

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

May 04 2021
S.C. SUPREME COURT

State v. Tillman, Ct. App. Op. No. 5805 (filed February 17, 2021)

Charles Tillman,.....Petitioner,

v.

State of South Carolina, ...Respondent.

APPENDIX – VOLUME II OF II

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Alan Wilson
Attorney General

W. Jeffery Young
Chief Deputy Attorney General

Donald J. Zelenka
Deputy Attorney General

Attorney for Petitioner Charles Tillman

Melody J. Brown
Senior Assistant Deputy Attorney General

Carolina Scrantom
Assistant Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-6305

***Attorneys for Respondent State of South
Carolina***

Index

Volume I

<i>State v. Tillman</i> , Ct. App. Op. No. 5805 (filed February 17, 2021)	1
Order Denying Petition for Rehearing.....	9
Letter Advising Petition for Rehearing <i>En Banc</i> Denied.....	11
Petition for Rehearing <i>En Banc</i>	12
Final Brief of Appellant	23
Final Brief of Respondent.....	63
Final Reply Brief of Appellant	99
Record on Appeal Volume I of II	116

Volume II

Record on Appeal Volume I of II (continued).....	501
Record on Appeal Volume II of II.....	632

JAMES TALLON

379

1 Q All right. Once you got back to the scene, did you all
2 -- did you all do a walkthrough of the house when you first
3 -- when you first got there?

4 A At the first time or the second time?

5 Q Well, both.

6 A Okay. The first time we did do a walkthrough of the
7 scene. Basically, what that consists of is just walking
8 through to see what we have. What kind of equipment we're
9 going to need, that kind of thing. Just to kind of get a
10 handle of what we've got to work with, and then we back out
11 and we take photographs -- photograph our way in, process
12 the scene, and then, at that point, we left. We came back
13 once we received the call that the firearm was located.
14 Collected the firearm. And then once we collected the
15 firearm, at that point, since we knew we had a firearm for
16 sure in the scene area, we went back through the house and
17 did another walkthrough and looked through the scene again.

18 Q Did you find any bullet holes in the house?

19 A That is correct. We did. We found some on the --
20 yeah. We found some projectile defects above the bed here
21 that appeared to go straight out through. You could
22 actually see through all the way out to the sky. And then
23 there was some over here -- or at least one in this. It
24 wasn't on the wall with the window, but it was on the west
25 wall, right in -- right near the corner here.

JAMES TALLON

380

- 1 Q Okay. So you saw two; am I correct?
- 2 A Correct. One in the -- one in the wall --
- 3 Q On right-hand side?
- 4 A -- and one above the bed going straight up.
- 5 Q Okay.
- 6 A What appeared to go straight up.
- 7 Q Did you all find any cartridges on the -- at the scene?
- 8 A There was a cartridge case located behind the bed where
- 9 the victim was laying. Right above the bed, straight down
- 10 to the ground.
- 11 Q One or two?
- 12 A Just one.
- 13 Q And could you see it without moving the bed?
- 14 A No, sir. You could not.
- 15 Q So you all had to move the bed before you could see it?
- 16 A Correct.
- 17 Q I'm going to show you what's been marked as State's
- 18 Number 143. Do you recognize this item?
- 19 A Yes, sir. That is the cartridge I collected from the
- 20 bedroom floor.
- 21 Q And so, you all moved the -- moved the bed to get to
- 22 that item?
- 23 A Yes, sir.
- 24 Q And what did you do with once you got it?
- 25 A Once I collected it, you know, we took it back to the

JAMES TALLON

381

1 forensic services laboratory and the analysis performed on
2 the cartridge case, it was also sent to DNA, touch, latent
3 prints, and firearms.

4 Q So they were doing the testing down at SLED once you
5 collected and took it down there?

6 A That is correct.

7 Q And I'm going to show you pictures 148 and 149. Can
8 you take a look at those just briefly.

9 MR. BLACK: And, Your Honor, the State moves 143 into
10 evidence.

11 MR. GROSE: No objection.

12 THE COURT: No objection. It's in evidence.

13 (Whereupon, State's Exhibit Number 143 was admitted
14 into evidence.)

15 Q Do you recognize those pictures?

16 A Yes, sir. Those were photos taken of Ms. Stutler's
17 hand where the injury was in between the index finger and
18 the thumb and on the palm.

19 Q And did you collect anything from Ms. Stutler while you
20 were examining her?

21 A We collected the set of fingerprints. That's what --
22 oh, and we also collected the fingernail scrapings.

23 Q Okay. And I'm going to show you what's been marked as
24 State's 144. If you'll take a look at that. Do you
25 recognize that?

JAMES TALLON

382

- 1 A Those are the fingernail scrapings.
- 2 Q And your initials are on that packet?
- 3 A Yes, sir. They are.
- 4 Q And you also sent that down to SLED and forwarded --
- 5 forwarded it to them?
- 6 A Yes, sir.
- 7 Q And --
- 8 A It was sent to DNA.
- 9 Q And what are those items?
- 10 A What are the fingernail scrapings? What does it
- 11 consist of?
- 12 Q That is -- those are the fingernail scrapings?
- 13 A Correct. So what we do is, we take the victim's hand
- 14 or whoever's hand that we're doing the fingernail scrapings
- 15 on and we will -- we have -- inside of this packet, there
- 16 are two pieces of paper. One's got an L on it. One's got a
- 17 R on it. Left and right. And then we'll unfold that piece
- 18 of paper, we'll place the hand over the paper, and then
- 19 there's a little black scrapper inside of each one of those
- 20 pieces of paper and each one is used to scrap underneath the
- 21 fingernails to get any kind of DNA or dirt or any kind of
- 22 residue underneath the fingernails to try and get that out
- 23 and put in the paper. And we'll take the little black
- 24 scraper, put that in the same piece of paper, fold it back
- 25 up, and then do the opposite hand the same way and then take

JAMES TALLON

383

1 them both and then place them in this envelope and seal it.

2 MR. BLACK: All right. And, Your Honor, at this point
3 the State moves Number 144 into evidence, as well.

4 THE COURT: No objections to the fingernail scrapings,
5 Mr. Grose?

6 MR. GROSE: No objection.

7 THE COURT: 144 is in.

8 (Whereupon, State's Exhibit Number 144 was admitted
9 into evidence.)

10 Q I've shown you the next item. I believe it's labeled
11 145; is that correct?

12 A 145. Yes, sir.

13 Q And your initials are also on that?

14 A That is correct.

15 Q What is that item?

16 A This is fingernail swabs. If we have a live person, we
17 don't want to do scrapings under their fingernails because
18 we don't want to injure the person. You don't want to go
19 too far and hurt them, and so we use swabs. And in this
20 case, these were swabs collected under the fingernails of
21 Mr. Charles Tillman.

22 Q Okay. So that would be the Defendant in this case?

23 A Yes, sir.

24 Q And where did you get those items at? Where did you
25 get those cotton swabs?

JAMES TALLON

384

1 A On the scene, right in front of Mr. Tillman's mother's
2 house, I believe, is how they're describing it, from Mr.
3 Tillman.

4 MR. BLACK: Okay. Your Honor, the State moves Number
5 145 into evidence.

6 THE COURT: No objection --

7 MR GROSE: No objection.

8 THE COURT: All right. In evidence.

9 (Whereupon, State's Exhibit Number 145 was admitted
10 into evidence.)

11 Q I'm going to show you what's been marked as 146. Can
12 you identify that, sir?

13 A Yes, sir. These are a set of what are called post
14 mortem major case prints. They're basically fingerprints
15 from Ms. Stutler, which consist of not just the 10 prints
16 that you would normally get when you go to a police
17 department to get fingerprinted, but they also consist of
18 any type of skin with friction ridge skin, which is anywhere
19 you have fingerprints, basically. So that includes the
20 palm, the wrist, what's called thenar and the hypothenar.
21 Getting kind of technical, but it's just the whole hand,
22 basically.

23 Q And you collected that on scene, as well?

24 A That is correct.

25 Q So -- and those are -- those are all those prints of

JAMES TALLON

385

1 Ms. Stutler?

2 A That is correct.

3 Q And you sent that down to SLED as well?

4 A Yes, sir. And that was taken down and sent to latent
5 prints to be analyzed with any other evidence that come off
6 of either the firearm or the cartridge casing. Anything
7 that was sent to latent prints to get matched to make sure
8 it wasn't hers --

9 Q Okay.

10 A -- or was hers.

11 MR. BLACK: State would move 146 in.

12 MR. GROSE: No objection, Your Honor.

13 THE COURT: Without objection, it's in.

14 (Whereupon, State's Exhibit Number 146 was admitted
15 into evidence.)

16 MR. BLACK: Thank you, Your Honor.

17 Q The second time you came back out there, you walked
18 back to the house again; is that correct? And you also got
19 the -- the firearm?

20 A That is correct.

21 Q What time did you all end up leaving that night?

22 A We left the scene, the second time, at 6:22 a.m.

23 Q Okay. Then you went back to Columbia?

24 A Then we made the drive back to Columbia.

25 Q And you had all these items that I've already put into

JAMES TALLON

386

1 evidence, correct?

2 A That is correct.

3 Q And then, just -- can you explain to the jury what you
4 do with those? You take them back to SLED for processing,
5 correct?

6 A That is correct. Basically, we take each individual
7 item and package it on scene. And then once we get back to
8 the lab we have to log it into our system and give it an
9 analysis. Whether it needs to go to latent prints or DNA or
10 both. And then once we have done that and we put it in it's
11 outer package, which in this case, for those cartridge cases
12 and this -- the swabs and the scrapings are in what we call
13 a heat seal pouch. The evidence that we collected goes
14 inside one of those and gets heat sealed and we sign and
15 date it. And then we take it downstairs to our evidence
16 intake, and then they distribute it through the lab to
17 wherever it needs to go.

18 Q And you just found that one cartridge in that bedroom,
19 right?

20 A That is correct.

21 Q So how bullet holes were in the trailer?

22 A There were two that we --

23 MR. BLACK: That's all the questions I have. Please
24 answer any questions Mr. Grose might have for you.

25 MR. GROSE: Thank you. If I can have just a moment,

JAMES TALLON

387

1 Your Honor.

2 THE COURT: Certainly. And at the end of the day, if
3 you all could, to make it easier on my court reporter, let's
4 try and keep all of the exhibits kind of together so --

5 MR. GROSE: We will.

6 THE COURT: -- we don't misplace something. We are up
7 to 146 so far.

8 CROSS-EXAMINATION

9 BY MR. GROSE:

10 Q It may seem like a silly question, but this is 142 that
11 we just introduced? This diagram of the house.

12 A Yes, sir.

13 Q And you and your partner did that?

14 A That's correct.

15 Q And that's the same diagram as Defendant's Exhibit 1;
16 is that right?

17 A Correct. Yes, sir.

18 Q Okay. Now, you would agree with me that this diagram
19 doesn't show the window by the bedroom, right?

20 A That's correct. It does not show any windows.

21 Q Okay. And you would agree with me that this
22 Defendant's Exhibit 5 is the bedroom window?

23 A Yes, sir.

24 Q Okay. And so, not everything gets on a diagram
25 sometimes; is that right?

JAMES TALLON

388

1 A That's correct. We don't have time to be placing every
2 item.

3 Q Okay. Now, tell me again what time it was that you got
4 there the first time.

5 A The first time was at 8:33 p.m., approximately.

6 Q 8:33 p.m. And you documented the temperature at that
7 point at being 50 degrees.

8 A Yes, sir.

9 Q All right. And then you photographed and processed the
10 crime scene and you left?

11 A Correct.

12 Q All right. And we could agree this is a pretty messy
13 trailer.

14 A I would agree with that.

15 Q Okay. And the reality is, is sometimes you just don't
16 find everything, right?

17 A Very much so.

18 Q Even when you go back and look for something, sometimes
19 you don't find things?

20 A That is correct.

21 Q Okay. And the second time that you were there -- I
22 mean, you didn't get that far down the road before they
23 called you back?

24 A No, sir.

25 Q All right. And tell me again what time you got back.

JAMES TALLON

389

- 1 A We left at 2:24 a.m. and was -- were back at 3:00 a.m.
- 2 Q Okay. So you were there three and a half, four hours
- 3 easily the first time and you said you left at 2:00 what?
- 4 A 2:24 a.m. the first time.
- 5 Q 2:24. Okay. Were you aware that law enforcement had
- 6 interviewed Charles before you left?
- 7 A I can't say at that time. I may have, but I don't
- 8 remember at this point.
- 9 Q So you have no independent recollection of it one way
- 10 or the other?
- 11 A No, sir.
- 12 Q Okay. And then you came back at 3:00 something?
- 13 A 3:00 a.m. That is correct.
- 14 Q All right. And, at that point, the temperature was 51
- 15 degrees, I believe.
- 16 A Correct.
- 17 Q Okay. And how long were you there that time?
- 18 A Until 6:22 a.m.
- 19 Q Okay. And that's when you collected the gun and you
- 20 look through the house for more evidence, right?
- 21 A Correct.
- 22 Q Okay.
- 23 A Between that time.
- 24 Q Now, I'm going to put Defendant's Exhibit 7 on the
- 25 screen. Were you ever provided any information about

JAMES TALLON

390

1 Newport -- who smoked Newport cigarettes?

2 A Not that I'm aware of. No, sir.

3 Q Okay. Not on either trip there?

4 A No, sir.

5 Q Okay. And it looks like there's a pipe in there that
6 could be drug paraphernalia.

7 A Possibly.

8 Q Were you provided any information about anybody who
9 smoked meth?

10 A Not to my recollection.

11 Q Okay. These cigarettes and plastic pipe, you didn't
12 collect that, did you?

13 A No, sir. I did not.

14 Q Okay. I'm going to put Defendant's Exhibit Number 10
15 on the screen and it shows a spoon with what looks like it
16 could be drugs in it and a syringe?

17 A Correct.

18 Q All right. Do you recall being provided any
19 information about who did or didn't use a syringe to shoot
20 up drugs?

21 A No, sir. I was not.

22 Q Okay. Did you -- well, that looks like a picture that
23 Abbeville County took. You said you observed some injuries
24 on the body?

25 A Correct.

JAMES TALLON

391

1 Q Did any of them appear to be cigarette burns?

2 A That's not my area of expertise.

3 Q Okay.

4 A I can't say.

5 Q All right. Did -- I'm going to put Defendant's Exhibit
6 16 on the screen and that's a picture with an ashtray that's
7 been turned over and some cigarettes. Did you collect
8 those?

9 A No, sir. They were not collected.

10 Q All right. And just going back. The syringe, you
11 didn't collect that?

12 A No, sir. They were not collected by us.

13 Q And the spoon with the drugs in it, that wasn't
14 collected?

15 A No, sir. It was not.

16 Q Okay. So if you didn't collect those, you're not aware
17 of anybody analyzing any of those, are you?

18 A I am not. No, sir.

19 Q Okay. And then State's Exhibit 16. There's a picture
20 of a notebook there. Did you collect that?

21 A No, sir. I did not.

22 Q And I don't know that this is in -- a picture of this
23 is in evidence, but in -- there was a bucket that had a
24 sticker in it that said, I voted?

25 A Correct.

JAMES TALLON

392

1 Q Okay. And you do notate that in your report, don't
2 you?

3 A Yes, sir.

4 Q Okay. And that was ultimately determined to belong to
5 one of the investigators from Abbeville County, right?

6 A That is correct.

7 Q All right. And so, at some point, when -- and that was
8 in a bucket? I mean, that fell into a bucket that you
9 examined and emptied out.

10 A Correct. The bucket that you just had up on the
11 screen.

12 Q That was just up on the screen.

13 A It was when we dumped the water out to see if there was
14 any evidence in it. We did locate that.

15 Q All right. And do you have any idea how many people
16 walked through that trailer before you got there?

17 A I do not.

18 Q All right. And that information wasn't provided to you
19 or noted in your report?

20 A It's not noted in my report. I don't believe I even
21 asked.

22 MR. GROSE: Okay. Thank you. That's all the questions
23 I have.

24 THE COURT: Mr. Black.

25 MR. BLACK: Just briefly.

JAMES TALLON

393

1 REDIRECT EXAMINATION

2 BY MR. BLACK:

3 Q While you were there did anybody discharge any kind of
4 firearm outside or inside?

5 A No, sir.

6 Q And did that spoon -- or did that syringe cause the
7 death of Christie Stutler?

8 A Not that I'm aware of.

9 MR. BLACK: All right.

10 RECROSS-EXAMINATION:

11 BY MR. GROSE:

12 Q Now, just following up on that last question. If the
13 investigators had information that nobody that lived in that
14 trailer shot up drugs and there's a syringe in there, that
15 could be important, couldn't it?

16 A It's possible. We -- as SLED, we would not normally
17 collect drug evidence unless it had something specifically
18 linked. Like there's someone deceased with a needle in
19 there arm.

20 Q Okay.

21 A Normally a local agency would collect.

22 Q But you're looking for information to identify a
23 suspect?

24 A Correct.

25 Q That's one of the things you're looking for.

JAMES TALLON

394

- 1 A Sure. Sure.
- 2 Q I mean, you're looking for a lot of things --
- 3 A Sure.
- 4 Q -- at that point on.
- 5 A Sure.
- 6 Q Okay. And so, if between 10:57 on the 8th and 2:00 on
- 7 the 9th, you were still there the first time?
- 8 A Correct.
- 9 Q Okay. If the police had information that Christie
- 10 smoked drugs, but didn't shoot up the drugs, and they had
- 11 information that Charles didn't shoot drugs, that syringe
- 12 could contain information that would identify somebody else
- 13 that might have been in that trailer, couldn't it?
- 14 A Possibly.
- 15 Q And so, it could be analyzed for drugs, right?
- 16 A Correct.
- 17 Q And it could be analyzed for DNA?
- 18 A Correct.
- 19 Q And that information sounds like it was never
- 20 communicated to you from the interview.
- 21 A I do not remember any of that information.
- 22 Q And it's not in your notes?
- 23 A No, sir.
- 24 Q And if somebody had come to you and said, hey, there's
- 25 a syringe that may have belonged to a third-party, neither

1 Charles nor Christie, and you had seen it and they asked you
2 to collect it, you would have?

3 A Of course.

4 MR. GROSE: That's all I have.

5 THE COURT: All right. Sir, thank you. Please, step
6 down and travel safely back to Columbia.

7 THE WITNESS: Thank you, Your Honor, for having us.

8 THE COURT: I didn't do it.

9 THE WITNESS: Having us quicker.

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

12 THE COURT: Yeah. All right. That takes care of the
13 people who have traveled for this afternoon, correct?

14 MR. BROWN: Yes, sir.

15 THE COURT: Okay. How much, approximately, remains to
16 be played on the video, give or take. Do you all have
17 guesstimate?

18 MR. GROSE: Twenty or 30 minutes, but we may be able to
19 pare that down. So I'll look at that overnight.

20 THE COURT: Okay. All right. You all are probably
21 tired like me and want to go home. Okay. Yes, I'm seeing
22 -- okay.

23 Here's what we're going to do, ladies and gentlemen.
24 We'll go ahead and take a break for the evening and I know
25 that there's a lot more of that video out there. I think

1 Mr. Grose is going to take a second look at it and see if we
2 can perhaps pare that down somewhat so that we're not having
3 to view the entire thing when we resume tomorrow morning.
4 I'm going to ask -- we're going to follow the same procedure
5 today because I was informed earlier today there were a few
6 things that I'm going to need to take up concerning some
7 witnesses later on and tomorrow afternoon. So I'm going to
8 ask that you reconvene at 9:30 in the grand jury room
9 outside if we're not done with the yet. Okay? So just plan
10 on going straight to that grand jury room. Assemble in
11 there at 9:30. Court staff, if you all can be back by 9:00,
12 we'll take up those matters that we were discussing earlier.

13 Ladies and gentlemen, again, please do not talk to
14 anyone about this case. Don't read anything about this
15 case. This is a reporter here from the Index-Journal, so I
16 do anticipate that a story will be in tomorrow's paper.
17 Anybody take the Index Journal, like me? No? No. All
18 right. You've got 14 future customers. All right. Sitting
19 right here. Don't read the Index-Journal tomorrow. Don't
20 go online and don't go buy one from the little pull down
21 kiosk things. Okay? Just stay away from that because I
22 anticipate that that may be the only press coverage. So
23 just don't read the paper tomorrow morning.

24 With that, have a lovely evening. Please be here at
25 6:30 and we'll try to start as quickly and as close to that

1 as possible. 9:30, guys. Okay. See you at 9:30.

2 (Whereupon, the jury exited the courtroom at 5:22 p.m.)

3 (Whereupon, the proceeding was concluded at 5:22 p.m.)

4 TRIAL DAY 4: January 24, 2018

5 (Whereupon, Court's Exhibit Number 2 and 3 were marked
6 for identification.)

7 THE COURT: We'll go back on the record in the State
8 vs. Mr. Tillman. Just a few housekeeping matters before I
9 bring the jury and we resume with the video. First, I've
10 made the news paper article from Tuesday and the one from
11 this morning Court's Exhibits. I think they've been marked
12 2 and 3. And so, those are in the record. The attorneys
13 and I have also had a discussion in chambers about some
14 logistical issues concerning witnesses. I was informed that
15 Ms. Stutler's mother apparently had to be taken to the
16 hospital today by ambulance this morning. And so, her
17 availability is probably -- she's probably not available.
18 We have another issue with a witness that has the flu, a
19 SLED agent in Columbia, and I've had some discussions with
20 the attorneys about that, and Mr. Grose has talked to his
21 client about the possibility of that witness testifying by
22 telephone sometime this afternoon. We'll simply see if that
23 becomes something that everyone is comfortable with allowing
24 and work out the logistics of that later. But we'll address
25 the -- excuse me. It had been my intention to address the

1 objections to the two statements at this point, but I'm
2 going to hold off on that until later. Obviously, Ms.
3 Huffman being taken to the hospital and she may simply not
4 be able to testify. We'll address those issues later on
5 sometime this morning. I assume those individuals were not
6 going to testify this morning because you've got some other
7 SLED agents you were going to put up, right?

8 MR. BROWN: We can put other witnesses up.

9 THE COURT: All right. So that's what we'll do. We'll
10 deal with that later. Let's -- do you have the tape cued
11 up? The part where we left off yesterday?

12 MR. BROWN: Yes. Let me make sure it's --

13 THE COURT: Yeah. Go ahead and make sure it'll play.
14 All right. Do we need to back that up any or are we good
15 with where it is now?

16 MR. GROSE: That's the right spot.

17 THE COURT: Okay.

18 MR. GROSE: I just -- the Defense Exhibits, where's --

19 THE COURT: And while we're dealing with housekeeping
20 matters, has anyone found State's 13 yet or is that still
21 MIA? It was not in evidence, so I don't know that it was
22 that big of a deal. It was a photograph, but if it has not
23 been located, then continue to keep an eye out for it. All
24 right. Let's -- all right. Let's have the jury, please.

25 (Whereupon, the jury entered the courtroom at 9:55

1 a.m.)

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, welcome back and thank you for being here at 9:30. I
4 apologize for keeping you waiting. Candidly, we've run into
5 a few issues with -- just logistical issues with witness
6 availability and the parties are making some good faith
7 efforts to try and work through those so that we can get
8 this case to you as soon as possible and move as efficiently
9 as possible. Just want to make sure, though, of one thing.
10 If any member of the jury has read anything or heard
11 anything about the case overnight through the media or what
12 have you, if you could, just raise your hand for me.

13 (Whereupon, no jury member raises their hand.)

14 THE COURT: All right. No hands are up. We are still
15 reviewing the tape, and in discussions with the attorneys
16 this morning, approximately 30 minutes more is what we're
17 going to play for you, and then we'll resume with the
18 examination of -- the cross examination rather, of Mr.
19 Hines. And, Mr. Hines, you can stay over there. Did you
20 have a matter that we need to --

21 MR. GROSE: Well, actually it's not going to be 30
22 minutes.

23 THE COURT: Oh, okay.

24 MR. GROSE: It's going to be a few minutes.

25 THE COURT: All right. Very good.

JEFFREY HINES

400

1 MR. GROSE: Sorry.

2 THE COURT: So we're going to resume where we left off
3 yesterday in terms of the interview that we were watching.
4 Solicitor or Mr. Grose, if you all want to go ahead and hit
5 play.

6 (Whereupon, State's Exhibit Number 126 was published
7 for the jury.)

8 THE COURT: All right. Ladies and gentlemen, one of my
9 favorite adages from my grandmother is --

10 MR. BROWN: Sorry, Your Honor.

11 THE COURT: I was about to tell you, you know, a man
12 plans, God laughs. Have we got it working now or --

13 MR. BROWN: I believe we will in just a second.

14 THE COURT: All right.

15 MR. BROWN: Turn it off.

16 THE COURT: Let's do this. You all go to the jury
17 before this thing makes you deaf. Okay? I'll have you back
18 out here as soon as we're sure it's working. Okay? Step
19 back to the back.

20 (Whereupon, the jury exited the courtroom.)

21 (Whereupon, a brief recess was held due to technical
22 problems.)

23 (Whereupon, the jury entered the courtroom to resume.)

24 THE COURT: The jury is back. I think we have it
25 sorted out. Go ahead and hit play, Solicitor, if you would,

JEFFREY HINES

401

1 please.

2 (Whereupon, the publishing of State's Exhibit Number
3 126 was resumed.)

4 MR. GROSE: You can stop it there.

5 THE COURT: All right. Mr. Hines, I'll remind you
6 you're still under oath, sir.

7 MR. HINES: Yes, Your Honor.

8 CROSS EXAMINATION

9 BY MR. GROSE:

10 JEFFREY HINES, having been
11 previously duly sworn, testifies as follows:

12 Q Okay. And I know we've been a little chopped up in how
13 we've done this. But I think the question that I asked you
14 before we put the video in had to do with the conversation
15 with Investigator Ashley that we just heard where she asked
16 about Charles having a conversation with Christie the night
17 before, right?

18 A That is correct.

19 Q Okay. And --

20 MR. BROWN: Can we turn this off, Mr. Grose?

21 MR. GROSE: Yeah. Yeah. Yeah. Yeah. I'm sorry.

22 THE COURT: I just unplugged this. Is it going to --

23 MR. BROWN: Can we just turn it off at the main power,
24 Your Honor?

25 THE COURT: Yeah.

JEFFREY HINES

402

1 Q All right. And so, the interview that we were just
2 looking at is State's Exhibit Number 30, the Miranda form.
3 That was on the 10th, right? November 10th?

4 A That's correct.

5 Q At 5:23 in the afternoon was when the Miranda was
6 signed?

7 A That's correct.

8 Q Okay. So when Detective Ashley asked Charles about
9 talking to Christie the night before, Christie was already
10 dead?

11 A That is correct.

12 Q Okay. And this part that we started yesterday and just
13 finished, this took place before the part that you all
14 showed yesterday?

15 A I believe that is correct. Yes, sir.

16 Q Okay. Because if we were to continue playing this,
17 there'll be some more conversation, and then they'll take
18 the swabs from Charles' mouth, right?

19 A That is correct.

20 Q All right. And that's when you and Investigator Graham
21 came in, was after she had done all of that?

22 A Yes, sir. That is correct.

23 Q Okay. So we saw in this that the reason that Charles
24 was there was because you all had brought him in with a
25 search warrant for those swabs?

JEFFREY HINES

403

- 1 A That is correct.
- 2 Q Okay. And he thought that you already had the DNA, but
- 3 he said he would give it to you and he did later on --
- 4 A We --
- 5 Q -- later on in this?
- 6 A We needed a known standard --
- 7 Q Right.
- 8 A -- to send to SLED. Yes, sir. That is correct.
- 9 Q Okay. But he did in that -- when they were reading him
- 10 his Miranda warnings, he made a statement about feeling like
- 11 -- or that the law said that he either had to talk to them
- 12 or go back there. And by back there, he meant the jail,
- 13 which is just down the hallway from this room?
- 14 A I'm uncertain of what Mr. Tillman meant by that
- 15 statement.
- 16 Q Okay. But he did vent some frustration about how it
- 17 seemed like he was being presumed guilty instead of presumed
- 18 innocent, right?
- 19 A He was frustrated. Yes.
- 20 Q Yeah. And it -- as far as his state of mind, we see a
- 21 little bit more in the part of the interview with Detective
- 22 Ashley, right?
- 23 A Can you rephrase that question, sir?
- 24 Q Okay.
- 25 A I'm not understanding what you're asking.

JEFFREY HINES

404

1 Q Yeah, that'S fair. Y'all played for the jurors
2 yesterday afternoon your part of the interview, right?

3 A That is correct.

4 Q Okay. And this gives us a little bit more about his
5 state of mind before you all came into the room?

6 A I don't know if it would be a state of mind.

7 Q Okay.

8 A I wouldn't call it a state of mind. He was just
9 expressing his -- what he was feeling, what -- you know,
10 what he was thinking.

11 Q Right.

12 A I wouldn't call it a state of -- a state of mind,
13 therefore.

14 Q And he felt like he'd had a conversation with Christie,
15 even though she was dead?

16 A He said he had a conversation with Christie even though
17 she was dead. That is correct.

18 Q And you certainly don't think that that really
19 happened, do you?

20 A I do not think that he had a conversation with
21 Christie. No.

22 Q Okay. Now -- and we're going back a couple of days.
23 But the first interview, the one that started at around
24 11:00 on the 8th and ended around 1:30 on the 9th, you
25 participated in that?

JEFFREY HINES

405

1 A I did.

2 Q And when that interview took place, you had already
3 been in the trailer?

4 A I had been.

5 Q And so had Investigator Graham?

6 A That is correct.

7 Q And when that interview started, the fellow from SLED
8 who testified yesterday about processing the trailer, he was
9 already there, right?

10 A That is correct.

11 Q And when that interview ended and --

12 A Excuse me. I don't want to get mixed up there. You
13 said that he was -- the guy from SLED wasn't there when
14 Lieutenant Graham and I came, but he did -- he did respond
15 to the scene at sometime later after Lieutenant Graham and I
16 got there.

17 Q Okay. All right. So you had gone in before he got
18 there?

19 A That is correct.

20 Q Inside the trailer?

21 A Yes.

22 Q Okay. And then he got there between 8:00 and 9:00 on
23 the 8th, right?

24 A I think that was in his testimony. Yes, sir.

25 Q Okay. And so, when the interview on the 11th started,

JEFFREY HINES

406

- 1 he was still at the trailer?
- 2 A That is correct. Yes, sir.
- 3 Q All right. When I say the interview on the 11th, I
- 4 mean 11 p.m. on --
- 5 A Yes, sir. That --
- 6 Q All right.
- 7 A Yes, sir.
- 8 Q And when it ended at 1:30, you all were probably back
- 9 on Bell Road by about 2:00?
- 10 A I would say probably 1:45, 1:50.
- 11 Q Okay. Okay.
- 12 A So about --
- 13 Q By 2:00?
- 14 A Yes, sir. By 2:00. That's correct.
- 15 Q Okay. And he was still there?
- 16 A That is correct.
- 17 Q Okay. Now, on that first interview tape, that's where
- 18 you all got the shirt -- the green shirt from Charles,
- 19 right?
- 20 A That is correct.
- 21 Q And I'm not going to go back and play it now --
- 22 A Yes, sir.
- 23 Q -- but we probably will in closing. And we're going to
- 24 see that you're the one that put the shirt into a paper bag,
- 25 right?

JEFFREY HINES

407

- 1 A I did. That's correct.
- 2 Q Okay. Are we going to see -- when we look at that in
3 closing, are we going to see whether or not -- did you have
4 gloves on or did you not have gloves on?
- 5 A I did not have gloves on.
- 6 Q Okay. Now, just going back to the crime scene photos
7 -- I don't know what we do -- where is the -- oh, okay. In
8 Defendant's Exhibit Number 7, there's the Newports and the
9 plastic tube, right?
- 10 A Yes, sir.
- 11 Q I can show --
- 12 A No, I can see. It appears --
- 13 Q Okay.
- 14 A Yes, sir. It appears to be. I got a look at these
15 photos yesterday because I was sitting over here close.
- 16 Q Good. And in that first interview, Charles told you
17 that Christie was the one who smoked Newports, right?
- 18 A I believe so.
- 19 Q Okay. And then in Defendant's Exhibit Number 9 it
20 shows the spoon with the drugs in and the syringe, right?
- 21 A It shows a spoon with a Q-tip swab in it. It doesn't
22 show drugs. That's a -- that's used to filter --
- 23 Q Okay.
- 24 A -- drugs with. That's drug paraphernalia. That's not
25 drugs.

JEFFREY HINES

408

1 Q Okay. But then it also shows the syringe, right?

2 A It does.

3 Q Okay. And in the interview -- the first interview, you
4 all did ask Charles about who shot up drugs, right?

5 A I do not recall if we asked that question or not.

6 Q Okay.

7 A I do know that he stated that she was using drugs, but
8 I do not recall asking who shot up drugs.

9 Q All right. And, again, we can replay part of that in
10 closing if we need to. But you don't remember him saying
11 that she smoked drugs?

12 A I do remember him saying that -- I -- I don't want to
13 sit up here and tell you something that's wrong.

14 Q Right.

15 A But I do remember him saying that she did use drugs. I
16 don't remember how he said consumed -- how she consumed
17 drugs, but I do remember him saying that she used drugs.
18 But I do not remember asking the question if anyone injected
19 drugs.

20 Q Okay. So then you don't remember Charles telling you
21 that neither he nor Christie injected drugs?

22 A No, I do not remember that. I do not recall that.

23 Q Okay. And you did make -- well, let me just ask you.
24 Are those your notes? I remember seeing you write in the
25 video, but --

JEFFREY HINES

409

1 A Yes. This is my handwriting.

2 Q Okay. And in those notes, you did make notations about
3 JC Boggs?

4 A That is correct, sir.

5 Q And you did make notations about JC and Walter Tillman,
6 right?

7 A Yes. That's where they went to -- went to work, as I
8 said earlier.

9 Q Right. And they also had said that -- Charles had also
10 said that they had stopped at the Spinx and got some chicken
11 at the end of the day?

12 A It was at the -- yeah, he said -- I can't remember if
13 it was the end of the day or not, but he did say he stopped
14 and got something at the Spinx. That is correct.

15 Q All right. And you all verified that on the video at
16 the Spinx?

17 A Lieutenant Graham did.

18 Q All right. And you didn't get a copy of it, but you
19 all did check that out and that's not an issue?

20 A Yes, sir.

21 Q Okay. And you did make a notation about Willie came to
22 the bedroom window and asked about paper for the church,
23 right?

24 A That is correct. Yes, sir.

25 Q And want --

JEFFREY HINES

410

- 1 A I don't --
- 2 Q -- went towards his mom's house?
- 3 A Yes, sir. That's correct.
- 4 Q Okay. And you all did talk about, you know, that
- 5 Christie had, you know, affairs with other mens -- men,
- 6 right?
- 7 A Yes. Mr. Tillman stated that she had several different
- 8 affairs. One with his -- one with a good friend of his
- 9 named Nuke Donaldson, and then several other affairs in
- 10 Belton, Honea Path, and Anderson.
- 11 Q Right.
- 12 A That is correct.
- 13 Q And you have the Belton, Honea Path, Anderson --
- 14 A Written down. Yes, sir.
- 15 Q All right. And I think it also came in, in the
- 16 interview, that, you know, Christie would come and go.
- 17 Sometimes she would move out. Sometimes she would move back
- 18 in.
- 19 A The way -- the way he put it was that she would leave
- 20 him, and then he would have to go back and get her.
- 21 Q Well, but she would -- she would voluntarily come back?
- 22 A Yes, sir. That's -- I mean, he didn't say voluntarily
- 23 or not, but I would assume so. Yes, sir.
- 24 Q Okay. So we don't have a dispute about that?
- 25 A No, sir.

JEFFREY HINES

411

1 Q Did you ever interview Willie Tillman?

2 A Willie -- that's going to be something that I was with
3 Lieutenant Graham and we did talk. I believe it was Willie.
4 I don't think it was Walter. I think it was Willie at the
5 house, but we didn't -- we didn't get a statement.

6 THE WITNESS: Are you Willie?

7 A No, sir. It wasn't -- it wasn't Willie.

8 Q This is Willie sitting right here --

9 A Okay. It must have been Walter that I talked to.

10 Q -- in the blue sweatshirt?

11 A Yes, sir. No, sir.

12 Q And so, you didn't talk to Willie?

13 A No. I personally did not talk to Willie.

14 Q All right. Did you see Lieutenant Graham talk to
15 Willie?

16 A I did not. We actually went -- I do remember Mr.
17 Tillman though. We actually went to the house and he pulled
18 up behind us while we were there, I believe, in the driveway
19 one time.

20 Q But it wasn't because Willie wasn't there and
21 available? I mean, he was there to interview if you wanted
22 to?

23 A That -- the -- by the third or fourth day he did -- he
24 did show up. That is correct.

25 Q Well, it wasn't the third or fourth day. I mean --

JEFFREY HINES

412

1 A On scene that night, he was on the list, too. Yes,
2 sir.

3 Q Yeah.

4 A Yes, sir.

5 Q I mean, he was there on the first day. And then on
6 that list, the crime scene log -- and I'm talking, just for
7 the record, about Defendant's Exhibit Number 2, right?

8 A Yes. That is correct.

9 Q Do you know where Willie lives?

10 A I personally do not know. I'm sure that it's -- I
11 mean, it's available. But we do not -- I do not know his
12 address. No.

13 Q So you don't know that he lives within --

14 A And I think it's on Bell Road, but I can't -- I don't
15 the exact address.

16 MR. GROSE: Thank you. That's all the questions I
17 have.

18 THE WITNESS: Yes, sir.

19 MR. BROWN: Just a few things.

20 THE WITNESS: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. BROWN:

23 Q When you went into the trailer -- when you first
24 arrived on scene, once the call came out that Christie
25 committed suicide, did you touch anything in that trailer?

JEFFREY HINES

413

1 A I -- I did not touch anything. I didn't recollect
2 evidence. Well, I did touch a notebook. The notebook. I
3 did go through the notebooks. But I didn't collect any kind
4 of evidence or anything. But I did wear gloves because
5 there was a lot of blood.

6 Q Did you touch Christie?

7 A I did not touch Christie at all.

8 Q Did you move Christie at all?

9 A I did not move Christie at all.

10 Q And the first you were out at the house at Bell
11 Road, when you first got there, there was no gun there, was
12 there?

13 A There was no gun inside the residence at all.

14 Q And did you touch any hard surfaces when you were in
15 there?

16 A No.

17 Q When you got back to the Sheriff's Department in -- at
18 the end of the interview, everybody saw that you collected a
19 shirt from Mr. Tillman, correct?

20 A That is correct.

21 Q And stuck it in a brown, paper bag?

22 A I did.

23 Q Officer Hines, had you fired your gun that day?

24 A I hadn't fired my gun in several -- probably several
25 weeks prior to that.

JEFFREY HINES

414

1 Q And had you washed your hands?

2 A Several times. After every time I visit the bathroom,
3 I wash my hands.

4 Q And once you picked up that shirt, did you place it
5 right in that bag?

6 A As soon as I picked up the shirt, I put it right in the
7 bag. Just as soon as he took it off and put it on the
8 table, we got our consent forms and stuff done, and I picked
9 it up and put it right in the bag.

10 Q It wasn't until after that first interview you went
11 back out to Bell Road and you all actually located a
12 gun, correct?

13 A That is correct.

14 Q And, also, when you were there the first time, did you
15 touch any of those bullets that were laying around the
16 house?

17 A No. If I remember correctly, actually, the bullets
18 were found when we were interviewing Mr. Tillman. SLED
19 located the bullets.

20 MR. BROWN: No further questions.

21 THE COURT: Recross?

22 RECROSS-EXAMINATION

23 BY MR. GROSE:

24 Q The voter registration sticker.

25 A Yes, sir.

JEFFREY HINES

415

1 Q Was that yours that fell off in the bucket?

2 A It was. On the video you'll hear the phone call and
3 Lieutenant Graham actually gets a phone call. I voted that
4 day. Of course, it was election day. I went in inside and,
5 like I was saying earlier, it was very -- in my testimony, I
6 think it was yesterday or maybe the day before. But it was
7 very cluttered in that room, so I had to maneuver and things
8 and the voter registration sticker did fall off.

9 Q Okay. And I realize those things don't stick to your
10 clothing very well. But you're really not supposed to drop
11 things in a crime scene before SLED gets there, right?

12 A We're all human. We drop things all the time.
13 Everyone does.

14 Q And I recognize that. But you really are supposed to
15 be careful not to introduce something to the crime scene.

16 A We would like -- we would like to do that. But, like I
17 said, we're all human. Things fall out of our pockets, off
18 our shirts. Especially a sticker.

19 Q Okay. You said that before the interview you had
20 looked at some of the notebooks in there?

21 A That is correct.

22 Q Did it include the one on the bed?

23 A It did.

24 Q All right. And that's State's 56 that we just had on
25 the screen. Other than the notebook in that bedroom, do you

JEFFREY HINES

416

1 recall -- and the bucket with the -- let me back up. You
2 touched the notebook that was in the bedroom, right?

3 A That is correct.

4 Q And the bucket with your voter sticker where it dropped
5 into the bucket, that was in the bedroom?

6 A That -- if you'll pull -- you can pull up the picture.
7 It is in the bedroom.

8 Q Okay.

9 A It's next to the -- it was like a washtub almost, what
10 it appeared to be, because there was a rag with it, as well.

11 Q Right.

12 A It was next to the kerosene heater that I was
13 explaining earlier in my testimony.

14 Q And it was a wash -- because there -- washtub? There
15 was no running water in this trailer?

16 A That is correct.

17 Q Okay. So other than your voter sticker falling in the
18 bucket and you handling that notebook that was on the bed,
19 do you recall what other surfaces you could have come in
20 contact in that bedroom?

21 A I -- I didn't -- I didn't come in contact with -- I
22 looked at the notebooks. I wasn't in there very, very long.
23 I stood with the coroner. I watched the coroner --
24 coroner's office roll Ms. Stutler over --

25 Q Right.

JEFFREY HINES

417

1 A -- and that's when we determined that it was some kind
2 of wound to her head.

3 Q And we're all human. It's okay to say you don't
4 remember. You really just don't remember everything you
5 touched in that room, do you?

6 A Well, I know that I didn't -- I know that I didn't
7 touch any bullets. I know I didn't touch any surfaces next
8 to Ms. Stutler.

9 Q Okay.

10 A Except for the notebook.

11 Q And that -- and that notebook wasn't submitted to test
12 whether there was gunshot residue, right?

13 A The notebook didn't have any evidential value to me, so
14 I did not collect the notebook, nor did SLED collect the
15 notebook.

16 Q Okay. And I think that you all are saying there was at
17 least two shots fired in that room?

18 A There -- there was at least two shots fired in the
19 room. That is correct.

20 Q All right. Because there's was the bullet that went
21 through the ceiling?

22 A That is correct.

23 Q And there was a bullet in the wall?

24 A If you were standing at the foot of the bed and Ms.
25 Stutler would be on the left end of the bed, the bullet

KIMBERLY MEARS

418

1 would be on the --

2 Q Right.

3 A -- right side --

4 Q Okay.

5 A -- of Ms. Stutler if you're looking at her. So in the
6 wall. That is correct.

7 Q Okay. And we know that gunshot residue comes out the
8 end of the barrel, correct?

9 A That's what the expert testified to yesterday. I'm not
10 an expert on gunshot residue, so I have -- do not know.

11 Q And so, you don't know how it would have settled?

12 A No, sir.

13 Q And whether it would have settled on that notebook that
14 you handled?

15 A I do not know.

16 MR. GROSE: That's all I have.

17 THE COURT: All right, sir. Thank you. You can step
18 down and you are free to go.

19 THE WITNESS: Am I dismissed?

20 THE COURT: And you are dismissed. Have a nice day.

21 (Whereupon, the witness stepped down from the witness
22 stand.)

23 THE COURT: Solicitor, call your next witness. Yes,
24 please, call your next witness.

25 MR. BLACK: State calls Kimberly Mears.

KIMBERLY MEARS

419

1 KIMBERLY MEARS, having first been
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. BLACK:

5 Q Ms. Mears, can you introduce yourself to the jury,
6 please?

7 A My name is Kimberly Mears.

8 Q And you work at SLED?

9 A Yes, I do.

10 Q And how long have you worked for SLED?

11 A A little over 10 years.

12 Q And what department are you in?

13 A I'm a forensic scientist in the latent print
14 department.

15 Q And what's your educational experience?

16 A I have a Bachelor of Science degree in biology from
17 Winthrop University.

18 Q And have you ever testified in court before?

19 A Yes, I have.

20 Q And testified as an expert?

21 A Yes, I have.

22 Q In what field?

23 A Latent print analysis or comparison.

24 Q Do you know how many times you've testified?

25 A Approximately 20.

KIMBERLY MEARS

420

1 MR. BLACK: Your Honor, at this point, the State moves
2 Ms. Mears in as an expert in latent print analysis.

3 THE COURT: Any objection or voir dire?

4 MR. GROSE: No objection.

5 THE COURT: All right. Again, ladies and gentlemen, as
6 I explained previously, Ms. Mears, because the parties agree
7 she's an expert in latent print analysis, she can give
8 opinion testimony in that area that you can use as you deem
9 appropriate. Continue.

10 MR. BLACK: Thank you, Your Honor.

11 Q I'm going to start, Ms. Mears, with your report. I
12 think you may have a copy of that with you. The first item
13 that you analyzed was item one. That would have been the
14 rifle. And I'm not get it -- get it out. But what did you
15 do to that item?

16 A I first did -- checked to see what kind of requests --
17 or analysis are requested on that item. In this case, DNA
18 and firearms analysis was requested. So I did a visual exam
19 of the item and I then processed --

20 MR. GROSE: We're having a little bit of trouble --

21 THE COURT: Hearing her?

22 MR. GROSE: -- hearing. So if we could, I guess, get
23 back to the regular --

24 THE COURT: Yeah. Say test, one, two, three.

25 THE WITNESS: Test, one, two, three.

KIMBERLY MEARS

421

1 MR. GROSE: Very good. Thank you. Thank you.

2 Q All right. I guess, just to rephrase, you tested item
3 one -- or you analyzed item one. What did you do with the
4 rifle?

5 A I first did a visual exam looking for fingerprints. I
6 then swabbed certain areas of the item for DNA, and then I
7 began to process the item for latent prints. And I used the
8 cyanoacrylate method, which is the chemical name for Super
9 Glue. I fumed it in a chamber so that the Super Glue is
10 heated to a vapor that will then adhere to any moisture on
11 the item, which would be the fingerprint residue that we
12 were looking for. And then I treated the item with MBD,
13 which is a fluorescent dye stain that can be looked at using
14 an alternate light source, which is essentially a fancy
15 blacklight, to look for any developed fingerprints on the
16 item.

17 Q And I'm guessing this is all done in some lab down in
18 Columbia at SLED?

19 A This is correct.

20 Q And how -- are you dressed with gloves and some type of
21 special outfit while you're -- while you're doing this?

22 A We do wear gloves and lab coats.

23 Q Okay. And you mentioned that you swabbed different
24 parts of that rifle for DNA; is that right?

25 A That is correct.

KIMBERLY MEARS

422

1 Q But you're not in the DNA department?

2 A No. I strictly collect the swab, and then forward it
3 to the DNA department for analysis.

4 Q And I'm going to --

5 MR. BLACK: Your Honor, may I approach?

6 THE COURT: Please.

7 Q I'm showing you the item that's been marked as 149. I
8 think your signature's on that item; is that correct?

9 A That is correct.

10 Q Can you tell us what's in that -- in that item?

11 A Each area that I swab on the item becomes -- or the
12 swab itself becomes it's own sub-item of the parent. So all
13 of the swabs are placed in individual envelopes as their own
14 item number so as not to get confused or contaminated. They
15 are then placed into this heat sealed container, and then
16 transferred to the DNA department.

17 Q So you're testing swabs of the rifle for DNA?

18 A Correct.

19 Q Okay. And you don't actually do the DNA testing,
20 right?

21 A No. I do not.

22 Q You just do the swabs?

23 A Yes.

24 Q How do you -- can you explain to the jury how you
25 actually go about swabbing the item you're given?

KIMBERLY MEARS

423

1 A The swabs come in a sterile pack of two. They are
2 essentially long Q-tips. I moisten one with deionized
3 water, swab the area, or rub the moistened swab against the
4 area of the item I'm interested in. I then go behind the
5 moistened swab with a dry swab, and then those two are
6 packaged together in an envelope as one item.

7 Q Okay. And I believe there are five different swabs
8 that you took from the gun; is that right?

9 A There are three swabs that I took from item one.

10 Q Okay. And what just -- can you tell the jury what
11 those are?

12 A One swab was taken from the trigger and trigger guard
13 area of the gun.

14 Q Okay.

15 A One swab was taken from the non-smooth sides of the
16 magazine from item one, and then one -- the last swab was
17 taken from the surface area of the cartridges received with
18 item one.

19 Q So those would have been the cartridges in this -- in
20 this rifle?

21 A In the box. Yes.

22 Q Okay. Was there -- is that all the swabs?

23 A I received item two, which was a separate cartridge
24 case and I swabbed that -- the entire surface area of that,
25 as well.

KIMBERLY MEARS

424

1 Q Okay. And when you were looking at item two, what were
2 you looking for with regard to that item?

3 A I was also attempting to locate latent prints on that
4 item, as well.

5 Q Prints on this item? And I'm going to show you what's
6 been marked as State's 143. Is that item two that you're
7 talking about?

8 A Yes, it is.

9 Q And that's -- is that a cartridge?

10 A It is a cartridge case.

11 Q And did you -- did you find any prints on that?

12 A No, I did not.

13 Q Okay. And once you finished looking for prints, I
14 guess, you forwarded that one to DNA, as well; is that
15 right?

16 A The swabs were forwarded to DNA. I believe the actual
17 cartridge case was forwarded to firearms.

18 Q Okay. And I'll take item two back from you. Did you
19 have -- you had known standards of fingerprints from Ms.
20 Stutler, the victim, and with the Defendant, Mr. Tillman; is
21 that correct?

22 A That is correct.

23 Q Okay. And did you -- going back to the rifle. Did you
24 take any fingerprints from the rifle?

25 A A fingerprint -- or a -- an area of ridge detail was

KIMBERLY MEARS

425

1 developed on the rifle.

2 Q Okay. And you were able to lift that?

3 A With it being the dye stain method that I was talking
4 about earlier that involves the alternate light source, in
5 that case, it would have been photoed instead of actually
6 lifted off of the item.

7 Q So you just took a picture of it?

8 A Correct.

9 Q Okay. And were you able to compare that to the known
10 fingerprints that you had of Ms. Stutler and Mr. Tillman?

11 A Yes, I did compare it.

12 Q And did you -- did you get any -- were you able to
13 conclude anything based on that?

14 A No. The results of that comparison are that they -- it
15 is inconclusive based on the quality of the known standards
16 on both of them.

17 Q Both of the known standards of the -- Ms. Stutler and
18 Mr. Tillman?

19 A That's correct.

20 MR. BLACK: Okay. I think that's all the questions I
21 have. Please, answer any questions that Mr. Grose might
22 have for you.

23 THE COURT: Any questions?

24 CROSS-EXAMINATION

25 BY MR. GROSE:

KIMBERLY MEARS

426

1 Q As far as fingerprints, you weren't able to use a
2 fingerprint to identify anybody who had handled the gun?

3 A That is correct.

4 Q And you weren't given any known standards of
5 fingerprints of anybody other than Christie or Charles to
6 compare, were you?

7 A That is correct.

8 Q Okay. And then, as far as processing other items for
9 DNA. The way that works -- you made a comment about the
10 sub-item -- or an item becomes a sub-item of the parent.
11 And I guess what that means is if on your numbering system
12 on the lab, if the .22 rifle is item one, the sub-items
13 would be the different swabs that you took off of that?

14 A That is correct.

15 Q Okay. And that's -- and I may be stating the obvious.
16 But that, since it goes from one part of the lab -- or one
17 lab to another lab, that's the way that we can kind of track
18 it?

19 A Yes, it is.

20 Q Okay.

21 A The swabs become, in this case, 1.1. So that helps --

22 Q Okay.

23 A -- to determine where -- which item they came from.

24 Q All right. And so, 1.1 was the trigger and trigger
25 guard of the .22 rifle?

JAMES GREEN

427

- 1 A The swabs from those areas. Yes.
- 2 Q Right. And -- and so, basic -- I mean, that's -- the
- 3 trigger is -- your getting the trigger and the area that
- 4 sort of guards the trigger?
- 5 A Yes.
- 6 Q And all of that is one swab and put into it's own
- 7 little envelope?
- 8 A Correct.
- 9 Q All right. And then, so 1.2 was the magazine that came
- 10 with the rifle, right?
- 11 A Yes, it was.
- 12 Q And, again, you swabbed, I think it says, the smooth
- 13 surfaces and you put that in it's own little envelope?
- 14 A The non-smooth sides. Yes.
- 15 Q Okay. I'm sorry, the non-smooth sides. And item 1.3
- 16 was the entire surface area of cartridges from item one.
- 17 And that would be the cartridge that came out of the gun or
- 18 would it be more than one?
- 19 A Item one, the description is that it was a rifle with a
- 20 magazine containing seven cartridges, and then another
- 21 cartridge said to be from the chamber. So that swab would
- 22 have been from all eight of those cartridges.
- 23 Q All right. So that -- item 1.3 is eight cartridges?
- 24 Okay.
- 25 A Yes.

JAMES GREEN

428

1 Q Okay. And then item two was the cartridge case that
2 was found on the bedroom floor; is that right?

3 A That is correct.

4 Q Okay. And so, that would have gone in it's own little
5 envelope?

6 A Yes, it would have.

7 Q Okay. And, actually, that kind of broke down the two
8 things because there was what could be hair with item 2.1,
9 and then the swabs is item 2.2; is that right?

10 A That is correct.

11 MR. GROSE: Okay. That's all I have. Thank you.

12 THE COURT: No redirect? Ma'am, you can step down.
13 Thank you very much for coming. You are free to go.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 THE COURT: Mr. Black, call your next witness.

17 MR. BROWN: State calls James Green.

18 JAMES B. GREEN, having first been
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q Mr. Green, where do you work?

23 A I'm employed by the South Carolina Law Enforcement
24 Division. Most people call it SLED.

25 Q And how long have you been employed at SLED?

JAMES GREEN

429

1 A Since June of 2005.

2 Q And what are your duties there at SLED?

3 A I'm a forensic firearms examiner in the firearms
4 department of the forensic services laboratory. I examine
5 firearms and firearm related evidence, fired bullets, fired
6 cartridge cases, in an attempt to determine if they were a
7 common source. You know, was this bullet fired by this gun?
8 Was this cartridge case fired by this gun?

9 Q Now -- and you've been there since 2005?

10 A Yes, sir.

11 Q What type of education and background do you have?

12 A I have a Bachelor's and a Master's degree from
13 Charleston Southern University. And when I was hired at
14 SLED I started the firearm and toolmark course of
15 instruction. So approximately a three to three and a half
16 year course of instruction in an apprentice-type fashion
17 studying under Court qualified firearms examiners, I learned
18 to do what I do now.

19 Q And have you ever testified as an expert in the Court
20 of General Sessions in South Carolina?

21 A Yes, sir.

22 Q Approximately how many times?

23 A I testified yesterday in Beaufort and I think that
24 makes 65.

25 MR. BROWN: Judge, at this time, I'd move James Green

JAMES GREEN

430

1 as an expert in firearms and toolmark examination.

2 THE COURT: Any objection or questions? No?

3 MR. GROSE: I'm sorry. No objection.

4 THE COURT: All right. Ladies and gentlemen, Mr.
5 Green, the parties agree he is an expert in firearms and
6 toolmark examination. Therefore he can give opinion
7 testimony in that area that you may use as you think is
8 appropriate. Go ahead, Mr. Brown.

9 MR. BROWN: Thank you, Judge.

10 Q Mr. Green, with regard to this case, did you have the
11 opportunity to examine the firearm?

12 A Yes, sir.

13 Q Examine the shell casing or the cartridge case that was
14 submitted in as part of this case?

15 A Yes, sir.

16 Q I want to show you what's been marked and is in
17 evidence as State's 143. Do you recognize this item?

18 A Yes, sir. State's 143 is the SLED item two, a fired
19 cartridge case I examined in this case.

20 Q And, also, I'll also show you State's 140. Do you
21 recognize this item?

22 THE WITNESS: Ladies and gentlemen of the jury, if you
23 see me rotating evidence around, what I'm doing, I'm looking
24 -- at the firearm's department, when we get evidence,
25 rifles, pistols, cartridge cases, bullets, if it's big

JAMES GREEN

431

1 enough, what we'll do is we'll take an electric pencil or a
2 Dremel tool and inscribe our item number, the lab number and
3 our initials on there. So when I roll it around, that's
4 what I'm doing is looking for -- this firearm does have a
5 gunlock, so it's unloaded. It's safe to handle. I'm going
6 to try not to point it at you. If I do, I apologize.

7 A Yes, sir. This is the firearm that was submitted in
8 this case.

9 Q And once it was submitted, did you -- what did you do
10 with the firearm once it's submitted?

11 A Once firearms are submitted to us or cartridge cases,
12 bullets or anything, we're the last people in the lab to get
13 it. So it's already been swabbed for DNA. It's already
14 been processed for latent prints. If there's any blood or
15 anything on it, it's usually already collected or swabbed.
16 So I'm just concerned with looking for possible trace
17 evidence that may have been missed. In this case, there was
18 none on the rifle. I took photographs of it as it was
19 received, documented it on our departmental worksheets and
20 it becomes our case file, and then I test fire. We have a
21 vertical two-story water tank in our department. It's about
22 three feet wide, stainless steel diameter -- excuse me.
23 Three feet wide in diameter. Stainless steel. It kind of
24 cups down to the bottom. It looks like a -- almost like a
25 giant ice creme cone and it's filled with water. There's a

JAMES GREEN

432

1 chain that leads to a colander at the bottom and it's
2 funneled at the bottom. And we'll shoot into the water tank
3 and it'll hit -- the bullets will hit the water, slow down
4 and drop. We'll pull the chain and we'll get our fired
5 bullets and our fired cartridge cases. The reason why we do
6 that is for instance like this where we need to compare test
7 specimens from a certain firearm to evidence submitted in
8 the case. I know those test specimens were fired by that
9 gun because I fired them by myself. So that's what I did.
10 I got this firearm, I documented it, and then I test fired
11 it.

12 Q And to begin with, what is the model and make?

13 A That is a Ruger 10/22 Carbine. It's a .22 long rifle
14 caliber semiautomatic rifle.

15 Q And .22 long rifle, how would you characterize that --
16 that caliber? Is it a large caliber, small caliber?

17 A It's a relatively small caliber. It's one of the
18 smaller caliber rifles on the market.

19 Q And with a .22 caliber rifle -- do small caliber
20 weapons or especially a rifle, do they produce much GSR?

21 A I do not know. That's not my area of expertise.

22 Q Okay.

23 A I know they have gunpowder in them and I know firearms
24 produce some. But I don't know the quantity.

25 Q Okay. Fair enough. Now, once you received this rifle,

JAMES GREEN

433

1 you did test fire it, correct?

2 A Yes, sir.

3 Q So if you test fired it, it was in working condition?

4 A When I had it. Yes, sir.

5 Q And what bullets are used to test fire?

6 A For the department, I buy all the ammunition. We have
7 130 square foot closet and it's full of ammunition. We've
8 got as many calibers as we can fit. We're running out of
9 room. But we have different brands of ammunition. We have a
10 bunch of .22 ammunition, we have bunch of .38, a bunch of
11 the 9 millimeter, a bunch of the .40. And what we do is we
12 find ammunition that's as close to what was allegedly used
13 in the crime as possible to test fire that ammunition.

14 Q In this case, along with the weapon being submitted for
15 examination, there were -- also submitted was a clip that
16 was with the gun; is that correct?

17 A Yes, sir. There was a magazine.

18 Q And it also contained unfired bullets?

19 A Yes, sir. That's how I knew what brand of ammunition
20 to start test firing with.

21 Q And once you test fired this ammunition -- and I've
22 already shown you State's 143, the fired cartridge case that
23 was found beside the bedroom. Were you able to make a
24 comparison to your test fired cartridge case and the
25 cartridge case that was found inside the house?

JAMES GREEN

434

1 A Yes, sir. After we test fire the firearm or firearms,
2 if there's multiple in a case, what we'll do is we'll go to
3 our comparison microscope. It's the main tool that we use
4 as firearms examiners. It's basically two microscopes
5 connected by one single optical bridge that lets us look at
6 two objects simultaneously, and what we're looking for is
7 tiny scratches or indentations as a result of being fired.
8 So when I test fired the rifle, I looked at the test fires
9 to make sure it was marking consistently. And once that was
10 done, I then moved on to examining the test fires versus the
11 fired evidence cartridge case.

12 Q And in this case, did your test cartridges have
13 matching identification or characteristics as the recovered
14 shell casing?

15 A I believe that's State's Exhibit 143, correct?

16 Q That's right.

17 A Yes, sir. State's Exhibit 143 was fired by the firearm
18 submitted in this case.

19 Q Now, in addition to comparing the rifle and also the
20 shell casing that was located in the bedroom next to the
21 victim, were you also submitted to analyze a bullet that was
22 recovered from the wall of the trailer?

23 A Yes, sir. A bullet was submitted to me. I don't
24 recall where it came from, but I do remember getting a
25 bullet to examine in this case.

JAMES GREEN

435

1 Q And did you examine that?

2 A Yes, sir.

3 Q And what were your findings?

4 A Based on the damaged condition of it, I was able to
5 give a caliber. It was consistent with the caliber of the
6 rifle. However, my examinations -- or the results were
7 inconclusive. It had the same general rifling
8 characteristics. Meaning the width of the land in the
9 groove which make up the rifling in the barrel, they were
10 the same. I mean, there were some very limited similarities
11 in the rifling impressions, but the bullet was too damaged
12 and there just wasn't enough similarities to say that the
13 bullet was fired by the firearm.

14 Q But you could get the caliber?

15 A Yes, sir.

16 Q And what caliber was that?

17 A It was most consistent with a .22 long rifle, which is
18 the caliber of the rifle.

19 Q And that would be State's 128. Is that the bullet you
20 did analyze?

21 A Yes, sir. State's Exhibit 128 was the SLED item 16
22 bullet that I examined in this case.

23 Q Now, Agent Green, did you do any other examinations in
24 this case?

25 A I tested the trigger pull weight of the rifle and that

JARED CASTELLANI

436

1 was it.

2 Q And how heavy was the trigger pull?

3 A May I refer to my notes?

4 Q Yes, sir.

5 THE COURT: That exhibit, Solicitor, is that already in
6 evidence or --

7 MR. BROWN: For -- 128. And if it's not, I would be
8 move 128 in as an exhibit.

9 THE COURT: Any objection?

10 MR. GROSE: No. I don't have an objection.

11 THE COURT: Apparently, I think it is already in.

12 MR. BROWN: And if 143's not in evidence, I'd move that
13 in, as well. The shell casing.

14 THE COURT: We have that in.

15 MR. BROWN: Yes, sir.

16 A The trigger pull weight of the rifle was approximately
17 six and three quarter pounds.

18 Q And what does that mean?

19 A A gallon of water weighs roughly eight pounds. If it
20 was a half gallon, it would weigh roughly four pounds. It's
21 the equivalent of picking up about three quarters of a
22 gallon of water with one finger.

23 Q But ultimately, in this case, analyzing that gun and
24 the shell casing did match?

25 A Yes, sir.

JARED CASTELLANI

437

1 MR. BROWN: No further questions.

2 THE COURT: Mr. Grose?

3 CROSS-EXAMINATION

4 BY MR. GROSE:

5 Q So the shell casing matched the gun is what you're
6 saying, right?

7 A Yes, sir.

8 Q And the bullet from the wall was inconclusive?

9 MR. GROSE: I have no other questions. Thank you.

10 THE COURT: Thank you for coming, sir. You are free to
11 go. Take care.

12 THE WITNESS: Thank you.

13 THE COURT: Next witness, please.

14 MR. BLACK: State calls Jared Castellani.

15 JARED CASTELLANI, having first been
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BLACK:

19 Q Am I saying your last name right?

20 A Castellani.

21 Q Can you spell that for the court reporter, please?

22 A Sure. It's C-a-s-t-e-l-l-a-n-i.

23 Q And you work at SLED, as well; is that correct?

24 A Yes, I do.

25 Q And what do you do at SLED?

JARED CASTELLANI

438

1 A I am a forensic toxicologist.

2 Q And your education, what's your education background,
3 briefly?

4 A I have a Bachelor of Science in biochemistry from the
5 University of Scranton and a Master's of Science in forensic
6 science from Arcadia University.

7 Q I'm sorry, a couple people coughed. What was that
8 Master's?

9 A Master's of Science in forensic science from Arcadia
10 University.

11 Q Okay. And how long have you been in SLED?

12 A I have been working at SLED for approximately three and
13 a half years.

14 Q And have you ever testified in court before?

15 A Yes, I have.

16 Q As an expert?

17 A Yes.

18 Q How many times?

19 A Approximately five times.

20 MR. BLACK: Your Honor, at this point, State moves Mr.
21 Castellani in as an expert in forensic toxicology.

22 MR. GROSE: No objection.

23 THE COURT: All right. And, again, ladies and
24 gentlemen, because Mr. Castellani is an expert, or the
25 parties agree he's an expert in forensic toxicology, he can

JARED CASTELLANI

439

1 give opinion testimony in that area. Solicitor, continue.

2 MR. BLACK: Thank you.

3 Q Mr. Castellani, you tested -- it looks like it was item
4 eight and item 13 that came to you to run a test on; is that
5 correct?

6 A Yes.

7 Q And what items were -- what was that?

8 A May I refer to the --

9 Q Absolutely.

10 A -- lab report? Item eight was a blood sample and item
11 13 was another -- an additional blood sample.

12 Q Okay. And you test for blood sugar, drugs, alcohol,
13 stuff like that; is that correct?

14 A Correct.

15 Q And what's the machine that you use to test these --
16 the blood?

17 A Depends -- it depends on what test we are performing.
18 We used a headspace gas chromatograph for -- a headspace gas
19 chromatograph for blood alcohol analysis. In this case, it
20 was -- the blood alcohol was negative. Then we do a drug
21 screen using a technique known as enzyme linked immunoassay,
22 and this is a general screen that tells us, presumptively,
23 what is positive in the blood. In this case, we test for 12
24 separate drugs or drug classes of drugs and it was positive
25 for methamphetamine and amphetamine. So that means that we

JARED CASTELLANI

440

1 would do further confirmatory testing on it. And in that
2 case, we did confirmatory tests using GCMS, Gas
3 Chromatography-mass spectrometry, and we found
4 methamphetamine and amphetamine.

5 Q And the blood that you tested, who did it belong to?

6 A The blood was labeled Stutler, Christie Lynn.

7 Q Okay. And I know you said you found methamphetamine
8 and amphetamine. Did it test negative for the other drugs
9 that you were looking for?

10 A Yes.

11 Q And those, can you describe those drugs or what they
12 were?

13 A The -- the other drugs that we looked for are
14 benzodiazepines, Buprenorphine, Carisoprodol, cocaine,
15 Methadone, opiates, Oxycodone, Tramadol, Zolpidem and
16 cannabinoids, or marijuana.

17 Q Okay. And the Gas Chromatography-Mass Spectrometry,
18 that machine, is that -- that's the industry standard,
19 correct? That machine.

20 A Correct.

21 Q And the levels of meth and the levels of amphetamine in
22 her system, did you have -- do you have that?

23 A Yes. The results were that methamphetamine was found
24 at .22 milligrams per liter and the amphetamine was found at
25 a .12 milligrams per liter.

JARED CASTELLANI

441

1 Q Okay. Now, is there any -- do you know if the
2 methamphetamine and the amphetamine here in this -- in this
3 situation and this case, do you know if they were different
4 drugs or if it was part of the same drug or do you know
5 that?

6 A Methamphetamine -- when you take methamphetamine, your
7 body breaks it to secrete it to get rid of it from the body.
8 In that case, it will break it down into -- one of the
9 byproducts that it breaks it down to is amphetamine, so that
10 is possible why you see both methamphetamine and amphetamine
11 if a person just took methamphetamine. But I can tell you
12 for -- I can't tell you for certain whether it was just one
13 drug or two drugs that were taken.

14 Q And amphetamine, just to be clear, I mean, it's found
15 in certain prescription drugs or certain drugs, correct?

16 A Correct.

17 Q That can prescribed to somebody?

18 A Correct.

19 Q Okay. But, I mean, it's -- she had, I think you said
20 it was .22. How much meth, again, was in her system that
21 you found?

22 A The methamphetamine was .22 milligrams per liter.

23 Q And how -- how much is that? Is that a lot? Is that a
24 little? Can you -- can you determine that?

25 A Just based off the toxicology report, it's difficult to

JARED CASTELLANI

442

1 say because you don't know whether a person -- this is the
2 first time that they're using or whether they are a habitual
3 user, so they use continuously. Based on, typically, what I
4 see on a daily basis, whether it be driving -- driving cases
5 or anything, this is a relatively lower amount -- lower to
6 moderate amount. You definitely see a lot higher in some
7 cases.

8 Q Okay. And if somebody was like a chronic user of
9 methamphetamine, would that determine how much meth is in
10 the system or how it would affect somebody?

11 A If they were a chronic user, typically, they would have
12 a higher amount because it takes a larger amount for them to
13 experience the -- or experience the euphoria that they're
14 searching for when taking the drug.

15 Q Okay. And so, if it was a chronic user of
16 methamphetamine and this was the dosage, are you testifying
17 that's relatively small to moderate?

18 A Yes.

19 Q And just generally, can you tell the jury the effects
20 of methamphetamine?

21 A Sure. When a person first takes methamphetamine,
22 they're going to experience a euphoric high. So they're
23 going to experience euphoria, excitement. They're going to
24 have a rapid flight of ideas, their speech is going to be
25 rapid, their blood pressure and heart rate are all going to

JARED CASTELLANI

443

1 be alleviated, they -- their temperature is going to be
2 alleviated. And this is in the initial portion, while
3 they're going up on a high. When they're coming down
4 they're going to experience the exact opposites of these.
5 So diseuphoria, agitation, sometimes aggressive behavior,
6 they're going to be -- whereas initially it's going to wake
7 you up and get you around. When you are coming down off of
8 it, you're going to be sleepy, tired, want to take a nap,
9 that sort of thing.

10 Q Okay. So it kind of acts as a stimulant and a
11 depressant at the same time?

12 A Somewhat, yes.

13 Q Okay. Just depending on --

14 A Yes. What time you're looking at, at the --

15 MR. BLACK: Okay. That's all the questions I have.

16 Please, answer any questions Mr. Grose might have.

17 THE COURT: Cross?

18 MR. GROSE: I think this will be real quick.

19 CROSS-EXAMINATION

20 BY MR. GROSE:

21 Q Just -- you said that you had two blood samples?

22 A Correct.

23 Q And on the report it looks like you have those, the
24 autopsy number, associated with both of those, right?

25 A Correct.

JARED CASTELLANI

444

1 Q So it's fair to say that that's the blood sample that
2 came from Dr. Woodard's autopsy? The two samples.

3 A I would assume. I can't say for certain.

4 Q Okay. All right. And you said methamphetamine -- I
5 mean, we're talking about a street drug, right?

6 A Correct.

7 Q And that's sometimes called ice?

8 A Correct.

9 Q Okay. And you said when that breaks down, one of the
10 components is amphetamine?

11 A Yes.

12 Q And that's why both are listed on this report?

13 A That is a possible reason why both were found. Yes.

14 Q Okay. And amphetamine can be prescribed?

15 A Yes.

16 Q Have you given any prescriptions for Christie for that
17 drug?

18 A No.

19 Q Okay. And, of course, when you're talking about how
20 people react, we can make generalizations, but every
21 individual's different?

22 A Correct.

23 MR. GROSE: That's all I have. Thank you.

24 THE COURT: All right, sir. Thank you very much for
25 coming. You are free to go.

JESSICA STOWE

445

1 THE WITNESS: Thank you.

2 (Whereupon, the witness stepped down from the witness
3 stand.)

4 THE COURT: Any additional SLED witnesses at this
5 point?

6 MR. BROWN: We might take a break to make sure we have
7 the other one here.

8 THE COURT: Ladies and gentlemen, we've been at it for
9 approximately an hour, maybe a little bit longer. We'll be
10 at ease for a few moments. Don't talk about the case, but
11 if you need to step outside, let the bailiff know and he'll
12 take you down the back way. Okay? Thank you.

13 (Whereupon, the jury exited the courtroom at 11:01 a.m.
14 and a recess was held until 11:21 a.m.)

15 (Whereupon, the jury entered the courtroom at 11:21
16 a.m.)

17 THE COURT: All right. The jury is back and seated.
18 Of course, the Defendant is present with counsel.
19 Solicitor, if you'll call your next witness, please.

20 MR. BLACK: State calls Jessica Stowe.

21 JESSICA STOWE, having first been
22 duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. BLACK:

25 Q And, Ms. Stowe, can you spell your last name for the

JESSICA STOWE

446

1 court reporter, please?

2 A Yes. It's S-t-o-w-e.

3 Q And you work at SLED; is that right?

4 A Yes. That is correct.

5 Q And what do you do at SLED?

6 A I am a forensic serologist within the DNA department at
7 SLED.

8 Q Okay. And just so everybody's clear, what is serology?

9 A Serology is the identification of body fluid, such as
10 blood, semen and saliva. So as a serologist, we screen
11 items of evidence that may come in the door. It can be
12 anything from clothing items to sexual assault kits, to guns
13 for potential body fluids that could be present. Those body
14 fluids potentially contain the DNA that's necessary to
15 develop DNA profiles. I take evidence off of those items,
16 and then forward those to the DNA department.

17 Q Okay. Could you just tell us briefly your education?

18 A Yes. I have a Bachelor's of Science in biology with a
19 Minor in chemistry from the University of South Carolina and
20 I am currently obtaining my Master's of Science in
21 microbiology and cellular sciences from the University of
22 Florida.

23 Q Okay. And how long have you worked at SLED?

24 A I have worked at SLED for almost six years.

25 Q And you're essentially a forensic serologist?

JESSICA STOWE

447

1 A Yes, that is correct.

2 Q And have you ever testified in court before?

3 A Yes, I have.

4 Q And you've been qualified as an expert before?

5 A Yes, I have.

6 Q How many times?

7 A I have testified 15, been qualified 12.

8 MR. BLACK: Your Honor, at this point, the State moves

9 Ms. Stowe in as an expert in forensic serology.

10 THE COURT: No objection?

11 MR. GROSE: No objection.

12 THE COURT: Again, she can give opinion testimony in
13 the fields -- or in the field of forensic serology. Mr.
14 Black, please --

15 MR. BLACK: May I approach the witness? Can I step
16 forward?

17 THE COURT: Please. Please.

18 MR. BLACK: Thank you, Your Honor.

19 Q I'm going to show you what's been marked as State's
20 128. We're going to jump right into this. Do you know what
21 that item is?

22 A State's Exhibit 128 is our lab number L1615439 item
23 number 16, which appears to be a projectile fired from a .22
24 long rifle.

25 Q And you examined that item; is that correct?

JESSICA STOWE

448

1 A That is correct.

2 Q And what are you looking for?

3 A For this item, I was looking for the possible presence
4 of blood.

5 Q And did you find it?

6 A Presumptive testing for blood was negative.

7 Q And so, you tested that. Can you explain to the jury
8 how you go about testing the item?

9 A So when we look for blood it's a visual examination.
10 You're looking for any stains that could possibly look like
11 blood. We have chemicals that in conjunction with these
12 stains, if blood is there, it will turn a bright pink color.
13 In this case, it did not. So I deemed it negative.

14 Q Okay. And so, I'll grab that item from you. That's
15 item 16, a projectile. You said no presumptive testing,
16 right?

17 A Yes. It was negative for blood.

18 Q Once you got done with this item, did you -- you sent
19 it off to firearms, I'm assuming; is that right?

20 A Yes. To James Green.

21 Q Who just testified. We'll go to your kind of primary
22 report at this point. You tested items -- item three -- or
23 you looked at item three. Did you test anything on that
24 item?

25 A No. Item three is swabs taken from under the

JESSICA STOWE

449

1 fingernails of the left and right hands of Charles Tillman.
2 I mentioned earlier that as a serologist we screen for body
3 fluids, which is blood, semen and saliva. However, we also
4 take evidence into our custody and prepare it for DNA
5 analysis. What that means is small cuttings get put in
6 sterile tubes, packaged and forwarded to DNA. It just
7 speeds up the process and helps them out a bit.

8 Q Okay. And you did that with item three and item four,
9 as well, correct?

10 A That is correct.

11 Q And item four was -- what was item four?

12 A Item four is fingernail scrapings collected from the
13 left and right hands of Christie Stutler.

14 Q Okay. And I'm just going to show you this. I believe
15 there in evidence. State's 144 and State's 145, do you
16 recognize those items?

17 A State's 145 is item three, the swabs from the left and
18 right hands of Charles Tillman.

19 Q Okay.

20 A And State's Exhibit 144 is item four, which are the
21 fingernail scrapings collected from Christie Stutler.

22 Q So you just prepared them to be sent on to DNA --

23 A Right. That would be correct.

24 Q -- forwarded to DNA?

25 A Yes.

JESSICA STOWE

450

- 1 Q And you didn't test anything on those items?
- 2 A No.
- 3 Q I'll take those items back from you.
- 4 A Okay.
- 5 Q On item 4.1.2 it looks like you found a hair; is that
- 6 correct?
- 7 A May I refer to my report?
- 8 Q Absolutely.
- 9 A Yes. Item 4.1.2 is a hair. That was found upon
- 10 inventory of the left hand fingernail scraping.
- 11 Q Of who?
- 12 A Of Christie Stutler.
- 13 Q And did you try to -- did you try to look at that hair?
- 14 A Yes. As a forensic serologist, we examine hairs for
- 15 root material, and that root material contains potential DNA
- 16 that would be required to develop those DNA profiles. We
- 17 use a fancy microscope called a stereoscope that allows me
- 18 to look really closely at the ends and, in this case, I did
- 19 not see a root. So, therefore, it was not forwarded.
- 20 Q So the root's important why?
- 21 A Because it contains the potential DNA profiles. Those
- 22 cells that the analysts will need to develop those profiles.
- 23 Q So if I were just to cut like a strand of that hair,
- 24 would that have that root material in it?
- 25 A No, it would not. If you just cut your hair, you would

JESSICA STOWE

451

1 essentially just have the shaft and that does contain the
2 cells that those analysts need to develop the profile.

3 Q And so, root material, you'd have to literally like
4 pull it out, correct?

5 A Yes. You can pull it out and hopefully you'll get some
6 root material. When hair is shed naturally, root material
7 can also be present. So it really just depends.

8 Q Okay. Moving on, you looked at item number 7. What
9 was item number 7.

10 A Item number 7 is the sexual assault evidence collection
11 kit from Christie Stutler.

12 Q Okay. And you -- that item, item number 7, was broken
13 down into several different parts; is that right?

14 A Yes. That is correct. When I first get a sexual
15 assault kit, I inventory that kit. So item number 7 is the
16 parent item and whatever items are present they become
17 sub-items and an item of their own, as well. So, yes.
18 That's why you'll see 7.1, 7.2 and so on.

19 Q All right. And so, within that sexual assault kit
20 there were different smears. You looked at a vaginal swab;
21 is that correct?

22 A Yes. I looked at smears and vaginal swabs, as well.

23 Q Okay. And then just starting out with the smears. Did
24 you -- what were looking for and did you find anything?

25 A With smears, what happens with that is when the

JESSICA STOWE

452

1 evidence is collected off of the body, there are glass
2 slides. And so, the medical professional will swab the area
3 of interest, and then swab the glass. When I'm looking at
4 the glass, I'm looking for spermatozoa. Those are the male
5 sperm cells, reproductive cells. And, in this case for the
6 smears, I looked at vaginal, oral, and rectal smears, which
7 no spermatozoa was identified.

8 Q And those were within the, you said, vaginal, oral and
9 rectal, correct?

10 A Yes.

11 Q What about -- did you look for -- was there testing for
12 semen?

13 A Yes. So semen and sperm, those are two terms that are
14 used interchangeably. Semen can be broken down into a fluid
15 component and a cellular component. That cellular component
16 is what I just mentioned, the spermatozoa, those cells that
17 I was looking at on the glass. For the vaginal swabs, the
18 oral swabs and the rectal swabs, I am also looking for p30.
19 That is a protein found in that liquid, that fluid
20 component. And those were -- that test was negative, as
21 well, along with the spermatozoa search.

22 Q So you found no spermatozoa and no semen anywhere on
23 those?

24 A Right. There were no components of the semen present.

25 Q Okay. You also had fingernail clippings from Ms.

JESSICA STOWE

453

1 Stutler from her right hand and her left hand. Did you do
2 anything with those?

3 A Yes. I just forwarded those for DNA analysis like the
4 previous samples.

5 Q Okay. You also looked at a known hair from Ms.
6 Stutler. You didn't perform any analysis, did you?

7 A No analysis was performed.

8 Q Okay. And finally, I'm going to show you State's 120
9 -- 132. Take a look at that item.

10 A State's Exhibit 132 is our item number 15, a shirt worn
11 by Charles Tillman.

12 Q Okay. And you -- what were you looking for on that
13 item?

14 THE WITNESS: Can I put this over there?

15 THE COURT: Yes.

16 THE WITNESS: All right.

17 MR. BROWN: I'll take it. I'm sorry.

18 THE WITNESS: That's okay.

19 A I was looking for possible blood.

20 Q And how did you go about looking for it?

21 A It's the same process. Like I mentioned earlier, it
22 starts with a visual examination and any areas of interest,
23 I will test those with the chemicals and in conjunction with
24 the same. If positive, it will turn bright pink. If
25 negative, no color change will occur. And, in this case, no

ROBERT STUTLER

454

1 color changes occurred and it was negative.

2 Q Okay. So you did the visual test, as well as the
3 chemical test?

4 A That is true.

5 MR. BLACK: I think that's all the questions I have.
6 Please, answer any questions Mr. Grose might have for you.

7 THE COURT: Mr. Grose?

8 MR. GROSE: Thank you.

9 CROSS-EXAMINATION

10 BY MR. GROSE:

11 Q You examined the projectile, right?

12 A For blood.

13 Q For blood. No blood?

14 A No.

15 Q You examined the green shirt for blood and no blood?

16 A None was detected.

17 Q Okay. And you -- you processed the sexual assault kit.

18 No evidence of sexual assault that -- sperm or -- nothing
19 that would look for in a sexual assault?

20 A No semen was identified on the sexual assault kit.

21 Q Okay. And then a lot of the items, you just forwarded
22 on to somebody else?

23 A Yes. Those items that did not require body fluid
24 analysis were forwarded to DNA.

25 MR. GROSE: Thank you. That's all I have.

ROBERT STUTLER

455

1 THE COURT: Ma'am, thank you for coming. You are free
2 to go.

3 THE WITNESS: Thank you.

4 (Whereupon, the witness has stepped down from the
5 witness stand.)

6 THE COURT: Call your next witness.

7 MR. BROWN: State calls Bob Stutler.

8 ROBERT STUTLER, having first been
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BROWN:

12 Q Mr. Stutler, are you the father of Christie?

13 A Yes, sir.

14 Q And was Christie your only daughter?

15 A I had lost a previous daughter years ago, but yes. She
16 was my only daughter.

17 Q How many children do you have?

18 A Five.

19 Q And the remaining are all boys?

20 A Yes.

21 Q Now, how does Christie fall in line in the order?

22 A She was our baby. All of our baby's.

23 Q Did Christie have any children?

24 A Yes -- yes.

25 Q And what are there names?

ROBERT STUTLER

456

- 1 A Tyson and Malachi.
- 2 Q How old are they?
- 3 A Fourteen and 11, I think. I'm not good with ages.
- 4 Q And Christie was 31 when she died?
- 5 A Yes, sir.
- 6 Q And what hand was her dominant hand?
- 7 A Right hand.
- 8 Q Mr. Stutler, let's cut straight to the chase. In the
- 9 first interview -- you've been in here all week?
- 10 A Yes, sir.
- 11 Q The first interview with Mr. Tillman, he -- the
- 12 question was asked who would -- who would like to hurt
- 13 Christie and he mentioned your name. He had mentioned that
- 14 you previously molested her as a child at some point. Is
- 15 that true?
- 16 A Not hardly. I loved my baby.
- 17 Q You never sexually assaulted your daughter?
- 18 A No, sir. That is cruel to say that.
- 19 Q Did you ever want to hurt your daughter?
- 20 A No, sir. That was my baby girl.
- 21 Q He also mentioned that you would give her drugs. Did
- 22 you ever give her drugs?
- 23 A You know, the only way I can answer that is, I'm just
- 24 an old farm guy. I don't even know what drugs is. I take
- 25 aspirin. If that's a drug, then I take drugs. I don't know

ROBERT STUTLER

457

1 what drugs are.

2 Q He specifically said you gave her Oxys?

3 A I don't know what that is. I don't even know what
4 you're talking about.

5 Q Did you hear the toxicologist in here a little while
6 ago?

7 A Yes, sir. I was listening to them.

8 Q And in the report, she actually tested negative for
9 Oxycodone, didn't she?

10 A Yes, sir.

11 Q Also in his interviews, he mentioned --

12 MR. GROSE: Your Honor, I'm going to object to
13 continual pitting. If they have a question, that's fair
14 game. But not opinion with the interview itself.

15 MR. BROWN: I can rephrase.

16 THE COURT: Rephrase the question, Solicitor, please.

17 Q Mr. Stutler, from your interactions with Christie, did
18 she have any mental health issues?

19 A No, sir.

20 Q She did, time to time, use different substances; is
21 that right?

22 A That's what I was told. I just -- I know I sound
23 stupid. I don't know what drugs are. I don't -- I don't
24 know what she was on.

25 Q Did Christie try to get drug treatment help?

ROBERT STUTLER

458

1 A We one time took her to the hospital at AnMed for that
2 and they would not take her because she didn't have no
3 insurance.

4 Q Again, you loved your daughter, right?

5 A With all my heart. It's right here, is my daughter.
6 This is how I pray to my daughter and every morning and
7 every night. Right here. That's my daughter.

8 Q And you never hurt your daughter?

9 A No.

10 MR. BROWN: No further questions.

11 CROSS-EXAMINATION

12 BY MR. GROSE:

13 Q You said Christie had two children?

14 A Yes, sir.

15 Q And they were how old now?

16 A Fourteen and 12, I think.

17 Q All right. And she didn't have custody of those
18 children?

19 A No, sir.

20 Q Her mother has custody?

21 A Yes, sir.

22 Q And her mother went to court to get custody?

23 A I guess they did.

24 Q Okay. And you don't deny that Christie might have had
25 used methamphetamines.

BO BARTON

459

1 A I never said -- I didn't say that. I said I don't know
2 what drugs are and I don't know what she was on.

3 Q Okay. But you took her to the hospital in Anderson for
4 drug treatment?

5 A She wanted me to take her up there.

6 Q Okay. And do you know the connection between drugs and
7 mental illness.

8 A I'm not a doctor.

9 MR. GROSE: Okay. I'm sorry for your loss and thank
10 you for being here today.

11 THE WITNESS: Thank you.

12 REDIRECT EXAMINATION

13 BY MR. BROWN:

14 Q Just to follow up on the mental issue and her health
15 issues. Did you ever know Christie to be suicidal?

16 A No, sir. She was a happy girl.

17 THE COURT: Thank you very much for coming.

18 (Whereupon, the witness has stepped down from the
19 witness stand.)

20 THE COURT: Solicitor, call your next witness, please.

21 MR. BLACK: State calls Bo Barton.

22 BO DARWOOD BARTON, having first
23 been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. BLACK:

BO BARTON

460

1 Q Can you introduce yourself to the jury, please, Mr.
2 Barton?

3 A Yes. My name is Lieutenant Darwood Joseph Barton and
4 I'm with SLED, South Carolina Law Enforcement Division.

5 Q And how long have you been in law enforcement, Mr.
6 Barton?

7 A Thirty years.

8 Q And have you always been at SLED or did you work in
9 other departments?

10 A I've been at SLED since I graduated college.

11 Q And where did you go to college?

12 A Wofford College.

13 Q And you've got a degree -- was it a Bachelor's of
14 Science?

15 A Bachelor of Arts in Sociology, and then my Master's
16 degree is Criminal Justice from the Charleston Southern
17 University.

18 Q All right. And you said you've been at SLED for about
19 30 years. What is -- what's your title right now at SLED?

20 A I am a lieutenant in charge of the behavioral science
21 unit. I'm one of the criminal profilers at SLED.

22 Q And before you became a criminal profiler, did you work
23 in other areas at SLED?

24 A Yes, sir. I worked in -- my first job was Bloodhound
25 tracking team, SWAT team, then I went to undercover

BO BARTON

461

1 narcotics, then I worked the violent crimes task force, drug
2 task force, and then moved over into homicide, and then from
3 there I went into the -- excuse me. I went into the
4 protocol to become board certified as a criminal profiler.

5 Q And how long have you been a criminal profiler?

6 A Since 2003.

7 Q And you're a lieutenant over that division now at SLED?

8 A Correct.

9 Q On November the 8th of 2016, did you -- you didn't
10 respond to Bell Road, did you?

11 A No, sir. I didn't

12 Q How did you go about becoming involved in this
13 particular case?

14 A I received a call from Captain Talbert, Natalie. And
15 so, she had formally worked at SLED and we worked -- worked
16 cases together before. And behavioral science or criminal
17 profilers get called in occasionally to --

18 MR. GROSE: Your Honor, may we approach?

19 THE COURT: Come over here, please.

20 (Whereupon, a sidebar was held.)

21 MR. GROSE: Thank you, Your Honor.

22 THE COURT: The objection is sustained. Solicitor, if
23 you'll move along, please, and ask another question.

24 MR. BLACK: Yes, sir.

25 Q You interviewed Mr. Charles Tillman; is that correct?

BO BARTON

462

1 A Yes, sir. I did.

2 Q And do you remember what day that was?

3 A The 29th.

4 Q Of what? Of November?

5 A November, yes.

6 Q Of 2016?

7 A 2016.

8 Q How many days after the murder of Ms. Stutler had that
9 -- was that?

10 A That would have been 21 days.

11 Q Okay. And you had your interview with Mr. Tillman.

12 Did you audio record it or video record it?

13 A Audio and video recorded it at the Abbeville County
14 Sheriff's Office.

15 Q Okay. Are --

16 MR. GROSE: Your Honor, I have -- if there's -- if it's
17 video, I have an objection. I don't have that. I just have
18 an audio.

19 THE COURT: Were we going to play video or were we
20 going --

21 MR. BLACK: I wasn't. I was going to make sure it was
22 in evidence.

23 THE COURT: Okay.

24 MR. BLACK: And I don't have -- we don't have a video
25 either. It's just audio.

BO BARTON

463

1 THE COURT: Okay. So it's just audio?

2 MR. BROWN: It's just audio.

3 THE COURT: All right. No objection to playing the
4 audio, then?

5 MR. GROSE: No. I just -- just if there is a video,
6 whether -- I want to see it. That's all I'm asking.

7 MR. BROWN: There's no video.

8 THE COURT: What was the video actually --

9 MR. BLACK: It's just of audio.

10 THE COURT: You only have audio?

11 MR. BLACK: Yes, sir.

12 THE COURT: Was it audio or video?

13 THE WITNESS: I apologize, Your Honor. It was audio
14 only because the video machine wasn't working that day, so I
15 actually used my own audio recording.

16 THE COURT: All right. Thank you.

17 THE WITNESS: I apologize.

18 THE COURT: I think we got that cleared now. All
19 right. Do you want to play the audio?

20 MR. BLACK: I'm not.

21 Q I'm just going to show it to you. It's been marked as
22 State's 127. I think it's in evidence already. Is that a
23 copy of the audio that you recorded?

24 A Yes, sir. It is.

25 Q And about how long was your interview with Mr. Tillman?

BO BARTON

464

1 A About an hour and 10 to 11 minutes.

2 MR. BLACK: Okay. Your Honor, the State moves 120 into
3 evidence -- 127 into evidence. I believe it's

4 MR. GROSE: No objection to that.

5 THE COURT: Without objection, 127 is in evidence. I
6 think it may already be. It is.

7 Q And before you did the interview, did you go over Mr.
8 Tillman's Miranda?

9 A I did.

10 Q And I'm going to show you what's been marked as State's
11 Number 150. Do you recognize that document?

12 A I do recognize that document because my signature is on
13 it.

14 Q Okay. And standard Miranda form?

15 A It is a standard Miranda form. I read it to him, Mr.
16 Tillman, had him initial each individual right, and then had
17 him sign the waiver for rights. And then it was signed by
18 me as a witness with SLED, and then the date of 11/29/16 and
19 time was 10:30 a.m.

20 Q 10:30 in the morning when that interview took place?

21 A Yes, sir.

22 MR. BLACK: Your Honor, the State moves 150 into
23 evidence.

24 MR. GROSE: No objection.

25 THE COURT: 150 is in.

BO BARTON

465

1 (Whereupon, State's Exhibit Number 150 was admitted
2 into evidence.)

3 Q All right, Mr. Barton. Mr. Tillman, he -- this
4 interview at the Sheriff's Department here in Abbeville; is
5 that right?

6 A That's correct.

7 Q In the interview with Mr. Tillman, what did you all
8 talk about initially when you all -- when he first -- when
9 he first got there?

10 A My point to talk to Mr. Tillman was to try to
11 understand a better understanding of what he believed
12 happened that day, what actually happened that day, events
13 leading, state of mind of the victim, that kind of thing.
14 So we began talking and I was going to give -- I gave him
15 three separate options as to the possible likelihood after
16 my review of the case file --

17 MR. GROSE: Your Honor, I have a matter of law.

18 THE COURT: I'm sorry?

19 MR. GROSE: I have a matter of law to take up.

20 THE COURT: Ladies and gentlemen, if you would, adjourn
21 to the jury room for just a moment. Don't discuss the case.
22 I need to take up an issue involving --

23 (Whereupon, the jury exited the courtroom at 11:46
24 a.m.)

25 MR. GROSE: I think the first thing is that the record

BO BARTON

466

1 needs to reflect that we had a sidebar where I informed the
2 Court that I had been told that the purpose of this witness
3 was that he took an interview and that they were going to
4 either talk about that interview or play parts of that
5 interview. That's gone back and forth during this trial. I
6 had been given absolutely nothing about an expert in
7 criminal profiling. They went through all of his
8 qualifications in that and didn't offer him as an expert.
9 You instructed him when you sustained the objection to move
10 on. That is a junk science and I made that objection
11 because he was getting ready to explain why Captain Natalie
12 Talbert called him in and what a criminal profiler does.
13 You instructed him to move on, and now what he's getting
14 ready to say is, based on my review of the file as an expert
15 at criminal profiling I wanted to give Charles Tillman three
16 scenarios and see how he responded to them, and he's going
17 to going to give opinion testimony. And he's being
18 portrayed to this jury as somebody who's an expert, who's
19 putting his stamp of approval on it, that they're going to
20 say, this guy, who's a criminal profiler from SLED, came up
21 and told you whatever, they're going to argue he's an
22 expert.

23 I'm moving for a mistrial. This is not a science. This
24 is a junk science. This type of testimony is not admissible
25 in the Courts of South Carolina and we were sandbagged on

BO BARTON

467

1 this issue because we were told he was here to do an audio
2 recording that now they're saying they're not even going to
3 play for the jury, they're just going to let him give
4 opinions on it.

5 MR. BLACK: Judge, we were -- and just to respond to
6 that. We were attempting to -- you mentioned the word video
7 fatigue yesterday and they've, essentially, been looking at
8 videos for a day and a half at this point. We were trying
9 to cut those out and just jump straight to what they talked
10 about, but Mr. Grose didn't allow us to get to that point.
11 We're more than happy to play the video. It's about an hour.
12 Since I'm not going to be allowed to ask questions without
13 objections, we'll just hit play.

14 MR. GROSE: What I don't want is, is I don't want him
15 testifying like an expert, based on the review of my file, I
16 wanted to give him three different scenarios. He's
17 expressing an opinion on the evidence, an opinion on the
18 victim's state of mind, an opinion on Charles' state of
19 mind. That's what I have an objection to. If they want to
20 -- they didn't need to do all of this. A lot of times they
21 call polygraph examiners to say, well, I got a statement
22 from a person. The jury never hears that they're polygraph
23 examiners. I feel like we have been totally sandbagged on
24 this issue. If they want to ask him what questions did you
25 ask him, what answers did he give, that's fine. I don't

BO BARTON

468

1 have a problem with us trying to end some of this video
2 fatigue, but this is their evidence. And in the best
3 evidence of what I asked him and what he said is what's on
4 that video. And he does talk about -- I've been doing this
5 for a long time and I know things, but he doesn't give
6 opinions on that like he's getting ready to do in this
7 Court.

8 MR. BLACK: Judge, I wasn't planning on asking him for
9 opinions at all and --

10 MR. GROSE: Well --

11 MR. BLACK: -- like I said, we can just hit play. We
12 cannot change what -- that he's the lieutenant over this
13 division at SLED. We can't change his job title. I'm
14 sorry, Judge.

15 THE COURT: All right. Here's where I am. Mr. Grose,
16 first of all, is accurate concerning the conversation that
17 we had at the sidebar. It sounded as if the State was about
18 to qualify, or attempt to qualify, or elicit testimony that
19 would indicate that Mr. Barton is an expert in criminal
20 profiling. That is not a recognized -- so far as I'm aware
21 of, unless the State can point me to authority to the
22 contrary, that is not a recognized area of expertise in
23 South Carolina under 702. The best thing, at this
24 particular point in time, to do in my opinion is if -- I
25 mean, the best evidence rule is the interview itself. The

BO BARTON

469

1 audio of the interview. The question that the Court has is,
2 what kind of instruction should I give? I don't believe,
3 Mr. Grose, necessarily, that they crossed the line in terms
4 of necessitating a mistrial. But I am understanding and
5 appreciate your position and the fact that maybe they didn't
6 cross the line, but it appears, at least to me, that perhaps
7 inadvertently they were moving in that direction. And I
8 understand the Solicitor's desire to summarize and avoid a
9 one hour audio taping played for the jury. But the manner
10 in which the testimony was being presented, although I think
11 it was an innocent mistake on the part of the State, the
12 manner in which it was starting to come out when Mr. Grose
13 objected certainly seems to lend itself to the very thing
14 Mr. Grose is complaining about. So how do I unring the
15 bell. I understand, Mr. Grose, you're going to say I can't.
16 But, assuming that the Court is not thinking that this --
17 that the character of this testimony is so egregious as to
18 warrant a mistrial, which is basically how I'm ruling, is
19 there any statement that you would like for the Court to
20 make for the trial jury in an effort to ameliorate whatever
21 problems have been caused by the statements he just
22 elicited?

23 MR. GROSE: Well, I think that this was carefully
24 crafted questions and answer, and because they took so much
25 time developing his expertise when they could have just said

BO BARTON

470

1 did you interview Mr. Tillman on such and such a date. And
2 so, at this point, you're right. We can't unring the bell.
3 And so, any curative instruction is -- I'm going to deem
4 inadequate to have the continuing motion. But I think that
5 the Court needs to craft something this says this witness --
6 because you've -- we've not objected to any expert that
7 they've called in this case.

8 THE COURT: Right.

9 MR. GROSE: I didn't even ask the one why she wasn't
10 qualified three out of the 15 times that she testified. It
11 didn't matter to me. Okay? This --

12 THE COURT: This does?

13 MR. GROSE: This does. And so, every time that an
14 expert has been qualified without objection, you have
15 explained, appropriately, what our system says that we tell
16 about an expert. And so, I think that -- you know, number
17 one, if you're going to craft a curative instruction, this
18 jury needs to be told that he's not an expert and that he
19 cannot testified as to opinions. Something similar to but
20 opposite of what you've said with people who were deemed to
21 be experts. The second thing is -- is, you know, this is --
22 if we haven't -- I think we've crossed the line, but if we
23 haven't crossed the line, we starting inching up to it and
24 we had a sidebar, and then we inched up closer to it and
25 we've had the mistrial motion. If we haven't crossed it,

BO BARTON

471

1 we're right up on it. And so, we need to get some ground
2 rules as to what his testimony's going to be. And I didn't
3 -- I didn't create this mess, whether it was intentional or,
4 you know, an accident on their part. They've created a mess
5 and it seems like if they're going to fix it the way to do
6 it is by playing the tape --

7 MR. BLACK: And that's --

8 MR. GROSE: -- or to say, you know, did you have an
9 interview with him, are the questions and answers on this,
10 thank you, have a nice day and they don't have to play it.
11 But -- I mean, but if they play it -- my position on this
12 has been if they play it, we need to play the entire tape.
13 It's with redactions. It's probably a little bit less than
14 the -- I mean, I think it was an hour and 11 minutes, so it
15 would be a little bit less than that with the redactions
16 that have been made.

17 THE COURT: All right. I'm assuming that the tape
18 references the three different options that this witness
19 gave to Mr. Tillman. And I'm not even sure what that means,
20 but I guess three different possible scenarios of how Ms.
21 Stutler passed away. Is that kind of how it -

22 MR. GROSE: It is. And, you know -- and he -- and if
23 he's going -- and quite frankly, I want the jury to hear
24 that, because in the two of the three scenarios that are in
25 play, it could just as well be somebody other than Charles

BO BARTON

472

1 Tillman that came into the house and killed Christie. And
2 that's what -- you know, because what you've seen and what
3 you'll continue to see is that they're trying to push him
4 and push him to say this was heat of passion and -- or an
5 accident on his part and he denies, denies and denies all of
6 that. And --

7 THE COURT: Here's how I'm going to address this then.
8 If the -- because from my notes, the part where you objected
9 or the portion where you objected, the witness testified
10 that he began talking with the Defendant. Clearly, that
11 would be reflected on the audio. He gave him three
12 different options, that would be reflected on the audio. I
13 don't believe that we're perhaps as close to the line, Mr.
14 Grose, as you believe we are. Especially since the verbatim
15 audio is going to be played momentarily for the jury. So my
16 intention -- and I understand that you, in order to preserve
17 your mistrial motion, in order to preserve the issues for
18 appeal should an appeal be taken in this case, that you have
19 to object to any instruction that I give. My intention is
20 when the jury comes back -- and I'll take five minutes and
21 we can use the restrooms or whatever. My intention is to
22 explain to the jury that I want to clear up any -- that I
23 want to clear up any misconception. I will explain that Mr.
24 Barton is not an expert in any science or field, that their
25 -- that criminal profiling is not a recognized science, and,

BO BARTON

473

1 basically, that this witness is limited to testifying merely
2 about the conversation that he had with the Defendant and is
3 not able to give any sort of opinion testimony. That is my
4 intention so that there is no doubt in their mind that this
5 was merely -- that this witness is merely a, for lack of a
6 better word, an investigator witness as opposed to an expert
7 witness. Is there anything else that -- still preserving
8 your right to object and the fact that you're going to feel
9 that the instruction I give them is insufficient, is there
10 anything that the Defense would ask that I add to that
11 instruction?

12 MR. GROSE: That it was improper for the State and the
13 witness to present him as an expert.

14 MR. BROWN: Judge, I don't -- and I don't think he even
15 got to that part of presenting him as an expert. And then
16 the question -- I know what your ruling is on that. When
17 the last objection occurred, I think -- from what I
18 remember, Bo Barton just said I gave him three options,
19 which will be played in that video. There was no expert
20 opinion --

21 MR. GROSE: Well, now -

22 MR. BROWN: -- or followup from that. So that's beside
23 the point. But I just wanted to make clear that the record
24 does show that he's not trying to elicit any opinion. He
25 was just asking about the interview.

BO BARTON

474

1 MR. BLACK: I was asking -- Your Honor, I was asking
2 about the questions that were in the interview. And I also
3 want to note that on the record I told you that I was not
4 going to -- attempting to qualify Mr. Barton as an expert
5 and I told you that I wasn't going to do that. Even when
6 Mr. Grose timely objected, that was never my intent.

7 THE COURT: I understand, but I prefer clean trials --

8 MR. BROWN: Yes, sir.

9 THE COURT: -- and by going down the road that the
10 State went, there -- I'm not saying that you got there. But
11 you were -- it was definitely headed in the direction of
12 giving the imprimatur of expertise in criminal profiling
13 that there is some way to magically discern whether someone
14 is telling the truth or not. And that is what Mr. Grose, in
15 a nutshell, correct me if I'm wrong, has an issue with.
16 That the idea that you can criminally profile, take a set of
17 circumstances, take a set of facts, and then from those bits
18 and pieces create this profile of who the murderer was. I
19 mean, this is not CSI. This is not Agatha Christie. That's
20 what he's objecting to and that's what I want to make sure
21 that the jury understands.

22 MR. BROWN: Yes, sir. We have no problem with your --
23 with your instruction you're giving the jury.

24 THE COURT: Let me just formulate it in my mind. I
25 don't think that they got there, Mr. Grose, but your

BO BARTON

475

1 objection to it is noted and your objection to everything
2 that I say to the jury is also noted.

3 MR. GROSE: And I just want to respond to your comment
4 about in a nutshell we were concerned about them going --
5 this is why I think it was crafted is because when you --
6 expert witness 101, training, background, experience, offer
7 him as a witness, did you review data, based on that data I
8 did this. They ask every step, but left out the one that
9 they know they can't get and it gives the impression to the
10 jury that he's an expert, and that's why I think it was
11 carefully crafted for them to do that. Otherwise, they
12 could have just said, hey, you work for SLED. How long have
13 you worked them. Did you interview him. When did you do
14 it. What did he tell you.

15 THE COURT: All right. I appreciate your position very
16 much. I'm going to take a five minute break and figure out
17 what I'm going to say. You don't have to object to my
18 statement, Mr. Grose. You are covered. You don't need to
19 object afterwards because I know you have to object,
20 regardless of what I say in order to preserve the issue.
21 We're at ease for five minutes. We'll resume. You can step
22 down Mr. Barton, but please don't discuss your testimony and
23 we'll be back in five.

24 THE WITNESS: Yes, sir.

25 THE COURT: Thank you.

BO BARTON

476

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

3 (Whereupon, a brief recess was held from 12:02 p.m. to
4 12:13 p.m.)

5 (Whereupon, the jury entered the courtroom at 12:13
6 p.m.)

7 THE COURT: All right. Let the record reflect that the
8 jury is back and seated.

9 Ladies and gentlemen of the jury, thank you for your
10 continued attention and your continued patience and I wanted
11 -- before we proceed further, I want to clear up any
12 misconceptions that perhaps you harbor concerning Mr. Barton
13 and his current testimony. I want you to understand, ladies
14 and gentlemen, previously today and yesterday we had a
15 number of individuals testify as expert witnesses. I
16 explained that when somebody is qualified as an expert, they
17 are allowed to give opinion testimony. They cannot testify
18 about something -- or they can testify about something they
19 observed, but they can also testify about their opinions.

20 In this case, ladies and gentlemen, Mr. Barton's
21 background, his job history, that kind of thing, that was
22 alluded to in certain testimony. But please, understand
23 that Mr. Barton is not an expert in any field that's
24 recognized in the law. Criminal profiling is not a
25 recognized science. It is not an area of expertise that's

BO BARTON

477

1 appropriate for an expert opinion or expert testimony, and
2 Mr. Barton is not, in any way, shape, or form, an expert in
3 any sort of science or in any sort of recognized field that
4 would warrant qualifying him as an expert in that field.
5 And to the extent that that impression may have been given
6 to you, I want to dispel that immediately. And please,
7 understand this is -- this witness' testimony is limited to
8 something that he observed, something he heard, something he
9 saw, smelled, tasted, felt, et cetera, and is not in any
10 way, shape, or form opinion or expert testimony in any way.
11 The way that we're going to move forward is I'm going to
12 allow the State to simply play the interview that this
13 witness conducted of the Defendant. I'm told it lasts about
14 an hour and -- about an hour and 10 minutes, hour and five
15 minutes, somewhere in there. So what we're going to do is
16 play about 45 minutes of it, and then take our lunch break,
17 and we'll play the remaining 20, 25 minutes immediately
18 after we return from lunch and continue with any additional
19 testimony from Mr. Barton.

20 So, at this point in time, Solicitor, if you'll simply
21 play the audio of the interview. This is not a video
22 interview. It's audio only. And same rules as before. If
23 you have trouble hearing it, just raise your hand and we'll
24 try and adjust the speakers appropriately. Okay? You may
25 continue. Mr. Barton, if you want to step down, you might

1 be more comfortable somewhere else.

2 THE WITNESS: Thank you.

3 (Whereupon, the witness steps down from the witness
4 stand.)

5 (Whereupon, interview CD was published for the jury.)

6 THE COURT: Ladies and gentlemen, we're going to go
7 ahead and take our lunch break at this particular point in
8 time, and then we're going to review -- resume listening to
9 the audio. Enjoy your lunch. Don't talk about the case.
10 Leave your tablets with the bailiff and I'll see you -- if
11 you could, be back, say, around 2:00 -- close to 2:00.
12 Hopefully that should be enough time. Okay? Thank you very
13 much.

14 (Whereupon, the jury exited the courtroom at 1:01 p.m.)

15 (Whereupon, a lunch recess was held from 1:01 p.m. to
16 2:07 p.m.)

17 THE COURT: We'll go ahead and get back on the record,
18 if we may. Before we bring the jury in and resume with
19 playing the audio, I want to take up the question of
20 Benjamin Huffman's testimony which I anticipate will be
21 taking place sometime this afternoon.

22 MR. BROWN: Yes, sir.

23 THE COURT: I have in front of me a copy of a voluntary
24 statement form that Mr. Huffman signed and it's really very
25 short. It basically says that the Defendant showed him a

1 long barrel .22 pistol and my grandson Tyson and Charles
2 told me that he'd kill her if she would ever try to leave
3 him. And I take this statement to indicate that this
4 conversation took place seven months prior to the statement
5 being given. Solicitor, what do you anticipate eliciting
6 from Mr. Huffman?

7 MR. BROWN: Other than that?

8 THE COURT: Yes.

9 MR. BROWN: Your Honor, I would ask him, essentially,
10 did he know Christie to have any mental health issues. She
11 was around family -- around him and his wife Linda a good
12 bit. I'll ask him, essentially, did he know her to have
13 some issues with drugs. I believe he'll say yes, he tried
14 to get her help for that. And kind of the family dynamic,
15 who he's married to, Linda Huffman, and things of that
16 nature. There was -- there was also a part that I think he
17 can -- after talking with him, I think he can talk about,
18 because in the interviews, Your Honor, you heard Mr. Tillman
19 say that Christie poured kerosene on herself. Mr. Huffman
20 and Linda Huffman both inquired about that. I think Mr.
21 Tillman talked to them and he tells them that he told -- the
22 family told his mom and step-dad that she had done that.
23 And they inquired with her and found out it was not true.
24 Essentially, that would be the only testimony I would be
25 asking Ben Huffman.

1 THE COURT: Okay.

2 MR. GROSE: Two things.

3 THE COURT: Yes, sir.

4 MR. GROSE: One, that last thing would be a statement
5 by Christie that would be both hearsay and confrontation, so
6 we would have an objection to that. Secondly, with regards
7 to what essentially amounts to a prior bad act. When it's
8 not supported by a conviction, I think you have to take the
9 testimony in camera to determine the admissibility of it
10 first.

11 THE COURT: You might be correct about that. I'm just
12 trying to think this through, though.

13 MR. GROSE: And I also think it -- I've objected to
14 everything.

15 THE COURT: Right.

16 MR. GROSE: I think even if you accept it, the seven
17 months is remote. There would be the whole, you know, how
18 is that relevant to this particular incident and the whole
19 403 analysis. I mean, there's just a -- I guess, a tangled
20 web of rules involved in all of this.

21 THE COURT: Well, my initial impression would be that
22 -- and I'll be happy to take this in camera at a later
23 point, but for reason we've discussed earlier, I might just
24 get Mr. Huffman in and out as quickly as possible because I
25 know he needs to get back to his wife. But there was some

1 testimony about how recently -- Mr. Tillman, how recently he
2 had handled the .22. Is he going to be able to identify the
3 rifle in this case as being the same as --

4 MR. BROWN: No, sir. It's not -- I don't believe that
5 it would be the same rifle.

6 THE COURT: Oh, okay. When he said .22 pistol --

7 MR. BROWN: He'll say --

8 THE COURT: -- I assumed you simply misunderstood and
9 --

10 MR. BROWN: No, sir.

11 THE COURT: -- or remembered it as being a pistol as
12 opposed to a rifle. So --

13 MR. BROWN: I don't believe that it's a rifle. I think
14 it was a -- talking with him, I think it is what he's
15 saying, a pistol.

16 THE COURT: Okay. Well, let's just take his testimony
17 in camera later. Is he here or --

18 MR. BROWN: He is.

19 THE COURT: He needs to get back to the hospital. His
20 testimony will not take very long. We could just do it in
21 limine first thing in the morning, since we have the SLED --

22 MR. BROWN: Judge, we --

23 THE COURT: -- agent coming in.

24 MR. BROWN: He's also got a -- they live in Ohio --

25 THE COURT: Yes, sir.

BO BARTON

482

1 MR. BROWN: -- and he's also trying to get back to take
2 care of Christie's children.

3 THE COURT: I see.

4 MR. BROWN: They're up there with a family -- with a
5 relative. And so, he is trying to balance the husband and
6 the step-grandad, and we were hoping to get him done this
7 afternoon.

8 THE COURT: Okay. That's -- I'm fine to work around
9 his schedule. Let's finish with the audio --

10 MR. BROWN: Yes, sir.

11 THE COURT: -- and the most recent witness who is here
12 in the courtroom somewhere. Oh, there we are. Okay. Bring
13 the jury in and play the audio.

14 MR. BROWN: Yes, sir.

15 (Whereupon, the jury entered the courtroom at 2:15
16 p.m.)

17 THE COURT: All right. The record will reflect that
18 the jury is back and seated. At this point, Solicitor, if
19 you will resume playing the audio we were listening to
20 before lunch, please.

21 (Whereupon, the publishing of audio was resumed.)

22 THE COURT: All right. Mr. Barton, I'll remind you, of
23 course, you're still under oath, sir.

24 THE WITNESS: Yes, sir.

25 THE COURT: Go ahead, Mr. Black.

BO BARTON

483

1 Q Just a couple questions, Mr. Barton. The man that you
2 interviewed in that audio clip, is he here in the courtroom?

3 A Yes, sir.

4 Q Can you point him out for us, please?

5 A Mr. Tillman. (GESTURING)

6 Q Is he wearing a brownish suit?

7 A Yes, sir.

8 Q In that audio interview, that was the conversation you
9 all had?

10 A Yes, sir. It was.

11 Q And what day was that again?

12 A The 29th of November.

13 Q Okay. And that was 2016?

14 A 2016.

15 MR. BLACK: All right. I think that's all the
16 questions I have. Please, answer any questions Mr. Grose
17 might have for you.

18 THE COURT: Mr. Grose?

19 CROSS-EXAMINATION

20 BY MR. GROSE:

21 Q As I understand it, this was the only interview that
22 you conducted in this case?

23 A Yes, sir.

24 Q And therefore, it obviously follows that, that you
25 didn't interview any other witnesses other than Mr. Tillman?

BO BARTON

484

1 A No, sir.

2 Q No, sir? You did or you didn't? You didn't interview
3 anybody else? You're --

4 A No, sir. I did not interview anyone else.

5 Q Okay. Just -- it sounded like you were disagreeing
6 with me and I just wanted to make sure we're on the same
7 page. Now, the way it works in an investigation -- I mean,
8 we've gone through a stack of pictures this week. This is
9 --

10 THE COURT: That speaker's still on. Would you all cut
11 it off? It assume that's where that stomping noise is
12 coming from. There we go.

13 Q We've gone through pictures. We've gone through other
14 videos. We've heard people talk about reports, and that's
15 --

16 A Yes, sir.

17 Q -- typical in an investigation like this, right?

18 A Yes, sir.

19 Q And so, you're receiving -- you had received at least
20 the information that was in existence at the time of the
21 interview?

22 A At the 29th of November. Yes, sir.

23 Q Of 2016?

24 A Yes, sir.

25 Q Okay. But none of these pictures or reports, those

BO BARTON

485

1 weren't being shared with Mr. Tillman, Charles Tillman, were
2 they?

3 A Not by me.

4 Q Not by you? In fact, usually what happens is it's not
5 until after somebody's charged and they get a lawyer and
6 they ask for this information from the prosecution?

7 A Not always. I mean, if in the course of the interview
8 we show pictures of the crime scene, I mean, that's not --
9 that's been done before, obviously.

10 Q Okay. But you get to pick and choose what you give
11 him?

12 A Yes, sir.

13 Q And you get to pick and choose what you ask him about?

14 A Sure.

15 Q Okay. Well -- and, see, that's what I want to focus
16 on, because you made a statement in there -- well, you told
17 him that Christie's DNA was on the gun, right?

18 A Yes, sir.

19 Q And you told him that his DNA was on the gun, right?

20 A Yes, sir.

21 Q And you told him that those were the only two people's
22 DNA that was on the gun?

23 A Yes, sir.

24 Q All right. And when you made that statement that
25 Christie and Charles were the only two people's DNA on the

BO BARTON

486

- 1 gun, that was not a true statement, was it?
- 2 A That was my information at the time.
- 3 Q You said you had a file and you received reports,
- 4 right?
- 5 A Yes, sir.
- 6 Q And that's a DNA analysis report dated November 18th,
- 7 2016, right.
- 8 A Yes.
- 9 Q That's 11 days before you interviewed Charles Tillman?
- 10 A Right.
- 11 Q All right. And in that report it says that item 1.1 is
- 12 a mixture of at least two individuals, right?
- 13 A Yes. That's what the report says.
- 14 Q And it says item 1.2 is a mixture of at least three
- 15 individuals?
- 16 A Yes, sir.
- 17 Q And this report says that there's DNA on that gun that
- 18 is not identified with either Christie or Charles?
- 19 A It says there's three people. Yes, sir.
- 20 Q Well, at least three?
- 21 A At least three.
- 22 Q All right. And so, that means there's DNA on there
- 23 that's not Charles' and not Christie's; is that right?
- 24 A According to the report. Yes, sir.
- 25 Q Okay. Well, you -- your people from SLED are here to

BO BARTON

487

1 testify about reports. You're not disputing the report, are
2 you?

3 A I've never seen the report.

4 Q Okay. What I'm trying to get at is, is whether when
5 you told Charles that only his and Christie's DNA was on the
6 gun, I'm trying to figure out whether that was an
7 intentional misrepresentation or something you did by
8 mistake.

9 A That was the information I had at the time from Captain
10 Talbert.

11 Q Okay. So Captain Talbert was the one that withheld
12 information from you. Is that what your testimony is?

13 A No, sir.

14 Q Okay. Well, she didn't tell you that there was at
15 least three people's DNA on the gun?

16 A She told me that there was the Defendant's DNA on the
17 gun and the victim's.

18 Q And apparently she didn't tell you that there was
19 unidentified DNA on the gun?

20 A No, sir. That's what I said.

21 Q Okay. So when you talked earlier about a file, this
22 wasn't in your file? This DNA report.

23 A No, sir.

24 Q Okay. So later on in the interview, when you're still
25 talking with Charles about this and he tells you there's got

BO BARTON

488

1 to be more than one -- more than his DNA and her DNA on the
2 gun, he was actually right, wasn't he? According to this
3 report?

4 A According to the report. Again, I don't --

5 Q All right.

6 A -- I don't have the report.

7 Q And, you know, since you were picking and choosing what
8 you were talking to him about, and apparently Captain
9 Talbert was picking and choosing what information she gave
10 you, you weren't able to clear up and say, Charles, you're
11 right, there is unidentified DNA on that gun? You weren't
12 able to clarify that, were you?

13 A I don't understand your question.

14 Q Well, Charles said there has to be somebody else's DNA
15 on that gun, right?

16 A Yeah, he said that.. Yes, sir.

17 Q And he was right?

18 A According to the report you showed me, yes.

19 Q And if you'd had this report, you could have agreed
20 with him and said, Charles, you're absolutely right, there's
21 DNA on that gun that's not yours or Christie's?

22 A I'm not sure I would or would not have.

23 Q All right. So you might have let him continue to
24 believe something that wasn't true is what you're saying?

25 A That was one technique used in interview interrogation.

BEN HUFFMAN

489

1 Q Misrepresenting things to a person in interrogation is
2 a technique. That's what you're saying?

3 A Yes. It is an accepted technique.

4 Q All right. That's not a technique your mother taught
5 you, is it?

6 A My mother didn't teach me how to police.

7 Q All right. She didn't teach you how to lie, did she?

8 A You're saying I'm lying?

9 Q Well, if you misrepresent people -- if you misrepresent
10 --

11 A At the time, I did not know that there were three
12 individuals?

13 Q But you admit that misrepresenting things in an
14 interrogation is an accepted police technique?

15 A That's correct. I didn't say I did it. I said --
16 well, there is -- that is an accepted technique --

17 Q Okay.

18 A -- in law enforcement. Yes.

19 Q All right. And whether it was by mistake or on
20 purpose, the information that you gave Charles -- to Charles
21 in this interview was not entirely true, was it?

22 A According to the report you showed me.

23 MR. GROSE: All right. That's all I have. Thank you,
24 Your Honor.

25 THE COURT: All right, sir. Thank you. You can step

BEN HUFFMAN

490

1 down.

2 THE WITNESS: Thank you, sir.

3 (Whereupon, the witness stepped down from the witness
4 stand.)

5 THE COURT: The next witness was the one we were
6 discussing?

7 MR. BROWN: Yes, sir.

8 THE COURT: Ladies and gentlemen, I need to take up an
9 issue of law with the attorneys. Adjourn to the back for
10 about -- it's probably going to be 10 or 15 minutes and I'll
11 have you back out here as soon as possible. We only have a
12 few more witnesses left to go, but I'll fill you in on that
13 later. Don't talk about the case. Thanks.

14 (Whereupon, the jury exited the courtroom at 2:47 p.m.)

15 THE COURT: Mr. Huffman, can you come one down?

16 BEN HUFFMAN, having first being
17 duly sworn, testifies as follows:

18 IN CAMERA

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q You're Ben Huffman?

22 A Yes.

23 Q And, Mr. Huffman, how are you associated with Christie
24 Stutler?

25 A I'm her step-father.

BEN HUFFMAN

491

- 1 Q So you're married to Linda Huffman?
- 2 A Yes, sir.
- 3 Q And Linda would be Christie's mother?
- 4 A Right.
- 5 Q Okay. Do you see Charles Tillman in the courtroom?
- 6 A Yes, I do.
- 7 Q And how do you know Charles?
- 8 A I've known him for quite a while. He dated Christie.
- 9 Q Dated Christie? And when -- prior to Christie's death,
- 10 did you have a conversation with Charles?
- 11 A Yes, I did.
- 12 Q Where did this conversation take place?
- 13 A In front of my house.
- 14 Q Who else was there?
- 15 A My oldest grandson, Tyson.
- 16 Q Tyson? And when you were out in front of your house,
- 17 Charles was there?
- 18 A Yeah.
- 19 Q And what were you all talking about?
- 20 A He was upset about something and he said by the means
- 21 of if Christie tried to pull this stuff, he'll kill her. He
- 22 -- they were driving a white car. He opened up the trunk of
- 23 the car and there was a long barrel .22. An old revolver.
- 24 Q And how far -- I guess, how far before Christie's death
- 25 do you think you remembering this happening?

BEN HUFFMAN

492

- 1 A A few months.
- 2 Q I think your written statement said seven months. Is
- 3 that about right?
- 4 A Around that area.
- 5 Q Around that area? Now, Mr. Huffman, would Christie
- 6 come and go from Charles' house?
- 7 A Yes.
- 8 Q And where Charles and Christie were seeing each other,
- 9 or actually staying, was at Bell Road?
- 10 A Correct.
- 11 Q How long had they been there?
- 12 A A couple of months. They had just moved out of Belton.
- 13 Q It was just a couple of months they were at Bell
- 14 Road?
- 15 A Yeah.
- 16 Q Would Christie stay there with him all the time or
- 17 would she come and go?
- 18 A No. She'd come and go. A lot of times, she would stay
- 19 at our place.
- 20 Q Stay at your place? Where did you live?
- 21 A In Belton.
- 22 Q In Belton? Did you ever know Christie to have any kind
- 23 of mental health issues?
- 24 A No, I didn't.
- 25 Q She did sometimes have drug use problems, right?

BEN HUFFMAN

493

1 A Correct.

2 Q Did you all try to get her help for that, or did she
3 try to get help for that?

4 A Yeah, she was.

5 Q Now, there's also a statement made by Mr. Tillman
6 saying that Christie poured herself -- poured kerosene on
7 her. Were you with Ms. Huffman -- did you all -- were you
8 all told about this?

9 A Yes, we was. Charles called and told us that. A few
10 days after that, we talked to Christie on the phone and we
11 asked her about it and she said that was a lie.

12 Q Do you know of Christie ever trying to choke herself?

13 A No.

14 Q Did she ever talk about, any other time, about trying
15 to commit suicide?

16 A No. Never.

17 Q And you all were pretty close?

18 A Yeah.

19 Q You and Linda and Christie?

20 A Yeah.

21 MR. BROWN: Judge, that's essentially what I would be
22 asking Mr. Huffman.

23 THE COURT: Any questions, Mr. Grose?

24 CROSS-EXAMINATION

25 BY MR. GROSE:

BEN HUFFMAN

494

1 Q Originally you said that it was three months prior to
2 Christie's death were Charles showed this gun?

3 A They always kept it in the truck of the car.

4 Q My question is, I'm trying to figure out when he
5 supposedly made this statement. At first, you said it was a
6 few months, and then you agreed with him it was seven
7 months. Do you -- do you really know when it was?

8 A See, they lived in Belton like a couple months before
9 they moved to Bell Road. I say within -- within that four
10 to seven months.

11 Q All right. So you don't know if it was four months or
12 seven months?

13 A Not exactly.

14 Q Okay. And what exactly did Charles supposedly say?

15 A He said that if she tried to pull that stuff again or
16 tried to leave, that he'd kill her.

17 Q All right. And did you report this to the police?

18 A No. Because a lot of people talks -- talks junk.

19 Q All right. So you didn't believe it then?

20 A No, I didn't.

21 Q Now, you also said that you asked questions about
22 Christie's mental health; is that right?

23 A What do you mean?

24 Q Well, they asked you if you knew if Christie had mental
25 health issues?

BEN HUFFMAN

495

- 1 A Yeah.
- 2 Q All right. Your wife has custody of the children,
3 right?
- 4 A We both do.
- 5 Q Oh, you do, too? And DSS placed those children with
6 you, right?
- 7 A Correct.
- 8 Q And there was an order finding the allegations in the
9 DSS complaint about abuse and neglect by Christie to be
10 true, right?
- 11 A Christie and Charles.
- 12 Q Well, okay.
- 13 A They have them under the protective custody in our
14 care.
- 15 Q Well, what I see is, "Find the allegations against
16 Defendant Christie Stutler," and then it says, "James
17 Dubose," but that's crossed out, and it's supported by
18 preponderance of the evidence.
- 19 A You get the original from DSS, his names on it.
- 20 Q Well, I'm looking at the order.
- 21 A There was another one after that.
- 22 Q Okay. Well, what did DSS allege that Christie did that
23 amounted to abuse and neglect of her children?
- 24 A Arguing and drinking in front of the kids.
- 25 Q All right. Doing drugs in front of the kids?

BEN HUFFMAN

496

1 A No. Mainly arguing and drinking. They'd had drug
2 tests done, but they refused to do it.

3 Q So you're not disputing that Christie did drugs?

4 A No, I'm not.

5 Q Okay. And you're not disputing that enough was going
6 on in her life, whatever it was, that DSS took the children
7 from her?

8 A Correct.

9 THE COURT: Mr. Grose, are you done with this?

10 MR. GROSE: Yeah, I think I'm done. I was considering
11 another question or two, but I'm not going to -- I'm going
12 to leave it there.

13 THE COURT: How's your wife, sir? What are they
14 telling you?

15 THE WITNESS: They said that she had a stroke.
16 Bleeding in the brain.

17 THE COURT: Okay. They've admitted her though?

18 THE WITNESS: Yeah.

19 THE COURT: Okay. I'm very sorry. All right. And if
20 you want to step down, sir. I hope she gets better.

21 THE WITNESS: Thank you.

22 (Whereupon, the witness stepped down from the witness
23 stand.)

24 THE COURT: All right. Solicitor, let me hear from you
25 on how a lot of that information is admissible, because if

1 I'm looking at 404 -- and I had a chance to look at it last
2 night. I looked at it again today. And it's the Wallace
3 case from '09 that I'm struggling with. We're dealing with
4 prior bad acts, which are not subject to a conviction.
5 We've got the Lyle reasons to admit them. Are we -- are you
6 suggesting that this is under a motive theory?

7 MR. BROWN: Yes, sir. Motive and intent.

8 THE COURT: What I'm having trouble with are a number
9 of things, as far as the exchange that took place forward to
10 seven months prior. Okay? And I'm just going to lay it out
11 there for you and you can tell me if I'm mistaken or if you
12 have any additional evidence that you're anticipating
13 offering. But first of all, the statement in and of itself
14 says that -- or the testimony is that if the victim ever
15 tried to leave the Defendant, then he'd kill her. So
16 there's a condition precedent, a triggering event so to
17 speak, that would cause him to -- assuming that the
18 statement was made, there's a triggering event. Is there
19 any evidence in terms of the victim packing her bags,
20 preparing to leave, contacting a domestic abuse shelter,
21 texting a friend or family member I can't take it anymore, I
22 just have to leave. I'm in this horribly abusive
23 relationship. Contact with a friend asking, "Hey, can I
24 come stay with you for a few days? Things have gotten out
25 of control." What evidence do you have that she was -

1 MR. BROWN: Judge, there was a lot that she would tell
2 her parents and a lot of it we couldn't get into because
3 it's hearsay. But she would leave. She would tell them
4 that she was afraid for her life. That he would come after
5 her, kill her, kill her children, hurt her. Robert Stutler,
6 Bob Stutler, he could testify to what she's told him prior
7 to this. That she would stand in her -- or stand in his
8 livingroom and look out the door -- look out the windows at
9 night to make sure he was not coming up the driveway to get
10 her. There were times where they would have to leave the
11 light on in the livingroom to help her sleep.

12 THE COURT: I appreciate your position on that, but the
13 problem is that obviously it has to be admissible evidence -
14 -

15 MR. BROWN: Yes, sir.

16 THE COURT: -- and I understand that you're hearing
17 from the family. Is there anything documented by way of a
18 police report indicating that she had contacted law
19 enforcement to make a complaint, a restraining order,
20 protection from domestic abuse order that she sought through
21 the family court or from a magistrate? Any --

22 MR. BROWN: I do not have any of that.

23 THE COURT: No record indicating that she contacted the
24 police, 911 call, anything like that that would germane

25 MR. BROWN: She would --

1 THE COURT: -- on the question of her leaving?

2 MR. BROWN: She would contact the family.

3 THE COURT: Okay. The other problem I have is that,
4 obviously, the gun that this witness testified about is not
5 the same firearm that the State's alleging was used in this
6 crime. So we've got a 401 issue because this statement is
7 not even tying the Defendant to the particular firearm that
8 the State believes was used in the homicide.

9 MR. BROWN: Yes, sir.

10 THE COURT: And then, there is the question of
11 remoteness. You know, if we're talking about prior bad acts
12 by the Defendant which are not subject to a conviction, the
13 bar is substantially higher than in other situations. And
14 perhaps this conversation took -- takes place. I don't have
15 any reason to doubt Mr. Huffman that it did take place. But
16 it's one thing for it have happened four days before the
17 homicide. It's another for it to have taken place four
18 months prior to the homicide. And, again, I mean, the
19 standard here is that under a 404(b) analysis, any evidence
20 that falls within one of the 404(b) exceptions must
21 substantially outweigh the danger of unfair prejudice to the
22 Defendant. If -- and if you wish to argue it further,
23 Solicitor, I'll be more than happy to hear from you. But
24 due to the lack of context, the remoteness of this, the fact
25 that the pistol reference in this statement is not the same

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2018-000495

Charles Tillman, ... Appellant.

v.

State of South Carolina, ... Respondent.

Rule 210, SCACR Certification

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

By  _____

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Appellant

October 14, 2019
Greenwood, South Carolina

RECEIVED

NOV 27 2019

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2018-000495

State of South Carolina, ... Respondent.

v.

Charles Tillman, ... Appellant,

RECORD ON APPEAL – VOLUME II OF II

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for Appellant Charles Tillman

Alan Wilson
Attorney General

W. Jeffery Young
Chief Deputy Attorney General

Donald J. Zelenka
Deputy Attorney General

Melody J. Brown
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, SC 29211
(803) 734-6305

*Attorneys for Respondent State of South
Carolina*

INDEX

Volume I

Sentencing Sheets.....	1
Order Denying New Trial Motion.....	3
Arrest Warrants	6
Indictments.....	9
Motion for New Trial	15

Trial Transcript

Cover Page.....	24
Index	25
List of Exhibits.....	30
Hearing on Motion to Exclude Photographs (<i>in camera</i>).....	54
Resume Hearing on Motion to Exclude Photographs (<i>in camera</i>)	108
Resume Hearing on Motion to Exclude Photographs (<i>in camera</i>)	116
Opening Statements	
By the State	128
By Mr. Tillman.....	134
Kimberly Wells (SW)	
Direct Examination.....	140
Cross Examination.....	145
Evan McCurry (SW)	
Direct Examination.....	147
Cross Examination.....	153
Vonnie Cummings (SW)	
Direct Examination.....	155

Cross Examination.....	164
Redirect Examination.....	171
Recross Examination	174
Sheri Ashley (SW)	
Direct Examination.....	179
Cross Examination.....	202
Redirect Examination.....	207
Recross Examination	208
Alton Davis (SW)	
Direct Examination.....	208
Cross Examination.....	229
Ronnie Ashley (SW)	
Direct Examination.....	243
Cross Examination.....	247
Sam Ferguson (SW)	
Direct Examination.....	248
Cross Examination.....	251
Jeffery Hines (SW)	
Direct Examination.....	252
Resume Hearing on Motion to Exclude Photographs (<i>in camera</i>)	273
Dr. Brett Woodard (SW)	
Direct Examination.....	289
Cross Examination.....	303
Redirect Examination.....	306
Recross Examination	307
Jeffery Hines (SW)	
Resume Direct Examination.....	307
Cross Examination.....	324

Ila Simmons (SW)

Direct Examination.....	356
Cross Examination.....	365
Redirect Examination.....	372
Recross Examination	372

James Tallon, II (SW)

Direct Examination.....	373
Cross Examination.....	388
Redirect Examination.....	394
Recross Examination	394

Jeffery Hines (SW)

Resume Cross Examination.....	402
Redirect Examination.....	413
Recross Examination	415

Kimberly Mears (SW)

Direct Examination.....	420
Cross Examination.....	426

James Green (SW)

Direct Examination.....	429
Cross Examination.....	438

Jared Castellani (SW)

Direct Examination.....	438
Cross Examination.....	444

Jessica Stowe (SW)

Direct Examination.....	446
Cross Examination.....	455

Robert Stutler (SW)

Direct Examination.....	456
Cross Examination.....	459
Redirect Examination.....	460

Bo Barton (SW)

Direct Examination.....	460
Mistrial Motion.....	467
Curative Instruction.....	477
Resume Direct Examination.....	477
Cross Examination.....	484

Benn Huffman (SW) (*in camera*)

Direct Examination.....	491
Cross Examination.....	494

Volume II

Benn Huffman (SW) (*in camera*)

Cross Examination (continued).....	501

Catherine Leisy (SW)

Direct Examination.....	503
Cross Examination.....	517
Redirect Examination.....	527
Recross Examination.....	528

Matthew Graham (SW)

Direct Examination.....	535
Cross Examination.....	541
Redirect Examination.....	551
Recross Examination.....	552

Tyler Sturkie (SW)

Direct Examination.....	555
Cross Examination.....	654
Redirect Examination.....	569
Recross Examination.....	571

Directed Verdict Motion.....	576

Jeffery Hines (DW)

Direct Examination.....	589
Cross Examination.....	590

J.C. Boggs (DW)

Direct Examination.....	591
Cross Examination.....	595

Walt Tillman (DW)

Direct Examination.....	600
Cross Examination.....	603

Willie Tillman (DW)

Direct Examination.....	607
Cross Examination.....	616
Redirect Examination.....	624
Recross Examination	624

Renewal of Directed Verdict Motion	627

Charge Conference	627

Closing Arguments

By the State	632
By Mr. Tillman.....	646
By the State	680

Charge on the Law	684

Verdict of the Jury.....	698

Sentence of the Court	714

Rule 210, SCACR Certification.....	718

State's Exhibit Numbers 2, 3, 14, 18, 36-39, 40, 47-51, 54-56, 58, 60, 61, 63, 94-127, 136-39, and 141-42 and Defense Exhibits 1-12 and 16 will be transported to the Court.

1 firearm, and there's no competent evidence of the triggering
2 event, mainly her leaving him, there's been no evidence
3 presented that she intended to leave him and that that maybe
4 is what sent him over the edge. Legally my hands are tied.

5 MR. BROWN: Yes, sir.

6 THE COURT: If you wish to offer Mr. Huffman to testify
7 as to mental health issues or any issues concerning her
8 drugs -- her use of illicit narcotics, that's fine. The
9 kerosene statement though, like the other statements that
10 Ms. Stutler gave to her family, the kerosene thing is
11 hearsay. It just is.

12 MR. BROWN: Judge, I -- and in that I would just ask
13 him did you ever know her to try and commit suicide.

14 THE COURT: Well, I don't know that suicide is an
15 issue, but, I mean, I'm more than happy to let you ask that
16 question if you're going to go down that road. If you
17 choose to call Mr. Huffman as a witness, that is fine.
18 Understand that Mr. Grose will be able to --

19 MR. BROWN: Yes, sir.

20 THE COURT: -- question that witness about what you
21 just questioned him about. Mainly, the DSS stuff. Not
22 telling anybody how to try a case.

23 MR. BROWN: Yes, sir.

24 THE COURT: That's the last thing I intend to do.
25 Thank you. Let me use the facilities. We'll take a 10

CATHERINE LEISY

501

1 minute comfort break. I assume we're still okay on time.
2 And if you choose to use -- if he chooses not to use Mr.
3 Huffman, do you want to use him, Mr. Grose?

4 MR. GROSE: No, sir.

5 THE COURT: Okay. If you decide that Mr. Huffman's
6 testimony is not going to be that helpful to your case,
7 Solicitor, just convey our -- convey our apologies to him
8 for having to bring him back here. And, of course, Mr.
9 Huffman, we wish you -- we wish you and your wife a quick
10 recovery. Okay? So we'll be at ease for about five or 10
11 minutes.

12 (Whereupon, a brief recess was held from 3:05 p.m. to
13 3:14 p.m.)

14 THE COURT: All right. If we could, let's get back on
15 the record. Before we bring the jury, just one housekeeping
16 matter. My law clerk indicated to me that there was,
17 perhaps, maybe somewhat of an exchange between individuals
18 who are involved in this process. Especially, perhaps, the
19 individual with the most to gain and most to lose. There
20 doesn't need to be talking between gallery or Defendant or
21 Defendant and gallery, and I think it's best that those who
22 are trying this case and involved with the litigation of this
23 case essentially keep their eyes toward me. Okay? I don't
24 know what happened. I don't care what happened. But in
25 cases like this tensions often run high enough without

CATHERINE LEISY

502

1 anything exacerbating those tensions. So let's all do our
2 best to keep our heads and our wits about ourselves. Okay?
3 You have the next witness here?

4 MR. BROWN: Yes, sir. Catherine Leisy from SLED.

5 THE COURT: Very good. She is present here?

6 MR. BROWN: She is.

7 THE COURT: She's back there? All right. Let's have
8 the jury, please.

9 (Whereupon, the jury entered the courtroom at 3:17
10 p.m.)

11 THE COURT: All right. The record will reflect that
12 the jury is back is seated. Solicitor, your next witness
13 is?

14 MR. BROWN: Catherine Leisy.

15 CATHERINE LEISY, having first been
16 duly sworn, testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. BROWN:

19 Q Ms. Leisy, would you spell your last name?

20 A L-e-I-s-y.

21 Q And where do you work?

22 A I work for the South Carolina Law Enforcement Division,
23 more commonly referred to as SLED.

24 Q And how long have you worked at SLED?

25 A For 11 years.

CATHERINE LEISY

503

1 Q And what are your duties at SLED?

2 A I am a forensic scientist assigned to the DNA casework
3 department. My responsibilities include processing forensic
4 cases, generating reports based on the results and
5 conclusions drawn and testifying to those reports if
6 necessary. I also assist in the training of less
7 experienced analysts and I have several quality control
8 duties within the laboratory.

9 Q And, again, how long have you been working at SLED?

10 A Eleven years.

11 Q And have you ever been qualified as a forensic
12 scientist in the area of DNA casework?

13 A I have.

14 Q Approximately how many times?

15 A Over 50 occasions throughout the state, as well, as
16 jurisdictions in other states.

17 MR. BROWN: Your Honor, at this time, I'd move
18 Catherine Leisy as an expert in DNA analysis and -- and DNA
19 analysis.

20 MR. GROSE: No objection.

21 THE COURT: All right. Again, Ms. Leisy has been
22 stipulated to be an expert in this particular field, ladies
23 and gentlemen. So she can give opinion testimony that you
24 may rely upon depending upon your discretion, rather.
25 Solicitor, you may continue, please.

CATHERINE LEISY

504

1 MR. BROWN: Thank you, Your Honor.

2 Q Ms. Leisy, in this case, did you have the opportunity
3 to test certain items that were submitted down to SLED?

4 A Yes, I did.

5 Q And -- all right. Ms. Leisy, and in this case, when
6 you first get an item brought in, what do you -- what --
7 what do you do?

8 A When I'm assigned a case and I'm ready to begin
9 processing evidence, I contact our evidence control
10 department to request that evidence be prepared for me. I
11 then take physical custody of that evidence. The first step
12 in the DNA process is to develop a DNA profile from
13 unidentified biological materials that may be present on an
14 item of evidence or the crime scene. And if we are able to
15 develop a profile, we then compare that profile to the DNA
16 profile of a known individual to try and determine whether
17 or not that individual would be a contributor of the same
18 swab I've been given.

19 Q In this case, did you analysis different swabs that
20 came from the Ruger .22?

21 A Yes, I did.

22 Q I'm going to show you what's been marked as State's ID
23 149, or State's Exhibit 149. Is that the swabs from the
24 gun?

25 A It is. This pouch contains the envelopes containing

CATHERINE LEISY

505

1 swabs that were submitted to me from the gun.

2 Q And are those swabs the ones you used to examine and
3 determine if there was any DNA on the gun?

4 A Yes, they are.

5 Q And where were those swabs taken from?

6 A The information that I received, as far as the
7 identification of the swabs, there were three sets of swabs
8 from that weapon. The first was SLED item 1.1, the swabs
9 taken from the trigger and trigger guard. SLED item 1.2,
10 swabs from the non-smooth surface area of the magazine. And
11 SLED item 1.3, a swab from the entire surface area of the
12 cartridges from that item.

13 Q And so everybody knows, what is DNA?

14 A DNA stands for deoxyribonucleic acid. It's the genetic
15 material found in all of our bodies cells, with the
16 exception of our red blood cells. DNA is packaged into
17 structures called chromosomes, which contain our genes.
18 Genes are simply strains of DNA that code for physical
19 characteristics such as our height or our eye color. We
20 inherit one copy of DNA from our mother and one from our
21 father and, therefore, have two copies of every gene. Now,
22 approximately 99.9 percent of an individual's DNA is
23 identical to that of everyone else's and it's the variation
24 of that remaining .1 percent that allows us to tell
25 different people apart.

1 Q And to go little further, what is Y-STR?

2 A When we refer to Y-STR, we are talking about a type of
3 testing that specifically focuses on male DNA. We're
4 targeting locations on the Y chromosome, which only a male
5 would have, that allows us to develop the DNA profile solely
6 from a male individual from a sample.

7 Q Now, when you do your estimate through your analysis,
8 and then finally give out an estimation or a number
9 probability, can you explain the differences in the
10 probabilities in a DNA, and then a Y-STR?

11 A So with the types of different statistics that we
12 perform, when we refer to a DNA profile, that means that
13 we're testing STR locations, which stands for Short Tandem
14 Repeat, which is the locations in DNA that allows to tell
15 different people apart. In traditional DNA testing, what
16 we're doing is developing a frequency for the DNA types
17 found in each of those locations, and then by doing that we
18 can develop a frequency for the entire profile. It depends
19 on DNA that has been inherited from both the mother and the
20 father, and with the perfect match it tends to lead to a
21 very large number. With Y-STR testing we don't have that
22 combination of DNA from mother and father. The Y chromosome
23 has been passed directly from father to son, so we don't
24 have the same type of statistical frequency to generate.
25 Typically, when we do have a match with Y, it's going to be

CATHERINE LEISY

507

1 a much smaller number, again, just because of the
2 limitations of the inheritance of that DNA and how we're
3 required to process it and generate the statistic.

4 Q Now, during your analysis, were you able to -- what was
5 your finding on item 1.1, which is the trigger guard and
6 trigger of this gun?

7 A The DNA profile developed from the trigger and trigger
8 guard is a mixture of at least two individuals. The DNA
9 profile developed from the major contributor to this mixture
10 matches the DNA profile of Christie Stutler. The
11 probability of randomly selecting an unrelated individual
12 having a DNA profile matching the major contributor is
13 approximately one in 290 quintillion. The partial DNA
14 profile developed from the minor contributor to this mixture
15 is insufficient for interpretation.

16 Q And what does that mean?

17 A It just means that there's such a limited amount of DNA
18 from the minor contributor that I can't make a formal
19 comparison. When we have a mixture like this and one
20 individual contributes significantly more DNA than the
21 other, we refer to that as the major contributor and we can
22 essentially pull their profile out, treat it as a single
23 source profile and make a direct comparison between that
24 profile and that of a known individual.

25 Q In this case, if it was deemed a homicide and Christie

CATHERINE LEISY

508

1 Stutler's the victim, she didn't pull the trigger, would you
2 expect there be other DNA from somebody else or could there
3 be explanations as to why someone else's DNA or --

4 MR. GROSE: I'm going to object to speculation, Your
5 Honor.

6 THE COURT: Repeat that question, if you could,
7 Solicitor.

8 MR. BROWN: There's a reason -- could there be reasons
9 why somebody's touch DNA or DNA might not be on a trigger?

10 THE COURT: All right. I think that's a general
11 question. I'll allow it. Noted. Go ahead.

12 A Anytime you have physical contact with an item, we
13 expect some form of physical transfer of cells and DNA
14 material from the individual to the item. And, typically,
15 that's what we refer to as touch DNA when we're testing.
16 You can also have transfer of bodily fluids from the
17 individual to an object. There are a number of ways that
18 DNA could be transferred from a person to a physical object.

19 Q Now, the next item was -- you actually looked in item
20 1.1 looking at the Y-STR; is that correct?

21 A That's correct.

22 Q And what would you find on that?

23 A The partial Y-STR profile that was developed from the
24 trigger and trigger guard is a possible mixture of multiple
25 individuals. And due to the low level of DNA that I

CATHERINE LEISY

509

1 developed from this item, the profile is not suitable for
2 comparison.

3 Q So -- just anything on there was not suitable for
4 comparison on that trigger guard?

5 A That's correct. It's just matter of there not being
6 enough DNA present in the Y-STR profile for me to be
7 confident that I can make a reliable comparison between that
8 possible mixture and any known individual.

9 Q The next item that was swabbed -- well, you said there
10 were three items on this gun that were swabbed; is that
11 correct?

12 A That's correct.

13 Q And the next one would be item 1.2.

14 A SLED item 1.2, again, was swabs from the non-smooth
15 sides of the magazine and the DNA profile developed from
16 this item is a mixture of at three individuals, and due to
17 the inability to calculate a statistic, this mixture is not
18 suitable for comparison.

19 Q And, again, what does that mean?

20 A So when -- we actually do a different type of statistic
21 altogether for mixtures, and because there is such a low
22 level of DNA present, and because there are multiple
23 contributors, this particular profile would not meet our
24 protocol for what is suitable for statistical analysis if we
25 had an inclusion. And because I can't use this profile to

1 potentially make an inclusion, I can't use it to make any
2 form of comparison. So just based on the fact that it's not
3 enough quality in this profile for me to do a statistic,
4 it's not suitable for comparison to any known individual.

5 Q In the next, you also -- item 1.2, which is the
6 non-smooth side of the magazine for the Ruger, you also did
7 a Y-STR analysis?

8 A That's correct.

9 Q And, again, this is just focusing on the Y chromosome;
10 is that correct?

11 A That's correct.

12 Q What were your results?

13 A So the Y-STR profile developed from this item is a
14 mixture of at least two individuals. The partial Y-STR
15 profile developed from the major contributor to this mixture
16 matches the Y-STR profile of Charles Tillman. The
17 probability of randomly selecting an unrelated male
18 individual having a Y-STR profile matching the major
19 contributor to this mixture is approximately one in 8 --
20 excuse me, one in 8,600 and paternal male relatives of
21 Charles Tillman may not be excluded as the potential major
22 contributor to this mixture. And due to the inability to
23 calculate a statistic, the partial Y-STR profile developed
24 from the minor contributor is not suitable for comparison.

25 Q And, again, so the Y-STR major contributor to this on

1 the clip on the gun comes back to -- has the same profile as
2 Charles Tillman?

3 A That's correct. The profile does match that of Mr.
4 Tillman.

5 Q And, again, you said the statistics for Y-STR are going
6 to be lower and that's why?

7 A Again, because we don't have this combination of
8 inheritance from both mother and father, what we do with a
9 Y-STR profile is compare it to a database of known
10 individuals, count the number of times that matches, and
11 then generate of probability based on that comparison. And
12 this is a very typical result for a Y-STR profile match.

13 Q And the last item done with the firearm and -- the
14 firearm would be item 2.2. And what would that be?

15 A Item 2.2 was identified as swabs from entire surface
16 area of item 2, which was identified as a cartridge case,
17 head-stamped C.

18 Q And that would be just the casing -- the bullet casing;
19 is that correct?

20 A That would be my understanding. Again, I just received
21 a swab that had been taken from the item.

22 Q Okay. And, again, what was your result on that?

23 A For the cartridge case, head-stamped C, the DNA profile
24 developed matches the DNA profile of Christie Stutler and
25 the probability of randomly selecting an unrelated

1 individual having a DNA profile matching this item is
2 approximately one in 290 quintillion.

3 Q And if that cartridge case was laying in Ms. Stutler's,
4 blood would you imagine having her DNA on there?

5 A It absolutely could. The transfer of blood would give
6 us, typically, a pretty good profile.

7 Q Now, in addition to testing the firearm --

8 MR. BROWN: And, Judge, if I have not already done it,
9 I'd move State's 149, which would be the swabs.

10 MR. GROSE: No objection.

11 THE COURT: State's 149 is added into evidence.

12 MR. BROWN: Yes, sir.

13 (Whereupon, State's Exhibit Number 149 was admitted
14 into evidence.)

15 Q Now, Ms. Leisy, in addition to -- again, in addition to
16 testing the firearm, were other items submitted to you for
17 testing?

18 A Yes, there were.

19 Q And what was that?

20 A I received several sets of swabs that were identified
21 as being swabs taken from underneath the fingernails of
22 Charles Tillman. I also received fingernail scrapings and
23 clippings from Christie Stutler, as well as swabs from the
24 backside of the trailer next to the back door.

25 Q Okay. Now, swabs number 3 would be -- item number 3

CATHERINE LEISY

513

1 swabs are from under the fingernails of left and right hands
2 Charles Tillman.

3 A That's correct.

4 Q Did you do the results on that?

5 A I did and the DNA profile developed is attributable to
6 Charles Tillman.

7 Q 4.11, 4.2, which would be the left hand fingernail
8 scrapings from Christie Stutler and right hand fingernail
9 scrapings from Christie Stutler. Tell me the difference
10 between scraping -- taking tests of scrapings, and then also
11 fingernail clippings.

12 A Typically, when we receive an item that's labeled
13 scraping, there's either a small, wooden stick, it looks
14 similar to a match stick, or a small piece of plastic that's
15 been used to scrap underneath the fingernails of an
16 individual to try to remove any cellular material that may
17 be present. Whereas clippings, typically, we just receive
18 the clipping of a fingernail.

19 Q And the scraping, which is the 4.11 and 4.2, what were
20 your results on that?

21 A The DNA profile developed from both of items is
22 attributable to Christie Stutler.

23 Q Then moving ahead to item 10 and 11.

24 A Item 10 was identified as the right hand fingernail
25 clippings from Christie Stutler and the DNA profile

CATHERINE LEISY

514

1 developed from that item is also attributable to Christie
2 Stutler. SLED item 11 was identified as left hand
3 fingernail clippings from Christie Stutler. And, again, the
4 DNA profile from that item is attributed to her.

5 Q Were there any other profiles or did you also do a Y-
6 STR analysis on the fingernail clippings?

7 A Yes, I did.

8 Q And what were the results?

9 A The partial Y-STR profile developed from the right hand
10 fingernail clippings, item 10, matches the Y-STR profile of
11 Charles Tillman, and the probability of randomly selecting
12 an unrelated individual having a Y-STR profile matching this
13 item is approximately 1 in 600. And paternal male relatives
14 of Charles Tillman may not be excluded as the contributor of
15 this profile. And then for SLED item 11, the left hand
16 fingernail clippings, the Y-STR profile developed matches
17 the -- excuse me, the Y-STR profile of Charles Tillman, and
18 the probability of randomly selecting an unrelated
19 individual having a Y-STR profile matching this item is
20 approximately one in 8,600. And, again, the paternal male
21 relatives of Charles Tillman may not be excluded as the
22 contributor of this profile.

23 Q And the last item that I believe you analyzed in this
24 case that was submitted, officers ended up going back and
25 taking a swab after speaking with Mr. Charles Tillman on the

1 back side of the trailer -- back side of the door. And
2 those numbers would be SLED item 19 and 20.

3 A Correct. Those items were tested, but no DNA profile
4 was developed from either set of swabs.

5 MR. BROWN: Judge, just to make sure everything's in.
6 If there not already in evidence, State would move 144, 145
7 and 151 in as evidence.

8 THE COURT: 151, so far, is not in evidence. No
9 objection?

10 MR. GROSE: Which was 151? Oh, yeah. No objection.

11 THE COURT: All those are in evidence, then.

12 (Whereupon, State's Exhibit Number 151 was admitted
13 into evidence.)

14 Q Now, Ms. Leisy, when dealing with DNA, can DNA be wiped
15 off a firearm or off of anything?

16 A It can. It can be physically removed or cleaned off of
17 an item.

18 Q And how -- what are some options that -- or some uses
19 or methods that could clean off a gun, or anything for that
20 matter?

21 A Really, you know, again, just the physical action of
22 wiping an item with a cloth, to use bleach or ethanol or
23 other chemicals that may break down or remove the cellular
24 material that's present. It can be, you know, just cleaned
25 or just physically wiped away.

CATHERINE LEISY

516

1 Q Physically wiped away with just a rag or --

2 A It could be potentially. Yes.

3 Q Or just water?

4 A It could be. Yes.

5 Q And -- and, again, touch DNA, can you explain touch DNA
6 and, you know, how that -- if somebody -- how much DNA would
7 be left or possibly be left by just touching something?

8 A So, again, touch DNA is just the act of transfer of
9 cells and DNA material from someone's body to an object that
10 they come in contact with. Just that physical interaction
11 will cause there to be some level of transfer. How much
12 transfer depends on quite a few things such as how many
13 times you've touched an item, how long you've touched it,
14 you know, how recently have you washed your hands before you
15 touched it. There's a lot that can go into it and,
16 typically, we don't see as much transfer with touch as we do
17 with bodily fluid. But at times, it can be a source of good
18 DNA profiling. It just depends very much on the item.

19 Q And sometimes, if somebody touched it, you may not even
20 have a profile?

21 A That's correct.

22 MR. BROWN: No further questions.

23 THE COURT: Mr. Grose?

24 CROSS-EXAMINATION

25 BY MR. GROSE:

CATHERINE LEISY

517

1 Q So when we're -- I mean, we've gone through a lot of
2 advances in being able to test DNA since -- at least since I
3 started doing this 20 years ago. You used to have to have a
4 big sample of it, right?

5 A That's correct.

6 Q And now, we've kind of gone to the other extreme where
7 you really don't need much DNA for you to be able to develop
8 a profile?

9 A That's correct. Our current methods are quite
10 sensitive.

11 Q Yeah. I mean, back in the day, you used to almost have
12 to have a blood sample or other bodily fluid sample to be
13 able to do it, right?

14 A Typically that's what they were looking for. Yes.

15 Q All right. But now we've got this to where if you pick
16 up an object, you can get DNA on it?

17 A Again, it is possible to develop touch DNA profiles.
18 It won't necessarily be enough to transfer for us to, but it
19 is a possibility. Yes, sir.

20 Q But it is -- but that's what we're talking about with
21 touch DNA?

22 A That's correct.

23 Q And with the touch DNA, you can't really tell how long
24 that DNA's been on an object, can you?

25 A No, we can't.

CATHERINE LEISY

518

1 Q All right. And with DNA, you can't look at something
2 and say that that DNA's on there, for example, because
3 somebody fired a gun?

4 A That's correct. We can't necessarily determine how DNA
5 was transferred, just that at some point it was.

6 Q Okay. And I think you made a comment about how often -
7 - how frequently you touch something, right?

8 A That's correct.

9 Q Okay. You came up here from Columbia today, right?

10 A Yes, sir.

11 Q Okay. I imagine you don't get to Abbeville very often?

12 A I do not.

13 Q Okay. So if you were to go around your house, there
14 would probably be a lot of your DNA there, wouldn't there?

15 A I would assume so. Yes, sir.

16 Q Yeah. I mean, that's what you would expect?

17 A Yes, sir.

18 Q There's a chance that you've left some DNA in this
19 courtroom today, right?

20 A It's possible.

21 Q All right. But since you're not here all the time,
22 that wouldn't necessarily be as great of a chance?

23 A Again, it would depend on have I -- you know, did I
24 grip the object tightly, did I just brush my hand against
25 it. It is just a matter of exposure and opportunity and how

CATHERINE LEISY

519

1 often you come in contact.

2 Q And a lot of factors, right?

3 A Absolutely.

4 Q So, for example, if multiple people live in a place,
5 you would expect both of them -- their DNA to be there,
6 right?

7 A I would.

8 Q Okay. And if -- and DNA can be transferred like other
9 things, right?

10 A It can.

11 Q Because if I shake your hand, I might get some of your
12 DNA on my hand, right?

13 A That is possible. Yes, sir.

14 Q And then I might come over here and touch this book and
15 leave it there?

16 A It is -- that's actually what we refer to as secondary
17 transfer. So if my DNA were transferred through touch to
18 another object that I didn't come in physical contact with,
19 that's the act of secondary transfer.

20 Q And so, if -- like we were talking about Christie's
21 fingernails earlier, right?

22 A Correct.

23 Q Okay. And I believe you said the difference between
24 scraping and having the actual clippings, right?

25 A Correct.

CATHERINE LEISY

520

1 Q And scraping is when you're actually trying to get the
2 cells off of it?

3 A That is typically what we see. Again, just that an
4 object has been scrapped under the fingernails, you try and
5 remove any foreign material that may be present.

6 Q Okay. And with the scrapings, that was all Christie's,
7 right?

8 A The DNA profile developed, yes, is attributable to
9 Christie Stutler. And with 4.1.1, the left hand fingernail
10 scrapings, a partial Y-STR profile was developed, but it was
11 insufficient for interpretation.

12 Q Okay. And if somebody has long fingernails and they
13 live in a house where somebody's DNA is, they could pick
14 that up on their nails, couldn't they?

15 A It would be possible. Yes.

16 Q All right. And so, when you tested Christie's nails,
17 the actual nail clippings, that could be something that she
18 just picked up from living in the same house?

19 A Again, I can't testify to exactly how a transfer
20 occurred, just that at some point it did.

21 Q Okay.

22 A It could be from picking an object up, coming in
23 physical contact with a person. There are various means
24 that it can --

25 Q And just daily life?

1 A That's correct.

2 Q Okay. And I believe that you said even with those
3 Y-STR's on the fingernails, you can't rule out any of
4 Charles' male relatives?

5 A That's correct. So with Y-STR testing, again, because
6 that Y chromosome is passed directly from father to son,
7 anyone in that paternal male lineage will have the same Y
8 chromosome and Y profile. So we can't rule out other family
9 members sharing that Y profile. But, you know, again, it
10 does match back to him, but any paternal male relative may
11 have that same profile.

12 Q And you weren't provided with any information about any
13 other male paternal relatives that frequented this property?

14 A I was not.

15 Q Or lived there?

16 A That's correct.

17 Q Okay. And so, with -- I want to go back to the gun.
18 And I believe you tested. The first thing you talked about
19 was item 1.1; is that right?

20 A That's correct.

21 Q And the 1.1 was the trigger and the trigger guard is
22 what was presented to you?

23 A That's correct.

24 Q Okay. And the major contributor to that was Christie,
25 right?

1 A It was.

2 Q And I believe you said that that probability was one in
3 290 quintillion.

4 A That's correct.

5 Q That's more people than live in the world, isn't it?

6 A It is.

7 Q Okay. Now, if I'm reading your report right, you said
8 there's -- in the first paragraph regarding 1.1, it says
9 that there's at least two individual's DNA on that trigger
10 and trigger guard, right?

11 A Based on my results. Yes.

12 Q Okay. And then in the second paragraph where you look
13 at the Y-STR profile, you say that that could be a mixture
14 of two people's DNA?

15 A Based on the raw data and my results, I believe it's
16 possible. I can't confirm it.

17 Q You can't rule that out?

18 A That's correct.

19 Q Okay. And, again, when we're talking about the Y-STR,
20 we're talking about men?

21 A Correct.

22 Q And so, what you're reporting is, is there can be --
23 there's a scientific possibility that there's two DNA
24 samples from two different men on that trigger?

25 A Correct. And, again, based on the data that I had to

CATHERINE LEISY

523

1 interpret, I believe it's possible. Again, I can't confirm
2 the presence of a second male individual. But it is
3 possible that there is a mixture of two males in that Y-STR
4 profile.

5 Q All right. Now, if we look at 1.2, which is swabs from
6 the non-smooth sides of the magazine, you report that that's
7 at least three individuals?

8 A Correct. The DNA profile is at least three.

9 Q Okay. And so, that means when we look at 1.1, there's
10 two or three DNA samples on that, right?

11 A Correct.

12 Q And we look at 2.2 and there's at least three on that -
13 - I mean, 1.2. I'm sorry. Right?

14 A That's correct. Based on the data, I have at least
15 three contributors.

16 Q Okay. So when we talk about DNA on this gun, there's
17 at least three people, maybe more, DNA that you developed on
18 that, right?

19 A That's correct.

20 Q Okay. So if somebody were to say that there was only
21 two DNA samples on that, that wouldn't be true based on your
22 tests?

23 A Again, based on our 1.2, the swab from the magazine,
24 there would be at least three contributors. Based on the
25 data that I had, it would take that many individuals to

CATHERINE LEISY

524

1 develop this profile.

2 Q Okay. And you've not identified all of the DNA on
3 here, have you?

4 A No, I have not.

5 Q So if someone were to say that only Christie's DNA and
6 Charles' DNA is on that gun, based on your tests, that
7 wouldn't be true?

8 A Correct. Based on this testing, I have at least three
9 contributors.

10 Q Okay. And while we're talking about the magazine, you
11 also did that Y-STR thing, right?

12 A Correct.

13 Q Okay. I'm thinking it's not a scientific term, but I'm
14 -- but -- and you said -- and, again, the Y-STR is just male
15 DNA?

16 A Correct. It focuses on the Y chromosome only.

17 Q Okay. And you said that's at least two individuals?

18 A Correct.

19 Q Okay. And at that point, the probability of one of
20 those being Charles' is one in 8,600?

21 A Correct. The probability that the major contributor to
22 that profile -- well, the probability that you could
23 randomly select an unrelated male individual having a
24 profile matching the major contributor is approximately one
25 in 8,600.

1 Q All right. But at the same time, you don't have enough
2 information to say that that's not one of his male relatives
3 -- paternal relatives?

4 A Correct. Again, any paternal male relative could
5 potentially have that same Y profile.

6 Q Okay. And so, if this gun were used to shoot squirrels
7 or cans by some of these male relatives, that could actually
8 even be their DNA on that gun --

9 A It --

10 Q -- as far as we know?

11 A It could. Again, based on DNA, the only way to tell
12 would be to test it. But they could potentially have that
13 same Y profile, so they would not be excluded.

14 Q Right. And people who are related to each other are
15 more likely to have similar DNA profiles, right?

16 A That's correct.

17 Q I mean, that's sort of how the genetics works, right?

18 A Correct.

19 Q Okay. And, again, while we're still talking about that
20 magazine. The Y-STR was at least two individuals, right?

21 A Yes.

22 Q All right. And so, whoever that other individual that
23 touched that magazine -- a man, we don't have any
24 information on who that was, do we?

25 A That's correct. Again, that would be the minor

CATHERINE LEISY

526

1 contributor and there was not enough information from that
2 individual for me to do any type of comparison.

3 Q Okay. And so, really there's nothing about your
4 testimony here today that says one particular person shot
5 that gun opposed to somebody else, is there?

6 A I can't determine who fired a weapon. My job is to try
7 to identify the source of DNA found on an object. I can't
8 tell you how the weapon was used or when it was handled.

9 Q Or how long that was even there?

10 A That's correct.

11 Q Because if somebody handled the gun, and then it wasn't
12 used for a while, that DNA could still be there months
13 later?

14 A It could potentially. Yes.

15 Q Yeah. I mean, scientifically, that's a real
16 possibility?

17 A It is a possibility. Yes, sir.

18 MR. GROSE: That's all I have. Thank you, Your Honor.

19 THE COURT: Anything on redirect, Mr. Brown?

20 REDIRECT EXAMINATION

21 BY MR. BROWN:

22 Q I'm just going to go back to the trigger guard, 1.1.
23 Your result on that just showed there were -- there were two
24 -- at least two individuals, but the main one is Christie
25 Stutler?

1 A That's correct. The major contributor -- the profile
2 from the major contributor matches Christie Stutler.

3 Q And -- but this isn't a suicide? This isn't a suicide?

4 MR. GROSE: That's stipulated to, Your Honor.

5 THE COURT: All right. Yeah. It's stipulated this is
6 not a suicide. That it is, in fact, a homicide.

7 MR. BROWN: Homicide. Yes, sir.

8 Q And then, again, on the clip, it is -- the Y-STR does
9 come back at Charles Tillman or a paternal relative; is that
10 right?

11 A Again, referring to the clippings, the profile does
12 match that of Mr. Tillman and, again, paternal male
13 relatives may not be excluded due to the consistency of the
14 Y chromosome.

15 Q And that would be -- that -- his Y-STR is found on the
16 clip and under her fingernails?

17 A It was found on -- correct, the magazine, as well, as
18 the fingernail clippings.

19 MR. BROWN: No further questions.

20 RECROSS-EXAMINATION

21 BY MR. GROSE:

22 Q All right. And just so we're clear. The Y-STR on the
23 magazine is two men?

24 A At least two men. Yes, sir. And the major contributor
25 matches.

1 Q And the Y-STR on the trigger or the trigger guard could
2 be as many as two or maybe more men?

3 A It's -- again, it's possible that there is a mixture of
4 male individuals on the trigger guard. Based on the data, I
5 just can't be certain.

6 Q Right. I mean, you can't rule that out.

7 A I cannot definitively rule that out. No, sir.

8 MR. GROSE: All right. Thank you.

9 THE COURT: Ma'am, thank you very much for coming. You
10 are free to go.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Drive safely back.

13 THE WITNESS: Thank you.

14 (Whereupon, the witness stepped down from the witness
15 stand.)

16 MR. GROSE: Can we approach about --

17 THE COURT: Sure.

18 MR. GROSE: -- scheduling real quick?

19 (Whereupon, a sidebar was held.)

20 THE COURT: All right. Ladies and gentlemen, I alluded
21 earlier today to some logistical witness issues and I'll --
22 I'll just put the cards on the table since you're going to
23 probably hear about it tomorrow anyway. One of the
24 witnesses, we learned late yesterday, had come down with the
25 flu. They had a very high temperature and we were trying to

1 work something out either by Skype or some kind of
2 communication. Regrettably, the technology just isn't going
3 to work here, okay, to get that witness' testimony. They
4 been on Tamiflu, so when they arrive tomorrow morning they
5 will no longer be contagious, which is good for you all.
6 But, obviously, I'm not making a person with a 102 degree
7 fever drive down here. So long story short, we finished for
8 the day. That individual should be available and feeling a
9 lot better tomorrow morning because, of course, they've been
10 taking the antivirals for a couple of days now and, most
11 importantly for you health, safety and well-being, they will
12 no longer be contagious.

13 So we're going to take that testimony tomorrow and one
14 other additional witness from the State. If they had not
15 come down with the flu, we probably could have gotten the
16 State's case done today. But I do anticipate, hopefully,
17 having this case to you sometime midday tomorrow. I'm
18 really not sure logistically, but I'm confident that we can
19 get this case to you tomorrow.

20 So, please, again, do have a pleasant evening. If
21 you'll be back in here at 9:00, my intension is to hit the
22 ground running at 9:00. Just come straight on into the jury
23 room here and we'll reconvene at that particular point in
24 time. Again, there should be -- or there might be a story
25 in the Index-Journal. I know that one of their reporters

1 was here earlier today. I don't know if they're still here.
2 Don't read the paper overnight, don't check any websites
3 overnight and certainly don't talk to anybody overnight
4 about this particular case.

5 Again, I apologize that we were not able to get all of
6 the State's case in today, but it was simply a situation
7 where a guy was sick as a dog and I'm not going to make him
8 get on the highway with a fever like that. Okay? Have a
9 great night. See you at 2:00 and be safe. Thank you very
10 much. You're excused.

11 (Whereupon, the jury exited the courtroom at 3:55 p.m.)

12 THE COURT: All right. The jury is out. Just a few
13 housekeeping matters. Those statements that I alluded to
14 earlier, we're going to mark those as a Court's Exhibit.
15 Separate exhibits, of course, for Mr. and Mrs. Huffman's
16 statements just so that there's some record of what I was
17 alluding to when I was discussing this with counsel.

18 Additionally -- and I meant to ask this of you on
19 Monday. But the exhibits that were not made a record -- made
20 a part of the record in this case. Mainly, the color
21 autopsy photographs and things of that nature. I would ask
22 that they be marked as State's exhibits merely for
23 identification purposes. Should there be any further review
24 of this case, it may be useful in terms of the probative,
25 slash, prejudice question that I ruled on with the

1 Defendant's objections. It may be useful to have those to
2 compare against what was actually permitted into evidence.
3 And so, that's where we'll leave things.

4 Anything else that we need to -- you've got a whole
5 bunch of them. Okay. The court reporter has a number of
6 those photographs that I think have been marked. They are
7 not in evidence, but they'll simply be for identification.
8 If there are any additional ones, mainly the color autopsy
9 photographs that you wish to include. If you have those, as
10 well, then we're in good shape. But I'll just let the court
11 reporter mark those for identifications and include those in
12 the exhibit list.

13 Anything else that we need to be thinking about, folks?

14 MR. GROSE: I got just two --

15 THE COURT: Yes, sir.

16 MR. GROSE: -- small things. We, obviously, had some
17 newspaper photography going on while the jurors were
18 leaving. Can you just make sure that the jurors know
19 tomorrow that they're not being photographed.

20 THE COURT: I will make it clear.

21 MR. GROSE: And the second thing. I've only had a
22 chance to really skim the instructions that you sent. I did
23 see the part in the end about deciding it on the evidence,
24 but I didn't see not based on passion and prejudice. And I
25 might have dismissed it, but if you all can check that.

1 THE COURT: I will double check that tonight.

2 MR. GROSE: Okay. Thank you.

3 THE COURT: Very good. Again, if there are any
4 additional suggestions -- candidly, Mr. Grose, your
5 suggestion to charge accident is interesting.

6 MR. GROSE: Well, that's -- they -- their criminal
7 profiler said that that would be one of the theories, so I
8 would certainly think that the State would want that charge
9 based on that.

10 THE COURT: I'll mull that over. My concern is that --
11 candidly, I was somewhat surprised that you would want that
12 charge.

13 MR. GROSE: I don't expect you to actually charge that.
14 But -

15 THE COURT: Okay. Well, yeah.

16 MR. GROSE: There -- there is evidence in the record of
17 that though, based on -- but anyway.

18 THE COURT: I would agree that there's evidence in the
19 record on that. However, if accident is not the Defendant's
20 theory, then maybe it's best that the Court not instruct
21 that.

22 MR. GROSE: Well, but there -- it is a possibility that
23 somebody else was in that house and she was threatening to
24 harm herself and they were struggling with her over the gun
25 and it was an accident, under their use of that word.

1 THE COURT: Very curious. I will mull that over.
2 Unless you are jumping up and down demanding it, Mr. Grose -
3 - I understand you may be requesting it, but it seems
4 curious and I will think about it. Can we leave it at that?

5 MR. GROSE: We can leave it at that.

6 THE COURT: Good enough. All right. If you really,
7 really, really, really want something like an accident
8 charge, you all just shoot me an email. If you see any
9 corrections that need to be made, let me know tonight.
10 Okay? Thank you. That way we can make sure everything's
11 squared and we don't have to have charge conference
12 tomorrow. You all have a lovely evening. Okay? Take care.
13 Thank you.

14 (Whereupon, trial was in recess at 4:00 p.m.)

15 TRIAL DAY 5: January 26, 2018

16 THE COURT: We are back on the record and I am told the
17 jury is here. One note for the record, the court reporter
18 has located the missing State's Exhibit lucky Number 13. It
19 is not in evidence, and she has added that to the record.
20 Let's have the jury please.

21 (Whereupon, Court's Exhibit Number 6, Index Journal
22 coverage, was marked for identification.)

23 (Whereupon, the jury entered the courtroom at 9:24
24 p.m.)

25 THE COURT: The record will reflect that the jury is

MATTHEW GRAHAM

534

1 back and seated. Ladies and gentlemen of the jury, welcome
2 back. Thank you for being here on time, and I apologize for
3 the delay in getting you out here. My court reporter's
4 equipment was being a little bit temperamental this morning
5 and she has to shut her computer down repeatedly until it
6 finally started working. We now have it working, so we'll
7 proceed with the remainder of the State's case this morning.

8 Just one housekeeping matter. I just want to confirm
9 that no juror has been exposed to any articles, haven't read
10 anything, heard anything, talked to anybody about the case.
11 If you have, just raise your hand, please.

12 (Whereupon, no Jurors raise their hands.)

13 THE COURT: All right. No hands are up. At this
14 point, Solicitor, call your next witness, please.

15 MR. BROWN: Thank you, Your Honor. The State calls
16 Matthew Graham.

17 MATTHEW GRAHAM, having first been
18 duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. BROWN:

21 Q Officer Graham, where do you work?

22 A Abbeville County Sheriff's Office.

23 Q And what's your rank there?

24 A Lieutenant over investigations.

25 Q And how long have you been with Abbeville County

MATTHEW GRAHAM

535

1 Sheriff's Office?

2 A Approximately seven years.

3 Q Were you working Abbeville County Sheriff's Office back
4 on November 8th, 2016?

5 A Yes.

6 Q And were you investigations at that time?

7 A That's correct.

8 Q Did you get a call at Bell Road?

9 A Yes.

10 Q And that's in Abbeville County?

11 A That's right.

12 Q And do you recognize the man sitting over there in the
13 chair, Charles Tillman?

14 A Yes, sir.

15 Q And that's Charles Tillman?

16 A Yes, sir.

17 Q Just going to the -- when you first got called out
18 there, when you all did your first investigative sweep of
19 the house, were the officers that went in there, you and
20 particular Jeffrey Hines, when you went in to a location
21 like that do you all put gloves on?

22 A Yes, sir. Every time we enter a crime scene, on just
23 protocol purposes, we wear gloves.

24 Q And you're actually the one in a lot of these pictures
25 we've seen, you're the one who actually took those

MATTHEW GRAHAM

536

1 photographs?

2 A That's correct.

3 Q What time did you arrive at that house?

4 A I would say approximately 6:45.

5 Q And during your initial sweep of the house and taking
6 photographs you did photograph the notebook, correct?

7 A That's correct.

8 Q And in that notebook was -- was there anything in it?

9 A I didn't look through a notebook. As you all heard in
10 Sergeant Hines' testimony, he flipped through the notebook.
11 The notebook was not collected because there was nothing of
12 evidentiary value inside the notebook.

13 Q Did you see any other notebooks in the house?

14 A I did not.

15 Q Now, you ultimately interviewed Mr. Tillman that night,
16 correct?

17 A Yes, sir.

18 Q And then you interviewed him a couple more times?

19 A That's correct.

20 Q And in several interviews would tell you about
21 something that he observed there at Bell Road, would
22 you followup on that?

23 A I did. Yes, sir.

24 Q Particularly he kept mentioning a rag.

25 A That's correct.

MATTHEW GRAHAM

537

1 Q What rag was that that he was referring to?

2 A The only rag that I could recall him referring to was
3 the rag that was initially on the bed when we arrived inside
4 the crime scene.

5 Q The one above Ms. Stutler's head?

6 A That's correct.

7 Q Is that the rag that during the investigation you
8 flipped the bed up to locate that shell casing and is that
9 the rag that fell in the blood?

10 A It did.

11 Q Now, some of the interviews -- or one of the interviews
12 Mr. Tillman stated there was blood in the den, blood on the
13 pants. Did y'all ever see blood anywhere other than the
14 bedroom?

15 A None that was noted. No, sir.

16 Q There's also blood -- potentially blood on the back
17 side of the trailer.

18 A That's correct.

19 Q Did you all go back out and followup on what Mr.
20 Tillman said?

21 A Yes, sir. I did. And I actually did swabs of the back
22 side of the trailer and had those sent to SLED to possibly
23 collect any DNA, and it came back negative.

24 Q Now, during your interviews with Mr. Tillman, did you
25 learn Mr. Tillman was a smoker?

MATTHEW GRAHAM

538

1 A Yes, sir. He had asked several times in the interview
2 if he could smoke.

3 Q In a few of the interviews where you're talking to Mr.
4 Tillman - you actually went to the autopsy in this case,
5 didn't you?

6 A That's correct.

7 Q And you were in the room with Dr. Woodard. In your
8 interview with Mr. Tillman you alluded to a time of death.
9 Now, Dr. Woodard testified here a couple of days ago and he
10 said between 24 hours before his autopsy to 36 hours. So
11 somewhere between 11:00 a.m. on November 8th to 11:00 p.m.
12 on November 7th. Would you -- do you contradict anything
13 Dr. Woodard says on time of death?

14 A Could you rephrase?

15 Q I think in your interviews you had mentioned you had
16 narrowed it down to a specific timeframe.

17 A Yeah.

18 Q Did you misunderstand what Dr. Woodard --

19 A I just misunderstood what he was saying.

20 Q But you would leave any timeframe up to Dr. Woodard who
21 is the expert?

22 A That's correct. He's an expert.

23 Q Now, Lieutenant Graham, after -- I'm not going to go
24 through the whole investigation. I think everybody
25 understands how many investigators were out there and gone

1 through the crime scene. On November 29th, 2016 you
2 ultimately did arrest Mr. Tillman, correct?

3 A Let me refer to my notes.

4 MR. GROSE: Sorry. Could you repeat that date?

5 MR. BROWN: 11/29.

6 MR. GROSE: Okay.

7 A Yes, sir. That is correct.

8 Q And subsequently, you did go back out to Bell Road
9 on a later date and tried talking with other family members?

10 A Yes, sir. I believe that was on December the 5th.

11 Q And you talked with Mr. Walter Tillman?

12 A I did.

13 Q And that would be cousin of --

14 A That's correct.

15 Q -- Charles Tillman?

16 A That's correct.

17 Q Were you able to speak with anybody else out there that
18 day?

19 A Just Walter.

20 Q Just Walter. Now, in your 911 -- or in your interviews
21 with Mr. Charles Tillman -- you've heard the 911 tape,
22 correct?

23 A That's correct.

24 Q And in interviewing Charles Tillman, when did he say he
25 went up to his momma's house?

MATTHEW GRAHAM

540

1 A I can't recall that.

2 Q Did it differ from the interviews when he went to his
3 momma's house compared to the 911 call?

4 A It did.

5 Q And how did it differ?

6 A I believe he told us in the interview that he didn't go
7 to his mother's house, but on the 911 call he told the
8 dispatcher that he was going to walk up to his mother's
9 house.

10 MR. BROWN: No further questions.

11 THE COURT: Mr. Grose.

12 CROSS-EXAMINATION

13 BY MR. GROSE:

14 Q One of the first questions the Solicitor asked you
15 about was the rag.

16 A Yes, sir.

17 Q And I think you said that the rag was the one that was
18 behind -- by the window?

19 A That's correct.

20 Q And that it -- when you all moved the bed around to
21 find the shell casing, that's when the rag fell?

22 A Yes, sir.

23 Q And that's when the rag fell in the blood?

24 A That's correct.

25 Q And so, when Charles was telling you about the rag,

MATTHEW GRAHAM

541

1 that was in the third interview?

2 A If I -- if I remember correct.

3 Q And just to kind of put that into context. During the
4 first interview you all had control of the trailer for the
5 investigation, right?

6 A On into the morning of the 9th.

7 Q But let's make sure we're on the same page. The first
8 interview was on the night of the 8th going into the morning
9 of the 9th?

10 A That's correct.

11 Q And you had control of the trailer?

12 A That's correct.

13 Q And so, then the second -- between the first and the
14 second interview is when you found the shell casing?

15 A Yes, sir.

16 Q And so, when the second interview started at 7:20 in
17 the morning you all still had control of the trailer?

18 A There were still investigators on the scene.

19 Q Okay. And so, and during these interrogations you all
20 are pushing Charles to explain things?

21 A I wouldn't say push. I would say we was asking him.

22 Q But you got -- sometimes you were talking like you are
23 today and sometimes you got kind of confrontational with
24 him?

25 A Just part of interrogating people.

MATTHEW GRAHAM

542

1 Q An interrogation technique, huh?

2 A I wouldn't say interrogation technique. Just part of
3 interrogation.

4 Q So is it a technique they taught you or technique you
5 just use?

6 A Just technique we use.

7 Q Okay. So by between the second and the third interview
8 you all had moved the bed around, the rag had fallen in the
9 blood. And so, Charles goes in, and then that would be the
10 first opportunity for him to see that rag? I mean, he
11 didn't tell you about that until the third interview?

12 A Well, yes. Yeah.

13 Q And then he was saying, hey, I saw this rag that had
14 blood on it. You all ought to look at that. But it turns
15 out that you all are the ones that actually -- not that
16 there's anything wrong with this, but you're -- you're
17 searching through the scene. You all cause it to fall into
18 the blood, and we know that stuff can transfer from -- you
19 know, if it falls in the blood it's -- the rag's going to
20 get blood on it, right?

21 A Yes, sir.

22 Q Kind of like they testified yesterday that the shell
23 casing had Christie's DNA on it because it also fell into
24 that same blood?

25 A That's correct.

1 Q Now, I think you testified you didn't look at the
2 notebook?

3 A No, sir. I just photographed it.

4 Q You photographed it. Investigator Hines was the only
5 one that looked at the notebook?

6 A To my recollection, yes, sir.

7 Q Now, you've testified you went to the autopsy?

8 A Yes, sir.

9 Q And you testified that you're not here today to dispute
10 what Dr. Woodard said about the time of death?

11 A That's correct.

12 Q But we can agree that in the third interview you and
13 Investigator Hines told Charles that Dr. Woodard had
14 established the time of death between 7:00 and 9:00.

15 A No, sir. I believe I said 7:00 -- between 7:30 and
16 10:00 in my report.

17 Q Okay. Well, 7:00 and 9:00 might have been on the
18 video. But still, you have it down to a very -- a two hour
19 period where Dr. Woodard has it at the 12 hour period?

20 A Yes, sir.

21 Q Now, you're telling us today, if I understand right,
22 that that was just a mistake on your part?

23 A I wouldn't say mistake. Just misunderstood the doctor.

24 Q Okay. A misunderstanding between you and Dr. Woodard?

25 A There was several people in there that was talking

MATTHEW GRAHAM

544

1 about time of death and hours and things like that. So yes,
2 sir.

3 Q Okay. What I'm trying to get at is whether it was an
4 intentional misrepresentation or a careless
5 misrepresentation.

6 A It wasn't intentional at all.

7 Q Do you consider providing false information to a
8 suspect to be a valid interrogation tactic?

9 A No, sir.

10 Q But you would agree that you did give some
11 misinformation to Charles, whether it was intentional or
12 unintentional?

13 A I can't argue with that. Yes, sir.

14 Q You can't argue with that?

15 A Yes.

16 Q Now, they asked you about, you know, Charles smoking,
17 right?

18 A Yes, sir.

19 Q And, in fact, at the end of -- it might be the first
20 interview. But at the end of one of the interviews he asked
21 if he could have a cigarette?

22 A That's correct.

23 Q And then it kind of clicked with everybody, hey, that
24 building's a non-smoking building. You got to go outside,
25 right?

MATTHEW GRAHAM

545

- 1 A Yes.
- 2 Q Okay. But the -- there was a question about who smoked
- 3 the Newports, right?
- 4 A I don't recall.
- 5 Q You don't recall that?
- 6 A I don't know particular cigarettes.
- 7 Q But don't you recall the question about the Newports
- 8 leading to a question about Christie smoking drugs versus
- 9 using a needle to shoot up drugs?
- 10 A Yes, sir.
- 11 Q And the response was that Christie smoked. Nobody in
- 12 the house, that lived in the house, used a needle, right?
- 13 A Yes, sir.
- 14 Q Okay. And this came up during an interview -- the
- 15 first interview where you all still had control of the
- 16 trailer?
- 17 A Yes, sir.
- 18 Q Now, the Solicitor asked you about the day that you
- 19 served the warrant, and I think you said that you served the
- 20 warrant on -- the arrest warrants on the 29th; is that
- 21 right?
- 22 A That is correct.
- 23 Q And that was after Agent Barton's interview? The one
- 24 that we just have the audio of?
- 25 A That's correct.

MATTHEW GRAHAM

546

1 Q But you had the arrest warrants before that, right?

2 A That is correct.

3 Q In fact, you had gotten the arrest warrants on November
4 23rd?

5 A That is correct.

6 Q Okay. Now, I think you said that you did some followup
7 --

8 A Yes, sir.

9 Q -- even after you had arrested Charles?

10 A On December 5th.

11 Q And in Defendant's Exhibit Number 2, you have that log
12 in your file, don't you?

13 A Yes, sir.

14 Q And we sometimes in the discovery process we redact
15 certain personal identifying information. I think both
16 sides do that, right?

17 A Yes, sir.

18 THE COURT: I was going to mention, Mr. Grose, that
19 your client's Social is up there. If that's not a big deal,
20 then that's not a big deal.

21 MR. GROSE: That's not a big deal.

22 THE COURT: All right. Go ahead.

23 Q And on this list is both Walter Tillman and Willie
24 Tillman, right?

25 A Yes, sir.

MATTHEW GRAHAM

547

1 Q Now, I think you will agree with me that Walter Tillman
2 is the same person, that we're talking about as Walt Tillman?

3 A Yes, sir. That's correct.

4 Q And he's here and you interviewed him?

5 A I wouldn't say interview him. I spoke to him.

6 Q You spoke to him?

7 A Yes, sir.

8 Q So it wasn't a real interview?

9 A No, sir. He didn't come down to the office and we
10 didn't Mirandize him or anything like that.

11 Q Okay. And Investigator Ashley did speak with JC Boggs,
12 right?

13 A If I remember correct. Yes, sir. She actually wrote
14 the statement for him.

15 Q Okay. You never spoke with Willie Tillman, did you?

16 A Not that I recall. No, sir.

17 Q And it's not in your notes?

18 A That's correct.

19 Q Certainly no video interview or audio interview --

20 A That's correct.

21 Q -- is that right?

22 A That's correct.

23 Q But Charles gave you information about Willie in that
24 first video interrogation, didn't he?

25 A I don't recall.

MATTHEW GRAHAM

548

1 Q You don't recall?

2 A No, sir.

3 Q Defendant's Exhibit Number 6 is a picture of the window
4 by the bedroom? You would agree with that?

5 A Yes, sir.

6 Q You are telling these jurors that you don't recall
7 Charles telling you that Willie came down to the trailer the
8 morning of November 8th?

9 A Now that you put the picture up and worded it like
10 that, yes, sir.

11 Q And talked to him through the window?

12 A He said he came to the window. He didn't refer to
13 which window.

14 Q Okay. But talked to him through the window?

15 A That's what he said. Yes, sir.

16 Q Okay. About the quote for the tile at the church?

17 A That's correct.

18 Q And Charles told you that Christie wrote out that
19 quote?

20 A That's what he said.

21 Q And tore it off?

22 A That's what he said.

23 Q Tore it off the pad that was on the bed?

24 A That's what he said.

25 Q And that Charles gave that quote to Willie?

- 1 A Yes, sir.
- 2 Q And you never talked to Willie?
- 3 A We never received the note either.
- 4 Q Did you go look for it?
- 5 A No, sir.
- 6 Q Did you ask Willie about it?
- 7 A No, sir.
- 8 Q Did you ask Willie what he did with it?
- 9 A No, sir.
- 10 Q Don't you think that would have been important?
- 11 A Willie -- none of the family members wanted to even
- 12 speak to us. When we arrived at the scene --
- 13 Q You all said you talked to his mother, right?
- 14 A I didn't.
- 15 Q Somebody did though.
- 16 A Yes, sir.
- 17 Q You didn't try?
- 18 A When we arrived on scene that night Willie was fussing
- 19 about us being parked in the driveway. So we didn't feel
- 20 the need to try to talk to him with his attitude towards us.
- 21 Q With his attitude?
- 22 A Yes, sir.
- 23 Q All right. Is it a valid investigative technique not
- 24 to followup on important information?
- 25 A No, sir.

MATTHEW GRAHAM

550

1 MR. GROSE: Thank you.

2 THE COURT: Any redirect?

3 MR. BROWN: Yes, sir.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q When you were speaking with Charles Tillman in the room
7 interviewing him, he didn't say what window Willie came and
8 knocked on, did he?

9 A No, sir.

10 Q In the picture -- this picture here would be the
11 bedroom that Christie was found lying in, right?

12 A That's correct.

13 Q On the inside of that trailer where Christie was found
14 murdered, what was all behind her head? That window?

15 A Blankets and pillows. And as we've stated earlier --
16 everyone stated earlier in their testimony, this trailer was
17 substantially high off the ground. I mean, there was cement
18 blocks used as steps to get in the house.

19 Q I'm going to show you Defendant's Exhibit 6. This is
20 an officer right here, right?

21 A Yes, sir.

22 Q Where does his head come up to the bottom of that
23 trailer?

24 A At the base of the trailer, from what I can see.

25 Q It would be rather difficult to knock on that window,

MATTHEW GRAHAM

551

1 right?

2 A I would agree.

3 MR. BROWN: No further questions.

4 RECROSS-EXAMINATION

5 BY MR. GROSE:

6 Q His head comes up to the bottom of the trailer, right?

7 A From where that orange hat looks. Yes, sir.

8 Q All right. And you're not saying that somebody
9 couldn't reach up and knock on that trailer wall below that
10 window, are you?

11 A Not impossible. No, sir.

12 Q And you never tried -- I mean, they're asking you, and
13 you're trying to say, well, we don't know which window it
14 is, but you never clarified that with Charles?

15 A No, sir.

16 Q And you never clarified that with Willie?

17 A That's correct.

18 Q And you were here yesterday when Investigator Hines
19 acknowledged that he hadn't interviewed Willie, right?

20 A Yes, sir.

21 Q And I did just like I did now. I came back here and
22 put my hands on his shoulder, right?

23 A That's correct.

24 Q And neither you nor Investigator Hines have interviewed
25 Willie this week while this trial is going on, have you?

1 A No, sir.

2 MR. GROSE: Thank you.

3 THE COURT: All right, sir. Thank you. You can step
4 down.

5 (Whereupon, the witness stepped down from the witness
6 stand.)

7 THE COURT: Solicitor, I assume the final witness is
8 still en route?

9 MR. BROWN: I would believe so.

10 THE COURT: All right. Ladies and gentlemen, the
11 witnesses I mentioned who was feeling ill, they are en
12 route. They should hopefully be here shortly after 10:00.
13 Sometime close to after 10:00. So we're going to go ahead
14 and take a break for a little bit until they get here. I do
15 anticipate that being the final witness in the State's case.
16 So if you would, adjourn to the back. If you need to step
17 outside, let the bailiff know. They'll take you outside.
18 And don't talk about the case. We'll be back on record as
19 soon as possible. Thank you.

20 (Whereupon, the jury exited the courtroom at 9:50 a.m.)

21 THE COURT: We'll remain at ease. But let me put one
22 more thing on the record and inquire of one thing.

23 Mr. Grose, in our conversations this morning you did
24 indicate that Defense intends to offer testimony, and I
25 don't think that comes as a surprise to anyone. As I

TYLER STURKIE

553

1 understand it, your client will not be testifying. Is that
2 accurate?

3 MR. GROSE: That is accurate. And he's aware of that
4 right. We have discussed him doing that and not doing that
5 throughout my involvement in this case and he made the
6 decision this week that he's not going to do that.

7 THE COURT: I don't -- I've come to the point where I
8 don't really feel the need to specifically inquire of
9 somebody about that.

10 MR. GROSE: I think the case law says if you ask me,
11 that's covered for the record.

12 THE COURT: That's kind of how I feel about it. Okay,
13 good enough. I'll assume that you all -- one second. One
14 second. Just close the door, please. Thank you. I assume
15 that that's fine. I'm not going to touch it any further and
16 we'll leave it there.

17 MR. GROSE: Thank you, Judge.

18 THE COURT: We're at ease.

19 (Whereupon, a recess was held until 10:23 a.m.)

20 THE COURT: We'll go back on the record. Let us have
21 the jury. The witness is here. He's just outside the
22 doors. Bring the jury on in, and as soon as they're here
23 we'll bring the witness in.

24 (Whereupon, the jury entered the courtroom at 10:23
25 a.m.)

TYLER STURKIE

554

1 THE COURT: The jury is back and seated at this point.
2 Solicitor, call your next witness, please.

3 MR. BROWN: The State calls Tyler Sturkie.

4 TYLER STURKIE, having first been
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. BROWN:

8 Q Mr. Sturkie, can you state your name for the record?

9 A Tyler Sturkie, S-t-u-r-k-i-e.

10 Q Mr. Sturkie, where do you work?

11 A I'm employed by the South Carolina law enforcement
12 division.

13 Q And, Mr. Sturkie, I know you're under the weather. I'm
14 going to try to get through this as quick as possible.

15 A Sure.

16 Q How long have you been with SLED?

17 A Almost four years.

18 Q And what do you do at SLED?

19 A I am a forensic scientist in the trace evidence
20 department of the forensics laboratory.

21 Q And what type of education or background do you have to
22 become trace evidence?

23 A I received a Bachelor of Science degree in chemistry.
24 When I was hired by SLED I began a year long training
25 program in the analysis of gunshot residue. This training

TYLER STURKIE

555

1 consisted of written and practical examinations on the
2 practice and theory of gunshot residue. I also attended
3 outside training courses at the Hooke College of Applied
4 Sciences and completed courses such as gunshot residue
5 identification, scanning electron microscopy, and advanced
6 x-ray microanalysis.

7 Q And have you ever been deemed an expert in a Court of
8 General Sessions in South Carolina as a -- as an expert in
9 trace evidence?

10 A Yes, sir. Sixteen times.

11 Q Sixteen times.

12 MR. BROWN: Your Honor, at this time I'd move Tyler
13 Sturkie as an expert in trace evidence, which would include
14 GSR.

15 MR. GROSE: No objection.

16 THE COURT: Again, ladies and gentlemen, Mr. Sturkie is
17 stipulated to be an expert in GSR analysis and trace
18 evidence. So he can give opinion testimony in that area
19 that you can use as you deem appropriate.

20 MR. BROWN: Thank you, Your Honor.

21 Q Mr. Sturkie, what is GSR?

22 A Gunshot residue is composed of the burned and unburned
23 particles from the primer, the propellant and the projectile
24 of a firearm when it has recently been discharged. When
25 we're analyzing for gunshot residue we are looking for

TYLER STURKIE

556

1 particles that are microscopic in size and they must contain
2 the elements of lead, barium and antimony. These particles
3 also must be round or molten in shape. And once a particle
4 meets these two criteria it is deemed gunshot residue.

5 Q And what is the consistency of -- how would you compare
6 gunshot residue to something like another -- is it easy to
7 get on and off, or what's the substance of it?

8 A Gunshot residue is very fragile. To give you a life
9 example, baking flour is a good visual of gunshot residue.
10 If you have flour on your hand in the kitchen and you go to
11 grab a cup, that cup now has flour from your hand. So if
12 you go to wash your hands as well, that flour can be
13 removed. Gunshot residue has that potential by any outside
14 factors or personal factors, such as wiping the hands or
15 putting them in your pockets. Any constant movement can
16 remove any GSR.

17 Q And in this case were you submitted items to analyze
18 for GSR?

19 A Yes, sir. I was.

20 Q And item 14 would be a GSR kit from Charles Tillman.
21 Was that performed or analyzed? The GSR kit. That would
22 be of Mr. Tillman's hands.

23 A Yes, sir. The item 14, which is one GSR kit from
24 Charles Tillman. That would be the hand kit from Mr.
25 Tillman. And no gunshot primer residue analysis was

TYLER STURKIE

557

1 performed.

2 Q And why is that?

3 A We have a time limit for the time of shooting to the
4 time of collection in which a kit can be collected. If a
5 kit is collected beyond this timeframe we will not analyze
6 it. For our protocol at SLED the time is six hours from the
7 time of shooting to the time of collection by the officer or
8 investigator. In this case, the kit was collected beyond
9 six hours from the time of shooting, and therefore we would
10 not analyze it. The reason being is because on a living
11 person, such as that baking flour example I gave earlier,
12 the more they are moving the more they are using their
13 hands, their sweating, rubbing their hands, the more
14 potential it has to remove any GSR that would have been
15 there to begin with. Beyond that six hours we do not
16 scientifically believe that it is appropriate to analyze
17 this kit due to that fact.

18 Q Now, another item, item 15, one light green tee shirt,
19 that was also submitted for analysis; is that correct?

20 A Yes, sir. That is correct.

21 Q And we heard from Ila Simmons Wednesday. Did Ila
22 prepare this shirt, or actually take the particle lifts from
23 this shirt?

24 A Yes, sir. Ila Simmons would have been the analyst to
25 receive this tee shirt as evidence, and she would have taken

TYLER STURKIE

558

1 four particle lifts from this shirt. The areas that she
2 would have taken would have been the right sleeve, the right
3 chest, the left sleeve and the left chest of this shirt.

4 Q And once she took those particle lifts -- and this is
5 already in evidence as State's 147, and I'm just going to
6 show it to you.

7 A Sure.

8 Q Does that appear to be the particle lifts?

9 A From here it does, yes.

10 Q Now, after you get those particle lifts how do you go
11 about testing?

12 A When I receive the particle lifts I will put them on an
13 instrument called a scanning electron microscope. And I
14 will put them into this instrument, and we have database
15 connected with this microscope to run an automated analysis.
16 I will set the parameters to meet our protocol standards and
17 it will run an automated analysis of the particle lift. And
18 this automated analysis includes taking a picture and an
19 elemental composition, or what the particle is made of
20 throughout the entire run. Once that run is complete, I
21 will go in manually and check to see what the instrument has
22 labeled each particle as. If the instrument labeled the
23 particle as gunshot residue, meaning that it contained lead,
24 barium and antimony, the I will go back and confirm that the
25 particle did, in fact, have all three elements and met this

TYLER STURKIE

559

1 shape. If there were any other particles present as well, I
2 would also manually go back and confirm that the instrument
3 labeled it as appropriately.

4 Q And in this case initially did you analyze or put all
5 four lifts into your scanning electron microscope machine?

6 A Yes, sir. I did. I originally put all four particle
7 lifts into the microscope for our protocol measures and for
8 efficiency purposes. If the particle lift meets 100 percent
9 of the area analyzed and that particle lift is complete, if
10 it also reaches a number of a hundred particles
11 characteristic of GSR, then it is considered complete. And
12 there's also a time limit of six hours for analysis time of
13 that particle lift, meaning it can run a certain percentage,
14 say 50 percent of the particle lift, and if it meets six
15 hour time limit, it will manually stop and move to the next
16 lift. The reason being is to cut -- cut down time on the
17 microscope itself and to hopefully be efficient enough to
18 run the rest of the kits that may be on the microscope.

19 Q And how many of these machines do you all have at SLED?

20 A For gunshot residue we have one at the moment.

21 Q One at the moment. And in this particular case, when
22 you did your initial testing under that six hours of that
23 time limitation, did it -- did the machine take any
24 particles off of that?

25 A So with this particular case, each of these particle

TYLER STURKIE

560

1 lifts stopped at the six hour timeframe and they ran roughly
2 three to six percent of the particle lift analyzed. So
3 there was still 95 percent about that needed to be analyzed
4 for the lift. And what that means is, with our protocol we
5 have to run particle lift 100 percent unless we find gunshot
6 residue on that lift to begin with. And so, because these
7 particle lifts ran six hours and no gunshot residue was
8 found within that three percent analyzed, I had to reanalyze
9 the particle lifts to run 100 percent. In order to do that,
10 I had to set the parameters for the scanning electron
11 microscope to fit that criteria. And when I did that for
12 the right sleeve particle lift it ran 100 percent of the
13 lift but it took approximately 118 hours analysis time just
14 for the one particle lift. For the other three particle
15 lifts, I deemed it as not appropriate for analysis due to
16 the amount of time it took for that one particle lift. It
17 took about five days total for that one particle lift to be
18 analyzed. It would have taken another 15 days roughly for
19 the other three particle lifts to be analyzed. And with the
20 amount of case work we get and the instrument capability of
21 analyzing, I deemed that those three were not appropriate to
22 be analyzed, and I only have results for one particle lift.

23 Q And the results from the right sleeve of this green tee
24 shirt that came off of Charles Tillman, State's evidence
25 148, did you, in fact, find GSR on that right sleeve?

TYLER STURKIE

561

1 A For the right sleeve, after running 100 percent, I
2 found one particle of gunshot residue.

3 Q Now, again, if somebody was wearing this shirt all day
4 long and you said that GSR is the consistency of flour and
5 they're working, would you expect some of that GSR to be
6 knocked off?

7 A When we find gunshot residue on inanimate objects such
8 as clothing we can't put a timeframe as to when it has been
9 placed there depending on the activity of that object from
10 the time of GSR placement. If the shirt had been washed or
11 if there were rain or wind or any environmental factors,
12 that has the potential to remove any GSR that would have
13 been there.

14 Q What about taking your shirt on and off?

15 A Any -- any type of movement has that potential to. The
16 rougher the movement, the more likely you are to remove any
17 GSR. Again, if you think of flour, if it were on your shirt
18 and you go to wipe it off, if you just brush it off it may
19 retain. If you wash it off it's likely to be removed. So
20 the more use that it undergoes, or the more activity it
21 undergoes, the more potential you have to remove any GSR
22 that could have been there to begin with.

23 Q Now, and again, you said there's a right sleeve that
24 had the GSR particle?

25 A Yes, sir.

TYLER STURKIE

562

1 Q And then the right chest, left sleeve and left chest,
2 due to the time constraints and only having one machine to
3 run GSR analysis, you opted not to run those?

4 A Correct. The three to five percent of the -- of those
5 particle lifts that I did run I did not find any gunshot
6 residue. However, I did not run those three 100 percent.
7 So I did not find any GSR on those to begin with and didn't
8 find them suitable for analysis.

9 Q But there could be some on there?

10 A Because I didn't run them --

11 MR. GROSE: Objection. That's entirely speculative,
12 Your Honor.

13 THE COURT: Sustained as to the extent that that calls
14 for speculation. If you could rephrase.

15 Q Now, how can somebody -- how can somebody get GSR on
16 their sleeve? What would be -- what would you have to touch
17 or be around to have that?

18 A For inanimate objects to have gunshot residue there are
19 two ways. One is that object was in the vicinity to the
20 discharge of a firearm, or the second is an object that had
21 GSR on it came into contact with this object as well.

22 Q But in this case there's definitely a GSR particle on
23 his right sleeve?

24 A Yes, sir. One particle of gunshot residue was found on
25 the right sleeve.

TYLER STURKIE

563

1 MR. BROWN: No further questions.

2 THE COURT: Mr. Grose. Sir, do you need a break, are
3 you okay?

4 THE WITNESS: I'm okay. Thank you.

5 THE COURT: Mr. Grose.

6 CROSS-EXAMINATION

7 BY MR. GROSE:

8 Q If I understand it correctly, you're here and are able
9 to report that you located exactly one particle of GSR?

10 A Yes, sir. That's correct.

11 Q Okay. Now, you were talking about time, and maybe it's
12 because of this other workload that you're talking about,
13 but you didn't start running these tests until December, did
14 you?

15 A I believe I ran these kits -- the first time I analyzed
16 these particle lifts were in October of 2017.

17 Q And then your report is not dated until December of
18 2017?

19 A Correct. Yes, sir.

20 Q And as I understand it, in order to find that one
21 particle of gunshot residue, it had to run through the
22 machine for 118 hours?

23 A Yes, sir.

24 Q Now, your coworker, colleague was up here earlier in
25 the week and she also used that flour example. Were you

TYLER STURKIE

564

1 using that talk as much about the consistency about the
2 gunshot residue, right?

3 A Yes, sir. It's more of a visual to try to understand
4 --

5 Q Right.

6 A -- how GSR interacts with the world.

7 Q Because part of the visual I have is of the white flour
8 that is easy to just look at and see. But gunshot residue
9 is not the same. You can't just look at it and see it as
10 easily?

11 A That is correct. It's microscopic. You can't see it
12 with the naked eye.

13 Q And as I understand it, on a shotgun like we have here
14 with the -- have you seen it?

15 A I don't believe so. No, sir.

16 Q I'm just going to grab it real quick. If the shotgun
17 is fired, the residue comes out of the barrel, right?

18 A It will come out of any opening which would be the
19 barrel and the ejection port as well.

20 Q Right. So that's what I wanted to get to. There's two
21 openings on this gun that it would come out of, right?

22 A Yes, sir.

23 Q Okay. Now, going back to the flour and talking about
24 the consistency. When you spill flour sometimes there's a
25 cloud?

TYLER STURKIE

565

1 A Sure.

2 Q And eventually with gravity that settles?

3 A Yes, sir.

4 Q And so, again there's two ways to get gunshot residue
5 on an object, like a shirt. It's either near where it was
6 fired or it came in contact with --

7 A Yes, sir.

8 Q -- a surface that had GSR on it. And so, if a gun's
9 fired in an open area, and GSR can come out of these two
10 openings, it's going to settle with gravity just like that
11 flour does, right?

12 A Correct. Yes, sir.

13 Q Okay. And, you know, you talked earlier about spilling
14 -- getting flour on your hands, and then maybe you go and
15 you touch something and get it on that, right?

16 A Correct.

17 Q But this residue that settles, say instead of me
18 touching it on this little printer, it settled onto the
19 printer and somehow, you know, I touch it, I could get it on
20 my hands and then I could transfer it to something else,
21 right? Like that book?

22 A There is -- there is the potential. The more times you
23 transfer, the least likely you are to -- you won't have as
24 many particles the more times you transfer --

25 Q Right.

TYLER STURKIE

566

1 A -- but you still have the possibility to.

2 Q All right. And I could -- I could do that. This -- if
3 this surface had the residue on it and I touched it, I could
4 transfer just one single particle over to that book,
5 couldn't I?

6 A It is possible. Yes, sir.

7 Q And so, when you're looking at something like this you
8 can't tell -- your test doesn't tell how that particle got
9 on that shirt, does it?

10 A No, sir. It does not. When I find gunshot residue I
11 can say that I found gunshot residue. And the only two
12 ways, according to this type of evidence, which is his
13 shirt, either it was in the vicinity or touched an object an
14 object that had GSR on it.

15 Q Right. And you can't say how it got on there or when
16 it got on there? /

17 A That is correct.

18 Q You can't say if it got on there because a person fired
19 a gun or whether it was transferred?

20 A Both are possible.

21 Q All right. And so, if we heard videotapes where
22 somebody represented on them how -- what gunshot residue can
23 show, it would only get there if you fired a gun, that
24 wouldn't be right?

25 A I'm not sure I followed you.

TYLER STURKIE

567

1 Q If somebody -- if somebody said the only way you can
2 get gunshot residue on you is by firing a gun, that wouldn't
3 be true?

4 A That's not entirely true.

5 Q Right. Right. It would be, I guess, a partial truth
6 maybe?

7 A Sure. If -- for an individual there's three ways. One
8 is the individual fired a weapon. Two is the individual was
9 in the vicinity, or three, an individual touched an object
10 that had GSR.

11 Q The transfer?

12 A Correct.

13 Q Right. And so, with the science that you're dealing
14 with, you're -- you're reporting your results getting out
15 all the truths and not just partial truths?

16 A Correct.

17 Q You didn't run the test on the GSR from Charles' hands
18 because of the time limit?

19 A That's correct.

20 Q Did anybody ever ask you to run GSR on Christie's -- on
21 Christie's hands?

22 A The only items of evidence requested for gunshot
23 residue analysis were the GSR kit from Charles Tillman,
24 being the hand kit, and then the green tee shirt.

25 MR. GROSE: Beg the Court's indulgence for a moment.

TYLER STURKIE

568

1 THE COURT: Yes, sir.

2 MR. GROSE: Thank you. That's all I have. I hope you
3 feel better.

4 THE WITNESS: Thank you.

5 REDIRECT EXAMINATION

6 BY MR. BROWN:

7 Q Mr. Sturkie, following up on all that. Just to be
8 clear. This isn't a shotgun, is it?

9 A I would not call that a shotgun. No, sir.

10 Q A .22 --

11 MR. GROSE: And I'll -- if I -- I'll stipulate that
12 that's not a shotgun. I'm sorry. I apologize.

13 THE COURT: Right. I assumed it was just a mistake. I
14 think that everybody agrees that's a .22 rifle.

15 Q A .22 rifle -- and I don't even know if this is even
16 expertise. It produces a lesser amount of GSR than a
17 shotgun or a high caliber, correct?

18 A For calibers for weapons, whether it's a .22 or .45, in
19 theory, the larger the caliber the more gunshot residue can
20 be produced. So in theory I would expect more GSR to be
21 produced from a .45 as opposed to a .22. However, both size
22 calibers will produce GSR.

23 Q And where would -- in a gun like this, where are the
24 ports where the GSR would come out of?

25 A Any opening, which would be the muzzle, the ejection

TYLER STURKIE

569

1 port, and if there are any openings near the trigger in
2 trigger guard, there may be some there. But more than --
3 definitely the muzzle and the ejection port.

4 Q Now, where would most of it come out? At the end of
5 the barrel?

6 A Majority of gunshot residue would be produced from the
7 muzzle due to it being a larger open space.

8 Q Mr. Grose asked you if there'd be a cloud of GSR coming
9 out. But if somebody had a close contact wound to their
10 head, would that be a cloud of GSR coming out?

11 A If the --

12 Q If the muzzle's up against the skin.

13 A If there's a surface such as a person intervening
14 between where the muzzle was placed, any gunshot residue
15 with come into contact with is closest object. So even if
16 there is a cloud and it will settle, if it's right up
17 against an object, GSR is going to be right on that object.

18 Q And if somebody had claimed not to touch her, touch her
19 head or anything like that shouldn't have GSR on them,
20 should they?

21 A Say that again. I'm sorry.

22 Q If somebody claimed they never touched her head or
23 anything like that, they shouldn't have the GSR from it,
24 should they?

25 A Not from -- not from the head. No, sir. From

TYLER STURKIE

570

1 transfer.

2 Q And there wouldn't be this big cloud of GSR all over
3 the room from it?

4 A If it was intervening, no, sir, there would not be a
5 large cloud.

6 Q If somebody is holding a rifle and the other ejection
7 point with GSR comes out would be where the casing comes
8 out, pretty close to a right sleeve, right?

9 A If holding correctly, yes.

10 Q I think you stated a small caliber gun produces a small
11 amount of GSR, correct?

12 A In theory.

13 Q If somebody left and went to work all day, the
14 likelihood that some of that GSR would have been knocked off
15 or fallen off?

16 A The activity that's happened between the collection and
17 the time of shooting, the more likely there is to be removed
18 of GSR.

19 Q Or if you take your shirt off, put it back on, take
20 your shirt off and then hand it to law enforcement, is that
21 also an opportunity for GSR go be lost?

22 A It is an opportunity. Yes, sir.

23 MR. BROWN: No further questions.

24 THE COURT: Recross.

25 RECROSS-EXAMINATION

TYLER STURKIE

571

1 BY MR. GROSE:

2 Q He asked you about a contact wound. But if a gun had
3 been fired in a room at the ceiling and GSR comes down at
4 the end, then that could settle, couldn't it?

5 A Yes, sir.

6 Q And it would because of gravity?

7 A It would. If -- for example, if you shot that where
8 you were standing, all of us in this general area could
9 potentially have gunshot residue.

10 Q And when you say all of us in this general area, I'm --
11 I don't know. I'm not good at estimating. Ten, 15 feet
12 from you?

13 A Yes, sir.

14 Q And so, we could both get gunshot residue on that?

15 A Potentially.

16 Q And potentially some of the jurors and some of the
17 other courtroom personnel?

18 A Yes, sir. That is possible.

19 Q Okay. So if a gun is fired at the ceiling in a small
20 space, small room, there could potentially as a result of
21 that be gunshot residue all over that room?

22 A Yes, sir.

23 MR. GROSE: Thank you.

24 THE COURT: Sir, I sincerely hope you feel better. You
25 are free to go. Take care of yourself and get some sleep.

1 THE WITNESS: Thank you.

2 (Whereupon, the witness stepped down from the witness
3 stand.)

4 THE COURT: Any additional witnesses from the State?

5 MR. BROWN: Judge, no additional witnesses. We're
6 going to make sure we have everything in that we need.

7 THE COURT: Okay. Ladies and gentlemen of the jury, if
8 you would, adjourn to the back. I need to briefly take up a
9 few motions and deal with a few housekeeping matters and
10 then I'll have you back. Okay? Don't talk about the case.

11 (Whereupon, the jury exited the courtroom at 10:49
12 a.m.)

13 THE COURT: Solicitor, you want to make sure that all
14 exhibits are in the record?

15 MR. BROWN: Yes, sir. We want 13, the one we've been
16 talking about. There's a photograph, and this actually gets
17 the whole room -- bedroom showing a window being completely
18 covered. Based on the questioning and the testimony I
19 believe that would be -- I'd like to move that into
20 evidence.

21 THE COURT: May I see it? Was one of the ones that you
22 originally objected to, Mr. Grose, because it showed the
23 body or --

24 MR. GROSE: I believe so, yes.

25 THE COURT: Oh, okay.

1 MR. GROSE: I think that there's already photos in that
2 depict what he says, but --

3 MR. BROWN: And I think that one just -- it shows the
4 whole back wall, and I don't think any other ones have the
5 whole back wall in it.

6 THE COURT: I appreciate your position. Your objection
7 is noted Mr. Grose. I think this photograph maybe is the
8 best representation of the relatively small size of this
9 bedroom, and that kind of relates to the testimony that we
10 just heard about the firearm being fired into the ceiling,
11 etcetera. I'm going to allow it subject to your objection.
12 So State's 13 will be in evidence.

13 MR. BROWN: Thank you.

14 (Whereupon, State's Exhibit Number 13 was admitted into
15 evidence.)

16 (Whereupon, Defendant's Exhibit Number 17 was marked
17 for identification.)

18 MR. GROSE: As long as we're talking about evidence,
19 Judge, I have marked as Defendant's Exhibit Number 17 some
20 notes that Mr. Hines looked at yesterday. We have -- it
21 came to me with some information redacted on the top. We've
22 also redacted a reference to Charles being in jail. And I
23 intend to recall Mr. Hines to introduce this because Mr.
24 Graham testified that Charles never said which bedroom -- or
25 which window Willie came to, but that's clearly reflected in

1 the notes from the officer. They tell me that they're
2 probably going to object. I wasn't even going to recall Mr.
3 Hines until -- this is in response to what they did. And I
4 didn't introduce the notes yesterday, but now I feel that
5 given the questioning this morning that it's relevant and
6 admissible.

7 MR. BROWN: Judge, one thing. I don't know if it says
8 which -- there are multiple bedrooms in this house. And so,
9 I'm not sure exactly which bedroom it's -- it doesn't say
10 which bedroom.

11 THE COURT: What doesn't say verbatim?

12 MR. BROWN: This note. The notes that Mr. Hines wrote
13 down. I think the best evidence would be in the video that
14 they already have that's in evidence, what Mr. Tillman said.

15 MR. GROSE: It says, "Willie came to bedroom window and
16 asked about paper for church."

17 THE COURT: And asked about what?

18 MR. GROSE: Paper for church.

19 THE COURT: Paper for church.

20 MR. GROSE: Yeah.

21 THE COURT: The rest of the statement though is
22 consistent with what was testified to, I assume?

23 MR. GROSE: Well, it's not consistent with what Mr.
24 Graham testified to.

25 THE COURT: Okay.

1 MR. BROWN: I think it's consistent to what Hines
2 testified to yesterday.

3 THE COURT: What's the nature of the objection that the
4 State is making?

5 MR. BROWN: It just doesn't say which window. Which
6 bedroom window. I think best evidence would be in the audio
7 tape which has already been admitted.

8 THE COURT: I understand. That goes to weight probably
9 as opposed to admissibility --

10 MR. BROWN: Yes, sir.

11 THE COURT: -- and relevancy. So if the State -- or if
12 Mr. Grose chooses to recall Mr. Hines then it can be alluded
13 to. He can explain it. We'll see what he says and take it
14 from there. And if it's admissible we'll admit it at that
15 point in time. But if he admits it says what it says, I
16 don't know that it necessarily needs to come into evidence.

17 I assume the Defense moves for a directed verdict at
18 this stage and renews all prior motions and objections?

19 MR. GROSE: I do, but I'd like to discuss that with you
20 a little bit.

21 THE COURT: Sure, go ahead.

22 MR. GROSE: You're going to charge direct and
23 circumstantial evidence. And, of course, you know, there's
24 direct evidence that proves a homicide and direct evidence
25 for which a jury could concluded that somebody murdered

1 Christie. The issue in this trial is the identity of the
2 person who did that. And in this case the State's entire
3 case on that is circumstantial evidence. And so, when we
4 get into circumstantial evidence we get into an area that
5 quite frankly has gotten a little bit confused in the
6 appellate opinions because -- I don't have the cites, but
7 you could go and pull up opinions that say, you know, the
8 directed verdict standard that Your Honor is supposed to
9 consider is whether there's any substantial circumstantial
10 evidence. And in some of those opinions the word "any" will
11 be italicized. And in other opinions the word "substantial"
12 will be italicized. Then of course you have the whole
13 Jackson vs. Virginia issue where the US Supreme Court has
14 said a scintilla of evidence is not enough to submit a case
15 to the jury. And you've got -- you've got a whole host of
16 appellate decisions over the past 10 or 15 years dealing
17 with the directed verdict standard. And you can go back
18 further. You've got the Schrock case where there was a lot
19 of circumstantial evidence placing him in the vicinity of
20 the murder. You have the Hernandez case, I believe, but
21 it's the drug trafficking case where they stop some
22 Hispanics in a truck. The drugs were in the back of the
23 truck. And our Supreme Court said that that was not enough
24 circumstantial evidence to submit that case to the jury.
25 Then you have the --

1 THE COURT: That was the case out of Edgefield, right?

2 MR. GROSE: It was -- I believe it was Edgefield. It
3 was that area.

4 THE COURT: Right.

5 MR. GROSE: Right. And then there was the case -- it
6 might be Arnold, but I might be getting that confused. But
7 the one that was a murder case where the defendant's
8 fingerprint was on a gear shift or something inside the
9 decedent's car that defendant was -- may have been connected
10 to the car in other ways. That car was found, you know,
11 some distance away. And again, our Supreme Court said that
12 that was not enough circumstantial evidence to submit the
13 case to the jury. So I guess one of the things that I'm
14 going to ask you to do as part of your ruling on this is
15 what our appellate courts have not done a very good job of,
16 which is articulating exactly, you know, what the standard
17 is that you're applying to your motion, given that there is
18 the emphasis sometimes on "any" and emphasis sometimes on
19 "substantial". I obviously believe that the emphasis should
20 be on the substantial portion of it. And so, when you begin
21 to look at the evidence in this case -- and I assume you're
22 not going to consider any of the admitted falsities that
23 were used by law enforcement in the interrogation. For
24 example, I assume you're not going to consider that the time
25 of death could have been, you know, established conclusively

1 between 7:00 and 9:00 when the undisputed fact in the record
2 is, is that there was a 12 hour window and information was
3 misrepresented to Charles, either intentionally or
4 carelessly. And so, essentially what they have is, is they
5 have a window of time where Charles was with her, and then a
6 window of time that -- and we're going to call additional
7 witnesses on this. But a window of time, it's already in
8 the record, that, you know, he was at work part of the day.
9 So -- and it's also in the record -- that's in the record
10 from his statements in the recordings. And it's also, you
11 know, in the record of his statements saying that she was
12 alive when he left. So I realize you've got to view this in
13 a light most favorable to the State. But even viewing it in
14 a light most favorable to the State, there is a window of
15 time where she could have been shot and killed when Charles
16 was not there. You do not have an admission from Charles.
17 In fact, you have denial after denial, even when they
18 pressured him with false information. And I -- what I
19 anticipate the State is going to argue is that this DNA on
20 the gun and the gunshot residue are pieces of circumstantial
21 evidence that allow them to get this case to the jury. My
22 concern with that -- and again, I trust that you're not
23 going to consider what we know are misrepresentations about,
24 you know, the DNA and what GSR means in the interrogation.
25 I assume that you're going to consider what the science

1 establishes is, which is nobody can say when and how those
2 samples got there. A lot like the fingerprint and the
3 automobile. Presumably a lot like the drugs in the car, you
4 know, in the Edgefield case. And the best that they can
5 establish is that it's there. They can't establish how it
6 got there. There's also the fingerprint case in Newberry
7 where the fingerprints on the window. The screen that's
8 removed. That wasn't enough to get the burglary charge to
9 the jury. And so, I think you have to look --

10 THE COURT: In that case I think there was actually a
11 fingerprint on a television that was inside the place and
12 there was some allegation that the defendant had been
13 frequenting that --

14 MR. GROSE: I think that was a different case. That
15 was a more recent case. The Newberry is a little bit older
16 case. The -- when you look at the scientific evidence --
17 you know, first of all, they're not conclusively saying that
18 Charles' DNA is on the gun because they can't rule out other
19 male relatives. But they do conclusively state that there's
20 other peoples' DNA on the gun. But the important part is,
21 that gun's on the property. He's admitted to shooting it
22 before. Nobody can tell you when or how his DNA got there.
23 So it does not establish that it got there at the time the
24 gun was fired that killed Christie. Same with the GSR.
25 They cannot establish that it got there as a result of

1 firing a gun. So when -- if you focus on the "any" I think
2 you get into the Jackson vs. Virginia problem. But if you
3 focus on the "substantial" and then combining it, "any
4 substantial", I think that Mr. Tillman is entitled to a
5 directed verdict.

6 THE COURT: Solicitor, do you want to speak to that?

7 MR. BROWN: Your Honor, in a light most favorable to
8 the State, not in addition to DNA -- the DNA and the GSR,
9 you also have the 911 tape. You go back through there, and
10 if you listen to it closely, and we'll turn it up, you hear
11 his mother in the background saying there's a gun down there
12 yesterday. The DNA, she's got DNA under her fingernails, on
13 the gun. There's GSR on his shirt. In addition to what Mr.
14 Sturkie said, it can be put on that shirt by firing -- by
15 firing a gun. The time of death, the majority of time
16 between 11:00 a.m. on the 8th and 11:00 p.m. on the 7th
17 Charles Tillman was with Christie, based on his own
18 statements. So he's there. He puts himself in the house
19 during this time. Your Honor, in his statements he gives
20 plenty of info saying Christie didn't do me right. She did
21 this to herself. She always went out and was trying to
22 leave. She was always seeing these other folks. There's
23 also an autopsy talking about old bruising and new bruising.
24 He flatly denies seeing any of these old bruising, yet he
25 talks about having relations with her the day -- or two days

1 before and sleeping with her naked and this sort of thing.
2 There's all these that when you put them altogether it's
3 facts and the jury can decide -- it's ultimate fact for the
4 jury to decide whether or not he's the one who killed
5 Christie. There's a lot of facts there. You can put them
6 altogether that they can make that determination and say he
7 is the one that committed the murder.

8 So, Your Honor, in a light most favorable to the State,
9 we have -- I believe we've met that threshold to get by a
10 directed verdict and the jury should be able to render a
11 decision on that later today.

12 MR. GROSE: Just a brief response. I mean, first of
13 all, he didn't deny everything about the old bruising,
14 because he gave statements about her having fallen on the
15 steps of this awkward to dangerous entranceway. But I just
16 wanted to -- with regards to what they said about him being
17 there for part of the time, I think that that gets us into
18 what comes up in some of the homicide by child abuse cases,
19 like Hepburn, for example. Sorry. But -

20 THE COURT: It's law.

21 MR. GROSE: It's the law. And if it was enough for
22 actually Hepburn to have been in that house at the time that
23 it could have happened, our Supreme Court wouldn't have
24 directed a verdict in that case. And so, you know, I think
25 it gets back to the substantial part.

1 MR. BROWN: Judge, I believe in the Hepburn case there
2 was no physical evidence. There was no GSR. There was no
3 DNA or anything like, if I remember correctly, tying her to
4 the murder of the child.

5 MR. GROSE: Well, there was physical evidence that that
6 child was killed. I mean, there wasn't -- it really wasn't
7 in dispute that that child was -- was killed in a homicide.
8 It's like this where identity was the issue. So if you
9 focus on, yeah, there's evidence of murder, that's really
10 not the right inquiry. Just on the identify element that
11 they have to prove.

12 MR. BROWN: If I remember correctly in Hepburn, there
13 were four other people, or three other people in the house
14 at that time as well.

15 THE COURT: Well, I am intimately familiar with Hepburn
16 because I tried it for two weeks. So I'll refrain from
17 describing the opinion and the order of facts that the
18 Supreme Court found which was, of course, crucial to the
19 underlying 25 page opinion in terms of the order of
20 testimony and the way they found that perhaps some witnesses
21 testified at certain times. I was there. I'm not going to
22 go there.

23 Here's -- to the point that Mr. Grose and Mr. Brown
24 have made, the Court has been reflecting on this question
25 throughout the trial of this case, and Mr. Grose is perhaps

1 correct that the Court's have been less than specific on
2 what exactly substantial circumstantial evidence means.
3 Hepburn, I think, is part of a evolving set of jurisprudence
4 where the Court is struggling with exactly what it means. I
5 think recently I read an opinion with Justice Hearn where
6 she seemed to harken back to the old Edwards to the
7 exclusion of any other reasonable hypothesis standard.

8 MR. GROSE: And you have that in the Hernandez case.

9 THE COURT: Correct. And so, we've gone from a
10 situation where any evidence, direct or circumstantial, to
11 substantial circumstantial evidence, to perhaps full circle
12 with the Edwards charge. And I don't know if you all
13 attended that presentation I gave on circumstantial evidence
14 with the Greenwood Bar a couple of years ago, because I went
15 through all of this and I have yet to see further
16 clarification from the Supreme Court.

17 As a practical matter though, this Court's not so much
18 concerned with the theoretical niceties of what, quote,
19 "substantial" or, quote, "any" means. I'm more concerned
20 with the actual practical application of facts through the
21 law. In this particular case I would agree with what the
22 Solicitor was kind of alluding to a few moments ago. In
23 isolation any one of the bits of circumstantial evidence, as
24 with the others, would probably warrant the Court granting a
25 directed verdict. If we were dealing with only a single

1 particle of GSR found on the Defendant's sleeve without the
2 other evidence, then certainly there would not be enough to
3 go to the jury. Maybe even a particle plus the DNA found on
4 the gun. Perhaps that would be insufficient to send to the
5 jury. Perhaps a particle, the fact that she had the
6 Defendant's DNA under her fingertips, and the DNA on the gun
7 that belonged to the Defendant, those in isolation without
8 other evidence might be insufficient to send it to the jury.
9 But the Court has had the opportunity to, and the jury has
10 had the opportunity to review the videos of the Defendant.
11 And again, this is a case where the parties have stipulated
12 that this was, in fact, a homicide. This is not a suicide.
13 Someone killed Ms. Stutler. The Defendant has given several
14 statements. He has been consistent in his belief that this
15 was a suicide. But part of the State's theory of this case
16 is that that belief was inherently unreasonable because no
17 gun was discovered by Ms. Stutler. There were
18 contradictions in the videos that were taken of the
19 Defendant and the audio that was taken of him. There are
20 contradictions, and there are credibility issues in what the
21 Defendant said. The jury is ultimately the judge of
22 credibility of witnesses. And by his statements to law
23 enforcement, by the tapes that have been played for jury,
24 the 911 tape, etcetera, I think that credibility is squarely
25 an issue in this case. So we're dealing with one of those

1 mixes of circumstantial evidence and direct evidence in the
2 sense that the jury is entitled to pass upon the
3 reasonableness of the Defendant's explanation, the
4 credibility of what he is saying to the investigators, and
5 the other circumstances involved in this case. The
6 Defendant's point that there was a period of time where Ms.
7 Stutler could have been killed is valid. That's accurate.
8 But it does not -- it does not necessarily mean that the
9 Court has to dismiss this case at this particular stage.

10 So the Court will conclude that there is substantial
11 circumstantial evidence and direct evidence in which the
12 Court -- or from which the jury could conclude that the
13 Defendant is the one who took the life of Ms. Stutler, and
14 that will be the Court's ruling. The Court will deny the
15 Defendant's motions for a directed verdict. And, of course,
16 the Defense having renewed all prior motions, including the
17 motion for a mistrial and objections, the same rulings shall
18 stand with regard to those.

19 MR. GROSE: The only -- the concern that I have was
20 with the part of your ruling where you said that you don't
21 have to be concerned with what the any substantial
22 circumstantial evidence means. I don't know that you can
23 apply the law to the facts without knowing what that means.
24 And I would just respectfully ask for your definition for
25 the record in case our Court -- Appellate Courts are having

1 to look at this. And I realize I'm putting you in a
2 difficult spot because of the opinions out there, but I also
3 feel like the law has probably gotten a little unclear on
4 some of this because we don't have these conversations at
5 this stage of the trial on the record.

6 THE COURT: I appreciate that, Mr. Grose. And candidly
7 your point is well made. What substantial means is
8 something that candidly has been discussed on the Listserve
9 among circuit judges for some period of time. This comes up
10 periodically, and we try to offer guidance to each other. I
11 think that if this case were solely -- again, if this case
12 were solely a circumstantial evidence case, if there weren't
13 credibility issues involved in this, if the Defendant had
14 never given a statement to the authorities or if his
15 statements perhaps made a little bit more sense in light of
16 the evidence, the other evidence that exists, then maybe
17 your point would be a little bit better taken. I take
18 substantial circumstantial evidence, when you're dealing
19 with just a purely circumstantial evidence case, to mean
20 exactly what the Courts have articulated it in the past. So
21 that will be my ruling.

22 We'll give ourselves a few moments. You can go ahead
23 and be thinking about your order of witnesses. I assume
24 you've got it figured out.

25 MR. GROSE: I've got it figured out. They're all here.

JEFFREY HINES

587

1 THE COURT: Yes, sir.

2 MR. GROSE: The other logistically, and there will
3 probably be some breaks, but I intend on using the
4 PowerPoint during my closings. So I'm going to need a break
5 between their closing and my closing to do that. They're
6 going to get a reply. I'm not going to suggest to them
7 whether they want to break or don't want to break, but if
8 they want one between it or they don't want, I don't have a
9 preference.

10 THE COURT: Let's take about five or 10 minutes for
11 ourselves. Reconvene at about 11:25. We'll take your case,
12 do your case, which should last about an hour. And then
13 probably break for a bite, I guess, and then we'll argue and
14 charge this afternoon. Okay?

15 MR. BROWN: Judge, I do have to officially rest when
16 they come back out.

17 THE COURT: I thought you did. But we'll let you go
18 ahead and officially rest. And you don't have to renew the
19 directed verdict.

20 MR. GROSE: Yeah, we don't -- we don't want to have
21 this conversation again.

22 THE COURT: I think the record's pretty clear.

23 (Whereupon, a recess was held from 11:16 a.m. to 11:31
24 a.m.)

25 THE COURT: Solicitor, I know you've already rested and

JEFFREY HINES

588

1 we've already held -- or had all the motions, et cetera, but
2 just rest for benefit of window dressing, if we could, and
3 then we'll move on to the Defendant's case. Let's have the
4 jury, please.

5 (Whereupon, the jury entered the courtroom at 11:32
6 a.m.)

7 THE COURT: The record will reflect that the jury is
8 back and seated. Solicitor?

9 MR. BROWN: The State rests, Your Honor.

10 THE COURT: Very good. Mr. Grose, are you ready to
11 proceed, sir?

12 MR. GROSE: Yes, sir, I am. May it please the Court.

13 THE COURT: Call your first witness.

14 MR. GROSE: I would recall Investigator Hines.

15 THE COURT: Mr. Hines, you're still under oath from
16 yesterday and Tuesday respectively.

17 JEFFREY HINES, having been
18 previously sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. GROSE:

21 Q I'm going to show you what's now been marked as
22 Defendant's Exhibit Number 17.

23 A Yes, sir.

24 Q That's the sheet of notes that we looked at yesterday,
25 isn't it?

JEFFREY HINES

589

1 A That is correct. Yes, sir.

2 Q And over in the margins, can you read where it starts
3 with Willie?

4 A "Willie came to bedroom window and asked about paper
5 for church."

6 Q And you made these notes while you were doing the
7 interrogations?

8 A Those came on the -- I believe, sir, they came on the
9 first interview, as you see in the video me writing.

10 MR. GROSE: I move Defendant's Exhibit 17 into
11 evidence.

12 THE COURT: Any objection?

13 MR. BROWN: No objection.

14 THE COURT: Without objection, 17 is in evidence.

15 (Whereupon, Defendant's Exhibit Number 17 was admitted
16 into evidence.)

17 MR. GROSE: That's all I have. Thank you.

18 MR. HINES: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. BROWN:

21 Q Officer Hines.

22 A Yes, sir.

23 Q How many bedrooms are in that trailer?

24 A There was two bedrooms in the trailer.

25 Q One where the body was located and the other on the

J.C. BOGGS

590

1 opposite end?

2 A That is correct. One where the body was located and
3 one on the opposite end of the trailer.

4 Q Did he say which bedroom window?

5 A I do not believe he said which bedroom window. But
6 like I said, it was -- I jotted it down because he said
7 bedroom window, but he didn't say which one.

8 MR. BROWN: No further questions.

9 THE COURT: Mr. Hines, thank you very much. You may
10 step down.

11 THE WITNESS: Yes, sir.

12 (Whereupon, the witness stepped down from the witness
13 stand.)

14 MR. GROSE: At this time, Your Honor, I'd call JC
15 Boggs.

16 THE COURT: Mr. Grose, since that's now in evidence,
17 would you mind -- that statement that you just introduced,
18 let's put it over here so it doesn't get stuck in --

19 MR. GROSE: Well, actually this is a folder of all my
20 exhibits that she gave to me for reference. I'll make sure
21 it doesn't get lost.

22 THE COURT: Good enough.

23 JC BOGGS, having first been duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

J.C. BOGGS

591

1 BY MR. GROSE:

2 Q Can you state your full name and spell your last name

3 A J.C. Boggs, B-o-g-g-s.

4 Q And can you speak into that microphone? I don't know.

5 Is it even on?

6 THE COURT: It's not on. Try it now.

7 Q Do you live in Abbeville County?

8 A Yes, sir.

9 Q And which part of Abbeville County do you live in?

10 A I live on 1320 Keowee Road, Iva. I stay in Abbeville
11 County though.

12 Q Right. So it's going up towards Anderson County?

13 A Yeah.

14 Q And what do you do for a living?

15 A I do side jobs like home improvement. I worked at
16 Rocky River Mill for 46 years. I do side jobs too.

17 Q And do people work with you sometimes?

18 A Yeah.

19 Q And do you know Charles Tillman?

20 A Yes, sir.

21 Q And how long have you known Charles Tillman?

22 A Probably -- I can't say. Probably 30, 40 years. I
23 been knowing him a long time.

24 Q And do you know his cousin Walt Tillman?

25 A Yes, sir.

J.C. BOGGS

592

- 1 Q And how long have you known him?
- 2 A I've known Walt about 20 years or more.
- 3 Q And do Charles and Walt ever work with you?
- 4 A Yeah.
- 5 Q And do you remember November 8th of 2016?
- 6 A Yes, sir.
- 7 Q And that was the day that Christie died. Did you work
- 8 with Walt and Charles that day?
- 9 A Yes, sir.
- 10 Q And where did you meet Walt and Charles?
- 11 A I pick them up at home.
- 12 Q And when you say you picked them up at their home, what
- 13 do you mean? Where is that home?
- 14 A They live about approximately two miles from me.
- 15 Q And is that on Bell Road?
- 16 A Yeah. Yes, sir.
- 17 Q And is there a house and a trailer on that property?
- 18 A Yes, sir.
- 19 Q And do both of them live there, to your knowledge?
- 20 A To my knowledge they do.
- 21 Q And what time did you pick them up that day?
- 22 A I'd say I picked them about 8:30.
- 23 Q And when you picked them up, where did you all go?
- 24 A We went to work up there in Anderson County kind of
- 25 beside the Jockey Lot. I do some work so we went up there.

J.C. BOGGS

593

1 Q And what kind of work were you doing there?

2 A We were painting.

3 Q And how long were you there?

4 A We were there -- we were there all day.

5 Q And when you say all day, what time did you all finish
6 up at the job, do you think?

7 A We finished up at the job approximately -- I'd say
8 about 5:00.

9 Q And then did you make any stops?

10 A Oh, yeah. We left there and went to the bank and went
11 to Spinx up there on 28 in Anderson.

12 Q Did you all get some food?

13 A Yeah, stopped there and got some food.

14 Q Some chicken?

15 A Yes, sir.

16 Q Okay. And then did you take Walt and Charles back to
17 where they live?

18 A Yes, sir.

19 Q And what time do you think you got back there?

20 A Probably 6:30. I remember because I had to go register
21 to vote, so I know -- I went on to go vote. So it was
22 approximately 6:30.

23 Q And were you ever interviewed by Investigator Ashley
24 from the Sheriff's Department?

25 A Yeah. When they came down to talk to me I went down

J.C. BOGGS

594

1 there.

2 Q And did you sign a statement for them?

3 A Yes.

4 Q Now, if I understand correctly, you were with Charles
5 from about 8:30 until sometime after 6:00 that day?

6 A Yes, sir.

7 Q How was he acting?

8 A He acting normally like he always generally do.

9 Q He didn't seem like he was under any stress or duress
10 or anything like that?

11 A No, sir.

12 MR. GROSE: Thank you, Mr. JC. Please answer any
13 questions they might have.

14 CROSS-EXAMINATION

15 BY MR. BROWN:

16 Q Good morning, Mr. Boggs.

17 A Good morning.

18 Q Mr. Boggs, Charles Tillman would do some side jobs with
19 you; is that right?

20 A Yes, sir.

21 Q And on this particular day you said you were painting?

22 A Yes.

23 Q And when you're painting you use your hands a lot,
24 right?

25 A Yes, sir.

J.C. BOGGS

595

1 Q And when you're painting you're using your hands a lot,
2 right?

3 A Yes, sir.

4 Q Touching paint?

5 A Yes, sir.

6 Q Touching maybe paint thinner?

7 A We didn't use no paint thinner that day. I know we
8 didn't use no -- we used paint, but not no paint thinner.

9 Q And as you were painting sometimes wash your hands and
10 clean your hands off?

11 A Yes.

12 Q And you all were painting all day?

13 A All day, yeah.

14 Q And when you're painting, do you all use just the
15 brushes, or you all use rollers also?

16 A We use brushes and rollers.

17 Q Rollers?

18 A Uh-huh.

19 Q Do you all paint walls or ceilings?

20 A Walls.

21 Q And then you also use rollers to do that?

22 A Uh-huh.

23 Q So you're moving around a lot?

24 A Yes, sir.

25 Q Mr. Boggs, you said -- when you gave your statement to

1 Sergeant Ashley, you said you picked them up approximately
2 at 8:30?

3 A Yes, sir.

4 Q Could it have been around 9:00?

5 A No.

6 Q It wasn't?

7 A No.

8 Q So if somebody says 9:00 are they telling the truth or
9 is that a lie?

10 MR. GROSE: Objection. Pitting the witness, Your
11 Honor.

12 THE COURT: Objection sustained.

13 Q But you said 8:30?

14 A It was 8:30, because I knew we had a certain time to be
15 there. So I'm looking at my watch when I got there and it
16 was 8:30.

17 Q Yes, sir. Now, Mr. Boggs, how would you characterize
18 Mr. Tillman? Was he in pretty good -- at that time was he
19 in pretty good shape?

20 A Yes.

21 Q Pretty built guy?

22 A What you mean by built guy?

23 Q Strong.

24 A Oh, yes, sir.

25 Q Mr. Boggs, you didn't stay with Charles Tillman and

1 Christie at that trailer the night before, did you?

2 A Run that by me again.

3 Q You didn't -- you stayed at your own house the night
4 before, right?

5 A Yes, sir.

6 Q You didn't stay with Charles and Christie?

7 A No, sir.

8 Q So you can't say what happened in that trailer before
9 Charles left, can you?

10 A Oh, no, sir.

11 Q Or if he moved anything?

12 A No, sir.

13 Q When you were painting up there at that house did you
14 all shoot any guns? Did you shoot any guns while you were
15 painting up there that day?

16 A No, sir.

17 Q No. And when you got there -- tell me again, where did
18 you pick Mr. Tillman along with his cousin?

19 A Where did I pick them up at?

20 Q Yes, sir.

21 A In the yard at the house.

22 Q At which house?

23 A I pick him up in the yard at the brick house.

24 Q At the brick house?

25 A Uh-huh.

WALT TILLMAN

598

- 1 Q That's his mother's house?
- 2 A Yeah.
- 3 Q So, he wasn't around his trailer?
- 4 A No.
- 5 Q And when you came back and dropped him off, where did
- 6 you drop him off?
- 7 A The same place.
- 8 Q At the house?
- 9 A Uh-huh.
- 10 Q During this day, again, painting and all, did you all
- 11 -- do you know if you all cleaned your hands?
- 12 A I can't exact say. I don't remember what they do, but
- 13 I know when you paint you clean your hands.
- 14 Q You were painting. You're doing pretty strenuous work,
- 15 right?
- 16 A Yeah.
- 17 Q And again, before you picked him up you couldn't tell
- 18 -- you don't have any information what went on in that or
- 19 what Charles was doing before you picked him up that day?
- 20 A No, sir.
- 21 MR. BROWN: Thank you. No further questions.
- 22 THE COURT: Nothing on redirect?
- 23 MR. GROSE: Nothing further, Your Honor.
- 24 THE COURT: Mr. Boggs, thank you. You can step down.
- 25 (Whereupon, the witness stepped down from the witness

WALT TILLMAN

599

1 stand.)

2 THE COURT: Call your next witness, please.

3 MR. GROSE: I would call Walt Tillman, Your Honor.

4 WALT TILLMAN, having first been
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GROSE:

8 Q Walt, what is your full name?

9 A Walter Tillman.

10 Q Do you go by a nickname?

11 A No.

12 Q You go by Walt?

13 A Uh-huh.

14 Q And you've got to answer yes or no just because the
15 court reporter needs to get that clearly on the tape.

16 A All right.

17 Q So Walt is short for Walter. Is that fair to say?

18 A Yes, sir.

19 Q Walt, where do you live?

20 A I live with my auntie.

21 Q And where is that?

22 A In Abbeville.

23 Q And where were you living in November -- on November
24 8th of 2016?

25 A In my auntie house.

WALT TILLMAN

600

- 1 Q And is that the Bell Road address?
- 2 A Yes, sir.
- 3 Q And how many of you all were living there at that time?
- 4 A I think there were four of us.
- 5 Q And that's in the brick house?
- 6 A No, it was -- yeah. Yeah, four of us. Yes, sir.
- 7 Q And who was that?
- 8 A That was me, my auntie, Antonio.
- 9 Q Antonio, he's the young man that's been here this
- 10 morning?
- 11 A Yes, sir.
- 12 Q And is Vonnie Cummings one of those people?
- 13 A Yes, sir. She live there too.
- 14 Q And Ms. Fannie?
- 15 A Yes, sir.
- 16 Q And on this property is there also a trailer?
- 17 A Yes, sir.
- 18 Q And who was living in the trailer at that time?
- 19 A Charles and his girlfriend.
- 20 Q And is that Christie?
- 21 A Uh-huh.
- 22 Q Is that a yes?
- 23 A Yes.
- 24 Q Again, for the court reporter.
- 25 A Okay. Yes.

WALT TILLMAN

601

- 1 Q Now, did you see Charles that day, November 8th?
- 2 A I see him that day -- that night when we was at home.
- 3 Q Did you see him that morning?
- 4 A Uh-huh. Yes.
- 5 Q Did you go to work with him that day?
- 6 A Yes, sir.
- 7 Q Did you go to work with Mr. Boggs that day?
- 8 A Yes, sir.
- 9 Q Mr. JC?
- 10 A Yes, sir.
- 11 Q And what time did -- Mr. Boggs doesn't live there,
- 12 right?
- 13 A No, sir.
- 14 Q So did he come and pick you all up?
- 15 A Yes, sir.
- 16 Q And what time was that?
- 17 A 8:30.
- 18 Q And where did you all go?
- 19 A We went to Anderson up there to work.
- 20 Q And were you there all day?
- 21 A Yes.
- 22 Q And you stopped at the Spinx on the way back?
- 23 A On the way back.
- 24 Q And about what time did you all get back?
- 25 A Well, we got back home at 6:30.

WALT TILLMAN

602

1 Q What?

2 A 6:30 that evening.

3 Q That evening?

4 A Uh-huh.

5 Q And how was Charles acting that day?

6 A He acting normal.

7 Q Did he seem like he was under any duress or anything?

8 A No, sir.

9 MR. GROSE: Thank you, Walt. Please answer any
10 questions the Solicitor might have.

11 THE COURT: Solicitor.

12 CROSS-EXAMINATION

13 BY MR. BROWN:

14 Q Mr. Tillman, you stated you're Charles' cousin --

15 A Yes.

16 Q -- is that correct? And you live with his aunt? You
17 live with your aunt?

18 A I live with Charles' momma.

19 Q And that would be Vonnice Cummings, right?

20 A Yes, sir.

21 Q Now, that morning you're saying you left at 8:30?

22 A Uh-huh. Yes, sir.

23 Q And then you said you got at 6:30 that night, right?

24 A Yes, sir.

25 Q Did you all get back any earlier than that?

WALT TILLMAN

603

- 1 A No, sir.
- 2 Q No. The 911 call came out at 6:10 in the evening.
- 3 Charles --
- 4 A I don't -- I don't know what time he -- you know what
- 5 I'm saying.
- 6 Q So it could have been earlier.
- 7 A But 6:30 is when we got home.
- 8 Q It was 6:30 when you got home?
- 9 A Uh-huh.
- 10 Q Now, I guess you were doing the same work Charles was?
- 11 A Yes, sir.
- 12 Q You all were painting?
- 13 A Yes, sir.
- 14 Q Painting all day?
- 15 A All day.
- 16 Q All day. How many rooms did you do that day?
- 17 A Well, we did a big building. It look something like a
- 18 -- what you call them? What you call them houses?
- 19 THE DEFENDANT: Two story.
- 20 THE COURT: No. Describe it as best you can, sir.
- 21 A A garage. A car garage. That was what we were
- 22 painting.
- 23 Q You all were painting all day?
- 24 A All day.
- 25 Q Is that hard work?

WALT TILLMAN

604

- 1 A It's pretty hard for me 'cause I ain't hardly used to
2 painting.
- 3 Q Understandable. That morning when you all went, do you
4 remember what the temperature was?
- 5 A I don't know what the temperature was.
- 6 Q Was it cool?
- 7 A Yeah, it was kind of cool. Yeah, it was cool.
- 8 Q When you were painting though did anybody have to take
9 off any shirts or anything like that?
- 10 A No, nobody took nothing off.
- 11 Q Didn't take it off?
- 12 A Huh-uh.
- 13 Q So you were working all day, pretty strenuous work --
- 14 A Yeah, yeah.
- 15 Q -- same clothes?
- 16 A Yes.
- 17 Q Now, how old are you?
- 18 A Fifty-four.
- 19 Q How old is Charles?
- 20 A I couldn't quite tell you.
- 21 Q You've grown up with Charles, right?
- 22 A Yes, sir.
- 23 Q Do you consider yourself a pretty close family?
- 24 A We're real close.
- 25 Q You all are close?

WALT TILLMAN

605

- 1 A Yes, sir.
- 2 Q You live there together?
- 3 A We don't live together. Yes, sir. We live together.
- 4 Yeah.
- 5 Q You love your cousin, right?
- 6 A Yes.
- 7 Q Never want to see anything bad happen to him?
- 8 A Oh, no. No. I don't want that to happen to nobody.
- 9 Q Mr. Tillman, you didn't -- you weren't staying down
- 10 there in Charles' trailer, have you?
- 11 A No, sir.
- 12 Q So you couldn't tell what happened behind closed doors
- 13 with Charles and Christie?
- 14 A No, sir.
- 15 Q What time did you get up that morning?
- 16 A I got up about 7:00.
- 17 Q Were you in the house though during that time?
- 18 A Yeah.
- 19 Q You weren't peeking out your door looking to see what
- 20 everybody's doing outside?
- 21 A No.
- 22 Q No. You can't say you had your eyes fixed on any --
- 23 those cars outside?
- 24 A No, sir.
- 25 Q So if somebody put something in one of those cars you

WILLIE TILLMAN

606

1 didn't see it?

2 A I don't know nothing about it.

3 Q Sir?

4 A No, sir.

5 Q Mr. Tillman.

6 A Sir?

7 Q Did you kill Christie?

8 A No, sir.

9 Q You'd been up there at your aunt's house, right?

10 A Yes, sir.

11 Q You hadn't been with Christie all night, had you?

12 A No, sir.

13 Q But you love your cousin, right?

14 A Yes, sir.

15 MR. BROWN: No further questions.

16 MR. GROSE: No redirect.

17 THE COURT: All right, sir. Thank you. You can step
18 down.

19 (Whereupon, the witness stepped down from the witness
20 stand.)

21 THE COURT: Call your next witness, please.

22 MR. GROSE: Willie Tillman.

23 WILLIE TILLMAN, having first being
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

WILLIE TILLMAN

607

1 BY MR. GROSE:

2 Q Are you related to Charles Tillman?

3 A Yes, sir.

4 Q And how are you related to Charles?

5 A I'm his older brother.

6 Q Okay. And so, if you're his oldest brother, it's fair
7 to say you've known Charles all of his life?

8 A Yes, sir.

9 Q And they're going to ask you this. You love him, don't
10 --

11 A Yes, sir.

12 Q Would you lie for him?

13 A No, sir.

14 Q Where --

15 THE COURT: Hey, hey, hey. We need to maintain order
16 in here. Okay? So nothing from the peanut gallery in any
17 kind of way. No statements, no shaking heads, nothing like
18 that. Mr. Grose, go ahead, please.

19 Q Willie, where do you live?

20 A I live at Bell Road.

21 Q And is that near where Charles and his mother live?

22 A Yes, sir.

23 Q How far?

24 A Approximately I'd say maybe an eighth or a quarter of a
25 mile. Not much. I can be down there in five minutes.

WILLIE TILLMAN

608

- 1 Q You mean walk down there?
- 2 A Walk. Yes, sir. Yes, sir. Yes, sir.
- 3 Q And were you living there in November of 2016?
- 4 A Yes, sir.
- 5 Q Okay. I'm going to put --
- 6 MR. GROSE: I can't read very well anymore, Your Honor,
- 7 without glasses.
- 8 Q Defendant's Exhibit 3 on the screen. And you have
- 9 trouble seeing, too, don't you, Willie?
- 10 A Yes, sir.
- 11 Q Okay. Let me do this. Let me -- is that a -- do you
- 12 recognize that?
- 13 A Yes, sir.
- 14 Q What is that?
- 15 A That's like a map to Bell Road.
- 16 Q Is it like an overhead photograph?
- 17 A Yes, sir.
- 18 Q And does it show the brick house where Ms. Vonnie
- 19 lives?
- 20 A Yes, sir.
- 21 Q And does it show the trailer where Charles lives?
- 22 A Yes, sir.
- 23 Q Thank you. Now, do you go to see Charles and his
- 24 mother on a regular basis?
- 25 A Oh, yes, sir.

WILLIE TILLMAN

609

1 Q And is it -- do you go up there in the mornings
2 sometimes?

3 A Sometimes. Yes, sir.

4 Q On November 8th of 2016 did you go up there in the
5 morning?

6 A Yes, sir.

7 Q And what time did you go up there?

8 A I got there around about 7:30, sir.

9 Q Okay. And what did you do when you got there?

10 A I walked down there. When I got there I see cuz coming
11 out -- Walter Tillman come out the door. I said, Cuz, I
12 says, is Charles here. He said yeah. I said, is Charles
13 up? I don't know if he's up. And after I done that I said,
14 well, I come down here to see if Charles can get me that
15 statement about -- the estimate about getting that flooring
16 done for the church.

17 Q Tell the jurors about that. What is that all about?

18 A Yes, sir. I mean, like I said, like the -- Mr. JC done
19 testified that Charles do side work for him. What I did is
20 I tried to get them extra jobs because, you know they in
21 that field. And I said, well, if Charles can get that job
22 they can do extra -- make a little extra money, you know.
23 That's why I came down there that morning to get him to see
24 about that estimate. So I asked him about it.

25 Q And did you go anywhere to talk to Charles about that?

WILLIE TILLMAN

610

1 A Yes, sir. I went -- after I talked to my cousin,
2 Walter Tillman, I went on down there. I went around to the
3 front of the house, went around the corner of the trailer
4 and I knocked on the wall. I said, Charles. I call him
5 Charlie Boy, you know. And then I said, Charles, you up?
6 He said yes. I said, Charles, I come down here to see the -
7 - can you write the prescription -- I mean, excuse me, that
8 estimate for that flooring for the church. He said, well, I
9 can't do it, but Christie can do it. I said, well, Charles,
10 I mean they need a estimate. I said they got one estimate
11 for \$5,000. I said, Charles man, you need to get under
12 \$5,000 to get the bid. To get the job, you know. And he
13 said okay. And then as I was talking to him about that he
14 said to Christie, well, Christie, we going -- I'm going -- I
15 can't remember if he gave her \$20 or he going to leave \$20
16 there for her to get a pack of cigarettes and something to
17 eat that day. And then after that he was talking back and
18 forth to me and her. And I said, Charles, I said, man, you
19 need to put down the -- you know, how many days it's going
20 to take you to do the job, the fee, and then the date and
21 the time. And then as -- after I said that, I said,
22 Charles, I need that today, man. He said okay. I'm going
23 to get Christie to do it. I said, Charles, I said, that's
24 what you need to put down now. And she said, Charles, what
25 do I need to put down. I heard that, and then I just went

WILLIE TILLMAN

611

1 on back -- excuse me, sir. I went on back to the yard. I
2 said, Charles, I'll be outside waiting on you when you come
3 out. And that was probably like two, three minutes. And
4 then he come on outside and gave me a paper. Him, Mr. JC,
5 Walter Tillman, they got in the truck and went to work.

6 Q Now, you said you went down to the trailer?

7 A Yes, sir.

8 Q All right. I'm going to show you Defendant's Exhibit
9 Number 6. Is that the trailer?

10 A That's it. Yes, sir.

11 Q Is that the bedroom?

12 A Yes, sir.

13 Q Okay. And did you -- was that the window that you went
14 to?

15 A Yes, sir. Yes, sir. That's it. Yes, sir. Yes, sir.

16 Q And you took me down there and showed that to me, too,
17 didn't you?

18 A Yes, sir.

19 Q And how would you get Charles' attention?

20 A Well, I normally -- I don't get too much response out
21 of him. I just start knocking on the wall. I say, hey
22 Charlie Boy, where you going, man. Like that. That's how I
23 holler at him to make sure he get my attention. Then I hear
24 them talking back and forth. And that's why -- that's how I
25 get him. I do that when I come down there and I catch him

WILLIE TILLMAN

612

- 1 at home that's what I do.
- 2 Q You said you knocked on the wall, right?
- 3 A Yes, sir.
- 4 Q And is that the wall below the --
- 5 A I can't see that far. I can see it now. I would say
- 6 probably right at the edge of that corner. I'd say probably
- 7 about two feet to the -- we're looking at right now, to my
- 8 left -- I mean, excuse me, to my right. Yeah, my -- yeah,
- 9 my left. Yes, sir. Yes, sir.
- 10 Q And is -- are the walls to the trailer thin?
- 11 A Yes, sir. Because you can -- I can hear movement was
- 12 in there. Like she was like trying to get up and -- but
- 13 yeah. Yes, sir. I could hear whatever he say. Yes, sir.
- 14 Q Thank you.
- 15 A Yes, sir.
- 16 Q And did you hear her talking?
- 17 A Yes, sir.
- 18 Q Did you ever go inside the trailer --
- 19 A No, sir.
- 20 Q -- that morning?
- 21 A No, sir. No, sir.
- 22 Q And after you were at the trailer did you stay -- where
- 23 did you go?
- 24 A After I left telling him about that estimate I started
- 25 walking back to his mom's yard and I waited back in the yard

WILLIE TILLMAN

613

1 until he come out. It was about two, three minutes and he
2 come outside. Like I said, he and Mr. JC and Walter, they
3 got in the truck and they left to go to work. And after
4 that I went in the yard. I hung around the yard and
5 organized the baskets for my mom to get ready to go to the
6 washerette. And I put the walker in the back.

7 Q So is it fair to say you never went inside --

8 A Oh, no, sir.

9 Q -- the brick house either?

10 A No, sir. No, sir. No, sir. No, sir.

11 Q After you left the bedroom window to the trailer did
12 you hear any gunshots?

13 A Oh, no, sir.

14 Q Now, were you there when Charles and Walt and JC left?

15 A Yes, sir.

16 Q And what did you do after that?

17 A After I done that, like I said, I went right back
18 towards the house, down in the yard. My mom -- what I did,
19 organize the clothes and put her walker in there and I shut
20 it down. And I say probably about approximately five or 10
21 minutes my mom come outside and we got in the vehicle and we
22 left and went to the washerette.

23 Q And who all went to the laundry?

24 A That was me, my mom, and my great aunt, Aunt Fannie.

25 Q Aunt Fannie.

WILLIE TILLMAN

614

- 1 A Yeah.
- 2 Q Was Antonio there?
- 3 A No, sir.
- 4 Q He goes to work early in the morning?
- 5 A Yes, sir.
- 6 Q The note that Christie wrote out and Charles gave to
7 you, what did you do with that?
- 8 A Sir, what I did, I gave it -- well, really my wife go
9 to that church. But what we did, I gave it to her and she
10 gave it to one of the ministers of the church, Sir.
- 11 Q And did you go back to the church and try and find that
12 note?
- 13 A Yes, sir.
- 14 Q Were you able to get it back?
- 15 A No, sir.
- 16 Q Has anybody from the Abbeville Sheriff's Department
17 interviewed you about this case?
- 18 A No, sir.
- 19 Q Has anybody from SLED interviewed you about this case?
- 20 A No, sir.
- 21 Q Has anybody from the Solicitor's Office interviewed you
22 about this case?
- 23 A No, sir.
- 24 Q Have you been up here all week?
- 25 A Yes, sir.

WILLIE TILLMAN

615

1 MR. GROSE: Thank you, Willie. Answer any questions
2 they might have.

3 THE WITNESS: Yes, sir.

4 CROSS-EXAMINATION

5 BY MR. BROWN:

6 Q Mr. Tillman, again, you live down the road from 1083?

7 A Well, yes, sir.

8 Q And how much older are you than Charles?

9 A Charles probably -- well, he probably about 40 -- I
10 want to say at least -- it's about eight, nine years between
11 us.

12 Q What time did you say you got there that morning?

13 A 7:30, sir.

14 Q And you said you first saw your cousin, Willie --
15 Walter?

16 A I'm Willie, sir.

17 Q Or Walter?

18 A Yes, sir.

19 Q And then you have -- or said you went on down. What
20 time did you go down to that trailer?

21 A Sir, I didn't -- I really did not -- I didn't look at
22 my cell phone at that time, but I'd say approximately -- I
23 goofed off a little bit. I'd say approximately 10, 15
24 minutes, I guess. I ain't for sure. I mean, I can't
25 remember all that, but I went down. I can't give you a

WILLIE TILLMAN

616

1 specific time, sir.

2 Q And when you went down there, you went down to the tall
3 part down here and knocked on the --

4 A No, sir. No, sir.

5 Q Where did you knock?

6 A Where I'm sitting right now, it's going to be to my
7 right. That there -- like I said to him. To my -- I say
8 about two feet to my left down on that wall, sir.

9 Q Down here?

10 A Huh?

11 Q Down here?

12 A That's going to be to your right, sir.

13 Q So over here?

14 A Yes, sir. About where you point at, sir.

15 Q You had this long conversation through the wall?

16 A Yes, sir.

17 Q Why didn't you knock on the door?

18 A Well, like I said, that's the way I get my brother to
19 get up. But he was already up at that time.

20 Q So he was up at that time it would be easy for him to
21 come to the door?

22 A Well, like I said, that's the way that I get his
23 attention, sir.

24 Q I'll show you State's 13. Well, first of all, did you
25 go in that trailer?

WILLIE TILLMAN

617

- 1 A No, sir.
- 2 Q Had you ever been in the trailer?
- 3 A Sir, it's been a long time, sir.
- 4 Q It's been a long time?
- 5 A I mean, like I said, I didn't go in that church -- I
- 6 mean, that trailer that morning, sir.
- 7 Q So you don't know what was inside, do you?
- 8 A No, sir.
- 9 Q Did he have a TV in that trailer?
- 10 A Like I said, sir, I don't know that.
- 11 Q You don't know if he had a TV in the trailer?
- 12 A I don't -- I don't know nothing about that, sir.
- 13 Q So if somebody said there's a TV in that trailer,
- 14 particularly Mr. Tillman, would you dispute that?
- 15 A Like I said, sir, I don't know what he had in that
- 16 trailer, sir.
- 17 Q The TV was on and you heard talking in the background?
- 18 MR. GROSE: Objection, speculation.
- 19 THE COURT: All right. He can describe what he heard,
- 20 Solicitor, but I don't know that he's going to be able to
- 21 testify that the TV was necessarily on because he was never
- 22 in the trailer, so --
- 23 MR. BROWN: Yes, sir. I'll move on.
- 24 Q Now, what was this estimate for?
- 25 A Like I said, sir, it was for doing the flooring for

WILLIE TILLMAN

618

1 that church, sir.

2 Q And Christie normally wrote estimates?

3 A I don't know that, sir, but that morning she did.

4 Q That morning she did?

5 A Yes, sir.

6 Q Was she a contractor?

7 A What that got to do with it? No, sir.

8 Q So if she wasn't a contractor why is she writing
9 estimates to do contracting work?

10 A Well, sir, I can't answer that.

11 Q There would be no reason for her to be doing
12 contracting estimates, right?

13 A Well, sir, I mean, you know, it ain't nothing but a
14 piece of paper. I mean, it got writing on it. I mean,
15 anybody can write a --

16 Q Well apparently it's an important piece of paper,
17 right?

18 A Well, like I said, sir, she didn't have to be certified
19 to write those statements, sir.

20 Q Well, you'd expect somebody that puts down flooring or
21 do some construction work to do an estimate, right?

22 A I don't know that, sir.

23 Q You didn't go in that trailer that morning, did you?

24 A No, sir.

25 Q You didn't see Christie that morning, did you?

WILLIE TILLMAN

619

- 1 A No, sir.
- 2 Q You didn't -- you weren't staying that night in that
3 trailer with Charles and Christie, were you?
- 4 A No, sir.
- 5 Q You don't know what went on in that trailer that night,
6 do you?
- 7 A No, sir.
- 8 Q And it doesn't make any sense that she's the one
9 writing an estimate out if she never went and did
10 construction work, does it?
- 11 A I don't know what you mean by that, sir.
- 12 Q Did she ever go to work and actually do construction
13 work with Charles?
- 14 A I can't answer that, sir.
- 15 Q That morning, after you supposedly got this estimate
16 from Christie who doesn't do any construction work, where'd
17 you go after that?
- 18 A Like is said, sir, I went -- got in the yard and went
19 looking -- pulling out some clothes and putting my mom
20 walker inside her, sir.
- 21 Q And where did you go?
- 22 A After that, sir, like I said, it took two or three
23 minutes. We went to the washer, sir.
- 24 Q You take your momma?
- 25 A No, sir. The Trailblazer did, sir.

WILLIE TILLMAN

620

- 1 Q Well, you rode with your momma?
- 2 A Oh, yes, sir.
- 3 Q What time did you get back from washing?
- 4 A I can't say that, sir.
- 5 Q Did you ultimately bring your mom back to her house
- 6 after you left the washroom?
- 7 A Sir, I was in the vehicle, sir, and we come back
- 8 together, sir.
- 9 Q Okay. That night when Charles got back from working
- 10 with JC Boggs were you there at the house when all this went
- 11 down?
- 12 A When JC and Charles got back from work, sir?
- 13 Q Yes, sir.
- 14 A No, sir.
- 15 Q No?
- 16 A No, sir.
- 17 Q Did you ever show back up that night?
- 18 A Yes, sir.
- 19 Q At that time you got mad at law enforcement because
- 20 they were blocking the driveway, right?
- 21 A Sir, I did not.
- 22 Q Did not?
- 23 A Did not.
- 24 Q And with this big piece of evidence that you're talking
- 25 about, an estimate, if you heard her talking that morning,

WILLIE TILLMAN

621

1 you ever went up there and talked to them and said, hey, I
2 got some big piece of evidence, did you?

3 A I ain't supposed to do that, sir.

4 Q You ain't supposed to do that?

5 A Sir, listen to me. No, sir.

6 Q That's your brother, right? That's your brother,
7 right?

8 A Who?

9 Q Charles Tillman.

10 A Oh, you're pointing to him, sir?

11 Q Yes.

12 A Yes, sir.

13 Q And you didn't think that was a big thing to do?

14 A Well, sir. Like you -- the guy who supposed to
15 investigate the situation, he supposed to come ask me that
16 question, but he did not, sir, that night, sir.

17 Q And you didn't think it relevant to go tell him? Go
18 grab him by the arm and say, Officer, I have some important
19 information to tell you?

20 A Well, sir, I mean, I ain't supposed to do that. Sir, I
21 mean, I don't think that's relevant, sir.

22 Q You don't think that's relevant? You don't think
23 that's relevant? Yes or no?

24 A Well, in a sense, sir, you know, these guys should have
25 done a better job, sir.

WILLIE TILLMAN

622

1 Q Are you aware law enforcement came out to Bell
2 Road, they were there all night investigating this case?

3 A Well, I assume that's what they doing, sir.

4 Q They were there all night with tape around that house?

5 A What you talking about? What house you mean, sir?

6 Q The trailer Charles was in?

7 A Yes, sir.

8 Q And not at any of those times you didn't go pick up
9 this call log with all these officers and say I got a big
10 piece of evidence that I heard Christie Stutler talking to
11 my brother, or I heard her say that that morning, and you
12 didn't feel like that was important to tell them?

13 A Well, sir, like I said, they -- I'm not on trial, sir.

14 Q I'm just trying to figure out why you didn't tell law
15 enforcement that.

16 A Well, sir, like is said, I wasn't a suspect. I
17 shouldn't give that information out, sir.

18 Q But anyhow what you're telling me today though is you
19 live down the road, correct?

20 A Yes, sir.

21 Q And you never stepped foot in that trailer?

22 A No, sir.

23 Q So if you didn't step in that trailer you couldn't have
24 killed Christie, could you?

25 A No, sir.

WILLIE TILLMAN

623

1 MR. BROWN: No further questions.

2 THE COURT: Anything?

3 RECROSS-EXAMINATION

4 BY MR. GROSE:

5 Q Willie, how long had you known Christie?

6 A I can't really say, sir, because she was like in and
7 out. I mean -- what I mean in and out, sir -- not long,
8 sir. I can't -- I can't recall that, sir, to be honest with
9 you, sir.

10 Q Did you know her voice?

11 A Oh, yes, sir. I know her voice. Yes, sir.

12 Q And is there any doubt that you heard her voice that
13 morning?

14 A Oh, no, sir. No doubt, sir.

15 Q Was law enforcement sharing with you their theories and
16 what they were finding or not finding in the investigation?

17 A No, sir. Nothing, sir.

18 Q If they had asked you questions, would you have talked
19 to them?

20 A Yes, sir.

21 MR. GROSE: That's all I have. Thank you.

22 MR. BROWN: Just a brief followup.

23 REDIRECT EXAMINATION

24 BY MR. BROWN:

25 Q How long did you say you knew Christie before this?

WILLIE TILLMAN

624

1 A I didn't say, sir.

2 Q Can you say?

3 A If I tell you I'll be lying and I don't want to tell a
4 lie. I don't know, sir.

5 Q Well, how often did you see Christie there at the
6 trailer?

7 A Well, sir -- say it again, sir. I don't understand
8 what you said.

9 Q How often would you see Christie?

10 A Well, like I said, sir -- I still don't understand that
11 question you're asking me, sir.

12 Q You don't understand how many times you saw Christie?

13 A Sir, like I said, I can't really say that because I --
14 I don't -- I ain't for sure. I don't really know. Because
15 like I said, when I normally comes down there -- I can't
16 say, sir. I don't know.

17 MR. BROWN: All right. No further questions.

18 THE COURT: All right, sir. You may step down.

19 THE WITNESS: Yes, sir. Thank you.

20 (Whereupon, the witness stepped down from the witness
21 stand.)

22 THE COURT: Mr. Grose.

23 MR. GROSE: At this time, Your Honor, the Defense would
24 rest.

25 THE COURT: Any testimony in reply, Solicitor?

1 MR. BROWN: None.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, here's what we're going to do. We're going to go
4 ahead and take our lunch break at this particular point in
5 time. I'm going to ask that you be back in the jury room,
6 if you would, please, let's say -- I need to afford Court
7 personnel an opportunity to get something to eat. I'm going
8 to ask that you be back in the jury room at 1:30, and at
9 that point in time, ladies and gentlemen, hopefully we'll be
10 in a position to proceed with the attorneys closing
11 arguments and my instruction to you on the law. I'm asking
12 for 1:30 because legally I have to go over with the
13 attorneys, and it's something that we've already been
14 working on last night, me and my clerk and the lawyers
15 involved. I have to go over with them the law that I'm
16 going to instruct you on, and that needs to be done on the
17 record. I'm hoping it won't take more than 10 minutes
18 because we've already had a good bit of discussion about.
19 So please do be back in the jury room at 1:30. And at that
20 point in time we'll be in a position to proceed with closing
21 arguments, my instruction, and then you'll get the case.
22 Don't talk about the case though, leave the notebooks with
23 the bailiff, and have a lovely lunch. See you at 1:30.

24 (Whereupon, the jury exited the courtroom at 12:17
25 p.m.)

1 THE COURT: The jury is out. All testimony having been
2 received, all motions by the Defense are renewed. Same
3 rulings as before. Any thoughts on the instructions? Mr.
4 Grose already informed me last night that he was withdrawing
5 his request for an accident instruction. He did request an
6 instruction on alibi. And I've incorporated -- I think I've
7 already shared with you all the most recent version of those
8 instructions. I did use the Judge Anderson charge on alibi
9 and just tweaked it slightly. Does the State have any
10 additional suggestions as far as the instructions?

11 MR. BROWN: Judge, I think they were pretty standard
12 other than those minor tweaks.

13 THE COURT: They are pretty much the --

14 MR. BROWN: I don't have any other --

15 THE COURT: Thoughts on it?

16 MR. BROWN: No, sir.

17 THE COURT: Any other thoughts, Mr. Grose?

18 MR. GROSE: I do have two thoughts.

19 THE COURT: Sure.

20 MR. GROSE: And they're fairly minor. Let me scroll
21 back to it. At the bottom of page 11. I don't know if it's
22 as big of a deal in this case or not. But my belief is, is
23 when you're talking about inferred malice that the
24 instruction should be limited to that it can be inferred
25 from circumstances. I think that gives close to giving a

1 type of example which I think broadly viewing Belcher is
2 telling us to get away from. So I just call that to your
3 attention.

4 THE COURT: Okay. That's -- let me --

5 MR. GROSE: It says malice may be inferred from conduct
6 showing a total disregard for human life.

7 THE COURT: I don't know that that necessarily is a
8 particularly big deal in this particular case. You know,
9 Belcher also -- I did not include malice arising -- or
10 inference of malice arising from use of a deadly weapon.
11 The footnote from Belcher seems to indicate that if there's
12 nothing that mitigates the homicide down from murder that
13 perhaps the Court could give that instruction. I think it's
14 pretty much fine the way it is, and under these facts I
15 don't know that that's something that they're necessarily
16 going to be focusing on.

17 MR. GROSE: The other comment -- well, I guess a
18 request. And your reference to, you know, Justice Hearn's
19 opinion on the directed verdict stuff kind of reminded me,
20 because we have this whole evolution away from Edwards and
21 back towards Edwards. And I understand under Logan you're
22 not allowed to give the Edwards circumstantial evidence
23 instruction. But I feel like it's probably incumbent on me
24 to ask that you give that instruction that the State has to
25 -- you know, they have to exclude all other reasonable

1 hypothesis. And I know you can't give that, but I think
2 it's incumbent upon me to ask for that in case the law
3 continues to evolve in the case or another case.

4 THE COURT: Well, candidly, Mr. Grose, I think that in
5 many respects the Logan instruction as a practical matter is
6 very, very similar to the Edwards instruction, because if
7 you instruct someone that the evidence must point to the
8 guilt of the accused to the exclusion of any other
9 reasonable hypothesis, and then you say however to the
10 extent the State relies on circumstantial evidence, all the
11 circumstances must be consistent with each other, and when
12 taken together point conclusively to the guilt of the
13 accused. As a practical matter I think that may be very
14 well saying the same thing in a different way.

15 MR. GROSE: One says it better.

16 THE COURT: Perhaps. I'm comfortable with Logan.
17 That's what the current law is. And I appreciate your
18 motion though and it is noted. I'm going to charge Logan
19 the way -- that's the most recent case on point.

20 MR. GROSE: And it says you have to by it's terms.

21 THE COURT: Right.

22 MR. GROSE: So I know you can't grant my request.

23 THE COURT: Right. It certainly doesn't hurt to ask.

24 MR. GROSE: The only other thing I'd put on the record
25 -- I don't think it's a big deal since we had some emails

1 exchange about it. But you're requiring the State to open
2 fully on the law and the facts and then reply to be limited
3 to the new matters raised in my closing.

4 THE COURT: My understanding, and I realize that the
5 reviewing on Bailey of an opinion -- or Beatty, the
6 rehearing -- the opinion on the rehearing from Beatty still
7 hasn't come out. I don't see the Supreme Court moving away
8 from the due process implications that were in the original
9 Beatty opinion. They base the requirement that the State
10 reply only to what the Defense puts forward and not, you
11 know, come up with some new theory. That's based on due
12 process considerations as opposed to evidentiary rules or
13 rules of procedure. So if you would, Solicitor, give them
14 your -- give the State's theory at the inception of your
15 argument and you'll be limited to responding to what Mr.
16 Grose puts in. I think that's going to be the law and I
17 don't see that changing. We may as well go ahead and get
18 used to it.

19 MR. BROWN: I'd rather be safe than sorry.

20 THE COURT: Exactly. About an hour, folks. If
21 anything occurs to you over the lunch break you forgot to
22 bring up, just text me. I'll see you all back at 1:30. I
23 do want to hit the ground running. We're off the record.

24 (Whereupon, a lunch recess was held from 12:28 p.m. to
25 1:38 p.m.).

1 THE COURT: We'll go back on the record. Mr. Gross,
2 you did tell me that you're going to want to break between
3 when the Solicitor finishes and you argue, right?

4 MR. GROSE: Yeah I need to set up my -- I just --
5 hopefully it'll work.

6 THE COURT: Okay. We'll take a break at that point in
7 time. And then State's ready to close?

8 MR. BROWN: Yes, sir.

9 THE COURT: Let's have the jury, please.

10 (Whereupon, the jury entered the courtroom at 1:39
11 p.m.)

12 THE COURT: The record will reflect that the jury is
13 back. Ladies and gentlemen of the jury, at this point we've
14 received all the testimony that you're going to have in
15 order to judge this case, and in a moment the attorneys will
16 give you their closing summation, or their closing argument.
17 Between the time that the Solicitor finishes and Mr. Grose
18 argues we'll take a brief break because we need to -- he
19 needs to set up some stuff he wants to play for you. But I
20 want to remind you that as it relates to the arguments set
21 forth by both sides that you are the judges of the facts in
22 this particular case, and even though it's normal and it's
23 to be expected, that the attorneys are going to allude to
24 testimony or they're going to reference certain things that
25 were said or certain comments that were made during the

1 course of the trial. If whatever they say about the facts
2 differs from your recollection of the facts, you have to go
3 with your recollection, okay, because of course you are the
4 judges of the facts. For example, if the attorneys were to
5 say something like yesterday was a warm but terribly rainy
6 day and you recall yesterday being rather cool but sunny, go
7 with your recollection of what the weather was as opposed to
8 how they say it was. The order that we'll proceed in is the
9 Solicitor will go first, to be followed by Mr. Grose, and
10 then the Solicitor will be given the opportunity to give you
11 a final summation.

12 So with that, Solicitor, you're recognized for your
13 closing, Mr. Brown.

14 MR. BROWN: Thank you, Your Honor. May it please the
15 Court.

16 THE COURT: Yes, sir.

17 CLOSING ARGUMENT

18 BY MR. BROWN: Ladies and gentlemen, it's been a long
19 week, as Mr. Black stated at the beginning of this trial on
20 Tuesday morning, but there's been a lot of evidence
21 presented. There's been a lot of testimony. There's been a
22 lot of video, and just a lot of different parts of what you
23 have.

24 Before I dive into the facts that you all have heard,
25 the evidence presented here, I want to go to the law first.

1 Mr. Tillman is charged with murder and also possession of a
2 weapon in the commission of a violent crime. The State,
3 which we are, we have the burden of proof in this, and
4 that's proof beyond a reasonable doubt. That's our burden.
5 We welcome it. So what is proof beyond a reasonable doubt.
6 Proof beyond a reasonable doubt is a proof that leaves you
7 firmly convinced. Firmly convinced. It's not beyond all
8 doubt. It's not beyond every doubt and any doubt. It's
9 proof that leaves you firmly convinced. At the close of
10 this trial, at the close of our summation, our closing
11 arguments, you'll have the opportunity to go back to the
12 jury room, deliberate, look over everything and then make a
13 decision. After looking over everything, if you're firmly
14 convinced Charles Tillman did, in fact, murder Christie
15 Stutler, you have to find him guilty. What's firmly
16 convinced. Nothing in this world is 100 percent. The law
17 doesn't require that. It's not all doubt. It's not beyond
18 every doubt or any doubt. It's firmly convinced.

19 So what's murder? Murder is the killing of another
20 person. Homicide. In this case it's now been stipulated
21 that it's a homicide. It's the killing of another person
22 with malice aforethought. Now, what is malice? Malice is
23 hatred. It's ill-will and hostility towards another person.
24 It is the intentional doing of a wrongful act without just
25 cause or excuse and with the intent to inflict injury.

1 Malice is hatred and ill-will or hostility toward another
2 person. Ways malice is proven. Expressed malice or
3 inferred malice. Inferred malice, circumstances demonstrate
4 a total disregard for value of human life. A reasonably
5 prudent person would have known that these events there was
6 a strong likelihood that death would follow the contemplated
7 act. Total disregard for the value of human life. A
8 reasonably prudent person would know what their actions did.
9 That likely that death would follow the act. Aforethought.
10 What does that mean. There's no requirement that malice
11 must be -- or must exist for any appreciable length of time
12 before the commission of the act, murder, or shooting
13 somebody in the head. It may be conceived at the moment
14 this all occurs. That's what aforethought means. Again,
15 the Judge will -- he'll read the charges to you, and if
16 anything I say contradicts the Judge on the law, you go with
17 the Judge's charge. I suspect it will be very simple.

18 The second charge Mr. Tillman is charged with is
19 possession of a weapon during the commission of a violent
20 crime. It's what it sounds like. The Judge will charge you
21 that murder is considered a violent crime. The possession
22 of a weapon during the commission of a violent crime could
23 be a rifle, semiautomatic rifle, any kind of weapon during a
24 violent crime, which murder is. Self-explanatory. And
25 again, we have the burden of proving to you beyond a

1 reasonable doubt those elements.

2 Now, at the beginning, or at the -- in the fourth
3 interview - fourth interview with Bo Barton. Charles
4 Tillman says something that stands out. "I'm just being
5 careful what you're asking me and what I'm answering.
6 That's what I'm doing. I'm just being careful what you're
7 asking me."

8 (Whereupon, a portion of audio was published for the
9 jury.)

10 MR. BROWN: Just being careful. He was being careful
11 throughout this whole thing. Also in statements he talks
12 about some times -- talking about his momma. Talking about
13 his momma, that she's gone to the laundry. She didn't see
14 Christie. She thought Christie was at work.

15 (Whereupon, a portion of audio was published for the
16 jury.)

17 MR. BROWN: And he also took her to work to keep an eye
18 on her. Momma said she hasn't seen Christie today.

19 (Whereupon, a portion of audio was published for the
20 jury.)

21 MR. BROWN: Charles says that he didn't go up to the
22 house until police got there when he was on 911. What did
23 he say in the 911? You can hear it.

24 (Whereupon, a portion of audio was published for the
25 jury.)

1 MR. BROWN: Ladies and gentlemen, you heard him in his
2 interview saying I didn't go up there until after the police
3 got there. That's not true. You can clearly hear he went
4 up there. He denied it and denied it and denied it. Well,
5 why did he deny it? You can hear it. He goes up there and
6 initially tells his mom Christie is lying down there stiff.
7 She asked about the gun. He then yells at her. He says,
8 what gun? A little bit later, the gun with you down there
9 yesterday. The gun with you down there yesterday. She says
10 call the police. Mom, I've already called the police.
11 They're on the line now. Listen closely. Hold this.
12 What's he doing? He's back there telling his momma to be
13 quiet. Cluing her in. Shut up about that gun you saw down
14 there yesterday.

15 (Whereupon, a portion of audio was published for the
16 jury.)

17 MR. BROWN: There was one with you down there
18 yesterday. Momma. Momma. Right off the get-go on the 911
19 tape momma. What's he do the rest of the time, four
20 interviews. I hadn't been around no gun. I haven't shot no
21 gun. I don't know anything about a gun. The evolution of a
22 lie. Start of the 911 tape. Momma also said we hadn't seen
23 her all day. We thought she was with you." All this talk
24 about a shadow and stuff. She didn't see her that morning,
25 what she testified about Tuesday. We hadn't seen her all

1 day. Why hadn't you seen her all day? She's been lying
2 down in that trailer face down with a bullet hole through
3 her head. And that gun, momma saw you with that gun
4 yesterday.

5 MR. GROSE: Your Honor, I have a matter of law.

6 THE COURT: Approach up here.

7 (Whereupon, a sidebar was held.)

8 THE COURT: Solicitor, please continue.

9 MR. BROWN: Thank you, Your Honor.

10 That recording doesn't lie. That's realtime. Right
11 when it's called, the cat's out of the bag. Right off the
12 get go. And after she says about the gun -- you can listen
13 to this anytime you want to, but you -- I believe you all
14 heard it. He's cluing his momma in. He's telling her to
15 hush. He's got the police on the phone. Don't do this.
16 Then the investigation starts of the crime scene. The
17 officers arrive, as you hear. Deputy Evan McCurry gets
18 there. He ropes off the place. He's not allowing anybody in
19 there. Preserve what's in there. The officers get there,
20 Matthew Graham, Jeffrey Hines. They don't touch anything.
21 They call in SLED, the coroner, they document. They
22 document how everybody -- how Christie is, how everything is
23 in that room. How everything is in that trailer. The one
24 thing, going back to that 911 tape, he immediately knew she
25 shot herself. Called it in as a suicide. No gun. They

1 ask, do you see a gun there, Charles? No, no. Where could
2 it be? Listen to how he talks about it. You're the judge
3 of the facts, the believability of it. Listen to it. But
4 what did all law enforcement say when they got there?
5 Looking at her, they walked in, looked around. Didn't see a
6 gun. They looked at her. They looked at her, and not a one
7 can tell she's been shot. Why? Because that hair's
8 covering it up. You don't see the right side of her head.
9 You see the left side when the bullet entered. All you see
10 is blood. How did he know that? I tell you how he knew.
11 Because he's the one that did it. Lieutenant, investigator,
12 SLED, coroner. All those people walking in there, they
13 don't know. Not until they move her. Charles knew right
14 off the bat. What else is in that crime scene? Well, they
15 do have Christie laying there on the bed lifeless, covers
16 pulled up. It's obviously folks this wasn't a suicide.
17 It's a homicide. They document everything. The notebook
18 that keeps being brought up. They looked through it.
19 There's nothing in there. A page has been ripped out.
20 There might have been something on those pages. It was
21 ripped out before law enforcement got there. They took
22 pictures of it. It's right there. It's right there next to
23 her leg. They testified they looked through it. There was
24 nothing there.

25 Folks, how many shots were fired in that house? We

1 know one in the ceiling that went through the ceiling and
2 out of the roof. We have a hole in the wall where the
3 bullet was found. That's two. We know we had a third.
4 That's what killed Christie. And potentially we have a
5 fourth, or that could be the ones in the wall ricochet off
6 of Christie's leg. You heard. She got shot twice. Once in
7 the leg and once in the head. Where are those shell
8 casings? There was only one found. One shell casing found.
9 Where's that? It's down behind the mattress up against the
10 wall in Christie's blood. Why is that? Maybe it's the same
11 reason why that gun isn't in there anymore. Someone cleaned
12 up after themselves. Bullet holes don't lie. There were at
13 least three. One shell casing and no gun. Somebody picked
14 it up. We all know Christie didn't walk that out of there.
15 What else is in that room? Right there in that room,
16 State's 53. You got something to clean with. You heard the
17 DNA analyst. Somebody cleaned up something they wanted to,
18 wipe down a gun. It's right there. It's a rag in a bucket
19 of water. They documented everything, folks.

20 They move away from the crime scene. They're around
21 the house. What else do you have? You got a whole lot of
22 bullets. A whole lot of bullets lying in different areas
23 around this house, but yet he doesn't have a gun. He said
24 he'd been there two months. He's got bullets. As you saw
25 in the pictures, continuing with the crime scene, you saw

1 Christie's body. You saw the bruises that were there on her
2 at that time and you saw them later on when she was at the
3 autopsy. There were old and new bruises. So what do we go
4 with? What do we have? It goes to forensics. All this
5 stuff was taken so SLED.

6 We'll start off with GSR. Ila Simmons and Tyler
7 Sturkie all talked about a .22 caliber rifle. Small caliber
8 rifles produce less GSR. Small calibers. I believe Ila
9 Simmons stated that 98 percent of it comes out of the end of
10 the barrel. The rest of it comes out of the other openings.
11 The ejection point where that shell casing kicked out. Small
12 caliber, they're not expecting much GSR. Ninety-eight
13 percent. As Dr. Woodard stated, this is a close contact
14 wound. You'll have these photographs back there. Folks,
15 you can see the wound. You can see the circle around it.
16 That's where most of that GSR is, is on her head. There's
17 no dispute though he has GSR on his shirt.

18 Law enforcement also took DNA samples. Took it out
19 from under Christie's fingernails. Cut them, clipped them.
20 Charles Tillman. The YSTR that came back from that matched
21 Charles Tillman's YSTR. The gun, the clip, the YSTR is
22 Charles Tillman's YSTR. You heard from the cousin and his
23 brother. You heard that from Charles, too. They didn't
24 step foot in that trailer. They hadn't been down there.
25 They didn't do that. You also heard from James Green.

1 There's no denying that gun is the one that fired that
2 bullet. It matched the shell casing right next to
3 Christie's head. The one that was out in the car.

4 So what else is important in this case. What did Dr
5 Woodard say. You already saw a close contact wound to the
6 head. Barrel pushed right up to her temple. She was
7 executed. What else did you have? State's 37. Fresh
8 bruising on the back of the leg. Before he shot her, he
9 beat her. Before he shot her in the head, he hit her in the
10 back with that gun butt. Telling her she's going to lie on
11 that bed. At some point before all this he puts a cigarette
12 on her rear-end. He'll say I didn't know about any of
13 bruises. She didn't do -- I didn't do any of that.
14 Christie didn't have any bruise on her. Then the very next
15 interview, Christie hurt herself. Christie did this to
16 herself. Folks, Christie didn't put a cigarette butt out on
17 her rear-end. Christie didn't hit herself in the back with
18 a gun butt. Dr. Woodard also talked about hand prints or
19 fingerprints on her body. Contemporaneous to the time of
20 death. Christie didn't grab herself by the back of the neck
21 and control where she's going. Charles did that. Defensive
22 wounds, Christie, the same time as the time of death.
23 State's 136, gunshot wound to the shin. Christie didn't
24 shoot herself in the shin.

25 Ladies and gentlemen, the time of death the pathologist

1 stated 24 hours to 36 hours from the time of the autopsy.
2 11:00 a.m. on the 8th to 11:00 p.m. on the 7th. Think about
3 all those hours Charles was in that house with her. Look at
4 all those bruises on her. His big brother didn't stay with
5 him that night. His cousin didn't stay with him that night.
6 His momma didn't stay down there that night. They didn't do
7 it. He said it himself, nobody comes down there.

8 Think about this. If somebody came down there, they
9 just happen to have access to the gun he's been touching,
10 that he had, and they shot her. Somebody that wasn't around
11 that property. Don't you think they'd take that gun off
12 with them instead of stashing it in the car? Why would he
13 do this?

14 (Whereupon, a portion of audio was published for the
15 jury.)

16 MR. BROWN: Every time she'd leave she tried to tell
17 his momma that he did something. Why is that? Why is that?

18 (Whereupon, a portion of audio was published for the
19 jury.)

20 MR. BROWN: Christie, why can't you do right by me.
21 And then he still doesn't come off it. He said Christie
22 hurt herself, bruises herself.

23 (Whereupon, a portion of audio was published for the
24 jury.)

25 MR. BROWN: Christie didn't cause those bruises to

1 herself. She didn't fall off the stairs or run into that
2 trailer like he said. Somebody whipped her or hit her with
3 something on the back of that leg. Charles Tillman did
4 that. Later on in the interview, I believe this is the
5 third one, Officer Hines is in the interview room with him
6 and Charles slipped up again. What did he say? He was
7 talking about a deer camera.

8 (Whereupon, a portion of audio was published for the
9 jury.)

10 MR. BROWN: After the fact. He put it up after the
11 fact. Folks, remember this is -- I believe it's 11/10,
12 November 10th, that this interview is taking place. He put
13 a deer camera up after the fact. To watch Christie take
14 care of her. Folks, there wasn't a deer camera out there.
15 He got a little cute. It backfired on him. They called him
16 on it. If that deer camera was out there it should've
17 caught that gun. Oh, have to backtrack. When would he have
18 done that. Law enforcement was out there all night. He
19 didn't put up a deer camera out there. They went back out
20 there and looked for it and there wasn't one out there. A
21 story. He's building on it. But folks take a step back.
22 Look at the big picture here. It's got Charles Tillman's
23 face all on it. GSR on his shirt, DNA on the gun, under her
24 fingernails, been there at the house. Folks, you heard his
25 brother. It makes no sense. He couldn't tell you how long

1 he knew Christie. Couldn't tell you anything about the work
2 or the estimate or anything. It just doesn't make any
3 sense. Nobody saw her that morning, and the reason is she
4 was in that bed. She was already dead. I submit to you
5 during that night something happened. Christie didn't do
6 right by him. Didn't do right by him for some reason and he
7 flipped. Beat her, hit her, choked her around, scared her
8 by firing a shot through the ceiling, hit her in the back
9 with a gun butt, ordered her down on the bed. And all
10 Christie could do -- all Christie could do is cover her
11 head. All she could do. She fought. She's overpowered.
12 Ordered her on that bed. Stuck this .22 rifle to her head,
13 pulled the trigger and killed her. Then he had to cover his
14 tracks. He made some snags though in his tracks. He didn't
15 do enough. It all came tumbling down right off the bat.

16 (Whereupon, a portion of audio was published for the
17 jury.)

18 MR. BROWN: Right out of the gate you hear he had a gun
19 down there from his mom. Folks, take a step back and look
20 at all the evidence. It only points to one person. Charles
21 Tillman, because Charles Tillman is the man that had that
22 weapon and murdered Christie before he left with JC Boggs
23 that day. She didn't kill herself. He did. Find him
24 guilty.

25 THE COURT: Thank you, Mr. Brown. Ladies and

1 gentlemen, we'll go ahead and take a brief break for about
2 five or 10 minutes. If anyone needs to step outside to have
3 a cigarette, that's perfectly fine. Just let the bailiff
4 know and we'll resume when you finish. Okay? Don't talk
5 about the case obviously and we'll be at ease for a few
6 moments.

7 (Whereupon, the jury exited the courtroom at 2:29 p.m.)

8 (Whereupon, a recess was held from 2:29 p.m. to 2:41
9 p.m.)

10 THE COURT: We're back on the record. Mr. Grose?

11 MR. GROSE: I do believe. And I just wanted to put
12 our sidebar earlier on the record.

13 THE COURT: While we're doing that let me just mention
14 this. We did have a sidebar a moment ago when Mr. Grose
15 indicated that he had a matter for the Court. And we spoke
16 over to the side of the bench outside of the hearing of the
17 jury. And Mr. Grose noticed that a member of the decedent's
18 family was starting to become emotional, and I asked Mr.
19 Brown to ask the juror to do a better job of containing
20 their emotions or please leave the courtroom. And I
21 explained to Mr. Grose at the sidebar that I'd been watching
22 the jury, and candidly their attention had been focused more
23 towards me and Mr. -- or more in the direction of the bench
24 and Mr. Brown. So I do not think that they had seen
25 anything. But that was Mr. Grose's concern at the time of

1 the sidebar. And please everyone, I know that this is an
2 emotional case. I'm not asking you not to feel, okay,
3 because we are not robots. I'm not asking you to not
4 experience emotions. I am however asking you not to express
5 those emotions, certainly not in any audible fashion. So
6 the doors to the back are open. If you feel the need to
7 leave the courtroom, if you cannot contain yourself, simply
8 do that. Quietly stand up, quietly move to the back of the
9 courtroom. And that goes for everybody within earshot.
10 Okay? Thank you.

11 Let's have the jury, please.

12 (Whereupon, the jury entered the courtroom at 2:29
13 p.m.)

14 THE COURT: The record will reflect that the jury is
15 back and seated. Mr. Grose, you're acknowledged, sir, for
16 your closing.

17 MR. GROSE: May it please the Court.

18 THE COURT: Yes, sir.

19 CLOSING ARGUMENT

20 BY MR. GROSE: It's been a long week since we started
21 on this journey together and this is my chance to talk about
22 what our impressions and interpretations of the evidence
23 are, and I'm going to try to do that, and I'm going to try
24 to stay focused as much as possible on what the evidence
25 actually is, because two things really struck me with the

1 Solicitor's closing argument. The first thing is that there
2 was a lot of theorizing. A lot of saying this is something
3 that happened without any real, you know, evidence to back
4 that up. That's -- that's one thing that really struck me
5 is that their theory is, is that Charles Tillman murdered
6 Christie Stutler and faked a suicide. He murdered her and
7 faked a suicide. That is their theory. And the fact that a
8 gun wasn't beside her undermines that theory, because that's
9 the most obviously thing. That if anybody is going to fake
10 a suicide they're going to put a gun in proximity. They may
11 do it in a way that it's obvious that it has been planted,
12 but they're going to do it. So in order to accept the
13 State's theory you have to believe that Charles did this and
14 used the suicide as a coverup but didn't plant the gun.
15 Now, I realize that Charles and his family are simple
16 country people, and I realize that the police took advantage
17 of some of that during the interrogation, and I realize that
18 you saw some of that on the witness stand today. They're
19 not regular witnesses. Almost everybody who testified for
20 the State was a police officer or a crime scene person, that
21 -- some of them even talked about the number of times
22 they've testified in Court before. They're certainly going
23 to be more comfortable than simple country folks coming here
24 to do that. So as simple as Charles is, that is the most
25 obvious thing. If you're going to fake a suicide, you're

1 going to put a gun there.

2 Now, before we get into the evidence I want to play
3 something. This is from the audio interview, one of the
4 last things you heard yesterday.

5 (Whereupon, a portion of audio was published for the
6 jury.)

7 MR. GROSE: I'm going to play it one more time and ask
8 you think about not what they're saying about the
9 Solicitor's office, but what this says about Agent Barton
10 from SLED and some of the other investigators.

11 (Whereupon, a portion of audio was published for the
12 jury.)

13 MR. GROSE: Because Agent Barton you'll remember was
14 the one that I asked about the DNA and that when he told
15 Charles that there was only two peoples' DNA on that gun,
16 Charles and Christie, was that -- I'm sorry.

17 (Whereupon, a pause was taken due to technical
18 problems.)

19 MR. GROSE: Hopefully this still works. I apologize
20 for that.

21 THE COURT: I apologize for interrupting you, sir.

22 MR. GROSE: No, no, no. I'm sorry. He agreed with me
23 that when he told Charles that only Charles and Christie's
24 DNA was on that gun that that wasn't true. And I asked him
25 whether that was an intentional misrepresentation or a

1 careless misrepresentation. And even though he acknowledged
2 that lying to somebody in an interrogation is a police
3 tactic that he accepts, he claimed that somebody else had
4 lied to him about the evidence and didn't tell him that
5 there were, in fact, at least three and possibly more DNA
6 samples on that gun. What you have seen through this
7 investigation and what you heard from some of these
8 investigators in this trial, is that everything that was
9 done in this investigation was done and painted in a not
10 good like or a negative light for Charles.

11 Now, I will give the Solicitor's office credit where
12 the credit is due. They're trying their case hard and
13 trying to do their job, and they are trying to ask you to
14 convict Charles Tillman. But I'm going to give them credit,
15 because they called as witnesses every one of the scientist.
16 The people from SLED. And I think that that statement by
17 Agent Barton about putting things in a light that's bad for
18 Charles is also a way that can help us understand and help
19 us sort through some of the testimony that we heard in this
20 trial. Because Dr. Woodard and the people who worked in the
21 lab at SLED, you know, came in here and told you things
22 regardless of whether it helped or hurt the State's side of
23 the case. But that's not what we saw with the investigators
24 during the interviews, and that's not even really what we
25 saw from them in the trial. But everything that they were

1 doing was trying to slant it in a way that looked bad for
2 Charles. And what we lost in some of this is we lost sight
3 of the process. I think I mentioned on Monday, you know,
4 that there is a process here, and Judge Addy has been our
5 guide through this, not only with our breaks and our lunch
6 breaks and trying to keep this technology from driving us
7 all crazy, but he's also been the guide with the law, and
8 the's going to be the guide with the law that he tells you
9 all a little bit later on this afternoon. And the process
10 has been in our constitution forever, and I talked on Monday
11 about how that process is designed to protect citizens. And
12 one of the reasons that that is, is that the government has
13 all the resources. Yes, this is Abbeville County and it's
14 not as big as Greenville County and they don't have their
15 own crime lab, but they make up for that because they have
16 SLED investigators and SLED agents and SLED crime scene
17 people that can come in and assist them, and they have other
18 agencies that can assist them. But what you heard was is
19 that they control the crime scene, and they controlled the
20 access to the information. And so, it's been a part of our
21 traditions in this country for as long as we've been a
22 country that people are presumed innocent, and Judge Addy is
23 going to tell you about that.

24 We're also going to talk about reasonable doubt,
25 circumstantial evidence and alibi. They mentioned

1 reasonable doubt in their closing argument and focused in on
2 two words, firmly convinced. Judge Addy's going to tell you
3 a lot more than that. And one of the things is a reasonable
4 doubt that will cause a person to hesitate to act. He's
5 also going to compare it to serving in civil cases where
6 it's only necessary to prove that something is more likely
7 than not. We sometimes call that a preponderance of the
8 evidence. If you think about it, an automobile accident
9 case, two people collide -- two automobiles collide in an
10 intersection. Somebody ran the red light. And all it takes
11 is more likely than not to determine who ran the red light.

12 We have another standard and it's called clear and
13 convincing evidence. The clear and convincing evidence
14 standard is still a civil standard and it is reserved for
15 things like fraud. That if you're going to accuse somebody
16 or try and potentially deceive somebody and committing a
17 fraud, you have to prove it by more than a preponderance of
18 the evidence. But that's still not beyond a reasonable
19 doubt. He's going to tell you that the State's proof must
20 be more powerful than what it is in the civil case. The
21 words firmly convinced are going to be in there, but he's
22 also going to tell you that if on the other hand you think
23 that there's a real possibility that the Defendant is not
24 guilty you must give Charles the benefit of the doubt. A
25 real possibility. The benefit of the doubt. I think that's

1 probably where the term give somebody the benefit of the
2 doubt comes from. It comes from the traditions that are in
3 our constitution. Judge Addy is also going to talk about
4 direct and circumstantial evidence. The State's case this
5 week relies heavily on circumstantial evidence. Not
6 everything. We know Christie was killed. We know it's a
7 homicide, and whoever did this committed murder. But one of
8 the things that the State has to prove beyond a reasonable
9 doubt is the identity of the person that did that. I think
10 you might remember on Tuesday, I guess it was when we did
11 the opening, that I talked to you about some of the concerns
12 that we have as lawyers sometimes is that there's a tendency
13 to want to decide things based on emotion sometimes. And
14 this is truly tragic. It's truly tragic for Christie and
15 it's truly tragic for her family. But the Judge is also
16 going to tell you that you have to decide it based on the
17 evidence and you can't decide the issues based on emotion.
18 When the State relies on circumstantial evidence, all the
19 circumstances must be consistent with each other, and when
20 taken together point conclusively to the guilt of the
21 accused beyond a reasonable doubt. If the circumstances
22 merely portray the Defendant's behavior as suspicious, the
23 proof has failed. When taken together point conclusively to
24 the built of the accused beyond a reasonable doubt. And I
25 think another way of looking at that is if going back to the

1 real possibility. If there's a real possibility that
2 somebody other than Christie -- I mean, other than Charles
3 was there and killed Christie. If there's that other
4 hypothesis, that other theory and that cannot be ruled out,
5 then that is a reasonable doubt. Judge Addy's also going to
6 charge you about alibi. And on one hand I might think --
7 you might be asking, well, why would that apply because we
8 have this 12 hour window. Well -- and Charles was there for
9 part of that, the night of the 7th going into the morning of
10 the 8th. But it's really not in dispute that Charles went
11 to work that day. He talked about 9:00. JC Boggs talked
12 about 8:30. It really doesn't matter. What matters is, is
13 if Christie was alive when Charles went to work, because
14 when Charles went to work with Walt and JC Boggs he didn't
15 come back until 6:00 in the evening or later. And nobody is
16 going through that day thinking they're going to have to
17 come to Court and testify about times later. We know the
18 911 call was at 6:10, and we know that Charles got home and
19 after they did work and after they went by the Spinx, and
20 then they came to Bell Road. The Judge is going to tell you
21 that there's no burden on the Defendant to prove the alibi.
22 The presumption of innocence, the burden of proof is always
23 on the State. He's going to tell you the State has the
24 burden of disproving the Defendant's alibi defense. That
25 means the State has the burden of proving that it is not

1 possible that Christie was alive when Charles went to work,
2 and it's not possible that somebody else came into that
3 trailer for whatever reason that day and killed her.

4 So the investigation. When we go through this there's
5 three misrepresentations -- three categories of
6 misrepresentations that we saw by law enforcement during the
7 investigation. And I think this gets back to what Agent
8 Barton was saying in that statement about putting everything
9 in a light that is not favorable to Charles. The time of
10 death. You heard on those tapes of the interrogation where
11 after the autopsy the Abbeville investigators, Mr. Graham,
12 Mr. Hines, told Charles that one of the best pathologists in
13 the state of South Carolina says that she died between 7:00
14 and 9:00 a.m. that morning. Why did they say that? They
15 said that because it was before Charles had told them that
16 he'd gone to work. That was a misrepresentation. I asked
17 him if that was a mistake or if that was intentional. He
18 said it was a mistake. But it doesn't matter whether it was
19 a mistake or whether it was real. He -- or intentional. He
20 agreed with me that that wasn't true and that that was a
21 misrepresentation. And when they did that -- when they did
22 that Charles stood firm. If the pathologist says she was
23 dead before 9:00 he's lying because she was alive when I
24 went to work. And he was always consistent on that. And
25 maybe lying is a valid investigator technique. I don't

1 know, and we don't have to figure that out. You know, maybe
2 it is because if you tell a lie and you get somebody to
3 change their story you've got something. You know, it's
4 probably not what most of us expect because it's not how
5 we're raised by our parents and taught in the church and
6 what our -- the expectations are when we go to work. But
7 when they did that, intentionally or unintentionally,
8 Charles stood firm. Yeah, they can come in here and take
9 bits and pieces and say, oh, there's this inconsistency here
10 and there's this inconsistency there. They can get focused
11 on that rag. We answered all that about the rag and how
12 Charles got focused on that, because the police actually let
13 that fall into the blood. They can focus on all of those
14 things, but Charles was always inconsistent. He was
15 consistent when Agency Barton said there's only two peoples'
16 DNA on that gun. He said there's got to be another DNA on
17 that gun. Agent Barton claims he didn't know. He said he
18 had a file. He testified about the process where all these
19 reports you've heard us talk about this week get generated.
20 He says lying is an investigative technique, oh, but I
21 didn't know. Well, you know, he said that. It wasn't true.
22 There's at least three, possibly more DNA samples on that
23 gun. And when Charles said there has to be another DNA
24 sample on the gun he was right, and Agent Barton didn't say,
25 well, yeah, you're right. There really is.

1 The GSR. That wasn't analyzed until December, but the
2 misrepresentations on that as some of the interviews came
3 based upon the science. And that the only way -- they told
4 Charles at one point that the only way you'll have GSR on
5 your hands is if you hired a gun. And that's not true.
6 Both of the GSR people who came up here and testified said -
7 - I believe today he said that that would be a partial
8 truth. Well, a partial truth can be a misrepresentation.
9 The full truth is, is you can get GSR on you without having
10 fired a gun. We're going to talk more about that in a
11 minute.

12 So the timeline. We know -- nobody's disputing what
13 Dr. Woodard said that the time of death is between 11:00
14 p.m. on November 7th and 11:00 a.m. on November 8th. We
15 know that Charles went to work 8:30 or 9:00 or sometime in
16 between and that the 911 call was at 6:00 p.m. We also know
17 that his first interview started at 10:57 p.m., and this was
18 while the people from SLED had already arrived and were
19 doing the investigation. The second interview was at 7:20.
20 The autopsy doesn't start until 11:00 a.m. on the 9th. The
21 third video statement is on the 10th. And they make a lot
22 about this video statement. But that's the one where we had
23 to go back and play the beginning of it, because it started
24 with Investigator Ashley. And you can look at that and it's
25 not hard to think that by that point Charles is sleep

1 deprived, he's -- they've released the trailer. He's been
2 back in there. He's found that rag that fell into the blood
3 when they were looking for the shell casing and he got
4 fixated on that. He's not a blood stain, blood pattern
5 expert. He looks at that and thinks what he thinks. But he
6 also told Investigator Ashley that on that night that
7 Christie was talking to him. People grieve in different ways
8 and when they're under stress and when you're sleep
9 deprived. He thought Christie was talking to him. And you
10 know what, oh, no, we don't believe Christie was talking to
11 him. Of course not. But what did they do in that
12 interview? This is getting back to we're going to do things
13 to make it look bad for Charles. I want to know what she
14 said to you when she came to you last night and were
15 talking. Do you think that they really believed that that
16 happened when they asked the question, or did they do that
17 because they were in the room with their video on and
18 knowing that whatever Charles says may not be reliable. He
19 may be man who's under stress and grieving in his own way.
20 We all grieve in different ways. He's also having
21 investigators come in and say you're the one that killed
22 her. But they skip past that and they want you to focus on
23 the second part of that third interview. And they did it
24 again today in closing. They want you to focus on the
25 second part of that third interview where Charles is talking

1 about all these things and he's under stress. And if we
2 hadn't shown it, you wouldn't have known that he thought he
3 had a conversation with Christie the night before.

4 They get the arrest warrants in November on the 23rd,
5 and on the 29th they do an audio interview. That's the one
6 with Agent Barton. And then they arrest him. Now, you
7 know, in that interview you heard Agent Barton say, you
8 know, I want to give you a chance to help yourself. Because
9 these investigators over here, they're going to charge you.
10 I want to help you clear this up. Does anybody here think
11 that Agent Barton was trying to help Charles on that
12 interview that day when they already had arrest warrants.
13 Does anybody think that Agent Natalie Talbert, Deputy --
14 Chief Deputy for Abbeville Sheriff's Department called Agent
15 Barton in to help clear things up for Charles? Of course
16 not. They had already decided, as they did probably
17 straight out of the box on the 8th before they even finished
18 processing that crime scene, they had already decided that
19 they were going to charge Charles. But you know what? You
20 got to wonder. You've got to ask. Why do you do that
21 fourth interview. It's because we've got enough to go to a
22 magistrate and get a warrant, but we really don't think
23 we've got enough to go to Court. It would be really good if
24 we can get an investigator from SLED who's worked for 25 or
25 30 years, whatever he told you, who is trained in

1 interrogation techniques because he told you
2 misrepresentation is a valid interrogation technique, to
3 come in and try to get Charles to say something. But he was
4 still consistent. He was still consistent even when he was
5 confronted with the misrepresentation about the DNA.

6 This -- Defendant's Exhibit 3 is the only thing that's
7 really into evidence on either side that didn't come out of
8 the police investigation. And this is to try to put some
9 context to the Bell Road property. This up here in the
10 center is what we've been talking about is the brick house.
11 Down here is the trailer. You see where the driveway comes
12 in in an area where it looks like, you know, cars would
13 park. The little outbuilding that we see in some of the
14 photographs with the blue car where the gun was found. And
15 that's the trailer. That's from the State's evidence. And
16 you know, we've heard a lot about this. I think the SLED
17 crime scene technician said, you know, it was kind of a
18 dangerous setup. Some people called it an awkward setup.
19 It's hard to tell. But you have to step up on things to
20 step up and get inside that. This trailer had only been
21 there for two maybe three months. You heard talk about a TV
22 and lights being turned on. There was electricity run to
23 it. But you also heard testimony that it didn't have
24 running water, and it wasn't focused on but it was mentioned
25 in some of Charles' interviews. And you've seen a lot of

1 pictures of it this week. It's a total disaster inside from
2 a housekeeping standpoint. It's -- there's a lot of clutter
3 and it's messy. And these simple country folks, they've got
4 a little bit of land, but they don't have a whole lot of
5 resources because they're having to live -- Charles and
6 Christie were living in a trailer on the land. You had four
7 adults living in the house. Walt Tillman was living there,
8 Antonio, Charles' son was staying there, Ms. Vonnice,
9 Charles' mother was there, and Aunt Fannie was also living
10 there. The crime scene tech from SLED said sometimes we
11 just don't find stuff. And we talked about how it was a
12 messy house, and they just -- that first time they were out
13 there they just didn't find that shell casing. And we don't
14 know what else they didn't find. The fact that they didn't
15 find something doesn't mean that there was evidence there,
16 and it certainly doesn't justify him coming in and saying
17 that this was a coverup and somebody was trying to clean up
18 the crime scene. You haven't heard the first expert about
19 blood interpretation come in here and say we were trying --
20 there was any evidence of cleaning anything up. You haven't
21 heard that. They argued -- and we'll see a picture of it in
22 a few minutes. Argued about the rag in the bucket, wiping
23 off the gun. If that rag in the bucket was wiping off the
24 gun there would have been three or four or more DNA samples
25 on there. When they say things like that without any

1 evidence to support it you've got to question, you've got to
2 hesitate. You've got to think about what is the
3 circumstantial evidence really telling me. That there's --
4 there's the bucket. You know, at one point I thought they
5 were trying to suggest that this heater was so close to the
6 bed that it could have caught something on fire, but they're
7 like, oh, no. There's room to walk between that. There's
8 the bucket. No running water. You know, you still got to
9 wash yourself somehow. The notebook on the bed. But before
10 we get to walking through and what that means from trying to
11 interpret the circumstantial evidence, more or less this is
12 what Charles would have seen when he went into the room at
13 6:00 -- 6:10. They're trying to say over and over and over
14 again, they're suggesting that Charles is lying because he
15 thought that that -- when he got close enough to see that,
16 that that was evidence that Christie had shot herself. Now,
17 there's two pieces of information. And everybody that went
18 in there said that there was blood and it was even pooling
19 down onto the floor. Everybody said that. Nobody -- nobody
20 contradicted that. Charles also knew about Christie's
21 mental health.

22 (Whereupon, a portion of audio was published for the
23 jury.)

24 MR. GROSE: And I'm sorry that that's not much louder.
25 That was the clip from the second video that we played when

1 Investigator Hines was on the stand. They had confirmed
2 with Christie's mother that she had mental health issues.
3 Yet for some reason they keep wanting to try to get away
4 from that and distract you from that. Oh, well, she just
5 had a drug problem. Well, drugs and mental health issues
6 oftentimes go together. Christie went to the hospital in
7 Anderson and oftentimes the same parts of the hospital that
8 treat the drugs treat the mental health issues. Christie's
9 mother had told them by 7:00 a.m. or a little later that
10 next morning that Christie had mental health issues. So
11 when Charles comes in and sees what's reasonable to think
12 somebody could have been shot, and knows that she has mental
13 health issues, and he told them that she had talked about a
14 gun before, that's the first thing that's going to run
15 through a lot of peoples' mind. And again, if this was a
16 big coverup by Charles, kill her and make it look like a
17 suicide, he would put the gun there.

18 Now, a big part of their circumstantial evidence is the
19 DNA and the gunshot residue. We've already talked about how
20 the investigators misrepresented both of these to Charles
21 telling him that only his and Christie's DNA was on the gun
22 and telling him that the only way to get GSR on you is by
23 firing a gun. The scientist came in and they told you with
24 both of those we can't tell you how it got there or how long
25 it had been there. We can't say that because somebody's DNA

1 is on this gun it means they fired this gun. In fact, we
2 know that the most identifiable DNA, the one in some 400 and
3 some quintillion is Christy's. And we know she didn't fire
4 the gun and kill herself, and that has been a fact that has
5 been stipulated throughout this trial. The Judge told you
6 that before we even made our opening remarks. But Christie
7 handled that gun or her DNA wouldn't have been there, on the
8 trigger and the trigger guard. We don't know when. What we
9 do know is when -- and they didn't play this part of the
10 video. But when they said we found a gun and they showed
11 Charles a picture of that that they got off -- that type of
12 gun that they got off from the Internet, that gun's around.
13 We shoot squirrels and cans. It's at the house. Other
14 people have used it. And we know at some point Christie
15 probably handled that gun. We also know that there's
16 unidentified DNA samples on that. The testimony was is that
17 on the trigger guard there were Christie's -- the trigger
18 and the trigger guard there was Christie's and a male DNA
19 sample, and the male DNA sample could have been two
20 different people. And we also know on the magazine clip
21 that there was three DNA samples there. Three. And most of
22 them is unidentified. What we also know about DNA is that
23 our ability to test it is so sensitive now that you can just
24 touch something. And we know we can't tell how long it's
25 been there.

1 Now, with the GSR they made an interesting argument in
2 their closing. They said, and this was true from testimony,
3 that the majority, over 90 percent, maybe as much as 98
4 percent of the gunshot residue comes out of the barrel of
5 the gun. And they said that if that's shot at a contact
6 level that that's where all the GSR is going to go. Okay?
7 I'm not going to argue with that. The expert testified
8 about that. But here's what I want to point out. We want
9 to talk about the number of gunshots that were probably
10 fired in that room. We really don't know, because -- well,
11 we know Christie was shot. We don't know whether the bullet
12 that came out of the wall -- and came out of the wall was
13 the one that shot her or not because it could have passed
14 though her and gone through the wall if the angle was right.
15 And we would know for sure if there was any blood or
16 anything on it but there wasn't. But we also have the shot
17 in the roof. And when the Agent was here today and I asked
18 him about -- I was standing somewhere around here, that if
19 somebody shot the gun in the air in a room like this where
20 would the GSR that came out of the barrel go. He said it
21 would get on everybody in proximity. On me, on some of you,
22 on him, on some of the Court personnel. And then he talked
23 about in a small room, like this bedroom, that it would
24 settle and it would probably get all over the room. That's
25 the bucket that they found the I Voted sticker in that

1 somebody had dropped off one of the police officers. That's
2 the notebook that we've heard so much about and we're going
3 to hear about more. That's Christie's leg. And, of course,
4 the gunshot residue had the potential of being anywhere in
5 that room from a shot that was fired into the air. So it
6 gets back to is half truth -- a half truth really the truth.
7 And, you know, is it a real possibility that when that shot
8 was made that GSR settled on that notebook and on that bed
9 and on surfaces that people would touch coming in and out of
10 that room. You know, Agent Hines told you that he had
11 looked through that notebook before SLED had ever gotten
12 there. And we know that GSR is easy to transfer. So we've
13 got the car. We know that that car is in -- we've kind of
14 put where it was that night in proximity looking at that
15 shed, and you can see that back in the old -- I mean, the
16 overhead pictures that we looked at earlier. The door was
17 open. And it gets back to this idea that somebody's going
18 to fake a suicide by hiding the gun in the car. They said
19 in the video, and they tried to suggest in here, that if
20 somebody else was there and killed her, they would take the
21 gun with them. How do we know that? I mean, everybody
22 thinks differently. If somebody else was there -- and
23 there's reason to think that somebody else was there, and
24 we'll get to that. But if somebody else was there and they
25 panicked, and maybe there were there to do drugs and were

1 doing drugs, they might try to hide the gun because they
2 don't want to have it with them. And there are unidentified
3 DNA samples on that gun. They want to talk about Christie
4 struggling, and they made a big deal about she has Charles'
5 DNA on the fingernail clippings. And remember we talked
6 about the difference between the scrapings where you're
7 actually trying to scrape cells off and the clippings.
8 We're going to see pictures of her nails. Christie had long
9 nails. The scrapings didn't have any of Charles' DNA. The
10 clippings of the nails did. And she lived in the same
11 trailer with Charles, she slept in the same bed with him,
12 came in contact with all kinds of objects. I mean, we even
13 talked, I think, with one of the experts, you know, if I
14 shake your hands I may get some of the DNA on me. And that
15 the more somebody's in a place, like our homes, the more
16 likely we are to leave a lot of DNA and is easier to pick
17 that up from the transfer standpoint. But if we're going to
18 entertain their theory for a minute that they have no proof
19 of and Christie -- that DNA got under their hands because
20 she was scratching Charles, where is the evidence of the
21 injuries to him? Where's the evidence that Charles has been
22 in a struggle. I asked Investigator Hines about that, and
23 he said we don't have anybody to come to Court and testify
24 that we found any injuries on Charles Tillman. But yet part
25 of their theory is -- part of their theory is that she used

1 her fingernails to try to fight off an attack, but didn't
2 injure him. Not even a tiny one. And there's no doubt that
3 she has a lot of injuries, and some are old and some are
4 new. And that's kind of a nasty burn. I won't dispute
5 that. Dr. Woodard -- and it's on the -- maybe not
6 carelessness but it's sort of a lack of complete
7 investigation and being more focused on putting something in
8 a bad light for Charles. Dr. Woodard hadn't seen the
9 toxicology report that showed that Christie had
10 methamphetamine in her system until I showed it to him right
11 there on the witness stand. That let me ask about sometimes
12 people who smoke drugs end up with burns. Now, I'm not
13 saying that every burn on her body came from that. But I
14 don't think that they can say that none of the burns,
15 particularly that one, didn't come from it.

16 (Whereupon, a portion of audio was published for the
17 jury.)

18 MR. GROSE: That probably was not the best sequencing
19 on my part, and that -- this one is not really about what
20 was said. But this is about what the first gunshot residue
21 lady told us the other day about how when you collect the
22 evidence it should -- it should be done with gloves. And
23 they tried to say, well, we only touched it briefly. I'm
24 going to play it again. Not only does -- when you see
25 Investigator Hines put the shirt in the bag without gloves

1 on, before he does it you're going to see him put his hands
2 in the bag.

3 (Whereupon, a portion of audio was published for the
4 jury.)

5 MR. GROSE: We've already talked about these pictures.
6 The lack of followup -- I was getting a little bit ahead of
7 myself. But the lack of followup, the Newport and the
8 syringe, and JC, Walt and Willie.

9 (Whereupon, a portion of audio was published for the
10 jury.)

11 THE COURT: I'm not sure they can hear that.

12 MR. GROSE: I'm sorry. I apologize that it's not --

13 (Whereupon, a portion of audio was published for the
14 jury.)

15 MR. GROSE: I apologize that that's not any better.
16 But what that says, and you're welcome to play this video
17 back, and you'll probably remember me asking some questions
18 about that, is they asked -- it started off by asking who
19 smoked the Newports. And Charles smoked, too. But who
20 smoked the Newports. He said that Christie smoked the
21 Newports. And they asked Charles, you know, whether she's -
22 - and she said he was sneaking ice, too. Ice is another
23 name for methamphetamine, of course. And they asked, well,
24 who shoots up. Did she shoot -- no, she's a smoker. They
25 asked Charles if he shot up. Oh, we don't care about drugs.

1 He said no, you can check me out. Pulled his arms out,
2 offers that -- they'd already taken pictures of him earlier.
3 And obviously I asked a lot about this, because that's the
4 needle. That's the needle. And to give a little context,
5 and all these pictures are in evidence, that's the room that
6 the cabinet was in. That's the cabinet on the wall there.
7 You can see what looks like some books on top of it. Those
8 are the books on top of the cabinet. You can see like a
9 wallet there. When you look at the picture a little bit
10 closer you're going to see that there's a Social Security
11 card sticking out of it and that it was Christie's. now,
12 why is this important. Because going back to the timeline,
13 going back to the timeline. SLED got there between 8:00 and
14 9:00 on the 8th. The clip that didn't play so loud was the
15 first interview that started at 10:57 on the 8th and went
16 for two and a half hours. Until after 1:00. SLED was still
17 there on their first trip. They hadn't left yet. It was 50
18 degrees when they got there. It was a cool day that day,
19 particular if you live in a trailer that has thin walls.
20 SLED said, well, this is not something that we normally
21 collect. But when I asked him I said, now, if somebody came
22 to you and had information that said we've just conducted an
23 interview where we learned that the two people, Charles and
24 Christie, that live in this trailer don't shoot drugs.
25 Christie smokes. Had it in her system. Saw the pipe and

1 the Newport. But she doesn't shoot drugs. Charles said he
2 didn't shoot drugs. So if this syringe, this needle became
3 a way to identify a person, Mr. SLED Agent, would you have
4 collected that into evidence. Yes, I would. Would that
5 have been something that could have been analyzed for DNA.
6 Yes, it could.

7 When we watched -- and I know trials get boring
8 sometimes. It's not as exciting as on TV, and there was
9 some fatigue with some of these videos. But when we watched
10 that two and a half hour interrogation there was parts where
11 it was calm and there was parts where they really pushed
12 Charles. Oh, we're just trying to rule you out. We're not
13 treating you like a suspect, but they did treat him like a
14 suspect. They got their focus on getting him to admit that
15 he killed Christie, which he continuously said I didn't.
16 She was alive when I went to work. They got so focused on
17 that, that they missed picking up on a piece of evidence
18 that might have helped identify who else was in that house.
19 Because at some point on the video you hear -- one of the
20 interrogations you hear Charles say if somebody else was in
21 my house I'd like to know who it is. And we know that after
22 Charles and JC and Walt went to work in Anderson, that
23 Willie and his mother and Aunt Fran went to the laundry.
24 Went to the cleaners. We know that Antonio, Charles' son
25 who lived in the brick house, had gotten up early that

1 morning and was working long before anybody else was. So
2 out in the country with everybody gone. There's nobody to
3 see if somebody else is coming and going. Is there a real
4 possibility that somebody was in that house to do drugs with
5 Christie while Charles was at work. That syringe, that
6 needle says yes.

7 Now, obviously you've seen me ask a lot about this log
8 during the trial. Agent Hines couldn't even tell you that
9 Walter Tillman was Walt Tillman. Mr. Graham, Investigator
10 Graham, said, well, we didn't interview -- and it wasn't
11 even really an interview, but we didn't speak to Walt until
12 December 5th, which was roughly a week, give or take a day,
13 after Charles had been arrested. Willie Tillman. You know,
14 we can argue about, you know, does it make sense for
15 somebody to come down here. Willie Tillman told you that he
16 came down there to speak to Charles and knocked on the side
17 of the wall. Had to bring him in and put this note into
18 evidence, Defendant's Exhibit -- I believe it's 18. This
19 note into evidence where they -- it was on the videos where
20 they documented that Charles said Walt came down there about
21 the paper for the church. Trailers have thin walls. And
22 they want to say because a blanket was over a window that
23 that doesn't mean you can knock on that and talk through the
24 walls and the window. And Willie Tillman told you that when
25 he went down there that morning and talked to Charles to get

1 that quote for the church to do the tile work that he heard
2 Christie in there. And he was nervous on the stand, and
3 they, you know, took advantage of that a little bit. And I
4 don't blame then for asking him. But he never backed off
5 the fact that he heard Christie's voice that morning. He
6 also told you that he never went in to the brick house and
7 that he was in the area. And you can see the layout from
8 that aerial, that Google Map that's in evidence. You can
9 see the distances. He said I was outside until after I saw
10 Charles and Walt and JC leave and I never heard a gunshot.
11 He heard Christie talk. He never heard a gunshot. Agent
12 Hines - you'll remember Investigator Hines at one point
13 said, well, I think we interviewed Willie. And my back was
14 to Willie. He must have been checking his head no because
15 Investigator Hines said oh, you're Willie. No, we didn't
16 interview him. And I went over and stood behind Willie and
17 confirmed that. Willie has been sitting up here all week
18 and he has never been interviewed by an investigator from
19 Abbeville, he's never been interviewed by a SLED Agent, he's
20 never been interviewed by somebody from the Solicitor's
21 office.

22 (Whereupon, a portion of audio was published for the
23 jury.)

24 MR. GROSE: Again, that one wasn't as loud. The third
25 and last on. And I can play it again, if you want, but he

1 says now I'm going to have to get Willie and ask him all
2 these questions. The last thing he said, I haven't talked
3 to Willie yet. Now, they didn't arrest Charles right away.
4 Well, I think they made up their mind that that's where they
5 were going. That they were going to get to that at some
6 point. They hadn't arrested him. And this is in the second
7 interview, and I don't think that was played, but you have
8 it. If you want to play more -- or any of the second
9 interview, more than what we did, you can do that. It's in
10 evidence. Their big question to Willie is, well, why didn't
11 you bring that paper to use or why didn't you come and talk
12 to us about that. And that's kind of a moot question. I
13 can't dispute that. But I've also got to put it into
14 context of what was going on between November 8th and
15 November 29th when they arrested Charles. On one hand
16 they're treating him like a suspect and they're pushing him.
17 But he's -- on the other hand they're telling you, well,
18 we're trying to -- telling Charles we're trying to clear
19 some things up. We're trying to clear some things up.
20 You're a suspect because you're the last one we know that
21 saw her and you're the one that found her. You know,
22 Willie, he doesn't have any reason to think that they're
23 going to arrest Charles because he knew Charles' alibi. He
24 knew that Christi was alive when he went to that end of the
25 trailer and knocked on the wall and talked to Charles and

1 heard her, Christie, talking to Charles. He knew he didn't
2 hear a gunshot. He knew that Charles and JC and Walt had
3 gone to work.

4 Now, who's in control of all the information and all
5 the reports. Investigators from SLED, investigators from
6 Abbeville. And I think when we're talking about the process
7 and we're talking about reasonable doubt I think it's
8 reasonable to look at the people who are in charge with
9 doing an investigation and think, well, what do we expect of
10 them. Do we expect them to interview suspects. Yes. Do we
11 expect them to listen and followup on information. Yes. Do
12 we expect them when they get a piece of evidence that says
13 somebody else was probably in that house to do drugs with
14 Christie, do we expect them to followup on that. Is that a
15 reasonable expectation. I think it is. Do we expect them
16 to interview witnesses? Charles told them about JC Boggs
17 and wrote down JC Boggs' information on this note -- notes
18 we entered today. You'll be able to see that. And they did
19 followup with JC Boggs. And guess what. It checked out.
20 Do we expect them to followup on other pieces of
21 information. Do we expect them to check it out with Walt
22 and conduct a real interview. Is that a reasonable thing to
23 expect. Is it reasonable to expect them to followup with
24 Willie Tillman. When Charles has told them over and over
25 and over again, Willie came down there about the piece of

1 paper for the church. Christie wrote it out. And we're not
2 talking about some professional quote to fix the courthouse
3 or building. We're talking about four folks who live in the
4 country trying to do a job for their church. It's going to
5 cost less money than to have a professional outfit to do it.
6 Is it reasonable to expect them to followup and talk to Walt
7 -- I mean, talk to Willie like they said they were going to
8 do. Because if Willie -- because Willie confirmed that
9 Christie was alive, and because he didn't hear a gunshot,
10 that maybe they think there's that needle. We need to go
11 back to that needle. We need to figure out who else might
12 have been there that day to do drugs with Christie.

13 Now, this is probably as good a time as any for me to
14 just say that I'm not trying to disparage Christie and her
15 memory by talking about her drugs and her mental health.
16 But these are real issues in this case. And it explains why
17 Charles would have thought it was suicide. It explains why
18 there might have been somebody else there to do the drugs.
19 At least from 8:30 or 9:00, whenever the actual time was
20 when Charles left he has an alibi. He has an alibi that
21 they don't dispute. And we know from Dr. Woodard that
22 Christie -- the time range when Christie could have been
23 shot included the time after 8:30 or 9:00 up until 11:00
24 that morning. We know that.

25 We know Judge Addy, our guide with the law, is going to

1 tell you that they have to disprove the alibi. That that's
2 the law. That that's the process. The State has the burden
3 of disproving the alibi. It's not good enough to say it's
4 possible she died before him. It's not good enough to say
5 we're suspicious of that. They have no burden on the
6 Defendant. The State has the burden of disproving.

7 Back to direct and circumstantial evidence. To the
8 extent the State relies on circumstantial evidence, all of
9 the circumstances, all of the circumstances, must be
10 consistent with each other, and when taken together point
11 conclusively to the guilt of the accused beyond a reasonable
12 doubt. If the circumstances merely portray the Defendant's
13 behavior as suspicious the proof has failed. Back to the
14 burden of proof. The State has the burden of proof the
15 Defendant guilty beyond a reasonable doubt this burden rests
16 with the State regardless of whether the State relies on
17 direct evidence, circumstantial evidence or some combination
18 of the two. Now, when you think about in connection that
19 they have to disprove the alibi, and you get back to the
20 full reasonable doubt charge, the firmly convinced has to be
21 considered with if on the other hand you think there's a
22 real possibility the Defendant is not guilty, you must give
23 him the benefit of the doubt and find him not guilty.
24 There's a real possibility. Is there a real possibility
25 that Christie was alive when Charles went to work with JC

1 Boggs and Walt Tillman. If that is a real possibility you
2 have to find Charles not guilty. After Charles went to work
3 is there a real possibility that someone else came to that
4 trailer to smoke drugs with Christie. Is there a real
5 possibility that that person flipped out or got violent. Is
6 it a real possibility that that person shot and killed
7 Christie and panicked and hid the gun in the car as they
8 were fleeing the scene. Is that a real possibility. That
9 needle in that cabinet says that that's a real possibility.
10 That that was a piece of evidence that they knew about in a
11 point in the investigation where they could have collected
12 that and followed up on that. Is there a real possibility.
13 The Judge -- your verdict has to be unanimous and Judge
14 Addy's going to tell you that. And what that means is, is
15 that every one of you has the right to view this evidence
16 for yourself and to determine what you believe is a real
17 possibility as far as reasonable doubt goes. And while we
18 deliberate in our system and we talk about it, nobody can
19 ever ask you to go against your conscious and say that it's
20 -- that there's not a reasonable doubt if you think there's
21 a reasonable doubt. And I'll even go a step further and
22 say that in a case where at least part, and something so
23 important has the identity of a person who killed Christie,
24 is based on circumstantial evidence, you got to look at the
25 science, and what the scientists tell you are the

1 limitations. They weren't here to paint it in a worst light
2 for Charles. They were here to tell you about what they
3 know. In a circumstantial evidence case, when you're
4 confronted -- it's not your job to investigate this. But
5 when you're given this evidence that suggests that there's a
6 real possibility that Christie was alive when Charles went
7 to work and a real possibility that somebody else was there
8 with that needle to do drugs. You got to give people the
9 benefit of a doubt because that's what our system calls for.
10 And in a circumstantial evidence case there's always a risk
11 that an innocent person can be convicted, and that's not
12 what our justice system is all about. That's not what the
13 law that Judge Addy is going to tell you about.

14 We've been on a journey, and I told you that there was
15 really sort of three journeys involved in this. That there
16 was what happened with Charles and Christie on that day.
17 That it was a normal day in the beginning for Charles and
18 the worst day of his life when he came home and found
19 Christie dead. I told you that there was a journey in the
20 investigation where intentionally or unintentionally there
21 was misrepresentations made about the investigation. And I
22 told you that there was a journey through this trial that we
23 were going to be taking together. And we're coming to the
24 point where my part of the journey that I've been on with
25 Charles and his family is going to end because I don't get

1 to say anything else after I sit down. And I know I've been
2 going on for a long time, but this is important and Charles
3 and his family are looking to me to explain everything to
4 you as best I can. When I sit down they're going to have a
5 chance to speak. But that's not the last word. Judge Addy
6 is going to guide you with the law, and you're going to have
7 a copy of that in the jury room for you to look at. And
8 what I ask is, is that when you continue this journey
9 without me, that you ask the questions is there a real
10 possibility that Christie was alive with Charles went to
11 work. Is there a real possibility that someone was there to
12 do drugs with her that day. Is there a real possibility
13 that somebody else is guilty of this murder. We believe the
14 evidence shows that there's real possibilities, and I ask
15 that you find Charles not guilty of these crimes.

16 THE COURT: Thank you, Mr. Grose. Ladies and
17 gentlemen, between the last time that we had a break, I
18 think it's about an hour and 15 minutes. So as soon --
19 perhaps your final summation is going to take about 15 to 30
20 minutes, somewhere in there, or --

21 MR. BROWN: Fifteen, maybe that.

22 THE COURT: Fifteen minutes. Let's do this. We're
23 going to take a quick five minute break. Okay? If you need
24 to pop downstairs, let them know. They'll let you go
25 downstairs. We're going to take a quick five minute,

1 because my instructions in the law and the Solicitor's final
2 statement to you, that could perhaps total somewhere between
3 30 to 45 minutes and I've been drinking sweet tea. I'm
4 taking a break. Don't discuss the case. Thank you.

5 (Whereupon, the jury exited the courtroom at 4:13 p.m.)

6 (Whereupon, a recess was held from 4:13 p.m. to 4:20
7 p.m.)

8 THE COURT: We'll go back on the record. Solicitor,
9 are you ready?

10 MR. BROWN: Yes, sir.

11 THE COURT: Let's have the jury out, please.

12 (Whereupon, the jury entered the courtroom at 4:20
13 p.m.)

14 THE COURT: The jury is back. At this point in time,
15 Mr. Brown, you're recognized for your reply, sir.

16 MR. BROWN: Thank you, Your Honor.

17 CLOSING ARGUMENT

18 BY MR. BROWN: Ladies and gentlemen, sometimes we over
19 think things. Sometimes we get away from our common sense.
20 I'm asking you to use your common sense in this case.

21 Questions were posed if Christie was alive when Charles when
22 to work, the second after Charles went to work somebody came
23 in the trailer and killed her.

24 Folks, things that you can look at. Go back to the
25 toxicologist. It said there's low levels of drugs in her

1 like she's coming down off a high. She ingested that well
2 before that.

3 MR. GROSE: Objection, facts not in evidence.

4 THE COURT: I'm sorry. What was that last statement,
5 Solicitor, I did not hear that.

6 MR. BROWN: I said that she injected that -- or took
7 those well before that. Before her death.

8 MR. GROSE: He said that was coming down off a high and
9 there was no testimony to that effect.

10 THE COURT: All right. The jury will remember the
11 testimony the way the testimony was presented from the
12 individual. Solicitor, you may continue.

13 MR. BROWN: Yes, sir. And that needle will have some
14 type evidence on there. Ladies and gentlemen, if you fall
15 into that or follow down that trial, that person, the Boogie
16 man whoever it was that came in there, they just happen to
17 find that same gun. They brought it with them. Charles
18 said that gun hadn't been in that house. They just brought
19 it over. Folks, use your common sense. It didn't happen.

20 Also, remember what was up under her fingernails? Only
21 one DNA. Charles Tillman. There wasn't anything else under
22 that nail. Y-STR came back matching that of Charles
23 Tillman. Dr. Woodard says she struggled. She had defensive
24 wounds.

25 Ladies and gentlemen, it was brought out about

1 misrepresentations. Misrepresentations by law enforcement
2 trying to get you sidetracked off the biggest
3 misrepresentation of them all. He said he hadn't been
4 around that gun. From the very get-go. You heard it. I'm
5 not going to play it again, unless you all want to play it
6 back there while you're deliberating. He had the gun the
7 day before. Momma saw it. What did he go on the entire
8 time? I hadn't been around that gun. I hadn't seen that
9 gun. I hadn't shot that gun. Biggest misrepresentation of
10 them all from Charles Tillman. And he has to stick with it.
11 There's no question there's GSR on his shirt. None. You
12 heard the testimony from Hines and Graham that went in that
13 trailer. They had gloves on. They didn't transfer that GSR
14 to his shirt when they collected that at the Sheriff's
15 Department. I don't know if you remember this, but back
16 there in one of the interviews and they were getting -- I
17 believe it was the first interview when they were getting
18 samples from Charles for GSR. You won't find any GSR on me.
19 I learned from the best. Learned from the best. Who was he
20 talking about? He said it was his uncle, former police
21 officer. Learned from the best. He'd been thinking about
22 it. He'd been thinking about all this.

23 Mr. Grose had brought up the third interview about he
24 was talking to Christie and things like that after she had
25 died and that she was telling different stuff. Folks, he

1 was -- I submit to you he was still trying to get law
2 enforcement off his tracks. Trying to come up with another
3 explanation of why that gun got out there. She put rags
4 over her head and was walking it out there. Folks, they're
5 hot on his heels, because all this just points to one
6 person. It all points to one person. He was trying his
7 best to get them off his heels. One thing going back to
8 Willie Tillman and Walter. Folks, you heard Willie's
9 testimony. You get to judge credibility. You get to decide
10 whether what he was saying up here makes any sense. You
11 couldn't even answer how long he'd known Christie. I wasn't
12 beating him up. I was asking him simple questions. And
13 they didn't make sense, his answers. Not at all, because he
14 doesn't have answers. He didn't hear her that morning. Ms.
15 Vonnie Cummings, she didn't see her that morning.

16 Ladies and gentlemen, you've heard all the facts.
17 You've seen it all, and you're going to have it all back
18 there in the back. And I'm not going to stand up here and
19 belabor the point. Use your common sense, take a step back
20 and look at all the evidence. It only goes to one person.
21 It only goes to one person. And it wasn't some magical
22 person that came in there. It was him. You heard his
23 reasons. She stepped out of line. She wouldn't do right by
24 him. Beat her, shot her, murdered her. And he tried to get
25 law enforcement off his tracks by coming up with some

1 suicide call. That got blown up from the very beginning
2 from his mom. Consider the facts. And common sense will
3 tell you who did this, Charles Tillman. Thank you.

4 JURY CHARGE

5 THE COURT: Thank you, Mr. Brown. Now, ladies and
6 gentlemen of the jury, it now becomes my obligation to
7 instruct you on the law that applies in this particular
8 case. And understand that 25 years ago when I first started
9 practice law the way that this was traditionally done by the
10 judges and by the way it's still done today by many judges
11 is they would sit up here -- they sit up here and they
12 basically read 15 pages of the law to the jury and the jury
13 is supposed to pick up in 10 or 15 minutes something that
14 took me three years, like most people, to learn in law
15 school. So long story short, and as indicated by the
16 parties, you will have a copy of these instructions that you
17 can refer to during your deliberations in the jury room.
18 Okay? Mr. Foreman, ladies and gentlemen, if you have any
19 questions about these instructions, if you have any
20 questions about the law, I can probably help you. All
21 right. I just want you to write me a note and let me know
22 what it is that you're struggling with if you have a legal
23 question. I'll try to help you if at all possible.
24 However, do understand that at this point in time the record
25 is closed. So it's not possible to reopen the record, take

1 additional testimony, offer additional witnesses. You'll
2 have to judge the case based only on the evidence that's
3 been presented thus far. So if you have a factual question,
4 odds are I will not be able to assist you with that. All
5 right? I cannot help you with any factual question, but any
6 legal question I can, of course, try to assist you. Please,
7 of course, consider these instructions as a whole and don't
8 pay attention to portions of them to the detriment of other
9 portions of the instructions.

10 Now, ladies and gentlemen, again, the indictments in
11 this case charge the Defendant, Mr. Tillman, with the
12 offenses of murder and possession of a weapon during the
13 commission of a violent crime. Again, I'll remind you that
14 the fact that Mr. Tillman was arrested, charged and indicted
15 in this case is not evidence. These indictments cannot be
16 considered by you as evidence of guilt, nor do these
17 indictments create any presumption of inference of guilt.
18 Again, these documents are merely the formal written
19 instructions that contain the charges against Mr. Tillman.
20 They're the formal documents by which this case is brought
21 into Court. Again, Mr. Tillman has pled not guilty to these
22 charges and that plea puts the burden on the State to prove
23 the Defendant guilty. I instruct you that a person charged
24 with committing a criminal offense in South Carolina is
25 never required to prove himself innocent. It's an important

1 rule of law that the Defendant at a criminal trial, no
2 matter what the seriousness of the charge may be, will
3 always be presumed to be innocent of the crime for which the
4 indictments were issued unless guilt has been proven by
5 evidence satisfying you of his guilt beyond a reasonable
6 doubt.

7 Ladies and gentlemen, this presumption of innocence
8 does not end when you begin your deliberations, but it
9 accompanies the Defendant throughout the trial until you
10 reach a verdict of guilt based on evidence satisfying you of
11 his guilt beyond a reasonable doubt. Presumption of
12 innocence is not mere legal theory. It's not just a legal
13 phrase. It's a substantial right to which every citizen is
14 entitled unless you the jury are satisfied from the evidence
15 of his guilt beyond a reasonable doubt. Well, what is a
16 reasonable doubt in the law? A reasonable doubt is the kind
17 of doubt that would cause a reasonable person to hesitate to
18 act. I instruct you that the State has the burden of
19 proving the Defendant guilty beyond a reasonable doubt, and
20 some of you may have served as jurors in civil cases where
21 you were only told that it's only necessary to prove that a
22 fact is more likely true than not true, such as by the
23 greater weight or by the preponderance of the evidence.
24 Understand that in criminal cases the State's prove must be
25 more powerful than that. It has to be proof beyond a

1 reasonable doubt. Proof beyond a reasonable doubt is proof
2 that leaves you firmly convinced of the Defendant's guilt.
3 Now, there are very few things that we know in this world
4 with absolutely certainty and in criminal cases the law does
5 not require -- does not require proof that overcomes every
6 possible doubt. If based on your consideration of the
7 evidence you're firmly convinced that the Defendant's guilty
8 of the crimes charged, you should find him guilty. If, on
9 the other hand, you think there's a real possibility the
10 Defendant's not guilty, you should give him the benefit of
11 the doubt and find him not guilty.

12 Now, again, during this trial under stand that you and
13 I have certain duties to perform. As the trial judge it's
14 been my responsibility to preside over the trial of this
15 case and rule on the admissibility of evidence offered
16 during the trial. You're to consider only the competent
17 evidence before you. So any testimony which was ordered
18 stricken from the record, you'll have to disregard that
19 testimony because you're to consider only the testimony
20 which has been presented from the witness stand, exhibits
21 which have been made a part of the record in this case, and
22 the stipulation of the attorneys.

23 I have the additional duty to charge you the law, and
24 as the presiding Judge I'm the sole judge of the law.
25 Understand that it is your duty as jurors to accept and

1 apply the law as I state it to you now. So if you already
2 have any ideas what the law is or what it should be and it
3 differs from what I now tell you the law is, you'll have to
4 abandon this idea because you're sworn to accept and apply
5 the law as I now state it to you. Again, ladies and
6 gentlemen, you are the sole and exclusive judge of the facts
7 in this case. A trial judge cannot intimate, state, comment
8 on or make any statement to a trial jury about the facts in
9 a case. Because of that, since you are the sole judges of
10 the facts, you're not to infer from what I've said during
11 the progress of this trial ruling upon the admissibility of
12 evidence or otherwise, or anything that I say to you now
13 during the course of these instructions, that I have any
14 opinion about the fact in this case. Ladies and gentlemen,
15 the law does not permit me to have any opinion about the
16 facts in this case. This is a matter solely for you to
17 determine. As jurors, it's your duty to determine the
18 effect, value, weight and truth of the evidence presented
19 during this trial.

20 Now, typically, ladies and gentlemen, there are two
21 types of evidence which are normally presented during a
22 trial. Direct evidence and circumstantial evidence. Direct
23 evidence directly proves the existence of a fact and does
24 not require deduction, such as testimony by an eyewitness.
25 Circumstantial evidence is proof of a chain of facts and

1 circumstances which indicate the existence of a fact.

2 Now, I instruct you that crimes may be proven by
3 circumstantial evidence and the law makes no distinction
4 between the weight or value to be given to either direct or
5 circumstantial evidence. However, to the extent that the
6 State relies on circumstantial evidence, all the
7 circumstances must be consistent with each other and when
8 taken together point conclusively to the guilt of the
9 accused beyond a reasonable doubt. If these circumstances
10 merely portray the Defendant's behavior as suspicious, the
11 proof has failed. The State has the burden of proving the
12 Defendant guilty beyond a reasonable doubt, and this burden
13 rests with the State regardless of whether the State relies
14 on direct evidence, circumstantial evidence, or some
15 combination of the two.

16 Ladies and gentlemen, necessarily you have to determine
17 the credibility of witnesses who have testified in this
18 case. And again, credibility simply means believability.
19 It becomes your duty as jurors to analyze and to evaluate
20 the evidence and determine which evidence convinces you of
21 it's truth. In determining the believability of witnesses
22 who have testified, you can believe one witness over several
23 witnesses or several witnesses over one witness. You may
24 believe a part of the testimony of a witness and reject the
25 remaining part of the testimony of that same witness. You

1 may believe the testimony of a witness in it's entirety or
2 reject it in it's entirety. You may consider whether any
3 witness has exhibited to you any interest, bias, prejudice
4 or other motive in this case, and you may also consider the
5 appearance and manner of a witness while they're on the
6 witness stand.

7 I further instruct you and emphasize that the fact that
8 the Defendant in this case did not testify is not a factor
9 to be considered by you in any way in your deliberation and
10 in your determination on the question of the guilt or the
11 innocence of the Defendant. It must not be considered by
12 you in any manner whatsoever. The Defendant has the
13 constitutional right to remain silent and the assertion of
14 this right must not be considered by you during your
15 deliberations. I repeat, under your oath you're to draw no
16 conclusions whatsoever from the fact that the Defendant did
17 not testify. The fact that he did not testify should not
18 even be discussed in the jury room. The burden of proof, as
19 I've explained is on the State. The Defendant is not
20 required to prove his innocence. The burden of proof
21 remains on the State to prove guilt beyond a reasonable
22 doubt.

23 Now, in this case ladies and gentlemen, we've had
24 several witnesses who were qualified as experts in some
25 field or science. And again, the rules of evidence usually

1 don't permit a witness to testify as to opinions or
2 conclusions. An exception to this rule exists for expert
3 witnesses. A witness who by education and experience has
4 become an expert in some art, science or profession may give
5 an opinion as to the subject the witness claims to be an
6 expert in, and may also give the reasons for that opinion.
7 You should consider any expert opinion given by a witness
8 and, like any other evidence, give it the weight you think
9 it deserves. If you decide that an expert witness' opinion
10 is not based on sufficient education and experience, or if
11 you decide that the reasons given in support of the opinion
12 are not sound, or that the opinion is outweighed by other
13 evidence, you may disregard the opinion entirely. Again, an
14 expert witness' testimony is to be given no greater weight
15 than that of other witnesses simply because the witness is
16 an expert, and you do not have to accept an expert's opinion
17 even though it's uncontradicted.

18 Now, in this case, ladies and gentlemen -- excuse me.
19 Again, ladies and gentlemen, in this case the Defendant, Mr.
20 Tillman, is charged with murder. The State must therefore
21 prove beyond a reasonable doubt that the Defendant killed
22 another person with malice aforethought. Malice is defined
23 as hatred, ill-will or hostility towards another person.
24 It's the intentional doing of a wrongful act without just
25 cause or excuse, and with an intent to inflict an injury, or

1 under circumstances that the law will infer an able intent.
2 Malice aforethought does not require that malice exists for
3 any particular time before the act is committed, but malice
4 must exist in the mind of the Defendant just before and at
5 the time the act is committed. Therefore, there must be a
6 combination of the previous evil intent and the act.

7 Ladies and gentlemen, malice aforethought may be
8 expressed or inferred. Now, those terms expressed and
9 inferred do not mean different kinds of malice, but merely
10 the manner in which malice may be shown to exist. That is,
11 either by direct evidence or by inference from the facts and
12 the circumstances which are prudent. Expressed malice is
13 shown when a person speaks words which express hatred or
14 ill-will for another, or when the person prepares beforehand
15 to do the act which was later accomplished. For example,
16 laying in wait for somebody or any other acts or preparation
17 going to show that the deed was within the Defendant's mind
18 with expressed malice. Malice may be inferred from conduct
19 showing a total disregard for human life.

20 In this case, ladies and gentlemen, the Defendant is
21 also charged with the offense of possession of a weapon
22 during the commission of a violent crime. To prove this the
23 State must prove beyond a reasonable doubt that the
24 Defendant was in possession of a firearm during the
25 commission of a violent crime. A firearm means any machine

1 gun, automatic rifle, revolver, pistol or any weapon which
2 will, is designed to -- which will or is designed to expel a
3 projectile. In order to find the Defendant guilty of
4 possession of a weapon during the commission of a violent
5 crime you must first find him guilty of committing a violent
6 crime. Under South Carolina law I instruct you that murder
7 is classified as a violent crime. The State must prove
8 beyond a reasonable doubt that the weapon furthered,
9 advanced or helped in the commission of a crime.

10 Now, in this case, ladies and gentlemen, the Defendant
11 has raised the defense of alibi. That means that the
12 Defendant was not at the scene of the crime at the time it
13 was committed but was elsewhere and had nothing to do with
14 it. The word alibi means elsewhere. There is no burden on
15 -- there is no burden upon the Defendant to prove that he
16 was not at the scene of the crime. There was no burden upon
17 the Defendant to prove his alibi. In other words, the
18 Defendant need not prove he was somewhere else. The burden
19 is on the State to prove beyond a reasonable doubt the
20 Defendant was present at the scene of the crime,
21 participated in the crime, and was not somewhere else. Thus
22 the State has the burden of proving beyond a reasonable
23 doubt the Defendant was present and committed the crime.
24 The State has the burden of disproving the Defendant's alibi
25 defense.

1 Now, ladies and gentlemen, there are basically four
2 possible verdicts in this case. And, Mr. Foreman, I've
3 worked up this verdict form that you can refer to during
4 your deliberations, help you guide the deliberations. It's
5 about as simple as I can make it. And if you can read, I
6 think you can follow it, but the law makes me explain it to
7 you nonetheless. All right?

8 The first statement here makes the following the
9 statement. "We, the jury in the above-captioned case, on
10 the charge of murder, unanimously find Charles Tillman," and
11 then you have two options, either guilty or not guilty.
12 Okay? If you find -- if all 12 of you find that the State
13 has met it's burden of proving the Defendant's guilt beyond
14 a reasonable doubt, and all 12 of you agree on that verdict,
15 then, Mr. Foreman, you would initial next to guilty and then
16 move on down to the second question concerning the weapons
17 charge. Okay? If, however, you find that the State has
18 failed to meet its burden of proving the Defendant's guilt
19 beyond a reasonable doubt and all 12 of you agree, you would
20 simply sign -- or initial rather next to not guilty and then
21 sign your name. You don't even go to the second question
22 obviously. All right? Assuming you get to the second
23 question, that statement is, "We, the jury in the above-
24 captioned case on the charge of possession of a weapon
25 during the commission of violent crime unanimously find

1 Charles Tillman," again, same exact two options. And again,
2 the jury has to be unanimous. All 12 of you have to agree
3 on that verdict. When you have reached a verdict just fill
4 this out as appropriate, Mr. Foreman, sign your name, knock
5 on the door, let the bailiff know. We'll reassemble
6 everyone, get them back here in the courtroom, and then
7 we'll get you back in here.

8 Now, ladies and gentlemen, again, if you have any
9 questions or comments concerning the law, or you otherwise
10 need to communicate with me, Mr. Foreman, simply write the
11 question down on a piece of paper, give it to the bailiff.
12 He'll bring it to me. Please understand though that at no
13 time should there be any communication with the Court about
14 any kind of numerical division between the jury. All right?
15 So if you're deliberating and you need to communicate with
16 me, I do not want to know that your vote is 10/2, 11/1,
17 6/6/, 5/7. That information should simply never be conveyed
18 to the Court. Okay? So make sure that you don't let me
19 know if you're divided in some way.

20 Now, ladies and gentlemen, again your verdict has to be
21 a unanimous one. That means all 12 of you have to agree.
22 I'll remind you that, ladies and gentlemen, you've been
23 chosen as fair and impartial individuals. In other words,
24 you have no friends to reward or you have no enemies to
25 punish in this case. Your job is to render a verdict based

1 solely upon the evidence presented and the law as I've
2 instructed you. Your verdict cannot be based upon passion,
3 caprice, prejudice, or any consideration which is not in the
4 record in this case.

5 Now, ladies and gentlemen, I'm going to ask that you
6 return to the jury room. Do not begin your deliberations
7 yet. Okay? You're cue to begin your deliberations will be
8 receipt of the evidence which has been admitted, the Court
9 asking the two alternates to step out and then receipt of
10 these instructions and the verdict form. So when the
11 evidence goes back you can begin your deliberations. We
12 have to make sure though before we sent it back to you that
13 we got everything squared away, and with 148 exhibits that
14 may take five or 10 minutes. Okay? So again, your cue to
15 begin deliberations will be getting these instructions, the
16 verdict form, the evidence, and my asking the two alternates
17 to step out. All right?

18 I will let you know, ladies and gentlemen,
19 additionally, I realize that we're at 20 until 5:00. I have
20 a running rule that some other judges -- a lot of other
21 judges don't have. But understand that this week you've
22 been taking direction from me about when to be back and when
23 to break and things of that nature, and I have a rule that
24 once a case is submitted to the jury we are on your clock
25 100 percent. Okay? I will tell you that a number of Court

1 personnel have some plans for tomorrow that cannot be
2 changed. If you start deliberating late and you find
3 yourself fatigued and needing to take a break, that is
4 perfectly fine. Just let me know. But we will need to
5 reconvene Monday because we cannot do it on Saturday. And
6 candidly I've tried to suggest convening on a Sunday and
7 I've gotten push back from people before, so I'm just --
8 Sunday is off limits in my mind. Okay? So Sunday is off
9 limits. It's going to have to be Monday if we come back.
10 I'll just let you know that. Additionally, sometimes I'll
11 get a question from a jury, how long do we have to
12 deliberate under the law. Whether you deliberate 15
13 minutes, five hours, five days, five weeks, that's entirely
14 up to you. There's no set time in the law. Again, the key
15 thing is that all 12 of you have to agree on whatever
16 verdict is rendered, and however long that takes you is
17 entirely up to you all during the course of your
18 deliberations. All right?

19 With that, adjourn to the back. Don't begin your
20 deliberations yet. I think you know what to do. All right?
21 Thank you very much.

22 (Whereupon, the jury exited the courtroom at 4:42 p.m.)

23 THE COURT: Exceptions or additions from the State or
24 the Defense?

25 MR. BROWN: None from the State.

1 MR. GROSE: Only the things that we've discussed
2 earlier.

3 THE COURT: The two issues?

4 MR. GROSE: Yes, sir.

5 THE COURT: The same ruling on those two questions as
6 before. And let's -- I forgot to tell them about the
7 videos. I don't think they can play the videos. But I'm
8 assuming that if they want to see them they'll send us a
9 note or ask for it. So is that cool?

10 MR. BROWN: That's cool.

11 THE COURT: We'll just let them ask? I got you.

12 (Whereupon, the jury began deliberations at 4:55 p.m.)

13 (Whereupon, at 6:09 p.m. jury sent out a note which was
14 marked Court's Exhibit Number 8. Judge's written response
15 to jury, was marked for identification.)

16 VERDICT OF THE JURY

17 (Whereupon, at 7:14 p.m. jury knocked and indicated
18 they had reached a verdict.)

19 (Whereupon, trial resumed on the record at 7:18 p.m.)

20 THE COURT: Everyone who's in attendance here, just a
21 few things. Okay? And I cannot emphasize this enough.
22 Please understand that I do, again, understand how emotions
23 in this case can be rather raw and I'm sure that the events
24 of the last couple of days has perhaps reopened some old
25 wounds, and I understand that everyone who is here has a

1 very, very real and a very substantial stake in whatever the
2 jury's verdict is. No one in this room knows what the
3 jury's verdict is. I do not know. Of course none of the
4 attorneys do. What I'm telling you though is that
5 understand that these people have been asked to come in
6 here. They did not ask to look at any of these exhibits.
7 They did not volunteer to serve as jurors, and they've had a
8 very hard, hard week and a very challenging decision to
9 make. Whatever the verdict is, okay, please, I cannot have
10 their efforts impugned. I cannot have their efforts
11 disrespected by any kind of audible cheer, any outburst of
12 any kind. Okay. Again, I don't expect you people to be
13 robots. But if you find yourself simply unable to contain
14 your emotion, whatever that emotion may be, you're invited
15 to simply, you know, stand up quietly where you are and walk
16 towards the back of the courtroom. Those on this side, if
17 you'll walk around that way. Those on this side, if you'll
18 walk around that way, if you feel like you just can't
19 control your emotions any further. Okay.

20 With that, anything before the jury is brought out from
21 the Defense?

22 MR. GROSE: No, sir.

23 THE COURT: State?

24 MR. BROWN: No, sir.

25 THE COURT: Let us have them, please.

1 (Whereupon, the jury entered the courtroom at 7:18
2 p.m.)

3 THE COURT: All right. The record will reflect that
4 the jury is back and seated. Mr. Foreman, I'm told that the
5 jury has reached a verdict in this case.

6 MR. FOREMAN: Yes, Your Honor, we have.

7 THE COURT: And all 12 of you all agree with the
8 verdict?

9 MR. FOREMAN: All 12 agree.

10 THE COURT: Hand the form, please, to the bailiff.
11 Madam Clerk, if you'll publish, please.

12 MADAM CLERK: State of South Carolina, County of
13 Abbeville, *State of South Carolina vs. Charles Tillman*.
14 Indictment 2017-GS-01-442 and 443. We the jury in the
15 above-captioned case on the charge of murder unanimously
16 find Charles Tillman guilty. We the jury in the above-
17 captioned case on the charge of possession of a weapon
18 during the commission of a violent crime unanimously find
19 Charles Tillman guilty. James Hester, January 26th, 2018.
20 Mr. Foreman, ladies and gentlemen of the jury, if this is
21 your verdict so say you all. Please signify by raising your
22 right hand.

23 (Whereupon, all jury members raise their hand.)

24 THE COURT: All right. The record will reflect that
25 all 12 hands were raised. Anything before discharge of the

1 jury from the State?

2 MR. BROWN: Not from the State, Your Honor.

3 THE COURT: From the Defense?

4 MR. GROSE: Request the jury be polled.

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, in a moment the Clerk is going to call your name and
7 then she'll ask you a question. When your name is called
8 just respond by yes. She'll then ask you a question of if
9 this is your verdict and if it's still your verdict and
10 simply respond appropriately. Okay? Madam Clerk, if you'll
11 poll the jury, please.

12 MADAM CLERK: Mozelle Jackson, is this your verdict and
13 is it still your verdict?

14 THE JUROR: Yes.

15 MADAM CLERK: Gabriel Keller, is this your verdict and
16 is it still your verdict?

17 THE JUROR: Yes.

18 MADAM CLERK: Pamela Timmerman, is this your verdict
19 and is it still your verdict?

20 THE JUROR: Yes.

21 MADAM CLERK: James Hester, is this your verdict and is
22 it still your verdict?

23 THE JUROR: Yes.

24 MADAM CLERK: William Wilson, is this your verdict and
25 is it still your verdict?

1 THE JUROR: Yes.

2 MADAM CLERK: George Lyons, Jr., is this your verdict
3 and is still your verdict?

4 THE JUROR: Yes.

5 MADAM CLERK: Kenneth McCloud, is this your verdict and
6 is it still your verdict?

7 THE JUROR: Yes.

8 MADAM CLERK: Robin McMurtury, is this your verdict and
9 is it still your verdict?

10 THE JUROR: Yes.

11 MADAM CLERK: Russell Kenneth Wood, is this your
12 verdict and is it still your verdict?

13 THE JUROR: Yes.

14 MADAM CLERK: Mamie Hall, is this your verdict and is
15 it still your verdict?

16 THE JUROR: Yes.

17 MADAM CLERK: Lindsay Giles, is this your verdict and
18 is it still your verdict?

19 THE JUROR: Yes.

20 MADAM CLERK: Justine Minick, is this your verdict and
21 is it still your verdict?

22 THE JUROR: Yes.

23 MADAM CLERK: Your Honor, the jury's been polled and
24 the verdict has been confirmed.

25 THE COURT: All right. Nothing further from the

1 Defense with regard to the jury, Mr. Grose?

2 MR. GROSE: No, sir.

3 THE COURT: Ladies and gentlemen of the jury, I want to
4 thank you very much for your service here this week, and
5 again apologize to you for having to exposure you to things
6 that perhaps you have not seen before. Those of us who are
7 involved in this work, we do it day in and we do it day out.
8 I'll be in Laurens next week. I'll be trying a similar kind
9 of a case, and it's easy for me to become desensitized to
10 some of the stuff that you folks have seen. I assure you
11 that it was necessarily. First of all, I do apologize for
12 it. And I do want to thank you for your work here and for
13 your service here this week. The clerk will be mailing your
14 checks to you. They'll be going out the next time the
15 county runs payroll, I believe, which is sometime next week.

16 MADAM CLERK: End of next week.

17 THE COURT: End of next week. So you should be
18 receiving the checks in the mail. If you don't get them by,
19 you know, Tuesday or Wednesday the following week, contact
20 the Clerk. She'll see about getting them reissued. Okay?

21 You'll also receive a letter from me thank you for your
22 service. You should probably get that on Monday or so.
23 Please, if there's anything that you liked about jury
24 service let me know. Anything you didn't like about jury
25 service I definitely want to know, because I actually change

1 the way I run Court based upon feedback from folks who have
2 served on my jury.

3 I'm not going to keep you any further. If you want to
4 stay for sentencing, we'll be handling that probably in
5 about five or 10 minutes, but for security reasons I'll need
6 to ask that you have a seat out here. The two alternates
7 have elected to stay and be here for the reading of the
8 verdict. I don't know if they're going to intend to stay
9 for sentencing. But you probably recognize them. Feel free
10 to have a seat out there with them if you choose to stay.
11 Okay? The proceedings here on out will probably take
12 another 20 or 30 minutes today. But if you want to leave,
13 that's fine. If you want to stay, that's perfectly fine.
14 But I will need you to relocate to that area of courtroom.
15 Okay? You can do so by going downstairs and walking back up
16 the other way. All right?

17 We have your excuses. The Clerk will hand those out to
18 you as you exit out this way. Again, you have my
19 appreciation. You have my thanks. And I hope to see you
20 guys under less formal circumstances at some point in the
21 future. Okay?

22 Mr. Foreman, I need you to stick around and actually
23 sign the indictments. But the rest of you are free to
24 collect -- did you bring all your belongs out of the
25 courtroom? You still got some stuff back there?

1 JUROR: I've got some stuff back there.

2 THE COURT: All right. Anyone who needs to go on back
3 there to get whatever personal property you brought, go
4 ahead and do that. And, Mr. Foreman, if you'll come up here
5 and just sign this indictment. Both of these indictments.

6 (Whereupon, the jury was released at 7:20 p.m.)

7 (Whereupon, a recess was held from 7:20 p.m. to 7:36
8 p.m.)

9 THE COURT: We're going to go back on the record. For
10 the record, Mr. Grose, I assume that you would renew all
11 motions previously made and also move for a new trial?
12 Correct.

13 MR. GROSE: I would, but I would respectfully like the
14 10 days provided by the rule.

15 THE COURT: Certainly, by all means. But just so the
16 record is clear, the motion is made. All prior motions have
17 been renewed. All prior objections. Same rules as before.

18 Mr. Brown, if you could, let me know by way of Mr.
19 Tillman's prior record, what that record is, if you would,
20 sir.

21 MR. BROWN: Yes, sir, Your Honor. 1995 possession of
22 crack, or ice. Possession of crack or ice in 1998. Simple
23 assault in 2000. Shoplifting, 2003. Petty larceny in 2004.
24 Possession of a stolen vehicle, 2004. He has several
25 traffic charges on here. A few DUSs. DUS. And I believe

1 there's a pending fail to stop out of Laurens which is, I
2 believe, resolved at the end of -- after this. But it's
3 fail to stop in 2016.

4 THE COURT: All right.

5 MR. BROWN: In addition to the one pending in Laurens.

6 THE COURT: Because it's pending I will not consider
7 the fail to stop.

8 MR. BROWN: Yes, sir. Yes, sir.

9 THE COURT: Did any member of the victim's family wish
10 to address me?

11 MR. BROWN: Yes, sir. Bob Stutler, Christie's dad,
12 would like to address the Court. Your Honor, I would,
13 before he speaks, like to speak on Linda Huffman's behave.
14 Linda Huffman, as you're aware, is Christie's mother. She
15 moved to Ohio. She lived down here with her husband, Ben
16 Huffman. As of a week and a half ago, two weeks ago, Linda
17 and Ben were planning to come down here to testify in this
18 case. A week and a half ago on Friday we understood that
19 she had a stroke in Ohio, so she wasn't able to -- she
20 wasn't going to be able to come down. Ben continued to --
21 was going to come down and did come down. And on Monday
22 night of this week I contacted Ben and Linda and Linda said
23 I want to come down. I want to be there for my daughter to
24 testify. She flew down on Tuesday night. Was sitting here
25 on the third row all day Wednesday. And yesterday morning

1 had another stroke. So she was not able to be here for this
2 trial and not able to testify in this trial. But she did
3 give a statement to law enforcement the day after this
4 happened, and she said she talked to her daughter, Christie,
5 on November 7th at 6:00 p.m. She was with Charles Tillman
6 at the residence and using -- she was using Charles' cell
7 phone. Put her on speaker phone, and it was loud in there.
8 She had -- she had -- she could tell I was on speaker phone
9 and said that she could hear Charles in the background, but
10 she also thought that she could understand what her daughter
11 was saying. I think she was wanting me to come get her, but
12 she couldn't tell me. Several times she told me that
13 Charles held a knife on her, held some kind of sword waving
14 it at her. He told me a few months ago if he couldn't have
15 her no one could. He was in love with her since she was 15-
16 years-old. She had told me that she was scared a lot of
17 times, and times she's wasn't. She told me several times
18 that she was afraid she might harm me or the boys. Her two
19 children that I have custody of. Whenever I questions
20 Charles, what he told me, he said she's always saying things
21 like that. But I know my daughter better than that. We
22 talked to her Wednesday night and she said the same thing.
23 And was just heartbroken over her daughter's death. She's
24 now in Greenwood on a ventilator and is obviously not here
25 today.

1 THE COURT: All right. I assume you haven't been
2 updated on her status since we last spoke about her
3 situation?

4 MR. BROWN: She is still in Greenwood on that
5 ventilator is my understanding. Her husband, Ben, who was
6 here, went back to Ohio this morning to get the two boys.
7 Christie's two boys. And I believe is going to be driving
8 back down tomorrow to be with his wife.

9 THE COURT: Very good. And I think the statement that
10 you read from is part of the record in this case?

11 MR. BROWN: Yes, sir. It is.

12 THE COURT: It was marked as a Court's exhibit. Mr.
13 Stutler, I'm more than happy to hear anything that you want
14 to tell me about the situation, sir.

15 MR. STUTLER: Thank you, sir. The first thing I want
16 to say is I appreciate everything that's happened today.
17 You all did a wonderful job. I just -- I don't know what
18 I'm allowed to say. I'm very emotional right now because of
19 the loss of my daughter. When I heard that monster told
20 everybody that I didn't love my daughter and I was trying to
21 give her drugs and things, it really -- that hurt really
22 bad, because she's everything to me. When she died half my
23 heart come out of my chest, and I had nightmares every
24 night, and I'm on drugs. I don't mean to say drugs. I'm on
25 something. I can't sleep at night just because of what this

1 monster did to my daughter. He always told me what he was
2 going to do to her and I could not get her to understand
3 what he was all about. And when we'd get her from him, I'll
4 change. I'll do better for you. The guy was 40 something
5 years old. He's not ever going to change. He's a drug
6 head. He's useless. He's a monster is all he is, and he's
7 proved it. And the last time -- and I'll never forgive
8 myself for this. The last day that I saw her she pulled up
9 in a van that -- one of their vans. She came in and said
10 I've got to get a couple of my items and then I'm leaving.
11 And that monster was sitting in the van. I stepped out on
12 the porch and I said, if you go with him I'm either going to
13 see you in jail or dead. And it wasn't long here we are. I
14 knew what he was going to do to her and she -- I just
15 couldn't get her to understand what this man was all about.
16 And the way he beat on her. You know, he couldn't beat on a
17 man. He has to beat on a little woman. You know, it's just
18 -- I don't understand how people -- you know, I'm Christian,
19 and I'm a very proud Christian fellow. I know I'm not
20 supposed to hate. And my preacher's right here and I know I
21 shouldn't say it in front of him, but I hate this monster.
22 And if he was to die tonight I would -- I would love it, but
23 that ain't going to happen. But I just hope to God that he
24 never walks the streets again, because he -- you haven't
25 heard of all the things, because we wasn't allowed to tell

1 it. How he took two of my daughter's cars and destroyed
2 them. I mean, it's just stuff that we were not allowed not
3 to say. And I understand -- I don't under the Court system.
4 But anyway, you really haven't heard everything that thing
5 over here has done because we wasn't allowed to tell it.
6 But I just want you to know that my family's right here and
7 we are all hurt. We'll never get over this. But she was
8 spoiled rotten by each and every person you see sitting over
9 there because she was our only daughter, their only sister,
10 and each one of us loved her. We couldn't love a person
11 anymore. And I got to admit, I probably loved her more than
12 I did them because she was my daughter. There wasn't
13 nothing in this world I wouldn't do for her. I just could
14 not keep her away from that monster over there. And now
15 I've let her down and I'll never forgive myself for this.
16 Please don't ever let him stay on the streets. Thank you.

17 THE COURT: Thank you, Mr. Stutler. Anything further
18 from the State or anyone else who cares to address me from
19 Ms. Stutler's family?

20 MR. BROWN: I don't believe anybody else would like to
21 address the Court. Judge, I would just refer you back to
22 what Dr. Woodard said about the old and new bruising, and he
23 characterized it as somebody been tortured.

24 THE COURT: Very good. Thank you. Mr. Grose, I'm
25 happy to hear anything that you may want to say, and

1 certainly anything that Mr. Tillman or any member of his
2 family may want to say on his behalf.

3 MR. GROSE: Well, on my advice Charles is not going to
4 address the Court, and that's been more or less a practice
5 of mine for, you know, the better part of the last 20 years
6 or more. I've also talked with his family members, and I
7 don't know that anybody's going to address the Court at this
8 time. But I do feel like I need to respond to some of the
9 things that were said based on things that I know from
10 investigating the case that speak to Charles' character in a
11 different way. And I understand that Christie's family is
12 emotional and they loved her and I don't mean to do anything
13 to minimize that. But as -- you know, it came up in one or
14 maybe both of the bond hearings that we had in this case.
15 I've known people in his extended family for probably the
16 better part of the last 17 or 18 years. Antonio, who is
17 still here, his mother is Dorothy Hughey, and I've known her
18 through my representation of John Hughey for a lot of years.
19 Dorothy and Charles have another child together. And it was
20 actually Dorothy who was the first one who contacted me to
21 see if I would be willing to represent Charles. We also had
22 Ms. Patterson has been here for a number of days this week.
23 Ms. Patterson and Charles Tillman had a relationship for
24 nine years. And when -- when I -- I actually entertained,
25 and we talked in chambers, about whether or not I could add

1 Ms. Paterson to the witness list. I ultimately opted not to
2 because that would have opened the door potentially to some
3 of the evidence that we had a ruling on yesterday. But, you
4 know, Ms. Patterson tells me that, you know, Charles was
5 always good to her and had never abused her. While I
6 haven't specifically asked Dorothy that, I don't think she
7 would have come to me about representing Charles if he had
8 been, you know, a mean and abusive person to her. So there
9 is -- I guess what I'm saying there's ultimately a lot of
10 dimensions to things. As far as the record goes, I think he
11 questions the possession of a stolen vehicle. The drug
12 charge was, of course, an older charge. In recent years, I
13 think, most of his issues have been with driving type of
14 stuff. I also -- I would also ask that you consider the
15 minimum sentence in this case because, you know, Charles is
16 40 years old -- I mean, 48 years old. As part of some of
17 the juvenile life without parole advocacy that's going on in
18 South Carolina we've had experts look at life expectancies
19 in the Department of Corrections. A 30 year sentence may
20 very well be a life sentence for him at his age going into
21 the Department of Corrections. You also have heard as far
22 as, you know, some of the stuff in the video, you know, he -
23 - while he worked and did things he also, you know, had some
24 disabilities because of a motorcycle accident that he'd been
25 in and, you know, he did the best he could to try to support

1 the people that he had obligations to support, with child
2 support and that sort of thing. I think you probably would
3 recall him having some concerns about being able to do that
4 in the days following the underlying incident in this case.
5 Unless you have some questions, that would be our
6 presentation and our request.

7 THE COURT: Very good. I think you indicated that he
8 was -- did you indicate he was 40 -- or by his birthday he's
9 actually 48, and he was born in '67. So --

10 MR. GROSE: I think it was '69. I think -- I probably
11 misspoke at one point. Forty-eight is what I understand it
12 to be. Is that right, Charles?

13 THE DEFENDANT: Yeah.

14 THE COURT: I need you to go ahead, if you would, place
15 cuffs on Mr. Tillman. All right. He's already in custody,
16 so if you would please handle that.

17 THE COURT: Anything further from anyone before
18 sentencing is --

19 MR. BROWN: Not from the State.

20 THE COURT: From the State?

21 MR. BROWN: No, sir.

22 THE COURT: All right. Mr. Stutler, let me begin by
23 telling you that -- wherever you -- there you are. Your
24 daughter was amazingly beautiful, and I have no doubt that
25 she was an incredible and beautiful person. And I hear you

1 loud and clear that what happened to her, to say that it's
2 unfair and wrong doesn't begin to scratch the surface. And
3 I will I could do something --

4 MR. STUTLER: Thank you.

5 THE COURT: -- to alleviate your pain and your family's
6 pain, and if that was in my power, sir, I promise you I
7 would.

8 MR. STUTLER: Thank you.

9 THE COURT: To the extent that you and Ms. Huffman
10 might still be blaming yourself, parenting is hard and
11 sometimes kids don't do what you want them to do. And the
12 best you can do sometimes is just raise them up. And if you
13 or Ms. Huffman are blaming yourselves for any of this, you
14 should not. Okay? You cannot. And I pray that at some
15 point both you and she and the rest of your family are able
16 to find some kind of peace.

17 MR. STUTLER: Thank you.

18 THE COURT: Mr. Tillman, I understand Mr. Grose's
19 suggestion that you not address the Court, and from a legal
20 standpoint it's probably good advice. I do take it at the
21 very least you accept the verdict, even though perhaps you
22 disagree with it. I would imagine that you do disagree with
23 it. Understand, Mr. Tillman, that I've been here since
24 Monday and I've had an opportunity to listen to all the
25 evidence. And please, Mr. Tillman, understand that if I had

1 any hesitation or if I had any reservation about the verdict
2 that was rendered in this case, a new trial would be granted
3 quite promptly. And I had an opportunity to look at the
4 photographs. I had an opportunity to listen to your
5 statement to law enforcement. And candidly, sir, I really
6 cannot conceive of an individual who is capable of
7 inflicting the carnage that you did on Ms. Stutler and then
8 go to work just like it's a regular day. It boggles my
9 mind. And primarily for that reason, and in light of your
10 prior contact with the Court of General Sessions and other
11 Courts, Mr. Tillman, it's the sentence of the Court that you
12 be committed to the Department of Corrections for the
13 balance of your nature life, sir. I wish you luck. The
14 proceedings in this matter are closed.

15 The way we'll proceed, Solicitor, if you'll ask the
16 family to go to whatever room you want to brief them.

17 MR. BROWN: Yes, sir.

18 THE COURT: We're going to allow the jury to leave
19 first. If they need escorts to their cars, deputies take
20 care of that. And, Mr. Grose, whatever instructions you
21 want to give the family that's fine, but we're going to
22 allow them to go to the grand jury first and then allow your
23 client's folks to leave. Okay? As soon as the jury's out
24 relocate the family, please.

25 The record's closed.

1 (Whereupon, the proceeding was concluded at 7:50 p.m.)

2 (END OF REQUESTED TRANSCRIPT OF RECORD)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Certificate of Reporter

I, the undersigned, Tara T. Scott, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Abbeville County, South Carolina, on the 22nd, 23rd, 24th, 25th, and 26th day of January, 2018.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

Tara T. Scott

Tara T. Scott, CVR

Circuit Court Reporter

June 30, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2018-000495

Charles Tillman, ... Appellant.

v.

State of South Carolina, ... Respondent.

Rule 210, SCACR Certification

The Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully Submitted,

By  _____

E. Charles Grose, Jr.
S.C. Bar Number 66063
The Grose Law Firm, LLC
404 Main Street
Greenwood, SC 29646
(864) 538-4466
(864) 538-4405 (fax)
Email: charles@groselawfirm.com

Attorney for the Appellant

October 14, 2019
Greenwood, South Carolina