

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County

Honorable L. Casey Manning, Circuit Court Judge

RECEIVED

Jul 27 2021

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KENNETH RAY GLEATON,

APPELLANT

APPELLATE CASE NO. 2019-002072

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

COURT’S EXHIBITS #4, #7, #8, #9, #10 and #11 (COLOR PHOTOS), STATE’S EXHIBITS #46, #47, #48, #49, #50, #51 (BLACK AND WHITE PHOTOS), STATE’S EXHIBIT #111 (ROY BRASLEY VIDEO), STATE’S EXHIBIT #119 (PHOTO OF VICTIM AMANDA PEELE) and STATE’S EXHIBITS #136, #137, #138, #139, #140, #141 (AUTOPSY PHOTOS)

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Columbia, South Carolina

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The Honorable L. Casey Manning, Judge, and a Jury

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Kenneth Ray Gleaton

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7	136	Photo Autopsy	135	515
8	137	" "	135	515
9	138	" "	135	515
10	139	" "	135	515
11	140	" "	135	515
12	141	" "	135	515
13	142	" "	135	515
14	143	" "	135	515
15	144	Autopsy Body Diagram	135	529
16	145	FBI Messages Text	135	578
17	146	Wallet of Defendant	135	684
18	147	911 Radio Traffic CD	135	837
19				
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1	EXHIBITS			
2	DEFENDANT'S			
3	NO.	DESCRIPTION	ID	EVDS.
4	1	Photo	710	
5	2	"	710	
6	3	"	710	
7	4	"	710	
8	5	"	710	
9	6	"	710	818
10	7	"	710	818
11	8	Incident Detail Report	710	835
12				
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Thereupon, the following proceedings were had,

BAILIFF: All rise. Court is now in session.

THE COURT: Thank you very much. Please take your seats. Good evening everyone. I've got four indictments in my hand. Preliminary things. State versus Kenneth Gleaton for murder, arson second degree, destruction, desecration and removal of human remains graves, and possession of firearms or ammunition by a person convicted of a violent felony; is that correct?

MR. EATON: That's correct, Your Honor.

THE COURT: Before we get started, I glanced at some preliminary motions and one of those motions involved not letting the jury know about the firearms conviction or something. I can't remember exactly what it was. Now, how do I keep the panel from knowing about the indictments? That's my question to the defense. There's no way to do that, is there, that I know of?

MS. YOUNG: What we're asking is to bifurcate it so it --

THE COURT: No. I'm not gonna bifurcate it. I'm not gonna do that. We're gonna do it all. We're gonna go through the whole thing one time. I'm not bifurcating anything.

MS. YOUNG: We could stipulate to him being a felon.

1 THE COURT: Beg your pardon.

2 MS. YOUNG: We could stipulate --

3 THE COURT: You could, but that's up to them.
4 What's your position?

5 MR. EATON: Your Honor, the State is fine if we will
6 say that he has a violent felony --

7 THE COURT: Okay. You know, I'm just talking
8 here.

9 MR. EATON: -- and we'll not name the felony.

10 THE COURT: Okay. All right. Let's get this
11 straight then. You're saying that the indictment for
12 possession of a firearm or ammunition by a person
13 convicted of a felony but not name the felony.

14 MR. EATON: Right, Your Honor. I think we have the
15 right to prove the charge, but we will refrain from
16 stating that he has an arson conviction.

17 THE COURT: Okay. Is that what you were concerned
18 about?

19 MS. YOUNG: Your Honor, I would still object to it
20 for the record, but I'm --

21 THE COURT: Okay. Your objection is overruled.
22 What's next?

23 MS. YOUNG: Thank you, Your Honor.

24 THE COURT: You know, I don't want to sound curt or
25 anything, I read these motions and I don't know how you

1 keep me from mentioning the indictment, but if y'all
2 revolved that in the sense that he's been convicted of a
3 felony, don't mention that felony, I think that I'm
4 splitting the baby as much as I can. Anything else I
5 need to take up before we bring this jury in?

6 MS. YOUNG: Your Honor --

7 THE COURT: Identify yourself on the record please,
8 ma'am. I'm sorry.

9 MS. YOUNG: Laurie Young on behalf of Mr. Gleaton.
10 We spoke with the Solicitor earlier and he indicated that
11 --

12 THE COURT: Which Solicitor, Vance Eaton?

13 MS. YOUNG: Well, all of them actually, but Mr.
14 Eaton --

15 THE COURT: All right.

16 MS. YOUNG: -- specifically for sure and he said
17 that he would be happy to provide us with the information
18 they have regarding the criminal histories --

19 THE COURT: Of your jury; is that right?

20 MS. YOUNG: Yes. But he said that he needed the
21 Court to order that so they didn't violate --

22 THE COURT: So ordered. What else?

23 MS. YOUNG: That's it, Your Honor.

24 MR. EATON: Your Honor, so there's a Form 4B motion
25 about a prior domestic violence incident uncharged

1 between the deceased victim and Mr. Gleaton.

2 THE COURT: Yes.

3 MR. EATON: My understanding is that it will require
4 the proffer of two witnesses for the Court to make the
5 clear and convincing determination and to the probative
6 versus prejudicial.

7 THE COURT: Prejudice versus probative. Yes.

8 MR. EATON: Yes, sir.

9 THE COURT: That's fine.

10 MR. EATON: We can do that. We have them here. We
11 can go ahead and do that now before we bring in the jury
12 or however Your Honor --

13 THE COURT: Well, this has been mass confusion here
14 all day today. I delayed picking the jury until 2:00 so
15 the other two judges could pick. They haven't picked
16 yet. Now, this is the problem we have. We only had 85
17 jurors, and it affects everybody. There's a medical
18 malpractice case and I think Judge Clyburn Pope is doing
19 that. It's probably gonna take the whole week. And then
20 Judge Hood is gonna do two accident cases, wreck cases.
21 That's probably gonna take the whole week as I have been
22 informed. Now, if you're not ready to pick a jury now,
23 what we need to do, I can hear all the motions, take this
24 panel and give them to the medical mal or let the wreck
25 case pick first or we can pick, but if we pick the jury

1 now in this case, it could take an hour and a half or so.
2 I don't know. Maybe the rest of the afternoon. So
3 that's the situation. I'm sharing that with y'all. It
4 doesn't make that much difference to me, but it might to
5 the other two judges so if y'all want me to hear pretrial
6 motions before I even pick a jury, if you want to proffer
7 something before I pick a jury, I would just as soon let
8 them pick the medical malpractice case and maybe the
9 wreck case before we even start. We might then could
10 pick a jury in the morning. I'm just giving y'all a
11 heads-up. That's sort of the situation as I view it
12 right now. It's nobody's fault. It's just where we find
13 ourselves so if we're not ready to pick right now, I need
14 to send this jury to somebody else and let them pick
15 first. I'm not sure what's gonna happen as a result of
16 that either.

17 MR. EATON: Yes, sir. I think maybe if we need to
18 strike that - pick the jury and then knock out --

19 THE COURT: Well, we can pick the jury and we don't
20 have to swear them. We pick the jury, send them home, do
21 motions, bring them back in the morning but we'll have
22 the jury picked. Does that satisfy everyone? Criminal
23 goes first. We all know that so...

24 MR. EATON: Yes, sir.

25 THE COURT: We can pick the jury no matter how long

1 it takes, take your time and then we don't have to swear
2 them, we can just pick them, send them home, we can do
3 the motions this afternoon, tomorrow morning, or tonight,
4 whenever y'all want to do them. Is that good enough?

5 MS. YOUNG: Yes, Your Honor.

6 THE COURT: All right. Anything else we need to
7 take before we bring the jury? And the strikes are what?
8 What are the strikes?

9 MR. EATON: Ten and five, Your Honor, I believe.

10 THE COURT: Is that correct?

11 THE CLERK: Yes, Your Honor.

12 THE COURT: Is that correct, Pat?

13 THE CLERK: Yes, Your Honor.

14 THE COURT: All right. Ten and five. Anything
15 additional? I looked at the voir dire and y'all shared
16 it. It's kind of down the middle with both of these,
17 about the same thing and the list of witnesses for the
18 State is still 46 I do believe and the defense is around
19 eight or nine.

20 MR. EATON: I did write in two and we're hoping to

21 --

22 THE COURT: All right.

23 MR. EATON -- whittle that down for the trial.

24 THE COURT: Could be 48 then?

25 MR. EATON: Yes, sir.

1 THE COURT: That's all right. And for the defense
2 eight; is that correct?

3 MS. JURICK: Yes, Your Honor.

4 THE COURT: Anything else we need to take up before
5 we bring the jury in that y'all can think of?

6 MS. OSTEN: No, sir.

7 MR. EATON: No, sir. Nothing from the State, Your
8 Honor.

9 THE COURT: Okay. Bring the jury up then please.

10 THE CLERK: Yes, sir.

11 THE COURT: Okay.

12 THE CLERK: And two alternates, Your Honor?

13 THE COURT: Yeah. At least two. That should be
14 enough. I'm suggesting two alternates. Is that -- I'm
15 suggesting two. That would be 14.

16 (Whereupon, the jury venire entered the courtroom at
17 2:30 p.m.)

18 BAILIFF: Jury venire all present.

19 THE COURT: All right. Good afternoon, ladies and
20 gentlemen. Welcome. My name is Casey Manning. I'm one
21 of the Judges here in the Fifth Circuit, and you have
22 been called up. We're gonna select a jury in a very
23 serious case. And by way of introduction I will tell you
24 what the charges are against the defendant. The
25 defendant is charged with murder, arson in the second

1 break and then we'll come back and decide how we're gonna
2 proceed the rest of the day.

3 MS. JURICK: Pardon me, Your Honor.

4 THE COURT: Let's take a short break, then we'll
5 decide what we're gonna do the rest of the day, how we're
6 gonna proceed.

7 MS. JURICK: Thank you, Your Honor.

8 (Short break.)

9 BAILIFF: All rise.

10 THE COURT: Thank you. Be seated. All right. This
11 is in camera whether or not I admit it. Help me out.

12 MR. EATON: Well, yes, Your Honor, I think a 404
13 question about the prior --

14 THE COURT: Oh, yeah. The Prejudice, probative.

15 MR. EATON: Yes, Your Honor. Some prior domestic
16 violence incidents between Mr. Gleaton and the deceased
17 victim, I think at least one portion of that we kind of
18 agreed on as far as - so the deceased victim after he
19 assaulted her a month prior to the murder called it in
20 and she talks to an officer on body camera and describes
21 what happened. I agree with them that that creates a
22 Crawford problem.

23 THE COURT: Yeah.

24 MR. EATON: Okay? So I'm not --

25 THE COURT: You can't cross the statement.

1 MR. EATON: Because it's testimony since he's an
2 officer taking a formal statement. So but the State
3 still believes there's clear and convincing evidence of
4 the crime and we would have two witnesses that we would,
5 I think we'll have to proffer it so that --

6 THE COURT: Okay.

7 MR. EATON: -- the Court can make a determination
8 about whether --

9 THE COURT: That's fair to both sides to have a full
10 record. Let me bring this jury in, send them home, and
11 tell them 9:30? What's good for y'all?

12 MR. EATON: Yes, sir.

13 THE COURT: Let's say 9:30. It will probably be 10
14 before we get started. Bring the jury in. We won't
15 swear them in. We'll do that in the morning. Anything
16 else before the jury comes in that we need to talk about?
17 Have we covered everything so far?

18 MR. EATON: Your Honor, we have a witness that I
19 think we need to address. We can do that after the jury.

20 THE COURT: Let's send them home first. If y'all
21 stay here all night, you'll be by yourselves because I'm
22 going. But y'all get the idea. We'll do the best that
23 we can. This has been an awkward, long, tedious day.
24 It's one of those things.

25 (Whereupon, the jury entered the courtroom at 4:10

1 p.m.)

2 THE CLERK: The jury is seated, Your Honor.

3 THE COURT: Welcome back, members of the jury.
4 Hello.

5 (The jury responds hello.)

6 THE COURT: We're gonna start this trial in the
7 morning. There's some preliminary legal issues I need to
8 resolve and the only way I can do that is in your absence
9 anyway so I'm gonna send y'all home. Now, everybody,
10 it's unfair to either side, as I've stated, amongst
11 yourselves or with anybody else to talk about this case
12 until the very end of the case. You have to have an open
13 mind. There's nobody to punish, nobody to reward. It's
14 one of the few times in your life where you're asked to
15 do what you honestly believe and think is the right thing
16 to do based on the law and the evidence. So no enemies
17 to punish, no friends to reward. You're just here to do
18 a job, okay? So with that in mind I'm gonna ask that you
19 not talk about the case once again. Go home. Have a
20 restful and peaceful evening and I ask that you be back
21 here in the jury room tomorrow morning at 9:30. Now, we
22 might get started right at 9:30, or a little bit later.
23 Sometimes it takes a while to get organized in the
24 morning. But I'm asking y'all to be here at 9:30 sharp,
25 okay? Thank you all so very much, ladies and

1 gentlemen.

2 (Whereupon, the jury was released for the evening at
3 4:15 p.m.)

4 THE COURT: Okay. This goes to the motion to
5 exclude accusation of prior domestic violence? Which one
6 is this? Is this the one?

7 MR. EATON: Yes, Your Honor. I submitted a motion
8 on it Friday night and then I believe --

9 THE COURT: Motion for admission of prior.

10 MR. EATON: Yes, sir, Your Honor.

11 THE COURT: And yours is against, covers both of
12 them, right?

13 MS. JURICK: Yes, Your Honor.

14 THE COURT: Anything from the defendant?

15 MS. JURICK: I emailed these, too, but I have a
16 copy.

17 THE COURT: When did you send it?

18 LAW CLERK: We have them right here.

19 THE COURT: Oh, we have them. Let's just make sure.
20 We have everything I think. Let's just make sure. I
21 think she pulled up everything that was in the file. I
22 think I have everything. That's an extra copy. It looks
23 like I have everything.

24 MS. JURICK: This specific one (proffering.)

25 THE COURT: Yes, sir, Solicitor. You want to go

1 ahead and set this up.

2 MR. EATON: Yes, Your Honor. So this incident took
3 place on October 9th of 10th of 2017. Approximately one
4 month before that Mr. Gleaton, the defendant --

5 THE COURT: Let me stop you. Can I get a glass of
6 water or a Coke or something?

7 THE CLERK: Sure.

8 THE COURT: Well, I've forgotten you're a cripple
9 still. Can you do it?

10 BAILIFF: Yes, sir.

11 THE COURT: I'm sorry. Go ahead.

12 MR. EATON: Yes, Your Honor. So a month before the
13 murder Mr. Gleaton assaulted the deceased victim Amanda
14 Peele with a gun. She called law enforcement, she spoke
15 to law enforcement about it on camera. She also talked
16 to her son Ashton Coulter who is here today, Your Honor,
17 and then later a witness, another State's witness Jessica
18 Gantt actually spoke to the defendant about it and
19 Ms. Gantt states and will testify that Mr. Gleaton
20 admitted to it to her. The night of the incident after
21 it happened the victim and Ms. Gantt both worked at
22 Waffle House. The victim went to Waffle House after the
23 incident fleeing Mr. Gleaton. He came there and he said,
24 and the victim had already left Waffle House, when he got
25 there he says to Ms. Gantt, tell that bitch the next time

1 I see her I'll kill her or she's dead. So I think that,
2 Your Honor, the evidence of his flight that night, of his
3 statement to Jessica Gantt that night, his admission of
4 the incident to Jessica Gantt of what she said, of what
5 the victim said to her son in the hours after the
6 incident about what happened as well as the mark on her
7 body from the gun that her son saw, I think those things
8 would go towards the clear and convincing evidence to
9 support the --

10 THE COURT: Would you like to present these in your
11 case in chief?

12 MR. EATON: Yes, Your Honor.

13 THE COURT: Is that what you're telling me?

14 MR. EATON: Yes, Your Honor.

15 THE COURT: Before we start, do you have any
16 arguments against this or -- I'm gonna let you call your
17 witness. We'll proffer it and all that. What's your
18 position? I granted your motion. Might as well put it
19 on the record. Now it's part of the record. What's your
20 position about this proffered issue and everything else?

21 MS. JURICK: That it's inadmissible under 404(b) and
22 Lyle, and that it's not clear and convincing.

23 THE COURT: This is a 403, 404 analysis you want me
24 to consider, right? Okay. Go ahead, Ms. Jurick. The
25 prejudice outweighs the probative is what you're saying?

1 MS. JURICK: Yes, sir.

2 THE COURT: Go ahead. Do you have any authority to
3 support your position?

4 MS. JURICK: It's an inadmissible prior bad act.
5 It's more prejudicial than probative.

6 THE COURT: Do you have a case to support your
7 position? I mean, can you cite a case for me? I don't
8 know. Why under this case why it says it should be
9 excluded.

10 MS. JURICK: A case, a specific case?

11 THE COURT: Yes, ma'am.

12 MS. JURICK: Other than Lyle?

13 THE COURT: Yes. Mm-hmm. Is there a recent case
14 within the last two years similar to this case from
15 Mississippi that you can cite to say this is why it
16 should stay out?

17 MS. JURICK: Your Honor, under --

18 THE COURT: If you don't, it's okay. I'm just
19 asking you a question.

20 MS. JURICK: Your Honor, I have several of them.
21 Can I make my brief a court exhibit?

22 THE COURT: You relied on Lyle, is that correct, and
23 Lyle only?

24 MS. JURICK: Yes, sir, Your Honor.

25 THE COURT: That's fine. All right. That's good.

1 You may proceed. Call your first witness.

2 MR. EATON: The State calls Ashton Coulter.

3 Thereupon,

4 ASHTON ALAN ALEXANDER-COULTON

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

6 THE CLERK: Please have a seat on the witness stand
7 and state your full name for the record.

8 THE WITNESS: My name is Ashton Alan
9 Alexander-Coulton.

10 DIRECT EXAMINATION

11 BY MR. EATON:

12 Q. Ashton, where were you living in 2017 in
13 September?

14 A. With my mom at the address 109 Crestwood Drive.

15 Q. Was Mr. Gleaton living there?

16 A. Yes, sir.

17 Q. Were there incidents in the home between Mr. Gleaton
18 and your mom?

19 A. Yes, sir.

20 Q. Like what?

21 A. Uhm, arguing mainly. Not in front of us but, you
22 know, behind closed doors.

23 Q. And do you know if Mr. Gleaton had a gun?

24 A. Yes.

25 Q. How do you know?

1 A. Uh, I've seen him with it.

2 Q. Do you remember when you saw him with it?

3 A. Multiple occasions.

4 Q. What kind of gun was it?

5 A. A .25 --

6 THE COURT: Let me stop him. Did he see him with
7 the gun on the night in question? I wasn't clear about
8 that.

9 BY MR. EATON:

10 Q. Did you see him the night of your - of when he
11 assaulted your mother?

12 A. No. I didn't.

13 Q. Okay. Was it some time before then that you saw the
14 gun?

15 A. Yes.

16 Q. And like how many times did you see it?

17 A. Like five, six times.

18 Q. Five or six. So the night that he assaulted your
19 mother where were you?

20 A. I was, uhm, down the street playing basketball with
21 a couple of my friends.

22 Q. And what did you do after that?

23 A. Uhm, I came home. Uhm, she wasn't there which it
24 wasn't normal because she was taking her friend to work which
25 I knew so I assumed that she was gonna be back. Well, I

1 waited and it was a little bit longer than usual so I went
2 nextdoor to a friend's house and an officer came and knocked
3 on the door and she was back by then.

4 Q. You say an officer knocked on the door?

5 A. Yes, sir.

6 Q. Of your house or the friend's house?

7 A. The friend's house.

8 Q. The friend's house. And when did you first see your
9 mom that evening?

10 A. Uhm, when I walked back across to our house with the
11 officer.

12 Q. And how was your mom when you saw her?

13 A. She looked upset.

14 Q. What did y'all do? What did she say?

15 A. Uhm, she didn't say nothing to me at first. She was
16 talking to the officer. I was sitting in the car and as we
17 was on the way there she told me what happened, to the shelter
18 that they put us in for that night.

19 Q. And what did she say?

20 A. She said that, uhm, Kenneth had held the gun up to
21 her ribs and from there that's when she called up the police
22 and she gave them a statement and then she came home and then
23 they took us to the shelter.

24 Q. And so when she was telling you this, how did she
25 come across at that point?

1 A. She was still upset.

2 Q. Can you describe what you mean by she was upset?

3 A. More like scared.

4 Q. And did she show you the mark on her body?

5 A. Yes. She did.

6 Q. Where was it?

7 A. It was right here (indicating) on her right side
8 under her ribs.

9 Q. Under her ribs on her right side?

10 A. Yes, sir.

11 Q. And so after that night, where did you stay?

12 A. We stayed at Sister Care.

13 Q. At Sister Care. How long did you stay there?

14 A. One night.

15 Q. And then where did you stay after that?

16 A. With, uhm, my stepfather. Well, my dad.

17 Q. Did DSS get involved after that?

18 A. Yes. They did.

19 Q. And what did they do to y'all?

20 A. Uhm, well, when we went in with, when I went with
21 them the next day, it was a Friday night, we went the next
22 day, we spent the rest of the weekend with them. Uhm, it was
23 a Tuesday. She came and got us and brought us back home and
24 we went to school that next day. DSS came up to the school.
25 They, uhm, called me out of class to the guidance counselor

1 office and, uhm, asked me questions. I answered them. I went
2 back to class and then at the end of the day they, uhm, called
3 me for like early release and then it was the same lady I seen
4 from that morning from DSS and they put us in foster care for
5 about a week.

6 Q. Do you know where that gun came from?

7 A. Uhm, it was my grandfather's.

8 Q. Your grandfather's. Can you describe the gun?

9 A. It's was about as big as my hand, uhm, silver with a
10 brown handle.

11 Q. Do you know what kind it was?

12 A. A .25 auto.

13 MR. EATON: A .25. Thank you, Ashton. No further
14 questions.

15 THE COURT: Yes, ma'am.

16 MS. OSTEEN: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MS. OSTEEN:

19 Q. Hey, Ashton. First, you said that you saw the gun
20 after and knew it was your grandfather's?

21 A. I've seen it before.

22 Q. Okay. But you did not see the gun after the
23 incident?

24 A. No.

25 Q. Okay. And you were not there on the night of the

1 incident?

2 A. Not with it but I was there.

3 Q. Okay. So you were around the house, but you were
4 not in the house when this alleged incident was said to have
5 occurred?

6 A. Right.

7 Q. And you were at a friend's house?

8 A. Yes, ma'am.

9 Q. You did not see any interaction between the two that
10 night?

11 A. No, ma'am.

12 Q. You, in fact, did not see Kenny with a gun at all
13 that night?

14 A. No, ma'am.

15 Q. And you never saw Kenny threaten your mother with a
16 gun at any point?

17 A. No, ma'am.

18 Q. You were not present when they drove to the Waffle
19 House?

20 A. No, ma'am.

21 Q. And you were not present when your mother talked to
22 law enforcement?

23 A. No, ma'am. Uhm, when they came back to the house, I
24 was.

25 Q. But not when she spoke to law enforcement at the

1 hotel?

2 A. No, ma'am.

3 Q. You were at a friend's house that entire time?

4 A. Yes, ma'am.

5 Q. Now, you spoke to your mom about what happened later
6 that night?

7 A. Well, on the way up there to the shelter.

8 Q. When you were in the car?

9 A. Yes, ma'am.

10 Q. And at that point you said that there was an indent
11 in your mom's side?

12 A. Yes, ma'am.

13 Q. You saw the barrel print, is that what you said?

14 A. Yes.

15 Q. Okay. And you said that you took a picture of that
16 mark?

17 A. Yes, ma'am.

18 Q. But you don't have the picture?

19 A. No, ma'am.

20 Q. Now, previously you also said that Kenny had
21 assaulted you?

22 A. Yes, ma'am.

23 Q. You told DSS that he picked you up by the collar?

24 A. Yes, ma'am.

25 Q. And that he pushed you into the wall?

1 A. Yes, ma'am.

2 Q. And that he told you to get out?

3 A. Yes, ma'am. Well, not out of the house, but out of
4 my mom's room.

5 Q. Okay. And your mom didn't believe that that
6 happened?

7 A. I don't --

8 MR. EATON: Objection. That's speculation on what
9 his mom believed.

10 THE COURT: This is -- Go ahead. This is a proffer.
11 Go ahead.

12 MS. OSTEEN: Thank you, Your Honor.

13 BY MS. OSTEEN:

14 Q. Were you present at the DSS hearing when your mom
15 was talking to the DSS worker about that incident?

16 A. No. I was not.

17 Q. All right. Thank you. You then told DSS that Kenny
18 spent the night again on September 12th?

19 A. Yes, ma'am.

20 MS. OSTEEN: Thank you. No further questions.

21 THE COURT: Anything further?

22 MR. EATON: No, Your Honor.

23 THE COURT: All right. You may step down, sir.
24 Call your next witness.

25 MR. EATON: The State calls Jessica Gantt.

1 Thereupon,

2 JESSICA ROBIN GANTT

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

4 THE CLERK: Please have a seat. Once you're seated
5 state your full name for the record.

6 THE WITNESS: Jessica Robin Gantt.

7 DIRECT EXAMINATION

8 BY MR. EATON:

9 Q. Ms. Gantt, how did you know Amanda?

10 A. I worked with her.

11 Q. Try to speak up for me, if you can, please.

12 A. I'm sorry. I worked with her.

13 Q. Where did y'all work?

14 A. At the Waffle House on Garners Ferry.

15 Q. How long had you known her around September of
16 2017?

17 A. I think she started working back there around the
18 first week of August.

19 Q. Try getting closer to that mic for me please.

20 A. She started working there about the first week of
21 August.

22 Q. Of 2017?

23 A. Yes, sir.

24 Q. Okay. And what was y'all's relationship like then,
25 friends?

1 A. Yeah. We hit it off right away. I worked with her
2 a couple of times because at the time I was working all thirds
3 and she worked second, but there was a few times I did work
4 with her. We just hit it off right away.

5 Q. And at some point did you move in with her?

6 A. Yes. I did. The night of September 6th. It was on
7 a Wednesday.

8 Q. When was that in relation to the prior incident
9 we're talking about?

10 A. That happened on Friday, September the 8th.

11 Q. So you moved in right before this happened?

12 A. Yes, sir. I did.

13 Q. And were you at the house that night?

14 A. I was getting ready for work.

15 Q. And were you at the house when it actually
16 happened?

17 A. I was, but I didn't see it. I was actually getting
18 ready for work.

19 Q. Okay. Where were you in the house?

20 A. I was downstairs because my room was in the basement
21 at the time. That's where I had a little air mattress and all
22 my stuff was so I was getting ready for work. I was down
23 there. I think, I want to say they were in the backyard when
24 all this went down which I heard something in the kitchen but
25 they had the music on so loud. I just thought they were

1 having a common disagreement.

2 Q. So you heard some kind of disagreement?

3 A. Yes. I did. But I wasn't paying attention to what
4 it was exactly.

5 Q. What did the disagreement - like raised voices?
6 Like what did it sound like? What do you mean?

7 A. Just an argument. It sounded like an argument to
8 me.

9 Q. Okay. And between getting ready for work and going
10 to work did you see them again --

11 A. Right.

12 Q. -- there in the house?

13 A. They're inside the house at this point and I'm
14 trying to get ready for work and, uh, she had to ask him if
15 she could even take me to work and he was like, yeah, but he
16 came with us to take me to work.

17 Q. Okay. So is your belief that he put the gun on her
18 while you were getting ready or later?

19 THE COURT: Stop. It's her belief? What did she
20 actually see, hear, or do? I mean, you know, not what
21 she believed. What did she see and hear, okay? What did
22 you see, ma'am? What did you hear? What do you know?

23 BY THE WITNESS:

24 A. I found out about the gun after the fact when she
25 called me later.

1 THE COURT: That's fine. Go ahead.

2 BY MR. EATON:

3 Q. So, Ms. Gantt did she -- They took you to work?

4 A. Yes.

5 Q. And did he - did they come to the Waffle House later
6 that night?

7 A. She went inside and I don't know where she went. He
8 was waiting outside in the car.

9 Q. Okay. Did she come back to the Waffle House that
10 night?

11 A. To pick up her car, I guess.

12 Q. Did you talk to her then?

13 A. She called me on the phone about 10:30 that night.

14 Q. And did you see her when she came back to the Waffle
15 House?

16 A. No. We were busy. It was a Friday night. I just
17 know she called me on the phone. But I know that when he was
18 running from the police, he said something to me. When the
19 police all pulled into the parking lot because at some point
20 she had called them. Like I said, I didn't know any of this
21 had happened when she called them.

22 Q. Did you see Kenneth Gleaton again that night?

23 A. Not after he ran from the police, no.

24 Q. Right. But I mean, did he come back to the Waffle
25 House?

1 A. No. No. He didn't come back up there. Talking
2 about after he ran from the police?

3 Q. At any point?

4 A. No. I didn't see him come back up there that night.
5 You're talking about the night of September 8th?

6 Q. Yes.

7 A. No. He didn't come back up there that night.

8 Q. Okay. Did you previously tell us that he made a
9 comment about that night?

10 A. He did.

11 Q. Was it not that same night that he made that
12 comment?

13 A. Yes.

14 Q. Where was that comment made?

15 A. I was standing outside in back and he was running
16 from the police.

17 Q. At the Waffle House?

18 A. Yes.

19 Q. So he did come back to the Waffle House?

20 A. No. He was already there. I mean, they were taking
21 me to work and he was getting out of the car. We were
22 standing out there. This was before I went inside. This is
23 before 9:00. That's when all the police pulled in and it's at
24 that point he left the Waffle House.

25 Q. And what did he say to you?

1 A. He said, you tell that bitch when you see her, she's
2 dead.

3 Q. That when you see her or when I see her?

4 A. When he saw her.

5 Q. Okay.

6 A. At this point I still didn't know what happened. I
7 was told about it later at 10:30.

8 Q. Okay. So what you're saying is you got ready for
9 work.

10 A. Mm-hmm.

11 Q. They both took you?

12 A. Yes.

13 Q. Then the police were on the way?

14 A. Yeah. She went out and went inside and called them
15 from somewhere.

16 Q. And he's there?

17 A. Yeah.

18 Q. And then he flees?

19 A. Yes. He ran on foot.

20 Q. And that's when he makes this comment to you?

21 A. Yes. He hollered that as he was running by me into
22 the woods over behind the Medallion Center.

23 Q. Okay. Did you talk about this later with Kenneth
24 Gleaton?

25 A. The next day when he came back. They had talked on

1 the phone at some point that night and she let him come back,
2 but she wanted to go to work first. He came back about 3:00
3 in the afternoon on Saturday.

4 Q. The next day?

5 A. Yes.

6 Q. And did you talk to him then?

7 A. He came in and sat down. I was sitting there. He
8 said, did she tell you what I did? I said yeah. She talked
9 to me. And I asked him, I said, did you put a gun on her?
10 And he just nodded his head and dropped his head down like
11 that (indicating.)

12 THE COURT: Say that again please.

13 BY THE WITNESS:

14 A. He nodded his head yes.

15 THE COURT: Okay.

16 BY MR. EATON:

17 Q. Had you seen him with a gun?

18 A. That Thursday in between when I moved in and the
19 Friday. He had taken it out of his pocket and put it in like
20 a boot with all the rest of his stuff, a small silver gun.

21 Q. Do you remember that conversation in the kitchen him
22 saying anything apologetic or regretful about it?

23 A. I asked him why he did it and he said I don't know.
24 I don't know what came over me. I really love her. He did
25 say that.

1 MR. EATON: Thank you. No further questions.

2 THE COURT: Ms. Osteen.

3 MS. JURICK: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MS. OSTEEN:

6 Q. So Amanda started working at the Waffle House in
7 August?

8 A. (Witness nodding head.)

9 Q. And you guys moved in together in September?

10 A. Yes, ma'am.

11 Q. Or you moved in with her I guess is more accurate?

12 A. Yes, ma'am.

13 Q. And it's fair to say you guys were close?

14 A. Yes. We were.

15 Q. Yes. Fair to say that you really cared about her?

16 A. That's correct. Yes.

17 Q. And you did not feel that way towards Kenneth?

18 A. I had no problem with him whatsoever.

19 Q. You told Amanda that she should leave him?

20 A. No. Never did.

21 Q. Up in September when he came back, you didn't tell
22 her that she shouldn't date him anymore?

23 A. No. Never said that to her.

24 Q. I want to talk a little bit about that statement.

25 You said that Kenneth made it when he was - he hollered at you

1 when he was running away?

2 A. Yes, ma'am.

3 Q. And you said that that's when you saw the police
4 come to the Waffle House?

5 A. They were all pulling in and I didn't realize they
6 were even there for him. I didn't know what was going on
7 until he ran and he yelled that, the cops were like, where did
8 he go? And I was like (indicating.)

9 Q. What time did your shift start?

10 A. Nine p.m.

11 Q. When the police got there, you did not report that
12 he made that statement to them?

13 A. No, ma'am.

14 Q. You didn't report that he made that statement to the
15 management at Waffle House?

16 A. No, ma'am.

17 Q. You didn't report that he made that statement to any
18 law enforcement officer?

19 A. No, ma'am. Nobody really talked to me that night
20 anyway.

21 Q. You spoke to DSS in regards to Kenneth; is that
22 accurate?

23 A. I answered whatever questions they asked me. I
24 don't really remember what it was.

25 Q. And you didn't tell them about the statement?

1 A. Mmm-mmm.

2 Q. No. Now, when you spoke to the Solicitors before,
3 did you tell them that you talked to Amanda about this
4 incident with the gun a few days before her death?

5 A. I know a few days before her death she was --

6 THE COURT: Do you have some statement that you can
7 refresh her recollection with, ma'am, or -- This is just
8 my question. I don't know. Did she actually give them a
9 statement along those lines? Do you have that statement?

10 MS. OSTEEEN: Your Honor, I have the notes from the
11 Solicitor's conversation with her that I'm happy to
12 refresh her memory with.

13 THE COURT: I don't know. I'm just asking. We're
14 putting the witness in a vacuum and it's kind of
15 difficult.

16 MS. OSTEEEN: Yes, Your Honor. May I approach with
17 the statements?

18 THE COURT: Sure. And y'all have these notes,
19 right?

20 MR. EATON: Yes, sir. There are notes.

21 THE COURT: All right. Go ahead.

22 BY MS. OSTEEEN:

23 Q. (Proffering.) Do you remember talking to the
24 Solicitor's Office.

25 A. Yes. I do now. Yeah.

1 THE COURT: What date was that?

2 MS. OSTEEN: Your Honor, this was on -- Your Honor,
3 I believe it was the beginning of September.

4 THE COURT: I don't know. I'm just asking that
5 question. I think it's a fair one. When was the date
6 that she had the conversation with the Solicitor's
7 Office?

8 MS. OSTEEN: We are not entirely sure. We received
9 the email --

10 THE COURT: That's fine. Continue.

11 MS. OSTEEN: Thank you, Your Honor.

12 BY MS. OSTEEN:

13 Q. So at that time you told them that she disclosed
14 this information to you a few days before she was killed?

15 A. Yes. She went ahead and pressed charges on the
16 incident in September.

17 Q. Okay. Now, when Amanda was killed, you were staying
18 at the house?

19 A. I was. Yes.

20 Q. Yes. And you spoke to law enforcement at the
21 scene?

22 A. Yes, ma'am.

23 Q. You spoke to Deputy Marum specifically?

24 A. I don't know who. I spoke with --

25 Q. A lot of people?

1 A. Exactly.

2 Q. And you spoke to the coroner Nikki Acerra. You
3 spoke to Lieutenant Powell from the Coroner's Office?

4 A. Yes.

5 Q. You spoke to a number of officers?

6 A. Yes, ma'am. I did.

7 Q. And you had the police officers' information and
8 ways to get in touch with them afterwards. You didn't tell
9 any of those people on the night of Amanda's death that Kenny
10 had made that statement?

11 A. No.

12 Q. And you didn't tell anybody until you told the
13 Solicitor's Office in September?

14 A. (Witness shaking head.)

15 Q. I'm sorry. I need you to verbalize your answer for
16 the record.

17 A. No, ma'am.

18 MS. OSTEEEN: Thank you. That's it.

19 THE COURT: Anything further?

20 MR. EATON: I think just one question.

21 REDIRECT EXAMINATION

22 BY MR. EATON:

23 Q. Before we asked you about the prior incident, had
24 anyone asked you about it or what anybody said or what you
25 saw?

1 A. No, sir.

2 MR. EATON: All right. Thank you.

3 THE COURT: Anything further of this witness?

4 MR. EATON: No, Your Honor.

5 THE COURT: You may step down, ma'am. Anything
6 further of this issue?

7 MR. EATON: Your Honor, in Mr. Gleaton's statement

8 --

9 THE COURT: Let me ask you this: Anything further
10 on this issue from the witness stand?

11 MR. EATON: From this witness or on this issue? I'm
12 sorry.

13 THE COURT: Anything further on this issue from any
14 witness or this is just argument now?

15 MR. EATON: Right. Well --

16 THE COURT: I'm sorry for perhaps asking a silly
17 question.

18 MR. EATON: I'll just say the investigator
19 interviewed Kenneth Gleaton and in Mr. Gleaton's
20 statement he admits to the investigator that he was being
21 kicked out and that he ran from the Waffle House that
22 night. I think that's part of it. I don't know if Your
23 Honor needs to hear that right now. We'll do a Jackson
24 v. Denno about his statement.

25 THE COURT: I'll do that later. We'll do the

1 Jackson v. Denno later. But as to the admissibility of
2 her testimony and his testimony, that's what I want to
3 hear arguments on now under 403, 404.

4 MR. EATON: That's right, Your Honor. That is it
5 and I think that it's additional corroborating evidence
6 that the Court can take into consideration as far as his
7 own statement about it. Your Honor, as far as the level
8 of evidence that's presented, this is very similar to
9 State versus Gillian and in that case it was almost
10 identical but it uncharged conduct that the defendant in
11 that case had just casually admitted to a lay witness who
12 testified. There were some corroborating pieces around
13 it but that was the level of evidence that was presented
14 to meet the clear and convincing standards, Your Honor.

15 And I think that once that standard is met, then the
16 Court looks at whether it goes to motive, identify, or
17 intent. The defense I don't think would hide the fact
18 that they're gonna try to put this on someone else so
19 Mr. Gleaton's identity as the person who killed Amanda
20 Peele is in the heart of the case and him putting a gun
21 to her and telling someone he's going to kill her is very
22 probative evidence as to whether he was the person who
23 killed her, Your Honor.

24 Additionally, the motive aspect, so that incident
25 triggered this chain of events that led to the murder.

1 As Ashton said, they left and went to Sister Care.
2 Ashton then went to live with his, he calls him dad but
3 it's his stepdad. Amanda wanted to break up with Gleaton
4 because of it, to get her kids back. A month later he's
5 still trying to get back together and ends up killing her
6 in her attempts to break up with him and, of course, it
7 also goes to his intent. The State must prove that he
8 had intent to kill. We must prove malice so state of
9 mind is always an issue in a case like a murder, of
10 course.

11 And State versus Sweat, very similar to what we have
12 here, Your Honor. It was domestic also in nature. It
13 was not a conviction in that case. The guy was arrested
14 in that case for domestic violence against his later
15 victim so he sits in jail with domestic violence, gets
16 out, comes to the house where she's at and comes in and
17 assaults everybody with a knife. In that case the prior
18 incident of not convicted domestic violence was found to
19 be, to go to his intent in that attack on those people.

20 THE COURT: All right, sir.

21 MR. EATON: And I think it's also just part of res
22 gestae, Your Honor, that because that prior incident of
23 domestic violence is so wrapped up in the murder itself
24 and how it came to be that for the jury to be able to
25 understand the incident, the murder, they need to be able

1 to understand the prior incident that led up to it.

2 THE COURT: All right, sir.

3 MR. EATON: And finally, I would just cite separate
4 from the 404(b) and the res gestae, there's a lot of
5 cases that just say in a murder evidence of prior
6 hostility and ill will is admissible. Now, under that
7 line of cases I would acknowledge that it's just the
8 existence of that difficulty, if the Court were to rule
9 under that, but that's separate from 404(b) and that
10 would include, Scales is a case, a domestic case in
11 nature. A murder as well with a prior domestic incident
12 and then a murder.

13 THE COURT: What is Scales? Is that a case out of
14 Anderson County?

15 MR. EATON: I don't remember if it was out of
16 Anderson.

17 THE COURT: I think it was. I could be mistaken.

18 MR. EATON: So as to this issue and then, of course,
19 if the Court rules that there is clear and convincing
20 evidence that it goes to motive, identity, or intent or
21 res gestae, the Court should then do the 403 probative
22 versus prejudicial. As the Court knows, the standard is
23 that for it to stay out, the danger of unfair prejudice
24 must substantially outweigh the probative value so even
25 if it outweighs it, it should still come in. It must

1 substantially outweigh probative value and I think --

2 THE COURT: Thank you, sir. Yes, ma'am.

3 MS. JURICK: Thank you, Your Honor. This doesn't
4 come in under any of those things. It's pure propensity
5 evidence. They're saying that he said I will kill you
6 and then a month later he kills her. That's the most
7 prejudicial thing a jury could possibly hear. They would
8 be prosecuting him through this uncharged event that
9 happened a month prior and has no nexus, nothing to do
10 with it, there's no Lyle exception, that they haven't
11 proved happened by clear and convincing evidence at all.

12 With regards to it not being clear and convincing
13 the only witness is the decedent. She admits, she states
14 very clearly on the body camera she was the only one
15 there, nobody else saw it and I don't think that either
16 of those two witnesses refuted that in any way. With
17 regards to the son, he said that he saw a bruise on the
18 left side when the statement stated it was actually on
19 the right side. He admits he wasn't there. He admits he
20 didn't see a gun that night. He has no personal
21 knowledge of what happened. He admits that Kenny spent
22 the night and the nights following that. They got back
23 together in between. This was a full month where they're
24 back together so as far as res gestae goes I don't think
25 there's - in this whole that it's part of the chain of

1 events of they're breaking up, there's no evidence in our
2 case that that's even what this is about.

3 In the DSS records Ashton who just testified, so
4 there was a DSS hearing that came out of it. I'm not
5 sure if that was clear, and in the records for it they're
6 talking about an incident where Kenneth allegedly pushed
7 him up against the wall and was choking him and his
8 mother says that's not what happened. She continued to
9 say on that day her son was upset. He could not find his
10 game system. He attempted to get hers and then basically
11 got very hostile with her, began fussing about the issue.
12 Mr. Gleaton was also in the room but he did not say
13 anything. So essentially to DSS the mom is-saying, hey,
14 my son is known for lying. It also says in here that he
15 was currently, actually bullies others, lies about
16 everything --

17 MR. EATON: Okay. Judge, I know this is a judicial
18 --

19 THE COURT: Don't interrupt her. Wait until she's
20 finished. Go ahead, ma'am.

21 MS. JURICK: Lies about everything. Has had law
22 enforcement called several times making false charges for
23 burglary and I think that does go to his credibility at
24 the time that his own mother doesn't believe him and
25 she's telling DSS she doesn't believe him and he doesn't

1 have any details or personal knowledge of what happened
2 that night.

3 With regards to Jessica, she said that she didn't
4 know any of this happened initially; that she didn't talk
5 to him that night and then she sort of came back around
6 to maybe she did talk to him that night. I got a little
7 confused. But as far as the statement the next time I
8 see her I'll kill her, there's seems to not be a question
9 at all that he had seen her and had been sleeping there
10 through the month in between so that's clearly not true.
11 She talked about a silver gun. In the victim's
12 statement, body cam, or the body cam on the police she
13 says that the gun that she thinks may or may not have
14 been there was black.

15 So I don't think that there's any detail she
16 doesn't, Jessica, with regards to Jessica, she doesn't
17 talk to DSS about it. She does not talk about it on the
18 body camera on the incident of this night. She doesn't
19 say that he confessed to her at all. The only time that
20 we heard about that is in the Solicitor's notes
21 approximately a month ago and it's two years later. So
22 to say that that's reliable or clear and convincing that
23 it happened when he wasn't charged and there were no
24 witnesses I don't think they meet that standard at all.

25 But as far as the Lyle section itself goes, motive,

1 there's no nexus. I'll kill you and then I killed you is
2 not a motive. That doesn't explain anything. With
3 regards to identity, there's no trademark issue that says
4 where it is, the gun being black versus silver. They're
5 not seeing the same gun. There's no details that links
6 them at all. Common scheme or plan, again, no details
7 linking them at all. We're not saying it was a mistake
8 or an accident or that she was intentionally not saying
9 it, so I don't believe any of those apply either.

10 THE COURT: All right. Anything further?

11 MS. JURICK: No, Your Honor.

12 THE COURT: Thank you. Yes, sir, Mr. Eaton.

13 MR. EATON: Yes, Your Honor, just as to the --

14 THE COURT: You know, this is how it works.
15 Courtesy matters. Don't interrupt somebody in the middle
16 of their argument. You will get a chance and vice versa.
17 Let's be polite. Yes, sir. I'll be happy to hear from
18 you now.

19 MR. EATON: Yes, sir, Your Honor. My apologies. I
20 guess as to the stuff that Amanda said to DSS in a
21 hearing I know --

22 THE COURT: Let me help you both out. My decision
23 is this: The son is sketchy. He can say what he saw,
24 heard, but don't speculate. Ms. Magnum's testimony --
25 I'm sorry. Ms. Gantt's testimony will be allowed. This

1 is what he told her. This is what the defendant said to
2 her. That's what he was gonna do. I'm letting that come
3 in. Now, any questions about anything on all of the
4 exception? I think it goes to motive, scheme, design,
5 plans, what I'm going to do. This is what he said to
6 her. She said I'm a witness to it. This is what the
7 defendant said to her. Jackson versus Denno you can look
8 at any way you want. It should come in. Anything
9 further from anyone?

10 MR. EATON: I would just ask the Court to make a
11 finding on prejudicial versus probative on the record.

12 THE COURT: I think the probative value outweighs
13 the prejudicial effect. Anything further? And it's by
14 clear and convincing evidence for the record.

15 MR. EATON: Thank you, Your Honor.

16 THE COURT: Anything further? See you all at 9:30
17 in the morning. Thank you.

18 MR. EATON: Judge, I'm so sorry. Can we address
19 one issue, Your Honor.

20 THE COURT: Sure.

21 MR. EATON: We have a main witness Roy Brasley.
22 He's here in the courtroom today. He took a cell phone
23 video the day after the murder of Mr. Gleaton admitting
24 to burning the house down and hitting the victim. I know
25 that Mr. Brasley has some travel plans.

1 THE COURT: This is the gentleman that wants to go
2 to Cancun; is that right?

3 MR. EATON: I believe that is right.

4 THE COURT: And is that what you're telling me?
5 You're going to Cancun?

6 MR. BRASLEY: For work, not pleasure. Yes, sir.

7 THE COURT: Go ahead.

8 MR. EATON: And so we were gonna try to get him on
9 the stand this evening.

10 THE COURT: We'll take a break and we'll do him this
11 afternoon. Thank you.

12 MS. JURICK: What?

13 THE CLERK: We'll take a break and do him this
14 afternoon.

15 THE COURT: We'll do him this afternoon when I come
16 back.

17 MR. EATON: Well, he needs to testify in front of
18 the jury, Your Honor.

19 THE COURT: What now?

20 MR. EATON: He needs to testify in --

21 THE COURT: Well, you're confusing me. What are you
22 asking me to do this afternoon?

23 MR. EATON: Well, I need to make sure that Mr.
24 Brasley knows that he has to be here tomorrow.

25 THE COURT: Didn't you subpoena him?

1 MR. EATON: Yes, Your Honor.

2 THE COURT: What do you want me to do?

3 MR. EATON: Just let Mr. Brasley know that he's --

4 THE COURT: Well, Mr. Brasley, he subpoenaed you.

5 He can release you if he wants to, but if he doesn't

6 release you, you've got to be here in morning.

7 MR. BRASLEY: That's not what they told me.

8 THE COURT: What now?

9 MR. BRASLEY: That's not what they told me. They
10 told me --

11 THE COURT: I don't know. I'm not getting involved
12 in this. Y'all can handle this. Do I need to have a
13 conference with y'all about subpoenaing witnesses or
14 something?

15 MR. EATON: I'm just concerned that --

16 THE COURT: Well, didn't you subpoena him?

17 MR. EATON: Yes, Your Honor.

18 THE COURT: And he's under subpoena?

19 MR. EATON: Yes, Your Honor.

20 THE COURT: And you haven't released him?

21 MR. EATON: No, sir.

22 THE COURT: Mr. Brasley, don't go anywhere. Come on
23 down here. Come down here. Ms. Jurick, come on. You
24 know that's not my problem. What's the situation?

25 (Side bar off the record.)

1 THE COURT: I think we can work this out. I
2 understand this matter was continued one time before
3 because of your work schedule; is that correct?

4 MR. BRASLEY: That's correct.

5 THE COURT: Okay. So what are we supposed to do,
6 not try a case because of your work schedule or what?

7 MR. BRASLEY: No. When I spoke to them, they
8 promised me that it would be handled today and I would be
9 able to leave. That's what I was told.

10 THE COURT: I have nothing to do with that. I'm not
11 a part of that situation.

12 MR. EATON: We said we would do our best.

13 MR. BRASLEY: No. No. When I got here this morning
14 --

15 THE COURT: Calm down.

16 MR. BRASLEY: Because this is my livelihood. This
17 is my work.

18 THE COURT: Relax.

19 MR. BRASLEY: Okay.

20 THE COURT: How can we work this out? When will you
21 be back?

22 MR. BRASLEY: Thursday afternoon.

23 THE COURT: All right. You can go to Cancun but you
24 better be back Thursday afternoon before we finish this
25 trial even if we have to hold up the trial to do so. I

1 don't think this is a critical reason. You go to Cancun.
2 You be back Thursday. If you're not back Thursday, I'm
3 gonna send for you.

4 MR. BRASLEY: Not a problem.

5 THE COURT: Do you understand that?

6 MR. BRASLEY: Yes, sir.

7 THE COURT: And if we have to wait, we'll wait.
8 Does that solve it?

9 MR. BRASLEY: Yes, sir.

10 THE COURT: Good luck to you, sir. Now, if you
11 ain't back, I'm gonna personally come and get you.

12 MR. BRASLEY: I'll be back.

13 THE COURT: Okay. All right.

14 MR. BRASLEY: Thank you.

15 THE COURT: And we won't finish this by Thursday.
16 If we have to, we'll stop and wait until he gets back. I
17 don't know whether I'll let it in or not. But yes, I
18 will handle it. Do you understand?

19 MR. BRASLEY: Yes, sir.

20 THE COURT: I'll see you Thursday.

21 MR. BRASLEY: Thank you.

22 THE COURT: Anything further?

23 MR. EATON: That's it, Your Honor.

24 THE COURT: All right. Y'all relax. This is a
25 tough case. I'll see you all in the morning. Anything

1 further this afternoon? 9:30. Thank you.

2 MS. OSTEEN: Your Honor, there are other pretrial
3 matters but we're happy to take them up in the morning if
4 Your Honor prefer.

5 THE COURT: 9:30 in the morning.

6 MS. OSTEEN: Yes, Your Honor. Thank you.

7 THE COURT: Let me see y'all before you go, lawyers,
8 in my chambers.

9 MS. OSTEEN: Yes, Your Honor.

10 (Whereupon, court was adjourned for the day at 5:00
11 p.m.)
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1 OCTOBER 29, 2019

2 (Whereupon, State's Exhibits #1 through #147 marked
3 for identification.)

4 BAILIFF: All rise.

5 THE COURT: Please be seated. All right. Any
6 matters we need to discuss before I bring the jury in?

7 MR. EATON: One quick matter from the State, Your
8 Honor. The State would like to make a very minor
9 amendment to the indictments. Initially law enforcement
10 thought that --

11 THE COURT: Which indictments? There's four.

12 MR. EATON: Yes, sir. All four. Yes, sir.

13 THE COURT: All right.

14 MR. EATON: Initially law enforcement thought Amanda
15 died on the 10th close to midnight. The warrants all
16 said the 10th, the indictments said the 10th. It appears
17 Amanda most likely passed away on the 9th before midnight
18 so the State would ask to amend that language to say the
19 9th or the 10th. I think it's sufficient with on or
20 about, but in an abundance of caution I would move to
21 make that amendment, Your Honor.

22 THE COURT: Ms. Jurick.

23 MS. JURICK: No objection.

24 THE COURT: Okay. On or about would cover that in
25 my opinion, but to be specific, there's no objection. I

1 think it's harmless. I mean, it probably helps both of
2 you. Anything further?

3 MS. JURICK: Yes, Your Honor. I wanted to make my
4 written motion a Court's Exhibits.

5 THE COURT: What now?

6 MS. JURICK: My written motion as a Court's
7 Exhibits. I have marked them 1 through 5.

8 THE COURT: That's fine. I think they are already
9 in the record, but if you want to make them an exhibit,
10 you may do so.

11 MS. JURICK: Thank you. And I also wanted to
12 clarify the ruling yesterday on Lyle. My understanding
13 was that Ashton is not testifying but --

14 THE COURT: I'm not saying he's not testifying.
15 He's not testifying specifically about the gun and what
16 he thought. We can clarify this right now. He can
17 testify but he can't testify he saw the gun on the day or
18 somebody told him that. Does that make sense? I think
19 that's part of his testimony. Help me out if I'm
20 mistaken. I didn't write it down. This is the son?

21 MS. JURICK: Yes, sir.

22 THE COURT: The son can testify what he knows,
23 directly saw or heard himself, but he can't say, well --
24 I thought about this. I don't know whether you want him
25 to saw, well, I saw - he saw a gun at sometime a month

1 earlier I think it was.

2 MS. JURICK: Yes, Your Honor.

3 THE COURT: What's your concern about his testimony?

4 MS. JURICK: I just wanted to clarify who's saying
5 what.

6 THE COURT: What do you want to clarify?

7 MS. JURICK: That - whether he can testify or not.

8 THE COURT: Oh, well, he can testify. You know, he
9 can testify. Now, what he says is a different thing.
10 What he's gonna testify to I do not know, but I wasn't
11 gonna let him connect the same testimony that Ms. --

12 MS. JURICK: Gantt.

13 MR. EATON: And, I guess, if I may, Your Honor, you
14 know, I think people see him with a gun that was a .25
15 that had bullets.

16 THE COURT: That was a month before or something
17 like that.

18 MR. EATON: Yes, sir. But I think him and Jessica
19 and seeing him with a gun is some circumstantial evidence
20 that they saw with their own eyes. I mean, the mark that
21 he saw on her body, you know, he saw with his own eyes.
22 As far as what his mom said later, I mean, you know, I
23 think that's excited utterance but I, you know, I would,
24 if we had to parse it down, perhaps that part.

25 THE COURT: Well, I mean, we might. If I have to do

1 it over again, I will do it over again but, you know,
2 there's some testimony here that may not conclude
3 improper, but his mother is saying something to him, I
4 think. I think you elicited some testimony about what
5 his mother said to him.

6 MR. EATON: Yes, sir. Hours after the incident
7 they're driving to Sister Care and his mother tells him
8 what happened.

9 THE COURT: I'm not gonna allow that.

10 MS. JURICK: And, Judge, Ms. Gantt did testify I
11 understand --

12 THE COURT: Oh, yeah --

13 MS. JURICK: -- testified as to what --

14 THE COURT: Wait. Slow down. Now what did you say?

15 MS. JURICK: Ms. Gantt did testify as to what Mr.
16 Gleaton told her.

17 THE COURT: Oh yeah. Sure. Of course.

18 MS. JURICK: Just wanted to clarify that.

19 THE COURT: I hope it's clear enough for you. If
20 it's not, then we'll bring it up again.

21 MS. JURICK: We're objecting for the record.

22 THE COURT: Your objections is noted. Bring the
23 jury in?

24 BAILIFF: Yes, Your Honor.

25 MS. OSTEN: Your Honor, prior --

1 THE COURT: Stop. What else is there?

2 MS. OSTEEN: The issue of the phone video. I would
3 like to have a ruling on that beforehand.

4 THE COURT: You will not get one.

5 MS. OSTEEN: Okay. Yes, Your Honor.

6 THE COURT: All right. First of all, let me clarify
7 this phone video stuff. The gentleman can testify to
8 what he saw, heard and everything else. The problem I
9 have with the phone video, y'all had a hearing in front
10 of Judge Benjamin back on August 21st. Let me finish.
11 You hadn't turned it over at that point in time. Let's
12 clarify this now. Now, the issue, I think it comes in.
13 He can testify to everything the gentleman said to him,
14 the defendant said to him and everything else. My
15 question is, why wasn't it turned over under Brady to the
16 defense?

17 MR. EATON: It was.

18 THE COURT: When did you turn it over?

19 MR. EATON: It was, Your Honor.

20 THE COURT: When? On that very day?

21 MR. EATON: Oh, long before that, Your Honor.

22 THE COURT: Well, what was the issue on August the
23 21st about you had not received it?

24 MS. OSTEEN: Yes, Your Honor. What we've been
25 trying to get is the actual forensic extracted file.

1 THE COURT: Well, on August the 21st in front of
2 Judge Benjamin you had the AirDrop video.

3 MS. OSTEEN: Yes. Had take video.

4 THE COURT: How long had you had it?

5 MS. OSTEEN: We've never had the extracted file
6 which is what we asked for on August 21st. The AirDrop
7 video we've had for --

8 THE COURT: Well, you had the video the gentleman
9 recorded with his phone?

10 MS. OSTEEN: Yes. The problem is --

11 THE COURT: Wait. Stop. Long before August the
12 21st; is that correct?

13 MS. OSTEEN: We had it before then. Yes.

14 THE COURT: How long?

15 MS. OSTEEN: I'm not sure, Your Honor.

16 THE COURT: Okay.

17 MS. OSTEEN: The issue - the pointed issue here is
18 the forensically extracted file. That's what our expert
19 who is here today would be able to look at to tell if the
20 video had been altered to confirm --

21 THE COURT: When did you get the extracted file?

22 MS. OSTEEN: We have never gotten it.

23 THE COURT: Is that true?

24 MR. EATON: Well, they got it yesterday, they looked
25 at it and it still wasn't what they wanted so what they

1 wanted doesn't exist so they got the AirDrop video back
2 then in front of Benjamin and I thought we were just
3 arguing about what format they got it in and I'm like
4 they got the video. They looked at the extracted one,
5 not the AirDrop from yesterday, it's still not what they
6 wanted. What happened, Your Honor, Mr. Brasley, Roy, you
7 met him yesterday, he took this video and when Ricky
8 Johnson went to Brasley to get it off his phone, Roy
9 unsurprisingly was very difficult about it and he didn't
10 want them to go into his phone at all. He only gave
11 constant for that one video. So Ricky Johnson pulls it
12 up in software. The only thing he saved off of this very
13 big hard drive from the phone is that video. He didn't
14 save the whole thing because he didn't have consent to,
15 just the video. They wanted what was on the original raw
16 data. We don't have it. It wasn't destroyed, it just
17 wasn't preserved, so it was never kept. As far as what
18 they're talking about, I mean, that's impeachment stuff.
19 But they have had what we have had. They have had this
20 video from the beginning of the case, Your Honor.

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

22 MS. OSTEN: Thank you, Your Honor. As Mr. Eaton
23 conceded it potentially is impeachment and that's very
24 important to the defense to be provided with. Our expert
25 would say that that raw data could be extracted in a way

1 that they can do a forensic redaction of it so it only
2 isolates that one video. As to the idea that the witness
3 said that he had a privacy concern --

4 THE COURT: I would, too.

5 MS. OSTEEN: Absolutely. But we see this so many
6 times in this court, when that happens, a subpoena is
7 sought and the video is still taken. The rights of Mr.
8 Gleaton cannot be infringed by a witness' privacy
9 concerns if that's evidence the State seeks to introduce.
10 That raw data --

11 THE COURT: Let me ask you this: Do you have a case
12 on point to support your position? Name me a case that
13 supports your position and I'll be happy to rule for you.
14 Do you have a case?

15 MS. OSTEEN: Your Honor, we are actually looking
16 under Rule 5 for the introduction of the video.

17 THE COURT: All right. Rule 5 is different than
18 having a case, isn't it?

19 MS. OSTEEN: Yes, Your Honor.

20 THE COURT: All right. Do you have a case that
21 supports your position?

22 MS. OSTEEN: Your Honor, I think this is a --

23 THE COURT: Please. That's a yes or no answer,
24 ma'am.

25 MS. OSTEEN: No.

1 THE COURT: All right. Thank you. Continue your
2 argument. Continue. You don't have a case. Go ahead
3 and continue your argument.

4 MS. OSTEEN: Thank you. I think that the direct
5 idea of the forensically extracted file is something
6 that's on the horizon in courts all over this country
7 right now. I could go into more into digital files as
8 we're going more to Snapchat files, Facebook. That's
9 something that's being litigated so it's happening in our
10 courts all over. Now, our expert would tell you, Your
11 Honor, just to make this clear, that this is as though a
12 DNA sample was collected by the State, conclusions were
13 drawn from that and given to the defense, but the sample
14 was destroyed so that we were never able to actually
15 confirm whether the conclusions that were drawn by the
16 State are actually what they say they are. They have
17 given us information from their conclusion and they have
18 given us another copy of their conclusion and they're
19 asking us to compare those two things. That isn't fair
20 as far as due process and Mr. Gleaton's right to really
21 test the evidence against him. That's why that first
22 argument with the video is looking at the actual
23 forensically extracted file. And I do have Mr. Chris
24 Watkins who is a forensic digital examiner and expert
25 here if Your Honor has questions about that.

1 THE COURT: I don't have any questions of him.

2 MS. OSTEEN: Yes, Your Honor. If I could have him
3 tell you why that's important.

4 THE COURT: I said I would take this up later, did I
5 not? Did I say that at the very beginning of this
6 conversation?

7 MS. OSTEEN: You did, Your Honor.

8 THE COURT: Bring the jury in.

9 MS. OSTEEN: Yes, Your Honor.

10 THE COURT: Later means later, ma'am. What is this?
11 Pat, what is this? This is from a juror?

12 THE CLERK: Yes, Your Honor.

13 THE COURT: Tell them to hold the jury. Pat handed
14 me this note. I just looked at it. Jesus Mena, his
15 phone number, pick up child at 2:00 p.m.; is that right?

16 THE CLERK: Yes, Your Honor.

17 THE COURT: That's what it says. Excuse me. Let me
18 go talk to Mr. Mena. Y'all need to look at this before I
19 talk to him? Do y'all have anything to add or detract
20 before I do so? We'll have a casual conversation. You
21 just can't pick up your child when you decide you want
22 to. Now, we got two alternates. If there's an issue
23 with this gentleman, I'll be happy to substitute an
24 alternate.

25 MR. EATON: I guess I would just wonder if he means

1 like he's trying to --

2 THE COURT: I don't know yet.

3 MR. EATON: -- get him home.

4 THE COURT: Before I burn him, let me have a casual
5 conversation with him. You want to see it? Go ahead.
6 And bring it, we need to make a copy of it anyway and
7 file it. Y'all with me on this? Y'all saw the note.

8 MS. JURICK: Your Honor, can we have the
9 conversation on the record?

10 THE COURT: Beg your pardon.

11 MS. JURICK: Can we have the conversation on the
12 record?

13 THE COURT: It is on the record.

14 MS. JURICK: Oh, he's coming in. I misunderstood.
15 I thought you were going out there.

16 THE COURT: I'm going to talk to this juror off the
17 record about his issues about picking up a child at 2:00.
18 If it's a big issue, I'll bring him out here. If I have
19 to bring him out, I'll probably have to take him off the
20 jury. Now, what do y'all you want me to do? You want me
21 to exclude him now before I talk to him or what?

22 MS. JURICK: No, Your Honor.

23 THE COURT: Well, just relax. Let me handle this.
24 Have a seat.

25 (Short break.)

1 THE COURT: Mr. Mena is going to call and have
2 someone pick his son up at 2:00. I told him if we has an
3 issue with serving, I have alternates. But I'll bring
4 him out and put this on the record. It was just a casual
5 conversation about child care concerns so... And we're
6 gonna mark this and we'll give y'all a copy of this note
7 from Mr. Mena.

8 (Whereupon, Court's Exhibit #1 marked for
9 identification.)

10 MR. EATON: Your Honor, if I may, depending on the
11 defense's position on their client's statement, we may
12 want to take up a Jackson v. Denno now. They may want it
13 in. I don't know. But I guess we ought to address that
14 and see where they are on that.

15 THE COURT: Anything further? I'm not running this
16 case. I'm the presiding Judge. I'm the referee. I
17 don't tell you what to do. I don't tell you what to do.
18 If y'all have a request, you make it, I either grant it
19 or I deny it. But I'm not gonna tell you how to try your
20 case. If you want to do a Jackson versus Denno, then go
21 ahead. It's up to you. I'm not telling you when to do
22 anything.

23 MS. JURICK: Your Honor, we're gonna waive the
24 Jackson --

25 THE COURT: What now?

1 MS. JURICK: We're gonna waive the Denno hearing.
2 We're agreeing that the statement is admissible.

3 THE COURT: I didn't understand what you said.

4 MS. JURICK: We agree that the statement can come
5 in.

6 MR. EATON: They stipulate to the admissibility of
7 his Miranda and his voluntariness of the statement.

8 THE COURT: Okay. All right. You know, these
9 things are kind of hard to get around. You know, you
10 can't go back. It is what it is, folks. You know, it is
11 what it is. Do the best you can from now on. So we
12 don't need a Jackson versus Denno. You agree that his
13 rights were protected. It's a valid statement taken by
14 the police; is that correct?

15 MS. JURICK: Yes.

16 THE COURT: All right. What else?

17 MR. EATON: That's it, Your Honor.

18 THE COURT: Are you sure now?

19 MR. EATON: Yes, sir.

20 THE COURT: All right. We're waiting for Mr. Mena
21 to call --

22 MS. YOUNG: Your Honor.

23 THE COURT: Yes, ma'am. Usually one person talks
24 from the table.

25 MS. YOUNG: Well, Your Honor, I just have -- Laurie

1 Young, for the record for Mr. Gleaton. I was tasked with
2 the motion to sequester witnesses. We are asking that
3 the witnesses be sequestered.

4 THE COURT: Granted. What else? I mean, nobody is
5 opposed to that. I mean, that's a routine thing. Nobody
6 is opposed but it was made a written motion and we
7 routinely grant a motion to sequester.

8 THE CLERK: Should I give them a copy of this?

9 THE COURT: Yeah. Give them a copy. Did Mr. Mena
10 make a phone call?

11 BAILIFF: Yes, sir, but he needs to speak to you
12 now.

13 (Short break.)

14 THE COURT: Please sit down. Mr. Mena, has to pick
15 his child up at 2:00.

16 (Whereupon, Jesus Mena, juror number 178, entered
17 the courtroom.)

18 THE COURT: Mr. Mena, step right there, sir. Stay
19 right there. You sent me a note saying that you had to
20 pick your child up at 2:00. I requested that you call
21 someone to see if other arrangements could be made; is
22 that true, sir?

23 MR. MENA: Correct.

24 THE COURT: And you just told me that no other
25 arrangements could be made; is that true, sir?

1 MR. MENA: Correct.

2 THE COURT: That you have to do it yourself; is that
3 true, sir?

4 MR. MENA: Correct.

5 THE COURT: All right. Anybody want to add anything
6 to this situation? I sort of suggested to you that's why
7 we have two alternates, that I will be happy to replace
8 him with one of the alternates. Usually the statute says
9 you put them both in a hat and pull one. I don't care
10 how we do it. But I'm going to respectfully let him get
11 off this jury for the reasons stated. I appreciate your
12 service at this point in time but you're free to go, sir.
13 Thank you.

14 MR. MENA: Thank you.

15 (Whereupon, Jesus Mena, Juror #178 was released from
16 further jury service.)

17 THE COURT: Now, I think the statute says that you
18 put the two names in a hat. I don't care how you do it.
19 Isn't that what the statute says?

20 MR. EATON: Fine with the State, Your Honor.

21 THE COURT: All right. Let's get the two
22 alternates, put them in a hat and pull one up. That will
23 be the first alternate. Pat, you got that?

24 THE CLERK: Yes, Your Honor. Number 40, Shawn
25 Canaday.

1 THE COURT: You picked it out blindly, Pat?

2 THE CLERK: I'm sorry.

3 THE COURT: You picked it out blindly?

4 THE CLERK: I did. I shook it up.

5 THE COURT: Okay. I wanted to make sure. Now who
6 moves up, number 40?

7 THE CLERK: Yes, Your Honor. That's the second
8 alternate.

9 THE COURT: Mark that for the record. Let's mark
10 that as a Court's Exhibit. And it's on the record but
11 we'll mark it anyway. Anything further?

12 (Whereupon, Court's Exhibit #2 marked for
13 identification.)

14 MR. EATON: Not from the State.

15 THE COURT: Y'all sure y'all ready to go?

16 MR. EATON: Yes, Your Honor.

17 THE COURT: It's all right. If trials were easy, we
18 wouldn't do them. They're difficult. I understand all
19 this. Like I said yesterday, just do the best you can
20 and it will all turn out okay. Bring the jury in
21 please.

22 (Whereupon, the jury entered the courtroom at 9:57
23 a.m.)

24 THE COURT: Welcome back, members of the jury. Mr.
25 Mena had some issues. I talked to him about child care

1 situations he had and so as a result of some difficulty
2 he was needing to pick his child up at 2:00 everyday so I
3 let him off this jury and number 40 -- Who is number 40?

4 SHAWN CANADAY: (Indicating.)

5 THE COURT: You now become a regular member of this
6 jury, okay, sir? Do you understand that?

7 SHAWN CANADAY: Yes, Your Honor.

8 THE COURT: Congratulations. Any exceptions or
9 additions to those remarks?

10 MR. EATON: Not from the State, Your Honor.

11 MS. JURICK: No, Your Honor.

12 THE COURT: All right. Ms. Falcone, you may swear
13 them.

14 THE CLERK: Jury stand and raise your right hands.

15 (Whereupon, the jury was duly sworn by the Clerk of
16 Court at 9:55 a.m.)

17 THE COURT: Now, members of the jury, what I will
18 now say is intended to serve as an introduction in the
19 trial of this case. It is not a substitute for detailed
20 instructions on the law which I will give you at the
21 close of this case and before you retire to consider
22 verdict. Now, this is a criminal case commenced by the
23 State we'll sometimes refer to as the prosecution against
24 Kenneth Ray Gleaton.

25 Now, this case is based on four indictments which I

1 have read to you and he's indicted for murder, possession
2 of a firearm or ammunition by a person convicted of a
3 violent felony, destruction, desecration or removal of
4 human remains, and arson in the second degree. These are
5 four indictments against Mr. Gleaton.

6 Now, you should distinctly understand, members of
7 the jury, that these indictments are simply charges and
8 that it is in no sense evidence of the allegations these
9 indictments contain what I read to you. The defendant,
10 Mr. Gleaton, has pled not guilty to these indictments.
11 The State therefore has the burden of proving each of the
12 essential elements of these indictments beyond a
13 reasonable doubt. The purpose of this trial is to
14 determine whether the State has met this burden. Your
15 purpose as jurors is to find and determine the facts.
16 Under our system of criminal procedure you are the sole
17 judges of the facts, members of the jury. If at any time
18 I should make any comments regarding the facts, you are
19 at liberty to disregard it. It is especially important
20 that you perform your duty of determining the facts
21 diligently and conscientiously because ordinarily there
22 is no mean of correcting an erroneous determination of
23 the facts by the jury.

24 On the other hand and with equal emphasis I instruct
25 you that the law as given by the Court constitutes the

1 only law for your guidance and it is your duty to accept
2 and follow it. It is your duty to follow the law as I
3 give it to you even though you may disagree with the law.
4 You are to determine the facts from the testimony you
5 hear and the other evidence introduced in court. It is
6 up to you to determine the inferences which you feel may
7 properly be drawn from the evidence. You must not
8 consider anything you may have heard or read about this
9 case outside the courtroom whether before or during this
10 trial. Until this case is submitted to you, you must not
11 discuss it with anyone, even with your fellow jurors.
12 After it is submitted to you, you must discuss it only in
13 the jury room with your fellow jurors. It is important
14 that you keep an open mind and not decide any issue in
15 this case until the entire case has been submitted to you
16 under the instructions of the Court. It is your duty --
17 Well, I don't have a foreman yet. I'll let y'all elect
18 one.

19 So, we will now hear opening statements and the
20 opening statements are intended, each side to sort of
21 give you what they intend to submit to you, that is the
22 State, the evidence they intend to present to you and, of
23 course, Mr. Eaton will make an opening statement on
24 behalf of the State and Ms. Osteen will make an opening
25 statement on behalf of the defendant Mr. Gleaton. I

1 invite your keen and close attention to these opening
2 statements. Remember, ladies and gentlemen, these
3 opening statements are not evidence. They're arguments,
4 okay? Bearing that in mind, Mr. Eaton, you may
5 proceed.

6 MR. EATON: Please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 MR. EATON: On October 9th of 2017 Kenneth Gleaton
9 brutally murdered his ex-girlfriend Amanda Peele. He
10 beat her in the head. He shot her twice in the torso
11 with a small caliber handgun. He strangled her with a
12 belt, and when he was done, he burned down their house to
13 cover it up.

14 The case before you, ladies and gentlemen, is about
15 brutality, it's about cowardice and it's about an
16 imbalance because you see Amanda wanted to leave Gleaton.
17 She almost lost her kids because of his violence and that
18 night as Amanda became strong of spirit, as Amanda found
19 her voice and her character and her willpower to leave
20 him, say I'm gonna get my kids back, I'm done with you,
21 he became weak. Gleaton became weak and desperate. We
22 are told from the time we are boys that boys don't hit
23 girls. That men don't hit women, but what Gleaton did is
24 what a bully does, what a coward does, not what a man
25 does. And so in the face of her strength and his

1 weakness he resorted to all that he had which was his
2 rage and his violence and his physical strength over her
3 so that imbalance was created that night and it exists
4 today and that's why we are here to set that right.

5 Amanda was 39 years old, had five children, two of
6 whom are here today. Nobody deserves to die that way.
7 No child deserves to lose their mother that way. To have
8 to hear these things and Amanda is not here to tell us
9 what happened. That is the nature of a murder. But we
10 know what happened and the State will prove beyond a
11 reasonable doubt that Kenneth Gleaton is the person that
12 killed her.

13 Amanda and Gleaton met on Facebook in 2017. He
14 moved into their house at 109 Crestmore with her parents
15 and two of her children not long after and in September
16 of 2017 there was an incident that will show us exactly
17 where this was going, exactly where this relationship was
18 going. At that time her parents had moved out, a friend
19 of hers from work Jessica Gantt who worked at Waffle
20 House with her had moved in and was living in sort of the
21 basement of the Crestmore house. That night Jessica is
22 getting ready for work, that afternoon Jessica is getting
23 ready for work. She hears some kind of argument
24 upstairs. What she doesn't know then is that Kenneth
25 Gleaton had put a gun on Amanda, that Amanda called the

1 police. She goes upstairs. Things seem more or less
2 normal. Gleaton and Amanda drive Jessica to work to
3 Waffle House, all three in the car. As they're getting
4 there Gleaton realizes the police are coming and he flees
5 but not before he says to Jessica, you tell that B next
6 time I see her she's dead. Well, that was a promise he
7 would keep maybe not the next time he saw her, but not
8 long thereafter.

9 That night Amanda and her two children flee to
10 Sister Care which is a domestic violence shelter. The
11 children then go to their dad's house. But Gleaton is
12 not done. He's not giving up. He still wants to get
13 together, get back together with her. On October 9th,
14 2017 he's hanging out with his friend Mike, Roderick
15 Dukes, goes by Mike, his middle name. Mike and Gleaton
16 are walking around. Gleaton's talking about I want to
17 get back together. Mike is kind of like let it go, man.
18 Gleaton still wants to get back with Amanda. Mike knew
19 Amanda because he had done some odd jobs. He's kind of a
20 quasi homeless guy. Did some yard work, eat some food.
21 I imagine they thought he was a nice guy.

22 Mike and Gleaton go to Amanda's house. Gleaton
23 wants one more shot. They go in the house. Mike's
24 playing a video game in the living room. Amanda and
25 Gleaton go back into the bedroom. It's a shoot'em up

1 game that Mike's playing. He hears an argument back
2 there but in the midsts of playing this game he hears two
3 shots and he realizes those didn't come from his TV. He
4 looks outside and he realizes that he's got to go back
5 and find out what happened. He goes back to the - down
6 the hallway. Gleaton says, man, I none F'd up. Mike
7 opens the door and he sees Gleaton and the belt around
8 her neck and Amanda in an unnatural position on the bed.

9 Mike has just seen Gleaton killing someone. He's no
10 dummy. He says, hey, man I'll get some trash bags and
11 he's out. He's gone. He goes to a nearby gas station
12 and he calls his friend Latoya Riley to pick him up and
13 she does. They go to the Waffle House where Jessica is.
14 Mike tells Jessica what happened. Jessica calls Amanda's
15 phone and Gleaton answers the phone. Latoya and Jessica
16 say, Mike, you got to go back and talk to the police and
17 he does. He goes back to the scene voluntarily. They
18 take gunshot residue samples of his hands which come back
19 clean. He tells them what he saw, what he witnessed.
20 This is a guy who doesn't love police and he's no angel,
21 but he comes back for Amanda.

22 Before this happened, Gleaton would admit to Jessica
23 that he put the gun on Amanda. Gleaton also flees. He
24 flees the house. Unlike Mike who came back. Y'all are
25 going to meet Mike and you're gonna hear from him. He's

1 gonna come to this courtroom. He's gonna testify. Mike
2 had no reason under the sun to hurt Amanda. None.
3 Kenneth Gleaton is the only person who did it. But you
4 will get to hear from Mike.

5 So Gleaton flees. He walks halfway across Richland
6 County, goes to his friend's house Roy Brasley. On the
7 way he hides a bag of stuff in the woods to include the
8 Play Station. Roy doesn't know what he's done when he
9 gets there. Gleaton spends the night. Roy's a
10 hairdresser. Goes to his shop where he does hair the
11 next day. Gleaton walks around the county some more
12 which we know because we were able to get phone records
13 of Amanda's phone. Meanwhile, police come to Roy, the
14 friend, the hairdresser and they say we're looking for
15 Kenneth Gleaton because he just killed his girlfriend.
16 So now Roy knows. Gleaton comes back to the hair shop
17 and this time Roy secretly turns his phone on, a video to
18 record his conversation with Gleaton because he's been
19 told what happened and you're gonna hear that.

20 MS. OSTEEEN: Your Honor, objection.

21 THE COURT: Basis?

22 MS. OSTEEEN: Noting for the record our previous
23 objection that's not been ruled on about --

24 THE COURT: We discussed this yesterday. You were
25 supposed to stay away from it. Your objection is noted.

1 Go on to something else, Mr. Eaton.

2 MR. EATON: Yes, Your Honor.

3 From Roy's shop Gleaton goes down to the Congaree
4 river. A young man is standing there fishing with his
5 girlfriend and you're gonna hear from him, too. Gleaton
6 approaches this young man. He says my girlfriend just
7 died. This is her phone. I would like to get some
8 pictures off of it. The young man says, well, we'll pull
9 the SIM card out. The little card inside the back of a
10 phone. He does that and he throws the phone in the
11 river. Right around that time law enforcement swoops in
12 and arrests Gleaton. They take him to headquarters and
13 interview him. He admits that he had a difficulty with
14 Amanda, that she wanted to break up. He denies what he
15 did.

16 Mr. Gleaton had been seen carrying a .25 caliber
17 pistol and it belonged to Amanda's grandfather
18 originally. The two bullets in Amanda's body were .25
19 caliber rounds. A fire arises at the house burning the
20 house pretty quickly. They were able to pull Amanda's
21 partially charred body out, extract the bullets. You're
22 gonna hear from the pathologist who will say, and I hope
23 that this is some consolation to her family, that Amanda
24 was deceased when the fire started. No soot in her
25 lungs. You will hear from the toxicologist who will

1 point out that she had some drugs in her system; that
2 they did not kill her.

3 Ladies and gentlemen, relationships end all the
4 time. There are probably few adults in this world who
5 have a not had some kind of disappointment, break up,
6 difficulty in a relationship. It's part of life. But in
7 the face of Amanda's strength and Gleaton's weakness he
8 created this imbalance and this process that we are a
9 part of, that you are a part of today and this week is a
10 process of resetting that balance. There's a lot that
11 goes into this case. As the prosecutors we have the
12 burden of proof, proving it beyond a reasonable doubt to
13 you. There are rules of evidence, rules against hearsay,
14 rules about authentication, so the process takes a long
15 time sometimes and so we ask you to bear with us. But we
16 bring people like you in here for your life experience,
17 your common sense to assess the credibility of witnesses
18 and we are confident that at the end of this case you
19 will find him guilty of all charges.

20 As prosecutors we have a duty to come in here and
21 rip the darkness away from what happened, to expose evil
22 for what it is, to do that for Amanda, to do that for her
23 family. Mr. Gleaton is charged with the murder of
24 Amanda, with the arson of the house. He's charged with
25 possessing a weapon as a person who already has a

1 conviction for a violent felony, and he's charged with a
2 desecration of Amanda's remains because we know that she
3 was already deceased when the fire happened.

4 At the end of this trial we're gonna ask you to
5 condemn his acts, to condemn his violence, to condemn his
6 cowardice for Amanda, her family, for the system, for
7 this community. So when we come back at the end of this
8 case, ladies and gentlemen, we're asking you for a
9 verdict of guilty. Thank you.

10 THE COURT: Ms. Osteen.

11 MS. OSTEEEN: Thank you, Your Honor.

12 Roderick Michael Dukes packaged a perfect story and
13 gave it to the Richland County Sheriff's Department. As
14 you heard, this is a sad case. A 39 year old woman was
15 murdered and her house is subsequently set on fire, but
16 today the State is trying to convict the wrong man.
17 Today based on a story that was crafted and tied up by
18 Roderick Dukes, Mr. Kenneth Gleaton sits before you
19 accused. Kenny is innocent.

20 Now, that perfectly wrapped story is the story of
21 Amanda Peele's death. Roderick Michael Dukes, who goes
22 by Dukes or Michael or Mike who admits he took evidence,
23 who admits he was at the scene on October 29th killed
24 Amanda Peele plain and simple. But Roderick Dukes came
25 up with the story. Roderick Dukes thought it over and

1 Roderick Dukes was the first to take that story to the
2 police and that is why he is not here sitting at the
3 defense table. The story that he told police was that he
4 was at Amanda Peele's house and around 9:15 he heard a
5 gunshot. He would say that he left the house when he
6 heard that gunshot and wandered around for a little bit
7 before coming back to the home. He would tell the police
8 that at that point he walked to the back bedroom, forced
9 the door open and saw Kenny on top of Amanda with a belt
10 around her neck.

11 Roderick Dukes' false account would suggest that he
12 then left the house again wandering. What you will not
13 hear is that in that moment that he called police, you
14 will not hear that he yelled for help because those two
15 did not happen. At around 11:50 Roderick Dukes was
16 picked up by his friend Latoya Riley and at that point he
17 had been working on his story. He told Latoya his story,
18 his false account of what happened and they went, instead
19 of going to law enforcement, they went to the Waffle
20 House to tell Jessica Gantt.

21 Now, at that point Mr. Dukes got Jessica Gantt on
22 board with his story and Latoya, Mr. Dukes and Jessica
23 went back to the scene. You will hear through that
24 testimony that when Jessica heard, she called Kenny and
25 she approached him and said, what did you do? Did you

1 kill Amanda? You will hear that he said no. When he
2 left, she had taken some sleeping pills and gone to bed.

3 Now, when Amanda - when Latoya and Dukes and Jessica
4 went back to 109 Crestmore, at around 1:30 Mr. Dukes
5 spoke to law enforcement for the first time and gave his
6 false account of what happened. He spoke to Deputy Marum
7 who was the first officer on scene and he gave him that
8 perfectly wrapped package, that perfectly tied up story.

9 Now, Deputy Marum took that story and without doing
10 any external verification, without any investigation,
11 without doing any police work, he took that account of
12 Michael Dukes' story and he gave it to the first
13 investigator on the scene, Investigator Clarke. He had
14 fed it to Investigator Clarke essentially verbatim from
15 Michael Dukes' mouth.

16 Now, this is the classic case of taking the path of
17 least resistance. Law enforcement can place Mr. Dukes at
18 the scene, they can place him there when Amanda died, but
19 because he was able to control the narrative, because he
20 was able to tell his story first, he will walk into this
21 courtroom as a witness and not sitting at the table as
22 the accused.

23 Now, to give you a little background, Kenny and
24 Amanda had been dating for about a year and a half.
25 Their relationship was not perfect by any means, and it

1 was coming to an end. Kenny had been talking to Roy
2 Brasley who you will hear about about going to Texas to
3 do relief work after the hurricane. On the night of
4 October 9th Kenny and Amanda and Mr. Dukes were in the
5 home and an argument started between Kenny and Amanda.
6 Now that argument culminated with Kenny slapping Amanda
7 and at that point he decided this is it. I've got to go.
8 Kenny left the house and immediately called his friend
9 Roy Brasley. He talked to him about the plans to move to
10 Texas. Roy had ensured Kenny that he would help him with
11 the money and help him connect to the services to be able
12 to work in Texas and so he left the house and headed to
13 Roy's house.

14 Now, after Kenny left, he couldn't tell you what
15 happened but leaving Mike and Amanda in the house things
16 went sideways. That State is gonna rely heavily on the
17 testimony of Roderick Dukes to try and convince you all
18 that Kenny is more involved in this case. And you might
19 ask why would he do this just as the State indicated and
20 that is a classic case of rejection. Kenny was on his
21 way out. He planned, he shared that with Mike. He
22 planned on leaving and Roderick Dukes was hoping to slide
23 in, but that's not what Amanda wanted. As you hear
24 Michael Dukes' testimony, really concentrate on his
25 actions here on the stand and about what he said on the

1 night in question of his actions.

2 In addition you will likely hear from Roy Brasley.
3 Now, as I said, Roy is a friend of Kenny's who helped
4 connect him with the relief work. Kenny spent the night
5 of the incident at Roy's and because of that the police
6 flocked to Roy and really pressured him as far as what he
7 knew about Kenny. When the police interrogated him, that
8 caused Roy to feel very put on the spot and when they
9 pressured him, that's when Roy started pressing Kenny.
10 He wanted to know what happened.

11 Now, you will hear Roy say that when he asked Kenny
12 numerous times about his involvement, Kenny denied it.
13 But after being pressed to say what he could, he said
14 what he needed to to get the money and you will hear that
15 once Kenny said anything, that is when Roy agreed to give
16 him the money. Because he was desperate. He was being
17 accused from the police of a crime that he did not
18 commit. Kenny Gleaton it is an innocent man. He is
19 innocent of the murder of Amanda Peele and the subsequent
20 fire at her house. Today and throughout this week we ask
21 that you listen to the testimony; that unwrap the story.
22 And we're confident that at the end of the week you will
23 find an empty box that's filled with the false accounts
24 of Roderick Dukes from the night of October 9th and that
25 you will confidently be able to find Kenny not guilty of

1 all these charges. Thank you.

2 THE COURT: You may call your first witness.

3 MS. TAYLOR: May it please the Court. The State
4 calls Skyler Isenhower.

5 Thereupon,

6 SKYLER RENEE ISENHOWER

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

8 THE CLERK: Please have a seat on the witness stand
9 and state your full name for the record.

10 THE WITNESS: My name is Skyler Renee Isenhower.

11 DIRECT EXAMINATION

12 BY MS. TAYLOR:

13 Q. All right. Skyler, good morning.

14 A. Good morning.

15 Q. Thank you for being here today. How old are you?

16 A. I'm 20 years old.

17 Q. And can you speak up a little loudly to make sure
18 everybody can hear you?

19 A. I'm 20.

20 Q. What kind of work do you to?

21 A. I work at a daycare.

22 Q. How many siblings do you have?

23 A. Four.

24 Q. And what are their names and ages?

25 A. Uhm, Dustin is 24, Tyler is 20, Ashton is 15 and

1 Dillon is 12.

2 Q. What is your mother's name?

3 A. Ma'am?

4 Q. What is your mother's name?

5 A. Amanda.

6 Q. Is she the victim in this case?

7 A. Yes, ma'am.

8 Q. On the night of October 9th, 2017, did you have the
9 opportunity to communicate with your mother that night?

10 A. Yes, ma'am. She called me.

11 Q. And what was is your phone number at that time?

12 A. 803-718-7193.

13 Q. Do you recall around what time you spoke to your mom
14 that night?

15 A. Around eight.

16 Q. And how long, about how long was the conversation?

17 A. The call was around 10 to 15 minutes.

18 THE COURT: I'm sorry. Could you stop for a second.

19 Can I see y'all up here for a minute please.

20 (Side bar off the record.)

21 BY MS. TAYLOR:

22 Q. Ms. Skyler, the last question I asked you was what
23 was your mom's demeanor during that phone call?

24 A. She was in better spirits from that phone call
25 because she was gonna get my little brother back or she

1 believed that she was gonna get my little brothers back.

2 Q. Okay. And what were the names of the brothers that
3 -- Well, back up. What, if any, upcoming plans did you have
4 with your mom?

5 A. I was supposed to go with her that Thursday to go
6 see my little brothers.

7 Q. Where were they?

8 A. I believe they were at the foster care at the
9 time.

10 Q. Okay. What were the names of the two brothers that
11 you were going to go see?

12 A. Ashton and Dillon.

13 Q. After you got off the phone with your mom that
14 night, when was the next time you saw or spoke to your
15 mother?

16 A. I didn't.

17 Q. And why didn't you speak to your mother after that
18 day?

19 A. She died.

20 Q. Do you know what your mom's phone number was around
21 that time?

22 A. No, ma'am.

23 Q. Did you have it saved in your phone?

24 A. Yes, ma'am.

25 Q. How did you have it saved?

1 A. As mama with a heart.

2 Q. Do you still have your phone?

3 A. Uhm, not currently, but I do have pictures of it.

4 MS. TAYLOR: No further questions. Please answer
5 any questions the defense may have.

6 THE COURT: Ms. Osteen.

7 MS. OSTEEN: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MS. OSTEEN:

10 Q. Hi, Skyler. As the State just said, you spoke to
11 your mom the night of October 9th?

12 A. Yes, ma'am.

13 Q. And you talked for about 20 minutes?

14 A. 10 to 15.

15 Q. 10 to 15. And you talked about this visit that you
16 guys had coming up with the boys?

17 A. Yes, ma'am.

18 Q. And she sounded very excited?

19 A. Yes, ma'am.

20 Q. And at that time she also talked about feeling kind
21 of sick?

22 A. Yes, ma'am.

23 Q. And she talked about taking some medication?

24 A. Yes, ma'am.

25 Q. Now, you said that that call was about 10 to 15

1 minutes, but you started at eight?

2 A. I'm not sure of the exact time.

3 Q. Okay. Would you be surprised if you ended the call
4 at 8:55? Would that timing surprise you?

5 A. Uhm, I'm not sure.

6 MS. OSTEN: No further questions.

7 THE COURT: Anything further of this witness?

8 MS. TAYLOR: No, Your Honor.

9 THE COURT: You may step down, Ms. Isenhower.

10 MS. TAYLOR: The State calls Heather Collins.

11 Thereupon,

12 HEATHER COLLINS

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

14 THE CLERK: Please have a seat on the witness stand
15 and state your full name for the record.

16 THE WITNESS: Heather Collins.

17 DIRECT EXAMINATION

18 BY MS. TAYLOR:

19 Q. Good morning, Ms. Collins. Where do you work?

20 A. At Columbia Richland 911.

21 Q. How long have you worked there?

22 A. Five years.

23 Q. Are you the custodian of records there?

24 A. Yes, ma'am.

25 Q. Is part of your duty as the custodian of records to

1 oversee the 911 system?

2 A. Yes, ma'am.

3 Q. Are you responsible for preserving and archiving 911
4 calls?

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

6 Q. When someone calls 911, is it automatically
7 recorded?

8 A. Yes.

9 Q. And are these calls maintained an part of the
10 business records of your organization?

11 A. Yes, ma'am.

12 MS. TAYLOR: Permission to approach the witness,
13 Your Honor.

14 BY MS. TAYLOR:

15 Q. I'm gonna show you what's been marked as State's
16 Exhibit number 1. Do you recognize what this is?

17 A. Yes, ma'am. I do.

18 Q. Can you tell me what it is?

19 A. It's going to be an audio recording of the call
20 pertaining to this incident.

21 Q. And how do you know that's what that is?

22 A. Because it's got my initials and the date that I
23 signed it.

24 Q. Have you listened to this before?

25 A. I have.

1 Q. And does it accurately and fairly represent a 911
2 call made on October 9th, 2017?

3 A. Yes, ma'am.

4 MS. TAYLOR: The State requests to move State's
5 Exhibit number 1 into evidence.

6 THE COURT: Any objection?

7 MS. JURICK: No, Your Honor.

8 THE COURT: Without objection. You may publish it.
9 (Playing State's Exhibit #1.)

10 MS. TAYLOR: No further questions.

11 THE COURT: Ms. Jurick.

12 MS. JURICK: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MS. JURICK:

15 Q. Ms. Collins, briefly, I just wanted to confirm the
16 time of that call. Do you have it with you?

17 A. I do not at this time.

18 Q. My understanding is that it was between 11:54 and
19 12:07. You don't have it with you?

20 A. I do not have that piece of paper in front of me.

21 MS. JURICK: Okay. I have no further questions.

22 THE COURT: Anything further from this witness?

23 MS. TAYLOR: No, Your Honor.

24 THE COURT: You may step down, Ms. Collins. Who is
25 your next witness?

1 MS. TAYLOR: The State calls Carl Fulmer.

2 THE COURT: Who?

3 MS. TAYLOR: Carl Fulmer.

4 Thereupon,

5 CARL FULMER

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

7 THE CLERK: Please have a seat on the witness stand
8 and state your full name for the record.

9 THE WITNESS: Carl Fulmer.

10 DIRECT EXAMINATION

11 BY MS. TAYLOR:

12 Q. Good morning, Mr. Fulmer.

13 A. Good morning.

14 Q. On the night of --

15 The COURT: Speak into the microphone loud and clear
16 if you can, sir.

17 THE WITNESS: All right.

18 BY MS. TAYLOR:

19 Q. On the night of October 9th, 2017, where were you?

20 A. Uhm, I was at my house.

21 Q. And what address was that?

22 A. 100 Crestmore Drive, Columbia, South Carolina.

23 Q. Where is your house in relation to 109 Crestmore
24 Drive?

25 A. Uhm, probably like about three houses down.

1 Q. Is it on the same street, on a different street?

2 A. Same street.

3 Q. Okay. Is it directly beside it or what location?

4 A. Probably like, uhm, on the other side like one
5 house, then the next house, and that would be the house right
6 there.

7 Q. So it's across the street?

8 A. Yeah. Across the street.

9 Q. And on that night what, if anything, did you observe
10 occurring at 109 Crestmore Drive?

11 A. Uhm, I notice that my lights had blacked out and
12 I went outside and I heard a lot of commotion going on.

13 Q. When you heard that commotion, what did you do?

14 A. Uhm, I saw the old, older woman, she was screaming
15 and hollering and knocking on the door and I just ran over
16 there to see.

17 Q. And when you say knocking on the door, what door was
18 she knocking on?

19 A. Uhm, the front door.

20 Q. Of 109 Crestmore?

21 A. Yes, ma'am.

22 Q. Go ahead. You said she was --

23 A. And she was knocking on the door and I looked and I
24 was like, uhm, I saw other people, commotion going on as well
25 so basically I just ran across back to my house to get a

1 hammer so I went and grabbed my hammer and I was in the front,
2 hit the front window, and I basically just broke the lock and
3 kicked the door.

4 Q. So initially you went over to that house?

5 A. Yeah. I did.

6 Q. And what, describe what the fire was looking like at
7 this point.

8 A. Uhm, I know the fire was on the right-hand side. It
9 was blaze up. It hit the roof. You could see the blaze
10 coming all the way, come all the way up like it was getting
11 out of hand real fast though.

12 Q. Why did you decide to use the hammer to open the
13 door?

14 A. Because I knew she had kids in there so I was
15 assuming that everybody was in the house trapped so I like
16 first instinct, let me go ahead and just knock the door open
17 so they could have a way to get up out of there because I knew
18 she had kids as well so.

19 Q. Who else did you know also lived at that house?

20 A. Uhm, well, I know he had lived at the house as well,
21 too.

22 THE COURT: When you say "he", who are you talking
23 about, sir?

24 THE WITNESS: The defendant. I don't know his name
25 but I know him.

1 BY MS. TAYLOR:

2 Q. Kenneth Gleaton?

3 A. Yeah.

4 Q. Okay. And when would you see him? During the day?

5 Would you see him --

6 A. I would see him. I would see him in the
7 neighborhood. But I just see him in the neighborhood and if I
8 go to the house. I ain't never spoke to him or know him like
9 that. I just see him around the neighborhood.

10 Q. When you went over to the house, had emergency
11 vehicles arrived yet?

12 A. No. Not yet.

13 MS. TAYLOR: And permission to approach the witness,
14 Your Honor.

15 THE COURT: Yes, ma'am.

16 BY MS. SAMPSON:

17 Q. I'm gonna show you what's been marked as State's
18 Exhibits number 2 and 3 and I want you to look through them
19 and tell me if you recognize them. You can hold them.

20 A. Uhm, I just recognize, uhm, that door. I recognize
21 that door right there and I remember I broke that lock. I
22 kicked that door in. I remember the door and everything.

23 Q. And that fairly and accurately represents the door
24 that you kicked in?

25 A. Yeah.

1 MS. SAMPSON: Okay. Your Honor, the State would
2 request to introduce State's Exhibits number 2 and 3 into
3 evidence.

4 THE COURT: Apparently without objection; is that
5 correct?

6 MS. YOUNG: Your Honor, actually I didn't have a
7 chance to take a look at them. Sorry.

8 THE COURT: I think she showed them to Ms. Jurick.

9 MS. YOUNG: Your Honor, this is my witness. I would
10 just like to take a look through them.

11 THE COURT: Okay. Show them to everybody from now
12 on.

13 MS. TAYLOR: Yes, sir.

14 MS. YOUNG: No objection, Your Honor.

15 MS. TAYLOR: Permission to publish it to the jury.

16 THE COURT: Yes. You may publish it.

17 BY MS. TAYLOR:

18 Q. So when you arrived at the house, was the door open
19 or closed?

20 A. It was closed.

21 MS. SAMPSON: No further questions for this witness.
22 Please answer any questions that the defense may have.

23 CROSS EXAMINATION

24 BY MS. YOUNG:

25 Q. Good morning, Mr. Fulmer.

1 A. Good morning.

2 Q. I just want to clarify a couple of things. You said
3 you did not see who you now have learned Mr. Gleaton at the
4 house that night?

5 A. No. I didn't see him.

6 Q. Okay. Or around the neighborhood that evening?

7 A. No. Not at all.

8 Q. And when you first saw the house and noticed that it
9 was on fire, you saw flames coming out of the top of it?

10 A. Yes. That's correct.

11 Q. And at that point the door was closed?

12 A. Yes.

13 Q. Okay. And the flames were big?

14 A. Yes.

15 Q. And then you went and got your hammer and then you
16 came and you knocked the door down?

17 A. Yeah.

18 Q. Did you ever call 911?

19 A. No. Uhm, I assumed there was a lot of people in
20 front of me. I knew there was a lot of other people said they
21 called 911.

22 Q. Lots of commotion?

23 A. Lots of commotion, people going on so I figured I
24 just go ahead and do what I had to do.

25 MS. YOUNG: Thank you. No more questions.

1 THE COURT: Anything further?

2 MS. TAYLOR: No, Your Honor.

3 THE COURT: You may step down, Mr. Fulmer.

4 MS. TAYLOR: The State calls John Betty, Senior.

5 Thereupon,

6 JOHN BAILEY

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

8 THE CLERK: Please have a seat on the witness stand

9 and state your full name for the record.

10 THE WITNESS: My name is John David Bailey the

11 Second.

12 DIRECT EXAMINATION

13 BY MS. SAMPSON:

14 Q. Good morning, Mr. Bailey.

15 A. Good morning.

16 Q. Where do you work?

17 A. I work for Richland County Emergency Services.

18 Q. What do you do there?

19 A. I'm a paramedic crew chief so I have my own

20 ambulance --

21 Q. Please speak up.

22 A. I'm a paramedic crew chief so I have my own

23 ambulance with a partner.

24 Q. Okay. So do you drive the ambulance or are you the

25 person in the back?

1 A. It depends on the call.

2 Q. Okay. And how long have you been doing that?

3 A. I've been there almost five years.

4 Q. I went to take you to October 9th through October
5 10th. Did you receive a call to go to 109 Crestmore?

6 A. Yes. I did receive a call to go to 109 Crestmore
7 for a fire standby.

8 Q. How do you all receive calls?

9 A. We have a radio which we receive a call from
10 dispatch and then we have and an AVL which has GPS coordinates
11 that shows us the best route to travel and comments on the
12 call that we're responding to.

13 Q. So based on that did you respond to the call?

14 A. Yes. We did.

15 Q. What did you see when you first got there?

16 A. When we arrived on the scene, we staged down the
17 street because it was a fire call so normally we leave a lot
18 of room for fire engines that are gonna respond to the scene.
19 As we walked up to the front of the home, uhm, there was a
20 neighbor or a person standing on the porch, the front door was
21 open and they were yelling into the house to try to see if
22 anybody was inside.

23 Q. Based on that what did you do?

24 A. I told that person that since there was a rather
25 large fire that had already started inside the home, I told

1 them for their safety to go back to where they had came
2 from.

3 Q. Did they back away from the house?

4 A. They did.

5 Q. So what did you do at that point?

6 A. At that point I walked up to the front door, I
7 shined the light inside the house. I got low because smoke
8 was already halfway up the door or halfway down the door so I
9 got low. I called out, shined the light inside. If anybody
10 can hear me, crawl to the front door to come out.

11 Q. That's what you said?

12 A. (Witness nodding head.)

13 Q. Did anybody -- I'm sorry. You need to say. Is that
14 what you said? You shook your head.

15 A. Yes. That is what I said.

16 Q. And did anyone come out?

17 A. No. There were no sounds inside from a person and
18 nobody crawled to the door. Nobody made any sounds.

19 Q. So what did you do at that point?

20 A. At that point I walked - the fire was - if you're
21 facing the front of the house, the fire was in the back right
22 side of the house. I walked around the back to see if anybody
23 had came out through a back door or a back window. I couldn't
24 locate anybody in the backyard. I made call-outs if anybody
25 else was inside. I got no response so I came around to the

1 front and tried to keep the area clear until fire arrived.

2 Q. And at that point did you know if there were any
3 victims that needed treatment?

4 A. No. I did not.

5 Q. So what did you do at that point?

6 A. At that point I contacted dispatch, told them that
7 the fire was spreading rapidly throughout the home. I had no
8 contact with any - I told dispatch we had no contact with
9 anybody inside. At that point we just backed up into the yard
10 and waited for the fire department to arrive.

11 Q. And is that normal protocol?

12 A. Yes.

13 Q. Okay. So what happened once the firemen arrived?

14 A. When the fire department arrived, I believe
15 Battalion Chief Flora was the first one on the scene. He made
16 a call to the responding engines. Once they arrived, they
17 were all suited up, went inside and I think it was around 13
18 to 14 minutes from the time that I had arrived on scene is
19 when they said they were bringing somebody out.

20 Q. And when they said they were bringing someone out,
21 did you know if that person was alive or dead?

22 A. I did not.

23 Q. So what happened at that point?

24 A. At that point they brought the person, they brought
25 us our patient and placed them on the stretcher. I

1 immediately looked at the patient and I could determine that
2 this patient was not alive.

3 Q. How could you determine that?

4 A. The patient had full thickness burns.

5 Q. Speak up.

6 A. The patient had thickness burns which mean that it
7 burned the body all the way through to the bone.

8 Q. How did you know that?

9 A. Because the bones of the hands were exposed. There
10 was no flesh left on the hands. The muscles had split open
11 and you could see straight down inside on certain parts of the
12 body. Once I determined that, I did conduct a three lead EKG
13 for our records and it showed that the patient was in asystole
14 which is the flat line, no heartbeat. The patient had a what
15 I described as a pillow over her face which had, it had kept
16 the face from being completely burnt so I kind of moved that
17 out of the way because I didn't know exactly what it was. I
18 kind of moved that out of the way and once I did, I noticed
19 that there was a belt that had been wrapped around the neck
20 and it was very tight and at that point I turned around and
21 called for law enforcement.

22 Q. Okay. And when you say the belt was tight, did you
23 try to take it off or did you touch it in any way?

24 A. No. As soon as I determined that this would
25 possibly be a law enforcement matter, I covered the patient

1 with a disposable sheet and made no more - I didn't touch the
2 patient anywhere after that.

3 Q. Is that normal procedure?

4 A. It is because you're trying to preserve what could
5 be a crime scene.

6 Q. Did you do anything with the material that was on
7 her face? You said you thought it was a pillow.

8 A. Yeah. I believe once I realized what it was, I
9 placed that pillow back on top of the body to keep everything
10 together.

11 Q. Did you notice other than the burns, did you notice
12 any condition about the body? Was it stiff or anything like
13 that?

14 MS. YOUNG: Your Honor, I'm gonna object.

15 THE COURT: Basis?

16 MS. YOUNG: Leading.

17 THE COURT: Overruled. Go ahead. What did you
18 notice about the body. That was the question.

19 BY THE WITNESS:

20 A. The body was in rigor which means that it had
21 already kind of, the limbs were locked in place. Uhm, the,
22 uhm, there was a - one of the eyes were bulging. There was
23 pooling of blood in the tear duct and there was, uhm, there
24 wasn't a wound -- There was a wound to the face but I'm not
25 certified to determine what that wound was therefore I didn't

1 make any assumption or anything. It possibly could have been
2 several different types of wounds so I left that up to law
3 enforcement to decide.

4 BY MS. SAMPSON:

5 Q. But the wound you noticed was there when you removed
6 the pillow?

7 A. Yes. It was.

8 Q. What, if anything, could you feel coming off of the
9 body?

10 A. There was heat coming off of the body. The patient
11 was still very hot, even when touching with a gloved hand you
12 wouldn't want to keep your hand on it.

13 Q. So what did you do after covering the body with the
14 sheet?

15 A. Once we covered the body with the sheet we moved it
16 out of the view of the general public because a large amount
17 of people had gathered on the other side of the street so we
18 tried to preserve the, uhm, dignity of the patient, move her
19 out of the way covered up so that people aren't gawking or
20 taking pictures like they normally do.

21 Q. Do you remember where you moved it?

22 A. There were two vehicles parked in the driveway. We
23 placed them, we lowered the stretcher some and placed it in
24 between those two vehicles.

25 Q. And what did you do at that point?

1 A. At that point we were waiting for the coroner to
2 arrive and we spoke with law enforcement staying right in the
3 general area of the deceased so we make sure nobody is
4 contaminating what we already have.

5 Q. So other than EMT and law enforcement, did anybody
6 come near the body before the coroner got there once you had
7 the body?

8 A. No. Once the fire department had placed her on the
9 stretcher, nobody besides EMS or law enforcement was allowed
10 near my stretcher.

11 Q. Did the coroner show?

12 A. Yes.

13 Q. What happened once the coroner got there?

14 A. Once the coroner got there, I believe she lifted the
15 sheet, looked and made sure that this was actually a crime
16 scene and then we waited for the coroner, the transport
17 vehicle to arrive.

18 Q. And then did you leave after that?

19 A. We stayed on the scene until the fire was
20 extinguished just to make sure no additional people were hurt,
21 nobody else was found inside.

22 Q. To the best of your knowledge was anyone else found
23 in the house?

24 A. Not to my knowledge.

25 Q. Did anyone else get hurt putting out the fire or

1 anything like that?

2 A. Not to my knowledge.

3 MS. SAMPSON: May I approach the witness, Your
4 Honor?

5 THE COURT: Yes, ma'am.

6 BY MS. SAMPSON:

7 Q. I'm gonna show you what's been marked as State's
8 Exhibits 5 and 6 and ask you if you recognize those
9 (proffering)?

10 A. That does - yes, that does look like what was
11 covering her face.

12 Q. And does that accurately reflect the way that you
13 saw it on that night other than not being on the body, on her
14 face rather?

15 A. Yes.

16 Q. Has it been altered in any way, the photograph?

17 A. Not that I can tell.

18 MS. SAMPSON: At this time we would ask to introduce
19 State's Exhibit 5 and 6 into evidence.

20 MS. YOUNG: Without objection.

21 THE COURT: Without objection.

22 BY MS. SAMPSON:

23 Q. So I'm gonna show the jury, is this what you were
24 talking about was on her face?

25 A. Yes.

1 Q. And what did you do --

2 THE COURT: Which exhibit did you just refer to?

3 MS. SAMPSON: I'm showing both 5 and 6.

4 BY MS. SAMPSON:

5 Q. So both 5 and 6 show the same thing. I believe 5 is
6 further away and 6 is closer up; is that correct?

7 A. Yes.

8 Q. And this is what you saw on her face?

9 A. Yes.

10 Q. And did you put it on the top of the body at this
11 point or did someone else do it?

12 A. I --

13 Q. If you don't know --

14 A. I don't recall.

15 Q. You didn't put it on top of the body? Let me ask
16 you that.

17 A. No.

18 MS. SAMPSON: I have no further questions, Your
19 Honor. Please answer any questions --

20 THE COURT: Cross examination.

21 CROSS EXAMINATION

22 BY MS. YOUNG:

23 Q. Just very briefly. Do you know what time you
24 arrived at the scene?

25 A. Uhm, if I can, I believe it was either 11:54 or

1 11:59 on October the 9th.

2 Q. P.m.?

3 A. P.m. Yes.

4 Q. And you said after you kind of wandered around and
5 were yelling for people and trying to make sure nobody was
6 there, the fire was spreading very quickly?

7 A. The fire was spreading. Yes. It was spreading
8 rapidly through the home. Yes.

9 Q. Okay. And you had to move everybody back to make
10 sure everybody stayed safe?

11 A. Correct.

12 MS. YOUNG: No further questions.

13 THE COURT: Anything further, Solicitor?

14 MS. SAMPSON: No, sir.

15 THE COURT: You may step down, sir. You may call
16 your next witness after we take a short break. My
17 experience has been that after about 90 minutes people
18 need a break so it's been about 90 minutes so I'm gonna
19 give you all a break. Sometimes I might stretch it to
20 two hours but if you ever any one of you need a break,
21 we'll stop. Just raise your hand, okay? Don't talk
22 about the case. Go to the jury room. Thank you.

23 (Whereupon, the jury entered the jury room at 11:00
24 a.m.)

25 THE COURT: All right. My guess is 10 or 15

1 minutes, they all gotta go and refresh themselves. Be
2 back in about 10 minutes.

3 (Short break.)

4 BAILIFF: All rise.

5 THE COURT: Take your seats. Who is your next
6 witness?

7 MS. OSTEEN: Your Honor --

8 THE COURT: This is how it works. Let them finish
9 and then you say something. Don't interrupt them. I
10 have said it five times already in the last two days.
11 Yes, ma'am.

12 MS. TAYLOR: Our next witness is Zachary Keefe but I
13 believe we have a motion.

14 THE COURT: What now?

15 MS. TAYLOR: We have a motion.

16 THE COURT: Okay. All right. Yes, ma'am, Ms.
17 Osteen. Yes, ma'am, Ms. Osteen? You jumped up and said
18 something. What is it?

19 MS. OSTEEN: Your Honor, we just wanted before we
20 brought the jury in to discuss the photos. I think one
21 of their next witnesses will be using, not --

22 THE COURT: I don't care.

23 MS. OSTEEN: -- Deputy Keefe but --

24 THE COURT: Well, take a look at them. Tell me your
25 objections. And relax. This is hard stuff. That's how

1 it's supposed to be. May I see them?

2 MS. TAYLOR: (Proffering.)

3 THE COURT: All right. I'm not letting this in.
4 Exhibit 4, 7, 8, 10, 9, and 11, I think are two groups,
5 they're out.

6 MS. SAMPSON: Can I put on the record the basis?

7 THE COURT: Sure. Go ahead. I may, you know, I
8 might change my mind but just looking at them give me
9 your basis for why I should admit these photos.

10 MS. SAMPSON: Your Honor, so part of what the
11 argument is will have to do with the coroner that's going
12 to --

13 THE COURT: I'm sorry?

14 MS. SAMPSON: The coroner would be testifying to
15 these, Your Honor, in terms of what the body looked like
16 when the coroner first saw the body in terms of some of
17 the markings --

18 THE COURT: Why didn't you get black and white
19 photos as a substitute to the color ones? Do you have
20 black and white photos?

21 MS. SAMPSON: We do not. They were given to us in
22 color, Your Honor.

23 THE COURT: Can't you have them changed to black and
24 white? These are gruesome.

25 MS. SAMPSON: We can go do that if you would like,

1 but we need like five minutes to do so.

2 THE COURT: I'm sorry?

3 MS. SAMPSON: We need like five minutes to go do so.

4 THE COURT: Well, yeah. Okay. Just relax. I think
5 these are maybe a little bit over the edge from just
6 looking at them.

7 MS. SAMPSON: And I was just gonna --

8 THE COURT: All right. I think if they were black
9 and white they would be admissible.

10 MS. SAMPSON: Okay. Well, we can go make them in
11 black and white, Your Honor, and then have the
12 discussion.

13 THE COURT: Well, let's do them in black and white
14 and I'll take a look at them and if it takes all day, it
15 takes all day, if it takes all week, it takes all week.
16 It doesn't matter. Let's do one thing at a time. I
17 think those as depicted in color are a little too
18 gruesome. Black and white I think would be a little bit
19 better and not as inflammatory.

20 MS. YOUNG: Your Honor, I'm fine with taking another
21 look after they're in black and white.

22 THE COURT: Well, that's what we're gonna do,
23 ma'am.

24 MS. YOUNG: Yes. That sounds good. Thank you, Your
25 Honor.

1 THE COURT: We'll be at ease. The whole idea about
2 mentioning black and white is to look at them in black
3 and white, okay? Do you understand that?

4 MS. YOUNG: I do.

5 THE COURT: Relax, folks. Please.

6 MS. YOUNG: Very. Very relaxed, Your Honor.

7 (Short break.)

8 THE COURT: We're talking about exhibit number 9,
9 number 11, number 7, number 8, number 10 and number 4. I
10 asked that the State go do these in black and white.
11 They have done so. Yes, ma'am. Your position.

12 MS. YOUNG: Your Honor, a couple of things. We
13 still object to them --

14 THE COURT: Okay.

15 MS. YOUNG: -- in black and white. They're still
16 gruesome. They're still overly prejudicial. They're not
17 probative to anything in issue in this case. The coroner
18 can testify what the body looked like when she arrived
19 and what she observed.

20 THE COURT: All right.

21 MS. YOUNG: The pictures don't demonstrate anything
22 more than what she's able to testify about.

23 THE COURT: Do you have a case on point?

24 MS. YOUNG: I do, Your Honor.

25 THE COURT: What is it?

1 MS. YOUNG: It is State versus Collins.

2 THE COURT: And were they color photos or black and
3 white photos?

4 MS. YOUNG: Your Honor, I'm not sure that it's
5 specified.

6 THE COURT: Well, all right. Stop. You cite a
7 case. I'm asking you were the photos in question in the
8 case you cited in color or black and white?

9 MS. YOUNG: I do not believe it specifies.

10 THE COURT: All right. Continue.

11 MS. YOUNG: I have a copy if you would like to take
12 a look.

13 THE COURT: Sure.

14 MS. YOUNG: And, Your Honor, just for record the
15 cite is 409SC524 (proffering.)

16 THE COURT: Thank you. The Supreme Court held the
17 trial court's omission of pre-autopsy photographs of the
18 victim who had been mauled by dogs was not an abuse of
19 discretion. That's the case you're relying on? This is
20 what you just handed me; is that correct?

21 MS. YOUNG: Yes, Your Honor.

22 THE COURT: All right. Okay. Fine. Ms. Sampson,
23 the State's position.

24 MS. SAMPSON: The State's position, Your Honor, is
25 that they're not overly gruesome.

1 THE COURT: I agree. These ones are in in black and
2 white. Your requested motion is respectfully denied.
3 Anything further?

4 MS. SAMPSON: Just for record, Your Honor, I would
5 cite State versus Gray.

6 THE COURT: Okay.

7 MS. SAMPSON: You asked about that. That case is a
8 2014 case, Your Honor. Those pictures were color. I was
9 part of that trial. They were autopsy photos of the
10 person's face pulled down.

11 THE COURT: Okay.

12 MS. SAMPSON: And the photos showed not only the
13 face pulled down but the brain all in color and the Court
14 said that those were admissible.

15 THE COURT: Okay.

16 MS. YOUNG: Your Honor.

17 THE COURT: Yes, ma'am. I've already ruled about
18 it. You understand that?

19 MS. YOUNG: I do understand that.

20 THE COURT: All right.

21 MS. YOUNG: I still need to make my record, Your
22 Honor, and I need to respond to that.

23 THE COURT: Go ahead.

24 MS. YOUNG: It's not the substance of the
25 photographs. It is, is it probative to anything in

1 dispute in this particular case.

2 THE COURT: Ma'am, I have ruled the photographs are
3 in.

4 MS. YOUNG: Thank you, Your Honor.

5 THE COURT: You're welcome. Now, I'm gonna take
6 these color photos and make them a part of the court's
7 record so it can be reviewed on appeal, if necessary.
8 The black and whites are in.

9 MS. SAMPSON: If I could just have a moment to mark
10 the black and whites.

11 THE COURT: Yes, ma'am. Go ahead. Take your time.

12 MS. YOUNG: And, Your Honor, just to be clear,
13 you're saying all of them can come in even though some of
14 them are --

15 THE COURT: The ones I called out on the record.

16 MS. YOUNG: Okay. And for the record, we object
17 because they're duplicative.

18 THE COURT: All right. You have objected three
19 times. My decision has not changed.

20 MS. SAMPSON: So for the record, Your Honor, I will
21 give the court reporter State's 8, 9, 11, 7, 10, and 4.

22 THE COURT: All right.

23 (Whereupon, Court's Exhibits #4, #7, #8, #9, #10,
24 #11 marked for identification.)

25 MS. SAMPSON: And I understand that they're not

1 coming in. The black and white version is.

2 THE COURT: I just want them part of the court
3 record for an appeal. I assume there will be an appeal.
4 I don't know.

5 MS. SAMPSON: Thank you, Your Honor. I just need a
6 moment to remark the black and white.

7 THE COURT: All right. Take your time.

8 MS. SAMPSON: For the record, the new numbers for
9 the black and white version is 46 through 51. I
10 understand the defense still objects --

11 THE COURT: Yes.

12 MS. SAMPSON: -- but just for the record the black
13 and white are submitted. Okay. That's it, Your Honor.

14 THE COURT: All right. We ready? Everybody's
15 ready?

16 MS. YOUNG: I believe so.

17 MS. SAMPSON: Yes, Your Honor.

18 THE COURT: Okay. Bring the jury in. And so we'll
19 go, lunch for the jury should be here about 1:00, maybe a
20 little bit after so we'll go until lunchtime. It might
21 be a little bit after one.

22 (Whereupon, the jury entered the courtroom at 11:15
23 a.m.)

24 THE COURT: Welcome back, members of the jury.
25 During the break we ordered you lunch. I explained why.

1 I didn't want you to get wet. Usually I give you an hour
2 and a half for lunch, probably cut it to an hour. You
3 can still go and come, if you want to. We had some
4 little logistical things we had to work out so it took a
5 little while. But I think we're in good shape on time
6 and I want to thank you all on behalf of everybody
7 involved for your patience and your time. Okay. You can
8 call your next witness.

9 MS. TAYLOR: The State calls Zachary Keefe.
10 Thereupon,

11 ZACHARY KEEFE
12 after having been first duly sworn, testified as follows,

13 THE CLERK: Please have a seat on the witness stand
14 and state your full name for the record.

15 THE WITNESS: My name is Zachary Allen Keefe,
16 K-e-e-f-e.

17 DIRECT EXAMINATION

18 BY MS. TAYLOR:

19 Q. Deputy Keefe, where do you work?

20 A. I work for the Richland County Sheriff's
21 Department.

22 Q. How long have you worked there?

23 A. A little over three, three and a half years.

24 Q. What is your job there?

25 A. Uhm, I work with the K-9 unit now.

1 Q. With the what?

2 A. The K-9 unit.

3 Q. And back on October 9th of 2017, what was your
4 job?

5 A. I was a road patrol deputy.

6 Q. And what are some of the duties that you had when
7 you were a road deputy?

8 A. We answer calls for service. We are the first line
9 supervisor or first line officers responding to calls in the
10 county.

11 Q. Back on October 10th, 2017, did you respond to
12 incident that we are here for today?

13 A. I did.

14 Q. How did you become involved in responding?

15 A. I was actually on another call. Dispatch put out
16 that we had a call holding, that fire was requesting law
17 enforcement in reference to a suspicion death.

18 Q. What is the address you responded to?

19 A. 109 Crestmore Drive.

20 Q. Is that in Richland County?

21 A. It is.

22 Q. What time were you dispatched?

23 A. I was dispatched, one second, dispatch time says
24 12:11 a.m.

25 Q. What time did you arrive?

1 A. 12:18 a.m.

2 Q. When you arrived, what did you immediately observe
3 about the location?

4 A. Uhm, there was multiple fire engines on the scene.
5 There was, people had already started coming out of their
6 houses to see what was going on. There were so much - there
7 were so many vehicles, people, I had to actually park on a
8 different street. I could not park on Crestmore. Once I
9 parked on that street, I walked down to Crestmore and made
10 contact with the EMT Bailey.

11 MS. TAYLOR: Permission to approach the witness,
12 Your Honor.

13 THE COURT: Yes, ma'am.

14 BY MS. TAYLOR:

15 Q. I want to show you what's been marked as State's
16 Exhibit 56, 52, 53, 54 and 55.

17 THE COURT: Are there any objections?

18 MS. YOUNG: No, objection, Your Honor.

19 THE COURT: Say them again.

20 MS. TAYLOR: 56, 52, 53, 54 55. That's it.

21 THE COURT: Okay. Without objection. So entered.
22 Go ahead and ask the witness first.

23 BY MS. TAYLOR:

24 Q. So I want to show you these pictures and I want you
25 to look through them and tell me if you recognize them.

1 A. (Witness complies.) I do.

2 Q. What are they?

3 A. Those are photographs of the house that was on fire
4 and where the victim was pulled out of the house and where
5 the, where one of the pictures is of the stretcher with the
6 body on it is where I was taken to view the body in
7 question.

8 Q. Do they accurately and fairly represent the scene
9 you responded to on October 10th, 2017?

10 A. Yes, ma'am.

11 MS. SAMPSON: Your Honor, the State requests to
12 introduce --

13 THE COURT: Without objection.

14 MS. TAYLOR: Permission to publish to the jury.

15 THE COURT: You may do so.

16 BY MS. TAYLOR:

17 Q. So on this picture right here, what is that?

18 A. It's the number to the house address, 109 for
19 Crestmore.

20 THE COURT: Which exhibit is that? Exhibit number
21 what?

22 MS. TAYLOR: That was 56.

23 THE COURT: All right.

24 BY MS. TAYLOR:

25 Q. And exhibit 52, what does this show?

1 A. It's the house, the residence of the scene.

2 Q. And when you arrived on scene, were there any other
3 agencies there?

4 A. Fire was there. EMT. EMS was there.

5 Q. Okay. And did any other deputy from Richland County
6 respond?

7 A. Yes. But I was the initial officer on scene.

8 Q. When you say initial, that means?

9 A. I was the first deputy to arrive on scene.

10 Q. Okay. And what does this show, exhibit 53?

11 A. The burned house. That's fire, I believe fire
12 ladder and I guess fire hoses. They're still putting out the
13 fire when I arrived.

14 Q. Did you have the opportunity to view the victim's
15 body?

16 A. I did.

17 Q. And where was the victim's body when you arrived?

18 A. When I arrived, I met EMT Bailey at the top of the
19 driveway which on the left side of the house. He pointed to
20 where the body was which was in the driveway between the two
21 cars. They did that so it would be a little bit more privacy.
22 In that picture that I saw is exactly where he pointed out
23 between the two vehicles covered up.

24 Q. And when you saw the body, what did you observe on
25 the body? What did it look like?

1 A. The body was, except for the top of the neck,
2 everything top of the neck down was burned of what I could
3 see. I'm not a medical or anything like that, but I could
4 tell that the body was burned, had burn marks on her and the
5 face was not burned at all. It was extremely swollen. The
6 eyes were swollen shut. Her cheeks were swollen and I don't
7 recall which side, but it looked like she had been shot. I
8 believe it was on the left side of the - right above her
9 eyebrow a big bulge so it was a bulge. I believe it was on
10 the left side laying on her back.

11 Q. And starting from her head going down what, if
12 anything, did you notice on her body?

13 A. There was a belt around her neck.

14 Q. Okay. And what did it look like? How was it tied
15 or how was it displayed on her?

16 A. It was fastened through the, the type of belt we
17 would fasten around the waist. I don't remember the color or
18 anything like that but I do know it was still wrapped, it was
19 around her neck fastened.

20 Q. You mentioned you got on the scene, you started
21 talking. There were a lot of people outside. Did you talk to
22 any of those people who were outside?

23 A. Uhm, I went next door, after I ruled it a crime
24 scene because of the suspicious death, I began to tape off the
25 area. I actually tried to make contact with my supervisor to

1 let him know what we had because that's our protocol. If we
2 have a critical incident that we must notify our supervisors.
3 I notified him and I began to tape off the area, put crime
4 scene tape, started a crime scene log and then I began to try
5 to see if I could get any answers for investigations, started
6 getting the ball rolling. I actually did go to, you're look
7 at the crime scene location, the left house to the left and
8 asked her if she had seen anything or heard anything.

9 Q. How did you document your response in this
10 incident?

11 A. Through an incident report.

12 Q. And did you do do a type of reporting?

13 A. Body cam.

14 MS. TAYLOR: No further questions. Answer any
15 questions the defense may have.

16 MS. YOUNG: We have no questions.

17 THE COURT: You may step down, sir.

18 MS. SAMPSON: The State calls Steven Buff.

19 Thereupon,

20 STEVEN DWAYNE BUFF

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

22 THE COURT: All right. Mr. Buff, please take a
23 seat. Tell us your full name and spell your last name
24 for the record.

25 THE WITNESS: My name is Steven Dwayne Buff. Last

1 name is B-u-f-f.

2 THE COURT: Thank you, sir.

3 DIRECT EXAMINATION

4 BY MS. SAMPSON:

5 Q. I think it's still morning. Good morning.

6 A. Good morning.

7 Q. What is your title?

8 A. I'm captain on ladder 8 out of the Atlas Road fire
9 station.

10 Q. And how long have you been with the fire
11 department?

12 A. Uhm, June will be 17 years.

13 Q. And can you tell the jury a little bit about how you
14 go through the ranks of the fire department?

15 A. Uhm, as we come in, we have recruits, rookies that
16 go through the 18 week recruit class. Successful completion.
17 You're then promoted to probationary firefighter. Even though
18 you do 18 weeks, your whole career is learning. From that
19 point after probation you'rr promoted to firefighter. Then we
20 have different categories. Senior firefighter and you're kind
21 of a relief driver but you're still riding in the back of the
22 truck fighting fires so if the engineer is off, you move up.
23 And then from senior firefighter you have engineer which your
24 sole responsibility is to drive the apparatus whether it be a
25 fire engine that supplies the water and the hose, the truck

1 company which is a ladder company which I'm on which we do
2 search and rescue and, of course, you have seen the TV shows
3 where they have the car accidents where they have the jaws of
4 life. That's part of our job. Also, as the engineer your
5 second job is to act as a move up captain so if he's off, your
6 in for the next process. And then captain, you're in charge
7 of the truck but you're also training to be the move up
8 chief.

9 Q. So as the captain do you still go scenes?

10 A. Yes, ma'am.

11 Q. Do you work a fire scene the same every time or do
12 you work it differently depending on the fire?

13 A. No. It depends on because every fire is different
14 and every scene is gonna dictate what you do and how you
15 approach it.

16 Q. Okay. So I'm gonna take you back to October of
17 2017. Were you captain at that time?

18 A. Yes, ma'am.

19 Q. So did you get a call to go to 109 Crestmore
20 Drive?

21 A. Yes, ma'am.

22 Q. How do y'all receive a call?

23 A. Our, when you dial 911 as a citizen, it goes through
24 and the dispatcher, they send the call through the radio
25 system that actually makes to our station. They give it to us

1 verbally which most of our trucks do have automated computer
2 systems and in there details, the location and also has GPS
3 so...

4 Q. So did you all go to the scene?

5 A. Yes, ma'am.

6 Q. What kind of vehicle were you in when you went to
7 the scene?

8 A. I was ladder truck. Our sole responsibility for the
9 most part is search and rescue, also searching for fire
10 potential.

11 Q. So is the ladder truck the kind with the water hose
12 or different?

13 A. It's got the tall ladder. We do have some hose but
14 we try to discipline specific so you don't have freelancing.

15 Q. So how many of you are on the ladder truck that
16 goes?

17 A. Four.

18 Q. Were you the only truck or unit that went that
19 night?

20 A. No. There were multiple other units. Being on that
21 side of the county things run a little bit different because
22 some stations have two people, some have three, some have
23 eight whereas downtown, you know, most companies are fully
24 manned.

25 Q. You mentioned county. What county was this in?

1 A. In Richland County.

2 Q. So when you arrived, were you the first truck to get
3 there or second or do you remember?

4 A. Uhm, we were I believe the second or third but as
5 far as what we call a support company in the role of search
6 and rescue we were the first on that aspect.

7 Q. So upon your arrival what did you do?

8 A. When we got there, we had been notified by dispatch
9 verbally and on the computer system that there was possibly
10 someone inside so our first thing when we got off the truck
11 was to get inside the house and start doing a quick search. I
12 think it was engine 22 was already on scene. They had
13 advanced a line inside and I believe they went to the right so
14 to not get jumbled up, when we went in, we went with a left
15 hand search pattern.

16 Q. Now, you said advance the line. What does that
17 mean?

18 A. Basically the water hose when they pull it off the
19 truck taking into the residence or structure.

20 Q. Okay. And you said they went to the right?

21 A. I believe when they went in straight, the fire,
22 well, the fire was everywhere. It was already through the
23 roof on arrival. Typically with as much fire as we had
24 without the information of someone being inside, we wouldn't
25 have went in so fast, but the fact that we did have that

1 information coming in, it was an exemption to get in there
2 quick.

3 Q. How did you go in?

4 A. We went straight in through the front door. To my
5 knowledge the door was already opened by a neighbor, but we
6 went inside and due to the roof being burnt, a lot of the
7 smoke had went up to the ceiling level which we had decent
8 within reason visibility.

9 Q. Can you tell the jury what you mean by decent
10 visibility?

11 A. Uhm, you can kind of see a little bit through the
12 clouds but it's not banking down to the floor. Most times if
13 we have a house with a roof still intake, this being floor
14 level sometimes where this cord is here, you may have smoke
15 banked to the floor. That much. So it makes it a lot harder
16 when you're doing your search.

17 Q. And was the smoke -- You said it was at the top or
18 bottom?

19 A. I would say it was probably three fourths of the way
20 up inside the structure so, I mean, we had some visibility but
21 it's not perfect.

22 Q. And what are you wearing as you go into the fire?

23 A. We have fire fighting garment, safety boots, pants,
24 jacket, helmet, face piece that we use. We have a self
25 contained breathing apparatus on our back just like a

1 backpack, you know, with the face mask sometimes you can also
2 deal with between the heat and what you're breathing you get,
3 you know, fogginess but it's about 75 to a hundred extra
4 pounds.

5 Q. So when you first go in the house, I believe you
6 already said you went to the left. What did you do?

7 A. We go in with the information that there was a
8 victim inside. That was what our, at that time was to find
9 the victim. Part of our job as well as searching for the
10 victim is looking for any hidden fire. Like I said, the
11 engine had went straight ahead and once you go throughout, if
12 I recall, as you go into the residence straight ahead there
13 was like a little hallway that lead to the bedrooms. The
14 house was rather small, especially when you start getting 8 to
15 10 people inside so that's why one of the reasons we went to
16 the left, go ahead and clear that area while they were
17 fighting fire and getting it to where we could get back
18 there to search

19 Q. And what did you find as you searched to the left?

20 A. Basically just soot stains on the walls. Wasn't
21 much fire because they had done put it out coming in so
22 everything was focusing back towards the right.

23 Q. Did you find anyone in that part of the search?

24 A. No, ma'am.

25 Q. What part of the house was it, do you remember, that

1 you were searching?

2 A. This would have probably been the kitchen, dining
3 room. Shortly thereafter we received a notification from the
4 captain on engine 22 that they did find the victim in the back
5 bedroom.

6 Q. So once you received that notification that a victim
7 had been found, what did you do?

8 A. Then we proceeded to their location to retrieve the
9 body.

10 Q. Do you remember where that was in the house?

11 A. Uhm, the body would have been when you walked in, in
12 was in the back right bedroom. We have a grid that we have
13 laid out in the fire service to help us breakdown when we're
14 talking to a chief outside -- Can I use the board?

15 Q. You sure can. You may step down. Keep your voice
16 very loud.

17 A. (Witness complies.) Basically what we have, this is
18 the house. The chief is out front. This would be the alpha,
19 the address side, Bravo, Charlie, Delta. Then you had the
20 bedrooms here and I believe this was like the kitchen and then
21 living space. Well, the body was found in this room here what
22 we would call the Charlie Delta.

23 Q. So once you hear - so the - what does the - does the
24 call say come to Charlie Delta or what's the call?

25 A. Yes. And especially we know that they're working in

1 this area here, we would know to go straight to that area.
2 Once we were notified, we proceeded to that room where we
3 retrieved the body and then brought it out of the structure.

4 Q. Did you help retrieve the body?

5 A. Yes, ma'am.

6 Q. You can sit down.

7 A. (Witness complies.)

8 Q. Could you tell when you got to the body whether she
9 was alive or dead?

10 A. At that time, no. With the amount of fire and just
11 the commotion going on the first frame of mind is getting the
12 body, let's get out because you're not trying to assess what's
13 going on at that time because with the dangers involved. Once
14 we got her outside, that's when we passed her over to EMS.

15 Q. Can you describe the position of the body when you
16 first got there?

17 A. Yes. In this room, this is the bed, she was laying
18 --

19 THE COURT: I'm sorry. We need to mark this as an
20 exhibit, please, a Court's Exhibit, but we need to be
21 able to refer to it in the record what he's testifying
22 to.

23 MS. SAMPSON: I'll mark it as Court's Exhibit --

24 THE COURT: Okay. That's fine. That's fine.

25 MS. SAMPSON: -- 1.

1 THE COURT: Is that all right?

2 MS. OSTEEEN: Yes, Your Honor.

3 MS. SAMPSON: Yes, sir. We'll get it marked before
4 we finish.

5 THE COURT: Okay. That's fine.

6 BY MS. SAMPSON:

7 Q. Go ahead.

8 A. Okay. So as you all can see here, this is the bed
9 in the bedroom and this is the doorway. The body was facing
10 towards the Delta side with the head being at this end and
11 then the legs at this end. As we retrieved the body, I had
12 the legs. At the time my firefighter Dillon Martin had the
13 upper body.

14 Q. And could you tell if there was anything on the
15 body?

16 A. Uhm, being that you're still dealing with
17 visibility, it looked like there was some sort of foam or
18 insulation what would have been over the head because the
19 ceiling, you know, particles falling down. We could say that
20 the body was laying face up. I do recall that because when I
21 retrieved the body, I came up under, when I grabbed up under
22 the legs, I was up under the knees.

23 Q. You can sit back down.

24 A. (Witness complies.)

25 Q. What did do you once you had the body?

1 A. Once we got the body we proceeded to the front door
2 to exit the structure.

3 Q. What did you do with the victim at that point?

4 A. At that point once we exited the structure EMS was
5 waiting outside with a stretcher and then we passed it off to
6 Richland County EMS.

7 Q. After you done that, what did you do?

8 A. At that point coming outside once we had passed off
9 the body to EMS we had went in to recycle, basically where we
10 have used the air in our cylinders, we go to replenish and get
11 fresh air.

12 Q. Did you continue to fight the fire or did you stay
13 outside?

14 A. At that point I believe I was outside the rest of
15 the call because we had other units coming in and then they'll
16 take over where we left off.

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

18 Please answer any questions the defense may have.

19 THE COURT: Ms. Osteen.

20 MS. OSTEEN: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MS. OSTEEN:

23 Q. So when you got to the scene, engine 22 is already
24 there?

25 A. Yes.

1 Q. And they had been fighting the fire but it was
2 within minutes that you got there?

3 A. Somewhere within minutes. Yes.

4 Q. When you got there, the fire was everywhere?

5 A. It was -- Well, from the outside it was already
6 burnt through the roof. At that point I don't believe there
7 was much as far as the contents inside the house, but
8 everything had as far as the attic space the roof had burned
9 away.

10 Q. Had burned away. So it had gone through the roof?

11 A. Yes, ma'am.

12 Q. Okay. And you said on direct that the smoke was
13 concentrated around the ceiling?

14 A. Up to that point because, you know, you have no
15 resistance as far as what's keeping the smoke in because now
16 you have a clear avenue to exit the structure.

17 Q. Now, when you helped take the body from the home,
18 you noticed it was stiff?

19 A. At that point it wasn't as far as what would be
20 rigor mortis set in.

21 Q. Okay.

22 A. I mean, it was still, there was still some
23 flimsiness. Now, being that, you know, that with the gear and
24 stuff that we do have, you know, water being sprayed you're
25 soaking wet and, you know, things get slippery but for the

1 most we were able to move the body parts.

2 Q. And so all three of you, it was you, fire officer
3 Martin and Szymanski were all in that back bedroom?

4 A. Uhm, at the time Captain Szymanski found the body
5 while they were inside fighting the fire and then that's when
6 it come across the radio traffic and then myself and
7 firefighter Martin proceeded to that bedroom.

8 Q. Okay. So when you went in to help get her out, it
9 was just the two of you in there?

10 A. Just the two of us in there at that time because the
11 house was rather small. Once you start getting bunch of
12 people in there it...

13 MS. OSTEEEN: Right. Thank you. No further
14 questions.

15 THE COURT: Anything further?

16 MS. SAMPSON: No, sir.

17 THE COURT: Captain Buff, thank you, sir. I don't
18 know if anybody wants to keep him here. Can he be
19 excused.

20 MS. SAMPSON: Yes, sir.

21 THE WITNESS: Am I free to go?

22 THE COURT: Yes, sir. Thank you, captain. Yes,
23 sir.

24 MR. EATON: The State calls Nikki Acerra.

25 Thereupon,

1 SUSAN NICOLE ACERRA

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

3 THE COURT: Ms. Acerra, take a seat. Tell us your
4 full name and spell your last name for the record.

5 THE WITNESS: Full name Susan Nicole Acerra,
6 A-c-e-r-r-a.

7 THE COURT: Solicitor.

8 DIRECT EXAMINATION

9 BY MR. EATON:

10 Q. Ms. Acerra, what do you do currently?

11 A. Currently I am a patient care coordinator at a
12 chiropractic office.

13 Q. Now, I'm gonna ask you to talk right into this mic,
14 please. What were you doing professionally in 2017?

15 A. I was a deputy coroner with the Richland County
16 Coroner's Office.

17 Q. How long did you work there?

18 A. Five years.

19 Q. What sort of duties does a deputy coroner have?

20 A. So my responsibilities as a deputy coroner is to do
21 investigations to determine how someone dies so I do on scene
22 investigations whether that be at a residence, in a roadway,
23 in a vehicle, wherever the decedent is.

24 Q. And so did you - how did you first learn about an
25 incident at 109 Crestmore?

1 A. So we have have radios that transmitted EMS channel
2 and I overheard a DOA call and I was the one on duty so I
3 responded to the scene.

4 Q. And I guess I should ask, do you have training as
5 part of becoming a deputy coroner?

6 A. Absolutely. I'm certified through the American
7 Board of Medical Legal Death Investigators which is a national
8 certification that not all deputy coroners or medical examiner
9 investigators are responsible for obtaining, but I am
10 certified.

11 Q. At the time of your responding to 109 Crestmore, how
12 many scenes had you probably responded to?

13 A. Couple thousand.

14 Q. And in each of those do you make a determination
15 about death?

16 A. I do.

17 Q. And your training and education and that, what does
18 it allow you to do in terms of making conclusions?

19 A. We look for certain scientific means that determine
20 cause and manner of death so based on the information that I
21 observed during my investigation I'm able to ascertain
22 morbidity, rigor mortis, algor mortis, and such which
23 articulate death.

24 Q. And so you look at that evidence and do you make a
25 conclusion based on the evidence that you look at?

1 A. Absolutely.

2 Q. And you make an opinion based on that evidence?

3 A. Based on the evidence that I see. Yes.

4 Q. And if you had to describe the expertise of a deputy
5 coroner in a few words, what would you say that expertise is?
6 Cause of death determinations?

7 A. Well, technically in the coroner system the coroner
8 is the one responsible for the cause and manner of death, but
9 we do the investigation for the coroner to say what the cause
10 of death is.

11 Q. Do you give your opinion as a coroner?

12 A. Absolutely. Yes. So the coroner makes his decision
13 based on my information and the forensic pathologist
14 autopsy.

15 MR. EATON: Your Honor, I would ask the Court to
16 recognize Ms. Acerra as an expert in cause of death
17 determinations.

18 THE COURT: Yes, ma'am.

19 MS. OSTEN: Your Honor, I think that Ms. Acerra can
20 testify --

21 THE COURT: Go ahead.

22 MS. OSTEN: I do object to that.

23 THE COURT: What?

24 MS. OSTEN: I object to that.

25 THE COURT: Basis?

1 MS. OSTEEN: I --

2 THE COURT: Stop. Go to the jury room, ladies and
3 gentlemen. A matter of law I need to take up. I can
4 only do so in your absence.

5 (Whereupon, the jury entered the jury room at 12:20
6 p.m.)

7 THE COURT: Yes, ma'am.

8 MS. OSTEEN: Thank you very much, Your Honor. I
9 have no issue with Ms. Acerra being an expert in being
10 able to determine that the person was dead. The issue is
11 determining the cause of death. That is --

12 THE COURT: What's your basis?

13 MS. OSTEEN: That's the purview of the
14 pathologist.

15 THE COURT: Your basis again is that she's not a
16 pathologist?

17 MS. OSTEEN: Yes, Your Honor.

18 THE COURT: Any other reason?

19 MS. OSTEEN: No, Your Honor. Well, yes, Your Honor.
20 After hearing from her, she said that that determination
21 is made by the coroner. Also in previous conversation
22 she said that the, who can decide the cause of death is
23 the pathologist being able to tell what injuries she had.
24 That she was dead, that's absolutely in her purview. I
25 have no objection to that.

1 THE COURT: Thank you. Yes, sir.

2 MR. EATON: I'm fine with limiting the scope of her
3 expertise to those things, Your Honor.

4 THE COURT: All right. We could have talked about
5 this before we got to this point. You're going to call
6 the pathologist anyway.

7 MS. OSTEEN: Your Honor, while the jury is out so I
8 don't cause any issue in a second, I just want to, I know
9 that the photos were previously ruled on, but I just
10 wanted to bring --

11 THE COURT: Wait. Who's making the argument about
12 photos, you or Ms. Young?

13 MS. OSTEEN: Your Honor, this is my witness.

14 THE COURT: Is this about photos?

15 MS. OSTEEN: A little bit. Yes.

16 THE COURT: Go ahead.

17 MS. OSTEEN: I want to make the argument that having
18 some photos in black and white and some of the photos in
19 color --

20 THE COURT: No. All of these in evidence are black
21 and whites, ma'am. Did you understand that?

22 MS. OSTEEN: And the totality of the pictures, I
23 think that they are still attempting to put in some --

24 THE COURT: What's your objection, ma'am?

25 MS. OSTEEN: My objection is, Your Honor, is that

1 having both black and white and color photos.

2 THE COURT: The only thing in evidence is black and
3 white. Ms. Sampson has done that. Do you understand
4 that? The only thing in evidence is the black and white
5 photos. Did you understand that?

6 MS. OSTEN: Your Honor, there have already been
7 photos entered into evidence in color and in addition --

8 THE COURT: Okay. What photos are they? What
9 exhibit number?

10 MS. OSTEN: 5, 6, 2, 3, 52, 53, 54, 55 and 56.

11 THE COURT: What is she talking about?

12 MS. SAMPSON: What she is saying is that the photos
13 that we have already introduced that they did object to
14 are in color. Now the ones they're objecting to are in
15 black and white. I don't know why that's a problem.

16 THE COURT: I don't either.

17 MS. OSTEN: As I was trying to articulate --

18 THE COURT: Didn't you object to other previous
19 photos? Didn't you previously object to photos being in
20 color that were introduced, yes or no?

21 MS. OSTEN: Right. No, Your Honor. I'm objecting
22 to the photos that have not --

23 THE COURT: Objection overruled. Anything further?

24 MS. OSTEN: Yes, Your Honor.

25 THE COURT: I'm not sure what you're talking about.

1 There might have been some previous photos introduced in
2 evidence without objection; is that correct?

3 MS. OSTEEN: Right.

4 THE COURT: So now you're objecting to something you
5 didn't object to earlier?

6 MS. OSTEEN: No, Your Honor.

7 THE COURT: What is it?

8 MS. OSTEEN: I'm objecting to pictures they're
9 attempting to be entered.

10 THE COURT: I have already ruled and entered the
11 black and whites.

12 MS. OSTEEN: Black and white and color photos.

13 THE COURT: I'm at a loss as to what you're
14 saying.

15 MS. OSTEEN: If I could get the exhibits.

16 THE COURT: Why are we going over this now with this
17 witness?

18 MS. OSTEEN: Because they're going to enter these
19 through this witness.

20 THE COURT: I don't know. I don't know. So you're
21 asking me to make a decision on something I know nothing
22 about. Go ahead. Show her.

23 MS. SAMPSON: I believe what she is saying is the
24 ones they objected to we have now put in as black and
25 whites. We are also going to put these in that they

1 didn't object to --

2 THE COURT: That they didn't.

3 MS. SAMPSON: -- but they're in color so I guess now
4 she's objecting that some were black and white and some
5 were in color.

6 THE COURT: All right. I don't care. Y'all stop.
7 Come look at them. I don't know which ones you're
8 talking about. Which ones?

9 MS. OSTEN: I have seen all of those and those are
10 --

11 THE COURT: Which ones are you objecting to, ma'am?
12 I don't know.

13 MS. OSTEN: I'm still objecting to the color - the
14 black and white photographs.

15 THE COURT: Okay.

16 MS. OSTEN: But I'm saying that by them being in a
17 different state that adds an undue emphasis on those
18 photographs.

19 THE COURT: All right. Your objection is
20 overruled.

21 MS. OSTEN: Yes, Your Honor.

22 THE COURT: Anything further?

23 MS. SAMPSON: While we're at a break, I just need to
24 see what -- Have there been any Court's Exhibits?

25 COURT REPORTER: This is going to be 3.

1 MS. SAMPSON: Okay. I just was gonna make sure
2 that's a Court's Exhibit.

3 THE COURT: See, I don't know which photos.

4 MS. OSTEEEN: Yes, Your Honor. I'm still objecting
5 to the black and white photos.

6 THE COURT: Okay.

7 MS. OSTEEEN: These photos.

8 THE COURT: That's fine.

9 MS. OSTEEEN: I'm objecting to exhibits, State's
10 Exhibits 46 --

11 THE COURT: That have already been introduced over
12 your objection, ma'am.

13 MS. OSTEEEN: -- through 51.

14 THE COURT: They have already been introduced over
15 your objection.

16 MS. OSTEEEN: They have not been introduced yet as
17 far as --

18 THE COURT: All right. That's fine.

19 MS. OSTEEEN: It's my belief they have not been
20 introduced yet.

21 THE COURT: Okay. Anything further? Here you go,
22 Ms. Sampson (proffering.)

23 MS. SAMPSON: Thank you.

24 THE COURT: Let's go proffer this now before the
25 jury gets back so we won't have anymore interruptions.

1 Go ahead. You want to introduce these?

2 MR. EATON: Yes, Your Honor.

3 THE COURT: All right. And these are the ones you
4 object to because some of them are in black and white and
5 some of them in color?

6 MS. OSTEEEN: Yes. Your Honor, that's amongst the
7 objections but renewing the objection from before.

8 THE COURT: Overruled with all caps on all basis.
9 Bring the jury in.

10 MS. OSTEEEN: Yes, Your Honor.

11 (Whereupon, the jury entered the courtroom at 12:30
12 p.m.)

13 THE COURT: Welcome back members of the jury. From
14 time to time there will be an objection. If it's a legal
15 issue involved, the only way I can hear arguments on that
16 legal issue is in your absence. Does that make sense?
17 That's why I have to send you out. We have to take those
18 up so I have to send you out, whoever objects and don't
19 hold any objection against either party. Does that make
20 sense? Thank you all so very much. Proceed, Mr.
21 Eaton.

22 MR. EATON: Okay.

23 THE COURT: Well, first of all, any exceptions or
24 additions to those remarks I just made to the jury?

25 MS. OSTEEEN: No, Your Honor.

1 THE COURT: All right. Go ahead, Mr. Eaton.

2 MR. EATON: So at this point I would ask the Court
3 to recognize Ms. Acerra as an expert in death
4 investigation which I believe is defense's --

5 THE COURT: As a coroner. That's fine.

6 MS. OSTEN: No objection, Your Honor.

7 THE COURT: All right. Limited scope. That's fine.
8 Okay.

9 MR. EATON: Yes, sir.

10 THE COURT: So admitted for that purpose. Go ahead,
11 Mr. Eaton.

12 BY MR. EATON:

13 Q. So, Ms. Acerra, what would be some of the first
14 things that you would do upon arriving to a scene like 109
15 Crestmore?

16 A. So our initial responsibility is making contact with
17 the responding deputy, the first one on the scene, EMS
18 personnel, fire personnel, anyone that responded prior to our
19 arrival, that way we obtain the information that we were not
20 prevalent to before we got there as to how the call came into
21 them, what time they arrived on the scene and what were their
22 initial observations once they arrived on scene.

23 Q. And so what, I mean, don't tell the jury what
24 anybody said to you, but what were some of the first things
25 you observed at 109 Crestmore?

1 A. So I immediately noticed that I had to park on the
2 side street because the entire roadway was blocked. There
3 were multiple fire engines, ambulance units, Richland County
4 Sheriff's Department personnel, so the entire roadway was
5 blocked and I had to be escorted in which generally we're
6 allowed to drive up to the scene of the investigation but
7 because of all the emergency personnel I had to walk in.

8 Q. And then what did you see once you walked through
9 all those vehicles?

10 A. Crime scene tape was up. We had, there were
11 multiple fire hoses running to the house. They were still
12 actively fighting the fire. I was told and saw that there was
13 a stretcher between two vehicles that were parked in the
14 driveway with the decedent on this stretcher in between two
15 vehicles.

16 MR. EATON: If I can approach the witness, Your
17 Honor --

18 THE COURT: Yes, sir.

19 MR. EATON: -- with what has been pre-marked as
20 State's Exhibits 16 through - I'm sorry. 12 through 16.

21 BY MR. EATON:

22 Q. Take a look at those, please, Ms. Acerra
23 (proffering.)

24 A. (Witness complies.)

25 Q. What are those pictures of?

1 THE COURT: I previously ruled contemporaneously for
2 the record I do believe, overruled. They are in based on
3 my previous decision. Is that fair enough?

4 MS. OSTEEEN: Yes, Your Honor.

5 THE COURT: Go ahead, Mr. Eaton.

6 BY MR. EATON:

7 Q. What are these picture of?

8 A. Crime scene photographs.

9 Q. Of what?

10 A. The scene at 109 Crestmore. And the decedent as I
11 had articulated on the stretcher in between two vehicles in
12 the body bag itself. After identification was made, the
13 original, we used a tag, she was originally a Jane Doe until
14 positive identification was made. Some of the, I guess the
15 bedding that was on top of the decedent as well and the body
16 bag.

17 Q. Is that the scene as you remember it that day?

18 THE COURT: I'm sorry. We need to back up and
19 specify which exhibit she was testifying to.

20 MR. EATON: Yes, Your Honor. I was going to offer
21 them and go through them individually.

22 THE COURT: I think we need to for the record,
23 sir.

24 MR. EATON: Yes, Your Honor.

25 BY MR. EATON:

1 Q. Do exhibit 12 through 16 represent the scene as you
2 remember it that day?

3 A. Yes, sir.

4 MR. EATON: I would offer 12 through 16.

5 THE COURT: Go back and say which picture represents
6 what.

7 BY THE WITNESS:

8 A. So exhibit 12 is the decedent on the stretcher that
9 I noticed upon my arrival between the two vehicles in the
10 driveway itself. Exhibit 13 is the body bag itself that I
11 labeled accordingly with a date, the time of my pronouncement
12 of death, the decedent's information and our report number.

13 THE COURT: When you do that, show it to the jury so
14 they can see exactly what you're referring to.

15 BY THE WITNESS:

16 A. This is 12.

17 MR. EATON: I was about to do - I wanted to make
18 sure they were authenticated before I admitted. I would
19 offer them in at this point, Your Honor.

20 THE COURT: I think they're already in based on my
21 previous ruling.

22 MR. EATON: Yes, sir. If I may.

23 THE COURT: Yes, sir. Go ahead.

24 BY MR. EATON:

25 Q. If you would please tell the jurors what State's 12

1 is.

2 A. That's the decedent on the stretcher in between the
3 two vehicles in the driveway.

4 Q. How about State's 13?

5 A. That's the body bag that I was referring to that I
6 put the decedent's information on on scene.

7 Q. State's 14?

8 A. That's the body bag tag that she was initially a
9 Jane Doe until positive identification was made.

10 Q. State's 15?

11 A. That's evidence from the, this was on top of the
12 victim, decedent at the time of my body actualization.

13 Q. And State's 16?

14 A. That's a body bag lock that we use to secure the
15 body bag once we have completed our investigation on scene.

16 Q. Ms. Acerra, what were your next steps after coming
17 onto the scene and approaching the body?

18 A. So part of our, part of my investigation is I'm
19 responsible for investigation, doing a body actualization on
20 the decedent as well as I'm responsible for doing an
21 investigation inside the residence where the decedent was
22 removed from looking for anything that would substantiate my
23 findings, my body actualization and where the victim, decedent
24 may have been prior to being removed from the residence.

25 Q. What do you mean by body actualization?

1 A. Body actualization, I'm looking at the entire body,
2 of the exterior and posterior, front to back, head to toe, for
3 any signs of foul play, trauma, abuse, any identifying factor
4 such as scars, marks, tattoos, things of that nature. I'm
5 also looking for such things as checking a victim's eyes for
6 petechia. I'm checking for rigor mortis, for lividity, body
7 temperature. I'm doing the complete, when I say body
8 actualization head to toe, front to back, assessing every part
9 of that individual that I can physically see on scene.

10 MR. EATON: If I can approach with State's 46
11 through 51.

12 MS. JURICK: Without objection.

13 THE COURT: The question - are they already --

14 MR. EATON: They have already been admitted as
15 State's 46 through 51.

16 BY MR. EATON:

17 Q. So you were describing looking at the body. On
18 State's 46 can you tell the jury what this is and what were
19 some of the things that you are noticing?

20 A. So this is a photograph of the decedent originally
21 Jane Doe identified as Amanda Peele on scene. I'm looking at
22 injuries sustained from the fire itself. I'm looking for some
23 pugilistic posture that comes from the radiant heat from the
24 fire.

25 Q. I'll stop you there. You just said a big word.

1 What does that mean?

2 A. Pugilistic posture is when the body begins to
3 contract because of the heat. So when you're in proximity to
4 heat, your body automatically draws in, it tightens your
5 extremities so they will contract in because of the heat.
6 It's the heat causing that. It's not someone trying to duck,
7 hide, roll, from the heat. It's actually the heat doing that
8 itself so you can tell that the arms are starting to contract
9 in. You can see there's ecchymosis around her eyes.

10 Q. What's ecchymosis?

11 A. Ecchymosis is basically when you get, in this case
12 it's when blood vessels burst underneath the skin generally
13 from injury or impact so you can see, I can see that there's,
14 where there's no thermal injuries, there was something
15 protecting that area. It could have been bedding. It could
16 have been clothing, but that's why there's thermal injuries to
17 certain aspects of the body and not completely over the entire
18 body because that area was shielded from the fire.

19 Q. If we could take a look at State's 47 and 48. What
20 does 47 show?

21 A. This 47 shows a pattern of pugilistic posture of the
22 decedent from the heat as well as her hands contracting in
23 showing the thermal injuries to her hands.

24 Q. 48. And then you were discussing, talking about
25 some things you saw around the face. What does State's 49

1 show in that respect?

2 A. So State's 49 is the decedent from basically her
3 shoulder up to her head it shows the thermal injuries. It
4 shows the ecchymosis as you can see here that I was describing
5 around her eyes. It shows what appears to be some type of
6 belt around her neck as well as some blood that has manifested
7 itself around her nose and her mouth.

8 Q. Then also with State's 51 what does that depict?

9 A. That's the decedent as she presented to me on scene.
10 Again, the thermal injuries. You will see the blood. You
11 will see the ecchymosis. That's the way she presented. The
12 belt around her neck with a butterfly.

13 Q. I think you mentioned a word, petechia?

14 A. Petechia.

15 Q. What is that?

16 A. Petechia is tiny pinpoint hemorrhaging that happens
17 in your sclera or conjunctiva in your eye. It's basically
18 when small blood vessels bursts underneath the skin due to
19 some type of trauma, some type of pressure that has caused
20 these to bursts underneath your skin.

21 Q. So as you're doing this, what are the things that
22 you see telling you about this person?

23 A. It's not a natural death. I mean, this individual
24 was killed. This is - she did not dies from the fire.
25 Another thing that we look at is we look for smoke inhalation

1 like in the nostrils, the charring of the nostrils themselves
2 and that test is down through the autopsy to determine if
3 there is anything in her from smoke inhalation if she was
4 breathing at the time of her death. So these are things I'm
5 looking for on scene.

6 Q. And as part of your duty to identify a victim?

7 A. Absolutely.

8 Q. Did you do that in this case?

9 A. I did.

10 Q. How are you able to do that?

11 A. So Investigator Clarke from the Sheriff's
12 Department, often people begin as a Jane Doe or John Doe until
13 we do positive identification. In this case Investigator
14 Clarke was able to pull up her DMV photo on file through the
15 State and showed me the picture and I was able to make a
16 positive identification between her DMV photo and her on the
17 scene.

18 Q. Who did you identify the person as?

19 A. Amanda Peele.

20 Q. Is part of your duty to declare someone deceased?

21 A. Yes, sir.

22 Q. This is perhaps silly, but did you do that in this
23 case?

24 A. Yes, sir.

25 Q. For administratively where does this identification

1 and this declaration of the person's death, where does that
2 occur, in your process?

3 A. It's a case by case basis. Often we go to the -
4 like she was from removed from the scene itself. Sometimes we
5 go directly to the decedent. Sometimes we go do investigation
6 inside the residence beforehand. In this case we did the
7 investigation and then did our assessment with the victim.

8 Q. So at what point did you officially declare her
9 dead?

10 A. The time?

11 Q. Was it on the scene?

12 A. Yes. It was actually on scene.

13 Q. Refresh your memory. You can refer to your report.

14 A. Yes. So I pronounced death at 01:00 hours on
15 October 10th, 2017.

16 Q. Did you go through the residence?

17 A. I did go through the residence with Investigator
18 Woods.

19 Q. What did you see in the bedroom the body was found
20 in?

21 A. Can I use my report?

22 Q. Yes.

23 A. So the residence itself as I articulated in my
24 report was completely destroyed. In the rear right bedroom we
25 located, there was an outline in the bedding which we believe

1 is where the decedent had been removed from. Let's see.
2 There was a small amount of blood on the bedding itself.
3 There was an outline of the body and beside that was an
4 ashtray with numerous cigarette butts, several cigarette butts
5 thrown about the bed itself and there was, due to the severity
6 of the fire, the debris field, it was difficult to make out
7 defects in the bedding. When I say defects, we are looking at
8 irregularities like whether there would have been gunshot
9 wound or where it had gone into the bedding, anything of that
10 nature. So we are looking for any signs of evidence that
11 would correspond with what I see on the body itself.

12 Q. Did you see gunshot wound on Ms. Peele?

13 A. I saw what appeared to be a defect on Ms. Peele.
14 Yes.

15 Q. Where was that?

16 A. I have to look at my report and see exactly but it
17 was about the head area. There were multiple injuries,
18 defects to the left side of the head.

19 Q. Are you sure that was a gun shot wound?

20 A. It was irregular and split. We do not articulate
21 them as gunshot wound. We say there's an irregular defect or
22 wound.

23 Q. Who makes the final determination of cause of
24 death?

25 A. The coroner makes the final determination of cause

1 of death.

2 Q. Is it fair to say that you would identify some
3 possible causes of death?

4 A. Absolutely.

5 Q. Did you notice a single thing that might have killed
6 Amanda?

7 A. There were a couple things that could have killed
8 her. The defect I noticed on the left side of her head.
9 Well, the belt that was around her neck.

10 Q. So once you carried out your investigation on the
11 scene, what are your next steps?

12 A. The next of kin had not been notified then. It's my
13 responsibility to notify the next of kin.

14 Q. Did you do that in this case?

15 A. Unfortunately the next of kin found out via a cell
16 phone call.

17 Q. From you?

18 A. Not from me.

19 Q. Is that proper protocol?

20 A. Not at all.

21 Q. Other than that, were there other steps that you had
22 to take there at the scene?

23 A. Once I got the body removal for transport service,
24 I'm responsible for ensuring that she gets transported or the
25 decedent in this case gets transported to the morgue by

1 transport personnel and then once I have gotten all my
2 investigation done on scene, I'm responsible for generating a
3 report.

4 Q. Do you do further investigation at that point or
5 pretty much report writing?

6 A. If there's more investigating that needs to be done,
7 if I had not the chance to get all the way through the
8 residence, something like that, I need to look a little
9 further into the residence itself, yes, I would stay on the
10 scene and do that. If I feel as though my investigation is
11 complete and all I have to do is write the report itself, then
12 I'll leave the scene and generate the report.

13 Q. Did you talk to people on scene, any lay
14 witnesses?

15 A. I did talk to an individual on scene.

16 Q. Who did you talk to?

17 A. Her name -- I would have have to look at my record.
18 Ms. Gantt I believe is her name. She was a lady that was
19 reportedly, to me, she said that she lived there.

20 Q. Okay. But you talked to her on the scene?

21 A. Yes. I did.

22 MR. EATON: Thank you. No further questions.

23 THE COURT: Ms. Osteen.

24 MS. OSTEEEN: Thank you very much, Your Honor.

25 CROSS EXAMINATION

1 BY MS. OSTEEN:

2 Q. Hi, Ms. Acerra. You told us a little bit about you
3 receive a call generally to attend a scene?

4 A. Correct.

5 Q. But on this instance you heard about it over the
6 radio?

7 A. Heard the call over the radio.

8 Q. Then your supervisor called you to tell you to go?

9 A. He did.

10 Q. But you were already on the scene?

11 A. Was already enroute.

12 Q. Once you got there, Richland County fire was
13 there?

14 A. Fire was there.

15 Q. The Richland County Sheriff's Department was
16 there?

17 A. Sheriff's Department was there.

18 Q. EMS was there?

19 A. Yes, sir.

20 Q. Now, I heard you say on direct that you did a body
21 actualization and that is putting your hands, being able to
22 inspect the body; is that correct?

23 A. Yes, ma'am.

24 Q. With that body visualization you're generally able
25 to determine things like whether rigor mortis set in?

1 A. Yes, ma'am.

2 Q. You're able to determine algor mortis?

3 A. Not a direct temperature but you're feeling of the
4 body for cooling.

5 Q. The cooling properties of algor mortis which
6 essentially in laymen terms is body temperature?

7 A. It is the cooling of the body.

8 Q. Those things as well as investigation on seen those
9 help determine the time of death?

10 A. In ideal situations. Yes.

11 Q. You said ideal situations. Obviously because of the
12 fire this was not an ideal situation?

13 A. Not an ideal situation at all.

14 Q. And obviously the body temperature for algor mortis
15 would be affected by the fire?

16 A. Yes, ma'am.

17 Q. And rigor mortis is affected by the fire?

18 A. Yes, ma'am.

19 Q. And lividity is affected by the fire?

20 A. Yes, ma'am.

21 Q. The pugilistic posture is in response to the fire?

22 A. It is.

23 Q. So based on that you determined time of death more
24 so from investigation in an uncommon situation like this?

25 A. Yes, ma'am.

1 Q. In this case you were told that a witness said there
2 was a gunshot at 7:30.

3 A. I would have to look at my report.

4 Q. Please feel free.

5 A. (Witness complies.) So most of the information that
6 I received came from the responding personnel before I arrived
7 on scene. So the gentleman advised that sometime after 7:30
8 he heard a gunshots from the rear of the residence.

9 Q. Okay. And then he said that he had returned to the
10 house and that's when he saw that Amanda, the decedent, he
11 believed the decedent was in fact dead?

12 MR. EATON: Hearsay, Your Honor. Objection to
13 hearsay.

14 MS. OSTEEEN: Your Honor, response.

15 THE COURT: Can y'all approach please?

16 MS. OSTEEEN: Yes, Your Honor.

17 (Side bar off the record.)

18 MR. EATON: I withdraw the objection.

19 THE COURT: All right.

20 BY MS. OSTEEEN:

21 Q. So going back to that, based on your investigation
22 the witness said that they returned to the house and that's
23 when they believe the victim was dead?

24 A. When he returned to the residence, he mentioned that
25 at the time the individual who was believed to be responsible

1 for this was over the top of the decedent with his knee on her
2 throat with pulling the belt tight.

3 Q. But that he said that he thought that the woman was
4 dead?

5 A. Yes.

6 Q. And he said that then he left the house?

7 A. Correct.

8 Q. And he said that he believed that time was 10:30?

9 A. I don't see it articulated but yes.

10 Q. Read down a few more lines.

11 A. Okay.

12 MS. OSTEEN: Your Honor, if I may approach the
13 witness to help her look at that real quick?

14 THE COURT: Sure.

15 BY THE WITNESS:

16 A. Oh, there it is right there. 22:30. So it said the
17 residence on fire when he left the second time this was around
18 22:30 hours.

19 Q. So he left the house at around 10:30 and the house
20 was not on fire?

21 A. Not on fire.

22 Q. So based on that account is why you set the time of
23 death from between 7:30 and 10:30?

24 A. Correct. Last time known time of being alive and
25 the earliest possible time of death. Yes.

1 MS. OSTEEN: Your Honor, we have no further
2 questions. I don't know if there's any redirect, but we
3 would ask that this witness not be released from the
4 subpoena.

5 THE COURT: Stop. Approach. Don't yell that out in
6 front of everybody. Come up here please.

7 MS. OSTEEN: Yes, Your Honor.

8 (Side bar off the record.)

9 THE COURT: Anything on direct, Mr. Eaton?

10 MR. EATON: Very briefly, Your Honor.

11 THE COURT yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. EATON:

14 Q. Ms. Acerra, why were you not able to determine the
15 specific time of death in this case?

16 A. You're never able to specify or articulate a
17 specific time of death unless it's a witnessed event so unless
18 somebody is standing there over someone and sees them take
19 their last breathe. All of our times are based on our body
20 actualization so like I said before we're looking for
21 scientific means. We're looking at the lividity. We're
22 looking at the rigor mortis. We're looking at the algor
23 mortis. But anytime there's and external factor introduced
24 into the scene, it affects what we're able to determine so you
25 will never see us give you a specific time of death because we

1 can't determine that because the external factors have
2 interfered with our ability to determine by scientific means
3 an actual time of death.

4 Q. So even with what the witness told, you're still not
5 necessarily able to say precisely when she died, right?

6 A. No. We're not.

7 MR. EATON: Thank you. No further questions.

8 THE COURT: Anything further of this witness?

9 MS. OSTEEEN: No, Your Honor. Thank you.

10 THE COURT: You may step down, ma'am. Members of
11 the jury, we will hear from the next witness after lunch.
12 It's here. I said about 1:00. We're four minutes shy of
13 being right on. Please don't talk about this case.
14 Enjoy your lunch. I'm gonna give you an hour. You can
15 eat. You can take a walk. You can eat, too. I wanted
16 to keep y'all out of the weather, but you got an hour.
17 Stay in the jury room. You can take a walk around, but
18 be back ready to go at 2:00, okay? Just don't talk about
19 the case. Thank you all so very much.

20 (Whereupon, the jury entered the jury room for lunch
21 at 12:55 p.m.)

22 THE COURT: Any exceptions or additions? What Ms.
23 Osteen was about to say, and she didn't need to say it in
24 front of everybody, they wanted the witness, Ms. Acerra
25 to stick around for a while. For how long and for what

1 reason?

2 MS. OSTEEN: Your Honor, I don't believe that she
3 need to actually stick around, but we would just like her
4 to be on phone standby for the remaining in case we need
5 to call her as a rebuttal witness.

6 THE COURT: Were you gonna tell the jury that, too?

7 MS. OSTEEN: No, Your Honor. I just wanted to --

8 THE COURT: Relax. Relax. If you need something,
9 just come and tell me up here first.

10 MS. OSTEEN: Sure. Yes, Your Honor.

11 THE COURT: Don't blurt it out. If something is
12 still bothering you on your mind, you think it's
13 mistrialable, you know what I got to do? Call a
14 mistrial. So just be careful. You know, say it to me
15 privately first and we'll take care of it.

16 MS. OSTEEN: Yes, sir.

17 THE COURT: There's no problem. Y'all have a good
18 lunch. See you back at two. Thank you.

19 MS. OSTEEN: Thank you, Your Honor.

20 (Lunch break.)

21 BAILIFF: All rise.

22 THE COURT: Take year seats. Everybody ready?
23 Anything we need to talk about before we bring the jury
24 in? Bring the jury in please.

25 BAILIFF: Yes, Your Honor.

1 A. To appear and testify as the custodian.

2 Q. Did you have a chance to view some records in this
3 case?

4 A. Yes.

5 MR. EATON: May I approach the witness, Your Honor?

6 THE COURT: Seen these?

7 MS. JURICK: No objection. Yes.

8 THE COURT: Okay. Well, let her identify those.

9 That will be what?

10 MR. EATON: This will be State's -- I'm sorry. What
11 number are we on?

12 THE COURT: State's number what?

13 PARALEGAL: 63.

14 MR. EATON: 63?

15 PARALEGAL: Yes.

16 MR. EATON: State's 63 for identification.

17 BY MR. EATON:

18 Q. What are those, Ms. Johnson?

19 A. Call detail records with cell site information as
20 well as subscriber information.

21 Q. What's the number associated with those records?

22 A. 803-201-5645.

23 Q. And what's the time frame in those records?

24 A. October 9th, 2017 through October 10th, 2017.

25 MR. EATON: Your Honor, I would offer State's 63 as

1 a business record.

2 THE COURT: I think without objection. They are
3 records for who? What individual?

4 MR. EATON: T-Mobile. Susan Johnson has given us
5 the phone number for the records.

6 THE COURT: Whose phone?

7 MR. EATON: Amanda's.

8 THE COURT: Who?

9 MR. EATON: Amanda Peele, Your Honor.

10 THE COURT: Okay. I'm sorry. I thought that's what
11 those were.

12 BY MR. EATON:

13 Q. So, Ms. Johnson, could you explain to the jury how a
14 cell phone communicates with a cell tower, please?

15 A. Sure. So what will happen is your phone seeks out
16 the tower with the strongest signal with is not necessarily
17 the closest tower. From there it's transmitted to our switch.
18 Our switch is what records all of the information such as the
19 date, time, duration and the numbers that are being called in
20 or out to. From there it's delivered to a land line company
21 and it's the land line company that actually delivers the
22 call.

23 Q. And what are some of the physical characteristics of
24 a cell tower?

25 A. Characteristics as far as what does --

1 Q. What's it consist of? What does a cell tower have
2 on it?

3 A. So a tower is generally a metal structure that you
4 find out in the field or on top of buildings that have sectors
5 generally three sides on each tower.

6 Q. And what does a sector mean?

7 A. A sector tells us which side of the tower the phone
8 is pinging off of when it makes or receives the phone call.

9 Q. How big is a sector?

10 A. It's a panel. You see them on the towers. It's not
11 that big.

12 Q. So then the physical panel on the tower, does that
13 correspond with a geographic area?

14 A. Correct. So the sector, each sector on the tower
15 covers a certain area which is set by our engineering team.
16 It's the engineering team that turns up the power on that
17 particular sector to give you the coverage.

18 Q. And so could you explain to the jury what sorts of
19 things this call detail record would tell us please?

20 A. Sure. Would you like me to go over each of the
21 columns?

22 Q. If you would please.

23 A. Sure. So starting with the first column on the left
24 it's labeled date. That is the data that the home call or
25 text message was made or received. The next column is time.

1 The records that are kept --

2 THE COURT: Excuse me. Can I ask her to show it to
3 the jury so they can visualize what we're talking about.
4 I'm not telling you what to do, but I think it would be
5 helpful.

6 MR. EATON: Sure.

7 THE COURT: If you hold it up.

8 BY MR. EATON:

9 Q. If you could point to it.

10 A. Sure. So the column labeled time, this is the time
11 that the phone call or text message was made or received.
12 However, the records are in UTC time which is coordinated
13 universal time so you would have to subtract four hours from
14 the time that you see reflected in the records as we were
15 still on daylight savings time. The next column is labeled
16 duration. That's the length of the phone call in seconds.
17 Text messages are always gonna be represented by a 6-0. The
18 next column is labeled call type. Under this column you will
19 find either MTC which stands for mobile terminating call or
20 MOC which is mobile originating call which is an out-going
21 phone call. The next column is labeled direction and that
22 states simply incoming or outgoing. Calling number will tell
23 us who initiated the phone call so if you see the subscriber's
24 phone number listed within that column, that means that they
25 initiated the outgoing phone call or text message. Any other

1 phone number that you see in that column means that it was
2 incoming to the phone. Dialed number, called number and
3 destination number kind of work hand in hand. So, for
4 example, I can have programmed in my phone 555-1212, however,
5 the network is going to put a 1 and an 803 in front of that
6 555 number so it's just simply the way that the network
7 translates the number. Then the next column is labeled IMSI
8 which stands for international mobile subscriber identity
9 number which is the number that's associated with the SIM card
10 that's found in the back of the phone. The next column is
11 labeled IMEI which stands for international mobile equipment
12 identifier and that's the serial number that's associated with
13 the actual phone itself. The next column is labeled
14 completion code and under this column you will find either
15 completed successfully or an abnormal completion. So an
16 abnormal completion would be if somebody was to call and then
17 hang up and the call didn't go through or perhaps a dropped
18 call. The next column is labeled service code. Under this
19 column you will find numbers and letters and we actually have
20 a cheat sheet that translates into what those codes are but
21 generally it's call waiting or caller ID blocked. Then the
22 next series of columns deals with the cell site information.
23 The first column is labeled switch name and that simply tells
24 us which switch carried the phone call. Then the next column
25 is labeled first LTE site ID. If there's any information

1 populated within this column, that simply means that the phone
2 used the latest and greatest technology on that tower which
3 would be 4G. The next column is first LTE sector ID. Under
4 this column it tell us which side of tower that the individual
5 was pinging off of when they made or received a phone call.
6 Then the next two columns work hand in hand which is the first
7 lat and first cell ID. If there's any information populated
8 under this column, it simply tells us that the phone was using
9 2G or 3G technology. The next column is first tower azimuth.
10 This is the degrees of the orientation of that particular
11 sector, so how far out the coverage area would be for that
12 particular side of the tower. Then the next column is labeled
13 first tower lat, and then the next column is labeled first
14 tower long. This is the latitude and longitude as to where
15 the cell site is located so you can take those two
16 coordinates, plug it into a mapping program such as Google
17 Earth and that will give you the location as to where this
18 cell site is located.

19 Q. By cell site, what do you mean?

20 A. Cell tower.

21 Q. Tower?

22 A. Yes.

23 Q. Thank you.

24 A. Then we've got the first tower address, first tower
25 city, first tower state, first tower zip code. And this

1 simply is the physical address to the cell site. It might not
2 be the exact location but it's an address for 911 purposes.

3 Q. Thank you. So all this data in this report then, is
4 that all the activity of that phone in that time period?

5 A. Yes.

6 Q. So what all would that include? What kind of
7 activity on the phone would that include?

8 A. So it would include incoming and outgoing phone
9 calls as well as any text messages.

10 Q. What about data?

11 A. No. Data does not show up on the call detail
12 records.

13 Q. Okay. Does that report show the other numbers with
14 which that phone was communicating?

15 A. Yes.

16 Q. Ms. Johnson, could I test your artistic ability real
17 quick?

18 A. Sure.

19 Q. Would you mind just kind of maybe with this marker
20 and the white paper here show sort of what the sectors of the
21 tower --

22 A. Sure.

23 Q. -- so we can visualize that for demonstrative
24 purposes?

25 A. (Witness complies.)

1 THE COURT: Can I see y'all for one second while she
2 does that.

3 (Side bar offer the record.)

4 BY MR. EATON:

5 Q. Thank you, Ms. Johnson. That's great. What is
6 that?

7 A. This is a sector. It shows how each side of the
8 tower is divided up. So the numbers 1, 2 and 3 would
9 represent 2G, 4, 5 and 6 would be 3G, and then 7, 8 and 9
10 would be 4G.

11 Q. And so this depiction what sort of angle of the
12 tower are we looking at here?

13 A. So 1, 4 and 7 would be northeast, 2, 5 and 8 would
14 be south, and 3, 6 and 9 would be northwest.

15 Q. And so this diagram would be looking down tower,
16 right?

17 A. Correct.

18 Q. Okay. And so in any given direction how far out in
19 the geography would any sector go?

20 A. So that would depend on the particular area and the
21 way that the cell sites were set up.

22 Q. Are you able to make any sort of maximum or minimum
23 determinations on that?

24 A. So the general rule of thumb is coverage area for a
25 sector is a mile to a mile and a half. So I'm from New York

1 and New York City you're gonna find the towers closer together
2 so they only cover every couple of blocks but the general rule
3 of thumb is a mile to a mile and a half.

4 Q. What about an area like -- I don't know. Are you
5 familiar with columbia?

6 A. Not really.

7 Q. What about an area that's sort of hilly?

8 A. So it depends because it's a signal. It's a radio
9 frequency signal so you might find them close together
10 especially in a hilly area because the signal would bounce so
11 they want to avoid the bouncing and put the sectors closer
12 together or the towers.

13 Q. If a number, we see a call on those records, we see
14 a call to a particular number of zero seconds of duration,
15 what does that mean?

16 A. Well, zero duration, I mean, you would see a blank
17 entry under the duration and then you would see an abnormal
18 completion and that simply means that there was an attempt but
19 the call didn't go through.

20 Q. And what are situations that would cause a completed
21 successfully code?

22 A. Completed successfully means that there was some
23 sort of a connection whether it was with a live person or a
24 voice mail, there was some sort of a connection.

25 Q. What about abnormal computation?

1 A. So abnormal completion is what I just explained
2 before which is if somebody was to hang up and the call didn't
3 go through the network.

4 MR. EATON: Thank you, Ms. Johnson. No further
5 questions.

6 THE COURT: Ms. Jurick.

7 CROSS EXAMINATION

8 BY MS. JURICK:

9 Q. As far as the abnormal completion that we were just
10 talking about, I know you said it could be a hang up or a
11 dropped call. Could it also be if the phone was off, if you
12 tried to call when it was turned off?

13 A. If the phone was turned off, no, you would see a a
14 voice mail entry on the records.

15 Q. And then you said something about a text message
16 code.

17 A. Correct.

18 Q. Was that 60?

19 A. Under seconds. Under the duration you would see
20 6-0.

21 MS. JURICK: Thank you. I have no further
22 questions.

23 THE COURT: Anything further of Ms. Johnson?

24 MR. EATON: Not from the State, Your Honor.

25 THE COURT: You may step down, Ms. Johnson.

1 THE WITNESS: Thank you.

2 THE COURT: Call your next witness please.

3 MS. TAYLOR: The State call Michael Szymanski.

4 Thereupon,

5 MICHAEL SZYMANSKI

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

7 THE CLERK: Please have a seat on the witness stand

8 and state your full name for the record.

9 THE WITNESS: Michael T. Szymanski,

10 S-z-y-m-a-n-s-k-i.

11 DIRECT EXAMINATION

12 BY MS. TAYLOR:

13 Q. Good afternoon. Where do you work?

14 A. Columbia fire department.

15 Q. What is your title there?

16 A. Captain.

17 Q. And how long have you worked there?

18 A. 14 and a half years.

19 Q. And describe what your job is, what your role is
20 there at the fire department?

21 A. Basically I'm in a supervisory role. I am in charge
22 of any emergency scene until and unless deemed necessary where
23 a chief would get on scene so medical calls I'm in charge of.
24 The first due unit for like elevator rescues you'll be in
25 charge of certain, you have certain roles in certain incidents

1 that you are in charge of.

2 Q. And being a firefighter is it like on TV? Are you
3 in station where - describe where you like operate?

4 A. Yes. We respond from stations. We have, depending
5 on the area, if you're in the city or in the county you can
6 have anywhere from four people on a truck to two men on a
7 truck.

8 Q. And your unit, how many people are in your unit?

9 A. Four.

10 Q. And how do you - do you have names for your units or
11 classifications?

12 A. Yes. We classify it. Like we have engines, rescues
13 and ladders. I'm on an engine. I'm not at - I was at engine
14 positions on the truck that we have the captain who is in
15 charge, the engineer or senior firefighter is the driver, and
16 then we have two firefighters on the back.

17 Q. So on October 9th, 2017, did you respond to a fire.

18 A. Yes.

19 Q. And what is the address that you responded to?

20 A. 129 Crestmore.

21 Q. If I showed you your report, would it --

22 A. 109 Crestmore.

23 Q. 109?

24 A. Yeah. I mean.

25 Q. Is that in Richland County?

1 A. Yes. It is.

2 Q. How did it get notified to respond to that
3 location?

4 A. Through dispatch. Through our dispatch.

5 Q. And does the fire department have a special kind of
6 dispatch?

7 A. I believe each - there is one dispatch and there's
8 EMS, there's fire, there's Sheriff's Department department,
9 there's Columbia Police Department. I believe they're all in
10 the same area, but certain people work on certain
11 dispatches.

12 Q. Okay. So do you get a call or an alert?

13 A. There's a tone that drops at the station and then it
14 will describe what fire call that we are going to. We also
15 have computers our engines that will give us information of
16 what the call we're going to sometimes, not all the time.

17 Q. What did you know about the fire that you were
18 responding to?

19 A. We knew that it was a house fire. There was
20 possible entrapment. I'm not sure if it was confirmed
21 entrapment but that meant that somebody possibly could have
22 been still inside so when my chief got on scene and confirmed
23 it was a working fire, there was fire coming through the roof,
24 we laid a five inch supply line to the fire and then I did my
25 360 which is a perimeter walk around, confirmed where the fire

1 was while my firefighters stretched a line to the front door,
2 we made entry into the front door and started fighting the
3 fire.

4 Q. What was the condition of the front door when you
5 got there? Did you have to open it?

6 A. The front door was open when we got there.

7 Q. When you get the alert to respond to something, what
8 do you do to prepare to go to that scene?

9 A. Well, it all depends on the call. Like a fire, if
10 it's a fire alarm or a fire we're gonna put on all our
11 fireman's gear, our bunker pants, our jacket, we're gonna put
12 on our air pack and get ready for when we get on scene. We're
13 also, you know, the driver is responsible for knowing the area
14 and knowing how to get to the area and where our water source
15 is.

16 Q. Do you recall what time you received the alert to
17 respond?

18 A. I do not. It was at nighttime I believe.

19 Q. Do you have your report in front of you?

20 A. I do.

21 Q. Can you look at it?

22 A. (Witness complies.) I believe it's 23:54. There's a
23 lot of pages. 23:54 is the dispatch time.

24 MS. TAYLOR: Your Honor, may I approach the witness?

25 THE COURT: Yes.

1 BY MS. TAYLOR:

2 Q. (Indicating.)

3 A. 23:53.

4 Q. So what time did you receive the alarm?

5 A. 23:53.

6 Q. What time did you arrive there?

7 A. 00:01 so 12:01 the next day.

8 Q. So when you got there, were there any other

9 emergency vehicles there?

10 A. Like I said, my chief had responded. He was on
11 scene prior to our arrival and my focus is basically there was
12 fire coming out of the roof so I was going through my tasks so
13 I couldn't tell you if there was anybody else that was on
14 scene.

15 Q. You said fire was coming out of the roof. Was it
16 coming from any other areas of the house?

17 A. Like I said, I had to do my 360. The majority of
18 the fire was coming through or had already burned through the
19 roof so it's not my area of expertise. We just go in and put
20 out the fire.

21 Q. So you went inside the house?

22 A. Yes, ma'am.

23 Q. And what did you do inside the house?

24 A. My guys were pulling ceilings and extinguishing the
25 fires while I was doing, I did a right hand search. I

1 searched the bedroom, the front right bedroom and then the
2 rear right bedroom and that's where I found the victim.

3 Q. Describe the visibility in the house when you went
4 in?

5 A. There was limited visibility but there was some
6 visibility. Probably I would say up to your waist maybe
7 because what happens with smoke and fire it normally it will
8 limit your visibility, but the fire had vented through the
9 roof so there was a little bit more visibility than normal.

10 Q. What about heat. What was the heat like in the
11 house?

12 A. The heat also when basically the roof was burned
13 away so that, you know, there was some heat from the fire
14 itself, but the heat wasn't contained because it was going
15 through the roof. We have protective gear so it wasn't like,
16 you know, it got really hot so.

17 Q. Did any other fire fighters go inside with you?

18 A. Yes. I had two firefighters that were on my engine
19 that went with me. We had another, engine 8, I believe, their
20 captain and two firefighters went in and then ladder 8, their
21 inside crew went in which they were completing a search
22 also.

23 Q. You said that you discovered the body in the
24 house?

25 A. Correct.

1 Q. What did you immediately do when you discovered the
2 body?

3 A. Our protocol and this is what I did is sent an
4 urgent message, said the victim was found. At that time the
5 inside screw from ladder 8 came over and they took over
6 removal of the victim.

7 Q. And was there any difference in conditions between
8 the room you found the body and any of the other parts of the
9 house?

10 A. I couldn't tell you because, I mean, the only area
11 of the house I was in was in the very middle of the house
12 where the fire was at and then these two rooms.

13 Q. Do you remember the condition of the body when you
14 first saw it?

15 A. Uhm, no. I really couldn't tell you. I mean, it
16 looked like -- I couldn't tell how long she had been down so
17 we consider it as viable and that's why we removed the
18 victim.

19 Q. Okay. And did you physically move her along with
20 the other two guys?

21 A. No. I tried to pick up the guilt to try and move
22 her and it came out from my hands and they were there by the
23 time I was trying another means so they took, like I said,
24 they took over victim removal.

25 Q. And after the body was removed, did you stay in the

1 house?

2 A. Yes. I continued to fight fire.

3 Q. And let's talk about some of the procedures that you
4 do as a firefighter. When you're searching a house during an
5 active fire, what are you looking for?

6 A. Victims. I mean, we're normally, we do, I mean,
7 depending on - we go from room to room in a systematic process
8 and, you know, we search closets, underneath beds, on top of
9 beds, any areas that we can as quickly as we can.

10 Q. How many times do you search a house?

11 A. There's two. You do twice. We have a primary
12 search and a secondary search and they're done by different
13 companies.

14 Q. When you discover a body in an active fire, what do
15 you generally presume about the state of that body?

16 A. Like I said, normal we presume it's viable. It's
17 not our job to declare anyone deceased or anything like that
18 so our job is to remove that victim and then let EMS take over
19 and decide if they can revive or resuscitate the victim.

20 Q. And when you say viable, you mean?

21 A. Viable. I mean, like between the fire call and by
22 the time we got there. From what I could tell the skin wasn't
23 coming off or anything like that. You wouldn't - when I
24 grabbed her leg, it still seemed like she wasn't stiff or
25 anything like that so she was able to be moved so again,

1 viable means that she could possibly survive.

2 Q. Based on your observations at the scene, how did you
3 classify the circumstances surrounding this fire?

4 A. Again, that's not my decision. I mean, that would
5 be more of a chief question. We go there. They call us. If
6 there's a fire, we put it out and then we have the fire
7 marshals come in and tell me if it was arson or not.

8 Q. And during your time on the scene, did other
9 agencies arrive?

10 A. Oh, yes.

11 Q. Who arrived?

12 A. Well, again, I was in the middle of doing my
13 processes but I know EMS was there. When I came out of the
14 house I know the fire marshal was called and I know the
15 Sheriff's Department was called.

16 Q. And when you saw the presence of the Sheriff's
17 Department on scene, what did that indicate to you about this
18 fire?

19 A. Possibly could have been criminal.

20 Q. And once you have indication that the location is
21 possibly a crime scene, what do you do to preserve the
22 scene?

23 A. Well, we try to do as little as possible with
24 salvage and overhaul to preserve any evidence that could
25 possibly be inside the house or the fire room or whatever.

1 Q. And how long have you been a firefighter?

2 A. 28 years.

3 Q. That's a long time, correct?

4 A. Yes. It is.

5 Q. And what, if anything, about this particular fire
6 scene stood out to you?

7 A. Well, by the time we got there, it had vented the
8 roof and, you know, by the time we got the call so that either
9 it was burning for a while before we got the call and there
10 was visibility inside. Normally we don't have, we don't see
11 great visibility underneath because normally the smoke is
12 trapped and it banks down so we wouldn't have very good
13 visibility when we go inside and do searches and so forth.

14 Q. And as far as responding to crime scenes where there
15 are victims, is it very common to respond to a fire call that
16 has a potentially murder victim?

17 A. Not -- I mean, it's always a possibility. In my
18 career this is probably the first or second time I have
19 responded to a fire that was a criminal investigation.

20 Q. And when you respond to fires in houses and
21 buildings, do you smell like smoke when you go home?

22 A. Yes.

23 MS. TAYLOR: May I approach the witness, Your
24 Honor.

25 THE COURT: Yes.

1 MS. TAYLOR: Do you have any objections?

2 THE COURT: Well, I assume if they have any
3 objection, they'll let me know.

4 MS. JURICK: No objection.

5 THE COURT: Without objection?

6 MS. JURICK: Without objection.

7 THE COURT: Thank you.

8 BY MS. TAYLOR:

9 Q. I'm gonna show you what's been marked as State's
10 Exhibit 61, 62, 60, 59, 58 and 57 and do you recognize those
11 pictures?

12 A. I do. It's a picture of the bedroom.

13 Q. And does that - do those photos fairly and
14 accurately represent the scene that you responded to on
15 October 9th and 10th, 2017?

16 A. Yes. I would say so.

17 MS. TAYLOR: Your Honor, permission -- The State
18 would like to introduce these exhibits 60, 57, 59, 58, 62
19 and 61 into evidence.

20 THE COURT: I believe Ms. Jurick has looked at them
21 and there's no objection; is that correct?

22 MS. JURICK: That's correct.

23 THE COURT: Without objection. So entered.

24 MS. TAYLOR: Permission to publish it to the jury.

25 THE COURT: Yes, ma'am.

1 BY MS. TAYLOR:

2 Q. So I'm gonna show you what's been marked as State's
3 Exhibit 57. What is that?

4 A. That is the front of the house.

5 Q. Can you show it to the jury?

6 A. (Indicating.)

7 Q. And what is this in the front of the yard?

8 A. The hose line.

9 Q. Was that a hose line that the fire department would
10 have put down?

11 A. Yes, ma'am.

12 Q. And I want to show you what's been marked as State's
13 Exhibit number 58. What is that in the background if you can
14 tell?

15 A. You're talking about the bathroom window?

16 Q. Yeah. Was anything like going up towards it?

17 A. You mean like that?

18 Q. Yeah.

19 A. Is that looks like a screen was pulled out.

20 Q. Does that look like it right here?

21 A. Yeah. That looks like a screen what was pulled out
22 from the window.

23 Q. And then when you did your 360, would you have went
24 to the back of the house?

25 A. Yes. That was done during the fire scenario. That

1 wasn't done prior.

2 Q. Okay. And this also represents the back of the
3 house that you went around?

4 A. Yeah.

5 Q. What about this picture. Do you see anything in
6 this picture? Is that a ladder? What is that?

7 A. That is a ladder.

8 Q. Okay. And is that a ladder that the fire department
9 would have put up?

10 A. Yes, ma'am.

11 Q. And I want to show you what's been marked as State's
12 Exhibit number 62. Can you describe what is in this
13 picture?

14 A. It is a bed.

15 Q. And the room, do you recognize this bed or --

16 A. It looks like the bed that the victim was found
17 on.

18 Q. And this picture right here, same thing?

19 A. Yes, ma'am.

20 MS. TAYLOR: No further questions. Please answer
21 any questions the defense may have.

22 THE COURT: You want to leave the exhibits?

23 MS. TAYLOR: I'm sorry.

24 THE COURT: It's all right. Ms. Jurick.

25 MS. JURICK: I have no questions for this witness.

1 THE COURT: All right. No questions. You may step
2 down, Captain Szymanski. Call your next witness.

3 MR. EATON: The State calls Jerry Nisky.
4 Thereupon,

5 JERRY BRIAN NISKY
6 after having been first duly sworn, testified as follows,

7 THE CLERK: Please have a seat on the witness stand
8 and state your full name for the record.

9 THE WITNESS: Jerry Brian Nisky.

10 MR. EATON: Please the Court, Your Honor.

11 THE COURT: Yes, sir.

12 DIRECT EXAMINATION

13 BY MR. EATON:

14 Q. Mr. Nisky, is that how you pronounce your name?

15 A. Yes, sir.

16 Q. Mr. Nisky, where do you work?

17 A. Richland County Fire Marshal's Office.

18 Q. And what do you do at the fire marshal?

19 A. I'm a deputy fire marshal. Fire inspections and
20 also fire investigations.

21 Q. I'm gonna ask you to move that mic just a little
22 closer to you so everybody can hear you real well.

23 A. Okay.

24 Q. How does the Fire Marshal's Office fit into sort of
25 the agencies of the city and county in emergency services?

1 A. The Fire Marshal's Office is responsible for code
2 enforcement and also fire inspections and fire investigations
3 in Richland County.

4 Q. What do you mean by fire investigation?

5 A. Any time that the Columbia/Richland Fire Department
6 calls for assistance in investigation of origin or cause of a
7 fire in Richland County, then we come out.

8 Q. So does that make you a fire investigator?

9 A. Yes, sir.

10 Q. Do you have training and education in the area of
11 investigating fires?

12 A. Yes, sir. I do.

13 Q. Could you go through some of that please for the
14 jury?

15 A. Yeah. I've got fire investigation class which was
16 in August of 2016 and then also have several quarterly
17 trainings through the Fire Academy and through the South
18 Carolina Chapter of the International Association of Arson
19 Investigators.

20 Q. Are you able to remember all of your certifications
21 and training courses off the top of your head?

22 A. Not off the top of my head. No, sir.

23 Q. Would it refresh your memory to look at your CV?

24 A. Yes, sir. Very much.

25 Q. So I guess first off, how long have you been a fire

1 investigator?

2 A. For three years.

3 Q. And before that, what did you do?

4 A. I was a firefighter at Columbia Fire Department for
5 16 years.

6 Q. How many fires have you responded to?

7 A. Several hundred.

8 Q. Several hundred. And what sort of certifications do
9 you have in terms of being a firefighter and fire
10 investigator?

11 A. I'm a certified OSHA firefighter. I'm also
12 certified through the International Fire Service Accreditation
13 Congress as firefighter one and firefighter two. I also have
14 my ICC which is International Code Council, fire inspector one
15 and I also have a certified fire marshal through the South
16 Carolina Department of Labor Licensing and Regulations.

17 Q. Do you have any professional memberships?

18 A. Professional memberships with the South Carolina
19 Firemen's Association, the South Carolina Fire Marshals
20 Association, and the International Association of Arson
21 Investigators which is the South Carolina chapter which is
22 chapter 33.

23 Q. And I guess you don't have to tell us every single
24 training you have ever done but hit a few high points, please,
25 for the Judge and jury some of your training in arson?

1 A. So basic fire fighting. Also, let's see, principles
2 of fire investigation. Also fire modeling and fire protection
3 systems, how that pertains to fires and hands on electrical
4 fire and arson investigation.

5 MR. EATON: Your Honor, at this point I would that
6 the Court recognize Investigator Nisky as an expert in
7 fire investigation and origin and cause of fires.

8 MS. OSTEN: No objection, Your Honor.

9 THE COURT: All right. Without objection.

10 MR. EATON: Thank you, Your Honor.

11 BY MR. EATON:

12 Q. Investigator Nisky, how did you first come to be in
13 contact with 109 Crestmore?

14 A. Uhm, Investigator Toby Taylor called me on the phone
15 and advised me that we had a fire located at that address and
16 I was asked to come out and assist him.

17 Q. When did you come out?

18 A. Uhm, the night that we got the call. I'm not sure
19 on the exact time. I would have to look at the report.

20 Q. That's fine. It was still at night?

21 A. Yes, sir. At night.

22 Q. And what did you first do when you got there?

23 A. Made contact with Investigator Taylor to determine
24 what we needed to accomplish as far as pictures that needed to
25 be taken, any investigations or what we needed to do for our

1 investigation. We coordinated our efforts with the Coroner's
2 Office, the Sheriff's Department and also with Columbia Fire
3 Department.

4 Q. And how long were you there that night?

5 A. That night we were there for approximately two to
6 three hours.

7 Q. Did you do any additional investigation at the house
8 after that?

9 A. We did. The Richland County Sheriff's Department
10 had a unit on scene the entire night to secure the scene. We
11 went back the next morning approximately 9:00 when we met and
12 started our investigation kind of all over again.

13 Q. And so did you work this case with Toby Taylor?

14 A. I did and with Investigator Guy Hewitt.

15 Q. So were you pretty familiar with the scene?

16 A. Yes, sir.

17 Q. You're familiar with the house?

18 A. Yes, sir.

19 Q. And during your investigation, did you refer to a
20 diagram of the house?

21 A. The diagram of the house is what we would draw after
22 our investigation was complete. It's one of the last steps
23 that we do that would show any areas of origin or any
24 important information that we would need to diagram out.

25 Q. If I can refer to what's been marked for

1 identification as State's 19?

2 THE COURT: Did you show it to them?

3 MR. EATON: Yes, sir.

4 THE COURT: Okay.

5 BY MR. EATON:

6 Q. Do you recognize this?

7 A. Yes, sir.

8 Q. And what's that?

9 A. That is the diagram of 109 Crestmore Drive drawn by
10 Investigator Taylor.

11 MR. EATON I would offer State's 19 into evidence,
12 Your Honor.

13 THE COURT: Any objection?

14 MS. OSTEN: No objection, Your Honor.

15 THE COURT: 19 without objection. That's a diagram
16 of the house you said?

17 MR. EATON: Yes, Your Honor.

18 BY MR. EATON:

19 Q. Investigator Nisky, did you guys also take pictures
20 on scene?

21 A. Yes, sir. I did take pictures.

22 Q. Did you take picture that night or the next day?

23 A. Both. Took initial pictures the night of and then
24 took more pictures the next day.

25 Q. And what sort of things are you looking for when

1 you're walking around an arson scene, fire scene?

2 A. Uhm, we're trying to photo document the contents of
3 the house, the rooms, the condition of the house, fire
4 patterns and anything else that would be important to our
5 investigation.

6 Q. What sort of methodology would you use when you
7 begin looking at a house? Do you have any standards that you
8 use?

9 A. Yes, sir. We try to - we start with the exterior
10 photos of the front of the house where we would make entry and
11 we try to stay in a similar pattern. We typically go
12 clockwise unless there is an obstruction or some reason that
13 we can't go clockwise and then we have to go
14 counterclockwise.

15 Q. Did you do that in this case?

16 A. Yes, sir.

17 Q. I'll approach and show you what's marked as State's
18 20 through 31 and 33 through 45.

19 THE COURT: 33 through 35 you said?

20 MR. EATON: Yes, Your Honor. Through 45, Your
21 Honor.

22 THE COURT: 45.

23 MR. EATON: Yes, sir.

24 BY MR. EATON:

25 Q. Investigator Nisky, could you just flip through

1 those real quick to see if you recognize them?

2 A. (Witness complies.) I do I recognize those.

3 THE COURT: We're gonna take a short break here.

4 The reason is, members of the jury, is I have been around
5 a long time and usually the first hour after lunch is
6 difficult so I'll give you a short break now. Not a long
7 one but a short one to refresh yourselves. Just don't
8 talk about the case. Go to the jury room and we'll bring
9 you back very shortly.

10 (Whereupon, the jury entered the jury room at 2:55
11 p.m.)

12 (Short break.)

13 THE COURT: You ready?

14 MR. EATON: Yes, Your Honor.

15 THE COURT: Bring the jury in.

16 (Whereupon, the jury entered the courtroom at 3:15
17 p.m.)

18 THE COURT: Welcome back members of the jury. Once
19 again, I thank you for your patience and attention. You
20 may continue.

21 MR. EATON: Thank you, Your Honor. Your Honor, I
22 think right when we broke --

23 THE COURT: We just identified the --

24 MR. EATON: Yes, Your Honor. So I was about to, I
25 think Investigator Nisky identified them from the scene

1 and I would offer then State's 20 through 31 and 33
2 through 45 into evidence.

3 THE COURT: In evidence without objection?

4 MS. OSTEEEN: Yes, Your Honor.

5 THE COURT: All right. So admitted.

6 MR. EATON: If the Court will indulge me.
7 Investigator Nisky, I'm gonna put these pictures on this.
8 Your Honor, the defense is aware of the same pictures are
9 here. I think I'm gonna show them on here. So if the
10 witness could step down, Your Honor.

11 THE COURT yes, sir.

12 BY MR. EATON:

13 Q. Investigator Nisky, let's first take a look at --

14 THE COURT: Probably better to get the exhibits,
15 have them in your hand. I assume these correspond with
16 the pictures?

17 MR. EATON: Yes, Your Honor, and I've got them
18 numbered so we can refer to them on the record.

19 THE COURT: All right, sir.

20 BY MR. EATON:

21 Q. Okay. So Investigator Nisky, if we could start here
22 with, so we're currently looking at State's 19, the diagram.
23 If you would, please, orient the jury -- Now, if you touch
24 that, it's a touch screen, but if you would orient the jury to
25 what we're looking at here please.

1 A. So this is the front of the house right here that we
2 would refer to as the Alpha side. The side over here is gonna
3 be your Bravo side. The backyard area, this side right here
4 is gonna be Charlie, and then this right side as you're
5 looking at it right here is gonna be your Delta side of the
6 structure. So everything that we do, we start with the Alpha
7 side of the structure and we work in a clockwise manner so all
8 of our pictures and stuff like that would have been taken in
9 that pattern.

10 Q. And so on this diagram or floor plan, if you will,
11 could you identify the rooms that we see on here please?

12 A. So the room right here, we have a living room, on
13 the Alpha/Bravo corner here we have what is an enclosed garage
14 area.

15 Q. Where is the front door?

16 A. The front door is gonna be these stairs right here.
17 This is gonna be your front door, front porch, living room,
18 enclosed garage. This is a deck off of the back of the house
19 that sits lower than the rear deck right here. You have a
20 dining room, kitchen. That is the bathroom. I apologize.
21 This is your bathroom, closet. This is another hallway
22 closet. Here's your hallway right here going into the
23 bedrooms. Bedroom number 1. This right here is the bathroom
24 for bedroom number 1. Bedroom 2, bedroom 3, closets for each
25 one of them, and then another closet right here. So you have

1 three closets between the three bedrooms.

2 Q. And where was the victim?

3 A. The victim was located on the bed in bedroom number
4 1, so this right here would indicate where the victim was
5 located.

6 Q. And so I see some numbers that are circled. What do
7 those indicate?

8 A. The numbers 1, 2, 3 and 4 indicate four separate
9 areas of origin which would indicate that there were four
10 separate fires or four separate places where the fire
11 originated.

12 Q. How do you identify an area of origin?

13 A. Area of origin, we look at the fire patterns in the
14 room. We look at everything that's in the room, everything
15 that's burned or if anything is burned and we were able to
16 determine with each one -- Let's see -- with number 1 we were
17 able to determine that the bed was one point of origin because
18 of the fire patterns that were observed on the walls and on
19 the bed. Number 2, we were able to determine that that was a
20 separate place of origin due to the amount of damage that was
21 sustained in this closet that was not observed on this, on the
22 bedroom side of the closet. Number 3, we had very little burn
23 damage in that room except for right here where the fire
24 number 3 originated. Number 4, there was a pattern on the
25 wall that we could tell that that was another area of origin

1 because nothing else around it was - you had clean wall on
2 either side.

3 Q. Is there any sort of guideline you use when you're
4 doing an investigation to identify origins?

5 A. Uhm, all of our investigations are based off of NFPA
6 921 and we also use NFPA 1033 which gives us a guideline to go
7 by and also gives us the professional, the qualifications and
8 stuff like that for, that's 1033. 921 gives you the
9 guidelines.

10 Q. And the 921 and 1033, what are those? Tell the
11 jury.

12 A. NFPA 921 is, like I said, it's a guideline. It
13 gives us, it tells us how to conduct our fire investigations.
14 We use what is known as the scientific method where we come up
15 with a hypothesis, we collect evidence and then we test that
16 hypothesis and we come to a conclusion. 1033 gives you like
17 the job performance qualifications for the job of fire
18 investigator.

19 Q. Did you use those standards in this case?

20 A. Yes. They were used in this case.

21 Q. You mentioned patterns. Were there other things
22 that you were looking for?

23 A. Along with the patterns we also looked for the
24 amount of burn, the amount of combustible materials consumed
25 in the areas of origin and throughout the house.

1 Q. That's fine. Let's look through some pictures and
2 here's the first one numerically. Okay. I'm gonna go through
3 these, and this is State's 20. Would you tell the jury what
4 we're looking at in State's 20 and what sort of conclusions
5 you draw from these pictures as an arson investigator?

6 A. Okay. You're looking at the Alpha side of the
7 structure so here's your steps right here leading up to the
8 front door. These are the bedrooms to the right so this would
9 be the Alpha side. This corner over here would be your
10 Alpha/Delta corner of the structure.

11 Q. Let's talk about, which side are we on here?

12 A. We're right here at - we're over on this portion of
13 the house right here.

14 Q. And that was back on State's -- What number is that
15 diagram?

16 A. 19.

17 Q. State's 19 so now we're going back to State's 20.
18 So what do you see at the top of the house there?

19 A. At the top of the house right here you have where
20 you can see that fire, what we call the fire itself has
21 ventilated itself which means the fire had progressed enough
22 to burn through the siding of the house and so you actually
23 had fire coming out right here and then this hole right here
24 is another indication of the, where the fire was and that it
25 burned long enough to consume this material right here and

1 vent through the roof.

2 Q. State's 21.

3 A. 21 is the same side, the Alpha side just zoomed out
4 to see the entire Alpha side of the structure. Again, you
5 still see the fire that progressed out of the attic and come
6 out the front here and then you can see where a better shot of
7 the roof where it consumed and then it vented. This right
8 here is done by the fire department. This is a roof cut to
9 ventilate hot smoke and gases from this portion of the house.
10 That just allows the firefighters that are inside to have
11 better working conditions to be able to see where the fire is
12 and be able to advance in the house.

13 Q. What about State's 22.

14 A. 22 is going to be bedroom number 1.

15 Q. So back on State's 19 --

16 A. The bedroom located on the Charlie/Delta corner of
17 the structure.

18 Q. The bedroom the victim was in?

19 A. The bedroom the victim was in.

20 Q. What did you observe in this room?

21 A. We have a dresser, a bed. Due to the amount of
22 damage to the dresser right here on the corner here and the
23 fact that we have no board right here on the end, this dresser
24 was positioned right here at the foot of the bed right here
25 and you can see, we know that this was here. What we have

1 here is a little bit of a protected area where the fire
2 did not progress because of the dresser, the back of the
3 dresser was up against the mattress right here so the fire
4 didn't have a chance to consume or burn very much right here.
5 It did along the top of the mattress and down the side but not
6 too much right here.

7 Q. Are you able to draw any conclusions from that?

8 A. Uhm, we were able to also by the way the mattress
9 was burned from this top corner some of the patterns on the
10 wall right here you can see, what we look for are V patterns
11 or inverted V patterns which would be, basically what it means
12 is the fire burns up and out. When it burns like that, it
13 creates a V pattern so when you're looking on the wall, what
14 you're looking for is a fire pattern to go this way and to go
15 this way and that's what we have right here in this corner up
16 at the top. The fire progressed up the wall and then hit the
17 ceiling and then progressed down each wall. Due to the amount
18 of damage on the mattress what we also call mass loss which is
19 just the consumption of the materials that that was one point
20 of origin.

21 Q. Looking at State's 23, what's this?

22 A. That's a TV and that is -- I'm not exactly sure what
23 room that was located in, but what this indicates is that
24 there was a lot of heat at this level right here to melt
25 everything and all the components. So basically what you're

1 looking at is the metal frame of the back of the TV
2 which would indicate that the house, at this point where the
3 fire was in the house that it was hot enough to melt and burn
4 all of this away.

5 Q. How about State's 21?

6 A. Looks like a pink lighter. I'm not sure.

7 Q. Would referencing your report refresh your memory on
8 where this was?

9 A. I need the picture before this. Not -- I guess the
10 picture before this in my pictures on my disk.

11 Q. I'll just refresh your memory with this picture
12 here.

13 A. Yes.

14 Q. Can you now determine where that is?

15 A. Yes. This was, this right here is the bed rail of
16 the bed that the victim was found on and this was right next
17 to it.

18 Q. What about State's 25?

19 A. 25 is another picture of the dresser that was
20 located at the foot of the bed. Again, we're looking at the
21 mass loss of this side board right here and then the burn
22 across the top.

23 Q. State's 26?

24 A. 26 is the closet in bedroom number 1.

25 Q. Let's go back to State's 19. Point that out real

1 quick.

2 A. The closet right here, the point of origin number
3 2.

4 Q. So you identified the bedroom as origin 1 --

5 A. Origin 1.

6 Q. -- the bed itself?

7 A. What's that?

8 Q. The bed itself; is that correct?

9 A. Yes, sir. There was a point of origin on the bed
10 was 1. Number 2, the second point of origin that we found was
11 in the closet.

12 Q. So back on State's 26 you're saying that's --

13 A. This is the closet. This right here, this wall that
14 you're looking at with the window, that's gonna be inside the
15 bedroom. This is the closet right here and what we look at is
16 the amount of char. Basically how a piece of wood burns, but
17 the amount of char, the amount of mass loss above it indicates
18 that that is a separate point of origin from origin number 1
19 because we do not have the mass loss nor the charring on
20 anything else on this side, on the bedroom side of the room,
21 of the closet and inside the closet and then up is where we
22 have a lot of burn.

23 Q. So basically you're saying that we just see more
24 damage and burn here than here --

25 A. Correct.

1 Q. -- so it probably started here?

2 A. Yes.

3 Q. What's State's 27 show us?

4 A. That's going to be the living room. Yeah. Living
5 room. This leads to the garage. This hallway right here.
6 And then this would be your dining area.

7 Q. Let's go back to 19 to orient.

8 A. We are - the picture was taken in this direction so
9 you can see the dining room and then you can see this little
10 hallway to the garage.

11 Q. State's 28?

12 A. The Charlie side of the rear of the structure.
13 Again, what we're looking for is we're looking, you're looking
14 at the HVAC unit, the mirror cam where the power meter was, we
15 would look at the HVAC unit outside to determine if fire had
16 originated from the HVAC unit which it did not. We had no
17 visible signs of fire or any burn patterns out here. The gas
18 meter as well. The gas meter appears to have sustained very
19 minimal damage if any, and again on the power meter it's the
20 same, there is no damage there. And this is bedroom number 1
21 right here and then this is the closet area. This is the area
22 where the roof burned out.

23 Q. So on that topic when you a fire investigation, are
24 you looking for evidence that a fire could have been started
25 by gas or electric?

1 A. We are looking for evidence to prove or disprove our
2 hypothesis that we came up with. So we would look at things
3 like weather to make sure that there were no lightening
4 strikes in the area that could have potentially caused the
5 fire. We would look at the mechanical systems of the house so
6 your HVAC, and then we would also look at electrical. We
7 would look at the power, the meter on the outside and we would
8 also look at the breaker panel on the inside and that would
9 give us an indication if one of those component started the
10 fire.

11 Q. Did you look for those things in this case?

12 A. We did.

13 Q. Did you find any evidence of any lightening strikes
14 or gas or electrical, anything that could support that those
15 could have caused the fire?

16 A. No. We were able to rule out HVAC. We were able to
17 rule out electrical. The gas meter we were able to rule out
18 and we were also able to rule out weather.

19 Q. State's 29?

20 A. What you see right there is just a vent from the
21 attic, like a gabled vent. This black stain right around
22 here, all that is is the smoke and heat coming out of the
23 crack right here where the roof and the side of the house meet
24 and that's pretty much what you have here is just a lot of
25 heat and smoke.

1 Q. State's 30, which side of the house is this?

2 A. This is the Alpha/Delta corner of the house. It's
3 gonna be this corner right here.

4 Q. Back on State's 19, which corner is it?

5 A. Be this corner right here looking down this side of
6 the house.

7 Q. State's 31?

8 A. Just a closer view of where we had fire penetrate
9 the side of the house and burn out and up.

10 Q. The same as 30?

11 A. Correct. This is just zoomed in.

12 Q. State's 33?

13 A. 33 is gonna be the bed, the foot of the bed, the
14 foot of the bed in bedroom number 1 where the victim was
15 found. Here is the lighter that we looked at. I don't know
16 what picture that was.

17 Q. The same pink lighter?

18 A. The same pink lighter. This spot right here was
19 found. It was a, uhm, it was a bullet like round and I think
20 we have a picture that's zoomed in.

21 Q. State's 34, what's this?

22 A. That is the bullet that we found when we were
23 digging and, uhm, digging out the scene and trying to get down
24 to the materials first ignited.

25 Q. And so what did you do when you found this bullet?

1 A. At this point we stopped what we were doing and we
2 called the Sheriff's Department Crime Scene Unit to take into
3 evidence the bullet and to continue digging for other
4 evidence.

5 Q. Because when you collect evidence such as a bullet
6 at a fire scene --

7 A. We wouldn't. We would call the Sheriff's Department
8 to collect that.

9 Q. State's 35?

10 A. 35 is the going down the steps into what was the
11 garage area. This is point of origin number 4. The V pattern
12 that I was talking about earlier it kind of goes this way and
13 then this way. It almost looks like a V.

14 Q. Sorry to cut you off. I want to toggle back real
15 quick to 19 to show us, orient us.

16 A. It's point of origin number 4. Here's the stairs
17 and then there's that little storage area right here to the
18 right of the stairs and then it's looking straight down at
19 it.

20 Q. And then back to 35. And you're saying that there's
21 resemblance?

22 A. There's a distinct V coming up from here coming up
23 from this way.

24 Q. What does that tell you?

25 A. That that is the fourth point of origin that we were

1 able to locate.

2 Q. State's 36?

3 A. Just the floor shot with the stairs going down into
4 that garage area.

5 Q. 37?

6 A. The attic space above the garage area to show how
7 the fire progressed through the attic and to also show the
8 amount of burn that was in the attic.

9 Q. State's 38?

10 A. Bathroom. That's gonna be the bathroom right here
11 for bedroom number 1.

12 Q. State's 39?

13 A. Again, a picture of the closet inside bedroom number
14 1, also trying to get a picture of the electrical panel and to
15 also prove or disprove the hypothesis that it was an
16 electrical fire that started in that, or that there was an
17 electrical fire that started in the panel box.

18 Q. So what about that electrical box would tend to
19 prove or disprove that it was an electrical fire versus an
20 intentionally set fire?

21 A. So if it was an electrical fire that had started on
22 the interior, you would not have the amount of damage to the
23 exterior of the box like you do and you would have, you
24 wouldn't have the damage along this post right here where the
25 door was. It would be confined into the wall and you would

1 have more burn up here on the wall than up into the attic.

2 Q. And State's 40?

3 A. The top of the closet. Here is the, this right here
4 is what they call the weather head. This is where the
5 electric supply comes in from the powerline into the house and
6 then this comes down into the panel box and the panel box out
7 is where you would have your breakers and where everything
8 else would go so if it had started right here, this would have
9 sustained more damage than the exterior part of it right
10 here.

11 Q. So back on 22 the bedroom with the victim you
12 identified this as origin number 1. Now, are you necessarily
13 able to say that this was set first?

14 A. No. That was - when we refer to the four points of
15 origin, it does not refer to the chronological order. It
16 refers to, the first one was observed here during our
17 investigation. The second one that we observed was in the
18 closet. The third one in bedroom number 2, the bedroom at the
19 Alpha/Delta corner, and then the one in the garage was the
20 fourth point.

21 Q. But as far as the bedroom goes, you were able to
22 identify both the bed and the closet as points of origin; is
23 that correct?

24 A. Correct.

25 Q. You can retake the stan?

1 A. (Witness complies.)

2 Q. So, Investigator Nisky, after you've gone through
3 the scene, did you use any other technology in this scene in
4 your investigation?

5 A. We did. We used a what we refer to as a multi ray
6 meter which is able to detect the presence of water known as
7 VOC's, which is a volatile organic compound which would be
8 compounds such as gasoline, alcohol, some sort of ignitable
9 fluid. The meter was used on all four points and no readings
10 were detected

11 Q. What do you do with the meter, the multi ray meter?
12 What do you do with it?

13 A. We take it out of the box. We turn it on. We do
14 that in fresh air so it has a chance to calibrate itself to
15 fresh air and then when we determine that we have a point of
16 origin that we believe that there may be some sort of
17 flammable liquid, we take the meter and pass it over that
18 area. The meter itself draws in the air and then the internal
19 workings of the meter I'm not very sure on but that's what
20 tells you there's any sort of reading or any sort of amount of
21 the VOC.

22 Q. And VOC being ignitable fluid, flammable fluid,
23 right?

24 A. It's volatile organic compound, yes, sir.

25 Q. And so using a multi ray meter through this house,

1 did you find any evidence of flammable ignitable --

2 A. No.

3 Q. -- liquids?

4 A. We did not.

5 Q. So what kind of conclusions ultimately did you draw
6 about this fire?

7 A. That this fire was an incendiary fire and that an
8 open flame ignition source was used to light readily available
9 combustible materials in the house.

10 Q. Okay. So break this down for us. You said
11 incendiary fire?

12 A. Which means that it was not - it - we have two types
13 of fire. They're either incendiary or they're accidental and
14 we determined that this was incendiary. It was not
15 accidental.

16 Q. Incendiary then meaning that somebody set it?

17 A. That a person set it. Yes.

18 Q. Okay. And then go to the next part of your
19 conclusion there?

20 A. That they used an open flame ignition source to
21 light the readily combustible materials on fire.

22 Q. What does open flame ignition source mean?

23 A. Any type of ignition source as a match, lighter,
24 some sort of torch.

25 Q. Okay. So it could be a lighter, for example?

1 A. It could be.

2 Q. And keep going with the conclusions.

3 A. Then the conclusion is it was readily available
4 combustible material so it was materials that were on scene in
5 the house such as clothing, cardboard, paper. In the case of
6 the bed the sheets on the mattress and the mattress itself.

7 Q. So to kind of translate your very technical
8 conclusion in lay people terms like myself, you're saying that
9 this was a fire that somebody set with something like a
10 lighter or matches or something that they could light, using
11 just things that were there in the house that could be lit on
12 fire --

13 A. Correct.

14 Q. -- is that correct?

15 A. Yes, sir.

16 Q. Does the ease of multiple sources or multiple
17 origins indicate anything in and of itself to you?

18 A. It indicates that it was an incendiary fire, that it
19 was not accidental.

20 Q. Because if it were accidental, would it be likely to
21 find multiple sources or origin of the fire?

22 A. No. It would not.

23 MR. EATON: Thank you. No further questions.

24 THE COURT: Ms. Osteen.

25 CROSS EXAMINATION

1 BY MS. OSTEEN:

2 Q. So you were able to determine it was arson through
3 your investigation?

4 A. Correct.

5 Q. And one of the reasons you determined that was
6 because there are four points of origin?

7 A. That was one of the - yes.

8 Q. And as you said on direct but just to be clear, a
9 point of origin is where you have determined that a fire has
10 started?

11 A. Correct.

12 Q. And you ruled out that that was attributable to
13 ceiling drop down?

14 A. Correct.

15 Q. And ceiling drop down is when a fire is started in
16 one area of the house and then it moves to another area and
17 debris falls that starts another fire?

18 A. Correct.

19 Q. And you ruled that out?

20 A. Correct.

21 Q. You also were able to rule it out because of natural
22 causes?

23 A. Yes, ma'am.

24 Q. You ruled out electrical?

25 A. Yes, ma'am.

1 Q. And you ruled out the HVAC system causing it?

2 A. Yes, ma'am.

3 Q. So going back during the night you went to the scene
4 the night of the incident?

5 A. Yes, ma'am. I did.

6 Q. And that is when you used the multi ray machine?

7 A. The multi ray machine was used the following
8 morning.

9 Q. Used the following morning?

10 A. Yes.

11 Q. And that's when you determined that no accelerants
12 were used?

13 A. Correct.

14 Q. And so you said that your theory is that an open
15 flame source is what was the cause of that fire?

16 A. Correct.

17 Q. Meaning the readily combustible materials?

18 A. The open flame ignition source was used to ignite
19 the readily available combustible materials.

20 MS. OSTEEEN: You Honor, may I approach the witness?

21 THE COURT: Sure.

22 BY MS. OSTEEEN:

23 Q. I'm looking for those photos. Do you have those?

24 A. (Proffering.)

25 Q. Thank you. So what has been marked as State's

1 Exhibit, I believe it was 44, a picture of the lighter, and
2 that would be considered an open flame source?

3 A. Yes, ma'am.

4 Q. And that was found right beside the bed?

5 A. Yes, ma'am.

6 Q. And you said the bed would be considered the readily
7 combustible material

8 A. It would.

9 Q. Also readily combustible material could be something
10 like clothing or sheets?

11 A. Clothing, sheets. Yes, ma'am.

12 Q. Okay. And now talking about the bed and talking
13 about the bedroom, a bed is considered a heavy fuel load?

14 A. Yes. It's considered combustible.

15 Q. And the idea that there's sheets on it, that it is
16 made of fabric, it would burn fast?

17 A. I would not be able to tell you how fast or slow it
18 would burn. I can tell you that it would burn.

19 Q. All right. And you have classified beds previously
20 as heavy fuel loads.

21 A. Not me personally. No.

22 Q. Okay. Now, that would mean that the bed would burn
23 hot as well, correct?

24 A. It would depend on what the bed was constructed of.
25 Different materials burn hotter, faster, longer than others.

1 Q. And going then to point of origin number 4 which was
2 the fire in the garage?

3 A. Yes, ma'am.

4 Q. You said that that fire, that there was clean walls
5 on either side of that fire?

6 A. Yes, ma'am.

7 Q. And what that means is that the fire didn't get very
8 big?

9 A. That the fire did not get that big in that it did
10 not, there was no fall down as you referred to.

11 Q. Okay.

12 A. That it started at that point and progressed where
13 it did and stopped.

14 Q. Okay. And you're saying that it progressed so it
15 did make markings on the wall?

16 A. I did make markings on the wall. Yes, ma'am.

17 Q. Okay. So when you said on direct that there was
18 clean walls on either side?

19 A. Either side of the burn pattern there was a clean --

20 Q. So it was a very clean markings on the wall?

21 A. Yes.

22 Q. Yes. Okay. Now, when you went to the scene that
23 night -- Well, in your course of your investigation you review
24 the records of the fire department?

25 A. We obtain a copy of the fire report and we review

1 that.

2 Q. And so fire was called out at 11:53 on October
3 9th?

4 A. I don't have the report in front of me so...

5 Q. Would it be surprising to you that it was called at
6 11:53?

7 A. Two years ago. I do not recall what time it was.

8 Q. Okay. Would you like to look at your report, or
9 fire's report to refresh your memory?

10 A. Yes, ma'am.

11 Q. Sure (proffering.) Just refresh your memory. And
12 so confirming that fire was called to the scene at 11:53?

13 A. Correct.

14 Q. And at that point officers and the fire department
15 witnessed heavy flames coming from the ceiling?

16 A. Coming from the roof near the Charlie/Delta
17 corner.

18 Q. Yes. Now, you were notified about the fire and you
19 reported about 12:14 I believe? Just roughly is fine.

20 A. Yes, ma'am.

21 Q. And you joined, is it Investigator Taylor?

22 A. Yes, ma'am.

23 Q. Investigator Taylor there to complete the fire
24 investigation?

25 A. That night, yes.

1 Q. Or to start the fire investigation?

2 A. Yes, ma'am.

3 Q. And then you returned the next morning to do the
4 rest?

5 A. Yes, ma'am. We did.

6 Q. And in the morning it was you, Toby Taylor and the
7 Fire Chief Guy Hewitt?

8 A. Yes. Investigator Hewitt, Szymanski and Taylor.

9 Q. And you surveyed all the house again?

10 A. Correct.

11 Q. And you took pictures?

12 A. Yes, ma'am.

13 Q. And you pulled down the ceiling. Is that considered
14 glaring?

15 A. No, ma'am. We did not pull down anything. The
16 ceilings you're referring to being pulled down was done by the
17 fire department the night of the fire.

18 Q. And that was done just to extinguish the fire. It
19 wasn't done with the purpose of investigation?

20 A. Correct.

21 Q. Okay. Now, at that point as you said on direct when
22 you got there, during your investigation, you said that the
23 fire became a self ventilating fire?

24 A. At some point. Yes, ma'am.

25 Q. And that means that it was hot enough that it burned

1 out some area so it escaped to the oxygen?

2 A. It escaped to the exterior. Yes.

3 Q. Okay. And you also used the term earlier, bear with
4 me for one second, that there was mass loss and this mass loss
5 is when part of the actual structure is burnt? What is mass
6 loss?

7 A. Correct. Mass loss refers to whatever material was
8 ignited and losing its mass compared to the way it was prior
9 to the fire.

10 Q. Previously. And so for the fire to do that it would
11 have to be hot?

12 A. It would have to be hot and burn for a while.

13 MS. OSTEN: And it would have to burn. Okay. No
14 further questions.

15 THE COURT: Any redirect?

16 MR. EATON: Very, very briefly.

17 REDIRECT EXAMINATION

18 BY MR. EATON:

19 Q. To your knowledge was this scene protected or were
20 there officials law enforcement, anybody there between that
21 night and when you all came back?

22 A. Yes, sir. There was. The Sheriff's Department had
23 a deputy sit on the scene until we could come back the
24 following morning.

25 Q. And then as far as the bed in Amanda's bedroom, are

1 you saying that some beds might burn very quickly but yet
2 other beds more slowly?

3 A. Correct.

4 Q. Why would that be?

5 A. It would depend on the materials that they were
6 constructed of. Some of the foams that are used in bedding
7 now burns faster, hotter than others.

8 MR. EATON: Thank you. No further questions.

9 THE COURT: Anything further?

10 MS. OSTEEEN: No redirect, Your Honor.

11 THE COURT: You mean recross.

12 MS. OSTEEEN: Recross. Yes, Your Honor.

13 THE COURT: You may step down, sir. Call your next
14 witness.

15 MR. EATON: The State calls Michael Shuler.

16 Thereupon,

17 MICHAEL SHULER

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

19 THE CLERK: Please have a seat on the witness stand
20 and state your full name for the record.

21 THE WITNESS: Michael Kenneth Shuler.

22 THE COURT: Yes, sir.

23 MR. EATON: Please the Court.

24 DIRECT EXAMINATION

25 BY MR. EATON:

1 Q. Mr. Shuler, where do you live?

2 A. Currently I live in Charleston, South Carolina.

3 Q. And where did you live in October of 2017?

4 A. The Biltmore Apartments right by A.C. Fuller High
5 School.

6 Q. And around October 10th, what were you doing that
7 day?

8 A. Uhm, if that's the day, I was at the river, then I
9 was at the river hanging out with my girlfriend and my dog.
10 We went down there before I had to go to work just to relax
11 and kick back and we met a gentleman down there.

12 Q. That's okay. Where do you work?

13 A. Currently?

14 Q. Back then. You said you were going to your job.
15 Where did you work at that time?

16 A. Oh, Maurice's Barbecue at that point.

17 Q. How old are you, Michael?

18 A. I'm 20.

19 Q. So at the time how old were you?

20 A. 18.

21 THE COURT: Let me ask you, which Maurice's
22 Barbecue.

23 BY MR. EATON:

24 Q. Which Maurice's?

25 A. Elmwood Avenue. The one on Elmwood Avenue.

1 THE COURT: All right.

2 BY MR. EATON:

3 Q. So you're down at the river with your girlfriend.
4 What are y'all doing?

5 A. Just hanging out, feeding the water, teaching my dog
6 how to swim. She was a puppy at that point so...

7 Q. What kind of dog?

8 A. Chihuahua and Jack Russell mix.

9 Q. What was the weather like that day?

10 A. Sunny. Kind of chilly. Not hot, not cold but
11 comfortable.

12 Q. So y'all weren't swimming?

13 A. No. I was not in the water. I just had a bathing
14 suit on, no shirt.

15 Q. About how long had y'all been down there?

16 A. Uhm, in total I would say about an hour, hour and a
17 half maybe.

18 Q. And you said you saw a guy?

19 A. Yeah. When we first got down there, we go through a
20 little beaten path and the guy was under a bridge to the right
21 so I was like, hey, you know, girlfriend at the time let's go
22 over here to the left, mind our own business and, uhm, we did
23 so for about 30 minutes and 30 minutes, you know, 30 minutes
24 after we got there he walks over and, uhm, I met him probably
25 a quarter of the way to where he was. You know, I saw him

1 coming to me so I didn't want him near my girlfriend. He was
2 already - I got a bad vibe from him from the beginning and so
3 I met him on the way to me and he was, hey, you know.

4 Q. Let me stop you there, Michael. Do you see that man
5 in the courtroom today?

6 A. Yes, sir.

7 Q. And could you point him out and actually describe
8 him for the record please?

9 A. He's sitting right here to my left. He's got a
10 beard, glasses, bald head, or goatee, glasses, bald head.

11 MR. EATON: If the record could reflect Mr. Shuler
12 has identified the defendant.

13 THE COURT: All right, sir.

14 BY MR. EATON:

15 Q. So what did he say to you?

16 A. Uh, he came up and he was like, hey, how are you
17 doing? I said good. You? He said, oh, been better and he
18 said my girlfriend just died. I've got two phones here. Uhm,
19 he said I got an old one and a new one and I want to get all
20 the pictures of my girlfriend off of my old phone onto my new
21 one and if I remember correctly, they were rather old phones
22 so I said, well, I'm pretty sure you can just take the SIM
23 card out of your old phone and put it in your new one. I said
24 the time tags and whatnot should transfer over into that new
25 phone and so he did so and tossed the old phone into the river

1 and at that point, thank you so much, and he turned around and
2 walked about his way and within 10, 15 minutes of that
3 happening he got all his belongings together and made his way
4 up to the boarded walk path by the river and at that point
5 that's whenever I heard, you know, U.S. Marshals, get on the
6 ground and whatnot. That's when officers showed up I guess.

7 Q. And then what did you see them do?

8 A. Uhm, I didn't see anything. They came down after.
9 You know, I heard them, get on the ground. Get on the ground.
10 And I was just sitting there. I did nothing wrong so I had no
11 reason to leave so I was just sitting there and they came down
12 and were looking where he was sitting and came up to me and
13 asked, you know, if I had spoken to him and I told them the
14 conversation I just explained to you.

15 Q. And then did more officers come talk to you?

16 A. Uhm, just two. Just two officers.

17 Q. Did you tell them about the phone?

18 A. I did. Yes, sir.

19 Q. And were you able to tell kind of where he threw it
20 in?

21 A. Yeah. I actually found it in the river for them.
22 They were like, where is it? And I said, oh, he just kind of,
23 you know, tossed it like that (indicating) and I took a couple
24 of steps down in the river and I said there it is right there
25 and, uhm, whenever that happened, they kind of looked at each

1 other and laughing because they were in business pants and I
2 was in swim trunks and they said, do you mind getting it out
3 for us? I said no problem. Made sure it was fine. I touched
4 it without a bag or anything so my fingerprints and all that
5 and I got it out for them and then that's when they informed
6 me that she did die. He killed her.

7 Q. How far out into the river was it?

8 A. No more than knee deep. It was - if the water was
9 chilly, I would have probably told them no, any deeper than
10 that.

11 Q. And did he say anything about throwing the phone in
12 the river?

13 A. Who?

14 Q. Mr. Gleaton.

15 A. No. Whenever he transferred the SIM card over, he
16 was just like, you know, done with that, like POS, and kind of
17 disregarded it from it being on his mind at all really.

18 MR. EATON: Your Honor, can we approach real quick?

19 THE COURT: Yes, sir.

20 (Side bar off the record.)

21 THE COURT: So there's no mystery, someone went to
22 get something. They will be back shortly so okay.

23 BY MR. EATON:

24 Q. Did you notice anything about, were you able to
25 smell him by chance?

1 A. Uhm, no, sir. We were outside and I honestly can't
2 remember if he had a shirt on. I know he had some red shorts
3 so I can't recall a smell. No, sir.

4 MR. EATON: Your Honor, that's all I have for this
5 witness right now, Your Honor.

6 THE COURT: All right. Cross examination.

7 CROSS EXAMINATION

8 BY MS. YOUNG:

9 Q. Good afternoon, Mr. Shuler.

10 A. Good afternoon.

11 Q. So you were at the river, right?

12 A. Yes.

13 Q. You had the Chihuahua learning to swim?

14 A. She did. She's still alive so...

15 Q. Good. You said that this man came down and spoke to
16 you. Asked you how a SIM card works. Said his girlfriend had
17 died, right?

18 A. He didn't ask me how a SIM card works. He asked me
19 how to get pictures off of one phone onto another.

20 Q. Because he wanted to save the pictures?

21 A. Right. Of his girlfriend who had recently died is
22 what I was told by him.

23 Q. Okay. And he switched the SIM card out? You
24 watched him do that?

25 A. He took it out. I don't know if he switched it out.

1 I know he took it out of the old phone and as he did that it
2 was kind of, piece of garbage, and tossed it over the shoulder
3 and, you know, he was like thank you. Appreciate it and he
4 went on back to where he was.

5 Q. And you never did see a second phone?

6 A. There was. Oh, yeah. There was two and he had, he
7 was like I got my old phone and my new phone, trying to get
8 the pictures off my old phone onto my new phone. You knew how
9 to do that and they were rather older phones. I said, okay,
10 well, you should be able to take the SIM card out and put it
11 into your new one and everything should transfer over to my
12 knowledge so he took it out and tossed it and, you know,
13 thanks and went about his way.

14 Q. And the reason he gave you is because he wanted to
15 save the photos?

16 A. Right. Right.

17 MS. YOUNG: No other questions.

18 THE COURT: Anything further?

19 MR. EATON: No, Your Honor.

20 THE COURT: All right. You may step down now, Mr.
21 Shuler. Can I see y'all for a minute?

22 (Side bar off the record.)

23 THE COURT: Call your next witness.

24 MR. EATON: The State calls Sean Kilcoyne.

25 Thereupon,

1 SEAN KILCOYNE

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

3 THE CLERK: Please have a seat on the witness stand
4 and state your full name for the record.

5 THE WITNESS: Sean Kilcoyne.

6 THE COURT: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. EATON:

9 Q. Mr. Kilcoyne, where do you work?

10 A. I'm employed with the Richland County Sheriff's
11 Department on the Fugitive Task Force.

12 Q. What are your duties there?

13 A. I'm an investigator for the Fugitive Task Force.
14 I've been assigned to the Fugitive Task Force since the fall
15 of 2014.

16 Q. What do y'all do on the Fugitive Task Force?

17 A. We are assigned to go find people. Generally when a
18 warrant is drawn out for somebody's arrest, that investigator
19 will contact us and have us say, hey, look we're looking for
20 this guy or girl or individual and they'll give us a brief
21 rundown of the case, give us copies of that warrant and then
22 we'll do a research and try to go find that person.

23 Q. How did you first learn about this case?

24 A. My sergeant, Sergeant Britt, he notified me that
25 earlier that morning -- What date was it? It was October

1 10th? So earlier in the morning of October 10th that I guess
2 prior that night there had been an incident that occurred
3 where an individual was killed. They developed warrants in
4 that case and they were forwarded to us, I think he got the
5 email at 5:30 that morning, and then we started developing
6 what we could with that.

7 Q. So what did you do?

8 A. Basically we dug up as much as we could on the
9 person on the fly. We learned that he was possibly aside from
10 living there we learned that he, the defendant, we learned
11 that the defendant was partly transient in nature could have
12 been homeless so basically we kind of canvassed the area as
13 much as we could. We knew that he had ties to the north Main
14 area and kind of basically went out that way putting out
15 feelers to all the many people that have informants in that
16 area, anything we could find out.

17 Q. Did that lead to any information on where he might
18 be?

19 A. Yes, sir. Later that - earlier - later in the
20 afternoon about midday we got contacted from an informant of
21 the narcotics division, Roy -- I can't remember Roy's last
22 name. I apologize. He stated that, hey, that the defendant
23 had approached him early that day at his place of business
24 which was in the downtown Columbia area and went off walking.
25 Like I guess they had spoken at some point and then he left

1 the business in the general direction of towards the river if
2 that makes sense. He said he's going that way. It was all
3 third party to me but he said, look, he went that way. His
4 business was on the Boyle side of Main Street below Elmwood.
5 That kind of gives you an idea of where it's at and kind of
6 like pointed towards the area of the river.

7 At that point we had Lexington County's Fugitive
8 Team assisting us, the City of Columbia's Fugitive Team
9 assisting us, we had our K-9 guys out riding around trying to
10 look for this guy. We had a general description of what he
11 was wearing, and also the City of Columbia had their patrol
12 guys out looking around. We canvassed all the areas from that
13 point up North Main and also towards the Riverwalk. That's
14 kind of like our end point because we know that in the past
15 we've had a lot of guys - basically if you take that
16 Riverwalk, you can go all the way down to Olympia. You can go
17 all the way up to River Drive. You can kind of go anywhere
18 you want to with it. So we canvassed all of the areas, Finlay
19 Park, kind of got all the way to that point. We were meeting
20 up behind the museum, behind kind of like you have the main
21 museum and then Adventure. Below Adventure there's a lower
22 parking lot that leads to Riverwalk. That's when I received a
23 call on my radio. They said, hey, they spotted the defendant
24 under the Gervais Street bridge on the opposite side from
25 where we were at at the museum and kind of relayed that to the

1 City of Columbia and our other task force officers and by the
2 time that I had made it under that bridge, City of Columbia
3 officers and a couple of our task force guys had taken him
4 into custody.

5 Q. And so were you right there on scene when they
6 arrested him?

7 A. Yes, sir. I was maybe 45 seconds behind them.

8 Q. Did you see him?

9 A. Yes, sir.

10 Q. Could you identify him in the courtroom please?

11 A. Yes, sir. He's sitting right there in the blue
12 shirt.

13 MR. EATON: No further questions.

14 MS. JURICK: I have no questions for this witness.

15 THE COURT: All right. Anything further of this
16 witness?

17 MR. EATON: No, Your Honor.

18 THE COURT: You may step down, sir.

19 THE WITNESS: Thank you, sir.

20 MR. EATON: The State calls George Becker, Your
21 Honor.

22 Thereupon,

23 GEORGE BECKER

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

25 THE CLERK: Please have a seat on the witness stand

1 and state your full name for the record.

2 THE WITNESS: George Becker.

3 DIRECT EXAMINATION

4 BY MR. EATON:

5 Q. Good afternoon, Mr. Becker.

6 A. Good afternoon.

7 Q. Tell the jury what you do.

8 A. I work for the Richland County Sheriff's Department.

9 I'm part of the Marshal's Task Force on the fugitive side.

10 Q. Okay. And what were you doing in October of 2017?

11 A. October of 2017 I was in charge of the dive unit and
12 special operations unit.

13 Q. I'm gonna ask you to speak a little closer to that
14 mic if you would please.

15 A. On that date I was in charge of the dive unit and
16 special operations unit.

17 Q. What does the dive time do?

18 A. The dive team recovers evidence and usually recovers
19 bodies.

20 Q. And why were you called out in this case?

21 A. What date is this, sir?

22 Q. Would it refresh your memory to look at a report?

23 A. Yes. November 17th? November 16th? There are two
24 dives in question.

25 Q. There's this one (proffering.) You say there were

1 two dives?

2 A. There is one at Crestmore and there is one on
3 Gervais Street.

4 Q. Here we go (proffering.)

5 A. Yes, sir.

6 Q. So why were y'all called out? What were y'all doing
7 in this case?

8 A. On this particular dive we were called out to try to
9 recover evidence behind a burned out house.

10 Q. Speak up a little bit please.

11 A. We were trying to recover evidence behind a burned
12 out house on Crestmore Drive.

13 Q. Okay. Do you know what kind of evidence you were
14 looking for?

15 A. I believe it was a phone and a gun.

16 Q. And so when y'all are called to a scene like that,
17 what as a person do you do?

18 A. The first thing on a dive we make it safe for
19 ourselves and then we set up the dive area and a search
20 pattern to recover evidence.

21 Q. So is there -- You're saying there's a body of water
22 behind Crestmore?

23 A. There is. It's a small pond.

24 Q. And just kind of describe the pond a little bit for
25 the jury.

1 A. It's a small pond. It's about the size of maybe a
2 football field, a little larger. It's not very big. It's a
3 pretty dirty pond. It's more of a collection pond than
4 anything.

5 Q. And so what did y'all do?

6 A. Basically what he did is we set up a dive and went
7 into the water, started at the shoreline and worked our way
8 out and did a search pattern and tried to recover what they
9 were looking for and we found a lot of items but we didn't
10 find anything that was related to the case.

11 Q. So you tried to find evidence in this pond but you
12 didn't turn up anything?

13 A. Not related to your case. No.

14 Q. And then you said there was another dive scene
15 related to this case?

16 A. Yes. There was.

17 Q. Where was that?

18 A. It was down at the river by Gervais Street.

19 Q. Did you go to that scene?

20 A. I didn't go in the water. I was actually there
21 prior to the dive. I was present.

22 Q. And do you know if anything was recovered at that
23 scene?

24 A. There was a phone recovered at that scene. I don't
25 know if it relates to this case or not.

1 Q. But you didn't dive that scene?

2 A. I did not.

3 Q. Did you dive the pond?

4 A. I did not.

5 MR. EATON: Thank you. No further questions.

6 MS. YOUNG: Your Honor, we have no questions of this
7 witness.

8 THE COURT: Beg your pardon.

9 MS YOUNG: We have no questions.

10 THE COURT: All right. Sir, you may step down,
11 Officer Becker. Members of the jury, we're gonna take a
12 short break to determine how many more witnesses are
13 gonna be called today and how long we may go today. Just
14 don't talk about the case.

15 (Whereupon, the jury entered the jury room at 4:25
16 p.m.)

17 THE COURT: I know you just said a moment ago you
18 had two short witnesses. You said you could call more.
19 How do y'all feel? I'll ask the jury do they want to
20 stop now or continue. But, I mean, do you have anybody
21 else lined up?

22 MR. EATON: We actually don't even have any. Those
23 went so quickly, we don't have anymore line up but I can
24 get somebody here.

25 THE COURT: Why not, Solicitor? Let me ask the jury

1 how they feel.

2 MR. EATON: Yes, sir.

3 THE COURT: You got 13 witnesses in today. That's
4 pretty good. And maybe y'all want to stop. Let me see
5 how they feel. I could tell them it might take us a
6 little while to get another witness. Do they want to
7 just stop now and come back say at 9:00 in the morning
8 maybe, something like that. Is that good? Let me just
9 see.

10 (Short break.)

11 THE COURT: They didn't care. I said come back at
12 9:00 in the morning. They didn't say anything. 13 is a
13 lot of people to get in. Have a good night. Y'all be
14 here at 9:00 in the morning. We probably won't get
15 started until 9:30 or so. Gives you a chance to put
16 anything on the record you need to so good luck to you.
17 See you in the morning.

18 (Whereupon, court was adjourned for the day at 5:00
19 p.m.)

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1 OCTOBER 30, 2019

2 BAILIFF: All rise. Court is now in session.

3 THE COURT: Good morning. Thank you. Please be
4 seated. Is everybody ready?

5 MS. OSTEN: Mr. Gleaton is on his way up we
6 understand.

7 THE COURT: Relax. We're not ready just yet. Is
8 everybody ready? No. I was given a note. Some of the
9 jurors asked to take notes. The answer is no. Listen
10 carefully to the individuals and make a fair decision. I
11 don't think you need notes. Is there anything else we
12 need to take up?

13 MS. JURICK: Your Honor, just as we previously
14 mentioned, I just have for Court's Exhibits --

15 THE COURT: Wait. Slow down. Oh, yeah. Go
16 ahead.

17 MS. JURICK: I think they were 1 through 5 before.
18 They are actually 12 through 16.

19 THE COURT: Did you get that straight. I thought
20 you were gonna work on that during a break?

21 MS. JURICK: That's correct.

22 THE COURT: Is it straight now?

23 MS. JURICK: Yes. It's straight now.

24 THE COURT: Okay. All right. Where is Mr. Eaton?
25 I mean, I don't care. Are you ready to proceed?

1 MS. SAMPSON: Yes, Your Honor. Actually he doesn't
2 have the first witness so that's fine, but while we're on
3 the record, we have given the names of the witnesses --

4 THE COURT: Oh, yeah, yeah, yeah. I'm sorry. Chain
5 of custody.

6 MS. SAMPSON: -- to your clerk and to the court
7 reporter.

8 THE COURT: Did y'all - y'all got the list of State
9 witnesses. Patricia Hart, Jackie Davis, Doris Yarbrough,
10 Chuck Wesley, Crystal Armstrong. They all work for
11 public PD?

12 MS. SAMPSON: So Ms. Hart is Richland County
13 Sheriff's Department. The next two are SLED.

14 THE COURT: 50 and 51?

15 MS. SAMPSON: Yes, sir. And then the last two are
16 with the Coroner's Office.

17 THE COURT: Coroner. Any objections? Anything
18 needs to be put on the record? She knew about these so
19 there's no surprise, no prejudice. Is that fair?

20 MS. JURICK: No surprise.

21 THE COURT: All right.

22 MS. SAMPSON: That's it, Your Honor.

23 THE COURT: All right. Bring the jury in,
24 Mr. Nitsche, please.

25 (Whereupon, the jury entered the courtroom at 9:35

1 a.m.)

2 THE COURT: Welcome back, Mr. Foreman, members of
3 the jury. A couple things. The first one, I received a
4 note from a juror. The note said would it be okay if we
5 take notes and I don't think you will need to take notes
6 in this case. The time honored tradition in this state
7 is the jurors not take notes because if you were to write
8 down a mistake or an error, it would probably be more
9 detrimental rather than helpful during the course of your
10 deliberations. What we've always done is we ask that you
11 listen very carefully individually, then that way at the
12 end of this trial collectively as a group, as a jury I
13 think y'all will be able to make a fair and just decision
14 so we won't let you take notes.

15 Additionally there are five potential witnesses,
16 let's see, one, two, three, four, five, I need to ask you
17 about them. These are what we call chain of custody
18 witnesses and the first would be Patricia Hart, Patricia
19 Hart from the Richland County Sheriff's Department, and
20 the question is gonna be are you related by blood or
21 marriage or connected by employment? Do you know these
22 people? Patricia Hart from the Richland County Sheriff's
23 Department. Jackie Davis and Doris Yarbrough from SLED.
24 Jackie Davis and Doris Yarbrough from SLED. And Chuck
25 Wesley and Crystal Armstrong from the Coroner's Office.

1 I'll repeat those names. Patricia Hart, Sheriff's
2 Department, Jackie Davis and Doris Yarbrough from SLED,
3 Chuck Wesley and Crystal Armstrong from the Coroner's
4 Office. Do you think in any way, shape or form you might
5 know any of these people whose names I just called? If
6 so, please raise your hand or stand.

7 EDNA YARBOROUGH: I just want to say --

8 THE COURT: Yes, ma'am.

9 EDNA YARBOROUGH: I just want to say my last name is
10 Yarborough --

11 THE COURT: What now?

12 EDNA YARBOROUGH: -- and I don't know who that is.

13 THE COURT: First of all, identify - what's your
14 juror number?

15 EDNA YARBOROUGH: 298.

16 THE COURT: And what did you say?

17 EDNA YARBOROUGH: My last name is Yarborough, but I
18 don't know who that is that you called.

19 THE COURT: All right.

20 MS. SAMPSON: We're fine.

21 THE COURT: They're probably not related.

22 MS. SAMPSON: Probably. We're fine with that, Your
23 Honor.

24 THE COURT: Okay. I think you're gonna be okay,
25 ma'am.

1 KATHY BARNES: My number is 306. What if you don't
2 think you know them but then they come in and you --

3 THE COURT: Well, if they come in and you know them,
4 I've got to ask you the questions now that you recognize
5 them, would that or could that affect your decision to be
6 a fair juror. That's the standard question so... You
7 don't know until you see them, but if you see somebody
8 you think you know, if you're not sure, just let me know
9 and we'll cover it, okay? Is that fair enough? I think
10 that covers everything I needed to say.

11 MS. SAMPSON: Yes, sir.

12 THE COURT: And with that in mind, Mr. Foreman,
13 members of the jury, I'll invite the State to call their
14 next witness.

15 MS. TAYLOR: The state calls Yvonne Woods.
16 Thereupon,

17 YVONNE WOODS
18 after having been first duly sworn, testified as follows,

19 THE CLERK: Please have a seat on the witness stand
20 and state your full name for the record.

21 THE WITNESS: Yvonne Woods.

22 DIRECT EXAMINATION

23 BY MS. TAYLOR:

24 Q. Good morning. Where do you work?

25 A. Richland County Sheriff's Department.

1 Q. How long have you worked there?

2 A. 16 years.

3 Q. And what is your job there?

4 A. I'm a crime scene investigator.

5 Q. What are some of the duties of a crime scene
6 investigator?

7 A. We process all scenes from Richland County whether
8 it be for burglary, larceny, homicide, suicides, we process
9 the scenes.

10 Q. When you say process, what kind of things are
11 processed?

12 A. We photograph. We collect and any items that need
13 to be processed there on the scene we process it whether it be
14 black powder, prints and such.

15 Q. On October 10th, 2017 were you involved in the
16 response of incident that we are here for today?

17 A. Yes.

18 Q. And how did you become involved?

19 A. I was called to the scene. I was the crime scene
20 investigator on call at the time.

21 Q. What address did you respond to?

22 A. I responded to 109 Crestmore Drive.

23 Q. And what time did you begin and end analyzing the
24 scene?

25 A. I got the call at 00:55 and I started the scene at

1 on 01:00 and I was out of the scene at 4:00.

2 Q. And 00:55, is that 12:55?

3 A. 12:55.

4 MS. TAYLOR: Your Honor permission to approach the
5 witness.

6 THE COURT: Yes. How many?

7 MS. TAYLOR: 20 pictures.

8 THE COURT: 20 pictures?

9 MS. TAYLOR: Yes, sir.

10 THE COURT: From what to what? What numbers?

11 MS. TAYLOR: 64 to 83. 64 to 83.

12 THE COURT: Oh, 64 to 83. I'm sorry. And there's
13 no objection from the defense having viewed these
14 pictures; is that correct?

15 MS. JURICK: No objection.

16 THE COURT: All right. 64 to 83. The Nationals won
17 last night. I'm so happy. But at any rate, I think
18 we're good. Go ahead.

19 BY MS. TAYLOR:

20 Q. So I want to show you what's been marked as State's
21 Exhibit 64 through 83. Can you please look through those and
22 tell me if you recognize them?

23 A. (Witness complies.) Yes, ma'am. These are the
24 photographs that I took.

25 Q. And do these photographs fairly and accurately

1 represent the incident that you responded to on October 10th,
2 2017?

3 A. Yes, ma'am.

4 MS. SAMPSON: Your Honor, the State requests to move
5 exhibits 64 to 83 into evidence.

6 THE COURT: Without objection.

7 MS. TAYLOR: And permission to publish to the
8 jury.

9 THE COURT: You may do so.

10 BY MS. TAYLOR:

11 Q. And, Ms. Woods, can you please describe -- I'm gonna
12 show you the pictures. But before we look at these pictures,
13 can you tell us who you spoke to when you got on the scene?

14 A. I spoke to the responding officer on the scene.

15 Q. And what other agencies were on scene when you got
16 there?

17 A. The fire department, arson investigators.

18 Q. Okay. And can you please step off the stand?

19 A. (Witness complies.)

20 Q. So what we are looking at right now is State's
21 Exhibit 74. Can you describe what you see in this photo?

22 A. This is the bedroom area that was burned.

23 Q. And this is State's Exhibit number 75. Can you
24 please describe what you see in this picture?

25 A. Another bedroom, items burned.

1 Q. So looking at the bed, do you recall seeing anything
2 about the shape of the sheets that stood out to you?

3 A. It was possibly a body there.

4 Q. And this is State's Exhibit number 68. What are we
5 seeing in this picture?

6 A. That's the thermostat? Yes. That's the
7 thermostat.

8 Q. Is this an indication of the kind of warming or heat
9 damage?

10 A. Heat damage.

11 Q. And this is State's Exhibit number 66?

12 A. Outside at the back at the roof.

13 Q. Is that what that the house looked like when you
14 arrived?

15 A. Yes.

16 Q. State's Exhibit number 65?

17 A. Yes. Fire department there.

18 Q. And State's Exhibit 64?

19 A. The same. It's the front of the house.

20 Q. And did you see where this is coming from, this
21 hose?

22 A. Yes.

23 Q. This ladder, was this from the fire department?

24 A. Yes.

25 Q. And this picture?

1 A. This is the back of the home.

2 Q. What is that in State's 67.

3 A. This is a ladder in the back of the home, fire
4 department.

5 Q. This is exhibit 70. What are we seeing in this?

6 A. That burnt area as well as the sign faith, hope and
7 love.

8 Q. And this is State's Exhibit 71.

9 A. This is the kitchen, the heat, the burn areas as
10 well.

11 Q. And this is exhibit 72.

12 A. The kitchen as well.

13 Q. And this is State's Exhibit number 73. The same
14 kitchen?

15 A. Yes, ma'am.

16 Q. And this is State's Exhibit 69.

17 A. This is the living room.

18 Q. Is this another ladder?

19 A. Yes.

20 Q. And State's Exhibit 76.

21 A. This is the bedroom that had the indentation on the
22 bed.

23 Q. And State's Exhibit 77.

24 A. The same. A closer view.

25 Q. And what is this item?

1 A. This item turned out to be a pillow and it was
2 charred, it was burned and had a pillow case on it.

3 Q. What is it laying on top of?

4 A. It's laying on top of the gurney with cover on top
5 of the body.

6 Q. We were just looking at exhibit number 78. And this
7 is exhibit number 81.

8 A. This is part of the pillow and pillow case.

9 Q. And State's Exhibit number 82.

10 A. The same.

11 Q. And 83.

12 A. The same.

13 Q. And 79.

14 A. Pillow and pillow case. Different view.

15 Q. And I believe this is 80.

16 A. The same.

17 Q. So you said that you photographed the scene. When
18 you were out there, were there any other tasks that you did on
19 scene?

20 A. I photographed the scene and the body.

21 Q. What did you observe on the victim's body when you
22 photographed it?

23 A. Uhm, I observed the belt around her neck and some
24 damage to her head.

25 Q. Damage to her what?

1 A. Her head.

2 Q. Her head. And you mentioned the pillow?

3 A. The pillow was on the outside.

4 Q. Did you speak to, did you take any samples of
5 anything on the scene?

6 A. I collected the pillow and the pillow case and
7 collected a gunshot residue kit.

8 Q. What is a gunshot residue kit?

9 A. A sealed envelope that comes from State Law
10 Enforcement Division and what it has is tubes in it and on the
11 caps it's sticky and you use it to collect any residue from
12 the hands and it will pick up any partials from a gun
13 shooting.

14 Q. Who did you collect gunshot residue from?

15 A. I collected that from Mr. Dukes.

16 Q. Can you describe inbound Dukes' willingness to give
17 you this GSR sample?

18 A. He was very cooperative. He signed the consent.

19 Q. By signing a consent, what does that allow you to
20 do?

21 A. It gives me permission to collect the GSR kit.

22 Q. What did you do with the GSR kit after collecting
23 the sample?

24 A. I packaged it and submitted it into evidence.

25 Q. Describe the steps you go to to ensure that item was

1 secured?

2 A. I took it back to headquarters, placed it into an
3 envelope and done the paperwork on it and sealed it and placed
4 it in evidence.

5 Q. Did you take pictures the entire night?

6 A. Of that area and then I also took pictures at a
7 later time of the pillow and the pillow case.

8 Q. As far as the pillow and pillow case, did you
9 collect that for evidence?

10 A. That is correct.

11 Q. And what steps did you take to secure the pillow and
12 pillow case?

13 A. Once I got the pillow case and the pillow back to
14 headquarters, I placed it to make sure it's completely dried
15 in our forensic drying chamber. Once it's completely dried, I
16 took it out and photographed it again. I also took it out and
17 looked for any evidence that may be in that pillow or pillow
18 case.

19 Q. I'll show you what's marked as State's Exhibit
20 number 84. Can you please open State's Exhibit number 84 and
21 tell me if you recognize what's inside?

22 A. (Witness complies.)

23 Q. So it's very secure?

24 A. Yes, ma'am. Yes, ma'am. I do recognize it.

25 Q. What is in that box?

1 A. This is part of the pillow and pillow case from the
2 scene.

3 Q. And does it fairly and accurately represent the
4 pillow and pillow case that you collected at the scene?

5 A. Yes. It does.

6 MS. TAYLOR: Your Honor, permission to remove
7 State's Exhibit number 84 --

8 THE COURT: Out of the box? Out of the box?

9 MS. TAYLOR: You can take it -- Yes.

10 THE COURT: Is that what you're asking? Any
11 objection to it?

12 MS. JURICK: No objection.

13 BY MS. TAYLOR:

14 Q. And can you please hold up that, show the jury what
15 is this?

16 A. This is the pillow case that was on the pillow and
17 this is part of the pillow.

18 Q. And where was this part of the pillow found?

19 A. This was on top of the gurney when I arrived on
20 scene.

21 Q. Did you document your response to the incident
22 somehow?

23 A. I'm sorry. Repeat your question.

24 Q. How did you document your response in this case?
25 Did you do a report?

1 A. I done a report.

2 MS. TAYLOR: No further questions, Your Honor.

3 Please answer any questions the defense may have.

4 THE COURT: Ms. Jurick.

5 CROSS EXAMINATION

6 BY MS. JURICK:

7 Q. Hi, Ms. Woods. How are you today?

8 A. Good morning.

9 Q. Good morning. I just had a couple questions. You
10 said that you took the gunshot residue kit from Mr. Dukes?

11 A. That's correct.

12 Q. And so you would have filled out the front form
13 about it when it was submitted to the lab?

14 A. That is correct.

15 Q. And your signature would be on it and you fill out
16 all his personal information?

17 A. Yes, ma'am.

18 Q. And this was collected at the scene?

19 A. Yes, ma'am.

20 Q. So there's external factors going on? You were
21 outside in the elements?

22 A. Next to my vehicle. Yes, ma'am.

23 Q. And you also took pictures of the scene?

24 A. Yes, ma'am.

25 Q. Were those interior and exterior?

1 A. Yes, ma'am.

2 Q. Do you remember a vehicle being in the driveway?

3 A. Yes, ma'am.

4 Q. Did you take pictures of the vehicle?

5 A. No, ma'am.

6 Q. Do you know who did?

7 A. No, ma'am. My main concern when I got to the scene
8 was take pictures of the front of the residence. That was my
9 main concern.

10 Q. So you wouldn't be familiar with the vehicle
11 pictures?

12 A. No, ma'am, other than saying what was in my
13 pictures.

14 Q. You were the one that was collecting Samples of
15 things like the pillow at the scene?

16 A. That was correct. That was out of the home.

17 MS. JURICK: I understand. I have no further
18 questions. Thank you.

19 THE COURT: Anything on redirect?

20 MS. TAYLOR: No, Your Honor.

21 THE COURT: You may step down, ma'am.

22 THE WITNESS: Thank you, Your Honor.

23 THE COURT: And I'm sure she wants to leave. Is
24 there any objection?

25 MS. JURICK: No, Your Honor.

1 MR. EATON: We're gonna leave her under subpoena,
2 though, Your Honor.

3 THE COURT: Beg your pardon.

4 MR. EATON: We're gonna leave her under subpoena
5 though, Your Honor.

6 THE COURT: Okay. That's fine. If she needs to
7 come back, she'll accept that invitation. Call your next
8 witness.

9 MR. EATON: The State calls Investigator Bouknight.
10 Thereupon,

11 HAROLD MICHAEL BOUKNIGHT
12 after having been first duly sworn, testified as follows,

13 THE CLERK: Please have a seat on the witness stand
14 and state your full name for the record.

15 THE WITNESS: Harold Michael Bouknight.

16 MR. EATON: Please the Court.

17 THE COURT: Yes, sir.

18 DIRECT EXAMINATION

19 BY MR. EATON:

20 Q. Investigator Bouknight, where do you work?

21 A. Richland County Sheriff's Department, crime scene
22 Investigation unit.

23 Q. And what was your role in this case?

24 A. In this case at that time I was a sergeant in the
25 crime scene unit and I was called to the scene of the incident

1 on Crestmore and responded out there with Lieutenant Richards
2 who was my supervisor at the time and to photograph, document,
3 collect some evidence and search the scene for any additional
4 evidence. When we arrived, I was advised that some items had
5 been located in the scene by the fire department and I went in
6 there carefully and found a .25 caliber unfired cartridge and
7 a pink lighter and photographed those and there was a blue
8 robe and a black light. I photographed those with and without
9 scale marker and collected them and then we searched the scene
10 for a few hours more to try and find any other additional
11 evidence, sifting through debris using metal detectors and
12 things like that and we didn't find any additional evidence.

13 Q. And so there on the scene though did you say there
14 was some things found by the fire there?

15 A. Yes, sir.

16 Q. And what were those things?

17 A. The .25 auto unfired cartridge, a pink lighter and
18 then a blue robe with some stains on it.

19 Q. And did you collect those things?

20 A. Yes, sir. I did.

21 MR. EATON: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. EATON:

24 Q. Investigator Bouknight, will you tell the jury what
25 these are?

1 A. These are the envelopes where I packaged the .25
2 auto unfired cartridge and the pink lighter that was in the
3 bedroom.

4 Q. And as a crime scene investigator, what is your
5 process for collecting evidence generally?

6 A. Generally we will photograph it as we find it. If
7 it's been moved by someone else before then they don't put it
8 back where they think they found it because they're not gonna
9 get it exactly right so we photograph it as it is when we get
10 there and then we use, you've seen them on TV the little tent
11 markers that have letters, numbers, whatever on them, we'll
12 mark them with that so you can identify it within the scene,
13 plus that .25 auto cartridge is gonna be small and in a large
14 room you're not gonna be able to see it in an overall photo
15 but you can see the marker and then we'll photograph a close
16 up photo of it to see if we can identify what is being marked
17 by that marker and then, and we always wear gloves to prevent
18 any cross contamination and collect it and place it manilla
19 envelopes or an evidence bag or a box depending on the size of
20 the item, and then we seal it with evidence tape and initial
21 and date it across the back and across the seal and then it's
22 turned into our evidence and property.

23 Q. Now, I'll approach if I may with what has been
24 marked for identification as State's 87, 88 and 89. Do you
25 recognize those, Investigator Bouknight?

1 A. Yes. I do. They are photographs of the .25 auto
2 unfired cartridge and the pink lighter with the scale markers
3 that I talked about, marker A and marker B. There's close up
4 photographs of them and then some overall photographs of them
5 where they're located within the bedroom.

6 Q. And you took those?

7 A. Yes, sir. I did.

8 MR. EATON: I would offer State's 87, 88 and 89 into
9 evidence, Your Honor.

10 MS. OSTEEEN: No objection.

11 THE COURT: Okay.

12 BY MR. EATON:

13 Q. And would you just show the jury those and state
14 which exhibit they are and just very quickly tell them what
15 they are please?

16 A. Yes, sir. This is a photograph of the bedroom as it
17 was whenever we responded and you can see here item marker A
18 and item marker B and like I said you can't see what it's
19 marking but you can see their location within the bedroom and
20 then here are close up photos of item marker A and item marker
21 B that shows the .25 auto unfired cartridge and the pink
22 lighter here in the debris.

23 Q. And the A for the record is State's --

24 A. 87 and B is State's 88.

25 Q. So going back to the envelopes, did you collect

1 those items in accordance with procedures that you would have
2 as a CSI for collecting evidence?

3 A. Yes, sir. I did.

4 Q. Would you go ahead and show the jury the pink
5 lighter please.

6 THE WITNESS: Your Honor, may I put on some gloves?

7 THE COURT: Yes, sir.

8 BY THE WITNESS:

9 A. (Witness complies.)

10 BY MR. EATON:

11 Q. And that's the pink lighter you collected from the
12 scene?

13 A. Yes, sir. It is.

14 Q. Remind me of the exhibit number on that lighter?

15 A. 85.

16 MR. EATON: Your Honor, I would offer State's 85
17 into evidence.

18 MS. OSTEEN: No objection.

19 THE COURT: Without objection.

20 BY MR. EATON:

21 Q. As to State's 86, the bullet, once you collected it
22 from the scene, what did you do with it?

23 A. This was packaged and turned into evidence.

24 Q. And is that tracked and logged?

25 A. Yes. It is. Whenever it's turned into evidence, I

1 put the date, time on here that I turn it in and whenever the
2 evidence personnel receive it, they put the date and time they
3 receive it and then it's logged into our case management
4 system and then it's given a bar code and any time if it's
5 checked out or anything like that, the bar code is scanned and
6 so its chain of custody is tracked.

7 Q. Do you have an evidence number on that from the
8 county?

9 A. Dot 3.

10 Q. So 3?

11 A. Yes, sir.

12 Q. Item 3?

13 A. Item 3.

14 Q. So, Investigator Bouknight, did you do anything else
15 in this case?

16 A. Yes, sir. I did. I was contacted by Sergeant
17 Carwell and I responded to the Leesburg Road area. There was
18 a duffel bag that had a denim jacket over it and covered with
19 pine straw. He asked me to photograph and collect that and we
20 opened the bag to look inside of it to see what of evidentiary
21 value there would be in there and there was a PlayStation 3,
22 some PlayStation 3 games, a controller, a cell phone, a
23 laptop, and there was a Crown Royal bag with change in it and
24 a knife and I photographed those at the scene and then
25 packaged them up and turned those into evidence.

1 Q. I'm going gonna approach with what's been marked as
2 State's 90. Do you recognize that?

3 A. Yes.

4 Q. What's that?

5 A. The knife.

6 Q. Which knife?

7 A. The knife I saw and collected.

8 MR. EATON: I would offer State's 90 into evidence,
9 Your Honor.

10 THE COURT: Any objection?

11 MS. JURICK: No objection.

12 THE COURT: Okay. In without objection.

13 BY MR. EATON:

14 Q. And then you stated that you collected a wallet; is
15 that right?

16 A. Yes, sir. The wallet was from the original
17 location.

18 Q. The original location meaning?

19 A. Crestmore.

20 Q. The house?

21 A. Yes, sir. 109 Crestmore Drive.

22 Q. So I'll approach you with what's been marked for ID
23 as State's 91. Do you recognize that, Investigator
24 Bouknight?

25 A. Yes, sir. It's the wallet with paperwork and

1 change. The wallet I collected from the location, from 109
2 Crestmore.

3 MR. EATON: I would offer State's 91 into evidence,
4 Your Honor.

5 THE COURT: 91. Any objection?

6 MS. JURICK: No objection.

7 THE COURT: Without objection.

8 BY MR. EATON:

9 Q. Would you go ahead and show that to the jury please,
10 sir?

11 A. (Witness complies.)

12 Q. Is it inside?

13 A. That's it.

14 Q. So, investigator, going back now to the scene where
15 you found the bag, where was that again?

16 A. The bag was located just in the debris.

17 Q. I'm sorry. I'm talking about the other scene, the
18 other scene?

19 A. The second scene?

20 Q. Yes, sir?

21 A. Okay. I'm sorry. It was on the side of the road in
22 a little wooded area.

23 Q. And what road? Roughly where are we talking
24 about?

25 A. It was 3416 Leesburg Road was the closest numerical

1 address we could find.

2 Q. May I approach with State's 92 for identification.
3 Do you recognize this?

4 A. Yes. This is the black bag, the PlayStation 3 games
5 and appears to be the Crown Royal bag of change.

6 MR. EATON: I would offer State's 92 into evidence,
7 Your Honor.

8 MS. OSTEEEN: No objection.

9 THE COURT: Without objection.

10 BY MR. EATON:

11 Q. I'll approach with what's been marked as State's 93.
12 Investigator Bouknight, what is this?

13 A. That's the PlayStation 3 console and the controllers
14 and HDMI cable.

15 Q. And where was this?

16 A. That was in the black bag with the PlayStation 3
17 games.

18 MR. EATON: I would offer State's 93 into
19 evidence.

20 MS. OSTEEEN: No objection.

21 THE COURT: Without objection.

22 BY MR. EATON:

23 Q. I think you mentioned finding a jacket as well?

24 A. On Leesburg Road. Yes, sir. A denim jacket that
25 was over the bag when we found it.

1 Q. I'll approach with State's 94 for identification go
2 ahead and take a look inside there if you would please.

3 A. (Witness complies.) That's the denim jacket I
4 collected over the black bag.

5 MR. EATON: I would offer State's 94 into
6 evidence.

7 MS. OSTEEEN: No objection.

8 THE COURT: Without objections.

9 BY MR. EATON:

10 Q. We're almost done, Investigator Bouknight. I'll
11 approach with State's 95 for identification. Do you recognize
12 this?

13 A. Yes, sir. That's the Acer laptop that was also in
14 the black bag.

15 MR. EATON: I would offer State's 95 into
16 evidence.

17 MS. OSTEEEN: No objection.

18 THE COURT: Without objection.

19 BY MR. EATON:

20 Q. Investigator Bouknight, is that everything that you
21 did in this case?

22 A. The only other thing that I did was collected a blue
23 robe but that was from the scene.

24 Q. I'll approach with State's 96 for identification.
25 Go ahead and look at this please.

1 A. (Witness complies.) This is the blue robe that I
2 collected from 109 Crestmore.

3 MR. EATON: I would offer State's 96 into evidence,
4 Your Honor.

5 MS. OSTEEN: No objection.

6 THE COURT: Without objection.

7 BY MR. EATON:

8 Q. Would that conclude everything that you did in this
9 case?

10 A. Yes, sir.

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

12 THE COURT: Ms. Osteen.

13 MS. OSTEEN: Thank you, Your Honor. Your Honor,
14 just to let you know, I'm going to grab some evidence and
15 look at it real quick.

16 THE COURT: Sure.

17 MS. OSTEEN: Thank you.

18 CROSS EXAMINATION

19 BY MS. OSTEEN:

20 Q. So, Investigator Bouknight, you collected this at
21 the scene?

22 A. Yes, ma'am.

23 Q. Did you look through it?

24 A. No, ma'am.

25 Q. Were you able to identify whose it was?

1 A. No, ma'am. It was charred and melted.

2 Q. Okay. So then you don't - would - if we look at the
3 contents of it and the identifiers are Amanda's?

4 A. Okay.

5 Q. And you said earlier that you took pictures at the
6 scene?

7 A. Yes. I did.

8 MS. OSTEEN: Your Honor, if I can approach?

9 THE COURT: Yes.

10 BY MS. OSTEEN:

11 Q. Do you recognize these photos?

12 MS. OSTEEN: Your Honor --

13 THE COURT: Well, let him take a look at them. I
14 would assume you both have them.

15 MS. OSTEEN: They are from them but he can --

16 BY THE WITNESS:

17 A. I don't.

18 BY MS. OSTEEN:

19 Q. You don't recognize those?

20 A. No, ma'am.

21 Q. Did you look outside of the scene?

22 A. The only thing I did outside of the scene was
23 photograph my approach to the house.

24 Q. And that would be through the driveway?

25 A. Through the front yard.

1 Q. Okay. Did you recognize that there were cars in the
2 driveway?

3 A. Not at that time. I don't remember.

4 Q. Okay. As a scene investigator is it your job to
5 survey the scene?

6 A. Typically. Yes, ma'am.

7 Q. And you look at every place that could have been
8 influenced or affected by the incident?

9 A. Yes, ma'am.

10 Q. So if there were, was evidence collected at the
11 scene, you should have seen it?

12 A. If I collected evidence at the scene, it would have
13 been photographed.

14 Q. And if there was evidence at the scene, you would
15 take pictures of anything that was important at the scene?

16 A. Anything that I observed and noticed and as
17 evidence, yes. I would photographed it.

18 Q. And if somebody else had noticed something, would
19 you have been alerted to it or potentially not?

20 A. If it was while I was at the scene, then they would
21 typically let me know.

22 MS. OSTEEN: Okay. Thank you. No further
23 questions.

24 THE COURT: Anything on redirect?

25 MR. EATON: Very briefly.

1 REDIRECT EXAMINATION

2 BY MR. EATON:

3 Q. So now were you at the scene the following day or
4 the night of the incident?

5 A. The next day or the morning after it had occurred.

6 Q. So you were not the only investigator on scene,
7 right?

8 A. Correct.

9 Q. And you were not the only crime scene investigator
10 on scene, correct?

11 A. Correct.

12 MR. EATON: Thank you. No further questions.

13 THE COURT: Anything further?

14 MS. OSTEN: No recross. Thank you, Your Honor.

15 THE COURT: You may step down, Officer Bouknight.

16 MS. SAMPSON: The State calls Franklin Rainsford.
17 Thereupon,

18 FRANKLIN RAINSFORD

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

20 THE CLERK: Please have a seat on the witness stand
21 and state your full name for the record.

22 THE WITNESS: Investigator Franklin Rainsford,
23 R-a-i-n-s-f-o-r-d.

24 DIRECT EXAMINATION

25 BY MS. SAMPSON:

1 Q. Investigator Rainsford, where do you work?

2 A. The Richland County Sheriff's Department.

3 Q. What do you do there?

4 A. I'm a crime scene investigator with the forensic
5 science unit.

6 Q. And as a crime scene investigator, what exactly do
7 you do?

8 A. A variety of things. I will respond out to scenes
9 anywhere from ab aggravated assault, burglary, homicide,
10 suicides and at times I'll also attend autopsies when
11 needed.

12 Q. And does your duties change depending on the case or
13 are they the same every time? What you do, does it change
14 with the scene and what you're investigating or is it the same
15 every single time?

16 A. It kind of depends. I mean, I do, if I respond to a
17 burglary, I have a set pattern, a set protocol that I'll
18 follow, methodology that I use to process the scene, same as
19 an autopsy. I have a methodology that I follow.

20 Q. And that's what I meant.

21 A. Yes, ma'am.

22 Q. And what you do depends on what the scene is or the
23 crime is, fair to say?

24 A. Yes, ma'am.

25 Q. Okay. And so how did you become involved in this

1 case?

2 A. I was assigned to attend the autopsy of Amanda
3 Peele.

4 Q. And is that one of your typical duties?

5 A. Yes, ma'am.

6 Q. And what did you observe during the autopsy?

7 A. I observed that the body bag was sealed with tag
8 0001259 and inside the victim.

9 Q. And did you observe any injuries to the victim?

10 A. Yes, ma'am. The victim had a severe burn, or had
11 burns on her upper body and legs.

12 Q. Okay. And did you see any other burned items in the
13 autopsy?

14 A. Yes, ma'am. Inside the body bag there was also a
15 partially burned pillow.

16 Q. And did the victim have any jewelry?

17 A. Yes, ma'am. I received a yellow metal ring from Dr.
18 Durso who is the pathologist in this case.

19 Q. And what about any clothing or anything like that?

20 A. I also received a black belt, a yellow metal ring
21 and a pillow from Dr. Durso in change of custody.

22 Q. And you talked earlier about her burns. Did you see
23 any other additional injuries to the victim?

24 A. The black belt was around the victim's neck at the
25 time and I observed an injury to the victim's left eye, two

1 injuries to the upper side of her torso and another injury to
2 the right side of her abdomen.

3 Q. And is it your job to determine where those injuries
4 come from?

5 A. No, ma'am. I'm simply there just to document
6 everything. More the nature of the injuries would come from
7 the pathologist.

8 Q. And what, if any, kind of bullet or projectile did
9 you receive?

10 A. I received a projectile that was recovered from the
11 lower back.

12 Q. I'm going to show you what's been marked as State's
13 Exhibit 102 and ask if you recognize this? Do you have
14 gloves? Sorry. Before you open it, I'll just ask do you
15 recognize what that is?

16 A. Yes, ma'am. This is the sealed package with my
17 initials across the evidence tape. This would be the black
18 belt that I collected, that I received.

19 Q. And how do you know that you received that, that it
20 has not been changed or anything?

21 A. I have the original tape that I put on there, my
22 initials and the date on there as well as this is my evidence
23 label that I attached to this package.

24 MS. SAMPSON: At this time I would ask to introduce
25 State's Exhibit number 102 into evidence.

1 MS. OSTEEEN: Without objection.

2 THE COURT: Without objection.

3 BY MS. SAMPSON:

4 Q. Since you have gloves on, can you open that?

5 A. I do not.

6 Q. I'm sorry.

7 A. (Witness complies.)

8 Q. While you're doing that, this evidence, it's kept in
9 the same condition as when it was collected, correct?

10 A. Yes, ma'am.

11 Q. And is that the belt that you collected at
12 autopsy?

13 A. Yes, ma'am.

14 Q. Again, where was that belt?

15 A. It was found around the victim's neck.

16 Q. And I'm going to show you what's been marked as
17 State's Exhibit 103 and ask you if you recognize it
18 (proffering)?

19 A. Yes, ma'am. This is the piece of pillow that was
20 collected from within the body bag. It's partially burned
21 still and all the seals that I sealed it with which are still
22 intact.

23 Q. So has it - you can tell that's what you did. Has
24 it been changed in any way?

25 A. No, ma'am.

1 MS. SAMPSON: At this time, Your Honor, I ask to
2 introduce State's Exhibit number 103 into evidence.

3 MS. OSTEEN: No objection.

4 THE COURT: Without objections.

5 BY MS. SAMPSON:

6 Q. You can just kind of pull it up so everybody can see
7 it.

8 A. (Witness complies.)

9 Q. And is that in the same condition more or less that
10 you found it?

11 A. Yes, ma'am.

12 Q. State's Exhibit 104 and 105.

13 MS. OSTEEN: Your Honor, I think we need to take up
14 something outside --

15 THE COURT: Don't run on. Y'all come up front
16 please.

17 (Side bar off the record.)

18 THE COURT: Overruled.

19 MS. OSTEEN: Your Honor, I need to put that
20 objection on the record.

21 THE COURT: That's right. Go to the jury room.
22 Don't talk about the case. There's a jury issue and a
23 matter of law I can't take up in your presence.

24 (Whereupon, the jury entered the jury room at 10:30
25 a.m.)

1 THE COURT: All right. I couldn't quite hear you at
2 first at all. This is the ring of the deceased?

3 MS. OSTEEEN: Yes, Your Honor. It's --

4 THE COURT: And your objection is what?

5 MS. OSTEEEN: My objection is the ring is more
6 prejudicial than probative. It is a ring that identifies
7 her five children on it. There is no question as to
8 Amanda Peele's identity in this case. We are not
9 challenging that. We do not challenge that the woman
10 that Investigator Rainsford was looking at was Amanda
11 Peele. This does not add to that narrative in any way.
12 All it can do is prejudice the jury to thinking about
13 motherhood.

14 THE COURT: I disagree totally. Over your objection
15 the ring will be admitted.

16 MS. SAMPSON: Yes, Your Honor. And just for the
17 record it's 105.

18 THE COURT: It's like, how about a pair of shoes or
19 something else. It's a ring. That comes in. Let's take
20 a short break.

21 (Short break.)

22 THE COURT: Mr. Nitsche, you can invite the jury to
23 come back in please.

24 BAILIFF: Yes, Your Honor.

25 THE COURT: Welcome back members of the jury. Are

1 y'all comfy? Y'all chilly? You want me to turn the heat
2 up, or are y'all all right?

3 (Jury: We're fine.)

4 THE COURT: Y'all are fine. Okay. Just wanted to
5 check and make sure. Ms. Sampson, you may continue.

6 MS. SAMPSON: Thank you, Your Honor. May it please
7 the Court.

8 BY MS. SAMPSON:

9 Q. When we broke, investigator, you were - I was asking
10 you to look at State's Exhibits 104 and 105. Starting with
11 104 what is that?

12 A. 104?

13 Q. Yes, sir.

14 A. Item 104 is the projectile collected from the lower
15 back and 105 is the yellow metal ring.

16 Q. So starting with 104, is it in the same condition as
17 when you collected it in 2017?

18 A. Yes, ma'am. It has my initials on the back and my
19 evidence label that I have applied to the package.

20 Q. And 105. Same question. Is it in the same
21 condition as it was in 2017?

22 A. Yes, ma'am. It has my initials across the seal and
23 my name evidence label.

24 MS. SAMPSON: Your Honor, at this time we would ask
25 to introduce State's Exhibit 104 and 105 into evidence.

1 THE COURT: What do you want in evidence?

2 MS. SAMPSON: 104 and 105. 105 was the one that
3 there was an objection to.

4 THE COURT: Okay. The objection is noted. And
5 what's the other one? Any objection to the second one?

6 MS. OSTEN: No.

7 THE COURT: Okay. I think you're covered, Ms.
8 Osten. All right. They're in.

9 BY MS. SAMPSON:

10 Q. So starting with 104, can you tell the jury what
11 this is? You don't have to open it.

12 A. The projectile collected from the lower back.

13 Q. And what do you do with that once you collect it?

14 A. When I received it via chain of custody at autopsy,
15 I package it in these little envelopes, transport it back to
16 headquarters and submit to evidence and property where it will
17 be disseminated to in this case the firearms.

18 Q. And this projectile was found in the victim?

19 A. Correct.

20 Q. And then 105, and again, you don't have to take it
21 out but what is it again?

22 A. This would be the ring from the left hand.

23 Q. Of the victim?

24 A. Yes, ma'am.

25 Q. I'm gonna take it out. Is that the ring?

1 A. Yes, ma'am.

2 Q. So now I'm going to show you some photographs.

3 These are State's Exhibit 97 through 101. Don't show them to
4 the jury, but can you look at them first and tell me if you
5 recognize them?

6 A. (Witness complies.) It appears to be partially
7 burned fabric.

8 Q. Do you remember taking those photographs?

9 A. No.

10 Q. Okay. Then I won't bother you with those right now.
11 Once you collect all the evidence from autopsy, what do you do
12 with it?

13 A. It's packaged and then I bring it back to
14 headquarters, seal it with evidence tape and then submit all
15 items to evidence and property.

16 MS. SAMPSON: Thank you. No further questions, Your
17 Honor. Please answer any questions the defense may
18 have.

19 THE COURT: Ms. Osteen.

20 CROSS EXAMINATION

21 BY MS. OSTEEN:

22 Q. Did you take any pictures at the scene?

23 A. At the autopsy?

24 Q. No. At the scene at 109 Crestmore?

25 A. No, ma'am.

1 MS. OSTEEN: We have no further questions of this
2 witness.

3 THE COURT: Any further of this witness?

4 MS. SAMPSON: No, sir.

5 THE COURT: You may step down, sir.

6 MR. EATON: The State calls Harry Coulter.

7 Thereupon,

8 HARRY COULTER

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

10 THE CLERK: Please have a seat on the witness stand
11 and state your full name for the record.

12 THE WITNESS: Harry Alan Coulter.

13 MR. EATON: Please the Court.

14 THE COURT: Yes, sir.

15 DIRECT EXAMINATION

16 BY MR. EATON:

17 Q. Good morning, Mr. Coulter.

18 A. Good morning.

19 Q. Mr. Coulter, I'm gonna ask you to kind of speak
20 right into this mic if you can please, sir.

21 A. All right.

22 Q. Mr. Coulter, where are you from?

23 A. Pelion.

24 Q. Pelion?

25 A. Yeah. That's where I'm living now.

1 Q. Who was Amanda to you?

2 A. She was my granddaughter.

3 Q. Where did Amanda grow up?

4 A. She grew up in Columbia.

5 Q. And were you part of her life when she was growing
6 up?

7 A. Yes. I was.

8 Q. Did you move in with Amanda at some pint?

9 A. Yes, sir. We did.

10 Q. When was that?

11 A. That was -- I'm not sure. I think it was about the
12 last part of January of -- I've got to think.

13 Q. Yes, sir. No problem.

14 A. Uhm, 2016, I think.

15 Q. And where did you move in with her?

16 A. Where?

17 Q. Where was the house?

18 A. Oh, it was -- I can't remember the address.

19 Q. Was it 109 Crestmore?

20 A. Right. That's it. Yeah.

21 Q. And so you said that was you think January of
22 2016?

23 A. Somewhere around there. The last part of January or
24 February or one. I can't really remember right now.

25 Q. That's fine.

1 A. There's a whole lot going on.

2 Q. Yes, sir. Was it just you?

3 A. It was me and my wife.

4 Q. What's your wife's name?

5 A. Laura Coulter.

6 Q. Is your wife still with us?

7 A. No. She - she -- I lost her last year.

8 Q. I'm sorry. So how long did you and your wife live
9 with Amanda?

10 A. Around six to eight months I believe it was.

11 Q. And during that time did Kenneth Gleaton move in?

12 A. Yeah.

13 Q. And how long did y'all live there while Kenneth
14 Gleaton lived there?

15 A. It was probably about six months at least.

16 Q. And do you see Mr. Gleaton in the courtroom today?

17 A. Yeah. Right there (indicating.)

18 Q. What's he wearing?

19 A. Wearing a black jacket and a white shirt.

20 MR. EATON: If the record could reflect he's
21 identified the defendant.

22 THE COURT: All right, sir.

23 BY MR. EATON:

24 Q. So how did it come about that you all left Amanda's
25 house, you and your wife?

1 A. Well, actually, she kicked us out.

2 Q. Why was that?

3 A. She was having some problems with -- She thought
4 that we - she thought that my wife had called DSS on the
5 children and it kind of upset her so she told us to leave.

6 Q. Did y'all call DSS?

7 A. No. No. We didn't.

8 Q. Mr. Coulter, at some point in your life have you
9 owned a handgun?

10 A. Yes. I did.

11 Q. How many handguns have you owned?

12 A. Just one only. This is the only one.

13 Q. Only one?

14 A. Yeah.

15 Q. When did you get this handgun?

16 A. I bought it from my son-in-law about 30 years ago.
17 I think it was around '91.

18 Q. Who is your son-in-law?

19 A. Yeah. Killian. God, I can't -- I'm sorry.

20 Q. That's okay, Mr. Coulter.

21 A. John Killian.

22 Q. John Killian. And he's your son-in-law through
23 who?

24 A. Through -- I don't know.

25 Q. That's okay. So is he married to your daughter?

1 A. Yeah. Yeah.

2 Q. Which daughter?

3 A. Oh, my oldest daughter Marie.

4 Q. Okay. How many children do you have?

5 A. I have, well, two. I did have - I lost Marie last
6 year, too.

7 Q. I'm sorry. But then was it before you lost Amanda?
8 I guess Amanda is your granddaughter. Okay. So the gun you
9 got from your son-in-law who had been Marie's husband; is that
10 correct?

11 A. Right.

12 Q. Okay. How long did you have the gun?

13 A. I had it about probably about 30 years.

14 Q. What kind of gun was it?

15 A. It was a Raven .25.

16 Q. What did it look like?

17 A. It was silver with a black wooden handle. Not
18 black. A brown wooden handle.

19 MR. EATON: May we approach, Your Honor?

20 (Side bar off the record.)

21 THE COURT: Members of the jury, you need to go to
22 the jury room. Don't talk about this case.

23 (Whereupon, the jury entered the jury room at 11:00
24 a.m.)

25 THE COURT: All right. The State proposes to

1 introduce not the gun, the murder weapon was never
2 recovered, but a similar gun or the same type of gun and
3 you object?

4 MS. YOUNG: Yes, Your Honor, and I object.

5 THE COURT: Basis.

6 MS. YOUNG: Rule 403. I don't think it's relevant
7 to anything. He can describe what the gun looked like.
8 He can describe the manufacturer, if he remembers. He
9 can tell all of that to the jury. This picture doesn't
10 do anything except make it prejudicial. They never found
11 the gun and this picture gives the idea that this is the
12 gun that was used.

13 THE COURT: I disagree. The gun goes in over your
14 objection.

15 MS. YOUNG: Thank you, Your Honor.

16 THE COURT: I think the probative value outweighs
17 any prejudice. This is the type gun he had. Now, I'm
18 sure at some point in time a .22 - a .25 caliber slug was
19 taken from the victim's body. Anything further?

20 MS. YOUNG: Just briefly, Your Honor.

21 THE COURT: Go ahead.

22 MS. YOUNG: My boss told me that I did not make it
23 clear that this is not a photo of the actual gun. It's a
24 photo of --

25 THE COURT: He's gonna set that up. That's what we

1 discussed up here. I think I said that, right? It's not
2 the actual gun. It's a similar gun. Maybe same type of
3 model. I don't know.

4 MR. EATON: I'll make that clear, Your Honor.

5 THE COURT: Okay. That's fine. Just relax. We all
6 got our jobs to do and I think you've done yours.

7 MS. YOUNG: Thank you, Your Honor.

8 THE COURT: Well, let's give them a chance to go to
9 the bathroom. Let's give them another five minutes.
10 This is okay, folks. Y'all got a job to do. I
11 understand that. Don't worry about it. If you think you
12 need to object, you object. That's your job so...

13 MS. YOUNG: Yes.

14 MR. EATON: Judge, while they are out, if we want to
15 take up the issue of this video from Roy's phone of the
16 conversation where he admits to burning the house down so
17 --

18 THE COURT: Let me help you out. It only goes in
19 through Roy, the witness, right?

20 MR. EATON: I think so, Your Honor.

21 THE COURT: And he's not here, right?

22 MR. EATON: I think he needs to say that's me and
23 him on the video.

24 THE COURT: Yeah.

25 MR. EATON: And I think -- But I was gonna present

1 it to Clay Short and not submit it or play it at this
2 point but show --

3 THE COURT: Well, let's just wait until the witness
4 gets here. Is there an issue? You tell me.

5 MR. EATON: Well, just because they brought up sort
6 of digital history of the thing, I was gonna show it to
7 the investigator who got it via AirDrop, not submit but
8 just say how did you receive it.

9 THE COURT: Wait until the witness gets here. Get
10 it in through him, this video. He can identify it. Go
11 ahead.

12 MS. SAMPSON: Here's our only concern, Your Honor,
13 if they're arguing about chain, we'll have to put all
14 these witnesses back up again afterwards since he's not
15 gonna be here until Friday so we're just trying to get
16 the chain of custody of the --

17 THE COURT: Y'all discuss this. You can't work it
18 out, I'll make a decision. I don't care one way or the
19 other. Do y'all understand that? I don't have a dog in
20 this fight. Now, I'm gonna make it easy on everybody.
21 So you want to say this is a video that so and so made
22 who's not here? I don't know. You tell me.

23 MR. EATON: That you collected from Roy and I'm only
24 doing that because this digital history has come up.

25 THE COURT: Okay. What if it doesn't come in?

1 MR. EATON: I mean, Your Honor, it's like any other
2 piece of evidence. I mean, I'm not showing it to the
3 jury yet. They have heard allusions to the conversation
4 in opening.

5 THE COURT: Who is the witness you want to get this
6 in through?

7 MR. EATON: Ultimately Roy himself, Your Honor.

8 THE COURT: I know, but what you want -- Let me
9 back up. You want to call the police officer to say that
10 Roy give me this video.

11 MR. EATON: Yes, sir. And that's it with him. Just
12 because they --

13 THE COURT: Okay. You can do that, but if it
14 doesn't come in, it doesn't come in. You understand that
15 of course?

16 MR. EATON: Yes, Your Honor.

17 THE COURT: All right.

18 MS. OSTEN: Your Honor, if I may be heard on that.

19 THE COURT: Yes.

20 MS. OSTEN: Thank you, Your Honor.

21 THE COURT: Go ahead.

22 MS. OSTEN: I believe with Your Honor's initial
23 sentiments and I think that this witness could be called
24 Friday morning right before Roy.

25 THE COURT: Stop. My decision is I'm gonna let him

1 do it, okay?

2 MS. OSTEEN: That I will have an objection to.

3 THE COURT: You have - put your objection on the
4 record.

5 MS. OSTEEN: Okay. Your Honor, we are objecting to
6 the video, as you heard before, under both the idea that
7 --

8 THE COURT: I have already ruled on that. I'll rule
9 again. Let me make it simple for you. I'm gonna let him
10 do that, what he just requested. Whether or not the
11 video goes in or not I don't know yet, okay?

12 MS. OSTEEN: Your Honor, I understand and I am just
13 noting my objection on the record.

14 THE COURT: Okay. Your objection is noted.
15 Anything additional you want to add to the record based
16 on your objection? Anything else?

17 MS. OSTEEN: No.

18 THE COURT: We're all straight. I'm gonna let you
19 do it over your objection. Anything else?

20 MR. EATON: No, Your Honor.

21 MS. OSTEEN: Your Honor, just the idea that them
22 knowing that there is a video --

23 THE COURT: Ma'am, I've made my decision. Do you
24 understand?

25 MS. OSTEEN: Yes, Your Honor.

1 THE COURT: And you've made your objection. It's on
2 the record. Thank you all so very much. Is everybody
3 ready?

4 MS. OSTEEEN: There's no clerk.

5 MS. SAMPSON: She doesn't need to be here.

6 THE COURT: Jim, He's a clerk. He's just not in
7 here. Call Jim and tell him to come in here. If he's
8 not available, I'll swear the witnesses myself. Bring us
9 the jury.

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

12 BAILIFF: Your Honor, the jury is present.

13 THE COURT: Welcome back, Mr. Foreman, members of
14 the jury. I suggested to you earlier a time or two when
15 I sent you out, the only way I can hear legal argument is
16 in your absence. You all understand that. And
17 regardless of who objects and how I rule that has nothing
18 to do with what you should do. Does that make sense?
19 Don't hold that against the State. Don't hold it against
20 the defense. Don't hold it against anyone. That's how
21 trials routinely go. Any exceptions or additions? All
22 right. Mr. Eaton, you may continue, sir.

23 MR. EATON: Thank you, Your Honor.

24 BY MR. EATON:

25 Q. Mr. Coulter, tell the jury what kind of gun you had,

1 the make and model of this pistol please?

2 A. It's a Raven .25 with a silver, brown wooded
3 handle.

4 Q. If I can approach with what's been marked for ID as
5 State's 106. Mr. Coulter, does this lack like the gun that
6 you owned?

7 A. Yes. It does.

8 Q. Does it look just like it?

9 A. Yes.

10 Q. Is it the gun? No. I mean, was this you one your
11 gun?

12 A. Yes.

13 Q. No. No. Not is this the type but like the actual
14 one or is this just a picture?

15 A. No. No. It's just a picture.

16 MR. EATON: Your Honor, I would offer State's 106
17 into evidence.

18 MS. YOUNG: Objection.

19 THE COURT: Objection? It's for demonstrative
20 purposes only. It is not the gun that's the murder
21 weapon. So admitted for that purpose.

22 MS. YOUNG: Subject to my previous objections.

23 THE COURT: Ma'am?

24 MS. YOUNG: I said subject to my previous
25 objections.

1 THE COURT: I think I have already ruled on that,
2 ma'am. Thank you very much. It's in evidence.

3 BY MR. EATON:

4 Q. So, Mr. Coulter, now, is this the actual size of the
5 gun or how big is the real gun itself?

6 A. The handle on it looks like it's a little bit
7 longer.

8 Q. Okay. In the picture?

9 A. In the picture. Yeah.

10 Q. But just show kind of with your hands how big this
11 gun is in real life?

12 A. Probably about like that (indicating) I think.

13 Q. Small?

14 A. Yeah.

15 Q. And how did you end up getting rid of this gun?

16 A. Uhm --

17 Q. And, Mr. Coulter, make sure you speak in the
18 microphone. It's a big courtroom.

19 A. Yeah. It was in the trunk of my car. I had it in
20 the trunk of my car in a metal box.

21 Q. When was this?

22 A. This was 2017.

23 Q. So living at Amanda's?

24 A. At Amanda's. Yes.

25 Q. And what happened?

1 A. And my grandson, my great grandson, he wanted, there
2 was something in the car he wanted to get out so I let him
3 have the keys.

4 Q. Which grandson?

5 A. Ashton.

6 Q. Ashton.

7 A. Ashton. Yes, sir. And I didn't know. He opened
8 the trunk and he saw the gun, but his mama was out there and
9 she got, she took it away from him and she came - first she
10 give it to me and then she took it and told, uh, Kenneth to,
11 uh, take it and, uh, get rid of it.

12 Q. She told him to get rid of it?

13 A. Yeah. And there was a pond out in back of the house
14 and a boat out there so he took it out and goes around the
15 bushes and trees, but nobody sees what happened so we don't
16 know if he got rid of it or not.

17 Q. And so when this happened, how long was that before
18 y'all moving out?

19 A. Uhm, I think it was just a couple of days.

20 Q. And then do you remember roughly even what month
21 y'all moved out of Amanda's house?

22 A. I believe it was, uh, I believe it was around
23 September sometime. I don't remember what date it was.

24 Q. September of which year, sir?

25 A. 2017.

1 Q. 2017?

2 A. Yeah.

3 Q. Okay. Did you ever meet a guy named Mike?

4 A. Not that I can -- No.

5 Q. African American fellow, Roderick Dukes, went by
6 Mike?

7 A. Not that I remember.

8 Q. Okay. If I can approach with what's marked for ID
9 as State's 107. Mr. Coulter, do you recognize this?

10 A. Yeah.

11 Q. What does that show?

12 A. It shows the boat and the pond in the back of the
13 house.

14 MR. EATON: I would offer State's 107 into evidence,
15 Your Honor.

16 THE COURT: Any objections?

17 MS. YOUNG: No, Your Honor.

18 THE COURT: Without objection. And this is the pond
19 behind the house, 109 Crestmore.

20 MR. EATON: 109 Crestmore, Your Honor. Yes, sir.

21 BY MR. EATON:

22 Q. So is that the pond and the little boat you were
23 talking about?

24 A. Yes.

25 MR. EATON: Thank you, Mr. Coulter. I have no more

1 questions.

2 THE COURT: Ms. Young.

3 MS. YOUNG: Thank you, Your Honor.

4 CROSS EXAMINATION

5 BY MS. YOUNG:

6 Q. Good morning, Mr. Coulter. How are you?

7 A. Fine.

8 Q. Just checking to make sure it's still morning. You
9 said you bought the gun from your son-in-law, right?

10 A. Correct.

11 Q. Did you pay \$10.00 for it?

12 A. Yes.

13 Q. And you said you kept it in a box?

14 A. Yeah. A metal box.

15 Q. Inside the trunk of your car?

16 A. Yeah. Well, I didn't keep it in the trunk all the
17 time. Most of time because we moved a lot, I keep it in a
18 closet on a high shelf somewhere.

19 Q. And the day that Ashton found it, it was in the
20 trunk of your car?

21 A. Yeah. It was in the trunk of my car. Yes.

22 Q. And Amanda got upset and told you to get rid of
23 it?

24 A. Yeah.

25 Q. And then Amanda gave it to Kenny to get rid of?

1 A. Right.

2 Q. And then he got in a boat and he took it out onto
3 the pond and you never saw it again?

4 A. Yeah. I never saw it again.

5 Q. And you said that happened a couple of days before
6 you and your wife moved out of the house?

7 A. Yeah.

8 Q. And Mr. Eaton asked you if you remember meeting a
9 man named Roderick Michael Dukes and you said you don't
10 recall?

11 A. I don't recall. I may have, but I just don't
12 recall.

13 Q. So you don't remember telling the Solicitor that you
14 remember him coming to the house to visit?

15 A. No.

16 Q. And you don't remember telling the Solicitor that
17 lots of people came in and out of the house and he was one of
18 them?

19 A. No. I know there was a lot of people came in and
20 out of the house but I don't remember if it was him or not.

21 MS. YOUNG: Thank you. No more questions.

22 THE COURT: Redirect?

23 MR. EATON: No redirect, Your Honor.

24 THE COURT: All right. Anything further of this
25 witness?

1 MS. YOUNG: No, Your Honor.

2 THE COURT: You may step down, Mr. Coulter.

3 MS. SAMPSON: The State calls David Collins.

4 THE COURT: Who?

5 MS. SAMPSON: David Collins.

6 Thereupon,

7 DAVID JEFFERY COLLINS

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

9 THE COURT: Please take a seat, sir, Mr. Collins,
10 and tell us your full name and spell your last name for
11 the record.

12 THE WITNESS: David Jeffery Collins,
13 C-o-l-l-i-n-s.

14 DIRECT EXAMINATION

15 BY MS. SAMPSON:

16 Q. Good morning, David.

17 A. Good morning.

18 Q. Where do you work?

19 A. I work with Richland County Sheriff's Department.

20 Q. What do you do there?

21 A. I am currently employed in the training division as
22 a firearms instructor.

23 Q. And prior to becoming a firearms instructor, what
24 did you do at the Sheriff's Department?

25 A. I worked in the forensic sciences laboratory as a

1 forensics firearms and tool mark examiner.

2 Q. And how long have you been with the Sheriff's
3 Department?

4 A. I've been with the Sheriff's Department for 19 years
5 now.

6 Q. And how long have you been doing firearm and tool
7 mark examination?

8 A. I did it for 18 years at the Sheriff's Department
9 and transferred into the training division last year. I
10 functioned as a firearm and tool marks examiner at the State
11 Law Enforcement Division or SLED for 12 years prior to moving
12 to Richland so my total career in that field would have been
13 about 28 years.

14 Q. 28 years. And during that time do you get training
15 on what you do?

16 A. Yes. My training started at SLED and I completed
17 their training program. I was certified by SLED as a firearms
18 and tool marks examiner. After that time I have continued to
19 receive training in that field until I left the field last
20 year. I attended schools that were pertinent to our field in
21 firearms examination, tool mark examination, distance
22 determination, and crime scene.

23 Q. And do you have to get certification to be an
24 examiner?

25 A. You have to be certified by your department as

1 having completed their training. Once you're certified by
2 that department, that certification follows you to other
3 places.

4 Q. And were you certified by your department?

5 A. By SLED. Yes.

6 Q. And are you a member of any, were you a member of
7 any organizations or are you a member of any organizations?

8 A. I retain a membership in the Association of Firearms
9 and Tool Marks Examiners which is our professional association
10 which oversees our continuing training.

11 Q. And have you ever been qualified as an expert?

12 A. Yes. I've testified as an expert in the field of
13 firearms and tool marks, firearms or tool marks in excess of
14 200 times in the State of South Carolina. I have also
15 testified as an expert in that filed in the states of North
16 Carolina, Georgia, in the Federal court system and in the
17 military court system.

18 MS. SAMPSON: At this time, Your Honor, we ask that
19 Mr. Collins be qualified as an expert in the field of
20 firearms and tool marks examination.

21 MS. YOUNG: No objection.

22 THE COURT: Without objection.

23 BY MS. SAMPSON:

24 Q. So, Mr. Collins, or Investigator Collins, I want to
25 talk to you about what you did with this case. Did you

1 receive any evidence in relation to this case?

2 A. Yes. I did.

3 Q. What did you receive?

4 A. I received one fired projectile or bullet.

5 Q. I'm gonna show you what's been marked and I already
6 have shown it to defense is State's Exhibit 86 and ask you if
7 you recognize this?

8 A. Can I open it?

9 Q. Yes.

10 A. Before I open this container, I can state that I
11 have not examined, I have not received this evidence.

12 Q. You have not received this. Then I want you to look
13 at State's 104 and ask if you received that (proffering)?

14 A. Yes. This package bears my markings with the item
15 number, case number of the item contained therein and this
16 envelope would contain a fired projectile, if you would like
17 me to open the envelope.

18 Q. And that's already in evidence so please, yes, open
19 it up.

20 A. (Witness complies.) Yes. This package contains a
21 fired bullet or projectile. It will bear my markings that I
22 placed on it in the lab. With the lighting in here and these
23 57 year old eyes I cannot read the writing.

24 Q. Well, can you tell the jury what did you determine?
25 Did you determine what caliber gun that casing is?

1 A. Yes. The first thing that we do when we receive
2 items of this type in the laboratory, we take notes as to its
3 condition, its physical characteristics. We weigh it, we take
4 measurements and based on my weights and measurement and
5 physical examination I was able to determine this bullet is
6 consistent with bullets found in .25 auto caliber
7 ammunition.

8 Q. And was there anything out of the ordinary about
9 that casing?

10 A. It is intact and there's nothing really - as far as
11 the bullet is concerned, the bullet is intact and it bears no
12 significant damage which is not unusual for a .25 auto caliber
13 projectile as they are fired at fairly low velocity and they
14 are not an expanding bullet in most cases.

15 Q. And to be fair, there are lots of guns that can fire
16 that type of bullet?

17 A. That is correct.

18 Q. And I'm gonna show you State's Exhibit 106 and the
19 jury has already heard what type of gun that is. Is that the
20 type of gun that could fire a .25?

21 A. This appears to be a photograph of a .25 caliber
22 semi-automatic pistol. It appears further to be a Raven brand
23 firearm based on the model designation and size.

24 Q. And that's one that could fire a .25?

25 A. It could fire .25 caliber ammunition. Yes.

1 Q. I'm gonna show you State's Exhibit 86 and ask that
2 you open it, but don't take it - you can take it out of the
3 envelope but don't show it to the jury.

4 A. (Witness complies.)

5 Q. Can you tell without showing it to the jury what
6 caliber bullet is that?

7 A. It is an unfired .25 auto caliber cartridge.

8 MS. SAMPSON: Thank you. I have no further
9 questions at this time. Answer any questions the defense
10 has.

11 THE COURT: Ms. Young.

12 CROSS EXAMINATION

13 BY MS. YOUNG:

14 Q. Good morning, Mr. Collins?

15 A. Yes, ma'am.

16 Q. Investigator?

17 A. I'll answer to just about anything.

18 Q. Okay. I'll call you Mr. Collins then. You were not
19 provided a gun in this case?

20 A. I was not.

21 Q. And you're very familiar with firearms?

22 A. Yes. I am.

23 Q. Very familiar with ammunition?

24 A. Yes.

25 Q. And you said that .25 caliber ammunition or .25

1 caliber guns are numerous?

2 A. Yes. They are.

3 Q. How many - can you estimate how many there are?

4 A. I would have no means of estimating that number.

5 It's very high.

6 Q. It's a very high number?

7 A. Yes.

8 Q. And they are readily available?

9 A. Yes. They are.

10 Q. They're cheap?

11 A. Some of them are. Some are not.

12 Q. Okay. And extraordinarily common?

13 A. I have seen a large number of them over my 28 year
14 career, yes.

15 Q. And because you weren't provided a weapon, any sort
16 of weapon to test in this case, you can't do any sort of
17 comparison between the projectile you were provided to tell
18 you anything about the incident?

19 A. I have no firearm or other fire evidence to compare
20 this item to so I cannot tell you what exact firearm fired
21 this projectile.

22 Q. Okay. And I believe you just reviewed State's
23 number 86?

24 A. I believe that's what it was.

25 Q. Which was an unfired cartridge?

1 A. That is correct.

2 Q. And could an unfired cartridge be laying around
3 because it was accidentally Ejected from a gun?

4 A. It can be. Yes.

5 Q. And if that was the case, is there any way to test
6 to see if it had actually been ejected from a gun?

7 A. There are microscopic examinations we can perform on
8 the item to see if it has been potentially in a firearm. The
9 firearm mechanism itself may leave scratch marks if you will
10 or indentations that would indicate that it had been loaded
11 into and removed from a firearm. Without the firearm itself,
12 we have no means of determining exactly what firearm it had
13 been loaded into.

14 Q. And you weren't even provided the unfired cartridge
15 to do any sort of examination of, correct?

16 A. I was not requested to perform an examination of a
17 cartridge.

18 Q. Okay. And it could mean that someone wasn't
19 familiar with a firearm if it actually was ejected from a
20 gun?

21 MS. SAMPSON: Objection, Your Honor.

22 THE COURT: Sustained. Speculative.

23 MS. YOUNG: No further questions.

24 THE COURT: Anything further of this witness?

25 MS. SAMPSON: Just briefly, Your Honor.

1 REDIRECT EXAMINATION

2 BY MS. SAMPSON:

3 Q. Ms. Young just asked you about things that weren't
4 provided. Do you know if a gun was even found in this case?

5 A. I have no idea that any firearms were recovered in
6 this case. I was not asked to examine any firearm.

7 Q. And she asked you about examining the unfired
8 cartridge and being able to look at tool marks. Would
9 evidence in a fire, could that, being in a fire keep you from
10 being able to examine or alter the ability of you to be able
11 to examine something?

12 A. In some cases fire may damage a cartridge case or a
13 cartridge in such a way that it would not be possible to
14 perform that type of examination.

15 MS. SAMPSON: Thank you. No further questions, Your
16 Honor.

17 THE COURT: Anything further?

18 MS. YOUNG: Just very briefly, Your Honor.

19 RECROSS EXAMINATION

20 BY MS. YOUNG:

21 Q. I didn't ask you about tool markings, correct?

22 A. Tool markings would be the same markings as we refer
23 to as being caused by the firearm. So that is a type of tool
24 mark.

25 MS. YOUNG: Okay. Thank you.

1 THE COURT: Anything further? You may step down,
2 sir. There's no objection if he leaves?

3 MS. YOUNG: No, Your Honor.

4 THE COURT: Call your next witness.

5 MR. EATON: The State calls David Linfert.

6 Thereupon,

7 DAVID LINFERT

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

9 THE COURT: Please have a seat on the witness stand
10 and state your full name for the record.

11 THE COURT: Please take a seat, Mr. Linfert, and
12 tell us your full name and spell your last name for the
13 record.

14 THE WITNESS: David Linfert, L-i-n-f-e-r-t.

15 DIRECT EXAMINATION

16 BY MR. EATON:

17 Q. Investigator Linfert, please tell the jury what you
18 do.

19 A. I'm currently a lieutenant in our special operations
20 division where I oversee the bomb squad, the SWAT Team, dive
21 team.

22 Q. I didn't mean to demote you?

23 A. That's all right.

24 Q. Lieutenant Linfert, what were you doing in October
25 2017?

1 A. I was serving in the operations division at that
2 time as well.

3 Q. Did you mention dive?

4 A. Yes.

5 Q. So you were doing dive back then as well?

6 A. Yes. I was.

7 Q. Do you remember responding to an incident on October
8 10th, 2017.

9 A. I do.

10 Q. Where did you respond to then?

11 A. We were called to the Gervais Street bridge on the
12 Richland County side. It involved a murder investigation
13 where a witness observed an individual throw a phone into the
14 river and we were called to try to make that recovery for the
15 cell phone.

16 Q. So how big of a team did you go with down there?

17 A. I would say probably about eight individuals went
18 that day, six to eight.

19 Q. And what did you find when you got there on the
20 scene?

21 A. Uhm, the investigator on the scene I believe was
22 talking to the witness who observed the subject throw
23 something into the river at that time. The rest of us were
24 getting equipment set up to go into the water for the
25 search.

1 Q. And what's the nature of the river right there?

2 A. It's really clear. It's shallow and deep. It
3 varies from basically ankle to about 30 feet deep in various
4 spots.

5 Q. And how many of y'all were going to go in the
6 water?

7 A. I believe we sent in four the first time and then we
8 were gonna rotate out if need be.

9 Q. Now as a rule of driving does one dive alone?

10 A. No. You do not.

11 Q. So were these pairs?

12 A. That is correct.

13 Q. And now the depth right there though, what was the
14 depth right where y'all were looking?

15 A. We had one group that was searching the river
16 probably close to 30 feet in depth. I was tasked with a
17 little bit shallower area that ranged from basically ankle to
18 about head high, six feet.

19 Q. And did you have to actually put on SCUBA gear for
20 that?

21 A. No. I was able just to snorkel on top of the water
22 and see the bottom.

23 Q. Did you collect anything?

24 A. Yes.

25 Q. If I could approach with -- I'm gonna approach with

1 State's 108 and 109 for identification. Do you recognize
2 these (proffering)?

3 A. Yes, sir.

4 Q. What do you recognize them as?

5 A. These were two of the phones that were recovered
6 from the river that day.

7 Q. And how were these two recovered?

8 A. I believe either the witness recovered one and then
9 I recovered the other phone.

10 Q. Did you see both of them there on the scene that
11 day?

12 A. I was just told another phone had been recovered
13 while I was in the water already searching.

14 Q. Okay. Which one did you recover?

15 A. I believe it's - one was covered in algae so it was
16 apparent that it had been there for sometime and that was not
17 the one I recovered.

18 Q. Was that the one the kid recovered?

19 A. Yes.

20 Q. Just looking at State's 109 for identification, can
21 you see anything on there?

22 A. Yes. There's algae and mud all over this where it
23 basically shows the phone had been in the water in the river
24 for some time.

25 Q. And is that the phone you recovered?

1 A. No. It is not.

2 Q. Back on State's 108, go ahead and open that up.

3 A. (Witness complies.) It would be this.

4 Q. Is that substantially in the same condition that you
5 got it on that day?

6 A. It is.

7 Q. Is it completely in the same condition? Is it
8 wet?

9 A. Well, it's not wet anymore, but we did put it in an
10 evidence bag at the time of its recovery.

11 Q. So that's the phone that you found?

12 A. Yes. It is.

13 MR. EATON: Your Honor, I would offer State's 108
14 and 109 into evidence.

15 MS. YOUNG: No objection.

16 THE COURT: Without objection.

17 BY MR. EATON:

18 Q. Now, Lieutenant Linfert, was there something else in
19 that bag?

20 A. Yes. There is.

21 Q. Let's pull that out.

22 A. (Witness complies.)

23 Q. Was this something that you recovered?

24 A. It was not.

25 Q. Now, did you see the defendant that day?

1 A. No. I did not.

2 Q. Talk to him?

3 A. No. I did not.

4 MR. EATON: Actually, if I could get this bag. Bear
5 with me one moment please. No further questions. I'm
6 gonna remark this with 108.

7 MS. YOUNG: No objection.

8 THE COURT: Ms. Young.

9 CROSS EXAMINATION

10 BY MS. YOUNG:

11 Q. Did you conduct any other dives in this case at any
12 other location?

13 A. No. I did not.

14 MS. YOUNG: No further questions.

15 THE COURT: Anything further of this witness?

16 MR. EATON: No, Your Honor.

17 THE COURT: You may step down, sir.

18 MR. EATON: The State calls Clay Short.

19 Thereupon,

20 CLAY SHORT

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

22 DIRECT EXAMINATION

23 BY MR. EATON:

24 Q. Investigator Short, please tell the jury what you
25 do.

1 A. I'm an investigator for the Richland County
2 Sheriff's Department.

3 Q. What kind of crimes do you investigate?

4 A. Right now I'm assigned to major crimes, but I have
5 been assigned to burglary, motor vehicle theft, but we
6 investigate everything really.

7 Q. And what were you doing in October 2017?

8 A. October of 2017 I was working burglaries, but I got
9 asked to help Investigator Hinson with this case.

10 Q. And what did you do?

11 A. Looking at my notes here for what day it was. It
12 was October 10th when Investigator Hinson called me and asked
13 me to come help him and other investigators to attempt to
14 locate somebody that he had murder warrants on.

15 Q. And so did you do that?

16 A. I did. We started canvassing an area off North Main
17 Street and ended up down by the Riverwalk by the museum
18 locating Mr. Gleaton.

19 Q. And were you there when Mr. Gleaton was located?

20 A. Yes. I was.

21 Q. And what was your role on that scene?

22 A. He was brought by members of our SWAT team from the
23 Riverwalk to a parking lot where my vehicle was. Myself and
24 another investigator were told that he by witnesses that were
25 on the Riverwalk that Mr. Gleaton took a SIM card out of his

1 cell phone and put it in his wallet. So when he was brought
2 to my vehicle, we searched him to make sure he didn't have any
3 weapons on him, and I took that SIM card out of his wallet and
4 put it in an evidence bag because that was taken out of a
5 phone that he had threw in the river that we had to retrieve
6 from the river so I felt it was necessary to make sure that we
7 preserve that and any evidence that might be on it.

8 Q. And so when he's brought to you, he's already in
9 custody?

10 A. Yes.

11 Q. In handcuffs and everything?

12 A. Yes.

13 Q. And so what did you physically do as far as getting
14 this from him?

15 A. Well, we just checked his pockets, make sure there
16 wasn't anything, any other weapons or anything like that, then
17 placed it into an evidence bag and had him sit in the front
18 seat of my car.

19 Q. Placed what? What was placed into the evidence
20 bag?

21 A. The SIM card. Sorry.

22 Q. And where was it?

23 A. It was in his wallet which was in his back pocket.

24 Q. So you pulled it out of his pocket and then pulled
25 the card out?

1 A. Correct.

2 Q. And did you submit it into evidence?

3 A. I believe I turned it over to Investigator Hinson
4 when we brought him to headquarters.

5 Q. Referring to State's 110 for identification, if you
6 could look in the envelope that's inside there please.

7 A. (Witness complies.) Yes. That's the SIM card that
8 I took out of his wallet.

9 Q. Does it look like it did when you took it out that
10 day?

11 A. It did. It does. Excuse me.

12 MR. EATON: Your Honor, I would offer State's 110
13 into evidence.

14 THE COURT: Any objection?

15 MS. JURICK: No objection.

16 THE COURT: Without objection.

17 BY MR. EATON:

18 Q. Investigator Short, what did you do after that?

19 A. After that myself and Investigator Taylor then
20 physically transported Mr. Gleaton from where he was
21 apprehended to the Sheriff's Department headquarters so
22 Investigator Hinson could attempt to interview him.

23 Q. And did you make any stops on the way to the
24 county?

25 A. I did not. We drove straight there. I dropped him

1 off at headquarters. He had said that he hadn't had anything
2 to eat that day so I asked him what he wanted. He wanted a
3 cheeseburger combo with a Coke with no ice from McDonald's so
4 I dropped him off at headquarters and the drove back to
5 McDonald's and got what he wanted.

6 Q. And came back to headquarters I assume?

7 A. Yep. Came back to headquarters and gave him the
8 food.

9 Q. And then what did you do?

10 A. I then responded to Mr. Cyril Brasley's house. I'm
11 not sure how to pronounce his first name. It was a little
12 after 5:00. I went to his house on Elmhurst Road right
13 Fireflies Stadium and made contact with him. He had told some
14 of our investigators that earlier that morning that Mr.
15 Gleaton had asked to borrow a pair of shorts from him because
16 the pair of shorts he was wearing had blood on them so I went
17 to try to locate those because supposedly they were in, or he
18 watched Mr. Gleaton put them in his dumpster in his
19 driveway.

20 MS. JURICK: Objection.

21 THE COURT: Basis.

22 MS. JURICK: Hearsay.

23 THE COURT: All right.

24 MR. EATON: Well, we'll move on from there, Your
25 Honor.

1 BY MR. EATON:

2 Q. I guess skipping over what --

3 THE COURT: Okay. He's skipping over what he told
4 him.

5 MS. JURICK: Thank you, Your Honor.

6 BY MR. EATON:

7 Q. Skipping over what he told you --

8 A. Right.

9 Q. -- what did you do while you were there?

10 A. I spoke with Mr. Brasley.

11 THE COURT: Stop.

12 MS. JURICK: We also ask that any previous
13 statements be stricken.

14 THE COURT: Sure.

15 MS. JURICK: Thank you, Your Honor.

16 MR. EATON: Noted, Your Honor.

17 THE COURT: Disregard that last remark. It's
18 hearsay. Is that what you asked?

19 MS. JURICK: Yes, Your Honor.

20 THE COURT: Okay.

21 BY MR. EATON:

22 Q. All right. So go ahead with what you did next?

23 A. So while speaking with Mr. Brasley, he said that he
24 had recorded a video of Mr. Gleaton --

25 MS. JURICK: Objection, Your Honor. We're just

1 renewing our previous --

2 THE COURT: Beg your pardon.

3 MS. JURICK: We're renewing our previous objection.

4 THE COURT: About what?

5 MS. JURICK: To the video.

6 THE COURT: Huh?

7 MS. JURICK: With regards to the video.

8 THE COURT: Overruled.

9 MS. JURICK: Thank you, Your Honor.

10 THE COURT: As my previous ruling was.

11 BY MR. EATON:

12 Q. And so, Mr. Short, Investigator Short, about this,
13 without kind of describing it, just explain the mechanics of
14 what happened?

15 A. He showed me the video and then he - I asked if he
16 could send it to my phone which he did.

17 Q. And how did he do that?

18 A. He AirDropped it from his iPhone to iPhone.

19 Q. And tell the jury what that means. What's
20 AirDropping?

21 A. From my understanding it's through Bluetooth. He
22 just opened up his phone and sent it to my phone wirelessly
23 and it showed up on my phone and I played it to make sure it
24 worked on my phone and then I came back to headquarters.

25 Q. If I can approach with what's been marked for ID as

1 State's 111. Do you recognize this?

2 A. Yes, sir.

3 Q. Do you know what that is?

4 A. That is the video that came to my phone from his
5 phone.

6 MR. EATON: Thank you. No further questions.

7 THE COURT: Ms. Jurick.

8 MS. JURICK: Very briefly.

9 THE COURT: Yes, ma'am.

10 CROSS EXAMINATION

11 BY MS. JURICK:

12 Q. You said you searched him for a weapon?

13 A. Yes.

14 Q. Did you find any other weapons on him?

15 A. No. No, ma'am. I did not.

16 Q. And you mentioned the SIM card, that you retrieved
17 it and you gave it to Investigator Hinson?

18 A. I put it in this bag and then gave it to him. Yes,
19 ma'am.

20 Q. And do you have any idea how it ended up in the same
21 zip lock with the cell phone?

22 A. They were probably put in there together.

23 MS. JURICK: I have no further questions.

24 THE COURT: Anything further of this witness?

25 MR. EATON: Not from the State, Your Honor.

1 THE COURT: You may step down, sir. Call your next
2 witness. You need a break?

3 MR. EATON: Your Honor, our scene of the incident
4 witness is on the way.

5 THE COURT: Let's take a short break.

6 MR. EATON: Take about five minutes please.

7 THE COURT: We'll take a short break. You heard
8 that, ladies and gentlemen. I'm gonna wait five to ten
9 minutes for this witness to come. Just don't talk about
10 this case. If I remember correctly, I might have asked
11 about it, the food should get here about 12:30; is that
12 right, Mr. Nitsche?

13 BAILIFF: Yes.

14 THE COURT: We'll just see. Anyway, don't talk
15 about the case. We'll take a short break and probably
16 bring you back before you eat.

17 (Whereupon, the jury entered the jury room at 11:55
18 a.m.)

19 (Short break.)

20 THE COURT: All right.

21 MR. EATON: Your Honor, we propose to call one short
22 witness and then I don't know if their lunch will be
23 here in the next little bit but after that witness
24 perhaps breaking if it's okay with the Court.

25 THE COURT: What are you asking me? What are you

1 asking for?

2 MR. EATON: If we can do one short witness and then
3 break for lunch.

4 THE COURT: I'll consider it. Call the witness.
5 Anything to take up before the jury comes back in?

6 MS. SAMPSON: No, sir.

7 THE COURT: All right. Bring the jury in.

8 (Whereupon, the jury entered the courtroom at 12:10
9 p.m.)

10 THE COURT: Welcome back, Mr. Foreman, members of
11 the jury. The State is gonna call another witness.

12 MS. SAMPSON: Thank you, Your Honor. At this time
13 the State recalls Yvonne Woods.

14 THE COURT: On recall. You're still under oath
15 ma'am.

16 THE WITNESS: Yes, sir.

17 THE COURT: Yvonne Woods. Yes, ma'am.

18 MS. SAMPSON: Please the Court.

19 REDIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q. Just to re-familiarize the jury, what do you do at
22 Richland County?

23 A. I'm a crime scene investigator.

24 Q. Okay. And in this case when you got on scene, did
25 you meet with anyone?

1 A. I met with the responding deputy and Investigator
2 Clarke and then I met with Mr. Dukes.

3 Q. Okay. And what did you do to Mr. Dukes?

4 A. I collected a GSR kit.

5 Q. Okay. And you may have gone over this but I'm just
6 gonna review it just a little bit. How do you collect a GSR
7 kit?

8 A. It's a sealed package that come from the State Law
9 Enforcement Division. It has tubes in them. The caps,
10 there's sticky stuff on the caps and we put it on their hands
11 on the back and front and it collects any residue from the
12 skin.

13 Q. And what's the point of doing these kits?

14 A. To see if anyone has shot a gun or was in proximity
15 of the gun.

16 Q. And you were able to do that on --

17 A. Mr. Dukes.

18 Q. And did you have to get a consent to do that with
19 him?

20 A. Yes. I did.

21 Q. And did he give you consent?

22 A. Yes, ma'am.

23 Q. Did he hesitate at all?

24 A. No, ma'am.

25 Q. I'm gonna show you what's been marked as State's

1 Exhibit 112 and I'll ask you to identify it. Do you recognize
2 that?

3 A. Yes, ma'am.

4 Q. What is it?

5 A. This is the gunshot residue kit on Dukes.

6 Q. And how do you know it's the same kit?

7 A. It's my handwriting.

8 Q. Okay. And what do you do when you take the kit?

9 A. What I do once I collect it, I take it back to
10 headquarters and I place it in a sealed package and I submit
11 it to evidence and property.

12 Q. Okay. And how do you know that that's the one that
13 you sealed and submitted?

14 A. My signature and the date that I submitted it is on
15 it.

16 Q. And other than collecting it and putting it in that
17 bag, did you alter it in any way or do anything to it?

18 A. No, ma'am. I did not.

19 MS. SAMPSON: Thank you. No further questions, Your
20 Honor.

21 THE COURT: Ms. Jurick.

22 RECROSS EXAMINATION

23 BY MS. JURICK:

24 Q. Hi again. And when you collected it, you collected
25 it at 1:26 a.m.; is that correct?

1 A. Let me get to my paperwork please. That's
2 correct.

3 Q. And there's no immediate results or any way to tell,
4 evaluate it on the scene?

5 A. I have no way of knowing.

6 Q. You have no way of knowing?

7 A. No, ma'am.

8 MS. JURICK: No further questions.

9 THE COURT: Can I see you for a minute?

10 (Side bar off the record.)

11 THE COURT: You may step down.

12 THE WITNESS: Thank you, Your Honor.

13 THE COURT: Mr. Foreman, members of the jury, we're
14 gonna break for lunch, okay? I think I asked for the
15 food to be here around 12:30 so you have a little
16 extended lunch period. Let's see. Assuming it's here at
17 12:30, 1:30, come back at 1:30. Is that good enough?
18 Gives you a chance to walk out in the rain again. But
19 just don't talk about the case. Be patient. The food
20 should be here momentarily and I'll give you until 1:30
21 before we actually start. Is that fair enough? Okay.
22 Thank you all so very much.

23 (Whereupon, the jury entered the jury room for lunch
24 break at 12:15 p.m.)

25 THE COURT: Anything further?

1 MR. EATON: Not from the State.

2 THE COURT: We're at ease until 1:30, folks. We'll
3 be around.

4 (Lunch break.)

5 BAILIFF: All rise.

6 THE COURT: Is everybody ready now?

7 MR. EATON: The State's ready.

8 MS. OSTEN: Yes, sir.

9 THE COURT: Any matters we need to take up before
10 the jury comes in?

11 MR. EATON: No.

12 THE COURT: Bring the jury in, Mr. Nitsche.

13 BAILIFF: Yes, Your Honor.

14 (Whereupon, the jury entered the courtroom at 1:45
15 p.m.)

16 THE COURT: Welcome back, Mr. Foreman, members of
17 the jury. There was a slight delay. It was a logistical
18 issue. Had nothing to do with this case so that's why
19 we're getting started a little bit late, but it's not
20 very late. Just getting started now. With that in mind
21 I'll invite the prosecution, Ms. Sampson to call the next
22 witness.

23 MS. SAMPSON: Thank you, Your Honor. The State
24 calls Sergeant John Carwell.

25 Thereupon,

1 JOHN CARWELL

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

3 THE CLERK: Please have a seat on the witness stand
4 and state your full name for the record.

5 THE WITNESS: John Carwell.

6 DIRECT EXAMINATION

7 BY MS. SAMPSON:

8 Q. And where do you work?

9 A. At the Richland County Sheriff's Department.

10 Q. And what do you do there?

11 A. I'm the sergeant over the robbery unit which is
12 attached to the major crimes unit.

13 Q. And was that your position back in October of
14 2017?

15 A. Yes. It was.

16 Q. And can you tell the jury how you got involved with
17 this case?

18 A. I was asked by Investigator Ronnie Hinson to become
19 involved with it. He was the lead investigator, and he was
20 busy and needed some help with some interviews and I was at
21 the office so he asked me to get involved.

22 Q. And is it normal procedure for there to be more than
23 one investigator in a case?

24 A. Yes.

25 Q. Why is that?

1 A. A lot of things going on at one time. Many
2 statements need to be taken and you want to be thorough so you
3 want other minds to get involved to see if you're missing some
4 part of the investigation so we help out because there's a lot
5 to do.

6 Q. Okay. And so in this case who was the first person
7 you spoke with?

8 A. Mr. Eugene Peele.

9 THE COURT: Investigator Carwell, could I ask you to
10 please speak into the microphone please, sir.

11 THE WITNESS: I'm sorry, sir.

12 BY MS. SAMPSON:

13 Q. Who was the first person you spoke with?

14 A. Mr. Eugene Peele.

15 Q. And how is he related to the victim Amanda Peele?

16 A. He told me he was, they were still married on paper.
17 They've been married but they were separated.

18 Q. Okay. And were you able to take a statement from
19 him?

20 A. I was.

21 Q. Did he give you any trouble about taking a
22 statement?

23 A. No.

24 Q. Hesitate or anything like that?

25 A. Not at all.

1 Q. All right. And I don't want to go into the
2 specifics of the statement. Did he tell you if he knew the
3 defendant?

4 A. He had seen him, but didn't personally know him.

5 Q. So what was the next thing you did after
6 interviewing Mr. Peele?

7 A. As far as?

8 Q. In this case?

9 A. I was contacted by again Investigator Hinson who
10 told me that Mr. Kenneth Gleaton had been arrested and was on
11 his way to headquarters with two other investigators that were
12 transporting him. He was gonna be interviewed and again
13 Investigator Hinson asked if I partake in the interview with
14 Mr. Gleaton.

15 Q. And when that interview was going on, did you
16 observe it or did you participate in it?

17 A. I participated in it.

18 Q. And how did that go about. Without getting into the
19 specifics of what he said how do you all do that?

20 A. Well, in this when he first arrived, I think Mr.
21 Gleaton stated he was hungry so we ordered him some food. He
22 came and sat in my office. We allowed him to eat. Let me
23 back up. We first put him in an interview room and he stated
24 he was a little cold so we moved to my office where he could
25 eat and there was a cushioned chair just basically waiting for

1 Investigator Hinson to get back to my office to start the
2 interview.

3 Q. And was the defendant read his Miranda Rights?

4 A. Yes.

5 Q. Who did that?

6 A. Investigator Hinson read it out loud to him and I
7 witnessed them.

8 Q. And what is the procedure for doing that?

9 A. Uhm, we have a form that we go by. We read it out
10 loud to him and in my case I ask them after each line if they
11 understand what each line means and if they do, I check the
12 line off and then at the end they sign it.

13 Q. And was that done in this case?

14 A. It was.

15 Q. I'm gonna show you what's been marked as State's
16 Exhibit 114 and ask if you recognize that?

17 A. I do.

18 Q. And what is it?

19 A. It's an Advice of Rights form from the Richland
20 County Sheriff's Department.

21 Q. And is that fair and accurate copy of what was shown
22 to and signed by Mr. Gleaton?

23 A. It is.

24 Q. Has it been changed in any way?

25 A. It has not.

1 MS, SAMPSON: At this point I would ask that State's
2 Exhibit 114 be entered into evidence.

3 THE COURT: Any objection?

4 MS. JURICK: No objection.

5 THE COURT: In without objection.

6 BY MS. SAMPSON:

7 Q. And can you show or tell the jury what's on that
8 form?

9 A. Let's go through it. The first line just identifies
10 us, Richland County Sheriff's Department Interrogation and
11 Advice of Rights Form. The first line has Kenneth Gleaton as
12 the person that's gonna be advised. Then we have the place
13 which was 5623 Two Notch Road which is Richland County
14 headquarters and then the officers that are gonna be there to
15 witness it. My name is first, John Carwell and Investigator
16 Ronnie Hinson. Then we have the date which was October 10th
17 of 2017 and then the time 15:36 was 15:36 which is 3:36 in the
18 afternoon. Then it goes down to your rights and the first
19 line, before we ask you any questions, you must understand
20 your rights. At this point Ronnie Hinson is doing his way as
21 he does the initials of Kenneth Gleaton. Kenneth Gleaton
22 actually put his initial by that line. The second line is you
23 have the right to remain silent. Again initials are by that
24 line. Anything you say can be used against you in court and
25 initials. You have the right to talk to a lawyer for advice

1 before we ask you any questions and to have a lawyer with you
2 during questions. Again, initials are there. Stated he did
3 understand it.

4 If you cannot afford a lawyer, one will be appointed
5 for you before answer questions if you wish. If you decide to
6 answer questions now without a lawyer present, you still have
7 the right to stop answering at any time. You also have the
8 right to stop at any time until you talk to a lawyer. Then
9 there's a break where he signs it. Signed by Kenneth Gleaton.
10 It's signed by Investigator Ronnie Hinson and also by myself.
11 And then the next portion of this form it goes down to the
12 Waiver of Rights. I have read the statement of rights and I
13 understand what my right are. I am willing to talk and answer
14 questions. I understand and know what I'm doing. No promises
15 made to me and no pressure or coercion of any kind has been
16 used against me and again, signed by Kenneth Gleaton,
17 Investigator Ronnie Hinson and myself.

18 Q. And did you, when he is given the rights read to
19 him, anybody make him talk to you all?

20 A. Nobody made him talk.

21 Q. Anyone make them sign that statement, or that Advice
22 of Rights? I'm sorry.

23 A. No.

24 Q. All right. I want to ask you, so after you do the
25 Advice of Rights, what happens then?

1 A. Start talking, finding out information about the
2 person.

3 THE COURT: Once again, officer, please talk into
4 the microphone.

5 BY THE WITNESS:

6 A. We start talking to the person that's being
7 interviewed, try to find out his background, whatever we
8 may be investigating, stuff like that.

9 BY MS. SAMPSON

10 Q. And did you do that in this case?

11 A. We did.

12 Q. And can you tell the jury a little bit about the
13 demeanor of Mr. Gleaton during the interview?

14 A. Uhm, he was - nothing was really bothering him. He
15 was just kind of calm and wasn't bothered by the situation.

16 Q. And I want to show you what's been marked as State's
17 Exhibit 115 and ask you if you recognize that?

18 A. I do.

19 Q. And can you tell the jury what that is?

20 A. That's the statement of Kenneth Gleaton.

21 Q. And is that a fair and accurate copy of the
22 statement?

23 A. It is.

24 Q. Has it been altered in any way?

25 A. It has not.

1 MS. SAMPSON: At this time, Your Honor, we ask to
2 introduce State's Exhibit 115 into evidence.

3 THE COURT: Any objection?

4 MS. YOUNG: No objection.

5 THE COURT: Without objection.

6 BY MS. SAMPSON:

7 Q. All right. So do you write the statement as you're
8 asking questions or how does that work?

9 A. Well, at first we kind of talk a little bit so we're
10 talking, asking questions, giving him an opportunity to answer
11 them, then eventually we reduce it to a typed statement where
12 I type the statement and Mr. Gleaton was allowed to then
13 reread the statement. We took the information that he had
14 provided to us on this form, he reads it, makes sure it's
15 accurate and correct and he's given an opportunity to sign the
16 statement.

17 Q. Okay. So you talked to him and at some point you
18 reduced what he said to writing?

19 A. Yes.

20 Q. And he was allowed to sign it? He was allowed to
21 read it? I'm sorry.

22 A. Yes. He was.

23 Q. All right. Did y'all make him say anything or force
24 him to talk to you?

25 A. No.

1 Q. Did you tell him what to say?

2 A. No, ma'am.

3 Q. And at the end of the interview, was a video shown
4 for Mr. Gleaton?

5 A. There was a video shown.

6 Q. And did he make any statement after that video was
7 shown to him?

8 A. He did.

9 Q. What did he say?

10 A. He said that we had everything we needed and there
11 was nothing to make the situation better for him.

12 Q. Did he ever show any emotion about anything while he
13 was being interviewed?

14 A. He didn't.

15 Q. I want to talk to you a little bit about what he
16 told you. Did he tell you where he went after leaving 109
17 Crestmore?

18 A. He did tell us.

19 Q. Where did he say he went?

20 A. He went to a friend's house, Roy.

21 Q. And did he go straight - did he travel all over
22 Columbia? Go straight to Roy's house? What did he do
23 throughout the day according to Mr. Gleaton?

24 A. He said that I believe that was around one a.m. on
25 the 10th that he said that he went to, he started going

1 towards Roy's house from the location he first stated at
2 Crestmore and then he went to Roy's house about one a.m. Roy
3 stated there was wasn't a place for him so he continued to
4 walk around Columbia and went and slept underneath a bridge
5 near the river and then returned to Roy's house I think about
6 seven a.m. that same morning and that's where he was able to
7 get some money and some clothing, shorts, and he left again
8 and went to Taylor Street Dollar General, I believe, and then
9 he, I think he showed back up at Roy's Hair Salon and after
10 that is when he went down to the river, back down to the
11 river, the bridge area where he was arrested.

12 Q. And did he tell you if he had any items with him
13 while he was walking around?

14 A. A cell phone.

15 Q. What about any baggage or luggage?

16 A. He said he packed up some items before he left the
17 Crestmore address. He had two bags. One bag had a
18 PlayStation, some games, controllers, a laptop and he said he
19 left that in the woods near a gas station that's near the
20 Crestmore address and he also had a bag of clothing that he
21 also stated that he left on the side of the road in the wood
22 line.

23 Q. And after hearing he had left the bags, what did you
24 do in terms of locating the items?

25 A. I just kind of know around about that area that he

1 was talking about. I printed out a birds-eye view from Google
2 Maps of the gas station that he was talking about in Leesburg
3 and Trotter Road intersection so we printed that out and I was
4 able to show him that picture and he identified on that map
5 where he had put the bags that he packed up before he left the
6 Crestmore residence.

7 Q. And I'm gonna show you what's been marked as State's
8 Exhibit 114. Let me have that back. I'll show you what's
9 been marked as State's 116 and ask you if you recognize that?

10 A. I do.

11 Q. And what is that?

12 A. It's a birds-eye view, like I said, of the Kangaroo
13 gas station at the intersection of Leesburg and Trotter
14 Road.

15 Q. And is that an accurate and fair copy of what you
16 showed Mr. Gleaton?

17 A. It is.

18 Q. Has it been changed in any way?

19 A. It hasn't.

20 MS. SIMPSON: I'd ask to introduce State's Exhibit
21 116 into evidence.

22 MS. YOUNG: No objection.

23 THE COURT: Without objection.

24 BY MS. SAMPSON:

25 Q. And can you tell the jury, what did you have Mr.

1 Gleaton do -- Let me ask you this: Did you show it to him?

2 A. I did. I printed it out. I put it on my desk so he
3 could see it.

4 Q. And what did you have him do once you did that?

5 A. He drew an arrow to where the bag would be and he
6 signed it.

7 Q. All right. I'm gonna -- Did you go and get the
8 bag?

9 A. I did.

10 Q. Where did you locate it at?

11 A. Where he pointed it out on the map just inside the
12 woods next to the parking lot of the gas station.

13 Q. And what - and the bag has already been introduced.
14 Did you find a cell phone in the bag?

15 A. We did.

16 Q. I want to show you what's been marked as State's
17 Exhibit 113 and ask you if you recognize it?

18 A. Yes.

19 Q. And what is that?

20 A. It's a cell phone. A ZTE cell phone.

21 Q. Do you - can you tell me where - do you recognize it
22 from being part of this case?

23 A. It was inside the bag that was found in the woods.

24 Q. And how do you know that's the phone that you
25 found?

1 A. Because I was there when it was located.

2 Q. Has it been altered or changed in any way?

3 A. It has not.

4 MS. SAMPSON: At this time, Your Honor, I ask to
5 introduce State's 113 into evidence.

6 MS. YOUNG: No objection.

7 THE COURT: Without objection.

8 BY MS. SAMPSON:

9 Q. And where did you find this phone?

10 A. In the bag inside the wood line next to the gas
11 station in the woods.

12 Q. Where Mr. Gleaton had told you it would be?

13 A. Correct.

14 Q. Let me ask you this: Did Mr. Gleaton tell you
15 anything about the clothing he had on when he got arrested?

16 A. He said it was clothing that he had worn when he
17 left Crestmore except for the shorts. He had changed the
18 shorts.

19 Q. So did you notice anything about the clothing other
20 than it being what he said he had on that night?

21 A. Smell of fumes or fire. Like he had been part of a
22 fire.

23 MS. SAMPSON: Thank you. No further questions, Your
24 Honor.

25 THE COURT: Cross examination.

1 CROSS EXAMINATION

2 BY MS. YOUNG:

3 Q. Good afternoon, Sergeant Carwell.

4 A. Good afternoon.

5 Q. So, uhm, are you trained in how to interview or
6 interrogate someone that you believe is charged with a
7 crime?

8 A. Yes.

9 Q. And can you tell the jury a little bit about that
10 training, what it's called?

11 A. I have been to -- It's on the job a lot of it just
12 from experience in interviewing people, but I have been to a
13 couple classes, interviewing and interrogation classes.

14 Q. Are you familiar with the Reid Technique?

15 A. I am.

16 Q. And part of the Reid Technique is to do things to
17 make someone feel comfortable, right?

18 A. Correct.

19 Q. So that they feel like they can open up to you and
20 talk to you and tell you the truth?

21 A. Correct.

22 Q. And one of the things that you do is feed someone
23 food if they're hungry, right?

24 A. That's generally we do that a lot. When somebody
25 tells us they're hungry, we feed them.

1 Q. And they provide - You know, when he says he's cold,
2 you move them somewhere warm?

3 A. If they request it.

4 Q. And you make them comfortable by putting them in a
5 cushioned seat?

6 A. Yes.

7 Q. And Kenny agreed to speak with you after his rights
8 were, after he was advised of his rights?

9 A. He did agree. Yes.

10 Q. And he was cooperative?

11 A. He was.

12 Q. And he answered all your questions?

13 A. Yes.

14 Q. And provided the information that you requested from
15 him?

16 A. To a certain extent.

17 Q. And he denied involvement with Amanda Peele's death,
18 correct?

19 A. In his statement he said that he didn't.

20 Q. And then you went to recover the bags where he told
21 you they were. He drew or identified it on a map for you,
22 correct?

23 A. Correct.

24 Q. And then you went there, correct?

25 A. That's correct.

1 Q. And located them exactly where he told you they
2 would be?

3 A. One of the bags.

4 Q. Okay. Were there other bags?

5 A. There was two bags, but the other one was not
6 located.

7 Q. Was not located. Did you ever speak with a man
8 named Michael Dukes?

9 A. I think we spoke through phone through Investigator
10 Hinson.

11 Q. And you requested that bag from him, correct?

12 A. Yes.

13 Q. The missing bag?

14 A. Yes.

15 Q. And he never provided that to you, correct?

16 A. That's correct.

17 Q. Do you know whether Kenny smokes cigarettes?

18 A. I don't recall.

19 Q. He didn't smoke during the interrogation or request
20 to smoke during the interrogation?

21 A. He may have. I don't remember.

22 MS. YOUNG: No further questions.

23 THE COURT: Anything on redirect?

24 REDIRECT EXAMINATION

25 BY MS. SAMPSON:

1 Q. Investigator Carwell, she just asked you about
2 whether or not Mr. Gleaton smoked any cigarettes while he was
3 being interrogated and you don't remember?

4 A. I can't remember.

5 Q. When you smelled him, did he smell like cigarettes
6 or smelled like fumes?

7 A. No. Just more like camp fire when you're sitting
8 around and you smell that on your clothing, you need to
9 change. It was very prominent that it was from a fire.

10 MS. SAMPSON: Thank you. No further questions.

11 THE COURT: Anything further of this witness?

12 MS. YOUNG: Beg the Court's indulgence.

13 THE COURT: It has to be in response to redirect, of
14 course.

15 MS. YOUNG: No further questions.

16 THE COURT: You may step down, sir. I have trouble
17 hearing so that's why I ask that you speak into the
18 mic.

19 THE WITNESS: I apologize.

20 THE COURT: That's all right. That's all right.
21 Thank you, sir. Anybody want to keep him around?

22 MS. SAMPSON: The State does not, Your Honor.

23 THE COURT: You're free to go, sir. Call your next
24 witness.

25 MR. EATON: The State calls Ricky Johnson.

1 MS. YOUNG: Your Honor, if we may briefly requested

2 --

3 THE COURT: Wait. I'm sorry.

4 MS. YOUNG: We can approach.

5 THE COURT: Yes.

6 (Side bar off the record.)

7 Thereupon,

8 RICKY JOHNSON

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

10 THE CLERK: Please have a seat on the witness stand
11 and state your full name for the record.

12 THE WITNESS: Lieutenant Ricky Johnson.

13 DIRECT EXAMINATION

14 BY MR. EATON:

15 Q. Lieutenant Johnson, what do you do?

16 A. Now I am a supervisor in the criminal investigation
17 division.

18 Q. And what were you doing in 2017?

19 A. Uhm, I was just an investigator within the criminal
20 investigation division.

21 Q. How long have you been an officer?

22 A. Since March of 2007.

23 Q. Have you developed any specific skills as it relates
24 to digital evidence?

25 A. Yes.

1 Q. What are those?

2 A. Uhm, I do mobile forensics, download cell phones.

3 Q. What does that mean?

4 A. Basically I'm pulling the data off of a cell phone
5 and then put it in a readable format and preserve it as
6 evidence.

7 Q. I'm going to ask you to kind of speak right into
8 that mic. And so how do you pull data off a phone more
9 specifically? Explain it to the jury.

10 A. Sure. So it depends on the make and model of the
11 phone so on an iPhone typically it's pretty basic. We have a
12 forensic program that we connect the phone through a lightning
13 cord through the phone that you charge your phone up with,
14 that cord is plugged into a computer, we then run the forensic
15 program and it makes a copy of the data and then we report
16 that. Android phones are done a little differently depending
17 upon the state of the phone, if it's locked, if it's unlocked,
18 if it's encrypted.

19 Q. And how long have you been doing these
20 extractions?

21 A. Since 20, end of 2013.

22 Q. Has the technology changed since then?

23 A. It's constantly changing but I have been trained.

24 Q. So did you do some extractions in this case?

25 A. Yes.

1 Q. Let's start with State's -- I'm sorry. We'll start
2 with, I'm gonna approach with State's 108 and 110. Now, do
3 you recognize these items here?

4 A. Yes.

5 Q. What are these?

6 A. This is a black ZTE cell phone as well as a SIM card
7 from a cell phone.

8 Q. And those are already in evidence, but do you know
9 where those came from specifically in this case?

10 A. Yes. The phone, from my understanding the SIM card
11 was retrieved from a wallet from Mr. Gleaton and the cell
12 phone was found in a bag.

13 Q. That cell phone was found in the bag?

14 A. So this is item 32. There's two ZTE phones, so item
15 32 I believe was actually found in the river.

16 Q. Okay. And I'll go ahead and approach with State's
17 113. Do you recognize that phone?

18 A. Yes.

19 Q. Which one is that one?

20 A. This is the other ZTE phone belonging to Kenneth
21 Gleaton.

22 Q. Do you know where that one came from?

23 A. Again, I believe it came from a bag.

24 Q. Okay. So we've got a phone from a river, a SIM card
25 from the wallet and a phone from the bag?

1 A. Yes.

2 Q. So did you attempt extractions on these things?

3 A. Yes.

4 Q. Are you able to do an extraction on just a SIM card
5 alone?

6 A. Yes.

7 Q. Did you attempt that on this SIM card?

8 A. I did.

9 Q. What did you learn from that extraction?

10 A. The biggest information is just the telephone
11 number. The telephone right to the phone and how, the SIM
12 card is basically how the phone connects to the network and it
13 had the telephone number and that's the basic information that
14 I pulled from it.

15 Q. And what kind of phone would that SIM card fit
16 inside of?

17 A. The one from the wallet was a micro SIM card so the
18 medium sized SIM card and it would only have fit in the phone
19 that was found in the river, the one that was missing a SIM
20 card.

21 Q. Would it have fit in the one from the bag?

22 A. No.

23 Q. And when you did your extraction of that SIM card,
24 did you get like photos and videos and things like that?

25 A. No.

1 Q. Is that normal?

2 A. Yes. It's normal. We typically don't get photos.
3 It's typically just data about the phone and its connection to
4 the network.

5 Q. Did you attempt to do an extraction on the phone
6 from the river?

7 A. Yes.

8 Q. And what did that reveal?

9 A. When we powered on the phone and requested a
10 password, we did not have the password, it was encrypted and
11 our software would not extract the data from that.

12 Q. And so doing the extraction of that phone and that
13 SIM card, do either of those tell you the telephone number?

14 A. The SIM card does.

15 Q. And what phone number was associated with that SIM
16 card?

17 A. It was area code 803-201-5645.

18 Q. And I'm just gonna hand you State's 63. Could you
19 tell me what number those T-Mobile record relate to?

20 A. Area code 803-201-5645.

21 Q. So the phone from the bag State's 113, did you
22 attempt to do an extraction on that phone?

23 A. I did.

24 Q. And what were the results of that?

25 A. When I powered on the phone, it was in start up

1 state, it was asking me for a language which that's typical of
2 either two things in my opinion. Either the phone has never
3 been used or it's been remotely wiped physically.

4 Q. So were you able to get anything of value from that
5 phone?

6 A. No, sir.

7 Q. Now, State's 109 for identification which hasn't
8 been submitted, do you recognize this phone?

9 A. I do.

10 Q. Where did this phone come from?

11 A. That was from the river as well.

12 Q. And did you do an extraction on this one?

13 A. No. Just the SIM card that was contained inside of
14 the device.

15 Q. What did that reveal?

16 A. It just revealed the telephone number which is area
17 code 803-466-0183.

18 Q. To your knowledge does that number relate to this
19 case at all?

20 A. No.

21 Q. Lieutenant Johnson, is that the dump of that SIM
22 card and two phones, an additional SIM card all you did in
23 this case?

24 A. Yes.

25 Q. Did you happen to meet any other witnesses in this

1 case?

2 A. Yes. So yes. I did. On October the 18th, 2017, I
3 did meet with a witness as well as Investigator Hinson on
4 Decker Boulevard in reference to extracting a video from a
5 witness' cell phone.

6 Q. And who is that --

7 MS. YOUNG: Your Honor.

8 BY MR. EATON:

9 Q. -- witness?

10 THE COURT: Your Honor, subject to --

11 THE COURT: Specifically what is your objection?

12 Just come up. Just approach. It's all right.

13 (Side bar off the record.)

14 THE COURT: Go ahead, Solicitor.

15 BY MR. EATON:

16 Q. So who is this witness?

17 A. Roy. That's what I know him by today.

18 Q. Roy. Did you go to meet Roy?

19 A. Yes.

20 Q. And what did you do when you met Roy?

21 A. I met with Roy and Investigator Hinson at the Comedy
22 House on Decker Boulevard. Roy had an iPhone 7 Plus that
23 contained a video. I was asked to retrieve that video. I
24 spoke with Roy --

25 THE COURT: Did you have an objection?

1 MS. YOUNG: Yes.

2 THE COURT: What is it?

3 MS. YOUNG: Objection to the admissibility of the
4 video.

5 THE COURT: Overruled. Continue.

6 BY MR. EATON:

7 Q. And so Roy had an iPhone 7 Plus?

8 A. Yes, sir.

9 Q. And what did you do?

10 A. So I explained to him for his privacy issues he was
11 very reluctant about me looking through the entire phone, but
12 he gave me the consent to download that video. I explained to
13 him how I would have to do it. I would have to copy his phone
14 and then I would only report the one video which was the video
15 he gave us consent for. I connected his phone to my laptop,
16 ran the forensic program. I extracted the one video that he
17 gave consent for and then that was placed on a DVD and turned
18 over to the investigator.

19 Q. And so please kind of break that down a little bit
20 about what you did with this extraction. You said you hooked
21 his phone up to your software. What does the software do?
22 Kind of explain what you're looking at and how that works.

23 A. Sure. So the program is called Cellebrite Physical
24 Analyzer and basically what it does on an iPhone is it creates
25 a iTunes backup of the phone and then that data is then kind

1 of put in a readable format and it has everything listed out,
2 SMS, MOS, pictures, photos. Then I can go in that and I can
3 click and report whatever necessary files I need to. In this
4 case it was only the one video file.

5 Q. So initially are you saying that essentially the
6 whole phone shows up on your laptop screen?

7 A. Yes.

8 Q. But Roy didn't want you to save his whole phone?

9 A. That's correct.

10 MS. YOUNG: Objection.

11 THE COURT: Basis.

12 MS. YOUNG: Leading.

13 THE COURT: Overruled. Go ahead.

14 BY MR. EATON:

15 Q. And so how do you go about saving this video without
16 saving the whole phone?

17 A. So you just report so once we go in and we select
18 the one video we want, uhm, it creates a report for that, it
19 saves that video, that extracted video and then we just
20 maintain that. We put that on the DVD in a forensic report.

21 Q. And did you delete anything that you had from the
22 phone, from Roy's phone?

23 A. Meaning?

24 Q. Whatever came up on your screen from his phone, did
25 you delete anything?

1 A. Right. So, no. What happens is when we download it
2 from the, when I download the phone or copy the image to the
3 phone to the hard drive of the computer I'm doing it on, if
4 I'm maintaining it for evidence purposes, I'll then move that
5 to a separate medium so an external hard drive and then it
6 goes through here, a server or a DVD depending upon the size.
7 We did not maintain a 140 gigs on the rest of his known, the
8 other videos that didn't pertain to this case, no. I did not
9 keep that.

10 Q. And so the video that you saved, would that be the
11 exact same video that was on Roy's phone?

12 A. Yes.

13 Q. Would it have been altered in any way?

14 A. No. So the program is read only so we can't alter,
15 we can't create anything. When it's download, when it creates
16 the report, the files are read only files. I can't change. I
17 can't create any of that.

18 Q. If I may approach with what has been pre-marked as
19 State's 111 --

20 THE COURT: For ID purposes.

21 MR. EATON: For ID purposes, Your Honor.

22 BY MR. EATON:

23 Q. Do you know what this is?

24 A. Yes. It's the forensic report and the DVD that
25 contained the video that was extracted from the witness'

1 phone.

2 Q. Now, are you aware if anyone else got this same
3 video from Roy?

4 A. Yes.

5 Q. Who did?

6 A. I believe the investigators may have had an AirDrop
7 copy of it at some point before forensically extracted it.

8 Q. Would that first AirDropped copy be the same thing
9 as this copy?

10 A. The data. Yes.

11 Q. So it's the same video?

12 A. Yes.

13 Q. All right. From your extraction of this video from
14 Roy's phone, were you able to see when and where Roy took the
15 video?

16 A. Yes.

17 Q. How are you able to tell that?

18 A. So the video contains what's called metadata.
19 Metadata is essentially just data about data so in laymen
20 terms if you take a photo with your phone, it can tell you the
21 location that the photo was taken, it can tell you the make
22 and model of the phone that took the picture, the date and the
23 time.

24 Q. And was that true of this video?

25 A. Correct. It did have metadata attached to the

1 video.

2 Q. When and where did Roy take the video?

3 A. It was created October 10th, 2017 at 12:24 p.m.

4 Q. Does it tell you where?

5 A. It does. So, it gives lat and longitude and once I
6 converted that, the physical location that I was able to
7 attain came back to at or around 2001 Marion Street which was
8 the Beauty Art By Roy.

9 Q. Is that - what time zone does that time show up
10 as?

11 A. So it is in UTC minus four which would have been the
12 actual time --

13 Q. Here?

14 A. -- here. Correct.

15 MR. EATON: Thank you. No further questions.

16 THE COURT: Questions?

17 CROSS EXAMINATION

18 BY MS. YOUNG:

19 Q. Good afternoon, Lieutenant Johnson.

20 A. Good afternoon.

21 Q. So you said you met with Roy on October 18th; is
22 that right?

23 A. Yes.

24 Q. And you were with Investigator Hinson?

25 A. Well, he was already there I guess with him and I

1 received a call and I just showed up.

2 Q. Okay. And you took what you needed to be able to
3 extract his phone?

4 A. If I remember correctly, I already had my laptop
5 with me and that program was on the laptop that I had.

6 Q. And are you aware that a few days prior to that
7 several police officers had gone to Roy's home?

8 A. I was not aware of that.

9 Q. Were you aware that they had gone to his place of
10 business?

11 A. I was not.

12 Q. So and you spoke with Roy that day?

13 A. Yes.

14 Q. And he gave you his phone?

15 A. Yes.

16 Q. And you made an entire forensic copy or extraction
17 of his phone on your laptop?

18 A. Yes. So it makes what's called a iTunes backup so I
19 wouldn't say an entire extraction, a type of extraction.

20 Q. Okay. And then you pulled a copy of a video that he
21 made from that extraction?

22 A. From the decoded version of that so it's in raw
23 data. It was like 140 some odd gigs of raw data. It goes
24 into the program which converts essentially numbers zeros and
25 ones into data that you and I can interpret and it's in a

1 program that's pretty readable and then I reported or
2 extracted that one video from that data.

3 Q. And I may have missed this earlier. You said you
4 had been in law enforcement since 2007?

5 A. Yes.

6 Q. And how long have you been working on cell phone
7 extractions?

8 A. I believe it was the end of 2013.

9 Q. And you received training about that?

10 A. Yes. So I started my initial training as a task
11 force officer with the DEA and then I went through essentially
12 every certification course that Cellebrite offered which is a
13 program we used and I took their certified course which
14 essentially they sent me cell phones, I downloaded them. They
15 tested me on that and then I successfully passed that.

16 Q. Okay. And then so once you got the video, you then
17 deleted the iTunes backup that you had created?

18 A. No. So I won't say the word delete because I don't
19 remember deleting it. It would have stayed on the hard drive
20 of that computer and not transferred to the external media and
21 at some point it was probably written over. At some point I'm
22 sure it was. But it wasn't preserved. It wasn't collected as
23 evidence which is typical if we are gonna preserve that data.
24 It would have been put on an external hard drive and uploaded
25 to the server or if it's small enough, put on a DVD.

1 Q. And that wasn't done in this case?

2 A. Correct. It was not.

3 Q. So it was never provided to the defense?

4 A. Correct. Because we didn't have it.

5 MS. YOUNG: Thank you. No further questions.

6 THE COURT: Anything on redirect?

7 MR. EATON: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. EATON:

10 Q. So this raw data of Roy's phone that he did not give
11 consent to keep, did anyone other than you for that brief
12 moment ever have it?

13 A. No.

14 Q. And in doing this extraction of Roy's phone, did
15 you see his phone number?

16 A. Yes. So the report -- bear with me here -- so my
17 report indicates that the number would have been
18 803-600-7743.

19 MR. EATON: Thank you. No further questions.

20 THE COURT: Anything further?

21 MS. YOUNG: Yes, Your Honor. Just very briefly.

22 RECROSS EXAMINATION

23 BY MS. YOUNG:

24 Q. In your experience you have been in law enforcement
25 for a long time, right? Law indictment has the power to

1 subpoena evidence, correct?

2 A. Yes.

3 THE COURT: Is this in response to redirect?

4 MS. YOUNG: It absolutely is. Yes.

5 THE COURT: Go ahead then. We'll see.

6 BY MS. YOUNG:

7 Q. And you have, law enforcement has the ability to
8 subpoena a phone even if someone wants to keep it private,
9 correct?

10 A. Yes.

11 Q. And that wasn't done here?

12 A. No.

13 Q. But it could have been?

14 A. Yes.

15 MS. YOUNG: Thank you. No further questions.

16 THE COURT: Anything further?

17 REDIRECT EXAMINATION CONTINUED

18 BY MR. EATON:

19 Q. Was it necessary to do a search warrant on Roy's
20 phone when he gave you permission to get the relevant video
21 off the phone?

22 A. No, sir.

23 MR. EATON: Thank you.

24 THE COURT: Anything further?

25 MS. YOUNG: No, Your Honor.

1 THE COURT: You may step down, sir. Call your next
2 witness.

3 MS. SAMPSON: The State calls Patricia Hart.
4 Thereupon,

5 PATRICIA ANN HART
6 after having been first duly sworn, testified as follows,

7 THE CLERK: Please have a seat on the witness stand
8 and state your full name for the record.

9 THE WITNESS: Patricia Ann Hart, H-a-r-t.

10 DIRECT EXAMINATION

11 BY MS. SAMPSON:

12 Q. Good afternoon, Ms. Hart. Where do you work?

13 A. Richland County Sheriff's Department Forensic
14 Laboratory.

15 Q. What do you do there?

16 A. I work in the ballistics firearms section.

17 Q. And as part of your job do you move evidence?

18 A. Yes, ma'am.

19 Q. And how does that happen? How do you retrieve
20 evidence from the lab or from anywhere I guess I should say?

21 A. I go down to the evidence property room and one of
22 the evidence property personnel will check the items that I
23 have requested out to me and I deliver it to, in this case, to
24 SLED.

25 Q. So I want to ask you specifically about this case.

1 Did you move any items in this case?

2 A. Yes, ma'am.

3 Q. And I'm gonna direct your attention to one
4 particular item, the GSR kit. I believe it's number 9 in
5 evidence; is that correct?

6 A. Yes, ma'am.

7 Q. What did you do with that?

8 A. On that day I went down to the evidence property
9 room and checked out item 9 and hand-delivered it to SLED's
10 laboratory.

11 Q. And when you touch evidence, what do you do to it?
12 Do you mark it in any way?

13 A. No, ma'am.

14 Q. Okay. And I should say this: What do you do to the
15 envelope? Do you do anything if you pick it up?

16 A. No, ma'am.

17 Q. I'm gonna show you what's been marked as State's
18 Exhibit 112. What is that?

19 A. The evidence label. The evidence label says it's a
20 gunshot residue kit on Dukes.

21 Q. And what did you do with that kit once you took it
22 out of evidence?

23 A. Once I - we have to use our pass code and I signed
24 it out myself to take over to SLED and I delivered it to
25 SLED's lab.

1 Q. And did you change it in any way?

2 A. No, ma'am.

3 Q. Did you open it or do anything to it?

4 A. No, ma'am.

5 Q. And what did you do with it once you got it to
6 SLED?

7 A. Once you arrive at SLED, you check in and then they
8 walk you back. They have lockers and we stamp, there's a
9 sheet of paper and you stamp the sheet of paper and put what
10 locker you put the item in and you lock the locker and then
11 you leave.

12 Q. And was that done to this particular item?

13 A. Yes, ma'am.

14 MS. SAMPSON: I have no further questions, Your
15 Honor.

16 THE COURT: Ms. Osteen.

17 MS. OSTEEEN: No questions, Your Honor.

18 THE COURT: All right. You may step down, Officer
19 Hart.

20 MR. EATON: The State calls Scott McDonald.

21 THE COURT: Who?

22 MR. EATON: Scott McDonald, Your Honor, Richland
23 County.

24 Thereupon,

25 SCOTT McDONALD

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

2 THE CLERK: Please have a seat on the witness stand
3 and state your full name for the record.

4 THE WITNESS: Scott McDoland.

5 DIRECT EXAMINATION

6 BY MR. EATON:

7 Q. Is it captain?

8 A. Captain. Yes, sir.

9 Q. Captain McDonald, where do you work?

10 A. I work at Richland County Sheriff's Department.

11 Q. What's your role or title there?

12 A. I'm the captain in the CID and investigations
13 there.

14 Q. So what do you do?

15 A. I'm currently over the property crimes section,
16 supervise and assign all property crimes, burglaries,
17 larcenies, forgeries, motor vehicle thefts.

18 Q. And so in addition to supervising that section, do
19 you have any expertise in digital evidence?

20 A. I do. I've been involved with cell phone
21 investigations, forensics and tracking and plotting since
22 2001.

23 Q. And so over those almost 20 years have you done any
24 training into that?

25 A. I have. I've been to nine classes, conferences over

1 the years. I can go through each one if you like. In
2 addition to the techno forensic world conference that's held
3 every year in Myrtle Beach. It's kind of a yearly update on
4 the latest technologies and cellular forensics, computer
5 forensics, that type of thing.

6 Q. And, I mean, if you would actually go ahead and list
7 some of that training.

8 A. Okay. Like I said, I began in November 2001. Back
9 then there weren't a whole lot of classes out there. This was
10 fairly new technology so most of the learning I did back then
11 was actually speaking with technicians, engineers with the
12 cell phone carriers to learn about towers and sectors and how
13 all this stuff worked. The first class was in 2007. It was a
14 cell phone investigations class held in Lexington put on by
15 the Public Agency Training Council and it went over the
16 tracking and plotting of cell phone data from call detail
17 records that the cell phone carriers provided. May 2008 was
18 the first world conference on mobile forensics in Chicago. I
19 attended that. That has now morphed into the techno forensics
20 conference which is held every year. I've been to that just
21 about every year since it's taken place. June 2008 I had
22 mobile forensics training put on by Professor Rick Mislin of
23 Purdue. This dealt with the downloading of cell phones which
24 was fairly new technology back then so we had hands on
25 training in that aspect. November 2012 I had advanced cell

1 phone forensics and cellular technology class put on by Public
2 Agency Training Council. This was an advanced class also in
3 plotting and tracking of cell phone records and downloading of
4 cell phones. September 2014 I attended the National Domestic
5 Communications Assistance Center in Virginia. This is put on
6 by the FBI and it was further advanced training in cell phone
7 tracking and plotting of calls and data. February 2015 I
8 attend the GSL advanced cell phone investigations class. That
9 was a three day class. Kind of more of the same, just ab
10 update an update on some of the latest technology, that type
11 thing. May of 2016 back at the National Domestic
12 Communications Assistance Center. This was a class on modern
13 communications and this dealt with not only cell phone and
14 cell phone records, but all of the apps that are appearing now
15 and how to get data from them, search warrants for the data
16 that they process that help us in investigations. May 2016,
17 data, time, cell site analysis training. Once again another
18 training in the plotting of these cell phone records. May
19 2018 had a cellular investigations class put on by the
20 National White Collar Crime Center.

21 Q. And over the course of 20 years that you have been
22 doing this have you mapped some phones?

23 A. Yes. Approximately 300 or more cell phone records
24 and I've probably downloaded about 200 phones.

25 MR. EATON: Your Honor, I would ask that the Court

1 recognize Captain McDonald as an expert in cell phone
2 investigations.

3 THE COURT: Any objection or voir dire?

4 MS. JURICK: No objection.

5 THE COURT: All right. Without objection.

6 BY MR. EATON:

7 Q. Captain McDonald, did you do mapping in this case?

8 A. I did.

9 Q. What number did you map?

10 A. I was 803-201-5645 which was a T-Mobile phone number
11 belonging to an Amanda Peele.

12 Q. Now what I'm gonna do is use the smart board and ask
13 you to explain kind of how mapping works. Before you step
14 down, Captain McDonald, just briefly explain to the jury how
15 it is that you can say from a cell phone and a tower that you
16 might be able to tell where that phone is.

17 A. Every time you make a call -- Let me back up.
18 You're phone is always searching in anticipation of you making
19 a call so it's always looking for the strongest service, the
20 tower that's strongest that's gonna complete that call for you
21 so when you place that call, it hits that tower and when it
22 hits that tower, it registers which is at a geographic
23 location somewhere in the world and from that tower there's
24 360 degrees to a tower, the towers are broken up into three
25 sectors, each one approximately 120 degrees so depending on

1 which side of that sector the phone hits on, we can place the
2 phone in that geographic area. I can't pinpoint and say the
3 phone was exactly at this spot but I can say it's in this
4 general area of this sector versus anywhere else in the
5 world.

6 MR. EATON: And if I could ask the witness to step
7 down. If I could ask the witness to step down please.

8 THE COURT: Sure. Sure.

9 BY MR. EATON:

10 Q. There's a ruler or marker, pointer right there.
11 Could you use your graphic to further explain to the jury how
12 mapping works please.

13 A. This is in real basic terms how a cell phone works.
14 Caller on cell phone A wants to place a call, the phone is
15 always searching for that closest strongest tower, it scans
16 for the best tower as it says here, then it's verified to
17 what's called a switch, that this is a valid subscriber with
18 whatever carrier it may be. Once that's verified, it then
19 begins to search globally for the call phone B here. Once
20 again, it has to validate that's a valid customer of whatever
21 carrier it may be and then it searches for the best channel to
22 connect that call to that cal limits, connect it, and this all
23 happens in micro seconds. I mean, you place a call and
24 everyone knows how quick your phone usually connects to it's
25 pretty amazing technology.

1 This is what I was talking about how cell phone
2 towers configure. Everyone has seen a cell phone tower I'm
3 sure and you see these antennas on the three sides here,
4 they're 120 degree sectors that depending on what side of the
5 tower the call detail records which I'm gonna show you in a
6 minute that we get from the carriers, that determines which
7 side that phone is on when that call was placed.

8 This just further illustrates how call detail
9 records from cell phone companies are obtained from this
10 information. This information leaves a paper trail of where
11 the cell phone has been geographically on a particular date
12 and time as well as who the subscriber is communicating with
13 during this time period. This information can then be mapped
14 for display purposes to show the area the phone was in during
15 a particular date and time which becomes crucial in criminal
16 investigations.

17 Okay. These are the actual call detail records for
18 Amanda Peele's T-Mobile cell phone records as they came from
19 the carrier T-Mobile to our office.

20 Q. Captain McDonald, this is State's Exhibit 63.

21 A. I'll go through briefly what - it looks like a bunch
22 of gobbledygook with a bunch of numbers but it all means, all
23 these numbers do mean something. Obviously here this is the
24 date of the call, the time it was placed, the duration of the
25 call, the call type. They have different codes for

1 incoming/outgoing and that type of thing and whether it was a
2 call forwarding and different things like that. So these
3 codes all mean something as far as that. The direction of the
4 call. Whether it's an incoming call, outgoing call, the
5 number they called. So on this incoming call this is the
6 number that's calling the target phone number, the dialed
7 number and the call number which is this particular phone, the
8 destination number which is gonna be the same as that, the M
9 side, the IMEI, this is gonna be identification for that
10 particular phone through that carrier kind of like a serial
11 number or VIN on a car.

12 This is a completion code here. It tells us if this
13 is a successfully completed call. Surface code number which
14 really isn't germane to anything that I am ever really doing
15 with it. This is the name of the switch. The identity of
16 that particular switch numerically and then the sector which
17 is important. Sector one, sector one, sector four, these type
18 things here. That helps us place it geographically and this
19 runs all the way all across. This gives you some latitude and
20 longitude, azimuth of the tower and different things like
21 that, more technical stuff. What this is here, we have a
22 program called ASIS. It's investigative software we have as a
23 cell phone component to it where we can import these records
24 from T-Mobile, Sprint, whoever, into the system and it puts it
25 in a much easier format for us to read and understand who is

1 calling who during a particular time and as the investigation
2 progresses and we become aware of phone numbers belonging to
3 key people in this, we're able to enter them into the system
4 and it actually populates and let's us know who the subscriber
5 is or who that phone belongs to.

6 Q. And so, Captain McDonald, looking at these T-Mobile
7 records which is State's Exhibit 63, can you just identify on
8 here who the number for 707-6380 is?

9 A. Who it belongs to?

10 Q. Yes.

11 A. No. I can't from this.

12 Q. But based on this?

13 A. Based on this I know it's Eugene Peele and this is
14 from investigation on this case who it came back to.

15 Q. And what about 803-201-5645?

16 A. That's gonna be Amanda Peele's phone.

17 Q. I'm sorry. I meant 864-551-8219.

18 A. That's gonna be a Jessica Gantt.

19 Q. Okay. Take a look at that.

20 A. This is actually the day of the incident that
21 occurred here that started on the 8th. When the records were
22 requested, they went back to the 8th and I think up through
23 the 10th which would be after this incident occurred. These
24 are just more calls back and forth. You know, if we don't
25 know who the subscriber is, it's left blank. With cell phones

1 nowadays and the turnover with them it's hard to always get a
2 good idea of who the subscriber actually is because they
3 change so often but most of these are through the
4 investigation or things like the T-Mobile voicemail when that's
5 activated. Once again, this is going into the evening now of
6 the 9th with some more calls that were coming in, Jessica
7 Gantt, her roommate. This is an incoming call from Jessica
8 that at lasted 30 seconds at 19:57 which would be 7:57 p.m.
9 It's in military time.

10 Q. And so this 803-718-7193, who does that come back
11 to?

12 A. A David Isenhowe.

13 Q. How about 803-600-7743?

14 A. Say that again. 803 --

15 Q. 7743.

16 A. I don't know who that comes back to.

17 Q. 600-7743?

18 A. Oh, that comes back to Roy Brasley.

19 Q. Roy Brasley. Okay. And the how about down at the
20 bottom 803-386-0323?

21 A. That's the phone of inbound Dukes.

22 Q. Okay. Go ahead.

23 A. This now goes into the period after this incident
24 has occurred and just more calls back and forth. Jessica
25 Gantt has an inbound call to this number well after this

1 incident has occurred. Inbound Dukes, a bunch of voice mail.
2 Roy Brasley again. Inbound Dukes once again. A number of
3 calls outbound to Mr. Brasley again. Inbound Dukes. Voice
4 mail. Okay. This is in the morning hours the day after this
5 incident. Once again you see a lot of voice mail activity.
6 Inbound Dukes an outbound call to him. Doesn't look like it
7 was completed. Once again, zero seconds. Voice mail. Mr.
8 Brasley once again an outbound call, 60 second duration on
9 that. Inbound Dukes, two more outbound calls. These are
10 actually connected, 180 seconds. That one was not connected.
11 And this continues on through the afternoon. The evening a
12 little after Mr. Gleaton was in custody these were calls
13 mainly, they're coming inbound and going to voice mail
14 directly at this point. There's no one there answering that
15 phone.

16 Q. And, Captain McDonald, can we go back a page and
17 could you actually write on State's 63 where you see Roderick
18 Dukes, identify his phone number on State's 63?

19 A. Might take a while because this is in UTC time so
20 you have to flip it back four hours.

21 Q. Well, not a specific call. Just to identify the
22 number if it's him so any call would be fine.

23 A. With Roderick?

24 Q. Yes, sir. Captain, I've got an easier way to do
25 this. I'm gonna hand you what's been pre-marked as State's

1 118. Do you recognize that?

2 A. Yes. This is a printout of this basically from ASIS
3 software I was telling you about.

4 Q. And so that's from Amanda's phone records?

5 A. It is.

6 MR. EATON: I'd offer State's 118 into evidence.

7 MS. JURICK: No objection.

8 THE COURT: Without objection.

9 BY MR. EATON:

10 Q. Okay. So is that the end of your explanatory
11 recitation?

12 A. There's a video of the mapping.

13 Q. Okay. So in this case you were describing the
14 things that you do to take call detail records and then
15 convert them to a map. Did you do that in this case?

16 A. I did.

17 Q. And do you recognize what's been marked as State's
18 Exhibit 117 for identification?

19 A. Yes.

20 Q. What's that?

21 A. This is a mapping that I did for this case. This is
22 an updated version of the original one that I had done.

23 MR. EATON: I'd offer State's 117 into evidence.

24 THE COURT: Ms. Jurick?

25 MS. JURICK: No objection.

1 THE COURT: Without objection.

2 BY MR. EATON:

3 Q. All right. So I have State's 117 here on the smart
4 board. Can you explain to the jury what they're looking at
5 please?

6 A. This is gonna be a mapping illustration video. We
7 have a software called CellHawk. I can take the cell phone
8 records provided to me by T-Mobile, import them into here and
9 it maps them. Now I correspond these looking at the tower
10 locations to make sure the software is doing the right thing
11 here and what it's able to do is illustrate, these are the
12 actual calls here and the date and the time. Anything in
13 black are calls that can be plotted and you'll see some arcs
14 come up here periodically. Those are calls being placed in
15 the geographical area where the phone was at the time.
16 Anything in red which you may see shortly thereafter are not
17 mapped. They may be text messages. They don't hit a tower.
18 There's no way to track their location.

19 All right. That's one of the illustrations here.
20 This is the actual cell phone tower right here. This is the
21 time, 11:10:03 a.m. that the call hit that tower. This is not
22 where the phone was. This is just an illustration showing
23 that it's on this side of the tower somewhere within these
24 parameters here and all I can say is that that phone was
25 somewhere in this general area here. Now, when you put all

1 the other T-Mobile cell phone towers up on the map, you will
2 see it periodically right here and we know that if there's a
3 tower right here, that obviously that phone is somewhere
4 between that tower and here and if it's too close to that
5 tower, it should have hit on that tower because it's a strong
6 signal so in general we can say that that phone was somewhere
7 in this general area here.

8 Q. So what are we seeing --

9 A. This is the date and time. This is the 9th at 11:18
10 a.m. so this is prior to this incident that occurred. This is
11 the incident location, 109 Crestmore here just for point of
12 reference so the phone is in this general area.

13 Q. And so, Captain McDonald, as we're looking at these
14 come up on the map on State's 117 and we see the times over on
15 the left, are these times that are here in east coast time in
16 the United States?

17 A. They have been converted to east coast time, four
18 hour difference from the UTC time that was present at this
19 time of year. It's a universal time and we're in the eastern
20 standard time, it's a four hour difference from where UCT
21 actually starts over in Eastern Europe.

22 Q. So in State's 63, the call detail record from
23 T-Mobile, what time is this in?

24 A. UTC time which is four hours ahead.

25 Q. Okay. But this has been converted?

1 A. This has been converted. Correct. You see the
2 curve. That's me adjusting for just how fast the slider goes.
3 There's a lot of dead periods where -- I'm trying to not make
4 this as lengthy. This is getting into the evening time just
5 prior to the incident. It comes up around the incident time
6 here shortly. And this is after the incident at this point.
7 Once again, this is the time here that's reflected from over
8 there. And you will notice the phone starting to move here
9 shortly. It's on the move now. Left this area heading
10 down.

11 Q. What time is it?

12 A. 11:30ish. This is down around the University of
13 South Carolina, Woodhill Estates, a little after midnight.
14 This is over behind the Gervais Street area around 1:30 in the
15 morning downtown Five Points area. 2:12 over in the
16 Earlewood/North Main area. Now there's activity again after a
17 brief - same general area Earlewood. You see some of the red
18 there. That's gonna be some of the text messages, calls that
19 were not mapped. I'm sorry. Text messages which can't be
20 mapped.

21 Q. You said text messages cannot be mapped?

22 A. If they do not hit the tower an register a
23 location.

24 Q. Okay. So what we're looking at are just --

25 A. These are all calls being placed, either incoming

1 calls or outgoing calls.

2 Q. Where are we now?

3 A. 9:30, 10:00 a.m. By this point investigators and
4 other personnel are out searching for the defendant at this
5 point down here near the river, the river bank through this
6 general area and I believe he was apprehended down in this
7 general area around mid afternoon. There's some more movement
8 there right down around the river. There's kind of a close up
9 version of it there. And that's going to be the last location
10 of the phone we have.

11 Q. Was there any activity after that?

12 A. Only incoming calls that went to voice mail.

13 Q. Please retake the stand.

14 A. (Witness complies.)

15 Q. So, Investigator McDonald, can you speak to the
16 accuracy of these call detail records and the way you map
17 them?

18 A. Correct. These are basically, I'm given directions
19 from the phone company and they're saying this is the tower
20 that served that call in this sector so either myself or the
21 software what it's doing is it's going to that point, that
22 latitude and longitude and that's where that tower is and then
23 it illustrates which sector that that phone was hitting off
24 of, which side of that tower so we can tell in a general sense
25 the phone was somewhere in that general area close to that

1 tower versus down in Eastover, over in Pontiac, out in
2 Newberry.

3 Q. And also the reliability of this technology in terms
4 of the times that we show?

5 A. Yes. This is all digital. These occur thousands of
6 times a day. They're done for billing purposes. They're done
7 for the engineers to see where the peak calling periods of
8 time are so they can adjust towers as need be to better serve
9 and you don't have a dropped call.

10 MR. EATON: Thank you, Captain McDonald. I have no
11 more questions.

12 THE COURT: We'll do cross examination after we take
13 a break so the jury can stretch. Take a little break.
14 Please don't talk about this case. Take an opportunity
15 to get something to drink and refresh yourselves.

16 (Whereupon, the jury entered the jury room at 3:10
17 p.m.)

18 MS. SAMPSON: Your Honor, we realized and I just
19 want to say to the defense on the record --

20 THE COURT: What? Slow down.

21 MS. SAMPSON: We realized after I had introduced the
22 statement of the defendant that there needed to be some
23 stuff redacted so we're gonna get together and do that
24 and then put --

25 THE COURT: Okay.

1 MS. SAMPSON: -- the redacted --

2 THE COURT: Okay. I noticed, I don't think it was
3 technically - it wasn't read. I don't know if you
4 introduced it or not.

5 MS. SAMPSON: I did.

6 THE COURT: It needs to be redacted, right?

7 MS. SAMPSON: Yes.

8 THE COURT: I'll let y'all work on that.

9 MS. OSTEEN: Thank you, Your Honor.

10 THE COURT: Are you gonna publish it?

11 MS. SAMPSON: I didn't publish it.

12 THE COURT: I know you didn't. You just want to
13 redact it and then publish it or it doesn't matter?

14 MS. SAMPSON: I just want to redact it.

15 THE COURT: Okay.

16 MS. SAMPSON: We probably will publish it.

17 THE COURT: You want to do it now? Y'all got time
18 to do it now?

19 MS. OSTEEN: Well, there's one outstanding issue so
20 it kind of depends on how the evidence comes out as to
21 one portion of it so I think if we --

22 THE COURT: All right. Is this about the phone, the
23 --

24 MS. SAMPSON: There's one statement in there about
25 the prior incident. The State believes that that prior

1 incident is going to come in. They believe that it's not
2 and so we're waiting to see if that comes in.

3 THE COURT: Okay. That's fine. That's fine.

4 MS. SAMPSON: Thank you.

5 THE COURT: Once again, I've said this to y'all
6 generally. If it takes a long time, it takes a long
7 time. It's no big deal. I mean, it's too important to
8 both sides not to try to make sure one way or the other,
9 and all I'm trying to do is make a record. I don't care
10 whether you agree with me or not. The most important
11 thing is to make a record. If it needs to be - the last
12 thing you want is a mistrial.

13 MS. SAMPSON: Thank you.

14 THE COURT: All right. Let's be at ease.

15 (Short break.)

16 THE COURT: Okay. I'm just checking to see if
17 they're about ready, or need a pot of coffee.

18 (Whereupon, the jury entered the courtroom at 3:30
19 p.m.)

20 THE COURT: Mr. Eaton, I think you completed your
21 direct examination?

22 MR. EATON: Yes, sir.

23 THE COURT: Ms. Jurick.

24 MS. JURICK: Thank you, Your Honor.

25 CROSS EXAMINATION

1 BY MS. JURICK:

2 Q. Hi, Captain.

3 A. Hi.

4 Q. I just have a few clarifying questions. You were
5 showing, I know in the sectors it had a big red shaded area?

6 A. Right.

7 Q. And it's your testimony that you can't tell where
8 specifically, it's just pinging in that general area?

9 A. That's for illustrative purposes just to highlight
10 that arc. That's not the coverage area of that tower by any
11 means.

12 Q. It's part of the coverage area?

13 A. It's part of the coverage area.

14 Q. So the coverage area would be even greater than
15 that?

16 A. Yes.

17 Q. And you can't tell where specifically the phone was
18 located, just in the vicinity of that tower?

19 A. Correct.

20 Q. And you mentioned text messages you don't see ping
21 on the tower?

22 A. Correct.

23 Q. Were there any text messages around that time frame
24 that night? Looking at the records were there any text
25 messages?

1 A. There were text messages. Yes.

2 Q. That night?

3 A. Yes.

4 Q. How can you tell?

5 A. Usually when you see the, uhm - actually T-Mobile
6 has a code on their records for SMS which is text messaging.
7 The code is MSO originating text messages meaning it's coming
8 from the target phone and then there's a terminating one as
9 well.

10 Q. Okay. And there are text messages on there?

11 A. There are text messages within the records. Yes.

12 Q. Within the time period you say nine to midnight?

13 A. I don't see any during that particular time period.

14 No.

15 Q. And I also - there were lines listed where it said
16 voice mail over and over and I believe you said that that just
17 means that the phone is not being answered.

18 A. What you see is you see like an incoming call and
19 then literally that same time or maybe a second later it flips
20 over right below it to voice mail so that's a call coming in
21 not being answered and bopping right over to the voice mail.
22 Yes.

23 Q. Okay. And the calls without names listed next to
24 it, that just means you couldn't identify who the --

25 A. Correct. You go through the investigation or

1 through some of the search engines we have. When we run them,
2 we're not getting back valid information.

3 Q. And you kept talking about the time of incident and
4 the time after the incident.

5 A. Correct.

6 Q. Can you clarify what time frame you're talking
7 about?

8 A. I'm going off the investigation and it appears from
9 Mr. Dukes that this occurred somewhere around 9:15 p.m. on
10 October 9th, 2017 so when I say prior, I'm saying prior to
11 9:15 around that time and sometime after 9:15.

12 MS. JURICK: I have no further questions. Thank
13 you.

14 THE COURT: Anything on redirect?

15 MR. EATON: No redirect, Your Honor.

16 THE COURT: You may step down, sir.

17 MR. EATON: The State calls Jackie Davis.
18 Thereupon,

19 JACKIE DAVIS
20 after having been first duly sworn, testified as follows,

21 THE CLERK: Please have a seat on the witness stand
22 and state your full name for the record.

23 THE WITNESS: My name is Jackie Davis.

24 DIRECT EXAMINATION

25 BY MS. SAMPSON:

1 Q. Ms. Davis, where do you work?

2 A. South Carolina Law Enforcement Division also known
3 as SLED.

4 Q. And what do you do there?

5 A. I'm a forensic technician. I log in evidence.

6 Q. Okay. And how long have you been doing that?

7 A. Since February 2015.

8 Q. And what is the procedure for logging in evidence?

9 A. The evidence technicians from different areas will
10 bring in the evidence and put it in lockers which is secured
11 and then at the end of the day whenever we have time we go and
12 pull that evidence out and we look at the packing slip that
13 tells us what information of the evidence they have dropped
14 off. We take evidence inside the container. I do not open
15 it. I do not look at it so what that packing slip what it
16 says, that's what I believe is in there. Log it in, give it a
17 unique lab number and then we transfer it to a secure area
18 which is behind two locks and cameras.

19 Q. And if a package was given to you that was open,
20 would you pass take it on to the next, would you take it to
21 the next and put it in evidence like you just said?

22 A. No.

23 Q. What would you do?

24 A. If it is unsecured, we either call the officer back
25 or if it is secured but not properly sealed, we will seal it

1 which means it is sealed but not to meet our standards so we
2 will reseal it, note it in the system so, and then we send it
3 back to the evidence room to stay until the evidence is
4 requested.

5 Q. I'm gonna show you what's been marked as State's
6 Exhibit number 112. Did you have anything to do with that
7 item number which is a GSR kit?

8 A. I did.

9 Q. What did you do with it?

10 A. Uhm, this was submitted to our laboratory on 11/16
11 of 2017 and I pulled it out of the locker at 11:00 that
12 morning and logged it in.

13 Q. And where -- I think you may have said this, but
14 where do you log it in?

15 A. We log it in at our desk and we give it a unique lab
16 number and everything dealing with this case would go with
17 that lab number and this tells me this is evidence number 1.

18 Q. As you stated, did you tamper with it in any way?

19 A. No. As you can see, it was sealed correctly, it was
20 initialed and dated by Patricia Hart who dropped it off so I
21 did not have to do anything with this one.

22 MS. SAMPSON: Thank you. No further questions, Your
23 Honor.

24 THE COURT: Any questions?

25 MS. OSTEN: No, Your Honor.

1 THE COURT: You may step down --

2 MS. SAMPSON: Can she be excused, Your Honor?

3 THE COURT: -- Agent Davis.

4 MS. SAMPSON: The State calls Doris Yarbrough.

5 Thereupon,

6 DORIS YARBROUGH

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

8 THE CLERK: Please have a seat on the witness stand

9 and state your full name for the record.

10 THE WITNESS: My name is Doris Yarbrough,

11 Y-a-r-b-r-o-u-g-h.

12 DIRECT EXAMINATION

13 BY MS. SAMPSON:

14 Q. Ms. Yarbrough, where do you work?

15 A. I'm employed with the South Carolina Law Enforcement
16 Division also known a SLED.

17 Q. And what do you do there?

18 A. I'm a forensic technician in the evidence control
19 department.

20 Q. And so what is your job as an evidence control
21 technician?

22 A. As a evidence control technician we receive, package
23 and store evidence until it's needed to be analyzed.

24 Q. And in this case did you receive any evidence?

25 A. I did.

1 Q. What did you receive?

2 A. I received a toxicology package from the Coroner's
3 Office.

4 Q. Okay. And your cohort just talked about this, but
5 what happens when it comes to you?

6 A. We currently use what we call evidence submission
7 lockers. They are in a room adjacent to where we work. The
8 submitter brings the evidence in with the correct paperwork,
9 time stamps it, initials it, signs the paperwork and places it
10 into an evidence locker and then secures it before they walk
11 away.

12 Q. And in this case -- Let me ask you this: Do you
13 know what happens to something like blood after it is
14 tested?

15 A. Not exactly.

16 Q. Okay. You don't do any testing?

17 A. I don't open, analyze or inventory anything.

18 Q. Okay. So in this case I believe you said you got -
19 what did you receive?

20 A. The autopsy packet. May I look at my notes?

21 Q. You may.

22 A. Autopsy packages vary depending on the agency. This
23 one I think had quite a few items.

24 Q. And I'm just gonna ask you in particular did you
25 receive any blood?

1 A. Yes. I do recall blood being there.

2 Q. And what did you do with it upon receiving - what
3 did you do with it?

4 A. Once it's locked in and given a what we call a lab
5 number which is a yellow sticker that is specifically for that
6 particular case, those labels are affixed to the evidence and
7 in this case with it being toxicology evidence it was placed
8 in a refrigerated storage unit until it's picked up the next
9 morning.

10 Q. And if it had not been sealed properly, what would
11 you have done when you received it?

12 A. We would have made a note in the case file if it
13 wasn't correctly sealed.

14 Q. And was there any such note in this one?

15 A. No. There was not.

16 Q. Did you have anything else to do with the toxicology
17 in this case?

18 A. Aside from putting it in a refrigerator, no.

19 Q. And did you change it or do anything to it in any
20 way?

21 A. No. They come in sealed packages.

22 Q. Just to be clear, you said you received blood. Did
23 you also receive samples from her brain?

24 A. We did.

25 Q. And is that, was that taken into custody in the same

1 manner as it was --

2 A. In the same manner. Yes.

3 Q. And did you do anything to that?

4 A. No.

5 THE COURT: Let me ask you, what exhibit -- Is there
6 an exhibit number?

7 MS. SAMPSON: It does not have one yet, Your
8 Honor.

9 THE COURT: Okay. All right. Any cross?

10 MS. SAMPSON: I'm finished, Your Honor.

11 THE COURT: I'm sorry.

12 MS. OSTEN: We have no questions of this witness.

13 THE COURT: All right. Anything else?

14 MS. SAMPSON: No, sir.

15 THE COURT: All right. Nothing further. All right.
16 You may step down.

17 MS. SAMPSON: May she be released?

18 THE COURT: Sure.

19 MS. SAMPSON: At this time the State calls Ashton
20 Coulter.

21 THE COURT: What was the name again?

22 MS. SAMPSON: Ashton Coulter. I'm sorry. Coulter.
23 I'm saying it wrong.

24 Thereupon,

25 ASHTON ALAN ALEXANDER-COULTER

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

2 THE CLERK: Please have a seat on the witness stand
3 and state your full name for the record.

4 THE WITNESS: Ashton Alan Alexander-Coulter.

5 DIRECT EXAMINATION

6 BY MS. SAMPSON:

7 Q. And can you spell your last name just so we've got
8 it spelled right?

9 A. C-o-u-l-t-e-r.

10 Q. And, Ashton, how old are you?

11 A. 15.

12 Q. And where do you currently live?

13 A. With my dad.

14 Q. And where is that?

15 A. North, uhm --

16 Q. North?

17 A. South Carolina.

18 Q. Okay. And who lives there with you?

19 A. My brother, uhm, step mom, step siblings.

20 Q. And who is your mom?

21 A. Amanda Peele.

22 Q. And I want to ask you, earlier we heard some
23 testimony from Skyler. Who is that person?

24 A. My sister.

25 Q. Okay. I want to show you what's come in as State's

1 Exhibit 118. I'm gonna show you --

2 MR. SAMPSON: May I approach the witness, Your
3 Honor.

4 THE COURT: Yes, ma'am.

5 BY MS. SAMPSON:

6 Q. I'm gonna show you on page 2 of this, here where it
7 says, do you know who that is, David Eisenhower?

8 A. Yes, ma'am.

9 Q. Who is that?

10 A. That's my three older siblings dad.

11 Q. Okay. And do you recognize the number that's
12 listed, the 718-7193 number?

13 A. I can't say for sure.

14 Q. Okay. But David Eisenhower is Skyler's father; is
15 that correct?

16 A. Yes, ma'am.

17 Q. So I want to talk to you a little bit about where
18 you lived in 2017. Where were you living at that time?

19 A. With my mom.

20 Q. Where was that?

21 A. 109 Crestmore.

22 Q. And who lived there with you in let's say the summer
23 before that?

24 A. My mom, my little brother and Kenneth.

25 Q. Kenneth. Do you see Kenneth Gleaton here today?

1 A. I do.

2 Q. Where is he?

3 A. Right over there.

4 Q. What does he have on?

5 A. A white shirt, black jacket.

6 MS. SAMPSON: Please let the record reflect that
7 he's identified the defendant, Your Honor.

8 THE COURT: So noted.

9 MS. SAMPSON: Thank you.

10 BY MS. SAMPSON:

11 Q. And do you remember how long Mr. Gleaton lived with
12 you and your mother and your brother?

13 A. Uhm, six months to a year.

14 Q. And did your grandparents ever live with you all?

15 A. Yes, ma'am.

16 Q. And was it your grandparents or your great
17 grandparents?

18 A. My great grandparents.

19 Q. Okay. Do you remember how long they lived with
20 y'all?

21 A. Uhm, six to eight months.

22 Q. Now, I want to talk to you about when you had to
23 move out of your house with your mom. Do you remember what
24 month that was?

25 A. Uhm, September.

1 Q. Of what year?

2 A. 2017.

3 Q. And can you tell the jury a little bit about what
4 happened that day?

5 A. My mom and came at got us from who we are staying
6 with --

7 Q. I need you to speak real loud, okay?

8 A. From who we are staying with now, took us back to
9 where we was living back in 2017. Uhm, I was in class. I got
10 called out of class to the guidance counselor's office and a
11 DSS lady was up there. She asked me, uhm, questions about,
12 uhm, where I was living and I answered them and, uhm, I went
13 back to class and at the end of the day she came back again.
14 They called for an early release and she was up there and she
15 took me with her.

16 Q. And where did you do?

17 A. To DSS headquarters.

18 Q. And did your brother go to the same place as you?

19 A. Yes, ma'am.

20 Q. Okay. Was your mom there, too?

21 A. No, ma'am.

22 Q. So you weren't allowed to live with her at that
23 point?

24 A. No, ma'am.

25 Q. Did you ever get to go back to live with your mom?

1 A. No, ma'am.

2 Q. How long were you in foster care?

3 A. A week.

4 Q. A week. Then where did you go after that?

5 A. With my dad.

6 Q. Now, before you were removed from the home, were you
7 ever able to talk to your mom about an incident between her
8 and Mr. Gleaton?

9 A. Yes. I was.

10 Q. Okay. And without telling me what she said, did you
11 see any bruises to her?

12 A. I did.

13 Q. And what did you see?

14 A. Uhm, an imprint of a barrel on her right side.

15 Q. An imprint of a barrel?

16 A. A gun barrel on her right side in her ribs.

17 Q. And you could see that?

18 A. Yes, ma'am.

19 Q. Okay. And was this before or after you were removed
20 from the home?

21 A. Before.

22 Q. And when you were talking to your mom and saw that,
23 can you tell us her demeanor at that time?

24 A. Uhm, scared.

25 Q. She seemed scared to you?

1 A. Yes, ma'am.

2 Q. I want to ask you, when you were living with your
3 mom, did you ever meet Mike or Roderick Dukes?

4 A. I did.

5 Q. Did he come over to your house a lot or how often
6 did he come over?

7 A. Uhm, from when I was there, it would be, uhm, from
8 time to time.

9 Q. Okay. And who was he friends with, your mom or with
10 the defendant?

11 A. Uhm, I'm gonna say both.

12 Q. Now, I want to ask you a little bit, we've heard
13 some talk about a gun that was in your house. Do you know
14 anything about that gun?

15 A. Uhm, yes, ma'am.

16 Q. Can you tell the jury what happened with that gun?

17 A. Uhm, the gun was my grandfather's. It came up to
18 where he needed to get rid of it, my grandfather gave it to
19 Mr. Kenneth and, uhm, to get rid of and, uhm, from there we
20 didn't know if it had been gotten rid of from that time or not
21 and then I seen it a few times after that.

22 Q. Did you ever see Mr. Gleaton shoot the gun?

23 A. I have.

24 Q. And after he asked him to get rid of it, did you
25 ever see it again?

1 A. Yes. I did.

2 Q. When did you see it again?

3 A. Five or six times after.

4 Q. After?

5 A. He was to get rid of it.

6 Q. Okay. And when you were taken from your mom and had
7 been put in DSS custody, did you want to come back and live
8 with your mom and Mr. Gleaton?

9 A. Not at the time. No. I did not.

10 Q. We're not sure everyone is hearing you so we'll have
11 you repeat something. You said you saw a bruise on your
12 mother?

13 MS. OSTEEEN: Objection.

14 THE COURT: The objection is it was asked and
15 answered?

16 MS. OSTEEEN: Yes, Your Honor.

17 THE COURT: Okay.

18 MS. OSTEEEN: And then continuing on that, I also
19 would like to renew the previous objections as to the
20 testimony about the gun.

21 THE COURT: All right.

22 MS. OSTEEEN: And then in addition, Your Honor, the
23 way that the questions are being answered he never
24 suggested a bruise. Ms. Sampson is the first to
25 introduce that.

1 THE COURT: All right. Your objection is overruled,
2 ma'am.

3 MS. OSTEEN: Yes, Your Honor.

4 THE COURT: Now, do you want me to send the jury out
5 so I can hear argument? Asked and answered. I disagree.
6 I'm going to let her ask the question again.

7 MS. OSTEEN: Yes, Your Honor. I would like the jury
8 to go to the jury room.

9 THE COURT: Go to the jury room. Don't talk about
10 the case.

11 (Whereupon, the jury entered the jury room at 3:50
12 p.m.)

13 THE COURT: I think your objection was asked and
14 answered?

15 MS. OSTEEN: Yes, Your Honor. Continuing on that, I
16 also would like to renew the previous objection as to the
17 testimony about the gun.

18 THE COURT: All right.

19 MS. OSTEEN: And then in addition, Your Honor, the
20 way that the questions are being answered, he never
21 suggested a bruise. Ms. Sampson is the first to
22 introduce that.

23 THE COURT: Objection overruled.

24 MS. OSTEEN: Yes, Your Honor.

25 THE COURT: Bring the jury back in.

1 (Whereupon, the jury entered the courtroom at 3:52
2 p.m.)

3 BAILIFF: Your Honor, the jury is present.

4 THE COURT: Welcome back Mr. Foreman, members of the
5 jury. You may continue your direct examination.

6 MS. SAMPSON: Thank you, Your Honor.

7 BY MS. SAMPSON:

8 Q. I just want to clarify something because I'm not
9 sure people heard you, Ashton. You said you saw an
10 indentation or a mark on your mom. What was it from or what
11 did it appear to you to be from?

12 A. A barrel from a gun.

13 Q. Okay. And when I was asking you about, you said
14 that you had, the getting of a gun from your grandfather, did
15 you ever see, I believe what you said is your grandfather
16 asked him to get rid of it?

17 A. Uhm, yes, ma'am.

18 Q. Did you see Mr. Gleaton with the gun after that time
19 after he was asked to get rid of it?

20 A. Yes, ma'am.

21 Q. How many times?

22 A. Five to six times.

23 Q. I'm going to show you what's already introduced as
24 State's Exhibit 106. Is that the gun that you're talking
25 about?

1 A. Yes, ma'am.

2 Q. Or a picture of a gun similar?

3 A. Yes, ma'am.

4 Q. Okay. And the lastly, you talked about being
5 removed from the home of your mom. When was the last time you
6 saw your mother?

7 A. Say two weeks before the incident.

8 Q. Two weeks before. And before you were removed from
9 her custody, did you see her - how often did you see her?

10 A. Uhm, when we was in foster care, we didn't see her.
11 Uhm, it was about a week after we was enrolled in school,
12 that's when we seen her.

13 Q. But and my question is, before all that happened,
14 did you see your mother every day when you lived with her or
15 how often?

16 A. Oh, yes, ma'am.

17 Q. So you would recognize her?

18 A. Yeah.

19 MS. OSTEN: I do have an objection to the picture.

20 THE COURT: Approach.

21 (Side bar off the record.)

22 THE COURT: Overruled. That's a picture of the
23 deceased, right?

24 MS. SAMPSON: Yes.

25 MS. OSTEN: And I just need to make the objection

1 on the record.

2 THE COURT: You can do it later on, but your
3 objection is overruled. You may proceed.

4 BY MS. SAMPSON:

5 Q. I'm gonna show you what's been marked as State's
6 Exhibit 119. Do you recognize that photograph?

7 A. Yes, ma'am.

8 Q. And does that photographs fairly and accurately
9 depict your mother in October of 2017?

10 A. Not in 2017.

11 Q. I'm not asking if the picture was taken in 2017.
12 I'm asking if that's what she looked like in 2017?

13 A. Oh, yes, ma'am.

14 MS. SAMPSON: Your Honor, at this time I ask to
15 introduce State's Exhibit 119 into evidence.

16 THE COURT: So admitted over the defense's
17 objection.

18 MS. OSTEEEN: Thank you, Your Honor.

19 BY MS. OSTEEEN:

20 Q. So this is what your mom looked like previously?

21 A. Yes, ma'am. Minus the --

22 Q. I'm saying when you last saw her?

23 A. Yes, ma'am.

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

25 THE COURT: Cross examination.

1 MS. OSTEEN: Yes, Your Honor.

2 CROSS EXAMINATION

3 BY MS. OSTEEN:

4 Q. You said that you previously saw Mr. Gleaton shoot
5 the gun?

6 A. Yes, ma'am.

7 Q. And that was at the pond?

8 A. Uh, yes, ma'am.

9 Q. And it was not at a person, it was at the pond?

10 A. Yes, ma'am.

11 Q. And Mr. Gleaton spent the night at the house on
12 September 12th?

13 A. Uhm, I can't remember the number of times he spent
14 the night.

15 Q. Do you remember giving testimony in this case three
16 days ago?

17 A. Yes, ma'am.

18 Q. And do you remember at that time saying that he did
19 spend the night on September 12th?

20 A. Yes, ma'am. I don't remember the exact date, but I
21 know he spent the night quite often.

22 MS. OSTEEN: Thank you. Nothing else.

23 THE COURT: Anything further of this witness?

24 MS. SAMPSON: No, sir.

25 THE COURT: You may step down, Mr. Coulter. Call

1 your next witness.

2 MS. SAMPSON: The State calls Investigator Beeler.
3 Thereupon,

4 MICHAEL BEELER
5 after having been first duly sworn, testified as follows,

6 THE CLERK: Please have a seat on the witness stand
7 and state your full name for the record.

8 THE WITNESS: Investigator Michael Beeler, Richland
9 County Sheriff's Department.

10 DIRECT EXAMINATION

11 BY MS. SAMPSON:

12 Q. Investigator, where do you work?

13 A. I work with the Richland County Sheriff's Department
14 Crime Scene Unit.

15 Q. And what do you do there?

16 A. I'm a crime scene investigator.

17 Q. And as a crime scene investigator what is your
18 job?

19 A. Typically respond to various crimes throughout the
20 county, to document, photograph, collect, process items of
21 evidence.

22 Q. Okay. And do you go to scenes in order to do that
23 or how does that work?

24 A. Yes, ma'am. Typically we handle having in the
25 county so we'll go scenes, we'll collect evidence, we'll

1 process items that are brought back, cars and stuff like that
2 that get towed in so we'll go to the scene, but we'll also
3 deal with things at headquarters or vehicle compound or
4 whatever.

5 Q. And were you involved in any collection of evidence
6 in this case?

7 A. Yes, ma'am.

8 Q. What did you do in this case?

9 A. On October 10th I was called to meet Sergeant
10 Carwell and Investigator Hinson and the suspect in this case
11 at headquarters to photograph his clothing, some injuries on
12 his hands and arms and then I collected his clothing.

13 Q. And is that standard for you to be called in to do
14 that?

15 A. Uhm, I'm on higher level cases, yes, ma'am.

16 Q. While I'm doing this, what - did you - you might
17 have said this. Did you collect clothing from him?

18 A. I did, ma'am.

19 BY MS. SAMPSON:

20 Q. And I'm gonna go over that in just a second.

21 MS. SAMPSON: Your Honor, my understanding is that
22 they are objecting to State's Exhibit --

23 THE COURT: Hold on. Do I need to take something
24 up?

25 MS. SAMPSON: Apparently.

1 THE COURT: Beg your pardon.

2 MS. SAMPSON: Yes, sir.

3 THE COURT: Okay. Step up here.

4 (Side bar off the record.)

5 THE COURT: Another legal issue has arisen members
6 of the jury once again and the only way I can resolve
7 that is in your absence so don't talk about this case.
8 We'll call you back shortly. Thank you.

9 (Whereupon, the jury entered the jury room at 4:00
10 p.m.)

11 THE COURT: These are photographs of what?

12 MS. SAMPSON: Your Honor, these are photographs of
13 the defendant.

14 THE COURT: The defendant?

15 MS. SAMPSON: Yes, sir. The ones they are objecting
16 to for the record are 120, 121, 122, 123, 125. The
17 objection is that he's handcuffed.

18 THE COURT: I agree with that.

19 MS. SAMPSON: He's under arrest when they're taking
20 the pictures. We're not trying to show the cuffs. We're
21 showing the arm.

22 THE COURT: Do you have any other pictures where
23 he's not chained?

24 MS. SAMPSON: Not his arm. They're all --

25 MS. JURICK: That's his arm.

1 MS. SAMPSON: There's a particular scratch on one
2 arm. It doesn't show the other.

3 THE COURT: Let's make life easy. You give me a
4 case where it comes in. You give me a case where it
5 stays out. I'll be back shortly. I have to make a
6 decision. I can't split the baby. I have to say yes or
7 no. Either way, give me a reason to rule for you and
8 I'll be happy to do so.

9 (Short break.)

10 BAILIFF: Come to order.

11 THE COURT: Let me see those pictures again.

12 MS. SAMPSON: (Proffering.)

13 THE COURT: The defense objects to number 120, shows
14 tattoos on his arm while he's handcuffed. 122,
15 handcuffed, chains around his legs. 123, foot ankles.
16 Looks like his hand outstretched in cuffs 125. Can y'all
17 find a case?

18 MS. SAMPSON: I did, Your Honor. The case that we
19 were able to find --

20 THE COURT: Slow down.

21 MS. SAMPSON: I can come closer to read while I'm
22 talking to you. State v. Denson. The cite is 269SC407,
23 237 Southeastern Second 761. That's a 1977 case. And in
24 that case --

25 THE COURT: Gregory was the Chief Justice. Go

1 ahead.

2 MS. SAMPSON: In that case it said as long as - him
3 being handcuffed was fine in the photograph so long as it
4 didn't suggest that it was a prior crime.

5 THE COURT: Well, that makes sense.

6 MS. SAMPSON: And they have already stated he's
7 under arrest when they --

8 THE COURT: That he was under arrest?

9 MS. SAMPSON: Yes.

10 THE COURT: Go ahead.

11 MS. SAMPSON: And they cite that case. That case
12 was cited by the Court of Appeals in State v. Vaisz in
13 2013 and it held up.

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

15 MS. JURICK: Your Honor, those pictures are
16 completely duplicative of the --

17 THE COURT: Stop. I'm sorry. I do have trouble
18 hearing. Speak up please.

19 MS. JURICK: I understand.

20 THE COURT: Go ahead.

21 MS. JURICK: May I show you the ones that we're not
22 objecting to? I think everything of value that can be
23 shown in those are also shown in these.

24 THE COURT: Okay. Let me see them then. You object
25 to these and we put it on the record, and you don't

1 object to these, right?

2 MS. JURICK: Do not object to these.

3 THE COURT: Hold on. This is 129, is it? 129 shows
4 a tattoo on his left arm I think.

5 MS. JURICK: Yes, Your Honor. Our issue is the
6 shackles and not the tattoo.

7 THE COURT: What now?

8 MS. JURICK: Our issue that we're objecting to is
9 just the shackles, not the tattoos.

10 THE COURT: 128 is his left hand. 129. 127.
11 You want to show the bruises on the hand, the fingers,
12 the cuts?

13 MS. SAMPSON: Yes, sir.

14 THE COURT: And you don't object to this?

15 MS. JURICK: No, sir.

16 THE COURT: Those are in. These are out. Prejudice
17 outweighs the probative value.

18 MS. SAMPSON: Thank you, Your Honor.

19 THE COURT: And we can mark them as a Court's
20 Exhibit if it comes up later. You can make those Court
21 Exhibits that I'm excluding. I forget the numbers again,
22 but you have them, right? Everybody's clear about that
23 so far? All right? Anything further?

24 MS. JURICK: No, Your Honor.

25 MS. SAMPSON: No, Your Honor.

1 THE COURT: Bring the jury back in, Mr. Nitsche.
2 Mr. Eaton, how many more witnesses have you got this
3 afternoon? You said until 4:00. One more?

4 MR. EATON: We've got two short ones, Your Honor.

5 MS. SAMPSON: We have two.

6 THE COURT: Well, she said one. You say two. I
7 don't know.

8 MS. SAMPSON: I said one. I didn't know one showed
9 up.

10 MR. EATON: We have one chain and one from the --

11 THE COURT: Well, that's okay. I'm just asking.

12 MR. EATON: A short one who's from --

13 THE COURT: That's all right. So you have three
14 more?

15 MS. SAMPSON: We just have two.

16 MR. EATON: Two more after Beeler.

17 THE COURT: What?

18 MR. EATON: Two more after Beeler here.

19 THE COURT: That's fine.

20 (Whereupon, the jury entered the courtroom at 4:15
21 p.m.)

22 THE COURT: Welcome back Mr. Foreman, members of the
23 jury. Now for about the fifth time, I'll explain the
24 same thing. An issue comes up, I have to send you out.
25 Please take no special note of that. It doesn't mitigate

1 one way or the other. Just simply how we conduct trials,
2 and with that in mind I invite the Solicitor to continue
3 her direct examination of Officer Beeler.

4 MS. SAMPSON: Thank you, Your Honor. Please the
5 court.

6 BY MS. SAMPSON:

7 Q. Now, Investigator Beeler, I want to show you what's
8 been marked as State's Exhibit 121, 124, 126, 127, 128, 129,
9 130, 131, 132, 133 and 134 and ask you if you recognize those?

10 A. Yes, ma'am.

11 Q. And what are those pictures of.

12 A. These are pictures that I took that evening at
13 headquarters of the defendant's face, some of the injuries and
14 marks on his hands and also his socks and shoes.

15 Q. An do those photos accurately reflect the way that -
16 are those accurate and correct copies of the photographs of
17 what you saw that day?

18 A. Yes, ma'am.

19 Q. And have they been changed or altered in any way?

20 A. No, ma'am.

21 MR. EATON: At this time I ask to introduce, and
22 I'll go through the State's Exhibits --

23 THE COURT: Okay.

24 MS. SAMPSON: Got to do it again. 121, 124, 126,
25 127, 128, 129, 130, 131, 132, 133 and 134.

1 THE COURT: And they're all in without any
2 objection.

3 MS. JURICK: No objection.

4 BY MS. SAMPSON:

5 Q. Okay. I'm gonna start with these. If you would
6 just go through, what does State's 121 show?

7 A. Uhm, the victim's face.

8 Q. You mean the defendant?

9 THE COURT: The defendant.

10 BY THE WITNESS:

11 A. The defendant. I apologize. The defendant.

12 BY MS. SAMPSON:

13 Q. And were there any marks to his face?

14 A. Not that I observed.

15 Q. Okay. I'm gonna show you State's Exhibit 124 and
16 what does that show?

17 A. The defendant's hands, the back of his hands.

18 Q. And what is that on his first finger?

19 A. Uh, be an injury.

20 Q. And what does State's Exhibit 126 show?

21 A. The palms of his hands, an injury to the middle
22 finger of his right hand.

23 Q. And is State's Exhibit 127 just a closer shot of
24 that?

25 A. Correct.

1 Q. What is State's Exhibit 128?

2 A. That would be the middle finger of his right hand
3 again with a scale.

4 Q. And why do you put the scale in there?

5 A. We take pictures without adding anything to them so
6 we take, we typically take overall, close up, mid range
7 pictures and then we typically take them again with markers
8 and scales. We take one without anything and then one with
9 rulers, markers.

10 Q. And I'm gonna show you State's Exhibit 129 and 130.
11 What are those?

12 A. That would be a mid range and a close up of the
13 defendant's left - my apologies - his left forearm.

14 Q. Left forearm?

15 A. Inside his left forearm.

16 Q. And State's Exhibits 131 and 132.

17 A. Additional pictures of the injury on the inside of
18 his left harm with the scale.

19 Q. State's Exhibit 133.

20 A. Socks and shoes that I collected from the
21 defendant.

22 Q. And State's 134?

23 A. That's the right hand index finger injury again with
24 the scale.

25 Q. And at the time that you're taking these

1 photographs, is he under arrest?

2 A. I do not know, ma'am.

3 Q. Now, did you - you stated that you took his clothing
4 as well?

5 A. Yes, ma'am.

6 Q. I'm gonna show you what's been marked as State's
7 Exhibit 135 and ask if you recognize this?

8 A. Yes, ma'am.

9 Q. And what is that?

10 A. This is the box of, packaged of his clothing,
11 evidence label of the camouflaged --

12 THE COURT: Can y'all hear that? The box of what?

13 BY THE WITNESS:

14 A. The box of the clothes that I collected from him
15 that evening.

16 BY MS. SAMPSON:

17 Q. And how do you know that that's the box, the clothes
18 that you collected?

19 A. There's an evidence label and also my initials and
20 the date that it was sealed.

21 Q. And were those clothing items changed in any way
22 prior to you putting them in the box?

23 A. No, ma'am.

24 MR. EATON: At this time, Your Honor, I ask to
25 introduce State's Exhibit 135 into evidence.

1 MS. JURICK: No objection.

2 THE COURT: Okay.

3 MS. SAMPSON: Are they so entered, Your Honor?

4 THE COURT: Yes.

5 MS. SAMPSON: Okay.

6 BY MS. SAMPSON:

7 Q. And while I'm opening this, did you notice anything
8 about the clothes or about Mr. Gleaton?

9 A. On my handwritten notes, uhm, I did note that the
10 socks were damp and that there was a smell of barbecue.

11 Q. A smell of barbecue?

12 A. Yes, ma'am.

13 Q. I ask you what is this?

14 A. That would be the pair of shoes.

15 Q. These are the shoes that we're talking about?

16 A. Yes, ma'am.

17 Q. And is it normal to put everything in separate bags
18 like this?

19 A. I like to be thorough and prevent any kind of cross
20 contamination of the items so that's just typically how I like
21 to process the package.

22 Q. What are these?

23 A. Those are the socks.

24 Q. And what is this?

25 A. That's the camouflaged shirt, ma'am.

1 Q. All right. This is the shirt?

2 A. Yes, ma'am.

3 Q. And this is how it appeared when you collected it?

4 A. Yes, ma'am.

5 Q. And then what are these?

6 A. The shorts that he was wearing that I collected.

7 Q. Thank you. Investigator Beeler, did you collect
8 anything else?

9 A. No, ma'am.

10 MS. SAMPSON: No further questions. Please answer
11 anything the defense has.

12 THE COURT: Ms. Jurick.

13 MS. JURICK: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MS. JURICK:

16 Q. Did I take any photos of the scene?

17 A. No, ma'am. This was my only involvement.

18 Q. Okay. And you didn't take any pictures of Michael
19 Dukes?

20 A. Of?

21 Q. You didn't take any pictures of anyone besides Mr.
22 Gleaton?

23 A. Correct, ma'am. This is my only involvement.

24 MS. JURICK: I have no other questions. Thank
25 you.

1 THE COURT: Anything further of this witness?

2 MS. SAMPSON: No, sir.

3 THE COURT: You may step down.

4 MS. SAMPSON: Can he be excused?

5 THE COURT: Yes. Any objection?

6 MS. OSTEN: No, Your Honor.

7 THE COURT: Officer, you're excused.

8 MR. EATON: The State calls Howard Cleaver.

9 Thereupon,

10 HOWARD CLEAVER

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

12 THE CLERK: Please have a seat on the witness stand
13 and state your full name for the record.

14 THE WITNESS: My name is Howard Cleaver.

15 DIRECT EXAMINATION

16 BY MS. SAMPSON

17 Q. Where do you work, Mr. Cleaver?

18 A. I work for Richland County Sheriff's Department.

19 Q. And what do you do there?

20 A. I'm one of the evidence and property technicians.

21 Q. And as part of your job, do you take and receive
22 evidence?

23 A. Yes.

24 Q. And do you move it from place to place?

25 A. Yes.

1 Q. Did you take any evidence in this case?

2 A. I did.

3 Q. Specifically I'm gonna show you what will be
4 evidence number 3. It's already been marked as State's
5 Exhibit 86 and ask is this something that you entered into
6 evidence?

7 A. Yes. I did.

8 Q. What is that?

9 A. That is a .25 auto you see in the bedroom floor
10 debris.

11 Q. Is it a bullet, a casing?

12 A. Yes.

13 Q. And did you change it in any manner?

14 A. No. I did not.

15 MS. SAMPSON: At this time, Your Honor, we ask to
16 introduce State's Exhibit 86 into evidence. We ask to
17 move State's Exhibit 86 into evidence.

18 MS. OSTEEN: No objection.

19 THE COURT: Without objection.

20 MS. SAMPSON: Thank you, Your Honor. I have no
21 further questions.

22 THE COURT: Any questions of this witness?

23 MS. JURICK: No, Your Honor.

24 THE COURT: You may step down, sir.

25 MR. EATON: May we approach, Your Honor.

1 THE COURT: Sure.

2 (Side bar off the record.)

3 THE COURT: Members of the jury, I need you to go to
4 the jury room for a second. I have a matter to take up
5 outside your presence. I'll bring you back out shortly.

6 (Whereupon, the jury entered the jury room at 4:35
7 p.m.)

8 THE COURT: Now, I think the Solicitor proposes to
9 call the next witness to verify the incident that
10 occurred between the parties. I think your position is
11 that it's already in evidence; is that correct?

12 MR. EATON: Well, and that we had - we had this
13 pretrial hearing, Your Honor, in order for the Court to
14 make the finding that the Court must make before the jury
15 hears about it that there is clear and convincing
16 evidence of this prior incident, that it goes to mode of
17 identity --

18 THE COURT: Is this when she left the home? Help me
19 out.

20 MR. EATON: It's the same --

21 THE COURT: Well, bring the witness in and let's
22 just proffer it.

23 MR. EATON: Yes, sir. It's the same thing that --

24 THE COURT: That's why I sent the jury out. Let's
25 bring him in. Let me hear what it is he's gonna say.

1 You get to cross examine him.

2 MS. OSTEEN: Thank you, Your Honor.

3 Thereupon,

4 PHILLIP ALAN CARLSON

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

6 THE CLERK: Please have a seat on the witness stand
7 and state your full name for the record.

8 THE WITNESS: Phillip Alan Carlson.

9 DIRECT EXAMINATION (Proffered)

10 BY MR. EATON:

11 Q. Mr. Carlson, where do you currently work?

12 A. I'm currently an investigator for GEICO Insurance.

13 Q. And I'm gonna need you to speak up into the mic.

14 A. Currently I'm an investigator for GEICO Insurance.

15 Q. And what were you doing in October of 2017?

16 A. I was a patrol deputy for the Richland County
17 Sheriff's Department.

18 Q. And did you respond to a call for domestic violence
19 in September?

20 A. Yes, sir. I did.

21 Q. On September 8th, I guess?

22 A. Yes, sir.

23 Q. Where did you respond to?

24 A. I was dispatched to the Holiday Inn on Garners Ferry
25 Road, Columbia, South Carolina in Richland County.

1 Q. And who did you meet there?

2 A. I made contact with Amanda Peele at that location.

3 Q. And did you interview her?

4 A. Yes, sir.

5 Q. And then after you, you know, don't tell us what she
6 said, but after you interviewed her, what did you do?

7 A. I gave her a car to car escort back to her residence
8 where she picked up her son and belongings and from there I
9 gave her an escort in my patrol vehicle to Richland County
10 Sister Care.

11 Q. Just her?

12 A. Her and her son.

13 Q. One son?

14 A. From what I can recall one son. Yes, sir.

15 MR. EATON: And that's it.

16 THE COURT: Now, who did the prior incident involve?
17 She just made a call to someone she knows and somebody
18 picked her up? She made a call about a domestic
19 situation at the Holiday Inn; is that correct?

20 THE WITNESS: Yes, sir.

21 THE COURT: Go ahead.

22 MR. EATON: I'm sorry, Your Honor. This is the same
23 incident that Your Honor ruled on with Jessica and Ashton
24 that Gleaton admitted to. I was avoiding the hearsay,
25 but I can go into it now for the Court's purposes if you

1 want me to.

2 THE COURT: That's why you do a proffer.

3 MR. EATON: Yes, Your Honor.

4 BY MR. EATON:

5 Q. So tell the Court, tell the Judge what Amanda told
6 you.

7 A. Okay. Let me find it. Give me one second. All
8 right. When I made contact with her at the Hilton Hotel, she
9 told me that her boyfriend, Mr. Kenneth Gleaton, had been
10 upset and short with her all that day. She stated that he
11 accused her of lying to him. Uhm, she said that she was
12 getting ready to take her friend to work, but Gleaton kept
13 following her around outside the residence. Uhm, she stated
14 that he then grabbed her and shoved a handgun into her ribs
15 and told her to stop messing with him or he would kill her.
16 Uhm, she also stated that she could not describe the handgun
17 but knew that it was a gun because she saw the top of it and
18 by the way it felt against her ribs when he pressed it against
19 her rib cage. Uhm, she also stated that her friend that she
20 had took to work did not see the incident, uhm, but Gleaton
21 had rode with them to the Waffle House on Garners Ferry Road.
22 Uhm, once they arrived at the Waffle House, Peele walked
23 inside to the Waffle House with her friend because she also
24 worked at the Waffle House with her. Uhm, she was able to
25 sneak out the back of the Waffle House and went to the Holiday

1 Inn nextdoor to which I was dispatched to and where I made
2 contact with her there.

3 MR. EATON: So, Your Honor, the proffer we did
4 pre-trial on the 404 issue with Jessica saying that he
5 later admitted to doing this, now Ashton has testified
6 about seeing the mark on his mom and we kept out what his
7 mom told him, we did not even attempt to get into that
8 and I understand that this is a confrontation issue what
9 she said to him.

10 THE COURT: I understand.

11 MR. EATON: Now that the Court has ruled though that
12 the prior incident is coming in, I don't see any reason
13 why I should be limited to --

14 THE COURT: Maybe I do, sir. I mean, you might not,
15 but maybe I do. Now, a prior - I think Ms. Magnum
16 testified to this already, did she not? Or has she? Is
17 that -- I said Ms. Magnum. What was her name?

18 MS. SAMPSON: Ms. Gantt.

19 MR. EATON: Ms. Gantt.

20 THE COURT: Ms. Gantt.

21 MR. EATON: And that's only proffered. She has not
22 testified to the jury yet, Your Honor.

23 THE COURT: Okay. That's fine. That's fine. And I
24 think I have ruled I was gonna allow her to testify to
25 that.

1 MR. EATON: Yes, Your Honor.

2 THE COURT: Okay. Now, so he gets a call, he goes
3 and gets Ms. Peele from the hotel, takes her to Sister
4 Care, and what else do you propose to get out of this
5 witness?

6 MR. EATON: Just that he interviewed her at the
7 hotel, that he accompanied her home and to Sister Care,
8 her demeanor. Nothing she said.

9 THE COURT: Any names or any accusations against the
10 defendant?

11 MR. EATON: No, sir.

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

13 MS. OSTEEN: Your Honor, if that information, if
14 it's just in a vacuum, it allows for the jury to --

15 THE COURT: What's your specific objection?

16 MS. OSTEEN: My specific objection is that under
17 404(B), under Rule 403 this is all far more prejudicial
18 than it is probative as to the case at issue. This is
19 litigating a case from the September 8th incident that is
20 not here today in front of this jury.

21 THE COURT: All right. Anything further?

22 MS. OSTEEN: Also, the previous argument about this
23 event being kept in or being included because of res
24 gestae, that also seems - it's not - it has to rise to a
25 clear and convincing level and this doesn't.

1 THE COURT: Thank you for your argument. Overruled.
2 You may do exactly what we said in that limited range.
3 He goes and picks her up, he takes her to Sister Care.
4 Ms. Michael is prepared to testify --

5 MS. SAMPSON: Gantt.

6 MR. EATON: Yes, Your Honor.

7 THE COURT: Gantt. -- later on; is that correct?

8 MR. EATON: Yes, Your Honor.

9 THE COURT: All right. Anything further?

10 MR. EATON: And I don't know if I asked him to
11 proffer her demeanor. Can I ask him that now?

12 THE COURT: What now?

13 MR. EATON: As to her demeanor, can I ask him that?

14 THE COURT: Yeah. Yeah. Yeah.

15 MS. SAMPSON: You don't have to do it now.

16 THE COURT: You can't say who did it or whatever.

17 MR. EATON: Yes, sir.

18 THE COURT: All right.

19 MR. EATON: Okay.

20 THE COURT: I trust your judgment so far. If you go
21 overboard, I'll declare a mistrial.

22 MR. EATON: Yes, Your Honor.

23 THE COURT: All right. Bring the jury back in. Are
24 we all clear? I think you understand, but are we all
25 clear?

1 MR. EATON: Yes, sir.

2 THE COURT: Over objection.

3 MR. EATON: Yes, Your Honor.

4 THE COURT: The analysis, 403, 404 I'm gonna allow
5 it. Presumably your gonna connect it later on with the
6 witness.

7 MR EATON: Yes, Your Honor.

8 THE COURT: And if you don't, it's out.

9 MR. EATON: Yes, sir.

10 THE COURT: But for right now I'll allow it. All
11 right.

12 (Whereupon, the jury entered the courtroom at 4:35
13 p.m.)

14 THE COURT: Call your next witness, Solicitor.

15 MR. EATON: The State's call Phillip Carlson.

16 Thereupon,

17 PHILLIP ALAN CARLSON

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

19 THE CLERK: Please have a seat on the witness stand
20 and state your full name for the record.

21 THE WITNESS: Phillip Alan Carlson.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. EATON:

25 Q. Good afternoon, Mr. Carlson. Where do you currently

1 work?

2 A. I'm an investigator for GEICO Insurance.

3 Q. And where were you working in 2017?

4 A. I was a patrol deputy for the Richland County
5 Sheriff's Department.

6 Q. How long did you work there?

7 A. Right around four years.

8 Q. When did you leave to go to GEICO?

9 A. June 2018.

10 Q. Did you respond to a domestic violence call on
11 September 8th of 2017?

12 A. Yes, sir. I did.

13 Q. And where did you respond to?

14 A. To the Holiday Inn on Garners Ferry Road, Columbia,
15 South Carolina, Richland County.

16 Q. And who did you meet there?

17 A. I met with Ms. Amanda Peele at that location.

18 Q. And don't tell us what she said, but did you
19 interview her there?

20 A. I did.

21 Q. And after interviewing her, what did you do?

22 A. After taking an interview from her, I gave her a car
23 to car escort, her vehicle, my patrol vehicle to her address.
24 Uhm, once we got to that location, she gathered some of her
25 belongings and her son and then from there I gave her and her

1 son an escort in my patrol vehicle to Sister Care.

2 Q. What is Sister Care?

3 A. Just Richland County Sister Care.

4 Q. What is that?

5 A. Uhm, that's the place where, it's an undisclosed
6 location where females can go to seek shelter, uhm, in a time
7 that they don't have anywhere else to go or they don't feel
8 safe.

9 Q. And throughout this what was Ms. Peele's demeanor?

10 A. Uh, she would have been - she was distraught or I
11 wouldn't have took her there to Sister Care.

12 MR. EATON: Thank you. No further questions.

13 THE COURT: Any cross?

14 MS. OSTEEEN: No cross, Your Honor.

15 THE COURT: All right. You may step down, sir.

16 Anything further this afternoon, Solicitor?

17 MR. EATON: No, Your Honor. That's it for today.

18 THE COURT: Members of the jury, I'm gonna let you
19 go home. It seems a little bit early, but I know y'all
20 are tired. We just heard from the thirtieth witness in
21 the last two days so go home. Relax. Forget about this
22 case obviously until the very end. I hope you have a
23 pleasant, restful evening. Don't talk about the case
24 with anybody and we'll see you tomorrow morning at, how
25 does it look tomorrow? Let's say 9:30. Is that good

1 enough, Solicitor? Suits everybody?

2 MR. EATON: Yes, Your Honor.

3 THE COURT: 9:30?

4 MS. OSTEEN: Yes, Your Honor.

5 THE COURT: 9:30 in morning, Mr. Foreman. Thank you
6 all so very much. Have a pleasant evening.

7 (Whereupon, the jury was released for the evening at
8 4:40 p.m.)

9 THE COURT: Y'all get a good night's sleep. I'll
10 see you at 9:30 in the morning. Good luck to y'all. See
11 you in the morning.

12 (Whereupon, court was adjourned for the day at 5:30
13 p.m.)

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1 OCTOBER 31, 2019

2 BAILIFF: Come to order.

3 THE COURT: Please take your seats. Is everybody
4 okay? We need to take up anything?

5 MS. SAMPSON: Your Honor, if I may.

6 THE COURT: Yes, ma'am.

7 MS. SAMPSON: Yesterday on the record we put that we
8 would switch out the statement of Mr. Gleaton where it
9 had some things we needed to redact.

10 THE COURT: Yes. Have you redacted it?

11 MS. SAMPSON: Yes, sir. I have shown the defense.

12 THE COURT: Ladies, pay attention. You were
13 involved, weren't you?

14 MS. OSTEEEN: Yes, Your Honor.

15 THE COURT: And both sides are satisfied with the
16 redactions?

17 MS. OSTEEEN: Yes, Your Honor.

18 THE COURT: Nobody's gonna whine about anything
19 later on? I take that back in regards to the redactions.
20 I'm sure you'll whine about something.

21 MS. OSTEEEN: Yeah. We will whine about something
22 I'm sure.

23 THE COURT: That's all right. That's okay. And
24 really I mean that, first of all, it's your comfort
25 level. Y'all have to do your job. Y'all have to object.

1 They've got to try to get everything in that they think
2 they should get in even though you think it's wrong.
3 That's just the way it goes. So y'all have been civil
4 enough so far. Let's keep it at a certain level and try
5 your best once again. With that in mind --

6 MS. SAMPSON: Well, Your Honor, we have two short
7 witnesses that are chain and then our next witness is
8 gonna be Dr. Durso. It's my understanding --

9 THE COURT: Dr. who?

10 MS, SAMPSON: Dr. Durso, our pathologist.

11 THE COURT: You look like you're in high school.

12 DR. DURSO: Thank you.

13 THE COURT: I think I've seen you before. That's a
14 compliment, doctor. Yes, ma'am.

15 MS. SAMPSON: And so there are some photographs that
16 they're objecting to. I didn't know if you wanted to
17 hear a proffer.

18 THE COURT: Well, let's do it now.

19 MS. SAMPSON: Yes, sir.

20 THE COURT: Let's do it now.

21 MS. SAMPSON: The State calls Dr. Durso to the
22 stand.

23 THE COURT: And before we get started, I just want
24 to tell the jury there's some legal issues I need to
25 resolve before we get started. Just be patient. We'll

1 get started then, okay?

2 (Short break.)

3 THE COURT: All right. I simply told them we have
4 legal issues, 15 minutes or so to try to resolve it
5 before we get started. Have I met you before, doctor? I
6 think I have.

7 DR. DURSO: I have been in here before.

8 THE COURT: Where you from originally?

9 DR. DURSO: I'm originally from North Carolina, but
10 I've been down here for 10 years.

11 THE COURT: What part of North Carolina?

12 DR. DURSO: Grew up in Fayetteville.

13 THE COURT: Huh?

14 DR. DURSO: Grew up in Fayetteville.

15 THE COURT: All right. Let's swear her in.

16 Thereupon,

17 AMY DURSO, M.D.

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

19 THE CLERK: Please have a seat on the witness stand
20 and state your full name for the record.

21 THE WITNESS: Amy Durso, D-u-r-s-o.

22 DIRECT EXAMINATION (Proffered)

23 BY MS. SAMPSON:

24 Q. And, Dr. Durso, I'm gonna ask you to speak right
25 into that microphone --

1 A. Sure.

2 Q. -- because you speak kind of low.

3 A. Sorry.

4 Q. It's all right. And because you've testified
5 before, we're just here to proffer your testimony about the
6 pictures. I'm just gonna I'll get right to the autopsy,
7 okay?

8 A. I understand.

9 Q. You performed the autopsy on Amanda Peele,
10 correct?

11 A. Yes.

12 Q. Okay. And what did you determine the cause of death
13 was?

14 A. Uhm, it's listed as officially homicidal violence
15 including strangulation, gunshot wounds to torso, and blunt
16 force injury to head.

17 Q. And how did you determine - walk us through the
18 autopsy. How did you determine the cause of death?

19 A. Uhm, so I did a full autopsy, but that included,
20 uhm, documentation of all these different injuries so this
21 isn't the most straightforward case in the world. Uhm, there
22 is evidence of strangulation with a belt around her neck, uhm,
23 lack of soot underneath the belt because she had been set on
24 fire at the end after she was dead, uhm, so there's, uhm,
25 petechial hemorrhages in the eyes that shows that she was

1 alive and hemorrhaged, or in the neck musculature to show that
2 she was alive when she was strangled. Uhm, she has two
3 gunshot wounds with hemorrhagic paths meaning there's blood
4 along the bullet paths again showing she was alive when she
5 was shot two times. Uhm, there was also, uhm, a blunt force
6 injury to the left side of her head, uhm, leaving a laceration
7 and a bunch of bruising in her scalp here, uhm, and then, uhm,
8 she was also set on fire but there was no soot in her airway
9 and the blood testing came back negative so she was dead after
10 she had been shot, strangled and beaten over the head.

11 THE COURT: Smoke inhalation had nothing to do with
12 it?

13 THE WITNESS: Right. Exactly.

14 BY MS. SAMPSON:

15 Q. I'll go through some pictures and as we go through
16 them I want you to explain to the Judge how these would help
17 you explain anything to the jury, okay?

18 A. Right.

19 Q. So State's Exhibit 136, what does that show?

20 A. So 136 is showing kind of the right side of her
21 head. It's showing the belt that she came with to the morgue.
22 You see this belt and you can see underneath the belt there's
23 no soot compared to all around it. You can see light charring
24 of the body. This is all post mortem so this all occurred
25 after death, the charring showing that the belt was there

1 before she was set on fire.

2 Q. And is there any way to really show that to the jury
3 without using a photograph?

4 A. Not that I know of. No.

5 Q. All right. State's Exhibit --

6 THE COURT: And what exhibit is that?

7 MS. SAMPSON: 136.

8 THE COURT: And y'all object to 136; is that right?

9 MS. JURICK: Yes, Your Honor.

10 THE COURT: Okay.

11 MS. SAMPSON: And for the record, Your Honor, I've
12 shown them --

13 THE COURT: They object to all of them?

14 MS. SAMPSON: Yes, sir. And that's why we're going
15 through them now.

16 BY MS. SAMPSON:

17 Q. And then so State's Exhibit 137, what does it
18 show?

19 A. So this is the inside of the airway. Uhm, it shows
20 the upper airway with the epiglottis here and the trachea and
21 it shows the lack of soot and it's showing that she was dead
22 when the fire was set.

23 Q. And you said, I think when we talked before there
24 may be some --

25 A. And you can see on the other side there's a bunch of

1 hemorrhage so it showed --

2 THE COURT: Doctor, let me ask you this question:
3 Would black and white photos enable you to present the
4 same testimony without in color?

5 THE WITNESS: Well, I'm worried that you won't be
6 able to see the lack of soot.

7 THE COURT: All right. That's a yes or no answer.

8 THE WITNESS: Oh. I don't believe -- No. No black
9 and whites wouldn't explain the same.

10 THE COURT: All right. Go ahead.

11 BY MS. SAMPSON:

12 Q. And did we look at some black and whites upstairs
13 before we came down here?

14 A. We did.

15 Q. And were you able to use those?

16 A. No. It doesn't have the hemorrhage and the lack of
17 soot.

18 Q. Okay. And I'm gonna show you State's Exhibit 138.

19 A. So this is showing her right eye. It shows the dark
20 red hemorrhage that again goes with the strangulation that she
21 was alive when she was strangled.

22 Q. And does it show petechia I think you said.

23 A. It shows petechia, hemorrhages and a scleral
24 hemorrhage that both go along with strangulation.

25 Q. State's Exhibit 139.

1 A. Right. So this is sort of her left back. It shows
2 the gunshot wound entrance kind of showing where it's still in
3 the charred area so I can't really estimate distance based on,
4 because it has soot around it, I can't tell if there was soot
5 from the actual contact --

6 THE COURT: So the actual color photo would enable
7 you to better explain to the jury --

8 THE WITNESS: Yes.

9 THE COURT: -- cause of death. Okay.

10 BY MS. SAMPSON:

11 Q. And it also goes to why you can't explain distance;
12 is that correct?

13 A. Correct.

14 Q. And State's Exhibit 140.

15 A. This is showing the left side of her head showing
16 the laceration. You can sort of see some of the bruising from
17 the blunt force injury to the side of her head. You can also
18 see that there's some charring in here. Uhm, and again, I
19 think that with a black and white it would be hard to show the
20 difference between the hemorrhage and the charred areas.

21 Q. And then lastly State's Exhibit 141.

22 A. Uhm, this is the left side of the head with the skin
23 pulled back and just showing all of the hemorrhage underneath,
24 uhm, that she was alive when she was hit unfortunately on the
25 side of the head.

1 MS. SAMPSON: And so that would be the extent of the
2 photographs, Your Honor. There was one other issue.

3 BY MS. SAMPSON:

4 Q. Toxicology was done on her blood, correct, and other
5 organs?

6 A. It was done, yes, on her. I believe just mainly on
7 her blood is what they tested in this case.

8 Q. And what came back in the toxicology?

9 A. Uhm, there is a little bit of oxycodone which was in
10 therapeutic range and there was 11
11 carboxy-tetrahydrocannabinol which is like a inactive
12 metabolite of marijuana and, uhm, and then we also tested the
13 blood for carboxyhemoglobin 11 percent which basically shows
14 that she did not die of smoke inhalation. That's a normal
15 level for smokers.

16 Q. And so did any -- You said there was some level of
17 drugs in her system?

18 A. Right. But they did not contribute to her death.

19 Q. Did it have anything at all to do with her death?

20 A. No.

21 MS. SAMPSON: That would be all from us on the
22 photographs.

23 THE COURT: All right. Ms. Jurick.

24 MS. JURICK: Thank you, Your Honor. I don't have
25 further questions for her. I do have argument.

1 THE COURT: What now?

2 MS. JURICK: I don't have further questions for her.
3 I do have argument.

4 THE COURT: All right. Go ahead and make your
5 argument.

6 MS. JURICK: Just that they're more prejudicial than
7 probative. Her cause of death isn't an issue or how she
8 died. It's not something that we're contesting at all.
9 It's not part of our case, to make it consistent with the
10 other pictures where she died, we would submit that they
11 cannot be admissible at all, but if so, black and white
12 is sufficient to show what she's talking about.
13 Specifically with some of the more graphic ones, the
14 injury to her head that just shows a cut, I think you can
15 see that in black and white so we'd ask that they be in
16 black and white.

17 THE COURT: All right. Your request is denied. The
18 photos are in over your objection. Is there anything
19 further?

20 MS. JURICK: No, Your Honor.

21 MS. SAMPSON: The only thing, Your Honor, while
22 she's here, she just testified to toxicology. It's my
23 understanding that they want to get into the drugs. I
24 have case law that says that that would be inadmissible
25 because the drugs in her system had absolutely nothing to

1 do with her death and we would ask that any questions on
2 the toxicology or the drugs be not allowed.

3 MS. JURICK: Your Honor, in his statement he says
4 that she took sleeping pills and he left.

5 THE COURT: What now?

6 MS. JURICK: The drugs show that his statement is
7 consistent, they're consistent with his statement. He
8 says in the statement --

9 THE COURT: What's your objection? I've got to
10 understand it.

11 MS. JURICK: It's her objection. We're saying that
12 the toxicology should be admissible.

13 THE COURT: All right. I disagree. It has nothing
14 to do with the cause a death, right?

15 THE WITNESS: Correct.

16 THE COURT: You said the oxycontin is in therapeutic
17 dosage?

18 THE WITNESS: It's in therapeutic range. Yes.

19 THE COURT: Anything else of significance that might
20 have in any way directly or indirectly contributed to her
21 demise?

22 THE WITNESS: No.

23 THE COURT: All right. Thank you.

24 MS. JURICK: Your Honor, it goes to the truthfulness
25 of his statement.

1 THE COURT: That's fine, ma'am. I've made a
2 decision and the answer is no. Anything further?

3 MS. JURICK: Just for the record, it corroborates
4 what he says. He says she took sleeping pills and he
5 left so --

6 THE COURT: Ma'am, I don't care. Do you understand?
7 They made a motion. I granted their motion which means
8 I'm denying your request, period.

9 MS. JURICK: And, Your Honor, we would state the
10 reasons for the record so I understand your ruling not to
11 admit it.

12 THE COURT: That's your reasons?

13 MS. JURICK: Yes.

14 THE COURT: Okay. Fine. Thank you. Call the -
15 bring the jury in. This is how it goes. There's no such
16 thing as splitting the baby. You have to make a
17 decision. You have to make a decision yes or no, up or
18 down and that's what's I do. That's why we have rights
19 to appeal, cross examine, and everything else afforded by
20 the United States Constitution. Yes, sir.

21 MR. EATON: Judge, one quick thing that just came to
22 my attention before the jury comes in. Our witness
23 Jessica Gantt who we proffered in pretrial, she just told
24 our investigator that she thinks she worked at the Waffle
25 House previously with a juror so if we want to address

1 that on the record.

2 THE COURT: Yes. Let's address it right now.

3 MS. SAMPSON: Do we know which juror?

4 MR. EATON: Yes.

5 THE COURT: Does she know which juror?

6 MR. EATON: I'm not for sure but she --

7 THE COURT: Where is she now?

8 MR. EATON: The witness is on her way. It would be
9 juror number 138.

10 THE COURT: Well, we might as well wait and try to
11 resolve that. Anything else?

12 MR. EATON: She might be here, Your Honor. Can I
13 check?

14 THE COURT: Huh?

15 MR. EATON: She may be here now.

16 THE COURT: Okay.

17 MR. EATON: She is here, Your Honor. She is on her
18 way up.

19 THE COURT: You know, yesterday I asked for proposed
20 charges. I didn't hear anything back on my request. I
21 received some from the defense. Yours are not here.

22 MR. EATON: My apologies, Your Honor. We'll get
23 them to you.

24 THE COURT: A general reminder.

25 MS. SAMPSON: We'll finish early today because Roy

1 won't be here until tomorrow and we'll get them to you
2 tomorrow afternoon.

3 THE COURT: I like what you submitted to me.
4 Anyway, I need to look at them. You think we'll finish
5 early today. Wait for the gentleman to get back from
6 Cancun. What have you heard?

7 MS. SAMPSON: He's supposed to fly in at 7:30
8 tonight.

9 THE COURT: Okay. Defense is not bound by it. They
10 have some short witnesses maybe so... We finish early
11 today, hopefully finish tomorrow. You're Ms. Gantt?

12 MS. GANTT: Yes, Your Honor.
13 Thereupon,

14 JESSICA GANTT
15 after having been first duly sworn, testified as follows,

16 EXAMINATION

17 BY THE COURT:

18 Q. You think that you might have worked with one of the
19 jurors before, is that correct, at the Waffle House?

20 A. Yes. I did.

21 Q. Which juror was it? What's her name?

22 A. Her name is Kadejah.

23 THE COURT: Let's see if we can find the number.

24 MR. EATON: 138, Your Honor.

25 MS. SAMPSON: 138.

1 THE COURT: 138. All right.

2 BY THE COURT:

3 Q. How long did you all work together?

4 A. Not long. It was seven years ago.

5 Q. I mean, were you all close friends? Did y'all have
6 breakfast or dinner? Did you go to church together, anything
7 like that?

8 A. No, sir. Nothing like that.

9 Q. Would she recognize you do you think?

10 A. I don't think so.

11 Q. Huh?

12 A. I don't think so because I don't think she did that
13 day that she was selected.

14 THE COURT: All right. There are several ways to
15 handle this so I wanted to put this on the record.
16 What's the position of the defense? That's a question
17 posed to the lawyers who are representing Mr. Gleaton.
18 They have revealed this. She thinks, she believes she
19 worked with this lady, not very close with her or
20 anything. Does the defense have a position?

21 MS. JURICK: Your Honor, can we ask how - have they
22 actually physically seen each other or is it just out of
23 a list of names?

24 THE COURT: I'm sorry?

25 MS. JURICK: I'm curious as to if they have actually

1 seen each other or if she's just --

2 THE COURT: I don't know. We can ask that question
3 right now.

4 BY THE COURT:

5 Q. When was the last time you saw her?

6 A. Uh, Monday when she was selected.

7 Q. Okay. When was the last time you worked with her?

8 A. 2012.

9 Q. 2012. So you haven't worked with her since 2012?

10 A. No, sir.

11 Q. Do you think she recognizes you?

12 A. I don't think she did.

13 MS. JURICK: Could we ask the juror if she ever
14 worked at Waffle House?

15 THE COURT: Huh?

16 MS. JURICK: Could we ask the juror --

17 THE COURT: Sure. I can ask her.

18 MS. JURICK: -- if she ever worked at Waffle House?

19 THE COURT: You know, we've got to be careful with
20 this. I don't want to burn a juror. We still have an
21 alternate but this comes from the State. This witness
22 recalls that she worked with juror number 138 in 2012.

23 MS. SAMPSON: And just to be clear, Your Honor, Ms.
24 Gantt was here when the jury was selected so...

25 THE COURT: Yeah. Yeah. Listen, I think it's kind

1 of innocuous, but I need to ask the juror whether or not
2 if she recalls working with the witness and would or
3 could that affect her ability to be a fair juror.

4 MS. JURICK: And I think if she says she never
5 worked at Waffle House, just end that.

6 THE COURT: What now? I don't know what she's gonna
7 say so...

8 MS. JURICK: I understand.

9 THE COURT: You're saying if she --

10 MS. JURICK: If she never worked at Waffle House --

11 THE COURT: I can't respond in a vacuum. You're
12 saying -- go ahead.

13 MS. JURICK: If she never worked at Waffle House --

14 THE COURT: What's your point?

15 MS. JURICK: -- then we don't need to draw attention
16 to the potential connection.

17 THE COURT: What now?

18 MS. JURICK: Just if she says she never worked at
19 Waffle House, then that's - I think we don't even need to
20 ask her why.

21 THE COURT: Bring the juror in.

22 BAILIFF: Just that one juror, Your Honor?

23 THE COURT: Yes.

24 (Whereupon, Juror #138, Kadejah L. Johnson, entered
25 the courtroom.)

1 THE COURT: Did you ever work at the Waffle House?

2 Did you ever work in the Waffle House?

3 KADEJAH JOHNSON: No.

4 THE COURT: Never in your life?

5 KADEJAH JOHNSON: Never.

6 THE COURT: You didn't work at the Waffle House in
7 2012?

8 KADEJAH JOHNSON: No.

9 THE COURT: Okay. There was an issue that came up
10 and I needed to ask you that question.

11 KADEJAH JOHNSON: Okay.

12 THE COURT: It's not anything one way or the other.
13 I just needed to ask you that for the lawyers, okay?

14 KADEJAH JOHNSON: All right.

15 THE COURT: Thank you, ma'am.

16 (Whereupon, Juror #138, Kadejah Johnson, entered the
17 jury room.)

18 THE COURT: You never know one way or the other.

19 Satisfied?

20 MS. JURICK: Yes, sir.

21 THE COURT: I mean, we do the best we can. I think
22 that's probably the least innocuous way to do it.

23 Anything further before the jury comes in?

24 MR. EATON: Not from the State, Your Honor.

25 THE COURT: All right. Oh, yeah. She needs to go

1 back out since she is sequestered. What were those
2 exhibits that they objected to that I admitted in, the
3 color photos based on the doctor's --

4 MS. SAMPSON: 136 through 141. 136 through 141.

5 THE COURT: Yes, ma'am.

6 MS. JURICK: Your Honor, I understand your ruling,
7 but I'm gonna renew my objection when she introduces
8 them.

9 THE COURT: What now?

10 MS. JURICK: I'm going to renew my objection --

11 THE COURT: That's fine. That's fine. You don't
12 have to go into specifics.

13 MS. JURICK: -- but I understand your ruling.

14 THE COURT: Objection is recognized. Same results
15 on that.

16 MS. JURICK: Thank you.

17 THE COURT: I'm gonna give you all five minutes
18 since we have had sort of a helter skelter start, and
19 then we'll get started, okay? It's not bad. Five
20 minutes. All right.

21 (Short break.)

22 THE COURT: Are we ready now?

23 MS. SAMPSON: Yes, sir.

24 THE COURT: Anything else?

25 MR. EATON: No, sir.

1 THE COURT: Bring the jury in.

2 (Whereupon, the jury entered the courtroom at 10:20
3 a.m.)

4 BAILIFF: Your Honor, the jury is present.

5 THE COURT: Welcome back members of the jury,
6 Mr. Foreman. I hope you had a pleasant evening. This
7 case will continue. I appreciate and I will thank you on
8 behalf of everybody involved for your patience and
9 courtesy extended to everyone. Ms. Sampson, you may call
10 your next witness.

11 MS. SAMPSON: Thank you, Your Honor. At this time
12 the State calls Dr. Durso.

13 Thereupon,

14 AMY DURSO, M.D.

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

16 THE CLERK: Please have a seat on the witness stand
17 and state your full name for the record.

18 THE WITNESS: Amy Durso, D-u-r-s-o.

19 DIRECT EXAMINATION

20 BY MS. SAMPSON:

21 Q. Good morning, Dr. Durso.

22 A. Good morning.

23 Q. Where are you currently employed?

24 A. Uhm, I'm currently employed by Professional
25 Pathology Services here in Columbia as a forensic

1 pathologist.

2 Q. And can you tell the jury what is a forensic
3 pathologist?

4 A. Sure. Uhm, so a forensic pathologist is a medical
5 doctor so you have been to medical school, uhm, that
6 specializes obviously in pathology. Uhm, pathology kind of
7 includes everything from autopsy, looking at the body after
8 death, looking at surgical specimens, gall bladders, stomach,
9 and cancers, uhm, clinical pathology. Uhm, forensics is
10 specifically the field of, uhm, identifying bodies after death
11 especially learning how to identify injuries, illnesses, that
12 sort of thing.

13 Q. And what is your educational background?

14 A. Right. So I got a bachelor's degree in psychology
15 from Emory University, uhm, and then went to medical school at
16 the University of North Carolina in Chapel Hill where I got my
17 M.D. Uhm, and then I went to Wake Forest University where I
18 did a four year residency in anatomic and clinical pathology
19 and I spent an additional year at Wake Forest to do a
20 fellowship specifically in the field of forensic pathology.

21 Q. And are you board certified?

22 A. Yes. So I'm board certified in anatomic pathology,
23 clinical pathology and forensic pathology.

24 Q. And are you a member of any associations?

25 A. Yes. I'm a member of the National Association of

1 Medical Examiners and also the Group for Clinical
2 Pathologists.

3 Q. And have you ever been qualified as an expert?

4 A. I have.

5 Q. How many times?

6 A. Maybe 40 times.

7 Q. In what area?

8 A. In forensic pathology.

9 MS. SAMPSON: At this time, Your Honor, I would ask
10 that Dr. Amy Durso be qualified in the field of forensic
11 pathology.

12 THE COURT: Any voir dire or objections?

13 MS. JURICK: No objection.

14 THE COURT: All right. Without objection.

15 BY MS. SAMPSON:

16 Q. So, Dr. Durso, how do you become involved in a case
17 like this?

18 A. Uhm, so we mainly do cases for the Richland County
19 Coroner's Office. The Richland County Coroner's Office would
20 be called to investigate a suspicious death and then if they
21 determine it needs an autopsy, they make me aware and we
22 schedule the autopsy. So, uhm, in the case of Ms. Peele, uhm,
23 they notified me of her needing an autopsy and we did that on
24 October 10th, 2017 at nine in the morning.

25 Q. And what do you do when you first get the body?

1 A. Uhm, so after opening the body bag, we correctly
2 identify the body and usually especially in cases of homicide
3 there's gonna be a member of law enforcement, Richland County
4 Sheriff's Department as well as a representative from the
5 Richland County Coroner's Office so they're gonna be taking
6 pictures the whole time of everything. Uhm, we weigh the
7 body. We measure how long the body is. We look at the whole
8 outside of the body, looking at eye color, looking at external
9 injuries, scars, tattoos, everything. After that we actually
10 open up the body so we make this Y shaped incision so it goes
11 from both shoulders to the sternum and down opening everything
12 up and then take the front of the rib cage off and at that
13 point you can see all of the organs so we can trace bullet
14 paths, look for collections of blood, anything abnormal. We
15 then remove each of the organs, weigh them, dissect them again
16 noting any injury, any illness, anything abnormal. We also
17 are able to peel back the skin over the scalp, look for
18 bruises and injuries there, remove the top part of the skull
19 and then we can remove the brain and examine that as well,
20 uhm, and then I write up a long report based on all of my
21 findings.

22 Q. So I'm gonna start with what you did in this case.
23 Can you tell us how - you said you do a height and a weight?

24 A. Yes.

25 Q. So how tall was Ms. Peele?

1 A. Ms. Peele was 69 inches so that's five feet nine
2 inches tall.

3 Q. Okay. And how much did she weigh?

4 A. 196 pounds.

5 Q. And so what was the first -- And I'm gonna ask you
6 to look at State's Exhibit 144.

7 MS. JURICK: No objection.

8 THE COURT: Without objection.

9 BY MS. SAMPSON:

10 Q. I'm gonna show you what's been marked as State's
11 Exhibit 144 and ask you if you recognize it?

12 A. Yes. And so --

13 Q. Just tell me if you recognize it?

14 A. I do recognize it.

15 Q. And what is it?

16 A. Uhm, so it is two pages. They're basically these
17 body diagrams, kind of generic body diagrams that I take all
18 of my notes on. When I do the external examination, I put all
19 of my external findings so in cases where there are a lot of
20 injuries, I typically do one with all of my findings including
21 tattoos, any mark whatsoever and I do another diagram to kind
22 of just simplify it with just the relevant injuries.

23 Q. And is that a fair and accurate copy of your diagram
24 that you made?

25 A. It is.

1 Q. And has it been altered or changed in any way?

2 A. No. It's just a copy.

3 MS. SAMPSON: At this time, Your Honor, I ask to
4 introduce State's Exhibit number 144 into evidence.

5 THE COURT: It's been admitted without objection.

6 MS. SAMPSON: Thank you, Your Honor.

7 THE COURT: So admitted.

8 BY MS. SAMPSON:

9 Q. I'll show it to the jury. So this first page shows
10 what?

11 A. Those are just mainly the injuries.

12 Q. The injuries that you saw on the victim?

13 A. Yes. At autopsy.

14 Q. And what is the second page?

15 A. This is my - that's all of my notes from all of the
16 external findings.

17 Q. And is it normal to have this many external
18 findings, or typical I should say?

19 A. Not typical. No.

20 Q. And so I'm gonna -- Do you need this?

21 A. I have my own copy.

22 Q. So can you just sort of tell the jury in this case
23 what was the first thing that you did?

24 A. Well, if I can just kind of go through each of the
25 injuries that I found.

1 Q. Yes.

2 A. So the first thing, uhm, she received was a flat
3 belt around her neck. Had these little butterfly emblems on
4 it. Uhm, it was looped around her neck, not tied, uhm, but
5 after removing it, you could see, so she was kind of charred,
6 uhm, most of the front of her body is charred so there was a
7 fire. Uhm, so after removing the belt, you could see there
8 was no soot there so the belt had to have been there before
9 the fire started. Uhm, the things we look for to see if
10 someone has truly been strangled, uhm, so when you, when
11 someone is strangled, it's not so much the airway being
12 compressed, uhm, but also the vessels on the side of your
13 neck, the jugular vein and the carotid arteries and when those
14 are compressed, uhm, sometimes the blood gets kind of stuck up
15 in your head and it makes the tiny blood vessels pop and the
16 easiest place to see these are around the eyes so we look for
17 what we call petechial hemorrhages or pin point little
18 hemorrhages in the eyelids and also scleral hemorrhage which
19 is the part of your eye. You can also see hemorrhage there.

20 Q. And I'm gonna ask you questions just so that I don't
21 get in trouble. Did you find petechial hemorrhages in the
22 scleral, hemorrhages that you just spoke of in this case?

23 A. I did. I found petechial and scleral hemorrhages on
24 the left eye. It was a little hard because of the injury to
25 the side of her face but I will describe it when we get to

1 that part. Uhm, so anyway, so there was a little, uhm,
2 penetrating where it kind of comes into her neck where one of
3 the butterfly details was. Uhm, the things we really look
4 for, so we look for petechial hemorrhages which she had and we
5 also look for hemorrhages in the neck and broken hyoid bone
6 and cartilage. Uhm, so when someone just hangs themselves, we
7 typically don't have a lot of hemorrhage, but if it's more
8 violent, you will actually see hemorrhage in the neck muscles
9 and there was a lot of hemorrhage in the neck muscles so she
10 was definitely strangled. She was definitely alive when she
11 was strangled because if your heart's not beating, you're not
12 gonna bleed, you know, when you're injured there so it has a
13 different look. It has this dry yellow look when you scrape
14 someone that's already dead. So she was definitely alive when
15 she was strangled. She had petechial hemorrhages, scleral
16 hemorrhages, hemorrhages within the muscle.

17 I did look for the fracture in the hyoid bone and
18 the cartilage but she was fairly young. She was 39 years old
19 and until you're much older, typically your cartilage in your
20 thyroid is very rubbery so if you kind of think about the
21 rubbery part of your ear, you can bend it and it still won't
22 break so hers was not broken and it was very pliable. I could
23 squeeze it and it didn't break. And the same with her hyoid
24 bone. Some of them aren't completely fused even into
25 adulthood and I could bend hers without breaking it as well so

1 even if that was squeezed, it wouldn't have broken in her
2 case.

3 Q. So I just want to make sure I understand. Sometimes
4 you were saying you would find that the hyoid is broken but in
5 her case because it's pliable, it didn't break?

6 A. Correct. It wasn't completely fused and I could
7 squeeze it without breaking it so that doesn't really mean
8 anything that it wasn't broken in her case.

9 Q. So what's the next injury?

10 A. So the next injury, there's two gunshot wounds. So
11 there's one gunshot wound that goes in the left side of her
12 breast. Uhm, it goes downwards mainly and from left to right
13 and it goes through the liver and the liver is something that
14 bleeds profusely so there was about a liter of blood within
15 her abdominal cavity showing once again she was alive when she
16 was shot. There's a hemorrhagic path going through her breast
17 and this one actually exited, uhm, the right upper part of her
18 abdomen so it's going in through her left breast and then out
19 her abdomen and it goes through the liver is the major thing
20 that it perforated.

21 Q. And how do you determine that trajectory that it
22 was?

23 A. We can actually follow the path. We have these rods
24 we can actually push through to be able to follow the hole as
25 well as the hemorrhagic path through it.

1 Q. And did you do that in this case?

2 A. I did. Uhm, so that was one gunshot wound. The
3 second gunshot wound again is going kind of downward left to
4 right, but this one goes in almost kind of back left part of
5 her kind of on the side, on the left side. Uhm, this one goes
6 through, uhm, the left side of her lung so it enters the left
7 chest cavity, it goes through the lower part of her lung, it
8 goes through the spleen which is here on the left side of your
9 rib cage, it goes through her stomach, uhm, and it goes
10 through her right kidney which is way down here in in the back
11 and there was actually a projectile still in her body we found
12 by using x-rays and then I was able to recover that at
13 autopsy. So we removed that and that was on the left lower
14 back. Sorry. Right lower back. And again, this was also
15 associated with the approximately one liter of blood within
16 her lung cavity. There was also blood within the left side of
17 the rib cage and a hemorrhagic path so once again, she was
18 alive when she was shot both times.

19 Q. Is there any way to tell how long it took for that
20 liter of blood to collect?

21 A. It would - livers bleed really profusely and the
22 fact that there are multiple things that are bleeding here
23 it's, I mean, within a few minutes you could easily get
24 that.

25 Q. What's the next injury?

1 A. So the next injury I want to talk about is the blunt
2 force injury to the head. So blunt is any kind of, it's the
3 opposite of a shape force, you know, nothing sharp but
4 something like if you hit your head really hard against the
5 wall or someone hits you really hard with something, it would
6 result in a blunt force injury so she had this injury to the
7 left side of her head. There was a laceration and a large
8 bruise. Uhm, it's hard to see how big it is. A lot of these
9 bruises, she had, you know, darker skin but as you peel back
10 her scalp to look at the brain, you could see there was a very
11 large area of hemorrhage on the left side. I think it was up
12 to six inches about in it's greatest dimensions so it was a
13 large bruise to the left side of her head and once again,
14 there's hemorrhage. We know she was alive when this happened.
15 Uhm, there were no skull fractures from it, but there was
16 bleeding on the, what we call the galeal, subgaleal area which
17 is the thin covering over your skull so it was a significant
18 enough blow to cause that kind of hemorrhage but not enough to
19 actually break her skull or cause any bleeding around the
20 brain.

21 Q. You said there was some pooling of blood or there
22 was blood that you could see when you did the autopsy?

23 A. Right. When we pulled her scalp down, within the
24 subcutaneous tissue so within the soft tissues and the very
25 thin lining covering the skull.

1 Q. And again, is there any way to approximate how long
2 it would take for that bleeding to happen?

3 A. Within a few minutes. I mean, once you break those
4 blood vessels underneath the skin, they're gonna start
5 bleeding.

6 Q. And the next injury?

7 A. And this one on the left side also caused a bruising
8 around her left eye so like I said it was really hard to look
9 at the hemorrhages from the strangulation in the left eye
10 because there was also bruising from the blow to the side of
11 the head so that complicated things.

12 Q. So I just want to be clear. It sounds like a lot of
13 the injuries were to the left side. She a left - she was hit
14 or some sort of blunt force trauma to her head on the left and
15 then two gunshots to the left as well?

16 A. Yes. To the left side. Yes.

17 Q. All right.

18 A. Okay. There were some just thin linear abrasions,
19 so some thin scratches. Again, this wouldn't have actually
20 caused her death but again we document everything we find.
21 Uhm, to the back of the left shoulder and the upper arm, the
22 left back and the left buttock there were just these
23 abrasions. And let's see. Uhm, there were also some
24 abrasions that were clearly happened after death. They had
25 that dried yellow color, but there were also some that looked

1 like they happened prior to death. Uhm, and the last thing we
2 noticed obviously so she has charring and burning of a lot of
3 her skin mainly on the front side. The back was kind of
4 protected typically because she's lying on her back so the
5 fire is not really - fire needs oxygen and she's laying down
6 against something so it's not gonna have oxygen there so
7 mainly the front of her is burned and charred.

8 The things we look for to see if they're alive when
9 the fire started, uhm, we look for soot in the airways. She
10 had no soot in her airways whatsoever. Uhm, we also look to
11 see if there's something called carboxyhemoglobin so that's
12 carbon monoxide that has been absorbed into the blood. She
13 had a small percentage which is considered normal in a smoker
14 so again that was negative as far as dying from the fire so I
15 can tell you for certain that the blow to the head, the
16 strangulation and the gunshot wounds occurred while she was
17 still alive, uhm, but the fire was all after she had already
18 died.

19 Q. And is there, in your medical opinion, which of
20 those injuries killed her? Is there a way to know?

21 A. Uhm, I believe it's a combination of them. Uhm, so
22 the strangulation, even you could strangle someone, have them
23 get some hemorrhages, but you could release it before they die
24 and they could get more air. There's a lot of different ways
25 it could go and I cannot say with any scientific certainty

1 which order they came in so I cannot determine that with any
2 hundred percent accuracy.

3 Q. And now you talked to the jury about the injuries.
4 Would showing them pictures help explain what your saw?

5 A. Yes.

6 Q. I'm going to show you what's been marked as State's
7 Exhibit --

8 THE COURT: Your objection is noted for the
9 record.

10 MS. JURICK: Your Honor, I additionally say that --

11 THE COURT: What now?

12 MS. JURICK: I additionally say that the size makes
13 it extra prejudicial. I'm renewing my objection and
14 adding that it being on the screen is making it extra
15 prejudicial.

16 THE COURT: Thank you, ma'am. The decision has
17 already been made. Those photos are in evidence so over
18 their objection you may publish them.

19 MS. SAMPSON: Thank you, Your Honor.

20 BY MS. SAMPSON:

21 Q. I'm showing you -- I'm gonna show you what's been
22 now entered into evidence as State's Exhibits 136 through 143.
23 Are these the photographs that we talked about earlier
24 today?

25 A. Yes. They are.

1 Q. Okay. And they're already introduced so I'm gonna
2 ask you to step down and we're gonna go through them.

3 A. (Witness complies.)

4 Q. And you stand -- We'll both stand on this side. So
5 can you tell the jury what -- This is State's Exhibit 136.
6 What does it show?

7 A. This is the right side of her face. This is her
8 shoulder coming down and you can see all the soot, the heavy
9 soot that's from being set on fire, but you can see kind of
10 where we shifted the belt up a little. You can see that
11 there's no soot there so that helps us clarify that the belt
12 was there again prior to her being set on fire.

13 Q. Is this the impression that you were talking about
14 before?

15 A. It was actually on the other side.

16 Q. All right. What does this one show? This is
17 State's Exhibit 141.

18 A. So this is the left side of her scalp. So this is
19 at autopsy. We again peel the skin forward so her knows, face
20 is up here. This is the back of her head and I just, the
21 amount of hemorrhage that again is not just in the skin, it's
22 also in this temporalis muscle here and even on the areas
23 overlying the bone here so this is a large blow to the left
24 side of her head and this definitely happened before death
25 because of all the hemorrhage.

1 Q. What is State's Exhibit 142?

2 A. This is an x-ray of the many that we did. Uhm, so
3 every time we see gunshot wounds, we go ahead and x-ray to
4 make sure that we don't leave any bullets behind. We want to
5 find them, recover them, and hand them over to law
6 enforcement. Uhm, and so this on the right side. This is the
7 bullet we actually recovered from the back that goes through
8 right here and it comes down here. Uhm, so this is the
9 projectile that we were able to recover at autopsy.

10 Q. And this is State's Exhibit 143.

11 A. So this is the projectile that we recovered at
12 autopsy, uhm, after we took it out and cleaned it up and
13 measured it.

14 Q. And State's Exhibit 137.

15 A. So this is the airway opened up so this is the
16 epiglottis. This is the top part of the little flap that
17 covers up your airway when you swallow so that you don't choke
18 and this is going down the trachea, the wind pipe and as you
19 can see there is no soot so victims of fire where they
20 actually breathe in the smoke this would just be covered in
21 black soot that you saw covering her body earlier, uhm, and
22 you can actually see some of the hemorrhage that we saw. This
23 dark red area is all from the strangulation.

24 Q. And that's what you were talking about you would see
25 in the muscles as well?

1 A. Right. So on the other side, the muscles, these are
2 kind of the edges of the muscles, uhm, so you can see it opens
3 up very easily, it's very rubbery so even squeezing it it
4 wouldn't really break.

5 Q. And State's Exhibit 138.

6 A. So this is the right eye and if you can see there's
7 a scleral hemorrhage here and there's little petechial
8 hemorrhages in here which once again it goes with the
9 strangulation so it's blocking the blood vessels and blood is
10 backing up and it's popping, the little tiny vessels are
11 popping causing bleeding there.

12 Q. Do you expect to see that if there wasn't
13 strangulation?

14 A. No.

15 Q. State's Exhibit 140.

16 A. So this is the left side of her head and so you can
17 see there's this laceration, the bruising around her left eye
18 and the bruising coming all the way down here so like I said,
19 you can kind of get an idea of the bruising on the outside,
20 but it wasn't until we pulled the scalp over that you could
21 really see clearly how large the bruise was.

22 Q. And this isn't a bullet hole, correct? That's just
23 --

24 A. No. That's a laceration. A laceration is, you
25 know, if you are running and you split your knee open when you

1 fall, that's a laceration so that's a blunt force injury.

2 Q. And what's that? State's Exhibit 139. Sorry.

3 A. Right. So this is, uhm, her back. Her head is up
4 here. Uhm, this is a gunshot wound here so this is the one
5 that we recovered the bullet. Yeah. The one that we
6 recovered the bullet from down there. So, uhm, as you can
7 see, uhm, it's kind of within the area of soot so, uhm, we
8 typically when we look at gunshot wounds we document if
9 there's soot around it. So soot means that's within six
10 inches of the barrel of the gun. The end of the gun spews
11 soot out when you fire a weapon. It also spews out gun powder
12 so gun powder actually that's within about one and a half to
13 two feet will actually abrade your skin and cause what we call
14 stippling so we'll see these tiny little abrasions around. In
15 this case because of all the soot on the skin I can't really
16 say if it's soot from a gunshot wound being close by or if
17 it's just from the soot from the fire that was set after she
18 had passed away. So I can't really give a range as to how far
19 the gun was. It could have been close. It could have been
20 far. I have no way of telling in this case.

21 Q. Thank you. You can sit back down.

22 A. (Witness complies.)

23 Q. So I think you said this doctor. Normally there are
24 times that you can tell how far away a gunshot wound is?

25 A. Correct.

1 Q. Based on I think you said stippling soot and other
2 things?

3 A. Yes.

4 Q. But in this case you couldn't because of the soot
5 from the fire; is that correct?

6 A. Correct.

7 Q. All right. And is there any question in your mind
8 that she was dead prior to the fire being, before being caught
9 on fire?

10 A. She was definitely dead before the fire started.
11 Yes.

12 Q. Just to make sure I did this question, the cause of
13 death is a homicide, correct?

14 A. The manner of death is --

15 Q. The manner of death. I'm sorry.

16 A. -- definitely homicide. Yes.

17 Q. The manner or death is a homicide?

18 A. Yes.

19 Q. And again, you can't say if it was from the
20 strangulation, the shooting or the blunt force trauma but it's
21 the combination of the three?

22 A. Yes.

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

24 THE COURT: Ms. Jurick.

25 MS. JURICK: Thank you, Your Honor.

1 CROSS EXAMINATION

2 BY MS. JURICK:

3 Q. You took samples in this case?

4 A. I did.

5 Q. And you submitted them to SLED?

6 A. I did.

7 Q. And when you take samples, you keep them secured?

8 A. Yes.

9 Q. You securely package them?

10 A. I sign them over to the Richland County Coroner's
11 Office and they're the ones that submit them to SLED.

12 Q. And you fill out this examination protocol form?

13 A. Yes.

14 Q. Is that your signature?

15 A. That's my signature here. That's my signature
16 transferring it over to the Richland County Coroner's
17 Office.

18 Q. Thank you. And that applies to, you collected items
19 1, 2, 3, 4, 5, 6 and 11? Do you need to see it again?

20 A. I have to look at it. I'm sorry. I don't have a
21 copy of it with me.

22 Q. (Proffering.)

23 A. Uhm, as far as, are you talking about going to SLED
24 or going to evidence transfer?

25 Q. Going to evidence transfer.

1 A. 8, 9, 10 and 12 went to, uhm, Rainsford of the
2 Richland County Coroner's Office.

3 Q. Okay. But 1 through 6 and 11 --

4 A. Yes.

5 Q. -- was that you?

6 A. Uhm, yeah. It was submitted for testing to SLED by
7 someone whose name I cannot see. I think it's Chuck Leslie.

8 Q. Okay. Thank you. And she was definitely dead
9 before the fire?

10 A. Definitely dead before the fire.

11 Q. And you cannot determine the time of death?

12 A. No.

13 MS. JURICK: I have no further questions.

14 THE COURT: All right. Anything further?

15 MS. SAMPSON: No, sir.

16 THE COURT: You may step down, doctor.

17 THE WITNESS: Thank you.

18 MS. SAMPSON: May this witness be excused, Your
19 Honor? May she be released?

20 THE COURT: I'm sure there's no objection. Any
21 objection?

22 MS. JURICK: No, Your Honor.

23 THE COURT: Thank you, doctor.

24 THE WITNESS: Thank you.

25 THE COURT: Call your next witness.

1 MR. EATON: The State calls Roderick Dukes.

2 MS. JURICK: Your Honor, I believe we have a matter
3 of law to take up.

4 THE COURT: I don't know. Do we?

5 MS. JURICK: Yes. We do.

6 MR. EATON: May we approach?

7 THE COURT: Beg your pardon.

8 MR. EATON: May we approach?

9 THE COURT: Yeah.

10 (Side bar off the record.)

11 THE COURT: Members of the jury, I need to send you
12 to the jury room. Please don't talk about this case.
13 The only way I can resolve this is in your absence, okay?

14 (Whereupon, the jury entered the jury room at 10:50
15 a.m.)

16 THE COURT: Okay. This, the witness proposed is
17 Mr. Dukes, I think; is that right?

18 MR. EATON: Yes. Your Honor, Roderick Dukes.

19 THE COURT: Yes, Ms. Jurick.

20 MS. JURICK: Thank you, Your Honor. May it please
21 the Court. I filed Court's Exhibit number 14 which is
22 motion to order disclosure by the State.

23 THE COURT: Which is what?

24 MS. JURICK: A motion to order disclosure by the
25 State. We're asking that we be provided with any

1 information about anything that was given or promised to
2 Mr. Dukes. My understanding is that he is being provided
3 a hotel room and I think that there was some type of oral
4 agreement to not charge him in this case. We believe
5 we're entitled to the information of it, anything related
6 to that.

7 THE COURT: We used to call that motion to reveal a
8 deal in the old days. Is that what you're requesting?

9 MS. JURICK: That's what it is. That's what I'm
10 referring to.

11 MR. EATON: As to Mr. Dukes, Your Honor, I don't
12 think it's relevant that he's staying - he was --

13 THE COURT: Go ahead.

14 MR. EATON: Yes, sir. Mr. Dukes stayed out of town,
15 was out of town this week in Charleston. We had to put
16 him in a hotel last night for him to be here this
17 morning. I don't think that's relevant. That has
18 nothing to do with bias or anything like that. That's
19 just the logistics of a witness. As to deals,
20 Mr. Roderick was never charged by the police. He was
21 never a suspect. In talking to him, and I have told the
22 defense this, in talking to him myself I have said to
23 him, man, I don't think you did anything wrong. Relax.
24 You are here as a witness. I have said those words to
25 him. I don't think that rises to the level of a deal or

1 any kind of like promise to him, I mean, if that's all
2 this is about so...

3 THE COURT: Apparently the State's position is that
4 there's been no deals, no offers. He hasn't been
5 arrested.

6 MS. JURICK: Your Honor, I'm not saying that's
7 improper. I'm saying I need to know that information.

8 THE COURT: What now?

9 MS. JURICK: I'm saying I just need that information
10 for cross examination.

11 THE COURT: I think -- Well --

12 MR. EATON: She knows it.

13 MS. JURICK: I want it on the record. I know it
14 now.

15 THE COURT: Well, they said there's been no deals,
16 there's been no offers, there's nothing to reveal and in
17 terms of his testifying on behalf of the State, the issue
18 as to whether or not he stayed in a hotel room tonight?
19 Was it last night?

20 MR. EATON: Last night.

21 THE COURT: That's fine. I think that that can come
22 in. It's innocuous. Anything else?

23 MS. JURICK: And additionally I would state that he
24 is sitting in the room and I'd ask that he be read his
25 right to remain silent.

1 THE COURT: What now?

2 MS. JURICK: I would ask that he be told of his
3 rights to remain silent and --

4 THE COURT: I'm not gonna do that, ma'am.

5 MS. JURICK: Well, Your Honor, my --

6 THE COURT: Look, who do you represent? Mr. Dukes
7 or Mr. Gleaton?

8 MS. JURICK: He's made several incriminating
9 statements.

10 THE COURT: I don't care. You can cross examine him
11 on this. What do you want me to do, ma'am? Warn him
12 that you're gonna cross examine him or something?

13 MS. JURICK: Yes, Your Honor.

14 THE COURT: Okay. Well, good. You're free to do
15 so. But I'm not gonna -- Please. I'm gonna take a
16 break. Wait. Anything else regarding Mr. Dukes? He's
17 staying in a hotel room last night. Anything else?

18 MS. JURICK: No, Your Honor.

19 THE COURT: All right. Fine. But, ma'am, please, I
20 can't at your request start advising a witness what to do
21 about testifying. I don't understand that one. We will
22 be at ease.

23 (Short break.)

24 THE COURT: Is everybody ready?

25 MR. EATON: Judge, we might as well take up a quick

1 issue before they come in. So Mr. Dukes was there during
2 the murder. He flees the house. He starts sending
3 messages to another witness who will testify saying come
4 get me. You know, please come get me now. I need you.
5 I'm scared. And he goes on and has a conversation that
6 we have pictures of from the screen of her phone. I
7 think almost all of this is sort of presence sense
8 impression type discussion. Things like come get me is
9 not offered for the truth of the matter. It's a
10 directive, you know.

11 THE COURT: Isn't he gonna testify to this?

12 MR. EATON: He is, Your Honor.

13 THE COURT: Go ahead.

14 MR. EATON: As far as, I mean, we were discussing
15 this and they seem to think there's a double hearsay
16 problem. I don't think this is any different than, say,
17 a letter or any other written format of something, but so
18 I think that this is admissible and I thought we would go
19 ahead and talk about it before he takes the stand, Your
20 Honor.

21 THE COURT: Yes, ma'am.

22 MS. JURICK: And, Your Honor, I do have an
23 authentication issue and a hearsay issue.

24 THE COURT: What now?

25 MS. JURICK: An authentication issue.

1 THE COURT: All right. What's the sanitation issue?

2 MS. JURICK: Authentication.

3 THE COURT: A what?

4 MS. JURICK: Authentication.

5 THE COURT: Authentication. The witness -- Okay.

6 What's your authentication issue?

7 MS. JURICK: Well, these are pictures of the phone.

8 We have not been able to see the actual phone. We have

9 asked to see the actual phone. There are time stamps.

10 THE COURT: You don't have this? You've never seen
11 this before?

12 MS. JURICK: I've seen the document.

13 THE COURT: How long have you had the documents?

14 MS. JURICK: A while. A month or so. I'm not
15 complaining about the time.

16 THE COURT: All right. Go ahead.

17 MS. JURICK: We have not been able to see the actual
18 phone so I think there's an authentication issue with
19 that being admitted into evidence, however, I would agree
20 the content of it can certainly be discussed amongst the
21 --

22 THE COURT: Let me tell you how this works. I make
23 the decisions. You can think this and he can think that,
24 okay? It's foundation. After he testifies, if he's lays
25 the foundation, I will admit it or I won't admit it.

1 It's that simple. What else?

2 MR. EATON: That's it, Judge.

3 THE COURT: He can -- If you mark it for ID, he can
4 use it and all that. It doesn't go into evidence until
5 you move it into evidence, they object, I say yes or no.

6 MS. JURICK: Yes, Your Honor.

7 THE COURT: That's how it works. Bring the jury
8 in.

9 BAILIFF: Yes, Your Honor.

10 THE COURT: And you can repeat your whatever
11 objection you have. I'll give you a chance to renew
12 it.

13 MS. JURICK: I'll just say prior objection.

14 THE COURT: All right. Is there anything else
15 before we bring the jury in? Anything at all?

16 MR. EATON: I don't think so, Judge.

17 THE COURT: Okay. Just double checking.

18 (Whereupon, the jury entered the courtroom at 11:10
19 a.m.)

20 THE COURT: Welcome back ladies and gentlemen of the
21 jury. Call your next witness.

22 MR. EATON: The State calls Roderick Dukes, Your
23 Honor.

24 Thereupon,

25 RODERICK MICHAEL DUKES

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

2 THE CLERK: Please have a seat on the witness stand
3 and state your full name for the record.

4 THE WITNESS: Roderick Michael Dukes.

5 DIRECT EXAMINATION

6 BY MR. EATON:

7 Q. Good morning, Mr. Dukes.

8 A. Good morning.

9 Q. Mr. Dukes, I'm gonna ask you to -- you're doing a
10 good job already -- but I'm gonna ask that you make sure that
11 you speak right into that mic as you're testifying, please.

12 A. All right.

13 Q. Mr. Dukes, how old are you? How old are you?

14 A. How am I?

15 Q. How old are you?

16 A. Oh, uhm, 35.

17 Q. And where do you live?

18 A. I'm homeless right now.

19 Q. Where have you been this week?

20 A. Uhm, in Charleston, Summerville.

21 Q. What were you doing down there?

22 A. Working.

23 Q. So do you work?

24 A. That's all I do is chase work, job site to job
25 site.

1 Q. What kind of work do you usually do?

2 A. Uhm, I'm a mason by trade, but any hard work. It
3 don't matter what it is.

4 Q. Now, Mr. Dukes, you've run into the police before,
5 right?

6 A. Several time.

7 Q. And in 2009 did you give a false info for an ID card
8 from the DMV?

9 A. I probably did.

10 Q. And in 2010 a false info to police?

11 A. Yep.

12 Q. Then a larceny in 2012?

13 A. Mm-hmm.

14 Q. And in 2010 failure to return a rented object?

15 A. I don't -- Yeah. That's -- Yeah, but I just don't
16 remember why, but yeah.

17 Q. Okay. But all that was a pretty long time ago?

18 A. Yeah.

19 Q. Where are you from, Mr. Dukes?

20 A. Leesburg.

21 Q. Originally?

22 A. Mm-hmm.

23 Q. Did you grow up in Columbia?

24 A. Yeah.

25 Q. And around 2017 what were you doing?

1 A. Still side jobs, any sort of type. I've been
2 homeless for like three years so every day is looking for some
3 work, side job, how to make some money today. Same thing.
4 It's hard to keep up with after a while.

5 Q. Did you -- When did you meet Amanda?

6 A. Uhm, that was a side job that we just started
7 chilling afterwards. Doing the yard. They needed their yard
8 done and, uhm, they meaning Amanda's grandparents needed their
9 yard done and I just let them know that I do hard work and
10 started doing their yard and started doing other little odd
11 jobs around the house and I started kind of chilling at their
12 house everyday.

13 Q. And so what, like what time frame are we talking
14 about?

15 A. Uhm, sometime I catch them early in the morning like
16 7:00 until maybe 11ish I might catch them.

17 Q. Oh, I'm sorry. I mean like what year, month did you
18 to the best of your memory did you first meet Amanda?

19 A. 2017. That year. Uh, I want to say it might have
20 been the end of summertime, beginning of spring. I mean
21 beginning of fall is when I met them because that's when I
22 picked up the yards and probably around that time.

23 Q. And who all was living there then?

24 A. The grandparents, the kids. It was grandmother,
25 grandfather, two children, Jessica, Amanda and Kenneth.

1 Q. Kenneth was living there?

2 A. He was living there at the time to my knowledge.

3 Yeah.

4 Q. What did you call him?

5 A. Kenneth. Well, we called him K.G. though.

6 Q. K.G.

7 A. Mm-hmm. We used to call him K.G. I'll just

8 Kenneth.

9 Q. Do you see him in the courtroom?

10 A. He's right there.

11 Q. Describe him real quick.

12 A. Uhm, black suit jacket. Uhm, my eyesight's a little
13 dim. Might be a white shirt. He's bald head. Maybe glasses.
14 Might have glasses on. My eyesight's a little dim for
15 distance.

16 MR. EATON: That's okay. Let the record reflect
17 that he's identified the defendant.

18 THE COURT: All right.

19 BY MR. EATON:

20 Q. So did you meet Amanda and K.G. all at the same
21 time?

22 A. Yeah.

23 Q. And how did it first happen that you met all of
24 them? Tell the jury.

25 A. Uhm, I met them at a Circle K gas station. Uhm, I

1 walk around people all the time and just generally talk with
2 people and see what they need and stuff like that and they
3 needed their yard done and we started hanging out after
4 that.

5 Q. And so how often would you see all of them?

6 A. Everyday after that. Just about everyday. Uhm, I
7 do other stuff other than yards and as long as there's money
8 involved, I do it so I kind of see them all the time.

9 Q. So --

10 A. Like everyday.

11 Q. So you're doing their yard. Other than doing the
12 yard, you say you started chilling. What do you mean by
13 that?

14 A. I made meals for the grandparents. Maybe a time or
15 two I might have helped with some homework. Uhm, there was a
16 pool in the backyard I was gonna move. There was other stuff
17 to do other than just -- I usually use the yard to get in and
18 once I get in, I find out what else I can do and do other
19 stuff, too, but me and K.G. started chilling almost everyday,
20 just about everyday.

21 Q. And what - what kind of - what was the nature of
22 y'all's relationship or friendship?

23 A. I might see him, drink a beer with him, go fishing
24 together. That nature. Just nothing work involved.

25 Q. Where did you fish?

1 A. There's a pond right behind the house that attached
2 to another pond so we used to fish out of those two.

3 Q. So about how long were you knowing them before
4 anything started going south with K.G. and Amanda?

5 A. It wasn't long. Like a month, month and a half,
6 something like that.

7 Q. And as time progressed were the same people living
8 in the house?

9 A. Yep. Same people, but the grandparent left and
10 I want to say the kids left, too. The kids disappeared. The
11 grandparents and the kids disappeared.

12 Q. Did you know why?

13 A. Not really. I knew they had some family stuff going
14 on, but that's the stuff I be trying to ignore it. Ain't none
15 of my business.

16 Q. So around October what was your daily life like in
17 October of 2017?

18 A. Same thing, but it's fall time. Any fall seasonal
19 work is what I'm doing, like yards or sanitation do good in
20 the fall. Anything labor fall time is what I'm doing, but I
21 still was doing their yard around the time. I was still
22 communicating with them at that time. When I leave my
23 neighborhood, I have to walk passed their house to go to the
24 same corner store where I met them at so I used to see them
25 all the time.

1 Q. When you said your neighborhood, what do you mean?

2 A. Uhm, Trotter Road, Hickory Ridge, Pine Lakes,
3 Leesburg area, over there.

4 Q. But now you described yourself as homeless. Do you
5 mean like your childhood neighborhood or are you saying like
6 --

7 A. Childhood neighborhood.

8 Q. Or are you like staying places?

9 A. I stay everywhere. I stay everywhere. I'm actually
10 from that side of town I was just talking about, Leesburg Road
11 and stuff like that. I usually go over there whenever I want
12 to see people that I've known for a while.

13 Q. So on October 9th, 2017, what were you doing that
14 day?

15 A. I don't know. I have no idea.

16 Q. The day of the incident.

17 A. The day of the incident. Okay. Uhm, I didn't
18 really have nothing generally planned that day. I was looking
19 for something like I always am. I didn't have nothing
20 generally planned. I was gonna try to maybe get like a chore
21 or something out of Amanda. That was my general plan I can't
22 remember how me and K.G. hooked up that day, but me and K.G.
23 hooked up that day and he wanted to go see Amanda. I could
24 tell they had something going on so whatever, we can go up
25 there because I wanted to kind of get a side job out of her

1 anyway.

2 Q. Now, let's talk about that. Tell the jury what you
3 mean about K.G. and Amanda having something going on?

4 A. Well, they was have some sort of type of
5 relationship issue going on at the time. Uhm, I wasn't sure
6 what it was. I don't want to be trying to get into personal
7 scenarios, personal situations with people. I'm homeless.
8 People that I deal with, you know, like I like to deal with
9 people on a basis of how we know each other and then I try to
10 leave. But, you know, uhm, I can't remember how we ended up
11 over there, but I know that I was with K.G. though. I was
12 with him.

13 Q. I mean, was he saying that they were having
14 problems?

15 A. Every now and then, yeah, but if you my friend and
16 you start talking about what's going on with you and your
17 girlfriend, I start talking about football or something else.
18 I'm not really gonna be trying to listen to what you have to
19 say. It's a personal situation. I try to stay out of it. I
20 just try to stay out of all personal situations.

21 Q. But is it fair to say you knew something about it?

22 A. It was something going on. It was something going
23 on, but I didn't know the specifics of it. I'm not one of
24 those friends that you can talk to me about your relationship.
25 I'm not gonna help you or root for you in any sort of type

1 way. I ain't like that. No. I'm the friend you speak to
2 after you get kicked out. That's the friend I am.

3 Q. I understand. I mean, from what he was telling you
4 what did you think he wanted from this relationship?

5 A. Probably like not to work, just sit around a woman
6 that's gonna take care of you and like that, I guess. I don't
7 know. I don't know. I don't know.

8 Q. But, I mean, was the relationship to your knowledge
9 was it falling apart?

10 A. Yeah. Horribly. Probably horribly. Yeah. Yep.
11 It was falling apart.

12 Q. Did K.G. want that?

13 A. No.

14 MS. JURICK: Your Honor, object to speculation at
15 this point. Basically he said he didn't know.

16 THE COURT: It's hard for him to say what somebody
17 else wanted. Your objection is sustained.

18 MS. JURICK: Thank you, Your Honor.

19 MR. EATON: And I'll rephrase that. I recognize
20 that ruling.

21 BY MR. EATON:

22 Q. Did he say specifically to you what he wanted?

23 A. No.

24 Q. Okay. And so that day leading up on the night what
25 was the conversation between y'all about Amanda?

1 A. Well, uhm, I did give him a little advice before we
2 went to go see Amanda, uhm, that he might need to leave her
3 alone, like it don't look like your relationship doing too
4 good and get out of that. It didn't really seem to me -- I've
5 seen repetitive situations with people over and over and over
6 again. I just didn't have any faith that they would keep
7 talking to each other for an extended amount of time. It
8 seemed like something that was gonna die but I wanted to try
9 to salvage my relationship with Amanda because I do her yard
10 sometimes. So when they talk or they do whatever, I got
11 nothing to do with that. It's while I'm playing my video game
12 minding my own business.

13 Q. You wanted to salvage your relationship with
14 Amanda?

15 A. Yes.

16 Q. And so how long were y'all walking around that
17 day?

18 A. Maybe two, three hours.

19 Q. Where were y'all?

20 A. In the general area of Hickory Ridge Drive, Trotter
21 Road area, in neighborhood right around where that house is.

22 Q. Do you remember talking to us in our office a few
23 months ago?

24 A. Yep.

25 Q. Do you remember telling us that the defendant wanted

1 to try to talk to the victim to try to get back good with
2 her?

3 A. I probably did because that was his general - that's
4 what you going over there for. You going over there to talk
5 to your girlfriend. That's what you going over there for.
6 I'm going over there for some work so it's not the same
7 purpose. I didn't pay attention. I tried not to pay
8 attention to that. If you gonna go do something I don't
9 believe in, I ain't gonna be trying to pay attention to it
10 that much.

11 Q. And what do you mean by something you don't believe
12 in?

13 A. I don't believe that you gonna be successful in your
14 goal.

15 Q. What goal?

16 A. Uhm, in this situation would be the goal of
17 strengthening your relationship because it's crumbling apart.
18 I just didn't - I didn't see it. I didn't see it. I thought
19 it was a waste of time.

20 Q. So do you remember what time y'all got to the house
21 at Crestmore that day?

22 A. Uhm, it was in the evening time like five. I want
23 to say maybe sixish maybe. Maybe sixish, sevenish, somewhere
24 around there.

25 Q. And who all was there when you arrived?

1 A. Uhm, it was - the first time we went, we went twice,
2 we went twice, Amanda - no, Jessica. Jessica had to go to
3 work. Jessica had to go to work. Amanda took Jessica to work
4 and we came back and when we came back and actually stayed, it
5 was me, Amanda, Kenneth. That's it. Me, Amanda and
6 Kenneth.

7 Q. Now, you mentioned Jessica. Did you know Jessica?

8 A. That was her roommate. Yep. We had sat down and
9 talked before.

10 Q. How long had you been knowing Jessica?

11 A. About the same, about a month and a half. Everybody
12 in that house I pretty much know them the same amount of
13 time.

14 Q. And you said she was home the first time?

15 A. The first time she was home. She was on her way to
16 work the first time.

17 Q. Where was she working?

18 A. At the Waffle House.

19 Q. And then how long were you all gone before you came
20 back?

21 A. Maybe an hour.

22 Q. And where did y'all go?

23 A. Back to her house.

24 Q. I mean, like when you were gone, where were you?

25 A. Walking around the neighborhood in circles talking

1 to people.

2 Q. So when you came back, what was going on at the
3 house?

4 A. Nothing. Everybody was gone. It was just Amanda
5 there. We went through the back door. K.G. started talking
6 to Amanda at the kitchen table. I got something to eat out of
7 the kitchen and went on the back porch for a little while,
8 then I went to the living room and sat down and started
9 playing a video game.

10 Q. And when they were talking in the kitchen, could you
11 hear what they were talking about?

12 A. That's why I went to go get something to eat and
13 went outside. No, sir. Uh-uh.

14 Q. Where did they go from the kitchen?

15 A. To the back bedroom. I didn't see them move to the
16 back bedroom. It's just that's where they always go to talk
17 so it wouldn't have been hard to figure out that they was back
18 there but I didn't see them move from the kitchen table to the
19 back bedroom. I never seen that but that's where they went
20 though.

21 Q. And what were you doing at this point?

22 A. I was deep into the video game by then and I was
23 almost to the end.

24 Q. What game?

25 A. Army Two.

1 Q. Now, State's 92, exhibit 92, what is this?

2 A. That's the one. Devil's Cartel. Yeah. That's it.
3 Yep. I was playing that.

4 Q. This is the game. So about how long had you been
5 playing that game?

6 A. Probably a couple of hours. Probably a couple hours
7 straight. I was pretty much into it.

8 Q. Could you guess around what time it was?

9 A. It got dark. It felt real late. It felt real late
10 like nine, 10:00, something like that. It felt later. It
11 did. It felt later but it was about nine, 10:00.

12 Q. That was October so it was already dark though?

13 A. It was dark.

14 Q. So it could have been earlier than that?

15 A. Maybe.

16 Q. And between the time, or in the kitchen and going to
17 the bedroom, do you ever see them?

18 A. No. Well, then I'm playing the video game and I
19 don't even see the living room right now like. The only thing
20 I really see is the screen and then I was - I don't usually be
21 at Amanda's house like later and nobody came out and said
22 nothing the me or nothing. It was like, okay. Well, I'm
23 gonna play the whole game then. I was almost done, too. I
24 was almost done.

25 Q. Did you have - how was the audio coming out of this