

VOLUME I OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

RECEIVED

Jan 24 2022

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH RANDOLPH HENRY,

APPELLANT.

APPELLATE CASE NO. 2020-001404

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (9-1-1 CALL), STATE’S EXHIBIT NOS. 24 – 25, AND 27 (PHOTOGRAPHS), STATE’S EXHIBIT NO. 28 (VIDEO MINICLIP FROM TRANSPORT), STATE’S EXHIBIT NO. 42 (DVD/CORLEY’S COLLISION), STATE’S EXHIBIT NOS. 43 – 50 (PHOTOGRAPHS), STATE’S EXHIBIT NO. 52 (DVD/WINDSOR WEST DAYCARE), STATE’S EXHIBIT NOS. 53 – 56, 58, 63 – 65, 67, 72 – 75, 98, 106 – 112, 115 – 116 (PHOTOGRAPHS), STATE’S EXHIBIT NO. 124 (EYEGLASS LENS), STATE’S EXHIBIT NO. 131 (PHOTOGRAPH), AND STATE’S EXHIBIT NO. 144 (SHIRT WITH HOLE).

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
5 vs.) 2020-GS-32-00606
6 Joseph Randolph Henry,) 2020-GS-32-00607
7 _____ Defendant._____))

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September 28, 2020
September 30, 2020
October 1, 2020
October 2, 2020
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Lexington, South Carolina

13

B E F O R E:

14

The Honorable Frank R. Addy, Jr., Judge

15

16

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Angela G. Martin, Senior Assistant Solicitor

18

On behalf of the State of South Carolina

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David M. Mauldin, Esquire
Robert M. Madsen, Esquire

21

On behalf of the Defendant

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24

Stacy S. Johnson
Circuit Court Reporter

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1 of what we need to talk about or what we need to deal
2 with.

3 Now in order to preserve everyone's rights, I'm
4 gonna give the lawyers a chance to object to anything
5 that I've said during these opening remarks and then
6 we'll proceed with the trial.

7 No objections from the State?

8 MS. MAYES: None from the State, Your Honor.

9 THE COURT: None from the defense?

10 MR. MADSEN: None from the defense.

11 MR. MAULDIN: Your Honor, I do object and my
12 objection was made based on my motion and my move for
13 a mistrial.

14 THE COURT: Subject to the -- yes, subject to the
15 thing yesterday -- or on Monday. I understand. That
16 is noted and we will address that by way of the
17 instructions at closing.

18 All right. Ladies and gentlemen, we're now gonna
19 proceed with openings. Ms. Mayes or Ms. Martin?

20 Ms. Martin, you're gonna open for the State?

21 MS. MARTIN: Yes, Your Honor.

22 THE COURT: You have the floor.

23 MS. MARTIN: Thank you, Your Honor. May it please
24 the Court?

25 THE COURT: Yes, ma'am.

1 MS. MARTIN: Good afternoon. Once again, my name
2 is Angela Martin, and Ms. Mayes and I represent the
3 State of South Carolina and the citizens of Lexington
4 county. And as the judge has told you, it's our job to
5 present evidence and testimony that will convince each
6 of you beyond any reasonable doubt that Joseph Henry is
7 guilty as charged.

8 And you know the two charges he has, murder and
9 possession of a weapon during the commission of a violent
10 crime. Judge Addy's told you a little bit about it, but
11 let's talk about it some more, what we have to show to
12 you.

13 Murder is clearly what you think it is. It's the
14 killing of another with malice aforethought. What in
15 the world does malice aforethought mean? Malice is
16 evilness, depravity, doing a wrongful act intentionally
17 without just cause or excuse.

18 Killing another with malice aforethought. What
19 does aforethought mean? And at the close of the case
20 Judge Addy is going to instruct you exactly what that
21 means, but basically it's the time when evil is conceived,
22 and the law does not say how long that aforethought has
23 to be. It could be mere seconds. If there is a malice
24 at the time right before the trigger of a gun is pulled,
25 that is malice aforethought, and that is what the State

1 must prove to you beyond a reasonable doubt.

2 How in the world can we prove malice aforethought?
3 How can the State prove the Defendant's state of mind
4 and prove malice? Well, ladies and gentlemen, we're
5 gonna present witnesses who have that knowledge. They
6 can tell you about the Defendant's behavior before,
7 during and after the murder. They can tell you his
8 words, his actions. Even how the murder was accomplished
9 can be evidence of malice. The judge has said that
10 Mr. Henry is presumed innocent, and that is true, but
11 at the close of the State's case you will be convinced
12 beyond any reasonable doubt that he's guilty. That
13 innocence is gonna be ripped away when you hear the
14 witness testimony, when you see the items of evidence
15 that has been collected, when you see the work that
16 Lexington County Sheriff's Department has done, and also
17 members of the South Carolina Law Enforcement Division.

18 We are here today because of the murder of Alexis
19 Azarigian, a 25-year-old girl who lived here in Lexington
20 county, and the testimony will be that in February of
21 2019 she was suffering, she was having a problem with
22 drugs and addiction, something that's not uncommon in
23 today's society. Drug addiction knows no boundaries and
24 she suffered with that and because of that she went
25 places, went to different locations that her family had

1 no idea. She had a new circle of friends and she was
2 hanging out with people her parents never met or never
3 even heard of.

4 Ladies and gentlemen, y'all will get to meet and
5 hear these names and some of the names of the people
6 you will meet include Katie Skyrme, Joshua Murray, M.J.
7 Hardaway, and the Defendant, Joseph Henry, or Henry
8 Randolph or Joe or Pluto is his name -- his nickname
9 that others know him as.

10 And, ladies and gentlemen, you're gonna hear how
11 on February 21st of 2019 there were only four people in
12 a car. Four people in a car. Joshua Murray is driving
13 Alexis' Ford Taurus. She's in the front right passenger
14 seat. Behind her is Katie Skyrme and beside Katie is
15 Pluto. And you'll hear that about 7:30 in the morning
16 they went to go find one of Alexis' friends, somebody
17 named Chad Andrews. And they went down to Delree Street,
18 you know that road that runs parallel to Augusta Road,
19 and they were looking for Chad and they found Chad and
20 Alexis talked to Chad for a while and then she invited
21 him to get in the car and spend the day with them.

22 And, ladies and gentlemen, the other people in the
23 car, they didn't like that. You see, Joshua and Pluto
24 and Katie knew that Chad Andrews was a confidential
25 informant for the Lexington County Sheriff's Department.

1 They knew he was a snitch and they didn't want him in
2 the car and they argued with Alexis and she wanted to
3 be with her friend. She wanted him to get in the car
4 with them, but Joshua Murray finally told Chad don't
5 get in, she'll come meet with you later, we're gonna
6 leave, and they left.

7 And they went down and they crossed over the
8 railroad tracks there at Ermine, took a left on Number 1,
9 Augusta Road, coming towards Lexington, going toward
10 Oak Grove, and, ladies and gentlemen, that should have
11 been it, but it wasn't. Pluto continued to argue and
12 was angry that Alexis was still gonna see Chad and that
13 she was gonna go see him later and that made him very
14 angry. Joshua is gonna tell you he told them both y'all,
15 hush, you know, get over it. And Katie's gonna say she
16 was trying not to pay too much attention. She was just
17 glad that Chad had not gotten in the car.

18 Ladies and gentlemen, it wasn't over. The testimony
19 will be that the tension instead of reducing went up,
20 that Pluto was really angry, and you'll hear testimony
21 that there were insinuations that hey, Alexis, if you're
22 not gonna cut ties with him, maybe you're a snitch too.
23 Maybe there's something else going on. Maybe you'll
24 need to be killed.

25 Katie's gonna tell you Alexis' last words were to

1 Pluto well, if that's how it's got to be, I reckon
2 you'll have to kill me too, and then she called him a
3 name that starts with a B, and you'll hear that. Alexis
4 turned around, thought it was over, but Katie said as
5 soon as Alexis said that she knew it was bad. She
6 looked at Pluto, who was sitting beside her, and she
7 looked in his eyes and she knew his mind was made up.
8 Alexis had disrespected him and she argued back with
9 him. And Katie will tell you that Pluto reached down
10 in the floorboard of that car where there was a leather
11 satchel, his satchel, and he opened it and he pulled out
12 a black handgun and very calmly he presented that gun
13 to the back of Alexis' head, pulled the trigger one time,
14 and that was it. A bullet to the brain.

15 Joshua and Katie are gonna tell you how shocked
16 they were. It was -- they were in disbelief. There was
17 a cloud of dust from the firing of the gun within that
18 car. Their ears were ringing. Joshua said he pulled
19 off as soon as he could right there at the Fellowship
20 Baptist Church and when he did Joe, Pluto, wanted him to
21 go back behind the church and he said no, man, you've
22 got to go, we've got to get her some help, we've got to
23 call for help, and Pluto gathered his stuff, got out of
24 the car and walked away, walked down Number 1.

25 Katie and Joshua knew they needed to get help, but

1 unfortunately Joseph Henry took the only working phone.
2 Their phones needed hotspots or wi-fi spots to work, so
3 they didn't have a phone that could work, but Joseph
4 Henry did. And you'll hear testimony about his phone
5 and the fact that he did use it. Not to call 9-1-1, but
6 to call his cousin. Katie and Joshua will tell you that
7 they did have drug paraphernalia and drugs in the car,
8 it was in a makeup bag, and Katie took that and hid it
9 right across from the parking lot because they didn't
10 want to be arrested. They knew that they were gonna
11 get help, they wanted an ambulance, they wanted law
12 enforcement, and, of course, they didn't want to have
13 drugs on their person when Lexington County got there.

14 Jane Council will tell you she was going to work.
15 She was working at Auto -- Advance Auto and she coming
16 down Number 1 towards Oak Grove and she saw this tall,
17 skinny man waving his arms and trying to flag down
18 traffic, but at this time it's almost 7:45 on a weekday
19 morning, and y'all know how the traffic is on Number 1,
20 but nobody was stopping. But something made her stop
21 and she pulled into the church parking lot and she did
22 talk to Joshua Murray, she talked to Katie, she got out
23 of her car, she saw how the victim was slumped over, and
24 she called 9-1-1, ladies and gentlemen.

25 The sheriff's department got there within thirty

1 seconds. They were there very quickly. And from the
2 beginning this wasn't a who done it. This was let's
3 find the armed shooter. Let's find Pluto. They had --
4 law enforcement, that is, had a very good physical
5 description of the Defendant, they knew what kind of
6 clothes he had on, they knew he had on a beanie hat,
7 that he had glasses. They knew what kind of clothes he
8 had on. They knew where he left the car and was walking
9 down Number 1 and law enforcement also knew that the
10 Defendant was probably going to a garage right there on
11 Cardinal Road, at the intersection of Cardinal and
12 Number 1, and he was probably going there because that's
13 where his car was, a blue Toyota.

14 So K-9 are out. By now it's 8:00. Just a few
15 minutes have gone by. They start tracking, they go down
16 that way, and you'll hear from law enforcement officers,
17 specifically Deputy Greg Love who will tell you I saw
18 somebody who was coming out of a fenced-in area, a man
19 that matched the description, I could see the beanie and
20 the glasses and it was a black man and he's in the blue
21 Toyota that was supposed to have been right there on
22 Cardinal.

23 And you'll hear how they stopped that car and
24 Joseph Henry was the driver of that car. You'll hear
25 that M.J. Hardaway, someone the Defendant calls a

1 cousin, was in the passenger seat too, and M.J. is
2 detained. They're detained there at the scene and sure
3 enough law enforcement takes a picture of the Defendant
4 and they send it to the other officers who are at the
5 church parking lot to say Josh Murray, is this Pluto, is
6 this who you're talking about, and got a positive
7 identification as yes, that's Pluto, that's the shooter,
8 that's Joe.

9 Investigators then when they are arresting the
10 Defendant they noticed something -- something on his
11 shirt, something that potentially could be blood, and
12 an investigator says to the transporting deputy hey,
13 when you get him to the jail I need you to get that
14 shirt, but before you leave let me take a picture. And
15 you're gonna hear how that conversation was done right
16 in Joseph Henry's presence, right in front of him, and
17 you'll hear that when the Defendant makes it to the jail
18 not only aren't his cuffs from behind him where they
19 should have been, they're in front of him and there's a
20 hole in that shirt where that potential evidence was, and
21 the assumption is the Defendant chewed a hole through
22 his shirt. That scrap of fabric was never found. It
23 was not in the deputy's car.

24 You're gonna hear from law enforcement who talked
25 to M.J. Hardaway and you're gonna hear from M.J. Hardaway

1 yourself and he's gonna tell you that he had been with
2 them, the four of them, earlier in the night and he'd
3 been dropped off at that garage and that he did get a
4 call from Joseph Henry and he said get ready, I'm coming
5 to get you, and that he was in the car with him. And he
6 told law enforcement there on the side of the road on
7 Cardinal that, yeah, you know, Joe was acting funny. He
8 didn't say anything had happened, but he wants to go to
9 Hilton Head and M.J.'s gonna tell you that they had no
10 plans to go to Hilton Head that day, that he didn't have
11 the money, he didn't have his tax check back -- tax check
12 refund back yet to go to Hilton Head, but all of a sudden
13 Pluto wanted to go to Hilton Head. He also told officers
14 hey, under the seat of the car is a leather bag where the
15 Defendant has a gun, so you'll hear about that.

16 You're gonna hear from SLED experts who ran DNA
17 testing on the gun and you'll hear that Joseph Henry's
18 DNA is on the trigger of that gun. You're gonna hear
19 about evidence collected from the victim's car, the
20 trunk of her car, there's DMV paperwork relating to
21 Joseph Henry. When the Defendant was arrested also,
22 you're gonna have photographs that show, and the
23 description was, that he had glasses on and in the
24 pictures he does have glasses with transition lenses,
25 but there's one lens that's out. That lens is found in

1 the victim's car.

2 Ladies and gentlemen, this certainly is an
3 important case. The State is going to be able to prove
4 beyond any reasonable doubt that the Defendant is guilty
5 as charged of both charges. You're gonna hear from the
6 people who were in that car, four people, one dead,
7 because Ms. Azarigian was transported in less than five
8 minutes when EMS got there. They took her straight to
9 Palmetto Richland where she was put on life support for
10 organ donation and she did succumb to her injuries. But,
11 ladies and gentlemen, you're gonna hear and be able to
12 judge the credibility of the witnesses. Four people in
13 the car, one is deceased and one walks away. You're
14 gonna have video evidence from Corey's Collision right
15 across the street from the church where you can see
16 yourself how the car pulled up, how Joe Henry gets out
17 from the backseat from behind the driver, gathers his
18 things and he walks away. And you'll see Katie and
19 Joshua and then you'll see Ms. Council, Ms. Jane, that
20 comes up, and law enforcement as well. There's also
21 video surveillance from the corner of Cardinal Street
22 where Windsor West Daycare is and you'll see that that
23 photograph and the stills from that video show Joseph
24 Henry with a beanie, with a white thing around his neck
25 presumed to be a tennis cap or a golf hat visor pulled

1 down, carrying a bag with the glasses and the beanie
2 and the dark clothes.

3 Ladies and gentlemen, I've said that we have to
4 prove malice. Malice by the Defendant's actions or his
5 words. You're gonna hear how right after the Defendant
6 made that execution shot, a bullet to the back of the
7 brain of Alexis, how he said to Katie you know who I am,
8 you know what I do and I do what I say as he wrapped the
9 gun up in black fabric, put it in his leather bag and
10 calmly walked away. At that point, ladies and gentlemen,
11 at the close of our case when you've evaluated the
12 evidence you will be convinced beyond any reasonable
13 doubt that the Defendant is guilty of murder and that
14 his actions are those of a murderer.

15 Thank you.

16 THE COURT: Thank you, Solicitor.

17 Mr. Madsen, are you ready to proceed with your
18 opening, sir?

19 MR. MADSEN: Yes, Your Honor.

20 THE COURT: You have the floor.

21 MR. MADSEN: May it please the Court?

22 THE COURT: Yes, sir.

23 MR. MADSEN: Joseph Henry did not kill Alexis
24 Azarigian. Joseph Henry did not kill Alexis Azarigian.
25 Joseph Henry did not kill Alexis Azarigian.

1 So I'm older than probably most of you and I grew
2 up in a time where when you turned on the TV and you
3 watched the news you felt confident that what you were
4 hearing on the news was the truth, that what you were
5 telling -- that what they were telling you had gone on.

6 Well, the other night I turned on a news program and
7 I was watching about a particular story and I watched it
8 from beginning to end. A little bit later in the night
9 I'm on a different channel, on a different news channel,
10 and I'm watching something on the same story, but you
11 would think it was something entirely different. They
12 were talking about the same exact thing, but you would
13 swear that they were talking about it differently. And
14 sadly that's kind of the world that we live in now. The
15 same event talked about by two different programs and
16 you would swear it was something different. That's what
17 the world's become. You can't trust someone to look you
18 in they eye and to give you a truthful answer. There
19 always seems to be an agenda, a spin or some type of
20 angle that folks have nowadays, and it's sad. People
21 will look at you convincingly the eye and lie to your
22 face. And, sadly, we've all experienced that.

23 I ask that when you listen to the testimony you
24 remember the world that we live in today. The
25 solicitor's already told you you're gonna hear from

1 people who are just untruthful, that are drug addicts,
2 that have an agenda, that have a spin, that have an
3 angle. She told you oh, Katie takes a bag away. But it
4 disappears. She's -- let's just take her word for it,
5 they're just drugs in it, but when she eventually says
6 hey, days later to law enforcement, yeah, that's what I
7 did, it's gone. It's magic.

8 You're going to hear these stories. You're also
9 gonna hear how it was just taken at face value. Oh, I'm
10 told that this happened, so guess what? That must be
11 what happened. Is that really the way it should be? Is
12 that why we have law enforcement? When you hear
13 testimony, ask yourself did anyone question it? Did
14 anyone say hey, this doesn't make sense? Did anyone
15 play devil's advocate? Did anyone say this is
16 inconsistent? Or did they just say hey, we were told
17 this, it must be the truth? Is that the world we live
18 in today? Everyone knows the answer to that.

19 Were hard questions asked, were the inconsistencies
20 looked at? Did they try to corroborate that information?
21 Did they do a full investigation? There must be a full
22 investigation, there must be tough questions asked,
23 alternative theories posed and explored or the truth will
24 never be known.

25 You will hear that law enforcement was told a story,

1 so it must have happened that way. No need to question
2 the inconsistencies, no need to ask those hard questions,
3 no need to ask why if someone is telling me the truth do
4 their stories change?

5 You know, my grandfather would say there's only one
6 path to the truth, there's multiple paths to a lie. So
7 why do the stories change unless they're lying? They're
8 lying about what happened and despite law enforcement's
9 ability to look back and see these lies, these half
10 truths, these things that don't make sense, they just
11 take it at face value and say that must have been what
12 happened because that's what we were told by these people
13 that if you gave them five dollars and said hey, go the
14 down the street and get me McDonald's that you wouldn't
15 expect your McDonald's to come back to you, but yet
16 that's who they're going to want you to believe, that
17 must be true, and that's just not the world that we live
18 in today. And certainly you can't convict someone of
19 murder based on that. And you certainly can't convict
20 someone of murder based on, as the solicitor said,
21 assumptions.

22 Now in a criminal trial, the government has the
23 entire burden of proof. We do not have to prove anything
24 to you. The government must prove their case beyond all
25 reasonable doubt. Each and every element of murder, the

1 unlawful killing of another with malice aforethought, and
2 each and every element of possession of a weapon during
3 the commission of a violent crime. Murder is a violent
4 crime. They have to prove that first. If they prove
5 that, then you have to prove that someone had a weapon.
6 They have to prove each of those elements to each and
7 every juror beyond a reasonable doubt and if the
8 government fails to prove any of those elements to any
9 one juror beyond a reasonable doubt, then that juror
10 has an obligation to vote not guilty. Not guilty. Not
11 guilty.

12 Joseph Henry did not kill Alexis Azarigian and
13 because of this he is not guilty.

14 THE COURT: Thank you, Mr. Madsen.

15 Solicitor, if you'll call your first witness,
16 please?

17 MS. MARTIN: Your Honor, we call Stephen Bowers.

18 THE CLERK: Right up here, Mr. Bowers.

19 (Whereupon, Stephen Paul Bowers was duly sworn by
20 the Clerk of Court.)

21 THE CLERK: Have a seat right up there, sir. Once
22 you're seated state your full name, spelling your last
23 on the record.

24 THE COURT: You can lose the mask when you're
25 seated.

1 THE WITNESS: Thank you.

2 My name is Stephen Paul Bowers and my last name is
3 spelled B-O-W-E-R-S.

4 STEPHEN PAUL BOWERS,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MARTIN:

8 Q. Hi, Mr. Bowers. Where are you employed?

9 A. I'm currently employed with the Lexington County 9-1-1
10 Communications Center.

11 Q. Okay. And what are your duties there?

12 A. I am the compliance manager, so I'm involved with
13 investigations, quality assurance reviews, statistics, data
14 analysis, as well as quality improvement.

15 Q. Here in Lexington county, do 9-1-1 calls go through
16 that communications center?

17 A. Yes.

18 Q. Can you tell us how that works, please?

19 A. The call is routed through from a cell phone or
20 any landline, they'll direct through to our 9-1-1 center
21 and then it's answered by one of our telecommunications
22 operators and they get all the information from the phone
23 screen directly.

24 Q. Can you tell us what is going on inside that room when
25 someone makes a 9-1-1 call?

1 A. We have the call-takers and the dispatchers are all
2 together in the same room and all that process happens
3 simultaneously. So when someone is processing a call,
4 they're answering the information from the caller into the
5 computer-assisted dispatch program or CAD and then at the
6 same time that's simultaneously being routed to somebody
7 else for dispatching for law, fire or EMS.

8 Q. Okay. And at the communications center are 9-1-1
9 calls routinely maintained in the ordinary course of
10 business?

11 A. Yes.

12 Q. Okay. And who has access to those records?

13 A. There's a handful of administrative staff that have
14 access to that.

15 Q. And pursuant to a subpoena, were the records in
16 regards to this case preserved by Lexington County
17 Communications Center?

18 A. Yes.

19 Q. And as custodian of the records, have you had an
20 opportunity to review that document?

21 A. I have.

22 MS. MARTIN: If I may approach the witness, Your
23 Honor?

24 THE COURT: Please.

25 BY MS. MARTIN:

1 Q. If I can show you what's been marked State's Exhibit 1
2 for ID only. Do you recognize this CD?

3 A. Yes.

4 Q. And have you listened to it?

5 A. I have.

6 Q. And are you a dispatcher in regard to this case?

7 A. I am as well, yes. I do still sometimes perform
8 duties as a call-taker and dispatcher as well.

9 Q. And did you put your initials on this CD?

10 A. Yes.

11 Q. If I could direct your attention to February 21st of
12 2019. You were working the communications center then; is
13 that correct?

14 A. Correct.

15 Q. And did a 9-1-1 call come in?

16 A. Yes.

17 Q. Can you tell us the time of the call?

18 A. I'd have to reference the records here. The law
19 enforcement call was entered at 7:44 AM.

20 Q. And did -- when the call came in, what, if anything,
21 is done to maybe ping that call or something of that
22 nature?

23 A. It automatically does that through our phone system
24 through AT&T. It gives a -- from a wireless call it will
25 automatically give an approximate GPS or wireless face to a

1 location at the time of the call and then it automatically
2 will reattempt to acquire that every fifteen seconds if
3 it's not already there.

4 Q. And were you able to ascertain an address of the 9-1-1
5 call?

6 A. Yes.

7 Q. And what was the address?

8 A. 4236 Augusta Road.

9 Q. Okay. And do you recall what was the nature of the
10 call?

11 A. I do. It was a gunshot.

12 Q. Okay. And are there certain protocol questions that
13 you're required to ask?

14 A. Yes.

15 Q. Can you tell us a little bit about that?

16 A. Every call is handled through our standard operating
17 procedures. They require the confirmation of the address,
18 the phone number, the caller's name, and then there's a
19 few set of questions with a medical call like this that
20 starts -- that for a gunshot wound, too, with an injury it
21 has that standard of questions that are always asked.

22 Q. And after -- or during this 9-1-1 call, was law
23 enforcement dispatched?

24 A. Yes.

25 Q. Was EMS dispatched?

1 A. Yes.

2 MS. MARTIN: Please answer any questions Mr. Madsen
3 has.

4 CROSS-EXAMINATION

5 BY MR. MADSEN:

6 Q. Good morning, Mr. Bowers. How are you?

7 A. Good morning. I'm fine.

8 Q. Just a few questions for you. So you're employed at
9 9-1-1, correct?

10 A. Correct.

11 Q. And this 9-1-1 tape, did you pull that and give that
12 to law enforcement?

13 A. I did not at the time. I was not the compliance
14 manager at that time. That would have been done through
15 our admin assistant who does that.

16 Q. Were you the person who initially preserved it at the
17 request of law enforcement?

18 A. No, that's just automatically done through our
19 standard business practices.

20 Q. But it's only kept for a certain period of time, I
21 believe, like ninety days?

22 A. Correct.

23 Q. So someone has to physically go and set that aside,
24 correct?

25 A. Correct.

1 Q. And that was not you?

2 A. Correct.

3 Q. And I think she had asked you about -- it's my
4 understanding you said that phones can ping. I mean, even
5 if a cell phone -- if my cell phone doesn't have minutes
6 or doesn't work, I can still call 9-1-1 on that?

7 A. That's correct.

8 Q. So if you don't have minutes and you only have Wi-Fi,
9 any phone can call 9-1-1, it's still a free call?

10 A. Correct.

11 Q. And your job as a 9-1-1 operator is to take
12 information and to route it to the appropriate service?

13 A. That's correct.

14 Q. So it could be law enforcement, it could be fire, it
15 could be EMS, it could be all of the above?

16 A. Yes.

17 Q. And as a 9-1-1 operator, you have no idea to know
18 whether that information that you receive is true?

19 A. Correct.

20 Q. And, in fact, sometimes you've had calls I'm sure
21 where the information that you get is not true?

22 A. I'm not able to verify that usually because we don't
23 -- we're not involved through the outcome.

24 Q. Well, but someone could give you information and
25 whether they're being intentional or unintentional, it

1 could be false information. I guess, as you said, you
2 don't have a way to verify that?

3 A. Correct.

4 MR. MADSEN: No further questions.

5 MS. MARTIN: Just briefly, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. MARTIN:

8 Q. Mr. Bowers, you were asked about 9-1-1 calls coming
9 in. Did your office receive any other 9-1-1 calls in
10 regards to this shooting on that day?

11 A. No.

12 Q. And did you, in fact, research that for us?

13 A. Yes.

14 Q. And, in fact, pursuant to court, were you asked to
15 investigate further into that?

16 A. I was, yes.

17 Q. Particularly --

18 MR. MADSEN: Judge, I would object. I believe
19 this is above recross -- or redirect. Excuse me.

20 THE COURT: Overruled. Go ahead.

21 MS. MARTIN: Thank you.

22 BY MS. MARTIN:

23 Q. Were you asked to track and see if a particular phone
24 number had made a 9-1-1 call in regards to this incident?

25 A. I was.

1 Q. And do you have records that reflect that phone
2 number?

3 A. Yes.

4 Q. And what phone number was checked?

5 A. I don't believe I have that handy right this second.
6 It's in -- do you have that? I don't believe that number's
7 associated in here.

8 Q. I do. If I told you the number was [REDACTED]-[REDACTED]-5484, does
9 that sound reasonable?

10 A. Yes.

11 Q. And were any phone calls into 9-1-1 recorded from that
12 number on February 21st of 2019?

13 A. No, they were not.

14 MS. MARTIN: That's all we have, Your Honor.

15 THE COURT: Recross?

16 RE CROSS EXAMINATION

17 BY MR. MADSEN:

18 Q. You're just kind of guessing on the phone number after
19 she gave it, right?

20 A. No, I received an e-mail from -- with that request a
21 few weeks ago.

22 Q. But you don't remember what that phone number was?

23 A. Not fully off the top of my head, but that sounds very
24 correct.

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

1 (Witness excused.)

2 THE COURT: Solicitor, call your next witness.

3 Do we have something that we can spray over here?

4 THE CLERK: Yes.

5 MS. MARTIN: Jane Council.

6 THE CLERK: Wait right there, please, ma'am.

7 (Whereupon, Jane Ellen Council was duly sworn by the
8 Clerk of Court.)

9 THE CLERK: Have a seat up there, ma'am. Once
10 you're seated state your full name, spelling your last,
11 please.

12 THE WITNESS: Jane Ellen Council, C-O-U-N-C-I-L.

13 THE COURT: And, Ms. Council, you can remove your
14 mask if you want to while sitting there, ma'am.

15 THE WITNESS: Thank you.

16 JANE ELLEN COUNCIL,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MARTIN:

20 Q. Good afternoon, Ms. Council. How are you?

21 A. I'm fine. Nervous.

22 Q. I understand. Can you tell us was there a time you
23 lived here in Lexington county?

24 A. Yes.

25 Q. Were you living here back in February of 2019?

1 A. Yes, I was.

2 Q. And can you tell us where you were working?

3 A. Advance Auto Parts on Augusta Road.

4 Q. Okay. Is that also known as Number 1 Highway?

5 A. Yes.

6 Q. And do you recall what your hours were during that
7 time?

8 A. Yeah, I worked part-time from eight to two.

9 Q. Okay. And were you working on February 21st of 2019?

10 A. Yes.

11 Q. And what time do you think you usually come down
12 Number 1 Highway?

13 A. I was always taught to leave for work and be there
14 fifteen minutes early, so I always -- I always left the
15 house about twenty-five, twenty till.

16 Q. And from where you lived at that time going to Advance
17 Auto, which way would you be going on Number 1?

18 A. Right, towards Lexington.

19 Q. Okay. Towards -- towards Lexington?

20 A. (Nods head.)

21 Q. All right. Would that be towards Oak Grove?

22 A. Yes.

23 Q. And can you tell us back then what type of car did you
24 have?

25 A. It was a gold Mazda Protege, 2000.

1 Q. Okay. And did it have a handicap tag?

2 A. Yes, it did.

3 Q. And can you tell us whether or not something very
4 unusual happened on the morning of February 21st of 2019?

5 A. Yes. When I turned right onto U.S. 1, I had gone not
6 even a hundred yards and there was a gentleman at the road
7 waving his hands, his arms, frantically.

8 Q. And is that what first got your attention?

9 A. Yes.

10 Q. And based on what you saw, what did you do?

11 A. I slowed down like everybody else and people kept
12 passing him and I -- when I slowed down, I initially looked
13 at him and I just slowly kept going and I looked in my
14 rearview mirror and he was putting his body in between me
15 and a semi-truck and I thought to myself something's wrong,
16 so I went to the next turn right, which was the Baptist
17 church, and turned into their parking lot.

18 MS. MARTIN: Your Honor, may I approach the witness?

19 THE COURT: Please.

20 BY MS. MARTIN:

21 Q. If I can show you what's been marked already in
22 evidence State's 41, do you recognize this location?

23 A. (Nods head.)

24 Q. Can you show us where you travelled after you saw the
25 man in the road?

1 A. I was coming this way towards Lexington and I turned
2 here and parked right about -- about right there.

3 Q. And is that the Fellowship Baptist Church?

4 A. Yes.

5 Q. Once you pulled into the parking lot, can you tell us
6 what did you see? What did you first see?

7 A. Well, I saw what I later found out was the driver of
8 the car. He came up to my window, I rolled my window down
9 and I was like what's wrong, he said my friend has been
10 shot.

11 Q. Okay. At that point did you get out of your car?

12 A. I did, but then --

13 Q. Okay. Did you see anyone else there at the scene
14 walking around?

15 A. I saw a young white female.

16 Q. Okay. Did you learn what her name was?

17 A. At that time, but I didn't remember.

18 Q. Okay. Can you tell us or describe for us what, if
19 anything, you observed about the demeanor of the young man
20 you spoke to?

21 A. He was -- he just kept doing his arms like this. He
22 was just frantic, in disbelief, just -- just talking off of
23 his head.

24 Q. Okay. Was he emotional?

25 A. Oh, yes.

1 Q. And what kind of emotion did you observe?

2 A. Shock. He -- he was in -- just like in disbelief of
3 what had happened.

4 Q. Okay. Can you tell us what, if anything, you observed
5 about the demeanor of the female you spoke with there in
6 the parking lot?

7 A. She was -- she was just also in shock. She was
8 rambling, talking, but she was just hysterical.

9 Q. Did you see anyone else there at the scene?

10 A. No.

11 Q. Did you approach the white car?

12 A. I did.

13 Q. Okay. And what did you see looking in the white car?

14 A. I saw a girl slumped over toward the con -- I mean,
15 the dashboard. Excuse me.

16 Q. Okay. And did you try to provide any aid to her?

17 A. Well, I asked her if she was okay and there was no
18 response. I could hear labored breathing and -- and I knew
19 there was nothing I could do.

20 Q. Did you have your cell phone with you?

21 A. I did.

22 Q. And what did you do?

23 A. I got on my phone -- well, the gentleman kept asking
24 me do I have a phone and I was like yes, I do, so I called
25 9-1-1 and got on the phone, they answered and I said there

1 has been -- there is a -- a woman has been shot and he said
2 we've had report of an accident and I said no. I said
3 there is no accident. I said a lady has been shot.

4 Q. Okay. And based on the conversations you had with the
5 two people there at the scene, did you have any idea of a
6 timeline of the shooting?

7 A. From the time I got there?

8 Q. Just did you have any idea if the shooting had been
9 recent or sometime in the past?

10 A. Recent.

11 Q. And were you able to relay any information about the
12 shooter to 9-1-1?

13 A. What the gentleman -- because I had them both making
14 comments at the same time.

15 Q. Okay. When you said you had them both making
16 comments, to whom are you referring?

17 A. I was trying to get -- the driver --

18 Q. Okay.

19 A. -- and the girl in the backseat.

20 Q. Okay.

21 A. Because I was trying to get information from them
22 where the shooter was and what he had on because they were
23 asking me if I had a description.

24 Q. Okay. And did you relay those descriptions to 9-1-1?

25 A. I told them that it was a black female -- I mean,

1 black male, dreadlocks, they said khaki pants, and that's
2 -- that's all I got from them.

3 Q. How long did you stay on 9-1-1 with the dispatch
4 people; do you know?

5 A. I don't know. It just seemed like forever because
6 they kept saying we've had report of an accident and I kept
7 having to repeat no, somebody's been shot.

8 Q. Did you get off the phone once law enforcement
9 arrived?

10 A. Yes, I did.

11 Q. If I could show you what's been marked as State's 1
12 for ID. Do you recognize that CD?

13 A. Uh-huh. I recognize my signature.

14 Q. Okay. And do you recall what was on this?

15 A. The 9-1-1 call.

16 Q. The 9-1-1 call?

17 A. (Nods head.)

18 Q. And your voice is on this?

19 A. Yes.

20 MS. MARTIN: Your Honor, we'd move to publish
21 State's 1.

22 THE COURT: Subject to the earlier objections.

23 MR. MAULDIN: Subject to the earlier objection and
24 403, Your Honor. Cumulative evidence.

25 THE COURT: All right. How long is this tape,

1 the CD?

2 MS. MARTIN: Four minutes, six minutes.

3 THE COURT: They're making a 403 objection. Let
4 me hear it first before we publish it.

5 So, ladies and gentlemen of the jury, please step
6 out for just a few moments. We're gonna have you back
7 in here in about five to ten minutes. If you need to
8 run downstairs and use the facilities, that's fine.
9 I've also got two phone numbers here for you if you
10 need to all for any sort of COVID concerns, so I'll go
11 ahead and give those to you and you-all can write those
12 down or put them in your cell phones as you need to,
13 okay?

14 (Whereupon, the jury retires to the jury room at
15 2:18 PM.)

16 THE COURT: All right. If you could just go ahead
17 -- or whenever you've got it cued up, go ahead and hit
18 play for me, please.

19 (Whereupon, State's Exhibit Number 1, the 9-1-1
20 call, was played outside the presence of the jury.)

21 THE COURT: Anything further than what's been put
22 on the record under 403 and 803?

23 MR. MAULDIN: Well, Your Honor, the -- the
24 information is cumulative. It's the same information
25 she's already relayed. The only reason the State wants

1 to put it in is to institute some kind of drama. The
2 crying in the background and all that inflames the
3 passion and prejudice of the jury. It's cumulative,
4 the information has already been relayed. The only
5 purpose to introduce would be to inflame the jury.

6 THE COURT: And I understand your position. I
7 think that it does -- based on the -- based upon the
8 testimony, 403 doesn't apply. Clearly there is
9 probative value to the evidence that outweighs any
10 potential for prejudice. The crying that's heard in
11 the background is extremely muffled, I could barely
12 hear it, and sounds as if Ms. Council was actually
13 keeping her wits about her quite well despite the
14 emotion of the moment. I do think that the --
15 especially since the two witnesses that are at the
16 scene I'm being told that they're gonna testified, so
17 any hearsay concerns or confrontation concerns as far
18 as what Ms. Council related to 9-1-1 can be addressed
19 when they testify.

20 That will be my ruling. Subject to the objection,
21 you do not need to re-object once I bring the jury
22 in and replay it, okay?

23 MR. MAUDLIN: Yes, Your Honor.

24 THE COURT: So you are covered as far as the
25 objection on 803 and 403.

1 Why don't we take a few moments for ourselves.
2 I've been up here for about an hour and fifteen and I
3 want to keep rolling, and since they're already out,
4 we'll take about -- let's be back in here at -- in ten
5 minutes at thirty-five after two and -- and we can keep
6 going then.

7 Ms. Council, you can step down and make yourself
8 comfortable. If you step down, wear the mask, and
9 don't speak to anyone about your testimony while we're
10 on break, okay? Those are the only rules.

11 We'll be at ease for about ten minutes.

12 (State's Exhibit Number 1, a 9-1-1 call, was
13 admitted into evidence.)

14 (Recess taken at 2:45 PM.)

15 (Back on the record at 2:41 PM.)

16 BAILIFF: All rise.

17 THE COURT: Thank you. Please have a seat.

18 All right. Let's go ahead and get the jury,
19 please.

20 MS. MARTIN: Your Honor, just --

21 THE COURT: Yes, ma'am.

22 MS. MARTIN: -- not this witness, but the next
23 witness there's an objection on the photographs. Can we
24 stop the jurors so we can do it now?

25 THE COURT: Which photographs?

1 MS. MAYES: Or we can approach, Your Honor.

2 THE COURT: Yeah, let's just do that.

3 (Proceedings held at the bench; not reported.)

4 THE COURT: All right. Let's go ahead and put it
5 on the record.

6 All right. The State's given me three exhibits;
7 State's 35, 36 and 37, which depict the interior of the
8 car. 36 shows blood on the left back of the seat. 37
9 depicts a good bit of blood around the center console
10 where there's a Mountain Dew can and looks like a water
11 bottle. The State is basically seeking admission to --
12 for what purpose again?

13 MS. MAYES: To establish the location of the
14 victim, Your Honor, as she was found. This will be
15 the first officer who arrives at the scene to establish
16 the scene was fresh. At this point it has not been
17 tampered with by EMS. Not that there was any tampering
18 with the scene, but the victim has not even been moved
19 or treated by EMS yet or removed from the car, so we
20 know that there's no transfer of blood occurring during
21 that process.

22 This is the scene as it was found. It's relevant
23 to establish both the positioning of the victim as well
24 as where the blood is located within the car which is
25 gonna go ultimately to the identity of the shooter,

1 which is the material fact at issue in this case.

2 THE COURT: Okay. And the defense is objecting
3 under 403, prejudice?

4 MR. MADSEN: Yes, Your Honor. I mean, there's no
5 dispute. I think Ms. Council's already testified she's
6 in the passenger seat, when law enforcement gets there
7 she's in the passenger seat. You know, these are
8 pictures basically just to get the blood in. I mean,
9 no one disputes she was in the passenger seat and that's
10 where EMS came and took her from.

11 MS. MAYES: And the location of blood or blood
12 pattern in the vehicle is central to who the shooter
13 is, Your Honor.

14 MR. MADSEN: So does that mean they're gonna have
15 a blood pattern expert to testify as to how that gets
16 there?

17 MS. MAYES: It doesn't have to be a blood pattern
18 expert, but the location of blood and the position of
19 the victim and how it transferred to the driver's side
20 as she was found is certainly relevant and material in
21 this case.

22 THE COURT: All right. Well, so far I'm hearing
23 that the defense is basically identity, the Defendant
24 is not the individual who shot the decedent. Apparently
25 there's gonna be testimony about who was sitting where.

1 Perhaps we're getting into kind of a third-party guilt
2 kind of a thing down the road. I really don't know.

3 At this stage of the game, assuming that the State
4 is correct that there's gonna be testimony that the
5 Defendant was seated behind the driver, then the angle
6 of the fatal shot would be relevant. It would make less
7 sense if the person seated behind the passenger was
8 arching their body or moving their body in such a way as
9 to fire a shot below the left ear of the decedent, so I
10 do find that any -- that the probative value of the
11 exhibits at this point outweigh any prejudicial effect,
12 so I'll allow them to be submitted.

13 It will be over your objection, of course, and you
14 do not need to renew your objection when they move those
15 into evidence. You are protected.

16 MR. MADSEN: Thank you, Your Honor.

17 THE COURT: Thank you.

18 Go ahead and bring them in.

19 (Whereupon, the jury returns to the courtroom at
20 2:47 PM.)

21 THE COURT: The jury is back and seated.

22 Solicitor, when we left off you were going to
23 publish the 9-1-1 tape and we will do so.

24 MS. MARTIN: Thank you, Your Honor.

25 (Whereupon, State's Exhibit Number 1 was played.)

1 MS. MARTIN: Your Honor, if I may approach the
2 witness. We have State's Exhibit 5, which is four
3 photographs that I think will be admitted into evidence
4 without objection.

5 THE COURT: Right. They're already in evidence
6 subject to our pre-trial hearing.

7 BY MS. MARTIN:

8 Q. Ms. Jane, if I can show you State's Exhibit 5.
9 Ms. Council, what do you see in that photograph?

10 A. I see the individual that was identified to me that
11 she was the passenger in the backseat.

12 Q. Okay. And are you also on that photograph?

13 A. Yeah, that's me.

14 Q. And that's your car?

15 A. Yes.

16 Q. If I could show you the second still from State's 5.
17 Is that also you and your car?

18 A. Yes.

19 Q. If I could show you the third still, is that where you
20 stopped your car once you got out there at the Fellowship
21 church?

22 A. Yes.

23 Q. Okay. And last, that's you as well, Ms. Jane?

24 A. Yes.

25 MS. MARTIN: Your Honor, if I may approach the

1 witness. We have State's Exhibit 42 and this is ID
2 only at this time.

3 BY MS. MARTIN:

4 Q. Ms. Jane, do you recognize this CD?

5 A. Yes.

6 Q. Does it have your initials on it?

7 A. Yes.

8 Q. Have you viewed it?

9 A. Yes.

10 Q. And do you recall what it contains?

11 A. It contains when I first stopped.

12 Q. Okay. Does it show your movements in your and when
13 you get out of your car and things of that nature at the
14 Fellowship Baptist Church?

15 A. Yes.

16 MS. MARTIN: ID only at this time, Your Honor.

17 Please answer Mr. Mauldin or Mr. Madsen's
18 questions.

19 THE COURT: I think you did move State's 1 into
20 evidence, the CD of the 9-1-1 tape?

21 MS. MARTIN: Yes, sir.

22 THE COURT: Okay. I don't know if I ruled on it,
23 but that is in evidence subject to all prior objections
24 and preservations.

25 Cross.

1 MR. MAULDIN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. MAULDIN:

4 Q. So all the information that you relayed to the 9-1-1
5 people and the police, that's information that you were
6 told by this man and this woman; is that right?

7 A. Repeat the question.

8 Q. Like all the information you were relying to 9-1-1
9 about the suspect walking down the street and his
10 description, that was information that was relayed to you
11 by this man and this woman that you met in that parking
12 lot; is that right?

13 A. Yes.

14 Q. And you first noticed the man in the road when you
15 were driving up; is that right?

16 A. Yes.

17 Q. And then you pulled in the parking lot and you were
18 dealing with him for a period of time, talking to him; is
19 that right?

20 A. Briefly.

21 Q. And then the woman came up sometime later; is that
22 right?

23 A. I believe at that point when I got out of the car I
24 started toward the front of my car with him.

25 Q. Uh-huh. And then the woman came up sometime later.

1 Not the woman in the car, but the other woman.

2 A. Yes.

3 Q. She -- she came up from somewhere sometime later?

4 A. Over toward the car.

5 Q. And she ended up in your car; is that right?

6 A. Yes, she was poorly dressed and I gave her -- I put
7 her in my car to keep her warm, gave her a blanket.

8 Q. And -- and when you were talking with her, she acted
9 like she was having a hard time hearing?

10 A. Yes, because she told me she could -- the pop from the
11 gun had affected her hearing.

12 Q. So she couldn't hear so good at all?

13 A. Unh-unh.

14 MR. MAULDIN: Okay. No further questions.

15 THE COURT: All right, ma'am. Thank you very
16 much. You may step down.

17 (Witness excused.)

18 THE COURT: No objection to releasing this witness
19 from the defense?

20 MR. MAULDIN: No, Your Honor. No objection.

21 THE COURT: Ma'am, you're free to go. Thank you
22 very much for coming. Take care.

23 Call your next witness.

24 MS. MAYES: The State calls Deputy Dustin Pollard.

25 (Whereupon, Dustin Pollard was duly sworn by the

1 Clerk of Court.)

2 THE CLERK: Once you have a seat, sir, state your
3 full name, spelling your last, please.

4 THE WITNESS: Dustin Pollard, P-O-L-L-A-R-D.

5 DUSTIN POLLARD,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MAYES:

9 Q. Good afternoon. Can you tell us a little bit about
10 yourself? Where are you currently employed?

11 A. The Lexington County Sheriff's Department.

12 Q. Tell us what you do there with the Lexington County
13 Sheriff's Department currently.

14 A. I'm currently an investigator.

15 Q. All right. Prior to becoming an investigator, what
16 kind of role did you have with the sheriff's department in
17 2019?

18 A. I was a field training officer on the road.

19 Q. All right. And what did that involve?

20 A. Training deputies when they first got hired.

21 Q. All right. I want to take you back, Investigator
22 Pollard, to the morning hours, the early morning hours, of
23 February 21, 2019. What were you doing that morning?

24 A. I was actually on my way to a pre-brief for a
25 presidential detail that was happening at the airport

1 driving down Augusta Road.

2 Q. All right. And what division within the sheriff's
3 department were you working that morning?

4 A. I was a SWAT operator with a SWAT team.

5 Q. Now as a member of the SWAT team on your way to a
6 briefing, were you in a regular patrol car?

7 A. Yes, ma'am.

8 Q. Did you have your body cam activated that morning?

9 A. No, ma'am. I was not in a regular uniform. I was
10 actually in my SWAT uniform, which I don't wear a body cam
11 with.

12 Q. Okay. There's been testimony already, Investigator
13 Pollard, that a 9-1-1 call was placed at 7:44 AM on the
14 morning of February 21, 2019. On the way to that briefing
15 in the vehicle that you were in with the sheriff's
16 department, did you have your radio activated?

17 A. Yes, ma'am.

18 Q. And tell us what occurs after a 9-1-1 call is placed
19 and law enforcement is needed at the scene of a crime?

20 A. On this morning an actual tone went out, which alerts
21 as a high priority call, and I was listening to the radio
22 and heard the call, checked to see where I was, and
23 responded to it.

24 Q. All right. Do you have with you what's known as the
25 radio log and do you have knowledge of what time that tone

1 went out to all members of the sheriff's department that --
2 that a shooting had occurred at a particular location?

3 A. Yes, ma'am. The call toned out at 7:45.

4 Q. 7:45?

5 A. Yes, ma'am.

6 Q. How close were you to that location?

7 A. Thirty seconds.

8 MS. MAYES: I want to show you what is already in
9 evidence. It's gonna be a map and I believe this is
10 State's 39, Your Honor, already in evidence without
11 objection.

12 And if I may approach the witness?

13 THE COURT: Sure.

14 BY MS. MAYES:

15 Q. Are you familiar with this?

16 A. Yes, ma'am.

17 Q. You're familiar with this particular area?

18 A. Yes, ma'am.

19 Q. Okay.

20 MS. MAYES: Your Honor, if the witness could
21 have permission to step down six feet away from the
22 jury box?

23 THE COURT: Yeah, that will be fine. Just move
24 with Ms. Mayes where she needs you to be. Go with her.
25 She wants you to demonstrate to the jury where you were

1 coming from probably.

2 BY MS. MAYES:

3 Q. All right. And if you could step back six feet away.

4 I'm gonna ask you to come around here so the court reporter
5 can hear you better.

6 Take us through what we're looking at right here.

7 What is this road within Lexington county?

8 A. Augusta Road.

9 Q. All right. And where is Fellowship Baptist Church on
10 this particular map?

11 A. It's right here.

12 Q. And what direction were you going to, Investigator
13 Pollard?

14 A. I was headed towards the town of Lexington.

15 Q. And the town of Lexington would be which direction?

16 A. Towards Oak Drive, towards -- this way towards Main.

17 Q. To the right side of the map?

18 A. Yes, ma'am.

19 Q. And the left side of the map would be towards which
20 area or which direction?

21 A. West Columbia.

22 Q. Okay. And where are you at when you get that tone at
23 7:45 AM to respond to the scene?

24 A. I'm actually driving past the Metro One Flea Market
25 down Augusta Road.

1 Q. And what do you do next?

2 A. I actually pull up the location, the address, on my
3 phone to see how close I am to the call. By the time I
4 realize where I'm at, I'm actually past the call and right
5 here at the Congaree Home Center I do a U-turn at Congaree
6 Home Center and go back to the Fellowship Baptist Church.

7 Q. Okay. Altogether how long do you think that took you
8 to get the tone and then end up there at the parking lot at
9 Fellowship Baptist Church?

10 A. No longer than thirty seconds.

11 Q. So you would have been there within 7:46 AM?

12 A. Yes, ma'am.

13 Q. All right. You may return to your seat.

14 A. (Witness complies.)

15 Q. And when you pull in at 7:46 AM, can you tell us
16 whether or not you were the first officer at the scene?

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

18 Q. What did you see upon your arrival, Investigator
19 Pollard?

20 A. When I pulled into the driveway of the church, I saw
21 a white female waving her hands coming -- approaching
22 towards my vehicle. I got out. She was very hysterical,
23 crying. It looked like she was scared.

24 Q. And did she appear to still be under the active stress
25 of an event?

1 A. Yes, ma'am, she did.

2 Q. What, if anything, did she say to you at that point?

3 A. Immediately she said that that man just --

4 MR. MADSEN: Judge, I would object under Crawford.

5 I would object under 803.

6 THE COURT: All right. She will be testifying?

7 MS. MAYES: Yes, sir, Your Honor.

8 THE COURT: It's not a Crawford problem and it's
9 already -- under 803 I've already ruled. It's an
10 excited utterance.

11 I assume that's the exception you're claiming?

12 MS. MAYES: Yes, sir, Your Honor.

13 THE COURT: Proceed.

14 State the question again.

15 BY MS. MAYES:

16 Q. I'm gonna take you back. You said that someone was
17 waving you down. Where was that? Where did you see her
18 do that?

19 A. In the parking lot of the church.

20 Q. All right. And did you go to her or did she come to
21 you?

22 A. I drove to her.

23 Q. Okay. And was this -- were you marked as a law
24 enforcement officer?

25 A. I was in a marked patrol vehicle with blue lights on.

1 Q. What did she say to you?

2 A. She said that man just killed that girl. He shot her
3 in the back of the head.

4 Q. What did you do next?

5 A. I asked her where the man went and she actually
6 pointed down Augusta Road toward Oak Drive.

7 Q. Okay. And Oak Drive I think you showed us on the map
8 just a minute ago. Is that toward the West Columbia side
9 of the map or the Lexington side of the map?

10 A. The Lexington side of the map.

11 Q. What did you do next?

12 A. I then asked the female what -- what the guy was
13 wearing and she stated that it was -- or I'm sorry. I
14 asked her what he looked like and she said it was a black
15 male wearing all gray with a gray beanie on.

16 Q. All right. So you had information of a potential
17 suspect being a black male wearing gray with a gray beanie.
18 What did you do with that information?

19 A. I immediately got on the radio and passed it over to
20 responding units.

21 Q. Okay. And you indicated that this person also had
22 informed you of the direction that the suspect went. What
23 did you do with that information?

24 A. I also relayed that over the radio.

25 Q. Okay. And when you relay it over the radio, can you

1 tell us who all it goes to?

2 A. Everybody that was on that channel.

3 Q. And would that be all members of the Lexington County
4 Sheriff's Department?

5 A. Yes, ma'am.

6 Q. I'm gonna show you some photographs and ask you
7 whether or not you recognize them. First, I want to start
8 with State's Exhibit 5 and -- State's Exhibit 5. Do you
9 recognize the person depicted in that photograph?

10 A. Yes, ma'am.

11 Q. How do you recognize that person?

12 A. That is the female that was waving me down.

13 Q. All right.

14 MS. MAYES: Your Honor, this is already in evidence.
15 State's 5.

16 BY MS. MAYES:

17 Q. After you put out the information over the radio to
18 all members of the Lexington County Sheriff's Department
19 describing the suspect and what he's wearing, what did you
20 do next, Investigator Pollard?

21 A. I then proceeded over to the vehicle.

22 Q. And when you say vehicle, tell us what type of vehicle
23 this was.

24 A. It was a white four-door vehicle.

25 Q. Okay. And just to clarify, it's a separate vehicle

1 than this vehicle?

2 A. It's not that vehicle.

3 Q. Okay. And why did you go towards that white Ford
4 Focus vehicle?

5 A. I saw the passenger side door open and I saw a white
6 male had crouched down at the door and then I saw a female
7 inside the passenger -- on the passenger seat.

8 Q. Okay. I'm gonna show you some photographs and ask
9 you whether or not you recognize them. These are gonna be
10 State's 29, 30, 31, 32, 33 and 34.

11 A. Yes, ma'am. That's the vehicle that was at the
12 church.

13 Q. Okay. Are those photographs a fair and accurate
14 representation of your recollection of the vehicle as you
15 found it that day at the scene?

16 A. Yes, ma'am.

17 Q. I'm also gonna show you 35, 36 and 37. Can you tell
18 us whether or not these three photographs are a fair and
19 accurate representation of how you recall the interior of
20 that vehicle?

21 A. Yes, ma'am.

22 THE COURT: I don't think there's any objection
23 for 29 through 34, 35 through -- you're moving those into
24 evidence at this time?

25 MS. MAYES: Yes, sir, Your Honor.

1 THE COURT: All right. There's no objection to 29
2 through 34; am I right?

3 MR. MAULDIN: Correct, Your Honor.

4 THE COURT: All right. And 35 through 37 will be
5 subject to the earlier hearing that we did just before
6 the jury came in and those preservation by the defense.
7 Those are in evidence. 29 through 34 and 35 through 37.

8 (State's Exhibit Number 29, 30, 31, 32, 33, 34,
9 35, 36, 37, photographs, were admitted into evidence.)

10 BY MS. MAYES:

11 Q. I want to start here with State's 30 and ask you what
12 is depicted in this photograph?

13 A. That is the sign out front -- out in front of the
14 church.

15 Q. All right. Now I want to show you State's 31. How do
16 you recognize that photograph?

17 A. That is the vehicle that was involved.

18 Q. And you said when you approached that vehicle you saw
19 a white male next to the vehicle?

20 A. Yes, ma'am.

21 Q. I'm gonna show you State's 29. Can you show us where
22 you saw that white male in relation to this particular
23 photograph, State's 29?

24 A. Yes, ma'am. He was right here in the doorway.

25 Q. What was he doing?

1 A. He was upset, crying and crouched over to her trying
2 to make sure she was okay.

3 Q. And when you say her, who are you referring to?

4 A. The victim in the case, ma'am.

5 Q. All right. And when you saw -- did you actually see
6 the victim from where you were?

7 A. Yes, ma'am.

8 Q. Where was she?

9 A. She -- she was in the passenger seat.

10 Q. Can you show us where?

11 A. (Indicating.)

12 Q. That would be the front passenger seat?

13 A. Yes, ma'am.

14 Q. What did you do next?

15 A. Deputy Parker was actually arriving on-scene at that
16 time and when he arrived on-scene I asked him to give me a
17 pair of gloves since I didn't have any on my person and he
18 went to the back to his vehicle and got the gloves.

19 Q. And for what purpose did you need gloves?

20 A. So I could check on the victim.

21 Q. Did you do so?

22 A. I did.

23 Q. Tell us what you observed.

24 A. When I went to check on the victim, she was making a
25 twitching motion, but she still appeared to be breathing

1 but was unresponsive. I actually went to the -- the
2 driver's side door was open and I went to the driver's side
3 door and was trying to look through her hair, but there was
4 too much blood and too much hair to try to find an injury
5 wound to her head.

6 Q. Why was it that you were touching her head in that
7 manner?

8 A. To try to find out where she was bleeding from.

9 Q. Were you able to do so?

10 A. I was not.

11 MS. MAYES: And next, Your Honor, we have 35, 36,
12 37. I believe these are in evidence.

13 THE COURT: Correct.

14 BY MS. MAYES:

15 Q. If you can take a look here at 35 and tell us how you
16 first entered the vehicle in order to render aid to the
17 victim, Alexis Azarigian.

18 A. I came to the -- the driver's side door on the other
19 side that was open at the time and that's where I tried to
20 render aid to her.

21 Q. All right. And could you show us where on State's 35?

22 A. Right here.

23 Q. When you entered from that position, were you able to
24 view the interior of the vehicle?

25 A. I was.

1 Q. And were you able to determine if there was blood
2 present inside the vehicle?

3 A. Yes, ma'am, there was.

4 Q. Let me show you State's 36 and then State's 37. As
5 for State's 37, what are we looking at here in this
6 photograph?

7 A. That's the center console of the vehicle.

8 Q. All right. Can you tell us where Alexis' head was
9 in relation to this photograph?

10 A. Around this area. She was leaned over the center
11 console.

12 Q. Okay. Sitting in the right front passenger seat, but
13 leaning over that console?

14 A. Yes, ma'am.

15 Q. As a result, could you determine whether blood had
16 pooled around that area there, the center console?

17 A. Yes, ma'am.

18 Q. Including over to the driver's side area?

19 A. Yes, ma'am.

20 Q. And that's how you found the scene when you first
21 arrived?

22 A. I did.

23 Q. I'm gonna show you another photograph, which is
24 State's Exhibit 6.

25 I'm gonna show you State's Exhibit 6 and ask you

1 whether or not you recognize the person depicted in this
2 photograph?

3 A. Yes, that was the male that was crouched down next to
4 the passenger side door.

5 MS. MAYES: Your Honor, this would be State's 6
6 for evidence.

7 MR. MAULDIN: No objection, Your Honor.

8 THE COURT: State's 6 is in evidence.

9 (State's Exhibit Number 6, a photograph, was
10 admitted into evidence.)

11 BY MS. MAYES:

12 Q. And upon your arrival you observed him where?

13 A. In the -- crouched by the passenger side door.

14 Q. All right. Throughout your time there at the scene,
15 did you ever see the emotional demeanor of this witness
16 change?

17 A. No, ma'am. He stayed upset and crying and very
18 scared.

19 Q. State's Exhibit 5. Throughout your time at the scene,
20 did you ever see the emotional demeanor of this witness
21 change?

22 A. No, ma'am.

23 Q. When you left, how would you describe her demeanor?

24 A. She was still upset, crying, scared.

25 Q. Ultimately -- I think you told us you were working

1 SWAT that morning on the way to a briefing and weren't
2 expected to respond to this call. Whose hands did you
3 leave this crime scene in?

4 A. With Deputy Parker and Detective Black.

5 Q. That would be Detective Sandy Black?

6 A. Yes, ma'am.

7 Q. What was her role at the time?

8 A. She worked in major crimes at the time.

9 Q. And would that be protocol then to leave the scene in
10 the hands of a major crimes detective?

11 A. Yes, ma'am.

12 Q. And you said there were other responding officers
13 present as well at that point?

14 A. The only one I remember that also showed up was
15 Sergeant Poole.

16 Q. Sergeant Poole --

17 A. Yes.

18 Q. -- and Deputy Parker?

19 A. Yes, ma'am.

20 Q. When you put the information out over the radio about
21 the suspect description and his clothing and the direction
22 that he went, did you have an understanding at that point
23 as to whether he had left on foot or in a vehicle?

24 A. It had come on the radio that he left on foot.

25 Q. All right. And based upon all of your knowledge and

1 observations there at the scene, what, if any, efforts
2 were being taken at that moment by the Lexington County
3 Sheriff's Department to locate that suspect?

4 A. All units -- all the units in the area responded to
5 that area to set up a perimeter to look for the suspect.

6 Q. Did you observe that as well?

7 A. Yes, ma'am.

8 Q. What did you observe?

9 A. I observed multiple units come into the area, could
10 hear on the radio multiple units setting up a perimeter, a
11 K-9 unit was en route.

12 Q. And did that include the area all the way down through
13 Oak Drive toward Lexington?

14 A. Yes, ma'am.

15 MS. MAYES: I beg the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 MS. MAYES: Nothing further of Investigator
18 Pollard at this time, Your Honor.

19 THE COURT: Cross.

20 CROSS-EXAMINATION

21 BY MR. MADSEN:

22 Q. Officer Pollard, you were going to a presidential
23 detail that morning so you were travelling from, I guess,
24 Lexington to the airport?

25 A. I was travelling from the West Columbia area off of

1 I-26 towards the airport.

2 Q. Okay. And you said a gunshot wound -- or gunshot tone
3 came out, correct?

4 A. Correct.

5 Q. And were you driving -- or you were driving in a
6 sheriff's office car, a marked one, I believe?

7 A. Correct.

8 Q. Was it a car or was it an SUV?

9 A. SUV.

10 Q. And I think you testified that you actually passed
11 right by and had to hang a U-turn and come right back?

12 A. Correct.

13 Q. So you -- when you passed by initially, you don't see
14 anything unusual that calls your attention, do you?

15 A. I was trying to look up the address of where that
16 location was.

17 Q. And as an officer, when you come to a scene you have
18 very little information, correct?

19 A. Correct.

20 Q. You have no idea what you're going to find?

21 A. Correct.

22 Q. So when you get out there, you get some information
23 initially. At any point in time do you search anyone out
24 there? Do you pat anyone down?

25 A. No, I don't.

1 Q. Do you put out crime scene tape?

2 A. I don't.

3 Q. It's important though when you get out on a scene
4 like that that you want to secure that scene so that all
5 evidence is retrieved, correct?

6 A. Correct.

7 Q. So you never pat anyone down, you never search anyone?

8 A. No, sir.

9 Q. Do you ever run anyone's name through dispatch?

10 A. I did not.

11 Q. You never tried to ID anyone?

12 A. No, sir.

13 Q. There were three people -- well, three people and
14 Ms. Azarigian out there, so four people total. We know
15 that Ms. Azarigian's in the car and that she doesn't move
16 from that passenger side.

17 A. (Nods head.)

18 Q. Can you see what the other three people are doing the
19 entire time you're there or you just kinda, like you said,
20 you go to her and you try to administer aid? You're just
21 focussed on her, correct?

22 A. Correct.

23 Q. And so you have no idea where they're going?

24 A. No, the only other person I knew where they were was
25 the man that was crouched down because he stayed right

1 there.

2 Q. And he's in that doorway on her?

3 A. Correct.

4 Q. And when you're coming, you don't see a black male
5 running, moving somewhere or anything that causes your
6 suspicion when you're driving, do you?

7 A. I don't.

8 Q. And the windows to the car are up, but that passenger
9 side door is open, correct?

10 A. The passenger side and driver's side were open.

11 Q. When you got there?

12 A. Yes, sir.

13 Q. And the total amount of time that you're there is
14 about how long?

15 A. I was probably only there on-scene maybe ten minutes.

16 Q. Because you had to get onto the presidential detail?

17 A. Correct.

18 MR. MADSEN: That's all the questions I have.

19 REDIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. Just to clear up one thing, Investigator Pollard, at
22 the time you arrive that 9-1-1 call has already been made?

23 A. Yes, ma'am.

24 Q. Okay. So the 9-1-1 caller would have already been
25 there at the scene?

1 A. Yes, ma'am.

2 MS. MAYES: Nothing further.

3 THE COURT: All right. Thank you. You can step
4 down.

5 (Witness excused.)

6 THE COURT: Call your next witness, Solicitor.

7 MS. MARTIN: Your Honor, the State calls Michael
8 Parker -- Matthew Parker. I'm sorry.

9 (Whereupon, Matthew Ainsworth Parker was duly
10 sworn by the Clerk of Court.)

11 THE CLERK: Once you're seated, speak up loud
12 and clear. State your full name, spelling your last,
13 please.

14 THE WITNESS: My name is Matthew Ainsworth Parker,
15 P-A-R-K-E-R.

16 MATTHEW AINSWORTH PARKER,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MARTIN:

20 Q. Mr. Parker, where are you employed now?

21 A. I'm starting a new job with the veterans affairs
22 police -- hospital. Since I was a navy veteran, I'm
23 going to work for them to keep the facilities secure in
24 Augusta, Georgia.

25 Q. And where were you employed in February of 2019?

1 A. Lexington County Sheriff's Department.

2 Q. And what were your duties at the sheriff's department?

3 A. I was a road deputy, which meant that I respond to
4 calls that were dispatched over to us. I think most of my
5 calls were domestics and, of course, this gunshot wound and
6 several other things.

7 Q. And at the time you were employed with the county,
8 were you driving a marked car?

9 A. I was.

10 Q. And at that time, February of 2019, did you have a
11 body-worn camera?

12 A. I did not.

13 Q. Can you direct your attention back to February 21st
14 and can you tell us were you called to a location at
15 Fellowship Baptist Church?

16 A. Indeed. I was familiar with the church and I was
17 doing a 9-1-1 hang-up on Timbermill Drive. I remember very
18 specifically, it's just kind of burned in my memory, that
19 it was a misty morning, I was sitting next to a brick
20 mailbox down on Timbermill Drive somewhere and the tones
21 came out and so I know I wasn't far away and I turned left
22 and went down Timbermill Drive until I got to Augusta,
23 turned left. When I got down there, I was getting a call
24 over the radio, it may have been Pollard, but I'm not
25 sure, about look out for a black male in gray sweatpants

1 and short dreds walking towards Oak Drive from the church.
2 I passed Oak Drive about two seconds later and I didn't see
3 him on either side of the street walking down when I got
4 there, so I just pulled in the church lot. I didn't see
5 anybody walking down the side of the street when I was
6 going up.

7 Q. Can you tell us what time you arrived at the
8 Fellowship Baptist Church?

9 A. Not exactly, but it was between 7:45 and 8:00 because
10 I remember I was out when I heard K-9 come over the radio
11 that they were gonna start a track and I looked down at my
12 watch and it was 8:00 already, so it had to be between like
13 7:45 and 7:55 that I got on the scene.

14 Q. And do you recall where you parked your car?

15 A. I do. There's two entrances to the church. There's
16 one on sort of the east side coming up the road from Oak
17 Drive. Like if you're going from the church towards Oak
18 Drive, there's one, and then the other that's closer to
19 Oak Drive. I came -- I passed that first one and turned
20 around and pulled into the one that was closer to the car.

21 MS. MARTIN: If I may approach the witness, Your
22 Honor?

23 THE COURT: Sure.

24 BY MS. MARTIN:

25 Q. I'll show you State's 41. Could you tell us where you

1 parked?

2 A. Right here because I -- I came down and I saw that
3 the car was in this kind of general area right here and I
4 wanted to keep civilian traffic -- because, you know,
5 sometimes you get a good Samaritan and I didn't want
6 anybody to endanger the crime scene, so I -- I blocked off
7 this entrance right here with my Tahoe because I didn't
8 want anybody to come in like I said.

9 Q. Okay. And do you recall any other officers being
10 there when you got there?

11 A. Yes. Deputy Pollard was on the scene in his camo. He
12 was -- he was doing ancillary duty and so I -- as I saw
13 him, I knew he -- as soon as I pulled up he was running
14 towards me saying hey, man, you got any gloves, and so I
15 ran around, opened the back hatch of my Tahoe and looked
16 in my medical box that they give us and took the gloves and
17 went over to see if we could do anything.

18 Q. Okay. And where did you go to provide aid?

19 A. To this white sedan that was parked there. There was
20 a tall white male standing in the passenger seat beside --
21 not in the seat, but on the side where the open door was
22 and he was kind of, you know, hands up over his head and
23 crying and so Pollard kind of ushered him out of the way
24 and --

25 Q. If I can stop you there for a moment.

1 A. Yes.

2 Q. If I could show you State's 6, do you recognize this
3 person?

4 A. Yeah, that's Josh.

5 Q. Is that the person you were seeing?

6 A. Yeah, he was standing next to the open passenger door
7 and having, you know, the reaction that you would have from
8 somebody getting shot.

9 Q. Okay. And if I can show you what's been marked
10 State's 40, do you recognize this vehicle?

11 A. Yeah, that is the sedan that I was speaking of
12 earlier.

13 Q. Okay. And when you approached this sedan with Deputy
14 Pollard, what, if anything, did you observe?

15 A. There was a young dark-haired woman slumped over the
16 center console. Her rear was still in the passenger seat,
17 her legs were still in the floorboard, I believe. She was
18 slumped up over at such an angle that her bust was on the
19 passenger side of the console and her arms were kind of out
20 in front of her and her head was tilted to the side where
21 the top of her head -- so if you look at the car seat,
22 there's the flat middle and then there's the curved parts
23 that kind of support like the hip and lumbar, the top of
24 her head was touching the right side of the driver's seat
25 just a little bit, but her hair, which was of concern

1 because that's where all the blood was, was kind of like
2 between there and the center console, so.

3 Q. If I can show you what's already in evidence as
4 State's 35, what, if anything, do you notice about this
5 photograph? Is that what you saw when you were there?

6 A. That -- that is the car. I didn't -- Pollard kind of
7 leaned over to -- to check and I noticed that she was
8 making very short kind of huh, huh, huh gasps and she was
9 twitching, so we knew there was some kind of nervous system
10 damage and we really didn't want to do anything without EMS
11 being there because we didn't want to make it worse, so we
12 both backed off immediately.

13 Q. If I can show you State's 36. Using this photograph,
14 could you tell us where you observed the victim's head to
15 be laying? And I think there's a pointer right beside you
16 by your right hand.

17 A. Okay. Let's see. Her -- her head was over in this
18 kind of area right here because she was -- she was leaned
19 over this sort of region, but her head was -- because she
20 had longer black hair too, it was just sort of like this
21 area that she was laid over.

22 Q. After you tried to render aid, can you tell us if you
23 had any other interaction with the people there at the
24 scene?

25 A. Yeah, I spoke to Josh a couple of times both with

1 Detective Black and with, I think, Detective Lyons. I
2 don't know if Detective Lyons spoke to him alone, I don't
3 remember if we went over the events, but I heard him go
4 over the events about three times.

5 Q. Can you tell us what, if anything, you noticed about
6 the emotional demeanor of Mr. Joshua Murray?

7 A. He was -- it's -- it's hard to describe because he --
8 I would say something like a nervous breakdown. He was
9 very inconsolable. He was in disbelief to such -- I'm
10 trying to think of a better way to phrase it, but he was
11 in -- in such a state of disbelief and panic that he
12 couldn't believe what was going, you know, the chrono --
13 the chronological order is kind of off because other stuff
14 happened in between, but later on he was saying he couldn't
15 believe that his friend would do this and he didn't, you
16 know --

17 MR. MAULDIN: Objection, Your Honor. Hearsay.

18 THE COURT: Sustained. The jury is instructed to
19 disregard that.

20 BY MS. MARTIN:

21 Q. Do you believe when you were there that Mr. Murray was
22 still under the stress of any type of event?

23 A. Absolutely. He -- he was in tears the entire time
24 and, you know, like -- like I said, I don't want to
25 overstep, but he was very, very, very broken up the entire

1 time. I can't think of the proper adjective for it.

2 Q. Okay. In your dealings with the people there in the
3 parking lot at the Fellowship Baptist Church, what, if any,
4 information did you have as far as the suspect shooter?

5 Did you have any kind of physical description?

6 A. Yes, the first -- the first physical description I
7 heard apart from the radio traffic that I heard on the way
8 passing Oak Drive was Deputy Black came -- or Detective
9 Black came up to me with a notepad that she had gotten from
10 one of the other witnesses and put out, it was basically
11 same the same information, a black male, six foot two,
12 around 200 pounds, wearing gray sweats with short dreds and
13 then a little bit later on I think they said he had on
14 glasses.

15 Q. Okay. Did you relay that information over dispatch?

16 A. I did.

17 Q. Do you have a time where the detail about the glasses
18 was added?

19 A. Yeah, just a minute. It looks like that was at 7:54.

20 Q. Did you have a suspect's name that law enforcement was
21 searching for?

22 A. We were given a couple of different names. Josh knew
23 him sort of colloquially as Pluto. The first name we were
24 given was Joe Brown and then as we kind of went on it
25 turned into Joseph Randolph.

1 Q. Okay. And were those names given out over the radio
2 dispatch as well?

3 A. They were, yes.

4 Q. Okay. And did you have a direction of travel that law
5 enforcement was looking for this person, the suspected
6 shooter?

7 A. The same as the initial callout, which was in sort of
8 a westerly direction walking down from the church towards
9 Oak Drive there, so going from east to west down the side
10 of the road. I didn't see him coming down the road like I
11 said before.

12 Q. Did you ever obtain any information of a type of
13 vehicle that would have been associated with Pluto?

14 A. Absolutely. Josh said that he would be driving a
15 small blue Toyota four-door, so I put that information out
16 on the radio as well.

17 Q. Can you tell us when that information was relayed on
18 the radio?

19 A. According to the CAD, it was at 7:56.

20 Q. Was there any attempt using social media made by you
21 to find a photograph of Pluto?

22 A. Yes. Josh said that he had known him for a while and
23 so he had him on Facebook and -- but Josh didn't -- he
24 couldn't use his phone without wi-fi, so I first tried to
25 do a hotspot with my phone and that was -- but we didn't

1 get an actual picture of him, but we established a
2 connection and he was saying that this was him on Facebook.

3 Q. Okay. But no photographs were connected to that
4 Facebook?

5 A. No, not that I'm aware of.

6 Q. Okay. Did you have an opportunity to speak to the
7 other female there at the scene?

8 A. Very briefly. She identified herself as Ms. Kaitlyn
9 Skyrme. She was in an even more agitated, excited state
10 than Josh and she said that she had only known everybody
11 in the car for two days, she didn't know anybody's names
12 and --

13 MR. MAULDIN: Objection. 803, Your Honor.

14 THE COURT: Say again your objection.

15 MR. MAULDIN: 803.

16 THE COURT: 803?

17 MR. MAULDIN: Hearsay.

18 THE COURT: Thank you.

19 All right. Sustained.

20 BY MS. MARTIN:

21 Q. Okay. Moving along, could you tell us did you run the
22 information of the white Ford Taurus?

23 A. Yes. Josh couldn't spell her last name and we were
24 trying to get her identified and he said that she owned the
25 car, so I ran the tag through dispatch and they came up

1 with an almost identically sounding name -- or identically
2 sounding how it was spelled. It was sort of an Armenian
3 type of name.

4 Q. Right. Did you have an address that was associated
5 with that car?

6 A. I believe it was Yacht Club Road. I'd have to look
7 up the exact address. [REDACTED] Yacht Club Point, Chapin, South
8 Carolina, 29036.

9 Q. I believe you said that was a Yacht Cove address; is
10 that correct?

11 A. Yes, Yacht Club Point, Chapin, South Carolina.

12 Q. Okay. As far as the white car that was there, did you
13 have anything else -- duties regarding the car there at the
14 scene?

15 A. Yes, after major crimes took their pictures and closed
16 up the car, I escorted the tow truck to headquarters.

17 Q. Okay. And was crime scene tape put up around this
18 area?

19 A. It was. After they closed it up, they taped off the
20 doors.

21 Q. Of the vehicle?

22 A. Yes.

23 Q. What about the location there? Do you recall there
24 being crime scene tape at the location?

25 A. Oh, yes. When -- as soon as we pulled up -- actually

1 the picture you showed a moment ago, it was -- Forgoine's
2 car was in the background and my car was parked off to the
3 side and we put crime scene tape around the entire area and
4 nobody -- at one point Josh because of the state of his
5 clothes asked to get a hoodie out of the back and we said
6 no, it's a crime scene. You can't go back in the car.

7 Q. Okay. So no one went into the trunk of the car in
8 your presence?

9 A. Not that I saw.

10 Q. Okay. And --

11 MS. MARTIN: I beg the Court's indulgence one
12 moment.

13 Please answer any questions Mr. Mauldin may have.

14 THE COURT: Cross.

15 CROSS-EXAMINATION

16 BY MR. MAULDIN:

17 Q. So are you living in Augusta now, Mr. Parker?

18 A. North Augusta. Yes, sir.

19 Q. North Augusta. But had you been living in Lexington
20 prior to that?

21 A. No, I made the hour drive to work every day.

22 Q. Okay. Well, as a deputy did you familiarize yourself
23 with the Lexington area and you knew where things were such
24 as this church and several businesses around it?

25 A. The north region, especially Augusta Road, yes, sir.

1 Q. Okay. Let's see. I'm gonna show you what's been
2 marked as State's 39. This here shows the Fellowship
3 Baptist Church right here where -- where you were responded
4 to; is that right?

5 A. Yes, sir.

6 Q. With the two cars there?

7 A. (Nods head.)

8 Q. And this is Delree Street and that runs parallel to
9 that; is that right?

10 A. Yes, sir.

11 Q. In fact, Delree Street and everything probably goes
12 down for another half a mile until it meets like a railroad
13 crossing?

14 A. It does, yes.

15 Q. Okay. And so it's a half mile past this there's a
16 railroad crossing and there's several businesses between
17 that railroad crossing where there's a light on Augusta
18 Road when you're going from -- going from like, say, Delree
19 Street to Augusta Road over the railroad tracks, you take a
20 left at the light to get up here to the Fellowship Baptist
21 Church; is that right?

22 A. If you're coming from that railroad track area, yeah,
23 you turn left to come down here.

24 Q. Yeah. And when you come that way, you pass several
25 businesses both on your right and left. There would be

1 like a BP -- a Circle K --

2 A. I couldn't tell you exactly what businesses, but there
3 are buildings in that area.

4 Q. Right. So this was a little past there. And you
5 were coming from that direction going this way or were you
6 coming from the Lexington direction coming --

7 A. No, I was coming from -- so you see Pine Drive there
8 and Cardinal Drive?

9 Q. Yes, sir.

10 A. I had to drive past those to get -- because just up
11 the -- if you -- if you're coming from the church off the
12 left side of the picture is Pine Drive and just a little
13 bit past that is Oak and then just past Oak is Timbermill
14 and that's where I was actually doing a 9-1-1 hang-up that
15 morning.

16 Q. Okay. All right. And so you get this pulse or call
17 or tone about the shooting and you're responding to a
18 shooting, so you're probably a little -- I would be a
19 little nervous. Were you a little nervous responding to a
20 shooting?

21 A. There was a considerable amount of adrenaline I would
22 say, so.

23 Q. I would say -- I would say so. And you get there and
24 the other deputy, Pollard, he's there, right?

25 A. Yes.

1 Q. But you're only the second law enforcement agent
2 there?

3 A. I was the first fully uniformed, fully marked car on
4 the scene.

5 Q. And were you driving a Bronco or a regular car?

6 A. A Tahoe, fully marked. A black Tahoe.

7 Q. A Tahoe-type thing. And so you go and you meet with
8 Deputy Pollard and you -- you see there's this girl's been
9 shot. Obviously a gun was used, right?

10 A. I just saw her slumped over. Well, I mean, it would
11 follow that she had been shot --

12 Q. It would follow.

13 A. -- but she was -- she was slumped over the center
14 console.

15 Q. So somebody might have a gun; is that right?

16 A. Yes.

17 Q. And so did you pat down either -- either of the women
18 or the man there to see if they had a gun?

19 A. No, sir, because I just jumped out and helped Pollard
20 with the gloves and we were trying to render aid if we
21 could.

22 Q. Okay. And are you equipped to do GSR, gunshot
23 residue?

24 A. No.

25 Q. Okay. Did you -- you got their names. Did you run

1 their names through dispatch?

2 A. I can't recall directly, but I believe so. That would
3 be part of it, but I don't remember exactly --

4 Q. Would that be on your CAD there if you ran their name
5 through dispatch? Would you check that for me?

6 A. I do not see it. It looks like I was running -- the
7 first thing I got was the tag number of the vehicle after
8 putting out the suspect's description.

9 Q. So you never even called Kaitlyn Skyrme or Joshua
10 Murray's name into dispatch?

11 A. No, sir. I -- I wrote their names down in my notepad
12 to put it in for the RMS report.

13 Q. And do you put up crime scene tape or is that up to
14 forensics or CSI to do?

15 A. Generally the officers responding do. I believe it
16 was me and Artie Forgione who put up the crime scene tape.

17 Q. How late did he come?

18 A. He was there not long after I was. I believe 7:54.

19 Q. Okay. And you're dealing with Mr. Murray and
20 Ms. Skyrem or Skyrme?

21 A. I was not dealing with, no, sir.

22 Q. Well, I mean, you observed them?

23 A. I saw her being escorted to a different car.

24 Q. Right. But you dealt more with Mr. Murray; is that
25 right?

1 A. Yes, sir.

2 Q. Okay. And he was very upset?

3 A. He was.

4 Q. And he was upset because his girlfriend had been shot,
5 right?

6 A. Yes. That's what he said.

7 Q. Yeah, but he called her Nicole; is that right?

8 A. He did.

9 Q. Okay. And he couldn't spell her last name?

10 A. That is correct.

11 MR. MAULDIN: No further questions.

12 THE COURT: Redirect.

13 MS. MARTIN: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. MARTIN:

16 Q. When you're there and Deputy Parker is there and
17 you said Deputy Forgione is there. Is -- the major crime
18 investigators, are they already there?

19 A. They had not gotten to the scene just yet. They got
20 there pretty shortly as we also see on the CAD. Detective
21 Black, I believe, was with major crimes at the time, but
22 she was the first detective on the scene.

23 Q. Do you have when she was there?

24 A. She was already on the scene when I showed up, I
25 think, but I'll look at the CAD.

1 Q. Okay.

2 A. I don't have Detective Black showing up, but I do have
3 major crimes on-scene notifying CSI at 8:02.

4 Q. Okay. So that would have been when crime scene was
5 called?

6 A. Yes.

7 Q. But Black was already there; is that right?

8 A. Yes, I believe that she got her information from
9 Ms. Skyrme.

10 Q. Okay. And as part of your job as a road deputy,
11 would you have interviewed and -- and taken any kind of
12 statements from Katie Skyrme or Joshua Murray?

13 A. I can't speak to what Artie Forgione did with
14 Ms. Skyrem, but I did try to get Josh to give a written
15 statement and he declined.

16 Q. And do you know why?

17 A. Yes. Actually here in my report --

18 MR. MAULDIN: Objection. Speculation, Your Honor,
19 or hearsay. Or hearsay.

20 THE COURT: Right.

21 You-all approach real quick.

22 MS. MARTIN: Your Honor, I can rephrase.

23 THE COURT: Why don't you try and rephrase it and
24 see if they object.

25 BY MS. MARTIN:

1 Q. Did Joshua Murray provide you a written statement?

2 A. He did not.

3 Q. Okay. And when you left with the victim's car, was
4 major crimes investigators still there at the Fellowship
5 Baptist Church?

6 A. They were.

7 Q. And were Katie and Joshua still there as well?

8 A. They were. Everyone was still there when I left.

9 MS. MARTIN: That's all, Your Honor.

10 RE CROSS EXAMINATION

11 BY MR. MAULDIN:

12 Q. So another thing that Mr. Murray didn't give you was
13 any information about him offering aid to Alexis; isn't
14 that correct?

15 A. Say again? My apologies, sir.

16 Q. Oh, sorry. Another thing Mr. Murray didn't give you,
17 he didn't give you any information about him offering aid
18 to Alexis; isn't that correct?

19 A. That is true, but we also couldn't because of the
20 nature of the wound, so I wouldn't judge him for that.

21 MR. MAULDIN: No further questions.

22 THE COURT: All right, sir. Thank you very much.
23 You may step down. You're free to go. You can go on
24 back to Augusta.

25 (Witness excused.)

1 THE COURT: Approximately how many more witnesses
2 are you-all looking to get at today?

3 MS. MARTIN: Maybe two, Your Honor. Or three.

4 THE COURT: Yeah, I'm planning on going a little
5 bit past five if --

6 MS. MARTIN: That's probably all we can do, two.

7 THE COURT: Okay. We'll talk about that in a
8 second.

9 MS. MARTIN: Okay.

10 THE COURT: We're gonna go ahead and I'm gonna
11 let you-all have another 10-minute break, ladies and
12 gentlemen, and then we'll -- we'll push through.

13 Just to let you know, my intention tomorrow morning
14 is to start at 9:00, okay, and, again, try and make up
15 for lost time.

16 Adjourn to the back. Don't discuss the case. Make
17 yourselves comfortable and we'll be back on the record
18 in about ten minutes, okay?

19 (Whereupon, the jury retires to the jury room at
20 3:50 PM.)

21 (Recess taken at 3:50 PM.)

22 (Back on the record at 4:04 PM.)

23 BAILIFF: All rise.

24 THE COURT: Have a seat, please.

25 Ask the jury to start moving, please.

1 (Whereupon, the jury returns to the courtroom
2 at 4:07 PM.)

3 THE COURT: The record will reflect that the
4 jurors are back and seated. Of course, we're still in
5 the State's case in chief.

6 So, Solicitor, if you'd call your next witness,
7 please.

8 MS. MARTIN: Your Honor, the State would call
9 Matthew Gottlieb.

10 THE CLERK: Raise your right hand and --

11 THE WITNESS: I'm Jewish.

12 THE CLERK: He's --

13 THE COURT: I'm sorry?

14 THE WITNESS: I'm Jewish. I'm not gonna use the
15 New Testament.

16 THE COURT: Okay. That's fine. Just raise your
17 right hand.

18 (Whereupon, Matthew Gottlieb was duly sworn by the
19 Clerk of Court.)

20 THE CLERK: Have a seat up there, sir. Once
21 you're seated, state your full name and spell your last,
22 please.

23 THE WITNESS: Matthew Ralph Gottlieb,
24 G-O-T-T-L-I-E-B.

25 MATTHEW RALPH GOTTLIEB,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MARTIN:

4 Q. Mr. Gottlieb, can you tell us where you're employed?

5 A. I work for Lexington County EMS.

6 Q. Okay. And how are you employed?

7 A. I'm a paramedic crew chief.

8 Q. Paramedic crew chief. Can you tell us little bit
9 about that?

10 A. It means that I'm in charge of the individual
11 ambulance when we go on calls. There's a crew member
12 who's under me that works with me. We're a team, but I
13 am the leader of the ambulance and so if any decisions need
14 to be made that would be my responsibility.

15 Q. If I can direct your attention back to the morning of
16 February 21st of 2019, were you called to a scene there on
17 Augusta Highway?

18 A. I was.

19 Q. And can you tell us where you went? Do you have the
20 address there?

21 A. I do. 4236 Augusta Road.

22 Q. And obviously that's in Lexington county?

23 A. Yes, ma'am.

24 Q. And can you tell us when you -- you're driving -- or
25 you're in an ambulance; is that correct?

1 A. Correct.

2 Q. Okay. Can you tell us when the ambulance actually
3 arrived there at the Fellowship Baptist Church?

4 A. I'm sorry. The air is dry and my contacts are making
5 it a little fuzzy. I'm sorry. That cleared it up. We
6 arrived at 7:54.

7 Q. And while you're there, can you tell us what time you
8 left the scene according to the record?

9 A. 7:59.

10 Q. Okay. So when you get to a scene like that, can you
11 tell us what's your priority?

12 A. The priority is patient care. Obviously we've got to
13 make sure the scene's safe, which that was already done
14 prior to our arrival.

15 Q. How do you know that the scene was already safe?

16 A. They tell us that on the radio.

17 Q. And who's they?

18 A. I'm sorry. Dispatch tells us that. They get that
19 information from whoever is making it safe, which is
20 usually the sheriff's department if it's in the county.

21 Q. Okay. And when you got there, were there multiple
22 law enforcement officers from Lexington County there?

23 A. Yes.

24 Q. Okay. And when you got there, using your report, can
25 you tell us what you observed, what type of vehicle and

1 where the patient was located?

2 A. The vehicle was -- it was a small vehicle. I don't
3 remember the exact description of the vehicle. The patient
4 was sitting in the passenger seat kind of slumped over the
5 center console to the left and she was unresponsive to any
6 kind of stimuli. She was breathing. I could see blood on
7 the back of the seat and on the console and in her hair.

8 Q. Okay. And when you say she was breathing but not
9 responsive, can you explain what not responsive means?

10 A. I mean, obviously the most responsive someone could
11 be is if I just talked to them and they talk back to me.
12 When that doesn't happen, then we try shaking the patient
13 and if that doesn't work the next step is to elicit a small
14 amount of pain usually done with what we call sternal
15 rubbing and that's just rubbing your knuckles on the chest
16 which creates a little bit of discomfort to see if they
17 respond to a painful stimuli.

18 Q. And was that done to this patient?

19 A. Yes.

20 Q. Was there any response?

21 A. No.

22 Q. What, if any, injuries you were able to observe?

23 A. Once we were able to fully examine the patient, there
24 was a hole behind the left ear presumed to be a gunshot
25 wound. That's what we were dispatched to, so I expected to

1 find a hole somewhere, and I did find that one hole.

2 MS. MARTIN: I beg the Court's indulgence one
3 moment.

4 BY MS. MARTIN:

5 Q. If I can show you State's 29, does that refresh your
6 memory of the car?

7 A. Yes.

8 Q. Okay.

9 A. Other than it being a small car, I didn't --

10 Q. Okay. And you say that the patient was in the front
11 passenger seat; is that correct?

12 A. Correct.

13 Q. And when you approached the car and approached the
14 patient, from what direction did you come? I mean, when
15 you walked up to the car, did you go to the driver's side
16 or did you go to the --

17 A. No, to the passenger side.

18 Q. Okay. That's what I'm trying to get at. And
19 State's 36, is that the -- the blood pooling that you were
20 discussing?

21 A. Yes, ma'am.

22 Q. Okay. And that's what you observed there?

23 A. Yes.

24 Q. Can you tell us what treatment was given to Alexis or
25 to the patient?

1 A. Because she was breathing but unresponsive and most
2 likely a bullet hole to the head, we considered that a very
3 high acuity call and wanted to get that patient to the
4 hospital as soon as possible because the care she needs is
5 not what I can provide, but what a hospital can provide, so
6 the number one goal is to get her out of the car and into
7 the ambulance and en route to the hospital as quick as
8 possible. So we fairly quickly slid her onto a long spine
9 board, which is used for immobilizing patients, and secured
10 her to that and got her on the stretcher and into the back
11 of the unit so we could begin transport.

12 Q. Okay. And what does bagging mean if -- if a patient
13 is bagged?

14 A. Bagging is the bag valve mask, BVM is the acronym for
15 it, and that's what you see on TV when people are squeezing
16 to breathe for a patient and that's it.

17 Q. Was that done in this case?

18 A. Yes, it was. In fact, Sergeant Stonehill (ph.)
19 arrived on-scene about the time we were loading the patient
20 and she took over that aspect of the patient care while I
21 was administering IV and eventually IO access, which is
22 drilling a needle into the bone so I can start giving fluid
23 bolus, you know, adding fluid to the patient, but -- in
24 case the blood pressure were to drop, we want to have
25 additional fluid in the patient even though she actually

1 had good blood pressure at this time.

2 Q. Did you notice the patient moving at all?

3 A. Her arms were twitching a little bit. It did not seem
4 to be purposeful, but the fact that there was movement at
5 all was op -- optimism that there might be something that
6 could be done for this patient.

7 Q. Okay. And when you left the scene you said you-all
8 moved her very, very quickly. Where did you-all go? What
9 happened?

10 A. Prisma Health Richland, which is the area Level 1
11 trauma center.

12 Q. Thank you. Mr. Gottlieb, did you have anything to do
13 with any kind of interference with the crime scene? Did
14 you add anything or take anything away from that car other
15 than the patient?

16 A. Other than the patient, no.

17 MS. MARTIN: Thank you.

18 THE COURT: Any questions?

19 MR. MAULDIN: I have no questions of this witness,
20 Your Honor.

21 THE COURT: Sir, thank you very much for coming.
22 You are free to go.

23 THE WITNESS: Thank you, sir.

24 (Witness excused.)

25 (State's Exhibit Number 18, 19, 20, 21 and 22,

1 photographs, were stipulated into evidence.)

2 THE COURT: Call your next witness, please.

3 MS. MARTIN: Your Honor, we'd call Greg Love.

4 THE CLERK: Come right around here.

5 (Whereupon, Greg Love was duly sworn by the Clerk
6 of Court.)

7 THE WITNESS: I do.

8 THE CLERK: Have a seat please Sir. Once you're
9 seated state your full name, spelling your last.

10 THE WITNESS: Yes, ma'am. My name's Deputy Greg
11 Love, spelled L-O-V-E.

12 GREG LOVE,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. MARTIN:

16 Q. Deputy Love, you can remove your mask while you're on
17 the witness seat.

18 Can you tell us where you're employed?

19 A. I'm employed with the Lexington County Sheriff's
20 Department.

21 Q. How long have you been employed with them?

22 A. Since 2017.

23 Q. Okay. And what area of the sheriff's department are
24 you employed in?

25 A. I'm currently assigned to the K-9-Unit.

1 Q. Okay. And what unit were you assigned to in February
2 of 2019?

3 A. I was with the K-9 unit.

4 Q. Okay. And does that mean you have your own dog?

5 A. It does.

6 Q. Okay. And are there different roles within the K-9,
7 I guess, system or --

8 A. Yes, ma'am.

9 Q. Okay. Can you tell us a little bit about that?

10 A. We usually run with more than just one K-9 handler.
11 We also provide cover for the main dog team, the dog
12 handler. Other handlers provide protection and cover for
13 the tracking team.

14 Q. Do you know if you were working February 21st of 2019?

15 A. I was.

16 Q. Okay. And do you remember that there was a tone that
17 went out?

18 A. Yes, ma'am.

19 Q. Can you tell us what that means when we say a tone?

20 A. A tone is a stop all broadcasting, we have an
21 emergency situation going on, and everybody needs to listen
22 up.

23 Q. Okay. And is that how you became involved in this
24 case?

25 A. Yes, that's correct.

1 Q. Okay. All right. Let's talk for a minute. Can you
2 tell us what exactly is a CAD?

3 A. CAD is the system that we get information from from
4 dispatch. It's an intermediary between the caller -- the
5 9-1-1 caller and dispatch and the units on the road.

6 Q. And while an event is going on, can you tell us
7 whether or not deputies or investigators are relaying
8 information to each other through this radio system?

9 A. That's correct.

10 Q. Can you tell us whether or not at that time you had a
11 body-worn camera?

12 A. I did.

13 Q. Can you tell us on your body-worn camera the timing
14 features on that? Would that time feature match a CAD
15 feature that had a time on it?

16 A. I think the timeframe that's set up with our cameras
17 are set for a different time zone. All of our body-worn
18 cameras are on the same time zone; however, they are not
19 on the same time zone as we are here in South Carolina.

20 Q. Okay. Could you tell us what time you arrived to work
21 this crime scene and to where you responded first?

22 A. Yes, ma'am. I was originally dispatched at 7:47 AM
23 and met up with the tracking team at approximately 8:00 AM
24 that morning.

25 Q. And where did you go first?

1 A. To the scene on Augusta Road, the initial crime scene.

2 Q. Okay. And were you -- were you the only K-9 officer
3 that responded right there at 8:00?

4 A. There were two others.

5 Q. Do you recall who they were?

6 A. Yes, ma'am. One was Deputy Ryan Hoover and the other
7 one was Sergeant Derrick Applegate.

8 Q. And once you got there, what duty were you assigned?

9 A. I was assigned the position of a backup or cover
10 officer.

11 Q. And what does that mean?

12 A. It means I provide cover for the tracking team, the
13 dog and the handler.

14 Q. And where did you go and what did you do?

15 A. When I joined the K-9 tracking team, we began moving
16 down Augusta Road towards Lexington and we provided cover
17 all the way through to that point.

18 Q. Okay. If I can show you what's been marked State's
19 39, are you familiar with this map?

20 A. Yes, ma'am.

21 Q. Is there a laser pointer there?

22 THE COURT: There should be a little silver thing.
23 Yeah, there you go.

24 BY MS. MARTIN:

25 Q. Can you use that and show us where you started?

1 A. So we started approximately right there and ended
2 tracking down the road to Cardinal Drive.

3 Q. Okay. Let's stop there for a minute. When you're
4 travelling down Augusta Road, you're going towards Oak
5 Drive; is that right?

6 A. I believe so. Yes, ma'am.

7 Q. Okay. And did you have a suspect description of the
8 shooter?

9 A. We did. Yes, ma'am.

10 Q. And can you tell us what that description was?

11 A. Yes, ma'am. That description was of a black male,
12 approximately six-one to six-two, 200 pounds. He was
13 wearing gray clothing and short dreads. He was also
14 wearing a beanie cap and had glasses on.

15 Q. Okay. And did you have any information as to this
16 shooter and a connection with a particular type of vehicle?

17 A. Yes, ma'am. He was associated with a small blue
18 four-door Toyota sedan.

19 Q. Okay. Can you tell us during that walk down Number 1
20 towards Cardinal was there an opportunity for you to
21 observe someone you believed matched this suspect shooter
22 information?

23 A. Yes, ma'am.

24 Q. And where did you first see this suspect?

25 A. That was the intersection of Cardinal Drive and

1 Augusta Road.

2 Q. And was this person walking or in a vehicle?

3 A. He was in a vehicle.

4 Q. Can you show us again using State's 39 where you first
5 saw the suspect?

6 A. It was right outside that building right there on the
7 left side of Cardinal Drive.

8 Q. Okay. Can you tell us the distance from the
9 Fellowship Baptist Church location to that location of a
10 garage there on Cardinal Drive?

11 A. It's approximately 400 yards.

12 Q. So 400 yards. Can you tell us how long it took
13 you-all or how long it would take to walk that track?

14 A. A matter of a few minutes.

15 Q. Okay.

16 MS. MARTIN: I beg the Court's indulgence one
17 moment.

18 Your Honor, may we approach for a moment?

19 THE COURT: Sure.

20 (Proceedings held at the bench; not reported.)

21 THE COURT: Bear with us one second, ladies and
22 gentlemen. The lawyers need to -- there's a disk with
23 a video that they need to make sure we're at the correct
24 point, okay? It's a pretty long video and so they're
25 gonna try and find the right spot and everything like

1 that so that you're not watching too much time, okay --
2 or wasting too much time. Just be comfortable there
3 and we'll be at ease for a few moments while they do
4 that.

5 (Pause in proceedings.)

6 MR. MAULDIN: No objection, Your Honor.

7 THE COURT: All right.

8 MS. MARTIN: Your Honor, if I may approach the
9 witness?

10 THE COURT: Sure.

11 BY MS. MARTIN:

12 Q. Without objection, State's 103. Have you seen this
13 before?

14 A. Yes, ma'am.

15 Q. Does it have your initials?

16 A. It does.

17 Q. And does it contain body cam footage from the incident
18 we're discussing?

19 A. Yes, ma'am, it does.

20 THE COURT: Move to publish, Your Honor.

21 THE COURT: You may proceed.

22 And you are moving this into evidence as well,
23 correct?

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

25 THE COURT: 103 is in evidence without objection.

1 MR. MADSEN: 103?

2 THE COURT: 103.

3 (State's Exhibit Number 103, Deputy Love Body Cam,
4 was admitted into evidence.)

5 (Whereupon, State's Exhibit Number 103 was played.)

6 BY MS. MARTIN:

7 Q. Can you tell us what's happening here?

8 A. We're coming back to the intersection of Augusta Road
9 and Cardinal Drive heading back towards -- back down
10 Cardinal Drive.

11 Q. And this is the camera that you're actually wearing
12 on your uniform; is that correct?

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

14 Q. Can you tell us what that location is there, the green
15 building?

16 A. I believe that was a garage.

17 Q. Okay. The intersection that's approaching, can you
18 tell us where that is?

19 A. That's the T-intersection of Augusta Road and -- and
20 Cardinal.

21 Q. Can you tell us what you're observing here?

22 A. Right here we're observing a blue four-door Toyota
23 sedan pulling out of that fenced-in area.

24 Q. And what were you attempting to do here?

25 A. We're attempting to stop the vehicle to continue our

1 investigation.

2 Q. And is there a reason you stopped that particular
3 vehicle?

4 A. Because that particular vehicle was associated with
5 our suspect.

6 Q. You mean by the make and model of the car?

7 A. Yes, ma'am.

8 Q. How many people were in the car?

9 A. There were two occupants in the vehicle.

10 Q. Do you know who that is?

11 A. That is Mr. Mark Anthony Hardaway, Junior.

12 Q. And what are you doing here?

13 A. Doing a Terry frisk for weapons.

14 Q. Okay. And can you tell us who's on the driver's side
15 of that car?

16 A. The driver's side, Mr. Joseph Henry.

17 Q. And is there another officer that's talking with him?

18 A. Yes, ma'am. That's my K-9 partner -- or my partner,
19 Ryan Hoover.

20 Q. Okay. And can you tell us whether or not it's routine
21 to run DL checks when making a detention -- a stop like
22 this?

23 A. Yes, ma'am, it is.

24 Q. And was that done in this case?

25 A. Yes, ma'am.

1 Q. Can you tell us an approximate time by using the CAD
2 what time did you observe this blue vehicle?

3 A. According to the CAD, I ran Mr. Mark Anthony
4 Hardaway's license at approximately 8:10 in the morning.

5 Q. So the stop would have been before that, correct?

6 A. Just prior to that, yes, ma'am.

7 Q. Can you tell us what kind of car that is?

8 A. That is a Toyota Matrix.

9 Q. And what color is it just for the record?

10 A. The color is blue.

11 Q. If I can show you State's 20 that is in without
12 objection, what location is that?

13 A. That's right outside the -- right in front of the
14 garage where that blue vehicle pulled out on Augusta Road.

15 Q. Could you tell us what that area is there?

16 A. That is a daycare.

17 Q. Okay. State's 21 that's also in without objection,
18 is that just another view of the same intersection?

19 A. Yes, ma'am, it is.

20 Q. State's 18, is that the blue Toyota you stopped?

21 A. That's correct.

22 Q. State's 22, who are those people as identified by
23 driver's license?

24 A. The individual closest to us was Mark Anthony
25 Hardaway, Junior. The person most farther away was Joseph

1 Henry.

2 Q. Okay. And State's Exhibit 19, can you tell us -- the
3 description that you had of the suspected shooter, did you
4 believe that Mr. Henry matched those criteria?

5 A. Yes, ma'am.

6 Q. All right. Was he wearing a beanie hat?

7 A. He was.

8 Q. Did he have glasses?

9 A. He did.

10 Q. Six-two?

11 A. Yes, ma'am.

12 Q. Okay. When you were there roadside with the
13 Defendant, Joseph Henry, and Mr. Hardaway, was there any
14 search done of that blue Toyota?

15 A. No.

16 Q. Was it secured?

17 A. Yes, ma'am.

18 Q. Was anyone allowed to add to it or take things away?

19 A. No, ma'am.

20 Q. Can you tell me again what was the exact distance
21 between the Fellowship Baptist Church and where the stop
22 was on Cardinal and Number 1?

23 A. Approximately 400 yards.

24 Q. Okay. How large is a football field for those of us
25 that don't really know?

1 A. It's a hundred yards.

2 Q. Okay. So a little less than four football fields?

3 A. Yes, ma'am.

4 MS. MARTIN: Please answer any questions Mr. Mauldin
5 may have.

6 THE COURT: Mr. Mauldin.

7 MR. MAULDIN: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MAULDIN:

10 Q. So a little less than a quarter of mile from the
11 church parking lot; is that right?

12 A. That's correct.

13 Q. It would take no time at all to walk, would it? It
14 would take no time to at all to walk that distance, would
15 it?

16 A. No, sir.

17 Q. If you were an able-bodied human being, that is; is
18 that right?

19 A. That's correct.

20 Q. Okay. And when you stopped the car and you -- you
21 frisked Mr. Hardaway for weapons because obviously there
22 was a shooting involved and you wanted to make sure that he
23 didn't have a gun on him; is that right?

24 A. That's correct.

25 Q. And I think your partner did that for Mr. Henry; is

1 that correct?

2 A. I believe so.

3 Q. And that was Hoover?

4 A. Yes.

5 Q. Okay. And that's because any time that, you know,
6 there's a suspicion there might be a weapon involved in a
7 situation and you think the person might be armed, you pat
8 them down just to make sure that they're not armed; is that
9 right?

10 A. Considering this circumstance, yes, sir.

11 Q. Okay. Well, I mean, any time that, you know, you
12 suspect there might be a weapon involved in something it's
13 a reasonable suspicion to pat somebody down?

14 A. Sure.

15 Q. Okay. And we saw on the video the car pulled up and
16 is that you putting your hand out there on the camera?

17 A. That is.

18 Q. Okay. And the car stopped right away; is that right?

19 A. Yes.

20 Q. It didn't try to blow past you on the right?

21 A. No, sir.

22 Q. It didn't try to turn around and go in the other
23 direction?

24 A. No, sir.

25 Q. And you walked around the side of the car and the car

1 remained stopped the whole time; is that right?

2 A. That's correct.

3 Q. And neither of the occupants tried to run away or
4 anything like that?

5 A. No, sir.

6 MR. MAULDIN: No further questions.

7 MS. MARTIN: Briefly, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. MARTIN:

10 Q. Officer Love, in preparation for this case have you
11 gone back out to Cardinal Road?

12 A. Yes, ma'am.

13 Q. And if you didn't go onto Number 1, is there any other
14 way to get out of that neighborhood?

15 A. No, there's no outlet.

16 Q. So if the car at the fence had not gone right towards
17 you-all and would have gone left it would still have been
18 landlocked in that neighborhood; is that right?

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

20 MS. MARTIN: Thank you. Nothing else.

21 MR. MAULDIN: No further questions.

22 THE COURT: All right, sir. Thank you. You may
23 step down. You're free to go.

24 THE WITNESS: Thank you, sir.

25 (Witness excused.)

1 THE COURT: Do you have any additional witnesses
2 that we can do today?

3 MS. MARTIN: Your Honor, the next witness is not
4 short.

5 THE COURT: Is not sure?

6 MS. MARTIN: Is not short. Sorry.

7 THE COURT: Very good. All right. How long do you
8 think the direct would take on that witness ball park?

9 MS. MAYES: Thirty, forty-five minutes.

10 THE COURT: Thirty, forty-five minutes?

11 MS. MAYES: Yes, sir.

12 THE COURT: Which witness is this?

13 MS. MAYES: This is Major J.J. Jones.

14 THE COURT: All right. If we take the next
15 witness, ladies and gentlemen, we're gonna be going
16 into about 5:30, possibly 5:45.

17 How long do you think cross may take?

18 MR. MADSEN: Fifteen minutes, if that.

19 THE COURT: Fifteen minutes.

20 MR. MADSEN: It -- I mean, it's all gonna depend
21 on what they bring out.

22 THE COURT: Right.

23 MS. MAYES: May we approach?

24 THE COURT: Yes. Here or do you-all --

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Call that witness out of order that
2 you're talking about, if you could, Ms. Mayes.

3 MS. MAYES: The State calls Brian Burrell.

4 (Whereupon, Brian Burrell was duly sworn by the
5 Clerk of Court.)

6 THE CLERK: Have a seat up there, please, sir.

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Once you're seated state your full
9 name, spelling your last, please.

10 THE COURT: And you can take your mask off now.
11 Thank you.

12 THE WITNESS: Brian Burrell, B-U-R-R-E-L-L.

13 BRIAN BURRELL,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MARTIN:

17 Q. Officer Burrell, can you tell us how long you've been
18 with the sheriff's department?

19 A. I've been employed with the sheriff's department for
20 ten years now.

21 Q. And were you working February 21st of 2019?

22 A. Yes, ma'am.

23 Q. And did you have occasion to go to the Fellowship
24 Baptist Church there on Augusta Road?

25 A. Yes, ma'am.

1 Q. Can you tell us by way of CAD or a review of your
2 report approximately what time did you get to the crime
3 scene there?

4 A. Give me just a second and let me look at the CAD
5 report. It was a little after 8:00 in the morning.

6 Q. Okay. And when you got there, could you tell us what
7 interaction did you have with the people there?

8 A. When I got there, I was just trying to help manage
9 the scene. I observed that Detective Lyons was speaking
10 with a female in the back of Deputy Forgione's vehicle and
11 there was another witness, Ms. -- excuse me real quick --
12 Ms. Council, she was also there. I had moved her to my
13 vehicle shortly after Detective Carvajal and Detective
14 Black left that scene to help her finish her written
15 statement and I also had interaction with Joshua Murray,
16 who was also on the scene, one of the witnesses.

17 Q. Okay. What, if anything, did you notice about the
18 Defendant -- excuse me, about the witness, Joshua Murray's,
19 physical appearance and demeanor?

20 A. He was -- he was upset. He was very shaken by what he
21 had just observed and witnessed.

22 Q. Okay. Based on your knowledge of the case and the
23 radio communications that were going back and forth, was
24 there a description of the shooter that had gone out over
25 the CAD?

1 A. Yes, ma'am, there was.

2 Q. And was there a description of travel that had also
3 gone out over the radio?

4 A. Yes, ma'am, there was.

5 Q. Was there a description of the car associated with
6 the shooter out over the radio?

7 A. Yes, ma'am, there was.

8 Q. Can you tell us about any interaction you had with
9 Mr. Murray? Did you have a conversation with him without
10 telling us what he said?

11 A. Yes, ma'am, I did. While I was on the scene, I
12 received information from Detective Black and Detective
13 Carvajal. After they had left from the incident location,
14 they travelled to where the Defendant was possibly located.

15 Q. Do you recall where that was?

16 A. 4302 Augusta Road.

17 Q. Okay. Do you know if that's near or far from
18 Cardinal?

19 A. It's -- it's right off of Cardinal. I'm sorry. Yes,
20 ma'am.

21 Q. Okay. And -- I'm sorry. Go ahead.

22 A. No, but when I spoke with Mr. Murray I had received a
23 call and text message from Detective Black.

24 Q. Your Honor, if I may approach the witness and show
25 you State's Exhibit 70 that I believe is gonna be entered

1 into evidence without objection. Do you recognize the
2 communications in that text?

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

4 MS. MARTIN: Your Honor, I move to publish.

5 MR. MAULDIN: No objection, Your Honor.

6 THE COURT: State's 70 is in evidence and you may
7 publish.

8 (State's Exhibit Number 70, a photograph, was
9 admitted into evidence.)

10 BY MS. MARTIN:

11 Q. Can you tell us using that what time you received that
12 photograph from Investigator Black?

13 A. 8:24 AM.

14 Q. And what was the purpose of you receiving this
15 photograph?

16 A. She was out with that individual and she wanted me to
17 speak to Joseph and inquire as to how well she knew the
18 Defendant.

19 Q. How well she knew or --

20 A. I'm sorry, how well he knew. I apologize.

21 Q. Okay. And did you receive information from Mr. Murray
22 about how long he had known the Defendant?

23 A. Yes, ma'am, I did. He said he knew him for three
24 years.

25 Q. Okay. And did -- what else were you asked to do as

1 far as showing a photograph to Mr. Murray?

2 A. I was asked to -- dependent upon how well he knew him,
3 I asked him if he would know him by sight and sound. He
4 said he would. He also made mentioned that he would even
5 know him in a dark room.

6 Q. Know him what?

7 A. Know -- know him a dark room.

8 Q. Okay. And is it usual or unusual to show one
9 photograph to a witness?

10 A. It depends on how well they know that individual.
11 It's unusual to do that.

12 Q. And was a decision made in this case to show the one
13 photograph to Mr. Murray?

14 A. Yes, ma'am.

15 MS. MARTIN: If I can show you what's been marked
16 State's 69 without objection and offer it into evidence
17 with -- as I said without objection.

18 MR. MAULDIN: That's correct, Your Honor.

19 THE COURT: 69's in.

20 (State's Exhibit Number 69, a photograph, was
21 admitted into evidence.)

22 BY MS. MARTIN:

23 Q. Can you tell us what this shows?

24 A. Yes, ma'am. That's the photograph I had received
25 from Detective Black to show Joseph -- I mean, excuse me,

1 Joshua.

2 Q. Okay. And once you did that, what, if any, reaction
3 did Mr. Murray have?

4 A. He had identified him as Joe, the individual he knew,
5 and he thanked us. He seemed very grateful for us being
6 able to capture him.

7 Q. Did you have any other names associated with Joseph
8 Henry?

9 A. He -- Joshua referred to him as Joe.

10 Q. Any nickname?

11 A. Yes, ma'am, and I can't think of what it is off the
12 top of my head.

13 Q. Okay. After Mr. Murray identified this person as
14 being the shooter, what did you do next?

15 A. I then went and spoke with another witness that was on
16 the scene, a Kaitlyn Skyrme.

17 Q. Skyrme?

18 A. Skyrme, excuse me. Yes, ma'am.

19 Q. And did you have an opportunity to observe anything
20 about her physical appearance and demeanor?

21 A. She was also very -- she was visibly upset. She was
22 crying, she was worried about what would happen to her,
23 her family, as far as her playing a part or giving a
24 statement to law enforcement. She was very concerned and
25 upset.

1 Q. Okay. And --

2 MS. MARTIN: I beg the Court's indulgence one
3 moment.

4 BY MS. MARTIN:

5 Q. I think I asked this, but I'm not sure. After
6 Mr. Murray made the identification, what, if anything, did
7 you do with that information?

8 A. I relayed that information to Detective Black, that
9 it was a positive identification.

10 Q. And she was at what location again?

11 A. She was over off of Cardinal, Cardinal Drive.

12 Q. Okay. And did you have any other duties in regards
13 to this? Did you ever go to Cardinal Street is actually
14 my question?

15 A. Yes, ma'am. Once -- once -- once I cleared from this
16 scene, I -- I went to Cardinal street. Yes, ma'am.

17 Q. And did you have an opportunity to meet anyone else
18 there at Cardinal Street in connection with this case?

19 A. Yes, ma'am. It was an individual that Major Jones
20 had gotten up with after they got -- it was the individual
21 that was in the vehicle with the Defendant. It was a Mark
22 Hardaway is who I had interaction with, yes, ma'am.

23 Q. And was he able to give you-all a statement?

24 A. Yes, ma'am, he was.

25 MS. MARTIN: Please answer any questions Mr. Mauldin

1 may have.

2 CROSS-EXAMINATION

3 BY MR. MAULDIN:

4 Q. By the time you arrived on-scene there were already
5 like three or four or five other law enforcement agents
6 there; is that correct?

7 A. Yes, sir.

8 Q. Okay. So you assumed that -- so you didn't search
9 anybody because you had assumed they'd already been
10 searched or patted down or whatever by the time you got
11 there; is that right?

12 A. It just depends on -- but, yes, sir.

13 Q. Okay. All right. And you had some interaction with
14 Ms. Skyrme and heard a little bit about what she had to
15 say; is that right?

16 A. That's correct.

17 Q. And you had a little interaction with Mr. Murray and
18 heard a little bit about what he had to say?

19 A. Yes, sir.

20 Q. And Ms. Council as well, similar?

21 A. (Nods head.)

22 Q. And Mr. Hardaway; is that right?

23 A. Yes, sir.

24 MR. MAULDIN: No further questions, Your Honor.

25 MS. MARTIN: We'd ask that he be excused, Your

1 Honor.

2 THE COURT: Very good.

3 Sir, thank you for coming. You are free to go.

4 Take care of yourself, all right?

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 THE COURT: A last quick witness that we can get
8 to today?

9 MS. MARTIN: Your Honor, the next four are rather
10 lengthy. They're here, but they're lengthy.

11 THE COURT: Okay.

12 Ladies and gentlemen, we're actually, I think,
13 probably doing pretty good in terms of seeing as how
14 we're stating this case so late in the week in terms of
15 what we've had to digest today, so we're gonna go ahead
16 and take a break for the evening. I'm gonna ask that
17 you please do be back here at the courthouse tomorrow
18 morning at 9:00. Please try to be in the jury room at
19 9:00 and it is my intention -- barring me wrecking from
20 dodging a deer on the way over here at 9:00 in the
21 morning, it's my intention to be here promptly at 9:00
22 and starting promptly at 9:00.

23 So this evening when you go home, let me again
24 remind you please don't discuss the case with anyone,
25 not friends, family members, whoever you share a roof

1 with. Just don't talk about the case. There's lots
2 more interesting things hopefully to discuss.

3 Leave your notebooks in your seat, we will secure
4 that over night, and have a good evening. I will see
5 you-all tomorrow morning, thank you, at 9:00.

6 (Whereupon, the jury was excused for the day at
7 4:53 PM.)

8 THE COURT: And we'll go off the record for today.

9 (Whereupon, the proceedings were concluded for
10 September 30, 2020, at 4:55 PM.)

11 (The following proceedings were held October 1,
12 2020, beginning at 9:04 AM.)

13 BAILIFF: All rise.

14 THE COURT: All right. We'll go on the record.
15 I think we've got the technical issues worked out.

16 Let's go ahead and have the jury, please.

17 (Whereupon, the jury enter the courtroom at
18 9:06 AM.)

19 THE COURT: All right. Good morning, ladies and
20 gentlemen. Welcome back. Thank you for be here and
21 thank you for being here on time, of course.

22 We're still in the State's case in chief, so at
23 this point, Solicitor, call your next witness, please.

24 MS. MAYES: The State calls Deputy Chief J.J. Jones.

25 (Whereupon, John James Jones was duly sworn by the

1 Clerk of Court.)

2 THE CLERK: Once you're seated state your full
3 name, spelling your last on the record, please.

4 THE WITNESS: My name is Deputy Chief John James,
5 J.J., Jones, J-O-N-E-S.

6 JOHN JAMES JONES,
7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. Good morning. You are currently deputy chief at what
11 law enforcement agency?

12 A. I currently work at Cayce Public Safety in Cayce,
13 South Carolina.

14 Q. Okay. Tell us a little bit about how you became
15 involved in law enforcement and your background and
16 training.

17 A. Yes, ma'am. I started in law enforcement in 1995,
18 roughly twenty-five years ago, the University of South
19 Carolina, then I moved to the Lexington County Sheriff's
20 Department in 1997. I worked there in patrol, community
21 services. I was a narcotics detective in the major crimes
22 unit for six years, along with the K-9 handlers, SWAT team.
23 I went on to work as a road sergeant and I later was a
24 lieutenant on patrol where I supervised detectives and
25 sergeants. I later ran a region where I was in command of

1 the entire third of county and eventually I moved on to
2 major over operations, which is the third in command at the
3 sheriff's office, where I was in charge of all detectives
4 and narcotics agents in the county.

5 Q. All right. And that job title as major at the
6 Lexington County Sheriff's Department, were you in that
7 capacity in 2019?

8 A. I was a major. I was a major of operations in 2019.

9 Q. And as a result, as you said, you were over every
10 detective in the major crimes unit; is that correct?

11 A. Yes, ma'am. Over every detective and every deputy.

12 Q. So you were the ranking officer on that date at that
13 scene?

14 A. Yes, ma'am. Short of the chief and the sheriff, who
15 came later, I was the highest ranking officer.

16 Q. Major Jones, if you could take us through the events
17 on the morning of February 21, 2019, regarding the shooting
18 of Alexis Azarigian at the Fellowship Baptist Church area
19 and how that -- at or near that church and how that
20 developed to a scene at another location?

21 A. Yes, ma'am. I was actually standing at the Saxe Gotha
22 Elementary School at about 7:45 AM making sure the children
23 got in okay and I heard a call come out on dispatch that
24 was toned and that a woman had been shot in the head at the
25 church on Augusta Road not far from Barnyard Flea Market on

1 Number 1. A woman had been shot and I knew I had to drop
2 what I was doing and go there because there was a manhunt
3 in place because the suspect who had shot her fled the
4 scene and was going back towards Barnyard Flea Market, so
5 we had multiple units go and pretty much everybody that was
6 available in the county was going to work because we had a
7 shooter on the loose right whenever school was getting
8 ready to let in and I knew there was an elementary school
9 about a half a mile from there, as well as the magistrate's
10 office, and just a lot of businesses in that area. It was
11 a very, very, very busy morning.

12 So I responded to that scene Code 3. When I got
13 there, you know, I heard on the radio that the shooter was
14 moving back towards Barnyard Flea Market, so I was looking
15 for what was described to me as a black male wearing a
16 beanie cap and gray sweats and I was trying to encounter
17 that guy on my way in. That's who we were looking for.

18 As soon as I got to Oak Road, I knew a good perimeter
19 had been set up by deputies and K-9 units were getting
20 close, so I shot over to the school to make sure somebody
21 was there and there was already a marked unit there and put
22 the school on lockout and make sure nobody could get into
23 the school, and I also called the magistrate's office,
24 which was also on Oak Drive, to make sure that they knew
25 that we were looking for a bad guy with a gun.

1 We started getting more and more detail over the
2 radio and we found out that the suspect they were looking
3 for was nicknamed Pluto and lived somewhere on Kennerly
4 Road and he drove a blue Toyota car. So all this
5 information was coming and it was constantly changing and
6 soon thereafter the K-9 units that were on the scene at
7 Cardinal and Augusta Road encountered a blue car with two
8 black males in it, and in this blue car, they stopped it,
9 and said one of the subjects matched their description of
10 a black male -- a tall black male, six-two, short dreads,
11 a beanie cap and gray sweats, and they actually had him
12 come out of the car on Cardinal Drive close to Augusta and
13 that's whenever I headed over that way just to see exactly
14 what they'd got because that was a very promising lead.
15 Whenever we got there, the tag was run on the blue car and
16 it did come back to a subject on Kennerly Road that matched
17 the description that the deputies got from the scene where
18 the woman was shot.

19 Q. All right. Now let me stop you right there. First,
20 I want to ask you, do you have a copy of what's called the
21 CAD sheet that contains the information that you've told us
22 about that you were aware of having come over -- having
23 come over the radio?

24 A. I do. I've got it right here in front of me.

25 Q. At what time, Major Jones, did the information come

1 to -- come to the knowledge of law enforcement that this
2 individual was a black male and wearing some type of gray
3 clothing and a gray beanie?

4 A. The instructions we got was at 7:48 the black male
5 with a beanie walking back towards Augusta Road. 7:48 AM.

6 Q. All right. And the information was that he was
7 walking on foot?

8 A. Walking on foot back towards Barnyard Flea Market,
9 which would have been back towards Lexington from Columbia,
10 West Columbia.

11 Q. All right. And if you can see the map that I'm
12 holding now --

13 A. Yes, ma'am.

14 Q. -- we'd be talking about coming from the area of the
15 church towards this way, correct?

16 A. Correct, ma'am. Back towards Lexington.

17 Q. Okay. And can you tell us where the Cardinal Drive
18 location is in relation to that?

19 A. Sure. If you look towards the middle of the map,
20 there's a dead end road named Cardinal just off of Augusta
21 Road, just shy of Oak Road, that's where it is, next to
22 Windsor West Childrens Academy. That's a major hotspot
23 there and also there's a Burger King close by down the road
24 across the street.

25 Q. And at what point was information obtained from

1 witnesses at the scene that the suspect would be wearing
2 glasses?

3 A. That would have come out at about 7:54 that he had
4 glasses on as well.

5 Q. At what point was a height or approximate height given
6 for the suspect?

7 MR. MADSEN: Judge, I'm gonna object. Unless he
8 has personal knowledge, he can't just read from a CAD
9 report.

10 MS. MAYES: I can rephrase that, Your Honor.

11 THE COURT: Rephrase, please.

12 BY MS. MAYES:

13 Q. Major Jones, were you aware of this entire description
14 and were you on the lookout for the suspect yourself?

15 A. I was. I knew he was about six-foot-one or
16 six-foot-two and from the CAD history I was aware that that
17 came out about 7:53.

18 Q. All right. Now what about a suspect vehicle? Was
19 law enforcement specifically advised at a certain time what
20 type of vehicle may be associated with the subject?

21 A. Yes, ma'am. A short time later, about 7:56 is
22 whenever they said it was a blue Toyota that was associated
23 with the subject, Mr. Henry.

24 Q. Any additional description of that blue Toyota?

25 A. I don't have any further description. They said a

1 blue Toyota in that vicinity of Augusta Road should be
2 parked there somewhere close.

3 Q. Okay. And then ultimately what time did you become
4 aware that a subject by the name of Joseph Henry had been
5 detained at the location of Cardinal Road and Augusta Road,
6 which would be about right here on that map adjacent to the
7 Windsor West Child Development Center down from the church?

8 A. It was about 8:15 AM I actually was on-scene whenever
9 we detained him there.

10 Q. Okay. You believe you got to the scene about 8:15?

11 A. Yes, ma'am. Or just before.

12 Q. All right. And based upon your knowledge of the
13 history of this case, at what time was the drivers license
14 actually run on Mr. Henry when he was first stopped by
15 Deputy Greg Love?

16 A. That would have been around the same time. About
17 8:14 AM is whenever he ran the drivers license. It was all
18 real -- real close in succession.

19 Q. Okay. Tell us what you recall, Major Jones, when you
20 arrived there at Cardinal and Augusta at the scene where
21 this blue Toyota had been stopped with a driver and then a
22 passenger.

23 A. I will. When I pulled up, I saw the blue Toyota with
24 the two K-9 handlers standing behind it and they had two
25 black male subjects out of the car and as soon as I pulled

1 up I saw a six-foot-one, six-foot-two black male with a
2 gray beanie and also a gray sweatshirt, and I -- and I knew
3 myself there, I said well, in close proximity, that's our
4 guy getting out of a blue car. So I got out of the car and
5 after a couple of quick statements to make sure I was --
6 had all the information, I told the two deputies that were
7 standing there to detain both of them immediately, put
8 handcuffs on both of them.

9 Q. All right. And when you are detaining someone, at
10 this point was he under arrest?

11 A. No. Whenever an investigation is on-going, you've got
12 to look at everything and take it all in account. You just
13 can't go around telling people they're under arrest. What
14 we do is we'll detain people to make sure we have probable
15 cause to effect an arrest and whenever I saw the black male
16 matching the description in close proximity, within 300,
17 350 yards of where the shooting took place, and it was,
18 in fact, back closer to Oak Grove by Barnyard, the way he
19 was walking, matching that exact description, you know,
20 glasses, beanie, gray shirt, blue car, I knew that was our
21 guy. And when that tag came back that was run at the scene
22 to Kennerly Road, I knew our suspect was from Kennerly
23 Road, Pluto.

24 Q. Okay. And then in addition to that, did you advise --
25 what, if anything, did you advise Mr. Henry of regarding

1 the purpose or reason for his detainment?

2 A. Any time handcuffs are placed on somebody, they need
3 to know what's going on and why, so I immediately stepped
4 in, I introduced myself, I told him who I was and who I
5 represented, and I was in full uniform, and I told he and
6 -- and his partner that was in the car that they were being
7 detained at this point because they were in close proximity
8 to a shooting situation where a woman had been shot in the
9 head and they matched the description of the suspect we
10 were looking for and that's why we placed handcuffs on them
11 and that's why they were being detained at this time.

12 Q. Okay. So he was advised of that -- the Defendant was
13 advised of that by you personally?

14 A. By me personally.

15 Q. I'm gonna show you some photographs. They are
16 State's 24, 25 and 57, and ask you whether or not you
17 recognize them?

18 A. I do recognize all three photos of me with the
19 Defendant and another individual.

20 Q. All right. And was an individual with the sheriff's
21 department who was present at that -- at that traffic stop
22 wearing a body camera?

23 A. Yes, ma'am. There -- there were deputies there that
24 had body cameras on and active and that's where these
25 pictures came from because they're from an Axon body

1 camera.

2 Q. All right. Are those a fair and accurate
3 representation of what you've just described in your
4 interaction with both the Defendant, Joseph Henry, and the
5 passenger in that vehicle?

6 A. Those are fair and accurate depictions of exactly what
7 I saw.

8 MS. MAYES: These will be 24, 25 and 57 for evidence,
9 Your Honor.

10 THE COURT: Any objection?

11 MR. MADSEN: No objection.

12 THE COURT: All right. 24, 25 and 57 are in
13 evidence.

14 (State's Exhibit Number 24, 25 and 57, photographs,
15 were admitted into evidence.)

16 BY MS. MAYES:

17 Q. Now I want to ask you briefly before we get into these
18 a little bit about the passenger in this vehicle. Were you
19 able to determine an identification of the passenger?

20 A. I did. Whenever they were detained, I made contact
21 with the passenger and he actually came back to my car and
22 -- and we spoke. I knew his nickname was M.J., but he came
23 back and I talked to him in my car in-depth, and that --
24 that's his picture there and you'll see me to his left.

25 Q. I want to hand you this. If you could, Major Jones,

1 show us where you were at in that particular photograph.

2 A. I'm trying to work it, Counsel. I'm not sure how to
3 get the red button on. Bear with me, Judge. I'm sorry.

4 THE COURT: If you're looking for a laser pointer,
5 there's another one right there, the little pen light
6 thing.

7 THE WITNESS: Thank you, sir.

8 Okay. If you -- if you look at the picture, that's --
9 that's me right there speaking with the Defendant with the
10 beanie cap on.

11 BY MS. MAYES:

12 Q. And that beanie cap, seeing it there in person with
13 the naked eye, was what color?

14 A. It was a gray beanie cap with a decal on back.

15 Q. Okay. And who is this individual here?

16 A. That individual there is the witness, Mr. Hardaway,
17 who I knew first as M.J. M.J. Hardaway.

18 Q. All right. Now you mentioned that you did have a
19 chance to speak with him, so I'm gonna ask you about that
20 momentarily. What is taking place here in State's
21 Exhibit 57, Major Jones?

22 A. In the picture, you can see me speaking to the
23 Defendant, Mr. Henry, and we're at the back of the blue
24 Toyota that we stopped. Actually, if you remember, I
25 described Windsor West Child Academy. That's it there. So

1 Augusta Road would be where that stop sign is, that's
2 Augusta Road, and then there's a -- a thrift shop there to
3 the right and that's where the K-9 handlers had actually
4 detained them.

5 Q. All right. I want to ask you a little bit about that
6 thrift shop to the -- to the right. Does it also have a
7 garage component to it?

8 A. It does. It's a -- if you can imagine a fenced-in
9 yard, it had a lot of refuse and a lot of garbage and a lot
10 of vehicles, there was even an RV there, but inside that
11 chain link fence was like shop area with a rollup door.
12 Like it could have been a garage at one time. It was in a
13 state of disrepair and actually on the inside had a -- if
14 you can imagine an indoor flea market, there were clothes,
15 records, scuba gear, a wooden sword. You name it, they had
16 it. It was like an indoor flea market like a garage sale
17 gone awry.

18 Q. And then State's 25, who are you speaking to in this
19 photograph?

20 A. In that picture there, you can see me talking to
21 Mr. Hardaway and explaining to him why we had stopped him,
22 why we had detained him, and exactly what we were doing on
23 the scene as law enforcement officers.

24 Q. Now, Major Jones, this passenger in that vehicle,
25 Mark, M.J., Hardaway, was he cooperative?

1 A. Absolutely. He was very cooperative with me from
2 start to finish.

3 Q. And did you have a chance to speak to him individually
4 on that morning?

5 A. I did. Whenever we detained both of them, I took
6 Mr. Hardaway back to my patrol car where I Mirandized him
7 just to make sure and then we talked in-depth about exactly
8 everything that he had seen and heard that morning.

9 Q. Can you tell us whether or not you were able to rule
10 out M.J. Hardaway as being involved in the shooting that
11 morning?

12 A. Yes. He was -- he was totally cooperative and as soon
13 as I got him in the car, I mean, he was -- he just -- he
14 was a nice guy and I could tell he was being truthful from
15 start to finish. Every question I asked him he answered
16 wholeheartedly and was willing to cooperate and after
17 Miranda he even shared with me specific --

18 MR. MADSEN: Objection.

19 MS. MAYES: All right. So you can't go into what
20 he said.

21 THE COURT: Sustained. Sustained. You cannot talk
22 about what -- you can't talk about what somebody says to
23 you, okay, sir?

24 Move on, Counselor.

25 BY MS. MAYES:

1 Q. So let me ask you this.

2 MR. MADSEN: Judge, can we approach?

3 THE COURT: Please.

4 (Proceedings held at the bench; not reported.)

5 THE COURT: All right. Ladies and gentlemen, I
6 need to give you very brief instruction, okay, and
7 this is quite important. Understand, as I mentioned
8 yesterday in my opening instructions to you, that you
9 are the sole judges of credibility, you're the sole
10 judges of who's telling the truth, you're the sole
11 judges of what is, in fact, the facts of this case,
12 okay? Witnesses cannot opine as to whether somebody's
13 telling the truth and so that portion of the witness's
14 testimony which was just elicited where he essentially
15 thought that the Hardaway individual was telling the
16 truth or otherwise cooperative, that has to be struck.
17 It has to be struck from your memory because it's
18 improper for any witness to offer any opinion about the
19 credibility of some other potential witness, okay? That
20 is solely for you-all to determine, not anybody else,
21 and that's where we are. So that will be struck from
22 the record and it must be struck from your minds.

23 Solicitor, please continue.

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

25 BY THE COURT:

1 Q. So, Major Jones, without repeating what anyone else
2 said to you, can you tell us whether or not M.J. Hardaway
3 was placed under arrest that morning?

4 A. M.J. Hardaway was not placed under arrest that
5 morning.

6 Q. All right. And ultimately with you being the major in
7 charge of the scene both there and back at the church and
8 at this phase of the investigation, every aspect of it,
9 what, if any, decisions were made about a search of nearby
10 areas and/or the vehicle?

11 A. We determined that the blue vehicle had left that
12 property that I described as the indoor flea market shop.
13 We knew that that vehicle needed to be searched to find any
14 evidence or to find, you know, anything there to do with
15 the case. That vehicle, as well as the indoor flea market
16 garage, both had to be search and secured.

17 Q. All right. I want to stop you right there and show
18 you what is State's 58 and 59. Do you recognize those
19 still shots?

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

21 Q. Also from a body camera?

22 A. These photos were also taken from a body camera.

23 Q. Are these a fair and accurate representation of what
24 you recall that morning?

25 A. Yes, ma'am, they are. They are a fair representation

1 of what I remember.

2 MS. MAYES: All right. I believe this would be
3 State's 58 and 59, Your Honor, with no objection.

4 MR. MADSEN: No objection.

5 THE COURT: Without objection 58 and 59 are in
6 evidence.

7 (State's Exhibit Number 58 and 59, photographs,
8 were admitted into evidence.)

9 BY MS. MAYES:

10 Q. I'm gonna show you 59 first. You mentioned a
11 fenced-in area. Can you show us where in that photograph
12 that fenced-in area would be?

13 A. Yes, ma'am. If you'll see the chain link or the
14 barbed wire fence there at the top, there's a driveway
15 going in there to the building. That's actually me
16 standing at the door knocking on it.

17 Q. All right. And what, if any, knowledge did you have
18 about that blue Toyota driven by Mr. Henry in relation to
19 this fenced-in area?

20 A. I understood that the vehicle had left that fenced-in
21 area.

22 Q. Okay. And at this point in the investigation, had any
23 weapon or firearm been recovered?

24 A. No, ma'am.

25 Q. All right. Are you aware as to whether or not there

1 were individuals located within that garage area?

2 A. We did have information that -- that people had been
3 living there and were also there that morning and we knew
4 we had to secure that location because evidence could be
5 there.

6 Q. Okay. And was that done?

7 A. We did. I knocked and announced five times loudly,
8 told them I was with the sheriff's department, and we -- I
9 knew that there were people inside because you could just
10 tell from the cars, the gates opening and closing earlier,
11 I knew that there were people present. So we knocked and
12 announced on multiple sides of the building and then we
13 did force entry to secure that building to make sure no
14 evidence was destroyed or lost.

15 Q. All right. And you mentioned previously you did get a
16 chance to view the items within there?

17 A. I did. I walked through the property and encountered
18 some of the people that were there.

19 Q. All right. I'm gonna show you what is State's 63, 64,
20 65 and 67, and ask you whether or not you're familiar with
21 those photographs?

22 A. I am. These are all photos from the inside of the
23 building.

24 Q. Is that a fair and accurate representation of the
25 interior of that garage area?

1 A. It is.

2 MS. MAYES: This will be 67, 63, 64 and 65 for
3 evidence, Your Honor.

4 MR. MADSEN: No objection.

5 THE COURT: All right. State's 63 through 65 and
6 67 are in evidence.

7 (State's Exhibit Number 63, 64, 65 and 67,
8 photographs, were admitted into evidence.)

9 BY MS. MAYES:

10 Q. I'm looking here at 58. Ultimately deputies made
11 entry there at that garage area, the interior?

12 A. Yes, ma'am.

13 Q. And ultimately was CSI involved in the search of that
14 location as well?

15 A. We did. After the property was secured, we got a
16 search warrant and CSI came and processed that scene for
17 us.

18 Q. Let me show you what is 64, 65, 67. Do those photos
19 accurately depict the condition of the interior of the
20 garage?

21 A. They do. That was the interior of the building that
22 we entered.

23 Q. Okay. Now the suspects inside -- I'm sorry. Let me
24 rephrase that. Any -- any persons inside that garage area,
25 were they identified and detained as well?

1 A. They were. Whenever we made entry there, we didn't
2 know who all was involved or who wasn't involved, so
3 everyone inside were detained.

4 Q. Did any of those persons inside that garage area meet
5 the description of the shooter?

6 A. No, ma'am.

7 Q. Were there any black males within there that were
8 identified or detained by law enforcement?

9 A. There were no black males. There were three white
10 males and three white females as I recall.

11 Q. So let's talk a little bit about the vehicle, and that
12 would be specifically the blue Toyota vehicle that you
13 observed that was stopped there at Cardinal Road. And,
14 of course, in this still shot, State's 18, where is that
15 fenced-in area of the garage in relation to that vehicle?

16 A. In this picture, the fenced-in area would be on this
17 side here closer to Barnyard Flea Market.

18 Q. What, if any, decisions were made, Major Jones, about
19 a search of that blue Toyota vehicle?

20 A. We knew at the scene that there were two subjects
21 taken out of the vehicle and there was no danger at all
22 inside the vehicle, nothing could be lost, so we left it
23 locked tight and waited until we got a search warrant
24 before we entered it and searched it.

25 Q. All right. So a search warrant was obtained?

1 A. Correct. A search warrant was obtained for the blue
2 Toyota.

3 Q. And who within the sheriff's department is responsible
4 for carrying out the execution of that search warrant?

5 A. Search warrants are normally executed by major crimes
6 detectives along with the assistance of CSI to make sure
7 there are documented photographs in detail.

8 Q. All right. And do you know whether or not that
9 search of the vehicle was done right there at the scene of
10 Cardinal Drive and Augusta Road?

11 A. The initial search was done there, but the -- the
12 vehicle was taken back to the sheriff's department where
13 a deep search of the vehicle could be completed and
14 documented.

15 Q. Now while you're there at Cardinal Road and Augusta,
16 and you've described the circumstances under which
17 Mr. Henry was detained, what was taking place back at the
18 church?

19 A. Back at the church, the -- the deputies that were
20 there dealt with the woman that --

21 MR. MADSEN: Judge, if he's not back at the
22 church, then anything he's gonna testify about is going
23 to be hearsay and would be inappropriate. If he was
24 there and he witnessed the stuff --

25 MS. MAYES: I can rephrase that, Your Honor.

1 THE COURT: Why don't try to rephrase.

2 BY MS. MAYES:

3 Q. At some point in time were you part of a speakerphone
4 conversation?

5 A. I was with the detectives at the scene at the church.

6 Q. All right. And what is your knowledge of what was
7 taking place at the church?

8 MR. MADSEN: Judge, that's the same objection.
9 She's trying to elicit hearsay.

10 THE COURT: Sustained if it's being -- I mean,
11 you can call the witness or whoever was there at the
12 church if you -- if you haven't already.

13 MS. MAYES: We have, Your Honor, but let me -- let
14 me ask you this way.

15 BY MS. MAYES:

16 Q. But Brian Burrell, the detective -- a detective who
17 testified in this case yesterday, are you aware of whether
18 or not he was at the church?

19 A. I do know that Detective Burrell was at the church at
20 the shooting scene.

21 Q. I'm gonna show you what is 69 and 70 and ask you to
22 review those, please. Are you familiar with this phase of
23 the investigation?

24 A. I am.

25 Q. Looking at 69 already in evidence, do you recognize

1 the location where that photograph was taken?

2 A. I do. That photograph was taken on Cardinal Drive and
3 you can actually see the fenced-in area behind the subject
4 there that we entered into.

5 Q. All right. And which detective took this photograph
6 of Mr. Henry?

7 A. That should be an Axon body cam, the pictures that we
8 took of the scene.

9 Q. Okay. And are you aware of whether or not you
10 ultimately developed probable cause for an arrest?

11 A. I am. I knew from the detectives that were at the
12 scene of the church, they had called on speakerphone --

13 MR. MADSEN: Judge, I'm gonna object.

14 THE COURT: Sustained.

15 BY MS. MAYES:

16 Q. All right. After having been in communication with
17 those detectives at the scene at the church who were with
18 witnesses, who made the decision to place the Defendant
19 under arrest at that time?

20 A. We did at the scene. I knew he -- we had probable
21 cause to effect an arrest.

22 MS. MAYES: Thank you, Major Jones.

23 CROSS-EXAMINATION

24 BY MR. MADSEN:

25 Q. John, how are you doing?

1 A. I'm doing well, sir.

2 Q. We've known each other a long time, haven't we?

3 A. Probably at least twenty years.

4 Q. And you've had a pretty long law enforcement career?

5 A. (Nods head.)

6 Q. And it -- it sounds like -- I mean, you've kind of
7 done a little bit of everything, haven't you?

8 A. I have, sir.

9 Q. And you've worked on the road, you've supervised,
10 you were a narcotics officer, and so you know as a law
11 enforcement officer when you get out -- you get certain
12 information and you go to a scene, correct?

13 A. Yes, sir.

14 Q. But you don't know what you're gonna find necessarily?

15 A. You can never tell what you're gonna find in law
16 enforcement.

17 Q. I mean, sometimes you get information and you get out
18 and find that something's different, correct?

19 A. It happens from time to time.

20 Q. And so you do an investigation to try to determine,
21 you know, what happened after you get out there?

22 A. We do.

23 Q. I mean, you just can't take someone's word for
24 something, correct?

25 A. You've got to weigh all the facts you're given at the

1 time and make a decision for yourself and all the pieces
2 that come in.

3 Q. In your time in narcotics you dealt with a lot of
4 people who were on drugs?

5 A. I did.

6 Q. And their emotions can range from mad, angry, sad --
7 I mean, just kind of run the gamut, not really rational?

8 A. People on drugs are erratic.

9 Q. And I guess -- you said you're at the church and you
10 kind of get a call -- or, excuse me, not at the church,
11 you're at the school and you get a call about 7:45?

12 A. Well, on the radio I heard the car had been stopped
13 and that's when I left the school area and headed that way.

14 Q. And the first thing, I think, when Joseph and M.J. get
15 detained, immediately searched, which is kind of normal
16 protocol when you don't know what's going on and something
17 about gunshot wound, you want to immediately check people,
18 right, to make sure they don't have a gun for your safety
19 and everyone else's safety around there, correct?

20 A. It would have been a pat down search, yes, sir.

21 Q. And I think you had testified that there was at around
22 8:14 from your CAD a -- ran some ID's?

23 A. Correct.

24 Q. And can you look on that CAD and tell me when Joseph
25 Murray's ID was ran?

1 A. Joseph Henry?

2 Q. Or, excuse me, Joshua Murray. I'm sorry. Joshua
3 Murray, can you tell me when his ID was run?

4 A. I'd have to look for a second, Counsel.

5 Q. Sure. Take as much time as you need.

6 A. At first glance, I don't see it. It could be imbedded
7 in there somewhere because it's about twelve pages, but at
8 first glance I don't see it.

9 Q. Would it surprise you if it was never done?

10 A. Not really. It happens.

11 Q. Okay. How about Kaitlyn Skyrme?

12 A. I don't remember seeing hers on it either. It could
13 be in the twelve pages, but I don't see it at first blush.

14 Q. And then when Joe is stopped, he doesn't try to run
15 away, he doesn't resist, he doesn't hop in the car and
16 drive off. He doesn't do any of that, does he?

17 A. He was in a car.

18 Q. Well, he was in a car, but, I mean, he didn't try to
19 bush-bond through you-all or anything like that. I mean,
20 you said put the cuffs on him and he let you-all put the
21 cuffs on him?

22 A. He did cooperate when we surrounded the car.

23 Q. And when you initially hear the tone, about what time
24 was it?

25 A. It was about 7:45 when I was at the Saxe Gotha school

1 that I heard the tone.

2 Q. And Joshua Murray, you never see where his ID was run?

3 A. Just from the initial glance I didn't see it, but like
4 you said earlier I wasn't at the church then.

5 Q. And when the dog handlers and you got there and
6 stopped the car, it was, I guess, almost thirty minutes
7 later?

8 A. Thereabouts. Let me see and I'll tell you exactly
9 when. Two detained at 8:15.

10 Q. 8:15. And I think you said at least when you heard
11 the tone or the call came out it was about 7:45?

12 A. Correct, about thirty minutes.

13 Q. So about thirty minutes. And you're familiar with
14 that area having been in the sheriff's office for a long
15 time?

16 A. I am. I'm very familiar with that area.

17 Q. And from the church to that flea market, I guess, is
18 about a two-minute walk?

19 A. Roughly, if that. Three or four hundred yards, so a
20 two to three-minute walk.

21 MR. MADSEN: That's all the questions I have.

22 MS. MAYES: Thank you, Major Jones. Nothing
23 further.

24 THE COURT: Thank you very much for coming. Take
25 care of yourself. You're free to go.

1 THE WITNESS: Yes, sir. Thank you.

2 (Witness excused.)

3 THE COURT: Call your next witness.

4 MS. MAYES: The State calls Pablo Carvajal.

5 (Whereupon, Pablo Carvajal was duly sworn by the
6 Clerk of Court.)

7 THE CLERK: Thank you, sir. Have a seat right up
8 there. Please speak up loud and clear. State your
9 full name, spelling your last, please.

10 THE WITNESS: Good morning, Your Honor.

11 THE COURT: Good morning.

12 THE WITNESS: Good morning. My name is Detective
13 Pablo, P-A-B-L-O, Carvajal, C-A-R-V-A-J-A-L.

14 THE COURT: You can take the mask off.

15 PABLO CARVAJAL,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. MAYES:

19 Q. Good morning. Can you tell us a little bit about
20 yourself and where you are employed and in what capacity?

21 A. Yes, ma'am. I am employed at the Lexington County
22 Sheriff's Department. I am currently an investigator.

23 Q. Tell us a little bit about yourself, Detective
24 Carvajal, in terms of how you became involved in law
25 enforcement and your investigative experience.

1 A. Well, I -- I think that the reason why I became an
2 investigator is probably a combination of experience and
3 background. Before coming down to South Carolina, I was
4 employed in New York at the Manhattan District Attorney's
5 Office for about eighteen years. I'm a United States
6 Marine. I've had twenty-seven years with two combat tours.
7 I have a master's in emergency management. I'm bilingual.
8 I'm one of the few Spanish-speaking deputies in our
9 department. I graduated number one from my academy class
10 and I guess when I was on the road I was known to be just
11 a good officer who knew how to solve problems.

12 Q. Let me ask you this. How long have you worked with
13 the major crimes division at the Lexington County Sheriff's
14 Department?

15 A. Probably a little bit over two years.

16 Q. And while working with the sheriff's department, what
17 involvement, if any, did you have in the investigation
18 at the scene of a stop at Cardinal and Augusta Road on
19 February 21, 2019?

20 A. Well, on -- on that date when the call came out, I
21 wasn't too far from the sheriff's department, and it's one
22 of those calls where everybody just responds. Initially
23 it was a gunshot wound and the address that they gave was
24 a church, so immediately I thought the worst, you know,
25 some kind of incident at the church and something going on

1 there. I ran code and once I got there we were getting
2 more information. I knew that arriving on-scene we had a
3 victim with a gunshot wound to the head. She wasn't
4 deceased yet because it hadn't been transmitted on the
5 radio that she was Signal 9. Signal 9 is the code that we
6 use for somebody deceased. And that a black male suspect
7 had left the scene walking down Augusta Road. So when I
8 got there, I guess the best way I can tell you is organized
9 chaos. You had deputies on-scene, you had detectives
10 on-scene, EMS was already there, traffic was backed up. I
11 parked at the median. It was just mayhem, but organized.

12 Q. All right.

13 A. I got on-scene and I saw Investigator Black and she
14 was talking to a white male. I caught her attention.
15 I'm like Sandy, what do you need, she was like start
16 interviewing, and that's when I saw Ms. Jane Council and I
17 got her account of what happened.

18 Q. All right. And that's Jane Council, the 9-1-1 caller
19 in this case?

20 A. Yes, ma'am.

21 Q. All right. At what point, Detective Carvajal, did
22 you move from the Fellowship Baptist Church to the area of
23 Cardinal and Augusta Drive -- or Augusta Road?

24 A. Yes, ma'am. So I would say -- and I don't have the
25 exact time. For some reason in the CAD notes it doesn't

1 reflect, but I would say no more than ten or fifteen
2 minutes. Detective Burrell was already on-scene, so we
3 had quite a few detectives on-scene. Detective Burrell was
4 on the scene and while I was getting Ms. Council's written
5 statement in my vehicle, he's like you and Sandy, you need
6 to go to Cardinal and Augusta, they caught the -- there's
7 a suspect there, so we got in my vehicle and we drove.

8 Q. All right. And when you say you drove, what was the
9 -- how would you best describe the distance?

10 A. It's not that far, ma'am. A range estimation from the
11 military, I would say a couple football fields, three or
12 four football fields. 400 -- 400 yards I'd say.

13 Q. All right. And what did you observe when you and
14 Detective Black arrived there at Cardinal and Augusta?

15 A. So I recall Detective Black and I having just a really
16 quick conversation in the vehicle; what -- how we -- what
17 we were gonna do. At that point I kind of knew that she
18 was gonna be the primary detective dealing with this case.
19 I was support just like everybody else. She got out of
20 the vehicle, she went her way, and I noticed that Deputy
21 McManus had a black male matching the description of the
22 suspect detained and in handcuffs, so immediately I went
23 over to him and I told him I got him and I took -- I took
24 charge of him at that point.

25 Q. Okay. At that point did Deputy McManus have to leave

1 for another assignment?

2 A. Yes, it was a fast flowing situation, it was
3 developing quickly. From what I recall, something came
4 on the radio that made him depart, so I stayed with the
5 suspect at that point.

6 Q. All right. And at this point was the suspect -- was
7 Mr. Henry technically under arrest or only detained?

8 A. He was only detained, ma'am.

9 Q. While you were there with him, what, if anything, did
10 you observe, Detective Carvajal?

11 A. So when I first grabbed him, he started shaking. Now
12 it was February, it was a little bit cold. We quickly
13 spoke about him being cold and that he needed a jacket.
14 Him and I didn't speak much. I know better. What I did
15 notice was as I stood there with him that in the middle of
16 his shirt he had a brown stain to me that resembled blood.

17 Q. And what, if any, action did you take after observing
18 that bloodstain or what you believed to be a bloodstain?

19 A. So at that point -- at one point Deputy McManus came
20 back and took charge again. I recall telling Deputy
21 McManus -- because at that point he was gonna be the
22 transporting officer taking him to the jail. I told him we
23 need the shirt. When you're arrested and you're booked in
24 at Lexington County Sheriff's Department, your property,
25 your clothes, your shoes, whatever you have on you is put

1 in a valuable bag and it's put in a storage facility inside
2 the jail, but if it's evidence we'll take it and we'll put
3 it in our evidence room. So by me telling Deputy McManus
4 that I want the shirt, I meant it should not go inside his
5 valuable bag, to take it when he's dressed and put it in
6 evidence.

7 Q. I'm gonna show you some photographs and ask you
8 whether or not you recognize these. Starting with 74 and
9 75.

10 A. Yes, ma'am, I do recognize them. Yes, I do.

11 Q. Who took those photographs?

12 A. I did.

13 Q. And then 72 and 73, do you recognize these
14 photographs?

15 A. That is me and the Defendant.

16 Q. All right. And as to 72 and 73, was -- you mentioned
17 Deputy McManus. Did he have an active body cam working?

18 A. He did.

19 Q. Can you tell us whether or not 72 and 73 are still
20 shots directly from that body cam?

21 A. Yes, they are, ma'am.

22 MS. MAYES: This would be 74, 75, 72 and 73 for
23 evidence, Your Honor.

24 MR. MAULDIN: No objection, Your Honor.

25 THE COURT: All right. Without objection State's

1 72 through 75 are in evidence.

2 (State's Exhibit Number 72, 73, 74 and 75,
3 photographs, were admitted into evidence.)

4 BY MS. MAYES:

5 Q. You should have with you a laser pointer up there.

6 A. Okay.

7 Q. I want to start here with what is State's 74. What,
8 if anything, Detective Carvajal, is significant about this
9 photograph?

10 A. It shows the stain.

11 Q. And where is that?

12 A. Right about there, ma'am.

13 Q. Can you tell us whether or not that's the same stain
14 that you mentioned previously?

15 A. That is the same stain, yes, ma'am.

16 Q. And then 75. Again, who took this photograph?

17 A. I did.

18 Q. And for what purpose?

19 A. I wanted to document the stain.

20 Q. Can you tell us as you're doing this whether or not
21 the Defendant, Joseph Henry, was aware that you were
22 photographing that stain?

23 A. Yes, he was, ma'am. When I told Deputy McManus that
24 we wanted the shirt, he was right next to me and at that
25 point I let go of him, Deputy McManus takes charge of him

1 and I go and get my phone and then I start snapping away.

2 Q. All right. This being 72 from Deputy McManus's body
3 cam?

4 A. Yes, ma'am.

5 Q. What specifically are you informing Deputy McManus of
6 regarding that shirt?

7 A. I'm telling him we want -- I want the shirt, take the
8 shirt. I mean, I'm pointing to it.

9 Q. And are you saying that loud enough for him to hear
10 you?

11 A. Yes, ma'am. He heard.

12 Q. And then 73 also from Deputy McManus's body cam, can
13 you tell us what's taking place in that photograph?

14 A. I'm taking a close-up picture of the stain, ma'am.

15 Q. As you're taking that photograph of the stain on his
16 shirt, can you tell us whether or not he observed the
17 location of that stain himself?

18 A. He did.

19 Q. Is that depicted in this photograph?

20 A. Yes, ma'am. He's looking at the stain now.

21 Q. Ultimately who placed Mr. Henry under arrest?

22 A. I did.

23 Q. And can you tell us whether or not at that point
24 that he was placed under arrest you were aware of an
25 identification?

1 A. Yes, I was aware that he was positively identified
2 as --

3 Q. And that occurred prior to him being placed under
4 arrest?

5 A. Yes, ma'am.

6 Q. And did you inform him when you arrested him of what
7 charge he was being arrested for?

8 A. Yes, I told him that he was under arrest and he asked
9 me what for and I told him possibly attempted murder
10 because at that time I wasn't sure if she has passed away
11 yet.

12 MS. MAYES: Your Honor, may we approach?

13 (Proceedings held at the bench; not reported.)

14 THE COURT: Please continue.

15 BY MS. MAYES:

16 Q. And referring there to the CAD, Detective Carvajal,
17 do you have the time -- can you tell us the time there at
18 the location of Cardinal and Augusta that he was formally
19 placed under arrest?

20 A. Right. So -- excuse me. So according to the CAD
21 notes, my call number at that time was 323, and it says
22 that at 8:47 I transmitted over the radio I have one under
23 arrest. At 8:47 in the morning, ma'am.

24 MS. MAYES: Thank you, Detective Carvajal. Nothing
25 further.

1 THE WITNESS: Yes, ma'am. Thank you.

2 THE COURT: Cross.

3 MR. MAULDIN: Just briefly, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. MAULDIN:

6 Q. So you arrived on-scene at the church and you spoke to
7 Jane Council; is that right?

8 A. Yes, sir.

9 Q. Then you went and you took charge of Mr. Henry?

10 A. Yes, sir.

11 Q. At which point Detective Black came and took a picture
12 of him with her cell phone?

13 A. She did, sir.

14 Q. She used her cell phone to take that picture?

15 A. Yes, she did.

16 Q. Okay. And then after dealing with Mr. Henry, you
17 dealt with a fellow named John Walker and talked with him
18 for a little bit; is that correct?

19 A. No, sir. I never dealt with a John Walker.

20 Q. Okay.

21 A. Oh, I'm sorry. If you don't mind, I'll look in my --

22 Q. Would looking at the report refresh your memory?

23 A. Yes, sir, because --

24 Q. Then by all means.

25 A. Thank you. Yes, sir. I did. My apologies.

1 Q. And did you also have an opportunity to speak with a
2 Kevin Callahan?

3 A. I believe that's the gentleman that worked at the --
4 at the automotive store, yes, sir.

5 Q. All right.

6 MR. MAULDIN: I beg the Court's indulgence for a
7 second.

8 No further questions, Your Honor.

9 THE COURT: Thank you.

10 MS. MAYES: May we approach?

11 THE COURT: Do you want to approach me or the
12 witness?

13 MS. MAYES: You.

14 THE COURT: Okay.

15 (Proceedings held at the bench; not reported.)

16 THE COURT: So you're done with Detective Carvajal?

17 MS. MAYES: Yes, sir.

18 THE COURT: Detective Carvajal, thank you for
19 coming. You are free to go. Take care of yourself and
20 I'll see you around.

21 THE WITNESS: Thank you.

22 (Witness excused.)

23 THE COURT: Ladies and gentlemen, the Solicitor
24 informs me that the next witness is gonna be a little
25 bit lengthy, so we'll go ahead and take a brief comfort

1 break at this point in time so his testimony or her
2 testimony is not interrupted, so if you would adjourn
3 back downstairs.

4 Does anyone need to go outside for a cigarette by
5 any chance? Raise your hand. There's no -- it's still
6 legal. I still do it. Okay. Nobody does. You people
7 are better than I am.

8 Go downstairs, have a comfort break and we'll be
9 back on the record in about ten or fifteen minutes,
10 okay?

11 Thank you. Don't talk about the case, please.

12 (Whereupon, the jury retires to the jury room at
13 10:01 AM.)

14 THE COURT: The jury is out. We'll be at ease.

15 (Recess taken at 10:02 AM.)

16 (Back on the record at 10:19 AM.)

17 BAILIFF: All rise. Court's back in session.

18 THE COURT: Thank you. Let's have the jury,
19 please.

20 (Whereupon, the jury returns to the courtroom at
21 10:25 AM.)

22 THE COURT: All right. The jury is back and
23 seated.

24 Solicitor, if you will call your next witness,
25 please.

1 MS. MAYES: The State calls Nathan Twigg.

2 (Whereupon, Nathan Twigg was duly sworn by the
3 Clerk of Court.)

4 THE CLERK: Once you're seated state your full
5 name, spelling your last on the record, please.

6 THE WITNESS: My name is Nathan Twigg. First name,
7 N-A-T-H-A-N. Last name, T-W-I-G-G.

8 NATHAN TWIGG,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Good morning.

13 A. Good morning.

14 Q. Can you tell us a little bit about yourself? Where
15 are you currently employed and in what capacity?

16 A. Currently I'm employed at the Lexington County
17 Sheriff's Department and I'm currently serving as a school
18 resource officer.

19 Q. All right. Prior to your work as a school resource
20 officer, can you tell us what division within the sheriff's
21 department you were employed with?

22 A. I initially started on the road and from there I went
23 to the CSI, crime scene investigations unit.

24 Q. When you talk about crime scene investigations, what
25 specific training and background do you have in that

1 regard?

2 A. You go through a specialized course at the academy, as
3 well as six months probationary time where you are training
4 under senior CSIs within the agency.

5 Q. And, in general, what can you tell us about CSI?
6 What type of work does that include?

7 A. Crime scene investigation works hand in hand with the
8 detectives in major crimes. Our main responsibility is
9 documenting the scene. That's with notes and photographs.
10 It's also collecting, preserving and examining evidence.

11 Q. All right. And how did you become involved as a CSI
12 officer in this criminal investigation dating back to
13 February 21st of 2019?

14 A. I got the call at the office and I heard the call come
15 out and I was dispatched to that scene.

16 Q. All right. And when you say that scene, we've got
17 several different locations that were involved that
18 morning. Tell us about the first location you went to,
19 Detective Twigg.

20 A. Initially I went to the parking lot of Fellowship
21 Baptist Church, which was at 4236 Augusta Road.

22 Q. Okay. And for what purpose?

23 A. We were told that the victim had been there, that was
24 her vehicle and that EMS was on the scene, so the vehicle
25 was gonna be in that parking lot.

1 Q. Okay. I'm gonna show you some photographs already in
2 evidence and ask you whether or not you recognize these.

3 32, 33, 29, 30 and 31.

4 A. Yes, these are accurate.

5 Q. Also 35, 36, 37 and 34.

6 A. Yes.

7 Q. Who took each of these photographs?

8 A. Those are my photographs.

9 Q. And specifically as to 35 and 36, at what location
10 were those taken?

11 A. Those two were taken at the Fellowship Baptist Church
12 parking lot.

13 Q. Tell us as we take a look here at 30 and 31 and then
14 32, what, if anything, you recall about that scene being
15 secured. And I believe you have a laser pointer up there
16 with you.

17 A. Okay. The -- upon my arrival, they were actually
18 putting up the crime scene tape that you see. This is
19 the vehicle as we -- as I found it upon arrival with the
20 passenger door that was open.

21 Q. And then 31?

22 A. And if you know, this would be Augusta Road. This is
23 Augusta Road. The church is back in this area. It's a
24 very -- it's a pretty large parking lot. This is the
25 vehicle again as it was found by the first individuals on

1 the scene.

2 Q. And 29, do you see crime scene tape in that
3 photograph?

4 A. Yes, it had been placed.

5 Q. Now can you tell us whether or not it's procedure to
6 photograph it as it's found?

7 A. It is procedure to photograph as it is found.

8 Q. 35 and then 36. As to photograph 36, what, if
9 anything, did you observe and photograph in the interior
10 of the victim's white Ford Focus?

11 A. In this particular photo, the victim had already been
12 transported upon my arrival, but there was evidence here
13 of a significant blood stain on the passenger seat, and in
14 subsequent pictures you can see that there was also some --
15 the presence of blood on the center console area.

16 Q. Let me show you State's 37 and ask you whether or not
17 you recognize that photograph?

18 A. Yes, I do.

19 Q. And what do you -- why did you document the findings
20 in that photograph?

21 A. You can tell that there was a -- there's blood
22 indicated here, there was some pooling here under the
23 emergency brake. We were just documenting where we had
24 found evidence.

25 Q. All right. And going back briefly to State's 36, how

1 high up there within the passenger -- front passenger seat
2 did you observe blood?

3 A. It would have started roughly here, with this being
4 the headrest, and then all the way down onto the -- where
5 the seat back meets the seat bottom.

6 Q. All right. And then you mentioned 37, the center
7 console. Based on your observation, did the position --
8 can you tell us whether or not there appeared to be a
9 transfer of blood based on the victim's position?

10 A. There does appear to be some transfer from the
11 passenger seat onto the center console with some pooling
12 down underneath in this area, which would be where the
13 driver's side meets the center console.

14 Q. All right. Following your document -- your initial
15 documentation of the victim's white Ford Focus there at the
16 church parking lot, what action did you take next?

17 A. We were not going to be able to get into this car any
18 further without a search warrant, so I had sealed the doors
19 of that car with evidence tape and it was subsequently
20 towed to the evidence bay at the Lexington County Sheriff's
21 Department awaiting that search warrant for further
22 processing. While I was on this scene, we had gotten the
23 call, those of us on-scene, that the -- the offender in
24 this case was down the road in the vicinity of 4302 Augusta
25 Road where it crosses with Cardinal Drive and we had gotten

1 a search warrant for that vehicle and I proceeded from the
2 church to that scene.

3 Q. All right. So let me ask you a little bit about that.
4 Do you have a copy of that search warrant with you?

5 A. Yes, I do.

6 Q. What time did you yourself begin the execution of that
7 search warrant for the search of the blue Toyota?

8 A. The judge had signed it at 11:30. Subsequently there
9 was communication made to me that that warrant had been
10 signed, it was in hand and it was en route to the scene.
11 As soon as it is signed and time and date stamped and that
12 detective has it in his hand, I began taking photographs
13 as close to 11:30 as -- right about that same time.

14 Q. Okay. That would be 11:30 AM?

15 A. Yes.

16 Q. And is the vehicle still there at Cardinal -- Cardinal
17 and Augusta?

18 A. Yes, it is when I arrive.

19 Q. Now what was the purpose of the search of this
20 vehicle?

21 A. We had been informed we were looking for a firearm and
22 that it possibly would have been in that vehicle.

23 Q. I'm gonna show you some photographs now and ask you to
24 look at these and whether or not you recognize them.

25 A. Okay.

1 Q. Starting with State's 117 and 118.

2 A. Yes.

3 Q. Who took those photographs?

4 A. I did.

5 Q. Are they a fair and accurate representation of the
6 vehicle as you recall it?

7 A. Yes.

8 Q. State's 88?

9 A. Yes.

10 MR. MADSEN: No objection to 117, 118 and 88.

11 THE COURT: All right. State's 117, 118 and 88
12 are in evidence.

13 (State's Exhibit Number 88, 117 and 118, photographs,
14 were admitted into evidence.)

15 BY MS. MAYES:

16 Q. I'm gonna ask you to take a look at 90, 91, 92 and 93,
17 and ask you whether or not you recognize those photographs
18 and who took them?

19 A. I do recognize these. These are also my photographs.

20 Q. Do they fairly represent the scene as you observed it
21 that day?

22 A. Yes, it does.

23 Q. State's 94 and 95, who took these photographs?

24 A. I did.

25 Q. Do they fairly represent the images as you recall?

1 A. Yes.

2 MR. MADSEN: Judge, 90 through 95 we would rule
3 -- or we would renew our pre-trial objection if you'd
4 like to see them.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: Objection noted. Same ruling as
7 before in the pre-trial hearing. Those are in evidence.
8 I think that was 90 through 95.

9 MS. MAYES: Yes, sir, Your Honor.

10 THE COURT: All right. 90 through 95 are in
11 evidence.

12 (State's Exhibit Number 90, 91, 92, 93, 94 and
13 95, photographs, were admitted into evidence.)

14 MR. MADSEN: And, Judge, am I covered then when
15 the actual item in the photographs --

16 THE COURT: Yes, you are covered --

17 MR. MADSEN: -- as well if we object?

18 THE COURT: Correct. The item that's depicted
19 in the photograph, you have an objection when that's
20 sought to be introduced as well.

21 MR. MADSEN: Thank you.

22 BY MS. MAYES:

23 Q. Starting with 117 --

24 MS. MAYES: I believe all of these are in evidence,
25 Your Honor, and I will reiterate for the record the

1 numbers. 117, 118, 88, 91, 90, 92, 93, 94 and 95, all
2 for evidence at this time.

3 THE COURT: I have those in evidence.

4 BY MS. MAYES:

5 Q. Looking here at 117, Detective Twigg, where is the
6 vehicle in relation to Cardinal Road?

7 A. It's actually here on the roadway. This is Cardinal
8 Drive with Augusta Road being out in front of it.

9 Q. And what's the process that you go through in
10 documenting the scene as you're finding it? Take us
11 through how you perform that duty chronologically.

12 A. The first process is making sure that that warrant
13 is signed and that the detective has it in hand. We
14 then begin -- it's standard operating procedure to begin
15 documenting with photographs in a chronological order.
16 Most of the time I try to start at the driver's side and
17 work counterclockwise. So we take pictures of the exterior
18 of the car and then I go kind of quadrant by quadrant
19 throughout the car starting at the driver's side and take
20 photos to include sun visor, floorboard, steering column,
21 seats, seat pockets, all of that.

22 Q. Let's take a look at 88. Can you tell us whether or
23 not a phone was recovered from this vehicle?

24 A. Yes, there was a phone recovered from this vehicle.

25 Q. And what, if any, status did you find the phone in

1 when you -- as you found it?

2 A. One particular phone was plugged into the front socket
3 cigarette lighter adapter in a charging port that appeared
4 to be -- appeared to be functional.

5 Q. All right. And is that the phone that we're looking
6 at there in State's 88?

7 A. I believe it is.

8 Q. Okay. And you can refer to your records if need be.
9 Can you tell us based on your report which phone -- if you
10 can describe the phone that you found at that location
11 plugged into the charger?

12 A. Okay. That would be the phone that I listed as
13 Item 17, which was an LG cell phone with a Shoji case.

14 Q. Okay. And did you have an indication as to anything
15 further on that phone?

16 A. I do not.

17 Q. Okay. And the indication is that that's the phone
18 that was plugged into the charger?

19 A. That's correct.

20 Q. The black -- the LG?

21 A. Yes.

22 Q. And what, if anything, else did you observe in this
23 photograph in the area of the center console?

24 A. There is a white hat. We weren't sure if -- if
25 that would come into play, but it was documented and

1 photographed.

2 Q. Okay. What area of the vehicle did you search next?

3 A. We continued on. I continued with the -- with the
4 front driver's seat.

5 Q. I want to show you what's State's 90 and ask you
6 whether or not you recognize this photograph?

7 A. Yes, I do.

8 Q. Let me back up. I'm gonna take a look here at 91.
9 As you're photographing, tell us -- tell us how you go
10 about the process of photographing.

11 A. Items are photographed as they're found and then
12 subsequently if you move something, you take another photo
13 to indicate where it had been prior and where it is
14 currently. In this photograph, you're looking at the
15 driver's seat. This is the seat adjustment bar right here,
16 this is the floorboard, and there was a black -- I'm sorry,
17 a brown bag underneath the seat.

18 Q. All right. When you saw the brown bag underneath the
19 seat, why, if at all, did that catch your attention?

20 A. At the time I was told we were looking for a firearm
21 and a bag could have been a place where a firearm could be
22 held, so anything found in the car that could contain a
23 firearm was examined.

24 Q. And based upon your recollection, was that bag fully
25 closed or in some other type of state?

1 A. It was found as photographed and later photographs
2 will show it was found -- I found it open.

3 Q. I'm gonna show you State's 92 now. All right. You
4 mentioned that you found it partially open. What, if
5 anything, did you observe as you're inspecting the bag?

6 A. Again, this is the seat rest where I pulled the entire
7 bag out for the purpose of photographing it. It did appear
8 that there was some kind of fabric sticking out of the top.

9 Q. I'm gonna show you what is State's 90. What are we
10 looking at here?

11 A. So I turned the bag up from its laying position and
12 this is as I found it. There was a black what was later
13 determined to be a hoodie inside of that brown bag.

14 Q. What happened next?

15 A. When I went to retrieve the black cloth to see what
16 was either in it or under it, I immediately felt something
17 hard, it was consistent with a handgun. I had started to
18 notice a shape as I went to grab it in the middle and the
19 next photograph that I had taken was the handgun that was
20 recovered inside that black hoodie.

21 Q. If you'd take a look now at 93 and tell us what you
22 were photographing and observing as this is taken.

23 A. Within the black hoodie this is a Hi-Point C-9
24 9-millimeter handgun with a magazine.

25 Q. What happened next?

1 A. I photographed the serial number. I did not run the
2 serial number, but someone else on the scene had run the
3 serial number, and then any time there is a firearm on a
4 scene it is then immediately rendered safe, which was the
5 next step that I took.

6 Q. How did you go about doing that?

7 A. The magazine is dropped. If there is a safety, you
8 put the safety on. The chamber -- the slide is locked to
9 the rear and it is then rendered safe.

10 Q. Let me show you State's 94 and ask you what you are
11 photographing in this image?

12 A. Okay. The weapon was rendered safe. This is still on
13 the driver's seat. The slide is locked to the rear as you
14 can see, the magazine has been dropped from the magazine
15 port, and there was one round recovered from the chamber of
16 the handgun.

17 Q. Okay. And what is in State's 95?

18 A. That is the weapon that was -- I'm sorry, the round
19 that was recovered from the -- the chamber of the weapon
20 when I rendered it safe.

21 Q. This is a close-up that you've taken of that round?

22 A. Yes, it is.

23 Q. So going back to 94, that same image -- is that same
24 round also depicted here in 94?

25 A. Yes, it is.

1 Q. Tell us where you found that round.

2 A. The round had been in the chamber. When I pulled
3 the slide to the rear to lock it to secure it, the round
4 ejected, which meant it was in the chamber.

5 Q. What, if anything, is significant about that?

6 A. When you use a magazine-fed weapon, a round will be
7 forced up into the chamber when a weapon is fired. So
8 when a round is -- is fired from -- from a semi-automatic
9 weapon, the next round feeds through the magazine into the
10 chamber.

11 Q. Now all of these items that you just described and
12 are depicted in these photos, were these collected and
13 taken as evidence in this case?

14 A. Yes, they were.

15 Q. Now when evidence is collected, can you tell us
16 whether or not it's maintained with any type of chain of
17 custody?

18 A. There is a chain of custody. Crime scene
19 investigators will initially do the collection. It is
20 secured in the crime scene vehicle. After departure from
21 the scene, it is immediately transported to the crime lab
22 at the sheriff's department, stored in a locker until such
23 time as it can be properly packaged and submitted into
24 evidence where the evidence custodians maintain custody of
25 the items.

1 Q. All right. And when you say the evidence custodians
2 maintain custody of the items, is there an evidence room
3 there at the sheriff's department?

4 A. There is an evidence room at the sheriff's department,
5 yes, ma'am.

6 Q. And other than evidence custodians, does anyone else
7 have access to the evidence within that -- within that
8 evidence room?

9 A. No, they don't.

10 Q. I'm gonna show you an item and ask you whether or not
11 you recognize it? This is 119 from this box.

12 A. Okay.

13 Q. Do you recognize that item?

14 A. Yes, I do.

15 Q. How so?

16 A. This is the brown leather Fossil bag that I identified
17 as Item Number 9 in my photographs.

18 MS. MAYES: Your Honor, if the witness -- first of
19 all, let me offer this as evidence. The State does offer
20 this as evidence at this time. This would be State's 119.

21 MR. MADSEN: Subject to --

22 THE COURT: State's 119 is in evidence subject to
23 the pre-trial hearing and rulings and objections.

24 (State's Exhibit Number 119, a brown Fossil bag,
25 was admitted into evidence.)

1 BY MS. MAYES:

2 Q. State's 121, State's 120. If you could take a look at
3 those items.

4 A. This is my signature. This is the round from the
5 chamber.

6 Q. And then 120?

7 A. That is the handgun.

8 Q. And then 122?

9 A. Yes, this is the black hoodie.

10 MS. MAYES: Okay. So at this time, Your Honor,
11 the State would also offer 121, 120 and 122 as evidence.

12 THE COURT: All right. Subject to the same
13 objections offered pre-trial, State's 120 through 122
14 are in evidence.

15 (State's Exhibit Number 120, a handgun, 121, a
16 bullet, and 122, a black hoodie shirt, were admitted into
17 evidence.)

18 MS. MAYES: And, Your Honor, if the witness may
19 have permission to step down?

20 THE COURT: Sure.

21 BY MS. MAYES:

22 Q. And if you could put your mask back on, please, sir.

23 A. Sure.

24 Q. So looking here at State's 90 and then State's 93 as
25 you found those items, if you could tell us what we are

1 looking at here? And I'm gonna go ahead and pull this out,
2 this is State's 122, as well as this item, which is 119.

3 Please come forward and I'll need you to stand right
4 here so that the court reporter can still hear you.

5 A. Sure.

6 Q. And tell us what we're looking at in relation to this
7 item, this item --

8 A. Okay.

9 Q. -- and this item, being State's 120.

10 A. This is the brown handbag that was found underneath
11 the driver's seat of the blue Toyota.

12 Q. All right. And then the black item that you have in
13 your hand?

14 A. Yes, it's a black hoodie, and this was found inside of
15 the brown bag.

16 Q. All right. And if you could show us that item.

17 A. (Witness complies.)

18 Q. This hoodie and then the weapon, being 120, was found
19 in relation to these items how?

20 A. It was wrapped inside -- found inside of the hoodie
21 wrapped. The only difference was it was not rendered safe
22 at that time, so it had the magazine, the round and the
23 slide locked forward.

24 Q. All right. And 121, is that the item you referred to
25 earlier found within the chamber?

1 A. Yes, that was the bullet that was found in the
2 chamber.

3 Q. After you collected these items, did you have an
4 opportunity to then photograph them within the lab?

5 A. Yes, I did.

6 Q. I'm gonna ask you specifically as to whether that item
7 that you're holding now, State's 119, was also photographed
8 within the lab?

9 A. Yes, it was.

10 Q. That's 96 and 97. I'm gonna ask you to take a look at
11 those and ask you whether or not you recognize them?

12 A. Yes, I do.

13 Q. Who took these photographs?

14 A. I did.

15 MS. MAYES: This would be 96 and 97 for evidence.

16 MR. MADSEN: Judge, same objection.

17 THE COURT: All right. Subject to the earlier
18 pre-trial rulings. State's 96 and 97 you said?

19 MS. MAYES: Yes, sir, Your Honor.

20 THE COURT: Those are in evidence.

21 (State's Exhibit Number 96 and 97, photographs,
22 were admitted into evidence.)

23 BY MS. MAYES:

24 Q. Looking here at 97, being a photograph of the item
25 that you're currently holding, State's 119, does it have

1 any writing on it?

2 A. It does have some writing on it. Some of it is text,
3 some of it appears to be --

4 Q. I need you to stand about six feet away.

5 A. Sure.

6 Q. Have you had an opportunity to inspect that writing?

7 A. Yes, I have.

8 Q. All right. Tell us what we're looking at here on the
9 front flap in terms of writing. What letters do you see?

10 A. I see an M, an A, a G and a Z, which would spell magz.

11 Q. All right. And then what are we looking at with
12 State's 96? Is there additional writing on this item?

13 A. That's on the inside flap. It appears to say heavy
14 hitter.

15 Q. All right. In addition to the writing that says heavy
16 hitter, do you see any other writing on the exterior of
17 this bag?

18 A. Along the side it says, and I apologize for the
19 language, I'm gonna read it, it says fuck what you think
20 you know.

21 Q. Fuck what you think you know?

22 A. Correct.

23 MR. MADSEN: Judge, can we approach?

24 THE COURT: Sure.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Defense counsel's objection is noted
2 for the record. We'll put the specific grounds on the
3 record at a later point in time.

4 Solicitor, you can proceed.

5 MS. MAYES: Yes, sir.

6 BY MS. MAYES:

7 Q. And you may return to your seat.

8 A. (Witness complies.)

9 Q. And for identification only at this time, I want to
10 show you another photograph, which is State's 98, and ask
11 you who took this photograph?

12 A. I did.

13 Q. And what does that depict? Let me just ask you what
14 item is photographed here?

15 A. This is the Defendant's shirt.

16 Q. All right. And can you tell us whether or not that
17 photograph had been taken after he had been transported to
18 the jail following his arrest?

19 A. Yes, it was. It was after it was submitted into
20 evidence.

21 MS. MAYES: And State's 98 is only for
22 identification only at this time, Your Honor.

23 BY MS. MAYES:

24 Q. And that was taken by yourself, correct?

25 A. Yes, it was.

1 Q. Now once you got the scene processed there at Cardinal
2 Drive regarding the blue Toyota, what, if any, actions were
3 taken to further inspect the victim's car, being the white
4 Ford Focus?

5 A. A search warrant had been obtained for that vehicle
6 and signed on the 22nd of February of 2019 at 10:35.

7 Q. For what purpose?

8 A. For the purpose of we needed to further process the
9 vehicle. We did not take any interior photos, not properly
10 documented that scene, and also to search for any potential
11 expended rounds or any other evidentiary items.

12 Q. All right. And did that occur?

13 A. The execution of that search warrant did occur.

14 Q. Okay. And who was the primary CSI officer who
15 processed that white Ford Focus?

16 A. That was me.

17 Q. All right. I'm gonna show you a series of photographs
18 and ask you whether or not you recognize these. I'm gonna
19 start with State's 87 and ask you who took that photograph?

20 A. I did.

21 Q. State's 84, 85 and 86, and ask you who took these
22 photographs?

23 A. I took those as well.

24 Q. All right. Can you tell us whether they accurately
25 depict the vehicle as you observed it during the search

1 that day at the evidence bay after it was towed?

2 A. Yes, they do.

3 Q. And do you know if it was towed with any officer
4 following behind to secure it?

5 A. Yes, an officer was -- follows the vehicle, the tow
6 truck, and directed it to the evidence bay. That's
7 standard procedure.

8 Q. All right. Also 38, 113, 114, 115 and 116. Were all
9 of these photographs taken by you?

10 A. Yes, they were.

11 MR. MADSEN: No objection, Your Honor.

12 THE COURT: That's State's 87 --

13 MS. MAYES: I'll call these out, Your Honor. They
14 may not be in the order that they will be published, but
15 87, 116, 115, 113, 114, 38, 84, 85 and 86.

16 THE COURT: All right. State's 84 through 86,
17 113 through 116, 38 and 87 are in evidence without
18 objection.

19 (State's Exhibit Number 38, 84, 85, 86, 87,
20 113, 114, 115, 116, photographs, were admitted into
21 evidence.)

22 BY MS. MAYES:

23 Q. Now looking here at that white Ford Focus, the
24 victim's car, we've already seen photographs that you took
25 earlier that morning out in the church parking lot. Where

1 is the vehicle located now and for what purpose?

2 A. This is in the evidence bay at the sheriff's
3 department.

4 Q. I'm gonna ask you whether or not you've had a chance
5 to inspect the interior of the car including the backseat
6 area?

7 A. Yes, I did on execution of the search warrant. Yes,
8 the interior was inspected.

9 Q. All right. Looking here at 113 and then 114, did you
10 locate or observe any other weapons in that vehicle, any
11 weapons in that vehicle whatsoever?

12 A. No, no hard objects, no nothing of significance
13 weapon-wise inside that vehicle.

14 Q. All right. No firearm inside that vehicle?

15 A. Correct.

16 Q. No knives inside that vehicle?

17 A. Correct.

18 Q. No brass knuckles or things of that nature inside the
19 vehicle?

20 A. No.

21 Q. What are we looking at here and here with you having
22 the chance to inspect these items with the naked eye --

23 A. Okay.

24 Q. -- in the backseat area of the victim's white Ford
25 Focus?

1 A. Sure. This is the backseat area. This photograph
2 typically was -- is sideways. It was taken up and down.

3 Q. I'll turn that around. I apologize for that.

4 A. That's as I took it right there.

5 Q. Here we go.

6 A. This is the back of the center console, these are the
7 floorboards. There's like a lemon juice squeeze bottle
8 here, it looks like, I believe, an empty water bottle, some
9 kind of -- was there.

10 Q. An empty water bottle, a lemon juice squeeze bottle.
11 What is this item here?

12 A. I believe that was some kind of wrapper. It was
13 photographed later.

14 Q. Okay. And then what about that item? I'm gonna show
15 you State's 113, that angle, and then 113 from this angle.

16 A. Okay. This is from the other side. This is the
17 passenger side view from the back. It appears to be some
18 kind of like a beef jerky wrapper in the back.

19 Q. Now after observing those items in the backseat, I'm
20 gonna show you what is State's Exhibit 87 and ask you if
21 you are familiar with that item and whether or not it was
22 collected as evidence?

23 A. I am. This is an eyeglass lens right here that was in
24 the seat pocket on the rear driver's side seat pocket.
25 This photograph was also taken in the evidence bay.

1 Q. I'm gonna show you this item marked as State's 124 and
2 ask you whether or not you recognize it?

3 A. It is my signature.

4 Q. You recognize your signature on that item?

5 A. Yes, I do.

6 Q. Is it also marked with evidence tape?

7 A. Yes, it is. And that is the eyeglass lens.

8 MS. MAYES: We would offer this as evidence at
9 this time, Your Honor. This would be State's -- turn
10 that over, please.

11 THE WITNESS: (Witness complies.)

12 MS. MAYES: State's 124.

13 MR. MADSEN: No objection.

14 THE COURT: 124's in evidence.

15 (State's Exhibit Number 124, an eyeglass lens, was
16 admitted into evidence.)

17 BY MS. MAYES:

18 Q. Now you mentioned that part of what you were searching
19 for would be any additional expended rounds. Let me ask
20 you this. In addition to any additional expended rounds,
21 did you also conduct a search for any casings affiliated
22 with a fired shot?

23 A. Yes.

24 Q. The weapon that is in evidence, being State's 120, I
25 believe, can you tell us whether or not you would expect

1 to find or you would expect there to be a casing from that
2 type of weapon?

3 A. Yes, it would be standard for a 9-millimeter
4 semiautomatic to have a casing eject as a round is fired.

5 Q. All right. What do you mean by that, casing eject?

6 A. There is a casing that surrounds the actual projectile
7 and when the projectile is forced through the barrel of the
8 weapon, the casing, what is holding that bullet, actually
9 ejects from the ejection port.

10 Q. All right. And what methods did you use to go about
11 trying or attempting to recover or locate a casing from
12 inside this white Ford Focus?

13 A. The interior --

14 Q. I'm gonna show you State's 84 in evidence.

15 A. Okay. The entire interior of this -- of this
16 particular vehicle was searched. We actually removed the
17 passenger seat --

18 Q. Let me show you State's 85 and ask you what we're
19 looking at in this photograph?

20 A. -- as well as the cushions from the backseat being
21 removed.

22 Q. In an attempt to locate a casing?

23 A. Correct.

24 Q. Now you said that a casing may eject. When it's a
25 confined space such as inside a vehicle, is there any

1 determination as to how far that casing may travel? What
2 would you normally expect?

3 A. Not really any determination. A very good probability
4 that it is within arms reach of whoever fired. It could
5 bounce around the cabin.

6 Q. Okay. I'm gonna show you State's 86 and ask you
7 whether or not you recognize this photograph and, if so,
8 what does it depict?

9 A. Yes, I do, and this depicts the trunk we had taken out
10 layer by layer in an effort to see if it had gone through
11 maybe between the area between the backseats.

12 Q. Okay. So you checked the area where the victim's
13 seated in the front passenger area, you checked the
14 backseat area. Tell us to what extent the entire white
15 Ford Focus was examined.

16 A. Every square inch of the interior of that car was --
17 was searched. We -- I really wanted to perform my due
18 diligence. I literally was sifting through brain matter
19 and blood underneath the compartments and underneath the
20 seats of that vehicle looking for a shell casing.

21 Q. And did you locate one?

22 A. No.

23 Q. Now you mentioned the trunk area. I'm gonna show you
24 what is State's 116 and 115. Were they also searched in
25 relation to any items that could be connected to this

1 investigation?

2 A. Yes, it was.

3 Q. Looking there at 116, do you have your CSI report with
4 you?

5 A. I do.

6 Q. Can you tell us whether or not that item depicted in
7 116 was also searched for any relevant information?

8 A. The purple backpack itself was not collected, it was
9 photographed, but there were contents in there that were
10 collected. There were two DMV documents located inside of
11 that backpack.

12 Q. Okay. And just for clarification, this search is
13 being conducted of the victim's white Ford Focus?

14 A. That's correct.

15 Q. What, if any, documents did you recover from the trunk
16 of the victim's white Ford Focus?

17 A. There were two DMV documents. There was a DMV receipt
18 and a DMV registration, both with the name of Joseph Henry.

19 Q. Is that depicted in State's 115?

20 A. Yes, it is.

21 Q. And that's a DMV document that belonged to the
22 Defendant, Joseph Henry?

23 A. That's correct.

24 Q. Now you mentioned the LG phone that was actually found
25 in the Defendant's car, being the blue Toyota, which was

1 searched back at Augusta Road. Was that item also taken
2 into evidence?

3 A. Was which item in evidence, ma'am?

4 Q. That would be the black LG phone --

5 A. Yes, it was.

6 Q. -- depicted in State's 88 and retrieved from the blue
7 Toyota vehicle at Cardinal and Augusta Road.

8 A. It was submitted into evidence.

9 Q. I'm gonna ask you to take a look at State's 123 and
10 ask you who collected this item?

11 A. Okay. I collected it.

12 Q. Take a look here at State's 88.

13 A. Uh-huh.

14 Q. Is this one of the items collected that day?

15 A. Yes, it was.

16 MS. MAYES: This would be for evidence, Your Honor,
17 State's 123.

18 MR. MADSEN: No objection.

19 THE COURT: 123's in evidence.

20 (State's Exhibit Number 123, an LG phone, was
21 admitted into evidence.)

22 BY MS. MAYES:

23 Q. And then you mentioned previously the DMV documents.

24 I'm gonna ask you to take a look at this, State's 125, and
25 ask you whether or not you recognize that item?

1 A. Yes, I do.

2 Q. Are those the same DMV documents you previously
3 described?

4 A. Yes, they are.

5 Q. And whose name are they in?

6 A. They are in Joseph Randolph Henry's name.

7 Q. All right. Now when you collected the firearm,
8 State's 120 as evidence, what, if any, additional action
9 was taken within your lab to obtain evidence to submit to
10 the State Law Enforcement Division, also known as SLED?

11 A. Standard protocol, DNA swabs would be taken of the
12 slide, the trigger and the grip.

13 Q. Was that done in this case?

14 A. Yes, it was.

15 Q. By whom?

16 A. I did those swabs.

17 Q. I'm gonna ask you to take a look at those items,
18 State's 126, and ask you whether or not you recognize the
19 contents?

20 A. These are my envelopes, that's my signature. These
21 are the swabs that I took.

22 Q. Where did you collect -- if you could --

23 MS. MAYES: One more time, Your Honor, if I could
24 ask the witness to step down.

25 THE COURT: Sure.

1 BY MS. MAYES:

2 Q. And briefly, Detective Twigg, bring that item with
3 you, the one you just identified, please. So looking here
4 at what is marked State's 126, what is the purpose of these
5 swabs being collected?

6 A. They are DNA swabs that will identify --

7 Q. If you could speak -- speak up just a little bit
8 louder.

9 A. Sure. It allows you to type DNA, you know, who has
10 handled the weapon, who has been with the weapon. It's
11 called touch DNA.

12 Q. So the purpose would be for DNA collection?

13 A. Correct.

14 Q. Can you tell us where on this item, 120, you went
15 about collecting possible touch DNA evidence?

16 A. Sure. The slide on the top, two swabs, on the trigger
17 and underneath, and then on the third set on the grip
18 itself where fingers would be.

19 Q. All right. So the grip, the trigger and then the
20 slide on top of this firearm, you collected swabs from each
21 of those locations for the purpose of DNA analysis?

22 A. Correct.

23 Q. Once you collected these samples that are included in
24 this envelope, State's 126, how do you go about securing
25 those swabs or that evidence for purposes of later

1 analysis?

2 A. They are packaged in an envelope. We use what are
3 called coin envelopes and so the swabs -- there's three
4 swabs in here, one for each, the grip, the trigger and the
5 slide, and they're labeled and packaged separately for
6 further analysis.

7 MS. MAYES: Your Honor, this would be 126
8 containing three individual swabs for evidence.

9 MR. MADSEN: Same objections.

10 THE COURT: All right. Same objection as in
11 the pre-trial hearing concerning those photographs,
12 et cetera. 126 will be in evidence subject to that
13 objection.

14 (State's Exhibit Number 126, DNA swabs, were
15 admitted into evidence.)

16 MS. MAYES: Thank you. You may return.

17 Then I believe 125 is already in evidence as well,
18 Your Honor. That would be the paperwork.

19 He has identified them, but we would be offering
20 them if not previously done so.

21 MR. MADSEN: Which ones?

22 THE COURT: Which one?

23 MS. MAYES: This would be the paperwork,
24 State's 125.

25 MR. MADSEN: I don't believe we had any objection

1 to that, but...

2 THE COURT: No objection to 125?

3 MR. MADSEN: Right.

4 THE COURT: State's 125's in evidence.

5 (State's Exhibit Number 125, DMV paperwork, was
6 admitted into evidence.)

7 MS. MAYES: I beg the Court's indulgence.

8 Nothing further of Detective Twigg at this time,
9 Your Honor.

10 MR. MADSEN: Judge, can we take a little bit of
11 a break so -- can we take a break so I can put my
12 objection and motion on the record? And we've been
13 going about an hour.

14 THE COURT: Sure. That's fine.

15 We'll take a brief break, ladies and gentlemen.
16 We'll probably break for everybody and we'll be back on
17 the record in about ten to fifteen minutes.

18 Adjourn to the back. Please don't talk about the
19 case. I'll have you back here as soon as possible.

20 (Whereupon, the jury retires to the jury room at
21 11:27 AM.)

22 THE COURT: If you want to step down, that's fine,
23 during the break. Just don't talk to anybody about your
24 testimony.

25 THE WITNESS: Yes, sir.

1 THE COURT: Okay. The jury is out. During the
2 course of Officer Twigg or Deputy Twigg's testimony, we
3 did have a sidebar after the leather -- I'm gonna call
4 it a letter purse for lack of a better description. I
5 think it's State's Exhibit Number --

6 MS. MAYES: 119.

7 THE COURT: -- 190?

8 MS. MAYES: 119.

9 THE COURT: 119, yeah. Okay. 119. What's
10 State's 119, that came into evidence and the officer
11 said that the writing on it is, quote -- the text
12 of the writing is, quote, heavy hitter, there was an
13 objection made.

14 You want to put that objection on the record at
15 this point?

16 MR. MADSEN: Judge, I think it was the heavy
17 hitter and then there might have been something, I
18 don't remember the exact language, but something along
19 the lines of fuck what you know. The solicitor can
20 correct me on that. But our objection, Your Honor, is
21 that, I mean, that's just -- they're introducing that
22 to try to impugn his character. As Your Honor is
23 aware, there was case, State versus Day that talked
24 about an outlaw tattoo. That was held that that was
25 inappropriate. There's no reason that is appropriate

1 in this trial. I can get you the cite today. But,
2 I mean, it's just simply introduced to impugn his
3 character and it's not appropriate and we objected to
4 that, Your Honor, and we would move for a mistrial on
5 that basis. And I believe Day is 341 -- or excuse me
6 535 S.E.2d 431.

7 THE COURT: Right. When you cited it, my law
8 clerk pulled it up, and I think that in Day they held
9 that the repeated reference to outlaw was what was so
10 problematic. That, generally speaking, you know, if
11 you've -- if you've got a -- I think there was some
12 testimony in Day that Day was a member of a gang or
13 something like that and the -- the tattoos that he
14 had, outlaw --

15 MR. MADSEN: But I think the crux of it is that
16 -- the impugning of the character and it's implicit
17 from that that they're trying to say hey, he's a heavy
18 hitter, hey, you know, fuck what you know or whatever
19 that is, and so I think that that rationale is the same
20 and so we objected to that and we do believe that it
21 would be a due process violation under the Fifth and
22 Fourteenth amendments and also Article 1, Section 3.
23 So we objected to that and we moved for a mistrial on
24 that basis.

25 THE COURT: Solicitor, you indicated at the bench

1 conference the reason that you were wanting that purse,
2 and obviously the writing on the purse speaks for itself,
3 it's in evidence, but the reason that you were eliciting
4 that -- that testimony specifically was?

5 MS. MAYES: It does tie in, Your Honor, with
6 testimony from at least two later witnesses who heard a
7 statement that the Defendant made that is going to be
8 similar in nature. And, in addition, that item was
9 already in evidence at the time that the content of the
10 exterior was published. It was in evidence without
11 objection.

12 MR. MADSEN: Well, we -- I mean, so a/k/a it would
13 be character evidence.

14 MS. MAYES: It was admitted without objection.

15 THE COURT: Okay.

16 All right. Well, I appreciate your position. The
17 writing on it is the writing on it. Whether it says
18 heavy hitter or made in China or whatever the case may
19 be, it speaks for itself. The fact that the officer
20 -- deputy rather read what was there, I'm assuming that
21 the jury can read, too. And I appreciate your position,
22 but your motion for mistrial is denied and your objection
23 is however noted.

24 MR. MADSEN: Thank you, Your Honor.

25 THE COURT: Yes, sir.

1 Let's take a few moments for ourselves. After we
2 finish with this witness, I'm assuming your cross is
3 gonna be fifteen or twenty minutes give or take?

4 MR. MADSEN: Yes.

5 THE COURT: And after this -- who do you have after
6 this?

7 MS. MARTIN: Brannon Marthers to do video evidence
8 and it shouldn't be very lengthy.

9 THE COURT: It would be lengthy?

10 MS. MARTIN: It will not.

11 THE COURT: Will not. Great. We'll plan on doing
12 that at least before lunch.

13 We'll be at ease a few moments for ourselves and
14 you-all just be back in here in about ten minutes, okay?

15 We're at ease.

16 (Recess taken at 11:32 AM.)

17 (Back on the record at 11:52 AM.)

18 BAILIFF: All rise. Court's in session.

19 THE COURT: Thank you. Have a seat.

20 Go ahead and get the jury moving, please.

21 (Whereupon, the jury returns to the courtroom at
22 11:55 AM.)

23 THE COURT: The record will reflect that the jury
24 is back and seated.

25 Ladies and gentlemen, we're still involved in the

1 examination of Deputy Twigg here, so at this point if
2 you'll give me your cross, please.

3 CROSS-EXAMINATION

4 BY MR. MADSEN:

5 Q. Deputy Twigg, I believe you arrived at about 8:31 that
6 morning, correct?

7 A. Yes, that is correct.

8 Q. And I think you testified that when you got there they
9 were just putting crime scene tape up?

10 A. I believe they were finishing up. It was a big
11 perimeter of that parking lot.

12 Q. So about forty-five minutes after the call had
13 initially gone out, where the gunshot tone had gone out?

14 A. I know they were finishing up about that time.

15 Q. And when you get out at the scene, you get some
16 background information, but, I mean, things change, you
17 don't really know what's going on and so you start to do
18 -- as a crime scene investigator, you start your process,
19 correct?

20 A. Correct.

21 Q. And that's to try to completely document a scene?

22 A. Correct.

23 Q. And so do you start and search from the outside and
24 kind of work back towards that car initially to look in the
25 area around?

1 A. It's gonna -- there are other factors involved. For
2 me, my first response being at that church was being
3 concentrated on that vehicle.

4 Q. So that day were you ever made aware of a need to
5 potentially search the perimeter around the car at that
6 church?

7 A. I know we had searched within the crime scene
8 perimeter where the crime scene tape was, but outside of
9 that, no, I don't.

10 Q. You were never made aware that Joshua Murray or
11 Kaitlyn Skyrme had removed stuff from that vehicle and that
12 you might need to look for that?

13 A. I don't believe I was made aware. I'm not sure if
14 road units had been made aware or detectives.

15 Q. But that's something you'd want to know obviously as a
16 crime scene --

17 A. Potentially.

18 Q. And you started photographing the car and I think we
19 saw some of those photographs and I believe outside the
20 driver's side you found a -- I believe it was a white
21 lighter and then maybe back by the -- the driver's side
22 back there was a pair of pink sunglasses?

23 A. Correct. I've got it listed as a gray lighter, but,
24 yes, sir.

25 Q. Okay. Gray lighter. And that was outside the

1 driver's door and you documented and photographed that and
2 then there was kind of a pinkish pair of sunglasses behind
3 the driver's side in that -- that back passenger and that
4 was on the ground outside of the car?

5 A. Correct.

6 Q. And you documented that with a photograph?

7 A. Right, and those were collected.

8 Q. And all those windows were rolled up when you got
9 there on the car?

10 A. That's correct.

11 Q. And I think there was -- the passenger side door was
12 open?

13 A. That's correct.

14 Q. And at some point in time you received Joshua Murray's
15 clothing?

16 A. That is correct.

17 Q. And when you got there, did you search him, pat him
18 down?

19 A. Did I? No.

20 Q. Were you just given the clothing from someone else?

21 A. No, I was actually present when he changed and I
22 photographed the -- the clothing as I collected it from
23 him.

24 Q. So you actually went in there and watched him changed?

25 A. He was allowed to go and change on his own. I was

1 present. I did receive the -- the pants as soon as he took
2 them off.

3 Q. So I'm a little bit confused, so let's see if we can
4 figure this out. So he's allowed to go someplace and to
5 change and then to bring his clothing back to you?

6 A. I was on the other side of the door.

7 Q. Okay. Did you go and take a look in that room to make
8 sure he didn't leave anything or put anything in there?

9 A. I did.

10 Q. You did?

11 A. (Nods head.)

12 Q. How long of a search did you do of that room?

13 A. It was a very small bathroom. It was a one-seat
14 toilet and sink only, so it wasn't very long.

15 Q. And did you ever search or pat down Kaitlyn Skyrme?

16 A. I did not.

17 Q. Do you know if anyone did?

18 A. I do not.

19 Q. Anyone ever check either hers or Joshua Murray's,
20 their property, their bags or anything like that?

21 A. Not to my knowledge. I know anything within that car
22 would have been searched and once I got Mr. Murray's
23 clothes, the jeans and pockets were searched thoroughly
24 when I received them before placing them in the drying
25 chamber.

1 Q. But not Ms. Skyrme's?

2 A. No, sir.

3 Q. How about did you ask to collect their phones?

4 A. I did not collect their phones.

5 Q. Well, you would have been crime scene out there --

6 A. Correct.

7 Q. -- so, I mean, it should have come to you, correct?

8 A. Correct.

9 Q. And you don't have anything in there showing that any
10 phones from them were collected?

11 A. Not by me. I don't know if any detectives took
12 phones.

13 Q. But that can be -- information can be gleaned off of
14 phones by someone else, correct?

15 A. Sure.

16 Q. Text, calls, social media stuff that happens before
17 and afterwards, and that can be important to law
18 enforcement, can't it?

19 A. It can.

20 Q. But as far as you know, no one ever asks or collects
21 those phones?

22 A. I did not.

23 Q. And you end up going to an area down the road and
24 there's kind of a -- there's a car there, a blue Toyota,
25 and then also some buildings and I believe there's also a

1 CSI Ward?

2 A. Correct.

3 Q. And he kind of documents the building, not you?

4 A. That is correct.

5 Q. And so when you're out there on that first scene, do
6 you ever swab either Joshua Murray or Kaitlyn Skyrme for
7 GSR or gunshot residue?

8 A. We did not do GSR, no.

9 Q. And just so the jury knows, GSR is something that when
10 a gun fires it expels gases and particles out of the end
11 that the bullet or the projectile comes out, correct?

12 A. Correct.

13 Q. And you've been trained on how to collect that,
14 haven't you?

15 A. Yes.

16 Q. And when those gases come out, they can get on people
17 if you're around where a gun is fired, correct?

18 A. That's correct.

19 Q. If someone shoots a gun, it can also get on your
20 hands?

21 A. It can.

22 Q. And there's specific particles that come out of that
23 gun and almost -- I'm going to dumb it down, but, I mean,
24 you take something and you can just press on someone's
25 hands and potentially collect those particles, correct?

1 A. Correct.

2 Q. And as a CSI investigator, I imagine you've done that
3 numerous times before?

4 A. That is correct.

5 Q. But you didn't do that on Joshua Murray or Kaitlyn
6 Skyrme, correct?

7 A. Correct.

8 Q. And not only just hands, but GSR can also come off of
9 clothing; can it not?

10 A. You can have GSR on your clothes.

11 Q. You never checked for that?

12 A. I did not.

13 Q. Do you know if anyone did?

14 A. I do not know.

15 Q. And generally when you check for someone with GSR,
16 there's a timeframe, I think, associated with that, isn't
17 there?

18 A. If we are going to do that on a scene, we usually
19 do it pretty early, but I'm not sure of the specific
20 timeframe.

21 Q. I thought it was usually that you wanted to do it
22 within about two or three hours?

23 A. That would be reasonable.

24 Q. But still you don't do that, correct?

25 A. We did not do that.

1 Q. And then when you go and you move over to the blue
2 Toyota, as you testified and showed us you found a
3 9-millimeter gun wrapped in hoodie, correct?

4 A. That's correct.

5 Q. And you swabbed the slide, the trigger and the handle
6 for DNA?

7 A. (Nods head.)

8 Q. And you did that in your lab?

9 A. That's correct.

10 Q. And you're -- you do those areas where you take -- is
11 it almost like a Q-tip or something and just kind of --

12 A. It is a Q-tip, yes, sir.

13 Q. And just kind of rub those particular areas, correct?

14 A. That's correct.

15 Q. Did you check that gun for GSR?

16 A. That I did not. I do not know if that was part of the
17 IBIS submission later on, but that was not me.

18 Q. But you could have done that if it was requested of
19 you, correct?

20 A. Sure.

21 Q. Because that's -- again, I guess you take something
22 and it -- it doesn't look like a Q-tip, but almost like a
23 little circle kind of thing and just kind of tap it in
24 certain areas, correct?

25 A. Yes, sir.

1 Q. And it can show if there's gunshot residue on that
2 gun, can't it?

3 A. It can.

4 Q. Showing that it's been recently fired?

5 A. Sort of.

6 Q. And then that gunshot residue can also transfer to
7 other items, can't it?

8 A. It could.

9 Q. And so that gun's wrapped in a hoodie. Do you check
10 that hoodie to see if there's any gunshot residue on that
11 hoodie showing that that gun had been fired?

12 A. No, I did not.

13 Q. And no one does that, do they?

14 A. Not to my knowledge.

15 Q. And I'm assuming with your training through law
16 enforcement, you've fired semiautomatic or 9-millimeter
17 weapons, correct?

18 A. Yes, sir.

19 Q. And when a projectile is fired out of that, there's --
20 there's heat that's generated, so you certainly don't want
21 to touch the end of a gun right after it's been fired or
22 you could burn yourself?

23 A. Correct.

24 Q. So you don't see any type of scorch marks or any burn
25 marks in that hoodie that shows that a hot gun had been

1 wrapped in there, do you?

2 A. I don't.

3 Q. You would have documented that if you saw it?

4 A. Sure.

5 Q. And then I think you had told the solicitor so when
6 you fire a semiautomatic weapon that there's a -- so I'm
7 gonna call it a bullet, I'm probably wrong saying that, but
8 you've got that whole piece and you've got a casing and
9 then you've got the projectile that kind of sits inside
10 that casing and when the hammer comes down, it strikes a
11 primer that starts basically a fire that pushes that
12 projectile out, correct?

13 A. Sure.

14 Q. And that's where those gases all come from?

15 A. (Nods head.)

16 Q. And in a semiautomatic weapon like that, that casing
17 then is just kind of flung out of the gun?

18 A. Through the ejection port.

19 Q. Through the ejection port. And there's -- you've
20 probably fired through your training hundreds and hundreds
21 of rounds, correct?

22 A. That's correct.

23 Q. There's no rhyme or reason where that casing is going
24 to end up going, but if it's in a closed car with the
25 windows shut it's gonna be in that car, isn't it?

1 A. Potentially. It should be.

2 Q. Well, I mean, it's magically not going to go through
3 glass or metal or anything else, is it?

4 A. It shouldn't. It should be the in car.

5 Q. And you looked all over the car for that?

6 A. That's correct.

7 Q. And did not find it?

8 A. Correct.

9 Q. It had to have been removed by someone?

10 A. Potentially, yes. That's an explanation.

11 Q. And Joe was arrested pretty early?

12 A. That's correct.

13 Q. And you could have checked his hands for gunshot
14 residue, couldn't you?

15 A. He was not -- I believe he was already in the back
16 of a patrol car, but I -- I don't know how long he was
17 on-scene, but perhaps.

18 Q. Well, if it was within twenty minutes and someone
19 said hey, come check him for GSR, you could have done that,
20 couldn't you?

21 A. I could have.

22 Q. But no one asked you to do that?

23 A. No.

24 Q. And you could have checked his clothing later for
25 gunshot residue?

1 A. Correct.

2 Q. But no one asked you to do that?

3 A. Correct.

4 Q. And the -- the gun or the hoodie, you could have
5 checked that for any type of traces of blood, correct?

6 A. Yes.

7 Q. And you didn't do that?

8 A. It was examined. I did not see anything on the hoodie
9 itself consistent with blood.

10 Q. But, I mean, you can also use chemicals, is it
11 luminesce or something that can kind of show up some of the
12 proteins in blood?

13 A. Sure.

14 Q. But you didn't do that. That can show blood that you
15 can't see with the naked eye, correct?

16 A. Correct.

17 Q. And you never do that and check Joe's car for any
18 blood or see anything, luminesce or anything like that?

19 A. Right.

20 MR. MADSEN: That's all -- that's all the questions
21 I have.

22 THE COURT: Redirect.

23 MS. MAYES: Yes, sir, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. When we talk about GSR, I believe the defense
2 counsel's question to you was GSR can extend to a person
3 around where a gun was fired. That was the question that
4 Mr. Madsen posed to you just moments ago?

5 A. Correct.

6 Q. What, if anything, is significant about a confined
7 space such as inside of a vehicle when a gun is fired?

8 A. In a confined space in regards to GSR?

9 Q. Correct.

10 A. It would be more evident. It would be in a lot more
11 places. It would be in a higher volume in a -- in a
12 enclosed, confined space.

13 Q. And so to follow up on that question by defense
14 counsel, in a confined space such as a vehicle it could
15 reach everyone in that vehicle --

16 A. Absolutely.

17 Q. -- in that confined space?

18 A. (Nods head.)

19 Q. And their clothing?

20 A. Correct.

21 Q. Can you tell us whether or not that type of scenario
22 such as where and how a gun is fired impacts decisions that
23 are made about whether or not to collect GSR?

24 A. If it's ever in doubt that someone was within
25 proximity of a weapon, if it was ever in doubt that

1 someone had their hands on a weapon, usually is a higher
2 probability that we will do a GSR.

3 Q. All right.

4 A. Mr. Murray in particular placed himself in the car,
5 stated the gun was fired. We didn't need to -- you know,
6 we didn't doubt that, we did not do GSR on anyone in that
7 car. It would have been everywhere.

8 Q. All right. When you say everywhere, you would expect
9 all passengers and occupants of that vehicle to have GSR on
10 them?

11 A. Correct.

12 Q. Now one of the questions Mr. Madsen just asked you was
13 about photographing clothing such as this hoodie. Did you
14 photograph that hoodie?

15 A. Yes, I did.

16 Q. Did you physically examine it?

17 A. Yes, I did.

18 Q. And that hoodie is the one that was found inside the
19 bag, correct?

20 A. It is.

21 Q. But in addition to that, did you physically examine
22 any other items of clothing?

23 A. I had physically --

24 Q. You can take your time and look at your report, if
25 you'd like.

1 A. I did physically examine the Defendant's clothing
2 later.

3 Q. All right.

4 A. I did receive the victim's clothing, but only enough
5 to put it in the drying chamber at a later date as well.

6 Q. All right. I'm gonna go ahead and show you what is
7 State's 98. You previously identified this for
8 identification only.

9 A. Yes.

10 Q. And what is depicted in this item?

11 A. That is the gray and white shirt that was taken from
12 the evidence box that was said to be the Defendant's.

13 Q. All right. And did you examine this for any evidence
14 of blood?

15 A. Yes, it was examined initially for the presence -- the
16 determination of whether or not there was blood.

17 Q. All right.

18 MS. MAYES: And at this time, Your Honor, we would
19 offer State's 98 as evidence.

20 MR. MADSEN: No objection.

21 THE COURT: Without objection State's 98 is in
22 evidence.

23 (State's Exhibit Number 98, a photograph, was
24 admitted into evidence.)

25 BY MS. MAYES:

1 Q. All right. So going back to your familiarity with
2 the case, I'm gonna show you what is State's 69 already in
3 evidence, and ask you if you recognize the shirt that is
4 shown?

5 A. I do recognize it. It's the same shirt.

6 Q. Looking at 69 already in evidence, 72 already in
7 evidence and then 75 already in evidence, for what reason
8 did you ask to examine that shirt, that gray shirt?

9 A. Going back through photographs it was determined that
10 right here appeared to be a reddish-brown stain consistent
11 with blood and I wanted to see further if there was
12 anything further to make me believe it was blood and
13 potentially get that sent to SLED for further analysis.

14 Q. All right. And would -- would taking that blood
15 sample, testing it and then sending it to SLED be ordinary
16 and routine for examination of a bloodstain?

17 A. It would be procedure for us to do that, yes.

18 Q. All right. What happened, Detective Twigg, when you
19 retrieved this item and attempted to examine what you
20 believed was a possible bloodstain?

21 A. I annotated in my report that it was on or about
22 March 1, 2019, I had requested the suspect's clothing that
23 was put into evidence by another detective because of that
24 small reddish-brown stain. I received the clothing, I
25 observed a hole in the shirt in the same location as is the

1 space where the suspected bloodstain is.

2 Q. Let me show you 98 now in evidence.

3 A. When I took it out of the box, right along that same
4 white line where that reddish-brown stain used to be was a
5 hole.

6 Q. But this stain was not present when you retrieved that
7 item?

8 A. That is correct.

9 Q. Considering the hole in the shirt, did you still
10 continue to examine it to see if there would be anything
11 of sufficient quality or quantity to submit to the State
12 Law Enforcement Division?

13 A. It was further examined to see if there were any other
14 stains, nothing else was found on the shirt, and so the
15 processing of that shirt it was not submitted because there
16 was nothing to submit.

17 Q. All right. As a result of discovering that hole, do
18 you know whether video was retrieved from the Lexington
19 County Detention Center to determine when and how that hole
20 came about on the -- on the Defendant's shirt?

21 A. I do know there was a video being requested for the
22 intake area of the detention center and I was given that
23 video to examine and I was able to capture some screen
24 shots, some still photographs from that video.

25 Q. All right. And having done that, can you tell us

1 whether or not the hole was present at the time he arrived
2 for booking after being placed under arrest for this
3 charge?

4 A. When he is in intake that hole is visible in the shirt
5 already.

6 Q. Thank you. Now one additional question. Joshua
7 Murray, I believe you got a question about him changing
8 clothes. I'm gonna show you what is State's 6. Were you
9 present when his clothes were changed?

10 A. That's correct.

11 Q. Right outside the door?

12 A. That's correct.

13 Q. Did you ever see any evidence of a weapon on his
14 person or among his clothing?

15 A. No.

16 Q. Or in the bathroom after he changed clothes?

17 A. No.

18 MS. MAYES: Nothing further.

19 THE COURT: Recross.

20 RE CROSS EXAMINATION

21 BY MR. MADSEN:

22 Q. But you're with him forty-five minutes after the call
23 goes out, correct? Mr. Murray at least.

24 A. I arrived at 8:31. I had no idea what other first
25 responders may have done. I was not first on-scene.

1 Q. And if Joseph Henry does haven't any -- well, you
2 talked about GSR in a confined space, it would be over
3 everything, but there can be a difference with GSR
4 particles on back of hands showing that someone fired a
5 gun, correct?

6 A. GSR is gonna show up as either present or not.

7 Q. And if he had -- if Joseph Henry has no GSR on him,
8 he's not in that confined space where a gun's fired, is he?

9 A. To my knowledge GSR was never done.

10 Q. So we don't know the answer, correct?

11 A. I can say that GSR was not taken.

12 Q. Not taken from the hoodie either that the gun was
13 wrapped in?

14 A. Correct. There would have been an automatic transfer
15 having been wrapped around a handgun.

16 Q. But we don't know because no one did that, correct?

17 A. That's correct.

18 Q. And that would show if that gun had been fired?

19 A. There are other ballistic tests you can do. I was
20 not part of the IBIS examination, but as far as GSR on the
21 weapon, no.

22 MR. MADSEN: Okay. Thank you.

23 THE COURT: All right, sir. Thank you very much
24 for coming. You can step down.

25 THE WITNESS: Thank you, Your Honor.

1 (Witness excused.)

2 THE COURT: Call your next witness, Solicitor.

3 MS. MARTIN: Thank you, Your Honor. The State
4 calls Brannon Marthers.

5 (Whereupon, Brannon Marthers was duly sworn by
6 the Clerk of Court.)

7 THE CLERK: Thank you. Have a seat right up there.
8 Once you're seated state your full name, spelling your
9 last, please.

10 THE WITNESS: My name is Brannon Marthers,
11 M-A-R-T-H-E-R-S.

12 THE COURT: You can take the mask off while
13 you're there, sir.

14 THE WITNESS: Thank you, Judge.

15 THE COURT: Yes, sir.

16 BRANNON MARTHERS,
17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MARTIN:

20 Q. Investigator Marthers, where are you employed?

21 A. I am employed a the Lexington County Sheriff's
22 Department.

23 Q. And what position do you hold?

24 A. Currently I'm in the criminal intelligence unit as a
25 detective assigned to that. Previous to that during the

1 time of this incident I was assigned to the major crimes
2 unit.

3 Q. Okay. And how long have you been with the sheriff's
4 department?

5 A. Since August of 2008.

6 Q. 2008?

7 A. Yes, ma'am.

8 Q. If I can call your attention to February 21st of 2019,
9 can you tell us how -- how and whether you were notified of
10 an emergency tone out about 7:44 that morning?

11 A. Yes, ma'am. On the way into work as I was driving, I
12 overheard radio communications that there was an incident
13 that occurred around the 4200-block of Augusta Road that
14 involved a shooting and being that I was in major crimes
15 at that time I knew I was to respond to my unit anyway, so
16 I responded immediately.

17 Q. Okay. Do you know approximately what time you got to
18 the church parking lot?

19 A. May I refer to the call card for that?

20 Q. You may.

21 A. It looks like my call card -- or the dispatcher wasn't
22 able to record my time on-scene, but I know I was en route
23 to the scene at approximately 7:45 and 51 seconds, so
24 potentially a ten or fifteen minute drive from where I was
25 at.

1 Q. And when you got to the scene there at the Fellowship
2 Baptist Church, can you tell us whether or not the victim
3 was still there?

4 A. EMS was actively working on the patient and I believe
5 they were attempting to load her into the back of the
6 ambulance.

7 Q. And after that happened, where did you go and what did
8 you do?

9 A. I conferred with Detective Black if she wanted me to
10 follow the victim to the hospital, which she indicated she
11 did, and I did follow EMS to Palmetto Health Richland.

12 Q. Okay. And do you recall what was the -- the condition
13 of the victim at that time?

14 A. She was unresponsive.

15 Q. And did you have any other duties there at the
16 hospital?

17 A. I stood by for the medical team to perform their
18 duties to kind of relay information back and forth between
19 hospital security and -- because their procedures whenever
20 this kind of incident happens and a victim's brought to
21 them, they have to know about potential threats coming to
22 their facility. Once I was able to let them know that a
23 potential suspect was detained, medical staff was able to
24 at that point give me the belongings of the victim.

25 Q. Okay. And did you retrieve Alexis' clothes?

1 A. Yes, ma'am, I did. And once I got them, when they
2 were getting ready to take her to receive a scan, I believe
3 a CAT scan, I secured them in my vehicle.

4 Q. Okay. And did you latter turn them over to
5 Investigator Twigg?

6 A. Yes, ma'am.

7 Q. Do you recall there came a time that you went to
8 another location involving this case?

9 A. Yes, ma'am. Once I left the hospital and advised
10 Detective Black of the situation, I responded to an
11 incident location up on Cardinal Drive where crime scene
12 was beginning to process that scene, as well as conduct a
13 search warrant.

14 Q. Okay. And do you have an approximate time by using
15 your CAD to refresh your memory as to what time you got to
16 Cardinal?

17 A. It shows me clearing the hospital at 10:57 in the
18 morning and then there's an arrival at 11:19 and
19 18 seconds.

20 Q. If I can refer to State's 39, can you orient yourself
21 in regards to this map?

22 A. Yes, ma'am. To the right would be West Columbia, to
23 the left would be Lexington.

24 Q. Okay. And I think you have a pointer, a laser
25 pointer, there.

1 A. Yes, ma'am.

2 Q. Did you have an occasion to track the distance between
3 Fellowship Baptist Church and Cardinal, which is at the end
4 of this poster?

5 A. Yes, ma'am. Using Google mapping, I was able to
6 ascertain the distance from approximately this location to
7 this location at Windsor West CDC to be approximately
8 900 feet.

9 Q. Okay. And did you have occasion to travel the road of
10 Cardinal in regards to this preparation for court?

11 A. Cardinal Drive I'm familiar with. Yes, ma'am.

12 Q. Okay. Can you tell us whether or not Cardinal Drive
13 is landlocked?

14 A. Landlocked meaning one way in and one way out?

15 Q. Right.

16 A. Yes, ma'am.

17 Q. Detective Marthers, were you tasked with the
18 collection of any other evidence in regards to this case?

19 A. Yes, ma'am. At one point I was advised of security
20 footage being at the child develop -- excuse me, the child
21 development center across the street, Windsor West.

22 Q. Okay. We'll get to that in just a moment. Was there
23 another business that you also went to?

24 A. Yes, ma'am. I also located security footage at
25 Corey's Automotive, which is essentially directly across

1 the street from the church on Augusta Road.

2 Q. Okay. And when you went there to secure video
3 footage, do you remember who you talked to or --

4 A. For which location?

5 Q. For the Corey's Collision, did you have occasion to
6 meet Toby Britt?

7 A. For Corey's, I met with Hunter Green, Toby Britt and
8 Norman Corey.

9 Q. Okay. And did you have an opportunity there at the
10 business at Corey's Collision to view the security footage?

11 A. Yes, ma'am.

12 Q. And can you tell us at Corey's Collision what -- or
13 how many camera views there are there at the business?

14 A. For the views that covered the area of Augusta Road,
15 I was shown two.

16 Q. Okay. And after reviewing that video surveillance
17 there, did you make any decisions in regard to that
18 evidence?

19 A. I requested information on how to obtain a copy of
20 that footage from them.

21 Q. And did you, in fact, collect footage of the security
22 footage from Corey's Collision?

23 A. Yes, ma'am. They had to call in a technician to come
24 down and load it, but I did recover it.

25 Q. Your Honor, if I may approach the witness and show you

1 State's Exhibit 42. Do you recognize anything on that CD?

2 A. Yes, ma'am. That's a CD that contains a copy of the
3 security footage that I viewed with my initials.

4 Q. And is this the same security footage that you viewed
5 when you were at the business at Corey's Collision?

6 A. Yes, ma'am.

7 Q. Okay. And has it been altered in any way?

8 A. Not that I'm aware of.

9 Q. Okay. And does it reflect what you viewed from your
10 office visit there at Corey's Collision?

11 A. Yes, ma'am.

12 MS. MARTIN: Your Honor, I'd move State's 42
13 into evidence.

14 MR. MAULDIN: No objection.

15 THE COURT: Without objection State's 42 is in.

16 (State's Exhibit Number 42, DVD/Corey's Automotive,
17 was admitted into evidence.)

18 THE COURT: You can publish if you wish.

19 (Whereupon, State's Exhibit Number 42 was played.)

20 BY MS. MARTIN:

21 Q. Can you pause it right there, please. Thank you.

22 Detective Marthers, can you orient us as to which
23 camera angle this shows?

24 A. Yes, ma'am. This camera located on the side of
25 Corey's Automotive is facing Augusta Road pointed toward

1 the direction of West Columbia. So the traffic you see
2 moving from left to right would be coming from Lexington
3 to West Columbia.

4 Q. And could you use your laser pointer for a moment and
5 tell me where in that still shot the church, Fellowship
6 Baptist Church, would be?

7 A. Their parking area is right in this area.

8 Q. Okay. And using that, which way is towards Lexington?

9 A. It would be the left side, this way.

10 Q. Okay. And which way is obviously towards West
11 Columbia?

12 A. The right-hand side.

13 Q. Okay. Can you tell us the date that's shown on that
14 screen?

15 A. February 21, 2019.

16 Q. And what is the time?

17 A. 7:42 and 07 seconds.

18 Q. Okay. Detective Marthers, can you tell us
19 approximately how many times have you viewed this video?

20 A. It's been enough that I can't count.

21 Q. Okay. And can you tell us does it play rather fast or
22 rather slow?

23 A. If it's on the disc itself, it is kind of slow;
24 however, I found that if you bring it to your computer it
25 does streamline the video.

1 Q. And is there a counter going that also tracks the
2 seconds?

3 A. There's -- there's two counters. Obviously the one
4 that's on the system itself in this bottom corner here and
5 depending on how the program's set up this bottom corner
6 here counts the time of the video.

7 Q. And during your multiple times viewing this security
8 footage, is there a way to play this disc by zooming in?

9 A. Yes, ma'am.

10 Q. Okay. And do you believe or have an opinion as to
11 whether or not that would assist the jurors in being able
12 to properly view this evidence?

13 A. I believe so because it assisted me.

14 Q. Okay.

15 MS. MARTIN: Your Honor, we would move to publish
16 and we're gonna do it in a zoom fashion, please.

17 THE COURT: All right. Go ahead and proceed then.

18 (Whereupon, State's Exhibit Number 42 was played.)

19 BY MS. MARTIN:

20 Q. That canopy shed in the middle, do you see that where
21 the truck is?

22 A. Yes, ma'am.

23 Q. Is that part of the Fellowship Baptist Church parking
24 lot?

25 A. I want to say it is; however, there is another

1 business directly beside it that has stuff in the backyard.

2 Q. Okay.

3 A. Without going back out to refresh my memory, I can't
4 say for certain.

5 Q. What, if anything, do you notice here?

6 A. A vehicle is pulling over from Augusta Road into the
7 driveway area of the church.

8 Q. Can you pause it, please. And what do you see here?

9 A. This four-door sedan just stopped coming from the
10 direction of West Columbia.

11 Q. Okay. And did you see anyone get out of the vehicle?

12 A. At this exact moment, I can't tell.

13 Q. Okay. Continue, please.

14 A. There is somebody standing outside. It looks like the
15 rear passenger -- the rear driver door is open and just to
16 the right you can see somebody moving in and out of the
17 vehicle.

18 Q. Okay. Can you pause it there, please? What do you
19 see there?

20 A. The driver has exited the vehicle also and is
21 approaching the person who got out of the rear driver's
22 door.

23 Q. Okay. And what's the time?

24 A. 7:42 and 55 seconds.

25 Q. Okay. Please continue.

1 Pause. What, if anything, do you notice about the
2 video here?

3 A. The person that was in the rear driver's seat has
4 exited and has began to walk towards Lexington and the
5 driver is still beside the vehicle.

6 Q. Okay. And do you see anyone else?

7 A. At this moment, no, but in a few seconds there will
8 be somebody that appears.

9 Q. Okay. Right here?

10 A. There is somebody from the passenger side comes around
11 to the driver's side, a smaller frame person, lighter skin,
12 potentially white. From a distance it's hard to tell race
13 -- or stature rather, but with a smaller frame it could be
14 a female.

15 Q. Okay. Please continue.

16 Could you pause it, please? What do you see here?

17 A. At this point the driver of the vehicle and the person
18 who was on the passenger side is -- they're communicating
19 just prior to the video being paused and now it looks like
20 they are separating, the driver is approaching back towards
21 the vehicle and the passenger is walking towards the other
22 business right here.

23 Q. Okay. Please continue. And what, if anything, do you
24 notice here?

25 A. The driver is actively trying to flag down someone to

1 stop.

2 Q. And the other passenger has walked away?

3 A. Walked away towards that white building to the right.

4 Q. At any time had you seen those two people go back
5 inside of the car?

6 A. No, ma'am.

7 Q. What do you see here?

8 A. As far as the --

9 Q. What can you see about the location of the man who's
10 flagging down traffic?

11 A. From this distance it looks like he's right here, but
12 there's so much vehicle traffic and too far away. Yes,
13 that's him right there.

14 Q. Could you pause, please.

15 Could you say whether or not he was actually in the
16 roadway or on the -- right by the roadway?

17 A. If he wasn't in the roadway, he was extremely close
18 to it.

19 Q. Okay. And what do you see in this location?

20 A. At this point it looks like he is turning to walk back
21 to what would be a vehicle pulling into the location.

22 Q. Okay.

23 THE COURT: It's at 7:44 and 45 seconds just for
24 the record.

25 BY MS. MARTIN:

1 Q. Could you pause, please? 7:44:55.

2 Can you tell us anything about that other car
3 approaching?

4 A. I'm not certain of the person's name; however, I
5 believe that is the individual who called 9-1-1. When I
6 arrived on-scene, on her passenger side I observed a white
7 female noticeably distraught standing by. Who that person
8 was at that time, I did not know, but it appeared that that
9 was a Good Samaritan that stopped.

10 Q. Please continue. And do you see the other passenger
11 returning?

12 A. At one point she does return and she just came from
13 the front of the car right there.

14 Q. Do you see the passenger in the location where she was
15 when you got there?

16 A. When I got there, she was actually in the car seated.

17 Q. Okay. At this point are you aware of whether or not a
18 9-1-1 call had been made?

19 A. Looking at the communication records, the call was
20 received at -- it appears to be 07:44 and 38 seconds.

21 Q. And what do you see happening here?

22 A. At this point the first deputy on the scene arrives.

23 Q. And who do you see approaching him immediately, the
24 male or the female?

25 A. I believe it was the male.

1 Q. Okay. So the first officer is there at 7:48:28; is
2 that correct?

3 A. According to the security footage, he pulls in just
4 around 7:48 and 19 seconds, I believe is what I saw. Our
5 call card is just a few seconds different, but it's still
6 7:48.

7 Q. Let's talk about that for a minute. So we have call
8 card times, security footage times, cell phone times. Are
9 they all based on your experience -- and body cameras. Are
10 they all gonna match within the seconds? Are they gonna
11 match?

12 A. If you have a system that linked to essentially an
13 internal network, then those would potentially match;
14 however, security footage if it's not connected to the
15 Internet, if it's just a standalone system, over time it
16 doesn't surprise me if it loses count of seconds, minutes.
17 Unfortunately, it's my experience I've seen more camera
18 systems with the wrong time than I have with the correct
19 time.

20 Q. Can you tell us whether or not you think this time
21 matches pretty close to the CAD calls?

22 A. With what I've seen I would say it's within seconds.

23 Q. Okay. And you said you collected footage from the
24 second camera there at Corey's?

25 A. Yes, ma'am.

1 Q. All right. Can you pause it? So let's talk about
2 this. What's the time on this camera footage?

3 A. This camera starts at 7:42 and at this point
4 03 seconds.

5 Q. And can you orient us as to which way this camera
6 footage is showing?

7 A. The camera's pointed towards Cardinal Drive,
8 Lexington, Barnyard Flea Market, if you will, which is
9 towards this direction, and this side will be towards West
10 Columbia.

11 Q. Okay. Can you tell us where the church would be on
12 this frame?

13 A. That would be the sanctuary right there.

14 Q. Okay. And where would the victim's car and the 9-1-1
15 caller's car be on this frame?

16 A. Towards the right off frame.

17 Q. Off frame to the right?

18 A. Over on that side.

19 Q. Okay. Could we also play this in zoom?

20 Is that Fellowship Baptist Church right there, the
21 white building?

22 A. Yes, ma'am.

23 Q. Pause. What, if anything, do you notice in this
24 frame?

25 MS. MARTIN: And is there any way to get a time on

1 the frame, Ms. Jones?

2 A. At -- just a moment ago when we paused, the subject
3 from the other footage that walked away from the vehicle
4 towards Lexington appears in the frame here walking still
5 towards Lexington.

6 Q. Towards Oak Grove, towards Cardinal?

7 A. Oak Grove, Cardinal Drive, Barnyard.

8 Q. Okay. So that's 7:43:34.

9 All right. If we can continue.

10 Can you tell us from where this camera angle drops
11 off, how much further down Number 1 is Windsor West and
12 Cardinal?

13 A. As far as the exact distance, I'm not certain, but
14 I do know, again, in front of Windsor West and Corey's
15 Automotive if you took the front of both buildings directly
16 center, Google measures that to be 900 feet approximately.

17 Q. And by 7:45 and -- and some seconds the person that
18 we've watched walk is now off frame; is that correct?

19 A. Yes, ma'am.

20 Q. If I can show you these exhibits, and I'll give the
21 numbers in a moment, do you recognize these? Take a moment
22 and flip through them.

23 A. Yes, ma'am.

24 Q. And what do you know these to be?

25 A. Those are essentially screen shots or screen captures

1 of those security footage from Corey's Automotive.

2 MS. MARTIN: Your Honor, for the record we would
3 move these into evidence and I believe it is without
4 objection.

5 MR. MAULDIN: Correct, sir.

6 MS. MARTIN: 43, 65, 44, 45, 46, 106, 47, 107, 108,
7 109, 110, 48, 49, 50, 111 and 112.

8 THE COURT: All right. State's 43 through 50 and
9 106 through 112 and 65 shall be in evidence.

10 MS. MARTIN: Thank you.

11 (State's Exhibit Numbers 43, 44, 45, 46, 47, 48,
12 49, 50, 65, 106, 107, 108, 109, 110, 111 and 112,
13 photographs, were admitted into evidence.)

14 BY MS. MARTIN:

15 Q. State's 43. What camera angle is that on 43?

16 A. That would be the one pointed towards the direction of
17 West Columbia.

18 Q. And do you see the victim's vehicle -- and you can use
19 your laser pointer, please.

20 A. Yes, ma'am. It's right here on the other side of the
21 street.

22 Q. And can you tell what car door that is?

23 A. The one that's open?

24 Q. Yes.

25 A. It would be the rear driver's side.

1 Q. The seat behind the driver?

2 A. Yes, ma'am.

3 Q. Okay. 105?

4 A. Essentially the same view; however, you can see
5 somebody, it looks like they're leaning into the vehicle
6 gathering stuff, something, I'm not sure, but they do
7 appear to be reaching into the vehicle for something.

8 Q. And that's the seat behind the driver?

9 A. Yes, ma'am.

10 Q. And State's 44?

11 A. It appears the driver's now out of the vehicle in this
12 one.

13 Q. And the time on that is 7:42:55.

14 State's 46?

15 A. It appears in this one the person who was from the
16 passenger side of the car is coming around the rear of the
17 vehicle towards the driver's side.

18 Q. And do you see anyone leaving the scene?

19 A. Yes, ma'am. Just in front of the area where the front
20 bumper is, you can see the figure of a person walking
21 towards Lexington.

22 Q. And this time in State's 106 the time counter is
23 7:43:01, and do you, again, see the person walking away?

24 A. Yes, ma'am. They're in the same area of the front
25 bumper of the car.

1 Q. What, if anything, do you see in State's 47 as far as
2 the people left at the car?

3 A. I'm sorry, as far as the people what?

4 Q. Left at the victim's car.

5 A. It would have been the driver and the person who came
6 from the passenger side.

7 Q. What, if anything, can you observe in State's 107 as
8 far as the Defendant's -- excuse me, as far as the person
9 who's leaving the scene as far as his clothing?

10 A. When you look at it on a monitor, it displays a little
11 bit clearer. The top that's being worn is dark in color,
12 it's not black, possibly a dark gray. There's something
13 light colored around the neck. At this distance from the
14 footage, you're not able to tell what exactly it is, and
15 then there's a pair of pants that are being worn that are
16 -- it's either a light tan or potentially a gray color.

17 Q. What about on the person's head?

18 A. At this distance, it's hard to tell. There could be
19 something there, but I'm not able to make it out.

20 Q. State's 110. The time is 7:44:33 and at this point
21 the person who's walked away is already off this camera
22 angle, correct?

23 A. Yes, ma'am.

24 Q. Is it fair to say when zooming sometimes it gets more
25 blurry?

1 A. Yeah, it does pixelate.

2 Q. Okay. What do you see in this?

3 A. This is when help was tried to be signalled or flagged
4 down from the driver.

5 Q. Okay. In State's 50 the time is 7:44 and the seconds
6 are cut off. Using your pointer can you show us -- or
7 describe for us what you viewed.

8 A. This is the Good Samaritan or the person who called in
9 that stopped for help, the vehicle showing up on-scene.

10 Q. And do you see the driver?

11 A. It still -- it looks like he's right in this area.

12 Q. No.

13 A. I'm sorry, he's right here.

14 Q. State's 112. The time is 7:45:16. Do you see the --
15 the smaller passenger back in frame?

16 A. Just right over here.

17 MS. MARTIN: And, Your Honor, for brevity's sake
18 we didn't put every single one on this screen.

19 THE COURT: Understood.

20 BY MS. MARTIN:

21 Q. Okay. Can we go back to February 21st, the day of
22 the murder? When you got to Cardinal, can you tell us
23 what your duties were there at the intersection of Cardinal
24 and Number 1?

25 A. When I arrived in the area of Cardinal Drive, they

1 were executing a search warrant. They being the crime
2 scene and other detectives were executing a search
3 warrant at a small shop that's on the opposite side
4 of Cardinal Drive from Windsor West Child Development
5 Center. Once photographs were taken by our crime scene
6 personnel, I assisted in the interior search looking for
7 evidence.

8 Q. And did you have an occasion to go to any businesses
9 there right at Cardinal on the day of the murder?

10 A. Yes, ma'am. Once my portion of the search was
11 completed, I was advised that there was security footage
12 located at the child development center and I was requested
13 to go take a look at it.

14 Q. Can you tell us where the child -- Windsor West Child
15 Development Center is in regards to Cardinal?

16 A. It sits on the corner of Cardinal Drive and Augusta
17 Road.

18 Q. And you said -- can you tell us why you went there?

19 A. It was indicated that there was some security footage
20 of a person who could have been potentially the suspect
21 walking in view of their cameras.

22 Q. Okay. And did you go there that morning?

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

24 Q. And did you meet with the director there at Windsor
25 West?

1 A. Yes, ma'am. It was a Jennifer. The last name starts
2 with a T. Bear with me a moment. Jennifer Thomas.

3 Q. Okay. And did you view the security footage there in
4 the business?

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

6 Q. And did you later collect the security footage that
7 you had seen that same day?

8 A. They also had to call their contractor to come out
9 and download the footage, but once it was available I did
10 respond.

11 Q. If I can show you what's been marked as State's 52.
12 Do you recognize this CD?

13 A. Yes, ma'am. It's a CD of the security footage that
14 has my initials on it.

15 Q. Okay. And does it fairly and accurately depict what
16 you saw on the security footage there at the business on
17 February 21st?

18 A. Yes, ma'am.

19 MS. MARTIN: Your Honor, we'd move State's 52
20 into evidence.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: Without objection State's -- did you
23 say is 52 or 62?

24 MS. MARTIN: 52.

25 THE COURT: State's 52 is in evidence and you

1 may publish.

2 (State's Exhibit Number 52, DVD/Windsor West
3 Daycare, was admitted into evidence.)

4 (Whereupon, State's Exhibit Number 52 was played.)

5 BY MS. MARTIN:

6 Q. Can you pause it for me, please?

7 Okay. So can you tell us about the timestamp and
8 date, particularly the timestamp on this video that you
9 retrieved?

10 A. Yes, ma'am. The date does reflect February 21, 2019;
11 however, the timestamp as it shows is 18:14 and I believe
12 it starts at zero seconds. As it's displayed now, it's at
13 two seconds.

14 Q. Okay. What -- what time would 18:14 be?

15 A. When you convert it to military time, that would be
16 6:00 PM and 14 minutes.

17 Q. Okay. And on that day and time the Defendant would
18 have already been in custody, correct?

19 A. Yes, ma'am.

20 Q. And did I ask you to accomplish a task as far as the
21 timing mechanism on this security footage from Windsor
22 West?

23 A. Yes, ma'am. If you look at the vehicular traffic
24 that's going through Augusta Road compared to this camera
25 and Corey's Automotive camera, I picked out three distinct

1 non-common vehicles that you would expect to see and
2 watched each timestamp as they travelled down Augusta Road.

3 Q. And after doing that, did you also use the time --
4 times recorded on the CAD report?

5 A. Yes, ma'am. Using the CAD report, I compared that to
6 the time the deputies showed up on the Corey's Automotive
7 and saw that the hours and minutes matched, the seconds
8 might have been off a little bit, and then whenever you
9 look at the video footage comparing the vehicles that
10 are travelling through the road you're able to see that
11 essentially the footage for Windsor West the timestamp is
12 about ten hours and twenty-eight minutes off.

13 Q. Okay. Can you tell us -- back up for one second. I
14 forgot to ask you. You said you tracked three distinct
15 vehicles on the three camera angles. Can you tell which
16 vehicles you tracked?

17 A. Yes, ma'am. One of them was a white work van that was
18 consistent with a Chevrolet appearance on the front. It
19 had LM -- LNM marked on the side of it. It also had ladder
20 racks and ladders on the top. Behind that vehicle, just a
21 matter of seconds, was a red Dunbar armored car. Both of
22 those vehicles were travelling from West Columbia towards
23 Oak Drive and then coming from Lexington travelling towards
24 West Columbia, I saw a dump truck with a red cab and,
25 again, it's several seconds further away -- or further in

1 the video than the armored car, but it's still within a
2 minute.

3 Q. All right. After you -- can you narrate this or
4 orient us first as to which way the camera is pointing if
5 you're at the Windsor West location?

6 A. This camera is fixed outside their building overseeing
7 obviously their transportation vehicles. It essentially is
8 straight ahead to Augusta Road, which is right here. To
9 the left would be West Columbia and to the right would be
10 Lexington.

11 Q. Okay. And where is Cardinal?

12 A. Essentially immediately to the right.

13 Q. Okay. If we could watch this again in the zoom mode,
14 please.

15 And what do you see here, Detective?

16 A. In the top left of the frame coming from the direction
17 of West Columbia is the subject entering into view.

18 Q. Does it appear to be the same subject on the Corey's
19 Collision video?

20 A. With what can be observed at this point in the video,
21 yes, ma'am. You have the lighter colored pants and the
22 dark top.

23 Q. Okay. And what, if anything, do you observe here?

24 A. A lot better image of the person who was walking. At
25 this point you can tell that the pants that are being worn

1 are the older desert-style camouflage BDU-style pants, the
2 top looks dark in color and appears to be dark gray in
3 color. It's potentially a jacket. It could be a heavy
4 sweatshirt or something of that line. There's a light or
5 white colored something around the neck and then some kind
6 of beanie cap, as well as just a few frames ago you could
7 really tell that there's some kind of bag or satchel that's
8 over the left shoulder.

9 Q. Okay. Please continue.

10 Can you please look at these exhibits and tell us if
11 you recognize them?

12 A. Yes, ma'am. It's screen captures or screen grabs of
13 the same footage we just watched.

14 MS. MARTIN: Your Honor, we would move these into
15 evidence.

16 MR. MAULDIN: No objection.

17 MS. MARTIN: State's 53, 54, 55, 56.

18 THE COURT: All right. State's 53 --

19 MS. MARTIN: And one more that needs a number.

20 THE COURT: Okay. State's 53 through 56 will be in
21 evidence, plus whatever next number we have.

22 MS. MARTIN: 131 was the last one, Your Honor.

23 (State's Exhibit Number 131 was marked for
24 identification.)

25 THE COURT: 53 through 56 plus 131 are all in

1 evidence.

2 (State's Exhibit Number 53, 54, 55, 56 and 131,
3 photographs, were admitted into evidence.)

4 BY MS. MARTIN:

5 Q. If I could show you State's 53. Just to orient us,
6 is this the Windsor West --

7 A. Yes, ma'am.

8 Q. -- when the person walking first comes into frame?

9 A. Yes, ma'am. In the top left corner.

10 Q. And State's 54 also shows the walker?

11 A. Yes, ma'am. At this point he's passed the area where
12 the buses are secured.

13 Q. And on State's 55?

14 A. It appears to be a zoomed-in image of the same thing.

15 Q. And can you tell us what, if anything, you observe on
16 the left shoulder of the person?

17 A. As I mentioned a minute ago, you can see a left -- on
18 the left shoulder area is some kind of bag or a satchel of
19 some sort.

20 Q. State's 56? Again, do you see the bag as well?

21 A. Yes, ma'am.

22 Q. State's 131?

23 A. You can also see it. It kind of blends in a little
24 bit with the normal gate that you have with walking, but on
25 the front side of his left arm you can see the bag there.

1 Q. And the hat, do you recognize the hat or can you
2 describe the hat?

3 A. It's some kind of beanie, like a sweatersy skullcap
4 with an image on top.

5 Q. And are there braids coming down from the hat -- part
6 of the hat?

7 A. There's some kind of knotting of yarn of some sort it
8 appears.

9 MS. MARTIN: I beg the Court's indulgence one
10 moment.

11 Your Honor, could he come down for just one
12 minute, please?

13 THE COURT: Sure.

14 BY MS. MARTIN:

15 Q. Could you bring your laser pointer or you can use that
16 as a pointer.

17 I'm using State's 39, so could you show us Corey's
18 Collision on this map.

19 A. Corey's Collision is right here, which is directly
20 across from Fellowship Baptist.

21 Q. Okay. Keep your voice up, please.

22 Can you tell us where the two camera angles that are
23 used on that map?

24 A. There's one camera that's pointing towards West
25 Columbia and then there's another camera that's pointing

1 towards Lexington.

2 Q. And the camera that's pointing towards West Columbia,
3 is that the camera angle that best shows the church?

4 A. The church itself is best shown by the one pointing
5 towards Lexington; however, the driveway to the church
6 which is offset from the property a little bit is captured
7 from the camera with the West Columbia's angle.

8 Q. And that's where the victim's car was, correct?

9 A. Yes, ma'am.

10 Q. Okay. And as far as -- can you show us where Windsor
11 West is located?

12 A. Windsor West is right here.

13 Q. And can you tell us where the camera's located on that
14 business?

15 A. The bus security area, if you will, is right here and
16 the camera is essentially 90 degrees facing that.

17 Q. And where is Cardinal?

18 A. It's directly beside Windsor West.

19 Q. And where is the garage or shop or thrift store that
20 you talked about?

21 A. The opposite side of Cardinal from the daycare.

22 Q. Okay. And can you get into the back of the shop
23 through a fence there?

24 A. Yes.

25 Q. And, again, what's the distance between these

1 two points?

2 A. From the daycare to Corey's Automotive, which from
3 this point here -- from this point here to here when
4 calculated through Google is 900 feet approximately.

5 Q. If you can have a seat, please.

6 A. (Witness complies.)

7 MS. MARTIN: Please answer Mr. Mauldin's questions.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: I'm just curious, Mr. Mauldin, about
10 how long you do think your cross will be?

11 MR. MAULDIN: It's hard to say, Your Honor.

12 THE COURT: Well, let's go ahead and take a break
13 for lunch then because I feel myself fading, if that's
14 okay with you-all?

15 MR. MAULDIN: Yes, sir.

16 THE COURT: Okay. Ladies and gentlemen, we're
17 gonna go ahead and take a break for lunch. I'm
18 starving. If you could, let's be back in the jury
19 room -- try to shoot for about an hour from now,
20 around 2:15 if you-all can try to make that happen,
21 give or take a few moments, okay? I know that's kind
22 of tight, but do be back here at around 2:15. If you
23 happen to go to lunch with one of your jurors, again,
24 remember not to discuss the case with anyone that you
25 might have contact with anytime that we're on a break.

1 Enjoy your lunch and take care and we'll see you
2 back here in roughly an hour. Thank you.

3 (Whereupon, the jury was excused for lunch at
4 1:16 PM.)

5 THE COURT: Don't discuss your testimony obviously
6 with anyone while on break.

7 THE WITNESS: Yes, sir.

8 THE COURT: The jury is out. We'll be at ease
9 for about an hour. I think they are gonna fog the
10 courtroom while we're on break. Or are they not?

11 THE CLERK: I'm not sure. Lisa hasn't said to me.

12 THE COURT: Okay. I think she was planning -- or
13 I think she was planning on fogging it during the break.
14 I say that just to take any water cups that you have
15 that are open or something like that and that way the
16 chemicals won't get in them, okay? Or pour them out
17 if you'd like.

18 I'll see you-all in about an hour.

19 (Whereupon, a luncheon recess was taken at
20 1:17 PM.)

21 (Back on the record at 2:26 PM.)

22 (State's Exhibit Number 132 through 150 were marked
23 for identification.)

24 BAILIFF: All rise. Court's back in session.

25 THE COURT: Let's go ahead and have the jury,

1 please.

2 (Whereupon, the jury returns to the courtroom at
3 2:30 PM.)

4 THE COURT: Ladies and gentlemen of the jury,
5 sorry about the miscommunication on the care
6 packages/slash bags. We've got those now. I thought
7 those had been given to you-all yesterday when you-all
8 came back and I apologize for that. That was -- I
9 thought the clerk was just gonna leave them down there.

10 Additionally, the clerk tells me that some of you
11 have been inquiring about -- about work excuses. If
12 you -- you will receive a work excuse with your check,
13 but if you need one or have to have one today to keep
14 you in -- or day for day or whatever the case may be,
15 if you need one every day, that's perfectly fine, we
16 can give one to you every day. We don't want to get
17 you Dutch with your boss or anything, so when we break
18 today if you need a work excuse or whatever, I'll ask
19 you about that, you can just raise your hand and we'll
20 make sure that we get one when we finish up today, okay?

21 I think we're still involved in the examination of
22 Mr. Marthers. We are at cross.

23 Yes, sir, Mr. Mauldin.

24 MR. MAULDIN: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. MAULDIN:

2 Q. Good afternoon.

3 A. How are you, sir?

4 Q. All right.

5 All right. Let's go back to some of these State's
6 exhibits here. First, we'll go to, I guess, State's 131,
7 which is already in evidence, of course, and what is that
8 a picture of again?

9 A. It would be from the Windsor West security footage
10 of the subject walking from the West Columbia area towards
11 the Cardinal Drive area.

12 Q. And he's wearing a gray sweater; is that right?

13 A. A sweater, a sweatshirt. It's something of that kind
14 of type.

15 Q. And it's a solid pattern, isn't it?

16 A. It could have fine lines on it. It's hard to say.
17 It appears solid; however, not everything can show up on
18 every video.

19 Q. Well, this is enhanced. You can see pretty good
20 detail on his pants, don't you?

21 A. Yes, sir, but the pants also have a contrasting
22 pattern. It's a lot larger.

23 Q. Uh-huh. And white would contrast with gray, wouldn't
24 it?

25 A. I'm sorry?

1 Q. White contrasts with gray, doesn't it?

2 A. Yes, sir, as long as it was thick enough.

3 Q. Uh-huh. Well, you see some white contrasting with
4 gray right here, don't you, on the sleeve?

5 A. It appears to be, yes, sir.

6 Q. Okay. This is gonna take a minute, so everybody bear
7 with me.

8 This is State's 42, I think, the video of Corey's
9 facing towards West Columbia. Okay. And we're at 7:42:50
10 and that's when the person begins to exit from the back
11 driver's side of the car; is that right?

12 A. Yes, sir.

13 Q. The backseat driver passenger. And around about the
14 same time the driver is opening his door, is that right,
15 and he gets out?

16 A. Just a few seconds later, yes.

17 Q. Just a few seconds. The cars got in front of him
18 right there. He walks towards the back passenger. He
19 walks towards the back passenger, right? The back
20 passenger doesn't walk towards him, he walks towards the
21 back passenger?

22 A. Yes, sir.

23 Q. It appears they have some sort of embrace right there;
24 is that right?

25 A. Yes, sir.

1 Q. Okay. The back passenger walks away and the driver
2 leans into the driver's side of the vehicle, doesn't he?

3 A. Yes, sir.

4 Q. Okay. And then later he and this -- this other
5 passenger are having some kind of conversation and they
6 end up walking over here towards this area of the parking
7 lot; is that right?

8 A. As far as the area you're referring to, you're talking
9 about behind the vehicle? I didn't see where you were
10 pointing.

11 Q. Right. All right. So we're at 7:43:29. This would
12 be the driver and that would be the passenger from the
13 other side of the vehicle; is that correct?

14 A. I can't see where you're pointing.

15 Q. Okay. Oh, my thumb's in the way. The driver's
16 right under the seven and the passenger is right under the
17 four?

18 A. Well, yeah.

19 Q. Okay. And so that's 7:43:29, 30, 31, 32, 33, 34, 35,
20 36, 38, 40, they're sitting there talking to each other; is
21 that correct?

22 A. Yes, sir.

23 Q. 45, 46, 47, 48, 49, 50, they separate and now he's
24 waving somebody down; is that right?

25 A. Yes, sir.

1 Q. And that's 7:43:53; is that right?

2 A. Yes, sir.

3 Q. Hold on a second.

4 All right. So I'm gonna show you State's 110 that
5 has a 7:44:33 time marker on it. Didn't you testify that
6 that was when Joshua started waving cars down?

7 A. He was waving them down. If he started then, you
8 know, he started waving them down at 7:43:53.

9 Q. Okay. So that's -- so he's not waving down cars in
10 this picture at all, he's messing around with the other
11 passenger or the driver is messing around with the other --
12 or signalling to the other passenger?

13 A. He's still actively flagging somebody down at that
14 point.

15 Q. At 7:44:33?

16 A. Yes, sir.

17 Q. Okay. 31, 32, is he waving somebody down?

18 A. At that point I believe he's still speaking with the
19 passenger in the car.

20 Q. And that's 7:43:39, 42, 43, he's not waving anybody
21 down, 45, so how do you say he's waving someone down in
22 this picture at 7:44:33 when we're watching the video and
23 he doesn't do it until 53?

24 A. The minute stamp on the video was 7:43, the minute
25 stamp on that photo was 7:44.

1 Q. Okay. Now how many times does he go back into the car
2 after Ms. Council arrives?

3 A. He who?

4 Q. The driver.

5 A. As far as to the vehicle he arrived in?

6 Q. Yes, sir.

7 A. I would have to refer back to the video honestly.
8 I don't know if he did. Maybe once, if that.

9 Q. Okay. This is 7:45. What does that show as far as
10 the driver's movements?

11 A. Going back towards the vehicle.

12 Q. And he's on the passenger side; is that correct?

13 A. Yes, sir.

14 Q. And is that the driver under the U?

15 A. It appears to be.

16 Q. And he's obscured by the tree now, but he appears
17 to be on the passenger side of the vehicle; is that
18 correct?

19 A. Correct.

20 Q. No wait. Hold on.

21 All right. Backing up here, it's hard to tell
22 because the driver is wearing black and the Good
23 Samaritan's wearing black; is that correct?

24 A. Yes, sir.

25 Q. So this would be the driver and the Good Samaritan

1 has the phone up to her ear; is that correct?

2 A. Yes.

3 Q. And she's under the zero and he's under the U at this
4 present time and he's walked behind the tree toward the
5 passenger side of the car and disappears, he's back now,
6 walks back behind the tree, but he's gone back to the car
7 at least twice since; is that correct?

8 A. To that side, yes, sir.

9 Q. And that passenger side door was open when law
10 enforcement arrived; is that correct?

11 A. I don't have an answer for that.

12 Q. Okay. Now about a week after the incident date on
13 February 27th of 19 --

14 MS. MARTIN: Objection, Your Honor. May we
15 approach?

16 (Proceedings held at the bench; not reported.)

17 THE COURT: Please continue, Mr. Mauldin.

18 MR. MAULDIN: Thank you, Your Honor.

19 BY MR. MAULDIN:

20 Q. Back to my question, on February 27th, was it six
21 days later after this incident you and Detective Burt went
22 to Elgin to talk to a Kaitlyn Skyrme; is that correct?

23 A. Yes, sir.

24 Q. Okay. And after that conversation you and Detective
25 Burt went back to the incident location where the white car

1 was found; is that correct?

2 A. Yes, sir.

3 Q. And after that conversation with Ms. Skyrme six days
4 later -- I'm gonna show you what's marked as State's 41.
5 That's a picture of the parking lot of the church; is that
6 correct?

7 A. An aerial view. Yes, sir.

8 Q. Okay. After that conversation with Ms. Skyrme six
9 days later, you and Detective Burt decided to search an
10 area around the -- the parking lot; is that correct?

11 A. That was one of the times, yes, sir.

12 Q. Okay. And, in fact, you were searching inside some
13 bushes; is that correct?

14 A. Yes, sir.

15 Q. And you were searching for a bag; is that correct?

16 A. I don't believe it was described to me as a bag. It
17 was more-so described as a kit.

18 Q. Or a container of some sort?

19 A. Yes, sir.

20 MR. MAULDIN: Okay. No further questions.

21 THE COURT: Anything on redirect?

22 MS. MARTIN: Very briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. MARTIN:

25 Q. As far as any movements the driver made that were on

1 the passenger side of the car where it's blocked by the
2 tree, for all you know he could have been checking on the
3 victim, correct?

4 A. Yes, ma'am.

5 Q. And State's 42, do you still have it?

6 MR. MAULDIN: I believe it's in the disc drive.

7 THE COURT: It's in the drive.

8 THE WITNESS: The CD's in the --

9 MS. MARTIN: No, no, no. The photograph -- or
10 State's 41.

11 BY MS. MARTIN:

12 Q. Detective Marthers, if, in fact, that is some type of
13 gray jacket or sweatshirt, is there any way to tell from
14 this photograph what color clothing is underneath that
15 sweatshirt?

16 A. To be honest, unless that white thing around the neck
17 area is a collar, no, ma'am.

18 Q. Okay. And the sleeve area here could, in fact, be a
19 shirt coming out from under the sweatshirt, correct?

20 A. It could be.

21 MS. MARTIN: Nothing further.

22 RE CROSS EXAMINATION

23 BY MR. MAULDIN:

24 Q. You didn't find anything in the bushes, did you?

25 A. No, sir.

1 THE COURT: All right. Thank you, sir. Thank
2 you for coming. You can step down and you are free
3 to go.

4 THE WITNESS: Thank you, Judge.

5 (Witness excused.)

6 THE COURT: Call your next witness, Solicitor.

7 MS. MAYES: The State calls Mike Phipps.

8 (Whereupon, Michael Phipps was duly sworn by the
9 Clerk of Court.)

10 THE CLERK: Have a seat please, sir. Once you're
11 seated state your full name, spelling your last on the
12 record, please.

13 THE WITNESS: Michael Phipps, P-H-I-P-P-S.

14 MICHAEL PHIPPS,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good afternoon, Sergeant Phipps.

19 A. Good afternoon.

20 Q. Can you tell us about yourself, what type of work
21 you do with the sheriff's department and what other
22 affiliations you have with other law enforcement agencies?

23 A. I'm employed with the Lexington County Sheriff's
24 Department. I've been a deputy with them for twenty-three
25 years. During that time like most people I started on

1 the road, worked as a road deputy, then I worked within
2 our crime scene unit for thirteen years, and then for
3 about the last fifteen years I've had collateral duty as
4 an investigator examining digital evidence. So that
5 involved going to classes and learning how to search
6 cell phones, computers, GPS devices, anything electronic
7 that may have evidentiary value. Part of that involved
8 becoming involved with the Secret Service. They have an
9 electronic crimes task force. I've been a member of
10 that for about the last ten years and my current position
11 is a full-time task force officer with the Secret Service.

12 Q. All right. Now have you testified previously
13 regarding digital evidence that includes cell phone
14 analysis?

15 A. I have. Yes, ma'am.

16 Q. Does that include the extraction of cell phones to
17 determine what data or content those cell phones may
18 contain?

19 A. Yes, ma'am, it does.

20 Q. Sergeant Phipps, have you testified previously as
21 an expert in courts of this state in the field of digital
22 evidence analysis, including cell phone extractions?

23 A. I have.

24 Q. Is it possible for you to estimate how many such
25 times you've previously been qualified as an expert in

1 that field?

2 A. I believe it's sixteen times.

3 Q. All right. And does that include homicide
4 investigations?

5 A. It does.

6 Q. Can you tell us what evidence you recovered or was
7 recovered in this case and sent to you for analysis?

8 A. I was asked to examine six cell phones in this
9 case.

10 Q. All right. And particularly can you tell us whether
11 or not you received an LG cell phone that had been
12 recovered from a blue four-door Toyota?

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

14 Q. I'm gonna show you an item already in evidence and
15 ask you whether or not you recognize it and, if so, how?

16 A. I do. The labeling's consistent with my notes on
17 examining the device, as well as my initials and date on
18 the signature on the seal.

19 Q. Can you tell us whether the expertise that you
20 utilized in the examination of that cell phone is the
21 same as the other expertise that you have exercised in
22 other cases?

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

24 MS. MAYES: Your Honor, at this time the State
25 would offer Sergeant Phipps as an expert in the field

1 of digital evidence analysis, including cell phone
2 extraction.

3 THE COURT: Digital --

4 MS. MAYES: Evidence --

5 THE COURT: -- analysis?

6 MS. MAYES: -- analysis to include cell phone
7 extraction.

8 THE COURT: Any objection or voir dire?

9 MR. MADSEN: No, sir.

10 THE COURT: Ladies and gentlemen, in this case
11 the State has moved and the Court finds that
12 Mr. Phillips {sic} is an expert in the field of cell
13 phone extraction and digital evidence analysis. And
14 normally witnesses are limited to something -- to
15 testifying about something that they saw or observed
16 with one of their five senses, they can't give opinion
17 evidence. An exception to this rule though exists for
18 expert witnesses. In this case because the parties
19 agree Mr. Phillips -- Phipps is an expert in this area,
20 he can give opinion testimony. That doesn't mean that
21 you have to accept his opinion or that you have to
22 accept his testimony, but it is evidence that you can
23 use as you deem appropriate, okay?

24 Continue, Solicitor.

25 BY MS. MAYES:

1 Q. The LG cell phone that has been submitted, can you
2 tell us whether or not you performed an extraction on that
3 item, and that is going to be State's Exhibit 123?

4 A. Yes, I did.

5 Q. And I'm gonna show you this item and ask you -- it
6 is marked as State's 127, and ask you whether or not you
7 recognize it?

8 A. I do. I have reviewed the contents of this disc
9 and it includes photographs that I took of the original
10 evidence, copies of the warrant and the cell phone
11 extraction.

12 Q. All right. And can you tell us whether or not a
13 written cell phone extraction was created from this disc?

14 A. Excerpts were taken from it, yes.

15 Q. From that report?

16 A. Uh-huh.

17 MS. MAYES: Your Honor, this would be State's 127
18 for evidence.

19 MR. MADSEN: Judge, I do have an objection. May
20 we approach?

21 THE COURT: Yeah, come on over.

22 (Proceedings held at the bench; not reported.)

23 THE COURT: All right. As to 127, that's getting
24 marked just for identification, it will not be in
25 evidence. 128 through 130 will be in evidence without

1 objection; is that correct?

2 MR. MADSEN: Yes, Your Honor.

3 (State's Exhibit Number 128, 129 and 130, cell
4 phone extraction reports, were admitted into evidence.)

5 BY MS. MAYES:

6 Q. So, Sergeant Phipps, looking at 127 for ID, that's a
7 disc that contains the cell phone extraction?

8 A. It does, yes.

9 Q. And from that cell phone extraction, do you create an
10 actual report containing certain content or data on the
11 phone?

12 A. I do.

13 Q. Can you tell us whether or not that includes
14 subscriber information that may lead you to determine who
15 or which accounts are affiliated with the ownership of the
16 phone?

17 A. Yeah, when we examine a cell phone we get data such
18 as the phone number to the device, then the account
19 information, meaning accounts that have been registered on
20 the phone, if someone logged into a bank account or their
21 Facebook account, that type of account.

22 Q. All right. And can you tell us whether or not it also
23 includes that phone's contacts, in other words, how that
24 person saved other various phone numbers and identifies
25 those phone numbers?

1 A. It does, yes.

2 Q. And can you tell us whether or not it also includes
3 ingoing and outgoing calls made from that phone?

4 A. It does, yes.

5 Q. Can you tell us, Sergeant Phipps, whether or not you
6 were able to retrieve data from that phone for the early
7 morning hours of February 21, 2019, specifically between
8 7:30 am and 8:00 AM?

9 A. I was, yes.

10 Q. I'm gonna show you 128, 129 and 130 and ask you
11 whether or not you recognize these items coming directly
12 from your cell phone extraction?

13 A. I do, yes, ma'am.

14 MS. MAYES: Your Honor, these are in evidence and
15 we do request permission to publish at this time through
16 Sergeant Phipps.

17 THE COURT: Sure. Go ahead.

18 MS. MAYES: And, Your Honor, if the witness may
19 step down from the stand?

20 THE COURT: Put it back on if you step down.

21 BY MS. MAYES:

22 Q. And, Sergeant Phipps, we'll need you to keep your
23 voice up so that the court reporter can hear you.

24 All right. First, I'm gonna ask you about whether or
25 not this phone contains information that relates to the

1 identity or ownership of that phone?

2 A. Well, this first document just has an overview of the
3 phone, the contents of the phone, the different extractions
4 that were made on the phone. Along the top it has my name
5 being the examiner that did the extraction, but it's
6 showing you the date and time of the extraction, the type
7 of extractions that were conducted, an advanced, logical,
8 physical and then an extraction on the removable media that
9 was in the phone.

10 Q. Now where on that extraction does it note the actual
11 phone number affiliated with this phone?

12 A. Right here, the MSISDN number that's listed here and
13 here is the actual phone number for the handset.

14 Q. And can you read that number for the record?

15 A. It is [REDACTED]-[REDACTED]-5485.

16 Q. All right. Now can you tell us whether in addition to
17 this information there is any type of subscriber or owner
18 information affiliated with the phone?

19 A. There were account information that had been
20 registered within the device for various G-mail accounts
21 that were established when the user of the phone registered
22 with various service providers, yes.

23 Q. Next I'm gonna ask you whether or not there was
24 contact information in the phone?

25 A. There was.

1 Q. If you could take a look here at State's 130 and tell
2 us what contact information is contained in the phone for
3 that particular individual?

4 A. This is a specific entry for one entry in his contact
5 list for a person that he registered as M.J. and the phone
6 number for that individual is [REDACTED]-[REDACTED]-5437.

7 Q. And this contact is saved as M.J.?

8 A. Yes.

9 Q. Now can you tell us whether or not you observed any
10 ingoing or outgoing calls to this LG phone with the number
11 that you just gave us in the early morning hours of
12 February 21, 2019, between 7:30 and 8:00 AM?

13 A. Yes, we were.

14 Q. All right. And if you could go through what we're
15 looking at here in terms of ingoing and outgoing calls.

16 A. The first entry line is an incoming call from the
17 person that was registered as M.J. in this phone's contact
18 list and it occurred at 7:56 and 20 seconds in the morning
19 of the 21st, 2019.

20 Q. All right. And let me just back you up. Is that the
21 first or the last?

22 A. I'm sorry, it is in reverse order.

23 Q. All right.

24 A. So starting down here in chronological order is an
25 outgoing phone call to M.J. at 7:53 AM. The call was

1 registered as being answered and the duration of the call
2 was for thirty-one seconds.

3 Q. All right. So the LG cell phone is making a call to
4 the contact known as M.J.?

5 A. Yes.

6 Q. And that's answered and that's at 7:53 AM?

7 A. Yes.

8 Q. What's the next activity you see on the phone?

9 A. It's a second outgoing phone call to the same contact,
10 M.J., at 7:54. This one shows it being answered and the
11 duration of the call was for five minutes and twenty-six
12 seconds.

13 Q. And that's a five-minute call to that same contact
14 known as M.J.?

15 A. Yes.

16 Q. What occurred next?

17 A. Is an incoming phone call from the person registered
18 as M.J. This incoming phone call occurs at 7:55. It's
19 showing as a missed call with zero seconds duration meaning
20 the phone didn't pick up or no one answered.

21 Q. All right. And what occurs next?

22 A. Is another incoming phone call from M.J. at 7:56.
23 This one is showing answered with a duration of
24 thirty-three seconds.

25 Q. All right. So the call from M.J. at 7:56 is also

1 answered?

2 A. Correct.

3 Q. And was that the extent of the outgoing calls within
4 that timeframe?

5 A. Those were the only communications with the contact
6 M.J. during that time period.

7 Q. All right. Thank you. You may return.

8 A. (Witness complies.)

9 Q. I'm gonna show you an additional item and ask you
10 whether or not you recognize it and, if so, how?

11 A. I do. This is another excerpt from the same forensic
12 report on the LG cell phone for a user account on that
13 device.

14 Q. And who created that excerpt?

15 A. I did.

16 Q. All right. And you said previously that a device can
17 have certain subscriber or ownership information affiliated
18 with it?

19 A. It can.

20 Q. Is that what that particular document reflects?

21 A. It does.

22 MS. MAYES: Your Honor, this would be State's 140
23 for evidence.

24 MR. MADSEN: No objection.

25 THE COURT: All right. State's 140 is in evidence

1 without objection.

2 (State's Exhibit Number 140, LG subscriber
3 information, was admitted into evidence.)

4 BY MS. MAYES:

5 Q. Looking here, Sergeant Phipps, at State's 140
6 regarding any subscriber ownership information affiliated
7 with the LG cell phone, what, if anything, is indicated
8 here regarding user account?

9 A. It's an account that has the user name of Pluto and
10 then a password of [REDACTED] [REDACTED]

11 Q. And that's the black LG?

12 A. It is.

13 Q. Now you told us about the outgoing -- ingoing and
14 outgoing calls between 7:30 AM and 8:00 AM from that phone,
15 particularly to and from M.J. Did you have a chance to
16 review all ingoing and outgoing calls within the early
17 morning hours of February 21, 2019?

18 A. I did.

19 Q. Were there any outgoing calls from that phone to
20 9-1-1?

21 A. There were not.

22 MS. MAYES: Thank you. Nothing further.

23 CROSS-EXAMINATION

24 BY MR. MADSEN:

25 Q. Mike, how you doing?

1 A. Good, sir.

2 Q. You've still got your hair and I've still got none.
3 So let me see if I -- if I've got this straight. Your
4 testimony is basically that the phone that's found in
5 Joe's car sitting beside him when he's driving is his
6 phone?

7 A. Those details -- all I know is what was in the
8 affidavit of the warrant that was handed to me. I'm not
9 privy to the discovery of the device and who was in the
10 car or anything like that.

11 Q. And you can do a phone dump on phones even if they
12 don't have active service, correct?

13 A. That's correct.

14 Q. And I think the solicitor got from you that you got
15 six phones in this case?

16 A. I did.

17 Q. And you couldn't do a dump on five of them because of
18 passwords or securities or something, correct?

19 A. That is correct.

20 Q. And did you ask hey, guys, I can't do this, can
21 someone give me the password or can someone ask?

22 A. I advised the case officer that we were running up
23 against that issue. I don't know if anyone made an attempt
24 or not.

25 Q. And the case officer would be Sergeant Black?

1 A. Yes, sir.

2 Q. And no one ever got back to you and said sorry, we
3 can't get that or we don't know, you just never heard back
4 from them?

5 A. Right.

6 Q. And did you ever receive a phone designated as Joshua
7 Murray's or Katie Skyrme's phone?

8 A. Without looking at the warrant affidavits, I would
9 have to read them all to refresh my memory as to whether
10 any of them --

11 Q. You created like a little supplement of each of the
12 six phones. Could you just take a look at that and see if
13 any of those say Joshua Murray or Kaitlyn Skyrme?

14 A. Well, I didn't make any notations in my notes as to
15 who each phone was attributed to.

16 Q. And so that was just kind of let go then as far as you
17 know?

18 A. What -- what was let go?

19 Q. Well, I mean, no one asked for the passwords, we
20 didn't do it, we didn't look, it just wasn't done then,
21 that wasn't followed up as far as you know?

22 A. Yeah, I don't know whether they were considered
23 important to the case or not, so I just never heard
24 anything back.

25 Q. And from phones you can not only pull calls and texts,

1 but also potentially web, social media, things like that,
2 correct?

3 A. Yeah, most people -- I mean, they use their phone for
4 everything, so obviously any Internet browsing, anything
5 you do on your phone is logged onto the device.

6 Q. So I guess I'm a little bit confused then. So,
7 Mike, I think there's a laser pointer up there. Can I
8 borrow it?

9 A. (Handing.)

10 Q. Thank you. So let me see if I've got this straight.
11 So there's a call at 7:53 that's answered for thirty-one
12 seconds, correct?

13 A. Yes, sir.

14 Q. And that's from that phone going out?

15 A. Correct, it's an outgoing call from the -- from the
16 phone I examined.

17 Q. And it's going to what the phone designates as M.J.?

18 A. Yes, sir.

19 Q. And then there's another one a little bit afterwards
20 at 7:54?

21 A. Yes, sir.

22 Q. And that's also going to M.J.?

23 A. Yes, sir.

24 Q. And that's answered?

25 A. Yes, sir.

1 Q. And that's for five minutes and twenty-six seconds?

2 A. Yes, sir.

3 Q. But then there's calls coming from M.J. at 7:55 and
4 7:56, correct?

5 A. Yes, sir.

6 Q. And the first one's missed and the second one's for
7 thirty-three seconds?

8 A. Correct.

9 Q. And when this call ends would be 7:59?

10 A. Right.

11 Q. Before this one begins?

12 A. Yeah, and my thought on that is that it's going to
13 voicemail. It's registering a call going to voicemail.

14 Q. And did you pull those voicemails?

15 A. Well, voicemails for these devices are in the cloud,
16 they're not physically on the device.

17 Q. Did anyone make an attempt to get that?

18 A. Not to my knowledge.

19 Q. You could subpoena that potentially?

20 A. I don't know. I don't know if the cell phone provider
21 retains that or not.

22 Q. But as far as you know no one made that attempt?

23 A. As far as I know.

24 Q. And so I know you're an expert in cell phone, but you
25 did crime scene for a long time also, didn't you?

1 A. Yes, sir.

2 Q. I'll hand this back. And you would agree with me
3 that an expert can only be as good as the information they
4 receive?

5 A. Yes, sir.

6 Q. And whether -- as a cell phone expert or a crime
7 scene expert, you want as much information as possible,
8 correct?

9 A. Yes, sir.

10 MR. MADSEN: No further questions.

11 THE COURT: Any redirect?

12 MS. MAYES: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. When you talk about phones being submitted, are you
16 aware that some phones were recovered from the victim's
17 own vehicle?

18 A. Again, I don't have a direct recollection where any
19 of these phones came from. It's been so long since I read
20 the affidavits.

21 Q. Okay. And if the victim is deceased, would anybody
22 else necessarily have access to her password?

23 A. Not necessarily unless there's a close friend or
24 family member.

25 MS. MAYES: All right. Thank you. Nothing

1 further.

2 RECROSS EXAMINATION

3 BY MR. MADSEN:

4 Q. But no one asked about that, correct, as far as you
5 know?

6 A. I have no knowledge of it, no.

7 MR. MADSEN: That's all the questions I have.

8 THE COURT: Sir, thank you for coming. You're
9 free to go.

10 (Witness excused.)

11 THE COURT: Call your next witness.

12 MS. MARTIN: Your Honor, the State calls Mark
13 Hardaway.

14 THE CLERK: Hold on. Okay.

15 (Whereupon, Mark Hardaway was duly sworn by the
16 Clerk of Court.)

17 THE CLERK: Have a seat right up there please,
18 sir. You can take your jacket and your folder. Once
19 you're seated, I need you to speak up loud and clear,
20 state your full name, spelling your last.

21 THE WITNESS: Mark, M-A-R-K. H-A-R-D-A-W-A-Y.

22 THE COURT: If you could remove your mask and I
23 may need you to lean just a little bit forward. Some
24 of the jurors indicated it looked like they were having
25 trouble hearing you.

1 THE WITNESS: Mark H-A-R-D-A-W-A-Y, Hardaway.

2 MS. MARTIN: Your Honor, may I approach?

3 THE COURT: Sure.

4 MARK HARDAWAY,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MARTIN:

8 Q. Mr. Hardaway, what do most people call you?

9 A. M.J., Mark. It doesn't matter.

10 Q. And are you employed?

11 A. Yes.

12 Q. Where do you work?

13 A. Waffle House.

14 Q. Okay. And do you live here in Lexington county?

15 A. No.

16 Q. You live in Richland county?

17 A. Yes.

18 Q. And do you have any children?

19 A. Yes.

20 Q. A daughter?

21 A. Yes.

22 Q. How old is she?

23 A. Seven now.

24 Q. Okay. I need to direct your attention back to

25 February of last year, okay? Did you know someone named

1 Alexis Azarigian?

2 A. Yes.

3 Q. And how -- do you remember when you met her?

4 A. A little bit, yes.

5 MS. MARTIN: If I may approach the witness and
6 show you what's been marked for ID --

7 MR. MAULDIN: Your Honor, may we approach?

8 (Proceedings held at the bench; not reported.)

9 BY MS. MARTIN:

10 Q. So you had known Alexis, again, how long?

11 A. Up until the incident?

12 Q. Right.

13 A. About a month.

14 Q. Okay. And had you had occasion to go off with her in
15 her vehicle?

16 A. Not really.

17 Q. Okay. Did you know what car she had?

18 A. All I saw was a white sedan. That's it.

19 Q. A what?

20 A. The only thing I rode in was a white sedan. That's
21 it.

22 Q. Okay. If I could show you what's been marked as
23 State's 40. Do you recognize that?

24 A. Yeah, I think that's it, but I don't know -- I don't
25 know the make and model.

1 Q. Okay. Does it look like Alexis' car?

2 A. Yeah.

3 Q. And back in -- well, let me -- had you ever been to
4 Alexis' house?

5 A. Around her house, yes.

6 Q. Okay. If I can show you what's been marked State's
7 Exhibit 132.

8 MS. MARTIN: Your Honor, if the victim -- or,
9 excuse me, the witness could step down for just a
10 moment.

11 THE COURT: You can leave the stand, but do mask
12 up when you leave the stand, please. Thanks.

13 BY MS. MARTIN:

14 Q. If you could hold that side. Do you recognize the
15 area of this neighborhood?

16 A. Kind of.

17 Q. Okay. Can you tell us if it's in Chapin?

18 A. Yes.

19 Q. Okay. And do you recognize whereabouts the victim had
20 lived -- or Alexis had lived?

21 A. Not exactly.

22 Q. Okay. Do you know what road she had lived on?

23 A. Yes, ma'am.

24 Q. Okay. What road is that?

25 A. Yacht Club --

1 THE COURT REPORTER: I'm sorry?

2 THE COURT: Yeah, my court reporter -- she's
3 straining to get the -- could you-all switch places
4 maybe and then if he could speak more loudly? And
5 maybe it's better -- if his voice is going towards the
6 court reporter, I think it would be a lot better.

7 BY MS. MARTIN:

8 Q. You said Yacht Club Road -- Point?

9 A. Yacht Club Point.

10 Q. Okay. And did you ever have occasion to visit the
11 neighborhood where Alexis lived?

12 A. Only -- only one time.

13 Q. Okay. And can you show us in this neighborhood where
14 you-all went?

15 A. Right in there.

16 Q. Okay.

17 A. About right here.

18 Q. Okay. And in that area -- what is in that area?

19 A. I guess a swimming pool.

20 Q. A swimming pool?

21 A. (Nods head.)

22 Q. Okay. Are there docks and boats?

23 A. Yes.

24 Q. Okay. And do you recall when you-all went there?

25 A. In the middle of the night around about like 1:00.

1 Q. Okay. If you can have a -- if you could take your
2 seat back.

3 A. (Witness complies.)

4 Q. Okay. So you said you'd gone in the middle of the
5 night around 1:00. Can you tell us when that was in
6 regards to the last time you saw Alexis? You can take your
7 mask off so we can hear you.

8 A. Could you repeat the question?

9 Q. I can. The night that you-all went there to the Yacht
10 Club -- the Yacht Cove area, when was that in relation to
11 the last time you saw Alexis?

12 A. I'm not sure. I guess that was the day of the
13 incident or night of the incident, I guess.

14 Q. The day of the incident. Okay. All right. So when
15 you were at the Yacht Club, who else was with you, if
16 anyone?

17 A. I guess his name was Josh --

18 Q. Okay.

19 A. -- and Katie, Alexis.

20 Q. And who?

21 A. Josh, Katie, Alexis, and Joe, I believe.

22 Q. Okay. And was Joe with you-all?

23 A. Yeah.

24 Q. Okay. All right. Let me ask you this. So someone
25 named Katie. Can you describe her for me?

1 A. I think blond, kind of brunette-ish.

2 Q. Okay. Is she white or black?

3 A. White.

4 Q. Okay. And what about the guy? You said, Josh? Is he
5 white or black?

6 A. A white guy.

7 Q. And how long had you known Josh?

8 A. Maybe about a week or so.

9 Q. Okay. All right. So Joseph Henry, the Defendant,
10 here, how long have you known him?

11 A. About ten years now.

12 Q. Okay. And --

13 A. Ten or fifteen, give or take.

14 Q. And what do you call him?

15 A. Joe.

16 Q. And does he have a nickname that you're aware of?

17 A. Yeah, Pluto.

18 Q. Pluto?

19 A. Yes.

20 Q. Okay. And did you hang out with him back in 2019?

21 A. I think so. That's a long time ago, but, yeah.

22 Q. Okay.

23 A. A couple of times, yeah.

24 Q. All right. And back in 2019, do you know if Joe had
25 a girlfriend that lived on Augusta Highway?

1 A. Yes and no.

2 Q. What does that mean?

3 A. It wasn't really my business.

4 Q. Okay. So -- all right. Now let's be specific. Do
5 you know if Joe had a girlfriend that lived on Number 1?

6 A. Yes.

7 Q. And do you know what her name was?

8 A. I guess Savannah.

9 Q. Okay. And are you sure that's where she lived?

10 A. Somewhere off Number 1.

11 Q. Off of Number 1. Not on Number 1?

12 A. No, not on Number 1, but off of Number 1.

13 Q. Okay. All right. Well, let me ask you this. Do you
14 know where Joe lived?

15 A. Out where I stay, Kennerly Road.

16 Q. Okay. Off Kennerly Road. Are you familiar with what
17 kind of car Joe drove?

18 A. Yes.

19 Q. I'm sorry?

20 A. Yes.

21 Q. What kind of car was that?

22 A. A Mazda -- I mean, not a Mazda. A Toyota Matrix.

23 Q. Okay. And what color was it?

24 A. Blue.

25 Q. I'm sorry?

1 A. Blue.

2 Q. Okay. If I can show you State's 118, are you familiar
3 with that car?

4 A. Yes.

5 Q. Okay. Whose car is that?

6 A. That's his car.

7 Q. And you say his car, whose do you mean?

8 A. Joe.

9 Q. Okay. So you said you-all had been at the Yacht Club
10 the day or the night of the incident. How long did
11 everybody stay out there at the Yacht Club?

12 A. Maybe an hour or two.

13 Q. Okay. And when you left the Yacht Club, where did
14 you-all go?

15 A. Right back where we were.

16 Q. And where was that?

17 A. Off Augusta Highway at the shop.

18 Q. At the shop?

19 A. Yeah.

20 Q. And do you know what road the shop is on?

21 A. Augusta Highway.

22 Q. Okay. And do you know what the side street is?

23 A. Not exactly, no.

24 Q. Okay. Do you know -- are you familiar with Number 1?

25 A. Yes.

1 Q. Do you know where Windsor West Childcare is?

2 A. I think so, yes.

3 Q. Okay.

4 MS. MARTIN: Your Honor, I'm sorry, could he come
5 down one more time?

6 THE COURT: Sure. Step down if you would again,
7 please.

8 THE WITNESS: (Witness complies.)

9 BY MS. MARTIN:

10 Q. Using State's Number 39, if the Windsor West Childcare
11 is here on Number 1, do you know where the shop would be?

12 A. At the body shop.

13 Q. Can you show me?

14 A. (Indicating.)

15 Q. Okay. And is that the intersection of Cardinal and
16 Number 1?

17 A. Yeah.

18 Q. Okay. You can have a seat.

19 A. (Witness complies.)

20 Q. So when you went back to what you call the shop on
21 Cardinal Street, what car were you-all in?

22 A. The white sedan.

23 Q. The white car?

24 A. The white sedan.

25 Q. Okay. And who all was in the car when you went to the

1 shop?

2 A. Everybody I mentioned before.

3 Q. Okay. I need you to tell me one more time who was in
4 the car.

5 A. Josh, Joe, me, Katie and Alexis.

6 Q. Okay. And you got dropped off at the shop; is that
7 right?

8 A. Yes.

9 Q. Okay. And did everybody else stay or did they leave?

10 A. They left.

11 Q. And did they leave in that same white car?

12 A. Yes.

13 Q. Okay. And what did you do?

14 A. I went inside.

15 Q. You went inside the shop?

16 A. Yes.

17 Q. If I can show you what's already in evidence as
18 State's 65, do you recognize this place as being the
19 location there on Cardinal and Number 1, the shop?

20 A. Not exactly.

21 Q. Okay. What about 64?

22 A. Okay. Never mind, yes.

23 Q. Is that the shop?

24 A. Yes.

25 Q. Okay. All right. So when you're there at the shop

1 and everybody else leaves, did you ever see or talk to
2 Alexis again?

3 A. When? When is that?

4 Q. After they left you there at the shop on the early
5 morning --

6 A. Oh, no.

7 Q. Okay. You never talked to her again?

8 A. No.

9 Q. Okay. Let me ask you this. Do you know someone or
10 have heard of someone named Chad Andrews?

11 A. Sort of. I seen him a couple of times, seen him
12 around.

13 Q. All right. And what, if anything, do you know about
14 his affiliation with the sheriff's department?

15 A. He ain't never -- he ain't never shared that with me.

16 Q. Okay. Do you know if he was a confidential informant?

17 A. I heard something about it on the street.

18 Q. Okay. You heard he was a snitch?

19 A. Not my business.

20 Q. What did you say, none of your business?

21 A. It's none of my business. I don't really ask too many
22 questions like that.

23 Q. Okay. All right. After you got dropped off at the
24 shop and the other people left the garage, can you tell us
25 when or if you saw Joe again?

1 A. The next morning.

2 Q. Okay. So it would have been a few hours later?

3 A. Yes.

4 Q. All right.

5 A. Several hours, yeah.

6 Q. Can you tell us whether between the time you were
7 dropped off and the time you saw him again whether you-all
8 had exchanged phone calls?

9 A. Yes.

10 Q. Okay. If I show you this phone report that's State's
11 Exhibit 129, do you recognize your phone number on here as
12 [REDACTED]-[REDACTED]-5437?

13 A. Say that again.

14 Q. [REDACTED]-[REDACTED]-5437.

15 A. Yeah, that's my number.

16 Q. Okay. That was your phone number back in February of
17 2019?

18 A. Yes, ma'am.

19 Q. Okay. Well, when Joe did call you, did you-all have
20 -- what did he say? What was the plan?

21 A. Just that he was coming back to pick me up.

22 Q. Okay. So he tells you he's coming to pick you up. Do
23 you know where Joe's car had been, the blue car, the --

24 A. It was in the -- it was in the yard, like out front.

25 Q. Okay. It was in the shop yard, is that what you're

1 saying?

2 A. Yeah.

3 Q. Okay. And did he come there that morning to pick you
4 up?

5 A. Yes.

6 Q. Okay. And was he in his car?

7 A. Yes.

8 Q. And when he was there in his car, what did you do?

9 A. I got in the car.

10 Q. Okay. All right. I'm not trying to trick you. I'm
11 just asking.

12 A. No, you're good.

13 Q. So you got in the car and when you got with him that
14 morning, did he say anything about there being a shooting
15 down the road?

16 A. No, he didn't.

17 Q. Did he say anything about Alexis getting shot in the
18 head?

19 A. No.

20 Q. Okay. When he did get in the car with you there,
21 what, if anything, did he say about where he wanted to go
22 or what he wanted to do?

23 A. I was supposed to get my tax return. I was wanting to
24 go see a friend later that day.

25 Q. Okay. So let's talk about that. What was -- what did

1 -- where did Joe want to go?

2 A. It wasn't where he wanted to go.

3 Q. Okay.

4 A. It was where I wanted to go.

5 Q. Okay. And did he ask you about going to Hilton Head
6 that day?

7 A. No. Yes, yes, yes, yes. Yes, he did.

8 Q. Okay. All right. I'm confused. Back up.

9 A. It's been a while, so.

10 Q. Okay. Well, I mean, did you and he have plans to go
11 to Hilton Head that day?

12 A. Yeah, we spoke about it like probably like ten or
13 twelve days before that.

14 Q. Okay. And were you planning to go to Hilton Head that
15 morning, M.J.?

16 A. I was planning to go after I got my tax return.

17 Q. Okay. But you didn't have your tax return?

18 A. No.

19 Q. All right. What, if anything, did you notice about
20 his demeanor or the way he was acting that morning?

21 A. Honestly, he was normal kind of. Normal kind of.

22 Q. Okay. All right. Let me ask you this. Was there
23 something that wasn't normal that happened there at the
24 shop that morning?

25 A. Like?

1 Q. Did you see law enforcement?

2 A. No.

3 Q. Okay. You weren't stopped by law enforcement there in
4 the car?

5 A. I mean, there in the car, yes, we were.

6 Q. Okay. All right. So you-all were stopped by law
7 enforcement?

8 A. (Nods head.)

9 Q. And at the time of that stop, what, if anything, did
10 Joe say?

11 A. Not much honestly.

12 Q. Okay. All right. He didn't say anything about a
13 weapon?

14 A. He did say something about it.

15 Q. Okay. Well, I need you to tell me what he said,
16 please.

17 A. He told me where it was.

18 Q. Okay. And what exactly did he say?

19 A. He said -- he told me where it was after that.

20 Q. Okay. Where was it?

21 A. Under the seat.

22 Q. Under whose seat?

23 A. I never -- I never laid eyes on it, so.

24 Q. Okay. He told you what kind of weapon?

25 A. No.

1 Q. Okay. Did he say there's a gun, there's a knife,
2 there's a bomb?

3 A. He said -- he said there was a gun under the seat.
4 That's what he told me. He just told me where it was.

5 Q. Okay.

6 A. I never laid eyes on where it was at -- where it was
7 at.

8 Q. Okay. So when law enforcement came, did they take
9 you-all out of the car?

10 A. Yeah, we -- we were detained.

11 Q. You were detained. Were you put in handcuffs?

12 A. Yes.

13 Q. If I can show you State's 25, do you recognize
14 yourself on here?

15 A. Yes.

16 Q. Okay. And do you recognize Joe on here?

17 A. Yes.

18 Q. Okay. Is that Joe?

19 A. Yes.

20 Q. And is that you?

21 A. Yes.

22 Q. Does Joe have on glasses?

23 A. I can't tell from here.

24 Q. Okay. Does Joe have on a beanie hat?

25 A. Yes.

1 Q. All right. So when you-all were there on the side
2 of the road, did you have an occasion to speak with law
3 enforcement separate, away from Joe?

4 A. Can you repeat that?

5 Q. Okay. Did you and a police officer, Major Jones --

6 A. Yes. Yes.

7 Q. -- go off?

8 A. Yes.

9 Q. And what did you tell him, if anything, about what was
10 in the car?

11 A. I just told him what happened pretty much.

12 Q. Okay. And did you tell him there was a gun under the
13 seat?

14 A. Yes.

15 Q. Okay. Did you tell him Joe was acting strange?

16 A. Yes, a little. It was a weird situation.

17 Q. I'm sorry?

18 A. I said yes, a little. It was a weird situation.

19 Q. It was a weird situation?

20 A. Yeah.

21 Q. Okay. It's my understanding this exhibit is State's
22 119, but it's missing a sticker. If I may approach, do you
23 recognize this bag?

24 A. Yes.

25 Q. And where do you recognize it from?

1 A. The night before.

2 Q. Okay. And who had -- who had this bag?

3 A. Joe did.

4 Q. Okay. And are you aware what he used this bag for?

5 A. Yes.

6 Q. What did he use it for?

7 A. I think it was to carry -- carry that -- carry the
8 gun.

9 Q. Carry a gun in?

10 A. Yeah.

11 MS. MARTIN: Your Honor, if you could give me just
12 one minute, please.

13 THE COURT: Sure.

14 BY MS. MARTIN:

15 Q. M.J., had you ever been with Joe to Savannah Winter's
16 house?

17 A. Yes.

18 Q. Okay. And she lives in -- or she lived in a trailer
19 a good little way from Number 1, didn't she?

20 A. Yes.

21 Q. Okay. And let's talk just a minute more about the
22 Hilton Head trip. On February 21st, the day law
23 enforcement stopped you and got you out and detained you,
24 did you have plans to go that day to Hilton Head?

25 A. I had plans to go when my tax return hit. You never

1 know when that's gonna happen.

2 Q. Okay. All right. So it was not a preplanned day for
3 that day. It was just --

4 A. It was not preplanned for that legitimate day. It had
5 nothing to do with that.

6 Q. Okay. And when you got dropped off at the shop, who
7 was left in the car that drove away?

8 A. Joe, Katie, Josh and Alexis.

9 Q. And that was the last time you ever saw -- you call
10 her Lexi?

11 A. Alexis.

12 Q. Okay. And the last time you saw this leather bag, who
13 had it?

14 A. Joe did. Joe did.

15 MS. MARTIN: Thank you.

16 That's all I have. I'm sorry, Your Honor.

17 THE COURT: Cross.

18 MR. MAULDIN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. MAULDIN:

21 Q. Can you hear me from back here?

22 A. Yeah.

23 Q. Okay. Cool. Now you talked about you went to that
24 Yacht Cove Road to go to Alexis' house; is that right?

25 A. Say what?

1 Q. The Yacht Cove Road, that map that she showed you
2 where the docks were, you-all went out there that night?

3 A. Yes.

4 Q. In the white car?

5 A. Yes.

6 Q. Okay. Did you go in Alexis' house?

7 A. No.

8 Q. You just stayed out in the car?

9 A. Yeah.

10 Q. Okay. And then you wanted to go back to the shop; is
11 that right?

12 A. Yes.

13 Q. And when you say you'd known Alexis for about a month,
14 would you describe that as a semi-romantic relationship or
15 just friends?

16 A. No, just friends.

17 Q. Just a friend relationship. Okay.

18 A. Never did anything like that.

19 Q. Okay. And you wanted to be dropped off back at the
20 shop?

21 A. Yes.

22 Q. Because -- let me see if I get this right -- Alexis
23 and everyone but Joe, Katie and me was acting strange.

24 A. Was, is? Was or is?

25 Q. Was.

1 A. All right. Yeah, that's what I said.

2 Q. Last night Alexis and everyone but me and Katie and
3 Joe were acting strange. So they were acting strange, but
4 -- so that's why you wanted to be dropped off back at the
5 shop; is that right?

6 A. Yes.

7 Q. All right. So that means Alexis was acting strange,
8 right?

9 A. Sure. Yeah.

10 Q. And Josh was acting strange, but Katie and Joe were
11 not acting strange; is that right?

12 A. Not really. Katie didn't really talk.

13 Q. Pardon?

14 A. Katie didn't really talk.

15 Q. Okay. But you thought these two were acting strange
16 and you wanted to go back?

17 A. Yeah.

18 Q. Okay.

19 A. I was tired.

20 Q. Now you've known her for about -- you'd known Alexis
21 for about a month, right?

22 A. Something like that, yeah.

23 Q. But you had just met Josh that night?

24 A. No, maybe like a week or so before that.

25 Q. A week or so before. Do you remember writing a

1 statement out for the police?

2 A. Yeah.

3 Q. Do you have a copy of that statement with you?

4 A. Yeah.

5 Q. Okay. Do you recollect them asking you who is Josh
6 and how do you know him?

7 A. I don't know. Let me check.

8 Q. Would looking at that refresh your memory?

9 A. I mean, it was a long time ago.

10 Q. Yes, sir.

11 A. What page are you on?

12 Q. We're on page two.

13 A. What about it?

14 Q. They asked you who is Josh and how do you know him,
15 kind of toward -- the third from the bottom question.

16 A. All right. Yeah. Yeah. Yeah. What about it?

17 Q. And you said you just met him yesterday?

18 A. Yeah.

19 Q. Okay. So had you known him for a week or had just met
20 him the day before?

21 A. I have no idea.

22 Q. Okay.

23 A. I -- I'm a worker, man, so.

24 Q. Were you working at -- what was it, the Bulldog Pub at
25 that time?

1 A. Yeah.

2 Q. Now you're at you Waffle House?

3 A. Yeah.

4 Q. Okay. All right. When you got dropped off at the
5 shop, was Joe -- was he awake or asleep at that time?

6 A. He was asleep. It looked like he was asleep to me.

7 Q. Were you trying to get him up to get him out of the
8 car?

9 A. Yeah.

10 Q. And he wouldn't wake up?

11 A. Yeah.

12 Q. And was he asleep when they left?

13 A. Yeah.

14 Q. Okay. What did you do at the shop after they left?

15 A. I sat on the phone with a friend I was gonna go see
16 down in Hilton Head.

17 Q. Okay. Were you inside the shop or in the yard or
18 where were you?

19 A. I was in the shop.

20 Q. Okay. Were you talking with any of the other people
21 who was in there?

22 A. No, they were asleep I think. Pops let me in.

23 Q. Okay. How many -- how many other people were there do
24 you reckon?

25 A. Like two people. I'm not really sure.

1 Q. Okay. Not really sure.

2 A. I wasn't there for that long. It was like four hours.

3 Q. Okay. And so Joe called you. About how long after he
4 called you did he show up?

5 A. Judging from the phone records it was probably about
6 four or five hours.

7 Q. Four -- four or five hours after he called you?

8 A. It guess so.

9 Q. Okay.

10 A. It was -- it was sundown and when I got back it was
11 sunup before I got back in his car -- or back into his car.

12 Q. Okay. And so was he in the car waiting for you to
13 come out of the shop?

14 A. He pulled up and I walked out.

15 Q. Okay. He pulled up to the shop. Where did he pull up
16 from?

17 A. The street.

18 Q. Okay. Pulled up from the street. Okay. Had you
19 ridden with him in his blue Matrix to the shop originally?

20 A. That night?

21 Q. Yes, sir.

22 A. Or that morning, no.

23 Q. How did you get to the shop?

24 A. The white -- the white four-door sedan.

25 Q. Did you see his Matrix there when you got to the shop?

1 A. Yes.

2 Q. Where was it?

3 A. Right in front of the shop.

4 Q. Okay. So it wasn't in the road?

5 A. No.

6 Q. Okay. Where did Joe get that leather bag that they
7 showed you?

8 A. I don't know where he got that from.

9 Q. You don't know who gave it to him?

10 A. No, I don't know where it came from.

11 Q. Okay. And when the police started coming up to the
12 car, Joe said hey, man, I've got a gun under the seat? Is
13 that -- that how that went?

14 A. He didn't come straight out and tell me that, no.

15 Q. Okay. And when they pulled you out of the car, the
16 first thing they did was pat you down, wasn't it?

17 A. Yes.

18 Q. Okay.

19 MR. MAULDIN: I beg the Court's indulgence.

20 No further questions, Your Honor.

21 THE COURT: Anything on redirect?

22 MS. MARTIN: Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. MARTIN:

25 Q. When you-all, Joe, Katie, Josh, Alexis and you were

1 in the white car down at -- down at the Yacht Cove area,
2 do you know where the Defendant's blue Matrix was?

3 A. At the shop.

4 Q. Okay. So it was already parked at the shop?

5 A. Yeah. Yes.

6 Q. And do you remember how you met Josh?

7 A. No, not really.

8 Q. Okay.

9 A. It was random.

10 Q. Okay. Do you think -- I mean, was he Joe's friend or
11 your friend first?

12 A. I met him through Joe.

13 Q. You met him through Joe?

14 A. Yes.

15 Q. Okay. And --

16 MS. MARTIN: I think that's all I have, Your
17 Honor.

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

20 (Witness excused.)

21 THE COURT: Solicitor, how many more witnesses do
22 you-all have for the day?

23 MS. MAYES: May we approach?

24 THE COURT: Sure.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Ladies and gentlemen, we're gonna go
2 ahead and take a break. I anticipate finishing today
3 perhaps around 5:00, so we'll be at ease for about ten
4 or fifteen minutes.

5 Go ahead and use the facilities, make yourselves
6 comfortable and we'll be back on the record in about
7 ten or fifteen minutes, okay? Don't talk about the
8 case yet. Thank you.

9 Feel free to grab your -- while we're at it, does
10 anybody need -- is anybody gonna need a work excuse
11 today, needs one printed up? This gentleman does, a
12 couple of ladies do.

13 THE CLERK: I'll tell you what. I'll go down with
14 them.

15 THE COURT: You go down with them and find out
16 what they need and provide them with whatever they need.

17 In addition, here are your goodie bags. Sorry.

18 See you-all in a minute.

19 (Whereupon, the jury retires to the jury room at
20 3:54 PM.)

21 (Recess taken at 3:55 PM.)

22 (Back on the record at 4:06 PM.)

23 BAILIFF: All rise.

24 THE COURT: I know we're waiting on Suzanne --

25 MS. MARTIN: I can go.

1 THE COURT: Okay. Before we bring the jury back
2 in, let's go ahead -- since the pathologist is gonna
3 testify this afternoon, let's finish up the discussion
4 on -- I've lost track of it, but there was a photograph
5 that the State -- three photographs that the State
6 wanted to introduce of the decedent; two of her hands
7 and one of her face, and I kind of had put a pin in that
8 and was holding that for another time. I think it was
9 Exhibits 7, 10 and 11 maybe.

10 MS. MARTIN: That sounds right, Judge. Are they
11 up there with you?

12 THE COURT: No.

13 THE COURT REPORTER: I don't think they're over
14 here either.

15 (Pause in proceedings.)

16 MS. MAYES: Actually before we take up this
17 matter, if we could briefly call Dr. Reimer just on
18 this issue.

19 THE COURT: Okay. Yeah, I was wanting to -- as
20 I was explaining to Ms. Martin, I wanted to address
21 Exhibits 7, 10 and 11 since I sort of let that issue
22 remain out there and I didn't want to have to take a
23 break between when the pathologist testifies and -- I
24 know she's gonna testify next, but I assume that you
25 maybe took my advice and did a black and white?

1 MS. MAYES: We do, Your Honor, and we're prepared
2 to offer Dr. Reimer just briefly on this matter.

3 THE COURT: Okay. Can I see the black and white?

4 MS. MAYES: Yes, sir, Your Honor.

5 MR. MADSEN: Can I see it also?

6 THE COURT: If she wants to come on up, I'll put
7 her under oath and you can proffer whatever evidence
8 you feel like you need from her.

9 (Whereupon, Ellen Riemer was duly sworn by the
10 Court.)

11 ELLEN RIEMER,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION (In-Camera)

14 BY MS. MAYES:

15 Q. Doctor, you've had a chance to look at both the color
16 photograph that you took and the black and white photograph
17 that we created and showed to you just a few moments ago?

18 A. Yes.

19 Q. If you could for purposes of just this hearing remove
20 your mask and tell us which photograph would best aid you
21 in depicting and demonstrating the injuries sustained by
22 this patient?

23 A. Well, the -- the color version of the photograph is
24 the more accurate depiction of the injury because it
25 actually shows what the injury looked like. It's much

1 harder to see it on the black and white.

2 Q. All right. And in terms of the trajectory, the
3 stippling or lack thereof, how, if at all, does the color
4 photograph aid in that regard?

5 A. The color photograph just shows the -- the injury more
6 clearly and with better detail. It's much harder to sort
7 of point it out on the black and white I think.

8 Q. All right. When you were making your findings and
9 the findings that you'll ultimately testify to, were you
10 relying on color photos or a black and white version?

11 A. Well, I was looking at the injury in real life, so it
12 was in living color.

13 Q. And do you feel that you could adequately describe or
14 demonstrate the injury, trajectory, potential stippling or
15 lack thereof to Alexis Azarigian based solely on the black
16 and white photo?

17 A. Well, it's -- it wouldn't be as good a demonstration.
18 It would be much more difficult. The black and white
19 really doesn't show the injury very well. It's hard to see
20 it.

21 MS. MAYES: That's all from the State on that
22 matter, Your Honor, regarding that injury. I'm gonna
23 show her briefly -- we had 7, Your Honor, that I think
24 you -- you reviewed. 7 has now been replaced by another
25 color photograph that made the correction or redaction

1 concerning Ms. Azarigian's eyes that had been suggested.

2 And then we have 10 and 11 regarding the hands of Alexis
3 Azarigian.

4 BY MS. MAYES:

5 Q. Did you see any evidence of injury to either the left
6 hand or right hand of Alexis Azarigian?

7 A. No.

8 Q. Any indication of an altercation -- a physical
9 altercation or anything of that nature?

10 A. No.

11 Q. And is that -- can you tell us whether or not that's
12 best depicted by color photographs or black and white
13 photographs?

14 A. Well, I mean, these are just the top of the hand. The
15 documentation is in my report, okay, so there was no injury
16 or defensive-type wounds.

17 Q. And do you believe that's reflected by those color
18 photographs?

19 A. Yes. Well, even though it doesn't shows the palm, it
20 just shows the top of the hands, so.

21 MS. MAYES: Thank you, Doctor.

22 THE COURT: You-all had some questions?

23 CROSS-EXAMINATION (In-Camera)

24 BY MR. MADSEN:

25 Q. Doctor, you did a report, correct?

1 A. Yes.

2 Q. And you can describe those injuries based on that
3 report, can't you?

4 A. Well, I can, but, you know, photos are worth a
5 thousand words and it's much more demonstrative to be able
6 to use a photograph to describe anything.

7 Q. And much more graphic?

8 A. Yeah, but in much -- it's much more -- I mean, I'm
9 limited by my use of words. Photographs are -- everybody
10 can see the same thing.

11 Q. But you could have or someone could have created a
12 diagram that shows that same injury as depicted in the
13 photograph, correct?

14 A. Yes.

15 Q. And you could describe to the jury exactly what you
16 did as far as at autopsy and exactly what you saw based on
17 a diagram even though you prefer to have the photograph
18 and, quite honestly, I mean, you hate to say it, if you had
19 the body it would be easier to do that than the photograph,
20 correct?

21 A. A photograph is a very accurate depiction of the
22 actual injury.

23 Q. But you could still describe this is the wound, this
24 is what I found, this was everything without the
25 photograph?

1 A. Yes. Yes.

2 Q. You just --

3 A. Yes.

4 MR. MADSEN: Okay. That's all the questions I
5 have.

6 REDIRECT EXAMINATION (In-Camera)

7 BY MS. MAYES:

8 Q. And just to clarify, Dr. Riemer, in this particular
9 case you did not prepare a diagram, correct?

10 A. That's correct.

11 Q. You relied on the photograph?

12 A. I relied on the photograph.

13 MS. MAYES: Thank you. Nothing further.

14 THE COURT: All right. Thank you. You can step
15 down.

16 (Witness excused.)

17 THE COURT: Can I see State's 8, 9 and -- State's 8
18 and 9. They're in evidence already.

19 MS. MAYES: Yes, sir, Your Honor.

20 THE COURT: Okay. Correct me if I'm wrong, but I'm
21 assuming that the doctor is gonna testify that the entry
22 wound is just above the back of the left ear kind of
23 around the temple and from the x-rays it looks like
24 the -- there was some fragmentation maybe of the skull
25 and possibly the bullet, I'm just guessing here, but is

1 that kind of what you-all anticipate?

2 MR. MADSEN: Correct. No exit wound.

3 THE COURT: No exit -- right. And the -- the
4 bullet broke apart or was otherwise not of sufficient
5 quality to compare in terms of ballistics?

6 MS. MAYES: Yes, sir.

7 THE COURT: Okay. Mr. Madsen's about to say that
8 really there's no dispute as to cause of death, there's
9 no dispute as to the manner of death, there's no dispute
10 as to the angle of the wound, the only thing in dispute
11 is identity, who is the person who, in fact, shot the
12 decedent, which is sounding more and more like it's
13 going to turn on a credibility issue with the other
14 two occupants of the car who, I presume, are gonna
15 testify that the Defendant was the shooter. And I don't
16 know if the defense intends to offer any defense, but I
17 would assume that their defense is going to be something
18 along the lines of the Defendant was not the shooter.
19 How -- there's no suggestion that there was any kind of
20 altercation, which means in my mind 11 and 10 are
21 irrelevant, at least no -- no mention of that at this
22 point in time, and if the cause of death is not in
23 dispute, then what, again, is the relevancy to the
24 ultimate issue in this case by allowing the photographs
25 to -- to be admitted? I'm trying to figure out what is

1 relevant here.

2 MS. MAYES: Yes, sir, Your Honor. It's the
3 trajectory of the bullet, it's where it enters from
4 behind the ear. The doctor will testify that if the
5 victim is seated where she -- where the testimony will
6 show that she was in that front right passenger seat
7 and she is facing forward, then this gunshot wound is
8 coming from behind her and it's left to right, and
9 that's gonna be consistent with where the testimony will
10 be that the Defendant was seated in the car and where
11 we've already seen on surveillance video that the
12 Defendant exits or the person the State alleges is the
13 Defendant is then exiting that car, so it's -- it's
14 directly relevant to the identity of the shooter because
15 it's the positioning of the victim, the positioning of
16 where the Defendant is shown on that video or who we
17 allege the Defendant to be and then ultimately what
18 she's gonna testify to about the lack of stippling and
19 the trajectory of that bullet coming from behind and
20 left to right.

21 THE COURT: Okay. You say left to right. Are
22 we talking about left to right in a strictly linear
23 fashion or did the bullet travel towards the -- the
24 front temporal lobe or -- the x-rays I can't quite
25 tell. Can she definitively say?

1 MS. MAYES: The wound path is directed from left
2 to right slightly downward and back to front, and she
3 will be able to expound on that further during her
4 testimony regarding the certain positioning and -- and
5 the trajectory.

6 THE COURT: Okay.

7 MS. MAYES: She does -- she does not have diagrams.
8 She does have that -- that color photo and then we've
9 got the black and white that we created.

10 MR. MADSEN: Judge, our position is that you don't
11 need the photograph. Maybe a mannequin then.

12 MS. MAYES: Well, we certainly -- we certainly
13 need a way for the jury to, number one, evaluate the
14 credibility of this witness, who is the doctor. She
15 can testify to whatever -- to whatever we ask her to
16 that's documented in her report, but the photograph is
17 what will indicate to the jury if her findings are,
18 in fact, consistent with what the examination showed
19 and it's her corroboration of her testimony and that's
20 what the case law allows the photograph in for, it's
21 for corroboration and further demonstration by the
22 medical expert, and that's a long series of cases,
23 Your Honor, going back pre-Collins.

24 THE COURT: And I don't disagree. Your reliance
25 though on Collins honestly at this point in time,

1 it's a little bit weak in my opinion, and here's why.
2 First of all, if you look at Collins, here's what that
3 opinion actually said. Beatty and Toal -- Justices
4 Beatty and Toal basically concluded that it was relevant
5 -- or the photos in that case were relevant and should
6 have been admitted. They also engaged in a harmless
7 error analysis. Justice Hearn and Pleicones, they
8 concurred separately, but they found that the photos
9 were essentially out of bounds, which seems to indicate
10 that they adopted a harmless error analysis even though
11 their concurrence doesn't specifically mention harmless
12 error, and then you have Justice Pleicones who dissented.

13 This, of course, is an opinion that was coming from
14 the Court of the Appeals. The author of that opinion
15 was now Justice Few. The opinion from the Court of
16 Appeals basically found the photographs to be totally
17 out of bounds and completely inappropriate.

18 There is a case from 2008, the name of which
19 escapes me, but basically the Supreme Court cautioned
20 the bench and the bar concerning the use of autopsy
21 photographs, and that was even in a capital case,
22 essentially saying that the lilly was being gilded.

23 So we have a substantial change in the court and
24 as I see it Beatty and Hearn are still on the court, so
25 is Kittredge and now Judge Few, so that means that Hearn

1 and Kittredge and Few would be of the opinion if Collins
2 was decided today, that's three to one. I don't know
3 how Justice James would rule, but it's at least three to
4 one that the decision in Collins is incorrect.

5 MS. MAYES: In Collins, Your Honor, just one more
6 thing about that. That, of course, involved fresh
7 injuries to that child which were extremely, extremely
8 graphic in nature. In this photograph, the victim has
9 been cleaned. For all -- all purposes pretty much the
10 blood -- blood is gone, her eyes have been redacted.
11 We're simply looking at the entry point of that gunshot
12 wound, which are key and material to this case and to the
13 identity of the shooter.

14 THE COURT: That's only if -- that's only if your
15 theory is accurate though. Clearly somebody inflicted
16 this wound. The question is not the manner in which
17 the wound was inflicted or the cause of the -- the cause
18 of the injury, the ultimate issue here is identity and
19 the defense theory could very well be that the Defendant
20 was not in the backseat.

21 MS. MAYES: And, Judge, if all the jury gleans from
22 this testimony is that someone in the backseat fired that
23 weapon, that's all that we're attempting to prove at
24 this stage. We have other witnesses who would then come
25 in and establish who was in that backseat, but this --

1 this physician who has these findings will be testifying
2 about something very, very important about trajectory
3 and the State's position is that the jury has a right
4 to know and properly evaluate whether or not her
5 testimony is corroborated by the actual evidence there.
6 If -- if only the black and white can be admitted, if
7 that's what it -- if that's what we're looking at now,
8 we can -- we can make --

9 THE COURT: Let me -- let me go at it this way.
10 Does the defense anticipate the possibility of arguing
11 that the shot was fired by the driver, whoever that
12 might be? Is that a possibility? I'm not saying that
13 that's -- I'm not asking you to go against the rule
14 and go ahead and give me your defense, but is there
15 some possibility that in the future testimony could be
16 elicited that the shot was fired by the driver as opposed
17 to a backseat passenger?

18 MR. MADSEN: Judge, I don't -- I don't feel
19 comfortable until we get to that point.

20 THE COURT: Sure. All right.

21 MR. MADSEN: I mean, we don't dispute that there's
22 a gunshot wound that causes the death. As Your Honor --

23 MR. MAULDIN: She doesn't need that one photo to
24 show the trajectory.

25 MR. MADSEN: I mean, and that's -- like you said,

1 it's -- it's gilding the lilly, it's done for shock,
2 it's done to try to prejudice. They don't need it. And
3 as you said, in Collins, you know, they've been warned
4 over and over and over again and they're just trying to
5 do it again and hoping hey, if we get to that point,
6 then maybe it will be harmless error, and we shouldn't
7 get to that.

8 THE COURT: All right. I'm sorry. I tend to
9 agree with the defense on this -- on this topic. She
10 can testify -- the wound itself merely indicates a
11 wound. It shows nothing about trajectory, it shows
12 nothing along those lines, and we have in noncapital
13 cases genuinely started moving away substantially from
14 the use of autopsy photographs. I don't believe -- I
15 candidly cannot think of a time at least in the Eighth
16 Circuit that they have used autopsy photographs in a
17 homicide that I tried recently.

18 MS. MAYES: And, Judge, with -- with all due
19 respect, I can't think of a single case where they have
20 not come in, not a single one in this circuit where an
21 autopsy photo has not come in.

22 THE COURT: Okay. Well, in this case -- and that
23 may very well be the case and if there was some dispute
24 as to cause of death or manner of death or what have
25 you, I would let you introduce it. It sounds like the

1 -- what I am gonna do is I will allow the doctor to
2 use the exhibits, just she sees them, you can lay a
3 foundation for them. If at a later point in time they
4 become relevant, we can cross that bridge, you can move
5 for their introduction at that particular point in time.

6 But I am looking at Collins, I'm looking at that
7 line of cases, and the -- the key to admissibility --
8 the key to a 403 analysis is whether any probative value
9 is outweighed by its prejudicial effect, and in this
10 case, again, the issue is not -- at this stage so far as
11 I can see, the issue is not cause of death or manner of
12 death. I imagine that the defense would be willing to
13 stipulate as to cause of death and manner of death if
14 identity is an issue.

15 MS. MAYES: And the only way -- I understand, Your
16 Honor, the Court has ruled, but regarding our argument
17 in case it's revisited through a later witness, the only
18 way we can prove identity of the shooter is through this
19 type of evidence.

20 THE COURT: I understand and --

21 MS. MAYES: So we would ask for a brief break,
22 Your Honor. I believe we have another witness that can
23 be called. I'm gonna work with Dr. Reimer quickly to
24 see if a diagram can be produced.

25 THE COURT: Okay. Why don't we -- I imagine that

1 you probably have -- can we do the other witness and
2 then while we wait on Dr. Reimer maybe she can come up
3 with just a --

4 MS. MARTIN: Yes, sir, Your Honor. I can do a
5 short witness.

6 THE COURT: Let's have the jury back out, please.

7 (Whereupon, the jury returns to the courtroom at
8 4:31 PM.)

9 THE COURT: All right. The record will reflect
10 that the jury is back.

11 Ladies and gentlemen of the jury, I just wanted to
12 let you know for the last basically twenty minutes I've
13 been taking up some procedural issues and trying to
14 streamline some things. I was doing that in the hopes
15 to keep you guys from having to be sent out, brought
16 back, sent out and brought back, so that's why we went
17 ahead and took those issues up on the break. We haven't
18 been up here just twiddling our thumbs is what I'm
19 telling you, okay?

20 Thank you for being back.

21 Solicitor, if you'll call your next witness,
22 please.

23 MS. MARTIN: Thank you. Thank you, Your Honor.

24 We call Tony Ward.

25 (Whereupon, Tony Ward was duly sworn by the Clerk

1 of Court.)

2 THE CLERK: Can you state your first and last name,
3 spelling your last name.

4 THE WITNESS: Tony Ward, W-A-R-D.

5 TONY WARD,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. MARTIN:

9 Q. Good afternoon, Mr. Ward. How are you?

10 A. Doing good.

11 Q. Where were you employed in February of 2019?

12 A. With the Lexington County Detention Center.

13 Q. Okay. And since that time have you left the sheriff's
14 department?

15 A. I have.

16 Q. Okay. And did there come a time that you were
17 involved in executing a search warrant at the detention
18 center in regards to the Defendant?

19 A. Yes, ma'am.

20 Q. Okay. And can you tell us who you did this work with?

21 A. Ms. Black.

22 Q. And what was the purpose of this?

23 A. To retrieve some glasses.

24 Q. If I can show you what's been marked as State's
25 Exhibit 138, do these glasses look familiar?

1 A. Yes, ma'am.

2 MS. MARTIN: Your Honor, I believe we'd like to
3 move in State's 138 without objection.

4 MR. MADSEN: No objection.

5 THE COURT: 138's in evidence without objection.

6 (State's Exhibit Number 138, eyeglasses, were
7 admitted into evidence.)

8 BY MS. MARTIN:

9 Q. Were those the glasses that were collected from the
10 Defendant?

11 A. Yes, ma'am.

12 Q. And the glasses were then taken where; do you know?

13 A. Placed into evidence.

14 MS. MARTIN: Thank you. That's all I have.

15 MR. MAULDIN: No questions.

16 THE COURT: All right, sir. You can step down.

17 THE WITNESS: Thank you, Your Honor.

18 (Witness excused.)

19 THE COURT: Solicitor, do you have another brief
20 witness since the --

21 MS. MARTIN: I'll check.

22 THE COURT: Check. Thanks.

23 MS. MARTIN: May we approach?

24 THE COURT: Yeah.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Hang with us just for a moment, ladies
2 and gentlemen. The next witness should be on the stand
3 shortly, okay? I'm so sorry. Thank you.

4 (Pause in proceedings.)

5 THE COURT: Doctor, if you will come up and be
6 sworn. Hold off right there. She's gonna put you
7 under oath, Doctor.

8 THE CLERK: Place your left hand on the Bible and
9 raise your right hand.

10 (Whereupon, Ellen Riemer was duly sworn by the
11 Clerk of Court.)

12 THE CLERK: Thank you. If you'll have a seat.
13 State your first name and last name, spelling your
14 last name.

15 THE WITNESS: My name is Dr. Ellen Riemer,
16 R-I-E-M-E-R.

17 ELLEN RIEMER,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. Good afternoon. Thank you for coming up from
22 Charleston. Tell us a little bit about yourself, where
23 you are employed and in what capacity.

24 A. I am a medical doctor and forensic pathologist.

25 Q. And, Doctor, I'm sorry, if you can pull that

1 microphone a little bit closer to you.

2 A. Sure. I am a medical doctor with a specialty in
3 forensic pathology and I'm Board-certified in pathology,
4 as well as forensic pathology. I'm employed at the
5 Medical University of South Carolina where I am a forensic
6 pathologist and perform autopsies to determine cause and
7 manner of death and I've been at MUSC for eleven and a half
8 years in that capacity.

9 Q. Now what is meant by the term "forensic pathology"?

10 A. Okay. Well, pathology in general is a specialty of
11 medicine that determines -- like identifies disease as a
12 cause of illness by looking at tissues and fluids and
13 forensic pathology is a subspecialty of the field of
14 pathology which focuses on examining injuries and death
15 from nonnatural causes.

16 Q. All right. Have you been qualified previously as an
17 expert in the field of forensic pathology?

18 A. Yes, on multiple occasions.

19 Q. Okay. Have you testified previously as to cause of
20 death?

21 A. Yes.

22 Q. And as to manner of death?

23 A. Yes, on multiple occasions.

24 Q. And does that include homicide cases within the state
25 of South Carolina?

1 A. Yes.

2 Q. Is it possible to estimate how many such times you've
3 been qualified as an expert in the field of forensic
4 pathology?

5 A. Well, I've not actually kept track, but definitely
6 over two hundred.

7 MS. MAYES: Your Honor, at this time the State
8 would offer Dr. Ellen Riemer as an expert in the field
9 of forensic pathology.

10 MR. MADSEN: No objection. No voir dire.

11 THE COURT: Ladies and gentlemen, in this case
12 the parties agree that Dr. Riemer is an expert in
13 the field of forensic pathology. And as I explained
14 earlier with the other witness, because she's recognized
15 as an expert in this field she's not limited to simply
16 testifying about stuff you saw or heard or smelled or
17 whatever. She can give opinion testimony in the field
18 of forensic pathology that you can use as you deem
19 appropriate, okay?

20 Please continue, Solicitor.

21 BY MS. MAYES:

22 Q. Doctor, can you tell us whether or not you performed
23 an autopsy on the victim in this case, Alexis Azarigian?

24 A. Yes, I did.

25 Q. I want to start by asking a few questions about that

1 and a few basic points of information that you received and
2 observed concerning someone who arrives for autopsy.

3 A. Okay.

4 Q. Tell us about the initial phase of the examination and
5 what you're looking for.

6 A. Okay. So the autopsy begins by an external
7 examination where I look at everything on the body
8 externally before doing any kind of internal examination
9 and looking for any evidence of injury or other
10 abnormalities and part of -- if I determine that an x-ray
11 might be helpful for me to see if there's a projectile in
12 the body, then I can -- I have the ability to do that as
13 well. And I also -- I examine the body fully looking at
14 every portion of skin and I do the height and weight of --
15 of the victim and then only after a complete external
16 examination I'll proceed to the internal examination, which
17 is a specialized surgical-type procedure where all of the
18 internal organs are examined individually for any signs of
19 injury or natural disease, and then it all becomes
20 documented in a pathology report.

21 Q. All right. So starting with your external
22 examination, what was the age of Alexis Azarigian?

23 A. Well, the age is something that I rely on the -- the
24 information that was given to me that she was twenty-five.

25 Q. And what information do you have regarding her height?

1 A. Yeah. Well, I measured her height myself while she
2 was not standing up, but on the table, was five feet five
3 inches.

4 Q. Five feet five inches tall?

5 A. Yes.

6 Q. And what was her weight?

7 A. Her weight at the time of autopsy was 164 pounds.

8 Q. Now as you're looking at the body physically, do you
9 -- can you tell us what is standard in terms of looking for
10 any signs of external injury or trauma?

11 A. Yes. Well, this is -- this is the job. You know, I'm
12 looking at the body and looking for anything that may be
13 abnormal, and in this case there was a single abnormality
14 of significance, which was an entrance gunshot wound behind
15 the left ear.

16 Q. Okay. We'll talk about that more in a moment. In
17 looking at the other areas of the body, when you perform an
18 autopsy can you tell us whether or not you're looking for
19 evidence of assault or a physical altercation or things of
20 that nature?

21 A. Yes. Any -- any injury that's on any part of the body
22 is something I would be required to document as part of my
23 autopsy examination.

24 Q. Can you tell us whether or not that includes the
25 hands, the palms, the knuckles for any sign of a physical

1 assault or injury?

2 A. Yes, I look at the hands thoroughly and in this case
3 there was no injury to the hands.

4 Q. Okay. So you would have examined both her left hand
5 and her right hand?

6 A. Yes. As I said, every portion of the body. I don't
7 leave any part out.

8 Q. Okay. Any indication of assault or injury to her
9 hands or knuckles?

10 A. No.

11 Q. Now in addition to that, you mentioned that there was
12 a single gunshot wound?

13 A. Correct.

14 Q. And specifically where was that gunshot wound noted?

15 A. Behind the left ear.

16 MS. MAYES: Your Honor, at this point we would
17 ask if the witness may step down?

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

20 THE WITNESS: Oh, do I need my mask?

21 MS. MAYES: Yes. And also your report or any
22 relevant documents you may have.

23 BY MS. MAYES:

24 Q. State's 114 -- or, I'm sorry, 141.

25 MS. MAYES: Any objection from the defense to 141?

1 MR. MADSEN: No, ma'am.

2 (State's Exhibit Number 141, diagram blowup, was
3 admitted into evidence.)

4 A. So there was a single gunshot wound to the head, which
5 entered behind the left ear, and that was pretty much right
6 there. And it was actually in the -- right behind the flap
7 of the ear. So if -- if we look right behind the ear,
8 there's a portion of scalp that's right behind the ear.
9 And in addition to the entrance wound that was there, there
10 was an abrasion or scrape along the back, the floppy part,
11 of the left ear. So it was coming in behind the left ear
12 and scraping the back of the left -- of the floppy portion
13 of the ear along -- before it actually entered the head.

14 Q. All right. And when you say "it?", you're referring
15 to the bullet?

16 A. Yes.

17 Q. All right. I'm gonna ask you if you could, looking
18 here at my left ear, show us where you're referring to,
19 where you saw the abrasion and what, if anything, that may
20 indicate regarding the trajectory of this bullet.

21 A. Okay. So the bullet was going kind of like that, it
22 was entering behind the flap of the ear and scraped the
23 back of the ear. So in order for it to do that, it's not
24 gonna be coming from front to back. You can imagine that
25 it would have to be going in that direction, from left to

1 right, but also with a back to front trajectory.

2 Q. A back to front trajectory?

3 A. Yes. Otherwise, we wouldn't have it scraping the back
4 of the left ear on its way into the head.

5 Q. All right. Now, Doctor, I also want to ask you
6 what is meant among forensic pathologists by the term
7 "stippling" or deposits of soot?

8 A. Okay. So soot deposition on the -- on the skin would
9 indicate -- well, before I explain that I want to explain
10 what happens when a bullet comes out of the barrel of a
11 gun. So when a bullet is discharged from the barrel of a
12 gun, it's propelled by gunfire, okay, so -- and it's -- if
13 the barrel of a gun is within a certain distance to the
14 skin, some of that gunpowder comes out along with the
15 bullet and it -- and if the gunpowder travels a short
16 distance, it can get deposited on the skin, but the bullet
17 travels much farther than the actual gunpowder.

18 So in this case we did not have any gunpowder, which
19 is soot or stippling. Soot is very -- would be very close,
20 you know, like within an inch or two, and then stippling
21 would be, you know, within, you know, eighteen to
22 twenty-four inches, and we did not have any evidence of
23 that.

24 Q. All right. So looking at me as an example, if I have
25 no evidence of soot or stippling, what, if anything, would

1 that indicate about how far away the shooter is from me?

2 A. Well, at least eighteen to twenty-four inches away.

3 Q. And can you it demonstrate that?

4 A. Yeah. So, let's see, this is about -- about one foot,
5 so this would be -- the bullet -- the barrel of the gun
6 would not have been any closer than this.

7 Q. All right. So at least eighteen to twenty-four inches
8 away considering that you found no evidence of soot or
9 stippling as to Alexis Azarigian?

10 A. That's correct.

11 Q. All right. And this is the gunshot wound as you've
12 indicated that is back to front. What, if anything, can
13 you tell us about the location of that abrasion that you
14 described that indicated the trajectory?

15 A. Yes. So it was only -- it did not go through the
16 actual flap of the ear, but scraped the back of the flap of
17 the ear, it's called a pinna, so in order for it to do that
18 and enter right behind the left ear, the bullet had to have
19 come from slightly behind.

20 Q. All right. And, again, if you could demonstrate with
21 my ear where that abrasion is located.

22 A. Okay. So the abrasion is right here like that mask
23 strap would be. It would be like right behind the ear over
24 there. So the entrance is right over there and we can see
25 a scrape on the back of the left ear.

1 Q. Thank you, Doctor. You may return.

2 A. (Witness complies.)

3 THE COURT: Can I see you-all over here at the
4 side for just a second, if I may? I'm so, so sorry.

5 (Proceedings held at the bench; not reported.)

6 THE COURT: Sorry for the interruption, Solicitor.

7 BY MS. MAYES:

8 Q. And for identification only -- for identification
9 only, Doctor, if you could take a look at these
10 photographs. They are 143 and 142.

11 A. Yes.

12 Q. Is the abrasion noted in either one of these
13 photographs?

14 A. Yes.

15 Q. Which photograph is that?

16 A. I can see it over -- on here.

17 Q. And that photograph is which number?

18 A. 142.

19 Q. All right. And then I'm gonna show you what is
20 State's 8 and 9. What, if anything, is depicted in these
21 photographs?

22 A. Multiple fragments of a projectile.

23 Q. All right. I'm gonna ask you to use this.

24 MS. MAYES: And I believe 8 and 9 are in evidence
25 without objection, Your Honor.

1 THE COURT: That's correct.

2 BY MS. MAYES:

3 Q. Doctor, do you take x-rays during the course of an
4 autopsy?

5 A. Yes, if I think that it's gonna provide information.
6 Not every -- not every deceased person gets an x-ray, but
7 if I see anything that looks like a gunshot wound on a body
8 I'm definitely going to perform x-rays because I want to
9 make sure that I don't miss any projectiles that remain in
10 the body.

11 Q. All right. Tell us what we're looking at in this
12 particular x-ray.

13 A. Okay. So there is an x-ray of -- of her head and we
14 can see over here there is some -- you see this side is
15 kind of -- is exactly the way it's supposed to look, okay?
16 There's no foreign material. But comparatively we've got
17 some whiter looking fragments and material along in here
18 and these are fragments, radiopaques, so anything that's
19 white on there is very solid, okay? So, for instance, the
20 skull is white and then the background area is black, so
21 there are solid pieces, in this case metal, which are a
22 fragmented bullet. And we can see this is an L, so that's
23 the left side of the head and this is the right side of the
24 head. So after the bullet entered behind her left ear, it
25 broke up in the skull and brain and ended up in the base of

1 the skull, which is kind of the -- it kind of holds the
2 brain up in the head, and those are -- the biggest pieces
3 are in the base of the left skull.

4 Q. All right. And I'm gonna show you State's 9.

5 A. Okay.

6 Q. If you can describe what we're looking at in this
7 photograph.

8 A. Okay. So the reason that we do x-rays not just from
9 the front, but also from the side is it gives us a better
10 idea of the three dimensionality of it. So when I'm
11 looking at the body, I see the body in three dimensions,
12 but an x-ray just takes two dimensions. So if I've got
13 from front to -- AP, which is like an anterior/poster,
14 which is the first x-ray we saw, then this is a lateral
15 view, so an x-ray coming from the side, we can see
16 clearly that there are -- you can see this is the same
17 fragments that we saw and this shows where they are from
18 the lateral view and then combined with the other view we
19 can see they're in the -- basically in the base -- below
20 the base of the skull on the left side. The left side we
21 appreciated because of the first images -- first image.

22 Q. And did this bullet penetrate the brain?

23 A. Yes.

24 Q. As a result of that gunshot wound to the head, what,
25 if anything -- what, if any, type injury resulted to

1 Alexis?

2 A. Well, there was diffuse subarachnoid hemorrhage of
3 the brain, which is bleeding on the surface of the brain,
4 and also cerebral edema, which is swelling of the brain.

5 Q. Ultimately, Doctor, what did you determine to be cause
6 of death for Alexis Azarigian?

7 A. Gunshot wound to head.

8 Q. And what was the manner of death?

9 A. The manner of death was homicide.

10 Q. Did you collect from Alexis what's known as a blood
11 standard or a blood sample for purposes of sending to the
12 state crime lab?

13 A. Yes. So every person that gets an autopsy has a piece
14 of -- a sample of their blood put on a bloodspot card.

15 Q. And then in addition to that, did you attempt to
16 retrieve the projectile that is shown right there in that
17 x-ray, State's 9?

18 A. Yes.

19 Q. Directly from her head?

20 A. Yes.

21 Q. I'm gonna show you what is State's 12 and 13 and ask
22 you whether or not you recognize those photographs?

23 A. Yes. So that's the biggest piece of the projectile.

24 Q. Shown in State's 12?

25 A. Yes.

1 Q. And can you tell us whether or not that was provided
2 to law enforcement also for purposes of examination by the
3 State Law Enforcement Division?

4 A. Yes.

5 MS. MAYES: This would be 12 and 13 for evidence,
6 Your Honor.

7 THE COURT: Those are already in, aren't they?

8 MR. MADSEN: I thought those were without
9 objection.

10 THE COURT: I think those are without objection.
11 If they're not in, I'm sure -- if they're not in,
12 they're in. Yeah, they are in, 12 and 13.

13 BY MS. MAYES:

14 Q. I'm gonna show you what is State's 137 and ask you
15 whether or not you recognize this item and, if so, how?

16 A. Yes, this is the -- the autopsy sticker. So every
17 person that gets an autopsy has an autopsy number and a
18 sticker -- and it's multiple stickers. So anything that's
19 taken from her body is -- gets a sticker and is identified
20 as such, so this is the projectile fragment.

21 MS. MAYES: All right. This would be 137 for
22 evidence, Your Honor.

23 MR. MADSEN: No, objection.

24 THE COURT: State's 137 is in evidence.

25 (State's Exhibit Number 137, a bullet fragment,

1 was admitted into evidence.)

2 BY MS. MAYES:

3 Q. Doctor, finally I want to ask you to take a look at
4 what is State's 40, a four-door white sedan.

5 A. Okay.

6 Q. If Alexis is seated in the front right passenger seat,
7 what, if anything, would that indicate if she's facing
8 forward?

9 MR. MADSEN: Judge, I would object. I think
10 that calls for speculation. She hasn't been qualified
11 as an expert in crime scene analysis. I mean, it's
12 speculation.

13 MS. MAYES: I can lay that foundation further,
14 Your Honor.

15 THE COURT: Why don't you -- let's see what you
16 can elicit. Go ahead.

17 BY MS. MAYES:

18 Q. As a forensic pathologist, do you study trajectory of
19 bullets?

20 A. Relative to the body only.

21 Q. And is that something that you're familiar with in
22 your background, education and training?

23 A. Yes, that's part of my autopsy examination is to
24 determine the trajectory of the wound path through the
25 body. That's part of the complete autopsy examination.

1 Q. And is that a field of expertise that you've
2 testified to in courts of General Sessions in this state
3 in the past?

4 A. Yes.

5 Q. Is that routine as part of your role as a forensic
6 pathologist?

7 A. Yes.

8 Q. And in this case were you able to determine a
9 trajectory or path of bullet wound for Alexis Azarigian?

10 A. Yes.

11 Q. Doctor, looking at this photograph --

12 MR. MADSEN: I still have an objection. She said
13 trajectory in the body. I mean, that's the doctor's
14 specific words and I think --

15 THE COURT: All right. I think -- I think it's a
16 leap to take that testimony to -- I understand what
17 you're getting at, Solicitor, and obviously that's a
18 fair inference which -- perhaps to be drawn, but she
19 can only testify as to the trajectory of the -- of the
20 bullet. If you want her to demonstrate again how a
21 gun or a firearm or a 9-millimeter would have to be
22 positioned in order to inflict that wound, you can
23 certainly do that, but I don't know that asking her to
24 comment on the -- the layout of the car and things like
25 that would be appropriate for this witness. That would

1 be more of a crime scene sort of thing.

2 MS. MAYES: Very well, Your Honor.

3 BY MS. MAYES:

4 Q. Dr. Riemer, if you could step down one more time.

5 A. (Witness complies.)

6 Q. And if I am facing forward and I am Alexis Azarigian,
7 what, if anything, can you tell us if I'm facing forward
8 about the path or trajectory of the bullet wound that
9 killed her?

10 A. So the wound path trajectory was -- we talk in three
11 dimensions, so one dimension is from left to right, the
12 other is back to front, and then slightly downward, so it
13 would be going like in that direction. It's coming from
14 left to right and then from back to front and slightly
15 downward.

16 Q. And distance from Alexis?

17 A. Yeah, at least eighteen to twenty-four inches away.

18 MS. MAYES: Thank you, Doctor. Nothing further.

19 THE COURT: 141, are you moving that in for
20 demonstrative purposes?

21 MS. MAYES: My understanding, Your Honor, is that
22 there was no objection. It was already in.

23 THE COURT: Okay. My bad.

24 MR. MADSEN: Yeah, there are no objections to that,
25 Judge.

1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. MADSEN:

4 Q. So, Doctor, real quick let me see if I've got this
5 right. The trajectory was left to right, slightly downward
6 and slightly back to front?

7 A. Correct.

8 Q. And so you can only tell the trajectory after the
9 bullet enters the head, correct?

10 A. That's correct.

11 Q. And so if that bullet enters here and I'm looking
12 forward, there would be a trajectory, correct?

13 A. Yes.

14 Q. But if I'm looking this way, then that's a different
15 angle, correct? It just depends on the positioning of the
16 head?

17 A. Yes. I'm only -- I am only able to evaluate the
18 trajectory through the body.

19 Q. And slightly downward would mean that either the gun
20 would have to be up and pointing kind of down or the head
21 would have to be looking up?

22 THE COURT: And the gun level.

23 MR. MADSEN: Yes, and the gun level. I think
24 I made that more confusing than I should have.

25 MS. MAYES: I'm sorry, if he could repeat the

1 question.

2 THE COURT: Yeah.

3 BY MR. MADSEN:

4 Q. So if it's -- if it's going downward, the gun would
5 have to be --

6 A. It's a slight downward.

7 Q. -- down. But if the gun was down and the head was
8 looking up, you could achieve that same trajectory just
9 depending again, I guess, on where the head is positioned?

10 A. Yes.

11 Q. And that entrance wound was three-eighths of an inch,
12 correct?

13 A. In diameter, yes.

14 Q. And when you take a blood sample, you also do a -- or
15 a request a toxicology?

16 A. Well, in this case toxicology was not performed
17 because of --

18 Q. Are you sure?

19 A. I don't believe it was.

20 Q. Do you want to take a look and check? I do believe
21 toxicology was performed.

22 A. Yeah, I don't have any toxicology results.

23 Q. Okay. So if it was performed, no one gave that back
24 to you?

25 A. That's correct.

1 MR. MADSEN: That's all the questions I have.

2 THE COURT: Anything in redirect?

3 MS. MAYES: No, sir, Your Honor. We ask that she
4 be excused back to MUSC.

5 THE COURT: Doctor, thank you for coming. Drive
6 safely and try to avoid the 5:00 traffic.

7 (Witness excused.)

8 THE COURT: Solicitor, no additional witness for
9 the day?

10 MS. MAYES: No, sir.

11 THE COURT: Ladies and gentlemen, we're gonna
12 reconvene tomorrow morning again at 9:00 and please do
13 try to be here at 9:00. Thank you for being here this
14 morning on time, et cetera. Don't talk about the case
15 tonight. Be sure to grab your goodie bags. Leave it
16 in the car and that way you can bring it back in if
17 you want it, and I hope you-all have a very pleasant
18 evening. Enjoy some of the sun and beautiful weather
19 out there on your back porch or whatever you've got.
20 Take care.

21 (Whereupon, the jury was excused for the day at
22 5:06 PM.)

23 THE COURT: The jury is out and at a brief bench
24 conference a few moments ago I believe that the State
25 has a number of SLED witnesses that they're gonna be

1 calling tomorrow morning and then the two occupants
2 of the vehicle who were on-scene, they're gonna be
3 testifying, I assume, as well.

4 Do you think we can get all of those by lunchtime?
5 Knock on wood. Maybe.

6 MS. MAYES: It's possible, Your Honor, and if we
7 do, would it be the Court's intent for us to go ahead
8 and end the case potentially tomorrow?

9 THE COURT: If the State's case could be ended
10 tomorrow, that would -- that would be good, but at the
11 same time I certainly don't want to rush anybody. But
12 it seems like -- it seems like a lot of the SLED
13 witnesses shouldn't take too terribly long. I'm trying
14 to gauge exactly what our -- what our timeframe is and
15 that's simply for purposes of inquiring of the Defendant
16 concerning his right to testify, that's typically put on
17 the record, and if there's a shot that you're gonna be
18 done tomorrow, I was gonna go ahead and do that right
19 now. If it's obvious that this case is going into
20 Monday, then there's no point in me having that colloquy
21 with him. But I was also for planning purposes wanting
22 to try to anticipate when I needed to have the jury
23 instructions ready in the event that the defense elected
24 not to present a case.

25 MS. MAYES: Well, I guess that's what we're -- what

1 we'd be looking at, Your Honor. If we could potentially
2 end our case by one and if they're -- if the defense is
3 not calling witnesses, I think it would be to everybody's
4 benefit to end the case tomorrow potentially.

5 THE COURT: Right. I'm a little weary about going
6 over the weekend. The last thing I want is for us to
7 get a phone call that three of the jurors have now come
8 down with COVID or something has arisen and we put so
9 much effort -- and I appreciate the way the State has
10 streamlined its case to make things happen. I sincerely
11 appreciate that, Solicitor.

12 MS. MAYES: We have a 2013 shoplifting, Your Honor.
13 There was a possession of marijuana that would not be
14 impeachable, but there's a shoplifting from 2013.

15 THE COURT: That would be the only crime of
16 impeachment you-all would seek to use?

17 MS. MAYES: (Nods head.)

18 THE COURT: Mr. Mauldin, I assume that you and
19 co-counsel have reviewed with your client his right to
20 testify and present a defense, et cetera?

21 MR. MAULDIN: We have, Your Honor.

22 THE COURT: Okay. Has a firm decision been made
23 at this point in time as to whether you're going to
24 present a defense?

25 MR. MAULDIN: Not -- not a firm one at this time.

1 It kind of depends on how things go tomorrow.

2 THE COURT: Okay. Would there be any objection
3 for me going ahead and having a brief colloquy with
4 Mr. Henry about his right to testify or stay silent?

5 MR. MAULDIN: That's fine.

6 THE COURT: Mr. Henry, I need you, if you could,
7 to just raise your right hand. I'm not gonna ask you
8 any substantive questions, but I do need the answers
9 to be under oath.

10 (Whereupon, Joseph Randolph Henry was duly sworn
11 by the Court.)

12 THE COURT: And, sir, you are Joe Henry, correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Now, Mr. Henry, at some point, either
15 tomorrow or in the coming days, we're gonna get to that
16 point in the trial where you and your attorneys can
17 present a defense, if you choose to do so. And, of
18 course, part of any defense would entail you being able
19 to take the stand and testify in your own defense.

20 Do you understand that, sir?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: You understand, Mr. Henry, if -- if
23 you choose to take the stand, you'll have to answer
24 any relevant question put to you by the parties, the
25 State, your attorneys. You'll have to answer any

1 relevant questions and you'll also be subject to, of
2 course, cross-examination and impeachment for that
3 shoplifting conviction from 2003 {sic} or thereabouts.

4 So you understand, Mr. Henry, that that certainly
5 is your right to take the stand and offer your own
6 version of events. You understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Now have said that, Mr. Henry, you
9 understand that you also have the right to not testify
10 in this case and, of course, you can't be compelled to
11 be a witness against yourself in any case where you are
12 a defendant. That means the State can't force you to
13 testify, I can't, your attorneys can't, only you can
14 choose to testify of your own free will.

15 Do you understand that, sir?

16 THE DEFENDANT: Understood, Your Honor.

17 THE COURT: And you understand that if you chose
18 not to testify, I would instruct the jury that they
19 could not use your failure to testify in any way as
20 evidence of guilt. They couldn't create -- that
21 wouldn't create any inference, it wouldn't create any
22 presumption of guilt, they couldn't even discuss it in
23 the jury room. I would instruct them on that if you
24 chose of your own free will not to testify.

25 Do you understand that, Mr. Henry?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. Now, Mr. Henry, you can
3 consult with -- with anyone that you want to concerning
4 your right to testify. You can talk to your -- your
5 family, you can talk to friends, I know your dad's a
6 lawyer as well, but obviously your attorneys are
7 probably -- from a strategic point of view they're
8 probably the most important ones to give you advice on
9 whether you should testify or not. Do you hear me?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Now, Mr. Henry, the way I leave this
12 is because of your right to assert the Fifth is a
13 personal right and can only be waived by you, the way
14 I usually leave it is if during the course of you
15 presenting your case your lawyers call you as a witness,
16 I'll simply assume that you're automatically waiving
17 your rights under the Fifth Amendment and you're
18 voluntarily testifying.

19 Is that acceptable?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay. Do you have any questions about
22 this that you need to ask me or your lawyers?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: All right. Good enough. Thank you,
25 Mr. Henry.

1 THE DEFENDANT: Thank you.

2 THE COURT: All right. Everyone, we'll be
3 adjourned then if nothing further.

4 Oh, there is something further?

5 MS. MAYES: Yes, sir, Your Honor.

6 For scheduling purposes, what would be the
7 approximate cutoff tomorrow in which we would
8 potentially begin the arguments and charge and
9 submission to the jury? I ask because we do have one
10 more witness we didn't talk about. We do have one
11 more witness, so I'm not sure if we're gonna make it
12 or not. We're just wondering what the Court's cutoff
13 would be.

14 THE COURT: If the defense does not present a
15 defense and we're in a position to argue and charge
16 tomorrow afternoon for the reasons I suggested, the
17 risk of going over the weekend and possibly losing
18 three and being in a mistrial situation and having to
19 do this all over again. And I -- I know that the young
20 girl's family has been here -- all the families have
21 been here and I don't want to put anybody through that
22 again if I can avoid it. My intention would be just
23 to go ahead and move forward with closing, instruction
24 and then I'll give the jury my standard instruction that
25 once you guys start deliberating, we're on your clock,

1 so if you want to take a break and reconvene on Monday,
2 then I would -- I would let them do that, but --

3 MS. MAYES: Then that -- that sounds reasonable,
4 Your Honor, that we could at least have it submitted to
5 the jury by 4:00.

6 THE COURT: Yeah, somewhere around there. And
7 then, of course, I'll just tell them if you need to
8 take a break, just let me know and we'll take a break
9 and reconvene later.

10 MS. MAYES: And as for potential charges for
11 submission, Your Honor, other than -- other than
12 the standard charges, we would have, of course,
13 circumstantial evidence, direct evidence. This is a
14 case where the Defendant denies being the shooter, so
15 we don't anticipate any lesser included offenses. It
16 appears to be murder or nothing.

17 THE COURT: That's kind of how it's going right
18 now. Obviously if they present a defense we're gonna
19 be into Monday. I don't think we could get it to them
20 tomorrow, but we'll see how it all plays out. I concur
21 with you though in your -- your assessment so far. That
22 said, nothing's in stone.

23 All right. You-all have a lovely evening. Take
24 care.

25 (Whereupon, the proceedings were concluded for

1 October 1, 2020, at 5:14 PM.)

2 (The following proceedings were held October 2,
3 2020, beginning at 9:05 AM.)

4 BAILIFF: All rise. Court's in session. The
5 Honorable Judge Frank Addy presiding.

6 THE COURT: Good morning. Thank you. Have a
7 seat.

8 I'm told that the jury is here. Let's go ahead
9 and get them moving, if we could, please.

10 (Whereupon, the jury enter the courtroom at
11 9:08 AM.)

12 THE COURT: All right. Good morning, ladies
13 and gentlemen. Of course, the record will reflect
14 Mr. Henry is present with counsel. I trust that
15 you-all had a good evening last night and we're, of
16 course, resuming with the trial of the case. We're
17 still in the State's case in chief.

18 So, Solicitor, if you'll call your next witness,
19 please.

20 MS. MAYES: The State calls Catherine Leisy.

21 (Whereupon, Catherine Leisy was duly sworn by
22 the Clerk of Court.)

23 THE CLERK: Once you're seated state your full
24 name, spelling your last, please.

25 THE WITNESS: Catherine Leisy L-E-I-S-Y.

1 CATHERINE LEISY,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Good morning. Tell us a little bit about yourself.
6 Where are you employed?

7 A. I work for the South Carolina Law Enforcement
8 Division, more commonly referred to as SLED.

9 Q. All right. And what type of -- what type of work do
10 you do for SLED?

11 A. I'm a forensic scientist assigned to the DNA casework
12 department. My responsibilities include processing
13 forensic cases, generating reports based on the results
14 and conclusions drawn and testifying to those reports, if
15 necessary. I also assist in the training of new or less
16 experienced analysts and I have some quality control duties
17 within the lab.

18 Q. All right. Tell us what is meant by the term "DNA" or
19 deoxyribonucleic acid.

20 A. Correct. DNA does stand for deoxyribonucleic acid.
21 It's the genetic material found in all of our body cells
22 with the exception of our red blood cells. And DNA is
23 packaged into structures called chromosomes, which contain
24 our genes, and genes are simply strands of DNA that code
25 for our physical characteristics such as our hair or our

1 eye color. We inherit one copy of DNA from our mother and
2 one from our father and, therefore, have two copies of
3 every gene. Approximately 99.9 percent of an individual's
4 DNA is identical to that of everyone else's and it's the
5 variation in that remaining .1 percent that allows us to
6 tell different people apart.

7 Q. All right. And how, if at all, is DNA science helpful
8 in criminal investigations?

9 A. Our purpose as forensic DNA analysts is to try to
10 develop DNA profiles from biological material that may have
11 been left at a crime scene or on a item of evidence and
12 compare it to the DNA profile of a known individual whose
13 standard has been submitted for comparison to try to
14 determine whether or not that individual could be the
15 contributor of the biological material that we tested.

16 Q. All right. Have you testified previously as an expert
17 in the field of DNA analysis in the courts of this state?

18 A. Yes, ma'am.

19 Q. Is it possible for you to estimate how many such times
20 you've been qualified as an expert in DNA analysis?

21 A. On more than fifty occasions within South Carolina.

22 Q. And does that include with your training and education
23 the ability to formulate or testify regarding calculations
24 that have resulted from the DNA analysis?

25 A. Part of the training that I have received and part

1 of my job responsibilities is to perform interpretations
2 that involves statistical calculations relative to the
3 comparisons that have been made.

4 MS. MAYES: Your Honor, at this time the State
5 would offer Catherine Leisy as an expert in the field
6 of DNA analysis.

7 MR. MADSEN: No objection. No voir dire.

8 THE COURT: All right. Ladies and gentlemen of
9 the jury, again, the doctor here is qualified has an
10 expert in the field of DNA analysis. The parties agree
11 to that fact, so she may offer opinion testimony in
12 that area that you can use as you deem appropriate.

13 Please continue.

14 MS. MAYES: Yes, sir, Your Honor.

15 BY MS. MAYES:

16 Q. Now, first of all, I want to ask you about the type
17 of DNA examination that was done in this particular case
18 regarding the Defendant, Joseph Henry.

19 A. There were several known DNA standards that were
20 submitted for comparison, four in total. There were
21 also --

22 MR. MAULDIN: Your Honor, I object based on the
23 prior Schmerber hearing.

24 THE COURT: Talk to me over here, please.

25 (Proceedings held at the bench; not reported.)

1 THE COURT: Your objection is noted. The Court's
2 prior ruling when that initial hearing -- Schmerber
3 hearing was held still stands.

4 I apologize. Go right ahead.

5 BY MS. MAYES:

6 Q. I want to go back and ask you again as to any items
7 that you examined in this case and the purpose for that
8 examination.

9 A. Again, there were four sets of known DNA standards
10 that were submitted for comparison. I also tested three
11 sets of swabs that were collected from a firearm. The
12 first set was from the slide, the second set was from the
13 trigger and the third set was from the grip.

14 Q. All right.

15 A. I was able to develop DNA profiles suitable for
16 comparisons from all three sets of swabs from the firearm.
17 I then performed comparisons between each of the four
18 known individuals to each of those DNA profiles for
19 comparison.

20 Q. Okay. And I'm gonna break that down in just a minute
21 since we're talking about multiple samples and multiple
22 examinations, but I want you to go ahead and take a look at
23 this. This is gonna be State's 36 -- I'm sorry, 136, 133,
24 134, 135, and ask whether or not you recognize those items
25 and, if so, how?

1 A. I do recognize these items. I can tell based on
2 the barcode sticker that is applied to each envelope that
3 contains the unique SLED lab number that is applied to
4 the case, as well as the unique item number. My initials
5 are also present on each envelope and these are the four
6 standards that were used for comparison in this case.

7 MS. MAYES: All right. Your Honor, at this time
8 we would offer these items as evidence. This is going
9 to be the blood standard of Alexis Azarigian, State's
10 136, the buccal swab DNA standard of Joseph Henry, the
11 Defendant, State's Exhibit 133, the DNA buccal swab of
12 Joshua Murray, this is State's Exhibit 134, the DNA
13 buccal swab of Kaitlyn Skyrme, this is State's Exhibit
14 135.

15 THE COURT: Any objection?

16 MR. MADSEN: No objection.

17 THE COURT: All right. Without objection 133,
18 134, 135 and 136 are in evidence.

19 MR. MADSEN: Other than what we have talked about.

20 THE COURT: Subject to what we've talked about at
21 sidebar?

22 MR. MADSEN: Yes, sir.

23 THE COURT: Okay. Subject to the Schmerber --

24 MR. MADSEN: So I don't have to object continually.
25 And no objection to chain.

1 THE COURT: Very good.

2 (State's Exhibit Number 133 through 136, DNA
3 standards, were admitted into evidence.)

4 MS. MAYES: And State's 126 already in evidence.

5 BY MS. MAYES:

6 Q. Now you said that you received DNA standards from four
7 individuals?

8 A. Correct.

9 Q. The first is going to be the Defendant's, Joseph
10 Henry's.

11 A. That was one of the standards, yes.

12 Q. All right. And that standard came in what form?

13 A. That standard was collected as buccal swabs and buccal
14 swabs are simply sterile cotton swabs that look like Q-tips
15 that are rubbed against the inside of an individual's cheek
16 to collect cells. We use those cells then to develop any
17 known DNA standard from that individual.

18 Q. All right. Secondly, was the victim, Alexis
19 Azarigian. In what form did you receive her known DNA
20 standard?

21 A. The victim's standard was submitted in what we
22 referred to as a bloodspot. It is a portion of liquid
23 blood that has been poured onto a sterile filter paper and
24 dried.

25 Q. And from that did you develop a DNA -- a known DNA

1 standard for Alexis?

2 A. Yes, ma'am.

3 Q. As to Joshua Murray, in what form did you receive a
4 DNA standard?

5 A. I also received buccal swabs from Joshua Murray.

6 Q. And as to Kaitlyn Skyrme, in what format did you
7 receive a DNA standard?

8 A. Also buccal swabs.

9 Q. And you mentioned that there were three different
10 types of touch DNA swabs that were submitted to the State
11 Law Enforcement Division. I believe that's State's
12 Exhibit 126 that is currently before you --

13 A. Correct.

14 Q. -- already in evidence. If you could -- if you could
15 take a look at both swabs submitted to the State Law
16 Enforcement Division from CSI detective, Nathan Twigg.

17 A. That's correct. This container does contain the
18 three sets of touch DNA swabs that were collected from the
19 firearm.

20 Q. All right. Tell us, if you can, the location of those
21 touch DNA swabs where they were collected from according to
22 the swabs as they're noted.

23 A. The first set of swabs was collected from the slide of
24 the firearm and they were noted as Item 7A.

25 Q. All right.

1 A. The second set of swabs were collected from the
2 trigger of the firearm and identified as 7B.

3 Q. All right.

4 A. And then there was a set of swabs from the grip of the
5 firearm identified as 7C.

6 Q. Tell us what is meant by the term "touch DNA". What
7 is touch DNA?

8 A. So when we refer to touch DNA, we're discussing DNA
9 that has been transferred to an item through physical
10 contact. So oftentimes what we get in the lab we might
11 see droplets of blood or saliva, but for touch DNA we're
12 looking for skin cells that have been transferred through
13 physical contact with an item. With touch DNA we typically
14 don't see as much DNA in this type of sample as we do in
15 body fluid, it's just not as concentrated, but there can
16 potentially be enough DNA material transferred through this
17 method for us to develop a DNA profile.

18 Q. And Item 7, you said these are -- these are items that
19 are sub items from Item 7. I want you to take a look at
20 this item, which is State's 120, and ask you how, if at
21 all, it is noted by item number?

22 A. The SLED laboratory and item number are both written
23 on the box. There is also a barcode sticker. I did not
24 have the actual firearm in my custody at any point, but I
25 do recognize the SLED items numbers.

1 Q. Okay. So all swabs came from this particular firearm?

2 A. That would be my understanding based on the submission
3 information we received.

4 Q. Okay. Now what is the best way as a forensic
5 scientist to break down your findings having looked at all
6 of these swabs and the touch DNA swabs from the firearm to
7 determine whose DNA was found on the gun?

8 A. In terms of interpretation, when we do a comparison
9 we use a computer software program called STRmix and this
10 program employs a method called probabilistic genotyping.
11 This is an analytical method that employs the use of
12 both biological models such as considering the number of
13 contributors to a DNA profile and how much each individual
14 has contributed, as well as mathematical theory and
15 statistical calculations.

16 There are two basic steps to this process. The
17 first is the software program deconvolutes a profile or
18 essentially breaks it down into all of the possible
19 combinations that could explain it. It can then perform
20 a statistical calculation to try and give us an idea of
21 which of those possible explanations more likely explains
22 the profile that was developed, and this calculation is
23 what is known as a likelihood ratio. And a likelihood
24 ratio is simply a mathematical comparison between two
25 possible explanations for an event or in this case for a

1 DNA profile.

2 After the calculation is performed, we develop a
3 likelihood ratio value, which we refer to as the LR, and
4 the LR provides support for which one of those possible
5 explanations more likely supports the DNA profile that was
6 developed.

7 Q. All right. So we're gonna be talking about likelihood
8 ratios --

9 A. Correct.

10 Q. -- according to the STRmix form of DNA examination
11 that SLED is currently using?

12 A. That's correct.

13 Q. And this form of DNA analysis, is it used throughout
14 the SLED crime lab?

15 A. It is. It's currently our -- sort of our go-to
16 interpretation method. It's also used at other labs across
17 the country.

18 Q. Does that include the FBI?

19 A. It is. The FBI was one of the first to go live with
20 this particular program.

21 Q. All right. So when we talk about a likelihood ratio
22 of Alexis Azarigian's DNA being on this firearm, what, if
23 anything, did you determine?

24 A. Well, for each particular item, once a DNA profile is
25 developed the first step is to determine the number of

1 contributors to that DNA profile. So, for example, for
2 Item -- what was submitted as 7A, the swabs from the slide,
3 I determined that a DNA profile suitable for comparison was
4 developed and that that DNA profile was interpreted as an
5 mixture originating from three individuals.

6 So with STRmix when we're developing likelihood
7 ratios, we have to develop what we call a proposition
8 set. So the first step in that proposition set is the
9 assignment of how many contributors we have and then we
10 have to develop our two possible explanations. So for
11 each comparison to each known individual, the first
12 possible explanation would be that that individual and
13 two unidentified unrelated individuals contributed to the
14 mixture and we have to have two unidentified individuals
15 then because we need a total of three. The next possible
16 explanation would be that three unidentified unrelated
17 individuals contributed to the mixture. Once the
18 calculations are performed and we determine our LR value,
19 that tells us which one of those two possible explanations
20 more likely explains our DNA profile.

21 So in terms of the swab from the slide, I interpreted
22 the mixture that was developed as originating from three
23 individuals. I applied the two possible explanations and
24 developed a calculation for that and determined that based
25 on these propositions Alexis Azarigian is excluded as a

1 possible contributor to this mixture.

2 Q. So she's excluded from the slide?

3 A. She's excluded from the DNA profile that was
4 developed, yes.

5 Q. What do you mean by excluded?

6 A. It means that there's -- the likelihood ratio value
7 indicated that there's enough support for the possible
8 explanation that it was actually three unidentified
9 unrelated individuals who contributed to the DNA profile
10 and not Alexis Azarigian and two unidentified people. That
11 we can say we're comfortable excluding her as potential
12 contributor to this profile.

13 Q. All right. What about as to the grip for Alexis?

14 A. For the grip, I performed the same form of analysis.
15 For the mixture that was developed from the grip, I
16 interpreted that DNA profile as a mixture originating from
17 two individuals, so that would mean that my two possible
18 explanations then are that first Alexis Azarigian and an
19 unidentified unrelated individual contributed to this
20 mixture. My second possible explanation is that it is two
21 unidentified unrelated individuals contributing and based
22 on the calculation performed Alexis Azarigian is excluded
23 as a contributor to the DNA profile.

24 Q. Excluded?

25 A. Correct, under these listed propositions.

1 Q. What about the touch DNA sample collected from the
2 gun's trigger?

3 A. Again, a DNA profile suitable for comparison was
4 developed from the swabs from the trigger. That profile
5 was interpreted as a mixture originating from three
6 individuals. I performed, again, a likelihood ratio with
7 the first possible explanation being Alexis Azarigian and
8 two unidentified unrelated individuals contributing. The
9 second possible explanation being that it is three
10 unidentified unrelated individuals, and according to the
11 likelihood ratio value developed Alexis Azarigian is
12 excluded as a contributor to the DNA profile under the
13 propositions.

14 Q. All right. Next let's talk about Kaitlyn Skyrme.

15 A. In terms of Kaitlyn Skyrme, I, again, performed the
16 same type of calculation using her known standard and the
17 DNA profiles developed from the firearm and Kaitlyn Skyrme
18 is excluded as a contributor to the profiles developed
19 under the propositions used.

20 Q. All right. So she's excluded from the slide, grip and
21 trigger?

22 A. She's excluded from the profiles developed from those
23 items, yes, ma'am.

24 Q. All right. Next let's talk about Joshua Murray.

25 A. In terms of the swabs from the slide of the firearm,

1 again, this DNA profile was interpreted as a mixture
2 originating from three individuals. I performed the same
3 type of likelihood ratio calculation and determined that
4 the DNA profile is approximately 83 times more likely if
5 three unidentified unrelated individuals contributed to
6 the mixture than if Joshua Murray and two unidentified
7 individuals contributed to the mixture.

8 Q. All right. So as to the slide, it's 83 times more
9 likely to be three other people?

10 A. Correct. This particular likelihood ratio value does
11 support the second possible explanation being that it is
12 three unidentified unrelated individuals.

13 Q. All right. What about as to the trigger for Joshua
14 Murray?

15 A. In my comparison to the profile developed from the
16 trigger, again, this profile was interpreted as a mixture
17 originating from three individuals and Joshua Murray is
18 excluded as a contributor to the profile under the list of
19 propositions.

20 Q. His DNA is excluded --

21 A. Correct.

22 Q. -- from the trigger as well?

23 A. He's excluded from the DNA profile that was developed.

24 Q. What about as to the grip?

25 A. The grip, again, was interpreted as a mixture

1 originating from two individuals. Performing the
2 likelihood ratio calculation, I determined that the DNA
3 profile is approximately three times more likely if two
4 unidentified unrelated individuals contributed to the
5 mixture than if Joshua Murray and an unidentified unrelated
6 individual contributed.

7 Q. Okay. So three times more likely to be two other
8 people?

9 A. Correct. This would provide moderate support for the
10 second explanation that it's two unidentified unrelated
11 individuals contributing.

12 Q. Okay. When we talk about touch DNA, I'm touching an
13 object now, what factors come into play that allow someone
14 touching an item to later be recovered and then matched for
15 DNA purposes?

16 A. There are really quite a few factors that go into it.
17 It can be influenced by the type of material that we're
18 testing, the type of material that was touched. It could
19 be determined by how often someone touches an item, by
20 how long they are in contact with that item, had they
21 gripped that item tightly, had they just lightly brushed
22 their hand against it, how recently had they washed their
23 hands. There are quite a few different factors that can
24 go into whether or not we can develop a profile from a
25 touch situation.

1 Q. Okay. And I'm asking because you'd mentioned that
2 there were multiple DNA samples recovered from the firearm.

3 A. Correct.

4 Q. Is there any way to know how -- how frequently or how
5 recently the other people would have been touching the
6 firearm?

7 A. No, there's not. We can't determine exactly when or
8 in what manner DNA is transferred to an item. We can just
9 determine whether or not it's present when we test it.

10 Q. Okay. Now as to the Defendant in this case, Joseph
11 Henry, did you also have an opportunity to examine his DNA
12 sample and compare it to swabs -- touch DNA swabs from the
13 slide, trigger and grip of that firearm?

14 A. Yes, I did.

15 Q. What did you determine regarding the slide?

16 A. In reference to the swabs from the slide, again, that
17 DNA profile was interpreted as a mixture originating from
18 three individuals. In performing a likelihood ratio
19 calculation, I determined that the DNA profile is
20 approximately 5800 times more likely if Joseph Henry and
21 two unidentified unrelated individuals contributed than if
22 three unidentified unrelated individuals contributed.

23 Q. All right. So just to clarify, it's 5800 times more
24 likely to be Joseph Henry's DNA?

25 A. It is 5800 times -- approximately 5800 times more

1 likely that we would see this specific DNA profile if
2 Joseph Henry and two unidentified unrelated individuals
3 contributed than if three unidentified unrelated
4 individuals contributed.

5 Q. And when we talk about the two others, is there any
6 way to ever know -- you've got samples from Kaitlyn Skyrme,
7 Joshua Murray, Alexis Azarigian, you've already done those
8 samples, you've already compared those samples, when you
9 talk about two others is there any other way to ever know
10 who the two other people are that may have handled that gun
11 along the way?

12 A. If additional known standards were submitted, I could
13 perform additional comparisons and calculations, but it
14 can be very difficult to determine how -- who all is
15 contributing to this mixture, especially with touch samples
16 that tend to be a little bit lower level. We don't
17 necessarily get a full profile of information from such
18 samples.

19 Q. All right. So if a gun or any physical evidence
20 item is handled by other people who are unknown to law
21 enforcement and those samples aren't submitted, is there
22 any way you would ever be able to determine who they are?

23 A. I would need to be able to perform a comparison with
24 a known standard.

25 Q. Okay. Now as to the grip regarding Joseph Henry's

1 DNA sample, what, if anything, did you determine?

2 A. Again, the grip -- the DNA profile developed from
3 the swabs from the grip was interpreted as a mixture
4 originating from two individuals. I performed the same
5 type of likelihood ratio calculation and determined that
6 the DNA profile is approximately 28,000 times more likely
7 if Joseph Henry and an unidentified unrelated individual
8 contributed to the mixture than if two unidentified
9 unrelated individuals contributed to the mixture.

10 Q. All right. I'm gonna need you to clarify that a
11 little bit more. 28,000 times more likely if Joseph Henry
12 contributed?

13 A. If Joseph Henry and an unidentified unrelated
14 individual contributed than if two unidentified unrelated
15 individuals contributed.

16 Q. If Joseph and another individual contributed?

17 A. Correct.

18 Q. And that would be another unknown individual?

19 A. Correct.

20 Q. All right. And then as to the trigger?

21 A. The trigger, again, was a DNA profile that was
22 interpreted as a mixture originating from three
23 individuals. Using, again, the likelihood ratio analysis,
24 I determined that the DNA profile is approximately 2900
25 times more likely if Joseph Henry and two unidentified

1 unrelated individuals contributed to the mixture than if
2 three unidentified unrelated individuals contributed to
3 the mixture.

4 Q. All right. So as to the trigger, 2900 times more
5 likely if Joseph Henry contributed along with two other
6 unknown individuals?

7 A. That's correct.

8 Q. And as to any other unknown individuals, did the State
9 Law Enforcement Division receive any other buccal swabs
10 other than what you've already testified to and was -- and
11 was examined?

12 A. No, ma'am.

13 Q. Okay. So to your knowledge the other two individuals
14 would be unknown in this investigation?

15 A. Based on my comparisons, I don't have any -- anyone
16 else as a potential inclusion in terms of LR values.

17 MS. MAYES: Thank you. I beg the Court's
18 indulgence.

19 THE COURT: Yes, ma'am.

20 MS. MAYES: Nothing further.

21 THE COURT: Mr. Madsen.

22 CROSS-EXAMINATION

23 BY MR. MADSEN:

24 Q. Is it Leisy or how do I pronounce your last name?

25 A. Leisy. Yes, sir.

1 Q. Leisy. If I screw it up, just let me know.

2 Agent Leisy, it's been a long time since eighth grade
3 science class, so let me see if I've got this right. So we
4 get this DNA and it comes to you and someone extracts it
5 and then tries to amplify it so that you can kind of get a
6 better idea of what potential touch DNA there is, correct?

7 A. That's correct, sir.

8 Q. And that's all done by machine and computer?

9 A. Not entirely. There are computers and instruments
10 involved in the analysis and interpretation, but there's
11 still quite a bit of involvement by the analyst at every
12 step.

13 Q. But the numbers go into the computer and that's what
14 kind of spits out those probabilities?

15 A. Correct.

16 Q. You're not doing that math by hand?

17 A. No, sir.

18 Q. And so the stuff that's spit out by the computer, do
19 you verify that by hand?

20 A. We do not. The number of calculations that are
21 performed at each comparison at each step of the process
22 would be impossible to verify by hand for every item that
23 we run.

24 Q. So you can't check those results from the computer,
25 you just assume that's what it is?

1 A. Well, before we can use this type of software we have
2 to perform an in-house validation. Essentially we have
3 to run known samples to ensure that the software program
4 works as it's intended to, that we're getting the expected
5 results, and every laboratory in the country that has
6 used this software has had to perform that same internal
7 validation. The software is also developmentally validated
8 by the scientists who created it and have marketed it and
9 there's been quite a bit of peer review and publication of
10 this software program to show its validity and reliability.

11 Q. But it's a relatively new software to you-all,
12 correct?

13 A. We started using it in 2018. Late in the year 2018.

14 Q. So before that you guys did something entirely
15 different?

16 A. That's correct.

17 Q. And so when we talk about -- or you said that you get
18 one thing of DNA from your dad and one from your mother?

19 A. Correct.

20 Q. Those are each called alleles, correct?

21 A. Correct, or DNA types.

22 Q. And you put those together at one space and that's
23 loci?

24 A. Loci, yes, sir.

25 Q. And we've got billions of those?

1 A. We do.

2 Q. And you-all look at twenty-four areas and that's it,
3 twenty-four loci?

4 A. That's correct. We do look at a set number of
5 specific locations or loci in DNA and the overall
6 information at that collection of locations is what we
7 refer to as a DNA profile.

8 Q. But in the end, I mean, you're looking at forty-eight
9 spots out of a billion?

10 A. It is a -- it's a very small select group of locations
11 that are tested.

12 Q. So that's a yes?

13 A. Yes, sir.

14 Q. One thing I never understood, so when we talk about
15 those alleles, you get one from the dad, one from the mom,
16 you-all assign numbers to those, correct?

17 A. That's correct.

18 Q. And does -- that computer, can it tell you -- so like
19 if a certain area, say at loci D3S1358, which is the first
20 one that you-all look at --

21 A. Yes, sir.

22 Q. -- if I've got that -- if I've got a 15 from my dad or
23 a 17, can you tell which one's from dad, which one's from
24 mom? In other words, they're ordered on your report like
25 15 comma 17 or if it said 15, it would mean I got 15 from

1 my dad and a 15 from my mom. Do those order or does that
2 really matter?

3 A. The order doesn't matter. When we generate a DNA
4 table that lists out the results of our profile, they're
5 always going to be in numerical order, so 15 would always
6 be before 17. And with the type of testing that we run
7 just looking at one individual's profile, we can't
8 determine which type came from the mother and which type
9 came from the father.

10 Q. Okay. So it's just -- it's always gonna be the lower
11 number is gonna be first and then --

12 A. That's correct.

13 Q. So when we look at, say -- let's just concentrate on
14 talking about the trigger, okay?

15 A. Uh-huh.

16 Q. And you've got your reports in front of you?

17 A. Yes, sir.

18 Q. So if we look at that first area there, the trigger's
19 got -- at least has to be from two individuals at the
20 trigger because there's a 15?

21 A. Yes, sir.

22 Q. There's a little bit of a 16?

23 A. Correct.

24 Q. That's what the parentheses mean, right? It's not as
25 strong as the 15?

1 A. Correct. Any time we apply parentheses on the DNA
2 table it indicates that it's a lower DNA type or a lower
3 result for that location.

4 Q. And a 17?

5 A. That's correct.

6 Q. So it can't be from one person because one person's
7 not gonna have three numbers in that spot. There can only
8 be two, correct?

9 A. Correct. Now there are rare occasions when a person
10 may have a tri-allele or a third DNA type at that location,
11 but we would need to see multiple locations with more than
12 two to determine if we have a mixture.

13 Q. Right. There could be some pretty rare genetic
14 abnormalities, but typically people have only got two --
15 two numbers?

16 A. That's correct.

17 Q. And if you look at Joshua Murray, that trigger is a
18 15, 16, 17, he's a 15, 16?

19 A. Give me one second, sir.

20 Q. Sure.

21 A. That's correct. The DNA types for Joshua Murray at
22 that first location are 15, 16.

23 Q. And Joseph Henry at that same location is also a 15,
24 16, correct?

25 A. Yes, he is.

1 Q. So, I mean, in reality there's no way to tell that
2 particular spot if the DNA came from Joshua Murray or if it
3 came from Joseph Henry because, quite honestly, they've got
4 identical DNA at that spot?

5 A. Correct. In looking at just one particular location,
6 if two individuals have the same genetic makeup or the
7 same DNA types, they both could be consistent with having
8 contributed, you can't necessarily tell which one is
9 present there if either are there.

10 Q. Right. So let's jump down on the trigger then to
11 D16S539 --

12 A. Yes, sir.

13 Q. -- and that -- there's got to be at least two
14 individuals off that trigger because that's a 9, an 11,
15 a 12 and a 13, correct?

16 A. I'm sorry, which location?

17 Q. D16S539. I think it should be the third one.

18 A. Yes, sir. I'm sorry.

19 Q. And that's a 9, an 11, a 12 and a 13?

20 A. Correct.

21 Q. And Joshua Murray would be an 11 there -- or he's a 9
22 -- or a 10, 11?

23 A. Correct, he's a 10, 11.

24 Q. And then if we jump down to the fifth one, I want to
25 say TPOX, that's an 8, 9?

1 A. Correct.

2 Q. Joshua Murray would have an 8 in one of those spots?

3 A. I believe in that TPOX Joshua Murray is an 8, 11.

4 Q. So he would match the 8?

5 A. He does have an 8. It could be consistent.

6 Q. It could be, it could not be? I mean --

7 A. Correct.

8 Q. You know, if someone else -- if I have an 8 at that
9 spot, it could be me as easy as him?

10 A. Correct.

11 Q. And then if we jump down to D8 -- I can't read my
12 writing -- it's an S1179?

13 A. Yes, sir. D8S1179.

14 Q. That's a 13, 14 and Joshua Murray has a 14 at that
15 location?

16 A. That's correct.

17 Q. And then if we go to the one below that, D21S11,
18 that's a 28, 29, 32.2 and 34 and Joshua Murray's got a
19 32.2?

20 A. That's correct.

21 Q. And then if we go down to D2S441, that's, again, got
22 four spots there, a 10, an 11, an 11.3 and a 14?

23 A. Correct.

24 Q. And Joshua Murray's a 10 and a 14, so, I mean, he
25 matches two out of four of those spots?

1 A. He's consistent, yes.

2 Q. Consistent. And we know that that's got to be at
3 least four people or absent the genetic abnormality and
4 then we jump to the one below that, the D19S433, and that's
5 a 12, 13, 14, 14.2 and 16.2, so we know that that's gonna
6 be three individuals --

7 A. Right.

8 Q. -- because that's five different genetic spots and
9 he's a -- or Joshua Murray's a 13, 14, so he's matching two
10 of those or consistent, correct?

11 A. That's correct.

12 Q. And then the TH01, the one below that on the trigger,
13 is a 7, an 8 and a 9.3, and Joshua Murray's a 7 and a 9.3?

14 A. That's correct.

15 Q. And then if we jump down again to D22S1045, that's,
16 again, five spots, an 11, a 12, a 15, a 16 and a 17 and
17 Joshua Murray is an 11 and a 15?

18 A. Yes, sir.

19 Q. And then if we jump to the one below that, D5S818,
20 that's a 10, an 11, a 12 and a 13 and Joshua Murray's an 11
21 and a 12?

22 A. Correct.

23 Q. And then if we go below that, that's D13S317 off the
24 trigger is an 8, an 11 and a 12 and Joshua Murray's a 10
25 and a 12?

1 A. That's correct.

2 Q. And the next one below that, D75820, that's an 8, a
3 10, an 11 and Joshua Murray's an 8 and an 11?

4 A. Yes, sir.

5 Q. And if we jumped two down, D1051248, that's a 13, 14
6 and 15 and Joshua Murray's a 13 and 14?

7 A. That's correct.

8 Q. And so he -- and there's no way to know -- well --
9 and you've got him excluded on the trigger, correct, even
10 though we've got all those spots that match up. That's
11 what the computer told you?

12 A. Correct, based on the calculation performed, Joshua
13 Murray was excluded as a contributor to the profile.

14 Q. And as I think you said, there's no way to tell --
15 you know, if someone has the same DNA in the same spot,
16 there's no way to tell whether it comes from me or from
17 you, correct?

18 A. That's correct.

19 Q. And you also received cuttings from some brown pants
20 in this case; did you not?

21 A. Yes, sir.

22 Q. And you analyzed those?

23 A. I did.

24 Q. And you came up with some propositions for those; did
25 you not?

1 A. Yes, sir.

2 Q. And, I mean, the cutting from the pants, I guess
3 that's supposed to be like a bloodspot or something from
4 the pants; is that correct?

5 A. Correct. The pants were first processed by our
6 evidence processing department and a preliminary test was
7 done for the possible presence of blood. The test was
8 positive indicating the possible presence of blood on the
9 pants and that dictated where the cutting was taken from
10 for testing.

11 Q. And so on those brown pants you kind of did that same
12 analysis and with Ms. Azarigian came up that that was 32
13 times more likely that it was three unrelated individuals
14 than her, correct?

15 A. Correct. So a DNA profile suitable for comparison was
16 developed and interpreted as a mixture originating from
17 three individuals and when the likelihood ratio calculation
18 was performed, it was determined that the DNA profile is
19 approximately 32 times more likely if it's three
20 unidentified unrelated individuals than if it is Alexis
21 Azarigian and two unidentified unrelated individuals.

22 Q. And then for Kaitlyn Skyrme, it was six times more
23 likely that it was three unidentified individuals, correct?

24 A. Correct. The DNA profile would be six times more
25 likely if three unidentified unrelated individuals

1 contributed than if Kaitlyn Skyrme and two unidentified
2 unrelated individuals contributed.

3 Q. And then on Joshua Murray that was 14 times more
4 likely that it was unknown individuals, correct?

5 A. Correct. For the comparison with Joshua Murray, the
6 DNA profile is approximately 14 times more likely if it's
7 three unidentified unrelated individuals than if Joshua
8 Murray and two unrelated unidentified individuals
9 contributed.

10 Q. And then Joseph Henry, on that one, it is 13
11 quintillion --

12 A. Yes, sir.

13 Q. -- that it's more likely his genetic stuff on his
14 pants?

15 A. The DNA profile is approximately 13 quintillion times
16 more likely if it is Joseph Henry and two unidentified
17 unrelated individuals contributing to the mixture than
18 if there's three unidentified unrelated individuals
19 contributing.

20 Q. That's a big number, isn't it?

21 A. Yes, sir.

22 Q. I mean, we've got, what, 8 billion people on the
23 planet?

24 A. Approximately, yes.

25 Q. And quintillion, I have no clue. How many zeros are

1 we talking about in a quintillion?

2 A. 1 quintillion would be a 1 with nineteen zeros behind
3 it -- or, excuse me, it would be 10 with eighteen zeros
4 behind it.

5 Q. And a billion is eight zeros, seven zeros?

6 A. A billion would be nine zeros.

7 Q. Nine zeros?

8 A. Yes, sir.

9 Q. Okay. So a 13, that's this spot on his pants?

10 A. It's that many times more likely we'd see the profile
11 given that set of conditions, yes.

12 Q. Now if we jump then to Kaitlyn Skyrme, if we go to the
13 first area, the D3S1358, again, that's a 15, 16, 17?

14 A. Correct.

15 Q. And Kaitlyn's got a 15 and a 17 there?

16 A. That's correct.

17 Q. And if we go to the next one, that's a 15, 16, 17, and
18 Kaitlyn's got a 17 in one of those spots?

19 A. I believe the next location would be VWA.

20 Q. Yes.

21 A. Would be 15, 16, 18 for the trigger.

22 Q. I'm sorry, I had 15, 16, 17. Okay. Jump down to the
23 one below that, the D16S539, that's a 9, 11, 12, 13 and
24 she's double 11 there?

25 A. Correct.

1 Q. The TPOX is, again, an 8, 9 and she's an 8?

2 A. That's correct.

3 Q. The D8S1179 is a 13, 14 and she's a double 13?

4 A. Correct.

5 Q. The D2S441 is a 10, an 11, an 11.3 and a 14 and she's
6 a 14?

7 A. A 12, 14, yes, sir.

8 Q. So she matches at one of those spots?

9 A. She would be consistent with one of those types, yes,
10 sir.

11 Q. Consistent. If you look at D22S1045, that's an 11,
12 12, 15, 16 and 17 and she's got two 15's?

13 A. Correct.

14 Q. That would be consistent with a 15?

15 A. Potentially, yes, sir.

16 Q. And then the next one, D5S818, that's a 10, an 11, a
17 12 and a 13 and she's an 11 and 12, so she matches both of
18 those spots?

19 A. She is consistent, yes, sir.

20 Q. The D13S317, the next one, is an 8, an 11 and a 12 and
21 she's an 8 and a 12?

22 A. Correct.

23 Q. The next spot down, D75820 is an 8, a 10 and an 11 and
24 she's an 11, 12?

25 A. Correct.

1 Q. Then at D1051248, that's a 13, 14 and a 15 and she's
2 got two 13's?

3 A. That's correct.

4 Q. At D1S1656, that's a 12, a 13 and an 18 and she's a 12
5 and a 13?

6 A. Correct.

7 Q. But you have her as excluded also after the numbers
8 went in the program?

9 A. Yes, sir.

10 Q. And we just kind of went over the trigger, but, I
11 mean, there's similarities with that with the slide and
12 the grip, I mean, that there can be matching DNA spots on
13 those, correct?

14 A. There are certain locations where there may be
15 consistency between the known individuals and the
16 evidentiary profiles, but when we're doing these
17 comparisons we have to take into account the entire
18 profile, not just certain locations, so it's a comparison
19 between the entire profile and looking at all of the
20 locations that helps us determine whether or not someone
21 would be excluded or whether the likelihood ratio value
22 may support the explanation that they are one of the
23 contributors as opposed to not being one of the
24 contributors.

25 MR. MADSEN: Give me just is a second. I think

1 that's all the questions I have.

2 THE COURT: Ms. Mayes, redirect.

3 MS. MAYES: Yes, sir, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. MAYES:

6 Q. Just to follow up with that, Mr. Madsen was asking
7 about using a computer and using a software. How long have
8 you been doing DNA analysis, Agent Leisy?

9 A. Since the beginning of my career. It's been close to
10 eighteen years now in total.

11 Q. All right. And how long, if you know, has the South
12 Carolina Law Enforcement Division state crime lab been
13 doing DNA analysis?

14 A. Over twenty years.

15 Q. And is this DNA examination process that you testified
16 to today considered reliable among peers in your field?

17 A. It is. Again, validations are performed, peer
18 reviews, published articles. It is widely accepted within
19 the scientific community.

20 Q. Within the scientific community?

21 A. Yes, ma'am.

22 Q. So if you can elaborate a little bit further,
23 Mr. Madsen was asking you about certain locations along
24 a DNA profile that may be similar. Do you look at just
25 certain locations or do you look at the entire profile that

1 you developed?

2 A. We have to consider the entire profile because as
3 we just went through you may have locations and profile
4 developed from evidence where there is consistency between
5 that location and a known individual, but then you can
6 look at another location, such as D2S1338 and I have
7 developed a 16, a 17 and a 19. At that location Kaitlyn
8 Skyrme is a 20, 25, so then at that location we don't have
9 that consistency. So it's important to consider the entire
10 profile in determining what our conclusions are going to
11 be.

12 Q. And when you're excluding someone, are you looking at
13 that entire profile that you've developed?

14 A. We are.

15 Q. And based on that entire profile Joshua Murray was
16 excluded from the trigger of that gun, correct?

17 A. That's correct.

18 MS. MAYES: Nothing further.

19 RE CROSS EXAMINATION

20 BY MR. MADSEN:

21 Q. But in the end you're looking at twenty-four loci out
22 of billions, correct?

23 A. That's correct, but, you know, again, that is widely
24 accepted across the country and, you know, labs around the
25 world are running similar tests using similar numbers of

1 locations.

2 MR. MADSEN: Thank you. That's all the questions
3 I have.

4 THE COURT: Ma'am, thank you very much for coming.
5 You can step down and you're free to go.

6 THE WITNESS: Thank you, sir.

7 (Witness excused.)

8 THE COURT: Call your next witness, please.

9 MS. MAYES: The State calls agent Suzann Cromer.

10 THE CLERK: Just a moment, ma'am.

11 (Whereupon, Suzann Cromer was duly sworn by the
12 Clerk of Court.)

13 THE CLERK: Thank you, ma'am. After you have a
14 seat state your full name, spelling your last, please.

15 THE WITNESS: My name is Suzann Cromer,
16 C-R-O-M-E-R.

17 SUZANN CROMER,

18 having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. Good morning, Agent Cromer. Can you tell us a little
22 bit about yourself? Where are you currently employed?

23 A. I'm employed at the South Carolina Law Enforcement
24 Division, commonly referred to as SLED, in the forensic
25 services laboratory as a firearm and toolmark examiner.

1 Q. All right. I'm gonna need you to pull that microphone
2 if you can over right and then a little bit more forward so
3 we all can hear you.

4 A. Okay.

5 Q. How long have you been working in the state crime lab
6 at the State Law Enforcement Division?

7 A. I've been with SLED -- it will be twenty-two years
8 this December.

9 Q. All right. What type of work have you done throughout
10 your career with SLED?

11 A. All of my time has been in the firearms department.
12 I was -- I started, like I said, in December of 1998. I
13 took a job in the firearms department doing their
14 administrative work while I was working on my graduate
15 degree and then I moved into the firearms examiner training
16 position in February of 2000. From then I started their
17 in-house training program, which is a multiyear training
18 program. It entails oral tests, written tests, practical
19 exercise, we work under other court-qualified firearms
20 examiners. It's more of apprenticeship. We prepare cases
21 for them until we finish all the modules of our training
22 program, which each module is graded by a written test,
23 oral test or practical exercise. Upon completion of all
24 those modules, we are given a comprehensive final exam,
25 which is graded by your training officer and your

1 lieutenant, and then we are -- if we pass, we are deemed
2 competent to have our independent caseload.

3 Q. All right. Have you testified previously in courts
4 of this state regarding the results of firearms analysis?

5 A. Yes, I have. I've testified approximately 117 times
6 in state and Federal courts.

7 Q. All right.

8 MS. MAYES: Your Honor, at this time we would
9 offer Agent Cromer as an expert in the field of
10 firearms analysis.

11 MR. MADSEN: No objection. No voir dire.

12 THE COURT: All right. Again, ladies and
13 gentlemen, Agent Cromer, the parties agree she's an
14 expert in the field of firearms analysis so she can
15 give opinion testimony that you can use as you deem
16 appropriate.

17 Please continue.

18 BY MS. MAYES:

19 Q. Now I want to start by asking you when it comes to
20 firearms analysis, how do you go about initially attempting
21 to match a gun, for example, to a fired projectile?

22 A. Well, what we're doing is called firearms
23 identification. We're looking at these ammunition
24 components, we're trying to identify what they are and
25 then compare it back to a specific firearm. If we don't

1 have a specific firearm, we can look at all those
2 ammunition components from a crime scene and give
3 investigators an idea of how many firearms they're looking
4 for or even potentially what make and model type firearm
5 they're looking for, and we do that based on the markings
6 left on those ammunition components by the particular
7 firearm. A bullet is marked by the rifling of a firearm.
8 The rifling is what's put on that gun barrel by the
9 manufacturer to give it rotary motion, very similar to a
10 quarterback who's throwing a football, they want it to go
11 into a tight spiral so it will go more accurately towards
12 its target. Well, that's the premise of rifling. It wants
13 to spin that bullet so it will go more accurately towards
14 its target. And rifling is made up of what we call lands
15 and grooves, raised and depressed areas. So you can have
16 any number of lands and grooves. You can have three, you
17 can have six, you can have nine. There's no limit to that
18 possibility. And then your rifling is going to twist. Is
19 it gonna make that bullet spin to the left or is it gonna
20 make it spin to the right? So you have all of those things
21 that can mark on that bullet and those individual markings
22 or striations as we call it are caused by the defects of
23 putting the rifling in that gun barrel. Cartridge cases
24 are a little different. They're marked in like five
25 different locations from a semiautomatic pistol. They can

1 be marked by the breechface of the gun, which is the part
2 of the firearm where the head of the cartridge rests
3 against during firing, it can be marked by the firing pin,
4 it can be marked by the ejector or the extractor. And the
5 ejector is what kicks that cartridge case -- or that fired
6 cartridge case out of the firearm during the firing
7 process, or the extractor, which is -- it's like a little
8 claw that will hold that cartridge case in place and slide
9 during the firing process.

10 Q. All right. Can you tell us whether or not you
11 received certain items for analysis in this case?

12 A. Yes, ma'am. I received a bullet fragment and one
13 firearm in this case.

14 Q. All right. I'm gonna show you some photos that are
15 marked as 101, 102 and 104, and ask you who took these
16 photographs?

17 A. These are photographs that I took during my
18 examination.

19 Q. Taken there at the state crime lab?

20 A. Yes, ma'am.

21 Q. Do these accurately reflect the items that you
22 received for examination in this case?

23 A. Yes, ma'am, they do.

24 MR. MADSEN: No objection.

25 MR. MAULDIN: Subject to the --

1 MR. MADSEN: Yeah, subject to the --

2 THE COURT: Subject to -- subject to your prior
3 objection. Understood.

4 The photographs are in evidence.

5 (State's Exhibit Number 101, 102 and 104,
6 photographs, were admitted into evidence.)

7 BY MS. MAYES:

8 Q. I'm also gonna show you what is marked as 120 and 137,
9 and ask if you're familiar with these items?

10 A. State's Exhibit 137 was the projectile or bullet
11 fragment that I received in this case, my Item 4, and it
12 is still in a sealed container with my initials and sealed
13 date.

14 Q. All right. And is that reflected here in State's 101?

15 A. No, this would be in a different picture.

16 Q. I'm sorry. 102?

17 A. Yes, ma'am. And those are both sides of that
18 projectile fragment.

19 Q. They look different depending on which side you're
20 photographing?

21 A. (Nods head.)

22 Q. And what else?

23 A. State's Exhibit 120 was my Item 6 and I'm looking for
24 where I inscribed on this firearm my lab number, my item
25 number and my initials. Yes, ma'am. This is -- State's

1 Exhibit 120 was my Item 6. It is a Hi-Point Model C-9,
2 9-millimeter Luger firearm, serial number P1650033.

3 Q. All right.

4 A. With magazine.

5 Q. All right. And as depicted in this photograph, was
6 the firearm in working condition when you received it?

7 A. Yes, it was.

8 Q. When you are testing a firearm, do you actually fire
9 it yourself?

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

11 Q. Tell us what -- to what extent you went through to
12 fire and test this weapon.

13 A. When we receive a firearm, we take two pages of notes
14 on that firearm. We indicate the manufacturer, the make,
15 the model. We look at the rifling in the barrel and
16 determine what it is. We test the safeties. This firearm
17 has a rotating thumb safety, as well as a magazine safety,
18 meaning that if this is pulled up this firearm won't fire.
19 Unless the magazine is completely seated into the mag well
20 of this firearm, this firearm won't fire. And then we
21 determine what type of ammunition we need to shoot. We're
22 going to shoot ammunition similar to what we received in
23 this case. So in this case, I only fired two cartridges
24 from this firearm.

25 Q. All right. And I believe you have a laser pointer up

1 there with you. Now I want to start by asking you about
2 the actual projectile. If a projectile that's been fired
3 is in good condition, does SLED have the technology to
4 ultimately match it to a firearm?

5 A. We can potentially -- if it's marked well, we can
6 potentially say that it's our opinion that this bullet was
7 fired from this gun.

8 Q. All right. What, if anything, was a factor in this
9 case regarding the condition of that projectile?

10 A. This projectile was so damaged when I received it,
11 it weighed only 31 grains. And a grain is a unit of
12 measurement that we use to weigh ammunition. 31 grains
13 is less weight than a dime. A dime weighs 35. There's
14 7,000 grains in a pound. So we only have 31 -- I think
15 31.4 grains of weight here and we have the lead core and
16 then part of the copper jacket. So all I could say is
17 that it was damaged. I can't determine the caliber due to
18 the damage that is on this projectile, but it is a bullet
19 fragment.

20 Q. All right. And were you aware as part of your
21 underlying information in this case that that projectile
22 had come from autopsy --

23 A. Yes, I was.

24 Q. -- after being removed from the victim?

25 A. Yes, I was.

1 Q. All right. So, in essence, was this projectile in
2 good enough condition for you to match to any firearm?

3 A. No, it was not. I deemed that it was unsuitable
4 for identification because I couldn't determine those
5 general rifling characteristics, I couldn't determine
6 the caliber, I couldn't determine the type of rifling,
7 so this projectile or bullet fragment was unsuitable for
8 identification to any firearm.

9 THE COURT: I don't think that one's working. I
10 think it needs batteries.

11 MS. MAYES: That's okay.

12 BY MS. MAYES:

13 Q. Moving on now to the next factor in looking at this,
14 the projectile you said cannot even be determined as to
15 type of caliber of weapon; is that correct?

16 A. That is correct.

17 Q. However, can you tell us whether or not a 9-millimeter
18 firearm would be included as a possible weapon for that
19 projectile?

20 A. It could be because I can't rule out any calibers
21 except for possibly a .22.

22 Q. Due to the size of the projectile?

23 A. Correct, and type of jacket.

24 Q. All right. And when you mention a type of jacket,
25 what, if anything, was significant about the type of jacket

1 for that projectile?

2 A. This was a copper jacket with an enclosed flat base.
3 Typically we don't see an enclosed flat base unless it's
4 a total metal jacket, which we call TMJ, or potentially
5 some jacketed hollow point bullets can have an enclosed
6 flat base.

7 Q. All right. I'm gonna show you what is State's 121 --

8 A. Okay.

9 Q. -- being an unfired round. What, if any, similarities
10 exist between that unfired round and the projectile that
11 you examined?

12 MR. MADSEN: Judge, can we approach?

13 THE COURT: Sure.

14 (Proceedings held at the bench; not reported.)

15 THE COURT: The objection's withdrawn.

16 Go ahead, Ms. Mayes.

17 BY MS. MAYES:

18 Q. What, if any, similarities can you observe between
19 the unfired round and the projectile that you examined?

20 A. This unfired round is a Federal aluminum case
21 9-millimeter Luger caliber cartridge. It has a copper
22 jacketed projectile. I have disassembled these type of
23 cartridges before, this Federal aluminum case, and they
24 typically are total metal jacket, meaning they have an
25 enclosed flat base.

1 Q. All right. That's as to both the unfired round and
2 the projectile?

3 A. Correct. They both had a copper jacket and this
4 unfired round is consistent with having an enclosed flat
5 base. I did not exam this projectile -- or this cartridge,
6 so I have not -- what I would do is disassemble it, but I
7 have disassembled ones that are from the same manufacturer
8 and same type of make and it had an enclosed flat base.

9 Q. Now as to the actual weapon itself, I'm gonna ask you
10 to step down, if you can.

11 A. (Witness complies.)

12 Q. And if you could remain about six feet away, but loud
13 enough for the jury to hear you and the court reporter.

14 You mentioned a safety feature. Can you tell us
15 whether or not there is a safety mechanism on this gun.

16 A. Yes. There are two safety mechanisms on this firearm.
17 This is the rotating thumb safety. It's made to flip up
18 and down with your thumb and it blocks the movement --
19 sorry.

20 Q. Would this be it here?

21 A. Yes, that is it.

22 Q. If you can demonstrate with the pointer.

23 A. That is the rotating thumb safety and what it does is
24 it blocks the movement of the trigger. The other safety --
25 and what I did note on this firearm is this lever is a

1 little bent, but that did not prohibit it from functioning
2 correctly.

3 The second safety feature of this firearm is the
4 magazine safety where this firearm will not fire unless
5 the magazine is seated fully into the magazine well of the
6 firearm.

7 Q. It's got to be all the way in?

8 A. Correct.

9 Q. Now in addition to examining the safety features, can
10 you tell us whether or not you examined the trigger for
11 what's known as the trigger pull weight?

12 A. Yes, ma'am. That's one of the last things that we do
13 when we're examining a firearm because you can potentially
14 break the firearm doing the trigger pull weight, so after
15 I've fired a weapon before I'm closing up after I've done
16 all of my examination, I will test the trigger pull weight.
17 And what we do is we have -- it looks like a -- kind of
18 like a metal block C with a flattop, so just think about
19 it that way, and then we have weights in quarter pound
20 increments that we place on the bottom and then what we'll
21 do is we'll hold this firearm in an upright position and
22 put -- I'm not good at these pointers -- the trigger on
23 that and pull it upward to see how much weight it will lift
24 before it will fire. So what we do is we start out -- I
25 typically start out with a lot of weight and work my way

1 down to see how much this firearm will actually hold before
2 it will go off. So if it goes off, I'll have to rack the
3 slide or pull the slide back to reset the firing mechanism
4 and then I'll do it again. I'll pull it up, I'll take
5 quarter pound weights off at a time until I find where it
6 won't fire, then I'll work backwards. So I can say I've
7 tested this numerous times. This firearm in particular
8 would lift nine pounds, but then whenever I put nine and a
9 quarter pounds, it would always go off.

10 Q. So based on that information, what did you determine
11 the trigger weight pull to be for this firearm?

12 A. Nine and a quarter pounds. So it takes nine and a
13 quarter pounds of pressure to make this firearm fire.

14 Q. And you tried this weapon even at nine pounds?

15 A. Right.

16 Q. Would it fire with only nine pounds?

17 A. No, it would be 9.25.

18 Q. Even 9.25?

19 A. Correct.

20 Q. Oh, I'm sorry. Nine and a quarter pounds?

21 A. That's correct. So at nine pounds it wouldn't fire,
22 at nine and a quarter it would always fire.

23 Q. All right. And that's with one finger?

24 A. One finger. So a newborn baby, a gallon a water
25 weighs approximately nine and a half, I believe. If you're

1 like me, I have kids, a half gallon of chocolate milk
2 weighs four and a half pounds, so two of those all with one
3 finger.

4 Q. All right. Thank you, Agent Cromer. You may return.

5 A. (Witness complies.)

6 Q. With a 9-millimeter weapon such as this, how are
7 casings normally ejected when the gun is fired?

8 A. A semiautomatic weapon is used -- is designed to eject
9 a cartridge.

10 Q. And you may remove your mask.

11 A. Oh, sorry. A semiautomatic firearm has what we call
12 an ejection port. In some firearms it's on the top, some
13 it's on the right. This firearm, it's on the right side.
14 So once you pull the trigger and the cartridge is ignited,
15 that gunpowder is burning and it builds up pressure, so
16 that pressure's gonna push the bullet down the barrel, but
17 it's also gonna push the cartridge case back into that
18 slide pushing the slide backwards. So that extractor is
19 holding it in place so when it reaches its most rearward
20 position, it's going to be kicked out by the ejector.

21 Sorry. And a design feature of this Hi-Point firearm is it
22 doesn't have a separate ejector, it uses the firing pin to
23 eject the cartridge case out of the firearm. So what it's
24 gonna do is that firing pin is gonna be protruding forward,
25 it's gonna hit that cartridge case, the cartridge case is

gonna go out the ejection port. Once that slide hits that
most rearward position, it's under spring tension, it will
fly forward pushing another round into the chamber.

4 Q. All right. And based upon your examination of this
5 firearm, did the ejection port appear to be working
6 properly?

7 | A. Yes, ma'am.

8 Q. All right. And with that were casings landing nearby
9 you?

10 A. Well, we shoot downward into a tank and we have a bag
11 that we put up to catch the cartridge cases.

12 Q. All right. And throughout your examination of this
13 firearm, Agent Cromer, did you determine that it had any
14 improperly working elements?

15 A. No, I did not. I determined that this firearm was in
16 full working order.

17 MS. MAYES: Thank you. Nothing further.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 BY MR. MADSEN:

21 Q. So, Agent Cromer, I mean, essentially you play with
22 guns all day?

23 A. Yes, sir. Not play, but examine.

24 | O. Well, work?

25 | A. Yes.

1 Q. And you said you couldn't determine the caliber of the
2 fired projectile that you received, correct?

3 A. That's correct.

4 Q. And, I guess, caliber refers to size?

5 A. That's correct. Caliber is the designation of the
6 size. On a firearm it's what size the barrel is, so you
7 determine what ammunition you need to go down the barrel.

8 Q. So tell me this. Why do we have like a 9-millimeter
9 and then -- but you also have like a .357, so one metric
10 and one, I guess, standard?

11 A. It's the name. 9-millimeter Luger is commonly -- it's
12 also called a 9 by 19, 9-millimeter Parabellum. There's
13 many different names, but it traditionally corresponds with
14 .355 inches in diameter, so that's the diameter of the
15 inside of the barrel. So the different sizes -- like a
16 .357 Magnum has a larger cartridge and a little larger --
17 it's usually -- their diameter is usually about .358, so
18 that's what gun it needs to be fired in. There are some
19 that you can shoot different calibers into depending on the
20 sizes, but most of them it determines what type of firearm
21 you need to shoot that ammo from.

22 Q. So if I understood what you just said, a 9-millimeter
23 pistol, the barrel would be -- basically if we converted it
24 over to, I guess, standard English would be .355?

25 A. A 9-millimeter Luger caliber pistol would be about

1 .355.

2 Q. Okay. And so then the -- I guess, the bullet or the
3 projectile would have to be a little bit smaller than that
4 so it actually made it out?

5 A. No, you want that tight fit.

6 Q. Okay.

7 A. You want it -- you want your bullet to be about
8 .355 inches in diameter because you want it to engage that
9 rifling so it will get that rotary motion when it's going
10 down the barrel.

11 Q. Okay. Because if not, it would be all over?

12 A. If not, it would be bouncing around and you would have
13 no really good trajectory.

14 Q. And when you fire a semiautomatic pistol and that
15 cartridge ejected, I mean, they can kind of go -- they're
16 not gonna drop in the exact same place, they can go kind of
17 anywhere, especially if it's in an enclosed area and hits a
18 ceiling and drop or go here or go there. They're just --
19 they're not -- they don't all end up in a pile, you know,
20 the size of a quarter?

21 A. That's correct. There are many different factors that
22 can affect where that cartridge case lands.

23 Q. Okay. And when a gun is fired, gunshot residue can
24 come out of that gun? In other words, it expels gases and
25 stuff like that?

1 A. Yes, it does.

2 Q. And SLED has the ability to test those things?

3 A. We do. Gunshot residue testing is done by our trace
4 department. That is not something we do in the firearms
5 department.

6 Q. Right, but someone else in SLED can do that?

7 A. That's correct.

8 Q. And you're aware that they've done that for twenty,
9 thirty years, I guess?

10 A. As long as I've been there, which is twenty-two years,
11 they've been doing gunshot residue testing.

12 Q. And no -- on that unfired projectile that you got, you
13 talked about like a copper jacket or something like that,
14 correct?

15 A. That's correct.

16 Q. And copper in ammunition can be pretty common?

17 A. Yes, sir.

18 Q. Did anyone take that -- the bullet from the autopsy
19 and that one and check the metal composition?

20 A. That is not something that we do.

21 Q. Okay.

22 A. Ammunition manufacturers, you can have many different
23 variations of metal composition in one box of ammo.

24 Q. But no one -- no one checked that?

25 A. That's not something that we do.

1 Q. And if I understand correctly -- so you're basically
2 saying we've got this gun and I didn't get any kind of
3 shell casing, correct?

4 A. That's correct.

5 Q. And you can match shell casings up to a gun?

6 A. If they're marked.

7 Q. And we've got this bullet from autopsy and we can't
8 match that up to this gun?

9 A. (Nods head.)

10 Q. Correct?

11 A. That is correct.

12 Q. So we can't say that this gun fired that projectile?

13 A. That is correct.

14 Q. All we can say is that gun worked?

15 A. That's correct.

16 Q. And certainly from what you looked at, you can't sit
17 here and say that gun fired anything on February 21st of
18 2019?

19 A. Nothing that I've examined.

20 MR. MADSEN: That's all the questions I have.

21 THE COURT: Redirect.

22 MS. MAYES: Yes, sir, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. And, Agent Cromer, Mr. Madsen was asking you about

1 where a casing may -- where a casing may land and I believe
2 your response was there are many factors that may affect
3 where a casing may land. What can you tell us in that
4 regard?

5 A. What we call that is basically ejection pattern
6 testing and, as I said before, guns can have different
7 ejection ports. This one was on the right, but some
8 firearms have it on the top. That can affect where those
9 cartridge cases will go. Also the shooter itself can
10 affect where the cartridge cases go. If you're holding
11 that firearm in the proper orientation, you know,
12 perpendicular to the ground, then your cartridge cases can
13 go to the right, but if you're holding that gun with the
14 ejection port facing the sky, they're not gonna go exactly
15 to the right, or if you're holding your ejection port
16 facing the ground or if you're moving the gun while you're
17 shooting, you can't determine where those cartridge cases
18 are gonna fall. I'm five-two. Say if someone was shooting
19 the gun that was six-four and they're right-handed, I'm
20 left-handed, they're gonna have a different ejection
21 pattern than I will. Or operator error. If you don't hold
22 that firearm with enough force to allow that heavy slide to
23 move backwards and forwards, that cartridge case could get
24 stuck in the firearm. We call that kind of stove piping
25 and you'd have a failure to eject. Also there can be

1 environmental factors. If you are in a tight confined
2 space, it could come out, hit something and bounce. Or if
3 you're outside, the wind could blow it, people could walk
4 through or drive through. Anyone who's fired a lot or shot
5 at a range, you know that they can kick out to the right
6 or they can kick out to the back or they can kick out on
7 your clothing and then you can shake it off somewhere else
8 and then you won't know where that came from. So that's
9 not -- ejection pattern testing is not something that we do
10 because there are too many factors to control.

11 Q. Including that it could land on or nearby the shooter?

12 A. That's correct.

13 MS. MAYES: Nothing further.

14 RE CROSS EXAMINATION

15 BY MR. MADSEN:

16 Q. But on this one it doesn't eject up. If I'm holding
17 the gun, it's supposed to eject to the right?

18 A. Depending on how you're holding that firearm.

19 Q. Sure. But if I'm holding it like it's supposed to be,
20 it would normally be to the right?

21 A. But we don't know how that firearm was being held.

22 Q. Sure.

23 MR. MADSEN: That's all the questions I have.

24 THE COURT: Ma'am, thank you very much for coming.

25 You can step down.

1 MS. MAYES: And if the witness may be excused,
2 Your Honor?

3 THE COURT: By all means. Take care of yourself.
4 (Witness excused.)

5 THE COURT: Ladies and gentlemen, we're probably
6 at a good point to take a little midmorning break here.
7 I could use one, I don't about you, so we'll be at ease
8 for about ten or fifteen minutes. Don't talk about the
9 case, adjourn downstairs, and we'll have you back on the
10 record shortly, okay?

11 Thank you.

12 (Whereupon, the jury retires to the jury room at
13 10:34 AM.)

14 THE COURT: You-all have got two more SLED people,
15 one, two?

16 MS. MAYES: At this point, Your Honor, we think
17 we have two more law enforcement and then at least two
18 lay witnesses.

19 THE COURT: Okay. Good enough. Very good. Thank
20 you. We'll be at ease for a few minutes.

21 (Recess taken at 10:35 AM.)

22 (Back on the record at 10:52 AM.)

23 BAILIFF: All rise. Court is back in session.

24 THE COURT: Thank you. Have a seat.

25 MS. MARTIN: Judge, I have an issue.

1 THE COURT: Sure. We're back on the record.

2 Do you need to bring something to the Court's
3 attention?

4 MS. MARTIN: I just would -- I have an argument
5 for you as far as Court's Exhibit Number 2 from our
6 pre-trial hearing. This exhibit is the body cam video
7 of Deputy McManus. This is roadside at Cardinal. It
8 goes from the time his body camera comes on when he
9 reaches the street through transport to the jail, if
10 you remember.

11 THE COURT: (Nods head.)

12 MS. MARTIN: You had found that the statements
13 made were voluntary and spontaneous -- spontaneous,
14 goodness, but you thought at the time that they were
15 not deemed to be relevant yet and you said that we
16 might could revisit it at some point. This may be one
17 of the points we would like to revisit that ruling.

18 Your Honor, we believe that we've put forth so
19 far a very, very strong circumstantial case that the
20 person -- the shooter who got out of the backseat
21 driver's side of the car and then who walked all the
22 way down Number 1 and then who was stopped at Cardinal,
23 this person who was also on video surveillance equipment,
24 surveillance from Corey's Collision and West Windsor, we
25 feel like we've had a very good so far circumstantial

1 case that that person is Joseph Henry based on the way
2 that he appeared, the way he was dressed, his physical
3 description and the fact he was in the car, that there's
4 been ample testimony being that it would be a blue
5 Toyota Matrix, that he would be found at Cardinal, so
6 at this point we feel like we have a very strong
7 circumstantial case that he is the shooter. Because
8 of that we would ask to revisit at this point before
9 we get to further eyewitness testimony of the shooter.
10 So at this point we are asking you to reconsider it
11 based on that, the fact that it's relevant. We feel
12 that any time someone is detained, told why they're
13 being detained and then the statements that they make
14 are certainly relevant if we can prove that they're
15 not being truthful.

16 I'd ask you to look at State v. Brooks, which was
17 a 2020 case. Judge, as you know we have to prove malice
18 and I think one way to prove malice based on caselaw is
19 by the Defendant's demeanor before, during and after a
20 crime and I feel like that the fact he is acting
21 surprised about there being a shooting, him saying he's
22 at a girlfriend's house, him asking was it a drive-by,
23 things of that nature, that we can already prove at
24 least circumstantially to be false that that would open
25 the door to the statements he is saying roadside being

1 admissible and relevant.

2 THE COURT: I don't disagree with you that you've
3 put forward a very strong circumstantial case that the
4 Defendant was there in the car when he was let out of
5 the car.

6 Do you want to speak to this, gentlemen?

7 MR. MAULDIN: Well, I would say that the facts
8 that are presented here are no different than the
9 summaries that they gave Your Honor of the case at the
10 time they moved to enter the evidence in last Monday,
11 the 21st, in that hearing. Rule 4 says that if there's
12 not any new facts that the rule stands and they shouldn't
13 make another motion, but I don't think they've presented
14 any new facts to show that it should be it admissible.

15 MS. MARTIN: Just, Your Honor, at the prior hearing
16 you didn't have the video surveillance evidence before
17 you --

18 THE COURT: Correct.

19 MS. MARTIN: -- you didn't have descriptions
20 necessarily as detailed of the suspected shooter as
21 you have now. I'd ask you to just think about it and
22 certainly -- the reason I bring it up now is that if
23 you deny it now and then we have the eyewitnesses to
24 the shooting come up as well, if that would open the
25 door we would have to recall this one witness, so I

1 didn't want to use him and then excuse him, so I'll
2 leave that to your discretion.

3 MR. MAULDIN: And also I would say that they're
4 -- they're saying that there's a question, they're
5 equating that the statements made by the Defendant
6 saying I didn't do this.

7 THE COURT: Okay. Well, let -- let me just speak
8 candidly here. I do agree with the State that you
9 have a very strong circumstantial case as it relates
10 to the Defendant being there at the car and, yes, I
11 was not privy to that -- to those videos or the other
12 testimony when the Court made its initial ruling Monday
13 a week ago. My hesitancy in admitting the roadside
14 conversation was because it was not an interrogation.
15 I've already ruled on that --

16 MS. MARTIN: Yes, sir.

17 THE COURT: -- and it was more of spontaneous
18 statements, questions being offered by the Defendant.
19 The -- the genesis behind my ruling was candidly I did
20 not know where this case was going to be going, which
21 direction potential testimony may take us, I'd not
22 heard from the other two individuals who were in the
23 car. I think I have a better feel now for perhaps
24 where the testimony might be taking us both in the
25 State's -- from the State's perspective and from the

1 Defendant's perspective. Candidly, if this is an
2 opening the door kind of thing, which it could turn
3 into, I'm probably gonna need to hear from the two
4 lay witnesses first, at least how they're examined --

5 MS. MARTIN: Yes, sir.

6 THE COURT: -- maybe before we cross that bridge.

7 MS. MARTIN: I understand, Your Honor. I just
8 wanted to put it out there and to let you know that we
9 -- at the close of this witness I'll ask that he be
10 excused subject to recall.

11 THE COURT: Right. Because I understand the
12 -- the argument that the State is intending to make or
13 wanting to make and that is obviously someone who has
14 just forty-five minutes previous witnessed, assuming
15 that someone else is the shooter, it's not the Defendant
16 who shot the young lady, then obviously they're not
17 gonna be asking oh, what are you talking about because
18 that's a traumatic event and that's something that they
19 would be generally forthcoming with and -- especially
20 when confronted with the possibility that they are about
21 to be arrested for said shooting.

22 MS. MARTIN: Yes, sir.

23 THE COURT: So I get where you're going. Maybe
24 we're there, maybe we're not there. I really don't
25 know.

1 MS. MARTIN: Okay.

2 THE COURT: So we'll put a pin in that.

3 MS. MARTIN: Just also so the Court's aware, we
4 do have State's Exhibit 28, which is a miniclip of the
5 same deputy.

6 THE COURT: At the detention center?

7 MS. MARTIN: Well, it's from transport to the
8 detention center that shows his movements in the car.
9 It's without audio. Mr. Mauldin has seen almost all
10 of it. It's fifteen minutes, but we can fast forward
11 through most of the transport.

12 THE COURT: Through the seven minute transport
13 kind of thing and fix that with the testimony?

14 MS. MARTIN: Yes, sir. I think it might, but
15 anyway we can fast-forward through most of it, but we
16 will be offering that through this witness. I wanted
17 you to be aware that it's without audio.

18 THE COURT: Okay. That's -- that's fine. Were
19 you planning on offering the audio of the part about
20 the glasses, where he's asking about the glasses?

21 MS. MARTIN: No, sir.

22 THE COURT: You weren't gonna offer it?

23 MS. MARTIN: No, sir.

24 THE COURT: Okay. I think my ruling didn't exclude
25 that, but if you don't want to offer it, you don't have

1 to offer it.

2 MS. MARTIN: Thank you, Judge.

3 THE COURT: All right. Let's get the jury then,
4 please.

5 (Whereupon, the jury returns to the courtroom at
6 11:04 AM.)

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

9 At this point, Solicitor, if you will call your
10 next witness, please.

11 MS. MARTIN: Thank you, Your Honor.

12 We call J.P. McManus.

13 (Whereupon, John-Patrick McManus was duly sworn
14 by the Clerk of Court.)

15 THE CLERK: Once you're seated state your full
16 name, spelling your last, please.

17 THE WITNESS: First name is John-Patrick. It's
18 hyphenated. Last name, McManus, M-c-M-A-N-U-S.

19 JOHN-PATRICK McMANUS,

20 having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. MARTIN:

23 Q. Deputy, where are you employed?

24 A. Yes, ma'am. I'm employed at the Lexington County
25 Sheriff's Department.

1 Q. And how long have you been employed there?

2 A. I've been employed since July 2013.

3 Q. And what type of officer are you?

4 A. Yes, ma'am. I'm a deputy with the warrant and civil
5 process division.

6 Q. And back in February of 2019, were you a road deputy
7 or were you still in the same capacity?

8 A. I was still in the same capacity.

9 Q. Okay. And are you familiar with a tone out that came
10 out that morning of February 21st of 2019?

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

12 Q. Can you tell us how you received notification of this
13 call?

14 A. Yes, ma'am. We received a tone out through our
15 dispatch system over our radios.

16 Q. And what did that lead you to do?

17 A. Yes, ma'am. That led me to respond to the area of
18 4239 -- or 4236 Augusta Road to search for a suspect in
19 regards to a shooting that had occurred.

20 Q. And do you know based on your report and your CAD log
21 that's there about what time did you reach the location of
22 Number 1 and Cardinal?

23 A. Yes, ma'am. I was dispatched at 7:54 in the morning
24 and then I believe according to my records I arrived at
25 Cardinal Drive around 8:15 in the morning.

1 Q. And when you arrived there, were there already other
2 Lexington County officers there?

3 A. Yes, ma'am.

4 Q. And can you tell us whether or not anyone was being
5 detained at that time?

6 A. Yes, ma'am. When I arrived on-scene, the Defendant,
7 Joseph Randolph Henry, and another subject, Mark Anthony
8 Hardaway, Junior, were being detained.

9 Q. And at the time you arrived there, can you tell us
10 what type of description had already gone out as far as
11 the suspected shooter and the event that had occurred at
12 the Fellowship Baptist Church?

13 A. Yes, ma'am. We were continuously getting updates on
14 the -- on the shooter that occurred in regards to this
15 incident. The first description was a black male with
16 dreadlocks who was walking away towards the direction of
17 Lexington. Further information described the shooter as a
18 black male with a beanie cap on. He was wearing a gray
19 beanie, short dreads, he was about six-one or six-two,
20 believed to be about 200 pounds, black male, with gray
21 sweats.

22 Q. Okay. If I can show you what's been marked already
23 and in evidence as State's Exhibit 74, is that you in this
24 photograph?

25 A. Yes, ma'am. I'm the deputy in the photograph.

1 Q. Okay. And who is that subject?

2 A. Yes, ma'am. Joseph Randolph Henry.

3 Q. Can you tell us the clothing that he's wearing in this
4 photograph just so the record will reflect it?

5 A. Yes, ma'am. He's swearing long camouflage desert
6 style pants. He's wearing a long-sleeve gray sweatshirt,
7 thermal style, with white stripes. He's wearing a gray
8 Batman beanie cap and he also has glasses and he also has
9 short dreads.

10 Q. Do you recall what vehicle was associated with this
11 detention there on Cardinal Street?

12 A. Yes, ma'am. Dispatch had given out the description
13 that the suspect could be driving or associated with a
14 small blue four-door Toyota sedan and during the detention
15 of Mr. Henry he was located inside a blue four-door Toyota
16 sedan.

17 Q. Can you see the car on the edge of the photo there?

18 A. Yes, ma'am.

19 Q. Okay. While that car was there, did you or any other
20 road deputy search that vehicle?

21 A. No, ma'am.

22 Q. Okay. Did there come a time that you left Mr. Henry
23 in the custody of another officer?

24 A. Yes, ma'am.

25 Q. Who did you leave him in the custody of?

1 A. I left him in the custody of Investigator Pablo
2 Carvajal.

3 Q. And did you have occasion to go to another location
4 there on Cardinal?

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

6 Q. And would that location have been a garage or a shop
7 area?

8 A. Yes, ma'am, it was.

9 Q. If I could show you what's been marked as State's 64,
10 do you recognize that area?

11 A. Yes, ma'am.

12 Q. And where is this?

13 A. This was part of the -- the garage that they were
14 searching.

15 Q. And State's 65?

16 A. Yes, ma'am. Once again, it was part of the -- the
17 garage structure that we were searching.

18 Q. And last, State's 63?

19 A. Yes, ma'am. Once again, it was part of the garage
20 structure that we were searching.

21 Q. Okay. And at that time can you tell us what was the
22 nature as far as your understanding of the search of the
23 shop and garage area?

24 A. Yes, ma'am. It was believed that the -- the weapon
25 used in the shooting could have been located inside that

1 garage structure area.

2 Q. And at the time of that search was -- can you tell us
3 whether or not there was any indication or any reason to
4 search for a gray jacket?

5 A. No, ma'am. Not at that time.

6 Q. After you -- or let me ask you this. Did you then
7 return to take custody of Mr. Joseph Henry?

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

9 Q. And did you become aware of a decision that had been
10 made for Mr. Henry to be arrested?

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

12 Q. And can you tell us who actually informed the
13 Defendant he was being placed under arrest?

14 A. Investigator Pablo Carvajal.

15 Q. If I can show you State's Exhibit 72 that's already in
16 evidence, can you identify what's happening here?

17 A. Yes, ma'am. Investigator Pablo Carvajal is advising
18 me that I would be transporting the Defendant to jail.
19 He's also advising me that they were going to need to
20 collect his --

21 MR. MAULDIN: 801, Your Honor.

22 THE COURT: Overruled. Go ahead.

23 BY MS. MARTIN:

24 Q. Please answer, sir.

25 A. All right. He's also advising me that we would need

1 to collect his shirt for evidence.

2 Q. Okay. And is that being said to you in the
3 Defendant's presence?

4 A. Yes, it is.

5 Q. If I could show you State's 73, what is this
6 documenting?

7 A. Right. Investigator Pablo Carva -- Pablo Carvajal is
8 taking a photo of the Defendant's shirt.

9 Q. Okay. After that procedure -- is this also one of
10 those photos of the Defendant's shirt?

11 A. Yes, ma'am, it is.

12 Q. And is that the condition of Mr. Henry with you
13 holding him there that he's in and his clothing is in when
14 you put him in your transport vehicle?

15 A. Yes, ma'am, it is.

16 Q. And the Defendant is handcuffed behind his back; is
17 that correct?

18 A. Yes, ma'am.

19 Q. Is that the way it's done?

20 A. Yes, ma'am. Yeah, that's standard protocol.

21 Q. Can you tell us if you have any -- I guess you'd call
22 it surveillance equipment within your vehicle?

23 A. No, ma'am. I do not have any surveillance equipment
24 issued in my vehicle.

25 Q. Right. Do you have a way of recording what is

1 happening in your vehicle?

2 A. Yes, ma'am. One of the things I would do is I would
3 take my body camera off my person and I could magnetize it
4 to the cage in my car to video record the defendant in the
5 backseat.

6 Q. Okay. And did you do that in this case?

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

8 Q. Okay. If I could show you what's been marked
9 State's 28, do you recognize this CD?

10 A. Yes, ma'am.

11 Q. Does it contain your initials?

12 A. Yes, ma'am, it does.

13 Q. And does it contain the transporting of the Defendant
14 from Cardinal to the jail?

15 A. Yes, ma'am.

16 MS. MARTIN: Your Honor, we'd move State's 28 into
17 evidence.

18 MR. MAULDIN: No objection, sir.

19 THE COURT: State's 28 will be in evidence.

20 (State's Exhibit Number 28, a video miniclip, was
21 admitted into evidence.)

22 BY MS. MARTIN:

23 Q. And the date is what according to your body cam?

24 A. According to my body camera, the date is February 21,
25 2019.

1 MS. MARTIN: Your Honor, we're going to skip
2 forward here and there, but certainly this will all
3 be in evidence for the jury.

4 THE COURT: Sure.

5 For the record and the benefit of the jury, I know
6 you've seen this previously, but you may want to get
7 this witness to testify about what parts are just blank
8 and how long that period is, but go ahead.

9 (Whereupon, State's Exhibit Number 28 was played.)

10 BY MS. MARTIN:

11 Q. Can you pause us there.

12 Deputy, can you tell us in this next clip, does this
13 show the positioning of your body cam in the car during
14 transport?

15 A. Yes, ma'am.

16 Q. And is the subject -- or do you see Joseph Henry on
17 the -- on this video?

18 A. Yes, ma'am.

19 Q. Okay. And do you have a laser pointer up there? I
20 think there's a pen. If you could show us where the
21 subject is on the screen.

22 A. Yes, ma'am. That's the Defendant, Joseph Henry.

23 Q. What do you observe, if anything, about his hair here?

24 A. Yes, ma'am. He's moving around. Prior to transport
25 the subject had slipped his cuffs in front of him and he's

1 just being very mobile in the backseat of the vehicle.

2 He's abnormally dipping his head towards the lower part of
3 his body.

4 Q. What, if anything, do you notice about his head?

5 A. Yes, ma'am. He's not -- he's not wearing the -- the
6 beanie that he was wearing previously when he was put in
7 the backseat of my vehicle.

8 Q. And what, if anything, do you observe about his hair?

9 A. His hair?

10 Q. Could you describe his hair?

11 A. Yes, ma'am. His hair is short dreads.

12 Q. Okay. Pause it there. Do you notice anything unusual
13 at the spot we're at now or you couldn't see?

14 A. No, ma'am.

15 Q. Okay. We'll keep going. Right here?

16 A. Yes, ma'am. In the video you can see the subject is
17 moving his hands.

18 Q. Towards the --

19 A. From behind his back towards the front of his body.

20 Q. Okay. Thank you. Please continue.

21 When you have viewed -- or let me ask you this. You
22 have viewed this. You said you initialled the CD; is that
23 correct?

24 A. Yes, ma'am.

25 Q. When reviewing this, what, if anything, do you note

1 between here the time to the jail specifically in regards
2 to the Defendant's movements?

3 A. Yes, ma'am. Like I said, the Defendant was very
4 active in the backseat of my vehicle. He would abnormally
5 stoop down his head to the lower part of his body.

6 Q. Okay.

7 MS. MARTIN: Your Honor, in the interest of time,
8 we're gonna jump to the end, but certainly this video
9 footage is on the CD should the jury wish to review all
10 fifteen minutes of it.

11 BY MS. MARTIN:

12 Q. Are you-all arriving at the detention center here?

13 A. Yes, ma'am, we are.

14 Q. What, if anything, do you notice about the Defendant's
15 position here?

16 A. Yes, ma'am. The Defendant already unbuckled his
17 seatbelt and he was slipping his handcuffs.

18 Q. Okay. When you say slipping his handcuffs, can you
19 explain to us what that means?

20 A. Yes, ma'am. Certain subjects are able to take their
21 handcuffs from behind their back to the front of them and
22 in this video that's what the Defendant's doing.

23 Q. And you said he'd already previously done that?

24 A. He'd already previously done that. Yes, ma'am.

25 Q. Okay. All right. And is that the condition of the

1 Defendant's shirt when you arrived at the detention center?

2 A. Yes, ma'am, it is.

3 MS. MARTIN: That's all as far as the video,

4 Your Honor.

5 BY MS. MARTIN:

6 Q. If I can show you State's Exhibit 76, 77 and 78, and

7 ask you if you recognize these photographs?

8 A. Yes, ma'am. Exhibit 76, I recognize this photograph

9 from my body camera. State's Exhibit 77, I do identify

10 as a photograph from my body camera. And then State's

11 Exhibit 78 is a photo from our jail camera system, which

12 is in the booking area of our jail.

13 Q. And is that the Defendant?

14 A. Yes, ma'am. That's the Defendant.

15 Q. And are you also pictured in State's 78?

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

17 MS. MARTIN: Your Honor, I'd move these into

18 evidence and publish -- ask to publish.

19 MR. MAULDIN: No objection, Your Honor.

20 THE COURT: Without objection that's State's what?

21 Give me those numbers again.

22 MS. MARTIN: 76, 77 and 78.

23 THE COURT: Okay. They will be in evidence.

24 (State's Exhibit Number 76, 77 and 78, photographs,

25 were admitted into evidence.)

1 BY MS. MARTIN:

2 Q. Deputy, when you put Joseph Henry in the back of your
3 car and then removed him, which we saw that procedure there
4 on video, did his shirt get tangled on anything or rip in
5 any way?

6 A. No, ma'am.

7 Q. State's 77, do you recognize a rip there in his shirt?

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

9 Q. And State's 78 is the photograph that I also showed
10 you there at the jail with Mr. Henry; is that correct?

11 A. Yes, ma'am.

12 Q. If I could show you State's 148 and see if you
13 recognize this?

14 A. Yes, ma'am. That's -- State's Exhibit 148 is a
15 photograph from my body-worn camera where I had it attached
16 to my -- my cage in my vehicle.

17 MS. MARTIN: Your Honor, we'd move 148 into
18 evidence.

19 MR. MAULDIN: No objection, Your Honor.

20 THE COURT: State's 148 is in.

21 (State's Exhibit Number 148, a photograph, was
22 admitted into evidence.)

23 BY MS. MARTIN:

24 Q. May we turn off the lights for just a moment, please?
25 Still no better. Can you -- can you recognize from your

1 seat anything about the Defendant's hand position, as well
2 as the beanie cap?

3 A. Okay. I can clearly tell that the beanie cap has
4 been removed; however, it's too dark for me to tell on the
5 projector.

6 THE COURT: Can you cut off the light above me?
7 That might be --

8 BAILIFF: Which one?

9 THE COURT: That one.

10 MS. MARTIN: Your Honor, we can just leave that
11 alone. It's on the video that they can observe.

12 THE COURT: Okay.

13 BY MS. MARTIN:

14 Q. Can you see anything in this area?

15 A. I can see a lot better when -- when you showed it to
16 me up here than on the projector.

17 Q. Okay. Could you walk down for just one moment?

18 A. Sure. Yes, ma'am.

19 Yes, ma'am. In the photograph right there, I observe
20 Mr. Henry's hands up against his -- the side of his face.

21 Q. So they would be in front?

22 A. Yes, ma'am. Yeah, the handcuffs when I placed him
23 in the car, they were behind his back, and he's already
24 slipped them to the front of him.

25 Q. Thank you. Please have a seat.

1 A. (Witness complies.)

2 Q. Deputy, after you realized that there had been a hole
3 in Mr. Henry's shirt, what, if anything, did you do after
4 that?

5 A. Yes, ma'am. I searched the back of my vehicle where
6 Mr. Henry was seated during transport or during this
7 incident and attempted to locate that missing piece of
8 shirt.

9 Q. And did you -- were you able to find the scrap of
10 fabric?

11 A. No, ma'am, I did not.

12 Q. If I can show you State's Exhibit 145 and ask if you
13 recognize this?

14 A. Yes, ma'am. That was the beanie cap that the
15 Defendant was wearing when we initially got out with him.

16 Q. And was this collected?

17 A. Yes, ma'am. That went to jail with him and was
18 collected.

19 MS. MARTIN: Your Honor, we'd move 145 into
20 evidence.

21 MR. MAULDIN: No objection, Your Honor.

22 THE COURT: 145 is in evidence.

23 (State's Exhibit Number 145, a beanie cap, was
24 admitted into evidence.)

25 BY MS. MARTIN:

1 Q. If I can show you State's Exhibit 144 and see if you
2 recognize this?

3 A. Yes, ma'am. That was the shirt that the Defendant was
4 wearing.

5 Q. And it was collected for evidence?

6 A. Yes, ma'am.

7 MS. MARTIN: Your Honor, we would ask that 144 be
8 admitted.

9 MR. MAULDIN: No objection, Your Honor.

10 THE COURT: In evidence.

11 (State's Exhibit Number 144, a shirt with hole,
12 was admitted into evidence.)

13 BY MS. MARTIN:

14 Q. This is how the shirt looked when he was booked?

15 A. Yes, ma'am.

16 MS. MARTIN: Please answer any questions the
17 defense may have.

18 MR. MAULDIN: I have no questions for this witness,
19 Your Honor.

20 THE COURT: Sir, thank you. You can step down.

21 (Witness excused.)

22 THE COURT: Call your next witness, please.

23 MS. MAYES: The State calls Joshua Murray.

24 Your Honor, may we approach?

25 THE COURT: Sure.

1 (Proceedings held at the bench; not reported.)

2 THE COURT: All right. I think we're square on
3 that.

4 MR. MAULDIN: I take exception to your ruling
5 and --

6 THE COURT: We'll put it on the -- we'll put it
7 on the record later.

8 MS. MAYES: Joshua Murray.

9 (Whereupon, Joshua Murray was duly sworn by the
10 Clerk of Court.)

11 THE CLERK: Have a seat right up there, sir. Once
12 you're seated state your full name, spelling your last.

13 THE WITNESS: Joshua Murray, M-U-R-R-A-Y.

14 JOSHUA MURRAY,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. During the time you testify you can leave your mask
21 off, okay?

22 A. (Nods head.)

23 Q. I'm gonna need you to pull that microphone just a
24 little bit closer to you.

25 Josh, tell us a little bit about yourself. How old

1 are you?

2 A. Thirty-five years old. Columbia, South Carolina is
3 all I've ever known. I've been here my whole life.

4 Q. Where did you attend high school?

5 A. I graduated Chapin in '03.

6 Q. Okay. Again, I need you to pull that microphone
7 closer to you.

8 A. I graduated Chapin in '03.

9 Q. 2003?

10 A. Yes, ma'am.

11 Q. What kind of work have you done in your past?

12 A. Home improvements ever since being in high school,
13 roofing, framing, stuff like that.

14 Q. Joshua, in the last several years of your life have
15 you had an addiction?

16 A. Yes, ma'am.

17 Q. What drugs have you been addicted to?

18 A. Methamphetamine mainly. You know, my addiction's
19 pretty much run a full spectrum at one point in time, but
20 methamphetamines mainly.

21 Q. And when you talk about methamphetamine, does that
22 include smoking it?

23 A. Yes, ma'am.

24 Q. Does that even include using needles for
25 methamphetamine?

1 A. It has, yes, ma'am.

2 Q. Can you tell us whether or not you had that addiction
3 to methamphetamine in 2019?

4 A. I did.

5 Q. As a result of that addiction, did you engage in
6 activities with other people who also had an addiction?

7 A. Yes, ma'am.

8 Q. You used drugs together?

9 A. (Nods head.)

10 Q. Tell us about Alexis and what name you called her.

11 A. I knew her by Nicole. That's how she introduced to
12 herself to me. I'd only known her a month before this
13 incident happened, maybe a month and a half. I met her up
14 at the Motel 6 on St. Andrews Road and she was super sweet
15 right off -- right out of the gate. You know, she was
16 really nice, friendly. She gave me a phone because she
17 wanted a way to get in contact with me. You know, she was
18 a sweetheart.

19 Q. Did Alexis have an addiction?

20 A. I can't speak as far as the past, but we did use
21 together, yes, ma'am.

22 Q. And when you say that you used together, did that
23 include methamphetamine?

24 A. Yes, ma'am.

25 Q. How is it, Joshua, that you know the Defendant in this

1 case, Joshua Murray -- I'm sorry, Joseph Henry?

2 A. I met Joe through some mutual friends. I rented a
3 room from a lady that stayed over off Thor Road, which is
4 right off of Bush River Road near Dutch Square. Joe -- Joe
5 was mutual friends with them and that's how we met.

6 Q. How long would you estimate you had known Joe prior to
7 the morning of February 21, 2019?

8 A. Two or three years. I couldn't put an exact date on
9 it, but two or three years. It was quite a while.

10 Q. All right. And during the course of that two to
11 three years, how frequently would you-all hang out
12 together?

13 A. Sporadically, you know. I mean, some -- sometimes
14 we'd hang out for weeks at a time and sometimes we wouldn't
15 see each other for a month, you know. It was just kind of
16 random. The lifestyle is kind of tough with friends and
17 all like that.

18 Q. All right. When you say the lifestyle, you're
19 referring to what?

20 A. The addiction to drugs, partying.

21 Q. Okay. How is it that you knew Kaitlyn Skyrme, also
22 called Katie?

23 A. I met her that morning previous to the -- riding with
24 the Defendant and he -- he pulled up on her at -- well, I'm
25 assuming it was her house, but -- and she ended up riding

1 off with us that day.

2 Q. Okay. So you met Katie through the Defendant?

3 A. Yes, ma'am.

4 Q. I want to go specifically to that time period of
5 February 2019. Before this morning, the morning that this
6 happened, what had you and Joe been doing the day before?

7 A. Riding around, goofing off. I mean, we were using
8 drugs. I mean, the same old things we always did, you
9 know.

10 Q. Do you know whether or not the day before he had a
11 room at the Econo Lodge?

12 A. He did. We had -- I had -- I pulled up -- I met him
13 -- I didn't know he was there. I went into another room to
14 see a friend of mine, her name is Cat, and when I got there
15 I saw Joe and, like I said, I hadn't seen him in a couple
16 of months at that point in time and we ended up hanging out
17 for the next twenty-four hour period or so.

18 Q. All right. So the day before all of this you had seen
19 him at the Econo Lodge and then you-all ended up hanging
20 out together for the next twenty-four hours or so?

21 A. Approximately, yes, ma'am.

22 Q. When did you meet M.J., Mark Hardaway?

23 A. I believe it was like -- I had met him a couple of
24 nights prior -- or a couple -- I can't remember if it was
25 that day or previous, before that, but, I mean, I just

1 remember -- he doesn't stick out in my mind as somebody

2 I -- but I --

3 Q. Okay. Do you know who you met M.J. through?

4 A. The Defendant, yes, ma'am.

5 Q. Through Joe?

6 A. Yes, ma'am.

7 Q. Okay. And what was your understanding of the
8 relationship or friendship between the two of them?

9 A. I thought they were -- they told me they were cousins.

10 Q. Okay. So it was represented to you that they were
11 cousins?

12 A. Family, yes, ma'am.

13 Q. And after you and Joe got together at the Econo Lodge,
14 later on leading up to the night before all of this
15 occurred, where did you-all end up the night before?

16 A. There's a -- pretty much for lack of a better word,
17 there's a chop shop over off of Number 1 Highway in between
18 the flea markets and Joe told me there was this place where
19 he was working at.

20 Q. Well, let me ask you this. Had you ever been to this
21 shop before?

22 A. No, ma'am.

23 Q. Who's the one who took you there?

24 A. The Defendant.

25 Q. And did that include going inside this place?

1 A. Yes, ma'am.

2 Q. And when you went inside -- when you went inside, how
3 would you describe the interior of the garage?

4 A. I mean, there were a couple cars around torn apart and
5 stuff like that, but mainly a party more-so than --

6 Q. I need you to speak up a little bit -- a little bit
7 louder.

8 A. Yes, ma'am. It was more -- it was more of a party
9 scene than an actual working environment.

10 Q. Who all do you remember being at this shop?

11 A. There's a girl there named Summer, another girl named
12 Cat, a dude named Red Man, me, the Defendant, his cousin,
13 M.J., Kaitlyn, and that's about it. There was a couple of
14 other people there. I can't tell you -- I couldn't tell
15 you their names though. I don't know them.

16 Q. Okay. And at some point in time can you tell us
17 whether or not Katie was at the shop? Do you recall
18 whether or not Katie was there or do you --

19 A. I can't remember.

20 Q. Okay. Do you recall whether or not Alexis was at the
21 shop?

22 A. She had actually came and picked me up from there. I
23 don't know that she ever came inside or anything, but she
24 came and picked me up and the two of us rode off for an
25 hour together and we came back and picked up Joe, M.J. and

1 Katie, and went to Chapin.

2 Q. I'm just gonna ask you to look at these photos
3 yourself real quick. 73, 72, 65, 64 and 63. Do you
4 recognize that place?

5 A. Yes, ma'am.

6 Q. This area right back here, this building, what do you
7 recognize that place to be? Would that be the garage?

8 A. Yes, ma'am, it appears to be so.

9 Q. Now 63?

10 A. I believe that would be the front of the chop shop.
11 They had people living in there.

12 Q. All right. 64 and then 65, can you tell us whether or
13 not that accurately represents the garage as you saw it?

14 A. Yeah, it does. That appears to be the front half of
15 it. There was -- like I said, there was an actual garage
16 on the back side, but there wasn't much working going on.

17 Q. All right. So that night you're there, the
18 Defendant's there and then you said Alexis came?

19 A. Yes, ma'am.

20 Q. What kind of vehicle did Alexis come in?

21 A. I believe it was a newer model white Ford Focus.

22 Q. All right. Do you remember if M.J. was there too?

23 A. He was. I think he did something -- like he was at
24 the shop, yes, ma'am, if that's what you're asking.

25 Q. Okay. So Alexis comes in her white Ford Focus?

1 A. (Nods head.)

2 Q. What happens next?

3 A. Her and I rode to Wal-Mart in Lexington on 378. We
4 came back and at that point we picked up the Defendant, his
5 cousin M.J., and Katie, and the three -- all five of us
6 rode out to Chapin to Alexis' parents' neighborhood where
7 they had -- there was supposed to be a yacht tied up to a
8 dock. We never went on the yacht. We spent time at the
9 little marina or whatnot for a couple of hours.

10 Q. I'm gonna show you what is State's 132 and ask you to
11 just take a look at this yourself.

12 A. Right here, but at one point we parked here, then
13 moved up here.

14 Q. All right. And just to clarify, do you recognize this
15 location?

16 A. Yes, ma'am.

17 Q. Is this where you recall being that night?

18 A. Yes, ma'am.

19 Q. And specifically as to this location right here near
20 the water?

21 A. Yes, ma'am. The parking area right before the marina.

22 Q. Whose vehicle were you-all in?

23 A. Alexis' white Ford Focus.

24 Q. And who all was in the car?

25 A. All five of us. Me, Alexis, Katie, Joe and M.J.

1 Q. Can you tell us whether or not drug use was going on?

2 A. Yes, ma'am, it was.

3 Q. Can you tell us how long you-all stayed there near the
4 water?

5 A. Maybe two or three hours. We -- we got there kind of
6 late, you know. She -- Alexis picked me up and we went to
7 Wal-Mart at probably 11:30, 12:00, and then we came back to
8 the shop on Number 1 Highway and drove all the way out to
9 deep Chapin, so two or three hours just hanging out. At
10 one point in time for maybe about thirty minutes, Alexis
11 and I had walked over to the dock and just sat and talked
12 while everybody else was still at the car, then we got back
13 in the car and left.

14 Q. You and -- you and Alexis were at the dock --

15 A. Yes, ma'am.

16 Q. -- and everybody else was at the car?

17 A. Yes, ma'am.

18 Q. What happened next, Josh?

19 A. That morning I was -- as far as sobriety goes, I was
20 the most sober, so I was driving and on the way into town
21 that morning on I-26, she looks over at me and she says
22 Chad Andrews owes me \$80 and said we can stop by there and
23 get it. Now Chad -- Chad's got a bad reputation on -- in
24 the lifestyle, you know, as far as he's police affiliated
25 and stuff like that and -- but we're not doing anything

1 wrong, so we stopped by there to get it and when we pull up
2 on him, he tries to get in the car. At that point me and
3 Joe have an issue with it because we just don't want to
4 associate like that. I mean, it just don't look good. You
5 know, in the lifestyle it does not look good.

6 Q. Okay. So I'm gonna stop you right there.

7 A. Yes, ma'am.

8 Q. You had talked about everyone being at the Yacht --
9 Yacht Point together. Was M.J. with you-all then?

10 A. Yes, ma'am.

11 Q. And what you just told us about going to Chad Andrews'
12 house, what happened to M.J. in between?

13 A. On the way to Chad and Chad -- where Chad was and the
14 shop was were in pretty close proximity to each other, so
15 we stopped by. M.J. had to go to work that morning and
16 Pluto -- Joe was supposed to give him a ride to work. We
17 pull up, drop M.J. off at the shop and Pluto -- Joe asked
18 us -- he said to pull off and leave him, so we left him
19 there and we went to where Chad -- the residence Chad was
20 at on -- it was off of Delree Avenue.

21 Q. Okay. So you used the name Pluto?

22 A. Yes.

23 Q. Who do you know Pluto as?

24 A. Joseph Henry.

25 Q. That would be the Defendant in this case, Joseph

1 Henry?

2 A. Yes, ma'am.

3 Q. Do you see him present in this courtroom, the person
4 you know as Pluto?

5 A. Yes, ma'am.

6 Q. Where is he seated?

7 A. The far left at the defendant table.

8 Q. All right.

9 THE COURT: The record will reflect that the
10 witness has identified the Defendant.

11 BY MS. MAYES:

12 Q. So you dropped M.J. off and now you've headed to Chad
13 Andrews' house. I believe you said that was on Delray?

14 A. Delree, yes, ma'am.

15 Q. But near the shop?

16 A. Yes, ma'am. Probably within two or three miles of it.

17 Q. Okay. I'm gonna ask you to take a look at this,
18 State's 40, Josh, and if you could come down and indicate
19 on this exhibit who was seated where.

20 A. (Witness complies.)

21 Q. We have the photo, but if you could write above the
22 photo for the driver's side, the passenger side, the side
23 of the driver, the location behind the driver, and then the
24 location behind the front seat passenger.

25 A. (Witness complies.)

1 Q. Well, let me -- let me just ask you what you've done
2 so far?

3 A. This is me in the driver's seat, the Defendant in the
4 back driver side, Katie's in the back passenger side and
5 Alexis is in the front passenger side.

6 Q. Okay. So Alexis would be on the front passenger side?

7 A. Yes.

8 Q. Can you indicate that over to the right?

9 A. Right here?

10 Q. That's fine. Now did you-all stay in this position
11 when you went to Chad Andrews' house?

12 A. Yeah, that's exactly -- that's how we were when we got
13 there and that's how we were when we left.

14 Q. When you left Chad Andrews' house?

15 A. Yes.

16 Q. Thank you. You may return.

17 A. (Witness complies.)

18 Q. You were talking about going to Chad Andrews' house.

19 Who was -- whose idea was it to go to Chad Andrews' house?

20 A. It was Alexis'.

21 Q. And was it your understanding that Alexis had a
22 friendship with Chad?

23 A. Yeah, she let it -- she let it be known that they were
24 friends.

25 Q. All right. I'm gonna ask you some more about that.

1 You said that Chad was police affiliated?

2 A. (Nods head.)

3 Q. Did you have knowledge that Chad Andrews had worked
4 as a confidential informant?

5 A. The first time I ever met the man he was wearing a
6 badge and he used it as like scare tactics to people on
7 the -- like he would bully people out of their money and
8 drugs and stuff like that by threatening them with police
9 retaliation.

10 Q. Did you believe him to be a snitch?

11 A. Yes, ma'am.

12 Q. Did other people in the car also express their belief
13 that he was a snitch?

14 A. Yes, ma'am.

15 Q. Who was that person?

16 A. The Defendant.

17 Q. Joseph Henry?

18 A. Yes, ma'am.

19 Q. How did Alexis react to that?

20 A. She -- she tried to -- you know, she was taking up for
21 her friend, you know. She -- nobody likes to hear their
22 friend talked bad about, but that's what it was.

23 Q. Did she seem based upon your observations to realize
24 the significance of associating with someone that was
25 believed to be a snitch?

1 A. No, ma'am. The only -- the only thing I can attribute
2 that to is her age, you know. She was twenty-four years
3 old at that time and I -- I remember what I knew when I was
4 twenty-four years old, which was absolutely nothing about
5 nothing, you know.

6 Q. Did she seem to get it?

7 A. No, ma'am, she didn't know. It was just over her
8 head.

9 Q. What happened next?

10 A. We're taking a left off of Delree off Number 1 Highway
11 and at this point the Defendant, Joe, and Alexis are
12 arguing to the point where they're screaming at each other.
13 I looked back at him and said out of respect for me, calm
14 down, and I looked at her and I say stay out of my man's
15 face, we've got three minutes and this whole situation is
16 over with, it's done, and that lasted about three seconds.
17 She called him a mother fucker, he called her a bitch, she
18 threw a napkin at him and he pulled a pistol up -- I mean,
19 all I -- all I see is I'm driving down the road and flash
20 bang, oh, God, what just happened. And I don't know, I may
21 have drove another thirty yards or so and just took --
22 before I comprehended what just happened, you know. At
23 first I can remember thinking did he -- did he just slap
24 her or what -- what just happened, but it was just smoke in
25 the car and it took a couple of seconds for me to realize

1 what happened and then when -- when he did it, he -- the
2 first thing he said is I am who I say I am and I do what I
3 say -- I do what I say I'm gonna do. Pull around back,
4 pull around back, and that was never an option. There was
5 never anything like that.

6 I just -- I pulled over and when I pulled over and I
7 jumped out of the driver's side, I was just trying to
8 pacify the situation as easy as I could and I -- I didn't
9 want any more confrontation with him. This is a friend of
10 mine. He just made a really bad decision. I don't know
11 what -- I don't know what to do. According to the video, I
12 reach out and I hugged him, but I'm guessing that's -- I
13 don't know if it was instincts or what, I was just trying
14 to pacify the situation. He walks off, just cold, just
15 emotionless, and I'm flipping out and I'm like -- I don't
16 know. I still don't know how I kept my composure as well
17 as I did.

18 Q. Okay. So I'm gonna ask you a few more questions about
19 everything that you just told us.

20 A. (Nods head.)

21 Q. The argument that you recall taking place about Chad,
22 do you remember whether or not there was an agreement that
23 Alexis would meet back up with Chad?

24 A. I believe that was, yes, ma'am.

25 Q. That was your understanding?

1 A. Yes, she -- the understanding was that we were all
2 gonna go back to Joe's car, me, Joe and Katie were gonna
3 get out and Alexis could go back and pick up Chad Andrews
4 and they could go do whatever they wanted to do, but we
5 weren't gonna go with them.

6 Q. All right. So when you say the understanding was that
7 you'd go back to Joe's car, I'm gonna ask you whether or
8 not you recognize this, State's 117?

9 A. Yes, ma'am.

10 Q. Whose car is that?

11 A. Joseph Henry's.

12 Q. Where was that car?

13 A. Parked at the chop shop we referred on Number 1
14 Highway.

15 Q. Well, let me ask you this. It was close enough that
16 he could be returned to his car?

17 A. Ma'am, repeat that. I -- I didn't understand it.

18 Q. The car was close enough to Chad's house that the plan
19 was to return him to his car?

20 A. Yes, ma'am.

21 Q. Were you planning to get out, too?

22 A. Yes, ma'am.

23 Q. And Alexis was gonna meet back up with Chad?

24 A. Yes, ma'am.

25 Q. After that discussion and after you-all pull away from

1 Chad's house, what, if anything, did the Defendant state
2 regarding Alexis?

3 A. He was just -- you know, he was badmouthing Chad and
4 saying that, you know, if he's a snitch and you're hanging
5 out with him, you might as well be a snitch -- or you're a
6 snitch, too, you know, and --

7 Q. The insinuation --

8 A. -- that's when she -- she -- that's when she -- she
9 got offended like, you know, on a personal level I'm
10 assuming, you know.

11 Q. The insinuation from the Defendant was that Alexis
12 must be a snitch, too?

13 A. Yes, ma'am.

14 Q. How did she react to that?

15 A. She defended herself. Like she -- she was never
16 aggressive. Like, I mean, they were hollering at each
17 other, but it wasn't her -- she wasn't physical towards
18 him.

19 Q. And you said at some point she threw something. What
20 do you believe that object to be?

21 A. I didn't -- I thought it was a napkin. It was some
22 paper form. It didn't have any weight behind it or
23 anything like that, but --

24 Q. Some type of paper object?

25 A. Yes, ma'am.

1 Q. Did you ever see her turn around and strike him?

2 A. No, ma'am.

3 Q. Physically assault him?

4 A. No, ma'am.

5 Q. Anything along those lines?

6 A. No, ma'am, they were just arguing.

7 Q. When that shot was fired, Mr. Murray, which way was
8 Alexis facing in the vehicle?

9 A. She -- she was looking out the front. She never saw
10 it.

11 Q. When you say she was looking out the front, you mean
12 the front windshield?

13 A. (Nods head.)

14 Q. And when you say she never saw it, what are you
15 referring to?

16 A. She never saw it coming. She never -- she never had a
17 chance to move or dodge or duck or anything. She just --
18 poor little girl.

19 Q. You say it was about thirty yards from where that
20 happened to when you pulled into the church?

21 A. Yeah, that's just a guess. I couldn't -- it wasn't
22 very long. Like it was seconds before I -- before I could
23 comprehend what just happened.

24 Q. Let me show you an item and ask you whether or not you
25 recognize it.

1 A. That's a -- that's a -- I believe they call them a
2 satchel. Joe had it earlier -- earlier in that day when --
3 and on him at that time, too. We were out and I remember
4 cutting up with him and joking with him calling it a murse,
5 a man purse.

6 Q. And that item belonged to who?

7 A. Joseph Henry.

8 Q. When you pull into the church, Mr. Murray, what
9 happened next?

10 A. I guess I -- I jumped out of the driver's side and
11 then he's right there, too, he jumps out and, I don't know,
12 but I hug him and he -- like I said though, I was just
13 trying to pacify him.

14 Q. Why was that?

15 A. I mean, the man just shot a twenty-four-year-old
16 little girl and no telling what he's liable to do next, you
17 know. I didn't know --

18 Q. Did you want him to remain there at the scene?

19 A. No, ma'am. I was just trying to get him away as quick
20 as possible so I could start to find help.

21 Q. Did he offer any help to Alexis?

22 A. No, ma'am.

23 Q. What happened next?

24 A. He walks off and as he's walking off I -- the other --
25 the other girl in the car, she had some stuff on her that

1 she didn't want on her when the police got there and I had
2 some stuff on me that I didn't want on me when the police
3 get there.

4 Q. So I want to talk a little bit more about that.

5 A. All right.

6 Q. So you said that night at -- at Yacht Point you guys
7 were doing drugs?

8 A. Yes, ma'am.

9 Q. Did you still have drugs in your possession?

10 A. I did.

11 Q. Did Katie still have drugs or drug paraphernalia in
12 her possession?

13 A. She did, yeah.

14 Q. At this point had you made a decision about getting
15 help for Alexis?

16 A. Yes, ma'am. It was like done.

17 Q. Any doubt in your mind that you were gonna call the
18 police and call -- call for help for Alexis?

19 A. Yeah, no doubt. There was never a question of that.
20 Because of this -- because of this incident I believe that
21 people are born good or bad and there's no amount of
22 schooling or learning or anything like that that's gonna
23 change who you are on the inside and in that split second
24 that it took me to comprehend what had just happened, I
25 know I'm a good person, so it was never a thought --

1 MR. MAULDIN: Objection, Your Honor. He's
2 bolstering himself.

3 MS. MAYES: I can rephrase, Your Honor.

4 THE COURT: Why don't you rephrase and let's get
5 us back on track.

6 BY MS. MAYES:

7 Q. Any hesitation at all on your part about seeking help
8 for Alexis?

9 A. No, ma'am.

10 Q. Why did -- why did the -- why was the decision made
11 between you and Katie to get rid of the drugs and the
12 paraphernalia before the police got there?

13 A. The situation was already really, really bad.

14 Q. Did you want to go to jail that night?

15 A. No, ma'am, I did not.

16 Q. Okay. Was your phone working, Josh, without a
17 hotspot?

18 A. No, ma'am.

19 Q. Did Katie -- did Katie have a working phone without a
20 hotspot?

21 A. I'm not sure. I don't think so. I didn't even think
22 about the fact that I could use the emergency to call
23 9-1-1, you know. At that point I'm running on pure
24 adrenaline. I run out in traffic and flagged down a little
25 old lady, you know, I explained to her that somebody's been

1 hurt, and it's -- it took me a minute to get somebody to
2 stop, you know. I mean, here I am, I've got blood on me
3 and I'm out in the middle of Number 1 Highway at 7:30 on a
4 Monday -- or whatever day it was, something, 7:30 on a
5 weekday morning on one of the main thoroughfares in the
6 county, you know. I've people blowing horns and I'm
7 looking all crazy out there in the middle of the road. It
8 was not a good look.

9 Q. What happened next?

10 A. We finally -- you know, the older lady stopped, I
11 explained to her that somebody had been hurt. Katie, she
12 goes and she's talking to the older lady, I go to the
13 passenger side where the -- I open the door and I kneel
14 down and Alexis, she's still breathing, and I'm sitting
15 there and I'm just trying to comfort her in any way I can,
16 you know, holding her hand.

17 Q. Did she respond at all, Josh?

18 A. No. No, ma'am.

19 Q. How did you end up with blood on you?

20 A. When the gunshot went off, I can remember looking over
21 from the driver's side and her body had just constricted
22 where every muscle was pulled up tight and she pinned
23 herself to the passenger side window. When I pulled the
24 car off to the right side of the road, she wasn't wearing a
25 seatbelt and the forward momentum had carried her into my

1 lap and that's where the blood had gotten on me.

2 Q. And at that point did she appear conscious or
3 responsive at all?

4 A. No, ma'am. She -- she was struggling to breathe.

5 Q. And she slumped over to your side of the vehicle?

6 A. Yes, ma'am.

7 Q. I'm gonna show you some photographs and ask you
8 whether or not you recognize them. State's 36, 37, 33.

9 A. (Nods head.)

10 Q. You recognize these?

11 A. Yes, ma'am.

12 Q. Josh, looking at 37 and 36, do you recall whether
13 Alexis went over that console to your side?

14 A. Yes, ma'am. Her whole body didn't come -- come over.
15 It was just like, you know, from here up.

16 Q. From where up?

17 A. From like maybe here, I guess.

18 Q. The upper part of the torso and head?

19 A. Upper part of the torso, yes, ma'am.

20 Q. And there in that photo you have blood on what side of
21 your body?

22 A. It would be my right side.

23 Q. And do you know how it got there?

24 A. From -- from where she leaned over into me when I
25 pulled the car off of the road.

1 Q. And then looking at 33, how did that right passenger
2 side door get open, Josh?

3 A. I believe I opened it.

4 Q. Why did you do that?

5 A. Trying to help her.

6 Q. Was there anything you could do?

7 A. I didn't know. I was trying. I didn't -- I didn't --
8 I just -- mainly to comfort her, you know. I didn't know
9 if I could do anything. I'm not a doctor, I'm not a nurse,
10 I'm not an EMT, nothing like that. I was just trying to
11 help her.

12 Q. And you said you had known Alexis for over a month.
13 Do you know whether Katie had ever met Alexis before that
14 last -- before the night before?

15 A. I don't believe so.

16 Q. They seemed to be pretty much strangers to each other?

17 A. Yes, ma'am.

18 Q. What was Katie doing during all this, Josh?

19 A. She's -- she's talking to the little old lady that had
20 pulled over.

21 Q. Ms. Council?

22 A. I'm not -- not sure. That's -- that's kind of a blur
23 at that point. I mean, everything is going really fast at
24 this point in time.

25 Q. Did Katie seem to be herself?

1 A. I mean, I don't know her. I'd just met her the night
2 before, you know.

3 Q. And when you saw the Defendant walking off, what
4 direction did you see him going?

5 A. Towards his car, which was parked at the chop shop.

6 Q. Towards Cardinal?

7 A. Yes, ma'am.

8 Q. When you saw him walking, how would you describe his
9 body language or demeanor?

10 A. He -- he wasn't panicked. He's -- he was really cold,
11 just easy, you know. I don't know how to -- at ease, you
12 know. It was like cold.

13 Q. When he made that statement -- tell us again what you
14 recall the statement to be.

15 A. I am what I am -- I am what I say I am and I do what I
16 say I'm gonna do. Along those lines.

17 Q. What kind of voice did he say that in?

18 A. In a deep -- like he just -- anger. I mean, I don't
19 -- I don't know where it come from. I never had -- like I
20 said, I'd only known him a couple of years at that point
21 of time and the reason I hung out with him was because he
22 could contain himself and control himself, you know. I
23 mean, I never seen him act like this, never any -- in any
24 way shape or form act like that or I wouldn't have -- he
25 wouldn't have been anywhere near me had I known what he was

1 gonna do.

2 Q. And did you provide information to law enforcement
3 while they were there regarding his vehicle description?

4 A. Yes, ma'am, I did. From the incident that had
5 happened I was nothing but cooperative in anything I could
6 possibly do to help.

7 Q. Did that include his clothing description?

8 A. Yes.

9 Q. His name being Pluto?

10 A. Yes, ma'am.

11 Q. Did you believe he lived off Kennerly Road in Irmo?

12 A. Yes, ma'am.

13 Q. Josh, you've indicated you had an addiction at least
14 since 2019. Does it go back earlier than that as well?

15 A. Yes, ma'am.

16 Q. Can you tell us whether or not you have a conviction
17 for assault and battery in the first degree from 2012?

18 A. Yes, ma'am.

19 Q. Can you tell us whether you have a conviction for
20 assault and battery in the second degree in 2015?

21 A. Yes, ma'am.

22 Q. Can you tell us whether you have a drug charge from
23 2017?

24 A. I do.

25 Q. That included possession of drugs and conspiracy to

1 possess drugs?

2 A. Yes, ma'am.

3 Q. And that argument that led to Alexis being shot from
4 your recollection was over what?

5 A. The fact that her and Chad Andrews were snitches or at
6 least affiliated.

7 MS. MAYES: I beg the Court's indulgence.

8 Nothing further from Mr. Murray at this time,
9 Your Honor.

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MR. MAULDIN:

13 Q. So I guess it would be on the 18th you -- you met Joe
14 at the Econo Lodge; is that right?

15 A. Yes, sir.

16 Q. And Katie was already with him?

17 A. No, sir.

18 Q. Okay. Did Katie come to the Econo Lodge at some point
19 in time?

20 A. No, sir. Joe and I rode -- I don't think M.J. was
21 with us yet, but Joe and I rode over to her house, which
22 was over in a similar area where Delree Avenue is.

23 Q. Okay. So you rode over to her house and then after
24 going to Katie's house, you went to the shop?

25 A. We rode around for a little while that day. Like she

1 came to -- we went back to the Econo Lodge at one point in
2 time.

3 Q. So you did go back to the Econo Lodge?

4 A. Yeah.

5 Q. So Katie wasn't there, you went and picked her up and
6 then you went back to the Econo Lodge?

7 A. Right. We were hanging out -- we hung out there for
8 a little while and then ended up going to the chop shop.

9 Q. Okay. And then -- okay. You went to the chop shop
10 and you hung out with them there?

11 A. (Nods head.)

12 Q. And then at some point you called Alexis to come over?

13 A. Yeah, when I -- when I first went to hang out, when
14 I first met Old Joe, I went to see a girl named Cat, her
15 name's Cat Napier, she ended up leaving a little earlier in
16 the night and then that's when I called Alexis.

17 Q. Now was Cat at the Econo Lodge or was she at the --

18 A. Cat was at the Econo Lodge.

19 Q. Okay.

20 A. And then --

21 Q. So you're all at the shop. How did you know Cat had
22 gone from the Econo Lodge?

23 A. I mean, she -- I mean, she went with us to the shop.

24 Q. Okay. So she left --

25 A. No, we were all together in Joe's car then.

1 Q. You were all at the shop together and then Cat left or
2 Kate left; is that right?

3 A. Yes, sir.

4 Q. And so you call Alexis?

5 A. Yes, sir.

6 Q. And -- and that's when you-all got in the car and rode
7 out to that Yacht Cove area?

8 A. No, Alexis picked me up and we went to Wal-Mart on 378
9 and came back to the shop and at that point we picked up
10 Joe, M.J. and Katie.

11 Q. Okay. And then you headed out to meet at the yacht
12 area?

13 A. Yes, sir.

14 Q. Now who was driving at that point in time out to the
15 yacht area?

16 A. I think I drove out there. No, it was either me or
17 M.J. drove to the -- out to Chapin. I can't remember. One
18 of us.

19 Q. Did Katie ever drive the car at any time?

20 A. I don't believe so, no, sir.

21 Q. You don't believe so?

22 A. (Shakes head.)

23 Q. Okay. And it was over one night. You would have
24 known if she had driven the car, right?

25 A. I mean, we were all using drugs, you know. I don't

1 know if you've ever used them, but it kind of alters
2 your --

3 Q. Okay. But if you'd known Joe would have had a gun,
4 you wouldn't have let him in the car; is that right?

5 A. Definitely not. No, sir.

6 Q. And at some point Alexis told you that she needed to
7 meet a friend; is that right?

8 A. Yes, sir.

9 Q. Did she say it was Chad or did you find out it was
10 Chad when you got there?

11 A. No, we knew it was Chad. Like the only thing that was
12 a surprise is that he tried to get in the car with us to go
13 with us when we got there.

14 Q. Do you recollect maybe telling one of the cops on the
15 day it happened that -- that nobody knew that it was Chad
16 until you got there?

17 A. Nobody knew he was gonna get in the car with us. I
18 remember telling the cop that.

19 Q. Nobody knew he was gonna get in --

20 A. The only person that wasn't -- that wasn't surprised
21 by him trying to get in the car with us was Alexis.

22 Q. Okay. And so you ride up, Chad's there, he wants to
23 get in the car and you say -- and basically there's a
24 little hubbub and you say it's not happening and you drive
25 off; is that right?

1 A. Well, at that point me and Joe have an issue with it
2 because, like I say, it's not -- the lifestyle that we lead
3 is not -- it's not a good thing to be seen with that --
4 with Chad Andrews. It's not gonna go well.

5 Q. All right. So you just drive off; is that right?

6 A. Well, we all -- the four of us come to the agreement
7 that we're all gonna go back to Joe's car, which is just a
8 couple of miles down the road, and me, Joe and Katie are
9 gonna get out and Alexis is gonna go back and pick up Chad
10 Andrews and they can do whatever they want to do --

11 Q. Right.

12 A. -- but he's just not gonna --

13 Q. But you come to that agreement and you just drive off;
14 is that right?

15 A. Yeah, I mean --

16 Q. So you go up, he's there. He's, what, talking to
17 Alexis through the window or something?

18 A. Yeah.

19 Q. And then there's a big disagreement about it, the
20 agreement's made and you just drive off; is that right?

21 A. Yes, sir.

22 Q. Okay. And you have to go down -- here, let me get one
23 of these exhibits here. I'll show you State's 39, okay?
24 Can you kind of orient yourself to that? Can you look at
25 it and --

1 A. That's the Baptist church right there.

2 Q. This is Highway 1 right here and here's Delree.

3 A. Yes, sir.

4 Q. Okay. So -- sorry, Judge.

5 So, let's see, here's the Baptist church and here's
6 Delree and, I guess, there's -- what is that right there?

7 A. That's the chop shop.

8 Q. Okay. That's the shop. Okay. And where is Chad --
9 where is Chad Andrews, the place where you-all were gonna
10 pick him up? Is it on this map?

11 A. It should be somewhere over in here.

12 Q. Oh, it's somewhere over here?

13 A. Yeah, because where we are -- entered Augusta Road at,
14 Number 1 Highway, it's a little further that way, but I
15 can't remember what the name of that road is.

16 Q. Okay. Well, further down, maybe like a half mile more
17 down, there's that road that goes over railroad tracks and
18 attaches to Augusta Highway; is that right?

19 A. Yes, sir.

20 Q. And there's a red light between Augusta Highway and --
21 and that?

22 A. Yes, sir.

23 Q. And you say that after you had made the left, after
24 you got past the light, somewhere down there, they're
25 arguing?

1 A. They were -- I can remember as we were turning over
2 the railroad tracks they were arguing at that point in time
3 and --

4 Q. And she said -- she calls him an M-F -- M-Fer or a
5 mother -- mother fucker, right?

6 A. (Nods head.)

7 Q. Because then he calls her a bitch?

8 A. Right. This is after -- this is after I've asked him
9 to calm down out of respect to me, you're my buddy, man,
10 calm down, and I look at her and I say stay out of my man's
11 face until the disagreement's over.

12 Q. And then sometime after that the sequence of events is
13 she calls him a mother fucker, he calls her a bitch, she
14 throws something at him, you guess it's a napkin, you don't
15 know exactly --

16 A. Right.

17 Q. -- and then you see a -- you see a gun with hand come
18 between the seats?

19 A. I -- all I see is a flash and there's smoke and a bang
20 and I'm disoriented. I don't -- I don't know if you've
21 ever been in close contact like that. It was really
22 disorienting.

23 Q. Do you remember talking with Investigator John T.
24 Bishop of the Eleventh Circuit Solicitor's Office, the
25 solicitor's investigator, on September 2nd of 2020?

1 A. Yes, sir.

2 Q. Do you remember telling him that you saw a hand
3 holding a gun come forward which was from the backseat
4 between the front headrest?

5 A. I was looking down the road, you know. I mean, I saw
6 the motion of something coming and there was a bang, you
7 know. It's not hard to determine what it was.

8 Q. Looking down the road, you'd be looking straight,
9 right?

10 A. I mean, you still have some out of your peripheral.

11 Q. Peripheral. So you saw a hand holding a gun with your
12 peripheral vision coming forward from the backseat between
13 the front headrest; is that right?

14 A. Yes, sir.

15 Q. Okay. Now -- and you tell the police that you guess
16 the shot happened around the Dollar General; is that right?
17 The day of when you're talking -- I know you talked to
18 about six or seven of them, but --

19 A. Yeah, that's just around -- I mean, it's not that far
20 of a stretch of road, you know, and everything happened so
21 fast.

22 Q. But, you know, you're talking about thirty or forty
23 yards. I think on this exhibit here Dollar General would
24 be on this side of the road, right?

25 A. Yes, sir.

1 Q. So it would be about right here where my hand is --

2 A. Yes, sir.

3 Q. -- off to the side of the exhibit?

4 A. Yes, sir.

5 Q. Maybe one-tenth, two-tenths of a mile from the
6 Fellowship Baptist Church where the railroad is about half
7 a mile away; is that right?

8 A. About that, yes, sir.

9 Q. Okay. And after you pulled over, Joe's getting out
10 of the car and you get out of the car and go up to him; is
11 that right?

12 A. Yeah. Yes, sir.

13 Q. Or did he come up to you?

14 A. I'm not sure who approached who, but -- I mean, I
15 don't remember.

16 Q. Okay. And -- and you hugged, you gave him a dap.
17 What what's a dap?

18 A. It's a -- you know, throw your arms around somebody
19 and tap them on their back. At this point I wasn't mad.
20 i didn't know whether I -- I didn't know that I needed to
21 be mad yet. I just -- I knew I needed to help the girl,
22 that she was hurt. I didn't realize what he had done.
23 Everything hadn't settled in my mind yet.

24 Q. Uh-huh. And he walks away. And you talked about
25 Kaitlyn going off and hiding some drugs?

1 A. Yes, sir.

2 Q. Did you go back into the car at any point in time
3 after Joe left?

4 A. No, sir, I don't believe so. Just I -- just to the
5 passenger door.

6 Q. Okay. How -- did she hide your drugs?

7 A. Yes, sir.

8 Q. Oh. And how did she get those?

9 A. I handed them to her.

10 Q. Okay. What was that?

11 A. Methamphetamine.

12 Q. You handed her some methamphetamine?

13 A. Yes, sir.

14 Q. Okay. And was it in any kind of container or anything
15 like that?

16 A. In a plastic baggy.

17 Q. Oh, a plastic baggy. How much was there; do you
18 reckon?

19 A. Maybe like a gram or a gram and a half, something like
20 that.

21 Q. Would it fit in the palm of a hand or --

22 A. Oh, yeah.

23 Q. Okay.

24 A. Her -- her container that she had was a small leather,
25 like a little makeup case, a little cylinder, a little

1 makeup case maybe like that.

2 Q. Now hadn't you said before that you saw her ran away
3 and you thought she was running away because she was scared
4 about the shooting and you told her to come back?

5 A. Yeah, like me and her were the only two people that
6 know what just happened in the car, you're gonna stay right
7 here with me until the man gets here.

8 Q. But you weren't saying anything about the drugs to the
9 cops?

10 A. No. I mean, we hadn't done nothing --

11 Q. In fact, today, I think, is the first day you're
12 coming up with this; isn't that right?

13 A. No, sir.

14 Q. No?

15 A. I've spoken with Investigator Bishop and all with
16 this.

17 Q. When was that?

18 A. I believe --

19 Q. Yesterday?

20 A. No, sir. I believe I met him maybe a week and a half,
21 two weeks ago.

22 Q. Okay. So you told Investigator Bishop two weeks ago
23 that you gave Katie some drugs to hide; is that right?

24 A. A little. Yes, sir.

25 Q. And there was methamphetamine; is that right?

1 A. I believe so, yes, sir.

2 Q. Okay. At some time did you go back to the church
3 parking lot and retrieve the items that were hidden?

4 A. Yes, sir. Late that night I went back.

5 Q. Okay. And you say that after the -- the loud noise
6 and the smoke that Alex -- Nicole leaned off to the right
7 toward the passenger window; is that right?

8 A. Yes, sir.

9 Q. And then when you pulled into the parking lot and you
10 turned right, that's when she fell and slumped over; is
11 that right?

12 A. Yes, sir.

13 MR. MAULDIN: No further questions.

14 THE COURT: Redirect.

15 MS. MAYES: Yes, sir, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. The motion -- the motion of the car turning in would
19 have been how?

20 A. Are you talking about like the -- can you rephrase the
21 question? I'm sorry.

22 Q. Yes. Yes, he was asking you about turning right into
23 the church, but what happened after you turned right into
24 the church?

25 A. When I turned right, her forward momentum carried her

1 like it would, you know, like perpetual motion, just
2 towards the left and -- like when you take a right, your
3 body naturally goes to the left or take a left your body
4 goes --

5 Q. Okay. And when you pulled into that church, did you
6 ever go anywhere else with the car?

7 A. No, ma'am.

8 Q. So when the Defendant asked you to pull behind the
9 church, did you do that?

10 A. No, ma'am.

11 Q. You stayed right there where you had originally pulled
12 in?

13 A. Yes, ma'am.

14 Q. One of the questions that Mr. Mauldin was asking you
15 was about who all was driving at various point that night.
16 Were you using drugs throughout that night before?

17 A. Yes, ma'am.

18 Q. Do you necessarily recall who all was driving before
19 you-all ended up at Yacht Cove?

20 A. No, ma'am. The -- the intensity of the situation
21 wasn't quite to where it needed that -- that kind of
22 attention at that point in time. You know, that's not
23 something that sticks out in my mind.

24 Q. All right. And then the question about seeing a
25 motion before the gun was fired, what can you -- what can

1 you recall about that, Josh? What do you recall seeing?

2 A. When you're looking out of the driver's window, you
3 can still see something here like. I mean, especially
4 when it goes -- you know, makes a really big bang and puts
5 a lot of smoke into the car. I don't know what he's not
6 understanding about -- about that. I -- I didn't look over
7 and see the man's hand with a gun in it, but I did see a
8 motion, bang, pop, smoke.

9 Q. Did you see the flash of the gun?

10 A. Yes, ma'am.

11 Q. All right. You've told us some of the words that you
12 heard exchanged when there was this argument about being a
13 snitch. Do you necessarily recall all the different words
14 that were said?

15 A. No, ma'am.

16 Q. And why is that?

17 A. I was driving. I was trying -- like, I mean, all this
18 hecticness was going on in the car and I'm still trying to
19 drive down Number 1 Highway at 7:30 in the morning, you
20 know.

21 Q. About the drugs that you had and other people had as
22 well, you've described meth. Do you remember if that meth
23 was in a hard form?

24 A. What do you mean a hard form?

25 Q. In a rock-like form?

1 A. It was -- I mean, some of it was bigger and some was
2 -- I mean, it wasn't one piece if that's what you're
3 asking.

4 Q. That's what I'm asking. And does that also look like
5 crack cocaine?

6 A. Similar.

7 Q. Okay.

8 MS. MAYES: Thank you. Nothing further.

9 THE COURT: Recross.

10 MR. MAULDIN: Thank you.

11 RE CROSS EXAMINATION

12 BY MR. MAULDIN:

13 Q. Speaking of the words that were exchanged, your memory
14 would have been a lot better the day of than it would be
15 now, wouldn't it?

16 A. I -- to be honest with you, I've listened to the audio
17 of it --

18 Q. Oh.

19 A. -- and I was just floored, man. I'd never -- I've
20 never experienced anything like that in my entire life.

21 Q. I understand that, but someone's memory about an event
22 would be better closer to the event than a year later,
23 wouldn't it?

24 A. When actions like that are going on words really ain't
25 what you're worried about.

1 Q. Well, do you recollect telling Investigate Lyons that
2 what the Defendant said is I'm not lying about what I am?

3 A. He said something along those lines, yes, sir. It
4 was --

5 Q. Something along those lines, but now it's I do what I
6 say, I am what I am, I do what I do or what was it? Say it
7 again.

8 A. I am who I say I am and I do what I say I'm gonna do.

9 Q. Okay.

10 A. Something along those lines, yes, sir. I can't say it
11 verbatim, I mean, but --

12 Q. But back then it's I'm not lying about what I am; is
13 that right?

14 A. Yes, sir.

15 Q. Okay.

16 MR. MAULDIN: No further questions.

17 THE COURT: Okay, sir. You can step down. Take
18 care.

19 (Witness excused.)

20 THE COURT: If I could have two seconds to see the
21 lawyers over here.

22 (Proceedings held at the bench; not reported.)

23 THE COURT: All right. Ladies and gentlemen of the
24 jury, we've probably reached a good breaking point for
25 lunch. Despite my -- my hopes, it looks like we're not

1 gonna get this case to you today, so it probably will
2 run into Monday and I will need you back on Monday,
3 and that's kind of what I was talking to the attorneys
4 about.

5 But we are gonna go ahead and take a break for
6 lunch and if you could please try to be back in the
7 jury room by about -- let's just say 2:00. Just be
8 back in the jury room at 2:00 and that will keep you
9 from being too rushed. Please don't talk about the
10 case with anyone.

11 Have a good lunch and we'll see you back around
12 two.

13 Thank you.

14 (Whereupon, the jury was excused for lunch at
15 12:35 PM.)

16 THE COURT: All right. The jury is out.

17 Let me go ahead and put something on the record.

18 Prior to Mr. Murray testifying a moment ago, the
19 defense and the State approached me at a sidebar and
20 the State outlined the convictions that they were going
21 to elicit from Mr. Murray, the assault charges, the
22 drug charges, et cetera. The defense also sought to
23 impeach Mr. Murray on a -- I think it was a 2014
24 conviction or --

25 MS. MAYES: 2006.

1 THE COURT: 2006, yes. I'm sorry. I meant to say
2 2004, but it was 2006, a fourteen-year-old conviction,
3 that's where I'm getting fourteen from, a 2006 conviction
4 for false information to police. It was apparently a
5 magistrate level 30-day misdemeanor conviction and the
6 -- of course, that's outside the -- the ten year rule.
7 I asked for the specifics of that conviction and
8 Ms. Martin represented to me that basically it was a
9 situation where Mr. Murray had borrowed his cousin's
10 birth certificate or something like that for the
11 purposes of going to the DMV and getting a fake ID.

12 I wanted that put on the record. I basically
13 found that based on the specific facts of the false
14 information charge that wasn't a situation where in my
15 mind he was giving false information of a substantive
16 or a serious -- or a crime and try trying to mislead
17 the police in some substantive way. It sounded like
18 we were talking about a kid trying to get a fake ID,
19 but I did want to afford Mr. Mauldin a chance to put
20 on the record that objection to my failure to letting
21 him impeach the witness with that conviction and
22 anything else he wanted to detail.

23 MR. MAULDIN: Thank you, Your Honor.

24 I had not been provided with any kind of incident
25 report regarding the incident. I don't know if that's

1 information they just got from Mr. Murray himself,
2 which could be very self-serving. Also, I believe
3 because the credibility of Mr. Murray and Ms. Skyrme,
4 the two witnesses here, are basically the only people
5 that are putting Mr. Henry as the shooter, none of the
6 physical evidence conclusively points to it, as we said,
7 it's been a circumstantial case up to this point, that
8 their credibility is crucial to the State's case and
9 crucial for the Defendant to attack and we believe that
10 in the interest of justice that the probative value of
11 that conviction should have outweighed its prejudicial
12 effect.

13 THE COURT: And, Ms. Martin, you wanted to --

14 MS. MARTIN: I just wanted the Court to be aware
15 I did get the information strictly from Mr. Murray. We
16 didn't research the conviction. It was a 30-day
17 misdemeanor and I think a fine was just paid, but the
18 information that Mr. Murray gave me was that he had
19 used his cousin's identification to help get a driver's
20 license or something of that nature.

21 THE COURT: Okay. Well, I think you indicated at
22 the sidebar, Mr. Mauldin, that you had only given notice
23 under Rule 609 this morning of your desire to use that
24 conviction and -- and obviously that may have limited
25 the State's ability to perform a full investigation of

1 what the facts were and maybe their only option was to
2 speak to Mr. Murray, but it is what it is and my ruling
3 stands. If this had been him lying to the police about
4 concealing a murder weapon or him lying to the police
5 about something more than just a fake ID, I could
6 probably -- or would probably have allowed you to
7 inquire about that, but based on the specific facts of
8 the underlying offense I don't think its impeachment
9 value is -- is substantial. In fact, it's very limited
10 and it's way too remote. So that's my ruling, but your
11 objection's noted.

12 We'll be back on the record around two or did you
13 have something else you needed to ask me, Mr. Martin?

14 MS. MARTIN: Your Honor, do you -- do we all feel
15 comfortable that we're not gonna be closing and charging
16 this afternoon?

17 THE COURT: I think that's very, very likely. I
18 do not see sending it to the jury this -- if you --
19 you've got two more witnesses, we have at least two, we
20 haven't talked about the instructions. I don't know if
21 the defense intends to offer a case, so I think it's
22 going into Monday.

23 MS. MARTIN: Okay. I -- I agree, Your Honor, just
24 because it would take us at least twenty minutes to set
25 up, to pull the exhibits, queue the miniclips and things

1 like that for closing as well, so I just realistically
2 want everyone to know that we're not planning to close
3 and it would be at least an hour for Ms. Mayes to close.

4 THE COURT: Well, we'll just have to see how it
5 goes and cross our fingers that everybody remains well.

6 See you-all at 2:00. Thank you.

7 (Whereupon, a luncheon recess was taken at 12:40 PM.)

8 (Back on the record at 2:04 PM.)

9 BAILIFF: All rise.

10 THE COURT: Thanks. Have a seat, please.

11 All right. Before we bring the jury in, let --
12 let me go ahead and address the matter that Ms. Martin
13 raised a few moments before we went into the last
14 witness. I've been reflecting on the portion of the
15 video where the -- the Defendant is basically asking
16 questions and making statements and things of that
17 nature. My -- my position at this point is that perhaps
18 the State has -- and this is kind of where I am leaning
19 and I just want to go ahead and telegraph this to all
20 concerned, but I'm sort of leaning towards allowing the
21 State to introduce some of that evidence, and here's my
22 thinking on that position.

23 When we did the initial pre-trial hearing on Monday,
24 the 21st, I wasn't aware of whether there was gonna be
25 an alibi defense, which would obviously explain his

1 statements in the context of innocent knowledge. I was
2 obviously -- like I mentioned before lunch, I was not
3 privy to the additional surveillance video from the
4 two locations, which at least in my mind, shows the
5 Defendant walking down the road to the place where he
6 ultimately had the interaction with the officers, and
7 it's beginning to make a little bit more sense,
8 Ms. Mayes's argument from the 21st, that his statements
9 there indicate guilty knowledge. His statements and
10 his questions that he asks do perhaps constitute
11 evidence of guilty knowledge in one of two senses;
12 either he was in the car and he did fire the shot at
13 which point he would know what the police are talking
14 about or he was in the car and someone else fired the
15 shot, and it's not natural for someone to so quickly
16 forget that a woman had just been shot in the front
17 seat of the car he was riding around in. So that could
18 constitute -- could very well constitute evidence of
19 guilty knowledge and for purposes of relevancy I'm
20 beginning to believe and I'm inclined to believe
21 that perhaps portions of that video would now be more
22 relevant.

23 I stand by my analysis under Miranda. I don't know
24 if the objection was necessarily under Miranda, I think
25 it may very well have been, but to the extent that it's

1 relevant I do think that the statements that he made
2 initially when he was taken into custody could be
3 relevant on those issues, and that's sort of the way I
4 am leaning and I just wanted to go ahead and put that
5 on the record and be fair to all concerned that that's
6 the way I was leaning because I realize that could
7 affect perhaps how the next witness is examined by the
8 parties, so I'm putting that out there for the benefit
9 of all concerned.

10 Let us have the jury -- yes, sir, you --

11 MR. MADSEN: Judge, if I can just be heard.

12 So the State passed up for their proposition
13 that they should be allowed State versus Brooks,
14 428 S.C. 618. In that case, Your Honor, basically the
15 Court allowed it because they said that the appellant's
16 efforts to cover up his guilt indicated malice and so
17 in there it indicated he lied about who picked him up
18 at the Cockpit stating that his son's mother, Denique
19 Banks, picked him up. She testified that she was lying
20 and that she did not, in fact, pick him up that morning.
21 Then the appellant lied about the time he left the
22 Cockpit. I guess that's like a bar.

23 THE COURT: Not to interrupt you, but I'm really
24 not resting my hat on Brooks. I don't find Brooks to
25 be terribly persuasive. Any time I'm -- any time

1 somebody's asking me to rely upon precedent where the
2 Supreme Court has said there's an error, but it's
3 harmless error, that's not precedent in my book
4 because they said hey, there's error. I think that
5 they're really -- when they're trying to do the malice
6 analysis in Brooks they're trying to cover for the
7 attorney who defended Brooks by way of a PCR and say
8 well, this is evidence of malice anyway, so when the
9 PCR starts a year from now they can claim that there
10 was no prejudice.

11 MR. MADSEN: But, I guess, my point is that there
12 was an element, which was malice in there, that they
13 were trying to prove. They don't have that here and
14 so we don't think that it's relevant and we think that
15 it's improper and we just renew all those objections.

16 THE COURT: I understand. I think in the identity
17 it looks like -- and Judge Griffith tried Brooks, I
18 didn't, I can't really ascertain if identity was an
19 issue in Brooks as far as who the shooter was. It
20 doesn't really look like it was. What the Court of
21 Appeals had issue with was the Belcher analysis and
22 the use of a deadly weapon language and what I can't
23 reconcile myself with is later on in that opinion it
24 says that the jury was charged on both voluntary and
25 murder and if it was voluntary, then the malice --

1 implied malice instruction definitely should not have
2 been given and that was the law even when Brooks was
3 tried.

4 So I don't know how they're doing that, but for
5 whatever reason the Supreme Court didn't grant the
6 cert, they found it was harmless error, and I'm not
7 gonna hang my hat on a case that involves harmless
8 error, so I agree with you on Brooks.

9 Let's have the jury, please.

10 (Whereupon, the jury returns to the courtroom at
11 2:13 PM.)

12 THE COURT: All right. The record will reflect
13 that we are reconvening. The Defendant's present with
14 counsel and all members of the jury panel are back and
15 seated and, of course, we're still involved in the
16 State's case in chief.

17 So, Ms. Martin, if you'll call the next witness,
18 please.

19 MS. MARTIN: Your Honor, the State calls Lieutenant
20 Marlo McCann.

21 (Whereupon, Marlo McCann was duly sworn by the
22 Clerk of Court.)

23 THE CLERK: Once you're seated state your full name
24 on the record, spelling your last, please.

25 THE WITNESS: My name is Marlo McCann, M-c-C-A-N-N.

1 MARLO McCANN,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MARTIN:

5 Q. Lieutenant, where are you employed?

6 A. Lexington County Sheriff's Department.

7 Q. And how long have you been with the sheriff's
8 department?

9 A. Twenty-four years.

10 Q. Can you tell us how your career started at the
11 sheriff's department?

12 A. Well, I've kind of been all over the place. When I
13 first went there, I worked in the jail for a couple of
14 years, went to the academy, worked patrol, worked in the
15 warrant division, worked over here for a little while, was
16 an SR over at the school, went to investigations ten years
17 ago and that's where I settled.

18 Q. And your rank now is what?

19 A. Lieutenant.

20 Q. Lieutenant over what division?

21 A. Investigations, major crimes.

22 Q. And so you would be the supervisor to Sandy Black, the
23 lead investigator on this case?

24 A. That's correct.

25 Q. And back in February of 2019, what was your rank?

1 A. I was a sergeant.

2 Q. Okay. And that still would have been a supervisory
3 role to Investigator Black?

4 A. Yes, ma'am.

5 Q. Are you familiar with a person named Chad Andrews?

6 A. I am.

7 Q. And can you tell us whether or not he has ever had any
8 work that he has done for the sheriff's department?

9 A. Yes, ma'am. At one point in time he was signed up as
10 a con -- confidential informant.

11 Q. And this would have been prior to 2019?

12 A. Yes, ma'am. He had -- he had expired by that time.

13 Q. Okay. And can you tell us whether Alexis Azarigian
14 was ever employed as a CI for the sheriff's department?

15 A. No, ma'am.

16 Q. Are you familiar with a gunshot residue test?

17 A. Yes, ma'am.

18 Q. Is it an investigative tool that the sheriff's
19 department has used in the past?

20 A. Yes, ma'am.

21 Q. And can you tell us are those results -- have you been
22 present when those tests have been conducted?

23 A. I have.

24 Q. Is the result from those tests immediate there in the
25 field or does something else have to happen?

1 A. No, ma'am. You -- you do not get an immediate result.
2 Nothing changes colors or anything like that to let you
3 know that you've got a positive. The test has to be
4 packaged and sent to a lab for analysis.

5 Q. All right. Specifically with regards to this case,
6 did you have an occasion to go out to the location there at
7 the Fellowship Baptist Church?

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

9 Q. And specifically with regard to gunshot residue, was
10 this test conducted on Katie Skyrme or Joshua Murray?

11 A. It was not.

12 Q. And can you tell us was that a decision made -- did
13 you have any input in that decision?

14 A. I did.

15 Q. Okay. Can you tell us why -- why they were not
16 examined for that at the scene?

17 A. There were a few reasons why they were not examined.
18 Primarily we never suspected them as being our -- our
19 perpetrator in this case. Based on my experience with
20 shooting incidents, any time a shooting occurs in a closed
21 environment, such as this was being a motor vehicle, it was
22 cold, windows were up, everybody inside that car's gonna
23 have some degree of gunshot residue on their person just
24 from being in that closed in environment.

25 Q. And would the same answer apply to gunshot residue

1 testing done on the items of clothing that Katie and Joshua
2 were wearing?

3 A. Yes, ma'am.

4 Q. What about -- we've had testimony that the Defendant
5 was detained and then arrested a short time later. Was a
6 decision made to do or not do gunshot residue on the
7 Defendant?

8 A. We did not do gunshot residue on him.

9 Q. And can you explain to us why that decision was made?

10 A. There were several things that we had to take into
11 consideration. One of them was the weather that day. It
12 was misty and raining and so everything was wet. Gunshot
13 residue is like a powder, so it doesn't stick to a surface
14 very long. Water can immediately wash it away. It can be
15 transferred very easily from the skin to another object.
16 When we came into contact with Mr. Henry --

17 MR. MADSEN: Judge, can we approach?

18 (Proceedings held at the bench; not reported.)

19 THE COURT: The objection's noted and I'll put the
20 grounds on the record in a moment. Overruled.

21 BY MS. MARTIN:

22 Q. Lieutenant McCann, I think you were explaining why the
23 decision was made not to examine Mr. Henry's hands.

24 A. Yes, ma'am.

25 Q. Can you please tell us why that was done?

1 A. Yes, ma'am. As I stated, he had walked a distance
2 from where the incident occurred to where he was contacted
3 by law enforcement. It was misty, raining, so he had been
4 out in the weather in the rain. We knew that he had
5 touched other objects. He was actually taken out of a
6 vehicle when law enforcement came in contact with him.
7 It's safe to assume I believe that he would have had to
8 touch the car door to open the car door, which would have
9 been wet, close the car door, turn the key, put on a
10 seatbelt if he put one on, touch the gearshift, so we knew
11 he had touched several objects prior to us coming into
12 contact with him that would have potentially caused that
13 gunshot residue to no longer be there or transfer onto
14 something else.

15 Q. So gunshot residue was not collected, but tell us was
16 DNA collected from the four people in the car?

17 A. Yes, ma'am.

18 Q. Okay. So all four people, did -- the sheriff's
19 department did collect their DNA which was submitted?

20 A. That's correct.

21 Q. Okay. All right. Do you know about what time you got
22 to the scene on February 21st?

23 A. It was probably somewhere between 8:00, 8:10 in the
24 morning.

25 Q. And did you have an opportunity to observe Katie

1 Skyrme?

2 A. I did.

3 Q. Did you have an opportunity to observe Joshua Murray?

4 A. Yes, ma'am.

5 Q. What, if anything, did you observe specifically about
6 Mr. Murray's clothing?

7 A. When I made contact with Mr. Murray, he was being
8 interviewed by Detective Lyons. I noticed that he had some
9 blood on his clothing on the right-hand side around like
10 his front pocket, the waist area of his blue jeans and
11 little bit on his shirt.

12 Q. And was a decision made to collect those clothing
13 items from Mr. Murray?

14 A. Yes, ma'am.

15 Q. Okay. And nothing was collected from Katie; is that
16 correct?

17 A. No.

18 Q. And was Mr. Murray cooperative when you asked for his
19 clothes?

20 A. He was.

21 Q. And are you the one who actually arranged for him to
22 have other clothing?

23 A. Yeah, I went and bought him a pair of pants and
24 brought them back to the scene so we could take the ones he
25 was wearing.

1 Q. So you had said that you did have an opportunity to
2 observe Katie and Joshua. What, if anything, did you
3 observe about their appearance, their demeanor, their
4 emotional state there at the scene?

5 A. I came into contact with Josh first. He was crying,
6 visibly upset, kind of I would say in shock was -- was kind
7 of how he seemed. Just it was kind of, I think, a surreal
8 type situation and he was pretty upset.

9 Q. And then did you have an opportunity to observe Katie?

10 A. I did.

11 Q. And what did you observe about her, if anything?

12 A. Katie was -- she was very upset, she was crying and
13 she was very scared.

14 Q. Did you ever as the supervisor out there have any
15 reason to believe that they were not -- or that they were,
16 in fact, more involved in the shooting?

17 MR. MADSEN: Judge, objection. That calls for
18 speculation.

19 THE COURT: Can you rephrase?

20 BY MS. MARTIN:

21 Q. Lieutenant McCann, was a decision made how to classify
22 those two people? Were they ever considered suspects is
23 what I'm asking?

24 A. No.

25 Q. And can you explain to us why the sheriff's department

1 and you specifically did not investigate further them being
2 suspects?

3 MR. MADSEN: Judge, I would object.

4 THE COURT: Same?

5 MR. MADSEN: Yes, sir.

6 THE COURT: Overruled. Go ahead.

7 BY MS. MARTIN:

8 Q. Please answer.

9 A. We -- we knew through statements that we gathered on
10 the scene that Josh had actually stopped the vehicle and
11 flagged down someone in traffic and asked them to call
12 9-1-1 so he could get law enforcement and medical
13 assistance for the victim. Based on their demeanor, their
14 statements that we collected from them at the scene, their
15 actions there on the scene, the fact that they stayed and
16 attempted to render aid to her, we had no reason to believe
17 that they had any involvement in her injuries.

18 MS. MARTIN: I beg the Court's indulgence one
19 moment.

20 Please answer any cross-examination Mr. Madsen
21 may have.

22 CROSS-EXAMINATION

23 BY MR. MADSEN:

24 Q. So, Lieutenant McCann, what time did you get out
25 there?

1 A. I believe it was somewhere between 8:00 and 8:10 AM.

2 Q. And I think you testified that you-all made the
3 decision really early on that you knew what happened?

4 A. No, sir, I didn't say that.

5 Q. Well, you talked about the information, but the
6 information was from Joshua and -- and Katie, correct?

7 A. That is who we interviewed primarily there at the
8 scene at the church, yes, sir. They were the ones there.

9 Q. And as an investigator, you've had people look you in
10 the eye and convincingly lied to you, haven't you?

11 A. I'm sure it's happened on occasion, yes.

12 Q. And as an investigator, what you're trying to do is
13 to go back and try to corroborate that information or
14 figure out are they telling me the truth or are they lying,
15 correct?

16 A. We either corroborate or we dispel it, yes.

17 Q. And you have tools for that such as GSR?

18 A. That's one of them.

19 Q. And you talked about GSR?

20 A. Yes, sir.

21 Q. Well, a lot of times when you want to see if someone's
22 used a gun, you're not going to the palms necessarily when
23 you hold a gun, a lot of times they'll stamp the back of
24 the hands, won't they?

25 A. They will.

1 Q. Because that's where the powder is going to end up,
2 correct, is on the back of the hands?

3 A. It would be all over the hands. We would -- we would
4 actually swab the palms and the back of the hands.

5 Q. But, I mean, the back of the hand is kind of a fertile
6 ground because that's the area that's gonna be exposed as
7 compared to the --

8 A. We would swab both.

9 Q. -- place that would be pressed against the gun,
10 correct?

11 A. We would swab both.

12 Q. And, of course, you're not using the back of your
13 hands to turn on a car generally or open a car door?

14 A. Typically, no.

15 Q. And you could have certainly said hey, we want to
16 check Joe's clothing and see if it's on there, couldn't
17 you?

18 A. We could have tested it there on the scene or taken
19 and tested it later.

20 Q. Sure. And that's kind of normal, isn't it? You can
21 take it --

22 A. Not always.

23 Q. Well, you can either do it there or you can take
24 someone to a controlled environment and test them there.
25 There's a certain amount of time on GSR, isn't there?

1 A. We don't do GSR on every scene or every shooting that
2 we respond to.

3 Q. Right, but you can?

4 A. We can if the circumstances are ideal, which they were
5 not in this case.

6 Q. And then you have like Investigate Twigg, I guess,
7 who's CSI, he would normally do that for you-all?

8 A. It depends. It can be done by CSI or an investigator.

9 Q. But you-all decided nah, we don't need to look at
10 that, correct?

11 A. The determination was made not to do it that day based
12 on circumstances, yes, that is correct.

13 Q. And you get there, I guess, a half an hour after the
14 call comes out and you don't search Josh and you don't
15 search the area, do you?

16 A. They were already being interviewed when I arrived
17 on-scene.

18 Q. So that answer is no, you never searched them?

19 A. Personally, no, I did not.

20 Q. Don't know if one anyone did?

21 A. I can't testify to what happened before I got there.

22 Q. And as far as Katie, I mean, generally a man -- or a
23 male officer is probably disfavored to body search a
24 female, correct?

25 A. If a female is available, a female will do it.

1 Q. And did you search Katie?

2 A. I did not.

3 Q. Did you search any of her effects, her bag, anything?

4 A. I don't know that she had anything with her. I spoke
5 with her very briefly. She was already being interviewed
6 and I didn't want to interrupt that interview.

7 Q. And you don't know if anybody else did that?

8 A. I don't know what happened prior to me getting there,
9 no.

10 MR. MADSEN: That's all the questions I have.

11 THE COURT: All right. Thank you, ma'am.

12 Oh, go ahead.

13 MS. MARTIN: Briefly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. MARTIN:

16 Q. As far as the gunshot residue test that wasn't done,
17 would it have made sense in your opinion to do it on the
18 four people whose testimony was or the information you had
19 were all in a confined car?

20 A. They more than likely would have all tested positive
21 because of the environment they were in at the time.

22 Q. Mr. Madsen asked you if the information given by Katie
23 and Joshua had been corroborated. Do you have anything
24 to add to that? Did you-all try and corroborate their
25 stories, what they said happened about the events?

1 A. Absolutely. They -- their stories were fairly
2 consistent. You know, there were a couple of differences
3 from his perspective and her perspective.

4 MR. MADSEN: Judge, objection. That's --

5 THE COURT: Sustained as to hearsay. One of the
6 witnesses has not testified yet, so sustained.

7 MR. MADSEN: Judge, can we approach?

8 (Proceedings held at the bench; not reported.)

9 THE COURT: Ladies and gentlemen, again, as I had
10 to say yesterday, please understand that no one witness
11 can pass upon the credibility of another witness. That's
12 your all's job, okay? And the last portion of the
13 witness's statement about one witness corroborating
14 another, et cetera, that should not have been said,
15 should not have been elicited, and I'm instructing you
16 to disregard that because, again, that witness has not
17 testified -- one of those witnesses has not testified
18 and, again, you are the sole judges of credibility in
19 this case. And so with that, you'll have to excuse
20 yourself of any knowledge or any memory of what was just
21 elicited from that witness.

22 Any other questions?

23 MS. MARTIN: Yes, sir, briefly.

24 BY MS. MARTIN:

25 Q. Lieutenant McCann, Mr. Madsen, as I said before, asked

1 about corroboration. Was Pluto found in the area down the
2 road from Fellowship Baptist Church?

3 A. Yes, he was.

4 Q. And was Pluto driving a blue Toyota?

5 A. Yes, he was.

6 Q. And did Pluto have a gun in that car?

7 A. He did.

8 MS. MARTIN: That's all I have, Your Honor.

9 THE COURT: No recross?

10 MR. MADSEN: No, sir.

11 THE COURT: Ma'am, thank you. You can step down.

12 (Witness excused.)

13 THE COURT: Solicitor, call your next witness,
14 please.

15 MS. MAYES: The State calls Kaitlyn Skyrme.

16 (Whereupon, Kaitlyn Skyrme was duly sworn by the
17 Clerk of Court.)

18 THE CLERK: Have a seat right up there, ma'am. Once
19 you're seated, speak up loud and clear, state your full
20 name on the record and spell your last, please.

21 THE WITNESS: My name is Kaitlyn Skyrme,
22 S-K-Y-R-M-E.

23 KAITLYN SKYRME,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. MAYES:

2 Q. All right. Kaitlyn, what do people know you as?

3 A. Katie.

4 Q. All right. What I'm gonna do is I'm gonna walk
5 forward a little bit and I'm gonna move that mic just a
6 little bit closer to you.

7 Katie, how old are you?

8 A. I'm twenty-six.

9 Q. What county did you grow up in?

10 A. Kershaw.

11 Q. How is it that you ended up in Lexington county in
12 February of 2019?

13 A. Just by luck, I guess.

14 Q. Did you know some people in the area?

15 A. Just a guy named M.J.

16 Q. All right. And that guy that you know named M.J., can
17 you tell us if you met anybody else through M.J.?

18 A. Josh and a guy named Pluto.

19 Q. All right. I'm gonna ask you a little bit more about
20 that, okay?

21 A. (Nods head.)

22 Q. Katie, in your twenty-six years, have you had an
23 addiction?

24 A. Since I was about eleven, twelve.

25 Q. What kind of drugs have you been addicted to?

1 A. Heroin, meth, cocaine, marijuana, pills. Pretty much
2 all of it.

3 Q. And in 2019, specifically February of 2019, what drugs
4 were you using?

5 A. Heroin and meth mostly.

6 Q. How did you end up in that car that day?

7 A. I was hanging out with M.J. He came and got me from
8 a friend of mine's house because I was a stranger to
9 Lexington and he was really the only person I knew in
10 Lexington and he told me that I could come hang out with
11 him and his friend and his cousin until I could get my
12 family to come get me later that day and he had stated that
13 his -- his tax check had come in so I didn't need to worry
14 about clothes because I was trying to get home and he would
15 take care of everything and so I was just kind of hanging
16 out just meeting new people, I guess.

17 Q. That's what M.J. told you?

18 A. Yeah.

19 Q. And when he said hang out with his cousin, who was he
20 referring to?

21 A. Pluto.

22 Q. And did you know Pluto by any other name or were you
23 introduced to him as Pluto?

24 A. As Pluto.

25 Q. And is that what you called him for those two days

1 that you knew him?

2 A. Yes, ma'am.

3 Q. Katie, do you see Pluto in the courtroom today?

4 A. Yes, ma'am.

5 Q. Where is he seated?

6 A. (Indicating.)

7 THE COURT: The record will reflect -- he's the
8 gentleman in the blue tie over there?

9 THE WITNESS: Yes, sir.

10 THE COURT: The record will reflect that she has
11 identified the Defendant.

12 BY MS. MAYES:

13 Q. So you're hanging out with M.J. and you meet Pluto.
14 Who else did you meet?

15 A. Josh.

16 Q. And is Josh a white male or a black male?

17 A. White male.

18 Q. Had you ever met Josh before that?

19 A. No, ma'am.

20 Q. So you met Josh the same time you met Pluto?

21 A. Yes, ma'am.

22 Q. And you met them both through M.J.?

23 A. Yes, ma'am.

24 Q. Where do you remember hanging out with them first?

25 A. First we went to -- we were hanging out in the car and

1 then we went to a hotel and then we went to a shop, I'm not
2 really sure where it was, I know it was in Lexington, and
3 then we kind of hung out in the shop. Pluto had to work
4 that day and Josh had to work, so we took Josh to -- or not
5 Josh, M.J. to work. He worked at a tavern of some sort,
6 Bulldog or something or other. And then when we dropped
7 M.J. off, we came back and hung out at the shop most of the
8 day.

9 Q. Okay. I want to talk about all those different
10 things, okay? You mentioned a hotel.

11 A. Uh-huh.

12 Q. Who do you remember -- or do you remember whether or
13 not Pluto was at the hotel?

14 A. Yes, ma'am.

15 Q. When Pluto was at the hotel -- and, again, is this the
16 same day that the shooting occurred or the day before?

17 A. The day before.

18 Q. When Pluto was at the hotel, what do you remember
19 about that, Katie?

20 A. We were all hanging out.

21 Q. Did he have anything with him?

22 A. He had a gun.

23 MR. MAULDIN: Your Honor, I would object based on
24 my pre-trial motion.

25 THE COURT: All right. Overruled.

1 BY MS. MAYES:

2 Q. And what do you remember about that, Katie?

3 A. We went back to the motel so I could get high and
4 while we were there he was cleaning a gun. It was a little
5 black gun. I remember I was sitting on the bed next to
6 him and he had laid it on his lap kind of like facing it
7 towards me kind of like, I felt a little intimidated by it,
8 and that's when I noticed that it only had two bullets in
9 it, which I thought was kind of weird because usually a
10 person with a gun has a full clip, but I noticed there were
11 only two bullets and he asked me, you know, you see her, do
12 you like it, whatever, and I was like yeah, and I asked to
13 hold it, and I looked at the gun and then I gave it back to
14 him and he was like wiping it off and then he wrapped it
15 back up and then put it in his bag.

16 Q. Okay. I want to talk a little bit more about that.
17 I'm gonna show you what is State's 120 and ask you whether
18 or not this item looks familiar?

19 A. (Nods head.)

20 Q. How so?

21 A. It looks like the same gun I held.

22 Q. And that was at the hotel the day before?

23 A. Yes, ma'am.

24 Q. Now you said he wrapped it up?

25 A. (Nods head.)

1 Q. What do you remember about that?

2 A. He just wrapped it up like in a black shirt, a long
3 sleeve shirt or something. It was like some black shiny
4 kind of cloth.

5 Q. So you saw some kind of black clothing that was shiny
6 cloth?

7 A. Yes.

8 Q. What did he do with it after he wrapped it in that?

9 A. Put it in his bag and carried on about his business of
10 talking.

11 Q. And when you say his bag, what do you remember about
12 his bag?

13 A. It was like a fanny pack or something of some sort.

14 Q. I'm gonna show you what is State's 119 and ask you
15 whether or not you recognize this item?

16 A. That's the black bag it was in -- or the brown bag it
17 was in.

18 Q. Is this the same bag that you're referring to?

19 A. Yeah, it was like a murse, a male purse.

20 Q. That's the same bag you saw him put it in at the
21 hotel?

22 A. I do believe so.

23 Q. What happened after you-all left the hotel?

24 A. M.J. had to go to work, so we took M.J. to work.

25 Q. And whose car were you-all in at this point?

1 A. Pluto's.

2 Q. Okay. And Pluto's car you remember looking like what?

3 A. Like a RAV4 or something like that, you know what I
4 mean? Like a --

5 Q. I'm gonna show you what is State's 117 in evidence.

6 A. I guess you would consider it a crossover vehicle.
7 Yes, right there.

8 Q. So you-all take M.J. to work?

9 A. Well, first we went to the shop because Pluto had to
10 work and then me and a friend of his took M.J. to work and
11 dropped him off at -- I think it's the Bulldog Tavern or
12 Bulldog Pub, something or other, it's like in the mall, and
13 took him to work and then we came back to the shop.

14 Q. Okay. And when you say the shop, did you actually go
15 inside of that place?

16 A. Yes.

17 Q. What all was happening inside of that place?

18 A. People were like working on cars. I didn't -- I went
19 and sat down in like a -- a room with a couch like kind of
20 like where, I guess, the office was. There was a bunch of
21 filing cabinets and such, a TV, music. Kind of like the
22 hangout area or whatever.

23 Q. And do you recall whether or not drug use was going on
24 at that location?

25 A. I know I was getting high.

1 Q. Okay. I'm gonna show you some photographs, Katie, and
2 ask you whether or not you recognize these. State's 59.

3 A. Uh-huh.

4 Q. State's 63.

5 A. I don't really remember that part, that area.

6 Q. Okay. State's 64.

7 A. (Shakes head.)

8 Q. State's 65. State's 67. Just in case any of those
9 appear to be familiar.

10 A. Just the -- the first one.

11 Q. Okay. Did this shop have more than one room to it?

12 A. Yes, there was different rooms, but I only went in the
13 one room with a couch and like a TV and there was a couple
14 of filing cabinets and like a phone and -- but that's only
15 really the room I went in.

16 Q. Okay. And this is State's 59. Is that the building
17 that you're talking about when you say the shop?

18 A. Yes, ma'am.

19 Q. So M.J.'s gone to work. This is you and who else did
20 you know there at the shop when you were inside?

21 A. Just Josh and Pluto.

22 Q. Josh and Pluto. Did anyone come later to the shop?

23 A. After, you know, we hung out during the day and Pluto,
24 I guess, he was fixing cars or doing something or other at
25 the shop, and then we had to go and pick up M.J. from work.