. HENRY: Your Honor, I apologize, I have a
6 motion to take up outside the presence of the jury.

7 THE WITNESS: Uh --

8 THE COURT: Hold on, hold on, sir.

9 Just the basis of your motion?

10 MS. HENRY: I'm -- maybe we should approach.

11 THE COURT: Okay.

12 (WHEREUPON, an off-the-record bench conference
13 was held in the presence of the jury but out of
14 the hearing of the jury.)

15 BY MS. OWENS:

16 Q Do you remember if you spoke to Officer
17 Pletcher?

18 A I don't recall, but I may have. I spoke to a
19 lot of them.

20 Q Do you remember telling Officer Pletcher that
21 you had been threatened by Mr. Babb the previous day, the
22 13th?

23 A Yes.

24 MS. OWENS: Okay, I don't have any additional
25 questions right now. If you would answer any

DAMEAN WIDEMAN-CROSBB BY MS. HENRY

1 questions Ms. Henry or Mr. Robinson may have for you.

2 CROSS-EXAMINATION

3 BY MS. HENRY:

4 Q Mr. Wideman, I'm Sara Henry, I represent
5 Mr. Babb. I just got a couple of questions for you.

6 A Yes, ma'am.

7 Q Give me one second, okay. So, you were arrested
8 on December 14th by the police; is that right?

9 A Yes, ma'am.

10 Q Okay. And were you tackled and tased by the
11 police?

12 A I was tackled and tased and beat the hell out of
13 for no reason, yes, I was.

14 Q You were charged with multiple crimes from that
15 incident?

16 A Yes, I was.

17 Q Okay. So, at the time that you gave the
18 original statements to police that the solicitor is
19 referencing, you were facing charges and had just been
20 beaten up?

21 A Yes.

22 Q Okay. All right. So, the information that you
23 gave them about all of this happening, these were just
24 rumors, weren't they?

25 A Yes.

DAMEAN WIDEMAN-CROSBY BY MS. HENRY

1 Q Okay. So, Curtis Babb never told you that he
2 did this?

3 A No, he never told me.

4 Q Okay. And, in fact, in 2017 you actually wrote
5 a letter, didn't you?

6 A Yes, ma'am.

7 Q Okay.

8 Your Honor, may I approach?

9 THE COURT: Yes, ma'am, you may.

10 BY MS. HENRY:

11 Q Mr. Wideman, I'm going to show you Defendant's
12 Exhibit 1. Can you tell me if you recognize that?

13 A Yes, ma'am.

14 Q Okay. I'm going to let you hold that. Can you
15 tell us what that is?

16 A That's the letter that I wrote for one of the
17 detectives for -- to send off to one of the detectives for
18 Curtis.

19 Q All right. In that letter, you say -- I just
20 want us to follow along. You say that you were pulled
21 over during a regular routine traffic stop; is that
22 accurate?

23 A Yes, ma'am.

24 Q Okay. You were charged with a couple of crimes?

25 MS. OWENS: Your Honor, I just want to object at

DAMEAN WIDEMAN-CROSBY BY MS. HENRY

1 this point. I don't know that it's appropriate to
2 read it into the record until it's admitted.

3 MS. HENRY: I apologize, Your Honor. He's
4 identified the letter. I'd like to offer it in
5 evidence and potentially publish to the jury.

6 THE COURT: Okay. All right.

7 Objection, ma'am?

8 MS. OWENS: No objection.

9 THE COURT: All right, without objection, you
10 may mark it and admit it.

11 MS. HENRY: Thank you, Your Honor.

12 Unfortunately, do y'all mind if I use this?

13 MS. OWENS: No.

14 (WHEREUPON, Defendant's Exhibit No. 1 was
15 admitted into evidence.)

16 BY MS. HENRY:

17 Q Damean, I'm going to give you -- I'm going to
18 put it up here and you let me know if you can read it,
19 okay? All right, Damean, is this the letter?

20 A Yes, ma'am.

21 Q All right, great. I'm just going to run through
22 a couple of things on there. So, you wrote this -- let me
23 see if I can flip it over, too. So, this letter was
24 witnessed, signed by you. This is your signature right
25 here?

DAMEAN WIDEMAN-CROSBY BY MS. HENRY

1 A Yes, ma'am.

2 Q And it was notarized as well?

3 A Yes, ma'am.

4 Q Okay. Can you read the date for me?

5 A Not from back here.

6 Q Okay. From right here, it looks like
7 October 16th, 2017. Does that sound right to you?

8 A Maybe so.

9 Q All right. That's all I'm going to -- Damean,
10 I'm going to give it back to you, okay, so that you can
11 read it. Okay. So, you wrote a letter -- like, this is a
12 while ago, right, at this point? This is back in 2017?

13 A Yes, ma'am.

14 Q So, almost two years ago. And in that letter,
15 would you say the majority of that letter was you
16 retracting and explaining why you had made those
17 statements alleging Curtis Brown had said those things to
18 you?

19 A Yes, ma'am.

20 Q Okay. In that, as part of the letter, you say,
21 The detectives told me what they wanted me to say?

22 A Yes.

23 Q Okay. And I, Damean Wideman, recant my previous
24 statements?

25 A Yes.

DAMEAN WIDEMAN-CROSS BY MR. ROBINSON

1 Q Is that -- do you also state because I fully
2 know Curtis Babb had nothing to do with this?

3 A Yes.

4 Q Okay. Okay. Those are all the questions that I
5 have about that letter. All right. Then I just want to
6 make sure that we all understand kind of what you were
7 saying before. So, you're saying that -- I'll grab that
8 letter from you, I apologize.

9 Okay. So, you're saying that before you
10 came here, did you tell the solicitor's office that -- did
11 you talk to the solicitor's office and that they told you
12 that if you did not testify the way they wanted you to,
13 they would find some way to charge you with another crime?

14 A Yes, ma'am.

15 MS. HENRY: I don't have any other questions.

16 Thank you, Mr. Wideman.

17 THE COURT: Mr. Robinson.

18 CROSS-EXAMINATION

19 BY MR. ROBINSON:

20 Q Good morning, Mr. Babb -- pardon me,
21 Mr. Wideman.

22 A Yes, sir.

23 Q Mr. Wideman, the statements that you talked
24 about with Mr. William Fordham Brown, those were also
25 rumors as well?

DAMEAN WIDEMAN-CROSS BY MR. ROBINSON

1 A Yes, sir.

2 Q Okay. You have no personal knowledge of that,
3 do you?

4 A No, sir, it's just neighborhood talk.

5 Q Also, too, did the police also threaten you and
6 the joy of making statements about Mr. Brown as well?

7 A Yeah, they added to it.

8 Q And also, I want to go back one second, when you
9 got arrested back on 12/21/2016, that's for the driving
10 offense and all that stuff?

11 A Yes, sir.

12 Q And you -- you actually gave the officer the
13 right address and everything; is that right?

14 A Yes, sir.

15 Q Where you lived at the time?

16 A Yes, sir.

17 Q And you actually give the officers the address
18 of [REDACTED] Crestwood Drive, Mauldin, South Carolina instead of
19 Shemwood Crossing; isn't that right?

20 A Yes, sir.

21 Q So, you didn't live at Shemwood Crossing at the
22 time of this alleged incident, correct?

23 A Like I told the prosecutor, I stayed at several
24 different addresses.

25 Q Okay. But you didn't see anything, it's just

DAMEAN WIDEMAN-CROSS BY MR. ROBINSON

1 what you heard; is that right?

2 A That's what I heard, neighborhood talk.

3 Q And you cannot vouch for the reliability of
4 these rumors, can you?

5 A No, I can't vouch for them. People talk all the
6 time.

7 MR. ROBINSON: Thank you, Mr. Wideman.

8 THE COURT: Okay, any redirect?

9 MS. OWENS: No, Your Honor.

10 THE COURT: Thank you, Mr. Wideman, you can step
11 down. I appreciate it, sir.

12 Okay, is our lunch here, sir?

13 THE BAILIFF: Yes, sir.

14 THE COURT: Okay. All right, ladies and
15 gentlemen, we'll take a break for lunch. Please
16 don't discuss the case.

17 (WHEREUPON, the jury left open court at
18 approximately 1:27 a.m.)

19 THE COURT: Motions?

20 MS. HENRY: Based on Mr. Wideman's testimony, I
21 do feel like I have to make a motion for a mistrial
22 based on prosecutorial misconduct. It sounds like he
23 has proffered in his testimony or evidence that he
24 was threatened to give false testimony here today by
25 someone in the solicitor's office, we do not know

1 smoothly here.

2 THE COURT: I know. I understand. And we're
3 going to move forward.

4 Okay. All right. Good enough. Bring the jury
5 in, please.

6 (WHEREUPON, the jury came into open court at
7 approximately 2:29 p.m.)

8 THE COURT: Okay, the State may call its next
9 witness.

10 MS. OWENS: Thank you, Your Honor. The State
11 calls Deputy Chris Pletcher.

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

14 CHRIS PLETCHER, after being duly sworn,
15 testified as follows:

16 THE CLERK: Please take a seat and state your
17 name for the record.

18 THE WITNESS: Chris Pletcher.

19 DIRECT EXAMINATION

20 BY MS. OWENS:

21 Q Deputy, where are you employed?

22 A Greenville County Sheriff's Office.

23 Q How long have you worked with the sheriff's
24 office.

25 A Little over 11 years.

CHRIS PLETCHER-DIRECT BY MS. OWENS

1 Q What's your current assignment at the sheriff's
2 office?

3 A I'm a master deputy in the direct patrol unit.

4 Q Were you working in that same capacity back in
5 December of 2016?

6 A I was a deputy in the direct patrol unit, yes.

7 Q In that capacity, were you involved at all in
8 the investigation of the incident that's the subject of
9 this trial, a robbery, home invasion, murder on
10 December 8th of 2016?

11 A I was briefly.

12 Q How were you involved?

13 A With Mr. Wideman.

14 Q How did that happen?

15 A Deputy Hubbard at the time had a traffic stop
16 where he encountered Mr. Wideman. Mr. Wideman, during
17 that encounter, was placed under arrest for numerous
18 charges. Deputy Hubbard, due to the fact that he had an
19 altercation with Mr. Wideman during that traffic stop,
20 asked me to transport him for him. When I put him in my
21 patrol car, he had mentioned that he was afraid of a
22 gentleman, Mr. Babb, that lived in Shemwood or, at least,
23 was staying in Shemwood. He said he had heard on the
24 street that Mr. Babb was involved in this incident that
25 we're talking about here today.

CHRIS PLETCHER-DIRECT BY MS. OWENS

1 I had very little knowledge about the
2 actual incident. I called Investigator Newman. He asked
3 me if he was willing to speak, if Mr. Wideman was willing
4 to speak. He said, yes. So I transported him to
5 Investigator Newman. Would you like me to continue from
6 there?

7 Q No, that's okay. I'm interested in, can you
8 tell the jury a little bit about whether you had any
9 involvement in the investigation of this incident before
10 meeting Mr. Wideman?

11 A No, I had no involvement in the initial
12 investigation.

13 Q Did you know anything about Curtis Babb?

14 A No.

15 Q All right.

16 A I'm sorry, I knew that we had -- a few days
17 prior, the SWAT team had executed a search warrant on -- a
18 member of the SWAT team in reference to that accident at
19 Shemwood. But all I did was go in and clear the house. I
20 didn't really know anything about the inner works of the
21 investigation.

22 Q How did Mr. Wideman tell you that he wanted to
23 speak to police?

24 A How did he tell me?

25 Q Right, how did he ask you that question?

CHRIS PLETCHER-DIRECT BY MS. OWENS

1 A He had told me that he was being threatened, he
2 felt he was threatened staying at the apartment complex he
3 was at. And that he, I believe, the day prior had
4 actually tried to speak with the city police officer about
5 Mr. Babb. He told me that Mr. Babb, the day prior to when
6 I transported him during this traffic stop, a day prior,
7 Mr. Babb had threatened him. And he told me on, I
8 believe, for three straight days prior he been threatened
9 by Mr. Babb.

10 Q Okay. Now, when he describes this to you in the
11 patrol car, where do you take him?

12 A He -- so, in the patrol car, all I know was that
13 he had some information about Mr. Babb. He didn't really
14 explain all this until I took him up to CID to speak to
15 Investigator Newman. It's kind of hard to speak to
16 somebody between that cage in the patrol car.

17 Q Forgive me, could you explain what CID is?

18 A I'm sorry, our Criminal Investigations Division.
19 It's our homicide investigators. They have an office at
20 the law enforcement center, so that's where I took him to.
21 They have an interview room where they can record
22 interviews and all that good stuff.

23 Q Now, before or after Mr. Wideman was arrested,
24 was he beaten?

25 A No, he had actually assaulted Deputy Hubbard and

CHRIS PLETCHER-DIRECT BY MS. OWENS

1 Deputy Hubbard pointed the taser on him, however, the
2 taser didn't work because he was wearing a thick jacket.
3 My involvement was when I showed up on scene, Deputy
4 Hubbard told me that Mr. Wideman was under arrest,
5 however, he was resisting. He said we need to place him
6 under arrest. So, I grabbed him, he pulled away from me,
7 I grabbed him again, took him down to the ground, put his
8 hands behind his back, he never threw a punch or anything
9 like that. That was the involvement that I had with him
10 as far as any kind of physical altercation.

11 Q Okay. Did you make any threats to Mr. Wideman
12 about needing to speak to the police or needing to go give
13 a statement to any investigators?

14 A No.

15 Q Now, you mentioned that you took him to the
16 criminal investigations division, did you record your
17 conversation with Mr. Wideman?

18 A At some point when he went in the interview
19 room, somebody hit record on the recorder in there. I was
20 holding him -- not holding him, but I was with him waiting
21 on Investigator Newman to show up. And somebody started
22 recording, so we just have some brief back and forth
23 conversation, mainly, him more than me. He was just
24 telling me about this whole incident.

25 Q Have you had a chance to review the recording

CHRIS PLETCHER-CROSS BY MS. HENRY

1 that includes your interaction with Mr. Wideman?

2 A Yes.

3 Q Now, were you there for the entire duration?

4 A No, I left after -- very shortly after
5 Investigator Newman arrived, I left.

6 Q So, as it relates to simply the portion for
7 which you were present?

8 A Right.

9 Q Is the recording that is captured between you
10 and Mr. Wideman an accurate reflection of your
11 conversation with him on December 14th, 2016?

12 A Yes.

13 Q Okay. And again, during that conversation, did
14 Mr. Wideman indicate to you that he had interacted with
15 Mr. Babb the day before your conversation with him?

16 A Yes. He told that -- he said, I believe, quote,
17 yesterday that Mr. Babb had threatened him.

18 Q Did you tell you where that happened?

19 A At Shemwood.

20 Q Okay.

21 I don't believe I have any additional
22 questions for you. If you would answer any questions
23 Ms. Henry or Mr. Robinson may have.

24 THE WITNESS: Yes, ma'am.

25 CROSS-EXAMINATION

CHRIS PLETCHER-CROSS BY MS. HENRY

1 BY MS. HENRY:

2 Q Okay. So, Officer Pletcher, okay, just a couple
3 of quick questions. Okay. So, you actually were involved
4 in the investigation of Mr. Babb and Mr. Brown? You were
5 part of a SWAT activation to Shemwood on December 9th,
6 2016?

7 A Yes, ma'am.

8 Q And I'm looking at your report. And you were
9 briefed, I think, on this case by Investigator McCalmont,
10 at least, that's that in your report; is that right?

11 A Yes.

12 Q Okay. So, you did have information about this
13 case?

14 A They told us -- yeah, we got briefed, hey, this
15 is a homicide investigation. We believe that there might
16 be some evidence of that crime in this apartment complex
17 -- or apartment, I'm sorry.

18 Q So, you had that information on December 9th,
19 2016 before you ever encountered Mr. Wideman?

20 A Yes.

21 Q Okay. All right. Then you actually breached
22 and went into the apartment in Shemwood; is that correct?

23 A Yes.

24 Q So, you were at the scene?

25 A Yes, I was at the apartment.

CHRIS PLETCHER-CROSS BY MS. HENRY

1 Q Okay. Great. Then I'm also looking at your
2 other report. And it looks like -- and I think you may
3 have said this already, but I just want to confirm. So,
4 one of the officers did deploy a taser on Mr. Wideman; is
5 that correct?

6 A Correct.

7 Q Then you, and it looks like two or three other
8 officers, participated in tripping him to the ground as
9 part of the arrest. That's what you said?

10 A I tripped him to the ground.

11 Q Then you --

12 A And then Deputy Hubbard helped me get his hands
13 behind his back and put him in handcuffs.

14 Q Okay. Then I think a Deputy Lovelace and Deputy
15 Ayers?

16 A Yes, Deputy Lovelace was there. There's another
17 guy on scene during that traffic stop who was very
18 agitated. So, he ended up trying to get back away from us
19 while we were trying to place Wideman under arrest.

20 Q Then as part of your conversation with
21 Mr. Wideman, he claims that two other people also heard
22 these -- this interaction between him and Mr. Babb,
23 correct? That would be, let's see, Mr. -- one second, I
24 apologize. I apologize, Officer, give me one second. I
25 believe it would be Anthony Mitchell, do you remember that

CHRIS PLETCHER-CROSS BY MS. HENRY

1 name?

2 A I do not remember that.

3 Q Let me just double check your report. Give me
4 one second, Officer.

5 A Okay.

6 Q So, I'm sorry, I apologize, it was Antoine
7 Mitchell and Kchebe Reeves. Do you remember those two
8 names?

9 A I don't remember the two names.

10 Q I believe they were actually both present at the
11 arrest. You don't remember them?

12 A I think there were three guys in the car when
13 Wideman was arrested.

14 Q Yes. Right. Wideman also claims those two were
15 present during all those conversations.

16 A Okay. I didn't know that. I don't remember
17 that.

18 Q Okay. So, you didn't interview either one of
19 them?

20 A No, not the other two guys.

21 MS. HENRY: Okay, I don't have any other
22 questions.

23 THE COURT: Mr. Robinson.

24 MR. ROBINSON: I have no questions, Your Honor.

25 MS. OWENS: No redirect, Your Honor.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 THE COURT: Thank you, sir. I appreciate your
2 being here. You may be excused.

3 You may call your next witness.

4 MS. OWENS: The State calls Sergeant Bubba
5 Newman.

6 THE CLERK: Place your left hand on the Bible,
7 raise your right hand.

8 LLOYD NEWMAN, after being duly sworn, testified
9 as follows:

10 THE CLERK: Thank you, please be seated. State
11 your name for the record.

12 THE WITNESS: Sergeant Lloyd Newman.

13 DIRECT EXAMINATION

14 BY MS. OWENS:

15 Q Sergeant, where do you work?

16 A Greenville County Sheriff's Office.

17 Q How long you been at the sheriff's office?

18 A Since 2007.

19 Q Currently, what's your assignment at the
20 sheriff's office?

21 A I'm a sergeant in CID, Criminal Investigations
22 Division.

23 Q Back in 2016, what was your assignment?

24 A It was a homicide investigator.

25 Q Do you remember getting involved in the case

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 that's the subject of this trial, the murder that happened
2 on December 8th of 2016?

3 A I do.

4 Q Can you tell the jury a little bit about how you
5 became involved and how you participated?

6 A We were on call at the time. Dispatch called us
7 and informed us that -- myself, personally, that there was
8 a gunshot victim at [REDACTED] Cox Street in Greenville. So, we
9 responded to that.

10 Q Now, would you have responded with Investigator
11 McCalmont at the time?

12 A Yes, ma'am.

13 Q Did you assist in some of the preliminary
14 investigation?

15 A Yes, ma'am.

16 Q At some point, did you stop participating in the
17 investigation?

18 A Participation became less, but no, not
19 completely stop.

20 Q Okay. So, could you tell the jury a little bit
21 about how -- what precisely you did as far as
22 investigating this incident?

23 A I assisted Investigator McCalmont mostly,
24 assisted in the search warrant and stuff, did a few
25 interviews, supplementals to that, basically.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Q At some point, did you have an opportunity to
2 speak with a Damean Wideman?

3 A Yes, ma'am.

4 Q Could you tell the jury how that happened?

5 A So, it was that afternoon, I believe it was the
6 14th of December, we were contacted by uniform patrol,
7 those that were in uniform patrol, saying that they
8 stopped an individual, saying that he was in route to
9 speak with a detective from the City of Greenville. He
10 commented on it being in reference to a homicide. We were
11 called and we were asked if we would like to speak to him.
12 We told him if he's willing to come up, we'd like to speak
13 to him.

14 Q Did you speak with him that day?

15 A Yes, ma'am.

16 Q Now, how long was your conversation with
17 Mr. Wideman?

18 A Approximately 35 minutes.

19 Q How long do you recall him being at the criminal
20 investigations division that day to speak to officers?

21 A Approximately four hours.

22 Q Did he talk to a variety of officers that day?

23 A Quite a few.

24 Q Were you present for the entire interview?

25 A No, ma'am.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Q Have -- was your conversation with Mr. Wideman
2 recorded?

3 A Yes, ma'am.

4 Q Have you had an opportunity to review that
5 recording?

6 A Yes, ma'am.

7 Q With respect to the portion that you actually
8 participated, is the recording an accurate depiction of
9 your entire interview with Mr. Wideman?

10 A Yes, ma'am.

11 Q Okay. As you recall, was there ever a Detective
12 Jones who participated in this interview?

13 A Not that I'm familiar with, no, ma'am.

14 Q Is there a Detective Jones employed in the
15 criminal investigation division of the sheriff's office?

16 A There's an Investigator Jones that works in
17 vice, but he doesn't work in CID at that time if I recall
18 correctly.

19 Q Was he ever present for those conversations?

20 A No, ma'am.

21 Q Did you, during your conversation with Damean
22 Wideman, discuss with him the charges for which he was
23 under arrest?

24 A I don't recall speaking with him about those
25 charges, no.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Q Did you have any conversation with Mr. Wideman
2 before this recording begins?

3 A No, ma'am.

4 Q Did you ever prepare for Mr. Wideman a statement
5 for him to sign?

6 A No, ma'am.

7 Q At the time of your conversation with
8 Mr. Wideman on December 14th, did you know Curtis Babb to
9 be a suspect in this case?

10 A No, ma'am. I had no identification of Curtis
11 Babb. That's one of the reasons why I couldn't find a
12 photograph for him at the time either.

13 Q Did you ever show Mr. Wideman a photograph of
14 Mr. Babb?

15 A I did not.

16 Q Did you ever show Mr. Wideman a photograph of
17 Mr. Brown?

18 A Yes, ma'am.

19 Q I'm going to show you State's Exhibit 27. I'd
20 like you to take a look at that item and tell me whether
21 you recognize it.

22 A Yes, ma'am.

23 Q How do you recognize it?

24 A It's a DMV photograph of William Shane Fordham
25 Brown and it's dated December 14th, 2016. He knows him as

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Deuce.

2 Q Is that a document that you presented to
3 Mr. Wideman?

4 A Yes, ma'am, it is.

5 Q Did you ask Mr. Wideman to make those written
6 remarks on that photograph?

7 A Yes, ma'am, I did.

8 Q Now, during your -- I'm sorry, let me back up
9 before I get a ahead of myself here.

10 MS. OWENS: At this point, Your Honor, the State
11 would offer State's Exhibit 27 into evidence.

12 THE COURT: Objections?

13 MS. HENRY: No more objections than I've already
14 made, Your Honor.

15 THE COURT: Okay, sir?

16 MR. ROBINSON: As well, Your Honor, but no.

17 THE COURT: All right. The same is admitted
18 over previously posed objections.

19 (WHEREUPON, State's Exhibit No. 27 was admitted
20 into evidence.)

21 BY MS. OWENS:

22 Q Now, when you were speaking with Mr. Wideman,
23 did he indicate to you that he had been threatened by
24 Mr. Babb?

25 A Yes, ma'am.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Q Did he tell you when that happened?

2 A It was post the incident, the original incident.
3 I believe there were multiple occasions where he had
4 commented that if he speaks that he was going to hurt him.

5 Q Do you recall when Mr. Wideman -- or do you
6 recall whether Mr. Wideman told you when those threats
7 would have taken place?

8 A I believe he made a comment about it occurring
9 the day after and a couple other times. Exact dates, I
10 can't remember, but it was post.

11 Q Did Mr. Wideman describe to you that he saw
12 Curtis Babb, William Brown and Connell Wells putting on
13 gloves and arming themselves with guns in anticipating of
14 committing this robbery?

15 A Yes, ma'am.

16 Q Was Mr. Wideman able to give you specific
17 information about Mr. Babb, specifically, where he lived?

18 A He did. He did. He described it -- we actually
19 had a map of some sort that he was looking at that
20 explained where he was. I believe he said give me two
21 apartment buildings, ■ and ■. Apartments ■, as one of
22 the empty apartments. He said he stayed with a female
23 that he was spending some time with and that she had
24 recently left. I believe he was spending time in a couple
25 different apartments.

LLOYD NEWMAN-DIRECT BY MS. OWENS

1 Q Was he able to point out to you on that map a
2 specific apartment?

3 A Yes, ma'am, the building.

4 Q Was Mr. Wideman able to tell you how he knew
5 William Shane Fordham Brown? I'm sorry, let me be more
6 specific. Did he describe to you that he knew him by a
7 particular name?

8 A Yes, ma'am, Deuce.

9 Q Okay.

10 (WHEREUPON, State's Exhibit No. 39 was marked
11 for identification only.)

12 BY MS. OWENS:

13 Q I'm going to show you State's Exhibit 39. Now,
14 I know you just testified a second ago that the audio
15 interview was recorded. Does that just represent the
16 conversation in which you participated with Mr. Wideman on
17 December 14th of 2016?

18 A Yes, ma'am, it appears so.

19 MS. OWENS: Okay, I don't have any additional
20 questions. If you would, answer any questions that
21 Ms. Henry or Mr. Robinson may have for you.

22 MS. HENRY: I don't have any questions, Officer
23 Newman.

24 MR. ROBINSON: I do, Judge.

25 THE COURT: Yes, sir.

LLOYD NEWMAN-CROSS BY MR. ROBINSON

CROSS-EXAMINATION

1

2 BY MR. ROBINSON:

3 Q Officer Newman, do you remember meeting James
4 Moss?

5 A I'm sorry, say that one more time.

6 Q Do you remember meeting Mr. James Moss?

7 A Yes, sir.

8 Q You do?

9 A Yes, sir.

10 Q And did Mr. Moss tell you what he observed at
11 the time of the incident?

12 A He was limited on what he could actually
13 observe. What he did state -- if that's what you're
14 asking?

15 Q Yes.

16 A What he did state was that he woke to a loud
17 banging noise, which he thought was gunfire. He hid in a
18 closet. He had a very limited view of the rest of the
19 house. He did say that he saw what appeared to be a black
20 complected individual, male, going towards the back of the
21 house. That's the only description that he could provide
22 me.

23 Q Didn't he also -- didn't he also talk about the
24 height of this individual?

25 A He may have. If you have something that I can

LLOYD NEWMAN-CROSS BY MS. HENRY

1 reference in that. It should be in my supplemental.

2 Q Would it help you to refresh your memory a
3 little bit?

4 A Sure, that will help fine.

5 Q Does that refresh your memory as to height of
6 the individual?

7 A Yeah, I believe it states in here that he was a
8 shorter, dark complected male.

9 Q So, it was shorter or short?

10 A I'm trying to find the exact sentence where it
11 is.

12 Q It should be the second line down.

13 A It does say short.

14 Q What did you say?

15 A It does say short?

16 Q It says short.

17 That's all I have, thank you.

18 MS. HENRY: Your Honor, I apologize, I do have a
19 couple quick questions.

20 THE COURT: Okay, go ahead.

21 CROSS-EXAMINATION

22 BY MS. HENRY:

23 Q Your first name is Lloyd?

24 A Lloyd.

25 Q Okay. She called you Bubba Newman, I got a

LLOYD NEWMAN-CROSS BY MS. HENRY

1 little confused. My fault. Just a couple of quick
2 questions. You investigated, I believe, two search
3 warrants, at least, two search warrants in this case; is
4 that accurate?

5 A I did assist in the one for the residence.

6 Q Okay, great. So, I do have that one for Cox
7 Street. And that search warrant was for physical
8 evidence, fingerprints, DNA, and that includes hair
9 fibers, body fluids, weapons, guns, ammunition. I think
10 it even put linens, drugs, credit cards, ID, documents,
11 cell phones, computers, forensics, video all of that. So,
12 you collected -- you know, you executed the search warrant
13 for the collection of all those items?

14 A In the process of one of these things, who
15 actually executes it is going to be the forensics --

16 Q I apologize, you sign and requested a search
17 warrant?

18 A Yes.

19 Q So, as part of the execution of that search
20 warrant, did any of that come back connected to Curtis
21 Babb?

22 A That I cannot answer.

23 Q So, you don't know. You signed the warrant, but
24 you're not sure what the results were?

25 A Correct.

LLOYD NEWMAN-CROSS BY MS. HENRY

1 Q All right. I've got, essentially, the same
2 question about -- you also executed a search warrant on
3 Connell Wells' vehicle, that 2001 --

4 MS. OWENS: Your Honor, to the extent that this
5 was not elicited on direct, I don't think it's proper
6 for cross-examination.

7 THE COURT: Okay. Cross, she's not limited by
8 the scope of direct. She can ask those questions she
9 thinks are relevant and appropriate.

10 So, you can continue.

11 MS. HENRY: All right, thank you.

12 BY MS. HENRY:

13 Q I just want to make sure, you also executed a
14 search warrant on that 2001 Ford?

15 A Yes, ma'am. What we oftentimes do is we'll
16 obtain the search warrants to assist the other
17 investigators. Who actually physically puts their hands
18 in this is another thing. So, we leave those to the
19 forensics person to do that.

20 Q And then what you requested in that search
21 warrant was any physical evidence, fingerprints, DNA,
22 again, the same type of things, ammunition, body fluids,
23 ID, documents, anything like that? I'm going to ask you
24 again, as part of your investigation, did you ever become
25 aware of whether or not any of those items that were

LLOYD NEWMAN-CROSS BY MS. HENRY

1 collected, the basis of your search warrant, came back to
2 Curtis Babb?

3 A No, ma'am.

4 Q Okay. All right. Then I think you also
5 requested a -- there was also a phone dump that was
6 requested by you. You asked Officer Michael Rainey to
7 perform a phone dump on one of the cellphones?

8 A Uh-huh.

9 Q So, I'm assuming you know the results of that.
10 I think that came back -- I don't believe that any of that
11 came back to Curtis Babb either?

12 A That, I can't attest to. The way that assisting
13 investigators work with lead investigators' information
14 that we obtain search warrants for, that information then
15 is forwarded to the lead investigator.

16 Q So, you never reviewed it. You got it back from
17 Mr. Rainey, then you didn't --

18 A I do not recall. I do not recall reading it, I'm
19 not sure.

20 Q Okay. All right.

21 I appreciate it. That's all I have.

22 THE COURT: Okay, redirect?

23 MS. OWENS: No redirect, Your Honor.

24 THE COURT: Okay, thank you, sir. I appreciate
25 you being here. You can be excused. Thank you.

DAVID PICONE-DIRECT BY MS. OWENS

1 Yes, ma'am, you may call your next witness.

2 MS. OWENS: Thank you, Your Honor. The State
3 calls Investigator David Picone.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand.

6 DAVID PICONE, after being duly sworn, testified
7 as follows:

8 THE CLERK: State your name for the record.

9 THE WITNESS: David Picone.

10 DIRECT EXAMINATION

11 BY MS. OWENS:

12 Q Investigator, what's your assignment with the
13 sheriff's office?

14 A I'm assigned to the homicide unit.

15 Q Were you working in that same capacity back in
16 December of 2016?

17 A No, I was actually in armed robbery at the time.

18 Q As an armed robbery investigator, did you have
19 any participation in the investigation of this case that
20 is the subject of this trial?

21 A Yes, brief.

22 Q Tell the jury a little bit about your
23 involvement.

24 A I believe it was Mr. Wideman was brought into
25 the sheriff's office and placed under arrest for an

DAVID PICONE-DIRECT BY MS. OWENS

1 unrelated offense. I believe Investigator Newman was
2 helping out with the investigation. He was doing the
3 interview. He had walked out of the room, so he asked me
4 to come in and sit with him briefly while he went and did
5 what he needed to do. And I just had kind of casual
6 conversation with him. Told me that he was scared. I
7 kind of made a joke, you know, I was like, you're not
8 scared of us, are you? And he said, No. I said, Well,
9 we're cool. And had that brief little conversation,
10 nothing big, that was about it.

11 Q Did you have any substantive participation in
12 the investigation of this case? Did you know anything
13 about it?

14 A No.

15 Q Did you know who any of the suspects were?

16 A No.

17 Q Did you tell Mr. Wideman what he should tell you
18 or any other investigator about what he saw or heard?

19 A No.

20 Q Did you have any suspect names that you gave him
21 about who participated in this crime or who he should tell
22 the police participated in this crime?

23 A Did not.

24 Q Did you ever threaten him at any point during
25 your conversation with him?

DAVID PICONE-DIRECT BY MS. OWENS

1 A No.

2 Q Do you know whether your conversation with
3 Mr. Wideman was audio recorded?

4 A It was.

5 Q Have you had the opportunity to review the
6 recording of that conversation?

7 A I've listened to it, yes.

8 Q Were you participating in the conversation for
9 the duration of time that Mr. Wideman was at the sheriff's
10 office?

11 A No.

12 Q How long do you think you were involved?

13 A I think I might have been in there four or five
14 minutes, maybe, max.

15 Q So, with respect to the portion of the interview
16 for which you were present, is the recording an accurate
17 depiction of your exchange with Mr. Wideman?

18 A Yes.

19 Q As best as you recollect, was there an
20 investigator or a Detective Jones who participated in this
21 conversation?

22 A No.

23 Q Did anybody, to your knowledge, who participated
24 in this conversation ever make any threats to Mr. Wideman?

25 A Not while I was around, no.

DAVID PICONE-REDIRECT BY MS. OWENS

1 MS. OWENS: Thank you, sir. Answer any
2 questions that Ms. Henry or Mr. Robinson may have.

3 MS. HENRY: Just really briefly.

4 CROSS-EXAMINATION

5 BY MS. HENRY:

6 Q Okay. So, it's your testimony that Mr. Wideman
7 had just been tackled, tased and arrested for a crime and
8 was handcuffed at the detention center, and that you guys
9 had a casual conversation and that you felt he said oh,
10 yeah, everything's fine. I'm not afraid. You guys are
11 great?

12 A Yeah, that's what he told me.

13 MS. HENRY: Okay, thanks.

14 THE COURT: Mr. Robinson.

15 MR. ROBINSON: I have no questions.

16 THE COURT: Thank you, Officer. I appreciate
17 your being here.

18 MS. OWENS: I had one more item..

19 THE COURT: You had a question for him?

20 Blame her, not me.

21 REDIRECT EXAMINATION

22 BY MS. OWENS:

23 Q To the extent that you're the last person in
24 this conversation, and the last person to talk about that
25 recording, having testified that that tape is an accurate

DAVID PICONE-REDIRECT BY MS. OWENS

1 reflection of his conversation with Mr. Wideman --

2 We'd like to admit State's Exhibit No. 39.

3 THE COURT: Yes, ma'am.

4 I know you posed objections, do you wish to
5 repose those objections at this point?

6 MS. HENRY: I do, Your Honor. I would also
7 suggest at this point the tape is duplicate. She has
8 already asked all the questions that she asked
9 Mr. Wideman to these individual officers, he's fully
10 impeachable.

11 THE COURT: Okay. All right, Mr. Robinson.

12 MR. ROBINSON: I tend to agree, Your Honor.

13 THE COURT: Okay. I'll respectfully overrule.
14 I'll allow the redacted tape.

15 Now, ladies and gentlemen, this tape has been
16 some of the discussion that we've had outside of your
17 presence, so you're going to see that it might be a
18 little bit choppy because pursuant to my order,
19 portions of it have been redacted, portions that are
20 not at all admissible or relevant to the trial of
21 this case. So, if it's a little bit choppy, that's
22 my fault. It's because portions of them I've ordered
23 to be removed from this tape. Okay.

24 MS. OWENS: With the Court's permission, I'd
25 like to publish State's Exhibit 39.

DAVID PICONE-REDIRECT BY MS. OWENS

1 THE COURT: Yes, ma'am, you may.

2 (WHEREUPON, State's Exhibit No. 39 was admitted
3 into evidence.)

4 THE COURT: I have a question of all counsel, do
5 we still need Investigator Picone here for
6 publication of the evidence?

7 MS. OWENS: No, sir, Your Honor.

8 THE COURT: Anyone from the Defense contest
9 otherwise?

10 MS. HENRY: No, Your Honor.

11 MR. ROBINSON: No, sir.

12 THE COURT: Okay, you want to go, Investigator?

13 THE WITNESS: I mean, I can hang out if you want
14 me to.

15 (WHEREUPON, State's Exhibit No. 39 was
16 published.)

17 MS. HENRY: Objection, Your Honor.

18 May we approach?

19 THE COURT: Sure. Yeah.

20 (WHEREUPON, an off-the-record bench conference
21 was held in the presence of the jury, but
22 outside the hearing of the jury.)

23 THE COURT: Okay. There's been an objection to
24 hearsay testimony. That is, he said something that
25 someone else said. So, I've granted that motion.

DAVID PICONE-REDIRECT BY MS. OWENS

1 And I'm striking the record, which means that you
2 can't consider what this witness said in his
3 statement about what someone else may have said.

4 Okay. So, you can continue.

5 (WHEREUPON, State's Exhibit No. 39 was continued
6 to be published.)

7 MS. HENRY: Objection, Your Honor.

8 THE COURT: Okay, stop it, please. I know what
9 your objection is. And I'm going to sustain the
10 objection. We'll strike that from the record. That
11 any mention of him having gotten in any other or
12 prior altercation, we'll strike the record in that
13 regard. The tape that's being played will not be
14 sent back to the jury room until and unless we make
15 all those appropriate redactions.

16 Okay, you may proceed.

17 (WHEREUPON, State's Exhibit No. 39 was continued
18 to be published.)

19 MS. HENRY: Objection, Your Honor.

20 THE COURT: And that is?

21 MS. HENRY: It's the same issue and this is
22 twice now.

23 MS. OWENS: If I could respond, Your Honor?

24 THE COURT: Yes, ma'am.

25 MS. OWENS: This comment is referring to people

DAVID PICONE-REDIRECT BY MS. OWENS

1 in the neighborhood that use that apartment. That
2 would be my position on this particular section.

3 THE COURT: It's not referencing --

4 MS. OWENS: It is not.

5 THE COURT: -- any Defendant or party to this
6 action?

7 MS. OWENS: Not this comment.

8 MS. HENRY: It's my understanding she's
9 talking -- again, I believe that it is.

10 THE COURT: Okay. All right. Out of caution,
11 what we'll do is I'll grant the motion and I'll
12 strike and redact that.

13 MS. HENRY: I will have to make a stronger
14 motion if we continue to have the same issue.

15 THE COURT: I understand, I understand.

16 MS. HENRY: Thank you, Your Honor.

17 (WHEREUPON, State's Exhibit No. 39 was continued
18 to be published.)

19 THE COURT: Yes, ma'am. You have another
20 witness to call?

21 MS. OWENS: Yes, sir, the State calls
22 Mr. Charles Moore.

23 THE CLERK: Place your left hand on the Bible
24 and raise your right hand.

25 CHARLES MOORE, after being duly sworn, testified

CHARLES MOORE-DIRECT BY MS. OWENS

1 as follows:

2 THE CLERK: Thank you, please be seated. State
3 your name for the record.

4 THE WITNESS: Officer Charles Moore.

5 DIRECT EXAMINATION

6 BY MS. OWENS:

7 Q Officer, where do you work?

8 A Greenville County Detention Center.

9 Q How long have you been at the detention center?

10 A Seven and a half years.

11 Q What's your assignment at the detention center?

12 A I'm the custodian of records of jail calls.

13 Q Could you tell the jury a little bit about how
14 the detention center keeps records of phone calls?

15 A Well, we use an outside vendor that's called
16 Securus Technologies. They have a -- we use -- through
17 our booking process, we record phone calls and Securus
18 keeps a record in their servers.

19 Q Does the detention center record all phone calls
20 made by all inmates at the detention center?

21 A All calls, except for approved private calls to
22 attorneys.

23 Q How are those records kept?

24 A They're kept on a separate server by Securus
25 Technologies in Dallas, Texas -- Dallas, Texas and Austin,

CHARLES MOORE-DIRECT BY MS. OWENS

1 Georgia -- sorry, Atlanta, Georgia.

2 Q So, could you describe for the jury the process
3 by which an inmate makes a phone call?

4 A After they're booked in, they go to what's
5 called roll call where they say a series of phrases to
6 record their voice. And that recording is used to access
7 phone calls throughout the facility. And then from there,
8 depending on their housing location, they can make calls
9 wherever they're housed at using their own voice and
10 account number.

11 Q So, is that saying a phrase voice recognition
12 security?

13 A Yes.

14 Q Okay. Is the inmate required to use a pen
15 number to make a phone call?

16 A Yes, they're issued a recording pin at booking,
17 which is -- includes their six digit pat number that they
18 get at booking and four digits they are give by a booking
19 officer.

20 Q So, in order for an inmate at the detention
21 center to make a phone call, what information do they need
22 to place a call?

23 A All they need is their six digit pat number and
24 the four digit issued at booking.

25 Q And at the initiating portion of every phone

CHARLES MOORE-DIRECT BY MS. OWENS

1 call, is the inmate required to also go through the
2 process of voice identification through the system?

3 A Yes. They're told to either say United States
4 or their first and last name.

5 Q Now, are those calls retained indefinitely?

6 A They're retained for four years. The actual
7 record of the call itself is retained indefinitely, but
8 the recording itself is only kept for four years.

9 Q Are those calls retained and kept by the
10 detention center as part of the detention center's regular
11 course of business?

12 A Yes.

13 Q Now, does anybody at the detention center have
14 the ability to modify those calls, make changes to them or
15 delete those calls?

16 A No.

17 Q And are you as the staff person at the detention
18 center the custodian records for the Greenville County
19 Detention Center?

20 A Yes.

21 Q Okay.

22 (WHEREUPON, State's Exhibit No. 28 was marked
23 for identification only.)

24 BY MS. OWENS:

25 Q I'm showing you State's Exhibit 28. Do you

CHARLES MOORE-DIRECT BY MS. OWENS

1 recognize that item?

2 A Yes.

3 Q How do you recognize it?

4 A By the initials that I placed earlier today with
5 the date and time of my review.

6 Q So, have you had an opportunity to review that
7 disk?

8 A Yes. I reviewed portions of each call to verify
9 its validity.

10 Q Okay. Does this disk contain calls recorded
11 from an inmate's account at the detention center?

12 A Yes.

13 Q Have they been modified?

14 A No.

15 Q Does this -- does this disk represent a series
16 of calls recorded by the detention center from Curtis
17 Babb's account at the detention center?

18 A Yes.

19 MS. OWENS: Your Honor, at this time, I'd offer
20 State's Exhibit 28.

21 THE COURT: Objection?

22 MS. HENRY: Yes, Your Honor. Given what's my
23 awareness of what's on the tape, I don't think
24 they're relevant. I think there's a serious 403
25 problem. I also think because they're -- my

CHARLES MOORE-DIRECT BY MS. OWENS

1 (WHEREUPON, the jury came into open court at
2 approximately 4:02 p.m.)

3 THE COURT: Yes, ma'am, you may continue.

4 MS. OWENS: May it please the Court, Your Honor.

5 BY MS. OWENS:

6 Q Officer, besides procuring these phone calls and
7 identifying their authenticity, did you have any other
8 involvement in this case?

9 A No.

10 MS. OWENS: Okay, thank you, sir. If you'll
11 answer any questions that Ms. Henry or Mr. Robinson
12 may have.

13 MS. HENRY: I have no questions. Thank you.

14 THE COURT: Mr. Robinson.

15 MR. ROBINSON: No, Your Honor.

16 THE COURT: Thank you, sir, I appreciate your
17 being here. You may step down to be excused.

18 MS. GARY: Thank you, Your Honor, may it please
19 the Court. The State calls Kimeka Mayes.

20 THE CLERK: Place your left hand on the Bible
21 and raise your right hand.

22 KIMEKA MAYES, after being duly sworn, testified
23 as follows:

24 THE CLERK: Thank you. Please take a seat and
25 state your name for the record.

KIMEKA MAYES-DIRECT BY MS. GARY

1 THE WITNESS: Kimeka Mayes.

2 DIRECT EXAMINATION

3 BY MS. GARY:

4 Q Good afternoon, Ms. Mayes. Can you hear me
5 okay?

6 A Yes, ma'am.

7 Q Ms. Mayes, do you live in Greenville?

8 A Yes.

9 Q How long have you lived in Greenville, ma'am?

10 A Forty-two years.

11 Q Okay. Were you living in Greenville in December
12 of 2016?

13 A Yes, ma'am.

14 Q Where did you live then, ma'am?

15 A Shemwood Crossing.

16 Q Do you remember specifically what apartment you
17 lived in?

18 A Uh-huh.

19 Q Okay. Would [REDACTED] sound familiar?

20 A Yes. Yes.

21 Q When you said Shemwood Crossing, is that
22 sometimes called -- has it sometimes been referred to as
23 Piedmont Manor?

24 A That's what it's been for years. They just
25 change the name to Shemwood.

KIMEKA MAYES-DIRECT BY MS. GARY

1 Q Okay, thank you. Who lived in apartment [REDACTED]
2 with you in December of 2016?

3 A My kids and Curtis Babb.

4 Q Okay. How do you know Curtis Babb?

5 A I been knowing him all my life.

6 Q Were you ever romantic with Mr. Babb?

7 A Yes.

8 Q I'm sorry?

9 A Yes.

10 Q Okay. Can you identify Curtis Babb in the
11 courtroom for me, please?

12 A He's right here in the gray.

13 Q He's wearing gray?

14 A Uh-huh.

15 Q Okay. Is he seated at the table to my left?

16 A Uh-huh.

17 Q Okay. Ma'am, do you remember when the police
18 came to your home on Thursday, December 15th of 2016?

19 A Yes.

20 Q Do you remember having a conversation with
21 several police officers?

22 A Yes.

23 Q Would you tell us about that?

24 A Well, I was in another location and a couple
25 people were going live on Facebook and they was saying

KIMEKA MAYES-DIRECT BY MS. GARY

1 that they was about to kick a door in in Shemwood --

2 MR. ROBINSON: Objection, Your Honor, hearsay.

3 THE COURT: Yes, ma'am, your position on that?

4 I'll sustain the objection.

5 MS. GARY: That's fine. I'll direct her more
6 clearly, Your Honor. Thank you.

7 BY MS. GARY:

8 Q Do you remember speaking with Investigator
9 Stanton and Investigator Maltby of the Greenville County
10 Sheriff's Office at your home on December 15th, 2016?

11 A Two police officers, I'm not sure what their
12 names were.

13 Q That's fine. Again, I only want to talk about
14 things that you said and things you participated in, okay.
15 Tell us about your conversation with those two officers at
16 your home on the 15th of December.

17 A Meaning?

18 Q What kind of questions -- were they asking you
19 questions regarding Curtis Babb?

20 A Yes.

21 Q Did you indicate to them the last time you had
22 seen Mr. Babb?

23 A Yes.

24 Q What did you tell them?

25 A I said like on a Monday or Tuesday weeks ago,

KIMEKA MAYES-DIRECT BY MS. GARY

1 weeks before.

2 Q Okay. So, you did not tell those two
3 officers -- again, this was on Thursday December 15th,
4 2016, that you had last seen Mr. Babb on Sunday or Monday,
5 meaning December 11th or 12th?

6 A No, I just said a day, not a date.

7 Q Okay. Do you remember telling them where you
8 had last seen Mr. Babb?

9 A No.

10 Q Okay. So, you did not tell both Investigator
11 Stanton and Investigator Maltby, again, at your home on
12 Thursday, December 15th, 2016, that you had last seen and
13 talked to Mr. Babb at your home in Shemwood in Greenville?

14 A No.

15 Q Okay. Do you recall what you told the police
16 Mr. Babb had told you in your last conversation with him?

17 A Yes.

18 Q Okay. Tell us about that.

19 A We had broken up because I caught him cheating
20 and I put him out my home. So, when I spoke -- well, he
21 had been calling me wanting to regain entrance to the
22 house, come back home. And I wouldn't let him because
23 that was one of my pet peeves. Be honest, truthful, don't
24 lie. So, I caught him conversating [verbatim] with
25 another female and I put him out. And he kept calling me

KIMEKA MAYES-DIRECT BY MS. GARY

1 wanting to come back home. And I told him no, he couldn't
2 come back.

3 When Curtis -- when we first dated, that
4 was one of the things he always told me, if he hurt me in
5 any kind of way, he would be a man and admit that he
6 fucked up. Those were his exact words. So, when I talked
7 to him and he was asking me could he come back home or
8 whatever, he let me know -- he was like, baby, I'm sorry,
9 I fucked up. Meaning towards him conversating with the
10 other female.

11 Q Okay. In your conversation, again, on December
12 15th, 2016, at your home in Shemwood Crossing, do you
13 recall telling the officers that Mr. Babb had told you,
14 and I quote, he fucked up and that he was sorry. Do you
15 remember that?

16 A Yeah.

17 Q Okay. Do you remember also telling the
18 officers -- when they asked you what that meant to you, do
19 you recall what you told them that meant to you, ma'am?

20 A Because I caught him cheating and he got put out
21 the house.

22 Q Okay. Ms. Mayes, do you recall telling those
23 officers that you took his statement, I fucked up. To
24 mean he had done the ultimate --

25 MR. ROBINSON: Objection, Your Honor, calls for

KIMEKA MAYES-DIRECT BY MS. GARY

1 speculation.

2 THE COURT: I think she's asking from the
3 statement, so I'll respectfully overrule.

4 MS. GARY: Thank you, Your Honor.

5 BY MS. GARY:

6 Q I'm sorry, ma'am, what was your answer?

7 A No.

8 Q You don't recall telling that to the police
9 officers?

10 A No.

11 Q Do you recall telling the officers that you took
12 that statement to mean something real bad?

13 A No.

14 Q Okay. Do you recall telling the officers that
15 something real bad to you meant robbing, killing or
16 stealing. Something serious?

17 A (The witness shook her head.)

18 Q You don't recall making those comments to those
19 officers?

20 A No.

21 Q Okay. And again, ma'am, you do not recall
22 telling those officers that you had last seen Curtis Babb
23 in Shemwood Crossing on either December 11th or 12th,
24 2016; is that your testimony today?

25 A No, because he wasn't here in December or

KIMEKA MAYES-DIRECT BY MS. GARY

1 November.

2 Q Okay. Ms. Mayes, you told us that you and
3 Mr. Babb had ended your relationship at some point; is
4 that right?

5 A Yes.

6 Q Have you and he since reconciled in some way?

7 A Yes.

8 Q Okay. Tell us about that.

9 A Because he didn't really -- well, once I -- we
10 had been in contact with each other and talking on the
11 phone, but it wasn't like nothing that serious. He didn't
12 have any contact with the female, it was just
13 conversation, which I was the female that he was
14 contacting.

15 Q Okay. Do you recall having a phone conversation
16 with Mr. Babb on [REDACTED], 2017?

17 A I've talked to him a lot.

18 Q Let me make that a little more specific. That
19 would have been, of course, a phone call to him or from
20 him from the Greenville County Detention Center. Do you
21 recall talking to him on that date?

22 A Several dates I talked to him for the past two
23 years in prison.

24 Q That's fine. Do you recall telling him on [REDACTED]
25 [REDACTED] that the snitch was having a birthday party?

KIMEKA MAYES-DIRECT BY MS. GARY

1 A Having a birthday party?

2 Q Yes, ma'am.

3 A Huh-uh.

4 Q You don't recall that?

5 A (The witness shook her head.)

6 Q Okay. Who would you mean by the snitch?

7 A There's a lot of them.

8 Q Okay. Would you mean somebody by the name of
9 Damean Wideman?

10 A Yeah, he's one.

11 Q Ms. Mayes, did you and Mr. Babb on that phone
12 call or on any later phone calls talk about the importance
13 of Mr. Wideman recanting the statements he made to the
14 police in this case?

15 A We've talk about it before.

16 Q Okay. Ma'am, I'm going to show you what's in
17 evidence as Defendant's Exhibit No. 1. I'll move this for
18 you. And just ask you, ma'am, do you recognize that
19 document?

20 A Yes.

21 Q Is your signature at the bottom of that
22 document?

23 A Yes.

24 Q Okay. Where were you when you signed that
25 document, ma'am?

KIMEKA MAYES-CROSS BY MS. HENRY

1 A In my kitchen.

2 Q Do you recall having a conversation with Curtis
3 Babb, again, on the telephone, about the importance of
4 getting that statement notarized?

5 A Yes.

6 Q Do you recall telling Mr. Babb that Damean
7 Wideman signed that statement at your home?

8 A I don't know if he signed it there or he signed
9 at the notary. I signed it at my home.

10 Q Okay. And ma'am, do you recall telling
11 Mr. Babb, again, through a telephone conversation, that
12 you personally delivered that letter to the solicitor's
13 office?

14 A I delivered it to the solicitor's office?

15 Q Yes, ma'am.

16 A After it was signed and notarized, I brought it
17 to the solicitor's office.

18 Q So, it was in your possession?

19 A Yes.

20 MS. OWENS: Okay. Ms. Mayes, I think that's all
21 I have. Thank you so much. Please answer any
22 questions Ms. Henry or Mr. Robinson might pose to
23 you. Thank you, ma'am.

24 CROSS-EXAMINATION

25 BY MS. HENRY:

KIMEKA MAYES-CROSS BY MS. HENRY

1 Q Ms. Mayes, I've just got a couple of follow-up
2 questions, okay. So, are you and Curtis back together in
3 a romantic relationship?

4 A Yes.

5 Q You are, okay. So, when did you originally put
6 Curtis out?

7 A I want to say like the end of Octoberish, late
8 20's, something like that.

9 Q Is that 2016?

10 A Yes.

11 Q So, he had stopped living with you as of
12 October 2016?

13 A Yes.

14 Q Did he ever move back in?

15 A No.

16 Q Okay. So, when did Curtis, according to your
17 understanding, leave for Pennsylvania? Did he leave
18 sometime in November?

19 A Probably late October, 1st or 2nd of November,
20 somewhere around in there.

21 Q As far as you're aware, did Mr. Babb come back
22 to South Carolina to live?

23 A No.

24 Q After that?

25 A No.

KIMEKA MAYES-CROSS BY MS. HENRY

1 Q Okay. All right. So, was he living with you in
2 December of 2016?

3 A No, he wasn't here December of 2016.

4 Q Okay. All right. Now, I know that the
5 solicitor asked you about a conversation that you had with
6 police on the night that your home was searched?

7 A It was that day. It wasn't that night that my
8 home was searched. It was early in the evening.

9 Q It was early in the evening?

10 A Yes.

11 Q Okay. So, can you just describe that situation?
12 Let me ask you some specific questions. So, you found out
13 that your house was being searched on Live PD; is that
14 accurate?

15 A It wasn't being searched, it was surrounded by a
16 SWAT team and they were fixing to gain entrance to my
17 house.

18 Q Okay.

19 A And I seen it on live.

20 Q So, you ran back home?

21 A No, I didn't run back home, I made a phone call
22 and said don't kick my door, I'm on my way. So, they
23 waited til I rode up to the scene of my home.

24 Q You were interviewed about this standing outside
25 your home while your home was being searched?

KIMEKA MAYES-CROSS BY MS. HENRY

1 A My home wasn't being searched. I was
2 interviewed on the side of my home. Once I gave them
3 permission to search my home for Curtis, after they
4 searched, they came back out and then they brought me in
5 and started questioning me.

6 Q Was that comfortable?

7 A No.

8 Q Okay. So, that was pretty stressful? It was a
9 pretty stressful conversation?

10 A Yeah.

11 Q Okay. Did they record the entire conversation
12 they had with you?

13 A Yes. Off and on.

14 Q Off and on. So, there were parts of it they
15 didn't record?

16 A Yeah.

17 Q Okay. So, they recorded what they wanted to
18 record?

19 A Yeah, they would ask me questions with it off.
20 They would ask me questions and turn it on and ask me to
21 answer the questions while I was standing up against the
22 wall.

23 Q Oh, wow, okay. All right. So, the police, with
24 your consent, they searched your house?

25 A Uh-huh.

KIMEKA MAYES-CROSS BY MS. HENRY

1 Q All right. And then some of Curtis' clothes and
2 shoes were there left over from when he stayed?

3 A Uh-huh.

4 Q Did the police find those?

5 A Yes.

6 Q Okay. And they did find two pairs of shoes that
7 belonged to Curtis?

8 A And I think a pair of pants or something like
9 that.

10 Q Did they know that they were Curtis'?

11 A Yes, they ask me did he have --

12 MS. OWENS: Objection, Your Honor, that calls
13 for speculation. She doesn't know what those
14 officers did or did not know.

15 MS. HENRY: She just said that they asked her.

16 THE COURT: Okay, you can ask her did she tell --

17 BY MS. HENRY:

18 Q Did you tell them they were Curtis' shoes?

19 A Yes.

20 Q And pants?

21 A Yes.

22 Q Okay. So, as far as you're aware, did they take
23 those shoes or those pants with them?

24 A No, they had them in their hand and then they
25 put them in my living room and said that's not what they

KIMEKA MAYES-CROSS BY MS. HENRY

1 wanted.

2 Q Okay. Thank you. All right. I want to ask you
3 a little bit more about some of those phone calls and
4 really kind of your -- you know, what was going on in
5 relation to them. Did you, on Curtis Babb's behalf, ever
6 threaten Damean Wideman?

7 A No.

8 Q Okay. Did you ever promise Damean Wideman
9 anything?

10 A No.

11 Q Did anybody else that you're aware of or that
12 you heard?

13 A No.

14 Q Did Curtis, when talking to you, ever threaten
15 Damean Wideman?

16 A No.

17 Q Did you ever overhear Curtis do that?

18 A No.

19 Q Did Curtis, as far as you're aware, ever ask
20 anybody else to threaten Damean Wideman?

21 A No.

22 Q As far as you're aware, did he ever ask you or
23 anybody else to give Damean Wideman money or promises or
24 anything else like that?

25 A No.

KIMEKA MAYES-CROSS BY MS. HENRY

1 Q So, when Damean -- did Damean -- did Damean
2 Wideman write this?

3 A Yes.

4 Q So, he wrote this statement himself?

5 A Yes.

6 Q Okay. Did you tell Damean Wideman what to say?

7 A No.

8 Q Did anybody else -- did Eric Goldman tell Damean
9 Wideman what to say?

10 A We were in the living room. Damean stayed in
11 the kitchen by himself.

12 Q Okay. So, Damean Wideman wrote that statement
13 by himself?

14 A Uh-huh.

15 Q Himself in your kitchen?

16 A Uh-huh.

17 Q Okay. And then did Damean Wideman then go to
18 the notary and get it notarized?

19 A With Tabacus, yes.

20 Q And is that Eric Goldman?

21 A Yes.

22 Q So, he went with Eric Goldman to get it
23 notarized. Do you remember where he got it notarize?

24 A No.

25 Q Was it at a funeral home, do you remember?

KIMEKA MAYES-CROSS BY MS. HENRY

1 A I think so. I didn't go. I signed it there and
2 they went and got it notarized.

3 Q So, while he was writing this himself in your
4 kitchen, were there any police there?

5 A No.

6 Q Was he at gunpoint or any kind of duress?

7 A No.

8 Q Okay. All right. Give me one second. Let me
9 just make sure. All right. And then when you had --
10 whenever you had any conversations with Curtis about
11 Damean Wideman writing this statement, Curtis was
12 interested in Damean telling the truth; is that right?

13 A Yes.

14 MS. GARY: Your Honor, I object.

15 THE COURT: What's the objection?

16 MS. GARY: I don't know that she knows what
17 Mr. Babb is interested in.

18 THE COURT: I sustain the objection.

19 BY MS. HENRY:

20 Q Did Mr. Babb express to you that he was --

21 MS. GARY: Objection, hearsay.

22 MS. HENRY: Well, it's a statement -- it's a
23 statement by the Defendant.

24 MS. GARY: Not offered by the party opponent,
25 Your Honor, that's improper hearsay.

KIMEKA MAYES-CROSS BY MS. HENRY

1 THE COURT: Well, is the question whether
2 Mr. Wideman was trying to make a truthful statement
3 or whether Mr. Babb was?

4 MS. HENRY: Well, I'm asking whether or not --
5 my understanding is that part of the questioning from
6 the State is whether -- is about the conversations
7 that my client and Ms. Mayes had regarding
8 Mr. Wideman's statement. And I'm asking her about
9 those conversations.

10 THE COURT: I understand that. But you're
11 asking her did -- you're asking her to represent that
12 somebody else was interested in conveying truthful
13 information.

14 MS. HENRY: I'll rephrase it. I asked her if
15 Curtis Babb ever expressed to her --

16 MS. GARY: Again, I object to the content of
17 that question because anything Mr. Babb said to this
18 witness is improper hearsay.

19 MS. HENRY: And I understand, he just asked me
20 to repeat it.

21 THE COURT: I understand. And I do think that's
22 self-serving hearsay. If he testifies, he can put
23 that into record.

24 MS. HENRY: Fair enough.

25

KATHY LANCE-DIRECT BY MS. GARY

1 BY MS. HENRY:

2 Q Did Damean Wideman ever express to you anything
3 other than he was interested in telling the truth?

4 A No.

5 MS. HENRY: All right, I don't have any other
6 questions for this witness right now.

7 THE COURT: Okay, Mr. Robinson.

8 MR. ROBINSON: No questions.

9 THE COURT: Any redirect?

10 MS. GARY: No, sir, thank you, Judge.

11 THE COURT: Thank you, I appreciate it. Thank
12 you. You can step down.

13 MS. GARY: At this time, the State would call
14 Kathy Lance.

15 THE CLERK: Place your left hand on the Bible
16 and raise your right hand.

17 KATHY LANCE, after being duly sworn, testified
18 as follows:

19 THE CLERK: Thank you. Please take a seat and
20 state your name for the record.

21 THE WITNESS: My name is Katherine Lance.

22 DIRECT EXAMINATION

23 BY MS. GARY:

24 Q Ms. Lance, where do you work, ma'am?

25 A I work for the Department of Public Safety at

KATHY LANCE-DIRECT BY MS. GARY

1 the Greenville Law Enforcement Center in property and
2 evidence.

3 Q This jury has heard a little bit of a
4 conversation about property and evidence. What is your
5 role there?

6 A My role there is to take in property, city
7 police or the sheriff's department. We also do it for
8 other agencies. We take P&E sheets that come to us. We
9 enter them into the bar code system, package it, shelve it
10 in different locations.

11 Q Okay. Is that a secured facility?

12 A It is a secured facility.

13 Q Tell us one more time, where is that facility
14 located?

15 A Our main office is in the basement of Greenville
16 LEC. We do have warehouses other places.

17 Q Ma'am, when you take evidence from an officer in
18 any case, do you document your receiving that evidence?

19 A We do. Our name is on it as soon as we bar code
20 it in.

21 Q Do you also document what kind of evidence it
22 is?

23 A We do.

24 Q Okay. Would you use an officer's identifying
25 information on a piece of evidence to further identify

KATHY LANCE-DIRECT BY MS. GARY

1 that?

2 A We do. On the P&E sheet, the officer will a lot
3 of times use his initials. If there's more than one
4 piece, it will have initials, item number one, initials,
5 item number two. And we bar code that and it's by each
6 item.

7 Q So, you note that on your report as well?

8 A Yes, ma'am.

9 Q Excuse me, on your documents as well?

10 A Yes, ma'am.

11 Q Okay. And ma'am, did you receive evidence from
12 Chris McCalmont on December 22nd, 2016, as it relates to
13 this case?

14 A Yes, ma'am, I believe it was a video.

15 Q Well, I'm going -- I'm sure you received a
16 number of items of evidence. That was an unfair question.
17 If I show you a copy of your report -- or excuse me, of a
18 document indicating your involvement, would that help
19 refresh your memory?

20 MS. HENRY: Objection, Your Honor, she's not
21 indicated that she had any trouble remembering. She
22 indicated that she clocked a video.

23 THE COURT: Okay. I overrule. She can show her
24 the property and evidence document.

25 MS. GARY: Thank you, Your Honor.

KATHY LANCE-DIRECT BY MS. GARY

1 BY MS. GARY:

2 Q Ma'am, did you collect what was noted as CM-12
3 from Investigator McCalmont on December 22nd, 2016?

4 A Yes, I did. This is a picture. Sometimes
5 pictures are in paper form, sometimes they are on video.

6 Q Does that record reflect the date and time at
7 which you received that item?

8 A It does, 12/22/16 at 2:08 is when I entered it
9 into the computer.

10 Q If that item had moved anywhere throughout your
11 facility, would that movement be noted, ma'am?

12 A Yes, it would. We have a chain of custody that
13 we have that denotes anytime that it's checked out.

14 Q Okay.

15 A Who checked it out and who brought it back.

16 Q Okay. Ma'am, I've just shown you what's been
17 marked as State's Exhibit 24. I'd ask you to take a look
18 at that item if you would.

19 A Yes, ma'am.

20 Q Do you recognize that item, ma'am?

21 A I recognize it as a photo.

22 Q Okay. Would that correlate with the item that
23 you received from Investigator McCalmont on December 22nd
24 of 2016?

25 A Yes, ma'am.

KATHY LANCE-DIRECT BY MS. GARY

1 Q Okay. Okay. Does it appear to have been
2 altered at all?

3 A No, ma'am.

4 Q Again, that item has -- would have remained in
5 the custody of the property and evidence department since
6 its receipt?

7 A Yes, it would.

8 Q Okay, thank you, ma'am.

9 MS. GARY: Your Honor, at this time, we seek to
10 admit State's Exhibit 24.

11 THE COURT: Objections?

12 MS. HENRY: No objection, Your Honor.

13 MR. ROBINSON: No, Your Honor.

14 THE COURT: All right, without objection, the
15 same is admitted.

16 (WHEREUPON, State's Exhibit No. 24 was admitted
17 into evidence.)

18 BY MS. GARY:

19 Q Ma'am, as it relates to this case, did you -- in
20 your capacity as property and evidence custodian, did you
21 also receive evidence from forensic technician Dar Shaw?

22 A I did.

23 Q Tell us when you did that. If you remember.

24 A I do not remember. I'll have to see the --

25 Q That's okay. Again, would the dates and times

KATHY LANCE-DIRECT BY MS. GARY

1 which you received items in this case be documented in
2 your document?

3 A Yes, ma'am, it would. It's printed date, time,
4 who it was and where it went.

5 Q Okay. Did you receive an item labeled DS-12 in
6 this case, ma'am?

7 A Yes, ma'am, I did.

8 Q Okay. And how is that item labeled on your
9 paperwork?

10 A How is it?

11 Q What is the description of that item you
12 received?

13 A It is a black hooded sweatshirt from the rear
14 passenger floorboard. It would come to me from crime
15 scene being that it was from Dar Shaw.

16 Q Okay. And, ma'am, I'm going to show you --
17 you're welcome to this if you'd like it. I'm going to
18 show you what's been marked as State's Exhibit 34 and ask
19 you if you would take a look at that and tell this jury
20 whether or not it appears to be in the same condition in
21 which you received it, perhaps, other than having been
22 opened earlier today.

23 A When I saw it, the bag was taped up with this
24 evidence tape that Dar Shaw sealed it in this package. I
25 never saw the item inside it because that is the process.

KATHY LANCE-DIRECT BY MS. GARY

1 Anything that's biohazard, anything that's drugs, jewelry,
2 fire hazard, anything like that, it is sealed when we
3 receive it.

4 Q Okay. And would an officer's initials be on
5 that seal?

6 A It would, the case number, the date, the item
7 number and the officer's initials.

8 Q Okay. But this is, in fact -- DS-12 is, in
9 fact, an item -- and, again, that is State's Exhibit 34,
10 is, in fact, an item that you received from Dar Shaw in
11 this case?

12 A It is, because it has the bar code that I put on
13 it.

14 Q Perfect. Thank you, ma'am. I'm also going to
15 show you what's been marked as State's Exhibit 35 and ask
16 you if you collected -- or rather, received an item marked
17 DS-13 from Forensic Technician Shaw?

18 A I did.

19 Q Okay. Would you have affixed a label on State's
20 Exhibit 35?

21 A I would have.

22 Q And again, had that bag -- would that have been
23 sealed when you received it?

24 A It would have been sealed, yes.

25 Q Again, with Officer Shaw's initials?

KATHY LANCE-DIRECT BY MS. GARY

1 A Anything that comes from crime scene is sealed.

2 Q Very well. Ma'am, did you also receive an item
3 indicated DS-14?

4 A I did.

5 Q What was that item noted to be when you received
6 it?

7 A Black hoodie with a red bandanna in a pocket.

8 Q Again, did you affix the label on State's
9 Exhibit 35 or 36?

10 A I would have.

11 Q Okay. Again, would that item have been sealed
12 when you received it?

13 A It would have.

14 Q Okay. Thank you, ma'am. Finally, Ms. Lance,
15 did you receive item indicating -- two more, as DS-16
16 which as how been marked as State's Exhibit 37?

17 A I did.

18 Q What was that item noted to be when you received
19 it?

20 A A black gym bag from the front passenger
21 floorboard.

22 Q Again, would that item had been sealed upon your
23 receipt?

24 A It would have.

25 Q And not unsealed again?

KATHY LANCE-DIRECT BY MS. GARY

1 A Not unsealed again. Anytime it is unsealed at
2 another time, it is signed by whoever unseals it and we go
3 through that process if it's checked out.

4 Q That, of course, would be documented?

5 A Right.

6 Q Ma'am, finally, I want to show you what's been
7 marked as State's Exhibit 38 and ask you if you receive
8 item DS-18 from Forensic Technician Shaw?

9 A I did.

10 Q What was that item noted to be, ma'am?

11 A A red bandanna with two pair of gloves wrapped
12 inside from the trunk.

13 Q Again, would that package have been sealed when
14 you received it?

15 A Yes.

16 Q Subject to any other openings would have been
17 resealed and initialed?

18 A Yes. There is also a notebook that has to be
19 filled out by whoever touches it.

20 Q Very well, ma'am. Did you receive any other
21 evidence -- well, I know you received other evidence from
22 Officer Shaw. Did you receive evidence from anyone else
23 as it relates to this case?

24 A Not that I'm aware of.

25 Q Okay.

KATHY LANCE-DIRECT BY MS. GARY

1 MS. GARY: Your Honor, at this time, the State
2 would offer Exhibits 35 through 38 -- I'm so sorry,
3 34 through 38, my apologies, into evidence.

4 THE COURT: Any objections?

5 MS. HENRY: Your Honor, just renew the
6 objections that I made when they were originally
7 offered.

8 THE COURT: Yes, ma'am, I understand.

9 Mr. Robinson?

10 MR. ROBINSON: No.

11 THE COURT: All right, subject to objection from
12 Mr. Babb, without objection from Mr. Brown, so
13 admitted.

14 MS. GARY: Those are all my questions, ma'am.
15 You can answer any questions that either the
16 Defendants have. Thank you very much.

17 MS. HENRY: No questions, Your Honor.

18 MR. ROBINSON: No questions.

19 THE COURT: Thank you, ma'am, appreciate you
20 being here. You may step down.

21 (WHEREUPON, State's Exhibits Nos. 34-38 were
22 admitted into evidence.)

23 THE COURT: Yes, ma'am, have an additional
24 witness?

25 MS. OWENS: Your Honor, the next witness is in

1 THE CLERK: Place your left hand on the Bible
2 and raise your right hand.

3 CINDY WITHERSPOON, after being duly sworn,
4 testified as follows:

5 THE CLERK: Thank you, please take a seat.
6 State your name for the record.

7 THE WITNESS: Cindy Diane Witherspoon.

8 DIRECT EXAMINATION

9 BY MS. GARY:

10 Q Good afternoon, Ms. Witherspoon. Where are you
11 currently employed, ma'am?

12 A I work for Greenville County Department of
13 Public Safety in records division.

14 Q How long have you worked there?

15 A I've worked there since July 2018.

16 Q Where did you work prior to working the records
17 division?

18 A I worked in the property and evidence division.

19 Q What was your job there?

20 A I was responsible for the intake of evidence,
21 that included chain of custody, that included working with
22 officers and deputies, storage, safety and that sort of
23 thing.

24 Q So, do you receive items of evidence from law
25 enforcement agents?

CINDY WITHERSPOON-DIRECT BY MS. GARY

1 A Yes, ma'am.

2 Q Tell us a little bit about that process. When
3 the officer brings you an item, are you responsible for
4 documenting your receipt of that item?

5 A Yes, ma'am.

6 Q Do you have to make sure that item is properly
7 packaged?

8 A Yes, ma'am.

9 Q Do you have to also make sure it's properly
10 sealed?

11 A Yes, ma'am.

12 Q If that item is a firearm of any kind, do you
13 have to make sure that it is secured?

14 A Yes, ma'am.

15 Q Do you create -- did you, rather, create in your
16 job in property and evidence labels to be affixed to items
17 that you received?

18 A Yes, ma'am.

19 Q Okay. How would you note what an item is on the
20 label?

21 A It was all detailed to the property and evidence
22 form. The officer would submit it with the information.
23 We would verify that information and we would enter it
24 into the bar code system.

25 Q Okay. Would you receive that information from

CINDY WITHERSPOON-DIRECT BY MS. GARY

1 the officer who brought it to you?

2 A Yes, sir.

3 Q Any description of any item that you would have
4 put into your record would have come from an officer?

5 A Yes, ma'am.

6 Q Did you receive evidence from Investigator Chad
7 Maltby as it relates to this case?

8 A Yes, ma'am.

9 Q In particular, ma'am, did you receive an item
10 noted a CM-1?

11 A I would need to see a P&E sheet to verify that.

12 Q Very well, I will hand you a copy of that and
13 see if that will refresh your memory, ma'am.

14 A Thank you.

15 Q Yes, ma'am.

16 A Yes, ma'am, this is my signature.

17 Q And what was CM-1 noted to be when you received
18 it?

19 A CM-1 is noted to be a JC Higgins Model 583.21
20 16-gauge bolt-action shotgun with a wooden stock.

21 Q Okay. When you were working in property and
22 evidence and you received a firearm of any kind, how would
23 this item be packaged?

24 A The first thing we would ask is if there was
25 going to be forensic testing, that would dictate a lot.

CINDY WITHERSPOON-DIRECT BY MS. GARY

1 If not, then we would first verify that it was unloaded
2 and then we would package it in a paper bag. We would
3 seal it with evidence tape. And then we would put our
4 case number, date and initials as well as initials to
5 verify it was unloaded.

6 Q Okay.

7 (WHEREUPON, State's Exhibits No. 40 was marked
8 for identification only.)

9 BY MS. GARY:

10 Q Ma'am, I'm going to show you what's just been
11 marked as State's Exhibit 40. I'm going to ask you,
12 without showing the contents of it to the jury, if you
13 would please tell us, generally, what is that?

14 A Based on the packaging, that would be a long
15 gun.

16 Q Would that be the item that we've been
17 referencing as it relates to this case?

18 A Yes.

19 Q How do you know that's what that is?

20 A It is labeled with the case number, also, the
21 item number and the location, but it is also labeled with
22 the bar code with our bar code system.

23 Q Okay. Does it say CM-1 as we've been referring
24 to it?

25 A Yes.

CINDY WITHERPOON-CROSS BY MS. HENRY

1 Q Does it also have the same description you just
2 read to us?

3 A Yes, ma'am.

4 Q And I would ask you to look inside and see if
5 that item is in the same condition as it was when you
6 received it subject, perhaps, having being made safe to be
7 in court today.

8 A To my recollection, yes.

9 Q Ma'am, did you testify that this item would have
10 been sealed in your presence after the officer brought it
11 to you?

12 A Yes. If it was going to be tested for
13 forensics.

14 Q Okay. When you received it, would this package
15 have been sealed?

16 A Yes.

17 Q Very well. Would the officer's initials be on
18 that seal?

19 A Yes.

20 MS. GARY: Your Honor, I believe those are all
21 my questions for this witness.

22 Thank you so much.

23 THE COURT: Ms. Henry.

24 MS. HENRY: Just real quick.

25 CROSS-EXAMINATION

CINDY WITHERPOON-CROSS BY MS. HENRY

1 BY MS. HENRY:

2 Q I don't know if you can tell this or not from
3 the initials and what's on the back, stop me if you can't.
4 So, can you tell whether or not and how that shotgun has
5 been processed?

6 A I cannot without seeing the lab and the lab
7 request form. And I have nothing to do with the forensic
8 testing or processing.

9 Q I understand that. Okay. Okay. I'm just
10 wondering if you can tell from what's on the bag whether
11 it was sent off for fingerprints, DNA or whether it was
12 fired or sent off for anything like that. Does it say
13 that on the bag?

14 A I do not see anything on the packaging.

15 MS. HENRY: Those are all the questions I have.

16 THE COURT: Mr. Robinson?

17 MR. ROBINSON: No questions, Judge.

18 THE COURT: Any redirect?

19 MS. GARY: No, sir. Thank you, Judge.

20 THE COURT: Thank you. You can step down.

21 You're excused. Thank you very much for being here.

22 All right. You can call your next witness.

23 MS. GARY: Your Honor, our next witness is the
24 inmate for whom we appear to still be waiting.

25 THE COURT: You don't have anybody else you can

1 MS. GARY: Thank you, Your Honor, if the pleases
2 the Court, the State calls Shyheim Looper.

3 THE CLERK: Mr. Looper, please, place your left
4 hand on the Bible and raise your right hand.

5 SHYHEIM LOOPER, after being duly sworn,
6 testified as follows:

7 THE CLERK: Thank you. Please take a seat and
8 state your name for the record.

9 THE WITNESS: Shyheim Looper.

10 BY MS. GARY:

11 Q Good afternoon, Mr. Looper. I'm going to ask
12 you all my questions from back here, okay? Are you
13 currently in custody of South Carolina Department of
14 Corrections?

15 A Yes, ma'am.

16 Q What -- are you serving a sentence right now?

17 A Yes, ma'am.

18 Q What sentence are you serving, sir?

19 A Thirteen years.

20 Q Okay. Is that sentence as a result of your
21 having pled guilty to several crimes, including armed
22 robbery, assault and battery of a high and aggravated
23 nature, conspiracy and possession of a weapon during the
24 commission of a violent crime in May of 2018?

25 A Yes, ma'am.

- 1 Q Okay. So, did any of that have anything to do
2 wit the case that we're here to talk about today?
- 3 A No, ma'am.
- 4 Q Mr. Looper, where you from, sir?
- 5 A Greenville.
- 6 Q I would assume, then, you were living in
7 Greenville in December 2016?
- 8 A Uh-huh.
- 9 Q Where did you live then, sir?
- 10 A By downtown.
- 11 Q Do you remember the address?
- 12 A Shirley Street, I believe.
- 13 Q Who did you live with there, sir?
- 14 A My mother.
- 15 Q Your mother. Who is Deashia Babb?
- 16 A My baby momma.
- 17 Q Did she live with you at any time?
- 18 A Yes, ma'am.
- 19 Q Did she live with you in December of 2016?
- 20 A Yes, ma'am.
- 21 Q Did she live with you at Shirley Street?
- 22 A Yes, ma'am.
- 23 Q That was ■ Shirley Street?
- 24 A Yes, ma'am.
- 25 Q Mr. Looper, how do you know Curtis Babb?

1 A He's related to my baby momma.

2 Q Could you point Mr. Babb out in the courtroom
3 today?

4 A Yes, ma'am.

5 Q Can you do that for me, please?

6 A (The witness complies.)

7 Q Thank you. Will you tell us what he's wearing?

8 A I believe that gray, a gray shirt.

9 Q Is he seated to my left? He's over there?

10 A Yes, ma'am.

11 Q Okay. How long have you known Curtis Babb?

12 A Not long at all.

13 Q Okay. In December of 2016, how long had you
14 known Curtis Babb?

15 A I'm not really sure how long it's been. I don't
16 even think it was a whole year, I don't think.

17 Q Did you know him by a nickname or any other
18 name?

19 A Curtis.

20 Q Did you ever know him by Curt?

21 A Yeah.

22 Q Okay. Did Mr. Babb give you a shotgun on or
23 about December 15th, 2016?

24 A I got it from an abandoned house.

25 Q Okay. Mr. Looper, did police execute a search

1 warrant at your home at ■ Shirley Street in December of
2 2016?

3 A Yes, ma'am.

4 Q Were you arrested as a result of that search
5 warrant?

6 A Yes, ma'am.

7 Q Again, was that for charges unrelated to this
8 case?

9 A The charges that I'm convicted of.

10 Q Do not relate to this case?

11 A No.

12 Q Okay. Do you remember having a conversation
13 with Investigators McCalmont and Maltby from the
14 Greenville County Sheriff's Office the day after you were
15 arrested in December of 2016?

16 A I'm not sure what the names were.

17 Q That's okay. Did you speak with police in
18 December 2016?

19 A After I got arrested?

20 Q Yes, sir.

21 A Yes, ma'am.

22 Q If I told you it was December 22nd, 2016, would
23 that sound right?

24 A I'm not exactly sure what date it was.

25 Q Okay. Do you recall them asking you where you

1 got a shotgun?

2 A I recall -- I recall them asking me.

3 Q Isn't it true, sir, that you told them you got a
4 shotgun from Curtis Babb?

5 A I don't recall telling them that.

6 Q Okay. That's fine. When the officers executed
7 the search warrant at your home at ■ Shirley Street, did
8 they find a shotgun?

9 A Yes, ma'am.

10 Q Describe that gun to us.

11 A It's -- it was like, I guess, a sawed-off or
12 something.

13 Q Do you recall what color it is?

14 A No, ma'am.

15 Q Okay. Do you know whether or not that gun is a
16 bolt-action shotgun?

17 A I'm not sure. I can't remember.

18 Q Okay. Okay. Mr. Looper, where were you when
19 Curtis Babb gave you a shotgun?

20 A He didn't give it to me. I got it from an
21 abandon house.

22 Q Do you recall telling the officers that you were
23 in Shemwood or Butler, the Butler area of Greenville when
24 Curtis Babb gave you a shotgun?

25 A He didn't give it to me. I got out of the

1 house.

2 Q Do you recall telling them that?

3 A Telling them that I was what?

4 Q That you were in Shemwood or the Butler area of
5 Greenville when Mr. Babb gave you a shotgun; do you recall
6 it?

7 A No.

8 Q Again, that would have been in your interview
9 with them on December 22nd, 2016. You do not recall that?

10 A No.

11 Q Do you recall telling the officers that he
12 had -- specifically, that Mr. Babb that given you a
13 shotgun, the gun that was found inside your closet at ■
14 Shirley Street about a week prior to that interview,
15 meaning about December 15th, 2016?

16 A No, ma'am.

17 Q You don't recall that?

18 A (The witness shook his head.)

19 Q Okay. Do you recall telling the officers that
20 Curt told you to put that -- excuse me, to put it up?

21 A No, ma'am.

22 Q You don't recall that?

23 A (The witness shook his head.)

24 Q Okay. Mr. Looper, do you recall what type of
25 bag that shotgun was in when it was in your closet?

1 A No, ma'am.

2 Q Okay. Do you recall telling those officers,
3 again, in that same interview on December 22nd, 2016, that
4 it was inside a camouflaged backpack?

5 A No, ma'am.

6 Q You do not, okay. Mr. Looper, during the course
7 of that interview, do you recall -- well, let me back up.
8 Isn't it true that you spoke to officers, actually, on two
9 separate occasions on December 22nd, 2016? Do you
10 remember that?

11 A I'm not sure.

12 Q Do you remember being in two separate rooms?

13 A I believe so, but I'm not sure if it was that
14 same day or.

15 Q Okay, that's fine. At some point during your
16 conversation with police on December 22nd, 2016, did they
17 show you a photo?

18 A Of who?

19 Q Did they show you a photo and ask you to
20 identify anyone in a photo?

21 A Yes, ma'am.

22 Q Okay. Were you able to identify the person in
23 that photo?

24 A Yes, ma'am.

25 Q Who did you identify that person as being?

1 A Curt.

2 Q Okay. Would that be Curtis Babb?

3 A Yes, ma'am.

4 Q Again, that's one of the Defendants in this
5 case?

6 A Yes, ma'am.

7 Q Okay. Mr. Looper, do you recall telling the
8 police what Mr. Babb looks like?

9 A Yes, ma'am.

10 Q Okay. Tell us what you remember about that.

11 A Like a bigger-size guy.

12 Q Do you recall describing his eye in any way?

13 A Yes, ma'am.

14 Q Tell us about that.

15 A Like he had kind of a lazy eye or something.

16 Q Mr. Looper, I'm going to show you what's in
17 evidence as State's Exhibit 124, and ask you, sir, what is
18 this?

19 A You saying what is it?

20 Q Yes, sir.

21 A A picture.

22 Q Is that a photo of Curtis Babb?

23 A Yes.

24 Q Is that a photo that bears your signature?

25 A Yes.

1 Q Did you also date that photo?

2 A Yes.

3 Q And what else did you write on that photo?

4 A His name.

5 Q What did you write?

6 A Curt.

7 Q Curt?

8 A (The witness nods.)

9 Q Okay, thank you, sir. Mr. Looper, when you
10 walked into court a few minutes ago, did you greet
11 Mr. Babb in some way?

12 A When I walked into court?

13 Q Yes, sir.

14 A I looked at him.

15 Q Okay. Okay.

16 MS. OWENS: I believe those are all my
17 questions, Mr. Looper. I appreciate your time. If
18 you will answer any questions Ms. Henry or
19 Mr. Robinson might ask of you. Thank you very much.

20 THE COURT: Ms. Henry.

21 CROSS-EXAMINATION

22 BY MS. HENRY:

23 Q All right. So, Mr. Looper, you didn't get the
24 shotgun from Curtis Babb?

25 A No, ma'am.

SHYHEIM LOOPER-CROSS BY MS. HENRY

1 Q Where did you get it?

2 A An abandoned house in Butler.

3 Q What else was at that abandoned house?

4 A It was like a bunch of trash and stuff in there,
5 like some stuff looked like somebody was throwing out.

6 Q Okay. So, why did you take the gun?

7 A I like guns.

8 Q Did you try to sell it at any point?

9 A Yes, ma'am.

10 Q Were you alone when you found it?

11 A Yes, ma'am.

12 Q Did you ever lend that shotgun to Curtis?

13 A No, ma'am.

14 Q Did you ever lend it to anybody else?

15 A No, ma'am.

16 Q Did you ever fire the gun?

17 A No, ma'am.

18 Q Why not?

19 A I was scared to fire it. It didn't look like
20 something that would fire correctly.

21 Q It looked like it would blow up in your hand?

22 A Probably so.

23 Q Kind of rusted, beat up?

24 A (The witness nods.)

25 Q So, you don't even know if it works?

SHYHEIM LOOPER-CROSS BY MS. HENRY

1 A No, ma'am.

2 Q Where were you interviewed first, was this at
3 your house or were you already in jail?

4 A I believe -- about this, about this situation?

5 Q Yes.

6 A I was already in jail.

7 Q Okay. So, you were already in custody. And who
8 brought up Babb, you or the police?

9 A The police.

10 Q Let me see, when it first got brought up, did
11 you have any idea what they were talking about?

12 A About?

13 Q About that gun being Curt's?

14 A No.

15 Q Did it keep getting brought back up by the
16 police?

17 A Yes, ma'am.

18 Q And was all of your conversation with the police
19 recorded or only part of it?

20 A No, ma'am, only part.

21 Q Okay. Let's see, and the circumstances of that
22 interview, were you -- you were facing some pretty serious
23 charges at the time. I think the solicitor already read
24 them out, armed robbery, among other things?

25 A Yes, ma'am.

SHYHEIM LOOPER-CROSS BY MS. HENRY

1 Q And you eventually went to prison for those; is
2 that correct?

3 A Yes, ma'am.

4 Q So, at the time you were interviewed, those
5 charges would have still -- you had just been charged with
6 those, those were still pending?

7 A Yes, ma'am. The other ones, the more serious
8 ones, they hadn't hit me with warrants for those yet.

9 Q All right. But you know that was coming down
10 the pike?

11 A Yes, ma'am.

12 Q Okay. All right. Were you at any point in this
13 conversation with the police under the impression that if
14 you did not say that that shotgun was Babb's that you or
15 your girlfriend would then be charged with the murder?

16 A Yes, ma'am, and/or the gun.

17 Q Okay. So, you were worried that you would get
18 charged with this gun if you did not say it was somebody
19 else's?

20 A Yes, ma'am. Because they tried to threaten me
21 when I was at home and saying if I didn't take the charge
22 for the gun or say somebody that took the charge for it,
23 they was going to charge her with it. And I told them not
24 to try to charge her with anything because she was
25 pregnant at the time, give me all the charges.

SHYHEIM LOOPER-CROSS BY MS. HENRY

1 Q Okay. All right. And then the picture of
2 Curtis that they showed you with your signature on it,
3 okay, did you sign that just saying yeah, this is Curtis
4 Babb?

5 A Yes, ma'am.

6 Q Or did you sign that saying yeah, he gave me the
7 gun?

8 A I signed that stating that was him and I knew
9 who he was.

10 Q Okay. All right. And then when you told the
11 police after talking -- how long did you talk to them?

12 A I can't remember how long it was.

13 Q Was it over 45 minutes, over an hour?

14 A I don't think it was that long. That's long.

15 Q All right. When you told them after the
16 discussion that the gun was Curtis's, were you just trying
17 to protect your family?

18 A Yes, ma'am.

19 Q Okay. And you believe that you would be charged
20 with either that gun or with the subsequent murder if you
21 did not give them Babb's name?

22 A Yes, ma'am.

23 Q And the police were the ones that brought that
24 up?

25 A Yes, ma'am.

SHYHEIM LOOPER-REDIRECT BY MS. GARY

1 Q Did you get the shotgun from Curtis Babb?

2 A No, ma'am.

3 Q Okay.

4 MS. HENRY: All right, I don't have any other
5 questions.

6 THE COURT: Mr. Robinson?

7 MR. ROBINSON: I have no questions.

8 THE COURT: Yes, ma'am.

9 MS. GARY: One question, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. GARY:

12 Q Mr. Looper, do you recall telling the officers
13 who you spoke to on December 22nd, 2016, that you were
14 scared to sign your name to that piece of paper?

15 A Yeah, because I didn't know if they was trying
16 to get me to sign it and use it for anything else saying
17 that I knew him or say that I knew about the case or
18 whatever.

19 Q Okay. So, you do not recall telling them that
20 you felt threatened or that you would be in danger if you
21 signed that statement?

22 A No, not by anybody in the case.

23 MS. GARY: Okay. Thank you, sir.

24 THE COURT: All right, sir, thank you for being
25 here. I appreciate it. You can step down.

1 Okay, do you have any additional witnesses to
2 call this afternoon?

3 MS. OWENS: Thank you, Your Honor. The State
4 calls Investigator Chad Maltby.

5 THE CLERK: Come to the Bible, please, place
6 your left hand on the Bible and raise your right
7 hand.

8 CHAD MALTBY, after being duly sworn, testified
9 as follows:

10 THE CLERK: Please take a seat. State your name
11 for the record.

12 THE WITNESS: My name is Chad Maltby.

13 DIRECT EXAMINATION

14 BY MS. GARY:

15 Q Investigator Maltby, good afternoon. If you
16 would, please, tell this jury where you work.

17 A I'm employed with the Greenville County
18 Sheriff's Office.

19 Q Okay. What's your assignment today?

20 A I'm currently a sergeant on uniform patrol.

21 Q What do you do on a daily basis?

22 A I supervise uniform patrol deputies.

23 Q What was your assignment in December of 2016?

24 A At that time, I was an investigator assigned to
25 the criminal investigation division, the armed robbery

1 unit.

2 Q What were your duties in that post?

3 A We would -- we would investigate mainly all
4 violent crimes.

5 Q Okay. Were you actively investigating violent
6 crimes on December 21st, 2016?

7 A Yes, ma'am.

8 Q Okay. Investigator Maltby, were you involved in
9 the investigation of the case that brings us here today?

10 A I was.

11 Q Okay. Let's start with the first thing you did.
12 Did you accompany Investigator McCalmont to [REDACTED] Shemwood
13 Crossing, Apartment [REDACTED] on December 9th of 2016?

14 A Yes.

15 Q And did y'all execute the search warrant at that
16 apartment?

17 A Yes.

18 Q Do you recall speaking with a lady by the name
19 of Kia Sims?

20 A I do not recall with her, no.

21 Q Okay, that's fine. We've heard some testimony
22 about an interview involving a man by the name of Damean
23 Wideman. At some point, Investigator, did you interact
24 with Mr. Wideman?

25 A Yes, ma'am, I did.

1 Q Did you drive him to a location in Greenville
2 County?

3 A Yes. Myself and Investigator Stanton drove him,
4 taking his directions, where he took us to [REDACTED] Shemwood
5 Lane and pointed out an apartment there at the apartment
6 complex.

7 Q Who did believe -- or who did he tell you lived
8 in that apartment?

9 A Mr. Curtis Babb.

10 Q Okay. While you were interacting with
11 Mr. Wideman, did you encourage him to tell anything to the
12 police?

13 A No, ma'am.

14 Q Did you promise him anything at all?

15 A No, ma'am.

16 Q Did you have him sign a statement at all?

17 A No, ma'am.

18 Q At some point while the investigation of this
19 case was going on, Investigator, were you also
20 investigating some unrelated armed robberies involving a
21 man by the name of Shyheim Looper?

22 A I was, yes, ma'am.

23 Q Where did those -- generally speaking, where did
24 those cases occur?

25 A There was several cases, but they were all

1 within Greenville County.

2 Q Okay. Well, I jumped a little bit ahead of
3 myself, let me go back, Investigator. Did you go to the
4 home of a lady by the name of Kimeka Mayes?

5 A Yes, ma'am.

6 Q When did you do that?

7 A That would be on December 15th.

8 Q Of 2016?

9 A Yes, ma'am.

10 Q Do you recall where you went to speak with her?

11 A It was [REDACTED] Shemwood Lane, I believe, Apartment
12 [REDACTED].

13 Q Was that her home?

14 A Yes, ma'am.

15 Q Did you and another investigator speak with
16 Ms. Mayes?

17 A I did, myself and Investigator Stanton.

18 Q For what purpose were you at her home?

19 A We were there to conduct a search warrant in
20 reference to the case we're here for today.

21 Q Were you looking for Curtis Babb?

22 A Yes.

23 Q Okay. Did you record your conversation with
24 Ms. Mayes?

25 A Yes, ma'am, it was audio recorded.

1 Q All right. Have you reviewed that recording
2 prior to coming to court?

3 A I have, yes.

4 Q Is it an accurate depiction of the conversation
5 you and that other investigator had with Ms. Mayes?

6 A Yes, ma'am, it is.

7 Q Has it been altered at all?

8 A No, ma'am.

9 (WHEREUPON, State's Exhibit No. 41 was marked
10 for identification only.)

11 MS. GARY: Your Honor, at this time, the State
12 would seek to admit State's Exhibit No. 41 and
13 publish the same to the jury?

14 THE COURT: Yes, ma'am.

15 MS. HENRY: Just the objections I've already
16 made prior to the jury being in here.

17 THE COURT: Okay. This is different from, I
18 believe, Exhibit 39 that we talked about, the phone
19 calls, correct?

20 MS. HENRY: Correct. This is the Kimeka Mayes
21 interview, I believe, that we discussed.

22 THE COURT: Yes, ma'am. Yes, ma'am. Now, we
23 talked about those specific redactions, correct?

24 MS. GARY: Yes, sir.

25 THE COURT: And we're prepared to make those

1 redactions?

2 MS. GARY: Yes, sir.

3 THE COURT: Objection?

4 MR. ROBINSON: No objection.

5 THE COURT: Okay, you may publish it.

6 MS. GARY: Thank you, Judge. I don't know if
7 Your Honor wants to instruct the jury that these
8 redactions are made subject to your order.

9 THE COURT: I will, but you just did.

10 (WHEREUPON, State's Exhibit No. 41 was admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 41 was
13 published.)

14 BY MS. GARY:

15 Q Now, Investigator, I'll circle back to the --
16 were you investigating crimes committed by Shyheim Looper?

17 A Yes, ma'am, I was.

18 Q Did you participate in a search warrant at ■
19 Shirley Street?

20 A I did, yes.

21 Q Was that on December 21st, 2016?

22 A Yes, ma'am.

23 Q Okay. Did you locate a shotgun at Mr. Looper's
24 home?

25 A Yes.

1 Q Where in his home did you locate that gun?

2 A It was -- if you enter the front door on the
3 ground level, you walk into a living room. Straight ahead
4 would be the hallway and there was a closet to the left
5 off the hallway.

6 Q What did that gun look like?

7 A It was a shotgun. It was black in color or
8 black and blue. It had wood grips, the butt stock had
9 been cut off and then I think the barrel had also been
10 manipulated or cut off.

11 Q Do you recall whether or not it was a
12 bolt-action shotgun?

13 A Yes.

14 Q Have you ever seen a bolt-action shotgun on a
15 scene like this?

16 A I've seen them in personal life, but I don't
17 believe I have in this capacity.

18 Q Okay. Did you collect that gun?

19 A Yes.

20 Q Did you later submit it to property and
21 evidence?

22 A Yes, ma'am.

23 Q All right, sir, I'm going to show you what's
24 been identified as State's Exhibit 40 and ask if you
25 recognize that?

1 A Just from the labels, yes.

2 Q You can open it, that's fine.

3 A Yes, ma'am, this is the shotgun.

4 Q Other than having been made safe for court
5 today, is it in the same condition it was in when you
6 obtained it?

7 A Yes, ma'am.

8 Q Okay.

9 MS. GARY: Your Honor, at this time, the State
10 would offer Exhibit 40 into evidence.

11 THE COURT: Objection?

12 MS. HENRY: Your Honor, subject to the same
13 objections I've made with the shotgun the entire
14 case.

15 THE COURT: Yes, ma'am.

16 Mr. Robinson?

17 MR. ROBINSON: No objection, Your Honor.

18 THE COURT: Okay. All right, I respectfully
19 overrule the objection, keep the prior ruling and
20 admitted into evidence.

21 (WHEREUPON, State's Exhibit No. 40 was admitted
22 into evidence.)

23 MS. GARY: Thank you, Your Honor.

24 BY MS. GARY:

25 Q Investigator, if you would take that gun out of

1 that bag?

2 A (The witness complies.)

3 Q Again, of course, sir, what is that lock that we
4 can see on State's Exhibit 40?

5 A This here?

6 Q Yes, sir.

7 A This is just a gun lock that renders the weapon
8 safe.

9 Q Would that have been added after you took
10 custody of this weapon?

11 A Yes, ma'am.

12 Q Okay. Does that ensure that that cannot fire?

13 A Correct. So, it won't fire and it's safe while
14 it's in the evidence process.

15 Q Thank you. What about that gun tells you that
16 it is a bolt-action shotgun?

17 A This part right here would actually be the bolt.
18 This round part will be the handle and the bolt slides
19 forwards and backwards.

20 Q In what type of bag was that gun when you found
21 it in Mr. Looper's closet?

22 A There was a bag at the house, it was a Jansport
23 camouflaged bag that had -- it was very distinct. It had
24 orange -- the ends of the zippers were orange. It had
25 certain pockets. So, black Jansport camo.

1 Q At some point, sir, did you have an interview
2 with Shyheim Looper?

3 A Yes, ma'am.

4 Q When and where did you do that?

5 A At the Greenville County Law Enforcement at the
6 CID interview room.

7 Q We've heard some testimony, but what is CID?

8 A Criminal Investigations Division.

9 Q When did you talk to Mr. Looper?

10 A That was on the 22nd of December.

11 Q In 2016?

12 A Yes, ma'am.

13 Q Did you ask Mr. Looper where he got that gun?

14 A I did.

15 Q Did you ask him what type of bag it was in when
16 he got it?

17 A I did.

18 Q Okay. Where did he tell you he got that gun?

19 A He got the gun from a male that he had known
20 somewhere around a year that he named as Curt who was some
21 type of relation to his baby's mother.

22 Q Did you -- did you have information prior to
23 speaking to Mr. Looper that that gun had come from Curtis
24 Babb?

25 A Absolutely not.

1 Q Did you suggest to him that he should tell you
2 it came from Curtis Babb?

3 A No, ma'am.

4 Q Did Investigator McCalmont suggest to Mr. Looper
5 that he should say that gun came from Curtis Babb?

6 A No, ma'am.

7 Q Okay. Did you show him a picture of Curtis
8 Babb?

9 A I did. Investigator McCalmont and I did.

10 Q Okay. Did he indicate to you that the person in
11 that photo was the person whom he knew as Curt?

12 A He did numerous times.

13 Q Describe for the jury, if you would,
14 Mr. Looper's demeanor when he was identifying that
15 photograph and signing it?

16 A He was a little reluctant.

17 Q Did he tell you why he was reluctant?

18 A He was in fear.

19 Q Of whom was he in fear, sir?

20 A Of Mr. Babb.

21 Q Okay. Did Mr. Looper tell you when and where he
22 got that gun from Curtis Babb?

23 A He did. He stated -- this would be on the 22nd,
24 he stated that it was -- in his terms, the words were, I
25 believe, a week -- the week prior. And as far as where

1 they were, he said it was either Shemwood Apartments or
2 the Butler community.

3 Q Just so we're clear, a week prior to what date,
4 sir?

5 A To December 22nd, '16.

6 Q Are both Shemwood and Butler area, are those
7 both here in Greenville?

8 A Yes, sir.

9 Q Investigator Maltby, did you interview -- excuse
10 me, did you record your interviews with Mr. Looper?

11 A Yes, ma'am, I did.

12 Q Did you record them in their entirety?

13 A Yes, ma'am.

14 Q Okay. Have you reviewed both of them prior to
15 coming to court today?

16 A I have.

17 Q Just so I make sure the jury understands, did
18 you have two occasions to interview Mr. Looper on the same
19 day?

20 A Correct. The first occasion was -- like we
21 spoke earlier, was at the criminal investigation division.
22 The second one was at the -- outside of the detention
23 center, which it's in a blood alcohol room is where it's
24 operated and maintained by SLED, the South Carolina Law
25 Enforcement Division.

1 Q Why did you choose that room?

2 A It's got audio and video recording.

3 Q And again, were both of your conversations with
4 Mr. Looper audio and video recorded?

5 A Yes, ma'am, they were.

6 Q And those were the recordings you reviewed prior
7 to court today?

8 A Correct, yes, ma'am.

9 Q Have any of them been altered in any way?

10 A No, ma'am.

11 (WHEREUPON, State's Exhibits Nos. 42 & 43 were
12 marked for identification only.)

13 MS. GARY: Your Honor, at this time, the State
14 would seek to admit Exhibits 42 and 43 into evidence.

15 THE COURT: Objection, ma'am?

16 MS. HENRY: Your Honor, I have no objection to
17 their authenticity, but I do object to their
18 admissibility and the proper redactions among other
19 things that would need to be taken up.

20 THE COURT: Okay.

21 Mr. Robinson?

22 MR. ROBINSON: No objection, sir.

23 THE COURT: All right, so we can treat these
24 like we treated No. 39. I haven't seen them, I don't
25 know what's on them, I don't know what may be

1 objectionable. But just like the other ones that we
2 discussed earlier, this evening or early tomorrow
3 morning when y'all get up at about 3:30 in the
4 morning and start working back on this case, y'all
5 can look and you can determine by agreement what
6 should be redacted and what should not be redacted.
7 Then when we get here in the morning, if there's an
8 agreement, then we can move forward with publication.

9 I accept the authenticity and I admit it for
10 purposes of identification at this time. If there
11 are disagreements with respect to what should be
12 redacted, then we'll handle that when we reconvene
13 tomorrow morning.

14 There are two tapes?

15 MS. GARY: Yes, sir.

16 THE COURT: How long are they?

17 MS. GARY: The first is 15 minutes, the second
18 is significantly shorter.

19 THE COURT: Okay. All right. I just want to
20 make sure that everything that we're presenting to
21 the jury going forward is very surgical and
22 specifically designated to address issues, relevant
23 issues in the case. Because I don't want to take up
24 any more of their time with videos or any evidence --
25 and I'm not just saying this to the State, I'm

1 talking to everybody, if they don't need to hear it
2 to make a decision in this case. So, I want to very
3 surgical about it.

4 MS. GARY: And to that point, I was prepared to
5 only offer a portion of each, the relevant portions,
6 but we will take that up.

7 THE COURT: Yeah, y'all talk about that.
8 Because once the cat's out of the bag, there's
9 nothing I can do about it. And if y'all don't have
10 some type of understanding or agreement, then there
11 may be an issue. But again, portions of it I believe
12 are appropriate for publication and will be published
13 tomorrow, but I don't want to get to a point where
14 we're having to start and stop it because there are
15 issues that we need to resolve, okay.

16 MS. GARY: Thank you, Judge.

17 BY MS. GARY:

18 Q Investigator, after speaking with Mr. Looper,
19 where did you put this shotgun?

20 A It was entered into property and evidence.

21 Q Did that conclude your involvement in this case
22 or any relationship to this case?

23 A Yes, ma'am.

24 Q Okay.

25 MS. GARY: I believe those are all my questions.

CHAD MALTBY-CROSS BY MS. HENRY

1 Please answer any questions the Defense attorneys
2 might have. Thank you, sir.

3 CROSS-EXAMINATION

4 BY MS. HENRY:

5 Q All right. Officer Maltby, okay, so you were
6 involved in prosecuting and interviewing Shyheim Looper?

7 A Yes.

8 Q You were also involved in, I guess, riding
9 around with Damean Wideman?

10 A Yes.

11 Q Okay. Then you were also the person that
12 interviewed Kimeka Mayes?

13 A Yes.

14 Q All right. So, you were involved in a lot, the
15 Babb case, the Looper case, you're involved with Wideman;
16 is that accurate?

17 A Yes.

18 Q Okay. And it's also your testimony that you
19 taped your interview with Ms. Mayes?

20 A Yes.

21 Q Okay. So, on the tape that was played, it says,
22 Tell me what you told me before. So, clearly, you did not
23 tape your entire interview with Ms. Mayes. You just taped
24 a small portion of the interview; is that accurate?

25 A I wouldn't say that's accurate completely,

CHAD MALTBY-CROSS BY MS. HENRY

1 ma'am.

2 Q You said on the tape, Tell me what you told me
3 before.

4 So, your entire conversation with Ms. Mayes
5 is not taped; is that true.

6 A The voice on the tape saying that is
7 Investigator Stanton. The actual interview, the entire
8 interview was recorded. The entire -- the entire time we
9 were at the residence, which prior to the interview was
10 securing the residence and serving the search warrant.
11 So, the conversations that occurred at that point were not
12 recorded.

13 Q Okay. So, yes?

14 A You're calling it an interview, but a
15 conversation and interview in my mind, my opinion, are two
16 separate things.

17 Q Let's caveat it then. Your entire conversation
18 with Ms. Mayes was not recorded?

19 A That's correct.

20 Q Okay. You also -- I think you just said this,
21 but you interviewed -- you had conversations with her and
22 all of this is happening while her home is being searched?
23 This all happened at her home, right? This wasn't at the
24 detention center or anywhere else?

25 A Correct, it was at her residence, yes.

CHAD MALTBY-CROSS BY MS. HENRY

1 Q All right. Then you were the person that
2 collected the shotgun?

3 A Yes.

4 Q All right. Did you send it to be fire tested to
5 see if it works?

6 A I don't recall if I did that or not.

7 Q You don't. Would your report help?

8 A I don't believe I did. Because I wasn't the
9 lead investigator on that specific case. I mean, it was
10 seized, it was seized under my investigation for the
11 robbery portion with Mr. Looper. So, I seized it and it
12 was determined to be related or possibly related to this
13 incident that we're here for today. I informed
14 Investigator McCalmont, who was the lead investigator for
15 that case. So, I don't believe that was done by me.

16 Q Okay. So, I'm summing that you also didn't have
17 it fingerprinted or have it DNA tested? You would have
18 passed that off to McCalmont?

19 A I believe so. I don't recall having -- you
20 know, requesting that.

21 Q Okay. And then I do want to ask you again about
22 this. It's my understanding from reading the report that
23 you contacted McCalmont after you found Deashia Babb's ID
24 and that's how you made the connection, not the
25 conversation with Shyheim Looper. But you found her ID

CHAD MALTBY-CROSS BY MS. HENRY

1 during the search of their house and that's when you
2 suggested to McCalmont that that shotgun might be related?

3 A No, he -- when I interviewed Mr. Looper, that
4 interview was the day after the shotgun was seized and the
5 search warrant was completed at that residence. My
6 intentions for that interview were to determine possession
7 of this weapon because of its condition to determine
8 charges in reference to this weapon from the seizure as
9 well as this weapon possibly being involved in incidents
10 that I was investigating. When Mr. Looper told me the
11 name Babb or Curtis, that was the first time in my mind I
12 ever correlated these two cases.

13 Q Okay.

14 MS. HENRY: I don't have any other questions.

15 THE COURT: Mr. Robinson.

16 MR. ROBINSON: I have no questions, Your Honor.

17 THE COURT: All right. Redirect, ma'am?

18 MS. OWENS: No, sir, Judge. Thank you.

19 THE COURT: Thank you, Officer. I appreciate
20 you being here. You may step down.

21 Have additional witnesses this afternoon?

22 MS. OWENS: Yes, sir, at this time, the State
23 calls Lieutenant Pendergrass to the stand.

24 THE CLERK: Place your left hand on the Bible
25 and raise your right hand.

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 ROBERT PENDERGRASS, after being duly sworn,
2 testified as follows:

3 THE CLERK: Thank you. Please take a seat and
4 state your name for the record.

5 THE WITNESS: My name is Robert Pendergrass.

6 DIRECT EXAMINATION

7 BY MS. GARY:

8 Q Good afternoon, Lieutenant Pendergrass. Where
9 do you work, sir?

10 A I work for Greenville County Detention Center.

11 Q What is your job title at the detention center?
12 I'm a lieutenant, I'm over the religious program, the JIP,
13 programs and I manage our Smart Jail System through Smart
14 Communications.

15 Q What is your Smart Jail System?

16 A It's a system that allow the inmates to
17 communicate with their families, a email system, messages
18 and phone calls. And it's also a place where they get to
19 have post mail from.

20 Q The Smart Jail System, how long has the
21 detention center used that system?

22 A Approximately about year and a half.

23 Q Have you been -- specifically, are you over that
24 program?

25 A Well, I manage it. I'm not completely over it

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 because it's managed offsite.

2 Q Okay. Would you consider yourself the custodian
3 of records of that program?

4 A Yes.

5 Q Okay. Tell the jury about what you do as it
6 relates to the Smart Jail Program?

7 A I'm the individual that approves all emails, the
8 photos and the messages -- well, not the messages because
9 that goes directly to the individual. If they have
10 problems with the kiosk, they will write me and I'm the
11 one that straightens all that out for them.

12 Q Where in the detention center can an inmate
13 access the Smart Jail System?

14 A He can only access it in the area that he's
15 housed.

16 Q Do they have computers there?

17 A Yes, they have kiosks.

18 Q How does an inmate set up an account in the
19 Smart Jail Email System?

20 A Well, once he gets in certain housing, he has to
21 set it up with his own password, recovery word in case he
22 forgets his password and his ID.

23 Q When an inmate wishes to send an email or
24 believes he or she has an email to read, what information
25 does that person have to put into the Smart Jail System in

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 order to access it?

2 A His password.

3 Q Okay. And you said that is a password the
4 inmate would create himself?

5 A That's correct.

6 Q Is this a secured system, sir?

7 A It is a secured system.

8 Q For how long does the detention center retain
9 records related to the Smart Jail System?

10 A Seven years from the last time that individual
11 was active at the jail.

12 Q Seven years?

13 A Yes.

14 Q Are those records saved on site?

15 A No, ma'am.

16 Q Okay. And do you, sir, personally as the
17 custodian of these records have access to all stored
18 emails from the Greenville County Detention Center?

19 A Yes. I can only view them.

20 Q Right. Are you able to alter them?

21 A No, ma'am.

22 Q Is anyone on your staff or at the detention
23 center able to alter them?

24 A No, ma'am.

25 Q When an inmate sets up an account, does he or

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 she have to enter their name?

2 A Yes, and their password and ID number.

3 Q So, their account would be associated with their
4 name; is that correct?

5 A Yeah, assign a specific ID number to them.

6 Q Would the same happen -- so can someone who's
7 not incarcerated create an account in the Smart Jail
8 System?

9 A They would, but they would be considered like a
10 [verbatim]. They would be given a specific ID number
11 themselves.

12 Q And again, would an email that they send or
13 receive have their name attached to it?

14 A Yes, the sender name, it would have the sender
15 name to it.

16 Q Okay. Lieutenant Pendergrass, did you, again,
17 in your role of custodian of records, of these records,
18 did you perform a search of your system for a specific
19 email date of February 28th, 2019, having been sent by
20 William Fordham Brown?

21 A Yes.

22 Q Okay. And is the subject of that email, the
23 word Kuzzo, K-U-Z-Z-O?

24 A Can you repeat that, please, ma'am?

25 Q Is the subject of that email the letters re and

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 then, of course, a colon and then the word Kuzzo,
2 K-U-Z-Z-O?

3 A Who would that be from, if you don't mind me
4 asking?

5 Q It was being sent by William Fordham Brown.

6 A Who was it sent to?

7 Q An Andrea Wagner.

8 A I'm searching if you don't mind, please. Yes, I
9 have it here.

10 Q What is the date of that email that you accessed
11 from your system?

12 A The date of the email is February 28th, 2019, at
13 4:14 p.m.

14 Q Okay. And were you able, through your access to
15 the Smart Jail Email System, to determine that email was
16 sent by the email account from William Fordham Brown?

17 A Yes, ma'am.

18 Q Okay. Obviously, you brought a copy of that
19 with you today; is that correct?

20 A That is correct.

21 Q And I'll get that from you in a moment, sir.
22 Lieutenant Pendergrass, under your access to the Smart
23 Jail Email Account, are you also able to do a keyword
24 search?

25 A Yes, I am.

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 Q Can you do a keyword search of the whole system?

2 A Yes, under a certain individual, yes.

3 Q So, you can do a keyword search of any emails
4 sent by or to a particular inmate?

5 A That's correct.

6 Q Sir, did you also do a -- did you do a keyword
7 search in this case?

8 A Yes, I did.

9 Q And whose account did you search through?

10 A William Fordham Brown.

11 Q And for what word -- did you do a search for the
12 word Deuce?

13 A That's correct.

14 Q How many emails did your system produce
15 containing the word Deuce?

16 A Forty-seven pages.

17 Q Again, those are all attributed by you to the
18 email account belonging to William Fordham Brown?

19 A That's correct.

20 Q Okay. I will take both of those items from you.
21 Thank you.

22 (WHEREUPON, State's Exhibit No. 44 was marked
23 for identification only.)

24 BY MS. GARY:

25 Q Lieutenant Pendergrass, when we performed both

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 of those searches, of course, you printed out your
2 results; is that correct?

3 A That's correct.

4 Q Are those the two items that you brought with
5 you here today?

6 A Yes, ma'am.

7 Q Are they fair and accurate representations of
8 the information you found in the Smart Jail System?

9 A That's correct.

10 Q Again, as it relates to your search of the email
11 account of William Fordham Brown?

12 A Yes, ma'am.

13 Q Both items are accurate representations?

14 A That's correct.

15 Q And as you've already testified, are you able to
16 alter anything in that system at all?

17 A No, ma'am.

18 Q Have you, in fact, alter any of these?

19 A No, ma'am.

20 (WHEREUPON, State's Exhibit No. 45 was marked
21 for identification only.)

22 MR. ROBINSON: I have an objection, Judge. This
23 is in third person. I'd like to have a matter
24 outside the presence of the jury.

25 THE COURT: Tell me what your objection is.

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 MR. ROBINSON: Your Honor, it's not from
2 Mr. Brown, it's someone talking in the third person.
3 That's why I have an objection.

4 THE COURT: All right, let me see it. Okay. I
5 find that it's been appropriately authenticated. It
6 appears from the face of the document that it's from
7 William Fordham Brown with a designated inmate
8 number, whom this witness testifies is the specific
9 inmate on whom he did a specific word search.
10 Therefore, respectfully, I'll overrule the objection
11 and allow it in.

12 MS. GARY: Your Honor, with this witness having
13 identified State's Exhibits 44 and 45, subject to
14 Your Honor's prior concern about redactions, we will
15 wait on admission and publication of the same.

16 THE COURT: Okay.

17 MS. GARY: Those would be all of my questions
18 for you, sir. If you'd answer any questions --

19 THE COURT: Now, I want to make sure, I was
20 looking at one of the exhibits. That was 44?

21 MS. GARY: Yes, sir.

22 THE COURT: There's an additional 45?

23 MS. GARY: That's correct.

24 THE COURT: Now, Mr. Robinson, do you have
25 objections with respect to 45?

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 MR. ROBINSON: I'd like to see it first. The
2 objection I have, Your Honor, is relevance in this
3 case. I'm not seeing the relevance. And a 403
4 objection as well.

5 THE COURT: What's the relevance?

6 MS. GARY: Your Honor, these are emails --
7 State's Exhibit 45 contains emails sent by
8 Mr. William Fordham Brown containing continuous and
9 repeated references to himself as Deuce. We do
10 believe that is important for identification in this
11 case.

12 MR. ROBINSON: Judge, if I can respond to that?

13 THE COURT: Sure.

14 MR. ROBINSON: I can see one thing saying Deuce,
15 but 40 something pages of Deuce along with some stuff
16 that's kind of very irrelevant in this case. And --

17 THE COURT: So, with respect to that exhibit,
18 I'll admit it for purposes of identification. Y'all
19 look through it. I do think that Mr. Robinson has a
20 point. It may just be cumulative if there are just
21 several pages that include the name. And the concern
22 that I have in that volume of email transmission,
23 there may be something in there that's not
24 appropriate for the jury to see. I don't know, but
25 without inspecting it a little bit closer, I'm

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 reluctant to just say wholesale, let's put it all in,
2 okay?

3 MS. GARY: Yes, sir. And, certainly, if
4 Mr. Robinson were to stipulate that his client's
5 nickname was Deuce, we would not have this issue.

6 THE COURT: I understand.

7 MR. ROBINSON: We stipulate to that, Judge.

8 THE COURT: You make that stipulation?

9 MS. GARY: Yes, sir.

10 THE COURT: Okay. All right, ladies and
11 gentlemen, a stipulation is an agreement among the
12 parties to a certain fact. The specific fact to
13 which these parties agree is that Mr. William Shane
14 Fordham Brown's nickname is Deuce. And you,
15 generally, are the finders of fact -- well, you
16 absolutely are the finders of fact. You look at the
17 evidence and you decide what the facts are based on
18 the evidence. This is something which you don't have
19 to make any deductions or analysis or weigh. They've
20 stipulated that his nickname is Deuce. And you can
21 accept that as a fact. You don't have to consider
22 that for purposes of deliberations anymore.

23 Okay. Anything else?

24 MS. GARY: Not from this witness, no sir. Thank
25 you.

ROBERT PENDERGRASS-DIRECT BY MS. GARY

1 me conclude them tomorrow morning, I'd be happy to.

2 THE COURT: Is the next one going to be very
3 brief?

4 MS. OWENS: I expect so.

5 THE COURT: Okay. Let's take one more this
6 afternoon so we'll be one more closer to being able
7 to wrap up.

8 MS. OWENS: Yes, sir, thank you. State calls
9 Mr. Chris Shipman.

10 THE CLERK: Place your left hand on the Bible,
11 and raise your right hand.

12 CHRIS SHIPMAN, after being duly sworn, testified
13 as follows:

14 MR. SHIPMAN: Your Honor, I believe I have a
15 matter to take up out of the presence of the jury as
16 it relates to my testimony.

17 THE COURT: Okay. All right.

18 Ladies and gentlemen, I'm going to ask you to
19 retire for just a few minutes. If I see that this is
20 going to take longer, I'm going to release you and
21 tell you come back at 9:00, okay. But if we can get
22 through it fairly quickly, then I'll bring you back
23 in here and we'll try to get through his testimony
24 this afternoon, thank you.

25

1 (WHEREUPON, the jury left open court at
2 approximately 6:00 p.m.)

3 THE COURT: Yes, sir, Mr. Shipman.

4 MR. SHIPMAN: Should I sit here or you want me
5 to --

6 THE COURT: However you want to do it is fine
7 with me. Your Honor; my understanding is that
8 Mr. Wells, my former client, has pled the Fifth. My
9 understanding, the State is wanting me to present an
10 original of a letter that Mr. Wells gave me at the
11 jail. I believe that since he's pleaded the Fifth
12 that I can't then go behind his back, so to speak,
13 and kind of do a wrap around his right to remain
14 silent in this case. I believe that under Rule 4.9
15 of the Rules of Professional Conduct that I'm not
16 taking any adverse action to his interest and I
17 believe this would constitute that, among the
18 exceptions are that in the crime [verbatim], things
19 of that nature. But there's no exception for what
20 the State is asking me to do, so I don't believe I
21 can ethically do it. I believe I'm covered by his
22 Fifth Amendment assertion as well.

23 THE COURT: Okay, I've read the letter. It's
24 not a letter that was penned by your client,
25 Mr. Wells. It's not a letter in which he makes any

1 assertions. So, I'm not certain that -- well,
2 actually, I am certain his Fifth Amendment privileges
3 don't attach to the letter.

4 Now, Ms. Owens, you're going to have to tell me
5 if I'm wrong, but I think the purpose of you
6 introducing this evidence into the record is for
7 authentication of the handwritten letter.

8 MS. OWENS: That's correct. It's twofold.
9 While the large part is basic authentication and
10 anticipation of Mr. Jack Jamieson's testimony
11 tomorrow regarding this document, I think it's
12 important for this jury to know should there be
13 insinuation that this letter could have been
14 fingerprinted or otherwise processed, that I, the
15 State, have not had access to this letter, even at
16 this moment. So, those are the two reasons that I'd
17 inquire and the reason that I asked Mr. Shipman to
18 appear and deliver that letter. I received a copy,
19 obviously, months and months ago. So, to the extent
20 that this letter is somehow problematic, I already
21 have it.

22 THE COURT: Yeah, I understand. I understand.
23 The position of the Defense?

24 MS. HENRY: I mean --

25 THE COURT: I know he's asserted his position

1 fairly clearly.

2 MS. HENRY: I don't have anything to add to the
3 fact that we would certainly say the Fifth Amendment
4 does attach and that it does seem like it's a
5 violation of his profession responsibilities.

6 MR. ROBINSON: I concur with Ms. Henry.

7 THE COURT: All right. So, I don't know if
8 Mr. Shipman is going to be able to authenticate it.
9 I mean, I have no idea how he received it, in what
10 form, whether he had the chance to look at it or not,
11 whether it was sealed. I have no idea. So, his
12 testimony may be I don't know, I've never seen this
13 before. I have no idea. I don't know how he got it,
14 I don't know anything.

15 But with respect to the Fifth Amendment
16 privilege that was asserted by Mr. Wells, I have had
17 the opportunity pretrial to review this letter. And
18 there are no representations of any sort made by
19 Mr. Wells on the letter, therefore, I don't believe
20 it's violative of his Fifth Amendment privileges.
21 Also, inasmuch as your representation of him has
22 terminated and he is no longer before the Court for
23 criminal charges pending on this matter.

24 MR. SHIPMAN: Your Honor, he actually has
25 several pending charges -- or not pending anymore,

1 they were not prosed by the State, but could be
2 revived at any time. So, I think he's still facing
3 possible future criminal liability. And I think this
4 would also require me to breach attorney/client
5 confidentiality if it's not privilege under
6 attorney/client privilege. I mean, I'm certainly not
7 saying that the letter is communication from him to
8 me for legal advice, but it was -- he and I discussed
9 this matter privately at the jail. I believe it's
10 still covered by attorney/client confidentiality.

11 THE COURT: And to whom was it turned over?

12 MR. SHIPMAN: Your Honor, a copy was turned over
13 to the State for purposes of plea bargaining and also
14 to prevent a threat. I believe had we gone to trial
15 for him, it would have been inadmissible for those
16 purposes, but pursuant to plea negotiations,
17 involving attorney and prosecutor. But now, I think
18 it's more broadly covered by the confidentiality
19 restrictions and I think I would have to breach my
20 duty to my client in order to honor the subpoena here
21 today, Your Honor.

22 THE COURT: Does your client not waive that
23 privilege when he asked you to turn it over to the
24 State?

25 MR. SHIPMAN: Well, Your Honor, perhaps, the

1 contents of the letter, which they already have. If
2 they're asking me under what conditions I received
3 it, under what conditions I turned it over, I think
4 that's all confidential.

5 THE COURT: I agree with that. I mean, I think
6 it's very limited what they can do. Do you recognize
7 this letter? Yeah. All right. If there are
8 questions from the Defense about whether, in fact,
9 your authentication is appropriate, then they can ask
10 those questions and you may start getting into some
11 of that, but I doubt it. Just know that this ruling
12 stands for proposition, I am not going to make you or
13 require you or suggest in any way, shape or form that
14 you should breach a lawyer/client privilege and that
15 confidentiality. But to the extent that this letter
16 that your client asked you to turn it over to the
17 State, for whatever purpose, he waives that
18 confidentiality with respect to that letter and that
19 letter alone. I'm not asking you to make -- I'm not
20 asking you anything. I'm restricting the State from
21 asking you any questions that bear upon conversations
22 that you may have had or any confidential discussions
23 between the two of them. It's simply authentication.
24 Authentication.

25 Yes, ma'am.

1 MS. HENRY: Your Honor, if that is the case, if
2 you're restricting him from commenting on
3 conversations that he had with Connell Wells, I don't
4 know how he can authenticate this letter appropriate
5 because all he can say is he got it from Connell
6 Wells, not how Connell receive it, not what Connell
7 told him about it, which I think would be required to
8 authenticate the letter in this situation. So, if
9 the restriction is that he cannot discuss what
10 Connell Wells told him about the letter, which I
11 think is appropriate, then I don't understand how he
12 can possibly authenticate the letter even being
13 received by Connell Wells.

14 THE COURT: Okay, fair enough.

15 MS. HENRY: That would be -- that -- I think
16 that would be seriously confusing and I think that
17 would not be an appropriate authentication.

18 THE COURT: Okay, fair enough. I note your
19 objections for the record. I note your exceptions
20 that you take as well. What I would tell you is you
21 can make contemporaneous objections as the questions
22 are posed. But I think it's appropriate to ask do
23 you know what this letter is, what is this letter?
24 This is a letter that my client received while he was
25 incarcerated. Did he give you this letter? Yes.

1 MR. SHIPMAN: Your Honor, I don't believe I can
2 say that he received it, I can say I received it from
3 him. But to say he received it would be implying
4 conversation.

5 THE COURT: I'm not trying to coach you how to
6 get around all those privileges, I'm just saying,
7 generally speaking, I think that's appropriate.

8 MR. SHIPMAN: Thank you, Your Honor.

9 THE COURT: All right. Bring the jury, please.

10 (WHEREUPON, the jury came into open court at
11 approximately 6:05 p.m.)

12 THE COURT: Okay. All right, you may proceed.

13 MS. OWENS: Thank you, may it please the Court?

14 THE COURT: Yes, ma'am.

15 DIRECT EXAMINATION

16 BY MS. OWENS:

17 Q Mr. Shipman, did you represent Mr. Connell Wells
18 for charges related to the incident that is the subject of
19 this trial?

20 A I did.

21 Q During your representation of Mr. Wells, did you
22 receive some documents from him?

23 A I did.

24 Q I'm going to show you State's Exhibit 22, do you
25 recognize that item?

CHRIS SHIPMAN-DIRECT BY MS. OWENS

1 A I do.

2 Q How do you recognize it?

3 A It is an item I received.

4 Q Did you deliver State's Exhibit 22 to law
5 enforcement in March of 2017?

6 A I don't recall the month.

7 Q Nonetheless, did you deliver it to law
8 enforcement?

9 A I did.

10 Q Specifically, did you deliver it to Investigator
11 Chris McCalmont?

12 A Yes.

13 Q Do you have the original?

14 A Of that?

15 Q No, sir, have you received a subpoena in this
16 case.

17 A I have.

18 Q Did the subpoena command that you bring an
19 original copy of a letter that you received during the
20 course of your representation of Mr. Wells?

21 A It did.

22 Q Do you have that letter?

23 A I do.

24 Q Could I please have it?

25 (WHEREUPON, State's Exhibit No. 46 was marked

CHRIS SHIPMAN-CROSS BY MS. HENRY

1 for identification only.)

2 BY MS. OWENS:

3 Q With respect to State's Exhibit 46, have you
4 retained that document since having received it?

5 A I have.

6 Q At some point during the course of your
7 representation of Mr. Wells, did you provide a photo copy
8 of that document to the State?

9 A I did.

10 Q Have you ever before today's date provided the
11 original of that document to anyone?

12 A I have not.

13 MS. OWENS: I don't have any additional
14 questions, Your Honor.

15 THE COURT: Ms. Henry, questions?

16 CROSS-EXAMINATION

17 BY MS. HENRY:

18 Q Mr. Shipman, can you tell us who gave Connell
19 that item?

20 A I cannot.

21 Q Can you tell us when?

22 A I cannot.

23 Q Can you tell us how it was received?

24 A I cannot.

25 Q Can you tell us the manner that it was received?

CHRIS SHIPMAN-CROSS BY MS. HENRY

1 A No.

2 Q Okay. So, essentially, your testimony is that
3 someone else gave Connell it -- I don't even know what
4 your testimony is. So, your testimony is that you got
5 that letter from somebody else? Was that letter sent to
6 you?

7 A No.

8 MS. HENRY: I don't have any other questions.

9 THE COURT: Yes, sir.

10 MR. ROBINSON: No questions.

11 THE COURT: Any redirect?

12 MS. OWENS: No, sir, Your Honor.

13 THE COURT: Thank you, I appreciate your being
14 here.

15 Anything additional today?

16 MS. OWENS: No. We have one more witness
17 tomorrow morning, Your Honor.

18 THE COURT: And if I'm not mistaken, there may
19 be some publication of redacted pieces of evidence;
20 is that correct?

21 MS. OWENS: Yes, Your Honor, as briefly and
22 expeditiously as we can arrange.

23 THE COURT: Okay, good enough.

24 So, Ms. Henry, do you intend to place evidence
25 into the record tomorrow when the State rests?

1 both took the stand yesterday and who is testifying
2 or appearing in the video.

3 Yes, ma'am.

4 MS. OWENS: May it please the Court, Your Honor?

5 THE COURT: Yes, ma'am.

6 MS. OWENS: With respect to State's Exhibit 28,
7 it's a disk of recorded jail phone calls. If you
8 will recall, Officer Moore testified yesterday about
9 the recording system. At that point, the State wants
10 to offer State's Exhibit 28, subject, of course, to
11 the Court's ruling.

12 THE COURT: Yes, ma'am. Now, I'll admit the
13 same subject to those rulings that we made before and
14 subject to objections that have been appropriately
15 and timely posed by both Defense counsel.

16 MS. OWENS: With the Court's permission, I'd
17 like to publish those recordings.

18 THE COURT: Yes, ma'am, you may.

19 (WHEREUPON, State's Exhibit No. 28 was admitted
20 into evidence.)

21 (WHEREUPON, State's Exhibit No. 28 was
22 published.)

23 MS. GARY: May it please the Court, Your Honor?

24 THE COURT: Yes, ma'am.

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

1 would seek to admit State's Exhibit 44. It is an
2 email testified to yesterday by Lieutenant Robert
3 Pendergrass of the Greenville County Detention
4 Center. At this time, the State would seek to admit
5 it subject to the Court's order and publish the same
6 to the jury.

7 THE COURT: Okay, the same may be published
8 subject, of course, to those objections which have
9 been posed previously by the Defense.

10 MS. GARY: Thank you, Judge.

11 (WHEREUPON, State's Exhibit No. 44 was admitted
12 into evidence.)

13 THE COURT: You're welcome, if you'd like to
14 read the substantive portion of it.

15 MS. GARY: Okay, yes, sir. Thank you.

16 (WHEREUPON, State's Exhibit No. 44 was
17 published.)

18 MS. GARY: Thank you, Your Honor.

19 THE COURT: Okay.

20 MS. GARY: Your Honor, at this time, the State
21 would seek to admit State's Exhibit 42. This is a
22 video referenced yesterday by Shyheim Looper and
23 Investigator Chad Maltby. Again, subject to the
24 Court's ruling.

25 THE COURT: You may publish it subject to the

1 objections posed by the Defense.

2 MS. GARY: We seek to admit it at this time as
3 well.

4 THE COURT: Yes, ma'am.

5 MS. GARY: Thank you.

6 (WHEREUPON, State's Exhibit No. 42 was admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 42 was
9 published.)

10 MS. OWENS: Thank you, Your Honor. At this
11 time, the State would also seek to admit State's
12 Exhibit 43, again, another video referenced yesterday
13 by both Shyheim Looper and Investigator Chad Maltby.
14 Subject to the Court's order, of course, we would
15 admit and seek to publish the same.

16 THE COURT: Certainly, you may subject to those
17 objections which have been posed by counsel.

18 (WHEREUPON, State's Exhibit No. 43 was admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 43 was
21 published.)

22 MS. HENRY: Objection, Your Honor.

23 THE COURT: What's the objection?

24 MS. HENRY: Your Honor, that's exactly what we
25 discussed about the statement by police officers.

1 THE COURT: Okay. All right. So, if y'all will
2 approach, please.

3 (WHEREUPON, an off-the-record bench conference
4 was held in the presence of the jury but out of
5 the hearing of the jury.)

6 (WHEREUPON, State's Exhibit No. 43 was continued
7 to be published.)

8 MS. HENRY: Objection, Your Honor, again, it's
9 the same impermissible prior consistent statement.

10 THE COURT: I'll sustain it. I want you to move
11 past that point.

12 MS. GARY: Yes, sir.

13 (WHEREUPON, State's Exhibit No. 43 was continued
14 to be published.)

15 MS. HENRY: Objection, Your Honor.

16 THE COURT: Yeah, I sustained that objection.

17 MS. GARY: Your Honor, we feel we've published
18 the sufficient portion at this time. Thank you so
19 much.

20 THE COURT: Thank you very much.

21 Yes, ma'am.

22 MS. OWENS: May it please the Court, Your Honor,
23 the State calls Jack Jamieson.

24 THE COURT: Okay.

25 THE CLERK: Place your left hand on the Bible

1 and raise your right hand.

2 JACK JAMIESON, after being duly sworn, testified
3 as follows:

4 THE CLERK: Thank you, please take a seat.
5 State your name for the record.

6 THE WITNESS: My name is John Allen Jamieson.
7 Allen is A-L-L-E-N -- or excuse me, A-L-L-A-N, and my
8 last name is Jamieson, J-A-M-I-E-S-O-N.

9 DIRECT EXAMINATION

10 BY MS. OWENS:

11 Q Mr. Jamieson, where do you work?

12 A I work for the South Carolina Law Enforcement
13 Division, commonly known as SLED. And I'm in the
14 forensics lab.

15 Q Yes, sir. How long have you worked for SLED?

16 A A little over two years.

17 Q And what's your assignment?

18 A I'm a questioned document examiner for the
19 laboratory.

20 Q Generally speaking, what does that mean?

21 A My duties includes the examination and
22 comparison of handwriting, handwriting signatures and
23 numerals. I also look at alterations and obliterations
24 and erasures. I also examine pens, papers, inks and
25 pencils. And I examine mechanical impressions. These are

JACK JAMIESON-DIRECT BY MS. OWENS

1 such things as typewriters, check writers, rubber stamps
2 and the like.

3 Q Would you describe for the jury your educational
4 background?

5 A I have a Bachelor of Science in biochemistry and
6 chemistry as well as a certificate in criminology.

7 Q Now, have you received any specific training in
8 the field of analyzing questioned documents?

9 A Yes, in order to become a questioned document
10 examiner is much like an apprenticeship. You study under
11 the tutelage of senior questioned document examiners. The
12 training consist of performing cases that have been cited
13 over the years for demonstration purposes. Also,
14 performing readings, also, writing essays and numerous
15 quizzes and, finally, the board examinations we went
16 through. I started my training in June of 1981.

17 Q Now, do you participate in any ongoing training
18 in the field of analyzing questioned documents?

19 A Yes, there's continuous training all the time.
20 We have a questioned document list that provides papers.
21 It's an electronic email sort of thing. I also attend
22 various scientific meetings throughout the years.

23 Q Do you belong to any particular professional
24 organizations related to your field?

25 A Yes, I'm a member of Southeastern Association of

JACK JAMIESON-DIRECT BY MS. OWENS

1 Forensic Document Examiners. I'm also a member of the
2 Midwest Association of Forensic Scientists.

3 Q In conducting your analysis inside the lab, do
4 you have any particular special instrumentation that
5 assists you in your work?

6 A Yes. In the case of handwriting exams, we have
7 a stereoscopic microscope. This is a microscope that has
8 two eye pieces and two lens at the bottom of it, so it
9 gives you a three-dimensional view of the document so you
10 can see depth in the microscope. It goes up to about 40
11 times. We also have various magnifying glasses. And we
12 also have good light sources so that we can visualize
13 these documents.

14 Q Over the course of your service at SLED in that
15 lab, how many cases do you think you've analyzed
16 questioned documents?

17 A For SLED, maybe a hundred, just as a guess.
18 I've completed over 3500 cases in my career.

19 Q Yes, sir. So, the most recent just at SLED?

20 A Yes.

21 Q Now, are all of your analysis in the questioned
22 document lab of handwriting?

23 A No. About 90 percent of them are handwriting
24 and the rest encompass the other duties.

25 Q How frequently are you asked to make handwriting

JACK JAMIESON-DIRECT BY MS. OWENS

1 comparison?

2 A I don't quite understand.

3 Q Do you receive frequent requests from law
4 enforcement to compare handwriting?

5 A Yes, that's what the questioned document section
6 does. About 90 percent of it, my work is handwriting
7 examination.

8 Q Okay. And I'm sorry, I was unclear. The bulk
9 of the requests that comes to SLED are for handwriting
10 analysis?

11 A Yes, sir.

12 Q Have you ever testified as an expert before in
13 the field of having analyzed questioned documents?

14 A Yes.

15 Q How about many times?

16 A Over 250.

17 Q In any case in which you are asked to analyze
18 documents, what is the process by which you conduct your
19 analysis?

20 A I start off by looking at the known documents,
21 if we're doing a handwriting comparison. I look at the
22 known to see whether it's an original, not photocopies. I
23 also look to see if it contains identifiable features,
24 whether or not these identifiable features are in
25 sufficient quantity to base a comparison. I also then go

JACK JAMIESON-DIRECT BY MS. OWENS

1 through the known documents to make sure they're all
2 written by one writer.

3 I do the same with the questioned. In some
4 cases where we get multiple questioned, I'll go and see if
5 there are original writings, whether or not they contain
6 identification features, whether or not these identifiable
7 features are in present and sufficient quantity upon which
8 to base a comparison. And I also look at the range and
9 variation in both the questioned and known documents.

10 My third phase of the examination is a
11 one-to-one comparison between the known and the questioned
12 documents. Things I'm looking for are the slant or slope
13 of the writings, the style, if any, the system, if any, if
14 I could determine that the handwriting system that they
15 were conducted. I also look at the letter formations,
16 including the initial and final strokes. I also look at
17 the relative heights of the letters, their positioning on
18 the line and format.

19 Q After conducting that process, to which
20 conclusions do you arrive?

21 A I have a range or a spectrum of conclusions.
22 Basically, on either end of the spectrum, we have
23 identification, i.e. the person wrote it. We also have
24 elimination at the other end of the scale, i.e. the person
25 did not write it. Right in the middle of my spectrum, we

JACK JAMIESON-DIRECT BY MS. OWENS

1 have cannot be eliminated or identified. In other words,
2 I don't know one way or the other.

3 Moving out from the center obit, we have
4 indications the person either did or did not write the
5 questioned documents. That means there's a degree of
6 likelihood that the person either did or did not execute
7 the document. Moving further out from that, we have
8 probably wrote or probably did not write. That means
9 there's a high degree of likelihood that the person either
10 did or did not write the document. Moving out from that,
11 we have strong indications. That means that I'm almost
12 certain that either the person did or did not write the
13 document. And then we end up at the end with elimination
14 or identification.

15 MS. OWENS: Your Honor, at this time, the State
16 offers Mr. Jamieson as an expert in the field of
17 questioned document analysis and ask the Court to
18 make a finding that the method by which Mr. Jamieson
19 reaches his conclusions is reliable.

20 THE COURT: Okay. All right. Exceptions or
21 voir dire from the Defense?

22 MS. HENRY: No, Your Honor.

23 MR. ROBINSON: Yes, Your Honor, I have several
24 questions.

25 THE COURT: Okay. You may ask the same, sir.

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 Now, ladies and gentlemen, this is a little
2 unusual because when an expert witness is offered by
3 either side, then the opposing party has the
4 opportunity to voir dire. Basically, what that means
5 is ask them question to challenge his qualifications.
6 So, at this point, I'm allowing Mr. Robinson the
7 opportunity to challenge the qualifications.

8 Yes, sir. You can stay there unless you need to
9 approach him?

VOIR DIRE EXAMINATION

11 BY MR. ROBINSON:

12 Q Is Mr. Jamieson, is that how you pronounce it?

13 A Yes, sir.

14 Q Mr. Jamieson, let me ask you a few questions
15 about yourself. Now, you said that you're --

16 THE COURT: Y'all can leave it where it is.
17 I'll adjust the volume and I can adjust that
18 feedback, okay.

19 MR. ROBINSON: Yes, sir.

20 BY MR. ROBINSON:

21 Q Your education, you have a -- you said a biology
22 degree; is that correct?

23 A I have a Bachelor of Science Honors Degree in
24 biochemistry and chemistry.

25 Q Okay. And then you said you got -- what other

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 degrees do you have concerning handwriting?

2 A My educational experience also includes
3 certificate in criminology.

4 Q Certificate in criminology. So, besides your
5 bio education you have, you have no advanced education in
6 handwriting science or anything of that nature; is that
7 correct?

8 A My advanced education came from my two-year
9 apprenticeship program at the Center of Forensic Sciences
10 in Toronto, Canada.

11 Q Toronto, Canada, all right. Now, how about
12 publications, have you ever published anything or?

13 A Yes, I have. I've written a paper on the
14 effects of slope change on handwriting. I've also
15 published a paper at the FBI symposium of Energy Curable
16 Inks, as well as some papers at the Southeastern
17 Association of Forensic Document Examiners.

18 Q Okay. The method that you used in this case to
19 examine this handwriting sampling, has that method been
20 proved by these organizations that you're talking about
21 that you belong to?

22 A I follow the SLED protocols that are laid out in
23 our quality manual. And these are protocols based on
24 what's regularly accepted within the field.

25 Q Okay. So, what you're telling me then is that

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 the protocol that you follow in examining handwriting
2 samples isn't a national standard, but it's a SLED
3 standard; is that right?

4 A No, sir. It's also -- there are no national
5 standards in effect currently. There was work done
6 several years ago through ASTM, but that apparently is not
7 being accepted anymore.

8 Q So, let -- I'm just trying to understand this.
9 You agree that you work for SLED, correct?

10 A That's correct.

11 Q And that's a law enforcement agency?

12 A Yes, sir.

13 Q Okay. And you follow the SLED protocol of
14 examining handwriting samples, right?

15 A That's correct.

16 Q And in your experience, have you ever worked
17 for -- have you ever had any analysis done for anyone
18 besides law enforcement?

19 A Yes. I've worked private cases for defense
20 lawyers. I've also worked for defense lawyers in the
21 course of my regular duties.

22 Q Okay. But I'm just trying -- I'm trying to get
23 the protocol that you're following here. Is this
24 protocol -- is this SLED protocol approved by some entity
25 that can approve this kind of protocol?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 A There isn't really an entity that can approve
2 that protocol. That protocol is based on the procedures
3 that are regularly placed within the field of questioned
4 document examiners. The protocol is similar, if not
5 identical, to other places where I've worked in the
6 Virginia Department of Forensic Science, as well as the
7 Center of Forensic Science in Toronto.

8 Q Okay. What kind of quality control measures do
9 you have in place to ensure that it's accurate, correct
10 and so forth?

11 A SLED has an extensive quality control procedure.
12 Each case is peer reviewed individually as well as
13 administratively reviewed by another questioned document
14 examiner. The results are tested out by that other person
15 and then the report gets published. There also regular
16 proficiency examinations that I take throughout the year.
17 And I also then participate in continuing education. It's
18 all part of the quality control procedures.

19 Q This handwriting analysis that you do, it's not
20 base on science, is it?

21 A Yes, sir, I would say it is a science because it
22 follows a scientific method, a purpose, i.e. please
23 examine and determine whether the person wrote it. It
24 follows the regular protocols that are laid out and
25 following them in every case. So, that's our method. You

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 make several observations, you then arrive at a
2 hypothesis. The hypothesis is then tested against another
3 hypothesis. And then eventually the conclusion is
4 expressed. So, that's the scientific method to it.

5 Q Okay. You mentioned a second ago while you
6 worked at SLED, you actually help defense attorneys as
7 well?

8 A We take any cases that we can get. I don't
9 know -- I know SLED will accept defense cases. I've not
10 worked one for SLED, however, I have in my other jobs
11 within the Virginia Department of Forensic Sciences as
12 well as the Center of Forensic Science.

13 Q So, that's where you -- you worked in Virginia
14 before you worked for SLED; is that correct?

15 A That's correct.

16 Q And you've worked for SLED how many years?

17 A A little over two.

18 Q In that period of time at SLED that you worked
19 two years, have you ever worked for defense attorneys?

20 A Not to my knowledge, no.

21 Q Okay.

22 A I have done private cases not on behalf of SLED.

23 MR. ROBINSON: That's all the questions I have,
24 Judge.

25 THE COURT: All right. You take exception to

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 his qualification, sir?

2 MR. ROBINSON: I do, Judge.

3 THE COURT: Okay. All right. Over objection, I
4 will qualify this gentleman as an expert witness.

5 Now, ladies and gentlemen, if you remember,
6 we've had an expert witness who was offered before.
7 I'll just remind you that an expert witness is
8 allowed to testify because of his or her education,
9 expertise or experience in a given field. If someone
10 is qualified as an expert witness, that does not mean
11 that testimony has any preferred value or that they
12 have any increased -- presumed increased credibility.
13 When you look at an expert witness's testimony, you
14 look at it just like any other witness's testimony.
15 That is you determine whether it's credible, that is
16 whether it can be believed or not. And you determine
17 what value or weight it has in your deliberations.
18 Again, just like any other piece of evidence that you
19 receive. I also qualify him in the field that you
20 articulated on the record.

21 You may proceed, ma'am.

22 MS. OWENS: Thank you, Your Honor.

23 BY MS. OWENS:

24 Q Mr. Jamieson, could you explain to the jury why
25 it is that handwriting is identifiable?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 A Handwriting is a mental and physical process
2 that is developed individually for each person. The
3 factors include whether or not the person has the muscular
4 control to produce handwriting, whether or not their
5 perception of the handwriting when they're learning it
6 varies between each individual. Because of that
7 individuality that the person has developed, it becomes as
8 individual as that person's DNA or fingerprints. And as
9 such, because of this individuality, the person can be
10 identified or eliminated through their handwriting.

11 Q Now, when you're conducting your analysis of
12 handwriting, what specifically are you looking for to form
13 an opinion?

14 A I'm looking for a set of individual similarities
15 with no significant differences in order to arrive at the
16 identification. I'm looking at features of the
17 handwriting, including relative heights between the
18 letters. I'm looking at letter formations. I'm looking
19 at the position of the letters on the line. I'm looking
20 at any formatting and I'm looking at the range of
21 variation within that range.

22 Q Now, you testified a moment ago about the range
23 so opinions that you, ultimately, render after comparing
24 documents. Are you able to determine in layman's terms
25 whether two documents are a match, so to speak?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 A Yeah, written by the same person.

2 Q With what certain?

3 A In my opinion, 100 percent certainty.

4 Q Would you remind telling the jury which level it
5 is that is your most confident determination of a
6 handwriting sample?

7 A That would be identification of the individual
8 having written it or the other 100 percent certainly is
9 whether the person did not write it.

10 Q I'm going to show you State's Exhibit 23. Do
11 you recognize that document?

12 THE WITNESS: Your Honor, may I refer to my
13 notes, please?

14 THE COURT: Any objection to that?

15 (There was no response.)

16 THE COURT: You may, sir.

17 THE WITNESS: Thank you.

18 Yes, this is a copy of the document I examined
19 as being in question. My copies have a case number,
20 my initials and the item number on them, but this
21 does not, so that's why I was checking between my
22 notes and the document just presented to me.

23 BY MS. OWENS:

24 Q Yes, sir, thank you. How did you characterize
25 that, State's Exhibit 23, in your analysis? In the sense

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 that you assigned its own identifiable item number.

2 A Yes, it's own item number. It was item number
3 three as well as item number six.

4 Q Okay. Were you asked to review State's Exhibit
5 23?

6 A Yes. Or to be absolutely clear, a copy of 23.

7 Q Yes, sir, thank you.

8 (WHEREUPON, State's Exhibit No. 47 was marked
9 for identification only.)

10 BY MS. OWENS:

11 Q Now, Mr. Jamieson, before I move on, I wanted to
12 address your qualification that you reviewed a copy. Is
13 it your preference in comparing questioned documents to
14 have original documents?

15 A Yes, sir, those are the best evidence.

16 Q Why?

17 A There's a lot more I can do with an original
18 document. I can make sure that it's all written in the
19 same ink. I look for indented writing on the document.
20 Indented writing occurs when you write on the top sheet of
21 a pad, you indent your writing to the pages below it.
22 Even though they appear to be blank, they contain
23 indentations the writing from the top sheet. And
24 sometimes that becomes important in these cases. Also,
25 there's the -- the original is the ultimate in clarity,

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 too. When you're dealing with a copy, sometimes the image
2 degrades a bit.

3 Q Are you nonetheless able to conduct an effective
4 analysis using a photo copy?

5 A Yes.

6 Q I'm going to show you State's Exhibit 47, do you
7 recognize that item?

8 A Yes, it's an envelope containing certain
9 documents. It's got my seal with my initials on it. It
10 also has my case number and a notation regarding item
11 number four.

12 Q Were you asked to review this package of
13 documents in your analysis comparing to State's Exhibit
14 23?

15 A I really kind of have to open it to make sure.

16 Q Certainly.

17 A Yes, these are the documents I reviewed. They
18 were submitted as a known writing of William Brown. And
19 each document contains my case number, my initials and the
20 item number. This is item number four.

21 Q Okay. Did you compare the handwriting on
22 State's Exhibit 23, item three, as you characterized it,
23 with the handwriting contained in State's Exhibit 47,
24 which is, I believe, item four, as you just characterized
25 it?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 A Yes.

2 Q What process did you undertake to compare those
3 two items?

4 A I went through item number four in order to look
5 at the features, whether or not they're individual or
6 whether or not they contained sufficient features upon
7 which to base a comparison. I looked to see whether or
8 not the original documents and I looked at the range of
9 variation. And then I also made a determination as to
10 whether or not they were written by the same person. And
11 same with number -- State's Exhibit No. 23, my three, I
12 did the same process because it was two pages. So, I made
13 sure they were written by one person. I also made sure
14 the known was comparable to the question. I then
15 conducted my one-to-one analysis looking at the features.
16 Made notes of it and arrived at my conclusion.

17 Q Were you able to reach a conclusion about the
18 handwriting contained on State's Exhibit 23?

19 A Yes.

20 Q What opinion did you reach?

21 A I determined that the writer of the known
22 documents, who I took as being William Brown, prepared the
23 writings on State's Exhibit 23, my item three.

24 Q And what level of certainty did you reach your
25 conclusion?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 A A hundred percent for me.

2 Q On the scale that you mentioned, which
3 classification?

4 A Identification, the highest you can get.

5 Q In other words, Mr. Brown wrote State's Exhibit
6 23?

7 A There's no doubt in my mind that Mr. Brown wrote
8 it.

9 Q Now, on some later date, were you asked to
10 compare the same letter, State's Exhibit 23, to the
11 handwriting on a different document?

12 A Yes.

13 Q I'm showing you State's Exhibit 26. Do you
14 recognize that item?

15 A Yes. This is a copy of the document I examined.
16 The document I examined did contain my case number,
17 initials and item number, which is five, however, this is
18 a copy of the same thing I looked at.

19 Q Yes, sir. Could you describe for the jury what
20 that item is. State's Exhibit 26.

21 A It appears to be a document entitled, Your
22 Rights. A Waiver of Rights. And there are hand printed
23 names on it -- or name as Shane Fordham.

24 Q Were you asked to compare the handwriting on
25 State's Exhibit 23 to the handwriting on State's Exhibit

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 26?

2 A I was, but the examination that I performed
3 as -- since item -- or State's Exhibit 26 really does not
4 contain a full range of variation within the handwriting,
5 it's a very small sample, so what I did is took State's
6 Exhibit 26 and compared it to the known documents
7 submitted as from Mr. Brown. I determined that they were
8 the same writer. I then compared the grouping of known
9 documents to the item three, State's Exhibit 23, and made
10 my determination.

11 Q What opinion did you reach?

12 A Again, the writer of the known documents,
13 Mr. William Brown, wrote the two pages from State's
14 Exhibit 23.

15 Q And again, on the scale that you described, what
16 level of certainty does that opinion fit?

17 A It's identification.

18 Q In other words, it is your testimony that
19 Mr. Brown drafted State's Exhibit 23?

20 A I'm sure that Mr. Brown wrote it.

21 MS. OWENS: Your Honor, at this time, the State
22 offers Exhibit 23 into evidence.

23 THE COURT: Which is that the copy?

24 MS. OWENS: Yes, Your Honor.

25 THE COURT: All right. Objections?

JACK JAMIESON-VOIR DIRE BY MR. ROBINSON

1 MS. HENRY: None other than the objections I
2 made yesterday, Your Honor.

3 THE COURT: Mr. Robinson?

4 MR. ROBINSON: No objection, Judge.

5 THE COURT: All right. Then subject to those
6 objections which were posed by Ms. Henry, the same is
7 admitted into evidence with the appropriate
8 redactions.

9 (WHEREUPON, State's Exhibit No. 23 was admitted
10 into evidence.)

11 MS. OWENS: Thank you, sir. I don't have any
12 additional questions for you. If you would, please
13 answer any questions that Ms. Henry or Mr. Robinson
14 may have.

15 MS. HENRY: I don't have any.

16 THE COURT: Mr. Robinson?

17 MR. ROBINSON: No questions, Judge.

18 THE COURT: Okay, thank you.

19 Thank you, sir. I appreciate you being here.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: Hope you have a safe trip back to
22 Columbia, I presume?

23 THE WITNESS: Yes, sir. Thank you.

24 THE COURT: Okay. Does the State intend to call
25 any additional witnesses, ma'am?

1 MS. OWENS: Okay.

2 THE COURT: Okay. So, motions at this point?

3 MS. HENRY: Has the State rested?

4 THE COURT: You rested?

5 MS. OWENS: I certainly prefer to formally rest
6 on the record.

7 THE COURT: Sure, yeah, yeah, yeah.

8 MS. OWENS: But I don't intend to call any
9 additional witnesses.

10 MS. HENRY: I'm just asking are you asking me
11 for directed verdict motions?

12 THE COURT: Yes, ma'am.

13 MS. HENRY: I just want to make sure they had
14 rested and that's where we are.

15 THE COURT: Yes, ma'am.

16 MS. HENRY: Okay. Yes, Your Honor, I do have,
17 at least, one directed verdict motion. Okay, so I
18 have a directed verdict as it relates to the murder
19 indictment. Your Honor, do you have a copy of the
20 indictment?

21 THE COURT: I don't have the indictment.

22 MS. HENRY: Okay. Let me hand you -- okay, so,
23 Your Honor, I want to draw your attention to language
24 of count one for murder.

25 THE COURT: Yes, ma'am.

1 MS. HENRY: Okay. That Curtis Allen Babb did in
2 Greenville County on or about the 8th day of
3 December, 2016, unlawfully and with malice
4 aforethought kill Clinton Pearson by means of
5 shooting him with a firearm, and that Clinton Pearson
6 died as a proximate result thereof.

7 So, it's my position and the reason I'm asking
8 for a directed verdict on that murder charge is that
9 there's a material variance under the law between the
10 charge and the indictment and the proof that's been
11 submitted by the State. I'm citing State v. Jones,
12 State v. Dunn, and State v. Cody on this. A quote
13 from those would be that the defendant must be
14 convicted, if at all, of the particular offense
15 charged in the bill of the indictment. And if he's
16 not, then we are entitled to directed verdict. And
17 I've got the case with me if the Court would like to
18 see it.

19 Essentially, my position is that there's been no
20 evidence submitted that Curtis Babb killed
21 Mr. Pearson. In fact, it's -- in the indictment, it
22 says he killed Clinton Pearson by shooting him with a
23 firearm and that Clinton Pearson died as a proximate
24 result of this shot, essentially, by Curtis Babb.

25 THE COURT: Yes, ma'am.

1 MS. HENRY: What's actually been presented is
2 the exact opposite. All of the evidence that has
3 been presented by the State, as far as I'm aware,
4 including impeachment evidence, has been that --
5 well, I'll just say this as well. That Mr. Clinton
6 Pearson was killed by a .40 caliber round, that he
7 was shot by a .40 caliber pistol. That -- let me
8 make sure I'm getting this right. Their medical
9 examiner testified that they pulled .40 caliber slugs
10 out of his body and that he was killed by those .40
11 caliber slugs, that they only found .40 caliber
12 casings at the scene.

13 There's been no forensic or testimonial evidence
14 presented that Mr. Pearson was killed or even touched
15 by a shotgun. The only evidence that has been
16 presented by the State was that my client, if he had
17 anything, had a shotgun. And they presented or
18 attempted to present copious evidence that he had a
19 shotgun, that it was in a duffel bag at one point.
20 Mr. Wideman is the only person that testified, I
21 believe, or, at least, was impeached with information
22 regarding who fired. As far as I can tell, that's
23 the only evidence that was presented about who
24 actively killed Mr. Pearson. And he said that it was
25 Brown that fired into the house with the 40 and

1 killed Mr. Pearson.

2 Again, in the audio, the State's made a lot of
3 effort to show that my client was the one in
4 possession of the shotgun, including the Looper
5 testimony and the Wideman impeachment. No one ever
6 testified and no physical forensic evidence has been
7 put up that says that Curt had a pistol or that the
8 victim was attacked in any way with a shotgun. The
9 only person that the State provided evidence of who
10 was shot with a shotgun was Connell Wells and that is
11 not on the docket.

12 I'll also point out, the State drafted the
13 indictment. That they also presented it to the grand
14 jury. And that -- I'm assuming that they're going to
15 make an aiding and abetting argument, that this is
16 hand of one, hand of all, but they also could have
17 and should have said that in the indictment. It's my
18 understanding that the law requires a directed
19 verdict. And it's pretty clear on this. I don't
20 believe this is something they can amend. This is
21 not a scrivener's error.

22 The officer -- if you remember my original
23 motion regarding quashing the grand jury indictments,
24 that the officer -- that -- you decided not to ask
25 the officer what his participation was, that we

1 agreed that he had testified in front of the grand
2 jury and presented all this evidence to them. And
3 it's my understanding that he must have presented
4 evidence to the grand jury that it was my client who
5 shot Mr. Pearson and killed him with the firearm or
6 they would not have come back with that indictment.
7 And I believe that, at least -- at the very least per
8 this case law, that the solicitor's office is married
9 to that. And I'd like to pass up the case that I'm
10 referring to for you.

11 THE COURT: Sure, absolutely. Okay. All right.
12 Anything else with respect to that motion?

13 MS. HENRY: I do want to renew my objections.

14 THE COURT: Yeah, sure, absolutely.

15 MS. HENRY: Do we do that now?

16 THE COURT: You can say it on the record. I
17 renew all of my collective objections.

18 MS. HENRY: I renew all of my collective
19 objections.

20 THE COURT: Yes, ma'am.

21 MS. HENRY: Let me just make sure that I'm
22 getting -- yes, I renew all my collective objections.
23 And I think that's right now, Your Honor. Thank you.

24 THE COURT: Okay. Thank you. Yes, ma'am.

25 And Mr. Robinson?

1 MR. ROBINSON: Your Honor, I have a two-part --
2 or three-part directed verdict motion. First, I
3 don't think that the State has proven the corpus
4 delicti in this case. I think that all they've
5 shown -- they shown some -- a letter and an email
6 that talk about two people that he said has
7 threatened him. There's been no physical evidence,
8 forensic evidence, anything connecting him to this
9 crime. They're missing in this case the corpus
10 delicti. The case I'm going from is going to be
11 State v. Osborne, 467 S.E.2d 454, which I'm sure the
12 Court is aware of. You know, that's all they
13 really -- they've really presented no corpus delicti
14 that indicates he had anything to do with this.

15 Usually -- as I said in the beginning, usually,
16 you have like an expert, something like that to say
17 Mr. Brown had a .40 caliber gun and the bullets that
18 hit this guy were .40 caliber, but they don't have
19 anything like that. So, I think they're missing the
20 corpus delicti. Those two documents in this case,
21 the Smart Jail and the letter reportedly from him to
22 Mr. Wells, I think they're missing the corpus
23 delicti.

24 Also, too, Judge, the second part of this, as
25 the Court is aware, just a mere suspicion is not

1 enough in this case, in this matter to allow this
2 case to go forward anymore. Because the State has
3 not produced corpus delicti in this case. They have
4 suspicions, obviously, but nothing else. I don't
5 think it survives directed verdict part of it.

6 THE COURT: All right. Thank you, Mr. Robinson.

7 Would the State like to respond to those
8 motions?

9 MS. OWENS: Very briefly, Your Honor. Viewing
10 the evidence in the light most favorable to the
11 State, I think there's sufficient evidence for this
12 jury to conclude that not only these crimes were
13 committed, but that these Defendants are responsible.

14 Very briefly, I would direct the Court's
15 attention to the content of Mr. Wideman's statement
16 in that he referenced conversations with both
17 Mr. Brown and Mr. Babb about the circumstances of
18 this robbery, the attempted armed robbery, why the
19 house was being targeted, what the intention, the
20 stated purpose of entering this house originally was
21 among these Defendants. Mr. Wideman also referred to
22 having seen himself and the three Defendants combined
23 in a vacant apartment inside the apartment complex
24 for the purpose of exchanging gloves and guns.
25 Again, Mr. Wideman testified to seeing them return

1 together after the crime was completed and Mr. Wells
2 had been shot.

3 In addition, of course, the phone calls that the
4 State has offered with respect to Mr. Babb suggesting
5 that he wants the snitch to recant his statement.
6 Again, not necessarily the truth, but he should just
7 sign an affidavit. And, of course, with respect to
8 the letter drafted by Mr. Brown, which the State's
9 position is functionally a confession in this case.
10 There's enough evidence for this jury to consider the
11 facts.

12 THE COURT: Okay. All right. Thank you. Okay.

13 With respect to the issues related to the
14 indictment, I think that it's a very logical,
15 coherent and intelligent argument. I disagree,
16 however, that in the body of the indictment the State
17 is required to put any and all element -- excuse me,
18 not element of the crime, they are entitled to put
19 the element of the crime in there. See, you're
20 looking at me like I'm crazy again.

21 MS. HENRY: No.

22 THE COURT: They are required to put all
23 elements of the crime in there, but not theories of
24 recovery. And it is interesting, when you were
25 talking and you spoke to it, I was thinking to

1 myself, under that super standard, you could never
2 try somebody under the hand of one, hand of all or
3 any other type of accomplice liability or any type of
4 transferred intent, any of those theories unless you
5 put it in the indictment. And I don't think that's
6 the law in the State of South Carolina. I think the
7 indictment is a paper in which the parties are --
8 specifically, the defendant is put on notice of what
9 he is to be tried for so that he can propound an
10 appropriate defense. I think that the indictment
11 served that purpose and met all of the requisite
12 standards for indictments for the State.

13 With respect to the motion for directed verdict,
14 I think the corpus delicti in this case is the
15 corpse. So, I think they've provided evidence of the
16 corpus delicti. I think you take exception to all of
17 the evidence that connects the corpse to the
18 Defendant. And I do -- in reviewing the evidence, I
19 do think that there's sufficient evidence in the
20 record in looking at it, of course, in the light most
21 favorable to the nonmoving party, upon which a jury
22 could consider and decide that the State had met its
23 burden of proof.

24 Now, I don't take any position with respect to
25 the quality of the evidence, the credibility of the

1 witnesses, the sufficiency of the evidence to cause
2 this jury to find that the State has met its burden
3 of proof. The Court's job is to look and see where
4 it exist. And it exist in this case and on that
5 ground, I respectfully deny the motions for directed
6 verdict.

7 Okay. So, I have a quick question before we
8 start again. With respect to Mr. Abdalla's prior
9 representation of the Defendant, can you come to a
10 stipulation on that?

11 MS. OWENS: I've obtained from the clerk of
12 court a certified copy of a motion that Mr. Abdalla
13 filed. So, to the extent that that document is
14 self-authenticating, if we're not able to reach a
15 stipulation.

16 THE COURT: He just said he would stipulate.
17 You might not have heard him.

18 MS. OWENS: Okay. I'm sorry.

19 THE COURT: Okay. Okay. All right. So, when
20 they come back in -- does anybody need to take a
21 quick break before we start?

22 MS. HENRY: Your Honor, can I just make sure
23 that they're all here? I don't know.

24 THE COURT: Sure, we'll do that. We'll do that.

25 MR. ROBINSON: Judge, at one point, do you want

1 MR. BABB: Yes, sir.

2 THE COURT: Mr. Brown, do you understand?

3 MR. BROWN: Yes, sir, I do.

4 THE COURT: Now, have y'all made any decisions
5 yet with respect to whether you will testify or not?

6 Mr. Babb? You don't have to tell me now. You
7 can decide as we go forward.

8 MR. BABB: No, sir.

9 THE COURT: Mr. Brown?

10 MR. BROWN: I still want to consult with my
11 attorney.

12 THE COURT: I will certainly give you the
13 opportunity to do that. Do y'all have any questions
14 at all about your right to remain silent or your
15 corresponding right to testify?

16 MR. BROWN: No, Your Honor.

17 MR. BABB: No, Your Honor.

18 THE COURT: All right. Good enough.

19 Okay. All right. Bring the jury in, please.

20 (WHEREUPON, the jury came into open court at
21 approximately 11:35 a.m.)

22 (WHEREUPON, State's Exhibit No. 46 was admitted
23 into evidence.)

24 THE COURT: All right, ladies and gentlemen,
25 while you were out, we took up several matters of

1 law. In discussions with the lawyers, they have
2 entered into a stipulation. Now, I'm going to tell
3 you what the stipulation is. I'm not going to tell
4 you what it means. I'm not going to tell you if it's
5 valuable. I'm not going to tell you anything about
6 it. All I'm telling you, it's a stipulation that the
7 parties have entered into that you can accept as
8 fact. And that stipulation is that at one time
9 during the pendency of this case, Mr. Brown was
10 represented by Attorney John Abdalla. That's all I
11 can tell you. I can't comment on the facts or the
12 evidence. That's the stipulation that's been reached
13 by the attorneys. You can consider it for whatever
14 purpose you think is appropriate in your
15 deliberations.

16 Now, ladies and gentlemen, I believe the State
17 is going to rest, but I don't want to presume too
18 much.

19 Ms. Owens, I give you the opportunity to do it.

20 MS. OWENS: Yes, Your Honor, the State rest.

21 THE COURT: So, ladies and gentlemen, the State
22 has rested, which means the Defense has the
23 opportunity to offer evidence into the record. As I
24 told you, the Defense doesn't have any burden of
25 proof. The Defense is not required or compelled to

1 put any evidence into the record. They do so in
2 their own discretion. In this case, it's my
3 understanding that each Defendant would like to
4 present evidence to you in this case.

5 ,So assuming that is correct, Ms. Henry, I turn
6 it over to you. You may call your first witness,
7 ma'am.

8 MS. HENRY: Thank you, Your Honor. I'd like to
9 call Loretta Bryson.

10 THE COURT: Okay.

11 THE CLERK: Please place your left hand on the
12 Bible and raise your right hand.

13 LORETTA BRYSON, after being duly sworn,
14 testified as follows:

15 THE CLERK: Thank you. Please take a seat and
16 state your name for the record.

17 THE WITNESS: Loretta Marie Bryson.

18 DIRECT EXAMINATION

19 BY MS. HENRY:

20 Q All right, Ms. Bryson, I'm going to stand back
21 here and make sure that everybody can hear you and
22 everybody can hear me.

23 A Okay.

24 Q Can you tell the jury and myself where you work?

25 A Watkins, Garrett and Woods Mortuary.

LORETTA BRYSON-DIRECT BY MS. HENRY

1 Q How long have you worked there?

2 A Eight years.

3 Q Okay. What do you do on that job?

4 A Secretary.

5 Q Is part of that job being a notary?

6 A Yes, ma'am.

7 Q Is it a big part of the job?

8 A Yes, ma'am.

9 Q Would you recognize your signature on a document
10 if I showed it to you?

11 A Yes, ma'am.

12 Q All right. I'm going to show you Defendant's
13 Exhibit 1. Okay, you can take it out of the bag, whatever
14 you need to do. If you'll flip it over for me. Okay. Do
15 you recognize your signature on that?

16 A Yes, ma'am.

17 Q Okay. Now, what date does it say that you
18 signed it?

19 A July the 25th -- excuse me, October the 16th,
20 2017.

21 Q Okay.

22 MS. HENRY: Your Honor, if I can publish this to
23 the jury? It's already in evidence. It's already
24 been published.

25 THE COURT: Sure.

LORETTA BRYSON-DIRECT BY MS. HENRY

1 MS. HENRY: To make things a lot easier, can I
2 use this?

3 MS. GARY: Sure.

4 BY MS. HENRY:

5 Q All right, Ms. Bryson, I hate to ask you to do
6 it again. I just want to make sure the jury saw this.
7 Are you saying that this -- is this your seal?

8 A Yes, ma'am.

9 Q Okay. And is this what you wrote? What is
10 that?

11 A That's the date, my signature and when my seal
12 expires.

13 Q Okay. All right.

14 MS. HENRY: If you can turn the lights back on
15 for me.

16 Q All right. So, do you remember this exact
17 letter?

18 A I don't remember. It's been like two years, I
19 don't remember.

20 Q That's okay. But you do recognize your
21 signature?

22 A Yes, ma'am.

23 Q How long have you been a notary?

24 A About 13, 14 years.

25 Q Have you notarized a lot of items?

LORETTA BRYSON-DIRECT BY MS. HENRY

- 1 A Yes, ma'am.
- 2 Q Do you take it seriously?
- 3 A Yes, ma'am.
- 4 Q Are there things that you do every single time
5 when you notarize something?
- 6 A I ask for ID and make sure that it has not been
7 signed.
- 8 Q Is that part of your normal practice?
- 9 A Yes, ma'am.
- 10 Q Why do you check ID?
- 11 A To make sure that's the person that's getting
12 the legal document signed and notarized.
- 13 Q Would you notarize something where you had not
14 checked ID?
- 15 A No.
- 16 Q Have you ever refused to notarize something?
- 17 A Yes, ma'am.
- 18 Q Why? For what reasons?
- 19 A Because the person doesn't have ID and the
20 document has already been signed.
- 21 Q Have you ever refused to notarize something
22 where the situation seemed shady or you feel like things
23 are not correct?
- 24 A Yes, ma'am.
- 25 Q Okay. If that was the situation, what would you

LORETTA BRYSON-CROSS BY MS. OWENS

1 do? If you feel felt like something was off, if you feel
2 like somebody was there and did not want to sign?

3 A I refuse to notarize it.

4 Q And you did notarize this document?

5 A Yes, ma'am.

6 MS. HENRY: I don't have any other questions.

7 THE COURT: I don't know in what order you want
8 to go. But I will allow Mr. Robinson to conduct
9 cross-examination and then allow the State to conduct
10 cross-examination after Mr. Robinson.

11 MR. ROBINSON: I have no questions.

12 THE COURT: Okay. All right.

13 MS. OWENS: Just one question, Your Honor.

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION

16 BY MS. OWENS:

17 Q Ms. Bryson, notarizing something means that you
18 watched someone sign it, correct?

19 A Yes, ma'am.

20 MS. OWENS: All right. Thank you, ma'am.

21 THE COURT: Okay, any redirect?

22 MS. HENRY: No, Your Honor.

23 THE COURT: Thank you, I appreciate it. You may
24 be excused.

25 THE WITNESS: Thank you.

ERIC GOLDEN-DIRECT BY MS. HENRY

1 THE COURT: Yes, ma'am.

2 All right, you may call your next witness.

3 MS. HENRY: The Defense calls Eric Golden.

4 THE CLERK: Place your left hand on the Bible
5 and raise your right hand.

6 ERIC GOLDEN, after being duly sworn, testified
7 as follows:

8 THE CLERK: Thank you. Please take a seat and
9 state your name for the record.

10 THE WITNESS: My name is Eric Golden.

11 MS. OWENS: Your Honor, before we begin, can we
12 approach just very quickly?

13 THE COURT: Yes, ma'am, you may.

14 (WHEREUPON, an off-the-record bench conference
15 was held in the presence of the jury but out of
16 the hearing of the jury.)

17 DIRECT EXAMINATION

18 BY MS. HENRY:

19 Q Can you tell the jury where you work?

20 A I work at PPG.

21 Q Okay. Are you related to Curtis Babb?

22 A Yes.

23 Q Can you explain that to us? How are you
24 related?

25 A We have the same father.

ERIC GOLDEN-DIRECT BY MS. HENRY

1 Q Okay. So, are you his brother?

2 A Yes, ma'am.

3 Q Okay. And do you know anybody named Damean
4 Wideman?

5 A Yes.

6 Q How do you know him?

7 A I know him -- when I met him when I went and
8 talked to him about -- something about what he had heard
9 about my brother. So, I went and talked to him. And I
10 asked him to write down what he told me about my brother.

11 Q Okay. Where did he write that down? Do you
12 remember the location?

13 A Yes, we was at Kimeka Mayes' house. It used to
14 be Piedmont Manor, but now it's Shemwood Apartments now.

15 Q Do you live in Shemwood?

16 A No, ma'am.

17 Q So, you live somewhere else?

18 A Yes, ma'am.

19 Q Okay. The statement that Damean Wideman wrote,
20 I'm going to ask you about. Who wrote the statement?

21 A He did.

22 Q Okay. Where was he when he wrote the statement?

23 A He was in the kitchen.

24 Q Was he alone? Who was with him?

25 A He was by himself when he came and talked to me

ERIC GOLDEN-DIRECT BY MS. HENRY

1 at Kimeka Mayes' apartment.

2 Q Okay. Were you in the house when we wrote the
3 statement?

4 A Yes, ma'am.

5 Q Was Kimeka Mayes also in the house?

6 A Yes, ma'am.

7 Q Were either of you with him?

8 A No. We was in the living room and he was in the
9 kitchen and write it.

10 Q Did you also sign the statement?

11 A Yes, ma'am.

12 Q In what capacity did you sign that? Why did you
13 sign it?

14 A Because, you know, I know if you have to get
15 something notarized, you have to sign it.

16 Q Okay.

17 A With a witness.

18 Q Okay. Did you tell Mr. Wideman what to write?

19 A No, ma'am.

20 Q What did you tell him?

21 A I asked him what he heard or what he know. And
22 he said -- he told me what he had heard.

23 MS. GARY: Objection.

24 THE COURT: Okay, I sustain it.

25 MS. GARY: Thank you.

ERIC GOLDEN-DIRECT BY MS. HENRY

1 BY MS. HENRY:

2 Q When you talked to Mr. Wideman, did you at
3 all -- did you at any time threaten Mr. Wideman?

4 A No, ma'am.

5 Q Do you ever offer him any kind of money or gifts
6 or anything?

7 A No, ma'am.

8 Q Did you observe Mr. Wideman? I mean, you saw
9 him clearly?

10 A Yes, ma'am.

11 Q Did he appear afraid or anxious in any way at
12 the house?

13 A No, ma'am.

14 Q Okay. Did he ever tell -- well, I want to talk
15 to you a little bit about your phone call, that phone call
16 you had with Curtis. Do you remember the phone call you
17 had with Curtis and Kimeka?

18 A A little.

19 Q All right. Did you and Curtis ever talk about
20 Mr. Wideman's statement?

21 A He asked me did he write the statement. I told
22 him yes, he wrote the statement and I had went and got it
23 notarized, me and Damean.

24 Q In any of the conversations that you had with
25 Curtis, did he ever ask you to threaten or pay or tell

ERIC GOLDEN-DIRECT BY MS. HENRY

1 Damean Wideman what to say?

2 A No, ma'am.

3 Q Okay. In the phone call with Damean Wideman,
4 you say I looked it over and it looks good. What do you
5 mean by that?

6 A About what he told me and what he wrote down
7 matches.

8 Q Matches what?

9 A What he said. The paper matches what he said to
10 me.

11 Q What who said?

12 A Damean Wideman.

13 Q Okay. And then when you say to Curtis Babb, I
14 got it covered, what does that mean?

15 A That I went and talked to him to see what he
16 know and what supposedly went on or something. Because I
17 was just going to him to see, you know, what he know and
18 can he write it down. Whatever he -- I say, Whatever you
19 tell me, can you write that down?

20 He say, Yes.

21 And that's when he told me. And he was
22 like --

23 MS. GARY: Your Honor, I have to object to
24 anything that Mr. Wideman said out of court.

25 THE COURT: Okay. All right. I sustain as to

ERIC GOLDEN-DIRECT BY MS. HENRY

1 that.

2 BY MS. HENRY:

3 Q Okay. Eric, you testified a minute ago that you
4 were Curtis' brother?

5 A Yes, ma'am.

6 Q So, I'm going to ask you point blank, would you
7 lie for Curtis?

8 A No, ma'am.

9 Q Okay. Are you telling the truth now?

10 A Yes, ma'am.

11 Q Okay. Did you coerce or bargain with or
12 threaten Damean Wideman to get him to write that
13 statement?

14 A No, ma'am.

15 Q As far as you're aware, is that statement
16 accurate?

17 A Yes, ma'am.

18 Q Okay. Does -- all right. I know I've asked you
19 a lot of questions about this already, but I'm going to go
20 ahead and show you the statement. It's Defense Exhibit 1.
21 I just want to make sure this has been the same statement
22 that we've been talking about. And take your time there.

23 A Yes, ma'am.

24 MS. HENRY: All right. I don't have any other
25 questions right now.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 THE COURT: Mr. Robinson, do you have any
2 questions, sir?

3 MR. ROBINSON: I don't, Judge.

4 THE COURT: The State?

5 MS. GARY: No, sir. Thank you, Judge.

6 THE COURT: All right. Sir, I appreciate your
7 being here, you're excused.

8 Okay. You may call your next witness, ma'am.

9 MS. HENRY: All right, I call Kathy Taylor.

10 THE CLERK: Place your left hand on the Bible
11 and raise your right hand.

12 KATHY TAYLOR, after being duly sworn, testified
13 as follows:

14 THE CLERK: Thank you, please take a seat and
15 state your name for the record.

16 THE WITNESS: My name is Kathy Taylor.

17 DIRECT EXAMINATION

18 BY MS. HENRY:

19 Q All right, Ms. Taylor, I'll be with you in one
20 second. All right. So, Ms. Taylor, can you tell us where
21 you live?

22 A In North Hamilton, Pennsylvania.

23 Q Okay. Where did you go to school?

24 A Leigh Carbon Community College.

25 Q Where is that located?

KATHY TAYLOR-DIRECT BY MS. HENRY

1 A In Allentown.

2 Q Do you have a business?

3 A Yes, I do.

4 Q What business is that?

5 A Masquerade by Usry.

6 Q What's your role in that business?

7 A I am the owner.

8 Q How long have you owned it?

9 A Since 2013.

10 Q Okay. At any point as owner of this business,
11 did you hire Curtis Babb?

12 A Yes, I did.

13 Q Okay. And can you tell us what you hired him to
14 do?

15 A On the professional side of my company, he was
16 the professional hauler, where he would haul my clients'
17 furniture from pods to the U-Haul truck and deliver them
18 to the U-Haul unit -- I mean, to the storage unit.

19 Q Can you describe for the jury a little bit more
20 about what your business does?

21 A I do weddings and events and I'm a professional
22 organizer.

23 Q So, which part of the business again was Curtis
24 working for you on?

25 A On the professional organizer side of the

KATHY TAYLOR-DIRECT BY MS. HENRY

1 business.

2 Q All right. Can you tell us when Curtis was
3 hired?

4 A The end of November.

5 Q Was he hired to work a specific job?

6 A Yes. My client Roman Bolderjar [ph].

7 Q Okay. I'm going to show you -- all right,
8 Ms. Taylor, I'm going to show you Defendant's Exhibit No.
9 14. All right, take a look at that for me. Do you
10 recognize that?

11 A Yes, I do.

12 Q Okay. Can you tell us what that is?

13 A This is the offer letter that I did give Curtis
14 baby momma.

15 MS. HENRY: Your Honor, I'd like to offer this
16 as Defendant's Exhibit No. 14 and publish it to the
17 jury?

18 THE COURT: Any objection?

19 MS. OWENS: Need to see it first, Your Honor.

20 THE COURT: Sure.

21 MS. OWENS: No objection, Your Honor.

22 THE COURT: Okay.

23 Okay. Without objection, the same is admitted
24 into evidence.

25 (WHEREUPON, Defendant's Exhibit No. 14 was

KATHY TAYLOR-DIRECT BY MS. HENRY

1 admitted into evidence.)

2 BY MS. HENRY:

3 Q All right. Kathy, can you see this?

4 A Yes, I can.

5 Q All right. So, can you tell us when this letter
6 was dated?

7 A November 26th, 2016.

8 Q All right. And I'm going to pull it up a little
9 bit. I can't see the bottom. Is that your signature?
10 Did you sign this?

11 A Yes, I did.

12 Q Okay. All right. Now, it's on the letterhead
13 for your business?

14 A Yes, it is.

15 Q All right. Is this the letterhead?

16 A Yes, it is.

17 Q What is this?

18 A The address of my company.

19 Q All right. Now, what else is included in this
20 offer letter? Is there a beginning date? Can you show us
21 what the start date is?

22 A The start date is November 28th of 2016.

23 Q How about the projected end date?

24 A The projected end date is November 20 -- I know
25 it was the end of December, yeah, December 26th.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Okay. Is there a job description? Does it tell
2 us what Curtis was supposed to be doing for you?

3 A Yes. Provide high level tasks using the task
4 formula for unloading the pods to the storage unit in
5 Whitehall, Pennsylvania.

6 Q Is that the same thing you just described to us
7 a minute ago, it that the same job?

8 A Yes.

9 Q Does this offer letter also tell us what kind of
10 pay rate he's supposed to have?

11 A Yes. I paid him \$18 an hour for 40 hours a
12 week, Monday through Friday, 8:00 to 5:00.

13 Q Okay. Does it indicate where this job is
14 located?

15 A Yes, it does.

16 Q Okay, can you tell us?

17 A Oh, yes, at the Econo Lodge, which is 1151
18 Bulldog Drive in Allentown, Pennsylvania. And the pods
19 were delivered one at a time. And they were delivered on
20 the same grounds where Curtis -- where I housed him for
21 his lodging.

22 Q Okay. Let's talk about that for a second. And
23 I see that -- do you see on the bottom here where it says
24 meals and transportation?

25 A Yes.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Can you explain to the jury what's going on with
2 that?

3 A I'm sorry, I couldn't --

4 Q I'm sorry. Can you explain to the jury what
5 that means? Is this some additional benefit you're
6 offering Curtis, what is this?

7 A I can't --

8 Q You can't --

9 A Yeah, I'm sorry. I'm kind of under the weather.
10 With the weather down here, I'm getting sick.

11 Q Sorry, Kathy. I'm just asking you about the
12 meals and transportation. I'm asking if you can explain
13 to the jury what you're talking about there in the offer
14 letter.

15 A The meals and transportation?

16 Q Uh-huh.

17 A Well, basically, there wasn't really
18 transportation. The transportation was the U-Haul.
19 Curtis did not drive, R.J. did. R.J. was the driver
20 that's driving the U-Haul truck from where the pods were,
21 where they had to go load the furniture off the pods to
22 the U-Haul truck to the Whitehall unit. But the lodging
23 was provided, that was part of me compensating Curtis for
24 lodging and his meals.

25 Q All right. Thank you, Kathy, I appreciate it.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 And I hate to -- I'm going to publish it
2 and it's up to you. You guys can do what you want to do.

3 Okay. All right, let's see. All right, so
4 after you hired Mr. Babb, when did you see him after that?

5 A Well, the job ended the end of December, but
6 Curtis also stayed until after the new year. And he also
7 was -- even though he was hired, the 20, it was the 7th or
8 28th, he was at the hotel a week or two prior. Because I
9 did not know when exactly the date was -- the job was
10 going to start.

11 Q So, he was there earlier?

12 A Yes.

13 Q Like prior to -- prior to the date that's on the
14 cover letter?

15 A Correct. Correct. And I did see him physically
16 the Friday before he started work.

17 Q Okay.

18 A Because I know he was -- I felt kind of bad
19 because I know it was like the holidays. He was --

20 Q What holiday?

21 A It was Thanksgiving holiday he was there, there
22 was Christmas and New Year's?

23 Q Okay. How often after you hired him did you see
24 Mr. Babb as part of the job?

25 A I didn't see him. My assistant did. My

KATHY TAYLOR-DIRECT BY MS. HENRY

1 assistant was more hands on. She was more out in the
2 field than I was.

3 Q Then how did you pay Mr. Babb, was it weekly,
4 monthly? How did you do that?

5 A I paid him weekly.

6 Q Okay. And how did you pay him?

7 A I paid him cash.

8 Q All right. How did you keep track of that?

9 A By receipts. I had everything that had to be
10 given to Curtis through my assistant with an envelope with
11 his cash with his copy of his receipt. Because I did not
12 know if he was going to be a 1099.

13 Q So, you kept the receipts?

14 A I kept the receipts, yes.

15 Q Let me show you Defendant's Exhibits 2 through
16 5. Okay, take a look at them for me.

17 A Okay.

18 Q Okay. All right, Kathy, do you recognize those?

19 A Yes, I do.

20 Q Can you tell the Court what those are?

21 A These are the receipts of Curtis' pay.

22 Q Okay.

23 MS. HENRY: Your Honor, I'd like to offer
24 Defense Exhibits 2 through 5 into evidence and I'd
25 like to publish them to the jury.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 THE COURT: Okay. Show them to the State.

2 MS. OWENS: No objection, Your Honor.

3 THE COURT: Okay. Without objection, the same
4 is admitted.

5 (WHEREUPON, Defendant's Exhibits Nos. 2-5 were
6 admitted into evidence.)

7 BY MS. HENRY:

8 Q All right. Kathy, I want to ask in particular
9 about this receipt. Can you tell us what the date on this
10 receipt is?

11 A The date is December 9th, 2016.

12 Q What does that date mean?

13 A That is the date that Curtis received his pay.

14 Q Okay. And then do you see that other -- do you
15 see the WE in the notes?

16 A Yes.

17 Q Can you explain to the jury what that is?

18 A That's for week ending December, what is that,
19 2nd pay.

20 Q What does that mean?

21 A That means the week prior, he got paid on
22 December 9th for a weeks worth of pay.

23 Q So, December 2nd, is that the end of --

24 A The week -- the work week that he worked.

25 Q Okay, I see what you're saying. So, just walk

KATHY TAYLOR-DIRECT BY MS. HENRY

1 us through this receipt. So, is that your name at the
2 top? Are you the one that paid this?

3 A Yes.

4 Q Okay. Then the address?

5 A Correct. The company's PO Box, yes.

6 Q Then who did you pay?

7 A Curtis Babb.

8 Q All right. Then can you tell us what the job
9 number is for? Is that an accurate job number?

10 A That is an accurate job number for my client,
11 Roman Bolderjar job.

12 Q Okay. Did you charge the job for work that
13 Curtis had done for them?

14 A Yes. I included that into my taxes.

15 Q Okay. Then I'm just going to show you the other
16 three receipts. Okay, they should all be in order.
17 You've already said you recognized these receipts. Can
18 you read out for the jury the other dates that he was
19 paid?

20 A December 16th, December 23rd and December 30th.

21 Q Okay. And for all four of these receipts, these
22 three, including the previous ones, how much was he paid?

23 A He was paid \$720 a week.

24 Q Was that for a 40-hour week?

25 A Yes.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Okay. Okay. Then under the note section, you
2 indicate -- is the indication the same for all of these
3 receipts?

4 A Yes. W/E represents week ending. And the date
5 that's under it would be the end of that work week.

6 Q Okay. How did Curtis pick up these cash
7 payments?

8 A My assistant would deliver anything that I
9 needed her to deliver to the workers that were out in the
10 field. So, Curtis would have received his pay from my
11 assistant.

12 Q So, you didn't pay Curtis, personally?

13 A No.

14 Q All right. Do you know what date he was
15 normally paid?

16 A Fridays.

17 Q All right. Was there ever a time that Curtis
18 did not pick up his payment on Friday?

19 A No.

20 Q All right. Did he ever ask you to hold the
21 payment?

22 A No.

23 Q Okay. All right. You mentioned that you
24 provided other amenities for Mr. Babb. Can you tell us
25 again what those other amenities were?

KATHY TAYLOR-DIRECT BY MS. HENRY

1 A I provided his meals and lodging.

2 Q Okay. How are those meals provided?

3 A I would have Cecelia take money out of the petty
4 cash and since he did not have a vehicle, Cecelia would
5 either drive to get him lunch when he didn't have lunch or
6 give him money. I don't really know the legalities of
7 how.

8 Q Okay. Did you also provide lodging?

9 A Yes, I did.

10 Q Is this something you would normally do for
11 employees?

12 A Yes, it is, actually, for piece of mind so I
13 don't have excuses that they didn't show up, or I didn't
14 have transportation. I knew that they were there.
15 Because usually at the hotel sites, I have everything
16 already worked out. The pods can be delivered there.
17 Curtis' room was not even what, like, 50 steps from the
18 pods. So, I didn't have to worry about Curtis or Jay
19 couldn't show up for work, I'm late. I don't go through
20 any of those if I provide the lodging.

21 Q Okay. So, where was the lodging located?

22 A At the Econo Lodge in Allentown.

23 Q What dates was the lodging available to him?

24 A It was for the month -- the end of November and
25 then the month of December.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Okay. And did you pay the Econo Lodge on his
2 behalf?

3 A Yes, \$500 a month.

4 Q Did you keep a receipt of that?

5 A Yes, I did.

6 Q Okay. I'm going to show you Defendant's Exhibit
7 12 and 13. All right. Would you take a look at that for
8 me?

9 A (The witness complies.)

10 Q All right. Do you recognize those?

11 A Yes, I do.

12 Q Okay. Can you tell us what they are?

13 A These are the receipts for Curtis' lodging.

14 Q Okay.

15 MR. ROBINSON: No objection.

16 MS. HENRY: Okay, Your Honor, I'd offer these
17 two Defendant's Exhibits 12 and 13 into evidence.
18 And I'd ask to be able to publish to the jury.

19 THE COURT: Okay, objection?

20 MS. OWENS: No objection.

21 THE COURT: All right, without objection, it is
22 admitted and you may publish.

23 (WHEREUPON, Defendant's Exhibits Nos. 12-13 were
24 admitted into evidence.)

25 (WHEREUPON, Defendant's Exhibit Nos. 12 and 13

KATHY TAYLOR-DIRECT BY MS. HENRY

1 were published to the jury.)

2 BY MS. HENRY:

3 Q All right, Ms. Taylor, can you walk us through
4 this receipt?

5 A Sure.

6 Q So, who created this receipt?

7 A The Econo Lodge, at the front desk. The
8 employee who works there.

9 Q Okay. Can you read this for us? Is this your
10 name? Can you tell us what's going on right here?

11 A Yes, that's my name, Curtis' name and my
12 physical address at the time.

13 Q Why is Curtis' name on this?

14 A Because he was the employee working at the time
15 and I provided lodging for him. And if he were to forget
16 his key or what have you, he's on the record, so he can
17 always just go to the front to get a key if he was to ever
18 get locked out. And that's for my records as well.

19 Q Okay. According to this receipt how much did
20 you pay a month for him to stay there?

21 A Five hundred.

22 Q All right. Now, I believe -- all right. And
23 then under the comment section, can you explain the date
24 range for me?

25 A The date range?

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Yeah. Where it says date range.

2 A November 27th through December 27th is the
3 monthly rental.

4 Q Okay. Then I just want to point out here that
5 it says arrival date November 27th, 2013. Can you explain
6 that to the jury?

7 A That is when I booked my monthly rentals.
8 Because this is one of the hotels that I'm able to bring
9 pods onto the site. It's like a conference center. It's
10 really big. A lot of truck drivers use it for lodging.
11 But that was like one of my agreements that, I guess, the
12 owner or the sales lady at the time said it would not be a
13 problem for me to bring the pods there. Because with the
14 way that the rooms are positioned, it's totally out of the
15 way. So, it wouldn't interfere with any of their guests.

16 Q Okay. So, are you saying -- is this date -- do
17 you have a standard booked room or standard room that you
18 keep there?

19 A Yes.

20 Q Okay. Is this when you started having that
21 room?

22 A Yes.

23 Q Okay. And you testified that Curtis' name was
24 on it because the room was being occupied by him at this
25 time?

KATHY TAYLOR-DIRECT BY MS. HENRY

1 A Correct.

2 Q If it had been occupied by somebody else, would
3 the name underneath yours be different?

4 A Correct.

5 Q Okay. I just want to make sure we all
6 understand that. Okay. All right. Let's see. Okay.
7 So, when I called you about this, I asked you to check
8 your employee file, correct?

9 A Correct.

10 Q And I asked you if you found anything else. And
11 you did; is that accurate?

12 A Correct.

13 Q All right. I'm going to show you Defendant's
14 Exhibits 11 and 10. All right. So, do you recognize
15 these?

16 A Yes.

17 Q Okay. All right. Can you tell us where you got
18 them?

19 A In Curtis' employee file. This is his birth
20 certificate.

21 Q And what's the other item? What is Exhibit No.
22 11?

23 A This is the calendar when I was figuring out the
24 dates to book Roman Bolderjar's in order to move the pads.
25 This is one of the reasons why, too, Curtis was -- he

KATHY TAYLOR-DIRECT BY MS. HENRY

1 arrived earlier.

2 Q So, you do recognize both of those?

3 A Yes.

4 MS. HENRY: Okay. You can hand those back.

5 MR. ROBINSON: No objection, Judge.

6 MS. HENRY: Your Honor, I'd like to offer these
7 into evidence and publish them to the jury.

8 MS. OWENS: No objection from the State, Your
9 Honor.

10 THE COURT: All right, without objection, the
11 same is admitted.

12 (WHEREUPON, Defendant's Exhibits Nos. 10-11 were
13 admitted into evidence.)

14 (WHEREUPON, Defendant's Exhibit Nos. 10 and 11
15 were published to the jury.)

16 BY MS. HENRY:

17 Q All right. Kathy, do you recognize this?

18 A Yes.

19 Q Can you tell us again what it is?

20 A It's my calendar that I used for Roman
21 Bolderjar, my client, on the dates.

22 Q So, is this calendar -- what year is this
23 calendar showing?

24 A 2016.

25 Q Then I see that you've got some notes down here.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Can you tell us what those mean?

2 A I was assigning Curtis and RJ to the job.

3 Q Okay. Then can you just explain what the rest
4 of these notes are?

5 A I was actually going through my task formula and
6 the dates that I have circled, it would take a month to go
7 through six pods. So, the start date -- because I didn't
8 deal with the pods, Mr. Bolderjar did. So, he was
9 explaining that on the 27th through, roughly, the 24th is
10 when he would have the actual pods, through that period of
11 time.

12 Q Okay. All right. I'm going to show you
13 Defendant's Exhibit No. 10, can you tell us what this is?

14 A That is Curtis Babb's birth certificate.

15 Q Can you explain the circumstances and explain
16 why you have this?

17 A He -- for the I-9 and the W-4s, this was one of
18 the verifications that was presented for him to be hired.

19 Q Okay. So, when did he give this to you?

20 A That was the Friday before he started.

21 Q Okay. All right. Thank you very much.

22 Ms. Taylor, just a couple more questions. Okay. So you
23 testified a little while ago that you don't have a lot of
24 contact with Curtis?

25 A Correct.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q So who did, who monitored Curtis for your
2 company?

3 A My assistant.

4 Q Do you know how often she met with him?

5 A Every day.

6 Q How many times a day?

7 A At least, two, three times a day.

8 Q Okay.

9 A If anything, guaranteed twice a day.

10 Q As far as you're aware, was Curtis ever late to
11 work?

12 A No.

13 Q Did he ever miss a day at work?

14 A No.

15 Q If he had, how would you have known?

16 A I would have known right away from Cecelia.

17 Q What would you have done if he'd been late or he
18 had missed work?

19 A He wouldn't be working. He wouldn't have had a
20 job.

21 Q Okay. Would you have paid him for the time that
22 he --

23 A No, I would not have paid him.

24 Q And according to the receipts that you presented
25 today, did you pay him for a full 40-hour -- 40 hours

KATHY TAYLOR-DIRECT BY MS. HENRY

1 worth of work for all four of those weeks?

2 A Correct, yes.

3 Q Did you pay him for a full 40-hours worth of
4 work the week of December 8th?

5 A Correct, yes, I did.

6 Q Okay. All right. And that's all reflected in
7 the receipts?

8 A Correct.

9 Q If he had been late or if he had not shown up,
10 would you let him continue to live at the hotel?

11 A No.

12 Q And if he had been late or -- if he had been
13 late or not shown up, would that have been reflected in
14 your notes?

15 A Yes, very much so. And on my employee file, I
16 would have not rehirable. Because when I'm hiring workers
17 for my client, I mean, I do get nervous because in the
18 past, I did have a situation with employees stealing. And
19 I didn't have to worry -- like everything with RJ and
20 Curtis, they did a superb job. My client assistant,
21 Shelly, was on site. She even recommended them. There
22 was more work lined up for Curtis to start, and RJ. But,
23 unfortunately, Curtis was not present for me to offer him
24 another job.

25 Q Okay. Since you mentioned it, let me go ahead

KATHY TAYLOR-DIRECT BY MS. HENRY

1 and show you Defendant's Exhibit 15. Do you recognize
2 that?

3 A Yes. This is Curtis' employee personal file.

4 Q Okay.

5 THE COURT: Do you want to introduce it?

6 MS. HENRY: Oh, I apologize, Your Honor. I'd
7 like to offer this into evidence and ask if I can
8 publish it to the jury.

9 THE COURT: Objection?

10 MS. OWENS: No objection from the State, Your
11 Honor.

12 THE COURT: Mr. Robinson?

13 MR. ROBINSON: No objection.

14 THE COURT: Okay, without objection, the same is
15 introduced. And you may publish it.

16 (WHEREUPON, Defendant's Exhibit No. 15 was
17 admitted into evidence.)

18 (WHEREUPON, Defendant's Exhibit No. 15 was
19 published.)

20 BY MS. HENRY:

21 Q It's a little hard to get all of it on there, so
22 I'm just going to ask you about this portion of it. So
23 Kathy, can you tell us what this is again?

24 A Curtis' employee file.

25 Q Okay. Can you tell us the date of hire that's

KATHY TAYLOR-DIRECT BY MS. HENRY

1 listed?

2 A November 28th, 2016.

3 Q Okay. And then how about -- what does it say
4 under date of termination?

5 A Will rehire -- what's that, job ended, will
6 rehire.

7 Q Whose file does it indicate that this belongs
8 to?

9 A Curtis Babb.

10 Q Okay. Can you explain what's going on down
11 here? Do you see this part?

12 A Yeah, that's your hire and end date. And the
13 description, organizer/hauler under the professional
14 organizing. He reported to Cecelia Perez and his pay is
15 18 per hour.

16 Q Then I'm going to flip this over and show you
17 that as well. Can you explain what's on the back of here?

18 A You want me to start from the top? It's just,
19 basically, his birth date, if he's married, male, he's
20 single.

21 Q How about in the other information comments
22 portion?

23 A I put him down as a 1099 pay. I paid him in
24 cash and that his hotels and meals were included with the
25 contract.

KATHY TAYLOR-DIRECT BY MS. HENRY

1 Q Okay. And when did you create his employee
2 file?

3 A Cecelia would have created it prior. I usually
4 have her get the employees' files together a week or days
5 before they were to start their job.

6 Q Okay.

7 A Like, two or three days.

8 Q Okay. All right. So did Curtis do a good job?

9 A Yes, he did. I would hire him again.

10 Q Was he at work as far as you're aware on
11 December 7th, 2016?

12 A Yes.

13 Q Was he at work on December 8th, 2016?

14 A Yes.

15 Q Okay. All right. You came all the way down
16 here to South Carolina from Pennsylvania to testify today?

17 A Yes.

18 Q Okay. So did you leave work and your business
19 to come here?

20 A Yes, I did. I'm actually losing out on pay,
21 yes.

22 Q Would you be here if this were not the truth?

23 A No.

24 Q Would you lie for Curtis?

25 A No, I would not.

KATHY TAYLOR-CROS BY MS. OWENS

1 MS. HENRY: I don't have any more questions.

2 THE COURT: Okay, thank you.

3 Mr. Robinson, any questions, sir?

4 MR. ROBINSON: I have no questions, Your Honor.

5 THE COURT: Ms. Owens?

6 MS. OWENS: Very briefly, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. OWENS:

9 Q Ms. Taylor, you're related to Mr. Babb, aren't
10 you?

11 A No, I'm not.

12 Q Have you had repeated conversations with
13 Mr. Babb since he's been incarcerated here in Greenville?

14 A I've talked to him maybe two or three times.

15 Q Oh, really? Do you remember exchanging emails
16 with him?

17 A Yes. When they were trying to locate -- they
18 were trying to locate me.

19 Q Do you remember about how many times you and
20 Mr. Babb exchanged emails?

21 A No, I don't. Because I know I met him through
22 my son, so.

23 Q Just generally speaking, do you feel like it was
24 frequently?

25 A Periodically.

KATHY TAYLOR-CROS BY MS. OWENS

1 Q Between March of 2018 and June of 2019, about
2 how many times do you think you exchanged emails with
3 Mr. Babb?

4 A Me, personally, I don't -- I don't know. Maybe
5 --

6 Q More than five times, more than ten times?

7 A I don't know. I'm not the only one that uses
8 the email.

9 Q So is it your testimony then that someone else
10 used your account to exchange emails with Mr. Babb?

11 A Yes.

12 Q Who would that have been?

13 A My son's friends. I know my son had asked me --
14 his friend needed a job.

15 Q Ms. Taylor, does Mr. Babb refer to you in those
16 emails as sis?

17 A Sometimes he would, yes. He would especially --
18 he was very thankful that I did give him a job, so he
19 would sometimes refer to me as sis sometimes.

20 Q And in those exchanges, would Mr. Babb also
21 refer to your son as his nephew?

22 A I don't know exactly. Sometimes. I don't know
23 their terminology.

24 Q I'm just asking what you recall. In your
25 exchanges with Mr. Babb, did he refer to your son as his

KATHY TAYLOR-REDIRECT BY MS. HENRY

1 nephew?

2 A Sometimes nephew, friend. That's their
3 terminology, I guess. I don't --

4 Q But it's your testimony here that you're not
5 blood related?

6 A No, we're not blood related.

7 Q Okay.

8 A I met Mr. Curtis through my son.

9 Q Now, with respect to Defense Exhibits 10, 12,
10 13, 11, 14 and 2 through 5, those are documents you
11 provided to Ms. Henry in February of 2019, correct?

12 A I don't know exactly which dates they were
13 given.

14 Q Well, was it earlier this year?

15 A Yes.

16 Q Okay. And with respect to State -- I'm sorry,
17 Defendant's Exhibit 15, is this a document that you
18 provided to Ms. Henry Tuesday?

19 A Yes.

20 MS. OWENS: I don't have any additional
21 questions, Your Honor.

22 THE COURT: Okay.

23 All right. Any redirect, ma'am?

24 REDIRECT EXAMINATION

25 BY MS. HENRY:

KATHY TAYLOR-REDIRECT BY MS. HENRY

1 Q Kathy, are you related to Mr. Babb?

2 A No, I'm not related to him.

3 Q Okay. What does the term nephew mean?

4 A Like, that's what I was saying, sometimes they
5 refer to, like, nephews or family or, you know. I mean, I
6 found it odd when he was, like, okay, sis or, you know,
7 but I guess that's the terminology. I don't know. I'm
8 not blood related, though.

9 Q And why did you email with Mr. Babb?

10 A If my son and -- I actually have more work for
11 him. But it wasn't -- like I said, my email, it was
12 utilized not -- it's an account, like, for my son, so I
13 don't -- it's not something on a personal basis. Or I
14 don't know what the solicitor is trying to inform, but
15 he's not my family.

16 Q All right.

17 A I did a favor for my son. Like, my son is,
18 like, a friend of mine is needing a job, you know, would
19 you hire him?

20 Q So the favor is the job?

21 A Yeah.

22 Q Did you do any other favors?

23 A No.

24 Q Are you lying about Curtis Babb being your
25 employee?

CECELIA PEREZ-DIRECT BY MS. HENRY

1 A No.

2 Q And when he was your employee?

3 A No.

4 Q Are you lying about when you created those
5 documents?

6 A No.

7 MS. HENRY: Okay. Thank you.

8 THE WITNESS: You're welcome.

9 THE COURT: All right, thank you, ma'am. I
10 appreciate you being here. You can step down.

11 All right. You may call your next witness,
12 ma'am.

13 MS. HENRY: Thank you, Your Honor. The Defense
14 calls Cecelia Perez.

15 THE CLERK: Place your left hand on the Bible
16 and raise your right hand.

17 CECELIA PEREZ, after being duly sworn, testified
18 as follows:

19 THE CLERK: Thank you. Please take a seat.
20 State your name for the record.

21 THE WITNESS: Cecelia Perez.

22 DIRECT EXAMINATION

23 BY MS. HENRY:

24 Q All right. Ms. Perez, how old are you?

25 A Thirty.

CECELIA PEREZ-DIRECT BY MS. HENRY

1 Q Where do you live?

2 A Allentown, Pennsylvania.

3 Q Can you say that louder for me?

4 A Allentown, Pennsylvania.

5 Q Pennsylvania?

6 A Uh-huh.

7 Q Where do you work?

8 A I work as Ms. Taylor's assistant.

9 Q For what business?

10 A Masquerade by Usry, wedding planning.

11 Q How long have you worked there?

12 A A few years.

13 Q Can you explain to the jury what the company
14 does?

15 A A bunch of different things. She is a wedding
16 planner, professional organizer. I just do assisting.

17 Q Okay. So assisting, is that your role?

18 A Yeah. I schedule the consultations for the
19 weddings and I pretty much am the main person for
20 organizers.

21 Q So who do you report to directly?

22 A Her, Kathy Taylor.

23 Q Kathy Taylor, okay. Do you know Curtis Babb?

24 A Other than work, no.

25 Q But you do recognize him?

CECELIA PEREZ-DIRECT BY MS. HENRY

1 A Yes. Yes.

2 Q What is your relationship to him?

3 A Nothing at all.

4 Q Okay. I mean --

5 A Well, besides employees.

6 Q So you don't have a personal relationship with
7 him?

8 A No.

9 Q Did he report directly to you?

10 A Yes.

11 Q Okay. Did you know him prior to working with
12 him at Masquerade by Usry?

13 A No.

14 Q All right. Have you communicated with him
15 since?

16 A No.

17 Q All right. Do you remember working with Curtis?

18 A Yes.

19 Q What was your interaction with him?

20 A I would come make sure he was there, stamp the
21 time card. Then I would periodically come back throughout
22 the day to make sure the pods were getting done and
23 everything was getting situated. Then he can clock in and
24 clock out.

25 Q Okay. So he clocked in and clocked out?

CECELIA PEREZ-DIRECT BY MS. HENRY

1 A Uh-huh.

2 Q All right. I'm going to show you Defense
3 Exhibits 6, 7, 8 and 9. Would you take a look at these
4 and let us know?

5 A Yeah, I'm the one who stamped them.

6 Q Do you recognize those?

7 A Yes, I do.

8 Q Can you tell the Court what they are?

9 A They're his timecards from when he clocked in,
10 clocked out and the date that he was there.

11 Q Okay.

12 MS. HENRY: Your Honor, I would ask
13 permission -- I would offer into evidence Defendant's
14 Exhibits 6, 7, 8 and 9 and ask to publish those to
15 the jury.

16 THE COURT: Objections from the State?

17 MS. OWENS: No objection, Your Honor.

18 THE COURT: All right.

19 Mr. Robinson, objection, sir?

20 MR. ROBINSON: No objection.

21 THE COURT: All right, without objection, the
22 same is admitted. You may publish.

23 (WHEREUPON, Defendant's Exhibits Nos. 6-9 were
24 admitted into evidence.)

25 (WHEREUPON, Defendant's Exhibits Nos. 6-9 were

CECELIA PEREZ-DIRECT BY MS. HENRY

1 published.)

2 BY MS. HENRY:

3 Q I'm going to show you -- just going to refer to
4 the pertinent time card I think in this case. All right,
5 Cecelia -- Okay. All right, Cecelia, can you tell the
6 jury what this is?

7 A That's his time card.

8 Q All right. What is this at the top?

9 A Where?

10 Q The white part?

11 A The information, his name.

12 Q Okay. Okay. So this is the time card for what
13 week?

14 A December, I can't see from over here, the 5th,
15 December 5th.

16 Q Is that what that says? Is that the ninth?

17 A Yeah, I'm sorry. I was looking at the one below
18 it.

19 Q Oh, I see. Okay. So -- and I see what you're
20 doing here. So what date is that?

21 A December 5th.

22 Q Okay. What's the last date at the bottom?

23 A The 10th, I believe, or 9th.

24 Q The 9th?

25 A Yeah. I can't see it from here.

CECELIA PEREZ-DIRECT BY MS. HENRY

1 Q You can't see it?

2 A No. I believe it says the 9th, that's the end
3 date.

4 Q Well, here, let me give it back to you then so
5 that you can see it. I want to make sure everyone is
6 looking at the same stuff.

7 A Yeah, that's the 9th.

8 Q I think you were having a hard time seeing. I
9 just wanted to make sure we're not talking at crossroads.

10 A No, ma'am.

11 Q Okay. So, according to that time card, on
12 December 7th, what time did Curtis Babb report for work?

13 A Eight o'clock.

14 Q Okay. Is that 8:00 a.m. or -- 8:00 a.m.?

15 A Yeah.

16 Q Okay. Then what time did he clock out?

17 A Five o'clock p.m., Monday through Friday.

18 Q So December 8th?

19 A Monday from Friday, 8:00 a.m., 5:00 p.m., clock
20 out.

21 Q So explain to the jury how the clock in, clock
22 out works with you and with Masquerade by Usry?

23 A Well, I would go and make sure they were there.
24 I would have to stamp myself and I would stamp that they
25 were there. That's for the clock in and for the clock

CECELIA PEREZ-DIRECT BY MS. HENRY

1 out, stamp it. When it's time to clock out, I would come
2 back.

3 Q So there's no machine?

4 A No.

5 Q So this is something -- you are physically
6 there?

7 A Yes, I physically have to stamp by hand.

8 Q Okay. So when you stamp that, you're looking at
9 --

10 A Correct.

11 Q Okay. So, when you stamped those, you were
12 looking at Curtis Babb?

13 A Correct.

14 Q Would you have stamped those if Curtis Babb was
15 not there?

16 A Not at all.

17 Q Okay. Okay. Would you have stamped those if
18 Curtis Babb were late?

19 A Not at all. Well, it would be the time that he
20 actually was there. I wouldn't stamp it, correct, at
21 eight o'clock if he wasn't there.

22 Q Okay. So if he had gotten there at 8:15, what
23 would the time card say?

24 A 8:15.

25 Q Okay. According to those time cards -- or

CECELIA PEREZ-DIRECT BY MS. HENRY

1 according to that time card, was he ever late?

2 A No.

3 Q Okay. All right. If he had been late, what
4 would you have done?

5 A Reported it to Kathy Taylor.

6 Q Did you ever have to do that?

7 A Not at all.

8 Q All right. Are those two times during the day,
9 the 8:00 a.m. and 5:00 p.m. that are on that time card,
10 are those the only times that you checked in or saw Curtis
11 Babb?

12 A No. I would come periodically throughout the
13 day to make sure that everything was getting done. But
14 sometimes, they didn't even see me. It was just a quick
15 glimpse to make sure it was getting done. Then I would
16 report it to Kathy.

17 Q What were you checking on?

18 A Make sure the work was getting done, there was
19 no stealing, stuff like that.

20 Q Okay. Did you ever show up at work during one
21 of these check-ins and find that Curtis Babb was not on
22 site?

23 A No, he was always there on time doing his work.

24 Q All right. So the government has alleged that
25 Curtis Babb was in South Carolina on December 7th, 2016,

CECELIA PEREZ-DIRECT BY MS. HENRY

1 and December 8th. Is that possible according to your time
2 cards?

3 A No, he can't be in two places at one time.

4 Q Is that possible according to your recollection?

5 A No, he was at work.

6 Q And then I also -- Kathy Taylor mentioned that
7 you were one that pays employees.

8 A Uh-huh.

9 Q Did you also pay Curtis Babb?

10 A Yes, I did.

11 Q Can you explain to us how you did that?

12 A She would put everything in an envelope or
13 whatever, then when I would go check him out on Friday at
14 5:00 p.m. I would just hand it to him and then it would
15 be stamped on the time card saying that he was paid.

16 Q Okay. Is that time card stamped?

17 A Yes, it is.

18 Q And what does the stamp say?

19 A Paid.

20 Q And what date was he paid?

21 A The 9th.

22 Q All right. You also came down here from
23 Pennsylvania; is that correct?

24 A Correct.

25 Q Do you have any kind of special relationship

CECELIA PEREZ-REDIRECT BY MS. HENRY

1 with Curtis Babb?

2 A No.

3 Q Okay. Are you missing work to be here?

4 A Yes, I am.

5 Q Would you be here saying all this if it was not
6 the truth?

7 A No, I wouldn't.

8 MS. HENRY: I don't have any other questions,
9 Cecelia. Thank you.

10 THE COURT: Mr. Robinson, any questions, sir?

11 MR. ROBINSON: No, sir.

12 THE COURT: Any questions from the State?

13 MS. GARY: Very brief, Judge.

14 THE COURT: Yes, ma'am.

15 CROSS-EXAMINATION

16 BY MS. GARY:

17 Q Good afternoon, Ms. Perez. My understanding,
18 you work for Kathy Taylor; is that correct?

19 A Correct.

20 Q You didn't tell any of this to the police in
21 Greenville, South Carolina, did you?

22 A No.

23 MS. GARY: Thank you.

24 THE WITNESS: Why would I?

25 REDIRECT EXAMINATION

CECELIA PEREZ-REDIRECT BY MS. HENRY

1 BY MS. HENRY:

2 Q Were you interviewed by the police in South
3 Carolina?

4 A No, I wasn't.

5 Q So, did anyone from the solicitor's office or
6 the police ever call you about this?

7 A Not at all.

8 MS. HENRY: Okay. Thank you so much.

9 THE WITNESS: You're welcome.

10 THE COURT: Thank you, ma'am. I appreciate your
11 being here. You may step down.

12 THE WITNESS: Thank you.

13 THE COURT: Do you intend to call any additional
14 witnesses, ma'am?

15 MS. HENRY: No, Your Honor.

16 THE COURT: All right. Good enough.

17 So, is lunch here?

18 THE BAILIFF: (The bailiff nods.)

19 THE COURT: I presume that's a yes?

20 THE BAILIFF: Yes, sir.

21 THE COURT: So let's go ahead and take a break
22 for lunch. We'll do it exactly like we did
23 yesterday, except today, I hope we don't take quite
24 as long a time. That's my fault, not y'all's. So
25 I'm going to start sending messages back to you in

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 (WHEREUPON, the jury came into open court at
2 approximately 1:38 p.m.)

3 THE COURT: All right. Mr. Robinson, you may
4 call your first witness, sir.

5 MR. ROBINSON: May it please the Court, Your
6 Honor, we would call Nakia Sims.

7 THE CLERK: Place your left hand on the Bible
8 and raise your right hand.

9 NAKIA SIMS, after being duly sworn, testified as
10 follows:

11 THE CLERK: Thank you. Please take a seat and
12 state your name for the record.

13 THE WITNESS: Nakia Sims.

14 MR. ROBINSON: May it please the Court?

15 THE COURT: Yes, sir.

16 DIRECT EXAMINATION

17 BY MR. ROBINSON:

18 Q Ms. Sims, tell me a little bit about yourself.

19 A I'm 27 years old. I'm a single mom. I have
20 three children. I am originally from here, but I grew up
21 in Columbia, South Carolina.

22 Q Okay. And back in December of 2016, where did
23 you reside?

24 A I resided in Shemwood Crossing.

25 Q What apartment number?

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 A [REDACTED].

2 Q [REDACTED], okay. And I want to take you back to
3 December 7th or 8th -- or excuse me, the morning of the
4 8th in December of 2016. Tell the jury a little bit about
5 how this apartment or -- was it a town home?

6 A It's built like a town home, but it is an
7 apartment. But it's built like a town home, meaning it's
8 upstairs and downstairs.

9 Q Can you tell me what's on the upstairs?

10 A Yes. The upstairs is where the bathroom and
11 there's two rooms -- well, three bedrooms, but there's two
12 bedrooms on the main floor, then there's a bedroom in the
13 front window. So it's made just like an apartment
14 townhouse.

15 Q Who resided -- who lived in which room?

16 A In the first bedroom was my children's bedroom,
17 the second bedroom was my bedroom and the front window
18 bedroom was William's bedroom, also, shared with another
19 friend of mine.

20 Q Okay. You're referring to William Shane Fordham
21 Brown?

22 A Yes.

23 Q Do you see him in the courtroom?

24 A I do.

25 Q And where is he?

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 A He's on the right side.

2 Q And what does he have on?

3 A Blue -- a blue jacket and white shirt.

4 Q Okay. And tell me this, who else lives there?

5 Besides your kids and William and you, who else was there?

6 A There was a girl who would come in and out every
7 now and then. We were really close friends. Her name was
8 Candace.

9 Q What's Candace's last name?

10 A Beaufort.

11 Q Beaufort, okay. Any relation to you?

12 A Oh, no, we're not related. She was a close
13 friend. I used her car sometimes, she would use mine. We
14 were -- like I said, I'm a single mom, so sometimes my car
15 would break down. She was a good friend of mine. If my
16 kids needed to be picked up from school, she could come if
17 I would call or whatever.

18 Q Okay. Let me -- let's go back to December 8th
19 of 2016, okay. What was the weather like at that time?

20 A Normal weather. It wasn't raining, it wasn't
21 cloudy or anything like that.

22 Q Was it cool?

23 A Yeah, normal temperatures.

24 Q Did you see William Shane Fordham Brown that
25 morning?

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 A The morning of what?

2 Q Of the incident. When this -- tell the jury
3 what happened that night. Tell me what happened. You go
4 to bed, right?

5 A Uh-huh.

6 Q Okay. Before you went to bed, what did you guys
7 do?

8 A What we normally do. Like I said, I'm a mom, so
9 I'm giving my kids baths, I cook dinner as usual. William
10 ate. My kids ate. I clean up the kitchen like I normally
11 do. We had a pretty normal routine. My kids were in
12 school. I'm one of those moms where it's bedtime,
13 dinnertime. Once my house shuts down, that's it, no other
14 movement. My kids are asleep. So I cooked dinner, we
15 watched a little bit of TV a little bit. I cleaned up the
16 kitchen. We all went to bed like we normally do. I
17 always walk through my house, check my doors, make sure my
18 front door is locked, my back door is locked. I also had
19 a dog at the time. I would take my dog out before I
20 locked my doors. That's the last thing I do before we all
21 go to bed. We all went to bed like we normally do.

22 Q Okay. And at some point, did you wake up for a
23 minute or so?

24 A Yes. I always get up in the middle of the night
25 and check on my kids. I also always just walk through the

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 house. The neighborhood I stayed in wasn't a great
2 neighborhood. So I always would get up in the middle of
3 the night just to check on things, walk through my house,
4 make sure my doors were still locked, check on my dog,
5 normal stuff. And what I would normally do when I would
6 walk in my kids' room, I would check on them, but I would
7 also check on William in his room. Sometimes, he would
8 leave his phone on. It would kind of like beep if it was
9 going dead and stuff, so I would put his phone back on the
10 charger sometimes. So just like a normal thing for me,
11 just throughout the night. But I did go back to bed after
12 I did walk through the house.

13 Q And when you went to check around midnight or
14 whenever it was, was he still in his room?

15 A Yes.

16 Q Where did your kids, little kids -- how old were
17 they at that time?

18 A At that time, I believe -- my boys are 11 months
19 apart, so I believe they were three and two at the time
20 and my daughter, I believe, was five.

21 Q And where did they go to school? Where did the
22 ones that could go to school go to school?

23 A My boys were in daycare and my daughter went to
24 Belton. It was a Simpsonville school, at the time. It's
25 an elementary school.

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 Q What were you doing? Did you -- were you
2 working?

3 A Yes, I had two jobs.

4 Q Tell me about where you worked.

5 A I worked for a -- I'm a registered certified
6 medical assistant, which means I work in a doctor's
7 office. I did the clinical side and the clerical side,
8 which is the front and the back. And I worked, basically,
9 every day normally, five days out of the week. Normal
10 work hours, 8:00 a.m. to 5:00 p.m.

11 Q And what was the name of the company you worked
12 for?

13 A Pain Management.

14 Q Where are they located?

15 A They have three offices, an Easley office, a
16 Greenville office, which is on Grove Road, and they also
17 have a Spartanburg office. And I worked in all three.

18 Q Okay. Tell me, after midnight that morning,
19 what happened next?

20 A Like I said, I was sleeping. I got up, checked
21 around, went back to bed. It wasn't until after I went to
22 bed that I heard the banging on my back door.

23 Q You say banging, what kind of banging? Was it
24 loud?

25 A It was loud enough to wake me up.

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 Q Okay.

2 A So that's what woke me up.

3 Q Okay. What happened next?

4 A When I heard the banging, I sat up in my bed, I
5 listened just to make sure. Because like I said, the
6 apartments are really close, so if someone were to knock
7 on the neighbor's back door, it would sound like it was my
8 back door. So I sat up for just a second or so just to
9 make sure it was mine.

10 Obviously, William heard the same thing
11 because he was -- our rooms are like this. So he was at
12 the door and I was stepping into the door. I'm going to
13 the back window where my bathroom is. Like I said, you
14 come up the steps, there's a bathroom immediately ahead of
15 you. There's a window. Well, William's room had a window
16 as well. So as he's going to his window, I'm going to the
17 bathroom window. We're trying to figure out the banging.
18 Is it front door, back door. That's when we met.

19 When we met at the steps, he goes down the
20 steps to go to the back door to see what the banging is.
21 I come down immediately after him standing at the end of
22 the steps, the bottom of the steps. And that's when, you
23 know, we're communicating with each other, like, who is
24 it? He's saying who is it. He told me who it was. I
25 didn't know who it was. I'm standing there at the bottom

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 of the steps.

2 After standing at the steps, he told me who
3 it was. I was scared at first because we don't -- like I
4 said, once my house shuts down, it's shut down. We don't
5 have visitors coming in the night, not late, not ever.
6 And he said who it was, he said it was Connell. And he
7 went to let him in. I told him I was apprehensive, but it
8 was a friend, so let him in.

9 Q Why were you apprehensive?

10 A Because it's late. Like I said, we don't have
11 visitors in the middle of the night. I have kids, so I
12 didn't want to wake my kids up. That was kind of my main
13 thing for shutting the house down so early. They go to
14 bed, they go to school. So that was my main reason for
15 being apprehensive.

16 Q Okay. What happened next?

17 A He opened the door and we seen his leg. We
18 dragged him to the couch. Which my kitchen is where the
19 back door is. The kitchen is pretty big.

20 Q This is on the first floor, right?

21 A Yes, this is on the bottom half of the house.
22 My kitchen is pretty large, so when he dragged him across
23 the floor, we got him to the first thing, which is my
24 living room, which is my couch. It was a long couch on
25 the wall. That's the first thing we did was get him on

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 the couch. I was scared. I didn't know what happened. I
2 kept asking him what happened. He kept saying -- he just
3 said, I got shot. That's all he was saying, I got shot.
4 I'm like, Well, what do you want me to do? I'm not a
5 surgeon. I don't know what you want me to do with this.
6 He just kept saying, Just help me. He just saying, Just
7 help me, please help me.

8 Q What did you do?

9 A I'm not certified to really do much, but I do
10 know how to stop the bleeding. And that's what I told
11 him. I said, The only thing I can do for you is to stop
12 this bleeding, but you're going to need help after I do
13 that.

14 Q What did you do?

15 A I began to take the things off of his shirt
16 because it was the only thing that I could think of to
17 use. I tied it above his leg, above the knee area to cut
18 off the bleeding, but he was still bleeding, which made me
19 more frantic.

20 Q And in your experience, how much blood are we
21 talking about?

22 A It was so much blood that there was a trail from
23 my back door all the way up to the couch, bleeding from
24 the couch.

25 Q So, at some point, did you open up his -- what

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 he was wearing as far as his pants?

2 A I just used a piece of it to tie the thing up.
3 But I didn't take it off or anything like that.

4 Q Was that a tourniquet you put up; is that right?

5 A I made it into a tourniquet. It wasn't a real
6 one, but I made it into a tourniquet.

7 Q Did that seem to stop the bleeding?

8 A He -- it still was bleeding, but it wasn't
9 bleeding as much. But I knew it wasn't going to work. I
10 knew that he was going to have to call an ambulance.

11 Q Did you tell him that you're going to have to
12 call an ambulance?

13 A Oh, yes. I definitely told him that.

14 Q What was the response?

15 A He did not want to call the ambulance.

16 Q Okay. And at some point, did someone call the
17 ambulance?

18 A Yes.

19 Q Who called the ambulance?

20 A William called from his phone. I didn't have a
21 phone at the time. I believe Connell had a phone, I don't
22 remember. But I know he did want to call the -- he didn't
23 want to call the ambulance, but William was telling him,
24 hey, you're going to have to because she can't do anything
25 for you, I don't know what's going on. We're going to

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 have to call the ambulance. I was just honest with him or
2 else you're going to die right here.

3 Q Was there anyone else with Mr. Wells?

4 A No. He did mentioned when I kept asking him --

5 MS. OWENS: Your Honor, I'm going to --

6 BY MR. ROBINSON:

7 Q You're going to have to stay away from what
8 other people say.

9 THE COURT: I sustain. Go ahead.

10 BY MR. ROBINSON:

11 Q Stay away from what other people say as far as
12 what he said, okay? Did the ambulance and EMS come?

13 A Yes.

14 Q Okay. And was Shane William still there when
15 they came?

16 A Yes, he was.

17 Q Okay. So they leave, the ambulance leaves with
18 Mr. Wells and so forth. After that -- let's see, one
19 point I want to make, see if I can make, do you know a guy
20 named Wideman?

21 A Damean Wideman.

22 Q Yeah. Did you see Damean Wideman that night?

23 A I never seen him that night.

24 Q Okay. And -- but you know what he looks like?

25 A I do.

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 Q Okay. You've had dealings with him before?

2 A I never had dealings with him. He just used to
3 be in the neighborhood and I would speak to him. That's
4 about it.

5 Q So, you would recognize him if you saw him and
6 so forth?

7 A Uh-huh.

8 Q You didn't see him, right?

9 A I never seen him. I never made direct contact
10 with him because he's kind of crazy.

11 Q Okay. Now, in terms of that day, at some
12 point -- the next day, that's going to be the morning of
13 12/8, right? Do you know what time Connell Wells came
14 busting through the door?

15 A I don't remember what time it was.

16 Q Was it morning?

17 A It was late. That's all I can say. I can't say
18 a time. I can't say. I didn't look at a clock. I didn't
19 look at a phone. Like I say, I didn't have a phone that
20 night, I don't know what time it was.

21 Q To your knowledge, was Shane Brown there the
22 entire time?

23 A Yes.

24 Q Okay. What was he wearing?

25 A He normally always wore his basketball shorts to

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 bed. When I got up, that's what he had on, the basketball
2 shorts that he normally wore.

3 Q He had those on when they came, the EMS and
4 ambulance came?

5 A Yes, sir.

6 Q Okay. Now, that morning, that next day, was
7 Shane still there?

8 A Yes.

9 Q Now, this lady that you mentioned, the other
10 lady that was there?

11 A Candace.

12 Q Was she there that night?

13 A She was not there that night.

14 Q When did she come?

15 A That morning.

16 Q That morning, okay. Tell me what William Shane
17 did after she came? Where did he go? If you know.

18 A Uh-huh. She came that morning to take my kids
19 to school. Because, like I said, at the time, my car was
20 broken down and she was just helping me out. So she came
21 to take them to school, but he normally would drive. So
22 he was going to take the kids to school -- well, my
23 daughter to school. And my youngest two didn't go to
24 daycare, he took them to his grandmother's house once the
25 police came.

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 Q At some point, did the police come back and
2 execute a search warrant?

3 A They did.

4 Q Tell the jury about that.

5 A When the police came to execute the search
6 warrant, I can't remember how many officers there were,
7 but there were quite a few of them. They kicked my front
8 door and back door at the same time. Me and Candace was
9 there. We were the two females there. I was upstairs, we
10 were both upstairs. They're coming in on the bottom
11 floor. As they're coming in, they yelling and screaming
12 with guns drawn. And they were saying, you know,
13 whoever's in, get out, get out right now, or whatever.
14 I'm not knowing what's going on at this point. They're
15 just telling us to get out.

16 So they're telling us to keep our hands up.
17 I had my hands up. We're coming down the steps, she's in
18 front of me. And as she's coming down the steps, he's
19 telling me, don't move, put your hands up. And I'm
20 telling them, wait, like, please wait, my kids are here,
21 please wait. I don't have on any clothes at the time. I
22 had on literally a bra and panties. I didn't have on any
23 clothes. They wouldn't let me stop to put on clothes.

24 They asked me to step outside. Well, when
25 they asked me to step outside, I asked them can I, at

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 least, put on a t-shirt before I step outside. They would
2 not let me put on a t-shirt. So at this time, you know, I
3 was like this is crazy, y'all are going to sit me outside
4 with just my bra and panties on. I'm a mom. I have kids.
5 This is my neighborhood. I live here. And they did not
6 care. They were really mean. They were really nasty.
7 And they put me outside in the neighborhood where there
8 were probably 50 people standing outside watching this
9 whole thing in my bra and panties. I remember the
10 detective asking me, You'll get a shirt when we let you
11 get one. I say, Can I please just get a shirt? I wasn't
12 telling them they couldn't search my house, I just wanted
13 a shirt. And they would not get me a shirt. And that was
14 the most traumatizing thing because they left me standing
15 out there with my bra and panties on as they executed the
16 search of my house. They tore my things up. They tore my
17 kids' bed up. They had a bunk bed. They tore the bed up.
18 They tore my couch up. They tore everything in my home
19 that I had of value for me and my kids. And they didn't
20 care. They didn't care. And I was very cooperative with
21 them, very cooperative. I just wanted to cover my body.
22 That's it.

23 Q Kia, would you lie for William Shane Fordham
24 Brown?

25 A No, I would not.

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 Q Why?

2 A Because I'm a mom and I don't want to go to
3 jail. I'm a single mom. My kids are the most important
4 thing to me.

5 Q How the kids doing now?

6 A They're good.

7 Q They go to school still?

8 A (The witness nods.)

9 Q Where do they go to school?

10 A My daughter goes to Belton Elementary and my
11 boys go to Marshal Primary.

12 Q Okay. Did you ever see Shane -- that morning,
13 that night, the morning when they -- Connell came to the
14 door, did you ever see Shane leave and run down the hill?

15 A No.

16 Q Why?

17 A I don't understand why he would leave and run
18 anywhere. I stayed on the top of the hill. I don't
19 understand why he would be running down the hill.

20 Q Okay. At some point, did you move from [REDACTED]?

21 A After?

22 Q Yes.

23 A Yes.

24 Q Why?

25 A I moved to Columbia to be with my mom. My mom

NAKIA SIMS-DIRECT BY MR. ROBINSON

1 lived in Columbia alone.

2 Q Why did you move?

3 A Because my mom wanted me to come with me and the
4 kids. Like I said, I was struggling. To be honest, I was
5 struggling to pay my bills, to take care of the kids
6 alone. And at the time, I didn't have any help. So she
7 wanted me to just come home so she could help.

8 MR. ROBINSON: Your Honor, may I have a chance
9 to look at my notes?

10 THE COURT: Yeah.

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

12 THE COURT: Yes, sir.

13 BY MR. ROBINSON:

14 Q Kia, tell me about your relationship to William.
15 What's the relation?

16 A He's a really close friend of mine and he's a
17 friend of the family as well.

18 Q Okay. And was it ever a romantic relationship?

19 A No, we never had a romantic relationship.

20 Q Well, tell me about that as far as -- obviously,
21 he's living with you and so forth. The jury is wondering
22 since there's no -- was there any family relationship
23 between you two, like, or anything like that?

24 A My family is his -- is his family. His daughter
25 is my little cousin.

NAKIA SIMS-CROSS BY MS. HENRY

1 Q Okay.

2 A Uh-huh.

3 Q And when you were -- when you were living
4 together at [REDACTED]?

5 A Uh-huh.

6 Q Who paid the bills?

7 A I did.

8 Q What did William do or Shane do?

9 A He helped take care of the children with his
10 child's mother, which is my cousin.

11 Q What else did he do?

12 A They both took the kids to school. They would
13 help me as far as keep the kids in order. If I got off
14 from work late, couldn't pick the kids up from daycare in
15 time, him and her would go, sometimes together, sometimes
16 they would go alone. They just were there to really help
17 me, more so like support.

18 MR. ROBINSON: Okay, Kia, answer any questions
19 either Ms. Gary, Ms. Owens or Ms. Henry may have.

20 THE WITNESS: Okay.

21 THE COURT: All right, Ms. Henry, you want to go
22 first, ma'am? You have any questions?

23 MS. HENRY: Sure, Your Honor, just real briefly.

24 CROSS-EXAMINATION

25 BY MS. HENRY:

NAKIA SIMS-CROSS BY MS. GARY

1 Q Ms. Sims, you testified that you saw Mr. Wells
2 that night?

3 A I did.

4 Q Was Mr. Babb with Mr. Wells?

5 A No.

6 Q You know that I'm talking about Mr. Babb?

7 A I do.

8 Q All right. Did Curtis Babb come to your
9 apartment that night?

10 A He did not.

11 Q Did you see Curtis Babb at all that night?

12 A I did not.

13 MS. HENRY: I don't have any other questions.

14 THE COURT: Ms. Gary?

15 MS. GARY: Ever so briefly, Your Honor.

16 CROSS-EXAMINATION

17 BY MS. GARY:

18 Q Good afternoon, Ms. Sims. Isn't it true you
19 know William Brown by Deuce?

20 A Do I know him by Deuce, yes.

21 Q You talked this afternoon about when the police
22 came to your apartment on December 9th, 2016, that's
23 right?

24 A Uh-huh.

25 Q Isn't it true, ma'am, that on that day, again,

NAKIA SIMS-REDIRECT BY MR. ROBINSON

1 this would have been the day after Clinton Pearson was
2 killed, you told Investigator McCalmont that Deuce and
3 Connell showed up together, unannounced, at your door and
4 Connell had been shot?

5 A I never said that.

6 MS. GARY: Okay. Thank you.

7 THE COURT: Any redirect, sir?

8 MR. ROBINSON: I do, Your Honor.

9 REDIRECT EXAMINATION

10 BY MR. ROBINSON:

11 Q When Officer -- or Investigator McCalmont, is he
12 here? Do you see him?

13 A I don't see him.

14 Q Okay. He had a mustache at the time. Okay.

15 Let me ask you this, did they record this? Did they

16 record this meeting they had with you?

17 A No.

18 MR. ROBINSON: Thank you.

19 THE COURT: Okay. All right. Thank you for
20 being here, I appreciate it. You may step down.

21 All right, Mr. Robinson, call your next witness.

22 MR. ROBINSON: May it please the Court, the
23 Defense for Mr. Brown rests, Your Honor.

24 THE COURT: I'm sorry, say again?

25 MR. ROBINSON: The Defense rests for Mr. Brown.

CHRIS MCCALMONT-DIRECT BY MS. GARY

1 THE COURT: All right. I didn't catch that, but
2 I hear you now. Thank you.

3 Okay. All right. Anything in reply from the
4 State?

5 MS. GARY: Yes, Your Honor. At this time, the
6 State would call Investigator Chris McCalmont.

7 THE COURT: Okay.

8 THE CLERK: Place your left hand on the Bible
9 and raise your right hand.

10 CHRIS MCCALMONT, after being duly sworn,
11 testified as follows:

12 THE CLERK: Thank you. Please take a seat and
13 state your name for the record, sir.

14 THE WITNESS: My name is Christopher McCalmont.

15 DIRECT EXAMINATION

16 BY MS. GARY:

17 Q Investigation McCalmont, I doubt anyone has
18 forgotten, but will you remind us please, sir, what your
19 relationship is to the investigation of this case?

20 A Yes, ma'am. At the time, I was employed by the
21 sheriff's office and I was an investigator in the violent
22 crimes unit tasked with investigating the case.

23 Q Were you, in fact, the lead investigator?

24 A Yes, ma'am, I was.

25 Q Sir, did you respond to [REDACTED], Apartment [REDACTED],

CHRIS MCCALMONT-DIRECT BY MS. GARY

1 rather, which is at [REDACTED] Shemwood Crossing on December 9th,
2 2016?

3 A I did.

4 Q Did you have other officers with you?

5 A Yes.

6 Q Why did you go to that home?

7 A The evidence in the case led us to that location
8 thinking we might find evidence while executing the search
9 warrant.

10 Q Did you have reason to believe that one of your
11 suspects lived there?

12 A Yes, at least, at that time, yes.

13 Q Who was that person?

14 A William Shane Fordham Brown.

15 Q Okay. Who did you make contact with at that
16 home?

17 A During the search warrant, I recall it was Nakia
18 Sims. There was another lady there, if you'll give me one
19 second, I have it notated in my report what her name was.
20 Candace Beaufort. And I also -- there were some children,
21 two, maybe three children that were there.

22 Q Was William Brown there?

23 A No, ma'am.

24 Q Did you speak with Nakia Sims?

25 A I did.

CHRIS MCCALMONT-DIRECT BY MS. GARY

1 Q Is that the lady we just saw testify here today?

2 A Yes, ma'am.

3 Q You do recognize her?

4 A Yes, ma'am.

5 Q Did she agree to speak to you?

6 A She did.

7 Q Officer, when you spoke with Ms. Sims, did you
8 have a gun pointed at her?

9 A No, ma'am.

10 Q Sir, did any officer have a gun pointed at her?

11 A No, ma'am.

12 Q Again, it's your testimony that she agreed to
13 speak with you on that day?

14 A That's correct.

15 Q This, of course, would be December 9th, the day
16 after Clinton Pearson was killed?

17 A That is correct.

18 Q What did Ms. Sims tell you about what happened
19 in the early morning hours of December 8th, 2016, at her
20 home?

21 A That -- I believe she referred to Deuce and
22 Connell showing up at her apartment together. And that
23 Connell was injured, apparently, had been shot in the
24 knee.

25 MS. GARY: Officer, I believe that's all I have.

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 Thank you so much. Answer any questions they may
2 have for you.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Ms. Henry, any questions?

5 MS. HENRY: I defer to Scott first.

6 MR. ROBINSON: I have one.

7 CROSS-EXAMINATION

8 BY MR. ROBINSON:

9 Q You were the investigating officer, correct?

10 A The lead investigator, I would say.

11 Q I'm going to show you --

12 I'm going to get this marked.

13 And Officer Weeks was there as well; is
14 that correct? He was one of the investigators; is that
15 right.

16 A Weeks?

17 Q Weeks, W-E-E-K-S.

18 A (The witness shook his head.)

19 Q You don't remember who that was?

20 A Not on December 9th, no, sir, he was not there.

21 Q Was he there December 8th?

22 A I couldn't speak to that, I wasn't there
23 December the 8th.

24 Q I thought you got involved in this case early on
25 on December 8th.

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 A At [REDACTED] Cox Street and at the hospital, yes, I
2 did.

3 Q Okay.

4 A I was never at [REDACTED] Shemwood on December the
5 8th.

6 MR. ROBINSON: Okay, get this marked.

7 (WHEREUPON, Defendant's Exhibit No. 16 was
8 marked for identification only.)

9 MR. ROBINSON: Your Honor, at this point, I
10 would ask this exhibit, which is Exhibit 16, be
11 entered into evidence in this case.

12 MS. GARY: Your Honor, I would object. This
13 statement is inadmissible hearsay.

14 THE COURT: From who?

15 MS. GARY: This witness has not authenticated it
16 and I don't believe he can authenticate it.

17 THE COURT: Okay.

18 MR. ROBINSON: We have --

19 THE COURT: A statement from whom?

20 MR. ROBINSON: This is a statement from
21 Mr. Weeks, Your Honor, Officer Weeks. He's the main
22 investigator in this case. So I would think he would
23 have something in his file regarding his own officer.

24 THE COURT: Yeah, I think I'm going to sustain
25 the objection on that. You can certainly --

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 MR. ROBINSON: We had Weeks' subpoenaed, Your
2 Honor.

3 THE COURT: You do? Well, I don't know if
4 you've rested whether you can or not, but I may
5 reconsider that.

6 MR. ROBINSON: Yes, sir.

7 THE COURT: Let me see the document. Let me see
8 it.

9 Oh, this is a statement from your client?

10 MR. ROBINSON: Yes.

11 THE COURT: Okay, yeah, I sustain the objection.

12 MS. GARY: Thank you, Judge.

13 BY MR. ROBINSON:

14 Q Okay. Officer McCalmont, did you possibly
15 audiotape your visit with Ms. Sims?

16 A I recall it being audio taped. I have it
17 documented in my report as such.

18 Q So you actually have a audiotape of her; is that
19 correct?

20 A I'm sorry?

21 Q Did you bring that tape with you today?

22 A No, sir. I don't know where that tape's at.

23 Q Wait a second. You have a tape from Ms. Sims
24 and you decided not to bring that with you today, is that
25 what you're saying?

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 A No, sir, that's not what I'm saying. What I'm
2 saying is I recall an audio recorder being activated
3 during the interview with Ms. Sims and I have that
4 documented as such in my report. I can't speak to
5 where -- I can't speak to where that recording is at now.

6 Q So just like, just like the tape across the
7 street of Cox Street that's been -- that you decided
8 wasn't something that needed to be kept because you
9 decided that it didn't look like something you could use
10 or you couldn't see something, just like that, you have
11 deprived this jury of listening to a tape that may or may
12 not go against what you just told the jury a second ago?

13 A I think they're slightly different in the fact
14 that I reviewed the videotape and determined that there
15 was no such value. I never made that claim about the
16 audiotape. To my knowledge, this audiotape must have been
17 misplaced and it's just not available. I'm not --

18 Q How many deputies do you have in the sheriff's
19 department?

20 A I can't speak to an exact number, sir, a few
21 hundred.

22 Q Tell the jury how many people work in the
23 property and evidence area in your department?

24 A Zero as far as I know.

25 Q Oh, I'm sorry. Wait a second. Wait a second.

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 So you're saying to this jury that, actually, nobody works
2 in property and evidence?

3 A Not that's employed by the sheriff's office as
4 far as I know.

5 Q Who are they employed by then?

6 A The property and evidence staff that I know of
7 is employed by the Department of Public Safety.

8 Q Okay. Okay. So we've got -- to your knowledge,
9 do you know if they have anyone that worked on this case
10 to preserve this purported tape, do you know?

11 A No. What I'm saying here now is that the
12 mistake on this particular recording comes on behalf of
13 the sheriff's office. That I recall this conversation
14 between myself and Ms. Sims to be recorded. At some
15 point, the sheriff's office has made a mistake and that
16 was, to the best of my knowledge, never turned over to
17 property and evidence for safekeeping.

18 Q So we've got two mistakes that occurred here,
19 Officer. One, a tape that was a video across the street
20 of this Cox Street has been -- you've decided that was not
21 usable or something was not -- did not -- you didn't feel
22 like was usable, right, that's one thing?

23 A No, sir, I would disagree. That was not a
24 mistake, that was an intentional decision.

25 Q Whoa. So you intentionally did that? You

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 didn't do it intentionally -- you intentionally did that
2 with a videotape across the street and you know that --
3 you know that the video that's going was active at the
4 time, it was going all night, actually, during the period
5 of time when Mr. Pearson -- when this whole incident
6 happened across the street, you know that that
7 videotape -- you said, I think you said in your testimony
8 that it was, at least, one camera was working, that was
9 active when this incident happen, wasn't it?

10 A That camera was active. And when I watched it,
11 it displayed no evidence of this case whatsoever. That
12 camera angle did not even show that incident location
13 where this happened.

14 Q But that's --

15 A There was no video recording in existence ever
16 of the incident location from Waldun's Tanning. Those
17 camera angles did not point at the incident location. And
18 I never testified as to such.

19 Q Well, wouldn't it have been a good idea, though,
20 to keep the tape, keep a copy of it? That way, you can --

21 A I'm not in the business to store evidence
22 that -- to store data that bears no evidence on a case,
23 no, sir.

24 Q But you are in the business of making sure that
25 people are treated fairly, defendants and regular people

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 are treated fairly, you are in that business, aren't you?

2 A Sure. And while engaged in that business, I
3 have the responsibility to make decisions and investigate
4 and collect evidence that I see relevant to a case. And
5 that video at Waldun's Tanning that we're speaking about
6 now was of no relevance to this case.

7 Q And that was your decision and your decision
8 alone?

9 A I would agree with that statement.

10 Q It was intentional, correct?

11 A To my -- I want to be clear, it was intentional
12 to what?

13 Q Intentional for you not to keep it or keep the
14 recording, that was intentional?

15 A It was intentional for me to collect something
16 that was not evidence in this case, correct.

17 Q And this videotape that you talk about with --
18 that you took of Nakia Sims, which would help the Defense
19 possibly, most probably in this case, you -- the sheriff's
20 department has made a mistake and this tape is gone?
21 Gone. This jury can't listen to that tape to corroborate
22 what you said, can it? The tape is gone?

23 A I would agree to that statement, except for one
24 thing, it was not a videotape, it was an audiotape.

25 Q I'm sorry. Okay. The audiotape was gone and

CHRIS MCCALMONT-CROSS BY MR. ROBINSON

1 the sheriff's department either lost the tape -- would
2 lost the tape be the best saying?

3 A I don't know.

4 Q You don't know?

5 A What I can speak for is that there's a lot of
6 evidence in this case. This particular piece has been
7 misplaced. I don't know where it's at.

8 Q Okay. Okay. None of this evidence that -- you
9 say a lot of evidence. There's not a lot of evidence,
10 deputy. I mean, come on, you've got no forensic or
11 physical evidence in this case. The only thing you have,
12 deputy, for this case is based on the -- based on a crazy
13 man in this case, Mr. Wideman, that's it?

14 A I would say that's purely an assumption to call
15 somebody that.

16 Q Well, you've got -- but since you said there's
17 so much evidence, none of this, this, this -- the pieces
18 of the bullets and this kind of stuff, you've got no one
19 that says that this came from either of these two
20 Defendants, do you?

21 A We have evidence there that -- testimony's been
22 provided did come from William Shane Fordham Brown.

23 Q No, you don't. Did you bring someone to
24 court -- where's your person, your expert that's going to
25 say that this person, Mr. Brown, fired this? Where?

CHRIS MCCALMONT-REDIRECT BY MS. GARY

1 A No, I didn't say that we could prove that, sir,
2 I said there was evidence over there and we've heard
3 testimony of that ties William Brown to this case.

4 Q Only one person, deputy, does that and that's
5 Mr. Wideman; isn't that correct?

6 MS. GARY: Objection.

7 MR. ROBINSON: I'll withdraw the question.

8 MS. GARY: You know, at this point --

9 MR. ROBINSON: I apologize, Judge.

10 THE COURT: All right. Listen, I want you to
11 ask your question without commentary and interjection
12 and without argumentation.

13 MR. ROBINSON: That's my mistake, Judge.

14 THE COURT: Okay.

15 MR. ROBINSON: That's all I have, Judge.

16 THE COURT: Okay. Thank you.

17 MS. GARY: One question in redirect, Your Honor.

18 THE COURT: Yes, ma'am.

19 REDIRECT EXAMINATION

20 BY MS. GARY:

21 Q Investigator McCalmont, the report to which you
22 referred here today in your testimony, is that a report
23 you prepared either immediately after your conversation
24 with Ms. Sims or shortly thereafter?

25 A It would have been typed. It would have been

CHRIS MCCALMONT-REDIRECT BY MS. GARY

1 typed within a day or so after.

2 Q Of your conversation with Ms. Sims?

3 A That's correct. But to be perfectly clear,
4 though, the date on the report wouldn't reflect that.

5 Q That's fine, that's not what I asked. Did you
6 prepare the portion related to Ms. Sims immediately after
7 your conversation with her?

8 A That would be correct.

9 Q Thank you so much.

10 MS. GARY: That's all, Judge. Thank you.

11 THE COURT: Ms. Henry, did you have any
12 questions?

13 MS. HENRY: No, Your Honor.

14 THE COURT: Okay. Thank you, I appreciate it.
15 You can step down.

16 Do you have another witness to call?

17 MS. OWENS: Yes, sir, Your Honor, our next
18 witness is in custody.

19 THE COURT: Okay, has he been transported?

20 MS. OWENS: It's my understanding that he has.

21 THE COURT: Okay. Okay. Is this another -- is
22 this a witness who will be coming to the stand for a
23 second time or do I need to have a conversation with
24 him?

25 MS. OWENS: We may need to speak with him. This

1 and have you stand right here next to this Bible.
2 And when the jury comes in, I'm going to have the
3 clerk of court swear you in, okay.

4 Will you bring them in?

5 (WHEREUPON, the jury came into open court at
6 approximately 2:31 p.m.)

7 THE CLERK: Place your left hand on the Bible
8 and raise your right hand.

9 JONATHAN SUBER-PURRY, after being duly sworn,
10 testified as follows:

11 THE CLERK: Thank you. Please take a seat.
12 State your name for the record.

13 THE WITNESS: Jonathan Suber-Purry.

14 MS. OWENS: May it please the Court, Your Honor?

15 THE COURT: Yes, ma'am.

16 DIRECT EXAMINATION

17 BY MS. OWENS:

18 Q Mr. Suber-Purry, are you in the custody of the
19 Greenville County Detention Center?

20 A Yes, ma'am.

21 Q Are you currently awaiting trial on your pending
22 charges?

23 A Yes, ma'am.

24 Q Are you charged with a series of crimes related
25 to an incident that occurred at Shemwood Crossing during

JONATHAN SUBER-PURRY-DIRECT BY MS. OWENS

1 the evening of December 8th of 2016?

2 A Yes, ma'am.

3 Q At some point after your arrest, do you remember
4 having a conversation with a Sergeant Russ Irvin with the
5 Greenville Police Department?

6 A Right.

7 Q Do you remember talking to Sergeant Irvin about
8 what you did in the minutes and hours before the murder at
9 Shemwood Crossing happened?

10 A Right.

11 MR. ROBINSON: Your Honor, I object. That's
12 assuming facts not in evidence. The murder happened
13 in a different place than Shemwood Crossing.

14 MS. OWENS: I apologize for any confusion, Your
15 Honor. I'm talking about an entirely different
16 incident.

17 THE COURT: Okay. I understand. I understand.
18 You may proceed. I overrule the objection.

19 MS. OWENS: Thank you, Your Honor.

20 BY MS. OWENS:

21 Q During your conversation with Sergeant Irvin,
22 did you describe to him what you were doing in the minutes
23 and hours before the murder that happened at Shemwood
24 Crossing?

25 A Right.

JONATHAN SUBER-PURRY-DIRECT BY MS. OWENS

1 Q Did you describe to him leaving your apartment
2 to go buy cigarettes?

3 A Not before.

4 Q Okay. Well, describe for the jury what
5 happened.

6 A When I went to go get the cigarettes?

7 Q Yeah.

8 A Me and my brother, we walked to go get
9 cigarettes from a lady that was selling cigarettes out
10 there. And we walked, walked around the bottom, came back
11 around and went back to the apartment.

12 Q Do you remember talking about having -- ordering
13 Chinese food?

14 A Yeah.

15 Q Do you remember talking with Sergeant Irvin
16 about running into anybody while you were out there on
17 December 8th of 2016?

18 A Yeah.

19 Q Who did you run into?

20 A It was a guy out there, I think his name was
21 Curt. Yeah, that's what I say.

22 Q Do you remember how you described him to
23 Sergeant Irvin?

24 A No, I never described. I don't remember
25 describing him.

JONATHAN SUBER-PURRY-CROSS BY MS. HENRY

1 Q What do you know about him?

2 A I really don't know him. I just know that was
3 his name from the neighborhood. I really don't know the
4 dude.

5 Q Do you remember telling Sergeant Irvin during
6 your interview on December 13th that Curt was from up
7 north?

8 A No, I don't remember that. I don't recall.

9 Q Okay. Do you remember telling Sergeant Irvin
10 during that same conversation that Curt was a cool old
11 head?

12 A I mean, yeah, I said that.

13 Q Okay. Now, beyond seeing -- did you see Curt
14 that night?

15 A Yeah, I seen him.

16 Q Did you talk to him briefly?

17 A Not necessarily. I ain't really say nothing to
18 him.

19 Q Did you and your brother and Curt walk together
20 through Shemwood for just a few seconds?

21 A Yeah, a couple seconds.

22 MS. OWENS: Okay. I don't have any additional
23 questions, Your Honor.

24 THE COURT: Cross?

25 CROSS-EXAMINATION

JONATHAN SUBER-PURRY-CROSS BY MS. HENRY

1 BY MS. HENRY:

2 Q So Mr. Suber-Purry, you got pending charges,
3 correct?

4 A Correct.

5 Q Okay. So, you're currently charged with and you
6 have these charges pending, is it burglary first?

7 A Right.

8 Q That carries 15 to life in prison, right?

9 A (The witness nods.)

10 Q Then you've a got burglary second?

11 A (The witness nods.)

12 Q And that carries up to 10 years?

13 A Right.

14 Q You've also got an obstruction of justice, so
15 lying to the police?

16 A Right.

17 Q That's still pending right now, right?

18 A Right.

19 Q And grand larceny?

20 A Right.

21 Q That carries up to five years in prison?

22 A (The witness nods.)

23 Q Conspiracy?

24 A Right.

25 Q Another five?

JONATHAN SUBER-PURRY-CROSS BY MS. HENRY

1 A Right.

2 Q You've got actually two more of those, so five
3 each for those?

4 A Right.

5 Q And then indecent exposure?

6 A Right.

7 Q And that carries up to three years. So life in
8 prison, that's a pretty stiff penalty?

9 A (The witness nods.)

10 Q Yeah?

11 A Right.

12 Q Okay. All right. Now, I want to talk to you a
13 little bit about this interview that you gave when you
14 mentioned Curt?

15 A All right.

16 Q So that was December 13 of 2016?

17 A Right.

18 Q And at that point, you were in custody; is that
19 true?

20 A Right.

21 Q All right. And you were actively being charged
22 with a crime yourself?

23 A Right.

24 Q Yeah, you weren't just giving information, you
25 had been charged with something?

JONATHAN SUBER-PURRY-CROSS BY MS. HENRY

1 A Right.

2 Q In fact, I think you had been charged with
3 obstruction of justice; is that right?

4 A (The witness nods.)

5 Q So on December 13th, you had been charged with
6 obstruction of justice?

7 A Yeah.

8 Q For lying to the police?

9 A (The witness nods.)

10 Q That day about another murder?

11 A Right.

12 Q Okay. That's the same conversation where you
13 say that you saw Curt?

14 A Right.

15 Q Okay. I just want to make sure that we're all
16 understanding that. As part of this conversation you had
17 with officers, did you at one point ask them if you could
18 potentially be charged with murder yourself?

19 A Yeah.

20 Q Yeah. And did you also ask them what you would
21 have to say to stay out of jail?

22 A Right.

23 Q Was it your understanding from that officer that
24 helping would go in your favor?

25 A Right.

JONATHAN SUBER-PURRY-REDIRECT BY MS. OWENS

1 Q Was it also your understanding from that officer
2 that he was going to charge you and your brother with
3 objection, but if you helped, they may reconsider?

4 A Right.

5 MS. HENRY: I don't have any other questions.

6 THE COURT: Mr. Robinson?

7 MR. ROBINSON: I don't have any questions, Your
8 Honor.

9 THE COURT: Okay, redirect?

10 MS. OWENS: Just one question, Your Honor.

11 THE COURT: Sure.

12 REDIRECT EXAMINATION

13 BY MS. OWENS:

14 Q Mr. Suber-Purry, was the fact that you saw Curt
15 that night a helpful detail to that case?

16 A I really don't know.

17 MS. OWENS: Okay. Thank you, sir. I don't have
18 any other questions.

19 THE COURT: Thank you, sir, I appreciate you
20 being here. You can step down.

21 You may call your next witness.

22 MS. OWENS: Thank you, Your Honor. The State
23 calls Mr. Jovante Dodd.

24 THE CLERK: Place your left hand on the Bible
25 and raise your right hand.

JOVANTE DODD-DIRECT BY MS. OWENS

1 JOVANTE DODD, after being duly sworn, testified
2 as follows:

3 THE CLERK: Thank you. Please take a seat and
4 state your name for the record.

5 THE WITNESS: Jovante Dodd.

6 DIRECT EXAMINATION

7 BY MS. OWENS:

8 Q Mr. Dodd, are you related to Mr. Suber-Purry?

9 A Yes, ma'am, I am.

10 Q What's your relationship?

11 A That's my brother.

12 Q Okay. Have you been charged with a series of
13 charges related to an incident that happened at Shemwood
14 Crossing on December 8th, 2016?

15 A Yes, I was charged with obstruction of justice.

16 Q Is that charge still pending?

17 A Yes, it is.

18 Q At some point after you were arrested for your
19 involvement in that investigation, did you speak to
20 Sergeant Russ Irvin with the Greenville Police Department?

21 A I'm not for sure. Who is that?

22 Q Do you remember talking to any police officer at
23 some point after you were arrested for the charges related
24 to that incident on December 8th?

25 A No, ma'am.

JOVANTE DODD-DIRECT BY MS. OWENS

1 Q Okay. You didn't speak to Sergeant Russ Irvin
2 on December 27th, 2016, about your involvement in that
3 case?

4 A I'm really not for sure.

5 Q Okay. So if you don't remember the interview,
6 you don't remember anything that you told him, right?

7 A I mean, if I could see his face. He questioned
8 me about what happened that night.

9 Q Okay. So do you remember speaking to a police
10 officer?

11 A Yes, ma'am.

12 Q Okay. Okay. We might be able to get back on
13 track then. So during your conversation with that police
14 officer, do you remember telling him details about what
15 you and your brother were doing during the night of
16 December 8th at Shemwood Crossing?

17 A Yes.

18 Q Do you remember talking to him about what you
19 did that night?

20 A Yes.

21 Q Okay. Do you remember what you told him?

22 A Yes.

23 Q What did you tell him happened?

24 A We was -- me and my brother, we was in the
25 apartment at the bottom, we was down there talking,

JOVANTE DODD-CROSS BY MS. HENRY

1 cracking jokes and stuff. We called his aunt, or whatever
2 the case may be, we called his aunt and she had got us
3 some food or whatever. Then we walked up the street to
4 get a cigarette, whatever the case may be. And we walked
5 down and came around and we entered the house again. Then
6 that's when we found out about my cousin.

7 Q Did you tell Sergeant Irvin about running into
8 anybody while you and your brother were walking through
9 the neighborhood getting cigarettes as you described?

10 A Yes.

11 Q What did you tell him?

12 A I ran into just a dude.

13 Q Who?

14 A Curt.

15 Q All right. How do you know Curt?

16 A I know him just there around the neighborhood.

17 Q So do you remember seeing and speaking to Curt
18 that night, December 8th, 2016, in Shemwood?

19 A Yes.

20 MS. OWENS: Okay. Thank you, sir.

21 THE COURT: Cross-examination?

22 MS. HENRY: Yes, sir.

23 CROSS-EXAMINATION

24 BY MS. HENRY:

25 Q All right. So Mr. Dodd, you have a bunch of

JOVANTE DODD-CROSS BY MS. HENRY

1 pending charges, don't you?

2 A Yes.

3 Q So you got obstruction of justice, which is
4 lying to the police?

5 A Yeah.

6 Q You've got manufacturing crack?

7 A Yes.

8 Q That carries up to 15 years?

9 A Yes.

10 Q Okay. You got a distribution near a school?
11 Yep?

12 A Yes.

13 Q Carries up to ten?

14 A Yes.

15 Q All right. You got manufacturing crack again.

16 And that carries up to 15?

17 A Yes.

18 Q All right. And then possession of a controlled
19 substance. And that's just six months?

20 A Yes.

21 Q So you can kind of agree, the penalty is pretty
22 stiff. That's up to 40 years in prison?

23 A Yes.

24 Q That's a long time?

25 A (The witness nods.)

JOVANTE DODD-CROSS BY MS. HENRY

1 Q Okay. All right. So I want to talk to you a
2 little bit about that interview with the police. You said
3 that you had seen Curt?

4 A Yes.

5 Q All right. In that same interview, you told
6 police other information about another murder; is that
7 right? You were eventually charged with obstruction of
8 justice?

9 A Yes.

10 Q Okay. And you were charged with obstruction of
11 justice for lying to the police?

12 A No, I did not lie. I was charged with it.

13 Q So you're saying that you didn't lie, but the
14 police just thought you were lying?

15 A Basically.

16 Q And they charged you with it?

17 A Yes.

18 Q And it was the same name from the same
19 conversation as when you said you saw Curt?

20 A Yes.

21 Q Okay. So the same interview where you said you
22 saw Curtis Babb is the same interview that you were
23 charged with obstruction of justice for lying?

24 A Yes.

25 MS. HENRY: All right. I don't have any other

RUSSELL IRVIN-DIRECT BY MS. OWENS

1 questions. Thank you.

2 THE COURT: Mr. Robinson?

3 MR. ROBINSON: No questions?

4 THE COURT: Any redirect?

5 MS. OWENS: No redirect, Your Honor.

6 THE COURT: Thank you, sir, I appreciate you
7 being here. Step down. You can be excused.

8 Any further reply?

9 MS. OWENS: One more witness. The State calls
10 Sergeant Russ Irvin.

11 THE CLERK: Place your left hand on the Bible
12 and raise your right hand.

13 RUSSELL IRVIN, after being duly sworn, testified
14 as follows:

15 THE CLERK: Thank you. Please take a seat and
16 state your name for the record.

17 THE WITNESS: Russell Irvin.

18 DIRECT EXAMINATION

19 BY MS. OWENS:

20 Q Sergeant, where do you work?

21 A Greenville Police Department.

22 Q How long have you worked for the city?

23 A Sixteen years.

24 Q Back in December 2016, what was your assignment?

25 A I was a detective in the violent crimes unit.