VOL. IV OF IV

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED
Mar 22 2021
SC Court of Appeals

Appeal from Horry County

Honorable R. Markley Dennis, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SIDNEY STCLAIR MOORER,

APPELLANT

APPELLATE CASE NO 2019-001636

RECORD ON APPEAL

TAYLOR D. GILLIAM
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

DAVID SPENCER
Senior Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

JIMMY A. RICHARDSON, II
Solicitor, Fifteenth Judicial Circuit
Post Office Box 1276
Conway, SC 29528

ATTORNEYS FOR RESPONDENT

PAGES 1501 - 1964

INDEX

INDEX i

TRANSCRIPT OF PRE-TRIAL HEARING HELD APRIL 18, 2016 1

TESTIMONY

GRANT FREDERICKS
Direct Examination by Ms. Livesay 10
Voir Dire Examination by Mr. Truslow 26
Direct Examination by Ms. Livesay 41
Cross Examination by Mr. Truslow 70
Redirect Examination by Ms. Livesay 74
Recross Examination by Mr. Truslow 79

BRUCE KOENIG
Direct Examination by Mr. Truslow 82
Voir Dire Examination by Ms. Livesay 86
Direct Examination by Mr. Truslow 107
Cross Examination by Mr. Livesay 122

MOTION TO CHANGE VENUE 134

ORDER GRANTING CHANGE OF VENUE 135

VENUE MOTION 139

TRANSCRIPT OF PRE-TRIAL HEARING HELD JUNE 21, 2021 282

MOTION TO RECONSIDER REVERSAL OF ORDER CHANGING VENUE 335

DEFENSE MOTION TO EXCUSE JURY POOL AND CONTINUE TRIAL 414

TRANSCRIPT OF TRIAL HELD SEPTEMBER 9-18, 2019 473

JURY SELECTION 484

PRE-TRIAL MOTIONS 586

OPENING STATEMENT BY MR. HELMS 603

OPENING STATEMENT BY MR. BOUCHETTE 619

TESTIMONY

JESSICA COOKE
Direct Examination by Ms. Livesay 635
Cross Examination by Jessica Cooke 649
Redirect Examination by Ms. Livesay 666

JODIE DAVENPORT
Direct Examination by Ms. Livesay 671
Cross Examination by Mr. Galmore 682

DENNIS HART
Direct Examination by Ms. Livesay 693
Cross Examination by Mr. Bouchette 703
Redirect Examination by Ms. Livesay 711

RONALD WITT
Direct Examination by Ms. Livesay 713
Cross Examination by Mr. Galmore 728
Redirect Examination by Ms. Livesay 737

STEPHANO SCHIRALDI
Direct Examination by Mr. Helms 739
Cross Examination by Mr. Bouchette 762
Redirect Examination by Mr. Helms 771
Recross Examination by Mr. Bouchette 772

PAMELA SCHIRALDI
Direct Examination by Mr. Helms 774
Cross Examination by Mr. Bouchette 782

BRIANNA WARRELMANN
Direct Examination by Ms. Livesay 785
Cross Examination by Mr. Bouchette 817
Redirect Examination by Ms. Livesay 827

CASEY GUSKIEWICZ
Direct Examination by Mr. Helms 829
Cross Examination by Mr. Bouchette 857

DANNY FURR
Direct Examination by Ms. Livesay 866
Cross Examination by Mr. Bouchette 872
Redirect Examination by Ms. Livesay 885

CASEY CANTERBURY
Direct Examination by Mr. Helms....888
Cross Examination by Mr. Bouchette....918
Redirect Examination by Mr. Helms....928

AMANDA NIGRO
Direct Examination by Mr. Helms....934
Cross Examination by Mr. Galmore....942

JONATHAN MARTIN
Direct Examination by Ms. Livesay....944
Cross Examination by Mr. Galmore....967
Redirect Examination by Ms. Livesay....999
Recross Examination by Mr. Galmore....1005

ROXANNE LOVE
Direct Examination by Mr. Helms....1010
Cross Examination by Mr. Galmore....1024

BRIAN WILSON
Direct Examination by Mr. Helms....1031
Cross Examination by Mr. Bouchette....1046
Redirect Examination by Mr. Helms....1050
Recross Examination by Mr. Bouchette....1052

MICHAEL MELSON
Direct Examination by Ms. Livesay....1054
Cross Examination by Mr. Galmore....1098
Redirect Examination by Ms. Livesay....1139
Recross Examination by Mr. Galmore....1155

JOHN KEEP
Direct Examination by Ms. Livesay....1163
Cross Examination by Mr. Galmore....1170
Redirect Examination by Ms. Livesay....1175

JILL DOMOGAUER
Direct Examination by Mr. Helms....1176
Cross Examination by Mr. Bouchette....1209
Redirect Examination by Mr. Helms....1228
Recross Examination by Mr. Bouchette....1234

WILL LYNCH
Direct Examination by Ms. Livesay 1236
Cross Examination by Mr. Galmore 1277
Redirect Examination by Ms. Livesay....1292
Recross Examination by Mr. Galmore....1293

JAMES PERRY
Direct Examination by Ms. Livesay 1296
Voir Dire Examination by Mr. Bouchette....1298
Direct Examination by Ms. Livesay (Continued)....1301
Cross Examination by Mr. Bouchette....1312

JOHN CAULDER
Direct Examination by Ms. Livesay 1316
Cross Examination by Mr. Bouchette....1324
Redirect Examination by Ms. Livesay....1327
Recross Examination by Mr. Bouchette 1328

JIMMY GUNTER
Direct Examination by Mr. Helms....1331
Cross Examination by Mr. Bouchette....1349

JOYCE ALAND
Direct Examination by Mr. Helms....1352
Cross Examination by Mr. Bouchette....1371
Redirect Examination by Mr. Helms 1375

DAVID QUANDT
Direct Examination by Mr. Helms....1380
Cross Examination by Mr. Galmore 1403

JEREMY LEACH
Direct Examination by Ms. Livesay 1411
Cross Examination by Mr. Bouchette....1422

GRANT FREDERICKS
Direct Examination by Ms. Livesay 1426
Cross Examination by Mr. Bouchette....1496
Redirect Examination by Ms. Livesay....1529

PETER CESTARE
Direct Examination by Ms. Livesay 1532
Cross Examination by Mr. Bouchette....1578
Redirect Examination by Ms. Livesay....1595

JIMMY SCHROERING
Direct Examination by Mr. Helms....1602
Cross Examination by Mr. Galmore....1614
Redirect Examination by Mr. Helms....1618
Recross Examination by Mr. Galmore....1619

LINDSEY MCGRAW
Direct Examination by Ms. Livesay....1624
Cross Examination by Mr. Galmore....1642
Redirect Examination by Ms. Livesay....1661
Recross Examination by Mr. Galmore....1668

JEFFERY SILVER
Direct Examination by Mr. Helms....1670
Cross Examination by Mr. Galmore....1675

JACOB MELTON
Direct Examination by Ms. Livesay....1678
Cross Examination by Mr. Bouchette....1694

LAURA GARLITZ
Direct Examination by Mr. Helms....1699
Cross Examination by Mr. Galmore....1702

DONALD DEMARINO
Direct Examination by Mr. Helms....1705
Cross Examination by Mr. Galmore....1710
Redirect Examination by Mr. Helms....1717
Recross Examination by Mr. Galmore....1719

JESSICA ADAMS
Direct Examination by Mr. Helms....1721
Cross Examination by Mr. Bouchette....1725

THE STATE RESTS....1727

MOTION FOR MISTRIAL....1727

COURT'S RULING....1728

MOTION FOR DIRECTED VERDICT....1728

COURT'S RULING....1731

TESTIMONY

BRUCE KOENIG
Direct Examination by Mr. Bouchette 1740
Voir Dire Examination by Ms. Livesay 1748
Direct Examination by Mr. Bouchette (Continued) 1753
Cross Examination by Ms. Livesay 1768
Redirect Examination by Mr. Bouchette 1779
Recross Examination by Ms. Livesay 1779

ASHLEY CAISON
Direct Examination by Mr. Galmore 1781
Cross Examination by Ms. Livesay 1794

WILL LYNCH
Direct Examination by Mr. Galmore 1814
Cross Examination by Ms. Livesay 1822
Redirect Examination by Mr. Galmore 1831

JERRY STEVENS
Direct Examination by Ms. Livesay 1832
Cross Examination by Mr. Galmore 1837
Redirect Examination by Ms. Livesay 1843

MICHAEL KATHMAN
Direct Examination by Mr. Helms 1844
Cross Examination by Mr. Bouchette 1848

RENEWAL OF MOTION FOR DIRECTED VERDICT 1851

COURTS RULING 1851

CLOSING ARGUMENT BY MS. LIVESAY 1854

CLOSING ARGUMENT BY MR. BOUCHETTE 1879

JURY CHARGE 1902

VERDICT 1931

SENTENCING 1936

STATE'S EXHIBIT NO. 7 (REIS E-MAIL) 1948

SENTENCING SHEET (OBSTRUCTION OF JUSTICE) 1961

INDICTMENT (KIDNAPPING).....1962

CERTIFICATE OF COUNSEL 1964

THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 1 (DVD INTERVIEW), STATE'S EXHIBIT NO. 33 (AERIAL MAP), STATE'S EXHIBIT NOS. 35-37 (PHOTOGRAPHS OF CAR), STATE'S EXHIBIT NO. 55 (DVD INTERVIEW), STATE'S EXHIBIT NO. 60 (WAL-MART VIDEO), STATE'S EXHIBIT NO. 61 (KANGAROO/PAYPHONE VIDEO), STATE'S EXHIBIT NO. 62 (WAL-MART RECEIPT), STATE'S EXHIBIT NO. 64 (MELSON SLIDE PRESENTATION), STATE'S EXHIBIT NO. 66 (AERIAL MAP), STATE'S EXHIBIT NOS. 91-95 (PHOTOGRAPHS), STATE'S EXHIBIT NO. 123 (FREDERICK'S REPORT), STATE'S EXHIBIT NO. 124 (FREDERICK'S REPORT ON DVD), AND STATE'S EXHIBIT NO. 127 (AERIAL MAP)

classes that I have attended and have taken. It is also well published in a number -- I have references here for you if you would like them.

Q Let me ask you this. Again the -- for example, the Handbook of Forensic Services --

MS. LIVESAY: Your Honor, Mr. Fredericks is trying to ask a question and Mr. Bouchette may have missed it, but he was --

THE COURT: Well, he said he had something, but he was going on with his question, so he was leading into that, I assume.

MR. BOUCHETTE: Yes, sir, Your Honor. We're going to the next question.

Q So, for example, the FBI publishes a forensic services handbook; are you aware of that?

A The FBI publishes a number of documents, I'm not aware of all of them.

Q Is that one of them?

A The Forensic Sciences Handbook?

Q Correct.

A I would have to take a look at it, please.

Q Okay. In other words, if someone is looking to engage the services of the FBI.

A (Witness examines document.) This is for the FBI lab. The FBI lab does not do video analysis. The

organization in the FBI or unit in the FBI is the Forensic Audio Video Image Analysis Unit, it's not part of the lab.

Q And you were not an FBI employee at any point, correct?

A No, but I train them and I've taken classes from them.

Q For example -- I'll move on. Just a moment.

Moving on, when did you go from the Vancouver Police Department into your own business?

A I had my own business before when I was with the Vancouver Police Department. I was doing video processing for agencies in the area. That is where I got my interest in policing from a forensic perspective. So I was doing that work before I became a police officer. And then throughout my tenure as a police officer, I was doing video work until I took over as the head of the video unit, then it was full time.

Q So you were moonlighting for a period of time, and then you went to do this full time; is that correct?

A Well, what do you mean by "moonlighting"?

Q Well, I just mean in addition to your employment with the police department.

A Well, before that.
Q Okay.
A Before that I had a video production company where I was doing -- on the side for my broadcast work -- I was doing casework for police agencies. Again, that is how I got interested in the police department -- more interested in being a police officer, but because of my experience, I would be pulled off the street to do video work on major crime cases. Back then, it was videotape until it evolved and transitioned into digital. So when I was in charge of the video unit, we were migrating between digital and analog.
Q When did you go full time into the company you are running now?
A Full time?
Q Correct.
A I left the department in 2000, and I was hired by an American company that produced video examination tools for the U.S. government, the military. I managed their forensic division for seven years, and during that transition -- I was there for seven years, and sort of at the end of it, I started my company to go full-time. So I basically stepped from that business after seven years doing the same kind of thing. I was

representing their tools and video analysis cases, and then I just stepped into my full-time work in January of 2007 doing this. But I had been -- it's hard to find the definition -- or the time when one was taking up more than the other.

Q Fair enough. But at this point, this is how you earn your living? This is your full-time job, correct?

A Yes.

Q As opposed to -- sometimes we see experts that are professors or something along those lines that are called in to testify, you are a full-time private expert in forensic video analysis; is that correct?

A Yes.

Q And how many employees do you have at your company?

A When I did this work, I had five employees. I'm trying to retire, so I'm trying to transition down. I now have two full-time employees, but my other employees I migrated to a software company that we run in forensics, so I call on them as needed. So it's hard to say how many I have right now. We're expanding in the other area, and I can utilize their assistance, which I do. So, you know, I would say when I did this job, I had five full-time employees that were working on forensics.

Q Okay. All right. Now, let me ask you this. Your customers in some situations you mentioned are defense attorneys, correct?

A Yes.

Q Sometimes civil lawyers, either on the plaintiff or defendant's side?

A That's correct.

Q And sometimes, obviously, the prosecution?

A Yes.

Q And in all of those cases, the service or value that you offer the client is, obviously, the expertise that you consult with him on, correct?

A Yes.

Q And, obviously, you provide visual aids, correct?

A Yes.

Q Obviously, you are used to testifying in court, correct?

A Yes.

Q And I notice that whenever you give a response, you look over to the jury, and that is part of the experience that you have and part of what you are offering, whoever your customer may be, right?

A Well, my responsibility is to the jury, not to my client.

Q Exactly. Like I said, you are not -- you don't

get tripped up easy on the stand, right?

A I'm as clear as I can be.

Q I understand. So you do this a lot, in other words? Part of your value is that you testify in courtrooms a lot?

A I understand my duty to the Court, yes.

Q Now, I want to go into -- let me ask you a question. Prosecution spent a fair amount of time asking you how you became involved in this case; do you remember that?

A Yes.

Q Sometimes you reach out to the prosecution to be able to offer your services at that point?

A No.

Q You've never reached out to the prosecutor to see if they could utilize your services?

A Not that I recall.

Q How about on the Otto Zehm case?

A No, I never reached out to the prosecution in that case.

Q You did?

A No, I didn't.

Q Was that a point of controversy as to whether or not you did or didn't?

A No.

Q Never was?
A No.
Q It was never raised?
A That I reached out to the prosecution?
Q Correct.
A No.
Q In the initial phase of being retained, you didn't?
A No.
Q Okay. All right. Let me ask you this. In regards to the expertise you have, have you ever been -- or have you ever had issues with taking your field of expertise, the forensic video analysis, and trying to expand that into some type of area that you were not qualified to do? What I'm asking is have you run into criticism for doing that?
A You know, have I been personally criticized for doing that? Not that I recall, but if you give me a specific -- for instance, you asked about at Otto Zehm case --
Q Correct.
A -- no, I did not reach out to the prosecution. The FBI that was prosecuting -- the Department of Justice was prosecuting, reached out to me and I said, no. I was already working as a consultant for the

police agency involved in that case, so I said no about three times until I was then asked by my client, the city that was doing the defense, if I would please work for the prosecution. I know there was a point of criticism of that, but the questions like yours were inaccurate. So I'm not sure -- that is why I said no. I never reached the prosecution, but I'm unsure what you are asking here.

Q I'll go to another case. Do you recall an investigation into the death of a man named Robert Dziekanski?

A Yes.

Q And that involved the death of a man at the Vancouver Airport, correct?

A Correct.

Q And there was an altercation between him and airport officials, correct?

A Between him and the RCMP. It's the Royal Canadian, not the police.

Q Okay. So the police officials.

And he ultimately died as a result of that altercation; is that correct?

A Correct.

Q So an investigation was initiated by the Attorney General of British Columbia into that death; is that

right?

A Well, I'm not sure where the investigation started. Ultimately, it resulted in a public inquiry.

Q So it is a public inquiry, but you provided testimony in conjunction with that investigation, correct?

A I provided testimony at the public inquiry, yes.

Q And your testimony dealt with the -- you were looking at a video and ascertaining the number of steps that Mr. Dziekanski had taken, correct?

A Correct.

Q And you testified to what, you know, utilizing your techniques that you testified with today in that case?

A No. I was asked if I could measure how far he moved. I said, no, I couldn't. As photogrammetry, I didn't know photogrammetric measurements. I couldn't do it. I could just see that there was three motions forward. Not steps, motions.

Q Okay. Three motions. You testified as to three motions, correct?

A Correct.

Q And did you receive -- did you ever review the commission report in that case?

A I did.

1510

Q And were they critical of your involvement in that case?

A The -- the hearing commissioner asked me on the stand to give a measurement. I didn't do a measurement. As a result of that, he wouldn't accept my observations that was motions forward, because there was no measurement. Quite frankly, I agree with him. I told him on the stand that I really can't help you, so he said I wasn't helpful. I agree with that decision.

Q They said your verification methodology was flawed, correct?

A Well, I did not -- so he asked me if I did any, and I said, no, so I can't help you. So as a result of that, the observation that he criticized was the movement, and I quite frankly agree with him. I couldn't offer any of that movement.

Q Okay. You are saying you didn't offer anything?

A I didn't offer any measurement.

Q Because -- so if they were to say that your verification methodology was flawed, is that a mistake on their part?

A Yes. Yeah. I didn't do any verification. I think that is what his criticism was, he made observations there was motion, but you can't measure

there, and I said, yes, I can't, so he rejected it, which is fine. It is probably a good decision.
Q I want to talk about the organization LEVA you mentioned earlier before. It's the Law Enforcement -- I'm sorry, what were the second two letters?
A And Emergency Services Video Association.
Q This is primarily -- I know it is not exclusively a law enforcement organization. Most of the people that received their certifications through that organization are primarily law enforcement; is that correct?
A I'm not sure now because I'm no longer doing the certifications.
Q Was it at any point primarily law enforcement?
A Yes.
Q And, for example, a common scenario in that situation, say, a police department runs into these issues with video identification, they may send someone to LEVA to become certified and work in-house in the police department; is that common?
A Well, the goal is -- anyone working for a police agency or law enforcement agency, or any private individual who is examining video for these purposes, should get training. So LEVA is the body that's providing -- one of the bodies that is providing that

level of training.
Q So, yes; safe to say?
A A little bit different characterization from what you asked, because you asked about comparison. They may or may not be doing comparison work. They may simply be processing video, producing exhibits for court, making copies.
Q But anything that would kind of fall into the category of forensic video analysis?
A No.
Q No?
A No.
Q Okay.
A There are individuals who don't do any analysis, they simply are technicians. So there is a certification for a forensic video technician. Prior to that there is just someone who is producing exhibits. They may want to take one of the classes to make sure that they are producing the exhibits correctly. The analysis portion is a much more involved program. It is more of a four- or five-year almost a master's level program. You have to take I think it is 280-some hours of training to become an analyst, plus peer review, plus boarding.
Q That is what I'm referencing. The actual people

that receive this LEVA designation as a certified forensic video analysis, even most of those are primarily law enforcement, correct? I know there is different organizations, but I'm only talking about --

THE COURT: Mr. Bouchette, you are asking him multiple questions. Allow him to answer a question before you ask another question.

MR. BOUCHETTE: Absolutely.

A At this point, I cannot know because I'm not involved in the management of that program anymore.

Q (MR. BOUCHETTE) Would that have been the case when you were involved in the management of the program?

A At the time when I was involved in the certification management, most of them would be law enforcement, yes.

Q And, again, LEVA is a private organization, correct?

A Yes. Its board of directors are all law enforcement. It's non-profit.

Q So in this -- like any private organization, you can create different certifications, correct? I mean, this is not an accredited -- or, excuse me, an accredited program of any kind?

A It is accredited by the University of

Indianapolis. When it was put together, it was put together under the University of Indianapolis.
Q But that has only come in very recently, correct?
A No. No. That was at the very beginning of the program. 2004 I believe. Between four and seven, in that area.
Q Let me ask you this. What are the other organizations you are a member of?
A International Association for Identification.
Q Now, we also talked about a common example with the use of this technique is the convenience store. I think Ms. Livesay mentioned to you identifying individuals on a convenient store camera; do you recall that?
A I recall the question about a convenient store, an individual in a convenient store.
Q Let me take you back. So we have a video store camera with an individual that is identified, that we can see on the video camera. Utilizing the techniques, you can, for example, pinpoint or try to measure, say, how tall the individual is, correct?
A That might be possible. That is one of the things that we are asked to do, and we may consider doing it depending on the system.
Q All right. Sometimes you might can tell, like

you said, different colors that may be present or the characteristics of, let's say, a shirt or something you would be doing?
A Correct.
Q And what you are utilizing with this headlight spread pattern analysis is trying to take the same measurements you utilize in that convenient store example, to the application of vehicle headlights; is that correct?
A No.
Q It's not?
A No. It's different.
Q But still a comparison discipline, correct?
A Yes.
Q So like I said, it is a comparison discipline wherein you are utilizing different techniques to analyze Image or Video No. 1, with Image or Video No. 2, correct?
A In a broad sense, yes.
Q And I know that is broad. But like any comparison discipline, it is critical to get any of the factors or variables in the first image as close to identical as you can in the second image in order to be able to do your comparison, correct?
A The ideal circumstances to replicate the same

recording conditions.
Q Right. Okay. Is there anybody else relating to -- like I said, this discipline is maybe published, say, in textbooks or things of that nature, regarding this headlight spread pattern analysis?
A Yes.
Q Who would that be?
A U.S. Department of Transportation, National Highway Traffic Safety Administration. They publish a document called *Sensitivity Analysis of Headlight Perimeters Affecting Visibility and Glare*, December 2008. They went through a whole series of explanations and testing as to why headlight spread pattern was different from vehicle to vehicle.
MR. BOUCHETTE: Okay. Let me --
A I have a whole list of publications.
THE COURT: If you are going to ask him a question, you're going to let him answer. Don't interrupt him, please.
A The *Forensic Imaging and Multimedia Glossary Covering Computer Evidence Recovery, Forensic Audio (FA), Forensic Photography (FP), and Forensic Video (FV)*, Version Seven, published July 15, 2008, defines headlight spread pattern analysis for the purpose of photographing video comparison.

The document -- the document that I -- publication by the National Highway Transportation Authority was written by Yukio Akashi and J.D. Bullough, and they are with the Transportation Authority. They go into a number of observations, including a description of high intensity discharge, those are HID lights, and how they are different from one another and the circumstances by which they would be different. They go into details about composite patterns on headlights as to why one headlight from one vehicle of the same make and model would be different from another, because of humidity inside the lens, because of wear and tear on the roadway and because of the canting of the light for traffic.

I have a document here done by the Dane County Sheriff's Office by a Deputy Scott Kuntz who took about 60 Crown Vics brand new off of -- before they put the police paint on it, and they did a headlight spread pattern analysis on brand new Crown Vics, all of them had different headlight spread patterns even off of the assembly line.

THE COURT: Does that satisfy your question?

MR. BOUCHETTE: Yes, sir.

Q So there was study through the Highway Transportation Authority; you mentioned that?

A Yes.
Q And I think you had one from the sheriff's department you had?
A Yes. And more here if you would like me to go on.
Q No, sir, not at this point.
Let me ask you this. What I'm trying to get to, what about any -- when talking about publications, did you know Dr. John Russ from the University of North Carolina?
A I know Dr. John Russ very well. We're friends. Yes.
Q Did you talk to him in 2015 regarding the utilization of headlight spread pattern analysis; do you recall doing that?
A I have talked to so many people about that over the years I don't recall specifically.
Q Well, did you talk to him and say that you could visualize and provide the make and model of a vehicle from the headlight spread pattern?
A May I see what you are referring to, please?
Q Sure. Referencing this paragraph right here (indicates).
A So this is his publication of *Forensic Uses of Digital Imaging*, second edition. In here, he quotes

me -- let me read it for a moment, because I've never seen this.

Q Sure. Take your time.

A (Witness examines document.)

(A brief pause in the proceedings.)

THE COURT: While he's reading, let the record reflect that Mr. Bouchette provided him with a copy, with a book, and he's identified the book and he's reading that book now. It is not marked as an exhibit, and it will not necessarily be marked as an exhibit, but he's reading from the publication itself.

Excuse me.

MR. BOUCHETTE: No, that's fine.

(A brief pause in the proceedings.)

A I'm reading his explanation of comparison of light characteristics, and then he gets into an area dealing with paint and how paint chips can be identified by forensic analysis. He just makes a brief mention about 3D seems -- so that is three dimensional reconstruction usually using a scanner, and that is one of the things we do, and then two dimensional images that are captured from CCTV. And then he writes about the pattern of light and flare off of a headlight, which is accurate, captured to a surveillance camera at night is used to do that, and then he doesn't -- he's

not quoting me, he is just saying I'm one example of an analyst that does that kind of work, but it is not a direct quote.
Q (MR. BOUCHETTE) I know it is not a direct quote, but he references that he spoke to you in 2014, correct?
A 2015.
Q 2015.
A But it just says -- he just uses that as a reference. He says, This is done in the industry. Grant Fredericks is an example as someone that does this, but he's not quoting me or saying he had a conversation with me.
Q But by saying "he does this" he means identifies the make and model of the vehicle; correct?
A I mean, it is his paraphrase. I don't recall talking to him specifically about the methodology. He just knows that the identification of a headlight pattern is one of the things that are done -- that is done to assist in the evaluation of whether comparison can be done on a vehicle. So I just don't want to overstate what he's written here. He's using -- he's describing a well-known methodology, and he's just saying Grant Fredericks does this as well.
Q He says Grant Fredericks does this as in identify

make and models, correct?
A Well, you have to talk to Dr. Russ about what specifically he was referring to. What I do is I look at reflection of light, and if that leads to a comparison of vehicles and an identification of make and model, which seems reasonable given the testing that we've done where we exclude all other models, then I think he's accurate in that.
Q Let me ask you this. With regard to your example in this particular -- this particular case, we've mentioned a moment ago a lot of things can affect the headlight spread pattern, and you mentioned the humidity and the headlight casing, correct?
A Yes. If a headlight casing is breached. There's supposed to be a vacuum there, and if it is breached and there is humidity, it will cause oxidation of the lens composite and it will begin to change colors, it will begin to diffuse the light, and it will completely change the headlight spread pattern. Tiny little bit of oxidation will cause the pattern to completely change.
Q But headlight spread patterns can be very sensitive, correct, to any type of effect?
A Very sensitive, yes.
Q So even on the exterior of the headlight, if

there is a certain degree of dirt, that could affect it?
A It could, yes.
Q Or if there is some mud on the exterior of the headlight casing, that could affect it, correct?
A It could.
Q And it is very difficult, if not impossible, to ever account for any of those exterior factors that may be there, it could affect the headlight spread pattern if you don't conduct the analysis close in time to the event?
A If -- if --
Q Yes or no and then I'll be happy to let you --
THE COURT: No. He can explain it. He doesn't have to answer just yes or no. He can explain his answer, Mr. Bouchette.
A If there were obstruction on the headlight of the questioned vehicle, and that obstruction -- and it was significant and was not present when the police did the drive-by, the pattern would look different.
Q (MR. BOUCHETTE) Right. So in other words, if we're looking at Image Number 1 and say that, for whatever reason, there's a certain degree of mud on the exterior of the casing, and then at some point later on, that same degree of mud was not on the

exterior, it could have an effect on the headlight spread pattern, couldn't it?
A We have to be really careful when we talk about a degree. What degree? If it is a hundred percent blocked out, absolutely. If it is 1 percent, 2 percent, those are different degrees. So we would -- it would have to be a significant obstruction to -- enough to cause a difference.
Q But you can never rule it out, right?
A We can't ever say what level of obstruction. What I can say is that they appeared to be identical, therefore, I would say the same level of obstruction, if there were, was there. If there was no level of obstruction, then that would explain again why they are the same.
Q And in this case you didn't -- by the time you got involved, the vehicle had already been transferred to another owner; is that correct?
A I'm unsure about that. I know that the headlights had been changed out.
Q The headlights had been changed out?
A Yes.
Q Let me ask you this. By the time you did your evaluation and conducted your review, how long -- let me ask you this. When was that?

A That would have been January, I believe, of 2015.
Q So this is about a year after the event of the unknown vehicle?
A Correct. And that would have been why I wouldn't have been confident about or even suggested doing the headlight spread pattern analysis, that length of time. And then coupled -- and, really, it became no question once the headlights were removed. After the vehicle was seized by the police, the headlights were removed for some purpose and then placed back. That fact would have changed the headlight pattern no matter what, so that exercise could not have been done.

Fortunately, the investigators did their drive-by with the vehicle pattern -- with the vehicle intact with no change to the headlights, that then provided me with what I would have done in any case.
Q Even that review that they did, and the drive-by that they did, was done in January of 2014, right? Or was it February of -- excuse me, I think it was February.
A I think it was February 2014.

From what I could see, the conditions -- the lighting conditions were very, very close or close enough for my examination.
Q Okay. But it was several months from the event?

A Two months.

Q Two months. So, I mean, really, in your report, you can't say for sure or identify or be able to speak to what the conditions were of the exterior of the headlight casing at or near December 17 and December 18 of 2013?

A Correct.

Q But we know if there was any variation to those effects on the exterior of the headlight casing between the time of December 17 of -- December 17th or December 18th and late February, that could have had an effect on the headlight spread pattern analysis?

A And if it had an effect, it would have been different and I would have excluded it.

Q Let me ask you this. We heard earlier testimony this was about a -- this was a Walmart system, I think about a hundred dollars she said. Is the imaging sort of consistent with what you would expect with that type of --

A Yes.

Q So it is not a professional or high-grade, high-quality security camera; safe to say?

A No. There is not a lot of difference -- well, yes.

Q Okay. That's fine. Another factor in trying to

analyze the headlight spread patterns, one of the factors is the degree of the resolution of the video?
A Yes.
Q Another factor is going to be the distance from the camera to the whatever lighting source or whatever object you are trying to analyze, correct?
A Yes.
Q And in this case, the road and the truck was almost at the outer limits of the visual area, correct?
A Sorry, which video? Talking about 814?
Q Correct.
A No. By "outer limits" you mean as the vehicle goes left to the right and then goes off camera view?
Q I just mean this video and right up close we see some parked cars, and then at some point further in the back is where we see the road.
A Oh, I see what you're saying. So you mean distance from the camera?
Q Correct.
A I wouldn't say that is outer limits. There is one part of the vehicle in the driveway, and beyond that is the road, yes.
Q But it's safe to say the vehicle in the road is not up close to the camera, correct?
A That's correct.

Q Now, let me ask you this. You mentioned that you utilized, I believe it was, 11 vehicles in this study?

A Yes.

Q And you were able to exclude different makes and models such as Chevy Silverado, and I think there were a couple of others?

A Yes. There were 11.

Q But how many of those were Ford F-150s?

A Three or four.

Q But there was no large-scale statistical modeling of Ford-150s to be able to say that -- you know, apply it to this particular case?

A Correct.

Q A F-150, obviously, is a common truck?

A Yes.

Q You found it to be common here in Horry County?

A Yes. Statistically, the audit I did of 15,000 vehicles, there was only one other one of the 15,000. So only one that matched that description of the known. So one was the "questioned" and then one was the vehicle towing the boat.

Q Let me ask you that. Has that been published in any peer review journal for review for others in the industry?

A It is a statistical analysis of the movement on

that roadway. So for that purpose -- it wasn't produced for publication purposes.
Q And that dealt with all kinds of vehicles, correct?
A Yes. It dealt with every vehicle that went back and forth. So we weren't discerning. We got everything.
Q That wasn't where you were seeking -- those weren't 15,000 F-150s that you were comparing to see if all F-150s had different --
A You asked me how common it was. I'm saying it was only two F-150s in the entire week that went by that road.
Q Okay, I got you.
Just a few basic questions. Obviously, from the video, we can't tell who is in the car or in the truck?
A No, we cannot.
Q And you also mentioned that part of the video you were looking at is a video provided to you by the MAIT Team, correct?
A Sorry?
Q The part of the video that was provided to you was provided by the South Carolina MAIT Team?
A Yes.

Q And they were unable to ascertain any information other than the class and characteristics of the vehicle; is that true?

A I had no conversation with them about their observations or opinions; I don't know.

Q Not one way or the other?

A No.

MR. BOUCHETTE: Just a moment.

THE COURT: Sure. Take your time.

(A brief pause in the proceedings.)

MR. BOUCHETTE: No, further questions.

THE COURT: Very well. Redirect.

MS. LIVESAY: Yes, sir, Your Honor.

REDIRECT-EXAMINATION

BY MS. LIVESAY:

Q Mr. Fredericks, Grant -- I mean Jarrett asked you several questions about headlight spread pattern, down that line of questioning; do you remember that?

A Yes.

Q Tell this jury, is that the only thing you compared between the vehicle, the questioned one, at the time that was unknown, going down 814 and Mill Pond, was that the only thing you compared to the defendant's truck?

A No.

Q Tell them all what you compared to ultimately draw your conclusion.
A The goal is to eliminate, if possible. So the first elimination would be make, model and year. The make model and year references characteristics on the vehicle, references the physical features, the length of the vehicle and any reflections, like the door handles, those kinds of things. So if I could determine that the questioned vehicle did not have those basic class characteristics, then I could eliminate the vehicle and say it is not the same vehicle. Then, going through to say does the questioned vehicle have all of the same class characteristics, make, model, year, color and type of headlight -- not reflection, just type of headlight -- then we can say it does have all of the same, therefore, it cannot be eliminated.

Now we look to uniqueness. What is unique about it? At this point, it is the pattern of the reflection on the roadway, so that is the secondary process, so we still have to go --

Q So before you even looked at the headlight spread pattern, you already knew that it was a black truck that had four doors, it had a toolbox on it, so you already knew all of that was identical to the

questioned truck?
A As far as class characteristics I knew they could not be eliminated, that it might be the same. The weight that is applied to the observations would be the toolbox, and then separate -- I treat the Walmart video separately from that video, but in that video, we also have the cutting saw in the back of vehicle. That -- I looked and could that cutting saw be visible in the known vehicle? When we did that test from those camera locations, it could not be visible, so I can't know whether or not. But the toolbox is a limited class characteristic. It is kind of how we define characteristics, because there are a lot of vehicles with toolboxes, but not all vehicles of that make, model and year have toolboxes. So we say it is a limited class characteristic. I wouldn't refer to it as a unique characteristic it is all part of the process of doing photographic video comparison with the goal of eliminating first, and then going through the hierarchical process to find the uniqueness.
Q Ultimately, did you conclude that the defendant's truck was, indeed, the truck that went down 814 and Mill Pond?
A Yes, I did.
Q And did you find out, or were you able to

conclude, other than the headlight spread pattern, was that truck also identical to the one he was driving at the Walmart the early morning hours of 12/18?

A Yes, it is.

MS. LIVESAY: No further questions.

THE COURT: Recross.

MR. BOUCHETTE: One moment, Your Honor.

THE COURT: Sure.

(A brief pause in the proceedings.)

MR. BOUCHETTE: Nothing further, Your Honor.

THE COURT: You may step down.

Do you wish this witness to be excused?

MS. LIVESAY: Please, Judge.

THE COURT: Any objection?

MR. BOUCHETTE: No, Your Honor.

THE COURT: You are also free to leave, sir.

MS. LIVESAY: The State calls Pete Cestare to the stand.

(Whereupon, PETER CESTARE, having been duly sworn, testified as follows:)

THE WITNESS: Pete Cestare, C-E-S-T-A-R-E.

(State's Exhibits 129 through 150 marked.)

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q Lieutenant, where are you currently employed?

A I'm employed with the Horry County Police Department.

Q What is your current position?

A I'm a lieutenant, the commanding officer, of the Crime Scene Investigations Unit, Property and Evidence Section, and the Regional Drug Testing Lab.

Q How long have you been at the Horry County Police Department?

A 16 years. I'm coming into my 17th year now.

Q Where were you employed prior to Horry County?

A Retired from the New York Police Department where I was the commanding officer of the Manhattan Major Case Squad.

Q If you don't mind, tell this jury a little bit about your training as you have been in the police department, both New York, as well as here in Horry.

A I was originally certified as a police officer by the New York City Police Department -- actually, by the New York City Housing Police Department. I trained at various times each year within that agency and had been sent to several government agencies, FBI, Department of Justice, Treasury for additional training in various aspects of law enforcement. I retired from New York City, moved down here to Myrtle Beach, South Carolina, was employed -- gained employment with the Horry County

Police Department, and from there they sent me to a number of forensic schools, including the New York City Medical Examiner's Office, FBI Academy, Forensic Institute and several other schools and agencies around the country.

Q And what was your position in 2013, December of 2013?

A Exactly the same as it is now. Since my employment, I have been in charge of those units.

Q For 15 -- 16 years?

A 17, yes, ma'am.

Q And did you help with the case we're here today on?

A Yes, I did.

Q If you don't mind, start out telling us a little bit about how you got involved.

A Okay. It jumps way back to December 20th of 2013. I had been asked by the captain of the Criminal Investigations Division, that is who I report to, to assist in a missing person's investigation involving a young girl by the name of Heather Elvis. In doing that, I had received information that she had gone missing somewhere around December 18th. It is now December 20th, and I was asked to go to her parents' residence on Sly Fox Trail in the Myrtle Beach area to

take a look at a vehicle that belonged to the young missing girl.

So I took one of my investigators, Investigator Jill Domogauer, and responded to Sly Fox Trail.

Q Ms. Domogauer has already testified and showed pictures of the victim's vehicle; is that what you were doing, processing Heather's vehicle?

A Yes, ma'am. We went there to look at the vehicle. Bear in mind, at this particular time, this was a missing person's case. We're there to see if we can lend any forensic assistance to the detectives, who were also on the scene, to see if we could offer them any help, as far as what may have happened to her or how she may have come to be missing.

Q And, at that time, nobody knew whether or not a crime had been committed?

A That's correct. We were simply there for a missing person's case.

Q And after you left her vehicle, where did you go next?

A After leaving her vehicle, we did some basic processing through the vehicle, including some touch DNA swabs, photographs and so forth. We did an overall cursory review of the vehicle to try to determine occupants that may have been in it or anything of that

nature. From there, the information that I was given was that on the night of the 18th, the young girl had gone missing, or the last place they believed her to be, was at Peachtree Boat Landing, which is all the way at the end of Peachtree Lane. It is not the one at the big bridge. It basically dead-ends into the Waccamaw River. I was told that is where the vehicle was found on the 18th, and that at that time the vehicle had been driven back to the house by the young girl's father.

So the next course of action would be to go to Peachtree Landing to try to determine if there is anything there to help lend support to what may have happened to this young girl, you know, that night at the landing.

Q And when you went to the landing, did you see anything of evidentiary value?

A No, there was nothing of evidentiary value. I had gained some information from both the young girl's dad and the patrol officer that had responded the night that the car was found at the landing as to where the car had been parked, specifically how it was positioned. Those are all things that are important, because when you pull into a boat landing or when you pull into any area that has a parking lot, you need to

focus on something in particular. I mean, I can look at the whole parking lot, but until I know specifically where the car is, I'm going to waste a lot of possible important time to look at other areas. We did, however, look at the entire boat landing. Part of the urgency of getting there right away is that we requested divers to come. So the Horry County Fire Department, Myrtle Beach Fire Department, DNR, Department of Natural Resources, and several other agencies were all sending boats and divers there.

So before the -- even though we're two days from that time frame, before that parking lot gets further potentially contaminated with vehicles and people tracking through it, we wanted to get a look at it before everyone got there. So it was kind of urgent to get there right away and see that parking facility and the landing and try to determine a direction to start asking the divers to search it.

Q Did you find any blood or weapons or anything at the landing that led you to believe that a crime had been committed?

A No, ma'am, we did not.

Q Did you find your phone, pocketbook, anything that belonged to her?

A No, we did not.

Q When you left the landing, where did you go next?

A I stayed at the landing for a period of time. I directed my investigator, Jill Domogauer, along with some detectives to respond to Ms. Elvis' apartment, the apartment she had been staying in, which was off of River Oaks Drive, also in the Myrtle Beach section. I asked Jill to go along with the detectives to assist them, and if they come across anything or to just take some photographs for them.

I stayed at the landing for a period of time with the divers and with the agencies that came in to assist us. It was later on that same day that I accompanied some of the detectives from my agency to the Moorer's residence over on Highway 814.

Q And when you were at the residence, did you take any pictures?

A Yes, ma'am, I did.

Q I'll show you 129 to 150.

A (Witness examines documents.) Yes, ma'am. These are the prints of the visual images that I photographed that day at the residence.

MS. LIVESAY: At this time, the State wishes to place 129 to 150 into evidence and publish at the appropriate time.

THE COURT: Any objection?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Without objection, State's 129 to 150 are admitted, each being a photograph.

(State's Exhibits 129 through 150 admitted.)

Q (MS. LIVESAY) While we're getting that on the screen, I want to ask you: Who all was present when you showed up to the defendant's house?

A I was there. Lieutenant Chip Squires, who was lieutenant over Investigations at the time, Detective Cauble, I believe, if I may return and refer to my notes, let me see what I've got. I believe Detective Hardee also had responded.

Q Who was present from the defendant's family?

A Tammy Moorer was home at the time. I -- actually, we got there -- we're there, basically, to try to gain information that would help lead us to what happened to this young lady. We knocked on the residence door for Tammy and Sidney Moorer. There was no answer at the door. We went kind of adjacent to it. There is another residence that sits on the same property, that was Tammy's mom and dad. I believe the last name was Caison. We went over and knocked on that door. Mr. Caison answered the door, came out and spoke to the detectives for a few moments. I was kind of standing in the background. A short time later, Tammy

Moorer emerged from the Caison house, spoke with the detectives for a short period of time. They asked if the team of us that were there could go with her into the house to talk and to take a look inside the house, if there was anything there that could help us.
Q Okay. When you first walked up to the house, did you notice anything?
A Yes, ma'am, I did.
Q What did you notice?
A On the face of the Moorer's house, the front of the house, which faces out to a small extension of roadway, it's actually a right-of-way that goes back to a power area there, there were some cameras on the front of her house of what appeared to be like a video type of surveillance camera.
Q Did those cameras look operable to you?
A They were up a distance in the air, you know, height on the house, one at each corner of the house, and one at the center gable of the house, but they appeared to be operable, from what I could tell.
Q Did you go inside the house with the other detectives?
A I did. I specifically asked Tammy Moorer if it was okay for me to come in with them and if she wouldn't mind if I took photographs while I was inside

the house, to which she agreed and said that that wouldn't be a problem.
Q Now, were there any cameras in the house?
A Yes, ma'am. I saw one camera in the house while I was inside.
Q Now, did you document, in general, what you saw in the house in these pictures of 129 to 150?
A I took photographs in the house. The problem I had was seeing the cameras on the outside, and seeing the one camera inside, at that particular time, it became extremely important to me as to what may have happened and could help us in this investigation. My fear at that point, because we were there under consent, you know, to come on in, feel free to look around, to some degree. I mean, I wasn't allowed to open cabinets, but I could look in the doorway of each room or whatever. If I alerted anyone at that point that I believe the cameras were operational in the house, my fear is that we would lose whatever information may be on them.
Q Let me ask you this. When you went in under their consent, at that time were they suspects?
A No.
Q Was anyone detained in any form or fashion?
A No, ma'am.

Q Now, when you went in and snapped photographs, were you in there going through closets or going through drawers or going through anything?

A No. As I mentioned, we were permitted to come into the house. I was permitted to take pictures with limitations, like standing in the doorway of a room and looking in. Several times I asked if I could go into it, and she said, No, no, from here in the hallway is fine. But I was pretty much lead through the entire residence by Tammy Moorer. She was with me the entire time. Tammy's mom and dad had also come into the house, and they were in there as well with the detectives and so forth.

Q Okay. I want to ask you to step down to show this jury what you saw in the home in pictures 129 through 150.

What are we looking at now?

A Customarily, any time I take photographs of anything, I try to put some type of reference marker in that photograph. That is a picture of the mailboxes outside of the house, and it just simply shows me the addresses. There were two residences that sit on the property.

Q Okay. And how about in the next one?

A This is the back of a vehicle. It's a black in

color Ford F-150 that was parked in the Moorers' driveway. The driveway at that part of the house is kind of split by a few palm trees, and as you can see, on the lower corner, there is some stone and so forth. There is basically like a two-lane driveway on the Moorers' side, and then on the other side of those trees is a two-lane driveway on the Caison side of the property. That is just documenting the license tag number on the back of the vehicle that was parked in the driveway. That was the only vehicle in front of the Moorers' house, passenger vehicle. There was a camper there as well.

Q Let me ask you this. Can you show us where some indication of where the truck was bought from?

A Yes, ma'am, it does. It shows a Beach Ford tag on the back of it. Most dealerships, as you know, probably looking at your own vehicle, have placed something on the back of the vehicle, you know, as a selling point for their own dealership, so that is basically just showing Beach Ford.

Q What are we looking at here?

A This is standing almost at the street, and that is the black Ford F-150 that I spoke of that you just saw the tag on, and to the right, you are seeing their travel trailer or camper that is also parked in that

driveway. There is a lot of other items in and around the front of the camper.
Q If you don't mind, when you look close, tell the jury -- what is this right here?
A That is a shotgun shell there. There is bags of mortar or cement there.
Q What is that?
A Some cleaning solutions and so forth. It just kind of struck me as odd. Who leaves things like that? Obviously, you know, open mortar, or whatever, if it rains, you are going to destroy it. Who leaves shotgun shells in the driveway and so forth? It just struck me as odd.
Q What was this?
A It looks like a tarp, I believe. And there was some rags and stuff over in that area and trashcans and a couple of buckets and so forth.
Q And these things down here, do you know what those are?
A No, ma'am, I do not.
Q So the only thing you can decipher is the shotgun shell, the Quikrete cement and the bleach?
A Yes, ma'am. That kind of piqued my interest, and that was part of the reason why I took that photograph.
Q Did you take some now going further into the

home?

A I did, yes.

Q Is this a shot, right up front?

A It is. And as I mentioned to you, looking at the face of the home, there appears to be three distinct cameras on the front of the house. Unfortunately, I couldn't just swing the camera up and focus, you know, my camera at one of the video cameras. I would have given the fact that I had seen them. So I'm trying to shoot pictures from my hip as I'm walking along. In perfect alignment is two palm trees that block where the cameras are on the front of house.

Q Did you take pictures inside the house?

A I did, yes.

Q And what is this showing?

A This is the inside the home. This is just the laundry area off of the kitchen of the residence.

Q So here you are just kind of generally documenting --

A Yes.

Q -- rooms in the home. How about here?

A This is the kitchen area, and a door that leads out into the back area of the house.

Q And, again, you are just generally documenting general appearance?

A Yep. I was not, you know, given permission to look through cabinets or closets or anything of that nature. Just whatever doors were open, I could make a photograph of the room from the doorway.

Q And how about here?

A This is the family room, which is immediately adjacent to the kitchen. As you see on the left there, the stool-style chairs, over that counter is the kitchen area. So this is like the family room area of that house.

Q And how about here?

A Coming back, I'm standing almost inside the front door of the house, and when you look to your right, you go through this den/office area, and that is the kitchen behind it, and that family room. So if I just walked in the front door of the house and looked to my right, this is what I'm seeing.

Q What about here?

A This is almost straight ahead of the entry door coming into the residence. This is Tammy and Sidney's bedroom on the first floor of the house.

Q How about here?

A I'm looking immediately to my left of the front door, and this is a staircase going up. This photograph is somewhat significant, and you'll see

other coloring as we go along, but if I may?

Q Yes?

A Just up above here, the roof of the entryway of the house doesn't allow me to see it, but there was a camera at the top of the staircase in that green painted area right at the -- where the crown molding or ceiling molding would be in the house, looking down the staircase towards the front door.

Q Did you go upstairs?

A This is from the upstairs now. I'm now up on that landing, and the camera would be just behind where you can see from here.

Q Okay. Let me ask you something. This is from you all searching, or this is the way it was on the 20th?

A No, ma'am. We were not allowed to search anything. I was just allowed to walk through with her. It was Tammy and I at the time, and she walked me through and said -- like I said, I asked her could I take pictures, you know, inside the house, and she said, yeah, I don't have a problem. I'll let you take a picture from doorways and stuff, but I don't want you going through anything.

Q How about here?

A Just a photograph from a doorway upstairs to one

of the bedrooms.
Q Okay. And here?
A Same photograph, one of the upstairs rooms looking into one of the bedrooms.
Q And here?
A Same thing here, photograph of the doorway looking into the bedroom.
Q So now this is the fourth bedroom we've seen?
A Yes.
This is a photo from the hallway looking into the bathroom upstairs.
Q Okay.
A Photo, again, from the hallway looking into another room upstairs that had a bunch of Legos and stuff in it.
Q All right.
A This is coming back. This is where I tried to get the camera -- Tammy was standing right next to me at the time. I swung around to say something to her, and I took a picture at the same time hoping I would get the camera at the ceiling line, but right up here, at the ceiling line, which I missed in not being able to, you know, look up and focus without drawing attention to it, was a small camera.
Q How about here?

A That is kind of what that camera would view looking down. I took that shot as I was walking down the stairs and Ms. Moorer was right behind me.

That is a picture from the inside just looking at the two front doors from the residence. This is a picture from that little den office area that leads into the kitchen/family room looking back. You'll see the front doors to the residence there on the left, the staircase going up, and then the master bedroom would be to the right.

This is off of the kitchen, a small area that had a freezer, microwave in it.

Q What is up here?

A Just some bottles of alcohol, Baileys Irish Cream, Jim Beam, few other bottles. Like a make-shift pantry area, if you will.

Q And how about in here?

A There is -- inside that -- I'm in what would be the kitchen area photographing over-the-counter towards the family room area.

Q Okay. Is that the last picture?

All right. Mr. Cestare, if you don't mind, have a seat.

(State's Exhibits 151 through 174 marked.)

Q Lieutenant, as part of Crime Scene, after you

went to the defendant's house, at some point did you also process or document his truck, his Ford F-150?
A I did some documentation on it, yes. Some of my staff was assigned to search it and so forth, and I also did some photographs of it as well.
Q Let me ask you this. Did you go inside the Ford F-150 the day you were there on 12/20?
A No. It was locked, and I was told there was no keys available to that vehicle.
Q So you never went in on 12/20?
A No. I specifically asked Ms. Moorer if I could take a look in the truck, and she said no.
Q Let me ask you this. Were you able to look into the truck later in December and early January via a search warrant?
A Yes, I was.
Q And did you at that time document how the truck appeared?
A Yes, I did.
Q And were you able at that time to go through the truck?
A Yes.
Q And the truck was where when you documented it?
A It was at the Horry County Police Department. It was towed there based on a search warrant. One of the

initial problems we had was that toolbox in the bed of the truck was locked, and although the search warrant gave us the ability to break that toolbox open, I told my investigators not to do it, that we would attempt to gain a key from Mr. or Mrs. Moorer to be able to open that toolbox. If we weren't able to obtain a key, then we would, in fact, break the toolbox open. Mr. Moorer did provide a key to me at one point, and I was able to unlock the toolbox and photograph inside that box.

MR. BOUCHETTE: I have an objection to one of the photos she's seeking to introduce.

THE COURT: Let's have a side-bar.

(Whereupon, a bench conference was had.)

THE COURT: State's 151 through 174, with the exception of -- or State's 168 are admitted without objection. The others are without objection, Mr. Bouchette?

MR. BOUCHETTE: Without objection.

THE COURT: As to 168, the objection is made and we'll place it on the record, but it is admitted subject to that objection.

(State's Exhibits 151-167, 169-174 admitted.)

Q (MS. LIVESAY) Mr. Cestare, I want you to look at 151 through 174 and tell me if these are the pictures you took of the defendant's truck at the police

department?

A (Witness examines document.)

(A brief pause in the proceedings.)

A Yes, ma'am, these are the copies of the digital images I took that day.

MS. LIVESAY: Okay. Your Honor, at this time the State wishes to admit 151 to 174 and publish.

THE COURT: I've already ruled on the admissibility, so you can publish them.

Q (MS. LIVESAY) Mr. Cestare, if you don't mind stepping down and we'll go through the pictures together.

These pictures were taken after the 20th, correct?

A Yes, ma'am. These pictures were taken December 30th, if memory serves me correct. I can look at the sheet, but I believe that is the date.

This is at the Horry County Police Department. This is an open outdoor processing bay. It is covered over with a roof where we would customarily tow a vehicle in to process it, take photographs of it, potentially search it, whatever needed to be done.

Q At that time, there was no emblem for Beach Ford on the front?

A No, ma'am. That truck is just the way it was at

their house and brought to the police department.

Q And how about here?

A That is just a standard picture. Normally, in documenting a vehicle, I go around all sides of it just to document the condition of the vehicle and anything that potentially may be unique about it. This is the passenger's side of the vehicle.

Q Was there any damage?

A No.

Q Okay.

A This is the rear of the vehicle showing both the toolbox up in the bed, as well as the license plate, South Carolina tag. That is the same plate as what I had photographed at the house back on the 20th, some seven days before.

Q And that is just to reconfirm this is the identical truck, the same truck?

A Yes, ma'am, that's the truck from the house.

That is just a close-up of the tag.

That is a picture of the driver's side of the vehicle. Again, I'm kind of walking my way around the vehicle.

Q Did you go inside the vehicle?

A I did, yes.

This is a picture up into the bed to show what

the contents were in the bed of the vehicle, and to further document the toolbox on the back of the vehicle.
Q Okay.
A This is now with the driver's door open taking a look inside at the driver's seat and dashboard and console area.
Q Was this truck super clean when you got it?
A It was. It was pretty remarkably clean. Just pictures of the door pocket on the driver's door, and the contents in it.
Q All right.
A This is a picture behind of the rear passenger compartment of the vehicle, and what you see flipped up is the back seat of the vehicle. That particular vehicle, the seat is enabled to come up so that you have storage room if you needed it, or it could come down for passenger seating.
Q Let me ask you something, did you flip it up?
A No, it was up already.
Q So when you took it from the house, all the seats were flipped up?
A I don't know if the seats were flipped up when it came from the house. This is the way I found it that day.

Q All right. Now, I want you to look again. Does that look clean to you?

A I mean, for the most part, it is somewhat clean inside that vehicle. There is items scattered around in the back of it but for the most part, the exterior of the vehicle and the surfaces inside were pretty clean.

Again, just looking at one of the door panels, the door pocket inside the vehicle. Again, looking at the vehicle and the -- you know, the floorboard in the back. As you can see, I mean, there is a considerable amount of what looks like small debris and whatever on the floor of the vehicle at that time.

Q Again, looking at the other door panel on the passenger's side, the rear door?

A Looking inside the front passenger's compartment of the vehicle, and, again, there is items scattered about the floor, the seat and console area.

Q Okay.

A Looking at that passenger's door, side pocket.

That was a picture of a pass that was inside the vehicle. I documented that just to show it was a state park pass.

That is a handicap placard in the vehicle. Again, I documented that for the placard number and to

see who the placard was assigned to through DMV.

Q Who is that a picture of?

A Tammy Moorer.

Another picture looking at the tailgate of the truck from the bed area. The first picture you saw was looking into the bed; this one is looking back just to be able to see the tailgate of the truck.

This was in one of the pockets in the back, and it was a box of ammo.

Q And is what you saw in front of the camper, was that a 20 gauge?

A Um.....

Q If you don't know, that's okay.

A I don't know the gauge. I just saw it on the ground.

Q And this was where in the truck?

A This was -- I believe it is in the back towards where the seat is. There is some pocket areas back there. I'm not completely sure without going back through the inside pictures, but it was in plain view within the truck.

Q Go back a few pictures. Right there. Look at --

A Yeah, there is a track right in here by the back seat, and that is where the ammo is, right down in the bottom of it. That track, if the seat were down, you

would not see that track area, but with the seat up, you could see it.

Q I want to ask you something. What is this here?

A That is just a hairbrush, cups, some papers and so forth.

Q Now, here is what? Like a candy wrapper?

A Yes.

Q And what is this stuff here?

A Looks like chips or parts of cookies or crackers or something.

Q Does this truck look like it was just washed and cleaned yesterday?

MR. BOUCHETTE: Objection.

A No.

THE COURT: I'll allow it. Overruled.

Q (MS. LIVESAY) Take us back where we were, please. As we're going through, there is papers on the floor, shotgun shells. Now, they are in a compartment. If you put the seat down, you would not see them; is that correct?

A That's correct. If the seat were down, it would cover those and you wouldn't see them.

Q What is this?

A That was like a receipt book that you would use if you had a business and you were giving someone a

receipt for work or something that you performed, that shot is a little out of focus. There is another one.
Q Can you tell who that receipt is for?
A Yes.
Q Who?
A It says "Sticky Fingers Myrtle Beach."
Q Can you tell the date?
A Looks like 11/16 of 2013.
Q How about the next one?
A That one is 11/15/2013, also to Sticky Fingers. 11/18 of 2013, Longhorn Steakhouse.
These are, obviously, work tickets that Mr. Moorer -- or I would assume Mr. Moorer was providing.
Q Whose name is up here?
A Sidney Moorer, and it describes "loose stonework on the north wall, secured all parking stops."
Q And whose name is down here on the ticket?
A Sidney Moorer.
Q Okay. And this is receipts for work he's done?
A Obviously, that is something that he's giving the store to show what work he's completed.
Q Okay.
A This one is dated 12/21/13, Sticky Fingers, and, again, it says "secured hood and stainless screws,

remove roof panels for a hood guide." So I'm assuming that is some type of work inside the business.

Q Okay. Go back. Did you ever see a ticket for 12/17 or 12/18?

A No, ma'am. The tickets that -- the photographs that you see were the tickets that had been filled out.

Q Okay. And did you photograph it just like you were standing there going through the tickets?

A Yes, ma'am. I was flipping the pages and taking a picture as I was doing that.

Okay. This is just the manufacturer's label that is customarily on the inside of the driver's door or the frame around the door that shows the production date of the vehicle. What is important to me is the Vehicle Identification Number, or what we call the VIN number on a vehicle. Basically, we document that to verify what vehicle we're physically in should the plate not match the vehicle. In this case, the plate matched.

Q If you don't mind, have a seat, Lieutenant. I have a couple more questions.

Didn't you eventually get into the toolbox?

A Yes, I did.

MS. LIVESAY: Keep that in there, Tonya.

THE COURT: Let's let the jury take a break. You

can go to your jury room. Do not begin your deliberations, don't discuss the case, please.

(The jury exits at 2:30 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Solicitor, I want you to get all the exhibits you want for this witness marked. If there is another witness coming and you have exhibits, I want those marked, please, so we don't have to waste the time to do that, please. Thank you.

We'll be at ease.

(A recess was taken and State's Exhibits 175 through 195 marked.)

THE COURT: Thank you very much. Are you ready?

MS. LIVESAY: Yes, sir.

THE COURT: State's ready. Defense ready?

MR. BOUCHETTE: Yes, Your Honor.

THE COURT: Let the record reflect Mr. Moorer is present.

Invite the jury to return, please. Thank you.

(The jury enters at 2:43 p.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you, ladies and gentlemen.

You may resume your examination.

MS. LIVESAY: Thank you, Your Honor.

DIRECT EXAMINATION (CONT.)

BY MS. LIVESAY:

Q At this time I'll show you, Lieutenant, 175 to 191; what are these the pictures from, and are they pictures you took?

A (Witness examines document.)

(A brief pause in the proceedings.)

A Yes, ma'am. These are reprints of the visual images that I photographed of the toolbox on that truck and the contents thereof.

MS. LIVESAY: Your Honor, at this time the State wishes to put 175 through 191 in evidence and publish it at the appropriate time.

THE COURT: Any objection?

MR. BOUCHETTE: No objection.

THE COURT: Without objection, 175 through 191 are admitted.

(State's Exhibits 175 through 191 admitted.)

Q (MS. LIVESAY) I'll show you 175. That is the only one I will publish at this time. What is that a picture of?

A It's a picture of a pack of Swisher Sweets, like a small cigarette/cigar type thing.

(State's 175 published to the jury.)

A That photograph is inside the toolbox of the truck.

Q Are you familiar, when you were looking through the truck, with what the defendant bought from the Walmart the morning of 12/18?

A I am not completely familiar, no, ma'am.

Q Okay. So you searched the inside of the toolbox, and the inside of the truck, you documented the outside of the truck, correct?

A That's correct, yes.

Q At that time, did you take any swabs from the truck in an effort to find DNA?

A No, I did not.

Q This was what date -- around what date?

A This is -- hang on a second. I'll tell you exactly what date it was. This was on December 30th, 2013.

Q At that time, you didn't take any swabs of any kind?

A No, ma'am, and there is a reason why I didn't.

Q Okay. And were you able to get in the truck December 20th?

A No, ma'am, I was not able to get in the truck on that date. I was told that I couldn't search the truck.

Q Okay. I'm going to --

A Or look in the truck.

Q I'll show you 192, 193 and 194; will you tell Court if you are familiar with these items?
A Yes, I most certainly am.
Q Did you initial 192?
A I did.
Q Okay. And are these photographs and videos that you found that were of evidentiary value?
A Yes, I did.
Q And are you familiar with the Moorers' residence?
A Yes, I am.
Q And are those still shots from the Moorers' residence, 193 and 194?
A 193 and 194 depicts --
Q Just yes or no.
A Yes.
Q And 192, is that video from the Moorers' residence?
A Yes, ma'am, it is.
Q And did you recognize the people in the video?
A Yes, ma'am, I did.
Q And did you document that portion because you considered it of evidentiary value?
A Yes, ma'am, I did.
Q And does that contain the information as to why you did not swab the truck on December 28 or 29th?

A Yes, it does.

MS. LIVESAY: At this time, Your Honor, the State wants to admit -- actually, before I admit it.

Q I want to ask you, before I admit it, I have asked you about swabbing, why didn't you swab, and if that evidence shows why you did not swab?

A It does, in fact, show that.

Q What does it show?

A 192 is excerpts from the home surveillance system that the Moorers had in their home, and it shows cameras outside the residence --

MR. BOUCHETTE: Objection, Your Honor.

THE COURT: What is the basis? These are published, which is what the exhibit is, you object to?

MR. BOUCHETTE: I think these are new photographs, correct, and they have not been admitted into evidence?

THE COURT: I understand, that is why I'm asking. You are objecting to him telling why he didn't --

MR. BOUCHETTE: At this point, she's going into what the --

THE COURT: I understand that. Sustain the objection. If he's going to disclose what is on the video, you have to have it admitted.

MS. LIVESAY: Certainly. At this time the State wishes to put 192, 193 and 194 into evidence.

MR. BOUCHETTE: Can I see them, Your Honor?

THE COURT: You all haven't seen these? That is Rule No. 1.

(A brief pause in the proceedings.)

MR. BOUCHETTE: No objection.

THE COURT: Without objection, they are admitted, 192 through 194.

(State's Exhibits 192 through 194 admitted.)

Q (MS. LIVESAY) I want you to tell us what you saw on the video as to why it was of evidentiary value to you.

A This DVD is a copy of the video surveillance system that was in the Moorers' house. This video surveillance system captures images, both inside and outside, the house. The cameras were placed on the outside of the house, but at various times during the entire video you see Mr. Moorer holding the cameras and installing them in locations outside the house or within the house to view the out -- excuse me -- to view the outside.

Q What do you see?

A You see the outside surrounding area of the house. The cameras all point in different directions

and there are several cameras that were of particular interest to me. The date on the camera system for the day that I viewed this, the date on the camera system tells me it was December 23rd, not 2013.

Q That is what the date on the camera was?

A That is what the date on the system says. I went through that system and documented several times, and camera angles that were of particular interest to me. In one of the camera angles that faces the front of the residence, and on that particular day, on what the camera system says, is 12/23. That black pickup truck, the black Ford F-150 is parked in the driveway and it is being cleaned extensively. The outside, particularly of the front doors and rear passenger doors, the interior crew compartment of that truck is being cleaned extensively. When I say "extensively," it goes on for several hours of them cleaning the car.

What also is fairly unusual, to me, is the rags that they are cleaning the car with are then burned in a burn pile in the yard. That is another camera angle that's there. So I'm looking at Sidney Moorer, Tammy Moorer, Ashley and Ashley's boyfriend cleaning that truck extensively, and then I'm looking at them taking those rags that they are using to clean the truck with and bringing them over to a burn pile and burning

them.

Q Now, let me ask you this. That was sometime before you took the truck on the 28th?

A That's correct.

Q Would it have done you -- do you believe you could have collected anything of evidentiary value as far as swabs after that truck had been cleaned for hours?

A That is why I did not swab the truck on December 30th, because based on what I saw on that video, that truck was cleaned better than I would clean my own vehicles.

Q Now, did it look that clean when you took it into evidence on the 28th?

A No, ma'am. No. At that point, what you saw on those pictures a few moments ago -- the exterior of the truck appeared to be clean. The inside had debris, candy wrappers, cups, crackers and stuff strewn about, so, you know....

Q So, clearly, it wasn't spotless on the 28th?

A No, ma'am, it was not.

Q And this clearly was not a vehicle that was kept spotless all the time?

A Not to my knowledge, no, ma'am.

Q Now, I'm going to publish 192, but before I do,

what is 193 and 194?
A Also within that video surveillance system, they had in their home, there were times, as I said before, where Mr. Moorer is installing these cameras throughout the house to see the perimeter of the house. On at least one occasion, probably more than that, from his movement throughout the house, he goes up that very staircase that I told you was to the left of the front door as you walked in. Remember, I said I had seen a camera at the top of the staircase, but I wasn't able to capture it? When Mr. Moorer is going up the staircase with the video camera, the cameras were on. So he was capturing images. Going slowly frame by frame through that system, I found the indications on the same spot of the wall, and it is unique because it is painted that dark green color where you can see the camera mount and a hole in the ceiling where a camera had been prior to this new system that he's installing. So that is what was important, and these two pictures show that area.
Q I'll ask you to step down, Mr. Cestare.
This is 192 and 193.
(State's Exhibits 192 and 193 published to the jury.)
A As you can see, this is a mount. And on the same

photo over there, it is a mount. There is a hole in the center of the mount, and you can see the painted mark on the molding around it where an object had sat in that area of the ceiling. That's the exact place that I had observed a camera in that stairwell on the 20th when I was in the residence the first time.

Q (MS. LIVESAY) And this shows him putting up a new camera system?

A And during this date and time, that's on the camera system here, is when Mr. Moorer is walking through the house carrying these new video cameras and installing them to be able to look at the perimeter of the house. In doing that, he captures the area that I have said the camera was in prior to that in an older system.

Q And the new camera system would not have captured whatever happened the morning of the 18th?

A No, ma'am, the new camera system wouldn't because it was installed much later.

Q When you say "much later," do you mean a few days?

A A few days, yes, ma'am.

Q But whatever system they had before may have captured it?

A Yes, ma'am.

MS. LIVESAY: At this time, I'll publish 192. If you don't mind, the Lieutenant already told us this tape is several hours, so we're going to play it and fast forward, if there no objection.

THE COURT: You can play what you want, and the defendant can play what they want.

MS. LIVESAY: You can still tell what is going on.

THE COURT: Ladies and gentlemen, what they are asking to do is not uncommon. What matters is either side can play whatever portion they want. The exhibit is admitted in its entirety. When you go to your jury room, if you want to watch the whole thing, that is up to you, but they'll publish only certain portions of it for their purposes right now, but that does not exclude you from looking at the whole thing. Don't read anything to it, that is just to expedite things, that is the sole purpose of that.

(State's Exhibit 192 published to the jury.)

Q (MS. LIVESAY) Who are these individuals?

A Can I step down?

THE COURT: Yes, you may.

A What you are looking at here is a camera on the face of the house looking out into the driveway. If you notice right here is the camper I showed you in the

still shots earlier. This is a trailer that was in front of the pickup truck in the still shots from earlier, and behind it is the black Ford F-150 pickup truck. In the foreground down here is Tammy and Sidney Moorer, Tammy's sister, Ashley, and her boyfriend, and I don't remember his name, I'm sorry.

Q Lieutenant Cestare, is this the truck coming back to the residence?

A Yes, ma'am. When you saw the truck leave a moment ago, it was about an hour-and-a-half, according to the clock on there, from the time it left, until the time it returned.

Q Okay. Now, is this when they will start cleaning the truck?

A Yes, ma'am. The truck backs in now, roughly, in about 15 minutes from the time they returned home. They are bringing groceries and stuff, it looks like, or some type of soft bag packages into the house, and then immediately after that, they begin cleaning the truck.

You will see them walk towards the door. It appears that it's, like, shopping bags from a grocery store, or something of that nature. There are the grocery bags, and then right after that is when they start cleaning the truck.

During this time frame, you can see movements by the doors of the truck, and you can see a considerable amount of time being spent to clean the doors, door panels, inside of the vehicle and so forth, and about 30 minutes into them cleaning the truck, Sidney starts a burn pile over in the side yard and starts burning some of the rags they are cleaning with, and it continues throughout the whole time they are there.

Q Is that someone cleaning the passenger door?

A Yes. Watching the videos several times, Tammy Moorer is on the passenger's side of the vehicle pretty much intently cleaning at the passenger doors. Sidney is on the driver's side of the vehicle. You see them kind of come back and forth at points, but for the most part, Tammy Moorer is on the passenger's side of the vehicle. The vehicle is backed in, as you can see, and Sidney Moorer is on the driver's side of it.

Q And they are both cleaning?

A Yes, ma'am.

I looked at it several times, looking at the burn pile, trying to determine if it looked like, you know, paper towels or cloth towels. You'll see in the burn pile where some of the items are thrown on top of fire that is already burning, and it almost, like, smothers it out where items had been to picked up to let the

fire pick up again, which leads me to believe it was towels, like cloth towels, and not paper towels.

Q And who are we looking to start the fire?

A Sidney goes over and starts the fire about -- somewhere around 30 minutes into the start of the cleaning of the truck.

Just before Sidney starts the fire, on the time on the clock on there, it is somewhere around 16:30, representing 4:30 in the afternoon. A few moments before, he walks over to the passenger's side where Tammy is, gets a bunch of rags from her, and that is what he takes over and starts at the burn pile.

You just saw Sidney walk across the camera on the left now. It should split to the other area of the yard where the burn pile is. If you look in the upper portion of that video frame, you'll see where the burn pile was. That camera is facing what would be the side yard of the house, to the side beyond where camper was parked.

Right there, about the center of the screen, is Mr. Moorer coming over with a handful of rags or something to burn. The reason why you had to split cameras is when he walked past in front of the camper, in the other view he switches to another camera, so that is why I brought it to this angle, so you would

see it from here. They are still over cleaning on the truck, while he's over here starting a burn pit.

Now it just switches back to the driveway area.

Q Is that the defendant walking back over?

A Yes, ma'am, it is.

Q So you just followed him from over there, to over here?

A Yes. I picked him up leaving from the side yard area, and that is why we switched back into this camera now.

As you can see, from the time that is showing on here, there is a considerable amount of cleaning that occurred in the passenger compartment of that truck. That seems to be where their point of focus is on that vehicle, cleaning in the -- inside the passenger compartment, inside the four doors of that truck.

Now we'll get back to the other angle to the burn pit, and you'll see them take other stuff over to the burn pit and throw it on there.

Q Does that include the washing of the truck and the burning?

A Yes, ma'am. You see there, just a moment ago, Tammy Moorer walks off camera to the right. She goes back over towards to the driveway side to the house.

Q And that ends all the washing and burning?

A Yes, ma'am. That I've got from there, yes.

Q Let me ask you something. Did you see the defendant get out a shop vac?

A You see them at various points they are out there with a pressure washer at the truck and at the street. They are cleaning extensively throughout the inside of the truck, and, to me, it looks like the truck is being vacuumed out as well.

Q So would it have been possible for you to collect touch DNA on a truck that had been vacuumed and cleaned extensively?

A Not likely at all. I mean, based on what I have seen on that camera system, it is obvious that so much time was spent cleaning, any chance of touch DNA, hairs, trace fibers, anything of that nature is not going to be something that we'll find.

Q How long have you been doing crime screen?

A Probably 25, 30 years.

Q And would you expect to be able to collect any evidence from a vehicle after it had been cleaned for two hours?

A Not the way that vehicle was cleaned, no, I wouldn't expect to find anything there.

Q Let me ask you something. Could you have been able to potentially get DNA from the rag used to clean

the truck?

A Yes, ma'am.

Q Once the rags were burned, could you have gotten any evidentiary value?

A No. They were destroyed in the burn pile. There is nothing that would be of any value to us at that point.

Q Okay. And, again, all of this was done before you collected the truck 12/28?

A That's correct.

Q And you couldn't get in the truck 12/20?

A No. Ms. Moorer would not let me have access to the truck on the 20th.

Q But by the time you got it, it had been cleaned?

A I'm sorry, I didn't hear what you said.

THE COURT: Solicitor, you already asked that question. Move on.

Q (MS. LIVESAY) Let me ask you this, Lieutenant. How about the camera system, would the camera system that was up on 12/20, when you first went out there, do you believe that would have been of evidentiary value?

A Most certainly that would have been of value to us, yes.

Q And did you view when they first started putting

up this camera system?

A Yes, I did.

Q And was that after 12/20?

A Yes. There was a point in time where detectives from my agency went out to do a search warrant on the house to get a camera system, and they were informed that the camera system in the residence on that date had just been purchased and had been installed. So that camera system that they saw on that day, is the system that you just witnessed, and that is not the same system that would have been in the house on the 20th when I was there.

Q Would you have wanted the system there on the 20th?

A Yes, ma'am, most certainly.

Q Would you have wanted to swab the truck prior to them washing it?

A Yes.

Q And the washing of the truck and the new system came all after you showed up on the 20th?

A That's correct, it was after the 20th.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: Cross-examination, please.

CROSS-EXAMINATION

BY MR. BOUCHETTE:

Q Lieutenant Cestare, you were at the Moorer residence with consent of Mrs. Moorer on the 20th, correct?

A With consent of Mrs. Moorer on the 20th, that's correct.

Q In other words, you and Officer Squires, Cauble and Hardee all showed up together, correct?

A In separate vehicles, but, yes, at the same time, thereabouts.

Q You didn't announce you were coming, correct?

A No. We came from the boat landing at Peachtree and went directly from Peachtree at Highway 814 to the Moorers' residence.

Q And she was under no obligation to let you three officers in her house at that point?

A No, sir. We were there purposely as a cursory investigation into a missing young lady.

Q But I know you said they were not a suspect at that point, but you were at least there searching specifically for something related to Heather Elvis; is that safe to say?

A We were trying to find something that would help locate or determine what occurred with Ms. Elvis; that is correct.

Q But -- so that was the purpose of your presence

there, specifically looking for anything that may indicate a link between the Moorer residence and Ms. Elvis; is that fair to say?
A Purposely looking for anything that would help us find where Ms. Elvis was. I wasn't myself looking for any link between anyone. I'm trying to find the young lady who is missing.
Q So, again -- but the purpose that you are there, in helping you find Ms. Elvis, you are looking for something in that house that would help you find specifically Ms. Elvis?
A It would be information, could be anything. Anything that was said or offered to us, as far as any information, that could have been helpful, sure; that was the intent of being there.
Q And so you went there and took note to try to document as many things as you could, correct?
A In the standpoint of photographs, yes, sir, I photographed.
Q I mean, you were down to you took pictures of the mailbox; you remember that?
A Yes.
Q You took pictures of various items around the house?
A Yes.

Q Took items of various clothes and different things inside the house?

A From what I could see from room doorways, yes, sir.

Q And, again, going from the front of the house unannounced, to the inside of the house taking pictures, you noticed no items at that point that were indicative to you of being connected to Ms. Elvis, correct?

A Not connected, no.

Q You saw no items in the vicinity of the house that contained blood on them, correct?

A No, sir.

Q Nothing that drew your attention -- let me withdraw that question.

You mentioned that you saw a camera system on the exterior, as well as the interior, of the Moorer residence on the 20th, correct?

A That's correct, yes, sir.

Q And you are sure that the camera system was there on the 20th?

A Yes, sir, that is the day I was there.

Q You are sure that one was installed prior to the installation of the system on the 23rd?

A I don't know when it was installed, but on the

20th, when I was there, there were three cameras on the front of the house that I could see, and one camera inside the house that I could see.

Q Because that would seem to be important to know, of evidentiary value; wouldn't you agree?

A Of course.

Q And you were -- none of those -- there is no photographs containing any of these cameras on any of these photos we just entered?

A That's correct. I took pictures of the house, but I did not specifically focus on any of the video cameras because I did not want to alert Ms. Moorer to the fact that I realized they were there.

Q Well, you have three officers there, could not one of you have not taken photographs outside the presence of Ms. Moorer?

A No, sir, just I was. Ms. Moorer was with me side-by-side the entire time I walked through the house.

Q Okay. So when she let you in the house, if these cameras were there on the 20th, then she would have known that you would have seen them, right, because you were there in her house?

A I don't know whether she knew I seen them or not. I'm just telling you a factual statement, that I saw

four cameras on the house.
Q But according to you, these were not concealed cameras, they were out in the open?
A That's correct, they were out in the open.
Q So anyone walking by would have known you would have seen them, right?
A Perhaps. Depending -- the outside cameras were difficult to see because of the foliage, the trees in the way. The inside camera, there was no doubt. I mean, when you walked up the staircase, it was staring you in the face.
Q So there would have been no need or no effort to try to conceal your attempt to try to take the photograph of that camera because she would have known that you were seeing it, right?
A That's not correct, no, sir. The purpose for concealing the fact of taking a photograph was alerting her. Had she known that I had seen those cameras, the system would have disappeared; quite ironically, it did.
Q Let's talk about that. You, as an officer, if you would have found those to be that important, you could have sought a search warrant at that time, correct?
A Yes, sir. But at that particular moment, whether

or not we had the probable cause for a search warrant was up to the detectives to determine. I simply alerted them to the fact that I have seen four cameras that I can account for, three on the face of the house, one inside of the home.

Q Well, again, by this point you are there to search for Ms. Elvis, correct, or search for evidence related to Ms. Elvis?

A We are there to obtain any information that is going to help us locate that young lady, yes.

Q And you notice -- you say you see these cameras, that we don't see in the video, and they are of evidentiary concern to you?

A Yes, sir.

Q And wouldn't be entirely possible, given that you have three officers there, for one of you to stay at or near the Moorer residence while another one searched or obtained a search warrant?

A No, sir. At that time, I don't believe we could have established enough probable cause. Bear in mind, our first dealings of this young lady being missing is on the 20th. We're looking at her vehicle. We're searching a boat landing. We're searching an apartment. We're searching a known friend or co-worker of hers -- not searching, but visiting a known friend

or coworker of hers, Mr. Moorer's house. So did we have enough for a search warrant? I'm not a judge, so I can't determine that, but I don't think I personally could have articulated at that point that it was that imperative to lock everything down. Like I said, I let the detectives know. I let the detectives, supervisor, my counter part, the lieutenant of the detectives know that I saw cameras on the house, and it may be of interest to their investigation.

Q On the 20th, they did not serve a search warrant at that point?

A Not to my knowledge, no, sir.

Q Again, by this point, because you are saying that you searched her residence and you are here just sort of doing a cursory review, were you ever asked to go do any such cursory review on any other residences?

A Yes. Actually, during the course of this investigation, I probably conducted well over a hundred searches through consent and through other means of looking at areas that could potentially be where this young girl is located or tips that came in to the Horry County Police tip line. Anything that indicated anything having to do with where Ms. Elvis could be located, I followed up on extensively.

Q But you had not done that as of the 20th?

A As of the 20th, no, sir. The first time I knew anything about that young lady missing was the morning of the 20th.

Q On the morning of the 20th, did you go search the home of Steven Schiraldi?

A No, sir, I did not.

Q Now, again, this cleaning that we made a big deal about, that occurred two days past the morning of the 18th, correct?

A I can only tell you what the time was on the system that I looked at, and the time and date on the system was December 23rd.

Q I'm sorry, the 23rd. So, actually, five days past the disappearance of Ms. Elvis?

A That is correct, based on the 18th, yes, sir.

Q And about three days following the time that you and Detective Squires and Detective Cauble and Hardee went to the Moorer residence?

A That's correct. Again, that is based on the time that I'm seeing on the camera system.

Q As opposed to a cleaning that might have occurred immediately after you left or that night or the following morning, it was three days later, correct?

A Don't know exactly when it was. I'm telling you what the date was on the camera system. The date and

time of the camera system was December 23rd, 2013, you know, in and around the 1600 hour, 4:00 in the afternoon hour. Now, whether or not that date is correct is not for me to say.
Q Okay. Again, that cleaning we've heard a lot about, I mean, obviously, it is broad daylight, correct?
A Yes, that's correct. Daylight, and it looks like towards the end of it, it is starting to go to dusk where the sun starts to go down.
Q And the cleaning occurs right in the front yard, right?
A Yeah, you can say the front yard, but it is behind the Caison house, so not visible to vehicle trafficking coming down Highway 814. Their driveway is somewhat secluded around the back of the Caison house.
Q And the cleaning is occurring right in the presence of the security system they just installed?
A At somewhat of a distance, yes.
Q So is it safe to say, given the fact that it is right there in front of the security cameras, broad daylight, in the front yard, safe to say that the fact that they were cleaning this vehicle is not something they were trying to keep secret, correct?
A I wouldn't say that. You know what, I have a

camera system on my house, and I forget it is there sometimes. You know, I'll be walking around the house and reviewing the video footage from my house and, oh, crap, there I am. So I can't say that they are aware of it. I mean, I forget my own system is there.

Q According to you, this would have been just installed a couple days before, right?

A Well, there was a camera system on the house on the 20th, so I'm -- this system, yes, that you are seeing. We were told it was installed after the 20th, but there had been a camera system on the 20th, so I'm quite sure they are used to a camera system being on the house, and you forget the presence of it.

Q So you think they just forgot it was there?

A I just don't think they paid it any attention. I don't pay the ones on my home any attention.

Q Also, you made an issue out of this burn pile in the backyard. Safe to say some people keep a burn pile for burning trash, especially in the unincorporated part of the county?

A Yes, sir, I believe they do.

Q So that is not an uncommon thing, to have a burn pile in the backyard, particularly in the unincorporated section of the county?

A It is not uncommon at all, but I don't burn the rags I clean my car with. That is just me, but that seemed unusual to me. When I -- these are all pieces of what draw my attention to an object.

Q I understand.

A I'm looking at things for -- I look at things in a different light than most people do. I'm looking at trying to solve crimes or solve mysteries, and anything that is going to help me get to that conclusion -- you know, when I see someone washing a car, that doesn't raise a red flag to me. When I see them spend that much time on the interior of a car or a vehicle, that raises a flag. When I see them taking the cleaning rags that they are cleaning the vehicle with and burn them, red light just lit up.

Q Even though they already -- even though burning trash and items, things like that, is not uncommon?

A They are not burning trash, they are burning towels.

Q In a burn pile in the backyard, correct?

A To the side yard of where they are standing, yes, sir.

Q Safe to say that is their regular burn pile household trash and other items, correct?

A I would think it could be, but there is also

garbage cans in the front of the house, as you saw in the video. There is a trashcan at what would be the back of the camper. There is also another, like, recycle bin. So like most people, I have trashcans at my house. I don't burn anything in my yard unless it's something I don't ever really need.

Q Right. But you can't testify as to how often or how they dispose of their trash in a burn pile?

A No, sir, I can't.

Q Now, you also interviewed -- whenever you arrived there, the F-150, was that the only vehicle at the Moorer residence?

A No, sir. The camper was there as well, and then the trailer you see in that video was also there. That is on the 20th now I'm speaking about, on the 20th. The black F-150 was parked in the driveway. There was a trailer in front of it, and the camper was to the right of it, that pull-along Prowler camper, or whatever model it is, I'm not too sure.

Q Other than the camper trailer we saw, and the tow trailer we saw, there was no other automobiles in the Moorer residence; is that correct?

A Not at the Moorer residence, and I can't specifically say what was in the driveway next to it. But on the 20th, as I mentioned, we were allowed to

go into the house and look around, took photos. Tammy Moorer was even kind enough to open the camper up. She unlocked the camper and allowed me to step into the doorway of the camper and take a couple of pictures inside. When I asked about the black truck, she said, no, I don't have the keys, and you can't look at that.

Q And Sidney was not there, correct?

A To my knowledge, he was not, no, sir.

Q Do you know if he had the keys with him?

A I don't believe he did, because I believe he was at the police department being questioned by the detectives, and Mrs. Moorer drove that truck back to the house while he was at the police department being questioned.

Q Did you say or take note of the keys being there at the Moorer residence?

A Sir?

Q You didn't see or observe the keys to the F-150, correct?

A I didn't, but Tammy drove that vehicle back from the police department to the house.

Q Later in the day?

A On the 20th. So she should have had the keys for it when I asked about it, and she said it was locked and didn't want me to look at it.

Q You were still able to observe the exterior of the F-150, correct?

A Yes, sir.

Q And did you find anything of evidentiary value on the exterior of the F-150?

A No, sir. Again, I was there under consent, so I wasn't free to start taking swabs or lifting fingerprints or anything of that nature from the vehicle. At that time, I don't -- I didn't have a reason to. I didn't have any knowledge that the vehicle had anything of importance to me at that particular moment. We were there, like I said, to try to gain information that was going to help us.

Q Where was -- do you know where Ms. Elvis' vehicle was at this time?

A Yes, sir. It was at Sly Fox Trail, at her parents' house.

Q That was not brought into Horry County police custody during this time period, correct?

A On the 20th, no, sir, it was not.

Q So just to be clear, by this point, between you and Ms. Domogauer, Ms. Elvis' car has been inspected and evaluated, correct?

A Basically. Bear in mind, we're unaware on the 20th of a crime being committed. It is not a crime

to go missing. We're there searching or trying to locate a missing person. So our initial look at that car on Sly Fox Trail, you know, my questions were how did the vehicle get from the landing to Sly Fox Trail, and that was explained to me. We then photographed the car in the driveway and did some preliminary things to the vehicle that I would do on any vehicle I was going to deal with. We took DNA swabs from the door handles, steering wheel, gear shift, things of that nature that would help me identify who drove that vehicle or who may have been behind the wheel of it. In looking at the vehicle, obviously, you want to look at it for a number of reasons to see if there's anything about that vehicle that can indicate the size or number of people that may have been in it.

Q And, eventually, you took possession and evaluated Sidney's F-150, correct?

A Yes, sir. Eventually we took that, and eventually we took Ms. Elvis' car also and brought it in.

Q And you, obviously, searched the Moorer residence, correct, multiple times?

A Yes, sir. I believe we searched it on one other occasion, but that was with a search warrant at that time.

Q And you, obviously, searched Peachtree Landing, correct?
A Extensively, yes, sir.
Q So between -- let me go through this. You found no evidence of Mr. Moorer in Ms. Elvis' car, correct?
A I'm sorry, I didn't understand that.
Q You found no physical evidence linking Mr. Moorer in Ms. Elvis' car?
A No, sir, not that I'm aware of.
Q And in Sidney's F-150, there was no evidence linking him to Ms. Elvis having been in that car?
A There may have been, but by the time I was able to do anything with it, obviously from the video, there was no point in trying to obtain any DNA or anything from that vehicle; it had been cleaned out.
Q So that is a no? Ultimately, you did not find --
A No. No, sir.
Q And, again, you went through Sidney's house, correct?
A On another -- well, on the 20th, yes. I'm going to call it a brief walk-through of the house, and then at a later date under a full search warrant, yes, sir.
Q And, at some point, you utilized cadaver dogs during subsequent searches of the Moorers' residence,

didn't you?
A Yes.
Q And those results indicated nothing of evidentiary value?
A The cadaver dogs were used on the grounds outside of the house. Now, you have to bear in mind this is months later.
Q Sure.
A So any type of DNA or anything that is outside is going to be degraded, and the chances of finding it, obviously, have greatly decreased as opposed to being able to do it at an earlier time.
Q So, again, that's a no?
A No. Yes, sir.
Q And there was -- you found no evidence of Sidney Moorer at Peachtree Landing; in other words, nothing connected to Sidney Moorer when you did that search?
A I found nothing of him at the landing, no, sir.
MR. BOUCHETTE: Court's indulgence.
THE COURT: Yes, sir.
(A brief pause in the proceedings.)
THE WITNESS: I'm going to drink this whole pitcher here.
MR. BOUCHETTE: No further questions.
THE COURT: Redirect.

MS. LIVESAY: Just a couple.

REDIRECT-EXAMINATION

BY MS. LIVESAY:

Q Lieutenant, did Mr. Bouchette ask you several questions about the dates and times of what was done when you went to the car, when you took pictures, when you did this?

A Yes, ma'am.

Q If you don't mind, I'll show you a calendar.

(State's Exhibit 196 marked.)

Q This is a calendar. I'm showing you 196, a calendar for November and December of 2013.

A Yes, ma'am. I'll assume that the days and dates are correct, yes, ma'am.

MS. LIVESAY: Your Honor, at this time the State wishes to put 196 in evidence so Mr. Cestare can point out dates.

MR. BOUCHETTE: Objection, Your Honor. He's not been able to establish, and I can't tell if that is the --

THE COURT: I don't know what the purpose is.

MR. BOUCHETTE: I don't know what the relevance is either, and it's beyond the scope of cross.

THE COURT: It is a record we have to keep. What is the purpose of it? At this time -- let's have a

side-bar.

(Whereupon, a bench conference was had.)

THE COURT: I sustain the objection, thank you, as to the calendar.

Q (MS. LIVESAY) Lieutenant, there were several important dates that you gave this jury about when you were at the house; do you remember that?

A Yes, ma'am.

Q When did you go to the Moorer residence for the very first time?

A Okay. As I stated earlier, my entire investigation linked up with the detective division from the county police all began on December 20th, and I don't know what day of the week was or whatever. But December 20th is when the investigative division of the police department was notified that this young lady was missing. She went missing on December 18th, so two days before.

Q Did you go to the defendant's house?

A On the 20th, I was at the Elvis residence early in the morning and looked at her car. I was at the Peachtree Boat Landing for the first time on the 20th. After leaving the Elvis' residence, sent someone to Heather Elvis' apartment from my division to get a look at the department and -- bear in mind, we're

trying to find this young lady. We're trying to do everything we can to protect her. So we're at the Elvis house. We're at the Peachtree Landing where she was last reportedly to have been. We're at her residence on River Oaks Drive, and later that afternoon is the first time I go to Mr. and Mrs. Moorer's residence, Sidney and Tammy Moorer, is again on the 20th, yes.

Q And when you go to the defendant's residence on 12/20, do you see cameras already installed on the home?

A Yes, ma'am, you do. On the 20th, there is a camera -- looking at the face of the house, there is a camera on the right corner, left corner and on the center gable on the top peak of the center of the house in the front. All three of those cameras appeared to be looking towards the front of the house or towards the side yard where you would have seen in the second set of videos that burn pile and so forth. Then, in the second set of videos, you would have seen the truck part and the camper part in the driveway. So that was on the 20th.

Inside the house was a fourth camera that was in the stairwell going up the stairs. It was right at that green sectional wall where the wall was kind of

like two-tone paint that they hadn't finished it -- pardon, it is green paint, a lighter color paint, and the white crown molding at the ceiling. You can clearly see -- I could clearly see that day on the 20th that there was a camera lens there.

Now, when I looked at the video from the system -- the newer system that had been installed in the house is when I see Mr. Moorer go up the staircase with the new cameras, power it on and you get a feed of someone -- like you get seasick. You are walking through the room and he's carrying a video camera that is showing live, and I'm looking at this thing, and all of the sudden, I see the green wall. I stop the recording and look, and I start going frame by frame and that is when I see the pictures that you see there in those two exhibits of a mounting bracket and the hole in the ceiling, and that is the exact location that I had seen the camera in. The paint is the same on the day I was there on the 20th, and the location where that mark is is exactly where I saw it on the 20th.

Q And, now, this is just a hole?

A Correct. And now this is a new camera system that was purchased after the 20th and installed, based on this date, somewhere before the 23rd. And I'm

-- sorry, this one is 12/22. So it is purchased and being installed on -- according to this date -- 12/22, so two days after I saw the initial system.

Q So 12/22 is the date on the camera?

A That is what the cameras say. Now, I can't tell you if that's the exact date and time. That's the date and time that I'm observing on the system.

Q And this is when you see him first trying to -- or not trying to, but first installing the cameras?

A That's correct. That is when I see him installing the cameras that I'm told is a new system.

Q You don't know, like a lot of home surveillance, if this is the correct date or not, you just know this is what is showing up on the camera?

A That is the date that is showing. I'll say this: I have a camera system in my house, as I mentioned to the defense a moment ago, and the date on the screen is set by the administrator or the person who runs the system. So when I installed my own camera system, I don't even know what date it had until I corrected it to the correct date and time based on, you know, what I would take off of my cell phone, say.

Q So when you first put it up, it is just whatever date and time?

A Yeah, it could be whatever. Particularly if you

are tying it into a network or computer system --
MR. BOUCHETTE: Objection as to any testimony about network systems or operations.
THE COURT: Sustained. He doesn't have any idea under 602 what the date was. It doesn't matter what other systems were.
Q (MS. LIVESAY) Let me ask you something. What is the camera stamp when they are cleaning the truck?
A 12/23/2013.
Q Can you put "install" or something to indicate what that date is for?
MR. BOUCHETTE: Your Honor, I'm going to object under asked and answered. I think --
THE COURT: Sustained. The jury has heard all of this, Solicitor, and they have a mind, too. They can recall this stuff. Thank you.
MS. LIVESAY: Thank you, Judge.
THE COURT: You may write those things down for your argument all you want to remind them.
Q (MS. LIVESAY) Just one last date so I'm clear because we've talked about so many, and my co-counsel was telling me earlier that I had the wrong date.
When did you photograph the truck?
A The date that I photographed the truck is December 30th of 2013, so ten days after I first

started into this investigation.

Q And --

A And seven days after the date of when that truck was being cleaned, according to the timestamp on the video surveillance system, in the residence.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: Recross?

MR. BOUCHETTE: No further questions for this witness, Your Honor.

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

Call your next witness, please.

MR. HELMS: Thank you, Your Honor. At this time the State calls Jimmy Schroering. And, Your Honor, I don't anticipate Mr. Schroering to be a lengthy witness, I don't anticipate.

(JIMMY SCHROERING, having been duly sworn, testified as follows:)

THE WITNESS: Jimmy Schroering, S-C-H-R-O-E-R-I-N-G.

DIRECT-EXAMINATION

BY MR. HELMS:

Q Mr. Schroering -- and if I'm pronouncing that wrong -- I will pronounce it wrong, so I'm sorry in advance.

Where are you employed, sir?

A I work for a company call DME Forensics.

Q What do you do for DME Forensics?

A I'm the founder and chief technology officer.

Q And what do your duties entail? What do you do for DME?

A So we're a technology company, but we also provide professional services, software products, help recover video from surveillance systems. Then, in cases where software isn't enough to answer the question or recover the video, we provide professional services to do that.

Q Tell me a little bit about your education. What kind of education do you have, Mr. Schroering?

A I have a bachelor's degree in computer networking as well as two associate degrees from Strayer University.

Q And let's go into your experience for a little bit. Tell me about your experience starting as far back as you can remember.

A I got my start in forensics in 2003 working for the North Carolina State Bureau of Investigation. I was a computer forensic technician, and then eventually a forensic video and forensic audio examiner. And then after about 2009, I worked for Target Forensic Services, Target Corporation, the same store you might

shop at. They have a forensic lab that offers forensic video services for not only Target cases, but pro bono work for law enforcement. And after Target, I worked for the Forensic Audio Video and Image Analysis Unit at Quantico for the Federal Bureau of Investigation.

Q And then subsequent to that, you found DME?

A Correct, in 2013.

Q Have you ever worked for the North Carolina State Bureau of Investigations?

A Yes.

Q What did you do for them, sir?

A I was a forensic video and audio examiner when I left in 2009.

Q What about Intrex Internet Services?

A Yes. I was a network administrator.

Q Were you also a PC technician?

A Yes.

Q Tell me a little bit about any certifications you hold.

A I'm a Certified Forensic Video Examiner from the International Association for Identification, or the IAI; as well as a Certified Forensic Video Analyst from an organization called LEVA, which is the Law Enforcement and Emergency Services Video Association.

Q And during the course of your career, have you

ever testified?

A Yes. Approximately, 20 times.

Q How about being qualified as an expert witness?

A Yes.

Q And what were you qualified in?

A Depending on the case, either forensic audio analysis, forensic video analysis, DVR analysis.

Q In fact, haven't you been qualified in this very courtroom as an expert in forensic DVR analysis?

A Yes.

Q And during the course of your career -- and you may or may not be able to answer this -- about how many DVR devices have you analyzed?

A That is a difficult one. From a casework perspective, probably around 50, but from a reverse engineering standpoint, for the work we do in software, hundreds, maybe getting close to a thousand.

MR. HELMS: Your Honor, at this time I offer Mr. Schroering as an expert in the field of forensic DVR analysis.

THE COURT: Do you care to examine as to qualifications?

MR. GALMORE: No, sir. No objection.

THE COURT: He will be permitted to render opinions in that area, Solicitor.

MR. HELMS: Thank you, Your Honor.

THE COURT: Yes, sir.

Q (MR. HELMS) Mr. Schroering, did you have an opportunity to do any work on the case we're here for today, State versus Sidney Moorer?

A I did.

Q And tell us a little bit about how you became involved in this case.

A I was contacted by Ms. Livesay in May of 2016 and asked by her if we could do some examinations on a DVR.

Q Did you do, in fact, that examination?

A Yes.

Q And tell us a little bit about that examination. Specifically, what were you asked to do on that DVR?

A We were asked to examine the DVR and hard drive and determine whether there was any video from December 17th to December 20th, 2013 that was available to be recovered, as well as identify if the dates and times on the video that were present were accurate; and if not, if we could establish what the correct dates and times were.

Q Were you able to fulfill that request?

A The analysis of the date and time, yes. There was no video from that time frame that was actually able to be recovered.

Q Were you able to review video on the DVR system, however?

A Yes.

MR. HELMS: Your Honor, if I may?

THE COURT: Sure.

Q (MR. HELMS) I'm showing you what is entered into evidence previously as State's 38; do you recognize that?

A Yes, I do.

Q What is that?

A This is the additional recorder we examined in 2016.

Q Is that the video recorder you were able to view footage from and find a correct time for, timestamp for?

A Yes.

Q Tell us a little bit about that. I guess the first question I would like to ask you about that is what was the first thing you were able to see on the footage that you were able to find?

A I think you can -- can you rephrase that?

Q Well, when you looked on the DVR, tell me what you saw?

A So, in examining the DVR, we were able to determine that there was -- the very first video that

was present had camera movement that might be consistent with a camera being set up, like a system being installed. And then beyond that, there was I believe several months' worth of footage of various different dates and times on there.

Q What about deleted footage? Were you able to find any deleted footage on the DVR system?

A No.

Q And what does that indicate to you?

A Based on the examination, we were able to determine that it appeared that that system had been turned on, started recording and then at a certain point was finally removed from service, but there wasn't any additional footage you would find as if, say, something had been recorded and then deleted. There was no remnants of any footage. It was as if it had never overwritten any old footage from continuously being recorded. There just wasn't anything there other than what was recorded and accessible at the time it was seized.

Q And in more layman's terms, the fact that there was no overwritten data or deleted data consistent with that being a newer system?

A Yes.

Q In 2013, was that an old antiquated DVR system?

A No.
Q So that was an up-do-date state of the art system?
A Yeah, it was fairly new.
Q What about time frames, were you able to say -- are you able to look in that DVR system and see if the operator has actually changed the timestamps?
A Yes. We did numerous tests on the system of the same exact type and we're able to establish how date and time changes appeared within the system, and found that there was two different occurrences where the date and time was changed on this particular system.
Q How do you know there were only two? How do you know there wasn't 20?
A We did further testing to prove that it was, basically, impossible to remove log entries that would indicate date and time changes. So the only two date and time changes that were listed in the log for this system were the only two there. In our test system, we did date and time changes and attempted numerous different ways of removing them and were never able to actually remove them. So we're confident it was just those two date and time changes.
Q So there were two date and time changes. Can you tell us specifics about those date and time changes?

A May I refer to my report?
Q Absolutely. You did complete a report?
A Yes.
Q I'll show you what we'll do. I'll show you now what has been marked for identification purposes as State's 195. Again, this is State's 195. Take a look at this and tell me what that is, sir.
A (Witness examines document.)
(A brief pause in the proceedings.)
A It appears to be a copy of the report that I issued in this case.
Q And is that, in fact, your report?
A Yes.
MR. HELMS: Your Honor, I would seek to introduce State's 195 into evidence.
MR. GALMORE: No objection.
THE COURT: Without objection, it is admitted.
(State's Exhibit 195 admitted.)
Q (MR. HELMS) With your report in hand, can you tell us the specifics of the time changes, just as much as you can, because you understand it better than I do.
A Sure. So there were two specific date and time changes, the first date and time change is what we refer to as a forward date and time change so the time

was advanced, and that was of approximately 16 hours -- a little less than 16 hours pushed forward. Then, the second date and time change later was a reverse date and time change setting the clock back, and that was almost exactly 24 hours, about 23 hours and 59 minutes back in reverse.

Q So the first one is forward; second one is back?

A Correct.

Q I want to jump to this. Were you ever able to make a determination as to a correct date and timestamp of a certain event, for example?

A Yes.

Q What event did you use in the footage to make an accurate determination as to a timestamp?

A We were asked to determine a specific event that on the screen of the DVR and the timestamp of the DVR said it was December 23, 2013 at approximately 16:00, or 4:00 p.m.

Q What was that event, sir?

A It was multiple individuals that appeared to be cleaning a dark truck.

MR. HELMS: Court's indulgence. If you can pull up that event, 12/23 at 16:00 hours. Let's see what we're looking at here.

Your Honor, at this time I'm referring to

State's....

THE COURT: 192.

MR. HELMS: Thank you, sir.

THE COURT: You're welcome. We're not watching it again, are we?

MR. HELMS: We're not watching it again, I assure you.

Q (MR. HELMS) Mr. Schroering, if you wouldn't mind, if the judge will let you step down here for just one moment, please, with your report in hand.

THE COURT: Yes, sir.

A (Witness complied.)

Q (MR. HELMS) I'll ask you if this is the event that you used as a reference to determine a correct timestamp?

A Yes. It appears to be the same event that I referenced in the report.

Q So we're right about at 12/23 on 2013, 16:00 hours. How did you make a determination as to a correct timestamp?

A Maybe if I step back to the microphone to explain.

Q Fair enough.

A The DVR we examined at the end of the recording, the date and time, was approximately correct. Since we

were able to establish that there were two and only two dates and time changes, and we knew that those were the only two, we could actually track back from the end time all the way through all of the recordings and establish any particular instance in time as to whether or not that time was correct, and if not, the appropriate adjustment to make for it.

Q So you were able to, basically, reverse engineer the time, because you knew that the end time was correct?

A And the fact that we had no additional date and time changes. If there was a question on a different type of system where dates and time changes might not be able to definitely be determined to be the only ones, then that would be more difficult, but in this situation, this system, we knew it was only two date and time changes, so, yes.

Q And you are confident there were only two date and time changes, and you are confident in your determination of a final timestamp?

A Yes.

Q And this is the event that you used to determine a timestamp?

A This was the event that we were asked to determine a real time, if you will, for this particular

event as an example, but we could extrapolate any event in the video and gotten a timestamp for that.

Q So what you are saying is -- yes or no -- the timestamp for this event, 12/23/2013, 16:00 hours is not correct?

A That's correct. Your statement is correct, the time is not correct.

Q That is not the right time?

A Yes.

Q Tell the jury what time, on what day, this truck is being washed, Mr. Schroering.

A Based on the analysis of the date and time changes, that event appears to have actually occurred December 22 at approximately 15:59, so almost exactly 24 hours in the past, off by a minute there.

Q So the camera was off 24 hours?

A Correct.

MR. HELMS: Do me a favor, Ms. Miller, mark a line through that and change that to 21, because that is off 24 hours. Thank you very much, ma'am.

Please answer any questions the defense may have, sir.

THE COURT: You may cross-examine, Mr. Galmore.

CROSS-EXAMINATION

BY MR. GALMORE:

Q Sir, I'm going to need you to pronounce your name for me.

A Schroering.

Q Okay. I apologize if I mess it up.

A No worries.

Q Mr. Schroering, as I understand it, your role in this investigation was, one, to view the footage on that DVR; is that correct?

A Yes. In the context of the main request of recovering the video and determining the dates and time changes, we weren't ultimately responsible for watching the entirety of the footage.

Q And your number two job here was to check the timestamps?

A Correct.

Q The police department can't do that?

A Well, the police department can review the footage that is on the DVR, but establishing an accurate timestamp is something that takes a decent amount of testing to be able to prove a hypothesis as to how the dates and time changes affect the actual timestamp on the video.

Q The SLED Internet Crimes Division can't give us a timestamp off of this?

A I'm not aware of the individual capabilities of that particular unit. I know that there is not very many people out there that go to quite the level we do with the analysis in reverse engineering of these types of systems, so it wouldn't surprise me if they didn't have someone of that capability in-house.

Q And you previously worked for the FBI, right?

A Did you say SBI? Either way, the answer is, yes, North Carolina State Bureau of Investigation, and Federal Bureau of Investigation.

Q And the SBI is the North Carolina equivalent of South Carolina's SLED?

A Correct.

Q Could the SBI give us the timestamp off of that DVR?

A Of the personnel that I know that are currently there in 2013, I don't think they would have had that level of experience, but I'm not aware of their exact personnel at any given time.

Q So, basically, is law enforcement capable of doing things that you did regarding this DVR?

A I think it would depend on the individual examiner or analyst that was asked to do it. Are there people out there in law enforcement that could do this work? Probably. But I would -- you would have to ask

me about a specific individual.
Q I'm just wondering why they would have to bring someone in to do it?
A I can say that there is -- especially in 2016, digital forensics is a constantly evolving field in technology that has to be kept up with, and even ten years ago it was thought you couldn't recover deleted footage from something like this. So it is always an evolving technology and science that needs to be kept up with, and sometimes that happens more in the private sector, sometimes it happens more in government.
Q When were you brought on to this case?
A In June of 2016.
Q Do you know the date that Ms. Elvis disappeared?
A I do not.
Q You were not brought onto this case back on 2013?
A No.
Q Is this a new DVR or a refurbished DVR?
A I'm not aware.
Q Not aware, okay.
Now, you looked at the video footage on the DVR, correct?
A Yes.
Q Were you able to find any deleted video?
A No.

Q Was any of the video deleted off of that DVR?
A In my opinion, no.
Q Did you see Heather Elvis on that DVR?
A No -- well, I wouldn't know because I wasn't reviewing the content. That wasn't a focus of my evaluation, honestly. There is no reason for me to know, based on my examination, what I was asked to do, to pick out individuals or anything like that.
Q Is there any video on that DVR from December 17 of 2013?
A No, sir.
Q Is there any video on that DVR from December 18th of 2013?
A No, sir.
Q Now, these time changes, you said that there were two time changes on the DVR, correct?
A Yes, sir.
Q Did the time changes affect the footage that was on the DVR?
A No, it did not.
Q So it's your testimony that there are no deleted -- there's no deleted footage from that DVR?
A Correct.
MR. GALMORE: Thank you, sir. No further questions.

THE COURT: Redirect.

MR. HELMS: Very, very briefly, Your Honor.

REDIRECT-EXAMINATION

BY MR. HELMS:

Q Mr. Galmore asked if there was any footage from 12/17 or 12/18; did you hear him say that?

A Yes.

Q Would the fact that that system being installed on 12/21 make sense to you and explain why there is no footage from 12/17 and 12/18?

A Yes, sir.

Q Let me ask you this other question. You say there is no deleted footage on that DVR?

A That's correct.

Q Are you telling me you can recover deleted footage from a DVR?

A Yes.

Q So if I wanted to hide whatever is on that DVR, the only guaranteed way to do that is to get rid of the DVR system itself, right?

A The only guaranteed way, assuming it was never recovered from wherever you put it, yes.

MR. HELMS: Thank you. No further questions.

THE COURT: Recross.

RECROSS-EXAMINATION

BY MR. GALMORE:

Q Is that DVR hidden?

A No, sir.

MR. GALMORE: Thank you.

THE COURT: You may step down.

THE WITNESS: May I be released?

THE COURT: I'll check on that for you right now. May he be excused?

MR. HELMS: Very much so, Your Honor.

MR. GALMORE: No objection.

THE COURT: Yes, sir, the answer to that is yes.

THE WITNESS: Thank you, Your Honor.

THE COURT: Solicitor.

MR. HELMS: I think that concludes the testimony today. I would risk going over the 5 o'clock deadline otherwise.

THE COURT: Thank you, Solicitor. And I promised the jury we would not do that to them; we would finish by 5:00 or before 5:00, so I'll honor that.

Ladies and gentlemen, thank you very much for a good hard day's work. You all have been very diligent, and I appreciate it. I hope you have a good weekend. I ask you to be in your jury room by 9:30 on Monday.

Please, it's very important now, and of course

you have two days in between now and temptation is great, but I know that you all have already demonstrated how sincere and committed you are to this process, and I want to tell you it is a privilege to serve with each one of you as a judge in this matter. I appreciate the attention you have devoted to it.

I want to express, again, how important it is with the work that we both -- everyone here has spent this week, we don't want to have to do that again, so the one way that can be jeopardized is if somebody were to talk to you or try to talk to you and you permitted that or had any conversation or you read anything or did any research, it could jeopardize this whole week's worth of work, so understand that. I thank you for that, and I appreciate it. I will see you on Monday at 9:30. Have a good weekend. Thank you, folks.

(The jury exits at 4:38 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Anything from the State before we recess.

MS. LIVESAY: No, sir.

THE COURT: Anything from the defendant?

MR. BOUCHETTE: No, Your Honor.

THE COURT: All right. We'll be at ease. Let's

chat in chambers about next week. Thank you.

(**WHEREUPON, THE PROCEEDINGS OF SEPTEMBER 13, 2019 CONCLUDED. THE FOLLOWING WAS HAD ON SEPTEMBER 16, 2019 OUT OF THE PRESENCE OF THE JURY.**)

THE COURT: I hope everyone had a good weekend and is rested. Are there any matters from the State before we bring in the jury?

MR. HELMS: No, Your Honor.

THE COURT: Anything from the defendant?

MR. BOUCHETTE: No, Your Honor.

(A brief pause in the proceedings.)

THE COURT: You made an objection to State's Exhibit 168?

MR. BOUCHETTE: Yes, sir.

THE COURT: Can we have order, please. And the side-bar was that you felt there was some prejudice. That was the picture that showed the shotgun shells in the vehicle, as I recall.

MR. BOUCHETTE: That is correct.

THE COURT: And you said the prejudice outweighed the probative value, and I overruled that objection because I really think it -- I understand your point, that it shows that he had access to shotgun shells. The location, I didn't know the location, but the location even further confirms why I did it. It was

in the back, under the back seat. I know the back seat was up, but there was also a shotgun shell on the ground at the residence, so I think it cuts both ways. It explains why there may have been a shotgun shell. But for that reason, I felt that it had probative value and it outweighed the prejudice without any real significant prejudice either way. Thank you, sir. Anything else you wish to add to that?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Thank you.

Anything else you wish to add, Solicitor?

MR. HELMS: No, sir, Your Honor.

THE COURT: As soon as Mr. Moorer comes, we'll call them in.

Chris, how many witnesses are you anticipating? I'm not holding you to it.

MR. HELMS: Five.

MS. LIVESAY: About five.

THE COURT: Is that going to cover today, or is that the State's case?

MR. HELMS: That will cover today.

THE COURT: Thank you. And, again, I'm not holding you to that number.

MR. HELMS: Yes. Thank you, Judge.

THE COURT: One thing I do remember when I sat

down there is your plan on having a witness say something, sometimes it doesn't come out and it necessitates another witness.

MR. HELMS: That does tend to happen.

THE COURT: It does. It is the nature of the beast.

Mr. Moorer is here, isn't he?

MR. BOUCHETTE: He should be, Your Honor.

MR. HELMS: The Sheriff's Department informs me he is in the building.

THE COURT: He's in the building. Thank you. It's Monday.

MR. HELMS: It's Monday.

(A brief pause in the proceedings while Mr. Moorer enters.)

THE COURT: Let the record reflect that Mr. Moorer is present. Let's bring in our jury please. Thank you.

(A brief pause in the proceedings.)

(The jury enters at 9:33 a.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you very much, ladies and gentlemen. I hope you had a restful weekend in mind and spirit. Let me begin to thank you for your conscientious approach to serve as a juror, and I

appreciate it very much.

I ask you now whether each of you during this extended period away from court, that you each observed fully the Court's instruction and not have read anything, discussed this case with anyone or allowed anyone to talk with you about it in your presence, and not done any independent research; if you have done that, please say "I have."

(The jury panel confirms with "I have.")

THE COURT: Any member of the jury panel unable to make a commitment for any reason, please raise your hand.

Thank you very much.

Now I ask you to give your attention to the next witness.

Solicitor, good morning, you may call your next witness.

MS. LIVESAY: Thank you, Judge. At this time the State calls Lindsey McGraw.

(LINDSEY McGRAW, having been duly sworn, testified as follows:)

THE WITNESS: Lindsey McGraw, M-C-G-R-A-W.

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q And, Mr. McGraw, if you don't mind, tell this

jury where you are currently employed.

A I am currently employed with QS1; it is a division of Smith Technologies in Spartanburg, South Carolina. I am a client services engineer.

Q If you don't mind, tell them where you were employed prior?

A Immediately prior to that?

Q Yes.

A Immediately prior to that, I was a computer forensic investigator for the South Carolina Attorney General's Office.

Q And about how long had you been employed there?

A About a year-and-a-half.

Q And where were you employed prior to that?

A Prior to that, I was a computer -- well, there was a break. I was employed by my son's HVAC corporation. I was installing heating and air conditioning units. I did that for about six months. Prior to that, about 12 years or so, I was with the Spartanburg County Sheriff's Office. I was a computer forensics investigator there.

Q How long have you been doing computer forensics?

A About the last half of my law enforcement career, so 26 years in law enforcement, 13 years computer forensics.

Q And if you don't mind, tell this jury a little bit about what you do in computer forensics.

A Basically, I seize and preserve information and analyze information on any electronic media, that can be computer hard drives, external drives, GPS units, tablets, anything that contains data. I'll examine the data for information that is -- necessary to prove or disapprove an allegation, I'll make a report on that and supply the report to the requestor.

Q So you, basically, extract information and then analyze it by looking through it, like you say, to either prove or disapprove a certain fact?

A That's correct. The information can be resident on the media, or it can be deleted information. I have the capability of looking at deleted information, providing that that information has not been overwritten.

I have a cold, excuse me. I hope my voice holds out.

Q Okay. No. If you don't mind, tell this jury whether or not you have been qualified as an expert in computer forensics?

A I have.

Q And how many times?

A I've lost count. It's been more than four, less

than ten.

Q And have you been qualified in circuit court?

A Yes, ma'am.

MS. LIVESAY: Your Honor, at this time the State wishes to qualify Mr. McGraw as an expert in computer forensics.

MR. GALMORE: No objection.

THE COURT: Very well. He will be permitted to render opinions in that area.

MS. LIVESAY: Thank you, Judge.

Q (MS. LIVESAY) Now, did you happen to assist our office in computer forensics?

A I did.

Q If you don't mind, tell this jury how that came about.

A Sure. I was contacted by the Horry County Solicitor's Office because I had recently completed training with Berla Corporation. They have a product called "iVe," which is an automotive forensics tool. The tool allows an individual to recover -- extract data from a module, examine that data and make a report.

In this case, this was on a 2013 Ford F-150. I examined the Sync Gen 2 navigation unit for this vehicle.

Q If you don't mind, tell them what kind of information comes off the Sync Gen?

A The Sync Gen 2 system is a combination of infotainment and telematics. Infotainment is a combination term for "information" and "entertainment," that refers to the interaction of the driver with the car, things like radio, air conditioning, climate control, anything like that. "Telematics" refers to the interaction of the vehicle to an outside source, so that is external WiFi, GPS, that type of thing.

Q Let me ask you this. Does it also record when a door opens and closes?

A Yes, ma'am. In this particular case, this vehicle -- the Sync Gen 2 nav system will record things like driver's door open, driver's door closed, passenger door, lights on, lights off, odometer readings periodically, GPS information, just a wide variety of information.

Q Okay. And did you examine the -- all of that information off the Ford F-150, off the defendant's truck through that sync module?

A Yes, ma'am. That was February 18th, I believe it was, in 2016. Yes, February 18th, 2016.

Q You talked about all the information you collected, which includes opening the door, turning the

lights off and on, and GPS?

A Yes, ma'am.

Q I want to ask you right now specifically about the GPS.

A Okay.

Q How does that sync module collect GPS data off that truck?

A It has a GPS receiver. On the Ford Sync Gen 2 nav system, the Ford has an SD card, a map card, that is inserted into an SD receptacle on the center console on this particular vehicle. When that card is inserted, then the navigation system is active functioning, and the vehicle can record GPS location information.

Q Okay. So as long as that SD card is in the little space, in the -- what do you call it?

A SD card receptacle.

Q Okay. The Sync Gen module will collect GPS data, which is the location of the truck?

A Correct. Current location, and you can then use the GPS to plan routes, that kind of thing.

Q If that SD card is not pushed in, can the sync module collect GPS data, which is the whereabouts of the truck, can it then collect that information?

A No, ma'am.

Q Now, did you specifically look for that GPS data on the sync module in this case?

A I did, yes, ma'am.

Q Tell this jury what you found.

A Well, I found a variety of GPS coordinates from the subsequent owner when the truck was resold up in the Charlotte, North Carolina area. Prior to the vehicle being resold, I found -- the first location I found -- excuse me -- was the day the vehicle was sold. It was at Beach Ford, so it had geographical information there. That was November 8th, I believe it was. I found some GPS information for Alabama, Oklahoma and Las Vegas, Nevada. That was an apparent trip. That was in November. The next information I found was GPS coordinates for Kissimmee, Florida.

Q Did you find any coordinates of the truck being here in Horry County?

A I did, but the only GPS coordinates I found for the truck being here was the one at Beach Ford, when the vehicle was sold, and then after that the only GPS coordinates I found was when the vehicle was returned to Horry County in Conway.

Q And would you have expected to find GPS locations here in Horry County?

A I would expect so. If the navigation system was

active here, I would expect to find some coordinates, yes, ma'am.

Q Let me ask you something. Earlier, you weren't in here; you just came in today?

A Yes, ma'am.

Q And we talked about the phone, and the phone -- Cellebrite, you do Cellebrite as well?

A I did, yes, ma'am.

Q And you can get when the phone turns on?

A Depending on the phone, yes, ma'am.

Q It is like a powering event?

A Correct, powering, yes.

Q Let me ask you something. From the sync module, can you find whether or not that card had been popped out, if that SD card was popped out?

A Yes, ma'am. The system forms a test of the card to determine, first, if it is valid. It will check the serial number, validate it and -- first, it checks to see if it is there, and if it's not there, it obviously can't do the validation. But it will do a validation to make sure the card is valid and then start giving you GPS coordinates.

If the card is not there, it will alert saying -- or the event log will show a card detached message in the event log -- the message log, excuse me. Then, if

that GPS is not functioning, the driver will get an indication on the Ford touch display -- it is a yellow triangle with an exclamation point saying navigation system is not working -- and you also will get a compass in the upper, right-hand corner, as opposed to, like, your current location.

Q Let me ask you this. Can the sync module give you information as to if that card, that SD card that is required for navigation, if it was popped out?

A It will show that it's been detached, yes.

Q It's been detached?

A Correct.

Q And once it is detached, it can no longer collect GPS signals?

A Correct.

Q Tell this jury, did you ever find a date and time between the 17th and 18th when that SD card was detached from the truck?

A Yes, ma'am.

Q When was it?

A Actually, that was one of the focuses of the investigation, was December 18th, 2013. I did find a message log fragment. The message log fragment started at 12:07 a.m. and -- excuse me, 12:06 a.m. 12:07 a.m. it showed a log, an event, that the SD card, nav card,

had been detached.

Q Okay. So on 12/18/2013 at 12:07, it showed that that nav card was detached?

A Correct.

Q If the card is detached, is there any way for that car or truck, sync module, to collect information as to the location of the truck?

A No, ma'am. The GPS unit is inactive at that point.

Q So at 12:07 a.m., when it is detached, it is no longer possible to get the location of the truck off that sync module?

A Correct.

Q Let me ask you this. Tell this jury when that card is detached, will the navigation work?

A No. You'll just have a display -- error display on the dash saying that the navigation system is not functioning.

Q Okay. And are the individuals in the vehicle when it is detached alerted to the fact that it's been detached?

A There is a prominent warning or caution, whatever you want to call it, a message saying the navigation system is not working.

Q And can the truck still run?

A Oh, yes. Absolutely.
Q Can the radio still go?
A Yes, ma'am.
Q So when that card is detached, the only thing that changes is it is no longer collecting GPS information?
A Correct.
Q I'm going to show you a couple of things. The first thing I'm going to show you has already been put in evidence. I thought you already had gotten it out. Let's see.

(A brief pause in the proceedings. State's Exhibits 197 through 199 marked.)

Q (MS. LIVESAY) Before I show you those pictures -- give us a minute to find them. I just pulled them out. I'm going to show you now what has been marked as 197; do you recognize that?
A Yes, ma'am.
Q And are those your initials?
A Yes, ma'am.
Q And that is initialed that you saw it?
A Yes, ma'am.
Q And does this video show you what happens with the SD card when it is detached?
A Yes, ma'am. It can explain it a lot better than

I can, because you'll see what happened -- what happens when the map card is removed. It will show you the display and also show what happens when the card is reinserted and shows the navigation system starts functioning again.

Q Would this assist you in your testimony today?

A Yes, ma'am.

MS. LIVESAY: Your Honor, at this time the State wishes to put 197 into the evidence and publish to the jury.

Q About how long is this?

A Just a couple of minutes.

THE COURT: Any objection, Mr. Galmore?

MR. GALMORE: No, sir.

THE COURT: 197 is admitted without objection.

(State's Exhibit 197 admitted.)

Q (MS. LIVESAY) She's setting it up. So we can be as efficient with time as we can, can you step down, Mr. McGraw. I'm going to have you take two pictures that have already been put in evidence, 103 and 104.

MS. LIVESAY: Natalie, that's your mic?

COURT REPORTER: Yes. Yes.

Q (MS. LIVESAY) This has already been put in evidence. They have already testified this is from the defendant's truck. When you look at 103, do you

see the SD card that is necessary to collect GPS information?

A Yes, ma'am. It's under the sunglasses and toothpicks sitting on top of it.

Q Right there?

A Yes, ma'am.

(State's Exhibit 103 published to the jury.)

Q (MS. LIVESAY) And this is the card you have to have in the truck to collect GPS navigation?

A Yes, ma'am.

Q Now, what are we looking at at 104?

A This is a center console of an Ford F-150 pickup. It is what it appears to be. There's RCA jacks, two USB ports. There is also an SD receptacle, which is designed to receive the navigation card.

Q And is it empty?

A It appears to be, yes, ma'am.

Q And I'm showing the jury now 104.

(State's Exhibit 104 published to the jury.)

Q (MS. LIVESAY) This is just showing that that navigational card has been detached from the truck, correct?

A Yes, ma'am.

Q Now, if you don't mind, take us through and show us kind of, briefly, what is on this video.

A Okay. This appears to be a navigation --

THE COURT: Excuse me, if you could position yourself so -- maybe right over here. Thank you, Mr. McGraw.

THE WITNESS: Yes, sir.

A This appears to be a navigation display on the My Ford Touch, obviously a navigation map.

Q Okay.

(A brief pause in the proceedings.)

A And that is the center console. The SD card is being removed, and this is the indication you'll get when your navigation system is not functioning, so the navigation SD fault.

(A brief pause in the proceedings.)

A And it gives you basically your options at this point for not having a card inserted, and then the information to insert the card, that is what the system wants.

That is the display, the compass, on the upper, right-hand corner. You don't have the location information, just the compass.

The driver is now reinserting the SD card. The system forms a validation, checks the serial number to make sure it is a valid card, and at some point you should get a proper display.

It is loading now. You should get your current location, eventually. Okay, there is your current location. This says "Casey Street." I can't see that -- and now your map display is functioning again.

Q So as long as the card is in this truck, it is going to be collecting GPS information?

A Yes, ma'am. There is an API module, Accessory Protocol Interface module, and it is right behind the display. That is basically the brains or the computer, and that is what collects all of the information and generates the message log, which is what I use to determine whether or not the card was installed.

Q And this arrow is showing where the truck is?

A Yes, showing the direction of travel.

Q And that would be the information that the sync module would be collecting if that card was attached into the truck?

A Yes, ma'am. It will create like a breadcrumb trail. GPS coordinates, it collects them and records them with -- it will be latitude/longitude bearing, it will have a date timestamp. So every GPS location will have a date and timestamp that is referenced from the -- which is a reference from January 1st, 1970, the number of seconds that have elapsed since that day. That is a universal standard which the time is derived,

but it will have that date and timestamp. You can decode it and find out exactly what the time was when it was at that particular location.

Q So it's not only collecting where this arrow is, but it's actually collecting the date and time when that arrow was there?

A That's correct, yes, ma'am.

And, again, we're going to the SD card. It has been removed. That is the fault indication you'll get on the display saying that your navigation system is no longer functioning and it is no longer recording GPS information in the message log.

Q Okay. So now that it's detached, we can see the showing --

A You won't get a map. You won't get anything.

Q Do you see this here, this option "Where Am I Now"; did you see that?

A Yes, ma'am.

Q And you can't get that information without the navigation on?

A You can press the button, but it won't tell you where you're at, because it needs that navigation function to tell you where you're at.

Q Okay.

(A brief pause in the proceedings.)

A It shows that the card can be inserted and the navigation system can be functioning. The card can be removed while the vehicle is in operation. The display is going to go away, the navigation system is going to stop.

Q And removing the card doesn't impair anything other than navigation?

A Just navigation. That is the purpose of the life of that card, is the map data.

Q And as soon as you put it in, it just reboots and starts right back up?

A It takes a minute. Like I said, it has to validate the card and make sure it is active, to make sure it is not a stolen card or something like that, or a bootlegged card, but it will validate it, make sure it is good.

Q Okay. And when was the card detached from the defendant's truck?

A As I testified earlier, it was the 18th of December, 2013 at 12:07 a.m.

Q Thank you, Mr. McGraw. If you don't mind, I have a couple more questions.

Now, you do computer forensics, and you also do Cellebrite and phone data as well, correct?

A Yes, ma'am.

Q And are you familiar with phone records at all and tower data?
A Yes, ma'am.
Q So all of this kind of goes together?
A It does, yes. I didn't do any cell phone or tower data investigation on this.
Q Okay. Let me ask you this. When we're talking about GPS data, are we talking about an exact location?
A Yes, ma'am. It is exact within meters.
Q And when we're talking about tower data and sectors, we're talking about a much more generalized area?
A That's correct. Towers use vectors to kind of triangulate where the position is, and it really depends on the provider as to how accurate those vectors are. It varies.
Q So the most specific data as to location is GPS?
A Certainly.

MS. LIVESAY: No further questions for this witness, Your Honor.

THE COURT: You may cross-examine.

MR. GALMORE: Thank you.

(A brief pause in the proceedings.)

CROSS-EXAMINATION

BY MR. GALMORE:

Q Good morning, Mr. McGraw.

A Good morning.

Q When you were telling us about your background, I think you said that you previously worked for the Attorney General's Office in the Computer Crimes Division?

A Yes, sir.

Q Can you explain to the jury who the Attorney General is?

A Attorney General is the chief prosecutor in the state.

Q That is the number one law enforcement officer in the state?

A Yes, sir.

Q And what did you do in the Computer Crimes Division?

A I was exclusively investigating child pornography investigations for that year-and-a-half.

Q Does the Computer Crimes Division also download devices such as computers, laptops, desktops, things of that nature?

A Yes, sir.

Q What about cell phones, can the Computer Crimes Unit download cell phones?

A Yes, sir.
Q So they do extractions on phones?
A Yes, sir.
Q And I understand you were dealing with the child pornography portion, but that department, the Computer Crimes Department, also downloads devices?
A Yes, sir.
Q Now, in this case, we're not talking about a phone or a tablet, we're talking about the black box that is in the car?
A I will accept that. That's fine, yes, sir.
Q Thank you. Yes, sir. When did you conduct an extraction on this device?
A I did the extraction on the 18th of February 2016.
Q Who was present for this extraction?
A Just myself.
Q How did you end up receiving the truck?
A I didn't receive the truck. The truck was at the Conway Ford dealership. I was notified it was there. I met investigators with the Horry County Police Department, I guess it is, and the Solicitor's Office. A Ford technician was engaged to remove the module from the vehicle. There was a crime scene investigator from Horry County there with me. I think her name was Jill

Domogauer.

Q Yes, sir, we've heard from her.

A She took possession of the API module, and then I immediately took it from her and secured it.

Q Okay. So this was February 18th of 2016?

A Yes, sir.

Q Almost two years after Ms. Elvis' disappearance?

A Yes, sir.

Q And at this point you went to the Ford dealership, and you said there were Horry County police officers at the dealership, and you said there were representatives from the Solicitor's Office at the dealership, correct?

A Yes, sir.

Q There was a Ford technician, and there was Ms. Domogauer from the police department?

A Yes, sir.

Q Who took the device out of the truck?

A The Ford technician took it out.

Q And he hands it to Ms. Domogauer?

A Yes, sir.

Q And she hands it to you?

A Yes, sir.

Q Now, from there, did you do your extraction at Beach Ford?

A No, sir.
Q Where did you have to take it?
A I was housed at the Sleep Inn. I don't remember the address. But I took the module back there with my equipment. The extraction process took about four hours, so I babysat it the whole time. And then when I was done, I secured the unit. It was after hours. I returned the unit and a copy of the data, which is on a hard drive, and a DVD and returned it to the Solicitor's Office the following morning.
Q Now, when you received the black box, was the SD card in it?
A The SD card doesn't fit in the box. It's behind the console.
Q Right. So the card and the box is separate?
A Yes, sir.
Q When you received the box, was the SD card in the truck?
A I don't know.
Q Did you check?
A No. It is not part of my -- it is not part of the examination to check the SD card.
Q So when you received the black box February 16th, you can't tell the jury if the SD card was attached?

A No, sir.
Q When you did the extraction on the black box, you indicated that you saw where the SD card was removed?
A There is a log that is generated by the device, that is an event recorder. It's basically for diagnostics for technicians, but it did show that the SD card was detached, yes, sir.
Q Well, let's talk about this event log. What other things does this event log record?
A It can record things like odometer readings, passenger door opening, passenger door closed, lights on, lights off, gear shift position, whether it is in park, drive, reverse, just various things.
Q Does this black box work independent of the SD card; that is, if the card is removed, can we still get odometer, door and gear shift information?
A Yes, sir.
Q You are sure about that?
A Yes, sir.
Q Okay. You indicated you found an event that showed that the SD card was removed on December 18th at 12:06 a.m.?
A 12:07.
Q 12:07 a.m.
A Yes, sir.

Q Did the black box show an event where the SD card was reinserted?

A Not there. I had -- the log fragment I extracted is about 20 seconds long.

Q So it is a fragment of information?

A Uh-huh.

Q So this extraction or -- excuse me -- when the SD card was removed on December 18th, that is a fragment of information that tells you the SD card was removed?

A Correct. It is a 20-second continuous fragment.

Q As far as the reinsertion, do you have an event on the black box that shows when the SD card was reinserted?

A No, sir, not for the 18th of December.

Q How often does this black box record? Like every second, every 10 seconds, once a minute?

A Once a millisecond.

Q Once a millisecond?

A Yes, sir.

Q So there should be mounds and mounds of data in this thing?

A It doesn't keep the information forever. The message log is renewed or regenerated after it is no longer needed. It is basically a running information that starts off as Message Log 1. The log is limited

in size to four megabytes. Once it reaches that size, on Message Log 1, it's placed on Message Log 2 and starts recording data again. When that message log reaches four megabytes, the first message log is deleted and a new Message Log 1 is created. So you have lots of deleted information available until it is overwritten.

Q So the bottom line is you have a partial piece of information that shows the card was removed, and no information showing when the card was reinserted, even though the navigation box collects information every millisecond?

A Well, it is not the navigation box. It is the API module, but, yes, sir, it doesn't collect navigation information if the card is not inserted, won't record GPS location.

Q When the SD card is removed, could your navigation box tell us who removed it?

A No, sir.

Q Is a pin number required to remove the box?

A No, sir.

Q So there is nothing individual to a person that I have to put in like my Social Security number in order to remove the SD card?

A No, sir.

Q So it could be removed by anyone?
A Correct.
Q And in this case we have a fragment of information showing when it was removed?
A Correct.
Q And we have no information showing when it was reinserted?
A Correct.
Q However, even with the card removed, we can see things such as odometer readings, opening and closing of doors and gear shifts?
A Yes, sir.
Q So were you able to find any door openings or door closings on the early morning hours of December 18th, 2013?
A Give me a second to look. Bear in mind, this is a 20-second fragment.
Q You didn't find any other fragments?
A I found a lot of fragments, yes, sir.
Q And did any of them talk about a door being open on December 18th, 2013?
A Yes, sir. There is an event here for driver door opened.
Q When was that?
A I have to do the math. It is within the

20-second time period from 12:06 to 12:26 a.m., yeah.
Q Okay. So without having to do the math, you are able to extract off the box that the driver side door was opened one time somewhere between 12:08 and 12:26?
A Not 12:26. It is 20 seconds, not 20 minutes, so it is going to be some time at 12:06 -- I'll give you an exact time here.
(A brief pause in the proceedings.)
A 12:06 and 59 seconds.
Q Driver's door is open?
A No. That is when -- this is my daytime stamp for the log. At some point, within 20 seconds of that message log being generated, the driver's door was opened.
Q All right. Do you have a log that shows when that driver's door was closed?
A There are lots of logs showing when it was closed, but not continuous to this time.
Q Let's talk about that time, because that's the time at issue. Do you have any logs that show that the passenger door was opened during this time frame?
A No, sir, not within the 20-second log fragment.
Q Okay. And you also -- the navigation box would also record like extreme braking events?
A I don't know that it logs that type of thing.

That is more of the event data recorder for like accidents.

Q Okay. Well, it records gear shifts, right?

A Sure.

Q Do you have any indication in the data that you extracted when the car was in gear, in and around December 18 of 2013, 12 midnight or so?

A Again, not from this 20-second fragment, no, sir.

Q Out of all of the data that you have downloaded from this black box for this F-150, are you able to tell this jury whether or not that truck was at Peachtree Boat Landing on December 18, 2013?

A No, sir, I can't tell from this log, no.

Q Are you able to tell this jury whether or not that truck was at River Oaks on December 18th, 2013?

A I have no geographic information at all for December of 2013.

Q And you can't tell us whether or not the passenger door was opened on December 18th, can you?

A No, sir. The log ends before that may have been recorded. Whether it was or not, I don't know.

Q And your log indicates that the door was opened -- driver's door was opened one time?

A Correct.

Q What happened to the rest of the information that

was on this box?
A What do you mean?
Q I mean, you keep describing this one 20-second fragment of information, and you told us that the box records in milliseconds, so it seems to me there should be more information from December 18, 2013.
A There would have been if it had not been overwritten. This is two plus years since this --
Q You are right, sir, it has been two plus years.
A Right.
Q Now, is there any indication in your extractions that these -- that the black box was overwritten by Mr. Moorer?
A I don't understand your question.
Q You said you don't have information because it was overwritten; do you have any testimony that any individual intentionally over -- deleted anything out of the box?
A The device itself does the overwriting. There is no interface --
Q Right. Basically, it's two years old before they got ahold of it, so everything that was on it had already been overwritten?
A Essentially.
Q Except that 20-second fragment?

A Well, there was other message log fragments.
Q Because you had the trip out west, that was in the box also?
A Sure.
Q So a substantial majority of the information that was in the box has been overwritten at this point; we're talking two years later?
A Sure. I'm recovering different fragments from different times, but the fragments are going to be small.
Q Is there any indication that any individual person intentionally deleted anything out of that box?
A There wouldn't be an indication, because they can't.
Q Okay. So the information is not there because the truck was being used, driven, events were happening that were overwriting previously recorded information?
A Correct.
Q Just like --
A Normal.
Q -- writing over a cassette tape, just record over it?
A Not necessarily like that, but during normal operation of the vehicle, data is going to be overwritten.

Q Okay. And you did not get the vehicle until approximately two years after Ms. Elvis disappeared?
A Correct. I didn't have access to the vehicle until February 18, 2016.
Q Now, you said that you extracted the information, and at that time the vehicle was at Beach Ford; do you know where it was before then?
A I'm sorry?
Q Do you know if Mr. Moorer owned this truck from 2013 to 2016, or if he had sold it?
A I understand he sold it in 2014.
Q Okay. So information from 2014, 2015, 2016 would be with a different owner?
A Yes, sir.
Q Now, does this navigation box record the SD card removal event?
A It does.
Q Okay. And, in this case, you have that 20-second fragment that shows the SD removal?
A Yes, sir.
Q And you don't have any information to show when the SD card was reinserted?
A You mean the subsequent reinstallation right after the removal?
Q Yes.

A No, sir.
Q And you don't have any information as to who would have removed the card?
A No, sir, it doesn't record who.
Q Does it record any circumstances as to why the card was removed?
A No, sir, it doesn't record intent. Regardless of whether it is accidental or deliberate, the result is the same. The display will say navigation system is not functioning.
Q December 18th, 2013, 12:07 is when you said you had that 20-second fragment?
A Yes, sir.
Q Do you have any data recorded before then?
A What type of data?
Q I mean any data off of that box from 12:05, 12:04, 12 midnight?
(A brief pause in the proceedings.)
A Not for that day, no. Not for the day prior.
Q (MR. GALMORE) Okay.
A Keep in mind that the focus of the investigation was the 18th.
Q Now, the video that we looked at, was that you driving the truck in that?
A No, sir.

Q Do you know who that was driving the truck?
A No, sir, I do not.
Q Do you know whose truck that was?
A No, sir.
Q Do you know if that was Sidney Moorer's truck in the video?
A No, sir.
Q Was this a demonstration video from Ford or something?
A I have no clue.
Q Okay. You don't know where the video came from?
A No, sir.
Q You said you didn't know whose truck it was, and you said you didn't know who the driver was?
A No, sir.
Q I think you indicated that the card also had GPS; is that correct?
A The car, you mean the truck?
Q The truck, I'm sorry.
A Yes, sir.
Q Were you able to extract any GPS data from Mr. Moorer's F-150?
A Yes, sir.
Q And that was the one fragment you gave us?
A The GPS, you are talking about coordinates?

Q Yes.
A Yes, sir, I recovered, obviously, the coordinates from when the vehicle was sold, the trip out west, the information for Kissimmee, Florida, and then there is a lot of GPS information recorded with the subsequent owner.
Q Does the GPS information put the F-150 on Peachtree Boat Landing on December 18th, 2013?
A No, sir. Again, I found no geographic information for December 2013 at all.
Q Okay. Now, I think you testified you also worked with Cellebrite?
A Yes, sir.
Q And explain for the jury what Cellebrite is.
A Cellebrite is a company that produces a device called the UFED, Universal Forensic Extraction Device. It's used to recover information from cell phones, but also works on tablets and GPS units.
Q I think Cellebrite extracts information off of telephones; does Cellebrite give us location data off of telephones?
A If the phone reports it, it can be recovered from there, yes, sir.
Q And what types of location data are there? What are the sources of the data?

A GPS, Google Maps, any GPS sensor on the phone that is enabled at the time for tracking that can be recovered. Things like the Waze app, which is a driving application that is available for different phones can record geographical information.

Q So GPS is like cell phone location data?

A It refers to the location of the device, yes, sir.

Q And how accurate is GPS?

A It is pretty accurate, within meters.

Q Within meters, okay. Now, I understand that WiFi is another way to collect data; is that correct?

A WiFi is wireless connectivity. I don't know it actually collects data.

Q Could you confirm a cell phone's location or approximate location based on its WiFi connections?

A You could, it just depends where the data is from.

Q So, like, if I were walking around this courthouse and had my cell phone in my pocket, it would be pinging off of every WiFi that's in the courthouse; correct, or not?

A Depends where you have access to that wireless access point, and whether you enable it or not.

Q Did you have an opportunity to review Heather

Elvis' cell phone records in this case?

A No, sir.

Q No. Okay. It is my understanding that cell phones can be tracked based on cell tower location data also; is that correct?

A That's correct.

Q How accurate is the cell tower location data?

A Depends on the provider. There are varying degrees of accuracy, I guess depending on who is your service provider.

Q And some providers issue disclaimers with that data?

A I don't know what disclaimer you are talking about.

Q Okay. Okay.

So you did not look at the cell phone records for Heather Elvis in this case?

A No, sir. My involvement in this case was exclusively with the navigation unit from the F-150 vehicle that was -- belonged to Sidney and Tammy Moorer.

Q Can you put the -- anyone's cell phone in close proximity to the F-150 truck based on your extractions?

A There can be -- if the cell phone is paired with the vehicle, I can show an entry.

Q Like a bluetooth?
A Sure.
Q Were you able to find any pairings?
A I believe there were some entries.
Q Okay.
A But as far as GPS location, no.
Q Did Heather Elvis' phone ever pair or sync with this F-150 truck?
A Give me a minute.

(A brief pause in the proceedings.)

A I don't have telephone number information. If you give me her phone number I could look to see.

THE COURT: Just give it to him.

MR. GALMORE: I don't have my glasses. The number for Ms. Elvis is [redacted]8152; did that number ever sync with Mr. Moorer's F-150.

A No, sir, not that I'm aware of.

(A brief pause in the proceedings while Mr. Galmore and Mr. Bouchette confer.)

Q (MR. GALMORE) In reviewing the extractions from the navigation device, were you able to find any geographic data for Mr. Moorer's truck for the month of December of 2013?
A No, sir.
Q So how do you explain the SD card removal? How

was that recorded if nothing else was recorded for the month of December?

A The system records insertion and removal of the SD card; that's its function.

MR. GALMORE: No further questions. Thank you.

REDIRECT-EXAMINATION

BY MS. LIVESAY:

Q Mr. McGraw, do you remember James asking you about the truck going to Peachtree Landing, whether it had been to Peachtree Landing in Horry County?

A James?

Q Mr. Galmore, the defense attorney.

A I'm sorry, I didn't associate the name. Yes, ma'am.

Q And if that card had been removed at 12:07 a.m. on the 18th, and he went to Peachtree Landing after that, would it have recorded on the device?

A No, ma'am.

Q Let me ask you something. Was the navigational system working prior to 2013?

A Yes, ma'am.

Q And it was collecting data?

A Yes, ma'am.

Q And did it collect data of a trip outside of Horry County?

A Yes, ma'am.
Q All the way to Nevada?
A Yes, ma'am, the geographic points, yes.
Q After December 2013, was the navigational system working?
A Yes, ma'am.
Q And did it collect information outside of Horry County?
A Yes, ma'am, Kissimmee, Florida.
Q So the only time it didn't collect data is when the truck was in Horry County?
A I have no geographic points for December 2013 at all.
Q And we know at least one time the card was removed December 18th, the early morning hours?
A Yes, ma'am.
Q And I showed you a picture that's already been put in evidence that was taken at the end of December, and the card was still removed, correct?
A Yes, ma'am. It was in the tray with toothpicks on top of it, under the sunglasses, yes, ma'am.
Q And it can't collect no data sitting in that tray, can it?
A No, ma'am.
Q He also asked you questions about Heather Elvis'

phone connecting to bluetooth or anything like that in the truck; is that correct?

A That's correct.

Q Now, if her phone is off, would it connect to anything?

A You won't be given the opportunity to pair that phone if the phone is off, that's correct.

Q And let me ask you something. Does every phone automatically connect to WiFi or bluetooth?

A No, ma'am, you have to specifically authorize it.

Q You have told this jury, and Mr. Galmore asked you, about the fact that it is a fragment?

A Yes, ma'am.

Q And the fact that the system is kind of overwriting as the truck is in movement?

A Correct.

Q So tell me whether or not this is correct, and if I'm not right, you correct me. So this sync module is going to show you information that is current, information that is about to be overwritten, and information that has been deleted; is that right?

A Correct.

Q We already had someone come in and testify about Cellebrite, and he's saying, look, these are the things on the phone currently. These are the things that were

deleted that we were able to recover; is that a lot how forensics work with every computer, sometime we're able to get the deleted information, sometimes we can't?

A Right. It depends on the system. In this case, the Ford sync module is a solid state device. It is a 2 gigabyte, basically, hard drive, but it is not your typical hard drive that you would find in a computer. It is not the spinning disk. Data is written to cells that are basically micro-transistors, they are either on or off. The cells are arranged in a grid, and that grid is called a page. That's the smallest unit of information that the device can write to at a time. It has to write a page at a time. In this case, the page size is 4 kilobytes, I believe. But before information can be written to an SSD, the cells have to be prepared, so they basically have to be erased first. That is not true on a spinning hard drive. So the information is deleted at a block at a time. A block is multiple pages. An SSD employs something called wear leveling. It is an algorithm where it spreads out the rights to the cells evenly across a device, because the cells have a limited number of writes, I think it is like a hundred thousand writes or something like that, but once that number is exceeded, that cell can fail. So it uses that algorithm -- it is kind of like

if you are -- say you have a square on -- a piece of paper with squares and they are all filled in with pencil. Before you can write to that paper, you have to erase one of the squares. So you would erase one of the squares and write to it. You kept erasing and writing to that same square, you'll scrub through the paper. That is kind of an analogy about how that works.

But since it deletes in blocks, it doesn't prepare the same areas for deletion for overwriting at the same time. It has to even it out. So you can have small fragments of data available for recovery that hasn't been overwritten yet. Because once data is overwritten, you can't recover it. But the message logs are four megabytes in size. The page size to which the device writes to is 4 kilobytes, so it takes a thousand pages to make a log. So there is a thousand little parts of this message log scattered throughout the device.

Q (MS. LIVESAY) So how the computer works, sometimes we can get deleted information, and sometimes we can't?

A Correct. As long as the information is there and has not been overwritten, I can recover it. If it already has been prepared for rewriting, in other

words, those cells had been blanked out to accept new data, once that happens, I can't access that data.
Q And let me ask you this. He asked you whether or not it showed one of the doors and the truck moving or opening and closing around the same time the SD card was detached; do you remember that?
A Yes, ma'am. Yes, ma'am.
Q And you testified that, indeed, the driver's door had it?
A Yes, ma'am. It recorded an event of the driver's door opening, that's correct.
Q So, clearly, someone was in the truck moving around and active at the time the card was removed?
A I can't tell if -- all I can say is the driver's door was opened. Whether it was someone in, getting out; or out, getting in. I don't know.
Q But, clearly, there was action on that door?
A Correct.
Q And, clearly, shortly before that, the card was removed?
A Yes, ma'am. A recording event for the removal of the card being detached, yes, ma'am.
Q Now, from your experience and in your expert opinion, if the card was not detached, it was still in that slot, would it have collected GPS data after 12/18

at 12:07 a.m.?

A It should have, yes, ma'am.

MS. LIVESAY: No further questions.

THE COURT: Recross, Mr. Galmore?

RECROSS-EXAMINATION

BY MR. GALMORE:

Q December 18th, 2013, from midnight to, let's say, 6:00 a.m., the information that you have extracted and reviewed and prepared to testify before this jury about, between midnight and 6:00 a.m., do you have any passenger door opening events?

A No, sir -- well, not for the -- that I can relate to that specific date.

Q December 18, 2013, between midnight and 6:00 a.m., can you put that F-150 truck at Peachtree Boat Landing?

A No, sir. Again, I have no geographic information for December, whatsoever.

Q December 18, 2013, between midnight and 6:00 a.m., can you put that F-150 in the River Oaks area, Heather Elvis' apartment?

A Not without geographic information, no, sir.

Q Can Sidney Moorer delete the geographic information in this truck?

A No, sir, he can't specifically go in and delete

information.

Q Can anyone go in and delete information off of the navigation system?

A I imagine somebody could, but you would -- someone way above my pay grade. You can do a master reset on this device. Basically, that's done to clear data if the truck was sold. If it was your truck and you wanted to sell it, and your information was still in the vehicle, then the technicians can do a master reset. Actually, you could, too. It deletes the information from the view of the user, not necessarily off of the chip itself, because that would show up as deleted information that I can recover.

Q But that may be recovered?

A Yes, sir.

Q Were you able to find any information about a master reset being done on this truck?

A No, sir.

Q And if it was done, you would have been able to recover it?

A Depends. Depends -- I mean, it depends how long ago it was done and what information was written.

Q Now, was February 18, 2016 the only time you examined the navigation box in Mr. Moorer's truck?

A 2018 is when I -- I did the extraction.

Q 2016.
A 2016, sorry, is when I did the extraction. I got the 2 gigabyte chunk of data, but I did subsequently do an examination of the data using a different tool, using End Case, that is where I got this information. Basically, it is to validate -- you use one tool against another to validate the information you would receive.
Q But your part of this investigation began February 18, 2016?
A Correct.
MR. GALMORE: Thank you. No further questions.
THE COURT: You may step down.
Do you wish the witness to be excused, Solicitor?
MS. LIVESAY: Yes, please, Your Honor.
THE COURT: Any objection, Mr. Galmore?
MR. GALMORE: No, sir, Your Honor.
THE COURT: Call your next witness.
MR. HELMS: At this time, we call Steve (sic) Silver.
(JEFFERY SCOTT SILVER, having been duly sworn, testified as follows:)
THE WITNESS: Jeffrey Scott Silver, S-I-L-V-E-R.
MR. HELMS: Scott Silver, I called you Steven. I'm sorry, Scott.

DIRECT EXAMINATION

BY MR. HELMS:

Q Where do you work?

A Sam's Club in Myrtle Beach.

Q What do you do for Sam's Club in Myrtle Beach?

A General manager.

Q And how long have you been employed by Sam's Club?

A Eight years.

Q As general manager, what do your duties entail?

A Oversee all operations of the club, day to day.

Q So you are the guy in charge?

A Yes, sir.

Q What is Sam's Club?

A It's a membership-based business, parent company of Walmart.

Q A membership-based grocery store, retail store?

A Wholesale chain.

Q And what do you sell at Sam's Club?

A Lots of stuff.

Q Probably easier to say what don't you sell.

A That's right.

Q I think everyone knows what Sam's Club is.

When you say a membership chain, what does that mean?

A You have to be an active member to purchase anything at the club.

Q So I'm not a member of Sam's Club, can I come buy items from your store?

A No, sir.

Q What do you have to do to be a member?

A Go to the membership desk and we'll get you signed up, be happy to do that for you.

Q What do you have to do to sign up?

A Just show identification and fill out membership information, and we issue a card, a membership card.

Q When I come in your store at a member, after I sign up, do I have to have that card with me?

A Yes.

Q Was this the case back in 2013?

A Yes, it was.

Q So back in 2013 to buy something from Sam's Club, I had to be a member?

A Correct.

Q And back in 2013 to be a member, I would have gotten a card as well?

A Yes.

Q Would that card have my picture on it?

A At that particular time, it would have.

Q So you actually get a picture identification

card?
A Not currently, but at that time frame, you did.
Q Do you keep records associated with memberships?
A Yes.
Q And are those maintained by Sam's Club?
A They are.
Q Are they maintained in the ordinary course of business?
A Yes.
Q I'll show you what was marked for identification purposes as State's Exhibits 198 and 199. Take a look at those and tell me what those are, sir.
A (Witness examines document.) This was a purchase made on --
Q Don't get to what is on it, just tell me generally speaking what you are holding in your hand.
A I'm sorry. It is a receipt and transaction record of this particular....
Q Are those Sam's Club records?
A Yes.
Q And are those records that were provided to my office?
A Yes.
Q Are those records associated with any person in particular?

A Yes.
Q Tell this jury who those records are for.
A The member name on it is Sidney Moorer.
Q And have they been tampered with in any way?
A No, they have not.
MR. HELMS: Your Honor, at this time I tender State's 198 and 199 into evidence.
THE COURT: Any 1objection.
MR. GALMORE: Just a moment.
(A brief pause in the proceedings.)
MR. GALMORE: No objection.
THE COURT: Without objection, 198 and 199 are admitted.
(State's Exhibits 198 and 199 admitted.)
Q (MR. GALMORE) Mr. Silver, take 198 and 199, what month and date and year are those records for?
A December 21st, 2013.
Q And I want you to take a look at those records and tell this jury what Mr. Moorer bought in December 21, 2013.
A On this particular receipt, he bought a 16-channel DVR surveillance system and Hitachi 24-inch monitor.
Q How did he pay for those items, sir?
A With a Sam's Club credit card.

Q When did he get that credit card?
A At the time of purchase.
Q So on December 21. Does it say what time?
A It does, 5:45 p.m.
Q So on December 21, at 5:45 in the afternoon, you are telling this jury that Mr. Moorer applied for a Sam's Club credit card?
A Yes.
Q And with that Sam's Club credit card, purchased a surveillance system?
A Correct.
Q How much did he pay for that surveillance system?
A $799.
Q $799. And how many cameras came with that system?
A 16-channel DVR.
Q So 16 cameras? What other than the surveillance did he buy? Did he buy a monitor separate, or did that come with it?
A It doesn't come with it, but it was purchased at the same time.
Q How much did he pay for that monitor?
A $148.
Q Based on what you know, is that monitor compatible with that surveillance system?

A Yes.

MR. HELMS: Please answer any questions defense may have.

THE COURT: Cross-examine, Mr. Galmore.

CROSS-EXAMINATION

BY MR. GALMORE:

Q You indicated that Mr. Moorer is a member of the Sam's Club?

A Yes, sir.

Q Do your records show when he joined Sam's Club when he filled out his membership?

A I can look up that information. I don't have it with me.

Q Is it difficult for you to look up?

A It's not.

Q I guess what I'm saying is can you do it now, or do you need to go somewhere?

A Yeah, I would have to look it up at --

Q Okay. It's not that important. But he was a member of Sam's Club?

A Yes.

Q And the application process, explain that to us. What do you have to do?

A You just come in and visit the service desk and show identification, fill out -- actually, the person

at the desk fills out your information based on your information you give them and set you up with a card.

Q Okay. So at a minimum, you have to fill out an application and present some form of identification?

A Correct.

Q Then you get a membership to Sam's Club?

A Yes, sir.

Q Was that done in this case?

A Yes.

Q Regarding the purchase, was it a legal purchase?

A Yes.

Q Was it an attempted theft or anything like that?

A Not at all.

Q And the purchase was done on a Sam's Club credit card, as I understand?

A Yes, sir.

Q What is the process of applying for a Sam's Club credit card?

A In this particular case, he was offered the card because we were running a six-month no payment on interest at the time.

Q A promotion?

A Correct.

Q But I guess the physical process of filling out an application, what does a person have to do in order

to complete the application for Sam's Club credit card?

A You have to fill out like the pertinent information for a credit application.

Q Do you have to present identification for that?

A Yes.

Q Do you have to provide your Social Security number?

A Yes.

Q Do you have to provide your date of birth?

A Yes.

Q And as far as the date of birth, that would be something that is on most people's identification also?

A Yes.

Q Did Mr. Moorer do these things?

A Yes.

Q And he did that on December 21 of 2013?

A Correct.

Q Is there anything in your records that shows that Mr. Moorer attempted to conceal this purchase?

A No.

Q Just a regular purchase?

A Yes.

MR. GALMORE: Thank you, sir. No further questions.

THE COURT: Redirect.

MR. HELMS: Nothing, Your Honor.

THE COURT: Do you wish him to be excused?

MR. HELMS: Please, sir.

THE COURT: Any objection, Mr. Galmore?

MR. GALMORE: No, sir.

THE COURT: You are also free to leave.

Call your next witness, please.

MS. LIVESAY: Thank you, Your Honor. At this time the State calls J. M. ?

(J. M. , having been duly sworn, testified as follows:)

THE WITNESS: J. M. , M-E-L-T-O-N.

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q J. M. , if you don't mind, tell this jury a little bit about how old you are.

A I'm 20 years old.

Q Are you currently working or in school?

A No, ma'am.

Q Were you working previously?

A Yes, I was.

Q Where were you working?

A Hill Construction doing trim work, crown molding, putting in doors, so-and-so.

Q And where are you from?

A Conway, South Carolina.
Q And have you lived here your whole life?
A Yes, ma'am.
Q Do you know the defendant in this case?
A Yes, ma'am.
Q How do you know him?
A Through his children and been a long-time friend since elementary school, third grade.
Q So you know him through his son?
A Yes, ma'am.
Q What is his son's name?
A S. C. M. .
Q And you and S. C. M. became friends when?
A Third grade.
Q That is a long time ago.
A Yeah.
Q Now, when you all became friends in third grade, you would go over to his house?
A Yes, ma'am.
Q And when you went over to his house, was it the one over by 814?
A Correct.
Q Is that the only one you know that they lived in?
A Correct.
Q And were you friends with him from third grade

on, until 2013?

A Yes.

Q So for several years?

A Correct.

Q Now, let me ask you this. When you would go over there, would you spend the night?

A Multiple occasions, yes.

Q And would you sometimes stay a week at a time?

A Yes.

Q So you guys were extremely close?

A Correct.

Q And it was nothing for you to go over there for a week or two at the time?

A Correct.

Q And so you, in 2013, and prior to that, were familiar with how the inside of the house and outside looked?

A Correct.

Q Now, there was some testimony earlier about the color of the defendant's truck. Were you friends and had you been to the house when he had a white truck?

A Yes.

Q And were you all still friends and had you been over to their house when he had that new black Ford one?

A Yes.
Q Now, if you don't mind, tell this jury when you were over there, did these people have a surveillance camera system?
A They had a small LED -- not LED -- small flat screen TV, and it was split into four individual screens with military date and time on the bottom of it, right-hand corner.
Q Tell them what you would see on the screen that the camera was showing.
A The camera was showing the playground, and if you are standing in the house, the right corner of the house, the back of the house and the driveway of the house.
Q And they still had this surveillance system at some time during the time he had that black Ford F-150?
A Correct.
Q Now, had you been over to the house close in time after Christmas of 2013?
A Yes.
Q Now, during the time that you would spend over there, you are saying that you saw the monitor for the cameras?
A Correct.
Q Where was the monitor located in the house?

A It was mounted on the wall to the right of the bed in Sidney and Tammy's bedroom.

Q And if I showed you some pictures that were taken and already in evidence by the police department, would you be able to show us and go through the rooms of the house and where the monitor was located?

A Absolutely.

Q If you don't mind, I'm going to show you pictures that are in evidence, 129 through -- I'm not -- 150. Mr. Melton, if you don't mind, step down and that way we can go through them together.

A That's fine.

Q Is this the front of the Moorers' house?

A Correct.

Q Had you seen this truck?

A Correct.

Q And you had been over to the house when he had this truck?

A Yes.

Q And this camper, you recognize it?

A Yes.

Q And this is the front of the house?

A Correct.

Q So do you remember where the cameras were on the front of the house?

A Vaguely, but, yes.

Q And show them where you remember the cameras being.

A There was one camera at the corner of the house right here, and there was another one right here in the peak of the roof. You can't see it in this picture, but if the camper was moved, there was one right here at the top of the chimney, and then there was one in the back of the house, but it was in the house in C. M. 's room.

Q And you would go over there often, on a regular basis?

A Yes.

Q Now, in the front of this picture there is some concrete, shotgun shell, some bleach; was this normally how this area looked?

A Not the driveway.

Q So this was -- looked different than what you are used to seeing?

A Correct.

Q And it looks different than the last time you had been over there?

A Yes, ma'am.

Q Now, show me again where you remember -- actually, let's go to the next one. I don't want to

keep -- and this is how you remember the inside?

A Correct.

Q And this is how the kitchen looked?

A Yes.

Q And how many times, just in general, would you say you had been in the house? Thousands?

A I would definitely say over 40 times.

Q And this is how the kitchen looked?

A Correct.

Q Do you remember these items being in the kitchen?

A Yeah.

Q How about here, what room is this in the house?

A Living room.

Q And you had been in this room?

A Multiple times.

Q Okay. Okay. Let me ask you something. There is a lot going on in this room, stuff on the floor; when you would come over to the house, is that normally how it looked?

A Yes. It normally would be cluttered, a little messy, but nothing over the top or too serious, but occasional clutter.

Q Now, tell me, are you familiar with this room here?

A Yes.

Q And when you were over at the house, were there always computers in this room?
A Yes.
Q And was there always a computer here?
A No.
Q I'm sorry?
A No.
Q So this computer here is something you had never seen before?
A I had seen it, but not in that location.
Q Okay. How about this one?
A This is the bedroom of Sidney and Tammy's?
Q And had you been in this room before?
A Yes.
Q Multiple times?
A Yeah, more than 10, but not more than 40.
Q And you had been in this room back when he had the black Ford 150?
A Correct.
Q Now, show this jury -- you testified earlier there was a monitor in the room; do you remember that?
A Correct.
Q Show this jury where that monitor was when you had been in the house.
A When I had been in the house, the monitor was

right here where this picture frame is, and this was scooted over probably about 2 to 3 feet more to the left.

Q So where the picture frame is now, is where the monitor was?

A Correct.

Q Was it mounted, or sitting on furniture?

A It was mounted to the wall, probably about 40, 38-inch TV, little LED TV.

Q And is that mount one that just stays like a picture frame, or comes out and swivels?

A It would swivel left to right. It wouldn't come out, just pivot.

Q So you were definitely very familiar with this room, the camera system, all of this?

A Yes.

Q And everything else looked pretty much the same?

A Yeah.

Q Now, how about this, is this what you remember in the house?

A Yes, besides the paint on the wall, the green paint.

Q So this is something new (indicates)?

A Yes. And all the green paint over there, in addition.

Q Let me ask you something -- go back one. Do you remember if there were any cameras in the home?

A There was one.

Q And where were the cameras inside of the house?

A There was one that was inside the house, but it was looking at the back of the house in the backyard, but it was in C. M. 's room, which is now S. C. M. 's room -- or was.

Q Was there any other cameras near the stairs?

A No.

Q And you are saying this room, this green, was all recent after, apparently, the last time you had been there?

A Correct.

Q Whose room is this?

A N. M. 's.

Q So you know them well enough to know whose room is whose and had been all over the house?

A Correct.

Q Is this how the room was normally kept?

A Yes.

Q How about this room?

A That is C. M. 's room, which was S. C. M. 's room, but turned into C. M. 's room.

Q So you had known him and been friends long enough

to see movement, one kid moves to another room, the other kid --

A Correct.

Q And how about this one?

A That is definitely S. C. M. 's room. I can tell by the Legos, and I've slept in there multiple times.

Q So you have been in this room a bunch and spent the night in there?

A Correct.

Q Is this how normally the room is kept?

A Yeah.

Q Is this the bathroom upstairs?

A Yes, ma'am.

Q How about this area?

A This is the play area. Once you come up the steps, before you enter a bedroom, you have to go through there. N. M. 's bedroom was to the left, and C. M. and S. C. M. 's is behind me to the right if I was standing right here, and the bathroom is also behind me.

Q And this is kind of how the room was normally kept?

A Yes.

Q And, again, I'm going to ask you: This is the top of the stairwell, correct?

A Yes.
Q And this paint you had never noticed before?
A Never.
Q And you had been over there when he had the black truck?
A Correct.
Q And this, again, everything else looks like the way you always went over there?
A Yes.
Q If you don't mind, have a seat and I'll ask you a few more questions.
Now, when we looked through those pictures, did pretty much everything in the house always look like it had always been when you went over there?
A The -- not exactly to a "T," but, yes.
Q Was there any other furniture moved around that you noticed other than the monitor being removed off the wall?
A There was a bookshelf, slash, case that was moved. It's in the living loom -- it is moved from the living room to the bedroom.
Q From whose bedroom?
A Tammy's.
Q So one piece of furniture had been moved from her bedroom to the den?

A Correct.
Q And the monitor had been moved?
A Correct.
Q Was there any other furniture in the house that had been removed?
A No.
Q And you had been over there multiple times from elementary until 2013, which would have been several years?
A Correct.
Q And all through those years, the monitor had been in their room?
A Yes.
Q So it wasn't until -- had you ever been in the house?
A Yes.
Q Hold on.
A Sorry.
Q It's okay. Had you ever been in the house prior to Heather Elvis going missing and the monitor had not been there?
A Are you saying have I been there after the incident, or before?
Q Before the incident.
A Yes.

Q Had you -- so when you were there in December of 2013, before the young lady went missing, was the monitor on the wall?

A Yes.

Q Now, had you been with the Moorers in that -- in their truck riding around before?

A Yes.

Q And you were over there on a regular basis?

A I was probably over there four times a month. Sometimes I stayed there for a week; sometimes I stayed there for two days.

Q Okay. Now, when you were over there, had you ever seen Sidney and Tammy wash their truck?

A Never.

Q Now, there was a shotgun shell, did you see that in front of the camper?

A The red one?

Q Yeah.

A Correct. Yes.

Q During our -- in your knowledge in talking with S. C. M. and being over there, had they been hunting or to a turkey shoot or anything like that in December of 2013?

A No.

Q And there was also some concrete in front of the

camper; do you remember that?

A No.

MS. LIVESAY: If you don't mind, put that one picture up there in front of the camper.

Q (MS. LIVESAY) Before I put the picture up there, had you seen Sidney during the month of -- December of 2013 working around the house with concrete?

A Not that I can remember, no.

Q Now, when you knew them, how many vehicles did they normally have?

A One.

Q So they normally had just one truck?

A Correct.

Q Who normally drove the truck?

A Sidney.

Q And when you knew them, did Tammy ever work outside of the home?

A No.

Q And Sidney, did he work outside of the home?

A Yes.

Q And what would you know him to do for a living?

A Maintenance on restaurants. He'll do pretty much anything, handyman.

Q When you were around, he was the one always driving the truck?

A Correct.
Q In this picture, there is Quikrete concrete; can you see that, J. M. ?
A Yes, ma'am.
Q And did you ever see him messing with concrete at the house when you were over there in December of 2013?
A No.
Q When you saw Sidney in November and December of 2013, before then, did you know him to have any tattoos?
A No.
Q And did you notice whether or not he had gotten a tattoo during that time frame?
A Yes.
Q And tell this jury what you saw the tattoo said.
MR. BOUCHETTE: Objection, Your Honor, relevance.
THE COURT: I'll allow it. Overruled.
Q (MS. LIVESAY) What did the tattoo say?
A It said "Tammy" right there at your waist line like where you would wear a belt at.
Q J. M. , the last time you were at the Moorers' residence in December of 2013, did they have a surveillance camera system up and working?
A Yes.
MS. LIVESAY: No further questions, Your Honor.

THE COURT: You may cross-examine.

CROSS-EXAMINATION

BY MR. BOUCHETTE:

Q Mr. Melton, good morning.

A Good morning.

Q Just a few questions for you. How old did you say you were?

A 20 years old.

Q So you were 14 in the summer of 2013?

A Yes, sir.

Q Now, you and one of Mr. Moorer's sons were close friends, as I understand?

A Correct.

Q And I understand you and him went down to Florida, Disney World, with the Moorer family?

A Correct.

Q You also, I understand, went hunting with the Moorers?

A Correct.

Q There was testimony about whether or not they were hunting in December, but you knew the Moorers to go hunting on occasion, right?

A Yes.

Q So any presence of shotgun shells would not be anything unusual to you?
A Correct.
Q Because they probably had shotguns in the house?
A They did.
Q Because they were hunters, right?
A Exactly.
Q I want to talk about the -- you said you didn't notice any cameras in the staircase, correct?
A Uh-huh.
THE COURT: Is that a yes?
A Yes. Yes. Sorry.
Q (MR. BOUCHETTE) That's fine. Obviously, at this point, you are 14 years old. You say you noticed these cameras. Fair to say you probably didn't know what was recording or what type of system or what these cameras were?
A I knew that they were recording because I seen the monitor, but I didn't know for what reason they were recording.
Q Well, let me ask you this. They were facing the playground, right?
A Yes, sir.
Q And some other ones were facing different bedrooms?

A There was one camera in C. M. 's bedroom facing out the window looking over the backyard where the chickens and bunnies were.

Q Do you have any idea when they installed that system?

A It had to be around November before -- November/October, because during the time we went dove hunting, and I remember seeing the cameras and the monitor before we went dove hunting, and in December.

Q Do you know what type of system that was?

A No. All I saw was the TV monitor with four separate screens with military date and time.

Q Let met ask you this. Do you have knowledge whenever Ms. Elvis went missing, do you know of any threats or death threats that the Moorers received?

A Yes.

Q This was common knowledge?

A Yes.

Q He was receiving threats from different individuals throughout the community?

A Correct.

Q And it is at this point he upgraded the security system?

A Yes, sir.

Q Let me ask you this. Did you ever, anywhere in

December of 2013, did you ever see any indication or anything that after all this time that you saw was connected to Heather Elvis at the Moorer residence?

A No.

Q And when did you first speak to investigators in this case?

A I would like to say January, after 2013.

Q Okay. Did you give them a description as to what you saw regarding the cameras --

A Yes.

Q At that time? Okay.

And how many interviews have you had since then?

A With investigators, or with the solicitor, too?

Q Both.

A Probably six or seven. Several times.

Q Let me ask you this. The death threats and various things that came from the community, did that happen almost immediately after Ms. Elvis went missing?

A Correct.

Q You know when she went missing, correct?

A Yes. Yes. I'm sorry.

Q And because of your close relationship with his son, I imagine that was something you talked about quite frequently?

A Yes.

MR. BOUCHETTE: Court's indulgence, Your Honor.

Q (MR. BOUCHETTE) There was also a discussion about various items of concrete we saw in the photograph; do you remember that?

A Correct.

Q And Mr. Elvis -- excuse me, Mr. Moorer was a contractor, correct?

A Correct.

Q He worked with concrete as part of his job?

A Correct.

Q And you've never seen Heather Elvis at the Moorer residence?

A No.

Q You never saw Mr. Moorer with Ms. Elvis at any point in time?

A No.

Q In all of your time at the Moorer residence?

A Correct.

MR. BOUCHETTE: No further questions, Your Honor.

THE COURT: Thank you. Redirect?

MS. LIVESAY: No, sir, Your Honor.

THE COURT: You may step down.

Do you wish him to be excused, Solicitor?

MS. LIVESAY: Please.

THE COURT: Any objection, Mr. Bouchette?

MR. BOUCHETTE: No, Your Honor.

THE COURT: You are free to leave.

How long is your next witness?

MR. HELMS: Very short, Your Honor.

THE COURT: Let's go ahead and call them.

MR. HELMS: Yes, sir. At this time the State calls Laura Garlitz.

(LAURA GARLITZ, having been duly sworn, testified as follows:)

THE WITNESS: Laura Garlitz, L-A-U-R-A, G-A-R-L-I-T-Z.

DIRECT-EXAMINATION

BY MR. HELMS:

Q Good morning, Ms. Garlitz.

A Good morning.

Q Who is J. M. to you, the young man that just testified?

A He's my youngest son.

Q Do you know the defendant, Sidney Moorer?

A Yes.

Q How do you know Mr. Moorer?

A He is the father of my son's friend, S. C. M. .

Q And what about his wife; do you know her?

A Yeah. She's Sidney's wife, yeah.

Q Are you personally familiar with her?

1700

A Yes.
Q And how long have you known the Moorers, ma'am?
A Oh, my son was in elementary school. Maybe ten years. He would go to their house. I wouldn't go. I would drop him off, but I didn't hang out with Sidney and Tammy.
Q You didn't?
A No.
Q What about in 2013, did you hang out with them then?
A No. They stopped by the house.
Q They stopped by your house?
A Yes.
Q Do you remember when that was, ma'am?
A It was a Saturday night in December. I think it was Saturday before Heather went missing.
Q Tell this jury about that interaction, please.
A They texted my son saying they would come by and show their new truck. They came by and the kids were outside. Tammy came in my door; Sidney behind her. I could tell she was drinking. She was a little happy and bubbly and bouncing around. She came in and wanted to smoke pot.
Q And did you all smoke pot?
A Yes.

Q Both of you?
A Tammy and I; Sidney didn't.
Q Did she drink anything in your presence?
A No.
Q But -- how do you know she was drinking?
A I could tell the way she was acting. She was all giggly and walking around like she usually didn't. Sidney was right behind her like he was watching out for her.
Q Did she admit to you she was drinking that night?
A No.
Q But you witnessed her use marijuana?
A Yes.
Q Did she do anything else?
A No.
Q How long did they stay for?
A It was brief, maybe 10, 15 minutes, and then they just walked on back out.
Q Was that a common occurrence with you and Tammy?
A No.
Q Was that a one-time thing?
A Yes.
Q Had you ever done it before with her?
A No.
Q Had you ever done it since with her?

A No.

(A brief pause in the proceedings.)

Q (MR. HELMS) So this was your -- you are certain this was prior to the disappearance of Heather Elvis?

A Yes.

Q Had you hung out with her since the disappearance of Heather Elvis?

A No. I dropped J. M. off when they got out of jail the first time. He was there for the day. I think that is the last I saw of her.

Q So you haven't talked to her since?

A No.

Q The night she was drinking and smoking pot at your house, did she ever admit to you that she was trying to get pregnant?

A No.

MR. HELMS: Please answer any questions that the defense may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. GALMORE:

Q Ms. Garlitz, your testimony is that your son received a text about them wanting to come over and show the new truck?

A Yes.

Q And then once they got to the house, you and Tammy smoked marijuana together?
A Yes.
Q And Sidney did not participate?
A No.
Q Tammy didn't drink anything when she was with you, any alcohol?
A Not with me, no.
Q Were you drinking that night?
A Yes.
Q Because it was a weekend?
A I was in my house on a Saturday night, yes.
Q Nothing wrong with that.
A No.
Q There has been a lot of talk about this case on the Internet; have you made any comments on the Internet about this case?
A Awhile back I did, but I try to stay off and not say anything because of the trials.
Q So you were on the various Websites out there commenting on this case?
A At the beginning there, yeah.
Q Have you ever been to the Moorer home?
A Yes, to drop my son off. I walked into the foyer one time.

Q Have you ever seen Heather Elvis at the Moorer home?

A No.

MR. GALMORE: Court's indulgence.

THE COURT: Certainly.

(A brief pause in the proceedings.)

MR. GALMORE: Nothing further.

THE COURT: Redirect.

MR. HELMS: Nothing.

THE COURT: You wish her to be excused?

MR. HELMS: Please.

THE COURT: Any objection, Mr. Galmore?

MR. GALMORE: No, sir.

THE COURT: You are free to leave.

Okay, ladies and gentlemen, at this point we'll take a recess. Do not begin your deliberations, do not discuss the case. We'll be with you in about 15 minutes, thank you.

(The jury exits at 11:10 a.m., and the following is heard out of the presence of the jury.)

THE COURT: Anything from the State before we recess?

MR. HELMS: No, Your Honor.

THE COURT: Anything from the defendant?

MR. GALMORE: No, sir.

THE COURT: We'll be at ease for about 15 minutes.

(A recess was taken.)

THE COURT: State ready?

MR. HELMS: We are.

THE COURT: Defense ready?

MR. BOUCHETTE: Yes.

THE COURT: Let the record reflect Mr. Moorer is present. Let's bring in our jury, please. Thank you.

(The jury enters at 11:39 a.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you, ladies and gentlemen.

Solicitor, you may call your next witness.

MR. HELMS: We call Donald Demarino.

THE WITNESS: Donald Demarino, D-E-M-A-R-I-N-O.

(DONALD DEMARINO, having been duly sworn, testified as follows:)

DIRECT-EXAMINATION

BY MR. HELMS:

Q Hey, Donald, how you doing?

A Good.

Q Do you know who I am?

A Yes, sir.

Q How do you know me?

A Talking to you.

Q We talked before, that's right. Now, look, obviously you didn't come from a spring formal, so tell this jury where you are living right now.

A I don't have an address.

Q J. Reuben?

A J. Reuben Long.

Q That is the Horry County Detention Center?

A Yes, sir.

Q So they aren't guessing, go ahead and tell them why you are in there, Donald, what your charges are.

A I have a couple B&E autos, possession of a firearm and possession of a stolen vehicle.

Q But you ain't convicted of none of that stuff?

A No.

Q You missed court; is that right?

A Yeah.

Q And that is why we picked you up -- we didn't but someone did?

A Yes, sir.

Q Donald, do you know Sidney Moorer?

A Yes.

Q How do you know him?

A He's my family.

Q How are you related to him?

A Through marriage; my cousin, Tammy.

Q So Tammy is your cousin?
A Yes.
Q Okay. Did you used to hang out with him back in the day?
A Yeah, a little bit.
Q Good. Did you go over to their house?
A Yeah.
Q In 2013?
A Yeah.
Q 2014?
A Yeah.
Q Do you remember the last time you were over there?
A Yes, sir.
Q About but when was that? And you don't have to be exact, I know it is a long time ago?
A 2014, 2015, around there.
Q That is fair enough. What were you doing over there?
A I was there for a cookout.
Q Okay. Was it daytime or nighttime?
A Daytime, going on nighttime.
Q Fair enough. Tell me a little bit about what happened there. Did you talk to Tammy?
A A little bit, yeah.

Q Did you talk to Sidney?
A A little bit, yeah.
Q And this was obviously after Heather Elvis went missing?
A Yes.
Q Did you know about that whole disappearance?
A Yes.
Q Do you remember what you and Sidney talked about, kind of?
A Sort of, yeah.
Q Did he show you anything?
A Yeah.
Q And how did that conversation start? What was that about? Was it about the weather?
A No.
Q What was it about?
A Heather.
Q Do you remember what he said?
A Not word for word, no.
Q In vague terms.
A Basically, that he showed me a picture on a phone.
Q He showed you his phone?
A A phone. I don't know if it was his phone.
Q But he had it in his possession?

A Yes, sir.
Q And who was -- do you know who that picture was of?
A Pretty sure, yeah.
Q Tell this jury who the picture was of.
A Heather Elvis.
Q Had you ever -- you've seen pictures of her since?
A Yes.
Q So has that confirmed it in your mind that the picture he showed you was a picture of her?
A Yes.
Q Donald, I want you to answer me this question: Did that picture upset you?
A Yeah.
Q Would it be fair to say -- and you can correct me if I'm wrong -- that life kind of has taken a downward spiral since you saw that photograph?
A Definitely.
Q Things are not as good now for you as they were back then?
A Definitely.
Q Donald, I want you to answer me this question: After seeing that picture of Heather -- did he tell you when that picture was taken?

A No.
Q In that picture, did Heather look like she was under her own free will?
A No.
Q Let me ask you this. After seeing that picture of Heather back in 2014, did you expect this family to ever hear from her again?
A No.
MR. HELMS: Answer any questions that the defense may have.
THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. GALMORE:
Q Mr. Demarino, what charges are you at the detention center for now?
A Couple counts of B&E autos, possession of stolen firearm, possession of a stolen vehicle, credit card fraud.
Q So B&E auto, possession of a stolen firearm, possession of a stolen vehicle, and B&E auto -- did I get -- oh, credit card fraud. Okay.
What about your prior record, what have you been convicted of in the past, sir?
A I got a burglary charge and a couple drug charges.

Q Burglary charge and drug charges? Got a problem with drugs, Mr. Demarino?
A Yeah.
Q Addiction issue?
A Yeah.
Q What drug is it? Heroin?
A Yes, sir.
Q How long have you been dealing with that addiction, sir?
A Probably about six years.
Q Solicitor's Office given you any help for that?
A No.
Q Let me be clear about this. Does your heroin addiction have anything to do with Heather Elvis' case?
A No.
Q Because the Solicitor tried to suggest that maybe you had a downward spiral after you looked at this picture.
A Okay.
Q You were kind of dealing with drugs before that?
A A little bit. Not...
Q Mr. Demarino, who was at the house other than you and Sidney at this time?
A A lot of people. A lot of family.
Q How many people? Give us a guess. More than

ten? More than 20?

A Maybe ten people, I don't....

Q So about ten people at the house. And you said that Mr. Moorer showed you a picture on a phone?

A Yeah.

THE COURT: Is that a yes?

A Yes.

Q (MR. GALMORE) Did he show this picture to anyone else?

A I don't know. I don't think so.

Q So while you were standing there looking at the picture, was there anyone else standing there with you?

A No.

Q So to the best of your knowledge, no one else ever has seen this picture?

A No.

Q Anywhere?

A I have no idea.

Q Now, when you and Sidney are standing there looking at this picture, did you happen to take a picture of the picture?

A No.

Q Have you seen this picture since?

A No.

Q Has the Solicitor's Office brought you a picture

and say, hey, is this the picture you saw?
A No.
Q So no one else saw the picture?
A I don't -- I guess not.
Q To the best of your knowledge, no one saw it?
A Yeah.
Q And you haven't seen that picture like today, have you?
A No.
Q How many times have you talked to the solicitors about this case?
A A handful of times, a couple.
Q Five maybe?
A Yeah.
Q And I know that is a guess, estimate, but in those five times, have they ever given you a picture and asked if that is the picture you are referring to?
A No.
Q Do you know what device this picture came off of?
A I don't.
Q Was it on a phone?
A Yeah.
Q Do you know whose phone this was?
A No.
Q Do you know if it was Sidney's phone?

A I take it.
Q Your --
A I'm taking it was, yeah.
Q You are assuming it was Sidney's phone?
A Yeah.
Q So if it was Sidney's phone -- well, you can't answer that.
This was a conversation that went with this picture; did anyone overhear this conversation?
A No.
Q So just you and Sidney talking?
A Yeah.
Q He just brought you aside and said let me talk to you?
A Yes.
Q And when did this take place again?
A 2014, '15, I believe. After they were released.
Q Okay. Is that a tattoo on your chest?
A Yeah.
Q What is that a tattoo of?
A Two guns and roses.
Q As in the band, Guns N'Roses?
A No.
Q Just two guns?
A Two guns and roses.

Q Why would you have a tattoo of two guns on your chest?
A Why not?
Q When you saw this picture back in 2014 or 2015, whenever it was, did you tell the police?
A Soon after, yeah.
Q Soon after?
A Yeah, they came to visit me while I was in jail.
Q Did you tell the family members?
A No.
Q Did you tell any inmates at the jail?
A I talked to an inmate about it, yeah.
Q So you told inmates what you saw?
A I told one inmate what I saw.
Q One inmate. Did you tell that inmate that you had the picture?
A No.
Q Because you didn't have a picture?
A No.
Q Did you take Mr. Moorer's phone or ask if you could hold it?
A No.
Q Did you ask him to send you a copy of that picture?
A No.

Q So the only thing we have to go on today is your word that you saw a picture in 2014 or 2015?

A Yep.

Q Now, you've been in jail before? You've been in J. Reuben Long before, right?

A Yes.

Q It's not your first rodeo?

A No.

Q When you are at the detention center, do they allow you to make phone calls?

A Yeah.

Q And in order to make a phone call, you have to make it collect?

A Yeah.

Q And they give you a pin number to go with the calls?

A No.

Q Oh, you don't have a pin number at the jail?

A I got like an HC number, like my inmate number, but no -- no pin number.

Q So you don't have a pin number to make telephone calls?

A No.

Q Do you know if the phone calls at the jail are recorded?

A Yeah, they're recorded.
Q Do you remember making a phone call to your mother from the jail in which you said you made the story up?
A Yes, I do.
Q So you told your mother you made it up?
A Yeah.
MR. GALMORE: No further questions.
THE COURT: Redirect.

REDIRECT-EXAMINATION

BY MR. HELMS:
Q Why did you tell your mother you made the story up?
A Because I've been in and out of trouble and I wasn't trying to put anything else on my mom.
Q Did you make the story up?
A No.
Q As a matter of fact, how many times have you talked to me, Ms. Livesay or an investigator over the years, ballpark?
A A good bit.
Q Have you ever told any version of events other than what you are saying here today?
A Never.
Q Have you ever lied to law enforcement about what

you saw on that telephone?

A No.

Q Mr. Galmore made a big deal about the charges you have now and are in J. Reuben Long for right now; have I ever talked to you about those charges?

A No.

Q As a matter of fact, what do I tell you about those?

A That we cannot talk about it.

Q So have I promised you anything for being here today to tell this?

A No.

Q How about threatening you, any time you and I have been alone, has anyone from my office or law enforcement threatened and said if you don't testify, something bad is going to happen, you are going to get the book thrown at you, or anything like that?

A No. Never.

Q Have you ever had any beef with Tammy or Sidney, Donald?

A No.

Q Were you all on the outs when you came forward with this story?

A No.

Q Why did you come forward with this story, Donald?

A Well, I had to get it off of me.
Q That's fair. Was it weighing on you?
A Yeah.
Q Do you expect to get any help from me for your charges for testifying here today?
A No.
Q Do you have any reason, Donald, to lie to this jury today?
A None.
Q Do you have any beef with Sidney Moorer?
A No.
Q Why are you testifying right now? If I haven't promised you anything, Donald, and haven't threatened you in any way -- did I make you come out here?
A No.
Q Why are you here?
A Because it's the right thing.
Q Because it's the right thing. Thank you, Donald.

MR. HELMS: Thank you very much.

THE COURT: Recross, Mr. Galmore.

RECROSS-EXAMINATION

BY MR. GALMORE:

Q Mr. Demarino, do you want help with your pending criminal charges?
A No.

Q You don't want any consideration from the Solicitor's Office?

A No.

Q Do you want help for your drug addiction?

A That would be great, but, no.

Q That would be great?

A Yeah. But, no.

Q Now, you told the solicitors and you told this jury you saw a picture?

A Uh-huh.

THE COURT: Is that a yes?

A Yes.

Q (MR. GALMORE) And you later told your mother that you made that story up?

A Yep.

MR. GALMORE: Thank you, sir.

THE COURT: All right. You may step down, sir. You may call your next witness.

MR. HELMS: At this time, the State calls Jessica Adams.

(JESSICA ADAMS, having been duly sworn, testified as follows:)

THE WITNESS: My name is Jessica Adams, A-D-A-M-S.

DIRECT-EXAMINATION

BY MR. HELMS:

Q Hi, Ms. Adams.

A Hi.

Q Who do you work for?

A I work for the State Law Enforcement Division, commonly referred to as SLED.

Q Who did you work for before them?

A Before then, I worked for the Second Judicial Circuit in Aiken, South Carolina.

Q How long have you worked for SLED?

A Five-and-a-half years.

Q What do you do for the South Carolina Law Enforcement Division?

A I'm a special agent assigned to the Fusion Center. We assist law enforcement with missing persons cases, fugitive investigations, things like that.

Q When you say assist law enforcement, what do you do specifically mean?

A Primarily my job has been as the missing persons information coordinator, also referred to as MPIC. So as the MPIC, I assist law enforcement with primarily analytical things, assisting them finding their missing persons through state-wide databases, national databases, things like that, for uses of Social Security numbers, driver's licenses, credit checks,

things like that, to see if they appeared somewhere else.

Q So, basically, and correct me if I'm wrong, when you assist in a missing persons case, you look for people's digital footprints?

A Exactly, yes, sir.

Q In doing that, you use all of those things, the Social Security numbers, credit checks, driver's license, anything I would use to put me on the radar?

A That's right, yes, sir.

Q So if I'm on the grid, you can find me?

A Certainly try really hard to do so, yes, sir.

Q Have you been successful using those devices' venues to find missing person?

A Yes, sir.

Q Do you know how many? You can ballpark it.

A I would say in five-and-a-half years, well over a hundred.

Q So that is a pretty effective method, then?

A It is, yes, sir.

Q So any time I use my Social Security card, or credit check, you have access to all of that?

A Yes, sir.

Q If you were looking for me, hypothetically, you would have access to all of that?

A That's right, yes, sir.
Q Have you had an opportunity to become involved in this case in the disappearance of Heather Elvis?
A Yes, sir.
Q And tell us a little bit about that.
A So I was contacted to see if I could locate any kind of new information, any new uses of Ms. Elvis' identifiers, so her name in combination with date of birth, Social Security number, to see if there was anything that she has used that information for, whether it was leasing an apartment, buying a vehicle, updating her driver's license, anything like that, driver's licenses in other states, and things such as that, even social media.
Q And when was that that you were asked to become involved in this case?
A In 2014.
Q And pursuant to that request, did you actually do a search for Heather Elvis?
A Absolutely. Yes, sir, I did.
Q When was the last time you did a search for Heather Elvis?
A Friday.
Q This Friday?
A That's right.

Q Tell the jury what you have found.

A There have been no new uses of any of her identifiers, name, date of birth, Social Security number in the United States.

Q So your search was not confined to the county of Horry or the state of South Carolina?

A No, sir.

Q If Heather had used any of that identifying information, anywhere in this country, would you have been able to find her?

A Yes, sir.

Q If she bought a car, would you have been able to find her?

A Yes, sir.

Q If she leased an apartment, would you be able to find her, say in San Francisco?

A Yes, sir.

Q You have had absolutely no indication that she's used anything since when?

A Since 2013.

MR. HELMS: Please answer any questions defense may have.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. BOUCHETTE:

Q Very briefly. Ms. Adams, good morning.

A Good morning.

Q Briefly, I think you are the first person from SLED we've heard from. SLED has a lot of resources at its disposal, correct?

A Yes, sir.

Q Probably more so than a local county investigative unit?

A Yes, sir.

Q You have forensic people, correct?

A That's right, yes, sir.

Q You have technology people?

A Yes, sir.

Q You have a whole staff up there in Columbia?

A Yes, sir.

Q A lot of resources can be brought from there?

A Yes, sir.

Q And was SLED brought into this investigation?

A I know that I was requested.

Q Were there any other SLED agents involved in this case?

A Possibly, yes, sir. The Fusion Center is sort of a separate entity. We're not even based out of headquarters, so my role was very defined.

Q But even in your capacity, you evaluated -- you said you had her bank records?

A I didn't have her bank records. What I do is I look for reports to the credit agencies, so I didn't have those, no, sir.

MR. BOUCHETTE: One moment, Your Honor -- no further questions.

THE COURT: Redirect.

MR. HELMS: Nothing. I ask her to be excused.

MR. BOUCHETTE: No objection.

THE COURT: Thank you. You are free to step down.

Call your next witness.

MR. HELMS: At this time, the State rests.

THE COURT: Ladies and gentlemen, there is matters of law to take up outside of your presence. We've reached our lunch hour. While we are out, do not begin deliberations. Do not discuss the case, and of course don't allow anybody to talk about it in your presence. I ask you to be back in your jury room about 1:30. We'll resume at that time.

(The jury exits at 12:02 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Any motions from the State at this point?

MR. HELMS: No, Your Honor.

THE COURT: I'll be happy to hear from you, Mr. Bouchette.

MR. BOUCHETTE: Thank you, Your Honor. Judge, at this time we do have several motions. This has been somewhat of an unusual case with a back story in all of the things we have going on being a circumstantial case, so I want to make sure that I touch on everything, so I ask the Court to bear with us.

THE COURT: Sure. Take your time.

MR. BOUCHETTE: The first motion we move for is we move for a mistrial on the basis that if you recall the testimony or the interview with Detective Martin, he came in -- allowed to come in over objection. It was in that interview there was a discussion about polygraph very briefly. I know we had a conversation where we chose not to request a curative instruction at that time --

THE COURT: Let me interrupt you. You also did not move for a mistrial.

MR. BOUCHETTE: I understand, Your Honor.

THE COURT: I'm asking, because I want the record to be clear, that that was based on our conversation on the side, and I don't think we put it all on the record at all. It was your -- I mentioned that to

you. I offered to give a curative instruction that the jury would disregard that, and even would explain why they should disregard it, but there was no contemporaneous motion for a mistrial; you agree with that?

MR. BOUCHETTE: I do agree with that.

THE COURT: Thank you. I just wanted the record to be clear on that.

MR. BOUCHETTE: We are. We're moving at this time for a mistrial on that basis. It came in. We did not request a curative instruction at that time due to the fact that we didn't want to draw more attention to it since it already came in, but obviously it is in there. It is prejudicial. It is very brief, but I feel we are compelled to make that motion at this time.

THE COURT: Motion for mistrial is denied because it is not timely made and I gave you an opportunity to correct it, and you chose not to, and that is your choice. Thank you. Motion is denied.

MR. BOUCHETTE: We also move, Your Honor, for a directed verdict. What we have here is a situation where -- obviously, I don't think it is in dispute that it is a circumstantial case that we're looking at, where the State is obligated to find that someone

has seized, confined, inveigled, decoyed, kidnapped, abduct or carried away any other person by any means, whatsoever. Your Honor, in order to do that, in order to satisfy any of those elements, you would have to be -- at least have some evidence in the record indicating at what point these two individuals crossed paths. Every witness -- which is why we come back to it consistently -- every witness has said nowhere in the evidence that the State has produced, shows Mr. Moorer in the same vicinity as Ms. Elvis during the night she goes missing. There is a lot of innuendos, a lot of implication, a lot of guesswork, but, ultimately, what it comes down to, after all the witnesses we've heard, and everything we've seen, we never see Mr. Moorer at any point get to Ms. Elvis' residence that night. There is never any evidence that she's at the Moorer residence, and there is no direct evidence that they have ever crossed paths at Peachtree Landing.

So as to the kidnapping charge, it is not the weight of the evidence, because there simply is no evidence on that point. Typical question is when, where and how? When did they come into contact? How were any of these things achieved? I submit to the Court that without showing at least some evidence as

to being in the same proximity, I don't see how we can allow it to go forward, because there is just not any evidence to support the charges at this point.

THE COURT: All right. Solicitor, you wish to respond?

MS. LIVESAY: Thank you, Your Honor. The kidnapping statute addresses, like Mr. Bouchette said, decoy and inveigle, or the other possibilities. The State would argue, for purposes of directed verdict, the payphone call was an act of decoy and inveigle. Clearly, the evidence was that he called from a payphone. After he called, she immediately starts moving around. His phone is then left dead, and the phone powers on at a later date.

The circumstantial evidence certainly would lead one to believe that he is decoying, inveigling, leading her away from the comfort of her home. We believe that is circumstantial evidence.

We also believe the fact there is a second phone call, she then leaves her apartment again, goes to Peachtree Landing. We have evidence that it was, indeed, the defendant's truck that goes to the landing, Ms. Elvis' phone then dies, then you see his truck leading back from the landing. We believe that is circumstantial evidence that shows Mr. Moorer --

not killed her, but certainly has led to the end of her being able to make phone calls, receive phone calls or have any contact with the outside world. We believe that is circumstantial evidence, and we believe that we have eliminated anybody but this defendant inveigled her that night at the payphone and then went down to the landing later on.

THE COURT: Do you wish to respond?

MR. BOUCHETTE: May I proceed with the motion on the conspiracy charge or --

THE COURT: Well, do you wish to respond to that? I'll be happy to rule on that.

MR. BOUCHETTE: Nothing further other than what we've said.

THE COURT: All right. There's that evidence. You also have what I consider to be substantial circumstantial -- all of that is circumstantial evidence. Probably the most compelling circumstantial evidence, to me, is you are talking about someone who has certainly been involved -- been involved with multiple boyfriends, and there is nothing wrong with that. She's not a novice, by any stretch of the imagination. She has had relationships, and she's not ashamed and she shouldn't be. But she's a person that went to a place -- and I don't know whether she had

ever been there before, but any adult or any person as savvy as she was would know that that's not a place you would customarily go. And, most importantly, you wouldn't methodically get out of your car, take your keys, take your cell phone and get in another vehicle unless you knew the person, and the only persons that could possibly fit the bill is established by the evidence of multiple persons in the truck and the timing of the truck. It's near their home. It goes in and out about the same time. There is about an hour between that and the telephone call with text messages, I think it was 4:48 or somewhere along in that point, where the parties -- at least the Moorers are at home, or somewhere, claiming to be.

But then you couple with that other evidence that shows -- the jury can reasonably conclude it shows evidence of guilt of doing something, and that is cleaning the truck. That is probably the most incredible evidence that I've heard, that a brand new truck, pressure wash it ten days after you get it? That doesn't make any sense. Why would you do that? Why would you spend an hour-and-a-half with rags cleaning out a truck, washing down and then burning the rags? That is another point that -- I just find a reasonable conclusion is, well, obviously it may

contain blood, DNA, anything.

All of those things juries can reasonably conclude and put those things together.

Now you're coupled with another thing that would have been most helpful to them, not that they have to prove anything, but it certainly would have been compelling evidence to show the vehicle in the driveway, the cameras would have had a record of all of that, but lo and behold, on the 21st that is taken down and we get a new system.

Now, I understand the testimony, and I've heard the testimony and was aware of that, about the threats, and certainly that is a logical explanation for changing that. But anybody that has been threatened about that, if I have some evidence -- to me, another deduction is if I have evidence that exonerates me, I'm surely not going to destroy it, if someone is threatening me. That is absolutely a hundred percent sure. We're not talking about a novice here on this side either, on the defendant's side.

So that is just a few of the circumstances that I think overwhelmingly -- not just substantially, but overwhelming -- points to the guilt of Mr. Moorer. So the motion for directed verdict is denied as to the

kidnapping.

Next.

MR. BOUCHETTE: Your Honor, we move for a directed verdict as to the conspiracy to commit kidnapping charge. Again, this conspiracy statute is a little bit different than the general conspiracy statute where it is conspiracy to do anything improper, and that allows the jury to, sort of, come to different conclusions. This is specifically a conspiracy to engage in a kidnapping. I would submit that on top of the circumstantial evidence we have on the underlying crime, we're now looking at what is the evidence in the record indicating a coordinated effort to conspire; if so, how were they communicating? There was nothing in the records between Mr. Moorer and, presumably, Mrs. Moorer. We have nothing in the record as to who was in the vehicle. Was it more than one person, or just one? We have nothing in the record indicating who all was involved in the phone call. We have no coordination between anyone and Mr. Moorer, or Mr. Moorer and anyone else to indicate that a conspiracy had occurred.

So, Your Honor ruled on the underlying crime, but still to evaluate a conspiracy, particularly a conspiracy to kidnap, I would submit there has to be

some evidence of a pre-planned strategy at some point, somewhere, to be able to get you there. I think at this point there is nothing in the record to substantiate the conspiracy charge.

THE COURT: Okay. I appreciate that. It just follows -- everything I just said, I repeat. But I would also add this: There is testimony in this record that at that point in time Mr. Moorer was not free to move without Mrs. Moorer being around him. Didn't have a phone. Couldn't do anything. Handcuffed to the bed. All of those things are there.

We have Ms. Moorer -- no question she's in the vehicle when they go to the Walmart. No question she's in the vehicle when they go to the phone. No question that she's in the vehicle when the card is removed, would have to have been. No question that the fact is Ms. Moorer is clearly shown on the video helping to clean out the vehicle, and I think that's sufficient to show conspiracy to kidnap. Thank you. Motion is denied.

MR. BOUCHETTE: One final motion.

THE COURT: Sure.

MR. BOUCHETTE: Judge, I've never had this come up as I was preparing yesterday evening, but I don't know what to do other than just to make the motion and

let Your Honor hear it.

As Your Honor is aware, the conspiracy indictment came in -- I believe it was -- in 2018, if I'm not mistaken. Mr. Moorer was, at that time, in SCDC custody. The best we can tell, going back and looking at it, he was never served with the conspiracy indictment.

THE COURT: Don't you raise that in the beginning?

MS. LIVESAY: Yes, sir, Your Honor.

THE COURT: I mean, don't you raise that in the beginning?

MR. BOUCHETTE: I don't know that we are necessarily precluded from raising it at this point.

THE COURT: I think you are if you go to trial on it; don't you think?

MR. BOUCHETTE: Well, at this point we're making the motion now.

THE COURT: Your motion is denied. Thank you, sir.

Anything else?

All right. We'll be at recess until 1:30. Thank you.

(A lunch recess was taken.)

THE COURT: Thank you. Please be seated.

Let the record reflect Mr. Moorer is present.

Before we bring in the jury, I have persons near and dear to my heart, my wife and daughter, watching this feed, and they were concerned that the rulings were made on the record and the public was hearing it. I said, well, that's precisely correct, they are supposed to, this is a public proceeding, but what I failed to state, as we all know who do this every day, and, Mr. Bouchette, just to clarify, there is no such thing as -- I don't think that I've ever heard of -- a directed verdict for the State, because the State has the burden of proof beyond a reasonable doubt. In considering and ruling on motions for directed verdict by the defendant, I'm required to consider the evidence in the light most favorable to the State, as you understand that. That is the basis upon which I made all of those statements. For the benefit of anyone else that is here on behalf of the defendant or defendant's family, that doesn't mean that I have concluded that the State has met its burden of proof, because obviously everything depends on what the jury believes, and if the jury believes the evidence, then my ruling is that there is sufficient evidence to support a verdict for the State. If the jury chooses to disbelieve it, there is sufficient evidence to

support a verdict for the defendant. So I want to clarify that for the benefit of the viewing audience and the public at large.

MR. BOUCHETTE: Was there ambiguity on my part?

THE COURT: No. No. Not on your part. Again, it just points out that sometimes we do things that -- because we do it all the time, the public viewing it don't understand that. They were concerned -- some statements my daughter received was, well, I concluded the truth. Well, I haven't concluded anything, because that is the jury's decision. All I decided, as a matter of law, is that there is sufficient evidence for the State to go forward after its case, so that is all that ruling was. That is just for the purpose of clarifying the record, because I didn't state -- I probably said it, but sometimes I don't -- considering the evidence in the light most favorable to the State, which we know, those of us who do this, that is what I'm required to do at this stage, but I wanted to make that clear.

As I understand, you have two witnesses. Do you think they'll go to 5 o'clock?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Why don't we have enough to go until 5 o'clock?

THE COURT: Thank you very much, ladies and gentlemen. We're ready to continue. I hope you had a good lunch.

You recall when we started this, I mentioned to you that the only party that had any burden was the State to bring these charges, and that the defendant had no burden, whatsoever, didn't have to prove anything, didn't have to say anything, didn't have to present any evidence. But as I told you, if he chooses to, he wouldn't have that opportunity until the State completed its case. Now we're at that point.

Mr. Bouchette, does Mr. Moorer wish to present any additional testimony for the jury's consideration?

MR. BOUCHETTE: Yes, Your Honor.

THE COURT: You may call your first witness.

MR. BOUCHETTE: Defense calls Bruce Koenig to the stand.

(BRUCE KOENIG, having been duly sworn, testified as follows:)

THE WITNESS: My name is Bruce Koenig, K-O-E-N-I-G.

DIRECT-EXAMINATION

BY MR. BOUCHETTE:

Q Mr. Koenig, good afternoon.

A Good afternoon.

Q Tell us, where are you currently employed?

A Employed as a private forensic examiner involved with audio, video and images, like from video or from a still camera.

Q Where are you employed?

A Where? I'm presently in Palm Harbor, Florida. The company originally started outside of Washington, DC.

Q What is your position with the company?

A I'm the founder of the company, but presently an associate. I gave my younger associate the company, and he has to do all of the invoices now and all of those kinds of things.

Q Tell me, how did you get into that line of work?

A I was hired by the FBI in 1970 under their science program, and I came in as a special agent. After being in Atlanta and Detroit as a field agent, I was promoted to headquarters in Washington DC where I was put into the engineering group involved with forensic analysis of audio and video.

Q At some point, were you the head of the forensic lab for audio and video for the FBI?

A Yes. I managed the entire group for about the last eight or nine years of my career. It is a very

large group, by far the biggest group of its type. When I was there, there was about 30 people in the group that ranged from -- usually had three or four Ph.Ds down to people that packaged the evidence to send it back, and everybody in between, examiners, engineers and all that were involved with research projects. The FBI -- I not only worked for the FBI, our forensic group did work for any and all law enforcement groups in the United States and for many foreign countries. So we were there supporting. The local police here could use us to do their work, so it was not just the FBI.

Q I imagine back when you got started, did you have to do both audio and video?

A When I first got back there, there was almost no video. I know we all live in a world with i-Phones now and everyone has a video camera basically with them, but back then, VHS was just starting to come about. There was hardly any consumer recordings being made. People used VHS to play movies at home. So we had very little video work coming in, even though we got a huge amount of cases, so virtually everybody in the staff did audio, and then we had a few people that did video at the beginning.

Q Okay. And over time, did the mix of audio and

video start to change?

A Right. We started getting a few more surveillance systems and business surveillance systems on VHS. Those were not usually very old, you know, black cartridges that you could put stuff in and record on. But it was probably not until the '90s, latter part of the '90s, before we started seeing many digital video, which is what we have now.

Q Give us an example of the type of an assignment that your team at the FBI would be tasked with and dealing with on a daily basis.

A Obviously, we got all kinds of things anyone can video record. Common things is we would have a recording of someone being shot. So we would have the audio and the video, so our concerns would be was there more than one shooter? Who actually fired the shot? How many shots were fired? These were the things we would do a daily basis. Back then, it was often stuff from, like, bank robberies and stuff that was video recorded.

Q Let's talk about maybe a couple more high-profile assignments. I understand you were involved in reviewing the video in the President Reagan attempted assassination back in 1982?

A That's correct. We had the footage from the news

media that were recording him at the site, and even though we now know that John Hinkley was the only one shooting, at that point we didn't know that. So we had to analyze, again, both the audio and video tracks to determine if there was a possible second shooter. How many times did he fire? Was he the one that fired? So these were, you know, standard kind of cases for us, except in this case it involved the President of the United States, so obviously it took on a little more serious nature, I guess.

Q Just a couple others. I understand you also were involved in viewing the video footage from the Branch Davidions Complex incident in Waco, Texas; is that right?

A Yes. The Branch Davidion Complex, one of the other agencies, not the FBI, tried to arrest the head of that organization and it ended up being a fire fight there. Ultimately, it was under siege. The FBI was brought in to actually run the system afterwards, and we had video using what we call "foreign infrared," systems and planes overhead. When the complex went up in flames, the question was who started the fire? You know, people accused the law enforcement people started the fire. We were able to show before law enforcement ever moved in at all that a fire started in multiple

places within the branch Davidion Complex showing that it had been started by the people there inside.

Q And I understand you were involved in the Duke lacrosse case?

A Yes, we were brought in on that. There was a number of videos. We had to figure out what was going on. There was a young lady that said bad things happened to her. During a certain period of time, we were able to show in the video that that did not happen. We were also able to pull off a time off of a wristwatch that was very hard to see, and that showed that the people being accused couldn't even be there; he was there at a different time.

So we did a number of different types of analysis, mostly video, but few audio, showing what really happened there on the site.

Q Now, prior to joining the FBI, tell us about your formal education, where did you go to college? What kind of degrees do you have?

A My undergraduate is from University of Maryland, which used to be ACC, not anymore. I had double majors of physics and mathematics. I then got a course through DeVry Institute of Technology, which is now called DeVry University, involved with television production and video production.

My master's degree is in forensic science from Georgia Washington University. I have taken additional graduate courses in my various fields at Massachusetts Institute of Technology, MIT, George Mason University, University of Colorado in Denver and University of Utah.

Q And any specialized courses specifically on imaging or video?

A Yes, I have to look at my list, but I didn't memorize the titles of all of these. This lists some of my courses that I've taken. Let me see. I took a course called Applications of Modern Image Processing Systems, presented by the International Society for Optical Engineering.

Q Let me ask you this. Since you left the FBI, are you still doing the same type of work in the private sector?

A I am.

Q Is your work strictly in the United States, or do you work in other countries as well?

A We work in other countries. In fact, I testified in August in Singapore. Last year, I testified in Belfast, Ireland. We do a lot of work out of the U.K., London and Northern Ireland specifically, but also in other countries.

Q How about any professional societies, are you in this line of work involved in any professional societies?

A Yes. I'm involved with the major societies of both audio and video.

Q What are those?

A I'm in International Association for Identification. I'm a distinguished member of that, plus a reviewer for their journal. I'm in the Institute of Electrical and Electronic Engineering, life member there. They are -- this is the society that all of the engineers, electrical and electronic engineers, are a member of. It's a very large society. They are much into the theory of a lot of the things I do. They don't tend to like very practical research papers, but they are the basis for a lot of the stuff we do.

Specifically, in video, I'm a member of the Society of Motion Picture and Television Engineers, which describes what they do. So the people that are putting all of this together for the networks and all of that are members of the society.

Q Have you published peer review articles in this particular field?

A I have. I have published over 40 articles,

total.

Q Have you ever testified in court regarding forensic video analysis?

A Yes, a number of times.

Q And have you been received as an expert in forensic video analysis?

A Yes.

Q How many times have you testified, generally?

A Total, over 400 times as an expert.

MR. BOUCHETTE: Your Honor, at this time we would move to have this witness certified as an expert in the field of forensic video analysis.

THE COURT: Very well. Do you care to examine him as to qualifications?

MS. LIVESAY: Just a couple of questions as to the qualifications.

VOIR DIRE EXAMINATION

BY MS. LIVESAY:

Q Mr. Koenig, I have a couple of questions. You told this jury that when you were in the FBI, you were the head of the audio/video section; do you remember that?

A Yes.

Q Now, tell them, were you the head of both, or just the audio section, and a guy named Nowell Harrell

was the head of the video?

A Okay. Good question. I managed the entire group, all of the audio/video. Harrell was my senior video guy.

Q So you are saying now that you were not the senior in audio?

A I was the senior audio guy.

Q And the other guy was the senior video guy?

A Yes, but I managed the entire group. Nowell Harrell worked for me.

Q But he did video, and you did audio?

A Again, we didn't have that much video, so he and Dale Lindon were the two that did most of the video, but they also did audio. I did video and was certified by the Bureau for Video, because I read all of Nowell Harrell's reports, so I had to read them technically.

Secondly, I did almost all of the gunshot work during my time there, so much of that was on video, so I had to interpret it. So, you know, everybody there probably did more audio during that time period than video, simply because of the caseload.

Q Let me ask you this. What year did you leave the FBI?

A I retired at the end of 1995.

Q I was trying to think back where I was and what I

was doing in 1995, and it's been a long time ago. I remember still being at home, of course, with my parents. I still remember having a VHS. Man, I loved that thing. Back in 1995, was the majority of the video, wasn't it still VHS? I don't remember digital back in 1995. I didn't even have a cell phone in 1995.

A It existed in the professional ranks, but not in the consumer ranks.

Q So I didn't have digital. I couldn't buy a surveillance system that had digital in 1995?

A That would probably be true, that's correct.

Q So back in 1995, the only thing available to me -- and I still remember going to the video store -- was just the old VHS tapes?

A Yes.

Q So, back then, consumers didn't have digital yet?

A That's exactly right. If they had it, they had what you had. They played movies. So no one was getting an exorbitant amount of video. We got some from banks, some from professional or news media. The news media was moving over to digital beta, which is what they still use today, in that time period.

So, yeah, the video system, when it went to digital, it became that audio and video are very close. Like there is an audio format that is, you

know, motion jpeg, which is a bunch of images that are jpeg. At a digital level, an audio and video file might look very much alike administratively. So all of this started changing in the late '90s. I retired the end of '95, but the Bureau brought me back for eight or nine more years as a contractor. So I was there at the start when we really started getting a lot of digital work.

Q In 1995, I couldn't go out and buy a surveillance system for my home?

A I don't want to swear there wasn't a system out there, but it would be fairly rare.

Q So it certainly wasn't what it is now, correct?

A That's absolutely right.

Q And digital didn't become big until after you left the FBI in 1995?

A Again, it was -- I came back as a contractor for eight or nine more years, so I was there until 2003 or '04. By then, we were starting to get digital in, yeah.

Q When you left the FBI in 1995, what were you doing then?

A I managed the group and still spent about 60 or 70 percent of my time doing casework.

Q But you weren't like a full-time employee after

1995?

A Oh, I was a contractor. They -- I was used 25 hours a week to 40 hours; depends on what was going on.

Q And so did you have your own company?

A Yes.

Q And is that the company you have now?

A I don't have it. Like I said, I gave it to my associate in 2014, but I still work at the company. It is just that I don't really like to do invoices and all, and he's younger than me, so he'll be around longer than me.

Q So, currently -- you started the company, but currently now someone else owns it and you just work under him?

A That's correct.

Q So this company was started in 1996, correct?

A Correct.

Q And then you sold it in 2014?

A I didn't sell it; gave it to him.

Q Gave it to him in 2014?

THE COURT: Solicitor, just confine it to his qualifications, please. You've gone much more than needed to on that.

MS. LIVESAY: I understand.

Q (MS. LIVESAY) Once digital came about, what, if

any, classes or anything did you do to become familiar with digital video?

A I was starting to list -- it's all on my CV, the number of courses.

Q And that is from 1996 until current?

A Yeah. My CV, all the digital stuff will be well after 2000, because the courses didn't come about until then.

Q Okay. Have you done video comparison?

A We do it all the time.

Q Have you done reverse projection?

A We don't do reverse projection. Only a handful of companies actually do that, and there is not that big of a demand, except law enforcement. So we use what is done by other people. Instead of us buying all of the equipment that we wouldn't use that often.

Q So are you familiar with Mr. Fredericks' report?

A I read it, yes.

Q And did you see the attached images?

A Yes.

Q And did you see where he performed reverse projection --

THE COURT: Solicitor, you have gone now into cross-examination. This doesn't deal with qualifications. Thank you. You will have an

opportunity to cross-examine fully about what he did.

MS. LIVESAY: Yes, sir, Your Honor. But I have an objection to his qualifications.

THE COURT: You don't think he's qualified?

MS. LIVESAY: Your Honor, he just testified that he doesn't do reverse projection.

THE COURT: That is fine. That is an issue for the jury. Thank you. He's qualified to render an opinion in forensic analysis -- thank you -- subject to your objection.

DIRECT-EXAMINATION (CONT.)

BY MR. BOUCHETTE:

Q Tell us what you are doing whenever you do a forensic analysis of video.

A It depends on what the client is interested in knowing. We probably do a large amount of, say, what kind of car is it, or truck, or is this an individual, can you describe further? Those are probably the areas we see a lot, which nowadays we see a lot of gunshot cases, so it really depends on what specifically they're interested in.

Q Let me ask it this way. Whenever you are dealing with comparing two images or two sets of images, where do you start in trying to do that analysis? What are the things you are looking for initially?

A I think the first thing you always look for is, Is the quality good enough? You know, we actually get videos in and they say we want you to give us a better picture of the person crossing that road, and we get the video and we don't see anyone crossing the road, and they say, well, we think he crossed it, but it is just hard to see. We go back and look at it and say, no, there is nothing on the video. So the quality can be that good.

Sometimes we get some fairly high quality. Some surveillance systems now use high definition cameras; most don't, but some do. So we look for the quality, and the quality is based on, you know, how good is the camera. How many pixels, and that's the little squares that make up the video, you know. It is all made up of a bunch of pixels, gray or back and white, gray scale. How far away are they from it? Is it during the day when you see it, or at night? In other words, we're looking for the quality. Plus, all video, especially consumer, is compressed. Compression always means you are throwing things away, usually fine detail is the first thing they throw away.

Q When you do that comparison, when you're looking at the two different images or sets of images, are you

trying to find characteristics or similarities that you can evaluate between the two?
A If that is what the client is interested in doing, the answer is yes. You want to say what is similar and dissimilar between these two images. Some things may be very much alike, and other things may be quite different. It just varies by the picture. Sometimes they are virtually identical.
Q So you are, essentially, looking for the different characteristics that are consistent from one image to another image?
A That's correct.
Q So, as a hypothetical, if someone had a picture from one of our days of court last week, and had a picture in court today, and they wanted to know whether or not the suit I'm wearing today is the same suit I wore last week, you could analyze certain characteristics; is that safe to say?
A That's correct.
Q Maybe you could determine about how long the length is of the suit?
A If the quality was good enough.
Q You could probably tell some characteristics about the lapel, right?
A Correct.

Q Or the number of buttons?

A We actually ask questions like that, you know. A particular shirt someone robbed a bank with, and then recovered a shirt at a person's house, do they match.

Q And that is different from saying that you can tell that that is the exact same suit; is that right?

A Yeah. Often in those cases, even when it is a good match, the word we use is "consistent." Yeah, there can be a thousand of those shirts out there, we're just saying this one is consistent with what we see in the other picture.

Q Even within a set of characteristics of a given object, are there things that affect your ability to be able to even make those preliminary determinations?

A Again, it is back to the quality part, you know. If I have a picture of you straight on right here, but the picture I'm comparing to you are turned, or the lighting is different, all of those things would have an effect on our ability to make a comparison.

Q But even with that example, even if you had good video, you had consistent images, you probably would not be able to say -- even utilizing the different comparison techniques -- this suit is the exact same suit from the prior image, to the exclusion of all others; I mean, you don't have the capability to do

that?

A I agree with that. The exception would be that you have a mustard stain up here, and part of it is ripped over here, you know, things that would make your suit unique, and then we might be able to say they matched.

Q Because, in essence, there is so many suits of the same color, same size that they are just not unique?

A That would be true, yes.

Q Is there example of some things that may be unique enough that you could make those types of conclusions?

A There are not a lot, to be honest, because -- let's say two have vehicles identical, they were both red, 2019 high-end Mustangs. We had good pictures of both. Well, we know there's a number of other ones out there. Maybe, you know, hundreds of thousands out there just like it. So you look for something unique; in other words, does it have a specific dent in it, or have they added some horrible decal and it's crooked on the side of the door on there. We have to find something that is truly unique about the vehicles to be able to say this is the only vehicle it can be. So it's very rare that that actually happens.

Q Are headlight spread patterns unique in that way?

A Not in the sense you could take a video picture -- because video is poor quality compared to, like, your camera or something that shoots a lot better picture than the video. It doesn't have enough quality, and these -- especially newer model cars -- if anyone has bought one, you know how much they charge you for these extra headlight systems. It is a fortune. So they are producing very high quality, so you don't get a lot of differential. It has to be a car we're looking for that one headlight was going up and one was going down or something, and even then we wouldn't say it had to be that car, but we would say it is consistent with the car.

Otherwise, unless there is a truly unique feature that can be portrayed on the video, it has to be really obvious, it can't be some subtle difference at all, then you can't say for sure two images match exactly.

Q During your time at the FBI, did you or anyone on your team use the headlight spread patterns to identify a specific vehicle?

A No.

Q To your knowledge, are there any peer reviewed articles that indicate whether vehicle headlight spread

patterns are unique in that way?

A Not in the forensic world, no.

Q And give us an example as to peer review; why is that significant in the scientific community?

A Peer reviews are the backbone of science. I'll give you an example where it has changed in our world. For instance, I remember for decades they said if you are a male and over 40 or 50, you should be taking a small aspirin every day. About three years ago they came out with this long-term study that said unless you had a heart problem, it was actually bad to take an aspirin every day. It was not that doctors were bad; they were practitioners. They just said this is what we've seen, we'll try this, but the science showed they were wrong. Same thing here.

So peer reviewed articles are such that -- like I said, I have almost 50 of them -- you go through this process of writing up what you think you would like to present, okay. I use other authors, so it is not just me. Once we're happy with it, we send it off to people that we think are experts in the field that can review it carefully. Once they get done, we send it to a scientific journal. The journal uses their own reviewers that can make or break in whether you get it published. If that is approved, it is published in

the journal. After it is published in the journal, anyone in that organization and anyone else in the world can read that article, and if they have a problem with it, they can come into the journal and say, hey, we have problems with this. The editor will then say write something saying what you want to do, and do it. So if it is a legit position, that is then published, and then we get the chance as authors to apply to it, if we wish. So this process goes on forever.

In other words, the day I die, my papers don't go away. They are always there. They've been peer reviewed, looked at -- my field is not huge, but many hundreds of people that work in the field have looked at these articles, and they are the ones that decide, yes, this is legitimate.

Q Now, Mr. Koenig, have you had an opportunity to review Mr. Fredericks' report in this case?

A I did.

Q Now, let's start off with is there anything you agree with in the report?

A I believe he did an excellent job considering the quality of the video, of running what tests could be run and everything else. I think he's probably correct saying that it is an F-150 Ford truck of that style.

Q Do you believe that it can be scientifically proven that the truck on the video is, in fact, Sidney Moorer's truck to an exclusion of all other F-150 trucks on the road?

A No. There is nothing unique in the picture. The video is poor quality. Even if it was high quality, you would have a problem because, you know, here we don't even have the color of the vehicle. It is too dark to tell for sure exactly what color of the truck. So, therefore, unless you had some truly unique thing, and headlight spreads -- and we'll talk about this I think a little later -- but, you know, they are not truly unique, especially under video conditions. It is just not unique.

Q What about some other things that affect -- does distance from the camera, in other words, the object's distance from camera, does that affect your ability to do these comparisons?

A Yes. I mean, if you look at these pixels I talk about that make up the video, let's say it is a thousand across horizontally and 600 this way. If the car is right on top of you, you are using most of those pixels to see it. But the farther it goes away, you have less and less pixels taking the picture. In this case, the vehicle was not close to the camera, so you

are using only a small number of pixels to be able to see what is there. Where if you saw in the video stuff up close to the camera, it had much more details.

Q What about other factors such as dirt and debris on the exterior of the headlight casing, could that have an effect on the different spread patterns?

A Yes. I think we all have seen that when we have been out on a muddy road and we turn our headlights on and they are not working as well as we would like them to. It is not as bright. The pattern is not consistent anymore, but that is just a moveable thing. When the mud starts drying out, it's going to look different. Someone cleans them off, it will go back to something close to what it was before. And, you know, the headlights, how long they have been on can affect their pattern. I mean, all of these are variables built into the system.

Q Now, in his report, Mr. Fredericks' mentioned he tested 11 vehicles; in your opinion, is that enough to establish his conclusions in this case?

A Well, I think when you test certain things against it, you can say something about what you tested. So if you tested it and say this truck doesn't match, well, he can say that truck doesn't match. If he's got everything else consistent, and it is obvious

that they don't, but you can't draw from that and say, oh, okay, I tested this truck and, you know, there is 4 million out there so, therefore, it will pertain to the other 4 million; you can't do that.

Q All right. Give me just a moment, Your Honor.

THE COURT: Certainly. Take your time.

Q (MR. BOUCHETTE) I'll have you step down. Your Honor, do you mind?

THE COURT: No, just keep your voice elevated. Thank you.

Q (MR. BOUCHETTE) You reviewed Mr. Fredericks' report?

A Yes.

Q What I'm showing you, this was a section where he compared --

THE COURT: Mr. Bouchette, switch sides.

MR. BOUCHETTE: Okay. Can you see? Do we need an adjustment?

Q (MR. BOUCHETTE) This was the section of his report that questioned the known vehicle to the -- excuse me, the questioned vehicle to the known vehicle on Highway 814; do you remember viewing this?

A Yes, sir.

Q I want to go to -- this is -- this is -- this is Slide 5, and this is --

THE COURT: Can you see okay? Sorry.

Q (MR. BOUCHETTE) So this is the comparison where he gave the known vehicle on the 24th of February 2014 and compared it to the questioned vehicle on December 18th of 2013; do you see that?

A Yes, sir.

Q Now, just by looking at it, can you identify -- in other words, these two, according to Mr. Fredericks, should have matched?

A I didn't see these slides.

Q The known vehicle and the questioned vehicle are the ones that he ultimately concluded matched. What I'm looking at here is can you tell any difference, just at this early stage, between the questioned vehicle and the known vehicle?

A Yes. So, my understanding from his report, Mr. Fredericks went out of his way to duplicate the conditions, et cetera.

Q Yes, sir.

A I believe that is what he did.

Q So these should be -- these two headlight areas should be virtually to the same vehicle. They should be virtually identical. Keep in mind, there is no golden eyes, as we say in the field; in other words, I can't look at the video and see it any better than you

can see it. I can measure it and do other things, but.

So, if you look at this, you are seeing differences here. This is, first off, brighter. And even the detail, look up here, you see this kind of detail here, and that detail kind of goes here. You know, you have an area coming down here. So, in other words, visually, they don't match.

So you can measure this by looking at each pixel separately and it matches up. There are programs that allow you to pick two and overlay them and match them as much as possible and give you a number. But visually, like I said, since it is exactly the same conditions, and I believe Mr. Fredericks absolutely did that, he's very studious in doing things like that, these should look absolutely identical if they are the same.

Now, I'm back to the thing saying I don't believe you can do that, so my opinion is that you can't make a decision. But if you are going to make a decision on this, they don't match.

Q Go to -- that was Slide No. 5. How about Slide No. 6, can you tell a difference in that slide between the two images?

A Yes. I mean, there are a little bit of similarities. This looks a little different, but it is

kind of shady here. You can see the light goes further back here, the lighted areas. Here, it really doesn't. It fades off. Again, same conditions, should look identical, should be something you look at and say, oh, yeah, it looks exactly right.

Q This is now Slide 7; no difference there?

A Again, you are back to -- you are even seeing some spacing here between the lights up here, absolutely doesn't exist here at all. This area, if you look up closely here, falls off quicker than this area in the light, and they don't match.

Q One more. Look at this. This is Slide 8, can you make out any distinguishing features in that slide?

A This one is quite a bit off. You know, like you see almost in waves here of stuff, and back here, and this goes out -- some of this is similar, but you start to see differences out here, and this is here. You are under conditions that are absolutely identical. So even if it is the same vehicle, it is obviously the spread light -- headlight spread is not consistent. It's changed that much in this time period, and it could very well be just a different vehicle.

Q And, again, we're saying that you wouldn't be able to tell anyway, but based on the comparison of these two tests, that it doesn't appear to match just

based on a visual?

A Visually, they don't match, no.

MS. LIVESAY: Can we identify this slide for the record?

MR. BOUCHETTE: Slide 8.

You can grab a seat, Mr. Koenig.

Q Bottom line, can you see within any degree of scientific certainty that the truck in the video from the highway is, in fact, Mr. Moorer's truck to the exclusion of all others?

A No. I don't believe anyone could ever say that.

Q Would there be -- in your expert opinion, is there any scientific basis to form an opinion like that?

A No. In fact, as I saw there, we're seeing more differences than similarities.

MR. BOUCHETTE: Just a moment.

THE COURT: Certainly.

(A brief pause in the proceedings.)

MR. BOUCHETTE: No further questions of this witness.

THE COURT: You may cross-examine.

MS. LIVESAY: Yes, sir. Do you mind if I call you by your first name?

THE WITNESS: It's okay with me, yeah.

CROSS-EXAMINATION

BY MS. LIVESAY:

Q Now, I'm not a forensic video expert by any means, I'm only going on what I can see with my two eyes.

A I understand.

Q So tell this jury here, in this frame, which is the recreation, the headlights are already in the picture, correct?

A Yes.

Q And, in this frame, the headlights are not in the picture?

A Yeah. I didn't include that in my comments.

Q But are the headlights in this picture here?

A It is not in the picture, so I do not know the answer to that.

Q So is it possible that the recreation, at this point in time, and the questioned vehicle are not yet moving at the same speed?

A I don't think it has to do with speed; it is positioning of where it is.

Q Positions, good. I'm glad you brought that up. So the position of this truck, the headlights are already in the frame, correct?

A Correct.

Q And the position of this truck, the headlights are not in the frame, correct?

A Yeah. And I understood that when I did it, so I did not try to say that that was different.

Q Okay. But you would agree if my vehicle is several feet in front of your vehicle, the headlights are going to look different, correct? They are not lined up?

A Well, I would -- from the position of what your witness said that he lined them up perfectly.

Q Then line them up. You want to line them up?

MS. LIVESAY: Are you okay with me using this, Mr. Bouchette? And I'm going to hit "down" to go through the next slide; is that okay?

Q Okay. Now, would you agree it appears that they are lined up? It is not like one is off the screen, and one is on the screen?

A Yeah, I agree with you completely.

Q So you would agree before, when you were looking at those headlights, clearly one truck was further back than the other one; they were not in the same position?

A Yes, I understand.

Q Okay. But now that they are in the same position, would you agree that this comparison is correct, these items are consistent with what

Mr. Fredericks pointed out with the red line?

A Again, they have to be perfectly consistent to be able to match it up. So, you know, this area right here is different. This area right here is different. This line is not always consistent across here. This area doesn't match very well at all. This area has dropped out the light more than this one does. This one has some jagged thing through here; this one does not. This has this line that goes over here; that doesn't even exist here.

Q Okay. Step back, Mr. Koenig. But you would agree that the items that Mr. Fredericks pointed out are certainly consistent?

A You are talking about the very beginning?

Q With the red line.

A But even there you can see this line goes out farther. This area right here is not as pronounced at all there.

So, in other words, you expect a virtually identical match. Look up here, this is not as long as this area (indicates).

THE COURT: You all need to remember the jury needs to see what you are pointing to.

MS. LIVESAY: I understand, Judge. Thank you.

Q (MS. LIVESAY) What Mr. Fredericks pointed out

here, would you agree these two are consistent?
A This is still -- this area right here is longer than this area. And, again, if we're looking, it should be a perfect match, and it is not.
Q Would you agree here that Mr. Fredericks pointed out that this is consistent with -- the questioned and the known vehicle are consistent?
A Well, this area has a drop out right here; this area does not. This has kind of an overlay area that continues to the end; this one does. So they are somewhat aligning, but they don't match perfectly at all.
Q So you are saying right now, with all of these, that this is not -- the questioned vehicle is not consistent to the known vehicle?
A I'm saying that if you are saying you did exactly the same thing and you are saying absolutely it is this vehicle based on this information, to me, it is probably more dissimilarities than similarities. I would guess you could take any vehicles that would have headlights, same vehicle, align them the same way and they would have a lot of similarities. You would expect similarities.
Q So now you're saying it is not a Ford 150?
A No. No. I think from what the work he did, and

everything else -- and everything else, I think it probably is a Ford F-150.

Q Would you agree it is dark in color?

A Part of the problem -- the answer is I don't think it is white or a light color. But sometimes at night, because you don't have any light on it, medium range colors of cars can appear darker than they are, and sometimes lighter. So you can't make an absolute decision.

Q But it is not white or silver?

A Yes, I believe it is not a real light color. Yes.

Q Okay. And you would agree it is a Ford 150?

A I would agree that based on what he did, it probably is a Ford F-150.

Q And you agree it is a four-door truck?

A Yes.

Q And you would agree it had a toolbox?

A I would say the fact that -- it could be. Just because something lights on the back there, in that area, it definitely could have a toolbox, and I'm not arguing it couldn't be a toolbox, but it potentially could be something else.

Q But you agree there is something silver that reflects that would be in the back of the truck where

is the place where the toolbox is?

A I would agree on all of the statements, except I can't take it is silver. It is something reflecting. You can have something dark that reflects sometimes and looks white in the picture.

Q Does this truck look white in the picture?

A Sure doesn't.

Q So you can -- so you are saying now -- you are telling this jury now you can have something dark that actually reflects light?

A Oh, yeah. Look at this surface here. This is a white surface. If I shine a light on it, it is going to show up and parts of it is white.

Q Do you see anything that showed up as white on this truck?

A No. Again, I'm not arguing it could be a toolbox, I'm just saying I can't tell you it is a toolbox.

Q Okay. And these, again, are all the comparisons Mr. Fredericks made?

A I understand that, but you are seeing differences in every one of those areas.

Q And how about here, do you see what Mr. Fredericks pointed out here?

A We are only talking about this area here.

Q Yep, just what he pointed to.

A Yeah. That area is relatively consistent, though you see much more detail up here, and you are not seeing -- there's none here. So, yeah, you are looking for the little details because you expect the big areas to kind of look alike truck to truck, so you are looking for the details. These details are definitely different right here.

Q So you are saying one of them is a Ford F-150?

A That is not what I'm saying at all. I think from his other work on here that this is probably consistent with a Ford F-150.

Q That had four doors?

A That had four doors.

Q And that was definitely not white or silver?

A I would agree with that statement, yes.

Q Okay. Okay. We've talked a lot about Mr. Fredericks' work, correct? Tell this jury, do you disagree with what he did to find the ultimate question as to whether or not the known truck was the questioned truck; do you have any issues with what he did?

A Your question is pretty general. Specifically, what are you talking about?

Q Do you question the work that he did, the comparing, the recreation, the reverse projection? Do

you take issue with any of the preparation he did to come up with his ultimate opinion?
A Sorry, I wasn't sure of what your question was exactly.
It looked like, to me, he was pretty methodical on that, so I did not repeat it. You know, I can't tell you that I went and did it and made sure. I would think that the procedures -- you know, it is really these indecisions that is more -- that I just can't agree with it all.
Q Let me ask you something. The cameras that he used to compare off Highway 814 and Mill Pond, there were two surveillance cameras that lent to this, did you actually look at those DVRs or raw data from those DVRs?
A I looked at what was received by the defense in the way of videos.
Q Okay. So you didn't actually look at the DVR?
A I did not, but it's digital so it should be an identical copy.
Q Let me ask you something. One video DVR was collected here on 814.
A Okay.
Q One was collected at Mill Pond.
MR. BOUCHETTE: Your Honor, I'm going to object.

I don't -- he said he doesn't --

THE COURT: It's cross-examination, I'll allow it. You have redirect. You may continue.

Q (MS. LIVESAY) Did you go to either one of those locations?

A No.

Q Did you go and examine the known truck in person?

A I didn't need to do any of those things, that is why I didn't request these.

Q So you didn't go to the location or view the video?

A No. I depended on his work that he did, that is what I was asked to do.

Q And you didn't actually see the known truck in person?

A No, I did not.

Q And you didn't actually examine the DVR that we got this information off of?

A I was told I was given an exact copy of what was on the DVR, so the answer is it should be an exact copy.

Q Did you put your hands on the DVR from 814 on Mill Pond?

A I did not.

Q Did you go back and perform any testing such as

reverse projection, which Mr. Fredericks did?
A Reverse projection matched where the truck was, but that wasn't the images. That was not the question for me. It was whether he could draw a conclusion that this is the only vehicle in the whole world that could possibly be there.
Q I think you misunderstood my question.
A Sorry.
Q Did you actually perform any comparison using reverse projection, which Mr. Fredericks did in his report?
A I didn't personally do it, but I used his.
Q But you didn't personally do it?
A That's correct.
Q You didn't personally make any comparisons at all?
A Yes, I looked at what he did.
Q Okay. Have a see, Mr. Koenig.
Now, you are saying that when Mr. Fredericks did the comparison and used the other trucks, you are saying all of that work was sufficient to say that it was a Ford 150, four-door truck, not white or silver?
A I believe that his analysis -- it's probable that this is that. Since I didn't specifically look and say are there other trucks that he should have tested that

he didn't, and things like that, but if he really did test all of the trucks, then I would say it seems to be consistent with an F-150.

Q And you just said if he really did test other trucks, did you review the report to confirm that he did test other trucks?

A I looked at his report, but I don't know every truck made in the world, so I don't know that there couldn't be another truck potentially. I'm not saying there is, but there potentially could be other trucks. I've even seen people take a standard cab truck and add a section in the middle to make it into a king cab truck. People have made trucks up like that, you know. So we can't say --

Q And now it could be some truck that somebody added to or created at home?

A Could have, yes. That is what I'm saying. That is why I can't say absolutely it has to be a Ford F-150 of that type, because it could have been a modified Ford F-150 or something. I don't know that.

Q It could be -- could it be a spaceship in the shape of a Ford F-150, too?

THE COURT: Solicitor, that is -- that is argumentive.

Q (MS. LIVESAY) Just so I'm clear, you didn't do

anything other than look over what Grant Fredericks did?

A Yes. I depended upon what he did at the site, and I think he seems to have done a good job on the preparation work.

MS. LIVESAY: No further questions.

THE COURT: Redirect.

MR. BOUCHETTE: Briefly.

REDIRECT-EXAMINATION

BY MR. BOUCHETTE:

Q Were you hired to do anything other than evaluate Mr. Frederick's report and provide your thoughts and opinion to myself and to the jury, if necessary?

A That's correct.

MR. BOUCHETTE: Your Honor, no further questions.

THE COURT: Recross, Solicitor.

(A brief pause in the proceedings.) `

MS. LIVESAY: Just one, Your Honor.

RECROSS-EXAMINATION

BY MS. LIVESAY:

Q Jarrett just asked you what you were hired to do, and it was just to review Grant Frederick's report, correct?

A That's correct.

Q And who hired you to do that?

A Originally?
Q Who brought you here today?
A A different group. I had a private attorney that hired me at the beginning, and then we were hired through a third party. We're actually hired through a third party. We were not hired by the Public Defender's Office. The Public Defender's Office is the third party's client. I know it is confusing. In other words, we had different clients.
Q Who originally hired you?
A I was hired...

(A brief pause in the proceedings.)

THE COURT: Hold on a second before you answer that. Approach.

(Whereupon, a bench conference was had.)

Q (MS. LIVESAY) Bruce, just briefly, who brought you here?
A Today?
Q Uh-huh.
A Who paid us to be here, or?

THE COURT: Who asked you to come, is the question.

A Mr. Bouchette.
Q (MS. LIVESAY) And, certainly, wasn't us, was it?
A No, ma'am.

MS. LIVESAY: Okay. No further questions.

THE COURT: Thank you. You may -- do you wish the witness to be excused?

MR. BOUCHETTE: I do, Your Honor.

THE COURT: Any objection?

MS. LIVESAY: No, sir, Judge.

THE COURT: Call your next witness.

MR. GALMORE: Defense would call Ashley Caison.

(ASHLEY CAISON, having been duly sworn, testified as follows:)

THE WITNESS: Ashley Caison, C-A-I-S-O-N.

DIRECT-EXAMINATION

BY MR. GALMORE:

Q Ms. Caison, tell the jury a little bit about yourself. How old are you? Where are you from, that kind of thing?

A I'm 35. I was born and raised here in Myrtle Beach.

Q What kind of work do you do?

A I'm a server for Brittain Resorts.

Q Ma'am, are you familiar with Sidney Moorer?

A Yes, he's my brother-in-law.

Q He's your brother-in-law, so that makes you Tammy Moorer's sister?

A Sister, yes.

Q So we've called you to the witness stand to give us some background information on this case. Did you have an opportunity to see Sidney Moorer on the early morning hours of December 18, 2013?

A Yes. I sent their children home around 3:15.

Q Tell us the circumstances. What you do mean you sent the children home around 3:15?

A I was watching them earlier that night, probably from -- I would say it was still light when they brought them over the day before, up until 3:15.

Q Do you routinely watch the children?

A Yes.

Q So you being asked to watch the kids that night was not something unusual or out of the ordinary?

A Not at all.

Q How do you know that you sent them home at 3:15?

A Well, I know for sure because of a text message I got at 3:10 saying she was home, and what that indicates to me is to get the children ready and send them across our yard, because she lives directly behind me.

Q Who did you receive this text message from at 3:10?

A My sister's phone.

Q That is Tammy's phone?

A Yes.
Q And you sent them across the yard, what do you mean by that?
A Their house is literally on the same acre of land as mine, so they literally walk across a little path of stones and then they are on their porch.
Q Is it unusual for Sidney to pick up the kids around 3:00 in the morning?
A No. They work late so a lot of times they come home at those hours. But they always wanted the kids home to do their homeschool.
Q Now, when you sent them home at approximately 3:15, did you interact with Sidney or Tammy Moorer?
A I did not speak with them other than seeing them on their porch. I saw both of them, as well as their truck in the driveway.
Q So at 3:15 you saw Sidney Moorer at his house?
A Standing at his front door, yes. They were opening the front door.
Q And you also saw Tammy Moorer at the house?
A Yes.
Q And you saw the truck?
A Yes.
Q Did you have any other interactions with them at that time at 3:15 in the morning?

A No. After they went inside, I went back in my house and finished what I was working on.

Q Which was what?

A I was going couponing that day at Bi-Lo. They were doing a triple coupon event, and it started at midnight. I wanted to go then. I even asked my sister if she would come home early and go with me, but they weren't able to come home.

Q You are talking about Tammy, you wanted her to go with you at midnight?

A Yeah. Well, any time she could get home. I wanted her to go with me, but when they got home, they went to bed, so.

Q For the period of time that you did see them around 3:15, did they appear to be acting out of the ordinary?

A No, they just went just like normal. They wouldn't normally come over there, the kids would just walk to them.

Q Did they appear to be dressed in a unique way or torn clothing, bloody clothing, anything like that?

A No.

Q Now, when was the next time you had interaction with Sidney and Tammy Moorer?

A The next -- well, later that morning, I woke up

probably -- thinking around 6:00, and I know I texted her around 7:00, because I had to get my -- she had my key card, which has all the little store -- key chain that I literally put all of the store coupon scannies -- I don't know what you call them.

Q Bonus cards, the little Kroger card?

A Yeah, like the little bonus cards. She used mine as well, so she had them in her possession, so I had to walk over to their house to get them.

Q And what time was that?

A Probably around 7:00.

Q When you walked to the house at 7:00 a.m., did you lay eyes on Sidney or Tammy Moorer?

A Sidney and Tammy were both in the bedroom, and C. M. was actually sleeping at the foot of their bed.

Q Did anything appear out of the ordinary when you saw them at 7:00 a.m.?

A No. She was watching TV.

Q Did the house seem to be disheveled in any unnatural way?

A No.

Q Did they appear to be nervous or breathing heavily, sweating profusely?

A No. She was in her gown in her bed watching TV.

Q Would it be fair to say that they appeared kind

of normal?
A Yeah. Sidney was dressed, I will say that.
Q But you --
A But he also was relaxing in the bedroom.
Q Did you have a chance to talk to them at that time?
A Yes.
Q So you talked to them around 7:00 a.m.?
A Yes.
Q And that was at the house?
A In their house, yes.
Q Do you recall if the truck was in the yard?
A Yes. My keychain was actually in the truck. She had to go get it out -- they had to unlock the truck and get it.
Q Okay. Did the truck appear to have anything that would be unusual?
A No.
Q Anything like blood or hair or any bloody clothing, anything like that in the vehicle that you could see?
A I didn't go in the truck, but, no, from where I can see, nothing looked abnormal.
Q Nothing stood out of the ordinary to you?
A Right.

Q Now, there's been some testimony about Sidney and Tammy washing the truck; what can you tell us about that?

A If it's the day I'm remembering in question, that was a day that I had -- it was really warm outside, and I bought Sidney a cleaning kit for Christmas, because I think it was around, I want to say, the 21st, 22nd, roughly. I'm not sure of the exact date, but it was a really warm day for December, and I really wanted to use this kit. I had him open his gift early, and we all washed our cars.

Q So how many cars were getting washed at that time?

A Three.

Q And who was doing the washing?

A I washed my Jeep, at the time, Jeep Grand Cherokee, and I believe Tammy and Sidney were working on the black F-150, and we had a silver Ford Focus at the time that belonged to my boyfriend, and he was working on that.

Q So there were several people cleaning several cars?

A Yes.

Q Was there anything that struck you as unusual or out of the ordinary in them cleaning that truck?

A Not really. I mean, I wasn't really paying attention to her cleaning her truck. I mean, I was cleaning my own. We were all sharing the supplies going back and forth, because we were using the same cleaners.

Q We heard testimony that there was a burn pile on the Moorer property; what can you tell the jury about that?

A We have several. They are still there -- well, there is two still there. At the time, I believe Sidney had two in the playground area, and one on the side of our house.

Q And these burn piles, were they standard, or was it like a new burn pile that was created that day?

A It was a daily used -- every day we used them. We hardly ever took anything off to trash, including cardboard, because it was easier to get rid of it at home.

Q Do you live in the unincorporated part of the county?

A We are allowed to have the fire in the yard, yes.

Q Because I think --

A Yeah, there is a lot of restrictions, but, I mean, unless there is a burn ban, that is the only reason why you wouldn't be allowed to.

Q Let me say it like this. Do you have weekly trash pick-up service?

A I'm sure it is offered, but we don't subscribe to that, no.

Q Would it be fair to say that a lot of people that live out in the county have burn piles in their yard?

A Yeah, especially where we are at. I smell a fire almost every day.

Q So was there anything unusual about the burn piles that Sidney Moorer had at the house?

A No. Unusual would be if they weren't going.

Q Because they used them all the time?

A All the time.

Q Death threats, we heard testimony about death threats. Can you give these jurors some information on that?

A It's a very, very big topic. Do you have something more particular I can speak on?

MS. LIVESAY: My question is where are we going with this, and why is it relevant?

THE COURT: I don't know where we are going. You object -- that is already -- testimony has been brought in about that concerning the videos with the security cameras, so I don't know where you are going with this. Be cautious with what you are doing.

Q (MR. GALMORE) Tell us about your telephone, did you have occasion to have any difficulties with your phone?

A Not my phone, personally. Someone cloned my phone number and pretended to be me and sent information to -- I'm not sure if she's a detective, her name was Carmen -- false information saying it was from me.

Q So did you send any information to a detective named Carmen?

A No.

Q And it's your testimony that someone cloned your phone and did that?

A That is what I was told by her. She arrested the person, and they are still currently charged with obstruction.

Q So someone was arrested for that?

A Yes.

MS. LIVESAY: Your Honor, I'm going to object because she's clearly getting into opening the door.

MR. GALMORE: Moving on, Your Honor.

THE COURT: Thank you.

Q (MR. GALMORE) I think you said that your house and the Moorer house shared the same acre of land?

A Yes.

Q Were you over at the Moorer house on a regular basis?

A Yes.

Q Did you observe cameras at the Moorer house?

A They installed, I think it was, a 12-camera set probably around the 20th or 21st due to the threats.

Q Okay. Yeah, we have testimony about that. Was there a camera system before that one was installed?

A Not one that recorded. It was like a nanny cam, but it only worked for six months when they got it in 2011.

Q How do you know that it didn't record?

A I was in the house all the time. I would have known if they were recording anything.

Q So it's your testimony that there was a camera system that did not record?

A Yes. Well, it wasn't even working in 2013 at all. It wasn't even showing video. I believe it stopped working six months into him bringing it home.

Q Were these cameras newly purchased cameras?

A No. They were used cameras that were brought home from Margaritaville.

Q Brought home by whom?

A Sidney did maintenance for them. I started

working for them in 2011, and I know that they had an off-site building they used to store all the retail merchandise in, and from what I understand, those are the cameras they used in that area, just to have -- just so people thought they were on camera. They didn't even record at Margaritaville.

Q So it is your testimony that the cameras that the Moorers had at the house were the same cameras that were formally used at Margaritaville?

A Yes, in their storage area.

Q And these cameras did not record?

A Yes.

Q Now we've had testimony about Sidney having a tattoo; what can you tell the jury about that?

A Sidney got the tattoo in January of 2012. It was a gift for his birthday, from what I was told. I was with him when he got it.

Q And this would have been, you said, 2012?

A Yes, January. It was right at his birthday.

Q So a year before Ms. Elvis' disappeared?

A Yeah.

Q So the tattoo was not obtained as a result of this investigation or anything like that?

A No. It definitely was January of 2012.

Q Okay. Now, how often would you say you were at

the Moorer residence?

A If not every day, I mean, it would have been every other day at least. Mostly every day, though. Because, I mean, if I was just hanging out, I would hang out with my sister or see the kids.

Q Did you ever see Heather Elvis at the Moorer residence?

A No.

Q Did you ever see Heather Elvis in the F-150 truck?

A No.

MR. GALMORE: Court's indulgence.

THE COURT: Certainly.

(A brief pause in the proceedings.)

MR. GALMORE: No further questions. Please answer any questions that the State has.

THE COURT: You may cross-examine.

MS. LIVESAY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. LIVESAY:

Q Now, Ms. Caison, you told this jury that you were so excited about that cleaning of the truck, that you got him a new gift; do you remember that?

A Yep.

Q For Christmas?

A Yes.
Q And let me ask you this. The surveillance footage, did you actually see it?
A I have not.
Q But you know that you cleaned his truck?
A I don't know exactly what I did. We cleaned three cars that day. I know I detailed mine.
Q And right before that, you were looking for bugs, right?
A Bugs?
Q Yeah, to see if the police left any -- I'm assuming -- devices. You were looking through the trees?
A No. That, I don't recall.
Q Okay. I can play this video and it can refresh your memory; do you want me to refresh your memory?
A Sure. I don't recall doing that.
Q Okay. I'll refresh your memory.

(State's Exhibit 200 marked.)

THE COURT: Are you introducing it? You have to have it introduced to play it.

MS. LIVESAY: No, sir, I'm just refreshing her memory.

THE COURT: You have to have something to -- you have to have it identified. She has to know it to

refresh her memory.

Q (MS. LIVESAY) You know you had surveillance?

A I know Sidney installed surveillance, yes.

Q And you know that you all -- whatever was going on at the house was on surveillance, correct?

A I would assume.

Q And cleaning the truck and anything around that time would have been on surveillance, correct?

A Yeah.

Q And you can certainly look at this first shot and tell me if that is Tammy's house?

A If I can see it, yeah.

MS. LIVESAY: Yeah. I'll let her look at it, Judge. Let me move it.

THE COURT: Any objection?

MR. GALMORE: No, sir.

THE COURT: All right.

Q (MS. LIVESAY) Do you recognize that?

A Yes. That's their fountain.

Q And that is what the video -- do you recognize these people here?

A Yes, that is Tammy and Sidney.

Q And how about that guy?

A That is Josh.

Q Who?

A Josh.
Q Who is he to you?
A My boyfriend.
Q Is that you in the black?
A Yep.
MS. LIVESAY: At this time, the State wishes to put 200 into evidence. I believe she's identified that, indeed, this is from surveillance.
THE COURT: Any objection?
MR. GALMORE: No, sir.
THE COURT: Without objection, it is admitted 200.
(State's Exhibit 200 admitted.)
MS. LIVESAY: We're going to fast forward so we're time efficient.
Q (MS. LIVESAY) I'll show you what appeared to me -- right before the truck washing, it looked like you and your sister were out looking through the bushes and the trees for something maybe the police left?
A Are you assuming that?
Q I'll let you look at that. You were there.
A Because I haven't looked for bugs. I didn't say I wasn't outside. I didn't do what you are saying I did, though.

Q Well, let's look at it.

(State's Exhibit 200 published to the jury.)

Q (MS. LIVESAY) Who is that looking through that plant?

A I think that is Tammy.

(Published to the jury.)

Q (MS. LIVESAY) What is that in her hand? A little mirror, looks like? You see the little mirror? Or that's what it looks like to me.

A Are you sure she's not pulling weeds?

MR. GALMORE: Objective, argumentive.

A It looks to me like she's pulling weeds out of her garden, which she did all the time.

Q (MS. LIVESAY) Keep looking. Keep looking.

(Published to the jury.)

Q (MS. LIVESAY) That's you, right?

A Uh-huh.

Q You have a camera on your shoulder?

A I do.

Q Is she pulling weeds now, you think?

A Not from a fountain. I'm not aware what she has in her hand or what she's doing.

Q Does it look like a mirror?

A I can't tell, to be honest. It is either too far away or the picture is not good enough.

Q How about now, can you tell what she has in her hand now?

A I just see something dark. I can't even tell what that is in her right hand right now.

Q That's you?

A Uh-huh.

Q Is that you, Ashley, out there with Tammy?

A Me standing on the sidewalk, yes.

Q Did you know this was right before the truck was washed; do you remember that? Did that refresh your memory?

A I remember washing my truck. I don't recall washing her truck, or I never touched whatever she was doing, so I'm not aware of what she's doing.

Q Clearly, you were out there with her?

A I'm with her a lot.

Q And you mean to tell me when she had a mirror looking under that fountain, you weren't like what in the hell are you doing?

A I mean, maybe at the time, but I don't even know what she has in her hand. You're assuming it is a mirror.

Q So nothing at all was odd about her looking through the trees and looking --

A Honestly, I wouldn't have thought that was odd.

We were being threatened all the time.

Q Well, this was on the 22nd.

A Uh-huh.

Q You had been threatened all the time by the 22nd?

A Yes.

Q Now, let me ask you --

A As a matter of fact, the reason why we washed our cars together is because all of the people that came down the road.

Q I'm glad you mentioned that, because we've been watching this video for awhile; have you seen one vehicle ride back and forth?

A I haven't been paying attention to the road, I've been looking at where you were asking me.

Q I've watched it many times, there wasn't. Did you see anyone else but you and her walking all up around here?

A No. They don't -- no one comes in that area. They wouldn't do that.

Q And why did you have a camera?

A Why did I have a camera?

Q Yeah.

A Because we took pictures of the people that came down the road.

Q Did you see anyone come down the road then?
A No, that is why I wasn't taking pictures, but that was only few minutes of our life.
Q And this was right before you all washed the truck, correct?
A What you are saying. I don't know. I can't tell you that exactly.
Q But you would -- I'll tell you what I'll do, this is at 12/23, 14:34.
MS. LIVESAY: I won't play the whole tape, Judge. I just want to pop it in and show the time frame.
THE COURT: That's fine.
Q (MS. LIVESAY) I'm going to pop this in for the time frame. 192.
THE COURT: 192, thank you.
Q (MS. LIVESAY) That is you and Tammy up there?
A I can't tell who is up there. I saw a red shirt.
MS. LIVESAY: Can you fast forward a bit so we can check that time and date?
(State's Exhibit 192 published to the jury.)
Q (MS. LIVESAY) Did you see your boyfriend on the camera flip the bird?
A Yep.
Q Who was that to?
A I believe they were testing the cameras.

Q Just flipping the bird at your own cameras?
A Yeah. They are aware that they are there. Goes to show you we know they were filming.
Q Now Tammy has a camera?
A I guess. It could have been a purse, I don't know.
Q Do you remember this?
A Bringing groceries in.
Q This is before everyone washed the truck?
A Am I in this? I don't recall this, but I mean.
Q That's you?
A Yeah. It looks like I just walked from my house.
Q Is that a shop vac in Sidney's hand?
A Maybe.
Q And the date on this is 12/23, 15:52, so shortly after you were all out there in the yard with whatever that is, with a mirror?
A Later on in the evening, it was in the 70s, and we decided to wash the cars.
Q So what you are telling this jury today is that you were all out there washing the car because you had given him a kit, not because you were worried about the police collecting evidence -- let me finish and then you can answer.
A Got you.

Q I don't want you to answer too quickly and answer the wrong question.

A Got you.

Q So what you want to tell this jury today is the reason they were washing the truck was because you had bought him some sort of Christmas present, not because you were out there looking for devices that had been planted in an effort to destroy or make sure the police weren't able to collect any information?

A That is definitely why I was washing my vehicle. Tammy, I gave it to her and told them, hey, if you guys want to wash yours, so be it. But me and Josh wanted to wash our cars, and selfishly we opened the present early.

Q Okay. So now you are saying you didn't really know anything about them washing the truck?

A I mean, they were right next to us washing the truck. I didn't know if they were going to wash their truck; they chose to, yes.

Q But I thought you said earlier the whole thing about him washing the truck is you bought him a Christmas present --

A I insinuated he should wash the truck so I could use the gift, and they did.

Q But it was, clearly, before the 25th,

Christmas?

A Yes. It would have been early, that is why I did it the way I did.

Q Now, you testified -- let me ask you this. Just out of curiosity, did you find anything?

A I wasn't looking for anything.

Q Did Tammy find anything? You are over there every day.

A Well, I don't recall her finding anything, no, but I don't even know what she was looking for, to be honest. I wasn't involved in that. I was outside, but I wasn't looking for anything.

Q It's okay. Did you know that the sheriff's office takes a mirror and goes up under all the chairs, and that is how they look for devices in this courtroom to make sure it is secured; did you know that?

A No, I've never been involved in that.

Q But she didn't find anything?

A I don't think that she was looking for anything, so I can't answer that question. If she did, she didn't tell me about it.

Q But you are over there every day?

A Usually, yeah.

Q And currently --

A I was standing right beside her, and I still

don't know what she was doing.

Q Okay. That's fine. Now, let me talk to you a little bit about the night or the early morning of 12/18. You told Mr. Galmore you sent those kids home at 3:15?

A Yes.

Q Now, you saw Tammy and Sidney?

A Yes, they were standing on their front porch.

Q Now, I want to be fair to you, and you and I actually talked before -- I'll call it "talk"?

A If you mean sitting here.

Q Yes.

A That's it, yeah.

Q And I'm going to be fair to you, so I'll refresh your memory that earlier when you talked to the police, you told them that the kids went home and you went back to sleep; do you remember that when the guy interviewed you back closer in time to 2013?

A The kids went home, I went back in my room, finished what I was doing and went to sleep around 4:00 a.m.

Q So you were not constantly -- let me show you this. Just to be fair, and I'll mark it.

(State's Exhibit 201 marked.)

Q I'm showing you now what I've marked as State's

201. You told the police: I mean, I guess -- I don't -- I didn't -- I was asleep -- when he was asking you, He could have left, right? And you are saying, Look, I don't know, I was asleep?

A Well, once I went back in my house, I didn't bother looking at them anymore. Like I said, I sent the kids at 3:15, and that was the last I saw them until 7 o'clock that morning.

Q So you don't know where they were at or what they were doing between the time frames of 3:15 and 7:00 a.m.?

A No, because I went back in my house and finished what I was doing, slept about an hour-and-a-half and then I went to the store later that evening -- or morning, and then they were home at 7:00 a.m. for sure, because I walked over there to get my keycard.

Q Now, I'm going to ask you another question. I think we cleared that up. The camera system, your mom is Polly, correct?

A That is not her legal name, but, yeah, she goes by Polly.

Q She actually had a monitor in her home, did she not, for that camera system?

A The one that they installed later?

Q Uh-huh.

A There was actually two systems. She had her own system.

Q So did she have one back on 12/18 of 2013?

A No.

Q But she had a monitor, didn't she?

A No.

Q She's never had a monitor in her house?

A No. Up until they went to Sam's and bought the DVRs, she's never had surveillance of any kind, not even a nanny cam on her home.

Q Let me ask you this. You already told this jury that you are over there every day; where are you living now?

A I live in the same house.

Q And who lives with you?

A My mom.

Q And who else?

A C. M. is currently living with us, and Josh.

Q And tell this jury who C. M. is.

A C. M. is Tammy's son, Tammy and Sidney's son.

Q So, currently, his son is living with you?

A Yes.

Q So you all are an extremely close family?

A Yeah. Of course we wouldn't just not give him a place to live; both of his parents are incarcerated.

Q Let me ask you this --
A He's 13.
Q -- has Tammy always lived right there behind you?
A Yes.
Q And when they got married, Sidney always lived there behind you?
A Yes. They built a house there.
Q So as long as you can remember, they were living on the same acre of land?
A Yes.
Q You always had a good relationship with Sidney?
A Pretty much, yeah.
Q And you all never had any falling out?
A I mean, nothing major. I'm not a big fan of him at the moment.
Q But you came here to help him out, did you?
A Yes, because, I mean, I can only say what I know.
Q That's fine.

MS. LIVESAY: One second, Your Honor.

THE COURT: Sure. Take your time.

(A brief pause in the proceedings.)

MS. LIVESAY: No further questions.

THE COURT: Redirect, Mr. Galmore.

REDIRECT-EXAMINATION

BY MR. GALMORE:

Q We'll skip all of that and let me just ask you a few questions. Do you know who suggested washing the cars that day?

A I did.

Q How was it that you came to suggest washing cars that day?

A I was selfishly taking advantage of the weather. I knew I had it under the tree, and I asked them to open it early.

Q Did Tammy come to you and say, Sis, we need to wash this truck?

A No. She actually kind of was, like, wow, when I pulled it out, because I don't know that she actually wanted to wash her truck.

Q Did Sidney come to you and say, quick, I need to wash this truck, pull it up here and you can wash yours, and we'll act like we're washing three cars together?

A No. I asked Tammy before I told Sidney about it, because I didn't know if I should spoil his surprise. I was like should I give him his gift early, and she's like, I guess, go ahead.

Q Okay. Now, you testified that you saw Tammy and Sidney at 3:15 on the early morning hours of November -- excuse me, December 18, 2013?

A Yes.
Q And at that time they did not appear to be acting unusual?
A No. Everything was normal.
Q And the next time you saw them was at 7:00 a.m., approximately four hours later, correct?
A Correct.
Q At that time, were they acting unusual?
A No.
MR. GALMORE: Thank you. No further questions.
THE COURT: Recross, Ms. Livesay.
MS. LIVESAY: Just one second, Judge.
(A brief pause in the proceedings.) `
MS. LIVESAY: No questions, Your Honor.
THE COURT: You may come down, thank you.
Ladies and gentlemen, at this point we'll take a recess. Do not begin your deliberations. We'll be with you in about 10, 15 minutes. Thank you.
(The jury exits at 3:34 p.m., and the following is heard out of the presence of the jury.)
THE COURT: Anything from the State before we recess?
MR. HELMS: No, Your Honor.
THE COURT: From the defendant?
MR. GALMORE: No, sir.

to testify?

A Yes, sir.

Q All right. And I'll accept that.

THE COURT: As I understand, there is a possibility of two more witnesses, one being a forensic expert and possibly Mr. Moorer?

MR. BOUCHETTE: That's correct. Possibility that --

THE COURT: I understand. I won't hold you to that.

MR. BOUCHETTE: Two, maybe three witnesses.

THE COURT: Solicitor, and I'm not holding you to this, do you anticipate any reply testimony?

MR. HELMS: Yes, and it will be the shortest witness we've called.

THE COURT: Okay. So my plan is to have probably lunch brought in for the jury, because I think we can probably get to argue and charging in the early afternoon, and let the jury start its decision-making process by Wednesday afternoon. Of course, that depends on how the witnesses unfold, but I'll plan to be back in Columbia by 10:30, and we'll have the jury return at 10:30, and we'll start the trial at that time.

MR. HELMS: We'll be ready.

THE COURT: Thank you very much. Let's bring the jury in.

(The jury enters at 3:44 p.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you very much, ladies and gentlemen. I appreciate your patience. We've had some discussion. At this point, we'll take a recess for this afternoon. I know it is a quarter to 4:00, and you are thinking why. From what we discussed, barring anything unforeseen, and it is always subject to change, I believe we can finish the evidentiary portion of this trial by lunchtime on Wednesday and have the last two phases early afternoon. You will probably receive this case to begin your deliberations by Wednesday afternoon. So we would have to come back anyway, so we'll recess at this point and let you go home. I'll ask that you be in the jury room by 10:30 on Wednesday, and we'll resume the trial at that time. 10:30. So you have an hour more, and give me an hour more to get from Columbia, but I'll be here by then. We'll resume the testimony and plan for lunch being brought in so you can eat your lunch and deliberate simultaneously, if it happens to fall in that time.

So thank you very much. Please remember, you are

still not at liberty to discuss this case with anyone. Do not watch any news accounts. Do not read anything about it, and don't conduct any independent research. Have a great day and I'll see you Wednesday.

(The jury exits at 3:46 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Anything from the State before we recess?

MR. HELMS: No, sir.

THE COURT: Anything from the defendant?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Thank you. We'll be at ease until 10:30 Wednesday.

(WHEREUPON, THE PROCEEDINGS OF SEPTEMBER 16, 2019 CONCLUDED. NO COURT WAS HELD ON SEPTEMBER 17, 2019 DUE TO A MANDATORY JUDGES CONFERENCE. THE FOLLOWING WAS HAD ON SEPTEMBER 18, 2019 OUT OF THE PRESENCE OF THE JURY.)

(Defendant's Exhibits 9 and 10 marked.)

THE COURT: Good morning. Does the State have any matters before we bring in the jury?

MS. LIVESAY: Yes, sir, we do.

THE COURT: Okay.

MS. LIVESAY: It is our understanding that the defense has sent or served a subpoena on Will Lynch.

(The jury enters at 10:47 a.m., and the following is heard in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen. I hope you had a good day yesterday and it was productive for you. I understand it interrupted the continuity of this, but I appreciate your patience with the Court in that respect.

As we have done, I need to ask if each of you will be able to solemnly swear or affirm that you have honored the Court's instruction throughout this day off, so to speak, and have not -- in addition to that general instruction -- have not specifically talked with anyone or allowed anyone to talk with you about it, or read any accounts or viewed any accounts of this, and if you can make that commitment, say "I do." Any member unable to make that commitment, please raise your hand.

Thank you again for your conscientious approach to this process, and I'll ask you to give your attention now to the next witness.

MR. GALMORE: Defense would call Detective Will Lynch.

(WILL LYNCH, having been duly sworn, testified as follows:)

THE WITNESS: Will Lynch, L-Y-N-C-H.

DIRECT-EXAMINATION

BY MR. GALMORE:

Q Detective Lynch, you testified previously in this case?

A I did.

Q And at that time you said you were a detective with the North Myrtle Beach Police Department?

A Yes, sir.

Q That hasn't changed in the last few days, has it?

A It has not.

Q And I think you previously testified that you were also assigned to the Drug Enforcement Unit?

A That is correct.

Q And you testified that you worked on this case, this investigation, also?

A Yes, I did.

Q What was your role in working on this case?

A To do cell phone extractions on a couple of cell phones.

Q And you testified previously about some of the cell phone extractions?

A I did.

Q Did you have an occasion to do a cell phone extraction on a phone belonging to a Jerry Stevens?

A I did.

Q Let me ask you about this phone. Did he voluntarily turn it over, or did the police have a search warrant?

A I'm not actually familiar with how the phone came into the police department's custody.

Q Not your department?

A Correct, not my department.

Q But just to be clear, you did an extraction on a phone belonging to Jerry Stevens?

A Yes.

Q When did you do this extraction, sir?

A I was given the information August of 2014, is what I was told.

Q And you did this extraction at the request of the Horry County Police Department?

A I would have, yes.

Q Did you get a report from Cellebrite based on this extraction?

A I would have generated a report through Cellebrite, that's correct.

Q Did you bring that report with you to court today?

A Typically, when I do an extraction for another agency, I don't generate a report for myself. I would have given that report through some type of media

device, a thumb drive or external hard drive, to the agency.

Q Yes, sir.

(A brief pause in the proceedings.)

MR. GALMORE: May I approach, Your Honor?

THE COURT: You may, sir.

Q (MR. GALMORE) Detective Lynch, let me hand you what has been marked for identification purposes only as Defense Exhibit No. 10 and ask you if that is the Cellebrite report that you generated as a result of downloading Jerry Stevens' phone?

A I have looked at this report briefly. When you generate a report for Cellebrite, there is basically a cover page or contents page and it will tell you -- give you some description of the cell phone, time, date that the phone was extracted, and it also says who extracted the cell phone. Now, I've briefly looked through this, and I don't see that cover page on here, but I was given information today that my name is on a report for Jerry Stevens. So I can't say if this is the same one, but I was given the information that I did do an extraction on Jerry Stevens' cell phone.

Q Would you refute that that is the cell phone extraction for Jerry Stevens?

A I cannot refute that.

Q Okay. Were you able to extract telephone call data off Mr. Stevens' phone?

A Yes.

Q Now, were you able to extract text message data off of Mr. Stevens' phone?

A Yes, that is correct.

Q Were you able to recover any deleted messages off of Mr. Stevens' phone?

A Yes.

Q So when we talk about messages, there are two types of messages, basically, ones that are on the phone, correct?

A Correct.

Q And the ones that have been deleted but recovered by Cellebrite software?

A Sure. Yes.

Q And you had both types of messages in this case?

A Yes. In this report, it does indicate there were some messages that were deleted.

Q Okay. Now, were you able to find that Mr. Stevens' phone was in contact with [redacted]8152, Ms. Elvis' phone?

A Yes, sir.

(A brief pause in the proceedings.)

Q (MR. GALMORE) Sir, let me hand you what has been

marked for identification purposes as Defense Exhibit 9, and I'll ask you is that a summary of certain pages from the Cellebrite download report, Defense Exhibit No. 10?

A Yes, it is.

Q That also would be the report that you downloaded from Jerry Stevens' phone?

A Yes, that is correct.

MR. GALMORE: Your Honor, I would move Defense Exhibits 9 and 10 into evidence.

THE COURT: Any objection, other than which we previously have argued?

MS. LIVESAY: As long as the Court finds that the proper foundation was laid.

THE COURT: He testified that he did it, so I'll admit them, 9 and 10.

(Defendant's Exhibits 9 and 10 admitted.)

Q (MR. GALMORE) Sir, just for brevity's sake, I'll take this one off your hands, but I'll ask you -- or direct your attention to Page 19912.

THE COURT: That is Defendant's 9?

MR. GALMORE: Yes, Your Honor, I apologize.

THE COURT: That's no problem, I just wanted to be sure.

A I'm there.

Q (MR. GALMORE) Did you find that there were texts between Jeremy Stevens' phone and Heather Elvis' phone on that exhibit?

A Yes.

Q Let's go with the first text. What is the first text between those two telephones? What is the date and time on that text?

A So, on this report, again, I discussed about having to convert time, and on this report it says 12/16/2013 at 4:37 a.m., but at that point in time you have to subtract five hours, so you would actually be going back to the 15th, around 11:37 p.m. on the 15th.

Q So they have been in contact as of December 15, 11:00 p.m.?

A Yes.

Q Now, I'll direct your attention to 19913 of the same exhibit, Line No. 17; is that a message between those two telephones, Ms. Elvis' phone and Mr. Stevens' phone?

A Yes, it is.

Q What is the date on that message?

A So the date on that message is December 16th. It shows 9:11 a.m. Again, subtract five hours, so it is 4:11 a.m. on the 16th of December.

Q Now, was that a phone message -- excuse me, a phone call or --

A It was a text message from [redacted]8152.

Q So this is an incoming message to Jerry Stevens' phone?

A Correct.

Q On December 16 at 4:00 a.m.?

A 4:11 a.m., yes, that's correct.

Q If you don't mind, could you publish that message to the jury and tell us what it says.

A The message says --

MS. LIVESAY: Your Honor, at this time the State just objects to hearsay.

THE COURT: It's coming from a record he produced, so overruled.

A The text message says: Boohoo. Go to sleep then, but I'm having you tomorrow.

Q (MR. GALMORE) And, sir, I would like to direct your attention back to Page 19912, Line 62. Do you see Line No. 62, sir?

A I do.

Q And is that a text message between Jeremy Stevens' phone and Heather Elvis' phone?

A It is.

Q What is the date on that message?

A Date on that message is -- shows 12/16/2013 at 4:53 a.m., so you would have to back it up to 12/15 at 11:53 p.m. So the message is actually from [redacted]8152, occurred at 11:53 p.m. on the 15th.

Q Is that a phone call or a text message?

A Text message.

Q Can you tell the jury the content of that?

A I can. The text message says: Well, tomorrow night I'm showing up at your front door naked, so get ready.

Q Are these the only two messages between those two phone numbers?

A No, sir.

Q Would it be fair to say that there are several messages between those two phone numbers?

A Yes.

Q As a result of this extraction, did you do any further investigation into Jeremy Stevens?

A I would not have.

Q Your job was to do the extraction and pass on the report?

A To the investigating agency, yes, that's correct.

MR. GALMORE: Hold on one second, Detective.

(A brief pause in the proceedings.)

Q (MR. GALMORE) Detective Lynch, when did you do

the cell phone extraction again, sir?
A I was advised that I did the extraction in August of 2014. I've heard two stories of actually when I did this extraction. I cannot honestly say when the extraction was done.
Q And when did Ms. Elvis disappear?
A Early morning hours of December 18th, 2013.
MR. GALMORE: Thank you. Answer any questions the State has for you.
THE COURT: You may cross-examine.
MS. LIVESAY: Yes, sir, Your Honor. A few questions.
THE COURT: Sure.
CROSS-EXAMINATION
BY MS. LIVESAY:
Q Mr. Lynch, if you don't mind, I'm going to ask you to step down with that report.
From that report, are you able to know what Jerry Stevens' phone number was that was communicating with Heather?
A Not from this report, no.
Q So there is no way to tell the phone number as to "to" and "from" that it was going?
A No. It has a "to" and "from," but the number that this person is communicating with, not the actual

phone it's coming from.

Q Okay. So there is no way for you to know from that report what Mr. Stevens' phone number is?

A Correct.

Q Does the report that you normally generate have that information?

A It would be on that cover page.

Q So is this not a complete copy of the report?

A No.

Q Okay. If I showed you a complete copy of the report, would you then be able to recognize what the phone number was?

A Sure. Yes.

Q And without the phone number, you can't really tell us if he had contact with her on the 17th and 18th from any kind of phone records, correct?

A Correct.

MS. LIVESAY: Your Honor, we will need just a minute to get Mr. Lynch the full report.

Q (MS. LIVESAY) What you are saying is what you have here is not the full report?

A Correct, it is just an excerpt.

(A brief pause in the proceedings.)

Q (MS. LIVESAY) Go ahead and have a seat, Mr. Lynch. She's going to work on getting you the

full report.

Now, from the portion of the report you are looking at now, were there any text messages between Heather Elvis and Jerry Stevens on 12/18/2013?

A The report I'm actually looking at, the last date on it actually is on -- it shows the 17th, but when you did the subtractions, it is only the late hours of the 16th, based on what they have given me.

Q So you don't have the 17th or the 18th?

A I don't.

Q We can get you that as well, Mr. Lynch.

So the date you have there stops on the 16th?

A It stops at 11:11 p.m. on the 16th.

Q But you would agree with me that certainly that is not the full report that you did?

A Correct. Yes.

Q And have you actually seen the full report you did?

A No.

Q Have you seen portions of the full report?

A I have.

Q And tell this jury who showed you that?

A Well, I saw portions of it from you.

Q Okay. And when I showed it to you, did I show you that front page to show you you were the examiner

and when it was -- when it was extracted?

A I believe you did.

Q But the copy you have in front of you doesn't have that information?

A That's correct.

Q Now, do you know whether or not the police ever spoke with Jerry Stevens?

A I don't know that.

Q And the only thing you did was just to dump his cell phone?

A That's correct.

Q And that was done sometime in 2014?

A Yes.

MS. LIVESAY: One second, Your Honor, I thought the full report was entered in.

THE COURT: He said it was only certain portions of it when he introduced it. He didn't say it was the full report.

(A brief pause in the proceedings.)

Q (MS. LIVESAY) I'll show you Defense Exhibit No. 10 --

MS. LIVESAY: Did this come in, Natalie?

COURT REPORTER: Yes.

MS. LIVESAY: Okay. Good.

Q (MS. LIVESAY) Did this include the 17th and

18th?

A It does.

Q Now, can you look then at the full report and tell me if there was any contact between Heather Elvis and Jerry Stevens on the 18th?

A On the 18th?

Q Yes, sir.

A Okay. (Witness examines document.) I do not see the [redacted]8152 number at all.

Q So you don't see any contact between the victim and Jerry Stevens' phone on December 18, 2013?

A No, ma'am.

Q How about December 17, 2013?

A (Witness examines document.) No, ma'am.

Q Can you look at that report -- since he didn't reach out to her on the 17th or 18th -- and tell me the last time Jerry Stevens reached out to our victim, Heather Elvis?

A (Witness examines document.) The last time, based on this report, would have been at 4:11 a.m. on December 16th.

Q Is that the converted time?

A That is the converted time. It says 9:11 but you would convert it --

Q So the last time he reached out to her was

December --

A Actually, he didn't reach out to her. That was an incoming message from her to him.

Q Okay. When was the last time he reached out to her?

A Again, it would have been the early morning hours on the 16th at 4:06 a.m.

Q That was the last time him and her spoke, was on the 16th?

A Early morning hours, yes.

Q Okay.

We're trying to get the last page for you. Can you see the context between the text message between the two of them?

A I can.

Q And do any of them indicate that they had been deleted, between him and Heather?

A It doesn't appear there was any messages that were deleted between the two of them.

Q So none of those messages were deleted?

A Correct.

Q And, from the report, the last time they had contact was the 16th?

A Correct.

Q And who reached out to who last?

A Heather reached out to Jerry last.

Q And have you read all of those messages from the 16th?

A I have just briefly saw them. I haven't read them, per se, word for word, but I briefly looked over them.

Q And Mr. Galmore asked you about the message where I think you read it, said I'm coming over tomorrow night?

A I did read that.

Q And did Mr. Stevens ever respond to that? Was there any meeting of the minds?

(State's Exhibits 202 and 203 marked.)

A There was a response to that particular text message. It just said: Ha, ha, ha, ha.

Q (MS. LIVESAY) Okay. Let me show you now what is marked State's 202; do you recognize what I'm showing you now?

A This would be the cover sheet for a typical phone extraction, which would show the date, time, type of phone and who the examiner was.

Q Okay. And is that indicating that you were, indeed, the examiner?

A It does indicate my name as the examiner.

Q Is that the first two pages off of that report?

A It is.

MS. LIVESAY: Your Honor, at this time the State wishes to put 202 into evidence.

THE COURT: Any objection?

MR. GALMORE: Just a moment, Your Honor.

THE COURT: Sure.

(A brief pause in the proceedings.)

MR. GALMORE: No objection.

THE COURT: Without objection, State's 202 is admitted.

(State's Exhibit 202 admitted.)

Q (MS. LIVESAY) From this report, can you now give us what Jerry Stevens' phone number was?

A [redacted] --

Q Hold on one second.

A [redacted]0749.

Q Now, Mr. Lynch, I want you to step down and look at these phone records you've already seen, and these are for the morning of the 18th?

THE COURT: What is that? Ms. Livesay, what is that exhibit number?

MS. LIVESAY: I'm sorry, Judge. It is 5.

THE COURT: 5, thank you.

Q (MS. LIVESAY) I'm showing you 5. Do you see Jerry Stevens' phone number anywhere on her records

1830

the morning of December 18th?

A I just wanted to refresh my memory, that's all right. I do not see it.

Q So there is -- his phone number is nowhere on her records from December 18th?

A No, ma'am.

Q And his Cellebrite report indicates that he didn't talk to her from the 17th or 18th?

A That's correct.

Q And none of the messages had been deleted between the two of them, correct?

A Correct.

Q If you don't mind, have a seat, Mr. Lynch.

Now, do you know the last three messages from Heather to Jerry Stevens on the 16th?

A I mean, I can look at the report here.

Q Thank you.

A I can see those.

Q And what do those messages say? What do they say?

A The last three messages starts with: That's not what I asked, but, okay, smart ass.

And then the next message is: I'm beat, yo.

And then the next message is: Boohoo. Go to sleep then, but I'm having you tomorrow.

Q Are there any messages after that?
A No.
Q Does he ever respond to that?
A No.
Q And he never talks to her on the 17th or 18th?
A No.

MS. LIVESAY: No further questions, Your Honor.

THE COURT: Redirect.

MR. GALMORE: Very briefly, Your Honor.

REDIRECT-EXAMINATION

BY MR. GALMORE:

Q Detective Lynch, now that you had a chance to look at State's Exhibit 202, can you confirm that you, indeed, did a cell phone download extraction of Jerry Stevens' phone?
A I did, on August 1st of 2014.
Q And the content of the extractions, as you previously testified to, was that content accurate?
A Yes.

MR. GALMORE: Thank you, sir. No further questions.

THE COURT: Recross?

MS. LIVESAY: No, sir, Your Honor.

THE COURT: You may step down.

Do you wish this witness to be excused?

MR. HELMS: Please, Your Honor -- oh, I'm sorry, this is Mr. Galmore's.

MR. GALMORE: Yes, sir.

MR. HELMS: No objection, Judge. Force of habit, Your Honor.

(Laughing)

THE COURT: I understand. It happens.

Additional witnesses from the defense?

MR. BOUCHETTE: At this time, the defense rests.

THE COURT: Are there any reply witnesses?

MS. LIVESAY: Yes, sir, Your Honor.

THE COURT: You may proceed. Call your first witness.

MR. LIVESAY: Thank you, Your Honor. At this time, the State calls Jerry Stevens.

(JERRY STEVENS, having been duly sworn, testified as follows:)

THE WITNESS: Jerry Dean Stevens, S-T-E-V-E-N-S.

DIRECT-EXAMINATION

BY MS. LIVESAY:

Q Mr. Stevens, where are you currently employed?

A I work for a restaurant company in Myrtle Beach.

Q Do you have any children?

A Yes.

Q How many?
A Two.
Q How old are they?
A 21 and 10.
Q And do you live here in Horry County?
A Yes, ma'am.
Q Have you always lived in Horry County?
A Since I was about four.
Q And do you know the defendant in this case, Sidney Moorer?
A No. Other than what is on the news and stuff, no.
Q And did you know the victim, Heather Elvis?
A Yes.
Q How did you know her?
A We were friends and worked together.
Q Okay. There has been some discussion before you came in here about your contact with her in December of 2013. If you don't mind, first of all, confirm to this jury what your phone number was at that time.
A [redacted]0749.
Q And I'm going to show you State's 5. Tell me if you see your phone number on this. This is Heather's phone records from the early morning of December 18th, 2013.

A No.

Q Did you have any contact with her on December 18th?

A Not that I'm -- I mean, it's possible. I can't remember. It was a long time, so.

Q When was the last time you saw the victim, that you remember?

A Probably a week or two before everything came up.

Q A week or two before?

A She went missing, yeah.

Q And how did you find out she went missing?

A News and hearing from friends and stuff like that.

Q Had you had any intentions to see her on the 17th or 18th?

A No.

Q And at that time were you all friends?

A Yeah, we were friends.

Q Was there any animosity between the two of you?

A Absolutely not, no.

Q During the month of December 2013, did you ever call the victim from a payphone?

A No.

Q Did you ever purchase a pregnancy test?

A No.

Q Did you talk with her at all the morning of December 2018 (sic)?

A Not that I'm aware of, no.

Q Now, at the time, what kind of vehicle did you drive, Mr. Stevens?

A Honda Ridgeline truck.

Q What?

A Honda truck.

Q What kind of truck?

A Honda Ridgeline.

Q Did it have four doors on it?

A Yes.

Q And what color was it?

A Green.

Q And was your truck anywhere on Highway 814 or Mill Pond on December 18th?

A No.

Q And were you ever around the area of Peachtree Landing?

A No.

Q Do you know where Heather Elvis is?

A No.

Q Are you responsible in any way for why she's gone missing since --

A Absolutely not. No.

Q -- December 18th?

Do you know those two attorneys sitting over there, Mr. Galmore and Mr. Bouchette?

A No.

Q Have they ever contacted you?

A No.

Q Have they ever gone over anything with you about your phone report?

A No.

Q Have you talked to the police?

A Yes.

Q How many times?

A Twice.

Q And how did the police give you -- how did the police get your phone?

A I gave it to them willingly.

Q So they never had to get a search warrant?

A No.

Q Did you talk with them every time they wanted to talk to you?

A Uh-huh, both times.

Q Did you delete any messages off your phone between you and Heather to keep them from the police?

A No.

MS. LIVESAY: No further questions for this

witness, Your Honor.

THE COURT: You may cross-examine, Mr. Galmore.

CROSS-EXAMINATION

BY MR. GALMORE:

Q Mr. Stevens, you said that you had two occasions to speak with the police; is that right?

A Correct.

Q When did these interviews take place?

A Once was at my workplace, and then they called me and asked me to come into the police station for an interview as well.

Q Would that have been, like, within a day or two of each other?

A No. It was maybe within a week or two.

Q Do you know when these interviews took place?

A Not off the top of my head. It's been quite some time.

Q Do you recall if it would have been in 2013, or would it have been in 2014?

A I don't.

Q I think you testified the first interview took place at your place of work?

A Correct.

Q Which officer spoke with you, if you recall?
A It was a blond lady. I believe she was County.
Q And after that interview, they called and asked you to come in for another interview?
A Correct.
Q And when did that interview take place?
A I guess the courthouse on Lane Street over there.
Q Do you think it might have been the police headquarters, M.L. Brown building?
A The one by the post office?
Q Yes, by the post office.
A Yeah. Yeah.
Q Do you know if that interview was recorded?
A I don't know.
Q But you did do an interview at the M.L. Brown building, at the request of the police department?
A Correct.
Q Do you recall how many detectives were in the room talking with you?
A Two.
Q You don't happen to know their names, you just know it was sometime ago?
A Yeah, I don't.
Q I'm not trying to hold you to it. And did you provide the police with your telephone number?

A I gave them my actual cell phone to download it.
Q So you gave them your phone and your phone number?
A Uh-huh.
THE COURT: Is that a yes?
A Yes. Yes.
THE COURT: Thank you.
Q (MR. GALMORE) Do you know what they did with your phone?
A No.
Q Did they give your phone back to you the same day?
A Yes. It was sometime after the interview, but I got the phone back the same day.
Q So, basically, while you were being interviewed, the police had your phone and then they gave it back after the interview was over?
A A little while after the interview was over, yes.
Q Now, this interview, you said you went into the police department voluntarily, right?
A Uh-huh.
Q Did they have you sign a Miranda form?
A Not that I'm aware of. I can't remember.
Q Do you know what I'm talking about when I say "Miranda form"?

1840

A Miranda rights?
Q Yes.
A Yeah.
Q So you don't know if they gave you your Miranda rights in advance?
A No.
Q Do you recall if you had sexual contact with Ms. Elvis in the week or two preceding her disappearance?
A Not within a week or two.
Q When would that have been, sir?
A I couldn't give you a date. I don't know.
Q If you look at December 17, 2013 as the date she disappeared, can you extrapolate backwards when was the last time you had sexual contact with Ms. Elvis?
A Maybe two weeks. I'm not sure.
Q So two weeks -- around two weeks before December 17th?
A Correct.
Q Did you give that information to the police?
A Yes.
Q You did?
A Yes.
Q Now, did the police request a DNA swab from you?
A No.

Q No. So you sat down and interviewed with the police officers, gave them your cell phone and you told them that you had been in a sexual relationship with her within the past two weeks?

A Yes.

Q But they did not ask you for a DNA swab?

A No.

Q I think you said you got your phone back?

A Yes.

Q If you had been asked for a DNA swab, would you have provided it?

A Yeah.

Q After this interview, did the police come to your house and inspect your home and property?

A No.

Q Did the police take any DNA, clothing or any items from your home?

A No.

Q Had you ever been to Heather Elvis' house.

A No.

Q Did the police search your car?

A No.

Q Have you ever been in Ms. Elvis' car?

A No.

Q We've had testimony that there was text messages

between Ms. Elvis and yourself -- or I guess mostly on Ms. Elvis' part -- trying to arrange some kind of date?

A Meeting.

Q Would that be accurate?

A Yeah.

Q Would it be fair to say it was mostly on Ms. Elvis' part?

A Correct.

Q Did you indicate at any time that -- I think you told Ms. Livesay that your truck was not on Highway 814, and it was not on Mill Pond Road, correct?

A Correct.

Q During your interview with the police, did you tell them on the 17th you were at a friend's house on Highway 707?

A Yes.

Q And the 17th is the time period in which Ms. Elvis went missing?

A Right.

MR. GALMORE: Thank you, sir. No further questions.

THE COURT: Redirect?

MS. LIVESAY: Yes, sir, Your Honor.

REDIRECT-EXAMINATION

JERRY STEVENS - REDIRECT EXAMINATION

BY MS. LIVESAY:

Q Just a couple of questions, Mr. Stevens. When you talked to the police, Mr. Galmore was asking you about that, at the M.L. Brown; do you remember that?

A Yes.

Q Were you truthful with the police?

A Absolutely.

Q And did you tell them what you are telling this jury today?

A Correct.

Q And Mr. Galmore asked you about being on 814 and Mill Pond; do you remember that?

A I remember him asking me, yes.

Q Do you know what a Ford F-150 truck looks like?

A Yes.

Q Does that look anything like a Honda truck?

A No.

MS. LIVESAY: Nothing further.

THE COURT: Recross.

MR. GALMORE: Nothing further, Your Honor.

THE COURT: You may step down.

Do you wish for him to be excused?

MS. LIVESAY: Yes, Your Honor.

THE COURT: Any objection?

MR. GALMORE: No, sir.

THE COURT: You are also free to leave, sir. You're excused.

Any additional witnesses?

MR. HELMS: Yes, sir. We call Michael Kathman to the stand.

(MICHAEL KATHMAN, having been duly sworn, testified as follows:)

THE WITNESS: Michael Kathman, K-A-T-H-M-A-N.

DIRECT-EXAMINATION

BY MR. HELMS:

Q Mr. Kathman, where are you employed?

A Horry County Police Department.

Q How long have you worked for them?

A About 15 years.

Q Did you work for them in 2013?

A Yes, sir.

Q And what do you do for them?

A Currently, a lieutenant in our Support Services Division.

Q What does that mean exactly? What do your duties entail?

A Currently, I'm a supervisor of our victim services and regulatory units.

Q Do you have the capability and do you all maintain records for in-service calls?

A Yes, sir.
Q Do you have the capability of searching those records?
A Yes.
Q Were you asked to do any kind of search in relation to this case?
A I was.
Q Tell this jury about what you were asked to do?
A I was asked to find any harassment reports that had been filed by Sidney or Tammy Moorer in 2013 or 2014.
Q Who asked you to do that, sir?
A You did.
Q I'm sorry?
A You did, sir.
Q Okay. Did you, in fact, perform that search, sir?
A I did.
Q And you did it for both 2013 and '14?
A I searched by their names, Sidney Moorer and Tammy Moorer. So it did anything that -- if their name came up in a report, so no matter how old it was, I opened and looked. Anything that was not 2013 or 2014, I didn't look at.
Q So you are able to actually search your system,

your database -- what is your database called, by the way?

A P-1. It is a Motorola system.

Q So you are actually able to search your database for any time that Sidney Moorer would have called police for a harassment complaint?

A Any time a report would have been done, yes.

Q And it would list him as the complainant?

A Complainant, victim -- if I search by name, it will pull up anything as victim, suspect, complainant, witness.

Q And the same is true for Tammy Moorer, any time a report would have been generated for any harassment complaint she made?

A Yes, sir.

Q And you would have been able to find that in 2013 and 2014?

A Yes.

Q And there was testimony by the defense that they installed a camera system because they were being harassed on 12/21/2013. I want you to tell this jury how many complaints Sidney or Tammy Moorer made prior to 12/21/2013.

A In 2013, I didn't find any.

Q How many complaints for the whole year did Tammy

or Sidney Moorer make to police that they were being harassed?

A In 2013?

Q Yes.

A I didn't find any.

Q None? So how about 2014?

A I found a good amount in 2014.

Q More than two?

A Yes.

Q More than three?

A Yes. I would say over ten.

Q Over ten complaints listing Tammy or Sidney as complainants?

A There was a good amount, yes.

Q But those were all in 2014, right?

A Yes.

Q So, clearly, they are not afraid to call police when they are being harassed?

A No. It appears there was a good amount of contact with law enforcement, yes, sir.

Q And all of that was in 2014?

A Yes.

MR. HELMS: Please answer any questions the defense may have.

THE COURT: Cross-examine.

MR. BOUCHETTE: Court's indulgence.

THE COURT: Sure. Take your time.

(A brief pause in the proceedings.)

CROSS-EXAMINATION

BY MR. BOUCHETTE:

Q Is it Kathman?

A Kathman, yes, sir.

Q Just very, very few questions. You said there were a number of complaints regarding harassment in 2014?

A Yes, that is correct.

Q Now, your testimony is that there was none in 2013?

A I did not find any listings that said Sidney or Tammy Moorer in 2013, no.

Q And, again, that would just indicate when a formal report is filed, correct?

A Yes.

Q If the police responded and a report was not filed, it would not show up in your system, correct?

A Correct -- well, let me expand on that. If the police were called, it would show up as a call for service, but it wouldn't show up as an incident report

being written, if one was not written.

Q So it would not be classified as a harassment report if a formal report was not made?

A Correct.

Q And, again, Ms. Elvis went missing on the 17th, so that would leave the end of the 17th through, basically, another couple of weeks in December, between the time Ms. Elvis went missing and the end of the year?

A Yes.

Q And you are saying you had no formal calls at that point?

A I didn't find any reports that they filed, no.

Q No formal reports, but you saw a multitude of them leading into the year of 2014, correct?

A I believe the first one was around January 5th.

Q First part of the year?

A Yes, sir.

MR. BOUCHETTE: No more questions, Your Honor.

THE COURT: Redirect.

MR. HELMS: Nothing further, sir.

THE COURT: You wish this witness to be excused?

MR. HELMS: Please.

THE COURT: Any objection, Mr. Bouchette?

MR. BOUCHETTE: Just a second, Your Honor.

THE COURT: Sure.

MR. BOUCHETTE: No further questions.

THE COURT: You have no objection to him being excused?

MR. BOUCHETTE: Absolutely not.

THE COURT: You are free to step down.

Any additional witnesses?

MR. HELMS: Your Honor, the State has nothing further.

THE COURT: This concludes the evidentiary portion of the process. You are still not at liberty to begin your deliberations, discuss this case, and really not at liberty to change that open mind that we talked about that you brought with you when you came. I urge you to keep that open mind, and I'm sure you will do that.

Because we still have two very important portions that remain, one is the closing remarks from the attorneys, and then the charging of the law. In fact, one of the oaths that you took means that your verdict will be consistent with the evidence and the law, and in order for it to be consistent with the law, you can't start your deliberations until I tell you to begin. So if you do, you have violated that oath, and I know you won't do that.

I'll ask you to go to your jury room. There is some matters of law I need to take up. When you return, we will commence the third portion, and then following that, I'll give you the charge and the law.

Please retire to your jury room, and we'll be with you as quickly as we can.

(The jury exits at 11:38 a.m., and the following is heard out of the presence of the jury.)

THE COURT: Thank you very much. Any motions from the State at this point?

MR. HELMS: We don't have anything.

THE COURT: Thank you, sir.

Mr. Bouchette, I'll be happy to hear from you.

MR. BOUCHETTE: We renew our motion for directed verdict and renew all other motions made.

THE COURT: Thank you very much. I think I ruled that certainly there was sufficient evidence considering the light most favorable to the State, and at the close of the State's case, that the case should go forward to the jury. In considering the evidence in the light most favorable to the defendant, the additional evidence that would support a conviction, and of course it all depends, as we know, what the jury concludes to be the true facts of this dispute. So, again, based on all of the testimony now, I think

that it is a matter for the jury, and I'll respectively deny your motion. Again, your motion concerning the mistrial, I would reiterate those remarks I made to that motion, and I will respectively deny that motion as well.

Any specific request of charge from the State?

MR. HELMS: No, Your Honor.

THE COURT: Conspiracy charge is generally -- the only difference in reading the statute, the statute requires some overt act by one of the parties, as I read that statute. That is the only difference from the general conspiracy. General conspiracy doesn't require an overt act, so I'll add that distinction. It doesn't have to be by both, it has to be by only one, and only one of the acts.

MR. HELMS: State is in agreement.

THE COURT: Any specific request for charge?

MR. BOUCHETTE: Your Honor, in one of the prior hearings already we indicated a charge on the specific issue -- we would see as to the circumstantial evidence charge.

THE COURT: Yeah. I'll charge -- what we originally used to charge, and then they did away with that consistency with every particular respect, and then they reiterated it, and that is my charge now, it

THE CLERK: Have it here at 1:30?

THE COURT: Uh-huh. If that works?

THE CLERK: Yes, sir.

THE COURT: Do you need a few moments?

MS. LIVESAY: I'm ready, Judge.

MR. BOUCHETTE: Just a couple moments.

THE COURT: We'll be -- let's take a stretch break for everybody, because we'll be here for awhile. Plan to be back at about five minutes to 12:00.

(A recess was taken.)

THE COURT: State's ready?

MS. LIVESAY: Yes, sir.

THE COURT: Defendant is ready?

MR. BOUCHETTE: Defendant is ready.

THE COURT: Let the record reflect that Mr. Moorer is present. Let's invite the jurors to return, please.

(The jury enters at 11:58 a.m., and the following is heard in the presence of the jury.)

THE COURT: I came down here because we set up for the closing remarks, and I like to make eye contact when I speak to people. I appreciate your patience with all -- we've been in and out and all of the things you've done thus far. Again, I reiterate, thank you for your conscious approach to your duty as

jurors.

Now, we'll hear from the attorneys in closing statements. It is proper for them to discuss the evidence which you have heard and which you will see and have to study in greater detail when you retire to your jury room. I'm confident you will find their remarks extremely helpful when you begin this process of analyzing the evidence and deciding what you find to be credible and believable, and once making that decision, then taking the law as I give it to you and applying that law fairly and impartially to those facts. So, please, give them your attention. But I also would emphasize and reiterate that the remarks that you will hear now from the attorneys and from me should never be considered evidence. You heard the evidence through the testimony of the witnesses, and that is what you will analyze when you begin your deliberations. While it is not evidence, it is extremely important and very helpful, so please give the attorneys your attention.

Solicitor, you may proceed.

MS. LIVESAY: Thank you, Judge.

Good afternoon, ladies and gentlemen, I told my co-counsel this morning, since we've been together for a week-and-a-half, I figured I would let my hair down

so we can talk a little bit. This will be -- I'll get to reply back to what Mr. Galmore told you, but I'm going to tell you up front, I won't give you a long, closing statement. You see the media is here. The media has covered some of my cases before, and I remember I called home and I said, Pop, did you listen to my closing statement, it was on TV today? He said, No, you talked too long. After 25 minutes, I had to turn it off. He told me then, Do you remember -- and I'm from a little town in North Carolina -- he said, Do you remember when you and your mama used to sit in there and watch Billy Graham on TV? And we did, that was a big thing in our house. And I said, Yeah, I remember. He said, Well, how long would he talk? I said, I don't know. He talked about 30 minutes. And he said, Well, if Billy Graham can bring people to Jesus Christ in 30 minutes, you ought to be able to wrap up a closing in 30 minutes, and I thought that was a legitimate point. I thought it was a legitimate point. So now I do try to keep it shorter, but I don't want you to think that the information is not important, that is why I want to tell you that, but I want to focus on what is important.

Now, this case is circumstantial evidence. Now, sometimes circumstantial evidence is the best

evidence. We've got phone records. We've got video. Let me tell you something, if we had an eyewitness, he wouldn't never have been close enough. He would have needed glasses, and then all of that would have been questioned. So we've got the best evidence in black and white that we can give you.

Now, I want to talk, first of all, about how this story begins. It really begins in November on the breakup, because everything in Heather's life is okay. And, quite frankly, at that time, everything in the defendant's life was going okay. And then his wife finds out, and that's when everything turns. That's when he can't have his phone. That's when you no longer see messages between him and his wife. An affair itself is awful. You heard that one lady say, Was it a secret? Well, it was to his wife. It's awful. They had three kids together. They had been together for a number of years. It was awful.

With an affair, you can have a break. You can break off that affair and move on. In some cases, you can't. In this case, the thing that makes it turn on a different scale is this rumor that she was pregnant. That's where this all really begins. You heard Dennis Hart say when I called, on the other end of the line they start talking about quit telling her that she's

pregnant with Sidney's baby. You heard all of these girls testify she's taking pregnancy tests, her breasts are getting bigger, there is changes in her appearance. There is no doubt the way she appeared in the picture that we first showed you, and the picture in that truck are different. Her face is clearly swollen. Her breasts are clearly bigger. She needed to buy new bras. She needed to buy a new uniform.

So, clearly, this rumor is going around, and there is evidence to show she may be pregnant. So now this idea that I'm going to break it off and move back with my wife and everything is going to be okay, that can't happen now. Now that she may be pregnant, now there may be a hold on him. Quite honestly, for the rest of his life. Once you have a child with someone, that hold is consistent for a very long time.

So the two of them, there's no contact between them. The content on the defendant's phone even before she goes missing, all of these sex messages between his wife and Caleb. All of these weird messages on the phone, not between Sidney and Tammy, but between the third party. There is no messages between Sidney and Tammy. He is not allowed to have his phone. He is chained to the bed. Clearly, this event with Heather Elvis has changed Sidney Moorer's

life, clearly, right up until December.

When you see his phone, you see the sex messages, you see there is no contact between him and Tammy, and he tells the police I've been chained to the bed. So up to December 18th his life is complete hell. His life clearly has taken a turn. He has not -- this idea he told the police, Look, I moved on. Me and my wife had moved on. We have gotten back. We have rekindled the love that once was lost. When we see the phone, we know that is a lie. All of these messages between her and some guy named Caleb on his phone, that is a tremendous F-you, I'm texting another man, not on my phone, but on your phone. I want you to eat it. So, clearly, their relationship at that point was still just all to hell.

Now, he says I moved on, but at the time, Heather Elvis, she wouldn't let him go. She was still riding by my house. She was leaving notes. She couldn't move on. It was creepy. Well, I'm glad they called Jerry Stevens because, clearly, she had moved on. Okay. She was on a date on the 17th with Stephen Schiraldi, and she was talking to Jerry Stevens. So she clearly moved on. She was already in the mix with other men.

Now, this is a 19-year-old girl. 19-year-olds

rebound a lot faster than 30-some-year-olds. So her rebound time is pretty quick. But this idea that she's still obsessed with him, can't move on, clearly untrue, clearly. She's exchanging text with Jerry Stevens. She was on a date on the 17th. This young girl was on her way of moving on. The only people that had not moved on, the only people that could not let it go was Sidney Moorer and his wife.

Now, how do we know that? I want us to look at the circumstances on the night of the 17th and the early morning hours of the 18th. Everything I put up here is a fact. We either have it on a phone record, have it on surveillance or someone has testified to it.

First of all, this pregnancy test, it was for Heather Elvis that he was buying that night. He told you it was for his wife. In that same conversation, he tells you that his wife was drinking two different liquors that night just hours before. I'm not telling you that his wife is a bad person because she likes to drink liquor, that doesn't bother me at all. What bothers me is don't tell the police this pregnancy test is for your wife, because it's clearly not true. She is drinking that night, and two days before, she's smoking marijuana. This is not a woman who thinks

she's pregnant. So that is clear. She wouldn't have been drinking that night and buying a pregnancy test on the same night if she thought she was pregnant.

The reason we got into that is to show you that the pregnancy test was not for Tammy, okay. She was drinking and sexting some other man. So, clearly, this idea that we are trying to bring this new love into the world with a baby is not true.

Now, they rode by her house and her residence that night. Mike Melson told you that and -- and Sidney Moorer told you that. Me and my wife got a couple of drinks -- or she did, and then we went to Broadway at the Beach. There must have been a hundred bars in Myrtle Beach, and the only one you can get to is where this little girl works? She worked at the Tilted Kilt at Broadway at the Beach. Here we are, December 17th, and you are right up around where she works. Cannot let it go.

Then, you are riding by her house. Ride by River Oaks. Now, her car was home. She was out on a date, so her car was home. So now you are trying to get an eye where she was. You've been to where she works, now you rode by her house. And what do you do? You come right to Conway and remove the navigational card out of your truck. This brand new truck with a

navigational system, we showed you a video on how it worked. Now, why in the world would you be removing the card, other than you don't want that truck to know where you are at?

This crowd in opening got up here and, Where are the GPS coordinates? This truck is brand new, 2013. Where is the information on where the truck is? We can't collect it when the defendant pops the card out. I would love to have that information. I think this family over here would love to have that information, but we don't, because he popped that card out. There was no way to collect that information. And there was no reason to do it other than you had plans to do something later on that night, and you were up to no good. There is no other reason at midnight to be popping out an SD card, other than you have bad intentions.

Let me tell you something, folks. If you look around and you see a man putting on a mask, he's got bad intentions. If you look around and you see someone in the trunk wheeling around with some burglary tools, he's got bad intentions. When you have a man at midnight who is driving around and punches out his SD card so no one will know where he is, that's bad intentions.

Now, right after -- what I love is right after he pops that card out, he goes to Walmart to buy a pregnancy test. I guess he didn't want that on his navigational system that he had been to Walmart to buy a pregnancy test. Now, who is the test for? He leaves right out of the parking lot, right up out, don't pass go, don't collect $200, straight to the payphone. Straight to the payphone. He literally leaves out at 1:21, and he is on the phone at 1:33 calling her. He leaves right after buying that test to call in the victim.

Now, he's already taken the nav card out, but he goes to the Kangaroo to use the payphone. You know, he's smart about that phone. Kudos to him on that. And I'll be honest, I would have never thought of that. I would -- you have clearly put some time and thought into this to remove the card. But then you go and use a payphone. And -- and this truck is very key. Clearly, he takes the nav card out, and then he parks the truck across the street. So now at 1:33 you've parked the truck across the street, and you see him creeping through the parking lot to get to the phone to call her. Clearly, you are up to no good. If there was nothing to hide and everything was on the up-and-up, there is a parking lot there. Drive

the truck on up in there. Get out, use the phone. Better yet, call her from your cell phone. Why do you have to call her from a payphone, and why do you have to park across the street if there is nothing to hide?

Now, what is important about this phone call is right after he makes it, that victim, Heather Elvis, leaves her house at like 2:00-something in the morning, a.m., I mean in the dead of the night, and takes off down the road and goes to an area near Long Beard's. Let me tell you something about the phone call, okay, because it was him and his wife together all night; we know that. He says my wife was in the truck, we were together. When you read the text messages, I'm not going to deny to you, Tammy, those messages were coming from -- they were very threatening to that little girl. Grown women should not talk to little kids like that, but we saw the messages.

Why this phone call is important to me is when you see him get out, he's clearly alone. Tammy is in the truck. This is the time to abort the plan. He had all of the means to call that young girl and say, look, I'm telling you, don't be picking up this phone. Don't leave the house. At one time we want to know if you are pregnant, whatever it is, but, look, don't

pick up the phone. Don't leave the house. Because it is just him. He is the only one at the payphone. He could have said then, look, I'm going to abort this plan. I'm not into it. This girl is 19. Look, little girl, stay home and don't pick up the phone. Things got kind of squirrely, but do not pick this phone up, and do not leave home. He could have done that, and that would have been the end of it. It was within Sidney's means to end it right there. Everything would be fine. Everything would be fine. Well, everything would be fine for Heather. But the problem is this issue if she's pregnant, so everything wouldn't have been fine for Sidney. That is all he cares about.

So he could have right then ended it. We wouldn't even be here today. All he had to say is don't go out, don't pick the phone up. We would not be here today. But he was standing there alone, and he made the decision to say, look, come out and meet me, or, I'm not with my wife. Clearly -- clearly that is what he had to say. Bri told you, I told her don't go meet him. Do not go meet him. She would have never come out and left that house for Tammy Moorer. She was terrified of Tammy Moorer. The roommate is terrified of Tammy Moorer. The only person that she

would have gone out to meet was Sidney. Why? Because she, herself, had this question of whether or not I'm pregnant, and this could be the father of my child, and now he wants to be together with me.

I'm sure when she was sitting there, I'm going to suggest to you, she's thinking this could be a happy ending. This could be the ending I always wanted. So she gets out and leaves home. Goes to the area of Long Beard's. What is telling about that is you never see his phone again. While she's moving around to Long Beard's and moving back home, where is Sidney Moorer? Where is Tammy Moorer? We do not know. Their phones are dead. No more phone calls. No more texts. No more data. Nothing.

Lo and behold, it powers back on at 3:03. So, clearly, they are up to no good. Why are you using payphones? Why are you removing the SD card? Why are you powering your phone off in the middle of the night? Now, she makes -- he makes this payphone call and she goes to Long Beard's. We don't know where they are. Then she goes back home, and the next time we see his phone, he's home. Was there a meeting between the two of them, is the question? Is there any evidence that there is a meeting between the two of them? I tell you, yes, because the pregnancy box

was in her trashcan. Jill Domogauer told you, I found the box for a pregnancy test in her trashcan. You heard from Bri that the box was not there when I left. It is not a coincidence that he bought a pregnancy test that night, and later on the box is found in her apartment. That is not happenstance.

Now, how else do we know? Because after she goes home and that box gets in her trashcan -- she never goes back home after that. Clearly, Jill Domogauer told you the box was there, and Bri said it was not there when she left. How do we know? How do we know who that box involves? She calls the defendant. She doesn't call Stephen Schiraldi. She doesn't call Jerry Stevens. She doesn't call some guy named Jeremy Flemming. She calls Sidney Moorer. So as soon as she gets back to her apartment, she calls Sidney Moorer and they talk again for five minutes. This is a chance, too, for the defendant. He told you he talked to that victim at 3:21. Again, a second time he talks to her. Again, he has a chance to say, look, look, look, look, don't worry tonight, get up with me tomorrow during daylight hours. It is in the middle of the night. I have three children, I would not want them out at 3:00-something in the morning. Stay home. I will call you tomorrow. That is not what he said.

That was chance, too.

I think too much had been done now. He had taken out the card, turned the phone off, bought the test. He has got to know this issue of whether or not she's pregnant, has got to be settled. So even though he had a chance to stay home, Stay home, I'll talk to you during daylight hours; he doesn't. He doesn't. And how do we know that? How do we know that? Horry County is one of the biggest land mass counties in South Carolina. It is a tremendous county. It has Loris, Little River, parts of Murrells Inlet, Surfside, Myrtle Beach, Conway. It's huge. It's huge. It is a tremendous county, okay. He gets off the phone with her, and where does she go? Does she go to Little River? No. Does she go to Myrtle Beach? No. Does she go to Conway? No. She goes right up the road from his house, that is where she goes. All of these places in Horry County to go, Kangaroos, all kinds of places stay open late, and somehow she ends up down here at Peachtree Landing, one of the darkest holes in Horry County. That's where she goes. This is not happenstance. This is not somewhere you hang out in the middle of the night.

Now, the defense made a big deal, well, his phone, during this phone call, is using the tower that

services his home. This phone call right here at 3:21, that's what Mike Melson told you. That is what the defense made a big deal out of. He is using the tower that services his phone, which means more than likely he's at home. I absolutely agree with that. I could not be in more agreement. That is why she ended up here, because this is where he was. This is where he had lived and been hundreds of times. That is what he told the police. I lived here 15 years. How many times have you been to the landing? Hundreds of times. He was home. I agree with the defense attorney. Absolutely he was home. That is how she ended up right up the road. She didn't go to Myrtle Beach or Conway, she went right up the road from where he was.

Now, if his phone pinged somewhere in Myrtle Beach or Little River, we wouldn't be having this conversation, okay. But it didn't. It literally came near his house where he had been a hundred times. Where he was familiar with it; not where she was familiar with it. This little girl had no business being there, and he had no business leading her there, but he did it. He did it.

Now, what happens when she gets down there? Immediately who is she calling? Sidney Moorer. She

ain't calling Jerry Stevens. She ain't calling Stephen Schiraldi. She's not calling anyone else. She's calling the person that she's there to meet. And if you don't think so, he's heading there at the time she's calling him. He's on his way. There is no doubt there is a meeting of the minds. When she makes this phone call at 3:38, 3:39, 3:40, he's already passing D&S Siteworks on his way. He is only two minutes out from her when she's making the phone calls. Is he here when she's right here making the phone calls. Clearly -- clearly there is a meeting of the minds. It ain't like this truck passed by at 5 o'clock or 2 o'clock or 3 o'clock before the phone call. This truck didn't move until after they talked. She's down there, and he's on his way. Her phone dies at 3:41. Dies. Never hits the tower again. Never makes another phone call. Never receives another phone call.

What happens -- let me point this out. He's at home. I told you he's at home. That is why we caught him on 814 at Mill Pond, because he was home. He was leaving his house. He had to go down the road to get to her. At 3:41, where is he heading? He's passing right back by these cameras to head towards his house. Not just anywhere. You didn't see that black truck

just anywhere. We saw it on the way to Heather Elvis at the same time she's calling him. Not at 3 o'clock before the phone call. Not at 4 o'clock. No. Right at the time she's down there. As soon as that truck would have gotten down there, is the last time we ever hear from Heather Elvis, and the truck comes back.

They want to talk a lot about circumstantial evidence. That is all they have is some circumstantial evidence. After that truck goes down there at 3:41, it comes back by. Heather Elvis' phone is dead. We never hear from her again or see her. Now all of the sudden, these two phones -- Sidney and Tammy have not texted for a month -- over a month, and now all of a sudden around 4:20 she's asking to bring some pot stickers, and he's saying, Yes, ma'am. The report is in evidence. You can look at it. It is at 4:20 a.m.

Now, she's asking him to bring me some pot stickers, and he's saying, Yes, ma'am. All of a sudden, at 4:20 a.m., those two phones start talking. Well, why not? Why not? The worry is over. Here is your phone back. Uncuff the cuffs. Everything is good again. And it ain't just that, it is even after that. When you look at that phone report on 20th and 21st, now it is, hey, what does S. C. M.

want for Christmas? Legos. I'm glad he told somebody. So now we're back to a normal conversation between husband and wife. But you don't see it in November, and you don't see it in December, and you don't see it not one minute before 3:41 when her phone dies. Look at that report. You don't see those two phones talk back and forth about their kids, their family, Christmas, nothing until 4:20 a.m. Not one minute. Not one second could there be freedom and normalcy until Heather was gone, and then after 3:41 when we never hear again, everything is fine.

Now, this thing about bring me pot stickers and he's saying, yes, ma'am, clearly they are trying to look like we are in the house together. Because it makes sense that you talk to your girlfriend at 3:21, and I chain you to the bed, and now I'm going to give you the phone to go into another room in a house. I don't even give you your phone otherwise, I'm chaining you to the bed. So something dramatic and drastic has happened to have your phone and go into another room in the house, and you just talked to your ex-girlfriend at 3:21. Do you think he would have gotten that phone back and there would have been any conversations between the two of them as long as that little girl was moving around? I'm telling you, the

evidence says no. There could not be normalcy until they had settled whether or not she was pregnant.

I'm going to tell you something: The box is in the trashcan, and the stick is not. Why is that? I suggest to you that the stick was with her along with her phone and keys. I'll suggest to you that whatever that stick read, was her demise. Whatever that answer was, was one -- not that they could not accept, but it was one that they would not accept. We never found that stick. We never found her phone. We never found her keys. So whatever is said was something they were not going to tolerate.

Now, how do we know that this is a crime, that there is premeditation? How do we know? We already know the circumstances, but how do we know? These two, in the course of these circumstances, deleting text messages off their phone, the ones they wanted to delete, which you can go back and look at that or not. I've been working on this case a lot longer, so I know the details, but those text messages she deleted or Sidney deleted, it was like when she was saying or he was saying, Call me. Call me. They deleted those, because I'm telling you, they wanted it to look like she was just calling them and wouldn't leave them alone.

Now, riding by the victim's house at work. Look at this, removing the navigational card, pregnancy test right before calling her, using a payphone, powering the phone off, these are all things you don't do unless you are ready or preparing to commit a crime. You need to know the location of the victim. You need to have a place to meet the victim, and you have to be prepared.

Now, not only did they do that, but they also covered up everything that was in their custody and control. They tore out the surveillance system, washing the truck and then burning the rags. I'm telling you, it's awful to have to sit in that chair and hear the defense in the opening come up and tell you there's no DNA. There's no GPS coordinates. They don't have nothing. Well, we don't have nothing because you are out there washing the truck, and if we could have gotten it off the rags, you burned those. Then you remove the license plate off the front of your car. Look, that was well thought out. It was on at the Walmart. When we collected it, it was removed. Why? Because it is a unique identifying characteristic. If we could see that tag that says "Beach Ford," that is information. So they removed that tag. Then, he deleted his GPS coordinates. He

deleted his Google on his phone so we couldn't get the GPS coordinates. Defense came up in opening and made this big deal when Mike Melson was testifying, Well, how about GPS? This only tells us that they are in this area, aren't there better coordinates? Yeah, there are, but he deleted those, just like he took out the card. I would love to have these coordinates. These people would love to have the coordinates, but we don't. Why would you delete them?

Go back and listen to the testimony of Mike Melson, he deleted them around December 25th. You've got three kids, it's Christmastime and all you can get around here instead is making sure your Google account is deleted so the police and no one else can get any information? Lying to police. You done deleted the coordinates, you done popped out the card, and now the police comes to you looking for this woman, really, in the middle of the night.

You see that first video, that first video -- and you know what I like about it, I don't know if you all caught this, but when he's talking to the police, he's saying, look, I don't want nobody coming into this house. I have three kids in this house, and if they come in, they ain't leaving. You can listen to the interview, that is what he says. In the same dang

gone breath, he's talking about I'm going to protect my kids, but you are lying to the police about this man's kid in the same breath that you are over there, oh, if someone comes in my house, they are not leaving. In the same breath you are over there lying to them when they are looking for this man's child. Lying. The girl is 19. Why would you lie to police about where someone's teenage daughter is, about the contact that you've had with him? Why? Why would you lie if you -- unless you had something to hide. Because he did have something to hide, and he was a betting man and he bet that we were not going to get the SD information, which we didn't off the truck, but he also thought that we would never figure out the payphone.

Now, when you listen to his statement, he don't ever admit it until we tell him we got you on video, hey, there is video, you sure? Shit, yeah, I used that phone. Before then, it is like, Oh, they still got payphones? Again, you are in here lying to the police about a teenage girl that they are looking for. Why? Why? Because you are trying to cover up something you did.

Can you turn that down, please?

This case turns on them, not just finding out --

resolving that question as to whether or not she was pregnant; that was part of it. Part B was doing whatever they needed to do to take care of that. Now, when I was in high school, I used to read Jane Austin books. Some of you all may know of them. They were like romance novels. What I liked about them was there was always the good guy, and there was always the villan. The woman in the book is trying to figure out which one is the good guy, and which one is the villan. It never failed, the villan was always the one that was silver tongued, always had the right thing to say, always smoothing everybody over. That was the villan. At first glance -- you have to scratch the surface to figure out. That was the book. That is what it was all about, figuring out who is who.

When I first listened to that interview from the police when they went out and there and you see the video, you hear Sidney talk. He doesn't sound like a villan. It is not until you scratch the surface and you see that he is lying. You see that in the middle of the night that he's doing all of these things. He's taking out an SD card, using a payphone, hiding from the police, hiding. Once you scratch the surface and you get into the details, you figure out, indeed,

he is the villan. And that is kind of like this case. When you first hear him talk to the police, you don't know he's the villan. The police didn't know he was the villan. I don't know if you remember, but they talked to him, they are out there -- Casey Canterbury, the uniform guys, they got in their car and left. They didn't know he was the villan.

When he goes to the police department and the police first start talking to him. When you listen to him, you don't know he's the villan. It is not until these things start unfolding and the lies start unraveling that you figure out, just like in the book, this is the villan.

Now, that was one book I liked. That was not my favorite book. Even though I liked them because, again, I like the idea of scratching the surface, looking at the facts, looking at the phone records, looking at every piece of evidence and finding out who the villan is. That is a lot of what you all will be doing, looking at the evidence, looking at everything presented and trying to find out who is the villan.

Now, I'm going to suggest to you there's no doubt who the villan is in this story, and it's Sidney Moorer. It was premeditated. It was awful. And then he tried to cover up everything he could. Now, my

favorite book was not Jane Austin books, my favorite book was called County of the Monte Cristo. Why? Early on in that book the count was a victim, and throughout the book, with patience and persistence, he gets justice. And the reason I love that book is because you can't change what happens. When the count was a victim, you can't change that. I can't change what happened December 18th. If I could, I would. This family would, I guarantee you. But nobody can change what happened December 18th, and that is what that book taught me. What else it taught me is with persistence and patience, you can find justice, because that is all that is left. This story is not over. It is not over. It is not over until the 12 of you come back with a verdict; that is when this story ends. I am here to ask you at the end of this story to give justice to this family and this community. These people have been patient and persistent, and I'm asking you to give them the ending to this story that Heather Elvis deserves. I'm asking you for justice. Thank you.

THE COURT: Thank you, Solicitor.

Mr. Bouchette, do you plan on using any of those exhibits?

MR. BOUCHETTE: No.

MS. LIVESAY: I'll put it back, put it up there.

THE COURT: Thank you, Ms. Livesay.

MR. BOUCHETTE: Court's indulgence.

THE COURT: Sure. Take your time.

(A brief pause in the proceedings.)

THE COURT: Mr. Bouchette.

MR. BOUCHETTE: Your Honor, may it please the Court?

THE COURT: Yes, sir.

MR. BOUCHETTE: Madam Court Reporter, Solicitors, ladies and gentlemen of the jury, good afternoon. When I spoke to you last week I talked to you about being 3 percent just because of you being here and giving your time, and now we're here almost two weeks later. Very few cases go this far, so I don't know what percentage that puts you in, but suffice it to say, it's been a great sacrifice. On behalf of the defense team, I want to thank you for being here, and thank you for your time.

Sidney Moorer sits here today. You see his family there behind him. You probably have noticed they haven't been here a lot of times this week because it is difficult to imagine being here fighting for your freedom and having to look back at everything you may be missing, and so to try to keep it together,

to try to get through this process, he asked that they stay home, but they are here supporting him today and we want you to know that all of us thank you for your time and for your commitment to do what you have to do.

You are about to make a big decision, an important decision. Your voice, each and every one of you, you are about to retire to the jury room where what you have seen, what you have heard needs to be heard. I think sometimes that gets missed in jury deliberations. We have 12 jurors for a reason. Not one or two or three. When you get back there and begin deliberating, each of you need to make it known how you view this case, because you all come in with different backgrounds, different experiences. You see things differently, view the evidence. Once you have heard, you have to respect the views of others and take into consideration as you begin deliberating the evidence in this case.

Each of you are going to have to answer that question for yourself: Has the State proven and met its burden of proof to actually explain to you what happened to Heather Elvis to the exclusion of all other possibilities? I submit to you as we review the evidence that we will see, they have not met that

burden. When you come back with this decision you have to make, it is a final decision. I think that is important to note. You know, if the Judge makes an error of law, we can appeal that. But your decision on the facts is final, and no one can appeal that. That is a power that we only give a jury. We don't give that authority to anyone else in our society, and so as we start beginning to recount what we have heard, I want you to think about what we've got, and that is that the State is asking you to trust in their theory of this case. They are asking you to trust in a theory. Like we said over and over, this is a circumstantial case. They ask that there are no other explanations for what happened other than those that implicates Sidney's guilt.

So how do we know whether or not we can trust this theory or not? Well, we use the same ways to evaluate trust in this case like we do in any other case. I think probably the best example I heard was when I first started practicing law, I was over in Williamsburg County and preparing documents for an old man that was a farmer and a logger. I knew him well enough to know that he put a couple kids through school, but I didn't know him well. He came by to look at some documents that I had sent over to him and

asked to read over those and if he had any questions. But when he paused and looked back at me, I had seen that look before. If you've seen it once, you will notice it any other time. The old man couldn't read. It was one of those deals where he looked at me and looked back and we had that embarrassment feeling, maybe I was looking down on him. I wasn't looking down on him. I was in awe of this guy. I just slid back and said how did you do it? How did you get through the day? How do you get two kids through college and not be able to read and write? One of the things I asked was how do you know who you can trust? How do you know what is going on? He told me that to determine who to trust, what to trust, show me what they value. Show me what they think is important. If those values match my values, then I'll tell you if that is someone I can trust.

So if we go back through the evidence, we will look what the State decided to value, what they decided to think is important, and what they haven't. We'll determine whether or not we can trust the State's theory of case.

Essentially, we start off with trusting the State's belief that Ms. Elvis' was pregnant the night she went missing. This is the foundation of the case,

make no mistake about it, because that is the motive. It is like a house, everything is built from this fundamental principle of pregnancy. They ask you to trust this is the case, but they don't value the fact that no one has taken the stand with any firsthand knowledge that that was the case. You've heard from two witnesses, one was her roommate and another supervisor at work, that couldn't confirm it. Had no discussions about it. There was a pregnancy test in mid-October, and by mid-December, by all accounts, this is their words, she's back to normal. There was no follow-up doctor's appointments. There is no second tests. She had a period in December, but everything is to the contrary that Ms. Elvis is pregnant at this point. There is nothing showing that, whatsoever; yet, they ask that we trust this is the case. That is how this entire theory is build upon.

They go even further. They say, well, you know, there is this pregnancy test we don't have a picture of, but we know it was there. We ask you to trust it was there. The implication is that, well, at some point that night she must have met up with Sidney and got this test. The problem with that those cell phone data never put them in the same place at any point

that night. They have an excuse for that. That is a common theme we'll see throughout the case, that when the evidence doesn't either match up or they don't have evidence, they make up excuses or shift the blame to the defendant. But they have the burden of proof, folks, not the defendant. I've never seen the case where we spend more time, more witnesses talking about why they don't have evidence than they do presenting their own evidence. I can't recall any case where we've had the number of witnesses to explain away the lack of the State's evidence that outnumbers their own witnesses.

We're asked to -- one of the things we told you about in opening is we didn't have to prepare an opening statement, but when we did, we came in and told you we have some problems with this case. One of our problems is that we think the police developed sort of tunnel vision early on. There should have been questions that needed to be asked, should have been asked. We are now 2,030-some days later and having all of this investigation, but books were closed within two months following her disappearance. That is how much time they spent investigating before they closed the books and charged Sidney.

A perfect example of that is testimony of Stephen

Schiraldi. Now, this was the last person known to see Ms. Elvis in person. I want you to go back, and Ms. Dahl can provide you with any testimony you want. This is the last person that is known to see Ms. Elvis in person. His mother gets on the stand and says, you know what, I spoke to him, saw Ms. Elvis and said have a good night, we'll see you later. I can only presume that that was his alibi -- excuse me -- that the police relied on. What did Stephen Schiraldi say? When he took the stand -- and, again, she'll provide you with a transcript -- he said, no, I didn't speak to anyone. I didn't see my mom. We didn't communicate. I think she was asleep.

Now, I don't know if Mr. Schiraldi had anything to do with this, I would hope he didn't. I can tell you this. The last person to see her alive, that we know, without question, has no alibi for where he was between midnight and 6:00 a.m. The police did not -- all of this location data, all of these cell phone experts and pinging and towers and all of this, they never utilized any of that for Stephen Schiraldi. They didn't say, all right, I understand what you said, Mr. Schiraldi, but we'll check out your story. Let's see where your cell phone was, see if it matches up. They never said, you know what, Mr. Schiraldi, we

understand what you are saying, but I'll tell you what, give us a fingerprint or hair strand and we'll check if it showed up in the bedroom or somewhere else, then we'll follow up. But they did none of that. This is what the State is asking you to value: Contradictory testimony one after the other.

So why didn't they do it? Well, what we've heard is that within the first 24 hours the initial investigator, he is immediately at the Moorer residence with not one, not two, but with three officers. Within 48 hours, Mr. Moorer is at the police station, his vehicle is at their house and they arrived already at his personal residence. They did none of those for Stephen Schiraldi.

We heard about Jerry Stevens, that the text communications was that she was going to go over the following night. Well, maybe she did; maybe she didn't. Was there any location data that provided his whereabouts? We heard he says he was at a friend's house off of 707. So wouldn't it be worth a little bit of effort or energy to say, all right, we're going to use the same resources, the same technology that we've used to prepare a circumstantial case against Sidney and see if maybe we can exclude some of these other people. But they didn't do that. They didn't

do any of that.

We're asked to believe the testimony of Dominic Demarino. Folks, Dominic Demarino, he says that he saw a picture from Sidney's cell phone. Look at all of the evidence we have. We have all of the cell phones in evidence. It's not there. This is one of the few places they don't have an excuse why they don't have that. But we don't see it. He didn't tell anyone about it. He didn't find it unusual. Didn't take any action. Only thing he did was later tell his mom, you know what, I made it up. And, yet, still, this guy that came out in handcuffs and shackles for carjacking, fraud, that is what they valued in this case. That is the type of testimony that they believe to be important. Let me tell you this. We've heard testimony that sometimes direct evidence may not be as reliable, people see things and don't have good vision. Folks, I'll be honest, that is a little disingenuous, because I guarantee you, if they had eyewitnesses to see something, they would have be taking that stand because they would have Dominic Demarino take the stand.

Mr. Helms wants you to believe that because he put his hand on the Bible and swore he wasn't lying, that we can take it as such. Folks, this is a man

that breaks into your cars at night, steals from you and lies. He's not concerned about this book. He lives his whole life in complete opposition to this book. That is the type of testimony we've been asked to value and find important in this case and to trust in this case.

We're asked to trust that Sidney Moorer went to Peachtree Landing on the night of the 17th or early 18th. We're asked to trust in Grant Fredericks. They don't value the testimony of Bruce Koenig, an actual career scientist, head of the FBI lab, that says you can't do what he's trying to do, and that is consistent with what the MAIT Team did. They don't value that. But we're asked to trust that this is the case.

You know, we've heard from Mr. Koenig and he talked about all of the famous cases he had and all of these things he was involved with and said, you know what, Mr. Fredericks is trying to do, you can't get there. Just like the MAIT Team said. Just like all of the evidence did until he was hired well after Mr. Moorer's arrest, and you can look at the video quality whenever you get back there if you want to, if you want to go through the slides. Like he testified to, this is a very poor quality video, but as you go

through it, if there is any discrepancy or inconsistency, then it is obviously not a match. You don't need anything further. You.

Know, we've been asked to trust that he went to Peachtree Boat Landing, yet, after all of the cell phone date, days of cell phone, location data, nothing puts him at the landing. We're asked to trust that he went and presumably picked up Ms. Elvis, but there is no DNA anywhere. Again, they have another excuse, well, there is a reason for that, well, he cleaned the car. Folks, you mean to tell me that the State of South Carolina, Horry County government, SLED, all of the labs we've heard about, all the experts engaged in this case, all the money spent on this case, you are telling me that the handyman with a vacuum cleaner can eliminate all the hairs and fibers and everything else that he presumably took someone against their will, presumably held them, forced them in his car, transported them in his car and, yet, in the afternoon with a shop vac at his house, he eliminated any trace of physical evidence, whatsoever? Because, remember, we didn't hear anything about industrial cleaners. We heard nothing about bleach or about anything else. We just heard that he was standing there at his house vacuuming his car, and that is their excuse for why

there is no DNA in that truck. But, folks, the truck didn't go to the landing. That is why there is no DNA, because she wasn't in that truck.

They talk a lot about the navigation day. This is another example spending time calling witnesses to explain away why they don't have that evidence. They will give a sampling, a piece of data, about this SD card, but what did we also hear? Because they waited two years to actually get the information out of the box, we wouldn't have had it anyway.

Now, if it was important, if they would have done it closer to the time the investigation, then maybe they would have had something, maybe they would have an argument, but they waited until we knew you couldn't get any data anyway, and then hold it against Sidney. He hasn't had possession of that car. After February 21st, the State takes possession of the car. We hear that eventually he loses it and it is at another owner by the time it gets involved. It is just another excuse for why they can't put the two together, for why they can't answer the questions that are necessary in order to find guilt in this case.

Folks, we've talked a lot about a lot of legal standards. You've heard about probable cause, and that is what they thought they had two months after

the disappearance. Probable cause just means enough to have an arrest. They had an arrest, and for the next five years, six years they've been trying to gather more evidence, trying to see what they can get. They just have been dumbing down on the same problems they've been having up until this point.

Some of you may have served on a civil jury, and I do civil cases. You may have heard about the preponderance, the scales of justice tilt ever so slightly. There is a reason this is different than a civil case. In a civil case, we're talking about money. Here, we're talking about someone's life, someone's freedom. In civil cases, you get to conduct your own investigation. Ms. Livesay decides to sue me, pays a hundred fee, and then I can conduct depositions, depose other people, request records from third parties. You don't do that in a criminal case. It is illegal to conduct a parallel investigation. You are forced to respond to what the State presents, what the State has uncovered, and that is what we're doing in this case.

After all of the evidence accumulation, after all of the effort they've done, they come to you and asked that you believe they met their burden to beyond a reasonable doubt, the highest burden we have in the

legal system. So they are saying they've excluded all reasonable possibilities. Folks, they can't do when their first couple of witnesses are contradicting each other, when they have no reason why they didn't do this, didn't do that. They can't explain that away. The standard isn't what Sidney Moorer -- did he do something suspicious or do we have questions about it; that is not it.

When you go back and begin deliberations with the 11 other jurors and you've got a question, something that has not been asked, and the State hasn't answered that question, all of them, each and every one of them, then they have not met that standard.

We're going to talk about what it means to hesitate to act. The Judge will instruct you that reasonable doubt means any time that you get that feeling, that hesitancy to act. I think the best explanation is what we saw during jury selection. There were a number of people that stood up when asked if they could be impartial, stood up and said, well, Judge, I don't know. What did Judge Dennis do? Oh, that tells me all I need to know right there. If you have that feeling in the jury room that you are not sure, that hesitancy to act, and if you do that, if you have that feeling with your experiences, your

voice, your obligation is to say not guilty.

One of things that we have in asking you to go back and deliberate something like this is that so often in our daily lives we choose one side or another, choose categories. We're not often looking at specific examples. You are left or you're right, red or blue, but if you go back there in your deliberations and you say, you know what, I think the police maybe made some mistakes. I think they didn't answer some questions, you are not anti-law enforcement. We're all pro-law enforcement, but we understand that people make mistakes. We understand that people maybe rush things a little bit. We understand that with the benefit of hindsight, maybe there were things that weren't done. If you decide the State hasn't met its burden of proof, you're not anti-prosecution. You can tell them, Ms. Livesay and Mr. Helms, thank you for the service you've done, but we're not just not comfortable. We don't think there is enough there.

If your decision at the end of the case is not guilty, then your prayers for Heather Elvis and her family are not any less valid. They are not any less true and less genuine. Before we -- before I came to the courthouse I heard on the radio some issue about

headlines that caught my attention. It said we have circumstantial evidence that Iran had instituted this attack. I can tell you, as soon as I heard that, guess what, it's not going to be a war, because we don't go to war on circumstantial evidence. Folks, we don't go to war on circumstantial evidence, and we don't send people to prison on circumstantial evidence, and that is what we have in this case.

I want to talk about one last thing and it is difficult -- difficult to talk about. Folks, throughout the course of this trial we've heard that, you know, Ms. Elvis is gone, she's not coming back. What is that? That's not a kidnapping charge, that is something more serious. Folks, we talk about the hesitancy to act. We're asked to trust in the State's theory. The State is tasked with seeking justice, pursuing charges, but then are holding back. They have hesitated to act on this case. They've brought this as a kidnapping case and a conspiracy to commit kidnapping. Folks, the case has been a lot of excuses for the fact that the evidence just doesn't fit, and that Sidney Moorer has not been proven to have anything to do with Ms. Elvis' death.

As you go back to your jury room, I ask you to weigh those things that we talked about. If you need

to hear something or see something, any of this that comes in can go back with you in the jury room. I just ask that each and every one of you to utilize your own personal experiences, what you have heard and what is important to you and make those voices heard as you begin your deliberations. Thank you.

THE COURT: Thank you, Mr. Bouchette. Do you need the screen for any reason?

MS. LIVESAY: No, sir.

THE COURT: You can put that up, thank you.

MS. LIVESAY: I'm going to be brief.

THE COURT: Solicitor, you may proceed.

MS. LIVESAY: Thank you, Judge.

Ladies and gentlemen, I get to come back and talk to you a little bit about the defense in cases when they put up some evidence. That attorney told you something that I think is important, and I want to talk to you about. We did not and have not brought the charge of murder; he is absolutely right. We don't have Ms. Elvis' whereabouts; we don't. We don't have that yet, that is why I didn't bring that charge. I'm the prosecutor in this case. I don't mind telling you. I made the decision to bring kidnapping because I don't have Ms. Elvis. But what I do have is I know that after she talked to Sidney Moorer, and I know

when she was at that landing, and I know he went down there in his truck. Grant Fredericks told you the SD card was removed. He washed it afterwards. That is how we know it is the right truck. I know after he went down there, we never heard from her again. I know that.

Now, he keeps telling you I'm asking you to trust me. If I gave you that impression, I'm sorry. I'm not asking you to trust me. I'm asking you to look at the same evidence I have looked at, that is what I'm asking. I'm asking you when you look at it and you scratch the surface, there is no other answer that when he went down to that landing, she was there. Whatever happened, there is no doubt her freedom was cut off. She couldn't make any phone calls. She couldn't receive any phone calls. That is what I can tell you beyond a reasonable doubt. I didn't bring you or ask you to convict this man of murder. I didn't. I don't have enough evidence, I'm telling you. I don't have Ms. Elvis, which I think -- I think I need to come to you with that charge.

What I am asking you for is to decide that this man, whatever happened at that landing, cut off her freedom. She couldn't call out. She couldn't receive phone calls. That is what the evidence shows. That's

why I brought it, because that is what we have beyond a reasonable doubt. She was down there waiting for who she thought was the prince charming of her story. I don't mind telling you, I can only imagine when she figured out that this was not going to be a happy ending. I'm sure that young girl was scared to death. I can only imagine.

All of us, at some point, something has happened in our lives, and we've been scared to death. But all of us are still here. We get a chance to right whatever wrongs, do whatever we feel we need to do. So many people have something that changes their life. This young lady, that opportunity has been taken from her by Sidney Moorer.

Now, I'm not telling you to find this case beyond any doubt; that is not what the burden is. This judge is going to tell you the burden is not beyond any doubt, the burden is beyond a reasonable doubt, firmly convinced. Firmly convinced; that is the burden.

Now, he's come up to you and talked to you a little bit about the police. I mean, I'm telling you, man, you listen to him talk about the police and they are about the sorriest crowd in Horry County, you ought to be more worried about them than this guy searching teenage girls. The police are not perfect;

they are not. They are doing the best they can. I'm doing the best I can. That man that sits at the table is doing the best he can. The police made some mistakes, and I'm sure we made some mistakes, but that doesn't mean that Sidney Moorer didn't do it. That is not what that means. I guess Jarrett wants you punish this family for maybe a police officer, so let him go, because we're not perfect, the police aren't perfect. That is not how it goes, folks. That doesn't mean he didn't do it, because he did do it, okay. Ain't nobody else done it but him.

This thing about Stephen Schiraldi is the last one to see her. What you didn't see is that defense attorney ever touch any of this (indicates), because the evidence is not in his favor. Because this evidence shows the last person to talk to her when she was alive was Sidney Moorer. Not Stephen Schiraldi. Not Jerry Stevens. Not anyone else but Sidney Moorer. He comes to you with this nonsense that they didn't get so-and-so's records. They didn't get Jerry Stevens' records. Then didn't get Stephen Schiraldi's records. Guess what. They didn't get Chris Helms' records either, or James Galmore's records. They didn't get those records either. Why? They got the records for the person that was lying to the police,

lying to the police now. He's the only one lying to the police. Jerry Stevens didn't lie to the police. Stephen Schiraldi didn't lie and was the last one to talk to her when she was alive. Yes, that's who they focused on, and the more that they focused on that, it excluded everybody else. There was nobody else going down the landing except for Sidney Moorer.

He told you that I'm trying to minimize Bruce Koenig's testimony, that is what he told you. I'm here to tell you I am. You know why? Bruce didn't do one thing but come in here -- he didn't go to the scene. He didn't do anything other than look at Grant's report, look at this log, look at this log. Grant is the real deal. He is an expert. Bruce Koenig is some guy that worked for the FBI when we had VHS tapes. So, yes, I'm telling you, Bruce Koenig is not a credible source for figuring out what truck that was that went down there, and I'm telling you Grant Fredericks is. He did the work; you saw it. I showed it to you. There was nothing to hide. All Bruce came in here and did -- he didn't do anything but nitpick Grant's report. And even then, he had to tell you it was a black Ford F-150 with a toolbox. Even then he had to tell you that. He came here because he was paid to come here to try to put some sort of doubt in

your mind. Oh, but it could be another truck. In the end he said something about someone could have added something to the truck, built something to the truck, done something else and it could have looked like that truck. Not even credible. The only reason he came here was to try to somehow make you doubt. That is all Bruce was there to do, not to find the truth. If he was here to find the truth, he would have done the work. Grant was here finding the truth, doing the work. Bruce had never been anywhere in Horry County but right here. He came in here to do what he was paid to do: Might be the truck, might not be the truck. He ain't never been nowhere but here. So, yes, I'm telling you, that is not credible evidence.

I'm also telling you that the other evidence that they put up, Sidney's sister-in-law who was on the tape looking for bugs, worrying to death that the police would get evidence, out there with a mirror under there. Even when I showed it to her, she wouldn't tell the truth. Black and white on the video. You know you are all out there looking to see if the police planted an audio or video. You are out there with that little mirror looking under the water fountain. Even then, she wouldn't tell the truth. This crowd doesn't have the truth in them, her or

Sidney. Ain't either one of them can tell the truth. Why? Because they have so much to hide.

The evidence we presented to you is the best evidence we got. It is the black and white of what happened from the 17th and the 18th. It is things that cannot be disputed, phone records, surveillance, his very statement, all of that cannot be disputed. The defense wants you to say, oh, it could be anyone. It could -- it could not be just anybody.

When you go back there and you look through the evidence and evaluate it, I'm not asking you to trust what I'm telling you. I'm asking you to trust the evidence. The best they got is to put up some transcript from Penny Schiraldi. Is that the best they have? They want you to cut a guy loose who kidnapped a teenage girl on that. That's the best they got. Penny Schiraldi said -- it's been six years, folks, and they want to nitpick two witnesses. That's best they got. They want you to cut this man loose who kidnapped a 19-year-old girl over a transcript. That's the best they have that they put on the screen.

I'm telling you, when you look at the evidence, there is nobody else. It is a tremendous decision, there is no doubt about it. It is a tremendous

decision, but I'm asking you when you get back there and you evaluate the evidence and you use your commonsense, you look at it for what it is, I'm suggesting to you that there is only one answer, and that is guilty. Sidney Moorer snatched this little girl up, kidnapped her. Whatever happened at 3:41 a.m. between him and her, she's never made a phone call since. Him and his wife were together. There is no doubt that this was the plan, the two of them together all night. So I'm asking you to find him guilty of conspiracy to kidnap. That defense attorney is right, I'm not asking you to find him guilty of murder, I'm asking you to find him guilty of what the evidence shows beyond a reasonable doubt. Thank you.

THE COURT: Thank you, Solicitor. Thank you, ladies and gentlemen. If I could have your attention. It becomes my duty and responsibility under the constitution of this state to give you the law which you, of course, must accept and apply to the facts as you will determine them, because it is yours, and yours alone, the exclusive duty to determine the effect, the weight, the value and the truth of the evidence. Both the State and Mr. Moorer expect that you will conscientiously consider and evaluate the

evidence, and decide what you find to be credible and believable. Once deciding those true facts, take the law and apply it to those facts and report your decision. I'm confident that each of you will perform that task when you are instructed to do so.

During this instruction, from time to time, I may use the term "defendant," and that is just a term of art in our profession. It is really used to designate the party against who some claim is made. As I mentioned to you when we started in this proceeding, he is accused by two documents, these pieces of paper, and they are not evidence and will not accompany you to the jury room, because all they do is contain the accusations against Mr. Moorer. So he is the party against who the claim is made. So sometimes I use the term "defendant," but just know that it is synonymous with Mr. Moorer, it means nothing more than that. I tell you, the persons accused of committing offenses, such as Mr. Moorer in this case, in this state and in this country, are never required to come in and prove or explain anything, because the law says that when a person renders a plea of not guilty, as Mr. Moorer has in this case, that places upon the State the sole burden of proof, and the person accused of committing a criminal offense doesn't have any burden to prove

anything. The reason for that is that every person accused of a crime is to be presumed innocent, and those are not just words, that is an active presumption that each one of you has to maintain. It can only be set aside when through the deliberation process you all are convinced that the State has met its burden of proof, and that is to establish each element of the crime charged beyond a reasonable doubt, and then, and only then, may you set aside the presumption of innocence. It is an active presumption.

Obviously, ladies and gentlemen, because a person does not have to prove or disapprove anything or present any evidence, persons accused of committing criminal offenses have the Constitutional right to remain silent. The law says that you cannot, in any case, when you are considering a person accused of a crime, consider that fact at all. I will instruct you that the fact that Mr. Moorer has not testified in this case must not be considered by you. It can't even be discussed. If it is discussed, you have violated your oath, because he has the absolute right to remain silent. Furthermore, because the primary reason for that is the State, and the State alone, has the burden of proof, to prove his guilt beyond a

reasonable doubt.

What is a reasonable doubt? A reasonable doubt, ladies and gentlemen, is that doubt which would make an honest, sincere, conscientious juror who is searching for the truth in a case to hesitate or act or take some action. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of Mr. Moorer's guilt. I will tell you that there very few things in this life and in this world we know with absolute certainty. In criminal disputes such as this, the law does not require proof that overcomes every possible doubt. If based on your consideration of the evidence you're firmly convinced that Mr. Moorer is guilty of one or more of these crimes, then you must return a verdict of guilty. If, on the other hand, you think there is a real possibility that he's not guilty, then you must give him the benefit of that doubt and find him not guilty on that particular crime.

I will tell you that a reasonable doubt may arise from the evidence which is in the case, or from the lack or absence of the evidence in the case. It is up to you to decide whether a reasonable doubt exists as to his guilt. I charge you, ladies and gentlemen, that he is entitled to every reasonable doubt arising

in the whole case. What do I mean by that? Simply this: If upon any issue of fact, which would be essential for you returning a verdict of guilty, you should have a reasonable doubt as to how that particular issue should be resolved, it is your duty to resolve that in his favor.

Now, the evidence which you are to consider consists of testimony of the witnesses and exhibits that have been introduced through their testimony. Please remember something, during the trial -- we even discussed this -- from time to time both sides have made objections. I told you those were matters of law for my consideration. Typically, many times, we had side-bar conferences concerning those objections. That was for my benefit to facilitate my ruling on those particular matters of law. The fact they were done without you hearing it is intentional, because it doesn't have anything to do with your decision.

I would tell you my rulings should not be considered by you at all, because that is my job. Again, we have separate roles. You are the sole judges of facts; me, the sole judge of the law. The fact that an attorney made an objection, likewise, should not be considered by you, because it is very proper for them to raise those matters of law for my

consideration.

Probably the greatest example I can give to you of how we work together is discussing my ruling. If I sustain an objection, I said as a matter of law that I would not permit that. That is typically related to a rule of evidence which I concluded would not consider -- you to consider in your deliberations. Again, if the -- if you were to engage in the thought process and say, I wonder why? I wonder what that witness would say? That is human, but if you did that, you violated your oath because you stepped into my area of responsibility. On the other hand, if I overruled the objection, I said as a matter of law and consistent with the rules of evidence, I would permit the question to be answered -- or asked and answered, and for you to consider that question.

Now, don't say, well, you know, the judge allowed that, I guess I have to accept that, because if you do, if you engage in that thought, you've also violated your oath. Why? Because you let me step over into your area of responsibility. Frankly, it is that precise moment where we work together. I've said as a matter of law, I'm going to permit the question and answer. Now it shifts to you, you have to decide whether you believe it or not and, if so, how strongly

you believe it.

I will also remind you that, as I told you throughout, the statements of the attorneys and my remarks should not be considered evidence. If during their opening statements or the closing arguments they state to you what a witness said or didn't say, and that differs from your recollections of what that witness said or didn't say, you are instructed to disregard that remark. Why? Because you are the sole judges of the facts. Likewise, if there are any statements of law different that differ from the law that I tell you, you are also to disregard it because it is my job to be the sole judge of the law. For the purposes of this proceeding today, you must take the law as I give to you, not what the attorneys have said the law is or should be.

Ladies and gentlemen, how is a person charged with the burden of proof to present a case? Well, we typically deal with two types of evidence. Whether it is civil or criminal, it makes no difference, they are the same. One is direct evidence, and the other is indirect evidence, or the more popular name for indirect evidence is "circumstantial evidence." Direct evidence, as the name implies, generally deals with sensory perception, someone testifies to

something I saw, heard, felt or the like. If you are firmly convinced of the creditability of that testimony, then that would establish that particular fact or circumstance through direct evidence.

Circumstantial evidence is when a person testifies to a number of facts and circumstances, and you are firmly convinced as to each one of those, and when you link them through deductive or inductive reason, that leads you to a logical conclusion about which you are firmly convinced. It would establish that particular fact or circumstance by circumstantial evidence.

Now, I will tell you the law makes absolutely no distinction between the weight or the value to be given to direct or circumstantial evidence, nor is any greater degree of certainty required for circumstantial evidence than direct evidence. You are instructed to weigh all of the evidence in this case. But the law says to the extent that the State is relying on circumstantial evidence, it has to meet a certain test. First, as I mentioned to you, as to each of those facts or circumstances, or events, upon which the State is relying, the State has to prove each one of those beyond a reasonable doubt. That means you are firmly convinced of that particular fact

or circumstance as to the creditability and believability of that evidence. Further, these facts must point conclusively to the guilt of Mr. Moorer. They must be wholly perfectly consistent with each other in every particular respect.

I further instruct you in that regard that the mere facts or circumstances brought out in a case are strongly suspicious of guilt, or that the guilt -- the circumstances of such is that the defendant's guilt is probable, than that would not be enough, because it has to be more than someone merely suspected of committing a crime, or that they may have or probably committed a crime. It has to be proof that convinces you beyond a reasonable doubt.

Now, the rules of evidence, ladies and gentlemen, generally does not permit a witness to render opinions or conclusions except in very limited circumstances. An exception to this rule is when a witness comes in, and we designate these witnesses as expert witnesses, and that witness is identified in that fashion because of their education and experience, and through that, they have become an expert in some art, science, profession or calling, then those persons may be allowed to render an opinion which is relevant to these proceedings in the area of their expertise and

give you the reasons for that opinion.

Now, I would instruct you that you must consider any expert opinion rendered in this case the same as you do any other evidence and give it the same weight that you believe it deserves. If you decide that the opinion of the expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence in the case, you may disregard the opinion in its entirety.

An expert witness' testimony is to be given no greater weight than any other witness because the witness is called an expert or identified as an expert. As I stated further, you are not required to accept the expert's opinion even though it is not contradicted. You are to consider all of the evidence and decide what you find to be credible and believable, and give the weight you deem appropriate.

I would also tell you that the statement alleged to have been made by Mr. Moorer had been admitted into this case. While the Court has made the determination that the statement is admissible, I instruct you that you must make the ultimate decision of whether or not the defendant made the statement, and if he did make a

statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will. This means that the statement was not caused by fear, force, threats, coercion or intimidation, or by hope or promise or reward of leniency or reward of any kind.

In determining whether the statement was voluntary, you must and should consider both the characteristics of the defendant, the details of the questioning. Some of the factors you may also consider are the age of the defendant, defendant's education or lack of education, the defendant's mental ability or capacity, the defendant's IQ or intelligence, defendant's background and environment, the place and length of the detention and the nature of the question. You must carefully consider all of the surrounding circumstances before you give any weight to the alleged statement. The State has the burden of proving beyond a reasonable doubt that the statement was voluntary.

If you determine through your deliberative process that it was, you may give the statement any further consideration that you deem proper. You must decide what weight, if any, should be given to the alleged statement, and the value of that statement.

If you determine the alleged statement was not freely and voluntarily, then you should disregard the statement and you may not consider it at all.

How do you decide the facts in this case? As I mentioned to you, you brought -- when we started, you brought everything you will need to do it, because you've done it all your life. We all in our lives use certain techniques, certain factors that we consider in assisting us to make that type of decision. We hear something, read something and we decide whether we believe it or not. I will discuss some of the factors that you may consider, but you certainly can apply any facts or method you deploy and have found to be reliable if I don't discuss something that you have considered. But some of the factors would be the appearance of the witness, how did they appear to you, straightforward or hesitant in answering questions? Was the testimony of a witness consistent, or was it inconsistent? Was it strengthened or weakened by other evidence in the case? How did that witness come to know the facts that he or she testified to, or what was the ability of the witness for knowing those facts or circumstances? Was the witness' testimony supported or not supported by other evidence in the case? Was there a reason for a witness to give

testimony which may be helpful or not helpful? In other words, was the witness biased or prejudiced in any fashion? There has been testimony even of prior convictions of a witness, and I would tell you that the only purpose for which that may be considered is to determine the creditability and the believability of that witness. The fact that the witness had convictions does not necessarily render his testimony credible or incredible. It is up to you to decide and weigh that with all other factors and decide what you find to be credible and believable.

In making these decisions, what you find to be credible and believable, you have very broad discretions. You have the right to believe one witness against many; many witnesses against one. You have the right to believe all of the witness' testimony, parts of a witness' testimony or none of a witness' testimony. Of course you don't make these decisions arbitrarily, but if there is a reason in the record, that is the evidence in this case, for taking that position, you have that prerogative, because your objective has been from the start -- and we've talked about this when we started -- is to carefully, methodically, consciously apply your commonsense, logic and reason and analyze the evidence and decide

what you find to be credible and believable, regardless of the source of the evidence. Once you decide that, then you take the law as I give it to you and apply that fairly and impartially to those facts.

Now, we've talked about this when we qualified you, and I'll reiterate it to you. While you have very broad discretions, wide latitude, in deciding the facts of the case, please remember you don't enjoy the same with the law. I will agree with you, if you have some disagreements with some law and principles of law, we all think a law may need to be changed, maybe there is a better way of presenting some law, and you have the right to feel that way. But for the purposes of this proceeding, you promised both the State and Mr. Moorer and the Court that you will set those aside.

Furthermore, if I define the law for you in this case and it differs from what you thought it was or what your recollection was, again, I appreciate you have that, but, again, you promised to set that aside and you must take this law and apply it fairly and impartially with the facts that you will ultimately determine.

Please remember, you are to consider the charge as a whole. Don't put any greater weight or emphasis

on any one aspect of the charge. The fact that I have given you an instruction on a particular issue in this case should not be considered by you in any way to be a suggestion as to how you are to rule on any particular fact or circumstance. Likewise, none of my actions, nothing that I said during this trial, should be considered by you as a suggestion or indication of how you should rule on the facts, because that, ladies and gentlemen, is your sole job and sole judgment. You are expected to take the law and apply it as a whole to those facts and then report your decision.

Now, let's talk about the two charges. First, I want to deal with the charge with the indictment which accuses the defendant of committing the crime of kidnapping, which is set forth described in Section 19-3-1910 of our code of laws. In order to obtain a conviction for the crime of kidnapping, the State must prove beyond a reasonable doubt that the defendant in this case knowingly and unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away another person without the authority of the law.

To do a thing unlawfully is to do it willfully against the law.

Knowingly means with knowledge, consciously, not accidentally.

Seize means to take hold suddenly or forcefully.

Confine means to limit, restrict or enclose within bounds in prison or shut or keep in.

Inveigle means to lure, entice, lead astray by false representations, promises or other deceitful means.

Decoy means to lure by or as if by decoy.

Decoy is something to entice a person into a trap.

Kidnap is to remove a person against his or her will by unlawful force or by fraud.

Abduct means to carry off secretly or by force for an illegal purpose.

Carry away means to remove.

Now, the State does not have to prove that the defendant did all of these things. Instead, if you find beyond a reasonable doubt that the defendant, Mr. Moorer, did any of these things, you may find the defendant guilty of kidnapping. Something done without authority of law is something which the law does not sanction, permit, allow, condone or provide justification for.

Now, the kidnapping does not have to be for any personal or monetary gain, or for any illegal purpose, but may be for any reason, whatsoever. The gravamen

of the offense of kidnapping is some form of compulsion, but the law says that the requisite force or compulsion need not consist of use of actual physical force or violence or expressed threats of violence or force. The offense of kidnapping is commenced when one is wrongfully and unlawfully deprived of his or her freedom, and continues until that person's freedom is restored.

Let's look at the second charge: Conspiracy to kidnap. That is set forth in Section 3-9-20 of our code of laws. In order to obtain a conviction for this offense, the State must prove beyond a reasonable doubt that the defendant, combined with one or more persons, for the purpose of violating the section which sets forth the kidnapping charge. In this case, the State must prove beyond a reasonable doubt that there was a mutual understanding, agreement or common intention and plan. If there is merely a passive knowledge or merely consent to his criminal conduct of another, that would not be enough to make a person a conspirator. There must be guilty knowledge and participation.

Similarly, the mere fact that the defendant may have associated with another person or met with another person and discussed common names and

interests does not necessarily establish proof of the existence of a conspiracy, or that the defendant was involved in a conspiracy. On the other hand, however, it is not necessary that the agreement be a formable one, not necessary to be in writing, and it's not even necessary that the person expressly stated the terms of the common plan or that the agreement be stated in words between them. The agreement of a criminal conspiracy may come into being through an implied mutual understanding. The willful intention and knowing adoption of two or more persons of a common plan is sufficient.

In addition to an agreement, which we talked about, the statute also requires an overt act towards the carrying out of this agreement, confederation of conspiracy. There must be an overt act done by at least one of the persons to establish the conspiracy. But if the agreement and the overt act are established beyond a reasonable doubt, then all persons involved in the conspiracy would be guilty of violating this section.

I would further instruct you that a conspiracy may be shown by circumstantial evidence and the conduct of the parties alleged to have been involved. I will also instruct you that the criminal intent is a

necessary element of each of these crimes and it, as all of the other elements, must be established beyond a reasonable doubt. Criminal intent is always a matter that must be determined by you from the circumstances surrounding the situation. So the law states criminal intent may be inferred from the circumstances which have been shown to have existed.

Criminal intent is a state of mind that operates jointly with an act and commission of a crime. Intent includes those consequences which a person -- which represents the very purpose for which an act is done, or known to be substantially certain to result regardless of one's desire.

Criminal intent is a mental state, conscious wrongdoing. It is up to you to determine whether or not -- what the defendant intended to do, assuming, of course, that the State has proven to you that the defendant was present and participating in the -- and you may consider all of the circumstances which the evidence convinces you has been established and shown to have existed. I further mention that that must be -- you must reach the conclusion that the State has met that burden beyond a reasonable doubt.

Ladies and gentlemen, we went through a lengthy process to decide and handpick you to be a judge with

me in this case, and that was intentional. The reason for it is quite simply this -- and you saw me excuse some persons, and that was because those persons, for various reasons, said they couldn't be a fair and impartial judge. But each one of you by responding to that last question that I asked you, and I'll remind you, I said was there anything about this case that would give you any concern about making the commitment that you made when we started, and none of you stood. So you said there was nothing; nothing at all.

Then, we talked about something we have to do as humans, and this is not something we do -- you don't do, but I do it because that's my job -- but you don't sit in judgment. That's not something that we like to do. One thing about it, and I know I have to acknowledge this, and I think you probably will agree with me, one of the things we have to do is remember that we don't have any friends to reward, nor do we have any enemies to punish in this process. We're not here to represent either side. We're here to be fair and impartial judges, which requires us to do something and, I confess, it is not always easy to do, and that is to set aside all human emotion. In cases such as this, it is very difficult, but you have to do it, because if you don't, if your decision is

motivated by any human emotion, then we both -- and mine, too -- then we both have violated our commitment the State, to Mr. Moorer and to the process. I'm confident each one of you will honor that, and that your decision will be something that when you retire and begin your deliberations, you will set aside all of those human emotions and methodically consider it and decide what you find to be credible and believable.

Once you decide that, you take the law as I have given it to you, apply that law to those facts, and that will be the result. I can promise you this, and that was part of the instruction of one of the sessions we had at the conference I attended yesterday, it is fair to remind those of us who do it every day, and I'm going to remind you that the result will not be favorable to some. Some persons will not agree with it -- no question -- in this case. But that can never, ever be what motivates us in performing our tasks. We have to do it consistently with the law and the facts. I have given you the law, you will determine the facts, combine them, and whatever the result is, it is. If we have honored that in every respect, then we can hold our heads up high -- sorry we are disappointing to some -- but we

have done what we are supposed to do under the law of the state and this country. I thank you for your willingness to participate and being in this process.

Madam Presiding Juror, to assist you in reporting your decision, I have prepared two verdict forms, which I'll discuss with you. They will accompany the other exhibits that will be delivered to you. You will see that they are captioned. Folks, that just facilitates the filing. It means nothing. It just helps the clerk know where to put these documents. They both are identical, except for this fact: One deals with kidnapping, and it is set forth; and one deals with conspiracy to kidnap. I will explain one of them. They are identical. You will see they have two choices. The order which they appear means absolutely nothing. I had to put them in some order. This one happens to be kidnapping: We, the jury, by unanimous consent, find the defendant -- unanimous consent, what does that mean? Twelve to zero, that is what that means. All of you have to agree. By unanimous consent find the defendant, Sidney St. Clair Moorer -- the defendant's name -- on the charge of kidnapping: One, guilty, or, not guilty. Then there is a place for you to sign it where it says "presiding juror." There is a place for you to write in the

date. Whatever your verdict -- if it is guilty, what will you be saying? You will be saying that you and the other 11 jurors have agreed that the State has met its burden of proof and established those elements, which I outlined for you, beyond a reasonable doubt and, therefore, as you were instructed, you're returning a verdict of guilty, which is consistent with the law, that you've been convinced -- firmly convinced of each element, and now that presumption of innocence is removed, and you will check guilty.

Not guilty, what will you be saying? You are not convinced of one or more. Because if the State fails on one element, that you are not firmly convinced, that presumption of innocence means you must put not guilty. That is what the law says. That is what your decision would be if it is twelve to zero. Whichever it is, sign it and date it, and do the same on the second charge once you finish the first one, or whichever order you want to proceed. Then, you knock on the door. We will return you to receive your verdict.

I know you are anxious to get started, and we're almost there. I need to talk about my charge with the attorneys, and as we have done a number of times to discuss matters of law, I need to excuse you. I'll

let you go to your jury room for just a minute. You may not commence your deliberations until you -- we deliver you the exhibits. When you receive the exhibits, then, and only then, may you commence.

The only restriction on the deliberations that I place is this: If any juror has to leave the room for any reason or leave the table for any reason, you must stop deliberating until all 12 of you are together. Other than that, you proceed as you deem fit and proper.

I thank you for your attention. The last question -- as I told my alternates, we are at that point -- does any one of the first 12 of you feel you are unable to continue; if so, raise your hand?

Thank you.

My alternates, when the jury retires, I'll ask that you not return to the jury room with them. They will take you to another room, and I'll be in very shortly to discuss with you how much longer you need to remain. If we have to bring the jury back and give you further instructions, I'll return you and give further instructions.

Ladies and gentlemen, what an honor and privilege to serve with each one of you and in the manner you handled yourselves and have conducted yourselves

throughout this trial. I ask you to please retire to the jury room and await the exhibits before commencing deliberations. Thank you.

(The jury exits at 1:51 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Any exceptions or additions from the State?

MR. HELMS: None, Your Honor.

THE COURT: Any from the defense?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Thank you very much. We'll be at ease. Check the exhibits methodically.

MR. HELMS: We do have one question. For those exhibits that require a computer, we have a clean computer.

THE COURT: I was going to ask you about that. So do you have any objection with a computer going back?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Thank you. Some places don't. I was going to ask you how you were going to do it.

MR. HELMS: We designate it just for juries.

THE COURT: That fine. That is a great help, Chris. Thank you very much.

MS. LIVESAY: Thank you, Judge.

MR. BOUCHETTE: Thank you very much.

(The attorneys and court reporter validate the exhibits, and the jury starts deliberations at 2:13 p.m.)

(Court's Exhibit 1 marked.)

(The time is 3:24 p.m.)

THE COURT: We have Court's Exhibit 1.

Could we please have the written definition of kidnapping only?

In my career, when I first started this, I would gladly respond and attach it to it and say if you need more, let me know and I'll be happy to provide you with a written copy. I found out when I first went to Reno, because the only place I practiced was the State of South Carolina, that other states give the written charge as a matter of court. I thought, Well, that makes sense because some people are visual and it is very helpful for people that are. So I started doing that, and I think Judge Newman does it now in every case, which is probably a good idea.

(Mr. Moorer enters courtroom.)

THE COURT: I think Judge Thomas actually said if they want the charge, and then say whatever else you need to give them, but you have to give them the whole charge. So unless there is an agreement, and I will

do that in a civil case, I don't expect any agreements from you all, and that is fine. I have the charge and I printed a copy, and I have it. It is not in caps so I can read it, it is in small letters. I have a copy for each one of you. I have four copies for them so they all don't have to pass it around. I'll bring them in and tell them -- I'll send the charge back. I know what they want. The law requires me to give the whole charge and I'll ask them to just keep it with the exhibits. Any objection from the State?

MR. HELMS: No, sir.

THE COURT: Any objections from the defense?

MR. BOUCHETTE: No, Your Honor, no objection.

THE COURT: Very well. I'll give you a copy for each one of those. I may have to elaborate on some, but it didn't change anything. It was fully there of what I charged.

MR. HELMS: Thank you, Judge.

MR. BOUCHETTE: Thank you.

THE COURT: You bet.

Invite the jury to return, please.

(The jury enters at 3:27 p.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you very much. I have Court's Exhibit No. 1, and it said, Could we have the written

definition of kidnapping only, signed and dated, and I thank you, ma'am. I was just telling them I would love to comply with that, but we are a state that, until recently, we didn't -- if the jury asked for written charges, when I practiced law, judges never did. They just brought the jury back in and recharged them, and that is fine. I mean, I don't find fault. But one of the sessions we had at one of the seminars is the types of learners, and if you are visual, you can read to a visual person all day long and they might not get it. So if they read it, they might get it. So it makes perfect sense for what you are asking for. Under our law, though, I have to send you the entire charge. I only do it for this reason, I bolded the charge portion dealing with the crime of kidnapping and conspiracy to kidnap. So those sections specifically will contain the elements of each crime, but now the whole charge is important, because following that, there is another element, and as I told you, criminal intent is one, but the charge sets forth all of that. But the specific definition of kidnapping is in that section bold, and then the next one is conspiracy to kidnap, okay.

I'll send it back. I have four copies that I ask that you keep these when we return the exhibits, we

return all four copies, okay. I'll send them back with you. When you get those, if there is anything else you need, just let us know. Thank you. You may retire for your deliberations.

(The jury exits the courtroom at 3:30 p.m., and the following is had out of the presence of the jury.)

THE COURT: Exceptions or additions from the State?

MR. HELMS: None, whatsoever, sir.

THE COURT: Exceptions or additions from the defendant?

MR. BOUCHETTE: No, Your Honor.

THE COURT: Thank you. We'll be at ease until we hear otherwise.

(Court is at ease at 3:34 p.m., as the jury continues to deliberate.)

THE COURT: Thank you. Please be seated. I'm advised the jury reached a decision.

Again, I expressed my sincere sympathy -- it's not the appropriate word, just my deep feelings for you. I'm a father, grandfather and I've been doing this and it's just a very difficult time for everybody, and I appreciate very much your patience with the Court, number one. Number two, the proper decorum in the tough situation, that is extremely

difficult for both sides.

(Mr. Moorer walks into the courtroom.)

THE COURT: I understand human emotion being the way it is, that there will a time of release, time of deep feelings when we read this verdict, but I respect this process, and I think you do, too. I'll ask you to control your emotions. I don't want any reactions to the jury verdict, either side. If you feel you will be unable to do that, I ask you to leave now, because if you don't, then that's going to violate my specific instruction not to do that. So I thank you for your understanding, at least to that. I understand that that is -- we're human, but I'm asking you to do something sort of superhuman right now. Thank you.

Let the record reflect that Mr. Moorer is present.

Is the State ready to receive the verdict?

MR. HELMS: Yes, Your Honor.

THE COURT: The defendant is ready to receive the verdict?

MR. BOUCHETTE: Yes, sir, Your Honor.

THE COURT: Invite the jury to return.

(The jury enters at 3:44 p.m., and the following is heard in the presence of the jury.)

THE COURT: Thank you very much, ladies and gentlemen. Thank you. I understand the jury has reached a verdict?

FOREPERSON: Yes, Your Honor.

THE COURT: If you will, pass the verdict to Mr. Ropp, please.

(A brief pause in the proceedings.)

THE COURT: The verdict forms have been properly completed. I ask Mr. Moorer to please stand.

You may publish the verdicts.

THE CLERK: Indictment 2014-GS-26-1125, State of South Carolina, County of Horry, versus Sidney St. Clair Moorer. We, the jury, by unanimous consent find the defendant, Sidney St. Clair Moorer, on the charge of kidnapping guilty.

Indictment 2018-GS-26-3067, State of South Carolina, County of Horry, versus Sidney St. Clair Moorer. We, the jury, by unanimous consent find the defendant, Sidney St. Clair Moorer, on the charge of conspiracy to kidnap guilty.

Dated September 18, 2019. Signed by foreperson, Wanda Simms.

Ladies and gentlemen of the jury, if this is your verdict, so signify by raising your right hand.

THE COURT: Thank you. Let the record reflect

that each juror raised his or her right hand in response to the Court's question.

Mr. Moorer, Counsel, you may be seated if you wish.

Anything further from the jury -- from the defendant -- State, excuse me?

MS. LIVESAY: No, sir.

THE COURT: Anything further from the defendant?

MR. GALMORE: No, sir, Your Honor.

THE COURT: Ladies and gentlemen, I'll ask you to go to your jury room just a few moments, and I'll be with you in a few moments to discuss some things with you. You may retire.

(The jury exits at 3:46 p.m., and the following is heard out of the presence of the jury.)

THE COURT: Any motions or matters from the State at this point?

MR. HELMS: We don't have anything.

THE COURT: Mr. Moorer.

MR. GALMORE: Respectively, we would file a motion for a new trial, and we would file a motion for an order in arrest of judgment. These motions are based on the insufficiency of the indictment, and the insufficiency of the evidence in this case.

Regarding the indictment, Your Honor, we

highlighted earlier in the proceedings about the service issue. We also highlighted in the proceedings about the inconsistent theories that the two indictments put forth to the jury. Regarding the insufficiency of the evidence, Your Honor, we have argued that we felt that this evidence was circumstantial and did not meet the standard of being substantial circumstantial evidence. The Court has understandably ruled on that, but we make those motions for the Court's consideration.

THE COURT: Thank you, Mr. Galmore. And judging from the content of your motion, you intend to supplement this with written memorandum support?

MR. GALMORE: Yes, sir.

THE COURT: I mean, you don't have to, but --

MR. GALMORE: Yeah, it was our intention to file post-trial motions.

THE COURT: I want to make it known that you are filing your motion, and you will supplement that with any written documentation you wish, which will be part and parcel of this motion you are making today, insofar as the timeliness of your motion.

MR. GALMORE: Thank you.

THE COURT: Any objection from the State on that?

MR. HELMS: To the filing of the memorandum, Your

Honor?

THE COURT: Yeah.

MR. HELMS: No, sir.

THE COURT: I mean, the basic motions for new trial and what he stated, but it would only be memorandum to support those respected positions. Of course, if you wish, you don't have to, the State may file any response in addition to that.

MR. HELMS: Understood, Your Honor.

THE COURT: I respectively deny the motion. I think there is an abundance of circumstantial evidence. And I think, as I already articulated, and I respect that that is the beauty of our profession, that we have a right to see things differently, and the reviewing court will have the opportunity to make that decision.

Thank you, Mr. Galmore. I appreciate very much the manner and professionalism in which you presented that, sir.

MR. GALMORE: Yes, sir.

THE COURT: I assume we want to have sentencing at some point today; is that correct?

MR. HELMS: We're prepared to go forward.

THE COURT: Let me take a moment to speak to the jury, and then I'll be back out to finish that.

MR. HELMS: Understood.

THE COURT: Thank you. We will be at ease.

(A recess was taken.)

THE COURT: Are you ready for sentencing? State wish to have anything else? I'll be happy to hear from you.

MR. HELMS: Yes, Your Honor. If the Court deems it appropriate, I think the family of Heather would address the Court.

THE COURT: I would be delighted to hear from them, and it is certainly an appropriate time for them to be heard.

MR. TERRY ELVIS: Terry Elvis, Your Honor.

THE COURT: Don't you worry. Take your time.

MR. TERRY ELVIS: (Witness crying) It's been a long five years, almost six. Every day you wake up and it is the same thing over and over. You can call it kidnapping. It sounds like it's a one-and-done thing, but it's not, it's every day. So the past almost six years, it's a continuous assault. It hasn't gone away. No one will tell us where our daughter is at. At this point, you can give him a day if he would just tell us where she's at.

THE COURT: I understand.

MR. TERRY ELVIS: But I don't think he'll do it,

but we're willing to do that. I would agree to anything at this point just to get to that part of our life and get it closed. Short of that, I would ask that you run these two sentences -- you run them concurrent -- do it all. I know it is within your power and within your judgment, and I know that it's been a strange journey between all of us, but you've always been honorable, and I defer to your judgment.

THE COURT: Thank you so much, Mr. Elvis. And let me tell you, sir, as a father to a father. What you have had to endure, no father should ever have to endure, no mother, and certainly I can only speak from being a father. I don't fault you for some of the things that have been said or felt. In fact, I understand them. You don't fault yourself, sir, for that. My only wish for you and your family and all of your loved ones, and I know -- if I thought for a second that would satisfy what you are looking for, I would do it in a heartbeat, I really would, because I understand and I appreciate how magnanimous that statement is, that you are not looking to punish, you just want closure for a lot of things. I just hope that somehow this will bring some peace to you, sir, and that you can start -- you're right, it will never come back to the way it was the day before she left,

but I hope you can find some peace in your life and enjoy what is left, and that is what you are entitled to, sir. Thank you.

MR. TERRY ELVIS: Thank you.

MS. DEBBI ELVIS: I'm not going to appeal emotionally to you. I know you can't make your judgment and sentence based on that, so I want to appeal to what we need and what you can justify legally. We need hope. I just want to explain what I mean by that. All of these years we've been hanging onto the hope of what is hanging over his head and what is hanging over his wife's head, the charges and the trials and the sentencing of the community. They waged war on the community because their only defense was to attack everyone else, and they retaliated. If he did that one right thing, just tell us where our daughter was, everything would have ended. The retaliation from the community would have ended. The charges would have been over. The torment from his family would be over. All of these things were hanging over his head, but all of those things were that hope that we were hanging onto. That one right thing would have changed this up here. With this verdict and this trial, once you sentence, it is all over, but it's not over. Heather is still gone.

There is nothing else holding over his head.

So I'm asking you to give us -- don't just give him 30 years to run concurrent like his wife got. There is not enough room to work with that. He's receiving false hope from a civil attorney that he's going to get rich and be exonerated in a civil case. He has that hope, which I believe is why he didn't plead in this one. If he has 60 years, we have something to work with. We have something to go back on. It's only a little window of time and a little window of hope, and that is all we have. I'm just asking you if you will just give us as much as you possibly can to work with. He's not stopped his crime. He kidnapped -- and you read the definition of the law, unless he releases her, she's kidnapped. He hasn't given her back. He's still holding her hostage from us. So unless he stops his crime, he is still committing it, and there is no remorse. I'm just asking that you justify his sentence by the fact that he won't stop, he won't admit what he's done, he won't take responsibility and he's still committing it to this day. Thank you.

THE COURT: Thank you, ma'am.

MS. M.E. : M.E. .

THE COURT: Yes, Ms. Elvis.

MS. M.E. [redacted]: Most people know that I never am at a loss for words; in fact, I don't shut up.

THE COURT: That's okay. I have been accused of that, too.

MS. M.E. [redacted]: Yes. I know you heard them talk about the ways you think that it's impacted them, and this is meant to be a victim's impact statement, but I would like to talk a little bit about what I've witnessed being taken away. Because it didn't stop at taking Heather away from our family, because every day I watch my dad turn into someone that he's not, and I watch my brother hide away from the world, and I watch my mother turn into somebody that is just a shell of the person that she used to be. I can't witness my own transformation, but I'm positive it has been drastic. I'm not nearly the woman I was five years ago. And for better or worse, I don't know, but I can tell you that our family is not the only victim. Our community has suffered and changed in ways that are unimaginable. I don't know if you noticed, but their family got up and left, because they have been a victim in this as well. He has children that he disregarded and put them in the line of fire when he made this action against our family. I think that is something we should all remember, that it wasn't just

our family that is affected here, but his own. He couldn't even muster a thought for them. And I think that my dad is right, even if we let him walk today, that would be fine so long as we could have a funeral, have a coming home, have an answer so you don't wake up in the morning and have the world crash down around you. It is not so much that it is not fair, it is just what is right and what's wrong.

THE COURT: Thank you, Ms. Elvis.

MR. HELMS: Your Honor, there is nothing else that we could say to give any more light to this. The Court knows everything about this case that we know. The community knows everything about this case that we know. At this time, we just defer to the Court's judgment.

THE COURT: Thank you. I appreciate it.

Mr. Galmore, Mr. Bouchette.

MR. GALMORE: Your Honor, there is not much we can add. We understand that the Court has all of the basic background information about Mr. Moorer. He's married. He has children. You know what kind of work he does and his educational background.

We were in this position at the end of the obstruction of justice trial, and some things have changed for Sidney since then. He has been sentenced

to ten years. During that time, he's participated in several programs in the Department of Corrections trying to improve to better himself. He in a program at Lee Correctional. He is in the Jump Start and the Violence Prevention program. He works in maintenance at the facility basically doing the same work he did when he was on the street.

Your Honor, I have represented a lot of people in this courtroom over the last 20 years, and I can say for the vast majority of them, you can probably see an outcome like this coming. You hate to say it, but you know the background and the educational history, the job history. People just aren't equipped -- some people are just not equipped for making it in civil society. Mr. Moorer is not that way. He doesn't have a prior record, didn't have a record before any of this. He is just an average Horry County citizen kind of guy that you would deal with after work.

Your Honor, there's not much we can say as far as family is concerned. It's true that both families have suffered greatly from all of this. While all of this begins with him, I would just point out to the Court that he didn't go looking for this situation, he just kind of ended up in it. He was not looking for trouble at any time.

Your Honor, we have received the jury verdict, and respectfully disagree with it. He denies any involvement; he will continue to do so. We understand that the Court has a decision to make. We ask Your Honor to simply take into consideration that he did not have a prior record before all of it, take into consideration the positive things he has done in the time he's been at Lee Correctional and temper justice with mercy in this case.

THE COURT: Thank you.

Mr. Moorer, anything you wish to say, sir? You don't have to, but I'll afford you the opportunity.

MR. MOORER: (Witness crying) I do.

THE COURT: Okay.

(A brief pause in the proceedings.)

MR. MOORER: If I could finally give them closure, I would. Anything I would tell would be a lie. There is nothing I can tell them to give them any closure. I understand; I have children of my own. I get it. There is just nothing I can give them for closure.

THE COURT: Thank you, sir.

MR. MOORER: And I know -- I know they've suffered probably way more than my family has, and I feel bad for them, I really do. There is nothing I

can give them. I'm sorry that I can't.

THE COURT: I'm confident of that as well. Thank you, sir.

Anything else?

MR. HELMS: No, Your Honor.

THE COURT: Well, the one thing that I've said over and over, and I don't know that I appreciated it as much when I was a lawyer as I do now as a judge, because my heart goes out to the Elvis family and the extended families. There is just no words to describe that anything could be said to alleviate what you have suffered and will suffer. And I mentioned this early on, I saw my father with his father being tragically murdered and how he had to deal with that his entire life. And as I said before, he was a bitter man when he took his last breath at 81. I know that there's a reason now for having a court of common pleas and a general sessions court. Common pleas deals with everything you talk about, your loss, what you have experienced. That is what I was privileged to do. Some of my practice was representing persons that suffered damages and trying to get compensation for their damages. What I do in a sentence can never be construed as a compensation for anything; it's not. And it should never be considered that way, because

that is left for another branch of our court.

In this case, I understand your wish and if I were standing there, I would be saying the same thing, I really would. But in this case, Ms. Moorer was convicted and a concurrent sentence was imposed, and what I've heard in this case as evidence, and I don't have to conclude this, this is just a fact, that I think there was a conspiracy, no question. There was a conspiracy. The dominant figure we can all have opinions about that, but I think my opinion is that she was a dominant figure in this action, just from everything -- and probably the most compelling one was the testimony of the gentleman who worked at Ford, to me. For that reason -- I'm going to do this, though, I'll let the Department of Corrections figure out what time he's entitled to.

MR. GALMORE: Yes, sir.

THE COURT: I'm not going to make that call, because he was punished for that one, and he's serving the time, the punishment of obstruction. If the department chooses to give him credit, so be it. I don't choose to do that in my sentence, but I'll sentence him to 30 years on each one and run them concurrent. I hope you will continue to do something that he's doing. It doesn't surprise me -- I know it

was mentioned early on that I knew his mother and father, and I do. I was privileged to know them. The one thing I have come to know, the Bible speaks of this, I think it is Luke, much is given, much is expected, and I'm paraphrasing that, but I don't find fault with that. I know what he was given. I know the people, and that also is another reason for what I'm doing.

Good luck to you, sir. Thank you.

Thank you, ladies and gentlemen.

(The members of the jury that were in attendance for the sentencing exit the courtroom.)

THE COURT: Anything else?

MR. HELMS: That concludes the State's business with the Court.

THE COURT: Thank you very much. Thank you, Ms. Livesay.

(**The proceedings of the trial of the State of South Carolina versus Sidney St. Clair Moorer concluded.**)

CERTIFICATE OF REPORTER

State of South Carolina)
County of Horry)

I, Natalie Dahl, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Horry County, South Carolina, on the 9th through 18th days of September, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 1, 2020

Natalie Dahl, RPR

Natalie Dahl, RPR
Court Reporter

Heather Elvis – [redacted] 8152

[redacted] 3175

[redacted] 2462

Last two phone numbers Heather Elvis made contact with.



[redacted]3175

July 17, 2013 – July 31, 2013

Total Entries – 862

- Entries to [redacted]3175– 198
- Entries from [redacted]3175– **213**
  - Total of 411 out of 862

[redacted]3175

August 2013

Total Entries – 1540

- Entries to [redacted]3175 - 213
- Entries from [redacted]3175– **351**
  - Total of 564 out of 1540

[redacted] 3175

September 2013

Total Entries- 1426

- Entries to [redacted] 3175 - 208
- Entries from [redacted] 3175 - **350**
  - Total of 558 out of 1426

[redacted] 3175

October 2013

Total Entries- 1037

- Entries to [redacted] 3175 - 199
- Entries from [redacted] 3175 - **318**
  - Total of 517 out of 1037

[redacted]3175

November 2013

- **Total MMS messages from S. Moorer to Elvis- 2**

- Total Entries- 701
- Entries to [redacted]3175 - 24
- Entries From [redacted]3175 - **40**

- Total of 64 out of 701

[redacted] 3175

December 2013

- Total Entries 1000
- Entries to [redacted] 3175 - 6
- Entries from [redacted] 3175 - **0**
  - Total of 6 out of 1000

[redacted] 2462

July - November 2013

- Entries to [redacted] 2462 - 0
- Entries from [redacted] 2462 - **0**

[redacted]2462

December 2013

- Entries to [redacted]2462 - 10
- Entries from [redacted]2462 - 1

A	B	C	D	E	F
MSISDN	Event Type	Start Time	Direction	Connected To	Duration (Minutes)
[redacted]8152	Voice	12/18/2013 01:35:16 AM	Incoming	[redacted]2462	4.83
[redacted]8152	Voice	12/18/2013 01:44:39 AM	Outgoing	[redacted]3938	2.20
[redacted]8152	Voice	12/18/2013 02:29:48 AM	Outgoing	[redacted]2462	0.20
[redacted]8152	Voice	12/18/2013 02:30:15 AM	Outgoing	[redacted]2462	0.08
[redacted]8152	Voice	12/18/2013 02:32:57 AM	Outgoing	[redacted]2462	0.23
[redacted]8152	Voice	12/18/2013 02:43:02 AM	Outgoing	[redacted]2462	0.12
[redacted]8152	Voice	12/18/2013 02:43:36 AM	Outgoing	[redacted]2462	0.13
[redacted]8152	Voice	12/18/2013 02:45:09 AM	Outgoing	[redacted]2462	0.07
[redacted]8152	Voice	12/18/2013 02:51:20 AM	Outgoing	[redacted]2462	0.08
[redacted]8152	Voice	12/18/2013 03:04:36 AM	Outgoing	[redacted]2462	0.03
[redacted]8152	Voice	12/18/2013 03:05:55 AM	Outgoing	[redacted]2462	0.15
[redacted]8152	Voice	12/18/2013 03:16:35 AM	Outgoing	[redacted]3175	0.13
[redacted]8152	Voice	12/18/2013 03:17:35 AM	Outgoing	[redacted]3175	4.15
[redacted]8152	Voice	12/18/2013 03:38:14 AM	Outgoing	[redacted]3175	0.03
[redacted]8152	Voice	12/18/2013 03:39:00 AM	Outgoing	[redacted]3175	0.03
[redacted]8152	Voice	12/18/2013 03:39:46 AM	Outgoing	[redacted]3175	0.03
[redacted]8152	Voice	12/18/2013 03:41:05 AM	Outgoing	[redacted]3175	0.03

Text Messages = Pacific Time

3 hours difference

Example: 11:00 PM Pacific Time would be 2:00 AM EST

Phone Calls = Eastern Standard Time

MSISDN	EVENT TYPE	START TIME (T-Mobile Record)	PER RECORDS PACIFIC TIME SMS Converted to EST	DIRECTION	CONNECTED TO	DURATION (Minutes)
[redacted]3152	Voice	12/18/2013 01:35 AM	EST	Incoming	[redacted]2462	4.83
[redacted]3152	Voice	12/18/2013 01:44 AM	EST	Outgoing	[redacted]3938	2.2
[redacted]3152	SMS	12/17/2013 11:21 PM	(12/18/13) 2:21:25 AM	Outgoing	[redacted]2462	0
[redacted]3152	SMS	12/17/2013 11:24 PM	(12/18/13) 2:24:17 AM	Incoming	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:27 PM	(12/18/13) 2:27:09 AM	Outgoing	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:27 PM	(12/18/13) 2:27:25 AM	Incoming	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:28 PM	(12/18/13) 2:28:28 AM	Outgoing	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:28 PM	(12/18/13) 2:28:49 AM	Incoming	[redacted]6288	0
[redacted]3152	Voice	12/18/2013 02:29 AM	EST	Outgoing	[redacted]2462	0.2
[redacted]3152	Voice	12/18/2013 02:30 AM	EST	Outgoing	[redacted]2462	0.08
[redacted]3152	Voice	12/18/2013 02:32 AM	EST	Outgoing	[redacted]2462	0.23
[redacted]3152	SMS	12/17/2013 11:34 PM	(12/18/13) 2:34:23 AM	Outgoing	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:35 PM	(12/18/13) 2:35:58 AM	Incoming	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:40 PM	(12/18/13) 2:40:36 AM	Outgoing	[redacted]6288	0
[redacted]3152	SMS	12/17/2013 11:42 PM	(12/18/13) 2:42:03 AM	Incoming	[redacted]6288	0
[redacted]3152	Voice	12/18/2013 02:43 AM	EST	Outgoing	[redacted]2462	0.12
[redacted]3152	Voice	12/18/2013 02:43 AM	EST	Outgoing	[redacted]2462	0.13
[redacted]3152	Voice	12/18/2013 02:45 AM	EST	Outgoing	[redacted]2462	0.07
[redacted]3152	Voice	12/18/2013 02:51 AM	EST	Outgoing	[redacted]2462	0.08
[redacted]3152	Voice	12/18/2013 03:04 AM	EST	Outgoing	[redacted]2462	0.03
[redacted]3152	Voice	12/18/2013 03:05 AM	EST	Outgoing	[redacted]2462	0.15
[redacted]3152	Voice	12/18/2013 03:16 AM	EST	Outgoing	[redacted]3175	0.13
[redacted]3152	Voice	12/18/2013 03:17 AM	EST	Outgoing	[redacted]3175	4.15
[redacted]3152	Voice	12/18/2013 03:38 AM	EST	Outgoing	[redacted]3175	0.03
[redacted]3152	Voice	12/18/2013 03:39 AM	EST	Outgoing	[redacted]3175	0.03
[redacted]3152	Voice	12/18/2013 03:39 AM	EST	Outgoing	[redacted]3175	0.03
[redacted]8152	Voice	12/18/2013 03:41 AM	EST	Outgoing	[redacted]3175	0.03

- **TAMMY MOORER [redacted] 3174**

  INCOMING CALLS FROM TAMMY 0

  OUTGOING CALLS TO TAMMY 0

  *no calls shown on T-mobile records

STATE OF SOUTH CAROLINA)
)
COUNTY OF Horry)
STATE VS.)
Sidney Stclair Moorer)
AKA:)
Race: Sex: M Age: 41)
DOB: [redacted] SS#: [redacted])
Address: [redacted] Highway 814)
City,State,Zip: Myrtle Beach, SC 29588-9106)
DL#: [redacted] SID#:)
*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017GS2601320
A/W#: 2017GS2601320
Date of Offense: 12/20/2013
S.C. Code § : 17-25-0030 / Common Law
CDR Code #: 0118

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Obstruction of Justice (0 - 10 YEARS) (2nd/or FINE IN court's discretion)
in violation of § 17-25-0030 / Common Law of the S.C. Code of Laws, bearing CDR Code # 0118
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The ~~plea~~ is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Livesay, Nancy | SCB75159 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of 10 days/~~months/years~~ or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____
☑ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 375 days
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

CANCELLED Date

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive ~~weekly/monthly~~ pmts. of $ 25.00 beginning 09/30/2027
$ _____ paid to Public Defender Fund
Other: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$ 25.00
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$ 375
TOTAL		$ 1287.5

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Renee N. Elvis
Court Reporter: Natalie Bonn
Presiding Judge: [signature]
Judge Code: 2000
Sentence Date: 8/30/17

SCCA/217 (07/2016)

WITNESSES

Jeffery Cauble Horry County Police Department

ARREST WARRANT NUMBER

2014A2610200462
CDR: 0095 16-03-0910
DOA: 2/23/2014

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: MAR 20 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-26- 01125

The State of South Carolina

County of Horry

Donna E. Elder 14H00898

COURT OF GENERAL SESSIONS

March, 2014 TERM

THE STATE

vs.

Sidney Stclair Moorer
W/ M
[redacted] **Highway 814**
Myrtle Beach, SC 29588-9106
DOB: [redacted]
SSN: [redacted]

ATTORNEY: Truslow, T. Kirk

Indictment for

Kidnapping

Jimmy A. Richardson, II, Solicitor

ORIGINAL

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

INDICTMENT

At a Court of General Sessions, convened on March 20, 2014, the Grand Jurors of Horry County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Sidney Stclair Moorer did in Horry County on or about December 18, 2013, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Heather Elvis, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

JIMMY A. RICHARDSON, II
FIFTEENTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED
Mar 22 2021
SC Court of Appeals

s/Taylor D. Gilliam
Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of March, 2021.