

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas  
Post-Conviction Relief

Kristi F. Curtis, Circuit Court Judge

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Appellate Case No.: 2020-001398

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Carnail M. Graham #304093,..... Petitioner,

vs.

State of South Carolina, .....Respondent.

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APPENDIX

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**S.C. SUPREME COURT**

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| 11 |                                         |   |                           |
| 12 |                                         |   |                           |
| 13 |                                         |   | October 13, 2014          |
| 14 |                                         |   | Conway, South Carolina    |
| 15 | BEFORE:                                 |   |                           |
| 16 | Honorable Steven H. John, Judge.        |   |                           |
| 17 | APPEARANCES:                            |   |                           |
| 18 | Martin D. Spratlin, Assistant Solicitor |   |                           |
| 19 | Nancy Livesay, Assistant Solicitor      |   |                           |
| 20 | Attorneys for the State                 |   |                           |
| 21 | Bobby G. Frederick, Esq.                |   |                           |
| 22 | Attorney for Defendant James            |   |                           |
| 23 | David J. Canty, Esq.                    |   |                           |
| 24 | Attorney for Defendant Graham           |   |                           |
| 25 |                                         |   |                           |

Teresa J. F. Bautz, RPR  
Official Court Reporter

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## E X H I B I T S

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1 (The hearing commenced at approximately  
2 11:05 a.m.)

3 THE COURT: You may be seated. Thank y'all. And  
4 your defendant, Mr. Hazzard?

5 MR. HAZZARD: Keir Johnson, Your Honor. He was --  
6 we had a meeting with the prosecutor this past Friday,  
7 and at that time he was instructed to appear in court  
8 no later than 10:30 on Tuesday morning.

9 THE COURT: Tuesday morning?

10 MR. HAZZARD: Yes, sir.

11 THE COURT: All right, very good. But you're here  
12 representing his interests, whatever they may be?

13 MR. HAZZARD: Yes, sir.

14 THE COURT: All right, very good. Thank you, sir.  
15 I just didn't see you sitting there, I'm sorry. Thank  
16 you. All right. So this is the State of South  
17 Carolina versus Carnail Graham, Keir Lamont Johnson and  
18 Thomas Booker James. Solicitor, you want to put the  
19 indictment numbers or docket numbers on the record,  
20 please, ma'am.

21 MR. SPRATLIN: Your Honor, Martin Spratlin on  
22 behalf the solicitor's office for the purposes this  
23 continuing motion. State of South Carolina, County of  
24 Horry versus Mr. Thomas James and -- Thomas Booker  
25 James and Mr. Carnail Graham.

1 Mr. James is charged with indictment  
2 2014-GS-26-02361 for the count of murder. And Mr.  
3 Graham is charged in indictment 2012-GS-26-03071 with a  
4 charge of murder. We're here today on the motion to  
5 continue filed by the defense attorney for Mr. Thomas  
6 James, that being attorney Bobby Frederick.

7 THE COURT: And just for the record, Mr. Keir  
8 Lamont Johnson was indicted for the crime of murder  
9 also in 2012-GS-26-3076; is that correct, solicitor?

10 MR. SPRATLIN: That is correct, Your Honor. He  
11 was charged. He is not, however, going to trial today.  
12 My understanding is he is a cooperating codefendant,  
13 Your Honor.

14 THE COURT: Very good. All right. Mr. Frederick,  
15 you have this day filed a motion at 8:43 a.m. to  
16 continue this case; is that correct?

17 MR. FREDERICK: That's correct, judge.

18 THE COURT: All right. Now, in reviewing your  
19 motion, there seem to be three distinct arguments, and  
20 those being that involve the firearms report, polygraph  
21 charts and the unavailability of witnesses. All right.

22 So with that, we'll take those one at a time. You  
23 want to start off your motion to continue regarding the  
24 firearms report.

25 MR. FREDERICK: Judge, we received a firearms

1 report in this case from SLED, Dan DeFreese, in June of  
2 this year which coincidentally was...

3 THE COURT: Go ahead, I'm listening.

4 MR. FREDERICK: Right before the first time this  
5 trial was scheduled to go to trial. On Thursday of  
6 last week we received a second firearms report by a  
7 different SLED analyst, again, right before the  
8 solicitor's office scheduled this case for trial.  
9 Judge, there are differences in the two reports.

10 We did not seek a firearms expert to testify on  
11 the Defendant's behalf because, and I mean, I'm just  
12 going to lay it out there, I don't think that -- I  
13 think the prosecutor and solicitor's office knows  
14 exactly what the issue is in this case. The bullet  
15 that struck the victim, and only one bullet struck the  
16 victim, was fired from a .357 Magnum.

17 In the original firearms report, there were  
18 numerous bullet fragments recovered from the house or  
19 the trailer, the mobile home, where the murder  
20 occurred. They identified four bullets or bullet  
21 fragments that were fired from the .357 Magnum that was  
22 owned and fired by a resident of the house, Rodney  
23 McElveen. Rodney McElveen's .357 Magnum had five shell  
24 casings in the cylinder, which means one bullet is  
25 unaccounted for. One .357 Magnum bullet was found

1 inside the victim. No other weapon was recovered that  
2 the bullet that caused the death of the victim was  
3 connected to.

4 In that same report they went on to say that the  
5 bullet that was fired and the cause of death of the  
6 victim was not fired from the .357 Magnum owned by  
7 Rodney McElveen. And then it went on to say that the  
8 bullet was insufficient for comparison and should not  
9 be put into the database to run against future  
10 searches.

11 In my opinion, that plus the logistics of the  
12 mobile home, the way this happened, it is impossible  
13 from what I saw, based on the diagram of the trailer  
14 and the testimony of the witnesses, the statements of  
15 the witnesses and the fact that one .357 Magnum was  
16 missing, and a .357 Magnum bullet was found -- a Taurus  
17 actually is the type of gun it was -- based on the fact  
18 that one bullet was missing and there were five fired  
19 from Rodney McElveen's gun and the setup of this mobile  
20 home, made it impossible for that bullet to be fired by  
21 anybody other than Rodney McElveen.

22 On the Thursday before trial -- and judge, this is  
23 a pattern, and it's clear and easy to see from when  
24 this material is provided to us -- we received the  
25 first ballistics report just before the first trial.

1 We received a new ballistics report that now says  
2 there's an additional bullet fragment, which accounts  
3 for five bullets fired from the .357 Magnum Taurus  
4 owned by Rodney McElveen, and we received that on  
5 Thursday of last week.

6 Based on that new report, I contacted firearms  
7 experts, spoke to them, and they are willing to  
8 investigate, to do the work and give us an opinion in  
9 this case. I do not have an opinion yet because they  
10 haven't had time to look at it.

11 And, judge, we need an opportunity to retain that  
12 expert, based on this new information from this new  
13 report by a different SLED analyst. And by the way,  
14 the first SLED analyst who authored the first report is  
15 on vacation in Wyoming this week. He says it is a  
16 prepaid vacation that he spent a lot of money on. He  
17 called my office several times, I think it was Thursday  
18 or Friday, begging us to let him out of his subpoena.

19 And we have stipulated if the trial goes forward,  
20 that report will come in without his presence, but we  
21 don't have him here to explain it. And judge, we need  
22 our own firearms expert to look at this evidence, do  
23 the tests and tell us if their analysts are correct or  
24 incorrect. I believe they are incorrect.

25 So that's the grounds for asking for a continuance

1 based on the firearms report. We need to have that  
2 expert for me to do my job and do what I'm supposed to  
3 do based on this new report that we received. I have  
4 to have an analyst look at this and tell us if what  
5 they're saying is correct or incorrect.

6 And judge, this was provided to us Thursday before  
7 the prosecutor set the case for trial. They set the  
8 date of trial, and then ---

9 THE COURT: Sir, let's start off with that. That  
10 is incorrect, all right. At the last non-jury roster  
11 meeting that I conducted, I set the matter for trial.  
12 This was a couple months ago. I set the matter for  
13 trial this week. The State did not set this case for  
14 trial. We had a non-jury meeting, status conference in  
15 my office, all of y'all were there. I set the matter  
16 for trial, all right. So let's be clear about that.

17 MR. FREDERICK: Yes, sir.

18 THE COURT: All right, thank you.

19 MR. FREDERICK: Yes, sir. The solicitor's office  
20 provided us a brand new firearms report by a completely  
21 different SLED analyst last Thursday before the date  
22 that the case was set for trial. That is our first  
23 grounds for requesting a continuance. Judge, I have  
24 consulted with a firearms expert who is willing to be  
25 retained and work on the case.

1 THE COURT: And that's the affidavit you provided,  
2 Mr. Christopher Robinson; is that correct?

3 MR. FREDERICK: Yes; sir, that is correct.

4 THE COURT: All right. Let me ask you a question  
5 so that I'm clear about it. And I'm using the  
6 documentation you attached to your motion, so assuming  
7 those to be the reports you received from the State.

8 MR. FREDERICK: That's correct.

9 THE COURT: We have one SLED report. And on the  
10 very top page of it, it's a report from the forensic  
11 services laboratory report. And over to the right,  
12 underneath the SLED logo it says, firearms department;  
13 and then it says, December 12th, 2011. Is that the  
14 first report?

15 MR. FREDERICK: That would have to be the first  
16 report.

17 THE COURT: All right. So, and then we have  
18 another one, same type of thing, South Carolina Law  
19 Enforcement Division, forensic services laboratory  
20 report, and over to the right of the SLED label it  
21 says, firearms department. Underneath that it says,  
22 October 7th, 2014.

23 So those are the two reports that you're making  
24 reference to. And obviously the one dated October 7th,  
25 2014 is the one you said you just got Thursday;



1 correct?

2 MR. FREDERICK: That's correct, judge.

3 THE COURT: Okay.

4 MR. FREDERICK: Thursday was October 8th, I  
5 believe.

6 THE COURT: Right, okay. So if you could so that  
7 I understand, let's take those two reports and put them  
8 side by side. And tell me the differences between the  
9 two reports.

10 So first start off with the December 12th, 2011  
11 report. Look at that one, and then look at the  
12 October 7th, 2014 report and tell me the difference.  
13 Just start off with page one, go to page two and tell  
14 me the differences on each page.

15 MR. FREDERICK: Judge, if you bear with me for a  
16 moment.

17 THE COURT: Yes, sir. I'm assuming by the work  
18 you're doing you hadn't done that before you got in  
19 here this morning?

20 MR. FREDERICK: Judge, I did do it, but it isn't  
21 on my note pad.

22 THE COURT: Okay. Well, I'm just telling you,  
23 what I'm asking you to do is, you've got the two  
24 reports in front of you, I got the two reports in front  
25 of me. Tell me what's the difference. Look at page

1 one and tell me what's the difference.

2 MR. FREDERICK: Judge, if you will indulge me --

3 THE COURT: Okay.

4 MR. FREDERICK: -- for a moment, I'm getting that  
5 right now.

6 THE COURT: All right, very good. All right.

7 Yes, sir, Mr. Canty.

8 MR. CANTY: Thank you, Your Honor. We are joining  
9 in the motion. And if I may summarize a couple of, I  
10 believe, material elements, the fatal bullet, the one  
11 that caused the death of --

12 THE COURT: You're here speaking on behalf of Mr.  
13 Carnail Graham; correct, sir?

14 MR. CANTY: That's correct, Your Honor.

15 THE COURT: All right, very good. Yes, sir.

16 MR. CANTY: The fatal bullet was a .357 Magnum  
17 slug that was fired, according to the first SLED  
18 report, by a .357 made by one of three manufacturers  
19 which included Taurus which is the manufacturer of the  
20 revolver which Mr. McElveen discharged the entire  
21 magazine at the time of this entry.

22 In the first report four of the five rounds are  
23 accounted for. Mr. McElveen, according to his  
24 statement, was lying prone on his bed. The bedroom  
25 door was half open because it was obstructed by a

1 dresser, and the shots were fired down the hall through  
2 that door. And his testimony was that the victim came  
3 running down the hall, jumped over him and then he  
4 fired the shots.

5 And the ballistic rods that were placed into the  
6 bullet holes at the opposite end of the hall show that  
7 one shot was fired into the ceiling, another shot was  
8 fired in into the wall, etcetera. Four of the five  
9 shots are accounted for. The fatal bullet was fired by  
10 a pistol made by one of three manufacturers, including  
11 the manufacturer of the pistol which Mr. McElveen  
12 fired.

13 There is equivocation. In my view, my analysis of  
14 the initial report says that this was not fired by that  
15 gun but that the quality of the striations -- this is  
16 the round recovered in the autopsy -- is not sufficient  
17 to put it in the IBIS system, the nationwide FBI  
18 database on ballistics.

19 The second report which we received this week has,  
20 and I think you have a copy in front of you, in  
21 boldface underlined, was not fired by, in bold and  
22 underlined, seeking to emphasize, I think -- and it's  
23 important to remember that there are no other firearms  
24 recovered other than an SKS 7.62 rifle which was never  
25 fired, a .44 Magnum long barrel revolver which had a

1 trigger lock which had not been removed.

2 So the .357 Magnum, Mr. McElveen was the only gun  
3 that was fired at the time of the crime that wasn't  
4 recovered. The equivocation in the first report and  
5 the certainty in the second report in my mind creates  
6 an issue --

7 THE COURT: Okay. I'm sure, Mr. Canty, and I  
8 appreciate what you're telling me, I'm sure that y'all  
9 will point that out in the report. We're going to go  
10 through the report page by page. So y'all can, either  
11 you can or Mr. Frederick can, look at the report of  
12 December 12, 2011 and the report of October 7th, 2014  
13 and show me that. Okay. I appreciate you telling me  
14 that. What I want to see is the differences in the  
15 report, okay. Can we do that, please. Thank you.

16 MR. FREDERICK: Judge, in the first report, if we  
17 looked on page two of three, at item number six --

18 THE COURT: All right. So there's no differences  
19 on page one?

20 MR. FREDERICK: Well, there may be, judge.

21 THE COURT: Okay. Please start with page one and  
22 tell me the differences, and you tell me whether or not  
23 this is a significant difference or not; okay?

24 MR. FREDERICK: Judge, I'm going to item six on  
25 page two which is --

1 THE COURT: All right, so we're skipping over page  
2 one, and you're telling me there's no significant  
3 differences on page one; is that what you're telling  
4 me?

5 MR. FREDERICK: I'll read the first page again.

6 THE COURT: All right.

7 MR. FREDERICK: Judge, I do not believe there are  
8 significant differences on the first page.

9 THE COURT: All right, very good. So let's go to  
10 page two.

11 MR. FREDERICK: Judge, on page two, and I'm  
12 looking at first the December 12th, 2011 report.

13 THE COURT: Yes, sir.

14 MR. FREDERICK: Item number six.

15 THE COURT: Okay.

16 MR. FREDERICK: Which states there is one fired  
17 bullet, three fired bullet jacket fragments, one lead  
18 fragment, one plastic fragment.

19 THE COURT: Okay.

20 MR. FREDERICK: As we read through item number  
21 six, it identifies in the second paragraph, bullet  
22 fragments were compared with test bullets fired by  
23 items four and five. Item five is the .357 Magnum  
24 Taurus that was owned and fired by Rodney McElveen who  
25 was a resident of the mobile home that was invaded.

1 We're comparing with item nine. Item nine is the  
2 bullet that caused the death of the victim.

3 It was concluded that the bullet and a jacket  
4 fragment that contained these bullets' base were fired  
5 by the item five revolver. That's one bullet they've  
6 identified as coming from item five. The bullet and  
7 the fragment from the bullet's base resulted from the  
8 firing of two cartridges. Comparison of the other two  
9 bullet jacket fragments in item six with test bullets  
10 fired by item five were inconclusive.

11 The other two bullet jacket fragments could have  
12 been fired by item five or another firearm with the  
13 same rifling specifications as item five. The other  
14 two bullet jacket fragments were not fired by item four  
15 or by the firearm that fired item nine.

16 Now, in item six, I find a conclusive statement  
17 from this analyst, which is Dan DeFreese, that he has  
18 matched, for lack of a better term, one bullet or  
19 bullet fragment with the item five gun. When we go  
20 through the rest of the report I count three additional  
21 connections where he has matched a bullet or bullet  
22 jacket fragment to the item five gun.

23 When we move to the report that was given to me  
24 last Thursday which is dated October 7th, 2014, on page  
25 two the language changes dramatically. And the most

1 significant change is the bold statement that is the  
2 first -- it has a dot next to it that is separated from  
3 the rest of the paragraphs. Item six was comprised of  
4 at least two fired bullets. Their intent, based on  
5 this report with the new analyst, is to establish that  
6 they matched two fired bullets from item six with the  
7 gun which is item five. That plus the three additional  
8 bullets makes five.

9 They are saying here's five bullets that were  
10 fired from the item five gun which had five bullets  
11 fired from it; therefore, it could not have been  
12 McElveen who fired the fatal shot. That is a huge  
13 difference, judge. Because there were five shots fired  
14 from Rodney McElveen's gun as Keia Pertelle, the  
15 victim, was running down a hallway towards him, opened  
16 a doorway that had a nightstand behind it that only  
17 opened about this much (indicating), and that's  
18 established through their own detectives.

19 And she came through the door, and she got shot in  
20 her front left breast. And when she was shot, it hit  
21 the aorta, and she died and bled out immediately. That  
22 is a huge difference, judge. The gun that killed her  
23 came from -- the bullet came from the item five gun  
24 which was being fired by Rodney McElveen who was in  
25 this bedroom at the end of the hall, not the intruders

1 who came into the house who, by the way, nobody has  
2 established that those intruders had a .357 Magnum.  
3 The only .357 Magnum recovered was the one that belongs  
4 to Rodney McElveen. So what we have now in a brand new  
5 report that was given to me last Thursday is a brand  
6 new SLED analyst saying, no, no, no, we've got five  
7 bullets that match that gun, whereas the first report  
8 says there were four.

9 THE COURT: All right, sir. Do you want to go  
10 onto page three.

11 MR. FREDERICK: No, sir. This is the difference  
12 in the report.

13 THE COURT: Thank you, sir, appreciate it.

14 MR. FREDERICK: There are some other minor  
15 differences, they highlight some --

16 THE COURT: But this is what you're saying is the  
17 major distinction and the reason that you need, then,  
18 the examination by Mr. Christopher Robinson?

19 MR. FREDERICK: Yes, sir. We need to test those  
20 bullet jacket fragments and those bullets against that  
21 item five gun and basically, judge, clean up this mess  
22 and have someone tell us. Whether they agree with them  
23 or not, whether they agree with the first report or  
24 they agree with the second report, before this case  
25 goes to trial, I need to know are there five bullets



1 that were fired from that .357 Magnum Taurus.

2 First they said there's four. Thursday before  
3 today, this trial date, I get a new report by a  
4 different analyst that says there were five, all  
5 bullets accounted for.

6 THE COURT: All right, sir. Mr. Canty, do you  
7 want to add something to that?

8 MR. CANTY: Very briefly, Your Honor. If the  
9 second report is accurate, then what it means is that  
10 the State's theory is that once the front door was  
11 kicked in, that the victim got up off the couch, she  
12 was shot in the left breast, she ran past the gunman,  
13 down the hall and jumped over Mr. McElveen to land on  
14 the bed after she had been shot through the aorta.

15 And I'm not a physician, I'm not an expert, but it  
16 just seems highly improbable to me that -- and I've  
17 seen the autopsy photographs -- she has 1.5 liters of  
18 blood in her chest, I don't see how someone who  
19 sustained that type of wound could do what they claim  
20 she did.

21 THE COURT: All right. Solicitor, you want to  
22 respond to that argument by the defense?

23 MR. SPRATLIN: Yes, Your Honor. Regarding item  
24 six because I think it's the only matter at issue here  
25 today, I would disagree -- I would agree with

1 Mr. Frederick that if the first report had only  
2 accounted for four of the five bullets fired from the  
3 .357 handgun which is item four, then that would -- and  
4 the second report did account for all five, that would  
5 be a material change in circumstance.

6       However, that's not the case here. The original  
7 report by Mr. Dan DeFreese does account for all five  
8 bullets. In fact, item six which Mr. Frederick points  
9 out -- and I'll agree, Your Honor, that these are  
10 written differently -- it's a matter of two different  
11 authors. If somebody else wrote the story of War and  
12 Peace, it would be a little different but it tells the  
13 same story.

14       In fact, in this case they both tell the same  
15 story. But basically I would direct the Court  
16 regarding the two bullets fired, which Mr. Frederick  
17 pointed out in the new report dated October 7, 2014,  
18 item six, the first bullet point is item six was  
19 comprised of at least two fired bullets.

20       If we go over to the December 12th, 2011 report,  
21 the second paragraph under the word result, about the  
22 fourth line down, the bullet and the fragment with the  
23 bullet base resulted from the firing of two cartridges,  
24 indicating two bullets.

25       They are the same report, Your Honor, same number

1 of bullets. The first report accounts for all five,  
2 the second report accounts for all five. Present in  
3 the Court, Your Honor, is the author of the second  
4 report, forensic scientist James Green, who is prepared  
5 to testify to the Court and proffer testimony. He is  
6 also, Your Honor, for the Court's edification, the  
7 individual who did the peer review or the validation of  
8 the validity check of Mr. Dan DeFreese's report which  
9 is why we asked for him to be the forensic scientist  
10 that did the second report.

11 The second report was given to this defense the  
12 week before last week. But Your Honor, it was given to  
13 them because of Mr. DeFreese's unavailability. The  
14 State in order to meet the trial date sent the evidence  
15 back up to SLED, asked that the work be redone and  
16 ordered to have someone be able to come in court and  
17 testify and present evidence and meet the deadline the  
18 Court had set by setting the trial date.

19 Your Honor, as far as I can tell, there are no  
20 differences between these two reports. They are the  
21 same, and Mr. Jamie Green will testify to that and  
22 explain to the Court and explain to Mr. Frederick and  
23 Mr. Canty what Mr. DeFreese was saying and how  
24 Mr. DeFreese was saying, especially since he is the  
25 individual who initially reviewed Mr. DeFreese's work.

1 He will testify, I believe, and proffer testimony that  
2 he agrees completely with Mr. DeFreese's results, does  
3 not dispute them in the least.

4 THE COURT: All right. Hold on one second,  
5 solicitor. Mr. Frederick, the State's offering the  
6 author of the second report to testify, and he'll ask  
7 him questions. And I obviously will allow you to and  
8 Mr. Canty to ask him questions.

9 MR. FREDERICK: Judge, I would like very much to  
10 offer our own expert to testify.

11 THE COURT: Well, I haven't gotten to --

12 MR. FREDERICK: But we haven't had the opportunity  
13 to do that.

14 THE COURT: Well, now, let's not say that.

15 MR. FREDERICK: Our hands are tied.

16 THE COURT: Let's, you know...

17 MR. FREDERICK: May I say it, judge.

18 THE COURT: All right, hold on a second, okay. If  
19 there are significant differences, yes, you may not  
20 have had the opportunity to have your own expert. If  
21 there are no significant differences, you've had the  
22 report since December of 2011, more than sufficient  
23 time to secure an expert if you thought one was  
24 necessary.

25 MR. FREDERICK: Actually, June of 2014, judge.

1 THE COURT: Well, you knew there was a report.

2 MR. FREDERICK: But, judge, may I say, their  
3 expert will tell Your Honor there are no differences,  
4 the State will tell Your Honor there are no  
5 differences. Your Honor has the report right here in  
6 front of him.

7 THE COURT: Okay. And I see from the  
8 December 12th, 2011 report, the bullet and the fragment  
9 with the bullet's base resulted from the firing of two  
10 cartridges. Item six was comprised of at least two  
11 fired bullets. That's the October 7th, 2014.

12 MR. FREDERICK: At best, judge, this first report  
13 was misleading and confusing enough that if they  
14 intended to say there were five bullets matched to that  
15 number five item, if that was their intent, I was  
16 misled and confused. And judge, I'm no expert, but I  
17 have firearms experience.

18 THE COURT: Well --

19 MR. FREDERICK: And I carefully read these  
20 reports, and there is a major difference. They have  
21 cleaned up their report, they have changed the findings  
22 as I read it. And that is a huge difference, judge.  
23 We need to have our own expert in this case, and that's  
24 only fair under the circumstances.

25 THE COURT: Well, solicitor, if you want to call

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1 Mr. Green, I'll be glad to hear from him.

2 MR. SPRATLIN: Yes, sir, Your Honor. The State  
3 would call forensic scientist Jamie W. Green to the  
4 stand to testify.

5 THE COURT: Please come around here to be sworn.

6 JAMES W. GREEN, after being duly sworn, testified  
7 as follows:

8 CLERK OF COURT: Please be seated. State your  
9 full name, spell your last name for the Court, please.

10 THE WITNESS: James W. Green, G-R-E-E-N.

11 THE COURT: Go ahead, Mr. Spratlin.

12 DIRECT EXAMINATION

13 BY MR. SPRATLIN

14 Q Where are you currently employed?

15 A I'm employed by South Carolina Law Enforcement  
16 Division and the firearms department in the forensic  
17 services laboratory.

18 Q What's your job title there?

19 A I'm a forensic scientist or firearms examiner.

20 Q Firearms examiner or forensic scientist?

21 A Yes, sir.

22 Q What all does that entail?

23 A What we do is we examine fired ammunition  
24 components, fired bullets and fired cartridge cases  
25 against each other or against firearms submitted in a

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25

1 case to determine the common cause, basically was this  
2 bullet fired by this gun or was it not.

3 MR. SPRATLIN: Your Honor, for the purpose of this  
4 hearing I would just request that the defense will  
5 stipulate that Mr. Green is an expert in this area.

6 THE COURT: All right, Mr. Frederick, do you wish  
7 to --

8 MR. FREDERICK: That's fine, judge.

9 THE COURT: All right. So you would be in  
10 agreement with the Court qualifying him to give his  
11 opinion in this particular matter?

12 MR. FREDERICK: For purposes of this hearing --

13 THE COURT: For the purposes this hearing.

14 MR. FREDERICK: -- no objection, judge.

15 THE COURT: Yes. Okay, Mr. Canty?

16 MR. CANTY: No objection, judge, to his  
17 qualifications, Your Honor.

18 THE COURT: All right, very good. Go ahead, you  
19 may continue, solicitor.

20 MR. SPRATLIN: All right, thank you.

21 Q Mr. Green, were you working at SLED back -- how  
22 long did you work in SLED?

23 A Since 2005.

24 Q 2005. So you were working at SLED back in  
25 October -- or in December of 2011?

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1 A Yes, sir.

2 Q Are you familiar with an individual named Dan  
3 DeFreese?

4 A Yes, sir. He's also a firearms examiner.

5 Q All right. Is he in the same position as you are?

6 A Yes, sir.

7 Q Are y'all coworkers?

8 A Yes, sir.

9 Q All right. Prior to October of this year, what if  
10 any involvement did you have in SLED lab number

11 L11-13184 in which a deceased victim was Shaquille

12 Pertelle, a witness was Carlton Watts, a suspect was

13 Keir Lamont Johnson and a witness was Rodney McElveen?

14 A When evidence is submitted to the SLED laboratory  
15 and it's assigned to a firearms examiner. They work  
16 the case, they formulate their own opinion, and then  
17 they put the results down on a worksheet. They go  
18 through and find someone to micro-verify their results.  
19 What that means is they have someone come in and do an  
20 independent exam and say, I need you to look at  
21 something.

22 They come down and look with their microscope,  
23 with their evidence and they formulate their own  
24 conclusion. And you verify their results. Before any  
25 results are given out by SLED, every case by the



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1 firearms department is 100 percent micro-verified,  
2 meaning a second examiner sits down and also formulates  
3 an opinion.

4 Q And why do you do this?

5 A It's our -- one of our quality control measures.  
6 And in this case I was the one who originally  
7 micro-verified Dan DeFreese's results, and I reviewed  
8 his case file for administrative and technical review.

9 Q Okay. So you had a chance to review the case file  
10 of Dan DeFreese?

11 A Yes, sir.

12 Q And you had a chance to do your own comparison at  
13 that time as well?

14 A Correct.

15 Q And what if anything did you find in regards to  
16 his findings at that time?

17 A I agreed with everything he had or with his  
18 results.

19 Q Now, are you familiar with the report that  
20 Mr. DeFreese prepared in this case?

21 A Yes, sir.

22 Q Do you have a copy of that available to you?

23 A I do.

24 Q Okay. Specifically regarding item number six on  
25 Mr. DeFreese's report, how many bullets does

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1 Mr. DeFreese account for in item number six?

2 A Two.

3 Q All right. And from what other item or handgun  
4 were those two bullets that he accounts for in item six  
5 fired?

6 A I'm sorry, say that again.

7 Q From what handgun or other item on the report  
8 was -- were those two bullets fired from?

9 A The item five revolver.

10 Q Item five revolver, okay.

11 A May I say something?

12 Q Yes.

13 A When item six came in, it was one fired bullet, a  
14 fired bullet jacket fragment that had a base, which  
15 let's us know there were two bullets and then two  
16 jacket fragments did not have bases. And rather than  
17 saying 6-A, 6-B, 6-C, 6-D, we say without a base or  
18 with a base, so we know which one we're referring to.

19 Q So the bullet base you referenced in item six,  
20 that would be from a separate bullet from the one in  
21 item six?

22 A Correct. It's a distinct one. The bullet's  
23 actually a complete fired bullet. And the bullet  
24 jacket fragment with a base has a complete base  
25 signifying it was a second bullet.

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1 Q It's like a bullet which you may not have the rest  
2 of but still a second bullet?

3 A We had enough to see that it was a complete fired  
4 bullet base.

5 Q Okay. Mr. Green, the report you have in front of  
6 you from Dan DeFreese, does that seem to be a fair and  
7 accurate reflection of a report that you reviewed  
8 several years ago?

9 A Yes, sir.

10 Q Have there been any changes or additions or  
11 deletions to it?

12 A No, sir.

13 MR. SPRATLIN: Your Honor, at this time I'd ask to  
14 mark that item as State's Exhibit No. 1 for the  
15 purposes of this hearing.

16 THE COURT: Do you have any objection to that,  
17 Mr. Frederick?

18 MR. FREDERICK: I would just like to see it.

19 THE COURT: Please.

20 MR. SPRATLIN: And Your Honor, just to make the  
21 record clear, this will be a report that's going in for  
22 the purpose of this hearing. It will not be a report  
23 that's being handed to the jury.

24 THE COURT: All right. And so with that, is there  
25 any objection to that, Mr. Frederick?

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1 MR. FREDERICK: Just -- just to point out that  
2 there is one section that is underlined. But pointing  
3 that out, I have no objection.

4 THE COURT: All right. Mr. Canty?

5 MR. CANTY: And Your Honor, just so long as that  
6 particular version does not go back to the jury for  
7 the --

8 THE COURT: Well, we're here for a motion for  
9 continuance. That has nothing to do with the trial of  
10 that case, so this is all for the purposes of the  
11 motion.

12 (WHEREUPON, State's Exhibit No. 1 was marked for  
13 identification only.)

14 THE COURT: Is that the December 12th, 2011  
15 report?

16 MR. SPRATLIN: No, Your Honor. The first report,  
17 State's Exhibit No. 1 was the December 12, 2011 report.  
18 State's Exhibit No. 2 will be the October 7th, 2014  
19 report.

20 THE COURT: Mr. Canty, you want to look at that?

21 MR. CANTY: Yeah, I -- no objection. No  
22 objection.

23 THE COURT: Any objections?

24 MR. FREDERICK: No objection.

25 THE COURT: Okay, so there's no objection from

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1 defense. So we'll mark those for the purpose of this  
2 hearing.

3 (WHEREUPON, State's Exhibit No. 2 was marked for  
4 identification only.)

5 MR. SPRATLIN: Your Honor, are they entered into  
6 evidence as far as the purposes of the motion?

7 THE COURT: Yes, as far as the purposes of the  
8 motion, they are entered into evidence without  
9 objection by the defense.

10 (WHEREUPON, Plaintiff's Exhibit Nos. 1 and 2 were  
11 admitted in evidence.)

12 MR. SPRATLIN: Your Honor, permission to approach  
13 the witness?

14 THE COURT: Yes, sir.

15 Q I hand you State's Exhibits 1 and 2. All right.  
16 Now, Mr. Green, from your review of the report dated  
17 December 12, 2011, Dan DeFreese's report, how many  
18 bullets fired from item five, a Taurus model 605  
19 revolver, did forensic scientist DeFreese account for?

20 A Five.

21 Q Five, all right. And, again, you did the review  
22 of his work back in 2011?

23 A Yes, sir.

24 Q And did you agree with that conclusion?

25 A I did.

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1 Q All right. Regarding item nine on that record  
2 labeled, projectile from victim's back, what if  
3 anything did Mr. DeFreese state regarding that bullet  
4 in item -- or that projectile in item five?

5 A That due to differences in general rifling  
6 characteristics, it was not fired by either item four  
7 or item five as part of the firearms submitted.

8 Q And did you have a chance to review his work on  
9 that back in 2011?

10 A Yes, sir, I did.

11 Q And did you agree with that conclusion?

12 A I did.

13 Q All right. Now, after your review of  
14 Mr. DeFreese's work, what other involvement did you  
15 have in that lab number L11-13184?

16 A The evidence was submitted to the laboratory on  
17 Monday, October the 6th, and I performed my own  
18 independent analysis where I test fired the firearms  
19 and did the microscopic comparisons myself.

20 Q Okay. And specifically regarding that, did you  
21 prepare a report?

22 A Yes, sir.

23 Q And is that State's Exhibit No. 2 that's already  
24 been entered into evidence?

25 A Yes, sir.

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1 Q All right. How did your results compare with  
2 Mr. DeFreese's results?

3 A Other than wording, they were the same.

4 Q Let me take you through step by step. After your  
5 examination of item four, what if anything was  
6 different about that than Mr. DeFreese's examination of  
7 item four?

8 A When Mr. DeFreese, Dan, received the Redhawk, the  
9 item four, the revolver had a trigger lock on it. He  
10 removed it for test firing. When I received it, there  
11 was no trigger lock on it, it was in a sealed plastic  
12 bag.

13 Q Okay. Regarding item five, one Taurus model 605  
14 revolver .357 Magnum caliber, what if anything was  
15 different in your assessment on it than Mr. DeFreese's  
16 assessment on it back in 2011?

17 A Nothing. All of it, model, caliber, serial  
18 number, had five fired cartridge cases with it.

19 Q Okay. Regarding item six, one fired bullet, three  
20 fired bullet jacket fragments, one lead fragment and  
21 one plastic fragment from kitchen cabinet labeled CS-4,  
22 what if anything was different about your results than  
23 Mr. DeFreese's results back in 2011?

24 A Simply the wording, how I described it versus how  
25 he described it.

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1 Q Based on your assessment of the way Mr. DeFreese  
2 described it, do you feel there was any kind of  
3 deception or deceit on his part to disguise the number  
4 of bullets included in that?

5 A No, sir, I did not.

6 Q Does he clearly state that the bullet and the  
7 fragment with the bullet base was all from the firing  
8 of two cartridges?

9 A It's clearly stated in my mind, yes, sir.

10 Q Okay. And your report also clearly states that?

11 A Yes, sir.

12 Q Were there any differences at all in your  
13 examination of Mr. DeFreese's report and your own  
14 examination in your report regarding item six?

15 A The only difference would be the debris or the  
16 trace material that was on the bullet as he received  
17 it. During his examination he removed it, so therefore  
18 it was not there when I examined it.

19 Q And by trace evidence, what exactly are you  
20 referring to?

21 A Like debris consistent with, he called it smeared  
22 paint and depressed wood fibers.

23 Q Okay. And how might that wind up on a bullet?

24 A Shot into a wall, a door or just a piece of wood.

25 Q Okay, all right. Regarding item seven titled, one



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1 fired bullet from front entrance door labeled CS-5,  
2 what if anything was different about your examination  
3 of that and Mr. DeFreese's examination of that item  
4 back in 2011?

5 A We both did the same thing as well. We test fired  
6 the firearms and compared them. The only difference  
7 was, as I said, also the trace material.

8 Q Okay. Regarding item eight, one fired bullet  
9 jacket fragment from under couch labeled CS-6, what if  
10 anything was different about your assessment and  
11 investigation into that item than Mr. DeFreese's  
12 assessment back in 2011?

13 A The trace material.

14 Q Anything else?

15 A No, sir, it's just the trace material.

16 Q Okay. Regarding item nine, the bullet recovered  
17 at autopsy labeled A-3, what if anything was different  
18 about your assessment than Mr. DeFreese's assessment in  
19 2011?

20 A He said it was not suitable for entry in IBIS, and  
21 I did not because he had already previously stated it.

22 Q Okay. In your opinion, was it suitable for IBIS?

23 A No, sir. The way IBIS acquires images, the  
24 lighting wouldn't have been sufficient to get the data  
25 that's needed.

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1 Q Let me ask you, you state that a possible -- you  
2 list the several possible handguns in which item nine  
3 could have been fired, an Astra, a Llama, a Roxy and a  
4 Taurus. Does Mr. DeFreese state those same  
5 possibilities?

6 A Yes, sir.

7 Q All right. Regarding item ten, one fired bullet  
8 jacket fragment from living room wall -- from living  
9 room discovered by the Detective Vescovi. What if  
10 anything was different in your assessment and  
11 Mr. DeFreese's assessment back in 2011?

12 A Simply the trace material again.

13 Q Reviewing Mr. DeFreese's report, how many bullets  
14 fired in item five does he account for?

15 A Five.

16 Q And reviewing your report, how many items -- how  
17 many bullets fired from item five do you account for?

18 A Five.

19 Q In your expert opinion as a forensic scientist, is  
20 there any difference in the results of your examination  
21 and Mr. DeFreese's examination?

22 A No, sir.

23 Q Are there any material differences in your  
24 reports?

25 A No, sir.

## JAMES W. GREEN-BY THE COURT

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1 MR. SPRATLIN: Beg the Court's indulgence. No  
2 further questions, Your Honor.

3 THE COURT: Mr. Frederick, before you ask  
4 questions, let me ask a question.

5 If you could, Mr. Green, look at the December 12,  
6 2011 report; do you have that in front of you?

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. And I believe you  
9 testified earlier, you correct me if I'm wrong, that  
10 you said that that report accounts for five bullets; is  
11 that correct?

12 THE WITNESS: Yes, sir.

13 THE COURT: All right. Can you point out  
14 specifically in that report, the December 12, 2011  
15 report, where five bullets are accounted for.

16 THE WITNESS: Yes, sir. And if you go on page two  
17 of three.

18 THE COURT: All right, sir.

19 THE WITNESS: And item six results, the second  
20 paragraph.

21 THE COURT: All right, sir.

22 THE WITNESS: And it says, the bullet and bullet  
23 fragments were compared with test bullets fired by item  
24 four and item five and item nine. These comparisons,  
25 it was concluded that the bullet, the whole bullet of

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1 item six --

2 THE COURT: All right.

3 THE WITNESS: -- and one of the jacket fragments,  
4 parenthesis, that contained the bullet's base, which is  
5 the second bullet, were fired by the item five  
6 revolver.

7 THE COURT: All right, sir.

8 THE WITNESS: And you couple that with item seven,  
9 item eight and item ten, that makes five.

10 THE COURT: All right. And item ten is?

11 THE WITNESS: On page three of three.

12 THE COURT: On page three?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right. So it's those sentences  
15 along with the paragraphs item seven, item eight and  
16 item ten that add up to five bullets being account for?

17 THE WITNESS: Yes, sir. That's what I was trying  
18 to explain earlier. For when we're trying to explain  
19 it to people who aren't quite as familiar with this as  
20 we may be, we're trying to think of ways to explain  
21 which fragment we're referring to.

22 So we had the item six bullet, and then only one  
23 of the three fragments had a base. So that's where  
24 that came from, the bullet and the bullet fragment with  
25 the base, which are two distinct bullets, where Dan

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1 goes through and says the bullet and the fragment with  
2 the bullet's base collected resulted from the firing of  
3 two cartridges. That's another way of him saying on my  
4 report, State's Exhibit 2 from October 7, 2014, my  
5 first bullet point on page two of four, item six, item  
6 six was comprised of at least two fired bullets.

7 THE COURT: All right, sir. So you tell me if I'm  
8 looking at this correctly or incorrectly in that item  
9 six, the second paragraph, says, it was concluded that  
10 the bullet in one of the jacket fragments were fired by  
11 the item five revolver. A bullet and fragments with  
12 the bullet's base resulted from the firing of two  
13 cartridges.

14 THE WITNESS: Yes, sir.

15 THE COURT: What you're saying there is that's two  
16 bullets accounted for; is that correct?

17 THE WITNESS: Correct.

18 THE COURT: And then the -- just looking at the  
19 first line in item seven, says, one fired bullet,  
20 that's another bullet accounted for; correct?

21 THE WITNESS: Right.

22 THE COURT: Or not?

23 THE WITNESS: Yes, it is. One fired bullet, yes,  
24 sir.

25 THE COURT: All right, sir. The first sentence in

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1 item eight, one fired bullet jacket fragment, that's  
2 another bullet accounted for; is that right?

3 THE WITNESS: Yes, sir.

4 THE COURT: And then looking at item ten, one  
5 fired bullet jacket fragment, that's accounting for  
6 another bullet --

7 THE WITNESS: Yes, sir.

8 THE COURT: -- is that correct?

9 THE WITNESS: That is correct.

10 THE COURT: All right, sir. Thank you. Go ahead,  
11 Mr. Frederick.

12 CROSS-EXAMINATION

13 BY MR. FREDERICK:

14 Q Mr. Green, if you'll look at State's Exhibit  
15 No. 1, I believe that's the December 12, 2011 report.

16 A Yes, sir.

17 Q On page two.

18 A Okay.

19 Q Item number six, would you please read to the  
20 Court the entire first sentence.

21 A Yes, sir. One fired bullet, three fired -- I'm  
22 sorry, you mean item six, the description; correct?

23 Q Yes, sir. Go forward.

24 A One fired bullet, three fired bullet jacket  
25 fragments, one lead fragment and one plastic fragment

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1 received in container marked, quote, "#CS4" --  
2 ellipse -- "fired projectile from kitchen cabinet,"  
3 ellipse, end quote.

4 Q And in your opinion, fired projectile, with no S  
5 on, there is no S on that word; is there?

6 A No, there is not.

7 Q That is singular; is that right?

8 A That is correct.

9 Q When you hear the word projectile, does that  
10 indicate to you two bullets?

11 A No. That indicates one.

12 Q Okay. Now, if we can look at item six on your  
13 report which is State's Exhibit No. 2, did you delete  
14 that?

15 A No. The information in quotes in these reports  
16 are what was listed on the evidence submission forms,  
17 the submitting agency logged it in as that.

18 Q Okay. You put it in your report; right?

19 A Yes.

20 Q And DeFreese put it in his report; right?

21 A Right. But they were logged in two separate  
22 times, and they were logged in differently when they  
23 were logged in.

24 Q So my question is, in your report, does it say  
25 projectile singular? It does not; does it?

JAMES W. GREEN-CROSS BY MR. FREDERICK

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1 A It does not because it was not in the evidence  
2 submission forms.

3 Q And DeFreese's report, does it say projectile  
4 singular?

5 A It does.

6 Q In this record?

7 A Yes, sir.

8 Q Okay. On page three of State's Exhibit No. 1,  
9 Mr. DeFreese's report, under item nine on page three,  
10 item nine may be suitable for identification with the  
11 firearm in which it was fired but was not suitable for  
12 IBIS entry.

13 A Correct.

14 Q And you also deleted that from your report; is  
15 that correct?

16 A I did not delete anything from my report.

17 Q It's not in your report.

18 A I did not include it in my report because it had  
19 been previously stated, and now we do not enter  
20 bullets into IBIS as per policy.

21 Q Okay. Your report is four pages long; right?

22 A Well, there's three pages and the fourth page  
23 takes up the little new line we have and my signature,  
24 yes, sir.

25 Q DeFreese's report is three pages, it's a half page



1 on the third page; right?

2 A Correct.

3 Q In your report, it does not state that item nine  
4 may be suitable for identification with the firearm in  
5 which it was fired but was not suitable for IBIS entry,  
6 that is not in your report; is it?

7 A On page three of four it says, item nine may be  
8 suitable for identification with the firearm barrel in  
9 which it was fired and/or fired bullet or bullets. It  
10 does not say anything about IBIS because we do not  
11 enter bullets into IBIS now. And since Mr. DeFreese's  
12 report was written in 2011, our policies have changed  
13 in how we write reports, and the verbiage and the  
14 phraseology we include in reports has changed.

15 Q Okay. So the short version is it's not in there;  
16 right?

17 A It is not in there because our policies have  
18 changed, yes.

19 Q Okay.

20 THE COURT: All right. Mr. Canty, any questions?

21 CROSS-EXAMINATION

22 BY MR. CANTY:

23 Q And as I understand it, when Mr. DeFreese wrote  
24 his report he said projectile singular and you omitted  
25 that; correct?

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1 A I did not omit it. It was not included in the  
2 evidence submission forms. Everything in quotes in  
3 these reports are not SLED saying anything, it's not  
4 Dan DeFreese, it's not James Green. It's what the  
5 submitting agency logged it in as.

6 Q There is a difference between your report and Mr.  
7 DeFreese's report, and that difference is Mr. DeFreese  
8 says, quote, "projectile," end quote, and yours does  
9 not; is that the case?

10 A The difference lies in -- there is a difference,  
11 yes -- the difference lies in what the submitting  
12 agency logged it in as, and what was included in the  
13 quotes is what we're saying somebody else said.

14 Q Mr. DeFreese in his report said, not suitable for  
15 IBIS entry; correct? Yours does not say that?

16 A Correct.

17 Q All right. And you in your report put in bold  
18 face type and underlined, was not fired by; is that  
19 correct?

20 A That's correct.

21 Q And that's not boldface or underlined in  
22 Mr. DeFreese's the report?

23 A No, sir, he does not do that. I do that in my  
24 reports.

25 Q And did you have a discussion about what the

1 significance of that might be?

2 A I'm sorry, say again.

3 Q Did you have any discussion with anyone about what  
4 the significance of that might be?

5 A No, sir. It's simply for me when I'm looking at a  
6 report saying it was not fired by, if you have firearms  
7 training, item five revolver is five landing grooved  
8 right-hand twist. Excuse me, the item nine bullet is  
9 six landing groove, right-hand twist, you can't get it  
10 five out of the six, there's no way it was fired by  
11 that firearm. So that's what I'm trying to say, it was  
12 not fired by that gun.

13 Q You said six, seven, eight and ten accounted for  
14 the five bullets because six included two bullets  
15 rather than the single projectile that Mr. DeFreese had  
16 described.

17 A Mr. DeFreese described something the submitting  
18 agency said. In his results he describes two fired  
19 bullets in item six as being fired by the item five  
20 Taurus.

21 Q So let me ask you this, how much does a bullet, a  
22 .357 Magnum bullet, weigh?

23 A Anywhere -- well, it depends on which manufacturer  
24 you're referring to. Some weigh as little as 95 grains  
25 in the plus P loads where they're trying to get more

## JAMES W. GREEN-CROSS BY MR. CANTY

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1 speed. Some weigh up to 158 grains.

2 Q And how much do these bullets weigh?

3 A May I refer to my notes because I don't have them  
4 off the top of my head.

5 Q Certainly.

6 A The item six, the actual complete fired bullet  
7 weighed 105.6 grains. The jacket fragment that had the  
8 base only weighed 14.6 grains.

9 Q All right. Item seven is a complete .357 bullet  
10 that comes from the door frame; right?

11 A Yes, sir.

12 Q How much did that weigh?

13 A It weighed 118.4 grains.

14 Q So if that came from Mr. McElveen's gun, then you  
15 described a range of 95 to 158 grains, then that  
16 114-grain bullet that was recovered intact is probably  
17 what his ammunition weighed. Well, you had his  
18 ammunition too; didn't you?

19 A I had five cartridge cases, I did not have a  
20 complete unfired cartridge, no. I didn't have anything  
21 for comparison.

22 Q Items six, eight and ten are fragments; correct?

23 A Well, excluding the complete fired bullet in item  
24 six, there is three fragments in item six.

25 Q What do those fragments weigh?

JAMES W. GREEN-CROSS BY MR. CANTY

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1 A Let's see, the one that had the base weighed 14.6  
2 grains. And that doesn't account for losing the lead  
3 core which buried next and takes up a lot of the  
4 weight. The larger jacket fragment that did not have a  
5 base weighed 5.4 grains, and the smaller jacket  
6 fragment that did not have a base weighed 3.2 grains.  
7 The lead fragment weighed 76 -- excuse me, 72.6 grains,  
8 and the plastic fragment weighed 2.2 grains.

9 Q Did you say the plastic fragment?

10 A Yes, sir. There was a plastic fragment.

11 Q Well, that's not part of a bullet; is it?

12 A No, sir, it's not.

13 Q Well, when you add up all that weight, does it  
14 come to five times 114?

15 A In item six, is that what you're referring to?

16 Q These fragments, six, eight and ten, describe  
17 bullet fragments, seven describes a bullet. Isn't it a  
18 fact that when you add up all those fragments it  
19 doesn't equal the weight of five bullets?

20 A Well, you have to remember, you have a cup and a  
21 core to make a drawn jacketed bullet. You've got a  
22 copper cup of a jacket, and a core is put in there and  
23 is formed around them. So if you take the lead, dense  
24 lead core out of it, you may have -- only have a jacket  
25 that weighs 15 grains, 20 grains. You add the lead,

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1 that rises back up.

2 But, yes, in seven, eight and ten, they were  
3 fragments, but they were enough to find, and they were  
4 a complete fired bullet jacket.

5 Q Okay. Well, I think you know what I'm asking. My  
6 question is when you add up all the weight of those  
7 fragments, does it equal five bullets?

8 A It does not because they're only fragments.

9 MR. CANTY: That's all I have.

10 THE WITNESS: And by your definition, a fragment  
11 does not weigh the same as a whole one.

12 THE COURT: Any redirect?

13 MR. SPRATLIN: Just one last question, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SPRATLIN:

16 Q Mr. Green, were there any differences in the  
17 results of your examination of the evidence submitted  
18 and Mr. DeFreese's examination of the evidence  
19 submitted?

20 A No, sir.

21 MR. SPRATLIN: No further questions, Your Honor.

22 THE COURT: All right. Can you, if you would, I  
23 asked you the question about the December 12th, 2011  
24 report to point out specifically where five bullets  
25 were accounted for. And you pointed out the particular

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1 line or lines in item six, seven, eight and ten.

2 Could you do the same thing for the report of  
3 October 7th, 2014.

4 THE WITNESS: Yes, sir. On page two of four.

5 THE COURT: Yes, sir.

6 THE WITNESS: The first bullet point under item  
7 six says, item six was comprised of at least two fired  
8 bullets.

9 THE COURT: All right, sir.

10 THE WITNESS: The second bullet point says the  
11 item six bullet which was a complete bullet and the  
12 bullet jacket fragment with base were microscopically  
13 compared with the other evidence items, excuse me, and  
14 with test bullets fired by the item four and five  
15 revolvers. Matching individual identifying  
16 characteristics were found; and it was concluded that  
17 item six bullet and bullet jacket with base were fired  
18 by the item five revolver.

19 THE COURT: All right.

20 THE WITNESS: That's two separate bullets there.  
21 Item seven would be three, eight would be four and ten  
22 would be five.

23 THE COURT: All right, sir, thank you. Any  
24 questions on the question asked by the Court from the  
25 State?

1 MR. SPRATLIN: No, sir, Your Honor.

2 THE COURT: From the defense, Mr. Frederick?

3 MR. FREDERICK: No, Your Honor.

4 THE COURT: And Mr. Canty?

5 MR. CANTY: No, Your Honor.

6 THE COURT: Thank you. You may step down, sir.

7 (Witness excused.)

8 THE COURT: All right. Any brief argument? We  
9 are just talking about the firearms report here, okay.  
10 Anything you want, another sentence or two that you  
11 want to add, Mr. Frederick?

12 MR. FREDERICK: No, Your Honor.

13 THE COURT: Mr. Canty?

14 MR. CANTY: I think we made our point, Your Honor.

15 THE COURT: All right, very good.

16 Regarding the issue of the firearms report, it's  
17 the only one we've covered so far, regarding the motion  
18 to continue, I respectfully decline to grant the motion  
19 to continue. I do not find that the two reports  
20 submitted to the Court are in any way significantly  
21 different. The reports, based on the information  
22 provided in the reports and the testimony provided to  
23 the Court by the forensic examiner, James W. Green,  
24 it's clear that the two reports report the same  
25 information.



1       The December 12th, 2011 report has been in the  
2 possession of the defense for a significant period of  
3 time, and for reasons known to the defense, they chose  
4 not to hire an examiner of their own. I respectfully  
5 decline to grant your motion to continue based upon the  
6 issue of the firearms report. Let's go on to the  
7 polygraph charts, Mr. Frederick. Your argument.

8       MR. FREDERICK: Just a moment, judge.

9       THE COURT: Yes, sir.

10       MR. FREDERICK: Judge, I'm not going to say that  
11 standing alone the issue of the polygraph reports is a  
12 grounds for a continuance. The reports are not  
13 admissible at a trial. But, judge, after these  
14 polygraph examinations were done, immediately after  
15 they were done, I filed a request asking for the charts  
16 because I do not believe that the results of those  
17 polygraphs were accurately represented. My motion went  
18 ignored. We filed a motion to compel.

19       In response to the motion to compel, the current  
20 solicitor on the case provided to us the report but not  
21 the charts which is what we specifically asked him for,  
22 asked them for. This morning I was provided with one  
23 of the charts but not the other chart that I requested.

24       And, I mean, that, again, there is on our motion  
25 to compel which is another motion that needs to be

1 heard. But, judge, again, on the morning of trial this  
2 morning I received documents that I asked them for  
3 months ago. And we'd request time to conduct an  
4 independent review of those charts.

5 THE COURT: What is it that you hope it would lead  
6 to that could be introduced into evidence or talked  
7 about in evidence in trial?

8 MR. FREDERICK: That's what I -- frankly, judge,  
9 that's what I just said, there's nothing that's  
10 admissible in trial.

11 THE COURT: All right, sir.

12 MR. FREDERICK: It should have been given to us  
13 when we asked for it, and they did not. They waited  
14 until the morning of trial when we have no opportunity  
15 to look at it.

16 THE COURT: All right, sir. Thank you. All  
17 right. Anything you want to add to that, Mr. Canty?

18 MR. CANTY: Your Honor, we also by letter to the  
19 solicitor some months ago had requested those charts.  
20 We never received anything until earlier this morning  
21 in this room. We were given one of the two charts.  
22 And as far as the materiality, while it may not be  
23 admissible, as Your Honor is well aware, prosecuting  
24 attorneys have an ethical duty to present truthful  
25 witnesses. And one of these is their witness. The

1 chart we were given is of a codefendant, not their  
2 witness.

3 And in this particular instance, I feel  
4 comfortable characterizing the forensic evidence as  
5 being a mountain of forensic evidence, none of which  
6 implicates my client. And the only thing that  
7 implicates my client is this witness, who, let me add  
8 further, that that witness has indicated on now four  
9 different occasions that he was untruthful with regard  
10 to this case.

11 THE COURT: All right. Well, it certainly -- if  
12 that's in a statement that was given to police,  
13 obviously you'll be able to explore that at trial;  
14 correct?

15 MR. CANTY: Certainly, Your Honor.

16 THE COURT: All right.

17 MR. CANTY: But again, it only reflects on the  
18 duty of the prosecutor.

19 THE COURT: And I appreciate that. I'm concerned  
20 with the conduct of the trial, and if the information  
21 cannot come to light during the scope of the trial, I  
22 do not believe that it's appropriate for the Court to  
23 grant a continuance based upon that regard. And  
24 therefore, on that particular issue the motion to  
25 continue is denied.

1       There is an issue of unavailable witnesses,  
2 Mr. Frederick?

3       MR. FREDERICK: Yes, sir. In the written motion  
4 I've identified, I believe, eight witnesses that we  
5 have been unable to serve for the trial this week. Two  
6 of those witnesses we discovered last week or the week  
7 before, recently we discovered live out of state and  
8 cannot be served. When we attempted to serve them, we  
9 discovered there were -- one is an officer, we were  
10 told by Horry County Police Department, he's no longer  
11 employed there. He's moved to another state. The  
12 other is a fact witness who has moved to another state.

13       We've researched, we got their addresses where  
14 they live now. But there is no way that in a week's  
15 time we can comply with the Uniform Interstate  
16 Depositions and Discovery Act to serve subpoenas on  
17 those individuals. Your Honor, we need enough time in  
18 advance, now knowing where those two witnesses live, to  
19 have Your Honor or the clerk of court certify them as a  
20 material witness. And then I need to take that  
21 documentation to the state and county where they live  
22 and obtain a subpoena for those witnesses for the trial  
23 date. It's impossible to do that in the timeframe when  
24 we discovered where these witnesses live.

25       Judge, the David Grissett -- and some of these may

1 have been served by the State, I have no idea -- but  
2 David Grissett, Kirsten West, Marke1 Rush, Cordel Rush  
3 and Dontrell Watts are evading service, at least by us.  
4 I do not know if the State has successfully served  
5 them. David Grissett is a key witness in the case. He  
6 called 911, he knows all of the individuals involved in  
7 this case, he knows the individuals who have been  
8 charged, he knows the individuals who have not been  
9 charged in this case.

10 Kirsten West, Marke1 Rush, Cordel Rush are all  
11 potential witnesses in this case who have intimate  
12 knowledge of the individuals who planned this crime,  
13 the people who have not been charged in this case, and  
14 we need to serve subpoenas on them. To my knowledge  
15 they are local, judge, but they are evading service of  
16 our subpoena.

17 Similar the out-of-state witnesses, with the  
18 out-of-state witnesses, if we set a date certain for  
19 this trial with enough time to comply with the  
20 interstate act to get them served in their home state,  
21 if we have notice of that court date, we can get these  
22 witnesses served. We would start immediately working  
23 on serving these witnesses. And judge, in the past  
24 week I've had three investigators attempting to serve  
25 these witnesses.

1 THE COURT: Yes, sir.

2 MR. FREDERICK: Judge, the out of state witnesses,  
3 Officer Deiter Stevens, when the call came in, the 911  
4 call, Officer Deiter Stevens was responding to the  
5 scene, and he saw the van that the shooters, the  
6 robbers, the killers used to leave the scene and flee  
7 the scene. Per his incident report he saw that van, he  
8 followed the van, and the van evaded him and he lost  
9 them. He not only saw the van, but he saw the vehicles  
10 that were driven to come and pick up the people who  
11 were in the van after that van was ditched in a  
12 person's yard. It's outlined in his incident report.

13 The lead investigator on the case has referenced  
14 in one of his interviews watching the video from that  
15 car, seeing the van, seeing the vehicles. We were not  
16 provided that video in discovery, I made it a part of  
17 my motion to compel. And our response is that the  
18 video was never provided to a database or wherever they  
19 keep it, therefore they have no video to give to us.  
20 We need to subpoena Officer Stevens to testify at the  
21 trial.

22 The second out-of-state witness, and maybe again,  
23 the solicitor's office may have subpoenaed these  
24 people, I have no knowledge of that, the second  
25 out-of-state witness is Tiara Brown who was the

1 girlfriend of the State's cooperating codefendant who  
2 loaned Mr. Keir Johnson the van that he drove with  
3 individuals to go and commit this murder and robbery.  
4 She is currently unavailable, she has moved out of  
5 town. We have her home address now, but we cannot  
6 serve her unless we have time to comply with the  
7 interstate act.

8 Judge, there are some more details about these  
9 witnesses that make them essential witnesses, I will be  
10 glad to share with the Court outside the presence of  
11 the prosecution.

12 THE COURT: All right. I will take it your  
13 searching as an officer of the Court they are essential  
14 to the defense. Mr. Canty?

15 MR. CANTY: Your Honor, I would just point out  
16 very briefly that Mr. Grissett, his first call was not  
17 to 911 but rather to his neighbor Conswella Smith, the  
18 reason being he noticed this van pull down one side of  
19 this trailer park -- it had a bad muffler apparently,  
20 and this is 3 o'clock in the morning -- pulled up to  
21 the road, came down his side of the mobile home park  
22 and then parked at the dead end in front of Conswella's  
23 trailer.

24 He called Conswella. That's what brought her out  
25 to engage her in the conversation with the people in

1 that van. Both of them heard shots, and we know that  
2 the State's witness claims that he didn't hear any  
3 shots when he drove the van away. Ms. Smith and  
4 Mr. Grissett both said they heard shots. Mr. Grissett  
5 saw two men running towards him. He was in his front  
6 yard in the bushes, so to speak. The van sped up, the  
7 men jumped in the van right in front of him and then  
8 drove up to the highway and took a left. And then he  
9 called 911. So he is a material witness. And I  
10 believe he is acquainted with the majority of these  
11 people.

12 Also, we have a transcript of a hearing before  
13 Judge Cottingham, this was in March of 2013 when Ms.  
14 von Herrmann was representing the State in this case.  
15 And I asked specifically for the video of the patrol  
16 car which had passed the van fleeing the scene, my  
17 thought being we can have the video in hand and see who  
18 was sitting in the front seat of that van. And Ms. von  
19 Herrmann asserted to the Court that that video did not  
20 exist.

21 And today is actually the first time that I heard  
22 that there is a reference to that video by another  
23 State's witness. But we asked for the video, and Ms.  
24 von Herrmann on the record stated that there wasn't a  
25 video. Today is the first time I'm learning that there



1 is video. If Deiter Stevens was driving that car, he  
2 will know whether or not there's a video.

3 THE COURT: All right, solicitor. Response?

4 MR. SPRATLIN: Yes, sir, Your Honor. Regarding  
5 two of the witnesses the defense is looking for, Mr.  
6 David Grissett and Mr. Carlton Dontrell Lamont Watts,  
7 they are under State subpoena, they'll be available for  
8 trial.

9 THE COURT: All right, sir. So do not release  
10 them from your subpoena without the Court's permission;  
11 all right?

12 MR. SPRATLIN: Yes, sir, Your Honor.

13 THE COURT: So you've been served a armed subpoena  
14 so the gentleman on defense they are available and they  
15 will not be released from that without the Court's  
16 order. All right, go ahead.

17 MR. SPRATLIN: Regarding the other witnesses, the  
18 State has no knowledge of. Deiter Stevens, I can state  
19 to the Court he is a former police officer. My  
20 understanding is that he's living out of state now, I'm  
21 not sure exactly where. The only reason that I had  
22 that information is that he was an officer involved in  
23 another case I prosecuted, a while back, and we were  
24 unable to secure his presence back in court for that  
25 proceeding also. My understanding is he's been

1 reluctant to come back for the State, and apparently  
2 he's also reluctant to come back for the defense.

3 Your Honor, I don't believe there's been enough of  
4 a showing of by the defense that these witnesses are,  
5 one, necessary for their defense, and also that a delay  
6 in court would in any way assist them in obtaining  
7 these witnesses for trial. As they said, several of  
8 them, they don't even know where they are.

9 Additionally, Your Honor, I believe the defense  
10 has had plenty of time to prepare for this trial. Your  
11 Honor stated earlier, and I'm not sure of the exact  
12 date, but a status conference was held several months  
13 ago when this trial date was set for this Monday. Ms.  
14 Livesay, I don't even believe, was on the case yet, I  
15 think it was still attorney Scott Hucks from our office  
16 representing the State.

17 The case was set, the defense lawyers were made  
18 aware of that. I believe that the subpoenas that were  
19 signed, Your Honor, were -- at least one of the  
20 subpoenas that was successfully served on a police  
21 officer was signed by the clerk of court on  
22 October 1st. Obviously, Your Honor, if these witnesses  
23 were so important, I would submit that the defense had  
24 a requirement to begin trying to find them besides a  
25 week out of trial.

1 I understand that they might be frustrated with  
2 unable -- being able to locate these individuals;  
3 however, I do not believe that it is a cause for delay  
4 in this trial. I don't believe they've done a  
5 significant showing of prejudice. There has been no  
6 action of the State or the Court to in any way try to  
7 hinder their being able to locate these witnesses or  
8 their being able to secure these witnesses' presence  
9 here in court.

10 I just ask the Court to deny the motion on the  
11 grounds of the unavailability of witnesses based on, in  
12 part, the defense's lack of due diligence in obtaining  
13 those witnesses, and also the failure to meet their  
14 burden to show that they are material witnesses that  
15 will be able to be obtained with additional time.

16 THE COURT: All right. It's a separate issue.  
17 Can you deal with this issue about the patrol video of  
18 Officer Deiter Stevens.

19 MR. SPRATLIN: Yes, sir, Your Honor.

20 MR. CANTY: Your Honor, may I offer the Court the  
21 transcript of the proceeding before Judge Cottingham?

22 THE COURT: Well, I'm taking it that you had a  
23 hearing before Judge Cottingham and that a solicitor at  
24 that point in time said it was unavailable. What I'm  
25 asking for is a response now from the State.

1 MR. CANTY: What she said was that it did not  
2 exist.

3 THE COURT: All right, very good.

4 MR. SPRATLIN: Your Honor, my understanding, I  
5 cannot speak to what Ms. von Herrmann stated, I cannot  
6 speak to anything Attorney Hucks has stated, I cannot  
7 speak to anything Ms. Livesay stated other than that  
8 based on the information I've been able to obtain from  
9 discussing with Ms. Livesay and other witnesses in this  
10 case that that video, there may have been an in-car  
11 video at some point in time. However, it was never  
12 marked or flagged for being saved into a system, and it  
13 was in fact not saved.

14 There is, to the State's knowledge, no video that  
15 currently exists of what the defense is asking for at  
16 this point in time.

17 THE COURT: All right.

18 MR. SPRATLIN: And Your Honor, Ms. Livesay informs  
19 me that she has gone as far as to e-mail the head of  
20 Horry County evidence and has been assured they do not  
21 have in evidence any video the nature of which the  
22 defense is stating.

23 THE COURT: All right, very good. Thank you. All  
24 right. Based upon the defense's request to continue  
25 the case due to the unavailability of witnesses, I do

1 not believe that the defense has carried or presented  
2 to the Court sufficient information that would cause  
3 the Court to grant the motion for continuance.

4 I would state that it was during the week of June  
5 16th of this year, 2014, when I held status conferences  
6 on these cases. And it was during that week that this  
7 case was set for trial to start today. So the State  
8 and the defense knew and have known for some  
9 considerable period of time that this case would come  
10 to trial.

11 Be that as it may, and whether or not the defense  
12 moved soon enough to try and subpoena people, there's  
13 not been a presentation showing that the would cause  
14 the Court to grant the motion for a continuance in this  
15 matter. And therefore, the request of the Defendants  
16 to continue the case based on the asserted  
17 unavailability of witnesses is denied.

18 All right, gentleman. The jury is coming back at  
19 2 o'clock.

20 MR. FREDERICK: Judge?

21 THE COURT: Yes, sir, I'm sorry.

22 MR. FREDERICK: We have some additional ex parte  
23 matters that need to be taken up.

24 THE COURT: All right, very good. Well, let's  
25 cover this part first.

1 MR. CANTY: Your Honor, just in the interest of  
2 protecting the record, we would like to proffer this  
3 transcript that shows the affirmative representation  
4 by Ms. von Herrmann.

5 THE COURT: I'll be glad for you to mark that as a  
6 Defense Exhibit.

7 MR. CANTY: Thank you.  
8 (WHEREUPON, Defendant's Exhibit No. 1 was marked  
9 for identification only.)

10 THE COURT: All right. The jury is coming back at  
11 2 o'clock. So it's my intention at that point in  
12 time -- I don't remember how many we had altogether

13 that actually responded to the subpoena, I'm believing  
14 it's somewhere in the neighborhood of 80 that  
15 responded. I don't know if that is necessary to -- my  
16 intention would be to -- so with this, the number of  
17 strikes, the State would have ten and you,  
18 Mr. Frederick, would have ten and you, Mr. Canty, would  
19 have ten. Or you can amalgamate those as you so choose  
20 to number 20. But that's the strikes.

21 Now, if you do not come to an agreement that you  
22 want to amalgamate them into 20, then, Mr. Frederick,  
23 you have ten and, Mr. Canty, you have ten; all right?  
24 That's how it's going to work, the State ten, Frederick  
25 ten, Canty ten. Now, if y'all want to amalgamate it

1 among yourselves to 20, that -- I don't have a problem  
2 with that. But just note that without an affirmative  
3 agreement between the two of you that you state on the  
4 record, each of you has ten strikes, all right. So  
5 we're all clear about that.

6 So with that, if we have the clerk of the court,  
7 as they always do in a random order, subset out 50  
8 jurors, do you believe that will be sufficient by the  
9 State?

10 MR. SPRATLIN: I believe so, Your Honor.

11 THE COURT: Mr. Frederick? What the clerk in its  
12 normal course of business would run a computer program,  
13 as they always do, and give us a list of 50 jurors.

14 MR. FREDERICK: Yes, sir.

15 THE COURT: Do you think that will be sufficient?

16 MR. FREDERICK: Based on quick math, yes, sir.

17 THE COURT: Mr. Canty?

18 MR. CANTY: Yes, sir.

19 THE COURT: All right, very good. So that would  
20 be my intention is to have the clerk by the computer  
21 program that has been mandated by the State for the  
22 clerk's office to use, that they will do that in a  
23 random order and produce a subset of the 50 jurors from  
24 which we will then select our jury in this matter.

25 All right. So we'll be prepared to do that, then,

1 at 2 o'clock. And so, Mr. Frederick, you stated you  
2 had some matters, ex parte matters, you need to address  
3 the Court; is that correct?

4 MR. FREDERICK: Yes, Your Honor.

5 THE COURT: All right, very good. So if the State  
6 and its witnesses would exit the courtroom, I  
7 appreciate it. Thank you.

8 MR. SPRATLIN: Thank you, Your Honor.

9 (Discussion off the record.)

10 MR. SPRATLIN: Your Honor?

11 THE COURT: Yes, sir.

12 MR. SPRATLIN: Real quickly, in an overabundance  
13 of caution, Mr. Richardson brought to my attention that  
14 with the number of alternates we might be doing in this  
15 case, and I was doing some math on the fly there --

16 THE COURT: All right.

17 MR. SPRATLIN: -- 60 might be a better, safe  
18 number.

19 THE COURT: Fine, 60.

20 MR. SPRATLIN: Thank you, Your Honor.

21 THE COURT: All right, we'll have 60.

22 (Discussion off the record.)

23 THE COURT: All right. So Mr. Frederick, be glad  
24 to hear from you, sir.

25 MR. FREDERICK: Judge, I think the only thing, we



1 had submitted a motion of proposed order for funding  
2 for our firearms expert and a polygraph examiner. I'll  
3 withdraw the request for a polygraph examiner. But,  
4 judge, I have talked with Chris Robinson, and I have  
5 concerns about how quickly he can do a thorough  
6 examination, but we still need to have a firearms  
7 examiner. And I will get him here today or tomorrow as  
8 soon as he can get here.

9 THE COURT: All right.

10 MR. FREDERICK: And then, and we can take it up  
11 when the State's back in the room, but I will ask them  
12 to make this evidence available to him for testing.

13 THE COURT: Okay. Well, that's a separate issue.  
14 I don't -- and, Mr. Canty, I'm assuming you're joining  
15 in that request?

16 MR. CANTY: That's correct, Your Honor. And I  
17 trust the Court understands the materiality of it.

18 THE COURT: I appreciate that. And I don't have a  
19 problem with authorizing expenditures of funds to get  
20 the examiner here. I understand it will be on an  
21 expedited basis, and he'll need some kind of added  
22 expense in that regard. Where is he coming from?

23 MR. FREDERICK: He's coming from Georgia, Your  
24 Honor.

25 THE COURT: All right, sir.

1 MR. FREDERICK: He's not going to charge anything  
2 additional for expediting.

3 THE COURT: All right, sir. Well, I will tell you  
4 I'm on record authorizing the expenditure of funds to  
5 bring the examiner here. And again, his name is  
6 Christopher Robinson. And what I would ask that you do  
7 is, if you can, he does -- and attached to your motion  
8 you did have some brief information about what it is  
9 that is required, so I'm basing it basically on the  
10 affidavit, I would not obviously extend it. It should  
11 not exceed what he has set forth in his affidavit,  
12 obviously, since there are -- because the Court's  
13 ruling limited time. But it's based upon his affidavit  
14 that you submitted with the motion to continue.

15 MR. FREDERICK: Yes, sir.

16 THE COURT: All right. So if you want to do an  
17 order authorizing the expenditure of funds based upon  
18 that affidavit, I'll be happy, glad to sign it.

19 MR. FREDERICK: Yes, sir.

20 THE COURT: Let us know. Let's -- and I'm going  
21 to sign this, what I'm going to ask that you do is  
22 attach a signed affidavit of Mr. Robinson to the order  
23 when you get it; okay?

24 MR. FREDERICK: Yes, sir.

25 THE COURT: All right.

1 MR. FREDERICK: And judge, the affidavit that we  
2 have that we provided to the Court is not notarized.  
3 Do you want us to get him to redo that?

4 THE COURT: Well, yes, if you don't mind. Yes, if  
5 you would, when he arrives.

6 MR. FREDERICK: As soon as he gets here, yes, sir.

7 THE COURT: Okay, very good. And you just attach  
8 that to it before filing with the clerk of court. All  
9 right. Any other matters that you would like to bring  
10 to the Court's attention?

11 MR. FREDERICK: Judge, that's the only one.

12 THE COURT: Very good.

13 MR. FREDERICK: I withdraw the other request for a  
14 polygraph examiner.

15 THE COURT: All right, very good. All right,  
16 gentlemen, 2 o'clock. And the subset of 60 jurors and  
17 we'll get our jurors after 2 o'clock; all right? Thank  
18 y'all very much.

19 (WHEREUPON, a luncheon recess was taken at 12:39  
20 p.m.)

21 THE COURT: Thank you very much, you may be  
22 seated. Thank you.

23 All right, ladies and gentlemen, we're going to  
24 commence the case of the State of South Carolina versus  
25 Carnail M. Graham and Thomas Booker James. The State

1 of South Carolina has charged these two defendants with  
2 the crime of murder.

3       Regarding this particular matter, I am going to  
4 read to you the State's allegation. The only reason I  
5 am doing that is to see whether or not any member of  
6 the jury, potential jury in this matter, knows anything  
7 about this case, has any information about this case,  
8 needs to bring something to the Court's attention.

9       Now, in this particular matter, the State has  
10 charged in the indictment for -- y'all come up here  
11 just one second, please. Mr. Canty.

12       (WHEREUPON, a bench conference was held off the  
13 record in the presence of the jury panel but out  
14 of the hearing of the jury panel.)

15       THE COURT: All right, ladies and gentlemen, the  
16 indictment is the charging document, the document which  
17 brings the matter to court. It is not evidence, it  
18 cannot be considered by anyone as evidence in the case.  
19 Again, the only reason I'm reading it to you is to see  
20 if you happen to have any information about this  
21 particular case.

22       So, the State has charged that the two defendants  
23 in this matter, Carnail Graham and Thomas Booker James,  
24 while acting in concert with another, did in Horry  
25 County on or about November 8th, 2011, willfully,

1 feloniously and intentionally kill the victim,  
2 Shaquille Shontay Pertelle, P-E-R-T-E-L-L-E, with  
3 malice aforethought, either express or implied, by  
4 means of shooting, and the victim did die as a  
5 proximate result thereof on or about November 8, 2011,  
6 in County of Horry, State of South Carolina, in  
7 violation of the code of law of the State of South  
8 Carolina 1976, as amended.

9 Is there any member of the jury panel that's  
10 related by blood or marriage, close personal friends,  
11 acquaintances of, knows anything about this particular  
12 case that I've just read to you about. If so, please  
13 stand. All right, ladies and gentlemen. Yes, sir.  
14 Your name and juror number, please.

15 JUROR #150: My name is Tony Haynes, and I'm juror  
16 150.

17 THE COURT: All right, sir. So I don't want you  
18 to tell me, you can come on up here and talk to me for  
19 a second, please. Counsel?

20 (WHEREUPON, a bench conference was held off the  
21 record in the presence of the jury panel but out  
22 of the hearing of the jury panel.)

23 THE COURT: All right. So juror 150, all right,  
24 is set aside from this particular case only. All  
25 right, ladies and gentlemen, I am now going to read to

1 you a list of possible or potential witnesses. And  
2 now, just because I read a name does not necessarily  
3 mean that witness is going to be called in this  
4 particular case. But there is a possibility or  
5 potential that the witnesses could be called as stated  
6 by the Court. And there will be a number of them.

7 So what I'm going to be asking you at the end is  
8 whether or not you know any of these people, you've got  
9 any familiarity with them, any contact with them,  
10 they're friends of yours, business relationships, any  
11 contacts you might have currently or in the past with  
12 any of these possible or potential witnesses.

13 Matthew Singleton, Horry County Police Department;  
14 Carlton Watts; Conswella Smith; David Grissett; Keir,  
15 K-E-I-R, Johnson; Howard Parker; Gregory McZeek, Horry  
16 County Sheriff's Office; Marilyn Sanders, South  
17 Carolina Law Enforcement Division; Robbie Caulder,  
18 Horry County Police Department; Dr. Edward Proctor,  
19 private practice Grand Strand Regional Medical Center;  
20 Jasmine Tell; Jim Burgess; Lynn Baker, Horry County  
21 Sheriff's Office; Sedieka, S-E-D-I-E-K-A, McClam;  
22 Ronnie Pertelle; Paul Vescovi, Horry County Police  
23 Department; Christopher Britt, Horry County Police  
24 Department; Todd Cox, Horry County Police Department;  
25 Deiter Stevens, Horry County Police Department; Peter

1 Cestare, Horry County Police Department; Chris White,  
2 Myrtle Beach Police Department; Gina Testa; Laveña  
3 Jackson; Tiffany Oliver; Mike Pyatt; Ginger Pop,  
4 investigator with the solicitor's office; Nakeema  
5 Crooms; Dan DeFreese, South Carolina Law Enforcement  
6 Division; Rodney McElveen; Tiara Brown; Desiree Munafo,  
7 M-U-N-A-F-O; Allen Large, Horry County Police  
8 Department; Brad Townsend, the solicitor's office; Neil  
9 Freebowitz; Brandon Strickland, Horry County Police  
10 Department; Renee Hardwick of 911; Terry Bease,  
11 B-E-A-S-E; Ryan Graham; Seraphim Haftoglou,  
12 H-A-F-T-O-G-L-O-U,, South Carolina Law Enforcement  
13 Division; Kachief Neem Spain; James Green,, South  
14 Carolina Law Enforcement Division; Brad Townsend,  
15 solicitor's office; Jill Domingar, Horry County Police  
16 Department; Lakesha Graham; Teresa Martin; Jawan White;  
17 Brandon Sutton; Henry McElveen; Desiree Munafo; Allen  
18 Large, Horry County Police Department.

19 I'm sorry, I thought I read them already. All  
20 right. Bill Freshly, Glenn Johnson, Brandon Wells,  
21 Patrick Gauze, Krista Snyder, Chris Britt, Lisa  
22 Piccone, a Mr. Squires -- don't know his first name  
23 apparently -- Roger boil, B-O-Y-E-L-L, and Chris  
24 Robinson.

25 So, any member of the jury panel that's related by

1 blood or marriage, close personal friends,  
2 acquaintances of any of these possible or potential  
3 witnesses? If so, please stand. All right. Yes,  
4 ma'am, your name and juror number?

5 JUROR # .357: .357 Rebecca Teal.

6 THE COURT: And who is it that you might know,  
7 ma'am?

8 JUROR # .357: A Brandon Sutton.

9 THE COURT: Brandon Sutton, all right.

10 JUROR # .357: Is that S-U-T-T-O-N?

11 THE COURT: That's what I have, ma'am. So we'll  
12 just assume it's the person you know, whether or not it  
13 is or not. Just assume it's the person you know. With  
14 that, can you give to the State of South Carolina and  
15 to the Defendants a fair and impartial trial, can you  
16 be a fair and impartial juror in this case?

17 JUROR # .357: Yes, sir.

18 THE COURT: Thank you very much. Yes, ma'am, your  
19 name and juror number, please.

20 JUROR #127: Temika Gettys, 127.

21 THE COURT: And who is it you might know?

22 JUROR #127: Mr. Pertelle, Ronnie Pertelle.

23 THE COURT: All right. Can you give to the State  
24 of South Carolina and to the defendant a fair and  
25 impartial trial, can you be a fair and impartial juror



1 in this case?

2 JUROR #127: Yes.

3 THE COURT: Thank you very much. Yes, sir?

4 JUROR #185: Robert Johnson, juror number 185.

5 THE COURT: Yes, sir.

6 JUROR #185: I know Allen Large.

7 THE COURT: Allen Large, all right. Can you give  
8 to the State of South Carolina and to the defendant a  
9 fair and impartial trial, can you be a fair and  
10 impartial juror in this case?

11 JUROR #185: Yes, sir.

12 THE COURT: Thank you very much. All right. I  
13 believe there was a juror who stood up when I started  
14 reading the names, and then they stood up maybe in  
15 response to the first question.

16 JUROR #127: It was me.

17 THE COURT: All right, who was that?

18 JUROR #127: It was me.

19 THE COURT: All right, ma'am. And so I need for  
20 you to stand up again, though, because it's a  
21 different -- everything is a different question. Even  
22 if you have to answer them all, it's a different  
23 question, okay. So regarding that first question, your  
24 name and juror number again?

25 JUROR #127: Temika Gettys, 127.

1 THE COURT: All right, ma'am. And this is for you  
2 and all of the members of the potential jury panel.  
3 The job of a juror is to make your decision based  
4 solely and completely on the facts and evidence you  
5 hear in the courtroom and from no other source. You  
6 set aside anything else that might impact your decision  
7 in any way. Because you have to base it on the facts  
8 and evidence presented in the courtroom and then the  
9 law that the judge gives to you.

10 Understanding that to be the job of a juror,  
11 ma'am?

12 JUROR #127: Right.

13 THE COURT: Can you give to the State of South  
14 Carolina and to the Defendants a fair and impartial  
15 trial, can you be a fair and impartial juror in this  
16 case?

17 JUROR #127: Yes.

18 THE COURT: Thank you very much. All right. Is  
19 there any member of the jury panel, either you yourself  
20 or a member of your immediate family, has ever had any  
21 matters of any kind in any way handled by the Fifteenth  
22 Circuit Solicitor's Office, that is the prosecuting  
23 office that covers Horry and Georgetown Counties? If  
24 so, please stand. Yes, sir, your name and juror  
25 number, please?

1 JUROR #275: Ed Murray. Sorry, juror 275.

2 THE COURT: All right, sir. You heard the Court  
3 describe what the job of a juror is; correct?

4 JUROR #275: Right.

5 THE COURT: All right, sir. Can you give to the  
6 State of South Carolina and to the Defendants a fair  
7 and impartial trial, can you be a fair and impartial  
8 juror in this case?

9 JUROR #275: Yes, sir.

10 THE COURT: Thank you very much. Yes, sir?

11 JUROR #185: Robert Johnson, juror number 185.

12 THE COURT: Can you give to the State of South  
13 Carolina and to the Defendants a fair and impartial  
14 trial, can you be a fair and impartial juror in this  
15 case?

16 JUROR #185: Yes, Your Honor.

17 THE COURT: Thank you very much, sir. Is there  
18 any member of the jury panel that's related by blood or  
19 marriage, close personal friends, acquaintances of  
20 anybody employed at the Fifteenth Circuit Solicitor's  
21 Office, that's either here in Horry or in Georgetown  
22 County? If so, please stand.

23 Is there any member of the jury panel that you  
24 believe you have any kind of personal, political,  
25 religious, philosophical belief that you believe would

1 prevent you in any way from being a fair and impartial  
2 juror in this case? If so, please stand. All right.  
3 Yes, sir, your name and juror number, please?

4 JUROR #214: Name is Christopher Laney, juror  
5 number 214.

6 THE COURT: All right, sir, come up here and talk  
7 to me.

8 (WHEREUPON, a bench conference was held off the  
9 record in the presence of the jury panel but out  
10 of the hearing of the jury panel.)

11 THE COURT: All right, ladies and gentlemen, I'm  
12 going to ask whether you yourself or a member of your  
13 immediate family has ever been, could be you yourself,  
14 a former law enforcement officer, or you got a current  
15 family member who's in law enforcement or was in the  
16 past in law enforcement.

17 So, is there any member of the jury that you  
18 yourself were in law enforcement in the past, or  
19 currently do you have a family member in law  
20 enforcement or in the past in law enforcement? If so,  
21 please stand. All right. Start right here, 'ma'am.  
22 Your name and juror number, please?

23 JUROR #224: 224, Dale Low.

24 THE COURT: All right. And who is it, please?

25 JUROR #224: My dad was in law enforcement

1 probably 50 years ago.

2 THE COURT: Okay. And where was it?

3 JUROR #224: New Jersey.

4 THE COURT: In New Jersey, okay. Can you give to  
5 the State of South Carolina and to the Defendant a fair  
6 and impartial trial, can you be a fair and impartial  
7 juror in this case?

8 JUROR #224: Yes, sir.

9 THE COURT: Thank you very much, ma'am. All  
10 right, yes, sir, right behind her.

11 JUROR #359: My brother's a --

12 THE COURT: Well, I need your name and juror  
13 number first, I'm sorry.

14 JUROR #359: Charles Timmons, 359.

15 THE COURT: Yes, sir.

16 JUROR #359: My brother is in law enforcement in  
17 South Carolina.

18 THE COURT: All right, sir. Can you tell me  
19 where?

20 JUROR #359: Williamsburg County.

21 THE COURT: In the sheriff's office?

22 JUROR #359: Yes, sir.

23 THE COURT: All right, very good. Can you give to  
24 the State of South Carolina and the defendant a fair  
25 and impartial trial, can you be a fair and impartial

1 juror in this case?

2 JUROR #359: I'm not -- I don't have --

3 THE COURT: All right, you can come up here and  
4 talk to me. Just come up here and talk to me.

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

8 THE COURT: All right. Yes, ma'am, I'm sorry,  
9 your name and juror number, ma'am?

10 JUROR #244: Ernestine McCullough, juror 244.

11 THE COURT: Yes, ma'am.

12 JUROR #244: A recent employment over ten years  
13 with the Law Enforcement Division at CCU University.

14 THE COURT: Very good. Can you give to the State  
15 of South Carolina and the defendant a fair and  
16 impartial trial, can you be a fair and impartial juror  
17 in this case?

18 JUROR #244: To the best of my ability, I will.

19 THE COURT: All right. Thank you, ma'am. All  
20 right. Let's just start at this end right here. Yes,  
21 sir, your name and juror number?

22 JUROR #121: Richard Fulford, 121.

23 THE COURT: Yes, sir.

24 JUROR #121: My mother and father-in-law are  
25 ex-cops in the State of Iowa.

1 THE COURT: In Iowa?

2 JUROR #121: Yes.

3 THE COURT: All right, very good. Can you give to  
4 the State of South Carolina and the Defendants a fair  
5 and impartial trial, can you be a fair and impartial  
6 juror in this case?

7 JUROR #121: Yeah, sure.

8 THE COURT: Thank you very much. Yes, sir?

9 JUROR #211: Neil Lane, juror number 211.

10 THE COURT: And who is it that you might know that  
11 was involved with the --

12 JUROR #211: My nephew. He's out with the highway  
13 patrol.

14 THE COURT: Currently in South Carolina?

15 JUROR #211: Yes, sir.

16 THE COURT: All right, sir. Can you give to the  
17 State of South Carolina and the Defendants a fair and  
18 impartial trial, can you be a fair and impartial juror  
19 in this case?

20 JUROR #211: Yes, sir.

21 THE COURT: Thank you very much. Yes, ma'am?

22 JUROR #58: Yes, sir. Gail Causey, number 58.

23 Former sheriff's deputy Tim Causey.

24 THE COURT: All right.

25 JUROR #58: Horry County.

1 THE COURT: Very good.

2 JUROR #58: And I have a cousin on highway patrol,  
3 state of South Carolina.

4 THE COURT: Very good, all right. Can you give to  
5 the State of South Carolina and the Defendants a fair  
6 and impartial trial, can you be a fair and impartial  
7 juror in this case?

8 JUROR #58: Yes, sir.

9 THE COURT: Thank you very much. Yes, sir?

10 JUROR #281: James O'Connor, 281. I have two  
11 uncles, five first cousins and two in-laws, all police  
12 officers in either Massachusetts, Connecticut or New  
13 York City.

14 THE COURT: All right, very good. Can you give to  
15 the State of South Carolina and the Defendants a fair  
16 and impartial trial, can you be a fair and impartial  
17 juror in this case?

18 JUROR #281: Yes, sir.

19 THE COURT: Thank you very much, sir. Yes, ma'am?

20 JUROR #59: Kimberly Causey-Gomez, 59. My cousin  
21 is disabled from Horry County.

22 THE COURT: All right, ma'am. Can you give to the  
23 State of South Carolina and the Defendants a fair and  
24 impartial trial, can you be a fair and impartial juror  
25 in this case?



1 JUROR #59: Yes.

2 THE COURT: Thank you very much. All right, yes,  
3 ma'am?

4 JUROR #249: Brigetta McVicker, 249. I have a  
5 sister that was a police officer for the City of Conway  
6 about 16 years ago.

7 THE COURT: All right, very good. Can you give to  
8 the State of South Carolina and the Defendants a fair  
9 and impartial trial, can you be a fair and impartial  
10 juror in this case?

11 JUROR #249: Yes, sir.

12 THE COURT: Thank you very much. Yes, ma'am, in  
13 the middle there.

14 JUROR #67: Marie Coleman, juror number 67. My  
15 husband is a retired correction officer from  
16 Philadelphia, Pennsylvania.

17 THE COURT: All right, ma'am. Can you give to the  
18 State of South Carolina and the Defendants a fair and  
19 impartial trial, can you be a fair and impartial juror  
20 in this case?

21 JUROR #67: Yes, sir.

22 THE COURT: Thank you very much, ma'am. Yes,  
23 ma'am, right behind her.

24 JUROR #259: Brittney Mishoe, my juror number is  
25 259. I have two cousins that's police officers, one is

1 retired and one is still working.

2 THE COURT: All right. And the one that's working  
3 is working where?

4 JUROR #259: In Horry County.

5 THE COURT: In Horry County. Can you give to the  
6 State of South Carolina and the Defendants a fair and  
7 impartial trial, can you be a fair and impartial juror  
8 in this case?

9 JUROR #259: Yes.

10 THE COURT: Thank you very much. Yes, ma'am?

11 JUROR #116: Rosemarie Ford, No. 116. My brother  
12 in New York State.

13 THE COURT: Very good. Can you give to the State  
14 of South Carolina and the Defendants a fair and  
15 impartial trial, can you be a fair and impartial juror  
16 in this case?

17 JUROR #116: Yes.

18 THE COURT: Thank you very much. Yes, sir?

19 JUROR #336: Melvin Small, number 336. My father  
20 was a police officer in West Virginia.

21 THE COURT: Can you give to the South Carolina of  
22 South Carolina and the Defendants a fair and impartial  
23 trial, can you be a fair and impartial juror in this  
24 case?

25 JUROR #336: Yes, sir.

1 THE COURT: Thank you very much.

2 All right. I'm going to ask you whether or not  
3 you yourself or a member of your immediate family has  
4 ever been a member of any kind of victims rights or law  
5 enforcement support organization. Let me give you a  
6 couple of examples. And this is not an exhaustive list  
7 of any kind, I'm just trying to give you a couple  
8 examples here.

9 Citizens Against Violent Crime, Mothers Against  
10 Drunk Driving, South Carolina Law Enforcement Officers  
11 Association, South Carolina Sheriff's Association, just  
12 some kind of victims rights or law enforcement support  
13 organization, either you yourself or a member of your  
14 immediate family are a member. If so, please stand.  
15 Yes, ma'am. Your name and juror number?

16 JUROR #59: Emily Causey-Gomez, 59. I was a  
17 women's advocate in a number of trials.

18 THE COURT: All right, ma'am. Can you give to the  
19 State of South Carolina and the Defendants a fair and  
20 impartial trial, can you be a fair and impartial juror  
21 in this case?

22 JUROR #59: Yes.

23 THE COURT: Thank you very much, ma'am. Yes, sir?

24 JUROR #378: Juror number 378, Ashleigh Weatherly.  
25 And I've been a member of the South Carolina Law

1 Enforcement Association in the past.

2 THE COURT: All right, sir. Can you give to the  
3 State of South Carolina and the Defendants a fair and  
4 impartial trial, can you be a fair and impartial juror  
5 in this case?

6 JUROR #378: Yes, Your Honor.

7 THE COURT: Thank you very much. Yes, sir, your  
8 name and juror number again?

9 JUROR #281: James O'Connor, 288 -- 281.

10 THE COURT: Yes, sir.

11 JUROR #281: I was a member of both Massachusetts  
12 and Connecticut police.

13 THE COURT: All right, sir. So the law  
14 enforcement support organizations?

15 JUROR #281: Yes, sir.

16 THE COURT: All right, sir, very good. Can you  
17 give to the State of South Carolina and the Defendants  
18 a fair and impartial trial, can you be a fair and  
19 impartial juror in this case?

20 JUROR #281: Yes, sir.

21 THE COURT: Thank you very much. Yes, ma'am?

22 JUROR #331: My name is Debbie Shofner, and I  
23 apologize, I don't remember my number.

24 THE COURT: All right, hold on one second, please.  
25 What's her number, please, madam clerk?

1 JUROR #331: Sorry.

2 THE COURT: That's okay.

3 MR. CANTY: 331, Your Honor.

4 THE COURT: I'm sorry?

5 MR. CANTY: 331.

6 THE COURT: 331, all right. Go ahead.

7 JUROR #331: Number 331.

8 THE COURT: Yes, ma'am.

9 JUROR #331: I'm with the guardian ad litem for/  
10 Horry County.

11 THE COURT: All right. Can you give to the State  
12 of South Carolina and the Defendants a fair and  
13 impartial trial, can you be a fair and impartial juror  
14 in this case?

15 JUROR #331: Yes, sir.

16 THE COURT: Thank you very much. All right.  
17 Ladies and gentlemen, I'm going to ask, the next  
18 question is going to be whether you yourself or a  
19 member of your immediate family has ever been the  
20 victim of a crime.

21 Now, I am not going to ask you what occurred. I  
22 do not want you to volunteer any information to me  
23 about what occurred. The question is going to be  
24 straightforward, was it yourself or a family member or  
25 both, and then I'll ask the qualification question.

1        So is there any member of the jury panel, either  
2 you yourself or a member of your immediate family, has  
3 ever been the victim of a crime? If so, please stand.  
4 All right. Starting in the front row, ma'am, your name  
5 and jury number, please, ma'am?

6        JUROR #65: Janet Clark, juror 65.

7        THE COURT: Yourself or a family member?

8        JUROR #65: Family member.

9        THE COURT: Can you give to the State of South  
10 Carolina and the Defendants a fair and impartial trial,  
11 can you be a fair and impartial juror in this case?

12       JUROR #65: Yes, sir.

13       THE COURT: Thank you very much. Yes, sir?

14       JUROR #235: Juror number 235, John Martin.

15       THE COURT: Yourself or a family member?

16       JUROR #235: Myself.

17       THE COURT: Can you give to the State of South  
18 Carolina and the Defendants a fair and impartial trial,  
19 can you be a fair and impartial juror in this case?

20       JUROR #235: Yes, Your Honor.

21       THE COURT: Thank you very much. All right, yes,  
22 sir, behind him.

23       JUROR #4: Juror number four, Jason Allen.

24       THE COURT: Yourself or a family member?

25       JUROR #4: It was myself.

1 THE COURT: Can you give to the State of South  
2 Carolina and the Defendants a fair and impartial trial,  
3 can you be a fair and impartial juror in this case?

4 JUROR #4: Yes, sir.

5 THE COURT: Thank you very much. All right. Yes,  
6 ma'am?

7 JUROR #265: 265, Barbara Morrison.

8 THE COURT: Yourself or a family member?

9 JUROR #265: Family member.

10 THE COURT: Can you give to the State of South  
11 Carolina and the Defendants a fair and impartial trial,  
12 can you be a fair and impartial juror in this case?

13 JUROR #265: Yes.

14 THE COURT: Thank you very much, ma'am. Yes, sir?

15 JUROR #378: Ashleigh Weatherly, juror number 378.  
16 Both.

17 THE COURT: Both, all right, very good. Can you  
18 give to the State of South Carolina and the Defendants  
19 a fair and impartial trial, can you be a fair and  
20 impartial juror in this case?

21 JUROR #378: Yes, Your Honor.

22 THE COURT: Thank you very much. All right. Yes,  
23 sir, your name and juror number, please.

24 JUROR #206: Number 206.

25 THE COURT: All right, sir. Yourself or a family

1 member?

2 JUROR #206: Myself.

3 THE COURT: Can you give to the State of South  
4 Carolina and the Defendants a fair and impartial trial,  
5 can you be a fair and impartial juror in this case?

6 JUROR #206: Yes, Your Honor.

7 THE COURT: Thank you very much. All right,  
8 Ladies and gentlemen, I'm going to ask you what I  
9 classify as my general or catch-all question. Do you  
10 know of any reason, have any question in your mind, any  
11 doubt in your mind that you believe you cannot give to  
12 the State of South Carolina and the Defendants a fair  
13 and impartial trial, that is for any reason whatsoever  
14 you believe you cannot be a fair and impartial juror in  
15 this case? If so, please stand.

16 Thank you very much. All right. Further  
17 questions from the State?

18 MS. LIVESAY: No, sir, Your Honor.

19 THE COURT: Further questions, Mr. Frederick?

20 MR. FREDERICK: None, Your Honor.

21 THE COURT: Further questions, Mr. Canty?

22 MR. CANTY: No, Your Honor.

23 THE COURT: Very good. All right, ladies and  
24 gentlemen, what's going to happen now is in a random  
25 order the clerk is going to call out a juror's name.



1 If and when your name is called, you will stand up and  
2 you will come forward. You will walk around and you  
3 will come to a place basically right here in front of  
4 the court reporter, who is seated right in front of me.  
5 So you just where the bench is there, if you stand  
6 basically right in front of her, and you turn and you  
7 face to the back of the courtroom.

8 At that point in time the clerk will inquire of  
9 the State to present or excuse the juror. If you are  
10 excused by the State, obviously go back and have a seat  
11 from whence you came. If you're presented by the  
12 State, the clerk will inquire first of Mr. Frederick to  
13 seat or excuse the juror and then Mr. Canty to seat or  
14 excuse the juror. If you are seated by both  
15 defendants, then the clerk will instruct you to go over  
16 and have a seat in the jury box.

17 If you happen to have anything, personal item that  
18 you brought with you, a purse or book or something  
19 else, please bring that with you if and when your name  
20 is called in case you are seated, you can go directly  
21 to the juror box.

22 All right, madam clerk, you may proceed.

23 CLERK OF COURT: Juror 371, Jennifer VonSenden.

24 JUROR #371: Yes, ma'am.

25 THE COURT: If you just come right around, right

1 over here, just basically right in front of the court  
2 reporter, right over there. Thank you, ma'am. That's  
3 good, right there. I appreciate it, thank you.

4 CLERK OF COURT: What say the State?

5 MS. LIVESAY: Please present this juror.

6 CLERK OF COURT: Defense?

7 MR. FREDERICK: Please seat the juror.

8 MR. CANTY: Swear the juror, Your Honor.

9 CLERK OF COURT: Okay. Please have a seat in the  
10 jury box, ma'am. Juror one, Mark Acord. What say the  
11 State?

12 MS. LIVESAY: Would you please excuse this  
13 particular juror.

14 CLERK OF COURT: Okay, just have a seat back in  
15 your seat, sir. Thank you very much. Juror 24, Tania  
16 Bellamy. What say the State?

17 MS. LIVESAY: Would you please present this juror.

18 CLERK OF COURT: Defense?

19 MR. FREDERICK: Please excuse the juror. Thank  
20 you.

21 CLERK OF COURT: Please have a seat back at your  
22 seat, thank you. Either way. Juror 305, Conner  
23 Roberts. What say the State?

24 MS. LIVESAY: Would you please present this juror.

25 CLERK OF COURT: Okay. Defense?

1 MR. FREDERICK: Please seat the juror.

2 MR. CANTY: Swear the juror, Your Honor.

3 CLERK OF COURT: Okay. Please have a seat in the  
4 jury box. Thank you. Juror 235, John Martin. What  
5 say the State?

6 MS. LIVESAY: Please present this juror.

7 CLERK OF COURT: Defense?

8 MR. FREDERICK: Please excuse the juror. Thank  
9 you.

10 CLERK OF COURT: Please have a seat back in your  
11 seat, thank you. Juror 244, Ernestine McCall. What  
12 say the State?

13 MS. LIVESAY: Would you please present this juror.

14 CLERK OF COURT: Defense?

15 MR. FREDERICK: Please seat the juror.

16 CLERK OF COURT: Defense?

17 MR. CANTY: Please excuse the juror for trial of  
18 this case.

19 CLERK OF COURT: Okay. You can just have a seat  
20 back in your seat, ma'am, thank you very much. Juror  
21 65, Janet Clark. What say the State?

22 MS. LIVESAY: Would you please present this juror.

23 CLERK OF COURT: Defense?

24 MR. FREDERICK: Please excuse the juror.

25 CLERK OF COURT: Okay. Please have a seat back in

1 your seat. Thank you. Juror 230, Jennifer Mann. What  
2 say the State?

3 MS. LIVESAY: Could you please excuse this  
4 particular juror.

5 CLERK OF COURT: Okay. Just have a seat. Thank  
6 you. Juror 97, Cynthia Drye. What say the State?

7 MS. LIVESAY: Could you please present this juror.

8 CLERK OF COURT: Defense?

9 MR. FREDERICK: Please seat the juror.

10 MR. CANTY: Please excuse her from the trial of  
11 this case, Your Honor.

12 CLERK OF COURT: Okay. Please have a seat, ma'am,  
13 thank you. Juror 55, Lee Carmichael. What say the  
14 State?

15 MS. LIVESAY: Would you please present this juror.

16 CLERK OF COURT: Defense?

17 MR. FREDERICK: Please excuse the juror.

18 CLERK OF COURT: Please just have a seat back,  
19 thank you, sir. Juror 381, Andra White. What say the  
20 State?

21 MS. LIVESAY: What was the number again?

22 CLERK OF COURT: Juror 381.

23 MS. LIVESAY: Would you please present this juror.

24 CLERK OF COURT: Defense?

25 MR. FREDERICK: Please excuse the juror. Thank

1 you.

2 CLERK OF COURT: Please have a seat, thank you.

3 Juror 176, Kim Jackson. What say the State?

4 MS. LIVESAY: Would you please present this juror.

5 CLERK OF COURT: Defense?

6 MR. FREDERICK: Please excuse the juror. Thank  
7 you.

8 CLERK OF COURT: Please have a seat, thank you,

9 sir. Juror 311, Angela Rush. What say the State?

10 MS. LIVESAY: Would you please present this juror.

11 CLERK OF COURT: Defense?

12 MR. FREDERICK: Please excuse the juror, thank  
13 you.

14 CLERK OF COURT: Please have a seat, thank you.

15 Juror 224, Dale Low. What say the State?

16 MS. LIVESAY: Would you please present this juror.

17 CLERK OF COURT: Defense?

18 MR. FREDERICK: Please excuse the juror. Thank  
19 you.

20 CLERK OF COURT: Okay. Juror 375, Kathryn Waters.

21 What say the State?

22 MS. LIVESAY: Could you please excuse this  
23 particular juror.

24 CLERK OF COURT: Okay. Please have a seat, Ms.  
25 Waters, thank you. Juror 378, Ashleigh Weatherly.

1 What say the State?

2 MS. LIVESAY: Would you please present this juror.

3 CLERK OF COURT: Defense?

4 MR. FREDERICK: Please excuse the juror. Thanks.

5 CLERK OF COURT: Okay. Please have a seat, thank

6 you. Juror 44, Roger Brown. What say the State?

7 MS. LIVESAY: Could you please present this juror.

8 CLERK OF COURT: Defense?

9 MR. FREDERICK: Please seat the juror. Thank you.

10 CLERK OF COURT: Defense?

11 MR. CANTY: Swear the juror, Your Honor.

12 CLERK OF COURT: Please have a seat in the jury

13 box, thank you. Juror 362, Jody Trudeau. What say the

14 State?

15 MS. LIVESAY: Please present this juror.

16 CLERK OF COURT: Defense?

17 MR. FREDERICK: Please seat the juror.

18 CLERK OF COURT: Defense?

19 MR. CANTY: Please excuse her in the trial of this

20 case, Your Honor.

21 CLERK OF COURT: Okay. Just have a seat back,

22 thanks. Juror 357, Rebecca Teal. What say the State?

23 MS. LIVESAY: Would you please excuse this juror.

24 CLERK OF COURT: Okay. Just have a seat back,

25 ma'am, thank you. Juror 383, Casey Whittington. What

1 say the State?

2 MS. LIVESAY: Could you please present this juror.

3 CLERK OF COURT: Defense?

4 MR. FREDERICK: Please seat the juror.

5 CLERK OF COURT: Defense?

6 MR. CANTY: Please excuse her from the trial of  
7 this case, Your Honor.

8 CLERK OF COURT: Okay. Please have a seat, thank  
9 you, ma'am. Juror 121, Richard Fulford. What say the  
10 State?

11 MS. LIVESAY: Would you please present this juror.

12 CLERK OF COURT: Defense?

13 MR. FREDERICK: Please excuse the juror. Thank  
14 you, sir.

15 CLERK OF COURT: Please have a seat back, sir,  
16 thank you. Juror 346, Seth Stanley -- Staley. What  
17 say the State?

18 MS. LIVESAY: Could you please excuse this  
19 particular juror.

20 CLERK OF COURT: Okay. Please have a seat back,  
21 sir, thank you. Juror 48, Leslie Cagle.

22 JUROR #48: Cagle.

23 CLERK OF COURT: Cagle, I'm sorry. What say the  
24 State?

25 MS. LIVESAY: I'm sorry, what's the juror?

1 CLERK OF COURT: Juror 48.

2 MS. LIVESAY: 248?

3 CLERK OF COURT: 48.

4 MS. LIVESAY: Oh, 48. Would you please present  
5 this juror.

6 MR. FREDERICK: Please seat the juror.

7 CLERK OF COURT: Defense?

8 MR. CANTY: Please excuse her from the trial of  
9 this case, Your Honor.

10 CLERK OF COURT: Please have a seat back, ma'am,  
11 thank you. Juror 275, Edward Murray. What say the  
12 State?

13 MS. LIVESAY: Would you please excuse this  
14 particular juror.

15 CLERK OF COURT: Please have a seat. Thank you,  
16 sir. Juror 254, Deborah Michalic. Is that how you say  
17 your last name? I'm sorry.

18 JUROR #254: That's okay. It's Michalic.

19 CLERK OF COURT: Michalic, I'm sorry. What say  
20 the State?

21 MS. LIVESAY: Would you please present this juror.

22 CLERK OF COURT: Defense?

23 MR. FREDERICK: Please seat the juror.

24 MR. CANTY: Please excuse her in the trial of this  
25 case, Your Honor.



1 CLERK OF COURT: Please have a seat, ma'am, thank  
2 you. Juror 4, Jason Allen. What say the State?

3 MS. LIVESAY: Would you please present this juror.

4 CLERK OF COURT: Defense?

5 MR. FREDERICK: Please seat the juror.

6 MR. CANTY: Please excuse the juror from the trial  
7 of this case, Your Honor.

8 CLERK OF COURT: Just have a seat back, thank you,  
9 sir. Juror 127, Temika Gettys. What say the State?

10 MS. LIVESAY: Would you please present this juror.

11 CLERK OF COURT: Defendant?

12 MR. FREDERICK: Please seat the juror.

13 CLERK OF COURT: Defense?

14 MR. CANTY: Please excuse her from the trial of  
15 this case, Your Honor.

16 CLERK OF COURT: Please have a seat back, thank  
17 you. Juror 290, Rebeckah Peterson. What say the  
18 State?

19 MS. LIVESAY: Could you please present this juror.

20 CLERK OF COURT: Defense?

21 MR. FREDERICK: Please seat the juror.

22 CLERK OF COURT: Defense?

23 MR. CANTY: Swear the juror, Your Honor.

24 CLERK OF COURT: Please have a seat in the jury  
25 box, thank you. Juror 226, Jonathan Ludlam. What say

1 the State?

2 MS. LIVESAY: Would you please excuse this juror.

3 CLERK OF COURT: Please have a seat back there,

4 thank you. Juror 399, Daniel Young. What say the

5 State?

6 MS. LIVESAY: Would you please present this juror.

7 CLERK OF COURT: Defense?

8 MR. FREDERICK: Please seat the juror.

9 MR. CANTY: Swear the juror, Your Honor.

10 CLERK OF COURT: Please have a seat in the jury

11 box, sir, thank you. Juror 150, Tony Haynes.

12 THE COURT: No, he's excused by the Court. Mr.

13 Haynes, you have a seat back, I excused you from this

14 case.

15 CLERK OF COURT: Juror 315, Bryttani Sarvis. What

16 say the State?

17 MS. LIVESAY: Would you please present this juror.

18 CLERK OF COURT: Defense?

19 MR. FREDERICK: Please seat the juror.

20 CLERK OF COURT: Defense?

21 MR. CANTY: Swear the juror, Your Honor.

22 CLERK OF COURT: Please have a seat in the jury

23 box. Juror 67, Marie Coleman. What say the State?

24 MS. LIVESAY: Please present this juror.

25 CLERK OF COURT: Defense?

1 MR. FREDERICK: Please seat the juror.

2 CLERK OF COURT: Defense?

3 MR. CANTY: Swear the juror; Your Honor.

4 CLERK OF COURT: Please have a seat in the jury  
5 box, thank you. Juror 153, Rodney Helse1. What say  
6 the State?

7 MS. LIVESAY: Would you please excuse this  
8 particular juror.

9 CLERK OF COURT: Okay, please have a seat back,  
10 sir, thank you. Juror 167, John Humphries. What say  
11 the State?

12 MS. LIVESAY: Would you please excuse this juror.

13 CLERK OF COURT: Okay. Just have a seat back,  
14 sir, thank you. Juror number 58, Clara Gail Causey.  
15 What say the State?

16 MS. LIVESAY: Would you please present this juror.

17 CLERK OF COURT: Defense?

18 MR. FREDERICK: Please seat the juror.

19 CLERK OF COURT: Defense?

20 MR. CANTY: Please excuse her from the trial of  
21 this case, Your Honor.

22 CLERK OF COURT: Please have a seat back, ma'am,  
23 thank you. Juror 369, Joseph Verra?

24 JUROR #369: Yes.

25 CLERK OF COURT: What say the State?

1 MS. LIVESAY: Please present this juror.

2 CLERK OF COURT: Defense?

3 MR. FREDERICK: Please seat the juror.

4 CLERK OF COURT: Defense?

5 MR. CANTY: Swear the juror, Your Honor.

6 CLERK OF COURT: Please have a seat in the jury  
7 box, thank you. Juror 342, Janice Sousa. What say the  
8 State?

9 MS. LIVESAY: Would you please present this juror.

10 CLERK OF COURT: Defense?

11 MR. FREDERICK: Please seat the juror.

12 CLERK OF COURT: Defense?

13 MR. CANTY: Swear the juror, please.

14 CLERK OF COURT: Please have a seat in the jury  
15 box. Juror 166, Lee Hughes. What say the State?

16 MS. LIVESAY: Please excuse this particular juror.

17 CLERK OF COURT: Okay. Please have a seat back,  
18 thank you. Juror 91, Danielle Diana.

19 JUROR #91: Diana is my last name.

20 CLERK OF COURT: Diana. What say the State?

21 MS. LIVESAY: Would you please present this juror.

22 CLERK OF COURT: Defense?

23 MR. FREDERICK: Please seat the juror.

24 CLERK OF COURT: Defense?

25 MR. CANTY: Swear the juror, Your Honor.

1 CLERK OF COURT: Please have a seat in the jury  
2 box. Juror 249, Brigetta McVicker. What say the  
3 State?

4 MS. LIVESAY: Would you please present this juror.

5 CLERK OF COURT: Defense?

6 MR. FREDERICK: Please seat the juror.

7 CLERK OF COURT: Defense?

8 MR. CANTY: Please excuse her from the trial of  
9 that case, Your Honor.

10 CLERK OF COURT: Please have a seat back, ma'am,  
11 thank you. Juror 329, Carlos Shields. What say the  
12 State?

13 MS. LIVESAY: Would you please present this juror.

14 CLERK OF COURT: Defense?

15 MR. FREDERICK: Please seat the juror.

16 CLERK OF COURT: Defense?

17 MR. CANTY: Swear the juror, Your Honor.

18 CLERK OF COURT: Please have a seat in the jury  
19 box. Juror 331, Deborah Shofner. What say the State?

20 MS. LIVESAY: Would you please present this juror.

21 CLERK OF COURT: Defense?

22 MR. FREDERICK: Please seat the juror.

23 CLERK OF COURT: Defense?

24 MR. CANTY: Swear the juror, Your Honor.

25 CLERK OF COURT: Please have a seat in the jury

1 box, ma'am. Thank you.

2 THE COURT: All right. We'll have two alternates.  
3 On each alternate it will be one, two and two on each  
4 alternate, one, two and two.

5 CLERK OF COURT: Juror 17, James Barnhart. What  
6 say the State?

7 MS. LIVESAY: Would you please present this juror.

8 CLERK OF COURT: Defense?

9 MR. FREDERICK: Please seat the juror.

10 CLERK OF COURT: Defense?

11 MR. CANTY: Swear the juror, Your Honor.

12 CLERK OF COURT: Please have a seat in the jury  
13 box, sir.

14 THE COURT: Mr. Barnhart, you're one of the  
15 alternates, please. Thank you.

16 CLERK OF COURT: Juror 367, Patrick Vattelana.  
17 What say the State?

18 MS. LIVESAY: Would you please excuse this  
19 particular juror.

20 CLERK OF COURT: Okay. Please have a seat back,  
21 sir, thank you. Juror 259, Brittney Mishoe. What say  
22 the State?

23 MS. LIVESAY: Would you please present this juror.

24 CLERK OF COURT: Defense?

25 MR. FREDERICK: Would you please excuse this

1 juror.

2 CLERK OF COURT: Please have a seat back, ma'am,  
3 thank you. Juror 211, Neil Lane. What say the State?

4 MS. LIVESAY: Would you please present this juror.

5 CLERK OF COURT: Defense?

6 MR. FREDERICK: Please excuse this juror. Thank  
7 you.

8 CLERK OF COURT: Just have a seat back, sir.  
9 Thank you. Juror 237, Sancia Martin. What say the  
10 State?

11 MS. LIVESAY: Would you please excuse this  
12 particular juror.

13 CLERK OF COURT: Please have a seat back, ma'am.

14 THE COURT: Come and see me, y'all come up and  
15 talk to me for a second, please.

16 (WHEREUPON, a bench conference was held off the  
17 record in the presence of the jury panel but out  
18 of the hearing of the jury panel.)

19 THE COURT: Call the last juror.

20 CLERK OF COURT: Juror 237.

21 THE COURT: Ms. Martin-Haase, come back, please.

22 CLERK OF COURT: Come back up where you were at.

23 THE COURT: Just come back around right here in  
24 the middle.

25 CLERK OF COURT: Defense?

1 THE COURT: Go ahead. Presented by the State, go  
2 ahead, Mr. Frederick.

3 MR. FREDERICK: Please seat the juror.

4 MR. CANTY: Swear the juror, Your Honor.

5 THE COURT: Have a seat, ma'am.

6 CLERK OF COURT: Please have a seat in the jury  
7 box.

8 THE COURT: All right. Any objections to the jury  
9 as a panel from the State?

10 MS. LIVESAY: No, sir, Your Honor.

11 THE COURT: From the defense, Mr. Frederick?

12 MR. FREDERICK: No, Your Honor.

13 THE COURT: Mr. Canty?

14 MR. CANTY: No, Your Honor.

15 THE COURT: Very good. I find the jury's been  
16 properly empaneled pursuant to Batson vs. Kentucky and  
17 Jeb vs. Alabama. All right, ladies and gentlemen of  
18 this jury, I'm going to ask that you go back to your  
19 jury room in just a few moments and do one thing for  
20 the Court. And that is going to be select your  
21 foreperson.

22 So let me tell you what the foreperson's duties  
23 and responsibilities are. If we are here in the  
24 courtroom and the jury needs attention to some matter,  
25 the witnesses need to speak up or the lawyers do or



1 whatever it is, the foreperson raises their hand, gets  
2 the Court's attention and tells me what the situation  
3 is, and we'll handle the matter, whatever it is.

4 If you are in the jury room and some matter comes  
5 up, the foreperson will take the pad and pen provided  
6 and write out a note and sign it and give it to the  
7 bailiff. It will come to me. We'll handle the matter,  
8 whatever it might be.

9 When we have finished the evidentiary portion of  
10 the trial, we have heard all of the witnesses in this  
11 case that are to be presented, and we've heard the  
12 closing arguments of the attorneys, and then I've given  
13 you the law that you will apply to the facts and  
14 evidence you collectively find to be true in this case,  
15 I'll submit the case to you for your deliberations and  
16 your unanimous decision in this particular matter.

17 So with that, the foreperson's duties and  
18 responsibilities change in this regard. The foreperson  
19 is going to act like the chairperson at a meeting. And  
20 in that an important duty that the foreperson has is to  
21 make sure that everybody that wants to has an  
22 opportunity to speak, everybody's voice has an  
23 opportunity to be heard.

24 Now, the foreperson's voice and vote carries no  
25 more weight than any other member of the jury. You are

1 all on an equal plane in that regard. But somebody  
2 does need to be in charge, maybe guide the discussions,  
3 if necessary. Again, if some question or matter comes  
4 up, the foreperson takes that pad and pen, writes out  
5 the note, signs it and gives it to the bailiff, again,  
6 it will come to me. And I'll handle the matter,  
7 whatever it might be.

8 The final duty and responsibility of the  
9 foreperson is once the jury has well and truly  
10 deliberated and you have reached your unanimous verdict  
11 in this particular matter, the foreperson is going to  
12 take the verdict forms that the Court provides to you,  
13 and you're going to be checking the appropriate block  
14 or writing out the appropriate word, thereafter signing  
15 your name as the foreperson, indicating that the  
16 verdict so indicated on the verdict form is indeed the  
17 verdict of each and every member of the jury in this  
18 particular case.

19 So with that, I'm going to send you back to the  
20 jury room to select the foreperson. Now, in that  
21 regard, Mr. Barnhart and Ms. Martin-Haase, you are  
22 alternates, you cannot be the foreperson. You can vote  
23 on the foreperson, but you cannot be the foreperson.  
24 Everyone else is eligible. So if y'all please go back  
25 to the jury room, select your foreperson, knock on the

1 door, let the bailiff know who that is, please. Thank  
2 you.

3 (WHEREUPON, the jury exited the courtroom at  
4 3:28 p.m.)

5 THE COURT: All right. Ladies and gentlemen, the  
6 jury panel that were not selected for this particular  
7 case, I'm going to excuse you for the balance of the  
8 day. Call back that juror information line tonight  
9 after 6 p.m., follow those instructions, whatever they  
10 may be. It might very well be for you to call back  
11 again another day, another time, but follow those  
12 instructions, whatever they may be. With that, the  
13 jurors are excused. Everyone else remain seated.  
14 Thank you very much.

15 (WHEREUPON, the remaining jury panel was excused.)

16 THE COURT: All right. Solicitor, any matters for  
17 the Court at this point in time?

18 MS. LIVESAY: Nothing further from the State, Your  
19 Honor.

20 THE COURT: Mr. Frederick?

21 MR. FREDERICK: Your Honor, just regarding the  
22 jury, judge?

23 THE COURT: Yes, sir.

24 MR. FREDERICK: None, Your Honor.

25 THE COURT: Mr. Canty?

1 MR. CANTY: Not regarding the jury, Your Honor.

2 THE COURT: All right. So any other motions,  
3 Mr. Frederick?

4 MR. FREDERICK: Question for a bathroom break.

5 THE COURT: Oh, we're definitely going to take a  
6 break, we're definitely doing that. But I just wanted  
7 to make --

8 MR. FREDERICK: We have maybe seven or eight  
9 motions, most of them are not going to take more  
10 than -- they're not going to be too terribly long.

11 THE COURT: All right, very good. All right.  
12 Well, we'll take a short break for about five, ten  
13 minutes, then we'll come back; all right? Thank y'all  
14 very much.

15 (WHEREUPON, a brief recess was taken at 3:31 p.m.)

16 THE COURT: Thank you very much, you may be  
17 seated. Thank you. All right. Counsel, for your  
18 information, the jury selected number 331, number 331,  
19 to be the foreperson.

20 If you could, Mr. Frederick, could you just go  
21 over real briefly what the motions are. Just tell me  
22 what they are.

23 MR. FREDERICK: Judge, some precautionary motions  
24 about spectator conduct, victim impact statements,  
25 prior bad acts is one. We want another precautionary

1 motion asks that the sheriff's office has defendants  
2 here early and late, spending a long time, but I don't  
3 want the jury to see them coming out before they're  
4 dressed. We are bringing their clothes to them this  
5 morning.

6 THE COURT: Okay.

7 MR. FREDERICK: Judge, we have not received  
8 criminal history on any of the State's witnesses. We  
9 would like to be provided that in advance of the  
10 witnesses' testimony and not when they're on the stand.

11 THE COURT: Okay.

12 MR. FREDERICK: Motion to suppress --- to sequester  
13 the witnesses. And I think that's it, judge.

14 THE COURT: All right. I'm just trying to look at  
15 the time and see.

16 MR. FREDERICK: In fact, judge, may we approach  
17 for a moment?

18 THE COURT: Sure, absolutely.

19 (Discussion off the record.)

20 THE COURT: All right, counsel, so what we're  
21 going to do is we are going to argue the motions now.  
22 I'm going to have the --- first, I'll have the jury come  
23 in, and I will tell them that we're excusing them until  
24 tomorrow morning and what the process is going to be  
25 and obviously caution them about, you know, not talking

1 about the case or allowing anybody to talk to them  
2 about it. After I do that, then we'll go into the  
3 motions, and then we'll actually start the swearing of  
4 the jury and the opening statements to the jury  
5 tomorrow morning.

6 All right. So with that, could you ask the jury  
7 panel to come in, please.

8 (WHEREUPON, the jury came into open court at  
9 approximately 3:55 p.m.)

10 THE COURT: All right. Ladies and gentlemen, I  
11 think I see where someone properly -- always want the  
12 two alternates to be on the two end seats. So the two  
13 seats that y'all are in right now, if y'all could  
14 always just occupy those two seats that you're in right  
15 now when you come back from the jury room, all right.  
16 And foreperson, madam forelady, if you would always  
17 occupy that particular seat that you are in when you  
18 come back from the jury room; all right?

19 THE FOREPERSON: Yes, sir.

20 THE COURT: The rest of you ladies and gentlemen,  
21 there aren't any other assigned seatings. I just need  
22 to know where the foreperson is and the alternates, so  
23 that the alternates are on the outside and the rest of  
24 the jury is here and the forelady is there. And so if  
25 you just kind of fill in wherever it is.

1       There are different stages to the trial. And I  
2 appreciate that just coming into it cold you don't  
3 understand the process. Hopefully at the end of it  
4 you'll have a better understanding of the process, but  
5 there are certain times during the course of a trial  
6 that the Court, when that stage comes up and I can't do  
7 it ahead of time, when that stage comes up, that I have  
8 to do things outside the jury's presence. There are  
9 certain motions or matters that I have to hear.

10       So now that we have a jury, there are some matters  
11 that I have to hear outside your presence. I'm not  
12 going to keep you here and I'm not going to keep you  
13 sitting in the jury room waiting for us to get those  
14 done. So I am going to excuse you for the balance of  
15 the day and ask you to come back tomorrow morning.

16       Now, with that, a couple things. Remember I told  
17 you at the very beginning when you were all assembled  
18 downstairs, you are not investigators, you are not  
19 researchers, you are not to look up anything on the  
20 internet. You cannot conduct any kind of research on  
21 your own. You must and you are charged with the  
22 responsibility of deciding this case solely and  
23 completely on the facts and evidence you hear in the  
24 courtroom and from no other source.

25       So with that also goes when you go home and you

1 see your husband, wife, boyfriend, girlfriend, person  
2 down the street, if they happen to know you had jury  
3 duty this week, that's fine. Other than that, you  
4 can't talk no more about it. Unintentionally,  
5 hopefully not intentionally, they would give their  
6 opinion about it. They don't have one.

7 I'm going to instruct you as a whole not to  
8 discuss the case, not to have any discussions of any  
9 kind, as best you can, not to have any mental  
10 deliberations as to what you believe or you don't  
11 believe until you've heard all of the evidence and you  
12 know the law that I will give you that applies to the  
13 facts and evidence you find to be true in this case.

14 So with that, I'm going to ask that you assemble  
15 down in the jury assembly room, the big room that y'all  
16 were in this morning, at 9:15 tomorrow morning. At  
17 that point in time the bailiffs will bring you upstairs  
18 to your jury room. Our clerk of court's office will  
19 have something there for you hopefully y'all will  
20 enjoy. And shortly thereafter, most likely at 9:30, we  
21 will start the trial of this case.

22 So I would ask that you assemble downstairs  
23 tomorrow morning by 9:15 so they can bring you  
24 upstairs. And then we can get started by 9:30. But  
25 please remember, don't talk about the case and don't



1 allow anybody to talk to you about it. So with that,  
2 I'll see you back tomorrow morning. Thank you very  
3 much.

4 (WHEREUPON, the jury exited the courtroom at  
5 3:59 p.m.)

6 THE COURT: All right. Is there a Rakesha Brown  
7 in the courtroom, Rakesha Brown? I want you to come  
8 forward and stand over there next to that deputy right  
9 there. Ms. Brown, there are signs downstairs when you  
10 come into this court house about the prohibitions  
11 against cell phones, cell phones will be turned off.  
12 There's a big sign on that door when you walk in this  
13 courtroom, you can't miss it. It is right on front of  
14 the door, it says, no cell phones.

15 You are in violation of the order of Chief Justice  
16 of the State of South Carolina because your phone went  
17 off during court proceedings this afternoon.

18 I hereby hold you in contempt of court, I fine you  
19 \$100. That shall be paid at the Clerk of Court of this  
20 county by 5 p.m. Friday. Failure to do so, a bench  
21 warrant will be issued for your arrest. With that, her  
22 phone may be returned to her. Do not leave the  
23 courtroom until the deputies give you a copy of this  
24 order. Thank you, ma'am.

25 All right, Mr. Frederick, you indicated there are

1 some motions?

2 MR. FREDERICK: Judge, and I have not seen any  
3 indication of this so far, this is precautionary.

4 THE COURT: Yes, sir.

5 MR. FREDERICK: But we had a murder trial several  
6 years ago where families, the family of the victim,  
7 showed up wearing T-shirts with the victim's photograph  
8 on it, and things like that were going on. I just ask  
9 the Court if we could caution the audience not to do  
10 that sort of thing.

11 THE COURT: Solicitor, I'm assuming that you have  
12 talked to the victim's family about those types of  
13 displays?

14 MS. LIVESAY: Yes, sir, Your Honor. They  
15 understand the appropriate dress.

16 THE COURT: Very good. Thank you very much.

17 MR. FREDERICK: Another precautionary motion,  
18 judge, to exclude any testimony concerning victim  
19 impact, at least during the guilt phase of this case.

20 THE COURT: All right. Well, and I think I need  
21 for you to be a little bit more specific. And I'm not  
22 sure that I can rule on your motion without an  
23 objection to an actual question being asked. Because  
24 just because a question and/or an answer might have  
25 some tangential effect or touch on victim impact does

1 not, in and of itself, necessarily mean that question  
2 is not proper considering what might be going on in the  
3 trial at that point in time.

4 Now, I'm sure the solicitor knows and has talked  
5 to her witnesses about just trying to list some kind of  
6 general impact testimony. But there may be a question  
7 and/or response that is proper. So probably what I'm  
8 going to need to do is have you and Mr. Canty, if y'all  
9 hear an objectionable question, to raise it to the  
10 Court at the time the question is asked. I think that  
11 would be the better process for that situation.

12 Understand, of course, solicitor, that, you know,  
13 we're not -- you'll not be soliciting some kind of just  
14 general victim impact question; all right?

15 MS. LIVESAY: Yes, sir.

16 THE COURT: Thank you very much. All right,  
17 Mr. Frederick.

18 MR. FREDERICK: Judge, we would move to suppress  
19 any evidence of prior bad acts that have not been  
20 charged as to Mr. James. And what I mean by that is if  
21 any witnesses were to testify about prior bad acts,  
22 that would not be admissible. I bring it up pretrial  
23 because there are several prior bad acts that are  
24 alleged by some of the witnesses. And I'm sure that  
25 the solicitor's office will instruct those witnesses

1 not to talk about it. But just as a precautionary  
2 measure, I wanted to bring that up as a pretrial  
3 motion.

4 THE COURT: All right. Is there in the context of  
5 this trial, on the facts and evidence of this trial,  
6 solicitor; is there anything that you can anticipate  
7 that would pertain to the prosecution of this  
8 particular crime, this murder, that a prior bad act  
9 would of necessity need to come up?

10 MS. LIVESAY: Not in the State's case in chief,  
11 Your Honor.

12 THE COURT: All right; very good. All right,  
13 thank you.

14 MR. FREDERICK: And, judge, again, I don't think  
15 this is going to be a problem, but I just want to ask  
16 that my client be here early and, if necessary, stay  
17 just a little bit late to meet with me during the  
18 course of the trial. And we are, I think the guards  
19 have asked us to bring his clothes a little bit  
20 earlier, and we will be doing that as well.

21 THE COURT: All right. So I'm just going to rely  
22 on the general personnel and obviously defense counsel  
23 that regarding whatever time the Court sets for the  
24 attorneys to be here, that the Defendants be here a  
25 little bit ahead of time so that obviously they can

1 change clothes. And so I don't anticipate that being  
2 an issue.

3 And what I'd ask, Mr. Frederick and Mr. Canty, if  
4 because of that day's proceedings you anticipate that  
5 you need to talk a little bit after court with your  
6 client about what transpired that day or what's going  
7 to happen the next day, if you can alert the Court  
8 shortly before we recess for the day, so we can make  
9 sure we cover that and there aren't any issues; all  
10 right?

11 MR. FREDERICK: Yes, sir.

12 THE COURT: All right, very good.

13 MR. FREDERICK: We would move to sequester the  
14 witnesses, that's witnesses for both sides, judge.

15 THE COURT: All right. Solicitor, who is your  
16 chief investigating officer?

17 MS. LIVESAY: Your Honor, the State only asks that  
18 Damon Vescovi stay in the room.

19 THE COURT: All right.

20 MS. LIVESAY: And then of course the victim's  
21 father. For some reason he was on the witness list,  
22 but the victim's father as the victim's family stay in  
23 the room.

24 THE COURT: All right. So we were talking about,  
25 then -- and I'm sorry, tell me the --

1 MS. LIVESAY: It is Ronnie Pertelle is his name on  
2 the witness list.

3 THE COURT: On the witness list.

4 MS. LIVESAY: He is the father of the victim.

5 THE COURT: All right. He may stay and then --  
6 and I'm sorry, the officer's name again?

7 MS. LIVESAY: Damon Vescovi.

8 MS. POPP: He's listed as Paul.

9 THE COURT: Paul Vescovi?

10 MS. LIVESAY: Yes.

11 THE COURT: Okay, Paul Vescovi.

12 MS. LIVESAY: And I ask also that the investigator  
13 for our office be allowed to stay to assist me, Ginger  
14 Pop.

15 THE COURT: I'm going to allow that, solicitor. I  
16 think that's -- will help the Court and the proceedings  
17 go more smoothly, we can do that. All right.

18 MS. LIVESAY: Thank you, Your Honor.

19 THE COURT: So the exception of both for the State  
20 and the defense, then, any potential witnesses will be  
21 excluded until they testify, except for Ronnie  
22 Pertelle, Paul Vescovi and Ginger Pop.

23 MR. FREDERICK: And judge, on our side --

24 THE COURT: Yes.

25 MR. FREDERICK: -- it's probably she will not

1 testify, but I mean, conceivably it could happen for  
2 impeachment purposes, our paralegal Erin Kelley.

3 THE COURT: I'm going to allow her to stay, I'm  
4 going to allow her to stay. She will not be part of  
5 the sequestration.

6 MR. FREDERICK: Yes, sir.

7 THE COURT: All right, very good. All right, so  
8 I'm just going to leave it to the State and the defense  
9 to talk to your potential witnesses and have them  
10 understand that they cannot be in the courtroom, if you  
11 are a potential witness in this case, until you have  
12 testified or it is clear and stated in open court that  
13 that person will not testify in this case; all right?

14 MS. LIVESAY: Yes, sir.

15 THE COURT: Thank you.

16 MR. FREDERICK: Yes, sir. And, judge, we move to  
17 have the State provide to us the criminal history for  
18 the State's witnesses in advance. And their response  
19 is, we've been instructed at the seminars that we go to  
20 that it's against the law for us to give those to  
21 anybody, including defense counsel. But, judge, we all  
22 know that they give those to defense counsel.

23 THE COURT: Well, you are making a motion to have  
24 the criminal histories of the potential witnesses for  
25 the State turned over to defense counsel in this

1 matter; is that correct?

2 MR. FREDERICK: Yes, sir.

3 THE COURT: Solicitor, what's your response?

4 MS. LIVESAY: I'm not certain why their NCIC's  
5 would be required as to the fact witnesses, Your Honor.  
6 The only thing they'll be testifying to is what they  
7 saw and heard that day.

8 THE COURT: Any witness' voracity, credibility,  
9 believability can be potentially tested by the fact  
10 that they have a criminal record, depending upon what  
11 that criminal record is. If they have one and it falls  
12 within the rules of evidence, the defense will be  
13 allowed to ask them if they have that criminal record.  
14 And the only way that the defense is going to know that  
15 is to have an NCIC for the potential witnesses.

16 So what I'm going to ask that you do is tomorrow  
17 morning turn over the NCIC's of your potential  
18 witnesses to the defense counsel to be used by  
19 Mr. Frederick, to be used by you for cross-examination  
20 purposes, and used by you, Mr. Canty, for  
21 cross-examination purposes. They are not to be  
22 disclosed to anyone else. Thank you very much.

23 MR. FREDERICK: Yes, sir.

24 MS. LIVESAY: Thank you, Your Honor. Just very  
25 briefly.



1 THE COURT: Yes, ma'am.

2 MS. LIVESAY: On their witness list, can we just  
3 get a social and a date of birth for their witness, so  
4 we can start pulling those NCIC's as well?

5 THE COURT: Is there any objection to that,  
6 Mr. Frederick?

7 MR. FREDERICK: No, sir. We can ask the witnesses  
8 for it.

9 THE COURT: All right, very good, then. Mr.  
10 Canty, if you would do the same, please.

11 MR. CANTY: Yes, sir.

12 THE COURT: Thank you. All right.

13 MR. FREDERICK: Judge, that's all that we have for  
14 Mr. James.

15 THE COURT: All right. How about regarding Mr.  
16 Graham, Mr. Canty, any other motions?

17 MR. CANTY: We would join in the motion with  
18 regard to the prior bad acts and exclusion of testimony  
19 regarding victim impact. We would also move -- as I  
20 mentioned earlier --

21 THE COURT: Well, first, let me be clear, the  
22 ruling of the Court made on all of those motions apply  
23 to your client as well. So all the motions that I made  
24 in response to the matters raised by Mr. Frederick  
25 apply to your client as well, both regarding the State

1 and your client. So go ahead.

2 MR. CANTY: Thank you, Your Honor. As I mentioned  
3 earlier in my remarks to the Court, this is a case with  
4 what I characterize as a mountain of forensic evidence,  
5 none of which implicates my client. And the case  
6 against my client rests upon one particular witness'  
7 testimony who claims that he was present with my client  
8 at the time the crime was committed. That gentleman  
9 has quite a criminal history.

10 And there is a growing trend in this country since  
11 the advent of DNA and the discovery of exonerated  
12 convicted defendants on death row and serving life  
13 sentences, certain patterns have emerged in the false  
14 convictions, and one of them are erroneous eyewitness  
15 identification. And another is what is referred to as  
16 the compensated informant.

17 And this particular individual, I know the general  
18 assembly considered legislation on this point, this  
19 session, but he has been arrested, released on bond,  
20 arrested again while on bond and released again while  
21 on bond a total of six times, three times during this  
22 calendar year. And he -- the solicitor has stated  
23 previously that there was no arrangement. He has  
24 indicated to others that he is under the impression  
25 that there is indeed an arrangement for his testimony

1 in this case.

2 And I think it would be appropriate, and I would  
3 move for a reliability hearing, a preliminary  
4 reliability hearing, outside the presence of the jury,  
5 in which the rules of evidence are relaxed for the  
6 purpose of producing evidence against my client, the  
7 motive he may have to lie, the difficulty of disproving  
8 his testimony, his relationship to my client and for  
9 the State to provide any corroboration that they may  
10 have to his account.

11 And I would point out also that aside from being  
12 arrested and released on bond six times, that this  
13 particular witness gave a statement to the police which  
14 did not implicate my client. After five months in jail  
15 he changed history giving a statement that implicated  
16 my client.

17 THE COURT: Well, Mr. Canty, and we talked about  
18 this earlier, any statements he's made that are -- have  
19 been recorded in any fashion or memorialized in any  
20 fashion, he's going to be able -- you're going to be  
21 able to ask him whether or not he told someone a story  
22 at one point in time and now his story is A, or story  
23 started out as X, and then it turned to Y, and then it  
24 turned to Z, and now it's turned to A, all right.  
25 You're going to be able to ask him all those questions

1 on cross-examination.

2 We're not conducting any kind of preliminary  
3 hearings here, okay. That's not what we're about.  
4 We're about a trial. You are going to have full and  
5 complete opportunity to cross-examine all the  
6 witnesses. If he has a criminal record that follows  
7 regarding the rules of evidence, you're going to be  
8 able to ask him those questions.

9 If during the course of this proceeding he has  
10 been arrested for a crime and had been allow to go out  
11 on bond, I will allow you to ask the question, were you  
12 arrested for X crime, were you granted bond on that.  
13 We're not going to be trying those cases. You're not  
14 going to be asking him questions about what occurred,  
15 but you will be able to point out to the jury that  
16 during the course of these proceedings or since your  
17 client has been charged that this other person has been  
18 out on bond, allegedly committed a crime, was given  
19 bond, whatever the situation is. But it's going to be  
20 very limited and we're not exploring those issues  
21 because we're not here about that.

22 But I'll be allowing you to bring that to the  
23 jury's attention, because I think it's proper for them  
24 to be able to judge credibility and believability and  
25 anything that might tend to give them an insight as to

1 the purpose of his testimony.

2 MR. CANTY: Very good. Thank you, Your Honor.  
3 Just very briefly, my only point, only purpose was to  
4 allow preliminary proceedings under relaxed rules of  
5 evidence for the purpose of the Court itself adducing  
6 the viability of his testimony.

7 THE COURT: Well, okay, and I appreciate that.  
8 I'm not -- we're not going to do that. But please  
9 understand I am going to allow you to examine him about  
10 matters that could tend to affect his credibility and  
11 believability.

12 Now, if there -- if you're going to be asking him  
13 about trying to get further information other than what  
14 you were arrested on January 4th for X crime, and then  
15 on January 10th you got a bond, if you are trying to  
16 elicit something else other than that, you need to  
17 bring that to the Court's attention before we go into  
18 it. So we might have to have a hearing outside the  
19 jury's presence on that.

20 MR. CANTY: One more point, at the time of his  
21 arrest he was out on bond, and he was released on bond  
22 after being arrested six times, three times --

23 THE COURT: Well, whatever -- we're going from --  
24 okay, from this crime forward, all right, whenever he  
25 was arrested for this crime, whenever your client was

1 arrested for this crime. Thereafter if he was  
2 arrested, you will be allowed to ask, were you arrested  
3 on whatever date for whatever it was, and on a  
4 subsequent date were you given bond.

5 And if he got arrested again, were you arrested on  
6 that date for whatever crime, and were you given bond  
7 on that. And then obviously the ultimate question, you  
8 know, do you expect any kind of favorable treatment or  
9 do you, you know, hope for some type of help from the  
10 State, however you want to phrase it.

11 MR. CANTY: In the interest of avoiding an issue  
12 like this in the future in this trial, there were  
13 charges, very serious charges, against him at the time  
14 of his arrest. Subsequently when he cooperated with  
15 the State, the charges that were pending at the time of  
16 his arrest, the first arrest for this crime, those  
17 charges were dismissed.

18 THE COURT: I appreciate that. Then I don't --  
19 again, I'll be -- I'm going to be allowing the  
20 solicitor the cross-examination of the witness that you  
21 were charged with X crime, and that crime has now be  
22 dismissed by the State.

23 MR. CANTY: Great, thank you.

24 THE COURT: Because, again, I find that touches on  
25 the potential for the jury to understand a person's

1 credibility and believability and whether or not the  
2 jury believes the testimony and whether or not there is  
3 anything that they think, despite of what the State may  
4 say, has been offered regarding his testimony.

5 MR. CANTY: Thank you, Your Honor.

6 THE COURT: Yes, sir, Mr. Frederick.

7 MR. FREDERICK: Judge, just for the record, I join  
8 that motion and expanding it a little bit, and you'll  
9 deny my additional motion.

10 THE COURT: Well, I don't know. You got to tell  
11 me what it is, I might not. Depends where it came  
12 from. Mr. Canty's probably surprised I gave him as  
13 much leeway as I already have.

14 MR. FREDERICK: Here's what I want to say. In a  
15 couple of states, judge, not South Carolina, there is a  
16 rule that you cannot convict somebody or even put the  
17 witness on the stand if it is uncorroborated jailhouse  
18 informant testimony. I believe that's a rule in maybe  
19 three states now. Judge, that is not the law in South  
20 Carolina. I appreciate you will not entertain that,  
21 but

22 THE COURT: Well, you certainly, and if you want  
23 to make any arguments, if you want to submit some case  
24 law that you want to have in the record. But we'll be  
25 following the case law of the State of South Carolina,

1 not some other state.

2 MR. FREDERICK: Just for purposes of the record,  
3 judge --

4 THE COURT: Yes, sir.

5 MR. FREDERICK: -- I would like to just make the  
6 motion that we have a preliminary reliability hearing,  
7 and that if there is no corroboration of this jailhouse  
8 informant's testimony, that that informant will be  
9 excluded from the trial. That's all I have for that.

10 THE COURT: Well, and I appreciate that. I do not  
11 believe that follows the case law of the State of South  
12 Carolina, I will not allow that. But if you want to  
13 supplement the record with some case law of another  
14 state so that it's part of the record, I'll be glad for  
15 you to do so.

16 MR. FREDERICK: And, judge, there was two more  
17 brief matters that I --

18 THE COURT: Sure.

19 MR. FREDERICK: -- did not bring up earlier.

20 THE COURT: Absolutely.

21 MR. FREDERICK: There are some Facebook  
22 photographs that were provided to us of Thomas holding  
23 a gun. And, preliminarily, I would move to exclude  
24 those photographs unless they are shown to be relevant  
25 to this particular crime. And I bring that up now.



1 because, you know, if the foundation is not established  
2 for it and they suddenly throw it up in front of the  
3 jury, it would be too late at that point.

4 THE COURT: All right. Well, I don't anticipate  
5 anyone in this trial is going to be showing to the jury  
6 any exhibit that the Court has not allowed in evidence.  
7 That's just not going to happen in this trial, the  
8 State or the defense.

9 For the jury to see it, the exhibit must be in  
10 evidence. So I'm sure everyone will take caution if  
11 you are asking a witness to observe a particular item,  
12 they will keep it in their lap if they're on the  
13 witness stand or it will be observed such that the jury  
14 does not see it until it is in evidence. And that  
15 should solve that particular problem because I'm sure  
16 that both the State and defense will do this. Thank  
17 you.

18 MR. FREDERICK: That's all, judge.

19 THE COURT: All right, very good. Mr. Canty?

20 MR. CANTY: That's all.

21 THE COURT: All right. Solicitor, anything?

22 MS. LIVESAY: No, sir, Your Honor.

23 THE COURT: All right, very good. Now, so as I  
24 explained to y'all, I do have a short motion matter at  
25 9 o'clock, but I do want y'all to be here at 9 o'clock.

1 in the morning. I want the Defendants here at the  
2 courthouse by 9 o'clock. That will give them an  
3 opportunity to change before the jury comes. The jury  
4 is coming at 9:15.

5 Obviously, solicitor, Mr. Frederick, Mr. Canty,  
6 y'all discover something overnight that you need to  
7 bring to the Court's attention, obviously raise that to  
8 me as quickly as possible so that hopefully we can get  
9 started right at 9:30. All right.

10 MR. CANTY: Would e-mail to your clerk be  
11 appropriate?

12 THE COURT: Yes, sir.

13 MR. CANTY: Very good.

14 THE COURT: Absolutely. Thank y'all very much.

15 (The hearing concluded at approximately 4:23 p.m.)  
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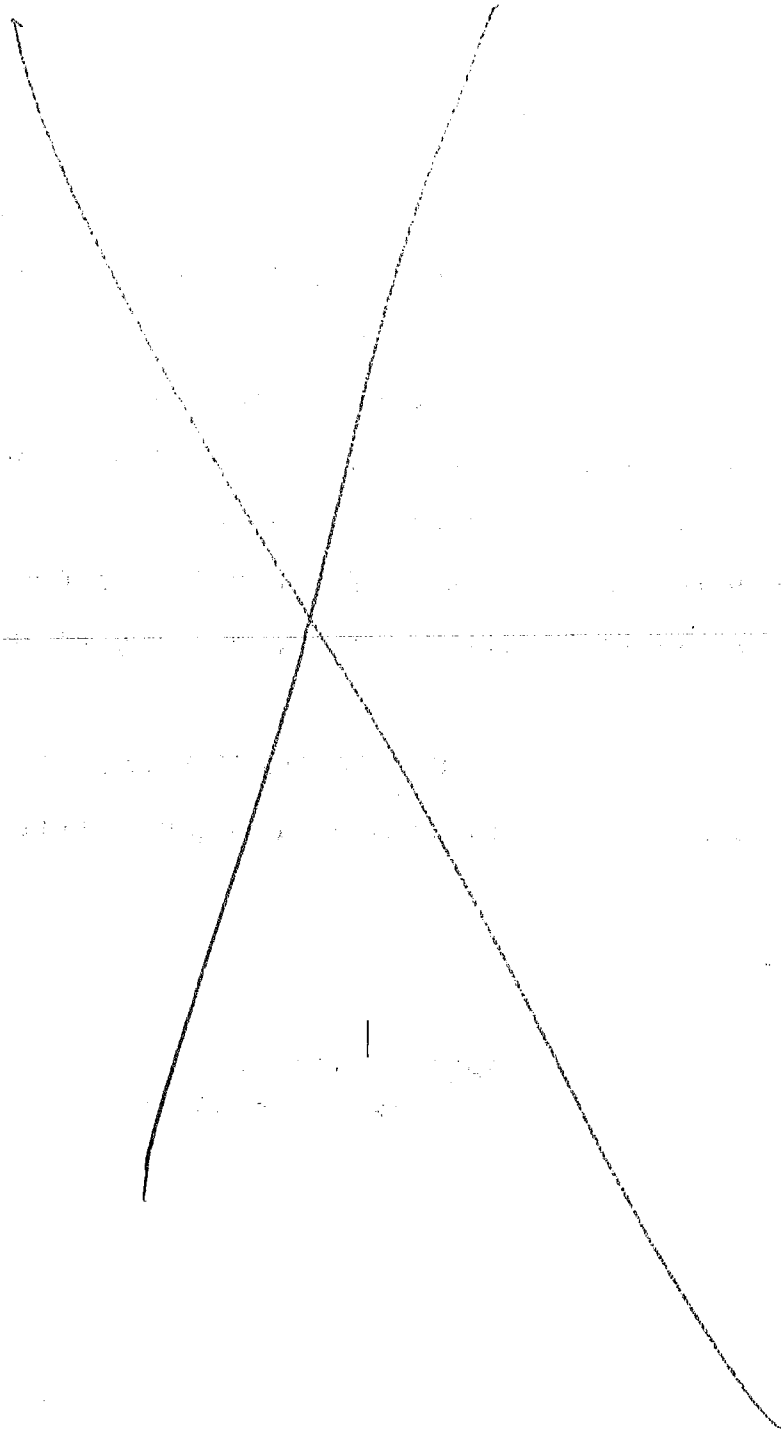
## 1 CERTIFICATE OF REPORTER

2  
3 STATE OF SOUTH CAROLINA }  
4 COUNTY OF HORRY }

5  
6 I, TERESA J.F. BAUTZ, Official Court  
7 Reporter for the Fifteenth Judicial Circuit of the  
8 State of South Carolina, do hereby certify that the  
9 foregoing is a true, accurate and complete Transcript  
10 of Record of the proceedings had and evidence  
11 introduced in the trial of the captioned case, relative  
12 to appeal, in the Court of General Sessions for Horry  
13 County, South Carolina, on the 4th day of March, 2015.

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

17  
18  
19  
20 TERESA J.F. BAUTZ, RPR  
21 Official Court Reporter  
22  
23  
24  
25



1 State of South Carolina ) Court of General Sessions  
2 County of Horry )  
3 State of South Carolina )  
4 vs. ) 2014-GS-26-2361  
5 Thomas Booker James )  
6 ----- )  
7 State of South Carolina ) Transcript of Record  
8 County of Horry ) VOLUME II  
9 State of South Carolina )  
10 vs. ) 2012-GS-26-3077  
11 Carnail Marchindla Graham )

11

12

October 14, 2014  
Conway, South Carolina

13

14

15 BEFORE:

16 Honorable Steven H. John, Judge.

17

18 APPEARANCES:

19

Nancy Livesay, Assistant Solicitor  
Attorney for the State

20

Bobby G. Frederick, Esq.  
Attorney for Defendant James

21

22

David J. Canty, Esq.  
Attorney for Defendant Graham

23

24

Teresa J. F. Bautz, RPR  
Official Court Reporter

25

|    |                                  |                               |     |     |     |
|----|----------------------------------|-------------------------------|-----|-----|-----|
| 1  | I N D E X                        |                               |     |     |     |
| 2  | WITNESS                          | DIRECT CROSS REDIRECT RECROSS |     |     |     |
| 3  | STATE WITNESSES                  |                               |     |     |     |
| 4  | <u>Tuesday, October 14, 2014</u> |                               |     |     |     |
| 5  | Carlton Dontrell Watts           |                               |     |     |     |
| 6  | Ms. Livesay                      | 61                            | --  | 107 | --  |
| 7  | Mr. Frederick                    | --                            | 101 | --  | --  |
| 8  | Mr. Canty                        | --                            | 102 | --  | --  |
| 9  | Renee Hardwick                   |                               |     |     |     |
| 10 | Ms. Livesay                      | 117                           | --  | --  | --  |
| 11 | David D. Grissett                |                               |     |     |     |
| 12 | Ms. Livesay                      | 121                           | --  | --  | --  |
| 13 | Mr. Frederick                    | --                            | 134 | --  | --  |
| 14 | Mr. Canty                        | --                            | 137 | --  | --  |
| 15 | Matthew Singleton                |                               |     |     |     |
| 16 | Ms. Livesay                      | 153                           | --  | --  | --  |
| 17 | Mr. Frederick                    | --                            | 162 | --  | --  |
| 18 | Mr. Canty                        | --                            | 164 | --  | --  |
| 19 | Edward Proctor, Jr., MD          |                               |     |     |     |
| 20 | Ms. Livesay                      | 169                           | --  | 185 | --  |
| 21 | Mr. Frederick                    | --                            | 180 | --  | 187 |
| 22 | Mr. Canty                        | --                            | 181 | --  | --  |
| 23 | Tiffany Oliver                   |                               |     |     |     |
| 24 | Ms. Livesay                      | 188                           | --  | --  | --  |
| 25 | Mr. Canty                        | --                            | 204 | --  | --  |

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| 1  | Seraphim Haftoglou                 |     |     |     |     |
| 2  | Ms. Livesay                        | 206 | --  | --  | --  |
| 3  | John Robert Caulder, II            |     |     |     |     |
| 4  | Ms. Livesay                        | 217 | --  | --  | --  |
| 5  | Mr. Frederick                      | --  | 251 | --  | --  |
| 6  | Mr. Canty                          | --  | 253 | --  | --  |
| 7  | <u>Wednesday, October 15, 2014</u> |     |     |     |     |
| 8  | Seraphim Haftoglou                 |     |     |     |     |
| 9  | Ms. Livesay                        | 263 | --  | --  | --  |
| 10 | John Robert Caulder, II            |     |     |     |     |
| 11 | Ms. Livesay                        | 268 | --  | 335 | --  |
| 12 | Mr. Frederick                      | --  | 319 | --  | 339 |
| 13 | Mr. Canty                          | --  | 323 | --  | 343 |
| 14 | Lynn Baker                         |     |     |     |     |
| 15 | Ms. Livesay                        | 347 | --  | --  | --  |
| 16 | Mr. Frederick                      | --  | 357 | --  | --  |
| 17 | Mr. Canty                          | --  | 359 | --  | --  |
| 18 | Jasmine Tell                       |     |     |     |     |
| 19 | Ms. Livesay                        | 365 | --  | --  | --  |
| 20 | Mr. Frederick                      | --  | 367 | --  | --  |
| 21 | James W. Green                     |     |     |     |     |
| 22 | Ms. Livesay                        | 375 | --  | 407 | --  |
| 23 | Mr. Frederick                      | --  | 393 | --  | 411 |
| 24 | Mr. Canty                          | --  | 400 | --  | 412 |
| 25 |                                    |     |     |     |     |

|    |                                   |     |         |     |     |
|----|-----------------------------------|-----|---------|-----|-----|
| 1  | Terry Bease                       |     |         |     |     |
| 2  | Ms. Livesay                       | 415 | --      | 425 | --  |
| 3  | Mr. Frederick                     | --  | 422     | --  | 427 |
| 4  | Mr. Canty                         | --  | 424     | --  | --  |
| 5  | Howard Parker                     |     |         |     |     |
| 6  | Ms. Livesay                       | 429 | --      | 478 | --  |
| 7  | Mr. Frederick                     | --  | 441     | --  | 480 |
| 8  | Mr. Canty                         | --  | 474     | --  | --  |
| 9  | <u>Thursday, October 16, 2014</u> |     |         |     |     |
| 10 | Keir L. Johnson                   |     |         |     |     |
| 11 | Ms. Livesay                       | 526 | --      | 635 | --  |
| 12 | Mr. Frederick                     | --  | 551     | --  | --  |
| 13 | Mr. Canty                         | --  | 604     | --  | 640 |
| 14 | Heather von Herrmann              |     |         |     |     |
| 15 | Mr. Frederick                     | --  | 648,664 | --  | --  |
| 16 | Mr. Canty                         | --  | 654,669 | --  | --  |
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1 THE COURT: Mr. Frederick?

2 MR. FREDERICK: Yes, sir.

3 THE COURT: And Mr. Canty?

4 MR. CANTY: Yes, Your Honor.

5 THE COURT: Ask the jury to come in, please.

6 (WHEREUPON, the jury came into open court at  
7 approximately 9:48 a.m.)

8 THE COURT: There's no assigned seat, just sit  
9 down wherever, doesn't matter, just sit down. All  
10 right, good morning, ladies and gentlemen. You see a  
11 pad and pen in the seat. The very first thing you need  
12 to do is put your name on the top of it. Take your pad  
13 and pen, write your name on the top of the pad, please.

14 All right. So we are going to commence the case  
15 of the State of South Carolina versus Carnail M.  
16 Graham and Thomas Booker James. And I told you  
17 yesterday and you understand that the State has charged  
18 these two defendants with the crime of murder. The  
19 very first thing that's going to happen in this case is  
20 the clerk is going to administer your oath to you, so  
21 if you would all please stand at this time.

22 (WHEREUPON, all jurors were duly sworn.)

23 CLERK OF COURT: You may be seated.

24 THE COURT: Have a seat. Is there any member of  
25 the jury panel that did not affirmatively take the oath

1 as given by the clerk? If so, please stand. No juror  
2 having stood, I find the jury to be properly sworn in  
3 this matter.

4 Remember I told you when I read to you the charge  
5 that the State has brought or levied against these two  
6 defendants. That was the indictment. The charge  
7 indictment, the document that brings this matter to  
8 court. I remind you again that that was not and is not  
9 evidence in this case. The evidence in this case will  
10 come to you solely from the witnesses who come before  
11 you and testify under oath and any other type of  
12 documentary or physical evidence that the Court will  
13 allow into evidence in this case.

14 From that evidence alone you will be called upon  
15 to make your decision in this particular matter. You  
16 collectively, talking about you, you the jury  
17 collectively, will be the judges of the facts of this  
18 case. The Court will not in any way indicate to you  
19 what I believe the facts of this case are because that  
20 part of the case is not my responsibility and not my  
21 job. It is your job and your responsibility to listen  
22 to the facts and evidence presented and find the facts  
23 and evidence you find to be true in this case.

24 Now, to that indictment, the charge that the State  
25 has brought against the defendants, the defendants have



17

1 pled not guilty. That puts the burden of proof on and  
2 is always on the State of South Carolina to prove the  
3 defendants guilty beyond a reasonable doubt. I tell  
4 juries all the time, the defendant need not even show  
5 up for trial because they don't have anything to prove  
6 to you. They don't have anything to show to you. The  
7 State must prove its case against each defendant beyond  
8 a reasonable doubt.

9 And while we're talking about that, these are two  
10 cases. You must decide both cases. Your decision on  
11 one does not control your decision on the other. There  
12 are two separate defendants. The State has brought the  
13 charge of murder against each defendant. The State  
14 must prove its charge against each defendant beyond a  
15 reasonable doubt. They are being tried together in the  
16 interest of justice and to present duplication of  
17 efforts. But, in essence, you are trying two cases at  
18 once.

19 Being the judges of the facts means you will be  
20 called upon to judge the credibility and the  
21 believability of the witnesses that come before you and  
22 testify in this particular case. And if you're  
23 thinking, how do I judge somebody's credibility and  
24 believability, think about it for a second, it's  
25 something you do every single day of your life.

1       When somebody tells you something, you're  
2 automatically thinking, judging whether or not you  
3 believe them. How do you do that, you use your good  
4 common sense, you use your good judgment that you use  
5 conducting your own affairs. That's what we're asking  
6 you to do during this trial, use your good common  
7 sense, use your good judgment, listen to the facts and  
8 evidence. Find that evidence which convinces you of  
9 its truth. And then you're going to look at that  
10 evidence, weigh that evidence and see did the State  
11 prove that particular defendant guilty beyond a  
12 reasonable doubt of the crime or crimes charged.

13       At the very end of the case I will explain to you  
14 the law that you have to use in this case. But the  
15 basics are you're the judges of the facts, and the  
16 State has to prove the case to you beyond a reasonable  
17 doubt. That's the State's job throughout the entirety  
18 of the trial regarding all elements of the crime.

19       During the course of the trial the attorneys may  
20 raise certain matters to the Court, a motion, a  
21 question, something may come up -- may come up. If I  
22 talk about that with the lawyers in your presence and I  
23 don't send you back to the jury room so that I can  
24 fully discuss it with the lawyers, please remember  
25 about one of my duties, that is governing the conduct

1 of the trial, how the trial will be conducted.

2 But I am not making any comments about who to  
3 believe or not to believe, somebody's credibility or  
4 believability. I will just be saying is something  
5 proper for the jury to consider or not. Then it will  
6 be your job to give it the examination, the weight you  
7 decide it needs once it comes into evidence.

8 I told you this very briefly before I let you go  
9 yesterday. I do not want you in your jury room to talk  
10 about this case, discuss this case in any way before I  
11 give it to you at the end for your deliberations and  
12 your unanimous decision. To do so beforehand, you'd be  
13 discussing the case before you've heard all of the  
14 evidence, before you know the law that you have to  
15 apply to the evidence.

16 So don't talk about this case. Talk about  
17 anything else you want to but not that. You'll have  
18 all the time you need necessary to talk about the case  
19 before you come to your unanimous decision in these  
20 matters.

21 We're going to hear the opening statements of the  
22 attorneys, we'll hear the evidence, then we'll hear the  
23 closing arguments, the charge on the law, and then I  
24 submit the case to you for your deliberations. That's  
25 the order of things.

1       Regarding the opening statements and the closing  
2 arguments, they are important. The opening statements,  
3 they are the attorneys' introduction to you of what  
4 they believe will happen during the course of the  
5 trial. The closing, their comments on what has already  
6 happened during the course of the trial.

7       The opening statements, closing arguments, that's  
8 not evidence, can't be considered by you in any way as  
9 evidence in this case. Pay attention, but it's not  
10 evidence. It's their suggestions, it's their comments,  
11 that's all it is. All right.

12       So with that, I'll turn it over to the lawyers for  
13 their opening statement. Solicitor?

14       MS. LIVESAY: Thank you, Your Honor.

15       Ladies and gentlemen of the jury, I am Nancy  
16 Livesay, I am a prosecutor in this case. And I am a  
17 prosecutor for here in Horry and Georgetown County.  
18 Now, the judge has already told you, you are here for a  
19 murder case. Right away, there is no doubt this is a  
20 murder case. I'm going to give you very quickly what  
21 you're going to see.

22       But first of all, I'm going to tell you, it's a  
23 murder because a 19-year-old unarmed young woman was  
24 shot in the chest. That is a murder, make no mistake  
25 about it. When she was shot, that was a murder. She

1 was 19 years old.

2 Now, the question is what happened? Not only what  
3 happened but who did it? The first witnesses I call to  
4 the stand are going to tell you what happened. What  
5 unfolded, was she just shot, what were the  
6 circumstances around it.

7 First of all, I'm going to tell you she was shot  
8 around 3 o'clock in the morning, 3 a.m., on a Tuesday  
9 night. So that's where we start, in her own home.  
10 Then I'm going to tell you at 3 o'clock while she's in  
11 there watching TV, laying on the couch, boyfriend lived  
12 in the house, cousin lived in the house, they were in  
13 their rooms, boyfriend was in his bed, the cousin was  
14 in his bed, and the victim is laying down watching TV;  
15 while she's in there watching TV laying on the couch  
16 Tuesday night, you're going to hear a brown van starts  
17 circling that neighborhood.

18 She lives in a little neighborhood dead end, 10,  
19 15 mobile homes in there. Dead-end road, the street is  
20 a dirt path, that's her neighborhood. So while she's  
21 in there sleeping, watching TV, hanging out, laying on  
22 the couch, you're going to hear a brown van starts  
23 circling that neighborhood looking around.

24 Then you're going to hear that brown van dropped  
25 off two men. Then that brown van goes to the end of

1 that dirt road and sits there and waits, parks.

2 Driver's side out, ready to go.

3 Then you're going to hear the next thing people

4 hear once he drops off those two men and he's waiting

5 at the end of the road. You're going to hear the

6 neighbors -- some of the neighbors heard, pow, pow,

7 pow, gunshots coming from inside the house. You're

8 also going to hear from one of the men that lived in

9 the house at the time what he heard, pow, pow, pow.

10 But before he hears that, he's going to tell you

11 he hears a boom. That boom is when they break the

12 front door in. This isn't a case where somebody

13 knocked at the door, this is a case where they are

14 circling that neighborhood. While she's asleep on that

15 couch, they break the door in immediately in a mobile

16 home, small house. Immediately they're on top of her

17 with two handguns. That's what you're going to hear

18 right off the bat, the door is broken in, pow, pow,

19 pow.

20 Then you're going to hear somebody from inside

21 that house tell you the last thing they hear is her

22 hollering for her boyfriend. They are breaking in,

23 they are breaking in, pow, pow, pow. And then you're

24 going to hear him say what was going on in that house.

25 He's going to tell you that, I'm not going to tell you.

1 I wasn't there, he was. He's going to tell you what he  
2 saw and heard.

3 But that's a glimpse of he's going to tell you he  
4 heard that door broken in. He hears her call out. And  
5 then as soon as she calls out, bang, the gunshots.

6 Now, then, what we hear or what goes on after  
7 those gunshots, pow. You're going to hear that then  
8 that van cranks up and starts down that road, and two  
9 men come running out of that mobile home. They get in  
10 that van and take off.

11 Now, that's what happened, planned, organized,  
12 driver, two guns men. They break the door in, they  
13 shoot her, kill her, then take off. That is what  
14 happened in this case. That's what the evidence is  
15 going to show.

16 Now, I'm going to show you pictures of the house,  
17 you're going to see that. You're going to hear from  
18 the boy that was in the house. You're also going to  
19 hear from Dr. Proctor. He's going to tell you the  
20 cause of death and how she was shot. She was shot in  
21 the left front chest area. He's also going to tell you  
22 that he removed the bullet that was lodged in her back.  
23 Now, that's what happened, this young woman was killed,  
24 she was murdered.

25 So the question is, who did it? There's no doubt

1 she was murdered. Who did it? There's no doubt it was  
2 planned out. 3 o'clock in the morning they come  
3 busting in with loaded handguns with a driver. The  
4 driver cranks up, picks them up, heads off. So there's  
5 no doubt we have a planned and a premeditated murder.  
6 Now, the question is, who did it?

7 Who is driving that van, who is in that van, what  
8 happened in that small room of that mobile home when  
9 she was shot? Because the only people that were in  
10 that room when she was shot was her and the two men  
11 that shot her. So these are the holes that we're now  
12 trying to fill. What happened, who did it, who was in  
13 that room, who was driving that van?

14 But what you're going to hear is after they did it  
15 they went and ditched the van. Because obviously now  
16 they've been involved in a burglary and a murder. They  
17 broke in, they killed a young girl. So the first thing  
18 is ditch that vehicle. That's when it starts unfolding  
19 who did it, who was in that van.

20 You're going to hear shortly after that van was  
21 ditched what brought it to the police's attention, it  
22 was reported stolen. Because people were seen in that  
23 van before this murder, so nobody wanted to put  
24 themselves in that van. Then it was stolen. I didn't  
25 have the van, it was stolen. That's when we start



25

1 unfolding who did it, who had something to do with it.

2       You're going to find out that a man named Keir  
3 Johnson was the driver of that van. That's what you're  
4 going to find out. And the way you're going to find  
5 that out is Keir Johnson is going to tell you he was  
6 driving that van. That's what he's going to tell you.

7       See, three people were involved in this murder  
8 because it took three to execute it, a driver and two  
9 guns men. Three people are charged with murder,  
10 including Keir Johnson. He was the driver and he's  
11 also charged with murder. He's going to tell you, I  
12 was driving that van.

13       But you don't have to take his word for it because  
14 we're going to have another witness that's going to  
15 tell you, yeah, a little earlier that night I saw him  
16 driving that van. So you're going to have a guy that  
17 tells you, yeah, before all this unfolded I saw him  
18 driving that van.

19       And who was in that van? That guy is also going  
20 to tell you earlier right before this shooting I saw  
21 him pick up Thomas Booker James. That's the defendant  
22 right there, white shirt shaking his head, that's  
23 Thomas Booker James. He's going to tell you I saw him  
24 get picked up. And Keir Johnson's going to tell you  
25 that's who I picked up.

1       The witness is also going to tell you there was a  
2 third person in the van, but I couldn't see who it was.  
3 Who better to tell us who was in that van other than  
4 the driver. And he's going to tell you, I picked up  
5 these two men right here. That's what he's going to  
6 tell you.

7       Now, we already knew from the witnesses that a  
8 brown van came up. There was a driver, two men went in  
9 the house, all this unfolded. And Keir is going to  
10 come in and tell you, I know who had the van, it was  
11 me. I know who I picked up and I know who I dropped  
12 off at that mobile home. And he's going to tell you  
13 when they came out in that van, they threw those guns  
14 out the window. And then we ditched the van and ran.  
15 He's going to tell you all of that.

16       Now, but what happened in that room, what happened  
17 in that small room in that mobile home. Keir Johnson  
18 can't tell us that because he wasn't in the house. He  
19 cannot tell us that. The only people that could tell  
20 us that information and fill that loophole would be one  
21 of the men that were in that house. That's no good, so  
22 it would be one of those two defendants sitting at this  
23 table.

24       And you're going to hear from a witness that tells  
25 you, I heard, I heard Carnail Graham talking about what

27

1 happened in that house that night. I heard him talking  
2 about it. That's the last loophole, what happened when  
3 that door was busted in. Because it was only the three  
4 of them in that room. And the victim is not here to  
5 tell us, she's not here to tell us.

6 But you're going to hear from a witness who was  
7 able to collect that information, who overheard a  
8 conversation from the defendant Carnail Graham that  
9 fills that last hole. And what you'll find out is when  
10 they busted that door open and they were armed with  
11 weapons, she jumped up off that couch and he  
12 immediately shot her in the chest.

13 You need to know, this victim knew these guys.  
14 All these people live right here in this area of  
15 Conway, Horry County. Make no mistake about it. She  
16 knew both of these guys, and they knew her. You're  
17 going to hear that. They knew her. Carnail Graham's  
18 girlfriend was close friends with the victim. They  
19 knew where she lived.

20 And when you see the pictures of that mobile home,  
21 you're going to see two cars, a black Tahoe, hers, and  
22 a white Lexus, the boyfriend's. And Keir is going to  
23 tell you, we saw those two cars there that night when  
24 they busted in that home. They knew that girl was in  
25 that house. They knew she was in that house, and they

1 went in there anyway with two loaded weapons.  
2 She was laying there sleeping. You're going to  
3 see the blanket and the pillow and her pocketbook.  
4 When they busted open that door, she immediately jumped  
5 up. And when she jumped up, she saw these two boys.  
6 As soon as she saw them and could identify them, she  
7 was shot immediately in the chest.  
8 That's how we know what happened that night.  
9 That's how we know she was asleep or watching TV trying  
10 to go to sleep. And while she's laying there unarmed  
11 in her own home, this bunch over here is circling that  
12 neighborhood. That's what they are doing. And you're  
13 going to hear they busted open that front door. She  
14 jumped up, and immediately as soon as she jumped up she  
15 was shot in the chest, immediately. And they took off  
16 and ran.  
17 Now, I want -- this is only a preview of the case,  
18 so you'll know what to expect. It's like a preview of  
19 a movie, so you'll know beforehand what to expect. And  
20 the first set of witnesses we put up are going to be  
21 the ones to tell you what happened, what happened that  
22 night. And then the second set of witnesses are going  
23 to tell you who did it. And that's how we are going to  
24 present this case.  
25 And I ask you, please, to listen to every witness.

1 This will be multiple witnesses. And I know sometimes  
2 days get long, and I ask you, please, try to pay  
3 attention to every witness. Everybody has something  
4 important to say. Everybody that we put up is going to  
5 add facts and evidence that are important to this case  
6 and important to all of you as the fact finders.

7 Now, this is a very important case, not only for  
8 the State but also the defense. This morning when I  
9 was driving to work, I saw -- I almost -- I never  
10 hardly ever introduce anybody from the victim's family.  
11 But this morning I was driving to work and I saw a man  
12 with his dog standing at the bus stop with the  
13 umbrella. It wasn't raining yet, but he was out there  
14 with his daughter with that umbrella just in case.

15 This is an important day for Ronnie Pertelle, that  
16 is the victim's father, right there on the end with  
17 that collared shirt. This is an important day for him.  
18 This little girl was killed unarmed and innocent in her  
19 own home. Please pay attention to all the evidence  
20 presented. And at the end, I'm going to come back and  
21 ask you to find those two defendants guilty. Thank you  
22 for your time.

23 THE COURT: All right. Mr. Frederick.

24 MR. CANTY: Your Honor, he's actually deferred to  
25 me to go ahead.

1 THE COURT: I'm sorry. Mr. Frederick, you're not  
2 going to make an opening statement?

3 MR. FREDERICK: Judge, can we approach?

4 THE COURT: Yes.

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

8 MR. FREDERICK: It's my turn. First, I got to  
9 tell you that standing here in front of y'all, I'm  
10 terrified, I am scared. I'm terrified for Thomas. For  
11 about going on three years now I've been entrusted with  
12 Thomas' case and Thomas' life.

13 On the night that this happened -- let me begin by  
14 saying Thomas is no angel. From what I understand,  
15 Carnail is no angel, they know that. On the night that  
16 this happened, Thomas, not Carnail, my client, Thomas,  
17 was at Billy Freshley's house. You're going to hear a  
18 lot of names during this trial. And I apologize for  
19 that, but it is what it is. We have to try to keep  
20 them straight, Billy Freshley's house.

21 There were a lot of people at Billy Freshley's  
22 house. And people hang out at Billy Freshley's house.  
23 They call it the studio. They hang out there, they  
24 deal drugs from there. They record music. There were  
25 many people at Billy Freshley's house like there

1 usually are.

2 Keir Johnson, Bootsie he goes by, came to Billy  
3 Freshley's house in this van, the same van that you  
4 heard the prosecutor describing that was driven to the  
5 robbery where Keia was killed. He came to this house  
6 in a van, we don't know the exact time, around one or  
7 2 o'clock. And into that van piled a bunch of people,  
8 including Thomas, people who are not on trial, some of  
9 them who did not go on this robbery. And you should  
10 hear that through the State's witnesses.

11 They left Billy Freshley's house, they went to  
12 McDonald's, they left McDonald's, they went to Kel's  
13 house, K-E-L, Kel, that's Markel Rush. At Markel  
14 Rush's house is Markel and his brother Cordel Rush,  
15 Markel's ex-girlfriend, his girlfriend at the time, her  
16 name is Kirstan West. They're all hanging out at Kel's  
17 house, they're partying, they are doing what they do.

18 And a group of those people with Bootsie, Keir  
19 Johnson, got into that van and went to commit a  
20 robbery. They planned it. It was no accident. They  
21 planned it, they knew where they were going. Thomas  
22 was supposed to go with them. The people that got into  
23 that van were Bootsie, Keir Johnson who was driving the  
24 van, Donovan Johnson, 110, Sha'Rah McCray called Lil  
25 Manzy or Lil D, and Brandon Wells, they call him

1 B-Wells.

2 Thomas said, I ain't going, I ain't doing it, I'm  
3 staying and I'm playing it safe. And he stayed at  
4 Kel's house with Kel, Cordel Rush and Kirstan West  
5 while they drove off in the van.

6 It wasn't too long after that at Kel's house the  
7 front door bust open and Brandon Wells, B-Wells, comes  
8 running in, runs straight to the bathroom and starts  
9 throwing up in the toilet. As that happens,  
10 everybody's phone starts blowing up. Something  
11 happened, something went wrong, somebody's dead. Kel  
12 tells everybody, get the F out of my house, none of you  
13 are staying here. And everybody that was in the house  
14 left on foot, walking.

15 What happened in the van? The person's house it  
16 was was Rodney McElveen. They call him Splurge.  
17 Splurge also is a drug dealer. When they were going to  
18 this house, they were going to rob him for his drugs,  
19 maybe some money if he's got cash in the house.

20 At the house the witnesses on the scene, the fact  
21 witnesses, a guy named David Grissett sees that van  
22 pull in, sees it pulling through that mobile home park.  
23 It's right around 3 o'clock in the morning. Now, this  
24 is kind of a scary place, this mobile home park. It  
25 ain't a nice neighborhood.



1 But David Grissett sees that van riding around  
2 slow, and he calls another neighbor, Conswella Smith,  
3 and he says, look out, something is about to happen.

4 Conswella comes out, outside, to see what's going  
5 on, and she sees the van. And there is somebody in the  
6 driver's seat of the van. She told this to the police,  
7 there is somebody in the driver's seat of the van. And  
8 there's somebody that gets out of the van and walks up  
9 to her and talks to her, asking her for directions,  
10 playing it cool. He says his name is Q. None of these  
11 people that I just told you were in the van, their  
12 names are not Q.

13 While she's out there and David Grissett is still  
14 outside, they hear gunshots. Right after they hear the  
15 gunshots two more people, two people in the van, two  
16 people in that house, come running out of the house.  
17 They are wearing blue latex gloves. They jump in the  
18 van and the van takes off.

19 Conswella Smith told the police there were two  
20 people in that van, and there were two people in the  
21 house. She told investigators that those two people  
22 who came running out of the house were short,  
23 light-skinned black men. Conswella Smith and David  
24 Grissett know Thomas and they know Graham. Both of  
25 them said it was not Thomas and it was not Carnail.

1        So what happened when they left the house. They  
2 took off immediately. David Grissett and Conswella  
3 Smith called 911. They told them, we just heard  
4 gunshots, they described the van, and the police came  
5 from all different directions, they came. The van has  
6 taken off, Bootsie, Keir Johnson, is flying down the  
7 road.

8        As they are going down the road, one of the  
9 officers responding to the scene passes them, sees the  
10 van, recognizes the van from the description that  
11 Conswella and David Grissett gave them. He does a  
12 U-turn and he chases them. And he follows it.

13       And Bootsie, Keir Johnson, gets away from him. He  
14 loses them, he don't know where they went. He keeps  
15 looking for a little while, and then finally they say,  
16 look, you got to get back to the scene, we need you out  
17 here. Then he goes back to the scene.

18       They got to Keir Johnson because he ditched that  
19 van in a girl's yard named Tiffany Oliver. And Tiffany  
20 called the police and said, there's a van in my yard.  
21 As soon as he had ditched the van -- you see, to back  
22 up to before, Keir Johnson went out to Billy Freshley's  
23 house. He was seeing this girl, and he didn't tell her  
24 what he was into. He had only been seeing her about a  
25 month, but he took her van.

1       The van belonged to that girl's mother. The  
2 girl's name is Tiara Brown. He took her van. She  
3 said, don't, don't go, don't do this. He just said he  
4 was going to get some food or something. And she said,  
5 you can't go, you don't have a driver's license. And  
6 he took the van anyway.

7       And then after all of this happened, he calls her  
8 and he tells her, somebody just robbed me. I pulled up  
9 to a convenience store and some guy just came up to me,  
10 put a gun to my head and said, you know what time it  
11 is. And he took the van and he stole your van and he  
12 stole my cell phone. Call the police and tell them  
13 that I just been robbed and your van was stolen.

14       And so while they are at the crime scene trying to  
15 figure out what the heck happened, they get this call  
16 about the van being stolen that matches the description  
17 of the van that was at the crime scene.

18       They start looking into it, they go straight to  
19 Keir Johnson and talk to him. Keir, Bootsie, gives  
20 them an elaborate lie about how he was robbed. There's  
21 no simple lie, he goes into details. There's a man who  
22 robbed me, he was missing a tooth. He had another  
23 tooth with a -- a gold tooth with a little star on it.  
24 Gives him details about exactly where the car was  
25 parked when the guy came up to him, exactly what they

1 were doing there.

2 Surely there's video cameras, you can pull the  
3 video and see that this really happened to me. And the  
4 whole time he's talking to the investigator he just  
5 keeps saying, I'm telling you the truth. I ain't going  
6 to sit up here and lie to you, I'm going to tell you  
7 the truth over and over. I'm going to tell you the  
8 truth, I ain't no liar.

9 And then they already know that he's lying. They  
10 know that the cell phone wasn't stolen, they found the  
11 van. This investigator gets his cell phone records and  
12 looks at his cell phone records. And these cell phone  
13 records will tell you where a person was when they were  
14 making phone calls, where that phone was. And sure  
15 enough, Bootsie, Keir Johnson was at the murder scene  
16 at 3 o'clock in the morning. And then he was at the  
17 place where he dumped the van right after that, steady  
18 making phone calls the whole time.

19 They go back, they confront him again. They say,  
20 we know you were there, we know you did it. Your phone  
21 records tell us you were there. We're not stupid. And  
22 now, Keir Johnson, Bootsie is in a position.

23 He's got two problems. One problem is the guys  
24 that were in that car with him and him are Crips, local  
25 Crips. And usually in these trials we are trying to

37

1 not talk about gang activity. I don't know want to  
2 hide anything from you people. I want you to know what  
3 happened. I want you to see the evidence in this case,  
4 and we are not trying to hide anything. They were  
5 Crips. Thomas is not a Crip. Now, he's got a local  
6 gang, people that he hangs with, but he was not a Crip.  
7 Here's the problem that Keir Johnson had. The  
8 evidence is going to show that Keir Johnson, if he  
9 named the people who were with him, not only is his  
10 life in danger, but his family's life is in danger.  
11 These people are threatening to kill your family if you  
12 talk about them. Donavan Johnson, 110; Sha'Rah McCray,  
13 Little Manzy; Brandon Wells, B-Wells.

14 So he names -- and the other half of his problem,  
15 if he doesn't name somebody and he doesn't start  
16 talking, because they've got him, he ain't getting out  
17 of it, if he doesn't start talking he is not going to  
18 get a deal, and he's going to go to prison for life.  
19 He knows that.

20 So he names two people that he knows are not  
21 Crips, one that was with him earlier that night,  
22 another one, Mr. Canty's client, that wasn't there at  
23 any point that night. Mr. Canty's client wasn't at  
24 Billy Freshley's house, he was not at Kel's house, he  
25 was not in the van.

1 And he tells the police -- at first he tells the  
2 police, he has told the police many different stories,  
3 and you're going to hear them -- he tells them that he  
4 picked up these two. He doesn't say anything about the  
5 rest of them. He doesn't say anything about Billy  
6 Freshley.

7 He says he just picked up these two because they  
8 wanted to go get some drugs. He wasn't going to get  
9 drugs himself, he was taking them to get drugs. He  
10 didn't know anything about what happened in the house.  
11 He was just driving, he didn't know what happened.  
12 He's just a driver. He thinks this is going to get him  
13 out of it.

14 He tells them that -- he tells them that these two  
15 put a gun to his head, made him drive, forced him to  
16 drive. Then they threw the gun out the window. But  
17 after they threw the gun out the window, he kept  
18 driving. And then they ditched the van, and then he  
19 walked back to Conway. Later we find out he didn't  
20 walk back to Conway, he's still lying to them. Someone  
21 picked him up and drove him back to Conway. You're  
22 going to hear from that person too.

23 Every time they talked to him, he is lying. Every  
24 time they talked to him, it changes. Every time they  
25 figure out a lie, he says, yeah, I was lying, but I'm

1 telling you the truth now.

2 The investigators got his phone records, looked at  
3 everybody he called. They took Keia's phone, they took  
4 every phone that they could get, looked at everybody  
5 they called. They got their phone records, over 30,000  
6 pages worth of phone records. And I don't know what he  
7 did with those phone records. I'll let him explain it  
8 to you.

9 As far as I know, he either didn't look at the  
10 rest of the phone records or he looked at it and then  
11 ignored it. Because Thomas James' cell phone, based on  
12 the coverage area, these cell phones, you're going to  
13 hear when you make a phone call or a text message, it  
14 goes to the nearest cell tower in a specific coverage  
15 area. If you're outside of that coverage area, you  
16 either got no service or it goes to the next closest  
17 cell tower.

18 Thomas James was at Billy Freshley's house, and  
19 then he was at Markel's house. Before Markel's house  
20 he was at McDonald's, and then he was at Markel's  
21 house. Then at 3 o'clock, just after 3 o'clock,  
22 minutes after this robbery and murder, minutes, I mean,  
23 two or three minutes, he was at Kel's house getting  
24 texts from Billy Freshley, telling Billy Freshley he  
25 stayed at Kel's house because he wanted to play it

1 safe.

2 When the investigator continued to interview  
3 people, he got a warrant signed for murder, first for  
4 Bootsie, Keir Johnson, then for these two, Thomas  
5 James, Cutty, his name is Cutty. It's like a character  
6 from the Wire, if anybody has seen that, Cutty.  
7 Carnail Graham is Dubba.

8 When the investigator got warrants signed for  
9 murder against these two based on what Bootsie, Keir  
10 Johnson told him, from that point forward when he  
11 interviewed these witnesses, he didn't say, tell me  
12 what happened, he didn't say, tell me what you know.  
13 He said, tell me something that corroborates what Keir  
14 Johnson told me. From that point forward they've  
15 ignored the evidence in the case. In the prosecutor's  
16 opening statement, she is still ignoring the evidence  
17 in the case.

18 Let's talk about what happened in the house based  
19 on their CSI guy and their investigators. Keia was  
20 texting back and forth with Splurge the day this  
21 happened. She was texting back and forth with  
22 Carnail's girlfriend who was a good friend of hers.

23 When -- and I don't know what you do with what's,  
24 I have an idea but I don't know -- when the two went  
25 into the house, they kicked the door in, they didn't



1 kick the door in, see Keia, say, oh, my God, you know  
2 me, and shoot her, not based on their evidence that  
3 you're going to hear.

4       They kicked the door in, Keia jumped up. She ran  
5 down, it's a narrow hallway in this small mobile home,  
6 she ran down the hallway yelling for Splurge yelling,  
7 somebody is trying to come in the house. And Splurge,  
8 Rodney McElveen, is in the bedroom at the end of the  
9 hall with his guns and his drugs. And there is a door  
10 that opens into the bedroom. If you're facing that  
11 door, it opens to the right, the doorknob's on the  
12 left.

13       And behind that door is an end table that stops  
14 the door from opening all the way. So when you go in  
15 that door, you got to go in sideways. She runs down  
16 the hall. And the witness that the prosecutor was  
17 telling you is going to tell you what happened, Rodney  
18 McElveen, he ain't going to tell you what she said just  
19 now, that they came in and immediately shot her.

20       He's going to tell you that they busted in and she  
21 ran down that hallway into his door which hardly opens,  
22 and she came -- he came -- she came through that door.  
23 And he's going to tell you that he picked up his .357  
24 Magnum, that she jumped onto the bed, and in the dark  
25 before he turned the lights on, in a panic he started

1 firing, and he unloaded that gun.

2 Their SLED ballistics expert is going to tell you  
3 that the bullet that was -- that killed Keia was a .357  
4 Magnum. Then he's going to tell you it didn't come  
5 from Splurge's gun. They issued two reports. You're  
6 going to hear about both of those ballistics reports.  
7 The first one is confusing. The second one is  
8 confusing too, but the first one was ambiguous at best  
9 when you add up the number of bullets that they say  
10 came from Splurge's gun. It could be four bullets  
11 based on their own report. And there are five shell  
12 casings in this gun. But conclusively, they say this  
13 bullet didn't come from Splurge's gun.

14 And then just last week they got a different SLED  
15 analyst because the original one was going on vacation  
16 and he can't be here this week. They got a different  
17 SLED analyst to issue a new report which cleaned it up  
18 and makes it crystal clear that the State's position is  
19 that the evidence shows that there were five bullets  
20 that come from Splurge's gun and that the bullet that  
21 killed her did not come from Splurge's gun.

22 I think the judge talked a little bit about  
23 presumption of innocence. I don't believe anybody gets  
24 that in actuality. I wish they did. But what it is is  
25 when anybody is charged with any crime, accused of a

1 crime, we have to presume that that person is innocent.  
2 If this was a continuum right here in front of us  
3 and down here is guilty, 100 percent guilty, no doubt  
4 in my mind, absolutely no doubt, 100 percent guilty,  
5 and along the way somewhere up here is reasonable  
6 doubt, preponderance of the evidence, probable cause,  
7 100 percent innocent, we have to assume and presume  
8 that this person who has been accused of a crime is 100  
9 percent innocent, and we give them every benefit of the  
10 doubt.

11 One life has been lost, and it was wrong and  
12 people are suffering. That injustice has got to stop.  
13 Listen, and you got your note pads, listen and take  
14 notes. You listen and take notes on the  
15 inconsistencies in everything that these State's  
16 witnesses tell you.

17 And at the end of the trial, I'm here for Thomas  
18 James, but if you listen to what they did during this  
19 investigation, if you listen to these witnesses, you  
20 will find both of them not guilty at the end of the  
21 trial. Thank you.

22 THE COURT: Mr. Canty?

23 MR. CANTY: May it please the Court, Your Honor.

24 THE COURT: Yes, sir.

25 MR. CANTY: Ladies and gentlemen of the jury,

1 first let me thank you for your time and attention. It  
2 is often said that jury service is the highest service  
3 that a civilian can render in the governmental  
4 community. We are most grateful for your attendance  
5 here today.

6 After many years of practicing law, I finally got  
7 an opportunity to serve on a trial jury not that long  
8 ago, and it was very beneficial. I gained a new  
9 perspective on the courtroom in a trial setting from  
10 the jury box. And I'd say that the most important  
11 thing that I took away from that experience serving as  
12 a juror is juries appreciate brevity.

13 Now, I will try to be brief. If at some point you  
14 feel that I'm not being very brief, first let me  
15 apologize, second, let me say that there's probably a  
16 reason for that. And third, and this is perhaps most  
17 important, please do not hold that against Carnail  
18 Graham. Blame me, please do not blame Carnail.

19 Presumption of innocence. Let's assume for a  
20 moment that you have lived at the same address for 30  
21 years, and there's a couple that moved in next door to  
22 you 30 years ago. You're friends, you talk over the  
23 fence, you share moments together. And they brought  
24 home a child from the hospital, the wife delivered a  
25 child, a son. And you saw them bring the boy home and

1 you watched that boy grow up.

2       You saw him shortly after he took his first steps,  
3 you saw him learn how to ride a bicycle. You saw him  
4 start school, watched the school bus come and pick him  
5 up. As he got older, he joined the Boy Scouts. He  
6 even cut your grass. If you were sick he would cut  
7 your grass and wouldn't take any money for it.

8       So he became an Eagle Scout. And like an Eagle  
9 Scout, he was -- you knew him from years of living next  
10 door as trustworthy, loyal, helpful, friendly,  
11 courteous, kind, obedient, cheerful, thrifty, brave,  
12 clean, and bred good. You knew this boy's character.

13       You watched him grow up. You interacted with him  
14 on a daily basis. You saw him win the state

15 championship on the baseball team. You saw him date  
16 the homecoming queen. You saw him go off to college,  
17 succeed in college, do well, marry his high school  
18 sweetheart, move back to your town.

19       They have a child, they have another child, they  
20 have two children. He has a successful business. His  
21 wife is a leader in the community. You know his  
22 character, you've known him since the day they brought  
23 him home from the hospital 30 years ago. And you trust  
24 him with your life.

25       And then one day you open the newspaper and you

1 see a color photograph above the fold, and this boy has  
2 been arrested and has been charged with armed robbery  
3 and murder. And you read on. And it says that he  
4 protests his innocence, he says he didn't do it. And  
5 what is your response to that. Your response is,  
6 they're going to have to prove that to me. I know that  
7 boy, I've known him all his life. I don't think he did  
8 it. They are going to have to prove that to me.

9 That is a presumption of innocence. And as  
10 Mr. Frederick indicated, down here at 0 percent, that's  
11 where you start. Our system of criminal justice  
12 depends upon juries who subscribe to the notion of the  
13 presumption of innocence. And my client is presumed  
14 innocent.

15 Let's talk about the burden of proof. The judge  
16 will tell you, everyone who comes into this courtroom  
17 as an accused comes wearing a cloak, like the black  
18 robe the judge has on, they come in wearing a cloak of  
19 innocence, every accused person. And it's the burden  
20 of the State to strip away that cloak of innocence.

21 And we've got different standards of proof of  
22 evidence. There's something called a scintilla of  
23 evidence, that is the slightest evidence, that's not  
24 going to convict him. Then you have something more  
25 substantial, some evidence, not enough to convict him.

1 Tie goes to the runner, another way of considering it.

2 Then you can have substantial evidence, not enough  
3 to convict. You can have a preponderance of the  
4 evidence. Let's say you envision the scales of  
5 justice. And in a civil case, a wreck case, for  
6 example, one side or the other has to tip those scales  
7 ever so slightly. Think of it as the 51 percent rule,  
8 a preponderance of the evidence, not enough to convict.

9 Under your oath, if they show a preponderance of  
10 the evidence, you must bring back a verdict of not  
11 guilty. They have to go beyond that. They have to go  
12 way on down to this end, and this is evidence beyond a  
13 reasonable doubt. And the judge is going to tell you  
14 what beyond a reasonable doubt means.

15 There are several ways to look at it. A doubt for  
16 which you can give reason. When you're in the jury  
17 room and you're deliberating, you're discussing the  
18 evidence that you've seen, one person says, I think  
19 they're guilty, one person says I don't think they are  
20 guilty, I don't think the State has proven their case.  
21 If you can give a reason, that is a reasonable doubt,  
22 if you can give a reason, what a reasonable person  
23 would consider a reason to doubt.

24 Now, let's talk about objective evidence. There's  
25 two types of evidence, there's objective and

1 subjective. And the difference is pretty simple.  
2 Subjective evidence is a matter of opinion. I saw the  
3 guy and I think that was him. That's my opinion. I  
4 look at all this data and this is the conclusion that I  
5 reach. That's subjective. I see that oil painting, I  
6 think that's a nice oil painting. That's subjective,  
7 that's somebody's feeling, somebody's opinion.

8 Then you've got objective evidence. And the best  
9 way I can describe objective evidence is it's not  
10 somebody's opinion, it's something in black and white.  
11 And as Mr. Frederick alluded to earlier, the State has  
12 got 30,000 pages of cell phone data collected between  
13 the hours of midnight and 6 a.m. on November the 8th,  
14 2011, from cell towers in Conway, west of Conway, south  
15 of Conway.

16 Cell towers don't have friends to reward. Cell  
17 towers don't have enemies to punish. Cell towers do  
18 not form opinions. All they do is record what  
19 transpires, what number called at what time, who did  
20 they call, how long did they talk. Text messages, it  
21 actually had the texts of the text messages. And the  
22 State has 30,000 pages of cell phone data. So we've  
23 got objective evidence.

24 We've got 911 recordings, 911 database. They  
25 don't just record what people said, they also record



1 the time of the call, the telephone number of the  
2 person calling, etcetera. That's objective evidence.

3 The computer that records that data, no friends to  
4 reward and no enemies to punish, all that does is make  
5 a record of everything that happens. The State has  
6 that data.

7 They have the bullets, they have bullet fragments.  
8 They have gunshot residue, tests that they've done.  
9 They have ballistic tests that they've done. They have  
10 fingerprints and palm prints from the van that was  
11 involved in the murder. They have DNA evidence. They  
12 have tire tracks, they have footprints, they have  
13 plaster casts of tire tracks and footprints. All of  
14 that is objective evidence, that is not somebody's  
15 opinion.

16 And here's the problem that they have. I  
17 characterize it as a mountain, they have a mountain of  
18 objective evidence, forensic evidence, a mountain of  
19 it, 30,000 pages of cell phone data. And here's the  
20 problem that the State has. That mountain of objective  
21 evidence is not somebody's opinion. Not only does it  
22 not implicate Carnail Graham, it exonerates Carnail  
23 Graham.

24 And under the rules we're required to give notice  
25 of an alibi. And we did that, because Carnail Graham

1 was about seven miles away when this crime was  
2 committed. And we will put up witnesses who will  
3 corroborate that, and cell phone data will corroborate  
4 that.

5 Now, you heard the solicitor say, we've got a  
6 cooperating witness, a state's witness. His name is  
7 Bootsie. And Bootsie's claim to fame in this case is  
8 of the four men who committed this crime, and there  
9 were four of them, Bootsie is going to tell you there  
10 were three. He's only named my client and Mr.  
11 Frederick's client. In fact, there were four, and I  
12 think Mr. Frederick actually named the other three.

13 Of the four men that committed this crime, Bootsie  
14 is the only one who got caught. And when he got  
15 caught, he made up this fantastic story which was a  
16 lie, we'll call it statement number one. And I  
17 mentioned an oil painting earlier and subjectivity.  
18 Some artists work in oil colors, some artists work in  
19 water colors.

20 Bootsie is an artist who works in mendacity. And  
21 mendacity is just a fancy word for saying untruths.  
22 That's what Bootsie does. And you don't have to take  
23 my word for it, you don't have to take anyone else's  
24 word for it. Bootsie himself will sit on that stand  
25 under oath, and he will tell you, I'm a liar, I lied a

1 lot in this case. He actually made four statements.

2 Here's what Bootsie is going tell you. He's going  
3 to say that first statement, lies, disregard that. The  
4 second statement that I gave, some of that was true,  
5 some of it was a lie. Disregard the lying part and  
6 believe the truth part. The third statement, that was  
7 the truth. And the fourth statement, that was a lie.

8 So you're going to need your notepads when you  
9 listen to Bootsie's testimony to keep track of what he  
10 admits he was lying about and what he claims he was  
11 telling the truth about. And what he claims he was  
12 telling the truth about is going to be contradicted by  
13 a stream of witnesses, disinterested third-party  
14 witnesses who had no friends to reward and no enemies  
15 to punish, and the objective data, the cell phone  
16 records.

17 You're going to hear what Bootsie now tells you  
18 that you should believe because he ain't lying. And  
19 all the other evidence is going to say, yeah, he's been  
20 lying.

21 And now, we need to talk about something else, and  
22 that is the jailhouse snitch. There was a reference to  
23 someone who overheard a conversation. Bootsie was  
24 arrested on November the 8th, and he made bond on that  
25 charge. Then when the police had gathered enough

1 evidence to prove that he was involved in the murder,  
2 about three weeks later they arrested him for the  
3 murder. They put him in jail around the 1st of  
4 December, 2011. And Bootsie sits in jail day after  
5 day, week after week, month after month.

6 Round about, oh, February, March, he says, here's  
7 what I can do to get out of here, and he concocts the  
8 story that was related to law enforcement. And they  
9 are saying now that they've got somebody who overheard  
10 Carnail admit the crime. Well, we'll see. I think  
11 you're going to find, once again, objective evidence,  
12 that is not someone's opinion, objective evidence that  
13 that person is not telling the truth.

14 This case is a tragedy. I have a daughter. I  
15 hate thinking of how I would feel if I lost her. And I  
16 feel sorry for Mr. Pertelle. Everything I've heard  
17 about Keia, and one of her good friends is going to be  
18 a witness in this case, is that she wasn't just  
19 beautiful on the outside, she was beautiful on the  
20 inside. She did not have an enemy. This is a tragedy.

21 And the case we're trying here today is murder,  
22 the murder of Keia Pertelle. And what Mr. Frederick  
23 alluded to is the possibility -- I wasn't there -- the  
24 possibility based on the ballistic evidence and changes  
25 in the SLED ballistic report from report one from 2011.

1 and report two in 2014, the possibility that Splurge  
2 who was asleep when the door was kicked in, he may or  
3 may not have been under the influence of some drugs at  
4 the time, heard Keia yell, they are breaking in.

5 His testimony, his statement is, she came running  
6 down the hall. The door would only open about  
7 45 degrees, it was obstructed. And she jumped over him  
8 onto the bed behind him, and then he emptied his .357  
9 down that hallway. And you'll see the photographs and  
10 you'll see the ballistics. They put ballistic rods in  
11 the bullet holes so you can tell which direction the  
12 bullet came from.

13 There's a bullet in the door frame, there's a  
14 bullet in the kitchen cabinet, there's a bullet in the  
15 floor and there's a bullet in the ceiling. And  
16 unfortunately, no one intimates or contends that  
17 Splurge had any ill feelings whatsoever towards Keia,  
18 just that she was beautiful inside and outside.

19 But by accident, a tragic accident, a tragic  
20 mistake, in the dark, protecting his cocaine -- they  
21 found about four ounces of cocaine in his room and an  
22 assault rifle and a .44 Magnum revolver and about \$1200  
23 in cash -- and protecting his guns and his drugs and  
24 his money in the dark, awakening, that he may have  
25 accidentally shot her and killed her. And that would

1 be a tragedy. Her death is a tragedy.

2 When you listen to all of the evidence in this  
3 case and you retire to deliberate, you consider whether  
4 or not there is a reason to doubt. There are dozens,  
5 there are scores, there are hundreds of reasons to  
6 doubt, A, that this was in fact a murder as opposed to  
7 a tragic accident, a mistake; B, most certainly that  
8 Carnail Graham had anything whatsoever to do with it.

9 And I would ask you follow your oath after you  
10 hear all of the evidence, and return a verdict of not  
11 guilty. Thank you.

12 THE COURT: All right. Madam forelady, ladies and  
13 gentlemen of the jury, go to your jury room for a few  
14 minutes, please. Thank you very much. Leave the pads  
15 and pens here. Thank you.

16 (WHEREUPON, the jury exited the courtroom at  
17 11:01 a.m.)

18 THE COURT: We'll take a short break about ten  
19 minutes. Thank you very much.

20 (WHEREUPON, a brief recess was taken at  
21 11:02 a.m.)

22 THE COURT: Thank you very much, you may be  
23 seated.

24 MR. FREDERICK: Judge, can we approach?

25 THE COURT: Sure, absolutely.

1 be-leaved juror.

2 All right; is the State ready for the jury to come  
3 in?

4 MS. LIVESAY: Yes, sir.

5 THE COURT: And the defense, Mr. Frederick?

6 MR. FREDERICK: Yes, sir.

7 THE COURT: And Mr. Canty?

8 MR. CANTY: Yes, Your Honor.

9 THE COURT: All right, very good. Ask the jury to  
10 come in.

11 (WHEREUPON, the jury came into open court at  
12 approximately 11:32 a.m.)

13 THE COURT: All right. Based upon reasons  
14 sufficient to the Court, the Court has relieved from  
15 his duties and responsibilities juror number 44. With  
16 that, based upon the proper procedure, in accordance  
17 with the code section, the Court has substituted in as  
18 a regular member of the jury juror number 17.

19 So, Mr. Barnhart, move over one seat. You are now  
20 a member or a regular member of the jury in this case.  
21 And with that, ma'am, you remain as the remaining sole  
22 alternate in this case, all right. Thank you.

23 All right. Solicitor, your first witness, please.

24 MS. LIVESAY: Thank you, Your Honor. At this time  
25 the State calls Carlton Watts to the stand.

1 THE COURT: While he's doing that, ladies and  
2 gentlemen, look at your pads and pens, make sure,  
3 number one, you've got your pad and your pen. And if  
4 you made any notes prior to this first witness, what I  
5 want you to do is you take your pen and you draw this  
6 great big line across your notes. Because that will  
7 indicate to you everything above that line is not  
8 evidence in this case. You may not use it to make your  
9 decision. It is not evidence. Thank you very much.

10 CARLTON DARNELL WATTS, after being duly sworn,  
11 testified as follows:

12 CLERK OF COURT: Please be seated, state your full  
13 name, spell your last name for the Court, please.

14 THE WITNESS: Carlton Dontrell Lamonte Watts,  
15 W-A-T-T-S.

16 THE COURT: All right, sir. We're going to need  
17 you to spell your whole name. Start with the first  
18 name, please.

19 THE WITNESS: C-A-R-L-T-O-N, Carlton.

20 THE COURT: And did you have a middle name? I'm  
21 sorry.

22 THE WITNESS: Yeah. Dontrell.

23 THE COURT: Okay. Can you spell that also,  
24 please.

25 THE WITNESS: D-O-N-T-R-E-L-L.



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1 THE COURT: Thank you, sir. You may proceed,  
2 solicitor.

3 MS. LIVESAY: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q And Mr. Watts, where are you currently living?

7 A

8 Q Okay. And where are you from?

9 A Conway, South Carolina.

10 Q Okay. And have you lived here your whole life?

11 A Majority of it.

12 Q Okay. And where are you currently working?

13 A Nostalgia, Pavilion Park.

14 Q Okay. And how long have you been working there?

15 A Five years.

16 Q Okay. And do you remember where you were living  
17 in August of 2011?

18 A Yes, ma'am.

19 Q And where were you living then?

20 A Brown Swamp.

21 Q Okay. And who was living in that mobile home with  
22 you?

23 A Me, my cousin Keia and Splurge.

24 Q Okay. What's Keia's last name?

25 A Pertelle.

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1 Q Okay. And about how long had y'all lived there in  
2 Brown Swamp?

3 A Probably about five months.

4 Q Okay. And is Brown Swamp in Conway?

5 A Yes, ma'am.

6 Q Okay. And had you lived there the entire five  
7 months?

8 A Yes, ma'am.

9 Q Okay. And did you have your own room there?

10 A Yes, ma'am.

11 Q And did they have a separate room?

12 A Yes, ma'am.

13 Q Okay. Where was their room in relationship to  
14 yours?

15 A On the other end of the trailer.

16 Q Okay. So yours is on this side, and there's was  
17 on the other side (indicating)?

18 A Yes, ma'am.

19 Q Okay. And it was a mobile home?

20 A Yes, ma'am.

21 Q Okay. Did you have a car at that time?

22 A No, ma'am, I didn't.

23 Q Okay. Did Keia or Splurge have a car?

24 A Yes, ma'am.

25 Q Okay. And if you don't mind, tell the jury what

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- 1 kind of car Keia had.
- 2 A She had a black Tahoe.
- 3 Q And what kind of car did Splurge have?
- 4 A A white Lexus.
- 5 Q Okay. And had they had those cars for the five
- 6 months they had lived there?
- 7 A Yes, ma'am.
- 8 Q Okay. And where did they park those cars?
- 9 A In the back yard.
- 10 Q Now, did all of y'all use the same entry door in
- 11 that trailer in the home?
- 12 A Yes, ma'am, the back door.
- 13 Q And was it the front door or the back door?
- 14 A The back door.
- 15 Q Okay. Now, do you remember the night that Keia
- 16 was shot?
- 17 A Yes, ma'am, I do.
- 18 Q Okay. Now, were y'all all at the house that
- 19 night?
- 20 A Yes, ma'am.
- 21 Q Okay. And were both cars at the house that night?
- 22 A Yes, ma'am.
- 23 Q Okay. If you don't mind, tell this jury what
- 24 happened that night.
- 25 A All that night I been in my room or whatever, I

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1 didn't really come out that night. But prior to that I  
2 have came out to get something to drink, and she was on  
3 the chair or whatever. So I asked her like why you was  
4 on the chair. She didn't really say nothing. But I  
5 was like, well, you need to get up and go into bed.  
6 And she was like, I am in a minute.

7 So I went back to the room or whatever, and I  
8 start listening to music on the iPad. Then I fell  
9 asleep. Probably like 30 minutes to 45 minutes, that's  
10 when I hear a big boom and like three or four shots go  
11 off. And I jumped up, then I just jumped back on the  
12 bed and just rolled under it and just started praying  
13 and everything.

14 And then like I hear like two or three more shots  
15 go off. And then I hear her scream, and she's like,  
16 Splurge, Splurge, they're breaking in. And then  
17 another two shots go off. By that time I'm just  
18 thinking to myself like, I don't really know what to  
19 think really, to be honest with you. I just started  
20 praying to God because that's the only thing I know to  
21 do.

22 So then after that, I just hear whoever was in the  
23 house or whatever, they just screaming, where is it,  
24 where is it, we're not playing, where is it. And by  
25 that time, I'm just still there just thinking like that

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1 I just don't let it -- let it be long. So then more  
2 minutes go by, I'm just there, just listening to  
3 everything that's going on.

4 Then it got -- it just get quiet, real quiet, and  
5 then the alarm was just going off, it's just steady  
6 going off. So I just waited until I felt like it was  
7 safe to come out. And once I did, I just ran out the  
8 back door. And as I'm running out the back door, a  
9 woman and a man, they approaching me. I'm running  
10 towards them.

11 They on the phone and they like, we already called  
12 the police, we heard the shots so we called the police.  
13 We already -- we already called the police and whatnot.  
14 And so I asked them do they have a phone because I  
15 wanted to call my family and let them know what  
16 happened and whatnot.

17 And by that time they had let me go into their  
18 trailer or whatever because I didn't have on no shoes  
19 or no shirt. So I had to go inside the trailer, and I  
20 used their cell phone. And I had called her brother  
21 and my aunt, and I had told them what happened. And I  
22 had told them that somebody had broke in and they were  
23 shooting.

24 And so by that time I'm headed back towards the  
25 apartment -- I mean, heading towards the trailer and

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1 whatnot. So as I'm heading back, the police are  
2 coming, I see the lights on the road, on the main  
3 highway. So them coming or whatever. And as I'm  
4 approaching the parking lot, me and the other young  
5 man, the police had came through the back way, and he  
6 was already -- already up on us.

7 So he jumps up or whatever. Then he's like, where  
8 it at. And I pointed to the apartment -- to the  
9 trailer, and I'm like, someone still in there, two  
10 people still in there actually. And he's like, okay,  
11 okay. So he tells me to stand back. And then he start  
12 demanding whoever was in the house to come out with  
13 their hands up.

14 For like two or three minutes nobody had said  
15 anything, so I was -- I'm already panicking like God,  
16 God knows what happened. So by that time -- eventually  
17 he just kept demanding for him to come out, for anyone  
18 to come out. So then as they know, he comes out with  
19 his hands up, which is Splurge. So I immediately start  
20 thinking, he's the only one coming out. So I don't --  
21 so only thing I'm really thinking is she's either shot  
22 or she's either dead.

23 And so, I don't know, I just -- just start losing  
24 it a little bit. Just like I'm really just start  
25 thinking to myself like this is crazy because she

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1 didn't come out. So I don't know what really to think.

2 So I'm asking him questions as the officer is  
3 asking him questions too, but he's not really saying  
4 anything. He acting like he's retarded. So and by  
5 that time my whole family and everybody was there,  
6 everybody pulls up or whatever. Everybody out there.  
7 And they asking me questions, but I can't really answer  
8 because I was in my bedroom the whole time. So I can't  
9 give them the answers that they wanted.

10 So then I didn't see nothing and they feeling they  
11 was getting frustrated with me. But I couldn't give  
12 them something I didn't know. So I'm just standing  
13 there asking him because I'm sure that he know.  
14 Because if you're on the other end and I'm on the other  
15 end, you're closer to her than I was. So we all like  
16 and we just -- everybody just tempers flaring,  
17 everything just started going into motion or whatever.

18 So I just thinking to myself like, I just don't  
19 know anything really. But once I see the coroner come,  
20 then I knew it was real. I knew that, you know, we're  
21 outside and she's not. So when I see the coroner, then  
22 I knew she was gone. So that's...

23 Q Let me ask you this, Carlton. Did she ever come  
24 out of that trailer that night?

25 A No, ma'am, she didn't.

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1 Q Okay. Did you ever see her again after you went  
2 back to bed when you saw her on the couch?

3 A No, ma'am.

4 Q Okay. Now, if you don't mind, I want to back up  
5 just a little bit. You need any water?

6 A No. I'm fine.

7 Q Okay. Now, when you got up that night --

8 A Yes, ma'am.

9 Q -- where was everybody in the house?

10 A She was on the couch and he was in the room, their  
11 room.

12 Q Okay. Now, then did you see her move from that  
13 couch?

14 A No, ma'am.

15 Q Okay. And then what did you do; did you just go  
16 back to bed?

17 A Yes, ma'am.

18 Q Okay. And then what was the next thing you heard?

19 A A big boom.

20 Q Okay. Could you tell where that was coming from  
21 inside the house?

22 A Yes, ma'am.

23 Q Where was that coming from?

24 A The front door.

25 Q Okay. Would you recognize the layout of that



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1 mobile home if I showed it to you?

2 A Yes, ma'am, I would.

3 Q Okay. And would that assist you in telling the  
4 jury where she was and where you were during that time?

5 A Yes, ma'am.

6 MR. FREDERICK: No objection.

7 MR. CANTY: No objection, Your Honor.

8 (WHEREUPON, State's Exhibit No. 1 was marked for  
9 identification only.)

10 Q Carlton, I'm showing you what's been marked as  
11 State's Exhibit 1.

12 A Yes, ma'am.

13 Q Do you recognize this?

14 A Yes, ma'am, I do.

15 Q Okay. And if you don't mind, tell the Court what  
16 it is.

17 A This is the way that the house was set up.

18 Q Okay. And is this a accurate diagram of that  
19 mobile home?

20 A Yes, ma'am, it is.

21 Q And would this assist you in your testimony?

22 A Yes, ma'am, it would.

23 MS. LIVESAY: At this time, Your Honor, the State  
24 asks to put State's Exhibit No. 1 into evidence and  
25 publish it to the jury.

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1 THE COURT: Any objection, Mr. Frederick?

2 MR. FREDERICK: No objection.

3 THE COURT: Mr. Canty?

4 MR. CANTY: None, Your Honor.

5 THE COURT: All right. It's in evidence, and you  
6 may publish.

7 (WHEREUPON, State's Exhibit No. 1 was admitted in  
8 evidence.)

9 MS. LIVESAY: Thank you.

10 Q Mr. Watts, if you don't mind, step down so I can  
11 show this to the jury while you testify. And I'm going  
12 to need you to stand right there in front of this  
13 microphone so everybody can hear you. Back up maybe  
14 just a shade, okay. Now, if you don't mind, looking at  
15 this diagram, point out where your bedroom was.

16 A Here (indicating).

17 Q Okay. And if you don't mind, point out where Keia  
18 and Splurge's bedroom was.

19 A Right here (indicating).

20 THE COURT: Could you speak up just a little bit,  
21 please. Thank you.

22 THE WITNESS: Right here (indicating).

23 Q Okay. Now, if you don't mind, show the jury,  
24 point out what couch she was laying on that night.

25 A This one right here (indicating).

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- 1 Q Okay. And show the jury where the front door is.
- 2 A Right here (indicating).
- 3 Q Okay. And where is the back door?
- 4 A Right here (indicating).
- 5 Q Now, what entrance did you and Keia and Splurge
- 6 use?
- 7 A The back one, right here (indicating).
- 8 Q Okay. And where did you hear that boom come from?
- 9 A Right there (indicating).
- 10 Q Okay. And then, what was the next thing you
- 11 heard?
- 12 A Two or three gunshots.
- 13 Q Okay. And then where were you when those gunshots
- 14 were fired?
- 15 A Right here (indicating).
- 16 Q When you heard the gunshots, what did you do?
- 17 A I initially jumped up. Then I jumped back and
- 18 just rolled under the bed.
- 19 Q Okay. And what did you hear next?
- 20 A I heard her scream his name twice.
- 21 Q I'm sorry, what?
- 22 A I heard her scream his name twice.
- 23 Q Okay.
- 24 A She said that they was breaking in.
- 25 Q You heard who screamed?

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1 A Keia.

2 Q Could you tell where she was screaming from?

3 A No, ma'am, I can't.

4 Q Okay, that's okay. Now, could you tell where the  
5 gunshots were coming from?

6 A Yes, ma'am.

7 Q What area were they coming from?

8 A Inside this area right here (indicating).

9 Q Okay. And this is a mobile home?

10 A Yes, ma'am.

11 Q Okay. What was the next thing -- so you hear the  
12 gunshots, I want to make sure I'm clear, and then you  
13 hear her scream?

14 A Yes, ma'am.

15 Q Okay. What is the next thing you hear?

16 A More gunshots.

17 Q Okay. And then where were you when those gunshots  
18 were going on?

19 A Under the bed.

20 Q Okay. Then what was the next thing you heard  
21 after that?

22 A I heard her scream, where it's at, where it's at,  
23 we not playing, where it's at.

24 Q You heard what?

25 A I heard the guys screaming, where it's at, where

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1 it's at, we're not playing, where it's at.

2 Q Could you tell where they were when they were  
3 screaming that?

4 A No, ma'am, I couldn't. But if I had to guess, it  
5 was still in this area (indicating).

6 Q Okay. Now were you under your bed the whole time?

7 A Yes, ma'am, I was.

8 Q Okay. And did you ever see anything from under  
9 your bed?

10 A Yes, ma'am. I seen two pair of sneakers, all  
11 black and one black with red check marks on it.

12 Q Okay. So you saw two sets of footsteps?

13 A Yes, ma'am.

14 Q Okay. And you saw them where?

15 A When I was inside my -- or under the bed.

16 Q Okay. And at that time were they saying anything?

17 A No, ma'am, they wasn't.

18 Q Did you say anything?

19 A No, I didn't.

20 Q Okay. What happened next after they -- could you  
21 tell what they were doing in your room?

22 A No, ma'am, I couldn't.

23 Q Okay. And then what did you hear next?

24 A Just the alarm going off, just was nothing.

25 Q Okay. And then when did you finally leave from

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1 under the bed?

2 A When I felt like it was safe to go.

3 Q Okay. And then where did you go?

4 A Out the back door.

5 Q Okay. After you went out the back, what did you  
6 see?

7 A A gentleman and a lady.

8 Q Okay. If you don't mind, have a seat back in the  
9 witness stand, Mr. Watts. Where were the gentleman and  
10 the lady you saw?

11 A They was coming towards the trailer front to back.  
12 I was running towards them.

13 Q Did you recognize them?

14 A No, ma'am, I don't.

15 Q Okay. When you came out --

16 A Yes, ma'am.

17 Q -- from the mobile home, did you see anybody else  
18 coming from the mobile home?

19 A No, ma'am.

20 Q Okay. So you didn't see anybody at that time  
21 running out of the mobile home or running into the  
22 mobile home?

23 A No, ma'am, I didn't.

24 Q Okay. Now, after that, you met these two people  
25 which you did not recognize; is that correct?

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- 1 A That's correct.
- 2 Q Okay. While you were out there, did you see
- 3 anybody come out of the mobile home before Splurge did?
- 4 A No, ma'am.
- 5 Q Okay. Mr. Watts, I'm going to ask you to look at
- 6 these pictures and tell me if you recognize them.
- 7 A Yes, ma'am.
- 8 (WHEREUPON, State's Exhibit Nos. 2 through 19 were
- 9 marked for identification only.)
- 10 Q Mr. Watts, if you don't mind, take a look at these
- 11 pictures, and tell me if these are pictures of your
- 12 mobile home and if these pictures are accurate
- 13 depictions of that mobile home.
- 14 A Yes, ma'am.
- 15 Q Look through them real quick and tell the -- let
- 16 the Court know, look through all of them at one time,
- 17 if you don't mind. Are they all pictures of your
- 18 mobile home?
- 19 A Yes, ma'am.
- 20 Q Are they all accurate depictions of your mobile
- 21 home that night or at some point shortly thereafter?
- 22 A Yes, ma'am.
- 23 Q Okay. And you've lived there five months?
- 24 A Yes, ma'am.
- 25 Q And this is what it looked like, this is pictures

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1 of that mobile home?

2 A Yes, ma'am.

3 Q Thank you.

4 MS. LIVESAY: Your Honor, at this time the State  
5 wishes to put 2 through 17 into evidence and publish  
6 them to the jury.

7 THE COURT: Any objection, Mr. Frederick?

8 MR. FREDERICK: No objection.

9 THE COURT: Mr. Canty?

10 MR. CANTY: No objection, Your Honor.

11 THE COURT: All right, very good. 2 through 17  
12 are in evidence, and you may publish to the jury.

13 (WHEREUPON, State's Exhibit Nos. 2 through 17 were  
14 admitted in evidence.)

15 MS. LIVESAY: Thank you, Your Honor.

16 Q Mr. Watts, if you don't mind, I'm going to ask you  
17 to step down so the jury can see these while you're  
18 testifying about them.

19 Now, if you don't mind, I'm showing you now what's  
20 marked as State's Evidence No. 9.

21 A That's the living room.

22 THE COURT: You need to speak up just a little  
23 bit, please.

24 THE WITNESS: That's the living room.

25 Q Is this what it looked like that night?



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- 1 A Yes, ma'am.
- 2 Q Now, you testified earlier that Keia was laying on  
3 a couch?
- 4 A Yes, ma'am.
- 5 Q Is that couch in this picture?
- 6 A Yes, ma'am.
- 7 Q Point it out to the jury.
- 8 A It right here (indicating).
- 9 Q Now, I'm showing you what's been marked as  
10 State's-10; what is that?
- 11 A Same living room.
- 12 Q Okay. Is this a more complete picture?
- 13 A Yes, ma'am, it is.
- 14 Q Okay. Now, is that how it looked that night?
- 15 A Yes, ma'am.
- 16 Q Okay. Now, if you don't mind, this is the whole  
17 room, point out which couch you saw her laying on that  
18 night.
- 19 A Right here (indicating).
- 20 Q Point it out for me one more time so everybody can  
21 see.
- 22 A This one over here (indicating).
- 23 Q Is it the one with the blanket on?
- 24 A That's right.
- 25 Q Okay. Now, in this picture the TV was on. Was

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1 the TV on that night when you saw her?

2 A Yes, ma'am, it was.

3 Q So this is, absent her being in the picture  
4 obviously, this is what it looked like that night?

5 A Yes, ma'am.

6 Q Okay. Was that dog in there?

7 A Yes, ma'am, it was.

8 Q Okay. Just like in the --

9 A Um-hum.

10 Q Now, there's a door in this picture; you see it?

11 A Yes, ma'am.

12 Q Okay. Where does that door lead to?

13 A That's the front door, it leads to outside.

14 Q So the front door leads right into that den?

15 A Yes, ma'am.

16 Q Now, when you went to bed that night, was that  
17 door open?

18 A No, ma'am. It was closed.

19 Q Okay. How about the back door?

20 A Closed.

21 Q Is there any other entrance into that house?

22 A No, ma'am, there isn't.

23 Q Now, I'm showing you what's been marked State's

24 No. 13. You recognize this?

25 A Yes, ma'am.

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- 1 Q Okay. Whose shoes are they?
- 2 A Splurge's.
- 3 Q Okay. Is that what it looked like that night?
- 4 A Yes, ma'am.
- 5 Q Okay. Now, there's also a door in this picture;
- 6 do you see that?
- 7 A Yes, ma'am, I do.
- 8 Q Okay. And if you don't mind, tell this jury where
- 9 that door leads.
- 10 A That door leads to the back, outside.
- 11 Q Okay. Is that the back door you used?
- 12 A Yes, ma'am.
- 13 Q Now, is that the back door that Splurge and Keia
- 14 used?
- 15 A Yes, ma'am, it is.
- 16 Q Okay. Now, I'm going to show you some pictures.
- 17 First of all, I'm sorry, let me back up one. Number
- 18 13.
- 19 A Yes, ma'am.
- 20 Q Do you see that hallway?
- 21 A Yes, ma'am, I do.
- 22 Q Where does that hallway lead?
- 23 A To my bedroom, my bathroom, the back door.
- 24 Q Okay. So that hallway leads to your bedroom?
- 25 A Yes, ma'am.

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1 Q Are there any other bedrooms down there?

2 A No, beside the bathroom.

3 THE COURT: He has to speak up.

4 THE WITNESS: Beside the bathroom.

5 Q Okay. So just a bathroom and a bedroom is at the  
6 end of that hallway?

7 A Yes, ma'am.

8 Q Okay. Now, do you recognize what I'm showing you  
9 that's been marked as State's Evidence No. 17?

10 A Yes, ma'am.

11 Q What is that a picture of?

12 A My room.

13 Q Okay. Is that what it looked like before you went  
14 to bed?

15 A No, ma'am.

16 Q Is that what it looked like when you left that  
17 morning?

18 A Yes, ma'am.

19 Q Okay. Was that dresser turned over when you went  
20 to sleep that night?

21 A No, ma'am.

22 Q I'm showing you what's been marked as State's  
23 Evidence No. 18. You recognize it?

24 A Yes, ma'am.

25 Q What is it?

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1 A My room.

2 Q Okay. Is that what it looked like before you went  
3 to bed?

4 A No, ma'am.

5 Q Okay. Was your nightstand turned over like that  
6 before you went to bed?

7 A No, it wasn't.

8 Q Now, this picture shows your bed, Mr. Watts. Can  
9 you point out to this jury where you were when all this  
10 was going on in the house.

11 A This here.

12 Q If you don't mind, point that out to the jury.

13 A I was right under here (indicating).

14 THE COURT: What was that? I'm sorry, I didn't  
15 hear you.

16 THE WITNESS: Under here (indicating).

17 THE COURT: Thank you.

18 Q So you were under the bed the entire time?

19 A Yes, ma'am.

20 Q Okay. If you don't mind, tell the jury how you  
21 got under there.

22 A I rolled under the front of this.

23 Q I'm showing you now what's been marked as State's  
24 No. 2; you recognize it?

25 A Yes, ma'am, I do.

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1 Q And what is that a picture of?

2 A Their cars.

3 Q Okay. And whose cars are those?

4 A Keia and Splurge.

5 Q Okay. Which car is whose?

6 A This is Keia's and this is Splurge (indicating).

7 Q Okay. And there's a picture --

8 THE COURT: He has to -- just by pointing to it,  
9 you have to identify what kind it is, ma'am.

10 THE WITNESS: The black truck is Keia's and the  
11 white car is Splurge's.

12 Q Okay. And that door, where does that door lead?

13 A Into the house.

14 Q Okay. And is that the back door or the front  
15 door?

16 A The back door.

17 Q Okay. This fenced-in area, what is that?

18 A It's the dog kennels.

19 Q Okay. And were there dogs in that pen?

20 A Yes, ma'am, there was.

21 Q How many?

22 A I don't know, probably two or three.

23 Q Now, is that the way the back of that house looked  
24 that night?

25 A Yes, ma'am.

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- 1 Q Both cars home?
- 2 A Yes, ma'am.
- 3 Q Two dogs in the kennel?
- 4 A Yes, ma'am.
- 5 Q I'm showing you what's been marked as State's
- 6 Evidence No. 3; you recognize that?
- 7 A Yes, ma'am, I do.
- 8 Q What is it?
- 9 A The front door.
- 10 Q Okay. And did you ever use the front door?
- 11 A No, ma'am, I didn't.
- 12 Q Okay. And are there any cars parked in the front
- 13 drive?
- 14 A No, ma'am.
- 15 Q Were there any cars parked there that night in the
- 16 front yard?
- 17 A No, ma'am.
- 18 Q Were there any dogs in the front yard?
- 19 A No, ma'am.
- 20 Q Were there any dogs ever kept in the front yard?
- 21 A No, ma'am.
- 22 Q Is that the way the front of that mobile home
- 23 looked that night?
- 24 A Yes, ma'am, it is.
- 25 Q While you lived there, did anybody ever park in

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1 the front of the house?

2 A No, ma'am.

3 Q Were there ever any dogs kept at the front of the  
4 house?

5 A No, ma'am.

6 Q When y'all had people over, did anybody use the  
7 front door?

8 A No, ma'am.

9 Q I'm showing you State's Evidence No. 5. You  
10 recognize this?

11 A Yes, ma'am, I do.

12 Q What is it a picture of?

13 A Front door.

14 Q Okay. Let me ask you something; is that a light?

15 A Yes, ma'am, it is.

16 Q Okay. And was the light on?

17 A No, ma'am, it's not.

18 Q Okay. Did y'all keep that light on at night?

19 A No, ma'am.

20 Q Okay. So there was no light at the front door?

21 A No, ma'am.

22 Q Okay. I'm showing you what's been marked State's  
23 Evidence No. 4. You recognize that?

24 A Yes, ma'am.

25 Q What is it?



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1 A The front door.

2 THE COURT: I'm sorry. Solicitor, you're either  
3 going to have to have him return here --

4 MS. LIVESAY: Okay.

5 THE COURT: -- or he's going to have to speak up  
6 because the court reporter can't hear him.

7 Q Make sure you speak up because your back is to all  
8 of these people, they got to hear you. What is this a  
9 picture of?

10 A The front door.

11 Q Okay. Did the front door look like this before  
12 that night?

13 A No, ma'am.

14 Q Okay. Did it ever have this damage before that  
15 night?

16 A No, ma'am.

17 Q Showing you State's Evidence No. 4. I'm showing  
18 you what's been marked as State's Evidence No. 6. Now,  
19 what is this a picture of?

20 A The trailer.

21 Q Okay. Is it an accurate picture of what it looked  
22 like that night?

23 A Yes, ma'am, it is.

24 Q Okay. And is this the front area of your trailer?

25 A Yes, ma'am.

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1 Q Okay. And let me ask you something. Is it always  
2 this dark in the front of that trailer?

3 A Yes, ma'am, it is.

4 Q Okay. And is there a car parked out there?

5 A Yes, ma'am, it is.

6 Q Okay. Could you see it good enough to be able to  
7 describe it?

8 A Yes, ma'am, I can.

9 Q Okay. Now, are there any street lights around the  
10 front of this mobile home?

11 A No, ma'am.

12 Q Okay. So even, obviously, the police are out  
13 there; what is that?

14 A It's a Horry County car.

15 Q Okay. So that's not one of y'all's cars?

16 A No, ma'am.

17 Q Okay. So the police have arrived at this point?

18 A Yes, ma'am.

19 Q Okay. And even then the front is that dark in  
20 that front of that mobile home?

21 A Yes, ma'am.

22 Q Okay. And I'm showing you now what's been marked  
23 as State's Evidence No. 6. Let me ask you, could you  
24 see whether or not there was somebody standing around  
25 that car?

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1 A No, ma'am, I can't.

2 Q Can you even see if there's somebody in the car?

3 A No, ma'am.

4 Q Okay, thank you. Would you say this is your back  
5 yard here (indicating)?

6 A Yes, ma'am.

7 Q Okay. So this picture was taken right basically  
8 from your back yard?

9 A Yes, ma'am.

10 Q And y'all didn't have that front light on at that  
11 time?

12 A No, ma'am.

13 Q Now, I'm showing you what's been marked as State's  
14 Evidence No. 7. Is that what your front door looked  
15 like before that night, the entranceway?

16 A No, ma'am.

17 Q Okay. Is that what it looked like after that  
18 night?

19 A Guess so, yes, ma'am.

20 THE COURT: I'm sorry, what did he say?

21 THE WITNESS: Yes, ma'am.

22 Q I'm showing you now what's been marked as State's  
23 Evidence No. 7. Mr. Watts, did you know what Keia and  
24 Splurge's room looked like?

25 A Yes, ma'am, I do.

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1 Q Okay. And are you familiar with the hallway that  
2 went down to that bedroom?

3 A Yes, ma'am, I am.

4 Q Okay. I'm showing you what's been marked as  
5 State's Evidence No. 12.

6 A Yes, ma'am.

7 Q Do you recognize that?

8 A Yes, ma'am, I do.

9 Q What is that?

10 A That's the hallway leading from their bedroom to  
11 the front door.

12 Q Okay. And is that the front door?

13 A Yes, ma'am, it is.

14 Q Okay. This hallway, this is the front door?

15 A Yes, ma'am.

16 Q And the shot is from their bedroom --

17 A Yes, ma'am.

18 Q -- to the front door?

19 A Um-hum.

20 Q Is there another entrance anywhere along that part  
21 of the house in order to get out?

22 A No.

23 Q Okay. So the quickest entrance from their bedroom  
24 would be the front door?

25 A Yes, ma'am.

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1 Q Now, I'm showing you now what's been marked as  
2 State's-11; do you recognize it?

3 A Yes, ma'am, I do.

4 Q What is it?

5 A It's the hallway leading from the front door to  
6 their bedroom.

7 Q What is this room to the left?

8 A It's an empty room.

9 Q Okay. And what is this next room to the left?

10 A Bathroom.

11 Q Okay. And this mark on the floor was not there  
12 before that night?

13 A I don't know.

14 Q Now, is there any exit or entry along this hallway  
15 in or out of that mobile home?

16 A No, ma'am.

17 Q I'm showing you what's been marked as State's  
18 Exhibit No. 11. So this is a direct shot from the  
19 front door to their bedroom?

20 A Yes, ma'am.

21 Q And is their bedroom the door that's open at the  
22 end?

23 A Yes, ma'am, it is.

24 Q If somebody is standing at the front door of this  
25 mobile home --

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1 A Yes, ma'am.

2 Q Okay, and would you say this shot is about at the  
3 front door?

4 A Yes, ma'am.

5 Q Okay. If that person is just standing there --

6 A Yes, ma'am.

7 Q -- is there any way to get in -- I'm sorry, is  
8 there any way to get from this bedroom out of that  
9 trailer without passing that person?

10 A No, ma'am, it isn't.

11 Q Okay. And you have to pass the front door, the  
12 den and the kitchen to get to the back door?

13 A Yes, ma'am, I do.

14 Q But under any circumstances if you're in that  
15 bedroom, there is no --

16 A No.

17 Q Okay. No way to get out without passing that  
18 front door?

19 A That's right.

20 Q Okay. So if somebody's standing at that front  
21 door, there's no way to get out without passing them?

22 A No, ma'am, there isn't.

23 Q Now, I'm showing you now what's been marked as  
24 State's Exhibit No. 16; do you recognize that?

25 A Yes, ma'am, I do.

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1 Q What is that?

2 A It's their bedroom, Keia and Splurge bedroom.

3 Q Okay, make sure you speak up.

4 THE COURT: I'm sorry, I didn't hear you.

5 THE WITNESS: Keia and Splurge bedroom.

6 Q Okay. And is this the way it looked?

7 A Yes, ma'am.

8 Q And is that the furniture that was in there?

9 A Yes, ma'am, it is.

10 Q Okay. I'm showing you now what's been marked as  
11 State's Evidence No. 16. Is this the bedroom at the  
12 end of the hallway? Is this the bedroom at the end of  
13 the hallway?

14 A Yes, ma'am, it is.

15 Q Now, if you came out of your bedroom --

16 A Yes, ma'am.

17 Q -- and somebody -- let me get the diagram. Point  
18 out your bedroom again to the jury.

19 A (Indicating.)

20 Q Okay. Point it out again so everybody can make  
21 sure they see it.

22 A (Indicating.)

23 Q Okay. Now, point out the back door.

24 A (Indicating.)

25 Q Now, if somebody came through the front door of

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1 that trailer, point that out.

2 A (Indicating).

3 Q Could you have gotten out of that trailer without  
4 passing the front door?

5 A Yes, ma'am, I could.

6 Q Okay. And this is the back door here  
7 (indicating); is that correct?

8 A Yes, ma'am.

9 Q Okay. So the only bedroom in that house that was  
10 confined basically to, you said, that front door if  
11 they had to get out immediately would be Splurge and  
12 Keia's?

13 A Yes, ma'am.

14 Q Okay. And they had to pass that front door  
15 ultimately to get out any exit of that mobile home?

16 A Yes, ma'am.

17 Q Okay. Mr. Watts, if you don't mind, have a seat  
18 for me. We're going to bring a couple more questions.

19 I'm going to show you one more picture, this is  
20 State's Exhibit 15.

21 A Yes, ma'am.

22 Q Do you recognize that?

23 A Yes, ma'am.

24 Q What is that?

25 A Their bedroom.



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- 1 Q Okay. Whose bedroom?
- 2 A Keia and Splurge.
- 3 Q Mr. Watts, whose house was this?
- 4 A Keia and Splurge's.
- 5 Q Okay. And you were just staying there?
- 6 A Yes, ma'am.
- 7 Q Okay. And I think you stated earlier, but I may
- 8 have missed it, what if any relationship is Keia to
- 9 you?
- 10 A It's my cousin.
- 11 Q Okay. And about how long had y'all lived
- 12 together?
- 13 A All our life.
- 14 Q Okay. And how did you know Splurge?
- 15 A Through her.
- 16 Q Okay.
- 17 (WHEREUPON, State's Exhibit No. 20 was marked for
- 18 identification only.)
- 19 Q Mr. Watts, I'm going to show you what has been
- 20 marked as State's Evidence No. 20.
- 21 A Yes, ma'am.
- 22 Q This is a map here, and this is to get your
- 23 bearings Colletta Court and Brison Court..
- 24 A Yes, ma'am.
- 25 Q Do you recognize this area?

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1 A Yes, ma'am, I do.

2 Q Is it an accurate depiction of that area?

3 A Yes, ma'am, it is.

4 Q Okay. And would you be able to show us which  
5 mobile home it was you were living in.

6 A Yes, ma'am, I can.

7 Q Okay.

8 MS. LIVESAY: At this time, Your Honor, I would  
9 like to introduce State's Evidence No. 20 -- I'm sorry,  
10 State's Exhibit No. 20 into evidence and publish it to  
11 the jury.

12 THE COURT: Any objection?

13 MR. FREDERICK: No objection.

14 MR. CANTY: Without objection, Your Honor.

15 THE COURT: Very good. State's-20 is in evidence,  
16 and you may show it to the jury.

17 (WHEREUPON, State's Exhibit No. 20 was admitted in  
18 evidence.)

19 MS. LIVESAY: Okay.

20 Q Okay. If you don't mind, Mr. Watts, I'll ask you  
21 to step down one more time for me.

22 THE COURT: Remember, speak up, please.

23 MS. LIVESAY: I will, judge.

24 Q Is this the mobile home park?

25 A Yes, ma'am.

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1 Q Your neighborhood?

2 A Yes, ma'am.

3 Q Okay. And is this the neighborhood you lived in  
4 on or around August 8th of 2011?

5 A Yes, ma'am.

6 Q Okay. And the pictures of the mobile home I just  
7 showed, is that mobile home in this map?

8 A Yes, ma'am.

9 Q Okay. And is that the mobile home y'all were  
10 living in?

11 A Yes, ma'am.

12 Q Okay. If you don't mind, point that mobile home  
13 out to the jury.

14 A Right here (indicating).

15 Q Okay. And that is the mobile home that y'all  
16 lived in?

17 A Yes, ma'am.

18 Q Okay. I think that even somehow this map got that  
19 black truck in here. Now, this map shows two roads.

20 Are those roads dirt roads or paved roads?

21 A Dirt roads.

22 Q Okay. When those roads, when you turn in to this  
23 mobile home, is there a way out other than back out the  
24 same way you came in?

25 A You got to go back out the same way you come in.

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1 Q Okay. So they both dead end?

2 A Yes, ma'am.

3 Q Okay. So was there a lot of traffic in this  
4 neighborhood?

5 A No, ma'am.

6 Q Okay. And you had lived, show us one more time  
7 where you lived.

8 A (Indicating.)

9 Q Okay. Now, does these two dirt roads encompass  
10 that neighborhood?

11 A Yes, ma'am.

12 Q Okay. Now, these -- what is back here, just so  
13 the jury will know?

14 A Woods.

15 Q Okay. So it dead ends into nothing but woods?

16 A Right.

17 Q Okay. Now, on this map I don't really see any  
18 street lights. Are there a lot of street lights in

19 that neighborhood?

20 A No, ma'am, there's not.

21 Q So this map is accurate as to the street lights?

22 A Yes, ma'am.

23 Q Thank you, Mr. Watts. Have a seat, I got two more  
24 questions. Y'all had only lived in that house about  
25 five months; is that correct?

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- 1 A Yes, ma'am.
- 2 Q Okay. While y'all lived there, did you have a lot  
3 of guests over?
- 4 A No, ma'am.
- 5 Q Okay. Did you have a guest over that night?
- 6 A Yes, ma'am, we did.
- 7 Q Who was that?
- 8 A My aunt, Lavena Jackson.
- 9 Q Who?
- 10 A Lavena Jackson.
- 11 Q Okay. Who is she to you and Keia?
- 12 A She's our aunt.
- 13 Q Okay. And about what time was she over that day?
- 14 A I don't recall.
- 15 Q Okay, okay. Had there been anybody else over that  
16 day?
- 17 A No, ma'am.
- 18 Q Okay. If anyone, was there anybody else that ever  
19 lived in the house during the timeframe you lived  
20 there?
- 21 A No, ma'am.
- 22 Q Okay. Other than Keia and Splurge?
- 23 A That's right.
- 24 Q Okay. If anyone, was there anybody that hung out  
25 a lot at that mobile home?

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- 1 A No, ma'am.
- 2 Q Okay, okay. And Lavena Jackson is your aunt and
- 3 Keia's aunt?
- 4 A Yes, ma'am.
- 5 Q Okay. Now, do you know the two defendants in this
- 6 case?
- 7 A Yes, ma'am, I do.
- 8 Q Okay. And how do you know them?
- 9 A I went to school with one of them.
- 10 Q Okay. Did they ever come over to the house and
- 11 hang out?
- 12 A No, ma'am.
- 13 Q Okay. Do you know Keir Johnson?
- 14 A I know of him.
- 15 Q Okay. But you don't know him?
- 16 A No.
- 17 Q Okay. Had he ever been over to the house?
- 18 A No, ma'am.
- 19 Q Had either one of these boys been over to the
- 20 house?
- 21 A No, ma'am.
- 22 Q Okay. And how long had you and Keia been close?
- 23 A All our life.
- 24 Q Did she have any close friends?
- 25 A No, ma'am. No.

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- 1 Q Okay. But she did have friends?
- 2 A She had friends.
- 3 Q Okay. Mr. Watts, you testified earlier that there
- 4 were a couple dogs out in the kennel?
- 5 A Yes, ma'am.
- 6 Q Okay. I couldn't see in the picture, and I'm not
- 7 sure the jury could, what kind of dogs were they?
- 8 A Pit Bulls.
- 9 Q Okay. And how many did you have back there?
- 10 A Two or three.
- 11 Q Okay. Now, was there an alarm in that house?
- 12 A Yes, ma'am, it was.
- 13 Q Okay. And do you know if that alarm was there
- 14 when y'all moved in or if it was put in?
- 15 A No, ma'am, I don't know that.
- 16 Q Okay. Did the alarm go off that night?
- 17 A Yes, ma'am, it did.
- 18 Q Okay. Now, you said earlier that you heard voices
- 19 when all this was going on; is that correct?
- 20 A Yes, ma'am.
- 21 Q Keia's voice and other voices?
- 22 A Yes, ma'am.
- 23 Q Did you recognize the other voices in the house?
- 24 A No, ma'am, I didn't.
- 25 Q Okay. And could you recognize who was in the

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1 house when you were under the bed?

2 A No, ma'am, I couldn't.

3 Q Okay. So all you saw were the shoes?

4 A Yes, ma'am.

5 Q Okay. And you couldn't recognize the voices or

6 who it was that was in that house?

7 A No, ma'am, I can't.

8 Q Okay, okay. And when you came out, did you see

9 anybody else running from that mobile home?

10 A No, ma'am, I didn't.

11 Q Okay. And when you got out, were people

12 approaching the mobile home?

13 A Yes, ma'am.

14 Q Okay. And had 911 been contacted?

15 A Yes, ma'am.

16 Q Okay. About how long was it between the time that

17 you were -- you got -- you were hiding that you felt

18 like it was safe to come out?

19 A I would say approximately 10, 15 minutes.

20 Q Okay. And was there anything else that indicated

21 it was safe for you to come out?

22 A No, ma'am.

23 Q Okay.

24 MS. LIVESAY: No further questions, Your Honor.

25 THE COURT: Go ahead, Mr. Frederick.



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1 MR. FREDERICK: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. FREDERICK:

4 Q You go by Dontrell?

5 A Yes, sir.

6 Q Okay. And Dontrell, I'm sorry that this happened  
7 to you. Nobody said it, but you were a victim here  
8 too.

9 A Thanks. Yes, sir.

10 Q I just want to go over just a couple of things. I  
11 think you had said earlier that after you heard the  
12 shots go off, you heard Keia scream?

13 A Yes, sir.

14 Q And she was yelling Splurge's name?

15 A Yes, sir.

16 Q Okay. You did not recognize the voices in the  
17 house?

18 A No, sir.

19 Q In July of this year, do you remember meeting with  
20 this lady over here, Ms. Ginger Pop?

21 A Yes, sir.

22 Q Okay. And did you tell her that when you were  
23 under the bed that you saw -- you told her you saw two  
24 pair of shoes?

25 A Yes, sir.

CARLTON WATTS-CROSS BY MR. CANTY

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1 Q That was really all you could see; right?

2 A Yes, sir.

3 Q And you told her that they were Air Force One  
4 shoes?

5 A Yes, sir.

6 Q And one pair was all black?

7 A Yes, sir.

8 Q And the other pair was red and black?

9 A Yes, sir.

10 Q Okay.

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

12 THE COURT: Yes, sir.

13 MR. FREDERICK: No more questions, judge.

14 THE COURT: All right. Cross-examination, Mr.  
15 Canty?

16 MR. CANTY: May it please the Court.

17 CROSS-EXAMINATION

18 BY MR. CANTY:

19 Q Mr. Watts, first let me say I'm sorry for your  
20 loss, and I appreciate you relating these facts to the  
21 jury here today. Let me ask you, if I may, about those  
22 moments before the police arrived and after these  
23 intruders had apparently left. You said you waited  
24 several minutes, and then you exited the trailer?

25 A Yes, sir.

CARLTON WATTS-CROSS BY MR. CANTY

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- 1 Q And then some moments later the police arrived?
- 2 A Yes, sir.
- 3 Q Okay, let's focus on that time. First of all, let
- 4 me ask you, did Splurge have a job that you knew of?
- 5 A No, sir.
- 6 Q During those moments did you hear any flushing of
- 7 the toilet?
- 8 A No, sir.
- 9 Q Do you know whether or not Splurge had taken any
- 10 prescription drugs?
- 11 A No, sir, I don't.
- 12 Q You testified, and let me know if I have this
- 13 correct, that after the police arrived they ordered
- 14 anybody in the mobile home to come out --
- 15 A Yes, sir.
- 16 Q -- with their hands up?
- 17 A Yes, sir.
- 18 Q And I assume that these officers had their guns
- 19 drawn?
- 20 A Yes, sir, they did.
- 21 Q One in the back and one in the front, as far as
- 22 you knew?
- 23 A As far as I know.
- 24 Q You were more toward the back, the dog kennels,
- 25 that area?

## CARLTON WATTS-CROSS BY MR. CANTY

1 A Yes, sir.

2 Q Further away?

3 A Yes, sir.

4 Q Okay. Now, describe, if you would, again for the  
5 jury, Splurge's demeanor when he finally came out.

6 A He had his hands up.

7 Q And the officer, I assume, was shouting questions  
8 at him, is there anyone else in the trailer, etcetera,  
9 etcetera?

10 A Yes, sir.

11 Q And what did you tell the jury he was acting like  
12 at that point?

13 A Like he was kind of off.

14 Q Retarded, was that the word that you used?

15 A Yes, sir.

16 Q As far as you knew, he was -- when you spoke to  
17 Keia half an hour earlier or so, he was sound asleep?

18 A Yes, sir.

19 Q He was in his bedroom, and you didn't hear  
20 anything from him?

21 A No, sir.

22 MS. LIVESAY: Your Honor?

23 THE COURT: Yes, ma'am.

24 MS. LIVESAY: I'm not sure where this is going as  
25 far as Splurge's activities.

CARLTON WATTS-CROSS BY MR. CANTY

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1 THE COURT: I appreciate that, but I'm going to  
2 allow Mr. Canty to ask the questions. Thank you.  
3 Continue on.

4 MR. CANTY: Thank you, Your Honor.

5 Q I think you testified initially that you -- first  
6 of all, with regard to the mobile home diagram, is it  
7 correct that that was a 65 by 13 mobile home?

8 A Yes, sir.

9 Q And it says at the bottom here in big letters, not  
10 to scale?

11 A Right.

12 Q And a little simple arithmetic would say if it was  
13 13 by 65, it would be five times longer than it is  
14 wide. So these hallways, the length of these hallways  
15 is actually kind of under-represented on this diagram,  
16 the hallways are longer, as shown in the photographs?

17 A Um-hum.

18 THE COURT: Is that a yes, sir, or no?

19 THE WITNESS: Yes, sir.

20 THE COURT: When you say "um-hum," the court  
21 report doesn't know what that is, so sorry. Go ahead.

22 Q You indicated on this diagram when the solicitor  
23 asked you that the first gunshots came from the front  
24 door?

25 A Yes, sir.

## CARLTON WATTS-CROSS BY MR. CANTY

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1 Q And you were in this bedroom?

2 A Yes, sir.

3 Q How did you know anything more than that they came  
4 from that direction, how did you know they came from  
5 here and not from here (indicating)?

6 A That's the only thing they do.

7 Q So they came from this direction?

8 A Yes, sir.

9 Q Okay. And are you aware or not that Splurge  
10 emptied his .357 Magnum revolver through this doorway?

11 A I wasn't aware of that.

12 Q Now, how long have you known Carnail?

13 A I don't know him. I know of him.

14 Q You don't know him, but you know of him?

15 A Yeah.

16 Q Would you recognize him on the street?

17 A Yes, I would.

18 Q Okay. Now, you attended Keia's funeral; correct?

19 A Yes, I did.

20 Q Was Carnail there?

21 A Yes, he was.

22 Q Tell the jury whether Brandon Wells, B-Wells, was  
23 he at the funeral?

24 A I don't know who he is.

25 Q What about Mr. Donovan, 110, was he at the

CARLTON WATTS-REDIRECT BY MS. LIVESAY

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1 funeral?

2 A I don't know.

3 Q How about Sha'Rah McCray, Little Manzy, was he at  
4 the funeral?

5 A I don't know who he is.

6 Q And Bootsie, do you know Bootsie?

7 A Yes, I know who he is.

8 MS. LIVESAY: Your Honor, at this point I'm  
9 starting to wonder the relevance.

10 THE COURT: Well, I'm going to allow him to ask  
11 that question. If there's anything further, then we'll  
12 have a discussion.

13 Q Did Bootsie attend the funeral?

14 A I don't know.

15 MR. CANTY: That's all I have, Your Honor.

16 THE COURT: Thank you. Redirect?

17 MS. LIVESAY: Just a couple questions, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. LIVESAY:

20 Q Mr. Watts, Mr. Canty asked you some questions  
21 about Splurge coming out of the trailer.

22 A Yes, ma'am.

23 Q Do you understand that; do you remember those  
24 questions?

25 A Yes, I do.

CARLTON WATTS-REDIRECT BY MS. LIVESAY

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1 Q Okay. Did you see Splurge come out of that  
2 trailer?

3 A Yes, I did.

4 Q Okay. So if two people went running from the  
5 trailer, Splurge could not have been one of those  
6 people?

7 A No, ma'am, he wasn't.

8 Q Okay. And did he ever try to run out of the  
9 trailer?

10 A No, ma'am, he didn't.

11 Q Okay. And when the police came, did he get in the  
12 police car?

13 A No, ma'am, he didn't.

14 Q Okay. And did you?

15 A No, ma'am, I didn't.

16 Q Okay. Now, let me ask you this: How long had him  
17 and Keia been dating?

18 A Probably about two or three years.

19 Q Okay. How long?

20 A Two to three.

21 Q Okay. And how long had you known Splurge as far  
22 as through them dating?

23 A Those years, two or three years.

24 Q Okay. And there were some feet in these pictures?

25 A Yes, ma'am.



CARLTON WATTS-REDIRECT BY MS. LIVESAY

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- 1 Q Showing you State's Evidence No. 15.
- 2 A Yes, ma'am.
- 3 Q Whose feet are those?
- 4 A Keia Pertelle.
- 5 Q Okay. And that's the victim in this case?
- 6 A Yes, ma'am, it is.
- 7 Q And what bedroom is that?
- 8 A Theirs.
- 9 Q Okay. So she was running to Splurge?
- 10 A Yes, ma'am, she was.
- 11 Q Okay. So he never ran out of that trailer?
- 12 A No, ma'am, he didn't.
- 13 Q Okay. And you never saw him try to run from the
- 14 police?
- 15 A No.
- 16 Q Okay. And, in fact, when the police showed up,
- 17 you were already out of the trailer; is that correct?
- 18 A Yes, ma'am, I was.
- 19 Q Okay. And you approached them?
- 20 A Yes, ma'am, I did.
- 21 Q Okay. So if you wanted to, you could have left,
- 22 gone, before the police ever showed up?
- 23 A Yes, ma'am, I could have.
- 24 Q Okay. You could have?
- 25 A Yes.

## CARLTON WATTS-REDIRECT BY MS. LIVESAY

1 Q Did you?

2 A No.

3 Q Did Splurge?

4 A No, he didn't.

5 Q Okay. Did you ever see a brown van out there when  
6 you came out?

7 A No, ma'am, I didn't.

8 Q Okay. So that had had to already leave by the  
9 time you got out?

10 A Yes, ma'am, it did.

11 Q Okay. So when the police got there, you were  
12 still there and Splurge was still there?

13 A Yes, ma'am, we was.

14 MS. LIVESAY: No further questions, Your Honor.

15 THE COURT: Questions on those questions just  
16 asked, Mr. Frederick?

17 MR. FREDERICK: Nothing, Your Honor.

18 THE COURT: Mr. Canty?

19 MR. CANTY: No recross, Your Honor.

20 THE COURT: Very good. You may step down, sir.

21 (Witness excused.)

22 THE COURT: Do you wish the witness to be excused,  
23 ma'am?

24 MS. LIVESAY: Yes, sir, Your Honor.

25 THE COURT: Any objection?

1 the star witness, Keir Johnson, Kachief Spain, those  
2 are the NCIC's I'm interested in, and they are not  
3 included in that packet.

4 THE COURT: All right. Well, the solicitor  
5 understands that before she calls a witness, she's  
6 going to provide the NCIC to the defense, all right.

7 MR. CANTY: Very good.

8 THE COURT: So if you don't get it and they call  
9 the witness, then you bring it to my attention.

10 MR. CANTY: Yes, sir.

11 THE COURT: All right. Very good. Ask the jury  
12 to come in.

13 (WHEREUPON, the jury came into open court at  
14 approximately 2:09 p.m.)

15 THE COURT: All right, solicitor, your next  
16 witness, please, ma'am.

17 MS. LIVESAY: Thank you, Your Honor. At this time  
18 the State calls Renee Hardwick to the stand.

19 THE COURT: All right. Come around and meet the  
20 court reporter right there, please.

21 (WHEREUPON, State's Exhibit No. 28 was marked for  
22 identification only.)

23 SHARON RENEE HARDWICK, after being duly sworn,  
24 testified as follows:

25 CLERK OF COURT: Please be seated. State you full

SHARON RENEE HARDWICK-DIRECT BY MS. LIVESAY

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1 name, spell your last name for the Court, please.

2 THE WITNESS: Sharon Renee Hardwick,

3 H-A-R-D-W-I-C-K.

4 DIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Ms. Hardwick, where are you currently employed?

7 A Horry County 911.

8 Q And how long have you been employed there?

9 A 30 years.

10 Q How many years?

11 A 30.

12 Q And what is your job responsibilities?

13 A I'm over day-to-day operations, personnel matters,  
14 equipment, keeper of the records for our department.

15 Q Okay. And are you familiar with the procedure of  
16 when a 911 call comes in?

17 A Yes.

18 Q And are those calls recorded?

19 A They are.

20 Q And if you don't mind, are they kept in any form  
21 or fashion there at 911?

22 A They are currently, they are stored on a hard  
23 drive, and we are mandated by law to keep them for 60  
24 days.

25 Q Okay. And are they kept in such a form or fashion

SHARON RENEE HARDWICK-DIRECT BY MS. LIVESAY

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1 that they cannot be tampered with?

2 A Yes.

3 Q And are they kept in the regular course of  
4 business?

5 A They are.

6 Q Okay. And are you familiar with a call that was  
7 made on November 8th of 2011?

8 A I am.

9 Q Okay. And I'm showing you now what's been marked  
10 as State's Exhibit No. 28?

11 A Yes.

12 Q Are you familiar with that call?

13 A I am.

14 Q And was that call kept in the regular business,  
15 course of business?

16 A It was.

17 Q And did you recognize the 911 employee taking the  
18 call?

19 A I did.

20 Q And who was that?

21 A Her name is Paula McMillen.

22 Q Okay. And has that call been tampered with in any  
23 form or fashion?

24 A No.

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

SHARON RENEE HARDWICK-DIRECT BY MS. LIVESAY

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1 wishes to admit State's Exhibit No. 22 into evidence  
2 and publish it at the appropriate time.

3 THE COURT: Any objection?

4 MR. FREDERICK: I have no objection.

5 THE COURT: Mr. Canty?

6 MR. CANTY: None, Your Honor.

7 THE COURT: And it was 22?

8 MS. LIVESAY: Thank you, Your Honor. No further  
9 questions for this witness.

10 THE COURT: All right. I'm sorry, was the  
11 Exhibit 22?

12 MS. LIVESAY: It's the 911 tape. I'm sorry, could  
13 you please place it into evidence as State's Evidence  
14 No. 28.

15 THE COURT: 28?

16 MS. LIVESAY: Yes.

17 THE COURT: Okay, so you said two different  
18 numbers.

19 MS. LIVESAY: Sorry.

20 THE COURT: That's what I was trying to get clear.  
21 All right. So State's-28 is in evidence without  
22 objection.

23 (WHEREUPON, State's Exhibit No. 28 was admitted in  
24 evidence.)

25 MR. FREDERICK: Can we just identify which call

SHARON RENEE HARDWICK-DIRECT BY MS. LIVESAY

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1 that was.

2 MS. LIVESAY: David Grissett.

3 MR. FREDERICK: Thank you.

4 MS. LIVESAY: No further questions.

5 THE COURT: Any questions, Mr. Frederick?

6 MR. FREDERICK: No questions, judge.

7 THE COURT: Mr. Canty?

8 MR. CANTY: No, Your Honor.

9 THE COURT: All right. Do you wish to release the  
10 witness?

11 MS. LIVESAY: Yes, sir, Your Honor.

12 THE COURT: Any objection?

13 MR. FREDERICK: No objection.

14 THE COURT: Mr. Canty?

15 MR. CANTY: No, Your Honor.

16 THE COURT: All right, ma'am. You are released  
17 from your subpoena, and you may go back to your regular  
18 duties.

19 THE WITNESS: Thank you.

20 (Witness excused.)

21 THE COURT: Next witness, please, ma'am.

22 MS. LIVESAY: Thank you, Your Honor. At this time  
23 the State calls David Grissett to the stand.

24 THE COURT: All right, Mr. Grissett if you come  
25 all the way over here. Come up to the front, please.

## DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 DAVID D. GRISSETT, after being duly sworn,  
2 testified as follows:

3 CLERK OF COURT: Please be seated. State your  
4 full name for the Court, please.

5 THE WITNESS: David Duran Grissett.

6 DIRECT EXAMINATION

7 BY MS. LIVESAY:

8 Q And Mr. Grissett, if you don't mind, tell the jury  
9 about how old you are.

10 A 33.

11 Q Okay. And what are you doing currently for  
12 employment?

13 A Floor maintenance.

14 Q Okay. And where are you from?

15 A Conway, South Carolina.

16 Q Okay. And where were you living on or around  
17 August the 8th of 2011?

18 A Colletta Court. That's in Conway.

19 Q Okay. And did you have an occasion to call 911 on  
20 that day?

21 A Yes.

22 Q Okay. And have you heard your 911 tape?

23 A Yes.

24 Q Okay. And is that your voice on the tape?

25 A Yes.



DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q Okay. And is that an accurate representation of  
2 your call?

3 A Yes.

4 Q Okay.

5 MS. LIVESAY: Your Honor, at this time I wish to  
6 publish State's Evidence No. 28.

7 THE COURT: Yes, ma'am, you may go ahead.

8 (WHEREUPON, a CD was played for the jury.)

9 Q Now, Mr. Grissett, when you -- how long had you  
10 lived out there in that area before this happened?

11 A Over a year.

12 Q Okay.

13 THE COURT: Would you scoot up a little bit closer  
14 to the microphone, please, sir.

15 THE WITNESS: All right.

16 THE COURT: Thank you.

17 Q When was the first time you saw that brown van  
18 that night?

19 A A few minutes earlier before the whole thing  
20 happened and whatnot.

21 Q Okay. And if you don't mind, tell the jury when  
22 that van first caught your eye.

23 A When I was outside and it went down to a end  
24 trailer and just parked there.

25 Q Okay. And did it ever move once it was parked?

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 A Yes, it did.

2 Q Okay. And if you don't mind, tell the jury where  
3 it went.

4 A Well, like two streets over and came back.

5 Q Okay. And when it came back, what did it do?

6 A Parked again.

7 Q And where did it park?

8 A In the same spot at the end trailer, the last  
9 trailer.

10 Q Okay. And you had been living out there a couple  
11 of years?

12 A Over a year.

13 Q Okay, over a year. Had you ever seen that van  
14 before?

15 A Never.

16 Q Okay. And when you first saw it, were you  
17 suspicious of the van?

18 A Yes, ma'am.

19 Q About what time of night was it?

20 A It was like, two or three in the morning.

21 Q Okay. So about around 2 in the morning?

22 A Right.

23 Q Okay. Now, when you saw that van, did you do  
24 anything, when you first saw the van?

25 A No, not when I first saw it.

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q Okay.

2 A I just watched.

3 Q Okay. How about the second time?

4 A Yeah. The second time I did.

5 Q What did you do?

6 A I called Conswella and a couple other people that  
7 was in the neighborhood.

8 Q Okay. So you were suspicious enough to contact  
9 other people and say, hey, look out for this van?

10 A Right.

11 Q Okay. Now, what do you see after that; does the  
12 van move again a third time?

13 A Right. It moved again and went like two streets  
14 over. Being that it was dark, I mean, I could see the  
15 lights and I could hear the van or whatnot. So it went  
16 down just a little bit, and it came back up and it  
17 parked again the same spot.

18 Q Okay. And then what happened?

19 A Then I just heard like gunfire. I think Swella  
20 came out on the porch and she asked one of the guys  
21 something. And like right after or while she was  
22 asking a question, you know, some gunfire, again, you  
23 know, a bunch of commotion. And, you know, I seen  
24 somebody run, like two people.

25 Q Run from where?

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 A From the house.

2 Q Okay. And where did they run to?

3 A They ran like -- they ran to the van or whatnot.

4 Q Okay. Did they get in the van?

5 A Yes.

6 Q And then where did the van go?

7 A To, I mean, it had left out of the area or

8 whatnot.

9 Q Okay. You just know it left the area?

10 A Right.

11 Q And then what did you do?

12 A I made the phone call.

13 Q That's when you called 911?

14 A Right.

15 Q So when you called 911 that van had already left  
16 the area?

17 A Right.

18 Q Okay. Now, I'm going to show you what's already  
19 been put into evidence. This is State's Evidence No.

20 20. You recognize this?

21 A Yes.

22 Q Okay. And you've lived out there for over a year.  
23 Is this an accurate depiction of that neighborhood?

24 A Yes.

25 Q Okay. And on this can you show where the van went

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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- 1 that night? Just yes or no for now.
- 2 A Yes.
- 3 Q Okay. And can you point out where your house is.
- 4 A Yes.
- 5 Q And can you point out where Splurge and Keia's
- 6 house was.
- 7 A Yes.
- 8 Q Okay. If you don't mind, I'll ask you to step
- 9 down so the jury can look at this map while we're
- 10 looking at it, and you can tell them where you lived.
- 11 A Okay.
- 12 Q Okay. When you step down, make sure you speak up
- 13 because your back is going to be to the judge and to
- 14 the court reporter.
- 15 A Okay.
- 16 Q And make sure you speak into that microphone.
- 17 Now, first start off by telling this jury where your
- 18 house was.
- 19 A Right here (indicating).
- 20 Q Okay.
- 21 A Wherever the bushes at.
- 22 Q Okay. And show where Keia and Splurge lived.
- 23 A Straight across right here (indicating), where
- 24 this little shed is at.
- 25 Q Okay. I'm going to point it this way too so they

DAVID GRISSETT-DIRECT BY MS. LIVESAY

1 can see. And you were pointing to Splurge and Keia's  
2 house as this one (indicating)?

3 A Right.

4 Q Okay. And now, where is your house?

5 A Right here on Brison, all along Brison.

6 Q Now, if you don't mind, the first time you see the  
7 van, where is it?

8 A That at this end trailer right here (indicating).

9 Q Okay. And is there an outlet down there to get  
10 out of that neighborhood?

11 A No.

12 Q Okay. So it's down at the dead end?

13 A Right.

14 Q Okay. And then where did it go?

15 A It went to Wayside right here like (indicating).

16 It's small, it's small if you want to look. It went to  
17 this street right here, Wayside.

18 Q Okay. So this is a relatively small area?

19 A Right.

20 Q Okay. Let me ask you just so we can put it in  
21 terms, your house here, could you walk over here to  
22 this street?

23 A Yeah.

24 Q Would it be a short walk?

25 A Yeah, no problem.

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q More than -- more than three blocks?

2 A No.

3 Q Okay, no more than three blocks. So you see the  
4 van again where? Point it out to the jury. It went  
5 somewhere on Wayside Road?

6 A I don't know exactly where it went.

7 Q Okay.

8 A But it went on this side (indicating).

9 Q Okay.

10 A And when it came back, it came back the same spot.

11 Q Okay. So it was parked down here again a second  
12 time (indicating)?

13 A Right, right.

14 Q Okay. And then after it parked the second time,  
15 is that when you heard the gunshots?

16 A Yeah.

17 Q Okay. And after you heard the gunshots, you said  
18 earlier you saw two people running?

19 A Right.

20 Q Where did you see them running from?

21 A They ran from this house right here (indicating)  
22 like straight across. I mean, because there wasn't  
23 nothing sitting right there.

24 Q Okay. And where was the van when they were  
25 running from that house?

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 A Still parked right here (indicating).

2 Q Okay. And then what happened?

3 A And then they made off with the van, and the van  
4 picked them up like right along in here or whatnot  
5 (indicating).

6 Q And then left the area?

7 A Right.

8 Q Did you see that van back in that area since that  
9 day?

10 A No.

11 Q Okay. And about how -- do you remember how long  
12 it took the police to get there?

13 A No.

14 Q Okay. Now, I asked somebody earlier, and I just  
15 wanted to make sure I understand, is this a  
16 neighborhood type situation?

17 A Yeah.

18 Q Okay. And is there an outlet on either one of  
19 these roads?

20 A No.

21 Q Okay. So there's only one way in and one way out?

22 A Right.

23 Q Okay. Now, are there street lights along in this  
24 neighborhood?

25 A No.



DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q Okay. So there are no street lights along in  
2 here?

3 A No.

4 Q Okay. Now, and you said you saw them sometime  
5 around 2 o'clock in the morning or after?

6 A Right.

7 Q Okay. Now, you saw them. Could you describe the  
8 two people you saw running from the trailer?

9 A No.

10 Q Okay. And where were you standing when you saw  
11 them running from the trailer?

12 A Right in front of my house.

13 Q Okay. Right here (indicating)?

14 A Right.

15 Q And they were running from this house  
16 (indicating)?

17 A Right.

18 Q Okay. And there are no street lights along in  
19 here (indicating)?

20 A No.

21 Q Okay. So you couldn't see good enough to get a  
22 actual description of them?

23 A No.

24 Q Okay. And did you call 911 immediately?

25 A Yes.

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q Okay.

2 A After I heard the gun.

3 Q Okay. If you don't mind, have a seat,

4 Mr. Grissett.

5 A Yeah.

6 Q Thank you. Now, how did you -- do you remember

7 what that van looked like now?

8 A No. I mean, it's been a while.

9 Q Okay.

10 A Haven't seen it before then and...

11 Q Okay. That 911 tape you describe it as a old van;  
12 did you hear that?

13 A Right.

14 Q Okay. And was that description accurate in the  
15 911 call?

16 A Right.

17 Q Okay. Okay. Now, after that van left, did you  
18 see anybody else run out of that trailer?

19 A Yes.

20 Q Who did you see?

21 A I don't know his name. I seen a black guy, a  
22 little skinny guy.

23 Q Okay. And was he running to leave the area?

24 A Right. He was -- he was running to leave the  
25 house.

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 Q Okay, okay. This is a third person?

2 A Right.

3 Q And did a car pick him up?

4 A Not to my knowledge.

5 Q Okay. And do you remember what he was wearing?

6 A I don't think he was wearing nothing, to be  
7 honest.

8 Q Okay. Just some pants? Okay.

9 A Probably some --- may have been some drawers,  
10 that's it.

11 Q Okay. And he came out after the two guys jumped  
12 in the van?

13 A Right.

14 Q Okay. And no car came and picked him up?

15 A No.

16 Q Okay.

17 MR. CANTY: Your Honor, I haven't objected to  
18 leading up to this point, but it's getting to the  
19 point --

20 Q Do you know all who was --

21 THE COURT: Solicitor.

22 MS. LIVESAY: I'm sorry.

23 THE COURT: There is an objection.

24 MR. CANTY: She's testifying and asking him --

25 THE COURT: I appreciate that. Solicitor, don't

DAVID GRISSETT-DIRECT BY MS. LIVESAY

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1 lead your witness, please.

2 MS. LIVESAY: I understand, Your Honor.

3 THE COURT: Thank you, ma'am.

4 Q Did you know all who lived in that mobile home at  
5 that time?

6 A No.

7 Q Okay. You just knew well enough to know somebody  
8 lived in there?

9 A Right.

10 Q Okay. And you had never seen that brown van in  
11 that neighborhood ever before that night?

12 A No.

13 Q Okay. And you say you called and gave -- I'm just  
14 making sure I understand -- at least one person a

15 heads-up about that van being in the neighborhood?

16 A Right.

17 MR. FREDERICK: Judge, I got to join and object to  
18 hearsay, I mean --

19 THE COURT: Well, I appreciate that. But she was  
20 not talking about the contents of the conversation but  
21 that he made a phone call to someone else. I'm going  
22 to allow that. You may continue.

23 MR. FREDERICK: Judge, I didn't mean to say  
24 hearsay, I meant to say leading.

25 THE COURT: All right. And I appreciate that. I

DAVID GRISSETT-CROSS BY MR. FREDERICK

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1 don't think it was leading also because the question  
2 was previously asked and answered by the witness, and  
3 she was rephrasing his answer.

4 Q Do you remember what was behind their house that  
5 night? There were two guys running from Splurge's  
6 house, Splurge and Keia's house; do you remember what  
7 was behind the house, if anything?

8 A Only a shed. I mean, that's about it.

9 Q Okay.

10 MS. LIVESAY: No further questions, Your Honor.

11 THE COURT: Cross-examination, Mr. Frederick?

12 MR. FREDERICK: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. FREDERICK:

15 Q It is David; right?

16 A Correct.

17 Q You also when you saw the van before you heard  
18 gunshots and all, did you call Conswella to warn her  
19 about the van?

20 A Right.

21 Q Okay. And because it was unusual; right?

22 A Right.

23 Q I understand. And after you heard the gunshots,  
24 you saw two people running from the trailer; right?

25 A Right.

DAVID GRISSETT-CROSS BY MR. FREDERICK

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1 Q And earlier you said a third person ran from the  
2 house; right?

3 A Right.

4 Q Do you know Dontrell Watts?

5 A No.

6 Q Okay. Do you know Thomas?

7 A No.

8 Q Do you know Carnail?

9 A No.

10 Q Do you remember speaking with an investigator  
11 named Bill Beam in January of last year?

12 A No.

13 Q Okay. Did you tell an investigator in January of  
14 last year that you knew Thomas and Carnail?

15 A No. Not that I recall, no.

16 Q Okay.

17 A Only by maybe seeing them around, not knowing  
18 them.

19 Q So you do know them. Do you recognize them?

20 A Right.

21 Q Okay. You know who they are?

22 A Right.

23 Q And you recognize them?

24 A Right.

25 Q Okay. And you did tell the investigator that;

DAVID GRISSETT-CROSS BY MR. FREDERICK

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1 right?

2 A No, I don't recall that.

3 Q Okay. Did you also tell the investigator that  
4 this was not Thomas or Carnail running from the house?

5 A Sir, I don't recall that. I really don't.

6 Q Okay. Do you know Sha'Rah McCray?

7 A No.

8 Q He also goes by Migo; do you recognize that?

9 A No.

10 Q Lil Manzy?

11 A No.

12 Q Lil Deep?

13 A No.

14 Q Never heard of him?

15 MS. LIVESAY: Your Honor, at this time I'm going  
16 to have to object to the relevancy.

17 THE WITNESS: No.

18 THE COURT: I'm going to allow it.

19 Q Do you know Brandon Wells?

20 A No.

21 Q He also goes by B-Wells.

22 A No.

23 Q Never heard of him?

24 A No.

25 Q Do you know Donavan Johnson?

## DAVID GRISSETT-CROSS BY MR. CANTY

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1 A No.

2 Q He also goes by 110.

3 A No.

4 Q Never heard of him?

5 A No.

6 MR. FREDERICK: Beg the Court's indulgence. No  
7 further questions. Thank you, David.

8 THE COURT: Cross-examination?

9 MR. CANTY: Thank you, Your Honor. May it please  
10 the Court.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. CANTY:

14 Q Mr. Grissett, I noticed the solicitor got you to  
15 say 2 o'clock; is that your recollection?

16 A Yes, it was about 2 o'clock.

17 Q About 2 o'clock?

18 A Right.

19 Q And if the 911 tape says that your call came in at  
20 eight minutes after three, would that be accurate?

21 A I mean, if the proof is there, I mean, this ain't  
22 happened yesterday, this happened a couple years ago.

23 Q All right. Well, that's my question, if the 911  
24 tape says 3:08 a.m., would that be accurate?

25 A Yeah.



## DAVID GRISSETT-CROSS BY MR. CANTY

1 Q And your previous testimony that it was 2 o'clock  
2 would not be accurate?

3 A Right.

4 Q Now, this is Highway 548 up here at the top. This  
5 is the access road to get to your trailer park;  
6 correct, 548?

7 A Correct.

8 Q Is it called Brown Swamp Road sometime?

9 A Yeah.

10 Q Okay. And your trailer park has two dirt roads in  
11 it. The far one is Brison and this one is Collette, or  
12 Colletta; correct?

13 A Right.

14 Q You were here with the tall bushes in front;  
15 correct?

16 A Correct.

17 Q And when all of this was going on, you were  
18 actually out in your front yard; isn't that correct?

19 A Right.

20 Q And from your front yard you could see what was  
21 going on, but you could not be seen; is that correct?

22 A Right.

23 Q All right. Now, this last trailer at the end of  
24 Colletta Court, that's where Conswellia lives?

25 A Right.

DAVID GRISSETT-CROSS BY MR. CANTY

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1 Q You knew Conswellla?

2 A Right.

3 Q And I think you testified you did not know  
4 Mr. Dontrell Watts?

5 A Right.

6 Q But you did know Rodney McElveen, also known as  
7 Splurge?

8 A From the neighborhood, right.

9 Q You did know him?

10 A From the neighborhood.

11 Q You named him in that 911 call; didn't you?

12 A By nickname from the neighborhood, yeah.

13 Q And you actually referred to him as your man;  
14 didn't you?

15 A Right.

16 Q Okay. Now, you correct me if I'm wrong, this was  
17 an old van with a bad muffler that made a lot of noise?

18 A Right.

19 Q And that got your attention?

20 A Right.

21 Q And correct me if I'm wrong, did it first go down  
22 Brison, or did it first go down Colletta?

23 A It went down Colletta.

24 Q And it stopped there; and you thought that was  
25 suspicious?

DAVID GRISSETT-CROSS BY MR. CANTY

1 A Right.

2 Q So you kept your eyes on that van?

3 A Right.

4 Q And it left and it went up to 548; correct?

5 A Right.

6 Q Then did it go down Brison, or did it go down  
7 Wayside or both?

8 A Went down Wayside.

9 Q Wayside. But you could still see it because of no  
10 obstruction of your view there; correct?

11 A Right.

12 Q See the lights?

13 A Right.

14 Q And then it went back up to 548 and then back down  
15 Colletta?

16 A Right.

17 Q At this point you were extremely suspicious;  
18 correct?

19 A Right.

20 Q And it goes down to the end of Colletta, and once  
21 again, it stops and it parks in front of Conswella's  
22 house?

23 A Right.

24 Q Did you ever see two men get out of the van?

25 A No.

DAVID GRISSETT-CROSS BY MR. CANTY

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1 Q How long was it at the end of Colletta the second  
2 time before you called Conswellia?

3 A I guess a few minutes, I guess.

4 Q 30 seconds, a minute, two minutes?

5 A A few minutes.

6 Q Okay. Did you have to look up her number, or did  
7 you have it in your phone?

8 A I had it in my phone.

9 Q Okay. Then you said Conswellia, there's a van  
10 outside your house?

11 A Um-hum.

12 Q It looks -- well, tell the jury what you said to  
13 her. What did you tell her at 3 o'clock in the  
14 morning?

15 A I told her there was a van outside of her house,  
16 that's about it. And it looked strange.

17 Q Okay.

18 A I mean, to my recollection, you know.

19 Q How long was the van there the second time before  
20 you heard the gunshots?

21 A About a minute or two.

22 Q All right. And describe to the jury the gunshots.  
23 Was it pow, pow, pow, pow, pow, or was it five in a row  
24 or six in a row; or what did it sound like?

25 A It was about three or four in a row.

## DAVID GRISSETT-CROSS BY MR. CANTY

1 Q And that was all?

2 A Yeah, that I remember.

3 Q And what was the time lapse -- and you're out here  
4 in your front yard kind of hidden by these bushes, but  
5 you hear the gunshots coming from the direction of  
6 Splurge's house.

7 A Right.

8 Q That's what you told the 911 operator; correct?

9 A Right.

10 Q What was the time between hearing the gunshots and  
11 seeing the two men run towards you?

12 A A few seconds.

13 Q Okay. Now, the van came up and intercepted, met  
14 the two running men who jumped in the van; is that

15 correct?

16 A Right.

17 Q They did not run down to Colletta's house and then  
18 the van started up and proceeded, the van was already  
19 underway, met them and continued up to 548; is that  
20 correct?

21 A Right.

22 Q Okay. Who else did you call besides Consweila to  
23 tell them about this van?

24 A I don't remember.

25 Q Your cell phone records would reflect who you

DAVID GRISSETT-CROSS BY MR. CANTY

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1 called?

2 A Right.

3 Q Now, when you met with the investigator about,  
4 well, exactly January the 8th of 2013, Mr. Bill Beam,  
5 the investigator, went to your house; do you remember  
6 that?

7 A No.

8 Q You don't remember meeting with the investigator?

9 A No, no.

10 Q Did you tell the investigator that you were  
11 hesitant to discuss this?

12 A No.

13 Q Did you express a fear of retribution --

14 A No.

15 Q -- which you felt could jeopardize your physical  
16 safety?

17 A No.

18 Q You did not say that?

19 A No.

20 Q Okay.

21 MS. LIVESAY: Your Honor, I'm not sure what  
22 investigator we're referring to.

23 MR. FREDERICK: He just said Bill Beam.

24 MS. LIVESAY: Just for my clarification.

25 THE COURT: He did say the name of the

DAVID GRISSETT-CROSS BY MR. CANTY

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1 investigator. He asked.

2 MS. LIVESAY: And I'm assuming he is an  
3 investigator for Mr. Canty?

4 MR. CANTY: That's correct, Your Honor.

5 THE COURT: Mr. Canty just answered the question.

6 MS. LIVESAY: I understand, Your Honor. Am I  
7 going to get a copy of that statement he gave to that  
8 investigator or?

9 THE COURT: Ma'am, if you have an objection, I'll  
10 be glad to hear it. If you don't have an objection,  
11 we're not discussing the matter between you and the  
12 attorney. Sit down.

13 MR. CANTY: Your Honor, there is some impeachment  
14 matters. I don't know if you want to review them at  
15 the bench beforehand.

16 THE COURT: Ladies and gentlemen of the jury, go  
17 to your jury room, please.

18 (WHEREUPON, the jury exited the courtroom at  
19 2:44 p.m.)

20 THE COURT: You doing this from an NCIC?

21 MR. CANTY: Yes, Your Honor.

22 THE COURT: Somebody have a copy for me?

23 MR. CANTY: Do you have a copy that he can refer  
24 to?

25 MS. LIVESAY: I don't have a copy. I gave my copy

## DAVID GRISSETT-CROSS BY MR. CANTY

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1 (WHEREUPON; the jury came into open court at  
2 approximately 2:56 p.m.)

3 THE COURT: You may proceed, Mr. Canty.

4 MR. CANTY: Thank you, Your Honor. May it please  
5 the Court.

6 THE COURT: Yes, sir.

7 Q You are the same David Grissett who pled guilty to  
8 possession of cocaine in January of 2004 and received a  
9 three-year probationary sentence; is that correct?

10 A Yes.

11 MR. CANTY: That's all I have.

12 THE COURT: Thank you very much. Redirect, ma'am?

13 MS. LIVESAY: No further questions from the State,  
14 Your Honor.

15 THE COURT: Do you wish the witness to be excused?

16 MS. LIVESAY: I do.

17 THE COURT: Any objection, Mr. Frederick?

18 MR. FREDERICK: Judge, we also have him under  
19 subpoena. I would like him to remain subject to  
20 recall.

21 THE COURT: All right, very good. All right, Mr.  
22 Grissett you are free to step down, but you do remain  
23 under subpoena, that is the call of the Court again.  
24 All right. Thank you, sir.

25 (Witness excused.)



MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 THE COURT: Next witness, ma'am.

2 MS. LIVESAY: Thank you, Your Honor. At this time  
3 the State calls Officer Matthew Singleton.

4 THE COURT: All right. Come all the way around  
5 here, please, sir, and meet the clerk.

6 MATTHEW SINGLETON, after being duly sworn,  
7 testified as follows:

8 CLERK OF COURT: Please be seated. State your  
9 full name, spell your last name for the Court, please.

10 THE WITNESS: Matthew Singleton. Last name is  
11 S-I-N-G-L-E-T-O-N.

12 DIRECT EXAMINATION

13 BY MS. LIVESAY:

14 Q And Officer Singleton, if you don't mind, tell the  
15 jury where you're currently employed.

16 A Horry County Police Department.

17 Q And how long have you been employed there?

18 A Nine years.

19 Q Okay. And what kind of training have you  
20 undergone to be a policeman?

21 A Just standard basic law enforcement training at  
22 the Criminal Justice Academy in Columbia.

23 Q Okay. And what are your current -- your  
24 responsibilities?

25 A My current responsibility is burglary

MATTHEW SINGLETON-DIRECT BY MS: LIVESAY

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1 investigation out of the west precinct.

2 Q And what were your responsibilities back on  
3 November 8th, 2011?

4 A I was a patrol corporal responsible for trouble  
5 shift.

6 Q Okay. And at that time -- I see you're in a suit  
7 now. Do you normally wear a suit as an investigator?

8 A Sometimes.

9 Q Okay. And what did you wear back in  
10 November 2011?

11 A I was a uniformed officer.

12 Q Okay. And were you in a uniformed car?

13 A Yes, ma'am.

14 Q Okay. And on November 8th, 2011, did you happen  
15 to have an occasion to respond to a call on Brison  
16 Court or Colletta Court?

17 A I did.

18 Q Okay. And if you don't mind, tell the jury about  
19 that.

20 A I responded to a call reference to a shooting near  
21 the intersection. I believe the call come in somewhere  
22 off of Colletta Court. I responded to Colletta Court,  
23 at which point in time I saw several people standing  
24 outside. They appeared to be pretty frantic.

25 I was able to -- they kept saying, someone's shot,

MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 someone's shot. I was able to calm some -- one of them  
2 down just long enough to kind of ascertain where it  
3 was. They pointed in the direction of a house or the  
4 residence where the shooting had occurred or they  
5 believe the shooting had occurred.

6 I got to the back of that residence where I found  
7 the door ajar. I maintained my position there until I  
8 could get some further back-up to further assess the  
9 situation.

10 Q Okay. And about what time did you respond to that  
11 call?

12 A I believe it was around 3 a.m.

13 Q Okay. And is that about when you were dispatched  
14 out?

15 A I don't recall the exact dispatch time, but...

16 Q Okay. Did you go out to the call as soon as you  
17 got dispatched?

18 A Yes, ma'am.

19 Q Okay.

20 A There would have been an emergency response.

21 Q And you got out of there around 3 a.m. in the  
22 morning?

23 A Yes, ma'am.

24 Q Okay. And once backup came, what did you do?

25 A When a secondary officer arrived we -- like I

MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 said, the door was ajar on the rear of the home. We  
2 heard something inside the home, so we began to  
3 challenge whomever may be inside. By that point an  
4 individual came to the back of the house saying that  
5 someone was shot inside.

6 At that point we entered the home to protect the  
7 -- you know, to do a sweep of the home, at which point  
8 in time we located a female in there.

9 Q Okay. Who came out of the house?

10 A I don't recall his name.

11 Q Okay. If I show you your report, will that  
12 refresh your memory?

13 A Yes, ma'am.

14 Q Okay. And I believe, correct me if I'm wrong, is  
15 that your report?

16 A Yes, ma'am.

17 Q Okay. And if you don't mind, look through it and  
18 see if that refreshes your memory.

19 A I believe it was Rodney --

20 THE COURT: All right, sir. You can use the  
21 report and read through it and refresh your memory.  
22 Give the report back to the solicitor, and then she'll  
23 ask you the question.

24 THE WITNESS: Rodney McElveen.

25 Q Okay. And when you went inside the home, did you

MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 touch anything or move anything?

2 A Not that I recall.

3 Q Okay. When you go as the first responder on the  
4 scene, what are ultimately your responsibilities?

5 A To, first off, check on the status of the victim  
6 and secure the crime scene as best as possible for the  
7 following investigators to arrive and crime scene  
8 personnel for evidence collection.

9 Q Okay. And do you remember the layout of that  
10 mobile home?

11 A Yes, ma'am.

12 Q Okay. And do you remember where the victim was  
13 when you entered the mobile home?

14 A Yes, ma'am.

15 Q Where was she?

16 A As I entered the residence from the back, I made  
17 my way through the kitchen of the home. And when I --  
18 I got to the edge of the hallway, I could see the front  
19 bedroom of the residence, and I could see the upper  
20 torso or head reach of the female laying on the bed.

21 Q Okay. And how did the victim appear when you saw  
22 her?

23 A She did not appear to -- she did not appear alive  
24 at that particular point in time.

25 Q Okay.

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1 A At first sight.

2 Q Okay. And what made you believe that she was not  
3 alive?

4 A She was making no movements, there was -- there  
5 was -- when we made our entry into the room, there was  
6 numerous attempts to, you know, recall her. There was  
7 no -- there was no movement at all.

8 Q Okay. At any point did you call her name or call  
9 anything to try to see if she would respond?

10 A I was unaware of her name at that particular time.

11 Q Okay. And did you see any injuries to her at that  
12 time?

13 A I did. I saw there was blood coming out of her  
14 mouth, and there was also blood on her left chest  
15 region.

16 Q Okay. When you saw the victim, did you move her  
17 in any form or fashion?

18 A No, ma'am.

19 Q Okay. Did you move or collect anything from the  
20 house?

21 A No, ma'am.

22 Q Okay.

23 A Not that I recall.

24 Q And once you saw the victim, at that point what  
25 did you do?

MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 A We called for the medic. Upon the ambulance  
2 arriving, we allowed them to come into the home to  
3 render aid if -- if there was any to be given. By that  
4 point the paramedic advised that there was -- he didn't  
5 feel that they could do anything, and they exited the  
6 home.

7 Q Okay.

8 A And we secured the scene as best we could.

9 Q And while you were out there on the scene, did you  
10 collect any information that furthered this  
11 investigation?

12 A I was told by someone, I don't recall the name, I  
13 was told by someone that there was a van parked at the  
14 end of Colletta Court, and they saw two people run  
15 towards it and get in and say, go. But I don't recall  
16 where I learned that information exactly from.

17 Q Okay. And that's the only information you  
18 collected from the scene?

19 A Yes, ma'am.

20 Q Okay. And you didn't collect any evidence?

21 A No, ma'am.

22 Q Okay. Now, is it your job as the patrolman to  
23 follow up on those leads in a murder case?

24 A No, ma'am. My responsibility was crime scene  
25 security.

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1 Q Okay.

2 A At that particular point.

3 Q Okay. And after you arrived, were there further  
4 Horry County officers around?

5 A Yes, ma'am. I contacted the violent crimes  
6 section who responded along with crime scene --

7 Q Okay.

8 A -- to assume the investigation.

9 Q Okay. And is it their responsibility then, like  
10 you said, to take over the investigation?

11 A Yes, ma'am.

12 Q Okay. About what time did you leave the scene  
13 that night?

14 A It was after what our normal shift change would  
15 have been. I don't recall the time. It would have  
16 been somewhere -- I would be estimating close to 7 a.m.

17 Q Okay.

18 A 6:45, 7 a.m.

19 Q When does shift change?

20 A 6 a.m.

21 Q Okay. So sometime after that?

22 A Yes, ma'am.

23 Q Did you do any further investigation on this case  
24 when you left that area that night?

25 A No, ma'am.



MATTHEW SINGLETON-DIRECT BY MS. LIVESAY

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1 Q Okay. When Rodney came out of that house, was he  
2 detained for questioning?

3 A I don't -- I know he was placed in a vehicle. I  
4 don't know that -- I don't remember if it was -- I  
5 think it was after we had done the sweep of the home  
6 and came -- and came back out, if I recall correctly.

7 Q And was anybody else placed in a vehicle for  
8 questioning?

9 A There was another individual that we -- we just  
10 tried to separate the two parties that said they were  
11 in the home whenever the incident happened. And that  
12 was the only two people we had found inside the home.

13 Q Okay. And was anybody else other than Horry  
14 County let back into that mobile home that night?

15 A No, ma'am.

16 Q Okay. And you said two different people were put  
17 in cars for y'all to follow up and talk to?

18 A We placed them there to wait for the investigators  
19 when they showed up if they needed to talk to them or  
20 not, which we figured they would. So we tried to  
21 sequester them the best we could --

22 Q Okay.

23 A -- in two separate patrol cars.

24 Q And were both of those people from right out there  
25 in that area?

MATTHEW SINGLETON-CROSS BY MR. FREDERICK

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1 A It was my understanding they both were residing in  
2 that residence at that time.

3 Q Okay. And when you got there, did you see a brown  
4 van?

5 A I did not.

6 Q On your way to that area, did you pass a brown  
7 van?

8 A No, ma'am.

9 Q Do you remember how long it took you to get to  
10 that area?

11 A I don't. I don't know where I was responding  
12 from --

13 Q Okay.

14 A -- when the call came out.

15 Q Okay. But when you were out there, you never saw  
16 a van that met that description?

17 A No, ma'am.

18 MS. LIVESAY: No further questions for this  
19 witness, Your Honor.

20 THE COURT: All right. Cross-examination?

21 MR. FREDERICK: Just a couple questions.

22 THE COURT: All right, sir.

23 CROSS-EXAMINATION

24 BY MR. FREDERICK:

25 Q Based on your information and being there, there

MATTHEW SINGLETON-CROSS BY MR. FREDERICK

1 was a different officer that saw the van; is that  
2 right?

3 A There was another officer that said they saw a  
4 van.

5 Q Okay.

6 A I'm not sure exactly.

7 Q You don't know the details, I understand.

8 A Right.

9 Q I'm not asking you for the details.

10 A Okay.

11 Q Okay. And just for clarification, you had said a  
12 minute ago that there were two people found in the  
13 house. One is Rodney McElveen or Splurge; right?

14 A I'm not sure his -- his street name.

15 Q Well, the one you identified as McElveen; is that  
16 correct?

17 A Yes, sir.

18 Q Okay. The other one, Dontrell Watts; he had  
19 actually ran out of the house before you got there; was  
20 that right?

21 A Yes, sir.

22 Q Okay.

23 MR. FREDERICK: That's all. Thank you.

24 THE COURT: Mr. Canty?

25 MR. CANTY: Thank you, Your Honor, if it please

MATTHEW SINGLETON-CROSS BY MR. CANTY

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1 the Court.

2 CROSS-EXAMINATION

3 BY MR. CANTY:

4 Q Officer Britt or, forgive me, Detective Britt now.

5 A I'm Detective Singleton.

6 Q I'm sorry, Singleton. Officer Britt was the  
7 second one at the scene?

8 A Yes, sir. Officer Britt was the other officer.

9 Q I apologize.

10 A No problem.

11 Q Did you have -- you had your video on when you  
12 pulled up to the scene; correct?

13 A Yes, sir.

14 Q And did you have an opportunity to review that  
15 video before your testimony today?

16 A No, sir.

17 Q When you got -- once you identified the trailer,  
18 who was it that pointed out which trailer the shooting  
19 had happened?

20 A I don't recall. There was several -- there were  
21 several persons when I pulled up that were just kind of  
22 pointing in a general direction that way. And it took  
23 me a minute to figure out what exactly they were  
24 talking about, because I was trying to get as much  
25 information as I could.

## MATTHEW SINGLETON-CROSS BY MR. CANTY

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1 Q And Christopher Britt arrived, if you remember,  
2 how long after you?

3 A I don't remember. It would have been -- it was a  
4 short time. I don't remember exactly.

5 Q When you approached knowing that shots had been  
6 fired, as you approached the back door of the trailer  
7 you would have had your weapon drawn?

8 A Yes, sir.

9 Q All right. And that would have been while Officer  
10 Britt was on the front side of the trailer?

11 A I don't remember. I know we both entered the rear  
12 of the home.

13 Q And you yelled for occupants in the home to come  
14 out with their hands up?

15 A Um-hum.

16 Q And if I read your report correctly, there was  
17 some delay --

18 A Um-hum.

19 Q -- before Mr. McElveen --

20 THE COURT: Is that a yes or no?

21 THE WITNESS: Yes, sir.

22 Q And after some period of time Mr. McElveen came to  
23 the door?

24 A Yes, sir.

25 Q The back door. And he exited with his hands up?

MATTHEW SINGLETON-CROSS BY MR. CANTY

1 A Yes, sir.

2 Q Did you hear a toilet running at any time while  
3 you were -- before he came out?

4 A No, sir, I did not.

5 Q Tell the jury what Mr. McElveen's demeanor was at  
6 that point.

7 A I don't recall his -- I don't recall his demeanor.

8 Q Did he appear at all lethargic?

9 A I don't remember that.

10 Q The other occupant of the mobile home was placed  
11 in another police car separated from Mr. McElveen. I  
12 believe his name was Mr. Watts; does that sound  
13 correct?

14 A Yes, sir.

15 Q He is a thin fellow?

16 A I believe so.

17 Q Mr. McElveen had glasses on?

18 A Yes, sir.

19 Q Do you recall if Mr. Watts identified himself as  
20 an occupant? I assume he was not in the mobile home,  
21 he was outside when you arrived?

22 A Right.

23 Q Did he identify himself as an occupant, or did the  
24 crowd say, that fellow lives there too?

25 A I cannot -- I don't recall exactly how we learned

MATTHEW SINGLETON-CROSS BY MR. CANTY

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1 he was in the home. I would -- and I would -- I don't  
2 want to speculate exactly.

3 Q Well, the doorway at the end of the hall, you  
4 could see the decedent through the doorway on the bed?

5 A I'm sorry, say that.

6 Q When you entered the mobile home, to your left  
7 there was a hallway; correct?

8 A Yes, sir.

9 Q And at the end of the hallway was a bedroom with a  
10 bed, and the decedent was on that bed?

11 A Yes, sir.

12 Q The door to that bedroom, was it all the way open,  
13 45 degrees or some other angle, if you recall?

14 A I -- I don't recall.

15 MR. CANTY: Your Honor, if I may, Court's  
16 indulgence one moment.

17 THE COURT: Yes, sir.

18 MR. CANTY: That's all I have, Your Honor.

19 THE COURT: Any redirect?

20 MS. LIVESAY: No, sir, Your Honor.

21 THE COURT: All right. Do you wish the witness to  
22 be excused?

23 MS. LIVESAY: Yes, please.

24 THE COURT: Any objection?

25 MR. FREDERICK: No objection.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 THE COURT: All right. Solicitor, your next  
2 witness, please, ma'am.

3 MS. LIVESAY: Thank you, Your Honor. At this time  
4 the State calls Dr. Edward Proctor.

5 THE COURT: Please come right up and be sworn,  
6 sir.

7 EDWARD PROCTOR, JR., M.D., after being duly sworn,  
8 testified as follows:

9 CLERK OF COURT: Please be seated. State your  
10 full name, spell your last name for the Court, please.

11 THE WITNESS: Yes, ma'am. I am Edward Proctor,  
12 Jr., and that's P-R-O-C-T-O-R.

13 DIRECT EXAMINATION

14 BY MS. LIVESAY:

15 Q And Mr. Proctor, where are you currently working?

16 A I am a physician, I am self-employed, but my  
17 office is at Grand Strand Regional Medical Center,  
18 Myrtle Beach.

19 Q Okay. And what states are you licensed to  
20 practice in?

21 A North Carolina and South Carolina.

22 Q Okay. And how long have you been a practicing  
23 physician?

24 A I have been a practicing physician board certified  
25 in my specialty since 1982.



EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q : Okay. And if you don't mind, tell the jury a  
2 little bit about your education and training.

3 A I received my undergraduate degree from Clemson  
4 University, my med degree from the Medical University  
5 of South Carolina in Charleston. I did a residency in  
6 anatomic and clinical pathology at Walter Reed Army  
7 Medical Center in Washington, DC, and was chief of  
8 clinical pathology at Womack Army Hospital, Fort Bragg,  
9 North Carolina.

10 Subsequently, I received credit and competency and  
11 took the boards, and I am fully board certified in  
12 anatomic pathology, clinical pathology and forensic  
13 pathology.

14 Q Okay. And if you don't mind, tell the jury what  
15 pathology is.

16 A Pathology is the medical basis of disease. In  
17 anatomic pathology we look at specimens; blood,  
18 biopsies, that kind of stuff, to determine what the  
19 disease process is. The clinical side, there's a blood  
20 bank, the lab, and chemistry section to do that.

21 And forensic is the medical legal evaluation of  
22 cause and manner of death. And as a forensic  
23 pathologist, I get information from investigative  
24 authorities, perform an examination and based on that  
25 information provide cause and manner of death.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q Okay. And what are your current responsibilities  
2 as a pathologist?

3 A Very much what I just said. And that's what I do  
4 everyday.

5 Q Okay. And how many autopsies do you perform in  
6 the course of a week?

7 A I average about four to six per week.

8 Q Okay. And how long have you been working at Grand  
9 Strand doing autopsies?

10 A I have been in Myrtle Beach since 1986.

11 Q Okay. And how long have you been assisting law  
12 enforcement by doing autopsies?

13 A I was doing that while in the military, so from  
14 about 1982 to current time.

15 Q Okay. And have you ever testified as an expert in  
16 pathology before?

17 A I have.

18 Q And how many times?

19 A Probably several hundred.

20 Q And in what court?

21 A This court and federal court and courts in North  
22 Carolina.

23 MS. LIVESAY: Your Honor, at this time, the State  
24 offers Dr. Proctor as an expert in pathology.

25 THE COURT: Do you wish to voir dire the witness

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 as to qualifications or challenge the State's offering,  
2 Mr. Frederick?

3 MR. FREDERICK: I do not, Your Honor. No  
4 objection.

5 THE COURT: Mr. Canty?

6 MR. CANTY: Your Honor, I so do stipulate.

7 THE COURT: All right, very good. I do find that  
8 Dr. Proctor is qualified to give his opinion. You may  
9 continue.

10 MS. LIVESAY: Thank you, Your Honor.

11 Q Did you perform an autopsy on or around  
12 November 8th, 2011 on a Ms. Pertelle?

13 A Yes, I did.

14 Q Okay. And if you don't mind, give the external  
15 description of that victim.

16 A Okay. Ms. Pertelle was a young woman about  
17 5 feet, 2 inches tall, approximately 140 pounds in  
18 weight estimated, externally appeared extremely  
19 healthy. External finding of significance was a  
20 gunshot wound that entered the left chest just above  
21 the breast. The other external finding was a palpable  
22 projectile. There's a typographical error in my  
23 autopsy report. It was on the right side and not the  
24 left side under the scapula area.

25 Q Okay. So just so I'm correct, on me, I'm facing

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 the jury now, the entry wound on the victim was here  
2 (indicating)?

3 A It was above, just above the left breast traveling  
4 anterior to posterior and to the right. And it  
5 penetrated internal organs, the aorta, hit the  
6 vertebral column and was deflected back to the left and  
7 was in the subcutaneous tissues below the scapula which  
8 is the big bone in your back.

9 Q Okay. So it went in here, and it came out  
10 approximately right there (indicating)?

11 A That's correct.

12 Q So it went in the left side, traveled through left  
13 to right, moving this way (indicating), and ultimately  
14 ended up right here on the right side of her back?

15 A About midback area just below the angle of that  
16 scapula. So it came across the midline striking at the  
17 headline, hit back towards the vertebral column to  
18 deflect it somewhat to the right. So it's sort of  
19 coming in and deflected to the right, hits the bone.

20 Q Okay. So it went in the left side?

21 A That's correct.

22 Q And was stuck in her back in the right midway down  
23 the back?

24 A That's correct.

25 Q Okay. Now, did you see any injuries externally to

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 her other than that gunshot wound?

2 A In my examination, I did not.

3 Q Okay. So the only injury was the gunshot wound?

4 A Yes, ma'am, that's correct.

5 Q Okay. Internally other than the damage that the  
6 bullet did, was there any other possible causes of  
7 death?

8 A No, ma'am.

9 Q Okay. Now, when you named several injuries that  
10 were going on inside, if you don't mind, tell us first  
11 what the bullet hit internally on that victim.

12 A Okay. This bullet hit the left chest at the space  
13 between the fourth and fifth ribs, the fifth rib  
14 interspace. It passed into the chest cavity in a left,  
15 slightly right direction. It hit the heart, it hit the  
16 aorta coming behind the heart, it hit the vertebral  
17 column right at that same level, T5, was deflected  
18 slightly to the right to penetrate the -- the lung.

19 Q Okay. When we're talking it hit the aorta, tell  
20 the jury what that means.

21 A Basically what this bullet did as it traversed the  
22 body it put a whole in the heart, put a hole in the  
23 aorta and a hole in all of the other soft tissues of  
24 the lungs that it went through, thus leaving a hole  
25 which bled.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q Okay. And once it hit the heart and the aorta,  
2 what starts happening in the body?

3 A Well, once it hits a vital organ anywhere, as the  
4 heart beats, where there is an injury it actually pumps  
5 blood through the jury.

6 Q Okay. And what other injuries other than the  
7 heart and the aorta?

8 A There was -- it passed through the heart, the  
9 aorta and lungs and into the soft tissues of the back.

10 Q Okay. Once that bullet hit the lung, what  
11 happens?

12 A Well, again, most importantly, as it hits the  
13 lung, it creates an injury where those blood vessels  
14 and all that supply the lung and heart, as you breathe  
15 and as the heart beats, blood is actually pumped  
16 through those vessels and fills -- it just goes to  
17 where the opening is, fills the spaces, fills the  
18 lungs.

19 Q Okay. What happens once that blood starts filling  
20 up the lung?

21 A Well, once it starts filling up the lungs, the  
22 victim can't really get oxygen. The blood does not  
23 exchange oxygen in the lungs, the blood is leaving the  
24 vascular system. It's just basically filling up the  
25 body.

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 Q Okay. Now, the officer said that when he got in  
2 there, there was blood coming out the mouth and out of  
3 the injury.

4 A The -- an injury of this type when it hits the  
5 lungs, you're breathing in air through the trachea, and  
6 it hits the lungs and it actually exchanges oxygen in  
7 the capillaries of the lungs with the blood. So when  
8 you have damage there, blood is able to get into the  
9 air space and actually come up through the trachea.

10 Q Okay.

11 A That's why there was blood there.

12 Q Okay. Now, we talked a little bit earlier of  
13 course about the injuries, the extent of the injuries.  
14 Now, what kind of timeframe are we talking about from  
15 the time that this bullet hits her until the time she  
16 is completely deceased?

17 A Completely deceased would probably take several  
18 minutes.

19 Q Okay. Let me ask you, how long would she be  
20 conscious from the time these injuries occur, how long  
21 would she be able to hold consciousness?

22 A The -- of course that's somewhat variable, but I  
23 would say a few seconds to approximately a minute or  
24 so.

25 Q Okay. If she's moving when she sustained this

1 injury, does that have any ultimate effect?

2 A This -- the movement of the victim would only just  
3 change the angle that the bullet would have gone  
4 through.

5 Q Okay. Now, did you find any gunshot residue or  
6 burn on this victim?

7 A I did not. I did have clothing on this victim  
8 which I took a fairly close look at but did not see  
9 any. And it was given to the investigative  
10 authorities, and I know there are some tests they can  
11 run. I don't know if they found anything or not.

12 Q Okay. And if you don't mind, tell the jury the  
13 significance if you find gunshot residue on the  
14 clothes; what does that mean?

15 A If I as a pathologist see residue on clothing,  
16 that usually indicates that the weapon was fired within  
17 about 18 to 24 inches variable, just a little bit.

18 Q If 18 to 24 inches here?

19 A Within about a couple feet.

20 Q Okay. So if there's gunshot residue, we're  
21 talking the end of the gun here and entry about right  
22 here of the bullet (indicating)?

23 A About 18 inches, two feet, that's correct.

24 Q Okay. And when we're talking this small of a  
25 space period, it leaves actual gunshot residue on the



EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 victim?

2 A Well, it will leave two things. It will leave --  
3 the smoke coming out of the end of the gun will stain  
4 or soil the body or the clothes. And the actual  
5 burning powder coming out of the end of the gun will  
6 actually burn items of clothing or leave a little burn  
7 on the body.

8 Q Okay. So the fact that you didn't see any gunshot  
9 residue, we're talking a distance further than this  
10 distance?

11 A Based on the fact that I didn't see it, plus the  
12 fact that I did not see it on the clothes, I feel that  
13 it was probably greater than a distance of 18 to 24  
14 inches.

15 Q Okay. And is it possible sometimes for a gunshot  
16 residue to or a gunshot to burn the external part of  
17 the body?

18 A When it is close enough, the burning powder coming  
19 out of the end of the gun will leave a burn.

20 Q A burn on the body?

21 A Um-hum, that's correct.

22 Q Did you see a burn mark on her body?

23 A I did not.

24 Q Okay. So that tells you this was not a close  
25 range shot?

EDWARD PROCTOR, MD-DIRECT BY MS. LIVESAY

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1 A I could -- I could tell you it was, in my opinion,  
2 greater than the distance that I said because the outer  
3 clothing that I did see had no residue on it. So  
4 anything that would impede the residue getting to the  
5 body needs to be examined. And what I examined I did  
6 not see it. And not seeing it on the body would  
7 suggest that it was greater than 18 to 24 inches.

8 Q Okay. And you didn't see any sort of injuries to  
9 any other part of the body?

10 A No, ma'am.

11 Q Okay. Including her arms or legs?

12 A My external examination, I have not stated that I  
13 have seen any entry -- any defense wounds or any type  
14 of external injury, no, ma'am.

15 Q Okay. And if you don't mind, briefly since you  
16 mentioned it, explain to the jury what a defensive  
17 wound is.

18 A A defensive wound would be if someone is coming at  
19 you with knife, gun or whatever, you throw your hands  
20 up or your arms up and you receive an injury to your  
21 arms or whatever portion of your body you throw in  
22 front of the projectile.

23 Q Okay. And you didn't see any defensive wounds or  
24 anything like that showing she had done like this  
25 (indicating)?

EDWARD PROCTOR, MD-CROSS BY MR. FREDERICK

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1 A I didn't.

2 MS. LIVESAY: No further questions for this  
3 witness, Your Honor.

4 THE COURT: Very good. Cross-examination?

5 CROSS-EXAMINATION

6 BY MR. FREDERICK:

7 Q Doctor, this may just be common sense, but she  
8 wasn't shot from behind?

9 A No, sir.

10 Q She was shot from somewhere in the front?

11 A In the front, that's correct.

12 Q And probably a left angle?

13 A The -- based upon the trajectory that I have, even  
14 with the correction of my typo, the wound would have

15 come slightly to the victim's left because it came in  
16 over the left breast and basically swerved anterior  
17 posterior slightly medial, then once it hit the bone  
18 was deflected a little more medial and back.

19 Q Okay. Thank you.

20 A Yes, sir.

21 Q And I just want to be sure, you said the bullet  
22 struck the heart?

23 A That's correct.

24 Q And the aorta?

25 A Correct.

EDWARD PROCTOR, MD-CROSS BY MR. CANTY

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1 Q And is the aorta the main artery?

2 A The aorta is the main blood vessel coming out of  
3 the left ventricle. It arches up, over and back down.  
4 And where the bullet caught the aorta was that it  
5 arches over, comes down slightly on the left. And as  
6 that bullet came through, it came through on the left  
7 side. The heart overlies the aorta on the left, so it  
8 caught the heart and the aorta as it came through.

9 Q Okay. And it also struck the lungs?

10 A Yes, it came through the lungs.

11 Q Okay. And I saw in your report you had noted  
12 associated massive hemorrhage. What does that mean?

13 A That means as the bullet came through causing the  
14 damage where the injuries were to the heart and the  
15 lungs, as that heart beat the blood was flowing through  
16 the wound, that's hemorrhaging, bleeding.

17 MR. FREDERICK: Okay. Thank you.

18 THE WITNESS: Yes, sir.

19 THE COURT: All right, Mr. Canty?

20 MR. CANTY: May it please the Court, Your Honor.

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. CANTY:

24 Q Doctor, I notice you mentioned the military. Were  
25 you in the military medical corp. in the military?

EDWARD PROCTOR, MD-CROSS BY MR. CANTY

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1 A That's correct.

2 Q Were you ever given any firearms training?

3 A Yes, I was.

4 Q And are you a sportsman, by any chance?

5 A Sort of.

6 Q Do you have some familiarity with firearms?

7 A I do. That's correct.

8 Q And a .357 Magnum is the -- did you identify the  
9 bullet, or you just removed the bullet?

10 A I removed the bullet and did not have any other  
11 bullets to prepare, but it was a large caliber jacket,  
12 the projectile, which, you know, .357, .40, .45. It's  
13 of that size, it's a large caliber.

14 Q And I think you indicated 1.5 liters of blood in  
15 the chest?

16 A Let's see, approximately -- I believe that is  
17 correct.

18 Q And when a bullet strikes a human body, it doesn't  
19 just make a hole, there is -- in effect, there's a  
20 shockwave that spreads out?

21 A That's correct.

22 Q From the path of the bullet. And that shockwave  
23 causes damage to the tissue that it impacts; correct?

24 A The actual physical or physics phenomenon that  
25 happens is the deceleration of the bullet as it hits a

EDWARD PROCTOR, MD-CROSS BY MR. CANTY

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1 solid object, as it slows down it does this  
2 (indicating), so the -- and yes. But it does create --  
3 it does create a space around it as it passes through.

4 Q Would you characterize it as a shockwave; is that  
5 a fair way --

6 A That's a fair way.

7 Q -- to describe it?

8 A Yes, sir.

9 Q And it's the energy of that bullet being expended,  
10 the transferring from the bullet to the body?

11 A The rate of acceleration through the body, that's  
12 correct.

13 Q And would you characterize a .357 Magnum as a high  
14 energy round?

15 A Actually, it is a high energy but not high  
16 velocity rifle. It moves at a rate slower than say a  
17 high powered rifle, so it -- it has a much more rapid  
18 deceleration of the force which will stop something  
19 rather than as a high velocity which will go through  
20 and rip something up.

21 Q And there's a difference in the lung weights, 250  
22 for one and 200 for the other?

23 A That's correct.

24 Q And the one that weighs less, was that any  
25 consequence of the damage from this projectile?

EDWARD PROCTOR, MD-CROSS BY MR. CANTY

1 A Actually, no. The right lung weighs a little bit  
2 more than the left because the right lung has three  
3 lobes, left lung has two. So usually there's a slight  
4 difference in weight.

5 Q And when you say the T-spine or the bracket spine,  
6 that just means the middle of the back?

7 A That's correct.

8 Q And the fact that you -- when you say scapula, you  
9 mean the shoulder blade?

10 A Shoulder blade, yes, sir.

11 Q And the fact that it was beneath the right  
12 shoulder blade, in your analysis, was the result of it  
13 deflecting off of the thoracic spine?

14 A That's correct, yes, sir.

15 Q I noticed in two of your images you had placed a  
16 ballistic rod. And can you tell the jury the angle of  
17 penetration of the bullet; would you say it was on a  
18 horizontal plane, above a horizontal plane or below?

19 A It was pretty much on a horizontal plane coming in  
20 at the fifth rear interspace. It actually struck the  
21 thoracic vertebra T5. So it was somewhat on a  
22 horizontal plane, angled slightly lateral to medial,  
23 and then once it hits that bone, then that bullet  
24 deflects and changes.

25 Q Very good. Now, I think we've -- you've

EDWARD PROCTOR, MD-REDIRECT BY MS. LIVESAY

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1 established that this was a catastrophic injury, it was  
2 a lethal injury?

3 A That's correct.

4 Q Fairly quickly?

5 A Yes, sir.

6 Q Let me ask you if you have an opinion as to  
7 whether someone who sustained an injury like this would  
8 then be able to run 30 to 35 feet and then jump over  
9 someone, jump over an obstacle after this wound.

10 A I would say that it is -- I would say that it is  
11 possible, in my opinion not likely, but it is certainly  
12 possible that that could happen.

13 MR. CANTY: That's all I have. Thank you, doctor.  
14 THE WITNESS: Yes, sir.

15 THE COURT: Any redirect?

16 MS. LIVESAY: Just a couple, Your Honor.  
17

18 BY MS. LIVESAY: REDIRECT EXAMINATION

19 Q Dr. Proctor, did this bullet, was there anything  
20 to indicate to you that it hit a bone inside her body?

21 A It struck the --

22 Q Okay.

23 A -- the thoracic vertebrae T5, which is basically  
24 midback and came in at the T5 interspace, so it was  
25 pretty much on plane.



EDWARD PROCTOR, MD-RE CROSS BY MR. FREDERICK

1 Q So was the bullet moving straight across or  
2 downward?

3 A The bullet was moving anterior posterior in a  
4 horizontal plane slightly medial to catch that bone,  
5 and then it was deflected more to the right.

6 Q Okay. I asked you a little bit earlier about the  
7 movement, if the victim was moving if that would make a  
8 difference. If that victim was moving in a certain  
9 direction when she got shot, would the body immediately  
10 drop to the ground?

11 A Not necessarily, no.

12 Q Okay. So the body could keep moving for a matter  
13 of seconds?

14 A These injuries are lethal injuries. People under  
15 stress in certain circumstances, it's possible that  
16 these people can move, can move a few feet, a few  
17 yards. But it's very difficult to say how much. It's  
18 certainly possible, but in all likelihood with these  
19 injuries, after -- I'd say after 15, 20, 30 seconds,  
20 she was pretty much incapacitated, not necessarily dead  
21 but losing a lot of blood.

22 Q Okay. So we're saying in at least 20 seconds  
23 she's down?

24 A Probably, in all likelihood.

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

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A 28.

2 Q Okay. And where do you currently live?

3 A Dirty Branch.

4 Q And where are you from?

5 A Conway.

6 Q Have you lived here all your life?

7 A Yes, ma'am.

8 Q And where are you currently working?

9 A Arby's in Conway.

10 Q And where were you living back in November 8th,  
11 2011?

12 A Off Dirty Branch.

13 Q Okay. And who lived at that house with you?

14 A Me, my two kids and my boyfriend.

15 Q Okay. And about how long had you lived there?

16 A Now or at the time?

17 Q At the time?

18 A Probably five, six years.

19 THE COURT: All right. You need to speak up,

20 ma'am.

21 THE WITNESS: I'm sorry. About five or six years.

22 THE COURT: Just get behind the microphone as best  
23 you can, directly behind it.

24 THE WITNESS: All right.

25 Q Do you remember calling the police the morning of

## TIFFANY OLIVER-DIRECT BY MS. LIVESAY

1 November 8th, 2011?

2 A Yes, ma'am.

3 Q And if you don't mind, tell this jury why you  
4 contacted the police.

5 A I didn't know who the van belonged to, but I  
6 didn't want it in my yard. I was home by myself, so I  
7 called to have the van removed from my yard.

8 Q I'm sorry, Ms. Oliver, say that one more time. I  
9 want to make sure everybody hears you.

10 A I didn't know who the van belonged to, so I wanted  
11 the van out my yard. I just wanted it removed.

12 Q Okay. And who noticed the van first?

13 A My son. He was seven or eight at the time.

14 Q Okay. And about what time was it?

15 A 6 o'clock, like 6:45, around the time to get on  
16 the bus --

17 Q Okay.

18 A -- to go to school.

19 Q Okay. That's an early bus.

20 A Yeah.

21 Q Now, if you don't mind, do you remember seeing  
22 that van there before you went to bed?

23 A No, ma'am.

24 Q And if you don't mind, tell the jury about what  
25 time you went to bed that night.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A I went to bed around, about nine, 10 o'clock.  
2 Q Okay.

3 A Yes, ma'am.

4 Q And you didn't see the van there?

5 A No, not at all.

6 Q Okay. Now, you said at the time your kids and you  
7 and your boyfriend lived at the mobile home?

8 A Yes, ma'am.

9 Q Okay. About what time did your boyfriend leave  
10 the house that morning?

11 A He left for work like five because he had to be at  
12 six, so he left around five.

13 Q Okay. And he didn't say anything to you about the  
14 van?

15 A No, ma'am.

16 Q Okay. And then you noticed the van at what time?  
17 A Around 6:40.

18 Q And when did you contact the police?

19 A I know it had to be before 7:30. Because right  
20 when I seen it I called my boyfriend first, and then I  
21 called police.

22 Q Okay. And if you don't mind, to the jury describe  
23 what that van looked like.

24 A It was a champagne colored van with tinted  
25 windows. I didn't get real close to it, so I don't

## TIFFANY OLIVER-DIRECT BY MS. LIVESAY

1 know exactly if he had any extra stuff on it.

2 Q And had you ever seen that van before?

3 A No, ma'am.

4 Q Okay. If you don't mind, tell the jury a little  
5 bit about your road; is that a dead end or a straight  
6 through?

7 A It's a dead end, there's no way from back there.  
8 It's one way in and one way out.

9 Q Okay. And is that a dirt road or a paved road?

10 A Dirt road.

11 Q Okay.. So you live down the -- are you the very  
12 last house?

13 A Yes, ma'am.

14 Q Okay. And are there houses around yours?

15 A It's one next door but not real close.

16 Q Okay.

17 A Not real, real close. But it is one next door to  
18 us.

19 Q Are there houses on both sides?

20 A No, ma'am.

21 Q Okay. So there's a house on one side, and then  
22 what's on the other side?

23 A Trees and other houses on the opposite side of the  
24 trees.

25 Q Okay. And where was the van parked?

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A It was closer to the trees on the side of my home.  
2 But, I mean, it wasn't like in my front yard, it was  
3 like on the side of the house -- behind the house, I'm  
4 sorry.

5 Q Okay. I'm going to show you what's been marked  
6 State's Exhibit 21 through 27. If you don't mind, look  
7 at these pictures and tell me if these are accurate  
8 pictures of that morning of what you saw.

9 A Yes, ma'am.

10 Q Just look at all of them at one time.

11 A This is the van that I seen that morning.

12 Q Okay. It's okay. Are those accurate pictures of  
13 what you saw?

14 A Yes, ma'am.

15 Q Okay. And is that the van there beside your yard?

16 A That's the van and that's my yard.

17 Q Okay.

18 MS. LIVESAY: Your Honor, at this time I ask to  
19 introduce State's Exhibit 21 through 27 and publish  
20 them to the jury.

21 THE COURT: Any objection, Mr. Frederick?

22 MR. FREDERICK: No objection.

23 MR. CANTY: None, Your Honor.

24 THE COURT: All right. So State's 21 through 27  
25 are in evidence without objection. You may show them

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

1 to the jury.

2 (WHEREUPON, State's Exhibit Nos. 21 through 27  
3 were admitted in evidence.)

4 MS. LIVESAY: Thank you, Your Honor.

5 Q Ms. Oliver, if you don't mind, I'm going to have  
6 to ask you to step down. These are small and I'm going  
7 to show them to the jury while you're testifying.

8 A Yes, ma'am.

9 Q Okay. And if you don't mind, speak up because  
10 your back will be, you know, to all these people.

11 A Yes, ma'am.

12 THE COURT: You have to really speak up.

13 THE WITNESS: All right.

14 THE COURT: Thank, you ma'am.

15 Q That's just a microphone. Now, I'm going to show  
16 you now what's been marked as State's Exhibit 26, or  
17 State's Evidence 26. If you don't mind, is this your  
18 house?

19 A Yes, ma'am.

20 Q Okay. And is this the area beside your house?

21 A Yes, ma'am.

22 Q Okay. And is the van in this picture?

23 A Yes, ma'am.

24 Q Where --

25 A It's right there, behind the tree (indicating).

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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- 1 Q If you don't mind, point the van out to the jury.
- 2 A It's right there (indicating).
- 3 Q Do cars normally park back there?
- 4 A No. It's right there (indicating).
- 5 Q And do cars normally park right there?
- 6 A No, ma'am.
- 7 Q Okay. And that mobile home that's in the picture,
- 8 is that your house?
- 9 A Yes, ma'am.
- 10 Q And is that how everything looked on that day?
- 11 A Yes, ma'am.
- 12 Q And that's your car in the yard?
- 13 A Yes, ma'am.
- 14 Q That must be your son's wheelbarrow?
- 15 A Yes.
- 16 Q Now, I'm going to show you another picture,
- 17 State's Evidence No. 27. Is that how everything looked
- 18 that morning?
- 19 A Yes, ma'am.
- 20 Q Okay. Now, are there any dogs in this picture?
- 21 A One right there (indicating).
- 22 Q Okay. And is that your dog?
- 23 A Yes, ma'am.
- 24 Q Is it running loose or tied up?
- 25 A He's tied up.



## TIFFANY OLIVER-DIRECT BY MS. LIVESAY

- 1 Q Was it there just like that that day?
- 2 A Yes, ma'am.
- 3 Q And is this all at -- is this at the end of that
- 4 dirt road you live on?
- 5 A Yes, ma'am.
- 6 Q Now, just so I'm clear and the jury's clear, are
- 7 these both the same morning?
- 8 A Yes, ma'am.
- 9 Q Okay. Is one just a closer shot?
- 10 A Yes, ma'am.
- 11 Q How many -- what kind of dog do you got?
- 12 A I have a Red Nose Pit Pull.
- 13 Q How long have you had that dog?
- 14 A Five years.
- 15 Q And this is a picture of what?
- 16 A My house, my front yard and, you know, the van in
- 17 my whole yard.
- 18 Q Okay. If you don't mind, tell the jury, is there
- 19 a house in front of yours?
- 20 A No, ma'am.
- 21 Q Is there a house behind yours?
- 22 A No, ma'am.
- 23 Q Okay. And there are no houses to this where the
- 24 van is parked?
- 25 A Not at all.

1 Q Is this road traveled a lot?

2 A Not really.

3 Q Is there any outlet once you pass your house to  
4 get --

5 A Not at all.

6 Q Okay. So you got to come in and go out the same  
7 road?

8 A Same road, yes, ma'am.

9 Q Okay. Now, I'm showing you State's Evidence No.  
10 25. Is that the van you saw?

11 A Yes, ma'am.

12 Q Is that it way it looked that morning?

13 A Yes, ma'am.

14 Q Now, if you don't mind, just to give the jury some  
15 reference, I'm going to hold up State's Evidence 21 and

16 25. Same morning, same parking, same place; is that  
17 correct?

18 A Yes, ma'am.

19 Q Okay. So where would this picture have to be  
20 taken from to see the van like that?

21 A It's a water pump right here (indicating). It  
22 would had to be like on the side of it.

23 Q Okay. So they'd have to be on the other side of  
24 that water pump and that tree?

25 A Yes, ma'am.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

1 Q When you got up that morning, did you notice it?

2 A No, ma'am. My son seen it first, and then I came  
3 outside and I seen it.

4 Q Okay. So you didn't even notice it that morning?

5 A No, ma'am.

6 Q Now, I'm going to show you also what's been marked  
7 as State's No. 22 and 24. Is that the way that van  
8 appeared that morning?

9 A Yes, ma'am.

10 Q Now, this looks like, when I look at this picture  
11 here, is this just kind of a empty field beside your  
12 house?

13 A Yes, ma'am.

14 Q Do you hang out over there?

15 A No, ma'am.

16 Q Do people in your neighborhood hang out over  
17 there?

18 A No, ma'am.

19 Q So it's just kind of a vacant area?

20 A Yes, ma'am.

21 Q Okay. So these trees, these woods, did they kind  
22 of surround all behind --

23 A Behind the house.

24 Q -- the end of your road?

25 A Yes, ma'am.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 Q Okay. So when you go to the end of your road,  
2 it's your house and then this field?

3 A Yes, ma'am.

4 Q And then trees?

5 A Yes, ma'am.

6 Q Okay. And this van was parked, would you say,  
7 closer to the trees or closer to your house?

8 A Closer to the trees --

9 Q Okay.

10 A -- than to my house.

11 Q Okay. Now, how long have you lived down there?

12 A I want to say seven to eight years.

13 Q Okay, okay. Now, on the -- what's on the other  
14 side of these trees; do you know?

15 A It's a house development on the other side of it,  
16 of the trees.

17 Q Okay. And what housing development -- I mean,  
18 what road is that housing development on?

19 A I don't know the name of the street, but it's off  
20 of Cates Bay.

21 Q Okay. How close is that housing development to  
22 your house through those woods?

23 A Probably about a minute or two.

24 Q Okay. You mean if you just walked through the  
25 woods --

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A Through the woods, yeah, it should be right there.

2 Q Okay. If you don't mind, have a seat, Ms. Oliver,  
3 and we'll use the microphone. Now, so a minute or two  
4 through those woods ends you in a housing development;  
5 is that correct?

6 A Yes, ma'am.

7 Q And that housing development is off Cates Bay  
8 Road?

9 A Yes, ma'am.

10 Q Now, during 2011, was that housing development  
11 there?

12 A It was develop -- it was starting, you know, it  
13 was houses out there, though.

14 Q Okay. And how did you know it was started?

15 A You can hear it from my house to whatever the  
16 development is.

17 Q Okay. So it's close enough range when they were  
18 over there banging, you could hear it through the  
19 woods?

20 A Yes, ma'am.

21 Q Okay. And that was going on November 8th, 2011?

22 A Yes, ma'am.

23 Q Okay. And that development, again, is right off  
24 Cates Bay?

25 A Yes, ma'am.

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 Q When you go back out from that dirt road, what is  
2 the highway you would hit?

3 A Dirty Branch.

4 Q Dirty Branch?

5 A Yes, ma'am.

6 Q Okay. Is that a paved road, or is that a --

7 A Yes, ma'am, it's paved.

8 Q That's the first paved road you hit?

9 A Yeah. After you come off of my dirt road, that's  
10 the first paved road you hit, yes, ma'am.

11 Q Okay. Are there a few other dirt roads back there  
12 in your area, kind of different roads?

13 A There's one next to me, but it's a dead end too.

14 Q Okay, okay. So there's -- it's basically a dead  
15 end circle, that area?

16 A No, ma'am. It's one dead road and another one.

17 Q Okay. Are there any street lights on your road?

18 A Yes, ma'am, there's two.

19 Q Okay.

20 A There's one in my neighbor's yard and there's one  
21 in my front yard.

22 Q Okay. And is there one in that area where that  
23 van was parked?

24 A No, ma'am.

25 Q Okay. Now, and you say you've never seen that van

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 before?

2 A No, ma'am.

3 Q Okay. Do you know the defendants in this case?

4 A I know one of them, he has two kids with my  
5 cousin. But I don't know the other one.

6 Q Okay. You know one of them?

7 A Yes, ma'am.

8 Q Which one do you know?

9 A I know his nickname, I don't know his government  
10 name.

11 Q What's that?

12 A Dubba.

13 Q And is he the one wearing a tie or not wearing a  
14 tie?

15 A Wearing a tie.

16 Q Okay. And you call him?

17 A Dubba.

18 Q Okay, that's what you call him?

19 A Yeah.

20 Q And how do you know him?

21 A He has two kids with my cousin.

22 Q Okay. And who is his -- you know him through his  
23 girlfriend?

24 A Yeah.

25 Q And who is she?

TIFFANY OLIVER-DIRECT BY MS. LIVESAY

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1 A Nakeema Crooms.

2 Q Okay. And do you know the victim in this case?

3 A Yes, ma'am.

4 Q And how do you know the victim?

5 A Her and my cousin was best friends, Nakeema, was  
6 best friends.

7 Q I'm sorry, you got to speak up.

8 A I'm sorry. Nakeema and Keia was best friends.

9 Q Okay. The victim, Keia, and Keema were best  
10 friends?

11 A Yes, ma'am.

12 Q Okay. And just so I can get the relationship  
13 straight, Keema and -- not Keia but Keema and Dubba are  
14 boyfriend and girlfriend?

15 A Yes, ma'am.

16 Q Okay. Do you know if they have any children in  
17 common?

18 A Yes, ma'am.

19 Q How many?

20 A Two.

21 Q Okay. Does she have any other children?

22 A No, ma'am.

23 MS. LIVESAY: No further questions, Your Honor.

24 THE COURT: Cross-examination?

25 MR. FREDERICK: No questions, judge.



## TIFFANY OLIVER-CROSS BY MR. CANTY

1 THE COURT: All right, very good. Mr. Canty?

2 MR. CANTY: Thank you, Your Honor. May it please  
3 the Court.

4 CROSS-EXAMINATION

5 BY MR. CANTY:

6 Q Ms. Oliver?

7 A Yes, sir.

8 Q Do you know Bootsie?

9 A No, sir.

10 Q Keir Lamont Johnson, also known as Bootsie?

11 A No, sir.

12 Q All right. What about Billy Freshley?

13 A No, sir.

14 Q You do not know Billy Freshley?

15 A No, sir.

16 Q And you're not Facebook friends with him?

17 A Probably. I'm not sure, but I'm not his friend  
18 personally. I'm not really sure if we're friends on  
19 Facebook either, though.

20 Q Okay. How about Little Papi?

21 A No, sir.

22 Q You don't know Keir --

23 A No, sir.

24 Q -- Lamont Johnson, you wouldn't know if he walked  
25 in the room?

## TIFFANY OLIVER-CROSS BY MR. CANTY

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1 A No, sir.

2 Q Okay.

3 MR. CANTY: That's all I have.

4 THE COURT: Any redirect?

5 MS. LIVESAY: No, sir.

6 THE COURT: All right, ma'am. Do you wish the  
7 witness to be excused?

8 MS. LIVESAY: Yes, sir.

9 THE COURT: Any objection, Mr. Frederick?

10 MR. FREDERICK: No, sir.

11 MR. CANTY: No, Your Honor.

12 THE COURT: All right, ma'am, you're released from  
13 your subpoena. You may go back to your regular  
14 activities.

15 (Witness excused.)

16 THE COURT: All right, solicitor, your next  
17 witness.

18 MS. LIVESAY: Your Honor, at this time the State's  
19 going to call Sammy, Samuel Hoffman from SLED.

20 Your Honor, he's downstairs. If I need to, I can  
21 call Robbie Caulder.

22 THE COURT: No, ma'am. They are finding him.  
23 He's going to come.

24 Y'all send somebody to go get him, ma'am?

25 A DEPUTY: Yes, sir.

SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

1 THE COURT: All right. All right, sir, if you  
2 come all the way around up here and meet the clerk  
3 right up here, sir.

4 SERAPHIM HAFTOGLOU, after being duly sworn,  
5 testified as follows:

6 CLERK OF COURT: Please be seated. State your  
7 full name, spell your last name for the Court, please.

8 THE WITNESS: Okay. My name is Seraphim  
9 Haftoglou. The last name is H-A-F-T-O-G-L-O-U.

10 THE COURT: Spell your first name too, please.

11 THE WITNESS: Yes, sir. It's S-E-R-A-P-H-I-M.

12 THE COURT: Thank you. Go ahead, solicitor.

13 DIRECT EXAMINATION

14 BY MS. LIVESAY:

15 Q And where are you currently employed?

16 A I work for South Carolina Law Enforcement  
17 Division, otherwise known as SLED.

18 Q And how long have you been employed there?

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

20 Q And what are your current responsibilities?

21 A My current responsibilities, I'm the AFIS  
22 supervisor at SLED, which means I am the keeper of the  
23 records. I'm kind of in charge of all the fingerprints  
24 that come into our system.

25 Q Okay. And what kind of training or education have

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 you had to work at SLED with AFIS?

2 A It's on-site training. When I was hired from SLED  
3 I -- my lieutenant at the time, Joseph Means, trained  
4 me on fingerprinting, identifying fingerprints, and  
5 just some on-site training throughout my years there.

6 Q And if you don't mind, briefly explain to the jury  
7 what AFIS is.

8 A AFIS is our Automated Fingerprint Identification  
9 System. It's what stores all records, fingerprints  
10 that are sent to SLED. It's used to identify  
11 individuals.

12 Q Okay. And is a fingerprint assigned a  
13 identification number like a social security number?

14 A Yeah. Each person is assigned a unique South  
15 Carolina ID number. It's a, I believe, 12-digit number  
16 that starts with SC. Each person has their own unique  
17 one.

18 Q Okay. And is the number to protect the  
19 identification of that person?

20 A Yes.

21 Q Okay. When an agency requests a possible match  
22 through AFIS, does it report back that number?

23 A Yeah, it gives them back the number.

24 Q Okay. So it doesn't report back a name, just  
25 whatever that number is, like a social security number?

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 A Right. It gives them back, yes, a unique  
2 identification number, or it could be a unique incident  
3 number which correlates with that SID number, state ID  
4 number.

5 Q Okay. So that number is basically to protect the  
6 integrity of AFIS?

7 A Yes. Because we are not name based, we do  
8 everything based on fingerprints. That's how we can  
9 identify people.

10 Q Okay. And are the records in AFIS kept in the  
11 regular course of business?

12 A Yes.

13 Q Okay. And how do you maintain the integrity of  
14 those records?

15 A Our system is always backed up every week.  
16 It's -- for anything that's coming into our system has  
17 to go through security protocol. That comes back, it  
18 actually starts with the FBI, and then we implement  
19 those and make sure that anything that's coming to us  
20 is sent securely.

21 Q Okay. And to your knowledge, have the records in  
22 AFIS ever been tampered with in any form or fashion?

23 A No.

24 Q Okay. Now, did you receive a subpoena for this  
25 case?

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 A Yes.

2 Q Okay. And did you receive a list of SC numbers  
3 regarding this case?

4 A Yes.

5 Q Okay. And if you don't mind, I'm going to mark  
6 those SC numbers.

7 (WHEREUPON, State's Exhibit Nos. 30 through 33  
8 were marked for identification only.)

9 Q Now, has anyone else come in contact with these  
10 cards other than yourself?

11 A No.

12 Q Okay. And is that to protect the integrity of  
13 those cards?

14 A Yes.

15 Q Okay. So when you pulled it out of that envelope,  
16 that was the first time anybody else had touched those  
17 particular cards?

18 A Yeah.

19 Q Okay. And that's to protect, again, to make sure  
20 nothing is manipulated or tampered with?

21 A Correct.

22 Q Okay. I'm going to show you what's been marked as  
23 State's Exhibit 30 through 33.

24 A Okay.

25 Q If you don't mind, identify for the Court what the

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 numbers are that are -- that identify those cards.

2 A Okay. Want me to read each SC --

3 Q Yes, ma'am -- yes, sir.

4 A Okay. Yeah, it's SC01942665.

5 THE COURT: Is associated with what exhibit?

6 THE WITNESS: Associated with a Mark Hasheem Rush.

7 THE COURT: No. The State's exhibit number.

8 THE WITNESS: Oh, I'm sorry, apologize. Exhibit

9 No. 30. SC01903693, Exhibit 31. SC0198250, Exhibit  
10 32. And SC01913804 is Exhibit 33.

11 Q Thank you.

12 MS. LIVESAY: And at this time the State requests  
13 to put those into evidence.

14 THE COURT: Any objection, Mr. Frederick?

15 MR. FREDERICK: Judge, I think so. And I think I  
16 have a matter of law.

17 THE COURT: All right, very good. All right,  
18 ladies and gentlemen of the jury, go to your jury room  
19 for a little while, please. Thank you.

20 (WHEREUPON, the jury exited the courtroom at  
21 4:19 p.m.)

22 THE COURT: Yes, sir, Mr. Frederick.

23 MR. FREDERICK: Well, judge, I'm not sure what  
24 we're doing with these fingerprint cards. She's moving  
25 into evidence cards that have five different names. Is

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 MS. LIVESAY: I understand, Your Honor.

2 THE COURT: All right. So you want --

3 MS. LIVESAY: Just so I'm clear, I'm not arguing,  
4 I just --

5 THE COURT: Well, if you would let me finish, then  
6 we'd be clear; all right?

7 MS. LIVESAY: Yes, sir.

8 THE COURT: What you can do with Mr. Caulder is  
9 call him so that you can tie in this evidence and  
10 excuse this witness to go back to Columbia, and he  
11 doesn't have to stay here overnight. All right.

12 And then use Mr. Caulder tomorrow sometime on the  
13 other matters, not on the cards, on the other matters.  
14 Because that's going to be a whole different argument I  
15 know we're going to be having when I let the jury go as  
16 soon as you get done with this witness and Mr. Caulder.

17 MS. LIVESAY: Okay.

18 THE COURT: All right, thank you.

19 (WHEREUPON, the jury came into open court at  
20 approximately 4:26 p.m.)

21 THE COURT: At this point in time, solicitor, you  
22 wanted to mark State's-30 through 33 for identification  
23 purposes; is that correct?..

24 MS. LIVESAY: Yes, sir, Your Honor.

25 THE COURT: Very good. And Mr. Canty, never got



SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

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1 to you, Mr. Frederick had an objection, do you have any.  
2 objection?

3 MR. CANTY: No objection, Your Honor.

4 THE COURT: All right, very good. You may  
5 continue, ma'am.

6 MS. LIVESAY: No further questions for this  
7 witness, Your Honor.

8 THE COURT: Cross-examination?

9 MR. FREDERICK: No questions, judge.

10 THE COURT: Mr. Canty?

11 MR. CANTY: No questions, Your Honor.

12 THE COURT: All right, sir, you may step down.

13 (Witness excused.)

14 THE COURT: Until we're done for the day, it's  
15 probably best you don't leave, sir.

16 THE WITNESS: Yes, sir.

17 THE COURT: Thank you, sir. Next witness.

18 MS. LIVESAY: Robbie Caulder, Your Honor.

19 JOHN ROBERT CAULDER, II, after being duly sworn,  
20 testified as follows:

21 CLERK OF COURT: Please be seated, state your full  
22 name, spell your last name for the Court, please.

23 THE WITNESS: John Robert Caulder, II,  
24 C-A-U-L-D-E-R.

25 DIRECT EXAMINATION

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 BY MS. LIVESAY:

2 Q And Mr. Caulder, where are you currently employed?

3 A With the Horry County Police Department.

4 Q And how long have you been employed there?

5 A 16 years.

6 Q Okay. And what kind of training have you gone  
7 through?

8 A For?

9 Q To be a police officer and then crime scene  
10 investigation.

11 A My original training was with the South Carolina  
12 Criminal Justice Academy for my basic law enforcement  
13 class, which at that time was nine weeks. Since then,  
14 of course, you have annual training, you had to meet so  
15 many hours every year to keep your law enforcement  
16 credentials up to date.

17 And since then for the past ten years I have been  
18 with crime scene unit where I have ongoing training. I  
19 have in excess of 600 hours in different aspects of  
20 crime scene, whether it's reconstruction, latent  
21 fingerprint, blood, blood spatter classes, tire wear,  
22 shoe wear training and photography.

23 Q Okay. And how long have you been -- what are your  
24 current responsibilities?

25 A Currently I'm the senior investigator with the

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 crime scene unit with the Horry County Police  
2 Department.

3 Q Okay. And if you don't mind, tell the jury what  
4 your responsibilities are.

5 A My responsibilities as the senior investigator is  
6 there are two other investigators under me with the  
7 police department. I am to help supervise those two  
8 investigators when we were called out in regards to  
9 various crime scenes, whether it's simple burglaries on  
10 up to major crimes. We, in essence, we go out when  
11 we're called out, we first by logging all the important  
12 information, photographing things as we see it upon our  
13 arrival, finding out any pertinent information that  
14 help me, help in our investigation and what type of  
15 evidence we may find or search for while we're at  
16 whatever type scene we were at.

17 Q And if you don't mind, tell the jury specifically  
18 as to fingerprints what your training is.

19 A In regards to training, I have attended -- my  
20 initial training was a basic latent examiners course to  
21 the South Carolina Criminal Justice Academy, which was  
22 a 40-hour course.

23 Since then I have been through in excess of a  
24 hundred hours through the Federal Bureau of  
25 Investigation's laboratory up in Quantico, Virginia. I

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 have also attended the National Forensic Science  
2 Technology Center in Florida in excess of 160 hours in  
3 latent print and ten print examination.

4 Q And are you familiar with the case that we're here  
5 today for?

6 A Yes, ma'am.

7 Q Okay. And in this particular case, did you take  
8 in evidence and examine the evidence?

9 A Yes, ma'am.

10 Q Okay. If you don't mind, tell the jury what  
11 evidence you took in.

12 A I was the initial responder to the call that  
13 night. My initial response was the photography. And I  
14 also was the one that went to the house and searched  
15 for evidence in the house. In the course of the  
16 investigation, I recovered several fired bullets that  
17 were in the residence as well as a weapon, some  
18 narcotic memorabilia and narcotics.

19 I also had the occasion to -- there was a van that  
20 was associated with the case that was found a short  
21 distance from the residence. The van was then towed to  
22 the police department where I processed the van and was  
23 able to find some latent or unknown prints on the van,  
24 at which point in time I take those latent prints and  
25 put them into AFIS or the Automated Fingerprint

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1 Identification System.

2 Q Okay. So you examined fingerprints off the brown  
3 van that was collected?

4 A Yes, ma'am, that is correct.

5 Q Okay. Now, as to fingerprints, have you been  
6 qualified as an expert to testify about fingerprints?

7 A Yes, ma'am, I have.

8 MS. LIVESAY: Your Honor --

9 Q And how many times, Mr. Caulder?

10 A These two times prior to this.

11 Q Okay. And in what court?

12 A In General Sessions court here in Horry County.

13 Q Okay.

14 MS. LIVESAY: Your Honor, at this time the State  
15 wishes to qualify Robbie Caulder as an expert in  
16 fingerprints.

17 THE COURT: Fingerprint analysis or fingerprint --  
18 just what?

19 MS. LIVESAY: Fingerprint analysis, yes, sir.

20 THE COURT: All right, all right, very good. Do  
21 you wish to voir dire the witness, challenge his offer  
22 by the State?

23 MR. FREDERICK: I'm okay with that, judge.

24 THE COURT: All right.

25 MR. FREDERICK: No objection.

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1 THE COURT: All right, very good. Mr. Canty?

2 MR. CANTY: No objection, Your Honor.

3 THE COURT: All right. So he's qualified to give  
4 his opinion in the field of fingerprint analysis. You  
5 may continue.

6 MS. LIVESAY: Thank you, Your Honor.

7 Q If you don't mind, let's start off, Mr. Caulder,  
8 by talking about, a little bit about, general  
9 fingerprints. Please tell the jury what a latent print  
10 is.

11 A A latent print is any unseen print that would need  
12 some type of development technique to help enhance or  
13 develop that print where it can be seen with the eye.

14 Q Okay. And what is a patent print?

15 A A patent print is any print that is left behind,  
16 intentional or unintentional, that may be left behind  
17 in some type of substraight that does not need any  
18 enhancement, i.e., like a -- in a oil or some type of  
19 fluid where the print is actually visible just with no  
20 development technique used.

21 Q Okay. And if you don't mind, tell the jury what  
22 ten prints are.

23 A Ten prints are also called known exemplars. They  
24 are the ten digits of a hand. They range from finger  
25 one, which is your right thumb to finger ten which is

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1 your left pinkie. They are numbered each way one, two,  
2 three, four, five, six, seven, eight, nine, ten. They  
3 are know from a known person so you collect them from a  
4 known -- it's collected from a person or someone you  
5 know.

6 Q Okay. And is there different distinguishing  
7 characteristics between a fingerprint and a palm print?

8 A There is as far as the actual ten print itself  
9 that it looks different, I mean, the palm looks  
10 different than the fingers. But each individuals have  
11 unique characteristics inside of those prints, whether  
12 it's the actual ten print or the finger and the digits  
13 to the inner digital palm area.

14 Q Okay. And is every fingerprint specific to each  
15 person?

16 A Every fingerprint is unique and persistent to each  
17 individual.

18 Q Okay. And if you don't mind, tell the jury how  
19 it's possible for people to leave behind fingerprints.

20 A There is several knowns about that. Everybody  
21 would naturally assume that you would leave a print  
22 behind every time you touch, which is not necessarily  
23 true. You can leave back a print behind. The surface  
24 has to be conducive to prints, which is kind of like  
25 most -- the most optimal area would be a flat,

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1 nonporous surface.

2       The conditions have to be right, i.e., is the  
3 person wearing gloves, is the person sweating, is it a  
4 sweat print, is it an oil print, is the substrate or  
5 the surface conducive, or is it dusty or it's different  
6 environmental factors also play in.

7 Q     Okay. Tell the jury, is it possible to touch a  
8 surface and not leave a fingerprint?

9 A     Yes, ma'am. It's -- people naturally assume once  
10 you touch something that you do leave behind those  
11 prints, which is not necessarily the truth. It's if  
12 you constantly touch your car doors on each one of  
13 these individual car, you're constantly touching that  
14 surface to get in and out of that vehicle.

15       Because you're constantly rubbing or causing  
16 friction or force against that door with your hand, you  
17 can possibly just rub what is already there off, if  
18 you're leaving anything there at all.

19 Q     Okay. And is it possible to touch something one  
20 time and not leave a fingerprint?

21 A     Yes.

22 Q     Okay. If you don't mind, tell the jury what kind  
23 of surfaces are conducive to leaving a fingerprint.

24 A     Any solid, flat surface that is nonporous is  
25 really the best, a sheet of glass, a flat surface is



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1 ink. And most surfaces appear to be flat but actually  
2 have indentions in them that give a false setting.  
3 Like this surface here would not be -- it's not flat.  
4 The surfaces, there are indentions in that wood grain  
5 that you cannot see with the actual eye.

6 But once you start using techniques like dust or a  
7 chemical to spray on it, you'll notice that there is an  
8 indention in the surface.

9 Q Okay. And, again, how many times have you  
10 testified as an expert?

11 A This is my third.

12 Q Okay. And how long have you been doing  
13 fingerprint matches?

14 A Since 2005.

15 Q Okay. So would you say it's more common or  
16 uncommon to work a case where there's actually  
17 fingerprints left behind?

18 A It's more -- that's a hard question to answer,  
19 because it's -- it's not really common that you -- it's  
20 something not a case that you would actually look for  
21 fingerprints on every individual case. And it's not  
22 common to find a lot of usable prints or prints where  
23 there are enough friction where you see the actual  
24 ridges of the prints where it can be used to get an  
25 identification in the case.

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1 Q Okay. So a lot of times there are partial prints  
2 but not enough for you to actually make a match?

3 A That's correct.

4 Q Okay. So there's got to be close to a full  
5 fingerprint for you to be able to say, in my opinion  
6 this is a match?

7 A Not necessarily a full print but enough of unique  
8 characteristics or enough ridges for me to actually  
9 make that conclusion there's enough of a print there --

10 Q Okay.

11 A -- to examine.

12 Q Okay. And if you don't mind, tell the jury a  
13 little bit about the process of lifting a print off of  
14 a area.

15 A Well, take this case for instance. The basic  
16 thing that we did -- I did for this case on the van, is  
17 you would just take a black volcanic type of ash or a  
18 powder, it's called black powder, and you just use it  
19 and place it on the car. If there are any latent  
20 prints or unseen prints, the black powder would adhere  
21 to that print, the materials in the print, and help  
22 develop the print, actually where you can start to see  
23 the ridges develop.

24 After those prints are developed, generally what  
25 we try to do is try to photograph in place, which is

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1 kind of hard with the limited materials we have at  
2 Horry County Police Department. But we do try to  
3 photograph where the area where we were lifting it from  
4 to kind of show where we've gotten it from.

5 At that point in time there are different  
6 techniques on a flat, nonporous surface where we would  
7 use a clear lifting tape which is pretty much a fancy  
8 Scotch Tape, for lack of a better term. And you just  
9 place it over the print, then you slowly lift it. Then  
10 it goes onto a white backing card, because it is black  
11 powder and the contrast sits out from the white. Then  
12 it is marked and notated on the print card itself where  
13 the print was lifted from. And then...

14 Q Okay. And did you lift any prints you were able  
15 to make -- first, did you lift any prints off the van?

16 A Yes, ma'am, I did.

17 Q Okay. And if you don't mind, tell the jury a  
18 total of how many prints you collected, whether you  
19 were able to use them for a comparison or not.

20 A Give me just a second. There were a total of 19  
21 prints lifted the from van.

22 Q Okay. So a total of 19 were left or lifted off  
23 that van?

24 A Yes, ma'am.

25 Q Okay. If you don't mind, tell this jury, out of

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1 19 how many were enough of a print for you to actually  
2 make a comparison?

3 A There were -- give me just a second. There were  
4 13 prints of -- with enough ridge detail to make a --

5 Q How many prints?

6 A 13.

7 Q 13?

8 A Yes, ma'am.

9 Q So 13 out of 19 were enough to make a comparison?

10 A Yes, ma'am.

11 Q Okay. And the other six prints you really can't  
12 tell us anything about?

13 A There was -- there was not enough ridge detail to  
14 be able to identify them to be usable or classifiable  
15 as anything other than maybe a ridge or two or no  
16 ridges at all where they can't be used in the  
17 comparison process.

18 Q Okay. And when you lifted those prints, did you  
19 put them on anything to keep the integrity of the  
20 print?

21 A They are -- once they are lifted, they are put on  
22 that -- the backing card itself on the card. And then  
23 they are identified. Then they are placed -- they are  
24 taken and actually put into a -- in the envelope. When  
25 they are being transferred and they're logged, I have

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1 to log them into a system showing I have them. And  
2 then I have to put them into the AFIS system.

3 Q Okay. So you lifted the print off the van, put it  
4 on a card; is that correct?

5 A Yes, ma'am.

6 Q And then you enter that card into evidence to  
7 protect the integrity of that print?

8 A Yes, ma'am.

9 Q Okay. Can anybody come in and have access to  
10 those print cards?

11 A Not without going through evidence first, no,  
12 ma'am.

13 Q Okay. If you don't mind, you were just talking  
14 about you were taking the print card to put into AFIS;  
15 is that correct?

16 A That's correct.

17 Q Okay. If you don't mind, explain to this jury  
18 what AFIS is and how you use it.

19 A AFIS is the Automated Fingerprint Identification  
20 System. Basically it's a camera. There are -- there  
21 are three different ways to put prints into this system  
22 via camera that is set up beside the computer. It's  
23 just like a regular home computer, it's a -- it has a  
24 camera attached to it as well as a scanner and of  
25 course the USB ports for things that are downloaded

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1 onto a thumb drive or fingerprints that are loaded onto  
2 a thumb drive.

3 The camera is our primary source. The latent  
4 print that were lifted off the vehicle was then placed  
5 up under the camera, a photograph was taken of the  
6 latent print itself. Then I have to enter it into a  
7 system with certain identifiers. The identifiers are,  
8 it always starts out with H because that's what we are  
9 assigned to us as far as Horry, so we use an H, the  
10 year, my identifying number which is one. At that time  
11 it was three, it since changed. Then we use our county  
12 case number to help identify as far as the print that's  
13 in the system.

14 Once I put it into the system, what I have to do  
15 is I have to go and I have to identify the type of  
16 pattern that the print is, if it's even identifiable as  
17 a pattern type. In the pattern I have to pick out each  
18 individual characteristic that is seen. The  
19 characteristics are things like short ridges, dots,  
20 bifurcations, triple bifurcations, a delta or a core,  
21 if they're found in the print itself. All of these  
22 have to be marked, and they are called minutia for  
23 computer purposes.

24 Once they are marked, I send them off and click a  
25 search through the State, the State of South Carolina's

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1 computer system. And it does a search and sends back X  
2 amount of results based on things in the system that  
3 have matching characteristics within a certain  
4 parameter.

5 After it sends back those matching or what the  
6 computer calls matching results or comparison results,  
7 I have to take the ones the computer sends back and  
8 compare them each individually to the latent that I had  
9 put into the system. And those latents vary from one  
10 to 99.

11 Q Okay. So just so I'm clear, because it seems very  
12 complex and confusing, you take the characteristics off  
13 the print that you lifted?

14 A Yes, ma'am.

15 Q But you only use prints you know have enough  
16 characteristics for you to determine whether or not  
17 it's a match?

18 A Yes, ma'am.

19 Q Okay. And AFIS has prints in it that spits out a  
20 number to you that might possibly be a match?

21 A It matches -- once it's -- I'm not familiar with  
22 the algorithm that it uses because it is a mathematic  
23 algorithm that I'm not familiar with. But once I place  
24 those points or those characteristics or points of  
25 minutia onto my latent print, it searches prints within

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1 that same parameter or area in which I've searched.  
2 I've already named the pattern type, what the print is,  
3 and then the points of minutia.

4 So it -- the machine actually -- the computer  
5 actually narrows down -- if I put in a loop or a whirl,  
6 which is a pattern type, it narrows down all the other  
7 types of loops or whirls or arches, takes them away.  
8 Then it measures within that print the actual minutia  
9 points and as far as their placement.

10 Q Okay. So you put in basically the specifics about  
11 the prints?

12 A Yes, ma'am.

13 Q The identifying characteristics?

14 A Yes, ma'am.

15 Q And then it gives you a possible match for those  
16 identifying characteristics?

17 A Yes, ma'am.

18 Q Okay. So that way it's not giving you every  
19 print?

20 A Not every print, no, ma'am.

21 Q Okay. So and then once it gives you these  
22 possible matches, do you go through each of those?

23 A Yes, ma'am.

24 Q Okay. And when you are going through these  
25 possible matches, how are those prints identified to



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1 you?

2 A Once I -- once I visually identify them and then  
3 once they are visually identified, there is a -- at the  
4 top of the -- the top of the AFIS machine are two  
5 different identifying numbers. One is a South  
6 Carolina, it will say SC zero, and it will give some  
7 type of number, or it will say SC something with a  
8 number behind it. Then it will -- inside the -- that  
9 number is the incident number, and it could vary  
10 whatever that number is.

11 I can go further into the AFIS system and either  
12 type the incident number or the SC number into the  
13 system, and it will spit back the known exemplars or  
14 those ten prints as well as if there's any palm prints  
15 in the system. And it will also identify the  
16 descriptors which is the name, date of birth of the  
17 person that has that SC number or that incident number.

18 Q Okay. So when you get these possible matches  
19 back, you have no idea what the name is to that  
20 fingerprint, only the SC number?

21 A Yes, ma'am.

22 Q Okay. So then you look through these possible  
23 matches, and then you decide whether or not one is a  
24 match; is that correct?

25 A Yes, ma'am.

1 Q Okay. Once you've done that, you are still  
2 identifying the possible match from AFIS only through  
3 the SC number?

4 A Only through the SC number, yes, ma'am.

5 Q Okay. And is that number given to protect the  
6 identification of the person?

7 A From my understanding, the only reason that they  
8 give the number is after a person has been arrested.

9 Q Okay. But you don't have the name?

10 A No, I don't have the name.

11 Q Okay.

12 A At that point in time I do not have a name.

13 Q Okay.

14 A And in some instances, some of the older SC  
15 numbers may not even have a name. I may have to go  
16 through the NCIC computer to run the SC number to find  
17 out, A, if there -- a name that's identified with it.

18 Q Okay. So you only have a number?

19 A Yes, ma'am.

20 Q And ultimately, when you make that match, you say,  
21 this belongs to SC, and whatever the number is?

22 A Yes, ma'am.

23 Q Okay. So it's only until you determine that match  
24 that you have the SC number?

25 A Yes, ma'am.

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1 Q Okay. Now, tell me if I'm wrong, because I know  
2 you've already explained it, I just want to make sure I  
3 understand it. It is then you take that SC number and  
4 put it in that you are able to retain the name?

5 A Yes, ma'am.

6 Q Okay. Now, did you put the evidence you took off  
7 that van, the prints, into evidence?

8 A The latents were entered into evidence and --

9 Q Okay. And do you have that evidence today?

10 A Yes, ma'am.

11 Q Okay. And has that evidence been sealed or in  
12 your possession since it was taken from that van?

13 A Yes, ma'am.

14 Q Okay. So no one has tampered with or even touched  
15 those prints but you?

16 A Yes, ma'am.

17 Q If you don't mind, I'm going to mark those for  
18 State's exhibits.

19 A There's two more, Nancy.

20 THE COURT: Solicitor, there's two more.

21 MS. LIVESAY: Thank you.

22 Q Now, Mr. Caulder, are these all 19 prints that  
23 were pulled off the van?

24 A Yes, ma'am.

25 Q Okay. And on the back of these cards, does it

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1 point out the location where you took the print from?

2 A Yes, ma'am.

3 Q Okay. And is there also a case number on it for  
4 identification purposes?

5 A Yes, ma'am.

6 Q Okay.

7 (WHEREUPON, State's Exhibit Nos. 34 to 52 were  
8 marked for identification only.)

9 Q Bobby, I'm showing you now what's been marked as  
10 State's Exhibit 34 to 52. Do you know what all those  
11 are?

12 A Yes, ma'am.

13 Q And if you don't mind, tell the jury what they  
14 are.

15 A Each of them -- each of these are the latent  
16 prints that were lifted from the van after I processed  
17 them. They are placed on the little white backing  
18 cards that you can see the little shiny is the actual  
19 -- the tape itself is placed over the white, over the  
20 white backing card.

21 On the back side is the date I -- date lifted, the  
22 date and person that lifted them, which is myself and  
23 the location on the vehicle. And they also have their  
24 own individual number that was put there by me, so I  
25 could reference back to where it had come from.

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1 MS. LIVESAY: Your Honor, at this time the State  
2 wishes to place those exhibits in as State's evidence.

3 THE COURT: All right. State's-34 through 52?

4 MS. LIVESAY: Yes, sir, Your Honor.

5 THE COURT: Any objection?

6 MR. FREDERICK: No objection.

7 MR. CANTY: None, Your Honor.

8 THE COURT: All right. State's-34 through 52 are  
9 in evidence without objection.

10 (WHEREUPON, State's Exhibit Nos. 34 through 52  
11 were admitted in evidence.)

12 Q Now, those are 19 fingerprints; is that correct?

13 A Yes, ma'am.

14 Q Okay. Now, did you fingerprint the entire van?

15 A Yes, ma'am.

16 Q Okay. So if I showed you a picture of the van,  
17 would you recognize it?

18 A Yes, ma'am.

19 Q Okay. Try to get a good picture, some of these  
20 are -- I'm showing you now what's in evidence already,  
21 State's Evidence No. 25.

22 A Yes, ma'am.

23 Q Is that the van you fingerprinted?

24 A Yes, ma'am.

25 Q I'll show it to the jury. So you fingerprinted

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1 this entire van, front, back and both sides?

2 A And interior.

3 Q Okay. And out of the entire van all over, you  
4 only removed 19?

5 A Yes, ma'am.

6 Q Okay. And out of those 19, 13 were worth actually  
7 making a comparison?

8 A Yes, ma'am.

9 Q Okay. If you don't mind, go through and tell the  
10 jury so they'll know where you located those 19 prints  
11 on the van.

12 A Of the 19 prints, most of them were lifted from  
13 the exterior side of the van, from the front  
14 passenger -- front passenger quarter panel which is  
15 just above the tire well of the passenger side of the  
16 vehicle, the front passenger door, the exterior on the  
17 passenger side, the sliding door, the exterior side of  
18 it, the door itself and also on the glass.

19 The interior side of the front passenger door, the  
20 exterior side of the driver's door window, the front  
21 driver's door near the front windshield, which would be  
22 in the actual A-frame between the window and the  
23 driver's window and front windshield. The front end of  
24 the hood, there again, the front passenger door, the  
25 frame between the front and rear passenger door, the

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1 glass on the sliding door.

2 Exterior side door on the passenger side, the rear  
3 sliding door, the sliding door window, the interior,  
4 the interior of the -- there were actually several of  
5 these from the interior side of the sliding door  
6 window.

7 Q Okay. Now, if you don't mind, tell the jury  
8 specifically where you got the 13 that you were able to  
9 make a comparison on.

10 A Latent print number one, that's my number one, I  
11 had liftings from the exterior side of the front  
12 passenger side quarter panel which is that quarter  
13 panel which is above the tire wheel. My latent print  
14 identified as number three was lifted from the exterior  
15 side of the window on the sliding door on the passenger  
16 side. Number four was lifted from the exterior side of  
17 the window on the front passenger door.

18 Number six was lifted from the exterior side of  
19 the sliding door on the passenger side below the  
20 window, and so it was actually on the metal below the  
21 window. Number seven, which is the interior side of  
22 the window on the front passenger door. Number eight  
23 was the exterior side of the front driver's door  
24 window. Number nine was the exterior side of the front  
25 driver's door and the front windshield.

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1        Number ten was the exterior side of the front end  
2 of the hood. Number 12 was the exterior side of the  
3 front passenger door. Number 13 was the exterior side  
4 of the frame between the front and rear passenger door.  
5 Number 14 was the exterior side of door on the  
6 passenger side and then the rear sliding door. 15 was  
7 no value. 16 is the exterior side of door on passenger  
8 side near the sliding -- rear sliding door. Number 17  
9 was the interior side of the sliding door, the window  
10 on the passenger side. 18 was the interior side of the  
11 sliding door window on the passenger side.

12 Q    Okay. Now, just so I'm clear, out of the 13, how  
13 many were found on the passenger side, that were able  
14 to actually be matched up out of the 13?

15 A    Ten.

16 Q    Okay. So 10 out of 13 were on the passenger side?

17 A    Yes, ma'am.

18 Q    Okay. And it was a, and correct me if I'm wrong,  
19 the passenger door opened like a regular door; is that  
20 correct?

21 A    Yes, ma'am.

22 Q    And like any other van, the back slides open?

23 A    Yes, ma'am.

24 Q    Okay. So ten were found either on that passenger  
25 door or the sliding door?



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1 A Yes, ma'am.

2 Q Okay. And three were found, and correct me if I'm  
3 wrong, around the passenger door?

4 A Yes, ma'am.

5 Q Okay. So we got ten on the doors on the passenger  
6 side and three on the driver's door?

7 A Three on the driver's door, yes, ma'am.

8 Q Okay. Now, those 13 you put in evidence; is that  
9 correct?

10 A 13, yes, ma'am.

11 Q Okay. And after you looked at the print and  
12 performed an analysis, were you able to determine if  
13 that print had a match?

14 A On five, five of the prints I was able to identify  
15 it, yes, ma'am.

16 Q Okay. And were you given an SC number for those  
17 prints that you had a match for?

18 A Yes, ma'am.

19 Q Okay. If you don't mind, first tell us the number  
20 that it matched.

21 A My latent print that identified as number one come  
22 back to an SC number of 01903693; which was Thomas  
23 Booker James. Latent print number three was identified  
24 with South Carolina ID number SC01982506, and I  
25 apologize if I pronounce this wrong, Letitia Tasha

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1 Freshley. Latent print number four, my number four,  
2 was also identified to Ms. Freshley.

3 Latent print number six was identified as South  
4 Carolina ID number SC01913804 which was for Keir Lamont  
5 Johnson. And latent print number seven was identified  
6 as South Carolina ID number SC01942665, which came back  
7 to a Markel Hasheem Rush.

8 Q Okay. So in your opinion those fingerprints that  
9 you removed off the vehicle belonged to, give me those  
10 names as far as on the passenger side.

11 A Passenger side came back to Thomas Booker James,  
12 Letitia Freshley, Keir Johnson and Markel Rush.

13 Q Okay. And those were the ones you were just able  
14 to identify?

15 A Yes, ma'am.

16 Q Okay. So 13 of the prints belonged to one of  
17 those people?

18 A Yes, ma'am.

19 Q Okay. Now, whose prints were on the driver's  
20 side?

21 A I was not able to identify any print from the  
22 driver's side.

23 Q Okay. So none of the 13 prints you were able to  
24 make a match on the driver's side?

25 A No, ma'am.

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1 Q Okay. So there were three lifted off the driver's  
2 side; is that correct?

3 A Yes, ma'am.

4 Q Okay. But you weren't able to make a match due to  
5 the quality of the print?

6 A There was -- there was insufficient ridges for me  
7 to be able to make any conclusion to it as far as if  
8 they belonged to anyone, or they did not match the  
9 already four names that I had.

10 Q Okay. So none of the ones on the driver's side  
11 were able to be matched up?

12 A That's correct.

13 Q Okay. So, and correct me if I'm wrong, that then  
14 leaves ten prints that you lifted you thought you were  
15 going to be able to make a comparison to?

16 A That is correct.

17 Q Okay. So then out of the 19 total that you  
18 collected, just ten -- I'm sorry, I think I was wrong  
19 earlier when I was using 13 -- ten were able to be  
20 matched up to a actual person?

21 A That is correct.

22 Q Okay. If you don't mind, how many of those prints  
23 belonged to each one of those people?

24 A Only the four which were identified, the Thomas  
25 James which was actually a palm, and it was his right

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 hyposthenia area, which is the actual -- this part of  
2 the palm (indicating).

3 The Letitia Freshley, her fingers matched up on  
4 two prints, which were my latent print three and four  
5 from the sliding passenger door, sliding -- the window  
6 on the sliding door and the front passenger door. And  
7 they were fingers seven and eight, which are your left  
8 index and your left middle finger.

9 Latent print number six from the exterior side of  
10 the sliding door on the passenger side below the window  
11 was identified to -- back to Keir Johnson, which is the  
12 left palm inner digital area. The inner digital area  
13 is this part of the palm (indicating).

14 Latent print seven was identified back to Markel  
15 Rush, and those were simultaneous prints. Simultaneous  
16 prints are anytime you lay these prints down  
17 simultaneously. They were fingers number three and  
18 four. This is finger three which is your middle, your  
19 right middle, and your right ring finger. They were  
20 found on the interior side of the window on the front  
21 passenger door.

22 Q Okay. So out of 19 prints you were able to match  
23 up or find a match to ten?

24 A To five.

25 Q Okay. To five prints?

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 A (Nodding affirmatively.)

2 Q Okay. So out of 19 you were able to match up five  
3 prints?

4 A Yes, ma'am.

5 Q Less than half?

6 A Yes, ma'am.

7 Q Okay. And that was just due to the quality of the  
8 print removed off the van?

9 A That is correct.

10 Q Okay. Did you have any other responsibilities in  
11 this investigation other than crime scene analysis?

12 A Not other than the initial response with the crime  
13 scene and then the processing of the van and then the  
14 latent print work.

15 Q Okay. So your responsibilities do not include  
16 interviewing people or anything like that, merely  
17 analyzing and collecting evidence?

18 A That is correct.

19 MS. LIVESAY: No further questions, Your Honor.

20 THE COURT: Solicitor, you come up and talk to me.  
21 Mr. Frederick and Mr. Canty, y'all come up and talk to  
22 me.

23 (WHEREUPON, a bench conference was held off the  
24 record in the presence of the jury but out of the  
25 hearing of the jury.)

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

1 MS. LIVESAY: Your Honor, can I ask Mr. Caulder a  
2 couple more questions?

3 THE COURT: Yes, ma'am, please.

4 Q Mr. Caulder, if you don't mind, for the Court's  
5 purposes and the jury, give us first the SC numbers of  
6 the people that you were able to detain a match for.

7 A SC number 01903693.

8 Q And who does that SC number belong to?

9 A That number comes back to Thomas Booker James.

10 Q Okay. And if you don't mind, tell me the other SC  
11 numbers and who that number belongs to.

12 A South Carolina ID number SC01982506 comes back to  
13 a Letitia Tasha Freshley. South Carolina ID number  
14 SC01913804 comes back to a Keir Lamont Johnson. South  
15 Carolina ID number SC01942665 comes back to a Markel  
16 Hasheem Rush.

17 Q Okay. And you received all those numbers out of  
18 the AFIS system?

19 A Yes, ma'am, that is correct.

20 Q Okay. And the fingerprints that belong to those  
21 numbers came from the AFIS system?

22 A That is correct.

23 Q Okay. And then those numbers and prints were  
24 matched to the ones off the van?

25 A That is correct.

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 Q Thank you.

2 MS. LIVESAY: And Your Honor, if the State hasn't,  
3 we'd like to put in, I believe I did, State's Exhibit  
4 34 to 52 into evidence, if it hasn't already been done.

5 THE COURT: They are in evidence, they already  
6 are.

7 MS. LIVESAY: Thank you, Your Honor.

8 THE COURT: And then 30 through -- are you going  
9 to offer 30 through 33?

10 MS. LIVESAY: If they haven't, we'd like to put  
11 in, let me see the first number, 34?

12 THE COURT: No, ma'am. 30 through 33.

13 MS. LIVESAY: 33, okay, I didn't see that one.

14 THE COURT: Do you see those? Those are the four  
15 from the other witness.

16 MS. LIVESAY: Okay.

17 THE COURT: Do you see those?

18 MS. LIVESAY: I think he took them back with him.  
19 You talking about -- oh, these, okay. These are -- I  
20 am, Your Honor -- these are 30 through 33.

21 THE COURT: Okay, that's all. Let him look at  
22 those.

23 Q Have you seen those prints before, Mr. Caulder?

24 A Yes, ma'am.

25 Q Okay. And where did those prints come from?

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 A These prints appear to be inked prints.

2 Q Ink prints. And are those the prints that you  
3 used to compare to the ones off the van?

4 A These specific cards? Not these specific cards.

5 Q Okay.

6 A These are the same identifying numbers.

7 Q Okay. And if you don't mind, for the Court, look  
8 at those numbers, and are those numbers the matches to  
9 the ones that you matched on the van?

10 A Yes, ma'am.

11 Q Okay. And just so everyone's clear, when you get  
12 a match from AFIS, you just get it off the computer; is  
13 that correct?

14 A That is correct.

15 Q Okay. With the SC number?

16 A Yes, ma'am.

17 Q And if you don't mind, just for clarification,  
18 look at each card and SC number.

19 A This SC number is 019442665, State's Exhibit 30  
20 comes back to a Markel Hasheem Rush, which is the same  
21 one that I used from that day.

22 Q Okay.

23 A SC01903693, Thomas Booker James, the same one  
24 identified with the number that I identified that day.  
25 This is actually the ten print card, this is not the



JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 palm card that I used.

2 Q Okay.

3 A South Carolina ID number 01982506, Letitia  
4 Freshley. It's the same identifying number that I used  
5 that day to compare to it the AFIS. The SC01913804 is  
6 Keir Lamont Johnson, the same -- it's the same number.  
7 This is a ten print card and not the palm print card  
8 that was used for identification.

9 Q Okay. Do those cards and identification on those  
10 cards match the prints that you compared to the van?

11 A It's a hard question to answer because the SC  
12 number matches.

13 Q Okay.

14 A And for the fingerprints, yes. But these are ten  
15 prints and not palm prints. So two of them, even  
16 though they have the SC number on their card, I used a  
17 palm comparison which is, these are ten prints just the  
18 digits..

19 Q Okay.

20 A So on two of them I can -- Letitia Freshley and  
21 Marke1 Rush, yes, these are the same print cards that I  
22 would have printed out from the AFIS system.

23 Q Okay.

24 A But the same numbers for Thomas Booker James and  
25 Keir Lamont Johnson, I would not have used the ten

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 print card, I would have used the palm print card from  
2 the same system with the same number.

3 Q Okay. So just so I'm clear, does the number on  
4 the card, the ten print card, for Keir Johnson and  
5 Thomas Booker James match the number that you got out  
6 of AFIS that you used to make a match to the van?

7 A Yes, ma'am.

8 Q Okay.

9 THE COURT: Mr. Frederick, any objection?

10 MR. FREDERICK: To the admission of those cards?

11 THE COURT: Yes, 30 through 33.

12 MR. FREDERICK: I think I have to object, judge.

13 He just said that it's not the card that he used, it's  
14 not even the same print.

15 THE COURT: Well, that's not exactly what he said.

16 Let me see the cards.

17 MR. FREDERICK: It's the ten print, not the palm  
18 print.

19 THE COURT: But that wasn't all of it, okay.

20 MR. FREDERICK: For the record, for the record,

21 judge, I object to them.

22 THE COURT: I appreciate that, but that's not what  
23 he said. All right, sir, look at 30 and 32. Are those  
24 the two that match the number and are what you used?

25 THE WITNESS: Yes, sir.

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 THE COURT: Okay, 30 and 32?

2 THE WITNESS: Yes, sir.

3 THE COURT: All right. And then, so do you have  
4 an objection to those, Mr. Frederick, 30 and 32?

5 MR. FREDERICK: I don't even know without looking,  
6 judge.

7 THE COURT: Well, please come up and look at them.

8 MR. FREDERICK: No objection, judge.

9 THE COURT: Very good. And Mr. Canty, you had no  
10 objection to any of it; correct?

11 MR. CANTY: Your Honor, I just -- I didn't hear my  
12 client's name mentioned, so I don't know that it's  
13 material to our alibi defense. But whatever he  
14 objected to, I would have to join in that in terms  
15 of --

16 THE COURT: Well, he didn't object to that.

17 MR. FREDERICK: No objection to 30 and 32, judge.

18 THE COURT: Very good, thank you. All right, so  
19 30 and 32 are in evidence without objection.

20 (WHEREUPON, State's Exhibit No. 30 was admitted in  
21 evidence.)

22 (WHEREUPON, State's Exhibit No. 32 was admitted in  
23 evidence.)

24 THE COURT: 31 and 33, those are, you said, ten  
25 print fingerprints; correct?

JOHN ROBERT CAULDER-CROSS BY MR. FREDERICK

1 THE WITNESS: They are ten prints, yes, Your  
2 Honor.

3 THE COURT: Thank you very much.

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. And those are not what you  
6 used?

7 THE WITNESS: No, sir.

8 THE COURT: You used palm prints?

9 THE WITNESS: Yes, sir.

10 THE COURT: All right. So those two, and those  
11 numbers are?

12 THE WITNESS: The numbers do match the same.

13 THE COURT: The numbers. But the exhibit numbers  
14 are?

15 THE WITNESS: They are 33 and 31.

16 THE COURT: And 31?

17 THE WITNESS: Yes, sir.

18 THE COURT: 33 and 31 are not in evidence. Thank  
19 you very much. Cross-examination?

20 MR. FREDERICK: Very briefly, judge.

21 CROSS-EXAMINATION

22 BY MR. FREDERICK:

23 Q In general, I mean, fingerprints can tell you some  
24 things, they can't tell you other things; do you agree  
25 with that?

JOHN ROBERT CAULDER-CROSS BY MR. FREDERICK

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- 1 A Yeah, they can just identify a person.
- 2 Q It has it's limitations.
- 3 A I mean, I don't know what you're exact question
- 4 is.
- 5 Q In general, I'm not asking specific to this case.
- 6 But when you're looking at fingerprints, let's say if
- 7 there's a fingerprint on a gun or a knife, a murder
- 8 weapon, that would be important; wouldn't it?
- 9 A Yes, sir.
- 10 Q Okay. On the other hand, if there's a fingerprint
- 11 on a vehicle, what does that tell you?
- 12 A That a person has at least come in contact with
- 13 the vehicle.
- 14 Q Correct.
- 15 A At some point.
- 16 Q It doesn't tell you time?
- 17 A No, sir.
- 18 Q It doesn't tell you location?
- 19 A No, sir.
- 20 Q Okay. So it can be relevant; yes?
- 21 A Yes, sir, it can be. And it can't be sometimes.
- 22 MR. FREDERICK: Okay. Thank you.
- 23 THE WITNESS: You're welcome.
- 24 THE COURT: Mr. Canty?

25 CROSS-EXAMINATION

## JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 BY MR. CANTY:

2 Q Did you find my client's fingerprints anywhere on  
3 that van?

4 A I don't know your client's name, sir.

5 Q Carnail Graham.

6 A No, sir, I did not.

7 MR. CANTY: That's all I have.

8 THE COURT: Any redirect?

9 MS. LIVESAY: No, sir, Your Honor.

10 THE COURT: All right. You may step down, sir.

11 THE WITNESS: Thank you, Your Honor.

12 (Witness excused.)

13 THE COURT: All right, ladies and gentlemen, we're  
14 going to break for the evening. And I'm going to give  
15 you the same instructions I've given you every time you  
16 leave. Don't talk about the case, don't allow anybody  
17 to talk to you about it. You're not researchers,  
18 you're not investigators, don't look up anything.  
19 Obviously if somebody attempts to talk to you, you  
20 report back to the Court, and we'll take care of that  
21 situation.

22 Please be back downstairs in the assembly room  
23 like you were this morning 9:15, be downstairs at 9:15.  
24 They'll bring you upstairs tomorrow morning and to the  
25 jury room. There'll be something different, they will

1 THE COURT: Right.

2 MR. CANTY: Just so that there's -- I don't know  
3 that this will make any difference -- but any and all  
4 .357 Magnum ammunition recovered from the decedent's  
5 trailer.

6 THE COURT: All right. So if there's any --

7 MR. CANTY: .357 --

8 THE COURT: Everything that's in the SLED report  
9 and any other kind of ammunition they found.

10 MR. CANTY: Sure.

11 THE COURT: All right?

12 MR. CANTY: Thank you.

13 THE COURT: All right, very good. So anything  
14 else we need to --

15 MR. CANTY: Yes, Your Honor. You will recall  
16 yesterday you were kind enough to order the State to  
17 produce NCIC's for their witnesses.

18 THE COURT: Yes, sir.

19 MR. CANTY: And we had a discussion again this  
20 morning in that regard.

21 THE COURT: Okay.

22 MR. CANTY: I've been handed a file folder since  
23 then containing some NCIC printouts.

24 THE COURT: Okay.

25 MR. CANTY: And there are three people in

1 particular that we are interested in. One is the  
2 State's star witness putting my client at the scene,  
3 that is Keir Johnson, absent from these.

4 And the other two are the jailhouse snitches,  
5 Sedieka McClam and Kachief Spain, both absent. None of  
6 those --

7 THE COURT: All right. Just tell me names. I  
8 don't need your commentary about who these people may  
9 or may not be, okay. Just tell me the names.

10 MR. CANTY: Keir Lamont Johnson.

11 THE COURT: All right, Keir Lamont Johnson. Who  
12 else?

13 MR. CANTY: Kachief Spain.

14 THE COURT: Kachief?

15 MR. CANTY: K-A-C-H-E-F is how it's spelled in the  
16 jail database. I have also seen it spelled with two  
17 E's.

18 THE COURT: All right. And then who -- and what's  
19 the third one?

20 MR. CANTY: Sedieka McClam. And I believe that is  
21 spelled S-E-D-E-I-K-A, M, small C, large C, L-A-M.

22 THE COURT: All right, very good. Solicitor, how  
23 about y'all run those and make sure that, you know, if  
24 you can't give them to Mr. Frederick or Mr. Canty  
25 tonight, very first thing in the morning. Maybe when



1 y'all are out there at the ML Brown building, maybe you  
2 can accomplish it then. If not, make sure first thing  
3 in the morning; all right?

4 MS. LIVESAY: Um-hum.

5 THE COURT: Very good, all right. Thank you,  
6 anything else?

7 MR. FREDERICK: An ex parte matter that you can  
8 review overnight?

9 THE COURT: Yes, sir. All right. So with that,  
10 the jury's coming back by 9:15. I want y'all to be  
11 back in the courtroom by 9:15, please. So, solicitor,  
12 y'all, everybody be back by 9:15, so obviously we need  
13 the defendants here before then. With that, recess for  
14 the evening. Thank you.

15 (The hearing adjourned at approximately 5:26 p.m.)

16 (The hearing resumed on Wednesday, October 15,  
17 2014, at approximately 9:35 a.m.)

18 (WHEREUPON, State's Exhibit Nos. 53 to 61 were  
19 marked for identification only.)

20 THE COURT: Thank you very much, you may be  
21 seated. Thank y'all. All right, solicitor, you ready?

22 MS. LIVESAY: We're ready, Your Honor.

23 THE COURT: Mr. Frederick?

24 MR. FREDERICK: Judge, I have just one brief  
25 matter.

SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

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1 THE COURT: Come back to the stand. Once you get  
2 situated, just state your name again for the record,  
3 please, sir.

4 THE WITNESS: Yes, sir. Seraphim Haftoglou.

5 THE COURT: All right, sir. You understand you  
6 were placed under oath, and you remain under oath at  
7 this time?

8 THE WITNESS: Yes, sir.

9 THE COURT: Very good. You may continue,  
10 solicitor.

11 MS. LIVESAY: Thank you.

12 SERAPHIM HAFTOGLOU, after being previously sworn,  
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MS. LIVESAY:

16 Q And where are you working still?

17 A I still work for South Carolina Law Enforcement  
18 Division, otherwise known as SLED.

19 Q Okay. And you are still under subpoena; is that  
20 correct?

21 A Yes.

22 Q Okay. And were you contacted regarding further  
23 up -- follow up as to the prints that were introduced  
24 yesterday?

25 A Yes, I was.

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 Q Okay. And if you don't mind, tell the Court and  
2 this jury what print cards you have with you today.

3 A Today I have a print card that belongs to  
4 SC01913804, it's a palm print, and SC01903693 which is  
5 also a palm print.

6 Q Okay. And have those palm prints been tampered  
7 with in any form or fashion?

8 A No, they have not.

9 Q And are they kept in AFIS?

10 A Yes, they are.

11 Q Okay. And just so we can clarify from yesterday,  
12 when AFIS puts out a possible match, does it send both  
13 palm prints and fingerprints?

14 A It sends back whatever the individual put a latent  
15 hit on. If it put a fingerprint in, brings back  
16 possible matches for fingerprints. If they put a palm  
17 print image, then it sends back palm images. All palm  
18 print images are correlated with ten prints when they  
19 are arrested. So that's how we keep them.

20 Q Okay. So in AFIS, they're all kept together, that  
21 SC number has all the palm prints as well as the  
22 fingerprints?

23 A Right. It keeps -- each arrest has a incident  
24 number, which it may have ten -- which will have ten  
25 prints and may or may not have palm prints, though.

SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

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1 All of them get palm prints, but more and more nowadays  
2 all of them are kept together.

3 Q Okay. So there's one number for basically the  
4 entire hand?

5 A Right.

6 Q Okay, palm print and fingerprints?

7 A Right.

8 Q Okay. Now, correct me if I'm wrong from the  
9 understanding of what you just said. So if someone  
10 sends in the characteristics from the palm print, then  
11 that is the information and SC number that goes through  
12 AFIS?

13 A Right.

14 Q Okay. And if they send the characteristics of the  
15 fingerprint, that is then what's sent from AFIS as a  
16 possible match?

17 A That's correct.

18 Q Okay. And both of these are the cards that you  
19 brought to court today?

20 A Yes.

21 Q And they have SC numbers?

22 A Yes, they do.

23 Q Okay. Now, did these SC numbers and cards  
24 correlate to the same ones yesterday only that these  
25 are the palm prints?

SERAPHIM HAFTOGLU-DIRECT BY MS. LIVESAY

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1 A Correct.

2 Q Okay. So we discussed the prints yesterday on a  
3 Thomas Booker James and a Keir Lamont Johnson; is that  
4 correct?

5 A Yeah.

6 Q Okay. And these cards are merely the palm prints  
7 that correlate with those fingerprints?

8 A Correct. That's the left and right palm.

9 (WHEREUPON, State's Exhibit Nos. 62 and 63 were  
10 marked for identification only.)

11 Q And these have not been tampered with in any form  
12 or fashion?

13 A Correct.

14 Q Okay. And what you send to anyone who's trying to  
15 make a possible match, in this case Robbie Caulder, it  
16 just depends on what he is asking for, either a palm  
17 print or a fingerprint?

18 A Correct.

19 MS. LIVESAY: Okay. No further questions for this  
20 witness, Your Honor.

21 THE COURT: Could you tell me what the State's  
22 numbers are, Madam Court Reporter.

23 COURT REPORTER: Yes, judge. 62 and 63, judge.

24 THE COURT: All right, 62 and 63. And solicitor,  
25 will you move to introduce them for identification

SERAPHIM HAFTOGLOU-DIRECT BY MS. LIVESAY

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1 purposes at this point in time?

2 MS. LIVESAY: Yes, sir, Your Honor.

3 THE COURT: Any objection to that?

4 MR. FREDERICK: No, sir.

5 THE COURT: Mr. Canty?

6 MR. CANTY: No, Your Honor.

7 THE COURT: All right, very good.

8 Cross-examination?

9 MR. FREDERICK: No questions. Thank you.

10 THE COURT: Mr. Canty?

11 MR. CANTY: None, Your Honor.

12 THE COURT: Did you wish to excuse the witness?

13 MS. LIVESAY: Yes, please, Your Honor.

14 THE COURT: Any objection?

15 MR. FREDERICK: None.

16 MR. CANTY: No, Your Honor.

17 THE COURT: Very good. All right, sir, you're

18 released from your subpoena, you may go back to

19 Columbia and resume your regular duties.

20 THE WITNESS: Thank you, Your Honor.

21 (Witness excused.)

22 THE COURT: Solicitor, your next witness.

23 MS. LIVESAY: Yes, sir. At this time the State

24 calls Robbie Caulder to the stand.

25 THE COURT: All right, Mr. Caulder, if you come

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 all the way back around here. If you'd state your name  
2 for the record, please, dir.

3 THE WITNESS: John Robert Caulder, II.

4 THE COURT: All right, sir. Do you remember that  
5 you are and remain under oath?

6 THE WITNESS: Yes, sir.

7 THE COURT: Thank you very much. You may  
8 continue, solicitor.

9 JOHN ROBERT CAULDER, II, after being previously  
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. LIVESAY:

13 Q Mr. Caulder, do you remember testifying to the  
14 finger and palm prints off the cards that I showed you  
15 yesterday?

16 A Yes, ma'am.

17 Q Okay. And who were the two individuals that you  
18 made a match for as to the palm prints?

19 A Thomas Booker James and Keir Lamont Johnson.

20 Q Okay. And at this time I'm showing you what's  
21 been marked as State's Exhibit 63 and State's  
22 Exhibit 62. Would you look at that and tell me if that  
23 identification name and number on that palm print  
24 template matches the name and identification number  
25 that you matched it to on the brown van.

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am. Both ID -- South Carolina ID numbers  
2 and the names match those ones that I found off of the  
3 AFIS system.

4 Q Okay. And for the Court's record and for the  
5 jury, please tell us what the name and identification  
6 card is on that template.

7 A South Carolina ID number SC01903693 is for Thomas  
8 Booker James. And South Carolina ID Number SC01913804  
9 is for Keir Lamont Johnson.

10 MS. LIVESAY: Your Honor, at this time the State  
11 moves to place these temp prints into evidence as  
12 State's Evidence No. 62 and No. 63.

13 THE COURT: Any objection?

14 MR. FREDERICK: No objection, judge.

15 THE COURT: Mr. Canty?

16 MR. CANTY: None, Your Honor.

17 THE COURT: Very good. 62 and 63 are in evidence  
18 without objection.

19 (WHEREUPON, State's Exhibit Nos. 62 and 63 were  
20 admitted in evidence.)

21 THE COURT: You may proceed.

22 MS. LIVESAY: Thank you, Your Honor.

23 Q And if you don't mind, do you mind telling the  
24 jury where those palm prints came from on that brown  
25 van.



JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 A The palm prints came from the passenger side of  
2 the van.

3 Q Okay. And the passenger side of the van was  
4 Thomas Booker James and Keir Johnson?

5 A Yes, ma'am.

6 Q And the other matches were also on the passenger  
7 side?

8 A Yes, ma'am.

9 Q Okay. Now, as part of the investigation of this  
10 case, you did all of the fingerprints from the van; is  
11 that correct?

12 A That's correct.

13 Q Okay. If you don't mind, tell this jury what else  
14 you did as part of crime scene investigation for this  
15 particular case.

16 A I was the initial responding investigator to the  
17 scene on Brison Court the night of November the 8th, or  
18 the morning of.

19 MR. CANTY: No objection.

20 Q Mr. Caulder, is it part of your practice to  
21 document your investigation through photograph to show  
22 how the scene appeared when you arrived?

23 A Yes, ma'am.

24 Q And did you do that in this case?

25 A Yes, ma'am, I did.

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 Q Okay. And is it also proper to diagram the  
2 certain area that you are taking photographs in?

3 A That's correct.

4 Q Okay. And did you do that in this case?

5 A Yes, ma'am, I did.

6 Q Okay. And if you don't mind, tell the jury, I'm  
7 assuming when you first got there prior to receiving a  
8 search warrant, did you take photographs of that  
9 residence?

10 A Yes, ma'am. Immediately upon arrival we, as a  
11 general rule, try to find out what's going on. We talk  
12 with the initial responding officers or the officers  
13 that are there on the scene. This one in particular, I  
14 arrived before Detective Vescovi who was the -- who is  
15 the lead detective in the case.

16 Prior to his arrival and after receiving all of  
17 the information from Officer Singleton who was on the  
18 scene, I went ahead and photographed the exterior of  
19 the residence and photographed the complete area.

20 Q Okay. And if you don't mind, describe the area,  
21 the exterior area, to the jury that you saw when you  
22 arrived.

23 A When I arrived it was -- when I first arrived,  
24 there had -- was a big, large crowd of onlookers that  
25 were on the scene. The initial officer, responding

JOHN ROBERT CAULDER-DIRECT BY MS. LIVESAY

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1 officer, Officer Singleton, had already roped off the  
2 area with crime scene tape. I know of they had two  
3 persons in a patrol car that were in the residence,  
4 that I was told that they were in the residence at the  
5 time. But they had removed them, put them in the back  
6 of their patrol cars and were standing there with them  
7 and had the area secured with crime scene tape.

8 Like I say, there was a -- there was a large group  
9 of onlookers that were outside the crime scene tape. I  
10 noticed that there wasn't very much lighting from the  
11 outside. The only lighting around the house is coming  
12 from inside of the house, what little there was.

13 There were two vehicles parked at the back of the  
14 residence, it was a single wide mobile home. The front  
15 door was slightly ajar but not completely open on the  
16 residence. The two vehicles were parked in the back  
17 side. But that was pretty much as is when I got there.

18 Q Okay. And if you don't mind, in looking at the  
19 circumference of that mobile home, were there cars  
20 parked at the mobile home?

21 A Yes, there were two vehicles parked at the rear.

22 Q How many cars were parked behind that mobile home?

23 A Two.

24 Q Okay. And what kind, if you don't mind, tell the  
25 jury what kind of cars they were.

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1 A It was a black Chevy Tahoe and a white Lexus.

2 Q Okay. And did you document that through pictures?

3 A Yes, ma'am.

4 Q Okay. And did you see anything else in the back  
5 of the house that you documented through pictures?

6 A Dog kennels.

7 Q Okay. And were there dogs in the dog kennels?

8 A Yes. There were three canines in the kennel.

9 Q Okay. And as to the neighborhood, did you  
10 document or remember as to whether there were street  
11 lights in that neighborhood?

12 A Yes, ma'am. And there were none.

13 Q There were no street lights in the neighborhood?

14 A No, ma'am.

15 Q If you don't mind, I'm going to show you a picture  
16 that's already into evidence as State's Evidence No.

17 20. Do you recognize that area?

18 A Yes, ma'am.

19 Q Okay. If you don't mind, I'm going to point it  
20 just like this so the jury can see. Were there any  
21 street lights from this street back through this  
22 neighborhood?

23 A No, ma'am, there were no street lights. The only  
24 street light that I recall is here at the intersection  
25 of Wayside and 4 Mile Road.

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1 Q Okay.. And was there any street lights, just so  
2 I'm clear, at the end of either one of these roads?

3 A No, ma'am.

4 Q Okay. Did you collect any evidence in that  
5 neighborhood that assisted in the investigation?

6 A Yes, ma'am. When I was photographing the exterior  
7 of the residence, information was garnered from persons  
8 on the scene through the initial onset of the  
9 investigation that a van was located at the end of, I  
10 think it was -- I can't think of the name of the drive  
11 here -- was on the end of Colleta Court, which is the  
12 next street over in that mobile home park, and that at  
13 the end of Colleta Court there were where the van had  
14 parked, which was kind of strange because the van sped  
15 away and two persons got -- the information gleaned to  
16 me -- said two persons were jumped -- had gotten back  
17 into the van shortly after shots were heard in the  
18 area.

19 So I immediately went to the end of Colleta Court,  
20 photographed some tire impressions and some shoe  
21 impressions that were in the gravel sand area on the  
22 end of Colleta Court.

23 Q Okay. So you saw evidence that corroborated the  
24 testimony that a van had been parked back on Colleta  
25 Court?

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1 A Well, I was told it was a van. I do -- I did have  
2 tire impressions and shoe impressions.

3 Q Okay. So tire imprints, a vehicle --

4 A Yes, ma'am.

5 Q -- was back there. If you don't mind, using this  
6 map, show me the residence that you went to to collect  
7 evidence from.

8 A This is the residence here (indicating).

9 Q Okay. And if you don't mind, show me where you  
10 collected tire prints from after getting this  
11 information regarding the van.

12 A Tire impressions and some shoe impressions were in  
13 at the end of the Colleta Court, which is here  
14 (indicating).

15 Q Okay. Now, did you collect any more evidence or  
16 information from the exterior of that residence or that  
17 neighborhood?

18 A No, ma'am.

19 Q Okay. What did you do next as part of your  
20 investigation in this case?

21 A Well, while I was in the process of photographing  
22 and casting tire impressions and shoe impressions on  
23 Colleta Court, Detective Vescovi was made aware that we  
24 needed a search warrant for the residence. He sent a  
25 detective Brad Townsend to the judge's residence and

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1 secured a warrant, search warrant, for the residence.

2 By the time I had finished on Colleta Court,  
3 search warrant had been signed, then I made entry into  
4 the residence on Brison Court.

5 Q Okay. So after you looked for evidence and  
6 collected evidence from the exterior, you then entered  
7 the mobile home to start your investigation?

8 A Yes, ma'am.

9 Q Did you make a diagram of that mobile home to  
10 assist in the investigation?

11 A Yes, ma'am.

12 Q If you don't mind, I'm going to show you what's  
13 been marked as State's Evidence No. 1. Take a look at  
14 this and tell the jury and the Court if you recognize  
15 it.

16 A Yes, ma'am. It's just a -- just an enlargement of  
17 my hand drawn, well, computer drawn sketch of the  
18 residence.

19 Q Okay. So this is the diagram you did as part of  
20 your investigation?

21 A Yes, ma'am.

22 Q Okay. And if you don't mind, show the jury where  
23 you first entered this mobile home to begin your  
24 investigation.

25 A Entered the front door which was on the Brison

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1 Court side. Brison Court's right here or the road for  
2 Brison is here (indicating), and this is the doorway to  
3 that area.

4 Q Okay. And if you don't mind, tell the jury if you  
5 collected any evidence or saw anything that  
6 corroborated or assisted in this investigation from the  
7 front door.

8 A Yes, ma'am. In the door jamb itself on the left  
9 side of the door frame were entry marks where a bullet  
10 or fired bullet had been -- had entered the actual door  
11 frame in fragments where they were eventually  
12 photographed and collected.

13 Q Okay. And did there appear to be any damage to  
14 the front door?

15 A Other than to the frame itself, there was some --  
16 there was some slap damage to the doorway.

17 Q And when you first arrived, to your knowledge had  
18 anybody touched any evidence in that house or moved  
19 anything?

20 A Not to my knowledge.

21 Q Okay. And when you first got there, the front  
22 door was already ajar?

23 A Yes, ma'am, it was slightly ajar.

24 Q Okay. And the frame appeared to be damaged?

25 A That's correct.



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1 Q Okay. And when you moved through that front door,  
2 where was the next room you went to?

3 A The next room was -- it actually opened up into  
4 the living room of the residence, and the living room  
5 was attached to the kitchen. The kitchen was more to  
6 the left of the residence.

7 Q Okay. If you don't mind, I'm going to put you on  
8 pause just one minute. Show us what you walked into.

9 A When I walked in the front -- when I walked in the  
10 front door and walked into the living room, the kitchen  
11 was just to the left of the doorway. This was the  
12 dining area of the kitchen. All this was an open space  
13 (indicating).

14 Q Okay.

15 A So that's what I initially walked into. Then I  
16 come around, and my initial walkthrough was just  
17 photograph, to make sure everything is as I see it when  
18 I walk in. There's no searching or anything takes  
19 place at this point in time, it's just a photographic  
20 collage.

21 I'm collecting photographs, entered in through  
22 the -- through the kitchen, went to the back, there's a  
23 back bathroom here. This is like a laundry room, the  
24 back exit door (indicating). And then there's a  
25 bedroom on the far end, on this end of the residence

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1 (indicating), which is the south end.

2 This one appeared to -- was disheveled as if  
3 someone had went through the residence or went through  
4 the bedroom itself and pulled out the drawers and  
5 mattress as if they were looking for something. And  
6 then after I photographed all this as I saw it, I  
7 exited the bedroom, came back through the kitchen and  
8 came back to the hallway to the back north end of the  
9 residence where the victim was located.

10 Q Now, if you don't mind, you first walked into the  
11 den area and the kitchen area. If you don't mind, tell  
12 the jury what if any evidence you collected or saw in  
13 the den.

14 A Out of the den there was the two -- the two  
15 fragments were collected on the bullet -- bullet --  
16 fired bullets were collected from the door and only the  
17 fragments from -- bullet fragments from the kitchen  
18 cabinet there to the left of the door. The kitchen  
19 cabinets were -- was another bullet fragment was  
20 collected. And also a bullet, fired bullet, was  
21 collected from under the couch in the living room,  
22 which was directly in front of where the doorway  
23 entering into the residence was collected from the  
24 living room.

25 There was a bullet hole through the television

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1 which was also right in front of the couch. Right in  
2 front of the door as I entered, a bullet hole in the  
3 far left corner streaming in front of the television.  
4 But no round was able to be collected from there,  
5 because it did enter and exit through the television  
6 and entered the back wall. But the bullet itself was  
7 unable to be located.

8 Q Okay. And then where was the next room you went  
9 to to collect evidence?

10 A To collect evidence would have been the actual  
11 room that the victim was in, in the north bedroom, the  
12 north end of the residence where the victim was  
13 located.

14 Q Okay. Did you collect or see any evidence in the  
15 hallway from the bedroom to the end hallway where the  
16 victim was?

17 A I did not collect any evidence from the hallway,  
18 but there were obvious marks in the flooring where  
19 someone a fired round and went through the flooring of  
20 the hallway.

21 Q And was a round collected from that?

22 A No, ma'am. An attempt was made, but none was  
23 located.

24 Q Okay. And where was the next room you either saw  
25 or collected evidence?

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1 A The next room I saw was a little short bedroom or  
2 a single bedroom just to the left of the hallway. It  
3 was -- it was photographed, nothing was in the bedroom  
4 so nothing -- nothing of evidentiary value was gained  
5 from that.

6 The next room I came to was the bathroom, right  
7 before the bedroom where the victim was at. And on the  
8 counter of the bathroom was a cell phone and charger  
9 that was photographed and collected.

10 Q Okay. Now, Investigator Caulder, I'm going to  
11 show you some pictures, and tell me if you recognize  
12 the pictures and if you took the pictures and if they  
13 are accurate as to that night.

14 A Yes, ma'am.

15 Q Okay. So these are pictures you took?

16 A Yes, ma'am.

17 Q Okay. Do they appear to have been tampered with  
18 or changed in any form or fashion?

19 A No, ma'am.

20 MS. LIVESAY: Your Honor, at this time the State  
21 asks to move State's Exhibits 58 to 61 into evidence  
22 and publish them to the jury.

23 THE COURT: Any objection, Mr. Frederick?

24 MR. FREDERICK: No objection.

25 THE COURT: Mr. Canty?

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1 MR. CANTY: None, Your Honor.

2 THE COURT: All right, 58 through 61 are in  
3 evidence without objection. You may show them to the  
4 jury.

5 (WHEREUPON, State's Exhibit Nos. 58 to 61 were  
6 admitted in evidence.)

7 MS. LIVESAY: Thank you, Your Honor.

8 Q Investigator Caulder, this is State's Evidence No.  
9 61?

10 A Yes, ma'am.

11 Q What is that a picture of?

12 A It's the picture of the door frame leading into  
13 the front door where I entered into the residence.

14 Q And what are you documenting in that picture?

15 A Documenting the damage to the door frame itself,  
16 the door latch, the actual damage to the door frame  
17 itself.

18 Q Okay. As a crime scene investigator, what does  
19 this indicate to you?

20 A Indicates that there was some type of forced entry  
21 into the residence.

22 Q Okay. And I'm showing the jury now what's been  
23 put in as evidence as State No. 61.

24 Now, I'm showing you now what's been marked  
25 State's Evidence No. 60. If you don't mind, tell the

1 jury what that is and what you're trying to document in  
2 that picture.

3 A This is the bottom of the door frame as I entered.  
4 The bottom portion of the -- it's the actual porch on  
5 the outside, the lid of the door at the bottom of the  
6 door. I'm showing -- what I'm showing is pieces of the  
7 door or fragments of the door where the forced entry  
8 was made. And those are actual wooden particles from  
9 the door, actually the frame being broken.

10 Q And that's State's Evidence No. 60 being published  
11 to the jury. Now, I'm showing you now what's been  
12 marked State's Evidence No. 59. Tell the jury what  
13 that is and what you were trying to document in that  
14 picture.

15 A This is the -- this is a view of the closet that  
16 was in the bedroom where the victim was found in the  
17 north end of the residence. In the background of the  
18 photograph is the number, my evidence number collection  
19 three. It documents a bag that was found or located in  
20 the closet where there were some items that were  
21 collected from inside of the closet. I'm just  
22 documenting that.

23 Q So this is the victim's closet?

24 A That's the closet that the room -- in the room  
25 where the victim was found.

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1 Q Okay, sir. And that is State's Evidence No. 59  
2 being published to the jury. Now, I'm showing you  
3 State's Evidence No. 58. Tell the jury what that's a  
4 picture of.

5 A This is a photograph of the victim as she was  
6 found when I entered the residence.

7 Q Okay.

8 A It's -- she was found lying on the bed. This is  
9 the north wall on the end of the mobile home of the  
10 residence and of course the bed she was found on.

11 Q Okay. And is that the way you saw her when you  
12 first entered the room?

13 A That's when I first entered the room, that's  
14 exactly how she was found, or I found her.

15 Q And in that picture did you see any injury to the  
16 victim?

17 A The only thing I could tell was there was some  
18 type of blood letting on the front of the shirt itself.  
19 I could also determine from there that she had been --  
20 EMS had been on the scene because of the leads that  
21 were there. So it was -- was reasonable for me to  
22 assume that EMS was there prior to my arrival.

23 Q Okay. And they were trying to use some sort of  
24 rescue type?

25 A That's correct.

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1 Q Publishing to the jury now State's Evidence No.  
2 58. But to your knowledge, she was not moved other  
3 than EMS trying to assist with some sort of effort to  
4 resuscitate her?

5 A That is correct.

6 Q Okay. Now, you stated you saw an entry wound in  
7 the left chest on that victim; is that correct?

8 A That is correct.

9 Q In fact, that's documented in this picture; is  
10 that correct?

11 A You can see -- you can see on the front of her  
12 shirt some blood discoloration there on the front of  
13 her shirt.

14 Q Now, as part of your investigation, do you also  
15 look for a exit wound from the victim?

16 A Yes, ma'am. After the initial photographs were  
17 taken and the searching is complete, prior to the  
18 victim being moved or taken away to whatever, wherever  
19 she would go to next, in this case Grand Strand  
20 Regional Medical Center, we search to see if there is  
21 any type of exit wounds or any other type of wounds to  
22 the -- to the victims.

23 We did not find any exit wounds. So therefore,  
24 we -- that would not -- we would not look for an exit  
25 -- a bullet, a fired bullet, in any other part of the



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1 room. So the bullet never -- it entered but did not  
2 exit her.

3 Q Okay. Did you attend the autopsy in this case?

4 A Yes, ma'am.

5 Q Okay. And is that the usual practice?

6 A Yes, ma'am.

7 Q Okay. Were you able to obtain the bullet from  
8 this victim at the autopsy?

9 A I did receive a fired bullet from Dr. Proctor  
10 during the autopsy at the Grand Strand Regional Medical  
11 Center.

12 Q Okay. Once you received that bullet, what did you  
13 do with it?

14 A I took that bullet and I placed it into evidence  
15 for it to be transferred to SLED where their firearms  
16 department could test it against any knowns.

17 Q Okay. And while you were at the autopsy, did you  
18 learn what part of the body that bullet was removed  
19 from?

20 A It was from the back, yes, ma'am.

21 Q Okay. Now, after you went to the autopsy and  
22 evidence was collected within the house, was all of  
23 that evidence sealed and put into the evidence room at  
24 ML Brown?

25 A That is correct.

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1 Q Okay. And is that usual practice?

2 A Yes, ma'am.

3 Q Okay. And to your knowledge, has this evidence in  
4 any form or fashion been tampered with?

5 A No, ma'am.

6 Q Okay. Has it been out of your control or the  
7 evidence custodian's control other than examination by  
8 SLED at any point?

9 A No, ma'am.

10 Q Okay. And if you don't mind, tell the jury what  
11 evidence you collected total from that residence.

12 A From the residence I collected a total of ten  
13 separate items. There was a black plastic third round  
14 capacity SKS magazine with eight live 7.6 two by  
15 39-millimeter rounds, an SKS rifle which is a 7.6 two  
16 by 39-millimeter rifle, a brown colored Perry Ellis bag  
17 with handles. Inside of the bag was located a Ruger  
18 .44 caliber Redhawk handgun with a trigger lock. Also  
19 in the bag was a 40 -- a box of Remington .357 rounds.

20 Also inside the bag were two glass anchor  
21 measuring cups. One was a one-cup measuring cup, the  
22 other was a two-cup measuring glass. Also in the bag  
23 was a clear plastic bag containing an off-white  
24 substance, and then also another separate bag, a clear  
25 plastic bag, another off-white substance. Also in the

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1 bag was one spoon and one fork.

2 Also collected from the residence was a projectile  
3 from the -- from the fired bullet from the kitchen  
4 cabinet, another projectile from the front entrance  
5 door frame, a fragment or jacketing from the floor on  
6 the west side of the living room that was up under the  
7 couch, an LG cell phone and Samsung charger.

8 Also collected was a GR -- a GSR, which is a  
9 gunshot residue kit, was from Carlton Watts. And from  
10 outside of the residence were tire castings and shoe  
11 wear castings that were from Colleta Court.

12 Q Okay. And are you reading off a evidence document  
13 sheet?

14 A It's -- it's not an evidence document sheet, but  
15 it's a sheet that mimics the evidence record that I  
16 turn in, that I make and turn in to the evidence  
17 section.

18 Q Okay. And is that kept in the normal course of  
19 business?

20 A Yes, ma'am.

21 Q Okay. And are those documents, can you tamper  
22 with them in any form or fashion?

23 A No, ma'am.

24 Q So they are kept in such a manner during the  
25 regular course of business that they cannot be tampered

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1 with?

2 A That is correct.

3 Q Okay. Now, if you don't mind, you read that  
4 several bullets and bullet fragments had been  
5 collected; is that correct?

6 A That's correct.

7 Q Okay. If you don't mind, on this diagram show me  
8 where you collected these particular items.

9 A Okay. From the front doorway, this is where one  
10 of the bullet fragments or projectiles was located.  
11 This is the one in the door frame, the front entrance  
12 (indicating). This is from the cabinet in the kitchen  
13 that were fragments, and under the couch there in the  
14 living room (indicating).

15 Q Okay. And as to the fragments here and here  
16 (indicating), what direction did it appear to be coming  
17 from?

18 A Appeared to be coming from north to south.

19 Q Okay. And there was a bullet hole in the TV; is  
20 that correct?

21 A That's correct. From -- and it appeared to be  
22 coming from south to north.

23 Q Okay. So the entry into the television was  
24 through the front of the TV?

25 A Yes, ma'am.

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1 Q Okay. And that direction appeared to be coming  
2 from this end of the mobile home to this end  
3 (indicating)?

4 A Yes, ma'am.

5 Q Was a bullet ever collected from that bullet hole?

6 A No, ma'am.

7 Q Okay.

8 (WHEREUPON, State's Exhibit Nos. 64 through 66  
9 were marked for identification only.)

10 Q In your records, in the evidence records that are  
11 kept in the normal course of business, does it indicate  
12 how many guns were collected from that house, handguns?

13 A Yes, ma'am.

14 Q Okay. How many handguns were collected from the  
15 house?

16 A One handgun, a .44 caliber Redhawk Ruger.

17 Q Okay. And were any other guns collected and  
18 placed into evidence from that house?

19 A From the residence there was also a -- an SKS 7.62  
20 rifle. And approximately two weeks later a .357 Taurus  
21 revolver was turned in to evidence by Detective  
22 Vescovi.

23 Q Okay. So three guns were put into evidence that  
24 were found from that house, two handguns and one rifle?

25 A Yes, ma'am.

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1 Q Okay. And if I showed you those handguns, would  
2 you be able to identify them as the handguns that were  
3 placed into evidence from that residence?

4 A Yes, ma'am.

5 Q Okay. I'm showing you now what's been marked,  
6 let's start with State's Exhibit No. 65. Do you  
7 recognize that?

8 A Yes, ma'am. It is the Ruger .44 caliber Redhawk  
9 that I retrieved out of the closet, out of the Perry  
10 Ellis bag.

11 Q Okay. And where was that located in the house?

12 A It was located in the bedroom on the north end of  
13 the residence where the victim was located.

14 Q Okay. And you are able to identify that being the  
15 gun that came out of the house?

16 A That is correct.

17 Q Okay.

18 MS. LIVESAY: Your Honor, at this time the State  
19 asks to place State's Exhibit No. 65 into evidence and  
20 publish it to the jury.

21 THE COURT: Any objection?

22 MR. FREDERICK: None.

23 MR. CANTY: None, Your Honor.

24 THE COURT: All right. It's in evidence without  
25 objection.

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1 (WHEREUPON, State's Exhibit No. 65 was admitted in  
2 evidence.)

3 Q Okay. And if you don't mind, tell the jury what  
4 this is.

5 A It is a revolver, or a .44 caliber revolver.

6 Q And what kind of caliber of bullet does this  
7 shoot?

8 A .44.

9 Q Okay. And it shoots how many bullets at one time?

10 A One per trigger pull.

11 Q Okay. Now, explain to the jury the difference  
12 between this gun which is a revolver and a automatic,  
13 one that you put the clip into.

14 A A semi-automatic is -- the difference between a  
15 revolver and a semi-automatic is...

16 Q When you shoot -- if you don't mind, when you  
17 shoot a revolver, explain to the jury and the Court the  
18 difference between what happens with the bullet and the  
19 casing.

20 A The casing on a revolver stays inside the  
21 cylinder, the six cylinders. So if it's fired six  
22 times, the casing stays inside of the cylinder, unless  
23 manually opened and dumped. In a semi-automatic weapon  
24 it actually ejects out of the side port either to the  
25 right -- different types of weapons eject different

1 ways, but for the most -- majority of weapons, they  
2 eject out to the right in a semi-automatic.

3 Q Okay. So in the revolver, once you shoot that  
4 bullet the casing stays in the gun?

5 A Yes.

6 Q There is nothing else to collect other than the  
7 bullet?

8 A That's correct.

9 Q Okay. In a semi-automatic when you shoot it, the  
10 bullet goes out, and the casing ejects out of the gun?

11 A That's correct.

12 Q So then there would be two pieces of evidence to  
13 collect, the bullet as well as the casing?

14 A That's correct.

15 Q Okay. Now, I'm showing you what's been marked  
16 State's Exhibit 64. If you don't mind, please check  
17 the records as to the evidence record that's kept in  
18 the normal course of business, and tell me if this  
19 Taurus, if this handgun was put into evidence.

20 A Yes, ma'am. It's -- this handgun was placed into  
21 evidence by Detective Vescovi.

22 Q So this Taurus was collected from the house and  
23 put into evidence?

24 A That's correct.

25 Q Okay. If you don't mind, tell the jury how many



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1 bullets this revolver holds.

2 A Five.

3 Q Okay. And tell the jury, if you don't mind, what  
4 kind of caliber this revolver fires.

5 A A .357 round R .38 caliber round.

6 Q Now, I'm going to show you what's been marked as  
7 State's Evidence No. 66. If you don't mind looking at  
8 your evidence documentation, tell the jury what that  
9 is.

10 A These are the five spent shell casings that were  
11 recovered out of the Taurus .357 that Detective Vescovi  
12 turned in to evidence.

13 Q Okay.

14 MS. LIVESAY: At this time the State wishes to  
15 place State's Exhibit No. 66 into evidence. It's been  
16 marked as one item, but it's five casings.

17 THE COURT: Any objection?

18 MR. FREDERICK: No objection.

19 MR. CANTY: None, Your Honor.

20 THE COURT: All right.

21 (WHEREUPON, State's Exhibit No. 66 was admitted in  
22 evidence.)

23 Q Okay. Now, I never got a pocket knife when I need  
24 one. I wanted to show these. Mr. Caulder, if you  
25 don't mind, tell the jury what this is.

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1 A It is the actual casing that fits into the  
2 cylinder of the weapon. It houses the primer, the --

3 Q Okay. And is this what is left in the revolver  
4 after the gun is shot?

5 A That's correct.

6 Q Okay. And when you look at the inside of the  
7 casing, you can tell it's hollow where the bullet has  
8 been ejected; is that correct?

9 A That's correct.

10 Q Now, if this bullet was put in a semi-automatic,  
11 is this the part that would be ejected out of that gun?

12 A A similar casing would be ejected, yes, ma'am.

13 Q Okay. But if a person's shooting a revolver,  
14 there is no casing to collect; is that correct?

15 A Not if they do not empty the cylinder.

16 Q Okay. And this is what caliber of bullet again?

17 A .357.

18 Q Okay. And this is what caliber of handgun?

19 A .357.

20 Q Okay. And if you don't mind, look at this bullet  
21 and tell me whether or not you can decipher -- could

22 you decipher the brand of the bullet just by looking at  
23 it?

24 A Yes, ma'am. It would be stamped on the head of  
25 the actual casing. It is in the case RP, which is a

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1 Remington .357 Magnum round.

2 Q Okay. And these casings came out of that .357?

3 A That's correct.

4 Q Okay. Now, and you stated earlier that there were  
5 additional fragments or bullets collected from inside  
6 the house; is that correct?

7 A That's correct.

8 Q As well as one from the autopsy; is that correct?

9 A That's correct.

10 (Discussion off the record.)

11 THE COURT: Y'all come up and talk to me just one  
12 second.

13 (WHEREUPON, a bench conference was held off the  
14 record in the presence of the jury but out of the  
15 hearing of the jury.)

16 THE COURT: After a conference with counsel,  
17 State's-64 is into evidence without objection.

18 (WHEREUPON, State's Exhibit No. 64 was admitted in  
19 evidence.)

20 THE COURT: You may proceed.

21 MS. LIVESAY: Thank you, Your Honor.

22 (WHEREUPON, State's Exhibit Nos. 67 through 71  
23 were marked for identification only.)

24 Q Investigator Caulder, I'm going to show you what's  
25 been marked as State's Exhibits 67 through 71. If you

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1 don't mind, would you identify them for the Court and  
2 whether or not you collected them.

3 A Exhibit 67 is our projectiles that were recovered,  
4 our fragments that were recovered, projectile and  
5 fragments that were recovered from the kitchen  
6 counter -- or kitchen cabinet and the living room of  
7 the residence. Exhibit 68 is a projectile jacketing  
8 from the floor on the west side of the living room or  
9 an actual -- the actual jacket from a fired bullet. 69  
10 is a projectile fragment that was turned in by  
11 Detective Vescovi.

12 Exhibit 70 is the fired bullet that was collected  
13 from the autopsy, it was collected from the back of the  
14 victim. 71 is a projectile from the front entrance  
15 door, the fired bullet from the front entrance door of  
16 the residence.

17 Q And were all of those the fragments or bullets you  
18 collected either from the house or the autopsy?

19 A That's -- other than the one with the exception  
20 from Detective Vescovi.

21 MS. LIVESAY: Your Honor, at this time the State  
22 asks to move State's Exhibit 67 through 71 into  
23 evidence and publish it to the jury.

24 THE COURT: Any objection?

25 MR. FREDERICK: No objection.

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1 MR. CANTY: None, Your Honor.

2 THE COURT: All right. So it's in evidence  
3 without objection.

4 (WHEREUPON, State's Exhibit Nos. 67 through 71  
5 were admitted in evidence.)

6 THE COURT: You may proceed. Thank you.

7 MS. LIVESAY: Thank you.

8 Q I'm showing you now what's been marked as State's  
9 Evidence No. 70. And is this the bullet that came from  
10 the autopsy?

11 A Yes, ma'am.

12 Q Okay. And this is the part that comes out of the  
13 casing; is that correct?

14 A That's correct, ma'am.

15 Q Okay. And this is the complete bullet that was  
16 collected from that victim?

17 A That is correct.

18 Q Okay. Now, I'm going to ask you about 67, 68, 69  
19 and 71. Are these complete bullets?

20 A No, ma'am. Some of them are fragments, they are  
21 not what -- and I'm not a firearms expert -- but not  
22 what I'd call a complete bullet. Some of them are the  
23 jacketing. One of them is the jacketing from the  
24 exterior which is my number six, or State's Exhibit 68,  
25 is just the jacketing from around the bullet.

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1 State's Exhibit 67 is the actual fragments and one  
2 piece of -- all right, one bullet, one fired bullet.  
3 And the other fragment's from another piece of bullet  
4 that was collected out of the cabinet.

5 Q Okay.

6 A State's Exhibit 69 is not -- it just appears to be  
7 the jacketing or a fragment that was collected from the  
8 residence by Detective Vescovi and turned in to me.  
9 And 69 -- or, excuse me, State's Exhibit 71 is a -- is  
10 the actual bullet itself, a fired bullet, in good  
11 shape.

12 Q Okay. The State is publishing 69 through 71. So  
13 what we're looking at now are fragments of the bullets  
14 that were fired?

15 A Are the actual fired bullet and fragments, yes,  
16 ma'am.

17 Q And your records show that these were collected  
18 from the inside of that house?

19 A That's correct.

20 Q Publishing State's Evidence 67 and 68. Now, there  
21 were two bullet holes in the residence that no fragment  
22 or bullet was ever collected from; is that correct?

23 A Yes, ma'am. One in the television and one in the  
24 floor of the hallway leading to the north end of the  
25 residence.

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1 Q Okay. And was there ever a shell casing collected  
2 from those shots, either?

3 A No shell casings were collected from anywhere in  
4 the residence.

5 Q Okay. So we have these fragments that were found  
6 from the house; is that correct?

7 A That's correct.

8 Q And a bullet from the autopsy?

9 A That is correct.

10 Q And there are no shell casings found anywhere in  
11 that mobile home?

12 A No, ma'am.

13 Q Okay. Does that indicate to you anything as to  
14 the type of gun that was used?

15 A Yes, ma'am. It's usually indicative that a  
16 revolver was used in the shooting.

17 Q Okay.

18 A Normally you would find -- with a semi-automatic  
19 you normally would find casings ejected somewhere,  
20 generally hidden under something because they tend to  
21 get kicked around. And during a scuffle or something  
22 like that they generally get kicked around. But when  
23 they are ejected, they're usually under something. You  
24 normally with a semi would find a casing. With  
25 revolvers you never find a casing.

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1 Q Okay. And correct me if I'm wrong, looking at now  
2 what I'm showing State's Evidence No. 1, the evidence  
3 you collected, and correct me if I'm wrong, I'm just  
4 trying to make sure I'm clear, from this house as to  
5 the bullet holes and the fragments, indicate there were  
6 shots coming from this direction from the end of this  
7 bedroom down this way (indicating); is that correct?

8 A That's correct.

9 Q And also shots being fired from this end of the  
10 house towards the north way (indicating)?

11 A That's correct.

12 Q Shots being fired both directions?

13 A Yes, ma'am.

14 Q Okay.

15 (WHEREUPON, State's Exhibit No. 72 was marked for  
16 identification only.)

17 Q Now, on this diagram, if you don't mind, there's  
18 also a indication here of a number six; is that  
19 correct?

20 A That's correct.

21 Q If you don't mind, tell the jury what was  
22 collected there.

23 A Number six was a projectile jacketing from the  
24 floor that was up under the couch.

25 Q Okay. So that would indicate, just so I'm clear,



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1 that shots were fired this direction from the house  
2 (indicating), the victim's room or where the victim was  
3 found in this direction?

4 A That's correct.

5 Q Okay. And this is towards the front door?

6 A Yes, ma'am.

7 Q Okay. There were also shots fired from this  
8 direction this way (indicating)?

9 A Yes, ma'am.

10 Q Okay. And also shots fired back from this  
11 direction going towards this bedroom (indicating)?

12 A Yes, ma'am.

13 Q Okay. I'm showing you now what's been marked as  
14 State's Exhibit No. 72. What is that?

15 A That is the victim's shirt that I recovered at the  
16 time of the autopsy.

17 Q Okay. And you collected that from Dr. Proctor?

18 A Yes, ma'am.

19 Q Okay. And was it sealed upon you collecting it?

20 A Yes, ma'am.

21 Q Okay.

22 MS. LIVESAY: Your Honor, at this time the State  
23 wishes to move State's Exhibit 72 into evidence and  
24 published it to the jury.

25 THE COURT: Any objection?

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1 MR. FREDERICK: No objection.

2 MR. CANTY: None, Your Honor.

3 THE COURT: All right. State's-72 is in evidence  
4 without objection. You may show it to the jury.

5 (WHEREUPON, State's Exhibit No. 72 was admitted in  
6 evidence.)

7 MS. LIVESAY: Thank you, Your Honor.

8 Q Is this the shirt you collected from autopsy?

9 A Yes, ma'am.

10 Q Okay. If you don't mind, is there anything on  
11 this shirt that indicates a wound?

12 A On the front, the front of the shirt is a actual  
13 hole where a bullet entered, where the bullet entered  
14 her chest.

15 Q And does the back indicate anything about that  
16 wound?

17 A No, ma'am.

18 Q Okay. And are there any holes on the back to  
19 indicate any sort of exit wound?

20 A No, ma'am.

21 Q Okay. Are there any other holes in this shirt  
22 other than that one?

23 A No, ma'am.

24 Q Okay. And is this the shirt she had on when you  
25 saw her in the bed?

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- 1 A Yes, ma'am.
- 2 Q Did you look around that bed where the victim was  
3 on top?
- 4 A On top the bed, yes, ma'am.
- 5 Q Okay. Did you see any kind of weapon near her?
- 6 A No, ma'am.
- 7 Q Okay. And did you take some pictures of that den  
8 area when you first walked in that house?
- 9 A Yes, ma'am.
- 10 Q Okay. And was there anything on the couch to  
11 indicate to you somebody had been in that bedroom or  
12 that particular den area?
- 13 A As soon as you walk in or as soon as you open the  
14 door to the residence, you can see the couch on the far  
15 wall of the living room. There was a comforter or a  
16 blanket that was on the bed -- or on the couch along  
17 with a pillow. The actual blanket or comforter had  
18 been thrown off onto the floor. It was half on the  
19 couch and half on the floor, like somebody was laying  
20 there and then in a hurry got up and sashayed the  
21 blanket off.
- 22 Q Okay. I'm showing you now what's already in  
23 State's evidence as No. 14. Do you recognize that  
24 picture?
- 25 A Yes, ma'am.

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1 Q Did you take that picture?

2 A Yes, ma'am.

3 Q Okay. And does that picture show the pillow and  
4 the comforter on that front couch?

5 A Yes, ma'am.

6 Q Does it also show the bullet hole in the TV?

7 A You can kind of see it if you look between the  
8 actual television program that's on, between the one  
9 and the zero that's there, you can see the actual  
10 discoloration in the actual television. And that's the  
11 actual bullet hole.

12 Q Okay. And was the TV on when you came in?

13 A Yes, ma'am.

14 Q Showing the jury now again State's Evidence No.

15 14. Did you collect a gun or a knife or anything from  
16 that couch?

17 A No, ma'am. The only thing recovered, and that was  
18 from under the couch, was the bullet jacket.

19 Q How about a gun or a knife anywhere in that den  
20 room?

21 A No, ma'am.

22 Q When you came in and saw the victim on the bed,  
23 did she have any kind of weapon on her?

24 A No, ma'am.

25 Q When you saw that victim on the bed, what all was

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1 she wearing?

2 A She had on the green-colored shirt and a pair of,  
3 it was sweat slacks or sweat pant type pants.

4 Q Okay. Did she have any shoes on?

5 A Not that I recall.

6 Q Okay. Did she have any socks on?

7 A Not -- I don't remember. If I could look back at  
8 a photograph maybe.

9 Q I'm going to show you what's State's Evidence No.  
10 58, it's already been published. Do you see any shoes  
11 on her?

12 A No, ma'am.

13 Q Do you see any socks on her?

14 A No, ma'am.

15 Q Do you see anything in her hands or any weapon on  
16 her anywhere?

17 A No, ma'am.

18 Q Did you collect any evidence to lead you to  
19 believe anything other than this was a unarmed  
20 19-year-old girl laying on the couch watching  
21 television?

22 A No, ma'am.

23 (WHEREUPON, State's Exhibit No. 73 was marked for  
24 identification only.)

25 Q Showing you what's been marked State's Exhibit 73.

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1 What is that?

2 A That is the box of Remington .357 ammunition that  
3 I recovered out of the Perry Ellis bag that was in the  
4 closet in the bedroom where the victim was found.

5 Q And where was that found?

6 A In the closet. It's inside of the Perry Ellis bag  
7 that was in the closet in the bedroom on the north end  
8 of the residence where the victim was located.

9 Q Okay. And what else was found in that closet in  
10 that bedroom?

11 A The SKS rifle along with the magazine that went  
12 with the rifle, the Perry Ellis bag, the box, the .357  
13 rounds, 40 of them, two glass anchor measuring cups  
14 that were in the bag, the plastic bags containing the  
15 off-white substance and the spoon and the fork.

16 Q Okay.

17 MS. LIVESAY: And at this time the State wishes to  
18 move 73 into evidence and publish it to the jury.

19 THE COURT: Any objection?

20 MR. FREDERICK: No objection.

21 MR. CANTY: None, Your Honor.

22 THE COURT: All right, it's in evidence without  
23 objection.

24 (WHEREUPON, State's Exhibit No. 73 was admitted in  
25 evidence.)

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1 MS. LIVESAY: Thank you, Your Honor.

2 Q And just so I'm clear, what caliber of bullet is  
3 this?

4 A .357.

5 Q Okay. And the brand is what?

6 A Remington.

7 Q Okay. And the shell casings out of State's  
8 Evidence No. 64 was what brand?

9 A Remington.

10 Q Okay. Now, you named another weapon that was in  
11 the closet; what was that?

12 A It was a Ruger .44 caliber revolver.

13 Q Okay. And was there another gun of any kind in  
14 that closet?

15 A The SKS rifle.

16 Q Okay. Is there anything to indicate that that  
17 rifle was shot?

18 A No, ma'am.

19 Q Okay. Were there any rifle cartridges, fragments,  
20 anything found in the home?

21 A Other than the rounds that were found in the  
22 closet with it, no, ma'am.

23 Q Okay. So other than the rounds that were found in  
24 a box like this (indicating)?

25 A Yes, ma'am.

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1 Q Okay. But nothing to indicate that it had been  
2 fired in any form or fashion?

3 A No, ma'am.

4 Q And the only bullets were in a box just like this?

5 A Yes, ma'am.

6 Q Okay. Now, what else was found? It was the .44  
7 Magnum in the closet which would be this weapon; is  
8 that right?

9 A Yes, ma'am.

10 Q Did you find any .44 bullets anywhere in that  
11 house, caliber bullets?

12 A No, ma'am.

13 Q Okay. When you found this weapon, did you  
14 indicate on your evidence sheet whether or not it was  
15 loaded?

16 A I indicated on there -- I was unable to check it.  
17 It didn't appear to be loaded, but I could note open  
18 the cylinder because there was a trigger lock in place,  
19 and we did not have a key.

20 (WHEREUPON, State's Exhibit No. 74 was marked for  
21 identification only.)

22 Q I'm showing you what's been marked as State's  
23 Exhibit 74. Do you recognize this?

24 A Appears to be the trigger lock that was inside of  
25 the trigger on the .44 caliber.



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1 MS. LIVESAY: Your Honor, at this time the State  
2 moves 74 into evidence and publish it to the jury.

3 THE COURT: Any objection?

4 MR. FREDERICK: No objection.

5 MR. CANTY: None, Your Honor.

6 THE COURT: All right. It's in evidence without  
7 objection.

8 (WHEREUPON, State's Exhibit No. 74 was admitted in  
9 evidence.)

10 MS. LIVESAY: Thank you, Your Honor. At this time  
11 the State shows 74 to the jury.

12 Q So this is the lock that was on this handgun?

13 A Yes, ma'am.

14 Q Okay. Which made it unable to fire; is that  
15 correct?

16 A That is correct.

17 Q Okay. In fact, you couldn't even open the  
18 cylinder; is that correct?

19 A We did -- we were able to open -- finally get the  
20 cylinder open, but the trigger was unable to be fired.

21 Q Okay. When you opened the cylinder, was this gun  
22 loaded?

23 A No, ma'am.

24 Q Were any .44 caliber bullets, fragments, anything  
25 found in that house?

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1 A No, ma'am.

2 Q Okay. Now, you said that there was the bullets  
3 for the rifle; is that correct, in the closet?

4 A Yes, ma'am.

5 Q The rifle itself?

6 A Yes, ma'am.

7 Q The .44 with the lock on it?

8 A Yes, ma'am.

9 Q Okay. But the two guns in the closet, nothing  
10 indicates that those guns were fired?

11 A No, ma'am.

12 Q Okay. And, in fact, both were unloaded?

13 A At the time, yes, ma'am.

14 Q Not loaded?

15 A Not loaded. They did not have any rounds in the  
16 chamber, that's correct.

17 Q Okay. And you said you found a Perry Ellis bag?

18 A Yes, ma'am.

19 Q And what was in that Perry Ellis bag?

20 A The Ruger, the .357, Remington .357 rounds, the  
21 Winchester 7.62 rounds, the two glass measuring cups,  
22 the two plastic bags with the off-white substance and  
23 the spoon and the fork.

24 Q Okay. Now, did you collect any cash from anyone  
25 that was placed into evidence?

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1 A I did not.

2 Q Okay.

3 A Nor do I know of any.

4 Q Was cash ever placed into evidence?

5 A I do not know.

6 Q Okay. Investigator Caulder, I'm showing you  
7 what's been marked State's Exhibit 53, 54, 55 and 57.  
8 Do you recognize those pictures?

9 A Yes, ma'am.

10 Q And what are those pictures of?

11 A Those pictures of the Chevy -- the Chevrolet Astro  
12 van that I processed at the ML Brown building  
13 impound -- impound lot.

14 Q Okay. And do you have knowledge as the crime  
15 scene investigator where the van came from?

16 A I don't know, recollect where the street it was  
17 located off of. I know it was in the area. We had a  
18 different investigator respond out there to the where  
19 it was located to secure the van. The van was towed  
20 from its location to the police department.

21 Q Okay. And is this the van that you fingerprinted?

22 A That is correct.

23 Q Okay. And is this the location where you  
24 fingerprinted it?

25 A Yes, ma'am.

1 Q Okay.

2 MS. LIVESAY: At this time the State wishes to  
3 place, 53, 54, 55, 56 and 57 into evidence.

4 THE COURT: Any objection to those?

5 MR. FREDERICK: No objection.

6 MR. CANTY: None, Your Honor.

7 THE COURT: All right. So they are in evidence  
8 without objection.

9 (WHEREUPON, State's Exhibit Nos. 53 to 57 were  
10 admitted in evidence.)

11 MS. LIVESAY: Thank you. At this time the State's  
12 publishing these pictures.

13 Q This is State's Evidence No. 57. What are you  
14 documenting in this picture?

15 A That's the passenger side of the van, and those  
16 little white backing cards are -- is the -- are the  
17 actual lifts where I put the lifting tape over the  
18 prints that I located. And I'm just documenting where  
19 they are on the van.

20 Q So this is documenting that indeed the  
21 fingerprints that you were able to match up came from  
22 this passenger door area?

23 A Yes, ma'am.

24 Q Okay. Now, we didn't talk about any fingerprints  
25 in the house. Did you dust for fingerprints in the

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1 house?

2 A No, ma'am, because the house was locked.

3 Q And if you don't mind, please tell the jury why  
4 you did not do that.

5 A From the -- we did not dust the residence. From  
6 the information was garnered that the entry was made  
7 forcibly at the front door. They came in, the shooting  
8 incident occurred, and they were gone. There was  
9 nothing as far as that they indicated that present time  
10 other than the back bedroom, the south end bedroom of  
11 the residence. And the information garnered is that  
12 they were masked or hooded or -- and possibly wearing  
13 gloves when they came in and started firing.

14 At that point in time there would have been no  
15 attempt because chances are better than not the only  
16 prints that could possibly would have been located  
17 would have been the persons that had the right to be in  
18 the home, which was the person who stayed in the south  
19 bedroom, the victim, and the victim's boyfriend.

20 Q Now I'm showing you what's been marked as State's  
21 Evidence No. 54 and State's Evidence No. 25. If you  
22 don't mind, look at the license plates and tell me if  
23 that's the same vehicle.

24 A Yes, ma'am.

25 MS. LIVESAY: At this time the State is publishing

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1 25, which was put into evidence through Tiffany Oliver,  
2 and State's-54 that was put into evidence through  
3 Robbie Caulder.

4 Q So the van that was collected from Tiffany Oliver,  
5 the lady that testified earlier, with this license  
6 plate is the same van that you fingerprinted?

7 A Yes, ma'am.

8 Q Now, when you took pictures of the front of the  
9 house, was there a light on when you went out to that  
10 house?

11 A There was light on inside the house, yes, ma'am.

12 Q How about on the outside of the house?

13 A Not that I can recall.

14 Q If I showed you the picture, would it refresh your  
15 memory?

16 A Yes, ma'am.

17 Q I'm showing you now what's been already placed  
18 into evidence through Mr. Watts as State's Evidence No.  
19 3 and No. 6. Do you recognize these pictures?

20 A Yes, ma'am.

21 Q Did you take them?

22 A Yes, ma'am.

23 Q Is there a light on in the front of the house?

24 A No, ma'am.

25 Q Is there any light on the outside, the back of the

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1 house?

2 A No, ma'am.

3 Q Okay. Showing the jury State's Evidence 3 and 6.

4 Now, Mr. Caulder, the front of this mobile home on  
5 State's Evidence No. 3 looks standard to me. Is there  
6 anything about it that is significant to you?

7 A No, ma'am. This is one of the mobile homes I've  
8 seen.

9 Q Sometimes people put signs on their house with  
10 their last name or Caulder's home on it. Did you see  
11 anything like that on this house?

12 A No, ma'am.

13 Q And approximately how many mobile homes were out  
14 there in that neighborhood?

15 A I'd say in excess of ten.

16 Q Okay. And was there anything significant about  
17 this one to indicate who lived there?

18 A Not other than the two vehicles that were in the  
19 back if they were home, if the -- you know, if the  
20 owners were home. But nothing stood out other than it  
21 was just a standard white vinyl sided or like sided  
22 mobile home that was -- that's in a mobile home park.

23 Q Okay. And you were in that neighborhood in  
24 general collecting evidence; is that correct?

25 A That's correct.

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1 Q Okay. Was there anything about this mobile home  
2 to indicate this one was any different than any other  
3 mobile home in that neighborhood?

4 A No.

5 Q Okay. Was there anything to indicate who lived in  
6 this particular mobile home from the outside?

7 A No, ma'am.

8 Q Okay. Mr. Caulder, did you do anything else to  
9 further your investigation in this case?

10 A Other than the initial scene, the autopsy, the  
11 processing and the latent print work, no, ma'am, other  
12 than take a few items in regards to this case up to the  
13 State laboratory.

14 Q Okay. If you don't mind, tell the Court and the  
15 jury -- and you said SLED?

16 A Yes, ma'am.

17 Q And what does that stand for, for the Court and  
18 the jury?

19 A SLED is the State Law Enforcement Division.

20 Q Okay. And if you don't mind, tell the jury what  
21 items you took to SLED for further examination.

22 A All of the -- the bullet -- bullet fragments, the  
23 bullets themselves, the .44 caliber and .357 all were  
24 taken as well as the bullet that was recovered from the  
25 victim, were taken to SLED to be for the firearms



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1 technicians to look and compare the fired bullets to  
2 the weapons that were recovered.

3 Q Okay. So for further examination?

4 A Yes, ma'am.

5 Q Okay. And did you hand these items over to Jamie  
6 Green at SLED to further examine them?

7 A Yes, ma'am.

8 Q Okay. And Jamie Green does the ballistics at  
9 SLED; is that correct?

10 A That's correct.

11 Q If you don't mind, explain to this jury just a  
12 little bit about what ballistics are.

13 A Ballistics are the -- pretty much it just gives  
14 the information on the firearm itself. When a round is  
15 fired or a bullet is fired out of a weapon, it marks  
16 different types of striations from the barrel imparted  
17 onto the bullet when it's fired out.

18 They also, the primer location or the firing pin  
19 location is indicated on the casing itself. Not in  
20 this case, but the officer can tell --

21 MR. FREDERICK: I think we're going to need to  
22 qualify him as an expert to hear this testimony.

23 MR. CANTY: You know, I believe he stated that  
24 he's not an expert.

25 MS. LIVESAY: I'm not going to go into it any

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1 further with that, Your Honor.

2 THE COURT: All right, very good.

3 MS. LIVESAY: I was just laying the foundation  
4 for why it was taken.

5 THE COURT: All right, it doesn't matter. If  
6 you're going to stop, then that will be the end of it.

7 MS. LIVESAY: Okay.

8 Q Was anything else taken to SLED?

9 A There was some gunshot residue kits were taken to  
10 SLED. And I'm not too familiar with what else, if  
11 anything else was taken.

12 Q Okay. But you know for sure the gun items that  
13 are up here were taken?

14 A That is correct.

15 Q And you took them yourself?

16 A Yes, ma'am.

17 Q Okay. And you handed those to the ballistics guy?

18 A Yes, ma'am.

19 Q Okay.

20 MS. LIVESAY: No further questions for this  
21 witness, Your Honor.

22 THE COURT: Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. FREDERICK:

25 Q What were the actual dimensions of the trailer?

JOHN ROBERT CAULDER-CROSS BY MR. FREDERICK

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1 You measured the dimensions; right?

2 A Yes, sir.

3 Q Okay.

4 A It's 65 foot from north to west, 13 foot east --  
5 east to west.

6 Q 13?

7 A It's 13 foot east to west.

8 Q And you said 65; correct?

9 A North to south, yes, sir.

10 Q Okay. The guns, the drugs, the paraphernalia for  
11 cooking the drugs, that box of .357 ammunition, all of  
12 that stuff that you took from the room, just to be  
13 clear, the intruders didn't leave that stuff; right?

14 A I wouldn't have thought they'd left it. Where  
15 they were located would not be indicative that they  
16 left them there, that they were stored in there for a  
17 purpose.

18 Q More than likely it belonged to the resident?

19 A Yes, sir.

20 Q Okay. And did you execute the search warrant?

21 A Yes, sir.

22 Q Okay. And you searched the room?

23 A Yes, sir.

24 Q But the .357, the Magnum, that was not found until  
25 two weeks later. Was it hidden?

JOHN ROBERT CAULDER-CROSS BY MR. FREDERICK

1 A From my understanding from talking with Detective  
2 Vescovi who recovered it from the victim's father, it  
3 was -- from my understanding it was located between  
4 some drawers on the bed and under the mattress on the  
5 bed. I'm not quite sure where. It was located  
6 somewhere because it was a -- the bed had like pull-out  
7 drawers on the bottom, and the mattress sat on top of  
8 that. And between the pull-out drawers on the bottom  
9 of the mattress is where the gun was located.

10 Q And did you not look there?

11 A No, sir, I did not.

12 Q Did anybody look there?

13 A No, sir. Other than the victim's father when he  
14 was tearing the bed down.

15 Q Okay. So the victim's father found -- okay. You  
16 said that casings are ejected from a semi-automatic  
17 weapon?

18 A Yes, sir.

19 Q And with a revolver the casings stay inside the  
20 cylinder?

21 A Yes, sir.

22 Q Okay. The box of unfired .357 ammunition that was  
23 found?

24 A Yes, sir.

25 Q That was not taken to SLED; was it?

JOHN ROBERT CAULDER-CROSS BY MR. FREDERICK

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1 A The box of .357 rounds that were found, no, sir,  
2 were not taken to SLED.

3 Q Okay. How many bullets or bullet fragments were  
4 found in McElveen's bedroom?

5 A I don't know who McElveen is.

6 Q Rodney McElveen.

7 A If you tell me which bedroom it is, I can.

8 Q The bedroom that Keia was shot or that Keia  
9 expired in.

10 A No projectiles were found in that room, no  
11 fragments.

12 Q How many holes were in the wall behind the bed in  
13 that room?

14 A None.

15 Q Okay. No ejected casings in that room?

16 A No, sir.

17 Q No holes anywhere in the walls, in the bed?

18 A Just the victim.

19 Q And what is an SKS?

20 A It's just a -- just a manufacturer of a -- of a  
21 rifle. It's just -- what it stands for, I don't know.  
22 It's just the -- it's just a name brand or an off name  
23 of a rifle.

24 Q What's its functionality?

25 A It's a semi-automatic rifle.

## JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 Q How big is it?

2 A The one that was recovered, approximately about  
3 three and a half, four foot long. It's like any normal  
4 rifle.

5 Q Like a normal rifle?

6 A Yeah.

7 Q Okay. Was this a military issued weapon?

8 A It can be, yes, sir.

9 Q Okay.

10 MR. FREDERICK: That's all the questions I have.

11 THE COURT: Mr. Canty?

12 MR. CANTY: May it please the Court, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. CANTY:

15 Q Five times 13 is 65; correct?

16 A Yes, sir.

17 Q So it says, not to scale. The length of this  
18 trailer is five times the width, it's a 13 by 65  
19 trailer. So the length of this hallway would be  
20 underrepresented on this diagram?

21 A Oh, yes, sir. The whole diagram there is not to  
22 scale.

23 Q Okay. And this aerial photograph would give a  
24 better idea of the length-to-width ratio of this mobile  
25 home?

## JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 A It's kind of small. It's about six inches.

2 Q But you can tell how long it is relative to how  
3 wide it is?

4 A Yes, sir.

5 Q Okay. Tell the jury how many fingerprints of  
6 Carnail Graham you found.

7 A None.

8 Q And when you attended the autopsy, were you able  
9 to identify even approximately the caliber of the  
10 bullet that caused her death?

11 A I did no -- I did not, no, sir.

12 Q You knew it wasn't a 7.62 round?

13 A That's correct.

14 Q And you found some 7.62 ammunition?

15 A Yes, sir.

16 Q That would fit the SKS assault rifle?

17 A Yes, sir.

18 Q That wasn't fired. If he had fired that, it would  
19 have gone through several mobile homes; isn't that  
20 right?

21 A I have seen it be a long way --

22 MS. LIVESAY: Your Honor, at this time I'm going  
23 to object. I think we've all agreed that he's not a  
24 firearms expert in this case.

25 THE COURT: Mr. Canty, your objection is

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

1 sustained.

2 MR. CANTY: Very well. Thank you, Your Honor.

3 Q So you found some .357 ammunition in the bedroom?

4 A Yes, sir.

5 Q But you didn't send that to SLED?

6 A No, sir.

7 Q Now, in the photographs that you have produced, do  
8 you recall some photographs of two blobs on the dirt  
9 road near the scene?

10 A Yes, sir.

11 Q And you put those there; right?

12 A Yes, sir. Casting stone, yes, sir.

13 Q And is that Plaster of Paris or some similar  
14 material?

15 A Demo stone, yes, sir.

16 Q Okay. And you got a cast of the tire track that  
17 was there?

18 A Yes, sir.

19 Q And you got a cast of the something else; what  
20 else did you get a cast of?

21 A Shoe impressions.

22 Q All right. And that was based -- what led you to  
23 that spot to make those impressions?

24 A During the initial response, information that was  
25 coming into officer -- road officers and Detective



JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 Vescovi and other detectives up there, information came  
2 to them that there were witnesses that there had been a  
3 van parked suspiciously at the end of Colleta Court.

4 And they asked me to go around to that -- to this  
5 end of Colleta Court (indicating) and see if I could  
6 find anything of value or anything to corroborate any  
7 of the stories that were coming out about information  
8 of a van and someone person running to the van and  
9 meeting up with the van in this area (indicating).

10 Q So this was the scene of the shooting?

11 A Yes, sir.

12 Q Rendezvous, people on foot and the van  
13 approximately right here (indicating)?

14 A Yes, sir.

15 Q And based on information at the scene, you made  
16 those casts down there, at the end of Colletta Court?

17 A Here and here (indicating).

18 Q Okay. But there's two of them right next to each  
19 other. Are those two at the end of Colleta Court?

20 A Yes, sir, if I recall correctly.

21 Q And was your information that someone had been on  
22 foot outside the van talking to the driver of the van?

23 A Yes, sir.

24 Q Now, of the shots fired -- and I understand you're  
25 not a ballistics expert, you testified at length as far

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

1 as the bullet holes that you observed and the bullets  
2 that you recovered -- is it fair to say that from the  
3 bedroom where the decedent was found, that five shots  
4 were fired down that hallway?

5 A It's safe to say at least three.

6 Q And they were .357s, as far as you could tell?

7 A They were just bullet fragments is all I could  
8 tell you.

9 Q Okay. And there were no bullet holes inside this  
10 bedroom (indicating)?

11 A No, sir.

12 Q Was there a bullet hole in the ceiling right  
13 outside the bedroom?

14 A Yes, sir.

15 Q And that was fired in a north to south direction?

16 A Give me just one second. Yes, sir, it was fired  
17 from the -- where the victim was found towards the  
18 kitchen and living room area, the front entrance door,  
19 from north to south.

20 Q And there was another bullet hole in the floor  
21 which led you to believe that it was fired south to  
22 north?

23 A Yes, sir.

24 Q And that bullet was not recovered?

25 A That is correct.

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 Q Okay. And if I understand correctly, there was  
2 another bullet fired that entered this wall, exited  
3 this wall (indicating), struck the television?

4 A Yes, sir. That appeared to be the path of the  
5 bullet itself.

6 Q And that bullet was not recovered?

7 A That is correct.

8 Q But the bullet fragment was found on the floor  
9 behind the television?

10 A There was -- I recall one on the floor behind the  
11 television, the near the couch. Detective Vescovi  
12 recovered or brought one and turned one into evidence.  
13 I mean, I'm not sure where that one was located, could  
14 have been that point. All of the ones I recovered was  
15 under the couch, the cabinet and the door.

16 Q Okay. Other than the bullets fired north to  
17 south, to the best of your knowledge are you aware of  
18 any bullet holes or any other information that you  
19 observed at the scene that would lead you to believe  
20 that there were more than two bullets fired other than  
21 in a north south direction?

22 A Other than two guns or two weapons?

23 Q No, no. My question is this: We've got some  
24 rounds fired down this hallway north to south, one in  
25 the ceiling, one in the cabinet, one in the door,

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 etcetera. We've got one round, south to north in the  
2 floor here that was not recovered. Another round in --

3 THE COURT: Is that a yes?

4 THE WITNESS: Yeah -- I'm sorry, Your Honor, yes,  
5 sir.

6 Q Another round in this wall, out this wall  
7 (indicating), in the television?

8 A Yes, sir.

9 Q Not recovered?

10 A Yes, sir.

11 Q Besides that round and that round, do you have any  
12 information that any other rounds were fired?

13 A No, sir.

14 Q Okay. You did not go to the scene where the van  
15 was recovered?

16 A No, sir, I did not go to the scene.

17 Q Who did that?

18 A Investigator Don McGower in the -- with the crime  
19 scene unit responded out, secured the van, and then it  
20 was towed by our tow company back to the Horry County  
21 Police Department.

22 Q Okay. And forgive me because we need to back up a  
23 minute. Those plaster casts that you made at the scene  
24 of the shoe print and the tire print, the tire matched  
25 the van; correct?

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 A We -- to my knowledge, there was no comparison  
2 made between the two.

3 Q And actually it became unnecessary --

4 A Yes, sir.

5 Q -- to compare the two. Now, what about the shoe  
6 print cast?

7 A It was never compared to anyone. No shoes were  
8 brought to me other than one set that it did not match,  
9 it was similar to but did not match to the casting.

10 Q Where is the shoe print casting?

11 A The shoe print, of the unknown or of the known?

12 Q The unknown, the one you obtained at the scene  
13 when you poured the Plaster Paris like material on the  
14 shoe print, it congealed, it hardened, and you took  
15 that with you?

16 A Um-hum. Yes, sir.

17 Q Where is it?

18 A It's -- it's behind you.

19 Q Over there?

20 A Yes, sir.

21 Q Okay. And that was from the scene next to where  
22 you were informed the van was parked?

23 A Yes, sir.

24 Q All right. Now, I think you've indicated more  
25 than once that it was two weeks later that the .357

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 Magnum pistol was found. In fact, it was eight days  
2 later; isn't that correct?

3 A It says -- it's in my notes, it says two weeks  
4 after the incident.

5 Q It wasn't the 16th, this happened on the 8th,  
6 eight days later?

7 A I'll take -- I'll take your word for it.

8 Q So you conducted the search, you recovered drugs,  
9 you recovered firearms, you recovered ammunition,  
10 bullet fragments, etcetera, but you did not find that  
11 pistol that night?

12 A That is correct.

13 Q And how long was it after the shooting that you  
14 sent the bullets and the bullet fragments to SLED along  
15 with the pistols for analysis?

16 A When I took them was last week.

17 Q How long after the shooting did they initially go  
18 to SLED, if you know?

19 A I don't know. That's -- it's evidence, it's  
20 questions I don't know.

21 Q Okay. Well, here's my question. The .357  
22 ammunition never went to SLED --

23 A That's correct.

24 Q -- correct? When you sent the .357 revolver, is  
25 there a reason why the ammunition did not go with it?

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 A No, sir. No -- no good nor bad reason. SLED has  
2 their own supply, from my understanding, of ammunition  
3 so...

4 Q And do you know whether -- I think you testified  
5 this is Remington .357 Magnum ammunition --

6 A Yes, sir.

7 Q -- in the box. And these are Remington .357  
8 shells removed from the cylinder and the gun?

9 A Yes, sir.

10 Q Okay.

11 A From the head stamp that's on both.

12 Q And you don't -- since you're not an expert, you  
13 don't have any opinion as to whether or not it would be  
14 useful to have that ammunition for comparison purposes?

15 A I wouldn't have -- no, sir, I would not have an  
16 opinion.

17 Q Now, you carry a handgun, I see that.

18 A Yes, sir.

19 Q And it's a semi-automatic weapon?

20 A That is correct.

21 Q .40 caliber?

22 A Yes, sir.

23 Q It's police -- common police issue?

24 A Yes, sir.

25 Q Would you mind very carefully just showing the

JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 jury what that looks --

2 THE COURT: It's not necessary, Mr. Canty. It has  
3 no relevance to this case. No, sir.

4 THE WITNESS: I don't have it anyway, Your Honor.

5 THE COURT: All right, thank you.

6 Q A semi-automatic pistol would be distinctively  
7 different in appearance from a revolver?

8 A Yes, sir.

9 Q Now, I think you indicated that shots plural had  
10 been fired back towards the bedroom. And, in fact, you  
11 said there was one shot fired south to north that went  
12 through the floor here (indicating), and you never  
13 recovered that bullet?

14 A That's correct.

15 Q And there was another shot fired from near the  
16 back door in the living room?

17 A Yes, sir.

18 Q No other shots?

19 A No, sir.

20 Q So only one shot towards the bedroom that you're  
21 aware of?

22 A That I'm aware of, yes, sir.

23 Q The nightstand and the dresser in Mr. Watts' room,  
24 that is the southern most bedroom down here

25 (indicating), as I understand you indicate had been



JOHN ROBERT CAULDER-CROSS BY MR. CANTY

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1 overturned?

2 A Yes, sir.

3 Q As if someone were ransacking, searching?

4 A Yes, sir. It's the way that it appeared.

5 Q And it would be inferable that it would be the  
6 perpetrators who had done that?

7 A Yes, sir, that's what one would tend to think.

8 Q It would be unlikely Mr. Watts did it himself?

9 A No, sir.

10 Q And you did not dust for prints?

11 A No, sir.

12 Q You have information that the perpetrators were  
13 masked and wearing gloves?

14 A Yes, sir. That was my initial -- what initially  
15 was told to me.

16 Q What about DNA, you collected some DNA at some  
17 point?

18 A I swab -- for the most part, when we collect these  
19 items, we'll swab the handguns and things like that to  
20 see if there is any possibly touch DNA being to send to  
21 the State lab to determine if there is any touch DNA on  
22 the actual firearm itself or weapons or anything that  
23 we can try and get DNA from.

24 Q DNA was collected in this case, was it not?

25 A If it were, I have no knowledge.

JOHN ROBERT CAULDER-REDIRECT BY MS. LIVESAY

1 MR. CANTY: Very good. That's all I have.

2 THE COURT: Redirect?

3 MS. LIVESAY: Just a few, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. LIVESAY:

6 Q Mr. Caulder, you remember yesterday and this  
7 morning we talked a little bit about AFIS and the  
8 fingerprints?

9 A Yes, ma'am.

10 Q And how that works?

11 A Yes, ma'am.

12 Q Okay. And there's a standard with a number and a  
13 identification for that print; is that correct?

14 A That is correct.

15 Q Kept by SLED?

16 A Yes, ma'am.

17 Q Is there anything like that for shoe prints or  
18 tire prints?

19 A No, ma'am.

20 Q Okay. So there's no way you can match up a  
21 specific tire print or shoe print to one particular  
22 person?

23 A You may have to dumb down that question a little  
24 bit. You're asking if I could take a known and compare  
25 it to an unknown?

JOHN ROBERT CAULDER-REDIRECT BY MS. LIVESAY

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1 Q No. Is there a database of known prints?

2 A There is a database, but it is -- it is kept at --  
3 it only identifies a shoe type. It's the only database  
4 that's collected or housed that I'm aware of. It's at  
5 the Federal Bureau of Investigation. But it just tells  
6 you what type of tire or type of shoe tread, who is the  
7 manufacturer of it.

8 Q Okay. But there is no way to match that print to  
9 Robbie Caulder, that shoe print to Robbie Caulder?

10 A No, ma'am, not without --

11 Q Or John Smith?

12 A Not without having the known print.

13 Q Okay. Is there a database full of known prints  
14 that matches a shoe print to an individual?

15 A No, ma'am.

16 Q So there is no way to put it in somewhere and they  
17 identify, yes, this shoe print belongs to Joe Smith?

18 A No, ma'am.

19 Q Okay. Is there a way to match up a tire print to  
20 a certain vehicle?

21 A Yes.

22 Q And how do you do that?

23 A You would do it the same way that you would do it  
24 with a fingerprint. You would take that unknown tire  
25 impression that you had, and you take the known

JOHN ROBERT CAULDER-REDIRECT BY MS. LIVESAY

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1 impression you have. You'd have to -- in this case  
2 could have been that the van -- could have been you  
3 take a -- you outline the tire with black ink. The  
4 tire of the vehicle is then pushed or rolled onto clear  
5 paper or white paper. The impression is laid out,  
6 marked and identified by the investigator making the  
7 actual impression.

8 Then the two are laid down side by side, and then  
9 you look for those individual characteristics within  
10 the print. First you identify if you have the same  
11 type of tire, same manufacturer, same tread pattern.  
12 Then you start individualizing the characteristics  
13 inside of the tire.

14 As far as the wearing goes, there's a certain wear  
15 pattern, wet pattern on the tire or certain cuts,  
16 nicks, scrapes inside the tire that can be determined  
17 from the unknown to the known.

18 Q Did you do that in this case?

19 A No, ma'am, I did not.

20 Q Why not?

21 A I was not requested to.

22 Q Okay. Now, as to the unfired bullets that were  
23 not sent to SLED, these bullets here?

24 A Yes, ma'am.

25 Q Why weren't they sent to SLED?

JOHN ROBERT CAULDER-REDIRECT BY MS. LIVESAY

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1 A They were not requested either.

2 Q Okay.

3 A To my knowledge, they never requested for me to  
4 get sent.

5 Q Okay. Would there be any evidence to collect off  
6 bullets that have never been shot or placed into a  
7 weapon?

8 A No, ma'am.

9 Q Okay. So there would be no evidence to collect  
10 off of it?

11 A Not from me, no, ma'am.

12 Q Okay. Now, we talked about the shoe prints, so  
13 there's no way, no database to put a certain shoe print  
14 on a particular individual?

15 A Yes, ma'am.

16 Q Okay.

17 A There is no database.

18 Q Okay. And the only way to do it with a tire print  
19 is to have the actual vehicle and the mold?

20 A That's correct.

21 Q Okay. Now, we talked a little bit about the  
22 dimensions of this mobile home.

23 A Yes, ma'am.

24 Q Okay. If you don't mind, how far is it from this  
25 right here, this area, this den area, to this bedroom

JOHN ROBERT CAULDER-RECROSS BY MR. FREDERICK

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1 (indicating)?

2 A 14 foot.

3 Q Okay. From this end to this end (indicating)?

4 A Yes, ma'am.

5 Q And how far is that in this courtroom?

6 A That's a hard question. 14 foot is probably from  
7 where I sit until about your table.

8 Q Okay. So from here to my table (indicating)?

9 A Probably just the length of that (indicating).

10 Q The jury box?

11 A Yes, just the jury box.

12 Q Okay. So from this end of the jury box to this  
13 end of the jury box is the same as that hallway?

14 A A little less than that. It's probably about 18  
15 foot there, so...

16 Q Okay.

17 MS. LIVESAY: No further questions, Your Honor.

18 THE COURT: Anything on those questions, Mr.

19 Frederick?

20 MR. FREDERICK: Yes, sir, briefly.

21 THE COURT: Go ahead.

22 RECROSS-EXAMINATION

23 BY MR. FREDERICK:

24 Q Did you determine the shoe size from those molds?

25 A No, sir, I did not determine any. I was not

JOHN ROBERT CAULDER-RECROSS BY MR. FREDERICK 340

1 requested to look at any shoe impressions or tire  
2 impressions after the initial castings, so I did not  
3 determine any information from that.

4 Q Okay. And the prosecutor was asking you, there's  
5 no database of shoe wear. But you do compare shoes in  
6 these cases; don't you? Not this case, I understand,  
7 but in this type of case is that not a form of evidence  
8 that you present?

9 A We normally what is requested of an investigator  
10 or detective when they are out investigating, if they  
11 have -- if we have some type of evidence that is  
12 collected such as tire wear, shoe wear, we request that  
13 if they want it compared, that whomever did the  
14 interview or, you know, had developed a suspect or a  
15 lead in the case to try and get any of the known shoes  
16 or vehicles that that person has so we can make those  
17 impressions. So if cases like this come up in court,  
18 we don't get stuck on the stand with me looking like  
19 I'm looking right now.

20 Q I understand.

21 A In this. So -- but normally it's most cases it's  
22 still not done unless we are actively pursuing it  
23 throughout the case ourselves.

24 Q I understand. And you're aware that in this case  
25 a number of people were interviewed?

JOHN ROBERT CAULDER-RECROSS BY MR. FREDERICK

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1 A Yes, sir.

2 Q Okay.

3 A Well, I -- normally after the initial scene --

4 Q You didn't conduct any?

5 A -- I don't...

6 Q You didn't conduct interviews yourself?

7 A No, sir.

8 Q I understand. And the only reason that this, what  
9 do we call it, mold?

10 A Casting.

11 Q The only reason this casting was not analyzed is  
12 because they didn't ask you to?

13 A That is correct.

14 Q We didn't --

15 A There was nothing -- there was no -- there was no  
16 shoe impressions. There were no shoes given for  
17 impressions to be collected so that a comparison could  
18 be made.

19 Q Okay. And you're not the person who collects  
20 shoes from suspects or witnesses; right?

21 A No, sir. Unless they call us -- unless it's on  
22 the search warrant we'll go out and we'll collect shoes  
23 or if -- sometimes in some instances they will when  
24 they are interviewing someone or making an arrest in a  
25 case, they will say, look, we're getting ready to take



JOHN ROBERT CAULDER-RECROSS BY MR. FREDERICK

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1 the guy down to J. Reuben, you know, do you want to  
2 collect anything, do you want to take his clothing or  
3 anything like that.

4 Then at that point we would go ahead and take it  
5 while we have them there. Give them a suit, you know,  
6 take them down to county lock-up.

7 Q Okay.

8 A It did not happen in this case, but it has  
9 happened.

10 Q Did you personally collect a casting?

11 A From the scene?

12 Q Yes.

13 A Yes, sir.

14 Q Okay. And that casting is over there at the  
15 prosecutor's table right now?

16 A Yes, sir.

17 Q Is there any other evidence that you personally  
18 collected that has not been introduced into evidence at  
19 this point?

20 A Just the casting and the rifle, as we mentioned.

21 Q The SKS?

22 A Yes. It's been mentioned, but it's not been --

23 MS. LIVESAY: Your Honor, we're certainly not  
24 keeping Mr. Frederick from introducing anything he  
25 wants to, we have it here available.

JOHN ROBERT CAULDER-RE CROSS BY MR. CANTY

1 THE COURT: Solicitor, that's not a proper  
2 objection. You may continue, Mr. Frederick.

3 MR. FREDERICK: No more questions.

4 THE COURT: Mr. Canty?

5 MR. CANTY: Thank you, Your Honor, very brief.

6 RE CROSS-EXAMINATION

7 BY MR. CANTY:

8 Q Just two questions. If this trailer is 65 feet  
9 long, then the distance from there to there would be  
10 about 32 and a half feet (indicating); wouldn't it?

11 A You know, I think there's some miscommunication.  
12 The exterior of that residence is 65 foot long and 13  
13 foot wide. The interior is not going to be the same as  
14 the exterior.

15 Q So it's a few inches of exterior wall there, and  
16 there's a few inches of exterior wall there  
17 (indicating)?

18 A Yeah. And then you take into consideration all  
19 the whatever, the wooding that's used in a mobile home.  
20 I don't know what size wood was used in that. But,  
21 yes, you would take off the interior walls would be in  
22 somewhat, not much, but it wouldn't be 65 foot on the  
23 interior.

24 Q Two by fours there, so four inches, four inches?

25 A Yes, sir.

JOHN ROBERT CAULDER-RECROSS BY MR. CANTY

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1 Q Okay. And halfway down that mobile home would be  
2 32 and a half feet minus whatever the thickness of that  
3 wall is?

4 A Yes, sir.

5 Q And then we know this dimension is 13 feet  
6 (indicating), and I think you said she was on the  
7 couch. So she had to go to the other side of the  
8 mobile home and then down to the point where she was  
9 found; correct?

10 A That's what was -- it appeared. The scene  
11 appeared to be that someone was lying to the couch at  
12 during a point. She was found in the bedroom.

13 Q Okay. And if that shoe casting was of a size six  
14 and a half shoe, that would exclude someone who wore a  
15 size 11 from making that cast; isn't that correct?

16 A That would be correct, yes, sir.

17 MR. CANTY: That's all I have.

18 THE COURT: You may step down, sir.

19 THE WITNESS: Thank you, Your Honor.

20 (Witness excused.)

21 THE COURT: All right, ladies and gentlemen, we're  
22 going to take a short break for about ten minutes. Go  
23 to your jury room, and we'll reconvene thereafter.  
24 Everyone else remain seated while the jury retires.

25 (WHEREUPON, the jury exited the courtroom at 11:29

1 call Ms. Baker?

2 MS. LIVESAY: Yes, sir, Your Honor. Lynn Baker is  
3 on her way in order to proffer that testimony when  
4 you're ready to take it.

5 THE COURT: Right now. I thought she was here,  
6 and we could do it right now?

7 MS. LIVESAY: She's on her way, Your Honor.

8 THE COURT: On her way from where, where is she  
9 coming from?

10 MS. LIVESAY: She's just ML Brown, Your Honor, and  
11 she's actually en route now.

12 THE COURT: All right. Tell me when she's here.  
13 Thank you.

14 MS. LIVESAY: Thank you, Your Honor.

15 (WHEREUPON, a brief recess was taken at 12:06  
16 p.m.)

17 THE COURT: Thank you very much, you may be  
18 seated. All right, solicitor, you want to call your  
19 next witness.

20 MS. LIVESAY: Yes, sir. At this time the State  
21 calls Lynn Baker.

22 THE COURT: Please come around to be sworn, ma'am,  
23 right up here, please.

24 LYNN BAKER, after being duly sworn, testified as  
25 follows:

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 CLERK OF COURT: Please be seated. State your  
2 full name, spell your last name for the Court, please.

3 DIRECT EXAMINATION

4 BY MS. LIVESAY:

5 Q Ms. Baker, if you don't mind, state your name just  
6 for the record.

7 A Lynn Baker, B-A-K-E-R.

8 Q Okay. And where are you currently employed?

9 A Horry County Police Department.

10 Q And how long have you been employed there?

11 A Since April of 2013.

12 Q Okay. And where were you employed prior to Horry  
13 County Police Department?

14 A From 1996 until 2013 I was on the sheriff's  
15 department. I was a sergeant over the gang  
16 intelligence from 2006 to 2013.

17 Q And if you don't mind, tell the Court what your  
18 responsibilities were while you worked for the  
19 sheriff's department.

20 A I was in charge of any gang graffiti, symbols,  
21 clothing, tattooing, writing, identifying gang members  
22 to use the law enforcement references.

23 Q Okay. And what are your responsibilities at the  
24 Horry County Police Department?

25 A They are the same. I just -- I'm out on the road

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 with our street crimes units, with our detectives in  
2 murder cases and that kind of thing with any kind of  
3 gang involvement.

4 Q And if you don't mind, tell the Court what  
5 training you have in gang identification.

6 A I have over 475 hours of classes on gang graffiti,  
7 clothing, symbols, tattoos. I've attended conferences  
8 in North Carolina, South Carolina, Delaware, Texas and  
9 Florida. Just completed a 40-hour class in the last  
10 year at the police academy in Florida on street gangs.  
11 I'm also a member of the South Carolina, North Carolina  
12 and East Coast Coppers (phonetic) Association.

13 I'm a regional coordinator for the South Carolina  
14 Gang Association. And I also teach specialized classes  
15 in gang recognition to law enforcement, corrections  
16 officers, social and mental health workers, school  
17 administrators and address youths in gang diversities  
18 within this county.

19 Q Okay. And have you been qualified as an expert  
20 before today in gang identification?

21 A Yes, ma'am. By Judge Cottingham on a recent gang  
22 case we had earlier in January of this year.

23 Q Okay. And if you don't mind, tell the Court what  
24 exactly it is in gang identification, how you're able  
25 to identify someone as a gang member.

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 A It takes several different things for a person to  
2 be a gang member, their tattoos, their association,  
3 violent crimes, their clothing, where they're hanging  
4 out, what they are representing. There's a lot of  
5 different identifiers we use to document gang members.

6 Q Okay. And is there a policy or statute in place  
7 that regulates who you are allowed to document as a  
8 gang member?

9 A We have to follow -- I first started entering  
10 people in 2006 into the National Crime Information  
11 Center under VTOF, the violent gang and terrorist  
12 organization files. 2009 South Carolina finally got  
13 gang laws, they now have a database. And so it was  
14 bumped up to two criterias for us to meet before we put  
15 them in that database that we share across the State  
16 and other states.

17 Q Okay. So there are regulations as to who you can  
18 document as a gang member?

19 A Yes, ma'am.

20 Q Okay. And they have to meet those regulations  
21 prior to being documented?

22 A Yes, ma'am.

23 Q Okay. And if you don't mind, tell the Court a  
24 little bit specifically about two certain gangs, the  
25 Crips and Folk Nation and what the relationship is

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 between the two.

2 A Okay. Your Crips started in 1960 in Chicago,  
3 Illinois -- I mean, I'm sorry, in Los Angeles,  
4 California, under the founder Tookie Williams. Your  
5 Folk Nation started in Chicago, Illinois by Larry  
6 Hoover. They use their affiliates, which means they  
7 are opposite from the rivals of the Bloods.

8 They follow them, really they both use the  
9 six-point star, the star of David. Both will wear  
10 blue. Your Crips have more colors they wear, mostly  
11 your Folk Nation will wear blue or black. It doesn't  
12 mean that these two groups won't fight, it doesn't mean  
13 that these two groups won't come together when it comes  
14 to selling drugs or doing any kind of other gang  
15 activity and then disperse back to their -- their  
16 normal groups.

17 Q Okay. So the Crips and Folk Nation are a partner  
18 gang?

19 A They are. They are affiliates of each other.  
20 They -- they use some of the same symbols.

21 Q Okay. And in no way are they a rival gang, and  
22 they do business together; is that correct?

23 A They do do business together. It could depend on  
24 states, it could depend on different cities that the  
25 same groups can fight each other.



LYNN BAKER-DIRECT BY MS. LIVESAY

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1 Q Okay. And are you familiar with the Crips and  
2 Folk Nation gangs in Conway and Horry County?

3 A I am. And they are doing it, especially in  
4 Conway, they are doing a lot of association with what  
5 we call a hybrid gang. The hybrid gang, what they do  
6 is they will come together to sell drugs and stuff.  
7 It's pretty much their covering a geographical area.

8 So everybody that's say under the 1700 boys in  
9 Conway, there is some Blood, there are some Crip,  
10 there's some Folk that come together. They are  
11 protecting their neighborhood against anybody else.

12 Q Okay.

13 MS. LIVESAY: Your Honor, at this time the State  
14 wishes to have Ms. Baker recognized as a gang  
15 identification expert.

16 THE COURT: All right. Mr. Frederick, do you wish  
17 to voir dire the witness or challenge the  
18 qualifications?

19 MR. FREDERICK: No. And no, judge.

20 THE COURT: All right. Mr. Canty?

21 MR. CANTY: No, Your Honor.

22 THE COURT: So you don't want to question her, and  
23 there's no objection to the offer, then?

24 MR. CANTY: That's correct, Your Honor. We  
25 haven't gotten to 705 underlying facts yet.

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 THE COURT: Well, we're proffering the testimony.

2 MR. CANTY: Yes, sir.

3 THE COURT: But we've got to get to the part of  
4 she's being offered as an expert. So you have no  
5 objection to it.

6 MR. CANTY: I so stipulate it, yes.

7 THE COURT: All right, very good, all right.

8 MS. LIVESAY: Thank you, Your Honor.

9 THE COURT: So she's qualified to give her opinion  
10 in the field of gang identification.

11 MS. LIVESAY: Thank you, Your Honor.

12 Q Ms. Baker, at this time are you familiar with  
13 Carnail Graham and Thomas Booker James?

14 A Yes, ma'am, I am.

15 Q Okay. And how did you first become aware of  
16 Carnail Graham?

17 A Back in 2009, at that time I was over  
18 photographing and fingerprinting. As besides the gang  
19 stuff, I was in charge of the people that worked that.  
20 And I had trained those people on some identifiers.  
21 They would send me e-mails or call me over. And he  
22 admitted that at that time that he had some  
23 affiliation.

24 Q Okay. And have you kept up with him since 2009  
25 and now?

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 A Yes, ma'am.

2 Q Okay. And during that time period did you collect  
3 evidence that goes towards identifying him as whether  
4 or not he is a member of a gang?

5 A Yes, ma'am, I have. Back in November of 2006 when  
6 I referred back to my notes and on 2012, you know, he  
7 told me then that he was a gang member, that he had a  
8 cut over his eye and that was from a gang fight at  
9 SCDC. And then when I went back out to interview him  
10 about tattoos back in, I want to say June, you know, he  
11 told me again, I mean, he's not -- he's not ashamed of  
12 who he is.

13 Q Okay. And are you aware of the tattoos on Carnail  
14 Graham?

15 A I do. He has a six-pointed star. He also has  
16 B-O-S-S, it's Brothers of the Struggle. It's something  
17 that's used by the Folk Nation gang also. He has the  
18 GD for gangster disciple. Our new ones are called  
19 growth and development. It's just a new concept that's  
20 been brought down.

21 Q Okay. And are there any names tattooed on Carnail  
22 Graham?

23 A Yes, ma'am. There's a lot of different names  
24 tattooed on him.

25 Q If you don't mind, tell the Court what names are

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 tattooed on Mr. Graham.

2 A Specifically to this case would be Cutta, which is  
3 Thomas James Booker, Bootsie which is Keir Johnson.

4 Q Are there any other names tattooed on him?

5 A There are other names tattooed on him.

6 Q If you don't mind, just for the Court's purposes,  
7 please state the other names that are tattooed on Mr.  
8 Graham.

9 A We would be referring to his right inner arm, he  
10 has G West, which is Wesley Graham. And I will know  
11 that some of these names he told me because when the  
12 pictures were first taken, you couldn't read them. We  
13 went back out to talk to him about his tattoos, and he  
14 agreed to tell us what some of the names that we  
15 couldn't read, because we were going to have to have  
16 them rephotographed again because you couldn't tell  
17 from the camera what those tattoos were.

18 He has Pine-O for Chris Pine-O, he has G5 for Guy  
19 Holmes. He has 110 for Devon Johnson. He has some  
20 people on there he told us that were dead at this time,  
21 Raw Dog, Rodney Atkins. Chuck for Chuck Conta, he is  
22 in federal prison at this time. C-Low for Cornelius  
23 Atkinson, Torch Man, Brain Juice, Justin Verme1.

24 Q Okay.

25 A On that arm.

LYNN BAKER-DIRECT BY MS. LIVESAY

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1 Q Okay. And two of the names on there are Keir.  
2 Johnson, which is Bootsie?

3 A Yes, ma'am.

4 Q And Thomas Booker James, which is Cutty?

5 A Yes, ma'am.

6 Q Okay. And what do those names tattooed on Mr.  
7 Graham indicate to you?

8 A Those are his boys.

9 Q Okay. And would a person tattoo the name of a  
10 rival gang on their arm?

11 A Absolutely not.

12 Q Okay. Do you have an opinion as to whether or not  
13 Carnail Graham is a member of a gang?

14 A He is definitely a member of a gang.

15 Q And if you don't mind, tell the Court what gang  
16 you've identified him to be in.

17 A Under the Folk Nation, Gangster Disciple.

18 Q Okay. Now, let me turn your attention to Thomas  
19 Booker James. And if you don't mind, for the Court's  
20 identification, what is Thomas Booker James' street  
21 name?

22 A It's Cutty.

23 Q Okay. And that is the name that was on Carnail  
24 Graham's arm?

25 A Yes, ma'am.

LYNN BAKER-DIRECT BY MS. LIVESAY

1 Q Okay. And have you looked into Thomas Booker  
2 James as far as his gang affiliation?

3 A Yes, ma'am. I've reliably identified him as a  
4 documented gang member. He associates with group  
5 members, he frequents group areas, he associates with  
6 other known members or symbols. Let's see what else I  
7 have.

8 He has some tattoos that are identifiers. He  
9 has -- one of the tattoos that we talked about is the  
10 name of the 1700, that's a hybrid gang out of Conway  
11 where these boys are running together and stuff. It's  
12 actually the street name, 1700 in Conway.

13 Q Okay. And in your expert opinion, can you tell  
14 the Court whether or not Thomas Booker James is  
15 affiliated with a gang?

16 A Yes, ma'am, he is also affiliated with a gang.

17 Q And what gang is Thomas Booker James affiliated  
18 with?

19 A He was documented as a Crip.

20 Q Okay. And are both Carnail Graham and Thomas  
21 Booker James documented in the database?

22 A Yes, ma'am, they are.

23 Q Okay. And both have met the requisite  
24 requirements to be put into this database?

25 A Yes, ma'am.

LYNN BAKER-CROSS BY MR. FREDERICK

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1 Q Okay. And in your opinion, Carnail Graham is a  
2 member of Folk Nation, and Thomas Booker James is a  
3 member of the gang the Crips?

4 A Yes, ma'am.

5 MS. LIVESAY: No further questions, You Honor.

6 THE COURT: Cross-examination, Mr. Frederick?

7 CROSS-EXAMINATION

8 BY MR. FREDERICK:

9 Q Thomas does not have a star of David; is that  
10 right?

11 A Yes, sir, he does not.

12 Q Okay. What was the other one that you said the  
13 Crips would wear, the star of David; was there another  
14 one?

15 A Some of them will carry the pitchfork, some of  
16 them will have the winged hearts. That's just a few of  
17 the identifiers that could be located. We don't have  
18 to have the tattoos to document a gang member. It just  
19 helps with identification.

20 Q I understand. But he doesn't have those two  
21 either?

22 A No, sir.

23 Q Okay. And you've taken photographs of all of his  
24 tattoos?

25 A Yes, sir, I think we have.

LYNN BAKER-CROSS BY MR. FREDERICK

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1 Q Okay. How do you -- how do you get into the  
2 Crips?

3 A There are several different ways. Most of them  
4 are beat in for six seconds by members of -- of the  
5 gang. Some of them are blessed in because they have  
6 family members that are in the gang.

7 Q Now, just a shot in the dark there, I mean --

8 A Okay, that's okay.

9 Q -- is some tasks or challenges or something of  
10 that nature, like a robbery, robbing someone, is that  
11 one of the ways that you can get in, or is that one of  
12 the requirements for them?

13 A You know, it can be. I mean, you could be beat  
14 into the -- most of the females and stuff are beat into  
15 a gang, some of them are sexed into a gang. You can do  
16 drive-by shootings, armed robberies, anything like  
17 that, yes, sir, to get into a gang.

18 Q But you don't just walk up and say, hey, we're  
19 friends, I want to be in your gang, you've got to do  
20 something, right?

21 A That is tradition, you have to do something to get  
22 into the gang, yes, sir.

23 Q Okay. And when you first said the name, you said  
24 Cutta, and then we established his name is Cutty. Did  
25 you mean to say Cutty is tattooed on Carnail's arm or



LYNN BAKER-CROSS BY MR. CANTY

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1 Cutta?

2 A I think it's Cutty on his arm, if I'm not  
3 mistaken. I think it's C-U-T-T-Y.

4 Q That's what I'm asking, yeah.

5 A Okay, hold on one second. It's right here, it's  
6 Cutty, C-U-T-T-Y.

7 Q Y?

8 A Yes, sir.

9 Q Okay. That's all I was asking, yeah.

10 MR. FREDERICK: Okay, that's all I have, judge.

11 THE COURT: Mr. Canty?

12 CROSS-EXAMINATION

13 BY MR. CANTY:

14 Q Would you mind telling the Court where on his body  
15 Carnail has the six-pointed star.

16 A He doesn't have a six-pointed star, he has a  
17 six-pointed crown, which is another identifier. I just  
18 didn't go into all the identifiers that these two  
19 groups use because there's -- there's numerous  
20 identifiers. He has a six-pointed crown on his inner  
21 arm, his inner left arm.

22 Q All right. So your testimony earlier that he had  
23 a six-pointed star, that was not accurate?

24 A If I did, it was a mistake. I was -- I thought it  
25 was when I was identifying that six-pointed star was an

LYNN BAKER-CROSS BY MR. CANTY

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1 affiliation between our Folk Nation and Crips.

2 Q Your testimony was he had a cut over his eye from  
3 the Department of Corrections, a six-pointed star and  
4 then BOS and GD?

5 A My mistake, sir. It's a six-pointed crown.

6 MR. CANTY: That's all I have, Your Honor.

7 THE COURT: Very good. All right, solicitor, the  
8 purpose of this testimony -- I'm sorry, do you have any  
9 redirect?

10 MS. LIVESAY: No, sir, Your Honor.

11 THE COURT: All right. Why don't you step down,  
12 ma'am, just have a seat in one of the rows over there,  
13 please.

14 (Witness excused.)

15 THE COURT: All right. So the purpose of this  
16 testimony is what, solicitor?

17 MS. LIVESAY: Your Honor, in opening statements  
18 Mr. Frederick indicated to the Court, first of all,  
19 that his client was not a member of a gang, and the  
20 reason why Keir Johnson was naming Carnail Graham and  
21 Thomas Booker James was because the true people that  
22 were in the car were members of the Crip -- Crip gang  
23 to indicate he was scared to tell the truth.

24 I believe at that point it made it more probative  
25 than prejudicial to introduce the fact that indeed two

1 people in the van with Keir Johnson are gang members.  
2 One indeed is a member of the Crips; and one indeed is  
3 a member of Folk Nation. And Keir Johnson has pointed  
4 out both that they went into the house, shots were  
5 fired; they came out of the house and indicated that  
6 they shot someone in the house.

7 I believe this makes it very prohibitive and  
8 corroborates Keir Johnson's truthfulness as to who was  
9 in the van. The idea that fear from a gang is keeping  
10 him from the truth, I believe it's probative that  
11 indeed they are gang members. And he is still up here  
12 identifying these two boys as the ones that  
13 participated in the crime in light of the fact that  
14 both are gang members.

15 THE COURT: All right. Mr. Frederick?

16 MR. FREDERICK: I don't object to the testimony,  
17 judge.

18 THE COURT: Very good. Mr. Canty?

19 MR. CANTY: Your Honor, I do. And I'm going to  
20 base it on the following rules of evidence. 401 is the  
21 definition of relevance, 402 provides that relevant  
22 evidence is admissible and irrelevant evidence is not  
23 admissible. 403, the prejudicial effect outweighs the  
24 probative value.

25 404, this is character evidence. My client's

1 character has not been put in issue. Under rule 405  
2 character evidence must be admissible. And failing to  
3 put my client's character in issue, this evidence is  
4 not admissible.

5 We have considered whether or not to seek a  
6 severance in this action, and we have not moved to  
7 sever the case. I didn't make such a statement in my  
8 opening. And if the Court is inclined to permit Ms.  
9 Baker to testify, particularly with regard to my  
10 client, then at that point I think we would have to  
11 seek a severance.

12 THE COURT: All right, sir. At the present time  
13 I'm going to allow Ms. Baker to testify only as to the  
14 defendant Thomas Booker James. And that will be in  
15 part because of the matters placed before the jury in  
16 the opening statement.

17 Now, Mr. Canty, this is not an absolute  
18 prohibition. Depending upon the questions you ask of  
19 any of the State's witnesses, the Court may find the  
20 testimony of Ms. Baker to be relevant and used in the  
21 State's presentation, initial presentation of this  
22 case. And obviously she remains available for reply  
23 testimony.

24 MR. CANTY: Your Honor, fully aware if we open  
25 that door, then why we know what's coming.

1 THE COURT: All right, sir. And I appreciate  
2 that. But I just want it to be clear that just by not  
3 allowing it at this point in time, obviously  
4 circumstances could change in the future depending upon  
5 what evidence comes in, what cross-examination  
6 questions are asked or the answers or, you know, even  
7 the issue of rebut testimony. Just so we're all on the  
8 same page, all right. Thank y'all.

9 All right. With that we'll break for lunch.  
10 Please be back in the courtroom at least by ten of two,  
11 so that we can start right at 2 o'clock. Counsel, as I  
12 understand it, you'll be calling Mr. Green at that  
13 point in time; is that right?

14 MS. LIVESAY: Yes, sir.

15 THE COURT: All right, very good. So obviously,  
16 Mr. Frederick and Mr. Canty, you know the testimony  
17 that's coming, so y'all can be prepared for your  
18 cross-examination. All right, thank y'all. 2 o'clock.

19 (WHEREUPON, a brief recess was taken at  
20 12:36 p.m.)

21 THE COURT: Thank you very much, you may be  
22 seated. Thank you. All right, solicitor, I understand  
23 there is a change in the witness you want to call; is  
24 that correct?

25 MS. LIVESAY: Yes, sir, Your Honor.

## JASMINE TELL-DIRECT BY MS. LIVESAY

1 the clerk right over here, please.

2 JASMINE TELL, after being duly sworn, testified as  
3 follows:

4 CLERK OF COURT: Please be seated. State your  
5 full name, spell your last name for the Court, please.

6 THE WITNESS: Okay. My name is Jasmine Tell. The  
7 last name is spelled T-E-L-L.

8 THE COURT: Go ahead, solicitor.

9 MS. LIVESAY: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. LIVESAY:

12 Q If you don't mind, Ms. Tell, tell the jury where  
13 you're currently employed.

14 A Verizon Wireless.

15 Q And how long have you been employed there?

16 A For nine years.

17 Q Okay. And if you don't mind, tell them what your  
18 current responsibilities are.

19 A I respond to the appearance portion in testimony  
20 of the court subpoenas submitted to us.

21 Q Okay. And were you subpoenaed for this case?

22 A Yes.

23 Q Okay. And did we ask you to provide some records?

24 A Yes.

25 Q And are those records kept in the normal course of

JASMINE TELL-DIRECT BY MS. LIVESAY

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1 business?

2 A Yes, they are.

3 Q Okay. And have they been tampered with in any  
4 form or fashion?

5 A No.

6 Q Okay. And if you don't mind, tell the jury what  
7 phone number you've brought the records from -- for.

8 A Okay. I have records for phone number (843) 855  
9 -- (843) 855-3238.

10 Q Okay. And does -- do those records include who  
11 the subscriber was during 2011?

12 A Yes.

13 Q And who is that subscriber?

14 A The first name is Thomas, the last name is James.

15 Q Okay.

16 MS. LIVESAY: Can I have these records, I'm going  
17 to get them marked.

18 (WHEREUPON, State's Exhibit No. 29 was marked for  
19 identification only.)

20 THE WITNESS: There's actually a second phone  
21 number in there.

22 Q Okay. If you don't mind, show me which records  
23 are 855.

24 A These. Sorry, 855.

25 Q And these records were brought to the courthouse

JASMINE TELL-CROSS BY MR. FREDERICK

1 from you; is that correct?

2 A Yes.

3 Q And there's no way to tamper in any form or  
4 fashion the information on the records?

5 A No.

6 MS. LIVESAY: Your Honor, at this time the State  
7 asks to put State's Exhibit 29 into evidence.

8 THE COURT: Any objection?

9 MR. FREDERICK: No objection.

10 MR. CANTY: None, Your Honor.

11 THE COURT: All right. So State's-29 is in  
12 evidence without objection.

13 (WHEREUPON, State's Exhibit No. 29 was admitted in  
14 evidence.)

15 MS. LIVESAY: No further questions from me, Your  
16 Honor.

17 THE COURT: Cross-examination.

18 CROSS-EXAMINATION

19 BY MR. FREDERICK:

20 Q There is a second phone number that we talked  
21 about earlier?

22 A Yes.

23 Q That was --

24 MS. LIVESAY: Your Honor, at this time I'm going  
25 to object to the relevance as to the phone number he's



## JASMINE TELL-CROSS BY MR. FREDERICK

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1 getting into at this time.

2 MR. FREDERICK: Judge, she just stipulated to it.

3 THE COURT: Madam forelady, ladies and gentlemen,  
4 y'all go to the jury room for just a few minutes,  
5 please. Thank you very much.

6 (WHEREUPON, the jury exited the courtroom at  
7 2:17 p.m.)

8 THE COURT: Why don't you have the witness answer  
9 a few questions so we know the phone number, who it  
10 relates to, so I have some idea what we're arguing  
11 about here; okay?

12 MR. FREDERICK: Yes, sir.

13 Q That number was (843) 655-5765; that is right?

14 A Yes.

15 Q And --

16 THE COURT: I'm sorry, tell me the number again,  
17 843 what?

18 MR. FREDERICK: 655-5765.

19 THE COURT: All right, go ahead.

20 Q And would the subscriber be Sha'Rah McCray; is  
21 that right?

22 A It says Sha, S-H-A.

23 Q Okay.

24 A McCray, M-C-C-R-A-Y.

25 Q Okay. And is that a Verizon cell phone, were

JASMINE TELL-CROSS BY MR. FREDERICK

1 (WHEREUPON, Defendant's Exhibit No. 1 was marked  
2 for identification only.)

3 THE COURT: All right. Ask the jury to come back  
4 in, please. And, again, Mr. Frederick, I'll accept it  
5 based upon the stipulation that the parties have about  
6 the exhibit.

7 MR. FREDERICK: Yes, sir.

8 THE COURT: All right. Thank you.

9 (WHEREUPON, the jury came into open court at  
10 approximately 2:24 p.m.)

11 THE COURT: Mr. Bailiff, if you could, could you  
12 get those exhibits and hand them to the court reporter,  
13 please. Just put right there in front of her on top of  
14 the other ones there.

15 All right. Mr. Frederick you may continue, sir.

16 MR. FREDERICK: Thank you, judge.

17 Q So you did look at a number which is (843)  
18 655-5765; is that right?

19 A Yes.

20 Q Okay. And that number, the subscriber is a Sha  
21 McCray?

22 A Yes.

23 Q Spelled S-H-A, M-C-C-R-A-Y?

24 A Yes.

25 Q Okay.

## JASMINE TELL-CROSS BY MR. FREDERICK

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1 MR. FREDERICK: And, judge, at this time I would  
2 move that particular phone number into evidence.

3 THE COURT: All right. As Defendant's-1?

4 MR. FREDERICK: As Defendant's Exhibit 1.

5 THE COURT: All right. And that's Defendant's-1  
6 for both defendants; correct, Mr. Canty?

7 MR. CANTY: Yes, Your Honor.

8 THE COURT: All right, very good.

9 (WHEREUPON, Defendant's Exhibit No. 1 was admitted  
10 in evidence.)

11 THE COURT: And what I'm going to do is allow  
12 Defendant's-1 pursuant to the stipulation that we put  
13 on the record, all right. You may continue, sir.

14 MR. FREDERICK: That's all the questions that I  
15 have.

16 THE COURT: All right, very good.

17 Cross-examination, Mr. Canty?

18 MR. CANTY: None, thank you, Your Honor.

19 THE COURT: Any further questions, redirect,  
20 solicitor?

21 MS. LIVESAY: No, sir, Your Honor.

22 THE COURT: All right, ma'am, do you wish the  
23 witness to be excused?

24 MS. LIVESAY: Yes, please.

25 THE COURT: Any objection, gentlemen?

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1 MR. FREDERICK: No objection.

2 MR. CANTY: None, Your Honor.

3 THE COURT: All right, ma'am, you're released from  
4 your subpoena; you may go back to your regular duties.

5 THE WITNESS: All right, thank you.

6 (Witness excused.)

7 THE COURT: Next witness, please, ma'am.

8 MS. LIVESAY: Your Honor, at this time the State  
9 calls Jamie Green to the stand.

10 THE COURT: All right sir, just come on up here  
11 and meet the clerk, please.

12 JAMES W. GREEN, after being duly sworn, testified  
13 as follows:

14 CLERK OF COURT: State your full name, spell your  
15 last name for the Court, please.

16 THE WITNESS: James William Green, G-R-E-E-N.

17 THE COURT: All right.

18 MS. LIVESAY: One second, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. LIVESAY:

21 Q Mr. Green, where are you currently employed?

22 A By the South Carolina Law Enforcement Division,  
23 commonly referred to as SLED.

24 THE COURT: All right, sir, you're going to have  
25 to scoot up closer to that microphone and speak up.

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1 THE WITNESS: I'm employed by SLED.

2 Q Okay. And how long have you been working at SLED?

3 A Since June of 2005.

4 Q Okay. And what kind of training or education do  
5 you have in order to work at SLED in your particular  
6 field?

7 A I have a bachelor's and master's degree from  
8 Charleston City University. When I was hired at SLED,  
9 I began the firearms and tool mark course of  
10 instruction, which is a roughly three to  
11 three-and-a-half-year training program, apprentice type  
12 fashion, studying for court qualified examiners.

13 Q And what are your current responsibilities?

14 A I examine firearms and firearms-related evidence,  
15 tools and tool mark-related evidence and process the  
16 evidence for all 46 counties in the State.

17 Q And have you ever been qualified as an expert?

18 A Yes, ma'am.

19 Q And what were you qualified as an expert in?

20 A Firearms identification.

21 Q Okay. And how many times have you been qualified  
22 as an expert?

23 A 31.

24 Q Okay. And in what court were you qualified?

25 A Excuse me?

JAMES GREEN-DIRECT BY MS. LIVESAY

1 Q In what court, general sessions, magistrate's  
2 court?

3 A General sessions and federal.

4 Q Okay.

5 MS. LIVESAY: Your Honor, at this time the State  
6 offers James Green as an expert.

7 THE COURT: In the field of firearms examination;  
8 is that correct?

9 MS. LIVESAY: Yes, sir, Your Honor.

10 THE COURT: All right. Do you wish to voir dire  
11 the witness or challenge the State's offer?

12 MR. FREDERICK: No voir dire and no objection,  
13 judge.

14 THE COURT: All right, very good. Mr. Canty?

15 MR. CANTY: I understood him to say firearms  
16 identification. I don't have any objection to what the  
17 solicitor wants to characterize it as, but I want to  
18 include firearms identification.

19 THE COURT: Firearms identification and  
20 examination.

21 MR. CANTY: Very good, thank you.

22 THE COURT: Any objection with that,  
23 Mr. Frederick?

24 MR. FREDERICK: No, sir.

25 THE COURT: All right, very good. He's qualified

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1 to give his opinion in the field of firearms  
2 examination and identification.

3 MS. LIVESAY: Thank you.

4 Q And if you don't mind, Mr. Green, explain the  
5 firearms you get in to examine and what kind of  
6 examinations you do.

7 A Okay. If we don't have any firearms submitted, if  
8 it's just fired ammunition components, like they fired  
9 bullet or fired cartridge cases, we examine those  
10 microscopically using the comparison microscope. And  
11 what that is is two microscopes joined together by a  
12 single optical bridge that allows us to look at two  
13 objects simultaneously under different lighting to see  
14 if there's any correspondence or similarities between  
15 the two.

16 If there is a firearm submitted, what we'll do is  
17 we'll do the same thing, we'll look at the fired  
18 ammunition components. And then we'll test fire the  
19 firearm and retrieve specimens that we know came from  
20 that firearm because we fired them ourselves. Then  
21 we'll compare the test specimens against each other,  
22 and then we'll look at those versus the other items  
23 submitted to see if they were fired by the same firearm  
24 or by a different firearm or by a firearm not  
25 submitted.

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1 Q And who do you do these examinations for?

2 A Whoever submits evidence to the lab, which is any  
3 of the 46 counties in the State.

4 Q Okay. And do you know anything about the case  
5 other than the firearms that come in?

6 A No, ma'am.

7 Q Okay. And if you don't mind, tell the jury how  
8 you -- do you just get the firearms with a certain case  
9 number and perform the examination?

10 A Yes, ma'am. We are notified that we are given an  
11 assignment. They usually come in batches when the  
12 submitting agency brings evidence in. They bring it  
13 into our evidence control department where it's logged  
14 in, it's given a SLED laboratory case number, and each  
15 item of evidence is given a separate item number. And  
16 that is all electronically tracked.

17 All the evidence is sealed and put on a shelf  
18 awaiting whichever analyst is assigned the case number.  
19 We will then go down to evidence control department and  
20 pick up the evidence where the bar codes are scanned  
21 and electrically transfers the evidence into our  
22 custody when we physically take custody of it.

23 We'll then go back to our office and put the  
24 evidence in our secure evidence locker where it stays  
25 under seal and key until which time we are able to open



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1 it and work on the case.

2 Q And how many examinations have you done over the  
3 years approximately?

4 A It's in the tens of thousands.

5 Q Okay. And are you familiar with lab number  
6 L11-13184?

7 A Yes, ma'am.

8 Q Okay. And how did you become familiar with the  
9 evidence in that particular lab number?

10 A When this case was originally submitted, it was  
11 assigned to Dan DeFreese. As part of our quality  
12 control system in the laboratory, anytime a case is  
13 worked and a report is going to be issued, the evidence  
14 is looked at by a second qualified examiner who also  
15 renders an opinion. We call that a micro verification.

16 Once the results are micro verified, the analyst  
17 or the examiner prepares a report, and then whoever  
18 micro-ed the case reviews the case file for technical  
19 accuracy, for grammar, for clerical issues, and then  
20 the report is approved.

21 In this case I did that. This case was also  
22 resubmitted, and I examined all the evidence myself,  
23 test firing the firearms by myself and comparing those  
24 test specimens with the evidence items submitted. And  
25 then I had the case micro verified, and then a report

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1 was issued.

2 Q And were more than one report done in this case?

3 A Yes, ma'am.

4 Q And could you please explain to the jury why.

5 A In most cases where there's not a resubmission of  
6 evidence like this, when we test fired the firearm, we  
7 say we know those bullets and cartridge cases came from  
8 that gun because we test fired them ourselves. Since  
9 Dan originally worked this case and test fired the  
10 case, I couldn't say that I know with 100 percent  
11 certainty that those bullets and cartridge cases came  
12 from that gun because I didn't fire it.

13 The evidence was resubmitted, and now I can say  
14 that I know those bullets, my test specimens I created  
15 came from those guns because I fired them myself.

16 Q And who did the first examination?

17 A Dan DeFreese.

18 Q And does he also work at SLED?

19 A Yes, ma'am.

20 Q And was he available for court this week?

21 A No, ma'am, he was not.

22 Q And did he do a report?

23 A Yes, ma'am, he did.

24 Q And did you participate in his examination?

25 A Yes, ma'am. I micro verified it and I

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1 administratively reviewed his report and his case file.

2 Q And when you did the second examination, did you  
3 find was there anything different between what you  
4 found and what Dan DeFreese found?

5 A No, ma'am.

6 Q Okay. So all of the findings were the same?

7 A Correct.

8 Q Okay. And you were available for court this week  
9 obviously?

10 A Yes, ma'am.

11 Q Okay. If I show you these items, can you identify  
12 if these were the items that were sent to SLED from  
13 Horry County?

14 A Yes, ma'am.

15 Q I'm showing you now State's Evidence 69, 70, 71,  
16 67, 68, 66.

17 A Ladies and gentlemen of the jury, if y'all bear  
18 with me for a second, when evidence items are submitted  
19 to SLED, I said they get their own item number and  
20 their own lab number, if the items are big enough, we  
21 will actually mark on them with an electronic pencil or  
22 like a Dremel tool a laboratory item number, the  
23 laboratory case number, the item number and our  
24 initials. So if you see me rolling the items around  
25 and looking at it, that's what I'm doing because I'm

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1 Looking for my markings on these bullets and cartridge  
2 cases.

3 State's Exhibit 66 are five fired cartridge cases  
4 which were submitted as SLED item five.

5 Q You can take it out if you need to..

6 A State Exhibit 67 is item six from SLED. State's  
7 Exhibit 68 is SLED item eight which I've examined.

8 State's Exhibit 69 is SLED item ten. State's  
9 Exhibit 70 is SLED item nine. And State's Exhibit 71  
10 is SLED item seven. All of these items or State's  
11 exhibits have my markings on them.

12 Q And Agent Green, I'm going to show you what's in  
13 as State's Evidence 64 and 65:

14 A State's Exhibit 64 is the Taurus .357 Magnum, a  
15 revolver that was submitted in this case as item five.

16 Q State's Evidence 65?

17 A 64 was the Taurus. And State's Exhibit 65 is the  
18 Ruger .44 Magnum revolver that was submitted as SLED  
19 item four.

20 Q Okay. And all of those items were submitted to  
21 SLED?

22 A Yes, ma'am.

23 Q Okay. And the examination you performed on them  
24 was able to determine what gun those bullets or  
25 fragments were fired from?

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1 A Yes, ma'am. We were able to draw a conclusion on  
2 those.

3 Q Okay.

4 MS. LIVESAY: Your Honor, if you don't mind, I'm  
5 going to ask him to step down so we can go through each  
6 fragment with the jury, because this is complex  
7 testimony.

8 Q Do you mind stepping down, Mr. Green.

9 THE COURT: As long as he will keep his voice up  
10 and speak loudly. Other than that, you're going to  
11 have to sit back down.

12 MS. LIVESAY: I'm going to get those two guns,  
13 give me one second.

14 Q Okay. If you don't mind, go through each of these  
15 pieces of evidence. Tell the jury about what test you  
16 performed and whether or not you were able to determine  
17 one of these firearms shot out that fragment or bullet.

18 A Yes, ma'am. Okay. First thing, with the five  
19 fired cartridge cases, whenever cartridge cases are  
20 indicated as having been removed from a particular  
21 firearm, we will not do any examination on them. The  
22 reason being if we have law enforcement agencies  
23 telling us they took them out of a particular firearm,  
24 it's almost counterproductive for us to go ahead and  
25 prove that they came out of the firearm.

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1 So State's Exhibit 66, the cartridge cases, we did  
2 not perform any examination on them other than saying  
3 we did receive them and they were here. And they were  
4 said to have been removed from State's Exhibit 64.

5 Q And what kind of caliber of gun is this?

6 A It's a .357 Magnum caliber.

7 Q Okay. And what kind of caliber of bullet is this?

8 A These are all .357 Magnum caliber cartridge cases.

9 Q Okay. If you don't mind, can we go over State's  
10 Evidence No. 68, or in the order you feel comfortable.

11 A Okay. Well, first, State's Exhibit 65 did not  
12 fire any of the evidence I've submitted in this case.  
13 There was a caliber difference, so that can just be set  
14 aside. It was just there, it had nothing to do with  
15 the other evidence items.

16 As I said before, when we get evidence items like  
17 fired ammunition components, what we'll do is we'll  
18 look at them microscopically. A firearm is created  
19 taking a barrel, they go through and they make the  
20 grooves of the barrel. And that -- the grooves and the  
21 lands make up the rifle. And if you can think of  
22 rifling as a set of helical grooves placed in the  
23 barrel to impart spin on the bullet.

24 (Court reporter asks for clarification.)

25 THE WITNESS: It's a series of helical grooves

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1 placed in the board of a barrel to impart spin on the  
2 bullet.

3 Now, basically it's like a quarterback throwing a  
4 football distance. He throws it in a nice, tight  
5 spiral, it's very accurate and it goes a long way.  
6 That's what rifling does in the bullet, it grabs the  
7 bullet, engages the bullet and then causes it to spin  
8 in the barrel. That's what rifling is.

9 A by-product of that rifling is it leaves marks on  
10 the bullet as it passes down the barrel that lets us  
11 identify it back to a barrel or another bullet in the  
12 absence of a firearm.

13 So if we were looking at these microscopically,  
14 like at State's Exhibit 68, I looked at State's  
15 Exhibit 68, which is SLED item eight, with test bullets  
16 I fired through the barrel of the State's Exhibit 64  
17 revolver. And I was able to determine and I concluded  
18 that this bullet jacket fragment was fired by this  
19 revolver.

20 Q Now, let me ask you this, because I'm in no way as  
21 informed as you are. Do any two guns make the same  
22 markings on a bullet?

23 A There have been so many firearms made since they  
24 were first invented in like the 1400s, that it would be  
25 impossible for us to look at all of them. The

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1 Association of Firearm and Toolmark Identification and  
2 the Association of Firearms and Toolmark Examiners area  
3 of identification states that the agreement we see is  
4 of such quantity and quality, that the probability of  
5 that ever being reproduced is so remote, it's a  
6 practical impossibility.

7 So the markings I saw on the bullet State's  
8 Exhibit 68 and bullets fired by State's Exhibit 64 rose  
9 to that threshold of me to be able to say in my opinion  
10 that this bullet jacket was fired by that revolver.

11 Q Okay.

12 A And there have been studies conducted of  
13 consecutively made barrels. And if you're ever going  
14 to get any agreement between barrels, you would think  
15 it was those made one right after the other, after the  
16 other, after the other, using the same tool. I  
17 participated in two of those studies, and you can  
18 differentiate between bullets fired from the first  
19 barrel to bullets fired from the second barrel all the  
20 way down to like the tenth barrel. There's slight  
21 similarities but not enough that if you're trained to  
22 know what you're looking for would cause it to trip up.

23 Q So the markings on this fragment are unique to  
24 this gun?

25 A Yes, ma'am.



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1 Q Okay.

2 THE COURT: Solicitor, when you ask the question,  
3 since there are so many exhibits, make sure you refer  
4 to the exhibit number, please, ma'am.

5 MS. LIVESAY: Yes, sir.

6 THE WITNESS: Talking about the 67 since it's kind  
7 of --

8 Q Okay.

9 A State's Exhibit 71, same thing. I looked at it  
10 microscopically, and there was agreement on State's  
11 Exhibit 71 and on test bullets fired by State's  
12 Exhibit 64. So I concluded that State's Exhibit 71 was  
13 also fired by State's Exhibit 64.

14 Now, we did the same thing with State's Exhibit  
15 69, which was SLED item ten, and agreement was there.  
16 And I also concluded that State's Exhibit 69 was fired  
17 by State's Exhibit 64.

18 All right. State's Exhibit 67, when it came in,  
19 it came in in multiple pieces. We had a complete fired  
20 bullet, three fired bullet jacket fragments, a lead  
21 fragment and a piece of plastic. We'll start with the  
22 plastic. The piece of plastic in State's Exhibit 67  
23 was not consistent with any emission component, and it  
24 did not bear any markings of value so I could say it  
25 was fired by a particular firearm.

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1       The lead fragment in State's Exhibit 67 was  
2 consistent with being a lead core and jacketed bullet.  
3 And when bullets are made, drawn jackets or bullets are  
4 made, basically they have, they call it toughing core,  
5 they have a jacket which is made of copper or some type  
6 of alloy, and they put a lead core inside it. Whenever  
7 a bullet strikes something hard, they tend to come  
8 apart. So that's why on like State's Exhibit 68 it's  
9 just a jacket fragment, the core is missing.

10       So State's Exhibit 67 the lead fragment was  
11 consistent with being a core; however, it's too damaged  
12 to give a caliber. Just to say it was consistent with  
13 being a core.

14       There was two -- there was a complete fired bullet  
15 in State's Exhibit 67. I looked at that with test  
16 specimens from item 60 -- excuse me, State's Exhibit  
17 64. And the complete fired bullet which you can see  
18 right here (indicating) was also fired by State's  
19 Exhibit 64.

20       We have a second bullet fragment which is just a  
21 jacket, and you can see the complete base. So at one  
22 time that was a complete separate fired bullet. That  
23 was also fired by State's Exhibit 64. The two jacket  
24 fragments with item 64, State Exhibit 67, they were too  
25 damaged for me to tell the caliber. They are just

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1 little un-ejected fragments. And they did not have  
2 enough information on there for me to make a definite  
3 conclusion, so they got inconclusive answer.

4 What that means is, it's kind of fancy for I don't  
5 know. They have similarities between test bullets  
6 fired by State's Exhibit 64, but not enough for me to  
7 say they were fired by it and not enough for me to say  
8 they were not fired by it. So they're inconclusive.  
9 They could have been fired by State's Exhibit 64, but  
10 once again, they were not fired by the .44 Magnum,  
11 which I believe was Exhibit 65.

12 And then we have State's Exhibit 70.

13 Q Before we get into that, if you don't mind, I've  
14 got one question. How many bullets are accounted for  
15 in looking at these bullets and fragments?

16 A State's Exhibit 67, 68, 69 and 71 account for five  
17 fired bullets.

18 Q Okay. And all five fired bullets came in your  
19 opinion, your expert opinion, from State's Evidence 64?

20 A Yes, ma'am.

21 Q Okay. Now, this is a revolver. How many bullets  
22 does this revolver hold?

23 A It's a five-shot revolver, you can see there are  
24 five chambers inside the cylinder.

25 Q So this gun shoots five bullets?

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1 A Yes, ma'am, before reloading, or all five if you  
2 shoot five.

3 Q Okay, holds five. And you've accounted for five  
4 bullets here?

5 A Yes, ma'am.

6 Q And they all match this gun?

7 A Yes, ma'am.

8 Q Okay. Tell us about the last bullet that was  
9 submitted.

10 A State's Exhibit 70, whenever we get bullets or  
11 cartridge cases, the first thing we do before we even  
12 try to look at guns submitted is we try to determine a  
13 caliber. We do that by looking at the observable  
14 pistol characteristics, or what we call the OPC's. As  
15 for the weight of the bullet would be basically how it  
16 looks and the diameter of the base.

17 State's Exhibit 70, when I examined it I  
18 determined it was most consistent with bullets loaded  
19 in some .357 Magnum caliber cartridges. So this is the  
20 correct caliber for using this firearm. However, when  
21 barrels are created, the manufacturer determines how  
22 many lands and grooves are in each barrel. State's  
23 Exhibit 64 is rifled with five grooves, right twist.

24 State's Exhibit 70 was fired out of a barrel rifle  
25 with six grooves, right twist. So as State's Exhibit

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1 64 is submitted to you, it could not be fired from  
2 State's Exhibit 70 based on the number of landing  
3 groove differences or what we would call class  
4 characteristic differences.

5 Q Now, is this the only intact bullet that we sent?

6 A There are two others, but they were both fired by  
7 State's Exhibit 64.

8 Q Okay. So is there any possible way for this gun  
9 to have fired that bullet?

10 A No, ma'am.

11 Q And these other five, there's no doubt in your  
12 mind that it's fired by this weapon?

13 A Correct.

14 Q If you don't mind, have a seat back in the witness  
15 box, I got a few more questions. Now, if you don't  
16 mind, was there anything -- this is a .357; is that  
17 correct?

18 A Yes, ma'am.

19 Q Okay. And this one did not match this gun; is  
20 that correct?

21 A Correct.

22 Q Is there any possible way that this bullet could  
23 have shot out of that .44 Magnum?

24 A No, ma'am. If it did, the rifling engagement  
25 would have -- since the .44 Magnum barrel is bigger

JAMES GREEN-CROSS BY MR. FREDERICK

1 than the .357 Magnum bullet, the rifling engagement  
2 would have been sporadic as the bullet would have been  
3 bouncing down the barrel.

4 Q Okay. So just due to the caliber of this bullet  
5 and that gun, it could not have fired from that -- that  
6 particular weapon?

7 A Yes, ma'am.

8 Q Okay.

9 MS. LIVESAY: No further questions for this  
10 witness, Your Honor.

11 THE COURT: All right. Mr. Frederick?

12 CROSS-EXAMINATION

13 BY MR. FREDERICK:

14 Q Do you have a copy of both reports?

15 A Yes, sir.

16 Q Okay. The first report was authored by Dan  
17 DeFreese; is that right?

18 A Yes, sir.

19 Q In December of 2011?

20 A Yes, sir.

21 Q Okay, just to identify it. The second report was  
22 authored by yourself, and that was last week; right?

23 A Yes, sir.

24 Q Okay. Handing these to you, I represent those are  
25 the reports, but will you look at those and confirm

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1 that.

2 A Yes, sir.

3 THE COURT: I'm sorry, you have to speak up what  
4 your answer is.

5 THE WITNESS: Yes, those are the reports.

6 MR. FREDERICK: I want to mark these.

7 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were  
8 marked for identification only.).

9 Q Now, I'm handing you back what has been marked for  
10 identification as Defense Exhibits 2 and 3. And,  
11 again -- I kind of did that out of order -- again, are  
12 those the reports?

13 A Yes, sir.

14 Q Okay.

15 MR. FREDERICK: Your Honor, at this time I would  
16 move Defendant's Exhibit 2 and 3 into evidence.

17 THE COURT: Could he identify the date of two and  
18 the date of three, please.

19 THE WITNESS: Yes, sir. Defense Exhibit 2 is  
20 dated October 7th, 2014, and Defense Exhibit 3 is dated  
21 December 12th, 2011.

22 THE COURT: All right. Mr. Canty, they are being  
23 submitted on behalf of the Defendant Graham also?

24 MR. CANTY: Without objection by Defendant Graham.

25 THE COURT: All right. So you are not offering

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1 them into evidence?

2 MR. CANTY: Without objection. That's correct, we  
3 are not offering them, but we are not objecting.

4 THE COURT: All right, very good. Any objection,  
5 solicitor?

6 MS. LIVESAY: No, sir.

7 THE COURT: All right. So they are in evidence  
8 without objection.

9 (WHEREUPON, Defendant's Exhibit Nos. 2 and 3 were  
10 admitted in evidence.)

11 Q Now, let's look at these for just a minute, okay.  
12 Looking at Defense Exhibit No. 3 which is the 2011  
13 report, page two, item six, can you read the entire  
14 first sentence for us.

15 A Yes, sir. Item six, one fired bullet, three fired  
16 bullet jacket fragments, one lead fragment and one  
17 plastic fragment received in the container marked,  
18 parenthesis, number sign CS4, dot, dot, dot, fired  
19 projectile from kitchen cabinet, dot, dot, dot, closed  
20 parenthesis.

21 Q And when it says fired projectile, that is  
22 singular; right?

23 A Yes, sir.

24 Q Okay. And on Defense Exhibit No. 2, the 2014  
25 report, has the section that says, fired projectile,



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1 singular, being removed from the report?

2 A Yes.

3 Q And I'll allow you to explain that.

4 A Okay. Inside the quotation marks is just what the  
5 submitting agency submits it as. So if there's large  
6 numbers of items, an investigator who was actively  
7 investigating the case, they may not necessarily be the  
8 one who submits stuff to the laboratory for  
9 examination.

10 So we will sometimes put those in our report to  
11 let them know that even though they may not know the  
12 SLED item number of the particular item of evidence,  
13 they -- they know that we know which one they're  
14 referring to because it's what they said, it was from  
15 the kitchen floor, from the kitchen cabinet or  
16 wherever. So everything in quotation marks in the  
17 reports is just what the submitting agency logged it in  
18 as.

19 Q Okay. And so what that means, neither you nor  
20 Mr. DeFreese authored that; you know, projectile, they  
21 just copied it, Mr. DeFreese copied it from the box or  
22 packaging?

23 A Yes, sir.

24 Q Okay. So whoever authored it labelling that  
25 packaging, labeled it as projectile?

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1 A Correct.

2 Q Which is singular?

3 A Correct.

4 Q Okay. Now, looking at No. 2, the 2014 report,  
5 still on page two under item six, the first bullet  
6 point states, item six was comprised of at least two  
7 fired bullets; correct?

8 A Yes, sir.

9 Q That's the report you authored last week?

10 A Yes, sir.

11 Q Okay. Looking at Exhibit 3, the 2011 report,  
12 that's not there; is it?

13 A Not in that form, no, sir. But it is stated.

14 Q Could you please read to me where it says, item  
15 six was comprised of at least two fired bullets.

16 A Like I said, it's worded differently, but it says,  
17 the bullet and the fragment with the bullet's base  
18 resulted from the firing of two cartridges.

19 Q Okay. So it's worded differently, the language  
20 you just said, and I'm going to come back to that in a  
21 second, but it does not say the words, at least two  
22 fired bullets?

23 A Correct.

24 Q Okay. Now, in Exhibit 3, the 2011 report, still  
25 under item six, I guess the second paragraph, one, two,

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1 three, fourth -- third line towards the end, the bullet  
2 and the fragment with the bullet's base resulted from  
3 the firing of two cartridges, that's the part that you  
4 just read?

5 A Correct.

6 Q Okay. Now, on page three of the 2011 report which  
7 is Exhibit 3, do you see the section at the end of item  
8 nine? And I'm going to back up for a minute. Item  
9 nine is the bullet that was taken from Keia?

10 A Yeah, it's the bullet from autopsy, yes.

11 Q Okay, the bullet from the autopsy. Does it say  
12 there, item nine may be suitable for identification  
13 with the firearm in which it was fired but was not  
14 suitable for IBIS entry?

15 A Yes, sir.

16 Q Can you explain what IBIS is.

17 A IBIS stands for the Integrated Ballistic  
18 Identification System. It's a computerized database of  
19 individually fired bullets and fired cartridge cases.  
20 And it's owned by the ATF, The Bureau of Alcohol  
21 Tobacco and Firearms. It's a national network of  
22 images to where if we get a case in Columbia, South  
23 Carolina, we can search through the database and see if  
24 the same firearm may have been used in Washington state  
25 or New York state. That's what IBIS is.

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1 Q So basically it's -- you can use it to try to get  
2 a hit basically on a bullet or a firearm that has  
3 previously been entered into it?

4 A Yes, sir. It's a way to develop possible links  
5 between previously unrelated crimes.

6 Q Okay. And on the 2011 report, it did state, this  
7 was not suitable for IBIS entry?

8 A Correct.

9 Q On the last week report, Exhibit No. 2, that  
10 sentence was deleted; is that right?

11 A It was not deleted. That's like a horrible word.

12 It was not included. Since roughly mid 2011 we no  
13 longer entered bullets into IBIS. The reason being is  
14 that when we went to a meeting in 2007 of the South  
15 Carolina, North Carolina IBIS users, the ATF  
16 representative told us it was almost like 200,000 man  
17 hours spent on bullet entries and with almost no  
18 results. I think there were seven deaths nationwide in  
19 2007 on bullets, and they were in the thousands on  
20 cartridge cases.

21 The reason being is the database doesn't -- at  
22 that time did not have the imaging software needed to  
23 take images of the bullets. What it does is it takes  
24 -- if you think about the paper clip, how small it is  
25 and how thin it is, it takes an image that size. And

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1 then it rotates the bullet slightly, overlaps the image  
2 and goes all the way down and maps the entire surface  
3 of the bullet on the fired lands.

4 And the imaging software was not capturing the  
5 lighting correctly. So the ATF, it's their machine,  
6 they stopped entering bullets, so SLED followed suit  
7 and we stopped entering bullets as well.

8 Q So even though it is not in your report, the 2014  
9 report, is it your opinion that the bullet still is not  
10 suitable for IBIS entry?

11 A Yes, sir. It was -- most of the markings it had  
12 on it were up forward in the land where IBIS takes  
13 pictures at the very basic land. So had we still been  
14 entering bullets into IBIS, I would not have entered  
15 SLED item number nine in IBIS at this time.

16 Q Okay.

17 MR. FREDERICK: Thank you. That's all I have,  
18 judge.

19 THE COURT: Mr. Canty?

20 MR. CANTY: Thank you, Your Honor. May it please  
21 the Court.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. CANTY:

25 Q Mr. Green, are you familiar what's known as a Colt

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1 model 1911?

2 A Yes, sir.

3 Q 1911 refers to the first year of production of  
4 that pistol; is that correct?

5 A It was produced in 1910, but it was adopted by the  
6 Army for use in 1911. But yes, sir.

7 Q If somebody says a model 1911, they are talking  
8 about a Colt 45?

9 A Or the hybrids, yes, sir.

10 Q Or it's been copied in a hundred different ways?

11 A Yes. There are very many different makes, but  
12 yes, sir. If somebody says a 1911, I know what they're  
13 referring to, yes, sir.

14 Q And as a SLED agent, you are issued a handgun by  
15 the State; is that correct?

16 A Yes, sir.

17 Q And is that a Glock .40 caliber?

18 A Yes, sir, it is.

19 Q And do you happen to have it with you at this  
20 time?

21 A No, sir.

22 Q All right. It's a semi-automatic handgun as well?

23 A Yes, sir, it is.

24 Q Okay. And these handguns are revolvers, they are  
25 referred to as revolvers because they have a revolving

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1 cylinder that holds the magazine; correct?

2 A Yes, sir. The revolver holds the cartridges in  
3 the chambers.

4 Q And this is also a revolver?

5 A Yes, sir.

6 Q And they're very distinctive in appearance.  
7 Someone with any experience with pistols would know the  
8 difference between a revolver and a semi-automatic  
9 pistol?

10 A Yes, sir, if you're familiar with firearms you  
11 should --

12 Q And a semi-automatic pistol --

13 THE COURT: I'm sorry to interrupt, Mr. Canty, but  
14 if you're referring to a particular item, you need to  
15 use the exhibit number because we won't be able to tell  
16 later on what it is.

17 MR. CANTY: I apologize, Your Honor.

18 Q 64 being the .357 Magnum revolver, 65 being the  
19 .44 caliber revolver. And a semi-automatic pistol  
20 operates on a different principle; correct?

21 A Yes, sir.

22 Q The revolver, when you pull the trigger, it does  
23 several things. It cocks the handle, it rotates the  
24 cylinder and aligns the cartridge with the barrel. And  
25 you continue to pull the trigger, the hammer is

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1 released, a firing pin strikes the primer in the base  
2 of the cartridge, which ignites the propellant, the  
3 projectile departs the barrel?

4 A Yes, sir.

5 Q And if you don't do anything else, that's all that  
6 happens?

7 A Correct.

8 Q The next time you pull the trigger, again, the  
9 barrel will rotate and the handle will come back, and  
10 the next cartridge will line up with the barrel -- or  
11 the cylinder will rotate, line up with the barrel, and  
12 the same thing happens?

13 A Correct.

14 Q In a semi-automatic weapon, typically the magazine  
15 is in a clip that slides into the handle?

16 A Yes, sir.

17 Q And when you cock that weapon, you move one round  
18 into the chamber and then engage it; is that correct?

19 A Yes, sir. When the slide goes forward, it takes a  
20 cartridge off the magazine and loads it into the  
21 chamber.

22 Q And the magazine clip that's in the barrel is --  
23 rather in the handle -- is spring loaded?

24 A Correct.

25 Q Those unspent cartridges in the magazine are under