

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Debra R. McCaslin, Circuit Court Judge

THE STATE,

V.

ROBERT ROME GREEN,

RESPONDENT,

APPELLANT.

APPELLATE CASE NO. 2021-000391

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE’S EXHIBITS 52 (PHOTO, VICTIM TOP OF HEAD),
53 (PHOTO, VICTIM CHEST CLOSE-UP,
55 (PHOTO, VICTIM RIGHT SIDE HEAD/EAR),
56 (PHOTO, VICTIM LEFT SIDE HEAD/EAR),
57 (PHOTO, VICTIM LEFT SIDE UPPER BODY/ARM),
58 (PHOTO, VICTIM RIGHT ARM/PART OF BODY),
59 (PHOTO, VICTIM BACK/BRA CLOSE-UP),
60 (PHOTO, VICTIM WHOLE BACK/BRA),
61 (PHOTO, VICTIM LEFT SIDE/BRA)**

1 State of South Carolina)
2 County of Lexington) In the Court
3 State of South Carolina,) Of General Sessions
4 Plaintiff,) Indictment Nos.: 2020-GS-32-01625
5 vs.) 2020-GS-32-01628
6 Robert Rome Green,)
7 Defendant.) Transcript of Record
8 _____)

9
10 April 5th through April 9th, 2021
11 Lexington, South Carolina

12 BEFORE:

13 The Honorable Debra R. McCaslin, Judge, and a
14 Jury

15
16 APPEARANCES:

17 Suzanne Mayes, Assistant State Solicitor
18 LeAnna McMenamin, Assistant State Solicitor
19 Attorneys for the State/Plaintiff

20 Sarah Mauldin, Assistant Public Defender
21 Rob Madsen, Public Defender
Attorneys for the Defendant

22 ALSO PRESENT:

23 Robert Rome Green
24
25

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1 APRIL 5, 2021

2 Thereupon, the following proceedings were had,

3 BAILIFF: All rise. Court is now in session. The
4 Honorable Judge Debra McCaslin presiding.

5 THE COURT: Please be seated. All right. Good
6 morning everybody. Welcome to Lexington. All right.
7 We're here for jury selection. Court this week will
8 probably last all week long and first let me thank each
9 and every one of you for coming. Our justice system
10 doesn't work without you. You are so important to what
11 we do here and what we will do here for the next week.
12 We do jury qualifications in stages. There's a roll call
13 stage where the clerk will call the roll, we'll go
14 through some qualification questions, we'll go through
15 some exemptions. It's kind of a fast procedure, but just
16 to kind of let you know what's happening here in the
17 courtroom, this is the prosecution table. This is the
18 defense table. This is the court reporter. This is Mr.
19 LeBlanc, so when you speak, speak loud and try to be
20 clear because he takes down every word we say. Over here
21 is the clerk, this is Ms. Frick. She pretty much keeps
22 everything going and makes sure that we work correctly.
23 I always get asked who is sitting up here next to me.
24 This is my law clerk and I have another law clerk down
25 here. He's in training, so you will see him all week

1 long.

2 Now when the clerk calls the roll, this is what you
3 need to do. You need to stand, tell us your name, where
4 you work, if you're retired, where you are retired from,
5 we would like to know if you're married. If you're
6 married, we would like to know where your spouse is
7 employed, if you're single, and how many miles it takes
8 you to travel to the courthouse. So let me give you an
9 example. My name is Debra McCaslin and I'm a Circuit
10 Court Judge. I'm married. My husband is a retired
11 engineer from the Department of Transportation. He hunts
12 and fishes all day. And it takes me probably 30 miles to
13 drive to the courthouse. So with that said I'm gonna get
14 the clerk to swear you in and call the roll.

15 THE CLERK: Please stand and raise your right hand.

16 (Whereupon, the jury venire was duly sworn in by the
17 Clerk of Court.)

18 THE CLERK: Be seated please. Was there anyone in
19 the jury venire not able to take the oath as it was
20 administered? If so, please stand. All jurors are under
21 oath, Your Honor.

22 THE COURT: Thank you. Okay.

23 (Whereupon, the jury venire roll call took place.)

24 THE CLERK: Is there anyone here for jury duty whose
25 name I did not call, please stand. What's your name,

1 sir?

2 JAMES JACOBS: James Jacobs.

3 THE CLERK: 79. Did I skip over you? I sure did.
4 Number 79, James Jacobs.

5 JAMES JACOBS: I'm retired from the Columbia fire
6 department.

7 THE CLERK: Is there anyone else? Roll call
8 complete, Your Honor.

9 THE COURT: Thank you. You almost got out of it.
10 All right. Ladies and gentlemen, the next stage is to
11 determine your qualification as a juror in this court.
12 These questions determine your general eligibility to
13 serve. State law requires that I ask these questions. I
14 didn't just make them up. After each question, if you
15 need to respond, I'll ask you to stand. If you do not
16 want to stand, because some of these questions are kind
17 of personal, if you do not want to stand, that's fine.
18 At the end of this process I will give you the chance to
19 come forward and speak privately with me and the clerk
20 and we can handle it that way. So if you do stand, state
21 your juror number and we'll go from there, okay? These
22 are the questions:

23 Is there any member of the jury panel not a citizen
24 of the United States? If so, please Stan.

25 (No one standing.)

1 Is any member not a resident or citizen of Lexington
2 County? If so, please stand.

3 (No one standing.)

4 Is there any member of the jury panel unable to
5 read, write, speak or understand the English language?
6 If so please stand.

7 (No one standing.)

8 Does any member of the jury panel have less than a
9 sixth grade education? If so please stand.

10 (No one standing.)

11 Does any member of the panel have any medical or
12 physical condition that would prevent you from serving on
13 the jury this week? I will tell you, this trial is
14 anticipated to go all week. We'll probably start
15 somewhere about 9:30 in the morning and go to at least
16 five. Sometimes we might be required to sit for a couple
17 hours before we take a break, but I'm trying to be really
18 conscientious not to let you sit too long so if you have
19 any kind of medical or physical condition that would
20 prevent you from doing this, please stand.

21 (No one standing.)

22 Has any member of the jury panel been convicted by
23 guilty plea or trial in a State or Federal Court of
24 record of a crime punishable by imprisonment for more
25 than one year and your civil rights have not been

1 restored by pardon or amnesty. Punishable by more than
2 one year means that you could have received a sentence of
3 more than one year regardless of what sentence you
4 actually received. If so, please stand.

5 (No one standing.)

6 Is there any member of the jury panel a Clerk or
7 Deputy Clerk of Court, a constable, a Sheriff or other
8 commissioned law enforcement officer, Probate Judge,
9 County Commissioner, Magistrate or other county officer
10 or employed within the walls of any courthouse? If so,
11 please stand.

12 (No one standing.)

13 Is there any member of the panel who has previously
14 served on jury duty in Circuit Court? This doesn't
15 include City Court, Magistrate Court or Federal Court,
16 but if you served on jury duty in Circuit Court before
17 and during this calendar year and with covid that's kind
18 of hard to do? If so, please stand.

19 (No one standing.)

20 Has any member of the jury panel served as a member
21 of our county grand jury during the past several years?
22 If so, please stand.

23 (No one standing.)

24 All right. That is all the qualifications. So
25 we're going to move into exemptions. State law provides

1 for several exemptions to jury service. Just because you
2 might fall under an exemption doesn't mean that we don't
3 want you to serve because we do. An exemption does not
4 mean that you are not qualified. It simply means that
5 you have the right to say I choose not to serve. So
6 these are the exemptions. Those of you who are 65 years
7 of age or older may be exempted from jury service. If
8 you wish to be exempted, please stand. Yes, ma'am. Your
9 juror number?

10 VICKIE DOOLEY: 40.

11 THE COURT: Number 40.

12 THE CLERK: Vickie Dooley.

13 VICKIE DOOLEY: Yes, ma'am.

14 THE COURT: Ms. Dooley, how old are you?

15 VICKIE DOOLEY: 67.

16 THE COURT: Do you wish to exercise your exemption?

17 VICKIE DOOLEY: I do.

18 THE COURT: Okay. Well, then I'm gonna let you be
19 excused then. Thank you for coming. All right. Another
20 exemption concerns prior jury service. No person is
21 required to serve as a juror more often than once every
22 three calendar years, therefore, if any member of the
23 jury panel has served on jury duty during the last two
24 calendar years you may be exempt from service. If this
25 applies to you, please stand.

1 (No one standing.)

2 The same with anyone who has been a grand juror in
3 the past five calendar years may be exempt from jury
4 service. If you served on the grand jury and wish to be
5 exempt, please stand.

6 (No one standing.)

7 All right. The next exemption deals with those of
8 you who have legal custody of young children and this
9 kind of goes in parts and you have to meet all parts of
10 this question. If you have a child under the age of
11 seven years and you have legal custody of that child and,
12 three, if you are unable to make arrangements for the
13 adequate care of your child while performing jury duty,
14 you may be exempt. So if anyone who has a child or
15 children under the age of seven, you have legal custody
16 of that child or children, and you're unable to make
17 arrangements and you wish to be excused, please stand.

18 (No one standing.)

19 If you are the primary caretaker of a person 65
20 years or older and you are unable to provide adequate
21 care for that person while performing jury duty, you may
22 be exempt. If this applies to you, please stand.

23 (No one standing.)

24 If you are the primary caretaker of a severely
25 disabled person and you're unable to provide adequate

1 care while performing jury service, please stand.

2 (No one standing.)

3 All right. The next exemption involves those of you
4 who may be attending school. If this exemption applies
5 to you, if you are a full-time student, a school teacher,
6 a school crossing guard, a school bus driver, or who
7 serves in any other school related function who is unable
8 to serve on jury duty this week as a result of school
9 involvement, please stand. I know I saw some teachers.
10 Yes, sir, your juror number?

11 DIEGO LOPEZ: 103, Diego Lopez.

12 THE CLERK: Mr. Lopez, are you a student, a teacher?

13 DIEGO LOPEZ: I'm a full-time student at Midlands
14 Tech and I had covid a month or so ago and it took pretty
15 much all of my days to be used.

16 THE COURT: Okay. And you're still attending school
17 now, right?

18 DIEGO LOPEZ: Yes, ma'am.

19 THE COURT: And you wish to exercise your exemption?

20 DIEGO LOPEZ: I would like to. Yes.

21 THE COURT: Okay. Then I'm going to excuse you.

22 Thank you for coming.

23 AZANZA NAYELI: Number 3.

24 THE COURT: Number 3. Ms. Nayeli.

25 AZANZA NAYELI: Yes, ma'am.

1 THE COURT: All right. Ms. Nayeli, I know you're a
2 student.

3 AZANZA NAYELI: Yes.

4 THE COURT: I wrote that down. Are you a full-time
5 student?

6 AZANZA NAYELI: Yes, ma'am.

7 THE COURT: Okay. Where do you attend again.

8 AZANZA NAYELI: Fordham College.

9 THE COURT: And you're in class now.

10 AZANZA NAYELI: I had today off.

11 THE COURT: Okay. All right. Do you wish to
12 exercise your exemption?

13 AZANZA NAYELI: Yes, ma'am.

14 THE COURT: Then you may be excused. Thank you for
15 coming.

16 AZANZA NAYELI: Yes, ma'am.

17 SYBIL MAJOR-MURPHY: 108, Sybil Major-Murphy.

18 THE COURT: Okay. Ms. Murphy.

19 SYBIL MAJOR-MURPHY: I'm a school principal and
20 although we're on break this week I'm required to be at
21 my building three times a week.

22 THE COURT: Okay. And at this time do you wish to
23 exercise your exemption?

24 SYBIL MAJOR-MURPHY: Yes.

25 THE COURT: Then you may be excused. Thank you, Ms.

1 Murphy, for coming. Anybody else? All right. Is there
2 any member of the jury panel who is employed with the
3 Department of Corrections or at a penitentiary? If so
4 and you would like to be exempt, please stand.

5 (No one standing.)

6 All right. Let me ask. Did everybody get a covid
7 questionnaire? Is there anybody who did not fill out a
8 covid questionnaire is probably a better question? All
9 right. I've got one, two, three, four, five. Can we
10 make sure that they fill one out? It should have come
11 with your packet. So this is not an exemption. We're
12 through with the exemptions, but I'm going to ask if
13 there's anyone in the panel who for their fear of covid
14 feels like they cannot serve as a juror this week? If
15 so, please stand. Yes, ma'am, your juror number?

16 JENNIFER DUGAN: 45.

17 THE COURT: Number 45. That's Ms. Dugan.

18 JENNIFER DUGAN: Yes, ma'am.

19 THE COURT: Okay. Ms. Dugan, have you had covid.

20 JENNIFER DUGAN: I have not, but I live with my 75
21 year old mother.

22 THE COURT: I can understand that. You may be
23 excused.

24 JENNIFER DUGAN: Thank you.

25 THE COURT: Yes, ma'am.

1 ANDREA HILL: Juror 72, andrea Hill.

2 THE COURT: Ms. Hill.

3 ANDREA HILL: I had covid the end of December. I am
4 a transplant recipient so I just want to take every --

5 THE COURT: Absolutely. Ms. Hill, you may be
6 excused.

7 ANDREA HILL: Thank you.

8 THE COURT: Yes, ma'am.

9 YVONNE HARRIS-MINCEY: Juror 70, Yvonne
10 Harris-Mincey.

11 THE COURT: Ms. Mincey.

12 YVONNE HARRIS-MINCEY: I'm extremely high risk and
13 I'm supposed to be on my second trial on Friday and I was
14 thinking this could take all week long, my second
15 appointment is Thursday at 10:30 and I don't want to miss
16 it since I'm high risk.

17 THE COURT: Okay. Then you may be excused.

18 YVONNE HARRIS-MINCEY: Thank you.

19 THE COURT: Thank you. Anybody else?

20 JAMES JACOBS: Is there another chance for possible
21 exemption not under qualification circumstances?

22 THE COURT: I'm gonna give you another way out in
23 just a minute, okay? If that's what you're asking.

24 JAMES JACOBS: Yes, it is.

25 THE COURT: Okay. All right. That concludes the

1 statutory list of qualifications and exemptions for jury
2 service. It may be that you are qualified and no
3 exemption applies to you but jury service this week would
4 constitute an extreme hardship on you for a particular
5 reason. And I'm gonna tell you right now, inconvenience
6 is not a hardship at all. You know, let me give you some
7 kind of examples. If you have a scheduled doctor's
8 appointment, or you happen to be someone who refuses to
9 sit in judgment of another, or you're an hourly worker
10 and your only family's income. I'm gonna tell you, now
11 is the chance for those of you who did not respond
12 earlier to my questions and also for those of you who may
13 have a compelling reason to request a transfer of your
14 jury service, sometimes we can transfer you over to
15 another term of court, this would be the time to come
16 forward, so for those of you who need to speak with me in
17 private, I would ask that you please stand at this time.
18 Okay. Y'all need to form a line in the middle of the
19 aisle and let me speak to you. Make sure you have your
20 juror number.

21 (Side bars on the record.)

22 BAILIFF: Your Honor, juror number 25.

23 THE COURT: Ms. Cody, Debra Cody.

24 DEBRA CODY: I don't mind serving in the least. The
25 only thing is I have a closing on a house at some point

1 this week. They haven't scheduled it yet but they said
2 they're gonna do it this week. I can do it until that
3 time.

4 THE COURT: Well, I can't stop a jury trial for
5 that. What I can do is transfer you to another term.

6 DEBRA CODY: Okay.

7 THE COURT: And that's what we'll do. Thank you,
8 Ms. Cody, for coming. You can go out the back.

9 BAILIFF: Your Honor, juror number 16.

10 THE COURT: All right. Ms. Burton.

11 MAKAYLA BURTON: I'm still in high school. I'm on
12 spring break right now. I like work. I just started
13 this job.

14 THE COURT: You're in high school. How old are you?

15 MAKAYLA BURTON: 18. I just turned 18 so I don't
16 know what to do.

17 THE COURT: Well, it's such a great experience, but
18 I hate for you to spend your spring break here and she's
19 in high school.

20 MAKAYLA BURTON: I'm supposed to go to Florida in
21 two weeks.

22 THE COURT: Yeah. Let me do this because I really
23 do think that it's a great experience, okay? We're gonna
24 transfer you out, okay? All right. You can be excused.
25 All right. You got Ms. Burton transferred. You will get

1 another summons.

2 BAILIFF: Your Honor, juror number 77.

3 THE COURT: All right. Mr. Huston.

4 EDWIN HUSTON: Yes, ma'am. I own a construction
5 company and without me there my company fails to
6 function. I am me and one guy and if I'm not there, and
7 I'm fully booked right now out six months, and if I'm not
8 there I have no money coming in.

9 THE COURT: All right. I'm gonna transfer you.
10 That doesn't mean you get out of it. We're just gonna
11 transfer you to another term.

12 EDWIN HUSTON: That's fine because I'm like booked
13 just heavily right now.

14 THE COURT: Okay. All right. Thank you.

15 EDWIN HUSTON: Thank you.

16 BAILIFF: Your Honor, juror number 37.

17 THE COURT: Ms. Dobson.

18 JENNIFER DOBSON: Yes, ma'am. I work for the House
19 Legislative Oversight Committee and we have a public
20 input meeting scheduled this Thursday at one with nine
21 agencies under review and I'm primary staff for that and
22 would ask for consideration for that afternoon.

23 THE COURT: It's gonna be hard to give anybody
24 consideration on Thursday afternoon. How about I
25 transfer you.

1 JENNIFER DOBSON: Thank you, ma'am.

2 THE COURT: Thank you.

3 BAILIFF: Your Honor, juror number 30.

4 THE COURT: Mr. Kenneth Dantzler.

5 KENNETH DANTZLER: Yes, ma'am. I have a separated
6 AC joint. I have one follow up tomorrow, as well as my
7 son has a doctor's appointment on Wednesday. I would
8 like to be transferred if I could. I don't want to get
9 out of service, just transferred.

10 THE COURT: That's your doctor's appointment.

11 KENNETH DANTZLER: My doctor's appointment and then
12 Wednesday I have my son's.

13 THE COURT: All right. I'll transfer you. Thank
14 you for coming.

15 BAILIFF: Your Honor, juror number 79.

16 THE COURT: Mr. Jacobs.

17 JAMES JACOBS: Yes. I have lost the hearing in my
18 left ear and it is really hard for me to hear. I don't
19 know if you could sit me close.

20 THE COURT: I'll sit you close. I promise.

21 JAMES JACOBS: Anything out of my left ear I cannot
22 hear and a hearing aid won't fix it. I just wanted to
23 let you know.

24 THE COURT: I'm making note. I'm gonna let you stay
25 with us. Thank you.

1 BAILIFF: Your Honor, juror number 11.

2 THE COURT: Ms. Branham.

3 LAURIE BRANHAM: Hey, I have Parkinson's real bad
4 and have hallucinations. I tried to get a note from my
5 doctor, but she's in Augusta because they are apparently
6 trying to change my medications to get it stabilized, but
7 my husband, he has to bring me here and everything.

8 THE COURT: I'm gonna excuse you. Thank you. I'm
9 just going to excuse you.

10 LAURIE BRANHAM: Thank you.

11 BAILIFF: Your Honor, juror number 22.

12 THE COURT: Robert Chavis.

13 ROBERT CHAVIS: Yes, ma'am. I work for a small
14 business and I'm literally writing my own paycheck so I'm
15 based off myself.

16 THE COURT: Who do you work for?

17 ROBERT CHAVIS: Coughman's meat plant.

18 THE COURT: What do you do? They don't pay you a
19 salary?

20 ROBERT CHAVIS: I mean, yeah. I mean, they pay.
21 It's like \$11.00 an hour and I can't afford to be out of
22 work.

23 THE COURT: I think they've got to pay you if you're
24 on jury duty, don't they?

25 THE CLERK: No, ma'am.

1 THE COURT: They don't.

2 THE CLERK: They are not required by law but I think
3 they should be.

4 THE COURT: They should. Are you single, married?

5 ROBERT CHAVIS: I'm divorced, but I do have three
6 kids. I have shared custody with my kids.

7 THE COURT: Well, no need to transfer him if that's
8 gonna happen. I'm gonna excuse you because I think
9 you'll fall under one of the exemptions.

10 ROBERT CHAVIS: I'm sorry.

11 THE COURT: No, no. Thank you for coming.

12 BAILIFF: Your Honor, juror number 44.

13 THE COURT: All right. Ms. Downing.

14 MARIELLE DOWNING: Hi. I'm not necessarily trying
15 to get out of it, but I thought I should tell you I have
16 a pending DUI.

17 THE COURT: First.

18 MARIELLE DOWNING: Yes, ma'am.

19 THE COURT: You can stay with us. It's still
20 pending, right?

21 MARIELLE DOWNING Yes. It's pending. It's pending,
22 absolutely.

23 THE COURT: We'll let you stay. Thank you.

24 BAILIFF: Your Honor, juror number 46.

25 THE COURT: Ms. Duncan.

1 MEGAN DUNCAN: Yes, ma'am. I was sexually harassed
2 at my last job which put me behind on bills and I work
3 all morning and nights this week to catch up on my
4 bills.

5 THE COURT: Where do you work?

6 MEGAN DUNCAN: Catch 22. I work over here. I was
7 harassed and got behind on my bills and it took a toll.

8 THE COURT: All right. Then I'm just going to
9 transfer you.

10 MEGAN DUNCAN: That's fine.

11 THE COURT: Okay. She'll give you notice of another
12 term of court. Thank you for coming.

13 BAILIFF: Your Honor, juror number 43.

14 THE COURT: Ms. Dotson.

15 SHARIA DOTSON: Yes, ma'am. I have a doctor's
16 appointment Thursday at 9:30 that I can't miss, and then
17 I've got two kids I have to get to Georgia by 5:00 on
18 Wednesday.

19 THE COURT: All right. I'm just going to transfer
20 to you another term.

21 SHARIA DOTSON: That's fine. Thank you.

22 THE COURT: Thank you. Thank you for coming.

23 BAILIFF: Your Honor, juror number 93.

24 SAGE KNOX: So I am the only means of income for my
25 wife and my three month old daughter as well as I'm

1 project manager --

2 THE COURT: Where do you work.

3 SAGE KNOX: I work at Power Home Solar. I have
4 roughly around 54 employees that work underneath me that
5 reach out to me very regularly. We also do direct
6 correlation with utility companies as well for their
7 battery back up supply so a lot of times our customers go
8 down without power, things of that nature and I have to
9 deal with it.

10 THE COURT: And you have 54 employees.

11 SAGE KNOX: Yes, ma'am.

12 THE COURT: You're gonna stay with us, okay? You
13 might get picked, you might not, okay?

14 SAGE KNOX: All right.

15 THE COURT: Thank you.

16 BAILIFF: Your Honor, juror number 71.

17 THE COURT: Ms. Heichelbech.

18 ALEXUS HEICHELBECH: Yes, ma'am. All right. So
19 this week with spring break we have a manager out. I'm
20 one of the only other managers from my store besides our
21 boss and she kind of relies on me. I open all this week
22 Tuesday through Sunday and this is my only day off for
23 this and I just know that she would not be very happy if
24 I have to call out last minute because she wouldn't have
25 anybody to open the store.

1 THE COURT: All right. I'm gonna transfer you.
2 You're not getting out of it. We'll just transfer you,
3 okay? Anybody else?

4 (Side bars on the record concluded.)

5 THE COURT: Let me commend all of y'all who stayed
6 with us. Thank you. All right. Ladies and gentlemen,
7 we're about to begin the trial of the case of the State
8 of South Carolina against Robert Rome Green. Do we have
9 an indictment?

10 MS. MAYES: May it please the Court.

11 THE COURT: Yes.

12 MS. MAULDIN: Your Honor, I would object.

13 THE COURT: Y'all want to approach right quick.

14 (Side bar on the record.)

15 MS. MAYES: Your Honor, we have indictment number
16 2020-GS-32-1625 for attempted murder which sets out the
17 date of August 20th, 2019 as well as citing the
18 corresponding warrant. We also have indictment number
19 2020-GS-32-1628. This indictment is for arson first
20 degree. It contains a scrivener's error where the 3, a 3
21 is noted which should be a 2, it says 830 where it should
22 say 820. It does, however, set forth the warrant being
23 warrant number 2019A3220300342 which does contain the
24 accurate date of August 20th, 2019. At this time, Your
25 Honor, the State would move to amend this indictment

1 2020-GS-32-1628 containing the scrivener's error and
2 change the 3 to a 2 and we cite the case law allowing an
3 amendment for a scrivener's error such as State versus
4 Mims and additional numerous cases.

5 MS. MAULDIN: Your Honor, we just object to the
6 amendment and we would move to quash the indictment for
7 arson. The problem with the date does not give the Court
8 jurisdiction and this is certainly a situation where
9 there has been plenty of time to correct the error.

10 THE COURT: I'm gonna grant her motion. It's a
11 scrivener's error. You can change it and then I'll
12 initial it, but your objection is so noted.

13 MR. MADSEN: We don't need to object again, Your
14 Honor?

15 THE COURT: No.

16 MR. MADSEN: It will continue throughout?

17 THE COURT: Yes. It will continue for the next jury
18 panel. Thank you.

19 (Side bar on the record ended.)

20 THE COURT: All right. Madam Solicitor.

21 MS. MAYES: May it please the Court. Your Honor,
22 before you is indictment number 2020-GS-32-01625, the
23 State of South Carolina versus Robert Rome Green. This
24 indictment is for attempted murder. Also, Your Honor,
25 indictment 2020-GS-32-1628, the State of South Carolina

1 versus Robert Rome Green. This indictment is for arson
2 first degree. Your Honor, the defendant is present in
3 the courtroom represented by counsel. The State is ready
4 for trial on this case.

5 THE COURT: Is the defense ready?

6 MS. MAULDIN: Yes, Your Honor.

7 THE COURT: Okay. Thank you. Let me see counsel
8 just for one second.

9 (Side bar off the record.)

10 THE COURT: On indictment 2020-GS-32-01628, it has
11 been true billed. It is arson first degree and states
12 that on or about August the 2nd of 2019 Mr. Green did
13 willfully, maliciously cause an explosion, set fire to,
14 burn or caused to be burned or aid, counsel or procure a
15 burning that results in damage to a building, structure
16 or property or whether it is the property of the person
17 of another such as being a residential dwelling located
18 at ■■■ Lexington Avenue which did cause serious bodily
19 injury to a Ms. McDaniel. That is the arson indictment.
20 The attempted murder indictment is 2020-GS-32-01625 for
21 attempted murder, that on or about August the 20th of
22 2019 Mr. Green willfully or unlawfully committed the
23 offense of attempted murder, the two indictments for
24 trial, let me address the defense; is that correct?

25 MS. MAULDIN: Yes, Your Honor.

1 THE COURT: Okay. All right. So I have a few more
2 questions to ask you. Is anyone related by blood or
3 marriage to a Robert Rome Green? If so, please stand.

4 (No response.)

5 Or let me make sure I'm pronouncing this right.
6 Ardelia McDaniel, is that correct? Ardelia. Is anybody
7 related by blood or marriage to Ardelia McDaniel?

8 (No response.)

9 All right. Is there any member of the jury panel
10 that was a member of the grand jury which issued the
11 indictment in this case?

12 (No response.)

13 THE COURT: All right. At this time I'm gonna get
14 the lawyers to stand up and introduce themselves to you
15 and then I'm gonna ask you some questions about them so
16 if the prosecution would stand and introduce yourself to
17 the jury.

18 MS. MAYES: May it please the Court.

19 THE COURT: Yes, ma'am.

20 MS. MAYES: My name is Suzanne Mayes. I am a Deputy
21 Solicitor here at the Eleventh Circuit Solicitor's
22 Office. We prosecute criminal cases on behalf of the
23 State of South Carolina and this circuit includes
24 Lexington County, Edgefield County, Saluda County and
25 McCormick County. Also present in the courtroom is

1 Assistant Solicitor Luke Pincelli and also prosecuting
2 this case is Assistant Solicitor LeAnna McMenamin who is
3 away from the courtroom at this moment in time. Also
4 present in the courtroom is Cayce Investigator William
5 Dougall, Solicitor's Office Investigator John Bishop and
6 Justin Ashley, paralegal Jennifer Jones, Caitlyn Clark
7 victim advocate for Lexington County.

8 THE COURT: All right. Has any member of the jury
9 panel ever been represented by any of the attorneys
10 involved in this case or by the Solicitor's Office? If
11 so, please stand.

12 (No one standing.)

13 All right. Let me move to the defense table.

14 MS. MAULDIN: May it please the Court. My name is
15 Sarah Mauldin. I'm an attorney here in Lexington.
16 Handling the case with me this week is Robert Madsen
17 another attorney with my office. We represent Robert
18 Green in the case and also with us is Shannon O'Cain, an
19 investigator in my office.

20 THE COURT: Okay. I'll ask again, has any member of
21 the jury panel been represented by any of the attorneys
22 involved in this case? If so, please stand.

23 (No one standing.)

24 Has anyone ever been related by blood or marriage to
25 or have ever had a close personal or social relationship

1 with any of the attorneys involved in this case or in the
2 case the Public Defender's Office? If so, please stand.

3 (No one standing.)

4 Are you or any of your close friends or relatives
5 employed in the field of law enforcement? Law
6 enforcement includes any police departments in South
7 Carolina or in any other states, the State Law
8 Enforcement Division also known as SLED, any Federal law
9 enforcement agencies, and any military police agencies?
10 If so, please stand. Okay. Yes, ma'am.

11 CAROL JONES: Juror number 81, Carol Jones. My
12 nephew is a deputy with the Charles County Sheriff's
13 Department in Maryland.

14 THE COURT: Okay. Thank you. You may be seated.
15 Yes, sir.

16 JAMES JACOBS: Juror number 79, James Jacobs. I
17 have a nephew who is a police officer for the City of
18 Columbia.

19 THE COURT: Okay. That's juror number 79. Thank
20 you. Yes, ma'am.

21 COURTNEY JORDAN: Juror number 84. My
22 brother-in-law is employed with the Lexington County
23 Sheriff's Department.

24 THE COURT: Okay. Thank you. That was juror number
25 84. Yes, sir.

1 GERALD BAXTER: Juror number 4. A close personal
2 friend was recently elected, Jimmy Roland, Sheriff of
3 Edgefield County.

4 THE COURT: Okay. Thank you. That was juror number
5 4.

6 Are you or any of your close friends or relatives
7 employed by any prosecuting agencies in South Carolina or
8 other states including the District Attorney's Office,
9 Solicitor's Office or the Attorney General's Office? If
10 so, please stand.

11 (No one standing.)

12 Are you or any of your close friends or relatives
13 currently employed or previously employed in a jail,
14 prison or other detention center? If so, please stand.
15 Yes, ma'am.

16 JACLYN LAMINACK-COOK: Juror 100. Jaclyn
17 Laminack-Cook. I was employed at the Department of
18 Corrections in Florida.

19 THE COURT: That's juror number 100. Thank you.

20 MS. MAULDIN: Your Honor, could she repeat what she
21 said.

22 THE CLERK: She was employed by the Department of
23 Corrections in Florida. Sorry, Your Honor.

24 THE COURT: All right. Are you or any of your close
25 friends or relatives currently employed or previously

1 employed by a fire department? If so, please stand.

2 JAMES JACOBS: I'm retired from the City of
3 Columbia.

4 THE COURT: Thank you.

5 THE CLERK: That was 79.

6 THE COURT: That was juror 79. Yes, ma'am.

7 REBECCA CAGLE: My husband was a volunteer
8 firefighter. I didn't know if that was pertinent or not.
9 He's not now. He's a nurse now.

10 THE COURT: And your juror number.

11 REBECCA CAGLE: 19.

12 THE COURT: That was juror number 19.

13 Are you or any of your close friends or relatives
14 currently employed or previously employed by emergency
15 medical service or EMS? If so, please stand. I'm gonna
16 get to know you good.

17 REBECCA CAGLE: My husband was a former paramedic
18 for Richland County and also for Saluda County, but he
19 currently works for Lexington Medical Center as a
20 nurse.

21 THE COURT: That was juror number 19. Yes, ma'am.

22 MARIELLE DOWNING: Juror 44. My best friend, she's
23 EMS.

24 THE COURT: Okay. Thank you.

25 CHRISTOPHER HOFFMAN: Juror number 74. My uncle is

1 EMS for Richland County.

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

3 CAROL JONES: Juror number 81, Carol Jones. I have
4 just recently moved here to the area, but I am an EMT in
5 the State of Maryland.

6 THE COURT: Okay. Thank you. Yes, sir.

7 PHILLIP FUTRELL: Juror number 57. My father is a
8 retired state director for EMS.

9 THE COURT: Okay. Thank you. All right. Are you
10 or any of your close friends or relatives currently
11 employed or previously employed by Prisma Health
12 including Prisma Health Richland and Prisma Health
13 Baptist? If so, please stand. Yes, ma'am.

14 BETTY GARRETT: Juror number 58. I was recently
15 employed with Prisma Health administration for 17
16 years.

17 THE COURT: Thank you. That was juror number 58.
18 Yes, ma'am.

19 TOMIAN GEDDINGS: Juror number 59. I have a niece
20 who is a pharmacist at Prisma.

21 THE COURT: Okay. That was juror number 59.

22 Are you or any of your close friends or relatives
23 currently employed or previously employed by the Burn
24 Center or the Doctors' Hospital in Augusta, Georgia? If
25 so, please stand.

1 (No one standing.)

2 Are you or any of your close friends or relatives
3 presently or in the past a member of or a financial
4 supporter of or otherwise involved or connected with any
5 group that has as its primary concern the promotion of
6 law enforcement or victims' rights? This group includes
7 but not limited to, MADD, SADD, and any local police or
8 trooper association? If so, please stand.

9 (No one standing.)

10 Have you or any of your close friends or relatives
11 ever been the victim of an act of violence including
12 violence by a household member? If so, please stand.

13 (No one standing.)

14 Have you or any of your close friends or relatives
15 ever provided financial or volunteer support for or been
16 employed by or involved in any way with any organization
17 that promotes prevention of violence or provides
18 treatment or other services for victims of violence? If
19 so, please stand.

20 (No one standing.)

21 All right. I might have asked this, but out of an
22 abundance of caution I'm going to ask it again. Is there
23 any member of the jury panel related by blood or marriage
24 or a personal friend of the defendant Robert Rome Green
25 of [REDACTED] Alcott Drive in Columbia, South Carolina? If so,

1 please stand.

2 (No one standing.)

3 Has any member of the jury panel or an immediate
4 family member ever been investigated for or charged with
5 an offense involving a violent crime such as murder,
6 attempted murder, domestic violence or arson? If so,
7 please stand. Yes, ma'am.

8 JACLYN LAMINACK-COOK: Juror number 100. My uncle
9 was convicted of murder in -- I don't remember exactly
10 the year. I was in elementary school when he was
11 convicted, but it was the early '90s.

12 THE COURT: Your juror number?

13 JACLYN LAMINACK-COOK: 100.

14 THE COURT: Juror 100. Your uncle was convicted of
15 murder in '92?

16 COURT REPORTER: I can't hear her, Judge.

17 THE COURT: I know. Come a little closer because we
18 can't hear you.

19 JACLYN LAMINACK-COOK: I don't remember the exact
20 year. I was in elementary school. He was convicted of
21 murder.

22 THE COURT: In the early '90s. And your juror
23 number?

24 JACLYN LAMINACK-COOK: 100.

25 THE COURT: Juror number 100, her uncle was

1 convicted of murder. All right. Well, then, let me ask
2 you, is it Ms. Cook?

3 JACLYN LAMINACK-COOK: Yes, ma'am.

4 THE COURT: Ms. Cook, has that in any way affect you
5 in being fair in this case?

6 JACLYN LAMINACK-COOK: No, ma'am.

7 THE COURT: You can be fair and impartial?

8 JACLYN LAMINACK-COOK: Yes, ma'am.

9 THE COURT: Okay. Thank you. You may be seated.
10 Has any member of the jury panel been employed now
11 or in the past by Bella Home Care in Columbia, South
12 Carolina?

13 (No response.)

14 Does any member of the jury panel have a religious
15 or moral belief which would prevent them from passing
16 judgment on another person as a member of the jury? If
17 so, please stand.

18 (No one standing.)

19 Okay. I'm gonna repeat this one because this one is
20 really important.

21 BAILIFF: He's having trouble hearing you.

22 THE COURT: Does any member of the jury panel have
23 any religious or moral beliefs which would prevent them
24 from passing judgment on another person as a member of
25 the jury? If so, please stand.

1 (No one standing.)

2 All right. The following is a list of possible
3 witnesses in this case so I'm gonna call out these names
4 and I'm gonna ask has anyone ever been related by blood
5 or marriage to any of the people that I have just listed
6 or has anyone had a close personal or social relationship
7 with any of these people and I'm gonna tell you it's a
8 long list so I'll probably go through a few names and ask
9 if you know and then stand. Hermanda Green, Victoria
10 Glover, Daman Green, Marcus Green, Charles Green, George
11 Green, and Diane Green. Anybody so far know if you know
12 any of these people, please stand.

13 (No one standing.)

14 A Peter Messina, M-e-s-s-i-n-a, Robert Combs, Don
15 Kneece, Mark Hudson Jones, a Shannon O'Cain, Steven
16 Kostelic, K-o-s-t-e-l-i-c, Ronnie Fuerst, F-u-e-r-s-t,
17 Meghan Sox, Mary Smith, Lisa Odom, and David Coulder,
18 C-o-u-l-d-e-r. If you know any of these people, please
19 stand.

20 (No one standing.)

21 There's a Nikki Rodgers that works for the Lexington
22 County 911 communications, Tony Nelson, also from 911,
23 Investigator Terrin Reel from Cayce, Corporal Eddie
24 Powell from Cayce, John O'Shaunessy from Cayce, Megan
25 Dawson Marini, M-a-r-i-n-i, Jasmine Rankine,

1 R-a-n-k-i-n-e from Lexington County EMS, Samantha
2 Emenheiser, E-m-e-n-h-e-i-s-e-r, also from Lexington
3 County EMS, Ardelia McDaniel from Casey, Sarah Bugden
4 from Cayce, B-u-g-d-e-n, Matthew Cox from Cayce, Steve
5 Felder from Cayce, Ronald Combs from Cayce, Maria Combs
6 from Cayce, Lieutenant Thomas Brown from the Cayce Fire
7 Department, Logan Russ, R-u-s-s, David Dodd from the
8 Cayce Fire Department, James Edwards from the Cayce Fire
9 Department, Mackenzie Miller also from the Cayce Fire
10 Department, Doug Bramlett from Cayce, Jackie Davis from
11 SLED, Bethany Davidson from SLED, Richard Allen Lloyd the
12 Third also from SLED, John Roberts from SLED, Lieutenant
13 Brad Keller from SLED, a Michael Moskal, M-o-s-k-a-l,
14 from SLED, Jeremy Reeves from Prisma Health Richland, Dr.
15 Garrett Snyder from Prisma Health Richland, Dr. Stephen
16 Ridley from Prisma Health, a Zach Hardy from Prisma
17 Health, a Lyndie Clark from Prisma Health, Hayden Clarke
18 from Cayce, Jason Williams from Cayce, Sean Sinnott
19 S-i-n-n-o-t-t, from Cayce, Finlay Wihlidal,
20 W-i-h-l-i-d-a-l, Investigator William Dougall,
21 Investigator Cal Thomas, Investigator Jason Merrill,
22 Investigator Robert Garman, Dianne Henderson, a Wilson
23 Lewis from Cayce, Rebecca Barnett from Cayce, Kim
24 Paparella, P-a-p-a-r-e-l-l-a from Cayce, Sergeant Paula
25 Hare from the Lexington County Detention Center and Carey

1 Shealy from the City of Cayce. If you know any of these
2 people, please stand.

3 JAMES JACOBS: I know quite a few of them.

4 THE COURT: I figured you would, especially over
5 here on the fire department page. Can you tell me, is it
6 Logan Russ, David Dodd, Lieutenant Brown?

7 JAMES JACOBS: Most of the last few. Dougall.

8 THE COURT: Dougall?

9 JAMES JACOBS: And I don't know them that close. I
10 just know who they are.

11 THE COURT: You know who they are. Let me ask you
12 by knowing these people, would that keep you from being
13 fair and impartial in this case?

14 JAMES JACOBS: No.

15 THE COURT: You can be fair.

16 JAMES JACOBS: Yes, ma'am.

17 THE COURT: And you can be impartial --

18 JAMES JACOBS: Yes, ma'am.

19 THE COURT: -- if you were picked for this jury?

20 JAMES JACOBS: Yes, ma'am.

21 THE COURT: Okay. Thank you.

22 THE CLERK: That's Mr. Jacobs, number 79.

23 MS. MAULDIN: Your Honor, can Mr. Jacobs clarify who
24 he knows. He said he knows a good many of them, but kind
25 of just who they are.

1 THE COURT: He said he knew a good many of them but
2 kind of just who they were.

3 JAMES JACOBS: If I saw them by face, I would know
4 them more than I would by name.

5 THE COURT: One of them being Investigator William
6 Dougall and the fire department Lieutenant Brown.

7 JAMES JACOBS: Once I see their face.

8 THE COURT: So it's not that he -- I think that he's
9 telling you that he hasn't got a personal relationship
10 with these people. He just knows who they are through
11 working with the fire department; am I correct.

12 JAMES JACOBS: Yes, ma'am.

13 MS. MAULDIN: Thank you, Your Honor.

14 THE COURT: All right. Just a few more. Has any
15 member of the jury panel formed or expressed an opinion
16 about any issue or matter involved in this case? If so,
17 please stand.

18 (No one standing.)

19 Is any member of the jury panel aware of any bias or
20 prejudice toward either the State or the defendant in
21 this case? If so, please stand.

22 (No one standing.)

23 All right. The final question, probably the most
24 important question. Is there anyone in here that cannot
25 be fair and impartial while sitting on the jury in this

1 case? Do you know of any reason why you cannot be fair
2 or impartial? Please stand. Yes, ma'am. I need your
3 juror number.

4 MARIELLE DOWNING: I'm number 44.

5 THE COURT: Number 44.

6 MARIELLE DOWNING: I was in an abusive relationship
7 for a few years living with a man and so it's been - I
8 feel strongly against violence.

9 THE COURT: I understand and I appreciate you
10 standing up and telling me so I'm gonna excuse you and
11 thank you for coming. Maybe we can transfer you to
12 another case on another term of court, okay?

13 MARIELLE DOWNING: Yes. Thank you.

14 THE COURT: All right. Thank you. Anybody else?
15 (No one standing.)

16 That was juror number 44. All right. Any other
17 questions from the State?

18 MS. MAYES: None from the State at this time, Your
19 Honor.

20 THE COURT: From the defense?

21 MS. MAULDIN: No, Your Honor.

22 THE COURT: All right. At this time you are
23 qualified. Okay. Let me explain to y'all, you are just
24 one of two jury panels that we're doing today in order to
25 pick one jury and that's because of the covid reasons, we

1 wanted to make sure that everybody was spread out so I'm
2 going to ask that you come back at 2:30.

3 BAILIFF: Your Honor, we have one juror back here
4 that he feels like he needs to disclose that he works for
5 the Department of Public Safety.

6 THE COURT: Yes. You do need to disclose that. And
7 your juror number?

8 BYRON KIRBY: 87.

9 THE COURT: Number 87.

10 BYRON KIRBY: This was the - Like I missed the
11 initial instruction about prior employment. So 20 years
12 ago I was employed by Cayce Public Safety.

13 THE COURT: 20 years ago you worked for them?

14 BYRON KIRBY: Yeah. My first job out of college.

15 THE COURT: Okay. How long did you work for them?

16 BYRON KIRBY: 18 months.

17 THE COURT: 18 months. Okay. Thank you. Anybody
18 else have anything they need to tell me before I excuse
19 you?

20 (No response.)

21 All right. So let me tell you this: Because we
22 called the case, we've called the case name, you are not
23 to talk about this case. You are not to get on your cell
24 phone and look up anything. Believe it or not we'll find
25 out and it's your tax dollars because we would have to do

1 it all over again. Do not do it. Do not look up this
2 case. Don't talk to anybody about this case. I expect
3 to see you back at 2:30. Thank you. You can be excused.

4 (Whereupon, the first jury venire panel was released
5 for a break at 11:00 a.m.)

6 THE COURT: Yes, sir.

7 SAGE KNOX: Could I speak briefly with you?

8 THE COURT: Sure. Get the lawyers. Juror number?

9 SAGE KNOX: 93. Sorry to waste your time.

10 THE COURT: And your name?

11 SAGE KNOX: My name is Sage.

12 THE COURT: Sage. Mr. Knox. Sage Knox.

13 SAGE KNOX: Yes. I do want to make it very clear
14 that I am not self-employed. I didn't know if y'all were
15 aware of that when I said earlier I have 54 employees. I
16 work for a very large solar company and it's nationwide
17 and I have to be - people depend on me very, very
18 strongly to make sure that I'm there to take phone calls.
19 As a project manager we have over a hundred thousand
20 dollar projects going out on million dollar homes daily
21 and I am that person that they call and reach out to.

22 THE COURT: You know, everybody that showed up for
23 jury duty here today has a job.

24 SAGE KNOX: That's understandable.

25 THE COURT: Okay. And we depend strongly on people

1 for our justice system. You might get picked this
2 afternoon, you might not.

3 SAGE KNOX: Okay.

4 THE COURT: Let me see. Why don't you come back and
5 let me think about it, okay?

6 SAGE KNOX: I understand the situation. I just, you
7 know, dealing with this situation as well is kind of
8 concerning. I appreciate y'all's understanding and
9 hearing me out.

10 THE COURT: All right. We'll see you back at 2:30.

11 SAGE KNOX: Yes, ma'am.

12 THE COURT: Anything from the State?

13 MS. MAYES: Nothing at this time, Your Honor.

14 THE COURT: Anything from the defense?

15 MS. MAULDIN: No, Your Honor.

16 THE COURT: Other than your objection that I have
17 already noted for the record on the date on the
18 indictment, you don't have to make that objection
19 anymore.

20 MS. MAULDIN: Thank you, Your Honor.

21 THE COURT: Okay. I really truly wish we could just
22 qualify and qualify and done the voir dire at the end
23 because it looks like they're bringing everybody back to
24 pick a jury so I hate that because we could have done it
25 a lot quicker, but it makes no difference. So we will be

1 back at 1:00. Who is my jury clerk? I want them in the
2 courtroom seated at 1:00. I will take the bench at 1:00.
3 To do all that took an hour and a half. I want to get
4 started so maybe we can do some pretrial motions after we
5 pick the jury. What I would like to do just for
6 housekeeping matters, I don't think I'm gonna swear the
7 jury today. I'm gonna swear the jury in the morning and
8 get started. We do have pretrial motions, right, to go
9 through?

10 MS. MAYES: Yes, sir, Your Honor. We potentially
11 have a Jackson v. Denno. We're not sure that we're gonna
12 offer any statements beyond some initial statements that
13 were made at the scene which were non custodial. We're
14 prepared to have a Jackson v. Denno hearing in case that
15 they may be needed at a later point in the trial such as
16 impeachment of the defendant if he testifies so we would
17 need a ruling on voluntariness. One of the Jackson v.
18 Denno witnesses is in North Carolina and here in the
19 morning Finley Wihlidal. But I believe we have at least
20 four or five other witnesses on that issue prepared for
21 this afternoon.

22 THE COURT: Okay. Ms. Mauldin.

23 MS. MAULDIN: Nothing on that, Your Honor.

24 THE COURT: Okay. Do you have pretrial motions?

25 MS. MAULDIN: Yes, Your Honor.

1 THE COURT: Okay. All right. Anybody object to us
2 picking a jury and swearing them in in the morning. I
3 hate to swear them in and send them home.

4 MS. MAYES: No objection from the State.

5 MS. MAULDIN: None, Your Honor.

6 THE COURT: Okay. Then that will be our game
7 plan.

8 THE CLERK: If they're supposed to be here at one
9 and then we have to scan them in, we have to check them
10 in, scan them in and get their mileage. That might take
11 --

12 THE COURT: As soon as you get them in.

13 THE CLERK: Yeah. I mean, we'll start before one
14 but a lot of them don't get here until one or after.

15 THE COURT: Well, I know. I do know.

16 THE CLERK: Okay.

17 THE COURT: All right. Then we will be back at
18 1:00. Thank you.

19 (Lunch break.)

20 BAILIFF: All rise. Court is now in session. The
21 Honorable Judge Debra McCaslin presiding.

22 THE COURT: Please be seated. All right. Good
23 afternoon everybody and welcome to Lexington. We're here
24 for a jury selection and it kind of goes in a couple of
25 parts. The first part is we'll have the clerk call the

1 roll for you. If you would stand, state your name, tell
2 us where you work, if you're married where your spouse
3 works, or if you're single. An example. My name is
4 Debbie McCaslin and I'm a Circuit Court Judge. My
5 husband is retired and he was an engineer with SCDOT.
6 Now all he does is hunt and fish. Hard for me to find
7 him. We just want to know something about you. These
8 lawyers want to know something about you so let me kind
9 of walk you around the courtroom real quick. This is our
10 court reporter Mr. LeBlanc. He takes down every word you
11 say. I say, the lawyers say, so when you talk, try to
12 talk loud because he needs to hear you. This table over
13 here is the prosecution table and they're gonna introduce
14 themselves to you later. As well as the defense table
15 they'll introduce themselves to you also. Over here is
16 our Clerk's Office. I have Ms. Frick. She keeps the
17 courtroom running. This is my law clerk and this is my
18 future law clerk. He's in training. So at this time I'm
19 going to get the clerk to call the roll and swear you in.
20 I will let you know that you are in General Sessions
21 court. That's what we have this week. This trial is to
22 last for the entire week and it is a criminal case. Just
23 to let y'all know while you're here and with that I'll
24 ask the clerk to swear you in.

25 THE CLERK: Please stand and raise your right hand.

1 (Whereupon, the jury venire was duly sworn in by the
2 Clerk of Court.)

3 THE CLERK: Please seated. Is there anyone in the
4 jury venire that was not able to take the oath as it was
5 just administered? If so, please stand. All jurors are
6 under oath, Your Honor.

7 THE COURT: Thank you.

8 THE CLERK: Your Honor, we're going to begin with
9 juror 94, Jeffery Cole.

10 (Whereupon, the jury venire roll call took place.)

11 THE CLERK: Is there anyone else here for jury duty
12 whose name I didn't call please stand. Roll call
13 complete, Your Honor.

14 THE COURT: Okay. Thank you. And let me thank all
15 of y'all for coming today. We can't go forward without
16 you. Your essential to the justice system so I know you
17 can think of ten other places to be other than in this
18 courthouse this afternoon, but I personally want to thank
19 you for coming. The questions that I have for you next
20 determine your general eligibility to serve as a juror.
21 I did not make these questions up. They are required by
22 state law. Some of them are kind of personal. When I
23 ask, I'm gonna ask that you stand. Some of you may not
24 wish to stand and that's okay. I'm not gonna ask you to.
25 At the end of this hearing I will give you the chance to

1 come forward and speak with me in private so if you
2 choose to do that instead of standing up, that's fine by
3 me, okay? So with that we'll get started. Again these
4 are the questions regarding your eligibility to serve.

5 Is any member of the jury panel not a citizen of the
6 United States? If so, please stand.

7 (No one standing.)

8 Is any member of the jury panel not a resident of
9 Lexington County? Please stand.

10 (No one standing.)

11 Is any member of the jury panel unable to read,
12 write, speak, or understand the English language? If so,
13 please stand.

14 (No one standing.)

15 Does any member have less than a sixth grade
16 education? If so, please stand.

17 (No one standing.)

18 Does any member of the jury panel have any medical
19 or physical condition that would prevent you from serving
20 on a jury this week? I will tell you I expect this trial
21 to last all week. We usually go from 9:30 to 5:00. It
22 kind of all depends. There will be times that you will
23 be sitting in the jury box for maybe an hour, maybe a
24 little bit more. I try to be really conscientious to
25 give everybody a break. I realize we're all wearing

1 masks. You need to have a break just to breathe, but if
2 anyone has any medical condition or a physical condition
3 that would prevent you from doing that, I would ask you
4 to stand now.

5 (No one standing.)

6 Has any member of the jury panel been convicted by a
7 guilty plea or a trial in a State or Federal Court of a
8 crime punishable by imprisonment for more than one year
9 and your civil rights have not been restored by pardon or
10 amnesty? Punishable by more than one year means that you
11 could have received a sentence of more than one year
12 regardless of what sentence you may actually have
13 received. If so, please stand.

14 (No one standing.)

15 Is any member of the panel a Clerk, a Deputy Clerk,
16 a constable, a Sheriff, other commissioned law
17 enforcement officer, Probate Judge, County Commissioner,
18 Magistrate or other county officer or employed within the
19 walls of any courthouse? If so, please stand.

20 (No one standing.)

21 Is there any member of the jury panel who has
22 previously served on jury duty in Circuit Court? I'm not
23 talking about Magistrate Court or City Court. It's been
24 kind of hard to do that with covid this year, but if
25 anyone has served on a jury in Circuit Court within the

1 past year, please stand.

2 (No one standing.)

3 Likewise, has any member served on our grand jury in
4 the last couple of years? If you have served on the
5 Lexington County Grand Jury, please stand.

6 (No one standing.)

7 Okay. Now, that is all the qualifications so
8 everybody qualifies. That's good news. Now we move to
9 exemptions. State law provides for several exemptions to
10 jury service. You don't have to take your exemption. In
11 fact, we would prefer that you stay with us. I think it
12 is a great experience to sit on a jury. But you have the
13 right to say I choose not to serve. You have that right
14 and you can exercise your exemption so when I read them
15 off, if you want to exercise your exemption, please
16 stand.

17 Those of you who are 65 years of age or older may be
18 exempt from jury service. If you wish to be exempt,
19 please stand. Yes, sir. Can I have your juror number?

20 CHARLES WITT: 223.

21 THE COURT: 223?

22 CHARLES WITT: Yes.

23 THE COURT: Your name?

24 CHARLES WITT: Charles Witt.

25 THE COURT: All right. Mr. Witt, I'm not gonna ask

1 you how old you are.

2 CHARLES WITT: Thank you.

3 THE COURT: But are you sure you're 65 or older?

4 CHARLES WITT: I'm quite sure.

5 THE COURT: And let me guess, would you like to
6 exercise your exemption.

7 CHARLES WITT: Yes.

8 THE COURT: Well, then I'm gonna excuse you and
9 thank you for coming.

10 CHARLES WITT: Thank you.

11 THE COURT: We'll let you go ahead and leave. The
12 bailiff will help you out the back door.

13 All right. Another exemption is prior jury service.
14 No person is required to serve as a juror more often than
15 once every three calendar years. If you have served on a
16 jury within the past three years, you may be exempt. If
17 this applies to you, please stand. Yes, ma'am. Your
18 juror number?

19 JODY ROSS: 169.

20 THE COURT: Your name?

21 JODY ROSS: Jody Ross.

22 THE COURT: Ms. Ross.

23 JODY ROSS: Ross.

24 THE COURT: Ross.

25 JODY ROSS: Yes, ma'am.

1 THE COURT: All right. Ms. Ross, when did you
2 serve, do you know?

3 JODY ROSS: Yes, ma'am. It was the second week of
4 February in 2020.

5 THE COURT: Here in Circuit Court.

6 JODY ROSS: Yes, ma'am.

7 THE COURT: Okay. Do you wish to use your
8 exemption?

9 JODY ROSS: Yes.

10 THE COURT: Then you may be excused. Okay. Is
11 there any member who has served as a grand juror in the
12 last five calendar years? If you have served as a grand
13 jury for Lexington County in the last five years, you can
14 choose to exercise your exemption. If this applies to
15 you, please stand.

16 (No one standing.)

17 All right. The next exemption pertains to young
18 children and it's a three part and you have to meet all
19 three parts to qualify for the exemption. If you have
20 legal custody of a young child or children under the age
21 of seven and you have legal custody of those children or
22 child and you are unable to make arrangements for the
23 care of your children while performing jury duty, you may
24 be exempt. If this applies to you and you wish to
25 exercise your exemption, please stand. Yes, sir.

1 ZACHARY SHEALY: Juror 179. Zachary Shealy. I have
2 a four and a six year old at home and since I'm a
3 teacher, there's no one else to take care of them in
4 spring break. I'm a teacher so there's no one else to
5 take care of them. I'm the primary caregiver to the
6 kids.

7 THE COURT: You don't get a break. I know it's
8 spring break this week.

9 ZACHARY SHEALY: But they're in school.

10 THE COURT: You're working. We got it. We got it.
11 What I'm trying to -- you know, you're really gonna fall
12 like under two exemptions that I have. I'm gonna go
13 ahead and excuse you, however, would you like me to put
14 you on the summer months for jury duty?

15 ZACHARY SHEALY: That would be fine.

16 THE COURT: It's such a great experience.

17 ZACHARY SHEALY: Yes. That would be fine.

18 THE COURT: I'm gonna transfer you to the summer
19 months.

20 ZACHARY SHEALY: Sounds good.

21 THE COURT: Thank you, Mr. Shealy, for coming.

22 ZACHARY SHEALY: Thank you.

23 THE COURT: All right. Next exemption. If you are
24 a primary caretaker of a person 65 years or older and you
25 are unable to provide adequate care for the person while

1 performing jury service, you may be exempt. If this
2 applies to you, please stand. Yes, ma'am.

3 ANITA MONTS: Number 126. My husband is, he's over
4 65. He's in his 70s and he has lung cancer and going for
5 treatments. We have children but they work.

6 THE COURT: Okay. All right. I think I'm gonna
7 excuse you.

8 ANITA MONTS: Thank you.

9 THE COURT: Thank you, Ms. Monts. All right.
10 Anybody else? All right. Is anyone the primary
11 caretaker of a severely disabled person and unable to
12 provide adequate care while performing jury service? If
13 this pertains to you, please stand.

14 (No one standing.)

15 All right. The next exemption applies to those who
16 may be attending school at this time or working in some
17 capacity with a school. Is there any member of the jury
18 panel who is a full-time student, a school teacher, a
19 school crossing guard, a school bus driver, or who serves
20 in any other school related function who is unable to
21 serve on jury duty this week as a result of school
22 involvement? If this pertains to you, please stand.

23 (No one standing.)

24 Is there any member of the jury panel who is
25 employed with the Department of Corrections at a

1 penitentiary? If so, please stand.

2 (No one standing.)

3 Is there any juror who is employed or owns a
4 business commercial or agriculture and you are so
5 essential to the operation of the business that if you
6 were required to perform jury duty, the business would
7 have to close or stop functioning? If this pertain to
8 you, please stand.

9 (No one standing.)

10 All right. That's pretty much it for the
11 exemptions. I do have one question because I know we're
12 kind of living in strange times with covid. Is there
13 anyone who has any hesitation about serving on a jury
14 because of covid and you have someone at risk at home or
15 you are a high risk person? Any concerns I would be glad
16 to hear from you and you can stand.

17 KYLE WARD: Juror 205. I work in a hospital setting
18 around infected patients all the time.

19 THE COURT: Well, have you been diagnosed with covid
20 within the last two weeks?

21 KYLE WARD: No, ma'am.

22 THE COURT: Have you been vaccinated?

23 KYLE WARD: I have.

24 THE COURT: Okay. I'm gonna let you stay with us.
25 Anybody else. Yes, ma'am.

1 SANDRA TAPP: I was tested two weeks ago. I was
2 negative, but I was also tested for pneumonia. I did
3 have pneumonia. I finished my antibiotics and they said
4 everything is okay.

5 THE CLERK: What's your juror number, ma'am?

6 SANDRA TAPP: 195.

7 THE COURT: Ms. Tapp. At the end of this session
8 come up and talk to me, okay?

9 SANDRA TAPP: Yes.

10 THE COURT: Okay. All right. That concludes the
11 statutory list of qualifications and exemptions for jury
12 service. It may be that you're qualified and no
13 exemption applies to you, but jury service this week
14 could constitute an extreme hardship on you. I will tell
15 you inconvenience is not a hardship because I think we
16 all would rather be somewhere else, but let me give you
17 some examples of what I do consider a hardship. If you
18 have a scheduled doctor's appointment this week, if you
19 are the hourly worker who will not be paid because you
20 are on jury duty and you are the family's only source of
21 income, and also jurors who refuse to sit in judgment of
22 fellow human beings. If you just refuse to sit in
23 judgment of another, I would like to talk to you. So at
24 this time I would ask those who need to speak with me in
25 private to please stand. Okay. I'm coming down.

1 (Side bars on the record.)

2 BAILIFF: Juror 195, Your Honor.

3 THE COURT: Ms. Tapp, right? I would love to have
4 you for jury service, but are you worried about
5 pneumonia?

6 SANDRA TAPP: Well, I have been. I go back to the
7 doctor tomorrow. I have an appointment. I go back
8 tomorrow. I have an x-ray shows that I have it.

9 THE COURT: Okay. I believe you. She's got a
10 doctor's appointment tomorrow for pneumonia. I can
11 transfer you out a couple of months and bring you back on
12 another court term. Would that be better?

13 SANDRA TAPP: Yes.

14 THE COURT: Let's do that, Ms. Tapp.

15 THE CLERK: 195 transferred.

16 THE COURT: Thank you. I'm gonna excuse you. Thank
17 you for coming.

18 BAILIFF: Juror 140, Your Honor.

19 THE COURT: Ms. Nix. Yes, ma'am.

20 DEIRDRA NIX: I have a few things. I've been on
21 call overnight two nights this week. I can't be excused
22 from that from work, so I found out I'm on call.

23 THE COURT: What do you do.

24 DEIRDRA NIX: I'm a hospice nurse.

25 THE COURT: Oh, yes, ma'am. Okay. How about I

1 transfer to you another term?

2 DEIRDRA NIX: I'll still be a hospice nurse, but
3 yeah, I mean, I can try.

4 THE COURT: She's a hospice nurse and she's on-call
5 two days this week so can I transfer her to another term?

6 THE CLERK: Yes, ma'am.

7 DEIRDRA NIX: Maybe it will be different then.

8 THE COURT: Hopefully so.

9 THE CLERK: 140 is transferred.

10 BAILIFF: Juror 153, Your Honor.

11 THE COURT: Ms. Pilkington. I pronounced that
12 right. Okay.

13 CHRISTINA PILKINGTON: I have an elderly mother and
14 an elderly mother-in-law that live alone, and I generally
15 am home with one of them because I'm home all the time
16 and always available to them. I feel a little bit
17 uncomfortable not to be available to them for a whole
18 week, if anything happened to them, I would like to be
19 there for them.

20 THE COURT: Right. I'm with you. How about I
21 transfer you to another term of court.

22 CHRISTINA PILKINGTON: That's fine.

23 THE COURT: Can we make that a couple of months down
24 the road?

25 THE CLERK: Yes, ma'am.

1 THE COURT: Maybe things might be a little bit
2 better with covid and stuff because I would hate for you
3 to miss out on jury duty.

4 CHRISTINA PILKINGTON: I know, because it's a lot of
5 fun.

6 THE COURT: Thank you. Anybody else?

7 (No response.)

8 (Side bars on the record concluded.)

9 THE COURT: All right. I'm gonna get the State to
10 call the case.

11 MS. MAYES: May it please the Court, Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. MAYES: Your Honor, before you is indictment
14 number 2020-GS-32-1625, the State of South Carolina
15 versus Robert Rome Green. This indictment is for
16 attempted murder. Indictment number 2020-GS-32-1628, the
17 State of South Carolina versus Robert Rome Green. This
18 indictment is for arson first degree. Your Honor, the
19 defendant is present in the courtroom and represented by
20 counsel. The State is ready for trial in this case.

21 THE COURT: Thank you. I'm gonna read these
22 indictments to you. Attempted murder, 2020-GS-32-01625,
23 the State alleges that Robert Rome Green did on August
24 the 20th, 2019 willfully and unlawfully commit the
25 offense of attempted murder. The next indictment

1 2020-GS-32-01628, arson first degree, again alleged on or
2 about August the 20th, 2019, Mr. Green willfully,
3 maliciously caused an explosion, set fire to, burned or
4 caused to be burned whether the property of a person or
5 another such being a residential dwelling located at [REDACTED]
6 Lexington Avenue and did directly or indirectly cause
7 serious bodily injury to a person. Let me ask the
8 defense, are you ready?

9 MS. MAULDIN: Yes, Your Honor.

10 THE COURT: Thank you. And I have a few other
11 questions to ask you before we pick the jury. I can tell
12 you we have another panel. I'm gonna get you to answer
13 these questions for me so listen carefully. If you can
14 respond to these, I would like for you to stand and we'll
15 go over it, but before I get started, let me get the
16 prosecution to stand up and introduce themselves, then
17 I'm going to get the defense to do the same.

18 MS. MAYES: May it please the Court. My name is
19 Suzanne Mayes. I am a Deputy Solicitor here in the
20 Eleventh Judicial Circuit. We prosecute criminal cases
21 on behalf of the State of South Carolina. The Eleventh
22 Circuit Solicitor's Office includes Lexington County,
23 Edgefield County, Saluda County and McCormick County.
24 Also present in the courtroom is Assistant Solicitor Luke
25 Pincelli and also prosecuting the trial of this case is

1 Assistant Solicitor LeAnna McMenamin. She is away from
2 the courtroom at the moment but will be here tomorrow.
3 Also present in the courtroom is William Dougall, an
4 investigator at the Cayce Department of Public Safety,
5 Investigator John Bishop and Justin Ashley with the
6 Eleventh Circuit Solicitor's Office, paralegal Jennifer
7 Jones and Caitlyn Clark of the Eleventh Circuit
8 Solicitor's Office and victim advocate Heather Clamp also
9 of the Eleventh Circuit Solicitor's Office.

10 THE COURT: All right. And I'm gonna get the
11 defense table to introduce themselves.

12 MS. MAULDIN: I'm Sarah Mauldin, a lawyer here in
13 Lexington. This is Rob Madsen. He's another lawyer
14 that's working on this case with me. We represent the
15 defendant in the case Robert Rome Green. This is Shannon
16 McLain, an investigator with our office working with
17 Mr. Green as well.

18 THE COURT: All right. Let me ask the panel, has
19 any member of the jury panel ever been represented by any
20 of these attorneys? If so, please stand.

21 (No one standing.)

22 Has anyone ever been related by blood or marriage to
23 or have you ever had a close personal or social
24 relationship with any of the attorneys involved in this
25 case? If so, please stand.

1 (No one standing.)

2 Has anyone ever been related by blood or marriage to
3 either Robert Rome Green or Ardelia is how it is
4 pronounced McDaniel? If so, please stand.

5 (No one standing.)

6 Are you or any of your close friends or relatives
7 employed in the field of law enforcement? Law
8 enforcement includes any police departments in South
9 Carolina or in any other states, the State Law
10 Enforcement Division which is SLED, any Federal law
11 enforcement agencies, and any military police agencies?
12 Okay. I see several standing. All right. Let me start
13 with the lady with the envelope. How about your juror
14 number?

15 LISA RICHARDS: Juror 165. I have two nephews that
16 are state troopers.

17 THE COURT: With what state?

18 LISA RICHARDS: Massachusetts.

19 THE COURT: In Massachusetts. With them being
20 involved in law enforcement, can you still be fair and
21 impartial in this case?

22 LISA RICHARDS: I'm new to this area. I don't know.
23 I just moved here.

24 THE COURT: Well, I'm asking you if you're picked as
25 a juror, can you be fair and impartial in this case?

1 LISA RICHARDS: I tend to side with police. I know
2 what they go through. I know the cases they are involved
3 with. I kind of side with them.

4 THE COURT: Okay. Well, then, I'm gonna excuse you.
5 Thank you so much for coming. Okay. Yes, sir, in the
6 blue shirt.

7 HOWARD SMITH: I'm juror 181. My son is a deputy, a
8 Lexington County Sheriff deputy.

9 THE COURT: All right. Then let me ask you, can you
10 be fair and impartial in this case if you're chosen as a
11 juror?

12 HOWARD SMITH: I can try.

13 THE COURT: Well, I don't need an I can try. That's
14 either a yes or a no.

15 HOWARD SMITH: Yes.

16 THE COURT: Okay. Thank you. You can be seated.
17 That was juror number 181. Yes, ma'am.

18 KRISTEN SONS: 184. My father-in-law is a deputy in
19 Saluda County.

20 THE COURT: Can you be fair and impartial in this
21 case if chosen as a juror?

22 KRISTEN SONS: I think it would be difficult.

23 THE COURT: Then I'm gonna excuse you. Yes, sir.

24 CHRISTOPHER POLVAK: Juror 154. My ex-wife's sister
25 works for Cayce in investigations.

1 THE COURT: Wait a minute. Your ex-wife's sister?

2 CHRISTOPHER POLVAK: Yes, ma'am. I just wanted to
3 make it clear, I'm sitting in doing whatever I have to
4 do. I felt like it needed to be brought up.

5 THE COURT: Okay. And where does she work?

6 CHRISTOPHER POLVAK: Cayce department.

7 THE COURT: Knowing that can you be fair and
8 impartial in this case.

9 CHRISTOPHER POLVAK: Yes, ma'am.

10 THE COURT: Thank you. Please be seated. Yes,
11 ma'am.

12 KELLY WILSON: Juror number 221 and my husband works
13 at Fort Jackson. He's on security there with the
14 military police. He's retired military.

15 THE COURT: He's retired.

16 KELLY WILSON: But I can be impartial.

17 THE COURT: You can be fair and impartial?

18 KELLY WILSON: Yes, ma'am.

19 THE COURT: Thank you, ma'am. Please be seated.

20 All right. Are you or any of your close friends or
21 relatives employed by any prosecuting agencies in South
22 Carolina or other states including a District Attorney's
23 Office, Solicitor's Office or the Attorney General's
24 Office? If so, please stand. Yes, sir.

25 JEFFREY KOLL: Is it currently or just ever?

1 THE COURT: Just ever.

2 JEFFREY KOLL: Okay. My uncle was a district
3 attorney in a county in Iowa for many years.

4 THE COURT: In Iowa. Can you be fair and impartial
5 in this case?

6 JEFFREY KOLL: I believe so.

7 THE COURT: That's not a yes or no.

8 JEFFREY KOLL: Yes. I can.

9 THE CLERK: What's your juror number, sir?

10 JEFFREY KOLL: 94.

11 THE COURT: Are you or any of your close friends or
12 relatives currently employed or previously employed by a
13 fire department? If so, please stand. Yes, sir, your
14 juror number?

15 RANDOLPH WOHNIG: 224. I'm an industrial
16 firefighter with Michelin Tire Corporation.

17 THE COURT: Can you be fair and impartial in this
18 trial.

19 RANDOLPH WOHNIG: Yes, ma'am.

20 THE COURT: Thank you so much. Please be seated.
21 Are you or any of your close friends or relatives
22 employed or previously employed by an emergency medical
23 service or EMS? If so, please stand.

24 (No one standing.)

25 RANDOLPH WOHNIG: Your Honor, I'm also an EMT with

1 Michelin.

2 THE COURT: You're a Jack of all trades over at
3 Michelin.

4 RANDOLPH WOHNIG: Yes, ma'am.

5 THE COURT: Can you be fair and impartial?

6 RANDOLPH WOHNIG: Yes, ma'am.

7 THE COURT: Thank you, sir. All right. Anybody
8 have close friends or relatives employed or previously
9 employed by Prisma Health including Prisma Health
10 Richland and Prisma Health Baptist? I know I had
11 somebody from Prisma Health.

12 KYLE WARD: 205. I work there.

13 THE COURT: Wait a minute. 205.

14 KYLE WARD: I'm currently employed at Prisma.

15 THE COURT: Currently Employed at Prisma Health.
16 Are you at Richland?

17 KYLE WARD: Richland.

18 THE COURT: At Richland.

19 KYLE WARD: Richland.

20 THE COURT: Can you be fair and impartial in this
21 case?

22 KYLE WARD: Yes, ma'am.

23 THE COURT: Thank you. Yes, sir.

24 JAMES MCGHEE: My wife is an ICU trauma nurse at
25 Prisma and I can be impartial.

1 THE COURT: You can be fair and impartial. Thank
2 you. Juror number?

3 JAMES MCGHEE: I'm sorry. 117.

4 THE COURT: 117.

5 SARAH WHETSTONE: I think it applied to me. I
6 couldn't hear all of it but I was once employed in trauma
7 at Prisma Health.

8 THE COURT: But you can be fair and impartial.

9 SARAH WHETSTONE: Yes.

10 THE COURT: Thank you. Your juror number.

11 SARAH WHETSTONE: 213.

12 THE COURT: Okay. Any of your close friends or
13 relatives employed or previously employed by the Burn
14 Center or Doctors' hospital in Augusta, Georgia? If so,
15 please stand.

16 (No one standing.)

17 Are you or any of your close friends or relatives
18 presently or in the past a member of or a financial
19 supporter of or involved or connected with any group that
20 has as its primary concern the promotion of law
21 enforcement or victims' rights. These groups include but
22 are not limited to MADD, SADD, and any local police or
23 troopers association? If so, please stand.

24 (No one standing.)

25 Have you or any of your close friends or relatives

1 ever been the victim of an act of violence including
2 violence by a household member? If so, please stand.

3 SARAH WHETSTONE: My husband was injured by a home
4 invasion.

5 THE COURT: Okay. Knowing that, can you be fair and
6 impartial in this trial?

7 SARAH WHETSTONE: Yes.

8 THE COURT: And you're juror number 213. Thank you.
9 Have you or any of your close friends or relatives ever
10 provided financial or volunteer support for or been
11 employed by or involved in any way with any organization
12 that promotes prevention of violence or provides
13 treatment or other services for victims of violence? If
14 so, please stand.

15 (No one standing.)

16 I think I might have asked this, but out of an
17 abundance of caution I'm gonna do it again. Is any
18 member of the jury panel related by blood or marriage or
19 a personal friend of the defendant Robert Rome Green of
20 ■■■■ Alcott Drive in Columbia? If so, please stand.

21 (No one standing.)

22 Has any member of the jury panel or an immediate
23 family member ever been investigated for or charged with
24 an offense involving a violent crime such as murder,
25 attempted murder, domestic violence, or arson? If so,

1 please stand.

2 (No one standing.)

3 Has any member of the jury panel been employed now
4 or in the past by Bella Home Care in Columbia? If so,
5 please stand.

6 (No one standing.)

7 Okay. The following is a list of possible witnesses
8 in this case and there's a bunch of them. What I'm going
9 to ask you, has anyone ever been related by blood or
10 marriage to any of these people that I'm fixing to call
11 out to you or has anyone ever had a close personal or
12 social relationship with any of these people?

13 Nikki Rodgers from 911 communications. Also from
14 the same business a Tony Nelson, Investigator Terrin Reel
15 from the Cayce Department of Public Safety, Corporal
16 Eddie Powell also from the Cayce Department of Public
17 Safety, along with a John O'Shaunessy from the same
18 department, a Megan Dawson Marini, M-a-r-i-n-i. If for
19 some reason you recognize any of these names, just please
20 stand. A Jasmine Rankine from Lexington County EMS.
21 Yes, sir.

22 MICHAEL PAULCHEL: I'm just curious about the
23 question. You told me to stand. I used to work for the
24 City of Cayce for 13 years. I have kind of got a little
25 history with them. What would you like to know? You

1 asked me to stand about it. I'm trying to figure it out
2 if I pertain to the question.

3 THE COURT: Well, what I'm asking is do you know any
4 of these people? Are you related to them?

5 MICHAEL PAULCHEL: No, ma'am.

6 THE COURT: Or are they close friends? Socially do
7 you hang out with them.

8 MICHAEL PAULCHEL: I may be friends with two of them
9 on Facebook. I worked there for 13 and a half years and
10 I was --

11 THE COURT: Can you tell me which two that you are
12 friends with on Facebook?

13 MICHAEL PAULCHEL: Well, I have to go through it
14 because I don't keep up with it. You know what I mean?
15 I don't keep up with Facebook, but I have to deal with
16 the police department and fire department all the time.

17 THE COURT: Tell me your juror number.

18 MICHAEL PAULCHEL: 149.

19 THE COURT: 149. I'm gonna come back to you after.
20 If you would please take note of if there's anybody, I
21 would like to question you about them, okay?

22 MICHAEL PAULCHEL: Fair enough.

23 THE COURT: Thank you. All right. Jasmine Rankine
24 from Lexington County EMS, along with a Samantha
25 Emenheiser, E-m-e-n-h-e-i-s-e-r, Ardelia McDaniel, Sarah

1 Bugden from Cayce. As a matter of fact, the next couple
2 of names are from Cayce. Matthew Cox, Steve Felder,
3 Ronald Combs, Maria Combs, Lieutenant Thomas Brown of the
4 Cayce Fire Department along with a Logan Russ and a David
5 Dodd from the fire department.

6 KELLY WILSON: I know a Thomas Brown, but I don't
7 know what he does.

8 THE COURT: Lieutenant Thomas Brown.

9 KELLY WILSON: Yeah. I mean --

10 THE COURT: If it is the one you know, could you
11 still be fair and impartial if he testified.

12 KELLY WILSON: Yes, ma'am.

13 THE COURT: Okay. Thank you.

14 THE CLERK: What was your juror number?

15 KELLY WILSON: 221.

16 THE COURT: All right. Also from the fire
17 department a James Edwards, Mackenzie Miller, a Doug
18 Bramlett from the Cayce Department of Public Safety,
19 Jackie Davis from SLED, Bethany Davidson from SLED,
20 Richard Allen Lloyd the Third from SLED, John Roberts,
21 Lieutenant Brad Keller and Michael Moskal, M-o-s-k-a-l
22 all from SLED, a Jeremy Reeves from Prisma Health, Dr.
23 Garrett Snyder from Prisma Health, Dr. Stephen Ridley
24 from Prisma Health, Zach Hardy from Prisma Health
25 Baptist, Lyndie Clark from Prisma Health, and that will

1 take these next couple of names are all from the
2 Department of Public Safety out of Cayce. Hayden Clarke,
3 Jason Williams, Sean Sinnott, Finlay Wihlidal,
4 W-i-h-l-i-d-a-l, Investigator William Dougall,
5 Investigator Cal Thomas, Investigator Jason Merrill,
6 Investigator Robert Garman. All of those were from the
7 Cayce Public Safety. Then I have Dianne Henderson. Now
8 I'm back with the public safety department again from
9 Cayce with a William Lewis, Rebecca Barnett, Kim
10 Paparella, and from Lexington County Detention Center a
11 Sergeant Paula Hare and Carey Shealy from the City of
12 Cayce.

13 If you know any of those people that I just called,
14 please stand, other than you. I'm gonna get to you in
15 just a second. All right. I've got a few more
16 witnesses. If you know any of these people, please stand
17 while I call them. Hermanda Green, Victoria Glover,
18 Daman Green, Marcus Green, Charles Green, George Green,
19 Diane Green, Peter Messina, M-e-s-s-i-n-a, Robert Combs,
20 Don Kneece, Mark Hudson Jones, Shannon O'Cain, Stephen
21 Kostelic, Ronnie Fuerst, and that's spelled F-u-e-r-s-t,
22 Meghan Sox, Mary Smith, Lisa Odom and David Coulter.

23 Anybody know any of the names that I just called
24 other than juror number 149, Mr. Paulchel. I'm gonna get
25 to you at the end.

1 (No one standing.)

2 All right. Has any member of the jury panel formed
3 or expressed an opinion about any issue or matter
4 involved in this case? If so, please stand.

5 (No one standing.)

6 Is any member of the jury panel aware of any bias or
7 prejudice toward either the State or the defendant in
8 this case? If so, please stand.

9 (No one standing.)

10 And the last question, is there anybody in the jury
11 panel who cannot be fair and impartial if you were seated
12 as a juror in this case? If so, please stand.

13 (No one standing.)

14 All right. I think this panel is qualified, but let
15 me ask, is there anybody who needs to speak with me in
16 private before, besides you, I got you, I got my eye on
17 you, anybody else? 149 needs a talking to.

18 THE CLERK: We have one, Your Honor.

19 THE COURT: Do you want to speak to me in private?

20 JOHN TYSON: Yes.

21 THE COURT: Okay. Then come around.

22 (Side bars on the record.)

23 BAILIFF: Juror number 203, Your Honor.

24 THE COURT: What's your name?

25 JOHN TYSON: 203.

1 THE COURT: Tell me your name.

2 JOHN TYSON: John Tyson.

3 THE COURT: Mr. Tyson. Okay. What you got?

4 JOHN TYSON: Just this. I brought it with me.

5 THE COURT: I know, but is there something you want
6 to tell me?

7 JOHN TYSON: Basically this is my first time here.
8 I'm a little bit nervous.

9 THE COURT: Yes.

10 JOHN TYSON: I have no idea --

11 THE COURT: I hate to tell you, so am I.

12 JOHN TYSON: I have no idea really what I'm doing,
13 but yeah, I'm just, uhm, I'm just a little bit nervous.

14 THE COURT: Okay. That's okay to be nervous. You
15 should be nervous. Being a juror is a big job. How old
16 are you?

17 JOHN TYSON: 21.

18 THE COURT: 21. Do you think you would have any
19 problem sitting in judgment of somebody else?

20 JOHN TYSON: It will definitely be something
21 completely new to me. I believe I can definitely be
22 impartial because it's required over me.

23 THE COURT: And you can be fair?

24 JOHN TYSON: And be fair.

25 THE COURT: That's all we want out of you.

1 JOHN TYSON: All right.

2 THE COURT: Okay. Anybody have any questions? Let
3 me tell you, I get scared all the time. It's okay.

4 JOHN TYSON: At least my mom and dad warned me this
5 could happen.

6 THE COURT: And I'm here to tell you it could be a
7 lot worse.

8 JOHN TYSON: Could be.

9 THE COURT: You're gonna stay with us, okay? All
10 right. It'll be okay. What do you want me to do with
11 juror 149? He seems to know everybody.

12 MICHAEL PAULCHEL: Take it easy on me, ma'am. I'm
13 trying to figure this out.

14 THE COURT: Okay.

15 MICHAEL PAULCHEL: Let me just say this: I'm trying
16 to forget about all these people. When you start
17 mentioning Cayce, I was there for a long time.

18 THE COURT: What did you do? What did you do with
19 Cayce?

20 MICHAEL PAULCHEL: I was a field manager so I had
21 direct contact with all of them in meetings all this time
22 and I felt like I was railroaded over there.

23 THE COURT: So probably not the best dealing over
24 there.

25 MICHAEL PAULCHEL: Well, I mean, there's a lot of

1 turnover typically in the fire department and in the
2 police department, but over there I just got to tell you
3 when you started mentioning it and so many of them
4 started coming up obviously involved in this case a
5 little bit and if you're asking me to benefit them in the
6 sense of this case, I cannot do it. I won't do it just
7 because of the way I was railroaded. And I only had
8 three years to go until I was retired and this was
9 personal, the director of utilities.

10 THE COURT: This is what I'm gonna do. I'm gonna
11 transfer you to another term of court so maybe you can
12 have another case that I think you would be an excellent
13 juror on.

14 MICHAEL PAULCHEL: Fair enough. I thought I was
15 doing good for a while, but if I have to benefit them, it
16 will not happen, just to be fair.

17 THE COURT: Okay. That's fine. I'm gonna excuse
18 you. We're gonna transfer him to another term, okay.

19 MICHAEL PAULCHEL: Fair enough.

20 THE COURT: Fair enough.

21 MICHAEL PAULCHEL: That's it. Thank you, ma'am.

22 THE COURT: Good luck to you. Thank you for coming.
23 Thank you for being honest. Anybody else?

24 (Side bars on the record concluded.)

25 THE COURT: Can I see the lawyers just for a second.

1 (Side bar off the record.)

2 THE COURT: Okay. I'm gonna give you a break for
3 probably about ten minutes and we'll bring, the bailiff
4 will bring y'all back in. We have another panel coming
5 that we're gonna join y'all before we picked a jury. So
6 at this time y'all can be excused. If you need water or
7 you get lost, grab the bailiff, he'll help you get back
8 in here, okay? Thank you.

9 (Whereupon, the jury venire has a short break.)

10 THE COURT: Let me ask the State, do you have any
11 motions?

12 MS. MAYES: Not at this time, Your Honor.

13 THE CLERK: We have two jurors, Your Honor. Please
14 step out.

15 THE COURT: Let me hear from the defense. Any
16 motions.

17 MS. MAULDIN: Your Honor, we would move to set aside
18 the second panel that was here. One of the jurors made
19 some comment that we believe taints the jury pool. The
20 juror said some things about knowing what the police go
21 through and the cases that they deal with and essentially
22 that's conveying the message to the jury that the police
23 are telling the truth in charging somebody and
24 essentially vouching for the police and based on personal
25 knowledge that he had because of a family member who was

1 in law enforcement and therefore we would ask that you
2 set aside the second panel of the jury.

3 THE COURT: Okay. I'll be glad to hear from you.

4 MS. MAYES: Yes, Your Honor. I believe that was a
5 very general and broad response given by the prospective
6 juror and it was directly in response to the voir dire.
7 I also believe if needed, a curative instruction to every
8 potential juror could reiterate that anyone that's
9 related to law enforcement or knows a law enforcement
10 member or any other member of the prosecution or a city
11 employee whether or not they can be fair and impartial we
12 can cover that one more time.

13 THE COURT: Okay. Ms. Mauldin, I'm gonna deny your
14 motion and, in fact, I'm just gonna tell you, I think he
15 was the first one to respond to that, and after that I
16 had six others that responded that they could be fair to
17 that same question. However, out of an abundance of
18 caution I will ask that question again and give the
19 opportunity for any juror to respond.

20 MS. MAULDIN: Thank you, your Honor.

21 THE COURT: Anything else?

22 MS. MAULDIN: No, Your Honor.

23 THE COURT: Thank you.

24 (Short break.)

25 (Whereupon, the jury venire returned to the

1 courtroom.)

2 BAILIFF: All rise.

3 THE COURT: Please be seated. All right. During
4 the break juror number 213 recognized me. I went to high
5 school with her sister and she's also kin to me. It's
6 hard to recognize people with masks on so I have excused
7 juror 213. Now, before we pick a jury, I just want to go
8 over three more questions now that I have everybody all
9 in one room. This is panel one and panel two. I just
10 wanted to make sure. Are you or any of your close
11 friends or relatives employed in the field of law
12 enforcement? If so, please stand. I know y'all probably
13 answered this question before, but I have to ask it
14 again. Yes, ma'am. Your juror number?

15 COURTNEY JORDAN: 84.

16 THE COURT: 84. Your name.

17 COURTNEY JORDAN: Courtney Jordan.

18 THE COURT: All right. Ms. Jordan.

19 COURTNEY JORDAN: My brother-in-law is, he's
20 employed with Lexington County Sheriff's Department.

21 THE COURT: Okay. And let me ask you, can you be
22 fair and impartial if you were seated as a juror in this
23 case?

24 COURTNEY JORDAN: Yes, ma'am.

25 THE COURT: Thank you. Yes, ma'am.

1 CAROL JONES: Juror 81. My nephew is a deputy with
2 the Charles County Sheriff in the State of Maryland.

3 THE COURT: And I'm gonna ask you, can you be fair
4 and impartial if seated as juror in this case.

5 CAROL JONES: Yes, Your Honor.

6 THE COURT: Thank you. Yes, sir. Let me finish on
7 this side. Juror 181.

8 HOWARD SMITH: Juror 181.

9 THE COURT: 181?

10 HOWARD SMITH: Yes. And my son is a deputy with the
11 Lexington County Sheriff's Department.

12 THE COURT: And can you too be fair and impartial if
13 seated in this jury.

14 HOWARD SMITH: Yes.

15 THE COURT: Thank you. Yes, sir.

16 JAMES JACOBS: Juror number 79. I got a nephew that
17 is a CCPR officer.

18 THE COURT: I'm gonna ask you, can you be fair and
19 impartial in this case?

20 JAMES JACOBS: Yes, ma'am.

21 THE COURT: And tell me your juror number one more
22 time.

23 JAMES JACOBS: 79.

24 THE COURT: 79. Yes, sir.

25 GERALD BAXTER: Juror number 4. Jodie Roland is the

1 Sheriff in Edgefield County, a close personal friend.

2 THE COURT: And I will ask you, can you be fair and
3 impartial if seated as a juror in this case?

4 GERALD BAXTER: Yes. I can.

5 THE COURT: Okay. Thank you. I've got two more
6 questions. Is there any member of the jury panel aware
7 of any bias or prejudice toward either the State or the
8 defendant in this case? If so, please stand.

9 (No one standing.)

10 Is there anyone here who cannot be fair and
11 impartial if selected to be a juror in this case? If so,
12 please stand.

13 (No one standing.)

14 Okay. Is there any other questions from the State
15 you would like me to ask the jury pool.

16 MS. MAYES: Not from the State, Your Honor.

17 THE COURT: The defense?

18 MS. MAULDIN: No, Your Honor.

19 THE COURT: Okay. Then let's pull the jury. Now,
20 you know not everybody can be selected because we have a
21 jury of 12, two alternates, so I don't want anybody's
22 feelings hurt if you don't make the jury because we would
23 love to have all of you.

24 THE CLERK: Proceed, Your Honor?

25 THE COURT: Go right ahead.

1 THE CLERK: As I call your juror number and your
2 name, please come forward to the gate, stay on that side
3 of the gate and remain standing facing this way until I
4 tell you either to come forward and have a seat in the
5 jury box or to return to your seat in the audience.
6 Number 87, Byron Kirby.

7 (Whereupon, Byron Kirby, a white male, was called
8 forward.)

9 THE CLERK: What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MS. MAULDIN: Please swear the juror.

13 THE CLERK: Come forward and have a seat in the jury
14 box, sir. Number 35, David Dillon.

15 (Whereupon, David Dillon, a white male, was called
16 forward.)

17 THE CLERK: What say for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say for the defense?

20 MS. MAULDIN: Please swear the juror.

21 THE CLERK: Come forward and have a seat in the jury
22 box please, sir. 73, Kacy Hite.

23 (Whereupon, Kacy Hite, a white female, was called
24 forward.)

25 THE CLERK: What say for the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say for the defense?

3 MS. MAULDIN: Please swear the juror.

4 THE CLERK: Come forward and have a seat in the jury
5 box, ma'am. Number 4, Gerald Baxter.

6 (Whereupon, Gerald Baxter, a white male, was called
7 forward.)

8 THE CLERK: What say for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MS. MAULDIN: Please excuse the juror.

12 THE CLERK: Return to your seat please, sir. Number
13 210, Patrick Wessel.

14 (Whereupon, Patrick Wessel, a white male, was called
15 forward.)

16 THE CLERK: What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MS. MAULDIN: Please swear the juror.

20 THE CLERK: Come forward and have a seat in the jury
21 box please, sir. 79, James Jacobs.

22 (Whereupon, James Jacobs, a white male, was called
23 forward.)

24 THE CLERK: What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MS. MAULDIN: Please excuse the juror.

3 THE CLERK: Return to your seat please, sir. 205,
4 Kyle Ward.

5 (Whereupon, Kyle Ward, a white male, was called
6 forward.)

7 THE CLERK: What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MS. MAULDIN: Please swear the juror.

11 THE CLERK: Come forward and have a seat in the jury
12 box, sir. Number 97, Renee Kyzer.

13 (Whereupon, Renee Kyzer, a white female, was called
14 forward.)

15 THE CLERK: What say for the State?

16 MS. MAYES: Present the juror.

17 THE CLERK: What say for the defense?

18 MS. MAULDIN: Please swear the juror.

19 THE CLERK: Come forward and have a seat in the jury
20 box, ma'am. 61, Tamela Gidron.

21 (Whereupon, Tamela Gidron, a black female, was
22 called forward.)

23 THE CLERK: What say for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MS. MAULDIN: Please swear the juror.

2 THE CLERK: Come forward and have a seat in the jury
3 box, ma'am. Number 58, Betty Garrett.

4 (Whereupon, Betty Garrett, a white female, was
5 called forward.)

6 THE CLERK: What say for the State?

7 MS. MAYES: Please present the juror.

8 THE CLERK: What say for the defense?

9 MS. MAULDIN: Please excuse the juror.

10 THE CLERK: Return to your seat please, ma'am.
11 Number 74, Christopher Hoffman.

12 (Whereupon, Christopher Hoffman, a white male, was
13 called forward.)

14 THE CLERK: What say for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

17 MS. MAULDIN: Please swear the juror.

18 THE CLERK: Come forward and have a seat in the jury
19 box, sir. 57, Phillip Futrell.

20 (Whereupon, Phillip Futrell, white male, was called
21 forward.)

22 THE CLERK: What say for the State?

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say for the defense?

25 MS. MAULDIN: Please excuse the juror.

1 THE CLERK: Return to your seat please, sir. Number
2 19, Rebecca Cagle.

3 (Whereupon, Rebecca Cagle, a white female, was
4 called forward.)

5 THE CLERK: What say for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say for the defense?

8 MS. MAULDIN: Please excuse the juror.

9 THE CLERK: Return to your seat please, ma'am. 84,
10 Courtney Jordan.

11 (Whereupon, Courtney Jordan, a white female, was
12 called forward.)

13 THE CLERK: What say for the State?

14 MS. MAYES: Please present the juror.

15 THE CLERK: What say for the defense?

16 MS. MAULDIN: Please excuse the juror.

17 THE CLERK: Return to your seat please, ma'am.
18 Number 164, Michelle Rice.

19 (Whereupon, Michelle Rice, a black female, was
20 called forward.)

21 THE CLERK: What say for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say for the defense?

24 MS. MAULDIN: Please seat the juror.

25 THE CLERK: Come forward and have a seat in the jury

1 box please, ma'am. 59, Tomian Geddings.

2 (Whereupon, Tomian Geddings, a white female, was
3 called forward.)

4 THE CLERK: What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

7 MS. MAULDIN: Please excuse the juror.

8 THE CLERK: Return to your seat please, ma'am. 188,
9 Brandon Stockman.

10 (Whereupon, Brandon Stockman, a white male, was
11 called forward.)

12 THE CLERK: What say for the State?

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say for the defense?

15 MS. MAULDIN: Please swear the juror.

16 THE CLERK: Come forward and have a seat in the jury
17 box, sir. Number 125, Robert Mills.

18 (Whereupon, Robert Mills, a white male, was called
19 forward.)

20 THE CLERK: What say for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say for the defense?

23 MS. MAULDIN: Please excuse the juror.

24 THE CLERK: Return to your seat please, sir. 81,
25 Carol Jones.

1 (Whereupon, Carol Jones, a white female, was called
2 forward.)

3 THE CLERK: What say for the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say for the defense?

6 MS. MAULDIN: Please excuse the juror.

7 THE CLERK: Return to your seat please, ma'am.

8 Number 155, Donald Price.

9 (Whereupon, Donald Price, a white male, was called
10 forward.)

11 THE CLERK: What say for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MS. MAULDIN: Please swear the juror.

15 THE CLERK: Come forward and have a seat in the jury
16 box, sir. Number 117, James Mcghee.

17 (Whereupon, James Mcghee, a white male, was called
18 forward.)

19 THE CLERK: What say for the State?

20 MS. MAYES: Please present the juror.

21 THE CLERK: What say for the defense?

22 MS. MAULDIN: Please excuse the juror.

23 THE CLERK: Return to your seat please, sir. Number
24 32, Teresa Davis.

25 (Whereupon, Teresa Davis, a white female, was called

1 forward.)

2 MS. MAYES: What's that number again please?

3 THE CLERK: 32.

4 THE COURT: Number 32, Teresa Davis.

5 THE CLERK: Oh, that's right. She has a hearing
6 problem. What say for the State?

7 MS. MAYES: Present the juror.

8 THE CLERK: What say for the defense?

9 MS. MAULDIN: Please swear the juror.

10 THE CLERK: Come forward and have a seat in the jury
11 box, ma'am. Proceed with alternates, Your Honor.

12 THE COURT: Yes. Thank you.

13 THE CLERK: Number 56, David Frye.

14 (Whereupon, David Frye, a white male, was called
15 forward.)

16 THE CLERK: What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MS. MAULDIN: Please excuse the juror.

20 THE CLERK: Return to your seat please, sir. Number
21 134, Joshua Mullen.

22 (Whereupon, Joshua Mullen, a white male, was called
23 forward.)

24 THE CLERK: What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MS. MAULDIN: Please swear the juror.

3 THE CLERK: Come forward and have a seat in the jury
4 box. That's alternate one. Number 154, Christopher
5 Polyak.

6 (Whereupon, Christopher Polyak, a white male, was
7 called forward.)

8 THE CLERK: What say for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MS. MAULDIN: Please swear the juror.

12 THE CLERK: Come forward and have a seat in the jury
13 box. That's our second alternate, Your Honor.

14 THE COURT: Let me see the lawyers just for one
15 quick second.

16 (Side bar off the record.)

17 THE COURT: All right. We're gonna pick one more
18 alternate.

19 THE CLERK: Number 98, William Laird.

20 (Whereupon, William Laird, a white male, was called
21 forward.)

22 THE CLERK: What say for the State?

23 MS. MAYES: Please present the juror.

24 THE CLERK: What say for the defense?

25 MS. MAULDIN: Please excuse the juror.

1 THE CLERK: Return to your seat please, sir. Number
2 224, Randolph Wohnig.

3 (Whereupon, Randolph Wohnig, a white male, was
4 called forward.)

5 THE CLERK: What say for the State?

6 MS. MAYES: Please present the juror.

7 THE CLERK: What say for the defense?

8 MS. MAULDIN: Please excuse the juror.

9 THE CLERK: Return to your seat please, sir. Number
10 100, Jaclyn Laminack-Cook.

11 (Whereupon, Jaclyn Laminack-Cook, a white female,
12 was called forward.)

13 THE CLERK: What say for the State?

14 MS. MAYES: Please excuse the juror from the trial
15 of this case.

16 THE CLERK: Return to your seat please, ma'am.
17 Number 200, Carol Trim.

18 (Whereupon, Carol Trim, a white female, was called
19 forward.)

20 THE CLERK: What say for the State?

21 MS. MAYES: Please present the juror.

22 THE CLERK: What say for the defense?

23 MS. MAULDIN: Please swear the juror.

24 THE CLERK: Come forward and have a seat in the jury
25 box please, ma'am. That's alternate number 3, Your

1 Honor.

2 THE COURT: Okay. Thank you. All right. For the
3 rest of you I want to thank you so much for showing. I
4 hope you learned something through this process. We
5 really do appreciate you coming. At this time I'm gonna
6 excuse you for the week. I don't see any need to bring
7 y'all back or have you call in. If anybody needs a
8 written excuse for work, please tell one of the bailiffs
9 and we'll make sure that the Clerk's Office, they'll take
10 you downstairs and they'll get you an excuse, okay?
11 Again, thank you. I hope I get to see you in another
12 case because we're getting started back up, but thank you
13 for coming. At this time you can be excused. Don't all
14 rush out like that. It's covid time. Six feet apart.

15 (Whereupon, the remainder of the jury venire was
16 released from further jury duty.)

17 THE COURT: Okay. Well, congratulations to y'all
18 for being chosen. I'm gonna give you a quick 10 minute
19 break. I've got to take up some matters with the
20 attorneys so I'm gonna let them -- Why don't we take
21 about a 15 minute break. Okay. If you'll just follow
22 the bailiff. He's gonna be with you all week.

23 (Whereupon, the jury entered the jury room at 3:15
24 p.m.)

25 THE COURT: Anything from the State?

1 MS. MAYES: No, Your Honor.

2 THE COURT: Anything from the defense?

3 MS. MAULDIN: No, Your Honor.

4 THE COURT: All right. Well, then, let me just ask
5 y'all, do you want to wait and swear the jury in in the
6 morning? Does that suit you?

7 MS. MAYES: That suite the State, Your Honor.

8 THE COURT: Does that suit you, Ms. Mauldin?

9 MS. MAULDIN: That's fine, Your Honor.

10 THE COURT: Preferably after the break, I'm gonna
11 bring them back in just to kind of tell them to wear
12 their badge, can't talk to the lawyers, all the good
13 stuff. And then we'll just charge them in the morning.
14 I'll let them go. Are y'all already to go forward on
15 some motions?

16 MS. MAYES: We are, Your Honor. We have several
17 witnesses here for Jackson v. Denno purposes.

18 THE COURT: Okay. You ready, Ms. Mauldin?

19 MS. MAULDIN: Yes, Your Honor.

20 THE COURT: Rob, you've been awfully quiet.

21 MR. MADSEN: She won't let me say anything.

22 THE COURT: Okay. Let's take 15 minutes. We'll
23 come back and I'll talk to the jury and then we'll go
24 straight into motions, okay? Thank you.

25 (Short break.)

1 THE COURT: All right. Before I bring the jury back
2 in and let them go, the bailiff told me that one of the
3 jurors inquired about whether they had to wear a mask
4 while sitting in the jury box. I think they have to.
5 The Supreme Court's order hasn't been modified or
6 withdrawn or anything that I know of. I will offer them
7 some face shields. I'll also check with court
8 administration, but Justice Beatty's order is in effect
9 and I think that's what we're going to do here. Anybody
10 have any comment on that from the State?

11 MS. MAYES: Nothing from the State, Your Honor.

12 THE COURT: The defense?

13 MS. MAULDIN: No, Your Honor.

14 THE COURT: Okay. Something changes, but we will
15 make a due diligent check on it. If something changes,
16 I'll let y'all know in the morning. Let's go ahead and
17 bring them in so I can let them go. I just want to give
18 them just a few little housekeeping. Do I have a bailiff
19 to go get them?

20 (Whereupon, the jury entered the courtroom at 3:30
21 p.m.)

22 THE COURT: Okay. Let me go over just a few little
23 housekeeping rules for jury duty for y'all, then I'm
24 gonna let you go because I'm gonna take up some matters
25 for the rest of the afternoon with the lawyers so there's

1 to keep y'all here. First off you have your badges.
2 Those badges must be worn at all times. The people in
3 the courthouse need to know that you are a juror. When
4 you see these lawyers and I know every one of these
5 lawyers. They are very nice lawyers, but when they see
6 you, they're gonna turn around and go the other way.
7 They're not allowed to speak to you. You're not allowed
8 to speak to them. They're not being rude by no means so
9 I don't want you to take it that way. They're just not
10 allowed to talk with you, okay? So if you see them at
11 lunch, you see them in the hall and you wave at them or
12 something, they're not gonna wave back at you, okay? So
13 don't do that. That's what those badges are for so they
14 can identify each and every one of you should they come
15 in contact, okay? The other thing, when you arrive in
16 the morning, I don't allow any cell phones in this
17 courtroom. The bailiff will put your names on your cell
18 phone and he'll keep them. Now if you are on a break or
19 you are at lunch, you're welcome to your cell phone. If
20 there's an emergency at your home, he will give you the
21 Clerk's Office number where they will contact us and we
22 will get in contact with you to let you know, okay? I
23 just don't allow any cell phones. I also do not allow
24 any note taking. So no notes. And I can't tell you how
25 important it is that you do absolutely no independent

1 research. You're not even allowed to talk about this
2 case until I tell you it's time. Period. Nothing. I'll
3 let you know when it's time to deliberate and that will
4 be when this case gets delivered to you. I will instruct
5 you on the law and when you can start deliberating. So
6 in the meantime there is no going home and telling the
7 wife or the husband about what you know about this case
8 which is a little bit. The indictment was read to you
9 and you have the defendant's name. There is no research
10 on that. There is no talking about this case. Does
11 everybody understand that?

12 (Whereupon, the jury affirms.)

13 THE COURT: If somebody gets, if you get caught
14 doing that, you could jeopardize the whole case and this
15 case is really important to the State and it is really
16 important to the defense and everybody deserves a fair
17 and impartial trial so you need to do your part also,
18 okay? We are going to start -- What time are we starting
19 in the morning?

20 MS. MAYES: We leave that up to Your Honor.

21 THE COURT: Well, I'm an early bird. Let's start at
22 9:30. Please be on time. If one of you are late, just
23 one of you, we can't start. We have to wait on you. So
24 I ask you to please try to be on time. If for some
25 reason something happens, please call the Clerk's Office

1 and leave us a message, okay? Can anybody think of
2 anything else I need to instruct them on before I let
3 them go?

4 MS. MAYES: Nothing from the State.

5 THE COURT: The defense?

6 MS. MAULDIN: No, Your Honor.

7 THE COURT: Okay. I know y'all asked about masks
8 the bailiff told me. We have some shields like what Ms.
9 Frick has on, Hope, like that. We have shields like that
10 for each and every one of y'all if you would care for
11 one. I will tell you by order of our Supreme Court right
12 now I have to make you wear a mask while you're a juror.
13 I will tell you I will make a due diligent call and see
14 if they would allow since y'all are petitioned off by
15 plexiglass, I just wouldn't get my hopes up. If anybody
16 wants a shield, please let the bailiff know in the
17 morning and we'll make sure that we'll supply you with
18 one. Anything else? Yes. You can't read anything about
19 this case or watch anything about it on TV or in the
20 newspaper and I don't know that it would be, but if you
21 see it, turn it off. Don't read it, okay? And this is
22 something I'll never get used to because I don't do
23 Facebook. Don't go on Facebook about this case or
24 Twitter or text your best friend that you have been
25 chosen as a juror in this case. Don't do it because

1 that's a big no no, too, okay? Anybody have any
2 questions before I let you go. Okay.

3 UNIDENTIFIED JUROR: What about work? What do we do
4 about work excuses?

5 THE COURT: If you will -- The clerk -- the bailiff
6 will take you down to the Clerk's Office and they will
7 write you an excuse and if anybody needs an excuse for
8 work, we're more than happy to have that supplied for
9 you, okay? Just take them.

10 THE CLERK: Your Honor, if I may, this may clear it
11 up a little bit. At the end of court I will give each
12 one of you a certificate of service validating how many
13 days you were here and how much you're paid. Along with
14 your check when you get your check in the mail, you will
15 get another certificate along with that and we have done
16 the day to day, but it's easier for the jurors to keep up
17 with it at the conclusion of the case, they get a slip
18 and it seems to satisfy the employers.

19 THE COURT: Okay. Well, if your employer won't take
20 that, that you're here, let us know and we'll make sure
21 that you get a letter. Really don't get too excited
22 about what you get paid. I'm just here to tell you you
23 might could have a really nice lunch, okay? All right.
24 With that said, how about y'all make sure you're here at
25 9:15 in the morning and I'll see you then and we'll start

1 this case, okay? Thank you so much.

2 (Whereupon, the jury was released for the day at
3 3:40 p.m.)

4 THE COURT: All right. We ready to proceed?

5 MS. MAYES: We are, Your Honor. The first few
6 statements, Your Honor, being offered by the State made
7 by the defendant occurred at the scene on the night of
8 August 20th, 2019. They were first responders at the
9 Lexington Avenue home of the victim immediately after 911
10 was called reporting a fire. They arrived and have very
11 brief interaction with the defendant. These are not
12 custodial statements and those were made to Detective
13 Terrin Reel and to Corporal Eddie Powell who is now
14 Sergeant Eddie Powell. In addition, Your Honor, there
15 was an intersection by a third officer. He is John
16 O'Shaunessy. At some point while responding to the fire
17 he passes the defendant in the roadway and states
18 something to the effect of, hey, what's going on? And
19 the defendant shrugs and keeps walking. I don't believe
20 that's gonna amount to a statement for purposes of a
21 Jackson v. Denno hearing, but I wanted to put on the
22 record that we will be offering testimony from Officer
23 O'Shaunessy in that regard. At this time the State calls
24 Investigator Reel.

25 Thereupon,

1 TERRIN NICOLE REEL

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

3 THE CLERK: Please have a seat. Once you're seated,
4 state your full name spelling your last please.

5 THE WITNESS: Terrin Nicole Reel, R-e-e-l.

6 THE COURT: I'm just gonna tell you, this courtroom,
7 if you're on the witness stand, I allow, as long as you
8 are six feet from that jury, the lawyers can take their
9 mask off when they are speaking because other than that I
10 think it's hard for the jurors to hear and if you are a
11 witness, I think you clear the pathway, I don't allow
12 them -- I prefer that they not wear a mask because I
13 can't hear them so I know that y'all can't hear them, but
14 if you approach the witness, I would ask that you put
15 your mask on, okay?

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Investigator Reel, where are you currently
19 employed?

20 A. The Cayce Public Safety.

21 Q. And what is your job description there?

22 A. Right now I'm an investigator for Cayce.

23 Q. How long have you been an officer with the Cayce
24 Department of Public Safety?

25 A. November will be three years.

1 Q. All right. I'm gonna take you, Investigator Reel,
2 to the night of August 20th, 2019. Tell us how, if at all,
3 you became involved in a house fire call located on Lexington
4 Avenue.

5 A. At the time I was actually on patrol so I was
6 dispatched to a call for a structure fire. When on scene, I
7 was approximately on the scene at 3:33 in the morning. When I
8 arrived on scene, I was the first person to arrive on the
9 scene.

10 Q. All right. I'm gonna stop you right there. Again,
11 this is August 20th, 2019. Can you tell us the time that this
12 call was received by the Cayce Department of Public Safety.

13 A. 3:00 in the morning.

14 Q. The time, the actual dispatch time according to your
15 report?

16 A. Oh, I'm sorry. It was 3:31.

17 Q. All right. So 3:31 a.m. And what was the time that
18 you arrived on the scene?

19 A. 3:33.

20 Q. So within two minutes of the 911 call coming in?

21 A. Yes, ma'am.

22 Q. Tell us what, if anything, Investigator Reel, you
23 observed upon arriving at the scene of this fire.

24 A. When I arrived on scene, I - obviously the house was
25 partially involved. I also located or noticed a black male

1 who was later identified as Robert Green walking down the road
2 near the incident location. At that time I was not sure of
3 whose house it was or, you know, if there was anybody inside
4 the house at that moment so at that time I asked him --

5 Q. Let me stop you right there because I want to follow
6 up on that a little bit more what you just said.

7 A. Okay.

8 Q. At this point in time describe the type of structure
9 which was on fire.

10 A. It was a one story residence of the structure at the
11 back of the residence was on fire and it was fully involved.

12 Q. So this was a home?

13 A. Yes, ma'am.

14 Q. And you could see the flames as you were arriving?

15 A. Yes, ma'am.

16 Q. And when you say fully involved, you could actually
17 see the fire?

18 A. Yes, ma'am.

19 Q. Under those circumstances what, if any, preliminary
20 action do law enforcement take to determine whether or not
21 people may be endangered?

22 A. Anybody that is around the house or near, you know,
23 next door neighbors, usually with something like that going on
24 people will start coming outside, trying to identify whose
25 house it is or trying to just make sure that if there's

1 somebody in the house, you know, if we need to get anybody out
2 of the house.

3 Q. Now, in addition to being a Cayce Public Safety
4 officer, what other roles do you play with Cayce Public
5 Safety?

6 A. I'm also a fully certified firefighter for seven
7 years as well.

8 Q. You're a firefighter in addition to being a public
9 safety officer?

10 A. Yes, ma'am.

11 Q. Were you also in the role of firefighter on the
12 night of August 20th, 2019?

13 A. Yes, ma'am. I was actually starting to take off my
14 vest and other items to pack out to go inside the fire.

15 Q. Now, at the time of your arrival, did you have any
16 information whatsoever as to whether there may still be
17 occupants inside the home?

18 A. No, ma'am.

19 Q. Can you tell us whether or not that's information
20 you would need to know?

21 A. That is information that we need to know.

22 Q. Please continue and tell us what occurred as you
23 arrived at the scene and you noticed that there was a subject
24 outside.

25 A. I saw a gentleman in the roadway and as I got out of

1 my car, I was still starting to take off clothing and put
2 other clothes on and I asked the gentleman if this was his
3 house that was on fire and Green stated that he does not know
4 whose house it is, but that he was just walking down the
5 street.

6 Q. All right. Now, that statement that he does not
7 know whose house this is and he's just walking down the
8 street, did you note that contemporaneously with this early in
9 this investigation?

10 A. Yes. I did.

11 Q. How did you document it?

12 A. I put it in my report.

13 Q. Is that the incident report you're referring to
14 now?

15 A. Yes, ma'am.

16 Q. Now, in addition to him making that statement to
17 you, what, if anything, did you see him do? Where did you see
18 him go?

19 A. He, uhm, if I was standing in front of the incident
20 location, he started taking a right and he was walking away
21 from the structure.

22 Q. And did he remain on scene?

23 A. No.

24 Q. What happened next?

25 A. At that time I started running towards the house and

1 a black female later identified as the victim Ms. McDaniel
2 came out of [REDACTED] Lexington and started yelling, he set me on
3 fire. He tried to burn me.

4 Q. That statement, he set me on fire, he tried to burn
5 me, did you hear that yourself?

6 A. Yes, ma'am.

7 Q. Now, at this point in time can you tell us whether
8 or not the victim appeared to be under the active stress of
9 that event?

10 A. Yes. She was -- I would say over all the sirens and
11 the fire that was fully involved, my siren, everybody else's,
12 I could hear her completely clearly. She was screaming for
13 her life basically.

14 Q. And later through this investigation did you learn
15 she had significant burn injuries?

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

17 Q. That statement that you heard the victim make, was
18 that made while the defendant Robert Green was still present
19 there at the scene within proximity?

20 A. Uhm, I turned around to look at, started going
21 toward the house after the communication that we had and she
22 started screaming so he had to be in several feet away from
23 the incident location at that time, yes, ma'am.

24 Q. And then what happened next?

25 A. At that time since I am also certified fire as well

1 I packed out and went inside the house to fight the fire.

2 Q. All right. Prior to going inside to fight the fire,
3 were you able to visualize the defendant Robert Green still at
4 the scene?

5 A. Yes. He was walking away from the scene at that
6 time.

7 Q. In which direction was he walking?

8 A. If I was looking at the house, it would be to the
9 right towards - yeah, it would be to the right.

10 Q. Are you familiar with the home of Megan Dawson where
11 the porch security camera was filmed?

12 A. Yes, ma'am.

13 Q. Do you have a copy of that aerial with you?

14 A. Yes, ma'am.

15 Q. The direction that he was walking, was that in the
16 direction of the residence of Megan Dawson?

17 A. Yes, ma'am.

18 Q. Megan Dawson Marie?

19 A. Yes, ma'am.

20 Q. You had a chance to watch that porch camera
21 security?

22 A. Yes, ma'am.

23 Q. Is the person depicted walking in that direction
24 past that porch security camera appear to be the same person
25 you saw walking away from the scene?

1 A. Yes, ma'am.

2 Q. Was he in custody at that point in time,
3 Investigator Reel?

4 A. No, ma'am.

5 Q. Were you conducting an interrogation in relation to
6 a criminal offense?

7 A. No, ma'am.

8 Q. At that point in time when you had your initial
9 interaction with him and asked him if it was his house, were
10 you even aware that a crime had been committed?

11 A. No, ma'am. I was just called for a structure fire
12 and at that point it was just kind of an investigation mode as
13 far as making sure everybody was out of the house, that this
14 was his house, if there was anybody else in the house at the
15 time.

16 Q. All right. And up until the victim stated he set me
17 on fire, were you aware of the criminal nature of this call?

18 A. No, ma'am.

19 MS. MAYES: Nothing further.

20 THE COURT: Ms. Mauldin.

21 CROSS EXAMINATION

22 BY MS. MAULDIN:

23 Q. Did you know that Ardelia McDaniel does not own the
24 home?

25 A. No, ma'am.

1 Q. Do you know who does?

2 A. No, ma'am.

3 Q. You said that you were on patrol when the call came
4 in. Were you in your regular police uniform at that point?

5 A. Yes, ma'am.

6 Q. Were you in a marked patrol car?

7 A. Yes, ma'am.

8 Q. And when you saw Mr. Green, were you still in the
9 car at that point or were you out on foot?

10 A. I was half way out of my vehicle.

11 Q. And you used the name Mr. Green. At that point you
12 didn't know the person and nobody had identified him as
13 Mr. Green to you. You didn't know who that person was?

14 A. No, ma'am.

15 Q. How much time elapsed between the time that you saw
16 him and he walked away and the time that you heard the person
17 scream?

18 A. If I had to guess, because I couldn't tell you the
19 exact amount of time, it would probably be five seconds.

20 Q. I would like to show you a map and I know it's tiny,
21 but can you give me an idea of where you were when you saw him
22 and when you saw her?

23 A. Where's the house at? I do have a bigger version.

24 Q. Yeah. Show me on your bigger version. Thank you.

25 A. (Witness complies.) Is that okay? If that's the

1 house, then the driveway in between those two houses, that's
2 where my car was and that's where he was at.

3 Q. How far was he from your car?

4 A. If the door, if I was inside the door, he was right
5 outside of the door on my other side.

6 Q. Got you. Where was she again when she came out?

7 A. I hadn't seen her yet so she was up on this door up
8 here.

9 Q. Okay.

10 A. So I hadn't seen her yet.

11 Q. All right. Thank you.

12 A. You're welcome.

13 MS. MAULDIN: No further questions.

14 THE COURT: Okay.

15 MS. MAYES: Just to clarify, if we could mark this
16 as for purposes of this hearing Court's Exhibit 1.

17 THE COURT: Any objection?

18 MS. MAULDIN: No, Your Honor.

19 (Whereupon, Court's Exhibit #1 marked for
20 identification.)

21 REDIRECT EXAMINATION

22 BY MS. MAYES:

23 Q. Looking here at exhibit 1, Investigator Reel, if you
24 could show us the location of the fire?

25 A. Right here.

1 Q. [REDACTED]?

2 A. Yes, ma'am.

3 Q. And then the location of the home where you saw the
4 victim exiting saying he set me on fire?

5 A. Right here.

6 Q. And the general area where your vehicle was
7 initially marked in the street?

8 A. Right around there.

9 MS. MAYES: And let the record reflect she is
10 depicting the roadway in front of [REDACTED] Lexington Avenue.

11 BY MS. MAYES:

12 Q. And the general location or vicinity in which you
13 would have had your interaction with the defendant Robert
14 Green?

15 A. Again, right beside my car.

16 Q. And again, would that be the roadway?

17 A. Yes, ma'am.

18 Q. The roadway in front of [REDACTED] Lexington Avenue?

19 A. Yes, ma'am.

20 Q. And then the general direction in which you last saw
21 the defendant walking away from the scene?

22 A. This way towards 3rd Street, 3rd Street.

23 Q. Lexington Avenue towards 3rd Street?

24 A. Yes, ma'am.

25 Q. And again, there was a reference to the home of

1 Megan Dawson. Do you see it on this map?

2 A. Yes, ma'am.

3 Q. That would be what address at Lexington Avenue?

4 A. [REDACTED] Lexington Avenue.

5 Q. And that's the home that had the porch security
6 camera that you have reviewed?

7 A. Yes, ma'am.

8 Q. And that's the direction that you saw the defendant
9 last walking?

10 A. Yes, ma'am.

11 MS. MAYES: Thank you. Noting further of
12 Investigator Reel at this time, Your Honor. I would note
13 for the record, Your Honor is aware that the State has
14 also made a motion for admission of excited utterance.
15 That is the essence of the excited utterance statement
16 that Investigator Reel heard from the victim Ardelia
17 McDaniel and that statement is, he set me on fire. He
18 tried to burn me. The essence of the defendant's
19 statement was when questioned if that was his house which
20 was on fire, he stated that he does not know whose house
21 this is and he was just walking down the street.

22 THE COURT: This is under the Jackson v. Denno for
23 that statement?

24 MS. MAYES: Yes, ma'am, Your Honor.

25 THE COURT: Ms. Mauldin, can I let the witness down?

1 Are you all finished?

2 MS. MAYES: No objection, Your Honor.

3 MS. MAULDIN: No objection.

4 THE COURT: You can step down.

5 MS. MAULDIN: Your Honor, the only thing we would
6 object to is her identification of Mr. Green as the
7 person she saw at that point. She had no idea who this
8 was. She just knew it was a male.

9 MS. MAYES: We can fashion her testimony to work
10 around that. The identity will be established through
11 additional means at a later time, but we expect her to
12 testify that she has observed the porch camera video and
13 that the person she saw on the roadway is the same person
14 she saw on the porch camera video and as I stated that
15 his identity will be established through other later
16 witnesses.

17 THE COURT: Okay. Well, anything else, Ms. Mauldin?

18 MS. MAULDIN: As long as she doesn't say that was
19 Robert Green, no, Your Honor.

20 THE COURT: All right. Well, I'm gonna allow both
21 statements. Certainly an excited utterance. She's the
22 first officer on the scene, that's who she saw and this
23 woman screaming. As far as he doesn't know whose house
24 it is, I don't know who lives there, I'm gonna allow it
25 as long as you establish ID. If you can't establish his

1 ID, then you got a problem, okay? Everybody understand
2 that ruling?

3 MS. MAULDIN: (Nodding head.)

4 THE COURT: Okay.

5 MS. MAYES: The State calls Sergeant Eddie Powell.
6 Thereupon,

7 HOWARD E. POWELL

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

9 THE CLERK: Please have a seat. Once you're seated,
10 state your full name spelling your last please.

11 THE WITNESS: Howard E. Powell, P-o-w-e-l-l.

12 DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Tell us a little bit about yourself. Where are you
15 currently employed?

16 A. I'm employed by the City of Cayce, Cayce Public
17 Safety.

18 Q. How long have you been a public safety officer?

19 A. With Cayce for three years.

20 Q. And what is your current job description there?

21 A. I'm the patrol supervisor, patrol sergeant for the
22 City of Cayce.

23 Q. Now, how, if at all, were you involved in a fire
24 response on the night of August 20th, 2019, the early morning
25 hours that day?

1 A. We received a call in reference to a structure fire.
2 I responded probably a few seconds behind Investigator Reel.
3 At that point due to, I observed a structure on fire,
4 continued past the structure in an attempt to locate a fire
5 hydrant for the fire department that was en route.

6 Q. All right. I need you to speak up a little bit
7 louder, okay? You attempted to locate --

8 A. I was locating a fire hydrant for the fire company
9 that was en route.

10 Q. All right. And do you have with you any records in
11 relation to your response, your CAD sheet?

12 A. Yes, ma'am.

13 Q. Okay. Can you tell us what time you responded to
14 that call? I believe the dispatch time was 3:31 a.m.

15 A. I would have been on scene about the same time as
16 Investigator Reel. Like I said, I could see her on the street
17 so it's going to be 3:33 give or take a few seconds.

18 Q. All right. So she was the first officer at the
19 scene?

20 A. Yes, ma'am.

21 Q. And you believe you were a few seconds behind her?

22 A. Yes, ma'am. Maybe half a block.

23 Q. What was the first action you took when arriving
24 there at the scene?

25 A. I arrived on the scene, located the residence that

1 was on fire. Investigator Reel stopped at the residence to
2 dress out for, to assist the fire department with fighting the
3 fire. At that point I drove past the residence, observed a
4 male walking down the street, a black male with shorts, no
5 shirt on. I slowed my vehicle down. As I slowed the vehicle
6 down, he made a statement of, that shit's crazy, and kind of
7 indicated toward the residence. At that time I advised him
8 to, I would talk to him at the fire hydrant which was located
9 at the corner of Lexington and 3rd.

10 Q. Okay. Have you had an opportunity to review the car
11 cam footage from your vehicle?

12 A. Yes, ma'am.

13 Q. Is that car camera footage a fair and accurate
14 representation of what occurred?

15 A. Yes, ma'am.

16 Q. In the car camera footage are you seen having an
17 interaction with the defendant?

18 A. Yes, ma'am. You can hear it. It's an in car camera
19 so you cannot see me, but you can hear his voice.

20 Q. All right. And the essence of the statement was,
21 that shit's crazy back there?

22 A. Yes, ma'am.

23 Q. Now, did you say anything to him to prompt that
24 response?

25 A. No, ma'am. Actually I didn't -- As I pulled the

1 vehicle up, slowed down the vehicle, he made the statement.
2 At that point I advised him to come up and I would speak to
3 him at the hydrant which was my primary goal at the time was
4 locate a hydrant for the fire.

5 Q. Now, was your window up or down as you approached
6 him?

7 A. My window was down.

8 Q. I'm going to show you some photographs and ask you
9 whether or not you recognize them.

10 THE COURT: Any objection, Ms. Mauldin?

11 MS. MAULDIN: No, Your Honor.

12 THE COURT: Are you marking these as exhibits?

13 MS. MAYES: Your Honor, at this time for ID only.

14 THE COURT: ID only. Okay.

15 (Whereupon, Court's Exhibit #2 marked for
16 identification.)

17 BY MS. MAYES:

18 Q. For purposes of identification, do you recognize
19 that?

20 A. Yes, ma'am. That's a still shot from my in car
21 camera. That would be the individual I spoke to as we were
22 passing by.

23 MS. MAYES: Your Honor, having been identified, this
24 is marked as a State's Exhibit, but we would ask that it
25 be a Court's Exhibit for purposes of your review. That

1 would be a Court's Exhibit, Your Honor.

2 BY MS. MAYES:

3 Q. Now, you indicated that's the same individual
4 depicted on your car cam video that made the statement, that
5 shit's crazy back there?

6 A. Yes, ma'am.

7 Q. Was he in custody at that time?

8 A. No, ma'am.

9 Q. At that point in time were you aware as to whether
10 or not a crime had occurred?

11 A. No, ma'am. I was strictly responding to a structure
12 fire to my knowledge.

13 Q. All right. Was he free to leave?

14 A. Yes, ma'am.

15 Q. And, in fact, did he leave?

16 A. Yes, ma'am. He did. During the conversation, he
17 never broke stride leaving the scene.

18 MS. MAYES: Nothing further, Your Honor, from
19 Sergeant Powell at this time.

20 THE COURT: Okay. Ms. Mauldin.

21 MS. MAULDIN: Thank you, Your Honor.

22 CROSS EXAMINATION

23 BY MS. MAULDIN:

24 Q. Sergeant Powell, that night were you on patrol as
25 well?

1 A. Yes, ma'am.

2 Q. So you were in a uniform and in a patrol car?

3 A. Yes, ma'am. Same unmarked patrol car. My patrol
4 car is a black vehicle with flat black markings but it is
5 marked.

6 Q. So were your lights going at that point in time?

7 A. Yes, ma'am.

8 Q. All right. And then you said that the person that
9 you saw made the remark, that shit's crazy?

10 A. Yes, ma'am.

11 Q. Did you tell the Solicitor's Office that the comment
12 was, that's crazy?

13 A. Something to that. The statement was, that shit's
14 crazy, basically stating what was going on over there was, it
15 was crazy at that point.

16 Q. But you told the Solicitor that the statement was
17 just, that's crazy?

18 A. Yes, ma'am. I probably did.

19 Q. You're not really sure what you told them you
20 heard?

21 A. I did say initially that I told them that, that's
22 crazy, but his statement to me was, that shit's crazy.

23 Q. But you told them it was something different?

24 A. I did tell them, that's crazy.

25 Q. And you wrote a report following the events of that

1 night; is that right?

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

3 Q. And you didn't put anything in your report about
4 what anybody, what this person said to you, did you?

5 A. No, ma'am. I did not document it in the report.

6 Q. And you didn't say anything about telling the person
7 to follow you to the fire hydrant, did you?

8 A. No, ma'am. I did not document that in my report.

9 MS. MAULDIN: No further questions, Your Honor.

10 THE COURT: Thank you. Anything else?

11 MS. MAYES: Yes, ma'am, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. I want to show you this item and ask you whether or
15 not you recognize it and if so, how, being a CD?

16 A. Yes, ma'am.

17 Q. How do you recognize it?

18 A. That is a DVD of my in car video.

19 Q. Whose initials are depicted on it?

20 A. Mine.

21 Q. And on what date?

22 A. On April 5th, 2021.

23 Q. You have observed this video?

24 A. I have.

25 Q. From your car cam?

1 A. Yes, ma'am.

2 Q. Is it a fair and accurate representation of the
3 statement that you just testified about?

4 A. Yes, ma'am. It is.

5 MS. MAYES: Your Honor, this would be Court's
6 Exhibit 3 and, Your Honor, if we may publish at this
7 time.

8 THE COURT: Yes.

9 (Whereupon, Court's Exhibit #3 marked for
10 identification.)

11 MS. MAYES: This is redacted for time. Your Honor,
12 we did test the equipment on Friday.

13 THE COURT: Let me tell you what, it happens to me
14 all the time so I can understand.

15 (Playing Court's Exhibit #3, DVD.)

16 BY MS. MAYES:

17 Q. And that's the video you're familiar with, Sergeant
18 Powell?

19 A. Yes, ma'am.

20 Q. And that's the video that contains his response,
21 that shit's crazy?

22 A. Yes, ma'am.

23 MS. MAYES: Thank you. Nothing further.

24 THE COURT: Ms. Mauldin.

25 MS. MAULDIN: Your Honor, I would object. I think

1 we need to hear it coming from the tape before it's
2 admitted.

3 THE COURT: Can we hear it?

4 MS. MAYES: We can, Your Honor. We have to hook the
5 speakers up so that may take some additional time. If we
6 can beg the Court's indulgence, we'll get the speakers to
7 work and all of the audios that we're offering today
8 have been provided to the defense in advance. Most of
9 these we have the benefit of listening to with advance
10 speakers or through ear phones, but for purposes of the
11 courtroom we'll be using a Bose speaker.

12 THE COURT: Let me ask you this, Ms. Mauldin, are
13 you disputing that it says, that shit's crazy?

14 MS. MAULDIN: Your Honor, I don't know about the
15 equipment with the Public Defender's Office, but I have
16 not heard the same thing the Solicitor is hearing and
17 maybe my speakers are just not as good as hers.

18 THE COURT: Okay. I just didn't know if it was
19 anything that you all agreed upon.

20 BY MS. MAYES:

21 Q. Now, at this point in time when you were approaching
22 the subject, Sergeant Powell, can you tell us whether or not
23 the subject in view is the same subject that you referred to
24 previously as the male?

25 A. Yes, ma'am. That is the same individual.

1 Q. I'm gonna stop it here. You indicated that your
2 window was up or down at this point?

3 A. My window is down.

4 Q. And the statement is made at what point in time?

5 A. As soon as he gets parallel to the driver's window
6 of my car.

7 Q. Okay. When you just said, hold on, let me find a
8 hydrant, has the statement already been made?

9 A. Yes, ma'am. Just prior to it. That was my
10 knowledge of his statement.

11 THE COURT: Could I hear it one more time? Could
12 you back it up?

13 MS. MAYES: Yes, Your Honor.

14 THE COURT: Or I'll come down there to that speaker.
15 (Playing Court's Exhibit #3.)

16 THE COURT: All right. Okay. I heard it. Anything
17 further?

18 MS. MAYES: Nothing further from the State at this
19 time, Your Honor.

20 THE COURT: Ms. Mauldin?

21 MS. MAULDIN: I'm sorry, Your Honor. I didn't mean
22 to cut you off.

23 THE COURT: No. No. Did you want to cross Officer
24 Powell?

25 MS. MAULDIN: Well, Your Honor, I don't have

1 anything additional on that, but I would argue that the
2 statement that he says that he heard either, that's
3 crazy, or, that shit's crazy, whatever it may be, I don't
4 see how that's a hearsay exception. He's not admitting
5 anything so I would object and argue that that should not
6 come in and I have -- Certainly, if the statement is
7 supposed to include a curse word, but I would argue that
8 that's improper character evidence.

9 THE COURT: Well, this is my problem, Ms. Mauldin.
10 At this time both of these officers, number 1, they don't
11 know that a crime has been committed. They're in marked
12 patrol cars. They've got uniforms on. This guy is not
13 in custody. In fact, this is kind of an unsolicited
14 statement that I think he's making to this officer. I'm
15 gonna allow it.

16 MS. MAULDIN: Your Honor, if I may put just a little
17 more on the record.

18 THE COURT: Yes.

19 MS. MAULDIN: I would argue that that is still
20 hearsay and they haven't given an exception that it would
21 fall under, it's not an admission or anything like that.
22 I would also argue that if the officer told him to follow
23 him to the fire hydrant and didn't do that and talked to
24 him, that that would be a comment on his silence and that
25 should stay out as well. Also, just generally on this

1 recording there's a lot of other noise that is picked up
2 with other officers talking back and forth about what
3 they're looking for and that kind of thing and I would
4 ask that the Court require that even if those statements
5 are allowed, that the audio is cut out as far as anything
6 else so that the rest of that doesn't come in. That's
7 just the background noise on the video.

8 THE COURT: Ms. Mayes.

9 MS. MAYES: Your Honor, just to address the position
10 of the defense that it's not hearsay or that it doesn't
11 meet a hearsay exception, it does. It's a statement by
12 the defendant offered by an adverse party and it's a
13 statement against interest because he is in the process
14 of flight so the fact that he doesn't meet the officer
15 later at the fire hydrant, I'm sure that we can formulate
16 the testimony so that it's not presented in that way. I
17 don't think that there was an agreement to meet there.
18 It's simply that he's in the process of fleeing the scene
19 which is always relevant and material in such a case and
20 after that point in time with this interaction he's later
21 shown on this same video leaving up a side street and
22 from there he heads on out several miles away from the
23 scene. So it's relevant to show flight and then the
24 statement itself, Your Honor, is certainly going to meet
25 the criteria of being an exception to hearsay because

1 it's offered by the adverse party. In addition, it's a
2 statement against interest simply because he's not
3 acknowledging anything related to that fire. He's not
4 asking for help. He's not asking for aid to be rendered.
5 He's walking away from the scene. He's not flagging this
6 officer down for assistance. He's, in fact, trying to
7 disassociate himself from the activity altogether by
8 saying that's crazy and he keeps walking. For that
9 reason it's a statement against interest.

10 MS. MAULDIN: Your Honor, I would maintain that
11 that's a comment on his silence.

12 THE COURT: Okay.

13 MS. MAYES: Just briefly, but he wasn't silent. He
14 made a spontaneous statement to the officer.

15 THE COURT: All right. I'm gonna take it under
16 advisement. I'll give y'all a decision in the morning.
17 You go ahead. And that's only on Mr. Powell.

18 MR. MADSEN: Judge, what about the background noise?
19 So that goes on a little bit longer and you can hear law
20 enforcement talking about, hey, we're looking for this or
21 that which is clearly hearsay. Certainly they could get
22 the video in showing the walking, but the stuff that the
23 officers are talking about that's caught on his car
24 through his microphone shouldn't come in.

25 THE COURT: If I allow it, I'm gonna make sure the

1 background noise is out. I do believe the background
2 noise is, number 1, could be distracting and possibly
3 hearsay.

4 MS. MAYES: And, Your Honor, I mentioned previously
5 that Public Safety Officer O'Shaunessy who is present in
6 the courtroom, he also had a brief interaction in which
7 the defendant keeps walking away. That would be
8 testimony that he saw him walking away from the scene. I
9 don't believe that amounts to a statement so for purposes
10 of Jackson v. Denno I don't believe that would be
11 relevant at this time.

12 THE COURT: Do you agree, Ms. Mauldin? Can I let
13 Officer Powell down?

14 MS. MAYES: Yes.

15 THE COURT: We just kind of left him up here
16 hanging. You may be excused. I'm sorry.

17 MS. MAULDIN: I don't have any objection to that,
18 Your Honor.

19 THE COURT: Okay. So that comes in, Ms. Mayes, if
20 you want it to without objection.

21 MS. MAYES: The State calls Sergeant Cal Thomas.
22 Thereupon,

23 CAL THOMAS

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

25 THE CLERK: Please have a seat. Once you're seated,

1 state your full name spelling your last please.

2 THE WITNESS: My name is Cal Thomas, sergeant with
3 the Cayce Police Department.

4 DIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Sergeant Thomas, tell us a little bit about yourself
7 and how you became involved in this investigation which is
8 attempted murder, arson first degree, involving the defendant
9 Robert Green.

10 A. At the time of this incident I was the supervisor of
11 the investigative unit. I was called to the scene as part of
12 the investigative response for the incident and I would have
13 been directing the investigators at the scene that were
14 conducting the investigation.

15 Q. All right. Tell us little bit more about that. How
16 did you learn that Robert Green was now a suspect in this
17 case?

18 A. Throughout the course of investigation Investigator
19 Dougall was notifying us of what he was learning through
20 interviews and we determined fairly quickly that Robert Green
21 who was associated with the victim was our primary suspect.

22 Q. All right. For purposes of this hearing only, let
23 me ask you ultimately was he identified by the victim Ardelia
24 McDaniel --

25 A. Yes.

1 Q. -- as the person that set her on fire?

2 A. Yes.

3 Q. And as a result, what did you do with that
4 information?

5 A. We began to prepare an arrest warrant for Mr. Green
6 for attempted murder. I began to contact some other agencies
7 and make an attempt to locate Mr. Green.

8 Q. All right. Now, initially at the scene are you
9 aware as to whether or not Ms. McDaniel was able to speak
10 verbally to officers?

11 A. When I reviewed the body cam later, it was apparent
12 that some of the officers had some interaction with the
13 victim.

14 Q. Ultimately once she was transferred to the hospital,
15 Prisma Richland and onto the Burn Center, are you aware
16 whether or not she was intubated?

17 A. At the time we weren't sure. We were just getting
18 updates on where she was being treated.

19 Q. Okay. So the information that you got from her was
20 based primarily on the information at the scene that night?

21 A. That's correct.

22 Q. And then what efforts, if any, did you take to
23 locate the suspect Robert Green?

24 A. I contacted some members of the U.S. Marshal's task
25 force who are usually used to capture fugitives that we have

1 warrants on. Sergeant John Moore of the Lexington County
2 Sheriff's Department was assigned to that task force responded
3 and he began to try to contact family members of Mr. Green.

4 Q. All right. And what ultimately did you learn about
5 his location or whereabouts?

6 A. One of Mr. Green's family members indicated that he
7 had received some injuries and that he was currently being
8 treated at Baptist Hospital.

9 Q. All right. Baptist Hospital here in Columbia?

10 A. Yes, ma'am.

11 Q. In the Columbia area. What did you do next?

12 A. I contacted Officer Bailey who was with the Columbia
13 Police Department and asked him if he could get an officer
14 down to Baptist to confirm that Mr. Green was being treated
15 there.

16 Q. All right. And was he, in fact, at that location?

17 A. He was. He was located by Officer Bailey and
18 another patrol officer from the Columbia Police Department and
19 they contacted me and told me that they had located him.

20 Q. And what time was this in relation to the first
21 responders going out to the scene of that fire at
22 approximately 3:31 a.m. on the night of August 20th?

23 A. It was the next morning. I don't remember the exact
24 time without reviewing my notes, but it would have been early
25 that same morning.

1 Q. Okay. And are you aware as to how he arrived at
2 Baptist Hospital, whether that was by ambulance or whether he
3 was taken there by a family member?

4 A. I don't recall how he was transported, but we did
5 learn that he had showed up at a family member's residence and
6 that they had convinced him to go to the hospital for
7 treatment.

8 Q. All right. And what was your first interaction with
9 Sergeant Thomas?

10 A. I responded to Baptist Hospital to the emergency
11 room section and they identified the room that he was in.
12 Myself and Investigator Bramlett responded with the actual
13 arrest warrant and after we got some updates on his treatment
14 and learned that he was going to be transported to the Augusta
15 Burn Hospital as well, I confronted Mr. Green and served the
16 arrest warrant on him and advised him he was under arrest.

17 Q. All right. What happened next?

18 A. I read the warrant to him, served the warrant on him
19 and I verbally advised him of his Miranda Rights. He did not
20 make any effort to invoke his rights and he began to make some
21 statements. I stopped him, went outside, I got Investigator
22 Bramlett to collect his clothing and then I went back in and
23 got a brief statement from him, from Mr. Green.

24 Q. What happened next?

25 A. The decision to transport Mr. Green was made and we

1 advised the ambulance service that had been contracted to
2 transport him to Augusta that I would follow them to the
3 Augusta Burn Unit.

4 Q. All right. And did you do that?

5 A. I'm sorry.

6 Q. Did you do that? You went onto the Augusta Burn
7 Unit?

8 A. Yes. I did. I follow the ambulance to Augusta.

9 Q. All right. At this point in time, Sergeant Thomas,
10 was he in custody?

11 A. I'm sorry.

12 Q. At this point in time was he in custody?

13 A. I can't hear you.

14 Q. Was he in custody? You mentioned the arrest
15 warrant. Was he in custody?

16 A. Yes. He was in custody as of me serving the arrest
17 warrant on him at Baptist Hospital.

18 Q. I'm gonna show you an item and ask you whether or
19 not you're familiar with it and if so, how?

20 A. It is a Miranda card from the City of Cayce.

21 Q. Can you tell us how, if at all, you advised the
22 defendant Robert Green of his Miranda Rights when you served
23 those warrants on him at Baptist Hospital?

24 A. I would normally use a written advice of rights form
25 that we have as well. I did not have one of those with me. I

1 did not have this card, but I did advise him of his rights
2 verbally.

3 Q. So let me stop you right there. I'm gonna ask you
4 to go to your notes.

5 A. I'm sorry.

6 Q. I'm gonna ask you to go to your notes. Your notes.

7 A. Okay.

8 Q. What time do your notes say that you had your
9 interaction with Robert Green on August 20th, 2019?

10 A. At approximately 12:30 p.m., hospital staff
11 indicated that Mr. Green's treatment at Prisma Health Baptist
12 was complete.

13 Q. All right. Now you have stated for the record that
14 you advised him verbally of his Miranda Rights. I'm gonna ask
15 you to tell us slowly and for the record exactly what rights
16 Mr. Green was advised of.

17 A. I'm sorry. I couldn't hear your question.

18 Q. Yes. I'm going to speak louder. What rights was he
19 advised of? If you could relay them slowly for the court
20 reporter.

21 A. He would have been advised that he was under arrest;
22 that he had the right to remain silent; that anything he said
23 could be used against him in a court of law. He would have
24 also been advised that he had the right to an attorney and to
25 have an attorney present before and during questioning. We

1 would have also been advised that if he could not afford an
2 attorney, one would be appointed for him at the appropriate
3 time before and during questioning. He would also be advised
4 that if he decided to answer any questions now without an
5 attorney present, that he could stop at any time.

6 Q. Now, you stated that he was at the hospital
7 receiving treatment. Did he appear to be oriented and aware
8 of his surroundings?

9 A. Yes. He did.

10 Q. Did he appear to be under the influence, active
11 influence of any type of drugs or alcohol that prohibited his
12 ability to communicate with you?

13 A. No, ma'am.

14 Q. Did he appear to be able to give a coherent response
15 to your questions?

16 A. Yes. He was.

17 Q. He was speaking coherently?

18 A. Yes.

19 Q. You could understand his voice?

20 A. Yes.

21 Q. And his speech pattern?

22 A. Yes.

23 Q. At any point in time did he invoke his right to
24 remain silent?

25 A. No. He did not.

1 Q. At any point in time did he request an attorney?

2 A. No. He did not.

3 Q. At any point in time did he ask that questioning
4 stop?

5 A. No. He did not.

6 Q. Was he willing to speak with you?

7 A. He began speaking. I didn't ask him any questions
8 initially and he just began speaking so that's when I left the
9 room and spoke with Investigator Bramlett about what the plans
10 were to transport him and I went back in and at that time I
11 recorded a brief statement wherein I asked him if he
12 understood his rights and understanding his rights, if he
13 wanted to make any statements.

14 Q. All right. And on that recording when you asked him
15 if he understood his rights, that was in reference to the
16 Miranda Rights that you had previously given him?

17 A. That's correct.

18 Q. Did he appear to understand those?

19 A. He did.

20 Q. Based upon all your observations, did his waiver of
21 rights appear free and voluntary?

22 A. Yes. It was.

23 Q. I'm gonna show you an item and ask whether or not
24 you recognize it?

25 A. Yes. That would be my brief interview with

1 Mr. Green.

2 Q. How do you recognize it?

3 A. It's got my initials on it right there.

4 Q. And you have heard this. It's a fair and accurate
5 representation of the brief recording that you mentioned?

6 A. Yes, ma'am.

7 Q. And this recording was post Miranda Rights?

8 A. That is correct.

9 MS. MAYES: Your Honor, I believe this is Court's
10 Exhibit 4.

11 (Whereupon, Court's Exhibit #4 marked for
12 identification.)

13 THE COURT: Ms. Mauldin, have you seen this or heard
14 it?

15 MS. MAULDIN: I have, Your Honor.

16 BY MS. MAYES:

17 Q. Just to clarify, Sergeant Thomas, we know that the
18 incident occurred in the middle of the night on August 20th,
19 2019 at approximately 3:31 a.m. was the 911 call. When you
20 said 12:30 p.m., are you referring to the same date August
21 20th, 2019?

22 A. That's correct. We would have been investigating
23 throughout that morning.

24 Q. Into the early afternoon?

25 A. Yes, ma'am.

1 (Playing Court's Exhibit #4.)

2 BY MS. MAYES:

3 Q. Regarding that recording, Court's Exhibit 4,
4 Sergeant Thomas, did you at any point in time promise
5 Mr. Green anything in exchange for participating in this
6 conversation with you?

7 A. No, ma'am.

8 Q. Was he threatened in any way in order to participate
9 in this conversation?

10 A. No, ma'am.

11 Q. Coerced in any way in order to participate in an
12 interview?

13 A. No, ma'am.

14 Q. Did the entire process appear to be free and
15 voluntary based on your observations?

16 A. Yes, ma'am.

17 MS. MAYES: Noting further, Your Honor.

18 THE COURT: Thank you. Ms. Mauldin.

19 MS. MAULDIN: No questions and no motions on this
20 one.

21 THE COURT: So we're in agreement. Okay. It comes
22 in freely and voluntarily given. She has no objection.

23 MS. MAYES: Yes, Your Honor, and this is one of the
24 statements, as we noted, the State may not be offering,
25 but we wanted a ruling as to voluntariness in case it's

1 used at a later point in time in the trial for
2 impeachment purposes or for some other reason. There is
3 a statement that follows this, Your Honor, that is to
4 Finlay Wihlidal. He is now out of state. He is the
5 witness who will be available in the morning and then in
6 chronological order after that conversation is an
7 interview at the Burn Center conducted with Investigator
8 William Dougall who is present in the courtroom. So if
9 there is no objection, can we proceed forward to that
10 conversation, that interview?

11 THE COURT: Okay. Well, I'm gonna tell you, I find
12 that the statement was knowingly, voluntarily and
13 intelligently made. The officer asked him twice do you
14 understand your rights. He says yes. He sounds to be
15 coherent. He gives his mother's phone number. He talks
16 about his sister. He makes sure the officer gets in
17 touch with them to tell them what's going on. I'm
18 allowing it.

19 MS. MAYES: Your Honor, the State calls Investigator
20 William Dougall.

21 THE COURT: Okay. But before we start, is this
22 anything that we're agreeing to before we go through all
23 this and then they tell me they agree.

24 MS. MAYES: Your Honor, that is something to note.
25 We did request via email whether or not there was an

1 agreement that the statements made were voluntary. If
2 there is a stipulation by the defense that the additional
3 statements are voluntary, then we may not need to proceed
4 further.

5 THE COURT: Okay. Well, let's check on that.

6 MS. MAULDIN: Your Honor, it might be easier if we
7 went straight to playing the statements for Your Honor
8 rather than asking all the preliminary questions.

9 MS. MAYES: Your Honor, the issue there is that it's
10 a self-serving statement, the entire statement is
11 self-serving in nature other than the admissions that he
12 does light the fire, he does use a lighter, he does bring
13 gasoline into the victim's bedroom and he also makes
14 statements that he was using alcohol and cocaine that
15 night, but other than that it's all self-serving in
16 nature which is the reason the State is not necessarily
17 even offering this statement, at least not in its case in
18 chief so for purposes of this hearing the only thing that
19 would be relevant is whether or not it's voluntary in
20 nature, not the content. It's probably about an hour in
21 length.

22 THE COURT: Ms. Mauldin.

23 MS. MAULDIN: Your Honor, we have talked about this,
24 but if it's only coming up in reply, maybe it would be
25 better to hold off on this part of the Denno hearing.

1 MS. MAYES: We can do that.

2 THE COURT: Well, I mean, you don't even know if
3 you're introducing it in your case. I don't know what
4 Ms. Mauldin is gonna do. I'm certainly not gonna tell
5 anybody how to try their case, but it might not come up.
6 Why don't we wait and see.

7 MS. MAYES: That suits the State, Your Honor. I
8 think the first time it would potentially come up is if
9 the defendant testifies for purposes of impeachment. The
10 Miranda portion of this statement is probably two minutes
11 in length, two to three minutes and we can take it up if
12 that arises at a later point in the trial.

13 THE COURT: So I agree, Ms. Mayes and Ms. Mauldin.
14 Let's cross that bridge when we get there.

15 MS. MAULDIN: Thank you, Your Honor.

16 MS. MAYES: Next, Your Honor, dealing with the
17 State's motion for admission of excited utterance, I
18 believe you have had a chance to review the State's
19 written motion. I will say that the primary statements
20 involve, all center around body cam footage of Officer
21 O'Shaunessy who is present in the courtroom. He had that
22 initial interaction with the victim just minutes after
23 she flees a neighbor's residence where the fire on her
24 body had been put out. She is standing in the driveway
25 having communications with Officer O'Shaunessey. We have

1 supplied the entire body cam to the defense. We have
2 selected just three clips from that body cam that are
3 relevant to the State's case because they establish how
4 the defendant is developed as a suspect. They establish
5 how the investigation changes from a fire response to a
6 criminal investigation, and then they also relate to the
7 victim's physical condition and the elements of serious
8 bodily injury that we are required to prove for arson
9 first degree.

10 Your Honor, I can play for the Court the entire body
11 cam footage which is about 15 minutes, I believe, or I
12 can play the three selected clips that we have supplied
13 to the defense.

14 THE COURT: Ms. Mauldin, are we agreeing to this or
15 --

16 MR. MADSEN: Well, I'm a little bit confused. So
17 the three clips are what they plan on playing or the
18 whole 15 minutes?

19 MS. MAYES: Right. So the three clips are what we
20 would be offering as evidence developed from the entire
21 15 minutes.

22 THE COURT: Do you want to see the three clips and
23 see if you have any objection to it?

24 MR. MADSEN: We are going to. I think Your Honor is
25 going to need to see them because there are things in the

1 clips that probably are going to come in under an excited
2 utterance, but there are things in the clips that
3 shouldn't come in. In other words, there's going to be
4 questions to her. So it's not an excited utterance if
5 you're getting questions from law enforcement, hey, what
6 happened. Additionally, there's statements in the clips
7 like her saying, hey, I want to hold someone's hand.
8 That doesn't have any relevance to anything. Or saying,
9 hey, I've got four children. That doesn't have any
10 relevance to anything. And then they talk about, oh, we
11 don't know if he has weapons. Be careful. I mean, those
12 are things under 403 that shouldn't come in. So there
13 probably are gonna be some excited utterances, but Your
14 Honor can probably take a look at those three clips and
15 kind of get a sense of what we object to.

16 MS. MAYES: For purposes of this hearing we are
17 prepared to call Officer O'Shaunessy.

18 THE COURT: Okay.

19 Thereupon,

20 JOHN O'SHAUNESSY

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

22 THE CLERK: Please have a seat. Once you're seated,
23 state your full name spelling your last please.

24 THE WITNESS: John O'Shaunessy,
25 O-S-h-a-u-n-e-s-s-y.

1 MR. MADSEN: And, Judge, we don't have any -- We
2 know he's there. We know he's got the body camera and
3 that so there's no dispute that it's from that time and
4 that if she just wants to jump to the good part.

5 THE COURT: Well, what do you say, Ms. Mayes? He
6 agrees that Officer O'Shaunessy, this is his body cam.

7 MR. MADSEN: And it's from that night.

8 THE COURT: That it's probably gonna come in. He
9 wants to see the three clips that y'all are going to do
10 unless there's something --

11 BY MS. MAYES: Just briefly, Your Honor, if we could
12 establish or lay the foundation pursuant to 8032 on the
13 incident event.

14 DIRECT EXAMINATION

15 BY MS. MAYES:

16 Q. Officer O'Shaunessy, you responded there to the
17 scene at approximately what time? Do you have a copy of your
18 report with you?

19 A. Yes, ma'am.

20 Q. How close in time are you to that initial dispatch
21 call at 3:31 a.m.?

22 A. I arrived approximately the same time as Sergeant
23 Powell or Corporal Powell at the time, that was about 3:33.

24 Q. So roughly two minutes after the 911 call?

25 A. Yes, ma'am.

1 Q. What was your initial interaction with the victim in
2 this case Ardelia McDaniel?

3 A. Arriving on scene making sure she was okay,
4 identifying her as the victim and getting EMS to her
5 location.

6 Q. What, if anything, did you know about her emotional
7 state or condition?

8 A. She was in shock probably from all the pain, but
9 mainly in shock.

10 Q. What do you mean by that?

11 A. Uhm, screaming. She just basically looked to be in
12 pain.

13 Q. What did you note about her physically?

14 A. Her body moves were very stiff. She was looking all
15 over, couldn't stop moving. Obviously had very bad burn
16 marks.

17 Q. You could visually see them on her person?

18 A. Yes, ma'am.

19 Q. On her skin?

20 A. Yes, ma'am.

21 Q. What, if anything, did you note about her scalp?

22 A. Most of her hair was missing, her head appeared to
23 be burned as well.

24 Q. For purposes of this hearing I'm gonna show a
25 photograph and ask you whether or not you recognize it.

1 MR. MADSEN: Judge, this is no secret. We'll
2 stipulate that she had serious bodily injury. We'll
3 stipulate as to that element.

4 MS. MAYES: It's her emotional condition of a
5 startling event, Your honor. I'm just laying that
6 foundation for purpose of the rule.

7 MR. MADSEN: It's no secret. She suffered some
8 pretty severe injuries. No one is going to dispute
9 that.

10 THE COURT: Okay.

11 BY MS. MAYES:

12 Q. I'm gonna show you this photograph and ask you
13 whether or not that's a fair and accurate depiction of how you
14 observed her that night?

15 A. Yes, ma'am.

16 Q. Was that during the course of your contact with
17 her?

18 A. Yes, ma'am.

19 Q. Is this still shot from the video?

20 A. Yes, ma'am.

21 Q. From your body cam video?

22 A. Yes, ma'am.

23 MS. MAYES: All right. This would be Court's
24 Exhibit 5, Your Honor.

25 (Whereupon, Court's Exhibit #5 marked for

1 identification.)

2 BY MS. MAYES:

3 Q. Now, you've had an opportunity to watch your own
4 body cam footage in its entirety?

5 A. Yes, ma'am.

6 Q. Does it contain all of the interactions that you
7 recall having with her from the point you cut your body cam
8 on, you activated it?

9 A. Yes, ma'am.

10 Q. And how long would you say you were there in the
11 driveway with her prior to you activating your body cam?

12 A. Roughly 15 minutes.

13 Q. Prior to activating it? Let me ask you this: Is
14 there a date and time stamp on your body cam?

15 A. I can't recall right now, but there should be, yes,
16 ma'am.

17 MS. MAYES: Your Honor, this would be Court's
18 Exhibit 6.

19 (Whereupon, Court's Exhibit #6 marked for
20 identification.)

21 MS. MAYES: Court's Exhibit 6 is clip one, Your
22 Honor, from the body cam of Officer O'Shaunessey.

23 THE COURT: Now, is this what you're intending to
24 introduce?

25 MS. MAYES: Yes, Your Honor. Instead of the

1 original because it does contain a lot of communication
2 and a lot of radio traffic and things of that nature, we
3 have redacted this down to what we believe are the most
4 relevant and key portions that meet the excited utterance
5 exception.

6 THE COURT: Okay.

7 (Playing Court's Exhibit #6.)

8 BY MS. MAYES:

9 Q. All right. Now, I'm going to show you --

10 MR. MADSEN: Why are we playing it? I think it
11 might be easier to argue.

12 THE COURT: What?

13 MR. MADSEN: I think it would be easier to take them
14 one by one as far as arguments, that way we don't get
15 confused and don't have to go back. I would prefer to do
16 it that way if that's okay because I'm not going to have
17 any questions for him, just argument on the playing.

18 THE COURT: Ms. Mayes, I'm going to leave it up to
19 you.

20 MS. MAYES: Yes, Your Honor, that suits us fine.

21 MR. MADSEN: Okay. So, Judge, there's obviously
22 comments by other people on there. There's comments by
23 him to someone else about who they're looking for. We
24 don't see that those things should come in. The comment
25 about the weapons, does he have any weapons, I mean, our

1 argument would be 401, 402, 403, certainly more
2 prejudicial than probative. And also under 404, I mean,
3 it's some type of character evidence. That's not an
4 excited utterance. There's no reason for that to come in
5 except for, you know, I guess they're just trying to back
6 door, oh, maybe he's dangerous. Maybe he has a weapon
7 and she says be careful.

8 MS. MAYES: If that's the primary objection to the
9 reference to the weapon, Your Honor, that's at the end.
10 We can redact that out. It's the initial portion of this
11 clip that we believe is relevant. Now, the communication
12 between Officer O'Shaunessy and the female is testimony
13 that can be developed during the course of the trial,
14 that is Investigator Terrin Reel who is also familiar
15 with this. All of the officers involved have viewed it
16 and can lay the foundation as to that communication, but
17 that is how they go about identifying the defendant as a
18 suspect and it's relevant.

19 MR. MADSEN: That's great. It might be relevant,
20 but it's not a hearsay exception. They can each get up
21 there and testify, but in getting that in as a hearsay
22 exception, it doesn't fit under anything even though it's
23 relevant.

24 THE COURT: She's trying to get it in under excited
25 utterance.

1 MR. MADSEN: By the officers? I know that that's
2 the officers talking back and forth.

3 MS. MAYES: That would be present sense impression.
4 It's literally happening as it's occurring and it meets
5 the present sense impression exception. It's also res
6 gestae because it's formulating as it's happening
7 consistent with the very definition of res gestae. It
8 explains the full circumstances of the events.

9 MR. MADSEN: The problem with res gestae is we
10 haven't had it since we have had the rules of court. Res
11 gestae included everything of present sense impression
12 and everything of excited utterance and we got rid of
13 that when we did rules of court and kind of set them down
14 here. There's no -- I mean, we understand the excited
15 utterance, why they want to get it in and I would love to
16 be able to object to it, but I think under the rules it
17 comes in right there with what they have, but the other
18 stuff is just kind of stuff they're trying to add on
19 because they're trying to --

20 THE COURT: So let me ask you this then: You want
21 them to take the point out about the gun?

22 MR. MADSEN: The gun. They're talking about, you
23 know, because that's not an excited utterance from her
24 and the be careful part which is kind of associated.

25 THE COURT: Let me see it again.

1 (Playing Court's Exhibit #6.)

2 BY MS. MAYES:

3 Q. Briefly, Officer O'Shaunessy, who are you
4 communicating with there?

5 A. Right there is Officer Reel.

6 Q. That's Officer Reel who previously testified in this
7 case?

8 A. Yes, ma'am.

9 Q. Also present at the scene just prior to you?

10 A. Yes, ma'am.

11 (Playing Court's Exhibit #6.)

12 MS. MAYES: Okay. So there, Your Honor, in
13 reference to does he have any weapons and she says I
14 don't know, he broke in my house and started the fire, we
15 can certainly strike or redact the references to the
16 weapon. I believe the portion that he broke in my house
17 and started the fire would be relevant.

18 MR. MADSEN: Relevant maybe for a burglary charge
19 that they didn't think that there was probable cause to
20 bring an arrest warrant on an indictment?

21 MS. MAYES: She's saying that he came in without
22 consent.

23 MR. MADSEN: Of course. She also said at times that
24 he wasn't over there, then that story changed.

25 MS. MAYES: I'm gonna play this again at 49 seconds.

1 (Playing Court's Exhibit #6.)

2 MS. MAYES: Okay. So if the defense wants the
3 portion out that he broke in my house, we can do a
4 redaction there. The portion that he set me on fire
5 would still be relevant.

6 MR. MADSEN: I mean, stuff that she's saying from
7 the excited utterance we understand it's coming in. Our
8 objection is --

9 THE COURT: Oh, yeah. I agree one hundred percent,
10 sounds like an excited utterance to me.

11 MR. MADSEN: Just the other stuff where other people
12 are talking and talking about ID and that kind of stuff,
13 the stuff about weapons, I mean, that's not an excited
14 utterance.

15 THE COURT: Well, the conversation between him and
16 Officer Reel, that's kind of almost like a double hearsay
17 rule. I don't think that ought to be taken out. Take
18 the gun out and I think the rest of it comes in.

19 MS. MAYES: Your Honor, we will move on to clip two
20 at this time.

21 THE COURT: So let's get this straight for the
22 record. We're taking the gun portion out.

23 MS. MAYES: The communications between Officer
24 O'Shaunessy and Detective Reel for purposes of this
25 video, but there will be testimony from both of them

1 about how he --

2 THE COURT: You can get it in another way just not
3 during this.

4 MS. MAYES: And then the reference to him breaking
5 in.

6 MR. MADSEN: And be careful which I think is kind of
7 associated with the gun.

8 THE COURT: Well, I don't know. I think you can
9 leave be careful in. She just got burned. I think she's
10 trying to tell somebody else to be careful. I think
11 that's an excited utterance.

12 MR. MADSEN: Our thing would be it would be a
13 comment on his character under 402.

14 THE COURT: To be careful? I'm gonna allow to be
15 careful in under excited utterance.

16 MR. MADSEN: Okay.

17 THE COURT: All right. That was clip one?

18 MS. MAYES: It was, Your Honor.

19 THE COURT: Right now we're going to clip two. Have
20 y'all seen clip two?

21 MR. MADSEN: We think we've seen all three clips.
22 We have objections to all three clips.

23 THE COURT: Okay. I'm just trying to get to the
24 clips so we can --

25 MR. MADSEN: I agree.

1 (Whereupon, Court's Exhibit #7 marked for
2 identification.)

3 (Playing Court's Exhibit #7.)

4 MS. MAYES: Now, that is the extent of that clip,
5 Your Honor. It is preceded by the officer saying tell me
6 what happened. That in no way dissuades this from being
7 an excited utterance. There is no requirement that
8 excited utterance has to all be spontaneous. It needs
9 only to be in the process of a startling event and still
10 under the active stress of that event. Dennis is a case
11 that we have cited in our motion and then it extended to
12 excited utterance statements which would be made in the
13 emergency room after the victim was being questioned by
14 medical staff as well as police officers about the event
15 and asked to describe the suspect, et cetera. The fact
16 that there is some type of mutual communication with the
17 officer does not prevent it from being excited
18 utterance.

19 MR. MADSEN: Judge, our problem with that is
20 obviously the fact that he is asking her questions and
21 she is answering them and we don't think that that
22 applies to excited utterance and we would point, Your
23 Honor, to State versus Washington which is 379SC120 and
24 in that case while it was affirmed, they basically said
25 that a proper statement to police does not qualify as an

1 excited utterance. A proper statement is made in a
2 formal interview with law enforcement at police
3 headquarters. These statements were made in response to
4 the officer's questions. None of the statements were
5 independent assertions or exclamations regarding the
6 event. Indeed, it was apparent that the officer seeking
7 detailed answers regarding specific facts of the incident
8 as opposed to an emotional, unprompted or inherent
9 responses. Now, in that case they found it harmless
10 error, but they found that it was error. So that would
11 be our point. This isn't an excited utterance because
12 she's saying, hey, this is what happened. The officer is
13 asking her questions and she's answering the questions.

14 MS. MAYES: And in response to that, Your Honor, the
15 case that he cited dealt with a formal interview with a
16 subject at the police station.

17 THE COURT: And this was about the gun and the don't
18 buy the gun because it's stolen or something like that.
19 I read the case. I don't think that case applies here.

20 MR. MADSEN: I don't think that this applies.

21 THE COURT: I know it's like -- I read it.

22 MS. MAYES: I'm gonna pass up, Your Honor --

23 THE COURT: Yes. It was like 90 minutes. I think I
24 even have it my notes here. Washington. Statement made
25 to police 90 minutes after the incident and at the police

1 station --

2 MR. MADSEN: That's correct.

3 THE COURT: -- are not excited utterance. There was
4 enough time that passed by. They took him to the police
5 station. I remember reading the case. I worked on this
6 this weekend so I don't think Washington applies here. I
7 mean, this is I think clearly excited utterance. I mean,
8 somebody has got to ask her what happened.

9 MR. MADSEN: Sure, but his testimony has already
10 been that, you know, I think he said he did a body camera
11 about 15 minutes after getting there.

12 THE COURT: I don't think it was 15 minutes. I
13 think --

14 MR. MADSEN: Well, that's what he testified to.

15 THE COURT: I don't what time. Am I mistaken?

16 MS. MAYES: I can clear that up, Your Honor.

17 BY MS. MAYES:

18 Q. What is the entire length of your body cam?

19 A. That's what I believe it to be, 15 minutes.

20 Q. Okay. Upon the time of your arrival, what was the
21 first thing you did?

22 A. I met up with Sergeant Powell, then I heard Officer
23 Reel call out in distress, ran with her and that's about half
24 way to the house I activated my, I was right in front of the
25 driveway I activated my body camera.

1 Q. Okay. And at that point in time Officer Reel was
2 still out there with you guys?

3 A. Yes, ma'am.

4 Q. And ultimately where did she go?

5 A. She was putting on her fire gear and ultimately went
6 into the house to fight the fire.

7 Q. To fight the fire?

8 A. Yes, ma'am.

9 Q. So the time of your arrival until the time that you
10 activated your body cam to initiate these recordings would
11 have been approximately how long?

12 A. Ten seconds. It was a block away that I ran.

13 MS. MAYES: All right. And, Your Honor, I don't
14 believe there's been an objection to any of the content
15 of his recording.

16 MR. MADSEN: No, ma'am. I think that the fact that
17 they asked the questions, we do feel that that falls
18 under Washington and this was a stabbing case, not a gun
19 case.

20 THE COURT: I think I can distinguish Washington. I
21 mean, this lady is still in her yard, in her driveway.
22 She's not at a police station. This is not a formal
23 interrogation. These officers are trying to find some
24 evidence of what's going on and to me it's exactly
25 certainly a startling event and how she responds, and I

1 certainly think she was under stress. She's walking
2 around with no clothes, telling people she's sorry.
3 She's been burned. I can't think of anything more
4 stressful to be honest with you. And she's trying to
5 tell them what happened. So I'm gonna allow clip two.
6 So let's move onto clip three. I'm allowing clip two
7 under the excited utterance.

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

10 MS. MAYES: Your Honor, Court's Exhibit 8 will be
11 the next clip. This is going to be a clip where we have
12 already redacted a reference to he broke in.

13 THE COURT: Okay. This is from the same body cam?

14 MS. MAYES: Of officer O'Shaunessy.

15 THE COURT: Okay. Clip three.

16 (Playing Court's Exhibit #8.)

17 THE COURT: I think that was clip one.

18 MS. MAYES: We're going to try another one, Your
19 Honor. This one is marked 3, Your Honor, however, I
20 don't believe this one contains the redaction that we are
21 prepared to do, the statement that he broke in. Now,
22 there was previously a statement that I put him out.
23 That is relevant. It doesn't allege any prior bad act.
24 That is the very nature of what her testimony would be as
25 to what ultimately led to the anger or motive involved in

1 this case, but this one does contain a statement he broke
2 in. We are prepared to redact that.

3 THE COURT: Okay, Rob, you understand all that?

4 MR. MADSEN: (Nodding head.)

5 (Playing Court's Exhibit #8.)

6 MS. MAYES: And that will be the extent of the body
7 cam footage offered through Officer O'Shaunessy and then
8 later identified by the victim Ardelia McDaniel.

9 MR. MADSEN: Judge, we certainly understand the part
10 where she's saying I'm hurting, I'm hurting. That's an
11 excited utterance. But the stuff where she's got the
12 gentleman calling her mother right there on the phone,
13 the stuff about I have four kids, I want to hold
14 someone's hand, none of that should come in. Clearly,
15 you know, that's not relevant to anything. It certainly
16 would be under 403, more prejudicial than probative. I
17 mean, I'm hurting, I'm hurting, we get it. That's an
18 excited utterance no doubt, but the other stuff, that's
19 just gilding the lily. No one wants to come back and do
20 it again. There's no reason that any of that should come
21 in. It's not relevant to anything. It's not relevant to
22 her injuries.

23 MS. MAYES: The reference to the four kids, Your
24 Honor, we are more than happy to remove that. She says,
25 can you smell the gasoline on me? That is certainly

1 relevant to the circumstances of the crime. She states,
2 I was the only one there. That is also relevant to the
3 entire circumstances of this crime.

4 MR. MADSEN: We don't have any problem with either
5 of those.

6 THE COURT: Okay. Remove the four kids and I'm
7 gonna allow it in under excited utterance.

8 MR. MADSEN: The stuff about the mother and holding
9 hands?

10 THE COURT: I don't think the holding hands, that
11 doesn't both me. The four kids I'll remove. I mean,
12 this lady is hurting. They got to show serious bodily
13 injury. This shows that she's hurting.

14 MR. MADSEN: Judge, we'll stipulate to that.

15 THE COURT: I'm sure you will.

16 MR. MADSEN: No one can deny that.

17 THE COURT: But, I mean, as far as any sympathy
18 because she's got four kids, if the State is willing to
19 redact it, I'm all for it, but the rest of it I'll let
20 in.

21 MS. MAYES: Your Honor, I believe that is the
22 majority of the potential excited utterance other than
23 there will be some testimony from the EMS paramedic that
24 also would meet the exception of both excited utterance,
25 medical diagnosis and treatment. We don't expect her to

1 testify until late tomorrow afternoon and we can talk
2 about that and we'll proffer that prior to her testimony.

3 THE COURT: Is that recorded or is that just a
4 statement?

5 MR. MADSEN: We believe it's just a statement.

6 MS. MAYES: It's just a statement.

7 MR. MADSEN: And we'll have an objection to that at
8 the appropriate time.

9 THE COURT: Is everybody finished with Officer
10 O'Shaunessy? He does look a little comfortable up there,
11 doesn't he? You may be excused. I'm sorry.

12 MS. MAYES: In addition, Your Honor, there are some
13 neighbors who were also present for that and that's
14 already gonna be coming in what they heard, but they've
15 also heard her make statements that he set me on fire and
16 I think that's pretty much the essence of what their
17 statements would be.

18 THE COURT: Okay. Sarah, what kind of motions do
19 y'all have, Ms. Mauldin.

20 MS. MAULDIN: Your Honor, number 1, we move
21 sequester the witnesses.

22 THE COURT: All right. That's granted.

23 MS. MAYES: We would just ask, Your Honor, that the
24 chief investigating officer who is William Dougall be
25 allowed to remain and he, I believe, can also act as

1 evidence custodian and I'll get his confirmation on that,
2 but we will have items, physical evidence in the
3 courtroom.

4 WILLIAM DOUGALL: Yes, Your Honor.

5 THE COURT: Okay. Granted.

6 MS. MAULDIN: Your Honor, we also ask for an
7 exception of Shannon O'Cain with our office.

8 THE COURT: Absolutely. Granted.

9 MS. MAULDIN: We would also move for the release of
10 any prior incident reports involving either Ms. McDaniel,
11 Mr. Green for that location. The State has provided some
12 things and we understand that that's not coming in, but I
13 do think that some of that might be relevant to
14 sentencing if it comes to that or mitigation so we ask
15 that any prior incident reports be released.

16 THE COURT: Okay. I think she's entitled to it, Ms.
17 Mayes, if she's gonna use it for mitigation, if she has
18 to, I don't know that she will, but if he has to, I think
19 she's entitled to it unless you have some objection.

20 MS. MAYES: So the prior incident reports, we have
21 supplied all of the ones that Cayce Department of Public
22 Safety were able to generate. If there are more, we are
23 not aware of them at this time.

24 MS. MAULDIN: It's the State's position that they
25 have turned over everything that is in Cayce's

1 possession.

2 THE COURT: Okay.

3 MS. MAYES: That is certainly our understanding,
4 Your Honor. There were numerous actions in the past
5 including a no trespass order that that victim placed
6 against the defendant and that ran pretty much from 2018
7 until 2019, multiple incident reports. Those are the
8 ones we supplied. As far as we know that's the extent of
9 all of the reports that we have.

10 THE COURT: Okay. How are we handling these past
11 instances? I mean, surely we are not gonna get specific
12 by no means. At least I'm not interested in getting
13 specific about it but, I mean, there's got to be a way
14 that we're gonna address it. Clearly there were problems
15 between these two. Were they married?

16 MS. MAYES: They are not married, Your Honor, and
17 that is pretty much the summarized version of how I
18 believe it would be presented, that they had been in a
19 relationship, they were not actively in a relationship at
20 the time of this event, they had been off and on. The
21 fact that she's had a trespass order we're not
22 necessarily offering that. If the door is opened, we
23 could potentially go there.

24 THE COURT: Is this something y'all can stipulate
25 to, Ms. Mauldin, that, you know, we can tell the jury,

1 look, these people have been a couple for so many years,
2 they had problems? Y'all write it up and I'll tell them
3 if y'all want to do that.

4 MS. MAULDIN: Your Honor, let's think about that one
5 if you don't mind. I do think some contacts would come
6 out and we're not interested in getting into all of this
7 specific prior stuff.

8 THE COURT: I would think neither one of y'all would
9 be, but if it's something to stipulate, y'all can come up
10 with something and I'll be glad to read it to the jury to
11 tell them this is what y'all stipulate to. If not, we'll
12 go forward on a generalization without getting into
13 anything specific.

14 MS. MAYES: I think the victim's characterization I
15 put him out is pretty much how it's going to be, Your
16 Honor, that their relationship was off and on and at the
17 time of this incident when she went to bed that night he
18 did not have permission to be there and that's pretty
19 much what we're prepared to offer without getting into
20 the prior details for the trespass order unless that door
21 is opened.

22 THE COURT: Okay. You know, if you open the door,
23 you open the door so I hope y'all talk to your
24 witnesses.

25 MS. MAULDIN: Yes, Your Honor.

1 MS. MAYES: I also meant to mention that the victim
2 is also, pursuant to the Victims' Bill of Rights,
3 prepared to be in the courtroom. We want to make sure
4 that everyone is aware that the victim will be in the
5 courtroom for the duration of the testimony.

6 THE COURT: Any problem, Ms. Mauldin?

7 MS. MAULDIN: No.

8 THE COURT: That's granted.

9 THE COURT: Y'all think about the stipulation, talk
10 about it, let me know. Anything else, Ms. Mauldin?

11 MS. MAULDIN: Yes, Your Honor. We ask that the
12 State turn over any information related to whether Ms.
13 McDaniel has received any sort of payments of medical
14 bills through SOVA that goes to her as well as if she
15 received any sort of counseling or received any services
16 as a result of being the victim by the Solicitor's
17 Office.

18 MS. MAYES: So, Your Honor, what we know about her
19 medical bills is that they are approaching one million
20 dollars. She was hospitalized at the Burn Center Unit in
21 Augusta for about four months in critical condition for
22 most of that time. SOVA may have a paid some portion of
23 it, but they have a cap so our understanding is that the
24 facts regarding her medical bills are unpaid and remain
25 unpaid. I don't think that goes to motive in any way,

1 but she is prepared to testify as to the general cost of
2 her medical bills. She still is undergoing treatment at
3 this time, Your Honor, such as laser surgery. She is
4 wearing a wig for purpose of this court proceeding, but
5 she has no hair on her scalp. She does not have her
6 earlobes. Her face and body are significantly burned
7 from the sides up to the top of her head. We can inquire
8 further through the victim advocate, Your Honor, and I
9 don't mind disclosing that, but I just think that to
10 imply that SOVA reimbursement goes to her is a gross
11 mischaracterization. The SOVA money, the State Office of
12 Victim Assistance, would go towards the medical bills to
13 the actual hospital. She does not receive that money.
14 In terms of therapy and counseling, Your Honor, all
15 victims of violent crime are referred to therapy and
16 counseling. That's routine. I believe she may have
17 received some services in regards to the traumatic nature
18 of this incident, but I don't know the details of that.

19 THE COURT: I think if you have any of those
20 documents, I think Ms. Mauldin is entitled to them. If
21 you could make sure that she gets them if y'all have
22 them. If they don't have them, Ms. Mauldin, they just
23 don't have them, but I think you're entitled to them.

24 MR. MADSEN: Judge, we need help with something.
25 One of the people, the witness Pete Messina, we have

1 interviewed him in the past, we're having trouble finding
2 him now to put him under subpoena. I don't know if the
3 Solicitor's Office has current information on him or law
4 enforcement can be of assistance, but he's kind of in the
5 wind. He's potentially a very critical witness for us.

6 THE COURT: Who is that?

7 MR. MADSEN: Pete Messina. He is the neighbor that
8 was with Robert over at her house earlier in that day
9 along with his cousin and then he is also the neighbor
10 that Ms. McDaniel goes to and essentially he puts out the
11 fire. She goes into his house and then kind of comes out
12 from there. So he's not on the State's witness list. He
13 was on our witness list.

14 THE COURT: Right. I remember spelling it for the
15 court reporter when you told me how to pronounce it.

16 MR. MADSEN: He's not where he was when we talked to
17 him last time.

18 THE COURT: Okay. Have you tried serving him?

19 MR. MADSEN: We've had our investigator. Like I
20 said, if they have --

21 THE COURT: Is there any information you may have on
22 this witness?

23 MS. MAYES: We do not, Your Honor, but I know that
24 his mother is a potential witness in our case and we
25 don't mind reaching out to her as to whether she may have

1 a current address for him.

2 MR. MADSEN: That's Maria Combs and Ronald Combs and
3 I believe they're divorced now.

4 THE COURT: Okay. If you would, Ms. Mayes, might be
5 better for you to call than Mr. Madsen since she's your
6 witness.

7 MS. MAULDIN: We don't have any more pretrial, Your
8 Honor.

9 THE COURT: That's it?

10 MS. MAULDIN: That's it.

11 THE COURT: I'm surprised. Okay. Ms. Mayes.

12 MS. MAYES: Yes, Your Honor, we had also filed the
13 motion in limine regarding character evidence and if and
14 when it were to become an issue at the trial, we just
15 want to make sure that there is no inquiry as to anything
16 regarding prior sexual activity of the victim. We don't
17 think that's relevant in any way and also we have learned
18 that at some point in time the defendant Robert Green
19 made a complaint to DSS on the victim and alleged that
20 there had been some marijuana smoked in the home either
21 by one of her older children or in the presence of her
22 children and we don't believe that's relevant in any way
23 to this case and we would move to have that also be
24 subject to our motion in limine.

25 THE COURT: Mr. Madsen or Ms. Mauldin, who is

1 addressing that?

2 MS. MAULDIN: Your Honor, we understand the motion.
3 The problem that we have is that part of the reason that
4 he alleges that she was angry at him was that she thought
5 that he made the DSS complaint. I don't know that we
6 would necessarily need to get into the details of what
7 the complaint was, but that certainly gives her a reason
8 to be angry.

9 THE COURT: What about the prior sexual activity?

10 MR. MADSEN: I'm not sure what they're talking
11 about.

12 THE COURT: Okay.

13 MS. MAYES: We just wanted to make sure that there
14 was nothing of that nature alleged regarding the victim.

15 THE COURT: So let me get it straight. You want to
16 use some DSS records to prove that she was mad because
17 she thought he made the DSS report against her; is that
18 right?

19 MS. MAULDIN: Your Honor, we're not necessarily
20 looking to get into DSS records, just the fact
21 potentially that she would have been upset in thinking
22 that he made a DSS report on her.

23 THE COURT: This kind of goes back to this general
24 character, motive, their past history of arguing and
25 everything else and like I said, no specific instances.

1 Y'all can't have your cake and eat it too. I don't know
2 how else to say that but, you know, at one point you want
3 the Court to limit all their fights and whatever else
4 they did, but now we need to prove that she was mad about
5 DSS.

6 MR. MADSEN: I don't think any of us were gonna get
7 into the kind of the fact that they had a tumultuous
8 relationship in the past or any specific instances. I
9 don't think either of us thought it needed to be
10 addressed honestly.

11 THE COURT: Well, that was the hope that y'all were
12 gonna stipulate and I could read to the jury about their
13 past history. You know, obviously, and I don't know
14 anything about this case other than what I'm hearing but,
15 you know, it just sounds like maybe there was some
16 problems there and if y'all don't want to go into
17 specific instances, I think maybe y'all ought to think
18 about stipulating them. I'm not trying to tell you how
19 to try your case. You don't have to stipulate. We can
20 make general allegations all day long in the court, but
21 I'm not gonna let you bring up specific allegations. If
22 you want to bring up there was a DSS complaint, I guess
23 you can, but I'm not gonna let you go into it. If you
24 want to bring up something else, I don't know, y'all just
25 need to be really general about it because I think the

1 law is pretty clear on it. I don't want to get to the
2 point of prejudicing this client because I'm gonna tell
3 you, it's gonna be free game for Ms. Mayes too, so maybe
4 y'all ought as to think about it.

5 MS. MAULDIN: Yes, Your Honor.

6 THE COURT: I'll ask you about it in the morning.
7 It's her motion in limine by the State which I want to
8 grant for both parties. So why don't you talk about it a
9 little more and we'll talk about it in morning.

10 MS. MAYES: We'll be glad to, Your Honor.

11 MS. MAULDIN: Your Honor, some of this may depend on
12 how the testimony develops too.

13 THE COURT: You know, exactly. Exactly. And, you
14 know, I certainly understand about you want to say maybe
15 go into motive or whatever. You know, I think maybe
16 there are some things that are allowed in, but unless
17 y'all are gonna be specific and decide what are y'all
18 gonna do. One moment y'all want to limit everything and
19 the next minute no, I want this in. So, you know, I just
20 want it to be consistent all the way around. I don't
21 want your client prejudiced. I don't want this victim
22 over here to go through any more than she has to. And we
23 certainly won't bring up anything that's not relevant and
24 her sexual activity would be in that category. All
25 right. Anything else, Ms. Mayes?

1 MS. MAYES: Just briefly, Your Honor, we did file a
2 Reciprocal Rule 5 motion. We haven't received any
3 potential exhibits from the defense, but we just want to
4 make sure that if they do have any independent exhibits,
5 photographs, documents, anything of that nature pursuant
6 to Reciprocal Rule 5 that they give those to us at this
7 time or as soon as possible.

8 MS. MAULDIN: We don't have anything, Your Honor.

9 THE COURT: Okay. That takes care of that.

10 MS. MAYES: So, Your Honor, as to the clips one, two
11 and three from Officer O'Shaunessy's body cam, they have
12 been marked as Court's Exhibits. We would ask if Mr.
13 LeBlanc can release them to us. We can then review them
14 to make the proper redactions consistent with the Court's
15 ruling.

16 THE COURT: Yes.

17 MS. MAYES: Also, Your Honor, on what is Court's
18 Exhibit 3, the Powell car cam, there is also a ruling
19 regarding background noise.

20 THE COURT: Yes. I was trying to take the radio
21 chatter out.

22 MS. MAYES: If we can remove Court's Exhibit 3,
23 Court's Exhibit 6, Court's Exhibit 7, and Court's Exhibit
24 8 from Mr. LeBlanc, we will work on getting the
25 redactions done for in the morning.

1 THE COURT: All right. 3, 6, 7, and 8, right?

2 MS. MAYES: 3, 6, 7 and 8, Your Honor.

3 THE COURT: Okay.

4 MS. MAYES: Being the Powell car cam and the three
5 clips from O'Shaunessy's body cam.

6 THE COURT: All right. That's 3, 6, 7, 8. Got you.
7 Any objection, Ms. Mauldin?

8 MS. MAULDIN: None, Your Honor.

9 THE COURT: Okay.

10 MS. MAYES: Your Honor, we have just learned
11 actually within the last I think few minutes that one of
12 our witnesses, she is Megan Dawson Marini, she is a
13 necessary witness for authenticating the porch security
14 cam video. That is the video that will be offered in
15 this case that actually shows the victim - it begins with
16 the victim screaming and continues on to show the
17 defendant leaving the scene. She has notified us that
18 her husband has tested positive for covid this afternoon.
19 We do not believe that she has covid. I believe she may
20 have already had covid in the past, but we wanted to
21 bring this to the Court's attention since her household
22 member is positive. We can take appropriate precautions
23 when she testifies or potentially even have her testify
24 by video, whatever the Court deems to be the best
25 alternative, but our understanding is that she has

1 previously had covid so it would make it unlikely that
2 she would be infected at this time, but we wanted
3 everyone to be aware of it.

4 THE COURT: All right. I'm not opposed to her
5 appearing by video.

6 MR. MADSEN: Judge, just let me put it, if they've
7 detected it in someone, I don't think anyone, I can't
8 imagine that anyone wants to be close or even near or
9 even take a chance, I'm speaking for Mr. LeBlanc, but, I
10 mean, it's gonna come in. They can use the investigator
11 to say, hey, we reviewed the video from this house.

12 MS. MAYES: And we were prepared to do that, to
13 offer it through alternative means if we need to. It can
14 be authenticated by virtually everyone depicted in the
15 video either by audio sound or by appearance. There are
16 officers who can identify themselves, there are officers
17 who can identify the subject and then there is an officer
18 who retrieved it directly from the neighbor Megan Dawson
19 Marini so if there is no objection, we will be offering
20 that without Ms. Marini's testimony tomorrow.

21 THE COURT: Is that fine?

22 MR. MADSEN: That's fine.

23 THE COURT: All right. It's gonna be entered
24 without objection. Anything else?

25 MS. MAYES: That is all for the State at this time,

1 Your Honor.

2 MS. MAULDIN: Nothing further, Your Honor.

3 THE COURT: All right. Well, then, this court is in
4 recess.

5 (Whereupon, court was adjourned for the day at 6:00
6 p.m.)

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1 April 6, 2021

2 (Whereupon, State's Exhibits #1 through #102 marked
3 for identification.)

4 BAILIFF: All rise. The Honorable Judge Debra
5 McCaslin presiding.

6 THE COURT: Please be seated. Good morning
7 everybody. All right. Just to let y'all know, we had to
8 make a couple of seating arrangements. You may remember,
9 but we have one juror who is kind of hard of hearing and
10 I wanted to make sure that she can hear everything. In
11 fact, if she has any problem whatsoever, she's going to
12 notify the bailiff, the bailiff is going to let me know,
13 but we have moved her chair out to the side where she's
14 kind of closer to the witness stand, so I just want to
15 make sure to remind the lawyers, make sure, if you can,
16 try to use the microphone or talk loud so she can hear
17 you, okay? And like I said, she's going to let me know
18 if she has any problem. She's gonna let the bailiff know
19 and the bailiff will let me know and I'll let y'all know,
20 okay?

21 All right. Yesterday I took the statement from the
22 dash cam under advisement. My ruling is that assuming
23 the State can lay the proper foundation that the
24 declarant in the video is the defendant, the statement to
25 the effect that's recorded on the dash cam video made to

1 the officer was non custodial, unsolicited and
2 voluntarily made. It's not hearsay pursuant to Rule
3 801(d)(2)(a) a statement by a party opponent. Moreover,
4 I think it can also be admitted as a present sense
5 impression of the declarant's perception of the emergency
6 situation occurring behind him. I'm also overruling the
7 defense's objection to the language of the statement
8 itself. The fact that it contains a single profane word
9 which could be found in any PG movie, I don't think that
10 would influence or prejudice any reasonable juror.

11 Additionally, the statement that he will meet at the
12 fire hydrant or the hydrant, I don't think that needs to
13 be redacted as a statement contains the declarant's then
14 existing state of mind and intent and thus falls under
15 803(3). I do think that the chatter in the background of
16 the tape should be redacted per my ruling yesterday,
17 okay?

18 MR. MADSEN: You will just note our objections.

19 THE COURT: I will note the objection for the
20 record.

21 MS. MAYES: Your Honor, we were able to make the
22 necessary redactions to the three clips pursuant to the
23 body cam of Officer O'Shaunessy and the redaction of some
24 of the radio traffic as to the Powell car cam. I believe
25 that there is one portion where he's actually speaking to

1 the defendant where there is some radio traffic in the
2 background for that one portion because there's some
3 overlap, but other than that they were able to
4 successfully redact it. We did supply those copies to
5 the defense this morning. I don't know if they have had
6 a chance to watch them.

7 MR. MADSEN: We have, Your Honor, and I think the
8 redactions are okay. We still have only on one of them
9 they still have in the part about I want to hold
10 someone's hand which I don't see how that has relevance
11 to anything.

12 THE COURT: Well, I think I ruled yesterday that I
13 was gonna leave it in and the reason being, I mean,
14 they've got the burden to show serious bodily injury. I
15 think that this is just this defendant's - I mean the
16 victim's reaction. I don't see any need to redact it. I
17 think it kind of speaks for itself so I'm gonna allow it
18 in.

19 MR. MADSEN: Then, Judge, we sent out an email early
20 today and I see Nikki here so we know that they're going
21 to try to get a 911 tape in and they redacted a little
22 bit of it, but there's a portion of the 911 tape where
23 the fella says, hey, or says, oh, she's coming out of the
24 house and then the guy is walking out of the house like
25 he doesn't care or didn't care, some language like that.

1 We object to that, Your Honor. We think that that calls
2 for speculation, that's improper opinion, certainly
3 character under 404(b), under 401, 402, it's not relevant
4 and it's certainly among everything else it's certainly
5 more prejudicial than probative.

6 THE COURT: Okay. This is on a 911 tape? I don't
7 think I --

8 MR. MADSEN: Right. And like I said, I see Ms.
9 Rodgers here.

10 THE COURT: I heard it, Ms. Mayes, but I'll be glad
11 to hear from you.

12 MS. MAYES: Yes, Your Honor, and we did receive that
13 email from them this morning. The State responded. I
14 don't know if they've had a chance to review it. The
15 State's response was that that is an eyewitness account
16 of the witness actually asking Matthew Cox who is going
17 to be testifying in this case either later this afternoon
18 or tomorrow morning during the course of the 911 call he
19 says I see her, she just came out. She's on fire and the
20 guy came out walking like he just don't care. He's
21 calling 911. He's prepared to testify to that as he is a
22 witness and it's certainly relevant as to demeanor of any
23 of the participants in a crime that is being witnessed.
24 This is within seconds after the crime has occurred and
25 she is still on fire at the time and so the State's

1 position is that it's relevant, it's admissible as to
2 demeanor, it's his own perception that he is witnessing
3 firsthand.

4 MR. MADSEN: Judge, we all have different demeanors.
5 People can take it different ways. Nothing frustrates me
6 more than my wife telling me I'm mad about something that
7 I could care less about or not mad about. So it is
8 speculation we believe under 403. It shouldn't come in.
9 It's trying to back door in some kind of character
10 evidence that, hey, this is a bad guy. We just don't
11 think that it's appropriate. There's no reason that they
12 need it to prove any element in this case.

13 MS. MAYES: One of the elements we must prove is
14 malice so his demeanor is directly relevant to the
15 malice.

16 THE COURT: I'm gonna let it in. I agree with you,
17 Ms. Mayes. That's what he perceived. I'm gonna let it
18 in. Is there anything else from the State before we get
19 started?

20 MS. MAYES: Nothing from the State, Your Honor.

21 THE COURT: Ms. Mauldin?

22 MS. MAULDIN: No, Your Honor.

23 THE COURT: All right. Just let me ask you, both
24 sides, I mean, because we talked yesterday about just
25 character in general and bringing up the past history of

1 this couple and bringing up DSS. Have y'all talked about
2 that?

3 MS. MAYES: We did yesterday, Your Honor. I think
4 both sides are prepared to offer testimony or argument
5 along the lines that this was an off and on relationship
6 and the victim is prepared to testify that it was off on
7 the incident date and that she had put him out. Those
8 will be her words.

9 THE COURT: Okay. All right. Okay. I'll just
10 caution both sides about opening the door just to let you
11 know. All right. Now, I see all these people in the
12 courtroom and I know that I granted a motion to sequester
13 yesterday. At this time the lawyers please look and see
14 if there's anyone in here that should not be in here.

15 MS. MAYES: Your Honor, for the record Diane
16 Henderson is the mother of Ardelia McDaniel. She was
17 originally on our witness list. She very much wants to
18 be in the courtroom so for the purposes of this trial we
19 have removed her from the witness list. We do not intend
20 to call her so she can be with her daughter.

21 THE COURT: Okay. And everybody else? I see some
22 law clerks back there. Okay.

23 MS. MAYES: So Nikki Rodgers is the first witness
24 and present in the courtroom, Your Honor. Investigator
25 William Dougall is the chief or lead officer and also is

1 going to be serving as an evidence custodian for the
2 trial.

3 THE COURT: Okay. All right. Well, then, let's
4 bring the jury in. I'm gonna read them this opening
5 statement and then we'll be ready for your opening
6 statements.

7 (Whereupon, the jury entered the courtroom at 9:50
8 a.m.)

9 THE COURT: Does that seat work for you?

10 UNIDENTIFIED JUROR: That's fine.

11 THE COURT: All right. Good morning everybody. Let
12 me thank you for being on time and we're ready to get
13 started. First, where is Ms. Kaiser? Ms. Kaiser, I'm
14 gonna make you our forelady of the jury and at this time
15 I'm gonna get the clerk to swear you in, okay? All of
16 you.

17 THE CLERK: Please stand and raise your right
18 hand.

19 (Whereupon, the jury was sworn by the Clerk of Court
20 at 9:50 a.m.)

21 THE CLERK: Was there anyone not able to take the
22 oath? If so, please stand. The jury is under oath, Your
23 Honor.

24 THE COURT: Okay. All right. I'm required to give
25 y'all a little, it's like an opening statement so I'm

1 gonna read it to you. It's not very long and then we'll
2 get started, okay? So before we begin the actual trial
3 of the case I thought it might be helpful if I explain to
4 you basically how a trial proceeds. First the State will
5 make an opening statement. An opening statement is not
6 evidence. It is simply an outline to help you understand
7 what that party expects the evidence will show. The
8 defendant may, if he wishes, present an opening
9 statement, but he does not have to for reasons I'll
10 explain to you later.

11 Following the opening statements you will hear
12 testimony and evidence in the case. This will consist of
13 testimony from State's witnesses as well as any physical
14 exhibits which would be introduced into evidence.

15 Following the completion of the testimony the
16 attorneys again will have the opportunity to make what we
17 call a closing statement or summation to you. This is an
18 opportunity for the attorneys to summarize the case from
19 their respective points of view. Again, these arguments
20 are not evidence.

21 Following the closing statements by the attorneys I
22 will instruct you on the law as it pertains to the issues
23 that have arisen in the case. When I have completed my
24 instructions to you, you will then be permitted to begin
25 your deliberations in order to reach a verdict, not

1 beforehand.

2 You are now the jury in this case and I want to take
3 a few minutes to tell you something about your duty as
4 jurors and to give you some instructions. At the end of
5 the trial I will give you more detailed instructions.
6 Those instructions will control your deliberations. It
7 will be your duty to decide from the evidence what the
8 facts are. You and you alone are the Judge of the facts.
9 You will hear the evidence, decide what the facts are and
10 then apply those facts to the law which I will give you.
11 That is how you will reach your verdict. In doing so you
12 must follow that law whether you agree with it or not.

13 The evidence will consist of the testimony of
14 witnesses, documents and other things received into
15 evidence, we call them exhibits, and any facts on which
16 the lawyers agree. If they agree on something, they
17 stipulate and I will let you know what that is and you're
18 supposed to treat that as true.

19 I also want to talk to you about the presumption of
20 innocence. This is a criminal case brought by the State
21 of South Carolina. The State charges the defendant with
22 arson and attempted murder. The charge against the
23 defendant is contained in the indictment. The indictment
24 is not evidence of anything. It is simply the
25 description of the charge made by the State against the

1 defendant. The defendant has pled not guilty to the
2 charge and is presumed innocent unless and until proven
3 guilty beyond a reasonable doubt. The defendant has a
4 right not to testify and never, never has to prove
5 innocence or present any evidence. The burden of proof
6 is always upon the State of South Carolina.

7 Now, what is not evidence. The following things are
8 not evidence and you must not consider them as evidence
9 in deciding the facts in this case. Statements and
10 arguments of the attorneys are not evidence. Questions
11 and objections, and you'll hear objections, that is not
12 evidence in this case. Any testimony that I ask that you
13 disregard you are not to consider that as evidence.

14 Evidence may be direct or circumstantial. Direct
15 evidence is testimony by a witness about what that
16 witness personally saw, heard or did. Circumstantial
17 evidence is indirect evidence, that is, it is proof of
18 one or more facts from which one can find another fact.
19 You are to consider both direct and circumstantial
20 evidence. The law permits you to give equal weight to
21 both, but it is for you to decide how much weight to give
22 any evidence.

23 As I told you, you will hear these attorneys say I
24 object. There are rules of evidence which control what
25 can be received into evidence. When a lawyer asks a

1 question or offers an exhibit into evidence and the
2 lawyer on the other side thinks that shouldn't be
3 permitted by the rules, that lawyer may object. If I
4 overrule the objection, the question may be answered and
5 the exhibit received. If I sustain the objection, the
6 question cannot be answered or the exhibit cannot be
7 received. Whenever I sustain an objection to a question
8 or deny a motion to admit an exhibit, you must ignore the
9 question or the existence of the exhibit and you must not
10 guess what the answer would have been or what the exhibit
11 would have shown you.

12 Sometimes it may be necessary for me to request that
13 you leave the courtroom while I discuss with the
14 attorneys legal questions that come up during the trial.
15 If this occurs, you should not speculate about our
16 discussions or the reasons that you were asked to leave
17 the courtroom. This is simply a procedure that the law
18 requires when certain legal issues are made.

19 There's also occasions they might approach the bench
20 to discuss a legal issue in private and to be honest
21 with you I would try to do that more often than send you
22 back out to the jury room. But again, when that happens,
23 nobody is trying to keep any evidence from you. I don't
24 want you speculating. It's just a simple procedure that
25 we use to determine and decide legal questions.

1 In deciding the facts of this case you may have to
2 choose which witnesses to believe and which witnesses not
3 to believe. You may believe everything a witness says or
4 only part or none of it. In deciding what to believe you
5 may consider a number of factors including the following;
6 the witness' ability to see, hear or know the things
7 testified to, the quality of the witness' memory, the
8 witness' manner while testifying, whether the witness has
9 an interest in the outcome of the case or any motive,
10 bias or prejudice, whether the witness was contradicted
11 by anything the witness said or wrote before the trial or
12 by other evidence, how reasonable was the witness'
13 testimony when considered in light of other evidence
14 which you believe.

15 Until I advise you to begin your deliberations you
16 must not discuss this case with anyone including amongst
17 yourselves, family members, friends, anyone involved in
18 this case. This includes face-to-face, telephone, email,
19 text, blogs or any other kind of method of communication.
20 You may not use a computer, cell phone or any other
21 electronic device with communication capabilities at any
22 time while in this courtroom or during deliberations.

23 During your breaks for meals you may use these
24 devices, however, you may not at any time use these
25 devices to get or send information about the case. That

1 includes information about a party, a witness, an
2 attorney, a court officer, news accounts about the case,
3 research on any topics raised, any topics that you think
4 may be helpful in deciding the case, completely off
5 limits. You cannot do it. During the trial do not read,
6 listen to or watch any news reports about this case, this
7 includes anything that may be in the newspapers, on the
8 Internet, radio, television. You must not consider
9 anything that you have read or heard about this case
10 outside of the courtroom. After the case is submitted to
11 you, you may discuss it only in the jury room with your
12 fellow jurors.

13 The attorneys, as I told you yesterday, they have
14 been advised that they are not to talk to you at all so
15 if you see anyone involved in the case and they don't say
16 hello, they're not being rude. They're just following my
17 instructions.

18 It is important that you keep an open mind and not
19 decide any issue in this case until all of the evidence
20 has been presented, the parties have made their closing
21 arguments, and I have instructed you on the law in this
22 case. It is your solemn responsibility to determine the
23 guilt or innocence of the defendant and your verdict must
24 be based solely on the evidence as it is presented to you
25 in this trial and on the law that I instruct you during

1 and at the close of the trial.

2 I'm just going to tell y'all, I've been a lawyer for
3 28, 29 years. Please pay attention. I'm telling you,
4 you've got some of the finest lawyers in Lexington County
5 sitting in this courtroom. They've worked hard. They're
6 good lawyers. Pay attention. I don't want to see
7 anybody sleeping, okay?

8 Madam Forelady, it is your added duty to preside in
9 the jury room and you're the jury's spokesperson here in
10 courtroom. It will be your duty to write the verdict,
11 but I'll give you further instructions as we get closer
12 to that. Also, Madam Forelady, if somebody needs a
13 break, you just raise your hand and I'll be glad to
14 accommodate you. Right now I know y'all asked about
15 masks yesterday. I'm checking into it. Until I hear
16 further it is mandatory that everybody wear a mask. I
17 will try to give you frequent breaks. And with that said
18 I'm gonna let the State begin.

19 MS. McMENAMIN: Thank you, Your Honor. May it
20 please the Court.

21 THE COURT: Yes, ma'am.

22 MS. McMENAMIN: Damn right. Take me to jail. I'm
23 tired of this shit. Those, those are the statements of
24 that man, the defendant Robert Green. On August 20th,
25 2019, the defendant was in the front yard of Ardelia

1 McDaniel yelling those words as neighbors at 3:30 in the
2 morning rushed to her aid because just moments before he
3 had doused her in gasoline and set her on fire.

4 Witnesses will tell you how she was running for help
5 ablaze, how when they were trying to extinguish the
6 flames, he did nothing, how he paced back and forth in
7 that front yard with the lighter still in his hand
8 igniting it over and over showing that flame that had
9 caused so much pain. They will tell you how he looked
10 like he didn't even care. And the evidence will show,
11 members of the jury, he didn't. That on August 20th,
12 2019 he entered that home, doused her in gasoline and set
13 her on fire because he wanted to kill her, take her life
14 from her and he did that with malice in his heart. And
15 you will see that even though she survived, that woman
16 right there, Ardelia McDaniel, even though she survived,
17 she was left with serious bodily injury that remains to
18 this day.

19 Now as a result of his actions you've heard that the
20 defendant was charged with two crimes, attempted murder
21 and arson in the first degree. As such he sits here
22 before you on trial today and you now have an
23 understanding from the Judge that we all play different
24 roles in this trial. As representatives of the State we
25 present you with the evidence. We make our argument. We

1 prove to you his guilt beyond a reasonable doubt and
2 we'll come back to what that means, members of the jury.
3 It's much simpler than it sounds.

4 Your role, an important role is to weigh the
5 evidence and decide what's important and what's not and
6 make that ultimate conclusion. And that might seem a
7 little overwhelming, intimidating but, members of the
8 jury, if you think of this trial and your job like
9 putting together the pieces of a puzzle, you will see
10 it's really all that simple. I know for me the first
11 thing I do when I'm putting together a puzzle is I empty
12 all the pieces out on the table, I prop up the front of
13 the box with that pretty picture so I can keep looking
14 back to it for reference. In this trial the pretty
15 picture on the front of that box is the law.

16 Now, Judge McCaslin, that's one of her many jobs.
17 At the end of this trial she'll instruct you on the law,
18 but why not hear about it now. Have that pretty picture
19 to look to, that guide post as you're being presented
20 with evidence which can be testimony, photos, videos, so
21 many things. So what does our law tell us. The statute
22 says that a person who with intent to kill attempts to
23 kill another with malice aforethought has committed the
24 crime of attempted murder. That means we must show you
25 when the defendant entered the victim's home, doused her

1 in gasoline and set her on fire, he intended to end her
2 life. We must show you that he committed these acts with
3 malice in his heart which, members of the jury, means
4 hatred, ill will, hostility, and I think you will see
5 that's pretty evident in this case.

6 Now, our statute tells us that arson in the first
7 degree is when a person willfully and again maliciously
8 sets fire to, burns, procures a burning of a structure or
9 building, causes damage to that building, and causes
10 serious bodily injury to another person, meaning we've
11 got to show you that he brought that gas can into that
12 house, he poured gasoline, he used that lighter and the
13 back bedroom went up in flames. We'll show you damage.
14 And, members of the jury, we'll show you the injuries the
15 victim had that night that were so severe and remain so
16 serious to this day.

17 So, the law, that's the pretty picture on the front
18 of the box. I'm sure you've already guessed the pieces
19 of the puzzle are the evidence. What do those pieces
20 look like? Well, the evidence in this case will show you
21 that the defendant and the victim, they've known each
22 other for a long time. They've been in an on again, off
23 again relationship for quite some time and on the night
24 in question it was off again or at least it was for
25 Ardelia McDaniel. She put him out. She will take this

1 stand right here and tell you about that night, one you
2 know she does not want to have to relive today, but
3 she will. She'll tell you how she put him out. He left.
4 She went to sleep in the comfort of her own bed alone in
5 that house. And the evidence will show he didn't like
6 that. She wanted it to be over, but he didn't. He said,
7 oh, no, you can't dismiss me that easily.

8 The evidence will show he got a red gas can off the
9 side porch next to her bedroom. He came in and he poured
10 gasoline on her. She'll tell you herself how she felt
11 that liquid, immediately knew that it was the smell of
12 gasoline, and how even though she was startled, she
13 fought back, but he overpowered her. She'll tell you how
14 right at the end he had that lighter in his hand next to
15 her face and he said, bitch, you don't love me, and she
16 heard that click.

17 The neighbors on the 700 block of Lexington Avenue
18 where her home is located at [REDACTED] Lexington Avenue in the
19 Cayce area of Lexington County, those neighbors will tell
20 you that they were asleep. This was somewhere between
21 3:00 and 3:30 in the morning and they heard what were
22 screams from a nightmare. They jumped out of their beds
23 and looked out their windows and they saw her running out
24 of her house on fire, engulfed, members of the jury, to
25 the top of her head in flames screaming for help and

1 they'll tell you how he stood there, how he didn't bring
2 aid to her, how he didn't cry out for help for her. No.
3 Take me to jail. I'm tired of this shit. Lighting the
4 lighter over and over. And how at one point when she
5 cried out, he set me on fire, and they could hear those
6 sirens coming, poof, he was gone into the night nowhere
7 to be found.

8 Cayce Police Department, members of their police
9 department are gonna testify today. They're going to
10 take that stand as well and tell you how they got on
11 scene. They saw this man. All they know at this point
12 is that it's a house fire. They know nothing else. They
13 ask him if he has any knowledge. They'll tell you how he
14 denied living in that home or knowing anything about that
15 fire. He walked past one officer, a second officer, a
16 third officer and never stops to help. You will see he
17 walks away. What's better, members of the jury, you get
18 to hear all this yourself. It's not just the testimony
19 of witnesses. We were fortunate enough that a neighbor
20 about four houses up the street had a porch camera. You
21 get to hear those cries for help. Help me, help me, over
22 and over. You get to hear him say, take me to jail. You
23 get to see him walking from that home up Lexington Avenue
24 and turning onto 3rd Street walking away, walking away,
25 never coming back.

1 Now, someone who was engulfed in flames, they must
2 have some injuries, right? You'll get to see from body
3 cam footage from the scene after the fire has been put
4 out on Ms. McDaniel the injuries that she had even then,
5 how her skin is so burned in some places that it's white,
6 how her skin is so burned that pieces of it are hanging
7 from her body. You will get to hear from one of her many
8 doctors, from medical professionals who will tell you
9 that she was in critical care. This woman somehow
10 survived having 60 percent of her body, hips to her head
11 covered in second and third degree burns. They'll tell
12 you these injuries, they were critical, they were
13 life-threatening. And again, you will get to see those
14 injuries for yourself. You will get to see her take that
15 stand. You will get to hear, see the mental and
16 emotional scars and you will get to see the physical
17 scars that still remain almost two years later.

18 Now, like I said, this is like putting together a
19 puzzle. You've got the law that you look to, you've got
20 the pieces of evidence. When you go back to the jury
21 room to deliberate, you put those pieces together. Now,
22 keep in mind, members of the jury, you don't have to have
23 all the pieces. It might sound a little weird, but it's
24 like life. How many boxes of puzzles do you open and you
25 don't have all the pieces? You don't have to have them

1 all today here. You can be missing a corner piece here
2 and there, but if you have enough evidence, pieces of the
3 puzzle to see the big picture, then we've done our job.

4 If you are confident in the defendant's guilt beyond
5 all doubts that are reasonable, not just any old doubt
6 that they're gonna try and put in your head, all doubts
7 that are reasonable, then like the Judge said, you have a
8 duty. At the end of this trial, members of the jury, do
9 what the law and justice require. Find the defendant
10 guilty, guilty of attempted murder, guilty of arson in
11 the first degree. Thank you.

12 THE COURT: Thank you. The defense ready?

13 MR. MADSEN: Yes, Your Honor. May it please the
14 Court, Solicitors.

15 This case is about a tragedy, not a crime. This
16 case is about a tragedy, not a crime. This case is
17 about a tragedy and not a crime because no one is going
18 to deny that Ms. McDaniel suffered some pretty severe
19 injuries, but she didn't suffer those injuries because
20 Robert was committing a crime. They did have an on
21 again, off again relationship and while the Solicitor
22 said it was off again, you're going to hear about how
23 Robert, her neighbor Pete Messina and Pete's cousin were
24 over at that house earlier in the day socializing,
25 drinking, just having a good time. Later that night

1 after Ms. McDaniel caught on fire, she panicked. She ran
2 out of the house instead of stopping, dropping and
3 rolling until the flames went out as we are all taught as
4 children. She panicked. She ran out of that home and
5 you will hear from the neighbors as the Solicitor said,
6 she was running around outside engulfed in flames until
7 she ends up over at Pete's house next door and how he put
8 out those flames.

9 Again, there's no dispute that Ms. McDaniel suffered
10 some pretty severe injuries. No one is gonna tell you
11 that she didn't and certainly Ms. McDaniel is mad at
12 Robert this tragedy which is understandable, but this is
13 a trial about how and why this happened and it's not just
14 saying, hey, she suffered some pretty severe injuries so
15 someone should be punished. This was a tragedy, not a
16 crime.

17 Now, you will hear how Ms. McDaniel was interviewed
18 by law enforcement numerous times and you will hear how
19 her story changes and so as the Solicitor says it's kind
20 of a puzzle with puzzle pieces, but they want to take
21 those pieces and they're always changing. They're taking
22 some out, they're putting some in. And you will hear how
23 her story changes. How when law enforcement talks to her
24 first, she doesn't admit that anyone was over at her home
25 earlier in the day, but law enforcement figures out

1 pretty soon, yeah, that's not true. There were three
2 people over there. Then the story will change, oh, they
3 just broke in. That's just not true. The story keeps on
4 changing. And you're gonna ask yourself if someone is
5 lying about this, wouldn't that cause anyone to question
6 why she's being untruthful? Why is the story changing?
7 Where are those puzzle pieces. When you get a part that
8 they take them out and they put new parts in, why does it
9 keep changing over time? Simple reason is she's mad
10 about this tragedy. She's mad at Robert and she's mad
11 that she suffered severe burns.

12 Listen, I get it. I understand. I would be mad. I
13 think anyone would be mad, but this is a tragedy and it's
14 not a crime and no one should be convicted of a tragedy.
15 She shouldn't lie about how it happened and what led up
16 to it just because she's mad about this tragedy.

17 Now, the State has the sole burden of proof in this
18 case and in every criminal case to prove each and every
19 element beyond all reasonable doubt. And as you heard,
20 Robert is charged under two statutes. The first one,
21 arson in the first degree requires that a person
22 willfully and maliciously, willfully and maliciously
23 burns or caused to be burned a building or a structure
24 which results directly or indirectly in death or serious
25 bodily injury to another person. The second statute,

1 attempted murder, requires that a person with intent to
2 kill attempts to kill another person with malice
3 aforethought. Malice means evilness. Malice means
4 wickedness. And at the end of the case the Judge is
5 going to instruct you on the law and the Judge is going
6 to tell you that the State has the sole burden of proof
7 in this case beyond all reasonable doubt. The State
8 simply won't be able to meet this burden because this
9 case is about a tragedy. It's not about a crime.

10 We are confident that after you have heard all of
11 the testimony and all of the inconsistencies and all of
12 the changing puzzle pieces and all of the evidence, that
13 you will find that this case is certainly a tragedy, but
14 it's not a crime and Robert is not guilty of arson. He's
15 not guilty of attempted murder. He's not guilty. Thank
16 you.

17 THE COURT: Thank you. Ms. Mayes, ready to call
18 your first witness?

19 MS. MAYES: Yes, Your Honor.

20 MS. McMENAMIN: The State calls Nikki Rodgers to the
21 stand.

22 Thereupon,

23 NIKKI RODGERS

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

25 THE CLERK: Please have a seat. Once you're seated,

1 state your full name spelling your last please.

2 THE WITNESS: Nikki Rodgers, R-o-d-g-e-r-s.

3 DIRECT EXAMINATION

4 BY MS. McMENAMIN:

5 Q. Good morning, Ms. Rodgers. Could you tell the jury
6 where you currently work?

7 A. I work at Lexington County 911 Communications.

8 Q. What is your position there?

9 A. I'm the chief of communications.

10 Q. What do your job duties entail?

11 A. I oversee the department, hiring, training,
12 compliance, budgets, oversee the daily operations to make sure
13 that calls are received and processed for Lexington County.

14 Q. Ms. Rodgers, as far as calls go, do you record those
15 calls and keep track of them in any way?

16 A. We do. Everything is recorded in our 911 center
17 with a recording all incoming and outgoing phone calls.

18 Q. And how do you keep track of those? How do you
19 store those?

20 A. So our recording software stores them on a server
21 and a software keeps them for 90 days and then they're
22 automatically erased or recorded over and they're stored in a
23 secure server room.

24 Q. So do you act as the custodian of records for
25 Lexington County Communications?

1 A. Yes, ma'am.

2 Q. As the custodian of records, are copies of these
3 calls kept in the ordinary course of business?

4 A. Yes, ma'am.

5 Q. They're kept as records?

6 A. Yes.

7 Q. Now, your office received a subpoena regarding this
8 case from the State, correct?

9 A. Yes, ma'am.

10 Q. And were you able to retrieve any records regarding
11 this case?

12 A. We did. We supplied the 911 recording and our CAD
13 documents which is computer added dispatch. It's kind of our
14 record keeping software of calls coming in and calls being
15 dispatched.

16 Q. So, Ms. Rodgers, were you able to provide a call
17 from August 20th, 2019 related to this case?

18 A. Yes, ma'am.

19 Q. What time did that call come in?

20 A. That call was received on August the 20th, 2019 at
21 03:30 hours.

22 Q. So what time would that be?

23 A. That is 3:30 a.m.

24 Q. Ms. Rodgers, do you have an identification for the
25 caller?

1 A. The caller wanted to remain anonymous which is
2 normal sometimes on a call so we identified the caller on our
3 call card as anonymous.

4 Q. Did you have a phone number for that caller?

5 A. We do not. We do have a phone number. Sorry.

6 ██████████.

7 Q. What was the location provided as the address of
8 emergency?

9 A. ██████ Lexington Avenue.

10 Q. What county is that in?

11 A. In Lexington County.

12 Q. What was the nature of this emergency call?

13 A. The nature of the call was a fire.

14 Q. As a result of this call, were first responders
15 dispatched to Lexington Avenue?

16 A. We transferred the call over to Cayce because
17 Cayce's jurisdiction was for, it's ██████ Lexington Avenue and
18 they are the fire response for that area.

19 MS. McMENAMIN: Permission to approach the witness,
20 Your Honor.

21 THE COURT: Granted.

22 MS. McMENAMIN: A moment to put on a mask, Your
23 Honor.

24 BY MS. McMENANIM:

25 Q. Ms. Rodgers, I'm now handing you what's been marked

1 as State's Exhibit number 64 for identification. Do you
2 recognize this?

3 A. Yes, ma'am. It has my initials on it.

4 Q. What is this?

5 A. This is the 911 recording that matches this call.

6 Q. And you know that how?

7 A. Because I have reviewed it and put my initials on
8 it.

9 MS. McMENAMIN: Thank you. Your Honor, at this time
10 the State offers exhibit 64 into evidence.

11 MR. MADSEN: Judge, we would just renew our pretrial
12 motion and objection on the 911.

13 THE COURT: Okay. I'm gonna allow it in and your
14 objection is noted.

15 BY MS. McMENAMIN:

16 Q. Ms. Rodgers, the call has not been edited or altered
17 in any way?

18 A. No, ma'am.

19 MS. McMENAMIN: Thank you. Nothing further from the
20 State at this time, Your Honor.

21 THE COURT: The defense ready?

22 MR. MADSEN: Yes, ma'am.

23 CROSS EXAMINATION

24 BY MR. MADSEN:

25 Q. Hey, Nikki. How are you doing?

1 A. I'm good, sir. How are you?

2 Q. I'm good. How is your dad?

3 A. Good.

4 MR. MADSEN: Nikki's dad is a legendary senator here
5 in South Carolina.

6 BY MR. MADSEN:

7 Q. So you've been in 911 a long time?

8 A. 26 years.

9 Q. But you're 911 for Lexington County, but Cayce has
10 their own 911 dispatch, correct?

11 A. They do.

12 Q. But sometime for some reason calls come to you that
13 should go to them, maybe even vice versa, right?

14 A. Well, if it's a land line phone, you're old timey
15 regular wall mount phone, that would go directly to Cayce. If
16 it's a wireless call which this was, it depends on what tower
17 it hits and then can come to us. But yes, you're correct.

18 Q. 911 is meant for emergencies?

19 A. Correct.

20 Q. But I'm sure probably sometimes you get calls about,
21 hey, my kid won't eat dinner?

22 A. Yes, sir.

23 Q. But that's not what it's supposed to be used for?

24 A. Correct. It's not supposed to be used for that.

25 Q. And generally if it's used the way it's supposed to

1 be used, those calls are going to be pretty soon after
2 whatever is going on happens, correct?

3 A. Correct.

4 Q. And oftentimes if it's something big, a fire, you're
5 gonna get multiple calls?

6 A. Yes.

7 Q. Did you know that there were multiple calls in this
8 case?

9 A. No.

10 Q. So you didn't know that Cayce 911 was also fielding
11 calls?

12 A. No, sir.

13 Q. Did you know that actually the calls to Cayce 911,
14 that there were calls actually before this one?

15 A. No, sir.

16 Q. Do you know why the State would want this one
17 instead of the ones that go straight to Cayce?

18 MS. McMENAMIN: Objection, Your Honor. That calls
19 for speculation.

20 THE COURT: Agreed.

21 BY MR. MADSEN:

22 Q. But you don't know that there are other calls,
23 correct?

24 A. No, sir.

25 MR. MADSEN: That's all the questions I have.

1 THE COURT: Any redirect examination?

2 MS. McMENAMIN: Briefly, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. McMENAMIN:

5 Q. Ms. Rodgers, you were asked about calls that went
6 through another system that did not come through Lexington
7 communications?

8 A. Yes, ma'am.

9 Q. Would you ordinarily have any knowledge of those
10 calls?

11 A. No.

12 Q. Is that part of your duties as a Lexington
13 communications operator?

14 A. No, ma'am.

15 Q. And can you explain why - you explained why calls go
16 through different places versus land line and wireless so
17 Cayce has their own version of Lexington County
18 Communications?

19 A. They do. They have a one person 911 center where we
20 are a consolidated 911 center and have multi jurisdictions and
21 up to 15 operators on duty at a time where Cayce is a small
22 town 911 center where we are a large center. We provide fire,
23 EMS and law enforcement responses. Cayce would only respond
24 with fire and law enforcement.

25 Q. And can you recall if this phone call from the

1 anonymous caller was eventually transferred over to Cayce?

2 A. It was transferred over to Cayce.

3 Q. So at the end of the day they were aware of all of
4 the calls?

5 A. Yes, ma'am.

6 MS. McMENAMIN: Thank you. Nothing further.

7 MR. MADSEN: Nothing further.

8 THE COURT: Okay. Thank you. We have to clean
9 between witnesses so it might take us just a little bit.
10 Let me ask, is the next witness a long witness?

11 MS. McMENAMIN: More on the lengthy side, Your
12 Honor.

13 THE COURT: On the lengthy side. Would y'all like
14 to take a break before we go to the second?

15 MS. McMENAMIN: That's suits the State, Your Honor.

16 THE COURT: Okay. Let's take a quick 15 minute
17 break and we'll come back.

18 (Whereupon, the jury entered the jury room at 10:30
19 a.m.)

20 (Short break.)

21 THE COURT: All right. We ready to go forward?

22 MS. McMENAMIN: Yes, Your Honor. We're waiting for
23 Ms. Mayes to make it back in.

24 THE COURT: Absolutely. All right. Let's bring the
25 jury in.

1 (Whereupon, the jury entered the courtroom at 10:50
2 a.m.)

3 THE COURT: Okay. We ready to call our next
4 witness?

5 MS. McMENAMIN: Yes, Your Honor. The State calls
6 Investigator Terrin Reel.

7 Thereupon,

8 TERRIN NICOLE REEL
9 after having been first duly sworn, testified as follows,

10 THE CLERK: Please have a seat. Once you're seated,
11 state your full name spelling your last please.

12 THE WITNESS: May first name is Terrin, T-e-r-r-i-n,
13 Nicole, N-i-c-o-l-e, last name Reel, R-e-e-l.

14 DIRECT EXAMINATION

15 BY MS. McMENAMIN:

16 Q. Ms. Reel, where are you currently employed?

17 A. I work at Cayce Public Safety.

18 Q. What is your position there?

19 A. I'm an investigator and also a fully certified
20 firefighter.

21 Q. So you're a police officer and a firefighter?

22 A. Yes, ma'am.

23 Q. How long have you been in law enforcement?

24 A. Going on seven years.

25 Q. Where did you start?

1 A. I worked at Clinton Public Safety so they also had
2 to be dual certified as well so I've been working as a
3 firefighter as well for seven years.

4 Q. And currently in Cayce you work as a police officer
5 and a firefighter. What sort of certifications do you have to
6 have to do that?

7 A. You have to go through extensive training on both
8 sides. You have to go through a 12 week program for the
9 police side and you have to go through, I went through a four
10 month course for all four of my certifications for fire so I'm
11 1152, firefighter one and firefighter two so I'm certified.

12 Q. Investigator Reel, how long did you say you have
13 worked for Cayce Public Safety?

14 A. Three years.

15 Q. Were you working on the night or the early morning
16 hours of August 20th, 2019?

17 A. Yes, ma'am. I actually was on patrol at the time.
18 I hadn't made it to investigations so I was just a routine
19 patrol officer at that time.

20 Q. And on this date did you receive a call regarding a
21 house fire at [REDACTED] Lexington Avenue in the Cayce area of
22 Lexington County?

23 A. Yes, ma'am.

24 Q. What time did you receive that call or what time
25 were you dispatched?

1 A. We received the call at 3:30 in the morning and I
2 was dispatched at 3:31 and I arrived on the scene at 3:33.

3 Q. Investigator Reel, when you arrived on scene, what
4 were your initial observations?

5 A. At the beginning I was in the process of pulling off
6 my gear because I was intending to go into the fire so at the
7 initial time my vest had already came off, my radio had
8 already came off. When I got there, I was in investigative
9 mode. You know, make sure if there was somebody in the house,
10 we're gonna get that person out of the house, whose house was
11 it at that time and just trying to let the fire department
12 know as much as they can because they were coming from the
13 department and probably were asleep at the time because it was
14 so early in the morning so trying to assess the scene as much
15 as I could to give them as much information as I could to the
16 fire department.

17 Q. You talked about giving them as much information as
18 you could. Tell the jury what amount of information did you
19 actually have when you arrived on scene?

20 A. We were just told that it was a structure fire.
21 They didn't really give us any other information at that point
22 so when I got on the scene, I explained to them that it was a
23 fully involved structure fire, that we had, it was a one story
24 building at that time and where the location was. I mean,
25 they already knew where the location was, but try to give them

1 an understanding of how far it was down the road.

2 Q. And when you first arrived on scene, did you observe
3 any people outside?

4 A. Yes, ma'am. There was a male subject, a black male
5 subject out in the roadway that I observed. He was in the
6 roadway and I stopped my car actually in front of the house
7 and that is where I observed that male subject at.

8 Q. Do you recall what your observations were about his
9 clothing at the time?

10 A. Uhm, at that time the description that I put into my
11 report was that it was a black male with no shirt, red shorts
12 and black shoes. Later I determined that the subject was
13 wearing white shoes, black shorts with white trim and no
14 shirt. It was possibly due to my lights and my lights going
15 off and the roadway was extremely dark. There's no lights on
16 that road so literally the only lights that were going were my
17 lights and what was coming from the fire so that was it.

18 Q. And where was the fire located exactly that you
19 observed from the outside of the home?

20 A. It was coming from the back of the house.

21 Q. And so you saw this male subject in the roadway, no
22 one else outside. Did you talk to him?

23 A. I did.

24 Q. What was the nature of that conversation?

25 A. It was basically just to try to see if he was the

1 homeowner of the house or he knew what was going on because at
2 that point I didn't have any other information. I just wanted
3 to make sure if this was his home, if there was anybody else
4 inside.

5 Q. Okay. And so what did you ask him?

6 A. I asked him, I said, is this your house that was on
7 fire. And the subject stated that he does not know whose
8 house this is, but that he was just walking down the street.

9 Q. And what did you do -- When you spoke to him, was he
10 a suspect at this time?

11 A. No, ma'am.

12 Q. Did you suspect any criminal activity at this
13 time?

14 A. No, ma'am.

15 Q. Did he willingly speak with you?

16 A. Yes, ma'am.

17 Q. He didn't hesitate to talk to you?

18 A. No, ma'am.

19 Q. And was he ultimately free to leave at any time?

20 A. Yes, ma'am.

21 Q. Now, after this conversation with the subject, the
22 individual in the roadway, what did you do?

23 A. At that time I continued to go to the back of my
24 car, finish packing out and started going toward the house.

25 Q. Let me stop you right there. What is packing out?

1 Can you explain that for the jury?

2 A. So basically we have equipped fire gear that we put
3 on to go into the fire so my initial response was to fight the
4 fire. That's what I was there for. So I continued doing what
5 I was there for, was to fight the fire. So at that point I
6 packed out and started going towards the residence of the home
7 to get ready for the fire department.

8 Q. At this time, Investigator Reel, who all is on scene
9 that's law enforcement or first responder?

10 A. At that particular moment it was just me.

11 Q. And how long after you arrived did back up get on
12 scene?

13 A. It was probably another two minutes or a minute at
14 that. I mean, it was so fast. They were - I know they were
15 coming because there were sirens everywhere, but it was
16 probably within like a minute or two at the most.

17 Q. Now, as you are approaching this home that's on
18 fire, [REDACTED] Lexington Avenue, what do you observe?

19 A. At that moment a woman comes out of a house to the
20 left of the house that's on fire and starts screaming that he
21 set me on fire. He tried to burn me.

22 Q. And did she seem to be in any sort of distress?

23 A. Oh, yes. She was I would say. She tried to explain
24 as much as she could over the fire, over the lights, the
25 sirens and everything, I could understand her perfectly. She

1 was screaming at the top of her lungs.

2 Q. Upon hearing these words from her, he set me on
3 fire, what did you do?

4 A. At that point I tried to figure out a little bit
5 more information of what was going on, but I also knew that
6 both at that time the other officers that were on scene were
7 there. Again, I didn't have my radio so I just kind of
8 started screaming for them to come to me. I did turn around
9 because there was only one other person around at that time to
10 look for the subject that I had just talked to and he was gone
11 so at that time I tried to get the guys to come up to me as
12 much as I could so I could explain to them what was going on
13 and what we had at that moment.

14 Q. And who are the guys?

15 A. Excuse me. I'm sorry. That is my Sergeant Powell
16 and also, he's just a PO, Officer O'Shaunessy.

17 Q. When they get on scene, what sort of information did
18 you relay to them for the purposes of now conducting an
19 investigation into this subject?

20 A. I explained to them that the gentleman that I had
21 just spoken to was now the possible subject that we were
22 looking for due to the information that we were getting from
23 Ms. McDaniel and from what I had seen now it was starting to
24 make sense to me that this subject that I had just seen was
25 the subject that she was referring to.

1 Q. So the woman who came out screaming, that's Ardelia
2 McDaniel?

3 A. Yes, ma'am.

4 Q. And once you gave them this information, the
5 description of the man, did you make any efforts to locate
6 him?

7 A. Yes. At that time I started, I did explain to them
8 like I knew that he had my initial conversation that I had
9 with him that after I turned around he was going toward 3rd
10 Street so I explained to my sergeant at the time what was
11 going on and we did start going that way. I know that
12 Sergeant Powell did start circulating the area and O'Shaunessy
13 started to conduct anything for the victim as far as EMS,
14 explained to the fire department what was going on at that
15 time.

16 Q. And in your efforts to look for the defendant to
17 your knowledge was he ever located that night?

18 A. No, ma'am. Not at that time.

19 Q. And what did you do after taking a minute to look
20 for this subject?

21 A. At that time I went back into the fire and fought
22 the fire.

23 Q. Walk us through that a little bit, Investigator
24 Reel. What do you do upon entering a home that's on fire?
25 What's your first step?

1 A. Well, initially what your first step is, is to
2 contact where the initial area is that basically has the most
3 flames that you are trying to knock down as much as you
4 possibly can at that point and that area was at the back of
5 the home. Usually we are first on scene, the police that is,
6 are usually first on scene a lot faster than the fire side is
7 so me and one of the other officers were the first two
8 officers into the scene at that time. We went through the
9 back door and basically just tried to knocked down as much of
10 the fire as you possibly can and work your way into the
11 house.

12 Q. After fighting the fire, did you have any other
13 duties on scene?

14 A. After about ten minutes doing the fire side, then I
15 switched hats again and went back into investigative mode with
16 the police department. We did start a crime scene log. That
17 was kind of my duty, my main duty, but I also was doing other
18 things as far as anything that my sergeant needed because my
19 sergeant did have to start contacting all the investigators to
20 let them know what was going on to start this investigation.

21 Q. And did you conduct the crime scene log the entire
22 time during this investigation or was it ever handed off?

23 A. No, ma'am. By the time that all investigations and
24 everything was there, it was about 7:00 in the morning and
25 that's usually when our shift changes so at that point it was

1 transferred over to Investigator Dougall at that time.

2 MS. McMENAMIN: Permission to approach the witness,
3 Your Honor.

4 THE COURT: Absolutely.

5 BY MS. McMENAMIN:

6 Q. Investigator Reel, I'm now showing you what's been
7 marked as State's Exhibit 88 for identification. What is
8 this?

9 A. This the aerial view of the incident location on the
10 night of the fire.

11 Q. Say that loud for everybody one more time.

12 A. I'm sorry. This is the aerial view of the 700 block
13 of Lexington Avenue of the incident location the night of the
14 fire.

15 Q. And is it a fair and accurate depiction of that area
16 of Lexington County?

17 A. Yes, ma'am.

18 Q. It's fairly and accurately depicting the way the
19 houses were arranged on the night in question or the early
20 morning hours in question?

21 A. Yes, ma'am.

22 MS. McMENAMIN: Your Honor, at this time the State
23 offers exhibit 88 into evidence.

24 THE COURT: Ms. Mauldin.

25 MS. MAULDIN: Without objection, Your Honor.

1 THE COURT: Okay.

2 MS. McMENAMIN: Permission to publish to the jury,
3 Your Honor.

4 THE COURT: Absolutely. Go ahead.

5 MS. McMENAMIN: Your Honor, permission for the
6 witness to step down.

7 THE COURT: Yes, ma'am. You can step down. Make
8 sure you talk loud since you're not by a microphone so I
9 can make sure that all the jurors can hear.

10 THE WITNESS: Can I move this down?

11 THE COURT: Yes, ma'am.

12 BY MS. McMENAMIN:

13 Q. Now, Investigator Reel, can you point out for us the
14 incident location on this map?

15 A. It's right here.

16 Q. Okay. So what address is that?

17 A. [REDACTED] Lexington Avenue.

18 Q. And can you tell me for the record how many houses
19 down from 3rd Street is this house?

20 A. Three houses. Excuse me. I'm sorry. Four.

21 Q. Including that house?

22 A. Yes.

23 Q. Four houses down. And the color of the roof?

24 A. Black.

25 Q. Okay.

1 A. Black.

2 Q. Now, when you arrived on scene, I think you stated
3 earlier that you parked right in front of the house. Can you
4 indicate on here where you parked your vehicle?

5 A. Yes, ma'am. I parked right here.

6 Q. So in the roadway?

7 A. Yes.

8 Q. Okay. And where was the defendant, could you point
9 that out?

10 A. He was right on the side of my car in the roadway as
11 well.

12 Q. And you spoke to him briefly there?

13 A. Yes, ma'am.

14 Q. And then where did you go next? Can you point that
15 out on this aerial view?

16 A. I started to go up to the house and then that's when
17 the victim actually came out of [REDACTED] and I started going
18 towards her.

19 Q. Looking at the home from this angle, is [REDACTED] to the
20 left or the right?

21 A. To the right.

22 Q. And how many houses over is it?

23 A. One. The next house over.

24 Q. Okay. And she came out of the home and that's when
25 your investigation changed?

1 A. Yes, ma'am.

2 Q. From there where did you go?

3 A. From there I started to backtrack because both of my
4 officers that were arriving on scene after me had parked over
5 here.

6 Q. Where is here?

7 A. On 3rd Street I'm sorry. The next street over, they
8 parked both over here basically just to stay out of the fire
9 department's way. You don't want to over crowd them so they
10 parked over here on 3rd Street Lexington.

11 Q. Investigator Reel, was there anything else of
12 importance on this intersection down here for your
13 investigation?

14 A. Yes, ma'am. There's also a hydrant down here as
15 well. So they were going to - usually our police officers try
16 to stay out of the way of the fire department but they try to
17 help as much as they can so they will locate a fire hydrant
18 and usually put everything together so that the hose is onto
19 the fire hydrant and they can kind of start doing their
20 duties.

21 Q. And in what direction was the subject that you
22 interacted with, what direction was he headed?

23 A. He was going towards 3rd Street.

24 Q. And that is towards or away from the incident
25 location?

1 A. Away from the incident location.

2 Q. Thank you. Investigator Reel, you can have a seat.

3 A. (Witness complies.)

4 Q. Investigator Reel, are you aware of any video
5 footage obtained from a resident of Lexington Avenue as part
6 of the investigation of this case?

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

8 Q. Who was that footage obtained from or from what
9 address was that obtained from?

10 A. It was from [REDACTED] Lexington Avenue, Megan Dawson's
11 house.

12 Q. And have you had an opportunity to review that
13 footage?

14 A. Yes, ma'am.

15 Q. Are you familiar with that footage?

16 A. Yes, ma'am.

17 Q. Can you identify any of the people in that
18 footage?

19 A. Yes, ma'am.

20 Q. Can you identify any of the voices in that
21 footage?

22 A. Yes. My voice.

23 Q. And is that footage a fair and accurate depiction of
24 this 700 block of Lexington Avenue as it was on the night or
25 early morning hours that you responded to this crime?

1 A. Yes, ma'am.

2 MS. McMENAMIN: Permission to approach?

3 THE COURT: Yes, ma'am.

4 BY MS. McMENAMIN:

5 Q. Investigator Reel, I'm now handing you what has been
6 marked as State's Exhibit number 65 for identification. Do
7 you recognize this?

8 A. Yes, ma'am.

9 Q. What is it?

10 A. This is the video, the neighbor's video from Ms.
11 Dawson's house.

12 Q. And how do you know that that is what that is?

13 A. It's labeled and I also signed it.

14 Q. And when did you sign it, before or after viewing
15 it?

16 A. After viewing it.

17 Q. And it's a fair and accurate depiction?

18 A. Yes, ma'am.

19 Q. Has that been edited or altered in any way based on
20 your knowledge?

21 A. No.

22 MS. McMENAMIN: Your Honor, at this time the State
23 moves to enter exhibit 65 into evidence.

24 THE COURT: Any objection?

25 MS. MAULDIN: No objection.

1 THE COURT: It's admitted.

2 MS. McMENAMIN: Permission to publish to the jury.

3 THE COURT: Yes, ma'am. Make sure all the jurors
4 can see.

5 BY MS. McMENAMIN:

6 Q. Investigator Reel, can you advise whether this
7 footage starts before or after you arrived on scene to this
8 call at the 700 block of Lexington Avenue?

9 A. Before I arrived. It starts before.

10 THE COURT: Madam Solicitor, let me get you to
11 remove your mask so we can hear you.

12 MS. McMENAMIN: Absolutely, Your Honor.

13 THE COURT: It's okay. You sound so muffled and I
14 want to make sure that they can hear you.

15 (Playing State's Exhibit #65.)

16 BY MS. McMENAMIN:

17 Q. Investigator Reel, I understand the sound is a
18 little muffled, but you've reviewed this video before?

19 A. Yes, ma'am.

20 Q. Just now how many voices were you able to
21 distinguish?

22 A. Two.

23 MS. McMENAMIN: Thank you. We're going to continue
24 at one minute and five seconds.

25 (Playing State's Exhibit #65.)

1 BY MS. McMENAMIN:

2 Q. Investigator Reel, do you happen to recognize that
3 voice?

4 A. Yes, ma'am.

5 Q. How do you recognize that voice?

6 A. It's from talking to the victim.

7 Q. On the night in question?

8 A. Yes, ma'am.

9 Q. So whose voice is that?

10 A. It's the victim's voice.

11 Q. You're confident in that?

12 A. Yes, ma'am.

13 (Playing State's Exhibit #65.)

14 MS. McMENAMIN: Your Honor, I beg the Court's
15 indulgence to try a different speaker.

16 THE COURT: Absolutely.

17 MS. McMENAMIN: I think the audio is just a little
18 easier for the jury to hear. We're familiar with it.

19 THE COURT: All right. Y'all just give them just a
20 second. They're gonna change out the speaker on it. Let
21 me ask my juror, you okay hearing?

22 MADAM JUROR: I'm fine, yes.

23 THE COURT: Okay.

24 (Playing State's Exhibit #65.)

25 BY MS. McMENAMIN:

1 Q. Can you make out the words right there?

2 A. Probably not because of the volume, but I do know
3 it's a male subject.

4 Q. It's a male voice?

5 A. Yes, ma'am.

6 (Playing State's Exhibit #65.)

7 MS. McMENAMIN: We're going to skip ahead on the
8 video to four minutes and 50 seconds into the video.

9 THE COURT: Okay.

10 BY MS. McMENAMIN:

11 Q. Investigator Reel, can you tell me what the time
12 stamp on this video footage says right now?

13 A. 3:33:09.

14 Q. Investigator Reel, what do you hear right there?

15 A. Sirens.

16 Q. Now, Investigator Reel, what time did you say you
17 responded to the scene?

18 A. That I responded was at 3:31.

19 Q. What time did the call come in?

20 A. 3:30.

21 Q. And what time did you get on scene?

22 A. 3:33.

23 Q. And what time are we at here on the video?

24 A. 3:34:15.

25 Q. What time is that?

1 A. 3:34:15.

2 Q. So about a minute after you would have arrived on
3 scene?

4 A. Yes, ma'am.

5 Q. And we're hearing sirens all over the place?

6 A. Yes, ma'am.

7 Q. Investigator Reel, do you know whose vehicle this
8 is?

9 A. Yes, ma'am.

10 Q. Whose is it?

11 A. That's Sergeant Powell's.

12 Q. And at what time do you see him based on the time
13 stamp from the footage?

14 A. 3:34:55.

15 Q. Investigator Reel, could you hear anyone talking
16 just now?

17 A. Yes, ma'am.

18 Q. Do you know who that was speaking?

19 A. It was me.

20 Q. That was your voice?

21 A. Yes, ma'am.

22 Q. Do you happen to know what you were saying? I know
23 it's a little muffled.

24 A. I think, I'm pretty sure I was asking if that was
25 her house or if that was somebody's house at the time.

1 Q. Are you sure of who you were speaking with at the
2 moment?

3 A. At that moment, no, ma'am.

4 Q. But that's your voice?

5 A. Yes, ma'am.

6 Q. And that's at what time stamp on this video?

7 A. 3:35.

8 Q. Can you identify the two people in the far right of
9 this picture on the video?

10 A. Yes, ma'am. That's Sergeant Powell and PSO
11 O'Shaunessy.

12 Q. And what time stamp is on this video?

13 A. 3:35:31.

14 Q. Investigator Reel, can you point out any individuals
15 on the screen at this time?

16 A. Yes, ma'am.

17 Q. What individual do you see?

18 A. You can hardly see him because of the tree, but he's
19 over there on the left side of the street, the subject that I
20 talked to at my car when I was on the scene or first arrived
21 on scene. Excuse me.

22 Q. Do you recognize anything about his clothing that
23 allows you to identify him?

24 A. He has a white stripe on the side of his, the
25 clothing and he's wearing the white shoes.

1 Q. What time stamp is this on the video footage?

2 A. 3:35:46.

3 Q. And in what direction is that subject walking?

4 A. Towards 3rd Street away from the scene.

5 Q. What street is he turning on to, the subject, right
6 now?

7 A. He's taking a left onto 3rd Street.

8 Q. And what time stamp are we on?

9 A. 3:35:59.

10 Q. Investigator Reel, we just saw who you identified as
11 the subject you spoke with turn onto 3rd Street off of
12 Lexington Avenue.

13 A. Yes, ma'am.

14 Q. To your knowledge did that subject ever return to
15 the scene?

16 A. No, ma'am.

17 Q. Now, earlier you did state that you originally gave
18 out a description of a black male or an African American male
19 with no shirt and red shorts and black shoes.

20 A. Yes, ma'am.

21 Q. Can you explain that?

22 A. Later we did understand after pictures and looking
23 back at the watch guard from our cameras on the cars that he,
24 in fact, did have red underwear on so because his shorts were
25 falling off, that's what I was seeing. Also, I'm only five

1 one so I don't see but so much so that's what I saw and the
2 shoes, I mean, it's super dark outside, and I understand white
3 and black are different, but that's what I saw at the time. I
4 also had 12 different roles going on at the same time so...

5 Q. Can you explain what of the evidence that was
6 collected in the investigation of this case leads you to be
7 able to identify this subject in addition to what you observed
8 that night?

9 A. The clothing that we collected from the hospital
10 from the subject.

11 Q. Okay. What about any other video footage that you
12 observed?

13 A. There was video from Sergeant Powell's watch guard
14 because once we activate our lights, the cameras automatically
15 come on.

16 Q. These cameras, where are they? Are they on your
17 body or are they on the vehicle?

18 A. We have two. We have one that's on our body and
19 then we have one that's in our car and that was the one I was
20 referring to is the one that's in the car that's located over
21 basically where the rear view mirror is, it's located there.

22 Q. Is there anything else consistent between all of
23 these footages that aids you in understanding that this is the
24 subject you spoke with?

25 A. The videos from the in car cameras and also our -

1 Sergeant Powell - excuse me - Sergeant Powell's in car
2 camera.

3 Q. Are all of these videos, do any of these videos have
4 time stamps that you can compare?

5 A. Yes, ma'am.

6 Q. How are those compared when trying to identify the
7 defendant?

8 A. The time stamps are on the top of them. I'm
9 confused by your question. I'm sorry.

10 Q. No worries. I'll try to rephrase, Investigator
11 Reel. In reviewing these time stamps, did you find any
12 inconsistencies?

13 A. No. They were all around the same time frame.

14 Q. And were there any other individuals that you saw
15 when you arrived on the scene?

16 A. No, ma'am.

17 Q. War there any other individuals that you noticed out
18 in the roadway after the victim shouted he set me on fire?

19 A. No, ma'am.

20 Q. And did that aid you at all in being able to
21 confidently identify this subject as the man you spoke with?

22 A. Yes, ma'am.

23 MS. McMENAMIN: Permission to approach the witness?

24 THE COURT: Yes, ma'am.

25 BY MS. McMENAMIN:

1 Q. Investigator Reel, I'm about to show you what is
2 marked as State's Exhibit 86. Can you identify this?

3 A. Yes. That is the still shot from the in car camera
4 of Sergeant Powell's car.

5 Q. What is it a still shot of?

6 A. The subject walking away from the incident location.
7 He's on 3rd Street.

8 Q. And that's exhibit 86. Now, taking a look at
9 State's Exhibit number 21, what is that?

10 A. It's the same picture just a little further away,
11 it's less blurry.

12 Q. Okay. Another screen shot from Powell's car cam?

13 A. Yes, ma'am.

14 Q. Of the subject?

15 A. Yes, ma'am.

16 Q. Just zooming out a little bit more as compared to
17 86?

18 A. Yes, ma'am.

19 Q. And are these fair and accurate depictions of the
20 subject that you spoke to that walked away from the scene?

21 A. Yes, ma'am.

22 MS. McMENAMIN: Your Honor, the State offers exhibit
23 21 and Exhibit 86 into evidence.

24 THE COURT: What says the defense?

25 MS. MAULDIN: Your Honor, we would object to them

1 coming in through this witness since they were Officer
2 Powell's body cam, or in car cam. He testified they were
3 pictures from his car cam. But I don't think at this
4 point she's laid the proper foundation at least from this
5 witness.

6 THE COURT: Do you have Powell coming to testify?

7 MS. McMENAMIN: We do, Your Honor. We have him
8 coming to testify. However, she has testified that it is
9 a fair and accurate depiction and it's no different than
10 a photograph which doesn't require the person who
11 actually took the photo to testify to its content as long
12 as it's fair and accurate to what they observed and she's
13 given numerous reasoning for how she can confidently
14 identify this individual.

15 MS. MAULDIN: I still don't think they've laid the
16 proper foundation for it to come in through this
17 witness.

18 THE COURT: I'm gonna agree with the defense and let
19 you put them in through Powell.

20 MS. McMENAMIN: Yes, Your Honor. Thank you.

21 BY MS. McMENAMIN:

22 Q. I have just a few more questions for you,
23 Investigator Reel. You stated earlier that when you spoke to
24 the individual, the male with shorts and no shirt on, he
25 denied any knowledge of the fire; is that correct?

1 A. Yes, ma'am.

2 Q. Did he ever ask for help for himself?

3 A. No, ma'am.

4 Q. Did this individual ever ask for help for the victim
5 who came out screaming, he set me on fire?

6 A. No, ma'am.

7 Q. And to your knowledge --

8 MS. MAULDIN: Objection.

9 BY MS. McMENAMIN:

10 Q. -- did he ever return to the scene?

11 A. No, ma'am.

12 MS. McMENAMIN: Thank you. No further questions.

13 THE COURT: She objected. What's the objection.

14 MS. MAULDIN: Your Honor, may we approach?

15 THE COURT: Yes.

16 (Side bar off the record.)

17 THE COURT: All right. I'm going to send the jury
18 out just for a moment. There's something I need to take
19 up with the lawyers. We won't be long.

20 (Whereupon, the jury entered the jury room at 11:35
21 a.m.)

22 THE COURT: I need to understand the objection.

23 MS. MAULDIN: Yes, Your Honor. The basis for my
24 objection is that those are comments on his silence. He
25 has absolutely no duty to give any sort of explanation to

1 the police and the fact that they commenting on his
2 silence is infringing on his fundamental right to
3 maintain his silence. We would move for a mistrial at
4 this point.

5 MS. McMENAMIN: The point, Your Honor, was to
6 comment on his conduct going towards the malice
7 aforethought. We have to establish whether or not he
8 rendered aid to the victim. That was the point of our
9 question, Your Honor, which again is a vital part of
10 proving our case, his conduct.

11 MS. MAULDIN: Your Honor, the questions were not
12 about his conduct, they were about his words and what he
13 did or did not say.

14 THE COURT: All right. The first one is that he's
15 asked if he asked for any help for himself and the answer
16 was no, not to you.

17 MS. McMENAMIN: Your Honor, they are not questioning
18 him about a crime. I did not elicit -- Investigator Reel
19 asked him if he offered these things and he failed to
20 respond. I asked if the defendant had on his own given a
21 statement when he's already readily talking to her. For
22 that distinction it's not custodial or it's not
23 interrogation or denying anything. It's just a lack of
24 eliciting any information which goes towards malice. And
25 I'm sorry. I still had my mask on. I hope that all came

1 through loud and clear.

2 MS. MAULDIN: Your Honor, whether he's in custody or
3 not, or whether this is custodial, those aren't relevant
4 to this. They are still comments on his silence. We
5 move also that these comments be stricken as well.

6 MS. McMENAMIN: A curative instruction, Your Honor,
7 we are not opposed to that and that they be stricken from
8 the record.

9 MS. MAULDIN: And that we move for a mistrial, Your
10 Honor.

11 THE COURT: I'll tell y'all, we have got some case
12 law on this. All of this was pre-arrest, am I correct?
13 Right?

14 MS. McMENAMIN: Your Honor, at this time it's
15 completely trying to figure out if anyone is in the
16 house.

17 THE COURT: He's not even a suspect.

18 MS. McMENAMIN: He's not a suspect at all. I mean,
19 at that point in time, Your Honor, when she's speaking to
20 him there. I didn't mean that the rest of him walking
21 away, she doesn't know what's really said after that.
22 Looking at that time frame when she's just trying to
23 figure out, hey, are you in that house? Is anyone else
24 in there that I need to rush in and save at the moment
25 and him not rendering aid, Your Honor.

1 MS. MAULDIN: The question is, the purpose of it
2 coming in in the trial, not necessarily what she was
3 asking that day, but for it to come in in the trial is a
4 comment on his silence at this point.

5 MS. McMENAMIN: Your Honor, again, my stance is it's
6 not a comment on his silence. He's voluntarily speaking.
7 It's clarifying the nature of the conversation.

8 THE COURT: Let's take a recess for about five
9 minutes. I'll be right back. I want to read this case
10 law. Y'all, let's take a lunch break because it's noon.
11 We'll come back at 1:30.

12 MS. McMENAMIN: If I may, Your Honor, just to make
13 the Court aware, we have found some cases in support of
14 our argument we would like to submit to you. We're
15 working on getting copies of those cases right now.

16 THE COURT: If I could talk to the lawyers, but I'm
17 gonna let the jury go to lunch instead of holding them
18 up. I've got some case law back there too. I just
19 wanted to be able to read it. I guess do I need to bring
20 them back up here and tell them they can't talk to
21 anybody? Let's bring them back in. I'm gonna let them
22 go to lunch and come back at 1:30. Does that suit
23 everybody? And then we can talk. Does anybody have any
24 objection to me excusing the witness? You're still under
25 oath.

1 MS. McMENAMIN: No objection, Your Honor.

2 THE COURT: We'll call you back at 1:30.

3 (Whereupon, the jury entered the courtroom at 12:05
4 p.m.)

5 THE COURT: Okay. I just wanted to bring you all
6 back in. I'm gonna let you go for lunch. We're gonna
7 come back at 1:30, but I have to remind you there's no
8 talking about this case to anybody, not amongst
9 yourselves, cell phones, because I know everybody is
10 gonna grab their cell phones. Don't call and talk about
11 this case at all and I'll see you back at, if y'all can
12 be back by 1:15 in the jury room. We're gonna start
13 promptly at 1:30. There's a couple of legal matters that
14 I just need to work out with the lawyers. I didn't want
15 to make you all stay back there in that room, so y'all go
16 on to lunch and I'll see you about 1:15. We'll start at
17 1:30.

18 (Whereupon, the jury was released for lunch break at
19 12:05 p.m.)

20 THE COURT: Y'all want to come back to chambers, the
21 lawyers. I'm gonna let everybody else -- Court's in
22 recess until 1:30.

23 (Lunch break.)

24 BAILIFF: All rise. Court is back in session.

25 THE COURT: We're on the record. Everybody ready to

1 get started? Can't start without her. I want the
2 witness back on the stand. Investigator Reel, I'm gonna
3 remind you that you're still under oath.

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Okay. And, Mr. Madsen, when we
6 adjourned earlier, you had an objection to the last two
7 questions that the prosecutor asked the witness. I'm
8 going to sustain your objection and what I'm going to do
9 is instruct the jury to disregard the last two questions
10 asked of this witness and then I'll give a curative as to
11 his constitutional right to remain silent. I'm going to
12 decline to strike it from the record. I think it just
13 draws a bunch of attention to bring it back up as to the
14 last two questions. I don't think that's necessary so
15 I'll be glad to hear from you on my decision.

16 MR. MADSEN: Judge, we understand the Court's
17 ruling. Obviously we object so my understanding is while
18 you have sustained it, you're going to deny our motion
19 for the mistrial, you're going to issue a curative
20 instruction. Certainly we understand why you're doing
21 that. We still have to object to that.

22 THE COURT: Right. I understand. I didn't know if
23 we put the motion for a mistrial on the record, but it
24 certainly was the Court's understanding that that's
25 exactly what you were going to ask for.

1 MR. MADSEN: We had talked about that at side bar.

2 THE COURT: We did. And I'm going to tell you, I am
3 gonna deny the motion for mistrial and your objection is
4 duly noted for the record. Anything from the State?

5 MS. McMENAMIN: Nothing from the State, Your
6 Honor.

7 THE COURT: Okay. Well, then, let's bring the jury
8 back in and we'll go.

9 MR. MADSEN: Judge, for preservation, I think once
10 you give the curative instruction, we have to say, Judge,
11 we just renew our objection.

12 THE COURT: Absolutely.

13 MR. MADSEN: Leave it at that, that way they don't
14 have to go out, we don't have to say anymore.

15 THE COURT: Right. Right. I hate to keep sending
16 them out. I don't want to do that and I really think it
17 can be cured with this short instruction.

18 (Whereupon, the jury entered the courtroom at 1:35
19 p.m.)

20 THE COURT: Is that everybody? I hope y'all had a
21 good lunch. All right. I need to at least give y'all an
22 instruction right quick. I am instructing you to
23 disregard the previous two questions to this witness and
24 that's Investigator Reel and her answers and to not
25 consider them in any way. A defendant has a

1 constitutional right to remain silent and the assertion
2 of this right must not be considered by you in your
3 deliberations. Everybody understand?

4 MADAM FORELADY: Yes, ma'am.

5 MS. MAULDIN: Judge, we renew our objection.

6 THE COURT: And it's duly noted for the record.

7 MS. McMENAMIN: We have no further questions for
8 this witness at this time, Your Honor.

9 THE COURT: Okay. Ms. Mauldin.

10 MS. MAULDIN: All right.

11 CROSS EXAMINATION

12 BY MS. MAULDIN:

13 Q. Investigator Reel, you're aware that Ms. McDaniel
14 doesn't own this home?

15 A. I'm not aware of that. I don't know if she does or
16 not.

17 Q. And that night you got the color of the man's shorts
18 or pants wrong and the color of his shoes wrong?

19 A. Yes, ma'am.

20 Q. And it wasn't until you went back and reviewed other
21 evidence in the case that you realized what color those really
22 were?

23 A. Yes, ma'am.

24 Q. All right.

25 A. It was later after a few minutes not - excuse me -

1 not a few minutes, after about 30 to 45 minutes that we
2 actually got the full description of him. Yes, ma'am.

3 Q. After you went back and looked at some of the other
4 items of evidence too, right?

5 A. Yes, ma'am.

6 Q. Okay. And you mentioned that you helped with the
7 crime scene log?

8 A. Yes, ma'am.

9 Q. And as an officer, part of the reason that you
10 established a crime scene is to protect the area to make sure
11 that evidence is not removed or changed in any way; is that
12 right?

13 A. Yes, ma'am.

14 MS. MAULDIN: Okay. Thank you. No further
15 questions.

16 THE COURT: Redirect?

17 MS. McMENAMIN: Yes, Your Honor, briefly.

18 REDIRECT EXAMINATION

19 BY MS. McMENAMIN:

20 Q. Investigator Reel, when you initially got on scene,
21 who did you observe?

22 A. I observed a black male that was wearing - that was
23 in the roadway. At that time he was wearing no shirt, red
24 shorts and black shoes.

25 Q. Were there any other African American civilians

1 outside at that time when you initially arrived on scene?

2 A. No, ma'am.

3 Q. Were there any other individuals at all outside when
4 you initially arrived on scene?

5 A. No, ma'am.

6 Q. After you got those words from the victim you
7 testified to earlier, he set me on fire, did you see any other
8 individuals out and about in the area?

9 A. No, ma'am.

10 Q. And how long was it between your conversation with
11 this man and then hearing those words from her, about how much
12 time had passed?

13 A. Probably a minute or two, if that. Enough time to
14 start packing out and then proceed to the house.

15 Q. And there were no other officers on scene yet
16 even?

17 MS. MAULDIN: Your Honor, I would object.

18 MS. McMENAMIN: I'll rephrase.

19 MS. MAULDIN: This is going beyond the scope of
20 cross.

21 THE COURT: Okay. Rephrase it.

22 BY MS. McMENAMIN:

23 Q. Were there any other law enforcement on scene when
24 you were having this interaction?

25 A. With the --

1 Q. The subject?

2 A. No, ma'am.

3 Q. Just you and him?

4 A. Yes, ma'am.

5 MS. McMENAMIN: Nothing further, Your Honor.

6 THE COURT: Thank you. May I excuse this witness?

7 MS. McMENAMIN: Yes, Your Honor. We have no
8 objection to that.

9 THE COURT: Any objection, Ms. Mauldin?

10 MS. MAULDIN: No, Your Honor.

11 THE COURT: You're excuse, Investigator Reel. Thank
12 you.

13 MS. McMENAMIN: Your Honor, at this time the State
14 calls Corporal Eddie Powell to the stand.

15 THE COURT: Yes, ma'am.

16 Thereupon,

17 HOWARD EDWARD POWELL

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

19 THE CLERK: Please have a seat. Once you're seated,
20 state your full name spelling your last please.

21 THE WITNESS: Howard Edward Powell, P-o-w-e-l-l.

22 DIRECT EXAMINATION

23 BY MS. McMENAMIN:

24 Q. Corporal Powell, where are you currently employed?

25 A. City of Cayce Police Department.

1 Q. Cayce Police department?

2 A. Yes, ma'am.

3 Q. What is your current position there?

4 A. I'm a sergeant for the City of Cayce, shift
5 supervisor.

6 Q. How long have you been in law enforcement?

7 A. I have been in law enforcement for a little over 12
8 years.

9 Q. How long have you worked for Cayce Police
10 Department?

11 A. Three years this month.

12 Q. As a law enforcement officer do you have training?

13 A. Yes, ma'am.

14 Q. What sort of training have you had to be qualified
15 as a law enforcement officer?

16 A. I have attended the South Carolina Criminal Justice
17 Academy, supervisor courses, and other classes in traffic.

18 Q. Various training for certification?

19 A. Yes, ma'am.

20 Q. Now, corporal Powell, on August 20th, 2019 were you
21 working in your capacity as a police officer for the Cayce
22 Police Department?

23 A. Yes, ma'am.

24 Q. Did you respond to a call for a fire at [REDACTED]
25 Lexington Avenue on the morning of August 20th, 2019?

1 A. Yes, ma'am.

2 Q. Do you recall about what time that call came in?

3 A. That call was approximately 3:30. I believe it was
4 3:31.

5 Q. What time did you dispatch to that location?

6 A. I arrived on scene at 3:33.

7 Q. You arrived at 3:33?

8 A. Yes, ma'am.

9 Q. Were there any other officers on scene when you
10 arrived?

11 A. When I arrived, Officer Reel had already arrived on
12 scene, Officer O'Shaunessy and Officer Sinnott showed up after
13 or approximately the same time.

14 Q. Okay. On your way to the scene as you're
15 approaching the incident location, what are you doing?

16 A. This is in reference to a house fire so I'm
17 attempting to locate the residence, any people that are
18 outside the residence, and also my primary duty at that point
19 was to locate a fire hydrant for the fire department.

20 Q. As you were driving down the 700 block of Lexington
21 Avenue looking for the hydrant, did you observe anybody,
22 anyone in the roadway?

23 A. Yes, ma'am. I saw a black male wearing no shirt,
24 had on a pair of black and white shorts.

25 Q. And did you have any conversation with this

1 subject?

2 A. I slowed my vehicle down as I was passing and he
3 made a statement to me.

4 Q. What was that statement?

5 A. That shit's crazy.

6 Q. Do you know what that was in reference to?

7 A. In reference to the house fire because I had just
8 passed the house fire.

9 Q. So did you ask him anything before he gave this
10 statement to you?

11 A. No, ma'am.

12 Q. Was he free to leave at any time?

13 A. Yes, ma'am.

14 Q. Now, after this interaction with the individual who
15 you said was a black male with no shirt and black shorts on,
16 what did you do?

17 A. I proceeded to Lexington Avenue at 3rd Street
18 located a hydrant on that corner, turned my car onto 3rd
19 Street to clear the way for the fire department when they
20 arrived.

21 Q. Corporal Powell, I'm gonna direct you to State's
22 Exhibit 88 which is an aerial view of the 700 block of
23 Lexington Avenue. Can you tell me on this aerial view where
24 3rd Street is?

25 A. 3rd Street is the street that's going up and down on

1 that photo.

2 Q. On what side?

3 A. On the left side of the photo.

4 MS. McMENAMIN: Actually, Your Honor, could we have
5 him step down, if that's okay.

6 THE COURT: You can.

7 MS. McMENAMIN: Corporal Powell, put your mask on.

8 THE COURT: I want to make sure that the jury can
9 hear. Can everybody hear okay?

10 (The jury affirms.)

11 BY MS. McMENAMIN:

12 Q. We're gonna get a little closer. Can you now point
13 on this aerial view where the intersection of Lexington Avenue
14 and 3rd Street?

15 A. This is Lexington Avenue and 3rd Street.

16 Q. Where did you park your patrol car?

17 A. I parked it right here.

18 Q. Why did you park your patrol car here?

19 A. In case the fire engine coming this way, I wanted to
20 make sure there was plenty of room to come through. I pulled
21 my car over here to open this lane.

22 Q. The shirtless male that you spoke with, can you
23 point out on this aerial view where he was when he spoke to
24 you?

25 A. This is the incident location. We were probably

1 right in here.

2 Q. In which direction was he walking in?

3 A. Towards 3rd Street.

4 Q. Away from the incident?

5 A. Yes, ma'am.

6 Q. All right. Have a seat.

7 A. Yes, ma'am. (Witness complies.)

8 Q. Corporal Powell, as you were approaching the scene
9 in your car, did you have any cameras recording?

10 A. Yes, ma'am. My in car camera came on when I
11 initiated my emergency lights.

12 Q. Okay. And is your interaction with that individual
13 recorded on this camera?

14 A. Yes, ma'am.

15 Q. Camera footage?

16 A. Yes, ma'am.

17 Q. And to your knowledge was your car camera or dash
18 camera functioning properly at the time?

19 A. Yes, ma'am. It was.

20 Q. Did you have any issues with it that you know of?

21 A. No, ma'am.

22 Q. Did you have any issues after the fact retrieving
23 this footage and downloading it?

24 A. No, ma'am.

25 Q. And you store that footage regularly in the course

1 of the job?

2 A. The department has a server that stores it.

3 MS. McMENAMIN: Permission to approach, Your Honor?

4 THE COURT: Yes, ma'am.

5 BY MS. McMENAMIN:

6 Q. Corporal Powell, I'm now showing you what has been
7 marked as State's Exhibit 66 for identification. Do you know
8 what this is?

9 A. Yes, ma'am.

10 Q. What is that?

11 A. That is a copy of my in car camera.

12 Q. How do you know that it's a copy of your in car
13 camera?

14 A. I watched the video and my initials are right
15 there.

16 Q. And when did you initial it, before or after
17 watching the video?

18 A. After watching the video.

19 Q. And is it a fair and accurate depiction of the
20 events that you experienced on the night or the early morning
21 hours of August 20th, 2019?

22 A. Yes, ma'am.

23 Q. Has that been edited or altered in any way that
24 makes it inaccurate?

25 A. No, ma'am. Nothing makes it inaccurate.

1 MS. McMENAMIN: At this time the State offers
2 exhibit 66 into evidence, Your Honor.

3 THE COURT: Any objection?

4 MS. MAULDIN: We renew our objection to the tape and
5 to the statement based on our prior hearing.

6 THE COURT: And it's noted for the record. It's
7 moved in.

8 MS. McMENAMIN: Thank you, Your Honor. Permission
9 to publish it to the jury.

10 THE COURT: Yes, ma'am.

11 BY MS. McMENAMIN:

12 Q. Now, while we are getting this ready to play,
13 Corporal Powell, your car camera, I assume you exited your
14 vehicle at some point, correct?

15 A. Once I arrived at the intersection of 3rd and 12th
16 Street - I mean, 3rd and Lexington, yes, ma'am.

17 Q. When you exited your vehicle, would this camera have
18 remained running?

19 A. Yes, ma'am.

20 Q. Okay. Even though you weren't there at the vehicle
21 your camera continued to record?

22 A. Until I turn it off. Yes, ma'am.

23 Q. Okay. And you have reviewed this footage, right?

24 A. Yes, ma'am.

25 MS. McMENAMIN: Permission to approach, Your Honor.

1 THE COURT: Yes, ma'am.

2 BY MS. McMENAMIN:

3 Q. Corporal Powell, I'm just gonna hand you a laser
4 pointer in case you need it throughout this video.

5 (Playing States' Exhibit #66.)

6 BY MS. McMENAMIN:

7 Q. Corporal, do you identify any people in this video
8 footage?

9 A. Ma'am?

10 Q. I apologies. Corporal Powell, in this video footage
11 what time stamp are we at at the top?

12 A. 3:33.

13 Q. And do you notice any people in the roadway here?

14 A. A black male with no shirt and black and white
15 shorts on.

16 Q. Is that the same subject that you speak to
17 eventually?

18 A. Yes, ma'am.

19 Q. Corporal Powell, as you're driving past that
20 individual, can you tell us what's happening at that point?

21 A. As I said, I drive by him, I slow down when I saw
22 him, and when I slow down, that's when he turned to me and
23 made the statement of, that shit's crazy.

24 MS. MAULDIN: Your Honor, we renew our objection.

25 THE COURT: Your objection is duly noted for the

1 record.

2 BY MS. McMENAMIN:

3 Q. Now, what was it that he said?

4 A. That shit's crazy.

5 Q. And what was that in reference to or what was your
6 understanding of what that was in reference to?

7 A. The incident that was going on in front of the house
8 at [REDACTED] that was currently on fire.

9 Q. Corporal Powell, in reviewing this video do you
10 notice this subject walk past your car again at any other
11 point?

12 A. Later on in the footage after I turned onto 3rd
13 Avenue (sic), I moved back toward the [REDACTED] Lexington Avenue,
14 the subject then walks past the front of my car down 3rd
15 Street.

16 Q. So you passed this individual two separate times --

17 A. Yes, ma'am.

18 Q. -- when you're driving by?

19 A. Yes, ma'am.

20 Q. -- and when you're going toward the incident
21 location?

22 A. Yes, ma'am.

23 Q. Passed him on foot. Now, once you get to the
24 incident location, what do you learn upon arrival at the
25 incident location?

1 A. I couldn't hear you.

2 Q. What do you learn upon arrival at the incident
3 location?

4 A. When I arrive on scene, Officer Reel is currently at
5 the residence. I hear her yell something. I approach. I go
6 down there and I learned that there is a victim that had been
7 burned.

8 Q. Because when you arrived on scene, what was your
9 knowledge of what was going on at the house?

10 A. There is a residential fire.

11 Q. But now you've learned that there's a potential
12 suspect?

13 A. Yes, ma'am.

14 Q. And do you make any efforts to look for that
15 suspect?

16 A. Yes, ma'am. Yes, ma'am. When I - when I - when we
17 learned that there's a suspect and a victim was burned, at
18 that point I returned back to my patrol car and started
19 circulating the area in an attempt to locate the suspect.

20 Q. And who were you looking for?

21 A. The gentleman in that photo with no shirt and the
22 black and white shorts.

23 Q. And did you see any other individuals in the roadway
24 either time when you passed him?

25 A. I saw no one else walking up and down that roadway.

1 No, ma'am.

2 Q. No other civilians?

3 A. The only other people I saw were the people that
4 were at the scene that remained on the scene that I spoke to
5 afterwards.

6 Q. We're going to skip ahead a little on this video.
7 What are we looking at here?

8 A. You're looking down 3rd Street toward I believe
9 Holland Avenue.

10 Q. And what is the time stamp on this video?

11 A. 3:34.

12 Q. Okay. Who is that?

13 A. That's going to be the same subject who made the
14 statement to me as I was pulling up on scene.

15 Q. And again, what time stamp do we see here as he's
16 walking down what street?

17 A. He's walking down 3rd Street at Lexington Avenue and
18 it's 3:34 a.m.

19 Q. Now, do you observe anything additional about the
20 clothing that he's wearing here?

21 A. Other than the clothing being ripped and appeared to
22 be burned.

23 Q. Can you tell if he has any clothing on underneath
24 those shorts?

25 A. At the time now it appears to be just black and

1 white shorts.

2 MS. McMENAMIN: Permission to approach the witness
3 again, Your Honor.

4 THE COURT: Yes, ma'am.

5 BY MS. McMENAMIN:

6 Q. Corporal Powell, I'm now handing you what has been
7 marked as State's Exhibit 21 for identification. Can you
8 identify that?

9 A. Yes, ma'am.

10 Q. What is that?

11 A. That is a photo of my in car camera on 3rd Street.

12 Q. What does that depict?

13 A. It depicts the subject I saw walking away from the
14 scene holding up his shorts and appears to be the underwear
15 band above the shorts.

16 Q. And I'm now handing you State's Exhibit 86. Can you
17 identify that?

18 A. That is a still photo of my in car body camera with
19 the subject on 3rd Street walking toward Holland Avenue.

20 Q. And are these fair and accurate depictions of the
21 subject that you interacted with responding to the scene that
22 evening or early morning hours?

23 A. Yes, ma'am.

24 MS. McMENAMIN: At this time the State offers
25 exhibit 21 and exhibit 86 into evidence.

1 THE COURT: Any objection?

2 MS. MAULDIN: Your Honor, may I see them?

3 THE COURT: Yes.

4 MS. MAULDIN: No objection, Your Honor.

5 THE COURT: Thank you. They're admitted.

6 MS. McMENAMIN: Permission to publish.

7 THE COURT: Yes, ma'am.

8 BY MS. McMENAMIN:

9 Q. Corporal Powell, what did you say these were photos
10 of?

11 A. Those are photos of the subject walking away from
12 the scene down 3rd Street towards Holland Avenue away from the
13 incident location.

14 Q. And what did you say that you observed under his
15 shorts?

16 A. Appeared to be an underwear band.

17 Q. And can you identify the color of these shorts as
18 I'm showing them to you now?

19 A. The shorts are black and white.

20 Q. What about the underpants?

21 A. The underwear appears to be white, but I cannot tell
22 you if that's the shorts or underwear. The white appears to
23 be white underneath the shorts.

24 Q. Okay. Corporal Powell, you said you made, you
25 stated that you made efforts to look for this subject after

1 arriving on the scene and being updated?

2 A. Yes, ma'am.

3 Q. And in your efforts to look for this subject, did
4 you find him anywhere close to the scene?

5 A. No, ma'am.

6 MS. McMENAMIN: Nothing further from this witness at
7 this time.

8 THE COURT: Thank you. Ms. Mauldin.

9 MS. MAULDIN: Your Honor, no questions for this
10 witness.

11 THE COURT: Okay. May this witness be excused?

12 MS. McMENAMIN: Yes, Your Honor.

13 THE COURT: Corporal Powell, you may be excused and
14 thank you.

15 THE WITNESS: Thank you, ma'am.

16 MS. MAYES: The State calls Ardelia McDaniel.
17 Thereupon,

18 ARDELIA MCDANIEL

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

20 THE CLERK: Please have a seat. Once you're seated,
21 state your full name spelling your last please. You can
22 take your mask down.

23 THE WITNESS: Ardelia McDaniel, M-c-D-a-n-i-e-l.

24 MS. MAYES: Your Honor, if I may approach the
25 witness to adjust the microphone.

1 THE COURT: Yes. It needs to be adjusted. Thank
2 you, Ms. Mayes.

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Now, Ms. McDaniel, one more time, could you state
6 your full name for the record?

7 A. Ardelia McDaniel, M-c-D-a-n-i-e-l.

8 Q. All right. And, Ms. McDaniel, we're gonna need you
9 to stay as close to the microphone as you just were, okay?

10 A. Mm-hmm.

11 Q. I want to start by asking you a few questions about
12 yourself, Ms. McDaniel.

13 A. Yes, ma'am.

14 Q. Back in 2019 what line of work were you in prior to
15 the fire?

16 A. Home health care.

17 Q. All right. Tell us a little bit about that. What
18 type of certification or training did you have to work in home
19 health care?

20 A. I'm a certified - at that time I was a certified CNA
21 and PCA.

22 Q. Okay. And CNA stands for?

23 A. Certified nurse assistant.

24 Q. All right. And what type of hours did you normally
25 work back then?

1 A. In the morning until the afternoon before my kids
2 get out of school.

3 Q. All right. And you mentioned your kids. How many
4 children do you have, Ms. McDaniel?

5 A. Four.

6 Q. And can you tell us whether or not you also have a
7 special needs child?

8 A. I do.

9 Q. And what is his age?

10 A. 20.

11 Q. And what is his type of special need?

12 A. Autism.

13 Q. All right. Did you have a home, Ms. McDaniel, that
14 you resided in where your children would also sometimes
15 stay?

16 A. Yes, ma'am.

17 Q. And where was that home located?

18 A. ████████ Lexington Avenue.

19 Q. All right. And did your children have rooms in that
20 home?

21 A. Yes, ma'am.

22 Q. Can you tell us a little bit about their age range.
23 What's the age of your youngest child up to your oldest?

24 A. My youngest is eight. She's a girl. My next to the
25 youngest is 12. He's a boy. The next one is 17. He's a boy.

1 And my oldest one is 20. He's a boy.

2 Q. The 20 year old that you already told us about?

3 A. Yes, ma'am.

4 Q. With autism?

5 A. Yes, ma'am.

6 Q. Now, at this point in time, Ms. McDaniel, I'm gonna
7 take you back to August of 2019. Who paid the bills for your
8 home at [REDACTED] Lexington Avenue?

9 A. I did.

10 Q. And did you have a landlord?

11 A. Yes, ma'am.

12 Q. What was her name?

13 A. Millie Powell.

14 Q. All right. Who paid the rents to Ms. Powell?

15 A. I did.

16 Q. And did anyone else help you in your family, help
17 you with your child care?

18 A. What do you mean?

19 Q. Did the children ever stay anywhere else?

20 A. Oh, with my mother.

21 Q. Okay. And where does your mother reside?

22 A. Now or back then?

23 Q. Back then in 2019?

24 A. [REDACTED] Westbury Drive.

25 Q. All right. And around August 20th of 2019 the date

1 of the fire, what, if anything, was going on in the lives of
2 your children that affected your schedule that day?

3 A. My son had a episode and my mother had to take him
4 to the hospital.

5 Q. All right. And were your children registered for
6 school?

7 A. Yes, ma'am.

8 Q. And what school district were they going to be
9 attending school in?

10 A. Richland One.

11 Q. All right. And during that course in time on the
12 date of August 19th, 2019 prior to the fire, where had you
13 been that day?

14 A. At my mother house.

15 Q. And for what reason, Ms. McDaniel?

16 A. To help her prepare my children for school.

17 Q. All right. And when you say prepare them for
18 school, it's mid August, what's going on regarding school
19 preparation?

20 A. They was gonna start school that day.

21 Q. Okay. Ms. McDaniel, do you know the defendant in
22 this case Robert Rome Green?

23 A. Yes, ma'am.

24 Q. Can you tell us whether or not you had been in a
25 relationship with him in the past?

1 A. Yes, ma'am.

2 Q. Was that an off and on relationship?

3 A. It was a off and on relationship.

4 Q. And just to clarify, is he the father of any of your
5 children?

6 A. No, ma'am.

7 Q. On the day or the day of August 19th, 2019 leading
8 into the early morning hours of August 20th, 2019, was your
9 relationship with Robert Green on or off?

10 A. Off.

11 Q. You mentioned that you had been at your mother's
12 house that day in preparation for your kids getting ready for
13 school. What happened, if anything, when you returned back to
14 your residence at [REDACTED] Lexington Avenue?

15 A. When I returned, I seen the defendant and Mr. Pete
16 sitting on the porch.

17 Q. All right. We're gonna talk about that a little bit
18 more. When you say Mr. Pete, Pete, where did Pete reside or
19 live?

20 A. Next door.

21 Q. All right. So he was a neighbor?

22 A. Yes, ma'am.

23 Q. And you stated that someone was with Pete, who was
24 that person?

25 A. Robert Green.

1 Q. All right. As a result, Ms. McDaniel, what, if
2 anything, did you express to Mr. Green about whether he could
3 stay at your residence?

4 A. He couldn't stay.

5 Q. Did you express that to him?

6 A. Yes, ma'am.

7 Q. How did he react?

8 A. Angry.

9 Q. After that, Ms. McDaniel, was anyone else in your
10 residence when you went to bed?

11 A. No, ma'am.

12 Q. And where do you normally sleep inside the
13 residence?

14 A. In my bedroom.

15 Q. Do you recall that night going to bed, getting ready
16 for bed, laying your head on the pillow?

17 A. Yes, ma'am.

18 Q. That night when you went to bed and laid your head
19 on the pillow, to your knowledge was anyone else inside your
20 house?

21 A. No, ma'am.

22 Q. Did Robert Green have permission to be inside your
23 house?

24 A. No, ma'am.

25 Q. What do you recall next after you laid your head on

1 the pillow?

2 A. I woke up to the defendant pouring gasoline on me.

3 (Crying.) I woke up with him pouring gasoline on me.

4 Q. How did you know it was gasoline?

5 A. The smell.

6 Q. What did it feel like on you?

7 A. Cold.

8 Q. What happened next?

9 A. He was pouring the gasoline on me on my left side of
10 my face. I smelled it and I guess I inhaled it. I don't
11 recall and, uhm, we was struggling and he said -- My momma
12 brought me up good. Excuse me. He said, bitch, you don't
13 love me.

14 Q. All right. Let me stop you right there. You said
15 you woke up and he was pouring gasoline. How do you know who
16 it was who was pouring gasoline on you?

17 A. I looked right at him.

18 Q. Okay. And where was he in relation to your body?

19 A. I was laying in bed, he was straddling me.

20 Q. Okay. And when you say straddling you, were you
21 able to fully get away from him?

22 A. I was trying to.

23 Q. Okay. Were you ever able to break free from him?

24 A. At one point, yes.

25 Q. Tell us what happened when he straddled you?

1 A. He was, like I say, pouring the gasoline on me when
2 he was straddling me and we was, I was pushing him but I was
3 smaller then, I was pushing him off me and we somehow got in
4 the middle, at the foot of the bed, at the middle of the bed,
5 and he actually, actually he lit me.

6 Q. So we'll talk about that. You said you were
7 struggling and you were pushing him. Why were you pushing
8 him?

9 A. To get him up off of me.

10 Q. Okay. You said you were smaller than you are now?

11 A. Yes, ma'am.

12 Q. Did he weigh more than you did?

13 A. Yes, ma'am.

14 Q. Was he stronger than you were?

15 A. Yes, ma'am.

16 Q. And during the course of this struggle, you said you
17 ended up at what part of the bed?

18 A. At the foot of the bed.

19 Q. And you said he actually lit you. Where was his
20 body in relation to your body when he lit you?

21 A. Sitting on me.

22 Q. What part of his body was sitting on you? You can
23 go ahead and show us.

24 A. I was sitting on the edge of the bed. He was
25 sitting on me, on top of me.

1 Q. All right. Pull that microphone just a little bit
2 closer to you. If you can repeat that please.

3 A. I was sitting on the edge of the bed. He was
4 literally sitting on top of me.

5 Q. Okay. So he's sitting on top of you as you're at
6 the edge of the bed?

7 A. Yes, ma'am.

8 Q. Are you still attempting to get away?

9 A. Yes, ma'am.

10 Q. You said that he made a statement to you, Ms.
11 McDaniel. What statement did he make?

12 A. Bitch, you don't love me.

13 Q. When he said, bitch, you don't love me, was he still
14 on top of you?

15 A. Yes, ma'am.

16 Q. Did you know where or what type of container that
17 gasoline was in?

18 A. It was my gasoline. It was my gas can.

19 Q. What color was that gas can, Ms. McDaniel?

20 A. Red.

21 Q. You recognized it as yours?

22 A. Yes.

23 Q. And you normally kept it where?

24 A. On the side by the lawnmower.

25 Q. After he said, bitch, you don't love me, what did he

1 do?

2 A. Lit the lighter.

3 Q. What hand was he holding the lighter in?

4 A. Right. His right hand.

5 Q. All right. Now, you stated that he was on you?

6 A. Mm-hmm.

7 Q. Was he on you from the back or is he on you from the
8 front?

9 A. He was -- How do I explain this. Demonstrate. He
10 was sitting like this.

11 Q. All right. So he's facing you?

12 A. Yes, ma'am.

13 Q. And as he has that lighter in his right hand, what
14 part of your body do you first feel catch fire or ignite?

15 A. My side of my face and my hair.

16 Q. And which side of your face was that?

17 A. My left.

18 Q. So with his right hand --

19 MS. MAYES: Your Honor, if I may approach the
20 witness.

21 THE COURT: You may.

22 BY MS. MAYES:

23 Q. So with his right hand to the left side of your face
24 or the right side of your face?

25 A. I don't recall, but I think it was the left.

1 Q. The left side of your face that you're showing us
2 right now?

3 A. Yes, ma'am.

4 Q. What happened next?

5 A. I got away, walked through the house, got out of the
6 house and I went next door to ask for help.

7 Q. Okay. Were you still on fire?

8 A. Yes, ma'am.

9 Q. At any point in time, Ms. McDaniel, as you left your
10 own house and went to a neighbor's house, did Robert Green
11 ever render aid to you?

12 A. No, ma'am.

13 Q. Did he ever attempt to put your fire out?

14 A. No, ma'am.

15 Q. Did you ever see him knock on any doors for help?

16 A. No, ma'am.

17 Q. When you went to the neighbor's door for help, was
18 he by your side?

19 A. No, ma'am.

20 Q. There's a video from a neighbor's porch camera. I'm
21 going to show you what's State's 65. Have you had a chance to
22 observe this item?

23 A. Yes, ma'am.

24 Q. Does it bare your initials?

25 A. Yes, ma'am.

1 Q. Where are your initials at?

2 A. Here (indicating.)

3 Q. Ms. McDaniel, is this State's 65 a fair and accurate
4 representation of the events as you recall experiencing them
5 that night?

6 A. Say that again.

7 Q. Is this a fair and accurate representation of that
8 night?

9 A. Yes, ma'am.

10 Q. Having listened to this audio and observed this
11 video, Ms. McDaniel, do you recognize any of the subjects
12 contained on it? Do you recognize any of the people that you
13 see?

14 A. Yes, ma'am.

15 Q. And do you recognize any of the voices that you
16 hear?

17 A. Yes, ma'am.

18 Q. Can you tell us whether or not you hear your own
19 voice?

20 A. Yes, ma'am.

21 Q. Can you tell us whether or not you hear a male
22 voice?

23 A. Yes, ma'am.

24 Q. Who was the male voice that you heard?

25 A. Robert Green.

1 Q. Would you be able to identify that portion of the
2 audio if you hear it?

3 A. Yes, ma'am.

4 Q. As well as your own?

5 A. Yes, ma'am.

6 Q. Would you be able to identify any persons on the
7 video portion of this exhibit that you recognize?

8 A. Yes, ma'am.

9 MS. MAYES: Your Honor, we ask to publish State's 65
10 for purposes of identification of the party.

11 THE COURT: It's already been introduced into
12 evidence. You can publish it.

13 MS. MAULDIN: Your Honor, it's already been
14 published once.

15 THE COURT: Well, it has. It's already been moved
16 into evidence.

17 MS. MAYES: It has, Your Honor. This would be for
18 identification of voice and person.

19 THE COURT: Okay. I'll allow it. Go ahead.

20 (Playing State's Exhibit #65.)

21 BY MS. MAYES:

22 Q. Whose voice is that?

23 A. Mine.

24 Q. At this point in time, Ms. McDaniel, can you tell us
25 whether or not you are on fire?

1 A. I was.

2 Q. What is that sound that we hear?

3 A. Me knocking on the neighbor door.

4 Q. All right. Are you still on fire?

5 A. Yes, ma'am.

6 Q. You stated that you recognized a male voice on this
7 audio?

8 A. Yes, ma'am.

9 Q. Whose voice is it that you recognize?

10 A. Robert Green.

11 Q. Do you know his speech?

12 A. Yes, ma'am.

13 Q. Do you know his speech pattern?

14 A. Yes, ma'am.

15 Q. You recognize his voice when you hear it?

16 A. Yes, ma'am.

17 Q. What did you hear him say, Ms. McDaniel?

18 A. Can you play it again?

19 (Playing State's Exhibit #65.)

20 BY THE WITNESS:

21 A. Tell them the shit I did. Take me to jail.

22 BY MS. MAYES:

23 Q. Tell them the shit I did? Take me to jail?

24 A. Mm-hmm. Yes, ma'am.

25 Q. Have you had an opportunity to observe this video in

1 its entirety?

2 A. Yes, ma'am.

3 Q. There's an individual that we see walking in the
4 roadway. Ms. McDaniel, do you recognize that individual?

5 A. Yes, ma'am.

6 Q. Who is that person?

7 A. Robert Green.

8 Q. Do you recognize that person depicted there in the
9 roadway?

10 A. Yes, ma'am.

11 Q. Who is that?

12 A. Mr. Green. Robert Green.

13 Q. I'm going to show you what's pre-marked as State's
14 20 and State's 6 and ask you to take a look at these two still
15 shots. Do you recognize that person?

16 A. Yes, ma'am.

17 Q. Can you tell us whether or not that's the same
18 individual that you previously identified on this video --

19 A. Yes, ma'am.

20 Q. -- as Robert Green?

21 A. Yes, ma'am.

22 MS. MAYES: Your Honor, at this time this would be
23 State's 20 and 6 for evidence being screen shots from the
24 video of Megan Dawson's porch cam.

25 THE COURT: Any objection? 65 is already admitted

1 into evidence.

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: Okay. It's admitted.

4 BY MS. MAYES:

5 Q. Any doubt in your mind, Ms. McDaniel, as to the
6 identity of that person depicted there in the roadway?

7 A. That's Robert Green.

8 Q. Now, in addition to viewing the neighbor's porch
9 camera that you just testified to which is State's 65, there
10 is another video which is State's 66 and that's a car camera
11 video from Sergeant Powell who actually just testified in this
12 case. Have you had an opportunity to review the car camera
13 video --

14 A. Yes, ma'am.

15 Q. -- from Sergeant Powell?

16 A. Yes, ma'am.

17 Q. I'm gonna show you what is State's 66 already in
18 evidence. Do you see your initials on that item?

19 A. Yes, ma'am.

20 Q. Ms. McDaniel, after observing the car camera video
21 of Sergeant Powell, were you able to recognize any subjects on
22 that video?

23 A. Yes, ma'am.

24 Q. Who did you recognize?

25 A. Robert Green.

1 MS. MAYES: I'm gonna show you what are State's
2 Exhibits 21 and 86 I believe already in evidence, Your
3 Honor.

4 THE COURT: It is.

5 BY MS. MAYES:

6 Q. Do you recognize this subject?

7 A. Yes, ma'am.

8 Q. Who is that?

9 A. Robert Green.

10 Q. Here looking at State's 21. Any doubt in your mind
11 as to the identity of this person walking past Sergeant
12 Powell's vehicle?

13 A. That's Robert Green.

14 Q. Now, as he's walking away from the scene, Ms.
15 McDaniel, where were you?

16 A. On fire.

17 Q. I'm gonna show you what are State's 5 and State's 87
18 for identification at this time. Do you recognize who is
19 depicted in those two photographs?

20 A. Yes. Yes.

21 Q. Who is that person?

22 A. Me.

23 Q. For identification I'm gonna show you three clips
24 from a body cam. I'm gonna start with State's 67 and ask you
25 whether or not you have had an opportunity to review the body

1 cam clip --

2 A. Yes, ma'am.

3 Q. -- of Officer O'Shaunessy?

4 A. Yes, ma'am.

5 Q. Does State's Exhibit 67 bear your initials?

6 A. Yes, ma'am.

7 Q. Who is depicted in that video clip?

8 A. Me.

9 Q. State's 68, body cam clip two, does it bear your
10 initials --

11 A. Yes, ma'am.

12 Q. -- for identification? You observed this?

13 A. Yes, ma'am.

14 Q. Who is depicted in that body cam?

15 A. Me.

16 Q. State's 69 for identification, do you recognize your
17 initials?

18 A. Yes, ma'am.

19 Q. Who is depicted in this body cam footage of Officer
20 O'Shaunessy?

21 A. Me.

22 Q. And looking, Ms. McDaniel, at these two exhibits
23 which are State's 5 and State's 87 that you identified as
24 yourself, can you tell us whether or not those are fair and
25 accurate representations of the body cam footage that you

1 observed by Officer O'Shaunessy?

2 A. Yes, ma'am.

3 Q. That's how you recall it that night?

4 A. Yes, ma'am.

5 Q. That's how you recall appearing that night --

6 A. Yes, ma'am.

7 Q. -- as first responders arrived?

8 A. Yes, ma'am.

9 MS. MAYES: Your Honor, this would be State's 5 and
10 87 for evidence.

11 THE COURT: Are you moving it into evidence?

12 MS. MAYES: Yes, Your Honor.

13 THE COURT: Any objections?

14 MS. MAULDIN: Not to the stills, but we renew our
15 objection to the body camera.

16 THE COURT: I understand. All right. I'm gonna
17 have it admitted.

18 BY MS. MAYES:

19 Q. Whose home is this, Ms. McDaniel?

20 A. That were my home.

21 Q. And what was located in this area of the home?

22 A. The back porch.

23 Q. Where was your bedroom in relation to the home?

24 A. Right there where the back porch is.

25 Q. In this area?

1 A. Yes, ma'am.

2 Q. The area we see on fire?

3 A. Yes, ma'am.

4 Q. You mentioned going to someone's residence for help.

5 Do you see that place that you went for help in this

6 photograph?

7 A. The house that I'm standing in front of.

8 Q. This house here?

9 A. Yes, ma'am.

10 Q. Ms. McDaniel, when you went to bed that night, did
11 you have on clothing?

12 A. Yes, ma'am.

13 Q. What clothing do you recall having on?

14 A. A black tank stop and blank leggings.

15 Q. Do you know what happened to the black tank top?

16 A. It got burned up. It got burned up on me.

17 Q. Ms. McDaniel, did you have hair that night?

18 A. Yes, ma'am.

19 Q. When you went to bed, did you have hair?

20 A. Yes, ma'am.

21 Q. What happened to your hair in this photograph?

22 A. It were burned off.

23 Q. Ms. McDaniel, do you have hair now?

24 A. In certain spots. In certain spots. Yeah. In
25 certain spots. They say it won't come back.

1 Q. So I need to ask you a little bit about that, okay,
2 about your injuries? Can you show us the injuries to your
3 scalp?

4 A. (Witness complies.)

5 MS. MAYES: Your Honor, we would ask permission for
6 Ms. McDaniel to step down.

7 THE COURT: She may. Ms. Mayes, if you could help
8 her.

9 BY MS. MAYES:

10 Q. We'll back up six feet away from the jury and I'll
11 speak loud enough for the court reporter to hear and I may
12 have to have you repeat something for the court reporter. Ms.
13 McDaniel, can you show the jury the left side of your face?

14 A. (Witness complies.)

15 Q. Were your ears intact when you went to bed that
16 night?

17 A. Yes, ma'am.

18 Q. And the right side?

19 A. (Witness complies.)

20 Q. Can you take your jacket off?

21 A. (Witness complies.)

22 Q. Ms. McDaniel, in addition to the injuries to your
23 skin, the burn injuries that you have sustained, what other
24 part of your body have you lost the use or function of?

25 A. My right arm.

1 Q. I may need you to repeat that one more time for the
2 court reporter.

3 A. My right arm.

4 Q. Did you have mobility of your right arm prior to the
5 fire?

6 A. Yes, ma'am.

7 Q. Can you demonstrate how the mobility of your arm has
8 been affected?

9 A. I can't stretch it (indicating.)

10 Q. Okay. Do you still have pending surgeries regarding
11 your right arm?

12 A. Yes, ma'am.

13 Q. As well as your skin?

14 A. Yes, ma'am.

15 Q. Now, in addition to what you have demonstrated, can
16 you tell us whether or not your physical condition was
17 documented by photographs?

18 A. Yes, ma'am.

19 Q. I'm going to show you some photographs and ask you
20 whether or not you recognize them. State's 52, State's 56,
21 State's 53, State's 55, State's 61, State's 60, State's 59,
22 State's 57, and State's 58. Who is depicted in these
23 photographs?

24 A. Me.

25 Q. And where were they taken?

1 A. At this courtroom.

2 Q. Well, in this courthouse?

3 A. Yes. This courthouse. I'm sorry.

4 Q. And how long ago were they taken?

5 A. Two weeks.

6 Q. Two weeks ago?

7 A. Yes, ma'am.

8 Q. Ms. McDaniel, do these photographs depict the extent
9 of your injuries which are not visible due to your clothing?

10 A. Yes, ma'am.

11 MS. MAYES: Your Honor, at this time the State would
12 offer 52, all of the enumerated items as evidence, Your
13 Honor. 52.

14 THE COURT: 52, 56, 53, 55, 61, 60, 59, 57, 58. Any
15 objection from the defense?

16 MS. MAULDIN: Judge, we would object on the basis of
17 cumulative and under rule 403.

18 THE COURT: Let me talk to counsel just for a
19 second.

20 (Side bar off the record.)

21 THE COURT: All right. That objection is overruled.
22 I'm gonna allow the photos so they are admitted.

23 MS. MAYES: And that would be, Your Honor, the full
24 set that was previously enumerated for the record.

25 THE COURT: Yes, ma'am.

1 BY MS. MAYES:

2 Q. Now, Ms. McDaniel, we see you here in State's 5.
3 I'm gonna also show you State's 87. In addition to the front
4 of your body, where else did you sustain burn injuries?

5 A. On my hip all the way up, front and back, stomach,
6 breasts, right arm, left arm, my face and my head.

7 Q. Now, I'm gonna go back to 5 briefly. You mentioned
8 your breasts. That's one area of your body that we do not
9 have photographs of. Can you tell us whether or not you
10 sustained a loss of breast tissue?

11 A. I did.

12 Q. And have you been able to have breast reconstruction
13 surgery?

14 A. No, ma'am.

15 Q. What type of surgery was conducted on you?

16 A. Skin graft.

17 Q. Okay.

18 A. I'm going through laser surgery now.

19 Q. All right. That night where were you taken to for
20 treatment of your injuries?

21 A. First they took me to Richland Memorial. After
22 Richland Memorial they took me to the Augusta Burn Center.

23 Q. To the Augusta Burn Center. Ms. McDaniel, how long
24 were you at the Augusta Burn Center receiving treatment?

25 A. Over four months.

1 Q. When you say four months, do you know the date of
2 your release from the Augusta Burn Center?

3 A. December 27th, 2019.

4 Q. You arrived at the Augusta Burn Center on August
5 20th, 2019?

6 A. Yes, ma'am.

7 Q. So over four months?

8 A. Yes, ma'am.

9 Q. During the course of your treatment at the Burn
10 Center, what type of medical intervention did you have to
11 have?

12 A. I was on a ventilator. They had a tube down my
13 throat. I couldn't talk.

14 Q. And when you say you were on a ventilator, do you
15 have a scar related to that?

16 A. (Indicating) The trach. I have a scar from a trach
17 here.

18 Q. There was a tracheotomy with the ventilator?

19 A. Yes, ma'am.

20 Q. How long were you on that ventilator, Ms.
21 McDaniel?

22 A. Over two weeks until I got out of the hospital.

23 Q. From August through December?

24 A. Yes, ma'am.

25 Q. And you mentioned skin grafting. Was the skin

1 grafting - where was the skin grafting done?

2 A. On my legs.

3 Q. And what facility did that?

4 A. Augusta Burn Center.

5 Q. So the photographs that we are seeing of you are
6 after the skin grafting?

7 A. Yes, ma'am.

8 Q. Two weeks ago?

9 A. Yes, ma'am.

10 Q. State's Exhibit 52, what part of your body is
11 that?

12 A. Top of my head.

13 Q. Did you have hair in that location prior to the
14 fire?

15 A. Yes, ma'am.

16 Q. State's 56, what part of your body are we looking
17 at?

18 A. Looks like my left - look like my left ear. No.
19 Left ear. No. I don't know. That's my right ear look like.
20 Or my left.

21 Q. Now, you mentioned that you believe you know what
22 part of your body caught fire first?

23 A. Mm-hmm.

24 Q. What do you recall that to be?

25 A. My left side.

1 Q. I'm gonna hand you this. You can just press that
2 button. Looking at this photograph do you remember the part
3 of your body that you recall first catching fire?

4 A. My left side of my face.

5 Q. Do you see it in that photograph?

6 A. Yes, ma'am.

7 Q. Can you show us with that pointer?

8 A. (Witness complies.) Right up in there.

9 Q. Now, do you know what he used to start the fire?

10 A. A lighter.

11 Q. How do you know it was a lighter?

12 A. I heard it click in my ear.

13 Q. It was close enough to you to hear the click?

14 A. Yes, ma'am.

15 Q. State's 55, what part of your body is that?

16 A. My right side.

17 Q. State's 57?

18 A. My left upper arm.

19 Q. State's 59?

20 A. My upper back.

21 Q. State's 60?

22 A. My whole neck.

23 Q. State's 61?

24 A. My left side.

25 Q. And you mentioned down to your hip?

1 A. Mm-hmm.

2 Q. Are there parts of your body burned that are still
3 concealed by clothing in this photograph?

4 A. Yes, ma'am.

5 Q. How far down your legs do the burns go?

6 A. Down my legs.

7 Q. How far down your body do they go?

8 A. Right there, left side, waist.

9 Q. To your left hip area. State's 53?

10 A. Top of my chest.

11 Q. Finally I want to ask you about State's 58.

12 A. My arm.

13 Q. What type of surgery do you still have pending
14 regarding the mobility and use of your right limb?

15 A. They have to operate to get it so it can bend.

16 Q. Have you had protracted loss of your right arm?

17 A. Yes.

18 Q. And protracted loss of the use of your right arm?

19 A. Yes.

20 Q. Now, during that four months, Ms. McDaniel, that you
21 were at the Augusta Burn Center, do you recognize this
22 investigator right here seated at the State's table?

23 A. Yes, ma'am.

24 Q. Did Investigator Dougall with Cayce Department of
25 Public Safety ever come see you at the Augusta Burn Center?

1 A. Yes, ma'am.

2 Q. Do you even have a full recollection of the first
3 time he came to see you?

4 A. No, ma'am.

5 Q. What was your physical condition when he first came
6 to see you?

7 A. I don't remember what he even looked like.

8 Q. And I'm going to ask you to he repeat that because I
9 couldn't fully hear you.

10 A. The first time I don't even remember him up there.

11 Q. Okay. At that point in time what type of medical
12 device were you on?

13 A. I couldn't talk.

14 Q. Were you on ventilator?

15 A. Yes, ma'am.

16 Q. And after that, do you recall whether or not he had
17 a second visit?

18 A. Yes, ma'am.

19 Q. And what was your physical condition at that point
20 in time?

21 A. I could talk a little bit.

22 Q. All right.

23 A. I was still up under medication.

24 Q. When you say "medication", were you undergoing skin
25 grafting?

1 A. Yes, ma'am.

2 Q. Does that require them to give you pain relievers
3 for your burn injuries?

4 A. Yes, ma'am.

5 Q. And narcotics?

6 A. Yes, ma'am.

7 Q. Do you remember the full context of that interview
8 with Investigator Dougall at that point in time?

9 A. I don't remember seeing him.

10 Q. Now, during the course of your recovery and
11 following your release from the hospital, were you able to
12 have a follow up interview with Investigator Dougall here at
13 this courthouse?

14 A. I don't remember.

15 Q. Okay. I'm gonna ask you a different way. Have you
16 had a chance to see him again since you have been released
17 from the hospital?

18 A. Oh, yes, ma'am.

19 Q. Okay. And can you tell us whether or not you were
20 able to provide more details about that night after your
21 release from the hospital?

22 A. I told him what I remember.

23 Q. Okay. Do you know the full amount of your medical
24 bills, Ms. McDaniel?

25 A. \$700,000.00.

1 Q. I'm gonna show you some additional photographs and
2 ask you whether or not you recognize them. State's 15, 17,
3 and 19. Do you recognize what's depicted in those
4 photographs?

5 A. My home at [REDACTED] Lexington Avenue.

6 Q. [REDACTED] Lexington Avenue?

7 A. Yes, ma'am.

8 Q. That was your home?

9 A. Yes, ma'am.

10 MS. MAYES: Your Honor, this would be State's 15, 17
11 and 19 for evidence.

12 THE COURT: Any objections?

13 MS. MAULDIN: No, Your Honor.

14 THE COURT: They're admitted.

15 BY MS. MAYES:

16 Q. State's 15, Ms. McDaniel, looking here at this
17 photograph, do you recall where it was that when you came home
18 from your mama's house on the date of August 19th, 2019,
19 before midnight and leading into the early morning hours of
20 August 20th, 2019, do you recall about the location where you
21 first observed the defendant Robert Green and Pete?

22 A. Sitting in the swing.

23 Q. You're referring to this front porch area of the
24 home?

25 A. Yes, ma'am.

1 Q. In State's Exhibit 17, where is your bedroom
2 located, Ms. McDaniel, in relation to this photograph?

3 A. The whole back area was my bedroom.

4 Q. Are you referring to this location here?

5 A. Yes, ma'am.

6 Q. Now, what is located right here?

7 A. A lawnmower and a gas can.

8 Q. Is that what you call the side porch area?

9 A. Yes, ma'am.

10 Q. I'm gonna show you State's 19. Do you recognize
11 what's depicted in this photograph?

12 A. Yes, ma'am.

13 Q. What?

14 A. That's my porch and my bedroom and the door right
15 there leads into my bedroom.

16 Q. This door located right here in State's 19 leads
17 directly into your bedroom?

18 A. Yes, ma'am.

19 Q. The bedroom where you were sleeping?

20 A. Yes, ma'am.

21 Q. Ms. McDaniel, what, if anything, else did you
22 normally keep on this side porch area near the lawnmower?

23 A. The gas can.

24 Q. And where was the gas can normally located?

25 A. Sometime it be in the front and sometime it be on

1 the side and sometime be in the back around the lawnmower
2 somewhere.

3 Q. Okay. But here on this side porch?

4 A. Yes, ma'am.

5 Q. And what color was that gas can, Ms. McDaniel?

6 A. Red.

7 Q. When you last saw it, where was it located at your
8 residence?

9 A. On the side of the house.

10 Q. And that night during the struggle with
11 Mr. McDaniel, did you observe the color of that gas can?

12 A. Struggle with who?

13 Q. During the struggle -- I'm sorry -- with Mr. Green,
14 di you observe the color of the gas can that he had?

15 A. Yes, ma'am.

16 Q. What color was that gas can?

17 A. Red.

18 Q. After the fire, Ms. McDaniel, we know that you went,
19 you've identified the sound of knocking where you went to a
20 neighbor's residence?

21 A. Yes, ma'am.

22 Q. I'm gonna show you these two photographs, State's 23
23 and State's 24, and I'm going to show you what's pre-marked as
24 State's 76. Do you recognize that container?

25 A. Yes, ma'am.

1 Q. How do you recognize it?

2 A. That's my gas can.

3 MS. MAYES: This would be State's 76, Your Honor,
4 for evidence.

5 THE COURT: Any objection?

6 MS. MAULDIN: No, Your Honor.

7 THE COURT: It's admitted.

8 BY MS. MAYES:

9 Q. I'm gonna show you State's 22, 23, and 24. First
10 22, then 23 and 24. Do you recognize the residence in State's
11 22?

12 A. Yes, ma'am.

13 Q. Is that a fair and accurate representation of that
14 residence?

15 A. Yes, ma'am.

16 Q. Do you recognize the garden hose in that
17 photograph?

18 A. Yes, ma'am.

19 Q. Who did that garden hose belong to?

20 A. Me.

21 Q. Do you recognize any clothing items contained in
22 State's 23 and State's 24?

23 A. Yes, ma'am.

24 Q. Whose clothing items are those?

25 A. Robert Green.

1 Q. And this garden hose is located near what area of
2 your home?

3 A. In the back. If you walk out the side door, there
4 was another side door right on the left-hand side where my
5 kitchen were at where you can go out this side. It's right
6 there.

7 Q. All right. And what we are looking at now, is that
8 the front of the house or the back of the house?

9 A. The back of the house.

10 MS. MAYES: This would be State's 22, 23, and 24 for
11 evidence, Your Honor.

12 THE COURT: Any objection?

13 MS. MAULDIN: No, Your Honor.

14 THE COURT: They're admitted.

15 BY MS. MAYES:

16 Q. Looking here at State's 22 again, Ms. McDaniel, is
17 this the front of your house or the back of your house?

18 A. The back, side back.

19 Q. Then State's 23, a closer up view of what we just
20 saw, what is located next to the garden hose?

21 A. Robert Green clothes.

22 Q. What type of shirt do you recall him having on that
23 night when he came into your bedroom and started a fire?

24 A. A white tank top.

25 Q. Do you see that item in State's 24?

1 A. Yes, ma'am.

2 Q. Can you tell us whether or not this is the item that
3 you're referring to?

4 A. Yes, ma'am.

5 Q. Ms. McDaniel, did you ever go near that garden
6 hose?

7 A. No, ma'am.

8 Q. Did he ever bring you near that garden hose?

9 A. No, ma'am.

10 Q. Did he ever attempt to put the fire out on you with
11 that garden hose?

12 A. No, ma'am.

13 Q. Do you recognize the person in this courtroom, Ms.
14 McDaniel, who doused you with gasoline, put a lighter to the
15 left side of your face and clicked it?

16 A. Yes, ma'am.

17 Q. Who is that?

18 A. The defendant Robert Green.

19 Q. And where is he seated?

20 A. He's sitting right there in the white shirt and blue
21 suit.

22 MS. MAYES: Nothing further of Ms. McDaniel at this
23 time, Your Honor.

24 THE COURT: All right. Would the jury like a break
25 before we start cross? If that's sufficient with you?

1 Let's take a 15 minute break. We've kind of been going
2 at it for an hour and a half.

3 (Whereupon, the jury entered the jury room at 2:55
4 p.m.)

5 THE COURT: Okay, Ms. McDaniel, you're still under
6 oath. We'll be back in let's say at 3:15.

7 (Short break.)

8 THE COURT: All right. Everybody ready? Mr. court
9 reporter, let the record reflect that I reminded Ms.
10 McDaniel that she's under oath. She understands. Let's
11 bring in the jury.

12 (Whereupon, the jury entered the courtroom at 3:25
13 p.m.)

14 THE COURT: All right. Madam Forelady, everybody
15 ready?

16 FORELADY: Yes.

17 THE COURT: Okay. Ms. Mauldin.

18 MS. MAULDIN: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MS. MAULDIN:

21 Q. Ms. McDaniel, I'd like to go back to the beginning
22 of your testimony today. Where you lived was not in the
23 Richland One School District; is that right?

24 A. No. It wasn't.

25 Q. Okay. And then what time did you get home on the

1 19th when you saw the other folks sitting on the porch?

2 A. I don't recall.

3 Q. Was it afternoon, morning?

4 A. I don't recall.

5 Q. You talked to the police about your case a number of
6 times; is that right?

7 A. Half the time I don't remember talking to them.

8 Q. Well, let's talk about the first time you talked to
9 them and that was that night when the police came to your
10 house; is that right?

11 A. Yes.

12 Q. Okay. And then the second time was when
13 Investigator Dougall came to see you at the hospital in
14 September of 2019?

15 A. I do not remember that.

16 Q. You don't remember that one. All right. And then
17 he came out to see you on December 10th of 2019 as well,
18 right?

19 A. You said when?

20 Q. December 10th of 2019. So that would have been a
21 few weeks before you got out of the hospital?

22 A. I don't remember. I knew I only remember seeing his
23 face up there one time. I don't know what date or nothing.

24 Q. Okay. Do you remember that you told him that Robert
25 Green broke into your house?

1 A. I was sedated. I don't remember anything I could
2 tell you right now I was so sedated.

3 Q. You don't remember that. Do you remember him
4 telling you he talked to Pete Messina?

5 A. No.

6 Q. And you don't remember admitting to him then that
7 Pete and Robert and Pete's friend had been over at your house
8 that day?

9 A. Like I said in my testimony they was sitting on the
10 front porch.

11 Q. All right. So you do remember telling him about
12 that part?

13 A. I remember that day.

14 Q. Okay. And that day do you remember telling
15 Investigator Dougall that you had been living with your mother
16 before the fire?

17 A. I was not living with my mother. I was over there
18 because I have an autistic son. He was not listening. I
19 didn't have any program for him. I had to enroll him in
20 Richland One and I enroll all of my kids in Richland One.

21 Q. So you weren't living with your mother back then?

22 A. No.

23 Q. Okay. And do you remember telling him about having
24 the gas can on the side porch?

25 A. Yes.

1 Q. And do you remember telling him that Robert had to
2 go to the store and put gas in the gas can before he set the
3 fire that night?

4 A. I don't remember none of that. All I remember, I
5 felt the gas can. It was heavy.

6 Q. Do you remember telling Investigator Dougall that
7 Robert had to take the gas can to the store and fill it up
8 before he came to the house?

9 A. I don't recall none of that.

10 Q. Do you remember that he asked you what started
11 first, whether it was your clothes or your hair?

12 A. I don't remember. It was something. The officer
13 asking me so many questions, I don't recall.

14 Q. Well, do you remember telling him that you thought
15 it might have been your shirt?

16 A. No.

17 Q. You don't remember that?

18 A. I ain't never told him about no shirt.

19 Q. Okay. Do you remember him asking you about what
20 kind of clothing you had on that day?

21 A. I remember a whole bunch of cops asking me what kind
22 of clothes I had on.

23 Q. Okay. And do you remember telling him that you had
24 on cotton clothing?

25 A. It was cotton.

1 Q. Okay. And then you talked to Investigator Dougall
2 again in March of 2020 so that would have been after you got
3 out of the hospital?

4 A. March 2020. Yes, ma'am.

5 Q. And this was sounds like probably a short encounter,
6 he called you on the phone and asked you about signing some
7 releases, then came out to get you to sign the releases?

8 A. No. I went to him.

9 Q. You went to him. Okay. And then do you remember
10 talking to him again? This would have been now a fifth time
11 you ended up talking to police on March 24th of 2020; is that
12 right?

13 A. I don't recall no dates.

14 Q. Okay. That's fair enough. And this would have been
15 a few weeks after you signed the releases, if that puts it in
16 context for you. Do you remember that meeting?

17 A. No.

18 Q. Okay. You don't remember telling him that in the
19 week before the fire you were staying at your fiance's
20 apartment?

21 A. It wasn't my fiance. I was at my baby father
22 house.

23 Q. But that's different from what you said back on
24 December 10th, that you had been staying with your mom?

25 A. Yeah. My mom stay right up the street right around

1 the corner.

2 Q. But those are two different places, right?

3 A. You could walk from here to there.

4 Q. Okay. And what was your fiance's, or your child's
5 father's name?

6 A. Charles Gilmore.

7 Q. And in that same interview do you remember telling
8 Investigator Dougall that when you came home on October 19th
9 that Robert was in your home?

10 A. Say what?

11 Q. Do you remember telling him on that interview that
12 Robert was in your home?

13 A. They was sitting on the front porch.

14 Q. And on that occasion you told him that Pete and
15 Pete's friend were there with Robert too?

16 A. It was three of them sitting on the front porch.

17 Q. So Mr. Green and then Pete and Pete's friend?

18 A. My understanding was Pete's cousin. I don't know.

19 Q. Okay. Cousin, friend, but somebody with Pete?

20 A. Mm-hmm.

21 Q. Okay.

22 A. Yes, ma'am.

23 Q. And Pete is the neighbor whose house --

24 A. Yes, ma'am.

25 Q. He's the neighbor whose house you ran to after the

1 fire, correct?

2 A. Yes, ma'am.

3 Q. And so he's the man that ended up spraying you with
4 a kitchen hose and putting out the flames that were on you?

5 A. I dropped and I rolled because his father told me to
6 drop and roll, his stepfather was across the - Robert Combs.
7 I dropped on the ground and rolled.

8 Q. Where were you when you rolled?

9 A. In my front yard.

10 Q. In your yard, but then you went into Pete's house
11 too, didn't you?

12 A. I don't remember none of that.

13 Q. You don't remember going to Pete's house?

14 A. I remember knocking on their door. I don't remember
15 going in.

16 Q. You don't remember Pete spraying you with a
17 sprayer?

18 A. I don't remember going in their house, period.

19 Q. All right. Do you remember telling Investigator
20 Dougall that you had nailed your window frame shut to keep
21 Robert out?

22 A. That window frame was nailed down at one time
23 before. Yes.

24 Q. So you told Investigator Dougall that you had done
25 that?

1 A. It was nailed down before. Yes.

2 Q. And you also told him that Robert might have broken
3 a window to get in?

4 A. I don't recall that.

5 Q. You don't remember telling him that he might have
6 broken a window?

7 A. I don't recall that.

8 Q. Do you remember telling him that Robert set the fire
9 after he broke into the house and using the word immediately,
10 that he immediately set the fire after he broke in?

11 A. Say that again.

12 Q. Do you remember telling Investigator Dougall and
13 using the word immediately, that he immediately set the fire
14 after he broke in?

15 A. I don't remember. Like I said, I don't recall.

16 Q. Do you remember talking to Investigator Dougall
17 again on December 18th of 2020 this time with the
18 Solicitors?

19 A. I don't recall it but...

20 Q. You do recall it?

21 A. I don't recall it.

22 Q. You don't recall meeting with them?

23 A. No.

24 Q. So you don't remember saying this time that you had
25 been living with your mom?

1 A. I wasn't living with my mother.

2 Q. Okay.

3 A. I was over there to visit my mother and my children.
4 This is where they were gonna school from my mother's house.

5 Q. So you don't remember using the word living with?

6 A. I wasn't living with my mother.

7 Q. Okay. And this time you said you didn't remember
8 the details of what happened before the fire; is that right?

9 A. Mmm-mmm. No, ma'am.

10 Q. You didn't remember?

11 A. I was -- No. I was so in shock I don't remember
12 anything.

13 Q. Okay. And this time you said that it was possible
14 he was at your house the evening before on the porch.

15 A. Yes.

16 Q. And this is the first time that you had told the
17 police that he had been, you had woken up and he was
18 straddling you; is that right?

19 A. This is the first time? No.

20 Q. When did you tell them before that?

21 A. In one of the meetings. I don't recall, but one of
22 the meetings.

23 Q. So I'm talking now about the meeting that they had
24 in December of last year.

25 A. I don't recall that meeting.

1 Q. You don't remember the meeting at all but --

2 A. No.

3 Q. -- you know you had told him before that you woke up
4 and he was straddling you?

5 A. I told everybody he woke up - I woke up and he was
6 straddling me.

7 Q. At that time you also mentioned that you had tussled
8 over the gas can; is that right?

9 A. I tussled over what?

10 Q. That y'all were tussling over the gas can.

11 A. Yes. Because I - he threw it on me. I tried to
12 throw it back.

13 Q. I'd like to show you some photographs. Do you know
14 what these photos are?

15 A. My front porch.

16 Q. And where is that?

17 A. That's in the house.

18 Q. Okay.

19 A. It's in the house.

20 Q. Is this your front porch, on the side or can you
21 tell?

22 A. That's the front porch.

23 Q. And then is this a picture of your living room area
24 inside your house?

25 A. Yes, ma'am.

1 Q. Is that the same area?

2 A. Yes, ma'am.

3 Q. And then is this a picture of the kitchen?

4 A. Yes, ma'am.

5 MS. MAULDIN: Your Honor, I would like to introduce
6 these exhibits.

7 THE COURT: Any objection?

8 MS. MAYES: No objection from the State, Your
9 Honor.

10 THE COURT: Okay.

11 MS. MAULDIN: They are 1 through 5.

12 THE COURT: 1 through 5. Got you.

13 (Whereupon, Defendant's Exhibits #1 through #5
14 marked for identification and admitted.)

15 BY MS. MAULDIN:

16 Q. Ms. McDaniel, what's this a picture of?

17 A. The front porch.

18 Q. All right. And what's that on the railing?

19 A. It look like a liquor bottle.

20 Q. Okay. And then what's this photo?

21 A. Right there where the cup at, that's coming into my
22 home.

23 Q. Okay. And then what about this one? Is this your
24 living room?

25 A. Yes, ma'am.

1 Q. And are these beer cans around your couch and a
2 cup?

3 A. Yes, ma'am.

4 Q. Okay. And in this one the same beer cans and the
5 cup and the ashtray.

6 A. Yes, ma'am.

7 Q. And then what's this one?

8 A. My kitchen.

9 Q. Okay. And what's this on the floor?

10 A. Look like a case of beer.

11 Q. Okay.

12 A. I don't know.

13 Q. How did you get home on August 19th?

14 A. In a lift.

15 Q. I'm sorry. In a lift?

16 A. Yes.

17 Q. Okay. And you don't remember what time that was?

18 A. No.

19 Q. And then once the fire started, what door did you
20 run through to get out?

21 A. The front door.

22 Q. The front door. Do you know what door Robert ran
23 out of?

24 A. He was right behind me. He opened the front door
25 for me.

1 Q. He opened the front door for you?

2 A. Yes.

3 Q. It's true that once the fire started, that you ran
4 from the house; is that right?

5 A. Yes.

6 Q. And you didn't head into the back where the water
7 hose was?

8 A. No.

9 Q. You ran?

10 A. I ran next door.

11 Q. Ran next door. Okay. And as you were running the
12 flames were getting worse?

13 A. Yes.

14 Q. All right. Robert's grandfather had passed away
15 right before the fire; is that right?

16 A. I wouldn't know.

17 Q. Well, isn't it true that you went with Robert and
18 his family and visited his family on the 17th so just a few
19 days before the fire?

20 A. I was busy just before the fire. I wasn't there.

21 Q. You didn't go to the hospital?

22 A. No. I didn't go to nobody hospital.

23 MS. MAULDIN: Thank you, Your Honor. No further
24 questions.

25 THE COURT: Any redirect?

1 MS. MAYES: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. MAYES:

4 Q. Now, Ms. Mauldin was asking you about the nature of
5 your relationship with the defendant Robert Green on August
6 19th, 2019 leading into when you came home and found him there
7 at your porch area. Ms. McDaniel, up until that point in time
8 had you had a friendship with Mr. Green?

9 A. I'm gonna tell you, I try to be friends to
10 everyone.

11 Q. So even when you were no longer -- Let me ask you
12 this: Was your relationship with him working?

13 A. Nope.

14 Q. And was there a point in time when you attempted to
15 maintain a friendship even though you knew you couldn't be in
16 a relationship?

17 A. Yep. Yes, ma'am.

18 Q. Did he have -- Let me just ask you like this: On
19 that night when you came home and you said he and Pete and
20 Pete's cousin were on the porch, how did he react when you
21 said that he couldn't stay there?

22 A. Angry.

23 Q. Now, Ms. Mauldin was asking you about a statement
24 made to law enforcement that quote, "he broke into the house."
25 I want to ask you a little bit more about that. When you went

1 to bed, did he have permission to be there?

2 A. No. He didn't.

3 Q. Do you have any idea how he got into the house and
4 into your bedroom?

5 A. No, ma'am.

6 Q. Do you know whether it was a door or a window?

7 A. I don't know.

8 Q. So from your point of view did he break in?

9 A. He had no permission to enter my house.

10 Q. All right. Ms. Mauldin was asking you about a
11 description that you gave to law enforcement that the gas can
12 felt heavy. What did you mean by that?

13 A. When he was straddling me, he had - he was pouring
14 the gas on me and I pushed it and it felt heavy as I recall.

15 Q. Okay. And when you last had contact with that gas
16 can on your side porch, do you recall it being that heavy?

17 A. No, ma'am.

18 Q. Okay. So that's what you meant when you said that
19 the gas can felt heavy?

20 A. Yes, ma'am.

21 Q. And what did that lead you to believe, Ms.
22 McDaniel?

23 A. Somebody went and put gas in the gas can and it
24 wasn't me.

25 Q. Was it you?

1 A. It wasn't me.

2 Q. Now, you got a lot of questions about the various
3 statements made to this investigator while you were
4 hospitalized at the Burn Center. Do you recall each and every
5 time that he came to visit you?

6 A. No, ma'am.

7 Q. Do you recall the content of all of the statements
8 that you would have made or participated in?

9 A. No, ma'am.

10 Q. Since your release, have you been able to come off
11 of pain medications?

12 A. No, ma'am.

13 Q. Your testimony today, Ms. McDaniel, is your memory
14 better than it was when you were on that ventilator?

15 A. Yes, ma'am.

16 Q. One of the things that defense counsel was asking
17 you about is immediately after the fire you went somewhere for
18 help. You showed us that photograph. Who lived in that house
19 to the best of your recollection?

20 A. Steve, Pete and Michael.

21 Q. Okay. Steve, Pete and Michael?

22 A. Yes, ma'am.

23 Q. And is that the house that you recall knocking on?

24 A. Yes, ma'am.

25 Q. Do you remember whether or not you were still on

1 fire at the point you were knocking on that door?

2 A. Yes, ma'am.

3 Q. Having been on fire at that moment, do you recall
4 all of the events that were transpiring around you?

5 A. No, ma'am.

6 Q. Do you remember even making it inside that house?

7 A. No, ma'am.

8 Q. Do you even remember Pete spraying that fire out of
9 you?

10 A. No, ma'am.

11 Q. And after you came out of Pete's house, do you
12 recall whether or not any other neighbors came to assist
13 you?

14 A. No, ma'am.

15 Q. Who were some of the other neighbors that you recall
16 there in the area when you lived there at the Avenues in
17 Cayce?

18 A. Ms. Valli. She's, she was 84, Pete, Michael, Steve,
19 Matt. I don't know his...

20 Q. Okay. Did Matt live next door or across the
21 street?

22 A. Across the street.

23 Q. And then do you remember another lady who lived
24 across the street?

25 A. Pete mother.

1 Q. Pete's mother?

2 MS. MAULDIN: Your Honor, I object.

3 BY THE WITNESS:

4 A. I don't --

5 THE COURT: All right. Hold on. She's objected.

6 MS. MAULDIN: We are going beyond the scope of
7 redirect.

8 MS. MAYES: I'm just clarifying her memory, Your
9 Honor, regarding who was present, who was out there and
10 who assisted in putting out the fire.

11 MS. MAULDIN: It wasn't asked in cross, Your Honor.

12 MS. MAYES: I can rephrase it.

13 THE COURT: Rephrase it.

14 BY MS. MAYES:

15 Q. Do you remember who all was inside Pete's house when
16 you went inside?

17 A. I don't remember going in Pete's house.

18 Q. Okay. And then when you came outside, do you
19 remember talking to any of the uniformed officers?

20 A. No, ma'am.

21 Q. What we see here in State's Exhibit 5, do you
22 remember who all was out there besides you?

23 A. Pete's mother, Pete and --

24 Q. And his mother?

25 A. -- and Steve, Maria.

1 Q. Okay. And all of that is what occurred immediately
2 after the fire. Now, Ms. McDaniel, can you tell us whether or
3 not you recall the events before the fire?

4 A. All I recall is when he was straddling over me in my
5 bed and pouring gasoline on me.

6 Q. Do you recall who that person was?

7 A. Robert Green.

8 MS. MAYES: Nothing further.

9 RE CROSS EXAMINATION

10 BY MS. MAULDIN:

11 Q. Ms. McDaniel, you don't remember the statements you
12 made after you got out of the hospital either, do you?

13 A. After I got out of the hospital? No.

14 MS. MAULDIN: All right. Thank you. No further
15 questions, Your Honor.

16 THE COURT: All right. Thank you. May I excuse Ms.
17 McDaniel?

18 MS. MAYES: Yes, Your Honor. She may remain in the
19 courtroom.

20 THE COURT: Ms. McDaniel, you may step down and you
21 can stay in the courtroom.

22 MS. MAYES: The State calls Officer John
23 O'Shaunessy.

24 Thereupon,

25 JOHN GEORGE O'SHAUNESSY

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

2 THE CLERK: Please have a seat. Once you're seated,
3 state your full name spelling your last please.

4 THE WITNESS: My name is John George O'Shaunessy,
5 O-S-h-a-u-n-e-s-s-y.

6 DIRECT EXAMINATION

7 BY MS. MAYES:

8 Q. Good afternoon, Officer O'Shaunessy. Tell us a
9 little bit about yourself. Where are you employed and what
10 type of work do you do at that agency?

11 A. I work at the Cayce Department of Public Safety.
12 I'm just a patrolman. I've been there for about two years,
13 almost two years now.

14 Q. All right. And when you say patrolman, tell us a
15 little bit about your job duties and responsibilities as a
16 patrol officer within the City of Cayce?

17 A. Well, for this I'm actually so I'm just doing
18 checking property and answering calls. I'm not fire
19 certified.

20 Q. And does that include night shift
21 responsibilities?

22 A. Yes, ma'am.

23 Q. I want to take you back to the early morning hours
24 of August 20th, 2019 and ask you what you recall about that
25 night?

1 A. Okay. Uhm, at about 3:31 we received a call for a
2 1070 which is a house fire, residential fire. Even though I'm
3 not fire certified I did want to go over there and make sure
4 no one was inside the house, assist fire, EMS, anything I can
5 do. I arrived on scene at 3:34 a.m., parked my marked patrol
6 car at the intersection of Lexington and 3rd Street.

7 Q. All right. Now, there is a video that has already
8 been offered as evidence and I'm going to ask you a few
9 questions about that, that is a porch camera video from a
10 neighbor and it is State's Exhibit 65 already in evidence.
11 I'm gonna ask you whether or not you have had an opportunity
12 to review this item?

13 A. Yes, ma'am.

14 Q. And does it bear your initials?

15 A. Yes, ma'am. It does.

16 Q. On that porch camera at some point in time we see
17 two officers running from the direction of 3rd Street towards
18 the location. Do you recognize who those two officers were?

19 A. Yes, ma'am. It would be myself and Sergeant Powell,
20 Corporal Powell at the time.

21 MS. MAYES: And, Your Honor, if the witness may step
22 down.

23 THE COURT: He may. Just make sure you speak loud
24 so the jury can hear you.

25 THE WITNESS: Yes, ma'am.

1 BY MS. MAYES:

2 Q. I'm going to ask you to keep your mask up. I'm
3 actually gonna switch places with you so that the court
4 reporter can hear your voice project. Now, you're familiar
5 with this area?

6 A. Yes, ma'am.

7 Q. And on that particular night -- If you could step
8 back just a little bit.

9 A. (Witness complies.)

10 Q. If you could show us the general direction in which
11 you and Officer Powell had parked your cars?

12 A. Yes, ma'am. I came in from this side, the upper end
13 of Lexington Avenue and parked my patrol vehicle. I parked my
14 patrol vehicle here facing toward the incident location and I
15 did observe Sergeant Powell park his car on 3rd Street heading
16 out toward Holland.

17 Q. All right. And the neighbor with the porch cam, is
18 that consistent with her location, the [REDACTED] Lexington Avenue?

19 A. Yes, ma'am.

20 Q. Now, where were you headed when we see on the video
21 you and Officer Powell running?

22 A. We briefly meet up right in the intersection. We
23 heard Officer Reel call out and we began going towards the
24 fire, the house, the incident location.

25 Q. Now, where was Officer Reel's vehicle parked?

1 A. Very close to where this silver car is on the map.

2 Q. All right. Now, as you were heading towards the
3 fire, what, if anything, do you observe?

4 A. While running toward the fire I'm still under the
5 impression that it's a residential fire. I do observe a black
6 male walking away from the scene making no attempt to talk to
7 me or Corporal Powell.

8 Q. Which direction was he walking?

9 A. He was walking towards 3rd Street toward our marked
10 patrol cars.

11 Q. All right. And at that point in time what were you
12 doing?

13 A. I was going toward Officer Reel. She called out. I
14 didn't know if she was asking for help or someone was inside
15 the residence.

16 Q. All right.

17 A. But she was at the house.

18 Q. And what happened next?

19 A. Once I get there right at the base of the driveway
20 there I notice that someone was severely burned, I call for
21 EMS and turned on my body camera.

22 Q. All right. You may return to your seat.

23 A. (Witness complies.)

24 Q. Now, once you arrived there at the scene, you
25 indicated that you saw an individual who was burned?

1 A. Yes, ma'am.

2 Q. What, if anything, did you observe about her?

3 A. That she didn't have a shirt on. I first thought
4 that the shirt may have burned off, but what was burning off
5 was her skin. I noticed there was a very bad burn. I had to
6 call EMS as soon as I could.

7 Q. All right. I'm gonna show you what is State's 5 and
8 State's 87 and ask you whether or not you recognize these
9 photographs?

10 A. I do.

11 Q. And do you recognize the device in which they were
12 produced?

13 A. These are from my body camera.

14 Q. And there is a person conversing with her. Can you
15 tell us whether or not that's accurate?

16 A. Yes, ma'am.

17 Q. Who is that person conversing with her there at the
18 scene?

19 A. I believe that's Maria, the neighbor.

20 Q. And did you also converse with her?

21 A. Briefly. Yes.

22 Q. That's State's 5 and 87 already in evidence and
23 you've identified these are coming directly from your body
24 cam?

25 A. Yes, ma'am.

1 Q. What time, Officer O'Shaunessy -- Let me ask you
2 this: Does your body camera have a time stamp?

3 A. On my body camera it was 3:35 and 13 seconds on
4 scene.

5 Q. I'm gonna back up a little bit.

6 A. I'm sorry.

7 Q. Your body camera does have a time stamp?

8 A. Yes, ma'am.

9 Q. Have you been able to go back and review the body
10 camera?

11 A. Yes, ma'am.

12 Q. And also review the exact time you originally
13 activated it upon arriving at the scene?

14 A. Yes, ma'am.

15 Q. What time did you note that you originally activated
16 your body camera?

17 A. 3:35 in the morning and 13 seconds.

18 Q. Okay. So it's at 3:35 that you first cut it on?

19 A. Yes, ma'am.

20 Q. And then during the course of that interaction there
21 with the victim, can you tell us her general emotional
22 condition?

23 A. She was in severe pain, really shocked, traumatized.
24 She was attempting to cry, but I think she was so severely
25 burned that she couldn't even cry.

1 Q. Did it appear to you that she was still under the
2 active stress of that event of having been burned?

3 A. Absolutely.

4 Q. Can you tell us given her condition what, if any,
5 statements you recall her making to you as you were there in
6 the neighbor's driveway conversing with her?

7 A. Three statements really stuck out.

8 MS. MAULDIN: Objection, Your Honor.

9 THE COURT: All right. Hold on. There's an
10 objection.

11 MS. MAULDIN: Hearsay.

12 MS. MAYES: This would be the excited utterance
13 section 803(2).

14 THE COURT: That we went into at pretrial. I
15 allowed that. I'll note your objection. Continue.

16 BY MS. MAYES:

17 Q. Let me ask you this: Are the statements that you're
18 referring to being captured on your body camera?

19 A. Yes, ma'am.

20 Q. Okay. What do you recall those statements to be?

21 A. Three statements by Ms. McDaniel is, he called her a
22 bitch. Another one was, he threw gas on me. And a third one
23 was, he came and burned me up.

24 Q. All right. And were you also attempting to seek
25 medical aid or assistance for her?

1 A. Yes, ma'am.

2 Q. How so?

3 A. Before I even activated my body camera, on CAD or
4 the dispatch notes I called for EMS. On scene I was trying to
5 keep her away from everyone. I didn't want anyone to touch
6 her burns and put her in anymore pain than she was already
7 in.

8 Q. Okay. On the body camera footage, has EMS arrived
9 yet?

10 A. No, ma'am.

11 Q. And during that course in time are you physically
12 touching her to render aid?

13 A. No, ma'am.

14 Q. Why or why not?

15 A. Like I said, I didn't want to touch her and put her
16 in any more pain. I'm not certified to deal with that severe
17 of an injury.

18 Q. Okay. And during this course in time those
19 statements that you recall, have you been able to observe your
20 body cam footage to determine whether or not they were, in
21 fact, documented via video?

22 A. Yes, ma'am.

23 Q. I'm gonna show you what is clip one, State's Exhibit
24 67 and ask you whether or not you've had an opportunity to
25 review this exhibit?

1 A. Yes, ma'am.

2 Q. How do you recognize it?

3 A. My initials.

4 Q. Is it a fair and accurate depiction of that
5 conversation that you recall having with Ms. McDaniel there in
6 the neighbor's driveway?

7 A. Yes, ma'am.

8 Q. State's Exhibit 68 being body cam clip two, I'm
9 gonna ask you whether you recognize this item?

10 A. Yes, ma'am.

11 Q. How so?

12 A. My initials, J.O.

13 Q. Is it a fair and accurate reflection of the
14 conversation you recall Ms. McDaniel or the statements you
15 recall Ms. McDaniel making there in the neighbor's driveway?

16 A. Yes, ma'am.

17 Q. And State's Exhibit 69 being body cam clip three,
18 how do you recognize this item?

19 A. Again, my initials.

20 Q. Is it also a fair and accurate representation of the
21 statements that you recall her making and captured via your
22 body cam footage?

23 A. Yes, ma'am.

24 MS. MAYES: Your Honor, at this time this would be
25 State's Exhibit 67, 68, and 69 for evidence.

1 THE COURT: Okay. Defense?

2 MS. MAULDIN: Subject to our prior objection, Your
3 Honor.

4 THE COURT: Subject to the objection that you had
5 earlier, that's noted for the record. It's admitted.

6 MS. MAYES: Your Honor, at this time we request to
7 publish.

8 THE COURT: It's granted.

9 (Playing State's Exhibit.)

10 BY MS. MAYES:

11 Q. All right. I want to ask you a little bit about
12 that. She says, he put me out. And then you pose a question
13 in response to that. What question did you ask her?

14 A. I asked her does the man have a shirt.

15 Q. And can you tell us whether or not you were
16 referring to the individual that you had passed coming away
17 from the scene?

18 A. Yes, ma'am.

19 MS. MAYES: State's Exhibit 68.

20 THE COURT: Turn that down just a tad bit before you
21 start.

22 (Playing State's Exhibit #68.)

23 MS. MAYES: 68 being body cam clip two. State's 69
24 being body cam clip three.

25 (Playing State's exhibit #69.)

1 BY MS. MAYES:

2 Q. Ms. McDaniel, I want to ask you -- I'm sorry.
3 Officer O'Shaunessy, I want to ask you if you recognize the
4 persons located next to Ms. McDaniel? Do you know where these
5 individuals had come from?

6 A. I believe across the street, her neighbors.

7 Q. So you understand that these individuals depicted
8 here are neighbors?

9 A. Yes, ma'am.

10 (Playing State's Exhibit #69.)

11 BY MS. MAYES:

12 Q. Now, in the background of State's 5 taken from your
13 body cam, we see the residence on fire. Can you tell us
14 whether or not you remained on scene as firefighters fought
15 that fire?

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

17 Q. Can you tell us whether or not you remained on scene
18 as paramedics arrived to render medical assistance to
19 victim?

20 A. Yes, ma'am. I stayed on scene until EMS arrived.

21 Q. During that time had you obtained a name for the
22 suspect in this case?

23 A. Yes, ma'am.

24 Q. Who provided the name of the suspect in this case?

25 A. Ms. McDaniel.

1 Q. And with that information can you tell us whether or
2 not you put it over the radio?

3 A. I believe so. I believe I gave it to officers in
4 the area.

5 Q. And what other efforts were made to locate the
6 suspect after you were provided a name by Ms. McDaniel?

7 A. Other officers began circulating the area and I know
8 our corporal at the time called for a K9 track.

9 Q. A K9 unit came out?

10 A. Yes, ma'am.

11 Q. Other officers began to patrol the area?

12 A. Yes, ma'am.

13 Q. And to your knowledge was he located anywhere near
14 the scene that night?

15 A. No, ma'am.

16 MS. MAYES: Nothing further.

17 THE COURT: Thank you.

18 CROSS EXAMINATION

19 BY MS. MAULDIN:

20 Q. Officer O'Shaunessy, the Solicitor asked you to
21 identify some of the people who were standing in front of the
22 Spectrum truck; is that correct?

23 A. Yes, ma'am.

24 Q. And are you aware that the middle person, the man,
25 was Pete Messina?

1 A. The middle person?

2 Q. Yes. The middle person.

3 A. Is that the man with the blue shirt?

4 Q. Yes. Holding the phone.

5 A. Okay.

6 Q. Are you aware that he's Pete Messina?

7 A. Yes.

8 Q. And you're aware that he came out of the house or he
9 lives in the house that was immediately behind the van?

10 A. Behind? I'm sorry. I couldn't hear you.

11 Q. I'm sorry. Behind that Spectrum van?

12 A. Yes, ma'am.

13 MS. MAULDIN: All right. Okay. Thank you. No
14 further questions Your Honor.

15 MS. MAYES: Nothing further of Officer O'Shaunessy,
16 Your Honor.

17 THE COURT: May he be excused?

18 MS. MAYES: Yes, Your Honor.

19 THE COURT: All right. I have one matter that I
20 need to take up with the attorneys so I'm gonna let you
21 all go back to the jury room, take a short break and
22 we'll call for you hopefully in about 15 minutes.

23 (Whereupon, the jury entered the jury room at 4:15
24 p.m.)

25 MS. McMENAMIN: Your Honor, the State wants to call

1 Jasmine Rankin to the stand please.

2 THE COURT: Yes. I have Ms. Rankine. Okay.

3 Thereupon,

4 JASMINE RANKINE

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

6 THE CLERK: Please have a seat. Once you're seated,
7 state your full name spelling your last please.

8 THE WITNESS: My name is Jasmine Rankine. Last name
9 spelled R-a-n-k-i-n-e.

10 DIRECT EXAMINATION

11 BY MS. McMENAMIN:

12 Q. Ms. Rankine, can you tell us a little bit about your
13 current employment?

14 A. I'm currently a paramedic for Lexington County EMS.
15 I've worked there for a total of five years. I was an EMT for
16 two years and a paramedic for three.

17 Q. And you're currently a paramedic?

18 A. Yes, ma'am.

19 Q. What sort of training and certification have you
20 gone through for that?

21 A. So for EMT I spent eight months at Midlands Tech
22 going through the EMT course. So for my paramedic I spent 10
23 months at Lenore Community College to become a paramedic.

24 Q. Were you working on August 20th, 2019?

25 A. Yes, ma'am. I was.

1 Q. And did you respond to a call at [REDACTED] Lexington
2 Avenue at around 3:30 or so in the morning?

3 A. Yes, ma'am.

4 Q. Can you tell us what the nature of that call was?

5 A. The nature of that call was for a fire.

6 Q. And what details did you have about any potential
7 victims of that fire?

8 A. So as we were getting the notes going to the call
9 that we receive from dispatch, the notes were just saying that
10 there was a house that was possibly fully involved with one
11 person possibly trapped.

12 Q. All right. And what time did you receive that
13 call?

14 A. We received that call, we were dispatched at 3:36
15 a.m., and we went en route at 3:37 a.m.

16 Q. What time did you arrive on scene?

17 A. We arrived on scene 3:48 a.m.

18 Q. And how quickly did you meet with any people that
19 were in need of your care?

20 A. Pretty immediately. Once we got off the unit,
21 myself and mt partner walked to the back of the truck to get
22 our equipment. By the time we got our equipment which maybe
23 took a few seconds, she was already walking towards us.

24 Q. Who is "she"?

25 A. Ms. Ardelia.

1 Q. Ardelia, sorry, last name?

2 A. McDaniel.

3 Q. And so when you observed Ms. McDaniel initially,
4 what were your initial observation of Ms. McDaniel?

5 A. My initial observations of Ms. McDaniel was that she
6 had second to third degree burns from her head to her waist.
7 She was topless from the injuries that she already had so we
8 went ahead and put burn sheets on the stretcher to go ahead
9 and protect her from any sort of infection, got her inside the
10 unit and started providing care.

11 Q. Now, whenever you're treating someone in this sort
12 of condition with serious burn, is there any sort of
13 information that you might need in order to better treat that
14 patient?

15 A. Yes. It would be nice to know or helpful to know
16 any accelerants that were used. I did ask Ms. McDaniel what
17 happened and she told me he threw gasoline on me and he set me
18 on fire.

19 Q. Did she explain any further who "he" was?

20 A. I believe when I talked to her he was her boyfriend.
21 She did not say a name.

22 Q. Did she say he was her boyfriend or her
23 ex-boyfriend?

24 MR. MADSEN: Object. She answered and just because
25 she doesn't get the answer she likes, doesn't mean she

1 can reask it.

2 THE COURT: I agree. Let her look at her notes.

3 She's looking at her notes to refresh her memory.

4 BY THE WITNESS:

5 A. She just stated he was her ex-boyfriend.

6 MS. McMENAMIN: Thank you. Your Honor, that is the
7 extent of the testimony that we need to proffer in this
8 case. As she explained on her own, the statements were
9 for the purpose of medical diagnosis because it involved
10 her saying that the gasoline was thrown on her which is
11 going to be important in deciding how to treat her which
12 Ms. Rankine will most likely elaborate a little bit
13 further the difference between thermal burns versus other
14 burns. Thermal from being soaked in accelerant like
15 gasoline.

16 MR. MADSEN: Of course, we would object. I mean, if
17 you look under the rule itself and if you look at State
18 versus Simmons which is South Carolina 423, South
19 Carolina 552, which is a Supreme Court case, it
20 specifically says a doctor's testimony as to history
21 should only include those facts related to him by the
22 victim upon which he relied in reaching his medical
23 conclusions. The doctor's testimony should never be used
24 to prove a fact properly proved by other witnesses. That
25 case was reversed. That was a csc and they got into

1 identity there, and identity has absolutely nothing to do
2 with medical treatment.

3 THE COURT: I agree with the identity part all day
4 long, but I think here she is an EMS worker and I think
5 she does need to know whether gasoline has been thrown on
6 her.

7 MR. MADSEN: We don't have any problem with that.
8 That's not what she elicited in the proffer.

9 THE COURT: Well, it cannot go -- I'm sitting here
10 thinking -- I know what case you're citing. I'm also
11 looking at State versus Burroughs. I don't think, you
12 know, she can ID the victim. That's not pertinent to any
13 kind of medical diagnosis. Who did it. So how are we
14 gonna fix this?

15 MS. McMENAMIN: Your Honor, it is additionally an
16 excited utterance. The victim is clearly still under the
17 stress of being set on fire. This is not long at all
18 after the incident occurred. Ms. Rankine said they were
19 on scene with her at 3:48, seconds after that they have
20 got her in the vehicle. Something this traumatic is
21 ongoing. The testimony would be proffered that she's in
22 critical condition when she's making these statements so
23 it would also be excited utterance.

24 MR. MADSEN: Judge, we would go back to our argument
25 under Washington. This is even more removed. There's

1 questions, hey, tell me what happened. So it's not that
2 excited utterance, it is the answering of a question and
3 we don't believe that it should come in.

4 THE COURT: I understand what you're saying, Mr.
5 Madsen. I think she can say he threw gasoline on me.
6 I'm not gonna let that in about the boyfriend. I don't
7 think the ex-boyfriend has anything to do with her
8 medical diagnosis. We're not gonna identify him. I
9 think her notes said, correct me if I'm wrong, he threw
10 gasoline on me. That's what you're trying to get in.

11 MS. McMENAMIN: He set me on fire.

12 THE COURT: And he set me on fire.

13 MR. MADSEN: I think anyone could tell she was on
14 fire so I don't see how he set me on fire, I mean, that's
15 pretty evident, I mean, sadly.

16 THE COURT: Right.

17 MS. McMENAMIN: Your Honor, whether it was
18 accidental or intentional could also be highly relevant.
19 Are we dealing with someone who did this to himself or
20 someone who is a victim in that circumstance. She needs
21 to know this victim's mental state as well as she's
22 treating her and --

23 THE COURT: I understand. I'm letting those two
24 statements in. We're not gonna talk about the
25 ex-boyfriend because I think that goes a little further

1 than what I have read in the case law and goes to
2 identity, okay? I note your objection, Mr. Madsen, for
3 the record.

4 MR. MADSEN: Thank you, Your Honor.

5 MS. McMENAMIN: Of course, Your Honor, we will not
6 go into the identity of the defendant on the statement.

7 THE COURT: And I think that it's an excited
8 utterance too, but also for medical diagnosis. Under
9 both of those rules I'm going to allow it.

10 MS. McMENAMIN: Thank you.

11 MS. MAYES: Your Honor, I would just ask the witness
12 to note in her report the reference to the ex-boyfriend,
13 if you have a pen or can strike through that so we make
14 sure.

15 THE COURT: We will give you one.

16 THE WITNESS: I've got one.

17 THE COURT: All right. You understand what my
18 ruling is?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Okay.

21 MS. McMENAMIN: Thank you, Your Honor.

22 THE COURT: All right. In that case are we ready to
23 bring the jury back?

24 MS. McMENAMIN: Yes, Your Honor.

25 THE COURT: Okay. Let's bring them back.

1 (Whereupon, the jury entered the courtroom at 4:30
2 p.m.)

3 THE COURT: Madam forelady, are we ready?

4 FORELADY: We are ready.

5 THE COURT: All right. Call your next witness.

6 MS. McMENAMIN: Yes, Your Honor. The State calls
7 Jasmine Rankine to the stand.

8 Thereupon,

9 JASMINE RANKINE

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

11 THE CLERK: Please have a seat. Once you're seated,
12 state your full name spelling your last please.

13 THE WITNESS: My name is Jasmine Rankine. Last name
14 spelled R-a-n-k-i-n-e.

15 DIRECT EXAMINATION

16 BY MS. McMENAMIN:

17 Q. Ms. Rankine, could you tell the jury a little bit
18 about your current employment?

19 A. Yes. I am currently a paramedic for Lexington
20 County EMS. I have worked there for five years. I was an EMT
21 for two years and I have been a paramedic for three years.

22 Q. To become a paramedic do you have any sort of
23 special training or certification?

24 A. Yes, ma'am. I have, I went to school for 10 months
25 at Lenore Community College which included several hours of in

1 class time as well as 500 class hours of clinical time, riding
2 on an ambulance, and also working in a hospital.

3 Q. Ms. Rankine, I think you have something pretty
4 special about to happen in your life any day now. Is that
5 something you would want to share with the jury?

6 A. I'm having a little boy next week.

7 Q. Any day now, right?

8 A. Any day now.

9 THE COURT: Not today. Not today.

10 THE WITNESS: Not today.

11 BY MS. McMENAMIN:

12 Q. Thank you, Ms. Rankine. Now, I want to kind of get
13 directly to it. On August 20th, 2019 were you working in your
14 position as a paramedic?

15 A. Yes, ma'am.

16 Q. Do you recall responding to the location of [REDACTED]
17 Lexington Avenue in Cayce?

18 A. Yes, ma'am.

19 Q. Do you recall about what time you responded to that
20 location?

21 A. It was about 3:36 a.m. that we were dispatched to
22 the call.

23 Q. Okay. And what was the nature of the call?

24 A. The nature of the call was for burns.

25 Q. Do you have any more information for that as you

1 were responding to the call?

2 A. Yes, ma'am. So on the way to our calls we receive
3 notes that are updated by whoever is calling so we got notes
4 that there was possibly a house that was fully involved with a
5 person possibly entrapped.

6 Q. You said you got that call at 3:36?

7 A. Yes, ma'am. We were dispatched at 3:36 a.m. We
8 went en route at 3:37 a.m.

9 Q. What time did you arrive at Lexington Avenue?

10 A. We arrived at Lexington Avenue at 3:48 a.m.

11 Q. Upon arriving on scene, what was your initial
12 observation?

13 A. So there was several other responders on scene
14 assisting, the fire department and law enforcement. My
15 supervisor had just arrived on scene prior to us so there were
16 several people moving around. Once we got out, we being my
17 partner and I, we went to the back of the unit to retrieve our
18 equipment and that took maybe a few seconds. Once we walked
19 around the truck, the patient was already walking toward us so
20 we met her with a stretcher.

21 Q. And just to go back, you said your partner. Who was
22 that?

23 A. My partner that day was Samantha Emenheiser.

24 Q. And is she a paramedic as well?

25 A. She's an EMT.

1 Q. All right. And how many of you responded as far as
2 EMS?

3 A. EMS a total of three personnel.

4 Q. The two of you in the car and your supervisor
5 already on scene?

6 A. Yes, ma'am.

7 Q. Now, you said you made initial contact with the
8 patient. Who was that?

9 A. That was Ms. Ardelia McDaniel.

10 Q. And how quickly did you make contact with her?

11 A. When arriving on scene, less than two minutes we
12 made contact with her.

13 Q. And what were your initial observations of her?
14 What was her condition?

15 A. My initial observations of my patient was that she
16 was burned from her head to her waistline with second and
17 third degree burns.

18 Q. Can you describe anything else about her? Was she
19 alert, oriented?

20 A. She was alert, oriented. She was very upset given
21 the circumstances. She had a little bit of anxiety just
22 because she was very emotional, crying on scene as well so we
23 did our best to just try to calm her down in the situation she
24 was in and go ahead and initiate treatment.

25 Q. And did you expect her to be alert, oriented?

1 A. In my experience as a paramedic and as a EMT I did
2 not expect her to be alert and oriented. With the amount of
3 burn that she had on her body and the type of burn that she
4 had on her body, I have not seen anyone walking and talking
5 with those types of burns.

6 Q. So how would you describe her condition? Is there a
7 medical term or language that you would use to describe it?

8 A. A critical patient. She had life-threatening
9 injuries.

10 Q. You said she was very upset and crying. In order to
11 treat her did she make any statements to you that aided you in
12 providing medical care and treatment to her and if so, what
13 were those limited statements?

14 MR. MADSEN: Judge, objection.

15 THE COURT: It is noted for the record.

16 BY MS. McMENAMIN:

17 Q. What were those limited statements, Ms. Rankine?

18 A. My patient stated, he set me on fire. He threw
19 gasoline on me and set me on fire. So knowing that she had
20 the gasoline on her, it was an accelerant, knowing that that
21 could speed up the extent of her injuries, knowing that there
22 could also be chemical burns in addition to the thermal burns
23 that was helpful as far as treatment.

24 Q. And what sort of burns did you observe on her?

25 A. I observed second and third degree burns on the

1 patient. So first degree burns are typically pretty mild.
2 Your skin is red, no blisters, it just hurts, it's painful.
3 Second degree burns your skin is red, blistering, definitely
4 going to be painful. Third degree, there could be charring,
5 the skin could be waxy and white. That's going to be a deeper
6 layer of skin that's going to be affected and also going to be
7 very life threatening with the injuries that it could
8 potentially cause.

9 Q. And when you were giving your initial description of
10 the victim, it sounded like you were able to readily see all
11 of these burns that you sort of describe as all over her body,
12 but how it is you were able to readily see them?

13 A. I could see the blisters on her chest. I could see
14 the charring on her chest as well. You could see her arms and
15 her chest were also white and waxy. Certain parts of her body
16 had different types of burns just because with the accelerant
17 and the fire you don't know which parts were on fire longer,
18 different things of that nature. But she had multiple second
19 to third degree burns from her head to her waistline that I
20 could see.

21 Q. Did she have any clothing or coverings on her
22 whenever she made her way to you?

23 A. She did have on a set of exercise pants. Whenever
24 we have a burn patient, we try to make sure that we remove
25 their clothing and jewelry just because swelling can be

1 dangerous. You don't want anything to swell on your body such
2 as a ring or necklace or clothing so you try to take that off.
3 My patients clothing as far as her pants were seared to her
4 body so I could not take them off.

5 Q. Any part of her pants in particular?

6 A. The waistline.

7 Q. You described her as a critical patient. What type
8 of complications are at play when you have someone who is so
9 severely burned? Can you go into that?

10 A. Yes, ma'am. When you have second and third degree
11 burns, the first line of defense of your body, your skin, is
12 compromised. Your skin covers your muscles, your arteries,
13 your veins, all of your tissues that hydrate you and circulate
14 the blood so with the patient having second and third degree
15 burns that also involves a second layer of skin and a third
16 layer of skin so she could become easily dehydrated. She
17 could also start to have what is called edema or swelling that
18 can inhibit the normal flow of blood or hydration for her
19 body. So these patients are going to be severely dehydrated.
20 You're gonna need to try to find some sort of IV access to go
21 ahead and get them what we call fluid resuscitation or just
22 replacing that fluid that she's already lost. So that's one.

23 Also, with the swelling, the swelling can be
24 internal. Just because your patient is no longer on fire, the
25 burning is still occurring so it's still going to lower layers

1 that you cannot stop. That also has her lungs, her heart, all
2 of her vital organs considering that she was burned from her
3 head to her waistline. So all of her vital organs in that
4 area are compromised from swelling, trauma, especially her
5 airway. Breathing in hot air can cause blistering and
6 irritation to your airway and your trachea causing your
7 trachea to close up.

8 So referring back to when you asked me about, you
9 know, being surprised that she was walking and talking, I was
10 surprised that she was walking and talking and breathing
11 considering the burns that she had.

12 Q. Now, what type of measures did you take to provide
13 care to this patient?

14 A. So the first treatment that we provided was the burn
15 sheet just to try and minimize infection. A big risk for a
16 burn patient is going to be infection just because like I said
17 before, that first line of defense, your skin, is not there to
18 protect you, so we provided her with burn sheets and covered
19 her up as best we could so that we could minimize the amount
20 of infection that she could potentially be exposed to.

21 Secondly, we provided her with what we call blow by
22 oxygen, so I gave her a mask that has a bag attached to it.
23 Usually it's strapped around the back of your head. I let her
24 hold it because I did not want to put it on her face since she
25 did have second and third degree burns on her face and I did

1 not want to irritate those burns so that way she was receiving
2 supplemental oxygen as well. We also started a line in her
3 hand to go ahead and start fluid resuscitation.

4 Q. If you don't mind, let me interrupt you right there.
5 Putting a line in her hand, could you tell the jury what that
6 means.

7 A. Yes, ma'am. So it's an IV. I started an IV in her
8 hand just so that we had intravenous access and were able to
9 give her fluids which would have been normal saline and it's
10 just fluids that help resuscitate the body or it just helps
11 replenish those fluids that she lost to help rehydrate her.
12 We also gave her pain medicine to help manage her pain as
13 well.

14 Q. Was there anything significant to note about
15 providing the fluids to this patient? Was there anything
16 surprising or complicated in regards to this?

17 A. Yes. With the extent of the patient's burns, the
18 swelling was a big deal as far as finding IV access for her.
19 We were only able to find a small vein in her hand so even
20 though we were able to provide her with fluids, she needed to
21 receive more than what she was getting, but just because of
22 the extent of her burns I could not find another way to give
23 her more of what she needed.

24 Q. Thank you, Ms. Rankine. Now, you said the victim,
25 she had second and third degree burns. Were you able to

1 calculate how much of her body was covered in second and third
2 degree burns?

3 A. Yes, ma'am. So we use a rough estimate called a
4 rule of nines to calculate the burns on a patient's body. So
5 with the way that we calculate it, the arms front and back are
6 worth nine percent a piece, the head is worth nine percent,
7 and the front of the body is worth 18, the torso from the
8 waist up is 18, and then the back of the torso is worth 18. I
9 estimated that she was about 63 percent worth of body surface
10 area was burned for her based off of the rule of nines is what
11 we use.

12 Q. And that's standard in the medical field?

13 A. Yes.

14 MS. McMENAMIN: Permission to approach.

15 THE COURT: You may.

16 BY MS. McMENAMIN:

17 Q. Ms. Rankine, I'm now handing you what has been
18 marked as State's Exhibit 7 for identification. What is
19 this?

20 A. This is a diagram of the rule of nines that we have
21 in our protocol book, in our standing orders.

22 Q. Is this fair and accurate?

23 A. Yes, ma'am.

24 Q. This is what you work off of?

25 A. Yes, ma'am.

1 Q. It's standard in the medical field?

2 A. It's standard.

3 MS. McMENAMIN: Your Honor, at this time the State
4 offers exhibit 7 into evidence.

5 THE COURT: Any objection?

6 MR. MADSEN: No objection.

7 THE COURT: It's admitted.

8 MS. McMENAMIN: Permission to publish to the jury,
9 Your Honor.

10 THE COURT: Yes, ma'am.

11 BY MS. McMENAMIN:

12 Q. So, Ms. Rankine, this is the rule of nines chart
13 that you were talking about?

14 A. Yes, ma'am.

15 Q. Exhibit 7. Can you point out where she had injuries
16 on her body?

17 A. She had second to third degree burns on her head,
18 her neck, the front of her body, also on her back and both
19 arms circumferential which just means that it was all the way
20 around the extremity.

21 Q. And that totaled how much of her body?

22 A. 63 percent.

23 Q. So over half of her body was burned?

24 A. Yes, ma'am.

25 MS. McMENAMIN: Permission to approach.

1 THE COURT: Granted.

2 BY MS. McMENAMIN:

3 Q. Ms. Rankine, I'm showing you what's already in
4 evidence as State's Exhibit 5. Do you recognize the person in
5 this photo?

6 A. Yes, ma'am.

7 Q. Who is this?

8 A. The patient Ms. Ardelia McDaniel.

9 Q. And is this a picture of the front of her body?

10 A. Yes, ma'am.

11 Q. Now, in State's Exhibit 87 which is also already in
12 evidence, do you recognize any of the individuals in the
13 photo?

14 A. I recognize the patient Ms. Ardelia McDaniel.

15 Q. This is a photo of her back?

16 A. Yes, ma'am.

17 Q. Ms. Rankine, can you use that laser pointer and
18 point out in this photograph any area which you see third
19 degree burns which I believe you said are more serious than
20 second?

21 A. Yes, ma'am. So the charring and the white and waxy
22 on her back, you can see the white and waxy here and you can
23 also see the charring here.

24 Q. So the white and waxy areas are what you described
25 as third degree burns?

1 A. The charring and the white and waxy.

2 Q. Both?

3 A. Yes.

4 Q. Now, that's on the back of the victim's body. And
5 that's just what you can clearly see from this photo,
6 correct?

7 A. Yes, ma'am.

8 Q. Now, in this photo the front of her body State's
9 Exhibit 5, can you point out any third degree burns?

10 A. You can see the charring on her chest and the front
11 of her arms. You can also see the white and waxy on her chest
12 as well, both arms as well.

13 Q. Do you happen to notice any areas where her skin is
14 sort of peeling away that you can identify for us?

15 A. Both arms. You can see that even though it's white
16 and waxy, those areas are skin peeling back as well.

17 Q. And so those are areas that are extremely exposed to
18 the elements and infection?

19 A. Yes, ma'am.

20 Q. So when you got to the location with Ms. McDaniel
21 and got her into your emergency vehicle, where did you take
22 her?

23 A. We took her to Richland. Our initial plans prior to
24 arriving on the scene were to fly her or any potential patient
25 that was on scene because we did not know what we had, to the

1 Burn Center in Augusta. So prior to going to a call, we do
2 rely on the dispatch notes to tell us what we potentially have
3 and knowing that there was a person possibly entrapped in a
4 fully involved building, we knew that their burns were
5 probably gonna be critical enough to bypass Richland and go
6 straight to the Burn Center in Augusta. However, that night
7 when we did call for a helicopter to retrieve our patient, due
8 to the weather, I believe it was raining, they declined so we
9 settled for Richland because they are a level one trauma
10 center in this area.

11 Q. Okay. And did you bypass any other hospital in
12 order to get her to a trauma center?

13 A. We did bypass Baptist Medical Center.

14 Q. Why? Why would you bypass another hospital? Why
15 not get her to the first place available?

16 A. Because her injuries were serious enough that she
17 needed to be where the specialists and the other physicians,
18 the trauma physicians were going to be there to treat her.
19 Baptist does not have the capability or the physicians there
20 with the level of training that she would have needed to even
21 stabilize her condition.

22 Q. And you mentioned earlier that you didn't expect her
23 to be breathing, but that she was. Did that change at any
24 point on the way to the trauma unit?

25 A. Once we were arriving in the trauma bay in Richland,

1 my patient did start complaining of respiratory distress. She
2 was still able to speak in full sentences, however you could
3 tell that it was becoming more difficult, her breathing rate,
4 we call it tachypnea, it started to become elevated because it
5 was taking her more effort to get in those breaths. She was
6 still receiving the blow by oxygen but she was complaining of
7 shortness of breath upon our arrival to Richland.

8 Q. Did you have any concerns about that shortness of
9 breath having to provide her with care?

10 A. Yes. If we were not as close to Richland as we were
11 the patient would have most likely had to been intubated which
12 is where you place a breathing tube in their trachea to
13 provide oxygen for them. You would have to provide
14 ventilation via bag valve mask so it's typically a mask that
15 you see. Some are just assisting ventilation with a bag and
16 squeezing it.

17 MS. McMENAMIN: Nothing further from the State at
18 this time.

19 THE COURT: Okay. Thank you. Defense. Mr.
20 Madsen.

21 CROSS EXAMINATION

22 BY MR. MADSEN:

23 Q. So, Ms. Rankine, the information that you got coming
24 in was that there might be someone entrapped in the dwelling,
25 correct?

1 A. Yes, sir.

2 Q. But you get out there and she walks right up,
3 there's no one entrapped, correct?

4 A. No, sir. She was outside of the home.

5 MR. MADSEN: That's all the questions I have.

6 THE COURT: Does the State have any redirect?

7 MS. McMENAMIN: No, Your Honor, we have nothing
8 further to ask this witness. Thank you.

9 THE COURT: May I excuse the witness?

10 MS. McMENAMIN: Yes. Absolutely, Your Honor.

11 THE COURT: Good luck on having that baby. You may
12 be excused. You can have that baby in about ten minutes.
13 Seriously, good luck to you.

14 THE WITNESS: Thank you. I appreciate it.

15 THE COURT: Thank you. All right. We're gonna call
16 it a day. So let me talk to the jury just for a minute.
17 Lecture time. No talking about this case. I know y'all
18 have seen a lot today, heard a lot today. Do not discuss
19 it with your girlfriend, your wife, your husband, your
20 neighbor, nobody. Whatever you heard today, don't get on
21 your cell phone and try to look it up on the Internet or
22 on your computer. None of that. It is not allowed.
23 Everybody understand?

24 (Jury affirms.)

25 THE COURT: Well, then, I hope y'all have a good

1 evening. Anything else from the State before I let the
2 jury go?

3 MS. MAYES: Nothing from the State, Your Honor.

4 THE COURT: From the defense?

5 MS. MAULDIN: No, Your Honor.

6 THE COURT: What time do y'all want to start in the
7 morning? What's our day looking like?

8 MS. MAYES: Your Honor, we have several witnesses
9 arriving around between 9:00 or 9:30.

10 THE COURT: 9:30. We will be on time so everybody
11 here by 9:15. Maybe we can get it done. So y'all have a
12 good evening. Y'all are excused.

13 (Whereupon, the jury was released for the evening at
14 4:50 p.m.)

15 THE COURT: Now that the jury is gone, anything that
16 we need to take up?

17 MS. MAYES: Not at this time, Your Honor.

18 MS. MAULDIN: No, Your Honor.

19 THE COURT: All right. You think the State, not
20 that I'm rushing anybody by no means, that the State
21 might finish tomorrow? We're gonna go onto Thursday you
22 think?

23 MS. MAYES: I really think that our case will carry
24 into Thursday morning. There's a possibility that it
25 won't but it could.

1 THE COURT: Okay. Well, I'm just trying to give
2 y'all, because, I mean, they've got witnesses too. I
3 don't know when y'all would want to tell them to come so
4 if you kind of feel sure that although tomorrow that
5 gives you an idea not to call anybody.

6 MR. MADSEN: We still need help finding Mr. Messina.
7 I talked to the Solicitor. His mother is going to be
8 here tomorrow. She thinks he's somewhere in Hopkins.
9 He's a critical witness for us that Your Honor can now
10 see from the testimony that you've heard.

11 THE COURT: Okay. Has anyone talked to her?

12 MS. MAYES: Your Honor, our investigator did reach
13 out to her yesterday. The bottom line is she said he's
14 in Hopkins and I think at this point it may be best to
15 have the Court inquire when she appears tomorrow instead
16 of the State trying to elicit it because she's indicated
17 to us that he does not wish to speak to defense counsel.
18 That doesn't mean they can't serve him. They can serve
19 him.

20 THE COURT: I understand that.

21 MS. MAYES: But we need an address so we believe
22 it's best to leave this maybe for the Court's inquiry
23 when she appears tomorrow morning.

24 THE COURT: Mr. Madsen and Ms. Mauldin, I can
25 certainly do that.

1 MS. MAULDIN: Thank you.

2 THE COURT: Maybe she'll tell us where he is.

3 MR. MADSEN: He talked to everybody.

4 THE COURT: But y'all.

5 MR. MADSEN: He talked to us, but then when we go to
6 serve a subpoena, all of a sudden for some reason...

7 MS. MAYES: Just to clarify, he has not talked to
8 the Solicitor Office. We have not had contact.

9 THE COURT: And he's not on your witness list to
10 call.

11 MR. MADSEN: Law enforcement talked to him.

12 MS. MAYES: He's not -- Right. He did talk to the
13 police initially, but that's because he was still living
14 within that area of Cayce. I don't believe that's - from
15 what the mother said yesterday that's where he's
16 currently living, but we do need to call him. Perhaps
17 the Court's inquiry can get further information where he
18 can be served.

19 THE COURT: Okay. Well, I'll talk to her tomorrow.
20 I don't know what else to do about this. See if that
21 helps. All right. Then I can't think of any matters we
22 need to take up before court.

23 MS. MAYES: Your Honor, we have another video that
24 is going to be a traffic cam, going to be traffic cam
25 footage from an intersection about several blocks away

1 from the scene and we are prepared to offer the custodian
2 of records for that. He is Mr. Carey Shealy. He
3 oversees that security footage in various places,
4 different traffic camera locations throughout Cayce, but
5 if there's a stipulation, we won't call him, he's just to
6 authenticate, but I just wanted to put that on the
7 record. We are prepared to call him unless there's a
8 stipulation.

9 THE COURT: Everybody agreeing?

10 MR. MADSEN: Sure. I mean, you can recognize him on
11 that as much as some of the other ones that you can't
12 see.

13 MS. MAYES: We will be offering that tomorrow then
14 without the testimony of the custodian.

15 THE COURT: I'm not gonna plan on having some in
16 camera hearing tomorrow if the defense is agreeing. That
17 sound good. Okay. Well, then, I'll see y'all about
18 9:15.

19 MS. MAYES: Thank you, Your Honor.

20 THE COURT: Thank you all.

21 (Whereupon, court was adjourned for the day at 5:00
22 p.m.)

23

24

25

1 April 7, 2021

2 BAILIFF: All rise. Court is now in session. The
3 Honorable Debra McCaslin presiding.

4 THE COURT: Good morning. Please be seated. We're
5 on the record.

6 MS. MAULDIN: Your Honor, we still have the matter
7 to deal with, Pete Messina. He's the witness that Mr.
8 Madsen and I have been trying to serve before and have
9 been unable to serve him. I believe that his mother is
10 here in the courtroom, if Your Honor can talk to her.

11 THE COURT: All right. Let me talk to Ms.
12 Messina.

13 MS. MAYES: Maria Combs, Your Honor.

14 THE COURT: Maria Combs. Ms. Combs, come up here,
15 if you would, and I'm gonna get the clerk to swear you
16 in.

17 Thereupon,

18 MARIA COMBS

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

20 EXAMINATION

21 BY THE COURT:

22 Q. Ms. Clark, is Mr. Messina your son?

23 A. Yes, ma'am.

24 Q. Do you know where he's living?

25 A. I don't know the address. He's staying with

1 friends.

2 Q. Do you have a phone number for him?

3 A. Yes, ma'am.

4 Q. Then I need that phone number. He's been put under
5 a subpoena. I'm not going to let him dodge it. Let me have
6 the phone number.

7 A. I have my phone in the other room.

8 THE COURT: I'll let you go get it and come back.
9 Somebody go with her. I would assume, Ms. Mauldin and
10 Mr. Madsen, if she's got a phone number, let me find out
11 if he's got his own phone bill. If I need to sign a
12 subpoena or something to get an address or something that
13 y'all can get somebody out there, we'll do that
14 immediately.

15 MS. MAYES: I would think a place of work would be a
16 good starting point. He's an adult, Your Honor. I
17 believe he's in his late 30's or maybe even 40, if he's
18 working anywhere.

19 THE COURT: I'm going to ask her. Let's get the
20 phone number first.

21 MR. MADSEN: And I think what we can do, if we get a
22 phone number, we can give it to our investigator. We can
23 reach out and if we have any problems --

24 THE COURT: Then just let me know and I'll do
25 anything in my power to help you get him.

1 MS. MAULDIN: Thank you, Your Honor.

2 THE COURT: You're welcome.

3 BY THE WITNESS:

4 A. Judge, you want the number?

5 THE COURT: I want Ms. Clark to come back up here.

6 I'm not finished with her yet.

7 BY THE COURT:

8 Q. Ms. Clark, do you have his phone number?

9 A. Yes, ma'am.

10 Q. Then I'm gonna ask you to hand it to Ms. Mauldin.

11 Also, let me ask you, where does your son work?

12 A. He's unemployed right now.

13 Q. Unemployed. Where did he work?

14 A. He was working for a pest control company. He's
15 almost 40 years old. I don't follow --

16 Q. I got you. All right. I got you. There's a time
17 when they're grown and you're not responsible, but when I've
18 got a party trying to find him and there's a subpoena
19 involved, I'm serious about it. And any other information
20 that you can give me to help them find him?

21 A. No. He said that he had already given his statement
22 and that's why when I talked to him about it he was like he's
23 not happy about it.

24 Q. Well, I'm sure he's not, but that's just not the way
25 the law works, you know. Does he have a girlfriend's address

1 or anything that he stays at?

2 A. No. He's just staying with some friends right now.
3 He's unemployed.

4 Q. Do you know what friends he's staying with?

5 A. I think the guy's name is Jason. I know, you know,
6 he lives out by like the Hopkins, Eastover area. I just don't
7 have a physical address.

8 THE COURT: Anything else you want me to ask her,
9 Ms. Mauldin?

10 MS. MAULDIN: If he's on social media, maybe he's
11 got a social media profile.

12 BY THE COURT:

13 Q. Does he have Facebook?

14 A. I don't think he does Facebook. He might do, I
15 don't know if it's Twitter. I don't know. I don't do any of
16 that stuff.

17 Q. I don't either. I don't either so I'm with you. I
18 understand. No Facebook, but you think maybe Twitter?

19 A. He might do Twitter.

20 MS. MAULDIN: May I ask, Ms. Combs, if she happens
21 to know the account or the profile?

22 THE WITNESS: No. I get lost when I get on there.

23 MS. MAULDIN: Me, too. Thank you, Judge.

24 THE COURT: Anything else while I have Ms. Clark
25 here? Mr. Madsen.

1 THE WITNESS: It's Combs.

2 THE COURT: Combs. I don't know where I got
3 Clark.

4 THE WITNESS: That's all right.

5 THE COURT: All right. Thank you.

6 THE WITNESS: Sure.

7 MS. MAULDIN: Thank you, Your Honor.

8 THE COURT: Anything else before we bring the jury
9 in?

10 MS. MAYES: Nothing from the State, Your Honor.

11 MS. MAULDIN: No, Your Honor.

12 THE COURT: Okay. Let's bring them in.

13 (Whereupon, the jury entered the courtroom at 9:45
14 a.m.)

15 THE COURT: All right. Good morning everybody. I
16 have to comment. Thank you all so much for being on
17 time. Y'all are a great jury. Madam Forelady, everybody
18 ready to go?

19 FORELADY: Yes.

20 THE COURT: All right. Let's go.

21 MS. MAYES: Your Honor, may it please the Court, the
22 State calls Maria Combs.

23 Thereupon,

24 MARIA COMBS

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

1 THE CLERK: Please have a seat. Once you're seated,
2 state your full name spelling your last please.

3 THE WITNESS: Yes. My name is Maria Combs,
4 C-o-m-b-s.

5 DIRECT EXAMINATION

6 BY MS. MAYES:

7 Q. Good morning, Ms. Combs.

8 A. Good morning.

9 Q. Can you tell us a little bit about yourself? What
10 type of work do you currently do?

11 A. I'm a clinical massage therapist.

12 Q. All right. And back in 2019 where were you
13 residing?

14 A. I was living at [REDACTED] Lexington, or excuse me, [REDACTED]
15 Lexington Avenue.

16 Q. Okay. And who did you reside with at [REDACTED] Lexington
17 Avenue?

18 A. My husband Ronald Combs and my son Ronnie Combs.

19 Q. Okay. I'm going to show you a photograph, an
20 exhibit which is State's 88 and ask you to take a look at
21 this.

22 MS. MAYES: Your Honor, may she step down?

23 THE COURT: You may. Just make sure, Ms. Combs,
24 that you talk really loud so the jury can hear you since
25 you don't have the microphone.

1 THE WITNESS: Okay.

2 BY MS. MAYES:

3 Q. Looking here at this exhibit, Ms. Combs, do you
4 recognize the former residence that you shared with your
5 husband Ronald Combs back in August of 2019?

6 A. Yeah. It's right, this one right here.

7 Q. All right. Now, did you also know the victim in
8 this case Ardelia McDaniel?

9 A. Yes. I did.

10 Q. And what name did you call her and know her by?
11 What was her nickname?

12 A. I called her Ardelia.

13 Q. Okay. And what home did she live in in relation to
14 yours?

15 A. This one right here.

16 Q. All right. And were you familiar enough with her
17 that you had had contact with her prior to the night of the
18 fire?

19 A. Yes. Very many times.

20 Q. Thank you. You may return.

21 A. (Witness complies.)

22 Q. Now, in addition to the victim in this case Ardelia
23 McDaniel, I'm going to ask you whether or not you were
24 familiar or you had ever seen the defendant in this case
25 Robert Green?

1 A. Yes. Many times.

2 Q. And are you aware as to whether or not he and Ms.
3 McDaniel had an off and on relationship?

4 A. Yes. They did.

5 Q. Okay. Now, going to the night or early morning
6 hours of August 20th, 2019, what, if anything, do you recall
7 about that night?

8 A. That night I had fallen asleep the night before on
9 my couch and early in the morning my husband was screaming at
10 the top of his lungs, the lady across the street's on fire.
11 The lady across the street's on fire. So it woke me up and I
12 freaked out. I ran out the door onto the front porch and I
13 saw her ablaze from the bottoms of her feet way above her
14 head. She was engulfed in fire and screaming, running, and I
15 saw the - her - Robert standing there, send me to fucking
16 jail. That's right. Call the police, he was screaming and
17 she was screaming running across the yard and I was so scared.
18 I ran back in the house. I said, what do we do? And so my
19 husband was calling 911 and he threw me a blanket, stop, drop
20 and roll. So I grabbed the blanket and I ran out of the house
21 to try to protect her and she had ran across to [REDACTED] where
22 Steve and Pete were staying and had gone in there. I heard
23 her in the house screaming and so I pounded on the door and
24 Pete let me in the house and he had put her out. She would
25 have been on fire and he took the hose from the kitchen sink

1 and put her out. Should I keep going?

2 Q. Let me ask you a couple questions about that.

3 A. Sure.

4 Q. I'm going to show you again State's Exhibit 88 and
5 ask you whether or not you can show on this aerial the home
6 that you saw the victim go to and go inside for assistance?

7 A. This one.

8 Q. All right. And what is that street address?

9 A. [REDACTED] Lexington Avenue. [REDACTED] Lexington Avenue.

10 Q. All right. And, Ms. Combs, who resided in that home
11 to your knowledge?

12 A. Steven Felder and Peter Messina was staying there
13 also. He was renting.

14 Q. Okay. And Peter Messina is related to you how?

15 A. He's my son.

16 Q. And is he a teenager or an adult?

17 A. He's an adult. He's 39.

18 Q. Okay. So you saw her inside that residence where
19 the fire was put out?

20 A. Yes, ma'am.

21 Q. Now, I want to take you back a little bit. When you
22 said initially you saw her on fire, where do you first recall
23 seeing her on fire, engulfed in flames as you put it?

24 A. She was running across the yard from her address
25 towards [REDACTED].

1 Q. Next door?

2 A. Yes.

3 Q. Did you also see or hear her knocking?

4 A. Yes.

5 Q. At any point in time did you see the defendant

6 Robert Green knocking on doors for assistance?

7 A. No.

8 Q. And where was he standing when you heard him make

9 his statement?

10 A. He was standing in the front of the yard yelling,

11 screaming, yeah, send me to F'ing jail.

12 Q. Can you show us -- You can stand up to do it, but

13 can you show us his body language or the demeanor as you

14 recall observing him?

15 A. (Witness complies.) Should I put my mask back on?

16 Q. You're fine.

17 A. Okay. That's right. Send me to jail. Call the

18 fucking police, he said.

19 Q. All right. And at that point in time had any law

20 enforcement actually arrived on the scene?

21 A. No, ma'am.

22 Q. What happened next?

23 A. Uhm, when I was in the house, she was crying and

24 screaming, he set me on fire. He set me on fire. He set me

25 on fire. And I was shaking and she was still kind of smoking

1 and so we locked the doors because we didn't know if he was
2 gonna try to break back into the house. And I said, Ron's
3 calling the police. Ron's calling the police. And so we
4 waited in the house until the police came and then when the
5 police came, we went outside, but she told me that, he burned
6 me, Maria. He burned me.

7 Q. All right. Let me ask you this: When you say that
8 you waited in the house with the doors locked, you're
9 referring to [REDACTED]?

10 A. Yes, ma'am.

11 Q. And then when you heard sirens or could see sirens,
12 what, if any, action did you take at that time?

13 A. Then we went out to talk to the police officers.

14 Q. When you say "we", you're referring to who?

15 A. Ardelia and me.

16 Q. Okay. Now, you mentioned having a blanket. Did you
17 ever actually put the blanket on Ardelia?

18 A. No.

19 Q. And why?

20 A. Because she - well, she had been burned. I was
21 afraid it would make her feel worse.

22 Q. You could see her burn injuries?

23 A. Oh, it burned all her clothes off except for her
24 shorts and had melted her hair on her head.

25 Q. I'm going to show you some photographs which are

1 State's 87 and 5.

2 A. Oh, yeah.

3 Q. You recognize those?

4 A. Uh-huh (crying).

5 Q. Ms. Combs, you have identified the addresses, but
6 again, this address here which is on fire is the home of
7 who?

8 A. That's Ardelia's home.

9 Q. All right. And this home right here is whose
10 home?

11 A. That's Steve Felder's home.

12 Q. That's the home you're referring to that you were
13 inside waiting for law enforcement to arrive?

14 A. Yes, ma'am.

15 Q. And is that how you recall Ms. McDaniel that
16 night?

17 A. Yes, ma'am.

18 Q. I'm going to show you what's State's 87. If you can
19 help us identify who is standing right here?

20 A. Is that - is that Ardelia's back?

21 Q. Let me show you that photograph.

22 A. I don't know. I can't see that. Oh, this person?

23 Q. Yes. Do you recall being out there?

24 A. Oh, I was out there all night. Yes.

25 Q. Do you recall whether that's you in the

1 photograph?

2 A. Oh, it's hard to see, but it might be. I was
3 standing with her the whole time. She asked me to hold her
4 hand.

5 Q. And then this truck right here, what type of truck
6 is this?

7 A. It's a Spectrum truck.

8 Q. And who did that belong to?

9 A. My husband.

10 Q. And that was his place of employment at the time?

11 A. Yes, ma'am.

12 Q. All right. And then do you recognize this fellow
13 right here?

14 A. That's Steve Felder.

15 Q. Also a resident of that home you told us about at
16 [REDACTED]?

17 A. Yes, ma'am.

18 Q. During this course of time, Ms. Combs, were you and
19 the neighbors, Steve Felder, your son Pete, are all outside
20 with Ms. McDaniel, during that course in time did you see the
21 defendant Robert Green out there in the driveway with you?

22 A. No, ma'am.

23 Q. After you saw him yelling in the yard and making the
24 statements that you have testified to, did you ever see him
25 after that?

1 A. No, ma'am.

2 Q. I'm going to show you some photographs which are
3 State's 20 and State's 6. Did you have an opportunity as part
4 of preparation for your testimony in this case to review the
5 porch cam video of a neighbor who is Megan Dawson?

6 A. Yes, ma'am.

7 Q. And having reviewed that porch camera video, did you
8 recognize the person screaming?

9 A. Yes, ma'am.

10 Q. Did you recognize that?

11 A. Yes, ma'am.

12 Q. Can you tell us whether or not that's consistent
13 with the screams you heard that night?

14 A. Yes. That was Ardelia.

15 Q. And then did you hear a male voice at some portion
16 in that porch cam video?

17 A. Yes, ma'am. Yes.

18 Q. Did you recognize that male voice that you heard?

19 A. Yes. That was Robert's.

20 Q. Can you tell us whether or not that's consistent
21 with the voice you heard yelling at the scene?

22 A. Yes. It was.

23 Q. At then a later portion in that video did you
24 observe an individual walking down the roadway towards 3rd
25 Street?

1 A. Yes. I did see. I recognized him.

2 Q. Who did you recognize that person to be?

3 A. I recognized Robert.

4 Q. Did the clothing appear consistent with the clothing
5 that you recall that night?

6 A. Yes, because he had no shirt on and I recognize his
7 physique and his face.

8 Q. Okay. When you saw him that night in the yard, you
9 recognized his face?

10 A. Yes.

11 Q. Okay. And then looking here at State's 20 and
12 State's 6, do you recognize that individual depicted in these
13 still shots?

14 A. Right. That's him right there. I also recognize
15 his voice.

16 Q. That's consistent with the person that you saw
17 yelling from the front yard?

18 A. Yes. It is.

19 Q. I'm going to show you State's 21 and State's 86.
20 Can you tell us whether or not the clothing of this individual
21 is consistent with what you observed?

22 A. Yes.

23 Q. Now, how long did you remain out there with Ardelia
24 after you left the residence once law enforcement arrived?

25 A. Uhm, I'm sorry. Would you rephrase? Would you ask

1 that question again?

2 Q. Yes. How long did you remain outside with Ardelia
3 once the two of you came outside when sirens and law
4 enforcement arrived?

5 A. Until she left with the ambulance.

6 Q. You stayed that entire time?

7 A. Yes, ma'am.

8 Q. How would you describe her emotional condition or
9 demeanor throughout that?

10 A. She was in complete shock because she repeatedly
11 told me that he had set her on fire, and that she had burned
12 him (sic); that she was scared, and then while we were
13 standing out there, she started telling me how much pain she
14 was in, how much it hurt, how bad she hurt. She asked me to
15 hold her hand and she was scared.

16 Q. All right. So let me just clarify. You said you
17 heard her say out of her own mouth what again?

18 A. That he had set her on fire and that he burned
19 her.

20 Q. Okay. That he had burned her?

21 A. Yes, ma'am.

22 Q. And then do you recall hearing any other statements
23 made by Ms. McDaniel when she was in this condition while she
24 was outside speaking to individuals about how this had
25 occurred?

1 A. Yes. I heard her say that he poured gasoline on her
2 while she was in bed.

3 Q. Now, how close did you actually get to her?

4 A. I was holding her hand. I touched her head. I
5 didn't - it was all melted on her head, her hair. I prayed
6 with her.

7 Q. At any point in time did her statement ever change
8 regarding the fact that he had set her on fire?

9 A. No.

10 Q. You mentioned that your husband Ronald Combs was
11 inside while you were outside, when you ran outside to render
12 aid. Did he eventually leave and come outside as well?

13 A. Yes. He did.

14 Q. And then the 911 call that he made, do you know how
15 many 911 calls he made?

16 A. No. I don't know how many he made.

17 Q. But you know that he made at least one?

18 A. Yes.

19 Q. And then do you recall whether or not he had a phone
20 number affiliated with Spectrum at the time?

21 A. Yes. He did.

22 Q. Can you tell us whether or not [REDACTED] is a
23 number you recognize?

24 A. Yes. That is his phone number.

25 Q. The phone number of Ronald Combs?

1 A. Yes.

2 MS. MAYES: Nothing further of Ms. Combs at this
3 time, Your Honor.

4 CROSS EXAMINATION

5 BY MS. MAULDIN:

6 Q. Ms. Combs, you recognize this person as Ronald
7 Green?

8 A. I said that it looked like him that he, with the
9 muscles and the, or the outfit, yes.

10 Q. That looks like him?

11 A. Yeah.

12 Q. Did you see Ms. McDaniel and Pete over at Ms.
13 McDaniel's home earlier that day before the fire?

14 A. No. I did not.

15 Q. And you woke up to screaming. Wasn't Mr. Combs
16 yelling that they were on fire?

17 A. No.

18 Q. When you went outside, you were still standing on
19 your porch at the time you heard screaming, correct?

20 A. Correct.

21 Q. And you're down the street, across the street and
22 about three houses down; is that right?

23 A. No, ma'am. That's not three houses. It's one house
24 over across the street.

25 Q. Well, if I can show you this. If this is her house,

1 this is the house across the street, that house?

2 A. Right. That's what I'm saying. There's one house
3 and then one over, right? It's right across the street.
4 There's no trees that block it. There's nothing. They're
5 right across the street pretty much catty-corner as you call
6 it.

7 Q. That's more of a distance you would say like 75 to a
8 hundred yards, wouldn't you say?

9 A. Well, I had a clear vision across the street.

10 Q. Okay. And you were still on your porch when you
11 heard the yelling?

12 A. Yes, ma'am.

13 Q. So you went back inside the house, got the blanket
14 and then came outside; is that right?

15 A. Correct.

16 Q. And then when you saw that Ms. McDaniel was on fire,
17 you ran over to Pete's house?

18 A. Yes. No. I saw her on fire, I ran in the house,
19 got the blanket and then I ran across the street and I heard
20 her in the house and ran in to get into the house.

21 Q. Into Pete's house. Right. And you testified that
22 Pete's role in this was that he's the one that put the fire
23 out on Ms. McDaniel; is that right?

24 A. Correct.

25 Q. And you mentioned locking the door. At no point did

1 the person that was outside try and bang on the door to get
2 into the house, did he?

3 A. No. No one else tried to come in.

4 Q. And while you were there, you didn't see Robert
5 Green holding any kind of cigarette lighter or anything like
6 that, did you?

7 A. No.

8 MS. MAULDIN: No further questions, Your Honor.

9 THE COURT: Thank you. Redirect?

10 MS. MAYES: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. MAYES:

13 Q. And when you saw someone in the front yard yelling
14 that you have identified as Robert Green, did you see any
15 other person out there other than him?

16 A. No. I did not.

17 Q. He was the only individual that you saw?

18 A. Well, I saw him and I saw her on fire.

19 Q. Okay. And do you recognize Robert Green in this
20 courtroom today?

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

22 Q. Where is he seated?

23 A. Sitting over there (indicating.)

24 Q. Any doubt in your mind that's the man you saw
25 yelling in the front yard of the house on fire?

1 A. No, ma'am.

2 MS. MAYES: Thank you. Nothing further.

3 THE COURT: May the witness be excused?

4 MS. MAYES: No objection from the State.

5 MS. MAULDIN: May we approach?

6 THE COURT: Yes.

7 (Side bar off the record.)

8 THE COURT: Okay. I have a matter to take up with
9 the attorneys. I'm gonna give you all a 15 minute break.
10 I hope you've got plenty of snacks back there. I know
11 you have candy back there. Take a break and we won't be
12 long. Do you need a candy refill? We'll take care of
13 that right now. See, I've got my own bowl right here.

14 (Whereupon, the jury entered the jury room at 10:00
15 a.m.)

16 THE COURT: All right. Ms. Combs, before I let you
17 go, I want you to - they are really trying to get in
18 touch with your son and evidently he's not answering
19 their phone calls so we want you to try to call him if
20 you don't mind so I'm going to let you go with one of the
21 Solicitors and one of the defense lawyers. You can be
22 excused, but I want that phone call and see if you can
23 try to get in touch with him because it's really
24 important for the defense. They want to talk to him. If
25 I find out he's avoiding our subpoena, I'll hold him in

1 contempt, okay? Thank you.

2 MS. MAYES: Your Honor, if we could, our
3 investigator John Bishop can accompany Ms. Mauldin.

4 THE COURT: That will be fine. You may step down.
5 Thank you for coming.

6 THE WITNESS: Thank you.

7 (Short break.)

8 THE COURT: Did we have any luck?

9 MS. MAULDIN: Your Honor, Ms. Combs has placed a
10 telephone call to her son. She was only able to reach
11 his voice mail. We have no response other than that.
12 She's been excused as a witness. I would just ask that
13 if she hears anything back, that she should report to the
14 Court and maybe that she should remain available at the
15 Solicitor's Office or if the Court wants us to do any
16 follow up after that.

17 THE COURT: Ms. Combs, I think I'm going to keep you
18 here. You're free to walk around the courthouse. I'm
19 not going to excuse you just yet. If you hear from him,
20 I want you to report to me.

21 MS. MAULDIN: Mr. Madsen and I just mentioned that
22 maybe she could send him a text message too.

23 THE COURT: Yeah. Text message, whatever. Tell him
24 to call you, but as I said I'm going to keep you here.
25 Any objection from the State?

1 MS. McMENAMIN: No objection, Your Honor.

2 THE COURT: Thank you. Okay. Can I bring the jury
3 back in? Anybody have anything? Let me just ask because
4 I saw some people walk in. I know we have an order. Is
5 there anybody in here that does not need to be in here?

6 MR. MADSEN: Judge, I mentioned to Ms. McMEnamin a
7 couple of our witnesses did come in --

8 THE COURT: I thought I saw two.

9 MR. MADSEN: -- and we sent them back out.

10 THE COURT: Okay. I just wanted to make sure. It
11 was on my mind the first break that I had to make sure
12 they are not in here. If you have not testified, you do
13 not need to be in this courtroom. Okay. Let's bring the
14 jury in. I saw that, but I didn't want to -- Where is
15 Ms. Mayes?

16 MS. McMENAMIN: Our investigator went to grab her.

17 THE COURT: I didn't want to interrupt her in the
18 middle of her direct when I saw them walk in.

19 MS. McMENAMIN: Yes. Thank you. We appreciate that
20 and Mr. Madsen confirming.

21 THE COURT: They weren't in here very long.

22 MS. McMENAMIN: No, Your Honor.

23 THE COURT: Is there a land line to get him on the
24 phone, a text message, whatever, to get a hold of the
25 Solicitor's Office? How do you want to handle this, Ms.

1 Mauldin? Do you want me to -- You know, if he answers
2 her, then I've got my answer whether he's avoiding a
3 subpoena or not. I'm not gonna let him do that. If
4 that's what you want is for him to talk to her, then I'll
5 let you go from there. If you need me, just let me know.

6 MS. MAULDIN: I think that's best. Thank you, Your
7 Honor.

8 (Whereupon, the jury entered the courtroom at 10:25
9 a.m.)

10 THE COURT: All right. Madam Forelady, are we
11 ready?

12 FORELADY: Yes.

13 THE COURT: Okay. Oh, wait. Where's Ms. Mayes?

14 MS. McMENAMIN: It's my witness, Your Honor. We can
15 proceed. Thank you. The State calls Lieutenant Jason
16 Merrill to the stand.

17 Thereupon,

18 JASON MERRILL

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

20 THE CLERK: Please have a seat. Once you're seated,
21 state your full name spelling your last please.

22 THE WITNESS: My name is Jason Merrill. Last name
23 spelled M-e-r-r-i-l-l.

24 DIRECT EXAMINATION

25 BY MS. McMENAMIN:

1 Q. Good morning, Lieutenant Merrill. Could you tell
2 the jury a little bit about your current occupation, where you
3 work?

4 A. Yes. Certainly. Good morning. My name is Jason
5 Merrill. I currently work at Cayce Department of Public
6 Safety. I'm currently a lieutenant and in that position I
7 oversee the investigations division as well as hiring and
8 promotion process and at the time of this incident I was also
9 supervising the communications division which is our 911
10 emergency dispatch.

11 Q. Okay. Thank you. Lieutenant Merrill, if you can
12 take that microphone and move it a little to the left so it's
13 closer to you when you're talking. I'm sorry. My left,
14 your right. There we go.

15 A. Got you.

16 Q. You said that you were also in charge of or
17 overseeing the communications division at Cayce Department of
18 Public Safety or Cayce DPS for short. Could you describe that
19 a little bit further?

20 A. Yes. Certainly. The City of Cayce has its own 911
21 dispatch center located within the Cayce Department of Public
22 Safety. We answer 911 calls for police and fire services that
23 are required within our city jurisdiction.

24 Q. Do you answer emergent and non emergent calls?

25 A. Yes. That's correct. They'll - there the - the

1 people, the dispatchers answer the phone whether it be a 911
2 call or a non emergency like if you just called the main Cayce
3 Police Department number, you will talk to a dispatcher
4 initially.

5 Q. Now, tell me, is every call that comes through the
6 main number technically non emergent?

7 A. No. It is not uncommon to also receive some calls
8 that are of an emergency nature on the what we call the seven
9 digit phone line which is the normal business phone number for
10 the police department.

11 Q. And in this case did you receive any calls related
12 to the fire at [REDACTED] Lexington Avenue that came through what you
13 call the non emergent line?

14 A. Yes. I believe I found two calls on the non
15 emergency line in relation to this incident.

16 Q. And how many calls total did Cayce DPS eventually
17 receive in regards to this incident?

18 A. I was able to locate three, three calls total.

19 Q. And that third call, where did that call come from?
20 Can you explain that a little?

21 A. Yes. Based on what I was able to look up and my
22 knowledge of everything, there was a 911 call to another
23 agency that was transferred to our agency at some point after
24 the initial call to that agency.

25 Q. And is that uncommon?

1 A. No. It is not uncommon. We work closely with the
2 Lexington County Communications Center. They're also the 911
3 dispatch center for the county and obviously we're within
4 Lexington County so we work closely with them.

5 Q. And you said that there were two other calls
6 received that came directly to Cayce Department of Public
7 Safety. Do you know whether or not that was two separate
8 callers or two calls from the same person?

9 A. When I located those calls, I did listen to the
10 recordings. We do have the capability of recording those
11 phone calls and to me I believe that they were the same
12 person. It was similar enough and in one of the recordings
13 the caller indicated that they had just called --

14 Q. Let me stop you right there before you go into any
15 specific statement, I guess, just sort of are we being general
16 in regards to these calls?

17 A. I'm sorry.

18 Q. Are you being general in the statements in regards
19 to these calls? Or, I guess, is the nature of these two calls
20 very similar and sort of linked together? Is that what we're
21 getting at?

22 A. Yes. I believe they are linked together.

23 Q. Okay. And in addition to the nature of the call,
24 the sound of the caller's voice, was there anything else that
25 helped you conclude that this was very likely the same exact

1 caller?

2 A. Yes. The caller indicated in one of the recordings
3 that they had just previously called.

4 Q. And what number did these two calls come from?

5 A. The number the calls came from, the phone number,
6 area code [REDACTED] the best that I could tell.

7 Q. And these audio recordings, those are stored in the
8 regular course of business?

9 A. Yes. They are.

10 Q. And you keep track of calls through call logs?

11 A. Yes. There are several or at least two different
12 ways that I can think of off the top of my head. The
13 dispatchers as part of what they do, their job, they have
14 what's called a computer aided dispatch system or CAD for
15 short. When a call is received by the dispatcher, they
16 immediately start entering certain information into the CAD
17 system such as the date, time, location and any other notes
18 that they can capture from the caller in relation to that call
19 and we also in the normal course of business we record those
20 phone calls both on a non emergency line and the 911 system.

21 Q. Now, for these two calls I'm concluding a name was
22 not recorded by the dispatcher?

23 A. I don't believe so. I don't remember hearing a name
24 and I don't remember seeing a name in any of the CAD notes
25 from the dispatcher.

1 Q. Can you explain why that might be if that's the case
2 in a situation such as this that you have got emergent, non
3 emergent calls coming in in regards to a serious fire?

4 A. Absolutely. Our dispatchers are great, but they are
5 only human. At this time, the time of day that we had this
6 incident we would have only had one dispatcher working and
7 sometimes when there's simultaneous phones ringing, you know,
8 the 911 phone might be ringing, the non emergent phone might
9 be ringing, they're dispatching officers over the radio
10 system, police officers, they might be dispatching fire units
11 all kind of simultaneously and they have some priorities and
12 sometimes they don't have a chance to type in the notes along
13 with doing all those other things at the same time.

14 Q. But nonetheless, you were able to find two calls
15 from what you believe to be the same person in regards to this
16 incident?

17 A. Correct. I was able to look at our phone system and
18 look at what the phone system captured as far as the phone
19 number, sort of like caller ID at your house if you have it on
20 your telephone.

21 Q. And in addition to having the phone number
22 [REDACTED], were there any other identifiers for that
23 number, maybe like on a caller ID that would show up?

24 A. Yeah. I believe the phone software captured it as
25 the name Charter Spectrum.

1 Q. Spectrum?

2 A. Charter Spectrum.

3 MS. McMENAMIN: Thank you. Nothing further at this
4 time, Lieutenant Merrill.

5 THE COURT: Thank you. Mr. Madsen.

6 CROSS EXAMINATION

7 BY MR. MADSEN:

8 Q. Good morning, Lieutenant Merrill. How are you?

9 A. Doing well, thank you.

10 Q. So you're a lieutenant. Are you technically
11 Investigator Dougall's supervisor or at least one of his
12 supervisors?

13 A. Yes. I am.

14 Q. Okay. So you have access to all the 911 stuff in
15 your capacity and then I guess also the case file and his
16 notes and all that in his case?

17 A. Yes.

18 Q. And so when we say the [REDACTED], you know we're
19 talking about Ronald Combs now?

20 A. I never connected the phone number to a name.
21 Somebody else may have but I didn't.

22 Q. You don't remember reading that he had done that?

23 A. I may have. I don't recall.

24 Q. And that first call was at 3:23, correct?

25 A. According to my notes which my information came from

1 the phone software it was 3:28 hours and 03:30 hours for the
2 two calls, but I did note also in my notes that the software
3 for some reason was about five minutes off from the actual
4 time.

5 Q. So you wouldn't have a dispute if Investigator
6 Dougall said, hey, or listed as the first call coming in at
7 3:23 given the five minutes?

8 A. No. To me that would appear consistent.

9 Q. And that was 3:23 a.m. or that's in the a.m. so
10 early morning hours, correct?

11 A. Yes. And if I may clarify something?

12 Q. Sure.

13 A. The two phone recordings that I'm talking about here
14 are from the non emergency phone system so I don't know that
15 it's accurate that you would put first 911 call. I can't
16 testify to when the first 911 call was.

17 Q. It would just be first call, but it's to law
18 enforcement, correct?

19 A. Yes.

20 MR. MADSEN: That's all the questions that I have.

21 THE COURT: Any redirect?

22 MS. McMENAMIN: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. McMENAMIN:

25 Q. Lieutenant Merrill, with this potential but not

1 necessarily five minute discrepancy, could it be five minutes
2 ahead in time or five minutes after?

3 A. Based on my notes the way I noted it, yeah, I can't
4 say either way.

5 Q. So it could be either/or?

6 A. What's that?

7 Q. It could be either/or, five minutes ahead or five
8 minutes after?

9 A. Yes. That's correct. Yeah. Based on my
10 recollection it could go either way.

11 Q. And just for clarification, you can't say whether
12 either of these were the very first call in regards to the
13 incident because one also came in through Lexington County
14 Communications. Is that what you were getting at earlier?

15 A. Correct. I can only really testify about the two
16 calls that I looked up.

17 Q. And you said it was 3:23 a.m. and what other time?

18 A. 3:28 and 3:30 is the times that I noted on the phone
19 software.

20 Q. And those were from, what caller did we conclude
21 that was?

22 A. The caller from phone number on [REDACTED]?

23 Q. I think Mr. Madsen said that that was a Ronald Combs
24 who made those two calls?

25 A. I believe so. I never connected a name to the

1 number.

2 Q. Okay. Generally is it part of your duties to read
3 an entire case file when being called to court to testify to
4 calls that came in?

5 A. No. It is not.

6 MS. McMENAMIN: Nothing further. Thank you,
7 Lieutenant Merrill.

8 THE COURT: Thank you.

9 RECROSS EXAMINATION

10 BY MR. MADSEN:

11 Q. But if Investigator Dougall characterized it as the
12 first report to Cayce --

13 MS. McMENAMIN: Objection, Your Honor. That would
14 be pitting witnesses.

15 MR. MADSEN: How do you pit a witness who hasn't
16 testified?

17 THE COURT: Well, he didn't finish. I don't know
18 what his question was, but if you're going to pit them
19 against each other, you need to rephrase it.

20 MR. MADSEN: Judge, she's saying I'm pitting, but
21 Investigator Dougall hasn't even testified so how is that
22 pitting?

23 MS. McMENAMIN: He used the word testify, Your
24 Honor, and he directly referenced the statement. I also
25 --

1 THE COURT: Okay. Rephrase that, Mr. Madsen.

2 BY MR. MADSEN:

3 Q. If Investigator Dougall had it as the first --

4 MS. McMENAMIN: Objection, Your Honor. Hearsay.

5 It's an out of court statement being offered for the
6 truth of the matter asserted and not a statement made by
7 this individual.

8 THE COURT: I agree. Rephrase it, Mr. Madsen.

9 BY MR. MADSEN:

10 Q. There would be someone other than you that would be
11 in a better position to say whether the calls were first,
12 second, third within your department, correct, at least on
13 this case?

14 A. Yes. I would imagine so.

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

16 THE COURT: Okay. Thank you.

17 MS. McMENAMIN: Thank you, Your Honor.

18 THE COURT: May Lieutenant Merrill be excused?

19 MS. McMENAMIN: No objection from the State, Your
20 Honor.

21 MR. MADSEN: No objection.

22 THE COURT: Thank you, Lieutenant Merrill.

23 THE WITNESS: Thank you, Your Honor.

24 MS. McMENAMIN: Your Honor, the State's next witness
25 is Matt Cox. Full name Matthew Cox. Last name C-o-x.

1 Thereupon,

2 MATTHEW COX

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

4 THE CLERK: Please have a seat. Once you're seated,
5 state your full name spelling your last please.

6 THE WITNESS: Matthew Cox. Last name spelled C-o-x.

7 DIRECT EXAMINATION

8 BY MS. McMENAMIN:

9 Q. Good morning, Mr. Cox.

10 A. Good morning.

11 Q. Could you tell the jury your current address?

12 A. [REDACTED] Lexington Avenue.

13 Q. And how long have you lived there?

14 A. Just over six years.

15 Q. And do you live there alone?

16 A. No. Me and my fiancée.

17 Q. And who is your fiancée?

18 A. Sarah Bugden.

19 Q. And how long has she lived there?

20 A. About five, a little over five years.

21 Q. So were you both living there on August 20th of
22 2019?

23 A. Yes, ma'am.

24 Q. And were you home on August 20th, 2019?

25 A. Yes, ma'am.

1 Q. Were you home at around 3:30 in the morning?

2 A. Yes, ma'am.

3 Q. What were you doing?

4 A. Sleeping.

5 Q. And at around three in the morning, maybe a little
6 after that, did you hear anything unusual?

7 A. Uhm, I was half asleep, woke up to screaming. My
8 fiancée woke me up more or less.

9 Q. You said she was screaming. Did she sound
10 frightened or concerned?

11 A. The screaming?

12 Q. Yes.

13 A. Yeah. From outside, yes.

14 Q. Oh, so you heard screaming from outside?

15 A. Mm-hmm.

16 Q. And then you heard your girlfriend?

17 A. Mm-hmm.

18 Q. Do you know who was screaming outside?

19 A. At the time I didn't know exactly who it was, but it
20 sounded like directly outside of our house basically so...

21 Q. And your girlfriend, you said she said something to
22 you?

23 A. Yes.

24 Q. Can you describe her demeanor, how she was when she
25 made that statement to you?

1 A. Uhm, she got out of bed and she went to the door and
2 she just said --

3 Q. Before she said anything, what was her demeanor?
4 Did she sound --

5 A. Frantic.

6 Q. Frantic?

7 A. Frantic. Scared.

8 Q. And is she looking out the door?

9 A. Yes. She was looking out the blinds on the front
10 door.

11 Q. Okay. So is she telling you what she is seeing at
12 the moment?

13 A. Yeah. Yes.

14 Q. Okay. What did she say to you?

15 A. She said that --

16 MS. MAULDIN: Objection, Your Honor.

17 THE COURT: She's objecting to hearsay. I'll hear
18 from you.

19 MS. McMENAMIN: Your Honor, it's an excited
20 utterance that the witness heard, also present sense
21 impression. She's under stress and she's talking about
22 what she's currently viewing at that time.

23 THE COURT: Ms. Mauldin, do you have any response to
24 that? Because I'm inclined to think it's present sense
25 impression.

1 MS. MAULDIN: No, Your Honor.

2 THE COURT: Okay. Go ahead.

3 BY MS. McMENAMIN:

4 Q. Mr. Cox, what did your fiancée Sarah Bugden say --
5 Was she looking out the front door?

6 A. Yes. Front door.

7 Q. As she looking out the front door, what does she say
8 to you?

9 A. She just started repeating, she's on fire. She's on
10 fire.

11 Q. Did she sound frightened?

12 A. Yes.

13 Q. And did you understand who she meant by "she"?

14 A. Uh, I immediately had an idea and I jumped out of
15 bed so...

16 Q. And did you eventually determine who she was talking
17 about?

18 A. Yes, because when I got to the door, I could see
19 flames coming up over the back of the house so I had a pretty
20 good idea who it was.

21 MS. McMENAMIN: Permission to approach the witness,
22 Your Honor.

23 THE COURT: Yes, ma'am.

24 BY MS. McMENAMIN:

25 Q. Mr. Cox, I'm gonna show you what's already in

1 evidence as State's Exhibit 88, this aerial view of the 700
2 block of Lexington Avenue. Can you point out on this where
3 your home is located?

4 A. This one right here.

5 Q. Okay. And that's marked as?

6 A. ■■■, right here.

7 Q. And what house are you talking about where you heard
8 the screams coming from?

9 A. This one here directly across from us.

10 Q. And you said there was a woman on fire out there?

11 A. Yes.

12 Q. Okay. And the one directly across from you, is that
13 ■■■ Lexington Avenue?

14 A. I believe so. Yes. From what that says. I didn't
15 know the exact address at the time that I called so...

16 Q. What did you do after hearing the screams and
17 finding out a woman across the street was on fire?

18 A. I grabbed my phone and went straight to the door and
19 started calling 911 while looking outside.

20 MS. McMENAMIN: I need to approach the witness
21 again, Your Honor.

22 THE COURT: Absolutely.

23 BY MS. McMENAMIN:

24 Q. Mr. Cox, I am handing you what is State's Exhibit
25 64. State's Exhibit 64 is already in evidence. Do you

1 recognize this?

2 A. Yes.

3 Q. What is it?

4 A. It's the 911 call.

5 Q. Whose 911 call?

6 A. Mine.

7 Q. This is the call you made to 911 on August 20th,
8 2019?

9 A. Yes.

10 Q. How do you know that?

11 A. Because we listened to it and I have confirmed that
12 it was that and initialed it.

13 Q. To confirm that that's what it was?

14 A. Yes.

15 Q. And it's a fair and accurate representation of that
16 call?

17 A. Yes.

18 Q. As you remember it?

19 A. Yes.

20 MS. McMENAMIN: Permission to publish to the jury,
21 Your Honor.

22 THE COURT: You can publish. Any objection? Before
23 you do that, hold on.

24 MS. MAULDIN: Just renew our prior objections.

25 THE COURT: It's noted. Your prior objection is

1 noted for the record. Go ahead.

2 BY MS. McMENAMIN:

3 Q. Mr. Cox in addition to the woman on fire, did
4 you see anyone else outside in the yard across the street?

5 A. When I got to the door, I saw an African-American
6 male pacing back and forth in the front yard.

7 Q. Do you recall what that man was wearing?

8 A. I remember gym shorts. That's about all I really
9 remember, and like flicking a lighter of some type like that
10 while pacing back and forth in the front yard.

11 Q. Now, did you know the name of that man without
12 saying it?

13 A. I mean, I figured it was the guy across the street
14 that we had seen over there many a times.

15 Q. So you recognized him to a certain extent?

16 A. Yes.

17 Q. Okay. Appeared to be someone that you usually saw
18 at the home across the street?

19 A. Yes.

20 Q. And do you recall anyone else living in that home
21 across the street?

22 A. Just him and her, that was it.

23 Q. And do you know if he lived there permanently all
24 the time? How often would you see him?

25 A. I mean, it was often enough over the past year I

1 guess, I mean.

2 Q. But would he come and go?

3 A. Yeah. Yeah. To a degree, yeah.

4 Q. And what did you say, you saw this man in gym
5 shorts, is that how you worded it?

6 A. Yes.

7 Q. What did you see him doing?

8 A. He was pacing back and forth in the front yard the
9 part that I saw and he was like flicking a lighter just kind
10 of walking back and forth like angry, just sitting there going
11 like that over and over (indicating.)

12 Q. Okay. Do you remember his sort of physical
13 characteristics in any way? I know you described him as being
14 African-American. Anything in addition to that?

15 A. He was in good shape, because I had seen him do yard
16 work before at the house and, you know, he's a good size
17 guy.

18 Q. Okay. And this man, was he outside at the same time
19 the woman was on fire?

20 A. Uhm, I didn't see her.

21 Q. Okay. When you were looking at him?

22 A. Yeah. I was just focused on him while making the
23 911 call and the house on fire behind him.

24 Q. But at any time did you ever see this man striking
25 that lighter, render aid to the woman on fire?

1 A. Never. All I saw was him pacing back and forth in
2 the front yard and that was it.

3 Q. Okay. We're gonna play the 911 call now, Mr. Cox.
4 (Playing State's Exhibit #64.)

5 BY MS. McMENAMIN:

6 Q. Is that your voice?

7 A. Yes. That's my voice.

8 Q. So, Mr. Cox, in this call you said someone was
9 screaming. Was that the man or the woman?

10 A. It was the woman.

11 Q. And what kind of screams were these?

12 A. Loud. Very loud screaming for help enough to wake
13 you up and not make you feel very good so...

14 Q. And did you ever -- Let me rephrase that question
15 real quick, Mr. Cox. So you heard her screaming?

16 A. Mm-hmm.

17 Q. And then you said that the man in this call, is that
18 the same man that you were referencing seeing in the yard?

19 A. Yes.

20 Q. Did you see other men out in the yard?

21 A. No.

22 Q. Did you see anyone other than these two individuals
23 out in the yard?

24 A. Never.

25 Q. And you said he came out like he didn't care?

1 A. Yes.

2 Q. Can you explain that a little bit more?

3 A. Like I said, in the front yard he just was walking
4 back and forth just flicking a lighter or something, just back
5 and forth and meanwhile the house is on fire and the woman who
6 was on fire, you know, where did she go, he doesn't really
7 care, he's just pacing back and forth, so he just seemed kind
8 of angry just pacing back and forth like that.

9 MS. McMENAMIN: Okay. I have nothing further for
10 this witness at this time.

11 THE COURT: For the record, Ms. Mauldin, I'm gonna
12 again let you know that the Court has noted your
13 objection to the 911 call. I saw you start to stand up.
14 I just want to make sure that you know that I have noted
15 it for the record and you're protected on it.

16 MS. MAULDIN: Thank you, Your Honor.

17 CROSS EXAMINATION

18 BY MS. MAULDIN:

19 Q. Mr. Cox, when you heard the screaming, you ended up
20 looking outside to see what was going on, right?

21 A. Yes.

22 Q. And in the process of that you were also calling
23 911.

24 A. Mm-hmm.

25 Q. I imagine you were probably talking to Ms. Bugden

1 about what was going on too, right?

2 A. I mean, she was looking out at the same thing I was
3 so...

4 Q. All right. And then you stayed in your house and
5 didn't leave your house until the police got there; is that
6 right?

7 A. Yes. Well, I went and got changed and we went
8 outside and soon the police arrived so it was pretty quick,
9 yeah.

10 Q. Just to make sure we're clear, everything you saw
11 was from inside your house?

12 A. Yes.

13 Q. And that was looking out your front door through the
14 blinds?

15 A. Yes. Directly across from us.

16 Q. Okay. And then you ended up talking to one officer
17 in the front yard with Sarah standing there with you; is that
18 right?

19 A. I believe so.

20 Q. Okay. And then a while after that you ended up
21 talking to Investigator Dougall behind the fire truck; is that
22 right?

23 A. Yes. Mm-hmm.

24 Q. Now, you mentioned that this is a person that you
25 have seen at the house before?

1 A. Mm-hmm.

2 Q. And they showed you a lineup at some point,
3 correct?

4 A. Yes. Mm-hmm.

5 Q. And when they showed you that lineup, you weren't
6 able to definitively identify the person that you saw in the
7 lineup; is that right?

8 A. Yeah. I couldn't really tell. All the pictures
9 kind of looked about the same. It was kind of hard to tell.

10 Q. And you mentioned seeing this lighter. Did you
11 realize at the time that the person was on fire too?

12 A. No. I couldn't tell at the time. It didn't look
13 like it because like I said, it was like every time he went
14 like that (indicating), it looked like the flame started. It
15 didn't look like they were on fire.

16 Q. All right. And which hand did the person have that
17 in?

18 A. Right hand.

19 Q. All right. And then you testified about what that
20 person did --

21 A. Mm-hmm.

22 Q. -- while you were looking out the window and the
23 person didn't render any aid, but by that point the woman that
24 had been screaming was not out there anymore, right?

25 A. She wasn't out there at the time that I saw -- Like

1 I said, when I got to the door, I was looking directly across
2 at the flames and him pacing in the front yard so...

3 Q. At that point there was no one to render aid to?

4 A. That I could see, no.

5 MS. MAULDIN: All right. No further questions, Your
6 Honor.

7 THE COURT: Any redirect?

8 MS. McMENAMIN: Nothing from the State, Your Honor.
9 We have no objection to this witness being released.

10 THE COURT: All right. Mr. Cox, thank you for
11 coming. You may be excused.

12 THE WITNESS: Thank you.

13 MS. McMENAMIN: The State calls Sarah Bugden to the
14 stand.

15 Thereupon,

16 SARAH BUGDEN

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

18 THE CLERK: Please have a seat. Once you're seated,
19 state your full name spelling your last please.

20 THE WITNESS: Sarah Bugden, B-u-g-d-e-n.

21 DIRECT EXAMINATION

22 BY MS. McMENAMIN:

23 Q. Ms. Bugden, can you tell the jury where you
24 currently live and who you currently live with?

25 A. I live at [REDACTED] Lexington Avenue and I live with

1 Matthew Cox.

2 MS. McMENAMIN: Permission to approach, Your Honor.

3 THE COURT: Yes.

4 BY MS. McMENAMIN:

5 Q. I'm going to move this microphone a little bit
6 closer. All right. Where do you live?

7 A. I live at [REDACTED] Lexington Avenue and I live with
8 Matthew Cox.

9 Q. Is Matthew your fiance?

10 A. Yes.

11 Q. And how long have you lived there?

12 A. About five years.

13 Q. Were you living there on August 20th, 2019 with
14 Matthew Cox?

15 A. Yes.

16 Q. And were you home on August 20th, 2019 around three
17 in the morning?

18 A. Yes, ma'am.

19 Q. And what were you doing?

20 A. Sleeping.

21 Q. Do you recall hearing anything at around three in
22 the morning while you were sleeping?

23 A. Yes, ma'am. I heard screaming.

24 Q. Where did you hear screaming coming from?

25 A. Across the street.

1 Q. Did you recognize the voice of the person
2 screaming?

3 A. At first no, but I did --

4 Q. Well, when you heard the screaming, Ms. Bugden, what
5 did you do?

6 A. I jumped out of bed and I went to the door.

7 Q. Okay. And when you got to the door, what did
8 you see?

9 A. I saw her coming out of the house on fire.

10 Q. And lean forward just a little. Who was "her"?

11 A. The lady that lived across the street.

12 Q. Okay. So you might not know her name, but this is
13 the woman who lived across the street?

14 A. Yes, ma'am.

15 Q. And had you seen her before?

16 A. I had.

17 Q. Okay. So this woman was the woman you had seen
18 living at that address across the street?

19 A. Yes, ma'am.

20 Q. Okay. And would that be [REDACTED] Lexington Avenue?

21 A. Yes, ma'am.

22 Q. So this woman is on fire?

23 A. Yes, ma'am.

24 Q. And you said you looked through your front door?

25 A. Mm-hmm.

1 Q. Was the door open?

2 A. No. It wasn't.

3 Q. Okay. Is there a window in the door?

4 A. There is.

5 Q. Are there any blinds or is it just a window?

6 A. There's a blind.

7 Q. Did you open the blind?

8 A. I did.

9 Q. Did you have a clear view of what you remember
10 witnessing?

11 A. Yes, ma'am.

12 Q. Do you have any doubt of what you were witnessing?

13 A. No, ma'am.

14 Q. So it was unobstructed?

15 A. Yes, ma'am.

16 Q. The woman that lived across the street, when you
17 first saw her, where was she?

18 A. She was coming out of her front door and down the
19 stairs.

20 Q. And she was on fire at that point?

21 A. Yes, ma'am.

22 Q. Who, if any - who, if anyone came out behind her?

23 A. (No response.)

24 Q. If you don't know their names, just describe their
25 appearance.

1 A. It was the African-American male.

2 Q. Okay. Did you recognize him at all?

3 A. I did.

4 Q. Okay. Had you had any interactions with him as you
5 had her?

6 A. No.

7 Q. How did you recognize him?

8 A. The man that was across the street? He stayed
9 there.

10 Q. Did he stay there all the time or sometimes? How
11 often would you see him?

12 A. Pretty often.

13 Q. Okay. Would it be fair to say he kind of came and
14 went?

15 A. Yes.

16 Q. And this man came out behind the woman on fire --

17 A. Correct.

18 Q. -- that lived across the street? Where did she go?
19 Once you saw her come out the door and down the stairs, where
20 did she go from there?

21 A. She had run to the neighbor's house to the right.

22 MS. McMENAMIN: Would it be okay if the witness
23 stepped down?

24 THE COURT: Absolutely.

25 BY MS. McMENAMIN:

1 Q. Step down for me, Ms. Bugden.

2 A. (Witness complies.)

3 THE COURT: Ms. Bugden, make sure you talk loud
4 because you're kind of soft spoken and I need the jury
5 and the court reporter to hear you, okay?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: Thank you.

8 BY MS. McMENAMIN:

9 Q. Ms. Bugden, take a moment and see if you can locate
10 your house on this aerial view of Lexington Avenue.

11 A. Right there.

12 Q. Okay. Put your finger on it.

13 A. Right there.

14 Q. Right there. Okay. And what house did you see the
15 woman come out of on fire?

16 A. This one.

17 Q. This one right here. Okay. So you pointed at [REDACTED]
18 Lexington Avenue?

19 A. Yes, ma'am.

20 Q. And then you pointed at [REDACTED]; is that right?

21 A. Yes.

22 Q. And then from [REDACTED] Lexington Avenue where did you see
23 the woman on fire go?

24 A. She had ran past to this house.

25 Q. Okay. And is that [REDACTED] Lexington Avenue?

1 A. Right.

2 Q. So when we're looking at this aerial view, that's
3 the house to the right of hers?

4 A. Correct.

5 Q. Okay. But she was still on fire when she ran over
6 there?

7 A. (Witness nodding head.)

8 Q. Thank you. Have a seat.

9 A. (Witness complies.)

10 Q. Was she saying anything as she ran to the neighbor's
11 house on fire?

12 A. She was screaming, help me. Help me.

13 Q. Where was the man when she ran to the neighbor's
14 house?

15 A. He was behind her and he started pacing in front of
16 the house.

17 Q. So was he behind her coming out the door and then as
18 she ran to the neighbors where was he?

19 A. He started just pacing to the right and then back to
20 the left.

21 Q. Okay. And was he doing anything while he was
22 pacing?

23 A. He seemed very aggressive and he seemed like he was
24 yelling.

25 Q. He seemed like he was yelling. What do you mean by

1 that?

2 A. Yes. He was just very agitated and very - you could
3 clearly tell he was distraught and aggressive with his body
4 movements.

5 Q. Was he doing anything else while he was pacing that
6 you can remember?

7 A. He was flicking a lighter.

8 Q. How was he doing that? Can you show me?

9 A. He was just kind of just pacing. As he was pacing,
10 he just kept like flicking something and something was
11 sparking.

12 Q. And you said that was a lighter?

13 A. Correct.

14 Q. Did you see him on fire?

15 A. I did not.

16 Q. Did you see him on fire when he came out the door?

17 A. All I saw was her.

18 Q. You saw her. And you said how much of her body do
19 you recall being on fire?

20 A. From her waist all the way up to her head.

21 Q. And at any point did you see that man who came out
22 of the house behind her try to render aid to her?

23 A. Absolutely not.

24 Q. And do you remember what he was wearing?

25 A. Black shorts.

1 Q. And do you remember if the victim, you said she went
2 to the house next door, did she ever go behind her house
3 anywhere?

4 A. Not that I call.

5 Q. Do you know what hand he had the lighter in?

6 A. His right. Yeah.

7 MS. McMENAMIN: Nothing further from this witness at
8 this time.

9 THE COURT: Thank you. Ms. Mauldin.

10 MS. MAULDIN: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MS. MAULDIN:

13 Q. Ms. Bugden, when you saw this happen, you were
14 looking through the blinds on your front door?

15 A. Correct.

16 Q. And you were inside your house for all that you saw?
17 You didn't go out and perceive any of it outside, right?

18 A. Right.

19 Q. And I see that you have on glasses today. That
20 night did you have on your glasses?

21 A. I did not.

22 Q. All right. And you said that you saw the man
23 flicking something. Could you see the object that he had?

24 A. No. All I saw was a flame from his hand.

25 Q. The police showed you a lineup after they talked to

1 you that night; is that correct?

2 A. Yes.

3 Q. And you weren't able to pick out the person that you
4 saw?

5 A. No.

6 Q. But you say this is the person that you had seen at
7 the house on and off?

8 A. Mm-hmm.

9 Q. And when you talked to the police that night,
10 you went outside and you talked to them standing in the front
11 yard with Mr. Cox; is that right?

12 A. Yes.

13 Q. And then a while after that you went and talked to
14 Investigator Dougall sort of behind the fire truck some more;
15 is that right?

16 A. Yes.

17 Q. Okay. And you were clear that you heard the woman
18 saying help me from inside the house?

19 A. Right.

20 MS. MAULDIN: No further questions, Your Honor.

21 THE COURT: Redirect?

22 MS. McMENAMIN: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. McMENAMIN:

25 Q. Ms. Bugden, they asked you about watching these

1 events take place through a window in your door. You stated
2 you never went outside or at least not until police got
3 there?

4 A. Correct.

5 Q. Speak up just a little bit. You didn't go outside
6 until police got there?

7 A. Correct.

8 Q. And you said there was a woman on fire; is that
9 correct?

10 A. Yes, ma'am.

11 Q. And the man, how did you describe him? What was his
12 demeanor?

13 A. He was aggressive.

14 Q. So did you --

15 MS. MAULDIN: Your Honor --

16 THE COURT: Hold on just a second.

17 MS. MAULDIN: -- this is going beyond the scope.

18 THE COURT: And what was your question?

19 MS. McMENAMIN: Your Honor, his demeanor. I have
20 one more question and I'll have made my point about her
21 not going outside. They're questioning whether or not
22 she went out. I'm getting at why she went out.

23 THE COURT: Okay. I'll allow it. Go ahead.

24 BY MS. McMENAMIN:

25 Q. What was the demeanor of the man outside?

1 A. He was aggressive.

2 Q. And why did you not go out the door until the police
3 arrived on the scene?

4 A. I did not feel safe.

5 MS. McMENAMIN: Nothing further, Your Honor.

6 THE COURT: Thank you. Any recross?

7 MS. MAULDIN: No, Your Honor.

8 THE COURT: May Ms. Bugden be excused?

9 MS. McMENAMIN: Absolutely, Your Honor.

10 THE COURT: Ms. Bugden, thank you for coming. You
11 may be excused.

12 MS. MAYES: The State calls Doug Bramlett.
13 Thereupon,

14 CHARLES DOUGLAS BRAMLETT
15 after having been first duly sworn, testified as follows,

16 THE CLERK: Please have a seat. Once you're seated,
17 state your full name spelling your last please.

18 THE WITNESS: Charles Douglas Bramlett the Third.
19 Last name is B-r-a-m-l-e-t-t.

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. All right. Let me ask you a few questions about
23 your current employment. How long have you been in law
24 enforcement?

25 A. Well, actually I started my career in the United

1 States Air Force. I was military police in the Air Force, but
2 my job was protection of Air Force One. I assigned to the
3 Presidential Air Lift Crew so we're a part of the team that
4 was guarding the plane when he's not on it. I then joined the
5 civilian force after I got out of the military. That was 13
6 years in law enforcement before I retired. I was medically
7 retired last August.

8 Q. All right. You come from a law enforcement
9 family?

10 A. I do. My dad 23 years crime scene law enforcement.
11 He's been sitting in this chair many a time so...

12 Q. Now, you mentioned that you are medically retired.
13 What agency did you retire from?

14 A. City of Cayce. I worked for the City of Cayce first
15 when I got out of the military for six years, ended up at the
16 Attorney General's Office investigating Medicaid fraud,
17 doctors stealing from the Medicaid system, and the I returned
18 back to Cayce where I was assigned a financial crimes
19 investigator for a little before moving over to crime scene
20 and the electronic type stuff.

21 Q. All right. And I'm going to ask you to pull the
22 microphone a little closer to you.

23 A. Sure.

24 MS. MAYES: Your Honor, if I may approach.

25 THE COURT: You may.

1 BY MS. MAYES:

2 Q. There you go.

3 A. Right there.

4 Q. If you can just pull it a little bit closer to you.
5 While you were at the Cayce Department of Public Safety, can
6 you tell us whether or not you had the assignment as an
7 investigator?

8 A. I was. I was assigned, from 2016 until I retired
9 last year I was in the investigative unit. Like I said, I
10 started out assigned as financial crimes and then kind of
11 moved around and ended up at the crime scene section.

12 Q. All right. Were you in the role of an investigator
13 back on August 20th of 2019?

14 A. That's correct. I was.

15 Q. All right. I want to ask you about your response,
16 if you responded to the scene of a fire at [REDACTED] Lexington
17 Avenue on that date?

18 A. I did. I was not the on-call investigator at the
19 time, but on August 20th, 2019, there was a fire that occurred
20 at [REDACTED] Lexington Avenue. Because of the incident the
21 investigator requested other investigators respond to assist
22 and that's why I was called out. I responded straight to the
23 scene and then I met up with officers there and kind of went
24 from there.

25 Q. All right. And can you tell us whether or not you

1 learned that a female at that location had been injured?

2 A. That's correct. I met with Sergeant Powell who is
3 the on duty supervisor. As I met with him, the basic
4 information that he had from me was that there was a fire. At
5 that point it appeared that it possibly was going to be an
6 intentional fire, and so there was a female injured as a part
7 of it and that's where the request for additional
8 investigators was to help to investigate and determine, you
9 know, if it was and if it was, a possible suspect for it.

10 Q. All right. So when we talk about suspect, can you
11 tell us whether or not there at the scene law enforcement
12 learned the name of a suspect?

13 A. Correct. When meeting with the supervisor, Sergeant
14 Powell again, he advised that the suspect we were looking for
15 at that time was Robert Green. He provided me a basic
16 description of the suspect because he had actually seen the
17 suspect walking away from the scene and based on the
18 information he provided to me is where I started as part of my
19 crime scene duties a video aspect of it is collecting video
20 evidence.

21 Q. All right. So I want to ask you a little bit more
22 about that. Once you arrived there at the scene, was the
23 suspect Robert Green still nearby?

24 A. Uhm, when I arrived on scene, he was not there
25 presently. It was a short time after so we were in the

1 process of looking. We had officers out patrolling the area
2 trying to locate him knowing that he had left on foot and so
3 that's where -- In other cases in the past I've been able to
4 actually take and follow a suspect by collecting video from
5 different locations. Now I see he's here, so now I need to
6 look further along, and so that's the basis of where I started
7 at.

8 Q. And so when you talk about obtaining video
9 surveillance, what, if any, intelligence or avenues does the
10 Cayce Police Department have in obtaining video surveillance
11 from nearby locations?

12 A. Thankfully we do live in a day of technology and so
13 one of the first things we do is in the immediate area start
14 knocking on doors asking who has cameras. If you do, where
15 are they pointed, was it recording at the time or is it just a
16 live view for you to be able to view it. So that's where I
17 started at. So we were able to obtain video that way. We
18 also collect the officers' cameras whether it be dash cam,
19 body cam, and then thankfully the city has put a lot of money
20 into camera systems around the city that have really helped us
21 in investigating crimes and so we have what we call traffic
22 cameras staged at junctions all throughout the city one of
23 which was close to this location.

24 Q. All right. So I'm going to ask you a few more
25 questions about that momentarily. Now, you said that you

1 viewed the car camera of Sergeant Powell. That was Sergeant
2 Eddie Powell?

3 A. That's correct.

4 Q. Who had also been at the scene?

5 A. That's correct. Are these the gloves you wanted me
6 to wear?

7 Q. Yes. Feel free. Viewing the car camera of Sergeant
8 Powell, did you recognize the location in which the suspect
9 was walking?

10 A. That's correct. Like I said, I worked for the City
11 of Cayce for six years before, then I returned back so I'm
12 familiar with the various areas of the city.

13 Q. All right. I'm gonna show you what is State's 21
14 and 86 and ask you whether or not you're familiar with these
15 screen shots?

16 A. I am.

17 Q. And those screen shots are from which type of
18 video?

19 A. So this is the dash cam video. You can see the
20 officer's patrol car, the hood on the front of his patrol car.
21 Basically the way it sits directly behind you is going to be
22 Lexington Avenue that is going perpendicular here so this is
23 3rd Street.

24 Q. I'm going to stop you right here, Investigator
25 Bramlett, for an opportunity to describe exactly what we're

1 looking at location wise.

2 A. So as we said, this is the front of the patrol car
3 right here. It is on 3rd Street so this right here is 3rd
4 Street. Directly behind us paralleling behind the back of the
5 vehicle down this way -- I apologize. I didn't mean to hit
6 you in the face with it -- is going to be Lexington Avenue and
7 then this house that you see here is actually on the other
8 side of Holland Avenue so right here in front of it, this
9 light colored area, is actually a street, Holland Avenue.

10 Q. Now, there is a video that is already in evidence
11 and has already been published and that is the video directly
12 from that car camera of Sergeant Powell and that is State's
13 Exhibit 66. I'm going to ask you whether or not you've had an
14 opportunity to view this in the past? You're familiar with
15 that video?

16 A. Yes. We have.

17 Q. After the portion that we see on the screen shot
18 where he is in front of the officer's vehicle, which direction
19 does the suspect go?

20 A. So on this video you watch as the suspect walks
21 forward and then right about here makes a left turn on Holland
22 Avenue and this direction here heads towards State Street
23 which is also basically heading towards the river for
24 orientation heading straight at perpendicular to the river.

25 Q. Now, you mentioned heading towards State Street.

1 What, if any, surveillance video does the City of Cayce have
2 within that area?

3 A. Not at the intersection of Holland and State, but
4 one street over as State allows, and when I say one street
5 over, we're talking maybe a hundred feet, 200 feet offset so
6 there's not much distance between the two, but we do have a
7 intersection or a camera system there.

8 Q. And what, if any, action did you take with that
9 knowledge?

10 A. The way it works when it comes to our video camera
11 system, it is controlled access. We do have a company that we
12 pay to control the system and so we reach out to them and
13 request the video and that's what we did. We, knowing that we
14 have somewhat of a time frame, we request time before and then
15 time after because we don't know if somebody is gonna be going
16 back and forth in a vehicle so we request an extended amount
17 of time and then that is brought to us and brought to us by
18 the technician and given to us by the technician directly so
19 no one else has a chance to view or manipulate the video so
20 they bring it to us and at that point brought it to me and I
21 reviewed the video, the multiple views of the camera system.

22 Q. And what intersection do you recall that video
23 surveillance being located?

24 A. It's at State and Lyles. One of the cameras points
25 back towards State and Holland and the other points up Lyles

1 Street towards Lorick.

2 MS. MAYES: Your Honor, if I may approach.

3 THE COURT: You may.

4 BY MS. MAYES

5 Q. I'm gonna show you two items and ask you whether or
6 not you recognize those items and if so, how?

7 A. The first one is labeled Cayce traffic camera and I
8 would have viewed what is on this disk because my initials are
9 on the disk as well and then this one is traffic camera State
10 and Lyles. Again, same thing, initials on here as well.

11 Q. Okay. So what is State's Exhibit 90 you recognize
12 as with your initials, can you tell us if that is the entire
13 collection of various angles and cameras from that location?

14 A. So this is labeled as - so this first one number 90
15 is labeled with "0" which is original which is the extended.
16 Like I said, when we have an incident, we request usually a
17 good portion of that, at least 30 minutes if not an hour or
18 more so this is the original full version and this --

19 Q. Okay. And then I'm gonna ask you whether or not the
20 channel three, there was opportunity to isolate channel
21 three?

22 A. Correct.

23 Q. And can you tell us whether or not for State's
24 Exhibit 91 that contains channel three?

25 A. Yes. This second one right here we just narrowed it

1 down to that and my initials are on that as well.

2 MS. MAYES: Your Honor, at this time this would be
3 State's 90 and 91 for evidence.

4 THE COURT: Any objection?

5 MS. MAULDIN: No, Your Honor.

6 THE COURT: Ms. Mayes, let me make sure just for the
7 court reporter and for my notes, is 90 the traffic cam
8 video from Cayce?

9 MS. MAYES: From State Street and Lyles Street, Your
10 Honor.

11 THE COURT: State and Lyles. Okay.

12 MS. MAYES: The entire collection of video and
13 State's 91 is channel three.

14 THE COURT: And that's from 90.

15 MS. MAYES: That is from State Street and Lyles
16 Street as well.

17 THE COURT: Okay. Just wanted to make sure.

18 MS. MAYES: The State would ask permission to
19 publish.

20 THE COURT: You can.

21 BY MS. MAYES:

22 Q. Now, having been familiar with the screen shots that
23 we saw in the full video from Sergeant Powell's car cam, did
24 you have an opportunity to observe anyone of a similar
25 description when viewing the State Street and Lyles Street

1 traffic cameras?

2 A. I did.

3 Q. What, if anything, did you observe?

4 A. Well, there are two camera views that cover this.
5 Like I said, one camera view picks up, one camera view covers
6 down State Street towards Holland Avenue and the other one
7 points back up towards Lyles Street towards Lorick. So in the
8 first camera view, the one that points down State Street,
9 there is that little bit of distance so you do see somebody
10 coming and walking across the street so they come from Holland
11 Avenue directly across towards, if you're familiar with it, at
12 the corner there there's a convenience store called the Karatu
13 Store so you see them walking from Holland Avenue across the
14 street. That one has a little bit of distance to it and with
15 the darkness it's not as obvious, but you can follow non stop
16 across until they hit a portion of light and then they hit the
17 light in the parking lot. That's where you see the same
18 physical description as well as clothing description as we
19 just saw in the still shots. Then as they continue through
20 the parking lot you actually pick up, it overlaps and then you
21 pick up the second camera view pointing down Lyles and then on
22 Lyles is where you actually get a good view of it. That's
23 channel number two. It should be the first number or second
24 number 4. The video before that.

25 Q. Before this one?

1 A. I believe.

2 Q. You're familiar with all of the video channels from
3 this, Investigator Bramlett? You have viewed them all?

4 A. Yes, ma'am.

5 Q. And how many channels do you recall seeing the
6 suspect on?

7 A. Two different views.

8 Q. Do you recall viewing him on channel three?

9 A. I do.

10 Q. By him I'm referring to the subject that appears to
11 be the same subject that you observed on Sergeant Powell's car
12 cam?

13 A. That's correct. As a reference here, this right
14 here is Lyles Street. Right here at this intersection is
15 Lorick Street. Directly behind us right here is State Street.
16 So over in this area would be the Holland Avenue
17 intersection.

18 Q. So the direction you observed that subject coming
19 from is from what area?

20 A. From Holland Avenue.

21 Q. And is that the same area that you saw the subject
22 walking towards on the Powell car cam?

23 A. Correct.

24 Q. Now, where ultimately where does this road lead?

25 A. Right there where he's going to go out of view here

1 in a second is Lorick Street and Lorick Street doesn't have
2 any overhead street lights so it gets dark on the view and
3 then left turn onto Lorick basically heading back towards Knox
4 Abbott and Columbia.

5 Q. All right. So what is the time stamp in which you
6 observed this person?

7 A. So on this video the suspect arrives on the video on
8 the other camera angle at 3:41.

9 Q. All right. 3:41 a.m. or p.m.?

10 A. A.m.

11 Q. And the suspect was at what location?

12 A. That was coming from Holland, that's basically the
13 intersection of Holland and State Street.

14 Q. Okay. And then the video that we just observed,
15 what time is located on that time stamp?

16 A. It goes off camera at 3:42.

17 Q. A.m. or p.m.?

18 A. A.m.

19 Q. And what, if anything, do you see? Where if
20 anywhere do you see the suspect go?

21 A. Onto Lorick towards Knox Abbott.

22 Q. All right. And you said you have been an
23 investigator with Cayce for some period of time?

24 A. Yes, ma'am.

25 Q. You are familiar with this entire area?

1 A. I am.

2 Q. I'm gonna show you what is State's 85 and ask you
3 whether or not -- First I'm just gonna ask you whether or not
4 you're familiar with this area and then I'll have you describe
5 further.

6 A. It's upside down.

7 Q. Okay. Are you familiar with this area?

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

9 MS. MAYES: Your Honor, this will be State's 85 for
10 evidence. This is a map, aerial view of the Cayce
11 area.

12 THE COURT: Any objection?

13 MS. MAULDIN: None, Your Honor.

14 THE COURT: It's admitted.

15 MS. MAYES: Your Honor, if the witness may step
16 down.

17 THE COURT: He may. Just, Investigator Bramlett,
18 just make sure you talk loud so the jury can hear you.

19 THE WITNESS: Yes, ma'am. I will.

20 THE COURT: Thank you.

21 BY MS. MAYES:

22 Q. All right. And slowly and for the benefit of
23 everyone, we have a juror to the far right as well as to the
24 far left. If you could demonstrate in general where that
25 traffic cam is located here in the overview?

1 A. All right. So as a reference, this is Lexington
2 Avenue right here. This is the house which was on fire, [REDACTED]
3 Lexington Avenue. This right here is where the patrol car was
4 parked pointing down 3rd Street. This is Holland Avenue and
5 then right here at Lyles and State Street is the intersection
6 where the camera is.

7 Q. All right. The time that was noted for Sergeant
8 Powell's car cam was prior to, can you tell us whether that
9 was prior to or after the video that you obtained from State
10 Street?

11 A. It was prior to. If I remember correctly, it was
12 roughly 3:37, I believe, 3:36, somewhere in there.

13 Q. All right. And I'm also going to ask you whether or
14 not you had an opportunity to review porch camera surveillance
15 of the neighbor Megan Dawson?

16 A. I did.

17 Q. All right. I'll show you what is State's 6 already
18 in evidence and ask you whether or not you're familiar with
19 that?

20 A. Yes, ma'am.

21 Q. And what is the time stamp on that?

22 A. 3:35 a.m.

23 Q. 3:35 a.m. So with the suspect being in the area of
24 the fire at 3:37, 3:35 to 3:37 a.m., and if you could show us
25 one more time where that is located on this map.

1 A. So here is the house that was on fire again, here in
2 blue, right here at the intersection, this last house right
3 here on Lexington is where the video camera that you will see
4 was located and then the patrol car was parked right here at
5 this intersection and again the traffic camera is right
6 here.

7 Q. All right. And on that the suspect walks up 3rd
8 Street and appears to turn left onto which street?

9 A. Holland Avenue.

10 Q. Which is this street here; is that correct?

11 A. That's correct.

12 Q. Now, being familiar with the area and having
13 observed the defendant near the Karatu Store at 3:42 a.m.,
14 will you show us where that would be located?

15 A. So this is Holland Avenue, it comes back up and
16 intersects with State Street. Right here is where you see on
17 the first camera view crossing from Holland across State
18 Street to the Karatu. This is the Karatu store. So he
19 crosses over into the parking lot. And again this is the dark
20 shaded area and right about here in the parking lot where it's
21 lit you actually begin to see and that's when he crosses over
22 to the other camera view, the second one that covers down
23 Lyles Street, so he comes up right here, crosses over, up and
24 then left turn is the last place we have him.

25 Q. So that would be approximately one, two, three city

1 blocks in that period of four to five minutes?

2 A. I kind of laugh at the city blocks thing because
3 anybody that lives in Cayce knows that routinely this whole
4 section of State Street is blocked off for events and as
5 a police officer we have to work those events and we have a
6 lot of parking up here so it is a block, but it's not very
7 lengthy at all because I have walked it many a times on these
8 events so...

9 Q. All right. And then according to the video the
10 suspect is last observed walking in which direction?

11 A. From Lyles Street onto Lorick heading this way.

12 Q. All right. Now, just as an overview regarding
13 landmarks, where is the Congaree River in relation to all of
14 this?

15 A. This is the Congaree River right here and then Knox
16 Abbott would be just up here.

17 Q. Thank you, Investigator Bramlett. You may return.

18 A. (Witness complies.)

19 Q. State's 85 is in evidence. Finally I'm going to
20 show you what is marked as State's Exhibit 89 for
21 identification and ask you whether or not you're familiar with
22 what is depicted in that screen shot?

23 A. Yes. I am.

24 Q. How so?

25 A. This is that camera view from State Street looking

1 back on Lyles Street. It matches this one right here just a
2 little bit further back in time.

3 Q. And it bears what time stamp?

4 A. 3:41 a.m.

5 Q. And is the individual that you're referring to as
6 the potential suspect present and apparent in this screen
7 shot?

8 A. That is correct. On the left side you do see the
9 suspect. You do see a African-American male, no shirt with
10 dark color shorts with the white line on it and then the white
11 shoes or high top shoes.

12 MS. MAYES: Your Honor, this State's Exhibit 89 for
13 evidence.

14 THE COURT: All right. Any objection?

15 MS. MAULDIN: No, Your Honor.

16 THE COURT: It's admitted.

17 BY MS. MAYES:

18 Q. Now, with this information, having obtained this
19 video footage, what, if anything, did you do next in an
20 attempt to help locate the suspect?

21 A. Uhm, essentially I put everything together,
22 presented it to my supervisors based on, they basically, the
23 focal point, Investigator Dougall and then our supervisor, the
24 focal point, presented all this evidence to them based on the
25 video evidence showing what you see in some of the clothing

1 matching, the partially missing clothing, the burnt clothing
2 in the video, plus combined with all their interviews
3 presented, we put together a case and then I went and used
4 that to obtain a arrest warrant for Robert Green.

5 Q. All right. And the actual arrest warrants in this
6 case were obtained by you?

7 A. That's correct.

8 Q. And at that point in time was the suspect's
9 whereabouts known?

10 A. The suspect was not known, the location. We knew
11 that he left the scene, we just had no clue which direction
12 and based on prior experience at any point somebody can be
13 picked up or get in a car. So one of the things we do use, we
14 have access to is the Fugitive Task Force. The Fugitive Task
15 Force is made up of a, it's a U.S. Marshal's Task Force, but
16 it's made up of local agencies that work together and so the
17 task force was asked to assist in locating Robert Green and
18 that's when my supervisor notified that Mr. Green was actually
19 located at the hospital seeking medical treatment for his own
20 burns.

21 Q. All right. So I want to ask you a little bit more
22 about that. Whereabouts were unknown. You obtained
23 assistance, cooperation from the Fugitive Task Force and then
24 learned of his whereabouts on what date and approximately what
25 time?

1 A. It is the same date. This incident occurred on the
2 20th around 3:30 a.m. it was going on and he was checked into
3 the hospital roughly 9:40 a.m. that same morning and we were
4 notified right around 10:00 or a little after 10:00 of his
5 location.

6 Q. So the Cayce Department of Public Safety receives
7 information on August 20th, 2019, now during the daytime hours
8 at approximately 9:40 a.m. he has been admitted to Baptist
9 Hospital?

10 A. That's correct.

11 Q. What, if anything, did you do in response to this
12 information?

13 A. I responded to the scene with my supervisor. It was
14 kind of a unique situation on how you place somebody under
15 arrest that needs medical treatment especially one that would
16 probably need to be transferred. So my supervisor went with
17 me for that aspect, but my duty, my job at that point was to
18 collect evidence. When he got to the hospital, he was in
19 clothes that did have burns and things consistent with this
20 incident so we wanted to collect that as evidence so that was
21 my job that day just to collect the clothing as evidence.

22 Q. You did that in person?

23 A. I did.

24 Q. You had personal contact with the suspect in this
25 case Robert Green?

1 A. Yes. I did.

2 Q. Now, at that point in time do you recall whether or
3 how he arrived at the hospital?

4 A. Uhm --

5 Q. Was it by ambulance?

6 A. No. It was not by ambulance. It was a family
7 member. He had gone to a family member's house and that
8 family member had brought him in for treatment.

9 Q. All right. And the admission time is 9:40 a.m. Can
10 you tell us what, if any, type of clothing he was wearing upon
11 your arrival?

12 A. He had already been dressed out into a medical gown.
13 The security guards that were posted on him had collected his
14 clothes and just left it there remaining for us. We were able
15 to collect the white shoes, high heeled shoes or high top
16 shoes consistent with what we saw on the video, the dark
17 shorts with white line around it consistent with the video and
18 then if you see him on the dash cam video as he's walking away
19 you can see part of the shorts are missing and you can see the
20 color difference and see red underwear and that's actually
21 what we were able to find when we got there was a pair of red
22 underwear burnt consistent with some of the other clothing
23 items.

24 Q. Looking here at State's 86, is that the item you're
25 referring to?

1 A. It is.

2 Q. And State's 21?

3 A. With the lighting of this camera it's a little bit
4 harder to see the coloration because of the glare, but you can
5 actually see here where a section of the shorts are missing
6 and in the actual photo you see the color difference with a
7 red tint to it that is different than the darker black tint
8 down here. Then you also see the black shorts with the burn
9 marks on that side or a missing section on that side with the
10 white around it and then you will see in the video the white
11 high top shoes as well.

12 MS. MAYES: Your Honor, may I approach?

13 THE COURT: You may.

14 BY MS. MAYES:

15 Q. I'm going to show you what is State's 92 and State's
16 93, Investigator Bramlett, and ask you to take your time and
17 observe those items.

18 A. With number 92 when we collect anything related to a
19 fire evidence, we have to maintain, we can't put it in a
20 regular bag where some of the evidence might evaporate so we
21 have to do it, seal it in containers such as this, so these are
22 not your typical paint cans. These are set aside just
23 specifically for this being sterile. After we place the items
24 inside of them, we do place an evidence tape around it and
25 then initial and date that evidence tape as well to ensure

1 that, or showing who actually sealed it. If you notice on
2 this one, you have the evidence tape that would have been
3 across this way before it was processed and on the evidence
4 tape that you process is over you see my initials with the
5 date and the case number all in my handwriting.

6 Q. And what date is noted?

7 A. It is August 20th, 2019.

8 Q. All right. And then also for State's 93.

9 A. It's the same consistency. You see the evidence
10 tape going across that where it was broken as part of the
11 process when SLED arson put their own seal on it and again you
12 notice my initials, the same date of August 20th, 2019 and the
13 case number all in my handwriting.

14 Q. All right. Now, inside these items what type of
15 clothing is contained?

16 A. So contained in there when it was submitted was the
17 pair of black shorts, the red underwear and then that will be
18 in there, then we have the shoes here in a separate
19 container.

20 Q. All right. And did you properly seal these items
21 once the clothing was placed inside?

22 A. I did.

23 Q. You sealed it with the evidence tape that you have
24 already identified?

25 A. That's correct.

1 Q. That bears your initials?

2 A. It does.

3 MS. MAYES: State's 92 and 93 for evidence, Your
4 Honor.

5 THE COURT: Any objection?

6 MS. MAULDIN: Yes, Your Honor. We would object to
7 foundation. We haven't heard chain of custody on this
8 item yet.

9 MS. MAYES: I can lay that foundation further, Your
10 Honor.

11 THE COURT: If you will.

12 BY MS. MAYES:

13 Q. I'm going to show you State's 94 and also ask you
14 whether or not you recognize these items and if so, how?

15 A. Yes. These are the shoes we received that night as
16 part of the evidence.

17 Q. Okay. So just to clarify, you go to what location
18 in order to obtain these items?

19 A. I went to Baptist Hospital where Mr. Green was
20 receiving treatment, went actually to the room itself where he
21 was being treated so this wasn't taken anywhere. It was right
22 there in the room with him self contained and then I took them
23 into evidence and placed them into brown essentially like
24 paper bags and transported them back so I could get to a
25 container that was meant or essentially for this type of

1 evidence and then I personally photographed and sealed them
2 into containers.

3 Q. All right. And at that point in time what effort
4 was made to assure that this was, in fact, the clothing of the
5 suspect Robert Green?

6 A. We did speak with the security guard and medical
7 staff on scene that confirmed that this was the items that
8 they took off of him upon beginning the medical treatment.

9 Q. And just to follow up, where was he in proximity to
10 the items that you were seizing?

11 A. I could see him. We were standing at the door. He
12 was inside receiving - the medical rooms are pretty tiny, but
13 he was in view of me. We weren't allowed to go into the room
14 with him because of open wounds, chance of infection, that
15 type of thing. They didn't want us in there, but I was able
16 to actually see him and was in his presence.

17 Q. And had a search warrant been obtained for these
18 items?

19 A. That is correct. Investigator Dougall had obtained
20 a search warrant.

21 Q. You were there for the execution of that search
22 warrant?

23 A. Correct.

24 Q. I'm going to show you a photograph marked State's 70
25 and ask you what is contained in that photograph?

1 A. So in this photograph is the depiction of all of
2 these items.

3 Q. After it's been sealed?

4 A. That's correct.

5 Q. Sealed by you?

6 A. Correct.

7 Q. And then prior to the sealing, did you have a chance
8 to visually inspect the clothing items?

9 A. I did.

10 Q. And were they photographed?

11 A. They were.

12 Q. Photographed in your presence?

13 A. They were.

14 Q. I'm going to ask you to take a look at these
15 photographs. We're gonna start with State's 14.

16 A. So State's 14 --

17 Q. Without describing them, first let me just ask you
18 if you recognize them and lay that foundation for State's
19 14?

20 A. Yes.

21 Q. State's 13?

22 A. Yes, ma'am.

23 Q. State's 12?

24 A. Yes, ma'am.

25 Q. State's 11?

1 A. Yes, ma'am.

2 Q. State's 10 and State's 9. So, Investigator
3 Bramlett, I'm gonna ask you whether or not you're familiar
4 with those photographs?

5 A. Yes, ma'am.

6 Q. And if so, how?

7 A. I took these photographs.

8 Q. Of the same clothing that you have already
9 described?

10 A. That's correct.

11 Q. Are they a fair and accurate representation of the
12 clothing you obtained that day?

13 A. Yes, ma'am.

14 Q. And where were these photographs taken?

15 A. They were taken at Cayce Police Department after I
16 returned back.

17 Q. With the clothing items?

18 A. That's correct.

19 MS. MAYES: This would be State's 9, 10, 11, 12, 13,
20 and 14 for evidence, Your Honor.

21 THE COURT: Any objection?

22 MS. MAYES: And also State's 70.

23 THE COURT: And also 70? Is that what you said?

24 MS. MAYES: Yes, Your Honor, 70 in addition to the
25 items already named.

1 THE COURT: 9 through 14. Any objections?

2 MS. MAULDIN: No, Your Honor.

3 THE COURT: They're admitted.

4 BY MS. MAYES:

5 Q. So having been familiar with what we see here,
6 State's 21, what, if any, significance is State's 11 for
7 purposes of your investigation, Investigator Bramlett?

8 A. What you see in the picture is the shorts that were
9 consistent with what we found in the video. You see the black
10 shorts with the white stripes around them as well as the red
11 undershorts or underwear that I viewed on the patrol car video
12 as well.

13 Q. And State's 12?

14 A. That's just another picture close up of the shorts
15 themselves, get a little bit more of the burn marks on them.

16 Q. All right. What marks on them?

17 A. The burn marks. The burn marks on them.

18 Q. You're calling them burn marks. You had a chance to
19 visually inspect these items with the naked eye?

20 A. That's correct.

21 Q. That's how it appeared to you?

22 A. Yes, ma'am.

23 Q. And then State's 10?

24 A. This would be the red underwear.

25 Q. What, if any, type of marks were significant to you

1 after a visual inspection of these items?

2 A. Again, as you see on the right side of the screen,
3 you have burn marks on those as well and on the bottom left
4 side you have some.

5 Q. All right. And then State's 13?

6 A. The socks associated with the shoes.

7 Q. And State's 14?

8 A. And then the white high top shoes as well that are
9 observed on the video.

10 Q. And then finally we see State's 70. Where was this
11 photograph taken?

12 A. So this is again the photograph of the items, the
13 top part being my initials on the evidence as well. You
14 actually see the seal intact there going across it prior to
15 being opened and then in the position you see now.

16 Q. And that contains all of the items that you sealed
17 that we just saw photographed?

18 A. That's correct.

19 Q. And you sealed them in what time proximity to when
20 you had photographed them?

21 A. Immediately after. As soon as I took the
22 photographs we sealed them right then and there.

23 Q. And once you sealed them, were they free from
24 tampering?

25 A. They were. They were sealed. They were secured in

1 our locker system until the next day when SLED was able to
2 accept them into evidence. We used our standard normal
3 procedures to transfer them into the custody of the evidence
4 lockers, secured and then they were removed the next day for
5 processing.

6 Q. All right. And are all of these items self
7 identifying meaning you can recognize them by visual
8 appearance?

9 A. As far as my signature and my initials everything on
10 them?

11 Q. The clothing items themselves?

12 A. The clothing items. Yes.

13 Q. They are all self identifying?

14 A. Yes.

15 MS. MAYES: Your Honor, this would be State's 92 and
16 93 for evidence being the clothing items and then State's
17 94 being the shoes.

18 THE COURT: Any objection?

19 MS. MAULDIN: Subject to our prior objection, Your
20 Honor.

21 THE COURT: You think she hasn't made a proper
22 foundation? Is that your prior objection?

23 MS. MAULDIN: Your Honor, may we approach.

24 THE COURT: Yes.

25 (Side bar off the record.)

1 THE COURT: For right now I'm going to sustain their
2 objection and ask you to move on, Ms. Mayes.

3 MS. MAYES: Your Honor, pursuant to the side bar we
4 will clarify that.

5 BY MS. MAYES:

6 Q. The initials contained on both of those exhibits
7 before you State's 92 and 93 are whose initials?

8 A. Those are mine.

9 Q. And who placed the seal tapping on it?

10 A. I did.

11 Q. Was there any evidence of tampering in your
12 presence?

13 A. No, ma'am.

14 Q. And you placed them where?

15 A. Into the evidence locker.

16 Q. And when items are placed in the evidence locker,
17 how do you go about maintaining that it's not tampered with at
18 that location?

19 A. It is secured and only one person has access to the
20 lockers and that's the evidence technician so the next day
21 when they would have been processed, Investigator Dougall
22 would have had to make contact with the evidence custodian to
23 come and release it so there's only one person in between so
24 it limits the number of people to ever have contact to make
25 sure that there's no adjustments, no changes.

1 Q. And at the time, Investigator Bramlett, that you
2 placed all of those items into the evidence locker, were they
3 free of tampering?

4 A. That's correct.

5 Q. And they remained sealed?

6 A. That's correct.

7 Q. And you mentioned that arrest warrants had been
8 obtained by you in this case?

9 A. Correct.

10 Q. Do you have knowledge as to when those arrest
11 warrants were served?

12 A. We essentially served them at that time, executed
13 them at that time. It's hard to take somebody physically into
14 custody, but the warrants were read to and executed and served
15 at that point in time.

16 Q. On August 20th, 2019?

17 A. At the hospital.

18 Q. Contemporaneously with the execution of the search
19 warrant for the suspect's clothing?

20 A. That is correct.

21 MS. MAYES: Nothing further for Investigator
22 Bramlett at this time, Your Honor.

23 THE COURT: Thank you, Ms. Mayes. Mr. Madsen.

24 CROSS EXAMINATION

25 BY MR. MADSEN:

1 Q. Mr. Bramlett, real quick. So you go to the hospital
2 with the arrest warrant and you know that he's there getting
3 treated for burns on himself?

4 A. Correct.

5 Q. And then, I guess, he gets shipped off to the Burn
6 Center in Augusta?

7 A. That's correct.

8 Q. And then you put the stuff in the cans and you put
9 it in evidence and I mean until today that's the last time you
10 saw it until since then?

11 A. That is correct.

12 MR. MADSEN: That's all the questions we have.

13 THE COURT: All right. Okay. Any redirect, Ms.
14 Mayes?

15 MS. MAYES: Not at this time, Your Honor.

16 THE COURT: Okay. At this time can Mr. Bramlett be
17 excused?

18 MS. MAYES: He can, Your Honor.

19 THE COURT: Mr. Bramlett, thank you. Let me ask
20 because it's getting close to lunch time, I want to make
21 sure my jury is happy. Our next witness, will it be
22 long?

23 MS. MAYES: Could be, Your Honor.

24 THE COURT: Madam Forelady, would y'all like to have
25 a lunch?

1 FORELADY: Yes.

2 THE COURT: Now?

3 FORELADY: Yes.

4 THE COURT: All right. What time do y'all want to
5 come back?

6 MS. MAYES: May we approach, Your Honor.

7 THE COURT: You may.

8 (Side bar off the record.)

9 THE COURT: Okay. We'll let you go to lunch. Same
10 rules. No talking amongst yourselves about this case
11 yet. Don't talk to anybody else. No calling family or
12 friends and telling them about this case. Don't go on
13 Facebook, Twitter, any of that stuff, okay? I'm going to
14 ask that you come back at around 1:15. We are going to
15 start promptly at 1:30, okay? Have a good lunch.

16 (Whereupon, the jury was released for lunch break at
17 11:55 a.m.)

18 THE COURT: Okay. I want to find out about Ms.
19 Combs before we go to lunch because I know I ordered her
20 not to leave the courthouse and I want to see what's
21 happening on that.

22 UNIDENTIFIED SPEAKER: Judge, I did receive a call
23 from her son Pete Messina. He's less than cooperative.
24 He had a lot of few choice words to say about coming over
25 here. He stated that he has spoken with multiple people

1 between law enforcement and investigators and
2 investigators from our office as well, he's given
3 everything that he feels he should have to. He is not
4 coming to the F'ing courthouse. I asked him for a valid
5 address. He gave me the same -- Well, he at first told
6 me he was not going to give me his address. I relayed
7 what the Judge had stated about possibly finding him in
8 contempt and that he would not be allowed to dodge a
9 subpoena, he told me exactly what he thought of that in a
10 whole bunch of words and then when I asked him again for
11 his address, he gave me his physical address. I told him
12 that our outside investigator had already been to that
13 address, but it is an 11 acre property, it has a gate
14 which is secured and if it is secured, how are we
15 supposed to, you know, serve a subpoena on him. He told
16 me that we are not allowed, nobody is allowed to step
17 foot on that property without his or his roommate's
18 approval and he is not giving us approval and if that's a
19 problem with us or with the Judge, then they can leave it
20 in the F'ing mailbox so...

21 THE COURT: All right. Let me see the attorneys for
22 a moment.

23 (Side bar off the record.)

24 THE COURT: All right. We were in recess.

25 MS. MAYES: Is Ms. Combs still under the Court's

1 order?

2 THE COURT: I'm going to let Ms. Combs be excused.
3 Is she in here?

4 MS. MAYES: I can get her, Your Honor, if you like.
5 She's right in the other room.

6 THE COURT: That's okay. Just tell her she can be
7 excused.

8 MS. MAYES: Yes, ma'am.

9 THE COURT: If you would please thank her. Rob,
10 when y'all make up your mind, will you grab either LeAnna
11 or Suzanne and y'all come back and let me know? I'll be
12 in my office. Lunch until 1:30.

13 (Lunch break.)

14 BAILIFF: All rise.

15 THE COURT: Thank you. Please be seated. I've got
16 a note from the jury that I need to read to y'all. It's
17 not a big deal. All right. On the record. I just got a
18 note from the jury and it states, "Would you please ask
19 the defense attorney to speak louder. We cannot hear the
20 objections. Thank you. Renee Kaiser." She is our
21 Forelady. This note is dated today at 1:15.

22 MS. MAULDIN: Yes, Judge, I will do that.

23 THE COURT: Yeah. You know, the only thing that
24 concerns me is I'm wondering who she's speaking for.
25 Because, you know, we do have one juror who is hard of

1 hearing and I don't want that to be an issue and I have
2 moved her and I have also instructed her to let the
3 bailiff know and to let me know personally so I think - I
4 don't know. I just wanted to know if it was her that was
5 having a problem hearing, but I'm going to tell y'all
6 from up here it makes all the difference in the world
7 whether you have your mask on or if you don't. If you've
8 got your mask on, I have a hard time hearing you and I'm
9 not -- They shouldn't be concerned about the
10 objections.

11 MR. MADSEN: That was gonna be my point. I mean,
12 that's - Your Honor has to rule on those. Those are
13 legal matters. Those shouldn't come into their decision
14 making process --

15 THE COURT: Process at all. So I think I'm just
16 gonna tell them that again and make sure everybody has
17 been able to hear throughout the trial and go from there.
18 Unless somebody else has a suggestion, I'll be free and
19 open to hear it. All right. Just for timing purposes,
20 where are we with the State? How many more witnesses for
21 today? Do y'all know?

22 MS. MAYES: Your Honor, we have a doctor is who here
23 who we would like to go ahead and get on up. He's got to
24 be in the emergency room at three in Columbia.

25 THE COURT: Okay.

1 MS. MAYES: So we would like to go ahead and get him
2 up. He is Dr. Zach Hardy who is in the courtroom and
3 ready to go. And then we have two arson investigators,
4 Your Honor, one who worked the scene, the other who is an
5 expert in arson investigation. They are here and
6 prepared to testify as well.

7 MR. MADSEN: Judge, the only thing I think we would
8 have an issue with Dr. Hardy and maybe the State can
9 clear this up, but there are some things in here that
10 when they talked with him, that he would make comments
11 about joking about having done it and things like that I
12 think would go into character and demeanor and I don't
13 think that those would be appropriate for the medical
14 treatment, for anything under any of the exceptions to
15 hearsay. We would say that certainly could be character
16 evidence. It certainly would be speculation. We don't
17 believe that that would be appropriate. Now, maybe the
18 State's not going to go into that.

19 THE COURT: Okay. Well, first off, y'all, I'm kind
20 of clueless. Somebody tell me, what did this doctor --
21 Who did he interview and what are we talking about?

22 MS. MAYES: Yes, Your Honor. Dr. Zach Hardy was
23 working the emergency room when the defendant arrived
24 there for treatment at 9:40 a.m. on the day of the fire,
25 that's August 20th, 2019. He comes in and for purposes

1 of medical diagnosis and treatment he gives the doctor
2 the story I was burned in a suicide attempt and the
3 doctor notes that his manner is joking and so that's
4 certainly relevant to the demeanor that he observed and
5 the fact that it's inconsistent with the defense in the
6 case. The defense is that the defendant attempted
7 suicide and that's how this burning occurred. So the
8 fact that he tells the doctor I'm not suicidal at the
9 moment and he's joking and never mentions anything else
10 is certainly relevant to conduct and demeanor. He
11 doesn't mention anything about someone else being
12 injured. He doesn't mention anything about the house
13 burning down. He says simply I set myself on fire in a
14 suicide attempt but I'm not suicidal now and he notes
15 that his demeanor is joking so it's not character
16 evidence. It's evidence of conduct and demeanor which is
17 certainly material to relevance and counteracting the
18 alleged defense of a suicide attempt.

19 MR. MADSEN: We haven't --

20 MS. MAYES: Also goes to state of mind.

21 MR. MADSEN: We haven't put up any evidence and they
22 want to put the burden of proof --

23 MS. MAYES: They haven't, but we certainly
24 anticipate that that's coming and it's a statement that
25 he made to the doctor to explain how he got these

1 injuries. It's the medical history he provided. I was
2 burned in a suicide attempt, but the doctor notes that
3 his demeanor or manner is joking.

4 MR. MADSEN: And that's the part we don't think is
5 appropriate and again we haven't put that up yet. Will
6 we? Maybe. Obviously at the end of the State's case we
7 make a determination about what we will or won't do, but
8 we haven't done that at this point in time and so for
9 them to basically do that is commenting on the silence,
10 anticipating defenses, things that they are not allowed
11 to do.

12 MS. MAYES: It's not commenting on silence when he
13 voluntarily gives a history to the doctor, gives a story
14 accounting for his injuries and most importantly, Your
15 Honor, the state is required to prove malice. Malice can
16 be malice aforethought, it can also accompany one's
17 demeanor and behavior after the crime and here he is in
18 an emergency room joking about his burn injuries and we
19 believe that's evidence of malice and of the callous
20 nature that we have already heard some witnesses describe
21 and we certainly think it's material to the State's
22 case.

23 THE COURT: Were y'all ready?

24 MS. MAYES: We are, Your Honor.

25 THE COURT: I'm gonna let it in. I agree with Ms.

1 Mayes. I don't think it's so much his character than it
2 is his demeanor and how he acted after the crime and I
3 think the doctor can certainly testify to what he
4 observed. I will note the defense's objection for the
5 record, but I'm gonna allow it in.

6 MS. MAYES: Your Honor, there's also a reference to
7 using alcohol and cocaine. We are not eliciting that
8 information. I wanted that to be part of the record.

9 MR. MADSEN: They can bring it in. I'm gonna bring
10 it in. I'm gonna bring that in.

11 MS. MAYES: You said the defense does intend to?

12 MR. MADSEN: Sure.

13 MS. MAYES: We won't. I had instructed him not to
14 answer that question, but certainly if you get asked that
15 question by defense counsel, you can respond.

16 THE COURT: Okay. Well, let the defense bring it up
17 then. All right. Let's bring the in jury so I can talk
18 to them about not hearing anything right quick. Before
19 the jury comes in, there's not anybody in the courtroom
20 who shouldn't be here, is there?

21 MS. MAYES: No, Your Honor.

22 THE COURT: Okay. Good. Ms. Mayes, are you
23 planning to qualify this doctor as an expert?

24 MS. MAYES: Yes, Your Honor.

25 THE COURT: Is that something we can stipulate to or

1 not?

2 MR. MADSEN: Sure.

3 THE COURT: Y'all are gonna stipulate?

4 MR. MADSEN: This is gonna be a doctor in emergency
5 medicine?

6 MS. MAYES: Yes.

7 THE COURT: Okay. Then I'm just gonna go ahead when
8 the jury comes in before he takes the stand let them know
9 and I'll give them a quick charge on expert witnesses.

10 (Whereupon, the jury entered the courtroom at 1:40
11 p.m.)

12 THE COURT: Okay. Madam Forelady, I received your
13 note and it states that y'all cannot hear the objections.
14 I'm going to tell you again, when lawyers object, they're
15 objecting to evidence and rules that the Court, that we
16 must abide by. That does not concern the jury at all.
17 Y'all don't need to be -- I gave you instructions
18 earlier. An objection is not for your consideration,
19 okay? That is a matter of law. That's something that I
20 rule on so -- And I'm concerned. I want to make sure
21 that everybody can hear. Is everybody okay hearing?

22 MALE JUROR: Yes. Depends on who. There are some
23 areas of the courtroom that you cannot because we are in
24 these.

25 THE COURT: I know. I know. And then even when you

1 speak in there it vibrates to you, but I have asked the
2 lawyers to please speak louder. I'm gonna tell you if
3 you cannot hear, please raise your hand. I don't care
4 what they're in the middle of doing, I can stop them and
5 ask them to please speak louder. This case is important
6 and I need you to hear everything that these lawyers are
7 saying. All right. I want to make sure everybody can
8 hear me? Okay.

9 All right. Then I've got a charge I need to let you
10 know. Our next witness is, the State's next witness is
11 an expert witness. Normally a person cannot give opinion
12 testimony. Normally when a person testifies, they must
13 testify as to what they either saw, heard, sensed by
14 smell or something of that nature, however, we have an
15 exception. When someone is qualified because of
16 education or experience, they are permitted to give their
17 opinion in certain areas if the Court qualifies them that
18 way. This witness will be qualified in the area, he is a
19 doctor in the emergency room so I would assume emergency
20 care; is that right, Ms. Mayes?

21 MS. MAYES: Emergency medicine.

22 THE COURT: Emergency medicine. And he would give
23 opinion testimony in that area. That does not mean that
24 you must accept his opinion, but it is evidence for you
25 to use in any way you see fit and give it the weight and

1 credibility that you believe is appropriate. Do you
2 understand?

3 FORELADY: Yes, ma'am.

4 THE COURT: Okay. Then let's move on. Again, if
5 you cannot hear, please raise your hand, okay? I'm
6 keeping an eye on y'all, okay? All right, Ms. Mayes.

7 MS. MAYES: The State calls Dr. Zach Hardy.

8 Thereupon,

9 ZACHARY WILLIAM HARDY, M.D.
10 after having been first duly sworn, testified as follows,

11 THE CLERK: Have a seat right up there, doctor.
12 Once you're seated, you can remove your mask. You need
13 to state your full name and spell your last on the record
14 please.

15 THE WITNESS: My name is Zachary William Hardy. The
16 last name is H-a-r-d-y.

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Good afternoon, Dr. Hardy.

20 A. Good afternoon.

21 Q. I'm gonna ask you a few questions about yourself.
22 You've been qualified as an expert in emergency medicine, but
23 tell us how long you have been practicing medicine following
24 your graduation from medical school?

25 A. I finished medical school in 2016, I've been

1 practicing emergency medicine since June and July of 2016 so
2 about five years.

3 Q. All right. And, Dr. Hardy, pull that microphone a
4 little bit closer to you. Excellent.

5 A. Is that better?

6 THE COURT: Much better. Thank you.

7 BY MS. MAYES:

8 Q. Now, where did you do your residency, Dr. Hardy?

9 A. I did my residency at Palmetto now Prisma Health
10 Richland in Columbia.

11 Q. And was that in the field of emergency medicine?

12 A. It was.

13 Q. And is it possible for you to estimate how many
14 patients you see in the emergency room over the course of a
15 given year?

16 A. Roughly 2000.

17 Q. Now, can you tell us whether or not you were working
18 at the emergency room of Prisma Baptist Hospital in Columbia
19 on August 20th, 2019 around 9:40 a.m.?

20 A. I was.

21 Q. Tell us what, if anything, occurred then that
22 allowed you to have contact with the defendant in this case
23 Robert Rome Green?

24 A. He was brought into the emergency department and I
25 saw him as his attending emergency physician.

1 Q. So you were the attending physician who treated him
2 in the emergency room?

3 A. Correct.

4 Q. Now, just to clarify, had he come in by ambulance or
5 some other means?

6 A. He came in walking through the front door.

7 Q. Now, when a patient comes into the emergency room
8 and they need treatment of any sort, how necessary is it for
9 your medical diagnosis and treatment to obtain a history from
10 that patient? What happened? How did it happen?

11 A. It's critical to obtain that information.

12 Q. And is that something that you do with every
13 patient?

14 A. It is.

15 Q. And how do you go about, doctor, documenting the
16 history that the patient gives you for how they sustained an
17 injury?

18 A. I'll ask them and then I'll write down what they
19 told me about how it happened.

20 Q. And you write that down yourself or do you make that
21 actual notation yourself?

22 A. I do.

23 Q. And in this case did you have an opportunity for
24 purposes of medical diagnosis and treatment to ask Robert
25 Green what his chief complaint was?

1 A. I did.

2 MR. MADSEN: Judge, I want to renew my objection.

3 THE COURT: It is duly noted for the record. You
4 may continue, Ms. Mayes.

5 BY MS. MAYES:

6 Q. And, doctor, in the course of obtaining information
7 as to their chief complaint, do you actually write down the
8 details of what they say verbatim?

9 A. It's not always taken verbatim. It will be their
10 story written in a way to reflect what they say rough hand.

11 Q. All right. So you're documenting what they're
12 telling you?

13 A. Yes.

14 Q. And do you have with you your record as it relates
15 to the history of injury to Robert Rome Green?

16 A. I do.

17 Q. I'm gonna ask you to refer directly to your record.

18 A. Okay. It states for the history of present illness,
19 patient is --

20 Q. Yes.

21 A. Patient is a 46 year old male who is brought to the
22 emergency department after sustaining burns to his back, leg,
23 and left hand sometime last night.

24 Q. All right. So let me stop you right there. So he
25 is in the emergency room because he has sustained some type of

1 burn injury?

2 A. Yes.

3 Q. And where did you note the burn injury to have
4 occurred?

5 A. On his -- You're asking on his body where?

6 Q. Mm-hmm.

7 A. To his back, leg, and left hand.

8 Q. All right. And do you also assess a patient to
9 determine whether or not they appear aware of their
10 surroundings or oriented?

11 A. I do.

12 Q. And in this case if Mr. Green did not appear to be
13 aware of his surroundings or competent or oriented, is that
14 something you would have noted in your record?

15 A. It would have been.

16 Q. Based upon your review of his record, did he appear
17 aware of his surroundings when he spoke with you?

18 A. He did.

19 Q. And oriented as to time and place?

20 A. Yes.

21 Q. Now, going back to that history that he gave you,
22 what, if anything, else did you write about your inquiry to
23 Mr. Green as to how he was injured?

24 A. I said, and asked what happens. He states that he
25 is tired of living on the streets and wants to be admitted.

1 Q. All right. Let me stop you right there. Tired of
2 living on the streets and wants to be admitted?

3 A. Correct.

4 Q. Admitted to where?

5 A. I assume the hospital.

6 Q. And what else?

7 A. He states that he poured gasoline on his back and
8 leg and then used a lighter with his right hand to light
9 himself on fire.

10 Q. All right. Let me stop you right there. He stated
11 that he poured gasoline on his back and leg?

12 A. Yes, ma'am.

13 Q. On back and leg and did what?

14 A. He used a lighter with his right hand to light
15 himself on fire.

16 Q. So the information about using a lighter and with
17 his right hand came directly from Mr. Green?

18 A. Yes. It did.

19 Q. And he stated that he did that in order to light
20 himself on fire?

21 A. He did.

22 Q. So he's telling you that this is a suicide
23 attempt?

24 A. Yes.

25 Q. Dr. Hardy, you mentioned that you see thousands of

1 patients each year. In your training and experience, your own
2 clinical experience in the emergency room, have you ever
3 treated a patient before who attempted suicide by setting
4 themselves on fire?

5 A. Never that I can recall.

6 Q. What else did he state when you followed up on that
7 regarding any suicidal thoughts?

8 A. Currently denies any thoughts of suicide and is
9 joking about having done it.

10 Q. All right. And when you say currently denies any
11 thoughts of suicide, is that something you asked about, if you
12 were suicidal last night? Are you suicidal now?

13 A. Correct.

14 Q. And he denied that he was currently suicidal?

15 A. Yes.

16 Q. And then what else did you note about his demeanor
17 or conduct?

18 A. He was joking about having done it.

19 Q. Now, why did you make a notation about that?

20 A. I thought for someone who supposedly who had come in
21 due to depression and thoughts of suicide to the point of
22 lighting themselves on fire, that his laughing and joking was
23 unusual to the point of being noteworthy.

24 Q. And that's the extent of how he explains to you that
25 he was injured?

1 A. Correct.

2 Q. At any point in time during the course of giving
3 that history did he report that anyone else had been
4 injured?

5 A. No. He did not.

6 Q. Did he ever report that anyone else was present when
7 that occurred and he --

8 MR. MADSEN: Judge, I'm gonna object. May we
9 approach?

10 THE COURT: Yes. You may approach.

11 (Side bar off the record.)

12 BY MS. MAYES:

13 Q. Dr. Hardy, this statement regarding the history of
14 how he was injured, was that given to you voluntarily by
15 Mr. Green?

16 A. Yes.

17 Q. You did not force or coerce him to provide you with
18 that information, correct?

19 A. No.

20 Q. And in the course of giving you that history he
21 states that he lit himself on fire, he's joking. Did he ever
22 mention anyone else?

23 A. No. He did not.

24 Q. And during the course of that, did you ever have any
25 information regarding injuries to another person who may have

1 been present?

2 A. Not until later in his course when the police
3 arrived.

4 Q. When the police arrived, you were alerted that
5 someone else had been injured?

6 A. Correct.

7 MR. MADSEN: Your Honor, objection.

8 MS. MAYES: We'll move on, Your Honor.

9 THE COURT: You need to move on. I agree. That is
10 hearsay. Let's move on.

11 BY MS. MAYES:

12 Q. And that happened after your assessment of Mr. Green
13 that police officers arrived?

14 A. Yes. Later in the night.

15 MR. MADSEN: Judge, I object.

16 MS. MAYES: This is about when they arrived.

17 THE COURT: He's not stating what the police
18 officers told him. Repeat the question.

19 MS. MAYES: Yes, Your Honor.

20 BY MS. MAYES:

21 Q. Your initial assessment of Mr. Green was before or
22 after police arrived?

23 A. Before.

24 MR. MADSEN: That's fine.

25 THE COURT: That's what she said. The first one I

1 agree with you Mr. --

2 MR. MADSEN: Yeah. That's not - that's not what she
3 said but...

4 THE COURT: -- Madsen. I agree the first one would
5 be hearsay, but the second question is just fine.

6 MR. MADSEN: Sure.

7 BY MS. MAYES:

8 Q. All right. And during this assessment with Mr.
9 Green, are you looking at him physically?

10 A. Yes.

11 Q. And did you have an opportunity, Dr. Hardy, to note
12 where on his body you observed what appeared to be burn
13 injuries?

14 A. Yes. I did.

15 Q. I'm going to refer to that portion of your report.

16 A. Okay. You want me to read it?

17 Q. Yes. Give me just one moment.

18 A. Okay.

19 Q. First, let me ask you this: During the course of
20 your treatment of him, at any point in time did he need to be
21 intubated? Did he need to have a tube placed into his airway?

22 A. No. He did not.

23 Q. At any point in time did he require life saving
24 measures?

25 A. No.

1 Q. And ultimately was he transferred onto the burn
2 center in Augusta?

3 A. Yes. He was.

4 Q. And why was that?

5 A. The total surface area of his burns was above a
6 threshold where we would typically transfer so that they can
7 have specialized burn care.

8 Q. And in this case, can you tell us whether or not
9 that was precautionary in nature?

10 A. Yes.

11 Q. Did you actually see any signs of infection to
12 Mr. Green?

13 A. No.

14 Q. And did he appear to be in shock, physical shock?

15 A. No. He was not.

16 Q. So you didn't observe any life-threatening injuries
17 yourself?

18 A. No immediate life threats.

19 Q. And were you able to note in your record, Dr. Hardy,
20 exactly where on his body that 14 percent of body surface
21 injury occurred?

22 A. Yes. I was.

23 Q. Okay. I'm gonna show you a diagram which is State's
24 95. Looking at this diagram, let me just ask you this:
25 You're familiar with what this diagram would depict?

1 A. I am.

2 Q. Being a physician?

3 A. Yes. I am.

4 Q. Would you be able to use this diagram to show us the
5 location of those injuries?

6 A. Yes. I would.

7 Q. All right. I'll ask you to step down and you can
8 bring your record with you.

9 THE COURT: And, Doctor, I'm gonna ask you to try to
10 speak loud so the jury can hear you because you won't
11 have your microphone, okay?

12 BY MS. MAYES:

13 Q. Take your time here, Dr. Hardy, to depict the
14 locations, but I think you said previously that one location
15 was --

16 A. The back.

17 Q. Okay.

18 A. So on his back I noted that he has approximately 7
19 percent body surface area located in the mid back between the
20 mid scapula lines from the inferior scapula to the level of
21 the iliac crest so that would be -- I'm sorry. My hands are
22 shaking -- so that would be approximately a 6 percent burn in
23 that location and that size.

24 Q. Okay. And what, if any, other location did you
25 note?

1 A. Also on his left thigh he had a non circumferential
2 second degree burn approximately 5 percent surface area which
3 would be in the range of somewhere in the range of that.

4 Q. All right. And then what, if anything, else was
5 noted?

6 A. On his left hand and forearm he had a 2 percent body
7 surface area with blistering along the lateral edge of his
8 left hand and forearm so that would be somewhere in the range
9 of that.

10 Q. All right. And all together this accounted for what
11 percentage of his body surface?

12 A. 14 percent.

13 Q. Okay. If you could note that on the diagram as
14 well.

15 A. (Witness complies.)

16 MS. MAYES: All right. Your Honor, at this time the
17 State would offer this exhibit from Dr. Hardy which is
18 State's 95 as evidence.

19 THE COURT: Any objection?

20 MR. MADSEN: No objection.

21 THE COURT: Any objection?

22 MR. MADSEN: No. No, ma'am.

23 THE COURT: It's admitted.

24 BY MS. MAYES:

25 Q. You noted that there was injury to the left hand.

1 If there had been any injury to the right hand, would you have
2 noted that in your medical evaluation, Dr. Hardy?

3 A. Yes. I would have.

4 Q. Dr. Hardy, based upon your clinical experience
5 working in emergency rooms, have you treated patients who were
6 in close proximity to a fire and burned as a result?

7 A. Yes. I have.

8 MS. MAYES: Nothing further, Your Honor.

9 THE COURT: Thank you. Defense.

10 CROSS EXAMINATION

11 BY MR. MADSEN:

12 Q. Dr. Hardy, hi. You doing okay?

13 A. I'm all right. How are you?

14 Q. Good. So you saw Robert at 9:40 a.m., correct?

15 A. Yes.

16 Q. On August --

17 A. 20th, 2019.

18 Q. And chief complaint in your report says, patient
19 tried to kill himself last night by setting himself on fire.
20 Burns on hands, back and legs, correct?

21 A. Correct.

22 Q. Before you see him, I guess he sees like an ER nurse
23 or some other folks?

24 A. He sees a triage nurse who enters the chief
25 complaint and I will leave that as they wrote it.

1 Q. And then I guess is he given any drugs for pain?

2 A. Yes, he was while in the emergency department.

3 Q. And I guess that was morphine?

4 A. Correct.

5 Q. And then there was an assessment. You said 14
6 percent of his body and those were second degree burns,
7 correct?

8 A. Correct.

9 Q. And those burns were serious enough or vast enough
10 that Prisma couldn't keep him so he's sent off to the Burn
11 Center?

12 A. Yes. So generally burns of second degree or higher
13 that are more than 10 percent of the body have enough
14 associated potential for morbidity, mortality so we send them
15 to a burn center.

16 Q. And he had mentioned about drinking the night before
17 and using drugs?

18 A. Correct.

19 Q. And you don't notice any kind of fire to his front
20 or his chest, I guess, correct?

21 A. No burns to his front.

22 Q. And so if someone is in very close proximity to
23 someone that's on fire in the front, it would be weird for
24 them to have burns on their back, that you would more likely
25 expect that on their chest, wouldn't you?

1 A. Yes.

2 Q. And I would imagine, you said 2000 patients. Is a
3 year or is that just total or...

4 A. Yeah. We see roughly in the emergency department
5 about two patients per hour and I work about 2000 hours a
6 year.

7 Q. So almost 4000 people?

8 A. Oh, yes. Yes. Sorry.

9 Q. That's fine. It's a ton of people, isn't it?

10 A. It's a lot of people.

11 Q. And I would imagine you see some characters?

12 A. Correct.

13 Q. Kind of different strokes for different folks.
14 Everyone is different to a certain extent, aren't they?

15 A. Correct.

16 Q. And when you see people that as far as with suicide,
17 you see people that say, hey, I've got a plan. This is what
18 I'm gonna do, you know, that they're bound and determined,
19 correct?

20 A. It varies widely.

21 Q. But you've also had people that say, hey, I'm
22 suicidal but I don't have a plan right now?

23 A. Correct.

24 Q. And you can have people that vacillate back and
25 forth, one minute they are, the next minute they're not.

1 Sometimes there's highs and there's lows, isn't there?

2 A. Correct.

3 Q. And so he had told you that he had put gas on his
4 back and you found burns back there, correct?

5 A. Yes.

6 Q. And also on his leg and you found burns there,
7 didn't you?

8 A. Yes.

9 MR. MADSEN: That's all the questions I have.

10 THE COURT: Any redirect, Ms. Mayes?

11 MS. MAYES: Yes, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Now, if someone starts a fire and then turns to run,
15 it can result in a burn to the back, can't it?

16 A. It certainly could.

17 Q. And the history he gave you at 948 a.m., is that he
18 was not suicidal?

19 A. Yes. He said he was not suicidal at that time.

20 Q. Were you aware that the fire event occurred at
21 approximately 3:30 a.m. on that same date?

22 A. I wasn't aware of the specific time.

23 Q. So within a six to six and a half hours later he
24 reports to you he's not suicidal?

25 A. Correct.

1 MS. MAYES: Nothing further.

2 MR. MADSEN: Nothing further.

3 THE COURT: May I excuse Dr. Hardy?

4 MS. MAYES: Yes, Your Honor.

5 MR. MADSEN: Yes, Your Honor.

6 THE COURT: Dr. Hardy, thank you. Let me see the
7 lawyers just for a second.

8 (Side bar off the record.)

9 THE COURT: Okay. The next witness that the State
10 is calling is also an expert. I just read you the charge
11 earlier before the doctor testified. This applies to the
12 same. Anyone who is qualified, and both sides have
13 agreed he's qualified because of his education or
14 experience, however, I'm just gonna remind you that that
15 does not mean you must accept his opinion, but it is
16 evidence for you to use in any way you see fit, give it
17 the weight and credibility you believe is appropriate,
18 okay? Thank you.

19 MS. MAYES: The State calls Agent Richard Allen
20 Lloyd.

21 Thereupon,

22 RICHARD ALLEN LLOYD

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

24 THE CLERK: Please have a seat. Once you're seated,
25 state your full name spelling your last please.

1 THE WITNESS: I'm Richard Allen Lloyd, L-l-o-y-d.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q. Good afternoon, Agent Lloyd. Tell us a little bit
5 about yourself, where you are employed and in what capacity?

6 A. I'm employed with the South Carolina Law Enforcement
7 Division. I've been there since 2018 and I'm assigned to the
8 arson investigation unit.

9 Q. All right. I'm gonna need you to pull that
10 microphone a little bit closer to you and a little bit higher
11 up and just speak into it if you can.

12 A. (Witness complies.)

13 Q. All right. So, Agent Lloyd, you work for SLED?

14 A. Yes, ma'am.

15 Q. And how long have you been a SLED arson
16 investigator?

17 A. Since December of 2018.

18 MS. MAYES: All right. Your Honor, I believe
19 there's a stipulation as to the qualifications of Agent
20 Lloyd as an expert in arson investigation.

21 THE COURT: There is. He's qualified as an expert
22 and I read the charge to the jury.

23 BY MS. MAYES:

24 Q. Now, Agent Lloyd, tell us about the act of arson
25 investigation and the study of arson investigation in general.

1 How are you trained in that field?

2 A. We take multiple classes whether it's in person, on
3 the job, or computer based training in a specific field of
4 fire investigation and then there's actually a national
5 certification that you can obtain.

6 Q. All right. And then in addition to that, what type
7 of special equipment or devices are utilized by investigators
8 of arson fires?

9 A. Some of the ones that we use at the State Law
10 Enforcement Division are accelerant detection K9s and MiniRAE
11 3000 hydrocarbon detectors.

12 Q. A hydrocarbon detector. What's the purpose of a
13 hydrocarbon detector?

14 A. A hydrocarbon detector detects hydrogen based
15 products, mainly accelerants that put off hydrocarbons.

16 Q. All right. I'm gonna ask you a little bit more
17 about that. In terms of arson investigation, what is meant by
18 the term accelerant?

19 A. Accelerant is a fuel, often a hydro liquid that is
20 used to intentionally initiate a fire, spread a fire, or
21 increases the rate of growth of a fire.

22 Q. Can you give us an example of some accelerants?

23 A. Yes, ma'am. Although there are many, some examples
24 are diesel fuel, lighter fluid, gasoline, butane.

25 Q. Gasoline is a known accelerate?

1 A. Yes, ma'am.

2 Q. Now, in addition to gasoline being an accelerant,
3 what are the known sources of ignition for gasoline?

4 A. Although, once again, there are many, some are open
5 flame such as a lighter, a match, a lit candle. You also got
6 electrical static arc.

7 Q. So an open flame as simple as a lighter can ignite
8 gasoline?

9 A. Yes, ma'am.

10 Q. Now, does it have to actually touch the liquid of
11 gasoline in order to ignite that fire?

12 A. No, ma'am.

13 Q. Give us an example of what you're referring to?

14 A. For example, when a product burns, it's not the
15 actual product itself that's putting off vapors. It's
16 actually burning. If you was to look at the match, you could
17 see a blank area in between the flame and the actual match.
18 That is the vapors the product is putting off that is actually
19 ignited and giving off fire.

20 Q. All right. So it doesn't require just the liquid
21 gasoline?

22 A. No, ma'am.

23 Q. A vapor alone can do it?

24 A. Yes, ma'am.

25 Q. How much, if at all, would you anticipate vapors

1 being present when gasoline is poured around a closed or
2 confined space such as a bedroom?

3 A. It depends how much liquid is put out as to how much
4 vapor is put off. It continues to give off gas or provide
5 vapors until it's completely consumed.

6 Q. And what about if that gasoline is poured on an
7 individual in the room who is standing in close proximity to
8 someone with an open flame?

9 A. Well, it would be just like pouring it on floor,
10 it's going to continue to off gas until it's consumed, that
11 way if it's an open flame, it will ignite those vapors.

12 Q. Vapors alone could cause the fire?

13 A. Yes, ma'am.

14 Q. And can you tell us, Agent Lloyd, in your expert
15 opinion can vapors alone spread to another individual?

16 A. Yes, ma'am.

17 Q. How so?

18 A. Well, the vapors will continue to off gas and
19 collect in the container or area that it's in, in the case of
20 a room it will continue to collect until it's either consumed
21 or escapes into the atmosphere so whoever is standing in that
22 proximity or in the room or container will be in that vapor
23 cloud.

24 Q. Vapor cloud. What do you mean by the term vapor
25 cloud?

1 A. It's just the accumulation of vapors as it rises
2 from the product.

3 Q. And I am now approximately how many feet away from
4 you, Agent Lloyd?

5 A. I would estimate three feet.

6 Q. If you have gasoline on you, Agent Lloyd, and I
7 ignite an open flame, what, if any, injury risk did I pose to
8 myself?

9 A. You would be caught in a vapor cloud and you would
10 have injury depending on how long you were in that cloud.

11 Q. Is that something that you've witnessed before?

12 A. Yes, ma'am.

13 Q. Throughout your experience in arson investigation?

14 A. Yes, ma'am.

15 Q. Now, tell us, Agent Lloyd, whether or not you had an
16 opportunity to respond to the scene of a fire investigation at
17 ████ Lexington Avenue in Lexington County?

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

19 Q. And just to clarify, that address is within the
20 jurisdiction of Lexington County?

21 A. Yes, ma'am.

22 Q. SLED agents work the entire state?

23 A. Yes, ma'am. We do.

24 Q. What can you tell us, Agent Lloyd, about your
25 arrival there at the scene? When are you allowed entry into a

1 residence in order to start an investigation when you're
2 called?

3 A. Once we have legal means to do so whether it's a
4 consent to search or a search warrant.

5 Q. All right. And in this particular case can you tell
6 us whether or not there was a search warrant for entry to that
7 residence at [REDACTED] Lexington Avenue?

8 A. Yes. Cayce PPS obtained a search warrant prior to
9 our arrival.

10 Q. And that was for the purpose of collecting evidence
11 in relation to an arson investigation?

12 A. Yes, ma'am.

13 Q. What, if anything, do you know or have a record of
14 regarding your time of arrival?

15 A. I arrived approximately, I believe it was 30 minutes
16 after Agent Roberts did.

17 Q. And what time would that have been?

18 A. I believe it was around 8:20.

19 Q. 8:20 a.m.?

20 A. Yes, ma'am.

21 Q. Now, why is it that there's some distance between
22 when the arson investigation starts and when the firefighters
23 are actually inside fighting the fire?

24 A. Say that again please.

25 Q. Why is it that firefighters must first -- Tell us

1 why, if at all, there's a delay between when your arson
2 investigation begins and when firefighters leave their
3 scene?

4 A. Well, the agency will get the 911 dispatch call that
5 it's a structural fire. Firefighters will arrive. They will
6 extinguish the flames, extinguish the fire, and if it needs
7 further investigation, the local agency will contact us if
8 they need assistance.

9 Q. And again, that's after firefighters have completed
10 putting out the fire?

11 A. Yes, ma'am.

12 Q. I'm going to show you some photographs and ask you
13 whether or not you recognize them, and if so, how? If you
14 could look at this series, State's 30, 31, 32, 36, 38. Can
15 you tell us, Agent Lloyd, whether you were present when those
16 photographs were taken?

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

18 Q. Now I'm gonna show you some additional. I'm showing
19 you State's 16, 18, 25 and 26 and ask you if you were present
20 when these photographs were taken?

21 A. Yes, ma'am.

22 Q. Are they a fair and accurate representation of the
23 scene as you recall it?

24 A. Yes, ma'am.

25 Q. Then additional photographs being 27 and 29. If you

1 can tell us if you were present when those photographs were
2 taken?

3 A. Yes, ma'am.

4 Q. Are they a fair and accurate representation of the
5 scene as you recall it?

6 A. Yes, ma'am.

7 Q. And then finally State's 40, 41, 42, 43, 44, 45 and
8 46 from the interior of the home?

9 A. Yes, ma'am. I was.

10 Q. You were present for the walk through and taking of
11 all of those photographs?

12 A. Yes, ma'am.

13 MS. MAYES: Your Honor, this entire series would be
14 offered for evidence at this time from the State. I will
15 review them with defense counsel at this time.

16 THE COURT: Okay. Let me know if there's any
17 objection.

18 MR. MADSEN: None to any of these.

19 THE COURT: Make sure you've got all of them before
20 we go forward.

21 MR. MADSEN: None of these.

22 MS. MAYES: (Proffering.)

23 MR. MADSEN: Your Honor, we're good with them all.

24 THE COURT: Okay. They're admitted.

25 MS. MAYES: And then, Your Honor, there were several

1 I showed the defense but not shown to the witness but
2 we'll be offering them but not through this witness.

3 MR. MADSEN: We're good with all of them.

4 THE COURT: Okay. Thank you.

5 BY MS. MAYES:

6 Q. 71, 72, 74, 75, 77, 78, 79, you're familiar with
7 those as well, Agent Lloyd?

8 A. Yes, ma'am.

9 Q. You were present for the collection of that
10 evidences?

11 A. Yes, ma'am.

12 MR. MADSEN: We're good with all of it.

13 THE COURT: Okay. I've admitted all of them.

14 BY MS. MAYES:

15 Q. State's 79, Agent Lloyd, are you familiar with that
16 diagram?

17 A. Yes, ma'am.

18 Q. Who prepared that diagram?

19 A. I did.

20 Q. All right. And does this relate to the cause and
21 origin of the fire?

22 A. Yes, ma'am.

23 Q. Agent Lloyd, while you were present at the scene,
24 tell us how you went about the general walk through of that
25 location.

1 A. Once we have legal mean to be on the grounds of the
2 property we'll start at the front, usually whichever side is
3 facing the main roadway, we'll do a systematic pattern, we'll
4 go to the left, examine the outside of the structure, find any
5 data points, then we enter the structure through what is
6 necessarily the front door on the front side, then we'll go in
7 that same systematic pattern to the left side just looking
8 through possible data points, fire patterns and such.

9 Q. And what devices are you using during this walk
10 through there at the scene?

11 A. The initial we were using a digital camera.

12 Q. And then what, if anything, did you use after
13 that?

14 A. It depends on what we locate we use the hydrocarbon
15 detector or accelerant K9.

16 Q. All right. You made both the dog out there and what
17 you called before the hydrocarbon detector?

18 A. No, ma'am. Only the hydrocarbon detector.

19 Q. All right. And where did you go with that item
20 inside the residence?

21 A. Once we determine the area of origin, we use it
22 around the structure, around the area of origin to make sure
23 we're not gonna eliminate any data points that we need to
24 collect for our cause of determination.

25 Q. Okay. I'm gonna need you to explain that to me in

1 lay person terms, okay? You're talking about data points.
2 Let me ask you this: Were you able to find the presence of an
3 accelerant inside that home at [REDACTED] Lexington Avenue?

4 A. Yes, ma'am.

5 Q. What accelerant was that?

6 A. It was confirmed by the lab to be gasoline.

7 Q. Can you tell us, Agent Lloyd, where inside the home
8 you recovered or observed evidence of an accelerant?

9 A. We located it around the foot, in between the foot
10 of the bed and in front of the chest of drawers.

11 Q. And in what format did you recover it?

12 A. A damaged red plastic can.

13 Q. And you were present when that item was recovered?

14 A. Yes, ma'am.

15 Q. Ultimately as part of the SLED arson team in this
16 arson investigation, do you yourself have an opinion as to the
17 origin and cause of the fire at [REDACTED] Lexington Avenue on August
18 20th, 2019?

19 A. Yes, ma'am.

20 Q. What is your opinion regarding the origin of that
21 fire?

22 A. I would determine the origin to be around the foot
23 of the bed and in between the foot of the bed and the chest of
24 drawers.

25 Q. The foot of the bed and chest of drawers?

1 A. Yes, ma'am.

2 Q. Also in the dresser?

3 A. Yes, ma'am.

4 Q. What, if anything, did you determine, Agent Lloyd,
5 as an expert in this field regarding the cause of that fire at
6 [REDACTED] Lexington Avenue?

7 A. We determined it was an intentional act of applying
8 an open flame to an ignitable liquid and/or combustible
9 material.

10 Q. An intentional combination of an open flame and
11 combustible material?

12 A. Yes, ma'am.

13 Q. Is that also known as arson?

14 A. Yes, ma'am.

15 Q. Now, the diagram that you yourself prepared in this
16 case, does it depict the origin and cause of this fire?

17 A. It depicts the origin, yes, ma'am.

18 Q. In relation to the entire scene?

19 A. Yes, ma'am.

20 MS. MAYES: Your Honor, may he step down for
21 purposes of demonstration of the content of the diagram?

22 THE COURT: Agent Lloyd, you may, but please speak
23 loud because you won't have the microphone and the jury
24 needs to hear you.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Thank you.

2 BY MS. MAYES:

3 Q. All right. So, Agent Lloyd, I'm gonna switch places
4 with you in order for you to keep your voice loud enough for
5 the juror on the right and then the juror over there on the
6 far left to hear you. Can you take us through this diagram
7 and tell us exactly what we are looking at in regards to the
8 interior of that residence at [REDACTED] Lexington Avenue?

9 A. So what we do is we create pretty much a blueprint
10 of the structure, how we see it once we get there at the scene
11 pre-fire or pre-investigation. So this is the front porch.
12 This is where we deemed the front of the structure to be.
13 This is Lexington Avenue would be down here. We entered
14 through the structure, go into this little foyer area, we
15 entered into what we deemed to be the living room, you see the
16 couch and the TV is documented. We couldn't go left here so
17 we entered the kitchen. The kitchen area is documented by the
18 refrigerator, the stove and the kitchen sink so we was able to
19 go to the left here. We entered what was clearly a hall,
20 continued left on our pattern, went into a bedroom, front left
21 bedroom. Once we come out, we continued left and went into
22 the middle bedroom. Once we come out back into the hall we
23 went into the final master bedroom that we deemed was the
24 master bedroom.

25 Q. All right. What, if anything, occurred by use of

1 that hydrocarbon detector when you were in the area of the
2 master bedroom?

3 A. So we initially began at the first door, we entered
4 in the bedroom. We utilized, the detector breaths in air
5 samples through an automatic motor inside of it bringing air
6 samples in to detect the air quality. We ran it along the
7 wall and continued in the pattern into this area and we got an
8 audible alert that something, that we need to look further in
9 this location.

10 Q. When you say audible alert, this detector will
11 actually sound an alarm?

12 A. Yes, ma'am. It will sound an alarm.

13 Q. Okay. And the alarm sounded within what area of the
14 residence?

15 A. It sounded in the area at the bottom of the foot of
16 the bed and the dresser.

17 Q. All right. And that was in the master bedroom of
18 the home?

19 A. Yes, ma'am.

20 Q. Thank you. You may return.

21 A. (Witness complies.)

22 MS. MAYES: And, Your Honor, I believe 79 is already
23 in evidence.

24 BY MS. MAYES:

25 Q. Now, throughout this walk through, Agent Lloyd, are

1 you present for the taking of photographs?

2 A. Yes, ma'am.

3 Q. I'm going to start with photographs of the exterior
4 of the home. You should have a laser pointer up there
5 with you.

6 A. Yes, ma'am.

7 Q. Okay. Feel free to use it at any time. If you can
8 show us there what we're looking at in relation to the fire.

9 A. This would be, this here is the front of the
10 structure. We'll take a picture of the front, then we'll move
11 to the corner and take a picture of the corner of the
12 structure so this will be your left front corner.

13 Q. All right. And now State's 18.

14 A. This here is the rear of the structure.

15 Q. Now, how important if at all is it when you're
16 gaining entry to a residence for purposes of an arson
17 investigation to evaluate other potential mechanisms of fire
18 such as a kitchen fire or an electrical fire?

19 A. Our process is to eliminate all potential ignition
20 sources so we have to consider everything in the structure.

21 Q. And was that done in this case?

22 A. Yes, ma'am.

23 Q. I'm gonna show you what is State's 46. If you can
24 tell us the significance of this photograph?

25 A. This here shows that the stove or range, however

1 you want to put it, is in the off position indicating it was
2 not on.

3 Q. State's 45?

4 A. This also indicates that these certain range dials
5 are not on.

6 Q. And in State's 44 being the left side of the top of
7 the stove?

8 A. Yes, ma'am. It also indicates that that side of the
9 range was not on.

10 Q. Based upon those observations and your review of the
11 kitchen area, the stove and the oven, were you able to rule
12 out a kitchen fire?

13 A. Yes, ma'am.

14 Q. I'm going to show you what is State's 42, 43, 41,
15 and ask you what, if anything, is significant about these
16 photographs?

17 A. If you could go back to the one previous to this
18 one.

19 Q. The previous one?

20 A. That one, ma'am. This would indicate, this is an
21 outlet and this will tell us that the damage to this was
22 caused by exterior means, not the outlet itself. If it was
23 the outlet itself, all this area around it would be
24 consumed.

25 Q. And then you also had an opportunity to review the

1 electrical box?

2 A. Yes, ma'am.

3 Q. Based upon all of those observations, Agent Lloyd,
4 were you able to rule out an electrical fire?

5 A. Yes, ma'am.

6 Q. Now, within the interior of the home we have State's
7 30. What, if anything, is significant about this
8 photograph?

9 A. This here is the hallway that I demonstrated on the
10 diagram. This is leading into the master bedroom. One thing
11 we look for when we enter structures are movement intensity
12 patterns. This is you can see right here is called a line of
13 demarcation. Simply put, it is a line separating the unburned
14 from the burned area of the structure. As you can see it's
15 kind of higher towards the left of the photo where I'm
16 pointing going lower and it just pretty much shows an arrow
17 pattern back to what we're looking for is the lowest point of
18 burn in a structure.

19 Q. State's 27 would be the kitchen. State's 31, an
20 additional doorway, and then State's 29 being a bathroom.
21 Were all of those locations evaluated in full?

22 A. Yes, ma'am.

23 Q. Any indications of an accelerant in those locations
24 of the home?

25 A. No, ma'am.

1 Q. And then we see State's 32. What are we looking at
2 in this photograph?

3 A. In this photo we are standing in the doorway from
4 the hall taking a picture into the master bedroom.

5 Q. All right. And then what is located to the far left
6 of the master bedroom?

7 A. This here?

8 Q. The wooden structure.

9 A. That there?

10 Q. Yes.

11 A. That would be the exterior porch off the master
12 bedroom.

13 Q. And do you recall whether or not there was a
14 lawnmower outside at that location?

15 A. Yes, ma'am.

16 Q. Now 36?

17 A. This photo you're standing at the French doors where
18 the porch was facing back into the bedroom towards the
19 closet.

20 Q. And State's 38?

21 A. That's the remnants of a bed that was located prior
22 to scene excavation.

23 Q. In the master bedroom?

24 A. Yes, ma'am.

25 Q. Now, you mentioned excavation. What do you mean by

1 that? How do you go about, as you have testified, the
2 hydrocarbon detector alerts you of the possible presence of an
3 accelerant. How do you go about trying to find that
4 accelerant in an area such as this that has been severely
5 burned?

6 A. What we do is called an excavation. We'll start at
7 the top and layer our way down slowly and methodically to the
8 floor and try to get to the base of the floor. During that
9 time we'll try to locate any potential ignition sources, any
10 other items of entry that we need to collect for our
11 determination.

12 Q. Was that done in this case?

13 A. Yes, ma'am.

14 Q. I'm gonna show you State's 74 and ask you what we're
15 looking at in this photograph?

16 A. To the bottom left here you see part of the bed
17 frame and this is the dresser.

18 Q. What, if anything, occurred as you continued to
19 excavate that area?

20 A. In this area here, we received the audible alert in
21 this area here so we concentrated on that area first and
22 started to layer away the debris. Once we layered away the
23 debris, we located a damaged red plastic can.

24 Q. And we're now looking at State's 75. Do you
25 recognize that photograph?

1 A. Yes, ma'am.

2 Q. What do you mean by debris?

3 A. Debris is the stuff that's incomplete combustion
4 which means it's what's left over by the fire so it could be
5 clothes.

6 Q. All right. And in this case was there debris on top
7 of what you called the red gas can?

8 A. Yes, ma'am.

9 Q. Is that what we're looking at in label three there
10 that we see there, marker three?

11 A. This was after we removed the clothes that was on
12 top of it.

13 Q. All right. I'm gonna show you this photograph which
14 may depict it a little bit more clearly, State's 76. What do
15 we see in that photograph?

16 A. Once we removed the clothes from it, we received a
17 strong odor, appeared to be an odor of gasoline so we lifted
18 up the other property there and it ended up being a damaged
19 red plastic can.

20 Q. All right. Now, back to the debris that you
21 mentioned. I'm going to show you State's 71 and ask you if
22 you recognize what is depicted with that marker 2?

23 A. Yes, ma'am. That's the clothes that was removed
24 prior to discovering the red can.

25 Q. So during the course of the fire there ended up

1 being clothes or debris on top of the gas can?

2 A. Yes, ma'am.

3 Q. And then how is the gas can actually collected to be
4 analyzed by the SLED lab as well as preserved as evidence?

5 A. We will mark it as you see in number 3 in the
6 previous photo, we'll mark it, we'll photograph it, we'll put
7 it in a non static bag, we will seal it with tape, all the
8 contents will remain in there and is secured in our vehicles
9 until delivered to the lab.

10 Q. Now, were you present for the recovery of this red
11 gas can?

12 A. Yes, ma'am.

13 Q. As well as the clothing or fire debris that was
14 located in its proximity?

15 A. Yes, ma'am.

16 Q. Were you present for the process of sealing that
17 evidence?

18 A. Yes, ma'am.

19 Q. Was it sealed in your presence?

20 A. Yes, ma'am.

21 Q. Can you tell us whether it was sealed in a was to
22 prevent any type of tampering or outside contamination?

23 A. Yes, ma'am. Once the item is placed in the bag,
24 we'll fold the top over, no prescribed amount of times, one or
25 two times, then we'll seal it with tape, with chemical tape

1 that prevents anything from getting inside or prevents
2 anything from coming out.

3 Q. Agent Lloyd, I'm going to show you what is State's
4 99 and ask you whether or not you recognize this item and if
5 so, how?

6 A. Yes, ma'am. This is the burned clothing that was
7 removed from the top of the red plastic can.

8 Q. I'm going to show you State's 101 ask you whether or
9 not you recognize that item?

10 A. Yes, ma'am. This is the red can that we
11 recovered.

12 Q. The same gas can that we see right there in that
13 photograph State's 77?

14 A. Yes, ma'am.

15 Q. Collected and sealed in your presence?

16 A. Yes, ma'am.

17 Q. You were able to identify it by visual inspection
18 alone?

19 A. Yes, ma'am.

20 Q. Self identifying?

21 A. Yes, ma'am.

22 MS. MAYES: Your Honor, at this time the State would
23 offer 101 and 99 as evidence.

24 MR. MADSEN: Judge, we would object. We don't
25 believe there's a foundation set that is sufficient chain

1 of custody at this point in time.

2 THE COURT: Let me see the lawyers.

3 (Side bar off the record.)

4 MS. MAYES: For identification at this time, Your
5 Honor, State's 99, State's 101.

6 BY MS. MAYES:

7 Q. Now, did you also have a chance to participate,
8 Agent Lloyd, in a full evaluation of the exterior of that
9 scene?

10 A. Yes, ma'am.

11 Q. I know I asked you this before, but State's 19 right
12 there depicts the side porch and that side porch is located in
13 what proximity to the bedroom?

14 A. Just outside the bedroom.

15 Q. What are we looking at in State's 22 and were you
16 present for the taking of this photograph?

17 A. Yes, ma'am. I was. This is a pile of clothing that
18 was located at the end of the water hose which would be this
19 corner here. It would be your back right corner. The bedroom
20 would be to the right side here.

21 Q. All right. So that photograph depicts a garden hose
22 you said and a pile of clothes?

23 A. Yes, ma'am.

24 Q. And what portion of the house?

25 A. The rear right.

1 Q. Okay. So it's at the back of the house?

2 A. Yes, ma'am.

3 Q. Were you present when this marker was placed on
4 it?

5 A. Yes, ma'am.

6 Q. Depicted in State's 24. Ultimately how were those
7 items collected by the arson investigator for follow up
8 analysis?

9 A. Once we determined the item data evidence or data
10 collection point, we would collect it. If it fit into a can,
11 we use an used lined metal can similar to a paint can, place
12 the items in the paint can, place a lid on top of it and we'll
13 seal it with evidence tape which will remain in that condition
14 until analysis by the lab, analyzed by the lab.

15 Q. Okay. Can you tell us whether or not you have your
16 eyes on these two items of clothing throughout that process?

17 A. Yes, ma'am.

18 Q. Does that include what we see here in State's 25
19 where it's ultimately placed and collected into a container?

20 A. Yes, ma'am. That's just depicting that we had
21 already placed the item inside the container and closed the
22 lid.

23 Q. And that item then is sealed?

24 A. Yes, ma'am.

25 Q. How is it properly sealed?