

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Kershaw County

Honorable William A. McKinnon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

GREGG PICKRELL,

APPELLANT

APPELLATE CASE NO 2018-001139

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

MARK R. FARTHING
Senior Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

BYRON E. GIPSON
Solicitor, Fifth Judicial Circuit

Post Office Box 192
Columbia, SC 29202
(803) 576-1800

ATTORNEYS FOR RESPONDENT

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THE FOLLOW DOCUMENTS ARE ON FILE WITH THIS COURT:

FROM THE IMMUNITY HEARING HELD ON JANUARY 26-27, 2017: STATE'S EXHIBIT #2 (AUTOPSY DIAGRAM), STATE'S EXHIBITS #5-43 (PHOTOGRAPHS), AND STATE'S EXHIBIT #44 (RECORDING OF 911 CALL).

FROM THE TRIAL HELD MAY 29-31 AND JUNE 1, 4-5, 2018: STATE'S EXHIBITS #3-9 (PHOTOGRAPHS), STATE'S EXHIBITS #11 AND #12 (RECORDINGS OF 911 CALLS), STATE'S EXHIBITS #14-17 (PHOTOGRAPHS), STATE'S EXHIBIT #20 (AUTOPSY DIAGRAM), STATE'S EXHIBIT #22 (PHOTOGRAPH), STATE'S EXHIBITS #25 AND #26 (PHOTOGRAPHS), STATE'S EXHIBITS #29-61 (PHOTOGRAPHS), STATE'S EXHIBIT #62 (CRIME SCENE SKETCH), STATE'S EXHIBIT #69 (RECORDING OF INTERVIEWS), STATE'S EXHIBIT #70-87 (PHOTOGRAPHS), AND STATE'S EXHIBITS #91-116 (PHOTOGRAPHS).

State of South Carolina	) Court of General Sessions
	) Fifth Judicial Circuit
County of Kershaw	) Case No. 2015-GS-28-00795

State of South Carolina,
Plaintiff,

-VS-

Transcript of Record
(Pretrial Matters)

Gregg Pickrell,
Defendant.

January 26-27, 2017
Camden, South Carolina

B E F O R E:

The Honorable Alison Lee, Judge

A P P E A R A N C E S:

April Sampson, Esquire
Curtis Pauling, Esquire
Attorneys for the Plaintiff

John Delgado, Esquire
Attorney for the Defendant

Krystal J. Smith
Circuit Court Reporter

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COURT REPORTER LEGEND

20	dashes	--	intentional or purposeful interruption

21			or change in thought

22	ellipses	. . .	trailing off

23	[ph]		phonetically written

24	[sic]		written as said

25

1 JANUARY 26, 2017

2 (WHEREUPON, the proceedings began at 2:39 p.m.)

3 THE COURT: Good afternoon. Be seated, please. Thank
4 you.

5 Good afternoon. We are here on the State of South
6 Carolina versus Gregg Pickrell, Indictment Number 2015-GS-28-
7 0795. Thank you.

8 It is a true-billed indictment for murder. The State is
9 represented by April Sampson and Curtis Pauling. The defense
10 is represented by John Delgado.

11 We are here for, I believe, a hearing on immunity
12 pursuant to the statute, 16-11-440, and I believe we have
13 some matters which we need to take up before we get started.
14 Is that correct?

15 MS. SAMPSON: Yes, ma'am.

16 THE COURT: I have received various memoranda, and I
17 think there was a stipulation of facts that a copy was
18 provided to me. I presume that it's been signed and filed.

19 MS. SAMPSON: Your Honor, I believe because we just got
20 it signed literally right before you took the bench, there is
21 a signed copy. It has not been clocked. We just ask that it
22 be made a Court's exhibit at some point.

23 THE COURT: Okay. I think you all need to fill in the
24 -- I think the date was not filled in on it. So you . . .

25 (WHEREUPON, there was a pause in the proceedings, after

1 which the proceedings resumed as follows.)

2 THE COURT: Actually, that goes to -- I think that goes
3 to you.

4 THE CLERK: Do you want me to timestamp it?

5 THE COURT: That -- that needs to be clocked in, but you
6 don't have to do it right this minute.

7 THE CLERK: I can run down there real quick.

8 THE COURT: Either way. It doesn't make any difference
9 to me. I've got a copy of it. So that's just the original.

10 THE CLERK: All right.

11 THE COURT: And there are also some motions as it
12 relates to evidence, admissibility of evidence for the
13 purpose of this hearing; is that correct?

14 MS. SAMPSON: Yes, ma'am. That I believe to be from the
15 defense. Other than what we've stipulated to, I don't think
16 that the State has any issues as far as admissibility.
17 There's some evidence that Mr. Delgado wanted to go into, and
18 the State would be opposed to some of the admissibility of
19 some of the evidence.

20 THE COURT: Okay. And as I understand it, pursuant to
21 case law regarding the Protection of Persons and Property
22 Act, it's been established that the burden is on the
23 defendant to establish that they're entitled to immunity
24 pursuant to the provisions of the act and so -- and it's by a
25 preponderance of the evidence and so it would be up to the

1 defense to go first. The State has the opportunity to reply
2 or rebuttal.

3 So I'll -- I'll be happy to take up the preliminary
4 issues that we need to take up at this time or we can take
5 them up as we go through them. Either way.

6 MR. DELGADO: Thank you, Your Honor. Your Honor, I
7 filed -- when I filed the initial motion for grant of
8 immunity in this matter, I proposed with that several
9 exhibits that would underscore our position.

10 THE COURT: Yes, sir.

11 MR. DELGADO: I believe that I even sent that to the
12 Solicitor's Office when I filed that. I could be wrong on
13 that, but the State and I have not been able to agree that
14 some of those matters that I attached to the motion are
15 admissible. I'd like to be able to ask the Court to
16 reconsider that or reconsider their opposition as a result of
17 the South Carolina Rules of Evidence.

18 Your Honor, everything that I wish to be able to
19 introduce in this hearing -- four different items:

20 A letter from Mr. Robert Lamont -- also known as Monty
21 -- Demary's grandmother, Estelle Belton.

22 Initial report from the Newport News, Virginia, Police
23 Department discussing an assault by Mr. Demary on his soon-
24 to-be wife, Ms. Jean Wilson -- at that time was named Wilson.
25 They eventually got married. Jean Wilson Demary. She's also

1 known now with a new maiden -- a new married name, the name
2 of Shuford, Jean Wilson Demary Shuford.

3 The third thing, Your Honor, is an incident report from
4 the city of Camden Police Department in November of 2008 as a
5 result of a threat to kill an individual by the name of
6 Tyrone Pearson made by Mr. Demary.

7 And the fourth item is a hand-delivered letter that I
8 served on her at her work address. That is Ms. Jean Wilson
9 Demary Shuford, in Catawba County, North Carolina.

10 Each of those four pieces of evidence are admissible
11 under the South Carolina Rules of Evidence when we take as
12 the initial evaluation Rule 404(a)(2), character of evidence
13 generally. Then 404(a)(1) talks about admissibility of the
14 character of the accused and then, because I guess the rules
15 can't deem anyone except by this word or I would take
16 exception to it, character of victim. Evidence of a
17 pertinent trait of character of a victim is admissible in
18 trials in the state of South Carolina.

19 Your Honor, each of the four pieces of evidence that I
20 wish to introduce relate to that specific character trait.
21 That is the character trait for physical assaultiveness [sic]
22 by Robert Lamont Demary.

23 Some of the matters that the State has stipulated to are
24 other examples of that, but I have a responsibility to -- not
25 just a preponderance of the evidence, but I've got to admit

1 every bit of it for another term. I need to be able to put
2 that before this Court in every conceivable way so that I can
3 afford the Court the fullest exposure of what Ms. Pickrell
4 was confronted with in the years since 2008 up until
5 September the 10th and the morning of September the 11th,
6 2014, when this incident took place.

7 Your Honor, we go first, and I -- please forgive me for
8 just -- well, I may have said this. No, I didn't. I said
9 this some time ago, and I referenced it again this morning.

10 First, the letter from Ms. Estelle Belton. Her address,
11 Your Honor, is -- I believe it is [REDACTED] Salmond Avenue here in
12 Camden.

13 THE COURT: And I -- and I have -- I have read all the
14 exhibits that were attached to your memo -- your motion and
15 then I received some additional information. I think the
16 last piece of information I did not have would have been the
17 hand-delivered letter, I believe, from your office addressed
18 to Ms. Wilson.

19 MR. DELGADO: Yes, ma'am.

20 THE COURT: And I -- and I received that, and I've
21 reviewed that. So I've reviewed all of the --

22 MR. DELGADO: Okay.

23 THE COURT: -- all of the exhibits that you propose.

24 MR. DELGADO: Your Honor, just so that I'm clear with
25 your -- with your -- your language, to my motion to admit the

1 evidence that I sent to the Court, I called them attachments.
2 So I have Attachments 1, 2, 3, and 4. If I talk about the
3 four different pieces of evidence that I wish the Court to
4 review, that's what I'm talking about.

5 Your Honor, the first one, if I could -- if we could
6 look at Attachment Number 1. [REDACTED] Salmond Street, Camden,
7 South Carolina, 29020, is the address of Mr. Demary's
8 grandmother, Estelle Belton. The letter is addressed and the
9 date of that is June the 11th, 2008. It's addressed to -- and
10 Ms. Belton may not have known how to spell Ms. Pickrell's
11 last name -- to her address at [REDACTED] Baynard Boykin Road in
12 Rembert.

13 The letter goes on, Your Honor, to say some very
14 extraordinarily interesting things in light of 404(a)(2).
15 What Ms. Estelle tells Gregg is that she should not continue
16 to suffer abuse at the hands of her grandson, Monty. She
17 says that he was not brought up this way and that she wants
18 to be able to see if she can get him help for his temper.

19 She notes that Monty had to be fired by Ms. -- by Ms.
20 Pickrell and that apparently something happened in the first
21 part of June of 2008 that caused him to be assaultive to her
22 and that Ms. Belton knows of that and is commenting to the
23 defendant on that particular significant character trait.

24 Your Honor, I've been doing this a while and I don't
25 think I've ever seen anything like this before. Grandmothers

1 don't talk about their grandsons in this way, in my very
2 humble estimation. So under 404(a)(2), that character of the
3 victim is admissible.

4 Your Honor, the next matter is Attachment Number 2 and,
5 again, that is an incident report from the Newport News,
6 Virginia, Police Department, of August the 17th, 2001. And on
7 the third page of Attachment 2, it talks about some of the
8 physical signs of assaultive evidence that was found on Ms.
9 Jean Wilson at that time, including signs of injury to the
10 neck, head, and lip.

11 That's in complete conformity with the significant
12 character trait under 404(a)(2) that we wish to bring in
13 before the Court. And additionally, Your Honor, it seems to
14 be as well that that evidence, because it is admissible under
15 404, is also keyed by the hearsay exception, 803(21) of our
16 Rules of Evidence.

17 803(21) of our Rules of Evidence allows character trait
18 evidence as an exception to the hearsay rule. It cannot be
19 something that is just a character trait or reputational
20 evidence in itself. It has to relate to another rule of
21 evidence that would otherwise underwrite it and underscore
22 it. That is exactly what this incident report relates to,
23 and shows further the characterive [sic] evidence that we
24 need to present and that we think is significant and
25 necessary in this hearing.

1 The third attachment, Your Honor, is an incident report
2 from the Camden, South Carolina, Police Department dated
3 11/20/2008 and in it, it describes a threat, not just an
4 assault, but to kill an individual by the name of Tyrone
5 Pearson from Robert Demary. Let me give you a little
6 background, if I can, about that, Your Honor.

7 Mr. Demary in 2008 was an employee of Ms. Pickrell at
8 her horse farm in south Kershaw County. Ms. Pickrell took
9 several horses, two trucks, herself, and two individuals to
10 the Louisiana Downs racetrack in Bossier City, Louisiana.
11 She was there for approximately three weeks.

12 During that period of time -- and this has been
13 stipulated to by my friends from the Solicitor's Office --
14 she had him arrested there for assaulting her, and he was
15 placed in jail for some 60 days. Your Honor, that is part of
16 my original motion. It shows the complete report of the
17 Bossier City, Louisiana, Police Department, as well as
18 pictures taken by them of Ms. Pickrell in September of 2008.

19 The two individuals that she took down with her to this
20 racetrack were Tyrone Pearson and Mr. Monty Demary. Only --
21 Your Honor, I'm sorry.

22 I have a picture of a horse race that Ms. Pickrell won
23 there that shows Mr. Tyrone Pearson and a variety of
24 racetrack employees. It was an interesting race in that --
25 and again, the government -- the State has stipulated that

1 this jockey who won this race for Ms. Pickrell -- this is his
2 4000th win. His name is -- what is his name?

3 THE DEFENDANT: Patrick --

4 MR. DELGADO: Patrick Velasquez.

5 THE DEFENDANT: Valenzuela.

6 MR. DELGADO: Valenzuela. Sorry. Mr. Valenzuela's
7 4000th win was commemorated with a -- what they call in this
8 business a win photo. It showed Ms. Pickrell. It showed the
9 horse, Burst of Light. It showed a whole variety of
10 individuals. Fellow jockeys were there to compliment Mr. --

11 THE DEFENDANT: Valenzuela.

12 MR. DELGADO: -- Valenzuela on this -- to give him vigor
13 because it was his 4000th.

14 Tyrone Pearson is shown holding the bridle to Burst of
15 Light, the horse. The individual who is not shown in that is
16 Mr. Monty Demary because he was locked up in the Bossier City
17 Police Department in their detention center and was not
18 released until November.

19 But when he got out from the Bossier City, Louisiana,
20 Detention Center, he then calls Tyrone Pearson and threatens
21 to kill him. Mr. Pearson called the Camden Police Department
22 and made a record of that. I submit, again, under 404(a)(2),
23 that that's a significant pertinent trait of character that
24 we have a right under the Rules of Evidence to be able to
25 present to the Court.

1 In our fourth attachment, Your Honor, I again ask the
2 Court to review 404(a)(2), but additionally, let me see if I
3 can put this in perspective as well. Ms. Lyn Phillips, a
4 social worker that associated with me in this matter,
5 contacted -- after we did some record searching, we found Ms.
6 Jean Wilson Shuford, now last name is Wilson Demary Shuford,
7 now living in North Carolina, in Catawba County, North
8 Carolina.

9 Ms. Pickrell -- excuse me. Ms. Phillips contacted her
10 either online or Facebook or found the address, and they
11 talked by phone. During that, Ms. Phillips took down
12 statements that Ms. Shuford made to her about her
13 relationship and her marriage and the course of events with
14 Mr. Demary.

15 She said to Lyn, it could have gone that way for me,
16 that is discussing what Ms. Pickrell was confronted with with
17 Mr. Demary. And further, it was to the point that I knew it
18 would be him or me. This is his ex-wife living out of state
19 making statements to a member of the defense team.

20 Your Honor, subsequent to that time, however, Ms.
21 Shuford cut all contact with us. Ms. Phillips attempted --
22 in fact, was on her way to meet with her to personally
23 interview her, and Ms. Shuford would not return phone calls.
24 I must've called her work -- work telephone number two or
25 three different times. She would not come to the phone. I

1 wrote her and asked if she would write me back. No contact.

2 She, in effect, Your Honor, is making herself
3 unavailable under Rule of Evidence 804(a)(5). The reason
4 that 804 is important, Your Honor, is that I cannot compel
5 her to be here at this hearing today. I may have to do that
6 at the trial in this matter if this has to result in that.

7 But I do believe, Your Honor, under Rule 804, which is
8 complementary to 404(a)(2), that the statements that Ms.
9 Phillips took from her are corroborating circumstances that
10 clearly indicate the trustworthiness of the statement. 804,
11 Your Honor, allows hearsay to be admissible under a couple of
12 specifics.

13 I'd like to ask the Court to look at in your review of
14 this matter 804(b)(3), statements against interest, and let
15 me see if I can put this in context as well.

16 When Ms. Pickrell was arrested on the morning or the
17 afternoon of September the 12th of 2014, she was detained at
18 the Kershaw County Detention Center. A motion for bond was
19 made by me probably within a week to 10 days. Judge Manning
20 was holding court during that period of time, and we had a
21 hearing in front of him in this courtroom.

22 One of the things that I learned, Your Honor, that day
23 was the -- Mr. Demary's family had either talked to or
24 associated an attorney that was interested in any civil
25 liability that possibly could result from this matter. He

1 took me out into the hallway and was talking to me about
2 whether or not she had any financial interest in the farm,
3 whether or not there was equity in the farm. He was thinking
4 about what could happen in the way of a civil lawsuit.

5 Under 804(b)(3), Your Honor, statement against interest
6 has as one of its basis that it is a fact contrary to the
7 declarant's proprietary interest. What has happened, Your
8 Honor, is that Ms. Shuford has a now-teenage daughter through
9 Mr. Demary. That teenage daughter, whose name I'm sorry to
10 say I don't know, lives with her and her current husband, Mr.
11 Shuford, in North Carolina. That teenage daughter would be
12 the sole beneficiary of the estate of Mr. Demary should a
13 lawsuit be brought against Ms. Pickrell.

14 That being the case, under 804(b)(3), her statements
15 would tend to subject her to a loss of financial interest if
16 this matter were resolved, if in the general concept she does
17 not want that for her daughter. She does not want to lose
18 out anything that may affect her financial well-being, and
19 has cut off all contact with us.

20 The only thing I could do, Your Honor, was to hand-
21 deliver a letter to Ms. Shuford at her work address in
22 Catawba County, North Carolina, served by the sheriff's
23 deputy. That is part of the Attachment Number 4 that I ask
24 the Court to review in admitting this evidence.

25 Your Honor, I believe that the interests of justice

1 require me and require the Court -- require me to make this
2 motion and then allow the Court to consider this in the
3 interest of justice and as a result of meeting the
4 prerogatives of the Rules of Evidence in discerning and
5 allowing discernment by this Court as to what is possible as
6 far as admission is concerned.

7 And, Your Honor, while it is certainly not controlling,
8 there is a federal rule of evidence that I'd like to just
9 discuss with you just very briefly, Federal Rule of Evidence
10 807. Your Honor, 807 is what is generically known as the
11 catchall exception to the hearsay rule. It is called a
12 residual exception.

13 And again, we do not -- we do not have that in South
14 Carolina Rules of Evidence, but we do have this in the
15 Federal Rules of Evidence, which we are basically based on.
16 What Rule 807 of the Federal Rules of Evidence talks about is
17 whether or not the specific bit of evidence is admissible or
18 whether or not it meets a specific hearsay exception or not.

19 In federal court, a Court can, if the evidence has the
20 functional -- excuse me -- the equivalent circumstantial
21 guarantees of trustworthiness. Number two, that it is
22 offered as evidence of a material fact. That, three, it is
23 more probative on the point for which it is offered than any
24 other evidence that the proponent can obtain through
25 reasonable efforts, and admitting it will best serve the

1 purposes of these rules and the interest of justice.

2 Again, not controlling on this Court, but it does set
3 the parameters about what -- how a Court may look at
4 evidence, especially when we meet the fundamentals of the
5 Rules of Evidence. Thank you.

6 THE COURT: Ms. Sampson?

7 MS. SAMPSON: Thank you, Your Honor. May it please the
8 Court.

9 As Mr. Delgado has already pointed out, there are things
10 that we, as the State, agreed were admissible in terms of
11 allegations of prior bad acts by the victim. Specifically,
12 anything that involves the defendant.

13 It would be our argument, Your Honor, that, under the
14 rules, he is allowed to go into anything that specifically
15 happened between the victim and the defendant, and the rules
16 allow for that. However, everything else, it would be our
17 understanding under the rules is outside of that.

18 I would hand to the Court in support of my argument
19 State v. McCray, and I'll hand Mr. Delgado a copy of it.
20 State v. McCray, if I could hand the Court?

21 This is a 2015 Court of Appeals case, Your Honor. It's
22 the most recent case on this issue, but basically in that
23 case -- it's also a murder case and, in that case, the
24 defense wanted to introduce evidence of the victim's
25 aggression through testimony of witnesses who saw the actual

1 aggression. He had been to the Department of Corrections,
2 and they wanted to introduce some of the guards to talk about
3 that.

4 And in looking at that, the Court first noted that, yes,
5 you might be able to get into character evidence under 402(a)
6 -- 404(a) -- I'm sorry -- with the character of victim. That
7 is allowed.

8 However, it also talked about if you're going to get
9 into prior bad acts and things like that because of the
10 prejudicial nature of those, they needed to be tied to the
11 defendant in acts that were done to the defendant. That's
12 why we agreed to allow anything that happened between her and
13 the victim in this case. These instances that he would like
14 to allow, Your Honor, none of them have to do with the
15 defendant.

16 Number 1, the letter from the grandmother, there are
17 several problems that we have with that one. First and
18 foremost, she is not here to testify as to what she meant
19 about any of that. It's my understanding that she has since
20 passed.

21 We can't even authenticate that letter other than to say
22 it's a letter that says it came from that address and says it
23 was delivered to the defendant's own address, but we can't
24 authenticate anything within it or who even wrote it.

25 So that would be hearsay within hearsay to begin with,

1 but also it doesn't discuss any specifics that happened
2 between the defendant and the victim other than something.
3 It literally, even Mr. Delgado, as he just told you, says it
4 says something happened. It doesn't give us any kind of
5 specifics on whether it was even a physical abuse or if he
6 yelled at her. I don't know what it is. I mean it doesn't
7 report and, therefore, it shouldn't be allowed in.

8 Second -- for the second thing that he would like to
9 introduce, the incident report from Newport News, this
10 happened in 2001. One of the things, again, that the Court
11 looks at and says that this Court should take into account is
12 the time between the alleged acts and the acts that we're
13 here for today.

14 In this particular case, whatever happened with his ex-
15 wife was in 2001. The time between those two -- this
16 incident did not happen until 2014. So there was a 13-year
17 time lag between those two things. Not only, again, do we
18 not have anybody involved in that incident coming to talk to
19 you about it, the particular person we would, I guess, want
20 if we were going to get into this, Ms. Wilson, whatever her
21 new name is, ex-wife of Mr. Demary, is not here. Mr. Delgado
22 just went into reasonings why she may not be here, but she's
23 not.

24 Not only is she not here, neither are any of the people
25 involved in the case from that Sheriff's Department who could

1 authenticate or who maybe saw any of these injuries. We
2 don't have any of those people. So again, we're going into
3 hearsay within hearsay about an instance that does not
4 involve this defendant and does -- and should just not be
5 allowed in this particular case.

6 Number 3 is the incident report from Camden. Again, it
7 does not involve this defendant. It involves another person
8 who is not here to talk about a threat that may or may not
9 have happened to him.

10 Lastly -- and I'm not even sure exactly what Mr. Delgado
11 wants to get in. I don't know if he wants to introduce the
12 letter into evidence or if he just wanted to introduce it in
13 terms of explaining to Your Honor why the witness isn't here.
14 If it was just to explain to Your Honor why the witness
15 wasn't here, then perhaps then it is admissible, but I was
16 taking it to mean he wanted to use it in his case in chief to
17 discuss I don't know what.

18 But since it was attached to the memorandum and had come
19 in in other things that we had discussed, I'm prepared to
20 argue that it shouldn't come in in the case in chief. If he
21 just wants to show it to Your Honor to prove that that
22 witness is unavailable, that -- that would fall to me under
23 an entirely different set of rules, and it may be admissible
24 just for that purpose of showing Your Honor she is
25 unavailable.

1 However, any information garnered from Ms. Phillips in
2 an effort to show that Mr. Demary may have been violent in
3 the past, that I still believe would be inadmissible, even if
4 you take into account the Rule 804.

5 I still don't know exactly what -- based on what Mr.
6 Delgado -- and I was trying to pay attention and write at the
7 same time; so excuse me for not being able to get all of it
8 exactly what he said.

9 But that the witness may have told Ms. Phillips some
10 things that happened to her during her relationship with Mr.
11 Demary. Again, years ago. This relationship with the
12 defendant, Ms. Pickrell, started in 2008. So it's my
13 understanding there was nothing between him and his ex-wife
14 between 2008 and 2014. So we at least have a six-year period
15 where none of this was going on with this witness.

16 Having said that, even if whatever she told Ms. Phillips
17 -- I assume Ms. Phillips is here and available to talk about
18 the hearsay that she heard from that witness. Mr. Delgado
19 stated to Your Honor that it should be admissible under the
20 rules because the witness is unavailable and he highlighted
21 Rule 804(b) as an exception using subsection 3 of the
22 statement against interest, which discusses pecuniary
23 interest.

24 Now, I find it interesting that he's talking about the
25 daughter's pecuniary interest. The daughter didn't say

1 anything. The mother did. And if anything did go to his
2 daughter, it doesn't go to the mother. So, therefore, she
3 doesn't have a pecuniary interest other than her daughter
4 having some. That's not the way that rule works either.

5 And I'm not even really going to address 807 because, as
6 Mr. Delgado already stated to you, it's a federal rule, not a
7 state rule.

8 I would just urge Your Honor to look at State v. McCray,
9 which I've handed to you, and there's also -- they talk about
10 State v. Day, which is 341 S.C. 410 and 535 S.E.2d 431.

11 In that case, they do the same thing in terms of the
12 Court talking about why prior bad acts that do not involve
13 the defendant and the victim are not admissible because they
14 are -- they have to be either directly connected to the
15 particular assault that we're here about, the homicide, or
16 related to the defendant and the victim.

17 We have neither one of those in any of these four things
18 that he would like to discuss. We've agreed to talk about
19 the 2008 because that is directly related to the defendant.
20 We've agreed to allow all of that and the pictures and the
21 incident report.

22 THE COURT: And that would be the police report from
23 Bossier City, Louisiana?

24 MS. SAMPSON: Correct. That's in the stip.

25 THE COURT: Sure.

1 MS. SAMPSON: We -- we understand that that's admissible
2 and have no problems with that. It's the other police
3 reports that we don't have any other people, parties to that,
4 nor do they relate to this particular incident in terms of
5 what's going on between the defendant and the victim on
6 September 10th through September 11th of 2014.

7 For those reasons, I do not feel that those -- those
8 items are admissible into this -- this hearing and that we
9 should stick to the items that we've agreed to and the
10 stipulations and, if we need to address it at a different
11 time, we can, but that's where I would be with that at this
12 point.

13 MR. DELGADO: Your Honor, may I briefly reply to that?

14 THE COURT: One moment.

15 MR. DELGADO: Yes, ma'am.

16 THE COURT: Yes, sir?

17 MR. DELGADO: Your Honor, the problem with the McCray
18 case -- and I have not reviewed it and I don't even know
19 whether it relates to our Rule of Evidence 404(a)(2).

20 The rule as promulgated under 404(a)(2) does not say
21 that it has to be evidence known by the defendant. It talks
22 about evidence -- quote, evidence of a pertinent character
23 trait of character of the victim of the crime offered by the
24 accused -- offered by the accused -- comma. That is exactly
25 what we're doing here because it is a pertinent character

1 trait.

2 Additionally, Your Honor -- and I'll conclude by saying
3 this. That our Rules of Evidence allow hearsay. We don't --
4 all the 23 exceptions to the Rules of Evidence, the
5 applicability clause of Rule 1101 talking about when these
6 rules are to apply notes that in certain circumstances the
7 rules do not apply.

8 1101(d)(3), miscellaneous proceedings. And what's
9 interesting in that, Your Honor -- and, Your Honor, my late-
10 night review was that those miscellaneous proceedings all
11 relate to circumstances where there are no lay jurors. In
12 other words, hearsay is acceptable when at a preliminary
13 hearing, in the request for a search warrant, sentencing
14 proceeding, and the other items that they mentioned there.

15 None of those have to do with lay witnesses. In other
16 words, the rules relate to you, as a member of the judiciary,
17 to use your discernment in when the rules apply and may not
18 apply.

19 It seems to me, Your Honor, that if you take a hard and
20 fast rule, as supposedly the McCray case may or may not have,
21 it is contrary to the rules noted in 404(a)(2). I'd like to
22 be able to ask the Court to rule on those as they would
23 reflect on what I may be able to introduce through the
24 introduction of testimony through Ms. Pickrell.

25 Thank you, Your Honor.

1 (WHEREUPON, there was a pause in the proceedings, after
2 which the proceedings resumed as follows.)

3 THE COURT: All right. There are four exhibits which
4 the defense seeks -- proposes to introduce relating to the
5 character of the victim in this case. Let me talk about two
6 of them.

7 First of all is the Newport News, Virginia, police
8 report from 2001, in which -- the report is a three-page
9 document that I have, which indicates that there was an
10 incident in Newport News, Virginia. The -- the charge was
11 simple assault, and the victim in the case was Aaron Jean
12 Wilson and the defendant was Robert Demary. They both --
13 they both apparently had the same address and were living
14 together at that particular time in 2001, August -- August
15 17th, 2001.

16 The third page of the report contains the narrative,
17 which indicates that Aaron Jean Wilson reports that on the
18 above date that -- date and time she had a verbal argument
19 with her live-in boyfriend, Robert L. Demary, who stated the
20 same. However, victim had signs of injury to neck, head, and
21 lip areas. Arrest made, and it says an EPO obtained and
22 served to all parties. And I think that's the end of that
23 particular report.

24 Additionally, there is another report from the Camden
25 Police Department, and the incident date was listed as

1 November 20th, 2008. The complainant was Tyrone Jason
2 Pearson, and it lists his address here in Camden. It lists
3 the subject's name to be Robert Lamont Demary, and it lists
4 an address for him in Camden. And the charge or offense was
5 assault intimidation.

6 It says Mr. Pearson stated he was involved in an
7 incident in Louisiana with a coworker by the name of Robert
8 Demary. Mr. Pearson stated he received a call from Mr.
9 Demary on 11/20/2008, who stated that he was on his way home
10 back to Camden to kill him. Mr. Pearson fears for his
11 safety. And I believe that that was a one-page report from
12 the Camden Police Department.

13 Rule 404(a)(2) talks about the character trait of the
14 victim. That evidence of a pertinent trait of character of
15 the victim of the crime offered by an accused or by the
16 prosecution to rebut the same or evidence of the character
17 truth -- character trait of peacefulness of the victim
18 offered to rebut evidence that the victim was the first
19 aggressor.

20 In evaluating that, *The South Carolina Evidence Book*,
21 *2nd Edition*, by Danny Collins, seems to indicate that the
22 basis for the exception is to determine who was the possible
23 aggressor when the accused raises self-defense, and immunity
24 from prosecution is much -- much like self-defense and, under
25 the case law interpreting the act, I'm required to consider

1 the elements of self-defense.

2 Mr. Collins' book seems to indicate that the defendant
3 can introduce evidence of the character of the victim to show
4 that the defendant acted in self-defense to a charge of
5 assault and battery. It also says that the victim's
6 character must be relevant to the defendant's guilt, and it
7 also talks about the fact that prior difficulties between the
8 parties is admissible and it's generally -- although it's
9 generally improper to admit the details of such difficulties
10 and it cites a number of cases, including State v. Taylor,
11 State v. Atchinson, and State v. Bush. It also talks about
12 evidence of prior difficulties can include any threats that
13 were made between the victim and the defendant.

14 Additionally, it discusses that there must be a proper
15 foundation laid for the introduction of such evidence as to
16 the victim's reputation for violence, and one element of that
17 foundation is that the defendant must know of the victim's
18 reputation for violence.

19 So as it relates to the 2001 incident and, in fact, the
20 2008 incident involving other individuals, not the defendant
21 in this particular case, I think there has to be some
22 evidence or some information that would establish that the
23 victim was aware - I'm sorry -- that the defendant was aware
24 of -- in some form or fashion, of these particular traits.

25 And I think the 2001 incident, unless she had specific

1 knowledge that she can testify to that she was aware of that
2 particular incident, that that would not be admissible
3 primarily for its -- the -- the temporal difference between
4 when that occurred and when -- and her relationship with the
5 victim in this particular matter.

6 I do tend to agree with the State that 2001 to 2014 is a
7 fairly lengthy period of time to be able to raise those --
8 that information. To the extent that she may have some
9 personal knowledge otherwise, I think that there's a
10 possibility it could be admitted, but without such a
11 connection, I find that the 2001 incident between Ms. Wilson
12 in Newport News -- that that would not be admissible in this
13 particular matter.

14 As it relates to the threats that occurred in 2008, I
15 think there may be more of an opportunity. However, the
16 Collins book goes on to talk about that a general attack on
17 the deceased's character is not permitted.

18 And so -- and -- and additionally, as it relates to
19 threats, I think that the threats would need to be those that
20 would be communicated between the victim and the defendant
21 and particularly as it relates to instances of self-defense
22 because my view of the immunities provided under the
23 Protection of Persons and Property Act really turns on the
24 state of mind of the defendant at the time that there were
25 acts of aggression or at the time that there -- there was an

1 altercation or interaction between the victim and the
2 defendant.

3 And to the extent that she had -- she -- I think she can
4 certainly testify as to what knowledge she has about his --
5 the victim's conduct and prior difficulties, but I think
6 specific acts outside of those between the parties and the
7 direct threat to her and how -- and what she believed that
8 her life was in danger and -- and the reasons for that to the
9 extent that she has personal knowledge of those things, I
10 think that she can certainly testify about those things. But
11 without some direct connection to establish that she was
12 aware of those instances, I think that that goes outside of
13 what Rule 404(a) really provides.

14 Now, with the other information, the other proposed
15 exhibits, the letter from the victim's grandmother. I
16 understand that the letter does discuss some alleged
17 difficulties between the parties. I think -- I think that
18 that evidence would be -- I would tend to say that that would
19 be admissible to indicate that there was some knowledge of
20 some -- some difficulties between the parties that could have
21 been a factor towards the -- towards the defendant's state of
22 mind in any subsequent altercations or difficulties between
23 them.

24 I'll -- I'll allow that letter. I understand -- I
25 understand that the writer of that particular letter is not

1 available to be cross-examined by the State. I think that it
2 -- that it would be evidence to indicate at least that there
3 was some knowledge between the two of them that there were
4 some -- in -- in the course of the history between the
5 defendant and the victim, that there were some difficulties
6 and that the grandmother was aware that there was some
7 difficulties and was simply offering advice.

8 And certainly, that -- that could very well go to -- to
9 the defendant's state of mind at the time that it occurred --
10 that the incident occurred some few years later. And I'll be
11 sure to take into consideration the time -- the time between
12 when that letter was written in 2008 and the events that
13 happened in 2014.

14 The last piece of information seems to relate to -- I
15 guess it's a letter. It -- I guess, between the conversation
16 between Ms. Phillips, the social worker, and the victim's ex-
17 wife, and some acknowledgment or a recitation or summary of
18 the conversation that would have been expressed through what
19 appears to be Mr. Delgado's letter to, I guess, Ms. Wilson to
20 basically summarize her conversations with Ms. Phillips.

21 I have a -- I have a problem with that because it's not
22 only hearsay, it's like double/triple hearsay. It's -- it's
23 basically Mr. Delgado writing back what his understanding is
24 of the conversation that Ms. Wilson had with Ms. Phillips and
25 -- and there's not -- and I understand that it's -- that it

1 may be offered to show that she's not available, that she
2 can't be called here, that -- I think there was the argument
3 about the pecuniary interest under 804.

4 I find that -- that -- that it's not -- I don't believe
5 that that's admissible at this particular point. I
6 understand that there could very well be ways -- ways to have
7 Ms. Wilson appear and provide testimony, if she had provided
8 a sworn statement through an affidavit and sent that.

9 I understand the argument that it's a -- there is a
10 possibility that her teenage daughter may be a beneficiary of
11 the estate of Mr. Demary, but, as the State has indicated,
12 that would be a benefit to the -- to the daughter and not to
13 Ms. Wilson.

14 So I'm not going to allow that -- that in as well. I
15 don't think that that's appropriate and I don't think that
16 the rules cover that -- those particular circumstances.

17 Is there anything else we need to take up at this time?

18 MR. DELGADO: Your Honor, just for the requirement, may
19 I ask then that Attachments 2, 3, and 4 be submitted as an
20 exhibit to this hearing?

21 THE COURT: Certainly, certainly.

22 MR. DELGADO: As well, Your Honor, as my -- I sort of
23 want to say very inartfully drafted memorandum of law in
24 support that I filed.

25 THE COURT: That's fine. If you have an original, I

1 have printed out -- I have -- I have two sets of documents.
2 I have an email with some exhibits attached to it.

3 MR. DELGADO: Yes, ma'am.

4 THE COURT: And then I have the -- the -- your actual
5 motion.

6 MR. DELGADO: Yes, ma'am. Yes, ma'am.

7 THE COURT: Which was filed with the clerk's office.

8 MR. DELGADO: Yes, ma'am.

9 THE COURT: That does have some of the information in
10 it. What it does not have in it, however, is the letter --
11 is the -- is the other portion where -- that refers to Ms.
12 Phillips and the letter that you wrote to her and had served
13 upon her.

14 MR. DELGADO: Right. I don't have to then place all of
15 that in the record, but I can simply do is supplement that by
16 having Attachment Number 4, because that's not part of the
17 motion and its exhibits.

18 THE COURT: And if you want to come and look at -- I'll
19 pass this up to you. If you -- if you want to look at these
20 three or four pages and tell me which ones, we can certainly
21 pull those out of the copy I have because I can reprint it
22 off my computer and -- and -- and we'll have those -- go
23 ahead and have those marked.

24 MR. DELGADO: Your Honor, I think the only thing that I
25 need to supplement for the purposes of this hearing is the --

1 my letter to Sheriff Reid sent the 8th, 2015, [sic] as well as
2 the affidavit of service, and my letter to Ms. Shuford. That
3 would be the only things that are not --

4 THE COURT: In your -- in your memorandum.

5 MR. DELGADO: Exactly.

6 THE COURT: In your motion, yes. And that -- that would
7 be fine. We can add those.

8 MR. DELGADO: Yes, ma'am.

9 THE COURT: Let's just pull it apart and re-staple it
10 and --

11 MR. DELGADO: Well, I'll not do that and let the clerk
12 do that.

13 THE COURT: And just make that a --

14 MR. DELGADO: Yes, ma'am.

15 THE COURT: We'll make that a part of the record as a
16 Court's exhibit and also have the record reflect that the
17 motion that's been filed with the Court would also be
18 evidence.

19 Just pull it apart.

20 THE CLERK: Just pull it apart?

21 THE COURT: I'll show you.

22 That the motion that was filed that's in the Court's
23 file would also be a part of the documents for this
24 particular hearing and I need not make that a Court exhibit
25 since it's already part of the record.

1 And what I'm passing up are three pages: Mr. Delgado's
2 letter to Sheriff Cory Reid, the affidavit of service, as
3 well as the letter to Aaron Shuford, who we've been referring
4 to as Ms. Wilson.

5 MR. DELGADO: Yes, ma'am. Thank you.

6 (WHEREUPON, the letters and service document were marked
7 and admitted as Court's Exhibit Number 1.)

8 THE COURT: Thank you.

9 (WHEREUPON, there was a pause in the proceedings for
10 counsel to confer, after which the proceedings resumed
11 as follows.)

12 MS. SAMPSON: I beg the Court's indulgence. We're just
13 trying to see what would be best.

14 THE COURT: I'll tell you what. Let's take a break.

15 MR. DELGADO: Thank you. Thank you very much.

16 THE COURT: I didn't realize what time it was.

17 MR. DELGADO: Thank you.

18 (WHEREUPON, there was a break in the proceedings from
19 3:44 p.m. until 3:57 p.m., after which the proceedings
20 resumed as follows.)

21 THE COURT: Be seated. Thank you. Are we ready to
22 proceed?

23 MR. DELGADO: Yes, ma'am, with this preliminary request
24 from counsel. I'm trepidacious about asking this, but I've
25 noticed the time as well. It is 4:00. I expect Ms.

1 Pickrell's direct would probably be 45 minutes.

2 THE COURT: If you have a -- if you have another witness
3 that you --

4 MR. DELGADO: Well, what I'd like to ask is there
5 anybody we can take up out of turn that may be, you know,
6 just foundational that -- one of the things that they've
7 pointed out to me is if she's in the middle of cross-
8 examination, I virtually can't talk to her.

9 THE COURT: Yeah.

10 MR. DELGADO: And I hadn't thought of that.

11 THE COURT: Yeah. I wondered. I just didn't -- I
12 didn't -- you know, I know that you've listed that you had
13 one witness. So I didn't know. I got the impression that
14 there may have been some other witnesses that you might have
15 intended to call or not.

16 MR. DELGADO: Your Honor --

17 THE COURT: But I'm -- I'm -- I'm happy to adjourn for
18 the day and come back tomorrow morning.

19 MR. DELGADO: I think that probably would help us all
20 again. Your Honor, I think I may have said this to Ms.
21 Bingham, and my colleagues can answer this if they want.
22 There's about two hours and 45 minutes of statements that are
23 audiotapes and videotapes.

24 THE COURT: Okay.

25 MR. DELGADO: I don't know if you want to have to sit

1 here and see that as opposed to possibly doing it at your
2 discretion at your leisure. I -- I'll do it any way the
3 Court wants to do it.

4 THE COURT: And, you know, somehow, I thought that was
5 two minutes and 45 seconds. Silly me.

6 I know in other cases I have, you know, reviewed videos
7 separately so they didn't have to be played I mean in the
8 courtroom, if you all agree to it. If there are -- if there
9 are just portions of it that you think are relevant or do we
10 need to argue about that?

11 MS. SAMPSON: I think the State's position is -- I mean
12 he's going to put her up. Our only concern is that he wasn't
13 going to put her up or was going to try to --

14 MR. DELGADO: We're going to put her up.

15 MS. SAMPSON: And we've already established that that's
16 not going to happen. So I'm fine with that.

17 We also have transcripts, if that helps, Your Honor.

18 THE COURT: That would be better.

19 MS. SAMPSON: We had the video transcribed. That's what
20 I want you to see portions of it, but the entire thing is
21 transcribed.

22 THE COURT: Transcribed by whom I guess I should say?

23 MS. SAMPSON: We sent it off to be transcribed. It
24 wasn't our office.

25 THE COURT: Okay.

1 MS. SAMPSON: And we've provided them a copy, and I
2 don't think he disputes that the transcription --

3 MR. DELGADO: No, no.

4 MS. SAMPSON: -- is exactly what's on the tape.

5 THE COURT: Well, I'm happy to do the -- I'm happy to do
6 the transcripts.

7 MR. DELGADO: That probably would save some time
8 tomorrow for sure.

9 THE COURT: Yeah.

10 MS. SAMPSON: And just the only thing I wanted to add is
11 I -- we agree that no matter what we do, even if we don't
12 start until tomorrow, we could still finish tomorrow.

13 MR. DELGADO: Yes, ma'am. Yes, ma'am.

14 MS. SAMPSON: I don't anticipate us going past. We have
15 a witness they can't be here until 1:30.

16 MR. DELGADO: 1:30.

17 THE COURT: I'm aware of that.

18 MS. SAMPSON: We probably will finish everybody else --

19 MR. DELGADO: Your Honor --

20 MS. SAMPSON: -- and have to wait until 1:30.

21 MR. DELGADO: If the Court takes those transcriptions
22 under -- and reads them, as you will, the only witness then
23 for the defense at this hearing will be the defendant.

24 THE COURT: Okay. And so do you all want to just
25 stipulate that in lieu of the testimony -- is it -- is it

1 testimony or just -- it's just statements?

2 MS. SAMPSON: It is the -- what they did is they
3 videotaped her interview. These are the transcriptions of
4 that video. She's still going to testify, however. We may
5 both ask her about what is on there, but it's the State's
6 position and, I guess, Mr. Delgado's position that Your Honor
7 can have these to review at your leisure so you don't have to
8 watch it or listen to us reading the entire transcript or
9 watch the entire video.

10 THE COURT: And you all are familiar with them so it's
11 not a -- it's not a matter that you have to refresh
12 recollection about what was said because you have the
13 transcripts and --

14 MR. DELGADO: Yes, ma'am.

15 THE COURT: And you've all been able to read it. So you
16 -- okay.

17 MS. SAMPSON: She may -- I'm not going to say what she
18 may need us to do when she's up there, but I mean as far as
19 we all agree these are the transcriptions.

20 THE COURT: Okay.

21 MR. DELGADO: Yes, ma'am.

22 THE COURT: So we'll just wait and put those in
23 tomorrow?

24 MR. DELGADO: Well, you can put them in today if you
25 want.

1 THE COURT: Your choice.

2 MS. SAMPSON: As long as those -- under both Mr.
3 Delgado's promise that she's going to testify in the morning,
4 then I'm confident with putting them in today, Your Honor.

5 MR. DELGADO: Under oath.

6 THE COURT: All right.

7 MS. SAMPSON: He's an officer of the Court, I guess, but
8 the State is fine with introducing them. I don't know. I
9 guess defense -- State's exhibit?

10 MR. DELGADO: You can --

11 MS. SAMPSON: Defense exhibit?

12 MR. DELGADO: I'll tell you what. I'll admit this, you
13 know, with the concurrence of the State as true and accurate
14 recordings as a result of two statements made by Ms. Pickrell
15 on probably the early morning and then the early afternoon of
16 September the 11th, 2014. Yes, ma'am.

17 THE COURT: Okay.

18 MS. SAMPSON: And just for the record, they are with two
19 different investigators. One is with Inv. DeVors. That is
20 transcription number 1. The second one is with Inv. Bailey.
21 One is, as Mr. Delgado said earlier, in the morning. The
22 other one, there is an -- her attorney comes in; so they stop
23 for a minute and she speaks with her attorney, and then they
24 do a second interview with a different investigator. So on
25 there you'll see two different investigators. That is why.

1 THE COURT: Okay. And -- and those will be Defense
2 Exhibits 1 and 2?

3 MR. DELGADO: Yes, ma'am.

4 THE COURT: All right. And that -- and that will be in
5 lieu of the videotape?

6 MR. DELGADO: Yes, ma'am.

7 MS. SAMPSON: Yes, ma'am.

8 THE COURT: Okay. And if you'll just have the court
9 reporter mark those, we'll . . .

10 (WHEREUPON, Defendant's Exhibit Number 1, statement
11 transcript, and Defendant's Exhibit Number 2, statement
12 transcript, were marked and admitted into evidence.)

13 THE COURT: And all the other witnesses, I understand,
14 will be fairly brief; is that correct? So --

15 MS. SAMPSON: I believe that she would be the longest
16 witness.

17 MR. DELGADO: Yes, ma'am.

18 THE COURT: Okay. All right. Well, I'm fine with that,
19 and I have read -- we've got the stipulations. That will be
20 part of the record as well. Those would be filed.

21 I think you all gave me briefs on your positions, which
22 I've read.

23 MS. SAMPSON: The State did not respond. We're just
24 going to wait to respond orally --

25 THE COURT: Okay.

1 MS. SAMPSON: -- in terms of whatever Mr. Delgado -- the
2 only thing -- I believe that's in the stipulations. They
3 were only going under 440(c); so you won't get any response
4 to this under 440(a) because my understanding is he's not
5 proceeding under that.

6 MR. DELGADO: Your Honor, I think it's inartfully
7 drafted by the General Assembly under section A, to say the
8 least. Yes, but I think their -- I think their intent was to
9 intend the presumptions, but they didn't see to allege those
10 under the A section that presumption would -- would occur.
11 But at any rate, we are proceeding under section C of that
12 instead.

13 THE COURT: And then I have copies of a number of cases
14 that have specifically addressed this particular statute.

15 MR. DELGADO: Yes, ma'am.

16 THE COURT: So I'm sure they're -- and I can tell you
17 the ones that I have. And if there's some additional ones,
18 you can provide those to me.

19 Starting with State v. Duncan, Supreme Court, 2011. The
20 cite is 392 S.C. 404.

21 Then State v. Curry. Supreme Court of South Carolina,
22 2013, 406 S.C. 364.

23 Then State v. Douglas, a Court of Appeals case decided
24 in 2014. Cert was granted and then dismissed as
25 improvidently granted. The Court of Appeals cite is 411 S.C.

1 307.

2 Then the next one is State v. Jones. That's a Supreme
3 Court case decided in May 2016. That citation is 416 S.C.
4 283.

5 And there may be some other ones. I do have McCray,
6 that really wasn't a Castle, but it talked about some other
7 issues.

8 MS. SAMPSON: The only other one I'd ask the Court to
9 take a look at -- and I have -- and I'll give Mr. Delgado a
10 copy -- is State v. Manning. The cite is 418 S.C. 38, 791
11 S.E.2d 148. It was decided by the Supreme Court September
12 7th, 2016. It's the most recent case on the Castle doctrine.
13 Rehearing was denied on October 25th. So I would just add
14 there was initially another State v. Manning. The Court --

15 THE COURT: Yes.

16 MS. SAMPSON: This is the new here.

17 THE COURT: All right.

18 MS. SAMPSON: There are findings in it.

19 THE COURT: And I've probably seen it. I just didn't --
20 okay. Well -- and if there are any others that you find
21 overnight that I may have overlooked or -- I know that there
22 have been some clarification on some of the positions that
23 the Court has taken and I know some of that has been argued.

24 Okay. Anything else?

25 MS. SAMPSON: Not from the State.

1 MR. DELGADO: No, ma'am.

2 THE COURT: Okay.

3 MR. DELGADO: Thank you.

4 THE COURT: I appreciate your patience. I appreciate
5 you coming this afternoon and we could get started, and then
6 we'll pick up tomorrow morning -- let's say at 9:30 -- with
7 the -- the testimony.

8 MS. SAMPSON: Thank you, Your Honor.

9 MR. DELGADO: Thank you, Your Honor.

10 THE COURT: All right. If there's nothing else, then
11 have a good evening. We'll see you in the morning.

12 (WHEREUPON, the proceedings adjourned for the day of
13 4:07 p.m.)

14 JANUARY 27, 2017

15 (WHEREUPON, the proceedings resumed at 9:51 a.m.)

16 THE COURT: Going back on the record now for the State
17 versus Gregg Pickrell.

18 Counsel, I did have the opportunity to read at least one
19 of the exhibits last night. During the course of -- during
20 the course of reading that, it became obvious to me that it
21 would be helpful if I did have the videos because I think
22 it's important to view the demeanor and -- and to view what
23 happened during the course of the conversation. I think it
24 would be helpful for me in determining issues related to the
25 credibility and the entire process.

1 And so I would like to -- I know I have the transcript,
2 but I also would like to have the videos as well. And those
3 can just be marked as a Court's exhibit or they can be marked
4 as 1-A, 1-B or 1-A, 2-B -- 1-A, 2-A, whenever you get them.
5 It doesn't have to be right now. It doesn't have to be this
6 moment. You know, just -- it doesn't have to be today, but
7 as long as I get them sometime.

8 (WHEREUPON, there was a pause in the proceedings for
9 counsel to confer, after which the proceedings resumed
10 as follows.)

11 MR. DELGADO: Your Honor?

12 THE COURT: Yes, sir.

13 MR. DELGADO: Mr. Pauling, as professional as he always
14 is, reminded me that in-between the first and the second
15 video, Mr. Cox met with Ms. Pickrell. That is recorded on
16 the audio. I have listened to that. I've reviewed that and,
17 as far as any violations of confidentiality or privilege, we
18 will waive that portion. It may be -- as Mr. Pauling said,
19 it may be 35 seconds that Mr. Cox is in the room with her
20 alone.

21 THE COURT: And -- and I'm happy to have you redact it
22 or just --

23 MR. PAULING: We can do that.

24 THE COURT: Or just --

25 MR. DELGADO: Okay.

1 THE COURT: Yeah.

2 MR. DELGADO: We can do that. That would be fine.

3 THE COURT: That would be the safest thing to do to make
4 sure that I'm just not listening to something I really don't
5 need to listen to.

6 MR. DELGADO: That would be fine.

7 MR. PAULING: Thank you, Your Honor.

8 MR. DELGADO: Your Honor --

9 THE COURT: So I'll wait until you get a redacted copy
10 of it before --

11 MR. PAULING: And for the record, Your Honor, so you --
12 so you're aware --

13 THE COURT: It's one video that goes --

14 MR. PAULING: Well, it's -- it's -- it's one. It's one
15 video. It's on Inv. Bailey's interview of Ms. Pickrell.

16 There's about a 35-second portion and in the transcript
17 is says there's a private conversation that has not been
18 transcribed and then on the -- at the very end of the
19 interview once the interview is over, Mr. Cox has some
20 conversation and it appears -- and then, I believe, Ms.
21 Pickrell is in the room by herself and there's nothing but --
22 it's about six minutes at the tail end, but there's no more
23 interview or anything like that.

24 This was something that came up actually prior to the
25 bond hearing, Your Honor. I brought it to Mr. Delgado's

1 attention because in preparation for the bond hearing,
2 because there were statements that were made, I wanted him to
3 look at it.

4 When I became aware of the situation -- and so the Court
5 is aware, I've told Mr. Delgado I have not listened to it at
6 all. At the time it came up, I even spoke with Inv. Taylor
7 about that matter and, at that time, it's my understanding he
8 hadn't even reviewed the video. He knew an interview,
9 obviously, had taken place. He talked to DeVors and Bailey,
10 but he had not reviewed it. He simply had burned it from
11 their system, their in-house system, and put it on a disc.

12 But at any rate, I brought that to Mr. Delgado's
13 attention before the bond hearing and, even at that point,
14 Judge, I prepared a memo for Judge Hood, who was the chief
15 administrative judge at that time, just to explain to him in
16 detail what the situation was.

17 That was forwarded to Judge Hood. I did not hear
18 anything further. I did not hear anything at all from Judge
19 Hood about it. I had provided Mr. Delgado, obviously, the --
20 all of the interviews at full-length so he would know
21 obviously, you know, what was there, but I just wanted the
22 Court to understand that for the record, and we will have it
23 redacted and provide it to the Court.

24 THE COURT: And I'm happy to have you to redact it per
25 the transcripts. So if it's -- if it's -- if it's reflected

1 that's a private conversation in the transcript, redact it
2 out and then at the end -- at the end of the second
3 transcript, you can redact the rest of that as well since
4 that's not going to be something that I'm going to consider.

5 MR. PAULING: Right. Thank you, Your Honor.

6 THE COURT: Thank you. I appreciate it. Anything we
7 need to take up before we get started otherwise?

8 MS. SAMPSON: No, Your Honor.

9 MR. DELGADO: Your Honor? Excuse me.

10 MS. SAMPSON: I'm sorry. Nothing from the State.

11 MR. DELGADO: Your Honor, there's just one matter and I
12 wanted to make certain that, out of an abundance of caution,
13 I did this at the outset so that I don't forget this.

14 Your Honor, I appreciate your wanting to listen to the
15 conversations. Last evening, I realized maybe I hadn't done
16 everything I needed to for the client and maybe for the Court
17 if I kept you from hearing and observing what may be on the
18 tape; so I appreciate that.

19 I was going to go into that maybe later, but, Your
20 Honor, the thing that I want to be able to ask the Court now
21 is to be able to move into evidence all the stipulations that
22 we have agreed to. By that I mean save for the Newport News
23 Police Department, which the Court has ruled inadmissible, as
24 well as my letter and the service of process on Ms. Shuford
25 in North Carolina. Those are -- have been deemed not

1 admissible. Each of those is in your file copy. I'd like to
2 be able to simply move those for the purpose of the record
3 into the record as evidence now.

4 THE COURT: Except for those two?

5 MS. SAMPSON: And I think the only -- and I will
6 apologize. I literally didn't expect anything; so I
7 physically don't have the stipulation in front of me. I
8 think that we stipulated that we would not have to prove
9 chain of custody so that any physical evidence could come in,
10 and he's now asking for all that to come in now.

11 The stipulations per our belief was that so that if
12 anything wanted to be introduced and moved in, it could, not
13 that we had to put it all in right now for Your Honor to have
14 to take into account or look at. And so we don't even have
15 the physical evidence here to move in, but we stipulated to
16 that. So what you're doing now is introducing evidence we
17 don't even have here.

18 MR. DELGADO: See, I have -- I have the majority of it.

19 MS. SAMPSON: The phones. The physical evidence.

20 (WHEREUPON, there was a pause in the proceedings for
21 counsel to confer, after which the proceedings resumed
22 as follows.)

23 MR. DELGADO: I will -- I will agree with you -- we
24 don't have to place it into evidence for the Court -- that
25 that does exist and that those two do causally connect and

1 would be part of the State's case, even if we do not have
2 those physically present. How about that?

3 MS. SAMPSON: All I'm asking is -- and I think that we
4 also may need to -- and in terms of introducing, we might
5 need to have exhibit numbers. I don't think we can just sua
6 sponte put everything in simply because we stipulated that
7 they were admissible and authenticated. I think we still
8 have to label them and introduce them.

9 THE COURT: Sure. Sure. I mean they need to have
10 exhibit numbers, but -- but in terms of -- I was thinking in
11 terms of the written stipulation. That that's basically what
12 you're referring to.

13 MR. DELGADO: Yes, ma'am.

14 THE COURT: But if there are additional exhibits, they
15 would still need to have some type of exhibit number on them.

16 MR. DELGADO: Fine.

17 MS. SAMPSON: And maybe I misheard Mr. Delgado. I
18 thought he was asking Your Honor to go ahead and introduce
19 all the evidence that we have stipulated as admissible and
20 authentic, and that's a -- that could potentially be a lot of
21 things.

22 MR. DELGADO: Your Honor, I was, until the solicitor
23 corrected me and taught me the error of my ways, but I
24 understand. Yes, ma'am.

25 THE COURT: Okay. So we'll -- the things we talked

1 about yesterday, which were your -- your attachments --

2 MR. DELGADO: Yes, ma'am.

3 THE COURT: Is there any objection to those? If we get
4 those marked and have -- put exhibit numbers on them, I don't
5 -- if there's not an objection to those, we can do that.

6 MS. SAMPSON: The ones that you say were admissible,
7 yes, Your Honor.

8 THE COURT: Yes.

9 MS. SAMPSON: Yes.

10 THE COURT: So the only thing you need to do, Mr.
11 Delgado, is have exhibit numbers placed on those and then
12 those would be admissible. I think the other ones would be
13 made as -- if you have none, as Court's exhibits?

14 MS. SAMPSON: I believe the attachments -- because he
15 made them part of the memorandum of his memo for this hearing
16 as attachments, they were already in that. I think all you
17 did was add the one that was not in the memorandum, the
18 letter from Mr. Delgado.

19 THE COURT: Right.

20 MS. SAMPSON: And -- but we didn't introduce that as
21 evidence yesterday. You just said that we could make it part
22 of the Court's record.

23 THE COURT: Yes. And it was made part of the Court's
24 record. So that's in the record for review.

25 MS. SAMPSON: Correct.

1 THE COURT: I assume that any exhibits that are marked
2 as exhibits that we accept will always be available through
3 the clerk's office for any trial. You all can stipulate as
4 to -- if there is a trial at some particular point.

5 THE COURT REPORTER: But it would be a different court
6 reporter and she would have to remark them anyways.

7 MS. SAMPSON: Judge, we went through this and Your Honor
8 is not -- when we just did our last Castle hearing, we marked
9 all that. I had to then redo it anyway because it was a
10 different judge and a different court reporter.

11 THE COURT: Okay.

12 MS. SAMPSON: So we're going to have to redo it all if
13 there is a trial at some point --

14 THE COURT: Okay.

15 MS. SAMPSON: -- anyway.

16 THE COURT: Just as long as we all understand. I just
17 don't want there to be any misunderstandings. So, in other
18 words, you'll have to get additional copies or get certified
19 copies of what was there and then remark them.

20 MS. SAMPSON: Yes, ma'am.

21 THE COURT: Okay.

22 MR. DELGADO: All right. Your Honor, we'd call, as the
23 only witness for the petitioner, the defendant, Gregg
24 Pickrell.

25 THE COURT: Ma'am, if you'd step forward to be sworn,

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 please.

2 THE CLERK: Place your left hand on the Bible and raise
3 your right hand. State your full name.

4 THE DEFENDANT: Gregg Pickrell.

5 THE CLERK: Do you swear or affirm that the evidence you
6 will give in this case will be the truth, the whole truth,
7 and nothing but the truth, so help you God?

8 THE DEFENDANT: Yes, I do.

9 THE CLERK: Okay. Step this way and please have a seat
10 and state your full name for the record.

11 THE COURT: You can have a seat.

12 THE DEFENDANT: Thank you. Gregg Pickrell.

13 THE COURT: And would you please spell your first name
14 and your last name, please?

15 THE DEFENDANT: G-r-e-g-g.

16 THE COURT: And your last name?

17 THE DEFENDANT: Pickrell, P-i-c-k-r-e-l-l.

18 THE COURT: Thank you.

19 GREGG PICKRELL, being first
20 duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. DELGADO:

23 Q: Ms. Pickrell, very quickly, how old are you, ma'am?

24 A: Excuse me?

25 Q: How old are you?

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: I'm 63.

2 Q: Where do you live? Where do you reside?

3 A: I reside at [REDACTED] Baynard Boykin Road, Rembert.

4 Q: That's in Kershaw County?

5 A: Yes, sir.

6 Q: Ms. Pickrell, let me just get right to this and then we

7 will back up and explain a bit of the history. Did you, in

8 fact, shoot Robert Lamont Demary on the early morning of

9 September the 11th of 2014?

10 A: Yes, I did.

11 Q: Very quickly, why did you shoot him?

12 A: He was going to kill me, and he was going to kill my

13 mother.

14 Q: Ms. Pickrell, let's go back to 2008. You lived with

15 your mother? This is the lady in purple here on the end;

16 correct?

17 A: Yes, sir.

18 Q: Her name is Nora Keehn; correct? K-e-e-h-n-e?

19 A: No E on the end.

20 Q: I'm sorry.

21 A: K-e-e-h-n.

22 Q: H-n? I'm so sorry. How old is Ms. Nora Keehn?

23 A: She's 91.

24 Q: At the time of this occurrence, how old was she?

25 A: 89.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: You live with your mother on a farm called Far and Away
2 Farm; correct, ma'am?

3 A: Yes, sir.

4 Q: On Baynard Boykin Road in south Kershaw County?

5 A: Yes, sir.

6 Q: How did you come to live there?

7 A: We moved from the Mexican border of Arizona to the farm
8 with an entire ranch operation.

9 Q: When did you and your mother move there?

10 A: In 2007.

11 Q: Since that time, you and your mother have lived at Far
12 and Away Farm continuously?

13 A: Yes, sir.

14 Q: And your occupation is a horse trainer; is that correct?

15 A: Yes, sir.

16 Q: The property there is devoted to equine culture? By
17 that, I mean you stable, train, and house horses; correct,
18 ma'am?

19 A: Yes, sir.

20 Q: In September of 2014, how many do you imagine that you
21 had at that time?

22 A: We probably had over 20. We had between 20 and 30.

23 Q: All right. To run a farm operation, is it able to be
24 done just by you or do you have to hire employees?

25 A: We hired.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: Is your mother actively involved in the management or
2 the running of that farm or is that your responsibility?

3 A: That's my responsibility.

4 Q: In June -- excuse me. In August of 2008, I'd like you
5 to be able to explain to the Court --

6 MR. DELGADO: And, Your Honor, let me go ahead now --
7 and, Ms. Court Reporter, I believe this would be Defendant's
8 Exhibit Number 3. That's what I thought.

9 (WHEREUPON, Defendant's Exhibit Number 3, photograph,
10 was admitted into evidence.)

11 BY MR. DELGADO:

12 Q: Ms. Pickrell, I'm going to hand you Defendant's Exhibit
13 Number 3, which is contained in our motion for immunity that
14 is on file and the Court has. I want you to look at that and
15 see if you can identify it, and then tell Judge Lee what that
16 represents, what that shows?

17 A: This is a win photo from Louisiana Downs on October 9th,
18 2008.

19 Q: Where is Louisiana Downs located?

20 A: In Shreveport, Bossier City, Louisiana.

21 Q: What does that show? The picture?

22 A: It's a win photo of the mare that we took and ran, and
23 it is a famous picture because it was the 4000th win of
24 Patrick Valenzuela's career.

25 Q: Ma'am, at the very bottom, it shows a collection of

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 individuals with -- what is the name of the horse?

2 A: Burst of Light.

3 Q: It shows Burst of Light surrounded by a variety of
4 individuals. Explain to the judge how that photograph came
5 to be taken?

6 A: Well, it was a win photo, but it was celebrated because
7 Mr. Valenzuela, the jockey -- being that it was his 4000th
8 win, it was celebrated by basically the entire racetrack, the
9 entire jockey colony, and they had a cake there and there's
10 some officials from administration and myself and one of the
11 guys that worked for me.

12 Q: If this photograph was taken October the 9th, 2008, how
13 long had you been in Bossier City, Louisiana?

14 A: We had been in Bossier City since the end of September.

15 Q: How many individuals came with you from Far and Away
16 Farms to Bossier City?

17 A: It was myself and two guys that work for me.

18 Q: And who were they?

19 A: Tyrone Pearson, holding the horse, and Monty Demary.

20 Q: When you say Monty Demary, his God-given name is Robert
21 Lamont Demary; is that correct?

22 A: Yes, sir.

23 Q: It's the same individual?

24 A: Yes, sir.

25 Q: Would you explain to the judge why Mr. Demary is not

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 pictured in that photograph on October 9th of 2008?

2 A: Mr. Demary was in jail.

3 Q: Why?

4 A: He had attacked me in the barn, and I had him taken to
5 jail.

6 Q: If he had not been arrested, would he -- by logic, would
7 he have been in that photograph?

8 A: Yes. He would have probably insisted that he was
9 holding the horse.

10 Q: Who is holding that horse?

11 A: Tyrone Pearson.

12 Q: Mr. Pearson went with you and Mr. Demary; correct?

13 A: Yes.

14 Q: What was the relationship between those two individuals?

15 A: It was not comfortable.

16 Q: Explain for the Court whether or not Mr. Demary ever
17 threatened the life of Mr. Tyrone Pearson?

18 MS. SAMPSON: Objection, Your Honor. Mr. Pearson is not
19 here. That does not go to the relevance of what happened in
20 2014 when Mr. Demary was assaulted and killed. I don't
21 believe that it's relevant to what we're here about, which is
22 whether the Castle should be applied. Any threats made back
23 then in 2008 were between him and this particular individual,
24 who is not here.

25 MR. DELGADO: Your Honor, if the Court -- and you please

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1 correct me if I'm wrong. In our pretrial hearing yesterday
2 afternoon, you said that if she, that is Ms. Pickrell, knew
3 of threats to Mr. Pearson that that would underlie and
4 hopefully ask for the Court to be able to review its
5 preliminary motion about the Tyrone Pearson communication to
6 the Camden Police Department of a threat of death. This is
7 what I'm going to.

8 THE COURT: I think she can testify as to what she has
9 personal knowledge of. In other words, through -- as through
10 personal observation. If she was present, you know, what she
11 observed. To the extent that it -- that it may be something
12 she heard about or she was told by someone else --

13 MR. DELGADO: Yes, ma'am.

14 THE COURT: You know, that would constitute hearsay.

15 BY MR. DELGADO:

16 Q: Were you physically present to hear interaction between
17 Tyrone Pearson and Monty Demary?

18 A: Yes, many times.

19 Q: And what -- there in Louisiana in Bossier City?

20 A: Yes, sir.

21 Q: What did you hear?

22 A: He would come into the barn.

23 Q: Who is he?

24 A: Excuse me. Monty Demary would come into the barn late
25 and they would have terrible words, and he told Tyrone

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Pearson that he was going to kill him if he left him at the
2 motel ever again, and it happened over and over. He would
3 never appear for work.

4 Q: After this picture -- and I'm going to jump ahead for a
5 second and I want to come back. After this picture in
6 November of 2008, some month maybe, just a month later, did
7 you hear from Tyrone Pearson that he had been threatened by
8 Mr. Demary?

9 A: Yes.

10 MS. SAMPSON: Objection, Your Honor. That's, again, now
11 what Tyrone Pearson is telling her.

12 THE COURT: If it's -- if it's hearsay -- I would agree
13 that it's hearsay, and I'm not sure that it's subject to an
14 exception at this particular point.

15 MR. DELGADO: All right, ma'am.

16 BY MR. DELGADO:

17 Q: Ms. Pickrell, I'm going to hand you -- if you will,
18 count these numbers of pages that I'm handing you and see if
19 you can identify that, and then look up at me when you're
20 through.

21 A: There are nine pages here, sir.

22 Q: And what does that consist of and what does that show?

23 A: This is the police report made by the Bossier County
24 Police Department at the racetrack and the incident report
25 and the pictures that went with it.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 MR. DELGADO: Your Honor, I'd now introduce that as
2 Defendant's Exhibit Number 4.

3 THE COURT: Any objection?

4 MS. SAMPSON: No, ma'am.

5 THE COURT: It's admitted.

6 (WHEREUPON, Defendant's Exhibit Number 4, police report
7 and attachments, was admitted.)

8 BY MR. DELGADO:

9 Q: Ms. Pickrell, this is now -- I'm handing you Defendant's
10 Exhibit Number 4, and I want you to look at that for just one
11 second. Do you recall being interviewed by police officers
12 of the Bossier City Police Department that day at Louisiana
13 Downs?

14 A: Yes, sir.

15 Q: Do you recall relating to those investigating officers
16 names and actions by Mr. Demary directed at you?

17 A: Yes, sir.

18 Q: What physically did he do? And if you may, you may
19 refer to page 5 of that incident report.

20 A: Monty was late getting to the barn and he was in a
21 terrible mood and he proceeded to yell at me. He yelled at
22 Tyrone. He was rough with the horses, and he had called me
23 names: slut, bitch, cunt. And during the altercation, the
24 verbal altercation in the shed row, he told me "fuck you"
25 several times. He then hit me in my side and, at that point,

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 I called -- they were leaving. The two guys were leaving.
2 Monty and Tyrone were leaving the racetrack. I believe it
3 was maybe around lunchtime.

4 Q: The point is that you had him arrested?

5 A: Yes. I had him arrested.

6 Q: What else did he do physically to you?

7 A: He threw a Gatorade bottle and hit me in the right side
8 of my face.

9 Q: Ma'am, if you look down at line 9 to refresh your memory
10 on page 5, would you just read that to yourself and then
11 recall what you told the police officers about the physical
12 assault of Mr. Demary on you?

13 A: He hit me in the ribs with a closed fist, and I told the
14 police. I recalled everything that he had done.

15 Q: The last page of that exhibit, Number 4, shows four
16 different photographs on one page?

17 A: Yes, sir.

18 Q: That is you in Bossier City, Louisiana?

19 A: Yes, sir.

20 Q: The bruising here on your left hip -- how did that
21 occur?

22 A: He hit me.

23 Q: Ms. Pickrell, after the incident involved in that
24 Bossier City, Louisiana, incident, did you leave Louisiana to
25 come back to Camden and Kershaw County?

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: Yes, sir.

2 Q: With whom did you come?

3 A: I drove one of the trucks and Tyrone drove the second
4 truck.

5 Q: Where was Mr. --

6 A: Tyrone Pearson.

7 Q: Where was Mr. Demary?

8 A: Mr. Demary was incarcerated in -- north of Benton,
9 Louisiana.

10 Q: How long was he in jail for then?

11 A: I believe 60 days.

12 Q: Did he ever return to Camden or Kershaw County, South
13 Carolina?

14 A: Yes, he did.

15 Q: Would you explain, ma'am, did he ever then take up a
16 relationship with you as an employee of the farm when he came
17 back from Louisiana?

18 A: No.

19 Q: Was he ever employed by you again?

20 A: Later.

21 Q: All right. Where did he go, as far as you know, either
22 to find work or to keep work?

23 A: When Monty returned from Louisiana, he was here for
24 approximately a couple of months, and then he went north. He
25 went up north.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: If this was the end of 2008, how long was he gone?

2 A: He was gone from the beginning of 2009 to about May of
3 2011.

4 Q: After May of 2011, did he return to Kershaw County and
5 to seek employment with you?

6 A: Yes, sir.

7 Q: Would you explain how that relationship occurred? How
8 -- what were the circumstances of it? And let's begin -- did
9 that become a personal relationship?

10 A: Yes, sir.

11 Q: And had it become a personal relationship by even
12 September -- October of 2008?

13 A: I'm sorry. 2008?

14 Q: Yes, ma'am?

15 A: Yes. Yes, sir.

16 Q: He left and returned in May -- mid-May or midyear 2011.
17 Where did he find employment?

18 A: He came to the farm. He wanted part-time work, which is
19 really all I could handle. I didn't have any other people
20 really working for me.

21 Q: Was he rehired?

22 A: Part-time. He'd come in and mow -- mow and bush-hog on
23 the farm.

24 Q: Ma'am, from 2011 up until September the 11th of 2014,
25 approximately two-and-a-half years -- three years and three

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 or four months, was he assaultive of you? Did he -- was he
2 assaultive of you?

3 A: Yes, sir.

4 Q: What would he do?

5 A: He would arrive at the farm and it would -- there was
6 always altercations. Always altercations, and he assaulted
7 me and there was horrendous arguments and I -- I -- I started
8 taking pictures. I took pictures of myself.

9 Q: Why?

10 A: I needed to have a record for my mother because I felt
11 -- I was in fear that I would up dead in my house, and I
12 wanted my mother to have some sort of a map that would tell
13 her what had happened to me.

14 Q: Why didn't you call the police?

15 A: I did call the police.

16 Q: When?

17 A: I --

18 Q: When?

19 A: I -- I called -- I went to -- after Louisiana, I took an
20 order of protection, a restraining order, copy of that from
21 Louisiana and I went to the Kershaw County Sheriff's and I
22 turned it over. I had Barbara Jones file it for me, and I
23 believe there were pictures in that too.

24 Q: Let's hold for just one second. Who was Ms. Barbara
25 Jones? What was her capacity with the Kershaw County

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Sheriff's Department?

2 A: Barbara Jones was the victim's advocate.

3 Q: And you gave to her the order of protection from the
4 Louisiana court?

5 A: Yes, sir.

6 MR. DELGADO: Your Honor, in my attempted ultimate
7 preparation, I have that somewhere on my desk, and I'd like
8 to be able to get that and show that to her, but in the flow
9 of things, I will simply wait for one second and see if I can
10 find that.

11 MS. SAMPSON: I mean, if you want to stop and --

12 MR. DELGADO: All right.

13 (WHEREUPON, there was a pause in the proceedings, after
14 which the proceedings resumed as follows.)

15 MR. DELGADO: Your Honor, may I just give this to the
16 solicitor and let them make a copy of it?

17 THE COURT: Sure.

18 MR. DELGADO: And then I'll supplement my portion of
19 direct by then admitting this.

20 BY MR. DELGADO:

21 Q: Ms. Pickrell, we'll get back to that in just one minute.
22 I want to ask you to review three pages of photographs and
23 see if you can identify those as to who took those?

24 A: I took all of these, sir.

25 MR. DELGADO: Your Honor, by stipulation this will be

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Defendant's Exhibit Number 4 --

2 THE COURT REPORTER: 5.

3 MR. DELGADO: -- 5. I apologize. Just one second.

4 (WHEREUPON, Defendant's Exhibit Number 5, photograph,
5 was admitted into evidence.)

6 BY MR. DELGADO:

7 Q: Ms. Pickrell, this is Defendant's Exhibit Number 5. I'd
8 like you to be able to orient yourself with this photograph
9 to then show the Court how this -- what this photograph
10 describes.

11 A: This is my -- my throat and my chin. You can see my
12 lips. And there are two enormous bruises that Monty did with
13 his fingers like this. He held me over the kitchen counter
14 and -- (crying).

15 Q: All right. Let me just -- let me just -- all right.
16 Let me just go ahead. This -- look at me directly. Put your
17 hands on my neck to show how this photograph was taken.

18 A: (Gesturing.) Like this.

19 Q: How long a period of time would you be held like this?

20 A: I don't know. He stopped because I defecated myself and
21 he stopped. He stopped because he smelled it and he --
22 that's the only reason he stopped. He smelled it.

23 Q: Okay. Okay. All right.

24 A: And he --

25 Q: That's all right. That's okay.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: Can I say what he said to me?

2 Q: Sure.

3 A: He said I made you shit yourself, you fucking bitch.

4 And he said -- he said --

5 Q: Okay.

6 A: Go take a shower. I don't want to get any shit on my
7 dick.

8 Q: Okay. Okay. Let's move to the -- you took this
9 photograph how?

10 A: I took it after the -- with my phone. I took it with my
11 phone.

12 Q: So you photographed yourself with your iPhone or with a
13 photo phone?

14 A: A phone. With just a phone. This is -- these were
15 taken in the mirror with -- these were earlier. These were
16 taken with my camera in the mirror.

17 Q: Let's just look at the very first -- first page of the
18 multi-picture page of Defendant's Exhibit Number 5. Would
19 you show --

20 MS. SAMPSON: Your Honor, I hate to interrupt. Is it
21 possible instead of doing 5 with multiple pictures, we do 5,
22 6, 7?

23 MR. DELGADO: Sure.

24 MS. SAMPSON: I just think for the record, it would be
25 cleaner.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 MR. DELGADO: Yeah.

2 (WHEREUPON, Defendant's Exhibits 5, 6, and 7,
3 photographs, were admitted into evidence.)

4 BY MR. DELGADO:

5 Q: All right, Gregg. I'm going to hand you now what has
6 been independently marked now as Defendant's Exhibit Number
7 6. What does that depict?

8 A: Those are pictures that I took of bruises. I took them
9 with my Pentax camera looking into the mirror.

10 Q: Is that the same thing as Defendant's Exhibit Number 7?

11 A: Yes, sir.

12 Q: Those 6 and 7 were found -- were made at the same time;
13 is that correct?

14 A: Yes, sir.

15 Q: All right.

16 (WHEREUPON, there was a pause in the proceedings as
17 counsel conferred, after which the proceedings resumed
18 as follows.)

19 BY MR. DELGADO:

20 Q: Gregg, I'm going to hand you five different printouts
21 and see if you can identify some of the photos that are on
22 those printouts?

23 A: Individually, sir?

24 Q: Yes, ma'am. Go to the next -- go to the next page and
25 the next page.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: There are 12 pictures there.

2 MR. DELGADO: Your Honor, the defendant moves
3 Defendant's Exhibits 8, 9, 10, 11, 12, and 13, please.

4 MS. SAMPSON: Without objection.

5 THE COURT REPORTER: That would be 8 through 12.

6 MR. DELGADO: Sorry, 12. Right.

7 THE COURT: And so, again, those are Numbers 8, 9, 10,
8 11, 12?

9 MR. DELGADO: Yes, ma'am. Not 13. I'm sorry.

10 (WHEREUPON, Defendant's Exhibits 8 through 12, printouts
11 of photographs, were admitted into evidence.)

12 BY MR. DELGADO:

13 Q: Gregg, on Defendant's Exhibit Number 11, I want to see
14 if you can identify the individual portrayed there. Who is
15 that?

16 A: That is -- that is me.

17 Q: How many photographs on Defendant's Exhibit Number 11
18 does that show you or portions of your body?

19 A: I believe there are 12 pictures of me.

20 Q: No. On that page?

21 A: Oh, I'm sorry. There are four on this page. I'm sorry.

22 Q: The second one down on Defendant's Exhibit Number --
23 Number 8, what does that show?

24 A: It shows my breast with a bruise on it.

25 Q: The last photograph on Defendant's Exhibit 8 shows whose

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 face?

2 A: My face.

3 Q: What does it show on your bottom right cheek or jaw?

4 A: It's a cut and a huge bruise.

5 MR. DELGADO: Your Honor, maybe I could go through all
6 of these and then give them to the Court to let you review?

7 THE COURT: That's fine. Yes.

8 BY MR. DELGADO:

9 Q: Defendant's Exhibit Number 9, ma'am. What does that
10 show?

11 A: It shows two pictures of bruising on my breast.

12 Q: Defendant's Exhibit Number 10?

13 A: It shows two pictures of bruising.

14 Q: Defendant's Exhibit Number 11?

15 A: It shows three pictures of bruising. One is the picture
16 of the throat.

17 Q: Defendant's Exhibit Number 12?

18 A: The picture on the top is bruising.

19 Q: All right. How did this bruising depicted in 8, 9, 10,
20 11, and 12 occur?

21 A: At the hands of Monty Demary.

22 (WHEREUPON, there was a pause in the proceedings for
23 counsel to confer, after which the proceedings resumed
24 as follows.)

25 BY MR. DELGADO:

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: Ms. Pickrell, earlier you said that you had given -- you
2 had received from the Bossier City Police Department an order
3 of protection that was taken out in your name?

4 A: Yes, sir.

5 Q: Who was --

6 A: Yes, sir.

7 Q: And who was it protection from?

8 A: Robert Lamont Demary.

9 Q: I'm going to hand you -- some of this is already in
10 evidence, but the first five pages of this -- I want to see
11 if you could just identify that?

12 A: This first five?

13 Q: Yes, ma'am?

14 A: The first page was given to me by the victim's advocate
15 in Bossier City.

16 Q: The second page of that? Go ahead.

17 A: The second page is what I signed to get the order of
18 protection. I believe that went with that order of
19 protection. I guess it's a restraining order.

20 Q: Yes, ma'am. The next page?

21 A: It was a -- it looks like a description of what happened
22 at the racetrack.

23 Q: All right. Next page?

24 A: It's all the information that went to the Bossier City
25 police.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: Did you get a copy of all of that?

2 A: I got a copy of the top page and I got a copy of this --
3 of the incident report.

4 Q: And to whom did you give that?

5 A: When I came back, I gave that to Barbara Jones.

6 Q: When you came back? That is when you came back to
7 Kershaw County following the Louisiana Downs race in
8 September and October of 2008?

9 A: Yes, sir.

10 MR. DELGADO: Your Honor, we'd move this, with the
11 concurrence of the solicitor, Defendant's Exhibit Number 13.

12 MS. SAMPSON: Without objection, Your Honor.

13 THE COURT: It's admitted. And they're all admitted.

14 MS. SAMPSON: Yes, ma'am.

15 (WHEREUPON, Defendant's Exhibit Number 13, order of
16 protection, was admitted into evidence.)

17 BY MR. DELGADO:

18 Q: Ms. Pickrell, let me jump back in time to June 2008. Do
19 you know Mr. Demary's grandmother? I believe it's his
20 maternal grandmother.

21 A: Yes, sir.

22 Q: What was her name?

23 A: Estelle Belton.

24 Q: Ms. Belton has now passed; correct?

25 A: Yes, sir.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: Did you ever receive a letter from Ms. Belton in June
2 2008?

3 A: Yes, sir.

4 Q: I'm going to hand you two pieces of paper and see if you
5 can identify that, please?

6 A: Yes. This is the outside of the envelope, a copy of the
7 outside of the envelope written by Estelle, and this is the
8 letter that she sent me.

9 Q: All right.

10 MR. DELGADO: Your Honor, with the State's concurrence
11 and stipulation, Defendant's Exhibit Number 14.

12 THE COURT: It's admitted.

13 MS. SAMPSON: I just -- for the record --

14 THE COURT: Subject to --

15 MS. SAMPSON: I renew -- I objected to that.

16 MR. DELGADO: I'm sorry.

17 MS. SAMPSON: So I just need to enter my objection.

18 THE COURT: Subject -- subject to your objection. We
19 discussed it yesterday at pretrial.

20 (WHEREUPON, Defendant's Exhibit Number 14, letter, was
21 admitted into evidence.)

22 BY MR. DELGADO:

23 Q: Ms. Pickrell, the first line -- would you just read the
24 first line of that letter from Ms. Estelle? First of all,
25 what's the date on the letter?

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: June 10th, 2008.

2 Q: What does it say? Just read it.

3 A: Hi, Gregg. I am so sorry that you and Monty couldn't
4 get along and you had to fire him.

5 Q: Stop right there. Is that -- did it have to do with
6 your administration or reduction in force? Not enough money?
7 What was the reason that you fired Monty Demary?

8 A: Monty was unruly in the barn and everybody saw that he
9 was yelling at me and he was beating me up.

10 Q: Why does Ms. Belton talk about Monty's temper problem?
11 Did he have a temper problem?

12 MS. SAMPSON: Objection, Your Honor. I don't think she
13 can speculate as to why Ms. Belton was talking to her about
14 him.

15 MR. DELGADO: All right. I'll withdraw it. Let me
16 rephrase it another way.

17 BY MR. DELGADO:

18 Q: Did Monty Demary have a temper problem as known through
19 and to you?

20 A: Yes. Explosive.

21 Q: Gregg, let's move ahead to mid-summer, early fall,
22 August 2014. Let's move right to -- immediately, let's move
23 to the 10th of September of 2014. Where were you that day and
24 when did you come into contact with Monty Demary?

25 A: I worked all day on the farm and, at about 10:00 that

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 night of the 10th, Monty came to the house. He came to the
2 farm.

3 Q: And approximately what time was this?

4 A: He arrived approximately 10:00 at night.

5 Q: Now, I know my friends have a large aerial map of your
6 property there. How far is your home from a paved road or a
7 road in which traffic is occasional, if not every day?

8 A: My -- my house is, I would say, a half a mile or three
9 quarters of a mile from Baynard Boykin Road.

10 Q: So if someone --

11 (WHEREUPON, there was a pause in the proceedings as an
12 aerial view map was placed on an easel, after which the
13 proceedings resumed as follows.)

14 BY MR. DELGADO:

15 Q: Gregg, let me just -- see if you can orient yourself to
16 what this depicts, what this shows?

17 A: This is the 123-acre farm that we live on.

18 Q: Where is Baynard Boykin Road?

19 MS. SAMPSON: For the record, Your Honor, I just want
20 the record to reflect that this will be State's Exhibit
21 Number 1.

22 MR. DELGADO: Sure.

23 MS. SAMPSON: For the record. It's not marked yet, but
24 we will get it marked so you can refer to it as a State's
25 exhibit.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 MR. DELGADO: Absolutely.

2 BY MR. DELGADO:

3 Q: On proposed State's Exhibit Number 1, is this -- where

4 is Baynard Boykin Road?

5 A: Baynard Boykin Road is right here, sir.

6 Q: All right. I'll show you what's an address in

7 Defendant's -- excuse me -- State's Exhibit -- proposed

8 Exhibit Number 1, [REDACTED] Baynard Boykin Road, and it shows

9 apparently a little residence or a home?

10 A: Yes, sir.

11 Q: Who lives there?

12 A: My mother.

13 Q: That's Nora Keehn. On this property, where do you live?

14 A: I live right here, sir.

15 Q: That where you're pointing is where this shooting took

16 place on the morning of the 11th of September, 2014?

17 A: Yes, sir.

18 THE COURT: Mr. Delgado?

19 MR. DELGADO: Yes, ma'am.

20 THE COURT: If you would, hand it to the court reporter.

21 MR. DELGADO: Oh, I'm --

22 THE COURT: I think she has a sticker to put on it.

23 MR. DELGADO: Okay.

24 MS. SAMPSON: Thank you, Your Honor.

25 THE COURT: Thank you.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 BY MR. DELGADO:

2 Q: If someone came to your residence that's here in State's

3 Exhibit Number 1, if they were dropped off on Baynard Boykin

4 Road, how would they find your house up here at the tip of

5 where my blue marker is? How would they get there?

6 A: Walk.

7 Q: Can you drive that way?

8 A: Yes, sir.

9 Q: On the night of the 10th of September, 2014, did Monty

10 Demary come to your home at [REDACTED] Baynard Boykin Road?

11 A: Yes, sir.

12 Q: How did he arrive? Did he drive?

13 A: No. He came in a taxi.

14 Q: Did he drive the taxi all the way to your home?

15 A: No.

16 Q: How did he arrive at your specific home?

17 A: He walked from Baynard Boykin Road.

18 Q: Here?

19 A: Yes, sir.

20 Q: And he walked or somehow came from here to your home?

21 A: Yes, sir.

22 Q: Was that a usual thing for Mr. Demary?

23 A: Yes, sir.

24 Q: Before the night of the 10th of September, how many times

25 had he been out there? Let's just say two weeks before, in

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 the intervening -- in the two weeks before September the 10th?

2 A: Monty had come to the house I believe the Friday,
3 Saturday, Sunday, and Monday night before. I don't know the
4 dates. I'm sorry.

5 Q: As we've noted previously, your relationship with Mr.
6 Demary was more than just an employer/employee relationship;
7 right?

8 A: Yes, sir.

9 Q: You were having a personal sexual relationship with him
10 as well; correct?

11 A: Yes, sir.

12 Q: At approximately 10 p.m. on the night of September the
13 10th, 2014, he came to your home?

14 A: Yes, sir.

15 Q: Did you invite him inside your home?

16 A: He showed up. He was on the -- he was on the porch.

17 Q: What was the -- what was the typical way and what
18 happened that night about him coming into -- under the roof
19 of your home? Did he do that with invitation or without
20 invitation?

21 A: He was there. He was on the porch and he was -- I mean
22 there was no stopping Monty if he -- he was there.

23 Q: Did you ever tell him to leave?

24 A: Before or that night?

25 Q: Let's say that night.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: That night, you didn't tell Monty to leave. You didn't.

2 Q: Why?

3 A: He -- Monty did what he wanted to do and that was that.

4 It was his way or no way.

5 Q: Tell the Court about the frame of your door on your --
6 first of all, describe how big that residence is?

7 A: It's very small. It's under 800 square feet. It's like
8 725 square feet.

9 (WHEREUPON, there was a pause in the proceedings as
10 counsel conferred, after which the proceedings resumed
11 as follows.)

12 BY MR. DELGADO:

13 Q: Gregg, this is a diagram of the home that you have
14 described that you lived in?

15 A: Yes, sir.

16 Q: That is on the property that is depicted in State's
17 Exhibit Number 1?

18 MR. DELGADO: We'd move this, Your Honor, without
19 objection, I imagine, from the State as Defendant's --

20 MS. SAMPSON: No objection.

21 MR. DELGADO: -- Exhibit 15? 15.

22 THE COURT: It's admitted.

23 (WHEREUPON, Defendant's Exhibit Number 15, diagram of
24 home, was admitted into evidence.)

25 BY MR. DELGADO:

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: When you say you don't tell Monty no, what would happen
2 if you told Monty no?

3 A: You paid hell.

4 Q: How?

5 A: He'd beat me up, slather me around the house like a
6 Raggedy Ann doll.

7 Q: There's a door right where my blue pointer is that comes
8 off a porch onto the interior of your home. Would you tell
9 the judge about what had happened to that doorframe in the
10 past and what -- and who had done that?

11 A: Yes. Monty -- it's a metal door and he -- it was locked
12 and I had not invited him in, and he came and he kicked the
13 door -- the metal door in, and it -- the frame of the door is
14 totally detached from the wall from the kick.

15 Q: Did you try to fix the door?

16 A: I tried to put a hasp and a lock so you can put a lock
17 on the top of it. I tried to do that.

18 Q: What did he say about that?

19 A: It didn't matter. He'd come back and he -- if he
20 couldn't get in the door, he said he was going to break the
21 windows.

22 Q: On the night of the 10th of September, 2014, he came to
23 your home. Did you hold the door for him?

24 A: No.

25 Q: He just come in?

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 A: He arrived on the porch, and there's a glass storm door
2 there. It was in the summer; so the main door -- metal door
3 was not -- it was not closed. I could see him on the porch.
4 He was on the porch. The light was on.

5 Q: Did you hold the door for him to come in?

6 A: No.

7 Q: What did he do?

8 A: He -- I saw him. He came in.

9 Q: If that's approximately 10:00 on that night, let's say
10 between 10 and 12, explain to the Court what happened as you
11 all were seated outside the house. There's a little plastic
12 table out there. Tell the Court what you and Monty were
13 doing out there by that table?

14 A: We had poured a drink and we were outside at the table
15 on this side of the house.

16 Q: Is that depicted here?

17 A: No.

18 Q: All right.

19 A: It's -- yeah.

20 Q: How far away is that little table?

21 A: Probably just -- just before that blue sticker.

22 Q: Okay. Fifteen -- 20 -- 30 feet maximum?

23 A: Very, very close.

24 Q: You and Monty were seated at that table?

25 A: Yes. We were seated at the table and the -- when he

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 arrived, he was very agitated when he arrived that night and
2 we sat and we were sitting having a drink, and the sheriff's
3 hound started to howl.

4 Q: Let's get to this one second.

5 A: Okay.

6 Q: Did you attempt to leave that table?

7 A: Yes. After -- after an altercation -- after an
8 argument.

9 Q: An argument involving a dog and a sheriff's dog or
10 hearing something?

11 A: Yes.

12 Q: Did he say something antagonistic towards the sheriff?

13 A: Yes, sir.

14 Q: What did you say to him? What did you sense was
15 happening with him at that time?

16 A: He was angry. He was angry about everything going on
17 that night, the sheriff, the president was speaking about
18 ISIS. He was -- he was very, very angry about everything,
19 and the howling dog was -- basically, was -- I knew I had to
20 get up after there was an altercation or an argument about
21 the howling hound, which is just down -- it's down the road
22 and in -- in the forest down here.

23 And he said it's not the sheriff's dog and he doesn't
24 live there, and I said but he does and then I knew that the
25 tidal wave was on its way. It was -- it was -- I knew. It

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1 was a telltale setting that happened hundreds of times before
2 with Monty. I knew that I had to get -- I had to
3 compartmentalize. I had to move and go to another subject.

4 And so I got up from the table, and I had pasta on the
5 stove in the kitchen and I had it on low heat or something
6 and I had the sauce cooking. And I got up from the table and
7 started up the porch, and I didn't realize that he was on my
8 heels.

9 Q: You walked from approximately here onto the front porch
10 and were coming to the door?

11 A: Yes. I hadn't opened the door.

12 Q: What did he do?

13 A: He was on my heels and he grabbed my hair and he thrust
14 me into the door and he said you don't get up and leave
15 without announcing. And it -- that's -- the whole episode
16 started. There was several episodes that night, but that was
17 the start of the -- the violence, the fear.

18 Q: In your relationship with Mr. Demary, how had you
19 learned to cope with his temper?

20 A: I conditioned myself to just deal with it, and I became
21 obedient. I was submissive. I -- I just wanted him to not
22 beat me up and explode.

23 Q: What did you do on the night of the 10th and into the
24 morning of the 11th of September not to get him to explode?
25 What did you do? What plan did you set out in your own mind?

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1 How did you act in accordance with that plan?

2 A: After the incident on the porch, after he'd smashed my
3 face or my head into the door, I just -- I said, you know,
4 Monty, we've got pasta going. I went, I just needed to check
5 the pasta, Monty.

6 And so there was a change of -- a change of the -- of
7 the -- of time here. I mean we had -- we had to go inside.
8 So we went inside, and I suggested having dinner. Let me
9 check the pasta. Let's have dinner.

10 And when I finally -- when I got in the door, there was
11 -- I had -- after -- actually after he hit my head on the
12 thing, I said, you know what? We went back and I said, let's
13 get our drinks and we'll go in and we'll have dinner. And I
14 had -- I had my drink in my hand and we were walking in and
15 he saw the picture of Burst of Light on the desk, the win
16 picture, and he was -- I never had that picture out in front
17 of him because he was resentful that he wasn't the person
18 holding the horse in the win picture.

19 And I had -- the picture was out on the desk and it was
20 there for a reason because I was going to fog my house and I
21 had everything piled up in sort of disarray but in order.
22 And he saw the picture and he looked down and I had -- I was
23 just coming in and I had my drink, and he thrust himself at
24 me and he said something about the fact that that picture --
25 you know, I will always hate the fact that, you know, you did

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1 this without me. And Tyrone, the son of a bitch, is holding
2 the horse. And I remember being smashed onto the desk where
3 the picture was. It's a large, large desk, and my drink went
4 all over the place. There was a drink. It was grapefruit
5 juice. It went all over the -- all over the place.

6 Q: Let's move ahead a couple hours. What else did you do?
7 Let's say midnight to 2:00, what was going on inside the
8 interior of this house? Where were you and what were you
9 doing to try to placate Monty?

10 A: We -- in the living -- sitting area that you have,
11 there's a TV on a -- on a stand there and we had had some --
12 we had had the pasta, and the TV was located on this side of
13 the -- and I put in a movie. I believe it was Noah with
14 Russell Crowe.

15 And then there was a problem because he didn't want that
16 movie. He wanted another movie. He wanted the other Russell
17 Crowe movie, which was 3:10 to Yuma or something like that.
18 And so that movie went in and he -- that was probably around
19 2:30 -- 2:30 -- 3:00 in the morning at that point. And he
20 was watching the movie.

21 Q: What did you attempt to do while he watched the movie?

22 A: I was going to go in and I was -- I had to go to the
23 bathroom and so I went in the bathroom and I just -- I
24 cleaned the plates up off of the counter, put the -- put them
25 back on the counter. I was just trying to keep -- keep

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1 moving. Keep moving. Keep him happy. Keep him placated.

2 Keep him calm. Calm. Calm. He had to be calm.

3 Q: Sometime in the early morning of September the 11th, you

4 went into your bedroom here in the top of this diagram,

5 Number 15; is that correct?

6 A: Yes, sir.

7 Q: Is there a bed in that bedroom?

8 A: Yes, sir.

9 Q: What did you attempt to do?

10 A: I just wanted to just lie down. I wanted to get -- I

11 just wanted to lie down. I hadn't had sleep forever.

12 Q: Sometime later in the morning, did Mr. Demary come into
13 that bedroom?

14 A: Yes, sir.

15 Q: He had gone to sleep here on the couch? Excuse me. On
16 the chair?

17 A: Yes, sir.

18 Q: When he came into the bedroom, what did he do?

19 A: He was standing over me with a hard on.

20 Q: And what happened?

21 A: And he demanded sex.

22 Q: In your -- the history of your relationship with Monty
23 Demary, could you refuse sex with Monty Demary?

24 A: Never. Never.

25 Q: Tell the Court about what physical problems you were

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1 having either that day or that morning relating to your
2 urinary tract?

3 A: I had an infection. I had a urinary tract infection and
4 I -- when Monty forced himself on me and in me for hours and
5 I -- I begged him. I screamed in agony -- in agony from the
6 sex.

7 Q: Let's move ahead to approximately 8 to 8:30. Let's move
8 to 8:20 -- 8:15 on the morning of September the 11th. Where
9 were you in this house and where was Monty Demary?

10 A: Monty was in -- in the bed and I got up and went into
11 the bathroom, and I had this urinary tract infection and I
12 was having trouble urinating.

13 Q: All right?

14 A: And I turned the faucet on.

15 Q: Just for one second, what was your plan chronologically
16 that morning? What were you attempting to do and by what
17 time were you attempting to do it?

18 A: The schedule was a completely different schedule, and my
19 mother was arriving at 9:00 and we were going to feed the
20 horses and give vaccinations, fall vaccinations, to the
21 horses.

22 Q: Did Nora Keehn, your mother, approve of Mr. Demary's
23 presence or employment with your operation?

24 A: No, she didn't, and after one incident five weeks prior
25 when he had showed up in his employer's truck, she told me

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1 she did not want him on the property. She didn't want him
2 there.

3 Q: That incident five months -- five weeks prior was in
4 early August of 2014. Did you report the presence of Mr.
5 Demary driving drunk and driving without a license and
6 possibly even stealing a car to the Lexington County -- to
7 the Kershaw County Sheriff's Department?

8 A: Yes. I called the Kershaw County Sheriff the morning
9 after he showed up in his employer's truck and he was drunk
10 and he -- I knew he didn't have a license, and I didn't want
11 him there in that truck. I mean that I didn't want him there
12 anyway, but the truck belonged to somebody else and it was --
13 it was very, very concerning to me to have him driving
14 someone's truck without a license and drunk.

15 Q: Your mother found out about that incident?

16 A: Yes.

17 Q: When an officer of the Kershaw County Police Department
18 -- Sheriff's Department came to your home, did you complain
19 to him about the assaultive behavior that you had experienced
20 with Mr. Demary up through that time in early August of 2014?

21 A: Yes, sir.

22 Q: Do you remember that gentleman's name?

23 A: Officer or Deputy Corbett.

24 Q: You told Mr. Corbett what about the abusive history with
25 Mr. Demary?

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1 A: I told him that I had a history with Monty and I said I
2 had pictures and I had tape recordings and I -- I just -- I
3 was -- in my own way, I was asking for help, but he -- he
4 said that the next time that Monty came out to call the
5 sheriff and they'd come out and arrest him for trespassing.

6 Q: Was that something that you would've wanted? Would that
7 have served your safety purposes?

8 A: No.

9 Q: Why?

10 A: It would've made everything worse.

11 Q: Why?

12 A: Monty told me that calling the cops -- he just -- he
13 absolutely shunned law enforcement and he said that if he was
14 going to go to jail again, he was going to make it worth it.
15 He was going to kill me and my mother.

16 Q: 8:15 on the morning of September the 14th [sic], what
17 happened in that bedroom? Tell the Court.

18 A: The morning of 9/11/2014, Monty -- Monty got up and he
19 -- I was in the bathroom and I was trying to pee, and Monty
20 got dressed and he -- as he walked out of the bedroom, he
21 glanced in the doorway, which the door was open, and I'm
22 sitting on the toilet, very small area.

23 Q: This is -- this is the bathroom?

24 A: Yes. And he walked through. And as he walked through
25 the door, he looked at me as I was sitting on the toilet like

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1 this and he said, hurry up, let's get the fuck out of here,
2 I'm ready to go. And my response was I just have to get my
3 shoes. I was putting clothes on. I was putting my dirty
4 clothes on that were on the floor in front of the washer and
5 dryer as I was sitting on the toilet. And when he said that,
6 I was -- I jumped up, turned the water off, and I went
7 outside and, as I was doing that, I heard a huge commotion.
8 He always kept --

9 Q: Hold on one second. You went outside? You went outside
10 the bedroom or went outside?

11 A: I went outside. I was on my way off the toilet going
12 out of the bathroom.

13 Q: Yes, ma'am.

14 A: And Monty had walked through the door and yelled that at
15 me and -- and just around -- you see the 30 and the three.
16 Right there at the three and down below it on the kitchen
17 counter is a microwave.

18 Q: Approximately this area where my finger is?

19 A: Yes, sir. And he always kept -- always -- he always
20 kept his coins or his cigarettes or his keys or anything he
21 usually had in his pocket he kept -- he always would take
22 them out there before he would come into the bedroom.

23 Q: Did he have a cell phone?

24 A: Yes, sir.

25 Q: Where would he keep that cell phone if he came to your

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1 home?

2 A: Well, it was -- there were several chargers in the
3 house, but he -- he would either charge it in the bedroom or
4 he would charge it right by the -- yes.

5 Q: Right here?

6 A: Yes.

7 Q: On your -- on the table by your kitchen sink?

8 A: Yes.

9 Q: What did he say and what commotion did you perceive?

10 A: I heard -- as I was coming out of the bathroom, pulling
11 my pants up, I heard a -- I have a row of windchimes. I am
12 an architectural history major and I love windchimes and I
13 use them as art, and I had a row of windchimes hanging over a
14 huge pewter plate, a Mexican plate, a pewter type -- pewter
15 or -- I don't know what it is.

16 And the chimes were here, the plate is here on the
17 table, and I heard the chimes off. There's several that have
18 the -- like a mobile. They have the bottom part of the --
19 the gongers on the bottom and some of them are very low, and
20 I heard the chimes go off and then I heard bing, bang, boom.
21 I mean some crashing around.

22 And when I came out, it was obvious that he had hit the
23 windchimes and he had taken his arm and sprayed the
24 vegetables and -- it was lemons and tomatoes and some
25 avocados or something on this big plate where I usually kept

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1 them, and they were on the floor.

2 And I came out and I said, what is wrong, what is wrong,
3 Monty? Let's go. At that point, we were literally --
4 literally, sir, five seconds from walking out the front door.

5 Q: Just one second.

6 MR. DELGADO: Your Honor, there are stipulated
7 photographs that, if the State would introduce them through
8 one of its officers, that would give you a bit more of the
9 geography and the spatial context of what we're describing
10 here.

11 BY MR. DELGADO:

12 Q: You were five seconds from leaving and what does he say?
13 What does he do? Where does he go?

14 A: He is -- he's standing -- he started to get -- he's
15 starting to get like this. I could see him. He -- all this
16 had happened. The chimes were still chiming, and all this
17 stuff was on the floor.

18 Q: Just one second.

19 MR. DELGADO: Your Honor, with your concurrence, may I
20 have her stand and maybe point to where all this happens? It
21 might help the Court.

22 THE COURT: Sure. That's fine as long as you keep up --
23 keep your voice up so I can hear you and the court reporter
24 can hear you.

25 MR. DELGADO: All right.

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1 BY MR. DELGADO:

2 Q: Gregg, would you step on the other side? Okay. With
3 your left hand -- left hand, show us where the windchimes
4 were?

5 A: The windchimes are right here hanging from the ceiling,
6 and there is a table that comes out here with this large
7 pewter-type -- huge -- I mean it's called a sun dish. It's
8 huge, and it had all the vegetables and lemons and things on
9 it.

10 And I heard the chimes go off and there was a commotion
11 and, obviously, it was the vegetables on this plate. And I
12 said, what's wrong, because, literally, we were five seconds
13 from leaving the house. And he looked at me and he said, I
14 can't find my fucking earring. And I said, Monty, I can -- I
15 can find the earring for you. Let's go. My mother's about
16 to arrive. Let's go.

17 And with that, he just said, I'm going to find my
18 fucking earring and I'm going to find it now and I don't
19 care. I'm going to find it before I leave this house. And I
20 said, Monty, you've lost earrings. I've lost earrings. I
21 can find it for you. I will find it for you in the house. I
22 will find it for you in the bedroom. I'll find it. Wherever
23 it is, I'll find the earring for you and I'll call you and
24 I'll tell you I have the earring.

25 Q: Where did he go? If he was up here and knocked the

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1 fruits and vegetables --

2 A: He was -- he was -- he was right in here. The
3 vegetables -- the chimes here and the vegetables are here,
4 and he was right in here. And when I came out, that's where
5 we had -- he was saying all this and he was going to find --
6 he was going to find the earring.

7 And I kept saying -- I kept pleading with him. I kept
8 saying, Monty, we have to go. We have to go. My mother is
9 about to get here. Please let's go. Let's go. We have to
10 go.

11 And he said, no, I'm finding -- excuse me -- my fucking
12 earring, my fucking earring. He kept saying that and he just
13 kept doing this, and then he went back into the bedroom and I
14 followed him into the bedroom.

15 Q: In this overhead view or overhead display, there's a bed
16 and some other furniture in this room?

17 A: Yes, sir.

18 Q: Where did he go? What did he do in an attempt to find
19 that earring?

20 A: He went in, and the bed is located -- the bed -- it's a
21 very small room, very, very small, and the bed -- actually,
22 it's a queen bed and it comes to about here, and there are
23 trunks. I have no closet. There's a little tiny closet
24 here, and I have trunks. There's a bureau here and a trunk
25 here and then there's three trunks right here full of clothes

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1 and my stuff. And he went in to the -- to the bedroom and I
2 followed him in.

3 Q: Describe for the judge his demeanor and what happened
4 inside of that room?

5 A: Monty was -- he was in a frenzy over this earring, and I
6 kept pleading with him and I kept begging him. We have got
7 to go. My mother is about to arrive. Please, let's go. And
8 I just kept saying I'll find the earring.

9 And he came -- he was in here. There's a trunk here and
10 trunk here and the bed is here, and he came in here and I
11 followed him in and as I'm begging him to go, he thrust me --
12 there's a trunk right here. He thrust me face first into the
13 trunk, which I still have the indentation in my cheek from
14 that thrust impact.

15 And then as I -- I was down. I was actually down on the
16 ground, and I started to cry. This hurt like -- it's almost
17 unbelievable how it hurt I mean, and then I was trying to get
18 up and he kicked me. He kicked me in the back. He kicked me
19 in the back and I -- I was on my -- I was on my belly. I
20 mean I was on my belly trying to get out between the trunks.
21 There was a space here and I was on my hands and knees.
22 Actually, I was on my belly pulling myself, just pulling
23 myself.

24 Q: In which direction were you headed?

25 A: I was headed to the doorway.

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1 Q: All right.

2 A: Which is -- I mean it's probably the length of my body,
3 the space there.

4 Q: What did he do after he kicked you? How did he try to
5 keep you inside the bedroom?

6 A: As my -- my legs went between the trunks. It's a small
7 space and I was pulling myself on the floor. He grabbed my
8 ankle and he yanked my ankle back and it sort of did a -- it
9 just -- it went around the side of the corner of the trunk or
10 the side of the trunk and it yanked it.

11 So I was yanked back at him. He yanked me back and I
12 just kept struggling and he was yelling. He was spewing
13 profane, profane words about me and my mother and you fucking
14 cunt and you worthless piece of shit and your mother is -- I
15 mean just the biggest bag of the world and she's a cunt too,
16 and on and on and on.

17 And I got myself here and I'm saying to myself, you're
18 going to die, Gregg. You're going to die. I was -- I was
19 scared. I was scared. The terror in my mind -- I was
20 thinking a million things as this was going on, a million
21 things, and I'm thinking I have -- I've got to -- I've got to
22 protect myself. I've got to save myself. I have to -- I
23 have to get through this.

24 Q: Very quickly, where my finger is here, there's a bit of
25 a bureau or a desk of some sort on which you had a boombox?

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1 A: Yes, sir.

2 Q: All right. Behind the boombox, what was there?

3 A: The gun.

4 Q: That gun being a Beretta .32 Tomcat; correct?

5 A: Yes, sir.

6 Q: Why had you moved it here? Why had you put it here?

7 A: It -- for -- for the longest --

8 Q: Just --

9 A: Okay.

10 Q: Why had you moved it?

11 A: I moved it because he knew where it was in the bedroom.

12 Q: Did that frighten -- threaten you, his knowing where the

13 gun was?

14 A: Yes. Yes. Yes. Because he had been there many times,

15 taken the gun, and shot my gun.

16 Q: He had shot this Beretta .32?

17 A: Yes.

18 Q: Before?

19 A: Yes, sir.

20 Q: Had you ever shot that gun before?

21 A: No. No, sir.

22 Q: Had you ever loaded that gun?

23 A: No, sir.

24 Q: You placed it here behind the boombox?

25 A: Yes, sir.

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- 1 Q: As you came out of the doorway crawling or standing, you
2 got out of the doorway, how far is it from the doorway to
3 where the boombox -- I mean to where the gun was kept?
- 4 A: It's one step. I was on my -- on my belly. I mean I
5 was struggling on my belly.
- 6 Q: Yes. But you --
- 7 A: One step. It's one step.
- 8 Q: But you got up?
- 9 A: Yes, I got up.
- 10 Q: You got up?
- 11 A: I pulled myself up.
- 12 Q: And you got the gun?
- 13 A: Yes, sir.
- 14 Q: And what did you do?
- 15 A: I got the gun and I stepped back and I went like that.
16 (Gesturing.)
- 17 Q: Where were you? When you demonstrated that motion,
18 where were you when you did that?
- 19 A: I was in the doorway. I was crying and I had -- my back
20 had been kicked and I was -- my equilibrium was completely
21 off and I -- I leaned on the -- the door frame. My back was
22 on the doorframe when I pointed the gun.
- 23 Q: How many times did you shoot?
- 24 A: One. Once.
- 25 Q: What did you do after you shot?

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1 A: I ran.

2 Q: Did you know that you had even shot him?

3 A: No.

4 Q: What did you see his body do?

5 A: He moved.

6 Q: And moved where and how?

7 A: He just moved. I just -- there was no -- I mean that
8 was it. I mean I left. I mean I was out of there.

9 Q: Where did you go on this diagram?

10 A: I went -- from right here, I went out and I had -- my
11 cell phone was hidden from him, which I had -- I did
12 regularly, and I grabbed my cell phone from a bureau right
13 here. I went out the door and I ran. I ran as far as I
14 could because I didn't -- I thought that he would be on my
15 heels.

16 Q: What did you do with your cell phone?

17 A: I -- as I was running, I -- I turned it back on. I
18 punched it because it was on airplane. It was on basically
19 silent so he -- he didn't have a problem with my phone going
20 off that night. And he --

21 Q: Who did you call, Gregg?

22 A: I called 9-1-1. I called 9-1-1.

23 Q: All right. Just hold one second.

24 MR. DELGADO: Your Honor, I'm almost through, but I need
25 a bit of a break.

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1 THE COURT: I was going to suggest we take a break.

2 MR. DELGADO: Thank you, Your Honor, and I will
3 obviously not engage in any communication with the team with
4 Ms. Pickrell.

5 THE COURT: Ms. Pickrell, during this break, you cannot
6 discuss your testimony with anyone. That means you can't
7 discuss it with your lawyer or anyone else because you're
8 still under oath and you've not completed your testimony.
9 Let's --

10 THE DEFENDANT: Your Honor, may I go to the ladies'
11 room?

12 THE COURT: Oh, sure, yeah.

13 THE DEFENDANT: Okay.

14 THE COURT: It's a break. You just should not -- you
15 should not discuss your testimony --

16 THE DEFENDANT: All right.

17 THE COURT: -- with anyone. So it's best just not to
18 talk to anybody.

19 THE DEFENDANT: Okay. Yes, ma'am.

20 THE COURT: But you can certainly go to the restroom
21 because I think we're all going to take a break.

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: With that, we'll take a break and then we'll
24 come back in a few moments.

25 (WHEREUPON, there was a break in the proceedings from

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1 11:20 a.m. until 11:35 a.m., after which the proceedings
2 resumed as follows.)

3 THE COURT: If we're ready, Ms. Pickrell, if you'll
4 resume the witness stand.

5 (WHEREUPON, the defendant complied.)

6 BY MR. DELGADO:

7 Q: Gregg, I'm going to hand you a photograph and see if you
8 can identify what that depicts?

9 A: This is my house on the farm.

10 Q: Is that the way it looked September 14th, 2014?

11 A: No, sir.

12 Q: There have been bushes and other growth around the
13 house, but is that the same home that we're talking about
14 here with Defendant's Exhibit Number 15?

15 A: Yes, sir.

16 MR. DELGADO: Your Honor, without objection I believe by
17 the State.

18 MS. SAMPSON: Without objection.

19 THE COURT: It will be admitted. That's Number 16.

20 MR. DELGADO: Yes, ma'am.

21 (WHEREUPON, Defendant's Exhibit Number 16, photograph,
22 was admitted into evidence.)

23 MS. SAMPSON: Your Honor, for the record, I believe he
24 has four pictures. They're all without objection, if he
25 wants to introduce them all.

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1 THE COURT: Thank you.

2 (WHEREUPON, Defendant's Exhibits Number 17, 18, 19, and
3 20, photographs, were admitted into evidence.)

4 MR. DELGADO: Your Honor, I'm going to try to hurry this
5 along, but I do want to be able to say to the Court that I'm
6 attempting to get a photograph duplicated of the doorframe
7 for this home, Defendant's Exhibit 15. Mr. Cox's firm has
8 been kind enough to see if we can duplicate that off a cell
9 phone. So I don't want to pass the witness until at least I
10 have that here so I can admit that.

11 THE COURT: Okay.

12 BY MR. DELGADO:

13 Q: Ms. Pickrell, I'm going to hand you four different
14 photographs, 17, 18, 19, and 20. Let me hand you 17, 18, and
15 20, and see if you can identify those.

16 A: This is the inside of my house.

17 Q: Stand up here for just one second? Defendant's Exhibit
18 Number 17. What does that show? Where is that photograph
19 taken and what does it depict?

20 A: This is the kitchen right here. This is the counter
21 that you're looking at. It's right here.

22 Q: In front of what --

23 A: There's the door.

24 Q: In front of what I believe to be a microwave --

25 A: Yes, sir.

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1 Q: Is that were Mr. Demary would keep his coins, cell
2 phone, whatever?

3 A: Yes, sir.

4 Q: Defendant's Exhibit Number 18. Can you identify and
5 orient yourself as to what that shows?

6 A: This is the desk, and this is the table here where the
7 plate is and there are the vegetables that were on that, and
8 all this stuff was on the desk.

9 Q: Where in relation to Defendant's Exhibit 15 does --
10 Defendant's Exhibit 18. What does it show? Where was it
11 taken?

12 A: It is -- the desk is here. The front door and the desk
13 is here and this -- this right here juts out here. It's this
14 table.

15 Q: These are the items that you're talking about that were
16 knocked to the ground?

17 A: Yes, sir.

18 Q: Defendant's Exhibit Number 20. It's another view of the
19 same thing?

20 A: Yes, sir.

21 Q: Why is all this on the ground? Why is that on the
22 ground?

23 A: It was on the desk. It was on the desk and he had
24 thrown me on the desk the night of the 10th or sometime the
25 morning of the 11th and I mean -- yes, 11th, and it was on the

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 desk. All of this was on the desk.

2 Q: But at that time the vegetables were not on the floor?

3 A: No. No, sir.

4 Q: That occurred -- that occurred later?

5 A: That was in the morning. That was the -- September 11th
6 in the morning.

7 Q: Stand right here. I'm now going to hand you a
8 photograph, Defendant's Number 19.

9 Q: What does that depict?

10 A: Monty in the bedroom.

11 Q: What are these two things here at the bottom?

12 A: Trunks, two trunks.

13 Q: Is that where you were trying to crawl away from him?

14 A: Yes, sir.

15 Q: Before the shooting?

16 A: Yes, sir.

17 Q: When you shot from this doorway, were you crying?

18 A: Yes, sir.

19 Q: Why?

20 A: My head -- my face had been thrust into the trunk here
21 and I was crying, and I was crying because he had kicked me
22 in the back and grabbed my leg. I was crying. I was crying
23 from the onset of this -- this thrusting into the -- face
24 first into the trunk.

25 Q: What had he said to you immediately preceding the

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 discharge of that firearm?

2 A: He was screaming profanities and obscenities, and then
3 it turned to fearful, terrorizing threats of I'm going to
4 finish you off, you fucking whore, and I'm going to take your
5 mother out and then I'm going to -- I'm going to light this
6 place up.

7 Q: Did he ever see you with your hand on the gun in the
8 doorway?

9 A: Yes, sir.

10 Q: What did he say?

11 A: He said you wouldn't fucking fire that. You wouldn't
12 fucking shoot it. You wouldn't shoot me.

13 Q: And then what did he do?

14 A: He moved.

15 Q: And then you fired?

16 A: Yes, sir.

17 Q: Have a seat.

18 MR. DELGADO: Your Honor, for the sanctity of the
19 record, I renew my in-limine motion, if this is not already
20 previously clear, relating to the suppression of the November
21 22nd, 2008, Camden Police Department incident report from
22 Tyrone Pearson relating to the threat to kill by Mr. Demary.

23 THE COURT: Any response from the State?

24 MS. SAMPSON: Your Honor, I still will object to the
25 entry of that evidence. I mean what -- the only thing this

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 defendant has said is that she -- and we stopped before she
2 said it, but I believe her testimony was that Mr. Pearson may
3 have told her about those threats. But again, that would be
4 hearsay within hearsay, and I still don't know the relevance
5 of it to this hearing, but I would object to both of those --
6 to those things we're both in agreement about.

7 THE COURT: Based -- I allowed her to testify as to what
8 she had knowledge of. She indicated that she had knowledge
9 that he had made threats to him while they were in Louisiana,
10 and so I think that subsequent -- any subsequent report would
11 need to have a foundation of him being present or some other
12 -- some other basis. I don't think at this particular time I
13 can still allow that into evidence because -- because of its
14 hearsay nature.

15 MR. DELGADO: All right, Your Honor. Thank you.

16 (WHEREUPON, there was a pause in the proceedings as
17 counsel conferred, after which the proceedings resumed
18 as follows.)

19 BY MR. DELGADO:

20 Q: Gregg, I'm going to hand you --

21 MR. DELGADO: Well, let's mark this. I mean move it
22 into evidence. This would be Number 21. I'm going to mark
23 22 and 23 as well.

24 (WHEREUPON, Defendant's Exhibits Number 21, 22, and 23,
25 photographs, were admitted into evidence.)

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 BY MR. DELGADO:

2 Q: Gregg, I want to give to you a photograph that's marked
3 as Defendant's Exhibit Number 21. It has a photo stamp of
4 9/11/2014 at 9:28 in the morning. Can you identify that
5 photograph?

6 A: Yes. This is my house.

7 Q: All right. What does it show? What does it depict here
8 on this diagram? Where is that sofa? Where is that sofa on
9 this diagram?

10 A: Can I get up?

11 Q: Yes.

12 A: The sofa is here. There's a window here and the sofa is
13 here.

14 Q: What does it show on the floor of that?

15 A: It shows the -- all the stuff that was on the desk. It
16 shows the papers, the checkbook, box, a visor, envelope, and
17 the vegetables. I don't know. Maybe it's avocado or potato
18 or something on the floor.

19 Q: Who put that -- threw that on the floor?

20 A: The stuff off the desk came from the attack that I got
21 on the desk.

22 Q: By?

23 A: By -- by Monty. And then the vegetables and things that
24 are on the floor were -- Monty swiped off the plate.

25 Q: I want you to look closely at Defendant's Exhibit Number

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 21 and I want you to look to the right-hand side of that and
2 tell the Court what that depicts in the frame of the door?

3 A: That is the -- the doorjamb or frame of the door that
4 Monty kicked in.

5 Q: When had he kicked that in and how long had it been in
6 that condition?

7 A: It -- it had been several years -- a year -- several
8 years.

9 Q: Gregg, I'm going to hand you Defendant's Exhibit Number
10 22. I want you to look at that. Stand here for just one
11 second. Show the Court where that -- who took that
12 photograph?

13 A: Lyn Phillips.

14 Q: Okay. What does it show on your body?

15 A: It's a permanent -- basically, a scar and indentation on
16 my upper thigh, my upper right thigh, from being kicked by
17 Monty.

18 Q: That happened on the night of the -- morning of the 11th
19 or was that before?

20 A: I believe it was the 11th.

21 Q: All right.

22 A: Yeah.

23 Q: Ms. Phillips asked you to take your pants down so that
24 she could photograph this?

25 A: Yes.

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 Q: Is that bulge still palpable today? Can that still be
2 felt?

3 A: Yes. Yes. And the indentation also, just like my
4 cheek.

5 Q: Defendant's Exhibit Number 23. First of all, who took
6 that photograph?

7 A: Michael Wright.

8 Q: Michael Wright is who?

9 A: He's a lawyer.

10 Q: Here in Camden?

11 A: Yes, sir.

12 Q: With Mr. Cox's firm?

13 A: Yes, sir.

14 Q: Where was this photograph taken?

15 A: That was taken in the jail, in the Kershaw County in the
16 cubicle, the confidential cubicle that I met with the
17 attorney --

18 Q: What does --

19 A: -- attorneys.

20 Q: What does it show?

21 A: It shows several bruises on my back, but the main bruise
22 is from the kick that I got that -- the morning of the
23 9/11/2014.

24 Q: All right. Have a seat. Ms. Pickrell, let me end with
25 how I began. You shot Monty Demary on the morning of the 11th

GREGG PICKRELL - DIRECT BY MR. DELGADO

1 of September, 2014?

2 A: Yes, sir.

3 Q: Why did you shoot him?

4 A: He was going to kill me. He was going to kill my
5 mother.

6 MR. DELGADO: Your Honor, with one last statement for
7 the Court, it occurred to me last night or maybe it was early
8 this morning that in reading some of the case law on the
9 immunity issue that it may be proper for me to have mentioned
10 to the Court in the motion for immunity that the defendant
11 was acting in her own self-defense at the time.

12 In other words, that three of the four elements that are
13 necessary for self-defense have been testified to. The
14 element of retreat, though she was in her own home, does not
15 have to be, but I thought out of an abundance of caution I
16 would simply say that to the Court and for whatever purposes
17 the Court may make of it.

18 Gregg, answer anything that the solicitor has for you.

19 THE COURT: Yes, ma'am, Ms. Sampson?

20 MS. SAMPSON: Thank you, Your Honor. May it please the
21 Court. I beg the Court's indulgence. Give me just a second
22 too. All right.

23 CROSS-EXAMINATION

24 BY MS. SAMPSON:

25 Q: Ms. Pickrell, on direct you talked about when you first

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 started dating the victim. When did you first meet him?
- 2 A: I met him in 2007.
- 3 Q: When in 2007?
- 4 A: I met him on a return trip from Arizona. We were moving
- 5 -- in the process of moving.
- 6 Q: So at the time you first met him, was your partner still
- 7 alive?
- 8 A: Yes, sir. Excuse me. Yes, ma'am.
- 9 Q: When did you all start a sexual relationship?
- 10 A: I -- it was around -- a mare was foaling. A mare was
- 11 going to foal, and it was the -- in March of 2008.
- 12 Q: And your partner died in February of 2007; correct?
- 13 A: No, 2008.
- 14 Q: Excuse me. Your partner died in February 2008?
- 15 A: Yes.
- 16 Q: And you started a sexual relationship with the victim in
- 17 March of 2008?
- 18 A: The end of March, yes.
- 19 Q: Okay. And I believe on direct you talked about firing
- 20 the victim in June of 2008?
- 21 A: Yes, ma'am.
- 22 Q: But he went to Louisiana with you as an employee in
- 23 September or August of 2008; correct?
- 24 A: September, yes, ma'am.
- 25 Q: When did you hire him back?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: He -- after Estelle wrote me the letter, I then received
2 a claim from the unemployment office that Monty put in a
3 claim for unemployment. And after I -- right after I
4 received that, Monty called me and said, I'll drop the claim
5 if you hire me back. I need the job. I have a daughter. I
6 need -- I need the money, and I'll drop the claim.

7 Q: And at the time that you -- so when was this?

8 A: This would have been -- I would say sometime -- I would
9 say sometime maybe in August -- July -- August. I mean he
10 came -- he came back to work just before -- I mean before we
11 went to Louisiana.

12 Q: That was before -- that was after he had assaulted you?

13 A: Yes, ma'am.

14 Q: And it was after his grandmother wrote you this letter?

15 A: Yes, ma'am.

16 Q: And he didn't live with you; correct?

17 A: No. He never lived with me.

18 Q: No children with you; correct?

19 A: No, ma'am?

20 Q: All right. And you didn't have to hire him as an
21 employee, did you?

22 A: My mother hired him.

23 Q: When you hired him again in August, you didn't have to
24 hire him back, did you?

25 A: I believe I was -- I was under -- under some extreme

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 pressure from him.
- 2 Q: So is the question answered yes or no? Did you have to
- 3 hire him back?
- 4 A: I had to hire him back, yes.
- 5 Q: He put a gun to your head to hire him back?
- 6 A: I just -- I knew he'd show up.
- 7 Q: Did he put a gun to your head and ask for his job?
- 8 A: No, but he threatened to.
- 9 Q: He threatened to? Did he?
- 10 A: Yes. One time he did and also a knife to my throat.
- 11 Q: Before you went in August to Louisiana, he did all that?
- 12 A: Several times, we've had altercations, ma'am.
- 13 Q: Again, my question is before you went to Louisiana in
- 14 August, had he done that?
- 15 A: No. We did not have any problems.
- 16 Q: So when you hired him back in August, he didn't put a
- 17 gun to your head and force you to do that?
- 18 A: No. I knew he needed the money.
- 19 Q: All right.
- 20 A: Because his grandmother and his aunt needed the money,
- 21 ma'am.
- 22 Q: You could have said no?
- 23 A: My mother and I didn't say no to him.
- 24 Q: So the answer to my question is yes or no? You could
- 25 have said no?

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 A: We could have, yes.
- 2 Q: And you keep saying your mother, but you said in direct
- 3 that you were the person who ran the farm?
- 4 A: Yes, but I didn't -- I didn't do the -- the financial
- 5 part of it, ma'am.
- 6 Q: You determined who were the employees?
- 7 A: No. My -- my -- my partner had hired all the employees
- 8 to begin with, yes.
- 9 Q: But when you hired Mr. Demary back, he's -- your partner
- 10 is dead?
- 11 A: Yes, my partner was dead.
- 12 Q: So at that point, it is your decision who to hire and
- 13 who to fire?
- 14 A: My mother's also, ma'am.
- 15 Q: Your mother's also? So your mother allowed him to work
- 16 with you?
- 17 A: My mother and I took Monty under our wings and made him
- 18 part of our family.
- 19 Q: So after he beat you, your mother allowed him to come
- 20 work with you?
- 21 A: Yes. My mother felt sorry for Monty.
- 22 Q: Did you tell her he was beating you?
- 23 A: He -- he -- she knew.
- 24 Q: She knew?
- 25 A: And he also apologized and cried to my mother and begged

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 for -- begged for the job back.

2 Q: And so y'all let him come back?

3 A: Yes, we did.

4 Q: All right. Even though he's beating you; correct?

5 A: It was -- it was the beginning of -- the beginning of
6 it. This is now 2008.

7 Q: Correct. He didn't start dating you until March of
8 2008; correct?

9 A: It wasn't dating, ma'am.

10 Q: Well. what would you call it then?

11 A: I would call it show up at the farm and -- I mean I
12 didn't leave the farm, ma'am. I didn't -- we didn't go out
13 on dates.

14 Q: You had sex?

15 A: Yes, we had sex, ma'am.

16 Q: Did you ever call the police and tell them I don't want
17 him on my property in 2008?

18 A: I took the information that came back from Louisiana
19 with me to the victim's advocate, Barbara Jones.

20 Q: That would be in October of 2008; correct?

21 A: Yes, ma'am.

22 Q: In March of 2008, did you tell the police I don't want
23 him at my property?

24 A: I didn't call the police because I was scared to death
25 that Monty would retaliate. He -- he absolutely would not

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 take no for an answer. He said I'm -- you know, I -- I'm not
2 going to -- the sorry ass police aren't going to stop me.

3 Q: So you never called the police is the answer to the
4 question from -- from March of 2008 until September of 2008
5 in Louisiana?

6 A: No, ma'am. He wasn't there for some time. He wasn't
7 working there for some time before we went to Louisiana.

8 Q: Okay. Well, let's go step by step. Did you call them
9 in March of 2008?

10 A: No, I didn't. I -- no.

11 Q: When was the first time he hit you?

12 A: I would say it was before Estelle wrote the letter. It
13 was mostly, like, May of 2008.

14 Q: Okay. Did you call the police in May of 2008?

15 A: No, I did not call them.

16 Q: Did you call them in June of 2008?

17 A: No, ma'am. I didn't call the police because Monty
18 shunned any law enforcement.

19 Q: So the answer is no, you didn't?

20 A: No, I did not call any -- any law enforcement.

21 Q: And then you hired him back and went to Louisiana in
22 September of 2008?

23 A: Yes, ma'am.

24 Q: Okay. And the police report is already into evidence.
25 You stated that -- on direct, that you were the one that put

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 him in jail?

2 A: My -- my -- my words to the police officers and also to
3 -- Tyrone Pearson was there. There's a police report and
4 they interviewed both of us separately.

5 Q: Maybe my question is not clear. You stated on direct
6 that you're the person who put him in jail. Yes or no?

7 A: I didn't put him in the jail physically, ma'am. The
8 police did.

9 Q: Did you state that?

10 A: The police did.

11 Q: Did you state that on direct?

12 A: The police put him in jail.

13 Q: The police put him. That's correct. You didn't;
14 correct?

15 A: I did not physically take him and put him in jail. No,
16 ma'am.

17 Q: In fact, you didn't call 9-1-1 in Louisiana. You called
18 the front gate?

19 A: Yes, ma'am.

20 Q: Okay. And they actually came and talked to him as well
21 as you while y'all were in Louisiana; correct?

22 A: At the front gate.

23 Q: The police came and spoke with you?

24 A: Yes, ma'am.

25 Q: They also spoke with Mr. Demary; correct?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes. And -- and Tyrone Pearson.

2 Q: And he admitted that he threw a Gatorade bottle at you;
3 correct?

4 A: Yes, ma'am.

5 Q: Okay. You didn't tell them anything about him
6 threatening Mr. Pearson while y'all were in Louisiana, did
7 you?

8 A: No. I believe Mr. Pearson had his own conversation with
9 the police. I --

10 Q: You're correct. In the report that's already in the
11 record -- and I'll --

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

13 THE COURT: Yes.

14 BY MS. SAMPSON:

15 Q: I'm going to -- I'm referencing Defense Exhibit Number
16 4. It starts, next I made contact with T. Pearson. Is that
17 Tyrone Pearson?

18 A: Yes, ma'am.

19 Q: Who stated Gregg Pickrell and R. Demary had been arguing
20 all day?

21 A: Uh-huh.

22 Q: Correct?

23 A: Yes, ma'am.

24 Q: I heard R. Demary call Gregg Pickrell slut, bitch, cunt,
25 and cumbucket; correct?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes, ma'am.

2 Q: I also heard him tell Gregg Pickrell several times fuck
3 you?

4 A: Yes, ma'am.

5 Q: All of this was said enough for several -- loud enough
6 for several people inside the barn to hear it; correct?

7 A: Yes, ma'am.

8 Q: When we were talking -- when we were leaving, Pickrell
9 stopped us and walked up to the driver's side of the truck?

10 A: Yes, ma'am.

11 Q: She threw a \$20 bill at Mr. Demary, which landed in his
12 lap; correct?

13 A: Yes, ma'am.

14 Q: She then walked over to my side of the truck and that is
15 when R. Demary threw a half-full bottle of Gatorade at her?

16 A: Yes.

17 Q: The bottle hit her in the face?

18 A: Yes, ma'am.

19 Q: We were stopped at the east gate by security?

20 A: Yes, ma'am.

21 Q: And then the next thing is next I made contact with R.
22 Demary?

23 A: Yes, ma'am.

24 Q: So you would agree with me in all of that when they
25 spoke with him, there's nothing about him being threatened by

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Mr. Demary?

2 A: Not in that police report, no, but --

3 Q: So you have --

4 A: -- other people heard it.

5 Q: -- no idea what he told you?

6 MR. DELGADO: Your Honor, please. Please let her
7 finish, if you could, Your Honor.

8 THE COURT: Allow her to finish speaking before you ask
9 her another question.

10 BY MS. SAMPSON:

11 Q: Please finish?

12 A: I heard him in the barn aisle and the shed row of the
13 barn, ma'am, and many, many other people did too and stopped
14 what they were doing when he was threatening Tyrone Pearson.

15 Q: Okay.

16 A: And he was threatening. He was out of control, ma'am,
17 when he was threatening all of us in the barn aisle --

18 Q: And again --

19 A: -- and in the shed row.

20 Q: I'm sorry. Again, my question isn't what he said in
21 front of you. My question is, to the best of your knowledge,
22 did he tell the police when asked about it that Mr. Demary
23 was threatening him?

24 A: No, he did not tell -- I don't know. I mean --

25 Q: You don't know?

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 A: I don't know.
- 2 Q: Okay. And you've looked at this report, I'm assuming?
- 3 A: Yes. I was in Louisiana. They -- they gave me that
- 4 report, ma'am.
- 5 Q: And the police note that Mr. Demary was calm; correct?
- 6 A: Calm?
- 7 Q: Yes.
- 8 A: He was in the truck driving out the -- out the front
- 9 gate when they stopped him, ma'am.
- 10 Q: Again, I'm referencing Exhibit Number 4. Can you read
- 11 what line 37 said?
- 12 A: Yes.
- 13 Q: What does it say?
- 14 A: R. Demary was calm about the incident.
- 15 Q: And I'm sorry. I keep saying Demary. It's Demary.
- 16 A: Demary.
- 17 Q: All right.
- 18 A: Yes, ma'am.
- 19 Q: So it does say that Mr. Demary was calm about the
- 20 incident; correct?
- 21 A: At that point, but before, no.
- 22 Q: So you didn't just read what it said?
- 23 A: At that point, ma'am, he was calm.
- 24 Q: That's my only question.
- 25 A: I mean the police were -- the police were going to stop

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 him. The police had stopped him.

2 Q: My only question is was he calm and that they stated
3 that he was calm?

4 A: I never saw him calm.

5 Q: Okay. And at that time when you got the restraining
6 order, you told them that you had been in a relationship with
7 him for seven months; correct?

8 A: I believe -- I believe I said March. Didn't I say
9 March, ma'am?

10 Q: And now, I'm going to reference Defense Exhibit Number
11 13, which is how you got the restraining order.

12 MS. SAMPSON: Let me make sure I'm telling you right. I
13 beg the Court's indulgence.

14 Oh, I see it. Okay.

15 BY MS. SAMPSON:

16 Q: I'm going to reference, again, Defense 13. You
17 completed this? I'm going to ask you did you write the
18 information that is in here or did someone write it for you?

19 A: No, I -- that's my handwriting.

20 Q: That's your handwriting? And where it references past
21 incidents and you put in South Carolina seven months of
22 abuse, that's you writing that; correct?

23 A: Uh-huh.

24 Q: So you write that for seven months he's been abusing
25 you?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: In and out. I mean isn't -- isn't profanity and
2 obscenity -- isn't that abuse? I mean isn't any of that
3 considered abuse also?

4 Q: I'm just asking if you wrote that. Yes or no?

5 A: Yes, I did write that, ma'am.

6 Q: You didn't write seven months on and off? You wrote
7 seven months of abuse?

8 A: No, I didn't write seven months on and off.

9 Q: And I believe you testified that at some point you all
10 come -- you come back separately from Louisiana from Mr. --
11 from the victim -- from Robert? You don't come back to South
12 Carolina together?

13 A: No. No, we did not.

14 Q: And at some point, he contacts you again? When was
15 that?

16 A: Right after he got out of jail, ma'am.

17 Q: Does he come back to the farm when he gets out of jail?

18 A: He went to a check cashing place, ma'am.

19 Q: Okay.

20 A: Where he had a check that I had given him for his days
21 of work before they took him in to -- in to jail.

22 Q: Okay.

23 A: And the check cashing place called me and he was there,
24 and they wanted to know if the check was still good.

25 Q: Okay. Did you mention that on direct when you said that

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 he didn't come back, he went up north?

2 A: I'm sorry? I'm sorry?

3 Q: On direct, when you were talking to Mr. Delgado, you
4 didn't mention anything about having to deal with him and
5 this check cashing business?

6 A: He didn't ask me.

7 Q: Okay. So did he come live with you at the farm?

8 A: No. He never lived with me, ma'am.

9 Q: And in direct, you stated, in fact, he didn't come back
10 and work for you at the farm, he went up to the north?

11 A: Yes, ma'am, but he came out to the farm before he left
12 for the north on a -- one of his show-up surprise visits and
13 came and apologized to me and said he was leaving for a
14 while.

15 Q: And at this point, you had a restraining order?

16 A: That's in Louisiana, ma'am.

17 Q: But you said you brought it and showed Kershaw the
18 restraining order?

19 A: No. I turned it in to Barbara Jones.

20 Q: Did you call Kershaw and say, hey, he's here in
21 violation of his restraining order?

22 A: No, ma'am. I just turned it over to Barbara Jones.

23 Q: Did you call anybody and tell them he was at the farm
24 that day?

25 A: My mother knew.

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 Q: Just your mother? Did you call the police?
- 2 A: No, ma'am.
- 3 Q: Okay. Did you call Barbara?
- 4 A: No, ma'am.
- 5 Q: Okay. And then he goes up north?
- 6 A: He was leaving. I mean that's -- he came to apologize.
- 7 He came to mend fences and then he -- he went north.
- 8 Q: But your restraining order clearly says no contact;
- 9 correct?
- 10 A: The --
- 11 Q: Yes or no? Does it say no contact?
- 12 A: Yes, ma'am, but you don't call the police out to the
- 13 farm. It takes them 20 to 25 minutes to get to the farm.
- 14 Please.
- 15 A: It takes 20 minutes? Doesn't Sheriff Matthew live two
- 16 houses down from you?
- 17 A: It's not two houses. It's not like a neighborhood in
- 18 Columbia.
- 19 Q: Two farms down?
- 20 A: It's at least a mile down the road, ma'am.
- 21 Q: A mile? Wasn't he the first one that came when you did
- 22 call 9-1-1 the day of this incident?
- 23 A: No, he was not.
- 24 Q: He was not the first one to get there?
- 25 A: No. He wasn't in town, ma'am. Chief Brown was -- Chief

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Brown --

2 Q: I'm sorry. Was it Chief that came?

3 A: Chief Brown, yes. Chief Brown was the first one there,

4 ma'am.

5 Q: My mistake on that. But Sheriff Matthew does live --

6 A: Not two houses down.

7 Q: A mile, you just said?

8 A: I'd say -- let's see. There's a house -- Baynard

9 Boykin's house here and then there's way down the road is

10 another Boykin house, and then the sheriff's house is way in

11 the forest. I'd say at least a mile, if not more.

12 Q: How long does it take to drive from one to the other?

13 A: I have -- I have never -- I've never calculated that,

14 ma'am.

15 Q: But it's only a mile or so?

16 A: From my house or from the driveway into the property.

17 Q: From the driveway.

18 A: From the driveway, at least a mile, ma'am.

19 Q: Okay. All right. That's fine. So he violates the

20 restraining order and you don't say anything. He goes back

21 up north; correct?

22 A: He went up north, yes, to New Jersey.

23 Q: And when he comes back to South Carolina, how many years

24 have passed?

25 A: Two.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: All right. So two years later, he comes back. Do you
2 employ him again?

3 A: He asked for part-time, which is really -- he needed
4 help. His grandmother was ill. That's the reason he came
5 back, he told me.

6 Q: So you did -- you employed him again?

7 A: Part-time, ma'am. Not -- not -- not an 8 to 5 deal.

8 Q: You allowed him on your property; correct?

9 A: Yes, ma'am.

10 Q: You allowed him to mow your grass?

11 A: Yes, and bush hog. Yes, ma'am.

12 Q: You allowed him to help you with horses?

13 A: Not too much, no.

14 Q: Not too much?

15 A: He only wanted to work, like, two or three hours in the
16 morning and get paid and be gone.

17 Q: And when did this relationship become sexual again?

18 A: When Monty wanted it to, ma'am.

19 Q: When? The day? Like, a month? A year?

20 A: He came back in 2011. It was sometime in 2011.

21 Q: Sometime in 2011?

22 A: The summer. The summer of 2011, ma'am.

23 Q: So when he first comes back in 2011, do you call the
24 police then?

25 A: No, ma'am. He came back to be with his grandmother.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: Okay. But when he comes onto your property, do you call
2 the police?

3 A: No, ma'am.

4 Q: The first time he assaults you again in 2011, do you
5 call the police?

6 A: I didn't call the police because Monty always said that
7 -- you know, at that point, ma'am, he had already been in
8 jail and that was a really, really, really sore issue with
9 him.

10 Q: So you know that he can go to jail if he assaults you;
11 correct?

12 A: He said -- he said, ma'am, if I call the police and he
13 goes to jail again, ma'am, he's going to make it worth it.

14 Q: So again, my question to you is you -- is you know if
15 you call the police, he can be arrested for assaulting you?
16 That's what happened in Louisiana?

17 A: In Louisiana, yes.

18 Q: Okay.

19 A: But I -- I -- I did call the police right before the
20 incident in --

21 Q: Right. I'm asking in 2011.

22 A: Okay. Gotcha.

23 Q: When he begins to assault you again, you don't call the
24 police?

25 A: You don't call the police. You don't -- you don't

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 involve the law enforcement, ma'am. He was totally -- he --
2 he -- he controlled me.

3 Q: And again --

4 A: He controlled me. Fear controlled me. Retaliation. I
5 was worried about my mother.

6 Q: My question to you is you did not call the police? Yes
7 or no?

8 A: No, I didn't call the police.

9 Q: Okay

10 A: Then.

11 Q: You also didn't lock him out of the house?

12 A: There's no way to lock him out of the house, ma'am.

13 Q: Now, there's not, but in 2011, you could have locked him
14 out of the house the first time he shows up?

15 A: You can't. You can't lock Monty out of the house. He'd
16 break the door down, break windows.

17 Q: Had he broken in at that point?

18 A: 2011? I believe that he had already broken something
19 with the door.

20 Q: So your door didn't lock for two years?

21 A: My door hasn't locked for all these years. All these
22 years, ma'am.

23 Q: Okay.

24 A: You don't lock the door on Monty and, if you don't have
25 a door, you're going to have your windows broken.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: In general, you can't lock the door is what you're
2 telling the Court? I didn't say from Mr. -- from the victim.
3 I'm asking in general can you --
4 A: No.
5 Q: -- lock the door?
6 A: You know what I did, ma'am, to protect myself? I put a
7 chair in front of my door.
8 Q: A chair in front of your door?
9 A: Yes. With the -- the doorknob with the chair under the
10 doorknob. That's how I have been living.
11 Q: You didn't get anybody to come fix the door?
12 A: There was no point.
13 Q: From -- any strangers could have roamed into your home?
14 A: There was nobody else. There was no -- this is -- this
15 is out in the country, ma'am. It's a 123-acre farm, ma'am.
16 Q: I'm just asking did you even try to lock your door?
17 A: Yes, I did. I tried to put a hasp on it and he broke
18 that down too.
19 Q: And you called the police then?
20 A: I didn't call the police with Monty.
21 Q: You never --
22 A: I didn't call.
23 Q: In fact, from 2011 until 2014, you never called the
24 police about him?
25 A: I didn't -- didn't call the police because you were --

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 you were threatened. You were threatened. I was threatened,
2 ma'am. There was no way I was going to call the police and
3 have them -- they couldn't even get there. If you call the
4 police, ma'am, it takes them 20 to -- that's record time to
5 get out to the farm. It's 15 miles from the Sheriff's
6 Office.

7 Q: He didn't live with you; correct?

8 A: No, he didn't live with me.

9 Q: So when he left and was no longer on your property and
10 you had plenty of time, you still didn't call the police?

11 A: I called -- I called the Sheriff's Office August of 2014
12 and they said --

13 Q: So exactly. From 2011 until August of 2014 --

14 A: I didn't have an opportunity to.

15 Q: -- every time he left the --

16 A: You can't have an opportunity.

17 Q: Can I finish my --

18 A: There's no opportunity. Excuse me.

19 MS. SAMPSON: I'd just like to finish the question.

20 THE COURT: Listen to the question that's asked before
21 you answer it, and give her the opportunity to answer the
22 question.

23 BY MS. SAMPSON:

24 Q: My question is from 2011 until August of 2014 when he is
25 not on the property, has left after threatening you, you did

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 not call the police?
- 2 A: I didn't call the police. There was -- you don't call
3 the police with Monty.
- 4 Q: When you're taking these pictures and you have time to
5 do so, you didn't call the police then, did you?
- 6 A: No, ma'am. I sent them to Monty to say this is what
7 you're doing, Monty.
- 8 Q: Okay. Did you email them to the police?
- 9 A: I don't have an email, ma'am.
- 10 Q: You said you sent them to Monty?
- 11 A: On the phone.
- 12 Q: On the phone?
- 13 A: Texting, yes.
- 14 Q: Could you have taken your phone and showed Barbara
15 Jones?
- 16 A: I took -- actually, Barbara was there with the
17 administration before Sheriff Matthews, ma'am.
- 18 Q: Okay. And so you know how this works. You still could
19 have gone to the Sheriff's Department and showed them the
20 photographs?
- 21 A: I didn't go. I didn't go because there was a problem
22 between Ms. Barbara Jones and the -- and the sheriff.
- 23 Q: Okay. Did you go and talk to any officer?
- 24 A: No, ma'am.
- 25 Q: Okay.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: No, I didn't at that point. No.

2 Q: All right. And let's talk about this August 2014
3 incident. On direct, you talked about how he just showed up
4 drunk driving someone else's truck; correct?

5 A: I'm sorry. Could you repeat that?

6 Q: I'm sorry. My nose is running.

7 A: Okay. I have problems with my hearing.

8 Q: In August of 2014 --

9 A: Yes, ma'am.

10 Q: You testified in direct that on that night he just
11 showed up at your house?

12 A: He did that.

13 Q: I'm sorry?

14 A: He did that regularly, yes. Excuse me.

15 Q: But on that date, he just showed up?

16 A: He -- he actually called me on my mother's phone and he
17 wanted to come out. He was out there four nights before,
18 Friday, Saturday, Sunday, and Monday, and he called me and he
19 wanted to come out the Tuesday before and he was angry
20 because I wouldn't let him come out on the Tuesday, which
21 would have been the 9th, ma'am. Is that the 9th of September?
22 He came out the 10th.

23 Q: I'm talking about August of 2014.

24 A: August. Okay. I'm sorry.

25 Q: You stated on direct in August of 2014, he showed up at

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 your house driving somebody else's truck?

2 A: Yes, ma'am.

3 Q: Okay. That happened?

4 A: Drunk.

5 Q: He was drunk?

6 A: Without a license, ma'am.

7 Q: And he's driving. I believe it was Kip Elder's truck?

8 A: Kip Elzer's, yes.

9 A: Elzer's? And that concerned you; correct?

10 A: I didn't expect him. That was an absolute surprise and,
11 ma'am, let me say my mother is deaf and she usually drives up
12 to my house and honks, and it's now -- I don't know what time
13 it was, but it was late. He drove up.

14 He came through the front gate. The gate has got a
15 chain on it. It wasn't locked, but it had a chain on it. He
16 came through the gate and he came up to my house and honked
17 the horn, and I thought it was my mother. I was -- I was
18 upset. I thought it was my mother. Okay? And it's Monty
19 and he's drunk as a skunk driving Kip Elzer's truck, and I
20 knew he didn't have a license, ma'am.

21 Q: And again, that concerned you?

22 A: Very much so, ma'am.

23 Q: All right. So therefore, you call the police then?

24 A: I waited to call the police the next morning, ma'am.

25 Q: So that night though, you actually get in the truck with

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 him that he's driving?

2 A: To take him home and get him home safely.

3 Q: And in fact, you call your mother and tell her to come

4 with you all?

5 A: I -- you know why, ma'am?

6 Q: To drive the car behind you?

7 A: Yes. So I could get a ride back.

8 A: Correct. So your mother knew he was there?

9 A: Yes. And after that, that was -- that was not going to

10 happen.

11 Q: Exactly. She told he couldn't come back on the property

12 anymore after that; correct?

13 A: She said she didn't want him there. He was dangerous.

14 Q: But he did come back to the property? I think you

15 testified on direct he came on Friday in September, Saturday,

16 and Sunday before this incident?

17 A: Yes, ma'am.

18 Q: Did you call the police on any of those days?

19 A: No, ma'am. You didn't call the police.

20 Q: And --

21 A: You don't call the police with Monty. You don't --

22 Q: But you did --

23 A: -- go to your phone.

24 Q: But you did because in August you called them and they

25 came to your house; right?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes. Because he was -- he was a danger to himself and
2 to anybody else on the road. He was driving a truck
3 illegally drunk.

4 Q: And when you called, you stated on direct that Deputy
5 Corbett came to your house?

6 A: Yes, ma'am.

7 Q: And you stated on direct you told him about all the
8 beatings?

9 A: I only said -- because I feared retaliation from Monty,
10 I only said I wanted the attention on Monty and I only said,
11 ma'am, that I had a history with this guy, meaning Monty, and
12 that I had pictures and I had recordings, and the response
13 was we can come and we -- next time he comes out, we can come
14 and get him, pick him up for trespassing, and he told me all
15 that other stuff is between you and me.

16 MS. SAMPSON: Can I see the transcripts?

17 BY MS. SAMPSON:

18 Q: And after all this happened, you spoke with two
19 different investigators, Inv. DeVors and Inv. Bailey;
20 correct?

21 A: After what happened?

22 Q: The shooting.

23 A: The incident that --

24 Q: Yes, ma'am.

25 A: Okay. Yes, ma'am, I did. DeVors and Bailey, yes.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Detectives.

2 Q: And those transcripts of those conversations are -- have
3 been introduced already as Defense Exhibits Number 1 and 2;
4 correct? You were in here when we did all this?

5 A: Yes, ma'am.

6 Q: And you talked to Inv. DeVors about that incident with
7 Kip Elzer's truck, didn't you?

8 A: Ma'am, I don't recall. I'm sure I said it. I'm sure I
9 said it to one of the investigators.

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

11 THE COURT: Yes, ma'am.

12 BY MS. SAMPSON:

13 Q: I'm going to show you what's been introduced as Defense
14 Exhibit Number 1. I'm going to show you -- I'm going to take
15 you to page 14. And it says Inv. DeVors and then the
16 response is Ms. Pickrell. That's you; correct?

17 A: Uh-huh. Yes, ma'am.

18 Q: When I called Officer Corbett -- that's line 19 --

19 A: Uh-huh.

20 Q: -- again; right? Correct?

21 A: Yes, ma'am.

22 Q: And you're talking about, because he drove out, it was
23 the first weekend of August, I believe, and he drove out in
24 somebody else's truck, his employer at the time?

25 A: Yes.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: So you're discussing this incident in August of 2014?

2 A: Yes. It was five weeks before.

3 Q: Right?

4 A: Yes.

5 Q: When you're talking to Inv. DeVors, you're talking about

6 the August incident with the truck?

7 A: Yes, ma'am.

8 Q: Okay. And it starts that you don't think he can drive

9 and he's driving Kip Elzer's truck? I'm now on page 15.

10 A: Yes, ma'am.

11 Q: I think you said his name was Elzer?

12 A: Elzer. Elzer is his friend, yes.

13 Q: And you don't remember what time he showed up?

14 A: It was late.

15 Q: And you tell them he honked the horn, I thought it was

16 my mother? The same thing you've told us; correct?

17 A: Yes, ma'am.

18 Q: All right. I got him out of there, but the next morning

19 I called and reported the fact he was driving drunk in Kip

20 Elzer's truck to Officer Corbett?

21 A: Yes, ma'am.

22 Q: All right. And then you say Officer Corbett followed it

23 up and he said he had to catch him actually driving the

24 truck?

25 A: Yes, ma'am.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: Right. Which he couldn't? And you can read the entire
2 transcript if you would like. Can you show me in there where
3 you ever tell him that you told Officer Corbett about being
4 abused by Robert Demary?

5 A: I told him that -- Officer Corbett. I told Officer
6 Corbett that I had a history with this guy. I was scared to
7 death to go to the police or the -- the sheriffs. I was
8 scared to death, ma'am. I -- the retaliation that Monty
9 threatened me with -- and I mean the guy was -- the guy could
10 beat me -- beat me to a pulp, ma'am.

11 Q: My question is, did you in that conversation in that
12 transcript tell Inv. DeVors what you had told Officer Corbett
13 about the beatings? Is it in there? Not whether it happened
14 --

15 A: Any abuse?

16 Q: In that transcript that I just read to you -- and you
17 can look at --

18 A: Ma'am --

19 Q: -- the entire thing.

20 A: Ma'am, the -- let me tell you something. The --

21 Q: I would like to finish my question at this time.

22 A: Okay. I'm sorry. I'm sorry, ma'am.

23 Q: In that entire transcript, can you show me where you
24 told Inv. DeVors that you ever told Officer Corbett that you
25 were abused? You can look in that transcript as much as you

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 want.

2 A: Not in this transcript, but I said it when they came --
3 when all of the law enforcement came, I told somebody of law
4 enforcement that I had called Corbett out there.

5 Q: Correct.

6 A: And I tried -- okay. This is interrogation; correct?
7 Is this the interrogation, ma'am?

8 Q: Yeah. We can go over it. He asked you a question and
9 you were just telling him whatever you want. We just read
10 it. You could've said whatever you wanted. He wasn't
11 cutting you off, was he?

12 A: No.

13 Q: Okay.

14 A: But I did say before that I told -- I told somebody at
15 the farm before they brought me in for this, ma'am.

16 Q: Please look all in there.

17 A: It was Corbett.

18 Q: My question is --

19 A: Corbett.

20 Q: Did you tell Inv. DeVors that you told Deputy Corbett
21 you were abused?

22 A: I guess I didn't. If it's not in there, I didn't tell
23 him.

24 Q: You didn't tell him? Did you tell him that you gave him
25 photographs of your abuse?

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 A: If it's not in there, I didn't tell him, ma'am.
- 2 Q: Okay. Did you tell him that Corbett told you I can't do
3 anything, just call us next time about him abusing you?
- 4 A: Ma'am, after 36 hours of no sleep and being traumatized
5 and beaten for 11 hours, ma'am, having an infection, ma'am,
6 having Monty Demary force himself on me and in me and bang me
7 with me screaming in pain, I had trouble with my train of
8 thought for this stuff. I had trouble with my train of
9 thought, ma'am, and I couldn't remember. I couldn't relate
10 the chain of events and the specifics, ma'am --
- 11 Q: So -- but you --
- 12 A: -- to describe this. There was no -- there was no
13 chronological order to this, ma'am, and neither was the other
14 interrogation.
- 15 Q: So again, the answer is no, you didn't?
- 16 A: No, I didn't.
- 17 Q: Okay. Now, you stated he came by your house a few days
18 prior to the September 10th event? He came on Friday,
19 Saturday, and Sunday? That's what you said?
- 20 A: And Monday. Not Tuesday.
- 21 Q: Okay.
- 22 A: Not Tuesday. Right.
- 23 Q: Did he come by cab on those occasions?
- 24 A: I'm sorry?
- 25 Q: Did he come by cab on those occasions?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes, ma'am. Yes, ma'am.

2 Q: Did you call police on those occasions?

3 A: No, ma'am.

4 Q: Okay.

5 A: You don't call the police with Monty.

6 Q: So the answer is no, you didn't?

7 A: No, I did not.

8 Q: Okay. Now, on direct you said you had no idea he was

9 showing up. He just showed up on the 10th on your doorstep at

10 10:00 at night?

11 A: He called, and he wanted to come, ma'am.

12 Q: He did call first though?

13 A: He called, and he wanted money. He wanted money and he

14 wanted money for the cab if he came. Many, many times, Monty

15 wanted money and he would get a cab. There were many times

16 he never showed up, ma'am.

17 Q: And I'm just asking because you didn't mention that in

18 direct that he'd actually called first?

19 A: I don't know if -- I don't know if Mr. Delgado asked me

20 that. I mean I --

21 Q: But on that night, he called first and he asked for

22 money?

23 A: Yes, ma'am.

24 Q: And you actually gave -- put -- I believe you told them

25 on the -- in your testimony \$80 in the mailbox?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: I have -- you know, I'm sorry. I don't recall the
2 amount of money. It wasn't the first time I'd done that,
3 ma'am.

4 Q: You don't recall? Do you recall what you told him?

5 A: I don't recall what the amount of money was. Maybe
6 because I was in a confused, hysterical state. I didn't
7 remember the exact amount of money, ma'am.

8 Q: Do you remember telling Inv. Bailey that you left \$80 in
9 the mailbox for him?

10 A: It could have been \$80 that night or it could've been
11 \$80 several nights before when he came out in the cab.

12 Q: My question is, did you tell Inv. Bailey you left \$80 in
13 the mailbox that night?

14 A: I must have. If it's in print, then I did, ma'am.

15 Q: Okay. And you actually told the investigators that he
16 was supposed to just come to the mailbox, take the money, and
17 go?

18 A: Yes, ma'am.

19 Q: That's what you thought was going to happen?

20 A: That's what he -- that's what he wanted. He wanted
21 money. He was out of work. He had been fired for the second
22 time by Kip Elzer.

23 Q: And he then walked onto your property?

24 A: Yes, from the mailbox in.

25 Q: Because, as the diagram shows, it's kind of far to go

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 from your driveway to your house?

2 A: Yes.

3 Q: Okay?

4 A: It's 123 acres, ma'am.

5 Q: Right. So it's a long distance?

6 A: Yes, ma'am. It's a hike.

7 Q: And you said he came there around 10. Could it have
8 been later?

9 A: It could have been later, but I think 10:00. I had just
10 finished in the barn. I was running late, but it was -- it
11 was I would say -- estimate between 10 and 11:00. I mean it
12 was late.

13 Q: And he just showed up and came in?

14 A: The next thing I knew is Monty was on my porch, ma'am.

15 Q: And I believe you said that you then went outside and
16 had a drink with him?

17 A: He came in, and we had a drink.

18 Q: On direct, you said you had that drink outside?

19 A: Yes, ma'am. We had -- we had a drink outside, ma'am,
20 yes.

21 Q: And you still have the transcript up there. You can
22 look at the whole thing, if you would like. Can you look in
23 there and tell me where you told Inv. DeVors that you all
24 were outside when you had the drink?

25 A: I -- I don't know. If it's not in print, then I didn't

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 tell him that, ma'am.

2 Q: You didn't tell him? And Inv. Bailey, same thing, you
3 didn't tell him?

4 A: If it's not in print, then I did not tell him, ma'am.

5 Q: You can look.

6 A: I don't -- I don't need to look, ma'am.

7 Q: Okay. So then, no, it's not? You didn't tell him?

8 A: If it's not there, then I didn't tell him, ma'am.

9 Q: The rules are I can't look in there. I need you to look
10 and tell me if you see where you told him. If you didn't,
11 tell me.

12 MR. DELGADO: Your Honor, I think this is maybe the
13 fourth time that question has been asked. I object.

14 THE COURT: It's cross-examination. She can -- she can
15 answer the question, but if it's the same question over and
16 over again, at some point we need to move on.

17 BY MS. SAMPSON:

18 Q: Maybe you're not -- can you look in there, please?

19 A: You want me to read this entire thing?

20 Q: You're telling me if it's not in print?

21 A: If it's not here, I didn't -- if it's not printed, I
22 didn't say it.

23 Q: You know what? Her Honor can read it. Would you
24 believe me if I said it's not in there?

25 A: Yes, ma'am. Yes, ma'am, I believe you.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: And there's nothing in there that you told Inv. Bailey;
2 correct? If I say that there's not -- that it's not in there
3 that you told Inv. Bailey that you had a drink outside?

4 A: If it's not -- if it's not in either one, then I didn't
5 say that.

6 Q: And you didn't tell them anything about having an
7 altercation outside it all?

8 A: I believe I did tell. At the end of Bailey's
9 interrogation, I told him about the incident about having
10 some argument about the sheriff and Monty's attitude towards
11 the sheriff, ma'am.

12 Q: I'm going to hand you the transcript, which is Defense
13 Exhibit Number 2. You're telling that there's an argument
14 with the sheriff, but can you show me where in there you tell
15 him it's outside?

16 A: Ma'am, I couldn't put anything in chronological order
17 after all that I had been through. I had no sleep for 36
18 hours, ma'am. I had been beaten for 11 hours, sexually
19 rammed for several hours with an infection, ma'am. I could
20 not follow my chain of thought. I could not -- I couldn't
21 get it. I couldn't get it together. I couldn't get the
22 chronology together.

23 I have Ménière's also, ma'am. I have a problem with my
24 head with Ménière's. It's a very debilitating disease,
25 ma'am, and after I had been seriously -- serious head

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 injuries throughout the night and that morning, I mean --

2 Q: And again, my question --

3 A: I'm lucky. I'm lucky to be alive.

4 Q: You just said that you had sex for hours?

5 A: I was -- I was in bed and my legs were spread and Monty
6 was banging me for -- for some time. I would imagine that I
7 went to bed at maybe 4:00 in the morning. I went to lay
8 down, ma'am.

9 Q: He was shot at 8:00; correct? So from 4 to 8, you're
10 having sex the entire time?

11 A: No, ma'am.

12 Q: Okay?

13 A: No, ma'am. He wanted a back rub.

14 Q: All right. You do remember telling Inv. Bailey that the
15 argument was over Sheriff Matthews?

16 A: There was -- yes, and ISIS and everything else that was
17 going on that night. The president was speaking about ISIS
18 that night.

19 Q: And -- but you don't remember telling him and you didn't
20 tell him that all this was going on outside?

21 A: No, no, no. It wasn't going on all outside. The first
22 --

23 Q: No. That the argument --

24 A: The first -- the first step to the tidal wave rolling
25 in, the tsunami was on its way after that argument started.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 And then it was -- everything went into the inside of the
2 house, ma'am.

3 Q: Exactly. It's outside, but you don't tell Inv. Bailey
4 that part?

5 A: Ma'am, I could not remember or relate anything in
6 chronological order.

7 Q: So the answer to the question is, no, you didn't tell
8 him?

9 A: If it's not -- if it's not printed, I didn't tell him,
10 ma'am.

11 Q: All right. And if you look at it, you never tell Inv.
12 DeVors anything about him being mad about the -- Sheriff
13 Matthews or the dogs or ISIS or President Obama; correct?

14 A: Ma'am, I had not had any sleep for 36 hours, ma'am.

15 Q: I get that. My question simply is, did you ever tell
16 him?

17 A: I couldn't -- I couldn't relate anything in
18 chronological order, ma'am.

19 Q: So the answer is no?

20 A: My train of thought and my -- the chain of events, I
21 couldn't -- I couldn't go there. I just kept trying to say
22 and tell what -- what I could.

23 Q: Okay. Did they stop you while you were talking to them?

24 A: Stop me?

25 Q: Yes. Did they ever say stop talking?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: No. They were very kind people. Very, very kind
2 people.

3 Q: You could have told them whatever you wanted?

4 A: If -- if I was in -- listen. The fear -- the fear that
5 I had and everything that transpired and I -- and even --
6 excuse me, but even Detective Bailey -- is this Detective
7 Bailey's here? Or is that --

8 Q: That's DeVors. I can give you Bailey's.

9 A: Okay. Well, Bailey even said twice, ma'am, to me --
10 very kind, very understanding. He said to me you have been
11 through a traumatic experience and you may well go away from
12 here and remember things that you wanted to say to me. He
13 said that and he said -- he was very, very understanding,
14 ma'am. I think he said -- I think he even used the word
15 jumbled up or something like that.

16 Q: And my question simply is, they didn't keep you from
17 saying anything?

18 A: No. But my -- my -- the experience that I had just gone
19 through over that last 11 hours was beyond comprehension,
20 ma'am.

21 Q: And that's what you're there to talk about; correct?

22 A: Ma'am, fear --

23 Q: That's what you're there to talk about with them is what
24 has happened over the last 11 hours?

25 A: Fear -- fear -- fear and pain -- fear and pain makes me

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 sick at my stomach. They asked me if I wanted something to
2 eat. I was nauseous. I was nauseous.

3 Q: They offered you water; right?

4 A: Excuse me?

5 Q: They offered you water and actually brought you some?

6 A: Yes. They were the kindest people that could have
7 possibly come into my life that day.

8 Q: And during the entire time you're talking to them, when
9 you are first talking to Inv. DeVors, you never tell him
10 anything about him being upset about the sheriff, Obama, or
11 ISIS?

12 A: Not to DeVors, but I certainly did with -- I was --
13 you're remembering things as you go, ma'am.

14 Q: And when you talked to DeVors about the problem, you
15 tell him the only thing that he was mad about is this
16 photograph initially?

17 A: That was one of the many things that Monty was angry
18 about that night, one of the many things, ma'am.

19 Q: Again, my question is, what did you tell DeVors, and you
20 told him that the thing that he is mad about is the
21 photograph?

22 A: That was one issue. That was a -- that was a canker
23 sore with Monty.

24 Q: So the answer to the question is, yes, that's what you
25 told Inv. DeVors?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes. I -- I --

2 Q: Okay. And at some point, he goes to sleep in a chair;

3 correct?

4 A: Yes.

5 Q: He --

6 A: He passes out.

7 Q: I think you said he passes out?

8 A: Yes.

9 Q: At that point, you don't call police then either, do

10 you?

11 A: You don't call the police with Monty.

12 Q: So the answer is no?

13 A: No. And you don't.

14 Q: Okay.

15 A: You don't call the police with Monty, ma'am. I mean the

16 fear and the terror for having any kind of retaliation,

17 ma'am, is - it's -- that's what kept me from it. I had to

18 condition myself, ma'am.

19 Q: Did you call anybody?

20 A: No, I didn't. My phone was on airplane.

21 Q: You can turn it back on though; right?

22 A: Not in front of Monty.

23 Q: He's passed out. You could turn it back on?

24 A: No. No, you don't -- you don't do anything with Monty

25 in your house. I was a prisoner in my house, ma'am.

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 Q: A prisoner in your house while he's passed out?
- 2 A: Absolutely.
- 3 Q: Okay.
- 4 A: Absolutely.
- 5 Q: And then you go to bed?
- 6 A: I went and laid down.
- 7 Q: Okay. I believe --
- 8 A: While he was watching a movie, ma'am.
- 9 Q: But he's passed out watching?
- 10 A: No, no, no. He was watching a movie when I went in to
- 11 lay down.
- 12 Q: So when did he pass out?
- 13 A: Shortly thereafter, I guess, ma'am.
- 14 Q: But you go to bed?
- 15 A: I didn't go to bed. I lay in my bed, ma'am.
- 16 Q: Okay. You got in your bed?
- 17 A: I got on top of the bed, ma'am.
- 18 Q: All right. And in fact, you don't have just one phone
- 19 available to you, you actually have two; correct? You have
- 20 your mother's cell phone and your cell phone?
- 21 A: Yes, but mine wasn't on and Monty's number had been
- 22 blocked.
- 23 Q: Right.
- 24 A: I blocked his number from my phone.
- 25 Q: The phones both worked though; correct?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes, ma'am.

2 Q: Okay. And you keep saying it's on airplane mode. You
3 were able to turn it on to regular mode and call 9-1-1?

4 A: I grabbed it and I punched the button, ma'am.

5 Q: So it would work? If you push the button, it will come
6 on?

7 A: Yeah.

8 Q: Okay.

9 A: You don't call the police out there. It takes them 25
10 minutes, ma'am.

11 Q: My -- I didn't ask you about that.

12 A: To get there, to come and Monty's asleep in the chair.

13 Q: Did you call anybody?

14 A: I didn't call anyone.

15 Q: Okay.

16 A: No, ma'am.

17 Q: Exactly. At some point, I think -- did you fall asleep
18 in the bed or you just laid there the whole time?

19 A: I don't remember. I don't recall. I knew that -- I
20 mean I had been slathered around the house for some time
21 during the night, and my head -- I'm telling you, ma'am, head
22 injury is debilitating to anyone, but head injury to somebody
23 who has Ménière's is -- is totally, totally debilitating.

24 Q: And you're talking about this Ménière's. Did you tell
25 them about your Ménière's in your testimony?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: No. I did not tell them about my Ménière's, ma'am.

2 Q: And when -- you said in direct you were banged in the
3 head as y'all were coming into the house? He banged you into
4 the doorframe?

5 A: He grabbed me by the back of my hair, which was one of
6 his usual attack modes, and he thrashed me -- thrust me into
7 the -- into the door, and it happened several times. My head
8 was hit on the refrigerator.

9 Q: Can you show me in either of those where you talk about
10 him grabbing you by the hair and pushing you into the
11 doorframe?

12 A: Ma'am, as I've said before, 36 hours of no sleep, not
13 being able to recall anything in chronological order, being
14 brutalized and beaten for -- I don't know how many episodes.
15 I mean I ended up with bruises that were seen in the jail.

16 Q: So the answer is, no, you didn't tell them?

17 A: No.

18 Q: When they asked you what he did to you? Because they
19 asked you what did he do?

20 A: Yes, ma'am.

21 Q: Your answer is, he just beat me? You never said he
22 grabbed you by the hair, did you?

23 A: Ma'am, as I say --

24 Q: Yes or no?

25 A: No, I did not say that.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: You never said that he pushed you into a doorframe? Yes
2 or no?

3 A: I don't know. If it's not there, then I didn't say it,
4 ma'am.

5 Q: In fact, when you talked to them about pushing --
6 getting pushed and the drink, you said it was up against the
7 desk and that the drink spilled all over the desk?

8 A: No, no, no. I had the drink in my hand and, when he
9 pushed me into the desk, the drink went in every direction,
10 ma'am.

11 Q: All right. That's right. So that's before he falls
12 asleep and passes out?

13 A: That's several hours before. Yes, ma'am.

14 Q: And let's be clear. The drink wasn't grapefruit juice;
15 it was grapefruit juice and vodka?

16 A: Yes, ma'am, it was.

17 Q: So you were both drinking alcohol?

18 A: Yes, ma'am.

19 Q: All right. So once he gets in the bed with you, you all
20 have sex; correct?

21 A: I wouldn't call it once he gets in the bed with me, we
22 have sex. It was forced, ma'am. It was forced. I had a
23 urinary tract infection, ma'am.

24 Q: It was forced; correct? So afterwards, when it's all
25 over and you're at headquarters and they ask you do you want

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1 a rape kit because you've been raped, you tell them no?

2 A: Because he was having trouble ejaculating and he was
3 furious about it, ma'am.

4 Q: Yes or no? When they offered to do a rape kit, you said
5 no?

6 A: I had a pelvic.

7 Q: Okay. You did?

8 A: Yes, I did have a pelvic.

9 Q: When?

10 A: At the emergency room, ma'am.

11 Q: When?

12 A: After interrogation, ma'am.

13 Q: September 11th? 12th? 13th? When?

14 A: September 11th, the day -- the day of, the same day as
15 these -- as these interrogations. The same day.

16 Q: Where did you go?

17 A: Karen DeVors, the victim's advocate, drove me to the
18 hospital and we went to the emergency room, ma'am.

19 Q: All right. And this sex that you say that you had that
20 was not consensual, did you ask -- did you tell him no?

21 A: Yes, ma'am.

22 Q: You told him no?

23 A: I said I had a problem down there.

24 Q: Can you show me where in the transcript you tell anybody
25 that?

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1 A: I didn't know I had a urinary tract until I was
2 diagnosed that day. I knew I had -- I couldn't pee, and my
3 pee that came out smelled. And I told Monty I had a problem,
4 and it was very painful while he was ramming me that morning,
5 ma'am.

6 Q: Can you tell -- show me again in either of those
7 interviews where you tell them that you told Monty that?

8 A: If it's not in print, then I didn't tell them, ma'am.

9 Q: You didn't tell them that. That's correct. And you
10 didn't tell them -- in fact, what you told them was you just
11 rolled over and let him do what he wanted to do?

12 A: That's the only way you could deal with Monty.

13 Q: So that's what you told them when asked about it?

14 A: That's the only thing that you could do with Monty.

15 Q: Not that it hurt, not that he forced you, but that you
16 rolled over and let him do it?

17 A: Ma'am, by the time I got into this, I was totally,
18 totally undone.

19 Q: Okay. And so then after that, he gets in the bed with
20 you and you go to sleep?

21 A: No, I don't think there was much sleep that -- no, no,
22 no.

23 Q: That's not what you told Inv. DeVors and Inv. Bailey,
24 that you all went to asleep?

25 A: I don't -- I don't remember. I know Monty passed out

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- 1 maybe and then woke up. I mean he was -- he was -- he wanted
2 to have an orgasm and he kept after me, ma'am. He could not
3 ejaculate. He just kept after me, and I had an infection,
4 ma'am.
- 5 Q: Okay. When you all woke back up, the plan was that day
6 you were supposed to vaccinate your horses with your mother;
7 correct?
- 8 A: I'm sorry. That day. That morning, yes.
- 9 Q: Yes.
- 10 A: Yes, ma'am.
- 11 Q: September 11th you were supposed to vaccinate your horses
12 with your mother?
- 13 A: Yes, ma'am.
- 14 Q: And so, in fact, you got out of the bed and called your
15 mother to change that to a different time; correct?
- 16 A: I tried to do that. Yes, ma'am.
- 17 Q: You called her?
- 18 A: Yes.
- 19 Q: To change it from 9 to 10?
- 20 A: Yes, ma'am.
- 21 Q: All right. He didn't stop you from doing that, did he?
- 22 A: He was -- he wasn't going anywhere. He was in the bed.
- 23 Q: The question is, he didn't stop you from using your
24 phone?
- 25 A: No, he did not stop me from using my phone.

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1 Q: He did not stop you from calling your mother?

2 A: That was my mother's phone.

3 Q: He didn't stop you from calling your mother using
4 whatever phone?

5 A: No. He was sort of -- no.

6 Q: Okay. And at some point, you both decided it was time
7 to go? Fair to say?

8 A: I kept telling him all morning I had my mother coming.
9 It was a change of schedule. Monty wasn't on the schedule.
10 He had been fired.

11 Q: Right.

12 A: So he didn't have work. So he didn't have a schedule.
13 I did. I had my mother coming at 9:00 to vaccinate the
14 horses, which was -- it's a once -- it's a once in the fall
15 type thing. It's not, like, an everyday thing. So this day
16 was a different type of day, ma'am.

17 Q: And you changed that from 9 to 10 so that you could --

18 A: I did, yes.

19 Q: So that you could get him out of there before you had to
20 do that; correct?

21 A: Yes, ma'am.

22 Q: All right. And you told Inv. Bailey that you two got
23 together and made an excuse that you would give your mother
24 for why you had to leave in the morning?

25 A: No, I didn't get together with Monty. I thought of that

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1 and I told Monty. What I'm going to do, Monty, is I'm going
2 to stop on the way out and tell my mother -- jump out of the
3 truck and tell my mother that I was going to pick up a
4 newspaper or a trader or something for my -- the trailers
5 were advertised in, ma'am.

6 Q: So you didn't tell Inv. Bailey that he told you to take
7 him into town and he told you to make an excuse?

8 A: Ma'am, I always took Monty into town. He never got a
9 ride from anybody in all the times that Monty was at the
10 farm, all the times. It didn't matter if I was -- had a
11 bloody lip. I still took Monty into town. Every time he
12 wanted to go from the farm, I took him, ma'am.

13 Q: And again, my question is, did you tell Inv. Bailey that
14 Monty told you to take him into town and to make an excuse?
15 Yes or no?

16 A: Make an -- I made the excuse.

17 Q: Did he tell you to do so?

18 A: Monty?

19 Q: Yes.

20 A: No, Monty didn't tell me.

21 Q: Did you tell --

22 A: It was -- I was --

23 Q: -- Inv. --

24 A: Excuse me.

25 Q: I'm sorry. Did you tell Inv. Bailey that Monty told you

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1 to do that?

2 A: I have -- I have no idea. If it's not in print, ma'am,
3 then I didn't tell him that.

4 Q: Okay. I'm going to show you State's Exhibit Number 2,
5 page 39.

6 A: Page 39?

7 Q: Yes. Starting where it says Ms. Pickrell. Oh, okay,
8 okay. Well, so you know what I'm saying. So my mother was
9 going to be there at 9:00 and she didn't know he was there.
10 Inv. Bailey says, okay.

11 Then you say, okay. And he said you're going to take me
12 into town now, and I said, look, I've got to call my mom and
13 make sure that she knows I'm going to leave.

14 Inv. Bailey says, okay. And he said, well, make up some
15 excuse.

16 A: Okay.

17 Q: So that's what you told him?

18 A: Okay, ma'am.

19 Q: So then -- and that's what you were going to do;
20 correct? You were going to make up an excuse and tell your
21 mother?

22 A: I already -- I already knew I had to go get the -- get
23 him. He was late. I mean I was late getting him off the
24 farm, ma'am. I was going to pick up a newspaper.

25 Q: So you --

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1 A: That's what I was going to tell her.

2 Q: And that was not going to necessarily be the truth, was
3 it?

4 A: To my mother?

5 Q: Yes.

6 A: No. It wasn't the truth. It was basically to keep her
7 protected.

8 Q: All right. So you were going to lie to your mother?

9 A: It wasn't a lie, ma'am.

10 Q: Was it the truth?

11 A: I was going to go into town. I was going to pick up the
12 newspaper, ma'am. That wasn't a lie.

13 Q: All right. But that wasn't why you were going into
14 town. You were going in town to take Monty back?

15 A: Just like I did every morning that he needed to go back
16 into town.

17 Q: And on those days that he came in after the August 14th
18 incident, you didn't tell your mother about those times he
19 was at your house, did you?

20 A: I'm sorry. August 14th? That was when?

21 Q: August of 2014 until this incident, the times he came to
22 your house, you didn't tell your mother about those?

23 A: He hasn't -- hadn't been at my house for some time after
24 the incident --

25 Q: You said that --

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1 A: -- earlier in 2014. I'm sorry. August. August, there
2 was a -- there was a -- after he came out with Kip Elzer's
3 truck. Yeah, there was --

4 Q: And that's when she told you she didn't want him on the
5 property anymore?

6 A: Exactly.

7 Q: Okay.

8 A: She didn't want -- she didn't want Kip Elzer's truck out
9 there and Monty illegally driving a truck onto our farm.
10 Anything could've happened, ma'am.

11 Q: But you told --

12 A: But the truck -- it wasn't our truck.

13 Q: You didn't tell the police that part. What you told
14 them was she didn't want him on the property anymore after
15 that?

16 A: She -- she knew he was dangerous.

17 Q: Okay.

18 A: She knew he was dangerous, ma'am.

19 Q: Correct. She didn't want him back on the property?

20 A: No.

21 Q: But he came back on the property?

22 A: He came back on the property and she didn't know it,
23 ma'am.

24 Q: Did you call the police for that?

25 A: Ma'am, you don't call --

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 Q: I think we've gone over that.
- 2 A: You don't call the police, ma'am, with Monty in -- in
3 your face.
- 4 Q: All right.
- 5 A: Monty was in my face all the time. You couldn't go and
6 call the police, ma'am.
- 7 Q: But he didn't live there; correct?
- 8 A: No, he didn't live there. No.
- 9 Q: And so according to what you said today, he was able to
10 get dressed and put on his shoes and saw you in the bathroom?
- 11 A: Do you want me to show you?
- 12 Q: No. It's not that. It's that he saw you in the
13 bathroom; correct?
- 14 A: No, he didn't see me in the bathroom. He walked through
15 the doorway of the bedroom, and I was sitting on the toilet
16 and he looked. The door wasn't shut. I was sitting on the
17 toilet. The faucet was running.
- 18 Q: This wasn't a trick question. He could see you on the
19 toilet?
- 20 A: He -- he turned and said to me -- he said, let's get the
21 fuck out here. I'm ready to go.
- 22 Q: While you're in the bathroom?
- 23 A: On the toilet, yes.
- 24 Q: You didn't tell Inv. Bailey that, did you?
- 25 A: Ma'am, as I say, it was a very traumatic morning. It

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 was a very traumatic 11 hours, ma'am.

2 Q: So the answer is, no, you didn't tell him?

3 A: If it's not in print, ma'am, I didn't -- I didn't tell
4 them.

5 Q: All right. And you said today on direct that you were
6 within five seconds of getting out in the house?

7 A: Absolutely, ma'am.

8 Q: And that he then suddenly pushed everything on to the --
9 you assume he pushed it, but somehow all this stuff got onto
10 the floor?

11 A: He couldn't find his earring, ma'am.

12 Q: Right. So all this stuff is on the floor?

13 A: He -- he swiped his hand like this and put -- the stuff
14 that came off the desk was from the night -- the night or
15 that early morning hours, ma'am.

16 Q: The fruit --

17 A: That's not from the desk. The fruit and -- yes, that
18 came off that morning, ma'am.

19 Q: Right. That's all I'm asking you about.

20 A: When he went like this, obviously. I mean the chimes
21 were going off.

22 Q: Did you tell the investigators about the chime or the
23 fruit being knocked onto the floor by him?

24 A: Ma'am, in order to remember all that I remembered from
25 everything that happened from all the incidences and the

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1 episodes of violence and being beaten and head trauma, ma'am,
2 I couldn't -- I mean anything that came out of my mouth I was
3 trying to remember I couldn't remember in chronological
4 order. I mean that was -- I completely was -- I don't know.
5 I'm not a doctor, but I would say that I was probably in
6 shock, ma'am.

7 Q: So the answer is no?

8 A: The answer is no.

9 Q: Okay.

10 A: It it's not in print, I didn't say it, ma'am.

11 Q: All right. And he is -- you've made it clear he is
12 upset about his earring. You tell Inv. Taylor -- Inv. Bailey
13 that and Inv. DeVors that he can't find his earring and he's
14 very upset about it?

15 A: If it's in print and it said that, then it's -- then
16 that's the truth. He was furious about his earring, ma'am.

17 Q: And that starts somewhere outside of the bedroom and
18 continues into the bedroom where he goes and looks?

19 A: Yes.

20 Q: That's your testimony today?

21 A: Yes, ma'am.

22 Q: Okay. Do you remember talking to Inv. DeVors and
23 telling him it started in the bedroom? The argument over the
24 earring?

25 A: I don't know what I said. I just know that I overheard

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 the action that was going on after the -- me being in the
2 bathroom, ma'am.

3 Q: Okay.

4 A: And he -- and he told me then -- the whole thing with
5 the earring, he kept repeating about the earring from the
6 kitchen into the bath -- into the bedroom. Excuse me.
7 Sorry. Bath -- bedroom. He -- he carried it with him during
8 that.

9 Q: And you told Inv. Bailey that he was going into the
10 bedroom yelling about this earring and that you asked him to
11 come on, let's get out of here?

12 A: Yes. I -- I -- I wanted to leave, ma'am.

13 Q: And let's be clear. He is tearing up the bed looking
14 for this earring?

15 A: He -- I told him -- I don't -- I don't think the bed was
16 torn up.

17 Q: Do you remember telling Inv. Bailey that he is tearing
18 up this bedroom?

19 A: Well, if he was tearing, he was waving his arms. I mean
20 I don't know, you know.

21 Q: Do you remember telling Inv. Bailey that he was tearing
22 up the bedroom?

23 A: I don't remember, but if it's in print, then I did say
24 it, ma'am.

25 Q: Okay. And --

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- 1 A: I believe that his intention was to tear up the bed,
2 ma'am.
- 3 A: My question just was, did you tell Inv. Bailey that he
4 was tearing up, and you've answered that.
- 5 A: It was his intention. He wanted to find his earring,
6 ma'am.
- 7 Q: You told Inv. DeVors that he said when I find or if I
8 find this earring, I'm going to kill you; correct?
- 9 A: No. If I can't find my earring, I'm going to -- I'm
10 going to find my earring before I leave -- before I leave.
- 11 Q: You didn't tell Inv. DeVors, the first investigator you
12 spoke with, that he said if I find my earring, I'm going to
13 kill you? If I don't find my earring, I'm going to kill you?
- 14 A: That's why -- I'm sorry. That's why I'm confused,
15 ma'am. Excuse me.
- 16 Q: He said if I don't find my earring, I'm going to kill
17 you?
- 18 Q: What he said was I'm going -- I have to find my earring.
19 If I don't find my earring, I'm not leaving until I find my
20 earring, ma'am.
- 21 Q: And again, my question is, what did you tell Inv.
22 DeVors? Did you tell him that he said --
- 23 A: Ma'am --
- 24 Q: -- if I don't find my earring, I'm going to kill you?
- 25 A: I have two interrogations working here, ma'am.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: You do. And before we get to that, at some point -- I
2 don't think you did this with -- on direct. You started
3 rubbing his back at some point during this whole -- before
4 the earring incident; right?

5 A: Yes. He demanded and commanded it, ma'am.

6 Q: And you did it?

7 A: You did what Monty wanted. You did. You didn't say no
8 to Monty, ma'am. No was not in his vocabulary, ma'am.

9 Q: Okay. You also told Inv. DeVors that he said I'm going
10 to do you once I find the earring, and you thought that meant
11 y'all were going to have sex again? You don't remember that
12 you told him that?

13 A: No, I don't remember. Ma'am, it's hard to remember when
14 you've been through what I went through.

15 Q: Okay. Let me show you. First, I'm going to show you
16 State's Exhibit -- I mean Defense Exhibit 1 on page 73. Inv.
17 DeVors; correct?

18 A: Yes, ma'am.

19 Q: It says sure; correct?

20 A: Yes, ma'am.

21 Q: It says Ms. Pickrell and I -- I just remember he said
22 I'm going to come and I'm going to kill you. If I cannot
23 find this earring, I'm going to come and fucking kill you.
24 That's you saying that to Inv. DeVors; correct?

25 A: Yes. I mean that -- that's what he said.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: That's what you told Inv. DeVors?

2 A: Monty said that.

3 Q: Okay. And then the next thing, you tell him you're --

4 he's discussing whether you should use the language; right?

5 Is that fair to say? Whether you should use explicit

6 language?

7 A: Okay. I'm sorry. Where -- okay.

8 Q: So be as explicit as you need?

9 A: Okay. Right. Okay.

10 Q: And you tell him you're going to find the earring;

11 right?

12 A: Okay.

13 Q: Is that what it says?

14 A: Uh-huh.

15 Q: I need you to say yes or no.

16 A: Yes, ma'am.

17 Q: All right. And then you start describing, no, I'm going

18 to -- I'm going to find this earring. I'm going to da da da

19 da da and everything else, and you started to get this thing.

20 And you start talking about him kind of blowing up at you;

21 right?

22 A: Yes, ma'am.

23 Q: Okay. And then I'm going to kill you and then he turned

24 to the bed and he's looking at -- in the bed for the earring,

25 and I thought, you know what? I'm going to get the gun and

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 I'm going to point it at him and I'm going to say, Monty,
2 just come on?

3 A: In my head?

4 Q: Right. In your head?

5 A: Yes. That's in my head. A million thoughts were going
6 through my head.

7 Q: And then the next thing you tell him is come on and
8 that's the first time I've ever done that because I've always
9 been afraid to even call 9-1-1?

10 A: Yes.

11 Q: Right.

12 A: I was always afraid --

13 Q: Right.

14 A: -- to call 9-1-1, ma'am.

15 Q: And then he said, I'm going to find the earring and I'm
16 going to kill you?

17 A: I'm going to fucking kill you.

18 Q: And the next thing I knew, I just -- I just shot the
19 gun. That's what this says?

20 A: Okay.

21 Q: Is that correct?

22 A: Yes, ma'am.

23 Q: Nothing in there about him kicking you in the head or
24 kicking you in the back or throwing you by a trunk?

25 A: Ma'am, 36 hours of no sleep, 11 hours of being slathered

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 around the house like a Raggedy Ann doll, forced sex with a
2 urinary tract infection, everything, Ménière's, the whole --
3 the whole thing thrown in, it was hard for me to have a train
4 -- to follow -- to have a train of thought. I couldn't
5 follow anything.

6 Q: And you said that?

7 A: Chain of events. I'm sorry, ma'am.

8 Q: Go ahead.

9 A: The chain of events -- I couldn't get the chain of
10 events or anything described. I couldn't relate it in
11 chronological order. I could not. There was no -- no order
12 that morning. It was -- it was pure chaos. It was all
13 confusion, ma'am --

14 Q: So the answer is no?

15 A: -- in my head.

16 Q: So the answer is, no, you didn't tell him?

17 A: Then the answer is no then, ma'am.

18 Q: And let me go back to where I was. We just went over
19 what you told DeVors, but when you talked to Bailey, you
20 talked about how there was a conversation before you shot
21 him; correct?

22 A: In my head. I had things going in my head.

23 Q: To Inv. Bailey, you said you pointed the gun at Monty
24 and said, look, let's go?

25 A: I said that to --

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: Inv. Bailey.

2 A: Bailey?

3 Q: Yes, ma'am.

4 A: And to begin with, I -- when he -- Monty said to me
5 you're not going to fucking shoot me, you piece of shit, and
6 all that.

7 Q: That's my point. There's a conversation once you get
8 the gun between you and Monty; correct?

9 A: No. There wasn't really a conversation, ma'am. I was
10 on my -- on my knee -- on my belly crawling out and I got the
11 gun and I turned and that's when he said that, and I pulled
12 the trigger, ma'am.

13 Q: Right.

14 A: He was -- yeah. I mean --

15 Q: You say something and he responds?

16 A: I didn't --

17 Q: That happened --

18 A: I didn't say anything. I said it in my mind going to
19 get -- I said I'm going to get the gun. I'm going to get the
20 gun when I'm crawling on my belly, ma'am.

21 Q: Okay. I'm going to show you again State's Exhibit
22 Number 2 [sic]. This is your statement with Inv. Bailey. Do
23 you see where it says Inv. Bailey?

24 A: Yes, ma'am.

25 Q: Do you agree with me that's what this says?

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 A: Yes, ma'am.
- 2 Q: Okay. And you were telling him where you are. You walk
3 in and there's little couches and chairs. Y'all are
4 describing what?
- 5 A: Oh, the house.
- 6 Q: This; right?
- 7 A: Yeah.
- 8 Q: Is that correct?
- 9 A: Uh-huh.
- 10 Q: And you're trying to tell him exactly where you were,
11 and you say you made the left-hand turn and, of course, I'm
12 assuming was your room here. You're doing this with him;
13 correct?
- 14 A: Yes. We didn't have a diagram. Right?
- 15 Q: That's right.
- 16 A: Okay.
- 17 Q: And you tell him there's a bathroom that's right on the
18 other side of the wall?
- 19 A: Yes, ma'am.
- 20 Q: So you're describing the scene to him. Would that be
21 fair to say?
- 22 A: Yes, ma'am.
- 23 Q: All right. And you're talking, and he says, okay, the
24 bureau is right here, around here somewhere. Would you show
25 the Court today?

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: Yes, ma'am.

2 Q: And the bureau is where the gun was; correct?

3 A: The bureau --

4 Q: Whatever you want to call it.

5 A: Yes. Uh-huh.

6 Q: Right.

7 A: Uh-huh. The bureau.

8 Q: And y'all are just talking. He's -- you're asking --

9 answering things and he's just kind of going uh-huh. Okay.

10 The desk is here, and this comes to the desk and I -- I think

11 there's a bureau here. You're just talking?

12 A: Right.

13 Q: Right. You're not --

14 A: He's describing -- describing the room.

15 Q: He's not stopping you from talking; correct?

16 A: No, he's not stopping me, ma'am.

17 Q: And during all of this, you're again describing the

18 bathroom, the little wall space. Y'all are going over

19 details about your house; right?

20 A: Yep.

21 Q: And that's where I had put the gun. That's you;

22 correct?

23 A: Uh-huh.

24 Q: Okay. I'm on page 47 and I -- and this is the doorway

25 here, I believe right in here. Again, you're just describing

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 everything and he's not stopping you; correct?
- 2 A: No. No. This is Bailey.
- 3 Q: Right?
- 4 A: No. Bailey is not, no.
- 5 Q: And then down at the bottom. And I came out when he was
- 6 looking, how he was looking and threatening and on and on and
- 7 on, tearing the bed apart because he wanted to find the damn
- 8 earring. So you did tell Bailey that?
- 9 A: Okay.
- 10 Q: Correct?
- 11 A: Yes.
- 12 Q: I'm not reading this incorrectly, am I?
- 13 A: No. No.
- 14 Q: And I -- and I thought, you know what? I'm going to get
- 15 the gun and I'm going to point it at him and, again, he
- 16 doesn't stop you? Which is the first time I've ever done
- 17 that. Is that all correct?
- 18 A: Yes, ma'am.
- 19 Q: I'm not misreading any of this?
- 20 A: Yep.
- 21 Q: And I'm going to say, look, let's go, but I didn't want
- 22 to get close to him because I was afraid that, if I got close
- 23 to him, he would take the gun?
- 24 A: This was all going on in my mind, ma'am.
- 25 Q: Correct.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 A: It was all going on in my mind.

2 Q: Correct. And then you go, where were you standing when
3 you pulled the trigger? Do you remember? He's asking you
4 that?

5 A: Uh-huh.

6 Q: He was -- you know -- and you're describing the bed and
7 the trunk, and the trunk is like this and he was right there.
8 You're going through all this; correct?

9 A: Uh-huh.

10 Q: And he was, like, right here on this side of the trunk?

11 A: Uh-huh.

12 Q: And you say you're in the doorway; correct?

13 A: Yes, ma'am.

14 Q: And you specifically say I was in the doorway and the
15 trunk that went -- and you describe where the trunks are,
16 just like you did today?

17 A: Yes, ma'am.

18 Q: All right. And so you came in, you went -- you left out
19 of the room because I'm assuming y'all were in here arguing.
20 Am I right? That's him asking you a question?

21 A: Yes, ma'am.

22 Q: And you say, yes, and then you went and retrieved the
23 gun from the bureau and came back; correct?

24 A: Yes, ma'am.

25 Q: You don't say anything about being assaulted in-between

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 any of that, do you?

2 A: It was not in chronological order in my mind, ma'am.

3 Q: Right. You don't say it in here though, do you?

4 A: I didn't say it.

5 Q: Okay.

6 A: But it happened.

7 Q: I pointed it at him and I said -- and what happened?

8 What did he say? That's Inv. Bailey asking you?

9 A: Yes, ma'am.

10 Q: What are you -- he started this and I said, Monty, look,

11 let's just go. That's you telling Monty that?

12 A: In my mind, crawling on the floor, ma'am.

13 Q: This said he started this and I said, Monty, look, just

14 let's go?

15 A: Uh-huh.

16 Q: That's you saying that to Inv. Bailey; correct?

17 A: Yes, ma'am.

18 Q: All right. And then you say, come on, let's go, and the

19 way he looked, it looked like he was going to come after me?

20 A: Yes.

21 Q: He asked you did he make any advances toward you or say

22 anything, and you answered. He said you're not shooting,

23 like, you're not fucking shooting me?

24 A: Uh-huh.

25 Q: You're not fucking shooting me and then he started like

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 this and I pulled the trigger?
- 2 A: Uh-huh.
- 3 Q: So he actually lunged at you? And you just said he
- 4 moved like this? I don't know that is.
- 5 A: No. Yeah.
- 6 Q: All right.
- 7 A: He didn't lunge.
- 8 Q: So again, he's just asking you questions and you're
- 9 answering, but there's nothing about there being an
- 10 altercation prior to you going to get the gun?
- 11 A: Ma'am, it all goes back to not being able to put the
- 12 chain of events in chronological order.
- 13 Q: Okay.
- 14 A: I couldn't follow any train of thought that morning,
- 15 ma'am.
- 16 Q: That's fine. And you told Inv. DeVors, different
- 17 interview earlier than this one, that you saw Monty drop and
- 18 you ran and got the phone?
- 19 A: I ran away.
- 20 Q: My question --
- 21 A: I ran away.
- 22 Q: You told Inv. DeVors that you saw him drop?
- 23 A: I saw him move, ma'am.
- 24 Q: This is State's Exhibit 1. I mean -- excuse me.
- 25 Defense Exhibit 1. You talk about that you grabbed the gun

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 and said I can't take anymore beating? Okay? In your head?

2 A: In my head. Yes, ma'am.

3 Q: Okay. And then I went with the gun in my hand and got
4 the phone; correct? That's what this says?

5 A: After the fact, yes. After the fact.

6 Q: You could read any of that. Does this --

7 A: Yes, ma'am. I had the gun in my hand and I didn't know
8 when Monty moved if he was -- you know, he had dropped. He's
9 just mentioned the word dropped.

10 Q: Yeah.

11 A: I mean I didn't know. I mean he could've been on my
12 heels. I had no idea.

13 Q: So what --

14 A: I got the phone.

15 Q: All right. So what you say --

16 A: And went out the door.

17 Q: Hold on. I'm sorry. Here we go. All right. You just
18 say starting on page 83 your plan was I'm going to -- this is
19 DeVors repeating what you said?

20 A: Uh-huh.

21 Q: I'm going to -- I'm going to get him out of here because
22 I'm going to point this gun at him. I'm going to get him out
23 of here.

24 A: Uh-huh.

25 Q: And you say -- and you're going to get him out of here.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 And DeVors says, okay. I think I'm going backwards. Sorry.

2 And I didn't want him to get the gun from me; right?

3 A: Huh-uh.

4 Q: Because I knew that I would either -- I would be
5 destroyed or whupped to death with the gun or something. And
6 you talk about -- something about -- I mean, you know, he's
7 got this movie thing going, you know, and any way, when he
8 went something like this, I just -- I just pulled the -- I
9 just pulled the trigger?

10 A: Uh-huh.

11 Q: Nothing about a conversation right here; right?

12 A: Uh-huh.

13 Q: All right. Yes? I'm sorry. I need you to say yes or
14 no.

15 A: Yes. Yes, ma'am. Yes, ma'am.

16 Q: Okay. When -- when you pulled the trigger, the gun went
17 off. Do you know where it hit him?

18 A: No.

19 Q: You answered no. What happened next? He went down.

20 A: He moved. I mean -- ma'am --

21 Q: My question is, is that what you said to Mr. -- Inv.
22 DeVors?

23 A: That's right.

24 Q: Okay

25 A: But he could've been just moving -- moving.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: And then --

2 A: I'm sorry.

3 Q: Inv. DeVors says, okay; correct?

4 A: Yes, ma'am.

5 Q: And I said, oh, my God. Gregg, what have you done?

6 What have you done? And I thought it was like with Dan; is

7 that all correct?

8 A: Uh-huh.

9 Q: Yes, ma'am? I need you to say --

10 A: Yes. Yeah. When the gun goes off, I mean --

11 Q: And I said the same thing this morning. I said please

12 send an ambulance. I have just shot someone; correct?

13 A: Yes, ma'am.

14 Q: So you did know that you'd shot him?

15 A: I didn't know, ma'am. I asked -- I asked the deputy.

16 When the deputy took me in to the sheriff's, I said is he

17 okay, and I didn't even know -- I didn't know anything. I

18 didn't even know that Monty was dead until my attorney,

19 William Cox, showed up in the interrogations.

20 Q: So --

21 A: And then I asked Karen DeVors on the way to the hospital

22 where did I hit him.

23 Q: Right. The question was, you said you didn't know that

24 you had shot him?

25 A: No.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: You called 9-1-1 and you said I just shot him?

2 A: I just shot a gun. I shot a gun.

3 Q: That's what you said. I think we'll have -- we'll
4 introduce the 9-1-1 later, but you don't remember telling
5 9-1-1 that I just shot him and he needs help?

6 A: I shot the gun, ma'am.

7 Q: That's what you told 9-1-1? That's what you're saying
8 today?

9 A: Ma'am, I don't know what I said on 9-1-1.

10 Q: All right.

11 A: Okay?

12 Q: And today you're saying that you don't know whether you
13 shot him? You did not know whether you had shot him or not?

14 A: I --

15 Q: You just run and grabbed the phone?

16 A: I just -- yes, ma'am.

17 Q: Okay.

18 THE COURT: Ms. Sampson, I hate to interrupt your flow,
19 but it's past the lunchtime.

20 MS. SAMPSON: That's fine.

21 THE COURT: I think we need to take a break for lunch.
22 I'm going to remind you, Ms. Pickrell, that you should not
23 discuss your testimony with anyone during the lunch break,
24 and that includes your attorneys because you've not concluded
25 your testimony. So it would be inappropriate for you to

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 discuss it during this particular break.

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Let's take a break. We'll come back at
4 2:15.

5 MS. SAMPSON: Can I ask, Your Honor, can she be
6 instructed not to talk to anybody --

7 THE COURT: Yeah.

8 MS. SAMPSON: -- about her testimony?

9 THE COURT: Yeah. You shouldn't -- you should not talk
10 with anyone about your testimony, including your attorney.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Yeah. Not friends, family, anyone.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Anything else we need to take up?

15 MS. SAMPSON: No, ma'am.

16 MR. DELGADO: Thank you.

17 (WHEREUPON, there was a break in the proceedings from
18 1:12 p.m. until 2:31 p.m., after which the proceedings
19 resumed as follows.)

20 THE COURT: Good afternoon. Be seated, please. I'm
21 sorry for the delay. I got caught up in some other issues.

22 You may resume the witness stand. Thank you.

23 THE DEFENDANT: Thank you, Your Honor.

24 THE COURT: Yes, ma'am.

25 MS. SAMPSON: May it please the Court.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 BY MS. SAMPSON:

2 Q: Okay. Ms. Pickrell, after you called 9-1-1, the police
3 did come; correct? On the night of the incident or the
4 morning of September 11th of 2014?

5 A: Yes. About 25 minutes -- 30 minutes.

6 Q: They showed up. You were taken down to headquarters;
7 correct?

8 A: Yes, ma'am.

9 Q: And at that point, you spoke with Inv. DeVors?

10 A: Yes, ma'am.

11 Q: And I believe Karen DeVors was also in the room at some
12 point; correct?

13 A: Yes, ma'am.

14 Q: And then at some point, your lawyer, Mr. Cox, I believe,
15 showed up?

16 A: Yes, ma'am.

17 Q: And then you spoke with Inv. Bailey more about what had
18 happened?

19 A: Yes, ma'am.

20 Q: Okay. So -- and in total, you spoke to them for
21 approximately three hours? Do you remember?

22 A: I know it was over two hours.

23 Q: Okay. And then you were allowed to go home?

24 A: No.

25 Q: Or to the hospital? I'm sorry. And then home?

GREGG PICKRELL - CROSS BY MS. SAMPSON

- 1 A: Karen DeVors took me to the hospital.
- 2 Q: And that you went home after that?
- 3 A: She took me back to the farm about -- I'd say five or
- 4 six in the evening.
- 5 Q: Okay. And you came back to the Sheriff's Department the
- 6 next day; correct?
- 7 A: Yes, ma'am.
- 8 Q: And they took photographs?
- 9 A: Karen was having trouble with her camera the day -- the
- 10 day -- the first time I had gone in there, and I went back --
- 11 Q: Okay.
- 12 A: -- for the pictures to be retaken.
- 13 Q: On September 12th?
- 14 A: Yes, ma'am.
- 15 Q: And the picture that Mr. Delgado -- that you all have
- 16 introduced -- I don't remember -- what? It's Defense Exhibit
- 17 23?
- 18 A: Yes, ma'am.
- 19 Q: What day was this taken? Do you remember?
- 20 A: I believe that was about two weeks into jail. I was in
- 21 jail for two weeks, ma'am.
- 22 Q: Okay. So to the best of your knowledge, that was the
- 23 end of September or early October?
- 24 A: It would have been two weeks after I was -- I went in on
- 25 the 12th.

GREGG PICKRELL - CROSS BY MS. SAMPSON

1 Q: Okay.

2 A: I was arrested on the 12th and then that was taken, I
3 would say, within two weeks of my going to jail.

4 Q: Okay. But it wasn't, like, September 13th or September
5 14th? It was definitely a couple of weeks later?

6 A: It was within -- it was -- I would say, yes, two weeks.

7 Q: Okay.

8 A: I think at least two weeks. Yes, ma'am.

9 Q: Okay.

10 MS. SAMPSON: I was almost done when you took the break.

11 So --

12 THE COURT: That's all right.

13 MS. SAMPSON: No further questions at this time, Your
14 Honor.

15 THE COURT: Any redirect?

16 MR. DELGADO: Thank you, ma'am.

17 REDIRECT EXAMINATION

18 BY MR. DELGADO:

19 Q: Gregg, when you went to the doctor for the medical
20 evaluation on the afternoon of the 11th, where did you go?
21 Which hospital or which doctor's office?

22 A: To the emergency room at the Kershaw County -- at the
23 hospital.

24 Q: All right, ma'am. Did you tell them what had occurred
25 the night of the 10th and the morning of the 11th?

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 A: No, sir.

2 Q: You didn't tell them at all?

3 A: I was only asked what we were going to -- I was asked if
4 I had been assaulted.

5 Q: Yes, ma'am. Do you remember what you said?

6 A: I said, yes. Yes, ma'am. Yes, sir.

7 Q: Do you remember what else you may have told them?

8 A: I told them that I was -- had been beaten.

9 Q: All right. Hold on just one second.

10 (WHEREUPON, there was a pause in the proceedings as
11 counsel conferred, after which the proceedings resumed
12 as follows.)

13 MR. DELGADO: Your Honor, during the cross-examination
14 of the defendant, it became evident to me that I needed to
15 introduce records from the Kershaw Memorial Center, the
16 medical center, as a result of Ms. Pickrell's evaluation
17 there, because she says some things that I need to have
18 corroborated too.

19 Number one, verified prior inconsistent statement that
20 my friends are trying to make as an example that she's made
21 something up. Most importantly, Your Honor, it corroborates
22 other parts of her testimony here today.

23 I believe that under various exceptions to 803, that
24 would be 803(3) and 803(4), that these records come into
25 evidence. I'm sorry to say that the solicitor -- I did not

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 show these to the solicitor. I didn't think I was going to
2 use them until cross-examination, but I would like to be able
3 to admit these into evidence and then refresh Ms. Pickrell's
4 memory with her statements to her physician at that time.

5 MS. SAMPSON: My objection, Your Honor, was mainly that
6 -- I'm not sure. Apparently, I did make it aware. I had not
7 knew she had even been to the hospital. The first time I
8 knew that she had been was when she said it today. I was not
9 aware of these records or anything in those records.

10 And so I put -- I probably would have asked her in cross
11 about those things had I even known it. At this point, I've
12 got to try to read them while he's talking to her.

13 I just -- I'm concerned about getting into any
14 information that is in there to either support or deny what
15 she's saying. I've never even had the opportunity to see
16 them or to talk to any of the doctors who were listed in
17 there that wrote that.

18 THE COURT: But now, what we're -- what we're talking
19 about are only statements that she would have made in
20 reference to any treatment that she -- she was seeking?

21 MS. SAMPSON: There's the doctor's notes of whatever she
22 said or the nurse's notes and, again, had we known about
23 them, we would've went and talked to them to verify or least
24 gotten -- I don't have any of that.

25 THE COURT: Let me make sure what you're saying is that

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 they are recordings made by medical personnel as to what she
2 told them?

3 MS. SAMPSON: As best as I know.

4 THE COURT: Okay.

5 MS. SAMPSON: Yes, ma'am.

6 THE COURT: Okay.

7 MS. SAMPSON: And I understand normally that would come
8 in under a hearsay exception. I'm not saying they don't come
9 in under a hearsay exception. My bigger problem is I've
10 never seen them. I was not even aware that they existed
11 until --

12 THE COURT: Okay.

13 MS. SAMPSON: -- whenever she said she had gone to the
14 hospital.

15 THE COURT: Do you have an extra copy, Mr. Delgado?

16 MR. DELGADO: Your Honor, I'm sorry to say this is my
17 only copy, but I'll be happy to show the Court and let them
18 make a copy and I can go to something else and come back to
19 it.

20 THE COURT: Let's do that.

21 MR. DELGADO: Your Honor, I think maybe I can save a
22 couple minutes.

23 THE COURT: Sure.

24 BY MR. DELGADO:

25 Q: Ms. Pickrell -- Ms. Pickrell, you said on cross-

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 examination with Ms. Sampson that you have trouble hearing;
2 correct, ma'am?

3 A: Yes. Yes, sir.

4 Q: As a matter of fact, you favor your left ear as you sit
5 there on the stand today to hear my voice and the other
6 voices; correct, ma'am?

7 A: Yes, sir.

8 Q: Explain to the Court -- did Mr. Demary know that you had
9 a hearing problem?

10 A: Mr. Demary knew I had Ménière's.

11 Q: What would he do to exacerbate your hearing problems,
12 ma'am? How would he assault you in such a way as to
13 exacerbate that, to aggravate it?

14 A: Well, first off, he would take his hands or his fists
15 and he would bop me on both sides of my head, my -- my ears.
16 And any head trauma to someone who has Ménière's is
17 horrendous besides just being head trauma to anybody. But it
18 -- it sent me wheeling. Ménière's is an incurable disease
19 and it -- you become -- you have problems with your hearing,
20 your equilibrium. You --

21 Q: How long have you had that diagnosis?

22 A: It was diagnosed before I moved here, probably 12 years
23 ago, 2005.

24 Q: He knew that you had Ménière's?

25 A: Yes, he did.

GREGG PICKRELL - REDIRECT BY MR. DELGADO

- 1 Q: Ma'am, you said to the solicitor -- and I now refer to
2 State's Exhibit Number 1. That from Baynard Boykin Road
3 where the mailbox is to your residence --
- 4 A: That's right.
- 5 Q: This --
- 6 A: No. That's it.
- 7 Q: There is -- I think your words were quite a hike. Did
8 Monty Demary always come down this road to your home? How
9 else would he make his way to your home?
- 10 A: May I show you?
- 11 Q: Sure. Stand over here.
- 12 A: I'm sorry.
- 13 Q: Take your right hand and show how he would make it?
- 14 A: This -- this is the front entrance where the mailbox is,
15 and there's a gate here. My mother lives here. I live here.
16 Monty would take several roads. He knew the farm very well
17 because he had mowed all of this, bush hogged everything.
- 18 And there were several ways to get to my house. From
19 this entrance, he could make a shortcut and he could come
20 through here where one of his favorite horses was. It was
21 Seattle. And he'd come through this way to make his way to
22 my house. Or --
- 23 Q: Yes.
- 24 A: I'm sorry.
- 25 Q: Go ahead.

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 A: Or if he had come out with somebody he did not want to
2 know where the farm was, he would get off right here.
3 Baynard Boykin goes through this way and then Cantey Lane is
4 this and 521. He we get -- he would get a ride here and he
5 would get let off so nobody would know where the farm was or
6 where the entrance was, and he would come through -- this is
7 Mr. Boykin's house and there was a gate here, and he would be
8 let off here and walk through his driveway -- or actually
9 what he did was he came through here and walked in the tree
10 line, and he would come through this -- this gated area here
11 and it was actually a shorter distance to my house.

12 Q: It was not quite as long -- quite a hike?

13 A: It was not, no. Exactly. And I would always know it
14 because I had another horse here right in this paddock. He
15 would come like this, and this mare's name was Burst of
16 Light, the mare that won the race, and when he would get to
17 the house, he would say something like, oh, I stopped and
18 gave Seattle a bite of grass or I stopped and gave -- or I
19 gave Light a bite of grass. So I would know which way he had
20 come because he told me what horse he had stopped to give a
21 grass or say hello to.

22 Q: Are there times in your history with him when he would
23 simply just appear at your home?

24 A: Yes.

25 Q: Either walking this way or show which way?

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 A: In any way. I mean you can get in any way. If you know
2 the farm, there's a multitude of ways to get in.

3 Q: But the key is he would just appear?

4 A: Yes. Yes, sir.

5 Q: Have your seat. Ma'am, it became -- I'm unclear whether
6 or not in the transcript either involving the first statement
7 to Mr. DeVors or the second statement to Mr. Bailey that you
8 ever said that the reason the sex that morning took so long
9 was that Mr. Demary could not achieve a climax; is that
10 correct?

11 A: Yes, sir.

12 Q: And when he couldn't achieve a climax, how did he then
13 act and relate to that fact?

14 A: He was frustrated, and he would get frantic about it.
15 He'd take me and -- take me by my shoulders and he'd go, come
16 on, come on, do something, that kind of thing.

17 Q: Do something?

18 A: Do something. Do something.

19 Q: Ma'am, let me ask you this. In the transcript, my
20 friend has stated on several occasions that you never said to
21 Mr. Bailey anything about the kick in the back the morning of
22 the 11th that Mr. Demary gave to you as you were trying to
23 crawl out the room. Did you ever tell him about that?

24 A: I told him I had been abused and beaten and brutalized,
25 but it's --

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 Q: But if we have a picture to your back, why didn't you
2 remember that when you said anything to Mr. Bailey about
3 everything that went on? Why didn't you tell him about the
4 kick to the back?

5 A: Because it -- it was -- it was gone in my -- the
6 chronological order of what happened. It happened at a time
7 when I was -- I was struggling for my life suddenly.

8 Q: And yet -- and yet this did, in fact, occur?

9 A: Yes.

10 Q: In that bedroom in the morning?

11 A: Yes.

12 Q: As a result of Mr. Demary?

13 A: After -- after this injury on the trunk and -- yes.

14 Q: Did Mr. Bailey -- do you know which of these gentlemen
15 is Mr. Bailey? Do you remember?

16 A: I'm trying to.

17 Q: That's all right. Okay. Do you remember Mr. Bailey
18 saying to you that you may recall some things -- and let me
19 -- do you recall Mr. Bailey ever saying to you, quote, a day
20 or two later it may come to you, like, you know, I really
21 should've told him that, unquote? Do you ever remember that?

22 A: Yes, sir.

23 Q: That's what they said. That in a situation like this,
24 there may be things that you don't remember that will come to
25 you?

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 A: Yes, sir. Yes, sir.

2 Q: One maybe last thing. Ma'am, on the morning of the 11th,
3 law enforcement came to the home, and I would imagine there
4 was more than one. There were several law enforcement
5 officers who came to the home. You remember that you told
6 somebody -- your words were somebody out there at the scene
7 what you had told Mr. Corbett in early August of 2014; is
8 that correct?

9 A: Yes, sir.

10 MR. DELGADO: Your Honor, I now move the admission of
11 the Kershaw Health Medical Center records into evidence.
12 This is my copy.

13 MS. SAMPSON: I'm still objecting simply because we
14 didn't get it in a timely fashion. I understand it comes in
15 under the hearsay exception, but I still object to this at
16 this time.

17 THE COURT: I'm sorry?

18 MS. SAMPSON: I'm sorry. Mine is more of an exception
19 to not having had it prior to today or right before Mr.
20 Delgado handed it to us. I understand it comes in under the
21 hearsay exception. I just want my objection noted due to
22 that.

23 THE COURT: It's noted and -- and I will say that under
24 the -- under Rule 803, that statements that are made for
25 purposes of medical diagnosis or treatment or describing

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 symptoms or pain or sensations or the general character or
2 the causal source of the condition are admissible, but any
3 judgments by the physician certainly would not come in, but
4 certainly what she described to a nurse or a physician for
5 purposes of receiving treatment would be admissible under the
6 hearsay rule.

7 MR. DELGADO: Thank you, Your Honor.

8 (WHEREUPON, Defendant's Exhibit Number 24, medical
9 reports, was admitted into evidence.)

10 BY MR. DELGADO:

11 Q: Gregg, this is now Defendant's Exhibit Number 24. I
12 want you to look down here at the bottom and read this to
13 yourself. You say that you can't recall what you said to the
14 police officers -- I mean to the medical staff at Kershaw
15 that morning, the 11th; is that correct?

16 A: Yes.

17 Q: Read this to yourself and then let me ask you a couple
18 questions about it.

19 (WHEREUPON, there was a pause in the proceedings, after
20 which the proceedings resumed as follows.)

21 BY MR. DELGADO:

22 A: Do I go on to the next page?

23 Q: Turn to the next page.

24 A: Do you want me to read the entire --

25 Q: No, ma'am. If you didn't tell Mr. Bailey about his not

GREGG PICKRELL - REDIRECT BY MR. DELGADO

1 being able to achieve a climax while he was having sex with
2 you and that was the reason the sex was so long, what do you
3 recall now telling the medical staff at Kershaw Hospital on
4 that same day?

5 A: That he became angry. He became very, very angry
6 because he didn't ejaculate. And he -- he -- he was just
7 infuriated.

8 Q: All right. Let me ask you this. As a result of your
9 examination at the hospital, were you prescribed medication?

10 A: Yes, sir.

11 Q: What was the medication?

12 A: Well, first off, I was prescribed an antibiotic for the
13 urinary tract infection, and then I was prescribed three
14 different -- I'm sorry I don't recall the names of them, but
15 they were three different -- one pain killer, a muscle
16 relaxer, and I believe an anti-inflammatory.

17 Q: As a result of what?

18 A: All of the injuries that had been documented and
19 examined by the doctor in the emergency room.

20 MR. DELGADO: Your Honor, that's all the questions I
21 have for her. Thank you.

22 THE COURT: All right. Thank you. Ms. Sampson, is
23 there anything further as it relates to the medical?

24 MS. SAMPSON: That's the only thing that I want to add
25 is that I didn't have that.

GREGG PICKRELL - RECROSS BY MS. SAMPSON

1 THE COURT: Yes, ma'am.

2 MS. SAMPSON: Thank you, Your Honor, for allowing that.

3 RECROSS-EXAMINATION

4 BY MS. SAMPSON:

5 Q: Ms. Pickrell, do you still have Defense Exhibit -- I
6 have no idea what number we're on -- with you?

7 A: I have it.

8 Q: Okay. I'm sorry. It's right here. Defense Exhibit 24.
9 That's what you were just going over with Mr. Delgado?

10 A: Yes, ma'am. The pages --

11 Q: It's on here page 49?

12 A: The page?

13 Q: Yes, ma'am.

14 A: Page 8.

15 Q: Correct. I'm sorry. At the bottom, it says 49. All
16 right. Where it says what your account was, do you see that
17 where it says entered by and then it starts per patient?

18 A: I said yes, ma'am.

19 Q: Okay. It says patient stating she was thrown onto a
20 desk; correct?

21 A: Yes.

22 Q: Choked and thrown into a wall?

23 A: Many times that night.

24 Q: It doesn't say many times that night, does it?

25 A: Ma'am --

GREGG PICKRELL - RECROSS BY MS. SAMPSON

1 Q: I'm just asking you what it says?

2 A: I realize that. I'm just saying that that was a summary
3 of an entire 11 hours.

4 Q: Okay. And all I'm asking is that what this says? Yes
5 or no?

6 A: That's what that says.

7 Q: Okay.

8 A: Yes, ma'am.

9 Q: And then it says patient admits to consensual sexual
10 intercourse last night; correct?

11 A: That was all it was. It was yes --

12 Q: That's what it --

13 A: It was yes or no.

14 Q: That's what it says; correct?

15 A: Yes, ma'am.

16 MS. SAMPSON: Nothing further, Your Honor.

17 THE COURT: Anything further?

18 MR. DELGADO: No, ma'am.

19 THE COURT: You may step down. Thank you. Just leave
20 the exhibit with the court reporter. Any further witnesses
21 from the defense?

22 MR. DELGADO: No, Your Honor. The defendant rests.

23 THE COURT: And any rebuttal testimony from the State?

24 MR. DELGADO: Yes, Your Honor.

25 MS. SAMPSON: We'd --

1 MR. PAULING: Your Honor, we'd call Dr. Janice Ross.

2 MS. SAMPSON: Your Honor, at this point, since I guess
3 we have started the State's case -- we never did this. So
4 for the record, we need to do it. Can we introduce State's
5 Exhibit Number 1 into evidence? We never did. You all
6 talked about it.

7 MR. DELGADO: I think they did do it, Your Honor.

8 THE COURT: I consider it to be in.

9 MR. DELGADO: Yes, ma'am.

10 THE COURT: So it's admitted.

11 (WHEREUPON, State's Exhibit Number 1, map, was admitted
12 into evidence.)

13 MS. SAMPSON: Thank you, Your Honor.

14 THE COURT: If you'd step forward, please?

15 THE CLERK: Ms. Ross, would you -- do you swear or
16 affirm that the evidence you give in this case will be the
17 truth, the whole truth, and nothing but the truth, so help
18 you God?

19 THE WITNESS: I do.

20 THE CLERK: Thank you. Please state your full name for
21 the record.

22 THE WITNESS: Janice Edwards Ross. R-o-s-s.

23 THE COURT: Yes, sir.

24 MR. PAULING: Thank you, Your Honor. May it please the
25 Court.

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 JANICE ROSS, being first duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. PAULING:

5 Q: Dr. Ross, how are you doing this afternoon?

6 A: Fine. How are you?

7 Q: And where are you employed, ma'am?

8 A: At Newberry Pathology Associates. I'm a forensic
9 pathologist.

10 Q: Okay. A forensic pathologist?

11 A: Yes.

12 Q: Okay. How long have you been employed in that capacity?

13 A: Forty years.

14 Q: Forty years? Okay. And obviously, you're licensed in
15 your field?

16 A: Yes.

17 Q: Okay.

18 MR. DELGADO: Your Honor, we have no objections at all
19 to the eminent qualifications of Dr. Ross.

20 THE COURT: Then I'll find her qualified as an expert in
21 forensic pathologist -- pathology.

22 BY MR. PAULING:

23 Q: And, Dr. Ross, in this particular matter, did you have
24 an opportunity to perform an autopsy on a Robert Lamont
25 Demary?

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 A: Yes.

2 Q: Okay. And when did that occur?

3 A: We autopsied him on September 12th, 2014.

4 Q: Okay. And do you recall where he was transported from?

5 A: Yes. The Kershaw County Coroner called and authorized
6 and scheduled an autopsy. We do the autopsies at Morgan
7 Newberry County Memorial Hospital.

8 Q: And once the deceased was transported, did you have any
9 background information regarding the circumstances of death
10 or any photographs or anything at that time?

11 A: No, I did not. All I get from the hosp -- from the
12 coroner was that the -- he was the victim of a shooting that
13 occurred on September 11th, and he said he was shot in the
14 back allegedly by his girlfriend with a .32 caliber handgun.

15 Q: And could you, for the Court's edification, just kind of
16 take us through your examination and what you found?

17 A: Yes. The body was brought to us in a body bag. We open
18 it and inventory all the clothing, take photographs of the
19 clothed body and take the clothes off and take photographs
20 externally of the patient.

21 Because this was a gunshot wound, we do x-rays to look
22 for any residual lead or complete bullets in the body. Then
23 we do an internal examination.

24 Q: Okay. And what were the results of your examination?

25 A: We found a single gunshot wound that entered the back,

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 just in the left midback. It went from the back to the front
2 and went slightly upward and from left to right. It went
3 through both lungs. It went through the heart and it went
4 through the aorta and caused a lot of hemorrhage internally.

5 Q: Okay. And, Dr. Ross, as you are performing your
6 autopsy, are there notes or notations that you make regarding
7 what you find?

8 A: Yes. I do a diagram.

9 Q: Okay.

10 MR. DELGADO: Without objection, Your Honor.

11 MR. PAULING: May I approach the witness, Your Honor?

12 THE COURT: Yes, sir.

13 BY MR. PAULING:

14 Q: Dr. Ross, I'm going to show you what's been marked
15 State's 2. I'm going to ask you if you recognize that
16 particular item?

17 A: Yes. This is the diagram that I just marked for --
18 during the autopsy externally of Mr. Robert Demary.

19 Q: Okay.

20 MR. PAULING: Your Honor, I would offer this, Your
21 Honor, I believe without objection.

22 THE COURT: It's admitted.

23 (WHEREUPON, State's Exhibit Number 2, autopsy diagram,
24 was admitted into evidence.)

25 BY MR. PAULING:

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 Q: And again, Dr. Ross, again for the Court, if you could
2 kind of just explain the orientation of the bullet, the
3 entrance wound, and where it traveled again?

4 A: Yes. The -- the circle in the back shows the entrance
5 wound in the left midback. The X mark on the front of the
6 body shows where we found the bullet that was right
7 underneath the skin.

8 Q: Okay. So it did not exit the body?

9 A: It did not.

10 Q: Okay. And you had indicated the path that it travelled.
11 Can you explain that again?

12 A: Yes. It went from back to front.

13 Q: From back to front?

14 A: Upward.

15 Q: Upward?

16 A: And left to right.

17 Q: Okay. And did you notate the height of the -- of the
18 deceased, Mr. Demary?

19 A: Yes. He was 66 ½ inches. So 5'6 ½".

20 Q: Okay. And the only wound to his body, if I'm correct,
21 was the bullet wound to his back; is that correct?

22 A: That's correct.

23 Q: Okay. Now, you described the way that the bullet
24 traveled in his body, front to back, left to right, in an
25 upward direction; is that correct?

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 A: Correct.

2 Q: Okay. Based on your experience, what did that indicate
3 to you about the orientation of the victim in relation to the
4 shooter?

5 A: The bullets go straight. So whatever scenario you
6 figure, the bullet -- the gun would have to be -- if the
7 victim was standing straight up, the gun would have to be
8 below the back and slightly to his left.

9 Q: Okay.

10 A: If he -- if the shooter was standing in a standing
11 position, shooting straight, the victim would have to be bent
12 over slightly such that the bullet would go in the back and
13 then go straight through, but if he stands back up, it looks
14 like it's going upward.

15 Q: Okay. But at any rate, the victim would have -- his
16 back would have been to the shooter; is that correct?

17 A: Correct.

18 Q: And again, if the shooter was standing, then the victim
19 would have been bent over?

20 A: Correct.

21 Q: Based on what you found as far as the way that the
22 bullet traveled in this particular case; is that correct?

23 A: That is correct.

24 Q: Okay. Now, during your examination -- I guess we talked
25 about the entrance wound. Was there anything significant or

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 did you notice any stippling around the entrance wound?

2 A: No. We had the shirt. He had a shirt on. I didn't see
3 any soot or powder, any stippling nor tattooing. So the
4 range of the bullet -- the gun would've had to be at least
5 two or more feet away from the person.

6 Q: Two or more feet away from the victim?

7 A: Correct.

8 Q: Two or more feet away from the back of the victim?

9 A: Correct.

10 Q: Now, in your -- your examination of Mr. Demary, did you
11 notice any other -- did you notice any defensive wounds on
12 him?

13 A: No, I did not.

14 Q: Okay. Any defensive -- no defensive wounds on his hands
15 at all?

16 A: No.

17 Q: And based on your examination, were you able to
18 determine a manner and cause of death?

19 A: Yes.

20 Q: And what were they, Doctor?

21 A: Exsanguination due to the laceration of the heart due to
22 the gunshot wound to the back.

23 Q: Okay. Doctor, you indicated the way that the bullet
24 traveled and the various organs that -- that it passed
25 through. Would an injury such as that render the -- the

DR. JANICE ROSS - DIRECT BY MR. PAULING

1 victim unable to move at that point?

2 A: No. He could have moved for another minute or so.

3 Q: Okay?

4 A: Or less, yes.

5 Q: Okay.

6 MR. PAULING: I have no further questions, Your Honor.

7 THE COURT: Any cross?

8 MR. DELGADO: Thank you, ma'am.

9 CROSS-EXAMINATION

10 BY MR. DELGADO:

11 Q: Good afternoon, ma'am.

12 A: Good afternoon.

13 Q: Doctor, as part of your regular procedure with forensic
14 autopsy, do you remove fluids from the body for further
15 analysis or evaluation?

16 A: Yes, we do.

17 Q: As I understand it, in this case you took not only
18 blood, but you also took ocular fluid; is that correct?

19 A: Correct, yes.

20 Q: Just in case anyone does not know what that means, could
21 you just explain that to us? What is ocular fluid?

22 A: Fluid is -- that fluid is called vitreous. It's the
23 fluid inside the eye.

24 Q: How is that important for any evaluation?

25 A: In general, the chemistries that are usually in the

DR. JANICE ROSS - CROSS BY MR. DELGADO

1 blood also go into the vitreous, but the vitreous fluid
2 levels lag behind the blood. In this case, the vitreous
3 alcohol for instance was .16, I believe. The blood was .1.
4 So it just tells me at one point the blood alcohol was as
5 high as .16.
6 Q: Maybe even have been higher than .16?
7 A: Possibly.
8 Q: All right. Doctor, as a result of any other analysis --
9 I would imagine that would be blood. Was -- was his blood
10 tested for any other foreign substances?
11 A: Yes.
12 Q: What were those?
13 A: Drugs of abuse and marijuana.
14 Q: And what --
15 A: Other types of alcohols.
16 Q: Do you recall, ma'am, looking at your notes, what that
17 level of marijuana came out to and what that means?
18 A: I'm not a toxicologist.
19 Q: Yes, ma'am.
20 A: But that just means he was exposed to marijuana.
21 Q: Okay. And by exposed, you mean he had taken it into his
22 lungs then; is that right?
23 A: Correct.
24 Q: Doctor --
25 A: Or he had taken it into his --

DR. JANICE ROSS - CROSS BY MR. DELGADO

1 Q: I'm sorry.

2 A: He had taken it into his body.

3 Q: Okay. That's fine.

4 A: It was through his lungs --

5 Q: Yes, ma'am.

6 A: -- or his stomach.

7 Q: Yes, ma'am. Doctor, this is the front? This is the
8 back?

9 A: Yes.

10 Q: Do you, as a forensic pathologist, call it a midline
11 from maybe the shoulder or the middle of the shoulder down to
12 the heel? A midline? Is that fair?

13 A: That's mid-axillary line.

14 Q: That's right.

15 A: The midline is -- goes --

16 Q: That's correct.

17 A: -- through the sternum.

18 Q: An axillary line?

19 A: Correct.

20 Q: When you say -- and I think the words were slightly
21 upward; correct, ma'am?

22 A: Yes.

23 Q: Is the angle?

24 A: A difference of two inches.

25 Q: All right. And, ma'am, when you said -- your words

DR. JANICE ROSS - CROSS BY MR. DELGADO

1 were, as I recall it, the mid-back. Doctor, why don't you
2 just -- let's just show the Court?

3 A: Okay.

4 Q: Where on me?

5 A: The 16 inches below the top of the head and three inches
6 to the left of midline.

7 Q: All right.

8 A: So around here.

9 Q: All right. And while the bullet did not exit, where was
10 it found?

11 A: It was found between the sternum and the right nipple,
12 right here.

13 Q: Slightly upward from the midline?

14 A: Correct.

15 Q: Doctor, if he had been bent over, is that possible?

16 A: Yes.

17 Q: Could he have also have moved at the same time that that
18 charge -- that the gunshot was discharged?

19 A: Yes, but it's still going upper.

20 Q: Yes, ma'am. I understand.

21 A: Yes.

22 Q: Yeah. Okay.

23 A: Yes.

24 Q: And the shot -- the muzzle had to be at least two feet
25 away at the time of discharge?

DR. JANICE ROSS - CROSS BY MR. DELGADO

1 A: Yes.

2 Q: All right.

3 MR. DELGADO: Your Honor, I think that's all the
4 questions I have. Thank you.

5 THE COURT: Is there any redirect?

6 MR. PAULING: No, Your Honor.

7 THE COURT: Thank you. You may step down. You may be
8 excused.

9 THE WITNESS: Thank you.

10 THE COURT: You may call your next witness.

11 MR. PAULING: The State would call Stephanie Owen.

12 (WHEREUPON, there was a pause in the proceedings until
13 the witness entered the courtroom, after which the
14 proceedings resumed as follows.)

15 THE CLERK: Do you swear or affirm that the evidence
16 that you will give in this case will be the truth, the whole
17 truth, and nothing but the truth, so help you God?

18 THE WITNESS: I do.

19 THE CLERK: Thank you. Please have a seat and state
20 your full name for the record.

21 THE WITNESS: Stephanie Owen.

22 THE COURT: Would you spell your last name?

23 THE WITNESS: O-w-e-n.

24 THE COURT: Thank you.

25 STEPHANIE OWEN, being first

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. PAULING:

4 Q: How are you doing, Ms. Owen?

5 A: I'm okay.

6 Q: Are you -- are you originally from Kershaw County?

7 A: Yes.

8 Q: Okay. And do you still live in Kershaw County?

9 A: No. Lancaster County.

10 Q: Lancaster County? And are you currently employed,
11 ma'am?

12 A: Yes.

13 Q: And where are you employed?

14 A: City Cab.

15 Q: City Cab?

16 A: Uh-huh.

17 Q: Is that here in Camden?

18 A: Yes.

19 Q: Okay. And how long have you been employed with City
20 Cab?

21 A: Fourteen years.

22 Q: Fourteen years? Okay. In what capacity? As a driver
23 or a dispatcher?

24 A: Both.

25 Q: Both? Okay. And back in September of 2014, were you

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 also a cabdriver then?

2 A: Yes.

3 Q: Okay. And before we get there, do you know or did you
4 know the deceased in this particular matter, Robert Demary?

5 A: Yes, I did.

6 Q: Okay. And did you know him as Robert Demary?

7 A: Monty.

8 Q: Monty? Okay. And can you just tell the Court how did
9 you come to know him?

10 A: A customer.

11 Q: As a customer of the -- of the City Cab?

12 A: Yes.

13 Q: Okay. And how long ago was that as far as you knowing
14 him as a customer of City Cab?

15 A: 2012, I do believe. 2012 or '13.

16 Q: Okay. Okay. And you said you were both a dispatcher
17 and a driver?

18 A: And a driver.

19 Q: And could you explain to the Court if you went into work
20 on a normal shift, how many shifts were there actually?

21 A: Only two, a day shift and a night shift.

22 Q: Okay. A day shift, and what time was the day shift?

23 A: 6 a.m. to 6 p.m., and night shift is 6 p.m. to 6 a.m.

24 Q: Okay. All right. And when you would typically go in to
25 work to begin a shift, what's the process? What's the

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 procedure you go through?

2 A: See what calls are on the board or if there's any
3 posted, get our paperwork that we write everything down on
4 because we have pick-up, drop-off times.

5 Q: Let me just -- let me just slow you down. You said get
6 your paperwork together. So --

7 A: Manifest sheets.

8 Q: Okay. Manifest sheets? Okay. And what would be, I
9 guess, included on a manifest sheet?

10 A: How many people you picked up, where you picked them up
11 from, what time, where they were going, where they're dropped
12 off, and how much they have to pay.

13 Q: And how much they have to pay? The fare?

14 A: Yes.

15 Q: Okay. And you indicated that you had met Monty through
16 working with the City Cab. So he was a customer; is that
17 correct?

18 A: Yes.

19 Q: Okay. And about on how many occasions, just roughly, on
20 average would you pick him up, let's say, per week?

21 A: It would just depend. Some weeks he wouldn't ride at
22 all and some other times he'd have to have rides to work.
23 Sometimes he would ride at nighttime doing other things. It
24 just depends on any customer what they've got going on that
25 week.

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 Q: Yes, ma'am. I understand that. And typically, with
2 Monty, where would you pick him up?

3 A: At his home.

4 Q: Okay. And you say at his home. Do you recall where
5 that was?

6 A: [REDACTED] Salmond Street, and he'd usually go to the barn at
7 Springdale Racetrack or from the racetrack to home.

8 Q: Okay. And you mentioned work. Was he working at the
9 racetrack at some point?

10 A: Yes.

11 Q: Okay. All right. And again, in September of 2014, you
12 were still working for City Cab; is that correct?

13 A: Yes.

14 Q: Okay. And I asked you about the schedule and the shifts
15 and driving. Now, if you were a dispatcher, how did that
16 work?

17 A: When we'd go in, we would do it on the phone to where it
18 would be transferred straight to our cell phone in the car
19 and we'd answer the calls and pick up.

20 Q: Let me slow you down. What's the -- what's the number
21 to City Cab?

22 A: 803 --

23 Q: Yes, ma'am.

24 A: 432 --

25 Q: Okay.

STEPHANIE OWEN - DIRECT BY MR. PAULING

- 1 A: 3211.
- 2 Q: All right. Now, if I wanted to get a cab, I'd call that
3 number; is that right?
- 4 A: Uh-huh.
- 5 Q: Okay. Now, you mentioned about the -- would it ring
6 there in the office there?
- 7 A: Like, maybe a half a ring and then it would transfer to
8 our cell phone.
- 9 Q: So it would transfer to your cell phone?
- 10 A: Uh-huh.
- 11 Q: So you're talking about your personal cell phone?
- 12 A: Yes.
- 13 Q: Okay. So I'd dial 432-3211 and it may transfer to you,
14 if you're doing the dispatching; right?
- 15 A: Yes.
- 16 Q: Okay. And then do you send a driver or do you drive?
- 17 A: No. That would be me. Yeah. We'd answer it and drive.
- 18 Q: Okay. All right. So you could be out about in town and
19 somebody calls in, the call transfers to your cell phone?
20 It's forwarded to your cell phone?
- 21 A: Yes.
- 22 Q: And then you talk to the person, you go to the location,
23 and take them where they need to go?
- 24 A: Yes.
- 25 Q: Okay. All right. Now, did you still know Monty back

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 on, I guess, the early part of September of 2014?

2 A: Yes.

3 Q: Okay. And at some point, did you become aware of -- of
4 his death?

5 A: Yes.

6 Q: Okay. And -- and once you were aware of that, do you
7 recall when that was?

8 A: The morning he died.

9 Q: Okay. September 11th, 2014?

10 A: Yes, sir.

11 Q: Okay. And did that concern you at that point?

12 A: Yes, it did.

13 Q: Okay. And because you were concerned, what did you do?

14 A: I called the Sheriff's Department.

15 Q: Okay. And did you go to the Sheriff's Department?

16 A: The next morning.

17 Q: Okay. And who did you meet with?

18 A: Miles Taylor and another investigator. I don't remember
19 his name.

20 Q: Okay. Inv. Miles Taylor?

21 A: Yes.

22 Q: Okay. And what was -- what was your concern?

23 A: The phone call that I had gotten that morning. The
24 first person I talked to said he had died the night before.
25 I didn't know what was going on. I was scared, and I was,

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 like, no, somebody was texting me from his phone wanting a
2 ride.

3 Q: Okay. And hold on. Hold on.

4 A: Okay.

5 Q: All right. So you'd gotten a call that he was -- he had
6 died?

7 A: Yes.

8 Q: Okay. And your understanding was it happened the night
9 before?

10 A: Yes.

11 Q: September 10th?

12 A: Uh-huh.

13 Q: Okay. Was September 10th significant to you?

14 A: No.

15 Q: Okay. When I -- when I say significant to you, let me
16 ask you this. Had you seen Monty that day?

17 A: On the 10th, yes.

18 Q: Okay. You'd seen him that day? All right. Now, you
19 had indicated to the Court that you were concerned because
20 you had gotten --

21 A: Texts.

22 Q: A text message?

23 A: Wanting a ride. And then when they told he had died the
24 night before, I was afraid somebody had his phone and was
25 trying to contact me and --

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 Q: Okay. Well, let me slow you down. Let me slow you
2 down. Let me slow you down so we understand. The text that
3 you received -- about what time did you receive that
4 particular text?

5 A: The first one was about 8:20 something and a second one
6 at 8:30 something.

7 Q: All right. Now, let me slow you down. 8:20 something
8 in the morning?

9 A: In the morning.

10 Q: Okay. On September 11th?

11 A: Yes.

12 Q: Okay. And did you respond to that particular text?

13 A: No.

14 Q: Okay. Did you see --

15 A: Not for a while.

16 Q: Okay. Did you see it -- did you see it when it came in
17 though? When it initially came in?

18 A: Not right away.

19 Q: Okay. All right. And then you received a second text
20 you said?

21 A: Yes.

22 Q: Around 8:30 something --

23 A: Uh-huh.

24 Q: -- I believe you testified to?

25 A: Yes.

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 Q: All right. And did you respond to that particular text?

2 A: Not until right before 9.

3 Q: Okay. And I know you said right before nine. A few
4 minutes to nine?

5 A: Yes.

6 Q: Okay. And -- and when I say respond to the text, what
7 did you do?

8 A: I'm not really sure. I just said, yes, I was off work,
9 because that was the question.

10 Q: Well, I guess my question is did you text back?

11 A: Yes.

12 Q: Or did you return by way of a phone call?

13 A: Text back.

14 Q: You texted back?

15 A: Yes.

16 Q: Okay. And did you receive any -- any message back via
17 text? Phone call?

18 A: No.

19 Q: Okay. Now, had you expected Monty to try to reach you
20 that particular morning?

21 MR. DELGADO: Objection, Your Honor, to speculation.

22 THE COURT: Rephrase the question.

23 BY MR. PAULING:

24 Q: Were you expecting to get a call from Monty that day?

25 MR. DELGADO: Objection, Your Honor. It's the same

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 question.

2 BY MR. PAULING:

3 Q: Ms. Owen --

4 THE COURT: Rephrase it.

5 MR. PAULING: I'll -- I'll move on.

6 BY MR. PAULING:

7 Q: Ms. Owen, you had indicated that you had seen Monty the
8 day before?

9 A: Yes.

10 Q: Okay. Can you explain that to the Court?

11 A: He admitted he was going to look for another job. He'd
12 just got laid off from his job.

13 Q: Okay. Do you recall where he had been working?

14 A: At the racetrack.

15 Q: Okay. The racetrack? And this being the day before,
16 September 10th, you had seen him that day?

17 A: Yes.

18 Q: And you had taken him around because he was looking for
19 a job?

20 A: He had went to AllStaff to apply for jobs.

21 Q: Okay. And when was the last time you saw him that day?

22 A: A little after 2 or 3 on September the 10th was the last
23 time I saw him.

24 Q: Okay. And where did you see him?

25 A: When I dropped him off at his house.

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 Q: Okay. And had you had any discussion with him about the
2 following day, the next day, September 11th?

3 A: Yes.

4 Q: And what was that?

5 MR. DELGADO: Objection to hearsay.

6 MR. PAULING: I'm not offering it for the truth, but as
7 to --

8 MR. DELGADO: Oh, certainly it's being offered for the
9 truth. That's exactly what it is.

10 THE COURT: Well, let him finish explaining what he's
11 offering.

12 MR. DELGADO: All right.

13 MR. PAULING: But it's --

14 THE COURT: That's all right.

15 MR. DELGADO: I apologize.

16 MR. PAULING: But it's -- it's why she was expecting a
17 call, Your Honor.

18 THE COURT: What was the question again?

19 MR. PAULING: My -- my --

20 THE COURT: I think you asked what did he tell you. So
21 if you rephrase the question.

22 MR. PAULING: Okay.

23 BY MR. PAULING:

24 Q: Did you have a -- did you -- did you have a discussion
25 with -- with Monty after you dropped him off?

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 A: Yes.

2 Q: Okay. And when was that?

3 A: The last time I spoke to him through text was a little
4 after 8 the night before he died.

5 Q: Okay. And what did you tell him?

6 A: That I would pick him up the next day to take him to
7 look for a job. He had to go fill out some more paperwork.

8 Q: Okay.

9 MR. PAULING: I beg the Court's indulgence. Your Honor,
10 may I approach the witness?

11 THE COURT: Yes.

12 BY MR. PAULING:

13 Q: Ms. Owen, I'm going to show you what's been marked
14 State's 3 and 4. I'm going to ask you if you recognize those
15 two items?

16 A: Yes, I do.

17 Q: Okay. And what are they?

18 A: Manifest sheets.

19 Q: For City Cab? Is that what that is?

20 A: Yes.

21 Q: And for what particular dates?

22 A: On September the 8th and September the 10th.

23 Q: Of 2014?

24 A: Yes.

25 Q: Okay. All right. Thank you.

STEPHANIE OWEN - DIRECT BY MR. PAULING

1 MR. PAULING: Your Honor, I'd offer these manifest
2 sheets, I believe without objection.

3 MR. DELGADO: Without objection.

4 THE COURT: They're admitted.

5 (WHEREUPON, State's Exhibits Number 3 and 4, manifest
6 sheets, were admitted into evidence.)

7 MR. PAULING: Your Honor, I have no further questions of
8 this witness at this time.

9 THE COURT: Any cross?

10 CROSS-EXAMINATION

11 BY MR. DELGADO:

12 Q: Ms. Owen, you received a -- two telephone calls from Mr.
13 Demary on the morning of the 11th; correct?

14 A: Texts.

15 Q: Text messages?

16 A: Yes.

17 Q: What did they say?

18 A: Was I off work and he was trying to find a ride home.

19 A: Now, ma'am, I think what you said was the two words, you
20 off, question mark?

21 A: Yes, was I off.

22 Q: You off, question mark?

23 A: He wanted to know if I was off work.

24 Q: Yes, ma'am. In fact, ma'am, when you met with either
25 Mr. Taylor or Mr. -- Mr. Taylor or Mr. -- on the morning of

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 the 12th, you made a statement to the Kershaw County Sheriff's
2 Department investigation division; correct, ma'am?

3 A: Yes, I did.

4 Q: In their interview room at the Sheriff's Department?

5 A: Yes, I did.

6 Q: Do you recall saying that he texted you and the only two
7 words he texted you were you off, question mark?

8 A: Yes, and then I don't remember what the second text
9 said.

10 Q: All right. Okay. Ma'am, let me just ask you this. Do
11 you think you could -- if you were familiar with texting and
12 you had used iPhones before, do you think you might be able
13 to text the words -- in fact, it's six letters, you off with
14 a question mark. It's seven. You off, question mark. Do
15 you think you might be able to do that in, say, less than
16 three seconds?

17 A: I'm not sure. I didn't have an iPhone then. I couldn't
18 tell you if I could or not.

19 Q: Yes, ma'am. Well, ma'am, it was a very short text
20 message in any event, wasn't it?

21 A: Yes.

22 Q: Yes, ma'am. Ma'am, I believe in your statement to the
23 Sheriff's Department you called Mr. Demary an alcoholic, did
24 you not, ma'am.

25 A: Yes, he was.

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 Q: He was, wasn't he?

2 A: He was.

3 Q: And the reason you knew that is you'd had a long-term
4 relationship with Mr. Demary yourself?

5 A: No, that's not true. We didn't have a relationship. We
6 had a friendship. It was more than friends at one point, but
7 we remained friends.

8 Q: Yes, ma'am. Well, as a matter of fact, ma'am, Mr.
9 Demary -- as you told these folks, Mr. Demary is the reason
10 that your marriage broke up; isn't that right?

11 A: Yes, it is.

12 Q: Yes, ma'am. And that wasn't because he was sending you
13 flowers every other day, was it?

14 A: No.

15 Q: No. That's because you were having a sexual
16 relationship with him and broke up your marriage; isn't that
17 right, ma'am?

18 A: Yes.

19 Q: Yes, ma'am. And you called him a gigolo, did you not,
20 ma'am?

21 A: No, I did not.

22 Q: Oh, you didn't?

23 A: Not that I remember.

24 Q: Okay.

25 A: He had lady friends.

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 Q: Yes, ma'am. Well, ma'am, I'm going to get you to look
2 at page 13 of this, and this is a transcript of the recorded
3 statement that you made to the Sheriff's Department on the
4 12th.

5 A: Uh-huh.

6 Q: I want you to look at page 13. Just read that to
7 yourself for a second, and then I'll ask you a couple
8 questions about it.

9 A: Okay. Some of this is worded the stuff that I don't
10 remember saying.

11 Q: Yeah. Well --

12 A: Not in my exact words is not what's on this paper.

13 Q: Oh, really? Well, see that's the problem with it is,
14 ma'am, is you see this? We got this from the Sheriff's
15 Department and then I took this to a transcriber, which is
16 right on the front of that page.

17 A: Okay. Well, it says Ms. Owens and it says my statement.
18 So that's why he was calling around probably. Now, I don't
19 remember --

20 Q: No, ma'am.

21 A: -- saying that.

22 Q: Ma'am, well, this is --

23 A: He was calling to get a ride.

24 Q: Sure. Let's just get -- let's stick with page 13, lines
25 22 and 23.

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 A: Just a --

2 Q: Do you recall and did you say he was a gigolo and always
3 wanted money from his women?

4 A: That's not even on page 13. Nothing says that about
5 that on page 13 on here.

6 Q: Okay, ma'am. He's opening the original. Let me see. I
7 didn't make that name -- that word up. Hold on. Just wait
8 one second, ma'am.

9 Ma'am, would it be fair to say -- and I'm going to come
10 back to that point in just a minute. Would it be fair to say
11 that you said that women would get him stuff and he'd call
12 them? How about that? Page 13, lines 22 through 23.

13 Remember that?

14 A: I may have.

15 Q: Yes, ma'am.

16 A: That's just the way he thought and things. He had lady
17 friends.

18 Q: Yes, ma'am. And one of those was you?

19 A: Yes, I was.

20 Q: Okay. Ma'am, let's talk about his general relationship.
21 Sometimes I think you said he could be an ass and that's why
22 if you -- most of the time that was him. That's just how he
23 gotcha. Just looks. Do you remember that? Do you remember
24 saying that to the police?

25 A: That's what I say. He was a nice person. He could be

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 -- he could say things when he was drinking.

2 Q: Yes, ma'am.

3 A: But he was never physical when he was around me.

4 Q: Yes, ma'am. As a matter of fact, you called him --
5 quote, he was a nasty mouthed little thing when he got
6 drinking?

7 A: When he was drinking.

8 Q: Yes, ma'am. Do you remember saying that on page 11,
9 lines 9 through 10? Look at that. Do you remember saying
10 that?

11 A: Now, which line are you looking at?

12 Q: Sure. Yes, ma'am. Page 11, lines 9 and 10.

13 A: Okay. That was saying where he had went to jail before
14 and I think that would be because of this same lady here.

15 Q: Well, ma'am, that's your opinion. You don't have any
16 idea what --

17 A: That's what I say. I had heard. Nobody knows anything
18 about hearsay.

19 Q: Yes, ma'am. Sure. What you're saying there is he was a
20 nasty mouthed little thing. That's what you knew of him;
21 isn't that right?

22 A: When he was drinking.

23 Q: Yes, ma'am.

24 A: But there was two parts to him, not just a bad side.

25 Q: Yes, ma'am. Yes, ma'am. I understand. But one of

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 those other sides, ma'am, was -- if you look at page 7 --
2 now, my folks have told me page 7, did you -- did you say
3 line 16? Okay?
4 A: Now, he wasn't -- okay. I admit to that. He was a
5 ladies' man.
6 Q: No, ma'am. No, ma'am.
7 A: He loved women and women loved him.
8 Q: Yes, ma'am. Now, I just want you to be able to say in
9 your own words. Look at page 7, line 16.
10 A: Uh-huh.
11 Q: Out of your own mouth, you called him what?
12 A: It says gigolo, but I couldn't tell you whether I said
13 that or not. I may have.
14 Q: Yes, ma'am.
15 A: I was upset. Somebody I knew had just died.
16 Q: Yes, ma'am? But you called him --
17 A: I can't tell you exactly everything --
18 Q: -- at least according to --
19 A: -- I ever said that day.
20 Q: Yes, ma'am. But you see that's what the recording is
21 for. Would you like us to play it for you?
22 A: No, I don't need to. I'm not going to lie about
23 anything for anybody.
24 Q: Yes, ma'am.
25 A: So you can ask your questions.

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 Q: But you said he was a gigolo, he was a woman's man;
2 right?

3 A: Yes, he was.

4 Q: Yes, ma'am. Ma'am, just one little thing, ma'am. Now,
5 you said that he never assaulted you; right?

6 A: No, he did not.

7 Q: Okay. Ma'am, look at page 11, the bottom of page 11 to
8 the top of page 12. Did he ever threaten to assault you,
9 ma'am?

10 A: In certain ways.

11 Q: Ma'am, would you consider --

12 A: Like I say, a lot of people run their mouth.

13 Q: Yeah, I know. Would you consider him to be
14 manipulative, ma'am?

15 A: We were not in that kind of relationship for him to be
16 manipulative to me, no; so I couldn't tell you whether he was
17 to other people or not. I have no idea. Only him and those
18 other people know.

19 Q: Sometimes he'd get so upset that he wouldn't call you
20 back or text you back for days, maybe a week at a time;
21 right?

22 A: Sometimes we didn't speak for months at a time.

23 Q: I'm sorry?

24 A: Sometimes we didn't speak to each other for months at a
25 time.

STEPHANIE OWEN - CROSS BY MR. DELGADO

- 1 Q: Yes, ma'am. The point is he would get -- I think your
2 words were pissy. Don't you remember that word?
- 3 A: Oh, yeah.
- 4 Q: Yeah. And you think he would use you or temperamentally
5 play on your emotions, play on your ability to help him?
- 6 A: No.
- 7 Q: No?
- 8 A: No.
- 9 Q: Okay. In fact, you used the word pissy moods on page 4,
10 line 17. Why don't you just look at the for me for a second?
- 11 A: On what page?
- 12 Q: Page 4, line 17?
- 13 A: 4?
- 14 Q: Yes, ma'am.
- 15 A: And what line?
- 16 Q: Yes, ma'am. Line 17.
- 17 A: Line 17?
- 18 Q: He would get in his pissy moods. Do you remember that?
- 19 A: Uh-huh.
- 20 Q: And then further down on line 25, he'd get mad at you
21 for not answering him right back; right?
- 22 A: Sometimes he would.
- 23 Q: Yes, ma'am. Well, that's what you said; right?
- 24 A: Uh-huh.
- 25 Q: Right. And if he didn't answer you right away -- look

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 at page 7, line 10?

2 A: Line 10?

3 Q: Yes, ma'am. If he didn't answer your text right back,
4 that probably means he was out with another woman or drinking
5 or doing this or that; right?

6 A: He had a busy life. I don't know what he was doing --

7 Q: Sure.

8 A: -- if I wasn't there talking to him.

9 Q: Sure.

10 A: That's hearsay. I don't know.

11 Q: Yes, ma'am. Ma'am, one thing you do know -- in fact,
12 one thing you did say to the police was that for the past
13 year and a half before his death, you either said good
14 morning to him or good night to him every day for a year and
15 a half?

16 A: Not every day, but, like I say, for some months we
17 didn't speak. Sometimes we did and sometimes we didn't.

18 Q: Okay. Just one second. Ma'am, look at page 24 at the
19 very end, line 7.

20 A: Just a minute. There's two sets of papers. Okay. You
21 said what page? Because there's two sets of papers --

22 Q: 24.

23 A: -- in here.

24 Q: 24.

25 A: Okay.

STEPHANIE OWEN - CROSS BY MR. DELGADO

1 Q: Line 7 through 10. Just read it to yourself and then
2 I'm going to ask you a question about it.

3 A: Okay.

4 Q: The very last page, probably within the last 10 seconds
5 of your interview with law enforcement on the morning of the
6 12th, you said this will be the first time in a year and a
7 half that I have not told that man good morning or good
8 night; so a lot of stuff is bothering me right now?

9 A: I don't think it had been that long because we hadn't
10 even really gone -- hadn't even really been --

11 Q: All I'm know, ma'am, is what you --

12 A: It was not a --

13 Q: All I know is what you said, ma'am.

14 A: Okay. Well --

15 Q: I didn't say it. You said it?

16 A: Okay. Well, that morning, I was upset.

17 Q: Yes, ma'am.

18 A: Somebody I knew had just died.

19 Q: Yes, ma'am. And for a long period of time, a year and a
20 half, two years, whatever, every morning and/or every night,
21 you said good night to him?

22 A: Not every morning and every night. For months, we
23 didn't speak.

24 Q: Okay.

25 MR. DELGADO: Thank you, ma'am. That's all the

STEPHANIE OWEN - REDIRECT BY MR. PAULING

1 questions. Thank you, ma'am.

2 THE COURT: Any redirect?

3 MR. PAULING: Just briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. PAULING:

6 Q: Ms. Owen, Mr. Delgado pointed out that you called Monty
7 a gigolo. What did -- what did you mean by that when you
8 said gigolo?

9 A: He had lady friends.

10 Q: He had lady friends? Okay. You were a lady friend of
11 his?

12 A: Uh-huh.

13 Q: But he had more lady friends; is that correct?

14 A: Oh, yeah.

15 Q: And you knew that?

16 A: Yes. Everybody knew that.

17 Q: And now, you were also asked about or saying that he was
18 in one of -- in one of his pissy moods? I believe that was
19 on page 4?

20 A: I'd say he'd get pissy with you sometimes if you
21 wouldn't answer him or --

22 Q: But you --

23 A: -- speaking to him.

24 Q: But you were -- but you were asked about specifically --
25 if you look on page 4, I believe it was line 17?

STEPHANIE OWEN - REDIRECT BY MR. PAULING

1 A: Uh-huh.

2 Q: And in that transcript there, if you would look there?

3 THE COURT: And I'm sorry. Ms. Owen, if you would
4 answer verbally, yes or no, it makes it easier for us to be
5 able --

6 THE WITNESS: Okay.

7 THE COURT: -- to record the correct answer.

8 BY MR. PAULING:

9 A: And you said what page, sir?

10 Q: Page 4, line 17.

11 A: Uh-huh.

12 Q: And Mr. Delgado asked you -- that's kind of what you --
13 sometimes he would get in a pissy mood because that's what
14 you said here when you spoke to -- to law enforcement. And
15 on line 17, what is it actually that you were telling law
16 enforcement? If you could read that line?

17 A: That was one of my last texts when he didn't --

18 Q: I understand. So what did -- what did you -- what were
19 you telling them?

20 A: That I wasn't even going to mess with him. He must have
21 been in one of his pissy moods because I didn't answer right
22 away.

23 Q: Okay. And when was that?

24 A: The morning that he died.

25 Q: That morning? So you're talking about the text message

STEPHANIE OWEN - REDIRECT BY MR. PAULING

1 that you missed?

2 A: Yes.

3 Q: From him?

4 A: Yes.

5 Q: And you were responding to that?

6 A: Yes.

7 Q: On that particular day?

8 A: (No verbal response.)

9 Q: And now, Mr. Delgado also asked you about -- I believe
10 it was saying that he could be nasty mouthed; is that
11 correct?

12 A: Yes.

13 Q: Okay. And I believe it was -- but I believe you
14 testified he was never physical with you, was he?

15 A: No.

16 Q: And I believe it was on page 12, in fact, line 12?

17 A: Page 12, line 12?

18 Q: Yes, ma'am.

19 A: It's like it all runs together. It's just not a certain
20 line on here. So I mean.

21 Q: On page 12, line 12, did you tell law enforcement he was
22 nasty mouthed, but never raised a hand to you?

23 A: Yes, I did.

24 Q: Okay.

25 MR. PAULING: No further questions, Your Honor.

STEPHANIE OWEN - RECROSS BY MR. DELGADO

RECROSS-EXAMINATION

1
2 BY MR. DELGADO:

3 Q: Ma'am, page 11, line 25 -- well, let's look at line 22.

4 All right?

5 A: Okay.

6 Q: You, as his good friend, say good morning to him in the
7 morning, good night to him at night, broke up your marriage.

8 One of the police officers asked you -- he never assaulted
9 you and you said, no, and the police officer said, okay.

10 Ms. Owen, I mean he said he was; right? He said he was
11 going to assault you; right?

12 A: He would say that when he was drinking.

13 Q: Yes, ma'am. Thank you.

14 MR. PAULING: Nothing further, Your Honor.

15 THE COURT: You may step down. Thank you. You can just
16 leave that there.

17 THE COURT: You may call your next witness.

18 MR. PAULING: Your Honor, the State would call Rachel
19 Abstance.

20 THE COURT: And then after this witness, we'll take a
21 brief break.

22 MR. PAULING: Yes, Your Honor.

23 THE CLERK: What's that last name?

24 MR. PAULING: Abstance. A-b-s-t-a-n-c-e.

25 (WHEREUPON, there was a pause in the proceedings until

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 the witness entered the courtroom, after which the
2 proceedings resumed as follows.)

3 THE CLERK: Place your left hand on the Bible. Do you
4 swear or affirm that the evidence you will give in this case
5 will be the truth, the whole truth, and nothing but the
6 truth, so help you God?

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Thank you. Please have a seat in the
9 witness chair and state your full name for the record.

10 THE WITNESS: Thank you. It's Rachel Abstance.

11 THE COURT: Would you spell your last name, please?

12 THE WITNESS: A-b-s-t-a-n-c-e.

13 THE COURT: Thank you. Yes, sir.

14 RACHEL ABSTANCE, being first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PAULING:

18 Q: How you doing, Ms. Abstance?

19 A: I'm fine. How are you?

20 Q: I'm doing well. If you would, just tell the Court where
21 you're from? Kershaw County?

22 A: I'm from Kershaw County.

23 Q: And you currently live here?

24 A: Yes.

25 THE COURT: Ma'am, please, if you would, speak up a

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 little bit louder so that we can all hear you in this room.

2 THE WITNESS: Okay. I'm sorry.

3 BY MR. PAULING:

4 Q: And are you currently employed?

5 A: I am.

6 Q: Okay. And at some point, were you employed with the
7 City Cab Company?

8 A: Yes, sir.

9 Q: Okay. And when was that?

10 A: 2014 -- 2015.

11 Q: Okay. And so back in September of 2014, you were
12 working there as well?

13 A: Yes, sir.

14 Q: Okay. And were you a -- were you a driver or a
15 dispatcher?

16 A: Dispatcher and driver.

17 Q: Dispatcher and driver?

18 A: Yes, sir.

19 Q: Okay. And as far as being a dispatcher, were you at the
20 main office while you were dispatching?

21 A: Sometimes I was. Sometimes I dispatched from home.

22 Q: Sometimes you dispatched from home?

23 A: Yes, sir.

24 Q: Okay. And how did that work?

25 A: They would transfer the phone to my cell phone.

RACHEL ABSTANCE - DIRECT BY MR. PAULING

- 1 Q: Okay. All right. The main number?
- 2 A: The main number.
- 3 Q: Okay. And so, at some point, did you become a driver?
- 4 A: I did.
- 5 Q: You did? Okay. And do you remember the first night you
- 6 drove?
- 7 A: I do.
- 8 Q: Okay. And I said the first night. How many shifts do
- 9 y'all have?
- 10 A: Two shifts.
- 11 Q: Okay. And were you on the day shift? Night shift?
- 12 A: Night shift, 6 p.m. to 6 a.m.
- 13 Q: Okay. And you said you recall the -- the first night
- 14 that you drove?
- 15 A: I do.
- 16 Q: Okay. And why was that significant to you?
- 17 A: Because I got a call the next morning that one of the
- 18 customers had gotten killed.
- 19 Q: Okay. And just speak up a little so the court reporter
- 20 can take down everything you're -- you're saying. But you
- 21 got a call that one of the customers had been killed?
- 22 A: Yes, sir.
- 23 Q: Okay. And your first night driving -- would that have
- 24 been September 10th of 2014?
- 25 A: Yes, sir. Round about.

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 MR. PAULING: May I approach the witness, Your Honor?

2 THE COURT: Yes, sir.

3 BY MR. PAULING:

4 Q: And this is what's already in evidence as State's 4, but
5 do you recognize that particular document there?

6 A: I do.

7 Q: Okay. And what is that, ma'am?

8 A: That's the manifest.

9 Q: That's the taxicab manifest?

10 A: Yes, sir.

11 Q: And in fact, is that -- what's the date on that again?

12 Is that September 10th there?

13 A: September 10th, 2014.

14 Q: Okay. And the driver's name -- you wrote that in there?

15 A: Yes.

16 Q: Is this your handwriting in these blocks here?

17 A: Yes, sir.

18 Q: Okay. And if you could, just for the Court, what does
19 all of this show here? What are these notations here?

20 A: The left-hand corner is the number of passengers in the
21 vehicle. This is the location where we pick them up, the
22 location where we drove them off, the time we picked them up,
23 the time we dropped them off, and the amount of the fare.

24 Q: Okay. And at the bottom there, is that your signature?

25 A: It is.

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 Q: Okay. And at least back then -- what was your name back
2 then?

3 A: Rachel Eddings.

4 Q: Rachel Eddings? And that's how it's signed there, since
5 now you're Rachel Abstance?

6 A: Yes.

7 Q: Okay. Now, regarding the customer that you heard was
8 killed, do you recall what location you picked him up from?

9 A: Salmond Street.

10 Q: Salmond Street? And on State's 4, is that noted here on
11 the manifest?

12 A: [REDACTED] Salmond Street.

13 Q: And if you'd just speak up a little bit for the Court?

14 A: Okay. It's [REDACTED] Salmond Street.

15 Q: Okay. And how many passengers did you pick up at that
16 location?

17 A: One.

18 Q: Okay. And the destination -- where was that?

19 A: Baynard Boykin Road.

20 Q: All right. And what time -- there's a -- there's a
21 column here that says PU. What does that stand for?

22 A: That's pick up.

23 Q: Okay. And what time did you pick up that individual?

24 A: At 10:17 p.m.

25 Q: Okay. 10:17 p.m.?

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 A: Yes, sir.

2 Q: And the drop time -- is that when you got to --

3 A: Yes, sir.

4 Q: -- the location?

5 A: Yes, sir. It's 10:38 p.m.

6 Q: 10:38 p.m.? Okay. And as far as the notations that you

7 are making, do you do this, I guess, when you pick the person

8 up and then drop them off? I mean do you have that -- are

9 you filling that sheet out as you go or how do you do that?

10 A: I actually -- I kept it notated on notebook paper and

11 transferred it --

12 Q: Okay.

13 A: -- to that whenever I had time in between customers.

14 Q: Okay. But you'd write it down --

15 A: Yes, sir.

16 Q: -- as you --

17 A: I'd write it down just as it appears on the manifest.

18 Q: Okay. All right. And now, when you picked up the

19 individual from [REDACTED] Salmond Street, this was your first

20 night driving?

21 A: Yes, sir.

22 Q: Did you -- did you know that individual? Did you

23 recognize that person?

24 A: I did not, other than by voice.

25 Q: Okay. Not by sight, but by voice?

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 A: By voice.

2 Q: Okay. And why was that?

3 A: From dispatching.

4 Q: From dispatching?

5 A: Yes, sir.

6 Q: So previously, you had dispatched?

7 A: Uh-huh.

8 Q: This particular customer had called in and you

9 recognized his voice?

10 A: Yes, sir.

11 Q: Okay. And when he -- when he got into the cab, where

12 did he sit?

13 A: In the passenger seat.

14 Q: Okay. When you say the passenger seat --

15 A: The front.

16 Q: Typically, I assume when you get in the cab, you're put

17 in the backseat?

18 A: Well, it -- it depended.

19 Q: Okay.

20 A: Sometimes, I allowed the customers to sit up front.

21 That way, they were closer to me, me being a female alone at

22 night. They were right there. I could see what they were

23 doing.

24 Q: Okay. So let me understand. This particular customer

25 got in the -- did not get in the backseat?

RACHEL ABSTANCE - DIRECT BY MR. PAULING

- 1 A: No. He got in the front passenger.
- 2 Q: Front seat? And that's so you could see the person?
- 3 A: Yes, sir. I mean it was just -- it was just him; so I
- 4 allowed him to sit up front.
- 5 Q: Okay. Was that easier than looking through the
- 6 rearview, I guess?
- 7 A: Yes, sir.
- 8 Q: Okay. And you mentioned that the pickup time was 10:17,
- 9 drop off was 10:38; so the ride is about a 21-minute ride?
- 10 A: Yes, sir.
- 11 Q: Okay. And did you -- he's sitting up front with you.
- 12 Did you -- did you talk at all during the ride?
- 13 A: General conversation.
- 14 Q: Okay. Okay. And while you were having a general
- 15 conversation, did you note any alcohol coming off of his
- 16 person or did you smell any alcohol?
- 17 A: Nothing that I noticed.
- 18 Q: Okay. And when you got to the Baynard Boykin location
- 19 -- well, let me ask you this. Had you been out there before?
- 20 That location?
- 21 A: No, sir, I hadn't.
- 22 Q: Okay. All right. When you got to that location, where
- 23 did you drop the passenger off?
- 24 A: At the end of the driveway at the mailbox.
- 25 Q: At the end of the driveway at the mailbox?

RACHEL ABSTANCE - DIRECT BY MR. PAULING

- 1 A: Yes, sir.
- 2 Q: And I keep referring to him as your passenger. Did you
- 3 -- did you know his name? Find out his name? Did you --
- 4 A: I didn't know his name at that -- at that time.
- 5 Q: Okay. Now, when you got to the -- the mailbox, did he
- 6 -- how did he pay you?
- 7 A: He received the -- he got the money out of the mailbox
- 8 and paid me out of an envelope.
- 9 Q: He got it out of the mailbox?
- 10 A: Yes, sir.
- 11 Q: And was it -- was it just loose in the mailbox or was it
- 12 in something?
- 13 A: It was in an envelope.
- 14 Q: It was in an envelope?
- 15 A: Yes, sir.
- 16 Q: Okay. And if you recall, how much was the fare?
- 17 A: May I look at the sheet?
- 18 Q: Yes, you may. That's State's 4.
- 19 A: It was \$22.
- 20 Q: Okay. And now, do you recall if you -- if you had to
- 21 make change at all or not?
- 22 A: I don't recall.
- 23 Q: Okay. All right. By he paid the \$22?
- 24 A: Yes, sir.
- 25 Q: Okay. And you said you dropped him at the mailbox. You

RACHEL ABSTANCE - DIRECT BY MR. PAULING

1 said it was at a -- did you say gate?

2 A: I don't remember that.

3 Q: But it was near a mailbox?

4 A: It was a mailbox.

5 Q: I guess my question is were you right at the front of

6 the house?

7 A: I don't remember seeing a house.

8 Q: Okay.

9 A: It was dark.

10 Q: It was dark?

11 A: Yes, sir.

12 Q: Okay. Did you offer to drive him up to the house?

13 A: I did. He made a statement something about the lights

14 would spook the horses.

15 Q: The lights would spook the horses?

16 A: Uh-huh.

17 Q: Okay. And so when he got out of the vehicle, did you

18 see which direction he went?

19 A: I turned around and went on my way.

20 Q: Okay.

21 MR. PAULING: No further questions, Your Honor.

22 MR. DELGADO: Your Honor, I have no questions for this

23 witness. Thank you.

24 THE WITNESS: All right. Thank you.

25 THE COURT: Thank you. You may step down. You may be

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 excused.

2 THE WITNESS: Thank you.

3 THE COURT: Let's take a brief break and then we'll come
4 back and continue on.

5 (WHEREUPON, there was a break in the proceedings from
6 3:54 p.m. until 4:06 p.m., after which the proceedings
7 resumed as follows.)

8 THE COURT: Be seated, please. Thank you. You may call
9 your next witness.

10 MR. PAULING: The State calls Rick DeVors.

11 THE COURT: I was -- I was going to go ahead and do it.
12 Do you solemnly swear or affirm that the evidence that you
13 shall give in this matter shall be the truth, so help you
14 God?

15 THE WITNESS: I do, Your Honor.

16 THE COURT: Thank you.

17 THE WITNESS: Yes, ma'am.

18 THE COURT: Please have a seat and state your full name.

19 THE WITNESS: Richard DeVors. D-e-V-o-r-s.

20 INV. RICK DEVORS, being first
21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. PAULING:

24 Q: How are you doing, sir?

25 A: Good.

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 Q: And can you tell the Court where are you currently
2 employed?

3 A: I'm an agent with the Inspector General's Office at the
4 South Carolina Department of Corrections.

5 Q: Okay. And how long have you been employed there?

6 A: I just started there a month ago -- a little over a
7 month ago.

8 Q: All right. And you've been in law enforcement
9 previously also; is that correct?

10 A: Yes.

11 Q: Okay. And at some point, you were employed with the
12 Kershaw County Sheriff's Office; is that correct?

13 A: That is correct.

14 Q: Okay. And how many years were you employed with the
15 Sheriff's Office?

16 A: Almost six.

17 Q: Almost six years?

18 A: Yes, sir.

19 Q: And beginning and end dates or years?

20 A: 2010 -- 2011 to 2016.

21 Q: Okay. And in -- and as far as being with the Sheriff's
22 Office, have you worked there in various capacities?

23 A: Mainly as a criminal investigator.

24 Q: Mainly as a criminal investigator?

25 A: Yes.

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 Q: Okay. And back in September of 2014, in particular
2 September 11th of 2014, were you working at the Sheriff's
3 Office in that capacity?

4 A: I was.

5 Q: And on that particular day, were you assisting a
6 homicide investigation?

7 A: I was.

8 Q: Okay. And if you'd just tell the Court how you came to
9 be involved in that particular investigation?

10 A: I was actually assigned to the Lugoff-Elgin area of the
11 county as a criminal investigator.

12 Q: Yes, sir.

13 A: But I happened to be in Camden. I believe I was
14 actually coming to the courthouse when the call came out.

15 Q: Okay.

16 A: So I responded immediately when they said that there had
17 been shots fired.

18 Q: Okay. And you said the call came out, that being at [REDACTED]
19 Baynard Boykin Road?

20 A: That's correct.

21 Q: Okay. And you responded to that location?

22 A: I did.

23 Q: All right. Were you -- were you by yourself when you
24 responded to that location?

25 A: I was one of the first units there.

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 Q: Okay.

2 A: I think it was myself and another patrol unit, and I
3 think our chief deputy actually got there pretty quickly as
4 well.

5 Q: Chief Deputy Brown?

6 A: Yes.

7 Q: Okay. And now, once you got on scene, you were there to
8 assist in the investigation?

9 A: Yes.

10 Q: Okay. And as part of that investigation and you
11 assisting in the investigation, did that include a meeting
12 with and interviewing Ms. Gregg Pickrell?

13 A: It did.

14 Q: Okay. And if you'd just tell the Court how did that
15 come about? Did you make contact with her there on scene?

16 A: Yes. Actually, I believe I actually spoke to her
17 briefly. She was being detained in one of the patrol
18 vehicles. I believe I Mirandized her at the patrol vehicle
19 and advised her that she was going to be transported back to
20 the Sheriff's Office so we could get a formal statement.

21 Again, that was not my assigned area. Those who were
22 working that area stayed on the scene; so I freed myself up
23 to go back to the office with the patrol deputy that was
24 transporting Ms. Pickrell so I could interview her.

25 Q: Okay. And do you recall seeing Inv. Miles Taylor on

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 scene?

2 A: Yes, I do.

3 Q: Okay. All right. So you transported Ms. Pickrell back.

4 Did Miles Taylor stay on scene essentially?

5 A: Yes.

6 Q: Okay. And when you got back to the Sheriff's

7 Department, did you begin to conduct an interview?

8 A: I did.

9 Q: Okay. And you had indicated that you had Mirandized Ms.

10 Pickrell; is that correct?

11 A: I did. I Mirandized her at the scene and then I

12 Mirandized her again and had her sign a waiver on paper once

13 we got back to the office.

14 Q: Okay. And at that time, did she request an attorney at

15 all?

16 A: She did not.

17 Q: Okay. And when you conducted that particular interview,

18 did you interview her -- when I say alone, were you the only

19 other person in the room other than Ms. Pickrell?

20 A: I was not.

21 Q: Okay. Who was with you?

22 A: At that time, the victim's advocate, Karen DeVors.

23 Q: Okay. And the information as it related to Gregg

24 Pickrell -- you had a victim advocate in there as well. So

25 why was that? Explain that to the -- to the Court.

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 A: When I left the scene on Baynard Boykin Road, all I knew
2 was that we had a shot fired. I had a dead body laying on
3 the floor. I didn't know whether Ms. Pickrell was actually a
4 victim, a suspect; so to cover all bases, I asked at that
5 time now-Deputy DeVors to come into the room with me, one,
6 because I'm interviewing a female and I didn't particularly
7 want to interview her by myself because of some of the
8 subject nature that I would have to cover during the
9 interview. Plus, again, two, I wanted to cover my bases in
10 case she turned out to be a victim rather than a suspect.

11 Q: Okay. And all of this as far as the investigation is
12 kind of fluid at the time; is that correct?

13 A: Absolutely.

14 Q: Okay.

15 A: Because we actually didn't know much at that -- that
16 point because I left immediately from the scene and went
17 directly back to the Sheriff's Office.

18 Q: Okay. And is far as at least the beginning of the
19 interview, how was Ms. Pickrell's demeanor, as you recall?

20 A: She was visibly upset, but she was very cooperative and
21 very coherent.

22 Q: Did she appear to be fatigued?

23 A: Not abnormally.

24 Q: Okay. And did she indicate to you at any point in time
25 that she was fatigued or too tired to continue on with the

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 interview?

2 A: No, she did not.

3 Q: Okay. At some point during your interview of her, did
4 you offer her something to drink?

5 A: I offered her drinks. I took several breaks. Tissue.

6 Q: Okay.

7 A: I offered some food as well, I believe.

8 Q: And -- well, let me ask you this. Had she -- had she
9 said, Inv. DeVors, I'm just too tired to go on, what would
10 you have done?

11 A: I would have waited.

12 Q: Okay. At some point -- and I know you testified she
13 didn't request an attorney, but at some point, did an
14 attorney come?

15 A: Yes.

16 Q: Okay.

17 A: At some point, an attorney showed up at the interview
18 room. Someone escorted him back to the interview room and,
19 of course, at that time, we stopped the interview so that she
20 would have time to speak with her attorney.

21 Q: Okay. And was -- I guess -- was that Inv. Bailey who
22 escorted that -- that particular attorney?

23 A: I believe so. I don't recall who escorted him back --

24 Q: Okay.

25 A: -- but someone escorted him back --

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 Q: Okay.

2 A: -- to the interview room.

3 Q: But would that have been William Cox? Do you recall?

4 A: Yes. I believe it was.

5 Q: Okay. And did he have an opportunity to speak with --
6 with his client?

7 A: Yes. As a matter of fact, I directed them to leave the
8 room because it's audio and videotaped. I figured he wanted
9 some privileged conversation with his client.

10 Q: Yes, sir.

11 A: So I believe Deputy DeVors took him and his client to
12 another room that was not recorded.

13 Q: Deputy Karen DeVors did? Okay.

14 A: Karen did, yes.

15 Q: And so after that -- that meeting, did she continue with
16 the interview?

17 A: Not with me, but I believe she met with another
18 investigator.

19 Q: Okay. All right. Now, as far as the interview was
20 concerned, did you have any reason to believe, at least from
21 her, that she wanted to stop the interview? Needed to stop
22 the interview?

23 A: No. As a matter fact, I'm the one that stopped the
24 interview several times to make sure that she was able to
25 maintain her composure, make sure she had fluids or whatever

INV. RICK DEVORS - DIRECT BY MR. PAULING

1 else she needed, if she needed time to compose herself. I
2 wanted to make sure that she was accommodated with everything
3 she needed during the interview.

4 Q: And that would've been the only time that she spoke with
5 you? That interview was the only time that she -- that was
6 the only interview you would have had with her; is that
7 correct?

8 A: Correct.

9 Q: Okay.

10 A: Again, that wasn't my -- my assigned area. I was trying
11 to assist Inv. --

12 Q: I understand.

13 A: -- Miles Taylor.

14 Q: Now, had she requested to speak to you again regarding
15 the investigation, would you have done that?

16 A: If she had asked for me, yes.

17 Q: Okay. All right. Did that happen in this particular
18 matter?

19 A: No.

20 Q: Had her attorney requested that -- that that would be
21 William Cox at the time. Had her attorney requested that,
22 y'all to stop the interview and reschedule another time, what
23 would you have done?

24 Q: We would have stopped the interview and rescheduled for
25 another time.

INV. RICK DEVORS - CROSS BY MR. DELGADO

1 MR. PAULING: No further questions at this time, Your
2 Honor.

3 THE COURT: Any cross?

4 MR. DELGADO: Thank you.

5 CROSS-EXAMINATION

6 BY MR. DELGADO:

7 Q: Mr. DeVors --

8 A: Yes, sir.

9 Q: The -- the first videoed statement from Ms. Pickrell
10 showed you and your then-wife, Karen DeVors?

11 A: Correct.

12 Q: As a result of what happened after the second interview,
13 Ms. DeVors took -- did you know that she took Gregg to the
14 Kershaw Memorial Hospital --

15 A: Yes.

16 Q: -- for follow-up?

17 A: I believe I was informed that she had taken her, yes.

18 Q: Sir, if I said to you that Mr. Bailey in the session
19 that you did not attend and you weren't present for -- if he
20 said, quote, there's no doubt in my mind or anybody else's
21 mind at this time that you were physically -- that he
22 physically abused you last night, would you agree with that?

23 MR. PAULING: Objection. Calls for speculation. He's
24 asking about -- well, I'm not quite sure. It sounded like he
25 was asking about his opinion of what Inv. Bailey said or his

INV. RICK DEVORS - CROSS BY MR. DELGADO

1 interpretation of what he may say -- have said during the
2 interview he wasn't present at.

3 MR. DELGADO: Your Honor? Your Honor, I'll move to
4 something else.

5 BY MR. DELGADO:

6 Q: Investigator, was Mr. Bailey the chief investigator in
7 this matter, if you know?

8 A: Quite honestly, I don't know.

9 Q: All right. But you know that you weren't?

10 A: I was not the chief investigator. That's correct.

11 MR. DELGADO: That's all I have. Thank you, sir.

12 THE WITNESS: Yes, sir.

13 MR. DELGADO: Thank you.

14 THE COURT: Any redirect?

15 MR. PAULING: None, Your Honor.

16 THE COURT: You may step down. Thank you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: You may call your next witness.

19 MR. PAULING: The State calls Inv. Miles Taylor.

20 THE CLERK: Do you swear or affirm that the evidence you
21 will give in this case will be the truth, the whole truth,
22 and nothing but the truth, so help you God?

23 THE WITNESS: I do.

24 THE CLERK: Please state your full name for the record.

25 THE WITNESS: Miles Taylor.

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 INV. MILES TAYLOR, being first
2 duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. PAULING:

5 Q: Investigator Taylor, how are you doing, sir?

6 A: Good, sir.

7 Q: Sir, were you the -- the lead investigator in this
8 particular case as regarding the homicide investigation of
9 Robert Demary?

10 A: Yes, sir.

11 Q: Okay. And first and foremost, how long have you been
12 with the Sheriff's Office?

13 A: Fifteen years.

14 Q: Fifteen years? And in an investigative role or what
15 roles have you been in at the Sheriff's Office?

16 A: I've been a road patrol deputy, I've been a supervisor
17 on the road, and now I'm a criminal investigator.

18 Q: Okay. How -- how long have you been a criminal
19 investigator?

20 A: Since 2012.

21 Q: Okay. And do you work a certain region of the county?

22 A: I normally work the east Camden area.

23 Q: Okay. And back in 2014, you were working the east
24 Camden area or normally working that area?

25 A: Yes, sir.

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 Q: Okay. Back on September 11th of 2014, did you become
2 involved in this particular investigation, this homicide
3 investigation?

4 A: Yes, sir. I was the on-call investigator that week.

5 Q: Okay. And what does that mean? If you're the on-call
6 investigator, what does that mean? Does it -- does it matter
7 what region you work?

8 A: It does not. If a major crime comes out, the on-call
9 takes over the case and responds to the scene.

10 Q: All right. And so when the call went out, you -- as the
11 on-call investigator, you went to that particular location?

12 A: Myself and Inv. Bailey were together, and we did respond
13 to that -- to the incident location.

14 Q: That would be [REDACTED] Baynard Boykin Road?

15 A: Yes, sir.

16 Q: Okay. And once you got to the scene, what did you do?

17 A: Once I got to the scene, I got a briefing, a very brief
18 briefing, from the units that were already there on scene,
19 and immediately I pulled -- I pulled out my camera and went
20 and started taking photos of the scene.

21 Q: Okay. And now, at that particular time, did you make
22 contact with the suspect, Gregg Pickrell?

23 A: No, sir, I did not.

24 Q: Okay. Do you recall -- when you got on scene, do you
25 recall if she was still there on scene?

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 A: I believe she was placed in the rear seat of a patrol
2 unit.

3 Q: Okay. But at any rate, you didn't have any -- you
4 didn't have any contact with her?

5 A: No, sir. I had no conversation with her.

6 Q: Okay. And --

7 MR. PAULING: May I approach the witness, Your Honor?

8 THE COURT: Yes.

9 BY MR. PAULING:

10 Q: You indicated you had taken out your -- your camera and
11 began -- and these are marked State's 5 through 43. If you'd
12 just look at those and tell the Court if those are the
13 pictures that you took and then we'll go through them?

14 A: I'm sorry?

15 Q: If you'd tell the Court if those pictures or those
16 photographs -- if those accurately depict the scene as you
17 saw them on that particular day?

18 A: Your Honor, there's some -- there's photographs of the
19 scene here that I do recognize. There's also some photos
20 here of the actual -- of Ms. Pickrell that are in here that
21 does appear to be from that day as well.

22 Q: Okay. And just to be clear, was there an assisting
23 agency that was called in as well?

24 A: Yes. SLED's crime scene unit was called in.

25 Q: Did they take photographs as well?

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 A: Yes, sir.

2 MR. DELGADO: Your Honor, I won't object to any of those
3 photographs.

4 MR. PAULING: I believe that's 5 through 43, Your Honor.

5 THE COURT: And they're admitted.

6 (WHEREUPON, State's Exhibits Number 5 through 43,
7 photographs, were admitted into evidence.)

8 BY MR. PAULING:

9 Q: Now, when you got to the scene, kind of orient the
10 Court? Again, this is State's 5. Okay? What is that
11 showing there?

12 A: This is a picture of standing on the front porch looking
13 into the open doorway of the residence.

14 Q: And as to State's 6 and 7, somewhat similar, but what is
15 that depicting there?

16 A: Exterior of the home.

17 Q: Okay. And outside -- outside the home?

18 A: Yes. The outside surrounding the home.

19 Q: Obviously, the exterior of the home?

20 A: Outside grounds of the home, yes.

21 Q: But outside, there's also this outside table?

22 A: Yes.

23 Q: Okay. And State's 9 -- 9 and 10?

24 A: Just inside the front door, the living area and the
25 kitchen area of the home.

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 Q: And now, State's 11. What does that appear to be?

2 A: It appears to be a desk at the front door.

3 Q: Okay.

4 A: Just behind the front door.

5 Q: Okay. The desk behind the front door? And now, State's

6 13 and then 14?

7 A: That appears to be the area just outside the bedroom

8 taken from the kitchen looking over towards the bedroom and

9 the bureau where the radio -- the stereo was sitting on top

10 of.

11 Q: And this is as you're kind of moving towards the bedroom

12 where the deceased was?

13 A: Yes, sir.

14 Q: And State's 16?

15 A: It's actually just the deceased in the bedroom as he was

16 found.

17 Q: Okay. And you get on scene, you're taking photographs.

18 Was there ever -- what's that? In 16, what is that there

19 beside the -- the victim there? What's this object here?

20 A: A cell phone.

21 Q: Okay. Was there any weapon found near him?

22 A: No, sir.

23 Q: And State's 18?

24 A: It appears to be the bed.

25 Q: Okay. Now, were there other rooms of the house that --

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 well, State's 20. What is that?

2 A: That is the bathroom of the residence.

3 Q: That's the bathroom of the residence?

4 A: Yes.

5 Q: Okay. And then State's 19?

6 A: I believe that's a photograph taken from inside the
7 bedroom where the deceased was found looking out towards the
8 kitchen area.

9 Q: And as to State's 21, if you could, explain to the Court
10 what that depicts there?

11 A: This appears to be an entry wound that was found on the
12 back of the victim after the coroner arrived and rolled him
13 over.

14 Q: And State's 24?

15 A: This is a spent shell casing found inside of a laundry
16 basket that was located just inside the bedroom door.

17 Q: Okay. And if you could hold that just for a moment?

18 Now, in State's 19, is that the basket?

19 A: Yes. Mid-level of the left-hand side of the photograph
20 is where the basket is, the laundry basket.

21 Q: Now, as to 25 through 43 -- now, if you look through
22 those, 25 through 43?

23 A: Yes, sir.

24 Q: And my question to you -- are these pictures taken of --
25 of the suspect, Ms. Pickrell?

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 A: Yes.

2 Q: Okay. When were these pictures taken?

3 A: The day of the incident.

4 Q: Okay. And how do you know that?

5 A: This -- this is inside the ladies' locker room at the

6 Sheriff's Office where we asked for SLED to photograph Ms.

7 Pickrell. They did have a female agent there. We asked the

8 female agent to photograph her.

9 Q: Okay. So you know it was that day because SLED was --

10 was there on that day?

11 A: On that day.

12 Q: That particular day?

13 A: September 11th, 2014.

14 Q: All right. Now, as part of your investigation, were you

15 able to obtain the 9-1-1 call?

16 A: Yes, I was.

17 Q: Okay. And now, are you aware as to whether or not the

18 -- when the call went out, did it go to Kershaw --

19 A: The initial call --

20 Q: -- County dispatch?

21 A: The initial 9-1-1 call went to Sumter County dispatch.

22 Q: Okay. So Sumter County actually picked up the call?

23 A: Yes, sir.

24 Q: Okay. And they spoke with the caller?

25 A: Yes, sir.

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 Q: That being Gregg Pickrell?

2 A: Yes, sir.

3 Q: Okay. And then at some point, Kershaw County was
4 involved?

5 A: Actually, Sumter County called Kershaw County to notify
6 them because of the address being in our county.

7 Q: And have you reviewed that recording of the call that
8 was made that was picked up by Sumter County?

9 A: Yes.

10 Q: Okay. And I'm going to hand you what's been marked
11 State's 4 [sic], and is that a disk of the actual recording?
12 44?

13 A: It is a copy of Sumter County's 9-1-1 call.

14 MR. PAULING: Your Honor, I'd just offer State's 44 into
15 evidence, I believe without objection, Your Honor.

16 MR. DELGADO: Without objection.

17 THE COURT: It's admitted.

18 (WHEREUPON, State's Exhibit Number 44, 9-1-1 call on
19 disk, was admitted into evidence.)

20 BY MR. PAULING:

21 Q: Now, while you were at the scene, you took photographs.
22 Other things in the investigation were taking place; is that
23 correct?

24 A: Yes, sir.

25 A: Okay. Now, you were the lead investigator. So was it

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 your job to kind of gather various amounts of information?

2 A: Yes, sir, it was. Kind of the way we work is -- we're
3 such a -- we're such a small department. When things of this
4 nature go on, major crimes, our investigative unit is kind of
5 like a brotherhood together. We're all in the same office
6 together. We all just go out and do. We know what each
7 other expects and we go and do.

8 And towards -- and then we all gather up in the
9 afternoons or when we gather up and it's kind of this is what
10 I've done, this is what I've got, things of this nature. I
11 didn't personally retrieve all of the evidence.

12 Q: Okay. But as far as -- and you had indicated -- you, in
13 fact, noted that there was a phone that was beside the
14 victim. There was no weapon found, but as far as his
15 personal effects, did you get information or recall what was
16 found as far as on his person after the autopsy was
17 performed?

18 A: I did.

19 Q: And what was -- what was that?

20 A: I believe it was a pack of cigarettes, a keychain of
21 keys, and an envelope that had money inside.

22 Q: Okay. An envelope that had money inside? And do you
23 recall how much money was inside?

24 A: \$18.

25 Q: \$18? Okay. And you had indicated that -- I believe

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 that was on the pictures, State's 25 through 43. That those
2 were photos that were taken by SLED at the Sheriff's Office;
3 is that correct?

4 A: Yes, sir.

5 Q: Okay. And do you recall if Ms. Pickrell came back the
6 following -- and that was on September 11th. Do you recall if
7 she came back on September 12th?

8 A: Yes, sir.

9 Q: To have some more photographs taken?

10 A: Yes, sir, she did.

11 Q: Okay. And at the time when she came back or any time
12 while she was at the Sheriff's Office, did she -- do you have
13 any knowledge that she asked to speak with you regarding the
14 investigation?

15 A: No, sir.

16 Q: Okay. To speak to Inv. DeVors?

17 A: Not to my knowledge.

18 Q: Inv. Bailey?

19 A: Not to my knowledge.

20 Q: Okay. And had she asked -- I mean she'd come back on
21 September 12th to get the photos taken. Had she asked to
22 speak with you, would you have taken the time to discuss the
23 matter with her?

24 A: Absolutely.

25 Q: Okay. But you testified that did not occur?

INV. MILES TAYLOR - DIRECT BY MR. PAULING

1 A: That did not.

2 Q: Okay.

3 MR. PAULING: Thank you, Your Honor. I have no further
4 questions at this time.

5 THE COURT: Any cross?

6 CROSS-EXAMINATION

7 BY MR. DELGADO:

8 Q: Mr. Taylor, as the chief investigating officer in this
9 matter, part of your never-ending job probably is to acquire
10 and control the evidence that you find or that becomes
11 relevant to the case. Would that be fair?

12 A: Yes, sir.

13 Q: Sir, the coroner for Kershaw County in September of 2014
14 was an individual by the name of John B. Fellers. Do you
15 know that name?

16 A: Johnny Fellers. Yes, sir.

17 Q: I'm going to hand you three pieces of paper and ask if
18 you can identify seeing this as a result of the State Law
19 Enforcement Division forensic autopsy -- excuse me --
20 forensic testing of blood and ocular fluid?

21 A: I don't recall if I actually saw it or not, to be very
22 honest with you.

23 Q: Okay.

24 A: I can check my file and see if it's there.

25 Q: Well, let me ask you this. If it came to Mr. Fellers at

INV. MILES TAYLOR - CROSS BY MR. DELGADO

1 the Coroner's Office, how did I get a copy of it? Can you
2 imagine I may have gotten it from my friends at the
3 Solicitor's Office?

4 A: If you're implying it was in discovery, yes, sir.

5 Q: No. I'm not trying to imply. I'm just simply saying --

6 A: Sure. Sure.

7 Q: Okay.

8 MR. DELGADO: Your Honor, I move this into evidence. I
9 think we've stipulated.

10 MR. PAULING: Is that the report?

11 MR. DELGADO: Sure.

12 MS. SAMPSON: Is that --

13 (WHEREUPON, there was a pause in the proceedings for
14 counsel to confer, after which the proceedings resumed
15 as follows.)

16 (WHEREUPON, Defendant's Exhibit Number 25, SLED autopsy
17 report, was admitted into evidence.)

18 BY MR. DELGADO:

19 Q: Mr. Fellers [sic], do you know the threshold -- the
20 threshold level for alcohol in either blood or vitreous
21 fluid? In other words, the vitreous that is in our eyes?
22 For legal purposes, would you happen to know what that is?

23 A: No, sir, I don't.

24 Q: If I told you it's .10 -- in other words, it's a little
25 higher even than the breathalyzer. Would you -- would you

INV. MILES TAYLOR - CROSS BY MR. DELGADO

1 happen to know that?

2 A: I just know the breathalyzer, sir.

3 Q: All right, sir. Would you happen to know, sir, what the
4 metabolite that the tetrahydro carbonite -- excuse me --
5 metabolite for marijuana, cannabis, sativa, would you happen
6 to know what that level would be?

7 A: No, sir, I don't.

8 Q: All right, sir. Mr. Taylor, as a result of your
9 presence at the scene, do you recall finding an earring near
10 -- I think it was the kitchen by maybe a -- in the kitchen
11 maybe by the refrigerator? Do you remember that, sir?

12 A: Yes, sir.

13 Q: All right. Just one?

14 A: Just one. Yes, sir.

15 Q: All right, sir. Did it look out of place on the floor
16 there?

17 A: It was next to a chaise lounge-type chair that was next
18 to the refrigerator, if I recall correctly.

19 Q: All right, sir.

20 MR. DELGADO: Your Honor, that's all the questions I
21 have. Thank you, sir.

22 THE COURT: Any redirect?

23 MR. PAULING: None from the State, Your Honor.

24 THE COURT: You may step down. Thank you.

25 THE WITNESS: Thank you, Your Honor.

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 THE COURT: Anything further from the State? Any
2 additional witnesses?

3 MR. PAULING: That's all the State would have, Your
4 Honor.

5 THE COURT: Anything further from the defense?

6 MR. DELGADO: Yes, ma'am. We'd call Inv. Rick Bailey,
7 please.

8 THE CLERK: Do you swear or affirm that the evidence
9 you'll give in this case will be the truth, the whole truth,
10 and nothing but the truth, so help you God?

11 THE WITNESS: Yes, ma'am, I do.

12 THE CLERK: Please state your name for the record.

13 THE WITNESS: Rick Bailey. B-a-i-l-e-y.

14 INV. RICK BAILEY, being first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DELGADO:

18 Q: Good afternoon, sir. I'm going to give you this just
19 because it's over here.

20 Investigator Bailey, you were involved in the
21 investigation of this matter as a result of being called to
22 the scene and then follow-ups with statements from Ms.
23 Pickrell; correct, sir?

24 A: Yes, sir.

25 Q: All right. And your involvement as far as a statement

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 from her followed that of Mr. DeVors; correct, sir?

2 A: Yes, sir.

3 Q: Chronologically, I'm talking about.

4 A: Chronologically, yes, sir.

5 Q: Chronologically, Mr. DeVors and his then-wife, Karen,

6 interviewed Ms. Pickrell. There was a break and then you

7 interviewed Ms. Pickrell. I think it was with Mr. DeVors --

8 no. Who was in the room with you? Was that Mr. --

9 A: Mr. William Cox.

10 Q: Mr. Cox. Correct, sir. And both of those were

11 approximately an hour and 25 minutes, maybe an hour and 30

12 minutes together -- I mean separately?

13 A: I'm not sure about that.

14 Q: All right, sir. Sir, have you had a chance to review

15 what I received from the Solicitor's Office, a transcribed

16 audio file of that statement that you were present for?

17 A: The transcribed of the --

18 Q: Of the --

19 A: -- of the videotaped interview --

20 Q: Yes, sir.

21 A: -- that I did?

22 Q: Yes, sir.

23 A: I have reviewed it, but I don't know it word for word.

24 Q: Sure. I understand. And I'm not trying to say you need

25 to. I understand.

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 A: That would be great if I could.

2 Q: Absolutely. Sir, do you remember saying to Ms. Pickrell
3 that -- relating to the Bossier City, Louisiana, incident, do
4 you recall saying to her that there was an incident that
5 happened there where you felt it necessary to seek action
6 through the courts? Do you recall saying that to her?

7 A: Not word for word, but I do remember talking about
8 Bossier City.

9 Q: All right, sir. Well, let me just get you to look.

10 A: Yes, sir.

11 Q: And this is a little bulky, but look at page 11 of this?

12 A: Page 11, what line, sir?

13 A: Yes, sir. I'm sorry. Line 5, I think it is.

14 A: Okay. I've read that. Yes, sir.

15 Q: Do you recall that, sir?

16 A: Yes, sir.

17 Q: An incident happening there where you, that is Ms.
18 Pickrell, felt it necessary to seek action through the
19 courts. Do you recall asking her about that?

20 A: Yes, sir.

21 Q: All right, sir. Sir, looking at page 19, do you recall
22 saying to her -- that is Ms. Pickrell, quote, and usually
23 we'll do -- we'll do follow-ups with you to take pictures
24 down the road? Do you recall that, sir?

25 A: Yes, sir. That comes from our stand as a domestic

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 violence investigator.

2 Q: Sure. Absolutely.

3 A: We do that.

4 Q: And part of the reason for that, sir, is that -- let's
5 just say physical violence is inflicted at 4:40 on an
6 afternoon. Sometimes it does not show for a day or two or
7 maybe even longer than that?

8 A: It varies.

9 Q: Is that true?

10 A: It varies with different individuals.

11 Q: Exactly. So sometimes you say we're going to take
12 photographs now, but there may be some stuff we need to
13 follow up on down the road, in other words, to complete and
14 make our investigations thorough and as complete as possible?

15 A: That's a fair statement.

16 Q: Sir, on page 81, line 6. And again, I'm sorry. That's
17 a little bulky.

18 A: No, sir. You're fine. 81, line 6?

19 Q: Yes, sir.

20 A: Okay.

21 Q: Do you recall saying to her, sir, quote, no doubt in my
22 mind and anybody else's mind at this time that he physically
23 abused you last night?

24 A: That is what I said. Yes, sir.

25 Q: Is that what you said, sir?

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 A: Yes, sir. I would assume that's what I said to her.

2 Q: And, sir, finally, at page 58, lines 5 through 7?

3 A: Okay. Lines what, sir?

4 Q: Yes, sir. Line 58 -- lines 5 through 7?

5 A: Okay.

6 Q: Let me back up and just ask it this way. In your
7 experience as a domestic violence investigator, these things
8 happen in moments of extraordinary trauma and are very
9 volatile? Would that be fair?

10 A: That would be fair to say.

11 Q: The human psyche being what it is, sometimes it's clear
12 in individuals' minds what occurred and then sometimes
13 reflection will add facts that were maybe not either apparent
14 or were not verbalized immediately?

15 MS. SAMPSON: Your Honor, I'm sorry. I think he's
16 asking him to speculate about people's minds at this point.
17 And this is his -- at this point, it's his witness and he is
18 leading too.

19 MR. DELGADO: Well, I think --

20 MS. SAMPSON: I think --

21 MR. DELGADO: I think I can lead an adverse witness,
22 number one, but, number two, yes, that's exactly what I'm
23 saying.

24 MS. SAMPSON: I don't think he can ask him to speculate
25 as to how or why people's minds work unless he's got some

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 sort of expertise in the field.

2 MR. DELGADO: Well, I wasn't asking so much that as
3 generally in his investigative tenure as a domestic violence
4 investigator whether or not these things have a time span on
5 them. That's all.

6 THE COURT: You can ask him that question.

7 BY MR. DELGADO:

8 Q: Do you need me to repeat that?

9 A: Yes, sir. Please.

10 Q: Let me try again. These are moments of great
11 excitement, passion, sometimes violence?

12 A: Uh-huh.

13 Q: And they're always not -- they're not always clear-cut
14 and crystal clear? Would that be fair?

15 A: To a degree. I think -- and just to be fair to you, Mr.
16 Delgado, because of what I've done for as many years as I've
17 done it, there's some statements that I use over and over
18 again. This appears to me as one of those statements.

19 Q: Absolutely.

20 A: What it is intended or what the intent was with this is,
21 (a) to try to get the gears rolling to maybe bring something
22 out that they may not be thinking of --

23 Q: Exactly.

24 A: -- right then, but it also opens a door. Hopefully, a
25 day or two later, they would call me back with more

INV. RICK BAILEY - DIRECT BY MR. DELGADO

1 information.

2 Q: Sure.

3 A: That was the intent of that statement.

4 Q: Exactly. And that's a very common reflection of human
5 nature and human character? Would that be fair?

6 A: I would assume, yes.

7 Q: All right, sir. The problem with it is, sir, the very
8 next day, in other words, when you talked to her on the
9 afternoon of the 11th, she was arrested the morning of the
10 12th; correct?

11 A: I have no clue.

12 Q: All right, sir. In any event, sir, you said to her at
13 page 58, lines 5 through 7, a day or two later, it may come
14 to you like, you know, I really should've told him that;
15 correct, sir?

16 A: Yes, sir.

17 Q: That's a standard line that you would use in
18 investigating criminal domestic violence cases?

19 A: Or any case, to be honest.

20 Q: Yeah, exactly. And the reason for that is there's a
21 basis in your training and your experience where that may
22 come to fruition and you want that information; correct?

23 A: Correct. All right, sir.

24 MR. DELGADO: Thank you. That's all.

25 THE COURT: Any cross?

INV. RICK BAILEY - CROSS BY MS. SAMPSON

1 MS. SAMPSON: Just briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. SAMPSON:

4 Q: Mr. Delgado just asked you on page 81 your statement --
5 I mean there's no doubt in my mind or anybody else's mind at
6 this time that he physically abused you last night?

7 A: Uh-huh.

8 Q: What did you mean by that?

9 A: Well, there were -- there were allegations made by her
10 of some type of abuse and, just going off the recollection
11 without looking at the video itself, I would want to say I
12 guess there was marks on her or something. I can't remember
13 one hundred percent, but I was basing that based on who was
14 in the room at that time, you know, the allegations were
15 made. I would have to -- I believed her at that time because
16 I had no further information.

17 Q: I need you to speak up. I'm not even sure what you just
18 said.

19 A: Really?

20 Q: I can't hear you.

21 A: I was using my college education there. I think what
22 we're doing is we're basing it -- at the time, we were in the
23 room together, me, her, and I think Mr. Cox was still there.
24 She had been making allegations of -- of some type of
25 physical abuse, but I want to remember or recollect that

INV. RICK BAILEY - CROSS BY MS. SAMPSON

1 there may have been some, like, scratches or bruises or
2 something, but I'm not a hundred percent sure of that.

3 Q: Were you intending to tell her that you believed her by
4 that statement?

5 A: As far as just I made up my mind that she was telling
6 the truth, no, ma'am. I wouldn't have done that to her. You
7 know, I think the actual, I guess, interview was over and, at
8 that point, I wouldn't have made up my mind totally until I'd
9 seen other evidence, but, like I said, I was playing the role
10 in this case. I wasn't the lead investigator.

11 Q: And he asked you about you -- you gave her information
12 in hopes that she would come back maybe and talk to you or
13 give you more details as you're talking to her; correct?

14 A: Correct. That was part -- one aspect of that statement
15 was to try to get the wheels turning to maybe garnish more
16 information. You know, she's making this statement. Maybe
17 there is something, you know, to maybe bring it forward, but
18 if not, maybe later on.

19 Q: Your goal was to get as much information as possible?

20 A: Yes, ma'am.

21 Q: And that day when you're talking to her, you are asking
22 her about what happened September 10th through September 11th;
23 correct?

24 A: Yes, ma'am.

25 Q: And you want her to give you as much information as

INV. RICK BAILEY - CROSS BY MS. SAMPSON

1 possible?

2 A: That's correct.

3 Q: You didn't stop her from telling you anything?

4 A: No, ma'am.

5 Q: You didn't talk over her, intimidate her, keep her from
6 saying anything, did you?

7 A: No, ma'am.

8 Q: Okay. And in fact, she did come back on September 12th,
9 that morning, to have photographs made; correct?

10 A: I assume. I wasn't part of that.

11 Q: You weren't part of that? You've heard testimony today
12 that she came back and got --

13 A: Just from what y'all have told me. Yes, ma'am.

14 Q: Did she ever ask -- after September 11th, did she ever
15 call and ask to speak to you again?

16 A: About this case, no, ma'am.

17 Q: And you have no idea when she actually got arrested?

18 A: No, ma'am. I didn't know.

19 Q: But she never called you before getting arrested?

20 A: No, ma'am.

21 Q: To add anything to her statement?

22 A: No, ma'am.

23 MS. SAMPSON: Nothing further, Your Honor.

24 MR. DELGADO: I have no further questions. Thank you,
25 sir.

1 THE WITNESS: And I apologize, Mr. Delgado. These
2 things are --

3 MR. DELGADO: That's quite all right.

4 THE COURT: And if you -- I believe that's Mr. Delgado's
5 copy.

6 THE WITNESS: Yes.

7 THE COURT: Are there any additional witnesses at this
8 time?

9 MR. DELGADO: No, Your Honor.

10 THE COURT: From the State?

11 MS. SAMPSON: No, ma'am.

12 THE COURT: Counsel, let's just make sure that we have
13 the record. There are for the -- for the defense exhibits,
14 we have Numbers 1 through 25; is that correct?

15 MR. DELGADO: Yes, ma'am. I'm sorry. Yes, that's
16 correct, Your Honor.

17 THE COURT: And for the State, we have Exhibits 1
18 through 44?

19 MS. SAMPSON: Yes, ma'am. And what I am awaiting would
20 be the videotape of the interview with both Inv. Bailey and
21 Inv. DeVors; is that correct?

22 MR. PAULING: That's correct.

23 THE COURT: With the conversations -- private
24 conversations redacted?

25 MR. PAULING: Yes, Your Honor.

1 THE COURT: And I guess I'll be -- we can either make it
2 a State's exhibit or we can make it the Court's exhibit,
3 either way.

4 MS. SAMPSON: I think you had said earlier we would make
5 it Defense Exhibit 1(a) and 2(a) --

6 THE COURT: Oh, okay.

7 MS. SAMPSON: -- so they would match each other.

8 THE COURT: Okay. There's just going to be one disk?
9 It was just going to be one disk?

10 MS. SAMPSON: It's two.

11 THE COURT: Oh, two separate disks?

12 MR. DELGADO: Yes, ma'am.

13 MS. SAMPSON: Yes, ma'am.

14 THE COURT: Thank you. So when we receive those -- when
15 I receive them, we'll mark them as 1(a) and 2(a). Okay.

16 Any other housekeeping matters we need to take up at
17 this time?

18 MR. DELGADO: Ma'am, I would like to be able to make
19 literally a three-minute closing to you.

20 THE COURT: I'll be happy to do that. I would suspect
21 that what I will do is I'll ask that you -- while I do have a
22 brief memorandum from the defense, I don't have any type of
23 written memorandum from the -- from the State, and I would
24 like to give you all an opportunity to reflect on what's
25 occurred today and the testimony and be able to supplement

1 any information, including any case law that you think is --
2 that you wish to focus on. And I'll give you time to respond
3 to that, but, yes, Mr. Delgado, I'll be happy to hear you.

4 MR. DELGADO: Your Honor, in just a moment, I wish to be
5 able to play for you -- it may be a minute and 30 seconds'
6 worth of the first of the two audiovisual tapes. That was to
7 Mr. DeVors. I think it succinctly and clearly shows her
8 frame of mind at the moment that she discharged that weapon.
9 It shows her mannerisms, her regret, her sensitivity.

10 And then I want to say this to you, Your Honor. Your
11 Honor, this isn't a close case. This is not just a
12 preponderance of the evidence. This is an extraordinarily
13 overwhelming evidentiary case for the defendant. I'll leave
14 it with that with the playing of this video, Your Honor.

15 (WHEREUPON, a portion of the videotaped statement was
16 played in open court, not transcribed herein, after
17 which the proceedings resumed as follows.)

18 MR. DELGADO: That's all, Your Honor. Thank you very
19 much.

20 THE COURT: Anything from the State at this particular
21 point?

22 MS. SAMPSON: Your Honor, the only thing -- just I feel
23 the need to at least respond --

24 THE COURT: Yes, ma'am.

25 MS. SAMPSON: -- in part. I understand that Mr.

1 Delgado's belief is that there's overwhelming evidence and
2 I'll agree with him there's lots of evidence, but I think
3 that the things the Court has to look at in order to
4 determine whether immunity should be granted in this case is
5 whether the elements of (c) have been met, whether she was
6 under attack, and whether she was meeting force with force.

7 And it's the State's position that even if you take her
8 version, whichever version you apply, the one she gave
9 DeVors, the one she gave Bailey, or the one she gave today,
10 he's still shot in the back at least two feet away. That
11 does not meet force with force.

12 But what's more important to me as you look at the
13 evidence -- and I would ask that you -- we did not play it in
14 the courtroom. So I know that you're going to look at some
15 other evidence, but as you look at the videos, read the
16 transcripts, and as you listen to the 9-1-1 call, what I
17 would ask that you keep in mind is the State's -- not the
18 State's -- I'm sorry -- is the Court's position in State v.
19 Curry and in State v. Douglas.

20 And in both of those cases, Your Honor, in particular
21 State v. Douglas, the Court has said it's not enough to just
22 look at the defendant's self-serving statements, especially
23 since, like in this case, there's only one witness that's
24 alive. You have to look at the evidence outside of what she
25 says and see if that evidence comports with and supplies and

1 -- and supports her version of events.

2 And in that case, it's our position, if you do that, it
3 does not. The fact that he's shot in the back, although she
4 says that he was coming at her when she's talking to Inv.
5 Bailey, the fact that she gives no account when talking to
6 those officers about specifics, but today after two years she
7 has all of these specifics, the facts that can't be changed
8 that do not match what she gives.

9 Those are what we would ask that you look at and take
10 into account as you look at the material. The demeanor that
11 she did, whether she was forthright in answering my questions
12 or not.

13 Those are the things that we believe you need to take
14 into account, and we'd ask that you not grant immunity, as we
15 believe there are questions of fact as to whether self-
16 defense is applicable since it all comes down to whether you
17 believe the defendant or not and the way that the case law
18 reads. As State v. Curry says, if there's questions of fact,
19 you should not grant immunity.

20 We will -- I will submit -- would you prefer an order --
21 proposed order or proposed memo?

22 THE COURT: Either. Either one is fine.

23 MS. SAMPSON: Okay.

24 THE COURT: Let's just say order in electronic format.
25 I really don't need rebuttal. Just put everything that you

1 want to -- me to consider in the proposed order that you
2 provide. Is -- is -- is two weeks enough time?

3 MR. DELGADO: Yes, ma'am.

4 MS. SAMPSON: Yes, ma'am.

5 THE COURT: I think that would be February the 11th or --
6 no, February 10th. I think that would be February 10th, two
7 weeks from today.

8 MS. SAMPSON: Yes, ma'am.

9 MR. DELGADO: Two weeks from today. Thank you.

10 THE COURT: Yeah. Two weeks from today. I think that's
11 February the 10th. And if you can, send it to me in
12 electronic format. I will presume that I'll get the redacted
13 video next week sometime.

14 MR. PAULING: That's correct, Your Honor.

15 MS. SAMPSON: Just out of scheduling, are you here or
16 are you back home?

17 THE COURT: I will be -- well, actually, I'll be in
18 Charleston next week, but you can send it to my office in
19 Columbia, and I'll get that. And then I'll review it and
20 I'll -- and I will try to issue an order as quickly as
21 possible thereafter.

22 MS. SAMPSON: Yes, ma'am.

23 THE COURT: All right.

24 MR. DELGADO: Thank you very much.

25 THE COURT: Thank you very much. I appreciate it.

1 MS. SAMPSON: Thank you, Your Honor.

2 THE COURT: And with that, we'll adjourn this hearing.

3 (WHEREUPON, the proceedings ended at 4:57 p.m.)

4

5 --- END REQUESTED TRANSCRIPT ---

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1 State of South Carolina)
2) Certificate
3 County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 294, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Kershaw County, South Carolina, on the 26th and 27th days of January, 2017.

14 I do further certify that I am neither of kin, counsel,
15 nor interest to any party hereto.

Kristal J. Smith

Court Reporter

20 | Florence, South Carolina

21	January 26, 2018

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FLORENCE SC 29504

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF KERSHAW) COURT OF GENERAL SESSIONS
3 2015-GS-28-0795

4 State of South Carolina,)
5 Plaintiff,)
6 vs.) TRANSCRIPT OF RECORD
7 Gregg Pickrell,)
8 Defendant.)

9 May 29 and 31, 2018
10 June 1, 4, and 5, 2018
11 Camden, South Carolina

12 B E F O R E:

13 THE HONORABLE WILLIAM A. MCKINNON, JUDGE; and a
14 jury.

15
16 A P P E A R A N C E S:

17 CURTIS A. PAULING, III, ASSISTANT SOLICITOR
18 APRIL W. SAMPSON, ASSISTANT SOLICITOR
19 JACQUELINE LI, ASSISTANT SOLICITOR
Attorneys for the Plaintiff

20 JOHN D. DELGADO, ESQ.
21 AIMEE J. ZMROCZEK, ESQ.
22 Attorneys for the Defendant
23
24
25

DEBORAH M. McCURDY, RPR
Official Court Reporter

1 12:28 p.m.)

2 THE COURT: Counsel, one thing I wanted to let
3 y'all be aware of, we may have a court reporter
4 issue tomorrow. Debbie was telling us that she let
5 them know well in advance that she could not work
6 tomorrow afternoon. And my law clerk just called
7 Court Administration. As of right now, we do not
8 have a replacement. So just do what we can do.

9 All right.

10 MR. DELGADO: Your Honor, let me rise and let
11 me see if I can create some work for the Solicitor
12 maybe tomorrow afternoon. One of my motions in
13 limine related to -- and to be candid with you,
14 when I filed that with the Court and with the
15 Solicitor, I didn't know what I was really talking
16 about, and I'll see if I can amplify it. We have a
17 witness by the name of Barbara Jones. Ms. Jones is
18 the former victims witness advocate for the
19 Sheriff's Department. I think she was employed
20 there for some six to eight years. She terminated
21 that job in 2010.

22 THE COURT: Okay.

23 MR. DELGADO: During that period of time and
24 afterwards, Ms. Jones -- on February 3rd, 2008,
25 Ms. Pickrell's business partner and significant

1 other, an individual by the name of Dan Figueroa,
2 shot himself, killed himself by suicide on a Sunday
3 afternoon.

4 THE COURT: In 2008?

5 MR. DELGADO: I'm sorry?

6 THE COURT: You said in 2008?

7 MR. DELGADO: 2008.

8 THE COURT: Okay.

9 MR. DELGADO: As a result of that, Ms. Jones
10 came into her life. She was deemed, at least, if
11 not a victim, that she saw that and was on the
12 scene when that happened. So Ms. Jones reached out
13 to her in her professional capacity. And in 2008
14 and subsequent to that, Ms. Jones was brought into
15 Ms. Pickrell's environment, emotionally,
16 psychologically, and Ms. Pickrell showed pictures
17 to Ms. Jones of the battery done to her by
18 Mr. Demary. We were to call her to counter what I
19 believe will be the State's very clear thrust that
20 she never called anybody, she never told anybody,
21 she didn't reach out for help. No one knew.

22 Your Honor, to go further with this.

23 Ms. Jones now, I'm sorry to say, I was going to try
24 to memorize a medical term, Ms. Jones now suffers
25 from ALS, the Lou Gehrig's Disease. I have met

1 with her personally. She's an extraordinarily
2 ebullient spirit. Her mind is still very good.
3 She understands everything. She is very pleasant
4 and courteous. She just can't talk. So when I
5 talked to her, the way she answered questions was
6 if it asked for a yes or no, she would write on a
7 piece of paper or a pad and turn it around and let
8 me read what she answered. That's what I meant by
9 special consideration.

10 But now even further than that, Your Honor,
11 Ms. Jones, I learned last night, is now undergoing
12 some sort of medical treatment in Greenville on a
13 daily basis. Apparently, she has to be in
14 Greenville, her husband called it an infusion. I
15 didn't ask any more about that. But it takes her
16 time all day. I did not ask her husband, but I
17 think I'm constrained to do this, to ask whether or
18 not Ms. Jones would sit for a deposition so that
19 her testimony could be produced for our jury.

20 Your Honor, there is no necessary state
21 corollary to Federal Rule 15(a) which allows
22 depositions in a criminal case. But I would submit
23 to the Court that if we are not working tomorrow
24 afternoon and, more importantly, if I could prevail
25 on this poor woman to allow us to come to her home

1 tomorrow evening, and if I can get a videographer.
2 There are just a short number of questions. It's
3 not a long deposition. But I did want to bring
4 that to the Court's attention. Again, I am not
5 saying that she will consent to it.

6 As fate would have it, her husband is
7 undergoing chemotherapy. It's just an
8 extraordinarily difficult situation. And I felt so
9 bad about even having to ask it, but I did want to
10 say to the Court that I wanted to amplify on my
11 motion about special consideration and say if --
12 and say to my colleagues that if I can get
13 Ms. Jones to authorize this and if she would be
14 able to do this tomorrow night or Thursday night, I
15 may see if I can prevail upon her.

16 THE COURT: Mr. Delgado, I'm going -- a little
17 concerned about the rules. I mean, can I do this?
18 Let's just assume for this argument that I agree
19 with you, this would be a good idea, can I allow a
20 deposition in a criminal --

21 MR. DELGADO: Well, I would hope, Your Honor,
22 that under Article One, Section 14 of the
23 Constitution, which allows a Defendant to be heard
24 fully in his or her defense, under these
25 extraordinarily unique circumstances and seeing

1 that federal courts recognize this in the Rules of
2 Criminal Procedure, I would say that due process
3 under these circumstances -- and, again, Your
4 Honor, I just got to say to you, she may decline to
5 do this. And her husband may step in the way, as
6 he probably has standing to do, and decline to let
7 her do it. But I just want to be able to say to
8 the Court if I can get this, I wanted to relay that
9 to the Court now simply because there's no other
10 way to obtain her testimony.

11 THE COURT: Mr. Delgado, my concern is Rule 7.

12 MR. DELGADO: All right.

13 THE COURT: And Rule 7 appears to contemplate
14 in this situation that the remedy is a continuance.

15 MR. DELGADO: The Rules of Criminal Procedure,
16 Your Honor? I'm sorry.

17 THE COURT: Yes, Rule 7 or the Rules of
18 Criminal Procedure would -- you know,
19 unavailability of a material trial witness. It
20 appears the remedy under the rules is a
21 continuance, not a deposition. And I'm --

22 MS. ZMROCZEK: I'm sorry.

23 MR. DELGADO: I'm sorry.

24 THE COURT: It's okay. I mean, I'm opening --
25 this is my first trial, so if I'm wrong, I -- but I

1 am reluctant to allow a deposition in a criminal
2 matter without some kind of authority saying that I
3 can do it.

4 MR. DELGADO: I understand.

5 THE COURT: But the situation that you're
6 confronted with is not -- you know, it's not a
7 novel situation. It seems to me Rule 7, the remedy
8 is a continuance until she's available, not a
9 deposition in criminal court. But I'm certainly
10 willing to hear from you.

11 MR. DELGADO: Your Honor, the other side of
12 that is, I did not inquire when I met with her a
13 month and a half ago -- it's a very delicate
14 situation. I felt that I was treading on some very
15 sensitive matters about asking about her prognosis.
16 From what I understood last night -- well, I'm just
17 talking out loud, I'm sorry, let me explain my
18 situation. As related by her husband, she has 14
19 days straight of this chemical infusion -- or this
20 infusion. She's done five of them, so she has nine
21 more days. We won't get to her testimony within
22 nine days. I mean, this case would close within
23 the nine days.

24 Your Honor, may I take that thought about a
25 continuance under my own advisement? I'm not

1 saying that I will do that. I need to speak to the
2 client and I need to speak to the folks that have
3 come from a long way. This would be the second
4 time we've had to continue this. And this is no
5 concern of yours, but I understand what you're
6 saying about Rule 7. I understand that.

7 THE COURT: I'd be happy to hear from the
8 State, Ms. Sampson, or anyone if y'all have a
9 position on it. I guess my first question is, do
10 you have a position on the issue of taking her
11 deposition?

12 MS. SAMPSON: I think the way that you're
13 handling it is the correct manner in terms of I
14 think the correct remedy would be a continuance.
15 Our concern is, normally when there's a deposition,
16 there are areas of law you get into or areas you
17 would not normally get into in a deposition-type
18 situation than if you had live testimony.

19 Also, in criminal court, unlike in civil, the
20 rulings for the judge as to what's admissible,
21 what's not, we wouldn't have those right there,
22 we'd have to redact it. So there's a lot that
23 could end up happening for a witness that I don't
24 even know the time period or exactly how crucial
25 she is to their case. And I'm not asking them to

1 tell me. But I think that Your Honor's ruling is
2 correct, that it either requires a continuance or
3 whatever Mr. Delgado would like to do, but I don't
4 think a video deposition would be the appropriate
5 remedy.

6 MR. DELGADO: Your Honor -- and, again, I
7 should have foreseen that the Court would -- and,
8 of course, I know that a continuance is a -- could
9 the Court give us 10 minutes?

10 THE COURT: Certainly.

11 MR. DELGADO: Let me speak to her --

12 THE COURT: Take 15. I don't want to rush you
13 on this. This is a significant decision.

14 MR. DELGADO: I feel like -- I want to address
15 the pros and the cons of that.

16 THE COURT: Absolutely. Take a few minutes.
17 Court will be in recess.

18 (WHEREUPON, a short break was taken at
19 2:10 p.m.)

20 THE COURT: Yes, sir?

21 MR. DELGADO: Your Honor, after consideration
22 with Ms. Pickrell and her family, I think the
23 better course for her is to continue with this
24 matter. So relating to --

25 MS. ZMROCZEK: Continue with the trial.

1 MR. DELGADO: Continue with the trial. I do
2 want to say sometime in the future, if you ever get
3 a chance to change that rule that would comply with
4 the federal rule, that's another thing I urge upon
5 you. Right now, Your Honor, we will continue with
6 this matter.

7 THE COURT: Okay.

8 MR. DELGADO: Now, Your Honor, relating to my
9 pretrial motion and relating to special
10 consideration for two witnesses.

11 THE COURT: Okay.

12 MR. DELGADO: This woman --

13 Stay right here.

14 THE COURT: Mr. Delgado, just to be clear for
15 the record, you are declining to request a
16 continuance?

17 MR. DELGADO: That's correct. Thank you.

18 Your Honor, this is Ms. Nora Keehn seated here
19 in the aisle in the wheelchair.

20 THE COURT: Okay.

21 MR. DELGADO: This is Gregg's mother.

22 THE COURT: Okay.

23 MR. DELGADO: This next Sunday she turns 93
24 years old. And she will admit that she's deaf as a
25 post. We laugh about it, but she'll say it all the

1 time. I wanted to say to the Court, when I have
2 talked to her, I'm almost having to yell because
3 even in close proximity, she can't hear very well.
4 I didn't know what the Court wanted to do with the
5 court reporter. I don't know if the Court would
6 want her on the witness stand or in a wheelchair
7 here in the middle. I just wanted to tell you now,
8 whatever the Court instructs us to do, we'll do, I
9 just wanted to bring that to your attention now
10 rather than in front of the jury.

11 THE COURT: I notice she's in a wheelchair at
12 the moment, is the only issue her hearing or does
13 she need a wheelchair for other reasons?

14 MR. DELGADO: No. I mean, we can wheel her in
15 and out. I mean, she can walk, but for small --
16 how about this, Your Honor?

17 MS. ZMROCZEK: She can be wheeled --

18 THE COURT: Well, let's take it one step at a
19 time. So, is there any objection from the State
20 having her in her wheelchair right there?

21 MS. SAMPSON: No.

22 MR. PAULING: None from the State, Your Honor.

23 MR. DELGADO: That will be fine. I just
24 wanted to alert you that and the court reporter
25 that I probably will be standing very close to her,

1 as opposed to other witnesses, when I question her
2 on direct.

3 THE COURT: Okay.

4 MR. DELGADO: Now --

5 MS. SAMPSON: Your Honor, can -- I hate to
6 interrupt Mr. Delgado. I just wanted to make sure
7 on the first matter, his motion was a motion for
8 video deposition. I don't know that you -- I just
9 need there to be a ruling.

10 THE COURT: Sure, absolutely. The Court's
11 ruling is that that request is denied on the basis
12 I don't think there's any provision for it under
13 the rules.

14 MS. SAMPSON: Thank you.

15 THE COURT: And I invited you to make a motion
16 for a continuance. And just to clear it for the
17 record, you declined to do so.

18 MR. DELGADO: Just to make it clear, I'll
19 withdraw that motion so that Ms. Sampson can rest
20 easy.

21 THE COURT: Thank you, Mr. Delgado.

22 MR. DELGADO: Thank you. Something that
23 really is a bit as convoluted. There is a witness
24 to Mr. Demary's actions that are very akin to the
25 physical actions and emotional actions that he

1 perpetrated on Ms. Pickrell. That relates to his
2 first wife, a woman named Aaron Jean Wilson
3 Shuford -- excuse me, Demary Shuford. Aaron is, of
4 course, A-A-R-O-N. Wilson. Aaron Jean, with a J,
5 Wilson Demary Shuford, with one F, S-H-U-F-O-R-D.
6 Ms. Shuford resides in Lincolnton, North Carolina.
7 She is the mother of what is now probably a 16- or
8 17-year-old child as a result of her marriage to
9 Mr. Demary. She has remarried and that is the
10 reason for her name Shuford.

11 I have had Ms. Shuford interviewed by phone by
12 one of the members of the Defense team. I have
13 asked Ms. Shuford to attend this trial. I said to
14 her that I would try to make certain that her time
15 was limited if she would voluntarily come. She cut
16 off communication with me about a year and a half,
17 two years ago. Stopped receiving telephone calls
18 from me. I sent a letter to her return receipt
19 requested she never responded to.

20 I have then taken the responsibility of
21 subpoenaing her under the interstate compact about
22 the subpoenaing of out-of-state witnesses. I have
23 taken the liberty of contacting the superior court
24 judge. In North Carolina, Your Honor, I think they
25 do them by numbers. I think his district is 25B.

1 His name is Bridges Don Forrest -- excuse me,
2 Forrest Don Bridges, I apologize. He is the
3 Superior Court Judge for Lincoln, and there's
4 another county in that two-county circuit.

5 I have sent to Judge Bridges -- I talked to
6 Judge Bridges on the phone once probably a month
7 and a half ago. He said to me that he would
8 send -- have his clerk send me a North Carolina
9 subpoena for me to fill out to send back to him so
10 that he could sign it. This case, as we have said
11 to the Court, was originally set for May the 7th.
12 I sent it to Judge Bridges, but I never heard back
13 from Judge Bridges about signing it and sending it
14 back to me.

15 When the case was continued on Friday
16 afternoon, the 5th, that next week or so, I then
17 sent this back to Judge Bridges, saying to Judge
18 Bridges that our case had been rescheduled for the
19 week of the 29th, which is today. I asked Judge
20 Bridges and sent to Judge Bridges again another,
21 same North Carolina subpoena requesting that he
22 sign that, commanding Ms. Shuford to appear on
23 Thursday, the 31st, which is two days from now.
24 Just to make certain that I covered all my bases, I
25 also had the clerk here sign a subpoena for her

1 that I had served on Ms. Shuford by the Lincoln
2 County Sheriff.

3 Now, I said to her in my e-mails to her that
4 that does not compel her because I don't have a
5 right to command an out-of-state citizen to come to
6 South Carolina, but I wanted to tell her that she
7 was wanted, wanted as a witness.

8 Your Honor, back on May 15th -- that would be
9 two weeks ago today, yeah, two weeks ago today -- I
10 sent to Judge Forrest D. Bridges at the Cleveland
11 County Law Enforcement Center, so it's Lincoln
12 County and Cleveland County, Shelby, North
13 Carolina, another cover letter asking that he
14 review my subpoena, my North Carolina subpoena, and
15 have that endorsed and sent back to me so that I
16 could serve that on Ms. Shuford.

17 This past Thursday, which would be the 24th,
18 when I had not heard, Your Honor -- Your Honor, I'd
19 just like to be able to show y'all.

20 Your Honor, may I just hand to the Court the
21 return receipt requested acknowledgment signed by,
22 looks like a Donna Pierce from the law enforcement
23 center and Judge Bridges' office. Both my cover
24 letter of May 15, the North Carolina subpoena, and
25 the South Carolina subpoena that was also served on

1 Ms. Shuford?

2 Your Honor, I feel like I'm giving you every
3 out of the box motion known to the criminal defense
4 bar. I apologize. I don't think I've -- except in
5 a capital case once I've had to do this.

6 Ms. Shuford will say things like -- in fact, I just
7 want to make certain I do this correctly. In an
8 interview with -- I'm making this in way of a
9 proffer to show you the materiality of Ms. Shuford.
10 Ms. Shuford said to my social worker, Ms. Lynn
11 Phillips, on October 22nd, 2014, less than two
12 months after this incident, Ms. Shuford expressed
13 compassion for Gregg because she, quote, knows what
14 she went through, end quote. Ms. Shuford said she
15 had heard the news of Demary's death. She
16 immediately felt it could have gone that way for
17 her. At the end, Aaron said it was to the point
18 that, quote, I knew it would be him or me. I know
19 what it's like to think this is the last time he
20 touches me. I used to deny a lot of it out of
21 shame, but I've healed and I'm brutally honest
22 about it now.

23 Ms. Shuford didn't want to have to come back
24 to South Carolina for this reason, the folks over
25 here on the other side of the aisle this morning

1 were Mr. Demary's family. In other words, the
2 paternal line of her daughter. She doesn't want to
3 have to come back, I would expect and I would
4 imagine, to have to confront them or be in their
5 presence and to bring up something of a traumatic
6 nature in her background.

7 My problem is, I have the responsibility to
8 compel her testimony. This past Thursday, I made a
9 phone call to a very delightful clerk in Judge
10 Bridges' office, leaving a message saying I still
11 haven't received the subpoena. She called me back
12 on Friday morning and we had quite a go-round. She
13 said that in a very, very direct conversation, I
14 put that in the mail to you yesterday. That's
15 Thursday, the 14th. I went to my office on this
16 Saturday just hoping against hope it would have
17 come in the mail on Saturday. Didn't come. I've
18 been online with my secretary all day waiting --
19 because there was no mail delivered yesterday,
20 Memorial Day -- waiting, hoping against hope that
21 it was in the mail today. No such returned
22 subpoena.

23 I don't know what else to do but to ask the
24 Court -- again, Your Honor, I apologize, these
25 are -- Your Honor, I don't think I've ever asked --

1 in 40 some years of practice, never asked another
2 judge to get in touch with an out-of-state judge to
3 say what can I do to assist you. But I've got to
4 be able to have Ms. Shuford's testimony. I have
5 sent e-mail after e-mail before last week. Never
6 got any phone calls back -- I mean, e-mails back
7 from the clerk. Her name is Kinsley M. Crag,
8 C-R-A-G, at North Carolina Courts dot org or com or
9 gov or something. I don't know what to do but to
10 ask the Court. I know Mr. Greenberg probably
11 doesn't have anything else to do later today except
12 to get hisself in the middle of this. But I don't
13 know what else to do to be able to compel the
14 testimony.

15 I said to her online -- she once wrote me and
16 said, Well, can I commute back and forth every day?
17 I said, Absolutely. If you want to go back and
18 forth to Shelby or Lincolnton, absolutely. I said
19 to her, If you come this day, I'll try to get your
20 testimony in so you won't have to spend the night
21 away. She's got three kids. She doesn't want to
22 be away from them and their activities, and I
23 understand that. I said to her that I would, you
24 know, obviously, pay the absolutely de minimis
25 statutory rate, which is visibly antiquated, but

1 that I would try to deal with her schedule as best
2 I can. But I can't enforce something that I
3 complied with my part of it through the statute
4 without assistance from the Court.

5 THE COURT: What specifically would you like
6 me to do?

7 MR. DELGADO: Your Honor, these are
8 unchartered waters. I haven't the slightest idea
9 how you can assist me, but I'm thinking that maybe
10 an e-mail from your office to Judge Bridges'
11 office, not coming from me. Believe me, I'm the
12 kiss of death right there with Ms. Crag right now.
13 Because I said to Ms. Crag in very uncertain terms,
14 I have a responsibility to compel Ms. Shuford to
15 appear. I've done everything I can do. I don't
16 know what else I can -- she was -- well, we ended
17 the conversation on a terse note, but I was doing
18 what I had to do.

19 Maybe, Your Honor, -- and I will leave it to
20 your discretion -- maybe an e-mail from your office
21 to that office specifying -- I thought for sure
22 it'd be here today. I mean, if she dropped it in
23 the mail Thursday, maybe Saturday was the outer
24 limits, but if it's not here on Tuesday. That
25 means, Your Honor, as soon as I get it, I've got to

1 get it served in North Carolina. It's just not an
2 immediate turn around. I've got to then get
3 somebody to go to North Carolina, get to the
4 Sheriff's Department, have her served, and with our
5 expanding trial date, maybe have her here Monday.
6 That probably would help her rather than have to
7 come on Thursday, but I just don't see her
8 testimony coming in on Thursday now.

9 THE COURT: Let me hear from Ms. Sampson, from
10 the State?

11 MS. SAMPSON: Your Honor, it sounds like he's
12 more asking you what you can do to try to get this
13 out-of-state subpoena served. The best I can tell,
14 he has done what he needs to do to get that done
15 and it just hasn't been done yet.

16 It's the State's position that her testimony
17 is not needed. And it's one of the motions we
18 already kind of talked about earlier that we were
19 objecting to her testimony anyway. So I understand
20 that he's saying she's a material witness, but it
21 would be the State's position that her testimony is
22 not admissible to Your Honor -- or to the jury to
23 begin with.

24 So I think we have two different positions. I
25 think his position on serving the out-of-state

1 subpoena or getting that part done is between you
2 and Mr. Delgado. Our issue is more that we don't
3 think that she is a relevant witness or has
4 testimony that can be brought before the Court in
5 the first place.

6 MR. DELGADO: Your Honor, what about this as
7 maybe a modest compromise? Seeing as how we may
8 not be having testimony tomorrow in the afternoon,
9 the mail service in my office is -- I never know
10 when it's coming. It's usually before noon. What
11 if I renew this with you tomorrow if it does not
12 come? In other words --

13 THE COURT: Well, my concern is I'm not -- I'm
14 hoping we will have court tomorrow afternoon. I
15 mean --

16 MR. DELGADO: I'm sorry, you're right. You're
17 right.

18 THE COURT: Okay. My law clerk tells me we
19 just got confirmation from Court Administration we
20 will have a court reporter tomorrow. So that's
21 good.

22 Mr. Delgado, my concern is, I don't know if
23 there's anything I can do that you -- I mean, I
24 don't have any more authority in North Carolina
25 than you do. I mean, do they know you're in trial

1 and you're waiting on the subpoena?

2 MR. DELGADO: I've said it so many times, yes,
3 sir. That was the reason my conversation on
4 Thursday was so emphatic, to underscore that.

5 THE COURT: So she said she mailed the
6 document when?

7 MR. DELGADO: On Friday, 10:30, 11:00 o'clock.
8 I think that's the --

9 THE COURT: Friday before Memorial Day
10 weekend?

11 MR. DELGADO: Yes, sir. I dropped it in the
12 mail yesterday. And now it's Tuesday and it's
13 still not here.

14 THE COURT: So that means she -- you spoke
15 with her on Friday --

16 MR. DELGADO: Yes, sir.

17 THE COURT: -- and she said she mailed it on
18 Thursday?

19 MR. DELGADO: That's what she said. That the
20 judge had signed it, and she dropped it in the mail
21 on Thursday.

22 THE COURT: So we've only had really two days
23 of mail since then; right?

24 MR. DELGADO: Well --

25 THE COURT: Monday's a holiday --

1 MR. DELGADO: -- Friday, Saturday, today.

2 THE COURT: What precisely -- do you prefer
3 that I call him, is that what you're asking me to
4 do?

5 MR. DELGADO: Yes, sir. Well, do I want you
6 to call him? I think it may be more discrete if
7 you send an e-mail. I don't want to get you in
8 middle of it, and I've been trying not to.

9 THE COURT: Mr. Delgado, I'm concerned that
10 that's crossing a line of providing assistance with
11 an issue that I really don't need to provide
12 assistance with.

13 MR. DELGADO: I haven't thought of it that
14 way.

15 THE COURT: I mean --

16 MR. DELGADO: All right.

17 THE COURT: I just don't feel comfortable
18 doing that.

19 MR. DELGADO: How about this, again, as a
20 compromise? I would expect this afternoon that the
21 State is going to argue to you that under no scheme
22 of evidentiary law or fact does Ms. Shuford's
23 testimony come in. We're going to counter that.
24 If the Court should rule that Ms. Shuford's
25 testimony does come in, maybe what I could do is

1 ask the Court -- let's just say that the State --
2 she can only come Friday morning and we're still in
3 the State's case, maybe what I can do is ask the
4 Court to take her testimony out of turn, get her
5 in, get her out, get her back to North Carolina as
6 she wants to do before the Defense is called upon
7 to present its case.

8 THE COURT: Right. I mean, I can't say how
9 I'll rule on that request. But that seems -- I
10 mean, I would certainly be open to a request to
11 take her testimony out of order.

12 MR. DELGADO: All right. Let me see if I can
13 move to something else then, Your Honor. We moved
14 under the statute for a jury view. I'm going to
15 withdraw that. It's my -- well, maybe my friends
16 can say, at the immunity hearing, Your Honor, there
17 was a large Google Earth map of the horse farm. It
18 may be referred to, Your Honor, as Far and Away
19 Farms. That Google map was a very large
20 production. I think that would assist the jury
21 tremendously and we don't have to go to the farm to
22 do that. But from what Ms. Sampson was saying,
23 that may not be in evidence.

24 MS. SAMPSON: What I was saying, just so we're
25 clear, we had an immunity hearing, like we already

1 told you, over a year ago. And at that time, that
2 map was marked -- and I don't remember if it was
3 put into evidence or just marked for demonstrative
4 purposes, I don't remember. But even if it was put
5 into evidence, we'd have to put it in again because
6 the court reporters don't like the numbers and all
7 that. We have another one.

8 MR. DELGADO: Same thing? Same one?

9 MS. SAMPSON: Yeah, we have the exact same
10 one.

11 MR. DELGADO: That's fine. I just wanted to
12 make certain that that hadn't been lost somehow and
13 we don't have that to be able to counter the reason
14 we want to go to the farm.

15 THE COURT: I just want to make sure. So,
16 both sides are in agreement that this piece of
17 evidence is coming in?

18 MS. SAMPSON: It's just an aerial shot of the
19 farm. We'll look at it and make sure it's the same
20 one, but, yes, Your Honor, we intend to use it as
21 well.

22 MR. DELGADO: Fine.

23 Your Honor, I have retained an expert by the
24 name of Arlene Andrews. Ms. Andrews has a
25 doctorate in social work. She has a community

1 background as an advocate for women and children,
2 their families. She was the -- I don't know if
3 there's a counterpart in Rock Hill. She created
4 Sister Care here in Columbia. She can tell you the
5 dates. But in other words, she was the first
6 executive director of Sister Care for many years.
7 She will give testimony pursuant to the statute --
8 and, again, I'm sorry. The statute, Your Honor,
9 relates to terms the admission of evidence of the
10 Battered Spouse Syndrome. It is my recollection
11 that that statute was passed in 1995.

12 Syndromes are not recognized now by
13 professionals. And the phrase Battered Spouse has
14 been opened to allow testimony relating to Battered
15 Intimate Partners. In other words, it's no longer
16 called Battered Spouse Syndrome, it's called
17 evidence of Intimate Partner Violence or IPV.

18 THE COURT: Mr. Delgado, are you saying the
19 statute has been expanded? When you -- I mean, I
20 am concerned because the statute calls it Spousal
21 Battery.

22 MR. DELGADO: Yes, sir.

23 THE COURT: And it is your contention that it
24 applies -- how far do you think it applies?

25 MR. DELGADO: I think it's an equal protection

1 argument. If it's not -- in other words, simply
2 because you're not married to someone who batters
3 you.

4 THE COURT: Oh, I know. I think there's a
5 Supreme Court case that says it applies to
6 partners, the phrase was living together in a
7 common law relationship, the Court says it applies.

8 MR. DELGADO: Yes, sir.

9 THE COURT: I don't think that was the case in
10 this case, was it?

11 MR. DELGADO: Well, he was present at her home
12 on either four of five nights before this incident
13 happened. He had clothes there. He had personal
14 effects, or a toothbrush. He had shoes. In other
15 words --

16 THE COURT: I think we'll probably want
17 evidence on that issue if you're asking for a
18 ruling on whether that statute applies.

19 MR. DELGADO: All right. In any event, under
20 702 -- well, the reason that I want to stick with
21 that statute is because it allows a lessening of
22 admissible testimony that would otherwise be
23 precluded. By that, I mean Intimate Partner
24 Violence has to include the same sorts of expansion
25 of the statutory evidentiary limits that the

1 battered -- excuse me, that the -- Your Honor,
2 what's the phrase in black letter?

3 THE COURT: It is Battered Spouse Syndrome.
4 17-23 --

5 MR. DELGADO: Yes, Battered Spouse Syndrome.

6 MS. ZMROCZEK: Your Honor, may I just
7 interject? The State served us notice today of a
8 CV of Dr. Alicia Benedetto. She's an expert. I've
9 cross-examined her in numerous criminal sexual
10 conduct cases. So if they're planning to put her
11 up, it may be -- I don't know what she -- I have no
12 idea what she's going to testify to because they
13 literally handed me her CV. I have no idea what
14 she's going to testify to. But maybe the State
15 can -- I'm just not sure why they're calling her,
16 but if they're calling her, then this may be a
17 witness that we call in reply to her. They
18 certainly don't have to tell me their case, but, I
19 mean, they did give me the CV of this doctor. And,
20 you know, I've cross-examined her, like I said, in
21 criminal sexual conduct cases.

22 THE COURT: That's a different issue, though.
23 I thought the issue we're talking about now is
24 whether 17-23-170 --

25 MS. ZMROCZEK: Right.

1 THE COURT: Now, I'm happy to rule on that,
2 but I think it's going to require some
3 evidentiary -- you know, as far as what the
4 relationship was.

5 MR. DELGADO: All right. Your Honor, going
6 into that further, as the Court may know now, there
7 was an immunity hearing on this matter on
8 January 27th and 28th of 2017. The Court ruled
9 January 3rd of 2018, and denied immunity. I'd like
10 to make certain -- and we will caution our
11 witnesses -- I'd like to be able to caution any of
12 the State's witnesses that if their testimony is
13 reflected or used that they refrain from using the
14 word immunity or Stand Your Ground hearing simply
15 because that would impart to the jury that immunity
16 was denied. By that, I mean -- in other words,
17 just refer to it as a previous hearing.

18 THE COURT: I understand. You want that
19 previous hearing called a preliminary hearing or
20 something like that?

21 MR. DELGADO: That's perfect.

22 THE COURT: You don't want it called Stand
23 Your Ground hearing?

24 MR. DELGADO: Exactly.

25 MS. SAMPSON: We've already told -- I mean,

1 our witnesses don't even really know what that
2 meant, so --

3 THE COURT: No objection from the State?

4 MS. SAMPSON: No, we've always said prior
5 hearing even in talking to them.

6 THE COURT: So by stipulation then, there will
7 be no reference to Stand Your Ground or immunity
8 and witnesses will call it a prior hearing in the
9 matter, pretrial hearing.

10 MR. DELGADO: Your Honor, at that immunity
11 hearing, Judge Lee was presented with some of the
12 same evidence we intend and would like to introduce
13 before this jury, specifically -- and that's part
14 of the reason I say the immunity motion because it
15 outlines -- under Attachment C of that immunity
16 motion is a letter sent to Gregg Pickrell, [REDACTED]
17 Baynard Boykin Road, Rembert, 29128, from return
18 address [REDACTED] Salmond Street, Camden, South
19 Carolina. The letter follows, and it's a letter
20 from Mr. Demary's grandmother, Estelle Belton.
21 Your Honor, the information in that letter is going
22 to be contested by the State. I would submit that
23 this matter may be a matter of res judicata in that
24 Judge Lee allowed it at the immunity hearing.

25 MS. SAMPSON: Your Honor, if I may, first of

1 all, I think we need to have it marked so that the
2 Court in the future will know what it is.

3 THE COURT: Sure, let's have it marked.

4 MS. SAMPSON: But I don't think that res
5 judicata would apply to a pretrial hearing as to
6 what would go in front of a jury. In fact, there
7 were things that she didn't allow because it was in
8 front of her, but she also had to hear it in order
9 for her to decide if it could be heard by her. So
10 I don't think that her decision to allow the letter
11 for a pretrial hearing precludes Your Honor from
12 making a decision as to whether it can come in in
13 front of the jury.

14 THE COURT: My understanding in South
15 Carolina, Mr. Delgado, is that pretrial evidentiary
16 rulings are not binding on the trial court.

17 MR. DELGADO: Well, pretrial is one matter.
18 Immunity hearing may be pursuant to the protection
19 of self and property act where there might be a bit
20 of a more formalized proceeding. In other words,
21 it has to be on the record. It has to be heard.
22 It has to be a ruling.

23 THE COURT: But it's still pretrial, isn't it?
24 I mean, it's not --

25 MR. DELGADO: Of course, it's pretrial, sure.

1 I mean, everything is pretrial. The point is she
2 made a considered decision to admit that. And she
3 took it under advisement until an hour or so into
4 the testimony before she admitted that. Your Honor
5 --

6 I'm sorry.

7 MS. SAMPSON: I'm sorry.

8 MR. DELGADO: Go right ahead.

9 MS. SAMPSON: I would say that this would be
10 akin to a pretrial hearing as at a Jackson vs.
11 Denno where we have to get Your Honor to accept the
12 statement of the Defendant in order to make a
13 determination of whether it comes in. You take it
14 in right that minute, but that doesn't mean it
15 comes in front of a jury. There's other hurdles we
16 have to go through in order to do that. Just
17 because a judge ruled that she could take it into
18 consideration in making a determination at the
19 hearing doesn't mean that it should go in front of
20 a jury.

21 So I think there are two -- and despite that,
22 she was denied immunity. So that's a whole -- I
23 mean, we're at a whole different procedure. It's a
24 different level of proof to her preponderance of
25 the evidence ruling and under this jury going to be

1 much higher burden for ourselves.

2 MR. DELGADO: No --

3 THE COURT: Mr. Delgado, I think barring --
4 unless you can find me some authority, I don't
5 think I'm bound by Judge Lee's ruling.

6 MR. DELGADO: Well, then, Your Honor, let me
7 see if the evidentiary ruling may persuade the
8 Court. And, again, I -- do you have a copy of the
9 letter?

10 THE COURT: I know it was in the package. We
11 don't have an access to a printer here, but it was
12 in chambers.

13 (WHEREUPON, Court's Exhibit No. 1 was
14 marked for identification only.)

15 THE COURT: Okay. I've read it.

16 MR. DELGADO: Your Honor, maybe the Court
17 could be persuaded by review of 804(b)(3) of the
18 Rules of Evidence.

19 THE COURT: 804(b)(3)?

20 MR. DELGADO: 804(b)(3), yes, sir.

21 THE COURT: All right, I am there.

22 MR. DELGADO: Your Honor, it's unclear, and I
23 wanted to ask the Court.

24 THE COURT: Statement against interest.

25 MR. DELGADO: Statement against interest by a

1 Declarant. That the Declarant be unavailable,
2 being Ms. Estelle Belton. Isn't her statement
3 proposed in that letter a statement which as it was
4 at the time of its making so far contrary to the
5 Declarant's pecuniary or proprietary interest or so
6 far intended to subject the Declarant to civil or
7 criminal liability.

8 And here's where I'd like to be able to ask
9 the Court to assist. Or to render invalid a claim
10 by the Declarant against another that a reasonable
11 person in the Declarant's position would not have
12 made the statement unless believing it to be true.

13 In other words, what we propose to you is his
14 grandmother acknowledges that he's physically
15 abusing Ms. Pickrell.

16 Your Honor, again, I don't think I ever seen
17 anything like that before in the practice of law.
18 But the point is, does that -- does it come under
19 804(b)(3). In other words, unless the
20 acknowledging -- excuse me, that a reasonable
21 person in Declarant's position would not have made
22 the statement unless believing it to be true.

23 THE COURT: Mr. Delgado, my understanding of
24 this rule is it has to be against the Declarant's
25 interest and you seem -- so it has to be -- I don't

1 know, what is Estelle's last name?

2 MR. DELGADO: Belton.

3 THE COURT: Belton. So in what way is this
4 statement against Estelle Belton's interest?

5 MR. DELGADO: Excuse me, say it again, sir?

6 THE COURT: I mean, my understanding of
7 804(b)(3) is it has to be against the Declarant's
8 interest. So in this case -- and not against the
9 Decedent's interest. In this case, it would be
10 Ms. Belton's interest. I don't understand how the
11 letter is in --

12 MR. DELGADO: Well, unless, Your Honor, at the
13 bottom of 804(a), a Declarant is not unavailable as
14 a witness unless they refuse, claim lack of memory,
15 or that they cannot be brought to the hearing. She
16 is unavailable as a result of her demise.

17 THE COURT: I understand. But then, so that
18 makes -- she's unavailable. And so if she's
19 unavailable, then (b)(3) is possible, but I don't
20 think it's a statement against interest. That's
21 what I'm saying.

22 MR. DELGADO: So you don't think it's a
23 statement against interest of the Declarant?

24 THE COURT: Correct. That's my question. I
25 understand it's a statement against the interest of

1 the Decedent. But I think it has to be against the
2 interest of the Declarant.

3 MR. DELGADO: Well, it was real early this
4 morning when I read this again for the eighth time.
5 And I think the commas in the rule tend to indicate
6 it is more than just the Declarant's pecuniary or
7 proprietary interest. And to be candid, that's all
8 that we've always used it for. Pecuniary or
9 proprietary interest, comma, or so far intended to
10 subject the Declarant's civil or criminal
11 liability, comma, or to render invalid a claim by
12 the Declarant against another that a reasonable
13 person in the Declarant's position would not have
14 made the statement unless believing it to be true.
15 Am I missing --

16 THE COURT: Again, my understanding of what
17 the language says is render invalid or claim by the
18 Declarant against another. My understanding is
19 that means if I hit your car and rear end you in an
20 intersection and I jump out and say, This is
21 entirely my fault, you were stopped, I missed your
22 car. Then I've given up legal claim against you.
23 That's what that's talking about. I have a claim,
24 I'm waiving it. It's admissible against you as a
25 statement against interest. But I don't -- okay.

1 MR. DELGADO: Like I said, it was way too
2 early or late last night for me to make much sense
3 with my research. It just seemed to me that that
4 would admit this based upon consigning it to a
5 pecuniary and proprietary interest and that it was
6 made believing it to have been true. I would stand
7 with the Court's opinion, I just would like to take
8 exception to that as another basis for the
9 admission of this letter by Ms. Belton.

10 THE COURT: I'll hear from the State on that.

11 MS. SAMPSON: I think what Your Honor said, I
12 don't think it comes in under (3) because as you've
13 already stated, it's not a statement against her
14 interest. It might be a statement against the
15 Decedent's interest, but she made it. So I don't
16 think it falls under 804 (b)(3). And I don't
17 remember the date, I'm sorry, and I don't have a
18 copy of it, but we also submit it's too far
19 removed. There's some other issues --

20 THE COURT: The date written on the letter is
21 June 10th, 2008.

22 MS. SAMPSON: 2008?

23 THE COURT: Yes, ma'am.

24 MS. SAMPSON: He was killed in 2014, so that
25 would be another reason why the State would argue

1 that it's not admissible either. It's going
2 into -- she's not here for us to cross-examine her
3 about any of that information. It's not a
4 statement against her interest. And it's not -- I
5 just don't think it's relevant to the case in that
6 it's so far removed in time.

7 THE COURT: Mr. Delgado, I'll be happy to hear
8 from you on any other basis for admission, but
9 under the ruling of the Court, it is not a
10 statement against interest.

11 MR. DELGADO: I understand. Your Honor, I
12 simply rest on my argument to the Court.

13 Thank you.

14 THE COURT: Okay.

15 MR. DELGADO: Your Honor, again, reserving my
16 objection to that matter.

17 THE COURT: Yes, sir.

18 MR. DELGADO: Your Honor, I think now, since
19 we're outside the presence of the jury, we can
20 discuss some things that the Court needs to
21 consider.

22 Mr. Demary was employed at Far and Away Farms
23 beginning in -- sometime in 2008, the early part of
24 2008. It may have been 2007.

25 In 2008, in September of 2008, Ms. Pickrell

1 took a horse to Louisiana, down to Shreveport,
2 Louisiana for the racing season. She arrived there
3 maybe the middle of September. Accompanying her
4 with the horse was Mr. Demary and Mr. Lamont
5 Pearson.

6 Your Honor, one of the photographs that we
7 have shown to the Court in the original -- in the
8 motion for immunity is what is known in the
9 business as a win photo. I thought I had attached
10 that to the motion for immunity. If I did not,
11 allow me to present it to the Court. Your Honor,
12 what it shows, it shows Ms. Pickrell's horse, Burst
13 with Light, along with this jockey and several
14 other jockeys. And Mr. Tyrone Pearson is holding
15 the bridle to the horse and Mr. Patrick
16 Valenzuela -- has the Court seen this? Did I
17 attach that?

18 THE COURT: To be honest, Mr. Delgado, I don't
19 remember having seen that.

20 MS. SAMPSON: For the record, I think you did
21 it in black and white.

22 MR. DELGADO: Well, then, I now give it to him
23 in color.

24 Your Honor, just for your edification, let me
25 just see if we can introduce this.

1 THE COURT: We'll make it a Court's Exhibit.
2 (WHEREUPON, Court's Exhibit No. 2 was
3 marked for identification only.)

4 MR. DELGADO: What's significant about that in
5 some ways is that Mr. Patrick Valenzuela, who is
6 the jockey, as he crosses the finish line, he's
7 showing up four fingers. That happened to be
8 Mr. Valenzuela's 4,000th win as a jockey.

9 THE COURT: Okay.

10 MR. DELGADO: What the win photo shows is not
11 just the horse and Ms. Pickrell and
12 Mr. Valenzuela's ride of Burst of Light, but all
13 the other jockeys that were at the race track
14 celebrating, in effect, this monumental number of
15 victories by Mr. Valenzuela.

16 The person who was not there in that
17 photograph is Mr. Robert Lamotte Demary. Mr.
18 Demary had been arrested by the Bossier City Police
19 Department as a result of a charge of assault and
20 battery and disturbing the peace some four to five
21 days prior to that. Mr. Demary was arrested and
22 sentenced to 60 days in prison, and was released on
23 or about November 7th, 2008.

24 It is our contention that the incident -- Your
25 Honor, I know these photographs are part of the

1 motion for immunity, four photographs on one in a
2 composite view. This would be under our Attachment
3 A relating to photographs that were taken by the
4 Bossier City Police Department showing the bruising
5 suffered by Ms. Pickrell at the hands of
6 Mr. Demary.

7 Additionally, Your Honor, we also submitted as
8 part of the motion for grant of immunity was the
9 arrest report and the incident report, and the --
10 they call it there a bill of information on an
11 indictment or -- it's called a bill of
12 information -- that shows the course of what
13 happened. That's the first item that I believe the
14 State is going to object to.

15 The second, Your Honor, is this. After
16 Mr. Demary is released from jail on or about
17 November the 7th, he calls Mr. Pearson, Mr. Tyrone
18 Pearson. Mr. Pearson is the person who's holding
19 the bridle of the horse, African-American young
20 man. Mr. Pearson goes to the Camden Police
21 Department later that day and files a report that
22 Mr. Demary had called him from Louisiana
23 threatening his life. There's not a reason given
24 for that, it's not anything else that underscored
25 why that may or may not have happened. But that

1 shows the characteristics that we wish to be able
2 to present before the jury.

3 Additionally, Your Honor, Mr. Demary had
4 threatened both Mr. Pearson and Ms. Pickrell while
5 they were in Louisiana with physical harm before
6 his arrest. And Ms. Demary -- excuse me,
7 Ms. Pickrell knew of Mr. Pearson's report to the
8 Camden Police Department. That is attached as
9 another attachment to our motion for grant of
10 immunity. I believe that to be, Your Honor,
11 Attachment -- I'm sorry, I can't -- Attachment E,
12 Your Honor, to the motion for grant of immunity to
13 the Camden Police Department, dated -- I'm sorry,
14 it was 11/21/2008. The offense is noted as assault
15 by intimidation. Mr. Pearson states he was
16 involved in an incident in Louisiana with a
17 co-worker by the name of Robert Demary. Mr.
18 Pearson stated he received a call from Mr. Demary
19 on 11/20 -- I stand corrected about that date.
20 11/20. He stated he was on his way back home to
21 Camden to kill him, Mr. Pearson. Mr. Pearson fears
22 for his safety.

23 Your Honor, those are examples of the
24 incidents that we believe -- all of which were
25 known to Ms. Pickrell. If the Court rules that

1 under 404(a) that only information known by the
2 Defendant, that is Ms. Pickrell, those incidents
3 can be admissible before the jury. In other words,
4 the photograph from Louisiana, Bossier City
5 incident report, the incident report notification
6 to the Camden Police Department of a threat to kill
7 Mr. Pearson, all of those are admissible.

8 I would imagine very clearly my friends are
9 going to argue that they are not. And in a motion
10 in limine -- or was a motion in limine received
11 late last night -- they voiced their objection to
12 this and other matters. At least, that is our
13 position. I'll be more than glad to listen to how
14 they believe or why they believe this is not
15 admissible. But if Ms. Pickrell is subject and
16 knows each of these matters, that certainly is
17 testimonial and comes in through her testimony.

18 THE COURT: Okay. Let me hear from the State.

19 MS. SAMPSON: Thank you, Your Honor. Just to
20 be clear, and I know he only brought up to you the
21 incident with Mr. Pearson, but it's similar -- our
22 similar objection is also to whatever information
23 he would be bringing from Ms. Shuford, the witness
24 he can't get, so I'm just going to cover them both
25 for the sake of argument.

1 MR. DELGADO: May I interject?

2 MS. SAMPSON: Sure.

3 MR. DELGADO: Your Honor, there's a third
4 incident, I'm sorry.

5 THE COURT: Okay.

6 MR. DELGADO: Mr. Demary and Ms. Shuford, her
7 name was Wilson at the time, she was 20 years old
8 at the time, were living in Newport News, Virginia.
9 He was in the Navy. There's an incident that the
10 Sheriff's Department got hold of the day after the
11 shooting, on the 12th of September. An incident
12 report from Newport News Sheriff's Department that
13 shows, we will contend under 403 -- excuse me,
14 under 404(b), a common scheme of assaultive
15 behavior.

16 The incident report from the Newport News
17 Police Department talks about the police officer
18 showing cuts and bruises or scarring to the face,
19 the lips, and, most importantly, the throat -- or
20 the neck, I'm sorry, the neck by Ms. Demary --
21 excuse me, by Ms. Wilson at that time, later to
22 become Ms. Shuford. Those three incidents were
23 known by Ms. Pickrell as a result of her
24 relationship with Mr. Demary.

25 THE COURT: When was that incident you were

1 just talking about in Newport News?

2 MS. SAMPSON: 2001.

3 MR. DELGADO: 2001.

4 THE COURT: You said it's a police report is
5 the evidence that we have?

6 MR. DELGADO: Yes, sir, I do have that. Yes,
7 sir, I do. If I can make it -- Your Honor, that's
8 under Attachment D. I want to make -- three pages,
9 all of which the Sheriff's Department obtained on
10 the 12th from the Newport News Police Department.

11 THE COURT: So let me just make sure, the
12 three incidents that you'd like to bring in are the
13 Louisiana incident with the arrest in 2008, the
14 alleged threat to Mr. Pearson in 2008, and the 2001
15 incident with his first wife?

16 MR. DELGADO: That is correct.

17 THE COURT: Yes, ma'am?

18 MS. SAMPSON: Thank you, Your Honor. So it
19 would be the State's position that, yes, she could
20 testify about actions between her and the victim in
21 the case, but not about actions between the victim
22 in the case and others as specific instances of
23 conduct.

24 I would hand up to the Court two cases, Your
25 Honor.

1 THE COURT: Ms. Sampson, are these copies that
2 I can keep for my very own?

3 MS. SAMPSON: Yes, sir.

4 I'm going to give the Defense copies as well.

5 THE COURT: Thank you.

6 MS. SAMPSON: The first is State v. Douglas.
7 State v. Douglas from 2014, and State v. Day from
8 2008.

9 The point of both of those, Your Honor, is the
10 case law is pretty clear, even under a self-defense
11 claim, which is what they have, specific instances
12 of conduct by the deceased don't come in unless
13 they are closely connected in point of time or
14 occasion to the homicide.

15 So both -- in these particular cases, the one
16 with the ex-wife is 2001. He's already put on the
17 record that she, at this point, is not going to be
18 here. All we have is a police report. Even if it
19 was to come in under a common scheme or plan under
20 404(b), there would have to be clear and convincing
21 evidence of them being the same as the one that
22 they're saying happened in 2008 through 2014. So
23 that would be nothing with his ex-wife would come
24 in under 404(b) without the ex-wife being here to
25 talk about it, first of all. And even if she was

1 here to talk about it, they're not so close in time
2 or related to the incident in front of us. And we
3 don't have testimony from the Defendant to what she
4 knew had happened with that particular ex-wife.

5 Secondly, Your Honor, as to the incident in
6 Louisiana, the State concedes that she can talk
7 about what he did to her. That's never been --
8 that's not even in our motion that she can't talk
9 about that. What we argue and will continue to
10 argue is that they can't have Mr. Pearson come in
11 here and talk about any threats that Mr. -- that
12 the victim may have done to him in 2008. Again,
13 not related close in time because the assault
14 happened -- that led to this is 2014.

15 Secondly, Your Honor, we don't believe --
16 well, our motion was objecting to Mr. Pearson, but,
17 also, to the physical evidence of the police report
18 coming in. That is full of hearsay within hearsay.
19 And she can talk about what happened. It's not
20 like she -- if he wants to bring it in or, I guess,
21 he could bring in the officer, I don't know. I'm
22 not suggesting what he brings in. But to put in
23 the actual pieces of paper in evidence. We
24 normally don't ever even put in our own police
25 reports because they contain hearsay within

1 hearsay. In those police reports is things that
2 the officer said. There's things that the victim
3 says. There are things that Ms. Pickrell said and
4 there are things that Mr. Pearson said. And so it
5 it's hearsay within hearsay. Because the officer
6 who actually made the report isn't here and, I
7 assume, is not going to be here.

8 Same with the Camden report. I know that they
9 have Mr. Pearson on their witness list. However,
10 it would be the State's position that any argument
11 between him and the victim that happened in 2008 is
12 not close enough related in time to come in at this
13 time, Your Honor.

14 In both State v. Day and State v. Douglas, the
15 Court talks about that. What was allowed in Day
16 happened four months prior to the incident. And it
17 was almost exactly the same in terms of that
18 particular victim would get upset and pull a gun on
19 people.

20 THE COURT: Ms. Sampson, can I stop you for a
21 second?

22 MS. SAMPSON: Sure.

23 THE COURT: I actually have read this case
24 before, the Douglas case, but I've always -- the
25 language that I struggle with, it says, Whenever a

1 specific instance of conduct by the deceased is
2 closely connected in point of time or occasion.
3 What does "or occasion" mean?

4 MS. SAMPSON: And I assume that the occasion
5 means what was going on since it's following close
6 to the time. I'm not sure. I'm not going to sit
7 here and try to explain what the Court means by
8 occasion, I can only look to what they have done,
9 which is when you look at what they did in Douglas,
10 they said actually, it shouldn't have been
11 admitted, it was error; however, in that particular
12 case, they determined that it was harmless because
13 the State didn't object to it coming in through the
14 Defendant. We're objecting.

15 So we have a difference in our case because in
16 Douglas, they didn't object to the Defendant
17 talking about it, they objected to the officers
18 coming up and giving the cumulative effect of
19 saying, yes, that happened. And we're objecting to
20 any of it, so I think we're in a different position
21 than they were in Douglas in the first place.

22 And in Douglas, they were from 2010 and 2007,
23 and the assault happened in 2011. So they were
24 closer in time than what we're even talking about
25 to begin with and the Court then said it was error

1 to have let it in, but it was harmless since the
2 Defendant talked about it.

3 So that would be the State's position on those
4 three prior things.

5 THE COURT: Let me take just one second to
6 look at this case. Mr. Delgado, give me one
7 second.

8 (Pause.)

9 THE COURT: On the Douglas case, Ms. Sampson,
10 I'm not sure I can find a holding in this case.

11 MS. SAMPSON: I'll show you. If you look --
12 you said the Douglas, right?

13 THE COURT: Yes, ma'am. What I see the Court
14 saying is any error admitting the incidence beyond
15 what was deemed as harmless, but I don't see them
16 actually holding that it was error. They were just
17 saying if it was error, it didn't matter.

18 MS. SAMPSON: Right. And that's all I was
19 saying. I take that to mean if it had been error,
20 if it was error, it was harmless because they
21 already let them talk -- the Defendant talk about
22 it. So I was just saying we are not -- we are
23 asking the opposite, that the Defendant not be
24 allowed to talk about it.

25 THE COURT: But am I correct, in the Douglas

1 case, it does not actually hold that testimony
2 should not have been admitted.

3 MS. SAMPSON: If you look at the KeyCites, the
4 KeyCite says that's the holding, but when you look
5 at actual wording, I think it can go either way.

6 THE COURT: It doesn't seem to be holding that
7 to me.

8 MS. SAMPSON: Right. And so that's why I
9 referred you back to Day.

10 THE COURT: Right.

11 MS. SAMPSON: Because if you look at Day, in
12 that case, they did allow it, but they talked about
13 the fact that in that specific instance, it was
14 four months prior to the incident. It wasn't --
15 we've got six years difference for one and 13 years
16 on the other. So that, to me, would take this out
17 of that. And I can refer you, that's on Page 4.

18 THE COURT: Have you had a chance to look at
19 those two cases, Mr. Delgado?

20 MR. DELGADO: Your Honor, I remember that case
21 in my research, but I can't be fluid with it, no,
22 sir.

23 THE COURT: I'll be honest, I think both of
24 those cases are pretty strong, strongly suggest I
25 should exclude that testimony on the grounds that

1 the victim is not Ms. Pickrell and that they're too
2 old. I mean, they're -- I mean, the clear holding
3 of the Court is -- what I'm to look at in this
4 situation is the remoteness from the time of the
5 incident. And we are talking about one incident
6 that occurred 13 years before and the other two
7 incidents that occurred six years before. And
8 Ms. Pickrell is not the victim. I mean, she can
9 testify about actions she did -- he did to her.
10 But you're talking about three incidents involving
11 other victims. And I don't think that's enough to
12 let it in.

13 I'm reading from Douglas here. Whether a
14 specific incidence of conduct by the deceased is
15 closely connected to the point in time of the
16 occasion so as to be admissible will not be --
17 that's -- I mean, I'll hear from you on that, but I
18 think six years is too long.

19 MR. DELGADO: How about this, Your Honor?
20 There is an exception to hearsay, 803, I think,
21 that's 17 -- no, excuse me, 803(21).

22 THE COURT: Uh-huh.

23 MR. DELGADO: Reputation as to character. All
24 right?

25 THE COURT: Right. Mr. Delgado --

1 MR. DELGADO: Let me propose where I want to
2 go first with that.

3 THE COURT: Okay.

4 MR. DELGADO: Mr. Taylor, Mr. Miles Taylor,
5 the gentleman seated down here at the end of the
6 table, Mr. Taylor is the chief investigating
7 officer in this matter. The day after the
8 shooting, on September the 12th, he made inquiries
9 with the Bossier City Police Department and with
10 the Newport News Police Department as a result of
11 Ms. Pickrell's approximately three hours worth of
12 video statements to Kershaw County.

13 If I ask Mr. Taylor when he gets on the stand,
14 as a result of what Ms. Pickrell said to the
15 Kershaw County Sheriff's Department, You
16 investigated other acts of violence by Demary, and
17 without going into specifics, you found other acts.
18 And under 803(17), Do you know his reputation of a
19 person's character or associates in the community?

20 THE COURT: Are you asking me how would I rule
21 on that?

22 MR. DELGADO: Yes.

23 THE COURT: I'm not sure that's proper for a
24 motion in limine.

25 MR. DELGADO: Okay.

1 THE COURT: If you want me to rule on
2 proffered testimony, I mean, I guess I can, but it
3 seems -- I mean, as a general rule, you are allowed
4 to put in testimony if he has a reputation for
5 violence.

6 MR. DELGADO: Yes, sir.

7 THE COURT: And so I think with the proper
8 foundation, that testimony might be admissible.

9 MR. DELGADO: All right, sir.

10 THE COURT: But the way I read through it,
11 pointing to Day here, In the murder prosecution of
12 one pleading self-defense, evidence of other
13 specific instances of violence are not admissible
14 unless they were directed against the Defendant --
15 which these were not -- or threats against others
16 were so closely connected as to reasonably indicate
17 the state of mind of the deceased, or to produce a
18 reasonable apprehension of great bodily harm. And
19 I just think it's too long in time.

20 MR. DELGADO: Your Honor, even though this is
21 not the rule, Ms. Zmroczek has something that she
22 may want to share with you. Would you consider
23 hearing from her about it?

24 THE COURT: Sure.

25 MS. ZMROCZEK: I just wanted to clarify. We

1 keep talking about specifics. The six years ago in
2 Louisiana and Bossier City, she was the victim.

3 THE COURT: Oh, so that was not clear.

4 MS. ZMROCZEK: I know. And that was my
5 concern.

6 MS. SAMPSON: We're talking about two
7 different things. She can talk about what happened
8 to her. They brought up what the victim did with
9 Mr. Pearson as well in Louisiana. That's what I'm
10 talking about.

11 THE COURT: Okay, I apologize. I
12 misunderstood.

13 MS. ZMROCZEK: That's okay. By the way you
14 were ruling -- and I'm sorry to interrupt, but by
15 the way you were ruling, that was my concern was
16 that Louisiana -- that maybe it wasn't clear that
17 she was the victim.

18 THE COURT: My notes say it was an assault and
19 battery conviction, but I didn't write --

20 MS. ZMROCZEK: Right, it was an assault and
21 battery conviction and she was the victim.

22 THE COURT: Okay.

23 MS. SAMPSON: But let's be clear, what we're
24 talking about, even though she's the victim in that
25 case, I'm still objecting to the police report

1 coming in because it's hearsay within hearsay for
2 the report to come in. She can talk about whatever
3 he did, that he went to jail, all of that, but to
4 bring the report in, it also has things for
5 Mr. Pearson and other people in that report. We
6 would normally not ever bring in the report. We
7 bring in the person.

8 THE COURT: Right.

9 MS. SAMPSON: Because the report contains
10 hearsay within hearsay. And so in the report --
11 even though she's a victim, I'm not disputing that,
12 we stipulate she's the victim in that particular
13 part -- but there are other things that are in that
14 report. And also they're saying that because of
15 this situation -- or I don't know why, but at some
16 point they're saying that the victim threatened
17 Mr. Pearson, and he -- the victim is in Louisiana
18 and Mr. Pearson is here.

19 THE COURT: Correct.

20 MS. SAMPSON: I don't think any of that can
21 come in because of the remoteness in time. Because
22 that is a threat to that particular person by the
23 victim. And, again, that goes back to the
24 argument --

25 MS. ZMROCZEK: And, again, Your Honor, maybe

1 for a little bit of clarity, there were pictures
2 that were submitted as Exhibit A, which you
3 received.

4 THE COURT: I saw that.

5 MS. ZMROCZEK: Those were part of the report.
6 And so we certainly intend to move those in, those
7 pictures in even though --

8 THE COURT: Well, let's take it one step at a
9 time. Who took the pictures?

10 MS. ZMROCZEK: Bossier City.

11 THE COURT: Okay. Assuming the pictures can
12 be authenticated, what would the State's objection
13 be?

14 MS. SAMPSON: If they can be authenticated --
15 she can authenticate them.

16 THE COURT: I think she could.

17 MS. SAMPSON: It wasn't that part of the
18 report. I'm talking about the physical --

19 THE COURT: We've got to just take it one step
20 at a time. So my inclination would be barring
21 argument -- you can -- the police report itself
22 would not be admissible, but the facts of that
23 incident would be admissible through testimony by
24 the Defendant or by other means. The report I
25 think is hearsay, but under the rule we were just

1 talking about, if she was the victim it would be
2 admissible.

3 MS. ZMROCZEK: And I just want -- it might
4 have gotten lost, it wasn't clear that she was the
5 victim, yes.

6 THE COURT: On the issue of the threat -- the
7 alleged threat made to Mr. Pearson or the -- what
8 was the other?

9 MS. ZMROCZEK: The act of physical violence.

10 THE COURT: The alleged assault on his first
11 wife, on those two incidents, is there any further
12 argument that those incidents should be admissible,
13 because I'm prepared to rule on those.

14 MS. ZMROCZEK: I think it may depend too on
15 how the testimony is presented.

16 MR. DELGADO: Well, if Ms. Shuford does come.

17 MS. ZMROCZEK: Right.

18 THE COURT: I still think it's -- I mean, that
19 takes care of the hearsay issue, but it's still
20 evidence -- she's still offering evidence that I
21 think under Day is not admissible.

22 MR. DELGADO: As a result of attenuation?

23 THE COURT: Correct. She's offering testimony
24 of prior violent acts by the Decedent, and that is
25 only admissible under Day if the Defendant was the

1 victim in those incidents.

2 MS. ZMROCZEK: And I guess, Your Honor, what
3 Mr. Delgado was arguing would be occurrence, being
4 the neck, he has -- Mr. Demary has -- and there
5 will be many photos presented not just from
6 Louisiana, but throughout the relationship with
7 Ms. Pickrell that that was a particular occurrence
8 of violence that he committed on women, was to grab
9 them around the neck.

10 THE COURT: I think that's precluded by Day.

11 MR. DELGADO: I'm sorry, sir?

12 THE COURT: I think that's precluded under
13 Day. Because the victim in that case is not the
14 Defendant in this case.

15 MR. DELGADO: Just note our objection.

16 THE COURT: Absolutely.

17 Let me make sure, the ruling of the Court is,
18 barring anything else I hear at trial, that I'm --
19 any testimony about the threat to Mr. Pearson or
20 the assault on his first wife is not admissible.
21 But, you know, assuming it's not hearsay, testimony
22 regarding the assault on the Defendant in
23 Louisiana, that would be admissible.

24 MS. SAMPSON: And I think you said this, but
25 just to make sure it's clean, the report can't come

1 as far as the written part, but the photos can come
2 in with the correct authentication?

3 THE COURT: Correct. Again, if you can
4 convince me it's not hearsay tomorrow, I'll listen
5 to you again. But as it is now, my tentative
6 ruling is the police report is hearsay. That as
7 long as the Defendant can authenticate the photos,
8 they will be admissible.

9 MR. DELGADO: Your Honor, I intend,
10 nonetheless, to ask her to refresh her memory from
11 the incident report by saying, Did Mr. Demary call
12 you certain words: A slut, a bitch, a cunt, cum
13 bucket, and fuck you.

14 MS. SAMPSON: Your Honor, I never once
15 said they couldn't -- I mean, it's, again, putting
16 in --

17 THE COURT: Using it to refresh your
18 recollection is different than admitting it.

19 MR. DELGADO: Yes, sir.

20 Your Honor, as far as the Defense is
21 concerned, I believe that is all, at least relative
22 to the motions in limine.

23 THE COURT: Okay. The only thing that we've
24 not resolved is the issue of the statute, correct?
25 That's kind of a big one.

1 MS. SAMPSON: Yes. You're talking about
2 Dr. Andrews?

3 THE COURT: Right.

4 MS. SAMPSON: That would be 17 -- yes, sir.

5 THE COURT: That, to me, is the big one,
6 whether the statute applies.

7 MS. SAMPSON: For the Defense, that's I think
8 their biggest motion or our objection, I don't know
9 how to phrase that, but, yes, sir.

10 MR. DELGADO: Your Honor, I did not ask
11 Dr. Andrews to appear today to go into that. I'd
12 like to, with the Court's assistance, decide when
13 we want to do that so I can have Dr. Andrews here.

14 THE COURT: My feeling is we don't need
15 testimony from the expert for me to make a ruling.
16 The testimony I will be looking to hear will be
17 testimony about the relationship. Because, I mean,
18 the statute says spousal. It's a Supreme Court
19 decision that says the statute does apply if it's a
20 live-in relationship, a common law live-in
21 relationship. I need some testimony of what kind
22 of relationship this was.

23 MR. DELGADO: All right.

24 THE COURT: I'm not going to tell you how to
25 do your case. If you think you need the expert to

1 testify to that, we can hold off. But it would
2 seem that your client could probably offer that
3 testimony.

4 MR. DELGADO: All right.

5 THE COURT: You understand what I'm asking
6 for?

7 MR. DELGADO: I do.

8 MS. SAMPSON: I think -- I understand what
9 you're saying completely, I'm just making sure.
10 Our thought was a little different than what you
11 just said in terms of what -- their arrangements.
12 We've had a hearing on this where we talked about
13 that they didn't live together.

14 THE COURT: They did what?

15 MS. SAMPSON: They did not live together.
16 There is video -- I don't know if Your Honor is
17 aware of this, I don't know if you've had time to
18 read everything. They did -- they interviewed the
19 Defendant for almost -- a little over two hours,
20 and those interviews are on video. There's a
21 transcript of those. And in that she says they
22 didn't live together. Then in the hearing we had,
23 she says they didn't live together, that he would
24 come over sometimes, but that they did not live
25 together, that he lived with his aunt. So, I mean,

1 unless they've changed that, that would -- we
2 thought that that wasn't even an issue when I
3 walked in here, but apparently maybe now it is.

4 THE COURT: If Counsel can stipulate to a
5 factual description of the relationship that I can
6 use to rule on, I can do it that way, but,
7 otherwise, I think I need to hear testimony.

8 MS. SAMPSON: That would be up to the Defense.

9 MR. DELGADO: Your Honor, let us review the
10 testimony from the immunity hearing. I don't think
11 we can stipulate to anything, but that may assist
12 us in deciding how best to approach this issue.

13 THE COURT: That sounds good.

14 Ms. Sampson, any other -- other than the issue
15 of whether the statute applies for the spousal
16 abuse statute, do you have anything else you want
17 to bring up?

18 MS. SAMPSON: The only thing I want to make
19 sure is clear with the Court -- I understand what
20 the Court is saying as far as for now, what they're
21 turning on is maybe their living arrangements --
22 there were some things that the Defense stated that
23 it would be our position are not necessarily what
24 the research is holding and the fact that they
25 don't use syndromes and they don't use that

1 wording, that's what Mr. Delgado said.

2 To me, that would be information that needs to
3 come from the expert, not lawyers sitting around
4 saying whether that is what they use or they don't
5 use anymore.

6 THE COURT: Are you talking about how we refer
7 to the statute?

8 MS. SAMPSON: He stated that per his expert,
9 that the term "syndrome" is not used any longer.
10 It's not recognized by experts. That it's now
11 called this Intimate Partner Violence. And we
12 would dispute that, that that is not what our
13 experts have told us. So if any of your ruling is
14 based on that, then I think we may need to have
15 some sort of expert here instead of us lawyers
16 telling you what it is now called.

17 THE COURT: Now, I understood Mr. Delgado to
18 just be asking me to, in the course of the trial,
19 refer to it as Intimate Partner Violence rather
20 than Battered Spouse Syndrome. I didn't think he
21 was making a substantive argument on the law. But
22 I may be wrong.

23 MR. DELGADO: Exactly. I was simply trying to
24 alert the Court to how we understand that phrasing
25 is now used.

1 MS. SAMPSON: I just want to make sure you're
2 aware in case -- I don't know when his expert gets
3 up and what I have, they are two separate and
4 distinct things. There is Battered Spouse Syndrome
5 and then there is Intimate Partner Violence, what
6 we often call domestic violence. These are two
7 separate and distinct things.

8 THE COURT: I think that may something where
9 your experts are going to offer different
10 conclusions. I think the statute refers to
11 Battered Spouse Syndrome.

12 MS. SAMPSON: Correct.

13 THE COURT: So as far as referring to the
14 statute, I think I have to call it what the statute
15 calls it.

16 MS. SAMPSON: I'm sorry. That's all I was
17 getting at, Your Honor.

18 THE COURT: Yes, ma'am. But, I mean, as far
19 as whether the statute is triggered, I would like
20 to hear testimony on the extent of the
21 relationship, did they live together, how often --
22 that sort of thing. Because I have a statute --
23 you know, this is my first trial, so I'm just
24 telling you where I am. I have a statute that
25 refers solely to spouses. And there's a Supreme

1 Court case from 2003 that says the statute does
2 apply to a live-in relationship where they -- they
3 call it a common law live-in relationship. So
4 that's what I have. And so I guess I would prefer
5 to have testimony before I make a ruling whether
6 the statute applies or not.

7 So, Mr. Delgado, you said you wanted to just
8 have a few minutes to review the testimony?

9 MR. DELGADO: I'm sorry, Your Honor, I would
10 say if I do that overnight, that may help me make
11 this more pristine for your review. I understand
12 where the State is coming from and I'll be bound by
13 what is in that -- the confession -- or, excuse me,
14 in the statement, the audio/video statement by
15 Ms. Pickrell.

16 THE COURT: I mean, she can testify
17 differently today or tomorrow and she can be
18 cross-examined. I'll be honest, Mr. Delgado, I'm
19 reluctant to put off the start of the trial until
20 tomorrow. Do you really think you need to look
21 overnight over testimony on that issue? If you say
22 you do, then I'll, you know.

23 MR. DELGADO: Could you give us 10 minutes?

24 THE COURT: Absolutely.

25 The Court will be in recess.

1 (WHEREUPON, a short break was taken at
2 3:39 p.m.)

3 (WHEREUPON, the proceedings resumed at
4 3:52 p.m.)

5 MR. DELGADO: Your Honor, I think after our
6 consultation, we will not -- repeat, we will not --
7 call expert testimony to prove Intimate Partner
8 Violence. We cannot prove spousal abuse because
9 they were not married. It may very well be that
10 whatever the definition of a live-in or common law
11 may or may not be, we will not introduce evidence
12 to that.

13 THE COURT: And let me just -- Mr. Delgado,
14 the issue I was hoping to rule on is the 17-23-170.

15 MR. DELGADO: Yes, sir.

16 THE COURT: So are you telling me you are
17 not -- you are waiving any argument whether
18 17-23-170 applies?

19 MR. DELGADO: We are.

20 THE COURT: Okay. Let me -- and I'll just say
21 it. I don't -- I'm not making a ruling whether
22 your expert can testify. I just -- but as to the
23 special proceedings under 17-23-170, you're
24 waiving that argument?

25 MR. DELGADO: Yes, sir.

1 THE COURT: Okay. Well, in that case, I
2 think --

3 Anything from the State?

4 MS. SAMPSON: We still have some other
5 motions.

6 THE COURT: Oh, okay. Yes.

7 MS. SAMPSON: But that was, I think -- that
8 was their largest one left.

9 THE COURT: Yes, ma'am, Ms. Sampson.

10 MS. SAMPSON: Thank you, Your Honor. Going
11 down the list of our objections, so the first
12 one -- or motions, I'm sorry -- would be, it's our
13 understanding based on their witness list that they
14 would like to call Dr. Janice Bacon, who's a
15 gynecologist. On Friday --

16 THE COURT: Is she a treating physician or an
17 expert?

18 MS. SAMPSON: She's a treating physician.

19 On Friday, this past Friday, we received a
20 report from the Defense, and unless they've got --
21 unless there's something I don't know about, my
22 understanding the only thing she would be
23 testifying to is she saw the Defendant in April of
24 2015. The incident occurred in September of 2014.
25 So it would be the State's contention that anything

1 that she has to say would be too far removed from
2 the incident itself.

3 In the report that they provided, there is
4 some -- she does talk to the Defendant about
5 specific injuries that may be present. They
6 weren't present still necessarily at that time, but
7 her past history and taking her history, but there
8 may have been a history of domestic violence
9 between her and the victim.

10 It would be the State's position that (a),
11 that's all given to her eight months -- seven,
12 eight months after the incident occurred. Not
13 even -- there will be some testimony -- she goes to
14 the hospital on the day of the incident, so
15 there's -- and we're not disputing that, it's the
16 doctor that saw her for a gynecological visit eight
17 months later talking about injuries that she said
18 she had to her face.

19 THE COURT: Yes, ma'am.

20 MS. ZMROCZEK: Thank you, Your Honor. Just to
21 clarify, it is not a gynecological visit. She is a
22 woman's care doctor. So, I mean, she works at
23 Woman's Care, so, yes, that is part of what they
24 do.

25 THE COURT: Are you saying she's a family

1 doctor or internist?

2 MS. ZMROCZEK: She's a treating physician for
3 female -- for females. So she's seen not only for
4 a gynecological evaluation, Your Honor, but she's
5 got -- she's seen for -- when Ms. Pickrell was seen
6 on September 11th, the day that she was beaten so
7 badly she had to go to the hospital, the hospital
8 could not rule out this fracture, this broken nose.
9 Ms. Pickrell presents to the investigators, she
10 presents to anybody that she was comfortable
11 telling that for six years she had endured this
12 type of physical abuse that has left permanent
13 injuries.

14 And this doctor in the report that she has --
15 Your Honor, she, in her report, indicates that
16 there are physical manifestations of years of
17 physical abuse: Asymmetry in her face, lumps on
18 her breasts. And the pictures that will be
19 introduced through the trial will show from 2012,
20 2013, the severe beatings that were as a result of,
21 as Ms. Pickrell will describe, Mr. Demary. And --

22 THE COURT: We're talking about, is it
23 Ms. Bacon?

24 MS. SAMPSON: Dr. Bacon.

25 MS. ZMROCZEK: Dr. Bacon.

1 THE COURT: Okay. So you're telling me
2 Dr. Bacon is going to testify that she -- as a
3 medical provider she can see years of abuse in her
4 exam?

5 MS. ZMROCZEK: Yes.

6 THE COURT: That seems admissible to me if she
7 says she can testify as a physician.

8 MS. ZMROCZEK: It goes to the weight of her --
9 and that's an argument I know the State always
10 makes, but if she is a medical doctor, she will be
11 so qualified.

12 THE COURT: I think there's an issue --

13 Ms. Sampson, are you making the hearsay
14 argument about the statements that the Defendant
15 made to the doctor or are you arguing about the
16 doctor's testimony?

17 MS. SAMPSON: My understanding of the report
18 is that she said there are some indicators of
19 asymmetry that could be. She is not testifying
20 they definitely came from abuse, my understanding,
21 now. Maybe she is. But since I got it on Friday,
22 I haven't talked to this woman, so I don't know for
23 sure. I just have a 2-page report.

24 MR. DELGADO: Your Honor, I think we're doing
25 you a disservice. We don't have that. All of us

1 are scurrying trying to find it, so you need to be
2 able to review this.

3 THE COURT: This seems to be an issue I can
4 rule on when she comes to testify. And that's --

5 MS. SAMPSON: And -- oh, I'm sorry.

6 THE COURT: That's okay, Ms. Sampson.

7 MS. SAMPSON: The only reason I bring it up
8 now and try to do it in limine, because I know
9 judges don't like to rule on these things until
10 they kind of have a better picture, but I always
11 think we do you a disservice if that's mentioned in
12 opening and then we're all mad about it.

13 THE COURT: I'll just tell you, based on what
14 I've heard, my inclination would be to exclude
15 these statements made by Ms. Pickrell to that
16 physician because I think it's too far removed and
17 it's hearsay. But if the doctor is going to offer
18 an opinion that she has a medical basis for saying
19 Ms. Pickrell has been harmed over a period of
20 years, that seems admissible to me, you know, as a
21 physician. But, again, I'll be happy to hear from
22 you when she gets ready to testify.

23 MS. SAMPSON: Beg the Court's indulgence.

24 THE COURT: Certainly, yes.

25 MS. SAMPSON: I'm trying to pull it up on

1 this.

2 (Pause.)

3 MS. SAMPSON: If it's okay with Your Honor, we
4 have somebody printing the medical records. I
5 think I can make a better argument, because I think
6 we can all have a better understanding once we have
7 copy of it.

8 THE COURT: Okay.

9 MS. SAMPSON: We discussed Ms. Andrews. They
10 withdrew their motion to have her come in under
11 17 -- under the statute, 17-23-170. And I'm not
12 sure if that means they're not calling her at all
13 as an expert in domestic violence, I don't know.

14 THE COURT: That was not my understanding.

15 MS. SAMPSON: Yes. I'm trying to get some
16 clarification.

17 MS. ZMROCZEK: That's not our position.

18 MS. SAMPSON: Well, then we would have an
19 entirely different argument as to whether she can
20 come in and talk about as an expert in domestic
21 violence or not. I think it gets into 702-type
22 information. And, again, I'm only bringing this up
23 to Your Honor in terms of I don't want them to say
24 in opening that they're going to have an expert.

25 THE COURT: Tell me, brought out by -- what's

1 your argument that I should exclude her testimony?

2 MS. SAMPSON: In terms of until she -- I think
3 there has to be the 701 -- all of those has to come
4 in before she could even testify as to her -- as to
5 what her expert opinion would be about domestic
6 violence. I understand that that was the reason
7 they were initially going under the statute is it
8 didn't make them do that part. I think now that
9 we've agreed that she's not coming in under the
10 statute, we now have to do that part. Normally,
11 you would do that prior to -- well, I won't say
12 normally. There are often times we do that prior
13 to any testimony so that we all know what field
14 we're playing on.

15 And at this point, they're not doing it under
16 the statute, so now it's under -- she comes in --
17 it will just be under her testifying about domestic
18 violence and I'm not sure that -- not outside the
19 purview of the jury and all the other things that
20 would have to be proven.

21 THE COURT: I mean, we can definitely hear
22 argument on that if y'all want to argue it now.

23 MS. SAMPSON: I think if they want to use her,
24 then they have to explain how -- or maybe they need
25 to put her up. I don't know -- I've never talked

1 to the woman, I don't know what she's going to say.

2 THE COURT: Yes, ma'am. I'm just saying that
3 we're hearing motion in limines today so
4 Mr. Delgado doesn't have to file a motion in limine
5 to call an expert. But if you want to exclude her
6 today, it would be your motion to make.

7 MS. SAMPSON: I did file a motion to exclude
8 her, but she's not here.

9 THE COURT: I understand. In that case, I
10 don't think we can rule on a motion in limine on
11 her if she -- if the proffered expert is not
12 available to testify.

13 MR. DELGADO: Your Honor, just -- maybe my
14 hearing has really gone.

15 But Ms. Sampson, you say you haven't talked to
16 Dr. Andrews?

17 MS. SAMPSON: Meaning, I talked to her briefly
18 on the phone.

19 MR. DELGADO: Half an hour, you talked to her
20 last Friday.

21 MS. SIMPSON: Briefly on the phone with Mr.
22 Delgado there, I did speak with her about the
23 battered spouse and we were going through that. So
24 I haven't -- I'm not saying -- I can't say in
25 general what she's going to testify to because I do

1 know in general, but I think for the Court to make
2 the proper determination, she needs to be here. So
3 if I misspoke that I never -- I've spoken to her,
4 but having all the information you need to make
5 that evaluation, I don't have --

6 THE COURT: I agree that I'm not going to be
7 able to make a decision on whether she can testify
8 without having her proffer what her testimony would
9 be. So I think that's got to wait for a later
10 date.

11 MS. SAMPSON: All right, Your Honor. The next
12 thing we had is, as I think I told Your Honor,
13 there is a videotape of her interview with law
14 enforcement. We all -- I think both sides agree
15 that that is going to come in at some point.
16 However, whether it comes in through her testimony
17 or if she were to testify, there are things within
18 that statement that the State would say are not
19 admissible -- or if she testified would not be
20 admissible.

21 She talks about in the interview that there is
22 a physical altercation between the victim and some
23 unknown female while the victim was in the
24 military. He was in the Navy. She talks about
25 that in this video. We would ask that that not be

1 allowed. We will redact it.

2 THE COURT: Is that a reference to his first
3 spouse --

4 MS. SAMPSON: She doesn't say -- I'm sorry?

5 THE COURT: Is that your belief that is what
6 you're referring to?

7 MS. SAMPSON: No, it's not my belief that
8 she -- I don't know who she's referring to. She
9 says a female, and she does not give a name. She
10 doesn't say his ex-wife, it's just that she
11 believes that's why he got court marshaled, why he
12 might have been court marshaled, is the victim --
13 is the Defendant talking to law enforcement on this
14 video.

15 THE COURT: I think I saw Mr. Delgado nodding.

16 Mr. Delgado, do you have any objection to
17 redacting that portion of the video?

18 MR. DELGADO: No, sir. Continuing to reserve
19 our -- relating to that Newport News incident, yes,
20 sir.

21 THE COURT: I understand. The view of the
22 Court would be, absent something I'm missing, would
23 be that's the same issue we've already ruled on is
24 that the admissibility of the incident in Newport
25 News if she is referring -- or if it's not that,

1 it's another similar incident with which we don't
2 know when or where it occurred.

3 MS. SAMPSON: Now, we're tracking. I don't
4 know that it's the Newport News incident. It's
5 some sort of battery that he may have had with some
6 female. And she does go into specifics about him
7 having disputes and physical allegations between
8 him and Ms. Shuford and that being the reason they
9 got divorced. We ask that that also be -- that we
10 can redact that part out of the video as well.

11 MR. DELGADO: Your Honor, let me just ask
12 this.

13 THE COURT: Yes, sir.

14 MR. DELGADO: Under, I think it's 405, are we
15 not now circumscribing our ability to be able to
16 prove who was the initial aggressor? In other
17 words, who was without fault in bringing on this
18 incident when we do not talk about things this
19 woman knew about. No matter how, not necessarily
20 attenuation, but in her past that she knew about.
21 You can't divorce yourself from that sort of
22 information. Does she not have a right to bring
23 that in as an example of why she was able to --
24 based on the appearances occurring in that home on
25 the morning of September the 11th, that she was not

1 only without fault, but she had the right to act on
2 appearances and knowledge of his prior character.

3 THE COURT: Mr. Delgado, again, I think -- I
4 circumscribe of the Douglas and Day rulings, which
5 are -- I mean, they are directly on point to this
6 situation. It's a person claiming self-defense in
7 a homicide prosecution. And my clear instructions
8 from our superior courts are it is not admissible
9 unless the victim and the Defendant are the same
10 person or they are very close in time.

11 MR. DELGADO: Right.

12 THE COURT: I hear what you're saying and I'm
13 sympathetic to you, but I just think under Day, I
14 don't have any choice.

15 MR. DELGADO: Just note our objection to that
16 under --

17 THE COURT: I understand.

18 MR. DELGADO: -- 405, both A and B.

19 THE COURT: Yes, sir.

20 MR. DELGADO: Thank you.

21 MS. SAMPSON: And then the last thing with the
22 video, Your Honor, is that she mentions that he had
23 either a DUI or DWI from California, that the
24 victim had one. And, again, we would go back to
25 that prior bad act that has nothing to do with this

1 case at all that she's in there talking about. And
2 it was -- I don't know when that was, but he hadn't
3 lived in California since before the 2000s was our
4 understanding. So I'm not even sure it was within
5 the 2000s. So it would be our position as to the
6 bad act that she's talking about that we redact
7 that out of -- because a DUI clearly doesn't have
8 anything to do with this case.

9 THE COURT: Mr. Delgado, anything on that?

10 MR. DELGADO: If they can excise that so that
11 it flows, Your Honor, that's -- Your Honor, maybe
12 just let me inquire. In other words, they're not
13 going to block out her verbally saying something,
14 but make it inaudible? That would be prejudicial.

15 THE COURT: No, no, no, my understanding,
16 they're going to remove the whole clip. You know,
17 what I would -- I will tell the jury something to
18 the effect of, There may be harsh edit cut -- jump
19 cuts and that there are things that by law we're
20 not allowed to show, something like that. So no
21 party will be blamed.

22 MR. DELGADO: That will be fine. Thank you.

23 THE COURT: Anything else, Ms. Sampson?

24 MS. SAMPSON: Can I beg the Court's indulgence
25 one moment?

1 THE COURT: Sure.

2 (Pause.)

3 MS. SAMPSON: Your Honor, the next couple of
4 things -- and I hate doing this, but it has more to
5 do with what I'm afraid might happen in opening
6 more than anything else. We have provided to the
7 Defense -- the victim's cell phone was taken into
8 custody. At the Defense's request, we downloaded
9 his phone. There are several videos of adult films
10 and adult different things in there that are
11 unrelated, would be our position, to this case.
12 And we would ask that they not be referred to as
13 adult videos or porn or pornography. They can say
14 he was looking at videos, photographs, but I
15 don't -- I think there would be some prejudice in
16 saying it was adult pornography with no analysis
17 that is what it was.

18 THE COURT: This is -- is there any relevance
19 to the case other than it was on the Defendant's --

20 MS. ZMROCZEK: Yes, Your Honor. So part of,
21 part of the anger that occurs that evening and
22 early into the early morning hours was Mr. Demary's
23 inability to ejaculate. Sorry, it is what it is.
24 So -- and part of it is due possibly to the alcohol
25 and marijuana that he had been consuming. Part of

1 it could be that he spent -- in the prior 24 hours
2 before showing up at Ms. Pickrell's home, he spent
3 13, at least, 13 hours, Your Honor, looking and
4 watching porn. When he gets there, she has a --
5 she has a urinary tract infection. And it's part
6 of what she will testify and has ascribed to -- and
7 this goes into her not calling it rape. Well, you
8 know, people can be -- the definition of rape is
9 what it is. But she will say that there was rough
10 sex. That there was -- and that she felt compelled
11 to do it because of her entire six years that just
12 pleasing him would result rough sex instead of the
13 beatings, which she got both that night. It's
14 absolutely --

15 What I find a tad bit frustrating is that
16 they're almost saying, We don't want anything bad
17 to come in about Mr. Demary. And certainly the
18 loss of a life is not -- is not lost on us. But in
19 establishing self-defense, there are many, many
20 areas. And they did download his phone and they
21 provided it to us. And we're not going to put the
22 pictures in and we're not going to put in the
23 videos. A lot of the videos -- I mean, there are
24 28,000 pictures of porn. I counted them. And
25 certainly that goes to what was driving his anger.

1 And that's what she will testify to.

2 THE COURT: Tell me one more time. The
3 relevance of the adult images on the phone is what?

4 MS. ZMROCZEK: The relevance goes to his state
5 of mind and his preoccupation with sexual acts,
6 forcible sexual acts. This isn't just -- Your
7 Honor, this isn't just porn. These are people tied
8 up -- and I'm not even going to talk about that.
9 But these are people tied up, these are people --
10 women being held down and being -- I've watched
11 them -- I think, anally raped. There are pictures
12 of it -- or having anal penetration, I'm not saying
13 anally raped, but there are a lot of instances of
14 violent sexual activities. That was his state of
15 mind based on his phone.

16 And, Your Honor, the timeline is very clear.
17 And that's what Special Agent -- that's what
18 VanHouten will testify to. I mean, not the
19 specifics, but just that there was an incredibly
20 amount of -- an incredibly long period of time
21 right before this incident happened. And she will
22 testify and did tell them that it was rough sex,
23 that she had to do it because that had been her
24 experience over the years.

25 And we're certainly not trying to embarrass

1 the family or slander the victim. But, Your Honor,
2 porn is not illegal. And, you know, it is what it
3 is. And it is all over his phone, 28,000 images.
4 And that doesn't include the upwards of 30 videos.
5 And some of that -- those videos are him and
6 another woman. But we're not even going to talk
7 about that. But I think to say that we can't even
8 mention the things that were on his phone is --

9 THE COURT: The definition of relevant
10 evidence is, Do you have any tendency to make a
11 consequential fact more or less probable?

12 MS. ZMROCZEK: Right.

13 THE COURT: So what is the consequential fact
14 that's going to be affected by that he has porn on
15 his phone?

16 MS. ZMROCZEK: Her interaction with him that
17 evening.

18 THE COURT: What about her interaction? I'm
19 still not following your argument.

20 MS. ZMROCZEK: He shows up to her home
21 unannounced. They have a physical -- they start
22 with a physical altercation over whatever he's mad
23 about at that moment. And then there's another
24 physical altercation because he then has this rough
25 sex with her -- he has this sex with her. And even

1 though she claims it was consensual, she said, It's
2 only consensual because that's the only way that I
3 could get him to stop beating me.

4 And so the relevance then comes, Your Honor,
5 in -- that in those acts that -- in her response to
6 what was happening to her and what was driving him,
7 what was his state of mind, what he was doing.
8 It's not just like an hour. I mean, it begins
9 before 1:00 a.m. -- or, yes, before 1:00 a.m. on
10 September 10th. And, literally, it's probably
11 more -- I'm being conservative when I calculate 13
12 hours. I'm talking like he calls a taxi cab.
13 While he's waiting for the taxi cab to get there,
14 he's again watching porn. That taxi cab is what
15 takes him to her home.

16 So, Your Honor, this all goes to his state of
17 mind and how he shows up and what he -- how his
18 behavior is when he gets there and what she will
19 testify to and what she will describe. So it's
20 something that --

21 THE COURT: I'm still not following. I mean,
22 so he watched a lot of porn that day. I still --
23 what bearing does that have on the self-defense
24 claim or the murder charge or his behavior? I'm
25 missing it.

1 MS. ZMROCZEK: Because the reason that she has
2 to act in self-defense is because what he's doing
3 to her. It's not just beating her, it's raping
4 her. She calls it consensual sex, but it's
5 consensual so she stops getting beaten. It's the
6 coercion. And to be quite honest, I mean --

7 THE COURT: I'm going to have to hold off.
8 I'm going to need to know the foundation for this.
9 I'm not going to rule right now that it's not
10 coming in, but I --

11 MS. ZMROCZEK: I think without --

12 THE COURT: I really need to know a better
13 factual foundation for how this --

14 MS. ZMROCZEK: Absolutely. And I think that
15 that's part of the issue, is depending on the
16 testimony --

17 THE COURT: I understand. I think we'll just
18 --

19 MR. DELGADO: Your Honor, Ms. Sampson can rest
20 assured we're not going to say anything about that
21 in opening.

22 THE COURT: Okay.

23 MS. SAMPSON: Again, I know that's something
24 that may need to be held off. That was more -- as
25 I stated in the beginning -- I think that's it.

1 I'm checking to make sure.

2 THE COURT: While you're checking,
3 Mr. Delgado, Ms. Zmroczek, anything else from y'all
4 for today?

5 MR. DELGADO: No, sir.

6 MS. SAMPSON: I think the only thing, Your
7 Honor -- and they didn't cover it, so I guess we'll
8 just wait until the introduction of it. There was
9 some evidence that at some point we will object to
10 the introduction. I guess we'll just have to deal
11 with it if they say it in opening and it ultimately
12 gets not put in.

13 THE COURT: We can deal with it now. I'm
14 here.

15 MS. SAMPSON: Okay. I think you ruled on the
16 letter from Ms. Estelle, or did you?

17 THE COURT: I did.

18 MS. SAMPSON: Sorry, there's been so much, I'm
19 trying to make sure we go over it all.

20 All right. So in their reciprocal, they
21 provided us -- Number A on their reciprocal was
22 unemployment insurance benefits filed by the victim
23 in 2008. It's more of the introduction of the
24 piece of paper. I guess you could talk about it,
25 but I don't know who would introduce the specifics

1 of that piece of paper. I don't know why it's
2 relevant that he filed for unemployment. At some
3 point, he did work. That's not disputed by
4 anybody, I don't think. But they wanted to
5 introduce that actual sheet of paper.

6 THE COURT: His unemployment claim?

7 MS. SAMPSON: Just that he was going to -- I
8 guess it's what was sent to her. I'm not sure
9 where it came from. It literally doesn't tell me
10 where it came from. It has the date mailed and who
11 the claimant is. Because the Defense has it, I
12 would think it is what was provided to the employer
13 who he was filing unemployment with.

14 MS. ZMROCZEK: Your Honor, I don't think that
15 we have made a position. That's not the crux of
16 this case. I don't even know if -- I mean, I think
17 that's something that can be ruled upon.

18 THE COURT: Let's hold off on that.

19 MS. SAMPSON: That's fine. That's why I said
20 I wasn't sure on some of this.

21 THE COURT: And that was your initial
22 suggestion. I think you're right. We'll wait on
23 that.

24 MS. SAMPSON: And I think most of the others
25 things, it might be better to just do it at the

1 Harris.)

2 MAY 31, 2018

3 (WHEREUPON, the proceedings resumed at
4 9:39 a.m.)

5 THE COURT: Counsel, anything we need to take
6 up before I bring the jury?

7 MR. DELGADO: Nothing from the Defense.

8 MS. SAMPSON: Just real quick. Not important.
9 It is important, but not a problem. They asked for
10 edits to be made. They asked to get a copy. I
11 didn't get them until today. We had to listen to
12 it last night to figure out there was one problem.
13 One thing had been missed, and so I didn't get a
14 physical hard copy of everything until this
15 morning. I have a copy I can give them. Clearly
16 we can't all listen to it at one time. I'll say as
17 an officer of the Court it is redacted, everything
18 is out, what they would try to do was redacted, the
19 question and the answer. So if there was a
20 question like -- for example, there was a time when
21 Ms. Pickrell was discussing Barbara Jones and it
22 was a question and then an answer. So he didn't
23 just take out the answer. He took out the
24 question. So it just looks like a conversation.
25 It moves smoothly. I can give you a copy. I

1 witness chair. State your full name for the
2 record.

3 (Witness seated.)

4 THE WITNESS: Rachell Logan Abstance.

5 RACHELL LOGAN ABSTANCE,
6 after being duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. PAULING:

9 Q Good morning. How are you doing?

10 A Fine. How are you?

11 Q Doing pretty good. You said your name is Rachell
12 Logan Abstance; is that correct?

13 A Yes, sir.

14 Q That has always been your name?

15 A No, sir.

16 Q What was your name previously?

17 A Rachell Logan Eddings.

18 Q Rachell Logan Eddings?

19 A Yes, sir.

20 Q Ms. Abstance, are you currently employed, ma'am?

21 A I am.

22 Q Where are you employed?

23 A Papa Johns in Camden.

24 Q Papa Johns in Camden?

25 A Yes, sir.

- 1 Q Were you -- how long have you worked at Papa Johns?
- 2 A July will be two years.
- 3 Q Two years. And prior to that, where did you work?
- 4 A City Cab.
- 5 Q City Cab?
- 6 A Yes, sir.
- 7 Q Where is that located?
- 8 A In Camden, South Carolina.
- 9 Q And how long were you employed at City Cab?
- 10 A Approximately two years, I believe.
- 11 Q Okay. Two years. Were you working at City Cab
- 12 back in 2014?
- 13 A Yes, sir.
- 14 Q September of 2014?
- 15 A Yes, sir.
- 16 Q What was your job at City Cab? What did you do?
- 17 A I dispatch and drove a cab.
- 18 Q Dispatch and drove a cab?
- 19 A Yes.
- 20 Q When you dispatched, was it from the office or main
- 21 building? Where were you dispatched from?
- 22 A We dispatch from home.
- 23 Q Dispatched from home?
- 24 A Yes, sir.
- 25 Q Can you explain that to the jury?

- 1 A The cab company's phone was transferred to our cell
2 phones or home phone so we could answer at home or
3 in our cars. Or a lot of times I dispatched and
4 drove a cab at the same time.
- 5 Q Okay. Now, do you recall the number of the cab
6 company, City Cab?
- 7 A 432-3211.
- 8 Q 423-3211?
- 9 A Yes.
- 10 Q And so if you were dispatched, you were dispatched
11 from home?
- 12 A Yes, sir.
- 13 Q If you dialed 432-3211?
- 14 A It would have come to my phone.
- 15 Q Come to your either home phone or personal cell
16 phone?
- 17 A Yes, sir.
- 18 Q Then you would dispatch and drive to that
19 particular location?
- 20 A Yes, sir.
- 21 Q And if someone called into the cab company needing
22 a ride, what information would you get from that
23 particular individual?
- 24 A I have to get the address to be picked up and
25 address to be dropped off at.

1 Q You would get that information for both pick-up and
2 drop-off on the call?

3 A Yes, sir.

4 Q And then you dispatch the driver?

5 A Yes, sir.

6 Q And back in September of 2014, you said you
7 dispatched and you also drove; is that correct?

8 A Yes, sir. I just started driving in September
9 2014.

10 Q And do you recall actually being dispatched to [REDACTED]
11 Salmond Street the night of September 10, 2014?

12 A Yes, sir. That was the first night driving the
13 cab.

14 Q First night driving the cab?

15 A Yes, sir.

16 Q And when you are dispatched to a particular
17 location, you get that information on the front
18 end? When I say on the front end, as far as where
19 you are picking up and where you are taking that
20 individual?

21 A Yes, sir.

22 Q Is that correct? And what do you do with that
23 information?

24 A We keep a manifest. We wrote it down so we would
25 know the mileage and the amount to charge.

1 Q Do you recall what the mileage or amount to charge
2 per mile back then was?

3 A It is two dollars pick-up, two dollars per mile.
4 So it would depend on how many miles that we drove
5 depending what would be the price.

6 Q And now you mentioned a manifest. Now, would you
7 write that information manifest right then? How
8 would you record that information?

9 A Well, I kept two separate sheets. I had one that I
10 wrote down the information as I went along and then
11 I copied it over to another sheet that I turned in
12 at the end of the night.

13 Q Okay. Do you recall picking up an individual from
14 [REDACTED] Salmond Street?

15 A Yes, sir.

16 Q And prior to you picking up that person, did you
17 know who it was?

18 A No, sir.

19 Q Do you know if you ever talked to that individual
20 before?

21 A I had taken calls from that address before to be
22 picked up.

23 Q And as you sit right now, do you recall where you
24 took that individual to?

25 A That particular night it was to Rembert. I can't

1 remember the exact street address.

2 MR. PAULING: Your Honor, may I approach the
3 witness?

4 THE COURT: You may.

5 BY MR. PAULING:

6 Q Ms. Abstance, I'm going to show you what has been
7 marked for ID purposes State's 28 and ask if you
8 recognize that particular document?

9 A Yes, sir. That is my handwriting with the manifest
10 I did that night.

11 Q That is the taxi cab manifest for that night?

12 A Yes.

13 Q Is the date actually on there?

14 A Yes. 9/10/14.

15 Q Is there a notation as to a pick-up from [REDACTED]
16 Salmond Street?

17 A Yes. I picked up one individual from [REDACTED] Salmond
18 Street and took him to, what is it, Baynard Boykin
19 Road at 10:17.

20 MR. DELGADO: I apologize. Could I ask the
21 witness if she can speak up or get a little closer
22 to the mic?

23 THE COURT: Speak up.

24 A Okay, I'm sorry. I picked up at 10:17 p.m. and
25 dropped off at 10:38 and the amount was \$22.

1 Q How many miles was that? Is that notated on there
2 as well?

3 A No.

4 Q But the amount is?

5 A It would have been two dollars for pick-up. So two
6 dollars a mile. About ten miles.

7 Q Okay. Your signature is there?

8 A Yes, sir.

9 Q Rachell Eddings?

10 A Rachell Eddings.

11 MR. PAULING: At this time I offer State's 28
12 in evidence, I believe without objection.

13 THE COURT: In evidence without objection.

14 (WHEREUPON, State's Exhibit No. 28 was
15 marked for identification and received
16 into evidence.)

17 BY MR. PAULING:

18 Q Now, so at 10:17 you indicated you picked up one
19 individual?

20 A Yes, sir.

21 Q From [REDACTED] Salmond Street?

22 A Yes, sir.

23 Q And, again, you indicated that you had talked to
24 him on the phone before as far as dispatch from
25 that location before; is that correct?

1 A Correct.

2 Q And did you know that individual's name at the
3 time?

4 A I did not.

5 Q And if you describe to the jury when you traveled
6 approximately ten miles, did you have any
7 conversations?

8 A We had a very general conversation. We were
9 talking about my children and talking about he had
10 a younger brother. Just general conversation.

11 Q Where did he sit?

12 A He sat in the front seat next to me.

13 Q Okay. And I guess -- typically, I guess the thing
14 with cabs, usually the passenger is in the back
15 seat, or why was he in the front?

16 A Well, I felt more secure sometimes letting them sit
17 up front if it was just one person. That way I
18 could see who was sitting next to me instead of
19 trying to look in the rearview mirror behind me.

20 Q You can't see what is going on behind?

21 A Yes.

22 Q I understand. Once you got to that particular
23 location at Baynard Boykin Road --

24 A Yes, sir.

25 Q Once you got there, did you stop at a house or

1 where did you drop him off?

2 A No, sir. He asked me to stop at the end of the
3 driveway by the mailbox.

4 Q Okay. And you mentioned you had talked about I
5 guess children and his younger brother. What was
6 his demeanor?

7 A Very pleasant. He was telling me, you know, like
8 trying to keep his younger brother out of drug and,
9 you know, bad roads. Just general conversation.
10 Hoping the best for, you know, our kids.

11 Q Did you notice or smell any alcohol on him?

12 A Not that I -- not that I recall.

13 Q And, now, you said you dropped him off by the
14 mailbox; is that correct?

15 A Yes, sir.

16 Q What happened once you dropped him off?

17 A He got out of the cab and retrieved an envelope out
18 of the mailbox and paid me. I turned and I left.

19 Q You say he retrieved an envelope out of the
20 mailbox. Was anybody else there?

21 A No. He just went to the mailbox and got the
22 envelope out of the mailbox.

23 Q And you had told him how much the fare was at that
24 particular time?

25 A Yes, sir.

1 Q And, again, it was \$22; is that correct?

2 A Yes, sir.

3 Q Did he pay you from the cash that was in the
4 envelope?

5 A Yes. He paid me from the cash that was in the
6 envelope.

7 Q Now, you say you didn't drop him at a house. Was
8 there any discussion about that?

9 A He had told me not to drive down the driveway, that
10 the lights would spook the horses.

11 Q The light would spook the horses?

12 A Yes, sir.

13 Q Did you know there were any horses around there or
14 did you know that particular location, that area?

15 A You could kind of see horse stables. I don't know
16 that much about horses, so.

17 Q But you couldn't see a house at that point?

18 A No, I couldn't. It was dark.

19 Q Now, you indicated that the fare was \$22; is that
20 correct?

21 A Yes, sir.

22 Q Have you ever had occasion to I guess do a round
23 trip for an individual?

24 A A raincheck?

25 Q Round trip?

- 1 A A round trip.
- 2 Q Yes, take somebody -- meet somebody and take them
- 3 back to the same location?
- 4 A We have in the past.
- 5 Q Okay. And that particular situation, if he asked
- 6 for a round trip, what would the fare be?
- 7 A It would have been probably \$44, so it would have
- 8 been double the cost.
- 9 Q Double the cost?
- 10 A Yes.
- 11 Q You didn't do round trip?
- 12 A No.
- 13 Q If you had, it would be \$44; is that correct?
- 14 A Yes.
- 15 Q Now, once he paid you from the money in the
- 16 envelope --
- 17 A Uh-huh.
- 18 Q -- was there any further discussion?
- 19 A No, sir.
- 20 Q And do you recall which direction you went?
- 21 A I seen him walking down the driveway as I turned
- 22 around. And I left and went on other deliveries.
- 23 Q Now, was that the last time you spoke to that
- 24 individual?
- 25 A Yes, sir.

1 MR. PAULING: Beg the Court's indulgence.

2 (Pause.)

3 BY MR. PAULING:

4 Q Thank you. Please answer any questions Defense
5 counsel may have.

6 CROSS-EXAMINATION

7 BY MR. DELGADO:

8 Q Ms. Abstance, am I pronouncing that correct?

9 A Yes, sir.

10 Q Ms. Abstance, give us the number again for the City
11 Cab Company?

12 A 432-3211.

13 Q 432-3211?

14 A Yes, sir.

15 Q Ms. Abstance, I believe that is Government --
16 State's Exhibit Number 28 in yellow, correct,
17 ma'am?

18 A Yes, sir.

19 Q All right. And that indicates [REDACTED] Salmond Street
20 going to Baynard Boykin Road at 10:17 and you get
21 there at 10:38?

22 A Yes, sir.

23 Q Twenty-one minutes?

24 A Yes, sir.

25 Q If I subtracted that correctly?

- 1 A I believe so.
- 2 Q Ma'am, I have another one. See if you can -- first
- 3 of all, ma'am, did you pull -- for your testimony
- 4 here today, did you pull records relating to the
- 5 other dates from City Cab Company?
- 6 A I personally haven't pulled my records.
- 7 Q All right. Let me hand you this and see if you can
- 8 identify this?
- 9 A This would be a manifest that my buddy done.
- 10 Q Okay. Freddie. I don't know who Freddie is.
- 11 A He was another driver, yes, sir.
- 12 Q That shows the date of what?
- 13 A 9/8/2014.
- 14 Q So that is three days before 9/11; is that correct?
- 15 A Was it 9/11 or 9/10?
- 16 Q I apologize, 9/10. Two days; correct?
- 17 A Yes, sir.
- 18 Q Does it show pick-up [REDACTED] Salmond Street?
- 19 A Yes, sir.
- 20 Q Right. Does it show where that goes?
- 21 A It does, but I can't read his handwriting.
- 22 Q Does not the word say county? Do you think so?
- 23 A It could be. I can't -- I can't make it out.
- 24 Q All right. Thank you. Just one second.
- 25 (Pause.)

1 BY MR. DELGADO:

2 Q Ms. Abstance, after discussion with friends, I
3 don't think I have any other questions. Thank you.

4 THE COURT: Any redirect?

5 MR. PAULING: None from the State.

6 THE COURT: Any objection to excusing the
7 witness?

8 MR. PAULING: None from the State.

9 MR. DELGADO: None, sorry.

10 (Witness excused.)

11 MS. SAMPSON: The State calls Stephanie Owen.

12 (Witness approaches.)

13 MS. SAMPSON: May we approach?

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

17 THE CLERK: Place your left hand on the Bible,
18 and raise your right hand, please.

19 (Witness complies.)

20 THE CLERK: Do you solemnly swear or affirm
21 the testimony you give in this case will be the
22 truth, the whole truth, and nothing but the truth,
23 so help you God?

24 THE WITNESS: I do.

25 THE CLERK: Have a seat in the witness chair

1 and state your full name for the record.

2 (Witness seated.)

3 THE WITNESS: Stephanie Owen.

4 STEPHANIE OWEN,

5 after being duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SAMPSON:

8 Q Ms. Owen, can you spell your last name for us?

9 A O-W-E-N.

10 Q And, Ms. Owen, where do you live?

11 A Cassatt.

12 Q So you live near here?

13 A Yes.

14 Q And what do you do for a living?

15 A Cab driver.

16 Q Who do you drive a cab for?

17 A City Cab in Camden.

18 Q The jury heard a little bit. How do you receive a
19 call?

20 A It comes through on our cell phones and they tell
21 you where they want to be picked up from.

22 Q By "they," you are getting from a dispatcher or --

23 A It comes straight to -- straight through to the
24 phone.

25 Q And you do this every day, or how often?

- 1 A Three days a week.
- 2 Q Three days a week?
- 3 A (Nods affirmatively.)
- 4 Q What is your shift like, 12 hours?
- 5 A 6:00 a.m -- yes, 6:00 a.m. to 6:00 p.m.
- 6 Q Always in the daytime?
- 7 A Yes.
- 8 Q Don't do overnight?
- 9 A No, ma'am.
- 10 Q And how long have you been a cab driver?
- 11 A On and off 14 years.
- 12 Q So back in 2014, is that what you did?
- 13 A Yes, sir.
- 14 Q And switch gears a little bit. Did you know the
- 15 victim in our case?
- 16 A Yes, I do.
- 17 Q How do you know him?
- 18 A From the cab at first, then became a friend.
- 19 Q Do you remember around what time you met him?
- 20 A 2013.
- 21 Q So about a year before his death?
- 22 A Yes.
- 23 Q And I think you said you met him driving a cab?
- 24 A Yes.
- 25 Q So was he a fare or he worked at the cab company?

- 1 A No, he was a fare.
- 2 Q And how often did you see him as a fare?
- 3 A It just depends if he got a ride or not. Sometimes
- 4 him and other guys that worked in the barns would
- 5 call and we'd take a group of them home and --
- 6 Q Would it be fair to say it wasn't unusual for
- 7 workers of the farm to use the cab company too?
- 8 A No, they called a cab.
- 9 Q And you stated initially it was just as a fare.
- 10 Did it ever become more than being a fare-passenger
- 11 type thing?
- 12 A Yes, it did.
- 13 Q What would you call it? You can say it.
- 14 A We had a sexual relationship.
- 15 Q And to be perfectly candid with the jury, were you
- 16 married at the time?
- 17 A Yes, I was.
- 18 Q So you had a sexual relationship with him while
- 19 still married?
- 20 A Yes, I did.
- 21 Q And did that -- was that ongoing until his death?
- 22 A No.
- 23 Q When did you stop having a relationship of a sexual
- 24 nature with him?
- 25 A Early -- the beginning part of 2014.

1 Q Were you all still friends?

2 A Yes, we were.

3 Q How often did you speak with him?

4 A Just depends. Sometimes it might not be a couple
5 of weeks and sometimes it maybe every day. It just
6 depends on what he was working, what I was working,
7 if we so chose to speak to each other.

8 Q And did you speak in person all the time or was it
9 cell phone?

10 A Cell phone, sometime in person.

11 Q Was it calls or text or both?

12 A Both.

13 Q So would it be fair to say you were familiar with
14 how he spoke?

15 A Yes.

16 Q Okay. And I want again to be candid with the jury.
17 Did he curse a lot?

18 A When he was drinking.

19 Q When he was drinking. How often did he drink?

20 A I wasn't around him all the time. He wasn't ever
21 bad when he was. When he spent time with me he
22 wouldn't drink. If he had previous, he would not
23 while he was with me. He stopped.

24 Q Did you ever see him drinking or after effects of
25 drinking?

- 1 A Not to where he was real bad, no.
- 2 Q Did you ever see him -- I don't know whether to say
- 3 drunk or just inebriated, just feeling good a
- 4 little bit?
- 5 A Not falling down nasty drinking, no.
- 6 Q Be fair to say you could tell he had been drinking?
- 7 A Yes.
- 8 Q And did he ever make any threats with you?
- 9 A He got mad sometime if I wouldn't answer my phone,
- 10 but didn't say nothing, no.
- 11 Q Was he ever violent with you?
- 12 A No. He never raised a hand to me.
- 13 Q Now, were you speaking to him via text, cell phone
- 14 on September 10 of 2014?
- 15 A On the 10th, yes.
- 16 Q And did you make any plans with him?
- 17 A I was supposed to pick him up that next morning,
- 18 the morning that he passed away, to take him to
- 19 look for a job.
- 20 Q Did he tell you where to pick him up from?
- 21 A No.
- 22 Q How were you supposed to know when to pick him up?
- 23 A Well, I say he would usually get in touch with me,
- 24 text me or call me.
- 25 Q And before we get to that, you stated that you

1 worked for the cab company?

2 A Yes.

3 Q You are familiar with the cab records?

4 A That morning he passed away I was supposed to be
5 off and I was personally taking him to look for a
6 job and do some things he had to do.

7 Q And were you going to take him as part of the cab
8 or friend?

9 A Friend.

10 Q Not charging him?

11 A No, I wasn't working that day.

12 Q And the jury heard a little bit about this already.
13 But when you pick up someone or drop them off, do
14 you record it on anything?

15 A Yes, on a manifest sheet.

16 MS. SAMPSON: May I approach, Your Honor?

17 THE COURT: You may.

18 BY MS. SAMPSON:

19 Q I show you what is marked as State's 27 and ask do
20 you recognize that?

21 A Yes, I do.

22 Q What is that?

23 A Where they picked --

24 Q Talk in the microphone.

25 A Manifest sheet for the cab company. It has where

1 they picked him up from home and drove him to her
2 house.

3 Q Is that fare an accurate depiction of a manifest
4 from that day?

5 A Yes.

6 Q And is it done in the normal course of business for
7 the cab company?

8 A Yes, it is.

9 Q All right.

10 MS. SAMPSON: At this time, Your Honor, I
11 would ask to introduce State's Exhibit Number 27
12 into evidence.

13 MS. ZMROCZEK: Without objection.

14 (WHEREUPON, State's Exhibit No. 27 was
15 marked for identification and received
16 into evidence.)

17 BY MS. SAMPSON:

18 Q I will ask you a couple of things. I need you to
19 say it in the microphone. That particular record
20 is from what day?

21 A 9/8/2014.

22 Q All right. And it shows that he was taken. How do
23 you know it is for Mr. Demary?

24 A He had been -- they picked him up several times and
25 took him to her residence.

- 1 Q Did you talk to him about that?
- 2 A I knew of her, never met her, but, yes.
- 3 Q And on that manifest it says he was picked up from
- 4 what location?
- 5 A [REDACTED] Salmond Street, Camden, South Carolina.
- 6 Q Whose address is that?
- 7 A Where he lived.
- 8 Q Who did he live there with?
- 9 A His aunt.
- 10 Q Where does it say that they took him?
- 11 A Cantey.
- 12 Q Cantey. Near Baynard Boykin Road? Intersection of
- 13 Baynard Boykin?
- 14 A I don't know. I never took him there.
- 15 Q Do you know Cantey near Baynard Boykin?
- 16 A Yes.
- 17 Q Is it unusual for the manifest to not have a
- 18 specific location?
- 19 A Yes. Because they might get dropped off at a
- 20 certain -- in between where they are going and walk
- 21 the rest of the way.
- 22 Q I looked at those. Sometimes it will say CVS and
- 23 not say the address. Is that unusual?
- 24 A No.
- 25 Q It may say Baynard Boykin and does not have the

- 1 actual number?
- 2 A The actual address, just the general area right
- 3 there where they drop them off at, if at an
- 4 intersection or --
- 5 Q So it is not unusual not to have an actual address?
- 6 A No.
- 7 Q And the address of the cab company?
- 8 A It is nine --
- 9 Q I'm sorry, the phone number of the cab company?
- 10 A (803)432-3211.
- 11 Q That is the same number if they called it might
- 12 come to your phone, it might come to whoever is on
- 13 dispatch that day?
- 14 A Yes, it is.
- 15 Q So on the morning of September 11, 2014, did you
- 16 receive a text from Mr. Demary?
- 17 A Yes, two texts.
- 18 Q What do the texts say?
- 19 A Asking me was I off work, was I off.
- 20 Q Do you remember what time they were at?
- 21 A Around 8:20 something and 8:30 something. I'm
- 22 thinking around 8:28, 8:37, 8:38.
- 23 Q Do you remember your phone number at that time?
- 24 A I think it was [REDACTED]-5970. I'm not really sure. I
- 25 think that was it.

1 Q Let me ask you, when you respond to texts, when you
2 text at all, does it have a signature at the end of
3 the text?

4 A No.

5 Q Does it say Steph at the end?

6 A It did.

7 Q At that time?

8 A Yes.

9 Q I call that a signature.

10 A Yes.

11 Q No matter who is texting it would pop up and --

12 A Yes.

13 Q So if we looked at a text and it says Steph at the
14 end, is that you?

15 A Maybe.

16 Q All right. Did you respond to his texts?

17 A About ten minutes later. I never got an answer
18 back.

19 Q So once you responded, you never got any answers?

20 A No.

21 Q But you are positive he texted you that morning?

22 A Twice. I was on the phone with the doctor's office
23 and I did not get to answer. And when I called
24 back, I didn't get an answer.

25 Q And the plan was for you to pick him up wherever he

1 was and do what?

2 A Take him to look for a job. He needed to go to
3 Wal-Mart and pick a few things up and --

4 Q Just for the record -- we've been very candid with
5 the jury -- you were convicted of fraudulent check
6 back in 1996?

7 A A long time ago.

8 Q Beg the Court's indulgence.

9 (Pause.)

10 MS. SAMPSON: No further questions. Please
11 answer any questions the Defense may have.

12 CROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q Ms. Owen?

15 A Yes.

16 Q I want to talk to you a little bit about your
17 first -- let's just talk about the cab ride. You
18 were asked about on September 8th of 2014.

19 A Yes, ma'am.

20 Q If I may ask Mr. Delgado to help me get the holder
21 of the map. Thank you. Okay. And so that was
22 on -- what time was that?

23 A 8:14 p.m.

24 Q 8:14 p.m. And the drop-off was?

25 A 8:32.

1 Q Okay. And so that is a little bit longer than
2 Ms. Abstance. So you went a little bit further;
3 right? And you said it was Cantey Road and not --

4 A That is what he has down here, one of the older
5 drivers.

6 Q And that is not Baynard Boykin Road?

7 A Huh-uh.

8 Q And, in fact, I'm going to put up here this map.
9 Your Honor, may I ask her to step down?

10 THE COURT: You may.

11 BY MS. ZMROCZEK:

12 Q I want to make sure that you keep your voice up
13 because the court reporter is taking down
14 everything. The people behind you need to see.
15 Are you familiar with what the map is showing?

16 A The area, the road -- 521 is going to be through
17 there somewhere. And the house is back off.

18 MS. SAMPSON: Speak up.

19 BY MS. ZMROCZEK:

20 Q Maybe, you know -- let's do -- I'll show you
21 State's Number 1. That may be a little more clear
22 for you. I think it is labeled. Okay. Help.

23 A Yes.

24 Q Okay. Again, if you don't mind stepping to the
25 side a little bit. Thank you. So you are -- you

- 1 say Cantey Lane; right? Can you show for the jury
2 where on Cantey Lane you would have dropped --
- 3 A I have --
- 4 Q You didn't?
- 5 A I have no idea.
- 6 Q You know, Cantey Lane runs past Baynard Boykin
7 Road; right?
- 8 A Yes, ma'am.
- 9 Q Okay. And so that you can get to?
- 10 A That may have been just the main road that the
11 driver wrote down of where he was going back in the
12 woods, the main intersection where he turned at.
- 13 Q Going back in the woods?
- 14 A Yes.
- 15 Q If you'll have a seat again for me. Thank you.
16 (Witness returns to witness stand.)
- 17 Q I want to talk to you, Ms. Owen, about the nature
18 of your relationship with Monty, okay?
- 19 A Yes, ma'am.
- 20 Q So you are familiar that Kershaw County Sheriff's
21 Office and Secret Service downloaded his entire
22 phone; right?
- 23 A I have no idea.
- 24 Q Okay. Well, they did. All right. And your phone
25 number again you said was what?

1 A [REDACTED]-5970, what I believe it was then.

2 Q Okay. Ms. Owen, would it surprise -- and I want to
3 make sure you said -- tell me about the nature of
4 your relationship and when had that ended?

5 A We still spoke to each other. Hadn't had a sexual
6 relationship in months.

7 Q Okay. I believe on direct -- I'm not trying to
8 trick you -- you say the early part of -- when you
9 say the early part of 2014, could you give me a
10 month?

11 A Maybe April or May.

12 Q Okay. So April or May?

13 A Yes.

14 Q So but y'all still contacted each other?

15 A Yes.

16 Q And would it surprise you to know, Ms. Owen, that
17 between the two of you, what was his number? Do
18 you recall?

19 A I don't remember.

20 Q Okay. Would it surprise you to know that between
21 the two of you, that you had 1,723 back and forth
22 communications?

23 A Texts maybe.

24 Q Text phone calls?

25 A From 2013 to 2014, no.

- 1 Q No, no, not 2013. From July of 2014 to September
2 of 2014?
- 3 A I have no idea how many times.
- 4 Q Would that surprise you?
- 5 A Yes, it would.
- 6 Q So let's talk about that for a little bit. In
7 fact, you spoke with the Sheriff's Office?
- 8 A Yes.
- 9 Q On 2014, September 12th; right?
- 10 A The 11th.
- 11 Q You spoke with them on the 11th?
- 12 A Yes, I did.
- 13 Q Did you go in to do an interview?
- 14 A Yes.
- 15 Q Was that on the 12th?
- 16 A I think so, yes.
- 17 Q And in that -- I want to talk about the interview
18 for just a moment. Do you recall the investigator
19 with whom you met?
- 20 A Miles Taylor.
- 21 Q This gentleman right here?
- 22 A Yes.
- 23 Q You actually knew Mr. Taylor; right?
- 24 A Yes.
- 25 Q Y'all --

- 1 A He's been around Kershaw County forever.
- 2 Q Been around forever. And so you had kind of a
- 3 rapport, were able to communicate with him?
- 4 A Yes.
- 5 Q And you talked a little bit about Monty and his
- 6 mood; right?
- 7 A (Nods affirmatively.)
- 8 Q What did you tell Mr. Taylor? If you didn't
- 9 immediately respond to a text from Monty, what
- 10 would happen?
- 11 A He would get upset if I didn't answer him sometimes
- 12 quick enough.
- 13 Q Upset? Did you maybe use a different word?
- 14 A I'm not sure.
- 15 Q Maybe in the text?
- 16 A Yes.
- 17 Q Maybe irritated?
- 18 A Yes, ma'am.
- 19 Q What did you tell him about -- you said, I believe
- 20 said maybe ladies' man. I'm sorry, I'm trying to
- 21 write down. What is the word you actually used?
- 22 A Probably gigolo.
- 23 Q Gigolo?
- 24 A He loved women. Lots of women loved him.
- 25 Q He was very charming?

- 1 A Yes, he was.
- 2 Q Even when pissy and mean and said mean things to
3 you, he could still come back and charm you?
- 4 A Oh, yes.
- 5 Q Oh, yes, all the time. Call you names when
6 drinking; right?
- 7 A Sometimes, not very often.
- 8 Q Sometimes used the "b" word?
- 9 A Yes.
- 10 Q Sometimes would use other words and not nice?
- 11 A No.
- 12 Q I want to talk to you a little bit about -- and I'm
13 not trying to embarrass you or get you in trouble,
14 okay, but I want to talk to you about what other --
15 besides your sexual relationship, what other
16 activities did the two of you enjoy engaging in
17 together?
- 18 A Well, I know you are getting all the texts from his
19 phone, so I'll admit we smoked weed together. I
20 know that is what you are getting to.
- 21 Q It is. It is. I am not trying to embarrass you or
22 get you in trouble. It is important to kind of
23 know everything. You smoked weed a lot?
- 24 A Yes. It wasn't all a sexual relationship, we just
25 hung out to get to know each other.

1 Q Right. Right. And so you would actually
2 purchase -- or not purchase, he sometimes would
3 just give you weed; right?

4 A Yes.

5 Q And you also would get weed from what was a friend
6 of his?

7 MS. SAMPSON: Your Honor, I have to object at
8 this point.

9 THE COURT: Basis for the objection?

10 MS. SAMPSON: Talking about -- we had a prior
11 -- can we approach?

12 THE COURT: Yes, ma'am.

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

16 (COURT REPORTER NOTE: Lost feed and
17 about three questions.)

18 THE COURT: Counsel, anything before we bring
19 in the jury?

20 MS. ZMROCZEK: Your Honor, the only thing, the
21 court reporter informs me that after the bench
22 conference, she lost power. So if you could
23 maybe -- I have to ask -- I don't recall exactly
24 which questions I asked, so I'm not sure which --
25 and maybe it dealt with Tony, if she knew him.

1 Maybe she got a call from Jessica -- was it
2 Jessica, I think. So I have to reask those
3 questions again, Your Honor, because they
4 weren't -- but I don't want the jury to think that
5 I'm just --

6 THE COURT: Do you want me to give the jury an
7 instruction that we had a problem with the court
8 reporter recording system?

9 MS. ZMROCZEK: Please. And that it's a court
10 of record and we have to have questions and
11 answers.

12 Is that okay?

13 MS. SAMPSON: That's fine.

14 THE COURT: Any objection from the State?

15 MR. PAULING: None from the State.

16 THE COURT: Bring the jury back in.

17 (WHEREUPON, the jury came into open
18 court at 10:30 a.m.)

19 THE COURT: Ladies and gentlemen, we had a
20 little hiccup with the recording system for the
21 courtroom. And everything has to be taken down
22 that's said in the courtroom, so the attorney, Ms.
23 Zmroczek, will have to reask a few questions that
24 were not recorded.

25 BY MS. ZMROCZEK:

1 Q Ms. Owen, I know that you answered some of these
2 questions, and I'll try to remember a few of the
3 questions. But we were talking about Tony, and
4 that you had had communications with Tony; right?

5 A Yes.

6 Q Okay. And Tony was Mr. Demary's best -- one of his
7 best friends?

8 A Yes.

9 Q And you knew where they all lived?

10 A Pretty much, yes.

11 Q In the Kirkwood area?

12 A Yes, ma'am.

13 Q Are those apartments?

14 A No.

15 Q You received a phone call -- I know that we -- Ms.
16 Sampson had asked you about the texts you received
17 around 8:20 in the morning of September 11?

18 A Yes.

19 Q Right. You received that from Mr. Demary?

20 A Yes, ma'am.

21 Q And you -- and then you were on the phone or
22 something and you didn't respond until --

23 A Right away.

24 Q -- about 8:40?

25 A Uh-huh.

- 1 Q And after that, you had received notice from
2 someone that there had been -- that there was a
3 problem?
- 4 A Yes.
- 5 Q And that someone was who?
- 6 A Jamie Watkins.
- 7 Q Jamie?
- 8 A Jamie.
- 9 Q Okay. And you had also talked about -- with
10 Investigator Taylor about Jessica?
- 11 A Yes.
- 12 Q And you had told Investigator Taylor that Jessica
13 had blocked Demary from her phone; right?
- 14 A Yes.
- 15 Q Something -- there's a feature, I believe it's --
- 16 A Reject the calls to where it doesn't come through,
17 but you can still see that they tried to call, but
18 it didn't ring.
- 19 Q Right. You can see -- if they try to call, it
20 wouldn't ring?
- 21 A Yes.
- 22 Q And if they tried to text, it wouldn't go through?
- 23 A No.
- 24 Q But it would still show up if they were trying?
- 25 A Yes.

1 Q But Jessica was another female that he had
2 relations with?

3 A She had been a friend of his for many years.

4 Q Right. But then she had to block him; right?

5 A I have no idea why. I don't know what happened
6 between them.

7 Q Right. But that's what you told Taylor?

8 A Yes.

9 Q And I'm not asking you to get into, obviously,
10 those, but you knew that a female had blocked him?

11 A Yes.

12 Q You had told Investigator Taylor that Demary, for
13 lack of better word, used women for different
14 things?

15 A Not me.

16 Q He didn't use you for cigarettes?

17 A I bought him what I chose to, he didn't ask for too
18 much of anything.

19 Q Okay. And you talked about -- you actually told
20 Investigator Taylor that was the reason your
21 marriage broke up; right?

22 A Mr. Demary?

23 Q Yes.

24 A It wasn't just because of that. I had had a very
25 alcoholic abusive marriage.

- 1 Q And so those combinations was what led to that;
2 right?
- 3 A Yes.
- 4 Q But certainly your relationship with Demary didn't
5 help?
- 6 A No.
- 7 Q You -- I want to talk a little bit about just a few
8 of these text messages. Because it wasn't just a
9 few times a week, you spoke or texted with him at
10 least every day?
- 11 A Yeah, but we didn't see each other. Yeah, we would
12 text back and forth.
- 13 Q And sometimes it would just be texting back,
14 meaning you would continue to text him; right?
- 15 A That was a normal thing.
- 16 Q And he wouldn't respond?
- 17 A Sometimes no. Sometimes yes.
- 18 Q Okay. And sometimes he told you to leave him the
19 fuck alone?
- 20 A Yes, he did.
- 21 Q And he told you stop with that love shit. I don't
22 want that. Right?
- 23 A Yes, he did.
- 24 Q But that didn't stop you from texting him?
- 25 A No.

1 Q And you loved him?

2 A I did.

3 Q And he would still say these hurtful and mean
4 things to you?

5 A Yes, he did.

6 Q Did he ever raise a hand to you?

7 A No, ma'am, he didn't.

8 Q Did he ever threaten to raise a hand to you?

9 A In a message, but that's -- not in my presence, he
10 never raised a hand to me.

11 Q But threatened it?

12 A Yes, he did.

13 Q And it wasn't in my tone of voice that I'm speaking
14 now, was it?

15 A No.

16 Q It was a lot louder; right?

17 A Yes.

18 Q And a lot meaner?

19 A Not really mean, just attitude.

20 Q Attitude. I want to talk a little bit about the
21 nature of some of these text messages. In fact,
22 you would text him almost every morning; right?

23 A Yes, I did.

24 Q And you would say, Good morning, Baby?

25 A Yes, I did.

- 1 Q You up, Baby; right?
- 2 A Yes, I did.
- 3 Q And these are in July. And he would say, Stop with
- 4 that baby shit. Don't call me baby. Right?
- 5 A Yes, he did.
- 6 Q And you would pick him up and take him places?
- 7 A Yes, I did.
- 8 Q And you would protect him?
- 9 A Protect him?
- 10 Q Yes, ma'am.
- 11 A What is that supposed to mean? I mean --
- 12 Q I'll clear it up for you. August 6th, 2014, you
- 13 tell him, Po Po in and watching the hood?
- 14 A I don't remember, but maybe.
- 15 Q What would you -- Po Po, what do you mean?
- 16 A Police were in the neighborhood.
- 17 Q And why would you need to tell Demary police were
- 18 there?
- 19 A They was looking for somebody. I was more or less
- 20 telling him to stay in the house and don't be out
- 21 doing nothing.
- 22 Q Doing nothing?
- 23 A Basically, stay in the house. They were either
- 24 looking for somebody or something was going on,
- 25 making sure he was at home safe.

1 Q Okay. And it said, Po Po watching the hood, got a
2 set-up going on house in the park. Two that been
3 busted?

4 A Yeah, somebody was getting -- was getting busted.

5 Q For what was that?

6 A I have no idea.

7 Q No clue?

8 A No clue.

9 Q So later on that day, when you said, If you need to
10 go somewhere, call me, don't be walking?

11 A Yes, I did.

12 Q Because you were trying to keep him from the
13 police?

14 A No. He wasn't in trouble for anything.

15 Q Right.

16 A He just didn't need to be out walking the
17 neighborhood if he was going anywhere.

18 Q Because he was --

19 A They wasn't looking for him.

20 Q No.

21 A So, I mean.

22 Q They weren't looking for him, but if he went to
23 that house that the police were watching for some
24 drugs, he would get in trouble?

25 MS. SAMPSON: Objection, Your Honor.

1 A I have no idea that he knew the person they were
2 busting that morning, if that's what you're trying
3 to get at. I didn't even know if he knew the
4 people.

5 MS. ZMROCZEK: I'll move on, Your Honor.

6 A Just basically stay home, something was going on in
7 the neighborhood.

8 Q So when you would text him, I saved you a piece,
9 what were you talking about?

10 A I have no idea.

11 Q Not talking about crack?

12 A No, no, no, no.

13 MS. SAMPSON: Your Honor, I'm going to have to
14 ask that that be stricken based on what we already
15 talked about.

16 THE COURT: I'm going to allow that question.

17 MS. SAMPSON: It was not the question --
18 well -- yes, Your Honor.

19 THE COURT: You can approach.

20 MS. SAMPSON: It's fine.

21 BY MS. ZMROCZEK:

22 Q I want to talk just about and ask you about two
23 more texts, Ms. Owen, okay? September 8th, 2014,
24 right, at 11:00 a.m.

25 He told you, I'm tired of you making it all

1 about you and your feelings that someone else tells
2 you how. So he was frustrated with you on
3 September 8th?

4 A Just depends. Day by day.

5 Q Day by day. Even though you would do anything for
6 him?

7 A Yes, I would have.

8 Q September 10th at 8:04 -- excuse me, 6:04 p.m.
9 This is the day before this incident. He tells
10 you, Minimum, my ass. Stop this shit completely.
11 I'm tired of having to tell you this shit now. I
12 still ask you to stop and you don't listen. I'm
13 going to tell you again, exclamation point. You
14 tried that bullshit the other day and I told you to
15 stop. You pissing me the fuck off. That's how he
16 spoke to you the day before; right?

17 A I don't remember.

18 Q Let me refresh your recollection.

19 A Not before the day -- not the day before he died,
20 no.

21 Q I'm going to show you something and see if it will
22 help refresh your recollection, okay?

23 MS. ZMROCZEK: And, Your Honor, if I may just
24 stand this way?

25 THE COURT: Yes.

- 1 BY MS. ZMROCZEK:
- 2 Q Do you recognize that to be your phone number?
- 3 A Yes.
- 4 Q Do you recognize the date?
- 5 A 9/10/14. Probably telling him I loved him.
- 6 Probably telling me just to quit with the --
- 7 Q I'm referring to this one right here.
- 8 A That I'm pissing him off?
- 9 Q Does that refresh your recollection?
- 10 A I heard that sometimes from him, but I don't
- 11 remember what days, no.
- 12 Q You don't remember what day?
- 13 A Well, it's there, but.
- 14 Q Here we go.
- 15 A Okay.
- 16 Q What date was that?
- 17 A 9/10/14.
- 18 Q 9/10/14. So it was the day before?
- 19 A (Nods affirmatively.)
- 20 Q Right?
- 21 A Yes. We had a lot of conversations that afternoon.
- 22 Q And no matter how bad he treated you, Ms. Owen, you
- 23 would still go back to him?
- 24 A Yes, I would.
- 25 Q You would text him, telling him how you wanted to

1 cuddle with him?

2 A Yes, I did.

3 Q How you missed being with him?

4 A Yes, I did.

5 Q And he would tell you to shut the fuck up?

6 A Sometimes, yes.

7 MS. ZMROCZEK: Beg the Court's indulgence.

8 (Pause.)

9 BY MS. ZMROCZEK:

10 Q I believe you mentioned, Ms. Owen, that your
11 marriage partly broke up because you were involved
12 with an abusive alcoholic husband?

13 A Yes, I was.

14 Q And that Demary, when he was drinking would be at
15 least verbally abusive?

16 A Yes, but when we wasn't together.

17 Q You weren't together?

18 A No.

19 Q But you kept going back?

20 A Yes.

21 MS. ZMROCZEK: Thank you.

22 THE COURT: Ms. Sampson?

23 MS. SAMPSON: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY MS. SAMPSON:

1 Q Now, Ms. Owen, she asked you about these texts.
2 Have you seen those texts since September of 2014?

3 A No.

4 Q In preparing for this trial, did we give you any
5 texts to look at?

6 A No.

7 Q So did you -- have you seen any of this --

8 A No idea --

9 Q -- from three years ago?

10 A No idea about any of it.

11 Q So would it be fair to say it's hard to remember
12 exactly what you texted three years ago?

13 A Yes.

14 Q And she asked you about your interview with
15 Investigator Taylor?

16 A Yes.

17 Q Have you seen that?

18 A No.

19 Q Have you been handed a transcript of that?

20 A No.

21 Q Fair to say you don't remember exactly what you
22 said?

23 MS. ZMROCZEK: Your Honor, I object to
24 leading.

25 THE WITNESS: No.

1 THE COURT: Why don't you rephrase your
2 question?

3 BY MS. SAMPSON:

4 Q What do you remember about your interview with
5 Investigator Taylor?

6 A I went in -- because that morning I called in
7 because I was scared because the phone call I got
8 at first that he had died the night before. And
9 I'm like, Well, okay, who's texting me? Is
10 somebody coming after me?

11 Q Do you remember everything that you said to
12 Investigator Taylor?

13 A Not everything, no.

14 Q Were you truthful with him to the best you could
15 be?

16 A Yes, I was.

17 Q And let's talk about these texts that she read to
18 you. When he's texting you, you're still married?

19 A Yes, I was.

20 Q What did he think about that?

21 A I have no idea.

22 Q Was he ever upset about the fact that you were
23 married and still texting him?

24 A No.

25 Q Do you remember if he ever said anything about

1 that?

2 A He told me that if I didn't tell my husband, he
3 would, and he did.

4 Q So that was all going on at the same time?

5 A Yes.

6 Q And she asked you about verbal abuse and still
7 going back to Mr. Demary?

8 A He would say things on the phone and stuff, but not
9 when we spent time together personally.

10 Q So when she was just now yelling at you with the
11 texts --

12 A It was through texts or on voicemail. It was never
13 face-to-face, no.

14 Q And when you were face-to-face, did he yell at you
15 in the way that she did with those words?

16 A No.

17 Q When you were together, did he hit you?

18 A No.

19 Q And she talked about, you know, he told you to F
20 off?

21 A And leave him alone.

22 Q Those were in texts?

23 A Yes.

24 Q Did he talk like that in general, using curse
25 words?

1 A Often, but --

2 Q Whether he was mad or not, did he use curse words?

3 A Yes.

4 Q That was just --

5 A Just the way he talked, yes.

6 MS. SAMPSON: Beg the Court's indulgence.

7 THE COURT: Certainly.

8 (Pause.)

9 MS. SAMPSON: No further questions, Your
10 Honor.

11 MS. ZMROCZEK: Very briefly.

12 RECROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q I believe that Ms. Sampson asked you about the
15 relationship with your abusive and alcoholic
16 husband?

17 A Yes.

18 Q And he said if you didn't tell him that he would?

19 A Yes.

20 Q So he threatened you that if you didn't tell him,
21 he would; correct?

22 A He did.

23 MS. ZMROCZEK: Thank you.

24 THE COURT: Ms. Sampson?

25 MS. SAMPSON: No, sir.

1 THE COURT: Any objection to excusing this
2 witness?

3 MS. ZMROCZEK: None from the Defendant, Your
4 Honor.

5 MR. PAULING: None from the State, Your Honor.

6 THE COURT: Thank you, ma'am. You're excused.
7 (Witness steps down and excused.)

8 MS. SAMPSON: Your Honor, may we approach
9 about scheduling and timing?

10 THE COURT: Sure.

11 (WHEREUPON, a bench conference was held
12 in the presence of the jury but out of
13 the hearing of the jury.)

14 THE COURT: Ladies and gentlemen, do y'all
15 need a break? The next witness may be somewhat
16 lengthy. Everyone is shaking their head.

17 Let's proceed.

18 MS. SAMPSON: The State calls Investigator
19 Dawn Claycomb.

20 (Witness approaches.)

21 THE CLERK: Place your left hand on the Bible,
22 and raise your right hand, please.

23 (Witness complies.)

24 THE CLERK: Do you solemnly swear or affirm
25 the testimony you give in this case will be the

1 truth, the whole truth, and nothing but the truth,
2 so help you God?

3 THE WITNESS: I do.

4 THE CLERK: Thank you. Have a seat in the
5 witness chair and state your full name for the
6 record.

7 (Witness seated.)

8 THE WITNESS: My name is Dawn Marie Claycomb.

9 DAWN MARIE CLAYCOMB,
10 after being duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. SAMPSON:

13 Q Can you spell your last name for the record,
14 please?

15 A C-L-A-Y-C-O-M-B.

16 Q And, Investigator Claycomb, where do you work?

17 A South Carolina Law Enforcement Division.

18 Q AND if you could just speak up a little bit in the
19 microphone. Where did you say?

20 A South Carolina Law Enforcement Division, SLED.

21 Q How long have you been there?

22 A Approximately five and a half years.

23 Q And prior to working at SLED, where did you work?

24 A Richland County Sheriff's Department.

25 Q And how long did you work there?

1 A Just shy of three years.

2 Q And can you tell the jury a little bit about your
3 educational background?

4 A Sure. I obtained my Bachelor of Science Degree in
5 forensic science with a minor in chemistry and
6 biology. After I graduated with my Bachelor's
7 Degree, that's when I obtained the position at
8 Richland County Sheriff's Department as a deputy
9 sheriff working on the road uniform patrol. And
10 that was for about two and a half to three years.
11 At that time, I obtained a position with SLED Crime
12 Scene. At SLED you do at least a year of training
13 on the job, several tests, extensive training. And
14 I've been there for approximately five and a half
15 years at SLED working for the Crime Scene Unit.

16 Q And what is your job in the Crime Scene Unit? What
17 do you do?

18 A Basically, we respond to agencies all over the
19 state. We are an assisting agency. If any local
20 agencies have a crime scene request, if -- we,
21 often investigate officer-involved shootings,
22 homicides, child fatalities. Any crime scene
23 request for smaller local agencies that don't have
24 a full functioning Crime Scene Unit, we will assist
25 those agencies with the crime scene processing.

1 Q And what is your job as part of the Crime Scene
2 Unit -- investigation unit? What do you do?

3 A I am a special agent in the Crime Scene Unit, so
4 when an agency requests us, we will respond to the
5 crime scene. We basically will respond, make
6 contact with that agency, and get a little
7 preliminary information as far as what has
8 unfolded. We will then photograph, document, and
9 collect evidence on the scene, and we will return
10 it to the laboratory for processing.

11 Q And are you trained in order to do this?

12 A Yes.

13 Q What kind of training have you had?

14 A Like I said, there's extensive training at SLED.
15 It took at least a year for me to complete my
16 overall training. That's internal training
17 consisting of tests, reading, on-the-job training.
18 Within that whole year, you are responding to crime
19 scenes throughout that training. And we also do
20 external training. There's several training
21 courses that you are sent to to obtain all of that
22 training while you are there.

23 Q And is this a yearly training?

24 A It is ongoing-type of training. When there's
25 training available, you go to it. It's constant

1 training.

2 Q So you have training every year? It's not like you
3 did it last year and you're never going to get
4 training again?

5 A Correct.

6 Q And what kind of courses do you take in order to do
7 your job? What do they cover?

8 A Anything from blood stain pattern analysis to
9 footwear and tire tread examination. There's just
10 several different training courses that you can
11 take. Basic -- they start with the basic stuff:
12 Crime scene processing, how to collect evidence,
13 how to preserve it, how to document it. It starts
14 out basic, and then as you continue your training,
15 it gets more extensive and in-depth with your
16 experience as you gain it.

17 MS. SAMPSON: Beg the Court's indulgence.

18 (Pause.)

19 BY MS. SAMPSON:

20 Q So I just want to -- so now that we've gotten that,
21 I just want to kind of talk to you about how you
22 became involved in this case.

23 A Okay.

24 Q How does SLED become involved? Do you receive a
25 call, or what happens?

1 A Yes, ma'am. We have what's called our operations
2 desk. An agency, when they have a request, they
3 will contact our operations desk. And at that
4 point, the operations desk will contact us. When I
5 say us, I mean we work in pairs, teams of two. They
6 will call our operations desk and say, We have a
7 crime scene request relating to whatever the
8 incident may be. And they will give us an address
9 and we make contact with that agency or the point
10 of contact from that agency. And we will respond
11 to that crime scene.

12 Q And when you respond to a scene, are you given some
13 information?

14 A Yes, that's correct.

15 Q Okay. Is that information given to you by law
16 enforcement?

17 A Yes, ma'am.

18 Q So I want to move to this particular case. How did
19 you all become involved in this case?

20 A On September 11th of 2014, our operations desk
21 contacted both myself and my partner, Special Agent
22 Patrick Oliphant, and we were notified that the
23 Kershaw County Sheriff's Office was requesting
24 crime scene for a death investigation.

25 Q Do you remember what time you received that call?

1 A Yes, it was approximately 9:13 a.m.

2 Q And upon receiving that call, what did you do?

3 A At that point, contact is made with point of
4 contact. It was Chief Brown with Kershaw County
5 Sheriff's Department.

6 Q And do you remember what information you were
7 provided?

8 A Yes. It was a crime scene request in reference to
9 a death investigation, specifically, a shooting.

10 Q Is it unusual for you to get a call sometimes from
11 Kershaw?

12 A No, ma'am.

13 Q So -- and just for the record, is Mr. Oliphant --
14 and I'm saying -- Oliphant?

15 A Oliphant.

16 Q Is he still with SLED?

17 A No, he obtained a position, a federal position.
18 He's currently at the Federal Law Enforcement
19 Training Center, so he has obtained another
20 position outside of SLED.

21 Q And where is the center? It's not here?

22 A No, in Savannah, Georgia.

23 MS. ZMROCZEK: Objection, Your Honor.

24 Relevance. I understand they want to put in a
25 picture that maybe he took --

1 MS. SAMPSON: I'm just explaining --

2 MS. ZMROCZEK: -- and we have no objection to
3 that, Your Honor. I understand.

4 MS. SAMPSON: Thank you, Your Honor.

5 BY MS. SAMPSON:

6 Q So you went with Mr. Oliphant -- or Investigator
7 Oliphant to the scene?

8 A Yes, ma'am.

9 Q Was anyone else from SLED with you?

10 A Just myself and Special Agent Oliphant.

11 Q And when you go, do y'all make a report?

12 A We do. We do a final report.

13 Q Do both of you make one or just one of you?

14 A No, just one. Typically, since there's two of us,
15 we will usually rotate the calls and only one of
16 the agents will do a final crime scene report, even
17 though two of us respond.

18 Q And does that report entail what everybody did or
19 just the one person making the report?

20 A Basically, an overall of what was done at the
21 scene.

22 Q Of everybody?

23 A Correct.

24 Q Okay. So in this particular case, when you get the
25 call that morning at 9 -- I think you said 9:13?

1 A Yes, ma'am.

2 Q What did you all do?

3 A We responded to [REDACTED] Baynard Boykin Road in Rembert,
4 South Carolina. We responded to that location. On
5 scene, we made contact with Chief Brown, Captain
6 Knafelc, and Investigator Taylor, with the Kershaw
7 County Sheriff's Department.

8 Q And once you're there, what is the first thing you
9 do after speaking with them?

10 A After we speak with them, we do an initial
11 walk-through of the scene. That's basically to
12 show us anything that was observed by them prior to
13 us arriving or just to cover an overall basis of
14 what was done prior to us, and just initial
15 information of what has been involved and what they
16 have found out up to that point.

17 Q So when you get there, what information do you have
18 about the victim?

19 MS. ZMROCZEK: Your Honor, I would object to
20 hearsay at this point.

21 THE COURT: Overruled.

22 BY MS. SAMPSON:

23 Q You can answer the question.

24 A At that point, we were advised we had a deceased
25 male inside a residence in reference to a shooting.

1 Q Okay. So you knew at that point he was deceased?

2 A Correct.

3 Q So what did you do after getting that information
4 and -- I think I interrupted you. What was your
5 next step?

6 A Like I said, we did an initial walk-through.

7 Q What is an initial walk-through?

8 A An initial walk-through, we basically go inside of
9 the residence and they will point out any initial
10 obvious evidence that they have located prior to us
11 arriving. So that's from information that they
12 gained by questioning anyone prior to us arriving.
13 They will -- we will do a walk-through. They'll
14 say, This is where the victim is located. If
15 there's any specific evidence related to it, they
16 will say, This is what we've seen. It's located
17 over here. And then once we are given that initial
18 walk-through information, we exit, and then we will
19 begin our initial processing.

20 Q So I just want to break that down a little bit.

21 A Sure.

22 Q When you say "they", who is they?

23 A The Kershaw County Sheriff's Department.

24 Q So initially you walk through with Kershaw County
25 law enforcement?

1 A Right.

2 Q And in this case you did that?

3 A Correct.

4 Q What happened during that walk-through?

5 A During that walk-through, we were advised where the
6 victim was located. It was in a back bedroom
7 within the residence. Initially coming in the
8 front door, we were advised there was a handgun
9 observed on a small table just inside the front
10 door. So that was the basic initial information
11 that we received, where the victim was located and
12 where a handgun was observed prior to our arrival.

13 Q And anything else they did with you or was that the
14 end of the walk-through?

15 A That was basically what they observed prior to us
16 arriving.

17 Q So then what was next step?

18 A The next step, that's when I began my photos. We
19 start from the outside and work our way in.
20 Document everything on the exterior of the
21 residence. And we enter the residence and just
22 photograph everything that's observed inside the
23 residence.

24 Once everything is photographed as is, how it
25 was observed when we arrived, that's when we will

1 do our actual processing and pick up or collect any
2 evidence at that time. Anything that's, you know,
3 may be disturbed or anything like that, prior to
4 removing the victim, we will collect prior to even
5 getting to the victim and removing the victim from
6 the scene.

7 So initial photographs, documentation, as in
8 notes, and doing a rough sketch. And once that's
9 done, we will, like I said, collect evidence and
10 handle the deceased victim and remove them from the
11 actual scene.

12 After we remove the victim from the scene, we
13 will do an additional search looking for more
14 evidence that wasn't just observed, visible. We
15 will, you know, remove items -- or move items just
16 to look for any additional evidence we might need.

17 Q Okay. So I'm going to kind of break that down
18 again. So you first go through -- and you stated
19 that the victim was in a bedroom?

20 A Yes.

21 Q So he had not been removed at that point?

22 A No, he was still on the scene when we arrived.

23 Q So your job at this time -- or part of what you
24 were doing at this time, you were taking
25 photographs?

1 A Correct.

2 Q What -- and you mentioned a sketch. Was a sketch
3 made?

4 A Yes, a rough sketch, and then Special Agent
5 Oliphant created a final sketch as well.

6 Q And do you have access to that final sketch?

7 A Yes.

8 Q I'm going to show you what has been marked as
9 State's Exhibit 62 and ask if you recognize it?

10 A Yes, ma'am.

11 Q And what is this?

12 A This is a final sketch that was created from the
13 rough sketch prepared by Special Agent Oliphant.

14 Q And is this a fair and accurate depiction of what
15 he created?

16 A Yes.

17 MS. SAMPSON: At this time, we would ask to
18 introduce State's Exhibit Number 62 into evidence.

19 THE COURT: Any objection?

20 MS. ZMROCZEK: Without objection, Your Honor.

21 THE COURT: It's entered without objection.

22 (WHEREUPON, State's Exhibit No. 62 was
23 marked for identification and received
24 into evidence.)
25

1 BY MS. SAMPSON:

2 Q And if you could, I'm going to ask you to step
3 down.

4 A Okay.

5 (Witness steps down.)

6 Q We're going to switch sides.

7 A Okay.

8 Q Can you tell this jury -- and I need you to speak
9 up so she can take it down.

10 A Okay.

11 Q This is the sketch we're talking about?

12 A Yes, ma'am.

13 Q And who created this again?

14 A Special Agent Oliphant.

15 Q And I see here it's got some information. What is
16 this information?

17 A Just basic information. This is our lab number,
18 this is the type of investigation, and this is the
19 initiating agency. The date that it occurred.
20 Here you can see the address and the location where
21 it occurred. And you can see it was prepared by
22 Special Agent Oliphant on this date. And it's Page
23 1 of 1 for the sketch.

24 Q Okay. Now, to be clear, this isn't to scale;
25 correct?

1 A Correct, not to scale, just an overall
2 representation of the scene for a visual.

3 Q And if you can tell the jury, if you remember,
4 where is the front door?

5 A Right here is the front door of the residence.

6 Q And you mean the lower left, the lower bottom left?

7 A Yes.

8 Q And I'm going to say some things for the record
9 that are going to sound really crazy. What is this
10 right here next to where you point out the door?

11 A There was a -- sort of desk and a table right here
12 in this location, right when you walk inside the
13 front door.

14 Q And there's an object kind of right -- what is
15 that?

16 A This is the handgun that was observed right when
17 you walk in the front door laying on the table.

18 Q And what -- and at the bottom of the drawing, what
19 was this?

20 A Here was a couch, there was a lounge chair here,
21 and then another long lounge chair right here on
22 this wall.

23 Q So how would you characterize this room?

24 A I would call this the living room, once you walk in
25 the front door.

1 Q And what would be right -- a photograph at the top
2 of it, but where is that?

3 A This area -- once you walk in the front door, this
4 was the living room and it was opened up into the
5 kitchen area at the back of the residence.

6 Q And you can -- there's a dog cage?

7 A Yes, there was a large dog kennel, dog cage right
8 here at the side of the kitchen near the back door.

9 Q And where there's a one, what is this?

10 A Once you come through the living room and the
11 kitchen, to the left here, there's the bedroom.
12 There was a bed in this bedroom, we refer to as a
13 bedroom. So this was the bedroom at the back of
14 the residence.

15 Q Okay. And there are three blocks. What are those
16 three blocks?

17 A Those were large trunks or chests, I guess I would
18 call them. They were -- once you walk in this
19 door, there were three large trunks kind of lined
20 this area. There was a small dog bed here.

21 Q When you say trunks, could it be also a foot
22 locker?

23 A Foot locker, yeah, you could call it a foot locker.

24 Q And there were three of those right here?

25 A Yes, ma'am.

- 1 Q Where was the bed?
- 2 A The bed was here in this back corner.
- 3 Q So on the drawing, it would be at the very top of
- 4 the drawing?
- 5 A Yes, ma'am.
- 6 Q And you have -- and was that where you found the
- 7 body where it's depicted on this photograph?
- 8 A Yes, ma'am. He was sitting -- he was in a sitting
- 9 position leaned against the bed in a chair that was
- 10 located right next to the bed.
- 11 Q And I'm going to jump ahead a little bit. I know
- 12 we haven't gotten there. You said you did an
- 13 initial walk-through and then you do another one?
- 14 A Yes, ma'am.
- 15 Q And on this diagram, we have a 1, a 2, and a 3.
- 16 Just so you don't have to get back up, what is the
- 17 1?
- 18 A The 1 was a cartridge case that we located in a
- 19 laundry basket that was on top of this trunk here
- 20 right when you walk into the room.
- 21 Q Okay. And what does Number 2 depict?
- 22 A Number 2 was an earring. It had a clear stone and
- 23 the back was in that area as well. It was -- we
- 24 noticed it was similar to one of the earrings that
- 25 was in the victim's ear.

1 Q And what does Number 3 depict?

2 A Three was -- this was sort of a cabinet with
3 drawers. In two of the drawers we located
4 additional .32 caliber ammo. The weapon was a
5 Beretta Tom Cat .32 caliber. And we located --
6 during our search, we located additional ammo that
7 was similar to that caliber. And there was also an
8 owners manual for the .32 caliber Beretta Tom Cat
9 gun.

10 Q You can take a seat.

11 A (Witness returns to the witness stand.)

12 Q So I'm going to focus now on the victim. So you
13 found him in the bedroom?

14 A Yes, ma'am.

15 Q Did you locate any blood in the bedroom?

16 A There was very little blood. The only blood that
17 we observed -- suspected blood was on the back of
18 his T-shirt where the wound was.

19 Q No blood trails or anything like that?

20 A No, ma'am.

21 Q Would you look for that?

22 A Yes, that's something we would typically look for
23 that could possibly show you the travel. If the
24 victim was shot and traveled any sort of direction
25 or through the residence, we would search for any

1 additional blood. But in this particular case,
2 there was very little blood. And, like I said,
3 when we searched for any blood, it was a small
4 amount on the back of his T-shirt.

5 Q Did you find any on the carpet of the residence?

6 A No, ma'am. It appeared that he relieved himself,
7 urinated, whether it was during or after, and his
8 jeans were wet, so it was suspected urine with his
9 jeans. But, other than that, there was no other
10 suspected blood that we observed.

11 Q And did you do any distance -- can you tell me how
12 far away from the front door the victim's body was?

13 MS. ZMROCZEK: Your Honor, may we approach
14 briefly?

15 THE COURT: You may.

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

19 BY MS. SAMPSON:

20 Q So when -- Mr. Demary, did you find -- how far away
21 was he from the front doorway?

22 A From the bedroom door, he was approximately 10 feet
23 at his location in the sitting position near the
24 bed.

25 Q And, again, you saw no blood trail from him to the

1 front door or anything like that?

2 A No, ma'am.

3 Q Did you find anything that indicated where the
4 shooter was?

5 A No, ma'am.

6 Q What about the shell casing, what did that indicate
7 to you?

8 A The shell casing, we can just -- we can't
9 necessarily tell where the shooter was located.
10 Depending on the gun, you may have a right or left
11 ejection, but we just locate the cartridge case.
12 That doesn't necessarily give us the exact location
13 of the shooter.

14 Q Let me ask you this, does it give you an area of
15 where they may have been standing?

16 A It could allow you to eliminate areas that the
17 shooter may have been or give you an idea of a
18 location the shooter may have been.

19 Q In this case, the shell casing was found right by
20 the doorway, I believe you said?

21 A Correct. Right when you walk in the bedroom door,
22 there was -- the first small chest in a laundry
23 basket.

24 Q So what did that eliminate for you as to where the
25 shooting would have occurred?

1 A Well, saying --

2 MS. ZMROCZEK: Your Honor, I object to the
3 fact -- I believe it's outside the scope of her --
4 I believe they have an expert coming in to talk
5 about that. I believe this would be outside the
6 scope of -- if we're talking about trajectory
7 and --

8 MS. SAMPSON: I'm not. I didn't ask
9 trajectory. I literally asked what places did it
10 eliminate the shooting could have come from.

11 MS. ZMROCZEK: But that would be based on the
12 trajectory.

13 MS. SAMPSON: Well, if I can lead her, then I
14 can ask the specific question.

15 MS. ZMROCZEK: No, Your Honor. The rules
16 don't allow it.

17 THE COURT: Just limit it to the shell casing.
18 I'm going to allow the question.

19 BY MS. SAMPSON:

20 Q What areas did it eliminate that the shooting could
21 have happened at?

22 A Within the bedroom, saying that if the cartridge
23 case was not moved or tampered with at that point.

24 Q And all I meant was, in other words, it didn't
25 happen in the living room?

1 A Correct. If you would find the cartridge case in
2 the bedroom, yeah, it would not occur in the living
3 room had it not been touched or moved, anything
4 like that.

5 Q And you already told us that the gun was where you
6 found it?

7 A Yes, ma'am. It was within -- right when you come
8 in the front door on a table in the living room.

9 Q And I believe -- and maybe -- were you told that --
10 where that would be by law enforcement before you
11 went in or did you know -- you said you did a
12 walk-through with them. Is that when you saw that?

13 A Before we went in and when we did the walk-through,
14 we were advised that's where it was located when
15 they got there.

16 Q And you said -- I believe you said this as we went
17 over the diagram, that you found other ammo?

18 A Yes, that's correct. Unfired ammo similar to the
19 handgun that we had located, a .32 caliber.

20 Q And when you found that handgun, did you take the
21 magazine out?

22 A After it's photographed as is, how it lays, we then
23 make the weapon safe. We remove the magazine and
24 if there's one in the chamber, we will remove that
25 as well.

1 Q And what was in this gun?

2 A The magazine was removed and there were four
3 unfired cartridges within the magazine and there
4 was a cartridge removed from the chamber of the
5 handgun.

6 Q Do you remember if you all took a count of how many
7 rounds the magazine would hold?

8 A I believe seven, and then if one in the chamber,
9 eight.

10 (Pause.)

11 MS. ZMROCZEK: No objection to these being
12 entered, Your Honor. I know that she took them.
13 Because there are so many photographs, we stipulate
14 that they were taken by either Ms. Claycomb or her
15 partner and that they are all admissible.

16 THE COURT: Okay.

17 Ms. Sampson, what are the numbers on those
18 photographs?

19 MS. SAMPSON: For the record, Your Honor, this
20 would be State's Exhibits 29 through 61. Since
21 this is without objection, I'd go ahead and ask
22 they be introduced into evidence.

23 THE COURT: Without objection.

24 (WHEREUPON, State's Exhibit Nos. 29 - 61
25 were marked for identification and

1 received into evidence.)

2 MS. SAMPSON: Your Honor, I know yesterday you
3 wanted the hard copies.

4 THE COURT: If you don't mind, if you're going
5 to put them on the screen, so I can see them too.

6 BY MS. SAMPSON:

7 Q I'm going to ask you if you'll step away. And,
8 again, you've got to keep your voice up.

9 (Witness steps down.)

10 Q Can you tell the jury what State's Exhibit 29 is?

11 A Sure. This is a picture inside the residence.
12 Back here is the back door and this is the large
13 dog kennel or dog crate, cage that we observed.

14 Q This is the same crate that is on the diagram?

15 A Correct.

16 Q State's Exhibit 30?

17 A This is in the kitchen area looking back into the
18 residence. This is the bedroom door that we talked
19 about.

20 Q And in the bottom corner, is that the same dog
21 cage?

22 A Yes, this is the same dog cage you just saw on the
23 last picture.

24 Q And what is State's Exhibit 31?

25 A This is a photo, as soon as walk into the bedroom

1 door, if you look to your right, this was a laundry
2 basket that was sitting on top of one of foot
3 lockers or chests, trunks, that were inside the
4 bedroom.

5 Q And is that where you found the shell casing?

6 A Correct, it was down here.

7 Q And I see that stuff has been moved. Was that the
8 way you found it or did you do that?

9 A That photo there is "as is," how we observed it
10 when we arrived.

11 Q What does this depict?

12 A This is a picture of the handgun that we located.
13 At this point it's being made safe. We removed the
14 magazine. You can see the cartridges within the
15 magazine here.

16 Q And that's exactly how you found it? In other
17 words, the bullets and the magazine, were they
18 there when you found it that way?

19 A Yes. Basically, we pushed the magazine release and
20 released the magazine to photo how it was found.

21 Q And the same for -- did you -- was the safety on or
22 off when found the gun?

23 A The safety was off. If you see here this small
24 little red area, that means the safety is off.

25 Q And what does that show?

1 A Another photo of the magazine. You can just see
2 the unfired cartridge within the magazine. And
3 these holes here, you can see there are additional
4 cartridges within the magazine.

5 Q And I know they're going back and forth, and I
6 apologize. What is that a depiction of?

7 A This here is looking down -- as I said before "as
8 is," looking down into the laundry basket.

9 Q And that's the way you found it?

10 A Yes.

11 Q What does this picture depict?

12 A This is a photo -- once we get to the Decedent and
13 we photograph and document the victim as we see
14 him, we place bags on the hands sometimes to
15 request fingernail scrapings or a GSR kit. Once
16 that Decedent is sent to autopsy, they will collect
17 fingernail scrapings or cuttings and a GSR kit from
18 his hands just to keep -- once he's bagged -- from
19 being any contaminates or anything being on the
20 hands to preserve any evidence that may be on his
21 hands.

22 Q And I see some yellow tape on that. What is that?

23 A Correct. We place the bags on the hands and then
24 we place sealed tape. You can see Special Agent
25 Oliphant, his initials here. We date and initial

1 the bag just to ensure that once he gets to autopsy
2 and when we arrive to collect any evidence that
3 those seals are still in place and the bags have
4 not been removed or tampered with.

5 Q And I know it's sideways, but what's that a
6 depiction of?

7 A This is another picture. We'll often look if
8 there's any other additional wounds or anything
9 like that just to document there's no additional
10 wounds that we found. If it's an entry, exit,
11 multiple wounds. This just sees his chest area.
12 There were no other wounds observed on his chest.

13 Q What is this a depiction of?

14 A This is a picture kind of in the kitchen/living
15 room area. You can see the back of an earring
16 right here.

17 Q And what is the next photo of?

18 A And that is the stud area of the earring that had a
19 clear stone that we observed and located.

20 Q And in the diagram, that's what you marked there?

21 A Correct.

22 Q What is this a depiction of?

23 A This is the cabinet slash drawer that I was
24 referring to, the area between the kitchen and
25 where the bedroom is. This here is a plate with

1 suspected marijuana in it, cigar wrapper that was
2 located in that cabinet.

3 Q And what is this a depiction of?

4 A This is if you're standing in the kitchen, over
5 here is the living room area, and this is the long
6 lounge chair that I was referring to. Here you can
7 see the stud earring.

8 Q And is that the way that you found the earring?

9 A Correct, that's how we found it when we were
10 documenting the residence.

11 Q And this?

12 A This is standing inside the bedroom. Right here,
13 you can see the bedroom door. So this is standing
14 inside the bedroom looking into the laundry basket
15 sitting on the chest or foot locker.

16 Q What does this depict?

17 A That's a close-up photo of the fired cartridge case
18 that we located in that laundry basket.

19 Q Now, could you see that fired cartridge casing just
20 looking into the basket?

21 A Initially, no. This is what we located after
22 removing the Decedent and doing a search for any
23 firearms evidence.

24 Q And what, if anything, did you garner from finding
25 it underneath the clothing?

1 A Just, I believe there was some sort of white quilt
2 or blanket that we just picked up, and that's when
3 it was initially observed in one corner of the
4 laundry basket. This is a photo inside that
5 cabinet with the drawers that I was referring to.
6 Down below the cabinet, there are doors and this
7 was located right here and you can see the box of
8 additional .32 caliber ammo we located. Right
9 there, you can see the side of the ammo box. It
10 says .32 auto.

11 Q And to the best of your knowledge, did this ammo
12 match the gun that you found?

13 A It was similar to the one that we found in the
14 handgun, yes.

15 Q And what is this a picture of?

16 A That is as soon as we opened the box. These are
17 all unfired cartridges and you can see there are
18 some missing from the box.

19 Q Do you remember how many were missing?

20 A Approximately 17, I believe. This is another
21 drawing of that same cabinet. And right here, you
22 can see just moving some items. You can see right
23 here, this is the owner's manual for the model 32
24 Beretta Tom Cat that was the gun that we found.

25 Q And you said that items were removed. Did you move

1 those items or is that how you found them?

2 A That was -- as soon as you opened the drawer, that
3 was "as is" when you opened the drawer.

4 Q Okay. And what is this a picture of?

5 A And then we had to move some of those items just to
6 pull the owner's manual from that drawer.

7 Q And I didn't get to that. Did you ever go meet
8 with the victim -- excuse me, with the Defendant?

9 A Yes. After we cleared the scene, we did our
10 processing at the scene, we responded to the
11 Kershaw County Law Enforcement Center. That's
12 where Ms. Pickrell was, and we documented her
13 person at the law enforcement center.

14 Q Is that typical or atypical?

15 A It's typical. If they're, whether at the scene or
16 at the law enforcement center, we will go document
17 any -- if there's any injuries, anything like that,
18 document "as is," how they're seen.

19 Q Do you remember if she was at the scene when you
20 arrived?

21 A She -- I don't believe so. I don't remember seeing
22 her.

23 Q So were you taking these photographs or your
24 partner?

25 A I was, being that she was female.

1 Q Why did you take a picture of her front?

2 A This is just -- I will often just do overall
3 photographs, front, back, sides, overalls, and then
4 document anything I may see and ask if there are
5 any injuries or bruises, scratches that they may
6 have, and I'll document those with photos as well.

7 Q What is this picture?

8 A Just the back side. Her -- Ms. Pickrell's sleeves
9 rolled up and a back shot of her.

10 Q And the next photograph?

11 A This is her right forearm.

12 Q And were you picking what to photograph or was she
13 showing you what to photograph?

14 A If there was anything visible to me, I would
15 photograph it while I was photographing. And at
16 that point, after I photographed, anything I didn't
17 see and there were complaints of bruises or
18 scratches, I would photograph.

19 Q Did she show you any complaints of bruises or
20 scratches?

21 A Yes.

22 Q Was this one of those or was this one of yours that
23 you took by yourself, do you remember?

24 A I believe this is one that she said on her right
25 forearm she was complaining of some pain.

- 1 Q What is this?
- 2 A This one's kind of hard to see with the flash, but
- 3 there's some bruising right in here on her right
- 4 forearm.
- 5 Q And what is this?
- 6 A That's an overall, just the top sides of both of
- 7 her forearms.
- 8 Q And the next photograph?
- 9 A The inner sides of forearms.
- 10 Q Again, is this you deciding what to take pictures
- 11 of or is this her?
- 12 A This is my basic overall photographs that I was
- 13 doing.
- 14 Q The next photograph?
- 15 A Here, this is her left forearm. You can see some
- 16 bruising here.
- 17 Q Next one?
- 18 A This is overall of the tops of her hands, basic
- 19 overall photographs --
- 20 Q And, again, is this one she asked you to take or
- 21 you chose?
- 22 A I usually do those, do the inners, outers.
- 23 Q Is that normal?
- 24 A Yes, that's normal.
- 25 Q And what does this depict?

1 A The bottoms of the feet. Just documenting how
2 their feet look. Often at a scene, if we have
3 any -- if you're in the house barefoot, if there's
4 any suspected blood, injuries, things like that,
5 we'll document to make sure. Left foot.

6 Q And what is this?

7 A This is with the pant legs rolled up. We document
8 if there's any bruising on the fronts of the legs.

9 Q Did she tell you about any bruising to her legs, do
10 you remember?

11 A I don't recall at that time if she complained of
12 anything on her legs. But like I said, it's a
13 basic overall that I would do whether they have
14 pants or shorts on, pull the pant legs up and
15 document if there's anything that I can see.

16 Q I'm sorry. What does this depict?

17 A This is a back view. Once her shirt was removed,
18 there was some bruising observed here and kind of
19 on her armpit.

20 Q Again, did she ask you -- complain of bruising to
21 her back or did you just take this photograph, if
22 you remember?

23 A At that time, I don't recall. Like I said, I will
24 ask if there's any injuries or pain that they're
25 feeling at that time. If there is, they may remove

1 any clothing or show me this is where, you know,
2 I'm feeling pain or have scratches, bruises.

3 Q And what is this a picture of?

4 A This is the front of Ms. Pickrell's neck. It's
5 often -- if there's any complaints of injuries or
6 being choked, or anything like that, we will
7 document the neck area just to see if there's any
8 bruising or injuries.

9 Q Do you remember if she was complaining of any
10 injuries?

11 A I don't recall exactly if she had complaints. I
12 think there was a mention of possibly being choked.
13 But I don't remember offhand if she complained of
14 injuries at that time.

15 Q You can take your seat.

16 A (Witness returns to the witness stand.)

17 Q And I believe you said you collected some evidence,
18 such as the gun?

19 A Yes, ma'am, at the scene we collected the handgun.
20 We also collected the earring.

21 Q Just to make things easier, I'm going to stand up
22 there.

23 A Okay.

24 Q It makes me look really tall. All right. Starting
25 with State's Exhibit Number 63 -- I need you to

1 speak in the microphone too -- what is State's
2 Exhibit 63?

3 A This here is a heat-sealed pouch that we will
4 package. It's basically external packaging. You
5 can see here a small envelope. This is labeled,
6 One diamond stud and backing from kitchen floor.
7 It's the envelope containing the earring that we
8 located. It will be packaged and sealed. And then
9 once we get back to the laboratory, it will be
10 packaged in this external packaging, the heat seal,
11 and be sent to the department if it's requested for
12 any processing or just for storage.

13 Q Is it in the same -- is it sealed in the same
14 manner as it was sealed when you -- after you
15 collected it?

16 A It appears to be. I see Special Agent Oliphant's
17 initials.

18 Q And is that the protocol to initial?

19 A Correct, initial and date.

20 MS. SAMPSON: At this time, we would ask to
21 introduce State's Exhibit 63.

22 THE COURT: Any objection?

23 MS. ZMROCZEK: No objection.

24 THE COURT: Entered into evidence without
25 objection.

1 (WHEREUPON, State's Exhibit No. 63 was
2 marked for identification and received
3 into evidence.)

4 BY MS. SAMPSON:

5 Q I'm just going to remove it. Can you read what's
6 written on that envelope?

7 A Sure. Usually we'll do the date, initials, and the
8 time it was collected and a description of what is
9 inside the envelope. This says, One diamond stud
10 and backing from kitchen floor.

11 Q And just to be clear, does that appear to be what
12 you recovered?

13 A Yes.

14 Q So diamond earring with the back?

15 A Correct.

16 Q Moving on to State's Exhibit 64, do you recognize
17 this?

18 A Yes. This is a box labeled, One cartridge case and
19 stamped 32 auto CVC from the laundry basket in
20 bedroom.

21 Q And is it still sealed in the manner that you
22 collected it?

23 A Once we process it, it's sent to the particular
24 department, in this case, firearms. They will
25 break our seal, but prior to processing, dates and

1 initials are on from Special Agent Oliphant and
2 then it's placed in this small plastic packaging.

3 MS. SAMPSON: At this time, I'd ask to
4 introduce State's Exhibit 64 into evidence.

5 MS. ZMROCZEK: Without objection, Your Honor.

6 THE COURT: In evidence without objection.

7 (WHEREUPON, State's Exhibit No. 64 was
8 marked for identification and received
9 into evidence.)

10 BY MS. SAMPSON:

11 Q Before I cut it, at the top of this, what is that
12 date?

13 A That is date and initials. It may be someone from
14 firearms that may have opened it and did their
15 processing.

16 Q Is that typical?

17 A Yes.

18 Q And clearly it was not -- what is that?

19 A This is the cartridge case that was located.

20 Q State's Exhibit 65, what is that?

21 A This is small plastic packaging that -- with a
22 small paper bag that the magazine and the unfired
23 cartridges, the way that the handgun was located
24 with the magazine inside, with those items in it.

25 Q And the bullets are not in the magazine. Did you

1 take them out or did you have them in the magazine
2 when you first put it in there, do you remember?

3 A Typically, after -- for processing, they may be
4 removed and then they will be sent to the firearms
5 department, which they may also remove them just to
6 look at the caliber and the type of ammo inside.
7 So they will be removed from the magazine at some
8 point.

9 MS. SAMPSON: At this time, we'd ask to
10 introduce State's Exhibit Number 65 into evidence?

11 MS. ZMROCZEK: Without objection, Your Honor.

12 THE COURT: Admitted without objection.

13 (WHEREUPON, State's Exhibit No. 65 was
14 marked for identification and received
15 into evidence.)

16 BY MS. SAMPSON:

17 Q And, lastly, State's Exhibit Number 66, can you
18 tell us what that is?

19 A This is our small gun boxes. Once we locate a
20 firearm on scene, we will, as I said, make it clear
21 and place it within a small box to transport it to
22 the lab for processing.

23 Q And other than the lock, is that the manner in
24 which you found it in, meaning it's the same gun as
25 far as you can tell?

1 A Correct.

2 MS. SAMPSON: At this time, we'd ask to
3 introduce State's Exhibit Number into evidence?

4 MS. ZMROCZEK: Without objection.

5 THE COURT: Admitted into evidence without
6 objection.

7 (WHEREUPON, State's Exhibit No. 66 was
8 marked for identification and received
9 into evidence.)

10 BY MS. SAMPSON:

11 Q And for the record, I've said it, but just so the
12 jury can see it, there is currently a lock on this
13 gun. Is that typical when we come to court?

14 A Yes, that's just for a safety mechanism. Just to
15 show that it's cleared and a safe weapon.

16 Q So this lock clearly was not on it when --

17 A No, it was not.

18 MS. SAMPSON: Beg the Court's indulgence.

19 (Pause.)

20 BY MS. SAMPSON:

21 Q Now, normally --

22 THE COURT: Can you open the tip of the barrel
23 with that lock on it just so everyone can see the
24 gun is safe and clear?

25 MS. SAMPSON: I don't know if we have a key to

1 the lock.

2 THE COURT: That particular pistol has a
3 tip-up barrel and it's not -- if it can be tipped
4 up without removing the lock so everyone can see
5 there's not a round in the chamber.

6 THE WITNESS: I think the safety mechanism is
7 actually blocking it to where I can't -- there's a
8 small release here and this barrel will pop up like
9 this that you can single load a cartridge into the
10 barrel rather than racking the slide back, but it
11 will do both.

12 THE COURT: You're competent it's been
13 cleared?

14 THE WITNESS: I was going to say, at this
15 point the safety mechanism is on it, and I can't do
16 the release or anything.

17 MS. SAMPSON: I'll be honest, Your Honor, I'd
18 have to get with my investigator. We don't have
19 the -- I don't have the key to the lock. I can do
20 that if you would like.

21 MS. ZMROCZEK: If we can approach?

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

25 BY MS. SAMPSON:

1 Q I just have a few more. You stated that part of
2 your job would be to collect evidence. And you
3 make that determination as to what needs to kind of
4 be collected, do you not?

5 A Yes, ma'am.

6 Q In this case, there was no DNA collected. Why not?

7 A Correct. We found Mr. Demary, the Decedent, inside
8 the residence, so, regardless, he was obviously
9 inside the residence. His DNA is most likely to be
10 inside the residence, along with his fingerprints.
11 And Ms. Pickrell lived at the residence, so her DNA
12 and fingerprints are also most likely at the
13 residence.

14 Q And you mentioned fingerprinting. Was any
15 fingerprinting done at the residence?

16 A No, ma'am.

17 Q Why not?

18 A For that reason. She resides there, it's most
19 likely we are going to find her fingerprints at the
20 residence.

21 Q And the gun, was it processed for fingerprints?

22 A Yes, I do believe it was processed at the lab
23 later.

24 Q Thank you.

25 MS. SAMPSON: Beg the Court's indulgence.

1 (Pause.)

2 BY MS. SAMPSON:

3 Q Do you run fingerprints on the deceased?

4 A Yes, we collect what's called post-mortem -- on any
5 deceased victim, it's our policy to collect
6 post-mortem major case prints. That's in case
7 during the investigation any fingerprints are
8 located on evidence, we can run them, elimination
9 or for identification of any evidence that may have
10 fingerprint evidence. So those post-mortem prints
11 are collected for that reason.

12 Q I'm going to show what has been marked as State's
13 Exhibit 67.

14 MS. ZMROCZEK: Without objection, Your Honor.

15 MS. SAMPSON: So I would ask to introduce
16 State's Exhibit 67 into evidence?

17 THE COURT: What is it?

18 MS. SAMPSON: It will be the fingerprints.

19 THE COURT: Okay.

20 (WHEREUPON, State's Exhibit No. 67 was
21 marked for identification and received
22 into evidence.)

23 BY MS. SAMPSON:

24 Q And is it in the same packaging as it was when it
25 was collected?

1 A Yes, a manila envelope with Special Agent
2 Oliphant's initials and date.

3 Q While I'm doing this, can you explain to the jury
4 how you take fingerprints off of a Decedent?

5 A Yes, basically, the hands are inked with
6 fingerprint ink, the whole hands. We do palm cards
7 and we also do what is called strips, so we do the
8 fingers individually, just the tips, and then we
9 collect a palm card, which is basically a white
10 sheet of paper that once the whole hand is inked,
11 we will do individual of the whole palm. There's
12 separate areas to the hand that we look at, thenar,
13 hypothenar, the whole palm, individual fingers and
14 then, like I said, the tips of the fingers.

15 Q And I took it out. Can you show the jury, is this
16 what you were describing?

17 A So here's the strips that I was referring to. We
18 do two on each hand. So up here, you see the two
19 strips for the right hand and these are the tips of
20 the finger, your first index joint of your finger.
21 And these are the two strips for the left hand.
22 Those are just the tips of the fingers. And you
23 can see the ink -- once we ink the hands and then
24 place it on paper, you get a fingerprint from the
25 hands.

1 Q And what's the other sheets?

2 A These two sheets are the right and left palm cards,
3 what we refer to them as. And you can see the
4 individual areas of the hand. This was the palm,
5 the lower side of the palm there, and individual
6 fingers and just different areas of the hands that
7 we will ink.

8 Q And would this help if you didn't know the
9 identification of somebody, you could use those?

10 A Correct. We could also positively ID the Decedent
11 if we have no idea at that point.

12 Q And I think we said this already, but just to be
13 sure, although the home was in Rembert, was it in
14 Kershaw County?

15 A Yes.

16 Q So the incident occurred in Kershaw County?

17 A Correct.

18 MS. SAMPSON: That would be it for me, Your
19 Honor.

20 Please answer any questions the Defense may
21 have.

22 THE WITNESS: Yes, ma'am.

23 MS. SAMPSON: Your Honor, may we approach?

24 THE COURT: You may.

25

1 (WHEREUPON, a bench conference was held
2 in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: Ladies and gentlemen, the
5 attorneys are preparing some evidence, so we're
6 going to take a slightly early lunch break. Court
7 will be adjourned -- we'll take a lunch break --
8 and Court will be adjourned until 1:00 o'clock.

9 Again, let me remind you not to discuss the
10 case with each other. Do not start deliberations
11 and don't do any research, please.

12 Thank you very much, ladies and gentlemen.

13 (WHEREUPON, the jury is excused for
14 lunch at 11:39 a.m.)

15 THE COURT: Anything we need to do before take
16 a break?

17 MS. ZMROCZEK: No, Your Honor. I would just
18 like to put the letters on them. That's all I'll
19 do.

20 THE COURT: I'll see y'all at 1:00 o'clock.

21 (WHEREUPON, a lunch break was taken.)

22 (WHEREUPON, the proceedings resumed at
23 1:07 p.m.)

24 THE COURT: Counsel, anything before we bring
25 the jury back in?

1 MS. SAMPSON: They're fine.

2 THE COURT: Anything from the Defense?

3 MS. ZMROCZEK: Nothing, Your Honor.

4 THE COURT: Bring the jury back in.

5 (WHEREUPON, the jury came into open
6 court at 1:07 p.m.)

7 THE COURT: Defense?

8 MS. ZMROCZEK: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MS. ZMROCZEK:

11 Q Good afternoon.

12 A Good afternoon.

13 Q You work for SLED?

14 A Yes, ma'am.

15 Q The State Law Enforcement -- State Law Enforcement
16 Division?

17 A Yes, ma'am.

18 Q And so I believe you testified that if smaller
19 counties or counties without their own internal
20 agencies or investigators specifically for crime
21 scene and collection, they call you; right?

22 A Yes, ma'am.

23 Q Now, when you come out and collect items -- and,
24 for example, we went through the fingerprints -- do
25 you make that determination on what to test or what

1 to --

2 A It's a little bit of both. We communicate with the
3 lead investigator and the agency and speak about
4 the evidence and just the information that they
5 have gotten from possible parties involved and what
6 we found at the scene to decide which processing to
7 do on evidence.

8 Q And in that case, that was Investigator Taylor;
9 right?

10 A Correct.

11 Q And so if he wanted something tested, he could ask
12 you to do that; right?

13 A Yes, ma'am.

14 Q You talked about photography. You're trained, you
15 received training; right?

16 A Yes, ma'am.

17 Q And so kind of what you said you want to do, you
18 take an overall photo, and then a little bit
19 closer, and then just a little bit closer if it's
20 something of importance?

21 A Correct.

22 Q And in this case, you and your co-worker took 424
23 pictures; right?

24 A Yes, ma'am.

25 Q You took a lot of photos?

1 A A lot of photos.

2 Q And I'm going to show you what has been marked as
3 Exhibits 2, 3, 4, 5, 6, and ask you if these are
4 just a few more of the photos that you and/or your
5 co-worker took?

6 A Uh-huh.

7 Q Those are all additional?

8 A Yes, ma'am, all photos that were taken.

9 MS. ZMROCZEK: Your Honor, at this time, we
10 would move Defendant's 2 through 6 in.

11 THE COURT: Any objection?

12 MS. SAMPSON: No, sir.

13 THE COURT: In evidence without objection.

14 (WHEREUPON, Defendant's Exhibit Nos. 2 -
15 6 were marked for identification and
16 received into evidence.)

17 BY MS. ZMROCZEK:

18 Q And if I may ask you to step down as well.

19 A Sure.

20 (Witness steps down.)

21 Q Now, these boards have several -- come on that side
22 so that she can hear you. These boards have
23 several different photos on them so I labeled them
24 alphabetically as well. So this is Defendant's 2.
25 You talked about -- when you were called out to the

1 scene, you said it was about 9:00 o'clock in the
2 morning?

3 A Yes, ma'am.

4 Q You -- do you recall how close the house was to the
5 road?

6 A I don't recall. It was kind of difficult to
7 locate. It was off of a dirt road and back into
8 the woods in a sense. It was kind of difficult to
9 locate, but I don't know exactly how far from the
10 roadway it was.

11 Q But it was -- it wasn't right on the corner?

12 A No, ma'am.

13 Q Okay. And even then, when you got to the property,
14 you had to go through some gates?

15 A Yes, ma'am.

16 Q And then you had to drive a further way?

17 A Correct.

18 Q Is that -- and I'll point to 2C here. It wasn't a
19 paved driveway, but you could drive on the grass;
20 correct?

21 A Correct.

22 Q And you would have to drive on the grass to get
23 through the property?

24 A Correct.

25 Q Okay. And you also -- in 2B, there were -- and

1 these are obviously photos taken outside of the
2 property; correct?

3 A Correct. These are exterior photos of the
4 residence.

5 Q And then there were -- for example, 2E, there were
6 animals?

7 A Correct. You can see back here in the background,
8 this is the residence, this is from the back of the
9 property, the fence that lines the residence. And
10 this is from the one side, the residence is over
11 here and the side of the fence there. And that
12 lined the residence.

13 Q All right. And 2A -- so 2A, this is the residence?

14 A Correct. If you're looking at it from the front
15 here, it would be to this side. And it's just
16 pointing at an angle to the front of the residence.

17 Q And 2B is, again, the same photo, just a little bit
18 further?

19 A Correct. It's kind of close up here. You can see
20 a part of a shed out in the front. This is just
21 kind of close-up, another angle of it.

22 Q And the front door is to where I'm pointing on 2B?

23 A Correct. Up those steps, yes, ma'am.

24 Q These chairs here, when you got there, did you move
25 anything or tilt anything over or knock these down?

- 1 A No, ma'am. These photos, as you see, are "as is"
2 when we arrived at the scene.
- 3 Q When you -- I'm looking at 2F. Obviously, y'all
4 put some crime scene tape up; right?
- 5 A We didn't. That was up prior to our arrival.
- 6 Q That was up prior to your arrival. And that's done
7 to keep people out, from manipulating?
- 8 A Correct.
- 9 Q Making sure nothing is moved or touched?
- 10 A Keeping the scene secure.
- 11 Q And then 2G, for example, the flower pots and the
12 drag marks on the ground, those were things that
13 were done -- or that was how -- not done. This is
14 how it looked when you were there?
- 15 A That photo is "as is" when we arrived.
- 16 Q "As is." Now we're on the inside of the residence
17 again; right?
- 18 A Yes, ma'am, interior.
- 19 Q It says back bedroom. And I believe the State's
20 diagram wasn't to scale, but would you agree it
21 was -- the room itself was about 144 square feet?
- 22 A I don't know the square footage of the room.
- 23 Q Okay. It was small?
- 24 A It was a smaller residence, yes, ma'am.
- 25 Q And it says back bedroom, but that was actually the

1 only bedroom in the --

2 A It appeared to be the only -- where a bed was
3 located. That's what we referred to as the
4 bedroom.

5 Q As the bedroom. And so 2J is looking from the
6 kitchen area into that bedroom?

7 A Correct. Yes, this is the kitchen area here. You
8 can see the cabinet with the drawers and then this
9 is the bedroom door.

10 Q And, again, a little closer. This is the cabinet
11 and the door to the bedroom right there?

12 A Correct.

13 Q Okay. And then -- well, you can see on 2I. So
14 inside -- you had to go inside the bedroom to
15 locate the cartridge?

16 A Correct.

17 Q Okay. And you photographed a picture of the
18 lockers or the trunks?

19 A Correct.

20 Q So any damage that was done, that was prior to
21 y'all getting there?

22 A Yes.

23 Q All you did was photograph?

24 A Correct.

25 Q And then you also took one from -- 2M, from inside?

- 1 A Right. That's from the -- if you're looking at
2 this photo in this corner and it's shooting back
3 towards the bedroom. And through there, you can
4 see the kitchen and the living room area.
- 5 Q Okay. And all of that was "as is"; correct?
- 6 A Yes, ma'am.
- 7 Q I want to show Defendant's 3. Okay. So we saw --
8 I'm going to kind of jump around a little bit, but
9 you took the outside and then you take as you're
10 walking in the inside; right?
- 11 A Correct.
- 12 Q So as you do kind of a walk-through prior to taking
13 these photos, what kind of training -- tell the
14 jury, how do you make sure not to -- are y'all
15 trained to make sure you don't knock things off or
16 kick things around?
- 17 A Yes, ma'am. We try to keep the scene "as is" not
18 to move anything prior to photographing just so we
19 can photo "as is" before getting in there and
20 searching or doing any processing with the scene.
21 So we try not to move anything or disturb anything
22 in the process.
- 23 Q And the counties with whom you work, Kershaw, they
24 receive that same training?
- 25 A I'm not sure what their training is.

- 1 Q And y'all work with them frequently?
- 2 A Correct.
- 3 Q And so, as you -- this is the front door?
- 4 A Yes, ma'am.
- 5 Q And you are literally just standing on the porch
- 6 looking in; right?
- 7 A Yes, ma'am.
- 8 Q And you didn't go in and cause all of this on the
- 9 floor?
- 10 A No, ma'am, that was observed when we got there.
- 11 That's how it was observed.
- 12 Q So this, 3D, would be just a little bit closer as
- 13 you step inside?
- 14 A Correct. Step inside the front door and this is
- 15 the photo of looking in, same as that, just
- 16 stepping in here further inside the residence.
- 17 Q It is fairly narrow with furniture?
- 18 A Yes, it was fairly narrow in there.
- 19 Q The biggest space really was in the kitchen?
- 20 A Yes, ma'am.
- 21 Q And this chaise right here, on the other side of
- 22 it, on the back side of it is where you found the
- 23 earring, I think?
- 24 A Yes.
- 25 Q And that earring -- when you found Mr. Demary, he

- 1 had one earring?
- 2 A Correct. One earring in his ear.
- 3 Q And that matched?
- 4 A It looked similar to the one that was in his ear.
- 5 Q Right. And then 3C, this is, again, a little bit
- 6 further in from --
- 7 A Yes. And, basically --
- 8 Q And down?
- 9 A It's basically from this location, just looking
- 10 down.
- 11 Q And these avocados and all these vegetables that
- 12 are tossed on the floor, "as is"?
- 13 A "As is".
- 14 Q And so, again, 3D would be the chaise and then the
- 15 backing of the earring on 3E, and a little bit
- 16 closer, 3F; correct?
- 17 A Yes.
- 18 Q And then -- obviously, we could go through all 424
- 19 photographs, which we're not going to do, but you
- 20 take pictures of everything because, at that time,
- 21 you're not sure what is of evidentiary value?
- 22 A Exactly. As the investigation unfolds and more
- 23 information comes out, we try to just document
- 24 everything we can as much as we can while we're
- 25 there.

1 Q All right. Again, this is Defendant's 4. We'll
2 start, I guess, at the bottom. You talked about
3 how you take kind of an overall and then closer.
4 And then if someone is complaining -- in this case,
5 Ms. Pickrell complained of pain or anything, you
6 would want to make sure that you could document all
7 that?

8 A Correct.

9 Q Okay. And so you have each of -- 4B, 4C are the
10 bottoms of her feet; right?

11 A Right.

12 Q 4A, if I can describe, those -- all of these marks
13 would have been just as you saw them?

14 A Yes, how they were visible to me when photographed.

15 Q Same as with 4D and her feet; correct?

16 A Correct.

17 Q And this is on September -- I have September 11,
18 2014; right?

19 A Yes, ma'am.

20 Q So -- and do you recall -- you were at the scene
21 at -- you got the call, I think you said around
22 9:13 a.m.?

23 A Approximately 9:13.

24 Q How long did it take for you to get there?

25 A We arrived at approximately 10:38 a.m.

- 1 Q And then how long to take all of the pictures that
2 we saw in two or three approximately?
- 3 A Once we did all our processing on scene, we cleared
4 the scene approximately 12:30.
- 5 Q And then came straight to --
- 6 A The law enforcement center.
- 7 Q -- the law enforcement center, okay. So this is
8 approximately right after lunch. So maybe four to
9 five hours after you received the call?
- 10 A Approximately, yes, ma'am.
- 11 Q And 5A, you said you were documenting different
12 areas of pain or scratch marks?
- 13 A Possible injuries that were observed, yes, ma'am.
- 14 Q So 5B and 5C, just, again, you take it a little
15 closer?
- 16 A In range, close ups, yes, ma'am.
- 17 Q And you described on direct about bagging the
18 hands?
- 19 A Yes, ma'am.
- 20 Q And you said fingernail scrapings, so if someone
21 would scratch, and had that been tested, that's not
22 something that you could determine, right, you just
23 preserve it?
- 24 A Correct. Like I said, when we bag the hands, we
25 will request possibly fingernail clippings or

1 scrapings. If there was any hand-to-hand contact
2 or anything like that, it's possible they may have
3 DNA of each other on one another. So we may
4 request sometimes fingernail scrapings or
5 clippings.

6 Q Let me ask you this, if there had been an animal,
7 like a horse roaming free around the property that
8 morning that could have caused those scratches, is
9 that something that y'all would have documented or
10 could have tested?

11 A Just injuries in general. I can't say how the
12 injuries got there or what it's from. I could just
13 say it was an injury that I observed.

14 Q Okay. And so 5D, 5E and, again, 5F. So 5D is a
15 picture of her face, and then 5E, I guess the
16 mid-range --

17 A Uh-huh.

18 Q -- of her back and this injury. And then 5F is,
19 again, a close-up of it?

20 A Yes, ma'am.

21 Q And now moving to 5G, you still see this injury,
22 but you're also documenting a bruise here?

23 A Correct.

24 Q Again, just a closer up of that and then just one
25 of -- and that's right --

- 1 A Yes, this is the overall of it just showing these
2 two in relation to one another. And then once you
3 get closer, you can still see them together. And
4 then this is just a close-up of this area.
- 5 Q And you even took more than we are showing of
6 Ms. Pickrell; correct?
- 7 A Yes, ma'am. If there were no obvious injuries that
8 I observed, no complaints or anything like that, I
9 still photographed.
- 10 Q Okay. And so we've seen some of these on the
11 inside of the forearm. And you said that she was
12 complaining of pain on 6B and 6G. That would be
13 the close-up. And 6B would be kind of the
14 mid-range, and 6G would be the close-up of that
15 pain and injury?
- 16 A Yes, ma'am.
- 17 Q And then 6H would be the close-up of the injury on
18 her face?
- 19 A Yes, ma'am.
- 20 Q Okay. 6L -- 6L is the other side of her face -- or
21 this is the close-up underneath?
- 22 A This is just, yeah, the neck area, photographing
23 the neck area.
- 24 Q And the forearms, which I believe we saw. Thank
25 you.

1 A (Witness returns to the witness stand.)

2 Q You were asked about the shell casing. And that --
3 SLED has different divisions; right?

4 A Correct. Different departments within the
5 laboratory.

6 Q So yours is crime scene?

7 A Correct.

8 Q And then once you collect it, it gets handed off to
9 another person who has a focused area of --

10 A Correct. We have firearms department, latent
11 prints, trace evidence, different departments for
12 each specific one.

13 Q Okay. And so you collect it and then give it to
14 them to do whatever testing is requested?

15 A Correct.

16 MS. ZMROCZEK: Beg the Court's indulgence.

17 (Pause.)

18 MS. ZMROCZEK: Thank you. I don't have any
19 further questions.

20 THE COURT: Ms. Sampson?

21 MS. SAMPSON: Just briefly, Your Honor. Thank
22 you.

23 REDIRECT EXAMINATION

24 BY MS. SAMPSON:

25 Q Investigator Claycomb, just now Ms. Zmroczek was

1 talking about things that were on the floor and she
2 used the term tossed. Do you know how any of that
3 got there?

4 A I don't.

5 Q That's just the way --

6 A That's just the way that I observed when we got
7 there. We're not sure how they actually got there.

8 Q And when you are photographing whatever
9 documentation you make, and she was saying
10 scratches or bruises, is that in your qualification
11 to determine what those are?

12 A No, ma'am. I just document what I can see. And
13 like I said before, I can't say how they got there
14 or what they're exactly from.

15 Q Can you even tell this jury how long they had been
16 there?

17 A No, ma'am, I can't. Age and everyone may bruise
18 differently. It's hard to say. I can't give that
19 definitive answer.

20 Q Thank you.

21 MS. SAMPSON: Beg the Court's indulgence.

22 (Pause.)

23 MS. SAMPSON: No further questions.

24 MS. ZMROCZEK: Just very briefly.

25 RECROSS-EXAMINATION

1 BY MS. ZMROCZEK:

2 Q So when you're going in kind of blind, you have
3 very limited information; right?

4 A At times, yes, ma'am.

5 Q And then as the investigation develops, pictures
6 that you take can either corroborate or contradict?

7 A Correct.

8 Q What's being told?

9 A Correct.

10 Q So if someone had called 9-1-1, says they were
11 beaten and thrown around and you have these
12 pictures that shows fruit on the table, that could
13 corroborate what they said; right?

14 A I can just document what I see and that's basically
15 what we do.

16 Q Thank you.

17 THE COURT: Ms. Sampson?

18 MS. SAMPSON: Nothing, Your Honor.

19 THE COURT: Any objection to releasing this
20 witness?

21 MS. ZMROCZEK: None from the Defense.

22 MS. SAMPSON: None from the State, Your Honor.

23 THE COURT: Thank you, ma'am. You're excused.

24 THE WITNESS: Thank you, Your Honor.

25 (Witness steps down and is excused.)

1 MS. SAMPSON: Your Honor, we just need one
2 minute to confirm who's here.

3 THE COURT: Sure.

4 MR. PAULING: Thank you, Your Honor. At this
5 time, the State would call Rick DeVors.

6 (Witness approaches.)

7 THE CLERK: Place your left hand on the Bible,
8 and raise your right hand, please.

9 (Witness complies.)

10 THE CLERK: Do you solemnly swear or affirm
11 the testimony you give in this case will be the
12 truth, the whole truth, and nothing but the truth,
13 so help you God?

14 THE WITNESS: I do.

15 THE CLERK: Thank you. State your full name
16 for the record, please.

17 (Witness seated.)

18 THE WITNESS: Richard C. DeVors.

19 RICHARD C. DEVORS,
20 after being duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. PAULING:

23 Q Dr. DeVors, how are you, sir?

24 A Good. How are you?

25 Q Doing well. Is it Investigator?

1 A Agent.

2 Q Agent DeVors. Agent DeVors, where are you employed
3 at this time?

4 A South Carolina Department of Corrections Division
5 of Police Services.

6 Q And what do you do there at the -- you said you're
7 an agent. What do you do there at the Department
8 of Corrections?

9 A You could call us investigators. We investigate
10 all the crimes that occur in or to the South
11 Carolina Department of Corrections.

12 Q And are you, I guess, assigned to one particular
13 facility or you just investigate --

14 A We're regional agents.

15 Q Regional agents?

16 A I have seven correctional facilities that I'm
17 responsible for.

18 Q Okay. And your region -- what is your region,
19 Midlands region, or how --

20 A Midlands.

21 Q The Midlands region. And how long have you been
22 with the Department of Corrections?

23 A About a year and a half now.

24 Q About a year and a half?

25 A Yes.

1 Q And prior to being with the Department of
2 Corrections, where were you employed?

3 A Kershaw County Sheriff's Office.

4 Q And if you could just tell the jury, what is your
5 educational background?

6 A I have a lot of diplomas. Good afternoon, by the
7 way. I have a diploma in forensic science. I have
8 a diploma in questioned documents. I also have
9 diploma in theology. I'm trained through the South
10 Carolina Criminal Justice Academy. And I'm also an
11 instructor for the Criminal Justice Academy in
12 several disciplines, including firearms.

13 Q And when did you begin your employment with the
14 Kershaw County Sheriff's Office?

15 A 2011.

16 Q 2011?

17 A Shortly after the sheriff was elected. New.
18 Current sheriff.

19 Q Sheriff Matthews?

20 A Yes.

21 Q Now, were you employed with any other law
22 enforcement agency prior to leaving the sheriff's
23 office?

24 A Yes.

25 Q And where was that?

1 A I was with the Elgin Police Department prior to
2 coming to Kershaw County. I was an investigator
3 for them. And before that, I was with the South
4 Carolina Department of Health and Environmental
5 Control as an investigator as well.

6 Q DHEC?

7 A DHEC, yes. Do you want me to keep going? There
8 was a couple more. I've been doing this a long
9 time.

10 Q How long have you been in law enforcement?

11 A Thirty-three years.

12 Q Thirty-three years. With the Sheriff's Office,
13 Kershaw County Sheriff's Office starting in 2011,
14 in what capacity did you begin your employment
15 there? Were you an investigator right off?

16 A No, I worked as a patrol deputy and then I went
17 into investigations.

18 Q And as far as investigations are concerned with the
19 Sheriff's Office, was there -- or at least when you
20 began investigations, how many investigators were
21 in that unit?

22 A I think there were six or seven of us at the time
23 in investigations.

24 Q All right. And did you -- were you assigned to
25 particular cases, or how did cases get assigned?

1 A We were assigned by areas. Basically, you were
2 assigned either the Camden area or the West Wateree
3 area. Camden would, of course, encompass the upper
4 part of the county, including Bethune, Mt. Pisgah,
5 Cassett, those areas.

6 Q Now, again, back to September of 2014, were you
7 assigned to a particular region at that time?

8 A I was.

9 Q Okay. What region was that?

10 A I was assigned to West Wateree, which would be
11 Lugoff-Elgin.

12 Q Lugoff-Elgin area?

13 A Yes.

14 Q And specifically September 11th, 2014, did you
15 become involved in a homicide investigation?

16 A I did.

17 Q And do you recall how that began? Did you respond
18 to a call at that particular time? How did you
19 become involved with that particular investigation?

20 A Well, at that particular time, I was actually
21 living in Camden. I was in the Camden area when
22 that particular call come out. I had not made it
23 to the office that morning. A call came out to
24 respond to a shooting and I was close, so I felt
25 that I should respond.

1 Q Yes, sir. Yes, sir. And did you respond to ■■■
2 Baynard Boykin Road?

3 A I did.

4 Q That's in Rembert?

5 A It is.

6 Q But in Kershaw County?

7 A It is in Kershaw County.

8 Q And when you responded to that particular location,
9 were you with any other law enforcement officer or
10 any other investigator or did you --

11 A I was in a vehicle by myself.

12 Q Okay.

13 A There was quite a parade of vehicles coming that
14 way, though, so I followed some other vehicles into
15 the scene.

16 Q And when you arrived, there was other law
17 enforcement already there before you?

18 A Yes.

19 Q And once you got there, though, was your role kind
20 of set out right then, did you know what you were
21 going to be tasked to do? How does that work once
22 you are on the scene?

23 A I was probably the second, third maybe, person on
24 the scene. Like I said, there was quite a
25 convergence of deputies and investigators at that