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1	Photograph	308	309
2 to 20	Photos of Crime Scene	340	341
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22	Bag Containing Evidence	355	359
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1	Statement from Lisa Hooper	324	--

Exhibits retained by Clerk of Court

1 (The hearing resumed at 9:38 a.m.)

2 THE COURT: Thank you. All right, good morning,
3 everyone.

4 MR. JOSEPH: Good morning, Your Honor.

5 MR. NEWMAN: Good morning.

6 THE COURT: Is everyone ready to move forward?

7 MR. NEWMAN: Yes, sir.

8 MR. JOSEPH: Yes, sir.

9 THE COURT: All right. If you could please ask
10 that the jurors come in, I'd appreciate it.

11 THE BAILIFF: You want the ones that were up here
12 back up here, or you want them all in here first?

13 THE COURT: Yes. The ones that are in the box,
14 they can go ahead and step in the jury box, and everybody
15 else comes in at the same time. Thank you.

16 THE BAILIFF: Yes.

17 THE COURT: And I think where we left off, we had
18 just called into the jury box Ms. Brenna Herman, seat number
19 seven. I don't think she had an opportunity to introduce
20 herself yet; is that correct?

21 MR. NEWMAN: No. I had that she had.

22 MR. JOSEPH: She did.

23 MR. NEWMAN: She was a nurse.

24 THE COURT: Okay. All right.

25 (The potential jury and jury pool entered the

1 courtroom at 9:40 a.m.)

2 THE COURT: All right. Thank you all, and good
3 morning, everyone. We're ready to go forward. When we left
4 off, juror number seven had just been seated. And whenever
5 the State's ready, please proceed.

6 MR. NEWMAN: Thank you, Your Honor. Good morning,
7 Ms. Herman. Can you hear me okay?

8 POTENTIAL JUROR HERMAN (7): I can.

9 MR. NEWMAN: Okay, great. So, do you recall all
10 of the questions that I asked yesterday?

11 POTENTIAL JUROR HERMAN (7): Yes.

12 MR. NEWMAN: Okay. I'm just going to go through
13 those with you briefly. Were there any issues with the
14 timeline of this case, with the expected duration of this
15 case?

16 POTENTIAL JUROR HERMAN (7): (Shaking head
17 negatively.)

18 MR. NEWMAN: Have you ever served on a jury
19 before?

20 POTENTIAL JUROR HERMAN (7): I haven't.

21 MR. NEWMAN: All right. Have you ever served as a
22 witness on a case before?

23 POTENTIAL JUROR HERMAN (7): No.

24 MR. NEWMAN: Okay. Do you have any friends or
25 family members who are in law enforcement?

1 POTENTIAL JUROR HERMAN (7): No.

2 MR. NEWMAN: Have you ever had a particularly
3 positive or a particularly negative experience with law
4 enforcement?

5 POTENTIAL JUROR HERMAN (7): No.

6 MR. NEWMAN: You said that you don't recognize any
7 of the parties here today?

8 POTENTIAL JUROR HERMAN (7): I do not.

9 MR. NEWMAN: Do you know anyone who's an attorney?

10 POTENTIAL JUROR HERMAN (7): No.

11 MR. NEWMAN: Okay. Do you know anyone else in the
12 jury pool?

13 POTENTIAL JUROR HERMAN (7): No.

14 MR. NEWMAN: Do you recall listening to all the
15 names that were on the State's witness list yesterday?

16 POTENTIAL JUROR HERMAN (7): Yes.

17 MR. NEWMAN: Did you recognize any names?

18 POTENTIAL JUROR HERMAN (7): No.

19 MR. NEWMAN: Okay. Do you have any such strong
20 feelings about the use or sale of drugs to the point that it
21 might affect your ability to be fair and impartial in this
22 trial?

23 POTENTIAL JUROR HERMAN (7): No.

24 MR. NEWMAN: Have you ever struggled with an
25 addiction yourself?

1 POTENTIAL JUROR HERMAN (7): No, I haven't.

2 MR. NEWMAN: And do you have any friends or family
3 members who have ever sought treatment for a problem with
4 alcohol or drugs? I know you mentioned yesterday your
5 father had received some treatment for alcoholism; that was
6 how many years ago?

7 POTENTIAL JUROR HERMAN (7): That would be 35, 40
8 years ago.

9 MR. NEWMAN: Okay. Anything about that
10 experience, about witnessing him or seeing him with an
11 addiction to alcohol, that would affect your ability in this
12 trial --

13 POTENTIAL JUROR HERMAN (7): No.

14 MR. NEWMAN: -- to be a fair and impartial juror?
15 And anyone else, any other family members, that have
16 struggled with an addiction like that?

17 POTENTIAL JUROR HERMAN (7): No.

18 MR. NEWMAN: Do you feel that a hundred percent of
19 the blame of an overdose death falls on the user of that
20 drug?

21 POTENTIAL JUROR HERMAN (7): No.

22 MR. NEWMAN: Do you feel that no blame whatsoever
23 falls on the drug dealer or the seller?

24 POTENTIAL JUROR HERMAN (7): No.

25 MR. NEWMAN: Okay. Do you strongly disagree with

1 the law that we discussed yesterday about a drug dealer
2 selling drugs and the user of that drug then dying, that the
3 dealer can be held responsible for the death by
4 distribution, do you so strongly disagree with that law to
5 the point that you would be unable to --

6 POTENTIAL JUROR HERMAN (7): No.

7 MR. NEWMAN: -- be fair and impartial?

8 POTENTIAL JUROR HERMAN (7): No, I don't disagree.

9 MR. NEWMAN: Okay. You understand that the State
10 does not have to prove that the Defendant intended to kill
11 the victim in this case?

12 POTENTIAL JUROR HERMAN (7): Yes.

13 MR. NEWMAN: Okay. Do you believe that in order
14 for a dealer to be guilty of death by distribution that they
15 must personally deliver the drugs to the victim?

16 POTENTIAL JUROR HERMAN (7): No.

17 MR. NEWMAN: Okay. Based on everything that we've
18 discussed so far, is there any reason whatsoever that you
19 feel like it would be difficult for you to sit and listen to
20 evidence in this case?

21 POTENTIAL JUROR HERMAN (7): No.

22 MR. NEWMAN: You heard me talk about beyond a
23 reasonable doubt yesterday?

24 POTENTIAL JUROR HERMAN (7): Yes.

25 MR. NEWMAN: Okay. Did you have any issues with

1 that standard, any questions, any problems with that
2 standard?

3 POTENTIAL JUROR HERMAN (7): I don't.

4 MR. NEWMAN: Do you understand it's not beyond all
5 doubt?

6 POTENTIAL JUROR HERMAN (7): Right.

7 MR. NEWMAN: You understand it's not beyond a
8 shadow of a doubt, it's beyond a reasonable doubt. And so
9 do you commit to holding the State to its burden, its
10 responsibility, of proving the Defendant's guilt beyond a
11 reasonable doubt, nothing more and nothing less?

12 POTENTIAL JUROR HERMAN (7): Yes.

13 MR. NEWMAN: Thank you. Did you hear me yesterday
14 talk about direct evidence and circumstantial evidence?

15 POTENTIAL JUROR HERMAN (7): Yes.

16 MR. NEWMAN: So you heard me describe what the
17 distinctions are between the two of them?

18 POTENTIAL JUROR HERMAN (7): Right.

19 MR. NEWMAN: You understand that the law gives no
20 -- there is no distinguishing between the weight that you
21 put on circumstantial evidence versus direct evidence?

22 POTENTIAL JUROR HERMAN (7): Yes.

23 MR. NEWMAN: Okay. Do you have any issues
24 whatsoever that you think you would be unable or it would
25 make you uncomfortable making a decision about the

1 Defendant's guilt just based solely on the testimony of
2 witnesses?

3 POTENTIAL JUROR HERMAN (7): No.

4 MR. NEWMAN: So you wouldn't require the State to
5 prove -- or excuse me, you wouldn't require the State to
6 show you a video of anything in order for you to -- okay.

7 POTENTIAL JUROR HERMAN (7): (Shaking head
8 negatively.)

9 MR. NEWMAN: Okay. Is there anything, any issues
10 that you think -- well, probably because you were -- you
11 were or are a nurse?

12 POTENTIAL JUROR HERMAN (7): I am.

13 MR. NEWMAN: You are. Do you still work as a
14 nurse, then?

15 POTENTIAL JUROR HERMAN (7): I do.

16 MR. NEWMAN: Okay. So you may see some pretty
17 disturbing photographs. I suspect it's probably not much
18 different than what you have seen in your field. What kind
19 of nursing field are you in?

20 POTENTIAL JUROR HERMAN (7): I work in an
21 outpatient surgery center.

22 MR. NEWMAN: Okay. All right. So is there
23 anything about seeing those photographs that would make it
24 difficult for you in this trial?

25 POTENTIAL JUROR HERMAN (7): No.

1 MR. NEWMAN: Okay. Is there any issues that you
2 have about making a determination of the Defendant's guilt
3 but not also having a say in his sentence if he is, in fact,
4 convicted?

5 POTENTIAL JUROR HERMAN (7): No.

6 MR. NEWMAN: Sort of flew through that. But is
7 there anything at all, this is your last and final
8 opportunity to tell me if there's any reason at all why you
9 think this trial may not be the trial for you?

10 POTENTIAL JUROR HERMAN (7): No.

11 MR. NEWMAN: State's satisfied. Thank you.

12 THE COURT: Thank you. Yes, sir.

13 MR. JOSEPH: Good morning, Ms. Herman.

14 POTENTIAL JUROR HERMAN (7): Good morning.

15 MR. JOSEPH: Now, how long have you been a nurse?

16 POTENTIAL JUROR HERMAN (7): Let's see, about 40
17 years.

18 MR. JOSEPH: Okay. And so you said that you're at
19 an outpatient surgery center?

20 POTENTIAL JUROR HERMAN (7): Um-hum.

21 MR. JOSEPH: And how long have you been there?

22 POTENTIAL JUROR HERMAN (7): 28 years.

23 MR. JOSEPH: And where did you work prior to that?

24 POTENTIAL JUROR HERMAN (7): Before that I worked
25 at Presbyterian.

1 MR. JOSEPH: Okay. In the same, doing the same
2 type of --

3 POTENTIAL JUROR HERMAN (7): No. At Presbyterian
4 I worked in obstetrics. And now, this is outpatient
5 surgery. And for the last three years I've actually worked
6 in the preoperative call section, which we call patients and
7 get their health histories and collect their medical records
8 from other facilities and doctors to make sure that they are
9 candidates for outpatient surgery.

10 Prior to these past three years, I worked in the
11 preoperative area getting patients ready for surgery and
12 also in the recovery room.

13 MR. JOSEPH: Okay. And have you ever come in
14 contact with seeing any drugs of any type?

15 POTENTIAL JUROR HERMAN (7): Yes.

16 MR. JOSEPH: Okay. Have you dealt with anybody
17 that's been under the influence of drugs in your job?

18 POTENTIAL JUROR HERMAN (7): Illegally, no.

19 MR. JOSEPH: Yes. Okay. Now, you heard
20 yesterday, we talked about the State having the burden of
21 proof?

22 POTENTIAL JUROR HERMAN (7): Right.

23 MR. JOSEPH: And that we, Mr. McCrorey, he has
24 that presumption of innocence that stays with him until and
25 unless the State is able to prove their case beyond a

1 reasonable doubt. Do you have any issues with that?

2 POTENTIAL JUROR HERMAN (7): No, I don't.

3 MR. JOSEPH: And, now, Mr. Newman mentioned, you
4 know, mentioned several things to you about this case and
5 whether or not you feel like it's always on the user, that's
6 100 percent to blame whether or not, you know, a sale, a
7 person directly has to make a sale if it's a third party, or
8 you know, whether you agree with the death by distribution
9 statute, all those things. Do you understand that those are
10 things that the State has to prove; do you understand that?

11 POTENTIAL JUROR HERMAN (7): I do.

12 MR. JOSEPH: What he says at this table is just
13 their theory or their opinion. But what matters in this
14 case is what's said at that -- is what the witnesses testify
15 to; you understand that?

16 POTENTIAL JUROR HERMAN (7): I understand.

17 MR. JOSEPH: And you believe that you will be able
18 to hold the State to their burden?

19 POTENTIAL JUROR HERMAN (7): Yes.

20 MR. JOSEPH: And I talked about yesterday several
21 times about the actual definition of proof beyond a
22 reasonable doubt is proof that fully satisfies or entirely
23 convinces you of guilt. Do you have any issue with that
24 standard?

25 POTENTIAL JUROR HERMAN (7): I don't.

1 MR. JOSEPH: And you feel like you'd be able to
2 hold the State to that and require they prove each and
3 every, all four elements, beyond a reasonable doubt meaning
4 that you would be fully satisfied, entirely convinced of
5 guilt as to each element?

6 POTENTIAL JUROR HERMAN (7): Yes.

7 MR. JOSEPH: And if they don't do that, do you
8 have any issues returning a verdict of not guilty?

9 POTENTIAL JUROR HERMAN (7): No.

10 MR. JOSEPH: I mentioned yesterday as well about
11 the decedent, Michelle Hooper, mother testifying and her
12 being emotional. Do you believe you will be able to set
13 aside your emotions or sympathy and be able to be fair and
14 impartial in this case?

15 POTENTIAL JUROR HERMAN (7): Yes, I can.

16 MR. JOSEPH: And I also mentioned that as
17 defendant in this case having a presumption of innocence.
18 We don't have to put up evidence, he doesn't have to
19 testify. Do you feel as though you have to hear testimony
20 from Mr. McCrorey in order to make a decision in this case?

21 POTENTIAL JUROR HERMAN (7): No.

22 MR. JOSEPH: What about police officers'
23 testimony, do you feel as though you would tend to believe a
24 police officer just because they're police officers?

25 POTENTIAL JUROR HERMAN (7): No.

1 MR. JOSEPH: Do you feel like you would be able to
2 weigh their testimony with any other evidence that's
3 presented in this case?

4 POTENTIAL JUROR HERMAN (7): Yes.

5 MR. JOSEPH: And you understand that as a juror in
6 this case, you are to do what you can to reach a verdict,
7 but you shouldn't compromise your belief as to whether the
8 State has proven their case just to appease your fellow
9 jury; do you understand that?

10 POTENTIAL JUROR HERMAN (7): I do.

11 MR. JOSEPH: And I also mentioned that proof
12 beyond a reasonable doubt is not based on any type of
13 speculation or filling in the blanks for the State, you
14 know, as I talked about it being something that being proof
15 that fully satisfies and entirely convinces of you guilt.

16 I also mentioned that reasonable doubt can arise
17 out of some of the evidence, all of the evidence, or a lack
18 or insufficiency of the evidence; do you understand that?

19 POTENTIAL JUROR HERMAN (7): I do.

20 MR. JOSEPH: And Mr. Newman mentioned about, well,
21 would you require that I have a video, require that I have,
22 you know, other types of evidence. But you understand not
23 having those things can go to reasonable doubt, it can go to
24 a lack of evidence or insufficiency of evidence; do you
25 understand that?

1 POTENTIAL JUROR HERMAN (7): I do.

2 MR. JOSEPH: And do you have any issues with that?

3 POTENTIAL JUROR HERMAN (7): No, I don't.

4 MR. JOSEPH: May I have a moment, Your Honor?

5 THE COURT: Yes, sir.

6 (Pause in proceedings.)

7 MR. JOSEPH: Your Honor, we're satisfied.

8 THE COURT: Thank you. All right. We need to
9 pick two alternates. So if we would call up one at a time,
10 if you'll please call up one alternate.

11 THE CLERK: Paula Harris.

12 THE COURT: All right. Ms. Harris, thank you.
13 Yes, ma'am. Those seats, I believe, roll, so please be
14 careful with them.

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): Okay,
16 thank you.

17 THE COURT: Ma'am, welcome.

18 POTENTIAL ALTERNATE JUROR HARRIS (A1): Thank you.

19 THE COURT: Let us know your name and provide the
20 same basic background information the other folks have
21 given.

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): Okay. My
23 name is Paula Harris. I'm married, I have four kids. I'm a
24 nurse practitioner, and my husband does executive security.
25 I have one daughter in college, one who just graduated, she

1 works for a law firm downtown, and two twins in high school.
2 I live in Davidson.

3 THE COURT: Okay, great. Thank you. And, ma'am,
4 have you been able to hear the questions that have been
5 asked so far?

6 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

7 THE COURT: All right. Do any of them apply to
8 you?

9 POTENTIAL ALTERNATE JUROR HARRIS (A1): I don't
10 think that they will affect me.

11 THE COURT: Yes, ma'am.

12 POTENTIAL ALTERNATE JUROR HARRIS (A1): You know,
13 I've lost a parent who was overmedicated in a hospital.

14 THE COURT: I'm sorry, ma'am. Ma'am, do you think
15 that you would be able to make a decision based on the
16 evidence presented in the courtroom and the law that I gave
17 you and not let some outside information substantially
18 impair your ability to be fair and impartial?

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

20 THE COURT: Yes?

21 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

22 THE COURT: All right. Do you happen to know any
23 of the folks that we've identified as participating in the
24 case, either at either of these tables or any of the folks
25 that have been identified?

1 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

2 THE COURT: All right. So I take it the subject
3 matter, although is a difficult one, you think you would be
4 able to -- that wouldn't make you uncomfortable sitting on
5 this jury?

6 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

7 THE COURT: All right. Do you know of any reason
8 whatsoever, schedule or any other reason, why it would be
9 difficult for you to be a fair and impartial juror?

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well, I'm
11 serving in a capacity where the clinic is short staffed. So
12 it's a hardship for me to go into next week.

13 THE COURT: All right.

14 POTENTIAL ALTERNATE JUROR HARRIS (A1): It's kind
15 of a hardship for me to be here, but...

16 THE COURT: Yes, ma'am. And I certainly respect
17 that. And we think that the case can get resolved this
18 week. There's a possibility it would go over. If it would
19 go over, would that -- would you be so preoccupied by that
20 that it would affect your ability to be fair and impartial
21 in the case?

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

23 THE COURT: No. All right, thank you. All right.
24 We'll follow the same -- well, let me mention one other
25 thing. So you've been called in as an alternate.

1 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

2 THE COURT: So the role of an alternate is you
3 would sit with all the other jurors and listen to all of the
4 evidence and take breaks at the same time they do. And at
5 the end of the case I'm going to ask jurors one through
6 twelve if there is any reason why they can't continue on due
7 to illness or some reason. And if they are able to
8 continue, then they would go back in the room and
9 deliberate. And so it's possible that you wouldn't get an
10 opportunity to make the decision in the case.

11 But during the course of the trial someone may for
12 some reason have to leave, and so you essentially would
13 stand in their shoes. And even when jurors go back to
14 deliberate, during the course of their deliberation if one
15 of them becomes sick or can't continue, then an alternate
16 could be pulled in and the jury would start all over.

17 So even though it's not certain you'll be part of
18 the decision making process, you may well be. So anything
19 about that would be challenging for you?

20 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

21 THE COURT: All right. Thank you. All right.
22 Yes, sir.

23 MR. NEWMAN: Thank you, Your Honor. And I'll just
24 piggyback on what Judge McGee said. The best analogy that I
25 heard about an alternate juror is being invited to the ball

1 but not being invited to dance. So you may be here
2 listening to all the evidence throughout trial, and then
3 jurors one through twelve are fine, they are healthy, they
4 can -- there's no issues, they can deliberate, and then, you
5 know, you won't have an opportunity to participate in
6 deliberations.

7 Do you have any issues with that, any concerns
8 with that, any frustrations with that?

9 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

10 MR. NEWMAN: Okay, all right. Thank you. You
11 said that you are a family nurse practitioner?

12 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

13 MR. NEWMAN: What kind of practice are you or
14 field are you in?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): Family
16 medicine.

17 MR. NEWMAN: Okay. And you mentioned a clinic;
18 are you at a private clinic or...

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Atrium.

20 MR. NEWMAN: Okay. So you see patients, just
21 anything from a head cold, which I think I'm suffering from,
22 to everything?

23 POTENTIAL ALTERNATE JUROR HARRIS (A1):
24 Everything.

25 MR. NEWMAN: Okay, all right.

1 POTENTIAL ALTERNATE JUROR HARRIS (A1): Four days
2 and up.

3 MR. NEWMAN: Okay.

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): Four-day
5 young.

6 MR. NEWMAN: Oh, wow, okay. All right. Well, how
7 long have you been doing that?

8 POTENTIAL ALTERNATE JUROR HARRIS (A1): So with
9 Atrium, I've been with Atrium for a year. I've been
10 certified since 2019.

11 MR. NEWMAN: Okay, all right. And you said that
12 your husband is in executive security?

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.
14 And he's in another state which I will be moving to. I just
15 ended my contract with Atrium, and I'm working PRN for them.
16 So he's, yeah, corporate security.

17 MR. NEWMAN: So we snagged you right before you
18 left the jurisdiction for jury duty.

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

20 MR. NEWMAN: Does your husband have any law
21 enforcement experience?

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): No. His
23 father was a detective.

24 MR. NEWMAN: Okay.

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): But he

1 passed away before I got to know him.

2 MR. NEWMAN: Okay, all right. And you said your
3 daughter works for a law firm in downtown?

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): She does.

5 MR. NEWMAN: Are you talking about downtown
6 Charlotte?

7 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

8 MR. NEWMAN: Okay. Is she an attorney?

9 POTENTIAL ALTERNATE JUROR HARRIS (A1): She's
10 planning to go to law school next year.

11 MR. NEWMAN: Okay. All right.

12 POTENTIAL ALTERNATE JUROR HARRIS (A1): She's
13 assisting, and she's in intellectual property.

14 MR. NEWMAN: Okay. All right. So you also said
15 that you had a parent die from overmedication in a hospital
16 or during a hospital stay?

17 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

18 MR. NEWMAN: Can you explain that a little more.

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well, he
20 was going for chemotherapy and did pre lab work the day of.
21 He was anemic so he went over to the hospital for a blood
22 transfusion. And he was -- he had bladder cancer, so he'd
23 had surgery two months prior. And he had a lot of pain. He
24 wasn't really medicating that much.

25 But in the hospital they were trying to get to the

1 source of it. And eventually they put him on a PCA pump
2 with morphine. And then it didn't have like continuous
3 oxygen saturation, so he wasn't being monitored. And he
4 went to sleep and didn't wake up.

5 MR. NEWMAN: Okay. Had your father ever struggled
6 with any type of addiction prior to that?

7 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

8 MR. NEWMAN: Okay. All right. Well, I'm sorry to
9 hear that, and thank you for sharing that with me. I think
10 His Honor asked you, does anything about that experience,
11 would that affect your ability to sit and listen to the
12 evidence in this case?

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

14 MR. NEWMAN: Okay.

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): I will say
16 that I don't think it would affect me, but I have
17 administered Fentanyl to people as a nurse. But, you
18 know...

19 MR. NEWMAN: So you're familiar with Fentanyl?

20 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

21 MR. NEWMAN: All right. And you're familiar with
22 the legal administration of Fentanyl?

23 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

24 MR. NEWMAN: And the appropriate dosage of
25 Fentanyl?

1 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

2 MR. NEWMAN: And please excuse my ignorance here,
3 are family nurse practitioners authorized to prescribe
4 Fentanyl?

5 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well, I
6 haven't prescribed it. I do have a DEA license.

7 MR. NEWMAN: Okay.

8 POTENTIAL ALTERNATE JUROR HARRIS (A1): That was
9 in my capacity as a cardiac nurse.

10 MR. NEWMAN: I see.

11 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah.

12 MR. NEWMAN: Okay. All right.

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): I do
14 prescribe other drugs.

15 MR. NEWMAN: All right. Okay.

16 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah.

17 MR. NEWMAN: So I think during the course of this
18 trial you're going to hear from a forensic toxicologist as
19 well as a forensic pathologist. Anything about -- because
20 you have some specialized knowledge in the administration of
21 the lawful distribution of narcotics such as Fentanyl, would
22 there be anything about that testimony that you would think,
23 you know, that -- anything about hearing that testimony that
24 would affect your ability to be fair and impartial?

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

1 MR. NEWMAN: All right. Thank you for sharing
2 that. Have you ever served on a jury before?

3 POTENTIAL ALTERNATE JUROR HARRIS (A1): I've been
4 a witness --

5 MR. NEWMAN: Okay.

6 POTENTIAL ALTERNATE JUROR HARRIS (A1): -- but not
7 in this capacity.

8 MR. NEWMAN: All right. What kind of case were
9 you a witness in?

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): It was a
11 civil suit, actually a child custody case.

12 MR. NEWMAN: Okay.

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): And I was
14 a character witness.

15 MR. NEWMAN: For one of the parties?

16 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

17 MR. NEWMAN: So did you actually testify in that
18 matter?

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah,
20 about her character as a parent.

21 MR. NEWMAN: Okay. And anything about that
22 experience of having testified previously, do you have any
23 preconceived notions, for example, of how witnesses should
24 behave or should come across on the stand?

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

1 MR. NEWMAN: Okay, all right. Thank you. Do you
2 have any friends or family members who are in law
3 enforcement?

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): Not that I
5 really know up close and personal.

6 MR. NEWMAN: Okay. All right. Just people that
7 you know who are in law enforcement, but you don't really
8 talk to them about their job?

9 POTENTIAL ALTERNATE JUROR HARRIS (A1): Right.

10 MR. NEWMAN: Okay. Have you ever had a
11 particularly positive or a particularly negative experience
12 with law enforcement?

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

14 MR. NEWMAN: Okay. Do you know any attorneys?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): My cousin.

16 MR. NEWMAN: What type of lawyer?

17 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well, she
18 was an assistant district attorney for the State of
19 Maryland.

20 MR. NEWMAN: Okay.

21 POTENTIAL ALTERNATE JUROR HARRIS (A1): But she
22 left that job, and she is a partner in a civil rights law
23 firm.

24 MR. NEWMAN: Okay. Did you know her when she was
25 a prosecutor?

1 POTENTIAL ALTERNATE JUROR HARRIS (A1): No. I --
2 well, yeah, I knew her.

3 MR. NEWMAN: Well, right, yes.

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): But
5 because she was in Maryland, so we didn't really connect.
6 We'd see each other at family reunions and...

7 MR. NEWMAN: Okay.

8 POTENTIAL ALTERNATE JUROR HARRIS (A1): Now she
9 lives closer, but I'm still not -- we're very busy so we're
10 not connecting like we have in the past.

11 MR. NEWMAN: Sure. So did you ever talk to her
12 about her job as a prosecutor?

13 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well, my
14 daughter wants to go to law school so -- and her daughter is
15 a lawyer, but I'm not sure where she's practicing right now.

16 MR. NEWMAN: Okay.

17 POTENTIAL ALTERNATE JUROR HARRIS (A1): She just
18 graduated. But no, not in particular.

19 MR. NEWMAN: All right. Okay.

20 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah.

21 MR. NEWMAN: Anything about having a family member
22 who is an attorney, specifically that used to be a
23 prosecutor, that would, you know, affect your ability to sit
24 and listen to the case here?

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

1 MR. NEWMAN: No, okay. Basically what I'm driving
2 at is if you and your cousin have had a conversation with
3 how prosecutors should act, and I don't fit that bill for
4 some reason, would you hold that against me or anything like
5 that?

6 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

7 MR. NEWMAN: Okay, all right. You said and I
8 forgot to ask, what kind of law firm is your -- oh, you said
9 intellectual property.

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): She's at,
11 it's an international law firm, Alston and Bird. And she's
12 doing intellectual property.

13 MR. NEWMAN: You did mention that, yes, thank you.
14 Do you know anyone else in the jury pool?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

16 MR. NEWMAN: All right. Did you hear all the
17 names I listed on the witness list?

18 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

19 MR. NEWMAN: Do you recognize any of those names?

20 POTENTIAL ALTERNATE JUROR HARRIS (A1): No, nu-uh.

21 MR. NEWMAN: Okay. Do you have any such strong
22 feelings about the use or sale of drugs that it would make
23 it difficult for you to be fair and impartial?

24 POTENTIAL ALTERNATE JUROR HARRIS (A1): No, not
25 that I'm aware of.

1 MR. NEWMAN: All right. Have you yourself ever
2 struggled with an addiction of some sort?

3 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

4 MR. NEWMAN: Do you have any friends or family
5 members that have ever sought treatment for addiction to
6 drugs or alcohol?

7 POTENTIAL ALTERNATE JUROR HARRIS (A1): Not that
8 I'm aware of.

9 MR. NEWMAN: Okay, all right. Do you feel that a
10 hundred percent of the blame of an overdose death falls on
11 the user?

12 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

13 MR. NEWMAN: Do you feel that no blame whatsoever
14 falls on the drug dealer?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

16 MR. NEWMAN: Now, again, this is a context of a
17 death by distribution case where that is the allegation. So
18 you don't have any issues with that law, do you feel so
19 strongly or disagree with that law of holding a drug dealer
20 or seller accountable for someone's death?

21 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

22 MR. NEWMAN: Okay. Do you understand that intent
23 to kill is not an element that the State must prove; is that
24 right?

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

1 MR. NEWMAN: Do you believe that in order for a
2 dealer to be guilty of death by distribution that they must
3 personally deliver the drugs to the victim, that they must
4 actually physically put the drugs in their hands?

5 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

6 MR. NEWMAN: Okay. Did you hear me talk about
7 burden of proof yesterday and beyond a reasonable doubt?

8 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

9 MR. NEWMAN: Did my peanut butter and jelly
10 sandwich example make sense to you?

11 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

12 MR. NEWMAN: Okay. Do you understand that it's
13 beyond a reasonable doubt, not beyond all doubt, not beyond
14 a reasonable -- excuse me, not beyond a shadow of a doubt,
15 but it's just beyond a reasonable doubt; do you understand
16 that?

17 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

18 MR. NEWMAN: Okay. Do you agree to hold the State
19 to its burden of proving the Defendant's guilt beyond a
20 reasonable doubt?

21 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

22 MR. NEWMAN: Okay. You heard me talk about direct
23 and circumstantial evidence yesterday?

24 POTENTIAL ALTERNATE JUROR HARRIS (A1): I believe
25 so.

1 MR. NEWMAN: Okay. Do you want me to go over that
2 again?

3 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah, you
4 can.

5 MR. NEWMAN: So there are two types of evidence,
6 there's direct evidence and there's circumstantial evidence.
7 And the example I gave for direct evidence is someone who's
8 actually testifying to something that they saw or a fact
9 that they actually knew. Excuse me.

10 So direct evidence would be somewhat similar to
11 someone testifying that they were standing at a window and
12 watching it rain, right. That's direct evidence, they saw
13 it.

14 Circumstantial evidence is where you walk outside,
15 you see puddles on the sidewalk, you see your car covered in
16 water. Those little -- that group of facts that you're
17 seeing is all circumstantial proof that it has rained;
18 right?

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

20 MR. NEWMAN: So the law makes no distinction as to
21 the weight that you put on either direct or circumstantial
22 evidence. Circumstantial evidence does not need to be any
23 more strong than direct evidence; does that make sense?

24 POTENTIAL ALTERNATE JUROR HARRIS (A1): (Nodding
25 affirmatively.)

1 MR. NEWMAN: So my question to you is, do you have
2 any issues whatsoever hearing both direct and circumstantial
3 evidence and weighing them the exact same way?

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): I don't
5 have a problem with that.

6 MR. NEWMAN: Okay. Do you believe for a case --
7 and I'm not saying that this is one of them, but it may be,
8 I'm not sure -- do you believe a case that's based solely on
9 circumstantial evidence would always leave a reasonable
10 doubt in your mind as to the guilt of the Defendant?

11 POTENTIAL ALTERNATE JUROR HARRIS (A1): It may.
12 It may, but...

13 MR. NEWMAN: Okay. Would you -- sitting here now,
14 would you commit to listening to all of the evidence?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

16 MR. NEWMAN: And you would weigh that evidence --

17 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

18 MR. NEWMAN: -- as you saw fit?

19 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

20 MR. NEWMAN: And even if it was all circumstantial
21 evidence, you would consider all of that evidence?

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

23 MR. NEWMAN: Okay. And you would consider that
24 using the lens of being a fair and impartial juror?

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

1 MR. NEWMAN: Okay. All right. Do you have any
2 issues whatsoever making a decision on the Defendant's guilt
3 based solely on the testimony of witnesses?

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): I don't
5 think so.

6 MR. NEWMAN: Okay. But you probably --

7 POTENTIAL ALTERNATE JUROR HARRIS (A1): If I
8 believe the witness.

9 MR. NEWMAN: I'm sorry?

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): If I find
11 the witness believable.

12 MR. NEWMAN: Sure. And as a juror, you are the
13 sole judge.

14 POTENTIAL ALTERNATE JUROR HARRIS (A1): Um-hum.

15 MR. NEWMAN: You yourself decide whether you
16 believe all, some, or none of what that witness says. And
17 we had a conversation with some of our fellow jurors
18 yesterday about how you in your normal day-to-day life can
19 tell when someone is telling the truth.

20 The State -- no one is asking you to set aside
21 those things. We're asking you to use your basic common
22 sense and reason when you come in here. So whenever you
23 watch a witness testify from the stand, you get to decide
24 whether you believe them. That's basically what that means.

25 The other part of that question is, would you

1 require the State to show, for example, a video of an
2 alleged incident before you could find the Defendant guilty?

3 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

4 MR. NEWMAN: All right. So if you heard testimony
5 from a witness, and that witness tells you the facts as it
6 is known to that witness, and if you believe that witness,
7 if you find them to be credible, or if you believe just some
8 of what they say, would you have a problem making a decision
9 on the Defendant's guilt based solely on the testimony of
10 witnesses?

11 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

12 MR. NEWMAN: Okay. Do you feel comfortable with
13 that answer, do you feel okay?

14 POTENTIAL ALTERNATE JUROR HARRIS (A1): (Nodding
15 affirmatively.)

16 MR. NEWMAN: You have any questions or concerns
17 with that?

18 POTENTIAL ALTERNATE JUROR HARRIS (A1): (Shaking
19 head negatively).

20 MR. NEWMAN: All right. As I was mentioning with
21 Ms. Herman earlier this morning, we're going to have some
22 photographs that may be disturbing for some people. I
23 suspect having been a cardiac nurse as well as family nurse
24 practitioner that you are probably used to seeing some of
25 these things, but I just need to ask.

1 You understand that the State's required -- since
2 this is a death case, the State is required to admit
3 photographs that could be disturbing. Anything about that
4 that would affect your ability to be fair and impartial?

5 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

6 MR. NEWMAN: Okay. Do you have any reason that
7 you would have a problem making a determination about the
8 Defendant's guilt but not with the Defendant's sentence if
9 he's convicted?

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): I'm okay
11 with that.

12 MR. NEWMAN: Okay. Is there anything at all that
13 you think that I should know about whether you think this
14 may or may not be the right type of case for you?

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): No.

16 MR. NEWMAN: Okay. Nothing, all right. Are you
17 sure?

18 POTENTIAL ALTERNATE JUROR HARRIS (A1): Well,
19 like, I mean, I don't think it would be any different than
20 anybody else. I mean, it's a serious case.

21 MR. NEWMAN: You're right.

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah.

23 MR. NEWMAN: This is a serious case.

24 POTENTIAL ALTERNATE JUROR HARRIS (A1): Right. So
25 I don't take that lightly.

1 MR. NEWMAN: Right, exactly, right. No one is
2 taking -- no one in this room --

3 POTENTIAL ALTERNATE JUROR HARRIS (A1): Right.

4 MR. NEWMAN: -- is taking this case lightly.

5 POTENTIAL ALTERNATE JUROR HARRIS (A1): Right.

6 MR. NEWMAN: I think the evidence is going to show
7 that the Defendant sold drugs, and the evidence is going to
8 show that someone died from taking those drugs. And that is
9 a serious thing, that's a serious case.

10 So you're absolutely right, this is a serious and
11 important case. I guess, in other words, are you up for the
12 challenge of being a juror, albeit an alternate juror, for
13 this type of case?

14 POTENTIAL ALTERNATE JUROR HARRIS (A1): Right,
15 yes.

16 MR. NEWMAN: Okay. My last question is, and I
17 just -- I have no feelings on this whatsoever, I just note
18 that you're wearing a face mask. And the reason why I bring
19 that up is I just want to make sure that you feel
20 comfortable being in close proximity with your fellow
21 jurors.

22 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yes.

23 MR. NEWMAN: Okay, all right. Anything at all
24 that --

25 POTENTIAL ALTERNATE JUROR HARRIS (A1): I'm

1 usually in an N95 all day long. This is giving me some
2 breathing room.

3 MR. NEWMAN: I understand.

4 POTENTIAL ALTERNATE JUROR HARRIS (A1): 24/7.

5 MR. NEWMAN: And I believe if you wanted to wear
6 the N95, that would be perfectly fine. But I can -- I've
7 worn both, and I know exactly what you mean.

8 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah.

9 MR. NEWMAN: Anything else?

10 POTENTIAL ALTERNATE JUROR HARRIS (A1): I had
11 COVID three weeks ago, so I was out for a week already.
12 Yeah, so...

13 MR. NEWMAN: Well, I hope you're feeling better
14 now.

15 POTENTIAL ALTERNATE JUROR HARRIS (A1): Yeah I am.
16 I'm fine. I'm good.

17 MR. NEWMAN: May I have just a moment?

18 THE COURT: Yes, sir.

19 (Pause in proceedings.)

20 MR. NEWMAN: Your Honor, at this time we would
21 like to thank but excuse Ms. Harris.

22 THE COURT: Thank you, ma'am. I appreciate it.

23 (Potential juror excused.)

24 THE COURT: All right. Madam Clerk, if you'll
25 please call an additional juror.

1 THE CLERK: Jeremy, I'm just going to spell it,
2 A-M-I-S-T-A-D-I.

3 THE COURT: Hello, sir. Welcome.

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Good
5 morning.

6 THE COURT: Would you please provide the same
7 basic background information the other folks have given.

8 POTENTIAL ALTERNATE JUROR AMISTADI (A1): My name
9 is Jeremy Amistadi, I work for Piedmont Airlines. I'm a
10 customer supervision operations manager on the ramp. My
11 wife is a medical assistant for Ortho Carolina. I have one
12 one-year old son, just turned one. And I've been in
13 Charlotte for ten years.

14 THE COURT: Thank you. Did you hear me explain
15 what the role of an alternate is; is that okay with you?

16 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes,
17 sir, Your Honor.

18 THE COURT: All right. And do you happen to know
19 any of the folks participating in the case we've identified,
20 either at these tables or potential witnesses?

21 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No, Your
22 Honor.

23 THE COURT: Anything about the nature of this case
24 that makes it difficult for you to be a fair and impartial
25 juror?

1 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

2 THE COURT: Know of any reason whatsoever why that
3 would be a challenge for you?

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

5 THE COURT: Great. Thank you. Yes, sir.

6 MR. NEWMAN: Good morning. Can you pronounce your
7 last name for me again.

8 POTENTIAL ALTERNATE JUROR AMISTADI (A1):

9 Amistadi.

10 MR. NEWMAN: Amistadi, thank you. Do you have any
11 issues with the duration, the expected duration of this
12 case?

13 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

14 MR. NEWMAN: Okay. Did you say you live in
15 Concord?

16 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

17 MR. NEWMAN: Okay. How long have you lived in
18 Concord?

19 POTENTIAL ALTERNATE JUROR AMISTADI (A1): About
20 three years.

21 MR. NEWMAN: Okay, where did you live before that?

22 POTENTIAL ALTERNATE JUROR AMISTADI (A1):

23 Charlotte in University.

24 MR. NEWMAN: Okay. Do you have any prior jury
25 experience?

1 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

2 MR. NEWMAN: Have you ever served on a jury
3 before?

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

5 MR. NEWMAN: Have you ever served as a witness
6 before?

7 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

8 MR. NEWMAN: Have you ever been the victim of a
9 crime?

10 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

11 MR. NEWMAN: Do you have a friend or family member
12 who is in law enforcement?

13 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

14 MR. NEWMAN: Do you have any particularly positive
15 or particularly negative experiences with law enforcement?

16 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

17 MR. NEWMAN: Do you know anyone who's an attorney?

18 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

19 MR. NEWMAN: Did you know anybody else in the jury
20 pool here today?

21 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

22 MR. NEWMAN: Did you hear all the names I listed
23 on the witness list yesterday?

24 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

25 MR. NEWMAN: Did you recognize any of those names?

1 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

2 MR. NEWMAN: Okay. You heard me say that the
3 Defendant is charged with death by distribution. Do you
4 have any such strong feelings about the use or sale of drugs
5 to the point it might affect your ability to be fair and
6 impartial in this trial?

7 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

8 MR. NEWMAN: Have you ever struggled with an
9 addiction yourself?

10 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

11 MR. NEWMAN: Do you have any friends or family
12 members who have sought treatment for a problem with drugs
13 or alcohol?

14 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

15 MR. NEWMAN: Do you believe that a hundred percent
16 to blame of an overdose death falls to the user?

17 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

18 MR. NEWMAN: Do you believe that no blame
19 whatsoever falls on the drug dealer or seller?

20 POTENTIAL JUROR HERMAN (7): No.

21 MR. NEWMAN: Do you strongly disagree with the
22 death by distribution law that to the point that even if all
23 of the evidence that is presented during the trial supports
24 a conviction, that there is absolutely no way that you could
25 vote to convict a drug dealer of death by distribution?

1 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

2 MR. NEWMAN: Do you understand that intent is not
3 an element in this crime?

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

5 MR. NEWMAN: Do you believe that in order for the
6 dealer to be guilty of death by distribution that they must
7 personally deliver the drugs to the user?

8 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

9 MR. NEWMAN: You heard me talk about burden of
10 proof and beyond a reasonable doubt yesterday?

11 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

12 MR. NEWMAN: Do you have any issues with that?

13 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

14 MR. NEWMAN: Do you believe that the standard
15 should be higher such as beyond all doubt or beyond a
16 reasonable -- anything higher, beyond all doubt or beyond
17 the shadow of a doubt?

18 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

19 MR. NEWMAN: Do you agree to hold the State,
20 that's me, to its burden of proving the Defendant's guilt
21 beyond a reasonable doubt, nothing more and nothing less?

22 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

23 MR. NEWMAN: Do you remember me talking about
24 direct and circumstantial evidence?

25 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

1 MR. NEWMAN: Do you have any issues hearing both
2 direct and circumstantial evidence in the case?

3 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

4 MR. NEWMAN: Do you understand that you are the
5 sole judge of the credibility of any of the State's
6 witnesses?

7 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

8 MR. NEWMAN: Do you have any issues or
9 reservations about making a determination of the Defendant's
10 guilt based on solely the testimony of witnesses?

11 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Can you
12 say that again.

13 MR. NEWMAN: Sure. Do you have any reason
14 whatsoever that makes you feel unable or uncomfortable
15 making a decision about the Defendant's guilt based solely
16 on the testimony of witnesses?

17 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

18 MR. NEWMAN: Okay. So you wouldn't require a
19 video, for example, or a recording of some sort?

20 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Correct.

21 MR. NEWMAN: Anything about seeing some
22 potentially disturbing photographs that may make it
23 difficult for you to be fair and impartial?

24 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

25 MR. NEWMAN: Do you have any problem making a

1 determination about the Defendant's guilt or innocence
2 without also being in control of whatever sentence he may
3 receive if he's found guilty?

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

5 MR. NEWMAN: You do have a problem?

6 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No, I
7 mean, I don't have a problem with that.

8 MR. NEWMAN: Okay, all right. We sort of flew
9 through that. But is there anything at all that you think
10 that we should know about whether this is the right case for
11 you?

12 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

13 MR. NEWMAN: Thank you, sir. State's satisfied.

14 THE COURT: Thank you. Yes, sir.

15 MR. JOSEPH: Good morning, Mr. Amistadi.

16 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Good
17 morning.

18 MR. JOSEPH: What do you feel about Mr. McCrorey
19 having the presumption of innocence?

20 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Presumed
21 innocent until guilty.

22 MR. JOSEPH: And what about the State having the
23 burden of proof, how do you feel about that?

24 POTENTIAL ALTERNATE JUROR AMISTADI (A1): They
25 have to present the witnesses and testimony to prove the

1 guilt.

2 MR. JOSEPH: And you will hear from several police
3 officers in this case. Would you tend to give a police
4 officer testimony more weight just because they are a police
5 officer?

6 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

7 MR. JOSEPH: You would be able to weigh their
8 testimony with other evidence in this case?

9 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

10 MR. JOSEPH: Okay. And you'll hear from, you
11 know, several medical professionals as well as some other
12 witnesses. Do you understand as a juror in this case you
13 decide what weight you want to give their testimony?

14 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

15 MR. JOSEPH: And you decide if they are in fact
16 credible?

17 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

18 MR. JOSEPH: And the State has talked about direct
19 evidence versus circumstantial evidence. Again, you
20 understand as a juror you decide what weight, whether it's
21 direct or circumstantial, what weight you want to give that
22 testimony; do you understand that?

23 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

24 MR. JOSEPH: And that you can find even with
25 direct testimony that that person is not credible; do you

1 understand?

2 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

3 MR. JOSEPH: Any issues with that?

4 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

5 MR. JOSEPH: Do you feel like you would be able to
6 set aside any potential emotion or sympathy for the
7 decedent's mother, Ms. Hooper, that will testify in this
8 case?

9 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

10 MR. JOSEPH: And you would be able to be fair and
11 impartial?

12 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

13 MR. JOSEPH: And set aside your sympathy?

14 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

15 MR. JOSEPH: And you understand reasonable doubt
16 is proof that fully satisfies you, entirely convinces you,
17 of guilt?

18 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

19 MR. JOSEPH: And you have to be fully satisfied or
20 entirely convinced of guilt as to all four elements of this
21 case; do you understand that?

22 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

23 MR. JOSEPH: And you believe like you would be
24 able to hold the State to that burden?

25 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

1 MR. JOSEPH: Have you or any close member of your
2 family been a victim of a crime?

3 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

4 MR. JOSEPH: Have you ever been to court for any
5 reason?

6 POTENTIAL ALTERNATE JUROR AMISTADI (A1): For
7 speeding tickets.

8 MR. JOSEPH: Speeding tickets?

9 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yeah.

10 MR. JOSEPH: And anything about that affect your
11 ability to be impartial in this case?

12 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

13 MR. JOSEPH: Okay. And you said your wife is a
14 medical assistant for?

15 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Ortho
16 Carolina.

17 MR. JOSEPH: Ortho, okay. And how long has she
18 been employed at Ortho Carolina?

19 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Maybe
20 six months she's been with Ortho Carolina. She's been a
21 medical assistant for about seven or eight years.

22 MR. JOSEPH: Okay. And how long have you been
23 with Piedmont Airlines?

24 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Four
25 years.

1 MR. JOSEPH: Four years. And what about before
2 that?

3 POTENTIAL ALTERNATE JUROR AMISTADI (A1): I worked
4 in -- I was managing a restaurant.

5 MR. JOSEPH: Okay. How long did you manage a
6 restaurant?

7 POTENTIAL ALTERNATE JUROR AMISTADI (A1): The last
8 restaurant was about a year.

9 MR. JOSEPH: How many employees did you supervise?

10 POTENTIAL ALTERNATE JUROR AMISTADI (A1): 15,
11 maybe.

12 MR. JOSEPH: Okay. And you don't know anybody,
13 any family member close to you that's ever been affected by
14 drugs or alcohol?

15 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

16 MR. JOSEPH: Okay. Did you ever witness anybody
17 that's under the influence of drugs?

18 POTENTIAL ALTERNATE JUROR AMISTADI (A1): When I
19 was younger, you know, a teenager.

20 MR. JOSEPH: Okay.

21 POTENTIAL ALTERNATE JUROR AMISTADI (A1): You
22 know, 20, 25 years ago.

23 MR. JOSEPH: Have you observed illegal drugs?

24 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yeah.

25 MR. JOSEPH: And you understand if you find

1 reasonable doubt as to some or all of the evidence or
2 there's a lack or insufficiency of the evidence, it's your
3 duty as a juror to return a verdict of not guilty; do you
4 understand?

5 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yeah.

6 MR. JOSEPH: And do you have any problems with
7 that?

8 POTENTIAL ALTERNATE JUROR AMISTADI (A1): No.

9 MR. JOSEPH: And so, overall you feel like you
10 would be able to listen to all of the evidence in this case
11 and keep an open mind?

12 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

13 MR. JOSEPH: And that you would hold the State to
14 their burden?

15 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yeah.

16 MR. JOSEPH: And require they prove each and every
17 element beyond a reasonable doubt?

18 POTENTIAL ALTERNATE JUROR AMISTADI (A1): Yes.

19 MR. JOSEPH: If I may have a moment, Your Honor?

20 THE COURT: Yes, sir.

21 (Pause in proceedings.)

22 MR. JOSEPH: Your Honor, satisfied.

23 THE COURT: Thank you. Please call one additional
24 potential juror.

25 THE CLERK: Amelia Swarez-Trejo.

1 THE COURT: Hello, ma'am. Welcome.

2 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): Hi.

3 THE COURT: Ma'am, that chair moves and you're
4 right on the edge, so please be careful there.

5 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
6 Yeah.

7 THE COURT: Would you please provide the same
8 basic background information the other folks have given.

9 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): My
10 name is Alma Suarez-Trejo. I'm not married, I have no kids.
11 I live with my parents. And I'm going to college next year.

12 THE COURT: Okay. Thank you. And so you're being
13 considered as a second alternate. So for you to participate
14 in the decision making, we'd have to have two folks from the
15 group in front of you not be able to participate for you to
16 go back and deliberate. So it's possible you could
17 participate in the whole trial but not get to be part of the
18 decision-making process.

19 The other side of it is you may well be in the
20 back helping make the decision. So anything about that
21 would be difficult for you?

22 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): No.

23 THE COURT: Okay. Do you happen to know any of
24 the folks participating in the case, anybody that's been
25 identified?

1 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): No,
2 sir.

3 THE COURT: Do you know of any reason whatsoever
4 it would be difficult for you to be a fair and impartial
5 juror?

6 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): Yes.

7 THE COURT: All right.

8 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): I
9 just have a strong belief that drug abuse is a choice.

10 THE COURT: Okay.

11 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): So I
12 don't think I can be fair in this trial.

13 THE COURT: All right. Let me say about that.
14 Folks have asked folks' opinions about various things but --

15 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
16 Yeah.

17 THE COURT: But really what we're interested in is
18 folks that can decide -- work with your fellow jurors to
19 decide what the facts are, and then when you decide what the
20 facts are to apply the law that I will give you. And so,
21 sometimes folks like the laws or don't like the laws, but
22 that's not really the focus of it.

23 The focus is can you follow the instructions of
24 the court. Can you apply the law?

25 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): I

1 can, yes.

2 THE COURT: Okay. You think you can be fair in
3 doing that? In other words, do you think your personal
4 views about drug use, do you think that would affect your
5 ability, substantially impair your ability, to be a fair and
6 impartial juror?

7 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): I
8 think so. I really don't think I can be fair in this trial.

9 THE COURT: Okay.

10 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
11 Yeah.

12 THE COURT: Well, and I'm not trying to talk you
13 out of that. I want you to tell me how you honestly feel.

14 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
15 Yeah.

16 THE COURT: But I just want to make sure that you
17 understand what we're asking of jurors.

18 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
19 Yeah.

20 THE COURT: And that is that we're asking the
21 jurors to set aside their personal feelings, listen to the
22 evidence, and then apply the law whether you like it or not.

23 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
24 Yeah, I understand.

25 THE COURT: And so you think that your own

1 personal views would make it difficult for you to do that;
2 is that what you're saying?

3 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): Yes.

4 THE COURT: All right. So you think that would
5 substantially impair your ability to be a fair and impartial
6 juror?

7 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):

8 Yeah.

9 THE COURT: Okay, all right. Does anyone have any
10 questions of her?

11 MR. NEWMAN: No, Your Honor.

12 MR. JOSEPH: Just briefly, Ms. Suarez-Trejo, is
13 this belief that you have, is this from experience with
14 people that's close to you?

15 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):

16 Yeah. I have a cousin that abuses drugs, and I don't think
17 it's the dealer's fault. I think it's his fault.

18 MR. JOSEPH: And this is still going on?

19 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): I'm
20 not sure. I don't have contact with him anymore.

21 MR. JOSEPH: Okay. But this is -- this belief is
22 from your cousin?

23 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2): No.

24 It's from years. I just -- I've seen kids in high school
25 and like my friends abuse drugs all the time. And, I mean,

1 they just -- they ruin their lives with that. I feel like a
2 drug is a drug no matter if the victim here thought it was
3 something else. I don't mean to offend anybody in here.

4 MR. JOSEPH: No, no. I just wanted to understand
5 more of where you are coming from.

6 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
7 Yeah. No, it's just a belief that I grew up with, you know,
8 drugs are bad, don't try them.

9 MR. JOSEPH: Sure.

10 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
11 Yeah.

12 MR. JOSEPH: Thank you. I don't have anything
13 further.

14 THE COURT: Any objection to excusing her for
15 cause?

16 MR. NEWMAN: No, Your Honor.

17 THE COURT: All right. Ma'am, thank you very
18 much.

19 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
20 Thank you, Your Honor.

21 THE COURT: I hope you have a nice day.

22 POTENTIAL ALTERNATE JUROR SUAREZ-TREJO (A2):
23 Thank you, you too.

24 (Potential juror excused.)

25 THE COURT: All right. Please call forward an

1 additional potential juror.

2 THE CLERK: James Caldwell, Jr.

3 THE COURT: Hello, Mr. Caldwell, and welcome.

4 POTENTIAL ALTERNATE JUROR CALDWELL (A2): How are
5 you?

6 THE COURT: I'm fine, thank you. Sir, would you
7 please provide the same basic background information the
8 other folks did.

9 POTENTIAL ALTERNATE JUROR CALDWELL (A2): Sure.
10 My name is James Caldwell, Jr., married. I have two
11 stepchildren with her. I have actually five of my own. I
12 work for a chemical company. I drive 18-wheelers, I been
13 doing that for about 23 years. Oh. My wife, she's a fraud
14 analyst for US Bank. I have two sisters. Pretty much my
15 entire -- the women in my family are all nurses.

16 Along with my job, I do deliver like hazardous
17 chemicals. So a lot of this stuff with the Fentanyl and all
18 that stuff, I really don't know much about Fentanyl. I
19 guess I'm just green to a lot of stuff like that. So a lot
20 of stuff that goes into possibly the production or making of
21 that stuff, my job does probably, you know, a lot of
22 ingredients that come with that. And that's pretty much it.

23 THE COURT: Thank you. Were you able to hear the
24 questions that were asked?

25 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I have.

1 THE COURT: Do you happen to know any of the folks
2 that are participating in the case, anybody that's at either
3 of these tables or any of the witnesses that have been
4 identified?

5 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I do
6 not.

7 THE COURT: Anything about the nature of the
8 allegations that would make it difficult for you to be fair
9 and impartial in this case?

10 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No, sir.

11 THE COURT: Anything about the schedule that we
12 talked about make it difficult for you?

13 POTENTIAL ALTERNATE JUROR CALDWELL (A2): The only
14 issue that I would have, I did have someone hit my car in
15 front of my house. And I know this Monday is actually when
16 I'm supposed to drop my car off at like 9:45 in the morning.
17 So that would be the only thing.

18 THE COURT: Okay, all right. Do you know of any
19 reason whatsoever that would make it difficult for you to be
20 fair and impartial in the case?

21 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No, sir.

22 THE COURT: All right. Thank you, yes, sir.

23 MR. NEWMAN: Thank you. So, Mr. Caldwell, I
24 couldn't help but notice when you were walking up to the box
25 you were sort of shaking your head. Are you sort of not

1 interested in what we're doing here?

2 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No, it's
3 not that I'm not interested in doing it. It's just this
4 requires a lot of patience. And from just sitting in here,
5 it's not particularly -- I don't think anybody wants to be,
6 you know, on a jury.

7 MR. NEWMAN: Sure. Well, so, would those feelings
8 that you have, would that sort of make it difficult for you
9 to sit and listen to all of the evidence in the case because
10 this case won't move very quickly?

11 So if you're saying that you may have some
12 feelings of being impatient, I don't want those feelings to
13 be -- and they are legitimate feelings, I completely
14 understand -- but I just don't want that to feel like, you
15 know, you think you can't -- you're having a difficult time
16 listening to the evidence because you're feeling like we're
17 not moving at a pace that you would like.

18 POTENTIAL ALTERNATE JUROR CALDWELL (A2): All I
19 know, I'm being chosen for something like this. I know
20 regardless of me being patient or impatient, it's something
21 that I have to do. So if that's something that I have to
22 do, I know what I have to do.

23 MR. NEWMAN: Well, I think the Court would tell
24 you that jury service is certainly one of the duties of
25 citizenship. And so I understand that a lot of people have

1 a lot of different feelings about jury service. And, again,
2 we're trying to pick a jury of individuals who are willing
3 to sit and listen to all of the evidence and be able to
4 weigh that evidence and make a determination as to whether
5 the State has met its burden and basically fulfilled its
6 responsibility of proving the Defendant's guilt beyond a
7 reasonable doubt.

8 Do you think you're willing and able to do that?

9 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I can.

10 MR. NEWMAN: Okay, all right. Thank you, sir.

11 Have you ever served on a jury before?

12 POTENTIAL ALTERNATE JUROR CALDWELL (A2): Yes.

13 MR. NEWMAN: Was that a criminal or a civil jury?

14 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I guess
15 it could be considered criminal. It was a shooting.

16 MR. NEWMAN: Okay. So did you listen to all of
17 the evidence in that case?

18 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I did.

19 MR. NEWMAN: And were you an alternate juror, or
20 were you one of the first 12?

21 POTENTIAL ALTERNATE JUROR CALDWELL (A2): First
22 12.

23 MR. NEWMAN: Was that here in Cabarrus County?

24 POTENTIAL ALTERNATE JUROR CALDWELL (A2): Iredell.

25 MR. NEWMAN: Okay. And about how long ago was

1 that?

2 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I'm 53
3 now. I would assume it was like when I was in my twenties.

4 MR. NEWMAN: So it's been a little bit?

5 POTENTIAL ALTERNATE JUROR CALDWELL (A2): Yes.

6 MR. NEWMAN: Anything about that experience that
7 was -- that sticks out in your mind that makes you think
8 that you just don't want to do this again?

9 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No, not
10 anything like that. I kind of felt like it was a
11 responsibility. And although my demeanor as far as walking
12 up here, I did feel like I did play an important role in
13 deciding on whether or not somebody was innocent or guilty.

14 MR. NEWMAN: And you're able to do that again in
15 this case?

16 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I could.

17 MR. NEWMAN: Okay. All right. Do you have any
18 such strong feelings about the use or sale of drugs to the
19 point where it may affect your ability to be fair and
20 impartial?

21 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No.

22 MR. NEWMAN: Have you yourself ever struggled with
23 an addiction to drugs?

24 POTENTIAL ALTERNATE JUROR CALDWELL (A2): No.

25 MR. NEWMAN: Have you had a close friend or family

1 member that sought treatment for a problem with alcohol or
2 drugs?

3 POTENTIAL ALTERNATE JUROR CALDWELL (A2): Yes.

4 MR. NEWMAN: Who was that person?

5 POTENTIAL ALTERNATE JUROR CALDWELL (A2): I have a
6 niece who's currently right now dealing with an addiction of
7 crack. She's been in rehab maybe twice. And each time
8 she's gone through that process, she's come out and she has
9 made the choice to continue doing it.

10 I've had -- I have two relatives right now also
11 who were on crack. And the unfortunate mishap of that is
12 that they chose to still continue to do it and be users.
13 And their health wise, health wise reasons, they've lost
14 limbs, having had to have things amputated because of that
15 type of life.

16 And that's -- it's not exactly something that --
17 you know, I love my family members, of course, but there's
18 only but so much, you know, as a family member that I can do
19 as well as my entire family. That's just my understanding.

20 MR. NEWMAN: Okay. Thank you for sharing that
21 with me. Anything about dealing with those experiences that
22 would make it difficult for you to sit and listen to
23 evidence, the evidence in this case, where someone -- you
24 know, the evidence may show someone was addicted to drugs
25 and then used the drugs and passed away from that. Anything

1 about the personal experience that would affect your ability
2 to listen to that evidence?

3 POTENTIAL ALTERNATE JUROR CALDWELL (A2):

4 Definitely not.

5 MR. NEWMAN: All right. May I have a moment?

6 THE COURT: Yes, sir.

7 (Pause in proceedings.)

8 MR. NEWMAN: Thank you, sir. Your Honor, the
9 State would like to thank but excuse Mr. Caldwell.

10 THE COURT: All right. Thank you very much,
11 Mr. Caldwell. You have a nice day. Thank you.

12 (Potential juror excused.)

13 THE COURT: All right. If you would please call
14 an additional juror.

15 THE CLERK: Romelo House.

16 THE COURT: Hello, Mr. House.

17 POTENTIAL ALTERNATE JUROR HOUSE (A2): Good
18 morning.

19 THE COURT: Sir, would you please provide the same
20 background information the other folks have given.

21 POTENTIAL ALTERNATE JUROR HOUSE (A2): Yes. I'm
22 28 years old. I have a young child, one baby, his name is
23 Hayes. I work at Sennebogen, it's located in Stanly, North
24 Carolina. And I have a girlfriend. That's pretty much it.
25 She does insurance, she works for Fisher-Greene Insurance.

1 THE COURT: Thank you. And did you say where
2 generally you live in the county?

3 POTENTIAL ALTERNATE JUROR HOUSE (A2): Concord.

4 THE COURT: Concord, all right.

5 POTENTIAL ALTERNATE JUROR HOUSE (A2): Yes, sir.

6 THE COURT: Do you happen to know any of the folks
7 participating in the case?

8 POTENTIAL ALTERNATE JUROR HOUSE (A2): No, sir.

9 THE COURT: You don't know any potential
10 witnesses?

11 POTENTIAL ALTERNATE JUROR HOUSE (A2): No, sir.

12 THE COURT: I take it you don't know anything
13 about this case at all?

14 POTENTIAL ALTERNATE JUROR HOUSE (A2): No, sir.

15 THE COURT: Anything about the nature of the case
16 that would make it difficult for you?

17 POTENTIAL ALTERNATE JUROR HOUSE (A2): Yes, sir.

18 THE COURT: All right. What would that be? I'm
19 sorry, I don't want to make you uncomfortable.

20 POTENTIAL ALTERNATE JUROR HOUSE (A2): It's fine.
21 My grandfather and uncle this year have both passed away
22 from Fentanyl overdoses. So I do not feel like in this case
23 I would be a potential candidate that could serve in a fair
24 way, that I could just look at the evidence. Me sitting
25 here right now, just being honest with everybody in this

1 courtroom, it would bring me to an emotional place that
2 would impair my judgment.

3 THE COURT: All right. I'm sorry for your loss,
4 and I appreciate you letting us know that. Let me ask, does
5 anyone have any questions for Mr. House?

6 MR. NEWMAN: No, Your Honor.

7 MR. JOSEPH: No, Your Honor.

8 THE COURT: Any objection to being released for
9 cause?

10 MR. NEWMAN: No.

11 THE COURT: Sir, I'm sorry for your loss. I'm
12 going to release you. You are free to go. Thank you very
13 much.

14 POTENTIAL ALTERNATE JUROR HOUSE (A2): Thank you.

15 THE COURT: Yes, sir. Thank you.

16 (Potential juror excused.)

17 THE CLERK: Christy Eagle.

18 THE COURT: Hello, ma'am.

19 POTENTIAL ALTERNATE JUROR EAGLE (A2): Hello.
20 Thank you.

21 THE COURT: Thank you, and welcome.

22 POTENTIAL ALTERNATE JUROR EAGLE (A2): Thank you.

23 THE COURT: Please be careful with that chair
24 there. I'm sorry about that.

25 POTENTIAL ALTERNATE JUROR EAGLE (A2): He's

1 holding on to it for me.

2 THE COURT: Thank you, sir. Ma'am, would you
3 please provide the same basic background information the
4 other folks did.

5 POTENTIAL ALTERNATE JUROR EAGLE (A2): Christie
6 Eagle. I live in Concord with my husband. I work for a
7 rebate company for contractors and builders. My husband is
8 on disability, he was diagnosed with stage four colon
9 cancer.

10 We have -- I have a son and a stepson, both are in
11 their thirties. One works for a, I guess, like a
12 subcontractor to run cable for telephones and stuff. And my
13 son works, he is a department manager for Lowe's.

14 THE COURT: Thank you, ma'am.

15 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

16 THE COURT: Were you able to hear the questions
17 that were asked?

18 POTENTIAL ALTERNATE JUROR EAGLE (A2): Yes, sir.

19 THE COURT: Anything about, let me ask first, do
20 you happen to know any of the folks participating in the
21 case, any of the potential witnesses?

22 POTENTIAL ALTERNATE JUROR EAGLE (A2): No, sir.

23 THE COURT: Do you happen to know anything about
24 this case?

25 POTENTIAL ALTERNATE JUROR EAGLE (A2): No, sir.

1 THE COURT: Anything about the nature of this case
2 would make it difficult for you to be fair and impartial?

3 POTENTIAL ALTERNATE JUROR EAGLE (A2): No, sir.

4 THE COURT: Anything about the duration of the
5 case?

6 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

7 THE COURT: Did you hear me explain the role of an
8 alternate?

9 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

10 THE COURT: Is all of that okay with you?

11 POTENTIAL ALTERNATE JUROR EAGLE (A2): Yes, that's
12 fine.

13 THE COURT: And you've heard the questions that
14 they were asked?

15 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

16 THE COURT: Is there any specific responses to the
17 questions that they may have asked?

18 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

19 THE COURT: Okay. All right, thank you. Yes,
20 sir.

21 MR. NEWMAN: Thank you, Your Honor. Ma'am, have
22 you ever been a victim of a crime?

23 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

24 MR. NEWMAN: Do you have any friends or family
25 members who are in law enforcement?

1 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

2 MR. NEWMAN: Ever had a particularly positive or a
3 particularly negative experience with law enforcement?

4 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

5 MR. NEWMAN: Do you know anyone else in the jury
6 pool?

7 POTENTIAL ALTERNATE JUROR EAGLE (A2): No, I
8 don't.

9 MR. NEWMAN: Do you have any such strong feelings
10 about the use or sale of drugs to the point where it may
11 affect your ability to be fair and impartial in this case?

12 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

13 MR. NEWMAN: Have you yourself ever struggled with
14 an addiction?

15 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

16 MR. NEWMAN: Do you have any friends or family
17 members who have sought treatment for alcoholism or drug
18 abuse?

19 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

20 MR. NEWMAN: Do you believe that a hundred percent
21 of the blame of an overdose death falls on the user of that
22 drug?

23 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

24 MR. NEWMAN: Do you believe that no blame
25 whatsoever falls on the drug dealer or seller?

1 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

2 MR. NEWMAN: Do you have any such strong
3 disagreements with the law of death by distribution that
4 even if the evidence that's presented in trial would support
5 a conviction, that there's just absolutely no way you could
6 convict a drug dealer of that?

7 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

8 MR. NEWMAN: Do you understand that intent to kill
9 is not an element of the crime?

10 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

11 MR. NEWMAN: Do you believe that in order for a
12 dealer to be guilty of death by distribution, he must
13 personally deliver the drugs to the victim?

14 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

15 MR. NEWMAN: You heard me talk about beyond a
16 reasonable doubt?

17 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

18 MR. NEWMAN: Do you have any issues with that?

19 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

20 MR. NEWMAN: Do you think that standard should be
21 any higher than that, beyond all doubt or beyond the shadow
22 of a doubt?

23 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

24 MR. NEWMAN: You heard me talk about direct and
25 circumstantial evidence?

1 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

2 MR. NEWMAN: Do you have any problems hearing
3 both?

4 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

5 MR. NEWMAN: Do you have any issues with the
6 notion that circumstantial evidence does not have to be any
7 stronger than direct evidence?

8 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

9 MR. NEWMAN: Do you have any issues making a
10 determination about the Defendant's guilt based solely on
11 the testimony of witnesses?

12 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

13 MR. NEWMAN: Okay. You wouldn't require a video
14 or recording of anything in order to find the Defendant
15 guilty?

16 POTENTIAL ALTERNATE JUROR EAGLE (A2): (Shaking
17 head negatively).

18 MR. NEWMAN: Okay. Do you have any issues seeing
19 some potentially disturbing photographs?

20 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

21 MR. NEWMAN: Do you have any issues making a
22 determination about the Defendant's guilt but not about any
23 sentence he may receive if he's convicted?

24 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

25 MR. NEWMAN: State's satisfied.

1 THE COURT: Thank you. Yes, sir.

2 MR. JOSEPH: Good morning, Ms. Eagle. Can you
3 tell me about your job.

4 POTENTIAL ALTERNATE JUROR EAGLE (A2): I work from
5 home, so I could be there for my husband when he was taking
6 chemo. What builders and contractors, they give us like a
7 list of products they use when they build their homes, and
8 we get -- I get with the actual, you know, the vendor, and
9 we get rebates for them using their certain products.

10 MR. JOSEPH: Oh, okay. And how long have you been
11 doing that?

12 POTENTIAL ALTERNATE JUROR EAGLE (A2): Almost two
13 years.

14 MR. JOSEPH: Two years, okay. And your husband,
15 when he worked what did he do?

16 POTENTIAL ALTERNATE JUROR EAGLE (A2): He worked
17 in the building industry. He worked for a lumber yard.

18 MR. JOSEPH: Okay. Anybody, close friends or
19 family members, that's been a victim of a crime?

20 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

21 MR. JOSEPH: Okay. Have you been to court for any
22 reason?

23 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

24 MR. JOSEPH: Okay. Ever served on a jury?

25 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

1 MR. JOSEPH: Okay. And ever deal with any law
2 enforcement at all, any negative experiences, positive
3 experiences?

4 POTENTIAL ALTERNATE JUROR EAGLE (A2): Nu-uh.

5 MR. JOSEPH: Okay. Do you have any friends or
6 family members that's in law enforcement?

7 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

8 MR. JOSEPH: Okay.

9 POTENTIAL ALTERNATE JUROR EAGLE (A2): I do
10 have -- well, I've considered -- I've got a nephew that is a
11 guard for Augusta County which is in Virginia. He's just a
12 guard for like a county jail. But that's it.

13 MR. JOSEPH: Okay. And how do you feel about us,
14 the Defense, having the presumption of innocence?

15 POTENTIAL ALTERNATE JUROR EAGLE (A2): I think
16 you -- you know, unless you can prove to me that someone has
17 done it, then I think you have to give them the doubt that
18 they are innocent. And I think that's -- I would want them
19 to do me the same way if I'd done something, so I have to
20 look at it that way.

21 MR. JOSEPH: And do you feel as though you'd have
22 to hear testimony from Mr. McCrorey to make a decision in
23 this case?

24 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

25 MR. JOSEPH: Okay. And you understand the State

1 has the burden. They must prove, as I've said over and over
2 about this, this offense that he's been charged with that
3 has four elements. And they must prove all four, not one
4 out of four, two out of four, three out of four, all four.

5 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

6 MR. JOSEPH: Do you have any issues with that?

7 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

8 MR. JOSEPH: And I'll mention again, proof beyond
9 a reasonable doubt is proof that fully satisfies or entirely
10 convinces you of guilt; do you understand that?

11 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

12 MR. JOSEPH: And that you can have reasonable
13 doubt as to some or all of the evidence or a lack or
14 insufficiency of the evidence; do you understand that?

15 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

16 MR. JOSEPH: And any issues at all with that?

17 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

18 MR. JOSEPH: So if the State is unable to meet
19 their burden, do you have any issues returning a verdict of
20 not guilty?

21 POTENTIAL ALTERNATE JUROR EAGLE (A2): No.

22 MR. JOSEPH: Would you be able to set aside any
23 sympathy or emotion that you may have for the mother of the
24 decedent who will testify in this case?

25 POTENTIAL ALTERNATE JUROR EAGLE (A2): Yes.

1 MR. JOSEPH: And would you tend to give a police
2 officer's testimony any more weight than anybody else just
3 because they're a police officer?

4 POTENTIAL ALTERNATE JUROR EAGLE (A2): No, sir.

5 MR. JOSEPH: And you understand as a juror, you
6 decide yourself what weight you want to give to any
7 testimony from any witness?

8 POTENTIAL ALTERNATE JUROR EAGLE (A2): Um-hum.

9 MR. JOSEPH: We're satisfied, Your Honor.

10 THE COURT: Thank you. Counsel, would you
11 approach, please.

12 (Bench conference.)

13 THE COURT: All right. Ladies and gentlemen, you
14 have been selected for this jury. I'm going to ask that you
15 all take a break in just a moment. And when you come back,
16 you'll be empaneled. I'll give you some further
17 instructions. You'll hear the opening statements of
18 counsel, and then we'll begin presenting -- they'll begin
19 presenting evidence in the case.

20 I'd ask that you not talk with anyone about the
21 case, not talk about the case among yourselves, not do any
22 independent investigation, not have any contact with any
23 participants, follow all of the instructions that I've given
24 you. What I would ask is that you take a 15-minute break.
25 And then at 11:10 if you all could meet in the jury assembly

1 room over here, you'll be brought into the courtroom shortly
2 after that, and we'll begin with the case.

3 Look forward to working with you all. Thank you
4 very much and enjoy your break. Thank you. I ask that
5 everyone else remain seated.

6 (The potential jury left the courtroom at
7 10:55 a.m.)

8 THE COURT: All right. To those of you who are
9 members of the jury pool who have not been selected for this
10 case, I want to sincerely thank you for your willingness to
11 participate. Without folks coming to participate, we simply
12 can't do the work that we need to do. This will constitute
13 your service for the next two years. If you happen to get
14 called, if you'll just call up to remind us that you were
15 here this week, you'll be excused.

16 You are welcome to stay, but you certainly are
17 free to leave. Our clerk, Mr. Bill Baggs, in the back has
18 notes. If anyone needs notices for work, he can provide
19 those to you. But you do not need to return the rest of the
20 week. This completes your service. I hope you all have a
21 nice day. Thank you.

22 (The jury pool left the courtroom at 10:56 a.m.)

23 THE COURT: All right. We had a brief bench
24 conference. I indicated I was going to empanel the jury
25 when they came back, and we were going to take our break. I

1 would like to say that our jury box holds 14 people. Two of
2 the chairs, I believe, are moveable chairs. And that works
3 fine.

4 Sometimes we have the chairs out in front, the
5 alternate chairs, to give them a little more room. I
6 noticed that the lady on the end has a cane. There's a step
7 up and there's a roller, so I want to make sure that she
8 feels comfortable. If you all don't have any objection,
9 what I would ask is if the bailiff would ask if the
10 alternates are comfortable where they are or if they would
11 prefer that their chairs be moved in front of the jury box.
12 Does anybody have any objection to that?

13 MR. NEWMAN: No, Your Honor.

14 MR. JOSEPH: No.

15 THE COURT: All right. And if so, if we could
16 move those there. If not, we'll just leave them where they
17 are. If you just let them know, it's entirely up to them
18 whichever their preference is. If they want to try and
19 change their mind somewhere along the way, we can adjust.

20 It's important -- we have a jury that not been
21 empaneled, we have a jury selected -- that folks continue to
22 follow the rules about not talking about the case in the
23 public spaces of the courthouse.

24 And is there anything anybody else wants to
25 address before we take a 15-minute break?

1 MR. NEWMAN: No, Your Honor.

2 MR. JOSEPH: No.

3 THE COURT: All right, very well. Thank you.

4 Court will be in recess for 15 minutes. Thank you.

5 THE BAILIFF: Court's in recess for 15 minutes.

6 (A recess was taken at 10:59 a.m.)

7 THE COURT: All right. Is everyone ready for the
8 jury?

9 MR. NEWMAN: Yes, Your Honor.

10 THE COURT: All right. Thank you very much.

11 Please ask the jurors to come in.

12 (The jury entered the courtroom at 11:20 a.m.)

13 THE COURT: For the record, the jury has returned
14 to the courtroom. Thank you all very much. We are ready to
15 proceed. Madam Clerk, if you'll please empanel the jury, I
16 would appreciate that.

17 (Twelve jurors and 2 alternates were selected.

18 All 14 jurors were empaneled.)

19 THE COURT: Thank you all. Thank you, ma'am.

20 Ladies and gentlemen, you have been selected and empaneled
21 to serve as jurors in the case of the State of North
22 Carolina versus Ronald McCrorey. At this time I will
23 explain to you the manner in which we will proceed as we
24 attempt together to find the truth in this case.

25 First, the attorneys will have the opportunity to

1 make opening statements. The purpose of an opening
2 statement is narrow and limited. It is an outline of what
3 the attorney believes the competent and admissible evidence
4 will be. An opening statement is not evidence and must not
5 be considered by you as evidence. Evidence will come in the
6 form of testimony of witnesses, admissions of the parties,
7 stipulations of counsel, or any physical exhibits that may
8 be offered by the parties.

9 Following opening statements, evidence will be
10 offered. Witnesses will be placed under oath and questioned
11 by attorneys. It may be that documents and other tangible
12 exhibits will be offered and received as evidence. If an
13 exhibit is given to you to examine, you should examine it
14 carefully, individually, and without comment.

15 It is the right of the attorneys to object when
16 testimony or other evidence is offered that the attorney
17 believes is not admissible. When the Court sustains an
18 objection to a question, the jurors must disregard the
19 question and the answer if one has been given, and draw no
20 inference from the question or answer or speculate as to
21 what the witness would have said if permitted to answer.

22 When the Court overrules an objection to any
23 evidence, you must not give such evidence any more weight
24 than if the objection had not been made. If the Court
25 grants a motion to strike all or part of the answer of a

1 witness to a question, you must disregard and not consider
2 the evidence that's been stricken.

3 During the course of the trial, it may be that
4 questions of law will arise that need to be considered by
5 the Court out of the presence of the jury. When that
6 happens, I may ask that you go the jury room for a few
7 minutes. You should not worry or speculate about what takes
8 place in the courtroom during your absence. We will merely
9 be considering questions of law that have to be heard out of
10 the presence of the jury.

11 All of the competent evidence in the case will be
12 presented while you're present in the courtroom. As I've
13 already done a few times, there will be times where I'll ask
14 the lawyers to approach the bench or they will ask to
15 approach the bench, and we'll have a meeting up here.

16 I'll be addressing the same sort of things that I
17 ordinarily would ask that you go to the jury room for. I do
18 that simply to save you all the inconvenience of having to
19 go back and forth quite as much. So please don't worry or
20 speculate about what we're talking about up here. All of
21 the admissible evidence will be presented while you're in
22 the courtroom and within your hearing.

23 When the evidence is completed, the attorneys will
24 make their final statements or arguments. The final
25 arguments of the attorneys are not evidence but are given to

1 assist you in evaluating the evidence. Your duty is to
2 decide the facts from the evidence. You and you alone are
3 the judges of the facts.

4 It is important that you be fair and attentive
5 during the trial. You will see and hear the evidence and
6 decide the facts. You will then apply the law that I will
7 give you to those facts. To be an effective juror, you must
8 not be influenced to any degree by personal feelings,
9 sympathy for, or prejudice against any of the parties
10 involved in the case.

11 The fact that a criminal charge has been filed
12 against the Defendant is not evidence. The Defendant is
13 innocent of any crime unless and until the State proves the
14 Defendant's guilt beyond a reasonable doubt.

15 Finally, before you retire to consider your
16 verdict, you must obey the following rules. First, you must
17 not talk about the case among yourselves. The only place
18 this case may be discussed is in the jury room, and then
19 only after you begin your deliberations, and again, that
20 will be at the end of the case.

21 Second, you must not talk about this case with
22 anyone else, including members of your families, or allow
23 anyone else to talk with you or say anything in your
24 presence about this case. If anyone communicates or
25 attempts to communicate with you or in your presence about

1 the case, you should notify the bailiff of that fact
2 immediately.

3 Also, I want to emphasize that in addition to not
4 speaking face to face with anyone about the case, you should
5 not engage in any form of electronic communication about the
6 trial, including Twitter, blogging, Facebook, or any other
7 electronic communications. When the case is over, you'll be
8 free to post whatever you would like on the internet. But
9 I'd ask that you not do that at this point.

10 Third, while you are a juror in this case, you're
11 not to form an opinion about the guilt or innocence of the
12 Defendant, nor are you to express to anyone any opinion
13 about the case until I ask you to begin your deliberations
14 at the end of the case.

15 Fourth, you must not talk or communicate in any
16 way with any of the parties, attorneys, or witnesses
17 involved in the case. This rule applies inside as well as
18 outside the courtroom and prohibits any type of
19 conversation, whether it is about the evidence in the case
20 or simply about the weather.

21 Fifth, you must not read or listen to any news
22 media coverage about the case or trial, including
23 television, newspaper, radio, or internet accounts. These
24 accounts may be inaccurate and they may contain references
25 to matters that are not proper for your consideration. Your

1 verdict must be based solely on the evidence presented
2 during this trial and no other source.

3 Sixth, you must not visit the scene or place
4 that's the subject matter of that trial or make any
5 independent investigation about the case. You may not
6 conduct any research, including internet research, to look
7 for information regarding the case. Each of you must obey
8 these rules to the letter. Unless you do so, there's no way
9 that the parties can be assured absolute fairness and
10 impartiality.

11 It is your duty while the trial is in progress or
12 while it is in recess or while you're in the jury room to
13 see that you remain a fair and impartial trier of the facts.
14 If you violate these rules, you violate an order of the
15 Court, and this is contempt of court and could subject you
16 to punishment as provided by law.

17 Also, Mr. Bailiff, I'm sorry, I should have asked
18 this before, but if you have notepads and pens, if you could
19 please provide those to the jurors. If you'll please take
20 one and pass one down. Pass them down.

21 All right. Each of you should have a clean
22 notepad without writing in it. In my discretion you'll be
23 allowed to take notes during the case. But you don't have
24 to. That's entirely up to you whether you wish to take
25 notes. When you begin your deliberations at the end of the

1 case, you may use your notes to help refresh your memory as
2 to what was said in court.

3 I caution you, however, not to give your notes or
4 the notes of any other jurors undue significance. While
5 taking notes a juror may fail to hear important portions of
6 the testimony. Any notes taken by you are not to be
7 considered evidence in the case. Your notes, of course, are
8 not an official transcript of the trial.

9 For that reason, you must remember that in your
10 jury deliberations notes are not entitled to any greater
11 weight than the individual recollections of other jurors.
12 If you take notes, you may disclose them only to your fellow
13 jurors during your deliberations at the end of the case.
14 You're not to show them to anyone else.

15 While I will permit in my discretion you to take
16 notes, I instruct you to listen intently at all times to the
17 testimony. And you'll need to leave your notepads in the
18 courtroom when we take breaks and at the end of the day.
19 They'll be there for you when you get back. It's only at
20 the end of the case that you may take them out of the
21 courtroom back to jury room to use them as I've previously
22 instructed.

23 I've talked with you all about the breaks that we
24 will have, and that's generally the schedule I'm going to
25 follow. But if for some reason somebody needs to take a

1 break at a time that's not scheduled, just raise your hand.
2 I'll be happy to accommodate that.

3 Also, if anybody has any difficulty hearing, if
4 you'll let us know, we'll ask that folks speak up and make
5 sure they use the microphone so it can amplify their voice.
6 All right. Thank you, again. Looking forward to working
7 with you all.

8 The State has the opportunity to make the first
9 opening statement. And, again, the purpose of an opening
10 statement is narrow and limited. It is an outline of what
11 the attorney believes the competent and admissible evidence
12 will be. An opening statement is not evidence and must not
13 be considered by you as evidence.

14 All right. Whenever the State's ready, please
15 proceed.

16 MR. NEWMAN: Michelle Lynne Hooper died on March
17 26th, 2020 at the age of 27 years old. She left behind a
18 mother, Lisa, a sister, Katie, and a daughter, Audrey.
19 Michelle died because the Defendant sold her what everybody
20 believed was heroin. Turns out it was Fentanyl.

21 We're getting ready to present evidence in this
22 trial. And the State's evidence is basically going to be
23 divided up into two sections, two chapters if you will.
24 Chapter one, we're going to hear about Michelle. You're
25 going to hear from Michelle's mother, Lisa, who's going to

1 tell you a little bit about Michelle's addiction to drugs
2 and the treatment that she had gotten that she was in and
3 out of.

4 You're going to hear from some officers, you're
5 going to hear from a crime scene detective who will show you
6 some photographs from where Michelle was found in the
7 bedroom. And then you're actually going to see some
8 physical evidence that was collected from the bedroom.

9 Then you're going to hear from a forensic
10 pathologist from the Mecklenburg County Medical Examiner's
11 Office who performed an autopsy on Michelle after she died.
12 And he's going to tell you what he believed was Michelle's
13 cause of death. And then, you're also going to hear from a
14 forensic toxicologist from the Office of the Chief Medical
15 Examiner in Raleigh who is going to talk to you about how he
16 did analysis of various body parts that were sent to him by
17 the forensic pathologist and determined what types of
18 substances were in Michelle's system. That's chapter one.

19 Chapter two, we're going to be talking about the
20 Fentanyl. We're going to be talking about the Defendant's
21 responsibility and his role in this case. Chapter two
22 begins with testimony of Kayla Wood. Kayla was Michelle's
23 friend. I'm going to let her tell you what happened in the
24 days leading up to Michelle's death.

25 And I believe what she's going to tell you is that

1 Michelle reached out to Kayla and said that she wanted to
2 buy some drugs. Kayla then turned around and contacted the
3 Defendant to buy those drugs. And the Defendant delivered.

4 Then you're going to hear from a detective who
5 examined a forensic download, digital download, of Kayla's
6 cell phone. And you're going to see and hear what evidence
7 came from Kayla's cell phone. And I believe that whenever
8 you hear that evidence, that it will corroborate what Kayla
9 told you.

10 And then, you're also going to hear from Detective
11 Julian, he was the lead investigator in this case. He's
12 going to tell you how he conducted that investigation, and
13 then he's going to tell you what the Defendant told him.

14 Now, you all just took an oath to fulfill your
15 duties as jurors in this case, and I know you will. I know
16 you're going to sit and listen to all the evidence that's
17 presented from this witness stand. And I urge you, I
18 encourage you, to listen very carefully to what is being
19 presented to you during this trial.

20 This case is very important. This is a very
21 important case, not only for our community, not only from
22 the State of North Carolina but for Michelle's family. At
23 the end of all of that evidence, I'm going come back up here
24 and I'm going to go over all of that evidence. I'm going to
25 review all of that evidence, and I'm going to show you how

1 all of that evidence points to the Defendant being guilty
2 beyond a reasonable doubt of death by distribution. And
3 then I'm going ask you to find the Defendant guilty. Thank
4 you.

5 THE COURT: Thank you. And, Mr. Joseph, whenever
6 you are ready.

7 MR. JOSEPH: May it please the Court, the State,
8 ladies and gentlemen of the jury. Ronald McCrorey is not
9 guilty of death by distribution. There will be a lack of
10 evidence in this case. There will be insufficiency of
11 evidence in this case. The State cannot and will not be
12 able to prove beyond a reasonable doubt that Ronald McCrorey
13 is guilty of death by distribution.

14 The allegation against Ronald McCrorey is that on
15 March the 25th he sold Fentanyl to Michelle Hooper, and that
16 ingestion of that Fentanyl was the proximate cause of her
17 death. That is the allegation against us. The State's,
18 during this trial, theory is that Michelle Hooper and an
19 acquaintance of her, Kayla Wood, was together on March
20 the 25th, and that they did drugs, and that the drugs that
21 they used they believed to be heroin was actually Fentanyl.

22 You will not hear any evidence from anybody that
23 will tell you that that drug that they used that Kayla Wood
24 is going to testify they used was actually Fentanyl. Nobody
25 will tell you that during this case. That is the State's

1 theory. That is their opinion.

2 The second part of their theory is that Michelle,
3 after her and Kayla were together on the 25th, that Michelle
4 left, went home, took the rest of those drugs home -- you
5 won't hear any testimony about that -- took those drugs home
6 and used them the next day. And that's how she died, from
7 those drugs that they used on the 25th. That's the State's
8 theory. But you won't hear evidence about that.

9 You will hear evidence from Kayla Woods. Again,
10 she is an acquaintance of Michelle Hooper. They went to
11 grade school together. You'll hear Kayla talk about, well,
12 we didn't hang out a whole lot. But Kayla will testify in
13 this case. Kayla has credibility issues, to say the least.
14 She is a long time drug user. She has been untruthful in
15 the past. She has stolen things in the past. She has been
16 involved in prostitution in the past, anything that she can
17 do to get money for drugs.

18 In fact, you will hear testimony that she is
19 currently on probation. Kayla is going to testify in this
20 case. The day, March the 27th, the day after Michelle died,
21 Kayla met with detectives in this case, and she gave a
22 statement as to what took place on the 25th. During that
23 statement, she gave two different accounts, and you'll hear
24 the testimony, two different accounts.

25 The evidence will show that she told two different

1 accounts as to what happened that day as far as how she
2 alleges that they got drugs from Ron McCrorey. You will
3 hear testimony when she first talked to the detective, she
4 said, well, we met Ron McCrorey at his house. Later on in
5 that same -- in that same interview, she says, well, me and
6 Michelle has a car, we got in Michelle's car, we drove
7 across the street, met him in a parking lot of a different
8 hotel. And that's where we got the drugs from that day.

9 He met with the State -- she met with the State,
10 Kayla, about two weeks ago. She told them a third version,
11 says that, well, Ron McCrorey because of previous incidents,
12 the only time that Michelle's ever met him, that Ron
13 McCrorey would not sell to her. And so I didn't tell Ronald
14 about Michelle being in the room. And I went downstairs,
15 and I got drugs myself from Ron McCrorey, took them back
16 upstairs, and me and Michelle used. Three different
17 versions.

18 She gave a whole lot of other inconsistencies that
19 you'll see during the trial that we'll point out and we'll
20 discuss during closing. But she has a whole lot of other
21 credibility issues. And that is the State's main witness
22 that alleges that she bought drugs from Ron McCrorey, which
23 we wholeheartedly deny. Okay.

24 But in any event, here is the problem with the
25 State's theory and version that you will hear during the

1 course of this case. Michelle did not die on March the
2 25th. Whatever her and Kayla did on March the 25th did not
3 kill them. Whatever drugs they used that day did not kill
4 her. That's a huge issue for the State.

5 They allege that she took these drugs on -- you
6 will hear in an interview that Kayla gave, detective asked
7 her, asked her and said, did Michelle use all the drugs that
8 day? She said, I don't know. Then she started talking
9 about, oh, well, how much she normally used and how much she
10 believes Michelle would have used. But her original answer
11 was, I don't know. I don't know if she took it home. I
12 don't know if she used it all. But that's the State's
13 theory, okay. So you will hear Kayla talk about that during
14 her interview with the detectives. That's number one.

15 Number two, they had a conversation, they had --
16 you'll hear about the text message that was exchanged and
17 her -- between Kayla and Michelle, the day of the 25th
18 leading up to them getting together at that Extended Stay
19 hotel. There's several text messages between them. They
20 start late on the 24th, and then they go into the next
21 morning.

22 And Kayla and Michelle, there's a conversation,
23 Kayla asked Michelle, do you still have any boy, B-O-Y,
24 which is a street word for heroin. Her response, yes, I
25 still have plenty of boy. That's leading up to them getting

1 together. Not only that, she -- the text message from
2 Michelle says that and the evidence will show that, I have
3 to go to the doctor.

4 You'll hear her mother talk about that. She was
5 leaving the house that morning to go to the doctor. She
6 said, my mother -- I need to leave, my mother still thinks
7 I'm going to the doctor to get Suboxone, my medication. But
8 then she tells Kayla, honestly, I can't go because I can't
9 pass a drug test -- which what does that indicate? That she
10 is using drugs then, that she had been using drugs.

11 And they talk about how, well, she tells Kayla,
12 well, help me, can you help me pass a drug test. Can you
13 help me? And the discussion that they had amongst other
14 things that, again, we'll get into.

15 Here, again, is another huge issue for the State.
16 On the 26th when she died, they went to her house, found her
17 on the bed. Underneath her pillow, the evidence will show,
18 and the State has no explanation for this, that there were
19 four corner baggies which is used that drugs was in. Four
20 corner bags under her pillow which indicate whatever she
21 died from came from those corner baggies. We believe that
22 that's what it will show.

23 The State has no explanation for that. They
24 cannot, will not link those four baggies to Ronald McCrorey.
25 Beyond that, the evidence will show the State did not test

1 any of the those corner bags to see what was in it. There
2 were three needles, a needle on the floor, two needles on
3 the bed. The State did not test any of those needles. We
4 have no idea what was in it.

5 But, again, that shows she had already been using.
6 In fact, you will hear Kayla during her interview, she tells
7 the detective two things that you'll hear that's striking in
8 this case. She says, Michelle told me that she has somebody
9 that lives close to her that she gets drugs from. That's
10 what she told them. That's important. The State, again,
11 they have no explanation for that.

12 Then she also tells the State when she met with
13 them recently that after Michelle died she got a message on
14 Facebook, not from Ronald McCrorey, from somebody unknown,
15 that told her that they felt responsible for Michelle's
16 death. And you'll hear Kayla testify that she didn't know
17 who it was, so she deleted it. These are all issues for the
18 State that you'll hear throughout the course of this trial.

19 I'm asking you to keep an open mind throughout the
20 course of this trial. I'm asking you to not make up your
21 mind after the first witness, the second witness, to listen
22 to all of the evidence. And at the close of all of the
23 evidence, I will get back up here and, again, go over why
24 there is reasonable doubt throughout all of this case.

25 There's a lack of evidence, insufficiency of

1 evidence. The State cannot, will not be able to link Ronald
2 McCrorey to whatever drug it was that killed Kayla on March
3 the 26th of 2020. The reality is after all the evidence is
4 presented, we won't know. The only person that knew what
5 she took and what killed her is Michelle Hooper.

6 But, again, I will get back up here during closing
7 and tell you why it is your duty as jurors to return a
8 verdict of not guilty. Thank you.

9 THE COURT: Thank you, sir. All right. If the
10 State is ready, please call your first witness.

11 MR. NEWMAN: The State calls Lisa Hooper.

12 THE COURT: All right. Welcome, ma'am. Please
13 come around, and if you'll please be careful to watch your
14 step. And, also, once you reach the witness stand, there's
15 a Bible there. Ma'am, if you'll place your left hand on the
16 Bible and raise your right, the clerk will administer the
17 oath.

18 LISA A. HOOPER,
19 having been called as a witness for the State at 11:46 a.m.,
20 was sworn and testified as follows:

21 THE COURT: Thank you, ma'am. Please have a seat.
22 And that microphone will amplify your voice. And I'd ask
23 that everyone be careful not to talk over each other, so the
24 court reporter can get a good record of the question and the
25 answer. The jury can hear the same. Thank you. Whenever

1 you're ready.

2 DIRECT EXAMINATION BY MR. NEWMAN:

3 Q. Good morning. Please state your name for the jury
4 speaking loudly and clearly, and spell your last name for
5 the court reporter.

6 A. Lisa Ann Hooper, H-O-O-P-E-R.

7 Q. Thank you. Ms. Hooper...

8 (State's Exhibit 1 identified.)

9 MR. NEWMAN: May I approach, Your Honor?

10 THE COURT: Yes, sir.

11 Q. Ms. Hooper, I'm showing you what's been previously
12 marked as State's Exhibit No. 1 for identification purposes.
13 Do you recognize anyone in that photograph?

14 A. I do.

15 Q. Who?

16 A. My daughter Michelle and my granddaughter, Audrey.

17 Q. Is Michelle on the right?

18 A. Michelle is on the right, yes.

19 Q. And Michelle is your daughter, you said?

20 A. Yes.

21 Q. And Audrey is on the left; is that -- who is that?

22 A. Audrey is Michelle's daughter.

23 Q. Okay. And how old is Audrey today?

24 A. Audrey just turned seven July 1st.

25 Q. Okay. When was this photograph taken, ma'am?

1 A. Christmas Eve of 2019.

2 Q. Okay.

3 MR. NEWMAN: Your Honor, at this time we would
4 move to admit State's Exhibit No. 1 into evidence.

5 THE COURT: That is admitted.

6 (State's Exhibit 1 received into evidence.)

7 MR. NEWMAN: Move to publish same to the jury.

8 THE COURT: All right. Ladies and gentlemen, in
9 just a moment you'll be passed a photo. I ask that you look
10 at it carefully, individually, and without comment. I
11 believe we've have 14 copies so you can each have one.

12 (State's Exhibit No. 1 was published to the jury.)

13 THE COURT: All right. Does anyone need any
14 additional time for the exhibit? If so, please raise your
15 hand. Seeing no hands raised, if you'll please pass those
16 back to the bailiff. Thank you.

17 MR. NEWMAN: May I proceed?

18 THE COURT: Yes, sir.

19 Q. Ms. Hooper, I would like to talk about Michelle
20 for a little bit. When was Michelle born?

21 A. November 29th, 1992.

22 Q. Did you raise Michelle?

23 A. I did.

24 Q. Did you have any other children?

25 A. Michelle has an older sister, Katie.

1 Q. Okay.

2 A. Born in 1988.

3 Q. Where did Michelle go to school?

4 A. She went to school all the way through eleventh
5 grade, I believe, at First Assembly Christian School in
6 Concord.

7 Q. Okay. Ms. Hooper, at some point did you discover
8 that Michelle began using drugs?

9 A. Yes.

10 Q. How did you find that out?

11 A. A confrontation with Kayla Wood, and her mother
12 accused Michelle of drug use. And that's the first I knew
13 of it.

14 Q. Okay. Did you and Michelle ever discuss her drug
15 use?

16 A. We did.

17 Q. Initially, did you try to help Michelle in some
18 way?

19 A. Over ten years we tried treatment centers,
20 detoxes, psychiatrists, counselling at church, many
21 different things.

22 Q. Okay. Did Michelle's drug use continue over the
23 years?

24 A. Yes.

25 Q. Do you know what Michelle's drug of choice was?

1 A. Heroin.

2 Q. Did you and Michelle work together in trying to
3 address her drug addiction?

4 A. We did.

5 Q. And I think you've already answered this question,
6 but did you assist her into trying to seek treatment at any
7 drug treatment facilities?

8 A. Yes.

9 Q. Where was that?

10 A. We went to Path of Hope in Lexington. I took her
11 there. I took her to ARCA in Winston-Salem several times.
12 She was at Dove's Nest in Charlotte, the detox center in
13 Kannapolis many times, and many, many phone calls and
14 driving to and from places to get her help.

15 Q. Why did you want to help Michelle address her drug
16 addiction issues?

17 A. I was very frightened of heroin. That was not
18 something that I grew up with, and it scared me from what I
19 heard on the news. And I just didn't -- I didn't want that
20 for her, I didn't want that lifestyle for her.

21 Q. Did you and Michelle ever talk about her desire to
22 get clean and sober?

23 A. Yes.

24 Q. Did Michelle tell you that she wanted to get sober
25 and break her addiction to drugs?

1 A. She did several times, yes.

2 Q. Let's fast forward to late 2019. Was Michelle in
3 a drug treatment facility at that time?

4 A. She was at Hope Haven in Charlotte.

5 Q. Did you pay for that?

6 A. No, sir. That was a free state -- I know that
7 Michelle stayed there for free, and then after a certain
8 amount of time she had to get a job and then reimburse Hope
9 Haven some amount of money per week based on her job. I'm
10 not really sure what that amount was.

11 Q. Okay. At some point did Michelle ask to move back
12 in with you?

13 A. She did.

14 Q. Where did you live at that time?

15 A. I'm in Concord, in her childhood home in Concord.

16 Q. And is that within Cabarrus County?

17 A. Yes.

18 Q. Did you allow Michelle to leave Hope Haven and
19 come live with you?

20 A. I did. And Michelle lived with me for 31 days.
21 So that would be late February she asked because of the --
22 the news we were hearing out of California and Oregon of
23 this illness going around. And people at Hope Haven were
24 getting very nervous about this COVID thing that they were
25 talking about. So she asked if she could move home.

1 Q. Okay. So at that point, was it just you and
2 Michelle that lived at your house?

3 A. It was.

4 Q. And when Michelle came to live with you, did you
5 establish any rules for Michelle?

6 A. There were several rules, yes.

7 Q. Why did you do that?

8 A. I was afraid. I mean, Michelle, even though she
9 had been clean probably seven months before she moved in,
10 moved back home, my neighborhood was her former using area.
11 She knew people in the neighborhood and surrounding areas
12 that made me nervous.

13 Q. So what were those rules?

14 A. So Michelle did not have a key access to my home.
15 She did not have access to the security system inside the
16 house or the garage door opener access. She had a curfew
17 depending on the day or time of day when she had to be home.
18 We were now doing Zoom AA meetings, so if she was home she
19 had to be on those Zoom calls with me or Zoom meetings with
20 me.

21 Q. Okay. If she left the house, did she have a
22 curfew?

23 A. I'm sorry, sir?

24 Q. If Michelle left your house, did she have a
25 curfew?

1 A. Yes.

2 Q. So was it your belief that Michelle was clean and
3 sober when she moved into your house in February of 2020?

4 A. Yes, sir.

5 Q. And why did you believe that?

6 A. I can tell when Michelle is high on heroin. It's
7 a very obvious to me. And that's one of the rules that was
8 also, Mr. Newman, that if I thought in any way that she was
9 doing drugs that I would automatically kick her out of the
10 house. And she had nowhere else to live. So I am very
11 aware of the way Michelle looks and acts and sounds when
12 she's high. And I very much believed that when she moved in
13 in late February that she was clean.

14 Q. Okay. Did she also receive regular drug testing
15 at Hope Haven, where she was?

16 A. Yes, sir.

17 Q. So if she had tested positive, would she have been
18 kept in the program?

19 A. No. She would have been kicked out.

20 Q. Okay. I want to draw your attention to the
21 evening of Tuesday, March 24th, 2020. Do you recall what
22 you and Michelle did that evening?

23 A. That evening we were on a Zoom meeting, AA meeting
24 called Promises, on the Promises meeting from seven until
25 8 o'clock that night.

1 Q. Okay. Was attending virtual AA meetings a rule
2 that you established --

3 A. Yes, sir.

4 Q. -- for Michelle?

5 A. Yes, sir.

6 Q. After the virtual AA meeting, did Michelle leave
7 your home?

8 A. No, sir.

9 Q. So the following day, Wednesday, March 25th, 2020,
10 do you recall whether Michelle left your house that day?

11 A. So Wednesday Michelle told me that she had several
12 doctors appointments in Charlotte. And another thing I
13 failed to mention, sir, that if Michelle was not using her
14 car, I had possession of her car keys.

15 Michelle did say she had a doctor's appointment.
16 She left sometime that morning with her car. I went into
17 work for a few hours that day, and that's the last -- I knew
18 that she had two doctors appointments.

19 Q. Where do you work?

20 A. Board of Elections, Cabarrus County Board of
21 Elections.

22 Q. So did you stay in touch with Michelle throughout
23 that day?

24 A. Yes, sir.

25 Q. Was that through text or phone calls?

1 A. I believe just texts.

2 Q. Okay. Do you recall what Michelle's phone number
3 was?

4 A. (704) 652-1384.

5 Q. Can you repeat that one more time slowly.

6 A. 704 -- oh, I'm sorry, that is Katie's phone
7 number.

8 Q. That's okay. Do you recall Michelle's phone
9 number?

10 A. No, sir.

11 Q. Okay. Did Michelle come back home at some point
12 that afternoon?

13 A. Early afternoon.

14 Q. Was anyone else at your house when Michelle came
15 home?

16 A. Yes, sir. My oldest daughter Katie and my
17 grandson Owen were over for the day.

18 Q. Okay. What did you do after Michelle came home?

19 A. We hung out a little bit with Katie and Owen. And
20 then that evening we were invited to a monthly community
21 gathering at our church, One Life Church in Concord. And
22 they, the church provided hot dogs, and we made all the
23 fixings. And I asked the pastor's wife if Michelle could
24 join me, and she had yes. And Michelle and I because of
25 COVID were distributing food to the other church members.

1 Q. So while you were at church that evening, did
2 Michelle stay close to you?

3 A. Right beside me.

4 Q. Okay. If she had left, would you have noticed?

5 A. Yes, sir.

6 Q. Do you recall what time you got home from church?

7 A. I know we helped clean up. I'd say eight,
8 8:15-ish.

9 Q. Okay. Did you set the alarm when you got home?

10 A. I let my dog out, Shadow out, then I set the
11 alarm, we were in for the evening.

12 Q. When you say we, are you talking about you and
13 Michelle?

14 A. Yes.

15 Q. So you testified previously that Michelle did not
16 have access to the security alarm. So if anyone left your
17 house, would you have received an alert of that?

18 A. I have an app on my phone that tells me anytime a
19 door is -- a door is opened or if the alarm is set or
20 disarmed.

21 Q. And Michelle didn't know the code?

22 A. No.

23 Q. So that night did you receive an alert that
24 Michelle had left at some point during the night?

25 A. No.

1 Q. Do you recall what time you went to bed that
2 Wednesday evening?

3 A. It was about 9 o'clock.

4 Q. Okay.

5 A. And it was, yes, sir, 9 o'clock.

6 Q. Where was Michelle when you went to bed?

7 A. So Michelle was in her old room that she stayed in
8 when she was living there before she moved out.

9 Q. When you woke up the following morning, this is
10 now Thursday, March 26th, 2020, do you recall what time you
11 woke up?

12 A. I was up at six.

13 Q. Did you see Michelle that morning?

14 A. I did not.

15 Q. Was the room -- was the door to her room closed?

16 A. Yes.

17 Q. Did you try to speak to Michelle through the door?

18 A. Yes, sir. I noticed the light on under the door
19 and said good morning to her.

20 Q. And did she respond?

21 A. She did. She told me she had a headache and was
22 going to go back to bed. I told her I had a couple hours
23 worth of errands and that I would be home soon.

24 Q. Okay. So what did you end up doing that morning?

25 A. So I disarmed the house, I let my dog out. When I

1 left my dog was curled up in front of the door of Michelle's
2 bedroom. I armed the house, and I went out to my errands.

3 Q. Do you know what time you left?

4 A. Approximately ten.

5 Q. 10 a.m.?

6 A. Yes, sir.

7 Q. Did you speak with Michelle again before you left?

8 A. No, sir.

9 Q. Had Michelle come out of her room at all that
10 morning between you waking up and the time you leave?

11 A. No, sir.

12 Q. While you were gone that morning, did you receive
13 any alerts that anyone had either come to or left your
14 house?

15 A. No, sir.

16 Q. Do you recall what time you returned home that
17 day?

18 A. Around noon, 12 noon.

19 Q. Okay. When you got home, what did you notice?

20 A. So I noticed my dog was still curled up in front
21 of Michelle's door. I noticed her light was still on, I
22 pushed Shadow away, and I didn't say anything, just opened
23 the door to Michelle's room. And as soon as I opened the
24 door I saw her doubled over. I shut the door, I put my dog
25 in my bedroom. I opened Michelle's door again. I went over

1 to her, I touched her, I called her name. And then I ran
2 out to the kitchen and got my cell phone and called 911.

3 Q. And after you called 911, did fire department
4 paramedics arrive?

5 A. Yes, sir.

6 Q. And where were you when they arrived?

7 A. I believe I was on the porch.

8 Q. Okay. Did officers with Concord Police Department
9 arrive shortly thereafter?

10 A. Yes, sir.

11 Q. Did you watch paramedics take Michelle from your
12 home?

13 A. No. They wouldn't let me do that. They wouldn't
14 let me do that. I was in the dining room when they -- there
15 was a young lady sitting with me at the dining room table,
16 and she said that's not something I needed to watch. So
17 after they left I watched the window. I see the ambulance
18 was driving away, and I said goodbye to Michelle there.

19 Q. A few days later did you have a funeral service
20 for Michelle?

21 A. It was a -- no, sir. We had Michelle cremated at
22 Hartsell Funeral Home. We did a celebration for life for
23 Michelle several months later after COVID.

24 Q. Okay. How old was Michelle when she died?

25 A. 27.

1 MR. NEWMAN: Thank you, Ms. Hooper. Nothing
2 further, Your Honor.

3 THE COURT: Thank you. Yes, sir.

4 CROSS-EXAMINATION BY MR. JOSEPH:

5 Q. Good morning, Ms. Hooper. Do you remember when
6 you were at the dining room table and you were speaking to
7 the officers giving a statement; do you remember that on the
8 26th that morning?

9 A. There were several people around the dining room
10 table, yes, sir.

11 Q. And do you remember telling the officer at that
12 time that you believed Kayla had something to do with it and
13 that Kayla has given Michelle drugs in the past?

14 A. I remember saying that I knew Kayla was -- must be
15 involved because the phone book on Michelle's bed was open
16 to the letter K. And when I went in that morning to --
17 after I got home from my errands, Kayla's name was on the
18 phone book and so was my daughter Katie.

19 Q. Do you remember telling them that she -- that
20 Kayla has given your daughter drugs in the past?

21 A. I do.

22 Q. Okay. And, now, I'm just trying to figure out,
23 you said that you have this security system?

24 A. Yes, sir.

25 Q. And you set the code. How so -- were you home

1 that morning when Michelle left?

2 A. I'm sorry?

3 Q. I'm sorry, let me make it clear. The morning of
4 the 25th, the day before, when she was going to the doctor,
5 were you home that morning when she left?

6 A. Yes, sir. I was waiting for my daughter and
7 grandson to come over.

8 Q. Okay. And what -- generally, what time, do you
9 remember what time she left that morning?

10 A. What time Michelle left, no, sir, I do not.

11 Q. Okay. But it was early that morning?

12 A. Correct.

13 Q. And you say she got home sometime that afternoon?

14 A. Yes, sir.

15 Q. Okay. So it's fair to say she was gone about four
16 or five hours at the least?

17 A. Yes.

18 Q. Okay. And so is somebody always home with -- was
19 somebody always home with Michelle?

20 A. No, sir.

21 Q. Okay. So if she was home by herself, she wouldn't
22 be able to get -- how would she get out of the house?

23 A. She wouldn't be able to.

24 Q. So she would just have to stay in the house?

25 A. That's correct.

1 Q. Okay. And what if somebody -- if she left -- on
2 that day you left, you said you left after her that morning?

3 A. Yes.

4 Q. Okay. How would she get in the house if nobody
5 was there?

6 A. I knew I would be back before she got back.

7 Q. Okay. So somebody was always there generally when
8 she was there?

9 A. Yes.

10 Q. Okay. And you -- you said if she didn't leave,
11 you had her car keys?

12 A. That is correct.

13 Q. Okay. And this is the neighborhood she grew up
14 in?

15 A. Yes, sir.

16 Q. Okay. Now, Mr. Newman mentioned that -- now, do
17 you have -- actually, do you have video surveillance?

18 A. No, sir.

19 Q. Okay. So just if the door opened, you'd get an
20 app?

21 A. Yes, sir.

22 Q. It comes through the app, excuse me. You
23 mentioned that she was at Hope Haven?

24 A. Yes.

25 Q. And when did she actually leave Hope Haven?

1 A. February 27th, I believe.

2 Q. Of 2020?

3 A. Yes, sir.

4 Q. Okay.

5 A. She had been there for since, I believe, the
6 October before.

7 Q. Okay. And do you recall, Mr. Newman asked you
8 that -- you said that if she -- when she was at Hope Haven,
9 if she tested positive that she would be kicked out?

10 A. Um-hum.

11 Q. Do you remember telling -- so she was at Hope
12 Haven November of 2019?

13 A. Michelle was in Hope Haven November of 2019, yes,
14 sir.

15 Q. Okay. Do you recall telling the officers in this
16 case that Michelle and Kayla had used heroin in November of
17 2019?

18 A. No, sir.

19 Q. Okay.

20 (Defendant's Exhibit 1 identified.)

21 MR. JOSEPH: Approach, Your Honor?

22 THE COURT: Yes, sir.

23 Q. I'm showing you what's been marked as Defendant's
24 Exhibit 1. And this is a handwritten statement from the
25 officer from March the 26th?

1 A. Is there a way I can get my reading glasses?

2 Q. Sure.

3 THE COURT: Yes, ma'am, if you want to. The
4 bailiff may bring them to you.

5 THE WITNESS: Thank you. And this is a statement
6 I gave to somebody who wrote this down?

7 Q. Yes, ma'am. I believe it's probably not your
8 writing, but if I go to the back I believe the officer may
9 have written it for you. But do you recall signing this
10 statement?

11 A. I don't recall signing it, but that is my
12 signature.

13 Q. That's your signature?

14 A. Yes, sir.

15 Q. And I'll show you what if I go to page -- can you
16 read what this -- what that sentence says right here.

17 A. Michelle admitted to me that she used heroin with
18 Kayla in November of '19, 2019.

19 Q. Do you remember making that statement?

20 A. I must have. I do not recall making that.

21 Q. Okay. But that would have been when she was
22 actually still in Hope Haven?

23 A. That's correct.

24 Q. Okay.

25 A. They did not test her daily. They were random

1 drug tests.

2 Q. Okay. It was random?

3 A. Yes, sir.

4 Q. So you don't really know if she was using while
5 she was in Hope Haven?

6 A. I do not know, sir.

7 Q. Okay. And you mentioned that she had two doctors
8 appointments that day?

9 A. I -- she told me she had two.

10 Q. Okay. And you also in your statement, I believe
11 you mentioned that you made a statement that Kayla struggled
12 with drugs after Michelle started using them. Do you
13 remember making that statement?

14 A. I know Kayla has always struggled with drugs, just
15 like Michelle has always struggled with drugs.

16 Q. Okay. And so they both started using around the
17 same time?

18 A. That, I do not know.

19 Q. Okay. But your statement, I believe -- I'll just
20 make sure I understood you correctly, you said that -- did
21 you say that Kayla's mother confronted Michelle or
22 confronted Michelle about using drugs?

23 A. No, sir. Kayla's mother called me and wanted a
24 meeting with Michelle and I at Kayla's home to confront
25 Michelle for turning Kayla on to drugs.

1 Q. Okay. So Michelle's mother's accused Kayla -- I
2 mean, excuse me, Kayla's mother accused Michelle of turning
3 Kayla on to drugs?

4 A. That is correct.

5 Q. Okay. So you met with her mother regarding that?

6 A. In their home, the four of us did.

7 Q. Okay. Were they still in high school at that
8 time?

9 A. Yes, sir. Yes.

10 Q. Okay. And I believe you said that y'all went to
11 church March the 25th, the day she was supposed to go to the
12 doctor's, that evening, you said that you all went to your
13 church?

14 A. Wednesday night we were at church serving our
15 church family a community -- Muslim community meal, yes.

16 Q. Okay. And at that time -- so you didn't see any
17 signs that she had been using?

18 A. No, sir.

19 Q. Okay. There's nothing stood out to you about her
20 as though she had be using drugs?

21 A. No, sir.

22 Q. Okay. And then after you got home, she went in
23 her room, you didn't see her the rest of that night?

24 A. I did. So after I was already in bed, probably
25 around nine, I remember Michelle rushing in, I believe

1 that's when Governor McCrory put North Carolina on a two
2 week lockdown. And she was absolutely panicked. And I just
3 said that we're not going to worry about it. We'll hang
4 out. We'll watch some crime shows, and we'll be fine,
5 Michelle.

6 Q. Okay.

7 A. And then she went to bed.

8 Q. Okay. And then you didn't see her again?

9 A. No, sir.

10 Q. And then, that morning you just talked to her
11 through the door?

12 A. I did.

13 Q. Okay. And I believe that you mentioned when you
14 went in her room, I believe you told the detective that you
15 actually saw some needles in her room?

16 A. Not when I first went in. When I came back and I
17 called 911, the lady asked me to move Michelle. And I
18 grabbed her leg that was hanging off the bed, and there was
19 the needle in the carpet. And I couldn't move Michelle.

20 MR. JOSEPH: I don't have anything further, Your
21 Honor.

22 THE COURT: Any additional questions?

23 MR. NEWMAN: Very briefly, Your Honor.

24 REDIRECT EXAMINATION BY MR. NEWMAN:

25 Q. So you said you could tell, Ms. Hooper, you can

1 tell when Michelle was clean and sober?

2 A. Yes, sir.

3 Q. And you could tell when she was high?

4 A. Yes, sir.

5 Q. So when she came to live with you in February, you
6 believe that she was clean and sober?

7 A. I did.

8 MR. NEWMAN: Nothing further. Thank you, Your
9 Honor.

10 THE COURT: Anything further?

11 MR. JOSEPH: No.

12 THE COURT: Thank you. Ma'am, if you'll please
13 handle me that photo. Thank you. And if you'll please be
14 careful stepping down. Thank you.

15 (Witness excused.)

16 MR. NEWMAN: State calls Officer Dallas Hurley to
17 the stand.

18 THE COURT: Thank you, sir. If you'll please
19 place your left hand on the Bible and raise your right, the
20 clerk will administer your oath.

21 DALLAS HURLEY,
22 having been called as a witness for the State at 12:15 p.m.,
23 was sworn and testified as follows:

24 THE COURT: Thank you, sir. Sir, that microphone
25 should amplify your voice. I'd ask that everyone be careful

1 not to talk over each other so the court reporter and the
2 jury can hear both the question and the answer. Thank you.

3 THE WITNESS: Yes, sir.

4 THE COURT: Whenever you're ready.

5 MR. NEWMAN: Thank you, Your Honor.

6 DIRECT EXAMINATION BY MR. NEWMAN:

7 Q. Good afternoon. Can you please state your name
8 for the jury speaking loudly and clearly, and spell your
9 last name for the court reporter.

10 A. Dallas Hurley, H-U-R-L-E-Y.

11 Q. Sir, how are you employed?

12 A. I am a resource officer with the police department
13 of Concord.

14 Q. How long have you been an officer with the Concord
15 Police Department?

16 A. Since December of 2018.

17 Q. What was your prior -- well, strike that. Did you
18 have any prior law enforcement experience before joining the
19 Concord Police Department?

20 A. Yes.

21 Q. What was that?

22 A. I was an officer in the city of Statesville and an
23 officer in the city of Bethel, North Carolina.

24 Q. So total law enforcement experience, what would
25 that be?

1 A. Ten years.

2 Q. Okay. What were your duties -- strike that. What
3 are your current duties with the Concord Police Department?

4 A. Currently assigned as a school resource officer.

5 Q. And where is that?

6 A. At the Performance Learning Center.

7 Q. And what were your duties in March of 2020?

8 A. I was a patrol officer.

9 Q. And what are your duties as a patrol officer?

10 A. Handling calls for service, emergency calls,
11 traffic crashes, and investigating traffic stops.

12 Q. Okay. Were you licensed, sworn, and on duty on
13 March 26th of 2020?

14 A. I was.

15 Q. On that day, did you receive a call for service at
16 3629 Chelwood Drive Northwest?

17 A. Yes.

18 Q. And is that address within the city limits of
19 Concord?

20 A. It is.

21 Q. Within Cabarrus County?

22 A. Yes.

23 Q. And is that within your jurisdiction?

24 A. It is.

25 Q. Approximately what time did that call for service

1 come out?

2 A. Around 12 o'clock in the afternoon.

3 Q. What was the nature of the call for service?

4 A. It was a report of an unattended death.

5 Q. And what does that mean, unattended death?

6 A. It was unattended by any medical personnel.

7 Q. Okay. Did you arrive shortly after you were
8 dispatched to that address?

9 A. I was.

10 Q. And when you arrived on-scene, what did you see?

11 A. As I arrived to the residence, a number of fire
12 and medical personnel were already on-scene. I entered the
13 residence and made contact with two medical personnel, two
14 EMTs. They directed me to a room in the back of the
15 residence where I observed a Caucasian female who appeared
16 to be deceased.

17 I then made contact with the other resident who
18 was later identified as her mother, obtained basic
19 information from her, and then secured that scene and called
20 for crime scene.

21 Q. Okay. So let's take a step back. So did EMS, are
22 they the ones who led you to the back room?

23 A. Yes.

24 Q. And is that where Michelle Hooper, the decedent
25 and victim in this case, is that where she was?

1 A. Yes.

2 Q. And when you walked in, did you see any drug
3 paraphernalia?

4 A. I recall observing several needles in the room and
5 a tourniquet placed around her arm.

6 Q. Did you see any other items on the bed next to her
7 body?

8 A. I believe there was a bag that I obtained her
9 license out of.

10 Q. All right. And by this point had the paramedics
11 already declared Michelle deceased?

12 A. Yes.

13 Q. And did the paramedics indicate to you whether
14 they had moved Michelle's body in any way?

15 A. I believe they attempted to but were unable.

16 Q. All right. So based on what you observed in
17 Michelle's bedroom, what did you believe had occurred?

18 A. It was a drug overdose.

19 Q. All right. So what did you do next?

20 A. I secured the scene, we removed anyone from that
21 area, and I began a crime scene log detailing any activity
22 at the site.

23 Q. Was Ms. Lisa Hooper in the dining room --

24 A. She was.

25 Q. -- at the time? And did you speak to her?

1 A. I did.

2 Q. Did you believe she was distraught or in a state
3 of shock?

4 A. She was upset, absolutely.

5 Q. And at this point were other officers arriving?

6 A. They were.

7 Q. Did you initiate a crime scene log?

8 A. I did.

9 Q. What is that?

10 A. It is a document that categorizes anyone's
11 entrance and exit of that crime scene and their activities
12 while inside the crime scene.

13 Q. And was CID called?

14 A. Yes.

15 Q. What is CID?

16 A. The Criminal Investigative Division.

17 Q. And why was CID called in this case?

18 A. Because it was an unattended death, we needed to
19 assess the nature of the incident. And they arrived to
20 assess the scene to see if they could identify all causes of
21 the death since it was unattended by any medical person.

22 Q. Okay. Did you maintain a post while you were
23 maintaining that crime scene log?

24 A. I did. It would have been at the entrance of the
25 hallway that led to the bedroom.

1 Q. Okay. And did you have any further involvement in
2 this case after you cleared the call?

3 A. No, sir.

4 MR. NEWMAN: Nothing further.

5 THE COURT: Thank you. All right. Yes, sir,
6 Mr. Joseph.

7 CROSS-EXAMINATION BY MR. JOSEPH:

8 Q. Now, Officer Hurley, did you actually collect the
9 needles?

10 A. No, sir.

11 Q. Who was responsible for collecting the needles
12 from Michelle's room?

13 A. I imagine it would have been the crime scene
14 officers.

15 Q. Okay. And so, but you were the first responding,
16 and you were the first that -- did you -- you went into her
17 room and observed the items in her room; correct?

18 A. Yes, sir.

19 Q. And you said that you looked at her purse?

20 A. I observed a bag and obtained her driver's license
21 out of the clutch handbag to identify the person in the
22 room.

23 Q. Okay. And did you -- how many needles did you
24 observe?

25 A. I recall at least two.

1 Q. Okay. And you know where they were located?

2 A. One was in the bed next to the body, the other was
3 on the floor.

4 Q. Okay. And did you -- were you able to observe the
5 four corner baggies that were on the bed under the pillow?

6 A. I do not recall observing any narcotics.

7 Q. Okay. So that would have been, you said that
8 would have been crime scene that came after that?

9 A. Correct.

10 Q. And you spoke to Ms. Hooper?

11 A. The mother?

12 Q. The mother, excuse me, yes. Lisa Hooper.

13 A. Yes.

14 Q. Okay.

15 MR. JOSEPH: I don't believe I have anything else.

16 THE COURT: Anything further?

17 MR. NEWMAN: Nothing further, Your Honor.

18 THE COURT: Any objection to this witness being
19 released?

20 MR. NEWMAN: No objection.

21 THE COURT: All right. Sir, you're free to leave,
22 welcome to stay. Thank you.

23 (Witness excused.)

24 THE COURT: Yes, sir.

25 MR. NEWMAN: State calls Officer Chris Gorman.

1 THE COURT: Hello, sir. Welcome. Please come up.
2 Once you reach the witness stand, if you'll place your left
3 hand on the Bible and raise your right, the clerk will
4 administer your oath. Thank you, sir.

5 CHRISTOPHER GORMAN,
6 having been called as a witness for the State at 12:23 p.m.,
7 was sworn and testified as follows:

8 THE COURT: Thank you, sir. Please have a seat.
9 Sir, that microphone will amplify your voice. I'd ask that
10 everyone be careful not to talk over each other, so the
11 court reporter and jury can hear both the question and the
12 answer. Thank you. Whenever you're ready.

13 MR. NEWMAN: Thank you, Your Honor.

14 DIRECT EXAMINATION BY MR. NEWMAN:

15 Q. Good afternoon, sir. Can you please state your
16 name for the jury speaking loudly and clearly, and spell
17 your last name for the court reporter.

18 A. It's Christopher Gorman. It's G-O-R-M-A-N.

19 Q. And, sir, how are you employed?

20 A. I am a sergeant with the Concord Police Department
21 on our patrol division.

22 Q. How long have you been with the Concord Police
23 Department?

24 A. Approximately 14 years.

25 Q. And so, you say you're a sergeant. What are your

1 current duties with Concord Police Department?

2 A. Just supervise a night shift patrol unit over in
3 our Adam district for the City of Concord. That's near
4 Carolina Mall area.

5 Q. Thank you, sir. And what were your duties in
6 March of 2020?

7 A. I was a crime scene detective.

8 Q. And what are your duties as a crime scene
9 detective?

10 A. It's basically process, identify, collect
11 evidence. It's documentations of the scene, whether it be
12 photographing, sketching, reconstruction, everything from
13 shooting reconstruction. We work all different types of
14 cases, like homicide investigations, burglaries, major
15 crimes, rapes, robberies, anything that you could possibly
16 think of.

17 Q. Thank you, sir. I want to draw your attention to
18 March the 26th of 2020. Were you licensed, sworn, and on
19 duty that day?

20 A. I was.

21 Q. And on that day did you get called out to an
22 address on Chelwood Drive here in Concord?

23 A. I did.

24 Q. What was the nature of that call?

25 A. It was a report of death call.

1 Q. And had you responded to these types of calls
2 before?

3 A. Oh, many times.

4 Q. And when you arrived, what did you see?

5 A. Several officers were stationed. We had a few
6 detectives speaking with our victim's mother, and couple
7 officers were securing the scene, taking crime scene logs,
8 just scene security from it.

9 Q. And what were your tasked with doing that day?

10 A. Processing the scene.

11 Q. So when you say processing, what does that mean?

12 A. It's during certain cases we'll do collection of
13 evidence, photographing, collecting physical evidence,
14 documentation of the scene, things that we might have seen
15 that might aid in the investigation.

16 Q. Sir, did you sketch a layout of Michelle's room
17 that day?

18 A. I did.

19 Q. Why is that important to do?

20 A. It helps show the area space, what type of area
21 you're working with, where items might be located. I can
22 show you photos of a room, but if they're from different
23 angles, it's different perspectives. With a sketch it
24 actually lays out where individual things are within the
25 room and in relation to individuals.

1 Q. So after you sketched a layout of Michelle's room,
2 did you begin taking photographs of her room?

3 A. I did.

4 (State's Exhibits 2 to 20 identified.)

5 MR. NEWMAN: If I may have just a moment, Your
6 Honor.

7 THE COURT: Yes, sir.

8 (Pause in proceedings.)

9 MR. NEWMAN: May I approach?

10 THE COURT: Yes.

11 Q. Sir, I'm showing you what's been previously marked
12 as State's Exhibits 2 through 20. Do you recognize these
13 photographs?

14 A. Yes, sir.

15 Q. Did you take these photographs on that day?

16 A. I did.

17 Q. And do these photographs fairly and accurately
18 depict what you saw that day?

19 A. They do.

20 Q. Would these photographs assist you in your
21 testimony here today?

22 A. Yes, sir.

23 MR. NEWMAN: Your Honor, at this time the State
24 would move to admit Exhibits 2 through 20 to the jury.

25 THE COURT: Those are admitted.

1 MR. NEWMAN: Admit into evidence, I'm sorry.

2 THE COURT: Yes, sir. Those are admitted.

3 (State's Exhibits 2 to 20 received into evidence.)

4 MR. NEWMAN: And we are moving to publish. I note
5 the time. And the way that I intended to do that was to
6 show all of these photos on the screen that I was going to
7 move to the well of the courtroom. I can do that now or we
8 can do that when we resume.

9 THE COURT: So not show them here but show them
10 there?

11 MR. NEWMAN: Correct.

12 THE COURT: Get that screen moved out?

13 MR. NEWMAN: Correct.

14 THE COURT: All right. It will take some time to
15 set that up. It won't take a whole lot of time, but I think
16 now might be an appropriate time for us to go ahead and
17 break for lunch.

18 I want to make sure that I review all of the
19 instructions for you. Ladies and gentlemen, it's important
20 that during this break and at all breaks that you not talk
21 about the case among yourselves or with anyone else. It's
22 also important that you not have any contact with any of the
23 participants involved in the case.

24 Please don't do any independent investigation.

25 Please don't look up things on the internet, for example, or

1 drive by the address that you heard today. Please don't
2 post anything on that. I'd ask that you leave your notepads
3 here, and we will resume at 2 o'clock.

4 Things will be set up and exhibits will be
5 published, and we will continue on with the testimony. I
6 hope you all have a great lunch, and I look forward to
7 seeing you at 2 o'clock. Thank you.

8 (The jury left the courtroom at 12:29 p.m.)

9 THE COURT: All right, we are out of the presence
10 of the jury. If you all don't mind, I just want an update
11 sort of where you think we are. It's taken a little less
12 than a day, full day or day and a half to pick a jury.

13 How long at this point do you think it will be for
14 the State to present its evidence?

15 MR. NEWMAN: So just to give the Court a forecast
16 of the remainder of the day, we're going to finish with
17 Sergeant Gorman. We're going to get in all of the
18 photographs and some physical evidence.

19 After Sergeant Gorman, we're going to hear from
20 the medical examiner and the forensic toxicologist. That's
21 what I anticipate getting through this afternoon. I
22 anticipate getting through their testimonies this afternoon.

23 And that way that will leave witnesses for
24 tomorrow. But I anticipate since this afternoon was freed
25 up, I think that we should be in a pretty good place to rest

1 by the end of the day tomorrow.

2 THE COURT: By the end of the day Wednesday?

3 MR. NEWMAN: Correct.

4 THE COURT: All right. I appreciate that. And
5 obviously, it's difficult to know exactly how long this
6 matter is going to take.

7 And, sir, when the State finishes its evidence, we
8 go beyond that, then it's going to be your decision whether
9 or not to testify or present evidence. So I would encourage
10 you to continue to think about that and talk with your
11 lawyer about that, but ultimately that's going to be your
12 call.

13 Anything else that you all would like to address
14 before we break?

15 MR. NEWMAN: No.

16 MR. JOSEPH: No, Your Honor.

17 THE COURT: All right. I would just make sure
18 that everyone's careful not to talk about the case in the
19 public aspects of the building. If you go to lunch, please
20 be careful not to talk about the case where jurors may be
21 nearby. And I would ask Mr. Newman, if you would please set
22 up the screen. We've had some technology changes. I'm not
23 certain that it will appear on that table.

24 MR. NEWMAN: Yeah, I don't believe that it will,
25 Your Honor. I don't mean to interrupt you. I was going to

1 try to push the screen as far as I can closer to the clerk
2 so that Defense counsel can see it. But I've given Defense
3 counsel an exact copy of what is on the screen. So that's
4 all that is.

5 THE COURT: All right. And, Mr. Joseph, if you
6 would like to move so you can see, you're certainly welcome
7 to do that. All right. Thank you all very much.

8 Court will be in recess until 2 o'clock. And you
9 can just leave the exhibits there. Thank you. Thank you,
10 sir.

11 THE BAILIFF: All rise. Oh, yes, oh, yes, oh,
12 yes, this honorable court takes a recess until 2 p.m.

13 (A recess was taken at 12:33 p.m. and reconvened
14 at 2:04 p.m. The Defendant and all counsel were
15 present.)

16 THE COURT: Thank you. All right. I see that the
17 screen is set up here. You've tested it and we're ready to
18 go?

19 MR. NEWMAN: Yes, sir.

20 THE COURT: All right. Thank you. Sir, if you
21 could please retake the witness stand.

22 (The witness returned to the witness stand.)

23 THE COURT: And Mr. Bailiff, if you would ask the
24 jurors to come in, we will proceed.

25 THE BAILIFF: Okay.

1 THE COURT: Thank you, sir.

2 (The jury entered the courtroom at 2:07 p.m.)

3 THE COURT: All right. For the record, the jurors
4 have returned to the courtroom. Thank you all very much.
5 We're ready to move forward. The Exhibits 2 through 20 have
6 been admitted, and I will allow them to be published
7 whenever you're ready.

8 MR. NEWMAN: Thank you.

9 (State's Exhibit Nos. 2 to 20 were published to
10 the jury.)

11 DIRECT EXAMINATION BY MR. NEWMAN:

12 Q. Detective Gorman, do you have those in front of
13 you?

14 A. I do not.

15 MR. NEWMAN: May I approach the clerk?

16 THE COURT: Yes.

17 Q. Sergeant Gorman, let's take a look at State's
18 Exhibit No. 2. First, what is this a photograph of?

19 A. It is a picture of the victim.

20 Q. Is this what you saw when you first entered
21 Michelle's bedroom?

22 A. It is.

23 Q. Let's take a look at State's Exhibit No. 3. What
24 is this a photograph of?

25 A. It's a UPS cable ray digital plug cable and as

1 well as a needle by the victim's right ankle.

2 Q. All right. And you said UPS. Do you mean a USB?

3 A. Yeah.

4 Q. Okay. Just wanted --

5 A. Sorry.

6 Q. No, that's fine. I just want to make sure we're
7 clear. Let's take a look at State's Exhibit No. 4. What is
8 this a photograph of?

9 A. It's the same needle as in the picture before.

10 Q. And in your training and experience, what does the
11 position of this needle in the carpet indicate to you?

12 A. So it's a position -- based off of multiple crime
13 scenes that I've worked before, it's usually a drop or
14 instantaneous. Usually if somebody has drug use of
15 something like a chemical agent, heroin, Fentanyl, things
16 like that, a quick acting substance, there's an immediate
17 drop. Usually the people, it hits them instantaneously.
18 It's not a five-minute, ten-minute coming on them. It's
19 usually a quick acting. So they tend to drop items in close
20 proximity. So this looks like it was a needle that was
21 dropped.

22 Q. Okay. This is State's Exhibit No. 5. What is
23 this a photograph of?

24 A. Another angle of the victim. It actually shows
25 correlation of items in reference to the victim, everything

1 from items on the bed, cell phones, notebooks, things that
2 were in the actual victim's purse. There's items that's
3 over on the dresser as well that will help show reference to
4 where it is to the victim.

5 Q. And to your knowledge, were these items spread on
6 the bed like this when officers first arrived?

7 A. To my knowledge, they were.

8 Q. Okay. Let's take a look at State's Exhibit No. 6.
9 Is this a closer view of the items that were on Michelle's
10 bed?

11 A. They were.

12 Q. What items do you see in this photograph?

13 A. There is a hypodermic needle. There is a couple
14 of notebooks, couple of folders, a wallet, a purse, a phone,
15 a purse with a couple of extra cell phones.

16 Q. Okay. This is State's Exhibit No. 7; what are we
17 looking at in this photograph?

18 A. That is one of the hypodermic needles that is
19 capped on the bed. The one that's in Exhibit No. 6 appears
20 to be closer to the phone in Exhibit No. 6.

21 Q. Okay. And I know it's difficult to tell in this
22 photograph, but do you recall whether there were any drugs
23 in that syringe?

24 A. It appeared to be empty.

25 Q. Okay. Let's take a look at State's No. 8. What's

1 depicted in this photograph?

2 A. It's going to be just another angle in reference
3 to help show reference to maybe the cap endings and
4 everything. It's basically just setting up different areas
5 of angles of the items that surround her.

6 Q. Okay. And to your knowledge, were these items
7 moved in any way prior to you photographing them?

8 A. Not to my knowledge.

9 Q. Take a look at State's Exhibit No. 9. Is this a
10 closer view of that item between Michelle's legs and her
11 torso?

12 A. Yes, it is. It appears to be like a plunger cap
13 for a needle. It's not actually the cap part for the needle
14 but the back retained part.

15 Q. Let's take a look at State's Exhibit No. 10. What
16 do we have in this photograph?

17 A. That's going to be more items of hypodermic
18 needles and possibly some bag endings that are towards the
19 corner of where that pillow is at.

20 Q. Okay. Let's take a look at State's Exhibit
21 No. 11. Is this a closer view of those needle caps that
22 were close to Michelle's --

23 A. It is. It's for the plunger caps as well as the
24 bag corner pieces.

25 Q. Okay. State's No. 12, what are we looking at in

1 this photograph?

2 A. There is a reservoir container or a plastic
3 container. There's also a pencil sharpener. Inside the
4 pencil sharpener, it's hard to see but there's a floor gray
5 spec that's over to the right side. That appears to be a
6 piece of like cloth or sponge or something like that.

7 Based off of my training and experience as a crime
8 scene investigator, usually you will have indications of
9 things that are staging. People that have drug addictions
10 or things like that, it's considered an addiction so it's a
11 habit forming thing. So they usually will set items out.

12 So whenever you do a -- whenever people take
13 drugs, there's a habit to how they do it. So drugs aren't
14 just a habit in its own self, but they'll sit and they'll --
15 they're staging to buy them, so they'll always put, you
16 know, like for example, the pencil sharpener where they
17 might mix drugs in, inducing like a watering with their
18 mixing it around, and then drawing it into the needle.

19 They'll stage their needles in the same way. It's
20 the same kind of way because it is a habit that they are
21 forming to ingest the drugs into their system.

22 Q. Were these items on Michelle's bedside table?

23 A. They were.

24 Q. Let's take a look at No. 13. What is this a
25 photograph of?

1 A. A close-up picture of the victim.

2 Q. And 14?

3 A. It's going to be a picture of the arm of the
4 subject where the cable was wrapped around.

5 Q. And Sergeant Gorman, I specifically want to ask
6 you about the color of Michelle's skin in this photograph.
7 Based on your training and experience and in dealing with
8 crime scenes involving deceased persons, what causes the
9 color of Michelle's skin to be dark like this, what we see
10 in this photograph?

11 A. So that's going to be positional lividity. So
12 whenever an individual is stuck in a fixed position, the
13 blood starts to pool in that position. That's kind of how a
14 crime scene detective or a detective in general knows if an
15 individual has been moved from the area. If you're within
16 an X amount of range, you're going to have things called
17 blanching. You can tell -- it kind of gives you a range on
18 how long somebody might be down, if they've been moved.

19 If a scene's been staged, if somebody's been moved
20 from one location to another, within a couple of hours that
21 lividity will fix into blood that's pooling. It will
22 actually fix and place. And if I have somebody say laying
23 on their back and their face is bright purple, but the back
24 of their head and their neck is white or clear or a lighter
25 color, then I know that the person's been moved to their

1 back.

2 We have that happen a lot in scenes where EMS
3 might come in. They might immediately see somebody and try
4 to render aid to them, but they've been down for a while.
5 And we have to connect those pieces in trying to figure out,
6 well, have they been moved, where were they at, where was
7 their original placement.

8 Q. Do you recall whether rigor mortis had already
9 been set in when this photograph was taken?

10 A. It had. I'm not exactly sure of the time of the
11 event. Rigor mortis had fully set in, and lividity had set
12 as well.

13 Q. Can you describe to the jury what rigor mortis is.

14 A. It's a stiffening of the muscles and joints
15 usually 6 to 24 hours. But it can be -- so almost with
16 different things like temperature, weight, the size, if I
17 got a larger individual, a heavier set rigor mortis might
18 take slower. If I have a small individual like myself, and
19 it's a warm, hot day, rigor mortis can kick in a lot
20 quicker. It could be four-hour, you know, five-hour set.
21 It's a little different.

22 But you have to gauge what your day's like, the
23 temperature is like of the actual day, what that
24 individual's size is, different things like health. And
25 that's why we ask a lot of health questions when we work

1 death cases. Did these people have cardiovascular things,
2 how does the blood flow in their body, different stuff like
3 that.

4 Q. Let's take a look at State's No. 15. What is this
5 a photograph of?

6 A. It appears to be an injection site.

7 Q. So this is where you believe Michelle had
8 attempted to inject something into her body?

9 A. Yes, sir.

10 MR. JOSEPH: Objection.

11 THE COURT: Overruled.

12 Q. Let's take a look at No. 16. What is this a
13 photograph of?

14 A. Just a close-up covering the victim's face.

15 Q. And had Michelle been moved from the bed onto a
16 stretcher at this point?

17 A. She had.

18 Q. No. 17, is that just a closer view?

19 A. Yes, sir.

20 Q. Now, Sergeant Gorman, we see some blood coming out
21 of Michelle's nose in this photograph. Does that indicate
22 to you, based on your training and experience, that she was
23 assaulted in any way?

24 A. No. There's a natural occurrence that will happen
25 with purging. Basically your body can only hold the fluids

1 in for so long. Whenever the body starts breaking down, it
2 will expel through areas like nose, mouth, things like that.
3 There doesn't appear to be any trauma, there's no isolation
4 of bruising, indications of swelling or anything around her
5 facial area. That's just natural swelling that happens
6 whenever you have that lividity that sets in, because
7 basically everything is pooling to that area.

8 Q. Is this normally what you see for overdose deaths?

9 A. It is.

10 Q. Let's take a look at No. 18. What's depicted in
11 this photograph?

12 A. A picture of the bed where the victim was lying.

13 Q. Okay. This is after Michelle's been taken from
14 the room?

15 A. That's correct.

16 Q. Lets take a look at 19. What are we looking at
17 here?

18 A. It's just another angle. Usually whenever we do
19 different scenes, it's hard to -- if you can't see them
20 yourself, we try to show our investigators or anybody that
21 might be reviewing the case such as ourselves, different
22 angles, different points of view of what we might have seen.
23 It's real hard to show you the 360 view of an actual scene,
24 so we try to document as much as we can.

25 Q. And finally, No. 20, what's depicted in this

1 photograph?

2 A. The same thing, just another angle over the bed.
3 That way you kind of get a roundabout view of the room.

4 Q. And, again, is this after you've already had
5 Michelle's body removed as well as collected evidence from
6 this room?

7 A. That is correct.

8 Q. Okay. Sergeant Gorman, did you assist in
9 searching and collecting evidence from Michelle's bedroom
10 that day?

11 A. I did.

12 MR. NEWMAN: I'm sorry, if I may have a moment,
13 Your Honor.

14 THE COURT: Yes.

15 (Pause in proceedings.)

16 (State's Exhibit 21 identified.)

17 MR. NEWMAN: May I approach?

18 THE COURT: Yes. I would ask counsel both to
19 approach, please, for just a moment.

20 (Bench conference.)

21 MR. NEWMAN: May I approach the witness?

22 THE COURT: Yes, sir.

23 Q. Sergeant Gorman, I am showing you what's been
24 marked as State's Exhibit No. 21 for identification
25 purposes. Do you recognize this item?

1 A. I do.

2 Q. Is there an OCA number written on the outside of
3 that bag?

4 A. There is.

5 Q. What is an OCA number?

6 A. It's going to be 2004088.

7 Q. And thank you. I was -- what is an OCA number in
8 general?

9 A. Okay. An OCA number is a number that's assigned
10 to each individual case or call for service.

11 Q. And so, was an OCA number generated for this case
12 on March 26th of 2020?

13 A. It was.

14 Q. And can you read out that OCA number to me,
15 please.

16 A. Yes. It's going to be 2004088.

17 Q. And is that what's written on the outside of that
18 bag?

19 A. It is.

20 (State's Exhibit 22 identified.)

21 MR. NEWMAN: May I approach?

22 THE COURT: Yes, sir.

23 Q. Sergeant Gorman, I'm showing you what's been
24 marked as State's Exhibit No. 22 for identification
25 purposes. Do you recognize that item?

1 A. I do.

2 Q. Is there an OCA number written on the outside of
3 that bag?

4 A. There is.

5 Q. Is that the same OCA number assigned to this case
6 and what's listed on the outside of State's Exhibit No. 21?

7 A. It is.

8 (State's Exhibit 23 identified.)

9 MR. NEWMAN: May I approach?

10 THE COURT: Yes, sir.

11 Q. Detective Gorman, I'm showing you what's been
12 marked as State's Exhibit No. 23 for identification
13 purposes. Do you recognize that item?

14 A. Yes, sir.

15 Q. Is there an OCA number written on the outside of
16 that container?

17 A. There is.

18 Q. Is that the same OCA number assigned to this case
19 and what's listed on the outside of the bags for Exhibits 21
20 and 22?

21 A. It is.

22 Q. Okay. Sergeant Gorman, when you collect evidence
23 from a scene, do you complete a property and evidence
24 voucher?

25 A. We do.

1 Q. What is a property and evidence voucher?

2 A. It's just a documentation of evidence that's
3 seized from an actual scene. And it's what is being
4 submitted into our evidence room. It's basically a record
5 of items that we take to keep our chain of custody.

6 Q. Did you complete one for this case?

7 A. I did.

8 (State's Exhibit 24 identified.)

9 MR. NEWMAN: May I approach?

10 THE COURT: Yes.

11 Q. I'm showing you what's been marked as State's
12 Exhibit No. 24 for identification. Do you recognize those
13 documents?

14 A. Yes, sir.

15 Q. What is it?

16 A. It's a property control voucher as well as a --
17 they are individual property control vouchers for chain of
18 custody.

19 MR. NEWMAN: If I may have just one moment?

20 THE COURT: Yes, sir.

21 (Pause in proceedings.)

22 (State's Exhibit 25 identified.)

23 MR. NEWMAN: May I approach?

24 THE COURT: Yes.

25 Q. Sergeant Gorman, I'm now showing you what's

1 State's Exhibit No. 25 for identification. What is that
2 document?

3 A. That's going to be the evidence voucher that was
4 generated for this case.

5 Q. Does this document list all the items that you
6 collected from Michelle's bedroom that day?

7 A. It does.

8 Q. Does that document have an OCA number on it?

9 A. It does.

10 Q. What is it?

11 A. It's going to be 2004088.

12 Q. And is that the OCA number generated for this
13 case?

14 A. It is.

15 Q. Does this document have a date and time listed for
16 when these items were collected?

17 A. The date and time of report, date seized was at
18 13:40 or 1:40 p.m.

19 Q. And the date?

20 A. Is going to be 3/26 of 2020.

21 Q. So March 26th of 2020?

22 A. That's correct.

23 Q. Turning your attention back to State's Exhibit
24 No. 24, the chain of custody log, what information is on
25 that?

1 A. It's going to be the actual logging evidence where
2 it's actually taken from our control room into actual
3 evidence. It's going to show where I've seized it, I've
4 submitted it, and it's been transferred into our evidence
5 room.

6 Q. And is the last entry on that chain of custody log
7 from where it was signed out from Concord Police Department
8 this morning and to be brought to court?

9 A. Yes. Yeah, on this first page.

10 Q. All right. And does this chain of custody log
11 show that the evidence was collected, submitted, and
12 properly stored at the Concord Police Department?

13 A. Yes, sir, it does.

14 MR. NEWMAN: Your Honor, at this time the State
15 would move Exhibits 21 through 25 into evidence.

16 THE COURT: All right. Those are admitted.

17 (State's Exhibit 21 through 25 received into
18 evidence.)

19 Q. Sergeant Gorman, do you have gloves up there?

20 A. I do not.

21 MR. NEWMAN: May I approach?

22 THE COURT: Yes, sir.

23 THE WITNESS: Thank you.

24 Q. Sergeant, I'm going to ask you to open State's
25 Exhibit No. 21 and pull the item out.

1 MR. NEWMAN: May I approach the witness?

2 THE COURT: You may.

3 (State's Exhibit 21A identified.)

4 Q. What is that item?

5 A. It's going to be the USB cable that was around the
6 victim's arm.

7 MR. NEWMAN: Your Honor, I've marked that as
8 State's Exhibit No. 21A.

9 Q. Is this the item that you photographed around
10 Michelle's arm?

11 A. It is.

12 Q. And based on your training and experience, what
13 did you believe the purpose of that item to be?

14 A. To tie off -- for an injection site or intravenous
15 drug induced.

16 Q. Okay. You can just set that aside, you don't have
17 to put it back in the bag.

18 A. All right.

19 Q. I would like for you to open State's Exhibit
20 No. 22 and pull the item out. Do you recognize that item?

21 A. It is.

22 MR. NEWMAN: May I approach?

23 THE COURT: Yes, sir.

24 (State's Exhibit 22A identified.)

25 MR. NEWMAN: I've marked that as State's Exhibit

1 No. 22A.

2 Q. What is that item?

3 A. It's going to be the pencil sharpener with this
4 little piece of gray item in it and the clear plastic tray
5 that was next to the pencil sharpener from the nightstand.

6 Q. And Sergeant Gorman, I want you to take a look at
7 State's Exhibit No. 23. Is one of those needles in that
8 container one of the needles that you photographed sticking
9 up in the carpet next to Michelle's foot?

10 A. It is. It's going to be the uncapped needle.

11 Q. Okay. And how many total needles are there in
12 that container?

13 A. There are three.

14 Q. Were there any -- was there anything at all left
15 in any of those syringes?

16 A. No more.

17 MR. NEWMAN: Your Honor, at this time the State
18 would move to admit 21A and 22A into evidence.

19 THE COURT: That's admitted.

20 (State's Exhibit 21A and 22A received into
21 evidence.)

22 MR. NEWMAN: Your Honor, at this time we would
23 like to publish those items to the jury. Maybe they can
24 just stay there in front of Sergeant Gorman, and the jury
25 can walk by.

1 THE COURT: All right. Ladies and gentlemen, I'm
2 going to ask if you all would simply just walk by and pass
3 by these without comment. Take a look at the items that are
4 on the -- well, you'll be facing them on the left side.

5 And I think probably the best way to do it is the
6 folks on the first row, in just a moment if you'll just
7 circle around, and then you'll stand over here. And then
8 the folks on the back row can come through, then they can go
9 back and have a seat and you all can have a seat.

10 In my discretion I'm going to allow it to be
11 published in that manner. So let me ask, so you're asking
12 that the items be published are 21, 22 and 23, not 24 and
13 25; is that right?

14 MR. NEWMAN: It doesn't matter. That's fine.

15 THE COURT: All right. Because the others are
16 documents that are on the other side.

17 MR. NEWMAN: Correct.

18 THE COURT: So if you all would just come through
19 and take a look and stand over here, I would appreciate it.
20 Thank you.

21 (State's Exhibit Nos. 21 through 25, 21A, and 22A
22 were published to the jury.)

23 THE COURT: All right. And then those of you in
24 the back row, if you would please just circle back around
25 and return to your seats, I would appreciate it.

1 (Pause in proceedings.)

2 THE COURT: All right. For the record, the jury
3 has walked through and looked at the items and returned to
4 their seats. Thank you.

5 MR. NEWMAN: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 Q. Sergeant Gorman, during the search of Michelle's
8 bedroom, did you locate any other drugs of any kind?

9 A. No, sir.

10 Q. There were -- let me go back to State's Exhibit --
11 I'm not sure exactly which one this is. This is the
12 photograph depicting needle caps in plastic baggies next to
13 Michelle's headboard. Did you locate any drugs at all in
14 those plastic baggies?

15 A. No, sir.

16 Q. Did you search Michelle's car in the driveway?

17 A. I did.

18 Q. Were there any drugs of any kind recovered from
19 her car?

20 A. No, sir.

21 MR. NEWMAN: Nothing further, Your Honor.

22 THE COURT: All right. Yes, sir.

23 (Discussion off the record at 2:36 p.m.)

24 THE COURT: Pardon?

25 THE BAILIFF: She wants to see that again. She

1 didn't have her glasses on.

2 THE COURT: All right.

3 THE BAILIFF: The picture that was on the screen.

4 THE COURT: You're asking that they review a
5 picture. Any objection to that?

6 MR. NEWMAN: The State has no objection.

7 THE COURT: All right.

8 MR. NEWMAN: Just that one photograph or all of
9 them?

10 THE COURT: Just the one, the last one. All
11 right.

12 JUROR WALTON (1): The one you just said baggies,
13 and I only see one. That's why I'm trying to -- I was
14 like --

15 THE COURT: Look, ma'am, I'd ask that you not talk
16 about it. I appreciate it.

17 JUROR WALTON (1): I'm sorry, I was only --

18 THE COURT: No, ma'am, no, ma'am. That's fine.

19 JUROR WALTON (1): I apologize.

20 THE COURT: All right, thank you. All right,
21 thank you. Yes, sir.

22 CROSS-EXAMINATION BY MR. JOSEPH:

23 Q. Sergeant Gorman, so you mentioned you didn't find
24 any drugs in her room; correct?

25 A. No, sir.

1 Q. And you mentioned -- so the needle that you found
2 on the floor was empty?

3 A. Yes, sir.

4 Q. Okay. And you collected a total, you said it
5 quickly, but you said that you collected four corner
6 baggies?

7 A. That there was multiple corner baggies.

8 Q. Does the evidence you collected, does it not
9 indicate that you collected -- that you collected four
10 plastic bag corners?

11 A. It does. I reviewed that document.

12 Q. Okay. So you collected a total of four?

13 A. Yes.

14 Q. Were they all together?

15 A. I can't recall.

16 Q. Okay. And Mr. Newman didn't go into depth about
17 that. You have that listed under miscellaneous
18 paraphernalia; correct?

19 A. Yes.

20 Q. What is the significance of the these corner
21 baggies, why did you collect those?

22 A. Because normally whenever we deal with overdose
23 cases, narcotics are sold and delivered in individual small
24 Ziploc bags or corner bags off of plastic bags that are
25 twist and tie. These were items that were either small

1 Ziploc bags or twist tie bags that are small, and that's how
2 narcotics are packaged.

3 Q. So based on your experience, training, and belief,
4 you believe that drugs were at some point inside those four
5 plastic baggies that you collected?

6 A. Yes, sir.

7 Q. And you believe that the drugs she overdosed on
8 were probably in those corner baggies?

9 A. There is a possibility, yes.

10 Q. Okay. And, now, you have -- the Concord police,
11 do y'all have your own crime lab?

12 A. We do not.

13 Q. Okay. So you have to send stuff off to the State?

14 A. Yes.

15 Q. Okay. And who makes a decision whether to test
16 any of this paraphernalia to see if there is any residue
17 that could tell you what's in there?

18 A. Sometimes it could be the investigating officer.
19 It just all depends on the actual investigation.

20 Q. Okay. So that's not your decision?

21 A. No.

22 Q. Okay. And I believe Mr. Newman mentioned to you
23 about whether, I believe it was Michelle's arm and whether
24 that was where you believe that she injected a needle? Was
25 that what you --

1 A. That it was a possible injection site?

2 Q. Yes?

3 A. Yes.

4 Q. Okay. But you don't have the medical training to
5 make the decision that that was the actual site where she
6 injected?

7 A. No, I can't say it's the actual site. But there
8 are signs, physiological signs, and things such as track
9 marks and things like that on the arm showing signs of a
10 possible injection site.

11 Q. Okay. But you're not testifying that that site
12 was where she injected on the day that she overdosed?

13 A. No.

14 MR. JOSEPH: I don't have anything further.

15 REDIRECT EXAMINATION BY MR. NEWMAN:

16 Q. Sergeant Gorman, briefly, Mr. Joseph asked you
17 about sending items to the lab. In your training and
18 experience, was there anything that you collected in
19 Michelle's bedroom that day that could have been sent to the
20 lab for forensic analysis?

21 A. Not necessarily. There's -- it needs to usually
22 be some type of amount of quantity to it for a positive test
23 for it, but nothing that I would have sent.

24 Q. So even if you were the one that were making the
25 decision that day on whether --

1 MR. JOSEPH: Objection. He can't ask for somebody
2 else.

3 THE COURT: If you'll approach.

4 (Bench conference.)

5 THE COURT: Overrule the objection.

6 Q. So, Sergeant Gorman, if you had been the one to
7 decide whether any of this evidence were to be sent to the
8 crime lab, did you recover anything that in your training
9 and experience you would have had anything to send off to be
10 tested?

11 A. No.

12 MR. NEWMAN: Nothing further.

13 THE COURT: Anything further?

14 MR. JOSEPH: No, Your Honor.

15 THE COURT: All right. Sir, if you wouldn't mind
16 helping us repackage those things, I would appreciate it.

17 THE WITNESS: Yes, sir.

18 THE COURT: All right, thank you.

19 (Witness excused.)

20 MR. NEWMAN: May I approach and collect the
21 evidence?

22 THE COURT: Yes, sir.

23 (Pause in proceedings.)

24 MR. NEWMAN: State calls Dr. Jonathan Privette.

25 THE COURT: All right. Sir, welcome. Once you

1 reach the witness stand, sir, if you will place your left
2 hand on the Bible and raise your right, the clerk will
3 administer your oath.

4 JONATHAN PRIVETTE,
5 having been called as a witness for the State at 2:44 p.m.,
6 was sworn and testified as follows:

7 THE COURT: Thank you, sir. Please have a seat.
8 I'd ask everyone not to talk over each other so the court
9 reporter and the jury can hear both the question and answer.
10 Thank you. Yes, sir, whenever you're ready.

11 MR. NEWMAN: Thank you, Your Honor.

12 DIRECT EXAMINATION BY MR. NEWMAN:

13 Q. Please state your name for the jury, speaking
14 loudly and clearly and spell your last name for the court
15 reporter.

16 A. Jonathan Privette, P-R-I-V-E-T-T-E.

17 Q. And, sir, are you licensed to practice medicine in
18 the State of North Carolina?

19 A. I am.

20 Q. When did you first become licensed?

21 A. I received my training license in 2006, and I've
22 received my full unrestricted license in 2008.

23 Q. And can you please tell the jury a little bit
24 about your training and experience.

25 A. So I have a Bachelor's Degree and Master's Degree

1 of Science from East Carolina University in cell biology.
2 And then in 2002, I went to medical school at East Carolina
3 and graduated from there in 2006. Upon completion of
4 medical school, I went to the University of North Carolina
5 Chapel Hill and did an anatomic and clinical pathology
6 residency program. That was a four-year training program.

7 Upon completion of that, I did a one-year forensic
8 pathology fellowship training at the Office of the Chief
9 Medical Examiner, which was at the University of North
10 Carolina Chapel Hill at that time. It's in Raleigh now,
11 they have a new office. And I also have board
12 certifications in anatomic pathology and forensic pathology.

13 Q. So you are board certified in the area of forensic
14 pathology?

15 A. I am.

16 Q. Can you please describe for the jury what the
17 process of a board certification involves.

18 A. So, there's this organization called the American
19 Board of Specialties. And so it's like the American Board
20 of Pediatrics, American Board of Surgery, the American Board
21 of Pathology. And basically during your training you have
22 to meet certain milestones to qualify to sit for an
23 examination. And then, once you meet those milestones, then
24 you sit for the exam. And then, if you pass the exam, then
25 you're boarded.

1 And then, after that you have the what they call
2 maintenance of certification. So I have to do certain
3 things on a ten-year cycle, just broke it up in two-year
4 increments. Like I had to get a certain amount of
5 continuing medical education, I had like -- I have to have
6 70 hours of continuing medical education every two years.

7 I have to -- within the first four years of a
8 ten-year cycle, I have to do like a laboratory safety
9 program. And then you also have to take a test. Like every
10 three months of the year I have to take a test online to
11 basically show that I'm meeting basic competency standards.
12 And so, it's just kind of an ongoing thing once you become
13 certified.

14 Q. Thank you. And I guess I should take a step back
15 and ask you, what even is forensic pathology?

16 A. Okay. So I'm a pathologist, generally speaking.
17 And most people think of pathology, they think of autopsy
18 medicine. But really that's a very small percentage of what
19 pathologists do in this country. Most pathologists work in
20 hospital settings with living patients.

21 And that's what my basic training was when I did
22 my anatomic and pathology training. I was learning how to
23 diagnose disease in patients, you know, who were in the
24 hospital. And anytime a doctor removes something from your
25 body, it will go to a pathologist and they'll render a

1 diagnosis. And then they give that diagnosis back to your
2 treating physician. And then, they'll treat you accordingly
3 based on what that diagnosis is.

4 So you don't really see the pathologist as a
5 patient, but they're back there in the background working
6 with your treating physicians to get you the healthcare that
7 is in your best interest.

8 Forensic pathology, which was the year of
9 additional training that I did, is where we use the autopsy
10 basically to look at sudden unexpected death. And there's
11 some crossover with the legal profession more so than other
12 areas of medicine, which is why I'm here today.

13 Q. Thank you, sir. Are you a member of any
14 professional organizations?

15 A. The American Board of Pathology.

16 Q. And how are you employed?

17 A. I'm employed with the Mecklenburg County Medical
18 Examiner's Office in Charlotte.

19 Q. How long have you been so employed?

20 A. I started there in February of 2014.

21 MR. NEWMAN: Your Honor, at this time the State
22 would tender this witness as an expert in the field of
23 forensic pathology.

24 THE COURT: He's admitted as an expert in that
25 field.

1 MR. NEWMAN: Thank you, Your Honor.

2 Q. Sir, Dr. Privette, what are your duties as a
3 forensic pathologist with the medical examiner's office?

4 A. So working in Mecklenburg and Charlotte, I have
5 two roles. I kind of have two hats that I wear. One is I'm
6 the county medical examiner for Mecklenburg County, what we
7 call the local county medical examiner. You have one here
8 in Cabarrus County. I believe Ms. Parsons was the medical
9 examiner on this particular case.

10 And then I also work as a forensic pathologist.
11 And it's kind of confusing, but the county medical examiner
12 is the one who decides if a death falls within the medical
13 examiner's jurisdiction. So the county medical examiner, me
14 in Charlotte, I would get a call from police, emergency
15 medical services, the hospital, anybody who recognizes
16 there's been a death.

17 And then we get the history, find out what's going
18 on, then we make a decision on whether or not that person
19 falls under the medical examiner's jurisdiction. And if so,
20 then we can take possession of the body and do things to
21 that body. Under state law, we're given authority to do
22 that to determine the cause and manner of death.

23 So the county medical examiner is the one that
24 makes the initial decision and it's medical examiner's case.
25 And sometimes they can do everything they need to do to fill

1 out the death certificate without an autopsy, without the
2 forensic pathologist part of it.

3 So if a person leaves their house to go to work in
4 the morning, and unfortunately they are killed in a car
5 crash on the way, it's obvious what happened to them. They
6 have injuries sustained that are consistent with the fatal
7 injuries that would have occurred during a car wreck, then
8 they may just do what we call an external examination where
9 they draw blood samples for toxicology, they'll do a body
10 diagram. And then they'll do a bunch of paperwork including
11 filling out a death certificate.

12 In other circumstances it's not clear, or it may
13 be clear but an autopsy is still warranted in the case of a
14 homicide. And in that case, the county medical examiner
15 needs to consult with the forensic pathologist to request an
16 autopsy.

17 Now, not all county medical examiners are
18 pathologists like myself. A lot of them may be nurses, they
19 may be paramedics, so they can't do autopsies because that's
20 practicing medicine. So they'll have to call me over in
21 Charlotte and say, hey, I have this death. I think it needs
22 an autopsy, do you agree and will you accept it for an
23 autopsy. And so, then they would send it over, and we would
24 perform the autopsy in our office.

25 In Charlotte, I'm the medical examiner and a

1 forensic pathologist, so I do both of those. I see a person
2 may that need an autopsy, I just have to ask myself. And so
3 it's a simplified process.

4 Q. Dr. Privette, were you asked in this case to
5 perform an autopsy on Michelle Lynne Hooper?

6 A. I was.

7 Q. Can you generally tell the jury how an autopsy is
8 performed.

9 A. So the body would be -- in this case the body
10 would be transported from Cabarrus County to Mecklenburg
11 County in our office. And depending on what time of day the
12 death occurred, you know, it might dictate when we actually
13 get to doing the examination.

14 This exam was performed first thing in the
15 morning. I don't have Ms. Hooper's death certificate, but I
16 would assume she probably died the day before. She would
17 come to the office, and she would be placed in our cooler
18 system overnight. And then, the next morning during the
19 workday the examination would be performed.

20 Basically we do things like weigh the body. We do
21 an external examination where we note the personal effects,
22 clothing, medical intervention that may be associated with
23 the body. We'll document those things. And then we'll
24 remove all those items. And then we'll look and see if
25 there's any external evidence of disease or injury on the

1 body. If so, we'll document those.

2 And then, we do the internal examination. We open
3 up the body, remove the organs. We'll weigh them, dissect
4 the organs, we take -- in some cases we'll take pieces of
5 tissue and submit it so that microscopic slides can be made
6 to look at it under the microscope to determine if there is
7 a microscopic disease or injury.

8 We'll remove tissue samples for toxicology
9 testing. We may do other things that, you know, if there's
10 a homicide, you know, we'll go in and retrieve projectiles
11 for evidence. So that's the basic what we do.

12 Q. And did you perform an autopsy on Michelle Lynne
13 Hooper, the victim in this case?

14 A. I did.

15 (State's Exhibit 26 identified.)

16 MR. NEWMAN: May I approach?

17 THE COURT: Yes, sir.

18 Q. Dr. Privette, I'm showing you what's been marked
19 as State's Exhibit No. 26 for identification purposes. Do
20 you recognize that document?

21 A. Yes. This is the autopsy report and toxicology
22 report on Ms. Hooper.

23 Q. Did you prepare that document?

24 A. Yes. So after we do our autopsy examination and
25 got the toxicology results back and we have all of our

1 information together, then I'll generate a report, an
2 autopsy report. And that's what this is.

3 Q. Would this document aid you in your testimony here
4 today?

5 A. It would.

6 MR. NEWMAN: Your Honor, at this time we will move
7 to admit and publish State's Exhibit No. 26 to the jury.

8 THE COURT: It's admitted.

9 (State's Exhibit 26 received into evidence.)

10 THE COURT: And you are allowed to publish.

11 Ladies and gentlemen, you'll be passed a copy of
12 these. Look at it carefully, individually, and without
13 comment. And would you like for them to retain that as the
14 witness continues to testify?

15 MR. NEWMAN: Yes, please.

16 THE COURT: All right.

17 (State's Exhibit No. 26 was published to the
18 jury.)

19 THE COURT: All right, thank you. It appears that
20 each of the jurors have a copy of the exhibit.

21 Q. Dr. Privette, as a part of your autopsy, did you
22 take a photograph of Michelle?

23 A. Yes. For each autopsy we take at least one
24 photograph, what we call an ID photograph.

25 Q. So is that standard procedure whenever you're

1 performing an autopsy?

2 A. It is.

3 (State's Exhibit 27 identified.)

4 MR. NEWMAN: May I approach?

5 THE COURT: Yes, sir.

6 Q. Dr. Privette, I'm showing you what has been marked
7 as State's Exhibit No. 27 for identification. Do you
8 recognize that photograph?

9 A. Yes. This is our ID photograph of Ms. Hooper.

10 Q. Did you take this photograph?

11 A. I may have. Sometimes my autopsy assistant will
12 take the photograph.

13 Q. All right. Did you include this photograph with
14 your report that's been previously admitted as State's
15 Exhibit No. 26?

16 A. I mean, it's part of -- it's part of the file. I
17 don't know if I'd say it's part of the report.

18 Q. Okay.

19 MR. NEWMAN: Your Honor, at this time we will move
20 to admit and publish State's Exhibit No. 26 to the jury.

21 THE COURT: It's admitted and you may publish.

22 MR. NEWMAN: I'm sorry, 27. I'm sorry.

23 THE COURT: Yes, sir.

24 (State's Exhibit 27 received into evidence.)

25 THE COURT: Ladies and gentlemen, you'll be given

1 a copy of this. Please examine it carefully and without
2 comment.

3 (State's Exhibit No. 27 was published to the
4 jury.)

5 THE COURT: All right. Each of the jurors has a
6 copy of that, you may continue.

7 MR. NEWMAN: Thank you, Your Honor.

8 Q. Dr. Privette, what background information were you
9 provided, if any, concerning Michelle Hooper?

10 A. So I was told that she was found deceased in her
11 bedroom, and located in the bedroom with her were -- was
12 intravenous drug paraphernalia. I don't recall what that
13 was. It could be a spoon or burnt oil or a syringe itself.
14 And I was also told that she had a history of substance
15 abuse, heroin.

16 Q. So was it a suspected overdose death?

17 A. It was.

18 Q. And with the suspected overdose death, is it
19 important to know the surrounding circumstances of the
20 investigation, where the body was found and other pieces of
21 information?

22 A. Yes.

23 Q. Why is that?

24 A. Well, we like to know as much information as
25 possible. People who are using drugs can die from other

1 means.

2 Q. What effect, if any, would an almost immediate
3 death after drug use have on your findings?

4 A. I'm sorry, I don't fully understand the question.

5 Q. Well, strike that. I'll move on. During your
6 autopsy, did you note any external or internal injuries on
7 Michelle's body?

8 A. Yes. She had some what I call contusions or
9 basically bruises. Those were located on the lower
10 extremities.

11 Q. All right. Is there anything remarkable to you
12 concerning Michelle's history and examination?

13 A. Other than the bruises on her legs, she's a
14 relatively healthy young woman.

15 Q. Okay. So were you able to form an opinion as to
16 Michelle's exact cause of death just based on your autopsy
17 alone?

18 A. Yes.

19 Q. Did you take any additional steps before actually
20 forming an opinion on Michelle's cause of death?

21 A. Well, I mean, if you mean -- I actually sent the
22 tissue sample off for toxicology testing. But doing the
23 autopsy, I mean, like I said, she's a relatively healthy
24 young woman. I didn't find anything that would explain why,
25 you know, a 27-year-old woman would be dead in bed just from

1 doing the autopsy.

2 Q. All right. And so what is the process for a
3 toxicologist to receive specimens in order to analyze them?

4 A. So we -- all the toxicology testing in the State
5 of North Carolina is handled at the central lab at the
6 Office of the Chief Medical Examiner. They have several
7 toxicologists, PhDs in toxicology that work there, you know,
8 and various other staff.

9 And so we basically collect, you know, a bunch of
10 these specimens together and send them up one at a time in
11 maybe a week or two. And we put them all together and send
12 them up and by mail and/or courier. And then, they will
13 take them and do what they do, which is they aliquot the
14 specimens and give them their labels and identification
15 marks. And then they run the screening test, and then they
16 run the quantitative test if they find anything on the
17 screening test.

18 Q. Was that done in this case?

19 A. It was.

20 Q. So at some later date, did you receive a
21 toxicology report from Dr. Justin Brower at the Office of
22 the Chief Medical Examiner?

23 A. I did.

24 Q. Did you include that toxicology report with your
25 autopsy report?

1 A. So the toxicology report is kind of a -- it's a
2 separate entity. But the findings of the toxicology are
3 incorporated into the autopsy report.

4 Q. So what is benzoylecgonine?

5 A. Benzoylecgonine is a metabolite of cocaine.
6 Basically it's cocaine and parent cocaine. And the chemical
7 compound for cocaine is broken down fairly quickly inside of
8 the body to what become metabolites for the drug to
9 metabolize. And benzoylecgonine is one of the main
10 metabolites.

11 Q. So what does the presence of benzoylecgonine and
12 cocaine tell you about Michelle?

13 A. So benzoylecgonine just tells you that the person
14 had used cocaine at some point in the recent past. The
15 presence of parent cocaine suggests that the use is more
16 recent because, as I said, the cocaine itself is broken down
17 fairly rapidly inside the body. And that breakdown actually
18 continues to occur after death in the blood.

19 And so if it's, you know, been a day or two since
20 the person's used the cocaine, generally you won't find
21 parent cocaine in their system. You may still find
22 benzoylecgonine, but you generally won't find cocaine --
23 parent cocaine.

24 Q. So the fact that there was cocaine as well as
25 benzoylecgonine found in Michelle's blood, does that tell

1 you that the cocaine use or does that indicate to you that
2 the cocaine use was within approximately a day or so?

3 A. Yes.

4 Q. Okay.

5 A. I think it's safe to say that the cocaine use was,
6 you know, probably soon before her death.

7 Q. Okay. Did you note any other substances in
8 Michelle's blood?

9 A. It did. So the toxicology report found --
10 Dr. Brower found -- he found parent cocaine, he found the
11 benzoylecgonine. He also found cold medicine which is
12 dextromethorphan, it's basically a cough suppressant, and
13 chlorpheniramine, which is an antihistamine, basically dries
14 up your nose when you have allergies. And also found
15 Fentanyl.

16 Q. Please explain to the jury the combinations of
17 drugs that you saw on the toxicology report and why that is
18 important in forming your opinion as to Michelle's cause of
19 death.

20 A. Well, the main player here is going to be the
21 Fentanyl. What I do is when I do my reports, and this is
22 really a stylistic approach, is I put the drugs together
23 that are in the system, and that's what I just put on the
24 report as the cause of death. Because, you know, it's not
25 good for you to have all these drugs into your system at the

1 same time.

2 But the -- not all these drugs are obviously going
3 to be fatal or cause a person to die. So I would say the
4 main player here is the Fentanyl which is a very toxic and
5 very dangerous drug. The use of Fentanyl is exacerbated by
6 the presence of cocaine, that's not going to help that
7 situation.

8 Dextromethorphan doesn't act through the mule
9 opioid receptors that Fentanyl does, but it can have an
10 additive effect although it's pretty small. And
11 chlorpheniramine, an antihistamine, you know, it doesn't act
12 directly through the same mechanisms of respiratory
13 suppression as Fentanyl that's going to harm you. But, you
14 know, at this point when you've got something as dangerous
15 as Fentanyl, you wouldn't want to have any other drugs, you
16 know, exacerbating that situation.

17 Q. So do you have an opinion on whether one of these
18 drugs primarily caused Michelle's death?

19 A. The Fentanyl. I mean, this is what we see day in
20 and day out these days unfortunately is people dying from
21 Fentanyl toxicity. Cocaine is a dangerous drug. But
22 typically in a 27 year old who has a normal heart and
23 cardiovascular system, you know, would be able to survive
24 cocaine use.

25 But Fentanyl is mainly what we're seeing day in

1 and day out. And we see a lot of other drugs mixed in with
2 the Fentanyl like cocaine. We see a lot of methamphetamine.
3 But Fentanyl is kind of the common denominator.

4 Q. So based on your autopsy of Michelle as well as
5 the toxicology report, did you form an opinion as to the
6 cause of her death?

7 A. I did. I put the cause of death -- in my opinion,
8 the cause of death is all these drugs combined.

9 Q. And upon what is that opinion based?

10 A. The fact that doing an autopsy, we didn't find
11 anything, any other injury or natural disease process that
12 would explain this young woman's death. And then, so then
13 you're left with, well, what could have caused her death.
14 And then you do the toxicology testing, then you find
15 Fentanyl which I see day in and day out killing other
16 people, so I know that Fentanyl.

17 And then, you add in these other dangerous drugs
18 like cocaine, and then having dextromethorphan and
19 chlorpheniramine mixed in with it is not going to help it at
20 all. So that's basically how I formed my opinion on this
21 matter.

22 Q. So, Dr. Privette, if Michelle's blood did not have
23 the benzoylecgonine or the cocaine present or those other
24 substances, would the amount of Fentanyl that she would have
25 in her system be fatal in and of itself?

1 A. Yes, it could be. I mean, I see people with just
2 Fentanyl less than this, I see people with more than this.
3 It's all over. But this is definitely within the fatal
4 range.

5 Q. And based on your autopsy of Michelle, were there
6 any competing natural causes of death that you noted?

7 A. No.

8 Q. And in your expert medical opinion, would it be
9 fair to say that based upon all of the circumstances in this
10 case, Michelle's death is consistent with a Fentanyl
11 overdose?

12 A. Yes.

13 Q. So with an overdose death caused by an opiate such
14 as heroin or Fentanyl, what actually happens with the body
15 that results in death?

16 A. So opiates, it's mainly through respiratory
17 suppression. The mechanism of how this happens isn't fully
18 understood by scientists or medical professionals. We just
19 know it happens. Basically the opiates act through what's
20 called a mu opioid receptor in the central nervous system.
21 And it does a couple things to your breathing. It slows
22 your breathing down so that you're not breathing as many
23 times per minute, you're not taking as many breaths per
24 minute.

25 And, also, it makes your breathing much more

1 shallow, so that the breaths you are taking become less
2 effective at oxygenating the blood because you're not taking
3 in as much air. And over time it becomes -- you become more
4 and more hypoxic, or basically your blood is becoming poorer
5 and poorer at oxygen enrichment. And eventually your organs
6 start to shut down because of that.

7 With Fentanyl, that process is very rapid because
8 Fentanyl is so toxic. It used to be when I first started
9 doing this back in 2008 when I was still a resident and then
10 in 2010 when I was doing my fellowship, everybody that died
11 from opiates for the most part was dying from prescription
12 opiates like oxycodone or hydrocodone.

13 And it had a very classic presentation of the
14 person would go to sleep, and their family members would
15 hear them snoring loudly on the couch or on the floor, and
16 they'd put a blanket on them. And then, they'd come back
17 and find them deceased, you know, like an hour later.
18 Because those opiates are not as toxic as Fentanyl, they
19 were dispensed in a pill form and they're not as dangerous,
20 and so it was a longer process, dying process, technically
21 essentially.

22 Fentanyl came on the scene, and it kind of changed
23 a lot of things where before people kind of went to sleep on
24 their own, and they were found later. Now, Fentanyl you'd
25 see the person, you know, walking, talking, and then five

1 minutes later you'd go out on the back porch, and there they
2 are from what appears to be a sudden collapse, you know, and
3 they're dead from Fentanyl. So it's just that much more
4 toxic and rapidly acting.

5 But it kills you by suppressing your ability to
6 breathe. It basically takes the part of your brain and
7 brain stem that tells you to breathe, the muscles to move,
8 and all of that to work, and makes it stop.

9 Q. Is it fair to say that that's what happened to
10 Michelle this day?

11 A. Yes.

12 MR. NEWMAN: Nothing further. Thank you, sir.

13 THE COURT: Thank you, sir. Yes, sir.

14 CROSS-EXAMINATION BY MR. JOSEPH:

15 Q. Dr. Privette, good afternoon. Were you made aware
16 of a previous overdose that Michelle had?

17 A. No. It wouldn't surprise me. I see that
18 frequently that people have multiple overdoses.

19 Q. Does that have any effect on any future overdose
20 or whether or not it would be fatal?

21 A. You know, if a person sustained, you know, damage
22 to their heart or lungs from that prior overdose, I mean,
23 yeah, that, potentially it could make a situation more
24 dangerous in the future.

25 Q. And so the initial information that you received

1 that was provided to you was that Michelle died from a -- it
2 was a possible overdose; correct?

3 A. Yes.

4 Q. And were you provided with any information from
5 the Concord Police Department that a needle was found by her
6 feet?

7 A. It may have been. I don't know if you have our
8 call sheet. Basically I summarized in the autopsy report
9 that it was just IV drug paraphernalia. Whether or not they
10 specified a syringe, I don't recall that. They may have, I
11 don't recall.

12 Q. But as part of your autopsy, as you mentioned, you
13 do an external examination of the body?

14 A. Yes, sir.

15 Q. And you basically, you're looking for signs of any
16 identifying characteristics and signs of any trauma?

17 A. Correct.

18 Q. Okay. And would it be standard practice when you
19 perform the autopsy to look for needle puncture marks?

20 A. We do. And I miss them frequently. They're easy
21 to see if there's like a lot of bleeding around where the
22 puncture wound was, like what we call ecchymosis. You guys
23 have probably had a needle put in your arm at some clinic
24 for some medical reason, and sometimes you'll get a little
25 bleeding in the skin around it. I mean, it stands out then.

1 But you don't always get that. Sometimes they are
2 very difficult to pick out. So if they're obvious, we note
3 them and if it's not obvious, then we may miss it. And I
4 did not document one here, but that does not mean one didn't
5 exist.

6 Q. So you didn't document the presence of a needle
7 puncture wound on the autopsy report or the body diagram;
8 did you?

9 A. That's correct.

10 Q. Okay. And that -- so you basically, there's no
11 evidence that Michelle Hooper injected anything on
12 March 26th based upon your autopsy report?

13 A. That's correct. There's multiple ways to get
14 these drugs into your system. And intravenous
15 administration is one mechanism. You can also snort or
16 smoke.

17 Q. And so, basically, to be able -- so there's no
18 evidence that she injected. Now, to be able to tell if she
19 had crushed any drugs or snorted any drugs that day that she
20 overdosed, you could have examined parts of her lungs;
21 correct?

22 A. Sometimes you can see it in the lungs. If --
23 microscopically, if there's crystalline material that will
24 embed itself in the lung tissue, you know, polarize, and we
25 can see it under the microscope, so we'll be able to see if

1 they're insufflating or snorting a drug.

2 If they're just doing it infrequently, you
3 don't -- you know, you may not see it. Where it really kind
4 of comes into play is there's somebody that's doing it
5 chronically kind of day in and day out, the stuff builds up
6 and it lights up like a Christmas tree when you look at it
7 under the microscope.

8 Q. But you didn't even do that here; correct?

9 A. No, didn't.

10 Q. So you don't know if she snorted or not; correct?

11 A. Correct.

12 Q. And you're familiar with Suboxone; correct?

13 A. Yes.

14 Q. And what is that?

15 A. So, Suboxone is a drug, that's the trade name, but
16 the drug name is buprenorphine, and it's also a opiate. And
17 if I remember correctly, Suboxone might be buprenorphine
18 mixed with Narcan. I'm not a hundred percent sure on that,
19 so I won't go any farther than that. But as far as the
20 active drug itself in Suboxone is buprenorphine.

21 Q. And why do people take Suboxone?

22 A. Suboxone is prescribed by physicians to treat
23 people with opiate addictions. It's thought to be a less
24 dangerous opiate less likely to cause overdose. It's not
25 supposed to have as many side effects. So a physician will

1 give that prescription to somebody with an opiate addiction
2 hoping that it will keep them from using more dangerous
3 stuff while they try to wean themselves off of their
4 addiction.

5 Q. And were you aware that Michelle had been
6 prescribed Suboxone?

7 A. I may have. I don't recall that information.

8 Q. And what was the other name you said that Suboxone
9 has another name?

10 A. The drug name is buprenorphine.

11 Q. Okay. And you didn't find any of that in her
12 system; did you?

13 A. That's correct.

14 Q. Okay. And so, there is no evidence she was even
15 taking her Suboxone; correct?

16 A. That's correct.

17 Q. And you got to forgive me, the cold medication,
18 the chlorpheniramine?

19 A. Yeah, I'm not very good at it either.

20 Q. Okay.

21 A. Chlorpheniramine.

22 Q. And the dextromethorphan?

23 A. Yeah. How about we just call it the dextro?

24 Q. That's fine with me. These are often in
25 over-the-counter cold medication; correct?

1 A. Correct. So the dextro would be like in
2 Robitussin or something like that. It is a cough
3 suppressant.

4 Q. Okay. And now, the medical exam report, it did
5 indicate that Michelle did have a history of abusing cold
6 medication?

7 A. I don't know if I was provided that information.
8 I had a history of heroin use. Dextromethorphan is a
9 medication that people will use because the
10 dextromethorphan, it doesn't act as a mu opioid receptor,
11 but it does have some sedative effects. And it also has
12 this kind of a what they call dissociative effects.

13 There's other drugs that do the same thing like
14 ketamine, but it kind of makes you -- gives you, I guess,
15 for lack of a better word, kind of an out-of-body
16 experience. So people will use drugs like or medications
17 like Robitussin.

18 Q. And you mentioned, you were talking about --
19 Mr. Newman asked you about the cocaine and the parent
20 cocaine and metabolite benzoylecgonine?

21 A. Yes.

22 Q. And you also talked about how, you know, cocaine
23 breaks down quickly, and it continues after you die;
24 correct?

25 A. Yes.

1 Q. Now, in order for you to estimate the cocaine
2 level, you add cocaine to the metabolite; correct?

3 A. I don't know. That's getting a little bit outside
4 of my area of expertise. That's a fairly toxicology
5 detailed question about whether or not you can do that.

6 Q. Okay.

7 A. That might be better left to Dr. Brower.

8 Q. Okay. So are you able -- I mean, did you actually
9 review the toxicology report?

10 A. Yes.

11 Q. Okay. And I believe the -- well, actually, strike
12 that. But just going back to the cocaine for a minute,
13 cocaine has a short, I guess, a short half life; is that
14 correct?

15 A. Yes, sir.

16 Q. Okay. And that just means that it eliminates from
17 the body very quickly?

18 A. Correct.

19 Q. Okay. And for there to be parent cocaine, as you
20 mentioned, that means that it was used very recent to
21 Michelle's death; correct?

22 A. Yes.

23 Q. And from -- basically from the autopsy itself that
24 you performed, you have no idea whether or not Michelle used
25 cocaine by itself or she mixed it with something else;

1 correct?

2 A. That's correct.

3 Q. But it's possible she could have mixed it with
4 something else?

5 A. Either -- yes. Whether she used cocaine and then
6 used Fentanyl or used them together, I have no idea about
7 that.

8 Q. And the Fentanyl that you talked about, that also
9 was present in the toxicology report that you mentioned;
10 correct?

11 A. Correct.

12 Q. And Fentanyl, it comes in many different forms.
13 It could come in pills, patches, injectable liquid; correct?

14 A. So, generally speaking, yes. I've never seen a
15 Fentanyl pill. It does come in -- so when people are
16 prescribed Fentanyl, Fentanyl is used in noncontrolled
17 settings like prescription use, and that's typically a
18 patch. And the reason they use a patch to put on the skin
19 is because Fentanyl is so toxic that it -- so that it will
20 be absorbed slowly over time through the skin. And that
21 basically makes it a safer method of administering.

22 You can get an injection through an IV. But
23 that's almost always -- it is always through a -- when
24 you're in the hospital or in a medical setting, like if
25 you're having a colonoscopy or something, where you're under

1 the care of a physician or nurse anesthetist. And then they
2 also give you the little Fentanyl sucker that you can suck
3 on, but that's usually also in the hospital.

4 Q. But just based on your autopsy report, you have no
5 idea how Michelle would have used Fentanyl, how it got into
6 her system, in what form?

7 A. No. Like I said, you can inject it. I mean,
8 illicitly, it's basically a -- people buy it in a powder
9 form. And they can take that powder and cook it up into a
10 liquid form and inject it, or they can smoke it through a
11 pipe. They could eat it, but it has a low bioavailability
12 going through the GI tract, and most people aren't going to
13 do that because they aren't going to get the same effect.

14 Q. And basically, based upon your autopsy report that
15 you included, you didn't see any evidence of heroin use; did
16 you?

17 A. Like the effects of heroin use on her body?

18 Q. In her system.

19 A. Oh, no. I mean, there's no heroin in the
20 toxicology. Heroin shouldn't show up in morphine,
21 6-myocetal morphine.

22 Q. Now, Mr. Newman asked you about the Fentanyl
23 level, and he asked you if that level was enough to be
24 fatal. And your response was, it could be; correct?

25 A. Correct.

1 Q. The cocaine level, that also by itself could be
2 fatal; couldn't it?

3 A. It could be.

4 MR. JOSEPH: I don't have anything further.

5 MR. NEWMAN: Very briefly, Your Honor. May I
6 approach the clerk?

7 THE COURT: Yes.

8 REDIRECT EXAMINATION BY MR. NEWMAN:

9 Q. Dr. Brower [sic], I'm showing you what's
10 previously been admitted as State's Exhibit No. 15. What
11 does this appear to you as a forensic pathologist?

12 A. I mean, I see like the little blood spots on the
13 skin. But that could be a couple different things.

14 Q. Okay. Could it be an injection site?

15 A. Could be.

16 Q. Would that have been -- if that was a photograph
17 that was taken of Michelle, the victim in this case, would
18 you have seen that at her autopsy?

19 A. Probably would have seen this. Sometimes blood
20 can settle within the body. Once the person is deceased the
21 body -- the blood will begin to settle based on gravity and
22 pooling in the body, based on gravity. It looks like
23 Ms. Hooper was face down at some point.

24 So you can see from her ID photo that she has
25 similar looking marks on her chest. I would have seen that.

1 And I probably looked at it and was like I can't tell the
2 difference between that and just positional lividity.

3 Q. Okay. So I know you were asked on
4 cross-examination by Mr. Joseph about possible ways that
5 Michelle could have ingested the Fentanyl in this case. Is
6 it safe to say you don't know how Michelle ingested
7 Fentanyl; do you?

8 A. No. I mean, for our purposes, we are just
9 interested in what caused the death when it comes to drugs.
10 We don't spend a lot of time chasing down the route of
11 administration.

12 Q. And all you know is that it was, in fact, in her
13 system?

14 A. Correct.

15 Q. And that she had somehow at some point ingested
16 it?

17 A. Correct.

18 Q. And you mentioned Suboxone or buprenorphine. You
19 did not find any of that substance in Michelle's body?

20 A. That's correct.

21 MR. NEWMAN: Nothing further.

22 THE COURT: Anything further?

23 MR. JOSEPH: No, Your Honor.

24 THE COURT: All right. Thank you very much, sir.

25 If you could please hand me any of the exhibits that you

1 have, those three there. Thank you, sir. Any objection to
2 this witness being released?

3 MR. NEWMAN: No, sir.

4 THE COURT: All right. Sir, you are free to
5 leave.

6 THE WITNESS: Thank you. Thank you very much.

7 (Witness excused.)

8 THE COURT: Members of the jury, if you have
9 copies of exhibits, I would ask that you pass those exhibits
10 over to the bailiff, please.

11 (Pause in proceedings.)

12 THE COURT: All right. Looks like all of the
13 exhibits have been returned now. Thank you. I'd ask you to
14 leave your notepads here, and please follow all of the
15 instructions. Please don't talk about the case, please
16 don't have any contact with any of the participants. Please
17 abide by all those instructions. Please leave your notepads
18 here. This will be 15 minutes. Thank you.

19 (The jury left the courtroom at 3:28 p.m.)

20 THE COURT: All right. We are out of the presence
21 of the jury. For planning purposes, we're going to take a
22 15-minute break. Following that, the State has one
23 additional witness you anticipate putting on, I believe it's
24 about an hour 15 minutes. Do you think you'll have an
25 opportunity to likely finish that witness?

1 MR. NEWMAN: I do, Your Honor.

2 THE COURT: And you propose that will be the last
3 witness for the day?

4 MR. NEWMAN: I do. The next witness would be
5 Ms. Wood. And she's coming from approximately two hours
6 away. I didn't want to call her in today thinking that we
7 might not get to her. So the State would propose even if we
8 get finished with Dr. Brower before 5 o'clock that we recess
9 for the day and begin with Ms. Wood at 9:30.

10 THE COURT: And you anticipate tomorrow finishing.
11 You think you will finish by lunch or the end of the day; do
12 you have an idea?

13 MR. NEWMAN: Probably by the end of the day.

14 THE COURT: All right.

15 MR. NEWMAN: Because during Ms. Wood's testimony
16 is going to be some of the 404(B) stuff that we'll need to
17 flush out, and then the Court's ruling on the subsequent
18 404(B) as well. And that will determine whether we have the
19 CMPD officer who will testify.

20 THE COURT: All right. Very well. Anything you
21 all want to address before we take a break?

22 MR. NEWMAN: I have a matter not related to this
23 case.

24 THE COURT: All right. Let me say with regard to
25 this case, everyone's free to take a break now. I just ask

1 that you remember what I said about not having any contact
2 with the jurors, and please don't discuss the case in public
3 areas of the building. So this will be 15 minutes.

4 (A recess was taken at 3:31 p.m., and reconvened
5 at 3:50 p.m. The Defendant and all counsel were
6 present.)

7 THE COURT: All right. Is everyone ready for the
8 jury?

9 MR. NEWMAN: Yes, sir.

10 THE COURT: All right. Thank you, please ask that
11 they come in.

12 (The jury entered the courtroom at 3:51 p.m.)

13 THE COURT: All right. For the record, the jury
14 has returned to the courtroom. Thank you all very much.
15 Please call your next witness.

16 MR. NEWMAN: The State calls Justin Brower to the
17 stand.

18 THE COURT: Thank you, sir. If you'll please
19 remain standing and place your left hand on the Bible and
20 raise your right hand, the clerk will administer your oath.

21 JUSTIN BROWER,
22 having been called as a witness for the State at 3:52 p.m.,
23 was sworn and testified as follows:

24 THE COURT: Thank you, sir. Please be seated.
25 Sir, that microphone should be amplify your voice. And I

1 would ask that everybody be careful not to talk over each
2 other so the jury can hear both the question and the answer.
3 Thank you.

4 MR. NEWMAN: Thank you.

5 DIRECT EXAMINATION BY MR. NEWMAN:

6 Q. Good afternoon. Can you please state your name
7 for the jury speaking loudly and clearly, and spell your
8 last name for the court reporter.

9 A. Justin O'Ryan Brower, B-R-O-W-E-R.

10 Q. And how are you currently employed?

11 A. I'm employed by National Medical Services or NMS
12 Labs.

13 Q. And how long have you been employed with NMS Labs?

14 A. Since August 1st of this year.

15 Q. Okay. And prior to your employment with NMS Labs,
16 were you employed elsewhere?

17 A. I was.

18 Q. What was your job title at the -- where were you
19 employed?

20 A. The Office of the Chief Medical Examiner, the
21 North Carolina Office of the Chief Medical Examiner. I
22 worked there as a forensic toxicologist for approximately 13
23 years.

24 Q. Okay, thank you. And what is a forensic
25 toxicologist?

1 A. A forensic toxicologist looks for toxins, poisons,
2 drugs in people. And if you do post-mortem work, which is
3 my specialty, you separate those findings as to cause and
4 manner of death.

5 Q. All right. And what were your job duties as a
6 forensic toxicologist at the Office of the Chief Medical
7 Examiner?

8 A. I would develop methods for the detection and
9 confirmation of drugs, including new and novel drugs like
10 so-called designer drugs, review case data, the analytical
11 data that's collected for each case, and certify toxicology
12 reports for completion and accuracy, formulate, you know,
13 the cause of the death other than toxicologically relevant,
14 talk with pathologists, family members, law enforcement and
15 so forth.

16 Q. All right. And while you were employed as a
17 forensic toxicologist at the Office of the Chief Medical
18 Examiner, did you serve all 100 counties of North Carolina?

19 A. We do.

20 Q. And can you please tell the jury about your
21 education and training.

22 A. So I'm a forensic toxicologist. I earned my PhD
23 in chemistry and followed that up with postdoctoral work
24 looking at protein-protein interactions in the body, and
25 then went into the pharmaceutical industry doing drug

1 discovery and drug development. I did that for
2 approximately four years during which time I was the drug
3 neurochemistry for a small biopharmaceutical company in the
4 Research Triangle Park in North Carolina.

5 And then I transitioned to a career in forensic
6 toxicology about 13 years ago and started my career with the
7 Office of the Chief Medical Examiner and, again, worked 13
8 years there and then recently left.

9 Q. Okay. And so, at the Office of the Chief Medical
10 Examiner, what types of specimens do you normally analyze?

11 A. Basically anything that can be taken from or off
12 of a body can be analyzed. These so-called gold standard
13 for specimens are, of course, blood, central and peripheral
14 blood. We also test a lot of urine, vitreous humor which is
15 the fluid in the eye. Liver is another great specimen to
16 use. But really we can test anything. I mean, we've done
17 bone, mayous (phonetic), muscle, spleen, kidney,
18 fingernails, hair. And so anything you can take off of a
19 body or from a body can be tested.

20 Q. All right. And as far as toxicology is concerned,
21 what types of compounds or substances do you typically look
22 for in an analysis?

23 A. So the laboratory has the capability of looking
24 for probably about six or 700 different drugs, toxins,
25 poisons. Most of those are prescription drugs, illicit

1 drugs, and really just about every common prescription drug
2 we're able to detect and confirm.

3 Q. How many analyses would you estimate you've
4 performed while you were employed as a forensic toxicologist
5 at the Office of the Chief Medical Examiner?

6 A. Analyses myself, probably in the thousands. As my
7 career progressed, I did less and less hands-on work, you
8 know, extracting, you know, drugs from the biological
9 specimens, and primarily just signing out cases, certified
10 the toxicology reports.

11 As far as -- excuse me -- certifying toxicology
12 reports, probably about or did, you know, anywhere between
13 2,000 and 2,500 cases per year.

14 Q. Okay. Have you ever been accepted previously by a
15 Court as an expert in forensic toxicology?

16 A. Yes, sir.

17 Q. Approximately how many times have you testified as
18 an expert about your findings?

19 A. More than a dozen.

20 Q. All right.

21 MR. NEWMAN: Your Honor, at this time we will
22 tender this witness as an expert in forensic toxicology.

23 THE COURT: Your request is granted.

24 Q. Dr. Brower, before I ask you about the specific
25 results in this case, I'd like to ask you some questions

1 about illicit drugs in general. What is an illicit drug?

2 A. An illicit drug is generally just a drug that is
3 scheduled by the DEA as illegal to possess. So those are
4 drugs such as cannabis, cocaine, heroin, Fentanyl,
5 benzodiazepines, such as Xanax. A lot of these drugs may
6 have therapeutic use and legitimate use, like a lot of
7 people take for pains or anxiety everyday. But if you're
8 using them without a prescription or a legitimate medical
9 need, then they can be termed, you know, being used
10 illicitly or illegally.

11 Q. What is heroin?

12 A. Heroin is diacetylmorphine. It's a product
13 derived from the opium poppy. The opium poppy grows
14 primarily like in Mexico and places like Afghanistan, Iraq.
15 When some latex is collected from the opium poppy, it takes
16 a large amount of morphine to then treat it to -- is treated
17 to -- or treated with acetic anhydride to form
18 diacetylmorphine or what we commonly call heroin. I'll try
19 not to use such a big word.

20 Q. That's okay. What is Fentanyl?

21 A. Fentanyl is an opioid analgesic. It's commonly
22 used in hospitals for induction of anesthesia. It's very
23 commonly used, like I said, in hospitals, but it's also
24 found its way into the drug supply on the streets. So it is
25 an opioid like heroin.

1 Q. Is Fentanyl a controlled substance included within
2 the North Carolina Controlled Substances Act?

3 A. It is. It's a schedule two drug in North
4 Carolina, and it's also a schedule two drug by the DEA as
5 well.

6 Q. Okay. How does the heroin of today differ from
7 the heroin from, say, the 1970s?

8 A. Well, heroin up until probably five or six years
9 ago was, again, heroin, also known as diacetylmorphine
10 derived from the opium poppy. But starting about 2014,
11 2015, if someone bought, quote, "heroin," it might have a
12 little bit of Fentanyl in it.

13 And over the last few years the original diacetyl,
14 quote, "heroin" has decreased, and pretty much just about
15 anything you buy on the streets today is most likely
16 Fentanyl. So even though it may be called heroin on the
17 streets, it likely does not contain any heroin, it's just
18 Fentanyl.

19 Q. Is that because heroin is organic, it's from a
20 plant, the poppy plant that you referred to; is that
21 correct?

22 A. Correct.

23 Q. And Fentanyl is a chemically manufactured
24 substance?

25 A. That is correct, it's completely synthetic.

1 Q. Okay. What is cocaine?

2 A. Cocaine is a stimulant derived from the coca
3 plant.

4 Q. Okay. Is it also a controlled substance included
5 within the North Carolina Controlled Substances Act?

6 A. It is. It's a schedule two drug in both North
7 Carolina and federally.

8 Q. So how does cocaine differ from heroin?

9 A. Cocaine is a stimulant. It amps the body up, it
10 increases heart rate, has, you know, affects mood and
11 cognition, but has a lot of that stimulant type of effect
12 similar to like, say, nicotine or caffeine. Drugs like
13 Fentanyl and, you know, heroin, their central nervous system
14 depresses, so they do things like they depress your
15 respirations and your central motor functions and slows
16 things down. So they really have kind of opposite type of
17 effects on the body.

18 Q. Is heroin considered an opiate?

19 A. It is considered an opioid.

20 Q. Heroin is an opioid?

21 A. Correct.

22 Q. Okay. And what is an opioid?

23 A. Well, an opiate is anything derived from a poppy
24 plant. And so those would be codeine, morphine, being
25 naturally derived substances. If it's synthetic then it's

1 considered a opiate -- I'm sorry, it's considered an opioid.
2 So that would include things like Fentanyl and oxycodone.

3 So, you know, even though oxycodone is very
4 structurally similar to things like morphine, it's still
5 considered to be an opioid, it's a synthetic. And heroin is
6 a synthetic product derived from a natural product. But,
7 honestly, the terms opiate and opioid are so frequently
8 interchanged nowadays, it doesn't really matter what
9 terminology you use.

10 Q. Okay. So when a person uses Fentanyl, how does
11 that affect the body?

12 A. Again, it's a central nervous system depressant.
13 It can cause unconsciousness, depression of respirations and
14 breathing. It's why it's used in the induction of
15 anesthesia. It makes people go to sleep essentially. But,
16 again, you have an anesthesiologist there keeping you awake,
17 artificial respirations and so forth. But it essentially,
18 again, depresses your respiration, your essential functions
19 of, you know breathing, thought, movement, things like that.

20 Q. Which is stronger, Fentanyl or morphine?

21 A. Fentanyl is stronger than morphine.

22 Q. And can you quantify approximately how much
23 stronger Fentanyl is than morphine?

24 A. The number we usually use is it is approximately
25 100 times more potent than morphine. Fentanyl is

1 approximately 100 times more potent than morphine.

2 Q. Which is stronger, Fentanyl or heroin?

3 A. Fentanyl.

4 Q. And, again, can you quantify approximately how
5 much stronger Fentanyl is than morphine?

6 A. Approximately 50 times.

7 Q. Strike that. Than heroin?

8 A. Fentanyl is approximately 50 times more potent
9 than heroin.

10 Q. Okay. Dr. Brower, can you tell the jury a little
11 bit about how the body builds up a tolerance to Fentanyl and
12 opioids in general.

13 A. So when someone uses an opioid or an opiate, it
14 can be Fentanyl, it could be oxycodone, you often hear
15 people talk about they develop a tolerance to a drug. And
16 that generally just means they have to use more and more of
17 the drug to get the same effect.

18 You know, you may experience that like with, say,
19 coffee or something like that. If you don't drink coffee
20 and you have a cup of coffee, you might be jittery and wired
21 and things like that. Or you could just be drinking like me
22 like two pots of coffee a day and you feel fine. Again, it
23 just takes more and more of that drug to get that effect.

24 On the biochemical level, it just has to do with
25 how the receptors are working in the body. With more and

1 more opioids in being used, there is the opioid receptors
2 that are on every cell in your body become desensitized to
3 it. They become internalized, they actually, you know, go
4 from the outside surface of the cell and get pulled inside
5 the cell. So there's not as many receptors that can be
6 activated by the opioid that's being used. So, yeah, it
7 just takes more and more drug to get that same type of
8 effect, and which is what we call tolerance.

9 Q. Does the body's tolerance to Fentanyl fall just as
10 rapidly as once someone stops ingesting Fentanyl?

11 A. Usually opioid tolerance can be lost fairly
12 quickly within about, you know, three days, to a week after
13 you stopped using the drug.

14 So if you would be a long time user and use, say,
15 a certain amount of the drug pretty consistently, if you
16 stop using the drug, say for, you know, three days or a
17 week, after that amount of time you would be what we call a
18 nonuser, someone that's essentially, it's almost like
19 they've never used that drug before. And that can be
20 dangerous as well.

21 Q. So in your experience, do you see a number of
22 Fentanyl overdoses in which an individual uses the same
23 amount of drugs that they used to use, but it proved to be
24 fatal because their body's tolerance had dropped
25 substantially?

1 A. Yeah. Working with OC in the statewide system, we
2 see all the overdose deaths in the entire state. And a very
3 common scenario would be someone that had gone to jail for a
4 certain amount of time, it could be short, like a week or a
5 month, and then they are released from jail. And the
6 scenario that we'd have is, you know, recently released from
7 jail, used drugs at a party like a, you know, welcome home
8 type party, and then found dead the next day. So that's a
9 very common scenario.

10 Q. So, Dr. Brower, we've already heard the testimony
11 of Dr. Privette, who is a pathologist who performed the
12 autopsy on Michelle Hooper. Following Dr. Privette's
13 autopsy, did he transfer certain specimens from Michelle's
14 body to the Office of the Chief Medical Examiner to
15 determine what drugs, if any, were present in her system?

16 A. They did, correct.

17 Q. What specimens did you receive for analysis?

18 A. We received two blood specimens. One from the
19 aorta, one from the vena cava, a liver specimen, and
20 vitreous humor which is the fluid in the eye.

21 Q. Okay. As a part of the analysis, was a written
22 report -- as part of the analysis in this case, was a
23 written report prepared?

24 A. A report was prepared, correct. We don't write
25 them, though.

1 Q. Sure. There was a report that was prepared?

2 A. It was generated, correct, yeah.

3 Q. Okay.

4 (State's Exhibit 28 identified.)

5 MR. NEWMAN: May I approach?

6 THE COURT: Yes.

7 Q. Dr. Brower, I'm showing you what's been marked as
8 State's Exhibit No. 28 for identification purposes. Do you
9 recognize this document?

10 A. I do.

11 Q. And what is it?

12 A. This is what we call our toxicology request form.
13 This is a form that accompanies the specimens when they are
14 sent to us that just gives us a little bit of pertinent
15 history, some demographic information, who the pathologist
16 is, what specimens they sent to us.

17 Q. And is this document what was prepared or
18 generated for the analysis in this case?

19 A. I just want to look and make sure we're looking at
20 the same thing. This first page?

21 Q. Yes. Well, I'm sorry, the entire document.

22 A. Well, the first page is the toxicology request
23 form that gets sent with specimens. The second page is the
24 toxicology report that lists all of the testing that we
25 performed and lists all of our findings and when it was

1 approved and so forth.

2 Q. Does this document fairly and accurately represent
3 your findings in this case?

4 A. It does, correct.

5 Q. Would this document aid you in your testimony here
6 today?

7 A. I'm sorry, would you repeat that, please.

8 Q. Would this document aid you in your testimony here
9 today?

10 A. Absolutely.

11 Q. Okay. Thank you.

12 MR. NEWMAN: Your Honor, the State would move to
13 admit State's Exhibit No. 28 and publish it to the jury.

14 THE COURT: All right. That is admitted, and you
15 are allowed to publish it.

16 (State's Exhibit 28 received into evidence.)

17 THE COURT: Ladies and gentlemen, if you'll please
18 take one exhibit and pass it down please. I ask you to look
19 at it carefully, individually, and without comment.

20 (State's Exhibit No. 28 was published to the
21 jury.)

22 Q. Dr. Brower, I want to draw your attention to page
23 four of that document. Is that your signature that we see
24 towards the top of the page?

25 A. Yes.

1 Q. Is the decedent's name listed on this report?

2 A. It is, right above my signature.

3 Q. What is it?

4 A. It says, Michelle Lynne Hooper.

5 Q. And is there a date of death listed on this
6 report?

7 A. There is. On the upper right-hand corner, says 26
8 March 2020.

9 Q. What other information is listed on this report?

10 A. Also, in that upper right-hand corner is our
11 toxicology folder number. It's just like a case number that
12 toxicology uses. The one below it that starts with an F,
13 F20203415, that's a number used by the pathologist. And
14 then, the date the report was generated was the 29th of
15 April. So I signed this case out April 29th or maybe the
16 next day.

17 Then going down the report, it just lists the
18 specimens that were received by Dr. Privette. Tells us
19 when -- what the source was such as the aorta, how much, the
20 condition which was post-mortem because we only do post
21 mortem work, and the day that they were obtained, so that
22 would be the day that Dr. Privette obtained the specimens,
23 and then our findings on the aorta, and then the findings of
24 the vena cava and the liver.

25 Q. Okay. So I want to draw your attention to the

1 information listed under the heading, source, vena cava. Do
2 you see the list of substances listed under that heading?

3 A. I do.

4 Q. Can you please describe for the jury what this is
5 a list of.

6 A. These are -- would you like me to go through each
7 drug?

8 Q. Yes, please.

9 A. The first one is benzoylecgonine, that is a
10 metabolite of cocaine. The next is chlorpheniramine which
11 is probably something I could use right now, it's like a
12 cold medication. Cocaethylene is a byproduct of the
13 combination of cocaine and alcohol, but it has been
14 detected.

15 Cocaine was detected, and cocaine as we talked
16 about is an illicit stimulant drug. Dextromethorphan is a
17 cough suppressant which I could probably use right now as
18 well. And then, following that is Fentanyl which we talked
19 about, an opioid. It's illicit, it's a common illicitly
20 used opioid.

21 Q. And based upon the amounts of benzoylecgonine and
22 cocaine that are listed, what does that indicate to you as a
23 forensic toxicologist?

24 A. When I see something like this -- well, first let
25 me say, when someone uses cocaine, it is metabolized in

1 their body very quickly. It's broken down into
2 benzoylecgonine. It's half life so the amount of time it
3 takes to go -- to cut the concentration in the body in half
4 is very short, you know, within 30 minutes or an hour.

5 And so it's broken down very rapidly to
6 benzoylecgonine. And it takes longer for the body to clear
7 benzoylecgonine than it is to break cocaine down. So the
8 benzoylecgonine accumulates in the body faster than it can
9 be rid of it.

10 And so when I see a large benzoylecgonine
11 concentration, in this case 1.6 milligrams per liter, and a
12 smaller amount of cocaine, .068 milligrams per liter, it's
13 usually indicative that they had been using cocaine and what
14 we would say often bingeing on cocaine, using more than
15 once, using it repeatedly so that that metabolite can just
16 build up and build up and build up in the body.

17 The presence of cocaine itself, I mentioned that
18 it's broken down very quickly in the body, that's an
19 indication that they had a recent use of cocaine. So
20 because it's broken down so quickly, it means that you more
21 likely than not used cocaine that day. It's not left over
22 from like a day before or two days before.

23 Q. Okay. What other substances did you detect in
24 Michelle's blood?

25 A. So there was the chlorpheniramine and the

1 dextromethorphan. Those are common over-the-counter drugs
2 that you find in like cough cold medicines. They are
3 hundreds of different formulations of them. And then also
4 the Fentanyl was at the 32 nanograms per liter.

5 Q. And is that a -- in your experience, is that a
6 large amount of Fentanyl?

7 A. It's a decent amount. So the last time I looked
8 at the data, so looking at thousands of cases, I think this
9 is probably 2019 or so, the average that you would see in
10 our post mortem death was 17, one seven, nanograms per
11 milliliter. But we find a whole range of Fentanyl in our
12 deaths ranging from as little as 1 nanogram per milliliter
13 up to several hundred. But this is probably a bit higher
14 than average.

15 Q. What's the lowest amount of Fentanyl that you've
16 seen in an overdose death?

17 A. We've had what we would consider or the cause and
18 manner of death being an accidental Fentanyl overdose as
19 little as 1 nanogram.

20 Q. Okay. So would the be fair to say that any amount
21 of Fentanyl is potentially deadly?

22 A. It can be, that's correct.

23 Q. Okay.

24 A. When people are given Fentanyl, say, to use
25 anesthesia for surgery, their blood concentrations might be

1 1 nanogram per milliliter. But if it weren't for an
2 anesthesiologist there keeping them alive, they would die.
3 And so absent a competing cause of death such as, you know,
4 traumatic blunt force injuries or gunshot wounds or a
5 hanging, any concentration of Fentanyl can be considered
6 lethal.

7 Q. What factors distinguish a cocaine-related death
8 from a Fentanyl-related death?

9 A. Often times cocaine or a stimulant death, so it
10 would be like cocaine or methamphetamine, often times those
11 are like cardiac deaths. It could be sudden deaths.
12 Someone could be, you know, standing, walking, and then have
13 a sudden collapse. Often times with Fentanyl they are
14 lingering, they're not sudden.

15 They may collapse, but it's because they're not
16 breathing, their respirations are shallow. They are still
17 alive, but we again call them lingering deaths, and they're
18 still, again, breathing but shallowly. I don't even know if
19 that's a word. Their respirations are shallow. They're
20 still metabolizing their drug, but they are slowly dying as
21 their, you know, lungs fill full of fluid and actually die.

22 Q. Is the Fentanyl concentration for Michelle that
23 you detected consistent with other Fentanyl overdose deaths
24 that you've seen in North Carolina?

25 A. It is.

1 Q. In your expert opinion, would this amount of
2 Fentanyl alone be sufficient to prove fatal for Michelle?

3 A. If it was just Fentanyl alone without any other
4 drug, that would absolutely be -- again, without a competing
5 cause of death, it would absolutely be fatal.

6 Q. Okay.

7 MR. NEWMAN: Thank you, doctor. That's all, Your
8 Honor.

9 THE COURT: Thank you. Yes, sir.

10 CROSS-EXAMINATION BY MR. JOSEPH:

11 Q. Dr. Brower, I want to ask you specifically about
12 cocaine.

13 A. Okay.

14 Q. And I don't want to embarrass myself, I'm just
15 going to call it the benzo, the metabolite benzo?

16 A. Benzoyllecgonine.

17 Q. Yes. You had, it looks like it's 1.6 milligrams
18 per liter?

19 A. Correct.

20 Q. Okay. And now, for that, basically to estimate
21 that level, you add that to the -- you add the cocaine to
22 that? In other words, you have the -- that's 1.6, and then
23 you have the cocaine at .068?

24 A. Correct.

25 Q. You combine those two to come up with an estimate

1 for the amount of level in her system?

2 A. I'm sorry, sir, I'm not following you.

3 Q. How do you estimate the amount of cocaine in her
4 level, the benzo?

5 A. Oh, how could you come up with these --

6 Q. Yes.

7 A. -- calculate concentrations? So we generate
8 what's known as a calibration curve. So we have blank donor
9 blood, we obtain it from UNC hospitals. So it's -- again,
10 if you donate blood and they screen it and there's no drugs
11 present, and then that drug [sic] has an expiration date on
12 it, can only be used for a certain amount of time, we take
13 that blood from them so it's not wasted. So it's human
14 blood that doesn't contain any drugs at all.

15 And then, we spike it with known concentrations of
16 drugs such -- in this case, it would be known amounts of
17 benzoylecgonine and cocaine at low concentrations, mid
18 concentrations, high concentrations. And you get what we
19 call a calibration curve. It's just a line on an access.
20 And then when we test the decedent's blood, it falls
21 somewhere on that curve. And that's how we determine how
22 much benzoylecgonine, cocaine in really all of these drugs
23 are in a person.

24 And so we don't -- I think that may be what you're
25 asking -- we don't add anything. We don't add drugs to

1 decedents' specimens at all. We don't spike them with
2 cocaine, Fentanyl, or benzoylecgonine itself.

3 Q. But the cocaine -- deaths from cocaine, now, this
4 is at 1.6. There are -- there have been cocaine deaths at
5 .9; correct?

6 A. Just like with all drugs, you have a large range
7 of concentrations in decedents and fatalities. So, yeah,
8 it's just like with Fentanyl where as low as one to greater
9 than several hundred, it's the same thing with cocaine as
10 well and the benzoylecgonine metabolite.

11 Q. The cocaine level, you talked about it, it would
12 reflect to you that there was, you know, probably bingeing
13 on cocaine and the use had been recent. This is not
14 something left over from days, this is --

15 A. Correct.

16 Q. -- something that would be recent use? But that
17 cocaine level 1.6 by itself would be sufficient to be fatal;
18 isn't that true?

19 A. It could be, correct. So if there were no
20 Fentanyl or other drugs and there was no other competing
21 cause of death and we just had, say, that benzoylecgonine
22 and that cocaine and no other competing cause of death, this
23 very well could be a cocaine death as well.

24 Q. Okay. And then, the dextromethorphan?

25 A. Um-hum.

1 Q. Those levels, now, it would be fair to say that
2 that level by itself wasn't enough to cause a death, but
3 certainly it was high enough to contribute; isn't that true?

4 A. They're a little bit higher than what I would
5 consider to be normal. The dextromethorphan, they're
6 definitely not in the toxic lethal range. So if we just had
7 dextromethorphan and the chlorpheniramine by itself, no
8 cocaine, no Fentanyl, Dr. Privette would be looking for a
9 different cause of death. It wouldn't be a toxicological
10 cause of death.

11 As far as contributing to the death, often times
12 what pathologists will do is combine all the drugs. So I
13 don't recall how Dr. Privette listed this as the cause of
14 death, if it was a -- I believe he called it a combined
15 cocaine and Fentanyl toxicity. I don't know if he included
16 the dextromethorphan or the chlorpheniramine in that. But
17 it's, again, common practice to usually combine all the
18 drugs and lump them together as the cause of death.

19 Q. But the level that it was in the system, that was
20 not just somebody just taking it for a cold, it wouldn't be
21 at that level; correct?

22 A. They could have, probably taking, you know, one or
23 two extra or so. But, I mean, people do abuse
24 dextromethorphan at times.

25 Q. And were you aware of whether or not that Michelle

1 Hooper had any history of abusing cold medication?

2 A. I have no idea.

3 Q. Okay, no -- okay.

4 A. I mean, I took dextromethorphan before I came
5 here.

6 Q. I understand.

7 A. I have a bit of a cold.

8 Q. And then, also, you're aware about the Suboxone.

9 That is generally prescribed to help people stay off of
10 drugs; correct?

11 A. Correct.

12 Q. And you didn't find any evidence of that being in
13 her system?

14 A. No. So, Suboxone is a combination drug. It's
15 buprenorphine and naloxone. And we do look for
16 buprenorphine, but we did not find any.

17 Q. Okay. Did you know whether or not she had been
18 prescribed that in the past?

19 A. No.

20 Q. You weren't made aware of that?

21 A. No.

22 Q. Okay.

23 A. We often aren't made aware of -- it just depends
24 on the investigation, the medical examiner, the list of what
25 information we have. Sometimes it's best not knowing any of

1 that, so that we're not biased, you know, going into it.

2 Q. Okay.

3 MR. JOSEPH: I don't have anything further.

4 THE COURT: Thank you, sir. Any additional
5 questions?

6 MR. NEWMAN: No, sir.

7 THE COURT: Any objection to the witness being
8 released?

9 MR. NEWMAN: No objection.

10 MR. JOSEPH: No, Your Honor.

11 THE COURT: All right. Do you have an exhibit?
12 If you could please hand that to me, sir. Thank you. All
13 right, sir, you are released from your subpoena. Thank you
14 very much. Have a nice day.

15 (Witness excused.)

16 THE COURT: Counsel, would you approach, please.

17 (Bench conference.)

18 THE COURT: All right. I would ask that copies of
19 the exhibits you have, if you'll please pass those over to
20 the bailiff, I would appreciate it.

21 And that is going to be the last witness that we
22 have for today. I wanted to let you know that it seems that
23 we're very much on track for the estimate of time that we
24 gave. And we will pick up again with evidence tomorrow
25 morning at 9:30.

1 I'm going to ask that you follow all of the
2 instructions. Please don't talk about the case with anyone,
3 including members of your families. And you can let them
4 know when this is over you'll be free to talk with them
5 about it if you want to. But for now I'd ask that you not
6 do that.

7 Please don't post anything on the internet, please
8 don't go by the alleged scene. Don't look on the internet
9 for any information related to anything related to this case
10 whatsoever. Please don't have any contact with the
11 participants.

12 I'm going to ask that you meet tomorrow morning at
13 9:30 in the jury assembly room. And if you will please
14 leave your notepads here, they'll be there in your chair for
15 you in the morning. And I hope you all have a great
16 evening. Thank you very much.

17 (The jury left the courtroom at 4:29 p.m.)

18 THE COURT: Okay, we are out of the presence of
19 the jury. And just for planning purposes, it looks like to
20 me that based on what the State's saying that they will --
21 their evidence will likely go into the afternoon. If that
22 is the case, I wouldn't want to break up your argument.

23 So if we go into the afternoon tomorrow, if we can
24 get beyond that, I will hear any motions and then determine
25 whether Mr. McCrorey wishes to testify or offer any

1 evidence. And if he doesn't, then we will have the charge
2 conference and then likely have the jury just come back in
3 the morning, that would be Thursday morning closing
4 arguments, if we finish sometime around, you know, 3:30 or
5 later. I wouldn't want to break up your arguments, so I
6 would do it that way.

7 I am working on draft instructions. And it's my
8 practice that I will give you all copies of those to review.
9 I have them on the table. So if there's any particular
10 charges and instructions that you would like for me to
11 consider outside of the obviously standard ones, if you
12 would let me know that, I can incorporate that.

13 We'll have a charge conference at the appropriate
14 time, and anything you give me now is without prejudice if
15 you change your mind. But particularly in the morning, if
16 you have anything or if you know anything right now that you
17 want me to include in the draft, I would appreciate it.

18 Is there anything else that you all would like to
19 address before we recess for the afternoon?

20 MR. NEWMAN: Not from the State.

21 MR. JOSEPH: No, Your Honor.

22 THE COURT: All right. I'd ask that everyone be
23 careful in the morning not to talk about the case in public
24 parts of the courthouse in the event the jurors are around.
25 But I anticipate we will start right at 9:30 in the morning.

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Hope you all have a good night. Thank you.

(The court recessed at 4:32 p.m. and reconvened on
Wednesday, November 16th, 2022.)