

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

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RAILROAD EMPLOYEE FATALITY *

IN PRICHARD, ALABAMA *

Accident No.: RRD21LR005

ON NOVEMBER 17, 2020 *

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Interview of: DOMINIQUE KRIS-SHON PROCTOR, Laborer
Continental Rail, Inc.

Via telephone

Friday

November 20, 2020

APPEARANCES:

ZACHARY ZAGATA, Accident Investigator
National Transportation Safety Board

JOE GORDON, Railroad Investigator
National Transportation Safety Board

LEE DAMRON, Accident Branch Chief
Federal Railroad Administration

DILLON ONDO, Track Safety Specialist
Federal Railroad Administration

BYRL McCOY, Operating Practices Safety Inspector
Federal Railroad Administration

CHRISTOPHER HESTER, Railway Safety Administrator
Alabama Public Service Commission

ROBERT ADAMS, Track Safety Inspector
Federal Railroad Administration

JEREMY MOATS, Track Safety Inspector
Federal Railroad Administration

I N D E X

<u>ITEM</u>	<u>PAGE</u>
Interview of Dominique Kris-Shon Proctor	
By Mr. Moats	9
By Mr. McCoy	35
By Unidentified Speaker	38
By Mr. Moats	41
By Mr. Gordon	42
By Mr. Zagata	44

I N T E R V I E W

1
2 MR. MOATS: Starting now. Can I get your first name?
3 MR. PROCTOR: Dominique.
4 MR. MOATS: Can you spell that for me?
5 MR. PROCTOR: D-o-m --
6 MR. MOATS: D-o-m --
7 MR. PROCTOR: -- i --
8 MR. MOATS: -- i --
9 MR. PROCTOR: -- n --
10 MR. MOATS: -- n --
11 MR. PROCTOR: -- i-q-u-e.
12 MR. MOATS: -- i-q-u-e. All right, and your last name? Or,
13 actually, do you have a middle name?
14 MR. PROCTOR: Kris-Shon.
15 MR. MOATS: Can you spell that for me?
16 MR. PROCTOR: K --
17 MR. MOATS: K --
18 MR. PROCTOR: -- r --
19 MR. MOATS: -- r --
20 MR. PROCTOR: -- i --
21 MR. MOATS: -- i --
22 MR. PROCTOR: -- s --
23 MR. MOATS: -- s --
24 MR. PROCTOR: -- a dash --
25 MR. MOATS: -- dash --

1 MR. PROCTOR: -- s-h-o-n.
2 MR. MOATS: -- s-h --
3 MR. PROCTOR: -- o-n.
4 MR. MOATS: -- o-n. And your last name?
5 MR. PROCTOR: Proctor.
6 MR. MOATS: Can you spell that for me?
7 MR. PROCTOR: P-r --
8 MR. MOATS: P-r --
9 MR. PROCTOR: -- o-c --
10 MR. MOATS: -- o-c --
11 MR. PROCTOR: -- t-o-r.
12 MR. MOATS: -- t-o-r. Is that right?
13 MR. PROCTOR: Yes, sir.
14 MR. MOATS: Okay. And your address?
15 MR. PROCTOR: [REDACTED]
16 MR. MOATS: [REDACTED]
17 MR. PROCTOR: [REDACTED]
18 MR. MOATS: Can you spell that?
19 MR. PROCTOR: [REDACTED]
20 MR. MOATS: [REDACTED]
21 MR. PROCTOR: [REDACTED]
22 MR. MOATS: [REDACTED]
23 MR. PROCTOR: [REDACTED]
24 MR. MOATS: [REDACTED]
25 MR. PROCTOR: [REDACTED]

1 MR. MOATS: Okay. And the city?
2 MR. PROCTOR: [REDACTED]
3 MR. MOATS: [REDACTED]
4 MR. PROCTOR: [REDACTED]
5 MR. MOATS: [REDACTED] [REDACTED]
6 MR. PROCTOR: [REDACTED]
7 MR. MOATS: [REDACTED] [REDACTED] [REDACTED]
8 [REDACTED]
9 MR. PROCTOR: [REDACTED]
10 MR. MOATS: [REDACTED]
11 MR. PROCTOR: [REDACTED]
12 MR. MOATS: [REDACTED]
13 MR. PROCTOR: [REDACTED]
14 MR. MOATS: [REDACTED] And what is your phone number?
15 MR. PROCTOR: [REDACTED]
16 MR. MOATS: [REDACTED]
17 MR. PROCTOR: [REDACTED]
18 MR. MOATS: [REDACTED]
19 MR. PROCTOR: [REDACTED]
20 MR. MOATS: [REDACTED]
21 MR. PROCTOR: [REDACTED]
22 MR. MOATS: [REDACTED] And what is your occupation here at
23 Continental Railroad?
24 MR. PROCTOR: Laborer.
25 MR. MOATS: You're a laborer. Okay.

1 All right, with that being said, I'd like to open it up to
2 Lee on the phone so he can introduce himself. Go ahead, Lee.

3 MR. DAMRON: Okay. Good afternoon. Just to introduce
4 myself, my name is Lee Damron, D-a-m-r-o-n. I am a Accident
5 Analysis Branch Chief with the FRA, and I will be listening in on
6 the call today. I appreciate you taking the time to come down and
7 talk to us.

8 MR. PROCTOR: Yes, sir.

9 MR. DAMRON: Zach.

10 MR. ZAGATA: Okay. My name is Zach Zagata. I'm an NTSB IIC
11 for the accident. We've got a little disclosure we've got to go
12 through here. We're here today on November 20, 2020, to conduct
13 an interview with Dominique Proctor, who works for Continental
14 Rail, Incorporated. This interview is in conjunction with NTSB's
15 investigation of the accident near Prichard. The NTSB Accident
16 Reference Number is RRD21LR005.

17 The purpose of this investigation is to increase safety, and
18 not to assign fault, blame or liability. As to the discussion,
19 we'll be recoding this interview. I have to disclose that this
20 will go on the public docket. We cannot guarantee
21 confidentiality.

22 And, now, at this point, I guess, if you want to go around
23 the room and introduce -- I'll start off with mine. Once again,
24 Zach Zagata, Z-a-c-h, last name Zagata, Z-a-g-a-t-a. And I'm the
25 NTSB Investigator in Charge.

1 I'll turn it over to you, Jeremy. Are you guys getting an
2 echo on your end?

3 MR. MOATS: Not now. I was for a minute there.

4 MR. ZAGATA: Oh, good. All right.

5 MR. DAMRON: Okay. Lee Damron, D-a-m-r-o-n, and I'm a Chief
6 Inspector with the FRA Accident Analysis Branch.

7 To you, Joe.

8 MR. GORDON: Yeah, Joe Gordon. I'm a Rail Accident
9 Investigator with the NTSB. Mr. Proctor, I appreciate you coming
10 in to talk to us.

11 MR. PROCTOR: Thank you, sir.

12 MR. HESTER: And Christopher Hester, C-h-r-i-s-t-o-p-h-e-r,
13 Hester, H-e-s-t-e-r. I'm the Railway Safety Administrator for the
14 Alabama Public Service Commission, and I'd like to thank you for
15 coming in and taking time to speak with us.

16 MR. PROCTOR: You're welcome.

17 MR. McCOY: Byrl McCoy, that's B-y-r-l, M-c-C-o-y, and I am
18 with the Federal Railroad Administration, and I'm the Railroad
19 Safety Operating Practices Inspector in Mobile, Alabama. Thank
20 you for coming in.

21 MR. ADAMS: Robert Adams or Bob Adams, FRA Track Safety out
22 of Memphis, Tennessee. And thank you again, sir, for coming in.

23 MR. MOATS: And, again, I'm Jeremy Moats, J-e-r-e-m-y, last
24 name Moats, M-o-a-t-s. Thank you again for coming in. And at any
25 time during our discussion, if you need to take a moment, just let

1 us know. Okay.

2 INTERVIEW OF DOMINIQUE KRIS-SHON PROCTOR

3 BY MR. MOATS:

4 Q. All right, first I'd like to start off is how long have you
5 worked in the railroad industry?

6 A. Two years eight months.

7 Q. Two years eight months. All right. Has all your time in the
8 railroad industry been with Continental?

9 A. Yes, sir.

10 Q. With Continental, yes. Okay. Has all your time in the
11 railroad industry been with the maintenance of way, the track
12 crew?

13 A. Yeah.

14 Q. Yes?

15 A. Can I ask you, like, what do you mean?

16 Q. Well, yeah, of course. If at any time, if we're asking a
17 question you're not clear on, this is -- yes, please take a chance
18 and ask. Okay. So what I mean by that is on the railroad
19 industry you have maintenance of way, you have transportation --

20 A. Yes, sir.

21 Q. -- you have mechanical, so the guys that drive the train, the
22 guys that work on the cars. Maintenance of way are the guys that
23 build and work on the tracks. So the question was, has all your
24 time in the railroad industry been with maintenance of way, the
25 track department of the railroad? Have you ever worked on the

1 trains?

2 A. No.

3 Q. Okay. Have you ever worked as a mechanical, like, working on
4 the locomotives or any of that?

5 A. No.

6 Q. Okay. So it's all been with track?

7 A. Yes, sir.

8 Q. Okay. Track. All right. Now, within your last 2 years
9 8 months, what positions have you held in the railroad?

10 A. You mean labor, swinging the -- hammer, that's it.

11 Q. Okay. Laborer. All right. Now, on November 17th, can you
12 describe your day starting at the beginning all the way up to and
13 immediately after the accident?

14 A. We got our job briefing, went and put in two switch ties, and
15 then after that, that's when we went and got on the rail to put in
16 the 35 crossties.

17 Q. Anything else?

18 A. I mean, we was working until around about 2-something, and
19 that's when the accident occurred.

20 Q. Okay. Now, at the beginning of the day, did you start your
21 day when you came on duty to go to work here at this office or
22 somewhere else?

23 A. What are you asking again?

24 Q. So basically, when you start your day, when you first clocked
25 in, did you clock in here at this office or --

1 A. No, sir.

2 Q. Okay. Where did you clock in at?

3 A. We met at Mobile.

4 Q. Met at Mobile. Okay. Do you happen to remember what time
5 that was?

6 A. Seven.

7 Q. Around 7?

8 A. Around 7.

9 Q. That's 7 in the morning, right?

10 A. Yes, sir.

11 Q. Seven a.m. Okay. So you met at 7, and then you said that
12 you had a job briefing. What was covered in that job briefing?

13 A. How we were protected.

14 Q. How you were protected. Can you elaborate on how you were
15 protected?

16 A. By track authority and derail.

17 Q. Track authority and derail. Now, who gave you that job
18 briefing?

19 A. Patrick Bolton.

20 Q. Patrick did. All right. Now, who is Patrick Bolton?

21 A. I mean, I'm telling the truth. Don't make me lie.

22 Q. No, no, no, no. Listen. This is -- what you don't know, you
23 don't know. If you don't understand the question, please ask for
24 clarification so I can better understand. In essence, who is
25 Patrick Bolton? What did Patrick Bolton do that day? What was

1 his job that day?

2 A. Give us our job briefing.

3 Q. Okay. Give you a job briefing. All right. In the job
4 briefing, did they tell you who the Railway Worker in Charge was?

5 A. No, sir.

6 Q. They did not tell you who the Railway Worker in Charge was?

7 A. No, sir.

8 Q. When I say the term Railway Worker in Charge, do you know
9 what I mean by that?

10 A. No, sir.

11 Q. Okay. So let me give you some clarification what I mean by
12 that. So the Railway Worker in Charge is the individual that's in
13 charge of the on-track protection that they're giving to you so
14 you can go out there and work with the freedom of being struck
15 from equipment. Okay? So the Railway Worker in Charge is the one
16 that sets up the protection or directs the person that sets up the
17 protection and gives that briefing to you. So it -- now, with
18 that being said, did anybody tell you who the Railway Worker in
19 Charge was? Do you have a better understanding of who the Railway
20 Worker in Charge is?

21 A. Yes, sir. But no one did, but I'm guessing Patrick was.

22 Q. Patrick. Okay. So you're guessing. Okay. Understand. It
23 wasn't clearly said then?

24 A. No, sir.

25 Q. Okay. All right. So you told me in the job briefing he

1 talked about protection. Was there anything else he covered in
2 the job briefing?

3 A. Yes. He told us we were protected from our track authority,
4 derail, and was on Mile Post 4.

5 Q. And you were on Mile Post 4. Okay. So was all your work
6 conducted at one location on November 17th? Did you move any
7 locations while you were there?

8 A. Yes, sir.

9 Q. Okay. Can you tell me what all -- where all you worked at
10 relatively?

11 A. We put the two switch ties in, I want to say in the yard.

12 Q. In the yard? Any kind of landmark you can give me?

13 A. Right there by the -- it's a little bridge, I think. It's a
14 little bridge right there.

15 Q. Okay. So a little bridge. Is it the little bridge that's on
16 the road that the train goes across or little bridge that goes
17 over the railroad tracks where cars go across?

18 A. Where the train goes across.

19 Q. Okay. Little bridge where the train goes across. I think I
20 know where you're at. Okay. So you worked there putting those
21 two switch ties in. Then where did you go?

22 A. We left there. I'm not familiar with all the street names
23 and whatever. So we hopped on the track to put the 35, getting
24 ready.

25 Q. Okay. So you left there, and then you went to where the

1 accident location happened? Is that what you're saying?

2 A. Yes, sir.

3 Q. Okay. Do you happen to recall when -- what time you left
4 from where you put the switch ties in at?

5 A. I really don't know.

6 Q. Okay. Do you know if it was before or after lunch?

7 A. Before.

8 Q. It was before lunch.

9 A. Was before lunch.

10 Q. Okay. It was before lunch. Okay. All right. So while you
11 were working there on November 17th, and I'm talking particularly
12 about November 17th, that day, the ALE, which is the Alabama
13 Export Railroad -- so if you hear anybody say ALE, that acronym is
14 for the Alabama Export Railroad. If you hear anybody say RWIC,
15 that's for the Railway Worker in Charge. Okay. So when you're --
16 while you're there on November 17th, at any time did you hear the
17 Alabama Export Railway Worker in Charge talk to any other employee
18 of the Alabama Export about where you were going or what you were
19 doing?

20 A. No, sir.

21 Q. No. Do you recall the Railway Worker in Charge being on the
22 phone talking to somebody?

23 A. No, sir.

24 Q. Do you remember hearing anybody on a radio saying anything?

25 A. No, sir.

1 Q. Okay. So how long as a contractor have you been on the
2 Alabama Export Railroad working of your time? You've been with
3 the railroad industry for 2 years 8 months. How much of that has
4 been on the Alabama Export Railroad?

5 A. We've been working in Mobile a pretty good bit.

6 Q. Pretty good bit. Do you kind of -- can you roll back when
7 you kind of started there? How many months ago or a year ago?
8 How much ago, estimate?

9 A. We was working since last year.

10 Q. Oh, you've been working since 2019?

11 A. Yeah.

12 Q. All right, 2019. Okay. How often do you guys go down to
13 Mobile and work down there, let's say per month? One day per
14 month? A week per month?

15 A. Sometimes it would be weeks per month.

16 Q. Sometimes it would be multiple weeks per month. So, on
17 average, what do you -- per month do you figure you spend down
18 there?

19 A. Month and a half. I really don't know because we be back and
20 forth so much.

21 Q. Okay. All right. So when you've been working on the Alabama
22 Export Railroad, and you have the Railway Worker in Charge, which
23 I explained to you what the Railway Worker in Charge is, how many
24 of those individuals have you dealt with? How many employees of
25 Alabama Export have you dealt with as a railway -- being a Railway

1 Worker in Charge?

2 A. Two, two.

3 Q. Two. Okay, two of them. All right. Can you recall who they
4 are?

5 A. Patrick Bolton, and what's his name? Patrick's boss.

6 Q. So Patrick's boss. So you know that? Do you happen to know
7 his title?

8 A. No, sir.

9 Q. But you do know he is Patrick's boss?

10 A. Yes, sir.

11 Q. Okay. All right. Now, I kind of want to -- I want us to
12 talk about the accident, okay. So beginning when you arrived at
13 the jobsite where the accident occurred on November 17th, can you
14 describe the events that occurred? I'm talking about when you
15 guys showed up to where the accident happened at. Walk me through
16 everything that happened there up to and after the accident.

17 Q. Like I said, we put the two crossties in whatever. Then we
18 left there, went and got on the rail, and we started pulling
19 spikes and stuff, pulling up crossties and putting them in. And
20 around 2-something, that's when the accident occurred, after 2.

21 Q. Okay. Is there anything else you recall from then? You're
22 shaking your head no, but is that what you're indicating?

23 A. No, sir.

24 Q. So you don't remember nothing?

25 A. No.

1 Q. Nothing. Okay. All right. So when you showed up, you said
2 that you showed up, and you put on the rail. Before you put on
3 the rail, was there any discussions held by anybody?

4 A. Patrick.

5 Q. Okay. What did Patrick have to say before you all put on the
6 rail?

7 A. He was -- he told us where to put the derails and stuff at.

8 Q. Okay. Who did he -- who in particular did he tell that to?

9 A. Marvin Bolton, Peewee.

10 Q. All right. So Patrick Bolton told Marvin Bolton.

11 A. And Marvin Bolton told me to go put them on.

12 Q. Told you to put them up. Okay. Was that before or after you
13 guys put on the rail?

14 A. Before.

15 Q. Before. Okay. That was before. When you said you put on
16 the rail, what equipment was being put on the rail?

17 A. The backhoe.

18 Q. The backhoe. Was there any other equipment on the rail?

19 A. No, sir.

20 Q. There was no other equipment on the rail. Okay. All right.
21 So you -- was the derails in place before you put the backhoe on
22 the rail?

23 A. Yes.

24 Q. The derails were in place and installed before the backhoe
25 went on the rail?

1 A. Yes.

2 Q. Okay. All right. So Patrick and Peewee talked -- Marvin
3 Bolton talked. They tell you. And then let me understand this
4 right. Who told you to go put the derails up?

5 A. Marvin.

6 Q. Marvin did. Marvin told you to go put the derails up. When
7 you put the derails up, did they tell you where to put them up?

8 A. Yes.

9 Q. Okay. They told you the location?

10 A. Yes.

11 Q. Okay. All right. Were the derails locked?

12 A. Yes.

13 Q. Okay. They were locked?

14 A. Yes.

15 Q. Who locked them?

16 A. Me.

17 Q. Okay. You locked them?

18 A. No, no, no, no. Sorry, I'm sorry, I'm sorry. Marvin,
19 Marvin, Marvin. I put them on. He went and got the locks and
20 brought them and put them on.

21 Q. Oh, okay. That's what -- thank you for the clarification.
22 Okay. So you installed the derails.

23 A. Yes, sir.

24 Q. Marvin --

25 A. Marvin got the locks and locked them out.

1 Q. And locked them out. Do you remember looking at those locks?

2 A. Yes, sir.

3 Q. Okay. What -- who owned those locks? Whose locks were they?

4 A. Ours.

5 Q. That was you all's? Okay. How many locks were on the
6 derail?

7 A. One.

8 Q. One lock. Who all had keys to that lock?

9 A. Marvin.

10 Q. Marvin?

11 A. Marvin.

12 Q. Did anybody else have keys?

13 A. No, sir. I mean, I don't know if the guy that got killed had
14 them or not.

15 Q. Okay. Well, I just -- for to your knowledge, that's all I
16 want to know, your knowledge, do you know of anybody else having
17 keys?

18 A. No, sir.

19 Q. So only he had keys?

20 A. Only Marvin.

21 Q. Okay. So now we've got the derails on. All right. Was
22 there anything else about that derail you can tell me?

23 A. No, sir.

24 Q. Was there any other thing put with that derail?

25 A. No, sir.

1 Q. Okay. Any kind of visual device with that derail?

2 A. No, sir.

3 Q. Okay. All right. So now that we have the derails on. We
4 have the backhoe on the rail. What did we do after that?

5 A. We was putting in crossties. Backhoe operator taking out the
6 crossties and installing them back in, and we setting them up.

7 Q. Okay. Setting them up. Now, there are individuals that are
8 on the call that are not track like where we come from. Setting
9 them up means what? So that they understand.

10 A. Setting spikes in the crossties.

11 Q. Setting spikes in the crossties. Okay. All right. So I
12 want to revisit something at where the accident location happened
13 at. What form of on-track protection was in place?

14 A. The derails.

15 Q. The derails. Was there anything else talked about?

16 A. No, sir.

17 Q. Nothing else was talked about. Okay. And you applied the
18 derails under the direction of Marvin Bolton; is that correct?

19 A. Yes.

20 Q. Okay.

21 A. After he got the information from Patrick.

22 Q. And the derails that were installed on the rail, who owned
23 those derails?

24 A. We do.

25 Q. You guys do?

1 A. Yeah. We had two, and Patrick had two.

2 Q. Okay. The derails that are like actually physically on the
3 rail, who owned those derails?

4 A. I want to say it was Patrick derails.

5 Q. It was Patrick's?

6 A. It was Patrick's.

7 Q. But you're not for sure?

8 A. I'm not for sure.

9 Q. Okay. And if you don't know, you don't know, okay. Now,
10 since you installed the derails, can you tell me relative to where
11 the work was happening where the derails were at?

12 A. On the north end and on the south end.

13 Q. Okay. How far away were they from the nearest man or machine
14 working, estimate?

15 A. I really don't know.

16 Q. Don't know. Now, your duties at the jobsite, what were your
17 duties at the jobsite? What job did you have to do at the
18 jobsite?

19 A. Set spikes.

20 Q. Set spikes. Okay. So were you aware that the Railway Worker
21 in Charge left the jobsite?

22 A. Yes.

23 Q. So you were aware that --

24 A. Yes.

25 Q. -- the railway worker left the jobsite?

1 A. Yes.

2 Q. Okay. The Railway Worker in Charge left it. Prior to the
3 Railway Worker in Charge leaving the jobsite, was there any
4 discussions that were had with anybody?

5 A. I don't know. Not to me. I don't know if he talked to any
6 of the other guys, but he didn't talk to me or say anything. So I
7 don't know.

8 Q. Okay. He didn't talk to you. Okay. All right. So did you
9 see him talking to anybody before he left?

10 A. No, sir.

11 Q. Okay. Is it common when you're working down on the Alabama
12 Export Railroad that the RWIC leave the jobsite to do other tasks?
13 You said yes?

14 A. Yes.

15 Q. Yes, it is common. How common is that?

16 A. Not too much. Not too much.

17 Q. Not too much.

18 A. They usually just sitting around in the truck or something.

19 Q. Sitting around in the truck.

20 A. Unless he get a phone call from his people that he work with
21 out there, he had to go do something for them, and he'll come
22 back, but not too often.

23 Q. Okay. Now, let's talk about the time before, just before the
24 accident. Were you aware the derails were removed?

25 A. Yes.

1 Q. Okay. Who removed those derails?

2 A. I did.

3 Q. You removed the derails. Who --

4 A. To let Wayne -- well --

5 Q. No, go ahead.

6 A. To let -- I took the derails off to let Wayne come through to
7 pick up the old crossties on the material truck.

8 Q. So besides the backhoe that's on the rail, you had the
9 material truck on the rail also, high railing?

10 A. Yeah.

11 Q. When did the -- when did that truck get on the rail?

12 A. After I took up the derail.

13 Q. Okay. Were you -- did you ever see the material truck set on
14 the rail?

15 A. No, sir.

16 Q. So the material truck was -- you never saw the material truck
17 set on the rail?

18 A. No.

19 Q. Okay. All right. So you took down the derail?

20 A. Yes.

21 Q. Okay. To let the material truck in. Am I understanding
22 that?

23 A. Yes.

24 Q. Okay. All right. Who directed you to do that?

25 A. Marvin.

1 Q. Marvin.

2 A. Bolton.

3 Q. Marvin Bolton.

4 A. I don't know if they gave you all his real name or the
5 nickname we call him out there. Marvin Bolton, Peewee.

6 Q. So Martin Bolton is Peewee?

7 A. Is Peewee.

8 Q. Okay. All right. So what instructions did Marvin Bolton
9 give you about removing the derails?

10 A. Okay. We was on the last two crossties, and he had just
11 installed the last crosstie, and I told him when I nailed his last
12 crosstie that I'm going to get the derail. And I nailed my last
13 crosstie and went and got the derails. The material truck again,
14 to grab the crossties.

15 Q. Okay. So did Marvin Bolton tell you to go drop that derail?

16 A. Yes.

17 Q. Okay. Did he tell you to do anything with that derail after
18 you dropped it?

19 A. No, sir.

20 Q. So what happened to the derail after you dropped it?

21 A. I put it on the truck. I went and got the derail that I let
22 Wayne on, let him get on. Then I went down there on the other end
23 and got that one, put that one on the truck.

24 Q. What truck?

25 A. That single cab we got out here.

1 Q. The single cab you have out here?

2 A. Yes.

3 Q. And where was the single cab truck at?

4 A. On the side of the track.

5 Q. So the single cab truck was beside the track?

6 A. Yes.

7 Q. Okay. Did Marvin Bolton tell you to remove both derails?

8 A. Yes.

9 Q. He did?

10 A. Yes.

11 Q. Did he tell you where to put those derails after you were
12 done?

13 A. On the truck.

14 Q. He told you to do that?

15 A. Um-hum.

16 Q. You said yes?

17 A. Yes, sir.

18 Q. Okay. Yes. All right.

19 A. And --

20 Q. Go ahead.

21 A. And by that time, when I put the last derail on the truck, I
22 walked back like kind of stood beside the track, and next thing I
23 know there was a boom. That was the train.

24 Q. Okay. That's what I would like to talk about next, when you
25 became aware of the train. So you just said you put the derails

1 on the truck. You walked back besides the track. Where at beside
2 the track?

3 A. Like kind of standing on the outside of the crosstie.

4 Q. So give me a relationship to the backhoe and the material
5 truck, where you were at.

6 A. Well, this how we was working, like the train -- the track's
7 like this.

8 Q. Yes.

9 A. We had Marvin, he was up there in front.

10 Q. Okay. So let's -- just to be clarified for the individuals
11 on the phone. He's saying that the backhoe was to the south of
12 him, is that right?

13 A. Yes.

14 Q. South of you. Okay.

15 A. And the material truck was --

16 Q. To the north of you?

17 A. To the north of me.

18 Q. Okay.

19 A. And I was like right here just standing here waiting for them
20 to set (indiscernible) crossties and put the tools up. And by
21 that time I was just standing here, that's when boom. And I done
22 dove out the way, and all that other crazy crap.

23 Q. Okay. So before the impact, before the impact happened, did
24 you hear anything?

25 A. Nothing.

1 Q. You did not hear nothing?

2 A. Nothing.

3 Q. Did you see anything?

4 A. A split second. Only little time I had to --

5 Q. Okay. So you did not hear or see anything before the impact?

6 A. Nothing.

7 Q. You're shaking your head no, right?

8 A. Yes, sir.

9 Q. All right. Shook your head no. All right. Now, you told us
10 where you were at. The rest of the railway workers that were
11 involved in this incident, can you tell me where they were at?
12 To the best of your recollection. I know this happened fast. So
13 just whatever you know, please let us know.

14 A. I know DJ Monzigo, Dallas --

15 Q. Yeah.

16 A. -- he was running the drill gun. I don't know if he was on
17 the inside of the track or the outside. I don't know. And the
18 guy that got hit, he was reaching in the cab for some spikes to
19 grab, and that's when the truck, material truck caught him.

20 Q. Okay. All right. Then you told us where you were at. Where
21 was everybody else at?

22 A. And the other guy, Tommy, he was -- he had just got through
23 shoveling the track or whatever with the shovel. And I think he
24 was going to put the shovel on the truck. He was getting off the
25 track just in time.

1 Q. Okay.

2 A. As he walked off the track, the train was coming.

3 Q. And then anybody else was there?

4 A. Mr. Wayne and -- Mr. Wayne was in his materials truck.

5 Q. All right. Truck. All right. And who else?

6 A. Marvin was inside his -- the backhoe.

7 Q. Okay. All right. So that's where everybody else was at
8 during the time of the incident. Did you -- again, I asked did
9 you hear anything from that? And I don't want you to focus in on
10 the train itself. Did anybody else say, yell, scream, or anything
11 like you heard?

12 A. Nothing.

13 Q. Nothing. You didn't hear nothing. You just -- you saw the
14 contact, heard the contact, and you got out of the way.

15 A. Got out of the way.

16 Q. Okay. All right. So let's go back to the equipment. What
17 type of equipment were around you during the accident?

18 A. Like I said, we had our -- we had the single cab on the side
19 of the track.

20 Q. Okay.

21 A. And we had the crew cab on the side of the track. Because we
22 had to use the crew cab truck because our -- the power pack is
23 back there. So that was running. And drill gun, he had that out
24 there. Running the (indiscernible) down with that. That's all
25 the tools that was around besides the mile handlers and stuff we

1 use.

2 Q. Okay. All right. Now, what about the equipment that were on
3 the track? What all was on the track?

4 A. The material truck and the backhoe.

5 Q. All right. Now, you talked about the single cab and the crew
6 cab on the side of the track. So that everybody kind of -- we can
7 find it on a map, you have that major road, which is I-65, that
8 runs parallel to the track. And then you have the track itself.
9 And then what side of that -- was it closest to I-65 or the side
10 of the track furthest away from I-65?

11 A. Further away, by the bushes.

12 Q. By the bushes. Okay. Furthest away by the bushes. Okay.
13 Now, the single cab and this crew cab truck, you had your backhoe
14 and your material truck on the rail, which you just told us.
15 Where in relation to those two were those trucks located?

16 A. You saying how far apart they was?

17 Q. Well, no. Like, were they parallel with the backhoe? Were
18 they further away from the backhoe? Were they up by the, up by
19 the material truck? Where were they at in relation to it? If you
20 can't recall, just -- I just want --

21 A. They was kind of right there together.

22 Q. They were right there together?

23 A. They was kind of right there together.

24 Q. Okay. All right. Do you know who owns all that equipment?

25 A. Joey or Stony. Joey or Stony.

1 Q. Okay. When you say Joey or Stony, you mean Continental
2 Rail --

3 A. Yeah.

4 Q. -- Incorporated or Continental Rail?

5 A. Yeah. Yes, sir.

6 Q. All right. Now, this equipment that was being used, what
7 kind of condition was it in?

8 A. Good condition.

9 Q. Good condition. All right. Can you kind of give me any kind
10 of description of the equipment, what it looked like, anything you
11 remember?

12 A. Our power pack is like big, silver with black hoses. And
13 hydraulic -- I mean, drill gun, I guess, is black and yellow.
14 Black and gold.

15 Q. What about the equipment that was on the track?

16 A. (Indiscernible)?

17 Q. No. The equipment, like the high rail stuff.

18 A. They in good shape.

19 Q. They're in good shape. Do you recall anything about lights
20 or anything with them? You're shaking your head no.

21 A. They was in good shape.

22 Q. Okay.

23 A. Nothing wrong with them.

24 Q. So are you saying -- let's clarify this. Did you see lights
25 on the equipment?

1 A. I can't recall.

2 Q. You can't recall. Okay.

3 A. Can't recall.

4 Q. All right. So what I'd like to do now is I want to explain a
5 couple of things to you so that, in our next few questions, you
6 understand what I'm talking about. When I refer to a roadway
7 worker, I refer to a worker that's working on the tracks that has
8 been trained in the on-track safety procedures that protect you
9 while you're working out there on the track. Okay. I'm not
10 talking about the job itself from driving spikes or running the
11 backhoe or nothing like that. I'm talking about all the safety
12 rules that are applicable to the road worker to keep you safe and
13 free from being struck by moving equipment. Okay. So have you
14 been trained as a railway worker?

15 A. Yes, sir.

16 Q. You have been. Okay. What type of training have you
17 received?

18 A. Safety.

19 Q. Safety. Okay. Now, let me clarify this. Was the training
20 held in a classroom or out in the field or both, however --

21 A. Classroom.

22 Q. Classroom. Okay. The instructor that was giving it to you,
23 was it a Continental Rail employee or was it an outside
24 instructor?

25 A. A outside instructor.

1 Q. It was an outside instructor. Do you remember when is the
2 last time you received that type of training?

3 A. I know we used to have to meet up at hotels somewhere in
4 Hattiesburg. Been 2 years, been about 2 years ago.

5 Q. About 2 years ago. Okay. Since those hotel days, has there
6 been any kind of discussions about on-track safety, written tests
7 or anything like that?

8 A. I don't know. I'm not for sure.

9 Q. You're not for sure?

10 A. I'm not for sure.

11 Q. Okay.

12 A. If we had to take a written test. I'm not for sure.

13 Q. So that was going to be my next question. Have you ever
14 taken a written test?

15 A. No, sir.

16 Q. No?

17 A. No, sir.

18 Q. Okay. All right. The next thing I'm going to ask about
19 Railway Worker in Charge. Railway Worker in Charge, like I
20 explained earlier, is the individual that makes a determination of
21 what on-track safety is going to be applied and how it's going to
22 be applied and is in charge of that. Have you ever received any
23 kind of training like that?

24 A. No, sir.

25 Q. No. Okay. All right. Now, let's go to Alabama Export

1 Railroad, right? Alabama Export has their own railway worker
2 rules and their own operating rules. Have you ever been trained
3 on those rules in particular, Alabama Export rules and operating
4 rules?

5 A. By them?

6 Q. By anybody, just been trained on them?

7 A. No, sir.

8 Q. No. Okay. All right. Are you a qualified equipment
9 operator?

10 A. No, sir.

11 Q. Okay. So we're going to -- I've got a few more questions,
12 and then we're going to open it up to everybody else. With your
13 time being on Alabama Export working, right, have you ever had to
14 clear a train through your working limits?

15 A. Like, you asking like we had to stop what we're doing, take a
16 step back, let them go through?

17 Q. Yes.

18 A. Yes.

19 Q. You have done that?

20 A. Yes.

21 Q. How does that process usually work?

22 A. Patrick will receive a phone call. He'll come tell us a
23 train going to come through, so we go take the derails down and
24 stuff and let them come on through.

25 Q. Okay. So you just mentioned derails again. Is it a common

1 practice to always have derails up?

2 A. Yes.

3 Q. Have you ever worked out there when the derails were not in
4 place?

5 A. I can't recall that. I doubt it. No, sir.

6 Q. Okay. So during the incident, your derails came down. You
7 had a few more work -- some more work to do. Is that a common
8 practice, when you only have a little bit of work left to do, you
9 take the derails down, and you start (indiscernible)?

10 A. No. No, sir. We really just did that day because we only
11 had -- we was down to the last crosstie whatever. And I just went
12 on ahead and took the derail down while they was going to drill it
13 down.

14 Q. Okay. All right. Now, going back to your railway worker
15 training, have you ever heard the term good faith challenge?

16 A. No.

17 Q. You --

18 A. No, sir.

19 Q. -- have not. Okay. Do you know the difference between -- do
20 you know what non-controlled track means?

21 A. Not quite.

22 Q. Have you ever been taught what non-controlled track is during
23 your on-track safety training?

24 A. (No audible response.)

25 Q. Okay. During the on-track safety training, have they ever

1 spoke about controlled track?

2 A. Yes. Yes, they have.

3 Q. They have spoke about controlled track. Oh, okay.

4 A. I just never understood like why -- how it goes though.

5 Q. You've never understood how it goes. Okay. All right. The
6 track that you were working on, during any of your discussions
7 throughout that day, did anybody tell you what type of track you
8 were working on?

9 A. No, sir.

10 Q. Okay.

11 MR. MOATS: All right. Chris, do you have anything you would
12 like to add to that?

13 MR. HESTER: No. I think you've covered all the questions I
14 had.

15 MR. MOATS: Okay.

16 Byrl?

17 MR. McCOY: Yeah, I got a couple.

18 BY MR. McCOY:

19 Q. Dominique, once again, I just want to thank you for coming
20 in, man. You and your fellow teammates here, you all's answers
21 going to lead to some lives being saved. So I'm going to take you
22 back to when you arrived -- or let's do this. I just want to ask
23 you a couple of questions. And when you came on duty that day,
24 you all met and then traveled to Mobile?

25 A. Yes.

1 Q. Okay. All right. And once you got to Mobile, where did you
2 all meet up at?

3 A. We go straight to the yard and meet Patrick.

4 Q. Okay. And when you say you go straight to the yard, are you
5 -- what area of the yard are you referring to?

6 A. You know when you come through the gates right there?

7 Q. Uh-huh.

8 A. We go across that track, and we right there in that little
9 dirt area right there.

10 Q. Okay. So you're talking about you go through the gate, and
11 you go over some tracks.

12 A. Yeah.

13 Q. Where basically on the left they have the big car shop?

14 A. Yes, sir.

15 Q. Okay.

16 A. We go right across the little --

17 Q. Okay. All right. I know exactly where you're talking about.

18 All right. When you arrived there, was the Roadway Worker in
19 Charge, Patrick with the ALE, present?

20 A. Yes.

21 Q. Okay. And at any time from the time you arrived there to the
22 time that you all went to the first jobsite, did he leave that
23 location?

24 A. No, sir.

25 Q. He stayed with you all --

1 A. Yes.

2 Q. -- during that time?

3 A. Yes.

4 Q. Okay. You mentioned earlier in your testimony that your
5 protection on the track, on the site number two that you all were
6 working on, you all had derails placed and had track authority; is
7 that correct?

8 A. Yes, sir.

9 Q. All right. At any time during that day did you see the track
10 authority form?

11 A. No, sir.

12 Q. Okay. Did you see the Daily Operating Bulletin, or as it's
13 referred to on the ALE as the DOB?

14 A. No, sir.

15 Q. Do you know what a DOB is or a Daily Operating Bulletin?

16 A. The book with the yellow papers and stuff? I'm just asking.

17 Q. Yeah, yeah. It's basically just (indiscernible) message. Do
18 you or the vehicles that was involved in the accident that day
19 have a radio that is able to monitor radio -- railroad traffic?

20 A. No, sir. Not our company vehicles, no, sir.

21 Q. Okay. At any time between when you came on duty to the time
22 you all went to the first jobsite, did you overhear the Railway
23 Worker in Charge attempt to contact the train crew?

24 A. No, sir.

25 Q. Via radio?

1 A. No, sir.

2 Q. Okay. At any time, did you see the Railway Worker in Charge,
3 Mr. Patrick Bolton, try to contact the train crew with his phone
4 or anything like that?

5 A. No, sir.

6 Q. Okay.

7 MR. McCOY: I have no further questions.

8 BY UNIDENTIFIED SPEAKER:

9 Q. Okay. Thanks, Dominique, for answering these questions. And
10 my questions are just -- I'm just trying to get a mental picture
11 what went on. You said that when you got there, you got on the
12 tracks. Am I correct?

13 A. When we first got there?

14 Q. When you first got there to the site --

15 A. We --

16 Q. -- to put in the ties.

17 A. We had a job briefing first.

18 Q. You had a job briefing. Okay.

19 A. And we put the two switch ties in first.

20 Q. Okay. No. I'm talking about the site where the accident --

21 A. Oh.

22 Q. You put on the rail or put on the tracks, I think is what you
23 said. I'm asking; I'm not telling you. So what do you mean by
24 that?

25 A. No. We pulled up on the little sidewalk thing that's in the

1 middle of the highway where the car go, and we had to stop and
2 flag traffic and hold traffic and stuff.

3 Q. Yeah.

4 A. And we got on the rail.

5 Q. And that -- and when you said go on the rail, you're talking
6 about the backhoe or the boom truck and the backhoe? Which one?

7 A. The boom truck and the backhoe.

8 Q. Boom truck and the backhoe, got on at that crossing?

9 A. Yes.

10 Q. And that's the crossing that is on the south side of you or
11 the north side of you? North is back towards the curve.

12 A. We got on the crossing, and we went that way.

13 Q. Okay. And so you went north?

14 A. Yes.

15 Q. Okay. So the crossing you got on, so -- and then you drove
16 alongside the tracks.

17 A. No. We -- it's another road where you can drive around like
18 in between the houses, a road where the houses is at. And you can
19 go through there and pull it on the side of the grass where they
20 park the truck.

21 Q. Okay. And so the equipment, the backhoe and the grapple
22 truck or boom truck, got on it and --

23 A. Got on --

24 Q. -- near that grade crossing?

25 A. Yes.

1 Q. Vehicular crossing. And you flagged traffic and got them all
2 on.

3 A. And we took the company trucks around.

4 Q. Right.

5 A. On the side of the track.

6 Q. So you waited for the backhoe to get by before you put on the
7 derail that was on the crossing side?

8 A. Yes.

9 Q. Or the south side, correct?

10 A. Yeah.

11 Q. And you put that derail on, and then after the boom truck or
12 the grapple truck went past your north limits or towards the
13 curve, then you put that derail on?

14 A. Yes.

15 Q. Okay. So when you removed the derail, somebody informed you,
16 and I believe you said Marvin, to remove that derail, and that was
17 on that north side --

18 A. North side.

19 Q. -- where the curve was?

20 A. Yes, sir.

21 Q. Okay. And then after you removed that one, you went ahead of
22 the --

23 A. Backhoe.

24 Q. -- backhoe?

25 A. Yes, sir.

1 Q. And removed the other one, and you put them both in the truck
2 that were on the opposite side of Interstate 65 alongside of the
3 tracks.

4 A. Yes.

5 Q. Okay. Just trying to get a mental picture.

6 UNIDENTIFIED SPEAKER: That's the only questions I have.
7 Thank you very much. Appreciate it.

8 MR. MOATS: Okay. Before we move it to the phone, I do want
9 just to make sure I have one thing clarified.

10 BY MR. MOATS:

11 Q. Who directed you to remove the derail?

12 A. Marvin Bolton.

13 Q. Marvin Bolton directed you to remove the derail. Okay.
14 After you removed the derail, did he give you any other directions
15 what to do with the derails?

16 A. No, sir. Put them on the truck.

17 Q. So he said put them on the truck?

18 A. Me. I just put them on the truck. That's where they go.

19 Q. So he -- so, to the best of your recollection, what did
20 Marvin say to you?

21 A. Dominique, go down there and take the derails down off the
22 north end.

23 Q. And that's what --

24 A. And that's what I did.

25 Q. Okay.

1 A. To let Wayne come through.

2 Q. And he never said nothing else?

3 A. Nothing else.

4 Q. Okay. Did he say anything about the south derail?

5 A. No, sir. I went and got that one after I went and got the
6 one from the north end.

7 Q. Okay. All right. And that was the last, that was the last
8 conversation you --

9 A. About the derails.

10 Q. -- had about the derails; is that correct?

11 A. Yes, sir.

12 Q. All right.

13 MR. MOATS: Joe, would you like to say anything?

14 BY MR. GORDON:

15 Q. Yeah. I've just got one question, I guess, Dominique. For
16 your time over there --

17 A. Can I --

18 Q. -- working --

19 MR. MOATS: Can you hear?

20 MR. GORDON: Can you hear me?

21 MR. PROCTOR: Yes, sir.

22 MR. MOATS: Go ahead.

23 BY MR. GORDON:

24 Q. So from your time over there working on that Alabama Export,
25 has there ever been a time where when you're getting that job

1 briefing before you start your work that you guys will put -- be
2 told to put down derails, but there's no mention of a track
3 authority? Like in the case, you know, the day of the accident,
4 you were told that there was a track authority that -- gosh, I
5 can't remember the RWIC's name. Was it Patrick?

6 A. Patrick Bolton.

7 Q. Yeah. So Patrick was -- he told you that he had a track
8 authority, and then there was also a discussion of putting down
9 derails.

10 A. Yes, sir.

11 Q. When you have been working over there, has there ever been a
12 time where they tell you to put down derails, but there's no
13 discussion of a track authority?

14 A. No, sir.

15 Q. Okay. So it's always a combination of the two before you go
16 to work?

17 A. Yes, sir.

18 Q. Okay.

19 MR. GORDON: All right. Well, Dominique, I had mentioned to
20 the fellows before, we understand it's a tough thing -- very, very
21 hard thing when you lose a co-worker, and you guys be sure taking
22 care of yourselves and ask for help and have a discussion and
23 definitely talk about it. Because you don't want to keep that
24 stuff bottled up. But we -- I really do appreciate you coming in
25 and spending some time with us.

1 MR. PROCTOR: Yes, sir.

2 MR. GORDON: Thank you.

3 MR. MOATS: Zach, do you have anything you'd like to say?

4 MR. ZAGATA: Yes, just a couple of questions, follow-up on
5 the derail.

6 BY MR. ZAGATA:

7 Q. Dominique, is putting up the derails, taking them down, is
8 that part of your normal duties, or was that something that just
9 happened that day or --

10 A. It's our normal duties.

11 Q. What's that?

12 A. It's our normal duties.

13 Q. Yeah. Do you normally do that or does it kind of vary, or
14 you would normally do the derails and take them down on a daily
15 or --

16 A. Yes, sir. It's normal.

17 Q. Okay. And did you say you had a key for those locks or did
18 Marvin give you his key or how did that work?

19 A. Marvin had the keys.

20 Q. Okay. And then did Marvin give you his keys so you could go
21 remove them or --

22 A. Yes.

23 Q. Okay. All right. And then lastly, so if we have additional
24 questions, is it okay if we contact you?

25 A. Yes, sir.

1 Q. Okay. And then do you have anything to add at all that you
2 want to add to it?

3 A. No, sir.

4 Q. Okay.

5 MR. ZAGATA: I appreciate, and let us know if you need
6 anything at all. So now I'll turn it back over to Jeremy.

7 MR. MOATS: Lee, do you have anything you would like to ask?

8 MR. DAMRON: No. I don't have any questions or anything.
9 Just want to again thank you for taking the time to talk to us
10 today. We really appreciate it.

11 MR. PROCTOR: Yes, sir.

12 MR. MOATS: Okay. Thank you again for coming in. Before you
13 leave, do you have any questions for us inside the room or on the
14 phone?

15 MR. PROCTOR: No, sir.

16 MR. MOATS: No, you do not. Okay. Like Zach asked, you're
17 okay with -- for us to contact you, if there's a follow-up
18 question?

19 MR. PROCTOR: Yes, sir.

20 MR. MOATS: Okay. You are. Okay. Thank you again coming
21 in. If there's anything we can do, give us a call, all right?

22 MR. PROCTOR: Yes, sir.

23 MR. MOATS: Thank you, sir.

24 (Whereupon, the interview was concluded.)
25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD


IN THE MATTER OF: RAILROAD EMPLOYEE FATALITY
 IN PRICHARD, ALABAMA,
 ON NOVEMBER 17, 2020
 Interview of Dominique Kris-Shon Proctor

ACCIDENT NO.: RRD21LR005

PLACE: Via telephone

DATE: November 20, 2020

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.


Katherine Motley
Transcriber