

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Anderson County

Honorable J. Cordell Maddox, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

STEPHEN GRANT PARTEN,

APPELLANT

APPELLATE CASE NO 2019-000326

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (911 PHONE CALL BY JOHN GIBBY)
STATE’S EXHIBIT NO. 2 (911 PHONE CALL BY THOMAS FRANCIS)
STATE’S EXHIBIT NOS. 30-33 (PHOTOGRAPHS OF RHODES)
STATE’S EXHIBITS 7A-7D (PHOTOGRAPHS AT CRIME SCENE)
STATE’S EXHIBIT 7E (PHOTO OF DECEASED ON ROADWAY)

State v. Stephen Grant Parten 2016-GS-04-02402-05; 2019-GS-04-00021 February 11, 2019

1 State of South Carolina
2 In the Court of General Sessions
3 County of Anderson

4 State of South Carolina) 2016-GS-04-02402
5) 2016-GS-04-02403
6 - vs -) 2016-GS-04-02404
7) 2016-GS-04-02405
8 Stephen Grant Parten,) 2019-GS-04-00021
9) February 11, 2019
10) Volume 1 of 5
11) Pages 1 - 165
12) Transcript of Record
13 _____)

14
15 B E F O R E:

16 The Honorable J. Cordell Maddox, Jr., Judge;
17 and a jury.

18
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For the State:

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5	Aerial Photo		127

For the Defendant:

Marked	Description	I.D.	Admitted
	None admitted		

1 plea of not guilty.

2 MR. LUCAS: That's correct, your Honor.

3 THE COURT: Okay. All right.

4 MR. OVERBY: Thank you, your Honor. With respect
5 to one of the additional indictments, this is
6 indictment 2016-GS-04-02405, the grand jury,
7 November 15th, 2016, indicted Mr. Parten for burglary
8 first degree. Based on the evidence and investigation
9 with the case and after consulting, obviously, with
10 defense counsel, the State is moving to amend this
11 indictment particularly to make it a less -- the lesser
12 included offense of burglary second degree nonviolent.
13 That is based off the evidence in the case. The State
14 would not present any evidence which would create the
15 aggravating factor which would make this a burglary
16 first degree.

17 THE COURT: I assume y'all are not objecting to
18 that.

19 MR. LUCAS: We are not, your Honor.

20 MR. OVERBY: With respect to that, your Honor, the
21 State has a printout, a dummy indictment that has the
22 particular language in question. I think you may want
23 to take a look at the language and just make sure.
24 That's what we were intending to present to the Court
25 so you can present that to the jury.

1 MR. LUCAS: We think the language on the
2 indictment is fine, your Honor.

3 THE COURT: Good. We'll bring them back in.

4 Is there anything else we need to take up before
5 we select the jury?

6 MR. LUCAS: Yes, your Honor. We wanted to take up
7 our continuance motion and severance motion at this
8 time.

9 THE COURT: Okay. All right. Go ahead.

10 MR. LUCAS: And, your Honor, we're moving for a
11 continuance of this case, or in lieu of that, severance
12 of the burglary and grand larceny charges. The
13 continuance motion is based upon the fact that we were
14 provided with an incident report that is dated
15 February 4th of 2019. That's last Monday. That's the
16 same date that we were provided with -- that indicates
17 that latent prints were developed in reference to this
18 incident. I would remind the Court that happened in
19 May of 2016, and that one latent print from an exterior
20 living room window was identified as a fingerprint
21 match to the defendant, Stephen Parten.

22 We just got this evidence, your Honor. We have
23 not had time to retain an expert, review it, although
24 we put in a funding order request with Jennifer Johnson
25 for that purpose. We're not able to adequately meet

1 this accusation, your Honor.

2 In addition, it's clearly a Brady violation that
3 we were not provided with this until the week before
4 trial. So we're moving for a continuance on those
5 grounds, your Honor, in that we think that it will not
6 entitle Mr. Parten to have a fair trial; it's a due
7 process violation in that we're unable to meet this new
8 accusation.

9 In lieu of the continuance, your Honor, we think
10 it would be appropriate to sever out the burglary now
11 second-degree charge and the grand larceny charge. And
12 we're happy to argue a severance motion in addition to
13 this motion for a continuance, your Honor.

14 THE COURT: Okay. What's y'all's position? You
15 just got this stuff, I assume.

16 MR. OVERBY: Your Honor, yes, we just obtained the
17 fingerprint match this past week. We -- Mr. Parten has
18 been on knowledge and there are additional facts in
19 this case which support his charge of burglary second
20 degree. This really is not anything that was -- this
21 really is not anything that says anything differently
22 as far as that is concerned.

23 Witnesses are going to testify that Mr. Parten
24 took a spare key which was clearly inside of a house.
25 That's going to come from the victim of this particular

1 crime. Obviously, the fingerprint corroborates that,
2 and Mr. Parten was found in the stolen truck, which,
3 going in towards the severance motion, was used in an
4 effort to escape apprehension for these charges that he
5 is also on trial for.

6 So the State's position is, with respect to the
7 continuance motion, he's had plenty of time. He's not
8 surprised by these accusations, Judge. As far as Brady
9 is concerned, we got it, we disclosed it, and it's not
10 exculpatory. Quite honestly, it's inculpatory.

11 THE COURT: Well, I mean, every judge and every
12 person that's involved in these things is frustrated
13 with the slowness with which SLED works. I understand
14 because I know Chief Keel. They work as hard as they
15 can with the funding that they have, but so what I'll
16 do is I'll deny your motion for continuance or
17 severance, but you're protected for the record.

18 MR. LUCAS: Your Honor, if I may, I'd like to
19 argue the severance motion, and then also we submitted
20 a written motion, and we'd like to have that made as a
21 Court's exhibit and incorporated into our argument.

22 THE COURT: Okay. All right.

23 (WHEREUPON, Court's Exhibits 1 and 2 were marked
24 for identification.)

25 MR. LUCAS: Your Honor, we're moving for severance

1 under *State vs. Rice*, 368 S.C. 610, and Amendments 5, 6
2 and 14 of the U.S. Constitution, and Article 1,
3 Sections 3 and 14 of the South Carolina constitution on
4 grounds that this would be a due process violation.

5 The severance motion is based on precedent for
6 joinder. Under *State v. Rice* and *State vs. Grace*, 350
7 S.C. 19, Court of Appeals 2002, joinder is governed by
8 a four-part test. So for charges to be joined and
9 tried together, they have to arise out of a single
10 chain of circumstances, be proved by the same evidence,
11 be of the same general nature, and forward, that no
12 real right of defendant be prejudiced.

13 Here, your Honor, I think the State is making an
14 argument that this is a single chain of circumstances.
15 However, the shootings, kidnapping, and attempted
16 murder, that's all on May 26th. The burglary and grand
17 larceny is in the early morning hours of June 1st, so
18 it's five days later.

19 There were also not -- these offenses are not of
20 the same general nature. The burglary and the grand
21 larceny, that's a property crime. The other
22 accusations are, you know, more serious and violent in
23 nature and involve firearms.

24 In addition, your Honor, they're not proved by the
25 same evidence because the State -- and that's a key

1 requirement. The State is going to prove the alleged
2 murder, attempted murder, all that with evidence of
3 Mr. Parten's conduct at the scene. The main witness is
4 going to be one of the alleged victims, Morgan Rhodes.
5 She doesn't have any testimony that relates to the
6 grand larceny or the burglary.

7 In addition, your Honor, it's going to prejudice a
8 right of Mr. Parten in that it's possible that the jury
9 could convict him of the more serious charges --
10 murder, attempted murder, kidnapping -- on the basis of
11 seeing that he's being convicted of this burglary
12 charge. And the case against him on the burglary is
13 stronger than the murder, the attempted murder, and the
14 kidnapping. So we think that will allow the jury to
15 draw an improper inference that Mr. Parten is guilty of
16 these violent crimes because he's guilty of the
17 burglary. That's the basis of the motion, your Honor,
18 and we think that severance is appropriate for those
19 reasons.

20 THE COURT: Okay.

21 Yes, sir.

22 MR. OVERBY: May it please the Court, your Honor.
23 With respect to the same facts, which I suppose is
24 primarily what we're arguing here, the State's going to
25 show that Mr. Parten, after committing this murder on

1 the morning of the 26th, kidnapped Morgan Rhodes, took
2 her by his vehicle, and eventually they ended up in the
3 Williamston area kind of close to Wilson Farms.

4 In that area, Judge, Mr. Parten had initially
5 wrecked his vehicle off Harris Bridge Road on the other
6 side of 85, and he basically drove until it gave out.
7 At that point, the State is going to show, through
8 Morgan Rhodes, that Mr. Parten was essentially kicked
9 out of the vehicle, that the door was locked at that
10 point, and that he took off running through the woods.
11 Okay.

12 Now, five days pass here before these -- before
13 the burglary and the grand larceny because he's in the
14 wooded area there in Williamston right on the Wilson
15 Farms property, four, five days until he robs -- until
16 he breaks into this house off Long Road right on the
17 other side of the property and steals a truck from the
18 homeowner up there. That's when he takes off. And
19 he's actually apprehended in Knoxville, Tennessee
20 thanks to a tip from an informant who may testify in
21 this case with regards to where his whereabouts were.

22 Judge, this is all evidence of flight. It's all
23 one continuous string of events here. And the evidence
24 of flight is clearly probative as to his guilt as to
25 the murder and all of those things. I'd actually

1 contend -- it's not really a point, but I'd actually
2 contend that the burglary and grand larceny are not
3 quite as strong as the murder and attempted murder, to
4 be perfectly honest with you.

5 But, regardless, it's all a part of the same
6 circumstances, same chain. It's appropriate for
7 joinder, and we request to proceed forth on those
8 charges.

9 THE COURT: Okay.

10 MR. LUCAS: Your Honor, if I may add one more fact
11 as it relates to the continuance motion. Just because
12 the State was not provided this fingerprint match by
13 law enforcement, that doesn't mean it's any less of a
14 Brady violation. Brady covers law enforcement as well,
15 covers exculpatory information, also information that
16 relates to sentencing.

17 Of course, this relates to sentencing because it
18 provides even more -- well, it provides more evidence
19 to convict Mr. Parten of the burglary charge.

20 THE COURT: Okay. All right. Well, what I'll do
21 is I'll make your written motion a part of the record
22 as Court's Exhibit 1. I'm going to deny the motion to
23 sever. I do think it probably is one continuous act,
24 even though it is separated by four to five days, but
25 I'll make that Exhibit 1.

1 Next to the car -- he is off in the words. Somebody
2 comes very quickly at that point and finds them. At
3 the scene of this whole incident, there is a photograph
4 of -- there are photographs of the back of the vehicle
5 with the gas cap completely removed from the car.
6 There is a torch lighter that is found in the grass
7 next to these incidents. By the way, this is in the
8 incident records.

9 When the vehicle is processed, there is a wheel
10 magazine that has pages that has been torn out. And
11 when the vehicle is processed at the armory after being
12 towed and not manipulated, there is a piece of paper
13 that is stuffed into the gas tank that is actually
14 charred. And the witness will testify that she smelled
15 burning. That's the basis for that argument.

16 THE COURT: Okay. I think that comes in. I
17 understand. I'll deny your motion on that.

18 MR. LUCAS: Thank you, your Honor. Anything else?

19 MR. LUCAS: Your Honor, we're also moving to
20 suppress two 911 calls as inadmissible hearsay, one
21 made by John Gibby and one made by Thomas Francis.

22 Your Honor, Mr. Gibby and Mr. Francis are both
23 here. They're available to testify, but I think that
24 it's clear that the 911 calls, they're being offered
25 through a separate witness. They're being offered for

1 truth, and that is clearly hearsay, your Honor, and
2 it's inadmissible.

3 MR. OVERBY: This is a pretty well litigated line
4 of case law as far as this is concerned, your Honor.

5 First of all, I can authenticate the 911 calls
6 through the individual, through the business records
7 custodian with Anderson County. If I have to put them
8 in through the witnesses themselves, I'm happy to do
9 that. I was going to do it this way, basically, in
10 order to save time and set a stage for the jury, but
11 the bottom line is they are being -- they're
12 non-testimonial in nature pursuant to Crawford, and one
13 of them has a dying declaration from the victim, who's
14 Mr. Fallous who's not here. Mr. Gibby's present sense
15 impression, relaying what's going on to the dispatcher,
16 and Mr. Francis is relaying, quite honestly, what
17 Ms. Rhodes is saying via excited utterance to them.
18 They all meet the hearsay exceptions, and they are all
19 non-testimonial in nature.

20 MR. LUCAS: Your Honor, Mr. Overby is correct that
21 the case law is clear, but he's incorrect about what it
22 says. The issue is not whether they're testimonial or
23 not. The issue is whether they're hearsay.

24 I have a case to hand up, your Honor. It's *State*
25 *v. Hendrix*. It's 408 S.C. 525. It's a 2014 court of

1 appeals case, and it stands for the proposition that
2 the victim of a domestic assault is talking to her
3 mother and then mother makes a 911 call and then
4 repeats all of the statements made by the victim in
5 this case -- or in the Hendrix case. And the Hendrix
6 court concludes that that was inadmissible hearsay.

7 And we may need to play the actual 911 calls for
8 the Court so that you can listen to them, but I think
9 with regard to Mr. Gibby's 911 call, there are multiple
10 hearsay issues. And in addition, most of what
11 Mr. Gibby is telling the 911 operator is not what is
12 happening that moment, which would be -- that could be
13 admitted under the present sense impression. He's
14 telling the operator what happened. In other words,
15 events that had already taken place. That's clearly
16 hearsay, your Honor.

17 Now, if the State thinks they can get in a dying
18 declaration, it may be that that is partially
19 admissible. The 911 call by Mr. Francis, however, is a
20 slam-dunk hearsay. It consists almost entirely of
21 Francis repeating things that Morgan Rhodes is telling
22 him. It can't be clearer hearsay than that, your
23 Honor.

24 It's not present sense impression because he's
25 repeating things that she already told him. It's not

1 an excited utterance because there's no indication that
2 emotion has overtaken his senses. He's very calm. He
3 also did not make this 911 call immediately after
4 seeing Morgan. He drove to the Hopewell Road Church
5 and then made the call, then made the call at that
6 point. We may need to play them, your Honor, but I
7 think it's clear hearsay and should not be admitted, as
8 it's without exception.

9 THE COURT: Well, sounds like they're both very
10 different. So when do you plan to introduce those?
11 Tomorrow?

12 MR. OVERBY: I was hoping --

13 THE COURT: I'd like to hear them, especially if
14 the second one is more like the Hendrix case because I
15 know about that one.

16 MR. OVERBY: I mean, our intention was to try and
17 get it in today. We have the witnesses that are
18 available to be able to do that, so...

19 MR. LUCAS: Your Honor, if I could approach, I'll
20 hand up the Hendrix case. And I had a copy for the
21 State and I have misplaced it, but I'll copy it for
22 you.

23 THE COURT: All right. Why don't we, after we
24 come back from lunch -- I mean, that sounds like the
25 first one may not be a problem. The second one, if

1 it's repeating what someone else told them as in
2 Hendrix, I think that was a Lexington County case
3 because that was Letitia Verdin's case, and, you
4 know -- I'll listen to them when we get back. So I'll
5 be back in here about 2:15.

6 If y'all can just set them up and play them, I'll
7 listen to them.

8 MR. OVERBY: Yes, your Honor.

9 MS. GURNEY: Your Honor, we're moving to suppress
10 photos taken by Ty Blackwell, Shawn Proner, and J.C.
11 Wilson of the interior of the GMC Yukon. These are
12 photos of a bullet hole in the dashboard as well as in
13 the foot area of the passenger front of the car, and
14 we're moving to suppress those under Rules 401, 403 and
15 404(b).

16 These photos, I think everyone agrees -- not the
17 photos, but the actual bullet holes were made at a
18 prior time before this incident, which would make them
19 of no relevance.

20 MR. OVERBY: Judge, if they're not going to
21 abandon the preliminary line of self-defense that they
22 were pursuing and had actually hired an expert in order
23 to go down the road and through, essentially, looking
24 at this thing, I think that we've gotten that. It's
25 not going to be a defense. I mean, but obviously, I

1 back and sign orders. I'll come in and listen to the
2 911 tapes. Okay? All right. See y'all back here.

3 (Lunch recess taken from 1:30 p.m. to 2:30 p.m.)

4 THE COURT: Are y'all set up to play those things?

5 MR. OVERBY: Yes, your Honor.

6 MR. OVERBY: For the record, these two discs have
7 been marked State's Exhibit 1 and 2. State's Exhibit 1
8 is a phone call, 911 call, from John Gibby. That is
9 the first one.

10 THE COURT: And Mr. Gibby was?

11 MR. OVERBY: Mr. Gibby was the individual who
12 called 911 when the shooting occurred at the bridge and
13 actually found the victim Ahmed Fallous.

14 And State's Exhibit Number 2 is the 911 call from
15 Thomas Francis, who found Morgan Allie Rhodes on the
16 side of the road and made a 911 call from there.

17 THE COURT: Okay.

18 MR. OVERBY: And at this time the State is
19 publishing State's Exhibit 1 for the Court.

20 (State's Exhibit 1 being played.)

21 MR. OVERBY: Your Honor, that is the conclusion of
22 Mr. Gibby's 911 call.

23 THE COURT: Okay.

24 MR. OVERBY: This is Mr. Francis' 911 call.

25 (State's Exhibit 2 being played.)

1 MR. OVERBY: That concludes it, your Honor.

2 THE COURT: All right. Well, I appreciate y'all
3 doing that. It does help because at lunch I did read
4 through *State vs. Hendrix*, and like I said, I had some
5 knowledge of this because I have dealt with this
6 before.

7 In the normal situation, you have just what you
8 had in Hendrix, which is something horrible happening
9 to someone, time passage, then repeating what happened
10 to, in Hendrix the mother, and then the mother calling
11 911 and repeating what was told. And, obviously,
12 that's sort of a double hearsay in a way.

13 On Gibby, I think Gibby says that he saw the
14 shots, he saw the flame, he heard it. I think he falls
15 within the excited utterance. In Hendrix, there was a
16 ruling that too much time had passed and that actually
17 could not be -- you could not fall under the exception
18 of an excited utterance unless you were at the original
19 event, which Gibby sounds like he was there. So I'm
20 going to let that in under the excited utterance, but
21 your objection is, obviously, noted.

22 And on the second one, Francis, to be honest with
23 you, I think I could hear what she was saying, quite
24 frankly, better than what I could hear what he was
25 saying. It sounded to me like he was just literally

1 repeating what she was saying, almost unintelligible
2 than she was, and I think she does fall under the
3 excited utterance because it is her. So I'm going to
4 let them both in. I understand your objection. I
5 understand that in Hendrix that Judge Verdin let them
6 in, but the courts of appeals found that it was an
7 error, but it was, you know, harmless error. But I
8 think these are very different than what I thought I
9 was going to hear.

10 MR. LUCAS: Your Honor, for the record, just to
11 get it out there, with regard to Mr. Francis, we would
12 note that if it is double hearsay with him repeating
13 what Morgan is saying, that it can't come in under the
14 present sense impression because the declarant has to
15 personally have been there and witnessed events.

16 THE COURT: But he was repeating literally what
17 she said. I think what he was doing was almost
18 interpreting, and, obviously, he had a phone. I don't
19 know why he didn't hand it to her. But I understand
20 what you're saying.

21 I mean, if you feel there is a way to get him out
22 of that phone call -- I understood what she said better
23 than what I understood him. So, yeah, I understand.
24 And I don't think it's double hearsay because I think
25 she, if that phone call was from her, it would be

1 admissible as an excited utterance. The fact that
2 Mr. Francis was sitting there acting as a go-between
3 between the 911 operator and this woman doesn't bother
4 me as much. And the time frame, there hasn't been as
5 much passage as there was in Hendrix. But I understand
6 what you're saying.

7 MR. LUCAS: Understood, your Honor. Last thing
8 for the record, we would also argue if Mr. Francis were
9 testifying on direct examination, he would not be
10 allowed to repeat those statements as well. So for the
11 record, your Honor.

12 THE COURT: No, you're good. I need to step back
13 here real quick and we'll call the jury in, and I'll
14 give them my ten-minute overview of the whole court
15 system, we'll swear them in and get started.

16 MR. LUCAS: Your Honor, one further thing. We
17 subpoenaed Morgan Rhodes' sister, Ansley Rhodes, here.
18 I'm not sure what Ms. Rhodes looks like, so I need to
19 check and see whether she's here or not.

20 THE COURT: Is Ansley Rhodes here? Is she coming?
21 Tomorrow?

22 MR. LUCAS: I understand. I'm just checking, your
23 Honor.

24 THE COURT: Ladies and gentlemen, if you're going
25 to be a witness in this case, and this is a very normal

1 procedure. Sometimes lawyers -- I got caught up in it
2 as a lawyer. But if you're going to be a witness, I
3 need you to leave the courtroom until after you
4 testify. So if there's anybody here that expects to be
5 called or thinks they might be called, you need to
6 leave the courtroom.

7 MR. OVERBY: With respect to Ms. Rhodes, who is
8 the victim of the attempted murder, she will be
9 testifying, as a matter of fact, today.

10 THE COURT: Well, she's a victim, so...

11 (WHEREUPON, a recess was taken from 2:54 p.m. to
12 3:04 p.m.)

13 (WHEREUPON, the jury entered open court at
14 3:04 p.m.)

15 THE COURT: Ladies and gentlemen, first thing
16 we're going to do is swear you in, and then I'm going
17 to give you some opening remarks for about ten minutes
18 and we'll get the case started.

19 THE CLERK: If it pleases the Court.

20 (WHEREUPON, the jury was impaneled.)

21 THE COURT: Mr. Foreman, ladies and gentlemen of
22 the jury, let me take about ten minutes to tell you a
23 little bit about how this case will proceed, and then
24 we'll move right to the opening statements.

25 First thing I want to tell you is that I am -- I

1 don't know about the temperature. Are any of y'all
2 hot? Apparently everybody else in here is cold. I'm
3 burning up. If I start sweating -- unless I fall over,
4 I'm okay, but I'm really hot.

5 What I want to do is take a few minutes to talk to
6 you about how every case goes and also to talk to you a
7 little bit about your role during this trial and my
8 role because they are very different. I'll begin by
9 doing what I told you I was going to do, which is
10 explain to you that these five pieces of paper are all
11 called indictments. You will have them with you in the
12 jury room. They are literally the pieces of paper that
13 start the process that leads us to this moment. They
14 contain facts -- or they contain alleged facts of
15 potential crimes.

16 In every criminal case, no matter how serious or
17 how minor, there is an indictment. This defendant in
18 this case has pled not guilty to each and every one of
19 these crimes. As he sits here today, he is not guilty.
20 The presumption of innocence in America and under the
21 United States Constitution and the State Constitution
22 is not mere legal gibberish. It is a real, active,
23 living thing. And the way judges used to describe it,
24 it's still a pretty good way to describe it.

25 This defendant, because he's pled not guilty, has

1 about his shoulders a robe of innocence, and that robe
2 accompanies him throughout this trial. As he sits
3 there today, he has a robe of innocence about him. He
4 will have that robe until you, as a jury, after hearing
5 all the evidence and listening and making decisions
6 internally and also as a group, you are the only people
7 that can take that robe of innocence or righteousness
8 off his shoulders at the end of this case.

9 So I want to reiterate, and I probably will once
10 or twice again, because I believe the presumption of
11 innocence has become somewhat of a glib statement in
12 America. But in this courtroom and in every courtroom
13 in this country, it is very real. I don't think any of
14 you have ever served on a jury before. I think that
15 you will understand that a lot of the things that you
16 see on television are incorrect and that the
17 presumption of innocence is a very real thing.

18 The State in this case and in every criminal case
19 has the burden of proving each and every element of
20 each of these charges, and they must prove that case
21 beyond a reasonable doubt, and they must prove each and
22 every element of the case beyond a reasonable doubt.

23 That brings me to my first concern. As I said, I
24 have been a judge for almost 17 years in March, and I
25 have grown concerned over the last ten years about the

1 influence of television on jurors. My mother passed
2 away last March, but until she passed away, she would
3 call me really every Friday or Saturday night and tell
4 me just how exciting my job must be because she watched
5 every single CSI, every kind of law television program
6 there was, and she just would say, "Cordell, you just
7 have the best job in the world." I actually had her
8 come -- she and my dad came and watched a trial one
9 time, and they changed their mind pretty quickly.

10 This is not going to be like it is on TV for a
11 whole lot of reasons. In television you basically have
12 a whole fact situation that's set up, and a conclusion
13 is reached in one hour with 22 minutes' worth of
14 commercials. That's not going to happen here. In
15 television they don't show the delays. In television
16 they don't show the times that a jury sits back in a
17 jury room having no idea why you're sitting back there
18 but understanding that there is some reason why you're
19 back there, most of the time for a little bit more time
20 than you would like to be sitting back there.

21 So understand that the courtroom, and in this
22 case -- this is a very serious case. It is the only
23 time that the State and this defendant will ever have a
24 chance to appear in front of 12 people who will
25 determine whether or not his robe of innocence will be

1 removed from him. So it's a serious thing. And these
2 are, obviously, serious charges. So please don't be
3 frustrated with the slowness of it. There is a purpose
4 to almost everything we do in a courtroom.

5 And one of the things that results from all of the
6 little particular requirements of the law is it slows a
7 case down, sometimes well beyond what I'm sure you want
8 it to be slowed. But this is a place of honor, and
9 we're here for a serious reason, and you have been
10 selected out of that entire group this morning to
11 listen to this case and make a determination. So just
12 bear with us. And, please, again, if you get
13 frustrated for sitting there and you want to get mad at
14 somebody, get mad at me.

15 I'm going to tell you a little bit about what our
16 two roles are, and I'll tell you why you should get mad
17 at me if you're frustrated because you sat back there.

18 Ladies and gentlemen, during the course of this
19 trial, you are the judges of the facts. You are going
20 to listen to every person who testifies. They will be
21 testifying from this witness stand. You will be
22 listening to some tapes. There will be some other
23 documents, I'm sure, that are introduced into evidence.
24 You will have all of that with you when you begin your
25 deliberations. But you have to determine what the

1 facts are in this case.

2 One of the ways you will do that is you have to
3 determine whether or not you believe the witnesses who
4 have testified. In South Carolina, jurors determine
5 whether or not witnesses are telling the truth.

6 Now, I can't tell you how to tell if a witness is
7 telling the truth, but you can watch how they testify.
8 You can watch their demeanor. You can listen to what
9 they testified to and make a determination about
10 whether or not you believe they could have seen what
11 they said they saw.

12 You can believe everything that a witness
13 testifies to from this chair, or you can believe
14 nothing that they testify to. You can believe a
15 portion of a witness' testimony and disregard the
16 remainder of it. That is up to you to determine both
17 individually and as a group. So you are the only
18 people in this courtroom who can determine what the
19 facts are.

20 Now, I'm the judge of the law, and our roles never
21 cross. If at any point during the course of this
22 trial, and I suspect that this trial is going to take
23 the majority of the week, so we're going to be together
24 a lot, if at any time you think I believe a witness or
25 you think I don't believe a witness, disregard it.

1 Whether or not I believe any witness is telling the
2 truth should have no bearing on whether you believe it.
3 If I roll my eyes, if I raise my voice, if I turn red,
4 ignore it because, again, you're the only 14 people who
5 will be listening and can determine what the facts are
6 at the end of the case.

7 Now, as the judge of the law, there are going to
8 be times during the course of this trial that
9 objections are made. Do not get mad at the lawyers for
10 making objections. That's the other thing I have
11 watched over the years. Every time an objection is
12 made, almost every time I'm going to send you out of
13 the courtroom. And while you're out, we will be in
14 here arguing. Both sides, each side, will argue their
15 position, and then I will make a legal decision. As I
16 said this morning, everything in the courtroom is going
17 to be memorialized by Diane, so I have to send you out
18 of the courtroom so I can let them argue their
19 positions.

20 It has been my -- I have discovered over the years
21 that if I tell you I'm going to send you out for ten
22 minutes, that ten minutes, almost every time, turns
23 into 20 minutes. And sometimes it's my fault;
24 sometimes it's things that I can't help.

25 But, in addition to being the judge of the law, I

1 also have the duty to manage this courtroom during the
2 course of this week. So if you want to get frustrated
3 at anybody, get frustrated with me. If you sit back
4 there for 30 minutes after I've told you you're going
5 to be back there for five minutes, don't get mad at the
6 lawyers for making their objection. That's what
7 they're supposed to do. Get me at me for not making a
8 decision soon enough.

9 At the end of this case, I'll come back and talk
10 to you off the record and personally, and I'll explain
11 to you some things that may seem mysterious to you, and
12 I'll also ask you -- I'll let you explain if you want
13 to to me about sitting back in the jury room.

14 Now, the first thing that will happen in just a
15 few minutes is that the parties' attorneys will give
16 their opening statement. Opening statements are not
17 evidence. The only evidence in this courtroom will
18 come from this witness stand and any exhibits
19 introduced.

20 But in opening statement, it is an opportunity for
21 the lawyers to tell you a little bit about their case,
22 introduce their various parties and explain what they
23 intend to prove.

24 As soon as those opening statements are finished,
25 we'll begin with testimony. I suspect we'll go until

1 about 5:15 today. We'll go to the natural break and
2 then start again tomorrow.

3 After all the testimony has been introduced,
4 again, the lawyers will give you their closing
5 statement. Closing statement, again, is not evidence,
6 but it is an opportunity for the attorneys to argue
7 their position.

8 Now, after that and right before you begin your
9 deliberations, you're going to have to listen to me
10 read to you the law in this case. Because as the judge
11 of the law, I have to put together the law that applies
12 to the facts in this case. I suspect that in this case
13 that I will be reading to you 40 or 45 pages of law.

14 Now, the reason judges read it to jurors is so
15 that there's consistency. Because if you go back and
16 begin your deliberations and want me to recharge
17 something, I will reread to you the same thing, and I
18 won't be adding or subtracting to it. So you will have
19 to listen to me read it, and I've told many a jury, I
20 read to my children to put them to sleep, and I read to
21 jurors to try to keep them from going to sleep. So if
22 we finish all the testimony in this trial late one
23 afternoon, most likely I'm going to wait to charge you
24 until the next morning because I understand how tiring
25 it is, and I need you to pay attention because we will

1 take the facts as you determine them to be, you will
2 then apply the law as I give it to you, and that's how
3 you reach your verdict. You can't wish the law is
4 different or think the law is different or hope that
5 the law is different. I'm going to tell you what law
6 applies, and then that's how you will render your
7 verdict.

8 Don't talk to anybody about this case. This is
9 the hardest part of this. I've given this little
10 opening thing a thousand times. I understand how hard
11 it is to go home tonight and have your children or your
12 spouse or your boyfriend or girlfriend or your mother,
13 father say, "Hey, what's that case about?" I'm asking
14 you not to talk to them about the facts. I'm also
15 ordering you not to talk about the facts. I'm asking
16 you because we spent a lot of time today winnowing down
17 that large crowd to 14 people that everybody in the
18 courtroom trusts to do their job. You will know more
19 about this case than anybody in the world. There is
20 nothing that you can find out from anybody out in the
21 world. The very fact that you may talk to a sister or
22 brother, boyfriend or girlfriend or child, that can
23 sway your interpretation of the facts, or someone may
24 say something to you that may change your view. I'm
25 asking you not to talk and I'm ordering you not to talk

1 to family members. At the end of this case, you can
2 tell them anything you want.

3 I'm asking and ordering you not to look up
4 anything on the Internet, don't read anything in the
5 papers, don't watch anything on the television, and
6 don't listen to anything on the radio about this case.
7 Again, you will know more about this case than anybody
8 else, so there's nothing new that you can find out.

9 There have been cases in South Carolina where
10 judges admonished and ordered jurors not to look cases
11 up on the Internet. You would be shocked at how easy
12 it is to determine whether or not someone has looked
13 something up. And if I find out that one of you has
14 breached that order and done any kind of research, then
15 I'm going to have to deal with you not just as a judge
16 to a juror, but as a defendant to a juror. And I don't
17 want to do that. I don't want to do that at all, and I
18 know you don't want me to do it. So listen very
19 carefully, and you will know everything about this
20 case. There's nothing that you can find out out in the
21 world that you won't know in here. So don't listen to
22 other people, don't talk to other people, and for
23 crying out loud, don't look on the Internet about this
24 case. Because I promise you, 90 percent of what are in
25 newspapers, radio, and television are wrong. And

1 that's maybe being a little easy on the press. But
2 there's just -- it's just wrong, and what you'll hear
3 in here is correct.

4 Now, as I said, you shouldn't even talk amongst
5 yourselves about this case. You can't begin your
6 deliberations until you have heard all of the testimony
7 in this case and I have charged you on the law. So
8 while you're back there, you can talk about anything in
9 the world, but don't talk about this case. You should
10 never mention this case.

11 You should also never, even when you begin your
12 deliberations, discuss the fact that these indictments
13 have been issued. Again, they're going to be back
14 there with you, but you should never say, for instance,
15 "Well, there's an indictment; therefore, there must be
16 something there." That's not what these are. So never
17 discuss the indictments at all, and you shouldn't begin
18 any deliberations until I've told you you can at the
19 end of this case.

20 Now, finally, last thing I'm going to tell you,
21 then: In a criminal case, as I said, the State has the
22 burden of proving each and every element of their case
23 beyond a reasonable doubt. When I read the law to you
24 at the end of this case, I will give you a much longer
25 definition. But a one-sentence definition of

1 reasonable doubt is: Proof that leaves you firmly
2 convinced of the defendant's guilt. I really can't
3 describe to you any clearer reasonable doubt than that,
4 proof that leaves you firmly convinced of the
5 defendant's guilt. That is the burden that the State
6 has in this case, and that is the burden that I'm sure
7 that you will keep in mind as you begin your
8 deliberations.

9 Now, finally, again, Mr. Foreman, if there is a
10 problem in the jury room, there should be a pad back
11 there and a pen. From this point forward, any
12 communication between you and this court will be
13 through you, Mr. Foreman. Write out any question, any
14 issue, whatever issue or problem you have, write it
15 out, sign your name and put the time and date on it,
16 and the bailiffs will bring it to me. There should be
17 some crackers and snacks and things back there.
18 Richard is pretty good about that. I'm sure he's going
19 to bring you doughnuts one morning and do that kind of
20 thing. I can't help you much on snacks, but if it's
21 too hot, too cold, if you need something, if you can't
22 hear, any problem that you have from this point forward
23 should be funneled through the foreman, and it should
24 be put in writing. And, again, I will make that piece
25 of paper that you write that down on a part of the

1 record. So everything is a part of the record.

2 All right. As I said, again, we're going to hear
3 the opening statements. Now, this is not evidence, but
4 listen carefully and let the lawyers introduce
5 themselves and this case to you. Thank you very much
6 for your patience thus far. I suspect you're going --
7 I'm going to be asking for more patience as this week
8 goes by, so I'm going to thank you in advance for
9 giving it to me, even if at the time I can tell by your
10 faces that you're not. So I'll do my best.

11 Yes, sir.

12 MR. OVERBY: May it please the Court, your Honor.

13 THE COURT: Yes, sir.

14 MR. OVERBY: Good afternoon, ladies and gentlemen
15 of the jury. This is a case about a man who was shot
16 in the back running away, a woman who was abducted and
17 beaten violently, and a desperate fugitive who stole a
18 car in order to get away from it all.

19 The defendant, Stephen Grant Parten, is charged
20 with murder, attempted murder, possession of a weapon
21 during the commission of a violent crime, kidnapping,
22 burglary second degree, and grand larceny greater than
23 10,000.

24 That's a lot of charges, but I want to take the
25 time -- I'm going to talk to you about those at the end

1 of this particular case because that's when I'm going
2 to focus on the law a little bit more, after the judge
3 or when the judge is getting ready to instruct you on
4 what the law is.

5 But for the time being, I want to tell you where
6 we're going as far as this case is concerned because
7 there is a lot of things that happened on the night of
8 May -- on the early morning hours, pardon me, of
9 May 26, 2016, through June 1st, 2016. Most
10 specifically on the night or the early morning hours of
11 May 26, 2016.

12 The case can essentially be broken down into three
13 parts: The man shot in the back running away, that man
14 was Mr. Ahmed Fallous. Mr. Fallous was 25 years old.
15 He had a girlfriend, Morgan Allie Rhodes, who was the
16 woman who was abducted and beaten. And on that night
17 he came into contact with, voluntarily at first,
18 Stephen Parten.

19 The three individuals in question were in a car,
20 and they drove to the Centerville Road Bridge, and that
21 is where Mr. Fallous was shot. I'm only telling you
22 this for introductory purposes. You're going to hear
23 from law enforcement who investigated this. You're
24 going to hear 911 calls from witnesses at the scene,
25 from a witness at the scene. You're going to hear from

1 Morgan Rhodes about what happened to her.

2 The second part of this is subsequent to the
3 shooting, Mr. Parten forced Ms. Rhodes into his vehicle
4 and drove her to the Williamston area. There's no real
5 rhyme or reason behind it other than the fact that
6 Mr. Parten, who wrecked his car on the way, his vehicle
7 eventually became disabled. During this drive,
8 Ms. Rhodes is beaten and threats were made to her
9 throughout the process. She's held against her will.

10 And once they get there, eventually the car dies.
11 Mr. Parten gets out. Ms. Rhodes, defending herself,
12 kicks him, forces him out of the vehicle, saves her own
13 life. And that's when the third phase begins, the
14 desperate fugitive, because Mr. Parten with no car, no
15 phone, runs into the woods and is not heard from for
16 five days.

17 You're going to hear from law enforcement
18 officers. Again, you're going to hear from Morgan
19 about what happened to her. You're going to hear from
20 law enforcement officers who found her. You're going
21 to hear from a good Samaritan who found her on the side
22 of the road. You're going to see how investigators,
23 including Nathan Mitchell with the Anderson County
24 Sheriff's Office, observed and cataloged Mr. Parten's
25 vehicle.

1 Then, finally, you're going to hear how he was
2 caught, how five days later he broke into a home
3 belonging to Dan Ray, stole a set of keys to his truck,
4 took that truck to Knoxville, Tennessee with the
5 intention to go further, but he was apprehended by the
6 U.S. Marshals office with the help of an informant.
7 You're going to hear about law enforcement's liberties
8 in that regard, and you're going to hear from a witness
9 who assisted or who was there when that effort was
10 going on.

11 Ladies and gentlemen, those are the three main
12 phases: A man shot in the back, woman abducted and
13 beaten, and a desperate fugitive trying to run away.

14 The State has the burden of proving, as Judge
15 Maddox instructed, beyond a reasonable doubt. And as
16 he said, that's proof that leaves you firmly convinced
17 of the defendant's guilt. It is a cornerstone of our
18 judicial system that that burden of proof is in place
19 for individuals charged with crimes, and it's one that
20 I embrace.

21 When you see this evidence, I ask you to listen
22 carefully. I ask you to consider everything and
23 remember that that's beyond a reasonable doubt, not a
24 common -- which is a common sense doubt, not a fanciful
25 doubt.

1 Ladies and gentlemen, when you consider all those
2 things, I do think you will find you will be firmly
3 convinced that Mr. Parten is guilty of all charges.

4 MR. LUCAS: May it please the Court.

5 THE COURT: Yes, sir.

6 MR. LUCAS: There are two sides to every story.
7 You've heard an outline of the story that the State is
8 telling this week. They want this to be a simple story
9 where you have a good guy, a bad guy, and only one
10 person shoot at him.

11 Well, that's not what happened in the early
12 morning hours of May 26, 2016. You're going to hear
13 that Ahmed Fallous, the decedent, that he routinely
14 carried a gun, that he had a gun that night or early
15 that morning, and that he fired that gun.

16 Now, you are also going to hear that when law
17 enforcement arrived at the scene, Mr. Fallous was found
18 with a gun in his hand. That gun was loaded. The
19 magazine was half empty, and there was a bullet in the
20 chamber.

21 And, finally, you're going to hear that
22 Mr. Fallous had gunshot residue on his hand, the left
23 outside of his hand. That's consistent with him having
24 fired a gun.

25 Now, after this exchange of gunfire on the

1 Centerville Road Bridge in the early morning hours of
2 May 26, 2016, Morgan Rhodes is going to testify and
3 tell you, if she testifies consistently with what she
4 told the police, that she was forced back into a car at
5 gunpoint by Mr. Parten, that he took her away from the
6 scene against her will, that he got her out of the car,
7 that he beat her up, that he pistol whipped her and she
8 got away from him, went back into the car, locked the
9 doors, rolled all the windows up, and that Mr. Parten
10 then shot into the car four times in an attempt to kill
11 her. There are reasons to doubt the veracity of this
12 story.

13 You're going to hear that there are reasons to
14 believe that Morgan Rhodes is what an English professor
15 or someone with a literary bent would call an
16 unreliable narrator.

17 First, memory. That there's reason to believe
18 that Morgan's memory of these events is not entirely
19 clear. She was using a cocktail of drugs that night.
20 We all know that drugs, and especially mixing illegal
21 drugs and prescription drugs, can affect memory.

22 What she told the police, there's evidence that
23 her memory was muddled. She initially told the police
24 that the shooting didn't happen on the Centerville Road
25 Bridge; instead it happened on the bridge by the Galley

1 restaurant. Totally different bridge, totally
2 different location, totally different road.

3 Second, bias. Morgan Rhodes is biased. She has
4 every reason to be biased. She has every reason to be
5 angry at the defendant, Stephen Parten. After all, he
6 got in a fight with her boyfriend, who she loved, that
7 night, and he shot at him and, ultimately, Mr. Fallous
8 was killed as a result of that.

9 Third, Morgan has not been entirely truthful with
10 the police. When she first talked with them, she told
11 them that she hadn't been taking any drugs at all that
12 night. Well, you're going to hear that that is simply
13 not true. That is not accurate.

14 And fourth, you're going to hear that a key aspect
15 of her story, that the defendant, Stephen Parten, shot
16 into the car where she was laying on the floor four
17 times. You're going to hear that that simply didn't
18 happen. There are no bullet holes in the exterior of
19 the car. There are no shell casings at Hopewell Road.
20 There's no evidence whatsoever to indicate that any
21 gunshots were fired there back into the car.

22 Now, there are two sides to this story. There's
23 the side of the story that the State is telling, their
24 version of events. The other side is what you're going
25 to hear this week, what the facts are going to tell you

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1 about what happened.

2 Now, in listening to this evidence, I ask you to
3 remember and to listen closely that Ahmed Fallous, he
4 had a gun and he fired that gun at Stephen Parten.
5 Stephen Parten, he had a gun too, and he fired back at
6 Mr. Fallous to defend himself. And, yes, he emptied
7 his gun. He kept firing to defend himself. And at the
8 close of this case, we're going to come back and we're
9 going to ask you to find him not guilty for that
10 reason. Thank you.

11 THE COURT: You can call your first witness.

12 MR. OVERBY: May it please the Court. Your Honor,
13 at this time, the State calls Sheryl Stanton to the
14 stand.

15 **SHERYL STANTON,**

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: If you would, take the witness stand,
18 please, ma'am, and state your name and spell your last
19 name for the reporter, please.

20 THE WITNESS: Okay. My name is Sheryl Stanton.
21 S-t-a-n-t-o-n; S-h-e-r-y-l.

22 **DIRECT EXAMINATION**

23 BY MR. OVERBY:

24 Q Ms. Stanton, how are you today?

25 A Great.

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1 Q Great. Would you mind moving the microphone just
2 a little closer to you? Thank you so much.

3 Where are you employed, ma'am?

4 A I'm employed with Anderson County Sheriff's
5 Office. I work at the emergency services division.

6 Q What are some of your duties and responsibilities
7 as an employee of the emergency services division?

8 A My current title is an administrative assistant,
9 so I pull all the FOIA requests, among other duties,
10 Freedom of Information Act. So I pull CAD calls, make
11 CDs and tapes of known calls themselves.

12 Q So one of your duties is to act as a records
13 custodian over 911 calls to the communication center?

14 A Yes, sir.

15 Q And this -- does this include the recording and
16 storage of 911 calls that are made?

17 A Yes, sir.

18 Q Okay. I am handing to you two exhibits. They are
19 marked State's Exhibit 1 and State's Exhibit 2.

20 Beginning with State's Exhibit No. 1, can you tell
21 me what that is?

22 A Yes, a CD, an audio of the CAD call itself. And
23 the CAD call is computer aided dispatch. It's dated
24 with the CAD number of 2016-159697.

25 Q Okay. And with respect to State's Exhibit No. 2,

1 can you tell me what that is?

2 A Another CD or recording of a call that came in for
3 CAD number 2016-159721.

4 Q Okay. So that's two separate CAD numbers?

5 A Correct.

6 Q Can you describe a little bit about what a CAD
7 number is and what it necessarily does?

8 A Yes, sir. When anyone calls in on 911 and the
9 call is answered, the call taker will generate a call
10 into the system. So all calls for service are
11 generated into the CAD system. CAD is computer aided
12 dispatch. So when they enter a call into the CAD
13 system, it automatically generates a CAD number.

14 Q So that's basically a reference number?

15 A Correct.

16 Q With respect to those discs themselves, do you
17 know what is on those discs?

18 A I have listened to both CDs.

19 Q And what is on those discs -- well, let me ask you
20 this: Are 911 calls associated with those CAD numbers
21 on those discs?

22 A Yes.

23 Q Now, are those records and 911 calls prepared and
24 maintained in the ordinary course of your business?

25 A Absolutely, yes, sir.

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1 Q And are the underlying recordings created in
2 realtime?

3 A Yes.

4 Q And is the information recorded received by a
5 person with knowledge of the call?

6 A Yes, sir.

7 Q Okay. And who was that -- in reference to that
8 person's position, what are they commonly called?

9 A What are they -- what, sir?

10 Q What are the people who receive 911 calls called?

11 A 911 telecommunicators.

12 Q Is it the regular practice of the communications
13 center to have these recordings prepared?

14 A Yes.

15 MR. OVERBY: At this time, your Honor, the State
16 would move State's Exhibit 1 and 2 into evidence.

17 THE COURT: Any objection?

18 MR. LUCAS: Yes, your Honor. 911 calls can't
19 properly be admitted as a business record.

20 THE COURT: All right. Ladies and gentlemen, let
21 me send you out for the first time. Please don't
22 discuss this case.

23 (WHEREUPON, the jury exited open court at
24 3:40 p.m.)

25 THE COURT: Yes.

1 MR. LUCAS: Your Honor, the basis of the objection
2 is that under *Melendez-Diaz vs. Massachusetts* -- that's
3 129 Supreme Court 2527, pincite 2538, which is a 2009
4 U.S. Supreme Court case that stands for the proposition
5 that reports generated by law enforcement officials
6 don't qualify as business or public record in a
7 criminal case.

8 MR. OVERBY: Judge, that's -- this is a 911
9 recording that is created. That's not a report in and
10 of itself. It's a recording of the 911 call.

11 MR. LUCAS: Your Honor, additionally, Rule 803(8)
12 of the South Carolina Rules of Evidence provides that
13 public records are admissible excluding -- and I quote,
14 "Excluding, however, in criminal cases matters observed
15 by police officers and other law enforcement personnel;
16 provided, however, investigative notes involving
17 opinions, judgments, or conclusions are not
18 admissible."

19 Well, a 911 dispatcher is other law enforcement
20 personnel, your Honor.

21 THE COURT: Okay. I understand the objection.
22 I'm going to allow it. I mean, it's -- I have probably
23 been letting them in, God knows how many times.

24 MR. LUCAS: And, your Honor, just so we don't have
25 to take the jury out again, we're also objecting on the

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1 basis of hearsay. And I would ask that that be
2 continued on so we don't have to make another
3 contemporaneous objection.

4 THE COURT: Any objection to that? He just has a
5 continuing objection to --

6 MR. OVERBY: I don't have any problem --

7 MR. LUCAS: Just to avoid sending them out. If
8 you would just overrule it for the record, your Honor.

9 THE COURT: Yeah, it's overruled for the record.

10 MR. LUCAS: Thank you, your Honor.

11 MR. OVERBY: Thank you, Judge.

12 THE COURT: I mean, not anything you say but those
13 previous arguments, which are incorporated.

14 MR. LUCAS: Yes, sir. I just don't want to make
15 the same objection in 45 seconds.

16 THE COURT: I gotcha.

17 All right. You can bring them in.

18 (WHEREUPON, the jury entered open court at
19 3:43 p.m.)

20 THE COURT: Thanks, ladies and gentlemen.

21 Okay.

22 MR. OVERBY: May it please the Court, your Honor.
23 The State would move State's Exhibit 1 and 2 into
24 evidence.

25 THE COURT: All right. Subject to the objections,

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1 it's admitted.

2 (WHEREUPON, State's Exhibit Nos. 1 and 2 were
3 admitted into evidence.)

4 BY MR. OVERBY:

5 Q Ms. Stanton, with respect to incident number
6 2016-00159697, which I believe is State's Exhibit
7 No. 1, correct?

8 A Yes, sir.

9 Q Are the times in which these various things are
10 called in logged?

11 A Yes, automatically. The CAD system, the clock on
12 our recording system, everything is documented to the
13 second.

14 Q Now, you don't have a copy of that with you here
15 today, do you?

16 A Of the call itself?

17 Q Of the log itself with the times.

18 A I have it in my purse.

19 Q Okay. Well, how about this. I'm going to show
20 you a copy of this one. Okay?

21 With respect to State's Exhibit No. 1, can you
22 tell me what time that call came in?

23 A Yes, sir. It came in at 0214 in the morning.

24 Q 0214 in the morning?

25 A Yes, sir.

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1 Q I want to repeat the same thing as far as the
2 second call, State's Exhibit No. 2.

3 Can you tell me what time the call for State's
4 Exhibit No. 2 came in?

5 A Yes, sir. This one came in at 0306 in the
6 morning.

7 Q 0306. Thank you. Thank you so much. And I'm
8 going to snatch these two exhibits from you.

9 MR. OVERBY: At this time, your Honor, the State
10 would like to publish State's Exhibit 1 to the jury.

11 THE COURT: Subject to the other objection, sure,
12 you can publish them.

13 MR. LUCAS: And, your Honor, I don't think we got
14 an explicit ruling, but that objection was overruled,
15 correct?

16 THE COURT: Yes, it's overruled.

17 MR. OVERBY: At this time, your Honor, the State
18 is publishing State's Exhibit No. 2.

19 MR. LUCAS: Your Honor, same objection. Hearsay,
20 confrontation clause, and violates *Melendez-Diaz v.*
21 *Massachusetts*.

22 THE COURT: Sure. Overruled.

23 (State's Exhibit 2 being published to the jury.)

24 MR. OVERBY: I have no further questions for you,
25 Ms. Stanton. Please answer any questions defense

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1 counsel has for you.

2 MR. LUCAS: We don't have any questions for you,
3 ma'am.

4 No objection to her being excused.

5 THE COURT: Thank you, ma'am. You are released
6 from your subpoena.

7 THE WITNESS: Thank you.

8 MR. OVERBY: At this time, your Honor, the State
9 calls T.J. Francis to the stand.

10 **THOMAS FRANCIS,**

11 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

12 THE CLERK: If you will take the witness stand,
13 please, sir, and state your name and spell your last
14 name for the reporter, please.

15 THE WITNESS: All right. My name is Thomas
16 Francis. I go by T.J. F-r-a-n-c-i-s.

17 **DIRECT EXAMINATION**

18 **BY MR. OVERBY:**

19 Q Where you are you employed, Mr. Francis?

20 A I work for UPS, United Parcel Service.

21 Q What do you do for UPS?

22 A I'm a supervisor there. I go in early, do the
23 dispatch and run the preload operation.

24 Q And do you reside in Anderson County?

25 A Technically Williamston but in Anderson County,

1 yeah.

2 Q I was going to ask you what city you lived in,
3 actually, in Anderson.

4 And on the early morning hours of May 26, 2016,
5 what did you see?

6 A I was on my way to work. I was running a little
7 bit late so it was early morning hours. On my way to
8 work, I was on Hopewell Road, and coming down the road,
9 saw a car that was in my lane facing me with the front
10 end smashed in. And there was a girl with blood on her
11 hair and her face sticking out the back seat of the
12 car. So I knew that wasn't normal.

13 I drove past her, and I called 911. And then I
14 turned around to go back to see what was going on. I
15 called the 911, let the dispatch know my name, where I
16 was, what I had seen, and then went back to the vehicle
17 to find Ms. Rhodes there.

18 Q And was she inside the vehicle or outside the
19 vehicle at the time?

20 A When I got there, the back window was down and she
21 was, like, half out the car trying to -- seemed like
22 she was trying to flag someone down.

23 Q Was anybody else nearby the vehicle?

24 A Not that I saw.

25 Q You mentioned that -- you already mentioned her

1 injuries. What did you do after you found no one else
2 was out there?

3 A I stayed on the phone with 911 and started talking
4 to Ms. Rhodes, making sure she was okay and asking
5 questions that the 911 dispatcher was prompting me to
6 ask and kind of figure out what was going on.

7 Q And did y'all remain at the car?

8 A No, we didn't.

9 Q Where did you go?

10 A We went to Hopewell Baptist Church up the road.
11 Just didn't feel safe there. With what I was being
12 told, didn't feel safe there, so I decided it was best
13 to wait for the police somewhere else.

14 Q Did you hear anything while you were out there?

15 A It's a wooded area and there is a bit of a
16 drop-off there, but I could hear something in the
17 woods, but I didn't know what it was.

18 Q And how long was it before -- and this was before
19 you went to Hopewell Baptist Church, correct?

20 A When we were hearing something in the woods, yes.

21 Q And how long was it before law enforcement
22 arrived?

23 A A couple of minutes. It wasn't -- wasn't too
24 long. Maybe -- yeah, ten minutes.

25 Q Did EMS arrive?

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1 A Yes.

2 Q Did you tell the officers what happened that
3 night?

4 A I did.

5 Q I'm going to show you a few exhibits, Mr. Francis.
6 These are State's -- marked State's Exhibit 3, 4 and 5.

7 I've handed you what's been marked as State's
8 Exhibit 3, 4 and 5. Can you tell me what those are?

9 A This marks where the crash occurred at. Number 3
10 marks where the crash or where the -- where I saw the
11 vehicle and Ms. Rhodes.

12 Exhibit 4 is Hopewell Baptist Church, which is
13 where we went after I found Ms. Rhodes.

14 And then this is just -- Exhibit 5 is just a
15 zoomed out picture showing where I found Ms. Rhodes in
16 the vehicle and where we went to afterwards, the
17 church.

18 Q And do those fairly and accurately depict your
19 knowledge of the area and the events in this case?

20 A Yes, they do.

21 MR. OVERBY: At this time I'd like to move them
22 into evidence.

23 MR. LUCAS: Without objection.

24 THE COURT: Without objection.

25 (WHEREUPON, State's Exhibit Nos. 3, 4 and 5 were

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1 admitted into evidence.)

2 MR. OVERBY: Okay.

3 Q Now, from which -- I'm showing what's been marked
4 as State's Exhibit No. 3, and can you see it on your
5 monitor, correct?

6 A Uh-huh, I can.

7 Q Which direction were you coming from, according to
8 this map?

9 A I was coming from the right side.

10 Q And which way is Hopewell Baptist Church in
11 relation?

12 A Going to the left of the screen there.

13 Q Okay. And this is State's Exhibit No. 4. When
14 you went to the Baptist church, where were you
15 approximately according to -- approximately when you
16 parked?

17 A About where that red dot is, right in the turn
18 there off Hopewell Road.

19 Q In that parking lot?

20 A Uh-huh.

21 Q And that's where law enforcement met you?

22 A Correct.

23 Q And with respect to State's Exhibit 5, you said
24 this is a slightly more zoomed out area. But that's
25 about how far apart the two are, correct?

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1 A Correct.

2 Q So that's right around the corner?

3 A Yeah.

4 Q Mr. Francis, thank you. I have no further
5 questions for you. Please answer any questions defense
6 counsel may have.

7 CROSS-EXAMINATION

8 BY MR. LUCAS:

9 Q Mr. Francis, when you picked up Morgan Rhodes, she
10 was alone?

11 A Correct.

12 Q You didn't see anyone beat her?

13 A No, I did not.

14 Q You didn't see anyone shoot at her?

15 A No, sir, I did not.

16 Q Other than what she told you, you don't have any
17 personal knowledge of what happened to her?

18 A No.

19 Q Or how she was injured?

20 A No.

21 Q And when you got there, the vehicle was not on
22 fire?

23 A No.

24 Q And the car appeared to have been in a wreck?

25 A Correct.

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1 Q And the front end was all smashed up?

2 A Yes.

3 Q Thank you.

4 MR. LUCAS: Nothing further.

5 THE COURT: Anything on redirect?

6 MR. OVERBY: Just one question.

7 REDIRECT EXAMINATION

8 BY MR. OVERBY:

9 Q Was she upset when you saw her?

10 A Yes, very much so.

11 Q Okay. Thank you.

12 MR. OVERBY: No further questions.

13 THE COURT: Thank you, sir. You can step down and
14 be released from any subpoena.

15 MR. OVERBY: At this time, your Honor, the State
16 calls Morgan Allie Rhodes to the stand.

17 MORGAN ALLIE RHODES,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: If you will take the stand and state
20 your name and spell your last name for the reporter,
21 please.

22 THE WITNESS: My name is Morgan Rhodes,
23 M-o-r-g-a-n, R-h-o-d-e-s.

24 DIRECT EXAMINATION

25 BY MR. OVERBY:

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1 Q Ms. Rhodes, where are you from originally?

2 A Anderson, South Carolina, sir.

3 Q And what do you do for a living?

4 A I'm a hairstylist at Cuts by Us in Daphne,
5 Alabama.

6 Q And do you -- you said that you live in Alabama
7 now, but you grew up here?

8 A Yes, sir, spent 20 years here.

9 Q And in 2016 did you live here?

10 A Yes, sir.

11 Q Okay. Do you know the defendant in this case?

12 A Yes, sir.

13 Q Okay. How do you know him?

14 A I know him through Ahmed.

15 Q And who is Ahmed?

16 A That was my boyfriend at the time.

17 Q And what was his last name?

18 A Fallous.

19 Q How did you meet Ahmed?

20 A He was the boss at my work.

21 Q And were y'all in a relationship?

22 A Yes, sir.

23 Q How long had you been in a relationship?

24 A A little over a year.

25 Q Were you in a relationship with him on the night

1 of May 25th, 2016?

2 A Yes, sir.

3 Q And were you with Ahmed on the night of May 25th,
4 2016?

5 A Yes, sir.

6 Q Did the events we're here to discuss today happen
7 all in Anderson County?

8 A Yes, sir.

9 Q Where were you living at that time?

10 A [REDACTED].

11 Q Okay. And who were you living with?

12 A Ahmed and his family.

13 Q And is that home Ahmed's family's home?

14 A The immediate household, yes.

15 Q Do you remember what you were doing earlier in the
16 evening?

17 A Yes, I went to work and came home.

18 Q Okay. And was Ahmed at home when you came home?

19 A Yes.

20 Q Okay. Did the defendant ever come over?

21 A Yes.

22 Q Okay. Do you remember if he came over before or
23 after midnight?

24 A I don't remember.

25 Q Okay. But was it early in the evening or later in

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1 the evening?

2 A Later in the evening.

3 Q Okay. How do you feel about the defendant?

4 A I'm going to need a minute.

5 Q Yes, ma'am. Take your time.

6 MR. LUCAS: I'm going to object to relevance, your
7 Honor.

8 THE COURT: Overruled.

9 THE WITNESS: Does that mean I answer the question
10 still?

11 THE COURT: Yeah, you can answer the question.

12 THE WITNESS: He was a good friend up until that
13 point, to say the least.

14 BY MR. OVERBY:

15 Q Okay. And how do you feel about Mr. Fallous?

16 A We had talked about getting engaged and getting
17 married later on, so we had a future ahead of us.

18 Q So you felt very strongly about him?

19 A Yes, sir, yes.

20 Q Did Mr. Parten talk to you on that particular
21 evening?

22 A Yes, sir.

23 Q Okay. Did he tell you anything?

24 A I'm going to need a minute.

25 Q Yes, ma'am.

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1 A I don't remember much of what he told me.

2 Q Did y'all leave the house on that evening?

3 A The three of us did.

4 Q Do you know where you were going?

5 A To Stephen's house.

6 Q Do you know why?

7 A No.

8 Q Ms. Rhodes, I'm going to ask you something very
9 personal. Okay? Did you use illegal drugs on that
10 evening?

11 A Yes, sir.

12 Q Did you see Ahmed use drugs that evening?

13 A No, sir.

14 Q Does your dad own a store?

15 A Yes -- yes, sir.

16 Q What store does he own?

17 A Surfside.

18 Q Do you know where that is?

19 A On Centerville Road.

20 Q Did this happen nearby that?

21 A I'm sorry, off Old Pearman Dairy Road.

22 Q Is that pretty close to Centerville Road, though?

23 MR. LUCAS: Object to leading, your Honor.

24 THE COURT: I'm sorry, what?

25 MR. LUCAS: Objection to leading.

1 THE COURT: Try not to lead, but I will allow you
2 a little leeway.

3 BY MR. OVERBY:

4 Q Let me ask you: Why did you say Centerville Road
5 at first?

6 A That was the road we were on when we left the
7 house.

8 Q Is that near --

9 A Yes, sir.

10 Q -- your dad's store?

11 A Yes, sir.

12 Q Thank you.

13 Where were you sitting -- whose car were you in?

14 A Stephen's car.

15 Q Do you remember what kind of car it was?

16 A A black SUV.

17 Q Do you remember who was driving?

18 A Stephen was.

19 Q Do you remember where Mr. Fallous was sitting?

20 A Yes, sir.

21 Q Where was he sitting?

22 A In the passenger seat.

23 Q And where were you sitting?

24 A In the middle of the back seat.

25 Q On Centerville Road, which direction were you

1 going on Centerville Road?

2 A Towards the bridge.

3 Q Which bridge?

4 A White City Park Bridge, I believe.

5 Q Did y'all get to the bridge?

6 A Yes, sir.

7 Q What happened when you got to the bridge?

8 A The car slammed on brakes and we came to a stop.

9 Q So you came to a stop. Do you remember which side
10 of the road you came to a stop on?

11 A The left side.

12 Q Did you -- what happened next? Why did y'all
13 stop?

14 A There was a verbal altercation between them two,
15 thus that's why they pulled over.

16 Q Do you remember what it was about?

17 A I'm going to need another minute. I'm sorry.

18 Q Yes, ma'am.

19 A Stephen was sick and he had to pull over. He was
20 throwing up.

21 Q Okay.

22 A And they were arguing over a bunch of different
23 things, but that was one of them, so --

24 Q So what did Ahmed do in response when Stephen was
25 throwing up?

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1 A He offered to drive the car instead, and he jumped
2 into the driver's seat.

3 Q Where was Stephen when Ahmed jumped into the
4 driver's seat?

5 A He was standing outside of the driver's side of
6 the car.

7 Q So he was outside of the car when Ahmed jumped
8 into the driver's seat?

9 A Yes, sir.

10 Q Okay. What happened next?

11 A They were arguing verbally still, and Stephen
12 pulls him from the car. He rips him out of the car
13 aggressively.

14 Q Do you remember how he ripped him out?

15 A No, sir. I do not remember exactly if he grabbed
16 his arm or his leg, but he was ripped viciously out of
17 the car.

18 Q And you said they were arguing verbally. Did they
19 eventually fight physically?

20 A Yes, sir.

21 Q What happened next?

22 A A physical altercation.

23 Q Okay. How big was Ahmed?

24 A I want to say 5'8", 160-ish. I'm not quite sure.
25 Small build.

1 Q It's okay.

2 Did the fight escalate?

3 A Yes, sir. Very fast, sir.

4 Q Who escalated the fight?

5 A I'm going to need a minute.

6 Q Yes, ma'am.

7 A I'm not sure, sir.

8 Q Okay. Let me ask you this: Did somebody pull a
9 weapon?

10 A Yes, sir.

11 Q Who pulled a weapon?

12 A Stephen, sir.

13 Q What did Ahmed do when Stephen pulled the weapon?

14 A He started to run to defend himself.

15 Q Which way did he run?

16 A Towards Surfside.

17 Q So back the opposite direction?

18 A Yes, sir.

19 Q The way y'all had come?

20 A Yes, sir.

21 Q Did you see Ahmed after that?

22 A It was dark, but I did see him up until he was too
23 far away to see anymore.

24 Q What did Stephen do with the gun?

25 A Shoot the gun a couple of times.

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1 Q Do you remember about how many times?

2 A I'm going to need a minute.

3 Q Yes, ma'am.

4 A Well, I felt a couple by my waistline, but I did
5 not get to count them --

6 Q Okay.

7 A -- sir.

8 Q Was it -- you said it was a couple. Was it more
9 than three?

10 A At least two.

11 Q At least two?

12 A Yes.

13 Q Did you see Mr. Fallous get hit?

14 A No, sir.

15 Q Did you see him fall down?

16 A I heard him fall down.

17 Q After the shooting, what did the defendant do?

18 It's okay. Take your time.

19 A He grabbed my arm, and the skin was ripped off.

20 And the next thing I know, I'm in the car and it's
21 going really fast in the opposite direction -- the same
22 direction we were headed in but the opposite direction
23 of where he was running.

24 Q So Ahmed ran the other way, and he put you in the
25 car?

1 A Yes, sir.

2 Q And you went the direction that you initially were
3 headed?

4 A Yes, sir.

5 Q Where were you sitting in the car?

6 A The passenger seat at this point, this time.

7 Q Who was driving?

8 A Stephen.

9 Q Do you remember what he said to you?

10 A At what point, sir?

11 Q Right after he got you in the car.

12 A No, sir, I don't remember.

13 Q Rather than -- do you remember anything that he
14 said to you while you were in the car?

15 A That I was next.

16 Q What was he doing as y'all were driving?

17 A Swerving and speeding, sir.

18 Q What was his behavior like?

19 A Psychotic, unhinged.

20 Q Do you remember passing anything while you were
21 traveling along?

22 A A 7-Eleven, sir.

23 Q Do you remember about how long total you were in
24 the car together?

25 A I couldn't tell you how long, but it felt like a

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1 lifetime, sir.

2 Q Did y'all stop at some point?

3 A Not -- only until the car hit the tree that went
4 into the ditch. And then when the car completely quit
5 working, it was immobile, it stopped.

6 Q You didn't stop any other time?

7 A No, sir.

8 Q Was -- did the defendant strike you?

9 A Yes, sir.

10 MR. LUCAS: Object to leading, your Honor.

11 THE COURT: Try not to lead.

12 BY MR. OVERBY:

13 Q What did the defendant do to you physically, if
14 anything?

15 A Punching, kicking, slapping, strangling, pistol
16 whipping in the end after the car was immobile.

17 Q You mentioned you stopped as a result of a wreck?

18 A Yes, sir.

19 Q What did Stephen do -- what was the car like after
20 that wreck?

21 A It was smashed in the front, sir.

22 Q Was it drivable?

23 A Not for very long.

24 Q Did Stephen get out of the car to fix it?

25 MR. LUCAS: Object to leading, your Honor.

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1 THE COURT: I will allow it a little bit.

2 THE WITNESS: I'm sorry, what?

3 BY MR. OVERBY:

4 Q Was Stephen in the car, or did Stephen remain in
5 the car after he wrecked?

6 A No, sir.

7 Q What did he do?

8 A He walked around to my side of the car and
9 proceeded to pistol whip me and get very close to me.

10 Q What happened after that?

11 A I defended myself and kicked him as hard as I
12 could.

13 Q Well, actually, I'm sorry, Morgan -- or
14 Ms. Rhodes. I'm going to bring you back just a little
15 bit.

16 I'm talking about when the car hit the tree.

17 A Oh, it's pretty fuzzy, but he backed the car up
18 and kept going until it quit working.

19 Q Did he go the same direction you were going?

20 A I believe so.

21 Q What did -- what happened to the car further down
22 the road?

23 A It stopped working.

24 Q Now, what happened at that point?

25 A He got out of the car and pistol whipped me.

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1 Q Where were you sitting at that time?

2 A The passenger seat, sir.

3 Q The front or the back?

4 A The front passenger seat, I'm sorry.

5 Q So he got out of the car, and he pistol whipped
6 you. What did you do?

7 A Defended myself and kicked him as hard and as many
8 times as I could.

9 Q Did he have his keys with him?

10 A No, sir. They were in the ignition.

11 Q What did he do when you kicked him?

12 A He started vomiting.

13 Q Okay. What did you do?

14 A I locked the doors and rolled the windows up.

15 Q And what did you do after that?

16 A I laid in the back seat and ducked.

17 Q What did you -- were you afraid?

18 A Yes, sir.

19 Q What did you think was going to happen all this
20 time?

21 A That we were both going to be dead.

22 Q What did you hear after you locked him out of the
23 car?

24 A What I thought was gunshots and smelled the
25 burning.

1 Q What did you -- the sound of gunshots, were they
2 close, were they on the car, or were they far away?

3 A Sounded like on the car, but...

4 Q That's okay. And what did you smell?

5 A Like burning, like a fire.

6 Q On what side of the car did you hear the gunshots?

7 A The left side where the passenger seats are.

8 Q What side of the car was the defendant on when you
9 last saw him?

10 A The left side, sir.

11 Q Were you able to see what direction he ran?

12 A No, sir.

13 Q Who found you in the car?

14 A The man that I waved down, Francis. I don't know
15 the first name. I couldn't hear it.

16 Q Where did you go?

17 A Hopewell Church parking lot.

18 Q How long after the defendant ran was it before you
19 saw Mr. Francis?

20 A I want to say, like, ten minutes.

21 Q How long did it take for emergency vehicles to
22 arrive?

23 A 15, 20 minutes, or less.

24 Q Were you treated at that time?

25 A Yes, sir.

Morgan Allie Rhodes - Cross by Ms. Gurney

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2016-GS-04-02402-05; 2019-GS-04-00021 February 11, 2019

1 Q What injuries did you suffer?

2 A A concussion, a broken finger. Let's see, and a
3 scar on my temple and just a couple of other
4 sustainable injuries, like minor injuries.

5 Q What about your hair?

6 A Yeah, I had staples put in my scalp. My hair was
7 pulled out.

8 Q Did you go to the hospital?

9 A Yes, sir.

10 Q How long were you at the hospital?

11 A Not long at all, sir.

12 Q Did you talk to law enforcement?

13 A Yes, sir.

14 Q How many times do you remember talking to them?

15 A At least twice.

16 Q I just have a couple more questions for you.

17 Okay?

18 A Okay.

19 Q Did you want to go with Mr. Parten?

20 A No, sir.

21 Q How did you -- what did you fear might happen to
22 you?

23 A That I would lose my life, sir.

24 Q Do you remember how Stephen was driving before all
25 of this?

1 A Yes, sir.

2 Q How was he driving?

3 A Fast.

4 Q When you Ahmed and everybody was in there?

5 A Way too fast.

6 Q Ms. Rhodes, thank you. Please answer any
7 questions defense counsel has.

8 A Thank you.

9 CROSS-EXAMINATION

10 BY MS. GURNEY:

11 Q So I wanted to talk about May 26th of 2016 with
12 you. Stephen came to Ahmed's house around 1:00 a.m.;
13 is that correct?

14 A Yes, ma'am.

15 Q And when he got there, he spoke to you privately?

16 A Yes, ma'am.

17 Q He expressed some concerns about you being in
18 danger with Ahmed?

19 A Yes, ma'am.

20 Q And you had actually told him a little bit about
21 Ahmed treating you roughly or beating up on you?

22 A No, ma'am.

23 Q That's not correct?

24 A That's not correct.

25 Q Do you remember speaking with detectives at the

Morgan Allie Rhodes - Cross by Ms. Gurney

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021

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1 hospital?

2 A Yes, ma'am.

3 Q You spoke with Detective Chau. That's a lady
4 detective?

5 A Yes, ma'am, briefly.

6 Q You're aware that statement was recorded?

7 A Yes, ma'am.

8 MS. GURNEY: Judge, may I approach the witness?

9 THE COURT: Yes, ma'am.

10 BY MS. GURNEY:

11 Q Do you mind reading the title on that?

12 A "State versus Stephen Grant Parten 2016" -- I'm
13 sorry. "Recorded Interview Of Morgan Rhodes In The
14 Hospital."

15 Q Okay. And do you see this highlighted portion
16 where you say, "I told Stephen I'm afraid, but I love
17 him so much"? Do you see that?

18 A Yes, ma'am.

19 Q Do you remember saying that?

20 A Bits and pieces. I mean, I know I don't remember
21 exactly precisely saying that statement. I'm not going
22 to deny it, that I said that.

23 Q Sure. I understand. It's been quite a while.

24 A Right.

25 Q And then Stephen talked to Ahmed privately?

Morgan Allie Rhodes - Cross by Ms. Gurney

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021

February 11, 2019

1 A Yes, ma'am.

2 Q And you don't know what they spoke about?

3 A No, ma'am.

4 Q And then Ahmed told you that you were taking
5 Stephen home?

6 A Yes, ma'am.

7 Q And you stopped on the Centerville Bridge, or I
8 believe you called it the White City Park Bridge?

9 A Yes, ma'am.

10 Q And that's about a five-minute drive from Ahmed's
11 house?

12 A Yes, ma'am.

13 Q And that was about 2:00 a.m.?

14 A Yes, ma'am.

15 Q And you already told us that you had used drugs
16 that night?

17 A Yes, ma'am.

18 Q Specifically cocaine?

19 A Yes, ma'am.

20 Q And you were tired?

21 A Yes, ma'am.

22 Q You wanted to go to bed?

23 A Yes, ma'am.

24 Q It was dark out?

25 A Yes.

Morgan Allie Rhodes - Cross by Ms. Gurney

State v. Stephen Grant Parten

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February 11, 2019

1 Q There are no lights -- sorry.

2 A You're fine.

3 Q There are no lights on the bridge?

4 A No, ma'am.

5 Q Okay. And then I believe you told one of the
6 detectives at the hospital that the shooting happened
7 on the bridge by the Galley restaurant?

8 A Yes, ma'am, but obviously the wrong area.

9 Q Right. It actually happened on the Centerville
10 Bridge or the White City Park Bridge?

11 A Right.

12 Q And that bridge, the White City Park Bridge is a
13 half a mile from the Surfside Shell station?

14 A Yes, ma'am.

15 Q And your dad owns that Shell station?

16 A Yes, ma'am.

17 Q And it's about a mile and a half from your
18 parents' house?

19 A Yes, ma'am.

20 Q You're familiar with that area?

21 A Yes, I am.

22 Q And then you saw Stephen and Ahmed fighting on the
23 bridge?

24 A Yes.

25 Q I think you told us already they were both running

1 their mouths, arguing?

2 A Yes, ma'am.

3 Q In a statement to Detective Mitchell, you stated
4 that, "They started fighting each other, fighting a
5 normal fight." Do you mean a fist fight?

6 A A physical altercation, yes, ma'am. That's what I
7 meant by that.

8 Q And then Stephen went to the front of the car and
9 they started firing at each other?

10 A I'm sorry. Can you repeat that, ma'am?

11 MR. OVERBY: Judge, at this point I'm going to
12 object. She's introducing testimony of a witness -- of
13 a statement from a transcript of this interview. She
14 hasn't asked Ms. Rhodes a question yet that was
15 inconsistent with that statement.

16 THE COURT: Hold on a minute.

17 Ladies and gentlemen, I'm going to send you out.
18 Probably going to be out less than ten minutes, but
19 about ten minutes.

20 (WHEREUPON, the jury exited open court at
21 4:42 p.m.)

22 THE COURT: What's the objection?

23 MR. OVERBY: Your Honor, Ms. Gurney initially
24 started this interview by saying when Ms. Rhodes made a
25 statement that was inconsistent with a prior statement.

1 THE COURT: Right.

2 MR. OVERBY: However, subsequent to this
3 particular action, she started to make statements
4 that -- she started to introduce statements
5 additionally from this transcript without actually
6 having established the foundation for another
7 inconsistent statement. So, in other words, she -- if
8 she wants her to establish that there was an
9 inconsistent statement, she needs to ask her the
10 statement first.

11 THE COURT: I don't know what your thought process
12 is, but I'm not so sure she was trying to get her to
13 make an inconsistent statement. I think she was
14 getting ready to ask her, "Is that when they started
15 shooting?" and she can do that.

16 MR. OVERBY: She can do that, but she can't go
17 ahead and start saying, "Didn't you say" --

18 THE COURT: I don't think she's done that. I
19 think she said, "Is that when they started shooting?"
20 That was all I heard.

21 MS. GURNEY: That was my question.

22 THE COURT: Okay. I mean, you know, obviously,
23 you're on cross, and there is a little bit of limited
24 usage, but if you're going to be moving that direction,
25 that's okay.

1 I need to take a real quick break and make a
2 two-minute phone call.

3 MR. OVERBY: Thank you, your Honor.

4 THE COURT: Sure.

5 (WHEREUPON, a recess was taken from 4:44 p.m. to
6 4:54 p.m.)

7 THE COURT: You can bring them back in.

8 (WHEREUPON, the jury entered open court at
9 4:55 p.m.)

10 THE COURT: Thanks, ladies and gentlemen.

11 You can continue.

12 MS. GURNEY: Thank you, your Honor.

13 Q All right. You had said that Stephen and Ahmed
14 were in an argument?

15 A Yes, ma'am.

16 Q Then they got into a physical altercation. I
17 believe you said "physical altercation"?

18 A Yes, ma'am.

19 Q And at that point, Stephen went to the front of
20 the car, and they started firing at each other?

21 A No, ma'am. The side of the car.

22 Q The side of the car?

23 A Yes.

24 Q Okay.

25 A Towards the back.

1 Q I'm going to move on to when the car wrecked. You
2 stated that you felt lucky that you survived the car
3 wreck?

4 A Yes, ma'am.

5 Q And you can't remember if you had your seatbelt on
6 or not in the car?

7 A I do not remember.

8 Q And the car may have even gone airborne at some
9 point?

10 A I don't believe that.

11 Q Okay. That's not correct. And you, also when
12 you're at the hospital speaking to the doctor, you said
13 that you felt that your injuries were minor compared to
14 what they felt like?

15 A Yes, ma'am.

16 Q Okay. So I'm going to move on again. You and
17 Ahmed had been dating for about a year at that point?

18 A Over a year.

19 Q Over a year?

20 A Yes, ma'am.

21 Q Okay. So you had come to know his family?

22 A Yes, ma'am.

23 Q You were living with them?

24 A Yes, ma'am.

25 Q His family is Lebanese?

1 A Yes, ma'am.

2 Q And Ahmed was a Muslim?

3 A Yes, ma'am.

4 Q Okay. And you also worked for Ahmed?

5 A Yes, ma'am.

6 Q You babysat for his sister?

7 A Yes, ma'am.

8 Q And you did everything that you could to help his
9 family?

10 A Yes, ma'am.

11 Q As far as working with them, babysitting, helping
12 around the house?

13 A Sure.

14 Q And initially you told the detectives that Ahmed
15 had never beat up on you or abused you or anything like
16 that?

17 A Yes, ma'am.

18 Q But you later told them that he had kicked you?

19 A No, ma'am.

20 Q You did not tell them that he had kicked you?

21 A No, ma'am.

22 Q Okay. What about that he had grabbed your face?

23 A No, ma'am.

24 Q That he had pushed you?

25 A No, ma'am.

Morgan Allie Rhodes - Cross by Ms. Gurney

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021 February 11, 2019

1 Q That he had thrown you into the shower?

2 A No, ma'am. It was a misunderstanding.

3 Q So -- but did it happen or --

4 A No, ma'am.

5 Q It did not happen?

6 A No.

7 MS. GURNEY: May I approach the witness, your
8 Honor?

9 THE COURT: Yes, ma'am.

10 BY MS. GURNEY:

11 Q Morgan, do you recognize this as the same document
12 that we looked at earlier, "Recorded Interview Of
13 Morgan Rhodes In The Hospital"?

14 A Yes, ma'am.

15 Q So you're stating that he did not abuse you, that
16 he did not kick you, that he had not pushed you or
17 grabbed your face; is that correct?

18 A That's correct.

19 Q So can you read this highlighted portion? You can
20 read it out loud.

21 A "But one day it was just over something stupid,
22 like he grabbed my face and picked me up and put me in
23 the shower. He, like, threw me, knocked me into the
24 ironing board and kicked me. That's why I have all
25 these bruises everywhere."

1 Q Thank you.

2 Q Did that help you remember?

3 A Partially, but I don't believe that I was telling
4 the truth.

5 Q Okay. You also met with Detective Mitchell at
6 your house and stated that Ahmed was a different person
7 towards the end of your relationship?

8 A Yes, ma'am. That's correct.

9 Q And what did you mean by that?

10 A We didn't see each other as much, and he had other
11 businesses to take care of, and I was at work.

12 Q And you were drug tested when you were at the
13 hospital?

14 A Yes, ma'am.

15 Q And you tested positive for cocaine?

16 A Yes, ma'am.

17 Q For amphetamines?

18 A Yes, ma'am.

19 Q Benzodiazepines?

20 A Yes, ma'am.

21 Q And marijuana?

22 A Yes, ma'am.

23 Q Were you drinking that night?

24 A No, ma'am.

25 Q And you told detectives that you had actually been

Morgan Allie Rhodes - Cross by Ms. Gurney

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021

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1 trying to break up with Ahmed? This was later.

2 A We were going through some things, but we weren't
3 planning to break up, no.

4 Q He wasn't really involved in his business anymore?

5 A That's the opposite. He was involved with the
6 businesses.

7 Q And that you were basically running the salon for
8 him?

9 A Not exactly, but I started to do more than I did
10 in the beginning as far as managing, I guess.

11 MR. OVERBY: Judge, may we approach very briefly?

12 THE COURT: Sure.

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

16 THE COURT: You can continue.

17 BY MS. GURNEY:

18 Q Okay. Morgan, I'm going to show you another
19 transcript. Can you read those two lines, please?

20 A "Recorded Interview Of Morgan Rhodes."

21 Q Okay. And this is when you met with Detective
22 Mitchell at your house, correct?

23 A Yes, ma'am.

24 Q Okay. And can you read this highlighted portion
25 from line 16 to line 20?

1 A "I'm over here running everything, making sure the
2 trash is out, making sure the doors are locked, making
3 sure the salon is clean, come home, make sure the house
4 is clean. He's over here doing his thing, doesn't even
5 work anymore." Typically -- obviously I was upset and
6 exaggerating.

7 Q Okay. And Ahmed also owned a gun?

8 A Yes, ma'am.

9 Q And he did not leave the house without his gun?

10 A I can't answer that.

11 Q When you were with him, he did not leave the house
12 without his gun?

13 A That's not true. He would leave the house without
14 it plenty of times.

15 Q Did he have a concealed carry permit?

16 A Yes, ma'am.

17 Q One moment.

18 MS. GURNEY: May I approach again, your Honor?

19 THE COURT: Sure.

20 BY MS. GURNEY:

21 Q Morgan, you see this is the same transcript that
22 you read from a moment ago, correct?

23 A Yes, ma'am.

24 Q And can you read the highlighted portion from
25 lines 11 to 13, please?

Morgan Allie Rhodes - Redirect by Mr. Overby

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021 February 11, 2019

1 A It says, "Ahmed never left without his gun on him.
2 He was supposed to get his gun permit license."

3 Q Thank you.

4 A Yeah. Okay.

5 Q Just a few more questions. I'm just going to
6 circle back to on the bridge. I asked you if Stephen
7 went to the front of the car, and they started firing
8 at each other? That's correct? You said that they
9 were actually beside the car?

10 A Yes, ma'am.

11 Q But they were firing at each other?

12 A Yes, ma'am.

13 Q Thank you.

14 REDIRECT EXAMINATION

15 BY MR. OVERBY:

16 Q Morgan --

17 A She tricked me.

18 THE COURT: Hold on a minute.

19 MR. OVERBY: Brief redirect, your Honor.

20 THE COURT: Sure.

21 BY MR. OVERBY:

22 Q Ms. Rhodes, did you see Ahmed Fallous fire a gun?

23 A No, sir.

24 Q Okay. Did you tell law enforcement that you saw
25 Ahmed Fallous fire a gun?

1 A It was speculation, but no, he did not.

2 Q Okay. Why did you tell law enforcement that you
3 thought Ahmed Fallous fired a gun?

4 A To defend himself and me, sir.

5 Q No. Why did you tell law enforcement that
6 statement?

7 A I'm sorry. Could you repeat the question, like
8 reword it?

9 Q Sure. Absolutely.

10 In other words, you testified earlier that you did
11 not see Ahmed shot or -- and you heard him fall,
12 correct?

13 A Yes, sir.

14 MR. LUCAS: I'm going to object to leading, your
15 Honor.

16 MR. OVERBY: Judge.

17 THE COURT: I'm going to allow it.

18 MR. LUCAS: This is not cross-examination for the
19 State.

20 THE COURT: I know. Just a little bit, but you've
21 got to be careful.

22 BY MR. OVERBY:

23 Q Okay. How could you have seen Ahmed shoot?

24 A Exactly. I did not see him shoot.

25 Q Okay. So when -- so when they are asking you

1 about stating that you saw both of these individuals
2 shoot, where is that coming from?

3 A I thought she said just Stephen shooting, so I was
4 responding to that, sir.

5 Q Okay. With respect -- so who was shooting that
6 night?

7 A Stephen, sir.

8 Q Was anybody else shooting?

9 A No, sir.

10 Q Okay. With respect to what happened to you, you
11 said you used drugs, correct?

12 A Could you repeat that? I couldn't hear you.

13 Q Sure. I'm sorry.

14 You said you used drugs that night?

15 A Yes, sir.

16 Q And we've talked a little bit about Ahmed. Who
17 was at fault for this death?

18 A Stephen, sir.

19 Q Was it deserved?

20 A No, sir.

21 Q Was what happened to you deserved?

22 A No, sir.

23 Q What else, if anything, might be affecting your
24 memory of the incident?

25 A The concussion.

Morgan Allie Rhodes - Recross by Ms. Gurney

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021

February 11, 2019

1 Q In other words, you got hurt pretty bad?

2 A Yes, sir.

3 MR. OVERBY: No further questions, Judge.

4 THE COURT: Okay, ma'am. You can step down.

5 MS. GURNEY: Your Honor, may I briefly ask more
6 questions?

7 THE COURT: No.

8 MS. GURNEY: Your Honor --

9 MR. LUCAS: Your Honor, can we approach?

10 THE COURT: You can come over here.

11 (Beginning of sidebar.)

12 MR. LUCAS: We need to recross regarding a prior
13 inconsistent statement. She testified consistently
14 with what she told the investigator on the stand and
15 changed it on her examination by the State. We have to
16 be allowed to recross.

17 (End of sidebar.)

18 THE COURT: Come over here.

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

22 THE COURT: Ma'am, if you would come back up. We
23 have one more question for you. I know I don't need to
24 remind you, but you are still under oath.

25 THE WITNESS: Yes, that is correct.

1 RE CROSS-EXAMINATION

2 BY MS. GURNEY:

3 Q Morgan, do you remember speaking with Heather
4 Cartee on May 14th of 2018?

5 A Yes, ma'am.

6 Q And you're now stating that you did not tell her
7 that they were shooting at each other?

8 A Could you reword that question, please?

9 Q Okay. When I questioned you previously, I asked
10 you if Stephen and Ahmed were shooting at each other.

11 A Yes, ma'am.

12 Q And you said yes?

13 A I misheard you.

14 Q That's fine. I'm just asking if you said yes.

15 A Right, because I said yes because I misheard you.

16 Q Sure. And then the solicitor asked you if that
17 was correct, and you said no, you misheard?

18 A Correct.

19 Q Okay. But when you spoke with Ms. Cartee, you
20 stated they were both shooting at each other?

21 A Correct. It was speculation, like I said.

22 Q Okay.

23 MS. GURNEY: One moment, please, Judge.

24 We have no further questions. Thank you.

25 THE COURT: All right. You can step down now.

1 State of South Carolina
In the Court of General Sessions
2 County of Anderson

4	State of South Carolina	)	2016-GS-04-02402
		)	2016-GS-04-02403
5		)	2016-GS-04-02404
		)	2016-GS-04-02405
6	- vs -	)	2019-GS-04-00021
		)	
7	Stephen Grant Parten,	)	February 12, 2019
		)	Volume 2 of 5
8	Defendant.	)	Pages 166 - 312
		)	Transcript of Record
9	_____	)	

12 The Honorable J. Cordell Maddox, Jr., Judge;
13 and a jury.

16 Stanford Lee Overby, Jr., Esquire
Catherine Townsend Huey, Esquire
17 Attorneys for the State

18 A. Hadden Lucas, Esquire
Victoria V. Gurney, Esquire
19 Attorneys for Defendant

Reported by:
Diane L. Marcengill, RPR, CRR, CRC
Circuit Court Reporter

25

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E x h i b i t s

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Marked	Description	I.D.	Admitted
6	Photo-Centerville Road Bridge		173
7	Photo Disc		177
7A-E	Photos-victim final rest		177
8	Photo Disc		
8A-Z	Photos-Centerville Road Bridge		208
9	Hi-Point firearm	209	210
10	Shell casing 9mm	212	213
11	Shell casing .45	214	214
12	Shell casing .45	215	215
13	Shell casing .45	216	217
14	Shell casing .45	217	217
15	Shell casing .45	218	218
16	Shell casing .45	218	219
17	Shell casing .45	219	220

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1	18	Map Harris Bridge		244
		collision		
2	19	Photo Disc		246
	19A-J	Photos-Harris Bridge		246
3		collision		
	20	Photo Disc		237
4	20A-L	Photos-Hopewell Road		237
		scene		
5	21	Torch lighter	241	242
	22	Burned paper	255	259
6	23	Photo Disc		256
	23A-S	Photos-vehicle		256
7	24	Ballistics report		278
	25	Photo of injury		197
8	26	Autopsy bodygram		191
	27	GSR report		302

For the Defendant:

10	Marked	Description	I.D.	Admitted
11				
	1	Photo-gun		228
12	2	Photo-gun		230

13

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1 **CALEB CARROLL,**

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 THE CLERK: If you will take the witness stand and
4 state your name and spell your last name for the
5 reporter, please.

6 THE WITNESS: My name is Caleb Carroll, and that's
7 spelled C-a-r-r-o-l-l.

8 DIRECT EXAMINATION

9 BY MR. OVERBY:

10 Q Where are you employed, sir?

11 A I'm employed with the Anderson County Sheriff's
12 Office.

13 Q And what is your present position at the Anderson
14 County Sheriff's Office?

15 A I'm a detective.

16 Q Okay. And what kind of crimes do you act as an
17 investigator detective for?

18 A My primary case load is sexual assaults, crimes
19 against children, and also technology-facilitated
20 crimes against children or Internet crimes against
21 children.

22 Q How long have you worked at the Anderson County
23 Sheriff's Office?

24 A The sheriff's office, I've been there just over
25 nine years.

Caleb Carroll - Direct by Mr. Overby

State v. Stephen Grant Parten

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1 Q And how long have you been in law enforcement?

2 A 12 and a half years.

3 Q Where were you prior to the Anderson County
4 Sheriff's Office?

5 A I worked briefly for the Pickens County Sheriff's
6 Office, the Liberty Police Department, and the Clemson
7 University Police Department.

8 Q In May -- on May 26, 2016, what position did you
9 hold?

10 A I was a corporal on uniform patrol.

11 Q And was that with the Anderson County Sheriff's
12 Office?

13 A It was.

14 Q What did -- what were some of your duties and
15 responsibilities as a corporal with the uniform patrol?

16 A All of the duties that would be -- would accompany
17 a uniform deputy position, so patrolling. When you had
18 free time -- our primary function was to respond for
19 calls for service. And then when we had free time, you
20 could do more proactive things like community
21 engagement or traffic stops. Also what a corporal did
22 at that point in time, we were also the field training
23 officers for our shifts.

24 Q And calls for service, what do you mean by calls
25 for service?

Caleb Carroll - Direct by Mr. Overby

State v. Stephen Grant Parten

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1 A A call for service can be anything from something
2 like a 911 hang up or a shooting incident.

3 Q Were you on duty in the early morning hours of
4 May 26, 2016?

5 A I was.

6 Q And were you dispatched to the Centerville Road
7 Bridge on that particular evening?

8 A I was.

9 Q What time were you dispatched?

10 A I was dispatched around 2:15 in the morning.

11 Q And what time did you arrive?

12 A We arrived about 2:20 in the morning.

13 Q Who all responded to that location?

14 A The initial response was myself, and I was
15 training Deputy Tyler Duncan at the time, who was
16 driving the patrol vehicle that I was in, and also
17 Deputy Adam Guthrie.

18 Q Okay. And when you arrived, what did you find?

19 A When we arrived, we were flagged down and pointed
20 to the side of the road, and so I jumped out of my car,
21 and there was a guardrail on the side of the road that
22 led down to a ditch in kind of a wooded area. And when
23 I looked down there, I saw an individual laying kind of
24 against a tree on his side.

25 Q Okay. I'm going to show you what has been

Caleb Carroll - Direct by Mr. Overby

State v. Stephen Grant Parten

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1 premarked as State's Exhibit Number 6. Can you tell me
2 what that is, sir?

3 A This is like an aerial image of the Centerville
4 Road area and the bridge where we were that night.

5 Q And does that fairly and accurately depict your
6 knowledge of the area?

7 A It does.

8 MR. OVERBY: At this time, the State would move
9 State's Exhibit Number 6 into evidence.

10 THE COURT: Any objection?

11 MR. LUCAS: Without objection, your Honor.

12 THE COURT: Without objection.

13 (WHEREUPON, State's Exhibit Number 6 was admitted
14 into evidence.)

15 BY MR. OVERBY:

16 Q So this is an overhead of the Centerville Road
17 Bridge, correct?

18 A Yes, sir.

19 Q And you're able to see it on your screen there?

20 A I am.

21 Q Okay. Can you point to -- can you tell me what
22 direction things are essentially from looking at this
23 overhead --

24 A Sure.

25 Q -- that would be understandable for the jury?

1 A Right. To the right of the photograph would be
2 the direction of Centerville Road that goes back
3 towards Anderson. And then to the left of the
4 photograph would be the direction that goes, connects
5 eventually with Highway 187 and heads up toward like
6 the Pendleton High School area.

7 Q So if we're going off the right side of this,
8 that's going towards Anderson, and going towards this
9 way is Pendleton?

10 A That's correct.

11 Q To the left of the photograph?

12 A Yes.

13 Q Okay. Can you point to your screen and say where
14 Mr. Fallous was when you --

15 A Sure. We were in this general area here.

16 Q Okay. So over on this right side over here, if
17 you want to step down and see where I'm pointing
18 specifically briefly.

19 A That's correct.

20 Q This area here?

21 A That's correct.

22 Q You said something about a guardrail. What is the
23 guardrail? What do you mean by the guardrail?

24 A Like a standard metal guardrail that you would see
25 on most secondary roads. It came up to probably just

1 below my knees, standing on the roadside.

2 Q And when you -- you said you saw a man lying
3 against the tree. Was he alive?

4 A He was at that point.

5 Q Okay. What was his condition?

6 A He appeared to be injured. His breathing was
7 labored. We couldn't tell much more than that until we
8 got closer to him.

9 Q And when you got closer to him -- okay. When you
10 got closer to him, what did you find?

11 A As we started to approach him, he kind of rolled
12 towards us, kind of to look up at us to see what -- he
13 rolled and looked towards us, and at that point I saw a
14 handgun in his right hand.

15 Q You said that it was in his right hand?

16 A Yes.

17 Q And what did you do when you saw the gun?

18 A Well, we began giving him loud commands to drop
19 the gun, and at that point he released it and it kind
20 of just fell out of his hand on to the ground.

21 Q So he complied with that?

22 A He did.

23 Q I'm going to show you what's been marked as
24 State's Exhibit Number 7 as well as State's 7A through
25 7E for identification purposes at this time.

1 What are these photos of?

2 A These photographs are of the scene where we found
3 the victim, who I later learned was Mr. Fallous, that
4 night.

5 Q And what is on that disc?

6 A The same images that I'm holding in my hand here.

7 Q And how do you know?

8 A I viewed them before the court proceedings.

9 Q Okay. Thank you.

10 MR. OVERBY: At this time, your Honor --

11 Q And do they fairly and accurately depict the area
12 in which you found Mr. Fallous on that particular
13 evening?

14 A Yes, they do.

15 MR. OVERBY: At this time, I'd like to move
16 State's Exhibit 7A and 7E as well as 7 into evidence.

17 THE COURT: Any objection?

18 MR. LUCAS: Yes, Your Honor. Could we approach
19 briefly to put an objection on the record?

20 THE COURT REPORTER: It won't be on the record if
21 you go over there.

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

25 THE COURT: There has been an objection to -- is

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1 it 4B? What was the number of the particular one?

2 MR. LUCAS: I think it's C.

3 MR. OVERBY: E.

4 MR. LUCAS: It's on 403 grounds and also that it's
5 gruesome and intended to inflame the passion of the
6 jury.

7 THE COURT: We have had some discussion off the
8 record. I think that its probative value outweighs its
9 probability of inflaming the passions of the jury. You
10 can publish it.

11 MR. OVERBY: Thank you, Your Honor.

12 (WHEREUPON, State's Exhibit Numbers 7, 7A and 7E
13 were admitted into evidence.)

14 BY MR. OVERBY:

15 Q Detective Carroll, what are we looking at right
16 now?

17 A This is the area that we found Mr. Fallous that
18 night.

19 Q And this is just a portion of the area, correct?

20 A Correct, yes, sir.

21 Q That crime scene tape, is that reflective of that
22 particular location?

23 A It's reflective of the smaller location where we
24 found him. We ended up blocking off a much larger
25 section after the initial response.

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1 Q And here, this next photograph, which is 7B?

2 A It's the same area that's in that crime scene
3 tape.

4 Q Okay. And 7C?

5 A That's the area where we actually found
6 Mr. Fallous there.

7 Q Okay. Where did you actually find Mr. Fallous?

8 A Mr. Fallous was, pointing at the exhibit, he was
9 near that tree there.

10 Q He was near this tree right here?

11 A Yes, sir.

12 Q Okay. And you said that -- which direction was he
13 facing?

14 A He was facing towards us but was on his side, and
15 his face and like left shoulder was kind of laid
16 towards the ground.

17 Q Okay. And the gun was in his right hand?

18 A That's correct.

19 Q What did you do -- you said that he was injured.
20 What did you do in response to that?

21 A So once he let go of the handgun, myself and
22 Deputy Guthrie approached him, and since it had been
23 dispatched as a shooting call and he appeared to be
24 injured by his labored breathing, we assumed that he
25 had been shot, and so we approached and I asked him

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1 what his name was, and I heard him say Ahmed.

2 Q Okay.

3 A And then Deputy Guthrie cut off his shirt. I
4 helped him do that, and we started trying to locate how
5 he was injured.

6 Q Now, the gun in question, how did that end up
7 there?

8 A I'm not entirely sure. When we -- so we
9 eventually tried to move him for -- to try to preserve
10 his life at a certain point, and so I didn't move it,
11 but I -- I'm not sure exactly how it got moved around
12 and ended up in that exact location.

13 Q But it wasn't exactly there when he threw it?

14 A When he let go of it, correct.

15 Q You said that you were trying to save his life so
16 you moved him. Where did you move him to?

17 A Well, so first we were still trying to assess how
18 he was doing in the ditch. And while we're checking on
19 him, I asked him, you know, "Who shot you?" And at
20 that point he said, "Stephen," and then his voice kind
21 of trailed off. Or I heard him to say "Stephen" and
22 then his voice kind of trailed off because he was
23 getting weaker.

24 So I asked him, you know, "Stephen who?" And he
25 said what I heard to be either "Parten" or "Barton."

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1 His voice was weak by that point, so it was a little
2 more difficult to make out.

3 Shortly after that exchange, as we're doing what's
4 called a blood sweep, which is where you check for
5 wherever the person is injured, we located a gunshot
6 wound or a hole in his abdomen, and by this point he
7 had become unconscious and we couldn't find a pulse and
8 he had stopped breathing.

9 Q So what did you do with him at that time?

10 A At that point, because the terrain is so steep and
11 difficult to work in, we decided that we needed to move
12 him to a harder surface. So I grabbed, like, his hands
13 and wrist area, and Deputy Guthrie grabbed his
14 ankles/feet area and we moved him up to the roadway so
15 he could have a solid surface to perform CPR.

16 Q So these photos are not reflective of the area
17 after you had moved him, right?

18 A Yes.

19 Q And what are we looking at in this photograph?

20 A This is the victim, and that is where we moved him
21 to.

22 Q Okay. And that's where you administered CPR?

23 A Correct.

24 Q About that guardrail, how -- is it continuous?

25 A It ends, but it's a pretty good distance until it

1 ends past that, back towards Anderson.

2 Q About how long would you estimate?

3 A Approximately 30 or 40 yards.

4 Q And what about heading towards the bridge? Is
5 there any gap in it heading towards the bridge?

6 A There is not a gap heading towards the bridge. It
7 meets with the bridge guardrail.

8 Q What other involvement -- how long was it before
9 EMS arrived approximately?

10 A Several minutes, maybe three or four minutes after
11 we moved him and we were performing CPR.

12 Q What was the condition of the victim? Was he
13 alive when EMS was treating him?

14 A No. When we moved him, he was unconscious. We
15 couldn't find a pulse, and he wasn't breathing. Trying
16 to preserve his life at that point was the most
17 important thing to us, which is -- so we moved him.

18 Deputy Guthrie first started administering compression
19 CPR. We stopped to check for a pulse, couldn't find
20 one. Deputy Guthrie checked, and he told me that he
21 couldn't feel one and we switched. And at that point,
22 Mr. Fallous was still bleeding, and so we rolled him.
23 Deputy Guthrie attempted to try to hold pressure inside
24 the wound to stop his bleeding, and I continued
25 compression CPR.

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1 Q Which wound was that?

2 A It was a wound that was kind of on his abdomen
3 area, the gunshot wound that we located.

4 Q Front or back?

5 A It was on his back.

6 Q Did you have any other involvement in this
7 investigation?

8 A I stayed there. We blocked that end of the
9 roadway, and Sergeant Bowland eventually arrived and
10 kind of managed the crime scene preservation.

11 Somebody else went and blocked the other end past
12 the bridge, but that was basically what I did from then
13 on. I stayed there for a while just stopping traffic
14 and preserving the crime scene.

15 Q Okay. I have no further questions for you.
16 Please answer any questions defense counsel may have.

17 A Yes, sir.

18 CROSS-EXAMINATION

19 BY MS. GURNEY:

20 Q So you've stated that Mr. Fallous had a gun when
21 you arrived at the Centerville Bridge?

22 A Yes, ma'am, that's correct.

23 Q And you had ordered him to drop it?

24 A Yes, ma'am.

25 Q And he did not drop it right away?

1 A He responded relatively quickly. He just let go
2 of it.

3 Q Deputy Guthrie was with you?

4 A That's correct.

5 Q And Deputy Guthrie actually kicked the gun out of
6 Mr. Fallous' hand?

7 A I don't know that to be the case. I don't know
8 how it got moved from where it was next to him to where
9 it ended up in the photographs we looked at.

10 Q Can you say about how far that distance was where
11 it ended up?

12 A I would estimate five yards.

13 Q And you've stated that Mr. Fallous was laying off
14 the roadway?

15 A That's correct. He was down the ditch near that
16 tree.

17 Q Okay. It was a wooded area?

18 A It is.

19 Q That's where he had the gun when you found him?

20 A Yes, ma'am.

21 Q There were a lot of dead leaves there?

22 A Yes, ma'am.

23 Q A lot of underbrush?

24 A There was, yeah.

25 Q Did you search for any shell casings there?

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1 A I did not personally. I didn't help with the
2 processing or the search of the crime scene. Once we
3 moved him and EMS determined that he was deceased, I
4 just blocked the road and maintained the perimeter at
5 that point.

6 Q Okay. One moment.

7 MS. GURNEY: We have no further questions.

8 THE COURT: Any redirect?

9 MR. OVERBY: None, your Honor.

10 THE COURT: Thank you. You can step down, be
11 released from any subpoena.

12 MR. OVERBY: May we approach very briefly, your
13 Honor?

14 THE COURT: Sure.

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

18 THE COURT: All right. Ladies and gentlemen, the
19 next witness, who is actually testifying in another
20 case downstairs, is now ready.

21 Let me -- I know you have had a break. I'm going
22 to give everybody about five minutes. This testimony
23 will either be really short, or it may take a long
24 period of time. So go back, use the restroom, get some
25 water, take five or ten minutes, and we'll bring you

1 back in. Don't discuss the case.

2 (WHEREUPON, the jury exited open court at
3 10:47 a.m.)

4 (WHEREUPON, a recess was taken from 10:47 a.m. to
5 11:01 a.m.)

6 (WHEREUPON, the jury entered open court at
7 11:01 a.m.)

8 THE COURT: All right. Ladies and gentlemen,
9 thanks for your patience.

10 You can call your next witness.

11 MS. HUEY: Your Honor, the State calls
12 Dr. Woodard.

13 **BRETT HOUGHTON WOODARD, M.D.,**

14 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

15 THE CLERK: Thank you, sir. If you will take the
16 stand and state your name and spell your last name for
17 the reporter, please.

18 THE WITNESS: I'm Brett Houghten Woodard,
19 W-o-o-d-a-r-d.

20 **DIRECT EXAMINATION**

21 **BY MS. HUEY:**

22 Q Good morning, Dr. Woodard.

23 A Good morning.

24 Q What is your occupation or profession?

25 A I'm a medical doctor, a pathologist in forensic

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1 pathology by training.

2 Q What is forensic pathology?

3 A Forensic pathology is a subspecialty of pathology
4 that deals with injuries to the human body, what those
5 injuries may do up and to the point of death.

6 Q What kind of educational background do you have?

7 A I received my baccalaureate degree from the
8 University of Pittsburgh. I received my medical degree
9 from Tulane University School of Medicine in New
10 Orleans. I did a clinical internship at the Charity
11 Hospital of New Orleans. I did pathology residency
12 training at Duke University Medical Center in Durham,
13 North Carolina and served during that time period as
14 the medical examiner of Durham County. I then did
15 fellowship training at the North Carolina Medical
16 Examiner's office. I am board certified by the
17 American Board of Pathology in anatomic pathology,
18 clinical pathology, blood banking and transfusion
19 medicine, and forensic pathology.

20 Q What are some of your duties as a forensic
21 pathologist?

22 A I perform autopsies in this state at the bequest
23 of various coroners. Currently, I perform the
24 autopsies for Oconee County, Anderson County, Abbeville
25 County, and Greenwood County.

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1 Q How many autopsies do you think you have
2 performed?

3 A I do approximately 250 autopsies a year, though
4 I've done up to 385 a year.

5 Q And, again, how many years have you been doing
6 this?

7 A 35 years.

8 Q Have you ever testified as an expert, Dr. Woodard?

9 A Yes, I have.

10 Q How many times do you believe you have testified
11 as an expert?

12 A Hundreds if not thousands.

13 Q In what courts?

14 A In courts of South Carolina, North Carolina,
15 Georgia, Alabama, California, Florida, and
16 Massachusetts.

17 MS. HUEY: Your Honor, at this time, we'd offer
18 Dr. Woodard as an expert in forensic pathology.

19 THE COURT: Any objection?

20 MR. LUCAS: That's without objection.

21 THE COURT: Without objection.

22 BY MS. HUEY:

23 Q Dr. Woodard, so were you working in this capacity
24 in June of 2016?

25 A Yes, I was.

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1 Q And did you perform the autopsy on Ahmed Fallous?

2 A Yes, I did.

3 Q What procedure do you generally follow in an
4 autopsy?

5 A In forensic autopsy, we start with the body how we
6 receive it. So we begin by looking at the clothing
7 that the body is in, look for any signs of injury or
8 disease that might be manifest through the clothing.
9 Then we follow this by removing the clothing, giving it
10 to police authorities in the case of an apparent
11 violent death, and then we proceed to the surface of
12 the body.

13 We look for any kind of injuries that would
14 indicate to us that something may have happened to this
15 person or any external signs that would indicate that
16 there's an underlying disease process in this person
17 that may have contributed or caused the death rather
18 than the injuries.

19 We then open the body. We open the body in a
20 specific way that is used by all pathologists. It
21 allows the body to be viewed in a traditional funeral
22 if one is chosen but also allows us to look under the
23 skin where bruises start so that we can see injuries
24 that may not have manifested themselves on the skin
25 surface.

1 Then we open the body and we see what internal
2 organs, disease processes, or injuries have occurred to
3 the internal organs and how those relate to the events
4 we saw on the clothing, the events we saw on the skin.

5 Q And did you do so in this case?

6 A Yes, I did.

7 Q So tell us a little bit then about the general
8 characteristics of Mr. Fallous.

9 A Mr. Fallous was not an exceptionally large person.
10 He weighed about 125 pounds, was 6-7 and a half -- 5-7
11 and a half. And so he would be awful thin by my
12 standards.

13 Q And then where did you proceed from that after
14 your general characterizations of him?

15 A Then we looked at the clothing that he had. Some
16 of the clothing had been cut away by EMS services, but
17 we still had the cut-away clothing to look at. We
18 looked for injuries which were in the clothing that
19 would give us an idea of any events that occurred while
20 he was wearing that clothing, and then we correlated
21 that with injuries on the surface of the body.

22 Q And did you note any injuries on his clothing?

23 A Yes. He had projectile injuries that connected
24 between what would be his left back and his right
25 front.

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1 Q And what is that consistent with, Dr. Woodard?

2 A It suggests that a bullet passed through the
3 clothing and then exited. It doesn't tell us which way
4 it was exiting from the clothing, but when we got to
5 the internal organs, we were able to tell.

6 Q So on that note, did you then find a gunshot wound
7 on Mr. Fallous?

8 A Yes. We found a gunshot wound of entry that was
9 in his left back. This was about 22 inches above -- or
10 below the top of his head and about three and a half
11 inches to the left side of his spinal column. It was a
12 gunshot wound that did not tell us the range of fire
13 because there was no powder or stippling on the wounds,
14 byproducts of the discharge of a firearm, so this was
15 greater than 18 inches out to the effective range of
16 the firearm.

17 Q Dr. Woodard, I'm going to show you what's been
18 marked as State's Exhibit 26. And can you tell the
19 court what that is?

20 A This is a standard male bodygram. It shows a male
21 in what we call anatomic position, which is your palms
22 facing the front and the back of your hands facing your
23 back and often can be used in cases to indicate the
24 general position of a bullet. Obviously, the height of
25 this picture doesn't match a human height.

1 Q Would that help you today with your testimony,
2 Dr. Woodard?

3 A Certainly.

4 MS. HUEY: At this time, I'd publish State's 26,
5 your Honor, and have Dr. Woodard step down. It's a
6 bodygram.

7 THE COURT: Any objection?

8 MR. LUCAS: I don't think it's been admitted yet,
9 but we don't have any objection to it being admitted.

10 THE COURT: It's admitted without objection and
11 published.

12 (WHEREUPON, State's Exhibit Number 26 was admitted
13 into evidence.)

14 BY MS. HUEY:

15 Q So, Dr. Woodard, again, this is State's 26, and
16 this is just a sample male body diagram?

17 A That's right. This diagram is not made to
18 represent that particular individual. It's just to
19 give a general feel where things would be.

20 Q Okay. So, Dr. Woodard, if you don't mind, I'm
21 going to give you this red pen, and if you could mark
22 on this gram where you saw the gunshot wound on
23 Mr. Fallous.

24 A The bullet entered the back of his body. From
25 other measurements that we took, we know the back of

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1 the neck is about 12 inches. It was 22 inches and
2 entered the body in this general position. I'm going
3 to put an N here for where it went in. It then passed
4 through the organs of the body going from the victim's
5 left side toward the victim's right side, passing
6 through lung tissue, bruising heart tissue, and
7 ultimately exits the front of the body by breaking the
8 sixth rib. And we'll just use an X for the exit. Then
9 it went through the T-shirt and went wherever.

10 Q When you say entrance and exit, is that, in your
11 opinion, the directionality of the bullet?

12 A That shows the directionality that it entered his
13 back. In this particular case it passed through the
14 left lung, bruised the heart, passed through a portion
15 of the right lung, bruised the top of the liver and
16 then left the body.

17 Q And you said on the stand, you mentioned that
18 there was no stippling or powder. Could you explain
19 that a little bit more to the jury?

20 A Certainly. When a gun is discharged, more than
21 the bullet comes out the end of the barrel. The first
22 is fine powder material that's unburnt when the bullet
23 is discharged, and it's thrown forward with the kinetic
24 energy of the exploding bullet. It's very light. It's
25 very small so it can't carry very far. We refer to

1 this in this country as powder staining. It's a black,
2 dirty look that attaches to clothing, usually can go
3 through a T-shirt, and will attach to the underlying
4 skin.

5 A little further away stippling occurs. Stippling
6 is congealed pieces of powder, small pieces of metal
7 that are on the bullet. They're shaved off because of
8 the bullet's movement through the rifling of the
9 barrel, and they're thrown forward. They don't have
10 the mass of the bullet. They have more mass or weight
11 than the powder, so they can be carried a little
12 further distance. They produce actually small tears in
13 the surface of the skin around the entry wound, if
14 you're close enough, and they can also go through
15 lightweight clothing.

16 We know with most guns that powder occurs less
17 than six inches, that stippling with a handgun usually
18 occurs less than 12 inches, with magnum load guns, less
19 than 18 inches.

20 Q And so what, if anything, does that indicate to
21 you regarding Mr. Fallous' position?

22 A That his back was exposed to the barrel of the gun
23 and that he was more than 18 inches away from the gun
24 at the time it was discharged.

25 Q Now, what is the immediate effect this gunshot

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1 wound would have on someone such as Mr. Fallous?

2 A It produced a tear in his lung and the skin over
3 his lung. This causes two things. One, the torn lung
4 will bleed. But also, air going around your lung makes
5 your lung smaller and smaller. So each time you take a
6 breath in, you can't expand your lung out as well as
7 you could before.

8 So there was tears both in the left lung and the
9 right lung which produced bleeding in the cavities
10 around the lung, the pleural space, but also at the
11 same time, with each breath he took, because the holes
12 of the lungs are leaking air and the hole in the skin
13 is leaking air, air begins to build around the negative
14 pressure, which usually allows us to inhale and fill
15 our lungs. So he wouldn't be able to take in his
16 lungs. He would become short of breath, and either the
17 air would kill him because he couldn't breathe, or the
18 blood would kill him because his blood pressure would
19 drop sufficiently that he could no longer maintain his
20 brain.

21 Q Is this the kind of wound where he would have
22 collapsed right where he was shot or --

23 A No. He could have continued to move some distance
24 depending on his physiology, physique. He was a thin
25 man. I wouldn't have called him athletic, but an

1 athletic man could go further than a nonathletic
2 person. A soldier could go further than a civilian.
3 But, eventually, his lack of being able to take in a
4 deep breath and the lowering of his blood volume would
5 make it impossible for him to continue to run, continue
6 to -- ultimately after a short time period, he would
7 die.

8 Q How long would it take him to die, Dr. Woodard?
9 Do you have any idea?

10 A Less than half an hour. I would anticipate that
11 he wouldn't be able to take in enough air without
12 medical intervention so that he would be able to
13 continue to function.

14 Q Now, when you say "continue to function," he may
15 not be running anymore?

16 A That would happen much sooner, but he wouldn't be
17 able to talk, he would basically become unconscious.
18 His heart may still be beating, but without immediate
19 medical care, he's going to expire.

20 Q Now, Dr. Woodard, would you expect to see a lot of
21 blood right away as a result of this gunshot wound?

22 A Not necessarily, because we have a space, a
23 potential space inside the body, that would allow this
24 blood to significantly accumulate before it reached the
25 level that it would begin to drain out of the weapon's

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1 holes to the outside.

2 Q Did you note any kind of injury as to Mr. Fallous'
3 forehead?

4 A He had what I call a horseshoe-shaped injury. It
5 was a U-shaped injury that had what we call an abrasion
6 or a scrape along its lower edge. It was running
7 obliquely on his forehead, on the left side of his
8 forehead.

9 Q I'm going to show you what's been previously
10 marked as State's 25. If you could take a look at
11 this, please.

12 A This represents a picture that I caused to be
13 taken at the time of the autopsy that shows this wound
14 that I called horseshoe-shaped.

15 Q And does that fairly and accurately depict the
16 wounds you saw on Mr. Fallous on the date of the
17 autopsy?

18 A Yes, it does.

19 Q Has it been altered in any way?

20 A No.

21 MS. HUEY: Your Honor, at this time, we'd admit
22 State's Exhibit 26 into evidence.

23 THE COURT: Any objection?

24 MR. LUCAS: Just on 403 grounds and that it's
25 calculated to inflame the passions of the jury.

1 THE COURT: Overruled.

2 MS. HUEY: Your Honor, at this time we publish
3 State's 26 -- excuse me, 25. I misspoke.

4 THE COURT: That's 25, not 26?

5 MS. HUEY: Yes, sir.

6 (WHEREUPON, State's Exhibit Number 25 was admitted
7 into evidence.)

8 BY MS. HUEY:

9 Q So, Dr. Woodard, could you explain to the jury
10 what you're seeing in this particular photo?

11 A May I come down and point on the screen?

12 Q Yes, sir. I'm sorry.

13 A This is the left side of his forehead. Here's his
14 hairline, and you see this U-shaped injury. It doesn't
15 show so well on this picture, but there is a small
16 scrape coming up this side, and this general shape
17 suggested to me of a semi-automatic gun, the butt
18 component of a semi-automatic gun and suggests that it
19 had struck him in this location.

20 Q And so because you note that this was similar to
21 you said the butt of a pistol or handgun?

22 A Semi-automatic-type shotgun.

23 Q So in your opinion, could he have been struck with
24 a pistol or handgun that evening?

25 A That's what I believe happened.

1 Q Now, what other abrasions do you note, Dr.
2 Woodard, on the rest of the body?

3 A He had abrasions over the back of his right and
4 left shoulders which suggests a scraping such as one
5 might get when the body is rubbed against a roughened
6 surface like asphalt or concrete. And he had some
7 scrapes about the back of his neck. They were a little
8 bit more to the left. And then his left hand on the
9 second finger demonstrated a contusion, an impact
10 contusion.

11 Q What, if anything, do those suggest to you?

12 A The left hand suggested a defensive-type wound
13 where the hand is thrown up to prevent something. The
14 scrapes to the back of the shoulder suggests that he's
15 been pushed hard against a roughened surface, could be
16 being scraped along or being thrown to the pavement at
17 some time other than -- near but not at the time that
18 he's shot.

19 Q Dr. Woodard, in your expert opinion, what was the
20 cause of Ahmed Fallous' death?

21 A The blood and air that came around his lung are
22 what we refer to as a hemopneumothorax due to the
23 gunshot wound.

24 Q And as a result, what was your ruling?

25 A This was a homicide.

1 Q Dr. Woodard, just a couple more questions.

2 In terms of the gunshot wound and the effect that
3 that would have on Mr. Fallous' body, you said, I
4 believe, that he could possibly run; is that correct?

5 A That's correct. Depending on his general
6 conditioning, he would be able to run further or less
7 far.

8 Q And is there any kind of analogy you can make to
9 aid the jury in that regard?

10 A This is the deer that gets shot and runs away and
11 you don't find him.

12 Q As such, would it be possible, then, for a person
13 with this type of wound to jump a low guardrail, say,
14 that's knee height?

15 A I would think that would well be within their
16 spectrum after they're shot.

17 Q That's all I have at this time, Dr. Woodard.

18 THE COURT: Yes, ma'am.

19 CROSS-EXAMINATION

20 BY MS. GURNEY:

21 Q Dr. Woodard, you performed the autopsy on
22 Mr. Fallous?

23 A That's correct.

24 Q And you also took a blood sample from Mr. Fallous
25 to run a toxicology screen?

1 A That's correct.

2 Q And who did you give that sample to after taking
3 it?

4 A It would have been given to the police authority
5 that was associated with the crime. I believe that's
6 the sheriff's department in this particular case.

7 Q And you determined that his death was caused by a
8 single gunshot wound?

9 A That's correct.

10 Q And that the manner of death was homicide?

11 A That's correct.

12 Q You're not able to draw any conclusions as to
13 whether Mr. Fallous fired a gun?

14 A I'm sorry. Say again.

15 Q You're not able to draw any conclusions as to
16 whether Mr. Fallous fired a gun?

17 A I -- the police would have had to do GSR. I don't
18 know if they had done that before we did the autopsy.
19 I know he wasn't -- saved in a way that would allow us
20 to do it.

21 Q So you are not aware of any gunshot residue --

22 A I don't know if the police did it or not. You
23 would have to ask them.

24 Q Okay. And regarding the U-shaped cut on
25 Mr. Fallous' forehead, you can't --

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1 A It's not a cut. It's a tear of the skin.

2 Q Tear in the skin?

3 A We call those lacerations.

4 Q Regarding this laceration, you can't say that it
5 was conclusively caused by being hit with a gun?

6 A It strongly suggests that. I can't say that's the
7 exclusive only thing.

8 Q And you were not at the scene of this crime?

9 A No, I was not.

10 Q You didn't see the shooting?

11 A I did not.

12 Q Have you read the police reports in this case?

13 A Never seen them.

14 Q All right.

15 Dr. Woodard, you typically perform autopsies for
16 Anderson County, correct?

17 A Oconee, Anderson, Abbeville, and Greenwood
18 counties.

19 Q And you're paid to do that?

20 A Yes, I am.

21 Q And you typically testify for the prosecution?

22 A Whoever calls me.

23 Q And so can you say how often you have been called
24 by the State to testify?

25 A The majority of the time.

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1 Q Thank you.

2 MS. GURNEY: No further questions.

3 THE COURT: Anything on redirect?

4 MS. HUEY: No, sir, Your Honor.

5 May Dr. Woodard be excused?

6 THE COURT: Yes, sir.

7 Thank you. You are excused. Have a good day.

8 THE WITNESS: You too.

9 MR. OVERBY: May it please the Court, your Honor,
10 the State calls Deputy Chris Wilson to the stand.

11 **JAMES CHRISTOPHER WILSON,**

12 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

13 THE CLERK: If you will take the witness stand,
14 please, sir, and state your name and spell your last
15 name for the reporter, please.

16 THE WITNESS: Okay. James Christopher Wilson,
17 W-i-l-s-o-n.

18 **DIRECT EXAMINATION**

19 **BY MR. OVERBY:**

20 Q Where are you employed, sir?

21 A I work with the Anderson County Sheriff's
22 Department.

23 Q And what is your present position with the
24 Anderson County Sheriff's Office?

25 A I'm a corporal in the forensic division.

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1 Q And how long have you been in the forensic
2 division of the Anderson County Sheriff's Office?

3 A Since 2009.

4 Q What are your duties and responsibilities as a
5 forensic tech -- or forensic investigator with the
6 Anderson County Sheriff's Office?

7 A We're responsible for processing the scenes,
8 securing images, collecting evidence.

9 Q And were you in this position on May 26, 2016?

10 A I was a forensics investigator. I hadn't become a
11 corporal yet.

12 Q But at that time, you were investigating shooting
13 scenes?

14 A Right.

15 Q And were you on duty on that particular day?

16 A I was on call.

17 Q On call. And what does on call mean?

18 A What we do is after midnight, we have at least one
19 person on call from midnight to 8:00 o'clock in the
20 morning.

21 Q And what do those people who are on call do?
22 What's part of their responsibilities?

23 A It's the same thing. We respond from the house,
24 from our house. If we get a phone call, we'll respond
25 and we'll go to the scene and process it, photograph

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1 it, collect the evidence, things like that.

2 Q And would this include shootings?

3 A Yes.

4 Q Were you dispatched to a shooting at the
5 Centerville Road Bridge on that date?

6 A I was, yes, sir.

7 Q Do you remember what time you arrived?

8 A It was around 4:00, 4:20, somewhere around in
9 there.

10 Q And what's the first thing that you did when you
11 arrived at a scene like that?

12 A What I do is I try to do some observations, seeing
13 what I've got, speak to the officers on scene, the
14 investigators, and then once I get all that, I start
15 doing the forensics part of it.

16 Q Okay. And I'm going to show you what's in
17 evidence, has been marked as State's Exhibit Number 6.
18 You should be able to see that on your screen, sir.

19 Do you know what that is?

20 A Yes, that's the bridge at Centerville Road.

21 Q Okay. And which direction did you come from?

22 A I came from the Anderson side, coming from this
23 way.

24 Q And when you came, what did you see when you got
25 on scene?

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1 A Well, when I first got on scene, when I parked and
2 got out, and I started observing, saw the victim lying
3 in the roadway, crime scene tape was up, and I think
4 the coroner was on scene and investigators were on
5 scene.

6 Q And this is State's Exhibit 7E, which is already
7 in evidence.

8 Does that fairly and accurately represent what you
9 saw?

10 A Yes.

11 Q Why was this all taped off over here?

12 A I'm assuming, you know, they thought that was part
13 of the crime scene when the first officers arrived, so
14 what they do is they will put crime scene tape up,
15 securing as much as they can.

16 Q Okay. And were you directed over to that
17 particular area?

18 A Yes. When I got there, they were -- they showed
19 me the victim and other evidence that was on the other
20 side.

21 Q And that was -- did you, in fact, take these
22 photographs?

23 A I did, yes.

24 Q Now, you said that this was right about here where
25 this was?

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1 A Yes. Right -- kind of sort of right in there,
2 yes.

3 Q So right in this area?

4 A Yes.

5 Q Did you have -- and the body was in the roadway,
6 correct?

7 A It was, yes.

8 Q What is your understanding of where the body was
9 originally? Was it there previously?

10 A When I got there, they said that the body had been
11 moved, that the victim had been moved from the --

12 MR. LUCAS: I'm going to object to hearsay, your
13 Honor. He can't testify to what someone else told him.

14 THE COURT: Just make sure you testify only to
15 what you know.

16 THE WITNESS: All I know is that it was there in
17 the roadway.

18 BY MR. OVERBY:

19 Q And that it had been moved?

20 A It had been found on the side of the road in the
21 woodline.

22 Q Thank you.

23 Now, did you search that area in question that had
24 been -- did you -- was one of your responsibilities in
25 terms of collection of evidence?

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1 A Well, when I got on scene, what I done is before I
2 started to take photographs, like I said, I done an
3 observation. And where evidence was, I would put a
4 placard there, and we would kind of search the area to
5 make sure there wasn't any other physical evidence
6 there for us to photograph, collect, or anything like
7 that.

8 Q Now, with respect to that area with the crime
9 scene tape, did you look in that area for evidence?

10 A I did.

11 Q This is State's Exhibit 7D. Is there something in
12 there that you collected?

13 A There's a handgun right near the branch.

14 Q And that is something you collected for evidence?

15 A It is, yes.

16 Q Did you search that area pretty thoroughly?

17 A To the best of my knowledge, yes, sir.

18 Q Did you find any shell casings or anything like
19 that in that area?

20 A No, sir.

21 Q I'm going to show you a series of photographs
22 which have been marked State's Exhibit 8A through 8Z
23 and a disc that's marked State's Exhibit 8.

24 Can you tell me what those are, sir?

25 A These are crime scene photos that I took that

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1 night at the scene.

2 Q And do they fairly and accurately reflect the
3 scene as you observed it on that evening?

4 A On that evening, yes, sir.

5 Q Can you tell me what's on that disc?

6 A The disc are the same pictures, copies of the
7 pictures.

8 Q And how do you know?

9 A I viewed them, and it's got my initials on them.

10 MR. OVERBY: At this time the State would move
11 State's Exhibit 8 into evidence as well as the
12 photographs 8A through 8Z.

13 THE COURT: Any objection?

14 MR. LUCAS: None, your Honor.

15 THE COURT: Without objection.

16 (WHEREUPON, State's Exhibit Numbers 8 and 8A
17 through 8Z were admitted into evidence.)

18 BY MR. OVERBY:

19 Q What are we looking at in State's Exhibit 8A?

20 A That is a handgun marked with Placard Number 3.

21 Q And is that the same handgun you observed in the
22 previous exhibit?

23 A Yes.

24 Q And you said that you used the placards to mark
25 evidence; is that correct?

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1 A We do. We use placards to document or mark each
2 piece of evidence when we find it so we're not losing
3 track, losing sight of it.

4 Q That is the same handgun?

5 A It is, yes, sir.

6 Q State's Exhibit 8B. And what is this a photograph
7 of?

8 A It's a photograph of the serial number.

9 Q Now, what did you do with the handgun after you
10 found it on that evening?

11 A After I found it and marked it with the placards,
12 of course, secured digital images of it. After taking
13 my images of the whole scene, at that point I collected
14 the gun, made it safe, and then put it in my Tahoe.

15 Q Okay. I'm going to show you what I'm going to
16 have marked in this case as State's Exhibit Number 9.

17 (WHEREUPON, State's Exhibit Number 9 was marked
18 for identification.)

19 BY MR. OVERBY:

20 Q Can you tell me what State's Exhibit Number 9 is?

21 A It is listed as a Hi-Point .380 handgun.

22 Q And is that the gun that you put into evidence and
23 collected that night?

24 A Yes.

25 Q Okay.

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1 MR. OVERBY: At this time, your Honor, the State
2 would move State's Exhibit 9 into evidence.

3 MR. LUCAS: No objection.

4 THE COURT: Locked and unloaded?

5 MR. OVERBY: It is. And right now I'm not going
6 to open it. We're going to just let it sit as it is.

7 THE COURT: Okay.

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

10 BY MR. OVERBY:

11 Q Now, what is this photograph, which is State's
12 Exhibit 7C -- or 7D, of?

13 A This is a photograph of where the victim was
14 located, which he's over here in the corner, down to
15 where I was advised the incident that occurred started.

16 Q Okay. Now, that's heading back towards -- that's
17 heading -- Anderson is back the other direction?

18 A Right. Anderson is back this way.
19 Centerville Road -- 187 Pendleton is going straight out
20 here.

21 Q When you photographed the scene, how -- what's the
22 general manner in which you do it?

23 A Normally we take, we break it down into several
24 things so if we have to put the pictures together and
25 see something, we can, but we start from the beginning

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1 and try to work our way to the end, you know, taking
2 pictures of the evidence, placards, and so on.

3 Q Now, you said earlier that that was where the
4 incident began. What was your understanding of that?

5 A Getting information on scene, it occurred on the
6 bridge, apparently an altercation.

7 MR. LUCAS: Your Honor, I'm going to object to
8 speculation. The witness can testify to what he
9 observed at the scene, what he photographed, what he
10 collected. He can't speculate as to how something
11 occurred without being there.

12 MR. OVERBY: Your Honor, he can testify as to why
13 he acted in a certain manner in terms of taking the
14 photographs, and that's the extent of my questions.

15 THE COURT: That's the extent that he can testify.
16 All right. Go ahead. Make sure he doesn't do the
17 other.

18 THE WITNESS: What was the question, I'm sorry,
19 again?

20 BY MR. OVERBY:

21 Q Why did you take pictures down the bridge?

22 A I was advised that there was evidence, additional
23 evidence, down on the bridge.

24 Q Okay. And what were you looking for?

25 A Shell casings, any kind of blood, things of that

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1 nature.

2 Q Okay. And so these photographs, which are all in
3 evidence, were kind of done in a sequential order; is
4 that right?

5 A Right. Yes, sir. And what we do is I start from
6 the beginning, walk down so far, take additional
7 images, and then just keep going down so we're not
8 trying to miss anything.

9 Q I understand. So was that tape up when you got
10 there or did you put that up?

11 A No. It was up.

12 Q Okay. What was the first placard here on the
13 bridge?

14 A A fired shell casing with an O'Reilly's card.

15 Q What number was that placard?

16 A Placard Number 7.

17 Q And about how far down the bridge is that?

18 A Without seeing measurements, I'm not really sure.
19 You know, from the concrete, I'd say 25, 30 feet from
20 where the bridge starts.

21 Q I'm going to show you what I'd like to have marked
22 as State's Exhibit Number 10.

23 (WHEREUPON, State's Exhibit Number 10 was marked
24 for identification.)

25 BY MR. OVERBY:

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1 Q What is the evidence number associated with that
2 item that I've given you?

3 A The case number is 201609197 and the bar code is
4 1157935.

5 Q And what is 1157935?

6 A That is a number where, when we enter the
7 evidence, we can go in and it's cataloged by that
8 number.

9 Q What is that item specifically?

10 A This item is a suspected fired 9mm shell casing
11 marked Placard 7.

12 Q And is that what is found at Placard Number 7?

13 A It should be, yes, sir.

14 MR. OVERBY: At this time I'd like to move State's
15 Exhibit 10 into evidence, Judge.

16 MR. LUCAS: Without objection, your Honor.

17 THE COURT: All right. Without objection.

18 (WHEREUPON, State's Exhibit Number 10 was admitted
19 into evidence.)

20 BY MR. OVERBY:

21 Q Going forward, you continued down the bridge,
22 correct?

23 A Right. Yes, sir.

24 Q And the next item is here at Placard Number 8?

25 A Right.

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1 Q And that fairly and accurately represents what you
2 found at Placard Number 8?

3 A It is, yes, sir.

4 Q I'm going to show you what I'd like to have marked
5 as State's Exhibit Number 11.

6 (WHEREUPON, State's Exhibit Number 11 was marked
7 for identification.)

8 BY MR. OVERBY:

9 Q Can you tell me what that is, sir?

10 A It is listed as a suspected fired shell casing
11 from Placard 8.

12 Q And what is the evidence number associated with
13 that?

14 A The bar code is 1157936.

15 Q And is that the shell casing that you photographed
16 and collected?

17 A Yes.

18 MR. OVERBY: At this time I'd like to move State's
19 Exhibit Number 11 into evidence, Judge.

20 THE COURT: Any objection?

21 MR. LUCAS: None, your Honor.

22 THE COURT: All right.

23 (WHEREUPON, State's Exhibit Number 11 was admitted
24 into evidence.)

25 BY MR. OVERBY:

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1 Q The next placard is Number 9. I'm going to show
2 you what's been marked as State's Exhibit Number 12.

3 (WHEREUPON, State's Exhibit Number 12 was marked
4 for identification.)

5 BY MR. OVERBY:

6 Q Can you tell me what that is, sir?

7 A It's a suspected fired .45 shell casing, .45
8 caliber shell casing marked Placard 9, which is
9 1157937.

10 Q Thank you.

11 And is that what's depicted in the photograph
12 here?

13 A Yes.

14 Q And that's what you collected and put into
15 evidence?

16 A Right. It is.

17 MR. OVERBY: At this time I'd like to move State's
18 Exhibit 12 into evidence.

19 THE COURT: Any objection?

20 MR. LUCAS: None, your Honor.

21 THE COURT: Without objection.

22 (WHEREUPON, State's Exhibit Number 12 was admitted
23 into evidence.)

24 BY MR. OVERBY:

25 Q I'm going to back these photographs up just a tiny

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1 bit. And would you step down here, sir? I'm going to
2 give you this nice, fancy laser pointer just so the
3 jury can get an idea of what they're looking at.

4 Just highlight where 8, 9 and 10 are.

5 A Placard Number 8 is right there; Number 9 is right
6 in here, and 10 is there.

7 Q Okay. Thank you, sir.

8 And so now I'm going to hand you what I'd like to
9 have marked as State's Exhibit Number 13.

10 (WHEREUPON, State's Exhibit Number 13 was marked
11 for identification.)

12 BY MR. OVERBY:

13 Q Can you tell me what that is, sir?

14 A Yes. It's listed as a suspected fired .45 caliber
15 shell casing marked Placard 10. The bar code is
16 1157939.

17 Q And that is what's depicted in the photograph?

18 A In Placard 10, yes, sir.

19 Q And that is what you collected on that day?

20 A It is.

21 MR. OVERBY: At this time the State would move
22 State's Exhibit Number 13 into evidence.

23 THE COURT: Any objection?

24 MR. LUCAS: No, your Honor.

25 THE COURT: Without objection.

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1 (WHEREUPON, State's Exhibit Number 13 was admitted
2 into evidence.)

3 BY MR. OVERBY:

4 Q And looking at Placard 11, I'm going to show you
5 what has been marked as State's Exhibit Number 14.

6 (WHEREUPON, State's Exhibit Number 14 was marked
7 for identification.)

8 BY MR. OVERBY:

9 Q Can you tell me what that is, sir?

10 A It's another .45 caliber shell casing marked
11 Placard 11. 1157940.

12 Q And is that depicted in the photograph here?

13 A It is.

14 Q And is that shell casing you collected?

15 A Yes.

16 MR. OVERBY: At this time I'd like to move State's
17 Exhibit 14 into evidence.

18 THE COURT: Any objection?

19 MR. LUCAS: Without objection.

20 THE COURT: Without objection.

21 (WHEREUPON, State's Exhibit Number 14 was admitted
22 into evidence.)

23 BY MR. OVERBY:

24 Q At this time I'm showing you what's being marked
25 as State's Exhibit Number 15.

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1 (WHEREUPON, State's Exhibit Number 15 was marked
2 for identification.)

3 BY MR. OVERBY:

4 Q Can you tell me what that is, sir?

5 A It's a suspected fired .45 caliber shell casing
6 marked Placard 12, 1157941.

7 Q So that is the shell casing depicted in the
8 photograph here?

9 A Yes.

10 Q And that is the shell casing you collected?

11 A Collected, yes.

12 MR. OVERBY: At this time I'd like to move State's
13 Exhibit 15 into evidence.

14 MR. LUCAS: Without objection.

15 THE COURT: Without objection.

16 (WHEREUPON, State's Exhibit Number 15 was admitted
17 into evidence.)

18 BY MR. OVERBY:

19 Q Now, all these shell casings that we're talking
20 about are back on this side of the bridge?

21 A Back on this side of the bridge, yes, sir.

22 Q Okay. And now I'm going to show you what's been
23 marked as State's Exhibit Number 16.

24 (WHEREUPON, State's Exhibit Number 16 was marked
25 for identification.)

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1 BY MR. OVERBY:

2 Q Can you tell me what that is?

3 A Another fired .45 caliber shell casing, 1157943.

4 Q Okay. And is that the same shell casing depicted
5 in the photograph?

6 A Yes.

7 Q And is the one in your hand the one you collected
8 out there?

9 A Yes.

10 MR. OVERBY: At this time I'd like to move State's
11 Exhibit 16 into evidence.

12 THE COURT: Any objection?

13 MR. LUCAS: None, your Honor.

14 THE COURT: Without objection.

15 (WHEREUPON, State's Exhibit Number 16 was admitted
16 into evidence.)

17 BY MR. OVERBY:

18 Q Now, I am showing you what's been marked as
19 State's Exhibit Number 17.

20 (WHEREUPON, State's Exhibit Number 17 was marked
21 for identification.)

22 BY MR. OVERBY:

23 Q Can you tell me what that is?

24 A Another .45 caliber shell casing marked with
25 Placard 16, 1157944.

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1 Q And is that the same shell casing that's depicted
2 in the photograph?

3 A Yes.

4 Q And is that the same shell casing in your hand
5 that you picked up on that day?

6 A Yes.

7 MR. OVERBY: At this time I'd like to move State's
8 Exhibit Number 17 into evidence.

9 MR. LUCAS: No objection.

10 THE COURT: Without objection.

11 (WHEREUPON, State's Exhibit Number 17 was admitted
12 into evidence.)

13 BY MR. OVERBY:

14 Q Now that we have gotten through that portion of
15 things, what are we seeing in this photograph here?

16 A These are skid marks that were located on the
17 bridge. As I was going through from start to finish,
18 they were at the end of the bridge.

19 Q Did they appear -- how did they appear to you when
20 you observed them?

21 A During my experience as law enforcement, they
22 appeared fresh. There were no other skid marks on the
23 bridge, noticeable skid marks on the bridge that
24 morning when I was there and saw them.

25 Q And what are we looking at in this final

1 photograph?

2 A This is from the end of the evidence, from the
3 start of where the skid marks start, back up to where
4 the victim was located.

5 Q So come on down here with the fancy laser pointer,
6 if you wouldn't mind. And would you highlight where
7 the victim was located?

8 A The victim was located up here.

9 Q And those last -- and the shell casings, generally
10 speaking, how were they aligned?

11 A They were aligned kind of in a line this way. He
12 had 8, 9, 10, I believe 11 and 15 and 16 here.

13 Q And what caliber were all those shell casings?

14 A All but one were .45 calibers.

15 Q And which one was not the .45 shell casing?

16 A Was the 9. Was 7, Placard 7.

17 Q And what caliber is State's Exhibit Number 9 that
18 was just admitted? If you want to look at it, you
19 certainly may.

20 A The placard says Hi-Point .380.

21 Q It's a .380, okay.

22 Now, just speaking about the numerical aspect of
23 the placards, okay, is that necessarily how the
24 incident occurred?

25 A No. No, sir.

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1 Q How -- how is that important to you?

2 A What we do is when we put placards on a scene is
3 to help us try to keep in order as we go. Sometimes it
4 gets out of order with the numbers, but we try to
5 start -- from where we start, we'll put a Placard 1 and
6 then we work from there. And that does not indicate
7 the way that it happened; it's the way that we started.

8 Q So it deals with your collection?

9 A Right. It deals with when we start collection and
10 find in evidence.

11 Q What lane were those tire tracks in?

12 A They were in the -- I don't know if it's
13 northbound, east, west, but they was in the lane that
14 the evidence was in, the evidence was located.

15 Q I have no further questions for you. Please
16 answer any questions defense counsel may have.

17 THE COURT: At this point I need to go back and
18 sign that.

19 Ladies and gentlemen, I'm going to have to send
20 you back. I have to sign and review a couple documents
21 from the sheriff's department on another case that's
22 taking me five minutes, ten at the max. So please
23 don't discuss this case, and I'll get back to you as
24 quick as I can.

25 (WHEREUPON, the jury exited open court at

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1 that the older judges, and, unfortunately, I'm one of
2 them, have grown concerned about one person taking
3 better notes than another and suddenly that person's
4 notes become more important than what you recall. So
5 sometimes in very complicated medical malpractice
6 cases, which is going on downstairs, that jury is
7 allowed to take notes because it's been going for two
8 and a half weeks and is going to go for another four or
9 five days. But in this kind of case, I usually don't
10 allow it. So I'm sorry. I know some of you would like
11 to do that.

12 And we'll get all their names. They will be on a
13 piece of paper when y'all come back from lunch. Okay?
14 All right.

15 (WHEREUPON, Court's Exhibit 4 was marked for
16 identification.)

17 THE COURT: I'm sorry. I had to meet with a
18 sheriff's deputy and sign some Facebook warrants. Your
19 delay and wait back there was solely my fault, no one
20 else's.

21 You can begin your cross.

22 MR. LUCAS: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. LUCAS:

25 Q I want to talk about your testimony concerning the

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1 shell casings briefly.

2 You collected and photographed shell casings on
3 the Centerville Road Bridge?

4 A Yes, sir.

5 Q And all of those shell casings were found on the
6 bridge?

7 A On the bridge, yes, sir.

8 Q And there were seven .45 caliber shell casings; is
9 that correct?

10 A I believe so.

11 Q And it's also correct that there was a single 9mm
12 shell casing?

13 A Yes, sir.

14 Q And those were all the shell casings that you
15 collected at the scene?

16 A It was, yes.

17 Q Now, you also testified that it was your
18 understanding that Mr. Fallous was found off the
19 roadway?

20 A Right.

21 Q And that he was in the woods?

22 A At the woodline.

23 Q He was at the woodline; isn't that correct?

24 A Right.

25 Q And at the woodline, there are a lot of leaves on

1 the ground there?

2 A Right.

3 Q Brush, sticks, logs, correct?

4 A Yes, sir.

5 Q And that it's also on a slight incline?

6 A Okay.

7 Q And it's sloping down towards the water, correct?

8 A Kind of an embankment. The water was several feet
9 away.

10 Q And would it be fair to say that the water is 20
11 to 25 feet away at that point?

12 A Probably.

13 Q Now --

14 A Without seeing a picture, I would probably say.

15 Q Thank you.

16 And you testified that you looked for shell
17 casings in that area?

18 A Uh-huh.

19 Q And in the area close to where you found the gun?

20 A Right.

21 Q You didn't use a metal detector or anything like
22 that?

23 A No, sir.

24 Q And you didn't use a magnetometer?

25 A No.

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1 Q Now, you testified that you photographed a gun as
2 well?

3 A Right. Yes, sir.

4 Q And it was your understanding that the gun
5 belonged to the decedent, Mr. Fallous?

6 A Right. Yes.

7 Q And that gun was a Hi-Point .380?

8 A Yes, sir.

9 Q And you testified that you collected the gun?

10 A I did.

11 Q And that you made the gun safe?

12 A I did.

13 MR. LUCAS: Permission to approach the witness,
14 your Honor?

15 THE COURT: Yes, sir.

16 BY MR. LUCAS:

17 Q Showing you what's been premarked as Defense
18 Exhibit 1.

19 A Okay.

20 Q And are you familiar with that photograph?

21 A I am.

22 Q What does it depict?

23 A Depicts the handgun with the magazine out of the
24 handgun, the Hi-Point.

25 Q I'm sorry?

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1 A Depicts the Hi-Point .380.

2 Q Is that photograph a fair and accurate depiction
3 of what you observed that night?

4 A Right.

5 MR. LUCAS: Your Honor, at this time we'd offer
6 this photograph into evidence as Defense Exhibit 1.

7 THE COURT: Any objection?

8 MR. OVERBY: Without objection, Judge.

9 THE COURT: Without objection.

10 (WHEREUPON, Defendant's Exhibit Number 1 was
11 admitted into evidence.)

12 MR. LUCAS: Permission to publish to the jury,
13 your Honor?

14 THE COURT: Certainly.

15 BY MR. LUCAS:

16 Q Officer, if you would step over here briefly.

17 Now, this photo depicts the gun as you observed it
18 that night?

19 A Right. When I took the magazine out, yes.

20 Q When you collected the gun, it had the magazine?

21 A Inside the gun.

22 Q Inside of the gun?

23 A Right.

24 Q You took it out of the gun?

25 A I did.

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1 Q You did that to make the gun safe?

2 A Uh-huh.

3 Q The magazine contained several live cartridges,
4 did it not?

5 A Right. I believe three. Three or four.

6 Q And did you remove those cartridges from the
7 magazine?

8 A From the magazine, no.

9 Q So at that time you left them within the magazine?

10 A Right.

11 Q But you pulled the magazine out of the gun?

12 A Right.

13 Q Thank you. You can step back to the stand. I'm
14 sorry.

15 A That's all right.

16 MR. LUCAS: Your Honor, permission to approach the
17 witness?

18 THE COURT: Sure.

19 BY MR. LUCAS:

20 Q Officer, I'm showing you what has been premarked
21 as Defense Exhibit 2. Are you familiar with that
22 photograph?

23 A I am, yes, sir.

24 Q Is it, in fact, the photograph that you took that
25 night?

1 A It is.

2 Q And will you tell the jury what it depicts?

3 A It depicts, again, the handgun with the slide
4 back, the magazine, and unspent cartridge, unfired
5 cartridge, outside.

6 MR. LUCAS: At this time I'd offer Defense
7 Exhibit 2 into evidence.

8 THE COURT: Any objection?

9 MR. OVERBY: No objection.

10 THE COURT: Without objection.

11 (WHEREUPON, Defendant's Exhibit Number 2 was
12 admitted into evidence.)

13 MR. LUCAS: Permission to publish to the jury,
14 your Honor?

15 THE COURT: Certainly.

16 BY MR. LUCAS:

17 Q Officer Wilson, if I could ask you to please step
18 down here once more.

19 Again, this is a photograph that you took on that
20 day?

21 A Right.

22 Q And what it shows is the .380 belonging to Ahmed
23 Fallous, correct?

24 A Right. The one I collected from the scene.

25 Q And it shows the lever pulled back?

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1 A Right. The slide.

2 Q Or the slide pulled back.

3 And when you pulled the slide back, that was to
4 remove a live round that was in the chamber?

5 A Right. When I pulled the slide back, that was
6 making it safe to see if there was one inside or not
7 inside.

8 Q To clarify, there was a round inside the chamber?

9 A Right.

10 Q And to rehash, in addition to the round inside of
11 the chamber, there were also several live cartridges
12 inside of the magazine?

13 A Right.

14 Q For a total of three to four bullets?

15 A Right.

16 Q And those were all live rounds?

17 A Yes, sir.

18 Q You can take your seat back, Officer Wilson.

19 A Thank you.

20 Q Nothing further, Officer Wilson. Thank you for
21 your time.

22 A Thank you.

23 THE COURT: Anything on redirect?

24 MR. OVERBY: Your Honor, I have one question.

25 REDIRECT EXAMINATION

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1 BY MR. OVERBY:

2 Q Showing you State's Exhibit 6 again. Could you
3 come down here with the laser pointer again?

4 Can you tell me where Mr. Fallous was again?

5 A In this area right in here.

6 Q Can you tell me where the majority of the shell
7 casings that you collected in this case were found?

8 A On the bridge right in here.

9 Q Okay. Thank you.

10 I have no further questions.

11 THE COURT: Okay. Thanks, sir. You can step
12 down.

13 THE WITNESS: Okay. Thank you.

14 MR. OVERBY: May this witness be excused from his
15 subpoena?

16 THE COURT: Any objection?

17 MR. LUCAS: None from the defense.

18 THE COURT: You are excused. Thank you.

19 MR. OVERBY: Your Honor, at this time the State
20 calls Investigator Sean Proner to the stand.

21 **SEAN PRONER,**

22 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

23 THE CLERK: If you will take the witness stand,
24 please, sir, and state your name and spell your last
25 name for the reporter, please.

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1 THE WITNESS: My name is Sean Proner, P-r-o-n-e-r.

2 DIRECT EXAMINATION

3 BY MR. OVERBY:

4 Q Where are you employed, sir?

5 A At the Anderson County Sheriff's Office.

6 Q What is your current role at the Anderson County
7 Sheriff's Office?

8 A My current role is as a narcotics investigator
9 assigned to Special Investigations Division.

10 Q And what was your previous role at the Anderson
11 County Sheriff's Office?

12 A Prior to being assigned to narcotics, I was
13 assigned as a crime scene or forensic investigator
14 assigned to forensics at the sheriff's office.

15 Q And how long have you been with the Anderson
16 County Sheriff's Office?

17 A Friday will make 13 years.

18 Q And how long have you been in law enforcement
19 overall?

20 A 13 years.

21 Q 13 years. And how long were you a forensic
22 technician?

23 A About a year and a half.

24 Q Were you a forensic technician on the morning of
25 May 26, 2016?

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1 A Yes, sir, I was.

2 Q Were you on call that morning?

3 A Yes, sir, I was.

4 Q Where were you dispatched and what time?

5 A Shortly before 3:00. I believe it was 2:55, 2:56
6 I was notified by telephone from dispatch to be en
7 route to a homicide on Centerville Road near White City
8 Park Bridge.

9 Q Where do you live?

10 A I live in the Beaver Dam area on Midway Road.

11 Q And what did you see along the way to where you
12 were dispatched?

13 A On my way to Centerville Road, I traveled down
14 Midway, then took a right onto Hopewell, and I ran
15 across a wrecked vehicle in the middle of Hopewell Road
16 near Benfields Ridge.

17 Q What did you do at that point?

18 A I notified dispatch on the radio that I was going
19 to be out temporarily with a wrecked motor vehicle in
20 the roadway.

21 As I was exiting my vehicle, they notified me back
22 over the radio that it was the suspect vehicle related
23 to the homicide that I was responding to. As a
24 forensic tech, I didn't wear a vest. All I had was a
25 pistol on me, so I notified dispatch to send me another

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1 unit, and they sent some marked patrol units that way.

2 Q And how long did you stay there at that car?

3 A I was there for a few minutes by myself until a
4 patrol unit arrived.

5 Q Was anybody else around?

6 A No, sir.

7 Q What did you do after that?

8 A Once a patrol unit arrived and assisted me in
9 securing the scene, I was notified that there was a
10 female victim related to this case that was at Hopewell
11 Baptist Church, which was about a mile up the road.

12 I left the patrol deputy on scene with the suspect
13 vehicle to secure the scene, and I proceeded to the
14 church.

15 Q What are some of your duties and responsibilities
16 as a forensic technician?

17 A Collecting and processing evidence, taking
18 photographs, collecting fingerprints, checking blood
19 swabs, checking any articles of clothing or other
20 evidence that's found on the scene.

21 Q How about as it relates to potential victims?

22 A Any potential victims or victims associated with
23 the case that I'm dispatched to, document their
24 condition, how they were found, any injuries they may
25 have, their clothes, whatnot.

1 Q At this time I'm going to show you what's been
2 marked as State's Exhibit 20 and 20A through 20L.

3 Can you tell me what these are, sir?

4 A These are photographs that I took of Ms. Rhodes at
5 the Hopewell Baptist Church parking lot.

6 Q And that is at the Hopewell Baptist Church?

7 A Yes, sir.

8 Q And those photographs are 20A through 20C?

9 A Yes.

10 Q Do they fairly and accurately depict Ms. Rhodes as
11 you observed her?

12 A Yes, sir, they do.

13 Q With respect to the additional photographs, what
14 are those photographs of?

15 A Starting at 20D is a photograph of the black GMC
16 Yukon, the suspect vehicle in this case, at Hopewell
17 Road and Benfields Ridge.

18 20E is a photograph of the vehicle on Hopewell
19 Road.

20 F, G, H, I, J and K are all photographs of the
21 vehicle as I found it.

22 Q And what is on that disc there?

23 A These are the photographs. These are the digital
24 photographs of the printouts that I'm holding here.

25 Q How do you know?

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1 A You showed them to me before the trial.

2 Q Do they fairly and accurately represent the
3 observations you made on that particular evening?

4 A Yes, sir, they do.

5 MR. OVERBY: At this time the State would move
6 these into evidence.

7 MR. LUCAS: That's without objection.

8 THE COURT: Without objection.

9 (WHEREUPON, State's Exhibit Numbers 20, 20A
10 through 20L were admitted into evidence.)

11 BY MR. OVERBY:

12 Q What sort of injuries, just in your casual
13 observation, did you note about Ms. Rhodes?

14 A She had blood on her hands, and she had a large
15 area of blood on the right side of her head. I believe
16 it was a laceration under the hair.

17 Q That's depicted on 20A here?

18 A Yes, sir. That's an overall photograph of
19 Ms. Rhodes.

20 Q You mentioned blood on her hands?

21 A Yes, sir.

22 Q And a laceration on her head?

23 MR. LUCAS: I'm going to object to leading, your
24 Honor.

25 THE COURT: Don't lead him.

1 BY MR. OVERBY:

2 Q When -- what was her demeanor like when you spoke
3 with her?

4 A She was very shaken and upset.

5 Q Was she agitated?

6 A No, sir, I don't believe so.

7 Q But she was shaken and upset?

8 A Yes, sir.

9 Q What did you do as far as did you just take these
10 photographs? Did you deal with her in any other way?

11 A I took these photographs, and I obtained a gunshot
12 residue collection kit from her hands.

13 Q What did you do after all that was done?

14 A I also collected photographs or took overall
15 photographs of the vehicle that brought her from --
16 it's my understanding the scene of the crash was on
17 Hopewell Road at Benfields at the Hopewell Baptist
18 Church parking lot and collected, I believe, a jacket
19 from her.

20 Q What was your understanding about that vehicle and
21 that gentleman?

22 A It was my understanding that she had been in that
23 vehicle, the wrecked vehicle at Hopewell Road and
24 Benfields Bridge, and a good Samaritan had picked her
25 up and given her a ride to the church where EMS was

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1 summoned for her injuries.

2 Q When you were concluded with everything at
3 Hopewell Baptist Church, what did you do at that point?

4 A I returned back to the scene of the vehicle at
5 Hopewell Road and Benfields Ridge where the vehicle was
6 located.

7 Q I'm going to show you very quickly, it's already
8 in evidence as State's Exhibit Number 5.

9 Does that -- does that show the two points?

10 A Yes, sir, it does.

11 Q Okay. Then on State's Exhibit Number 3, is that
12 where the vehicle was -- is that the intersection where
13 the vehicle was found?

14 A Yes, sir, it was.

15 Q Okay. Now, what are we looking at in this
16 particular photograph?

17 A This is from the east side of Hopewell Road,
18 looking down Hopewell Road across Benfields Ridge. I
19 had the wrong flash on my camera, but you can see the
20 reflector on the vehicle, the suspect vehicle. The
21 black Yukon is there in front of the State patrol car.
22 It's just documenting the location of the vehicle on
23 Hopewell Road.

24 Q When you take the photographs, how do you approach
25 taking photographs?

1 A You start far off and work your way in.

2 Q What is this a photograph of?

3 A Intermediate photograph of the suspect vehicle.

4 Q And this?

5 A That's a closer photograph of the suspect vehicle.

6 Q What did you observe that's in this photograph
7 about the vehicle itself?

8 A Heavy damage to the front of vehicle, missing a
9 headlight, missing a bumper, large amount of fluid on
10 the ground underneath it.

11 Q And what did you observe about this side of the
12 vehicle?

13 A The rear passenger window was partially down.

14 Q And you're going all in a circular pattern around
15 the vehicle?

16 A Yes, sir, trying to capture the scene as I found
17 it.

18 Q What did you notice in this photograph?

19 A The gas fill lid was open, and you can see here in
20 the photograph that the gas cap is hanging down.

21 Q Was -- and that was exactly how it was when you
22 found the vehicle?

23 A Yes, sir. That's how I found the vehicle.

24 Q And what is down there in the grass as far as in
25 these photos?

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1 A Here to the left of the vehicle in the grass is
2 some paper. It was a wheel catalog, partially torn
3 wheel catalog, as well as a lighter.

4 Q I'm going to show you what I'm having marked as
5 State's Exhibit Number 21.

6 (WHEREUPON, State's Exhibit Number 21 was marked
7 for identification.)

8 BY MR. OVERBY:

9 Q Can you tell me what that is, sir?

10 A It's an envelope with an Anderson County evidence
11 bar code sticker on it. It's related to case number
12 201609197, which was the case number for this incident.
13 The details on the sticker indicate that it was
14 collected by me on May 26, 2016, and the description,
15 it is a red torch-type lighter found on the ground
16 beside the black SUV on Hopewell Road.

17 Q Is that what you collected on the scene here?

18 A Yes, sir, it is.

19 Q And is that what you put into evidence?

20 A Yes, sir, it is.

21 Q I want you to go ahead and open this. Is that
22 what you collected on the scene?

23 A Yes, sir, it is.

24 MR. OVERBY: At this time, I'd like to move this
25 into evidence, Judge.

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1 THE COURT: Any objection?

2 MR. LUCAS: None, your Honor.

3 THE COURT: All right. Without objection.

4 (WHEREUPON, State's Exhibit Number 21 was admitted
5 into evidence.)

6 THE WITNESS: May I add something about the
7 envelope?

8 BY MR. OVERBY:

9 Q Yes.

10 A The seal that I just broke is on evidence tape
11 with my initials and the date on the seal, which is in
12 accordance with how we submit evidence at the Anderson
13 County Sheriff's Office. The seal did not appear to be
14 tampered with, and it appears that's the first time
15 anybody has cut it.

16 Q You described it as a red torch-type lighter. Can
17 you pop that top, please? You don't need to turn it
18 on. That's okay.

19 A Yes, sir.

20 Q With respect to that, what area did you find that
21 in?

22 A I believe it came from the grassy area beside the
23 vehicle. The description on the tag says: "Found on
24 ground beside black SUV on Hopewell Road."

25 Q Okay. And we had these photographs here. Did you

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1 photograph that lighter where it sat?

2 A I did not get a detailed photograph of that
3 lighter.

4 Q Why did you not do that?

5 A It was an oversight on my part.

6 Q But it was found in that area?

7 A Yes, sir, it was.

8 Q After you had gotten done processing the vehicle
9 or looking at the vehicle while it was there on
10 Hopewell Road, what happened to the vehicle afterwards?

11 A The vehicle was towed from this location on
12 Hopewell Road to a security facility at the Anderson
13 County Sheriff's Office armory.

14 Q Did you eventually go and look at that vehicle
15 then?

16 A I did. The next time I saw that vehicle was at
17 the armory when we executed a search warrant on it that
18 morning.

19 Q Well, I'm going to get to that aspect of things in
20 just a minute.

21 But in the meantime, what did you learn about
22 another incident that may have been connected to this?

23 A I was informed that this vehicle was possibly
24 involved in some type of collision on Harris Bridge
25 somewhere near Slater Road. So as this vehicle was

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1 towed to the armory and followed by Sergeant Mark
2 Patterson to maintain our chain of custody, I proceeded
3 from Hopewell Road to Harris Bridge and Slater Road.

4 Q Okay. That's where you went immediately after
5 this?

6 A Yes, sir, it is.

7 Q I'm going to show you what's been marked as
8 State's Exhibit Number 18.

9 Can you tell me what that is a photo of?

10 A It's an aerial imagery map of Harris Bridge Road
11 near Slater Road.

12 Q Does that fairly and accurately depict the area
13 you went next?

14 A Yes, sir, it does.

15 MR. OVERBY: At this time the State would move
16 State's Exhibit 18 into evidence.

17 MR. LUCAS: Without objection.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit Number 18 was admitted
20 into evidence.)

21 BY MR. OVERBY:

22 Q And this is the location where the vehicle was?

23 A No, sir. That is the location where the -- where
24 we believe the vehicle accident occurred.

25 Q I apologize. I should have been more clear.

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1 That is the location where the vehicle you believe
2 was in an accident?

3 MR. LUCAS: Objection to leading, your Honor.

4 THE COURT: Rephrase that. Don't lead.

5 BY MR. OVERBY:

6 Q Okay.

7 A That is the area where I believe the vehicle
8 collision involving our suspect vehicle took place.

9 Q Which way was the vehicle?

10 A Where was it found?

11 Q Exactly. What direction, according to this map?

12 A If you're looking at the picture to the right,
13 which is east out Harris Bridge.

14 Q Okay. I'm going to show you a series of
15 photographs marked State's Exhibit 19A through 19J as
16 well as a disc marked State's Exhibit 19.

17 I apologize. If you will let me borrow this real
18 quick.

19 Can you tell me what these are photographs of?

20 A These are photographs of the scene as I found it
21 at Harris Bridge and Slater Road.

22 Q Do they fairly and accurately depict the scene as
23 you observed it?

24 A Yes, sir, they do.

25 Q Can you tell me what's on the disc labeled State's

1 Exhibit Number 19?

2 A The digital copy of these photographs.

3 Q How do you know?

4 A You had me view them prior to trial.

5 Q And do they fairly and accurately -- are they all
6 on the same thing?

7 A Yes, sir, they are.

8 MR. OVERBY: At this time the State would like to
9 move State's Exhibit Number 19 as well as 19A --

10 MR. LUCAS: Without objection, your Honor.

11 THE COURT: Without objection.

12 (WHEREUPON, State's Exhibit Numbers 19, 19A
13 through 19S were admitted into evidence.)

14 BY MR. OVERBY:

15 Q I'm just going to flip through these photographs
16 so the jury can get a chance to see them.

17 But without speculating, kind of describe to me in
18 your own observation what it is that we're seeing as we
19 go through them. Okay?

20 A Yes, sir.

21 Q What are we looking at in 19A?

22 A That is Harris Bridge Road across the street from
23 Slater Road. It's where the old county dump facility
24 used to be. It appears to be a strike on a tree.

25 Q Now, in reference to this strike of the tree,

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1 which side of the road is that tree on?

2 A So that tree is the right side of Harris Bridge
3 Road at the right side of this old spur road here. So
4 it's across the intersection on the right-hand side.

5 Q So it's on the catty-corner aspect right kind of
6 here?

7 A Yes, sir. It's in this corner here.

8 Q Thank you.

9 And what did you find at that location?

10 A I found an impact, signs of an impact on some
11 trees as well as some debris from a vehicle.

12 Q And what else did you find at that location?

13 A Additionally found what appeared to be a fluid
14 trail. That's a continuation of the fluid trail.

15 Q And this is back towards -- what is that back
16 towards?

17 A So these gates here are the gates to the old dump
18 facility that used to be on Harris Bridge Road. It's
19 now on Manse Jolly Road, and they closed that site.

20 Q And in what manner did the fluid trail proceed?

21 A It appeared that it proceeded from the impact zone
22 at the trees down into the dead-end at the gates, made
23 the turn, proceeded into the grass, back out onto
24 Harris Bridge Road and then east.

25 Q And is this photograph -- what is this photograph

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1 facing?

2 A This is facing down the dead-end road.

3 Q And this way?

4 A This is facing out of the dead-end road.

5 Q What do these appear to be?

6 A Tire tracks in the grass.

7 Q And what -- you said "debris." What debris
8 specifically?

9 A That's the front bumper and the right headlight
10 assembly.

11 Q And is that the tree?

12 A Yes, sir, it is.

13 Q And all of that was found on the right side of the
14 road?

15 MR. LUCAS: Object to leading again, your Honor.

16 THE COURT: Ask him where it was found. You can
17 ask him where it was found.

18 BY MR. OVERBY:

19 Q Where was it found?

20 A It was found on the right side of Harris Bridge
21 Road on the east corner of the spur across the street
22 from Slater Road.

23 Q Thank you.

24 So after you photographed that particular
25 location, where did you go after that?

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1 A I collected the headlight assembly and the bumper,
2 and I returned that evidence along with anything that I
3 collected from the side of Hopewell Road to the
4 sheriff's office forensic lab to be submitted as
5 evidence.

6 Q And what else did you do? Did you photograph
7 anything else in this case?

8 A I did. After everything was dropped at the
9 office, I proceeded to the hospital where I
10 photographed Ms. Rhodes.

11 Q And what about anything else?

12 A I went with Detective -- or Investigator Wilson
13 back to the scene on Centerville Road just so that I
14 could get an idea of what the scene looked like there.
15 I didn't collect any evidence or take any photographs.

16 Q And what did you do after that?

17 A After the evidence I collected that morning had
18 been submitted, I was contacted by the detectives from
19 CID, and I went to the secure garage facility at the
20 armory where we executed a search warrant on the
21 vehicle that we had towed in earlier.

22 Q And at that point what was your responsibility in
23 terms of looking at the vehicle?

24 A Again, to collect photographs, overall
25 photographs, as well as detailed photographs of the

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1 vehicle and conduct an inspection or search of the
2 vehicle for any evidence related to this case.

3 Q I'm going to show you what has been marked as
4 State's Exhibit 23, 23A through 23S.

5 Investigator Proner, what are those photographs
6 of?

7 A These are photographs of the vehicle at the
8 Anderson County armory.

9 Q Okay. And do they fairly and accurately depict
10 the vehicle as you observed it on that day?

11 A Yes, sir, they do.

12 Q And what is on that disc that I handed to you?

13 A Digital copy of these photographs.

14 Q How do you know?

15 A We viewed them before trial.

16 Q Okay.

17 MR. OVERBY: At this time the State would move
18 State's Exhibit Number 23 into evidence.

19 THE COURT: Any objection?

20 MR. LUCAS: We have an objection to the last one,
21 23S, your Honor, that we'd like to put on the record
22 outside of the presence of the jury.

23 THE COURT: Okay.

24 Ladies and gentlemen, I'll send you out just a few
25 minutes. Please don't discuss the case.

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1 1:05 p.m.)

2 THE COURT: I'll see y'all at 2:30.

3 (Court's Exhibit 5 marked for identification.)

4 (Lunch recess taken from 1:05 p.m. to 2:43 p.m.)

5 (WHEREUPON, State's Exhibit Number 22 was marked
6 for identification.)

7 (WHEREUPON, the jury entered open court at
8 2:43 p.m.)

9 THE COURT: Ladies and gentlemen, I certainly am
10 not trying to make you feel sorry for me, but I do need
11 you to know that the courtroom work, for a judge at
12 least, that's what I know about, is sort of like the
13 tip end of an iceberg. Every time I go back there and
14 am signing something like I did a warrant this morning,
15 at 3:00 o'clock I'm going to get a conference call from
16 about 11 lawyers about a case that is set for a
17 two-week trial in three weeks. I have to take that
18 call because this is the only time they can all get
19 together. So my law clerk is going to come get me when
20 they call. I'll have to send you out. I apologize.
21 It's my fault entirely, and I don't think it will be a
22 long call. I can guarantee that I will come back in
23 with a red face, but it has nothing to do with this
24 case. I promise. Okay.

25 You can come on back up.

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1 THE COURT: Yes, sir.

2 BY MR. OVERBY:

3 Q Investigator Proner, when we left off, I had you
4 look at State's Exhibit 23A through S as well as the
5 Disc Number 23.

6 Can you take a look at those, please, sir.

7 A Yes, sir. They're the same photos.

8 Q And they fairly and accurately depict your
9 inventory and processing of the vehicle in this case?

10 A Yes. Yes, sir, they do.

11 Q Okay. And the disc in question, what is that?

12 A It is digital copies of the photographs you have
13 in your left hand.

14 Q How do you know?

15 A We previewed it prior to trial.

16 MR. OVERBY: At this time the State would move
17 State's Exhibit Number 23A through S as well as State's
18 Exhibit 23 into evidence.

19 THE COURT: Any objection?

20 MR. LUCAS: That's without objection.

21 THE COURT: All right. Without objection.

22 (WHEREUPON, State's Exhibit Numbers 23, 23A
23 through 23S were admitted into evidence.)

24 BY MR. OVERBY:

25 Q Now, where is this vehicle being photographed?

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1 A It's being photographed in the secure forensics
2 building at the armory complex at the sheriff's office.

3 Q And it was towed to this location?

4 A Yes, sir, it was.

5 Q And how did you photograph the vehicle generally?

6 A I generally start in one corner, work my way
7 around the exterior of the vehicle. And then after
8 overall photographs of the exterior of the vehicle are
9 taken, I'll start at an open door and then work my way
10 around the inside so that I can accurately depict what
11 I see or how I find things.

12 Q When you find something of interest, what do you
13 do?

14 A If it's during the overall photograph process, in
15 the middle of that overall process, I'll stop and take
16 detailed photographs of that item so it can be
17 collected.

18 Q So in these exhibits, you started from the outside
19 and you're going this way?

20 A Yes, sir.

21 Q And on this photograph, what are you photographing
22 here?

23 A An open gas fill lid and a gas cap that has been
24 removed.

25 Q Is this the exact same, or how does this compare

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1 to the way you found the vehicle on Hopewell Road?

2 A That was exactly as I found it on Hopewell Road.

3 Q And what are we looking at here?

4 A So that is the gas fill for the vehicle with the
5 cap removed. You can see it's hanging by the plastic
6 string, cord, retainer. And just inside the gas fill
7 area, you can see a piece of paper.

8 Q And right here?

9 A It's the same piece of paper you can see in the
10 previous photograph. It's a little bit better picture
11 of it as it shows some char around the paper and some
12 ash inside the tube.

13 Q I'm going to show you what has been marked as
14 State's Exhibit Number 2 -- or Number 22.

15 Can you tell me what that is?

16 A It is an evidence envelope bearing an Anderson
17 County evidence sticker citing case number 201609197.
18 It states that it is collected on May 26, 2016, by
19 myself. It is described as: "A burnt paper from gas
20 fill of black SUV," and it still bears the evidence
21 tape with my signature, my initials, and the date that
22 it was sealed.

23 MR. OVERBY: At this time --

24 Q And that is exactly what you collected from this
25 gas fill?

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1 A I'd have to say it is, yes, sir.

2 MR. OVERBY: At this time I'd like to move State's
3 Exhibit Number 22 into evidence.

4 MR. LUCAS: Without objection, your Honor.

5 THE COURT: Without objection.

6 (WHEREUPON, State's Exhibit Number 22 was admitted
7 into evidence.)

8 BY MR. OVERBY:

9 Q Will you open the envelope for me, please.

10 A (Witness complies.)

11 Q And this is the paper you collected?

12 A Yes, sir, it is.

13 Q With charring on it.

14 In looking at the vehicle, you just went around it
15 in a circular path?

16 A Yes, sir, I did. Made sure I covered all angles.

17 Q Okay. With respect to the back rear right seat,
18 what were you able to locate?

19 A In the back right seat area, I noticed here on the
20 seat -- I'm sorry, sir -- on the edge of the seat there
21 as well as, I believe, in the previous picture on the
22 right passenger door, there's blood on the door, on the
23 inside of the door.

24 It's also here in this photograph here. There's
25 also blood on the side of the front passenger side

1 seat.

2 Q This is the front seat?

3 A Yes, sir, it is.

4 Q What is that in the front passenger seat there?

5 A This here is what I believe to be hair extensions,
6 blonde hair extensions.

7 Q And we don't see it in this photograph, but in the
8 next photograph here, what is that? Where did that
9 come from?

10 A That is a business card in the name of Ashley T.
11 Moore for Carolina Restoration Claim Services. And
12 that box of business cards was located in the glove box
13 of the vehicle in the passenger side.

14 Q So that was located in the glove box?

15 A Yes, sir, here in the glove box.

16 Q So in looking at the vehicle exterior itself, what
17 is the primary damage that's visible on the vehicle?

18 A The primary damage is front impact damage. Notice
19 the lack of a bumper. And in another one of the
20 overall photographs, there is a missing front right
21 headlight as well as damage to the grill and the
22 radiator/cooler area of the vehicle.

23 Q Thank you.

24 With regards to the vehicle in question, did you
25 find any bullet holes in the vehicle?

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1 A In the vehicle's exterior?

2 Q The vehicle's exterior.

3 A No, sir, I did not.

4 Q Did you find any shell casings at Hopewell Road?

5 A No, sir, I did not.

6 Q I have no further questions. Please answer any
7 questions defense counsel has for you.

8 A Yes, sir.

9 CROSS-EXAMINATION

10 BY MS. GURNEY:

11 Q So on May 26th of 2006, you stated that part of
12 your investigation took you to Harris Bridge Road and
13 Slater Road intersection?

14 A Yes, ma'am.

15 Q And at that location, the Yukon that we have been
16 seeing in these photographs was involved in a
17 collision?

18 A I believe so, yes, ma'am.

19 Q It hit a pine tree?

20 A Yes, ma'am.

21 Q I want to move on to the Hopewell Road area.

22 A Yes, ma'am.

23 Q You collected a gunshot residue kit from Morgan
24 Rhodes?

25 A Yes, ma'am.

1 Q You photographed the GMC Yukon at Hopewell Road?

2 A Yes, ma'am.

3 Q And you did not see any bullet holes on the
4 outside of the Yukon?

5 A No, ma'am, I did not.

6 Q And you did not find any shell casings around the
7 Yukon either?

8 A No, ma'am, I did not.

9 Q You also testified that you took a torch lighter
10 into evidence?

11 A Yes, ma'am.

12 Q Did you have that analyzed for fingerprints?

13 A No, ma'am, I did not.

14 Q And did you have it analyzed for touch DNA?

15 A No.

16 Q You took the wheel catalog into evidence?

17 A Yes, ma'am.

18 Q Did you have that analyzed for fingerprints?

19 A No, ma'am, I did not.

20 Q Or touch DNA?

21 A No, ma'am.

22 Q And you took -- did you take the box of business
23 cards into evidence?

24 A No, ma'am. I believe at the armory, I only
25 photographed them.

1 Q So those would not have been analyzed for
2 fingerprints?

3 A No, ma'am, they would not.

4 Q So once the Yukon was towed to the armory, you
5 executed a search warrant?

6 A Yes, ma'am.

7 Q At that time you also did not locate any bullet
8 holes on the outside of the vehicle?

9 A That is correct.

10 Q You stated you located a piece of paper inside the
11 gas fill area?

12 A Yes, ma'am.

13 Q You took that into evidence?

14 A I did.

15 Q Did you have that analyzed for fingerprints?

16 A No, ma'am, I did not.

17 Q Did you have it analyzed for touch DNA?

18 A No, ma'am, I did not.

19 Q Did you have the gas cap analyzed for
20 fingerprints?

21 A No, ma'am.

22 Q Or touch DNA?

23 A No, ma'am.

24 Q And the lid covering the gas cap, did you have
25 that analyzed?

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1 A No, ma'am, I did not.

2 Q I have no further questions.

3 THE COURT: All right.

4 Anything on redirect?

5 MR. OVERBY: Nothing, your Honor.

6 THE COURT: Thank you, sir. You can step down and
7 be released from your subpoena.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Just in anticipation of her stepping
10 in here, who's your next witness?

11 MR. OVERBY: Next witness is going to be James
12 Armstrong, ballistic expert from Greenville.

13 THE COURT: All right.

14 Ladies and gentlemen, I'm going to go ahead -- I
15 apologize -- send you back for 15 minutes, and I will
16 finish up with these lawyers as quick as I can. Don't
17 discuss this case.

18 (WHEREUPON, the jury exited open court at
19 2:56 p.m.)

20 (WHEREUPON, a recess was taken from 2:56 p.m. to
21 3:28 p.m.)

22 (WHEREUPON, the jury entered open court at
23 3:29 p.m.)

24 THE COURT: I'll admit I'm a little irritated, but
25 at nobody in here, so I apologize for you having to see

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1 it.

2 All right. You can call your next witness.

3 MR. OVERBY: May it please the Court, at this time
4 the State calls James Armstrong to the stand.

5 Judge, can we approach real quick?

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

9 JAMES WILLIAM ARMSTRONG,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: If you will take the witness stand,
12 please, sir, and state your name and spell your last
13 name for the reporter, please.

14 THE WITNESS: James William Armstrong,
15 A-r-m-s-t-r-o-n-g.

16 DIRECT EXAMINATION

17 BY MR. OVERBY:

18 Q Where are you employed, Mr. Armstrong?

19 A I'm employed with the Greenville County Department
20 of Public Safety Forensic Division Crime Laboratory.

21 Q And what do you do for the Forensic Division Crime
22 Laboratory in Greenville County?

23 A I'm the supervisor of the crime laboratory where I
24 have a dual responsibility as a firearm examiner and a
25 forensic drug chemist.

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1 Q And as a firearm examiner, in particular talk
2 about your responsibilities as a firearms examiner.

3 A Yes, sir.

4 Q Talk about your responsibilities or talk about
5 firearms examination.

6 A My responsibility is to examine any fired evidence
7 that comes from a crime scene or any location from a
8 law enforcement agency and compare those to each other
9 and/or to a firearm to report my findings.

10 Q And what kind of training and experience have you
11 undergone in order to assist you in those endeavors?

12 A I have a Bachelor of Science degree in chemistry
13 from Erskine. I have trained in the area of firearm
14 identification, doing an apprenticeship-style training
15 for approximately two years from a retired firearms
16 examiner from Philadelphia PD.

17 I have attended 14 different firearm manufacturing
18 and assembly plants to see how the firearms are
19 manufactured and assembled from raw material to
20 finished product.

21 I have attended four different ammunition assembly
22 plants to see the same process. I have been through
23 five different armory schools to learn how to work on
24 various firearms. I'm a member of -- it's called AFTE,
25 Association of Firearm and Tool Mark Examiners, and I

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1 have testified in federal, state, and local courts at
2 least 65 times as an expert in the field of firearm
3 identification.

4 Q What does the field of firearms identification
5 entail?

6 A It entails comparing fired evidence to known
7 samples and other firearms.

8 Q Approximately how many of these examinations have
9 you conducted?

10 A Thousands.

11 MR. OVERBY: At this time, your Honor, I would ask
12 that Mr. Armstrong be qualified as an expert in the
13 field of firearms examination and identification.

14 THE COURT: Any objection?

15 MR. LUCAS: None, your Honor.

16 THE COURT: All right. Without objection, he's
17 qualified.

18 BY MR. OVERBY:

19 Q Mr. Armstrong, were you asked to conduct a
20 firearms examination of evidence that was collected as
21 part of this case that you are here for today?

22 A Yes, sir, I was.

23 Q Involving Mr. Stephen Grant Parten?

24 A Yes, sir, I was.

25 Q What all were you asked to look at as part of your

1 examination?

2 A The items submitted to me was a Hi-Point model
3 CF30 semi-automatic pistol, a 9mm Luger fired cartridge
4 case, and seven .45 auto fired cartridge cases.

5 Q Let's start with talking about the shell casings
6 in particular. I'm going to show you a series of
7 exhibits that have been admitted into evidence ranging
8 from Number 10 to Number 17.

9 Can you take a look at those for me, please.

10 Are those the shell casings that you were asked to
11 look at as part of this case?

12 A Yes, sir, they are.

13 Q And how do you know that?

14 A The item number is on a bar code system, and they
15 also have my initials and the date where I sealed the
16 evidence back up.

17 Q Thank you very much, sir.

18 So when you conduct an examination and you do a
19 report, how are you identifying these particular items
20 on your reports?

21 A On our report they're identified as the item
22 number that was submitted to me from the agency.

23 Q So that's these numbers for the bar code right
24 here, correct?

25 A That is the item number right there, yes.

1 Q Thank you.

2 Now, with respect -- talk a little bit about what
3 you do when you were looking at shell casings and what
4 you were looking for.

5 A When I'm looking at a fired cart case, we look at
6 several different areas of that fired cartridge case
7 because the fired cartridge case at one time had been
8 in a firearm. So with it being in a firearm, we look
9 for any differences or any kind of striations that may
10 be transferred from that firearm to the fired cartridge
11 case.

12 But when you pull the trigger of a firearm, the
13 firing pin goes forward and strikes the primer. As it
14 strikes that primer, a small explosion takes place
15 basically inside that cartridge case, expanding it in
16 all directions. So anything that is on the firearm is
17 then transferred to that cartridge case.

18 Then what I do is take the fired cartridge casings
19 and put them side by side on a comparison microscope on
20 various magnifications and compare them running side by
21 side and see if striations line up. Like putting a
22 puzzle together, see if those pieces line up together.

23 Q Why is that important?

24 A Well, if we can see all the striations and all the
25 markings and they all match up, then we can say that

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1 they were at one time fired in the same firearm.

2 Q And how do you know that?

3 A By doing the comparisons of each one to one
4 another. And no two firearms have the same marking
5 behind it.

6 Q Why do no two firearms have the same markings?

7 A The firearms are made by tools, and those tools
8 leave microscopic imperfections behind. And as you are
9 using the tool to make that firearm, it then is getting
10 duller or picking up dirt and grit, and it leaves
11 individual characteristic markings behind.

12 Q And is it possible for any two firearms to have
13 the same markings?

14 A It's impossible for that, yes, sir.

15 Q Okay. Why is that?

16 A Because of the tools that are being used, as they
17 are coming through, they are dulling down and picking
18 up dirt and other pieces of metal and leaving different
19 markings in there.

20 Q So you could do -- how do you compare specifically
21 the two shell casings? What process do you use?

22 A In this case here where I have all, as we call it
23 unknowns or evidence items, I just put one on the
24 left-hand side of a microscope and one on my right-hand
25 side. And in a comparison scope, you can see in the

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1 two different fields. You can overlap those images and
2 put them side by side.

3 And we look for just those striations from what we
4 call the breach face comparison where the firing pin is
5 actually struck by the -- the primer struck by the
6 firing pin and that area around where the firing pin
7 aperture is and where the firing pin comes through is
8 called a breach face. That breach face has machine
9 marks on it and they're transferred. We're just
10 looking for that same pattern of transfer from casing
11 to casing.

12 Q Now, with respect to these particular shell
13 casings, I want to draw your attention to what you have
14 labeled as items 1157936, 1157937, 1157939, 1157940,
15 1157941, 1157943, and 1157944.

16 What are all of those items?

17 A Those are caliber .45 auto fired cartridge
18 casings.

19 Q All of the same caliber?

20 A All the same caliber.

21 Q What can you tell me about those shell casings or
22 those cartridges?

23 A Those fired cartridge casings were fired in the
24 same firearm.

25 Q So every single one of those fired cartridges was

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1 fired in the same firearm?

2 A That's correct.

3 Q What can you tell me about 1157935?

4 A That is a caliber 9mm Luger fired cartridge case.

5 Q What can you tell me in relation about that shell
6 casing in relation to the others?

7 A It was not fired in the same firearm.

8 Q Now, were you given anything else to look at in
9 this particular case?

10 A I was given item number 1157914, which is a
11 Hi-Point model CF380 semi-automatic pistol, and it also
12 had four caliber .380 auto cartridges submitted with
13 it.

14 Q Okay. I'm going to show you State's Exhibit
15 Number 9.

16 Can you tell me what that is?

17 A Yes, sir. This is item number 1157914. It's a
18 Hi-Point model CF380 with serial number P8053178.

19 Q And what caliber is that firearm?

20 A .380 auto.

21 Q And with respect to 1157935, the 9mm fired
22 cartridge case, what can you tell me about that
23 cartridge case?

24 A That cartridge case was not fired from this
25 firearm.

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1 Q So it was not fired from this firearm?

2 A Correct.

3 Q What can you tell me about 1157936 through -- what
4 can you tell me about that and the other cartridges
5 casings?

6 A This firearm was not used to fire those cartridge
7 casings.

8 Q So if I understand, what shell casings that you
9 looked at, if any, were fired from that firearm?

10 A I did not receive any.

11 Q Mr. Armstrong, you're familiar with firearms,
12 obviously, in your experience?

13 A Yes, sir.

14 Q Are you familiar with that particular model of
15 firearm?

16 A Yes, sir.

17 Q How does that particular model of firearm operate
18 or work?

19 A It's a semi-automatic firearm where, when you load
20 the magazine and insert it, you pull the slide
21 rearward, let it go forward, and it automatically loads
22 a cartridge into the chamber. When you pull the
23 trigger, the firing pin goes forward, strikes the
24 primer. That explosion process, where it builds the
25 pressure and pushes the slide rearward, which pushes

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1 the projectile down the barrel. Then as the slide
2 comes back, it picks up a second cartridge and feeds it
3 back into the chamber, ready to fire again.

4 Q And in regard to that, how does -- if you were
5 talking about a standard shooting stance, how does that
6 firearm eject its shell casings?

7 A In traditional shooter stance where the firearm is
8 held upright and like this, it is going to generally
9 eject up and to the right.

10 Q Up and to the right?

11 A Yes, sir.

12 Q And that firearm is no exception, correct?

13 A Correct.

14 Q Now, is that guaranteed in every circumstance?

15 A No, sir.

16 Q What kind of variables would necessarily change
17 that particular aspect?

18 A It depends on how the firearm is being held. If
19 it's held onto a side, to a cant, someone is moving
20 when they're pulling the trigger, they can always
21 change that ejection pattern.

22 Q Let me ask you a question. If you're firing from
23 a traditional shooter stance, would it ever go up and
24 to the left?

25 A Not unless it struck something right beside you.

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1 It may have gone over to the left.

2 Q So in other words, it would actually have to
3 ricochet or strike something else in order for that to
4 happen?

5 A Pretty much, yes.

6 Q I'm going to hand up to you what's been marked as
7 State's Exhibit Number 24.

8 Can you tell me what that is, sir?

9 A Yes. This is a copy of my lab report for this
10 case.

11 Q And that is the lab report you prepared for this
12 matter?

13 A Yes, sir, it is.

14 Q Did you -- how do you know that?

15 A It has the case number, which is generated by
16 Greenville County, and the Anderson County case number
17 as well, and it has my signature at the bottom.

18 Q And that shows your findings in this matter?

19 A That is correct.

20 MR. OVERBY: At this point, your Honor, I'd ask to
21 move State's Exhibit Number 24 into evidence.

22 THE COURT: Any objection?

23 MR. LUCAS: Yeah, your Honor. That's hearsay
24 without exception. It's appropriate for him to testify
25 to --

1 MR. LUCAS: Thank you, Your Honor.

2 (WHEREUPON, the jury entered open court at
3 3:53 p.m.)

4 THE COURT: Okay. You can continue.

5 MR. OVERBY: May it please the Court, at this time
6 the State would move State's Exhibit Number 24 into
7 evidence.

8 THE COURT: All right. And subject to the
9 objection, I will overrule the objection and allow it
10 in.

11 MR. OVERBY: Thank you, your Honor.

12 (WHEREUPON, State's Exhibit Number 24 was admitted
13 into evidence.)

14 MR. OVERBY: I have no further questions for you,
15 Mr. Armstrong. Please answer any questions defense
16 counsel may have.

17 CROSS-EXAMINATION

18 BY MR. LUCAS:

19 Q Mr. Armstrong, you examined Ahmed Fallous'
20 Hi-Point .380 handgun?

21 A I did examine one, yes, sir.

22 Q You also test fired it during the course of that?

23 A Yes, I did.

24 Q When you test fired it, you found it to be in
25 operable condition?

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1 A I found it to be operable.

2 Q It fired?

3 A It did fire.

4 Q Now, the magazine of this handgun holds seven
5 cartridges, correct?

6 A It actually holds eight.

7 Q I'm sorry. It holds eight cartridges. And it
8 holds one in the chamber in addition to that?

9 A So it would be nine with a magazine, yes.

10 Q And the gun that you received, or you received the
11 gun and four live cartridges?

12 A That's correct.

13 Q And so the gun would have held five more?

14 A Yes, sir.

15 Q Had it been full?

16 A Yes, sir.

17 Q Now, I think you covered this earlier, but let me
18 go over it again.

19 After this specific Hi-Point .380 pistol was fired
20 or if it was fired, it would automatically chamber
21 another live cartridge?

22 A If there were no interruptions with the slide
23 coming rearward and a round was still loaded in the
24 magazine, it would actually function as designed, yes.

25 Q So in layman's terms, and if it's operating

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1 normally, it's going to pull another bullet into the
2 chamber?

3 A Yes, sir, it will.

4 Q Now, it's not exactly normal to carry around a
5 half empty pistol, is it?

6 MR. OVERBY: Objection; calls for speculation.

7 MR. LUCAS: You don't have to answer that.

8 THE COURT: Yeah, don't answer that.

9 BY MR. LUCAS:

10 Q Now, you also testified earlier that this gun
11 would typically eject fired shell casings to the right
12 and rear?

13 A Up and to the right.

14 Q Up and to the right?

15 A Yes, sir.

16 Q Isn't it true that these cartridges could eject up
17 to six feet away from the shooter?

18 A Yes, sir.

19 Q Now, in this case you analyzed eight shell
20 casings?

21 A Yes, sir.

22 Q Seven of those were .45 casings?

23 A Yes, sir.

24 Q And you said they were all from the same gun?

25 A Correct.

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1 Q Now, after having read your report, it would be
2 accurate to say that you can't tell when those casings
3 were fired?

4 A Cannot.

5 Q You can't tell in what order they were fired?

6 A No, sir.

7 Q You can't tell if they were fired in response to a
8 threat?

9 A No idea.

10 Q You can't tell if they were fired in self-defense?

11 A No idea.

12 Q You can't tell who fired first?

13 A No, sir.

14 Q Because your report just doesn't cover that?

15 A I'm not privy to that information. All I'm given
16 is the fired evidence and my comparison from there.

17 Q And you weren't there?

18 A Correct.

19 Q Now, in your report you also analyzed an eighth
20 shell casing?

21 A Yes.

22 Q And that was a 9mm shell casing?

23 A Correct.

24 Q And it was your conclusion that that 9mm shell
25 casing was not fired out of Ahmed Fallous' .380

1 handgun?

2 A Correct.

3 Q Now, I've read your report, and in it, your report
4 doesn't note any unusual characteristics about that 9mm
5 shell casing?

6 A No, sir.

7 Q No rust?

8 A Not on my report. There was no rust. The shell
9 casing was actually made of brass, so it may have
10 oxidized but no rust.

11 Q No corrosion?

12 A None noted, no, sir.

13 Q Nothing in your report that would indicate a long
14 time lapse between the time that casing was fired and
15 when it was collected?

16 A Well, that's even kind of hard to tell because if
17 you have a cartridge that's still loaded and live, if
18 you leave it sitting out for a while, it can still
19 oxidize, so you really can't tell if it's freshly fired
20 or not just by looking at the oxidation level on the
21 brass or the cartridge.

22 Q But there's nothing in your report that says there
23 was a time lapse or would suggest a time lapse between
24 when that casing was fired and when it was collected?

25 A I have no idea of the time, no, sir.

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1 Q And nothing about that is in your report?

2 A I have nothing to say -- I cannot determine that
3 by the evidence I received.

4 Q Now, it's possible that that shell casing was
5 fired the same night?

6 A Possibility, yes.

7 Q And that could indicate the presence of another
8 gun?

9 A Could, yes, sir.

10 Q Now, let's talk about the bullet that you
11 analyzed.

12 So you received a fired bullet for analysis,
13 correct?

14 A No, sir.

15 MR. LUCAS: Permission to approach the witness,
16 your Honor.

17 THE COURT: Sure.

18 MR. LUCAS: I'm going to withdraw that question,
19 your Honor.

20 THE COURT: All right.

21 BY MR. LUCAS:

22 Q Now, let's talk about your certification briefly.
23 Tell the jury what comparison photos are used for in
24 your line of work.

25 A I actually did not use comparison photos. When I

1 do my work at the office, every work that is done is
2 done, peer reviewed by a second examiner where we
3 actually do side-by-side comparisons and we sit
4 together. We don't do the photographs for those
5 comparisons.

6 Q Tell the jury what bench notes are.

7 A Bench notes, depending on the laboratory, such as
8 what I actually dealt with in this case, it just does
9 the item number, I do the -- like for this case as the
10 fired cartridge casings, there is a 1 FCC, which stands
11 for fired cartridge case, the caliber the manufacturer,
12 and what type of firing pin impression it had and the
13 way I actually identified it with marks on the casing
14 itself.

15 Q Now, you testified that you didn't provide any
16 comparison photos because you didn't do any?

17 A That's correct.

18 Q And you didn't provide the State with any bench
19 notes?

20 A Yes, sir, I did.

21 MR. LUCAS: Your Honor, we have a matter of law we
22 need to take up.

23 THE COURT: All right.

24 Ladies and gentlemen, I have to send you out one
25 last -- one more time. We're getting to the last time

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1 for today. Don't discuss the case.

2 (WHEREUPON, the jury exited open court at
3 4:02 p.m.)

4 THE COURT: Were you afraid you didn't receive
5 something?

6 MR. LUCAS: Yes, Your Honor. Our firearms expert
7 told us that we had not received any bench notes or
8 anything that would allow us to replicate this.

9 Permission to approach.

10 Q Are these what you considered to be bench notes
11 because I'm not sure that we have the same thing?

12 A Yes, sir. These are what I consider my bench
13 notes. I have the firearm bench notes, then the fired
14 cartridge casing bench notes. Then when I did the
15 rough draft report, my examiner comes in and signs and
16 dates where he agrees to my findings.

17 Q Okay. So how are you supposed to compare markings
18 using these?

19 A We don't use the notes for comparison. We
20 actually do a side-by-side comparison. And if someone
21 wishes to do any additional parts, they are more than
22 welcome to come in and look at the items through a
23 microscope or go to another person that we have.

24 Q Okay.

25 MR. LUCAS: Your Honor, I think what -- we have

1 everything. We have received these. That was my
2 concern as to whether there was any outstanding
3 discovery. I think that the terms used and then the
4 expectation of our firearms examiner, who insists on
5 doing things in a way that can be replicated and
6 reviewed and then this kind of system of oversight is a
7 little bit different.

8 THE COURT: Okay. So you do have everything?

9 MR. LUCAS: I seem to have everything that was
10 produced, your Honor.

11 THE COURT: Do you need time to look at it, or are
12 you ready?

13 MR. LUCAS: If I can have just one more minute,
14 please.

15 (WHEREUPON, the jury entered open court at
16 4:09 p.m.)

17 THE COURT: You can continue.

18 MR. LUCAS: Thank you, Your Honor.

19 Q All right. Mr. Armstrong, we were talking about
20 bench notes before we broke off and firearm -- well,
21 and comparison photos.

22 MR. LUCAS: Your Honor, if I may approach.

23 THE COURT: Sure.

24 BY MR. LUCAS:

25 Q Are those documents what you refer to as your

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1 bench notes?

2 A Yes, sir, they are.

3 Q Do those bench notes contain any information
4 regarding measurements that you made on the shell
5 casings?

6 A No, sir.

7 Q Any notes concerning the striations?

8 A No, sir.

9 Q Any notes concerning your comparisons?

10 A No, sir.

11 Q Thank you.

12 So it would be fair to say that those bench notes
13 do not provide any documentation of your work?

14 A They are notes of the work that I am working on.
15 They're so I can identify each item number and keep
16 everything separated, and then as I do my examination,
17 then I could actually do my report from those, yes.

18 Q Now, without specific notes concerning the
19 comparison concerning the striations, how could anyone
20 ever review your report for accuracy?

21 A Because my report is viewed by another examiner
22 side by side. We don't actually take photographs
23 because photographs can be manipulated and have false
24 numbers added to them. That's why we have another
25 examiner come in and sit down with the exact same

1 evidence and do the exact same type of examination as I
2 did for the comparison.

3 Q Does that other examiner document their work?

4 A He signed the rough draft report with the date
5 that he had done the examination as well.

6 Q But other than signing the report, he does not do
7 anything that would allow someone else to replicate his
8 results?

9 A Correct, because manipulation can take place in
10 taking photographs. I can make a photograph show any
11 kind of image we need to. That's why we don't take
12 photographs to show any of that work as well.

13 Q Now, the scientific method requires keeping
14 precise measurements and records, right?

15 A Okay.

16 Q And the purpose of that is reproducibility?

17 A Another reason we don't take photographs for
18 reproducibility parts, on firearms, if it wants to be
19 reproduced, all we have to do is take the firearms,
20 test fire them again or the shell casings, sit down
21 with a microscope and look at them once again and have
22 a true representation of the case and not just photo
23 documentation of it.

24 Q The purpose of keeping precise measurements and
25 records is so that you can replicate work, correct?

1 A Well, I can't replicate this without a firearm.

2 Q And to ensure that someone else can take the same
3 measurements and replicate your conclusions?

4 A Well, there's no official measurements to take on
5 a fired cartridge case. You're actually just looking
6 at striations that are transferred. The measurements
7 would come in fired bullet specimens. Those are fairly
8 unique to those firearms. But the fired cartridge
9 casings, those are going to be completely different.

10 Q So are you telling me that your review is not
11 scientific?

12 A Yes, sir, it is scientific.

13 Q Well, then, if it were scientific, could not
14 another party look at your measurements, your data, and
15 then replicate the results?

16 A If a person only takes what is written down on a
17 firearm case such as this, I think they would be doing
18 themselves an unjust service because to really do a
19 true identification, you need to actually look at the
20 evidence itself compared to itself, not with a
21 photograph.

22 Q That process sounds fairly subjective.

23 A For our purposes, for our laboratory, we do not
24 take photographs because the examination is done with a
25 peer review side by side looking at the exact same

1 evidence as submitted.

2 Q Tell the jury what ASCLD is.

3 A It's an accreditation.

4 Q That's the American Society of Crime Laboratory
5 Directors?

6 A Yes, sir.

7 Q And that organization accredits crime labs?

8 A They do.

9 Q Your lab is not ASCLD accredited, is it?

10 A No, sir, we are not.

11 Q But if it were, your failure to keep precise
12 records and measurements could result in the loss of
13 accreditation, couldn't it?

14 A Depends on how the policy and procedures are
15 written. ASCLD accredits the policy and procedures
16 that are given to them, not necessarily that actually
17 dictates how you have to do the examinations.

18 Q Now, circling back, just to reiterate, you
19 examined the firearm in this case?

20 A Yes, sir.

21 Q The .380?

22 A Yes, sir.

23 Q And you found it to be operable?

24 A Correct.

25 Q Thank you.

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1 MR. LUCAS: Nothing further.

2 THE COURT: All right. Anything on redirect?

3 REDIRECT EXAMINATION

4 BY MR. OVERBY:

5 Q Mr. Armstrong, now, you testified or now you work
6 for the Greenville County Department of Public Safety?

7 A Correct.

8 Q And in regards to requests for your expertise,
9 what other agencies ask you for your evaluations?

10 A I've been given -- I have had requests come from
11 at least 27 different agencies throughout the Upstate
12 and throughout South Carolina.

13 Q In fact, today alone, how many?

14 A Today alone, I have been requested by four
15 different agencies.

16 Q Okay. Now, have you ever been denied as an expert
17 in any court?

18 A No, sir.

19 Q And as part of Greenville County, you're the
20 director of the lab for Greenville County Department of
21 Public Safety?

22 A Yes.

23 Q Is an independent expert allowed to take a look at
24 the evidence in a particular case?

25 A As far as I know of, yes, sir, they can.

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1 Q And make their own determination?

2 A Yes, sir, they can.

3 MR. OVERBY: No further questions, Judge.

4 THE COURT: All right. Thank you, sir. You can
5 step down and be released from any subpoena.

6 MR. OVERBY: May it please the Court, your Honor,
7 the State calls Meghan Fletcher to the stand.

8 **MEGHAN FLETCHER,**

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 THE CLERK: If you would take the witness stand,
11 please, ma'am, and state your name and spell your last
12 name for the reporter, please.

13 THE WITNESS: Meghan Fletcher, F-l-e-t-c-h-e-r.

14 **DIRECT EXAMINATION**

15 BY MR. OVERBY:

16 Q Where are you employed, Ms. Fletcher?

17 A I'm employed by the South Carolina Law Enforcement
18 Division in the trace evidence laboratory.

19 Q And what do you do for the trace evidence
20 laboratory?

21 A I perform various analyses for the trace evidence
22 department including fire debris, paint, fibers, tape,
23 bank dye analysis, glass, and gunshot primer residue.

24 Q And with respect to gunshot primer residue, have
25 you received any training and experience in that?

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1 A Yes, sir. I underwent a year-long training
2 program at SLED, and that consisted of written,
3 practical, and oral examinations. I also trained under
4 another court-qualified analyst and worked various
5 cases with them and under limited supervision.

6 Q What sort of education or background do you have
7 in terms of your responsibilities?

8 A I have a bachelor's degree from Chatham College in
9 biochemistry and English. I also have a Master's of
10 Forensic Science from Marshall University in forensic
11 chemistry and computer forensics.

12 Q And with respect to testifying, as far as your
13 expertise, how many times have you testified in State
14 or Federal court?

15 A Approximately 18 times.

16 Q And with respect to -- about how many times have
17 you conducted a GSR or a gunshot residue primer
18 analysis?

19 A I have conducted analyses in excess of 200 cases.

20 Q And how many times have you testified and been
21 qualified as an expert in gunshot residue primer?

22 A 13 times.

23 MR. OVERBY: At this time, your Honor, I would
24 like to offer Ms. Fletcher as an expert in the area of
25 gunshot residue analysis.

1 THE COURT: Any objection?

2 MR. LUCAS: Without objection. No questions, your
3 Honor.

4 THE COURT: Without objection.

5 BY MR. OVERBY:

6 Q Ms. Fletcher, tell us what gunshot residue is.

7 A So gunshot residue is everything that comes out of
8 a gun when it's fired. That includes the smoke, the
9 fire, fragments of the bullets, as well as particles
10 that are characteristic of primer residue.

11 And those particles that are characteristic of
12 primer residue are microscopic and molten, which means
13 they kind of look like they underwent high heat and
14 pressure. And they contain the elements lead, barium,
15 and antimony.

16 Q And when you do an analysis for gunshot residue,
17 what are you looking at?

18 A We're looking at microscopic particles. So we use
19 a very strong microscope. It's called a scanning
20 electron microscope with an energy dispersive x-ray
21 detector, and that allows us to see very small
22 particles, 1 micron -- 1 micrometer to 10 micrometers.

23 If you think about a strand of human hair, it's
24 usually around 100 micrometers, so that means that you
25 could fit anywhere between a hundred particles and ten

1 particles of gunshot primer residue on a single width
2 of hair. So very, very small particles, and we're
3 looking to determine whether they contain the elements
4 lead, barium, and antimony.

5 Q Now, when you are looking at these various things,
6 what do these samples come to you in?

7 A They come to us in a gunshot residue kit, and a
8 gunshot residue kit consists of either two or four
9 sample particle lifts. What they basically look like
10 is a stamp with a sticky surface. And depending on the
11 type of kit used, it could contain two or four. If it
12 contained four, a sample was collected from the right
13 palm of an individual, the right back of their hand,
14 the left palm of their hand, and the left back of their
15 hand.

16 Q And were you asked to look at gunshot residue kits
17 associated with the case you're here to testify in
18 today?

19 A Yes, sir.

20 Q Whose kits were you asked -- what kits
21 specifically were you asked to look at?

22 A May I refer to my notes?

23 Q Yes, ma'am.

24 A The gunshot residue kits that I analyzed in this
25 particular case were from Morgan Allie Rhodes and Ahmed

1 Issam Fallous.

2 Q And what were your findings as to Morgan Allie
3 Rhodes?

4 A For the GSR kit collected from Morgan Allie
5 Rhodes, one particle characteristic of gunshot primer
6 residue was found. In general, particles
7 characteristic of gunshot primer residue are
8 microscopic, molten particles that contain the elements
9 lead, barium, and antimony.

10 Gunshot primer residue can come from discharging a
11 firearm, being in the vicinity to the discharge of a
12 firearm, or coming into contact with a surface that has
13 gunshot primer residue on it.

14 Q And what were your findings as to Mr. Ahmed
15 Fallous?

16 A Particles characteristic of gunshot primer residue
17 were found. In general, particles characteristic of
18 gunshot primer residue are microscopic, molten
19 particles that contain the elements lead, barium, and
20 antimony.

21 Gunshot primer can come from being in the vicinity
22 to the discharge of a firearm to including sustaining a
23 gunshot wound, discharging a firearm, or coming in
24 contact with a surface that has gunshot primer residue
25 on it. No information can be provided as to the

1 likelihood of any of these scenarios.

2 Q Well, that is a very, very lengthy disclaimer, if
3 you don't mind my saying. Why do you do that in your
4 report?

5 A We put this in our reports because there is no way
6 that we can distinguish between a victim who has
7 sustained a gunshot wound. The gunshot residue that is
8 present on them, we can't distinguish between them
9 being the victim and from them firing or just handling
10 something that has gunshot residue on it.

11 Q And why is that?

12 A Gunshot residue looks the same. If you're a
13 shooter, if you're a bystander, if you're a victim, it
14 all looks the same to us.

15 Q And with respect to gunshot residue, you're
16 indicating that a victim can have gunshot residue on
17 them, correct?

18 A That's correct, sir. In over 75 percent of our
19 cases that we analyze at SLED, the victim is positive
20 for the presence of gunshot primer residue.

21 Q Well, why is that?

22 A Because the majority of gunshot primer residue
23 comes out of the muzzle of the firearm, it goes along
24 with the bullet. So it's directed in the same
25 direction as the bullet.

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1 Q Okay. So it's directed in the same direction as
2 the bullet.

3 Does it -- I guess that means that -- does that
4 mean that they fired a firearm?

5 A No, sir.

6 Q So the presence of gunshot powder residue, it is
7 your opinion that the presence of gunshot powder
8 residue -- or gunshot primer residue --

9 MR. LUCAS: I'm going to object to leading, your
10 Honor.

11 THE COURT: Don't lead. Just ask her.

12 BY MR. OVERBY:

13 Q What is your opinion about victims who have
14 gunshot residue, about whether or not victims with
15 gunshot residue fired a gun?

16 A I cannot distinguish between the presence of
17 gunshot residue on them because they sustain a gunshot
18 wound or because they fired a gun. There is no
19 difference.

20 Q Well, I mean, speaking as to Ms. Rhodes, what
21 about people who are bystanders?

22 A Bystanders also have gunshot residue on them, and
23 in at least one study, there's been people that stood
24 one meter to the left and right and behind the shooter.
25 It's roughly three feet, one meter. And they also had

1 gunshot residue on them.

2 Q With respect to testing victims for gunshot
3 residue, how does SLED handle such matters?

4 A We will analyze a gunshot residue kit from a
5 victim; however, because in the majority of cases it's
6 not as probative, we do recommend that the analysis not
7 be completed.

8 Q What about nationwide?

9 A We are one of only two labs that I'm aware of that
10 perform gunshot residue kits -- or perform the analysis
11 on gunshot residue kits collected from the victim of a
12 gunshot wound.

13 Q And what is the other state?

14 A Oklahoma.

15 Q With respect to gunshot residue, does it just stay
16 in the same place once it lands, or what is the deal
17 with it?

18 A So gunshot residue is a very fragile piece of
19 evidence. It is very easily transferred. It's very
20 easily removed. You can remove it by washing your
21 hands, by putting your hands inside your pockets, by
22 wiping them on your pants.

23 In our laboratory, we do not test a kit off of a
24 live person after six hours because between the hours
25 of four and six, the amount of gunshot residue from a

1 single incident decreases so significantly.

2 Q How about five days?

3 A We would not test that kit.

4 Q And with respect to these particular kits, what
5 type of kit was used?

6 A It was a Tri Tech gunshot residue kit with four
7 lifts. It has a right palm, a right back, a left palm,
8 and a left back.

9 Q What is SLED's current position about this
10 particular kit?

11 A We no longer distribute four-lift kits. What we
12 distribute now are two-lift kits. So only one lift is
13 collected from the right hand and only one lift is
14 collected from the left hand. And that's basically
15 because there is no significance as to whether the
16 gunshot residue was found on the palms or backs of the
17 hands.

18 Q How did it used to be tested? Why do we even have
19 these types of kits?

20 A There was a time where in the community it was
21 discussed whether gunshot residue could distinguish
22 between being a victim or a shooter. Say that the
23 victim was in a defensive posture, they might have it
24 on their palms as opposed to the backs of their hands.
25 If they were a shooter, then it might be on the backs.

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1 That is no longer substantiated.

2 Q When did that start changing?

3 A It's been a movement since I've been at SLED, so
4 it's been a movement in the community for at least
5 11 years.

6 Q You said "the community." Who is the community?

7 A The entire gunshot residue primer community, which
8 is experts from around the world.

9 Q What is your opinion then about the presence of
10 gunshot residue on Mr. Fallous?

11 A I cannot distinguish whether he fired a gun. He
12 did sustain a gunshot wound, so I do know he was in the
13 vicinity. I don't know if he touched something that
14 had gunshot residue on it.

15 MR. OVERBY: Your Honor, I am showing you -- or
16 I'm sorry.

17 Q I'm going to show you what I have marked as
18 State's Exhibit Number 27.

19 What is that, ma'am?

20 A It appears to be a copy of the report that I
21 issued in SLED Lab Number L1615028.

22 Q And is that the SLED lab number for the case that
23 you're here to testify to today?

24 A Yes, sir.

25 MR. OVERBY: At this time I would like to move

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1 State's Exhibit 27 into evidence.

2 THE COURT: Any objection?

3 MR. LUCAS: Without objection.

4 THE COURT: Without objection.

5 (WHEREUPON, State's Exhibit Number 27 was admitted
6 into evidence.)

7 MR. OVERBY: I have no further questions for you.
8 Please answer any questions defense counsel may have.

9 THE WITNESS: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. LUCAS:

12 Q Ms. Fletcher, your lab is attached to SLED, is it
13 not?

14 A Yes, sir. We are part of the South Carolina Law
15 Enforcement Division.

16 Q Okay. Now, as part of that, your lab usually
17 conducts analysis for the prosecution?

18 A We are directed by submitting agencies to conduct
19 analyses which are law enforcement agencies.

20 Q So virtually all of the analysis you do is for law
21 enforcement agencies?

22 A Yes, sir.

23 Q And you almost always testify for the prosecution?

24 A I have testified for both sides.

25 Q Would it be fair to say that you testify for the

1 prosecution most of the time?

2 A Most of the time, yes, sir.

3 Q And that would be because SLED is analyzing
4 evidence for the prosecution?

5 A We're analyzing evidence in a particular case.
6 It's not for a particular side.

7 Q Perhaps I misspoke, but you're analyzing evidence
8 at the request of a law enforcement agency?

9 A That is correct.

10 Q From whom you receive that evidence?

11 A Yes, sir.

12 Q And from whom you receive a request to analyze
13 evidence?

14 A Yes, sir.

15 Q Now, let's talk about Morgan Rhodes' gunshot
16 residue kit.

17 You found one particle of gunshot residue in that
18 kit, correct?

19 A That's correct.

20 Q And that particle was found on the back of her
21 hand?

22 A Can I refer to my notes?

23 Q You certainly may. And I have a copy as well if
24 you need to refer to mine.

25 A Yes. That was found on the left back of her hand.

1 Q And not her palm?

2 A No, sir.

3 Q Now, let's talk about the GSR kit from Ahmed
4 Fallous.

5 You tested a GSR kit from Mr. Fallous too?

6 A Correct.

7 Q And that GSR kit consisted of swabs from both of
8 his hands?

9 A They're not actually swabs. They're particle
10 lifts, but they were collected from the four areas of
11 his hands.

12 Q So it was a particle lift from each hand?

13 A Well, two particle lifts from each hand, one from
14 the palm, one from the back from each hand.

15 Q And you found gunshot residue particles?

16 A That's correct.

17 Q In fact, you found four particles of gunshot
18 residue?

19 A That's correct.

20 Q And those particles were from the back of his left
21 hand?

22 A That is where I found them, yes.

23 Q Now, to get on to the mechanics of gunshot
24 residue, when you fire a semi-automatic handgun, it
25 automatically ejects the spent cartridge casing?

Meghan Fletcher - Cross by Mr. Lucas

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1 A Yes, sir, it does.

2 Q Now, when that cartridge casing ejects, gunshot
3 residue is also expelled from the gun along with the
4 cartridges?

5 A Yes. Gunshot residue in a semi-automatic gun can
6 come out of the muzzle as well as the ejector port from
7 that semi-automatic pistol.

8 Q And this creates a cloud of gunshot residue from
9 the primer?

10 A Yes.

11 Q And that cloud could fall onto the hands of the
12 person firing the gun?

13 A Yes, sir, it could.

14 Q Now, there are other ways for gunshot residue to
15 get onto a person as well in addition to firing a gun,
16 right?

17 A Correct.

18 Q One of those would be transfer. So by touching
19 something else with gunshot residue on it?

20 A Yes, secondary transfers. So if something had
21 gunshot residue on it, I could pick it up. Tertiary
22 transfer is also possible.

23 So if you fired a weapon and I shook your hand, I
24 may get gunshot residue on my hand and then I may be
25 able to transfer it to another individual.

1 Q And, likewise, like you talked about earlier,
2 being in the vicinity of a discharge is another way of
3 getting gunshot residue onto a person?

4 A Yes, sir.

5 Q Now, four particles of gunshot residue, that's
6 getting kind of high for a transfer, isn't it?

7 A It can be. It would depend on the amount of time
8 that happened between the incident and the collection,
9 but also depend on how many particles were on the
10 original surface to begin with.

11 Q Now, you talked about the distinction between the
12 front of the hand and the back of the hand. So in
13 terms of transfer, you will agree with me when you grab
14 something, usually you do it with the palm of your
15 hand, correct?

16 A That is correct.

17 Q If I was to reach out and grab this light, I would
18 do it with the palm of my hand, right?

19 A Correct.

20 Q Not with the back of my hand?

21 A In that scenario, yes.

22 Q So is it fair to say that if you think that in
23 this case transfer is a possibility, you would be
24 saying that Mr. Fallous would be touching something
25 with the back of his hand?

1 A Well, transfer also works between the hands. So
2 if you had it on your palm originally, you could
3 transfer it to the back of your hand by simply touching
4 your other hand.

5 Q Okay. Now, would it be fair to say that four
6 particles is also kind of high for being in the
7 vicinity of a discharge as well?

8 A I would not think so, no.

9 Q You don't think so. And would it be fair to say
10 that four particles or the presence of four particles
11 suggests that someone likely fired a gun?

12 A No, I would not say that.

13 Q So it's your position that the number of particles
14 present has no bearing upon whether or not someone
15 fired a gun?

16 A That is my position, yes.

17 Q No further questions. Thank you.

18 THE COURT: All right. Anything on redirect?

19 MR. OVERBY: Just one or two questions.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. OVERBY:

23 Q Do gunshot victims get gunshot residue on them
24 solely from transfer?

25 A No. Gunshot residue actually travels along with

1 the bullet. It's coming -- the majority of it is
2 coming out of the muzzle of a gun, so it's directed
3 toward the target. In this particular case, somebody
4 who sustained a gunshot wound, they would be the target
5 and, therefore, they would be within the cloud of
6 gunshot residue that's coming out of that gun.

7 Q So there's no significant -- no significance that
8 can be taken from -- what significance can be taken
9 from the fact that he has it on his left palm or left
10 back?

11 A I have no opinion whether that gunshot residue on
12 the left back of his hand came from sustaining a
13 gunshot wound or firing or touching something that had
14 gunshot primer residue on it.

15 MR. OVERBY: No further questions.

16 THE COURT: All right. You can be excused. Are
17 you under subpoena?

18 THE WITNESS: Yes, sir.

19 THE COURT: Any objection to her being released?

20 MR. LUCAS: None.

21 MR. OVERBY: No.

22 THE COURT: You can be released. Y'all come over
23 here. I'm going to find out about your next witness.

24 (WHEREUPON, a bench conference was held off the
25 record in the presence of the jury, but out of the

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2 County of Anderson In the Court of General Sessions

3
4 State of South Carolina) 2016-GS-04-02402
5) 2016-GS-04-02403
6 -vs-) 2016-GS-04-02404
7 Stephen Grant Parten,) 2016-GS-04-02405
8 Defendant.) 2019-GS-04-00021
9 _____) February 13, 2019
Volume 3 of 5
Pages 313-443
Transcript of Record

10
11 B E F O R E:

12 The Honorable J. Cordell Maddox, Jr., Judge;
13 and a jury.

14
15 A P P E A R A N C E S:

16 Stanford Lee Overby, Jr., Esquire
17 Catherine Townsend Huey, Esquire
Attorneys for the State

18 A. Hadden Lucas, Esquire
19 Victoria V. Gurney, Esquire
Attorneys for Defendant

20
21
22 Reported by:
23 Diane L. Marcengill, RPR, CRR, CRC
24 Circuit Court Reporter
25

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Marked	Description	I.D.	Admitted
28	Aerial map-Wrenn Way		318
29	Aerial map-all locations		319
30	Photo-Rhodes		324
31	Photo-Rhodes		324
32	Photo-Rhodes		324

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1	33	Photo-Rhodes	324
	34	Photo-Ford truck	333
2	35	Photo-Ford truck	333
	36	Aerial photo-[REDACTED].	334
3	37	Aerial Photo-Hopewell	334
		collision to Long Rd.	
4	38	Aerial photo-overall map	335

5

For the Defendant:

6

Marked	Description	I.D.	Admitted

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None offered.

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1 Wednesday, February 13, 2019

2 (WHEREUPON, the jury entered open court at
3 10:29 a.m.)

4 THE COURT: All right. Ladies and gentlemen,
5 thanks again for your patience. We'll continue with
6 the State's evidence.

7 MR. OVERBY: At this time the State calls
8 Investigator Nathan Mitchell to the stand.

9 **NATHAN MITCHELL,**
10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 THE CLERK: Please take the witness stand and
12 state your name and spell your last name for the
13 reporter, please.

14 THE WITNESS: Nathan Mitchell, M-i-t-c-h-e-l-l.

15 DIRECT EXAMINATION

16 BY MR. OVERBY:

17 Q Where are you employed, sir?

18 A At the Anderson County Sheriff's Office.

19 Q And what is your present position at the Anderson
20 County Sheriff's Office?

21 A I'm a sergeant in the detective division within
22 the office.

23 Q And what are some of your duties and
24 responsibilities as a detective at the Anderson County
25 Sheriff's Office?

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1 A Investigating crimes, major crimes, collecting the
2 evidence, responding to scenes, looking at crime
3 scenes, and talking to witnesses, talking to suspects.

4 Q And how long have you been in this position?

5 A 12 years.

6 Q And how long have you been with law enforcement?

7 A 18 years.

8 Q And is that all with the Anderson County Sheriff's
9 Office?

10 A No, sir. My first two years I spent with Belton
11 City Police Department.

12 Q Were you in this position in the early morning
13 hours of May 26, 2016?

14 A Yes, sir.

15 Q And were you on call at that time?

16 A Yes, sir.

17 Q Are you the lead investigator in this case?

18 A Yes, sir.

19 Q What are some of the responsibilities of the lead
20 investigator?

21 A To take the case as a whole, examine every piece
22 of evidence that comes in, delegate responsibilities to
23 other detectives, and put the case together.

24 Q And you have been sitting in this courtroom this
25 whole time, correct?

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1 A Yes, sir.

2 Q Are you familiar with all the facets of the
3 investigation we have seen so far?

4 A Yes, sir.

5 Q One important fact we haven't touched on yet is
6 where this all began.

7 Where did these parties come together?

8 A [REDACTED].

9 Q Okay. And is that in Anderson County?

10 A Yes, sir.

11 Q I'm going to show you what's been marked as
12 State's Exhibit No. 28.

13 Can you tell me what that is, sir?

14 A It's an aerial shot of Wren Way and the roads
15 surrounding it.

16 Q Does that fairly and accurately depict the
17 location of where this all began?

18 A Yes, sir.

19 MR. OVERBY: At this time the State moves
20 Exhibit 28 into evidence.

21 MR. LUCAS: Without objection.

22 THE COURT: Without objection.

23 (WHEREUPON, State's Exhibit Number 28 was admitted
24 into evidence.)

25 BY MR. OVERBY:

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1 Q Can you tell me who owns this home?

2 A It is the residence of Ahmed Fallous and owned by
3 family members.

4 Q How far is that from the Centerville Road Bridge?

5 A About three miles.

6 Q I'm going to show you what's been marked as
7 State's Exhibit Number 29. Can you tell me what that
8 is?

9 A It's an aerial overshoot view showing the relation
10 from Wren Way to Surfside or the Centerville Road
11 Bridge.

12 Q Does that fairly and accurately represent the
13 travel from those two locations?

14 A Yes, sir.

15 MR. OVERBY: At this time the State would move
16 State's Exhibit 29 into evidence.

17 MR. LUCAS: Without objection.

18 THE COURT: Without objection.

19 (WHEREUPON, State's Exhibit Number 29 was admitted
20 into evidence.)

21 BY MR. OVERBY:

22 Q Now, what distance did you say was between those
23 two?

24 A Estimate, about three miles.

25 Q And which direction is Anderson in relation to

Nathan Mitchell - Direct by Mr. Overby

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1 this?

2 A Anderson will be towards the right side of the
3 photograph.

4 Q Which direction is Pendleton?

5 A Towards the left.

6 Q Okay. Thank you.

7 Now, did you respond to the scene at the
8 Centerville Road Bridge?

9 A Yes, sir.

10 Q Okay. I'm going to show you -- I'm going to use
11 State's Exhibit Number 6 -- this is already in
12 evidence -- as kind of a guide here.

13 If you wouldn't mind, Investigator Mitchell, if
14 you wouldn't mind stepping down for a minute.

15 Can you tell me where Ahmed Fallous' body was
16 located?

17 A In this little area right here before the bridge
18 in the roadway.

19 Q Who called 911 in this case?

20 A John Gibby.

21 Q And did you talk with Mr. Gibby?

22 A Yes, sir.

23 Q What is your understanding of where he was?

24 A It's not pictured, but there is a fishing dock
25 right along this area, and this is where he was located

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1 when the incident happened.

2 Q Now, with respect to the shell casings in this
3 particular case, about where on the bridge were they
4 found?

5 A All the shell casings were found on the bridge
6 around about where this red dot is.

7 Q And what kind of pattern were they found in?

8 A The shell casings were in a line essentially going
9 from this direction towards Anderson this way towards
10 the old --

11 Q Towards where Ahmed Fallous' body was found?

12 MR. LUCAS: Object to leading.

13 THE COURT: Please don't lead.

14 BY MR. OVERBY:

15 Q Who were they going toward?

16 A They were going towards Mr. Fallous.

17 Q What kind of shell casings were found at the
18 scene?

19 A .45 caliber.

20 Q And what about any other kind of calibers?

21 A The only other shell casing was a 9mm shell
22 casing.

23 Q And what did you observe -- did you observe that
24 9mm shell casing?

25 A I did.

1 Q And what did you observe about it?

2 A It appeared to have oxidation on it like it had
3 been there for some time.

4 Q And with respect to this particular area, what is
5 this area like?

6 A This area is heavily traveled. There is a lot of
7 road traffic every day on this bridge. And just about
8 every day there's somebody down here fishing, so it's a
9 very, very popular area for people to hang out, fish,
10 whatnot.

11 Q What about what comes with fishing typically?

12 A Well, where there is a lot of people and fishermen
13 and stuff, there will be traffic.

14 Q Now, what, if anything, else was found that was
15 not related to this case?

16 A Somewhere along that bridge was another cell phone
17 that was not related to this case.

18 Q Okay. What about blood?

19 A The only blood I observed was around Mr. Fallous
20 where he was found when they were working on him trying
21 to resuscitate him.

22 Q What about on the bridge?

23 A No, sir.

24 Q What kind of evidence did you see of vehicles that
25 had been used in the case or that were in the case?

Nathan Mitchell - Direct by Mr. Overby

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1 A Somewhere around this red dot there was a set of
2 tire tracks that was, as you're traveling towards
3 Pendleton, it would be in the oncoming lane.

4 Q So it would be in the oncoming lane?

5 A Yes, as you're traveling from -- as you're going
6 towards Pendleton, it would be in the oncoming lane.
7 In other words, it was in this, this lane closest to
8 where the red dot is.

9 Q Gotcha. Understood. Thank you.

10 And how did those tire marks appear to you?

11 A They appeared to be fresh.

12 Q Now -- thank you very much. You can actually go
13 back to the witness stand, please.

14 Now, did you speak to Ms. Morgan Rhodes in this
15 case?

16 A Yes, sir.

17 Q Where did you speak with her?

18 A At the Anderson emergency room.

19 Q And about what time did you speak with her?

20 A In the early morning hours before daylight.

21 Q And how did she look to you when you saw her?

22 A She looked like she had been in some sort of an
23 assault. She was bloody.

24 Q I'm going to show you what's been marked as
25 State's Exhibit Number 30 through 33.

Nathan Mitchell - Direct by Mr. Overby

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1 Can you tell me what these are photographs of,
2 sir?

3 A These are photographs of Ms. Rhodes and her
4 injuries.

5 Q Where were they taken?

6 A At the hospital.

7 Q Do they fairly and accurately reflect the way you
8 observed Ms. Rhodes on that particular evening?

9 A Yes, sir.

10 MR. OVERBY: At this time the State would move
11 State's Exhibit Number 30 through 33 into evidence.

12 THE COURT: Any objection?

13 MR. LUCAS: On 403 grounds, calculated to be an
14 emotional appeal.

15 THE COURT: Let me look at them.

16 I'll overrule the objection, but he's protected
17 for the record.

18 (WHEREUPON, State's Exhibit Numbers 30 through 33
19 were admitted into evidence.)

20 BY MR. OVERBY:

21 Q Now, this is State's Exhibit Number 30.

22 What sort of injuries did you observe Ms. Rhodes
23 to have?

24 A Some sort of laceration to her head.

25 Q Okay. What about on her hands?

Nathan Mitchell - Direct by Mr. Overby

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1 A Her hand appeared to -- one of her hands appeared
2 to have a broken finger and other, like, claw marks on
3 her other hand.

4 Q So she had a laceration to the head. And with
5 respect to these claw marks, are they in this
6 photograph?

7 A Yes, sir. You will see the claw marks are about
8 here, and these scratches look like claw marks.

9 Q And the fractured finger?

10 A Yes, sir.

11 Q What was her demeanor like?

12 A She was just very hysterical, very emotional, like
13 she had been through some sort of traumatic experience.

14 Q How many times have you talked to people who were
15 under the influence of drugs in any particular
16 circumstance?

17 A Hundreds of times.

18 Q How many times have you talked to people who have
19 suffered a traumatic incident?

20 A Hundreds.

21 Q Which way did she seem?

22 A She seemed like she had been through some sort of
23 traumatic experience.

24 Q Now, did you attend the autopsy of Mr. Fallous in
25 this case?

1 A Yes, sir.

2 Q Why did you attend that autopsy?

3 A To learn more of his injuries and cause and manner
4 of death.

5 Q And what did you observe at the autopsy?

6 A He had a wound to his forehead, appeared to be
7 some kind of laceration, and he had what appeared to be
8 a gunshot wound to the left of his back that entered
9 the left of his back and came out the front of -- his
10 right front.

11 Q How many gunshot wounds did you observe?

12 A Hundreds.

13 Q What did you observe about this one?

14 MR. LUCAS: I'm going to object to that, your
15 Honor. He's not a medical examiner, isn't fit to
16 testify on that point. The jury has heard from
17 Dr. Woodard concerning the autopsy.

18 THE COURT: I'm going to send y'all out. I'm
19 going to proffer it and see what he says.

20 Please don't talk about this case. You'll have to
21 be out for ten minutes.

22 (WHEREUPON, the jury exited open court at
23 10:43 a.m.)

24 THE COURT: Okay. Let's proffer that just to make
25 sure.

1 VOIR DIRE EXAMINATION

2 BY MR. OVERBY:

3 Q What did you observe about the gunshot?

4 A It appeared to be a large caliber.

5 MR. OVERBY: That's it.

6 MR. LUCAS: He's not an expert, your Honor. He's
7 not qualified to offer that opinion. The correct
8 person --9 THE COURT: You can ask him some questions if you
10 want to establish that.

11 VOIR DIRE CROSS-EXAMINATION

12 BY MR. LUCAS:

13 Q Tell me about your education, Detective Mitchell.

14 A I am currently a college student.

15 Q So your highest level of educational attainment
16 would be a high school degree or an associate's degree?

17 A High school.

18 Q Okay. What are you taking classes in right now?

19 A Anderson University.

20 Q What are you studying?

21 A Business.

22 Q Business. Not biology?

23 A No, sir.

24 Q Not forensics?

25 A Through my years of being an investigator, I have

1 observed several different wounds of different
2 calibers. In my opinion, based on my experience, I
3 observed it to be a large caliber wound.

4 Q But you don't have any medical training?

5 A No, sir.

6 Q You're not a forensic pathologist?

7 A No, sir.

8 Q You don't have any specific training in the size
9 of gunshot wounds?

10 A I have attended several homicide courses.

11 Q What homicide courses have you attended?

12 A Homicide investigations by IPTM, advanced
13 homicides by IPTM.

14 Q When did you attend those trainings?

15 A 2017.

16 Q Both trainings were in 2017?

17 A I think so.

18 Q Okay. How long was the first training you
19 referenced?

20 A A week.

21 Q During the course of that week, how much of the
22 agenda was dedicated towards recognizing and
23 identifying gunshot wounds?

24 A I can't give you the exact hours.

25 Q During that week did you receive any training in

Nathan Mitchell - Direct by Mr. Overby (Resumed)

State v. Stephen Grant Parten 2016-GS-04-02402-05; 2019-GS-04-00021 February 13, 2019

1 distinguishing between the sizes of gunshot wounds
2 based on caliber?

3 A We were shown several different photographs of
4 different injuries ranging from small caliber to rifle
5 and shotgun.

6 Q So you were just shown a couple of photographs?

7 A Throughout the training, yes.

8 Q How long did that take? More or less than ten
9 minutes?

10 A More, more than ten minutes.

11 Q How much -- more or less than 30 minutes?

12 A I can't give you an exact time frame of what we
13 spent on that.

14 Q Are you familiar with the literature concerning
15 identifying such wounds?

16 A No, sir.

17 Q Could you cite one study you have read?

18 A No, sir.

19 Q One scholarly article?

20 A No, sir.

21 Q So really you're just speculating?

22 A Yes, sir.

23 MR. LUCAS: Your Honor, we're moving to exclude
24 his testimony on that basis. He's admitted it's
25 speculation. It's also cumulative.

Nathan Mitchell - Direct by Mr. Overby (Resumed)

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1 THE COURT: I do think it's a little cumulative,
2 and because of that last question, let's avoid him
3 giving any opinion.

4 MR. OVERBY: Yes, your Honor.

5 THE COURT: Let me step out for just a second. Be
6 right back.

7 (WHEREUPON, a recess was taken from 10:46 a.m. to
8 10:52 a.m.)

9 (WHEREUPON, the jury entered open court at
10 10:52 a.m.)

11 DIRECT EXAMINATION (Resumed)

12 BY MR. OVERBY:

13 Q So where was the gunshot wound that you observed?

14 A There was a gunshot wound that entered the left
15 area of his back and exited the right front.

16 Q Now, by the time you had spoken to Ms. Rhodes, who
17 was your developed suspect?

18 A Stephen Parten.

19 Q Where was he at that time?

20 A I don't know.

21 Q Okay. And who owned the car that was seized in
22 this case?

23 A Stephen Parten.

24 Q That is the car we saw in the photographs?

25 A Yes, the Yukon.

Nathan Mitchell - Direct by Mr. Overby (Resumed)

State v. Stephen Grant Parten 2016-GS-04-02402-05; 2019-GS-04-00021 February 13, 2019

1 Q Well, how was the defendant caught?

2 A About five days later he was caught in Knoxville,
3 Tennessee.

4 Q Okay. And who caught him?

5 A U.S. Marshals Service.

6 Q Do you know how they caught him?

7 A From my understanding, through use of an
8 informant.

9 Q Now, what did you do and where did you say he was
10 caught again? I'm sorry.

11 A Knoxville, Tennessee.

12 Q Thank you.

13 And what did you do when he was caught?

14 A I traveled to Tennessee.

15 Q Did you see him at that time?

16 A I did.

17 Q And this was five days later?

18 A Yes, sir.

19 Q What was his appearance like at that time?

20 A It appeared that he had been living in the woods
21 for about five days. He was covered --

22 Q Why do you say that?

23 A He was covered in scratches, had insect bites.

24 Q What about any gunshot wounds?

25 A No, sir.

Nathan Mitchell - Direct by Mr. Overby (Resumed)

State v. Stephen Grant Parten

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1 Q What about any signs of a fight?

2 A No, sir.

3 Q What about any broken limbs?

4 A No, sir.

5 Q Can you tell me how big Mr. Parten is?

6 A Around 5-10, 175.

7 Q At that time?

8 A Yes.

9 Q What kind of vehicle was he caught in?

10 A A 2014 F-150.

11 Q Did you have a chance to observe that vehicle?

12 A Yes.

13 Q At this time I'm going to show you what's been
14 marked as State's Exhibits 34 and 35.

15 What are those photographs of, sir?

16 A A picture of a 2014 four-wheel drive F-150.

17 Q And is that the truck that Mr. Parten was caught
18 in?

19 A Yes, sir.

20 Q And do those fairly and accurately represent the
21 vehicle?

22 A Yes, sir.

23 MR. OVERBY: At this time the State would move
24 State's Exhibits 34 and 35 into evidence.

25 THE COURT: Any objection?

Nathan Mitchell - Direct by Mr. Overby (Resumed)

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1 MR. LUCAS: No objection.

2 (WHEREUPON, State's Exhibit Numbers 34 and 35 were
3 admitted into evidence.)

4 BY MR. OVERBY:

5 Q Now, did this vehicle belong to Mr. Parten?

6 A No, sir.

7 Q Where did this vehicle come from?

8 A It was stolen from [REDACTED] in the
9 Williamston area.

10 Q In the Williamston area?

11 A Yes, sir.

12 Q Do you know who owns this vehicle?

13 A Dan Ray.

14 Q I'm going to show you what's been marked as
15 State's Exhibit Number 36.

16 Can you tell me what this is?

17 A This is an aerial view of [REDACTED], [REDACTED]
18 [REDACTED]

19 Q And does that fairly and accurately represent the
20 location?

21 A Yes, sir.

22 MR. OVERBY: At this time the State would move
23 State's Exhibit 36 into evidence.

24 MR. LUCAS: No objection.

25 THE COURT: Without objection.

Nathan Mitchell - Direct by Mr. Overby (Resumed)

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1 (WHEREUPON, State's Exhibit Number 36 was admitted
2 into evidence.)

3 BY MR. OVERBY:

4 Q Now, where is this home in relation to where
5 Mr. Parten's abandoned vehicle was found?

6 A Roughly a mile or so through the woods.

7 Q Okay. Roughly a mile or so through the woods.

8 I'm going to show you what's been marked as
9 State's Exhibit Number 37.

10 Can you tell me what that is, sir?

11 A This is an aerial overshoot view of Long Road and
12 where the car was abandoned on Hopewell Road.

13 Q Does that fairly and accurately depict the area
14 that you -- as you know it?

15 A Yes, sir.

16 MR. OVERBY: At this time the State would move
17 State's Exhibit 37 into evidence.

18 MR. LUCAS: Without objection.

19 THE COURT: Without objection.

20 (WHEREUPON, State's Exhibit Number 37 was admitted
21 into evidence.)

22 BY MR. OVERBY:

23 Q And what do the two red dots here represent?

24 A The red dot up here, the top right is Long Road
25 where Mr. Ray lives. The dot down here at the lower

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1 left is where the car was abandoned on Hopewell Road.

2 Q Thank you, sir.

3 Are you familiar with the location of all the
4 events we've seen thus far?

5 A Yes, sir.

6 Q I'm going to show you what's been marked as
7 State's Exhibit Number 38.

8 Can you tell me what those are, sir?

9 A This is an aerial view of all the incidents.

10 Q Does that fairly and accurately represent the
11 location of all the incidents that we've heard today?

12 A Yes, sir.

13 MR. OVERBY: At this time the State would move
14 State's Exhibit Number 38 into evidence.

15 MR. LUCAS: Without objection.

16 THE COURT: Without objection.

17 (WHEREUPON, State's Exhibit Number 38 was admitted
18 into evidence.)

19 BY MR. OVERBY:

20 Q Now, turning your attention back to -- did all
21 these events occur in Anderson County, by the way?

22 A Yes, sir.

23 Q Now, turning your attention back to State's
24 Exhibit Number 37, what is the area like in between
25 those two locations?

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1 A Well, as you can see, it's not a very populated
2 area. There is a lot of farmland, pastures, woods,
3 ranging anything from chicken coops to goat barns or
4 whatever, but this is all farmland.

5 Q What about facilities for hunting?

6 A There's deer stands. There's bunches of deer
7 stands in this area.

8 Q What about sources of water?

9 A Yes, there is a creek -- well, probably a couple
10 creeks here.

11 Q Now, you said it's not very populated, but is it
12 completely uninhabited?

13 A No, sir. As you can see, there's a couple of
14 houses dotted through here. There are houses and
15 residences there.

16 Q So there's people that could come for help?

17 A Yes.

18 Q I have no further questions. Please answer any
19 questions defense counsel has for you.

20 A Yes, sir.

21 MR. LUCAS: Your Honor, we have a brief matter of
22 law and don't anticipate that it would take more than
23 five minutes.

24 THE COURT: All right.

25 Ladies and gentlemen, I have to send you out

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1 again. Please don't discuss the case.

2 (WHEREUPON, the jury exited open court at
3 11:02 a.m.)

4 MR. LUCAS: If we could approach briefly, your
5 Honor.

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

9 (WHEREUPON, the jury entered open court at
10 11:08 a.m.)

11 CROSS-EXAMINATION

12 BY MR. LUCAS:

13 Q Detective Mitchell, your investigation showed that
14 the decedent, Ahmed Fallous, had a gun, correct?

15 A Yes.

16 Q And that gun was found in his hand?

17 A Yes.

18 Q At Centerville Road Bridge?

19 A Yes.

20 Q In the early morning hours of May 26, 2016?

21 A Yes, sir.

22 Q And that gun has in fact been introduced into
23 evidence?

24 A Yes, sir.

25 Q And it is a Hi-Point .380 semi-automatic pistol?

1 A Yes, sir.

2 Q And that gun holds eight cartridges in the
3 magazine?

4 A I'm not sure.

5 Q And does it in fact hold one in the chamber in
6 addition to that?

7 A Yes.

8 Q And the gun that was recovered from Mr. Fallous
9 was loaded?

10 A Yes, sir.

11 Q And it had four cartridges in total inside of it?

12 A Yes, sir.

13 Q Three of which were in the magazine?

14 A Yes, sir.

15 Q And one of which was in the chamber?

16 A Yes, sir.

17 Q And when y'all collected the gun, it was made safe
18 by pulling back the slide and taking the bullet out of
19 the chamber?

20 A Yes, sir.

21 Q And all of that was submitted to Mr. Armstrong,
22 the firearms examiner?

23 A Yes, sir.

24 Q And is it also true that the decedent,
25 Mr. Fallous, had gunshot residue on him?

Nathan Mitchell - Cross by Mr. Lucas

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1 A Yes, sir.

2 Q On his left hand?

3 A Yes, sir.

4 Q And, specifically, four particles of gunshot
5 residue?

6 A That's what I learned.

7 Q And to back up a little bit about the gun, the
8 firearms examiner, Mr. Armstrong, he test fired that
9 handgun?

10 A I would assume.

11 Q Well, you're the lead investigator. Tell me.

12 A How he conducts his test I can't answer, but I
13 read his report where he found it to be operable.

14 Q So it's your understanding that that handgun was
15 in working condition?

16 A Yes, sir.

17 Q That it could be fired?

18 A Yes, sir.

19 Q Now, Detective -- well, Forensic Officer Proner
20 testified that he collected a cigarette lighter?

21 A Yes, sir.

22 Q At Hopewell Road?

23 A Yes.

24 Q And that was found in the grass?

25 A Yes, sir.

Nathan Mitchell - Cross by Mr. Lucas

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1 Q Right off the side of the road?

2 A Yes.

3 Q And he didn't even take a close-up photograph of
4 it, did he?

5 A No, sir.

6 Q That lighter wasn't fingerprinted?

7 A No, sir.

8 Q It wasn't processed for DNA?

9 A No, sir.

10 Q You could have ordered a test for touch DNA?

11 A Yes, sir.

12 Q That, you have ability to do so?

13 A Yes, sir.

14 Q And you chose not to do so?

15 A It was an oversight.

16 MR. LUCAS: Permission to approach the witness,
17 your Honor?

18 THE COURT: Yes, sir.

19 BY MR. LUCAS:

20 Q This is an arrest warrant for attempted murder,
21 correct?

22 A Yes, sir.

23 Q And that is -- this is issued by a magistrate
24 court judge, correct?

25 A Yes, sir.

Nathan Mitchell - Cross by Mr. Lucas

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1 Q At your request?

2 A Yes.

3 Q And this is dated May 26, 2016?

4 A Yes.

5 Q And it's -- the charge is for attempted murder of
6 Morgan Rhodes?

7 A Yes.

8 MR. OVERBY: Objection, your Honor, relevance.

9 MR. LUCAS: He's charged with attempted murder,
10 your Honor.

11 MR. OVERBY: What's the relevance of the warrant
12 itself, Judge?

13 MR. LUCAS: If I can be allowed to continue.

14 THE COURT: I'll allow you to answer.

15 BY MR. LUCAS:

16 Q Take a look at it real quick, please.

17 A Yes, sir.

18 Q Is there any mention in that arrest warrant of
19 anyone trying to blow up a car?

20 A No, sir. That wasn't known at the time.

21 Q Any mention of anyone trying to set a car on fire?

22 A No, sir.

23 Q Now, in terms of shell casings, law enforcement
24 collected a number of shell casings from the bridge,

25 correct?

1 A Yes, sir.

2 Q And all of the casings that were collected were
3 collected on the bridge?

4 A Yes, sir.

5 Q And there was seven .45s?

6 A Yes.

7 Q And one 9mm?

8 A Yes.

9 Q And the 9mm one was collected as well?

10 A Yes.

11 Q And in looking through your reports, I see that
12 officers looked in the brush by Mr. Fallous' gun for
13 additional shell casings, correct?

14 A Yes, sir.

15 Q And you're familiar with that scene, are you not?

16 A Yes.

17 Q There is a lot of leaves, dirt, logs, sticks in
18 that area?

19 A Yes, sir.

20 Q Do you know if anybody looked for casings with a
21 metal detector or magnetometer?

22 A I don't know for sure. Once I got to the scene,
23 once the scene was started to be processed, I went to
24 the hospital and left the scene in care of forensic
25 investigators.

Nathan Mitchell - Redirect by Mr. Overby

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1 Q Now, talk about Ashley Moore. As part of your
2 investigation, you actually spoke to Ashley Moore,
3 correct?

4 A Yes, sir.

5 Q But you didn't speak with him until April of 2017?

6 A Yes, it was sometime after.

7 Q That would be about 11 months after this?

8 A Yes.

9 Q And, in fact, you didn't speak with Mr. Moore
10 until his attorney reached out to you?

11 A Yes.

12 Q And the attorney is Konstantine Diamaduros?

13 A I believe so.

14 Q And he represented Mr. Moore on pending federal
15 drug charges?

16 A My understanding.

17 Q For distributing over 200 grams of
18 methamphetamine?

19 A I don't know.

20 Q And in terms of Hopewell Road, there were no shell
21 casings collected from that location, were there?

22 A No, sir.

23 Q No evidence to indicate that anyone was firing a
24 gun there?

25 A No, sir.

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1 MR. LUCAS: Nothing further.

2 Thank you.

3 THE COURT: All right.

4 Anything on redirect?

5 MR. OVERBY: Yes, Judge, very briefly.

6 REDIRECT EXAMINATION

7 BY MR. OVERBY:

8 Q I just want to talk about three brief things.

9 Investigator Mitchell, as a deputy of the Anderson
10 County Sheriff's Office, do you carry a firearm?

11 A Yes, sir.

12 Q What kind of firearm do you carry?

13 A A Glock .40 caliber.

14 Q And what kind of firearm is that?

15 A A semi-automatic pistol.

16 Q And how often --

17 MR. LUCAS: I'm going to object to relevance, your
18 Honor.

19 THE COURT: Let's see where it goes. I mean, I
20 hope it's relevant.

21 BY MR. OVERBY:

22 Q How often do you carry that firearm and there's
23 one in the chamber?

24 A Every day.

25 Q What, if anything, does that mean about your

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1 firing the firearm?

2 MR. LUCAS: I'm going to object to relevance
3 again.

4 MR. OVERBY: Judge, his entire position is about
5 that.

6 THE COURT: I'm going to allow that question.
7 BY MR. OVERBY:

8 Q What, if anything, does that mean about your
9 intention to use the firearm?

10 A It's ready to go if I need it.

11 Q Does that mean you are going to use it?

12 A That does not mean I'm going to use it.

13 MR. LUCAS: Your Honor, that is a new line of
14 questioning I would like to request to be able to ask.

15 THE COURT: I don't think he's finished.

16 MR. OVERBY: I'm moving to a next --

17 MR. LUCAS: I'm sorry, your Honor.

18 MR. OVERBY: -- the next topic, Judge.

19 Q With respect to this arrest warrant, okay, when
20 you are investigating a case, does your investigation
21 necessarily or your opinion of the case necessarily
22 conclude with an arrest warrant?

23 A No, sir.

24 Q Why is that?

25 A The arrest warrants usually are early in the case.

1 Even though there is arrest warrants signed, we still
2 have an investigation to do to corroborate statements,
3 locate evidence, test evidence.

4 Q Do you occasionally find things you don't see
5 before?

6 A Yes.

7 Q Okay. And with respect to Mr. Moore, what did you
8 know about Mr. Moore at the time?

9 A All I knew at the time when I spoke with him, he
10 was in custody at the Greenville County Detention
11 Center.

12 Q But that's at the time you spoke with him. What
13 about at the time of these charges?

14 A I knew nothing of him.

15 Q Okay. What did you know about -- what did you
16 know that he might be -- or I mean what -- who was he
17 to you at that time?

18 A When I learned of him, I knew that he was an
19 acquaintance of Mr. Parten.

20 Q Okay. But who was he to the U.S. Marshals?

21 A I don't know.

22 Q In relation to capturing Mr. Parten, who was he to
23 the U.S. Marshals?

24 A An informant.

25 Q I have no further questions.

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1 MR. LUCAS: Your Honor, I'd like to, given that
2 the State went into new matters that were not brought
3 up on the initial direct examination, I'd like to be
4 permitted a brief recross.

5 THE COURT: Which new matters?

6 MR. LUCAS: Talking about Detective Mitchell's
7 handgun and practices with regard to carrying it. I
8 would like to be given a chance to respond, your Honor.
9 I think it's relevant. They have opened the door to
10 it.

11 MR. OVERBY: Judge, I'm going to object. He's
12 opened the door from the very beginning talking about
13 how this bullet being put in the chamber has some sort
14 of significance.

15 THE COURT: Well, as I told you yesterday, I
16 normally -- I'll give you two questions and that's it.
17 Just so that this will be clean, but that's it.

18 RECROSS-EXAMINATION

19 BY MR. LUCAS:

20 Q Detective Mitchell, you usual don't carry a
21 half-loaded firearm, do you?

22 A No, sir.

23 Q Okay. Because when you used it, you might run out
24 of bullets?

25 A Possibly.

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1 MR. LUCAS: Thank you. Nothing further.

2 THE COURT: All right.

3 Thank you, sir. You can step down.

4 MR. OVERBY: May it please the Court, your Honor,
5 the State now calls Jay Lindsey to the stand.

6 JAY LINDSEY,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: If you will take the witness stand and
9 state your name and spell your last name for the
10 reporter, please.

11 THE WITNESS: Jay Lindsey, L-i-n-d-s-e-y, Anderson
12 County Sheriff's Office.

13 DIRECT EXAMINATION

14 BY MR. OVERBY:

15 Q Where are you employed, Deputy Lindsey?

16 A Anderson County Sheriff's Office.

17 Q And what duties and responsibilities do you have
18 with the Anderson County Sheriff's Office?

19 A I'm currently a staff sergeant over special
20 operations.

21 Q And what duties and responsibilities have you held
22 in your employment with the Anderson County Sheriff's
23 Office?

24 A Deputy investigator. I was assigned to U.S.
25 Marshals for 12 years as a task force officer.

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1 Q Now, what -- on May 26, 2016, May to June --

2 A Right.

3 Q -- were you -- what was your position?

4 A I was a task force officer with the U.S. Marshals
5 Office.

6 Q So you work for the U.S. Marshals Office?

7 A Yes.

8 Q Now, what were your duties and responsibilities as
9 a U.S. Marshals task force operative?

10 A We located and arrested violent criminal suspects.

11 Q How long were you in that position?

12 A 12 years.

13 Q And were you asked to begin searching for a
14 fugitive in this case?

15 A Yes, I was.

16 Q Who was that individual?

17 A Stephen Parten.

18 Q What did you do to begin your task?

19 A Of course, normally we would review case files,
20 review the warrants, speak with the affiants and begin
21 to gather intel together.

22 Q When you say "intel," what does that necessarily
23 mean?

24 A Background information, family members, anything
25 we could find out about their past tendencies, that

1 sort of thing, criminal history.

2 Q Who did you contact in order to locate him?

3 A We spoke with several family members and several
4 acquaintances as well as the investigators that were
5 investigating the case.

6 Q And were you immediately successful in
7 obtaining --

8 A Not initially, no.

9 Q Okay. How long was it that you didn't know where
10 he was?

11 A It was a couple of days. Seemed like that was --
12 four or five days maybe.

13 Q When did you catch a break and how?

14 A I got a phone call from a colleague at wee hours
15 of -- might have been June 1st maybe -- wee, and he had
16 gotten a break from a CS, confidential source, who had
17 advised him that Parten had come to --

18 MR. LUCAS: Your Honor, I'm going to object to
19 hearsay. He can testify to getting a tip. He can't
20 say what the confidential source is advising him.

21 THE COURT: He understands hearsay. Just make
22 sure.

23 BY MR. OVERBY:

24 Q Go ahead, sir.

25 A Got a call from a colleague stating that Parten or

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1 Parten had contacted a CS who had some information on
2 where he may be.

3 Q What did you do when you received that tip?

4 A We initially started going north and eventually
5 wound up going to the federal courthouse in Greenville
6 where we were plotting GPS coordinates on a phone that
7 was located in a vehicle that Parten was driving.

8 Q So what was your understanding of how that phone
9 got there?

10 A My understanding was that the CS placed the phone
11 in the truck that Parten was driving and had activated
12 an app that allowed us to locate the phone.

13 Q So what did you do after -- what did you do after
14 y'all met up?

15 A We started plotting the GPS coordinates over the
16 computer, on a computer, and then we did not know a
17 couple things. One, we didn't know how much battery
18 life was left on the phone. We didn't know if Parten
19 was able to locate the phone and dispose of it or
20 anything like that, what kind of reception or anything
21 the phone was going to get.

22 The phone was headed towards North
23 Carolina/Tennessee area. We felt like Parten was
24 headed back out west. So we notified some neighboring
25 agencies. We notified North Carolina Highway Patrol,

1 Tennessee Highway Patrol, the Asheville Task Force, and
2 the Smoky Mountain Task Force in East Tennessee.

3 Q What happened at that time?

4 A It was a little bit of a wait. We were getting --
5 we just kept plotting the hits as they came in, and
6 eventually we were on the phone with Tennessee Highway
7 Patrol. Eventually they located a vehicle that they
8 thought was the truck he was traveling in, and they
9 conducted a traffic stop and detained him.

10 Q Now, what did you discover about the vehicle after
11 that?

12 A We didn't know a tag number at the time. We felt
13 like it was a South Carolina tag, and that was one of
14 the things they were looking for, and they were on I-40
15 going into Knoxville.

16 Once they stopped the truck, they called and gave
17 us the tag number. I ran the tag through South
18 Carolina DMV to try to find some ownership information,
19 and it came back to Daniel Ray. The tag came back to
20 Daniel Ray.

21 Q Do you know Daniel Ray?

22 A I do. We serve together at church.

23 Q What did you do when you figured that out?

24 A I called Dan to see if he could check and see if
25 his truck was outside at his house.

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1 Q Was his truck outside his house?

2 A No, it was not.

3 Q Now, did you eventually go up there and take a
4 look at the truck?

5 A I never saw the truck. Dan had some personal
6 belongings that he requested. He needed some payroll
7 items and his wallet and things of that nature. So
8 when the truck was in impound, I made arrangements with
9 the Tennessee Highway Patrol to get those items back
10 for Dan.

11 Q Okay. And what other involvement did you have in
12 the case?

13 A I just notified the detectives when the arrest was
14 made, and we confirmed that it was him and then just
15 put him in touch with the folks up there.

16 Q And you did confirm that it was Mr. Parten in the
17 truck?

18 A I did. He was the only one in the car -- in the
19 truck.

20 Q I have no further questions. Please answer any
21 questions defense counsel has for you.

22 CROSS-EXAMINATION

23 BY MR. LUCAS:

24 Q Officer Lindsey, you located \$2,800 inside the
25 car, correct?

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1 A I didn't locate any money.

2 Q You didn't locate any checks inside the car?

3 A There was just miscellaneous stuff that he had for
4 payroll and credit cards, I think, and his wallet. I
5 don't remember the specific items that were in the
6 truck.

7 Q Did you locate any cash inside the truck?

8 A I didn't. I never went to the truck.

9 Q Excuse me?

10 A Never went to the truck. Never saw the truck.

11 Q So you didn't actually go inside the truck?

12 A No, no, no, sir.

13 Q I don't have any further questions. Thank you.

14 THE COURT: Anything on redirect?

15 MR. OVERBY: None your Honor.

16 THE COURT: Thanks.

17 Can he be released?

18 MR. OVERBY: Yes, your Honor.

19 THE COURT: You are released from any subpoena.

20 Be careful.

21 THE WITNESS: Thank you.

22 MR. OVERBY: May it please the Court, at this time
23 the State calls Elizabeth McCarson to the stand.

24 MR. LUCAS: Your Honor, we have a brief matter of
25 law that we need to take up outside the presence of the

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1 back in because I can't let them know I've been
2 questioning you.

3 I am looking for something, so give me two
4 minutes.

5 (WHEREUPON, a recess was taken from 11:41 a.m. to
6 11:44 a.m.)

7 THE COURT: All right. Bring them in.

8 (WHEREUPON, the jury entered open court at
9 11:45 a.m.)

10 THE COURT: We'll make sure you get your exercise
11 today, I guarantee that.

12 You can call your next witness.

13 MR. OVERBY: May it please the Court, your Honor,
14 the State calls Elizabeth McCarson to the stand.

15 **ELIZABETH McCARSON,**

16 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

17 THE CLERK: If you would take the witness stand
18 and state your name and spell your last name for the
19 reporter, please.

20 THE WITNESS: Elizabeth McCarson, M-c-C-a-r-s-o-n.

21 **DIRECT EXAMINATION**

22 **BY MR. OVERBY:**

23 Q I'm going to ask you to speak as loud as you can
24 in this courtroom.

25 A Sure.

Elizabeth McCarson - Direct by Mr. Overby

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1 Q Where do you live?

2 A [REDACTED] in Greenville.

3 Q And where in Greenville is that about?

4 A Close to the Cherrydale/Furman area.

5 Q And are you familiar with the defendant in this
6 particular case?

7 A Yes.

8 Q How do you know him?

9 A Through a mutual party, Ashley Moore.

10 Q Now, what are your dealings with Mr. Parten?

11 A I mean, I have never cared for him. I only know
12 him through Ashley.

13 Q Now, did you come in contact with him on June 1st,
14 2016?

15 A Yes.

16 Q How did that come about?

17 A Me and Ashley were outside of my home sitting in
18 his truck, which is a common thing. If he was always
19 late coming there, he called. I was already in the
20 bed. He called and said, "Look, I'm -- instead of
21 pulling into your driveway" --

22 MR. LUCAS: I'm going to object on hearsay
23 grounds. She can't say what Ashley Moore is saying.

24 THE COURT: Make sure you don't say what someone
25 else told you.

1 THE WITNESS: Sure.

2 So Ashley came to my house. We were sitting in
3 his truck and talking in the driveway.

4 BY MR. OVERBY:

5 Q Why did Ashley come to your house?

6 A He actually brought me a milkshake. I came
7 outside to talk with him outside.

8 Q Where were your kids at the time?

9 A They were inside sleeping.

10 Q And how many children do you have?

11 A I have two.

12 Q And do they live with you -- did they live with
13 you at the time?

14 A Yes. My daughter was in college, so she was back
15 and forth, but she was at home at the time.

16 Q Now, where were y'all sitting when he brought you
17 the milkshake?

18 A In my driveway, toward the back. I have two
19 driveways. I have a horseshoe-shaped in the front and
20 one that goes directly in the back. And that's the one
21 I park at, my children park at, and normally everyone
22 else.

23 Q Whose truck were you sitting in?

24 A Ashley's.

25 Q Were you expecting any visitors that night?

Elizabeth McCarson - Direct by Mr. Overby

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1 A No.

2 Q Who came to your house that night?

3 A Stephen.

4 Q Okay. How did he pull in?

5 A He came into the driveway with no headlights on.

6 There was park lights. We could tell that someone was

7 actually coming in because we could see them through

8 the mirrors, you know. I knew no one was coming there,

9 so it was kind of alarming, it being that late at

10 night.

11 Q And what did Ashley do when that happened?

12 A Got out of the car. He asked me was I --

13 MR. LUCAS: I'm going to object on hearsay grounds

14 again. She can't say what Ashley --

15 THE WITNESS: He got out of the truck and

16 approached who it was because they were coming up on

17 the back porch.

18 BY MR. OVERBY:

19 Q Who did that turn out to be?

20 A Stephen.

21 Q How do you know?

22 A Because he got close enough to the truck to where,

23 when the door was open, one of the lights came on, and

24 he stepped a little closer and I could see him.

25 Q Did he eventually get in the truck?

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1 A Eventually, yes.

2 Q Where were you sitting in the truck at the time?

3 A In the passenger side.

4 Q And talk about this truck. I mean, is it a bench
5 seat, dual cab?

6 A It was a four-door truck.

7 Q Where was Stephen sitting?

8 A He was standing outside of the truck at first,
9 kind of disheveled, you know, playing with his shirt.
10 Just kind of -- just looked very disheveled. I made a
11 comment he needs to get in the car because I didn't
12 want my children to see him.

13 Q Okay. How did you sit in the truck when he was
14 sitting in the truck with you?

15 A When he finally got in the backseat of the truck,
16 I had kind of -- I put my back toward the door just so
17 I could see what was going on behind me.

18 Q Why did you do that?

19 A Because I was scared.

20 Q Now, what did Stephen look like?

21 A His hair was kind of long, curly, and wet. He had
22 a T-shirt on, jeans, boots. Just kind of --

23 Q What did he -- how did he -- did he look like he
24 had just showered?

25 A No. He looked scruffy. Kind of disheveled, you

1 know, kind of playing with his shirt, kind of fidgety.

2 Q Did he smell -- did you notice anything about his
3 smell?

4 A I didn't, no. I didn't pay any attention to that.

5 Q Now, what did he -- where did he indicate to you
6 that he had been?

7 A That he had been in the woods.

8 Q And what did he say to you about why he was in the
9 woods?

10 A He had mentioned that he had been running through
11 the woods. And in doing so, he got caught on a lot of
12 briars and limbs and that his clothes had been shredded
13 and that it was easier if he just went ahead and taken
14 off all of the rest of his clothes and ran through the
15 woods because they were kind of grabbing, slowing
16 things down. So he went ahead and had just taken them
17 all off.

18 Q What did you know about him at that time?

19 A I knew that he was wanted.

20 Q Did you know what for?

21 A Yes.

22 Q Now, what did he say in relation to that?

23 A He seemed kind of surprised that this was all over
24 the news. That is one thing that we did tell him, you
25 know. We're like, "Look, you have got to go. You got

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1 to get out of here."

2 Prior to that, the SWAT team had already came and
3 questioned us and pulled us out of another home prior
4 to this. So I knew it was very serious when they came
5 and actually questioned us and told us that, you
6 know --

7 Q Why did they do that?

8 A Because they knew he --

9 Q Let me ask you this very specifically: How long
10 had Mr. Parten and Mr. Moore known each other?

11 A Years.

12 Q And who was the first person that Mr. Parten came
13 to?

14 A Ashley.

15 Q Okay. Now, what did he say in relation -- what
16 did he say about anybody else in this incident?

17 A He seemed very surprised as far as that there was
18 someone that was dead. Made, you know, made a comment
19 that, you know, "The girl just needed to be taken care
20 of." He made that statement a couple of times.

21 MR. LUCAS: Your Honor, we're, for the record,
22 objecting to that on 403, 404 and *Lawless* grounds.

23 THE COURT: Overruled. Just make sure there's no
24 hearsay.

25 THE WITNESS: To us.

1 BY MR. OVERBY:

2 Q How did Ashley -- let me ask you this: Did you
3 want him there at that point?

4 A No.

5 Q What did you ask Ashley to do for you?

6 A Get him out of there.

7 Q And how did Ashley eventually do that?

8 A We got him in the backseat. All of the doors were
9 shut, so I knew that if any of the commotion outside
10 would wake my kids up, they would not see him standing
11 there.

12 So Ashley said, "Hey, man, let's get in the back
13 of the truck. Let's talk about this." He eventually
14 got in the back of the truck. I had my phone charging
15 because when I got in the truck, initially I charge my
16 phone up. And, you know, I went to reach for it to
17 have it close, you know. Stephen was like, "No, no,
18 no." Ashley just told me to calm down.

19 Q You don't need to tell me anything that he said or
20 anything like that at that point. I just want to know
21 how he managed to --

22 A He got him in the truck so that the lights would
23 shut off and no one could see him.

24 Q Now, what did Ashley ask you for, if anything?

25 A At that time?

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1 Q Or after when -- after he and Mr. Parten had been
2 discussing things.

3 A Well, Ashley told me -- just Ashley just told me
4 to --

5 MR. LUCAS: Objection, your Honor. She can't say
6 what Ashley said. Ashley can come in and testify.

7 THE COURT: Yes, sustained. I know it's hard to
8 do, but you've got to make sure you can't say what
9 someone else said.

10 THE WITNESS: Correct. Okay.

11 BY MR. OVERBY:

12 Q Let me back up real quick, Ms. McCarson. I want
13 to ask you this: What did Mr. Parten say about where
14 he had gotten the vehicle?

15 A He was stating to us that he had clothes because
16 he had explained to us that, you know, he was naked,
17 running through the woods trying to find shelter
18 because at that time it was -- it had rained quite a
19 good bit and was actually, you know, cold, considering
20 the time, the weather when this happened. Said that he
21 had hid in a barn that had some hay in it. He actually
22 saw a lady come out to feed her goats. He was hidden
23 in the hay naked, trying to keep warm.

24 After that, he had made a comment that he went
25 over to another home in the woods, wrapped up in

1 someone's door mat on their porch trying to keep warm
2 and eventually found a home and was able to get into
3 that to get some clothes and where he found the keys to
4 this vehicle.

5 Q And that was the vehicle that he was driving that
6 night?

7 A Correct.

8 Q Did Ashley and Stephen ever leave your house?

9 A Yes.

10 Q Did Ashley come back that night?

11 MR. LUCAS: I'm going to object to leading, your
12 Honor.

13 THE COURT: You can't lead.

14 BY MR. OVERBY:

15 Q When, if at any time, did Ashley come back that
16 night?

17 A After they discussed trying to get this OnStar --
18 trying to get some kind of tracking off of the vehicle.

19 Q And what did Ashley ask you for at that time?

20 MR. LUCAS: She can't say what Ashley is telling
21 her, your Honor. Object to hearsay.

22 MR. OVERBY: It's not a statement, Judge. It's an
23 object that I'm asking for.

24 THE COURT: Well, your question was, "What did
25 Ashley ask you for." So rephrase.

Elizabeth McCarson - Cross by Mr. Lucas

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1 BY MR. OVERBY:

2 Q Did you give Ashley anything in response? Did you
3 give Ashley anything?

4 A I tried to give him an item off of my key. It was
5 a Tag-It. It's a chip to where, if you misplace your
6 keys, you can actually go online to find that. I was
7 not able to produce that because I was so nervous that
8 I could not get it off of my key chain. I tried and
9 tried. I could not get that item off of my key chain.

10 Q And did you eventually give him something else?

11 A Eventually, yes.

12 Q What did you eventually give him?

13 A A cell phone.

14 Q Okay. Who did the cell phone belong to?

15 A My son.

16 Q How much charge was on it?

17 A It was a very low charge.

18 Q And what did Ashley do with it?

19 A He put it in the backseat of the truck.

20 Q And did you see Mr. Parten again at all?

21 A No.

22 Q I have no further questions. Please answer any
23 questions defense counsel has.

24 CROSS-EXAMINATION

25 BY MR. LUCAS:

Elizabeth McCarson - Cross by Mr. Lucas

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1 Q Ms. McCarson, you were Ashley Moore's girlfriend
2 in 2016 and 2017?

3 A Correct.

4 Q Are you still?

5 A As much as I can be.

6 Q And that's because Ashley Moore is currently in
7 federal prison?

8 A Correct.

9 Q Now, you testified that Stephen Parten came to
10 your house on June 1st, 2016?

11 A Correct.

12 Q And on June 1st, 2016, he spoke with you and
13 Ashley?

14 A Correct.

15 Q And when you spoke with Detective Mitchell, you
16 said that Stephen seemed surprised to hear that Ahmed
17 Fallous had died?

18 A Correct.

19 Q You actually didn't talk to Detective Mitchell
20 about this until April of 2017?

21 A Correct. Whenever -- yeah. I'm not sure the
22 particular date, but I eventually talked to him.

23 Q That's fine. But it was about 11 months after
24 this whole thing happened?

25 A Correct.

Elizabeth McCarson - Cross by Mr. Lucas

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1 Q And you didn't call Detective Mitchell or Anderson
2 County law enforcement about this in 2016?

3 A No. I was not told to do so.

4 Q But you could have?

5 A I don't know the process of all of this. We were
6 actually -- I personally spoke with one of the marshals
7 that night of that case. I was assuming that they take
8 over and do all of that. I've never been involved in
9 anything like that, so I didn't know if that's
10 protocol. They knew exactly where to find me. I gave
11 them all of my information.

12 Q Now, when you talked to Detective Mitchell, that
13 was April of -- of 2017?

14 A Right.

15 Q The next year. And by that time your boyfriend
16 Ashley was in jail?

17 A Yes. By that time, yes.

18 Q And when you spoke to Detective Mitchell, he was
19 in jail in Greenville County?

20 A Yes.

21 Q And he was locked up for trafficking
22 methamphetamines?

23 A I guess that's what he was locked up for. I'm not
24 sure.

25 Q He was charged with having possession of over

1 250 grams of meth?

2 A Okay.

3 Q And you're aware that that carries 25 years in
4 South Carolina?

5 A No. I'm not aware of any of that. I just know
6 what I was told.

7 Q Now, when you talked to Detective Mitchell in
8 April of 2017, you told him that you were speaking with
9 him about this information to help your boyfriend
10 Ashley Moore?

11 A Correct.

12 Q And that's why you're here today too?

13 A No. I actually got a subpoena to be here.

14 Q And Ashley Moore is in federal prison after being
15 convicted of a federal crime, correct?

16 A He -- yes.

17 Q And he was sentenced to 15 years in prison?

18 A Yes.

19 Q And he's seeking a downward departure of his
20 sentence?

21 A No. That part, I don't know the specifics of any
22 of that.

23 Q And then when y'all were in the car late on
24 June 1st, you were smoking meth in the car, weren't
25 you?

Elizabeth McCarson - Redirect by Mr. Overby

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1 A Absolutely not, because I don't smoke meth. That
2 was not the case. Stephen, when he got in the car,
3 asked did we have money, food, water, or drugs. He
4 asked for all of that. I gave him my milkshake that
5 Ashley brought. There was no drugs in the car. If he
6 got drugs, it was after the fact when he left my house.

7 MR. LUCAS: Nothing further, your Honor.

8 Thank you.

9 THE WITNESS: You're welcome.

10 THE COURT: Anything on redirect?

11 REDIRECT EXAMINATION

12 BY MR. OVERBY:

13 Q The only question I have for you, Ms. McCarson, at
14 the time when this all happened, did Ashley want
15 Stephen to know who he was?

16 MR. LUCAS: I'm going to object to that. She
17 can't speak to what Ashley knew or thought, your Honor.

18 THE COURT: Sustained.

19 BY MR. OVERBY:

20 Q Did you want Stephen to know what happened at the
21 time this incident occurred?

22 A What as far as --

23 Q How were the marshals treating Ashley at that
24 time?

25 A They came and pulled us out of the home. They

1 searched us and made it very adamant if we was to see
2 him, we was to call them. And they gave us the number,
3 and that's how we were able to get in touch with him
4 that night when that phone was placed.

5 Q But y'all were cooperative with the marshals in
6 that regard?

7 A Yes.

8 Q Thank you. That's all the questions I have.

9 THE COURT: Okay.

10 You can be excused.

11 And if she's under a subpoena, can she be
12 released?

13 MR. OVERBY: From the State's perspective, yes.

14 THE COURT: You're released from your subpoena.

15 THE WITNESS: Okay.

16 THE COURT: I should have asked this.

17 Ladies and gentlemen, do I have any smokers on the
18 jury? I don't want anybody climbing out of your skin
19 while you're sitting in here. Okay.

20 MR. OVERBY: At this time the State calls Dan Ray
21 to the stand.

22 DAN RAY,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: If you will take the witness stand,
25 please, sir, and state your name and spell your last

Dan Ray - Direct by Mr. Overby

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1 name for the reporter, please.

2 THE WITNESS: Dan Ray, R-a-y.

3 DIRECT EXAMINATION

4 BY MR. OVERBY:

5 Q Mr. Ray, where are you employed, sir?

6 A 84 Lumber Company.

7 Q And are you from Anderson County originally?

8 A Yes.

9 Q And where do you reside?

10 A [REDACTED] Williamston.

11 Q And did you reside at this location on May 31st,
12 2016?

13 A Yes.

14 Q What happened on that day?

15 A My truck was stolen.

16 Q How did you find out the truck was stolen?

17 A Deputy Lindsey called me about 5:30 in the
18 morning, notified me my truck was stolen. I thought he
19 was kidding.

20 I looked outside. My truck was gone. My keys
21 were gone, and, obviously, it was missing.

22 Q Now, you said the truck was gone. When was the
23 last time you saw your vehicle prior to that?

24 A About 9:00 o'clock that evening.

25 Q You said your truck was gone, your keys were gone.

Dan Ray - Direct by Mr. Overby

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1 You don't remember anything and everything -- that's
2 what you saw, correct?

3 A Yes, sir.

4 Q Where was that key located?

5 A Inside my home near my garage door.

6 Q Okay. Did you ever take that key outside of the
7 residence?

8 A No, sir.

9 Q Within your residence, where is this garage door?

10 A Just off of my kitchen next to my master bedroom.

11 Q So it's pretty far into your house?

12 A Yes, sir.

13 Q Now, was a spare key ever kept in the truck?

14 A No, sir.

15 MR. LUCAS: Object to leading, your Honor.

16 THE COURT: I think that's asked and answered
17 anyway, but go ahead.

18 BY MR. OVERBY:

19 Q Do you know the defendant in this case?

20 A No.

21 Q When you recovered your vehicle, was there any
22 damage to it?

23 A The radio was missing.

24 Q What about to the ignition?

25 A No, sir.

Dan Ray - Direct by Mr. Overby

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1 Q That keys that -- what about the key in question
2 to the vehicle?

3 A It was in my vehicle.

4 Q How much was this vehicle worth?

5 A 25, 30,000.

6 Q How do you know that?

7 A I just traded it in and bought a new truck.

8 Q And how long after that incident did you trade it
9 in?

10 A Two years in August of this year.

11 Q So it was for 25,000 when you traded it in?

12 A Yes, sir.

13 Q Now, what did you have in the vehicle?

14 A Some personal items, a checkbook, personal things
15 you have in a vehicle, camera, some things.

16 Q Was everything recovered?

17 A I had a camera that I realized later on that
18 wasn't recovered. I didn't realize it until after the
19 fact, but my checkbook and other items were returned to
20 me by Deputy Lindsey.

21 Q Was there anything else you realized after the
22 fact was out of the ordinary about your home?

23 A There was a broken window that was slightly open
24 at one point.

25 Q What about anything on your back porch that was

1 missing?

2 A There was a small area carpet that my wife had,
3 area rug, and a double cushion off of one of my patio
4 furniture was missing.

5 Q Were you familiar with what had happened in the
6 area about five days prior to this?

7 A No, sir.

8 Q Now, I'm going to show you what's in evidence as
9 State's Exhibit 35 and -- 34 and 35.

10 Can you tell me what that is a photograph of?

11 A My truck.

12 Q And that?

13 A My truck again.

14 Q Okay. Is that the condition that it was in when
15 you recovered it?

16 A Yes, sir.

17 Q Did the defendant have any permission to enter
18 your home?

19 A No.

20 Q Or drive your car?

21 A No.

22 Q I have no further questions. Please answer any
23 questions defense counsel has for you.

24 CROSS-EXAMINATION

25 BY MS. GURNEY:

Dan Ray - Cross by Ms. Gurney

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1 Q Mr. Ray, you never saw Stephen enter your home?

2 A No.

3 Q And you did not see him take the truck?

4 A No.

5 Q You told police he took the spare key for the
6 truck?

7 A One of my keys, yes.

8 Q Pardon me?

9 A I have two keys in the home, so one of my keys he
10 took, yes.

11 Q One of the keys. And you said you keep that near
12 this garage door?

13 A Yes, inside the home.

14 Q Right. Have you ever left it anywhere else?

15 A No.

16 Q And you left money and checks in the truck?

17 A Yes.

18 Q And the money and checks were worth several
19 thousand?

20 A Yes.

21 Q And you did get that money back?

22 A Yes.

23 Q Thank you. I have no further questions.

24 THE COURT: Anything on redirect?

25 MR. OVERBY: Nothing on redirect, your Honor.

1 THE COURT: Thank you, sir. You can step down.

2 MR. OVERBY: Your Honor, at this time the State
3 rests.

4 THE COURT: All right.

5 Ladies and gentlemen, the State has rested, which
6 means that they have presented all the testimony that
7 they're going to present. It's really kind of an
8 appropriate thing because at this point in every trial,
9 once the State rests, I have to send you out for an
10 extended period of time while I hear motions which are
11 heard in every single trial at this point in the trial.

12 Since it's so close, you're going to get a longer
13 lunch today. I'm going to send you out to lunch. I
14 need to tell you that at 2:00 o'clock I have a guilty
15 plea in somewhat of a high profile matter, has nothing
16 to do with this case.

17 So when you come back in, and if you have to sit
18 back there for five or ten more minutes than usual, I'm
19 sorry, but I will try to get back here before 2:15. I
20 wouldn't try to get back here before 2:15 is what I'm
21 trying to say because I think the cameras will all be
22 here.

23 So be back in the jury room by 2:30, and we'll get
24 started and we'll handle all of these out of -- outside
25 your presence matters right now while you're gone.

1 What I'm trying to say is I don't want you to get
2 caught by the cameras, so don't try to get here before
3 2:15.

4 (WHEREUPON, the jury exited open court at
5 12:15 p.m.)

6 (WHEREUPON, a recess was taken from 12:15 p.m. to
7 12:24 p.m.)

8 THE COURT: I'm going to stand up while you make
9 your motion.

10 MR. LUCAS: Your Honor, the defense is moving for
11 directed verdict on all charges; moving for directed
12 verdict on the murder charge on the grounds the State
13 has not clearly shown malice aforethought or shown
14 express malice from Mr. Parten; moving for directed
15 verdict on the kidnapping based upon the insufficiency
16 of the evidence and the lack of credibility of Morgan
17 Rhodes; moving for directed verdict on the attempted
18 murder charge.

19 Your Honor, this issue was a much stronger
20 directed verdict motion than any of the others. The
21 State, for attempted murder, has to prove specific
22 intent under *State vs. Raheem King*. That's the highest
23 level of intent that you have to prove in South
24 Carolina, and their evidence has simply not been
25 sufficient to show that.

1 By my count, the only evidence we have tending to
2 prove an attempted murder is this theory regarding
3 trying to blow up the car, how paper was found in the
4 tank, that there is a lighter next to the car. The
5 lighter hadn't been fingerprinted, could just be
6 litter.

7 But really the key element, your Honor, is there's
8 been no testimony to establish when Mr. Parten tried to
9 burn this car. All Morgan Rhodes testified to is that
10 she heard gunshots and thought that she smelled
11 burning. She couldn't say that she saw him trying to
12 light the car on fire, putting the paper into the gas
13 tank, getting a lighter out. And then she gets picked
14 up, leaves the scene. Nobody comes back to it for a
15 period of time, your Honor. My recollection was five
16 to ten minutes.

17 Mr. Parten is out in the woods. There is no
18 indication that he didn't come back and try to light it
19 on fire during that period of time. There's no
20 testimony to establish it, your Honor, and that is key
21 because it goes to the issue of specific intent to
22 kill. Because if the car is being lit on fire when
23 Morgan Rhodes isn't in it, that's absolutely -- that
24 element is totally lacking because you can't intend to
25 kill someone when they're not in the car.

1 Then the only other evidence of intent, your
2 Honor, is this ambiguous statement five days later. So
3 as to specific intent, it's a high showing to meet. I
4 think the King case shows that putting the gun to the
5 taxi driver's head was insufficient for it.

6 I don't know if I agree with that totally, your
7 Honor, but I think here we have a complete lack of
8 specific intent. So that's the basis on that one,
9 Judge.

10 And then also moving for DV on burglary on the
11 insufficiency of the evidence and the grand larceny on
12 the grounds there has not been a specific valuation of
13 the vehicle. The only testimony we have is the witness
14 saying it's worth \$25,000. We don't even have a Kelley
15 Blue Book report, your Honor. That's the basis of the
16 motion.

17 And then the last point, your Honor, is that the
18 King case also stands for the proposition that specific
19 intent cannot be proved through implied malice, and
20 that's what we have here. We're trying to imply the
21 malice through a post hoc statement five days later and
22 then asking the Court to infer when this car was
23 allegedly lit on fire, because we don't know.

24 THE COURT: Okay. Yes, sir.

25 MR. OVERBY: With regards to the charge for

1 murder, Judge, the evidence showed that the two
2 individuals engaged in a fight. Mr. Fallous, at some
3 point Mr. Parten pulled a gun, and Mr. Fallous was shot
4 in the back at the far end of the bridge, from where
5 the shell casings were found.

6 As a matter of fact, this last witness testified,
7 Ms. McCarson testified that he seemed surprised that he
8 had actually killed him. That would indicate that he
9 was firing the gun at him. The malice aforethought can
10 trigger itself in the blink of an eye, Judge. Shooting
11 a man in the back certainly can be murder under those
12 circumstances. So I would actually argue that that's
13 satisfied in looking at the evidence in the light most
14 favorable to the State.

15 With regards to the attempted murder, Judge, there
16 is no cognizable reason that I can think of for a
17 burned piece of paper to be in a flammable gas tank to
18 include a torch lighter sitting beside it. I think
19 that arguably -- and I understand the law of attempted
20 murder.

21 I know the Court is somewhat dubious about the
22 ability to imply malice based on facts and
23 circumstances. However, if there were to be one, I
24 would actually argue this is about as close as you can
25 get because there's literally no reason for that paper

1 to be there. The gas tank is off. When law
2 enforcement gets there, it is not manipulated, and as a
3 matter of fact, when it's actually photographed and
4 collected, it's still in the tank.

5 As far as the express aspect of it, not only is
6 that statement that Ms. McCarson highlighted one
7 aspect, but if you will recall, Ms. Rhodes when she
8 testified, she said that the defendant stated, "You're
9 next," which is also evidence of express malice in this
10 particular case. So I would argue that attempted
11 murder should go forward under the facts presented.

12 With regards to -- we haven't talked about
13 possession of a weapon during commission of a violent
14 crime. I think that will stand based off the evidence.

15 With regards to the kidnapping, I think that
16 stands based off the evidence presented.

17 With regards to the burglary, I believe that
18 stands based off the evidence presented in that the key
19 was found inside the house, the witness testified that
20 he did not have any keys that he kept outside. He kept
21 them always inside the house, and it was taken from
22 him. The ignition was not damaged, and the key was
23 found with the truck.

24 And as far as the grand larceny, Judge, Kelley
25 Blue Book is not the definitive means of valuation.

1 The fair market value of the vehicle is determined
2 based off the sale of a vehicle, which at the time when
3 the vehicle was sold, two years later was traded in for
4 \$25,000. That's sufficient, and he certainly knows
5 that. That's sufficient to establish the value of the
6 grand larceny, Judge.

7 THE COURT: Okay. All right. Well, I do
8 understand your motions. I'm going to deny your
9 motions. I think the issue on the attempted murder is
10 a factual question for the jury. I mean, you've got to
11 admit, there's no reason for a burned piece of paper to
12 be back there, and the question is going to be whether
13 they think that was placed there by the defendant.

14 And then I think everything else, I do agree that
15 the burglary and larceny, the values are set by the
16 sale of the vehicle even later.

17 You know, the kidnapping, what are the allegations
18 that lead to kidnapping?

19 MR. OVERBY: Well, Judge, I mean, bottom line is
20 the statute is very broad.

21 THE COURT: Yeah.

22 MR. OVERBY: The statute is very broad. I think
23 it's very clear that from the evidence that Ms. Rhodes
24 did not want to go into that vehicle with Mr. Parten
25 and was in fact held against her will within that

1 vehicle during that entire process. And it is but for
2 the fact that she had kicked him and fought in order to
3 save her own life, she possibly could have ended up in
4 a worse situation, so I believe the elements of
5 kidnapping are met.

6 MR. LUCAS: Your Honor, if I can just add for
7 purposes of the record that the State didn't really
8 present any evidence regarding timing concerning the
9 placement of the paper into the gas tank, and if that
10 happened at any other time with Ms. Rhodes in the car,
11 which has not been proven, that's not attempted murder.

12 MR. OVERBY: Last I checked, Judge, that's not in
13 the elements of the offense.

14 THE COURT: What?

15 MR. OVERBY: The proving of this timing.

16 THE COURT: No. I know. It's specific intent. I
17 mean, it is a little bit different.

18 No. I understand your motion, but I'm going to
19 deny it. I mean, she did say she smelled something
20 burning. It's undeniable there was paper in the gas
21 tank, and it's kind of hard to figure there would be a
22 legitimate reason for it to be there, but that will be
23 a factual issue for this jury.

24 (WHEREUPON, an off-the-record discussion was
25 held.)

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1 reason, just raise your hand, let me know.

2 All right. You can call your first witness.

3 MR. LUCAS: Defense calls Chris Robinson.

4 THE COURT: Who's our new juror?

5 THE CLERK: Our first alternate is Mr. John A.

6 Collins, Juror Number 38.

7 THE COURT: You can come up here and sit.

8 Thank y'all.

9 Okay.

10 **CHRISTOPHER NELSON ROBINSON,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: If you would take the witness stand,
13 please, sir, and state your name and spell your last
14 name for the reporter, please.

15 THE WITNESS: My name is Christopher Nelson
16 Robinson, R-o-b-i-n-s-o-n.

17 DIRECT EXAMINATION

18 BY MR. LUCAS:

19 Q Where do you live, Mr. Robinson?

20 A I live in Sharpsburg, Georgia.

21 Q Where is that in Georgia?

22 A It's about 30 minutes below Atlanta on the south
23 side, Peachtree City/Newnan area.

24 Q What do you do there?

25 A I'm a private forensic consultant.

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1 Q What does that entail?

2 A I generally review cases such as this one. I
3 examine evidence. I look at weapons, guns, reports,
4 photographs, and discuss my findings with the attorneys
5 about what I perceive in the case.

6 Q Tell the Court about your training and education.

7 A I received my Bachelor of Science degree in
8 chemistry from Berry College in Rome, Georgia in May of
9 1995. I began my career in the forensic field in July
10 of 1998 at the Georgia Bureau of Investigation. I
11 worked there for ten years as a firearm examiner.

12 I then became the director of the crime lab for
13 the City of Atlanta Police Department; worked there for
14 two and a half years, and now I have owned my own
15 company, Chris Robinson Forensics, for the past almost
16 nine years.

17 During my career I've logged approximately 15,000
18 areas of comparison microscope and have performed over
19 100,000 forensics examinations. I have been to eight
20 armors courses, eight manufacturing plants, and
21 currently worked over 9,000 actual cases.

22 Q Do you have any additional specialized training or
23 certifications in the area of forensic firearm and tool
24 mark examination?

25 A Yes, sir. I'm certified in the areas of firearms

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1 and ballistics, gunshot residue analysis, crime scene
2 reconstruction, blood spatter analysis, and gunshot
3 wounds.

4 Q And you may have already covered it, but how many
5 cases have you worked on as a firearms and tool mark
6 examiner?

7 A Over 9,000.

8 Q How many times have you been qualified as an
9 expert in the field of firearms and tool mark
10 examination?

11 A Hopefully today will be 662.

12 Q And of those, how many were for the prosecution
13 and how many were for the defense?

14 A 520 have been for the prosecution. It will be 142
15 times today for the defense.

16 Q And how many states have you been qualified as an
17 expert in the field of firearms and tool mark
18 examination?

19 A I believe the last count was 18 states.

20 Q And have you testified as an expert in South
21 Carolina within this field?

22 A I have.

23 Q Do you recall how many times?

24 A I believe it's about 10,000 now.

25 MR. LUCAS: Your Honor, at this time we'd offer

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1 Mr. Robinson as an expert in the field of firearms and
2 tool mark examination.

3 THE COURT: Any objection?

4 MR. OVERBY: Your Honor, may I just have a brief
5 voir dire?

6 THE COURT: Sure.

7 VOIR DIRE EXAMINATION

8 BY MR. OVERBY:

9 Q Mr. Robinson, with respect to your -- were you
10 asked today to render an opinion on gunshot residue?

11 A I have. Yes, sir, I was.

12 Q How many times have you been qualified, or what is
13 your experience and training with respect to gunshot
14 residue analysis?

15 A Yes, sir. Well, at the Georgia Bureau of
16 Investigation, I was the only firearm examiner that was
17 certified in both firearms and the gunshot residue
18 analysis. I was trained under an individual who worked
19 there for 35 years. I was his main peer reviewer, and
20 we swapped out in and out toward the end of his career
21 working the gunshot residue cases. I've testified, I'm
22 going to say, around 200 times for gunshot residue
23 analysis in my career.

24 Q And you --

25 MR. LUCAS: Your Honor, if I may, I was going to

1 qualify him separately as to gunshot residue.

2 Mr. Overby is more than welcome to examine him on voir
3 dire about the firearms and tool mark.

4 THE COURT: You're just doing firearm and tool
5 mark.

6 MR. OVERBY: Very well, your Honor. I withdraw my
7 question.

8 THE COURT: Without objection, he's qualified.

9 MR. LUCAS: Thank you, your Honor.

10 DIRECT EXAMINATION (Resumed)

11 BY MR. LUCAS:

12 Q Moving on to gunshot residue analysis, I believe,
13 as you responded to the solicitor's question, you do
14 have some specialized training in this area as well.

15 Would you please tell the Court about that?

16 A Yes, sir. I was cross-trained in both firearms
17 and gunshot residue analysis. While at the Georgia
18 Bureau of Investigation, we had to have someone be able
19 to peer review each other's work, so I was trained to
20 help the individual who was responsible for that.

21 I later on took over his duties, as he was
22 beginning to end down his career, so I'm certified in
23 that area as well.

24 Q And how many cases have you worked on, ballpark,
25 in terms of gunshot residue analysis?

1 A I'd say between 2 and 3,000.

2 Q Have you ever been qualified as an expert in the
3 field of gunshot residue analysis before?

4 A Yes, sir, around 200 times.

5 Q And of those, how many were for the prosecution
6 and how many were for the defense?

7 A I would say 90 percent was for the prosecution.

8 Q And how many states have you testified in
9 regarding gunshot residue analysis?

10 A I would say approximately six to eight.

11 Q That was six to eight?

12 A Six to eight.

13 Q Thank you.

14 And have you testified as an expert in the field
15 of gunshot residue analysis in South Carolina?

16 A I have.

17 MR. LUCAS: Your Honor, at this time we'd move to
18 qualify Mr. Robinson as an expert in the field of
19 gunshot residue analysis, and we'd be happy to submit
20 him for any voir dire.

21 MR. OVERBY: No objection at this time.

22 THE COURT: Without objection, he's qualified as
23 an expert there too.

24 BY MR. LUCAS:

25 Q Mr. Robinson, you testify for both the prosecution

1 and the defense?

2 A I do. I'm currently working a case out of
3 Wisconsin and a case out of Florida, both for the
4 prosecution. I just don't get generally hired by the
5 prosecution due to the fact that they have their own
6 state lab. So I'm only called in when it's a special
7 circumstance and if the laboratory is unwilling to do
8 the testing needed, they will contact me and I can do
9 the testing.

10 Q And have you been retained as an expert in this
11 case?

12 A I have.

13 Q By whom?

14 A By you, the defense.

15 Q And are you being paid to be here today?

16 A I am.

17 Q And what are you being paid?

18 A I'm going to be paid around \$3,000 at the end of
19 the case.

20 Q And you're paid by the hour?

21 A I am.

22 MR. LUCAS: Permission to approach the witness,
23 your Honor?

24 THE COURT: Sure.

25 BY MR. LUCAS:

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1 Q Are you familiar with that document, Mr. Robinson?

2 A Yes, sir. This is the copy of the firearms and
3 tool mark report that was generated by the County of
4 Greenville, Mr. James Armstrong.

5 Q And what type of gun was reviewed in that report?

6 A The type of gun was a Hi-Point .380 caliber
7 pistol, serial number P8053178.

8 Q Are you familiar with that type of firearm?

9 A Very familiar.

10 Q Would you tell the jury how many cartridges it
11 holds?

12 A It holds a total of nine, eight in the magazine
13 and one in the chamber.

14 Q And in your opinion, if a Hi-Point .380 had only
15 four cartridges in it, is that or is it not fully
16 loaded?

17 A It is not.

18 Q Tell the jury how a semi-automatic pistol ejects
19 shell casings, please.

20 A This type of weapon, due to the fact that there is
21 a hook that's called an extractor, that it extracts the
22 cartridge cases from the chamber, and the firing pin of
23 the gun is the ejector. So as the extractor pulls the
24 cartridge case, it ejects the cartridge cases to the
25 right and rear of the shooter at approximately 40 to

1 45-degree angle, generally about six to eight feet. I
2 didn't look at this weapon. I did not perform an
3 ejection pattern test. That's just based on my
4 knowledge of this type of weapon.

5 Q And after a Hi-Point .380 is fired, would it or
6 would it not pull another cartridge into the chamber?

7 A It does. It chambers the next cartridge
8 automatically from the magazine.

9 Q Now, you have already said that you have reviewed
10 the firearms and tool mark report in front of you.

11 Were you able to confirm the conclusions that were
12 drawn in that report?

13 A No, sir. I'm just basing it on the report itself.
14 I did not view any worksheets or any other validation
15 of the report.

16 Q And tell the jury why you were not able to confirm
17 the results.

18 A According to you, when I asked you for the
19 worksheets -- we generally create worksheets. When you
20 examine weapons, cartridge cases, bullets, you create
21 worksheets so you document what you're viewing. I was
22 told by you that Mr. Armstrong did not create any
23 worksheets when he performed his analysis.

24 Q And you weren't given any comparison photos to
25 review it?

1 A I was told by you when you asked that
2 Mr. Armstrong did not take any photographs of any
3 comparisons. So when he says the cartridge cases were
4 fired in the same weapon, I have to take his word for
5 it. I can't validate that.

6 Q And tell the jury why you can't validate it.

7 A Because when you document your findings and you
8 take pictures, you take a picture of the comparison so
9 the striations that are on the back of the cartridge
10 cases, you should be able to show that they match from
11 cartridge case to cartridge case.

12 Due to the fact that Mr. Armstrong says there were
13 no worksheets or no photographs that he took or
14 generated, I can't validate what he said, so I'm just
15 taking his word for what he sees on the evidence.

16 Q Now, would any other firearms and tool mark
17 examiner be able to confirm or replicate the
18 conclusions in that report?

19 A I mean, if I was asked to -- if I was physically
20 examining the evidence, I could possibly re-create what
21 he did by looking at the actual evidence. But as far
22 as what you presented to me with the report, with the
23 lack of worksheets, the lack of photographs, no, sir,
24 no one can validate this. You just have to take the
25 word of the examiner.

1 Q And would anyone be able to validate it by looking
2 at that report that has been admitted into evidence?

3 A No, sir.

4 Q Now, in your opinion, did the Greenville firearms
5 lab depart from the standard and accepted practices for
6 firearms and tool mark examiners?

7 A Yes, sir. Like I said before, I've been in 18
8 different states. I have never examined a report --
9 and the first thing I always do, like I did with you,
10 was ask for the worksheets, and you told me that he
11 created no worksheets. I find this incredibly strange.
12 You have to document who made the cartridge cases, what
13 are the marks on the cartridge casings, is it a
14 hemispherical firing pin, are there parallel breach
15 face marks. I mean, things that anyone should be able
16 to come behind you and quantify and qualify your
17 results, they were not done.

18 Likewise, on the weapon, was the weapon
19 functioning, what is the trigger pull of the weapon,
20 the functionality of the weapon, all these things
21 cannot be verified because of the lack of
22 documentation.

23 Q Now, is there any significance to the selection of
24 a 9mm cartridge casing?

25 A I mean, to me, when I read this report, sir, you

1 have a Hi-Point .380 caliber pistol, then you have a
2 9mm cartridge case, then you have several .45 caliber
3 cartridge casings. If I'm looking at this report, it
4 appears to me that there were three different caliber
5 weapons at this particular scene.

6 Q Let's move on to the area of gunshot residue.
7 Would you tell the jury what exactly gunshot
8 residue is.

9 A Gunshot residue is generated by the firing of the
10 weapon. When the firing pin strikes the primer of the
11 cartridge case, the priming mixture that ignites the
12 gunpowder, it generates what is called gunshot residue.
13 So when you fire a weapon, as the slide opens up, the
14 cartridge case is ejected, but also the gunshot residue
15 comes out of the ejection port of the weapon.

16 We test the individual's hands to see if there's
17 gunshot residue on their hands. This indicates either
18 you fired a weapon, you were in close proximity to a
19 weapon when it was fired, or you touched a surface with
20 gunshot residue on it.

21 When we test this, you're looking for barium,
22 antimony, and lead. They have to be fused together in
23 a spheroid or a circular particle. We use a machine
24 called a scanning electron microscope that allows us to
25 examine these particles, and if the machine tells you

1 that it is in fact gunshot residue, we report our
2 findings.

3 Q Now, tell the jury how gunshot residue is expelled
4 from a firearm.

5 A With respect to a pistol or just in general?

6 Q Just in general for right now.

7 A In general, when you're looking at a revolver, a
8 revolver, the gunshot residue is emitted from the sides
9 of the gun. When you strike the primer, it is emitted
10 from the sides, and it's generated in a much greater --
11 because it's an open weapon.

12 With a semi-automatic pistol, as the slide moves
13 to the rear, it's only able to be emitted from the
14 ejection port for a millisecond because when the bullet
15 leaves the gun at a thousand feet per second or
16 700 miles per hour, that's how fast the slide moves,
17 700 miles per hour. So it only moves for a
18 millisecond, and it just has that brief instant to emit
19 that gunshot residue from the pistol.

20 Q Now, can gunshot residue be used to determine
21 whether someone fired a gun?

22 A It can be used in determining the likelihood of
23 someone firing a weapon due to the amount that's
24 recovered, yes, sir.

25 Q Now, does a higher or lower concentration of GSR,

1 gunshot residue, make it more likely or less likely
2 that a person fired a weapon?

3 A The higher the concentration, the greater the
4 likelihood that the individual fired a weapon.

5 Q And tell the jury whether it's possible for a
6 person to get gunshot residue on their hands without
7 firing a weapon.

8 A You can get GSR on your hands by transfer. For
9 example, if I fired a weapon and then I shook the
10 bailiff's hand, I could transfer GSR to his hand. He's
11 never fired a gun, but he could have GSR from me firing
12 a weapon and then touching his hand.

13 If I place my hand on or pick up a gun that's been
14 fired, I could have GSR on my hands from touching the
15 surface of the gun that's been fired. So there are a
16 number of ways that GSR could be transferred to your
17 hand.

18 Q Changing gears for just a minute real quick, do
19 you know how many state labs test for gunshot residue
20 that would be state crime labs?

21 A Of the 18 states that I'm in, all 18 states tested
22 for gunshot residue.

23 Q And do you know whether or not it's common to test
24 alleged victims for gunshot residue?

25 A At the Georgia Bureau of Investigation, we tested

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1 the victim, we tested the suspect. We also tested any
2 individuals that may be within the scene at that time,
3 so I guess we went above and beyond.

4 I can't speak to all the states, but a number of
5 the states that I've worked in, they do test the victim
6 and the suspect.

7 Q And would it be more common or less common to test
8 an alleged victim for gunshot residue if that person
9 had a gun?

10 A Again -- I gotcha. Yes, sir. I mean, if the
11 victim was suspected of possibly having a gun, the
12 likelihood would be much greater. Again, we did it no
13 matter what at the GBI.

14 I mean, there are several states that I can recall
15 off the top of my head. Most of them just test
16 regardless, but yes, sir, I would expect that you would
17 test someone, the likelihood of them possessing a
18 weapon.

19 MR. LUCAS: Permission to approach?

20 THE COURT: Yes, sir.

21 BY MR. LUCAS:

22 Q I'll trade you.

23 Can you identify what's been marked as Exhibit 27?

24 A State's Exhibit 27 is a copy of the gunshot
25 residue test performed by the South Carolina Law

1 Enforcement Division, or SLED, at the forensic
2 laboratories.

3 Q Have you had a chance to review that report?

4 A I did.

5 Q And have you also had a chance to review the
6 examiner's worksheets?

7 A I did.

8 MR. LUCAS: Permission to approach again, your
9 Honor?

10 THE COURT: Yes, sir.

11 BY MR. LUCAS:

12 Q Have you seen those before?

13 A Yes, sir. This is a copy of the gunshot residue
14 worksheets or the -- we call it the SEM, or scanning
15 electron microscope data packet.

16 Q And will you tell the jury what that means
17 exactly, how it was produced.

18 A Yes. The scanning electron microscope generates a
19 series of pages that documents all of the elements that
20 it can seize in the mixture itself. It generates peaks
21 and valleys, and it tells you the likelihood of the
22 number of particles that it depicts in the samples of
23 the kits that were submitted.

24 Q And whose notes are those?

25 A These notes were Meghan Fletcher's.

1 Q And she's an employee of the SLED forensics lab?

2 A Yes, sir.

3 Q Let's talk about the conclusions in the report
4 starting with Morgan Rhodes.

5 Did Morgan Rhodes have gunshot residue on her?

6 A Yes. There was one gunshot residue particle
7 detected on the back of the left hand.

8 Q Is it possible that she could have gotten that
9 gunshot residue on her from firing the weapon?

10 A It is possible.

11 Q But are there other explanations too?

12 A It is. The problem with one gunshot residue
13 particle, it's just that, it's just one. Again, we
14 just talked about transfer, so the likelihood of you
15 getting one particle on you -- if I shake the bailiff's
16 hand, he could have one particle on him and he's never
17 fired a weapon, but I fired one this morning, so I
18 shook his hand.

19 So that likelihood of transfer with just one
20 particle, yes, sir, that's -- now, the only troubling
21 aspect is it's on the back of her hand. So it's on the
22 back of her hand. Again, it could be transfer, but
23 it's not as likely as the palm of your hand. Because
24 if I shook the bailiff's hand, he would have to have it
25 on the palm of his hands, not the back of his hands.

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1 Q Now, with regard to Ahmed Fallous, based upon the
2 report, did he or did he not also have gunshot residue
3 present?

4 A Mr. Fallous had four particles of gunshot residue
5 on the left back of the hand.

6 Q What does the presence of four particles tell you?

7 A Four particles means that there is a great
8 likelihood that he fired a weapon. The reason I say
9 that, when you hear the number four, that may not seem
10 like a lot, but that's a great deal to me as an
11 examiner.

12 The FBI crime lab requires three gunshot residue
13 particles in order to quantify as gunshot residue, and
14 the Army crime lab, which is located right there in
15 Georgia, requires four particles.

16 The reason we require four particles is because
17 you want to eliminate the possibilities of transfer.
18 When you start talking about four particles on the back
19 of the left hand, there is a greater likelihood that
20 this individual fired a weapon than not due to the
21 amount that was recovered from the back of the left
22 hand.

23 Q And do you feel that it is -- or the location of
24 where it was found, the back of the hand, is that
25 significant, and if so, state why.

1 A It is because this is my hand on the gun, and you
2 fire a gun, there cannot be any GSR on the palm of your
3 hand because it has to be on the back of my hand
4 because my palm is against the frame of the weapon. So
5 how would you have GSR? It's just on the back is where
6 they found it. They didn't find any on the palm of the
7 hands, so therefore, the likelihood would be, if it's
8 on the back of the hand, is more indication that
9 someone possibly fired a weapon.

10 Q And is that opinion a consensus within your field?

11 A It is. At the FBI symposium that was several
12 years ago, they determined that the number of particles
13 and its location is significant in determining the
14 reasonable -- to determine reasonably if someone fired
15 a weapon or not.

16 Q Can you tell the jury what the SLED forensic
17 scientist, Ms. Fletcher, concluded in her report about
18 the gunshot residue on Mr. Fallous?

19 A Says -- Mr. Fallous, sorry. "Particles
20 characteristic of gunshot residue primer were found."
21 And then again, "In general, the particles
22 characteristic of primer are molten, microscopic that
23 contain the elements of lead, barium, and antimony. No
24 information can be provided as to the likelihood of
25 these scenarios."

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1 So she's saying she can't determine any likelihood
2 whether or not GSR on the back of his hand is an
3 indication he fired a weapon or not.

4 Q Now, having testified over 200 times in this
5 field, tell the jury whether or not you agree with her
6 conclusion that no information can be provided as to
7 the likelihood of those scenarios.

8 A Just as I told you a minute ago, sir, if you
9 wanted to argue with me about Ms. Rhodes, that's fine.
10 That's one particle of gunshot residue. It could be
11 from anywhere.

12 However, with Mr. Fallous being four particles on
13 the back of his left hand, I think that there's a much
14 greater likelihood that he fired a weapon than not
15 based on the number of particles and its location.

16 Q In your opinion, would the presence of four
17 particles be consistent with transfer?

18 A No, sir. Again, that's why the FBI symposium and
19 the crime labs of the FBI and the Army crime lab, they
20 generate these thresholds. Once you get to four, the
21 symposium came to the conclusion that the likelihood of
22 transfer is extremely remote when you get to this
23 number of particles.

24 Q In your opinion, is the presence of four particles
25 consistent with a person being in the vicinity of a

1 discharged gunshot?

2 A Sir, again, it would have to be extremely close to
3 the ejection port to get the GSR. It's going to come
4 out of the ejection port, and it's going to settle to
5 the ground very quickly. These are heavy metals --
6 barium, lead, antimony. Even though they're very
7 small, they're going to be emitted from the gun and
8 settle to the ground. And your hand would have to be
9 extremely close to the ejection port to get this kind
10 of gunshot residue on it.

11 Q And in your opinion, would you think that it's
12 unusual for a person running away to have four
13 particles of gunshot residue on the back of their hand?

14 A Yes, sir. Again, you're running away. It's not
15 going to travel across the room. It's going to settle
16 within a couple feet, so the individual has to be
17 running straight by the weapon with his hand right
18 beside the weapon. So no, sir, it's not consistent
19 with somebody running away.

20 Q Tell the jury what your opinion is about whether
21 or not a GSR suggests that Mr. Fallous fired a gun.

22 A Yes, sir. I think that the likelihood that
23 Mr. Fallous fired a weapon is extremely high based on
24 the number of particles and their location.

25 Q I don't have any further questions, Mr. Robinson.

1 Please answer any questions from the State.

2 A Thank you.

3 CROSS-EXAMINATION

4 BY MR. OVERBY:

5 Q Good afternoon, Mr. Robinson. How are you today?

6 A Good, sir.

7 Q Could you tell me what "peer review" means?

8 A Peer review means you have another examiner in
9 your field that examines your work and peer reviews
10 your results to ensure their accuracy.

11 Q And that is a physical examination; is that
12 correct?

13 A It is.

14 Q So another examiner physically takes the same
15 items and looks at them side by side; is that correct?

16 A Correct.

17 Q Were you provided with the information that was
18 provided to the defense in this case?

19 A I was.

20 Q Are you aware that another examiner did in fact
21 look at that particular information?

22 A I am.

23 Q And are you aware that he came to the same
24 conclusion as Mr. Armstrong?

25 A I am aware.

1 Q Okay. With regards to your expertise, you also,
2 you have extensive expertise in analyzing shell casings
3 in your own right, correct?

4 A Yes, sir.

5 Q In doing firearm tool mark comparison?

6 A Yes, sir.

7 Q Were you asked to do that by the defense?

8 A I was not.

9 Q Were you ever denied the opportunity to do that?

10 A No, sir, I was not.

11 Q So you were not asked to do that by the defense?

12 A I was not.

13 Q Okay. Now, I want to ask you just a brief bit
14 about the ejection of the firearm shell casings.

15 You testified that the shell casings ejected back
16 and to the right; is that correct?

17 A Yes, sir.

18 Q Are there variables that can come into play with
19 such a matter?

20 A Absolutely.

21 Q What kind of variables would exist in such a
22 matter?

23 A The way that the gun is held, is it turned
24 sideways, that throws it off. When I say it's right
25 and rear, that means I'm holding the gun in standard

1 fashion, and it would eject to the right and rear. If
2 you turn the gun sideways either way, it changes it.
3 It would go straight over my head. If I turn it
4 sideways to the left, if I turn it to the right and he
5 takes the cartridge cases straight down, does it
6 deflect off.

7 When you say "ejection pattern," I want you to
8 understand that's me firing the gun and how they eject
9 from the gun itself, not from a crime scene. So where
10 they're located at a crime scene, there is a number of
11 variables for that too.

12 Q Sure. And would a firearm ever eject to the left
13 in a standard shooting position?

14 A This type of weapon?

15 Q This type of weapon.

16 A Well, I'm sorry. We can't say that. It's a .45.

17 Q Well, I'm not --

18 A I'm sorry.

19 Q The firearm in question is a .380 Hi-Point.

20 A The Hi-Point, no, sir. I do not know of any,
21 even -- no, sir, I never heard of any kind of
22 customization. The ejection port is on the right side
23 of the gun. It has to eject to the right. It's not
24 possible.

25 Q So it's not possible for it to eject to the left?

1 A It is not.

2 Q Now, would you dispute that a person could be
3 qualified as an expert in the absence of the worksheets
4 that you testified to?

5 A No, sir, I do not deny that.

6 Q So in other words, a person who testified could
7 have a level of expertise equal to, greater than, or
8 perhaps a little less than you in regards to that?

9 A Sure. Yes, sir.

10 Q And still have a reliable opinion?

11 A Yes, sir.

12 Q Your testimony is simply that because these
13 comparison photographs and worksheets were not
14 available to you, you were not able to look at his
15 report in a file of sorts, correct?

16 A Correct.

17 Q So in other words, but you still did have the
18 opportunity -- you still could have gone and done the
19 analysis yourself?

20 A I could.

21 Q Would that have actually been a preferable thing
22 to do?

23 A I generally like to look at the evidence with my
24 hands on, yes, sir, I do.

25 Q And why is that?

1 A Because rather than look at someone's worksheets
2 or look at a report and they're saying the cartridge
3 cases were from the same weapon and different calibers,
4 I can physically examine the evidence myself and give
5 you an opinion based on my experience and my physical
6 review of the evidence.

7 Q Right. Because bottom line is that firearms tool
8 mark examination is all about identifying, essentially,
9 the fingerprint of the gun, right?

10 A Yes, sir.

11 Q So, I mean, and that's using a microscope?

12 A It is.

13 Q Which means that you would rather be behind the
14 microscope, right?

15 A I would.

16 Q Now, I want to talk about your determination as to
17 gunshot residue. Okay?

18 A Yes, sir.

19 Q Would you agree with me that you've testified that
20 there is a likelihood that Ahmed Fallous fired a gun?

21 A Yes, sir.

22 Q Would you agree with me that gunshot residue can
23 never with certainty establish that an individual fired
24 a gun?

25 A I do agree.

1 Q Okay. Would you agree with me that the vast
2 majority of people in the gunshot residue community do
3 not take a position of certainty as to the firing of a
4 weapon when it comes to GSR?

5 A I agree. I'm just basing what I testified to from
6 the FBI symposium as to the likelihood. Their
7 statement was the larger number of particles leads to a
8 greater belief that the individual fired a weapon. So
9 I'm basing that on my experience and the FBI symposium
10 study, yes, sir, but I understand what you're saying.
11 I do agree.

12 Q Now, the gunshot residue symposium that you're
13 talking about that the FBI puts on, are you referring
14 to the one from May 31st to June 3rd of 2005?

15 A I believe that's correct.

16 There may have been in 2008, but I think you're
17 right. I think it's 2005.

18 Q Now, with respect to this aspect of things, I'd
19 like to refer you to a summary of the FBI lab's gunshot
20 residue symposium from 2005.

21 A Yes, sir.

22 Q Again, if there's one that's later, please correct
23 me.

24 A Yes, sir.

25 Q But with respect to this, do you disagree with

1 this statement that is highlighted right here, and
2 would you read that actually for the Court?

3 A "The great majority of participants agreed that
4 there is no value collecting separate samples from the
5 back and palm surface of the hand because it is more
6 misleading than informative."

7 So what they're saying is that they use -- okay.
8 Let me explain.

9 Q Sure. Absolutely. Please do.

10 A When SLED actually performed this testing, they
11 performed it the way that we do it -- we used to do it
12 at the GBI. They tested the right palm, the right
13 back, the left palm, the left back, and then a blank
14 itself just to make sure everything is zeroed out.

15 The new types of tests, they just do a single stub
16 for each hand. So they do the right hand and left
17 hand. They don't do the back and the palms. So what
18 that's saying is that the belief by most of the
19 participants at the symposium was that by doing it this
20 way, it gives a much more misleading type of answer.

21 Q Okay. Now, in reference to that particular aspect
22 of things, your training in gunshot residue analysis
23 primarily comes from your experience with the Georgia
24 Bureau of Investigation, correct?

25 A It does.

1 Q And that is from 2002, correct?

2 A Until 2008, that's correct. That's correct.

3 Q Post 2005, this symposium, do you have any
4 additional training as far as the new kits?

5 A I'm aware of the new kits. The GBI still used the
6 old kits until 2008 when I left.

7 Q Do you disagree with the symposium's position that
8 the old kits are misleading in terms of the information
9 that can be gleaned from it?

10 A I do disagree because I think this is a prime
11 example. Eliminate Ms. Rhodes, okay, so let's just
12 talk about Mr. Fallous.

13 Q Okay.

14 A Mr. Fallous had zero on the right palm, zero on
15 the right back, zero on the left palm. Finally, on the
16 left back, it showed four gunshot residue particles.

17 My experience, and we did multiple tests with my
18 hands against the frames of the weapon, when we tested
19 the back of my hand, I had a number of particles. When
20 I tested the palm of my hands, I never had any GSR
21 particles from test firing a gun.

22 Now, when I touched the gun after the fact, then I
23 transferred particles. So I do understand the
24 symposium and I do understand the position of the
25 participants.

1 If you ask me my opinion, I just like to know
2 where the GSR was found, but I do understand how it can
3 be misleading. For example, if I touched a weapon that
4 had been fired and I had GSR on my hands and it's found
5 on my hands, just in general it could be misleading,
6 and you may say, "Well, he had to fire a gun." Well,
7 no, I just touched a gun after it was fired. But I
8 understand, yes, sir. I'm sorry.

9 Q That's okay. That's okay.

10 Now, this symposium, that is the FBI, correct?

11 A It is and participants from almost every lab in
12 the country.

13 Q So you don't deny their expertise?

14 A I do not.

15 Q And you also do not deny the fact of what they say
16 right here in terms of testing victims and even
17 particular suicide attempts?

18 A Do you want me to read it, sir, or --

19 Q Would you please read it. I apologize, sir.

20 A "Analyzing lift or samples from GSR from victims
21 can never prove whether the subject is a victim of a
22 suicide, a homicide, or an accident."

23 I agree with that based on just personal
24 experience. We used to test -- again, I'm speaking
25 from the GBI. I was trained to test the victims.

1 Q Sure.

2 A But we had cases where an individual had GSR on
3 their hands. It may have been classified as a
4 homicide, but the family thought it was a suicide or
5 vice versa. So that statement is exactly true. It can
6 be not -- I wouldn't say misleading. It can be
7 misinterpreted in a number of ways, so I do agree with
8 that.

9 Q Now, I'm going ask you a little bit more about
10 particulars.

11 Have you read an incident report in relation to
12 this case?

13 A I believe I did, sir, yes.

14 Q And you talked a lot about touching a firearm,
15 correct?

16 A Yes, sir.

17 Q In other words, shooting a firearm, when the gun
18 is fired, essentially the explosion knocks that gunshot
19 residue out the barrel and a little bit comes out of
20 the top, correct?

21 A Yes, sir.

22 Q And presumably in that instance, it would end up
23 on the gun, correct?

24 A Yes, sir.

25 Q Now let me ask you this question.

Christopher Nelson Robinson - Redirect by Mr. Lucas

State v. Stephen Grant Parten

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1 This is on the left back, correct?

2 A Yes, sir.

3 Q What would happen if the gun was found in the
4 right hand of an individual? Would it be likely -- let
5 me ask this, and I apologize.

6 Would it be likely that gunshot residue would be
7 found on that individual's right hand?

8 A I would expect it would be on the right hand. If
9 the gun is in his right hand, I would expect to find
10 residue on the right hand.

11 Q I have no further questions. Please answer --
12 actually, I apologize. You're not my witness.

13 THE COURT: Anything on redirect?

14 MR. LUCAS: Yes, your Honor, just briefly.

15 REDIRECT EXAMINATION

16 BY MR. LUCAS:

17 Q Mr. Robinson, in terms of the FBI report, explain
18 to the jury the difference between proof and
19 likelihood.

20 A Okay. The proof would be that -- you mean the
21 likelihood of someone firing a weapon or -- I'm sorry.
22 Just quantify that.

23 Q So explain the difference between proof that
24 someone fired a weapon or committed a homicide versus
25 likelihood of firing or likelihood of classifying it as

1 a homicide?

2 A The likelihood means that you're taking what you
3 examined here, four particles found on the left back of
4 the hand, you're taking that based on the studies and
5 your experience, and you're basing an opinion on the
6 likelihood that this individual fired a weapon.

7 Proof would be I actually have knowledge or
8 someone is saying that they watched the individual fire
9 the weapon. That is not the case. I'm being asked
10 what is the likelihood that Mr. Fallous, is there a
11 greater likelihood based on the particles and based on
12 the location? Yes, in my opinion, I think there is,
13 but I do not have proof that he actually fired the
14 weapon.

15 Q Now, tell the jury whether these incident reports
16 you reviewed, if they indicated the gun was fired in
17 the decedent's right hand or left hand, or is there
18 anything in there about that?

19 A I did not see anything to indicate which hand it
20 was fired in. I did not see that.

21 Q Now, if a person fired a gun with their right
22 hand, would that exclude the possibility of getting
23 gunshot residue on the left hand?

24 A No, sir. It depends on how the hands are
25 positioned. It depends on if you're -- you can hold

1 the gun like this, which is the cup and saucer or the
2 Weaver stance. So it depends on how the weapon is
3 fired if you have it on the left hand.

4 Did the individual fire the gun with his left hand
5 versus his right hand? If the gun was found in the
6 individual's right hand, now, that's different, but I'm
7 saying I don't know that the individual -- there's no
8 GSR on his right hand. It's just on the left hand.

9 Q Now, if a person fired a gun in their left hand,
10 would you or would you not expect gunshot residue with
11 that?

12 A I would still expect to see some kind of gunshot
13 residue if the individual fired a gun in either hand.
14 Whichever hand that he fired it in is the hand I would
15 expect to find the GSR on with this number of
16 particles, four. If there was just one particle, you
17 could just have transfer. But with four particles, I
18 just expect this would have been the hand that he used.

19 Q And tell the jury what your hourly rate is,
20 Mr. Robinson.

21 A \$200 an hour.

22 Q What do you charge to conduct a full examination
23 of a gun, casings, and produce a report such as SLED
24 would have -- or such as SLED produced here?

25 A Depending on if I came to you to test the evidence

1 or you sent the evidence to me, I would say it would be
2 around 1,500 to \$1,800.

3 Q So you don't do it for free?

4 A I do not.

5 MR. LUCAS: Nothing further.

6 Thank you, sir.

7 THE COURT: All right, sir. You can step down.

8 Is he under a subpoena?

9 MR. LUCAS: He is not, your Honor.

10 THE COURT: Okay.

11 How long is your next witness, just generally? I
12 won't hold you to it.

13 MS. GURNEY: It's not very long, your Honor.
14 Maybe ten minutes.

15 MR. LUCAS: I think we also have a brief matter of
16 law before calling our next witness.

17 THE COURT: Then I'll send you out, ladies and
18 gentlemen. Don't talk about the case.

19 (WHEREUPON, the jury exited open court at
20 3:36 p.m.)

21 MR. LUCAS: Your Honor, our next witness is
22 Anthony Dominguez. He is a friend of the decedent and
23 also Ms. Rhodes, who was with him that night.

24 We've spoken with him earlier today. He doesn't
25 wish to testify. We'd like to treat him as an adverse

1 witness. We don't think that we're going to be able to
2 get fair and truthful answers out of him on direct.

3 His mother has already mentioned him possibly
4 taking the Fifth Amendment. Obviously, I don't think
5 that's appropriate, your Honor, so we're asking you
6 under Rule 611 to allow us to examine him with leading
7 questions as an adverse witness.

8 THE COURT: So you want to treat him as hostile,
9 okay.

10 MR. OVERBY: I think he's got to start testifying
11 first.

12 MR. LUCAS: That's a hostile witness, your Honor.
13 An adverse witness, we can ask for this in advance.
14 And we expect him to be adverse based upon our
15 conversation earlier.

16 THE COURT: I'll tell you what. Ask him some
17 question. I'm going to allow it, but ask him something
18 that shows me what he's going to be and that will give
19 me something to rule on.

20 MR. LUCAS: Thank you, your Honor. That sounds
21 appropriate.

22 THE COURT: I will allow you to lead, obviously.
23 I'll be right back.

24 (WHEREUPON, a recess was taken from 3:38 p.m. to
25 3:56 p.m.)

Anthony Dominguez - Direct by Ms. Gurney

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1 was coming back in, the probate judge was waiting for
2 me in the hallway, which is never a good sign, so I had
3 to deal with that.

4 Call your next witness.

5 MS. GURNEY: The defense calls Anthony Dominguez.

6 **ANTHONY DOMINGUEZ,**

7 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

8 THE CLERK: If you would take the witness stand,
9 please, sir, and state your name and spell your last
10 name for the reporter, please.

11 THE WITNESS: Anthony Dominguez,
12 D-o-m-i-n-g-u-e-z.

13 **DIRECT EXAMINATION**

14 **BY MS. GURNEY:**

15 Q Mr. Dominguez, you met Ahmed Fallous and Morgan
16 Rhodes in January of 2016?

17 A Yeah, I'm pretty sure.

18 Q And on May 25th of 2016, you went to Mr. Fallous'
19 house?

20 A Yes, ma'am.

21 Q You hung out with both Morgan and Ahmed Fallous?

22 A Yes, ma'am.

23 Q Okay. You did dabs that night?

24 A Yes, ma'am.

25 Q And dabs is concentrated THC?

Anthony Dominguez - Cross by Mr. Overby

State v. Stephen Grant Parten

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1 A As far as I know, yeah.

2 Q And you saw Morgan and Ahmed do cocaine that
3 night?

4 A Yes, ma'am.

5 Q And you have seen them do cocaine before that?

6 MR. OVERBY: Objection; relevance.

7 THE COURT: I'll allow it.

8 THE WITNESS: Yes, ma'am.

9 BY MS. GURNEY:

10 Q And you know that Mr. Fallous owned guns?

11 A No.

12 Q No?

13 A No, ma'am.

14 Q Do you recall speaking to Detective Epps and
15 Ritter on June 1st of 2016?

16 A Yes, ma'am.

17 Q Do you recall telling them that he owned an AR,
18 you believed it was an AR-22?

19 A Yes, ma'am.

20 Q And you told them that he also owned a pistol?

21 A Yes, ma'am.

22 Q You recall those statements?

23 A Yes, ma'am.

24 MS. GURNEY: No further questions.

25 THE COURT: Okay.

1 Any questions?

2 MR. OVERBY: Yes, your Honor.

3 CROSS-EXAMINATION

4 BY MR. OVERBY:

5 Q Mr. Dominguez, you were over at the house earlier
6 in the evening, right?

7 A Yes, sir.

8 Q Do you remember about what time?

9 A I do not recall what time I went over there.

10 Q Well, let me ask you this: Was the sun up or the
11 sun down?

12 A It was down.

13 Q It was down. Was it before midnight or after?

14 A Before midnight.

15 Q Good bit before?

16 A It was a good bit before.

17 Q Okay. And when you were over there, you said you
18 had known Ahmed and Morgan for -- since January,
19 correct?

20 A Yeah. Well, I didn't know them for a very long
21 time.

22 Q But when you saw them, how were they with each
23 other?

24 A They was a really happy couple. They seemed like
25 they loved each other. Ahmed was a really good guy. I

Anthony Dominguez - Cross by Mr. Overby

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1 just -- I don't know.

2 Q And was he -- were they happy that evening?

3 A Yes. Yes, sir.

4 MR. LUCAS: I'm going to object to relevance.

5 THE COURT: No. Well, it's cross. I will allow
6 it.

7 BY MR. OVERBY:

8 Q And they were happy on that evening?

9 A Yes, sir.

10 Q And did you ever see the defendant in this case
11 that evening?

12 A No, sir.

13 Q Did they ever say anything about him coming over?

14 A No, sir.

15 Q No further questions, Mr. Dominguez. Thank you.

16 THE COURT: Anything on redirect?

17 MS. GURNEY: No, sir.

18 THE COURT: Okay. Thank you, sir. You can step
19 down. If you're under subpoena, you can be released.

20 Okay. You can call your next witness.

21 MR. LUCAS: Defense calls Heather Cartee.

22 **HEATHER CARTEE,**

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 THE CLERK: If you would take the witness stand,
25 please, ma'am, and state your name and spell your last

Heather Cartee - Direct by Mr. Lucas

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1 name for the reporter, please.

2 THE WITNESS: It's Heather Cartee, C-a-r-t-e-e.

3 DIRECT EXAMINATION

4 BY MR. LUCAS:

5 Q Where do you live, Ms. Cartee?

6 A I live in Pendleton, South Carolina.

7 Q Are you from there?

8 A I am.

9 Q What do you do for a living?

10 A I work for Upstate Private Investigators.

11 Q How long have you worked there?

12 A 11 years.

13 Q What are your duties there, Ms. Cartee?

14 A I'm a case intake manager. I meet with the public
15 defenders to take in the new cases that we get and meet
16 with new clients in our office and manage the cases in
17 our office.

18 Q Does your office do investigative work for the
19 public defender?

20 A We do. We conduct interviews and -- yes, we do.

21 Q Do you often conduct interviews?

22 A I do.

23 Q Are you a licensed private investigator?

24 A I am not.

25 Q Now, based on working at Upstate Private

Heather Cartee - Direct by Mr. Lucas

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1 Investigators, tell the jury whether it's your
2 understanding if a person has to be licensed to
3 interview people.

4 A No, not to conduct the interviews with any
5 witnesses, we do not have to be licensed.

6 Q Do you usually record interviews that you conduct?

7 A We do not.

8 Q Why not?

9 A It is not required. It's just for informational
10 purposes only.

11 Q Now, how did you come to be involved in this case,
12 Ms. Cartee?

13 A I met with the public defender, and I am the one
14 who was doing the interviews with Ms. Morgan Rhodes.

15 Q And on what dates did you interview Ms. Rhodes?

16 A We did those -- I did those, sorry, on April the
17 18th, 2018, and then May 14th of 2018.

18 Q And on May 14th did you have occasion to ask her
19 about some specific facts in this case?

20 A I did.

21 Q What did you ask her?

22 A We went through the specific facts of the day,
23 specifically about the shooting. She did state to me
24 that they were both shooting, that she had got out of
25 the vehicle, and she could even feel the bullets going

Heather Cartee - Cross by Mr. Overby

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1 by her.

2 Q I don't have any further questions. Thank you.

3 A Thank you.

4 Q Please answer any questions the State might have.

5 A Yes, sir.

6 CROSS-EXAMINATION

7 BY MR. OVERBY:

8 Q Ms. Cartee, how are you?

9 A I am good. Thank you.

10 Q How did you speak with Ms. Rhodes?

11 A We met together for an interview.

12 Q Where did you meet?

13 A We met at her home on -- well, her mother's home
14 on April 18th of 2018. And then we met for lunch on
15 May 14th of 2018.

16 Q So you met at home and met for lunch?

17 A Yes, sir.

18 Q Did the public defender give you any other
19 statements from Morgan Rhodes?

20 A Yes. It was in with the paperwork that we picked
21 up from the public defender.

22 Q And what were those statements in question?

23 A It was her original statements with the discovery.

24 Q Were they transcripts or were they recordings?

25 A They were recordings.

Heather Cartee - Cross by Mr. Overby

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1 Q Did you listen to them?

2 A I did.

3 Q And in reference to those, did you ask her about
4 those recordings?

5 A I did.

6 Q Did you ask her about what she said in those
7 recordings?

8 A We just went over the events just like in the
9 recordings.

10 Q You went over the events just like in the
11 recordings, but you didn't ask her specific details
12 about the recordings?

13 A No, I don't -- no.

14 Q So you just asked for another version or
15 another -- her statement to you without referencing any
16 of the other statements she gave to police?

17 A Well, there was some of the same questions, yes.

18 Q Some of the same questions, but you didn't refer
19 back to those questions?

20 A No, not to the recordings, I didn't. I had my own
21 list of questions.

22 Q No further questions. Thank you.

23 THE COURT: Anything on redirect?

24 MR. LUCAS: None, your Honor. You can step down.

25 THE COURT: Thank you. You're free of any

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 2 County of Anderson In the Court of General Sessions

3
 4 State of South Carolina) 2016-GS-04-02402
 5) 2016-GS-04-02403
 6 -vs-) 2016-GS-04-02404
 7 Stephen Grant Parten,) 2016-GS-04-02405
 8 Defendant.) 2019-GS-04-00021
 9 _____)
 10
 11
 12
 13
 14

11 B E F O R E:

12 The Honorable J. Cordell Maddox, Jr., Judge;
 13 and a jury.

15 A P P E A R A N C E S:

16 Stanford Lee Overby, Jr., Esquire
 17 Catherine Townsend Huey, Esquire
 18 Attorneys for the State

18 A. Hadden Lucas, Esquire
 19 Victoria V. Gurney, Esquire
 20 Attorneys for Defendant

21
 22
 23 Reported by:
 24 Diane L. Marcengill, RPR, CRR, CRC
 25 Circuit Court Reporter

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E x h i b i t s

For the State:

Marked	Description	I.D.	Admitted

None offered.

For the Defendant:

Marked	Description	I.D.	Admitted

3	Drug screen results for Morgan Rhodes	453	

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1 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

2 THE CLERK: If you would take the witness stand
3 and state your name and spell your last name for the
4 reporter, please.

5 THE WITNESS: I'm Dr. David Turner, T-u-r-n-e-r.

6 DIRECT EXAMINATION

7 BY MS. GURNEY:

8 Q Where do you work?

9 A I work at the emergency department at AnMed
10 Hospital.

11 Q And did you work in the early morning of May 26,
12 2016?

13 A I did.

14 Q Did you have occasion to treat Morgan Allie Rhodes
15 that morning?

16 A I did.

17 Q And during the course of your treatment, did you
18 order a drug screen for Ms. Rhodes?

19 A I did.

20 Q Did she test positive for any drugs on that
21 screen?

22 A She did.

23 Q And can you tell us what she tested positive for?

24 A From memory -- I don't have the medical record,
25 but it was cocaine, methamphetamine, benzodiazepines,

1 and marijuana, I believe.

2 Q Would anything refresh your memory of that drug
3 test?

4 A If I had her medical record, that would.

5 (WHEREUPON, Defendant's Exhibit Number 3 was
6 marked for identification.)

7 MS. GURNEY: May I approach the witness?

8 THE COURT: Yes, ma'am.

9 BY MS. GURNEY:

10 Q Can you tell me what I've just handed you?

11 A It's a copy of the urine drug screen for Morgan
12 Rhodes.

13 Q And you recognize that?

14 A I do.

15 Q Can you please read it to yourself.

16 A (Witness complies.)

17 Okay.

18 Q Do you remember the drug screen?

19 A Yes.

20 Q Does that confirm your prior statement of what
21 Ms. Rhodes tested positive for?

22 A Yes.

23 Q And you stated she tested positive for
24 benzodiazepines?

25 A Correct.

1 Q Can you tell the jury what a few common
2 benzodiazepines are?

3 A Well, the most common ones are probably Xanax or
4 Valium, Klonopin, Ativan.

5 Q Okay. And what are the side effects of those
6 drugs?

7 A Well, they're sedatives. They make you sleepy and
8 drowsy and groggy.

9 Q And could mixing benzodiazepines with other drugs
10 increase the risk of those side effects?

11 A Certainly.

12 Q Could mixing all of those drugs that Ms. Rhodes
13 tested positive for affect her memory?

14 A It could.

15 Q Thank you. I have no further questions. Please
16 answer any the State may have for you.

17 CROSS-EXAMINATION

18 BY MR. OVERBY:

19 Q Dr. Turner, what are Xanax, Ativan and those
20 particular drugs typically prescribed for?

21 A For anxiety, typically.

22 Q And do you know -- I'm going to present you,
23 actually, with your reports from this, if you would
24 like to look over them.

25 A That would be great.

1 Q Now, the documents that I've given you, are those
2 commonly used in your practice in terms of assisting in
3 medical diagnoses of patients?

4 A Yes.

5 Q And do you rely on them in terms of your treatment
6 and evaluation of a patient who checks into the
7 emergency room?

8 A I guess it pertains to, like, vital signs, nursing
9 notes, that sort of thing?

10 Q Sure. Things that the nurses say, things that the
11 physicians' assistants say, things of that nature?

12 A Sure. Yes, certainly.

13 Q And you review those particular matters with the
14 various individuals who treat a patient; is that
15 correct?

16 A Correct.

17 Q Can you tell me whether or not Ms. Rhodes is
18 diagnosed with anxiety and depression?

19 A Yes, she is.

20 Q And what exactly is anxiety and depression
21 disorder? What exactly is an anxiety depression
22 disorder?

23 A Well, it's very common. Anxiety is, you know,
24 stress, feeling anxious about things, and depression is
25 feeling down and blue.

1 Q Right. And I guess my question is more specific.
2 Can anxiety become an almost debilitating aspect
3 for some people?

4 A Certainly.

5 Q For instance, in a high stress environment like a
6 courtroom?

7 A Sure.

8 Q Now, let me ask you an additional question. Okay?
9 You treated Ms. Rhodes that night. What did you
10 treat her for?

11 A I believe she had a laceration on her scalp.

12 Q She had a laceration on her scalp?

13 A Uh-huh.

14 Q I'm going to direct you to page number 3 of -- and
15 I apologize. I may not have been as artful with this
16 as I'd liked. Page number 3 of these records. And I'd
17 like for you to read the highlighted only portion,
18 please, right here.

19 A Okay.

20 She reports Stephen --

21 MR. LUCAS: Your Honor, I'm going to object.
22 That's hearsay.

23 THE COURT: All right.

24 Ladies and gentlemen, I have to send you out.
25 Please don't discuss this case.

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1 THE COURT: The issue here is just stop after --
2 we can't say a name.

3 Can you, just so -- because I want to make sure
4 that you point to him where to stop reading.

5 MR. OVERBY: I'm sorry?

6 THE COURT: Can you point to him where to stop
7 reading?

8 MR. OVERBY: Yes, absolutely. I'm happy to do so,
9 Judge.

10 THE COURT: You can bring them back.

11 (WHEREUPON, the jury entered open court at
12 11:55 a.m.)

13 THE COURT: Yes, sir.

14 MR. OVERBY: May it please the Court, your Honor?

15 THE COURT: Yes, sir.

16 BY MR. OVERBY:

17 Q Doctor, could you please read the portion here
18 excluding what we discussed?

19 THE BAILIFF: Your Honor, we're missing one.

20 THE COURT: Okay.

21 Go ahead.

22 THE WITNESS: "She reports that she was pistol
23 whipped. She was struck multiple times in the head.
24 She denies loss of consciousness but felt dazed. She
25 is complaining of localized head pain and left hand

1 pain. She is quiet, upset, anxious and crying
2 intermittently during the assessment."

3 BY MR. OVERBY:

4 Q Now, in looking at Ms. Rhodes, you said that she
5 had a laceration on her head?

6 A Correct.

7 Q Did she have any other injuries of note?

8 A She did have a broken finger.

9 Q Okay. What about -- now, you are an emergency
10 room doctor, obviously, correct?

11 A Correct.

12 Q So you have the opportunity to treat patients most
13 notably for assault in certain cases, correct?

14 A Yes.

15 Q And you've got extensive training and experience
16 in this regard?

17 A Oh, yeah.

18 Q I don't doubt that, sir.

19 How many cases of assaults have you worked with in
20 the past?

21 A Well, I've been here 21 years, so thousands.

22 Q Thousands, okay.

23 Have you ever testified in court before?

24 A Yes.

25 Q And as an expert witness?

1 A No.

2 Q Okay. Let me ask you this: Are the injuries that
3 you treated Ms. Rhodes for consistent with being an
4 assault victim?

5 A Yes.

6 Q Now, and I do want to ask you one -- a couple
7 quick questions about the toxicology. Okay?

8 When you do a urine screen, okay, what is that
9 necessarily showing you as far as the toxicology of the
10 person?

11 A Well, it shows us the most common drugs of abuse.

12 Q Does it show -- does it necessarily mean that they
13 were ingested that evening?

14 A No.

15 Q What could it possibly -- could it possibly be
16 that they were ingested earlier?

17 A Certainly.

18 Q A day or more?

19 A Uh-huh.

20 Q How much more than that?

21 A Well, marijuana will stay in your system for about
22 a month. The others not so long.

23 Q Right. Do these things metabolize all the same?

24 A No.

25 Q So it could be that these drugs were ingested a

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1 week before this incident?

2 A Could be.

3 Q Okay. I have no further questions.

4 THE COURT: Anything on redirect?

5 MS. GURNEY: Nothing on redirect.

6 THE COURT: Thank you, Doctor.

7 Is he under subpoena?

8 MR. LUCAS: He is, and we happily release him.

9 At this point, your Honor, the defense rests.

10 THE COURT: Okay.

11 Will the State be calling any witnesses in
12 rebuttal?

13 MR. OVERBY: No, your Honor.

14 THE COURT: Y'all come over here and stay two feet
15 away from me.

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

19 THE COURT: Ladies and gentlemen, as I said, at
20 this point in each and every trial, you have heard all
21 the testimony that you're going to hear. There won't
22 be any more evidence that will be presented to you.

23 The only two things that have to happen now in the
24 courtroom are the closing arguments by the attorneys
25 and the reading of the charge. Again, I told you a

1 MR. OVERBY: May it please the Court, your Honor.

2 THE COURT: Yes, sir.

3 MR. OVERBY: Ladies and gentlemen of the jury, at
4 the beginning of this trial, I told you this was a case
5 about a man shot in the back, a woman abducted and
6 beaten, and a desperate fugitive trying to get away.
7 And that's exactly what the evidence that you have seen
8 here today has shown you.

9 The reason I chose these three things to describe
10 this case is because it perfectly breaks down the
11 decisions that you're going to have to make in a few
12 moments.

13 It begins primarily here, Centerville Road, the
14 murder of Ahmed Fallous. Your task is going to be to
15 make the determination whether or not Stephen Parten,
16 the defendant, unlawfully killed Ahmed Fallous with
17 malice aforethought.

18 There's going to be some additional charges that
19 you're going to receive, most notably voluntary
20 manslaughter, but what I wanted you to understand is
21 this: The State's position is that this is a definite
22 murder.

23 A man shot in the back. Okay. That is what the
24 evidence shows you. That's what Dr. Woodard, the
25 pathologist, testified to. And what we know about this

1 scene is a few details.

2 The Centerville Road Bridge, where this occurs,
3 the three parties come together at [REDACTED]. Okay?
4 Prior to all of this, Ahmed Fallous and Morgan Rhodes
5 are happy together. That's according to Mr. Dominguez,
6 the defense's witness.

7 They get into the car, Mr. Parten's car, and
8 Mr. Parten is driving. And they approach the
9 Centerville Road Bridge. It's unclear where they were
10 going. I know that's frustrating.

11 One thing I want you to understand, however, is
12 the State doesn't have to prove motive. Okay? The
13 State has to prove the elements that the judge will
14 charge you. And you have to look at the facts and
15 circumstances behind the scenes to make your
16 conclusions about this case.

17 Mr. Fallous, according to John Gibby and on the
18 911 call, and Caleb Carroll, is found right around
19 here. Tire tracks as well as shell casings start right
20 around here.

21 Now, the defense, wrapped into this, has
22 proclaimed self-defense. What I want you to understand
23 is this: It's my burden, and I acknowledge this, to
24 disprove self-defense beyond a reasonable doubt. It is
25 my burden to disprove that.

1 Self-defense means that an individual comes into
2 the fray or the particular person who is shot and
3 killed or killed an individual, to have come into this
4 without fault, in actual imminent danger of great
5 bodily harm or death or a reasonable belief of great
6 bodily injury or death, and to have exhausted all means
7 of retreat. No other way to act under the
8 circumstances. That's what you need to know in order
9 to find that the defendant acted in self-defense.

10 And what the defense has offered is that
11 Mr. Fallous fired a pistol. Now, they have done that
12 through, essentially, two pieces of evidence. They
13 have done that through purported statements -- or
14 statements. I will acknowledge they are statements
15 made by Morgan Rhodes that the parties were shooting at
16 one another.

17 And they have done that, this, through what they
18 will claim conclusive GSR testing that establishes that
19 it is a high probability that Mr. Fallous fired a gun.

20 Let's first talk about Morgan Rhodes. Again,
21 we're going to actually go into greater detail about
22 Ms. Rhodes in a minute in our second phase of this
23 discussion.

24 Ms. Rhodes used drugs that night. She did. She
25 admitted to it when I asked her the question directly.

1 There's no dispute. Okay? As a matter of fact, it
2 makes plenty of sense because her memory of the initial
3 portion of this night is very hazy. It is very hazy.

4 But I want you to also keep something else in mind
5 here. Okay? Ms. Rhodes very clearly remembers very
6 important details about what happened to her after
7 that.

8 The defense wants to have their cake and eat it
9 too. They want to discredit her memory as to all the
10 stuff that she remembered for which there are
11 substantial amounts of evidence to support her
12 testimony to make you believe that the one piece of
13 evidence you should rely upon is an apparent
14 flip-flopping of her statements on who fired the first
15 shot.

16 When she took the witness stand and the defense
17 attorney asked her about who was shooting at who, her
18 response was yes to a leading question, and then she
19 said, "No, wait." And then she clarified on redirect
20 about that, that, no, Ahmed Fallous did not fire the
21 gun.

22 And the defense also offered a statement that was
23 apparently made to a private investigator in 2018 where
24 she said they were shooting at each other.

25 Ladies and gentlemen, here's my question, because

1 there's one individual who cannot be here to say
2 anything, and that is Ahmed Fallous. The thing that
3 speaks for Ahmed Fallous in this case is the evidence
4 at the crime scene. Okay?

5 For you to believe that Mr. Fallous fired a gun,
6 it necessitates, and I want to take this back, the
7 defense's point is that you never carry a half-empty
8 clip. You always carry a full one. And one in the
9 chamber apparently means you just fired it. I disagree
10 with that premise, but that's what has been proclaimed
11 here.

12 For you to believe that Mr. Fallous fired a gun
13 requires you to believe that these shell casings
14 ejected from this firearm went into the lake or were
15 lost over here. And then, either way, that story makes
16 zero sense. And here is why: The clear evidence from
17 the crime scene -- this is Mr. Fallous' body where he
18 was pulled from this roped-in area, still alive,
19 attempting to be saved by Caleb Carroll.

20 For you to believe that Mr. Parten fired a gun in
21 this area or for Mr. Fallous to have fired a gun in
22 this area requires you to believe that he didn't fire
23 the first shot. And the reason is because all of the
24 shell casings are back here on the bridge. And
25 Mr. Fallous again was shot in the back, square in --

1 square in the back.

2 So as a result of that, if these shell casings are
3 lost back over here somewhere, he couldn't possibly
4 have fired the first shot. That's if you believe that
5 he fired a gun at all.

6 Now, with respect to him firing a gun and the
7 shell casings ending up in the lake, if you believe
8 that these shell casings ended up in the lake, that
9 requires you to believe that Stephen Parten, his
10 purported target was standing somewhere right here.

11 And the reason that that is the case is because
12 both ballistics experts, the State and defense's
13 experts in this case, stated to you that that .380
14 Hi-Point firearm ejects up and to the right.

15 Ladies and gentlemen, how much sense does it make
16 for an individual shot in the back down there running
17 away to run towards his shooter? Not a lick. Not a
18 lick of sense. And that has to be the case because if
19 they go over here, you have to recall that if
20 Mr. Fallous is standing here and shooting with his left
21 hand, as the allegation proclaims, that the gun, even
22 though it's in his left hand, will still eject up and
23 to the right, which means this big, wide bridge is
24 going to have shell casings on it.

25 And that brings me to the GSR.

1 Well, first let's get the casings out of the way.
2 There are seven .45 caliber shell casings. You can see
3 the photographs of them. This is obviously coming
4 backwards, as Chris Wilson was talking about, from what
5 the events were. He's walking the direction that the
6 shooter was coming from.

7 And you can see all of it. You can open those
8 packages and take a look for yourselves. And James
9 Armstrong will tell you, he's testified in a bunch of
10 cases, he'll tell you for sure they were all fired from
11 the same gun because of the fingerprint.

12 Now, the defense has made a bit of a deal about
13 the fact that he doesn't keep photographs. But even
14 the expert conceded that the best way for anybody to
15 check somebody else's work is just do it yourself and
16 he didn't do that, though he could have. And, I mean,
17 it's seven .45 caliber shell casings sitting out there.
18 Chances are they probably are going to match the same
19 gun. There's only one shell casing that doesn't match
20 that firearm, and that's that one.

21 Now, ladies and gentlemen, if it walks like a duck
22 and talks like a duck, it's probably a duck. That
23 looks pretty old. Like it had been there for some
24 time. And the bottom line is also this: It wasn't
25 fired in Mr. Fallous' gun. It wouldn't even make sense

1 for that shot to be fired from Mr. Fallous' gun.

2 So what you have is a trail of bullets going this
3 way and a man shot in the back. And, you know, another
4 interesting thing is this: There's no blood trail on
5 this bridge from the gunshot wound.

6 And an additional fact that's interesting is this:
7 Stephen Parten told Elizabeth McC Carson, when he came to
8 her house later on -- we'll get to that again in a
9 minute -- "Is he dead?"

10 And if you listen to Morgan Rhodes' 911 call,
11 again, she tells T.J. Francis, "I think he killed my
12 boyfriend." They don't necessarily know. Mr. Parten
13 is just shooting away, going down the bridge as he's
14 running off into the darkness. And he gets a fatal
15 strike, just enough where he could still run, per
16 Dr. Woodard. Like a deer that you shot that gets away
17 but dies somewhere else.

18 And that's exactly what happened, but not before
19 Mr. Fallous was able to tell Caleb Carroll and John
20 Gibby who shot him: Stephen Parten.

21 The GSR. Okay. Let's say that you feel
22 comfortable with the notion that there are no shell
23 casings there. The GSR has to explain the shooting,
24 right? I hate to say it, GSR has to be one of the most
25 unreliable forensic pieces of evidence in criminology,

1 in forensic criminology.

2 Because after 2005, and this is by both experts'
3 admissions -- if you don't trust my expert, or if you
4 think that maybe Fletcher is telling you some stuff
5 just to help me out, then why is his expert agreeing
6 with me -- it cannot determine whether an individual
7 fired a firearm, was a victim of a firearm, or was in
8 the vicinity of a firearm being discharged by every
9 expert's admission in this case.

10 Now, there is a huge deal made about the actual
11 amount on the back of Mr. Fallous' left hand. Okay?
12 The theory being that when the gun is fired, gunshot
13 residue comes out the front and out the ejection port
14 onto the hand.

15 Ladies and gentlemen, Mr. Robinson talked a great
16 deal about transfer. If I shake your hand -- if I fire
17 a gun and shake your hand, it's going to have it on it.
18 It's a very delicate piece of evidence. If you fire a
19 gun in your left hand, it's going to go on the gun.

20 There was no gunshot residue on Mr. Fallous' right
21 hand. Where was the gun found when Mr. Fallous was
22 found? In his right hand.

23 That gunshot residue could have just as easily
24 come from any one of these discharged rounds just as
25 easily. That's why the four-part lift, which their

1 expert based their entire opinion on, has been deemed
2 completely misleading. The existence of it is all that
3 matters. And without that, ladies and gentlemen, all
4 you have is no shell casings and a confused Morgan
5 Rhodes.

6 And that really brings us -- well, and a confused
7 Morgan Rhodes. But what you also have is the ability
8 to look at this commonsensically. You do not have to
9 fantasize about possibilities of doubt in this case.
10 You have to have a reasonable doubt.

11 That doesn't mean imagining some physically crazy
12 thought. That means just looking at it and
13 assimilating things with your own perception. You have
14 no shell casings, you have a man shot in the back, you
15 have all the shell casings starting further back on the
16 bridge, and you have him being found here.

17 It is awfully hard to defend a case of murder or
18 to imagine, pardon me, a reason why shooting a man in
19 the back running away was necessary. That's the third
20 element of self-defense. No other ability. That's if
21 you believe that Ahmed Fallous or Mr. Parten was
22 without fault in bringing on the difficulty, which the
23 testimony I heard was that Mr. Parten pulled Ahmed
24 Fallous out of the car and started to beat him. And
25 there's some evidence of that. We'll get to that in a

1 minute.

2 Now, the second aspect of this case, a woman
3 abducted and beaten. I don't pretend to imagine that
4 Mr. Parten had a full clip. I don't know what gun he
5 had, being perfectly honest with you. I know it's a
6 .45 caliber, but I can't say anything else for sure.

7 But what I can tell you is this: When you just
8 killed somebody, it's generally a poor practice to keep
9 the witness alive unless you don't have a means of
10 doing it.

11 So the bottom line is, is after unloading these
12 shells, Mr. Parten is probably out of bullets. Okay?
13 So what does he do? He says, Well, I just unloaded
14 this gun on Mr. Fallous, so I'm going to get the
15 witness, pull her viciously into the vehicle and take
16 off. Right there. And I'm going to come up with a
17 plan as I start going along.

18 Now, Morgan at this time knows something terrible
19 has happened, and she's starting to come around to it.
20 But you've got drugs and you've got trauma. Those two
21 things are working on her mind. And she doesn't really
22 know where she is, where she's going. All she knows is
23 that she's in this car with this guy, and he says,
24 "You're next."

25 He then starts driving along -- they start driving

1 along. He wrecks the car. Angry that he wrecked the
2 car, he starts hitting her incessantly with the gun,
3 starts beating her. He hightails it back out the car
4 and takes off towards Williamston.

5 So we have concluded the second phase. We have
6 concluded the first phase here, and we're on to the
7 second.

8 This is where he wrecks the car, Harris Bridge
9 Road. You can see from the photographs on Harris
10 Bridge Road fluid from the vehicle which actually
11 proceed in a trail. It's a pretty wide turn. My guess
12 would be power steering fluid, but the bottom line is
13 that is damaged front end. And a damaged front end car
14 doesn't drive very far.

15 He gets back on the road, then he heads towards
16 Williamston where the car eventually dies.

17 Well, now he's got a live witness, he's out of
18 bullets, he's got a car that doesn't run and no means
19 of getting away, so he's got to come up with another
20 plan. He has to get out of the car.

21 So what does he do? He gets out of the car, and
22 he goes over to Morgan Rhodes. He starts hitting her,
23 trying to get her to get out of the car. And what
24 happens after that? Morgan fights. Because by this
25 point, Morgan is woken up enough to know that she is in

1 real danger. She is lucky to have made it this far
2 alive. And so she fights and she kicks him and she
3 knocks him back and she shuts the door, slams the door,
4 locks it, gets in the backseat and ducks for cover.

5 Okay?

6 And that's when she says she hears gunshots. I'm
7 going to tell you this right now, there's no bullet
8 holes in this car and there's no shell casings on this
9 roadway. What Morgan said was that the gunshot sound
10 appeared to be on the car and not away from the car.

11 I want you to -- you'll have this exhibit back
12 there. It's a little bit grainy here. Look right here
13 on this picture, the passenger side where she was
14 sitting.

15 Stephen, mad that he can't get back in, so he hits
16 the car. She thinks it's a gunshot. She's sitting
17 there, head ducked. And so we get to the next aspect
18 of it. Time is running out now. The car is sitting
19 there, he's got nowhere to go, he's got a witness
20 that's seen what he did, and he's got to make up his
21 mind.

22 How's he going to get rid of the witness and also
23 get away at the same time? And the answer, ladies and
24 gentlemen, is he's got a lighter in his pocket. That's
25 how the car was found with the gas tank empty or with

1 the gas cap off, pardon me, and a lighter is found over
2 here.

3 Now, he's trying to act quickly because he needs
4 to get out of there. So what he does is he stuffs --
5 he stuffs this piece of paper into the gas tank. I
6 have never -- ladies and gentlemen, you can see the
7 charring on this piece of paper. I have never, and I
8 have thought and I have struggled immensely with this,
9 but I cannot think of a single cognizable reason for a
10 piece of paper to be stuck in a gas tank and lit other
11 than to destroy the car.

12 I know that this piece of paper is not a Molotov
13 cocktail rag, but it's the best he had sitting out
14 there with no car. And this setting a person on fire,
15 Morgan Rhodes testified that she smelled burning. This
16 is specific intent to kill.

17 You're going to hear about an attempted murder
18 instruction, ladies and gentlemen, and it's a somewhat
19 difficult law to understand. But what I want you to
20 understand is this: I can find no other reason for
21 this than it was his desire to burn her in that car
22 alive and get away. And if it wasn't for T.J. Francis,
23 maybe he would have succeeded. Because he showed up at
24 least close enough in time to be able to hear something
25 going on in the woods, and Morgan Rhodes is sitting

1 there bloody and beaten calling for help in the
2 backseat.

3 That's your attempted murder, ladies and
4 gentlemen. That's your kidnapping. That's the woman
5 abducted and beaten.

6 The desperate fugitive. Mr. Parten is in a
7 heavily wooded area at this point on foot, nowhere to
8 go, and law enforcement, he's got to reckon, is after
9 him. Because surely a body on a bridge is going to
10 raise some eyebrows.

11 So he takes off through the woods here. Okay?
12 And for four days, roughly, you don't hear hide nor
13 hair of him. Nathan Mitchell had interviewed Morgan by
14 this point. He had heard about Caleb Carroll's
15 statement or what Ahmed Fallous had said, he had looked
16 at the crime scenes. He was looking for Stephen Parten
17 at that point, but hide nor hair until five days later
18 Mr. Parten shows up at Ashley Moore and Elizabeth
19 McCarson's house to try to find Ashley Moore. Didn't
20 know where he was.

21 He was covered -- according to Elizabeth McCarson,
22 he looked like he had been in the woods. He even said
23 he had been in the woods. And that he had been living
24 there for five days. And it turns out that the vehicle
25 he had obtained came from the home of Dan Ray.

1 And Dan Ray -- my apologies. Day Ray lives on the
2 other side of a big, long field from Hopewell Church or
3 from Hopewell Road where the vehicle was abandoned.

4 Mr. Parten had taken a spare key out of Mr. Ray's
5 house, according to Elizabeth McCarson, and apparently
6 connecting with Dan Ray's testimony, he had also taken
7 an area mat and used it to curl up. He knew the car
8 was there. He was looking for an opportunity to get
9 away. So he busts in the house through a back window
10 and goes and gets a spare key, money, clothes.

11 He's going on. And he runs to the one person he
12 can trust after all of his criminal endeavors, and
13 that's Ashley Moore. And as Elizabeth McCarson told
14 you, Ashley Moore and him go way back. And Ashley
15 Moore, yes, is in federal prison for drug trafficking.
16 And he goes and he asks for money, he asks for drugs,
17 and he asks for help getting away.

18 But Ashley ain't no fool. He's been through this
19 whole process before. Ashley sees an opportunity to
20 help himself. And according to Elizabeth McCarson, he
21 gets a phone. He asks, according to Elizabeth
22 McCarson, he gets a phone from him and drops it in
23 Mr. Parten's car and off they go -- off he goes. Calls
24 the U.S. marshals. The U.S. marshals track him with
25 Find My iPhone. And subsequent to that, he's

1 apprehended by the Tennessee State Police in Dan Ray's
2 truck, which Dan Ray just traded in a couple days ago
3 or couple -- this year or about a year ago for about
4 \$25,000. No better valuation than that.

5 So Nathan Mitchell goes up and sees Mr. Parten.
6 And he testified to you how he observed him. He said
7 that he had bug bites, briars, briar injuries, looked
8 like he had been running through the woods.

9 But what didn't he have? He didn't have a gunshot
10 wound. He didn't have a black eye. He didn't have a
11 broken arm, broken limbs. He didn't have any signs of
12 a fight. He just had signs of having been out in the
13 woods for five days.

14 And, ladies and gentlemen, I ask you, a man who is
15 on the run, who is found with absolutely no injury
16 whatsoever, are his actions warranted for that?

17 Dr. Woodard testified that was a pistol whip or
18 looked like one, the butt of a gun, that's on Ahmed
19 Fallous' forehead.

20 For that? That's Morgan Rhodes in the hospital
21 that night.

22 For that? That's the laceration she suffered that
23 had to be stitched back together that the ER doctor
24 just told you is consistent with an assault.

25 Or for that? That's the injury to her hands. I

1 want you to look at those claw marks. She testified
2 that he grabbed her and clawed her arm. Those look
3 like human fingernail marks.

4 Morgan Rhodes is telling you the truth. The
5 evidence is telling you that Ahmed Fallous did not fire
6 that gun. The evidence is telling you that Stephen
7 Parten broke into somebody's home to steal some keys so
8 that he could steal a truck that was worth more than
9 \$10,000.

10 The evidence is telling you that Stephen Parten
11 shot Ahmed Fallous in the back with malice
12 aforethought. The evidence is telling you that Stephen
13 Parten wanted to get rid of a witness and tried to burn
14 her alive.

15 Ladies and gentlemen, proof beyond a reasonable
16 doubt is proof that leaves you firmly convinced of the
17 defendant's guilt. You will hear that instruction from
18 Judge Maddox. It is not a fanciful doubt. It is not a
19 completely and totally imagined doubt. It is what your
20 eyes see and your common sense tells you.

21 This is a murder. This is an attempted murder.
22 This is a possession of a weapon during the commission
23 of a violent crime. This is a kidnapping. This is a
24 burglary second, and this is a grand larceny. And this
25 is one violent series of events. And you should find

1 Mr. Parten guilty of every single one of those charges.

2 MR. LUCAS: Your Honor, that was pretty long.

3 Mine is going to be pretty long as well.

4 Could we give the jury about five, ten minutes to
5 step out?

6 THE COURT: Sure.

7 Ladies and gentlemen, don't discuss the case.

8 Take a break. Call you back in.

9 (WHEREUPON, a recess was taken from 2:50 p.m. to
10 3:02 p.m.)

11 THE COURT: Okay. You can bring them in.

12 (WHEREUPON, the jury entered open court at
13 3:03 p.m.)

14 THE COURT: Okay. Thank you, ladies and
15 gentlemen.

16 All right. You can proceed.

17 MR. LUCAS: This week you've heard that there are
18 two sides to this story. At the beginning of the case,
19 I got a chance to talk to you, and I told you that the
20 State would try to show in this case that there was a
21 good guy, a bad guy, and only one person shooting in
22 this case. And that's what they have tried to show
23 this week.

24 No, that's not what happened on the Centerville
25 Road Bridge on the early morning hours of May 26th of

1 2016. And that is not what the evidence in this case
2 suggests. That's not even what Morgan Rhodes is saying
3 happened that night.

4 So what does the evidence suggest? Well, we know
5 that Ahmed Fallous had a gun. It was in his hand. We
6 know that that gun was half empty. And we know that he
7 fired the gun. All of the evidence regarding that
8 points to that conclusion.

9 Now, we know that there was a verbal altercation
10 inside the car. We know that Stephen and Ahmed fought
11 on the bridge. So what happened?

12 Well, the available evidence suggests they were
13 shooting at each other. Ahmed was shooting at Stephen.
14 Stephen was shooting back at Ahmed. They were both
15 shooting at each other.

16 Two people shooting at each other, that does not
17 make a murder. That can be a defensive exchange of
18 gunfire, and I submit to you that in this case that's
19 what it was.

20 Now, all of the evidence, all of the available
21 evidence you have heard this week suggests that
22 Mr. Fallous was shooting his gun. We don't have a
23 videotape of it, but this is the real world. You don't
24 get perfect evidence. You have to live with what
25 you've got and determine what it means.

1 Now, the most important fact here is that Morgan
2 Rhodes, the then girlfriend of the decedent, Ahmed
3 Fallous, she said they were both shooting. She didn't
4 want to say it. But she did. And that makes it all
5 the more credible.

6 Now, this week I've been taking close notes about
7 the testimony, and the purpose of that is so I can come
8 back and talk to you about what that testimony shows.

9 Now, Morgan Rhodes on the stand, I know it's been
10 a couple days ago. The first time she was asked, "They
11 were both shooting, weren't they?" She said they were,
12 beside the car. So Ms. Gurney let that go and looped
13 back to it later on.

14 And then Morgan said, she was asked, "They were
15 shooting," and she said yeah. Well, on redirect, she
16 said that she had been tricked. Well, it's not a trick
17 to ask someone a question and to see how they answer
18 it.

19 And then Ms. Gurney came back on cross and asked
20 her again if she had made that statement, and she asked
21 her if she had made the statement to our investigator,
22 Heather Cartee. Well, Morgan said, "Yes, I did, but I
23 was speculating." She can't answer it straight.

24 I would say to you that the right answer, the true
25 answer, is the first one she gave. She was asked,

1 "They were shooting," and she said yes.

2 Now, not only did she testify to that in court,
3 she told the same thing to our investigator, Heather
4 Cartee. You may remember Ms. Cartee testified that she
5 spoke in May of 2018, and we hired Ms. Cartee to speak
6 with her to ask her some questions about what happened,
7 because from her statements, I thought they were
8 unclear.

9 Ms. Cartee asked her whether both people were
10 shooting, and she said, "They were both shooting. I
11 was between them. I could feel the bullets going by
12 me." That doesn't sound like speculation to me.

13 Now, you heard a lot more evidence about whether
14 Mr. Fallous was shooting or not. Well, remember what
15 Deputy Carroll said. He told you that when he saw
16 Ahmed Fallous, he had a pistol in his right hand.
17 Remember what you heard again and again from multiple
18 witnesses that the pistol, the Hi-Point .380 ACP
19 semi-automatic pistol was half loaded. It holds nine
20 cartridges. And inside of it, there were three in the
21 magazine and one in the chamber.

22 Now, the question I want to know, and I think it's
23 a really good question, and it's one that you should
24 definitely talk about: Who carries around a half-empty
25 pistol? I think it's an unusual thing to do. If

1 you're carrying a loaded gun around, it's either going
2 to be full or you're not going to be carrying it.

3 We can debate about whether it's a good idea to
4 carry a pistol with a cartridge in the magazine, but I
5 would submit to you that it is unusual to carry a
6 half-empty gun around. It's going to be loaded all the
7 way or you're not going to have it. And Detective
8 Mitchell said the same thing. He's here for the State.
9 He agrees with my position.

10 Now, as I said, that Hi-Point .380 also had a
11 bullet in the chamber. That alone doesn't prove
12 anything, but if you have a half-empty gun, as you
13 heard the way a semi-automatic pistol works, you fire
14 it, it fires a bullet out, spits the casing out, and
15 then it sucks in another cartridge. So if you have one
16 in the chamber, that is suggestive that that gun has
17 been fired.

18 Now, Chris Robinson, our gunshot residue expert
19 and firearms expert, he reviewed the State's findings
20 as to gunshot residue. And I think the prosecutor has
21 somewhat mischaracterized what he's saying. His point
22 is that Mr. Fallous had gunshot residue particles on
23 his hands that are consistent with having fired a
24 pistol, that he has four particles on his left hand,
25 and that highly suggests that he in fact fired a gun.

1 I think the distinction is that Mr. Robinson is
2 saying that means there was a high likelihood that he
3 fired a gun. He's not saying that is proof. He is
4 saying, "I looked at this, and because of those four
5 particles, I would conclude that he in fact fired a
6 gun." And that's a difference between talking about a
7 high likelihood and certainty. He's not saying he's
8 certain; he's saying there is a high likelihood.

9 And what I would ask y'all to do is compare that
10 high likelihood and then join that with all the facts
11 you know about firearms here, and when you do that, I
12 think that the right conclusion is that he was firing a
13 gun. In fact, it's the only conclusion.

14 And there's another thing about the firearm. And
15 I think that law enforcement was willfully blind in
16 this regard. Any time I fire a gun, there's going to
17 be powder residue in the barrel. And it's real simple.
18 You look down the barrel, and you see if it's there or
19 not. That's an easy way to determine if someone fired
20 a gun if you really wanted to know. Let him do that.

21 You didn't hear any testimony about anyone doing
22 it. And you can't do it now because they took it to
23 the firearms lab. They test fired it. It's in a
24 different condition. Why wouldn't you do that? You
25 really want to know what happened, why wouldn't you do

1 that?

2 Now, there's a number of red herrings in this case
3 that the State is asking you to focus upon, and they're
4 saying that these things make what I'm telling you
5 impossible. Well, I want to go through those and talk
6 about them a little bit.

7 So red herring number 1, no .380 casings on the
8 bridge. So Mr. Overby says that if there's no .380
9 casings on the bridge, that that means that Ahmed
10 Fallous, who had the .380, wasn't shooting, because it
11 would be on the bridge if he was shooting it.

12 Well, I'd remind him they're on a bridge. That
13 bridge goes over Lake Hartwell. It's a pretty long
14 bridge, and you have got lake on the right side and you
15 have got lake on the left side.

16 Well, the way I see this, it's not that wide of a
17 bridge. But don't take my word on it. Look at the
18 pictures. You're able to take them back there in the
19 jury room with you. What you're going to see, and, I
20 mean, you have already seen it, you may not have
21 directed your attention to it, but it's a two-lane
22 road. We're not talking about a four-lane road. It's
23 a two-lane road, and you have a concrete barrier on
24 either side of those lanes. So it's not like you have
25 a great big, you know, you have a lane, the white line,

1 and then a great, big median over here, and then you
2 have got a lane and a white line and a great big median
3 over here. That's not the way it is.

4 There is a wall on one side, and there is a wall
5 on the other side. And in between that you have got,
6 I'm guessing, but I'd say 20 feet of road, something
7 like that, maybe a little more, maybe a little less.
8 And if I had a chance to go back and measure it and
9 re-create this, I'd do it, but we don't.

10 So I guess the real key inquiry is where were
11 these people standing on the bridge when they were
12 shooting at each other? And there hasn't really been
13 any testimony about that. The State doesn't want to
14 know where Mr. Fallous is standing because they say he
15 wasn't shooting.

16 Well, all we've heard is that Morgan Rhodes, when
17 Ms. Gurney asked her whether they were shooting, she
18 said, well, they were beside the car. And on another
19 occasion she said they were in front of the car. Well,
20 what I want to know: Which side of the car?

21 If they were on -- the car is in the left lane,
22 and they're on -- or if they're in the left lane and
23 you're looking at the car, you're on the bridge
24 standing in that same lane with the car, say, pointing
25 towards Pendleton, so you have car, left lane, right

1 lane empty, well, if they're standing, looking at the
2 car on the left side, and Mr. Parten is beside the car
3 and Mr. Fallous is on the other, well, you would have
4 those .45 casings going over into the lake.

5 What I think is more likely is that they're
6 standing more in the middle of the bridge or even over
7 onto the right side. Now, if they're standing there
8 and you have Mr. Parten shooting one way and
9 Mr. Fallous facing back at him and shooting the other,
10 well, you have heard those shell casings, they eject to
11 the back and the right. They can be a little variable,
12 and they will go six feet to eight feet, and that would
13 obviously be kind of dependent upon the way somebody is
14 shooting the gun.

15 You know, you're holding it sideways shooting it
16 like a thug or you're pointing it straight or you're
17 running one way. If you have got somebody standing in
18 the right lane and shell casings going back and to the
19 right, well, sounds like it's going to go off the
20 bridge. And if it goes off the bridge, goes into the
21 water, it sinks. Or maybe an empty shell casing
22 floats, I don't know. I couldn't tell you, but nobody
23 checked.

24 So there is a real easy explanation for that.

25 Red herring number 2: Mr. Overby told you that

1 Chris Wilson, the forensic investigator, testified that
2 he was able to tell the order of shots in which the .45
3 was fired.

4 Well, I took notes, and that's not what he said.
5 What he said is that we went and looked at the casings.
6 We marked where they were located when we were
7 collecting them. We put down markers. And if you
8 remember, and I remember because I was taking notes,
9 that he marked them in the order that he saw them.

10 So if he's walking up the bridge, he's marking
11 them in that order. That doesn't say anything about
12 what order they're being fired in. At least that's not
13 what he testified to.

14 Now, red herring number 3, and this is the real
15 biggie for me: Mr. Overby telling you that because the
16 gun was in Ahmed Fallous' right hand and there's
17 gunshot residue on his left hand, that that means he
18 wasn't firing, that he wasn't firing the gun because
19 the gun was in his right hand and the gunshot residue
20 is in his left hand.

21 Well, it all falls apart for them right now. And
22 the reason that is, is the State has not offered any
23 testimony about whether Ahmed Fallous was right-handed
24 or whether he was left-handed. It's been two and a
25 half years. There's plenty of people you can ask to

1 find that out.

2 Well, I submit to you that you can draw a clear
3 inference from this. If he was right-handed, wouldn't
4 they have brought someone in to testify that he was
5 right-handed? Be three questions. How do you know
6 him? How well do you know him? And was he
7 right-handed or left-handed? You can call a family
8 member for that purpose.

9 We didn't hear that. We didn't hear any testimony
10 about that. And I'll tell you why. And the inference
11 is clear. He's left-handed. If he was right-handed,
12 he'd call somebody to testify to that. That is crystal
13 clear, and you didn't hear that.

14 Why didn't you hear it? It's because he's
15 left-handed, and he was shooting with his left hand.
16 There's gunshot residue on the back of his left hand.
17 There's four particles. Chris Robinson says that is
18 consistent with a person shooting a gun.

19 Now, red herring number 4: Mr. Overby told you
20 that because there's no blood on the bridge, that that
21 means Ahmed wasn't on the bridge shooting. He didn't
22 get shot on the bridge.

23 Well, I got out my notes, and I went back and I
24 looked at what Dr. Woodard, the State's own expert,
25 said. And what he said -- I highlighted it in my

1 notes. I've got it right here. He said that in terms
2 of blood, you wouldn't necessarily expect a lot right
3 away.

4 When somebody gets shot, they're going to bleed a
5 lot eventually. They're not necessarily going to bleed
6 out right then and there. That's a red herring. And
7 there are an awful lot of these where the State is
8 telling you things that don't make any sense, that
9 sometimes even contradict their own witnesses.

10 And then red herring number 4 -- I'm sorry --
11 number 5, another big one: Mr. Overby suggested that
12 the defense can't have its cake and eat it too.

13 Well, he said that in terms of the transfer of
14 gunshot residue, and he's suggesting that they can
15 account for this gunshot residue on Ahmed Fallous' hand
16 because of a transfer or the person being in the
17 vicinity of a discharge when a firearm was shot.

18 Y'all heard all about gunshot residue this week,
19 probably more than you want to hear, but it's
20 important. And what you may recall, that in addition
21 to being -- or in addition to firing a gun, you can get
22 gunshot residue on your hand through transfer. So
23 touching something else that has gunshot residue on it
24 or being in the vicinity of a discharge.

25 Well, the State is trying to have its cake and eat

1 it too as well because they can't explain that gunshot
2 residue. So in terms of transfer, there's nothing to
3 touch for Mr. Fallous to get gunshot residue on his
4 hands. If he's shot or if he's running away, he's
5 going to run down the bridge. He hops over the
6 railing, the guardrail, and then he's found in the
7 woods.

8 Well, there's nothing to pick up gunshot residue
9 between that and the woods. In addition, they're
10 saying that he is running away. Well, if that's the
11 case, how is he in the vicinity of a discharge?
12 Because, as you recall, you have to be close to a
13 firearm to get gunshot residue on you. So the answer:
14 He was shooting.

15 Now, let's talk about what Morgan told you about
16 the shooting. Again, I'm taking notes on this. And
17 the reason is so I can accurately recount to what she
18 testified.

19 She told you that there was an argument in the
20 car. Ahmed and Stephen are arguing. She told you that
21 this turned into a physical fight outside of the car.

22 Now, she testified inconsistently about who
23 escalated this fist fight into a shooting. She first
24 said that she was not sure who escalated the fight, and
25 then Mr. Overby asked her another question, prompted

1 her, if you will, and then and only then did she say
2 that Stephen Parten pulled a weapon first. But if
3 there is a fight, the way I see it, it kind of makes
4 more sense if Ahmed pulled the gun first.

5 You heard Dr. Woodard talk about the kind of
6 injuries he had. He said defensive injuries, scrapes
7 on his hands, all of that. He's also much smaller than
8 Stephen Parten, who is a medium-sized guy but kind of
9 heavy.

10 Ahmed Fallous is really small. Dr. Woodard told
11 you 5-7 and a half, 125 pounds. And he particularly
12 noted that he was a small individual. So if you have a
13 small guy fighting a bigger guy and losing that fight
14 and he's got a gun with him that he's carrying around,
15 kind of makes sense that he pulled it.

16 Now, Morgan Rhodes, she's probably not going to
17 tell you that. But that's her boyfriend. That's a
18 person that she loved. And it seems to me that this
19 week she's not crazy about saying anything that would
20 put him in a bad light or that might upset his family.

21 Now, the significance of that, who pulls the gun
22 out, is when you pull a gun out, you are escalating a
23 conflict. When you pull a gun out, you're not pulling
24 it out to show it to somebody; you're pulling it out to
25 use it.

1 And that brings us to self-defense. If this is
2 how it happened, Stephen has to shoot or be shot.
3 Either shoot in defense or be shot. It's a choice
4 between life and death, really.

5 And that brings us to manslaughter. You're going
6 to be charged on it, and the charge is that there has
7 to be a showing of heat of passion and sufficient
8 provocation.

9 Well, an argument, a fight, can bring about heat
10 of passion, someone getting so angry they have a hard
11 time controlling what they do. And sufficient
12 provocation, that is, a fight, that is someone else
13 pulling out a gun, something that you have to respond
14 to.

15 Now, we know that there are seven .45 caliber
16 casings here. We know that Mr. Fallous was shot in the
17 back. The judge, in instructing you in a little while,
18 he's going to tell you that if you -- if the defendant,
19 Stephen Parten, is justified in defending himself and
20 in firing the first shot, that the defendant is also
21 justified to continue to shoot until it's apparent that
22 the danger of death or serious bodily injury has ended.

23 So this means that if Ahmed, he has a gun, and if
24 he's shooting, Stephen can keep shooting until this
25 threat ends. Ahmed having a gun is a threat. If

1 they're shooting back and forth, that is a threat. So
2 I want you to know that being shot in the back, that
3 does not automatically equate to murder. That does not
4 rule out manslaughter. Does not rule out self-defense.

5 Now, one of the biggest issues in this case in
6 addition to whether Ahmed Fallous was firing is Morgan
7 Rhodes' credibility. And she testified early in the
8 week, but I know that you remember what she testified
9 to.

10 Now, the judge is going to instruct you about the
11 credibility of witnesses this week. He's going to tell
12 you that you can believe all of a witness' testimony;
13 you can believe some of it, that they were testifying
14 truthfully in some parts and then not truthfully in
15 other parts; or you can disbelieve it entirely. In
16 addition, you can believe one witness over the
17 testimony of another witness.

18 Now, this is important because I think there are a
19 lot of reasons to believe that Morgan Rhodes was not
20 testifying truthfully this week. First off, she
21 testified to things on that stand that are not true
22 where she admitted to lying during the course of this
23 case.

24 Lie number one, she told you when she was
25 testifying that she lied to the police about using

1 drugs that night when they interviewed her on the night
2 of the shooting. She then told you that she admitted
3 to it later on.

4 She also told you that when she talked to the
5 police at her house, she told you that Ahmed physically
6 abused her. And now, on the stand, she says that she
7 lied to the detective about that.

8 She also told Heather Cartee that, "They were both
9 shooting and I was standing between them, and I could
10 feel the bullets going by me." Well, she told that to
11 Heather out of the courtroom, and then she came in here
12 and she tried to say that she didn't say it.

13 So which one is it? How do you know when she's
14 telling the truth? Is she telling the truth in the
15 courtroom and lying outside of it? Or is it the other
16 way around? How can you determine whether she is
17 believable?

18 Now, why is there testimony so all over the place?
19 Now, there were some different explanations here.
20 Number one is that she's using a lot of drugs and
21 mixing them. As Dr. Turner told you right at the end,
22 that could affect memory. That can affect her memory
23 to recall these things. I think that's probably having
24 an effect here.

25 Number two, did she have a concussion whether from

1 being hit in the head or being in a car accident? And
2 she told you that she was. The front end of the car is
3 all beat up, and she told you she didn't know whether
4 she was wearing a seatbelt or not. Could that have
5 something to do with it? Yeah, maybe.

6 But I think the bigger issue is bias. You heard
7 Morgan Rhodes testify. She's a biased witness. Her
8 boyfriend, who she cared about a lot -- loved, I think,
9 boyfriend of the year, was killed and shot by Stephen
10 Parten. That's not in dispute here. She has a reason
11 to be angry with Mr. Parten. She has a reason to want
12 him to be punished.

13 Now, I think, in addition, you can see that
14 throughout Morgan's testimony this week, she's
15 extremely reluctant to say things that will put Ahmed
16 Fallous, her boyfriend whom she loved, in a negative
17 light. She's extremely reluctant to say anything that
18 might hurt his family. And that really calls her
19 credibility into question as to whether you can believe
20 what she's saying or not. And that is a reason to
21 doubt. That's a reason to doubt the State's case.

22 Now, we need to talk about each offense and go
23 through it, and this is going to take a little bit of
24 time, but there are a lot of charges here and you need
25 to know what's important for each one.

1 So first off, there is attempted murder. And
2 that's a specific intent crime. And the solicitor
3 talked about it. The judge is going to tell you about
4 it, but what that means is that the State has to prove
5 beyond a reasonable doubt that there was specific
6 intent to kill. Not that that might be, but that there
7 was intent to kill.

8 So, to prove this charge, the State has to prove
9 that Stephen Parten acted with intent to kill Morgan
10 Rhodes. And what you heard the State's theory was
11 about this in the beginning, is this came from
12 Mr. Parten trying to either pistol whip Morgan Rhodes
13 or to shoot her.

14 Well, a pistol whipping is not attempted murder
15 because it lacks the intent to kill. If you're trying
16 to kill someone, you don't pistol whip them. You shoot
17 them. It's as simple as that. A shooting, if you're
18 shooting someone in the heart or in the head, that
19 shows intent to kill. A pistol whipping does not.

20 Now, we also have Morgan Rhodes, who testified
21 that she thought that Stephen Parten was shooting into
22 the car with her inside of it. Or with her inside of
23 the car. Well, we know that that didn't happen. And
24 how do we know that? Because if you shoot into the car
25 with the doors locked, and if you do that four times,

1 because she said that she heard four gunshots, what are
2 you going to find?

3 Well, if it happened, you're going to find bullet
4 holes in the exterior of the car. There aren't any.
5 You heard Detective Mitchell tell you that he didn't
6 see any evidence that a gun had been fired there. So
7 if you don't have bullet holes, you don't have
8 gunshots. That can't be attempted murder either. If
9 it didn't happen, it can't meet the elements.

10 So what we're left with is revisionist history
11 that the State is trying to save this charge and prove
12 it in a different way. They're saying that Stephen
13 Parten tried to blow up this car with Morgan Rhodes in
14 it by putting that little piece of paper in the gas
15 fill and lighting it on fire.

16 Well, that obviously didn't work. The paper is
17 slightly charred. The car is not on fire. You heard
18 Carroll say or Detective Carroll say that. You heard
19 Mr. Francis say that as well. So I ask you this: If
20 you have a person who is trying to blow up the car with
21 another person inside it in an attempt to kill them,
22 why walk away at that point if that's what you're
23 really doing? You've got a gun. You try to shoot
24 them.

25 Now, they say that he's out of bullets. I don't

1 know if that is accurate or not, but what I do know is
2 if you're trying to kill someone, you still have a gun.
3 If that's really what happened, he's going to break the
4 window with that gun, go into the car and go get her.

5 And that didn't happen here. And the real answer
6 as to why that didn't happen: He's not trying to kill
7 her. This didn't happen. And you would note that
8 Morgan Rhodes said that she smelled a burning in the
9 car. Well, that car has been in an accident. It's got
10 fluids all over it that it is putting all over the
11 road. That could explain that.

12 She also -- and this is even more important -- she
13 didn't tell you that she saw Stephen Parten try to
14 light the car on fire with her in it. Another thing is
15 this lighter that the State collected, if they don't
16 have Mr. Parten and cannot show that he's trying to
17 light the car on fire with Morgan Rhodes in it and she
18 didn't see that, she can't say it happened. They have
19 to show a connection between Mr. Parten and the
20 lighter. They didn't try to show that.

21 There are no fingerprints, no DNA. They could
22 have ordered it and they didn't. So my question is:
23 If he's trying to blow up this car, does it really make
24 sense that he's trying to do it with her inside of it?
25 If he's trying to kill her, and that's what attempted

1 murder requires, specific intent to kill, why wouldn't
2 he go into the car and grab her and go from there? And
3 the answer is he wasn't trying to blow up the car with
4 her inside of it.

5 And that's another reason to doubt the State's
6 case. Now, let's talk about the kidnapping now. The
7 question for you to decide is how do you know whether
8 or not Morgan Rhodes voluntarily got into that car with
9 Stephen Parten? And she testified on the stand that
10 she did not voluntarily get into it, that she was
11 forced into the car. But the question is: How do you
12 know whether she voluntarily got into the car with him
13 that night, whether she got into the car of her own
14 free will or did not on that night?

15 Now, she's obviously telling you now that she
16 didn't, but you heard some things from her that kind of
17 call that into question. You heard that on that night,
18 she told you that she had a private conversation with
19 Stephen Parten earlier in the night at Ahmed Fallous'
20 house, that they went into a room by themselves, and
21 they talked about her relationship problems with Ahmed
22 Fallous. They talked about the domestic abuse in the
23 relationship. And she also told you that she knows
24 Stephen Parten and had known him for a while.

25 So I would ask you: That is an awfully private

1 conversation, an awfully personal conversation to be
2 having with someone that you barely know, to have this
3 conversation about the specifics of your relationship
4 and then also how domestic violence is affecting you
5 within it.

6 That suggests that this relationship between
7 Stephen Parten and Morgan Rhodes is closer than she's
8 letting on. And if they can talk about that, that
9 suggests that she might have gotten back into that car
10 of her own free will, of her own volition, because she
11 has a relationship with him. They know each other.
12 They're friends. And that, that's a reason to doubt
13 the State's case too.

14 Now, let's talk about the burglary. In this, you
15 heard from Mr. Ray, and you heard that there were no
16 eyewitnesses to the burglary, no fingerprints inside
17 the house, no testimony that the police fingerprinted
18 or processed the house for prints. So they have to
19 show that Mr. Parten is inside of that house without
20 permission.

21 And the testimony from Mr. Ray was that Mr. Parten
22 had his car, didn't have permission to have it, and
23 that he got a key, and that it was the spare key.
24 Well -- and also there was some money that was left in
25 the car, money and checks, if I recall correctly.

1 Well, the question for you is: Did Mr. Parten go
2 inside of that house, or does it strain your belief
3 that the spare key is inside of the car along with the
4 checks and the money?

5 So we need to talk about reasonable doubt as well.
6 And the judge is going to instruct you on reasonable
7 doubt. The solicitor has told you what reasonable
8 doubt is too. And they're going to tell you that or
9 have told you already that reasonable doubt is the kind
10 of doubt that would cause a person to hesitate to act,
11 that would leave you firmly convinced of somebody's
12 guilt.

13 Well, that's legalese. So what does that really
14 mean? I think that I can explain it to you a little
15 bit better.

16 So reasonable doubt is a doubt that you can act
17 on. So I think a story illustrates this or a
18 hypothetical. Most people have left their house to go
19 on vacation or to leave for a weekend. Well, what do
20 you do before you do that? You turn all the lights
21 off. You check and make sure that the oven is turned
22 off as well. And then after you do that, you leave.

23 Well, sometimes, even though you know you turned
24 the oven off, you know that you've checked it and it
25 was off, that you still have this nagging doubt that it

1 might still be on. And even though you know you turned
2 it off, that nagging doubt is enough to make you act,
3 enough to turn around, go back to your house, walk in
4 and check to make sure that the oven is off.

5 So that's what a reasonable doubt is. It's a
6 doubt that would cause you to act. So that needn't be
7 a big doubt. It can even be a real small one. But if
8 it's enough that it's nagging, that you keep coming
9 back to it, that is a reasonable doubt. And that is
10 the highest burden of proof that we have in our justice
11 system. It's higher than the clear and convincing that
12 needs to be proven for somebody to take your kids away.
13 It's really high.

14 So if the State's case has only made you think
15 that Stephen Parten is probably guilty, or may be
16 guilty, or likely guilty, or very likely or highly
17 likely, if you only get to that, then there is only one
18 verdict that you can reach. You have to find him not
19 guilty because they have not proven their burden.

20 And they presented a really long argument here
21 today, and I've done the same, but they have the burden
22 of proof, and they're nitpicking about all of these
23 things that they say the defense hasn't proven.

24 Well, I don't have to prove anything to you today.
25 The only issue is whether the State can prove

1 Mr. Parten guilty beyond a reasonable doubt or not, and
2 that they're nitpicking so many of these things that
3 we're arguing and on so many different issues and so
4 many different red herrings that we talked about,
5 whether there are .380 casings on the bridge or not,
6 the gunshot residue, what Chris Wilson is saying.

7 All of that, those issues raise doubts, and
8 they're reasonable doubts to have, and you need to talk
9 about all those. And I'd submit to you the fact they
10 had to talk about this so long, that in and of itself
11 raises a reasonable doubt.

12 I would submit to you that the State has not met
13 their burden of proof in this case. And one of the
14 main reasons for that is that their case is based upon
15 the testimony of Morgan Rhodes, and Morgan Rhodes has
16 said a lot of things that undercuts their case. Most
17 notably, the fact that Ahmed Fallous was shooting.

18 Well, when you look at this, Morgan Rhodes'
19 testimony is the foundation upon which the State's
20 entire case rests. And if you find that Morgan Rhodes
21 credibility is lacking, and there are a lot of reasons
22 to think that -- the lying, the misstatement, the
23 waffling, the drug use, the bias -- if you find reasons
24 to believe that she is not credible, then that
25 foundation is crumbling and the whole house comes down

1 and with it the State's case.

2 So if you find that she is not believable, not
3 credible, not trustworthy, you have to acquit
4 Mr. Parten.

5 Now, if you impartially look at this case, what
6 you see is two men with guns. And if you impartially
7 look at it, what I mean is you look at the other side
8 of the story, what the evidence suggests, you see two
9 men with guns, you see Ahmed Fallous shooting at
10 Stephen Parten, and you see Stephen Parten shooting
11 back.

12 One of those men, Ahmed Fallous, was shot and
13 killed. The other man survived. But just because
14 they're exchanging gunfire and shooting back and forth
15 at each other, that does not make it murder. This was
16 a defensive shooting, and because of that, find Stephen
17 Parten not guilty. Thank you.

18 THE COURT: All right. Ladies and gentlemen, I'm
19 getting ready to charge you. I am going to take a
20 five-minute break. This will be the last break.

21 When you come back, we will only break when I
22 finish this. So stretch real good.

23 (WHEREUPON, the jury exited open court at
24 3:48 p.m.)

25 (WHEREUPON, a recess was taken from 3:48 p.m. to

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1 4:00 p.m.)

2 (WHEREUPON, the jury entered open court at

3 4:00 p.m.)

4 THE COURT: All right.

5 Ladies and gentlemen, now it becomes my obligation
6 and duty under the constitution of the State to charge
7 you on the law in this case. And as I have said,
8 didn't mean to scare you, but it is a fairly extensive
9 charge. As I did say, I didn't mean it completely as a
10 joke, the font on this is a good bit larger than you
11 may think, so don't panic. But I do need you to listen
12 very carefully because what I'm going to give you is
13 the law in this case.

14 If at any point you need a break for any reason
15 whatsoever, or if you just think you need to stretch
16 for some reason, just raise your hand, get my
17 attention, get Tommy's attention, and then we'll take a
18 break. I don't mind doing that. But once I get
19 started, it is a little bit difficult to stop. I will
20 stop for you. You're the only people in this courtroom
21 I'm going to stop for once I get started.

22 All right. Ladies and gentlemen, I don't think
23 that I've given you any indication during the course of
24 this trial that I had an opinion as to a fact. As I
25 told you the other day, you and I have very different

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1 roles during this case.

2 You are the judge of the facts. You heard all the
3 testimony. The only testimony in this case came from
4 this witness stand, from any documents that may have
5 been entered into evidence. It didn't come from
6 anybody out in the courtroom or from me. The testimony
7 came from the witness stand and from this area right in
8 here.

9 So if I have given you the impression that I
10 believed or disbelieved a witness, disregard it. I
11 don't think I have. But, again, as I told you, our
12 roles don't cross. You are the only judges of the
13 facts in this case, and you have heard all the
14 testimony that you're going to hear. And after I
15 finish charging you on the law, you will begin your
16 deliberations. Your determination of what the facts
17 are is yours alone.

18 Now, I will accept your determination of the
19 facts. You have to accept the law as I'm getting ready
20 to read it to you as the law in this case. You can't
21 wish the law is different or hope that it's different
22 or go back there and think that it's different. I'm
23 going to tell you what the law is in this case and then
24 allow you to apply it. You must apply this law as I
25 give it to you.

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1 I do want to say and repeat something I said the
2 other day, but it is worth repeating and it's very
3 important. You will have these indictments with you in
4 the jury room. The fact that the defendant in this
5 case has been indicted on all of these charges should
6 not be discussed by you at all.

7 The only reason you have them back there is
8 because these are literally pieces of paper that start
9 the process that has led us here to this trial. You
10 should never discuss the fact that because there is an
11 indictment, there must be guilt. That should never be
12 discussed. And, in fact, you should not discuss the
13 fact this person has been indicted at all.

14 Also, as I told you as he began this trial, he had
15 the robe of innocence about him, the presumption of
16 innocence. As he sits here right now, he still has the
17 presumption of innocence. That presumption of
18 innocence will remain with him throughout my charge on
19 the law and throughout your deliberations until you, as
20 a jury, unanimously strip him of that robe of
21 innocence.

22 Again, so any time during the course of this
23 charge when I use the word "defendant," I do mean
24 Stephen Grant Parten. And I will try my best to do
25 that correctly every time.

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1 But, as I said, you will have the indictments.
2 Just please understand that, as I also said, the
3 presumption of innocence in this country is a real
4 thing and not something to be taken lightly.

5 Now, ladies and gentlemen, I also want to charge
6 you that it is a very important constitutional right in
7 this country that a defendant never has to prove their
8 innocence. The State has the burden of proving each
9 and every cause of action -- each and every element of
10 every cause of action or crime.

11 The defendant in this case did not testify. That
12 should not be discussed by you at all when you begin
13 your deliberations. Again, a defendant never has to
14 prove his innocence. He may assert his constitutional
15 right not to testify, and that should not be discussed
16 by you as a presumption of guilt or as indicia of guilt
17 at all when you begin your deliberations.

18 You should draw no conclusion whatsoever from the
19 fact the defendant in this case did not testify. The
20 fact that he did not testify should not even be
21 discussed by you in the jury room. The burden of
22 proof, as I've stated to you, is upon the State. It is
23 not incumbent upon the accused to prove his innocence.
24 The burden of proof remains on the State to prove guilt
25 beyond a reasonable doubt and that the defendant did

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1 not testify is a factor that should not be considered
2 by you at all.

3 Now, ladies and gentlemen, you have heard
4 reasonable doubt discussed several times during the
5 course of this trial. I charge you that a reasonable
6 doubt is a doubt which makes an honest, sincere,
7 conscientious jury hesitate to act.

8 Proof beyond a reasonable doubt is proof that
9 leaves you firmly convinced of the defendant's guilt.
10 There are very few things in this world that we know
11 with absolute certainty. And in criminal cases, the
12 law does not require proof that overcomes every doubt
13 or every possible doubt.

14 If, based upon your consideration of the evidence,
15 you are firmly convinced that the defendant is guilty
16 of the crimes charged, you must find him guilty.

17 If, on the other hand, you think there is a real
18 possibility that he is not guilty, then you must give
19 the defendant the benefit of the doubt and find him not
20 guilty.

21 Reasonable doubt may arise from evidence which is
22 in the case or from a lack of evidence in the case.
23 It's up to you, ladies and gentlemen and members of the
24 jury, to determine whether or not a reasonable doubt
25 exists as to the guilt of the defendant.

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1 I charge you that the defendant is entitled to
2 every reasonable doubt arising in the whole case. If
3 upon any issue of fact established -- if upon any issue
4 of fact establishing the conviction or guilt -- or
5 guilty verdict, you have to give the reasonable doubt
6 to the defendant.

7 You have a reasonable doubt on every issue that is
8 not proven by the State. The evidence that you are to
9 consider consists of the testimony of the witnesses and
10 the exhibits that have been offered and received during
11 the trial.

12 The remarks of the attorneys are not evidence.
13 The statements and arguments of the attorneys are
14 intended to help you understand the evidence, but they
15 are not evidence in this case.

16 Now, ladies and gentlemen, one of the most
17 important things you have to do is determine the
18 credibility of the witnesses in this case. Credibility
19 under the law simply means believability. You have to
20 determine who you believe. You have watched these
21 people testify. You've watched how they acted when
22 they testified. You have to determine if you believe
23 them.

24 You can believe everything that a witness
25 testified to or you can believe nothing they testified

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1 to. You can take a portion of what a witness'
2 testimony is and believe it and disregard the
3 remainder. You can believe one witness and disregard
4 all the other witnesses. It's up to you to determine
5 whether a witness was credible or believable. I can't
6 tell you how to do that. You have to do that
7 individually and as a group when you begin your
8 deliberations.

9 Now, ladies and gentlemen, there are two types of
10 evidence that are used or presented in a case. There's
11 direct evidence and there's circumstantial evidence.

12 Direct evidence is the testimony of a person who
13 claims to have actual knowledge of a fact such as an
14 eyewitness. It is evidence which immediately
15 establishes the main fact to be proved.

16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence of a
18 fact. It is evidence which immediately establishes
19 collateral facts from which the main fact may be
20 inferred. Circumstantial evidence is based on
21 inference and not on personal knowledge or observation.

22 I charge you that the law makes absolutely no
23 distinction between the weight or value to be given to
24 either direct or circumstantial evidence, nor is a
25 greater degree of certainty required of circumstantial

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1 evidence. You should weigh all the evidence in this
2 case.

3 I further instruct you that the mere fact that the
4 circumstances brought out in a case are strongly
5 suspicious of guilt or the circumstances are such that
6 a defendant's guilt is probable is not enough to
7 sustain a conviction because the proof offered by the
8 State has to be more than suspicious. It has to be
9 more than a mere probability. It has to be beyond a
10 reasonable doubt. It has to be proof that satisfies
11 you, as jurors, of his guilt beyond a reasonable doubt.

12 Now, ladies and gentlemen, the indictments in this
13 case allege several different offenses against the
14 defendant. The charges are: Indictment number 1,
15 murder and possession of a weapon during the commission
16 of a violent crime, attempted murder, kidnapping,
17 second-degree burglary, and grand larceny. Each one of
18 these indictments should be addressed by you
19 individually.

20 Mr. Foreman, all that means is you have to take
21 one indictment -- and I'm just literally pulling this
22 out -- the larceny indictment. You have to address
23 that completely separate from your decision made on the
24 other indictments. So you will have to go through and
25 address each indictment separately and make your

1 determination.

2 The defendant in this case may be convicted or
3 acquitted on any or all offenses charged or on none of
4 them.

5 And what I've done, and I will explain this at the
6 end of the charge, we have prepared several verdict
7 forms that I think will be self-explanatory. But when
8 I finish this charge, I will explain it, and if you
9 have a problem with it in the jury room, all you've got
10 to do is let me know.

11 Now, ladies and gentlemen of the jury, this Court
12 has admitted evidence in this case of a statement
13 allegedly made by the deceased victim after the
14 injuries he received. I have determined that these
15 statements should be admitted into evidence in this
16 case. However, it is for you to determine the
17 believability of these statements. These are called
18 dying declarations.

19 In deciding this question, you may consider
20 whether the victim was dying and knew he was dying and
21 whether the victim had lost all hope of recovery at the
22 time the statements were made.

23 Now, ladies and gentlemen, the rules of evidence
24 normally do not permit witnesses to testify as to
25 opinions or conclusions. An exception to this rule

1 exists for witnesses that we call expert witnesses. A
2 witness who, by education and experience, has become
3 expert in some art, science, profession, or calling may
4 state an opinion as to relevant and material matters in
5 which the witness claims to be an expert and may also
6 state the reasons for that opinion.

7 You should consider any expert opinion received in
8 evidence in this case and, like all the other evidence,
9 give it the weight that you think it deserves. If you
10 decide that the opinion of an expert witness is not
11 based on sufficient education or experience, or if you
12 conclude that the reasons given in support of the
13 opinion are not sound, or that the opinion is
14 outweighed by other evidence, you may disregard an
15 expert's opinion in its entirety.

16 An expert witness' testimony is to be given no
17 greater weight than that of other witnesses simply
18 because a witness is an expert. Further, you are not
19 required to accept an expert's opinion even though it
20 is contradicted -- or not contradicted.

21 Now, ladies and gentlemen, I charge you in order
22 to establish criminal liability in South Carolina,
23 criminal intent is required. For example, the mental
24 state required to be proven by the State for a
25 particular crime might be purpose, intent, knowledge,

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1 recklessness, or criminal negligence.

2 Criminal intent is required to be proved by the
3 State. It must be proven by the State beyond a
4 reasonable doubt. Criminal intent is always a matter
5 that must be determined by you, the jury, from the
6 circumstances surrounding the situation.

7 There's no way to a mathematical certainty to
8 prove criminal intent. It's up for you to determine
9 based upon your good judgment and based upon your
10 belief in the witnesses who have testified or disbelief
11 in those witnesses.

12 I can't tell you how to determine intent, but
13 you've heard all the testimony, you've heard all the
14 witnesses, and you have to determine what the intent in
15 this matter was.

16 It is not necessary to establish by direct and
17 positive evidence intent. But intent may be
18 established by inference in the same way as any other
19 fact, by taking into consideration the acts of the
20 parties and all the facts and circumstances of the
21 case.

22 Criminal intent is a mental state, a conscious
23 wrongdoing. It's up to you to determine what the
24 defendant intended to do based on the circumstances
25 shown to have existed.

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1 Criminal intent can arise from an action or a
2 failure to act. It may arise from negligence,
3 recklessness, or an indifference to duty or to
4 consequences that is considered by the law to be the
5 equivalent of criminal intent.

6 Now, ladies and gentlemen, there has been evidence
7 presented that witnesses have made prior statements
8 which were not consistent with the witness' testimony
9 in the courtroom. You may use this evidence to decide
10 whether or not you believe the witness. You may also
11 use evidence of the earlier contradictory statements to
12 determine the truth of those statements. It's up to
13 you, the jury, to decide whether to believe the earlier
14 statements or the testimony given at trial.

15 If a witness has shown to have knowingly testified
16 untruthfully concerning any matter or any material at
17 all, you may consider this in determining whether to
18 trust the witness' testimony in other matters.

19 You may reject all testimony of that witness or
20 give it all or part of the testimony, give it the
21 weight to all or part of the testimony that you think
22 that it deserves.

23 Now, ladies and gentlemen, as I said, the
24 defendant is charged with murder in this case. The
25 State must prove beyond a reasonable doubt that the

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1 defendant killed another person with malice
2 aforethought.

3 The State is not required to prove motive. Malice
4 is hatred, ill will, or hostility towards another
5 person. It's the intentional doing of a wrongful act
6 without just cause or excuse and with an intent to
7 inflict an injury under circumstances that the law will
8 infer an evil intent.

9 Malice aforethought does not require that malice
10 exist for any particular time before the act is
11 committed, but malice must exist in the mind of the
12 defendant just before and at the time that the act is
13 committed.

14 Therefore, there must be a combination of an evil
15 intent and the act or malice and the act. Malice
16 aforethought may be express or implied. These terms
17 express or inferred or implied do not mean different
18 kinds of malice, but merely the manner in which malice
19 may have been shown to exist. That is, either by
20 direct evidence or inference by the facts and
21 circumstances which are proved.

22 Express malice is shown when a person speaks words
23 which express hatred or ill will for another or when
24 the person prepared beforehand to do the act which was
25 later accomplished.

1 For example, and this is just an example, by lying
2 in wait for a person or any other acts of preparation
3 going to show that the deed was within the defendant's
4 mind. That would be express malice.

5 Malice may be inferred from conduct showing a
6 total disregard for human life. Inferred malice may
7 also arise when the deed is done with a deadly weapon.

8 A deadly weapon in this state is any article,
9 instrument, or substance which is likely to cause death
10 or great bodily harm. Whether an instrument has been
11 used as a deadly weapon depends on the facts and
12 circumstances of each case.

13 Now, I charge you that in this case a pistol is a
14 deadly weapon.

15 I also charge you that a gun in South Carolina may
16 be a deadly weapon, even if it is not in operating
17 order.

18 Now, if you find that the State has failed to
19 prove beyond a reasonable doubt that the defendant
20 committed murder, you may consider whether the
21 defendant (sic) has proved beyond a reasonable doubt
22 that the defendant committed voluntary manslaughter.

23 To prove voluntary manslaughter, the State must
24 prove beyond a reasonable doubt that the defendant took
25 the life of another in the sudden heat of passion based

1 on sufficient legal provocation. Both heat of passion
2 and sufficient legal provocation must be present at the
3 time of the killing to constitute voluntary
4 manslaughter.

5 Sudden heat of passion or of passion for a time
6 affects a person's self-control and temporarily
7 disturbs a person's reason. The sudden heat of passion
8 must be the type that would make an ordinary person
9 unable to coolly reflect on his actions and would
10 produce an uncontrollable impulse to do violence.

11 Sufficient legal provocation must be the type that
12 would make a person of ordinary reason and caution
13 become enraged and lose control temporarily. The
14 provocation needed for voluntary manslaughter must come
15 from some act of or related to the victim.

16 Words alone, however vulgar or insulting, are not
17 enough for legal provocation. Where death is caused by
18 the use of a deadly weapon, the words must be
19 accompanied by some overt, threatening act which could
20 have produced that heat of passion.

21 The exercise of a legal right, no matter how
22 offensive it is to another, is never sufficient legal
23 provocation for voluntary manslaughter.

24 In the heat of passion -- if the heat of passion
25 had cooled or if there was enough time between the

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1 provocation, if any, and the killing for the passion of
2 the reasonable person to cool, the killing would not be
3 voluntary manslaughter.

4 In deciding whether a reasonable person would have
5 had enough time to cool off, you should consider all of
6 the circumstances surrounding the killing. You may
7 consider the nature of the provocation, if any, the
8 defendant's mental and physical state, and the
9 circumstances and relationships between the parties.

10 Now, ladies and gentlemen, an attempt in this
11 state is an effort to accomplish a crime which does not
12 succeed. An attempt includes a specific act to do a
13 particular criminal act along with an act failing or
14 falling short of the act intended.

15 The State must show more than mere preparation and
16 intent. There must be some overt act committed in the
17 effort to commit the crime.

18 Intent means intending the result which actually
19 occurs. Not accidentally or involuntarily. Intent may
20 be shown by acts and conduct of the defendant and other
21 circumstances from which you may naturally and
22 reasonably infer intent.

23 I tell you that because the defendant has also
24 been charged with attempted murder. The defendant has
25 again been charged with attempted murder. In order to

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1 prove this crime, the State must prove the defendant
2 attempted to kill another person with malice
3 aforethought, either express or implied.

4 As I said, malice is hatred, ill will, or
5 hostility towards another person. It's the intentional
6 doing of a wrongful act without just cause or excuse
7 and with the specific intent to kill.

8 Malice aforethought does not require that malice
9 exist, as I told you again, for any particular time
10 before the act is committed, but malice must exist in
11 the mind of the defendant just before and at the time
12 of the act's commission. Therefore, there must be a
13 combination of the previous malice and the act.

14 If facts are proved beyond a reasonable doubt
15 sufficient to raise an inference of malice to your
16 satisfaction, this inference would simply be an
17 evidentiary fact to be considered by you, the jury,
18 along with other evidence in the case, and you may give
19 it the weight you decide you should -- it should
20 receive.

21 A specific intent to kill is an element of
22 attempted murder. Intent means intending the result
23 which actually occurs, not accidentally or
24 involuntarily causing an act.

25 Intent may be shown by acts and conduct of the

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1 defendant and other circumstances from which you may
2 naturally and reasonably infer intent. Evidence of the
3 character of the act, the character of the instrument
4 used, the manner in which it was used, the purpose to
5 be accomplished, and the resulting wounds or injuries
6 may be considered in determining the intent with which
7 the act was committed.

8 Intent may also be inferred when it's demonstrated
9 that the defendant voluntarily and willfully committed
10 an act, the natural tendency of which was to destroy
11 another person's life.

12 Now, ladies and gentlemen, the defendant is also
13 charged with assault and battery of a high and
14 aggravated nature. Assault and battery of a high and
15 aggravated nature is an unlawful act of violent injury
16 to the person of another accompanied by the
17 circumstances of aggravation.

18 An assault occurs when a person unlawfully
19 attempts or offers to commit a violent injury upon
20 another person and has the present ability to complete
21 that act.

22 An assault is the intentional creation of a
23 reasonable fear of immediate bodily harm. It's not
24 necessary that the attempted injury or harm actually
25 take place. For example, if I walk up to you and we

1 were within arm's reach, I draw back to hit you, that's
2 an assault.

3 A battery is the unlawful touching of another
4 person by a person who has committed an assault. An
5 unlawful touching can be caused by part of the
6 accused's body or by any object that the accused puts
7 in motion. A battery is the completion of the assault
8 by using or applying force to another person, however
9 slight, in a rude, angry, or resentful manner without
10 legal justification for doing so.

11 In the earlier example I used, I walked up and
12 pulled my fist back. That would be an assault. If I
13 moved my fist forward and touched you or punched you,
14 that would be battery.

15 A person commits the offense of assault and
16 battery of a high and aggravated nature if the person
17 unlawfully injures another person and causes great
18 bodily injury to another person, or the act is
19 accomplished by means likely to produce death or great
20 bodily injury.

21 Great bodily injury means bodily injury which
22 causes a substantial risk of death or which causes
23 serious, permanent disfigurement or protracted loss or
24 impairment of a human being.

25 Now, ladies and gentlemen, a person commits the

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1 offense of assault and battery in the first degree if
2 the person unlawfully injures another person and the
3 act has occurred during the commission of a robbery,
4 burglary, kidnapping, or theft.

5 As I said, a person -- sorry. There is a mistake
6 here.

7 A person may also commit the offense of assault
8 and battery in the first degree if the person
9 unlawfully offers or attempts to injure another person
10 with the present ability to do so and the act either is
11 accomplished by means likely to produce death and great
12 bodily injury or occurred during the commission of a
13 robbery, theft, kidnapping, or burglary.

14 As I've told you, great bodily injury means bodily
15 injury which causes substantial risk of death or which
16 causes serious, permanent disfigurement to a person.

17 Assault and battery of the second degree is
18 covered by 16-3-600(d) of our South Carolina Code of
19 Laws.

20 A person commits the offense of assault and
21 battery in the second degree if the person unlawfully
22 injures another person or offers or attempts to injure
23 another person with the present ability to do so and
24 either moderate bodily injury to another person results
25 or moderate bodily injury to another person could have

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1 resulted or any act that involves a nonconsensual
2 touching of the private person. And that does not
3 apply in this case.

4 Now, ladies and gentlemen, the defendant in this
5 case has also been charged with kidnapping. The
6 defendant, as I said, is charged under 16-3-910 with
7 kidnapping. The State must prove beyond a reasonable
8 doubt that the defendant knowingly and unlawfully
9 seized, confined, inveigled, decoyed, kidnapped,
10 abducted, or carried away another person without the
11 authority of law.

12 To do a thing unlawfully is to do it willfully
13 against the law. Knowingly means with knowledge,
14 consciously, not accidentally.

15 Seize means to take hold of suddenly or forcibly.

16 Confine means to limit, restrict, or enclose
17 within bounds or imprison or to shut up or to keep a
18 person in.

19 Inveigle means to lure, entice, or lead astray by
20 false representation, promises, or other deceitful
21 means.

22 Decoy means to lure or lure as in decoy. A decoy
23 is something to entice a person into a trap.

24 Kidnap is to remove a person or move a person
25 against his will by unlawful force or by fraud.

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1 Abduct means to carry away secretly by force for
2 an illegal purpose.

3 Carry away means to move.

4 The State does not have to prove that the
5 defendant did all of these things. Instead, if you
6 find beyond a reasonable doubt that the defendant did
7 any of these things, you may find the defendant guilty
8 of kidnapping.

9 Something done without authority of law is
10 something done which the law does not sanction, permit,
11 allow, condone, or provide justification for. The
12 kidnapping does not have to be for any personal or
13 monetary gain for any illegal purposes -- or for any
14 illegal purposes, but it may be for any reason
15 whatsoever.

16 Now, ladies and gentlemen, the State must prove,
17 if they want to find someone guilty of burglary in the
18 second degree, the State must first prove beyond a
19 reasonable doubt that the defendant entered a dwelling
20 without consent.

21 Y'all come over here a minute.

22 Excuse me a minute.

23 (WHEREUPON, a bench conference was held off the
24 record in the presence of the jury, but out of the
25 hearing of the jury.)

1 THE COURT: I apologize, ladies and gentlemen.

2 Let me start that sentence again.

3 Ladies and gentlemen, to prove burglary second
4 degree, the State must prove beyond a reasonable doubt
5 that the defendant entered a dwelling without consent.

6 A dwelling is any building or portion of a
7 building in which a person ordinarily sleeps. A
8 building constructed as a dwelling that has never been
9 occupied cannot be considered a dwelling for purposes
10 of burglary. But a building is a dwelling even if the
11 residents are temporarily absent from the building.

12 In order to prove that the defendant entered the
13 dwelling, the State does not have to show that the
14 defendant's entire body entered the building --
15 dwelling. The smallest entry is sufficient. It may be
16 any part of the body such as a hand or a foot or even
17 an instrument such as a hook or other instruments.

18 In addition, the State does not have to prove that
19 force was used to gain entry. If a person enters a
20 dwelling by using deception, artifice, trick, or
21 misrepresentation to get consent to enter, it is an
22 entry without consent.

23 Next, the State must prove beyond a reasonable
24 doubt that the defendant intended to commit a crime,
25 either a felony or a misdemeanor, at the time of the

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1 entry into the dwelling.

2 The mere entry into a dwelling without consent is
3 not burglary. If the intent to commit a crime is
4 formed after the entry, it is not burglary.

5 On the other hand, if the defendant intended to
6 commit a crime at the time of the entry, it is burglary
7 even if the intent was abandoned after the entry. It
8 does not matter that the intended crime was not
9 completed.

10 Intent may be shown by acts and conduct of the
11 defendant and other circumstances from which you may
12 naturally infer intent.

13 Now, ladies and gentlemen, the defendant is also
14 charged with grand larceny. A defendant in a case who
15 is charged with grand larceny, the State is required to
16 prove beyond a reasonable doubt that the defendant took
17 and carried away the property of another against his
18 will or without the consent of the other person.

19 The slightest removal of the property or the
20 complete possession of the property, even for an
21 instance by the defendant, is enough to show a taking
22 and carrying away of the property.

23 The State must also prove beyond a reasonable
24 doubt that the defendant intended to permanently
25 deprive the owner of the property.

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1 Finally, the State must prove that the value of
2 the property taken was \$10,000 or more.

3 Lastly, the State has charged the defendant with
4 possession of a weapon during the commission or attempt
5 to commit a violent crime. The State must prove beyond
6 a reasonable doubt that the defendant was in possession
7 of a firearm or visibly displayed what appeared to be a
8 firearm during the commission of a violent crime.

9 A firearm in this state can mean many things, but
10 I charge you that a pistol is a firearm in this state.

11 In order to find the defendant guilty of
12 possession of a weapon during the commission of a
13 violent crime, you must first find the defendant guilty
14 of either committing a violent crime or attempting to
15 commit a violent crime.

16 Murder and/or manslaughter are violent crimes.

17 The State must prove beyond a reasonable doubt
18 that the weapon further advanced or helped in the
19 commission of the crime.

20 All right. Ladies and gentlemen, the defendant in
21 this case has raised a defense of self-defense.

22 Self-defense is a complete defense, and if it is
23 established, you must find the defendant not guilty.

24 The State has the burden of proof of disproving
25 self-defense by proof beyond a reasonable doubt. If

1 you have a reasonable doubt of the defendant's guilt
2 after considering all the evidence, including the
3 evidence of self-defense, then you must find the
4 defendant not guilty.

5 On the other hand, if you have no reasonable doubt
6 of the defendant's guilt after considering all the
7 evidence, including the evidence of self-defense, then
8 you must find the defendant guilty.

9 The following elements are required to establish
10 self-defense: First, the defendant must be without
11 fault in bringing about the difficulty. If the
12 defendant's conduct was the type that was reasonably
13 calculated to and did provoke a deadly assault, the
14 defendant would be at fault in bringing about the
15 difficulty and would not be entitled to an acquittal
16 based on self-defense.

17 Self-defense, again, is not available to a person
18 who uses language which is so contemptible that a
19 reasonable person would expect it to bring on a
20 physical encounter and which did actually contribute to
21 the physical encounter.

22 If the defendant voluntarily participated in
23 mutual combat for purposes other than protection, the
24 killing of the victim would not be self-defense. This
25 is true even if, during the combat, the defendant

1 feared death or serious bodily injury.

2 However, if, before the killing is committed, the
3 defendant withdraws and tried in good faith to avoid
4 further conflict, and either by act or word makes that
5 fact known to the victim, he would be without fault in
6 bringing about the difficulty.

7 For mutual combat, there must be a mutual intent
8 and willingness to fight. The intent may be shown by
9 the facts and conduct of the parties and the
10 circumstances surrounding the combat. In addition, it
11 must be shown that both parties were armed with deadly
12 weapons.

13 The second element of self-defense is that the
14 defendant was actually in imminent danger of death or
15 serious bodily injury or that the defendant actually
16 believed he was in imminent danger of death or serious
17 bodily injury.

18 If the defendant was actually in imminent danger,
19 it must be shown that the circumstances would have
20 warranted a person of ordinary firmness and courage to
21 strike the fatal blow to prevent death or serious
22 bodily injury.

23 If the defendant believed he was in imminent
24 danger of death or serious bodily injury, it must be
25 shown that a reasonably prudent person of ordinary

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1 firmness and courage would have had the same belief.

2 In deciding whether or not the defendant was or
3 believed he was in imminent danger of death or serious
4 bodily injury, you should consider all of the facts and
5 circumstances surrounding this crime including the
6 physical condition and characteristics of the defendant
7 and the victim.

8 The defendant does not have to show that he was
9 actually in danger. It is enough if the defendant
10 believed he was in imminent danger and a seriously
11 prudent person of ordinary firmness and courage would
12 have had the same belief. The defendant has the right
13 to act on appearances even though the defendant's
14 beliefs may be -- may have been mistaken.

15 It is for you, the jury, to decide whether the
16 defendant's fear of immediate danger or death or
17 serious bodily injury was reasonable and would have
18 been felt by an ordinary person in the same situation.

19 I charge you that words accompanied by hostile
20 acts may, depending on the circumstances, establish
21 self-defense.

22 The final element of self-defense is that the
23 defendant had no other probable way to avoid the danger
24 of death or serious bodily injury other than to act as
25 the defendant did in this particular instance. A

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1 person cannot be required to make an exact calculation
2 as to the degree or amount of force which may be needed
3 to avoid death or serious bodily harm.

4 Therefore, in self-defense, the defendant has the
5 right to use the force needed to avoid death or serious
6 bodily harm. The force used in self-defense does not
7 have to be limited to the degree or amount of force
8 used by the victim. The defendant has a right to use
9 so much force as appeared to be necessary for complete
10 self-protection and which a person of ordinary reason
11 and firmness would have believed to be needed to
12 prevent death or serious bodily harm.

13 If the defendant is justified in defending himself
14 or -- excuse me, of defending himself and in firing the
15 first shot, then the defendant is also justified in
16 continuing to shoot until it is apparent that the
17 danger of death or serious bodily injury has completely
18 ended.

19 All right. Ladies and gentlemen, I apologize for
20 my voice. That is the jury charge in this case.

21 I want to explain a couple of things because this
22 is a little bit more difficult verdict form than most
23 because we have different charges, and you are going to
24 have to make certain selections. And I'm just going to
25 go through them one by one.

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1 The first verdict form -- by the way, the fact
2 that the first verdict form here is murder should not
3 be considered by you to mean anything. I had to put
4 something first. Actually, I didn't even know murder
5 was first until I looked at it.

6 But, Mr. Foreman, if you look here, says, "We, the
7 jury, find the defendant guilty of murder or guilty of
8 voluntary manslaughter." You have to make a choice
9 between whether or not the State has proven murder or
10 whether or not they have proven manslaughter or whether
11 or not they have failed to make sufficient proof beyond
12 a reasonable doubt for either charge.

13 Once you make that decision, then you have to move
14 down to the possession of a weapon during the
15 commission of a violent crime. And as I said in the
16 charge, in order to be guilty of possession of a weapon
17 during the commission of a violent crime, you have to
18 commit a violent crime.

19 Now, on the attempted murder, you have several
20 different options, and I charged you on all of them
21 because some of these are what a person was charged
22 with and the State has indicted them for, and others
23 are -- some of these other decisions you have to make
24 are based upon your review of the evidence, and you
25 have to determine what the State has proven beyond a

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1 reasonable doubt.

2 These are called lesser included charges. So
3 these are charges that, while not charged, may fall
4 under the same indictment and are lesser than the
5 original indictment, and you have to go down and look
6 at them that way.

7 So like in this case, attempted murder, we find
8 that the defendant is guilty of attempted murder. If
9 you find that the State has not proven their case
10 beyond a reasonable doubt, then you have to go to the
11 lesser included charge of guilty of assault and battery
12 of a high and aggravated nature.

13 If you find that the State has failed to prove
14 that, you have to go to the next lesser included
15 charge, which is guilty of first-degree assault and
16 battery.

17 If you find they have failed to meet that burden,
18 then you go to the next and last of the lesser included
19 charges, which is guilty of second-degree assault and
20 battery or not guilty.

21 And, again, the fact that not guilty is at the
22 bottom should not be considered by you at all.

23 On the kidnapping verdict, there are no lesser
24 includeds. There's just kidnapping or not guilty.
25 That's the only decision you have to make.

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1 On the second-degree burglary charge, there's
2 no -- only two choices to make, guilty of second-degree
3 burglary or not guilty. There are no lesser includeds
4 there.

5 I will take a step back. The first one I did,
6 murder, I missed the fact that you can find the person
7 guilty of murder. If you find the State's failed to
8 meet the burden of proof proving to you beyond a
9 reasonable doubt that that person is guilty of murder,
10 then you go to the lesser included charge of guilty of
11 voluntary manslaughter.

12 So I think it will be clear once you begin your
13 deliberations. But one thing I think will not be clear
14 is I understand that I read to you a significant amount
15 of law that you're not used to hearing. You're not
16 used to dealing with things like lesser included
17 charges.

18 If you have any problems in your deliberations or
19 if you need me to recharge any of the charge, I will be
20 happy to do that for you. Again, that's one of the
21 reasons why we read the majority of it, so that if you
22 want me to recharge you on murder or larceny or
23 probable cause or anything that I've charged you on, I
24 can bring you back in and recharge you.

25 If you have any questions when you begin your

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1 deliberations, write that question out, put a time and
2 a date, knock on the door, and they will bring it to
3 me.

4 The law allows me to answer some questions, and
5 some questions I literally will have to bring you back
6 into the courtroom and tell you that I can't answer it.
7 If I can help you in any way, I will. If there's
8 something that I can answer, I will answer it. If I
9 can't, I'll bring you back in here and tell you that I
10 just can't answer it.

11 As I said, you'll have the indictments back there.
12 Please do not discuss them in any way. And, again,
13 please don't discuss the fact that the defendant did
14 not testify at all in your deliberations.

15 Now, what I have to do now is send you back to the
16 jury room one last time. We will collect up the
17 evidence. I give both sides an opportunity to ask me
18 to recharge a portion if I mispronounced something or
19 if I misread something. That is possible. They'll
20 tell me, and I'll bring you back in and recharge that
21 portion or that sentence.

22 If I don't make any changes or additions or
23 subtractions, in a few minutes the bailiff will bring
24 you the verdict forms, the indictments, and all the
25 evidence, and at that point you can finally begin your

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1 deliberations. But up until then, unfortunately, I'll
2 tell you for the last time, go back to the jury room
3 but don't begin deliberating yet. Thank you.

4 (WHEREUPON, the jury exited open court at
5 4:45 p.m.)

6 THE COURT: Anything from the State? I mean, that
7 was a lot of stuff.

8 MR. OVERBY: No, your Honor.

9 THE COURT: Anything from the defense?

10 MS. GURNEY: Judge, we just renew our objection on
11 the instruction on inferred malice and incorporate our
12 arguments from earlier.

13 THE COURT: You're protected. Y'all, do me a
14 favor and look at these verdict forms again, please,
15 because once they go back -- and they're a little
16 complicated. Just make sure they're what you want.

17 Can you get the alternate?

18 THE CLERK: Her name is Ms. Parker.

19 MS. GURNEY: Judge, the verdict form looks good.

20 THE COURT: Let the alternate back in. Bring them
21 in.

22 (WHEREUPON, the jury entered open court at
23 4:52 p.m.)

24 THE COURT: You can relax. I'm not going to read
25 to you anymore. I do want to tell you something,

1 and battery in the first degree if the person
2 unlawfully offers or attempts to injure another person
3 with the present ability to do so and the act either is
4 accompanied by means likely to produce death or great
5 bodily injury or occurred during the commission of a
6 robbery, burglary, kidnapping or theft.

7 The bodily injury under that statute means exactly
8 the same. Bodily injury is that type of injury which
9 causes substantial risk of death or which causes
10 serious permanent disfigurement or protracted loss or
11 impairment of the victim.

12 Okay. Keep -- I think we have ordered lunch. If
13 you have got another question, we're here for you.

14 (WHEREUPON, the jury exited open court at
15 1:14 p.m.)

16 (WHEREUPON, court in recess, pending verdict, from
17 1:14 p.m. until 1:41 p.m.)

18 THE COURT: Everybody has been great this week. I
19 do just need to remind you that whatever the verdict
20 is, you need to keep calm, and we don't need any
21 trouble.

22 And then to the attorneys, whatever the verdict
23 is, I'll go back and talk to this jury like I always
24 do. Sometimes they tell me stuff; sometimes they
25 don't. They usually have questions about the system.

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1 But if they tell me something I think will help you,
2 I'll let you know.

3 You can bring them in.

4 (WHEREUPON, the jury entered open court at
5 1:42 p.m.)

6 THE COURT: Mr. Foreman, I understand you have a
7 verdict.

8 JURY FOREMAN: Yes, sir, your Honor.

9 THE COURT: If you would, hand it to Mr. Shirley.

10 THE CLERK: Thank you, sir.

11 THE COURT: Okay. You can pronounce it.

12 THE CLERK: If it pleases the Court.

13 THE COURT: Yes, sir.

14 THE CLERK: This is the State of South Carolina,
15 County of Anderson, in the Court of General Sessions,
16 the case of the State of South Carolina versus Stephen
17 Grant Parten. This is verdict in the Case Number
18 2016-GS-04-02403.

19 In the charge of murder: We, the jury, find the
20 defendant guilty of voluntary manslaughter.

21 If you find the defendant guilty of murder or
22 voluntary manslaughter, you must then determine if the
23 defendant is guilty of possession of a weapon during
24 the commission of a violent crime.

25 So the charge of possession of a weapon during the

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1 commission of a violent crime: We, the jury, find the
2 defendant guilty of possession of a weapon during the
3 commission of a violent crime.

4 This is signed today's date by our foreperson in
5 Anderson, South Carolina.

6 In the verdict form of Case Number
7 2016-GS-04-02402, the charge attempted murder: We, the
8 jury, find the defendant guilty of second-degree
9 assault and battery.

10 This is dated today's date, February 15th, 2019,
11 in Anderson, South Carolina, and signed by our
12 foreperson.

13 In the verdict of Case Number 2019-GS-04-00021,
14 the charge of kidnapping: We, the jury, find the
15 defendant not guilty.

16 That is dated today's date, February 15th, 2019,
17 and it is in Anderson, South Carolina, and signed by
18 our foreperson.

19 In verdict form of the Case Number
20 2016-GS-04-02405, the charge second-degree burglary:
21 We, the jury, find the defendant guilty of
22 second-degree burglary.

23 That is dated today's date, April (sic) 15th,
24 2019, in Anderson, South Carolina, and signed by our
25 foreperson.

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1 And then the verdict of 2016-GS-04-02404, the
2 charge of grand larceny: We, the jury, find the
3 defendant guilty of grand larceny.

4 That is signed by our foreperson today's date,
5 February 15th, 2019, in Anderson, South Carolina.

6 Ladies and gentlemen of the jury, if that was your
7 verdict back in the jury room and it is still your
8 verdict here in the courtroom, would you indicate by
9 raising your right hand, please.

10 That is unanimous.

11 THE COURT: Thank you, ladies and gentlemen. I'm
12 going to send you back there. I'm going to be back
13 there to speak with you in just a few minutes. You can
14 relax.

15 (WHEREUPON, the jury exited open court at
16 1:46 p.m.)

17 THE COURT: Okay. Anything from the State before
18 I hear from the defense?

19 MR. OVERBY: Judge, I'd like to put his record on
20 there.

21 THE COURT: Please.

22 MR. LUCAS: Your Honor, before we do that, we just
23 have to preserve the record. Might be easier for us to
24 do that first.

25 THE COURT: Sure. Go ahead.

1 MR. LUCAS: We're just renewing our directed
2 verdict motion, your Honor, and asking the Court to
3 direct a verdict on the charges of manslaughter, the
4 weapons charge, burglary second degree, and grand
5 larceny. I would incorporate all of our other
6 arguments, and our basis would be insufficiency of the
7 evidence.

8 THE COURT: Okay. I understand. You're protected
9 for the record, and those motions are denied.

10 MR. LUCAS: And then, your Honor, we'd also move
11 for a new trial on all those charges on the same
12 grounds.

13 THE COURT: Again, you're protected for the
14 record. That motion is denied.

15 MR. LUCAS: Thank you, your Honor.

16 THE COURT: Let's hear his record.

17 MR. OVERBY: Yes, your Honor. In 2002, possession
18 of -- unlawful possession of pistol, manufacturing --
19 or possession with intent to distribute a controlled
20 substance first offense, resisting arrest. In 2002, he
21 has federal convictions for a conspiracy, for
22 conspiracy to -- let me just make sure that I've got
23 the exact language correct here -- conspiracy to
24 distribute crystal methamphetamine and MDMA. He served
25 42 months in prison pursuant to that charge, Judge.

1 In 2014 -- in 2013, he was convicted of possession
2 with intent to distribute marijuana in Georgia, your
3 Honor. And that is his record.

4 Your Honor, briefly, if I may, the State would
5 request consecutive sentences in this particular
6 regard. There are two victims here. Obviously,
7 Mr. Fallous, who the jury, though they may have found
8 that he was not guilty of murder on this, they did find
9 that he did not lawfully lose his life on that night.

10 And, in addition, Mr. Ray's home was broken into
11 and his truck stolen as a continuous effort to abscond
12 from authorities. The State would request consecutive
13 sentences.

14 THE COURT: How long has he been in jail?

15 MR. LUCAS: 990 days, your Honor.

16 MR. OVERBY: And, your Honor, the victims, both
17 sets of victims, would like to be heard at the
18 appropriate time.

19 THE COURT: Now would be the good time.

20 Be happy to hear from anybody. I just need for
21 you to come up here, give us your name and just speak
22 out loud enough for Diane and I to hear. We're the
23 only ones that really matter.

24 MR. OVERBY: This is Sarah Fallous. This is Tamer
25 Fallous. This is the brother and sister of the victim,

1 Mr. Ahmed Fallous.

2 THE COURT: Yes, ma'am. Anything you want to tell
3 me, I'm happy to listen to.

4 MS. FALLOUS: I just want -- sorry.

5 THE COURT: That's okay. Take your time.

6 MS. FALLOUS: I just wanted to be able to speak on
7 my brother's behalf since he's not here today to take
8 up for himself.

9 He was an amazing brother and an amazing son, an
10 amazing uncle to seven nieces and nephews, one of which
11 was mine, who was -- he would have done anything for
12 her. As a single mom, he really helped me a lot from
13 the day she was born to the day he was gone. Even
14 after his death, there was a few weeks before her
15 second birthday, I found the birthday presents he had
16 bought for her and hid so she wouldn't find. So even
17 after he was gone, he made sure she got her presents.

18 He was an amazing man, a business owner. He owned
19 a salon for kids. He had his own landscaping business.
20 Anything that anyone ever needed, he was there. No
21 matter who you were, no matter what it was, he was
22 there.

23 He was always the one I called any time I was
24 scared, any time I was bored, hungry, any time I just
25 needed to laugh. He was always there. We were only

1 three years apart, but I swear it was more like we had
2 like a twin connection. We always just knew when the
3 other one was hungry and ready to go eat. We always
4 knew when the other one needed each other.

5 And I just want everyone to know that on the night
6 of May 26th at 1:00 o'clock in the morning, so about an
7 hour before, I had a text message from him, and the
8 only thing that was on his mind was my little girl.
9 The message stated: You don't have to take her to
10 Tamer's house. I found someone to cover the yards.
11 She can stay with me.

12 I just need everyone to know that's how much he
13 cared about me, my daughter, our family. That's what
14 he was thinking about before he passed away, was my
15 little girl. And I have to explain to her to this day
16 why her best friend isn't here anymore because she does
17 remember. She remembers the man who snuck her cookies
18 when her mommy wasn't looking, who gave her juice boxes
19 when mommy said no. She remembers him, and I have to
20 just tell her to look up in the sky, just speak to him
21 and he'll always be there.

22 I just want to -- you know, he can't be here. He
23 can't live his life. He was so young, and he
24 deserves -- he deserves to have to pay for that for the
25 rest of his life because we have to live without him.

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1 THE COURT: Okay. Thank you. Thank you. It's
2 okay.

3 MR. OVERBY: And this is Mr. Ray. He is the
4 victim of the burglary and grand larceny, Judge.

5 THE COURT: Okay. Yes, sir.

6 MR. RAY: Dan Ray. I would ask for the maximum
7 penalty for the fact that I don't know if it was clear,
8 but we're always at home, and the only time that my
9 keys could have been stolen was on a Sunday when we
10 were at church, which means it was several days later
11 when my vehicle was stolen. My family is always at
12 home. My kids are out in the driveway.

13 Outside of their terrible tragedy, anyone in my
14 family could have easily become the victim had they
15 been there when somebody broke into the house.

16 THE COURT: So you think these keys were stolen on
17 Sunday prior to this?

18 MR. RAY: Yes, sir.

19 THE COURT: Okay. All right. Thank you very
20 much. And I have had my house broken into. I
21 understand how it feels.

22 MR. OVERBY: That's all from the State, your
23 Honor.

24 THE COURT: All right. Y'all can come up here if
25 you want.

1 Yes, sir.

2 MR. LUCAS: Your Honor, you've heard the facts and
3 circumstances of this case this week. This is an
4 imperfect self-defense case. Neither party had totally
5 clean hands in this matter.

6 Mr. Parten, you've heard his record. It's not
7 significant. He does have a number of drug
8 convictions. What he's asked me to tell you is that
9 those were all from one single incident. He was
10 arrested when he was 19 years old. He was a young man
11 at that time.

12 Since then he served just a brief period of time
13 in prison for those. That happened in 2002. Since
14 that time, he has only one additional criminal
15 conviction. It's a 2013 --

16 THE COURT: What was the 2013 conviction?

17 MR. LUCAS: It was distribution of marijuana.

18 He's not a career criminal. He's from Anderson.
19 He has a strong family network here. They care about
20 him. They are standing in the back here behind the
21 bar. And they have been here, you know, to show
22 support for him all of this week. I think his mother
23 wishes to briefly address the Court at the appropriate
24 time.

25 THE COURT: Sure. Happy to hear from her too.

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1 MR. LUCAS: May I ask her to step up here, please?

2 THE COURT: I'm happy to hear from anybody who
3 wants to speak. It's probably easier if you come
4 around.

5 Give us your full name for the record.

6 MS. POLK (phonetic): My name is Karen Polk.

7 I just want to say Stephen has always been a
8 wonderful part of our family, a wonderful son, a
9 wonderful brother, a wonderful father to his little
10 girl. He also is very generous with helping with
11 everything that we ever needed and struggles that we
12 had, and I don't know what else to say. I'm just so
13 sorry that had happened.

14 THE COURT: Okay. I know you are. Thank you.

15 MS. GURNEY: We have another family member who
16 wishes to speak.

17 THE COURT: That's fine.

18 MS. PARTEN: I'm Maria Lana Parten. Stephen is my
19 brother's son. My brother passed away a year and a
20 half ago, so Stephen lost his dad while he was
21 incarcerated, and he's been a real sweetheart to me.

22 I was thinking about when he was a little kid when
23 he was born premature and we were all there with him.
24 And we love him very much, and we just want to see the
25 best for everything, and I'm so sorry for everything

Sentencing

State v. Stephen Grant Parten

2016-GS-04-02402-05; 2019-GS-04-00021 February 15, 2019

1 that's happened too, but we just want you to know that
2 we love him a lot.

3 THE COURT: Okay.

4 MS. PARTEN: Thank you.

5 THE COURT: Thank you.

6 MR. LUCAS: Your Honor, as you've heard,
7 Mr. Parten has a four-year-old daughter. He very much
8 would like to be able to have some relationship with
9 her in the future.

10 In terms of other things you need to know about
11 him, I think that his drug conviction at an early age
12 has prevented him in many ways from reaching his full
13 potential, but he has opened and run a number of small
14 businesses. I believe it's over ten. He's an
15 entrepreneur. He has been a productive tax-paying
16 member of society, and I think if he's given a sentence
17 that will allow him to get out of jail at some point,
18 that he'll continue to do that.

19 He's a very religious man. Before this all
20 occurred, he was very involved and active in his church
21 and ministry. Your Honor, we just ask that you show
22 him mercy, show him as much mercy as you can, and give
23 him a chance to find redemption out of this, to have
24 some relationship with his child.

25 We ask that any sentences that you impose not be

1 consecutive. I think that that would be out of the
2 norm in an imperfect self-defense case like this.

3 We'd ask that you consider a split sentence at
4 what the Court thinks is appropriate and to consider
5 the lowest sentence possible that might give Mr. Parten
6 a chance to resume some life and to be reunited with
7 his family at some point and have a relationship with
8 his daughter.

9 And, your Honor, this is a tragedy for all
10 involved. Really, it's a tragedy for everybody in here
11 today.

12 THE COURT: Anything Mr. Parten wants to say to
13 me?

14 THE DEFENDANT: Absolutely. Your Honor, I first
15 would like to address the family.

16 THE COURT: Well, you can address me, but you
17 can't talk to them. You can only talk to me. You
18 can't talk to other people.

19 THE DEFENDANT: Absolutely.

20 In regards to this little girl that she's talking
21 about that I may have watched on a regular basis, I
22 changed her diaper a couple days before this happened.
23 I think it needs to be understood that Ahmed and I were
24 not just friends, we were brothers. We were extremely
25 tight. We worked in business together. He done jobs

1 for me. I helped him get parts and do things that he
2 needed. We were an alliance, a team. Tighter than
3 tight, your Honor.

4 This whole situation that's come about, my family
5 has participated in the funeral proceedings. My family
6 was there and supported the family pertaining to the
7 funeral.

8 As far as Mr. Ray's concerned, I deeply apologize
9 about what happened with him. But as far as going in
10 his house on Sunday and nobody being at home and all
11 that, that's a complete lie. I went into his house at
12 2:00 o'clock the day that his truck was stolen.

13 And did I make some bad decisions in light of this
14 after this happened? Absolutely I did, without a
15 shadow of a doubt, and I'm not making light of those
16 choices at all.

17 The only thing I'm clearly stating is that I spent
18 five days in the woods drinking water that was running
19 through manure with no clothing with my back, not
20 knowing if my best friend is dead. And the shock. I
21 was in a bad car wreck that clearly you seen, not
22 knowing where I was at, not knowing what's going on,
23 and day by day just becoming more discombobulated. No
24 food. Very little water. I'd go down and cup water
25 out of the spring. Horrific situation.

1 Did I make bad choices after that? Did I go into
2 his house and find truck keys looking for food? Yeah,
3 I did. Did I come back that evening and get in his
4 truck? Yes, I did, absolutely, without a doubt.

5 The bigger picture here, though, is that my father
6 was struggling with mental illness in his mind. My
7 father, I have intended, planned intention on being in
8 Las Vegas the time that he takes off every summer to
9 spend with him two days after this event occurred.

10 When Elizabeth, whatever her name, she testified,
11 she testified clearly that when I got to her house,
12 that I was surprised that anybody was dead. I was
13 surprised that it was all over the news. Okay?

14 When I get to their house, Ashley Moore, you know
15 what he tells me? He tells me that this is -- it's
16 been titled as a hate crime, that they're Muslim and
17 we're Christian, and I'm going to spend the rest of my
18 life on lockup in the Federal Bureau of -- Federal
19 Bureau Of Prisons because this has been labeled as a
20 hate crime because of the two religious differences
21 between our families.

22 At that time, anybody that knows anything about
23 the subconscious mind, the subconscious mind has a
24 thing called fight or flight in it. I flighted. I
25 did. And that's what makes me look like I'm just this

1 culprit bad guy. That's not true at all.

2 Your Honor, I stand before you, I stand before
3 this court, I stand before everybody involved in this
4 case, and I apologize. I went in the man's house. I
5 took his truck. I'm sure that made his family feel
6 like that they were violated. I'm sure that made him
7 worry at night.

8 THE COURT: It did, I guarantee it.

9 THE DEFENDANT: I'm fully aware of it. I hate it.
10 I hate the circumstances behind it because it makes me
11 look guilty of a whole bunch of things that I wasn't.
12 I wish I would have just had the strength to just stand
13 in the situation, embrace it all and deal with it, but
14 I didn't. And I'm going to tell you why I didn't.

15 Because when I was -- this is what he's talking
16 about. In 2002, when I was convicted of this federal
17 drug charge, you know why I was convicted of this
18 federal drug charge? Because of an Anderson County
19 police officer named Matthew Durham came and planted
20 drugs in the trash can outside of my house and came in
21 my house with an unsigned search warrant that you can
22 have pulled from the solicitor's office right now and
23 see that this man lied upon me, and had not only me but
24 my family arrested and charged in the federal -- in the
25 federal drug -- as a federal drug case, and I almost

1 served life in prison at that time.

2 So I'm going to be absolutely honest with you and
3 everybody else. I had zero trust in the legal system
4 of working this out in my favor. I'm going to tell you
5 what I thought would happen. Exactly what happened.
6 That prosecutor stood up there, put his witness on the
7 stand and blatantly, in front of God and everybody
8 else, forced that lady to lie on me after she had
9 already spoken and said things and made her contradict
10 herself right in front of everybody.

11 If that's justice --

12 THE COURT: What in particular are you talking
13 about? The fact that there was a shooting between two
14 people?

15 THE DEFENDANT: Absolutely.

16 THE COURT: Well, tell me what happened that
17 night. It doesn't matter now. I have got your
18 sentences written down. I want to know what happened
19 that night that left him dead and you running around in
20 the woods and her beat up.

21 THE DEFENDANT: It's basic.

22 THE COURT: Then tell me.

23 THE DEFENDANT: They were fighting when I got
24 there. I tried to diffuse the situation, and I got a
25 gun pulled on me, period, point blank. He was

1 emotional. He done fell in love with this girl. They
2 was on drugs. They had been fighting. She told you
3 that.

4 I responded. Did I respond in a manner of trying
5 to kill the man? Absolutely not. All I did was pulled
6 my gun out. After he pulled and pointed a gun on me, I
7 pulled my gun out and started shooting. It's obvious.
8 We come out of the same vehicle. I shot seven times,
9 and, unfortunately, one bullet hit him.

10 But was that ever my intention? Absolutely not.
11 At all. All my intention was, was to diffuse the
12 situation from the beginning. She told you, she
13 testified and said that they were fighting. I split
14 them up, because when I got to the house, they were
15 fighting. I separated them. That's what the whole
16 thing about me talking to her in private, that's what
17 all that is.

18 THE COURT: How did you end up out on the bridge?

19 THE DEFENDANT: How did I end up out on the
20 bridge?

21 THE COURT: How did all of you end up there?

22 THE DEFENDANT: Because we got in the car. I got
23 them in the car to diffuse the situation, to calm
24 everybody down. Let's go for a ride. Let's relax and
25 get out of here, because that's where they was at.

1 When I separated both of them, that's the mindset that
2 both of them had, period. It's no -- it's nothing more
3 or less than that. They were already fighting. There
4 was a ruckus going on when I got to the door of the
5 house that night, period, point blank.

6 THE COURT: All right. Well, tell me this: Why
7 did you both have guns on you? Because you can't have
8 a gun because of your --

9 THE DEFENDANT: And I understand that completely.

10 THE COURT: So what are you guys doing at 2:00 in
11 the morning riding around with pistols? I mean, I have
12 the right to do it, and I don't do it.

13 THE DEFENDANT: I understand.

14 THE COURT: So what are y'all doing? I'm just
15 trying to understand because this is confusing to
16 everybody, how you ended up where you were and how he
17 ended up dead.

18 THE DEFENDANT: I'm going to be honest with you
19 about the gun situation. Everybody that knows me knows
20 that I don't carry a gun. And that night, the reason
21 why, I know without a shadow of a doubt the reason why
22 he pulled that gun on me was to try to scare me because
23 he, never in a million years, would consider that I had
24 a pistol on me, because I never carried a gun.

25 But had I not had a gun that night, I wouldn't be

1 here. I don't think. Maybe I would; maybe I wouldn't
2 be, but I thank God that I had a gun on me that night.
3 But it is not a practice of mine ever to carry or own a
4 firearm for the simple reason -- and you can ask
5 Mr. Hadden here -- the whole reason why I didn't even
6 want to get involved in the case and speak is because I
7 was scared, even if I did beat the case, that the feds
8 would come and pick me up and charge me on a gun
9 charge, and I would go to prison for 15 years for that.

10 So that's all I really got to say about it, your
11 Honor. I mean, honestly. And that's just the truth.
12 And I'm sorry, but that's the truth. And just let me
13 make light of the reason one more time, make sure it's
14 clear: Matt Durham was the narcotics officer that was
15 busted with all the pounds of methamphetamine in his
16 house that I got sent to federal prison behind. That's
17 why I had zero trust in the Anderson County law system,
18 because of what I had already dealt with, with him in
19 the past.

20 I didn't think that -- I didn't, sitting there
21 talking about it and saying, oh, well, this is what
22 happened; that's what happened. No. He's handcuffed
23 me to a chair before, flipped me over and all kind of
24 crazy stuff. I didn't have confidence in the system.

25 At this point I had grown. Having the attorneys

1 that were provided to me and representing me in the
2 manner that they did, having you as a judge and having
3 the way that you dealt with the case and the fairness
4 and just that whole side of things, the way I've been
5 treated at the detention center for the past 32 months,
6 all these things have helped me tremendously in my
7 faith in the whole legal system and all that.

8 I'm not going to lie to you. I was upset. I'm
9 disappointed about the verdict and how all this came
10 down, but at the end of the day, I firmly believe that
11 it's all in God's hands. So whatever God's plan is for
12 my life, whatever his will is, whatever, I just ask
13 that it be done, your Honor. And I just ask for mercy
14 from you and from the Court and that you understand my
15 side of things and just take it into your mind that I
16 in no way, shape, form or fashion am I a cold-blooded
17 murderer, an abductor, a kidnapper or none of these
18 things the Court has painted me of. Did I make some
19 mistakes? Absolutely I did, without a shadow of a
20 doubt. And I apologize. And thank you.

21 THE COURT: Okay. Thank you.

22 Anything else?

23 MR. LUCAS: Nothing, your Honor.

24 THE COURT: Okay.

25 So you have been out here at the detention center

State v. Stephen Grant Parten 2016-GS-04-02402-05; 2019-GS-04-00021 February 15, 2019

1 for 990 days, right?

2 THE DEFENDANT: Yes, sir, about 32 months.

3 THE COURT: All right.

4 Well, the jury has found you guilty of voluntary
5 manslaughter, burglary in the second degree, assault
6 and battery in the second degree, possession of a
7 firearm during the commission of a violent crime and
8 grand larceny. I'm not going to run those consecutive,
9 but I'll start with the higher sentence first.

10 The sentence under the voluntary manslaughter is
11 30 years provided upon the service of 25. The balance
12 is suspended with probation for five. Credit for the
13 990 days.

14 I add to that, because the law requires me to,
15 possession of a weapon during the commission of a
16 violent crime is a five-year sentence added to that
17 consecutive.

18 The rest of them are burglary second degree, ten
19 years, run it concurrent.

20 And on the assault and battery second degree, the
21 most you could get is three. I'm running that
22 concurrent.

23 And on the grand larceny, the most you can get is
24 ten. I'm running that concurrent and giving you the
25 credit for the full amount of 990 days.

State v. Stephen Grant Parten 2016-GS-04-02402-05; 2019-GS-04-00021 February 15, 2019

1 Good luck to you.

2 MR. LUCAS: Thank you, your Honor.

3 (WHEREUPON, proceedings adjourned at 2:51 p.m.)

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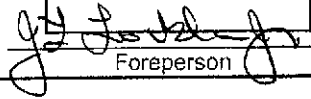
WITNESSES

Anderson Co. Sheriff's Office
Nathan M. Mitchell

ARREST WARRANT NUMBER

2016A0410200767 & 2016A0410200769

ACTION OF GRAND JURY

TRUE BILL	
Foreperson of Grand Jury	NOV 15 2016
Date:	
	
Foreperson	

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS-04- 02403

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

NOV 15 2016, TERM

THE STATE

VS.

STEPHEN GRANT PARTEN

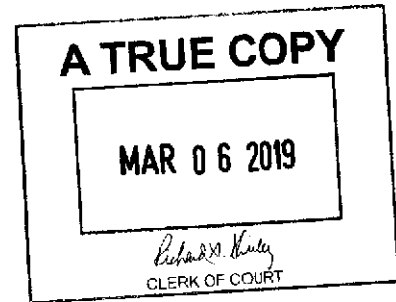
INDICTMENT FOR

COUNT ONE - MURDER

SC Code: § 16-03-0010
CDR Code: 0116

**COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on NOV 15 2016, the
Grand Jurors of Anderson County present upon their oath:

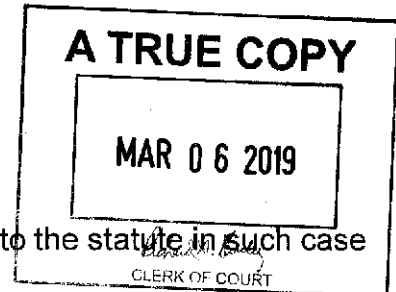
COUNT ONE - MURDER

That Stephen Grant Parten did in Anderson County, on or about on or about May 26, 2016, unlawfully and with malice aforethought, either express or implied, kill Ahmed Fallous by means of shooting the victim with a firearm, and the victim died as a proximate result thereof. All in violation of §16-3-10, *South Carolina Code of Laws* (1976, as amended).

**COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME**

The defendant, Stephen Grant Parten, did, on or about on or about May 26, 2016, in Anderson County, South Carolina, while committing the crime of Murder, a crime of violence, have in his possession a firearm. All in violation of 16-23-0490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Catherine T. Huey
CATHERINE T. HUEY
SR. CAREER PROSECUTOR

WITNESSES

Anderson Co. Sheriff's Office
Nathan M. Mitchell

ARREST WARRANT NUMBER

2016A0410200768

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

TRUE BILL

NOV 15 2016

Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS-04-

02402

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

NOV 15 2016, TERM

THE STATE

VS.

STEPHEN GRANT PARTEN

INDICTMENT FOR

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

A TRUE COPY

MAR 06 2019

Richard D. Kiley
CLERK OF COURT

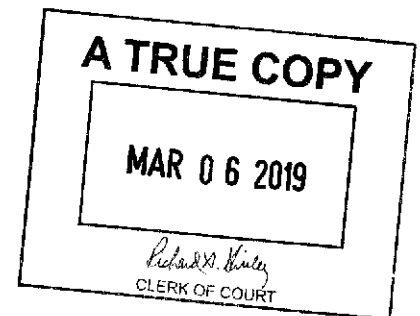
STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

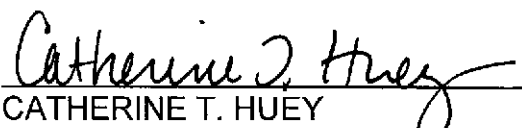
At a Court of General Sessions, convened on NOV 15 2016, the
Grand Jurors of Anderson County present upon their oath:

ATTEMPTED MURDER

The defendant, Stephen Grant Parten, did on or about May 26, 2016 in Anderson County, did unlawfully, with malice aforethought, either express or implied, and with the intent to kill, attempted to kill Morgan Rhodes. All in violation of 16-03-0029 of the South Carolina Code of Laws (1976) as amended.



Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


CATHERINE T. HUEY
SR. CAREER PROSECUTOR

WITNESSES

Anderson Co. Sheriff's Office
Nathan M. Mitchell

ARREST WARRANT NUMBER

2016A0410100640

ACTION OF GRAND JURY

TRUE BILL

NOV 15 2016

Foreperson of Grand Jury
Date:

[Signature]
Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS-04- 02404

The State of South Carolina
County of Anderson

COURT OF GENERAL SESSIONS

NOV 15 2016, TERM

THE STATE

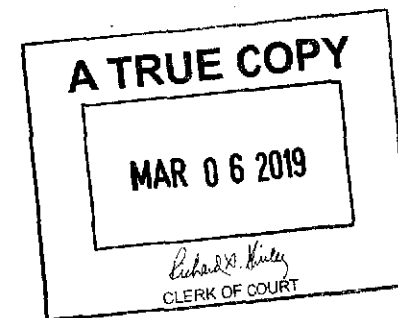
VS.

STEPHEN GRANT PARTEN

INDICTMENT FOR

GRAND LARCENY

SC Code: § 16-13-0030(B)
CDR Code: 3421



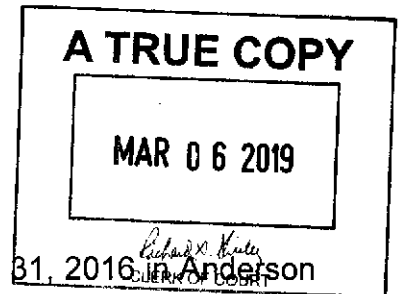
STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

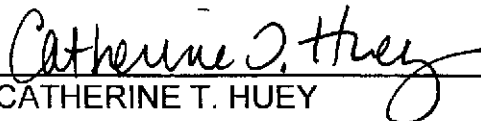
At a Court of General Sessions, convened on NOV 15 2016, the
Grand Jurors of Anderson County present upon their oath:

GRAND LARCENY

The defendant, Stephen Grant Parten, did on or about May 31, 2016 in Anderson County, feloniously take and carry away 2014 Ford F150 Truck, valued at Ten Thousand Dollars (\$10,000.00) or more, belonging to Daniel Ray with intent to deprive the owner permanently of such property. All in violation of 16-13-0030(B), Code of Laws of South Carolina, (1976), as amended.



Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


CATHERINE T. HUEY
SR. CAREER PROSECUTOR

WITNESSES

Anderson Co. Sheriff's Office
Nathan M. Mitchell

ARREST WARRANT NUMBER

2016A0410100641

ACTION OF GRAND JURY

TRUE BILL
NOV 15 2016
Foreperson of Grand Jury Date: <i>[Signature]</i> Foreperson

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2016-GS-04- 02405

**The State of South Carolina
County of Anderson**

COURT OF GENERAL SESSIONS

NOV 15 2016,

TERM

THE STATE

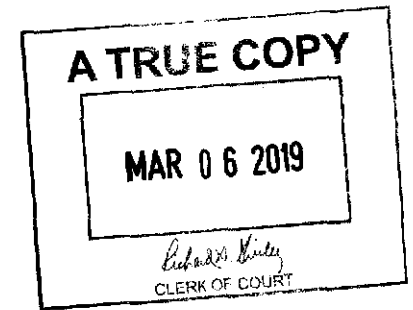
VS.

STEPHEN GRANT PARTEN

INDICTMENT FOR

BURGLARY, FIRST DEGREE

SC Code: § 16-11-0311
CDR Code: 0079



STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

INDICTMENT

At a Court of General Sessions, convened on NOV 15 2016, the
Grand Jurors of Anderson County present upon their oath:

BURGLARY, FIRST DEGREE**A TRUE COPY****MAR 06 2019**

The defendant, Stephen Grant Parten, did on or about May 31, 2016, in
Anderson County, South Carolina,, willfully and unlawfully enter the dwelling of Daniel
Ray located at [REDACTED], without consent and with the intent to commit a crime
therein, and when, in effecting entry or while in the dwelling or in immediate flight, he or
another participant in the crime: is armed with a deadly weapon or explosive; and/or
causes physical injury to a person who is not a participant in the crime; and/or uses or
threatens the use of a dangerous instrument; and/or displays what is or appears to be a
knife, pistol, rifle, shotgun, machine gun, or other firearm; and/or the burglary is
committed by a person with a prior record of two or more convictions for burglary or

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.

Catherine T. Huey
CATHERINE T. HUEY
SR. CAREER PROSECUTOR

COUNTY OF **ANDERSON**

STATE VS.

STEPHEN GRANT PARTENAKA: **Stephen Grant Parten**Race: **White** Sex: **M** Age: **36**

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: **Anderson, SC 29625-5836**DL#: [REDACTED] SID# **SC01297120***CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: **Burglary, Second Degree (Non-Violent) (10)**In violation of **§ 16-11-0312** of the S.C. Code of Laws, bearing CDR Code # **0080**☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, _____ (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine T. Huey, Deputy Solicitor SC Bar # _____ Defendant

Attorney for Defendant 101794 SC Bar # _____

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/15/19 ven☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC Department of Corrections 900 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Prob) \$500 \$ _____

\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

\$14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Richard S. HickeyCourt Reporter: D. Marcenghi

SCCA/217 (04/2018)

INDICTMENT/CASE#: **2016GS0402405**A/W: **2016A041010064 1**Date of Offense: **05/31/2016**S.C. Code §: **16-11-0312**CDR Code #: **0079**

SENTENCE SHEET



A TRUE COPY

Public Service Employment

MAR 06 2019

CLERK OF COURT

Obtain GED ☐

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]Judge Code: #2131Sentence Date: 2/15/19

460
COUNTY OF ANDERSON
STATE VS.

STEPHEN GRANT PARTEN

AKA: Stephen Grant Parten

Race: White Sex: M Age: 36

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Anderson, SC 29625-5836

DL# [REDACTED] SID# SC01297120

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF orTO: Grand Larceny 7 \$10,000 (1D)In violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 3421☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,

ATTEST:

Catherine T. Huey, Deputy Solicitor SC Bar # 79870
68416

Defendant

Attorney for Defendant

101794

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*, the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/15/19 van☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC Department of Corrections 990 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Richard A. MillerCourt Reporter: D. Marcengill

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2016GS0402404
A/W: 2016A0410100640
Date of Offense: 05/31/2016
S.C. Code §: 16-13-0030(B)
CDR Code #: 3421

SENTENCE SHEET

A TRUE COPY

☐ PLEADS

MAR 06 2019

☐ \$17-25-45☐ Recommendation by the State.

CLERK OF COURT

Presiding Judge: P. MillerJudge Code: #2131Sentence Date: 2/15/19

COUNTY OF ANDERSON

STATE VS.

STEPHEN GRANT PARTEN

AKA: Stephen Grant Parten

Race: White Sex: M Age: 36

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Anderson, SC 29625-5836

DL# [REDACTED] SID# SC01297120

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Voluntary Manslaughter (0-30)

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: ☐ As indicted, ☒ Lesser Included Offense,The plea is: ☒ Without Negotiations or Recommendation,

ATTEST:

☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)☐ Negotiated Sentence, ☐ Recommendation by the State.

Catherine T. Huey, Deputy Solicitor SC Bar # 79870 Defendant

Attorney for Defendant 101794 SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ 25; provided that upon the service of 25 days/months/years and or payment

of \$ 0; plus costs and assessments as applicable*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole, and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/15/19☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-15-40 to be calculated and applied by SC Department of Corrections 990 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED ☐☐ Set by SCDPPPS

Recipient:

*Fine: \$

§14-1-206 (Assessments 107.5%) \$

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso (Public Def/Prob) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$25.00

§14-1-213 (Drug Court Surcharge) \$150 \$

§50-21-114 (BUI Breath Test Fee) \$50 \$

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$

3% to County (if paid in installments) \$ \$3.75

TOTAL \$128.75

Clerk of Court/Deputy Clerk: Richard A. Hickey

Court Reporter: D. Mardengill

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2016GS0402403
AW#: 2016A0410200767
Date of Offense: 05/26/2016
S.C. Code §: 16-03-0050
CDR Code #: 0116

SENTENCE SHEET



Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning _____

\$ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: _____

Judge Code: #2131

Sentence Date: 2/15/19

A TRUE COPY

MAR 06 2019

COUNTY 462 ANDERSON

STATE VS.

STEPHEN GRANT PARTEN

AKA: Stephen Grant Parten

Race: White Sex: M Age: 36DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Anderson, SC 29625-5836DL# [REDACTED] SID# SC01297120*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent Crime (6)In violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Catherine T. Huey, Deputy Solicitor

SC Bar #

Defendant

Attorney for Defendant

101794

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2/15/19☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC Department of Corrections 790 du☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%)	\$	
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Prob)	\$500	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>

TOTAL

\$ 128.75Clerk of Court/Deputy Clerk: Richard A. HileyCourt Reporter: D. Marcengio

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2016GS0402403AW: 2016A0410200769Date of Offense: 05/26/2016S.C. Code §: 16-23-0490CDR Code #: 0549

SENTENCE SHEET



Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

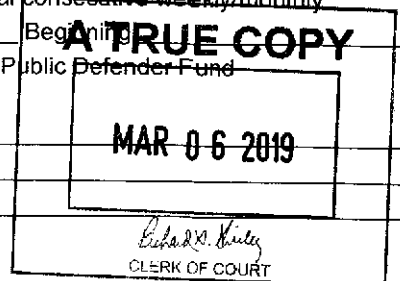
Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: [Signature]Judge Code: #231Sentence Date: 2/15/19

COUNTY OF ANDERSON

STATE VS.

STEPHEN GRANT PARTENAKA: Stephen Grant PartenRace: White Sex: M Age: 36DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: Anderson, SC 29625-5836DL# [REDACTED] SID# SC01297120*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: Assault & Battery, 2nd Degree (3)In violation of § 16-03-0600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3413☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☐ As indicted, ☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Gatherne T. Huey Deputy Solicitor SC Bar # 79870
68416

Defendant

Attorney for Defendant

101794

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 2/15/19 ver☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SC Department of Corrections 990 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED ☐☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$ _____

\$14-1-206 (Assessments 107.5%) \$ _____

\$14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

\$14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

\$56-5-2995 (DUI Assessment) \$12 \$ _____

\$56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Prob) \$500 \$ _____

\$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

\$14-1-213 (Drug Court Surcharge) \$150 \$ _____

\$50-21-114 (BUI Breath Test Fee) \$50 \$ _____

\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Richard A. ShirleyCourt Reporter: D. Marcengill

SCCA/217 (04/2018)

INDICTMENT/CASE#: 2016GS0402402
AW#: 2016A0410200768
Date of Offense: 05/26/2016
S.C. Code §: 16-03-0600(D)(1)
CDR Code #: 3410

SENTENCE SHEET



Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

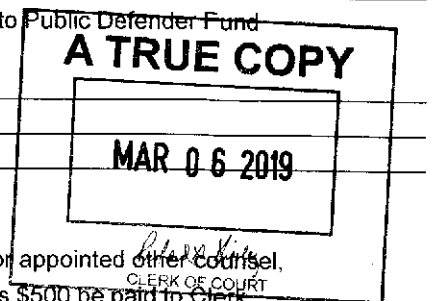
Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any

other fees.

Presiding Judge: [Signature]Judge Code: #2131Sentence Date: 2/15/19

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled “Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings.”

Respectfully Submitted,

RECEIVED
May 19 2020
SC Court of Appeals

s/Jessica M. Saxon
Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 19th day of May, 2020.