

RECEIVED

Jul 22 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LEVY LARKIN BROWN,

APPELLANT

APPELLATE CASE NO. 2021-000485

RECORD ON APPEAL

SARAH E. SHIPE
Appellate Defender

ALAN WILSON
Attorney General

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

DAVID SPENCER
Senior Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3689

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT (VOLUME I) DATED APRIL 21, 2021	1
PRETRIAL MOTIONS	4
RULING OF THE COURT	7
TESTIMONY	
TIMOTHY FRENCH (IN CAMERA)	
Voir Dire Examination by Mr. Shedd	12
Voir Dire Examination by Ms. Duque	16
RULING OF THE COURT	24
TESTIMONY	
JEREMIAH FRASER (IN CAMERA)	
Voir Dire Examination by Mr. Shedd	24
Voir Dire Examination by Ms. Duque	25
Further Voir Dire Examination by Mr. Shedd	28
Further Voir Dire Examination by Ms. Duque	31
Further Voir Dire Examination by Mr. Shedd	45
RULING OF THE COURT	52
TRIAL TRANSCRIPT (VOLUME II) DATED APRIL 22, 2021	58
OPENING STATEMENT BY MR. SHEDD	72
OPENING STATEMENT BY MS. DUQUE	73
TESTIMONY	
ALLISON MOREIRA	
Direct Examination by Mr. Shedd	79
MICHAEL KOPYLOV	
Direct Examination by Mr. Shedd	81
Cross Examination by Ms. Duque	90
Redirect Examination by Mr. Shedd	98

MICHAEL EGGERS	
Direct Examination by Mr. Shedd	99
Cross Examination by Ms. Duque	103
TOMMY COOPER	
Direct Examination by Mr. Shedd	105
PETREIA LESENE	
Direct Examination by Mr. Shedd	108
Cross Examination by Ms. Duque	119
BRANDY DEWITT	
Direct Examination by Mr. Shedd	124
Cross Examination by Ms. Duque	130
SANDY WHITMORE	
Direct Examination by Mr. Shedd	131
Cross Examination by Ms. Duque	133
SUZANNE KREBS	
Direct Examination by Mr. Shedd	137
Cross Examination by Ms. Duque	149
Redirect Examination by Mr. Shedd.....	155
DAVID TAFOYA	
Direct Examination by Mr. Shedd	156
Cross Examination by Ms. Duque	165
JEREMIAH FRASER	
Direct Examination by Mr. Shedd	171
Cross Examination by Ms. Duque	187
Redirect Examination by Mr. Shedd.....	188
NICHOLAS THOMAS	
Direct Examination by Mr. Shedd	189
JOHN HOGUE	
Direct Examination by Mr. Shedd	191
Cross Examination by Ms. Duque	214
TRIAL TRANSCRIPT (VOLUME III) DATED APRIL 23, 2021	228
TESTIMONY	
TIM FRENCH	
Direct Examination by Mr. Shedd	232

Cross Examination by Ms. Duque	244
Redirect Examination by Mr. Shedd.....	248
THE STATE RESTS	249
MOTION FOR DIRECTED VERDICT.....	250
RULING OF THE COURT	251
COLLOQUY WITH THE DEFENDANT ON HIS RIGHT TO TESTIFY.....	252
TESTIMONY	
JOHN JAMBRISKA	
Direct Examination by Ms. Duque	255
Cross Examination by Mr. Shedd	257
TIMOTHY BALL	
Direct Examination by Ms. Duque	259
Cross Examination by Mr. Shedd	269
RENEWAL OF MOTION FOR DIRECTED VERDICT	270
RULING OF THE COURT	271
CLOSING ARGUMENT BY MR. SHEDD	272
CLOSING ARGUMENT BY MS. DUQUE	282
FINAL CLOSING ARGUMENT BY MR. SHEDD.....	291
CHARGE ON THE LAW	294
VERDICT	307
SENTENCING	315
MOTION FOR A NEW TRIAL	316
RULING OF THE COURT	316
INDICTMENT AND SENTENCE SHEET	317
CERTIFICATE OF COUNSEL	320

**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
DEFENSE EXHIBIT #2 (DASH CAMERA VIDEO); STATE'S EXHIBIT #1
(RECORDINGS OF 911 CALLS), STATE'S EXHIBITS #4, 5, 23, and 24
(SURVEILLANCE VIDEOS); and STATE'S EXHIBIT #9 (PHOTOGRAPH)**

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT FOURTEENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs. CASES NO.: 2018-GS-07-01281

LEVY LARKIN BROWN, TRANSCRIPT OF JURY TRIAL VOLUME I
PAGES 1 - 57

Defendant.

HEARING BEFORE: THE HONORABLE CARMEN T. MULLEN

DATE: APRIL 21, 2021

LOCATION: BEAUFORT COUNTY COURTHOUSE

TRANSCRIBED BY: KYMBERLEE M. WILLIAMS, CSR/RPR

APPEARANCES:

FOR THE STATE OF SOUTH CAROLINA

JARED SHEDD, ESQ.
SAMANTHA MOLINA, ESQ.
BEAUFORT COUNTY SOLICITOR'S OFFICE
102 RIBAUT ROAD
BEAUFORT, SOUTH CAROLINA 29902

FOR THE DEFENDANT

MELISSA DUQUE, ESQ.
COURTNEY GIBBS, ESQ.
1905 DUKE STREET
BEAUFORT, SOUTH CAROLINA 29902

1

I N D E X

2

3

Proceedings

3

4

5

End of proceedings

57

6

7

8

9

EXHIBITS

10

(NONE OFFERED)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 PROCEEDINGS

2 * * *

3 WEDNESDAY, APRIL 21, 2021

4 * * *

5 THE COURT: We are asking for the jury to be back
6 at 9:30 tomorrow morning. Right now, let's do as much as we
7 can on pretrial.

8 MR. SHEDD: I talked to Ms. Duque. Motion to
9 sequester the witnesses. We don't have any objection to that
10 with the exception of Detective John Hogue. Ms. Duque has a
11 potential DNA analyst. We would ask Tim French be allowed to
12 be present in the courtroom.

13 THE COURT: Okay.

14 MR. SHEDD: Number 5 on the list --

15 MS. DUQUE: We are withdrawing that motion.
16 Withdrawing this motion

17 MR. SHEDD: Number 7.

18 THE COURT: You are not planning any --

19 MR. SHEDD: That's correct. Number 8, no 404B.
20 character evidence in this case, with the exception of if the
21 defendant gets on the stand

22 THE COURT: Have you given them a copy of the rap
23 sheet?

24 MR. SHEDD: Reporting the credibility. There is
25 only one witness in this case who has prior criminal

1 convictions. I am happy to let Ms. Duque question him.

2 MS. DUQUE: We will not be planning to impeach him
3 with any testimony, Your Honor. So we will not be using that.

4 THE COURT: All right.

5 So let's talk -- there is a motion in limine
6 regarding third-party guilt

7 MS. DUQUE: We will take care of Mr. Shed's
8 pretrial trial regarding DNA chain of the custody, and then we
9 will do that one last.

10 THE COURT: Okay.

11 MS. DUQUE: For that one, Your Honor, we will need
12 for Your Honor to set up the WebEx. One of the witnesses who
13 we spoke with you in chamber will be appearing via WebEx for
14 this portion of the trial, Your Honor.

15 MR. SHEDD: Judge, If I may as well, I would like
16 to address chain of custody first, simply because my detective
17 who will provide the testimony -- I am happy to summarize what
18 I believe his testimony will be and have argument at that
19 point. If Ms. Duque will would like me to proffer testimony, I
20 am happy to call and have them come over here.

21 THE COURT: Okay

22 MR. SHEDD: As far as the chain of custody -- this
23 is what we addressed in chambers, Judge. Detective Kimberly
24 Carter, her involvement as far as the chain of custody in this
25 case is she sealed the bags of three items. One is the buccal

1 swab from Timothy Garvin, which was an exclusionary buccal
2 swab. The second is a buccal swab from Shaniah Higgins, who is
3 a co-defendant in this case.

4 The third is the second do-rag or what we will
5 refer to as a scarf that was collected the next morning. That
6 was collected by Detective Hogue.

7 It's my understanding that Detective Hogue's
8 testimony would be that he is aware that he collected that
9 item; he collected the buccal swabs. Excuse me. The buccal
10 swabs were selected by Cabula* We have him ready to testify.
11 His testimony would be that Detective Carter sealed those items
12 as is her regular practice. They were put into the evidence
13 locker, which was locked from everybody but the detectives, at
14 that point, Kim Carter had sealed and initialed them after she
15 verified what was in the bag.

16 THE COURT: Just so I understand, she didn't
17 collect anything. She just took them and sealed it?

18 MR. SHEDD: That's correct, Judge

19 THE COURT: Okay. Where is she again?

20 MR. SHEDD: She is currenty in Virginia. She is
21 under supoenas; however, because she had close contact with
22 someone who testified positive for COVID, we approach defense
23 counsel about the right to confrontation in person. It's my
24 understanding that the defendant does not wish to waive that.

25 So at this point, we do think that based on

1 testimony, we can elicit from the stand that it is sufficient
2 to establish chain of custody for admissibility purposes.

3 MS. DUQUE: Thank you, Your Honor. I understand
4 the State's position regarding the chain of custody. We would
5 argue to preserve my clients rights and the standards in the
6 law in the State of South Carolina, it is our position that the
7 State needs to be able to establish chain of custody.

8 My client has the right to have anyone who perhaps
9 handled or touched this evidence to be able to come in here and
10 testify as to whether or not those are the items that were
11 sealed and, yes, those are my initials, and that is our
12 position, Your Honor

13 THE COURT: Okay.

14 MR. SHEDD: Judge, just in brief response. I do
15 have a couple of cases I am happy to hand up. State v.
16 Taylor; 360 SC 18; State v. Williams, 297, SC 290. Taylor
17 cites to Williams. And in reference to that it is not required
18 that the chain of custody that everybody that touched or
19 handled evidence be called to the stand, so long as it's not
20 left to conjecture or speculation as to what hapened with the
21 items as long as the identity of those within the chain has
22 been established, which would established through the testimony
23 of witnesses that would testify.

24 We believe that under those cases that the chain
25 would be sufficient for admissibility any other issues with

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 chain would go to the credibility.

2 THE COURT: Just so I understand, another officer
3 can testify that they were placed, and she sealed it; correct?
4 And then it was put in the evidence locker

5 MR. SHEDD: It will be a combination of two
6 officers. So Kopylov will put it in the evidence locker, and
7 Hogue will testify that Kimberly Carter sealed it and initialed
8 it.

9 THE COURT: Anything else?

10 MS. DUQUE: No, ma'am

11 THE COURT: I think it's fine. Obviously, it's
12 enough under both these cases to show that it was established.
13 It's also -- correct me if I am wrong -- what were the three
14 items? One was a scarf --

15 MR. SHEDD: Yes.

16 THE COURT: A buccal swab?

17 MR. SHEDD: The other two were buccal swabs. One
18 was an exclusionary from Timothy Garvin and the another was
19 from Shania Higgins, which was supposed to be exclusionary,
20 which turned out to be the co-defendant in the case, and the
21 scarf that was collected the next morning.

22 THE COURT: That's fine. As long as someone else
23 has seen it, I think it's fine

24 MR. SHEDD: Thank you, Your Honor.

25 THE COURT: Okay. We didn't talk about Number 6.

1 Do you want, is that something we can take care of quickly?

2 MS. DUQUE: Yes. So These black-and-white shoes
3 that were found at the scene of the crime, not at the scene of
4 the crime, but they were found later on -- the dog never let to
5 a -- they were found after law enforcement had already gone
6 somewhere and obtained statements from a potential witness for
7 the State. They find these shoes on the opposite side of where
8 the alleged suspects were seen running back to

9 THE COURT: What do the shoes have to do with
10 anything, or did someone just leave their shoes?

11 MS. DUQUE: The shoes were found there. DNA
12 testing came back as a of mixture. One of the hits from that
13 mixture comes to my client, Your Honor.

14 MR. SHEDD: The testimony from Sergeant Kopylov
15 would be that he found the shoes that night, they were
16 collected that night before they cleared the scene.

17 So the shoes were certainly -- a later statement by
18 another witness, Ms. Petreia Lesane, puts the defendant as well
19 as another co-defendant and herself along that walking path
20 where the shoes were found, when they walked back up to the
21 crime scene after the robbery.

22 THE COURT: What is your basis for not allowing
23 them to be intered into evidence?

24 MS. DUQUE: They were found 30 minutes after this
25 incident happened or an hour or so, Your Honor. The point is

1 that they were not found along the track where these
2 individuals allegedly run to after they committed this robbery.

3 THE COURT: So how close in proximity were they?

4 MR. SHEDD: Judge, I have a small version of the
5 map

6 THE COURT: Mr. Shedd, just give me a thumbnail
7 sketch of the facts in this case. What happened; where it
8 happened.

9 MR. SHEDD: Absolutely, Judge. This stems from a
10 robbery that Parris Island Gateway July 15, 2018. Around 10:45
11 at night. Higgins the co-defendant left out of the store after
12 it was locked.

13 THE COURT: What store?

14 MR. SHEDD: McDonald's. She was an employee at the
15 McDonalds. She walks across to the En Market. She made a
16 purchase. When she comes back, she is seen on surveillance
17 letting the door slow-close behind her so that it doesn't
18 latch. Shortly after that, within two ten minutes, two masked
19 gunmen come in through that door, go straight to the office,
20 rob the manager at gunpoint.

21 They force all the employees into a freezer before
22 they run out and then take a path along the BiLo side of --
23 well now Food Lion -- of the storage facility towards the Shell
24 Point Apartments. The call comes in that says that is where
25 they are going. There is dog-tracking evidence where there

1 were several items along path where they were seen to have
2 fled.

3 THE COURT: They dropped?

4 MR. SHEDD: The first scarf or do-rag was found
5 that night in the parking lot. The dog hit on that scarf along
6 the path toward Shell Point Apartments where the defendant and
7 another co-defendant, Mr. Daquan Blue, were on the third floor
8 of the apartment building and actually spoke to law enforcement
9 briefly

10 MR. SHEDD: I do have -- I have shown this to
11 defense counsel just to give you an idea of where the shoes
12 were found. The red line on that map is an approximation of
13 where the dog tracked and where the two robbers fled from the
14 scene. The blue line is demonstrative of the path taken by
15 Ms. LaSaine, as well as the defendant and Duquan Blue, the
16 Defendant DaQuan Blue after the robberies.

17 The dog track occurred about closer to an hour
18 after the robbery. There is surveillance footage that puts
19 Mr. Levy Brown, the defendant, at En Market approximately 20 or
20 25 minutes after the robbery. He is not wearing shoes on the
21 surveillance footage.

22 THE COURT: Okay.

23 MR. SHEDD: One other thing, Judge, there is
24 surveillance footage from McDonald's. In that surveillance
25 footage, it has a time lapse so the video jumps a little bit.

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 There is a blurryish still shot from the surveillance footage
2 that shows a pair of shoes that are similar, visually similar,
3 to the shoes that were found at the scene. These have already
4 been marked. I am happy to pass them up for purposes of this
5 hearing.

6 THE COURT: I can go ahead and say, even though it
7 was still 30 minutes later, I think they were still
8 investigating this crime scene, obviously. It is like a
9 storage area in the middle there?

10 MS. DUQUE: Yes, ma'am. A storage area.

11 THE COURT: So I think they can testify. Whether
12 or not they can link them up, hopefully it's relevant. I will
13 decide that at the time. But it's appropriate that they can go
14 ahead and testify. You can use those.

15 What is the motion to prevent from introducing any
16 and all dog tracking evidence?

17 Is that the other items that were found?

18 MS. DUQUE: That relates to -- 911 the officer
19 responds, Officer Kopylov responds, and they also call for
20 crime scene to come in and respond. The dog essentially does a
21 track of where the suspects went to, and it leads to the
22 apartment complex behind the storage facility.

23 He just goes back there and tracks around this
24 building. Essentially, the dog doesn't ID my client or go
25 towards him as a person that he was scenting

1 MR. SHEDD: Judge, just one part of that. It's my
2 understanding that the testimony would be from our dog tracking
3 expert that this isn't a dog ID. The dog doesn't actually ID
4 the defendant. It's my understanding that the motion is on the
5 basis of 702, and the White case. We are prepared asked
6 Jeremiah Fraser, who is my dog tracking expert is here, and we
7 are prepared to proffer his testimony

8 THE COURT: Okay. Thank you. All right. Are you
9 ready to do that right now?

10 MR. SHEDD: I would like to start with Tim French,
11 since he was here this morning.

12 THE COURT: That's fine.

13 MR. SHEDD: So at this time the State calls Tim
14 French.

15 (TIMOTHY FRENCH, BEING DULY SWORN TESTIFIED AS
16 FOLLOWS:)

17 THE COURT: We all know his qualifications, so we
18 don't have to go through his qualifications.

19 MR. SHEDD: Absolutely.

20 MS. DUQUE: Yes, Your Honor.

21 BY MR. SHEDD:

22 Q. Mr. French, where do you work?

23 A. I work for the Beaufort County Sheriff's Office in
24 the forensic laboratory.

25 Q. Do you have any special qualifications or education

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 that required you to work there?

2 A. I have a Bachelor's of Science degree from State
3 University of New York. I majored in biology; minored in
4 chemistry and math.

5 Since being employed with forensics, I have attended a
6 course at the FBI Academy in Quantico, Virginia in forensic
7 serology. A course at the Sereological Research Institute;
8 blood stain analysis.

9 Advanced DNA testing at the Marshall University in
10 West Virginia.

11 Q. How long have you been worked in DNA?

12 A. In DNA 13 years.

13 Q. Have you ever testified before as an expert?

14 A. In DNA, yes.

15 Q. At this time --

16 THE COURT: This morning -- I think this morning I
17 called him as an expert in DNA analysis. So, yes.

18 MR. SHEDD: Absolutely.

19 THE COURT: Do you have any questions of him?

20 MS. DUQUE: No, ma'am

21 THE COURT: Any objection to him being qualified as
22 an expert in DNA?

23 MS. DUQUE: No, ma'am.

24 THE COURT: Thank you

25 BY MR. SHEDD:

1 Q. Mr. French, are you familiar with touch DNA?

2 A. Yes.

3 Q. Explain what touch DNA is?

4 THE COURT: Okay. Let's back it up. I know what
5 touch DNA is. You need to tell me what was found, what the
6 results were so I can understand what she is objecting to.

7 MR. SHEDD: Absolutely, Judge

8 BY MR. SHEDD:

9 Q. Mr. French, did you analyze items as it relates to this
10 case?

11 A. Yes.

12 Q What were those items?

13 A I analyzed five items. First, a pair of flip-flops. I
14 obtained DNA from that. A black head scarf, a pair of Adidas
15 shoes. A second head scarf, and a swab from a refrigerator
16 door handle. All of them are DNA mixtures.

17 Q. Did you use True Alleol to analyze those mixtures? A.
18 Yes.

19 Q. After you put them through True Alleol, did you form any
20 conclusions?

21 A. Yes.

22 Q Can you please the tell the Court what those conclusions
23 were, specifically as it relates to the defendant, Mr. Brown.

24 A. The swab from the refrigerator door, Levy Brown was
25 excluded. The swab of the scarf that was Number 2. The swab

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 was 2.1 matched Levy Brown. 199 Octillion times more likely
2 than a conincidental match to an unrelated individual.

3 From the swab of the shoes, Number 3.1, a match to
4 Levy Brown is 372 quadrillion times more likely than a
5 coincidental match to an unrelated individual. 4.1, swab of
6 the scarf, a match to Levy Brown is 32 sextillion times more
7 likely than a coincidental match to an unrelated individual

8 THE COURT: Two scarfs you had on him?

9 THE WITNESS: Yes.

10 BY MR. SHEDD:

11 Q. Mr. French, I will not belabor the point, but it's
12 True Alleol. In your experience, is it accepted in the
13 scientific community?

14 A. Yes.

15 Q. Has it been peer reviewed?

16 A. Yes.

17 Q. Are there publications?

18 A. Yes.

19 Q. Have you reviewed those publications?

20 A. I have.

21 MR. SHEDD: No further questions.

22 Please answer any questions Ms. Duque has.

23 THE COURT: Ms. Duque.

24 MS. DUQUE: Thank you, Your Honor. May it please
25 the Court

1 THE COURT: Yes, ma'am

2 * * *

3 VOIR DIRE EXAMINATION BY MS. DUQUE

4 BY MS. DUQUE:

5 Q. Mr. French, so my client was a contributor to Item
6 2.1, the scarf; correct?

7 A. Yes.

8 Q. That was a mixture; right?

9 A. Yes.

10 Q. It was a mixture of about three individuals;
11 correct?

12 A. That's correct.

13 Q. He was also a contributor to Items 4.1, right?

14 A. Yes.

15 Q. Those were the shoes?

16 A. 3.1 were the shoes.

17 Q. That was a mixture of other individuals as well.

18 A. Yes.

19 Q. The other items, the scarf, 4.1, it was also a
20 contributor, right?

21 A. Yes.

22 Q. That was also a mixture, right?

23 A. Yes.

24 Q. He was not the only contributor?

25 A. That's correct.

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 THE COURT: Is he the major contributor to any of
2 these items?

3 THE WITNESS: Item 2.1, yes. The first scarf.
4 3.1, 4.1 --4.1, yes, but just barely a major. 3.1, n

5 Q. He was not the only contributor in those mixtures,
6 right?

7 A. That's right.

8 Q. It was a mixture of other individuals, right?

9 A. Right.

10 Q. If you don't have the samples of the other
11 individuals, you can't connect them to any of those items,
12 correct?

13 A. Without something to compare it to, no.

14 THE COURT: You don't have a standard for any of
15 them, correct?

16 THE WITNESS: Correct.

17 MS. DUQUE: Only for Mr. Brown. I think it is also
18 from Ms. Higgins, one of the scarves, right.

19 A. I did, yes.

20 Q. The other scarf also has a mixture to Mr. Blue,
21 righ?

22 A. Yes.

23 Q. The shoes is only my client and five other
24 individuals, right?

25 A. Four others.

1 Q. You said he was a match, right, in all three of
2 those items, right?

3 A. No. A match to his profile.

4 Q. His profile. Did you develop a full profile on the
5 mask?

6 A A full profil

7 Q. A full profile developed on Item 2.1 for DNA?

8 A. It was a mixture.

9 Q. So then how is it that that mixture -- the profile
10 of that mixture comes to the profile of my client?

11 A. That is what True Alleol compares.

12 Q. Now, if my client's relatives -- if they share
13 similar DNA, would it also come back under True Alleol as my
14 client's DNA?

15 A. No.

16 Q. So to your knowledge, my client doesn't a have a
17 twin brother?

18 A. Not that I am aware of.

19 Q. But if he did have a twin brother and if you don't
20 have his DNA on CODIS or anywhere else, it will come back as if
21 it's my client DNA, correct?

22 A. It should come back with the same statistic.

23 MS. DUQUE: I have no further questions, your Honor

24 THE COURT: Anything further?

25 MS. DUQUE: No ma'am

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 THE COURT: Any objection?

2 MR. SHEDD: No, ma'am. I don't have anything
3 further.

4 THE COURT: All right. What is the argument on
5 this?

6 MS. DUQUE: This is the issue that the defense is
7 having with the report, per se. He wasn't the only contributor
8 to any of this mixture. We feel if Mr. French is going to be
9 saying that he was a match, it's prejudicial to my client and
10 we believe that --

11 THE COURT: Most evidence is prejudicial.

12 MS. DUQUE: It's highly prejudicial, Your Honor. I think
13 if he is a contributor, perhaps he should say that he is a
14 contributor, cannot be excluded as a contributor and not say
15 that he is a match.

16 To say that he is a match kind of makes it seem
17 like there were no other contributors to any of these items.
18 All of these three items have mixtures. My client's DNA is not
19 the only contributor to any of those mixtures. There were
20 other people who perhaps used the items who contributed to the
21 mixture, and they perhaps haven't been arrested yet, Your
22 Honor. They didn't come back as a match.

23 THE COURT: Just really quickly. The co-defendant
24 is the one woman what you said didn't let the latch lock. Do
25 you have any idea or theory that the other co-defendant is --

1 MR. SHEDD: Yes. He has been charged as well.

2 Daquan Blue is also pending.

3 THE COURT: okay. He is not testifying

4 MR. SHEDD: He is not testifying

5 THE COURT: Can I ask you, as far as any these
6 mixtures are any of them Mr. Blue?

7 MR. SHEDD: Yes, Judge. Scarf Number 1, Item 2.1
8 that Tim French just testified to has a minor contributor match
9 to Dequan Blue that is 8,790 times more likely. It's a very
10 low number from talking to Tim French.

11 Just to respond to the argument. By nature of the
12 fact that there are mixtures, there are going to be multiple
13 contributors. There is not going to be testimony from Tim
14 French that he is the only contributor or that nobody else was
15 on there, no other DNA profile. I believe it should be
16 admitted

17 MS. DUQUE: I just have reply to Mr. Shedd's
18 argument. It is my understanding that the State is also
19 planning to have a Power Point presentation to go along with
20 Mr. French's testimony tomorrow during the trial. We will ask
21 Your Honor -- I will ask for the State to send it for you to
22 review, Your Honor. If Your Honor does not allow that to come
23 in for the jury to use -- first of all, getting distracted
24 whatever lights are playing. I would prefer for Mr. French to
25 be able to testify as to the contents of what is on the Power

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 Point without having to use the Power Point. I think the Power
2 Point pretty much goes to explain what DNA is and what mixtures
3 are and all of those things.

4 Because he is an expert, he should be able to use
5 laymen's terms to explain to the jury what DNA is. We get it
6 from our parents. All of these things that he has on the slide
7 show, he should be able to testify without having the ability
8 to use it, Your Honor.

9 THE COURT: I haven't seen the light show yet, so I
10 don't know what it is

11 MR. SHEDD: I am happy to send the slide show to
12 Your Honor

13 THE COURT: I don't know what is objectionable
14 about it. It sounds likes it's more to be used for
15 demonstrative purposes. It wouldn't be something that comes in
16 as evidence.

17 MS. DUQUE: What I am objecting to -- toward the
18 end of the slides, again, Levy Brown and then in big bold black
19 letters match. I think that is a little prejudicial.

20 THE COURT: Is that what it does in there?

21 MS. DUQUE: It does say match, which I find that
22 the jury already tends to favor DNA evidence in any criminal
23 case. That is just pretty prejudicial to my client

24 THE COURT: I haven't seen the Power Point. What I
25 heard him testify to is that each of these three things had a

1 mixture. He talked about the one being Adidas tennis shoes.
2 It was five individuals. The other was the second head scarf
3 with three contributors with your client, Mr. Brown, being the
4 major contributor.

5 Then the first black scarf. As long as he explains
6 what his findings are, I think he can explain them. The simple
7 fact that he does determine that Mr. Brown, your client, is on
8 trial. As long as he is saying that his mixture is in there
9 somehow, it's relevant in some way, he can testify to that.

10 I don't know what in the world he has done in the
11 Power Point. If I were you, I would object to anything
12 demonstrative coming in. I will tell you, lately, I am
13 surprised that people agree to some of the things that are
14 coming in, particularly blowups. I never wanted blowups coming
15 in in the old days. People tend to focus on them as opposed to
16 when you just give them a stack of papers.

17 Provided he can lay his foundation, and I think he
18 did here. He exactly said what it was, and I think you can
19 cross-examine him that they were mixtures.

20 MR. SHEDD: Thank you, Your Honor.

21 THE COURT: As long as it's portraying the evidence
22 clearly and correctly, I think he can testify to it -- and that
23 it's relevant

24 MS. DUQUE: Yes, ma'am.

25 MR. SHEDD: Thank you, Your Honor. I will provide

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 that to Your Honor today. We can obviously pick that back up

2 THE COURT: Did you make it, or did Tim French make
3 it?

4 MR. SHEDD: Tim French made it. Well, he said that
5 --

6 THE COURT: Is it the general part what he talks
7 about, like this is what DNA is.

8 MR. SHEDD: It's not for his understanding of it,
9 clearly. It's to assist the jury in understanding. Obviously,
10 DNA and mixtures are very complicated stuff. It allows him to
11 break it down in a way that helps them understand.

12 THE COURT: Is it something new he is doing or he
13 just did?

14 MS. DUQUE: Here is the thing. I actually found
15 that Power Point as I was going through. You just go down the
16 rabbit hole sometimes. I found this Power Point that was made
17 by Cyber Genetics, the people who own True Alleol. It is
18 exactly the same as Mr. French's Power Point.

19 Okay, in a little world, we tend to borrow each's
20 other stuff. Perhaps that is all he was trying do in this
21 situation. I just don't think he should be allowed to use the
22 Power Point and the jury to just look at that instead of just
23 listening to his testimony from the witness stand, Your Honor

24 THE COURT: I will have to see it. I am
25 guessing -- I did the original qualifying of the True Alleol

1 owner many years ago. I remember there being a Power Point
2 that I am sure they put together when they were trying to sell
3 this to different sheriff's offices and to solicitor's offices.
4 Again, I haven't seen it. Send it to me and let me look at it.

5 MR. SHEDD: I will do that, Judge

6 THE COURT: It's not coming in evidence. Let's
7 just leave it at that. He can testify to it.

8 MR. SHEDD: We have we no intention of --

9 THE COURT: It's going to be cumulative anyway.

10 MR. SHEDD: Next, Judge, we can take up the dog
11 tracking evidence. We would call Jeremiah Fraser.

12 (Jeremiah Fraser, being first duly sworn testified
13 as follows:)

14 * * *

15 VOIR, DIRE EXAMINATION BY MR. SHEDD

16 BY MR. SHEDD:

17 Q. Master Sergeant Fraser, where do you work?

18 A. Beaufort County Sheriff's Office.

19 Q. What is your rank and positio?

20 A. I am a master sergeant. I manage the violent
21 crimes task force and the bloodhound tracking team.

22 Q. How long have you been the head of the blood hound
23 tracking team?

24 A. The heed head of it, since 2010.

25 Q. How long have you been a member of the bloodhound

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 tracking team?

2 A. Eighteen years.

3 Q. As the head and a member prior to that, have you
4 participated in the training of the dogs?

5 A. Yes. All of them.

6 Q. You personally trained all of the dogs?

7 A. Yes.

8 Q. And when did you first start working with the dogs?

9 A. 2003.

10 Q. The dog that was -- have you ever testified as an
11 expert before?

12 A. I have.

13 Q. In what field?

14 A. Bloodhound tracking.

15 Q. How many time have you testified as an expert.

16 A. I want so to say twice, but I know once for sure.

17 Q. Have you done that here in Beaufort?

18 A. Yes, sir.

19 MR. SHEDD: At this time the State would move to qualify
20 Jeremiah as an expert in bloodhound tracking.

21 MS. DUQUE: Yes, Your Honor. If I may.

22 * * *

23 VOIR DIRE EXAMINATION BY MS. DUQUE

24 BY MS. DUQUE:

25 Q. Master Sergeant Fraser, you obtained -- you have been

1 working with dogs since 2003, right.

2 A. Yes, ma'am.

3 Q. In 2003 is when you attended the dog training
4 acadamy back in 2018, righ?

5 A. Yes, ma'a.

6 Q. Was that the only training you obtaine?

7 A. No, ma'am. I also attended NPBA, I think in 2010.
8 National Police Bloodhound Assosiation.

9 Q. Do you have a certificate for that?

10 A. No, ma'am.

11 Q. How many hours was that?

12 A. Forty.

13 Q. What other traings have you completed, other than
14 the initial training for being a dog tracker and the other ones
15 for the national --

16 A. We train every week. Weekly. Aside from that,
17 those are the only two schools I have been to.

18 Q. When did you go to the National conferenc?

19 A. NPB.

20 Q. Yes.

21 A. 2010.

22 Q. And any other -- when you go to this training, do
23 you also go with the dog?

24 A. Yes, ma'am.

25 Q. The dog goes with you?

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 A. Yes, ma'am.

2 Q. For this particular case this dog has been with you
3 for some time. Copper, right?

4 A. Yes, ma'am.

5 Q. Was Copper present for that training in 2010?

6 A. No. He wasn't even born yet.

7 Q. When was he born?

8 A. 2015.

9 Q. He must have gone to some other training. So for
10 your 2010 training, it was you and some other dog?

11 A. Yes. She actually lives at my house now.

12 Q. In in 2003 when you first started, that was you and
13 you some other dog?

14 A. We did not take our dogs up there. Aiken County
15 has their own dogs.

16 Q. That is just what did for trackings. You have two
17 certifications. One from 2003 then one from 2010.

18 A. That's correct.

19 Q. Any other seminars in any other state?

20 A. No, ma'am.

21 Q Just South Carolina.

22 A Yes.

23 MS. DUQUE: Those are all the questions I have for
24 now, Your Honor.

25 THE COURT: Okay.

1

* * *

2

FURTHER VOIR DIRE EXAMINATION BY MR. SHEDD

3

BY MR. SHED:

4

Q Master Sergeant Fraser, I want to talk about Copper a little bit.

5

6

A Okay.

7

Q. You said he was born in 2015?

8

A. Yes, sir.

9

Q. What is Copper trained in?

10

A. Copper is trained two different ways. He is trained off a specific article or a last-known scent.

11

12

Q. I apologize. What type of dog is Copper?

13

A. Full-blood bloodhound.

14

Q. Are those dogs known for their sense of smell?

15

A. They are.

16

Q. Describe a little bit about the difference between last known and article training.

17

18

A. Certainly. For our purposes, dogs can track from a last-known scent where a known person has gone. Copper is trained in that way. As long as that area has been uncontaminated, the dog will follow the freshest scent from that spot to where he tracks to.

19

20

21

What he tracks to -- we have used credit cards, baseball hats, socks, shoes, any number of things.

22

BY MR. SHEDD:

23

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 Q. Was that area an area that law enforcement had
2 determined that the suspects had run in a reasonable time
3 before that?

4 A. Yes, sir.

5 Q. How often is Copper -- how often does he practice?

6 A. We train the dog weekly, typically. Any number of
7 things can affect him week to week. Illness with the dog, we
8 sent the dog up to Aiken for a brief program to breed more
9 dogs.

10 Typically, every Wednesday, we train all of our dogs.

11 Q. Has Copper shown to be generally reliable?

12 A. Yes, sir.

13 THE COURT: Mr. Sled -- so Copper tracked them to
14 the apartment complex in the back; is that correct?

15 MR. SHEDD: Yes

16 THE COURT: Did you say third floor? That is what
17 I thought I heard

18 MR. SHEDD: Absolutely, Judge. Jeremiah is
19 actually going to be my witness for that. So the dog circles
20 Building 273, which is in Shell Point Apartments. It's my
21 understanding that the circling is a scent pool, which the
22 person either was there for a long time or is still there

23 THE COURT: Do you get the defendants at that
24 point?

25 MR. SHEDD: No. It's my understanding that the

1 reason that they were not arrest and detained at that point was
2 because their clothing didn't match the description provided.

3 Based on the other cues and indicators of the dog
4 circling that building and the defendant identifies himself to
5 Jeremiah and the other officer who were there at that point.
6 The reason they were not arrested right then is because --

7 THE COURT: My question is, how did he come into
8 contact with them if they were in an apartment.

9 MR. SHEDD: They were on the breezeway. They were
10 sitting outside. As he would usually do, he asked, Hey. Did
11 you guys see anything? Anybody come through here? Do you know
12 about the robbery.

13 They said they didn't know about the robbery, but
14 they identified themselves as Levy Brown and Daquan Blue.

15 Just for the record, I just want to make sure that
16 previously I did move to qualify Jeremiah as an expert in the
17 area of bloodhound tracking. I don't know if there are
18 specific objections

19 MS. DUQUE: Yes. I asked Mr. Fraser -- he has only
20 attended a course in 2003. That was for the initial tracking
21 course that he obtained back in Aiken. Then he attended
22 another course back in 2010. He hadn't had any other training
23 outside of those two ever since, Your Honor.

24 We just don't think that he meets the requirements
25 of 702 for him to be qualified as an expert

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 THE COURT: Have you qualified by other courts in
2 drug trafficking as an expert?

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: Is dog tracking something that has made
5 leaps and bounds and changes since 2003, or is it pretty much
6 the same thing?

7 THE WITNESS: When it comes specifically to the
8 blood hounds, they are. We are not talking about patrol dogs
9 or other forms

10 THE COURT: I will qualify him in dog tracking. Is
11 that the proper term?

12 MR. SHEDD: It's bloodhound tracking.

13 THE COURT: So let's call it bloodhound cracking

14 MR. SHEDD: Thank you. I don't have any further
15 questions

16 THE COURT: Okay.

17 MS. DUQUE: Yes, Your Honor.

18 BY MS. DUQUE:

19 Q. Mr. Fraser, by any chance do you have with you the
20 call-out for Copper? If you do not, I can provide you with a
21 cop?

22 A. Please.

23 Q. When did you say Copper started working with your
24 unit?

25 A. When we started training him?

1 Q. Yes.

2 A. We got him as a brand-new puppy. 2015 is when we
3 started him.

4 Q. The only trainings that I have from him are from
5 2017. Is that when he started training with you gusy and going
6 on actual calls?

7 A. No. When he started going on calls is 2017.

8 Q. The upper-left corner is dated 2-8-017.

9 A. Yes, ma'am.

10 Q. The track happened on 2-15-2017?

11 A. 1-15-17.

12 Q. Right.

13 A. Yes, ma'am.

14 Q. On that one occasion, Copper was tracking a runaway
15 juvenile. Do you want to read up a little bit?

16 A. Yes, pleas.

17 Q. Okay.

18 A. Okay.

19 Q. So on this one he was tracking a runaway, juvenile,
20 right?

21 A Yes, ma'am.

22 Q. Tafoya was the handler and Maland (phonetic).

23 A. The person who signed on the back. TaFoya and
24 Maland (phonetic).

25 Q. Just briefly. Copper tracked to the backyard of an

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 abandoned property, and then he circled back to the porch and
2 then searched the property and didn't find anyone. Then he
3 tracked back to a wooded area, right? And he gave a negative?

4 A. Yes, ma'am.

5 Q. Then he tracked towards Burlington Circle and the
6 Pinegrove and also negative, right?

7 A. Yes, ma'am.

8 Q. Then he went to another abandoned house, 61
9 Burlington Circle, and then nothing?

10 A. Yes, ma'am.

11 Q. So -- and you didn't find anyone?

12 A. No, ma'am.

13 Q. He was given a pillow?

14 A. Yes. As an article.

15 Q. Let's go down to the following track. That was in
16 January. Four months later in May, he was called out. He want
17 went on a natural call again. In this case it was to track a
18 suicidal person. I will give you a minute to read the report.

19 A. I recall this one.

20 Q. You were the handler with this one, right?

21 A. Yes.

22 We did put the dog down, I beleive.

23 Q. Copper was presented with the last-known location
24 for the person. He air-scented -- what does that mean?

25 A. An air scent -- what happens is once the track is

1 laid, it takes time for the rafts or raves, which are the skin
2 cells that are sloughing off your body to set to the ground. A
3 lot of times in fresher tracks that are less than an hour old,
4 the scent is still above the ground. What you will see is the
5 dog's head pop up.

6 His nose is on the ground tracking. That's where
7 the skin cells, the rafts -- that's where it was at. That also
8 happens in very, very fresh tracks, likes bikes things like
9 that. The scent is laid very rapidly. The scent doesn't sink
10 straight to the ground as soon as it falls off. It takes a
11 little bit of time

12 Q. Copper was air-scented, and then he went through
13 some residences. And then the other dog, Ridge, was brought
14 out. We are still talking about the May 2, 2017.

15 A. Ridge was not used. What I believe happened on
16 this one is, the place where he had posted the video where he
17 was committing suicide was an abandoned property right next
18 door to his house. We didn't have a reason to get a search
19 warrant to make sure he was safe. He was suicidal at the time.
20 We didn't want to exasperate the situation. In this particular
21 case, I believe he was still in the house.

22 Q. The dog didn't find him?

23 A. No.

24 Q. Now, we are on July 31, 2017. Copper was called
25 to -- subjects had fled from a vehicle. I will give you a

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 moment to read.

2 A Okay.

3 Q. In this one, we were tracking subjects that had
4 fled the area, right?

5 A. Yes, ma'am.

6 Q. Copper was presented with a shirt of the person.

7 A. Yes.

8 Q. The search went through a large pond and then
9 through a soccer field?

10 A. After the entrance.

11 Q. Through that soccer field in South Carolina, USCB
12 in Beaufort?

13 A. Yes, ma'am.

14 Q. Ultimately, did not find any subjects?

15 A. No, ma'am.

16 Q. You weren't the handler on that case either, right?

17 A. No.

18 Q. We are on August 8, 2017.

19 A. Yes, ma'am.

20 Q. This one, Copper was again used to track?

21 A. Okay.

22 Q. He was also tracking a suicidal person.

23 A. Yes, ma'am.

24 Q. He was presented with clothing for the person,
25 socks and a shirt?

1 A. Yes.

2 Q. He tracked the subject down to a wooded area,
3 around some vehicles and then to a shed. He gave a negative
4 there. And then he tracked back towards the residence on
5 another trail. And eventually, he was working his way around
6 an SUV and he found that stuff there. Right?

7 A. I don't think you are characterizing it correct.
8 But, yes, he did find him.

9 Q. He eventually find the person he was looking for,
10 right?

11 A. Yes.

12 He continued tracking. It's important to note that
13 the dog tracked?

14 Q. I am not saying he didn't track. He found the
15 person he was looking fo?

16 A. Yes, ma'am.

17 Q. Let go to -- let's go back to that one momentarily.

18 You were not involved in that. You were not the
19 handler for that, right?

20 A. No, ma'am.

21 THE COURT: Can I ask you a question really
22 quickly.

23 Are these all tracks that Copper did during a
24 certain time period around this incident, or are they like some
25 chosen out.

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 MS. DUQUE: These are the actual tracks the dog
2 responded to for actual cases.

3 THE COURT: All of them?

4 MS. DUQUE: All of them from 2017 up until when
5 this case happened.

6 THE COURT: Okay. So this happened in 2018?

7 MR. SHEDD: Yes, July 15, 2018.

8 THE COURT: Just so I understand. How many of
9 these total do you have, and how many were tracked?

10 MR. SHEDD: I think it's 13 total

11 THE COURT: Total of 13. How many --

12 MS. DUQUE: Not counting the last one that I have
13 here, July 31. This incident happened July 15. So 12.

14 THE COURT: So was he able to find anything.

15 MS. DUQUE: 12 that he responded to actual calls. In this
16 case, he actually finds the person that he was looking for.
17 There are some where he didn't. If Your Honor wants, I can
18 continue with all of them.

19 THE COURT: I am just trying to find the numbers.
20 Obviously, we just have to look at the consistency of Copper to
21 see whether or not -- let me ask you this. Does this tell me
22 if there is any false positives, or you know what I am saying?

23 MS. DUQUE: Ultimately, my reading of the report is
24 that no subject was located, that means the dog didn't find
25 someone.

1 When he finds someone, the dog did a nose press.
2 That is not something that they typically do. Other than that,
3 the report will say whether or not the person who the dog was
4 looking for was located. Most of this one -- what is relevant
5 to me in my case is that the dog started working in 2017. He
6 responded to actual calls, actual cases. At least 12. Some of
7 which he didn't find anyone. Which goes to the fact that -- my
8 point that the dog is not reliable. Because in my case, Your
9 Honor, the dog goes to that building, circles around twice. My
10 client is standing outside in the breezeway with his
11 co-defendant. He doesn't nose press him or do something that
12 will lead the handler to know whether or not the subject he is
13 looking for based on the scent he got from the clothing or the
14 dollar bill is the person he is looking for.

15 THE COURT: So I guess what I am not understanding
16 is -- you are saying his failure to find anyone is a failure to
17 do his job, and that he is not consistent?

18 MS. DUQUE: I am not saying he is not consistent,
19 Your Honor. I am saying he is not reliable. That is what Your
20 Honor has to ultimately find once we get to the factors laid
21 out. Not only do you have to find them, Mr. Fraser is
22 qualified to handle them too. There is also a fact that
23 pertains only to the dog, which is why I am asking these
24 questions.

25 Yes, the dog trains every week once or twice

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 THE COURT: That is -- I understand. He has to be
2 reliable. That goes back to my question then. We know you
3 know how what you have asked for in discovery that Copper, at
4 least between 2017 and the time of this incident, was on at
5 least 12

6 MS. DUQUE: 12 actual calls.

7 THE COURT: Let me ask you this. Even if he does
8 find somebody, how do we still know whether or not it is
9 reliable that the scent that he was given is who he is
10 tracking? Does that make sense?

11 MS. DUQUE: Your Hononr, I guess that is something
12 that Mr. Fraswer should be able to answer. It's ultimately his
13 dog. And not just his dog, the dog has several different
14 handlers. Mr. TaFoya, Mr. Fraswer, PFC Allen, I believe, at
15 some point, and several other officers. The dog doesn't have
16 just one handler.

17 THE COURT: So out of these 12, you are telling
18 me -- obviously I know that one of them he actually found or
19 identified the person. In any of the other ones? So one out
20 of 12?

21 MS. DUQUE: If we have the one from 2-18-2018, the
22 dog was tracking to that area, and the person eventually comes
23 out of the woods, which is where the dog was tracking. Two.
24 He has responded to actual cases, actual scenes. In my case,
25 he responded to the scene. He circled around that building.

1 There are about eight apartments in that building. It could
2 have been anybody else in t hat building.

3 It doesn't necessarily mean that my client was
4 standing outside the breezeway that this is who the dog was
5 looking for

6 THE COURT: I understand. I am assuming -- correct
7 me if I am wrong -- Mr. Shedd, your case is not just this.
8 Your case is also the DNA evidence that Tim French testified to
9 that was on the Adidas, on the do-rag, and another face mask.

10 MR. SHEDD: Importantly, the head scarf was
11 something that Copper actually alerted to along the path. He
12 tracked from the last known location to the head scarf, which
13 subsequently was found with the defendant's DNA on it. Then he
14 was striking the track around back to Shell Point Apartments,
15 which is what led him back to the building. There certainly
16 are -- I will let Ms. Duque finish. I will have some brief
17 questions.

18 MS. DUQUE: If I may, Your Honor. If the dog -- my
19 client's DNA is not the only dNA that was found on that head
20 scarf. We don't know if he was actually tracking to my client,
21 or they are known contributors that law enforcement doesn't
22 have

23 THE COURT: That is a jury argument. I think that
24 is an argument. I think he can make that argument.

25 If this was just based on dog tracker evidence, I

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 would say this is a tough case for the case. There are
2 obviously other bits of evidence.

3 Keep going

4 BY MS. DUQUE:

5 Q. So Copper was used to track an armed robbery,
6 right?

7 A. Yes, ma'am.

8 Q. You were not the handler for that case either,
9 right?

10 A. No, ma'am.

11 Q. Did Copper ultimately locate the subject he was
12 looking for?

13 A. No. He tracked to the intersection.

14 Q. Let's go to 8-28-201?

15 A. Yes, ma'a.

16 Q. In this case I will give you some time to read the
17 report.

18 A. Okay.

19 Q. On this one track -- this was for an armed robbery,
20 righ?

21 A. Yes, ma'am.

22 In this case, did he find the person he was looking
23 for?

24 A. No. But he did locate evidence along the way.
25 What I think is important to notice and what isn't being

1 brought out is that in most of these, the dog is tracking to an
2 intersect. What we run into now is cell phones, things like
3 that. We often track places where somebody has a ride waiting.
4 They call somebody to come and pick them up. A lot of times,
5 the dog doesn't end in the woods where nothing is there.

6 Generally speaking, these crimes didn't happen in a
7 preplanned manner. So generally we will find evidence along
8 the way. We will find shoe impressions. Evidence can be any
9 numbers of things. Shoe impressions. Things like behind --
10 who I was around. It's a lot of things.

11 BY MS. DUQUE:

12 Q. September 5. In this one, you and Forever
13 (phonetic) were involved?

14 A Yes.

15 Q. In this one, Copper was tracking another dog.
16 There were multiple suspects. This is the one where there were
17 multiple suspects who ra?

18 A. Yes.

19 Q. They were able to find him, right?

20 A. Yes.

21 Q. This is the one where they found stuff along the
22 way and Copper was on track, because eventually we are, Copper
23 was sniffing and comes out of the woods.

24 A. Yes. And another thing to note in cases like
25 these, when a perimeter is established, typically what happens

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 is when the dog is tracking, they can hear the dog. It's not a
2 secret operation.

3 The dog is loud. We are behind the dog and giving
4 the dog motivation, talking to the dog and talking to each
5 other. We push people into the woods. So in other words, when
6 the dogs are called, there is a perimeter that is established.
7 The perimeter is meant to contain.

8 We strike the dog, but not necessarily to find
9 them. If they do decide to lay down, we will find them. But
10 most of the time, they try to get out of the perimeter. They
11 will see a patrol car with blue lights on and move. They
12 eventually find a place they can cross a river and get out of
13 the perimeter and get out.

14 This case is a good example of that. There were three
15 suspects. What happened is that one of them got out, I think,
16 and they caught them across 170 and 280. So there was a
17 successful dog catch in this case. If you look at the
18 evidence, it's figuring out where that person went and they got
19 to where they were going. Those are things that we are looking
20 for. Typically, we run people into the perimeter, and that is
21 where they are catche.

22 Q. Then we go December 13, 201?

23 A. Yes, ma'am.

24 Q. In in case Copper was tracking a 36-year-old female
25 who had left a care facility?

1 A. Yes, ma'am.

2 Q. You were the runner or the handler for this case,
3 right?

4 A. Yes, ma'am.

5 Q. Eventually, the person the dog was tracking, in
6 this event was found at a hospital in Colleton County?

7 A. The other these don't tell is the entirety of the
8 report. The dog in this case tracked from Alia to Highway 17
9 and was tracking towards Charleston on 17. This woman had
10 gotten a ride on Highway 17. The guy who picked her up could
11 tell that something wasn't right with her, so he took her to
12 the hospital. If the dog was tracking towards Charleston, it
13 would have been a long ride. But she had gotten a ride on
14 Highway 17.

15 Q. Now we on January 19, 2018.

16 A. Yes, ma'am.

17 Q. This one, you are also one of the runners or
18 handlers for this one?

19 A. Among other things, yes, ma'am.

20 Q. On this one, Copper was tracking armed robbery
21 suspects, right?

22 A. Yes, ma'am.

23 Q. In this one they were on Spanish Moss Trail and
24 Salt Creek Drive?

25 A. Yes, ma'am. Yes.

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 Q. Tracked down Spanish Moss Trail down to the Ribaut
2 Road?

3 A. Yes, ma'am.

4 What is important to note about that location is that
5 that is where people park to access the trail.

6 Q. Then he was brought back to the area where the
7 surveillance showed the suspect -- I am just summarizing.
8 Tracked out to Parris Island Gateway, all around he was
9 negative.

10 A. When we say in these reports that the dog tracked
11 in a 360 pattern, we are trying to cut that last area to see if
12 there is an exiting scent from that last spot.

13 MS. DUQUE: Thank you. I have no further questions
14 for you, Mr. Fraser. Thank you.

15 MR. SHEDD: Just briefly, Your Honor.

16 * * *

17 FURTHER VOIR DIRE EXAMINATION BY MR. SHEDD
18 BY MR. SHEDD:

19 Q. MastER Sergeant Fraser, what is purpose of the
20 blood hounds and the tracking team? What do you use them for?

21 A. We use the bloodhounds to find criminals that have
22 fled, missing, dangerous people, runaway juveniles.

23 Q. I believe you testified during cross that they also
24 help you get from one piece of item of evidence to anothe?

25 A. Sure. The important thing is remember about a

1 bloodhound is a bloodhound is a tool. It's like any other tool
2 used in law enforcement.

3 So we rely on bloodhounds to get us through places
4 where there is evidence. In other words, where there is not a
5 shoe impression, not a dropped item. There is not direct
6 evidence that somebody just ran through broken sticks,
7 overturned leaves. That is what the bloodhound is for. It
8 gets us from Point A to Point B when there is no evidence.
9 we confirm where the bloodhound is working through that
10 evidenc?

11 Q. In other words, is it fair to say that there are
12 other ways that a track can be successful, other than locating
13 the suspect?

14 A. Yes. I just remind you that the dog is a tool. We
15 don't arrest based on what the dog has done. There is other
16 evidence involved.

17 (Interruption in proceedings).

18 THE COURT: Let's finish with him so he can go.

19 BY MR. SHEDD:

20 Q. There were also several questions on cross about
21 the fact that you were not actually handling the dog. As the
22 head of the tracking team, do you respond to these tracks?

23 A. Not all of them. These dogs are kept centrally
24 located. They don't go home with a particular handler. All of
25 our dogs train with all of our guys every week. They all

1 recognize and adapt. They all see the same strikes. They know
2 the body language. We have three dogs. I think I have six
3 total guys, including myself. These dogs do not have one
4 handler.

5 MR. SHEDD: I don't have any further questions.
6 Thank you, Master Sergeant.

7 THE COURT: Anything else?

8 MS. DUQUE: No, Your Honor

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

10 THE COURT: Any objection to him leaving?

11 MR. SHEDD: None from the State.

12 THE COURT: Do you need him anymore?

13 MR. SHEDD: I need him for trial, but not today.

14 THE COURT: I think I have heard enough. I
15 understand the basis of the admissibility is whether or not
16 they are reliable. What are the five factors, the weight
17 factors?

18 Do you have the case?

19 MR. SHEDD: I do

20 State v. White, 382 SC 265. The factors are,
21 first, that the dog handler satisfies the qualifications under
22 Section 2; that the evidence shows the dog is a breed
23 characterized by a strong power of scent. Third is evidence
24 that the dog has been trained to follow a trail by scent; that
25 the dog has been found to be reliable through experience. The

1 dog was placed on a trail where the suspect was known to have
2 been within a reasonable time and the trail not otherwise
3 contaminated.

4 THE COURT: So I think -- let me go ahead and take
5 this verdict. If you all would move over -- the only thing I
6 want to know is, based on the six factors for the admission of
7 dog-tracking evidence, are you challenging his reliability,
8 which was Number 4?

9 MS. DUQUE: Yes, ma'am

10 THE COURT: Are you challenging Number 5 at all?
11 The dog was placed on the trail where the suspect was known to
12 have been within a reasonable period of time?

13 MS. DUQUE: No, Your Honor.

14 THE COURT: The last, the trail was not otherwise
15 contaminated

16 MS. DUQUE: That one and Number 4.

17 THE COURT: So it's 4 and 6. That's what I needed
18 to know.

19 MS. DUQUE: Yes, ma'am.

20 THE COURT: All right. If you all will step down.
21 I just need to know what we are focusing on. So we will come
22 back to this once I take this jury's verdict.

23 What other, pretrial do we have left?

24 MR. SHEDD: Third party guilt.

25 (Interruption in proceedings.)

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 THE COURT: We are back on the record. We are
2 discussing the tracker dog, expert testimony, qualifications.
3 I think we all have agreed in looking at this that the State v.
4 White case sets out and talks about the six different factors
5 to look at. I can tell you that at this point, I think the
6 evidence has shown that the dog handler, Mr. Fraser, satisfies
7 the qualifications as an expert under Rule 702. I will note
8 your objection, Ms. Duque.

9 He has been doing this for 18 years. He has
10 testified since 2003. He is one of six dog handlers here in
11 Beaufort County. I think he has the qualifications, certainly,
12 and the expertise and experience to meet the requirements of
13 Number 1. As far as the evidence shows, the dog is
14 characterized by acute power of smell. I think obviously a
15 full bloodhound has no question a very keen sense of smell.
16 It's used for that exact purpose. I think Copper in this case
17 meets that requirement.

18 The dog has been trained to follow a trail.
19 Sergeant Fraser tells us that they train the dog and they train
20 them every week on Wednesdays, it sounds like. So I think that
21 section has been met. The question is, Number 4, I need to
22 hear argument on we experience the dog is found to be reliable.
23 So Ms. Duque, I will hear argument from you on that.

24 MS. DUQUE: Regarding the dog's reliability, we are
25 contesting the fact that he goes and trains every day. He is

1 trained to follow that scent. This is training. In real life
2 cases, he stated he responded to this case back in 2017. That
3 was his first call, all the way up to my client's case.

4 He was called for my client's case about 12 tracks.
5 Only two of those, the dog was successful in tracking someone.
6 We just don't think that the reliability is there for the dog
7 and for his testimony to come in.

8 THE COURT: Correct me if I am wrong. In this case
9 he not only tracks the two men in the breezeway of the
10 apartment building, on top of that, he tracked and found an
11 evidentiary item, correct?

12 MR. SHEDD: That's correct, Judge. He went from --
13 the \$10 bill was not used an article. They went from the area
14 where the \$10 bill was to the head scarf that was on the
15 ground.

16 MS. DUQUE: Then he went to the apartment building
17 and walked around the building twice. My client being in the
18 breezeway with the other co-defendant -- the dog never went up
19 the stairs. If that was the person the dog was tracking, he
20 would have gone up the stairs. He would have known my client.
21 He has done that in the past. He didn't do that in this case.
22 He circled around this building twice. There are many
23 apartments in that building. He could have been looking for
24 someone else.

25 The fact that he may be reliable now, when he -- this is

1 2021. From 2017 to the moment when my client's case came
2 about, 12 actual calls, not training, real life cases. In only
3 two of those he actually found the person he was looking for.
4 Therefore, we would respectfully ask that you not let this
5 evidence in, Your Honor.

6 THE COURT: Okay. Mr. Shedd.

7 MR. SHEDD: As to the reliability, it depends on
8 what you classify as success. Ms. Duque said he was only
9 successful twice. As Master Sergeant Fraser testified on the
10 stand, success is determined based on any number of things.
11 Some tracks may end without finding a suspect. Maybe they got
12 into a car.

13 In addition to that, it is finding evidence. It's
14 tracking from one piece of evidence to the other where there is
15 no evidence in between. That is the purpose for the dog. It's
16 also important to note not only were the items that the dog
17 struck on were turned out to have the defendant's DNA on them,
18 but this track also led along the path that was reported by 911
19 callers who said the robbers are running out from McDonald's
20 toward Shell Point Apartments around the BiLo parking lot site.

21 obviously, the dog wasn't aware of that, and the dog
22 tracked that exact path to the location.

23 Finally, I know that Ms. Duque mentioned something
24 about he didn't do a nose press. Mr. Fraser testified that is
25 not something that the dog does. That was something that was

1 gratuitously put in that report by the handler in that case,
2 but that is not something that the dog is trained to do when
3 they are tracking an individual. I that the testimony from
4 Master Sergeant Fraser does show that Copper is reliable and
5 that he has been shown over the years since he began in 2017
6 that he is reliable.

7 It's the State's position that this evidence should
8 be admitted. Certainly, it's not more prejudicial than it is
9 probative in regard to the 403 analysis.

10 THE COURT: I do think the experience shown, by
11 Copper in this case, is reliable.

12 Next, it was the dog was placed on the trail where the suspect
13 was known to have been in a reasonable time. I think you all
14 agree with that. Lastly, the trail was not otherwise
15 contaminated.

16 I haven't heard from the evidence that the trail was
17 contaminated. Do you have any?

18 MS. DUQUE: No, Your Honor.

19 THE COURT: The fact that they found different
20 items on the trail that had your client's DNA on them tells me
21 there was enough to find DNA from your client.

22 While there were mixtures from those items, I still
23 think there isn't any evidence that the trail could have been
24 contaminated. When you are looking at Rule 702 the analysis --
25 a lot of times it goes to the weight and not the admissibility.

1 I think in this case clearly he is qualified. The jury is
2 going to get a charge on it. They can do with it what they
3 want. If that were the only evidence in this case linking your
4 client, I would be very concerned. It would be something
5 potentially we could look at at the directed verdict motion,
6 which I am sure you will raise again at that point.

7 So we are in pretrial motions. There is other
8 evidence pointing to your client. So, obviously, the jury will
9 have to hear it. I will have to hear it in full, other than
10 just you telling me that through the testimony. I think at
11 this point I am going to allow it.

12 MS. DUQUE: Thank you, Your Honor.

13 MR. SHEDD: Thank you, Your Honor.

14 THE COURT: All right. So third-party guilt.

15 MS. DUQUE: Yes, Your Honor.

16 THE COURT: What is your third party -- who is
17 the --

18 MS. DUQUE: Essentially, Your Honor, what we are
19 trying to establish is that this McDonald's had been robbed
20 previously in December of 2017. The fact of that armed robbery
21 is somewhat similar to what we have going on in my case. In
22 that armed robbery, one of the employees of that McDonald's
23 tells one of the officers involved in that case who she thought
24 was the person who committed the crime, and she provided the
25 officer with a name.

1 We asked Mr. Shedd under Rule 5. We were only able
2 to obtain the incident report, because it appears that the Port
3 Royal Police Department didn't do anything further with that
4 case; is that correct?

5 MR. SHEDD: It's my understanding from talking to
6 Port Royal that because there was never a suspect -- there was
7 never any arrest made, that any of the videos that had been
8 collected had been purged from the system. So that was the
9 entirety of what they had.

10 MS. DUQUE: There was a suspect named by one of the
11 witnesses who was one of the employees of that McDonald's, who
12 named a former employee as a person who robbed them and placed
13 them in the freezer. That person is not my client.

14 THE COURT: So you are saying the similarities are
15 simply that when they were robbed, they were placed in the
16 freezer?

17 MS. DUQUE: They were placed in the freezer.

18 THE COURT: The similarities --

19 MS. DUQUE: The fact that they were placed in the
20 freezer.

21 THE COURT: Where they left the door open?

22 MS. DUQUE: No. In the 2017 case, the person was
23 waiting in the bathroom once the McDonald's was robbed.
24 Ultimately goes up to the manager, demands the money, and she
25 gives them the money and they put everybody in the freezer

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 essentially. One of the the employees said the voice of the
2 person was someone who worked at the McDonald's.

3 I wanted to see the videos of these robberies.
4 Unfortunately Port Royal's inability to secure a warrant in
5 this case and secure the video for us to review, so we no
6 longer have those videos.

7 THE COURT: So you want me to allow you to throw
8 out some random name of someone who was never charged, was
9 never prosecuted, and had an employee reference their name from
10 a previous incident, and the only similarities are that the
11 employees were put in the freezer.

12 MS. DUQUE: Because, that is essentially what
13 happened in this case.

14 THE COURT: It has to be something more than just
15 simple conjecture. You can't just throw out it could be
16 anybody. I think that it would be permissible for you to say,
17 this McDonald's has been robbed before? Yes. I think you can
18 say that. I don't think you can throw out some random name of
19 someone who we don't know --

20 MS. DUQUE: If I may, Your Honor, the manager of
21 the McDonald's -- if Your Honor is okay, during cross, I want
22 to be able to ask her -- she was robbed before, and she was
23 placed in a freezer before, and it wasn't my client.

24 THE COURT: Right. I think you can do that, and I
25 think you can argue that in your closing, but I can't have you

1 say, someone told me that maybe -- whatever his name is -- in
2 December robbed McDonald's. Of course, he was never charged,
3 never prosecuted, never found. You can't go that far.

4 MS. DUQUE: But I am allowed to ask the manager who
5 was the same manager who was robbed in 2017. He was just
6 rocked in December again.

7 THE COURT: So I think we can limit it to, like I
8 said, you can say it was robbed before and they put them in the
9 freezer.

10 MS. DUQUE: Thank you, Your Honor.

11 I think that is all we have.

12 MR. SHEDD: Thank you, Your Honor.

13 MS. DUQUE: We will be here tomorrow.

14 MR. SHEDD: Briefly, I don't know if you want to
15 handle the proposed voir dire now or --

16 THE COURT: Do you have any?

17 MR. SHEDD: I do not have any.

18 THE COURT: I can tell you what I am charging and
19 what I am not. I am going to ask Numbers 1 through 6. I am
20 not asking 7, 8, 9, 10, 11. Sorry. I am going to ask Number
21 6. I am not asking 7 and 8. I am going to ask 9, 10, 11, and
22 I am not going to ask 12. Okay. Does that take care of,
23 Mr. Shedd, any objections that you have?

24 MR. SHEDD: I would just ask Your Honor to consider
25 also charging the not the inverse but the reverse of 5 and 9.

STATE v. LEVY LARKIN BROWN - VOLUME I - 2018-GS-07-01281

1 Certainly, I think it's appropriate to ask that.

2 THE COURT: Absolutely. I think it's proper to ask
3 that.

4 MS. DUQUE: In the interest of saving time, Your
5 Honor, we will just make this a Court's exhibit.

6 THE COURT: Okay. We will see everyone tomorrow
7 morning at 9:30.

8 (At 4:58 p.m. the proceedings were continued to be
9 resumed the following day without interruption

10 * * *

11 END OF VOLUME I

12

13

14

15

16

17

18

19

20

21

22

23

24

25

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
COUNTY OF BEAUFORT 14TH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA,

vs. CASE NO.: 2018-GS-07-01281

LEVY LARKIN BROWN, TRANSCRIPT OF JURY TRIAL VOLUME II
PAGES 58 - 243

Defendant.

HEARING BEFORE: THE HONORABLE CARMEN T. MULLEN

DATE: APRIL 22, 2021

LOCATION: BEAUFORT COUNTY COURTHOUSE

TRANSCRIBED BY: KYMBERLEE M. WILLIAMS, CSR/RPR

APPEARANCES:

FOR THE STATE OF SOUTH CAROLINA

JARED SHEDD, ESQ.
SAMANTHA MOLINA, ESQ.
BEAUFORT COUNTY SOLICITOR'S OFFICE
102 RIBAUT ROAD
BEAUFORT, SOUTH CAROLINA 29902

FOR THE DEFENDANT

MELISSA DUQUE, ESQ.
COURTNEY GIBBS, ESQ.
1905 DUKE STREET
BEAUFORT, SOUTH CAROLINA 29902

I N D E X

1		
2		
3	Proceedings	61
4		
5	WITNESS: ALLYSON MOREIRA	
6	Direct Examination	96
7	WITNESS: MICHAEL KOPYLOV	
8	Direct Examination	99
9	Cross-Examination	107
10	Redirect Examination	115
11	WITNESS: MICHAEL EGGERS	
12	Direct Examination	117
13	Cross-Examination	121
14	WITNESS: TOMMY COOPER	
15	Direct Examination	123
16	WITNESS: PETREIA LESENE	
17	Direct Examination	126
18	Cross-Examination	137
19	WITNESS: BRANDY DEWITT	
20	Direct Examination	142
21	Cross-Examination	147
22	WITNESS: SANDY WHITMORE	
23	Direct Examination	149
24	Cross-Examination	150
25	WITNESS: SUZANNE KREBS	
	Direct Examination	155
	Cross-Examination	166
	Redirect Examination	173

INDEX
(CONTINUED)

1			
2			
3	WITNESS:	DAVID TAFOYA	
4		Direct Examination	174
5		Cross-Examination	182
6	WITNESS:	JEREMIAH FRASER	
7		Direct Examination	189
8		Cross-Examination	205
9		Redirect Examination	205
10	WITNESS:	NICHOLAS THOMAS	
11		Direct Examination	206
12	WITNESS:	JOHN HOGUE	
13		Direct Examination	209
14		Cross-Examination	231
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
	End of proceedings		243

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

EXHIBIT LIST

	ITEM NUMBER	DESCRIPTION	PAGE
1			
2			
3			
4	S-1	911 CD	97
5	S-2	SURVEILLANCE VIDEO	118
6	S-3	SURVEILLANCE VIDEO	119
7	S-4	SURVEILLANCE VIDEO	124
8	S-5	SURVEILLANCE VIDEO	125
9	S-6	PHOTO	104
10	S-7	PHOTO	105
11	S-8	PHOTO	213
12	S-9	PHOTO	227
13	S-10	PHOTO	217
14	S-11	PHOTO	219
15	S-12	PHOTO	220
16	S-13	PHOTO	225
17	S-16	U.S. CURRENCY	218
18	S-23	ROBBERY VIDEO	145
19	S-24	ROBBERY VIDEO	164

20
21
22
23
24
25

1 THE COURT: Are there any matters of law that we
2 need to take up regarding the jury selection process, from
3 the State?

4 MR. SHEDD: None from the State, Your Honor.

5 THE COURT: From the defense?

6 MS. DUQUE: Nothing from the defense, Your Honor.

7 THE COURT: Ladies and gentlemen, those of you
8 who are sitting out here, I get to excuse you for the
9 week. Thank you for being here. Your simple presence has
10 made it so we can actually try these two cases this week.
11 You have definitely earned your exemption for the next
12 three years even though you may not have been chosen on a
13 trial. We appreciate it. Everyone be safe, and thank
14 you. You are excused. If you need a work excuse, ask the
15 bailiffs in the back and they will give you one.

16 (The unselected jurors exit the courtroom.)

17 THE COURT: Welcome, ladies and gentlemen. As
18 you understand, you are my jury for the trial of this
19 case. If at any time I am talking too loud, let me know.
20 My ears are full. I feel like I am in a tunnel. I can't
21 really gauge how loud or soft I am talking. We are going
22 to begin the trial of this case. The lawyers need about a
23 quick five minutes to make sure their witnesses are in
24 order.

25 I need to tell you a couple of quick ground rules. I

1 also just want to let you know what to expect. Obviously, this
2 is a two-day trial. What I intend to do right now is start the
3 trial and run until roughly 1:00 for a lunch break. You will
4 have an hour or so, maybe a little bit more than that, to go
5 grab a bite to eat locally. I want to get you out of the
6 courthouse to get some fresh air and come back.

7 Then I would like to run, if it's permissible with
8 all of you, to run until roughly 5:00, 5:30ish today. That is
9 my hope. I want to get as much as I can up today so tomorrow
10 we just have a few witnesses left and you will hear the closing
11 arguments from the lawyers and my charge on the law. All of
12 that takes a little bit of time. I want to make sure that we
13 get this to you tomorrow early afternoon at a reasonable time.

14 With that said, does anyone have a problem
15 with running until 5:00 or 5:30 today?

16 THE JUROR: Tomorrow. I work for a dentist.
17 It's a smaller practice. We have one hygienist and two
18 others. The other girl who is supposed to be covering for
19 me cannot, because she is going through a child custody
20 battle. She has to go to a mediation tomorrow. I am
21 supposed to be there with him. I don't know if I can find
22 somebody to cover.

23 THE COURT: I needed to know that at the
24 beginning of the week. At this point, you are a juror.

25 THE JUROR: I didn't know it until yesterday.

1 She was supposed to cover for me.

2 THE COURT: This is what we are going to do. At
3 this break and at the lunch break, you will see what you
4 can do as far as finding coverage. If you can't, then we
5 will deal with it at that point. Right now, you are all
6 my jury and you have been chosen to be here, so we are
7 going forward and we are going to try this case.

8 Ladies and gentlemen, when you go back to your jury
9 room right now, I need you to do a couple of things for me.
10 Don't begin discussing this case. I know you haven't heard
11 anything about it, but you have heard a little bit about what
12 the allegations are. I am going to tell you that you are not
13 to talk about this case in any way until the very end of the
14 case, until you have heard all the evidence, you have heard the
15 closing arguments from the lawyers, and I have charged you on
16 the law.

17 Again, it wouldn't be appropriate to discuss the case
18 at this time. I also need you to elect me a foreperson. A
19 foreperson doesn't have any more say than anyone else. They
20 are simply the person that I communicate with regarding
21 scheduling. Also, when the case is sent to you for your
22 deliberations, they fill out the verdict form and they also
23 make sure that everyone on the jury is contributing to the
24 deliberations. If you would, just go ahead and elect that
25 person and let the bailiffs know.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Additionally, the bailiffs are going to ask you for
2 good phone numbers for all of you. If for any reason
3 whatsoever we need to get ahold of you or find you, we need to
4 be able to. So they just want good numbers for you.
5 Obviously, we won't share them with anybody. We just need to
6 be able to get ahold of you.

7 If for some reason over the lunch hour were you to
8 have car trouble or something, we are going to come pick you
9 up. I need you all here to try this case. You have been
10 chosen. I need to know where you are.

11 With that said, ladies and gentlemen, I will for five
12 minutes excuse you back. You are not going to go to a jury
13 room. You will go to another courtroom so you can socially
14 distance. We will bring you right back out. Refresh
15 yourselves if you need to, but we will go hard until 1:00. I
16 am sure we will take a break in between there, but just to let
17 you know that that is what I anticipate. Thank you.

18 (Jury exits courtroom.)

19 Five minutes.

20 (A recess was held.)

21 THE COURT: Let's bring the jury in.

22 (The jury entered the courtroom).

23 THE COURT: Welcome back, ladies and gentlemen.

24 As I told you, at this time we're going to go ahead and
25 start the trial of this case. To begin, the Clerk of

1 Court will swear you in as a jury. I would ask you all to
2 rise, raise your right hand. Once you accept the oath,
3 say "I do," and sit down.

4 (The jury was duly sworn).

5 THE COURT: Ladies and gentlemen, what I am now
6 going to say to you is intended to serve as an
7 introduction to the trial of this case. These remarks are
8 not a charge on the law. I'm going to charge you on the
9 law that's applicable to this case at the end of the
10 trial. This is just kind of a road map so you can better
11 understand what's happening.

12 The defendant in this case, Mr. Brown, is charged by
13 an indictment filed in this Court with the crime of armed
14 robbery, the elements of which I'll explain to you at the end
15 of the trial.

16 An indictment is simply a charge that is made against
17 a person and is not in any sense evidence of any of the
18 allegations that it contains.

19 Now, the defendant, Mr. Brown, has pled not guilty to
20 this indictment; therefore, the State has the burden of proving
21 each of the elements of the indictment beyond a reasonable
22 doubt. It's your duty, ladies and gentlemen of the jury, to
23 determine whether or not the State has met that burden.

24 Now, your purpose as jurors is to find and determine
25 the facts. You, the jury, are the sole judge of all facts in

1 this case. If at any time I make any comment regarding the
2 facts in this case, you must disregard it. You are to only
3 determine the facts in this case from the evidence you hear
4 from the witness stand as well as any other exhibits or
5 evidence that are introduced in this case.

6 Please understand, ladies and gentlemen, it is
7 especially important that you perform your duty in determining
8 the facts diligently and conscientiously, because ordinarily
9 there's no way to correct an erroneous determination of the
10 facts by a jury.

11 Now, on the other hand and with equal emphasis, the
12 same law that makes you, the jury, the judge of the facts .

13 makes me the judge of the law. The law given by the
14 Court is the only law that you may consider. You must accept
15 and follow it even though you may disagree with it.

16 Ladies and gentlemen, I cannot tell you what the
17 facts of this case are. You cannot disagree with me about what
18 the law is or what you think the law ought to be. Your job at
19 the end of this trial is to take the law as I give it to you
20 and apply it to the facts as you find them and from there
21 render a just and true verdict.

22 Now, until I tell you to begin your deliberations,
23 you are not to discuss this case with anyone, and that includes
24 each other, until you've heard all the evidence, you've heard
25 the closing arguments from the lawyers and, again, I charged

1 you on the law that is applicable to this case.

2 I also want to instruct you that in coming and going
3 from the courthouse in the next couple of days, you may pass
4 the attorneys or the parties or witnesses in this case. I want
5 you to understand that they've been instructed that they're not
6 to speak to you. The reason is this:

7 Even an innocent conversation of, I can't believe how
8 cold it is outside today, will be reported back. I will also
9 tell you this entire courthouse is under camera as well as the
10 parking lot. If for any reason anyone in this case anyone
11 addresses you or talks to you, I will know about it and will
12 ask you about it. So as a caution I just tell them not to
13 address you.

14 Again, if you pass them in the hall and they don't
15 even say hello, they're not being rude. They're simply
16 following my orders.

17 Additionally, ladies and gentlemen, no one is to
18 approach you or talk to you at all about the facts in this case
19 or anything regarding the case, other than the bailiffs may
20 talk to you about scheduling.

21 If for any reason anyone were to talk in front of you
22 or to you, I need you to immediately tell your foreperson, and
23 then they will come tell me if there's any issues.

24 Additionally, ladies and gentlemen, I don't think
25 there's going to be anything in the newspaper or the news about

1 this case, but out of an abundance of caution, I need to
2 caution you that tomorrow morning when you wake up, if there
3 happens to be anything about this case in the news or in the
4 newspapers, on social media, or anything along those lines, you
5 are to disregard it. You are not to read it.

6 The reason is because it's not factual, ladies and
7 gentlemen. You're going to have everything you need to decide
8 this case right here in this courtroom. It would be
9 inappropriate for you to be influenced by any outside source.

10 Ladies and gentlemen, additionally, please understand
11 that it's important that you keep an open mind and not decide
12 any issue in this case until all the evidence has been
13 presented, the parties have made their closing arguments, and
14 I've charged you on the law. Also understand that your verdict
15 must be based solely on the evidence that's presented to you in
16 the trial and on the law at the end of the case that I charge
17 to you.

18 In just a moment the Solicitor will make an opening
19 statement. What I want you to understand in this opening
20 statement -- they're both going to make an opening statement
21 actually -- is that they're just telling you what they believe
22 the issues or the contentions are in this case. It's not
23 evidence in this case.

24 I remind you that evidence comes from the witness
25 stand as well as any exhibits that are given to you that are

1 published.

2 Now, I want you to understand that during the trial
3 of this case, from time to time you may hear the lawyers say
4 something like, Your Honor, may we approach, or I may motion
5 them up to the bench or I may even send you back to your jury
6 room to discuss a matter with the lawyers. I want you to
7 understand something. We're not hiding anything from you.

8 Oftentimes when I have to rule as a matter of law
9 whether or not certain evidence or testimony is admitted, I may
10 make a comment on the facts of the case. Because I would never
11 want anything I do to influence you in your determination of
12 the facts, so just out of an abundance of caution we do it
13 outside of your presence.

14 Now, in determining what the true facts are in a
15 case, you must decide whether or not the testimony of the
16 witness is believable. It's my responsibility to rule as a
17 matter of law whether or not certain testimony is admitted.
18 Once it is admitted, whether or not you believe it is for you
19 to determine.

20 In deciding whether to believe a witness, you have
21 the right to consider the interest of the witness, the bias of
22 the witness, the prejudice of the witness, and you can also
23 look at the opportunity for that witness to have seen and heard
24 the matters and things about which they're testifying. You can
25 also look at the manner of how the witness acts on the witness

1 stand. You have the right to use anything that is in the
2 record to help you evaluate the testimony of the witnesses.

3 Therefore, ladies and gentlemen, I ask that you just
4 pay close attention so at the very end of the case you can
5 accurately remember the testimony.

6 Also, at this point I am not going to permit you to
7 take notes, I think, at this point because it's a two-day trial
8 and I think we will move rather quickly. I think it's better
9 that you just go ahead and pay attention. If any of you really
10 want to take notes, let the bailiff know and we'll provide you
11 with notepads and pens.

12 At this point I'm just going to ask you to sit back
13 and pay close attention, again, to the attorneys first during
14 their opening statements and to the witnesses as they are
15 presented and we will have the case presented to you.

16 Anything further from the State, any exceptions or
17 additions?

18 MR. SHEDD: No, Your Honor.

19 THE COURT: From the defense?

20 MS. DUQUE: No, Your Honor.

21 THE COURT: Ladies and gentlemen, we're going to
22 go ahead and begin the trial in this case.

23 Mr. Shedd, whenever you are ready, sir.

24 MR. SHEDD: Thank you, Your Honor.

25 May it please the Court.

1 THE COURT: Yes, sir.

2 * * *

3 OPENING STATEMENT BY MR. SHEDD

4 MR. SHEDD: This case is about taking and leaving.
5 Specifically, this case is about what was taken from McDonald's
6 on July 15, 2018 by the Defendant, Mr. Levy Brown, and another
7 individual.

8 On July 15, 2018, two masked, armed individuals came
9 in through the side door of McDonald's and proceeded to -- one
10 of them forced employees into the freezer and the other robbed
11 the manager at gunpoint in the office. The entire robbery
12 lasted less than two minutes before the robbers fled the scene.
13 They were seen running towards the Shell Point Apartments.

14 Now, as evidence was gathered, interviews were
15 conducted, and they eventually led to Mr. Levy Brown and
16 another individual being charged with armed robbery.

17 Now, armed robbery is -- at the end of the case, as
18 the judge told you, she's going to instruct you on the law.
19 I'm going, obviously, to defer to anything that she says. If I
20 say something different about the law, please trust what she
21 says. I'm going to take my best shot and give you an idea of
22 armed robbery.

23 First, we have to prove that the defendant was armed
24 with a pistol or some other deadly weapon; that a robbery was
25 committed. A robbery simply is defined as the unlawful taking

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 of property from a person or in the presence of that person,
2 either through violence or through actions to put that person
3 in fear of violence. So taking and leaving is part of the case
4 for armed robbery.

5 It's also important that you pay -- I want you to pay
6 attention to all of the testimony. Everyone in this room does
7 over the next few days. I want you to pay particularly close
8 attention to not what was taken but what was left behind, left
9 behind specifically by Levy Brown.

10 You're going to hear about items that were collected
11 at the scene and how those items tie back to Mr. Levy Brown.

12 Now, as Judge Mullen instructed you, myself, as the
13 prosecutor -- I have the burden of proving this case beyond a
14 reasonable doubt. I welcome that burden. Because at the end
15 of this case, I am sure that the evidence will show that
16 Mr. Levy Brown is guilty of armed robbery, and that's why at
17 that point I will get up and I will ask you to find him guilty.

18 Thank you.

19 THE COURT: Ms. Duque.

20 MS. DUQUE: Thank you, Your Honor.

21 May it please the Court.

22 THE COURT: Yes, ma'am.

23 * * *

24 OPENING STATEMENT BY MS. DUQUE

25 MS. DUQUE: Good morning. As I began working on this

1 case a couple of months back, I couldn't help but to think of a
2 friend of mine who served in the Army with me. I want to share
3 this story of an event that happened with her during one of her
4 deployments.

5 During this particular deployment, they had scheduled
6 the soldiers who had failed their physical fitness test a few
7 months prior to take it at 5:30 in the morning because it was
8 starting to get really hot. By seven a.m. it was already too
9 hot for anyone to run two miles.

10 So this morning, I got a knock on my door at 3:30 in
11 the morning. It's my company commander and my first sergeant.
12 They asked me to go and knock on Sergeant Moore's door, which I
13 did. I went and I knocked on her door. She didn't answer.
14 You could tell that the lights were on, but she wasn't there.
15 Or she wasn't answering.

16 My commander at this point gives me the key to her
17 room, and I open it. We all go in and she isn't there. At
18 this time my first sergeant tells me that, apparently, another
19 sergeant in my unit has seen who he believed was Sergeant Moore
20 going to the room of a male from another unit, which when
21 you're deployed, that's against the rules. It's forbidden for
22 us to do that.

23 Anyway, so they ask me how long -- once he saw that,
24 he went in front of my first sergeant and commander, and they
25 send him back to wait for her to come to the room and then

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 bring her to headquarters.

2 Then they went to my room and woke me up just so that
3 I can verify that she wasn't in the room. And she wasn't.

4 My first sergeant and my commander asked me how long
5 is it going to take for me to get ready so that we can all head
6 to headquarters. So now we're going to start a process to take
7 her rank away. I had to also write a statement attesting that
8 I knocked on her door, I went into the room. My commander gave
9 me the keys. I went to the room, and she wasn't there. I told
10 them give me 10 to 15 minutes.

11 I go to the showers with my shower stuff and my
12 uniform. As I am going into the showers, I see one of the
13 soldiers who's taking the exam this morning, she's walking out.
14 As I go inside the showers, there's Sergeant Moore. She was in
15 one of the shower stalls coming out. She had her shower shoes
16 on, shower top, and her towel. All of her stuff was laying on
17 one of the benches in the showers.

18 I asked her: Why are you up so early? She tells me
19 that she was running with one of her soldiers who had failed
20 the exam. That's typically what we did when the soldiers
21 failed the exam; we run with them. Because I wanted to walk
22 back with her, I showered and got ready in no time.

23 Now, as soon as we got to the area where our rooms
24 are located, next thing you know, my company commander just
25 walked straight up to her, and he starts going off. He's

1 yelling at her, asking her where she's been, accusing her of
2 being in this other man's room. He was just going off.

3 You can just hear her in the background saying to
4 him, sir, I think you're mistaken. I was in the shower,
5 although she's holding all of her shower stuff. But my company
6 commander at that point wasn't listening. There was nothing
7 that Sergeant Moore could say or do that was going to change my
8 commander's mind.

9 As this is happening, I'm on the side. I'm letting
10 my first sergeant know that she was in the shower when I got
11 there. And that she's running with her soldier in the morning.

12 My first sergeant goes and he just calms the
13 situation down. They tell us to finish getting ready so that
14 we can go to headquarters and sort things through.

15 As we're getting ready to leave, we hear footsteps
16 approaching. One thing about the living areas when we're
17 deployed, in Iraq for example, there's no street lights.
18 There's no way for you to see unless you have a flashlight or
19 you have a head lamp on so you can see your surroundings.

20 And the person who gets closer is the sergeant who
21 had seen Sergeant Moore going to this man's room. He pulls my
22 company commander and my first sergeant to the side. They talk
23 for a moment and then they come back and they talk with
24 Sergeant Moore and I. Ultimately they explained what happened,
25 and apologizing to Sergeant Moore because it was all a huge

1 misunderstanding.

2 It appeared Sergeant Cook believed that the person
3 who went into this man's room was Sergeant Moore because of the
4 shoes she was wearing that night or the person was wearing.
5 Sergeant Moore had this particular pair of orange shoes that we
6 all knew she had. We haven't seen anyone on the base wear
7 shoes like that.

8 When this person walked out of the room, he realized
9 this isn't Sergeant Moore. As soon as he saw this, he went
10 back to headquarters -- not headquarters but to where we were
11 at and informed my commander and my first sergeant that it
12 wasn't Sergeant Moore.

13 Her story in a way reminded me of this case and my
14 client, Mr. Brown, because just like my commander was quick, as
15 soon as he saw her, to accuse her of being at this man's room.

16 We believe the evidence in this case will show
17 that law enforcement in this case were also quick to accuse my
18 client of being one of the culprits of this armed robbery of
19 McDonald's.

20 Now, it is very unfortunate that McDonald's was
21 robbed on July 15, 2018. It is. But my client wasn't one of
22 the persons involved in that robbery.

23 Members of the jury, we believe the evidence will
24 show that the State of South Carolina is going to be unable to
25 prove that my client, Mr. Brown, committed this robbery. I

1 want to remind you -- and the judge will talk about it at the
2 end of this trial when she talks to you about the law -- that
3 my client as he sits here today in this courtroom is presumed
4 innocent until the State of South Carolina proves his guilt
5 beyond a reasonable doubt.

6 At the end of this trial Your Honor will tell you all
7 about that. I just want to ask you to hold the State to their
8 burden. Please keep an open mind, pay attention to the
9 testimony and the evidence that will be introduced during this
10 trial. Pay attention to all of the details.

11 At the end of this trial, once you have seen all of
12 the evidence and heard all of the testimony from the witnesses,
13 we're confident that once you go back there to your room and
14 deliberate and take everything into consideration, you're going
15 to return back here to this courtroom and you will deliver a
16 verdict of not guilty for my client. Thank you.

17 Thank you, Your Honor.

18 THE COURT: Call your first witness.

19 MR. SHEDD: The State calls Allison Moreira.

20 THE CLERK: Good morning. Raise your right hand.

21 * * *

22 ALLISON MOREIRA

23 being first duly sworn, testified as follows:

24 THE CLERK: Please state your full name for the court
25 reporter and spell your last name.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 THE WITNESS: Allison Moreira, M-O-R-E-I-R-A.

2 * * *

3 DIRECT EXAMINATION

4 BY MR. SHEDD:

5 Q Good morning, Ms. Moreira.

6 A Good morning.

7 Q Where do you work?

8 A The Beaufort County Sheriff's Office.

9 Q What are some of your duties?

10 A I am the 911 audio clerk, so I burn all 911 calls for
11 evidence.

12 Q Is it part of your responsibility to maintain the 911
13 calls that are recorded?

14 A Yes.

15 Q Are those calls kept and recorded in the ordinary course
16 of business?

17 A They are.

18 Q Were you asked to pull calls from July 15, 2018?

19 A I was.

20 MR. SHEDD: May I approach, Your Honor?

21 THE COURT: You may.

22 BY MR. SHEDD:

23 Q Ms. Moreira, I'm going to show you what's been pre-marked
24 as State's Exhibit 1, and I'm going to ask if you recognize
25 that.

1 A I do.

2 Q How do you recognize it?

3 A It's the 911 disc that I initialed.

4 Q You've reviewed that disc?

5 A I did.

6 MR. SHEDD: At this time, State moves State's 1 into
7 evidence.

8 THE COURT: Without objection?

9 MS. DUQUE: No objection.

10 THE COURT: Admitted into evidence.

11 MR. SHEDD: Permission to publish?

12 THE COURT: You may.

13 (PLF. EXH. 1, 911 Audio Recording, was entered into
14 evidence.)

15 (Audio recording played, after which the following
16 proceedings were had.)

17 MR. SHEDD: Ms. Moreira, thank you so much for
18 being here. I don't have any other questions. Please
19 answer any that the defense may have.

20 MS. DUQUE: No questions, Your Honor.

21 THE COURT: You may step down. Thank you. You
22 are excused.

23 (The witness exited the stand.)

24 THE COURT: Call your next witness.

25 MR. SHEDD: State calls Mikhail Kopylov.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 THE CLERK: Raise your right hand.

2 * * *

3 SGT. MIKHAIL KOPYLOV

4 being first duly sworn, testified as follows:

5 THE CLERK: Please step up here.

6 State your name and spell your last name for the
7 court reporter.

8 THE WITNESS: Mikhail Kopylov, last name is
9 K-O-P-Y-L-O-V.

10 THE COURT: Sir, if you're comfortable with it,
11 you can take your mask off.

12 THE WITNESS: Thank you.

13 THE COURT: I appreciate it.

14 * * *

15 DIRECT EXAMINATION

16 BY MR. SHEDD:

17 Q Officer Kopylov, where do you work?

18 A Right now I am currently employed with the Beaufort
19 City Police Department.

20 Q What's your rank?

21 A Sergeant.

22 Q How long have you been in law enforcement?

23 A I started with Beaufort City Police Department in
24 2014. Still employed.

25 Q Have you worked for Port Royal Police Department in the

1 past?

2 A I have. I worked in Port Royal Police Department
3 from 2017 to 2018.

4 Q Were you working on July 15, 2018?

5 A Yes.

6 Q Did you receive a call regarding an armed robbery?

7 A Yes, sir.

8 Q Did you respond?

9 A Yes, sir.

10 Q Where had that armed robbery occurred?

11 A 850 Parris Island Gateway.

12 Q Is that in Beaufort County?

13 A Yes, sir.

14 Q When you arrived, were there other officers on scene?

15 A I was the first one on the scene.

16 Q And how long after you got the call did you show up?

17 A I would say my response time was about three or four
18 minutes or so.

19 Q When you showed up, what did you see?

20 A When I arrived on scene, I pulled into the entrance
21 that's closer to the side of the entrance, pulled up to
22 the front of McDonald's. When I approached, I met what I
23 believed at the time was the complainant or the victim on
24 a phone call. It was a complainant who called in and said
25 there was an armed robbery that just occurred at

1 McDonald's.

2 At this time I observed the complainant and her
3 boyfriend outside. I proceeded to the right side of the
4 business and made an entry from the side door and I made
5 contact with the employees around the back.

6 Q Did either of the individuals outside identify themselves
7 to you?

8 A Ms. Smalls was the original complainant on the phone
9 call. Her boyfriend was Timothy Garvin.

10 Q You said at that point you entered the store. Were you by
11 yourself?

12 A At that time, I was.

13 Q Did anyone go in the store with you?

14 A Mr. Garvin followed me in. He walked into the store
15 behind me.

16 Q How did you discover -- what did you see when you first
17 walked into the store?

18 A There was nothing in the main lobby. I believe the
19 dispatch advised us that the employees were locked in the
20 freezer of the restaurant.

21 So when I walked inside of McDonald's, I did not
22 observe anybody in the lobby. I walked towards the back
23 of the business. That's when I discovered -- well,
24 actually I cleared the building first for safety at this
25 point.

1 I believe Mr. Garvin opened the freezer door. That's
2 when all the employees began to leave the freezer door.

3 Q As the employees were coming out, where did you tell them
4 to go?

5 A I basically told them to go in the main lobby, have
6 everybody in one spot.

7 Q Did you conduct interviews?

8 A Yes.

9 Q Do you remember talking to Suzanne Krebs?

10 A Yes, sir.

11 Q And how was her demeanor?

12 A She was very shaken up, very distressed from the
13 situation and very emotional.

14 Q Did you collect any evidence?

15 A I collected DNA swabs from the employees.

16 MR. SHEDD: May I approach, Judge?

17 THE COURT: You may.

18 BY MR. SHEDD:

19 Q I'm going to show you what's been marked for
20 identification only as State's Exhibit 21 and State's Exhibit
21 22. Do you recognize those?

22 A Yes, I do.

23 Q What are they?

24 A This is the evidence from the Port Royal Police
25 Department. When we collect the evidence -- they're

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 supposed to be DNA swabs that I placed into the evidence
2 locker.

3 Q And can you tell me which one is which. State's Exhibit
4 21, whose DNA swab is that?

5 A I can't tell you exactly which one is which. I don't
6 know. There's two DNA swabs in there.

7 Q I want to point your attention to the bottom of the bag.
8 If you hold it up straight.

9 A The one that's in my right hand now is --

10 Q Can you identify it by number for the court reporter.

11 A Exhibit Number 22. It would be a DNA swab for
12 Timothy Garvin. Exhibit Number 21 is the DNA swab for
13 Ms. Higgins.

14 Q After you collected those swabs, what did you do with
15 them?

16 A When I collected the swabs on scene, we put them in
17 the container that they come with for the swab itself.
18 Then I placed them in the back of my patrol car until the
19 scene was cleared.

20 Then after the scene was cleared, I proceed to the
21 Port Royal Police Department and placed them into vacuum seal
22 and put into evidence lockers.

23 Q Did any other Port Royal Officer show up on scene?

24 A Sergeant Ray showed up. I don't know exactly when he
25 showed up on scene. Then I believe he notified Sergeant

1 Hogue, who responded as the investigator. I don't know
2 the exact time.

3 Q When Hogue arrived, what sort of procedure followed once
4 your detective shows up?

5 A I briefed him on what the incident was, and he takes
6 over the investigation.

7 Q At that time, once Hogue is there and he has taken over
8 the scene, what did you do?

9 A I remained outside with Sergeant Rittner for security
10 purposes, for traffic patrol or whatever it is. Then we
11 went outside together.

12 Q Did you look for evidence at any time?

13 A Later on.

14 MR. SHEDD: May I approach again, Your Honor?

15 THE COURT: You may.

16 BY MR. SHEDD:

17 Q I'm going to show you what's been previously marked for
18 identification as State's Exhibits 6 and 7. Do you recognize
19 those pictures?

20 A I do.

21 Q Let's start with State's 6. What is State's 6?

22 A State's 6 is -- on the bottom portion it leads to the
23 apartments that are behind the storage unit that's behind
24 McDonald's. When Investigator Hogue was on scene
25 collecting his evidence, I decided to do patrol, foot

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 patrol, of the area to attempt to find any evidence.

2 While being on this side of the business, I observed two
3 shoes in the bushes.

4 Q Is State's 6 a fair and accurate depiction of how the
5 shoes appeared that night?

6 A Yes.

7 MR. SHEDD: At this time State would move
8 State's 6 into evidence.

9 MS. DUQUE: No objection.

10 THE COURT: Without objection into evidence.

11 (PLF. EXH. 6, Photographs, was marked for
12 identification and entered into evidence.)

13 BY MR. SHEDD:

14 Q Let's go to State's 7. Can you tell me what that is a
15 picture of?

16 A It is exactly the same picture, well not exactly the
17 same picture. It is a pair of shoes that were located in
18 the bushes.

19 Q Is that a fair and accurate depiction of the shoes?

20 A Yes.

21 MR. SHEDD: At this time, State moves State's 7
22 into evidence.

23 THE COURT: Any objection?

24 MS. DUQUE: No objection.

25 THE COURT: Without objection, in evidence.

1 MR. SHEDD: Permission to publish?

2 THE COURT: You may.

3 (PLF. EXH. 7, Photographs, was marked for
4 identification and entered into evidence.)

5 BY MR. SHEDD:

6 Q Showing you what's been now admitted as State's 6, are
7 these the shoes that you're referring to in the picture?

8 A Yes, sir.

9 Q I will show you State's 7. Is that a closer-up picture of
10 the shoes that you found that night?

11 A Yes, sir.

12 Q Sergeant Kopylov, while you were outside for scene
13 security, did you speak to anybody else?

14 A At some point during the incident, we were approached
15 by Mr. Blue, Mr. DeQuan Blue. He inquired questions about
16 the incident.

17 Q About how long after your arrival did Mr. Blue show up?

18 A I don't have an exact time, but I would say it's
19 about 15, 20 minutes or so.

20 Q On July 15, 2018, were you working earlier in the day as
21 well?

22 A Yes.

23 Q Did anything stand out to you earlier in the shift?

24 A Approximately 9:30 p.m. on that night, I conducted an
25 extra patrol of McDonald's itself. And then I proceeded

1 to the parking lot of Bi-Lo, which is behind McDonald's.
2 While I was turning right from Storage Row to the back of
3 Bi-lo's parking lot, I observed the Defendant, Levy Brown,
4 and Mr. Blue walking on the side, in the grassy side of
5 the area towards McDonald's.

6 Q Could you tell what they were wearing?

7 A They were wearing all black at that time.

8 Q How did you recognize Mr. Brown?

9 A I've dealt with Mr. Brown several times in the past.
10 He was also employed at McDonald's. I've seen him there
11 several times. I have engaged in small conversations, I
12 would say, at the business, and there was several
13 incidents when I was working with Beaufort City prior to
14 me going to Port Royal.

15 Q I'm sorry to cut you off. Were there any particular
16 mannerisms of Mr. Brown that you recognized?

17 A Levy Brown has a certain walk to him. That's what
18 comes to my attention when it comes to him. He kind of
19 tiptoes when he walks. He lifts himself up on his toes.

20 Q Do you see the individual that you saw around 9:30 p.m. on
21 July 15, 2018 wearing all black behind McDonald's in the
22 courtroom today?

23 A Yes.

24 Q And can you describe something that he is wearing.

25 A A black suit with white shirt.

1 MR. SHEDD: Your Honor, may the record reflect the
2 witness has identified the Defendant?

3 THE COURT: Noted on the record.

4 MR. SHEDD: Court's indulgence.

5 (A pause transpired).

6 MR. SHEDD: I don't have any further questions.
7 Please answer any questions that the defense may have.

8 * * *

9 CROSS-EXAMINATION

10 BY MS. DUQUE:

11 Q Good morning, Sergeant Kopylov.

12 A Good morning.

13 Q I just want to talk a little bit about when you first
14 responded to the scene; right? When you get there, you were
15 met there by Shaquila Smalls; right?

16 A Yes, ma'am. Shaquila Smalls.

17 Q And her boyfriend, Timothy Garvin?

18 A Yes, ma'am.

19 Q They both told you that the suspects were wearing all
20 black?

21 A Yes, ma'am.

22 Q From head to toe; right?

23 A From what I recall, yes.

24 Q They didn't provide you with any other details regarding
25 the suspects?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Not that I recall.

2 Q They were not able to see their faces; right?

3 A No.

4 Q They were not able to tell you because the men, they were
5 wearing all black. The men who robbed the McDonald's were
6 white or black?

7 A Correct.

8 Q Or black?

9 A Or Spanish.

10 A Correct.

11 Q After you get your statement from them, then you go inside
12 the restaurant. And you make sure that it's safe for anybody
13 else to walk in; right?

14 A Yes, ma'am.

15 Q I'm assuming that at some point, I guess, Mr. Garvin heard
16 your radio and that's how he ended up opening the fridge?

17 A Probably not, because I usually wear an ear piece at
18 work. It's not heard by anybody outside.

19 Q How did he know that they were in the freezer?

20 A I do not know.

21 Q He opened it up; right?

22 A Yes, ma'am.

23 Q You didn't open it up?

24 A No.

25 Q You were walking towards the back of the restaurant?

1 A Yes, ma'am.

2 Q Mr. Garvin gets them out of the freezer. And then you
3 interview all of the employees who were in the freezer;
4 right?

5 A Yes, ma'am.

6 Q They all tell you the same thing that Mr. Garvin and
7 Ms. Smalls told you; that two men dressed in all black from
8 head to toe entered the restaurant and robbed them at gun
9 point; right?

10 A Yes, ma'am.

11 Q During your initial contact with them, none of them told
12 you whether or not they recognized the suspects; right?

13 A Correct.

14 Q They weren't able to see their faces?

15 A Correct.

16 Q They weren't able to see because they were covered from
17 head to toe. They were not able to see any portion of their
18 skin color; right?

19 A Correct.

20 Q They weren't able to tell you, the people in the freezer
21 now, whether the suspects were black, white, or Hispanic;
22 right?

23 A That's correct.

24 Q Let's talk briefly about Ms. Krebs. She's the one with
25 the first suspect. This guy just walked in; right?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Okay.

2 Q Essentially just goes straight and gets the money from
3 Ms. Krebs?

4 A Yes, ma'am.

5 Q He makes statements to her. He only interacted with her;
6 right?

7 A From my knowledge, yes.

8 Q When you interviewed Ms. Krebs, did she tell you anything
9 about that one suspect?

10 A Give me one second to review my report that I have.

11 (A pause transpired.)

12 THE WITNESS: She just made statements that were
13 made to her by the suspects.

14 BY MS. DUQUE:

15 Q Based on those statements, to your knowledge, was
16 Ms. Krebs able to recognize that person's voice?

17 A No, ma'am.

18 Q And she didn't say that was Levy Brown's voice; right?

19 A No, ma'am.

20 Q Then let's talk now about the shoes, State's 6 and 7;
21 correct?

22 You were doing foot patrol after you gathered your
23 interviews from the victims. By then Investigator Hogue was
24 already the lead investigator in this case. Based on findings
25 by Mr. Hogue, you go into this foot patrol on the opposite side

1 of where these individuals were seen running; right? It was
2 Midtown Drive?

3 A I was not aware of where they ran at first. I just
4 patrolled the area.

5 Q So when you first got there and and you speak with
6 Ms. Smalls and Mr. Garvin, they didn't tell you that these
7 individuals were seen running towards the Bi-Lo?

8 A Not that I was aware of.

9 Q Okay. Eventually the shoes are found on Midtown Drive;
10 right?

11 A Yes, ma'am.

12 Q Not only did you find the shoes, but you also found a
13 black jacket; right? A child's jacket?

14 A I do not recall finding a child's jacket.

15 Q So what did you find other than those shoes since you were
16 conducting the foot patrol? You can refresh with your report,
17 if you need to.

18 A Number 6 and 7 is showing that it was the findings
19 that I did that night on that side of Midtown Drive.

20 Q Who collected the shoes?

21 A Sergeant Hogue did.

22 Q Sergeant Hogue did. I will ask him then.

23 Other than conducting the foot patrol of that area of
24 the scene, did you do anything else?

25 A Not that I recall, ma'am.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q You didn't go inside the Shell Point Apartments and
2 conduct a further patrol?

3 A I do not recall how far I went around the storage
4 place that's basically surrounded by Midtown Drive and
5 Storage Road. I do not recall exactly.

6 Q You've been with Beaufort PD, Port Royal PD, since 2014.
7 Are you familiar with the Shell Point Apartments?

8 A Yes, ma'am.

9 Q How familiar are you with those apartments?

10 A I don't know how to describe that. We've been
11 familiar with the apartments, worked it for about a year
12 or so. We know the layout of it. I would not be able to
13 tell you the exact numbers right now.

14 Q You wouldn't be able to tell whether or not there's other
15 items of clothing laying all over that neighborhood; correct?

16 A I wouldn't recall that.

17 Q Okay. Now let's talk briefly about this area where
18 McDonald's is located. This is a commercial area; right?

19 A Somewhat.

20 Q There's a lot of shops and restaurants on one side.

21 A Yes.

22 Q On the other side there's CPM bank, federal bank?

23 A Yes, ma'am.

24 Q Behind it there's the Public Storage; right?

25 A Yes, ma'am.

1 Q As far as the Bi-Lo, you said earlier that you were
2 conducting patrol in that parking lot; right?

3 A Yes, ma'am.

4 Q Other than just conducting that foot patrol where you
5 claim to have seen my client walking, you were in your car;
6 right?

7 A Yes, ma'am.

8 Q And you're -- that car camera was functional at that
9 time?

10 A Yes, ma'am.

11 Q Was it activated?

12 A No, ma'am.

13 Q You wouldn't have recorded seeing my client walking back
14 at 9:30; right?

15 A No, ma'am. I wouldn't have recorded that.

16 Q Back to the Bi-Lo. Because you're helping with this
17 investigation, did you by any chance, in helping Investigator
18 Hogue go to the Bi-Lo, see if they had any security footage of
19 their parking lot that perhaps may have helped this
20 investigation?

21 A I did not.

22 Q You did not. But they have cameras outside; right?

23 A I would assume they do. Again, Investigator Hogue
24 was in charge of the incident. I was not.

25 Q You would agree with me that this is a commercial area.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 There's probably cameras pointing to the parking lot?

2 A Yes, ma'am.

3 Q Now, there's also Public Storage right behind McDonald's
4 and EnMarket; right?

5 A Yes, ma'am.

6 Q They have cameras in that facility also; right?

7 A I would assume so.

8 Q They do. To your knowledge, how you were contributing to
9 this investigation, did you approach the workers at Public
10 Storage to get any security footage from their equipment?

11 A I do not recall doing that.

12 Q You can look at your notes and see whether or not you did
13 that.

14 A (Witness complies.) I do not have anything noted in
15 my report saying that I made contact with the Storage
16 workers.

17 Q Or obtaining footage; right?

18 A Right.

19 Q CPM Credit Union, that's a bank?

20 A Yes, ma'am.

21 Q They definitely have cameras inside and outside?

22 A Yes, ma'am.

23 Q Based on your actions in this case, did you obtain any of
24 that footage?

25 A No, ma'am.

1 Q The Shell Point Apartments where it is alleged that these
2 individuals end up running towards, did you obtain any of their
3 security footage?

4 A No, ma'am.

5 MS. DUQUE: Court's indulgence.

6 THE COURT: Yes, ma'am.

7 MS. DUQUE: That's all I have, Your Honor.

8 THE COURT: Anything further?

9 MR. SHEDD: Just very briefly, Judge.

10 * * *

11 REDIRECT EXAMINATION

12 BY MR. SHEDD:

13 Q Sergeant Kopylov, you just testified that your dash cam
14 wasn't recording earlier in the day. Is the dash cam in your
15 car always recording?

16 A No, sir.

17 Q How does it begin recording?

18 A The dash cam is activated mainly by pushing the
19 button on the unit or when the emergency lights are
20 activated. That's mostly how it comes on.

21 Q In your experience when a detective shows up on scene and
22 assumes control of the scene, whose responsibility is it to
23 collect surveillance footage?

24 A Up to the detective.

25 MR. SHEDD: Thank you. No further questions.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 THE COURT: Anything further?

2 MS. DUQUE: No, ma'am.

3 THE COURT: Officer you are excused.

4 Call your next witness.

5 MR. SHEDD: Thank you, Judge. State calls

6 Michael Eggers.

7 (The witness exited the stand.)

8 THE COURT: Step up here, sir.

9 THE CLERK: Good morning, sir. Raise your right
10 hand.

11 * * *

12 MICHAEL EGGERS

13 being first duly sworn, testified as follows:

14 THE CLERK: State your full name and spell your last
15 name.

16 THE WITNESS: Michael Eggers, E-G-G-E-R-S.

17 * * *

18 DIRECT EXAMINATION

19 BY MR. SHEDD:

20 Q Mr. Eggers, good morning.

21 A Good morning.

22 Q Introduce yourself to the jury, tell them what you do.

23 A Mike Eggers, currently retired. I was the former
24 owner of the McDonald's here in Beaufort County, South
25 Carolina.

1 Q When did you retire?

2 A August 22, '19.

3 Q How long did you own the McDonald's on Parris Island
4 Gateway?

5 A Since 2012.

6 Q Is that located in Beaufort County?

7 A It is.

8 Q Did McDonald's have surveillance cameras?

9 A We did.

10 Q Are they always recording?

11 A They are.

12 Q Are the recordings saved as they're recording?

13 A They're saved on the hard drive as well as in the
14 Cloud.

15 Q Are those recordings kept and saved in the ordinary course
16 of business?

17 A Yes.

18 Q I'm going to show you --

19 MR. SHEDD: May I approach?

20 THE COURT: You may.

21 BY MR. SHEDD:

22 Q I'm going to show you what has been marked as State's
23 Exhibit 2, 3, 23, 24. I just want to take those one at a time.
24 Do you recognize those four disks?

25 A I do.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Can you tell me what State's Exhibit 2 is.

2 A State's Exhibit 2 is the surveillance of the
3 restaurant inside.

4 Q From July 15, 2018?

5 A Yes, sir.

6 Q And have you reviewed that disk?

7 A I have.

8 Q And how do you know you reviewed it?

9 A It has my initials on it.

10 Q Is that a fair and accurate depiction of what was captured
11 by your surveillance footage on that date?

12 A Yes, sir.

13 MR. SHEDD: At this time State moves State's 2 and 3
14 into evidence -- or excuse me -- State's 2 into evidence.

15 BY MR. SHEDD:

16 Q Can you now look at State's 3.

17 THE COURT: That's without objection.

18 MS. DUQUE: No objection, Your Honor.

19 THE COURT: That's fine.

20 (PLF. EXH. 2, video recording, was marked for
21 identification and entered into evidence.)

22 BY MR. SHEDD:

23 Q Turning to State's 3, what is on State's 3?

24 A Surveillance video.

25 Q And when is that surveillance from?

1 A The day of.

2 Q Is it from earlier in the day?

3 A Yes.

4 Q Have you reviewed that?

5 A I have.

6 Q Is it a fair and accurate depiction of what was collected
7 by your surveillance cameras at that time?

8 A Yes, sir.

9 MR. SHEDD: At this time State moves State's 3 into
10 evidence.

11 MS. DUQUE: No objection.

12 THE COURT: Without objection.

13 (PLF. EXH. 3, Video recording, was marked for
14 identification and entered into evidence.)

15 BY MR. SHEDD:

16 Q State's 23, do you recognize that?

17 A I do.

18 Q Have you reviewed that disk?

19 A Yes, sir.

20 Q What is on that disk?

21 A This is the specific time during the robbery.

22 Q I'm sorry, can you say that again.

23 A I think this is the specific time during the
24 robbery.

25 Q Did you review the portions that came from McDonald's on

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 that?

2 A I did.

3 Q Is that a fair and accurate depiction?

4 A Yes, sir.

5 Q Now, last one, State's 24. Did you review that disk?

6 A Yes, sir.

7 Q Is that a fair and accurate depiction of the surveillance
8 from earlier in the day on July 15, 2018?

9 A It is. Yes, sir.

10 MR. SHEDD: Thank you. I don't have any further
11 questions, Mr. Eggers. Please answer any that Ms. Duque may
12 have

13 MS. DUQUE: Briefly, Your Honor.

14 * * *

15 CROSS-EXAMINATION

16 BY MS. DUQUE:

17 Q Good morning, Mr. Eggers. How are you?

18 A I'm good. Thanks.

19 Q I just have a few questions for you. Your security system
20 at McDonald's was always recording; right?

21 A Correct.

22 Q Those recordings were uploaded to the Cloud; right?

23 A Yes, ma'am.

24 Q Whenever you need to review them, you were just able to
25 pull them back and review footage; right?

1 A Correct.

2 Q How far back?

3 A On that particular system, I think it was four
4 years.

5 Q You could review videos potentially four years back?

6 A Yes, ma'am.

7 Q And did you -- other than reviewing from earlier in the
8 day, you didn't go back and review earlier in the week to see
9 if my client was wearing the shoes depicted on State's 6 and 7.
10 Would you like for me to show you the shoes?

11 A Sure. I don't know what you're talking about.

12 MS. DUQUE: May I approach, Your Honor?

13 THE COURT: You may.

14 BY MS. DUQUE:

15 Q Showing you State's 6 and 7.

16 A I don't recall going back and doing that.

17 Q You had the ability to go back and review footage four
18 years back just to see whether my client was wearing these
19 shoes at any time while he was working at your restaurant. You
20 didn't do that; right?

21 A I did not.

22 MS. DUQUE: Those are all the questions I have,
23 Your Honor.

24 THE COURT: Anything further?

25 MR. SHEDD: No, Your Honor.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 THE COURT: Any objection to Mr. Eggers being
2 excused?

3 MR. SHEDD: No, Your Honor.

4 THE COURT: You are excused, sir.

5 (The witness exited the stand).

6 THE COURT: Call your next witness.

7 MR. SHEDD: State calls Tommy Cooper.

8 THE CLERK: Good morning, please raise your right
9 hand.

10 * * *

11 TOMMY COOPER

12 being first duly sworn, testified as follows:

13 THE CLERK: Speak up as loudly as you can. State
14 your full name and spell your last name.

15 THE WITNESS: Tommy Cooper, C-O-O-P-E-R.

16 * * *

17 DIRECT EXAMINATION

18 BY MR. SHEDD:

19 Q Mr. Cooper, I am going to ask you to speak up as loud as
20 you can. We have plexiglass. I want to be sure the jury can
21 hear you. Where do you work?

22 A EnMarket.

23 Q Which one?

24 A 11 Midtown Drive.

25 Q Is that located next to McDonald's?

1 A Yes, sir.

2 Q What's your position at EnMarket?

3 A Assistant manager.

4 Q As assistant manager, are you familiar with -- does
5 EnMarket have surveillance cameras?

6 A Yes, sir, they do.

7 Q Are there surveillance cameras that face towards
8 McDonald's?

9 A Yes, sir.

10 Q Are there surveillance that face inside?

11 A Yes, sir.

12 Q Are those cameras recording all the time?

13 A Yes, sir. It's a 24-hour store.

14 Q Are their recordings saved automatically?

15 A Yes, sir.

16 Q Are they kept in the ordinary course of business?

17 A Yes, sir.

18 MR. SHEDD: May I approach?

19 THE COURT: You may.

20 BY MR. SHEDD:

21 Q I am going to show you State's Exhibit 4 and 5. Do you
22 recognize this?

23 A Yes, sir, I do.

24 Q What is on State's Exhibit 4?

25 A 4 is surveillance of EnMarket.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Is State's 4 of the camera facing towards McDonald's?

2 A Yes, sir.

3 Q Is it a fair and accurate depiction of what would've been
4 captured by the camera on July 15, 2018?

5 A Yes, sir.

6 MR. SHEDD: At this time State moves State's 4 into
7 evidence.

8 THE COURT: Without objection?

9 MS. DUQUE: No objection.

10 THE COURT: Without objection.

11 (PLF. EXH. 4, Video recording, was marked for
12 identification and entered into evidence.)

13 BY MR. SHEDD:

14 Q Turning to State's 5, what's on that disk?

15 A I believe the inside of the store.

16 Q Is that from the night of July 15, 2018?

17 A Yes, sir.

18 Q Have you reviewed that disk?

19 A Yes, sir, I have.

20 Q Is it a fair and accurate depiction of what would have
21 been captured by the inside surveillance camera that night?

22 A Yes, sir.

23 MR. SHEDD: State moves State's 4 into evidence or 5
24 into evidence. I apologize

25 MS. DUQUE: No objection.

1 THE COURT: Without objection.

2 (PLF. EXH. 5, Video recording, was marked for
3 identification and received into evidence.)

4 MR. SHEDD: I don't have any further questions.
5 Please answer any that Ms. Duque may.

6 MS. DUQUE: I have no questions, Your Honor.

7 THE COURT: You are excused. Call your next
8 witness.

9 (The witness exited the stand.)

10 MR. SHEDD: State calls Petreia Lesene.

11 THE COURT: Come forward, ma'am.

12 THE CLERK: Raise your right hand, please.

13 * * *

14 PETREIA LESENE

15 being first duly sworn, testified as follows:

16 THE CLERK: Get close to the microphone. Give your
17 full name and spell your last name for the court reporter.

18 THE COURT: You may remove your mask.

19 THE WITNESS: Petreia Lesene, L-E-S-E-N-E.

20 * * *

21 DIRECT EXAMINATION

22 BY MR. SHEDD:

23 Q Good -- I guess it's still barely morning, Ms. Lesene.

24 How are you?

25 A Fine.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Can you just introduce yourself to the jury. Tell them
2 where you live, what do you do.

3 A Petreia Lesene. I stay in Shell Point Apartments. I
4 work at Parris Island serving recruits.

5 THE COURT REPORTER: I'm sorry, you work at
6 Parris Island?

7 THE WITNESS: Serving recruits.

8 BY MR. SHEDD:

9 Q Ms. Lesene, I know we've talked about this before. I need
10 you to be as loud as you possibly can. The plexiglass makes it
11 hard. I want to make sure everybody hears you.

12 So you said you live at the Shell Point Apartments?

13 A Yes, sir.

14 Q How long have you lived there?

15 A Like six or seven years now.

16 Q Are you originally from Beaufort?

17 A Uh-huh.

18 Q Who do you live with at Shell Point?

19 A Me and my two kids.

20 Q And your two kids. What are their names?

21 A Three kids.

22 Q Three kids?

23 A Yeah.

24 Q What are their names?

25 A Celeste, Carter, and Shanya.

1 Q Shanya Higgins?

2 A Yes.

3 Q Do you remember the night of July 15, 2018?

4 A Sort of.

5 Q Were you at home that night?

6 A Yes, sir.

7 Q Do you recall speaking to Shanya about a robbery?

8 A Not the night it happened.

9 Q Shanya didn't call you to tell you that the store had
10 gotten robbed?

11 A No.

12 Q Did you find out that the store had been robbed that
13 night? That night were you made aware that the store had been
14 robbed?

15 A Yes.

16 Q How did you learn that?

17 A From -- I think that she had called or somebody
18 texted her. I'm not sure that night. And Levy came by.
19 Blue came and sat on my steps.

20 Q That night you said Levy and Blue, that's Levy Brown and
21 DeQuan Blue were sitting on your steps that night?

22 A Uh-huh.

23 THE COURT: Did you say yes for the record?

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 BY MR. SHEDD:

2 Q And Levy is the one that told you about the robbery?

3 A Yes, sir.

4 Q And what did Levy tell you?

5 A He just said McDonald's got robbed, and somebody
6 pointed a gun into Shanya's head.

7 Q Did he tell you how long ago the robbery had happened?

8 A No.

9 Q How do you know DeQuan Blue and Levy Brown?

10 A DeQuan is my first cousin. I gave him a place to
11 stay when nobody else would. And Levy, I met him when him
12 and Shanya was working at McDonald's together.

13 Q When you saw the Defendant and DeQuan Blue on your steps,
14 did you expect to see them out there?

15 A No, sir.

16 Q Had you invited them over?

17 A (Witness moves head from side to side).

18 Q Did you have any idea why they were there?

19 THE COURT: Is that a no for the record?

20 THE WITNESS: No. I'm sorry. No, I don't let
21 them intrude on my property like they're saying here.
22 DeQuan used to stay with me. Like I said, it was shocking
23 to me.

24 BY MR. SHEDD:

25 Q Did you notice anything about their physical appearance?

1 A No, sir.

2 Q Did Levy say anything else to you?

3 A No, sir.

4 Q After they -- after the Defendant informed you about the
5 robbery at McDonald's, what did you do next?

6 A Walked to McDonald's to check on my child.

7 Q Did you walk alone?

8 A No.

9 Q Who was walking with you?

10 A Brown and Blue.

11 Q Which way did you-all walk to McDonald's?

12 A The roadway.

13 Q When you refer to the roadway, are you talking about
14 Midtown Drive?

15 A Uh-huh.

16 THE COURT REPORTER: Is that yes.

17 THE WITNESS: Yes.

18 MR. SHEDD: May I approach, Judge?

19 THE COURT: You may.

20 BY MR. SHEDD:

21 Q I'm going to show what's been marked for identification as
22 State's Exhibit 25. I will just ask if that would help you
23 explain or help explain the path that you guys took to
24 McDonald's when you walked up.

25 A Yes, sir.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 MR. SHEDD: Permission to publish this as
2 demonstrative, Judge?

3 THE COURT: You may.

4 BY MR. SHEDD:

5 Q It's a little hard to see on here. Can you tell me what
6 this is up here. Do you recognize this picture?

7 A Yeah. That was the apartment complex in there.

8 Q Is this the Shell Point Apartments where you live?

9 A Yeah.

10 Q Okay. And what's this here? Do you know what this is?

11 A It looks like McDonald's. I am not sure.

12 Q I'm sorry. Can you speak up. I can't hear you.

13 A I said it looks like McDonald's. I'm not sure.

14 Q Is this the area up here where McDonald's and EnMarket are
15 as it relates to Shell Point Apartments?

16 A Yes.

17 Q Do you see these blue arrows on here?

18 A Yes.

19 Q Is that approximately the direction and the way that
20 yourself, Levy, and DeQuan walked back up to McDonald's that
21 night?

22 A Yes, sir.

23 Q Thank you.

24 Now, when you guys got back up there, what did --
25 tell me what you did.

1 A When I got up there, I went to talk to the officer,
2 me and Blue.

3 Q During that time, where was Levy?

4 A I guess at the gas station. I'm not sure.

5 Q Do you remember being contacted by law enforcement on July
6 18, 2018, three days after the robbery?

7 A I don't recall.

8 Q In the past, have you and Shanya, your daughter,
9 interacted on Facebook Messenger?

10 A Yes.

11 Q And did you send Shanya a message on July 18, 2018? Do
12 you recall that?

13 A I don't remember what date it was.

14 MR. SHEDD: Court's indulgence.

15 (A pause transpired.)

16 BY MR. SHEDD:

17 Q I will back up, Ms. Petreia. I asked earlier if anything
18 about the Defendant and DeQuan's physical appearance stood out
19 to you that night.

20 Would it refresh your recollection if I showed you a
21 copy of your statement that you gave to the police?

22 A Uh-huh.

23 THE COURT: Is that yes for the record?

24 THE WITNESS: Yes.

25 THE COURT: The court reporter has a real hard time

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 taking down uh-huh and huh-huh, or a head shake or a head
2 nod.

3 BY MR. SHEDD:

4 Q Just take a look at that and review it and let me know if
5 that refreshes your memory.

6 A Like I said, she probably did call me, but it was
7 2018.

8 Q I understand, Ms. Lesene. What I actually want to focus
9 on is towards the end of the statement.

10 Does that help refresh your recollection as to
11 anything that stood out about the physical appearance of the
12 Defendant on the night that this robbery occurred?

13 A On Levy, it was not hot outside. It wasn't cold
14 outside. He was sweating.

15 Q So he appeared to be sweating?

16 A Yes. High off something. I don't know.

17 Q I'm sorry. I didn't catch that?

18 A I said he was high off some kind of drugs or
19 something.

20 MS. DUQUE: Objection; relevance.

21 MR. SHEDD: I'll move on from that.

22 THE COURT: I think you asked a question that
23 was open-ended. I would agree it's speculation.

24 Ladies and gentlemen, it's an inappropriate question.
25 I want you to just go ahead and strike the question and the

1 answer from your minds.

2 BY MR. SHEDD:

3 Q Just to be clear, he did appear to be sweating?

4 A Yes.

5 MR. SHEDD: Court's indulgence.

6 THE COURT: Yes.

7 (A pause transpired.)

8 BY MR. SHEDD:

9 Q Ms. Lesene, regarding that conversation we had earlier
10 with Facebook Messenger, would it refresh your recollection if
11 I showed you a copy of the report?

12 A Probably would.

13 Q Do you think it might?

14 A Huh?

15 Q Do you think it might refresh your recollection about the
16 Facebook message if I showed you a copy of the report?

17 A It probably would.

18 Q It probably -- I'm sorry?

19 A It probably would.

20 Q Thank you.

21 MR. SHEDD: May I approach, Judge?

22 THE COURT: You may.

23 BY MR. SHEDD:

24 Q I'm showing you a copy of the police report. I actually
25 highlighted a portion there. Can you take a look at that.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Don't read from it. Tell me after reviewing that if that
2 refreshes your recollection.

3 A Uh-huh.

4 Q After reviewing that, do you now remember sending Shanya a
5 message on July 18, 2018?

6 A Yes.

7 Q What was that message?

8 A I texted her. Well, I messaged her and asked her if
9 she had anything to do with it. I did send that.

10 Q Can you speak up with that answer.

11 THE CLERK: Juror can't hear.

12 THE COURT: He can't hear. I appreciate it.

13 Ask the question again. Let her answer again.

14 BY MR. SHEDD:

15 Q After reviewing that, do you now remember a message that
16 you sent to Shanya on July 18, 2018?

17 A Yes.

18 Q What was that message?

19 A If you had something to do with it, turn yourself in.

20 Q That's all you said?

21 A Yes. That I recall. Like I said, it was 2018. So
22 much has happened after that happened.

23 MR. SHEDD: Court's indulgence.

24 THE COURT: Yes.

25 (A pause transpired.)

1 THE COURT: While you're doing that, if you want to
2 stand up and take a stretch, you're welcome to.

3 (A pause transpired.)

4 BY MR. SHEDD:

5 Q Ms. Lesene, do you remember meeting with myself and
6 Samantha and Julian at the courthouse on March 10th of this
7 year around 3:40 in the afternoon?

8 A Yes.

9 Q Do you remember telling us that you sent a Facebook
10 message to Shanya that said: You all ass-planned that shit?

11 A I don't remember that message. Show me that now.

12 Q Do you remember admitting to us in that meeting that you
13 sent that message to Shanya?

14 A Yes, I do.

15 Q You do remember that?

16 A Yes.

17 Q Do you see either of the men that were sitting outside of
18 your apartment on July 15, 2018 who told you about the robbery
19 in the courtroom today?

20 A No.

21 Q Do you see -- earlier in your testimony you said that Levy
22 Brown told you about the robbery; correct?

23 A Yes.

24 Q Is Levy Brown in the courtroom?

25 A I don't see him.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q You can stand up.

2 A No.

3 Q How long have you known Levy Brown?

4 A Not for a long time 'cause I just met him. I didn't
5 really meet him until they were working at McDonald's
6 together. So they used to go on breaks together, him and
7 Shanya. And I met him there at her work.

8 MR. SHEDD: Court's indulgence.

9 (A pause transpired.)

10 MR. SHEDD: I don't have any further questions.
11 Please answer any questions that Ms. Duque may have.

12 THE COURT: Yes, ma'am.

13 MS. DUQUE: Thank you, Your Honor.

14 * * *

15 CROSS-EXAMINATION

16 BY MS. DUQUE:

17 Q Good afternoon, Petreia.

18 A Uh-huh.

19 Q I just have a couple of questions for you just briefly.
20 Shanya is your daughter; right?

21 A Yeah.

22 Q She was friends with my client, Mr. Brown?

23 A Yes.

24 Q They used to hang out?

25 A Yes.

1 Q All the time?

2 A If you can say that.

3 Q It is possible that when this incident happened she may
4 have texted him; right? She may have sent him a text message
5 letting him know about the robbery?

6 A Who?

7 Q Shanya to Levy or Blue.

8 A Oh, I don't know.

9 Q So you don't know. They were friends; right?

10 A Yeah.

11 Q They talked on the phone perhaps?

12 A Yeah, or either --

13 Q Or texted?

14 A I guess. I don't know.

15 Q Friends on Facebook maybe?

16 A I don't know, ma'am.

17 Q They were friends?

18 A Yeah.

19 Q And they spent time together?

20 A I guess. Like I said, I'll be at work. I'm not
21 about to --

22 Q And your daughter, she was working the night of this
23 incident; right?

24 A Yeah.

25 Q And she was also charged in this armed robbery; right?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A She was charged with accessory after the fact.

2 Q She was charged?

3 A Okay. Yeah, I guess.

4 Q And you said that you lived at the Shell Point Apartments
5 for about six years?

6 A Uh-huh.

7 Q You're familiar with that neighborhood?

8 A Uh-huh.

9 THE COURT: That's a yes for the record?

10 THE WITNESS: Yes.

11 BY MS. DUQUE:

12 Q And the Shell Point Apartments, the layout of the
13 apartments, there's cut-paths through there; right?

14 A There's what?

15 Q Cut-paths, like paths to go in and out through the
16 woods?

17 A Yeah, back by the dumpster.

18 Q By the dumpsters?

19 A Yes.

20 Q Speaking of those dumpsters, they don't always pick up the
21 garbage on time, do they?

22 A I don't know. I be at work.

23 Q So you don't ever take the garbage out?

24 A I have my kids take it out.

25 Q Your kids take the garbage out. There is a chance that

1 clothes and garbage is sometimes around the neighborhood, per
2 se?

3 A By the dumpster, yes.

4 Q By the dumpsters and sometimes by the bushes?

5 A I guess. I don't know.

6 Q Let's see. Earlier you testified that my client appeared
7 to be sweating.

8 A Uh-huh.

9 Q Ma'am, it's a little bit cold today; right?

10 A Well, probably hot outside now.

11 Q It was colder earlier; right?

12 A Yeah.

13 Q It is starting to get hot; right?

14 A I don't know. I have been in here.

15 Q No. I mean lately here in Beaufort it is starting to get
16 kind of hot; right?

17 A You keep talking about that, yes.

18 Q July gets really hot here in Beaufort?

19 A Okay.

20 Q So there is the chance that Levy and Mr. Blue, while they
21 were hanging out outside of your apartment -- that they were
22 just hot and sweaty?

23 A Ma'am, it was 1 o'clock, 2 o'clock in the morning.

24 Why would they even be outside on my steps anyway.

25 Q I'm sorry. It's been a couple of years.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Right.

2 Q When this whole thing happened, it was like 11:30, 10:48
3 at nighttime. They were not outside your apartment at 1:00 in
4 the morning?

5 A I don't remember what time it was. Like I said, it
6 was 2018.

7 Q I know. They were not out at 1:00 in the morning. This
8 robbery happened early.

9 A Okay. Like I said, I don't know what time it was.

10 Q It's hot here in Beaufort in the summertime; isn't it?

11 A Yeah.

12 Q When you were walking with Levy and DeQuan because you had
13 to check on your daughter, you guys walked on Midtown Road. It
14 was Levy and Blue; right?

15 A Yeah.

16 Q And they were with you?

17 A Yeah.

18 Q At any time while you were walking with them, did you see
19 my client throw anything towards the bushes?

20 A I was in front of them.

21 Q Did you hear any tossing behind you?

22 A No.

23 MS. DUQUE: Court's indulgence.

24 (A pause transpired.)

25 MS. DUQUE: That's all the questions I have, Ms.

1 Lesene.

2 THE COURT: Any redirect?

3 MR. SHEDD: No redirect, Judge.

4 Any objection to this witness being excused?

5 MS. DUQUE: No, ma'am.

6 MR. SHEDD: None from the State.

7 THE COURT: You are excused.

8 Who is your next witness?

9 (The witness exited the stand.)

10 MR. SHEDD: Brandy Dewitt.

11 THE COURT: Fairly short?

12 MR. SHEDD: Yes, Your Honor.

13 THE COURT: Ms. Dewitt, come forward here.

14 THE CLERK: Good afternoon. Raise your right hand,
15 please.

16 * * *

17 BRANDY NICOLE DEWITT

18 being first duly sworn, testified as follows:

19 THE CLERK: Give your full name and spell your last
20 name for the court reporter.

21 THE WITNESS: Brandy Nicole Dewitt.
22 D-E-W-I-T-T.

23 * * *

24 DIRECT EXAMINATION

25 BY MR. SHEDD:

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Ms. Dewitt, how are you doing today?

2 A I'm well. How are you?

3 Q I'm good. Sounds like your volume is good right now. We
4 want to make sure we continue to talk loud because of the
5 plexiglass. I want to make sure everyone in the jury can hear
6 you.

7 A Okay.

8 Q Can you introduce yourself. Where do you work? Where do
9 you live generally?

10 A My name is Brandy Dewitt. I live in Hampton County.
11 I currently work for Hampton County.

12 Q Before that, where did you work?

13 A With EnMarket.

14 Q How long did you work for EnMarket?

15 A Nearly five years.

16 Q Have you ever worked at the EnMarket on Parris Island
17 Gateway?

18 A I have.

19 Q Were you working there in July of 2018?

20 A I was.

21 Q Is EnMarket a 24-hour store?

22 A That's correct.

23 Q Do you recall working on July 15, 2018?

24 A I do.

25 Q And are you familiar with the Defendant, Mr. Levy Brown?

1 A I am.

2 Q How do you know Levy?

3 A He was a regular customer of ours. He stopped in
4 there multiple times during the day when he was at work or
5 when he got off.

6 Q Did the defendant come into EnMarket on Parris Island
7 Gateway while you were working that night?

8 A He did.

9 Q I'm going to show you what's been previously admitted as
10 State's Exhibit Number 5. I will just ask you a few questions
11 about it, okay.

12 (A pause transpired.)

13 BY MR. SHEDD:

14 Q Can you see that, Ms. Dewitt?

15 A I can.

16 Q We are just going to play this video through, and I will
17 talk about it throughout, okay.

18 (Video played.)

19 BY MR. SHEDD:

20 Q Is that you?

21 A That is.

22 Q Is that inside of the EnMarket?

23 A Yes, sir.

24 Q Do you remember if at this time Levy Brown is inside the
25 store?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A You can see his legs at the bottom of the screen.

2 Q Does he appear to be wearing shoes?

3 A He is not.

4 Q Do you recall interacting with him that night?

5 A I do. We had a small conversation in regards to his
6 appearance. He was sweating profusely, and he didn't have
7 any shoes on.

8 Q And you noticed that immediately?

9 A I did.

10 Q How did you know he wasn't wearing shoes immediately?

11 A Generally when customers walk in, that's the first
12 thing that I look for, shoes and a shirt. It's standard,
13 custom. To me it shows you are required to have shoes and
14 shirt on to enter the building.

15 Q Did you ask him about that?

16 A I did. He said that he had just run from the
17 apartment complex behind us. He had received a phone call
18 from his cousin.

19 Q Was it hot that night?

20 A No, sir.

21 Q Did he tell you anything else?

22 A Mr. Levy stated that when he received the phone call,
23 he ran from the apartment complex and that he had to
24 discard a weapon.

25 Q Did he say what kind of weapon?

1 A He just said a handgun. He didn't mention a model.

2 Q It was a handgun?

3 A Yes.

4 MR. SHEDD: May I approach, Judge?

5 THE COURT: You may.

6 BY MR. SHEDD:

7 Q. I will show you what has been previously identified as
8 State's Exhibit 23.

9 Do you recognize that?

10 A Yes, sir.

11 Q Are there portions of EnMarket on there?

12 A The rear of the building that faces towards
13 McDonald's.

14 Q Are those portions a fair and accurate depiction of what
15 was captured by the camera?

16 A Yes, sir.

17 MR. SHEDD: At this time, the State would move
18 State's 23 into evidence?

19 MS. DUQUE: No objection.

20 THE COURT: Without objection.

21 (PLF. EXH. 23, Video recording, was marked for
22 identification and entered into evidence.)

23 BY MR. SHEDD:

24 Q I will go ahead and play this video a lit bit further,
25 Ms. Brandy, while we talk about that.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 (Video playing).

2 BY MR. SHEDD:

3 Q Are you interacting with Mr. Brown at this point?

4 A Yes, sir.

5 Q You are. Okay.

6 Who's that, that just walked up to the counter?

7 A Mr. Levy.

8 Q You said you noticed he was sweating. Can you give me a
9 little more detail about that. What did you see?

10 A His shirt and his face, you could see where he had
11 been sweating a lot. It wasn't like he just started
12 sweating.

13 Q Just so we're clear, do you see the person that was
14 sweating in EnMarket at this time after the robbery in the
15 courtroom today?

16 A I do, yes, sir.

17 Q Can you describe something that he is wearing.

18 A A navy blue and light blue gray tie on.

19 MR. SHEDD: Thank you.

20 Your Honor, may the record reflect that the witness
21 has identified the Defendant.

22 THE COURT: Yes.

23 MR. SHEDD: Court's indulgence.

24 THE COURT: Yes.

25 (A pause transpired.)

1 MR. SHEDD: I don't have any further questions,
2 Ms. Dewitt. Please answer any questions that Ms. Duque
3 may have.

4 THE COURT: Ms. Duque.

5 MS. DUQUE: Thank you, Your Honor.

6 * * *

7 CROSS-EXAMINATION

8 BY MS. DUQUE:

9 Q Ms. Dewitt; right?

10 A Yes.

11 Q How are you?

12 A Good.

13 Q During your direct, your statement was that my client
14 appeared sweaty; right?

15 A Correct.

16 Q It wasn't hot that day?

17 A It wasn't.

18 Q Summers here in Beaufort tend to be really hot; correct?

19 A During the day, yes.

20 Q For July 15, 2018, the high was 88; correct?

21 A Possibly. I don't recall the exact temperature.

22 Q Okay. That is hot; right? 88?

23 A Near the water not really. We get the breeze off the
24 coast.

25 Q But it's also humid; right?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A It can be.

2 Q It gets really humid in the south?

3 A It can be, yes.

4 Q That could cause you also to sweat; right?

5 A It can.

6 MS. DUQUE: Those are all the questions I have,
7 Your Honor.

8 THE COURT: Anything else?

9 MR. SHEDD: No redirect, Judge.

10 THE COURT: Any objection to Ms. Dewitt being
11 excused?

12 MR. SHEDD: None from the State.

13 THE COURT: Call your next witness.

14 (The witness exited the stand.)

15 MR. SHEDD: State calls Sandy Whitmore.

16 THE CLERK: Raise your right hand.

17 * * *

18 SANDY WHITMORE

19 being first duly sworn, testified as follows:

20 THE CLERK: You may take your mask off. Give your
21 full name and spell your last name for the court reporter.

22 THE WITNESS: Sandy Whitmore, W-H-I-T-M-O-R-E.

23 * * *

24 DIRECT EXAMINATION

25 BY MR. SHEDD:

1 Q Ms. Sandy, how are you doing today?

2 A Fine.

3 Q I will try to get you up and out as fast as I can, okay.

4 Can you just sort of introduce yourself. What do you do?

5 Where are you from? Just give me a little background.

6 A Born and raised in New York.

7 Q What kind of work do you do?

8 A I am an usher.

9 Q In the past, have you worked at McDonald's?

10 A Yes.

11 Q Did you previously work at the McDonald's on Parris Island
12 Gateway?

13 A Yes.

14 Q Were you working there on July 15, 2018?

15 A Yes.

16 Q Do you remember that night?

17 A Yes.

18 Q Can you just tell the jury what happened that night.

19 A Yes. As I recall, I think about 11 o'clock my
20 manager said: You have an order.

21 I said: How could we have an order? We're supposed
22 to be closed, the doors supposed to be locked. So I just stood
23 there. I'm the cook. I stood there waiting for the order to
24 come on the screen. Nothing came up.

25 I seen one guy came in. He went back to the manager

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 and said something to her. The other guy walked past me. He
2 didn't see me standing in the cooking area. I was just
3 standing there. He just came and just put a gun to my head. I
4 didn't know what to do, so I just stood there.

5 And he just said go into the freezer. I just got in
6 the freezer. That's when I dialed 911.

7 MR. SHEDD: Ms. Sandy, I do not have any further
8 questions for you. Please answer any questions that
9 Ms. Duque has.

10 THE COURT: Ms. Duque.

11 MS. DUQUE: Thank you, Your Honor. May it please the
12 Court.

13 * * *

14 CROSS-EXAMINATION

15 BY MS. DUQUE:

16 Q Ms. Whitmore, how are you?

17 A Fine.

18 Q I am also from New York. Very different.

19 The day that this incident happened, you saw the
20 first suspect walk in; right?

21 A Yes.

22 Q This man was head-to-toe wearing black; right?

23 A Yes.

24 Q And you weren't able to see that person's face; right?

25 A No.

1 Q Were you able to see whether that person was black, white,
2 Hispanic?

3 A No.

4 Q And you did hear that person say something to the manager;
5 right?

6 A Yes, ma'am.

7 Q And when you heard him talking with the first person, when
8 you heard that person talking with Ms. Krebs, were you able to
9 recognize his voice?

10 A No.

11 Q It was a male's voice; right?

12 A Yes.

13 Q You worked at the McDonald's. And my client, Mr. Brown,
14 also worked at McDonald's; right?

15 A Yes.

16 Q You worked with him in the same shift before?

17 A I don't think so.

18 Q Never?

19 A I don't think so.

20 Q Okay. And that was the first time -- this was the second
21 suspect; right?

22 A Yeah.

23 Q He's the one that tells you to get into the freezer;
24 right?

25 A Yes, ma'am.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q This other man, you didn't see his --

2 A No.

3 Q -- face?

4 A No.

5 Q No identifying information?

6 A No.

7 MS. DUQUE: That's are all the questions I have, Your
8 Honor.

9 Thank you, Ms. Whitmore.

10 THE COURT: Anything?

11 MR. SHEDD: Nothing further.

12 THE COURT: Ms. Whitmore, you may be excused.
13 Thank you.

14 (The witness exited the stand.)

15 THE COURT: Now is a good time for a break.

16 Ladies and gentlemen, I think now is a good time
17 for us to take our lunch break. It's a little earlier
18 than usual, but I think it's a good time. The next
19 witness may be a little longer.

20 Ladies and gentlemen, I need to tell you that over
21 the lunch hour, do not discuss this case with anyone. It won't
22 be appropriate to do so.

23 If you talk to someone at home, a family member,
24 friend, or a colleague or someone at work, the only thing you
25 are permitted to say is you have been chosen in the jury of a

1 trial in a criminal case. You cannot say the charges, the
2 lawyers involved, the parties involved. The reason is somebody
3 will try to tell you something about something when they know
4 nothing about this case. That would be inappropriate for them
5 to do so.

6 The only thing I ask is that you go out and get a
7 quick bite to eat. Are you all okay with being back at,
8 roughly, 1:45? Gives you a little more than an hour to be able
9 to grab something. Tom or any of the bailiffs can tell you
10 where to grab a quick bite to eat locally, if you are not from
11 Beaufort or elsewhere on the island. If you will be back at
12 1:45, we will continue with the case.

13 I appreciate you-all's attention. You have been
14 wonderful. We will just keep going. Thank you.

15 (The jury exited the courtroom.)

16 THE COURT: All right, Mr. Shedd. Tell me, are
17 we going fast? Slow? Where are you as far as your
18 witnesses?

19 MR. SHEDD: Actually going relatively fast.

20 THE COURT: Do you think you will be able to put
21 everyone up today, potentially?

22 MR. SHEDD: Potentially. I think that is
23 possible.

24 THE COURT: For your witnesses, are they not
25 coming until tomorrow?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 MS. DUQUE: Tomorrow morning.

2 THE COURT: Be here first thing tomorrow
3 morning, if that's what we need to do.

4 MS. DUQUE: Yes, ma'am.

5 THE COURT: Grab a bite to eat, y'all.

6 (A luncheon recess transpired.)

7 (Jury enters courtroom.)

8 THE COURT: You all may be seated. Thank you ladies
9 and gentlemen. I apologize that we were running a little bit
10 behind. I had another matter I had to take up during the lunch
11 hour. So we have just finished, and we are ready to continue
12 with this case.

13 Call your next witness, Mr. Shedd.

14 MR. SHEDD: Thank you, Your Honor. The State calls
15 Suzanne Krebs.

16 THE CLERK: Raise your right hand.

17 * * *

18 SUZANNE KREBS

19 being first duly sworn, testified as follows:

20 THE CLERK: Give us your full name and spell your
21 last name.

22 THE WITNESS: Suzanne Krebs, K-R-E-B-S.

23 * * *

24 DIRECT EXAMINATION

25 BY MR. SHEDD:

1 Q Ms. Suzanne, take your time. I am going to ask you a few
2 questions. Just take your time. If you need to take a minute,
3 you can do that; okay?

4 A Yes.

5 Q Would you mind just introducing yourself to the jury. I
6 know you already said your name. Would you just tell them
7 where you are from and what type of work do you do.

8 A I am from Maryland. I moved to South Carolina because my
9 grandkids are here. I teach autistic children.

10 Q How long have you been doing that?

11 A This is my 15th year. I am just sort of in between. I
12 don't have a teaching degree, but I'm in college to get that.

13 Q I know that can be a grueling experience. I appreciate
14 your taking the time.

15 In the past, have you ever worked at McDonald's?

16 A Yes.

17 Q Did you work at the McDonald's on Parris Island Gateway?

18 A I did.

19 Q Is that in Beaufort County?

20 A Yes.

21 Q Were you working at that McDonald's on July 15, 2018?

22 A Yes.

23 Q At that time what was your role? What was your
24 position?

25 A I was an assistant manager.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q As an assistant manager, what were some of your
2 duties?

3 A I was responsible for -- there are three different
4 departments. Mine was called customer service. I
5 basically did customer matrixes and community things.
6 Trained the crew on how to be polite.

7 Q As a customer service manager, were you responsible for
8 overseeing shifts?

9 A Yes. I also trained other managers.

10 Q Were you the manager in charge on July 15, 2018?

11 A Yes, I was.

12 Q Do you remember that night?

13 A Yes.

14 Q As we go through it again -- just take your time if you
15 need to. We are just having a conversation.

16 Can you tell the jury -- sort of start from around
17 10:45ish that night. Can you tell them what was going on?

18 A I was in the office in McDonald's. There is no door.
19 It's like an open area. You can see out to the front
20 counter. They have a counter system that has cameras all
21 around the building. I was counting some of the other
22 tills, cash register tills, that you can take out. The
23 only register we had open was the drive-thru.

24 We closed at 11:00. I was counting the other ones.
25 I noticed in the camera I saw two people walking up the

1 drive-thru lane. It was hot. You could see in the camera --
2 sometimes you can see the asphalt real hot. You can sort of
3 see it coming up off of there when you go out to your car at
4 night.

5 They had sweat shirts with hoods on. I thought, that
6 is weird. Maybe they got cold in the air-conditioning. I
7 don't know. Something weird went through my head.

8 There was a lady that was in the grill area cleaning
9 up for the night and cooking the last little bit of orders
10 that we were getting. I said, Ms. Sandy, some people are
11 coming. She was about ready to put the rest of the meat
12 away in the freezer. I put my money back in the safe and
13 went to go look to make sure -- our doors were already
14 locked -- just to see where they were going. They were
15 coming up towards our building when I saw them in the
16 camera.

17 Q Ms. Krebbs, I am going to slow you down a little bit. We
18 will work through there a little bit at a time, okay.

19 Was it normal for you to check the cameras while you
20 were working?

21 A Yeah. It was right there in the office. From time
22 to time, I would look in the drive-thru line. You could
23 see headlights if there were multiple cars in line.

24 Q It was helping you to identify whether there were
25 customers coming in or whatever. It was regular for you to do

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 that?

2 A Yeah.

3 Q I am sorry if you already said this and I missed it. At
4 that time around 10:45 would the doors have been locked?

5 A Yes. We lock the doors like an hour ahead of time
6 for the seating area where people sat before the virus ate
7 in the store. We cleaned that before we were actually
8 closed, closed. Usually that last hour gave them time to
9 sweep and mop and trash. Things like that.

10 Q After the doors are locked to the lobby, are employees
11 supposed to leave?

12 A No?

13 Q Did any employees leave that night?

14 A I had not seen them go out the door, but an employee
15 did go out the door. We were like right next to a gas
16 station/convenience store. I guess she went over to
17 there.

18 Q So you are preparing -- you are counting the tills. You
19 are in the office. You see some movement on the surveillance
20 footage. You said they were wearing hoodies. You started to
21 say you didn't know if they were in air-conditioning or not.
22 Did that strike you as odd?

23 A Yeah. In the camera as well, I could see the vapor
24 coming off the parking lot. It was hot. Even though it
25 was night, it was still hot. I thought, they have sweat

1 shirts on. It's awful hot out. I didn't say it. I just
2 thought it.

3 Q Now, we will go back to where you were a second ago. You
4 look at the camera, and you tell Ms. Sandy, hey. There are
5 some customers coming in. What do you do next?

6 A I could see they were getting ready to come on to the
7 sidewalk. They were in the drive-thru lane. Our doors
8 were locked. I didn't think they were coming in the
9 building. I was trying to figure out -- I don't know. I
10 just thought it was odd. I put all the money away, and I
11 told Ms. Sandy that some people were outside. You are not
12 allowed to walk through the drive-thru, so I was trying to
13 figure out what they were doing.

14 Q What was the next thing you remember after that?

15 A I guess I turned around to go out to see -- I guess I
16 was going to look out the door. I don't know. I turned
17 around, and there was a robber there. He had on all
18 black. I couldn't see any part of their faces. It wasn't
19 just like a mask. It was a whole thing. It was thicker
20 than nylon. Real dark. I couldn't see.

21 Q Where was the robber standing?

22 A Like right maybe within a foot of where the door area
23 is to go in the office. I just shut everything up and was
24 turning around to go.

25 Q Did you notice anything else about the robber's physical

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 appearance? Was he tall or short?

2 A He was tall. The hood just covered all of it. And
3 the face was all -- you couldn't see.

4 Q You said that there was a robber there. How did you know
5 it was a robber?

6 A They had a gun in their hand.

7 Q Was it a handgun?

8 A It wasn't long.

9 Q Did the robber say anything to you?

10 A Like, where is the safe? I got really scared. I
11 crouched in the corner and put my hands over my head, and
12 I was begging them not to shoot me. I said, I can't get
13 in. He said, I will just shoot you right now. I was so
14 scared. They were saying to open up the safe. I did. I
15 just wanted to do whatever they wanted me to do. I was so
16 scared. So I opened the up the safe and I just, like,
17 kind of like tossed the money towards them.

18 Q Ms. Suzanne, just take a minute. The robber asked, where
19 is the safe. How did the robber expect you to give the money
20 to him?

21 A I think they said something like, give me the safe
22 bag. I thought there are some McDonald's that have this
23 box that sucks the bills in. Our store didn't have that.
24 It was an older setup. We put them in plastic bags and
25 wrote on the amount and made a deposit slip and went to

1 the bank.

2 It just sort of -- it just sort of clicked in my
3 head. How did they know I have a bag in there? Or what do
4 they know? It just felt like they knew procedure or something.

5 I was just -- so many thoughts were going through my
6 head at that time. Everything you think of before you might
7 die. They said, give me the bag. Give me all the money in the
8 safe. We had a cash amount that we kept. Sort of a bank in
9 the store. We would put change in the registers. So there was
10 that amount of money plus money that we had collected from
11 customers that day.

12 Q Do you remember how you gave them the money?

13 A No. I think it was like that big. I don't remember
14 exactly.

15 Q That is okay. So after the money was given to the
16 robbers, what happened next?

17 A It was actually two robbers. The shorter one said, get in
18 the freezer or get in the refrigerator. Then they just opened
19 the door for me to walk in. Most McDonald's have doors locked,
20 but our door was broken. It had been broken for a while. We
21 didn't have to use a key for it. They just yanked the door
22 open. It clearly has a key thing on the front. I don't know
23 how they would know that they wouldn't have to use a key for it
24 or how they knew all these other things, but they did.

25 He held the door for me and I went in. Then my people

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 were all actually in there. They were in the freezer part.
2 One of them said -- you go into the refrigerator, and then
3 there is another door and then there is the freezer. So they
4 are in an interconnected rooms.

5 One of them said, go into the freezer part. When I
6 went into the freezer part, my people were all in there. I was
7 so thankful that they were all okay.

8 Q Ms. Suzanne, have you had an opportunity before today to
9 review surveillance footage from that night?

10 A I did.

11 Q I will show you what has been admitted as State's 23.

12 I will show you a portion of the video.

13 (Video played.)

14 BY MR. SHEDD:

15 Q Ms. Suzanne, do you recognize that person?

16 A Yes.

17 Q Who is that person?

18 A Me.

19 Q Is this video from July 15, 2018, the day of the robbery?

20 A Yes.

21 Q I am just going to show you a small portion of this. If
22 you don't mind watching it, I will ask you a couple of
23 questions afterward.

24 (Video played for the jury.)

25 Q So after watching that portion of the surveillance, do you

1 remember putting the money into a bag?

2 A Yes. It looks like a black bookbag. The first
3 drawer that I had was something called the till drawer --
4 I mean, the safe drawer. The bills that we collected from
5 the shifts that were from all the other registers, we
6 combined it in that and then started putting it into a
7 bag. That's why there was like bills all the way across
8 from it.

9 Q When you were forced into the freezer -- the video appears
10 to show you pulling the door shut. Is there a reason why you
11 did that?

12 A Like I said, the lock was broken from the outside.
13 If you pull it really good on the inside, it will click.
14 And we were safe that way. They wouldn't come back after
15 us and kill us.

16 Q Are you familiar with Mr. Levy Brown?

17 A Yes.

18 Q How do you know Levy Brown?

19 A He was an employee at our store.

20 Q At the time of this robbery or before then?

21 A It was before then.

22 Q Did you have any lasting effects from this robbery,
23 Ms. Suzanne?

24 A I don't know if I'm allowed to say this, but at the
25 time of the robbery it was a robber. I didn't know who it

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 was because it was just a scary person. I didn't know it
2 was him.

3 I had worked with him for several months. He was
4 actually in the management training program. He was my
5 mentoree. I treated him like my kid. I drove him home, I gave
6 him free food. I listened to his troubles, and he put a gun
7 against my head.

8 How can you do that to somebody who is good to you?
9 I had really bad PTSD for a long time. I couldn't sleep. I
10 was scared at night. It was really bad. And having to relive
11 all of this again has just brought it back.

12 MR. SHEDD: Thank you, Ms. Suzanne.

13 Court's indulgence, briefly.

14 (A pause transpired.)

15 MR. SHEDD: Judge, at this time State would move
16 State's Exhibit 24 into evidence.

17 THE COURT: Without objection.

18 MS. DUQUE: No objection, Your Honor.

19 THE COURT: Without objection, admitted into
20 evidence.

21 MR. SHEDD: Permission to publish?

22 THE COURT: You may.

23 (PLF. EXH. 24, Video recording, was marked for
24 identification and entered into evidence.)

25 BY MR. SHEDD:

1 Q Ms. Krebs, were you working earlier in the day on July
2 15th as well?

3 A I was. I came in, I think, at 3 o'clock that day.

4 Q Before today, have you had an opportunity to review some
5 surveillance from earlier in that day?

6 A Yes.

7 Q Was the Defendant Levy Brown up at McDonald's earlier in
8 the day?

9 A He was.

10 Q I will show you a short video.

11 (Video played.)

12 BY MR. SHEDD:

13 Q Do you recognize either one of those individuals, Ms.
14 Krebs?

15 A Yes.

16 Q Which one?

17 A The one wearing the bookbag.

18 Q Who is that?

19 A Levy Brown.

20 Q Who is that in the red shirt?

21 A That was me.

22 MR. SHEDD: Thank you. I do not have any
23 further questions for you, Ms. Krebs. Thank you for
24 bearing with me. Please answer any questions that
25 Ms. Duque has.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

* * *

CROSS-EXAMINATION

BY MS. DUQUE:

Q Good afternoon, Ms. Krebs. Do you need a moment? I will try to be quick so you don't have to be up there for so long, okay.

I just want to briefly go back to when you were at the McDonald's and these individuals walked in. You saw these individuals on the security on your cameras; right? When you saw them walking on the drive-thru, you weren't able to see their faces; right?

A No.

Q You weren't able to determine at that time whether they were black, white, or Hispanic; right?

A No.

Q These individuals walked into the McDonald's. One goes to your office; right?

A Yes.

Q And this is a man that is also dressed completely in black. You said that you couldn't see anything?

A No.

Q You weren't able to see not even his eyes?

A No.

Q Any skin color?

A No.

1 Q You weren't able to see if he was white, black, or
2 Hispanic?

3 A No.

4 Q Make sure that you answer so the court reporter can get
5 your statements.

6 A Can you hear me?

7 Q So then -- so you were not able to tell their race;
8 right?

9 A No.

10 Q I want to talk a little bit about the man who you had an
11 encounter with. Let's call him suspect number 1.

12 Suspect number 1, he goes in there and he's pointing
13 this gun at you; right? He's telling you -- asking you where
14 is the safe; right?

15 A Yes.

16 Q Then he asks for the bag; right? Then he asked -- he
17 asked you to give him the money; right?

18 A Yes.

19 Q At this time when you heard him talking to you, did you
20 recognize his voice?

21 A Not really. I barely knew -- he was the robber, the
22 tall robber. That is the one that I see in my mind.

23 Q Tall robber, wearing everything just dark; right?

24 Now, I want to talk a little bit about Levy,
25 Mr. Brown. He was a rising possible manager for McDonald's.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 He was in that training program and you were training him;
2 right?

3 Is that a yes for the record.

4 A Yes, he was.

5 Q For how long did you know Levy for?

6 A Maybe a year.

7 Q And he worked under you sometimes; right?

8 A Yes.

9 Q Because he was training to become a manager, he had his
10 own code to get into the safe; right?

11 A No.

12 Q He didn't?

13 A No.

14 Q Who had the code to get into the safe?

15 A He hadn't been granted that yet.

16 Q He hadn't been granted that yet, okay. But he knew where
17 the safe was located; right?

18 A Yes.

19 Q Because he worked at McDonald's?

20 A Yes.

21 Q And you gave him rides; right? You provided him with --
22 you gave him rides to and from work sometimes?

23 A I did. I gave a lot of crew people rides because
24 they didn't have cars.

25 Q I heard because he did not have a car.

1 You also said you listened to his troubles; right?

2 A When you're driving with somebody, they tell you they
3 had a fight with their girlfriend or whatever was going on
4 with their life.

5 Q And you said that he was like a son to you, per se; is
6 that right?

7 A Yes. I didn't do anything that I wouldn't have done
8 for another crew person, but I'm a little older lady. I
9 treated these kids -- a lot of them came from broken homes
10 and crazy things. And they all talked to me all the
11 time.

12 Q Levy talked to you a lot; right?

13 A In the beginning I didn't work with him that much.
14 He usually cooked food, and I wasn't usually cooking
15 food.

16 Q Eventually you and Levy talked about stuff?

17 A Yes.

18 Q But yet the night of this incident as this man is telling
19 you to give him the bag, where is the safe, give me all the
20 money, you didn't recognize his voice? Levy's voice;
21 correct?

22 A Like I said, in my head I thought I was going to
23 die.

24 Q Let me talk now about Suspect Number 2. This is the man
25 that put you in the freezer; right?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Correct.

2 Q After Suspect Number 1 gets all the money and he leaves,
3 Suspect Number 2 tells you to go in the freezer; right?

4 A Yes.

5 Q Then he tells you to go in the freezer, right? Not that
6 many people knew that that freezer was there; right?

7 When you go into the freezer, your crew members are
8 all in there; right?

9 A All except one.

10 Q All except one. Ms. Smalls, who was able to leave?

11 A She had been cleaning in the lobby. When they came
12 in the door with the masks on, she ran out the front lobby
13 door and called 911.

14 Q She was able to leave. And then her boyfriend magically
15 knew all of you were in the freezer and opened the door.

16 A Because every fast food that gets robbed, they make
17 you go to the freezer. That is normal.

18 Q This had already happened to you; right?

19 A Yes.

20 Q Back in 2017?

21 A Yes.

22 Q Similar set of facts and you end up again in the freezer;
23 right?

24 A Yes.

25 Q That man who robbed the McDonald's, that wasn't Levy

1 either; right?

2 A I don't know who it was.

3 MS. DUQUE: Court's indulgence.

4 (A pause transpired.)

5 BY MS. DUQUE:

6 Q Just one more thing, Ms. Krebs, and I'll be done. I
7 promise.

8 The suspect appeared to be familiar with the
9 McDonald's. It is a fact that fast food restaurant tend to
10 have a lot of turnover ratio, right? People quit? And when
11 people quit, is it a tendency of your restaurant, to your
12 knowledge, to change procedures, to change the way you do
13 things once an employee quits or is fired?

14 A When a manager quits, the locks are changed and the
15 codes are changes things like that or gets fired. If crew
16 people leave or even crew trainers, just somebody that's
17 being trained, we don't necessarily change anything.

18 Q He didn't have any of those codes or any of that stuff
19 with this McDonald's?

20 A That door is a key lock, so he didn't have keys.

21 Q He didn't have the codes to get in the safe either?

22 A Well, I let him use mine.

23 Q So he had yours, and he knew yours?

24 A I don't know if he knew it or not. I spoke it to him
25 when he was in there with me. I don't know if he wrote it

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 down because he never ran a shift by himself.

2 Q Just briefly, I'm sorry. Whenever he was your employee,
3 whenever he was at the register, did his till ever come short,
4 to your recollection?

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

6 Q When he was your employee, how was he as an employee?

7 A He was a hard worker, but he had a lot of attendance
8 issues.

9 Q Because he didn't have a car; right?

10 A I don't know what the reason was.

11 MS. DUQUE: Those are all the questions I have,
12 Ms. Krebs. Thank you.

13 THE COURT: Hang on a second.

14 Anything further?

15 MR. SHEDD: Very briefly, Judge.

16 * * *

17 REDIRECT EXAMINATION

18 BY MR. SHEDD:

19 Q Ms. Krebs, Ms. Duque just asked you about the robber's
20 voice. In that moment, what were you focused on?

21 A Not dying.

22 THE COURT: Anything further?

23 MR. SHEDD: No further questions.

24 MS. DUQUE: No, Your Honor.

25 THE COuRT: Any objection to Ms. Krebs being

1 excused?

2 MR. SHEDD: No, Your Honor.

3 THE COURT: You are excused. Thank you ma'am.

4 Call your next witness.

5 (The witness exited the stand.)

6 MR. SHEDD: The State calls David Tafoya.

7 THE CLERK: Raise your right hand.

8 * * *

9 SGT. DAVID TAFOYA

10 being first duly sworn, testified as follows:

11 THE CLERK: You may take off your mask. Give us your
12 full name and spell your last name for the court reporter.

13 THE WITNESS: David Tafoya, T-A-F-O-Y-A.

14 * * *

15 DIRECT EXAMINATION

16 BY MR. SHEDD:

17 Q Deputy Tafoya, where do you work?

18 A Beaufort County Sheriff's Department.

19 Q What's your rank?

20 A Sergeant.

21 Q Currently, what is your position?

22 A Currently I'm an investigator.

23 Q How long have you been an investigator?

24 A One month.

25 Q What did you do before you were in investigations?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A I worked on the patrol division.

2 Q At some point were you a member of the bloodhound team?

3 A Yes, I was.

4 Q How long were you on the bloodhound team?

5 A Around three years.

6 Q Were you on the bloodhound team July 15, 2018?

7 A Yes, I was.

8 Q Were you working that day?

9 A No. I was at home. I was called in to respond to
10 this incident.

11 Q What was the information you were provided?

12 A I was provided that there was an armed robbery at the
13 McDonald's at Port Royal by the Bi-Lo shopping center.
14 Our team was being requested to conduct a track.

15 Q You said you were off. I'm assuming you were not in
16 uniform?

17 A Correct. I was at home.

18 Q What did you do when you got the call?

19 A I changed into a uniform. I got in my patrol car and
20 responded to the scene.

21 Q About how long after you got the call until you showed up?
22 Just approximately?

23 A Maybe five minutes. I live close. I live behind the
24 Bi-Lo in Shell Point.

25 Q When you arrived, what did you see? What did you do

1 next?

2 A When I arrived, I initially arrived in the big
3 parking lot at the Bi-Lo. By the McDonald's, there were
4 members of Port Royal Police Department and Beaufort
5 County Sheriff's Office on the perimeter.

6 While I was there getting ready, I received a phone
7 call from the bloodhound supervisor, and he asked me where I
8 was at. I responded saying that I was already on scene. He
9 said because the other members were taking a little more time
10 to get there, to go ahead and respond and get the dog working.

11 So I got back into my patrol car. I responded to the
12 kennels where we keep our bloodhounds. I loaded two of our
13 bloodhounds into the dog wagon, and I responded back to the
14 scene.

15 Q Did you say you put two dogs?

16 A Yes.

17 Q What were those dogs' names?

18 A I know one was Copper. I'm not familiar with the
19 other dog.

20 Q I'm jumping ahead. Were both dogs used or just one?

21 A Just one.

22 Q Which dog was used?

23 A Copper.

24 Q Do you have any knowledge of Copper's training? What he's
25 trained to do?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Copper is a full-blooded bloodhound. He is trained
2 to track scent.

3 Q Did you -- were you the handler that night?

4 A I was the handler of Copper.

5 Q Can you explain to the jury what that means to be the
6 handler.

7 A Our team is a group of people who are either handlers
8 or security members. One person is selected on that team
9 that responds to that incident to be the handler. Usually
10 it's the person who picks the dogs up. They are
11 responsible for those dogs, so I was chosen to be the
12 handler that night.

13 With the incident that we had, we had a last-known
14 with evidence in the area. So we utilized Copper because he is
15 a last-known dog. He is also an article dog. This tracker
16 used him as a last-known, for last-known purposes.

17 Last-known means we have a general area, specified
18 area to where we know the last-known was for the suspects to be
19 at. With the evidence in that area, we considered that to be
20 the last-known. That's why we used Copper.

21 When I arrived with Copper, I pulled him out of the
22 back. We walked him around the general area to alleviate
23 himself, 'cause he gets hyped up. We get him into that area
24 where that scent is. We put on the harness.

25 When he gets his harness on, they're trained to

1 know -- that's how they know they are getting ready to work.

2 I put on his harness. We're already in that area.
3 We start getting towards the evidence and the last-known area,
4 and we give him a tracking.

5 Q I am going to pause you right there just briefly.

6 MR. SHEDD: May I approach the witness?

7 BY MR. SHEDD:

8 Q I will show you what has been marked for identification as
9 State's Exhibit 26. Would that aid in explaining your
10 testimony to the jury regarding the dog's actions that night?

11 A Yes, it would.

12 MR. SHEDD: May I have the sergeant step down?

13 THE COURT: You may.

14 BY MR. SHEDD:

15 Q I am going to back up, Sergeant Tafoya. Can you explain,
16 using this map, where you parked. When you got the dog out,
17 where did you go?

18 A So when I brought the dog wagon in, I would have
19 pulled in here. I came out wide, and I parked in this
20 general area.

21 Q You said that you used last-known location. Where was the
22 last-known location?

23 A The last-known location was in this general area
24 here.

25 Q Were there any items of note in that area?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Yes. Generally down here, kind of where the bottom
2 of this red square of this arrow, there was a \$10 bill.

3 Just up ahead, kind of off, right off on the parking
4 lot area, there was a do-rag.

5 Then back here somewhere in this general vicinity,
6 there was a pair of slides or sandals and another \$10 bill.

7 Q I'm going to show you what's been marked as State's
8 Exhibits 10 and State's Exhibit 11. Do you recognize these
9 pictures?

10 A I do.

11 Q What is State's Exhibit 10?

12 A State's Exhibit 10 is a placard with Number 1 with a
13 \$10 bill. That placard was not there when we first
14 arrived.

15 Q State's Exhibit 11?

16 A State's Exhibit 11 is the do-rag. And I also note
17 that placard was not there at the time either.

18 Q Can you explain to the jury using that map, starting with
19 the last-known location in the area at the base of that first
20 red arrow, what did Copper do?

21 A Okay. So what I did with Copper is -- so when I got
22 there, I pulled him out, and I started walking around this
23 area of the parking lot. That was just for him to
24 alleviate himself because of the hyperness and and the
25 travel and stuff. I began to bring him over in this

1 general area. That's when I placed on his harness.

2 We began walking him up this way (indicating) because
3 we had the 10 dollar bill and then the do-rag. We walked him
4 in between there. Then we gave him the tracking command, which
5 is find him, find him. As soon as I gave the tracking command,
6 Copper immediately went to the do-rag and actually put his nose
7 up to the do-rag.

8 Then he immediately started running down essentially
9 the red arrow, along this grassy area between the bushes and
10 the parking lot.

11 At that point I identified that he had struck his
12 man's track. What that means, he has pinpointed the scent, and
13 he was on that. And he is tracking. His nose is to the
14 ground, and he is going. He is pulling us, taking us to where
15 the track led to.

16 Then we got back to this area (indicating). There's
17 a cut-through here that is generally a walking path for people
18 going back and forth from the public, up to the grocery stores
19 and to the complex.

20 Q Stop right there. That walking path, just so the people
21 on the jury understands, when you say it's a walking path, is
22 it pretty open?

23 A It's open. There are some trees and brush along the
24 side. There is plenty of room. I have seen multiple
25 times people walking back and forth from the apartment

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 complex to Bi-Lo or McDonald's whatnot.

2 Q Please continue. As Copper is coming up the tracking
3 path --

4 A He comes up, and he immediately goes right into that
5 walking path right here (indicating), up to this where you
6 can see the parking lot outline here of the apartment
7 complex.

8 He continues right across that parking lot. And he
9 comes in between these two buildings here (indicating). I
10 don't know what building numbers these are. He starts walking
11 kind of what I identified as a general common area. He went
12 straight back. And he began to go straight towards this
13 building right here, which I believe we identified as building
14 237.

15 Q After Copper gets to that building, what does he do
16 next?

17 A Copper begins to circle this back area. I kind of
18 held him up in this area because we had seen two people on
19 the third-floor balcony.

20 Q How would you describe those two people?

21 A They were black males. I did not get a very good
22 look at them because my focus was on the dog. That's my
23 job. That's why we have a security team. They focus
24 on -- they are my protectors.

25 I noted members of my team went to make contact with

1 those two individuals. I remember Jeremiah Fraser. He is our
2 team leader at that point. He asked them who they were. As I
3 was working the dog, I distinctly remember hearing one of the
4 men say Blue.

5 As that was going on, Copper started to go around
6 this corner of this building (indicating). We ended up
7 circling this building.

8 Q Do you remember how many times he circled?

9 A Twice.

10 Q After Copper circled the building, what did you do next?

11 A Copper stayed very close to that building. He just
12 stayed real close and he kept working his way around the
13 two times.

14 What we did next was try to expand that circle to see
15 if there was any scent leaving that area that he was tracking.
16 Copper, we had to force him around and take him wider, but
17 Copper continuously pulled us back to this building.

18 Q You mentioned that you couldn't specifically remember the
19 building number. Would it help refresh your recollection if I
20 showed you a copy of your report?

21 MR. SHEDD: May I approach again, Your Honor?

22 THE WITNESS: I'm sorry. It was 273.

23 MR. SHEDD: Thank you, Sergeant Tafoya. I don't have
24 any further questions for you. Please answer any questions the
25 defense may have.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 MS. DUQUE: Just briefly.

2 * * *

3 CROSS-EXAMINATION

4 BY MS. DUQUE:

5 Q Good afternoon, Sergeant Tafoya.

6 A Good afternoon.

7 Q So I just want to go over some of the stuff that you
8 talked about. So the bloodhound team responded to the scene
9 after Port Royal PD requested for you guys to respond; right?

10 A Correct.

11 Q The team, the dog team you have, the handlers and the
12 runners, they are your eyes because you're focused on the dog;
13 right?

14 A Right.

15 Q Then you also have the security team; right?

16 A Correct.

17 Q Are they the ones that set up the perimeter?

18 A No. What I refer to as the members of the tracking
19 team, either you are the security member or you're the
20 handler. Essentially in any given call-out, the handler
21 handling the dog, there's one person that is a security
22 member, distinctly for the handler.

23 You also have other members that run. If they see
24 somebody, they are considered the security team.

25 Q They call it out.

1 Whenever you guys responded to this area of the
2 McDonald's, you were in a part -- I read in the report you also
3 have a perimeter team; folks who went out to the perimeter to
4 make sure that no one leaves the perimeter; right?

5 A Correct.

6 Q So that means anything inside.

7 If I may for a moment, may I use one of your
8 exhibits. Anything that -- just so you can see it, anything
9 that goes inside the apartment and the McDonald's, all of this,
10 you have a team of law enforcement officers in this area.

11 A Right. The only law enforcement that I ever
12 encountered when I came to the scene, there was one member
13 here (indicating). I could not tell you who they were or
14 which agency. There was a squad car there with its blue
15 lights on and a person standing outside behind the Bi-Lo.

16 I can recall, when I came in from behind the Bi-Lo --
17 'cause I live right back here (indicating). I came behind the
18 Bi-Lo. I parked here initially. Then I got called to leave to
19 go get the dogs.

20 I went back out this way. And when I left and came
21 back, I know there was a law enforcement officer here
22 (indicating) at Midtown Drive and Parris Island Gateway. I
23 couldn't tell you where any other perimeter units were.

24 Q They were on the perimeter?

25 A Correct.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q So you're familiar with this area. You live right around
2 this area; right?

3 A I do.

4 Q Are you familiar with the Shell Point Apartments?

5 A I am.

6 Q Just from your familiarity with the Shell Point
7 Apartments, to your knowledge, and because there's like a rec
8 center back there, isn't it?

9 A Yes. The Shell Point Recreation Center.

10 Q There's a cut-pass through all of that wooded line behind
11 the Shell Point Apartment that connect to that rec center;
12 right?

13 A Correct.

14 Q There's a whole another world back there; right?

15 A Correct.

16 Q You will assume that the officers will respond back there
17 to make sure that the scene is secure?

18 A I can't assume. I didn't know if they were or not.
19 I was responding as a member of the tracking team.

20 Q I understand. Let's just go back to Copper. Copper is --
21 he can do the last-known location and article; right?

22 A Correct.

23 Q In this case, you guys used the last-known location, which
24 led to an article; right?

25 A I believe -- I don't know what happened with the

1 do-rag. I believe it was collected by Port Royal.

2 Q Based on the last known location and the dog going to the
3 \$10 bill and the do-rag, he leads you guys to the Shell Point
4 Apartments; right?

5 A Yes.

6 Q He eventually goes to building 273; right?

7 A Yes.

8 Q And he circled the building?

9 A Correct.

10 Q Twice. He didn't go up the steps; right?

11 A No.

12 Q In that building, to your knowledge -- do you know how
13 many apartments are in that building?

14 A I do not.

15 Q There's a few, though; right?

16 A I don't know how many apartments there are.

17 Q Okay. How many floors was this building?

18 A Three.

19 Q More than one apartment?

20 A Yes, definitely.

21 Q More than two?

22 A Yes.

23 Q You wouldn't know whether those were occupied. There were
24 more than two or three apartments; right?

25 A Correct.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q The dog didn't go up the stairs to my client.

2 A No, the dog did not go up the stairs.

3 Q Typically -- I mean, I don't know how the dog works.

4 Typically, when you -- when he's tracking someone and he finds
5 that person, he will alert you that he found what he was
6 looking for?

7 A The dog will not alert per se.

8 Q How will you know that he's found his man?

9 A Usually they run straight to them.

10 Q In this case, did Copper run straight to my client?

11 A No.

12 Q And the last thing I have for you. This is the only area
13 up here, the apartment complex, that Copper went to; right?

14 A I didn't see where you pointed to.

15 Q This is the Shell Point Apartments.

16 A Yes.

17 Q He didn't go anywhere near, EnMarket or the public storage
18 area?

19 A No.

20 Q To your knowledge, just from knowing this investigation,
21 did you know that there was items that were recovered in that
22 area?

23 A The only items I recall being recovered were the two
24 \$10 bills, the do-rag, the slides, and I believe a
25 Gatorade bottle that was in the back.

1 Q You didn't recover anything else?

2 A We did not collect. We just located the items.

3 Q So you didn't locate any -- if I may, the dog didn't leave
4 to locate State's Exhibit 7?

5 A I have never seen those before.

6 MS. DUQUE: I have no further questions for you,
7 Sergeant Tafoya.

8 THE COURT: Anything further?

9 MR. SHEDD: No, Your Honor.

10 THE COURT: Any objection to the sergeant being
11 excused?

12 MR. SHEDD: None from the State.

13 THE COURT: You are excused, sir. Thank you.

14 (The witness exited the stand.)

15 MR. SHEDD: May we approach before we call the next
16 witness?

17 (Off-the-record discussion.)

18 THE COURT: All right. Ladies and gentlemen, we
19 were just talking scheduling to see how many witnesses we
20 can put up for the remainder of the day. We will go ahead
21 and take a quick break right now. I need to remind you
22 don't discuss the case. Refresh yourselves. I will bring
23 you right back out and we will go from there. Thank you.

24 (A recess was taken.)

25 (The following proceedings were held in open court.)

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 The defendant was present along with his attorney as well as
2 the attorneys for the State.)

3 THE COURT: Is the State ready?

4 MR. SHEDD: State's ready, Judge.

5 THE COURT: Defense ready?

6 MS. DUQUE: Defense is ready.

7 THE COURT: Bring in the jury.

8 (The jury entered the courtroom.)

9 THE COURT: You may be seated. State will call
10 the next witness.

11 MR. SHEDD: Thank you, Your Honor.

12 State calls Jeremiah Fraser.

13 * * *

14 JEREMIAH FRASER

15 being first duly sworn, testified as follows:

16 THE CLERK: You may remove your mask.

17 THE WITNESS: Sir?

18 THE CLERK: You may remove your mask. Please give
19 your full name and spell your last name for the court
20 reporter.

21 THE WITNESS: Jeremiah Fraser, F-R-A-S-E-R.

22 * * *

23 DIRECT EXAMINATION

24 BY MR. SHEDD:

25 Q Where do you work?

1 A I'm sorry?

2 Q Where do you work?

3 A I work for the Beaufort County Sheriff's Office.

4 Q What's your rank?

5 A I am currently a master sergeant. I supervise the
6 violent crimes task force and the bloodhound tracking
7 team.

8 Q How long have you been the head of the bloodhound tracking
9 team?

10 A Been the head of it about eight or nine years, I
11 think. Been on the team since 2003. 18 years.

12 Q Are there special training or qualifications you need to
13 be on the tracking team?

14 A Yes. When you come onto the tracking team, it's a
15 three-month trial period. During that three months, we
16 review the personnel trying out for the dog team; see if
17 they're a good fit, see if they can keep up physically, if
18 they have the aptitude, things like that.

19 Once you make the team, we send you to a bloodhound
20 school. It's a basic tracking school in Aiken, South Carolina.
21 It covers tracking with bloodhounds, it covers man tracking,
22 tracking without a dog, things like that. And furthermore I've
23 been to the National Bloodhound Association school. That's
24 also a 40-hour class class. That's with pure blood
25 bloodhounds.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q During that time, have you participated in the training of
2 the dogs?

3 A Every dog we currently have has been trained by me.

4 Q How many dogs are there?

5 A Currently we have three. Over my time there's been
6 about 15.

7 Q Can you tell the jury a little bit about what the training
8 of the dogs is when you first get them.

9 A From a puppy forward?

10 Q Right.

11 A So we run two different kinds of dogs. We run what's
12 called a SLED stock dog, which is half bloodhound and half
13 Redbone or Blue Tick. Those dogs, what we're looking for
14 is specific features for the dog. You want the bloodhound
15 face, the long ears, but you want the lighter body of a
16 Blue Tick or a Redbone because the heat in South Carolina.

17 When those dogs are tracking, they're also pulling a
18 200-pound anchor behind them. And that 200-pound anchor would
19 be us. They're always on a lead.

20 Then we also run full-blood bloodhounds. Full-blood
21 bloodhounds are trained with a specific article and also a
22 last-known. In other words, we can present them with an
23 article in a bag, something somebody has touched. The dog will
24 smell that article, lock in on that scent and track that sent.

25 They can also track what's called the last-known or

1 fresh scent. In other words, if somebody takes off running in
2 a certain direction, somebody sees which direction they went,
3 we can contain that area, that being the last freshest scent in
4 that area, and strike the dog off that freshest scent.

5 In this case, with Copper, a pure-blood bloodhound,
6 he tracks last-scent or freshest scent and an article.

7 Q Have you been qualified as an expert before?

8 A I have.

9 MR. SHEDD: Your Honor, at this time the State
10 moves Jeremiah Fraser to be qualified as an expert in
11 bloodhound tracking.

12 MS. DUQUE: Subject to my prior objection.

13 THE COURT: Ladies and gentlemen in this case, Master
14 Sergeant Fraser is being qualified as an expert in bloodhound
15 tracking. That allows him to give his opinion and the reason
16 for his opinion and that's for you to use as you see
17 appropriate with other evidence in the case.

18 BY MR. SHEDD:

19 Q How old is Copper?

20 A Copper was born in 2015. He was bred by a breeder, I
21 believe, in New York. We got Copper from that breeder in
22 2015. We began his training shortly thereafter in 2015.

23 Q As you said before, you were the one that trained
24 Copper?

25 A I did, yes.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Are there -- is there ongoing training that the dog goes
2 through as well as the handlers?

3 A Absolutely. So training is always ongoing. We run
4 into new things all the time. The training that we
5 prescribe is weekly. So every Wednesday we have the whole
6 team, all of our bloodhounds out training every week.

7 Q What does that weekly training kind of consist of
8 generally?

9 A Not only do we do criminal tracks, we also track
10 missing people, Alzheimer's patients, missing children,
11 things of that nature. So we incorporate all of that into
12 the training.

13 So training for a typical track, a minimum of what we
14 like to do is lay a track for an hour. So what we will do, we
15 will send somebody out to lay a track. We've used children, we
16 have used older people, not only just ourselves but other
17 officers, any number of different people to lay a track. We'll
18 let the track age for an hour at least, typically.

19 At the end of that hour time frame, we'll strike the
20 dog and run the track. We've gone substantially longer than an
21 hour. We've run dogs several, several hours out.

22 Then we've also trained for what's called a hot
23 scent. A hot scent is when somebody takes off running. You
24 are there very close with the dog and you put the dog down
25 within 15, 20 minutes. The time ranges from 15 to 20 minutes

1 to several hours long and that's weekly.

2 Q Were you working on July 15, 2018?

3 A I was not working. I was called in.

4 Q What was the call you received?

5 A There was an armed robbery at the McDonald's in Port
6 Royal.

7 Q Did you respond?

8 A I did, yes.

9 Q Were you supervising that track?

10 A Yes.

11 Q When you arrived, what did you do?

12 A When I initially arrived -- this is what we typically
13 do on every call. We need to gather all the available
14 information; direction of travel, what was the person
15 wearing, what did they take, were there weapons used. If
16 there were weapons used, how many handlers do I need to
17 call in with me to safely run the track.

18 If they stole money or other items, did they put them
19 in a bag. If they didn't put them in a bag, there's a
20 likelihood that things get dropped. If they did put them in a
21 bag, there's a likelihood we may find the bag. Anything that
22 person may touched or done is what I'll collect while on the
23 scene.

24 If it's available at the time, I'll typically try to
25 watch the video. About half the time I'm able to review the

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 video once I get there. Half I'm not; it's just not available.

2 Once I determine the direction and what evidence we
3 do have, I determine what dog we're going to use and what
4 method of starting we're going to do.

5 Q Other than the obvious, what are some of the differences
6 between a dog track and say a human tracking from a piece of
7 evidence?

8 A Say that again.

9 Q Okay. Can you explain the difference or what are the
10 additional tools that a dog track provides that wouldn't be
11 seen or observed by a human?

12 A So when you think about a dog -- I know what you see
13 on TV typically. The fact of the matter is, the dog is a
14 tool; the dog is not the end all, be all.

15 The dog helps us find direction when there are no
16 other items of evidence such as a foot impression. A shoe
17 impression is what we would call an item of evidence; something
18 that you can photograph, something that you can collect.

19 You can connect a foot impression, a shoe impression
20 to a person typically. When somebody runs out on the concrete,
21 there's not going to be shoe impressions.

22 The dog is a tool that we use to track that scent to
23 get us to all the items of evidence and ultimately, hopefully,
24 the person that we're tracking.

25 Q Can you explain to the jury how a dog tracks scent.

1 A Sure. Scent, you're scenting where you are sitting
2 right now. All of our bodies are giving up skin cells.
3 They're called rafts. Your body is replacing skin cells
4 constantly. As you're sitting there, you're giving off
5 skin cells, just like anybody else walking on the street,
6 anywhere you're at. The dog is actually tracking the skin
7 cells that your body is kicking off.

8 A bloodhound is able to differentiate between
9 different people and skin cells and their scent. Your scent is
10 determined by a lot of different things; the clothing you wear,
11 the detergent you use, the food you eat, cologne, things that
12 you put into your body. All of those different things go to
13 your specific scent. That's how a dog is able to differentiate
14 between scents.

15 Q Are there factors that affect how much, how many skin
16 cells someone might be shedding at a time?

17 A Absolutely. Take, for instance, an armed robbery.
18 When somebody has committed an armed robbery, adrenaline
19 is pounding, their breathing is substantially harder. As
20 you breathe, you're kicking out more skin cells, kicking
21 out more scent for that dog to follow. We call that fear
22 scent.

23 So what happens is your body starts expelling more
24 skin cells than it would normally sitting in a calm
25 environment. The dog is able to pick that up quite quickly.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q You mentioned earlier that Copper is trained in both
2 last-known and article.

3 A Correct.

4 Q Can you tell the jury how you decide which one of those
5 you would need in a particular case?

6 A Certainly. In cases where you would use an article,
7 we have something that a person -- a missing person, a
8 mental patient, a suspect, a run-away juvenile, something
9 like that -- something that we know 100 percent for
10 certain that they touched, that they had in their hands,
11 that they got skin cells off, that we can contain in a bag
12 and present to the dog. In cases like that, when we have
13 an article or item like that, we will use the article.

14 In other cases when you only have direction,
15 typically when you only have direction, there's not an item
16 that you can use to strike a dog. So you use last-known; he
17 was last known to be in this location. We know if he was in
18 this location, he was expelling skin cells, rafts, for the dog
19 to detect, smell and track.

20 Q When you're using a last-known track, what are you looking
21 for as the handler or one of the security team officers?

22 A Sure. So when a crime is committed, people typically
23 run away. When you run away, when you run through an
24 environment, you leave things behind. So in an
25 environment where you're running across grass where, say,

1 the morning dew is out, if you get up in the morning and
2 you see the morning dew on your grass and you see tracks
3 across that grass where someone walked, there's
4 disturbance in the water, there's disturbance on the
5 grass.

6 That is called shock. It's easy to see. That would
7 be an item that we would use to focus on a track.

8 In other cases you find shoe impressions. As you all
9 know, everyone has on different shoes. We can identify those
10 shoes. Typically when somebody commits a crime, they are
11 running. You get what is called a running dig. When you are
12 running away and the pressure on your toe is pushing you
13 forward, your toe digs into the ground, and it leaves not a
14 whole shoe impression. What it leaves is a toe impression
15 where it dug into the ground. That's called a running dig.
16 You find those most often.

17 And then after a short period of time, typically
18 people run out of steam. You start finding those running digs
19 turning into whole shoe impression.

20 Those are items of evidence. If we find those, we
21 would bring the investigator back to photograph, cast, collect,
22 however they see fit.

23 Q What type of track was employed in this case?

24 A This was a last-known.

25 Q Were there items in the area where the last-known track

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 was started?

2 A There were. Do you have a copy of the report that I
3 can refer to?

4 Q I absolutely do.

5 A Thank you very much.

6 Will you restate your question.

7 Q Absolutely. Were there items in the area of where the
8 last-known location was begun?

9 A Yes. So we were given last direction, I believe it
10 was from the Port Royal Police Department or a witness on
11 the scene providing it to the Port Royal Police
12 Department. They gave us a direction of travel.

13 We went over there and there were, I believe, two 10
14 bills laying on the side of the road. I believe there might
15 have been a flip-flop, too. That's the location we used as the
16 starting point.

17 Q How do you know when a dog -- how did you know in this
18 case -- did Copper strike a scent?

19 A He did, yes.

20 Q How did you know that?

21 A When you strike a dog, the dog has a strike command.
22 Copper's striking command is find it, find it. Twice.
23 The dog will immediately drop his head to the ground and
24 start sniffing for the freshest track. Once the dog finds
25 the freshest track, his body language changes. Copper, in

1 particular, stays down close to the ground, ears dragging
2 on the ground, typically his tail is straight back and
3 body stiffer. He is moving. Copper is a big, big dog.
4 He's over 100 pounds. When he is on a track, it's hard to
5 slow him down.

6 Q At what point did Copper strike a track in this case?

7 A It was right after -- Copper struck a track right
8 after the money. We did not use the money as the starting
9 item. We used the area where the money was as a starting
10 area.

11 As soon as he was given the tracking command, he
12 struck almost right over the top of the black do-rag that was
13 left right off the side of the grass. I believe it was in the
14 parking lot area of grass.

15 Q This is the parking lot area of the Bi-Lo parking lot?

16 A Yes. If you're not familiar with that Bi-Lo, there
17 was a storage unit. Right beside that walled off storage
18 units, it was right there on that side of the parking lot
19 of the Bi-Lo right behind.

20 Q At that point was Copper tracking on the pavement or on
21 the grass?

22 A Casting right there in the grass and the pavement.
23 One thing that is important to understand with tracking,
24 as you're running, as you're walking, and the skin cells
25 are falling off of you, they don't fall in a straight

1 line.

2 In other words, as they were sloughing off and
3 falling off you, they fall down and there's an area where the
4 skin cells are contained. It's not in a straight line. It's
5 in a wider area. The dog will strike and be in that scent.
6 That scent is called casting.

7 Q Is casting more likely on pavement or grass?

8 A It absolutely is. Skin cells, rafts, stick to two
9 things; water and foliage. A lot of things can affect
10 that; wind can affect that; passing by cars can affect
11 that.

12 So when you get skin cells that are falling on
13 concrete, they don't typically just stay there. Wind will
14 affect and blow them off. Grass, woods, foliage, water will
15 hold those skin cells in place. Will hold that set in place.

16 Q Copper was casting at times?

17 A Yes. Absolutely.

18 Q Can you tell the jury where the track led?

19 A Yes. The Port Royal Apartments are right behind the
20 Bi-Lo and the storage center. Copper tracked into the
21 backside of Port Royal Apartments through the Bi-Lo. It's
22 not really an access; there's a foot trail right there.
23 People regularly walk in and out through there.

24 Copper tracked then to the common area, in the center
25 of the complex, straight across the common area to a building.

1 I believe it was 273. Building 273 where it's circled.

2 Q I know you already covered this. You were supervising the
3 track. You were not the handler?

4 A Correct. When you are running the dogs, especially
5 when there's been an armed robbery, where there's been a
6 violent offense committed, it's not just the dog and the
7 handler. You have a team of people to respond.

8 In this case we had the dog handler and the dog
9 security. Sergeant TaFoya was the handler. I don't recall off
10 the top of my head who was security. You have flank security,
11 right and left security in case somebody is hiding, like an
12 ambush. You also have a supervisor, which is typically me.

13 Q As Copper's track led into the common area or led into the
14 Shell Point Port Royal Apartments behind there, what did you
15 see?

16 A Immediately when you come into this complex, you can
17 see all the buildings that surround the common area. If
18 you look straight across, we saw two people on the third
19 floor of the 273 building watching us as we came in. They
20 were standing in the breezeway on the third floor.

21 Q You mentioned earlier that Copper tracked to the 273
22 building. What happened? Did he just stop?

23 A No. Once we got to the 273 building, Copper began
24 circling the building; working the backside, the front
25 side. Copper would not leave that building.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 When this happens, we typically try to expand a 360
2 so if somebody leaves out of there we try to find where they
3 may have left out of there. If the freshest scent is still
4 there, the dog is not going to leave. The dog will stay with
5 the freshest scent that he was tracking.

6 Q So is that why the dog begins to circle?

7 A Yes. It's what's called a scent pool. As you guys
8 have been sitting there all day, more and more of your
9 skin cells are falling off. The rafts are falling off and
10 more and more are building up. It's called a scent pool.
11 It just keeps growing the longer you stay in one spot.
12 That's what happened in this case.

13 Q As Copper was circling the building, did he ever locate an
14 exit scent?

15 A No.

16 Q I know you sort of touched on it, do you have an opinion
17 as to why that is?

18 A Yes, I do.

19 Q Please tell the jury.

20 A Certainly. As I said earlier, the dog will track the
21 freshest scent. It goes back to prey. When a dog is
22 after prey, the dog will not go out after an older scent.
23 The dog recognizes fresh, hot scent. He will stay in that
24 area, trying to locate that fresh, hot scent. They are
25 not going to leave.

1 Q As Copper is circling 273, the two people that you saw on
2 the third floor, did you see them again?

3 A I did. If I can add to that, during a track, it's
4 important for us -- we often run across people on tracks.
5 We often run across neighborhoods.

6 We often run across people who are on walking trails.
7 We often run across people. They are valuable, valuable
8 information. Typically, if someone ran the way that the
9 dog is tracking and we come across somebody, that doesn't
10 necessarily mean that that is the person you are looking
11 for, but they may have seen them.

12 So we always talk to them. Did you see somebody
13 running? This just happened down the road. Did you hear
14 anything? Did you see anything? This is all
15 information-building for the case and for what we are doing on
16 the dog track.

17 Q How would you describe the two individuals? Male?
18 Female?

19 A They were two males. I called out to them, talked to
20 them, asked them to identify themselves and what their
21 names were. They both identified themselves. Mr. Levy
22 Brown was one of them.

23 Q Just so I understand that, the person who is on balcony of
24 the third floor of Building 273 where Copper was circling and
25 would not leave, do you see him in the courtroom?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Yes. Mr. Levy Brown at the defense table.

2 MR. SHEDD: Thank you. Court's indulgence.

3 BY MR SHEDD:

4 Q Is there a reason why the two individuals who identified
5 themselves were not detained right then?

6 A Yes. By the time we arrived on scene -- typically
7 when we are called out -- I am calling people from home.
8 It's typically about an hour before we get on scene, 45
9 minutes to an hour is about the average, depending on
10 where we had to come from.

11 We don't typically start the dog track in training
12 for at least an hour. It takes us that long to get there most
13 of the time. The clothing description that we had from Port
14 Royal of the robbery that occurred the hour before we got there
15 was different than what we observed Mr. Brown and the other
16 gentleman was wearing.

17 Q Do you remember what Mr. Brown and the other gentleman was
18 wearing?

19 A No. I just recall it was not the same as the
20 description that we had.

21 MR. SHEDD: I don't have any further questions.

22 Please answer any questions that Ms. Duque has.

23 * * *

24 CROSS-EXAMINATION

25 BY MS. DUQUE:

1 Q Master Sergeant Fraser, just briefly. So Copper -- I was
2 going to go straight to my questions regarding this case.
3 Copper tracked to Building 273; correct?

4 A Yes, ma'am.

5 Q He circled that building twice?

6 A It was more than that.

7 Q My client was on the third floor when he was doing this?

8 A Yes. When we first got in there. Yes, ma'am.

9 Q Copper never went up to the stairs to my client?

10 A No.

11 Q Those are all the questions I have for you.

12 MR. SHEDD: Briefly, Judge.

13 * * *

14 REDIRECT EXAMINATION

15 BY MR. SHEDD.

16 Q Master Sergeant Fraser, would you mind explaining to the
17 jury why the dog might not go up the stairs?

18 A Absolutely. When you are standing outside in an
19 elevated location with all the skin cells falling down,
20 they are falling out at a wider range than if you are
21 standing on the ground.

22 For the dog to try to process that entire area and
23 then walk up the stairs, it's not likely. There are so
24 many things in between the third floor, the second floor,
25 and then the ground. There are a lot of things, but those

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 skin cells are still falling to the ground in a wider
2 area, which is why the dog kept circling the building.

3 MR. SHEDD: Thank you, Master Sergeant Fraser.
4 I don't have any other questions.

5 MS. DUQUE: I don't have any other questions.

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

8 (Witness exits witness stand.)

9 THE COURT: Call your next witness.

10 MR. SHEDD: State calls Nicholas Thomas.

11 NICHOLAS THOMAS being first duly sworn testified as
12 follows:

13 * * *

14 DIRECT EXAMINATION

15 BY MR. SHEDD:

16 Q Sergeant Thomas, where do you work?

17 A Beaufort County Sheriff's Department.

18 Q How long have you worked for the sheriff's office?

19 A Almost nine years.

20 Q What are some of your duties at the sheriff's office?

21 A Currently, I am a sergeant on the enforcement unit.

22 I work the road taking daily calls, domestics, things like
23 that.

24 Q Are you a member of the bloodhound team?

25 A Yes, I am.

1 Q How long have you been a member of the bloodhound team?

2 A Since August of 2017.

3 Q Were you working on July 15, 2018?

4 A Yes.

5 Q Did you receive a call to an assist?

6 A I received an emergency call-out for a track for an
7 armed robbery.

8 Q Where had that armed robbery occurred?

9 A McDonald's.

10 Q In Port Royal?

11 A Yes, sir.

12 Q What was your role on the tracking team that night?

13 A I was part of the security portion of the team.

14 Q So were you with Sergeant TaFoya?

15 A Yes. Sergeant TaFoya was the handler. Myself and
16 Sergeant Mankin as well, and then Master Sergeant Fraser
17 were part of the security portion of it.

18 Q Where did the dog's track eventually lead?

19 A To Midtown Apartments.

20 Q Do you recall seeing anybody at the end of the track?

21 A We tracked into the apartment complex. Myself and
22 Master Sergeant Fraser were checking the surrounding
23 areas. We came in contact with a couple of gentlemen at
24 the top of the balcony. We asked their names, and
25 Mr. Levy Brown identified himself from one of the

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 balconies.

2 Q Do you see the person who ID'd himself on that balcony
3 that night in the courtroom?

4 A Yes, do.

5 Q Describe something he is wearing.

6 A The blue suit with the blue-and-white striped tie.

7 MR. SHEDD: Please let the record reflect that
8 the witness has identified the defendant.

9 THE COURT: Yes.

10 MR. SHEDD: I don't have any further questions
11 for you, Sergeant Thomas. Thank you for being here.
12 Please answer any questions that Ms. Duque has.

13 MS. DUQUE: I do not have any questions for you,
14 Sergeant Thomas.

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

16 (Witness exits witness stand.)

17 THE COURT: Call your next witness.

18 MR. SHEDD: State calls John Hogue.

19 JOHN HOGUE being first duly sworn testified as follows:

20 * * *

21 DIRECT EXAMINATION

22 BY MR. SHEDD:

23 Q Sergeant Hogue, where do you work?

24 A I work for the Port Royal Police Department.

25 Q How long have you been with them, with that department?

1 A I have worked for the Town of Port Royal since
2 2010.

3 Q Any other law enforcement experience?

4 A That is my law enforcement experience, yes.

5 Q Were you working on July 15, 2018?

6 A I was. I was the on-call duty detective.

7 Q Did you receive a call regarding an armed robbery that
8 occurred at McDonald's?

9 A I did.

10 Q Upon receiving that call, what did you do?

11 A I responded to the area. I made contact with the
12 officers on scene. I began processing the scene and
13 meeting with the people there.

14 Q Do you remember speaking to anybody in specific?

15 A When I arrived on scene, I did speak with Officer
16 Kopylov. I remember speaking briefly with a few of the
17 other people. Also while on scene, I did have a brief
18 interview with the manager, Susan Krebs.

19 Q How was Ms. Krebs' demeanor?

20 A She was very excited. She was distraught, concerned,
21 worried, scared, sad.

22 Q Did she tell you what happened?

23 A She did. She gave me sort of a brief overview of
24 what happened. She indicated that she was the closing the
25 manager that day. She was in the back counting down the

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 deposits. The store had not yet closed, but it was about
2 15 minutes before it was closed.

3 The lobby was already supposed to be locked by this
4 point in the night. It was around 10:45 at night, almost 11:00
5 at night, so pretty late. The sun had been down for a while.
6 They were preparing their closing tasks. While doing so, she
7 was in the rear office counting the money down when she
8 observed some persons walking up. I believe that they may have
9 been some customers, but she was kind of confused about perhaps
10 what was going on.

11 They called out to the floor. I believe she said
12 that she let Sandy know that somebody was coming up. I think
13 it was during that brief window of time that she looked back to
14 the cameras to try to determine where those people were that
15 she just saw.

16 In between that time, the individuals go straight to
17 the only unlocked door. They immediately opened the only
18 unlocked door. Went straight in. Made a beeline to the
19 kitchen and prep area where the office is and commenced with
20 the armed robbery.

21 Q Were you able to review surveillance from McDonald's that
22 night?

23 A I was.

24 Q I will show you what has been previously admitted as
25 State's 23. I will just play this from the beginning, and we

1 will pause it throughout, and then I will have some questions.

2 A That was the employee locking the door. As you can
3 see, she pushed on it to make sure the door was secure.

4 Q Were you able to determine through your investigation if
5 this individual is here?

6 A I was. This employee was identified as Shanya
7 Higgins. She was working in dishwashing that night. As
8 you can see, it is after the time that the store has been
9 secured, and she is preparing to exit the store.

10 Q I will play a little bit further.

11 A I don't know how well you can see, but you can see
12 the door slowly shuts behind her. She is keeping the door
13 from slamming shut and re-securing.

14 Q This next person in the video comes from EnMarket. Did
15 you review EnMarket surveillance as well?

16 A I did.

17 Q Are those cameras motion activated?

18 A They are.

19 Q I know you have seen the video. I will play this next
20 portion, but it certainly jumps forward in time.

21 A Correct. As I recall from the time that I reviewed
22 the video, when she left out of the store by the time she
23 had gotten to the store it had not had a chance to start
24 recording on the way to the store.

25 Q Is this the footage of her returning?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Yes. Note that instead of going straight to the
2 door, she cuts around to the vehicle, walks up to the big
3 plate glass windows, looks through. Then she goes to the
4 door. Conceivably, that door should have been locked. As
5 you will see from the inside video, she just walked
6 straight up to the door, enters it, and then you can see
7 her put her hands behind her allowing the door to slowly
8 shut behind her and not re-secure.

9 You will recall the earlier employee, when she locked
10 the door physically pushed on it to make sure that it was
11 secured.

12 Q I am going to jump forward a little bit, Detective Hogue.

13 A You can see our suspects coming around the corner.
14 Here you have one suspect carrying a dark bag. We noted
15 at the time that it has some sort of light-colored or
16 white-colored reflective, but a lighter-colored material
17 on that black bag.

18 They go straight to the only unlocked door. Here
19 they entered. You can see the person carrying the bag as
20 mentioned earlier, he is covered head to toe in dark-colored
21 clothing wearing what looks to be some sort of head covering.
22 You can even see almost the tail of the scarf in this
23 particular still frame here.

24 You have got a firearm in one hand and what clearly
25 looks like a glove in another hand.

1 Q Detective Hogue, I will show you what has been previously
2 marked as State's Exhibit 8. Tell me if you recognize that
3 picture?

4 A I do. It's a still image of that right there.

5 Q Is that a fair and accurate accurate depiction of what was
6 shown in that picture?

7 A It is a fair and accurate depiction.

8 MR. SHEDD: At this time State moves State's Exhibit 8
9 into evidence.

10 MS. DUQUE: No objection.

11 THE COURT: Without objection.

12 (State's Exhibit 8 admitted into evidence)

13 BY MR. SHEDD:

14 Q Now, do you --

15 A The reason why I took that still frame from this
16 image -- I don't know how well we can tell from this
17 particular image, but from my still frame you can see a
18 little bit better. If you note his shoes are dark-colored
19 shoes with a white-and-black pattern on the side. Officer
20 Kopylov during the incident during his search, had located
21 a pair of shoes, which had been sent to the DNA lab. But
22 located a pair of black shoes that had sort of a white in
23 color, white-and-black-colored pattern on the side of the
24 Adidas shoes, as they were.

25 That is specifically why that still frame was of

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 interest to me.

2 Q Jump forward again.

3 Can you tell me what you are seeing in this image?

4 A What I see in this image is our first suspect is
5 fleeing back outside of the store. Obviously, he still
6 has the backpack with that light-colored material on it.
7 You can see him already starting to drop some of his
8 evidence that we would later recover during the night.

9 Q When you say dropped some of the evidence, what are you
10 referring to in this picture?

11 A If you look directly at the backpack, you can see
12 what looks like standard denomination currency falling
13 from the backpack. I can't tell what denomination, but
14 you can see currency falling from his backpack.

15 Q I want to play it forward a little bit. I don't know if
16 you were able to see, but because of his current -- as he is
17 going out the door -- the dollar or whatever denomination it
18 was -- literally follows him out into the parking lot. You can
19 sort of see it float off into the parking lot a little bit
20 further.

21 In that large plate glass window, you can see a
22 slight discoloration of where it lands, and that is where it
23 will stay. It will move slightly later on, but for this
24 purpose that is where it stays.

25 Q Let's move on from the video for now. You spoke to some

1 of the witnesses. Did you collect -- did you take any DNA
2 swabs from inside the store?

3 A I collected DNA evidence from the freezer. I did not
4 collect much DNA evidence, just because the suspects, as
5 you can clearly see, were wearing gloves. It's incredibly
6 difficult to get DNA through fabric with that type of
7 material.

8 MR. SHEDD: May I approach, Your Honor?

9 THE COURT: You may.

10 BY MR. SHEDD:

11 Q I will show you what has been previously marked as
12 State's Exhibit 28. Tell me if you recognize that.

13 A I do.

14 Q What is it?

15 A It's a DNA touch swab taken from the door handle of
16 the refrigerator.

17 Q Explain to the jury how you would take a DNA touch swab.
18 What did you do?

19 A DNA touch swabs are long wooden dowels. They look
20 just like normal Q-tips except they are very long and they
21 have a Q-tip at the end of it. We take sterile water that
22 comes prepackaged for single use. We put a little bit on
23 there. Then we use weighted pressure and we put it on
24 whatever item we intend to try to get the DNA off of.

25 The process of obtaining DNA would destroy any

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 attempt to get any fingerprints. DNA being what it is is
2 usually more useful. We swipe that DNA swab. Then we have a
3 small container, sterile container. Take the DNA swabs and
4 secure it in the container. The container will go into a
5 packet like that that is also secured to be admitted into
6 evidence.

7 Q Did you secure that package?

8 A Yes.

9 Q How do you know that? Are there any markings on there?

10 A There are. My initials and the date are on there.

11 Q What did you do with the item after you sealed it?

12 A This one would have been placed into an evidence
13 locker. I noted it on the actual package itself. It will
14 then be processed into the computer on the side of it.
15 It's given a barcode number and given a bin number. That
16 is where it will stay until it's sent off to the lab.

17 Q While that item was under your custody and control, did
18 you change or alter it in any way?

19 A I did not.

20 Q Did you tamper with the item at all?

21 A I did not.

22 Q Did you maintain the integrity of that item?

23 A I did.

24 Q I want to move to -- did you take -- what kind of evidence
25 did you find on scene?

1 A The evidence that was located on scene -- we found
2 ultimately five pieces of prominent evidence that night.
3 We located two different pieces of currency, both
4 ten-dollar bills. We located a pair of slip-on Nike
5 slippers, commonly referred to as slides. We located a
6 head scarf, which looked to have been used as a mask.

7 Q Did you take pictures of those items?

8 A I did.

9 Q I will show you what has been marked for identification as
10 State's 10, 11, 12. I will ask you to take a look at those and
11 tell me if you recognize what they are.

12 A I do.

13 Q Let take them one at a time. State's 10, what is that?

14 A In State's Exhibit 10 I placed Placard Number 1 down.
15 It's a ten-dollar bill, United States currency.

16 Q Is that a fair and accurate depiction of how you found
17 that 10 dollar bill?

18 A It is.

19 MR. SHEDD: At this time, State moves State's 10 into
20 evidence.

21 THE COURT: Without objection?

22 MS. DUQUE: No objection.

23 (State's Exhibit 10 entered into evidence).

24 BY MR. SHEDD:

25 Q I will show you -- before we move past this. I will show

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 you what has been previously marked as State's Exhibit 16.

2 Tell me if you recognize what that is.

3 A I do.

4 Q What is it?

5 A These are the currency that was collected on that
6 night.

7 Q Are they sealed?

8 A They are sealed in a plastic container.

9 Q Were those items submitted for testing of any kind?

10 A They were not.

11 MR. SHEDD: At this time State moves State's 16 into
12 evidence.

13 THE COURT: Without objection?

14 MS. DUQUE: No objection.

15 (State's Exhibit 16 entered into evidence).

16 BY MR. SHEDD:

17 Q So moving on to State's 11. Can you tell me what this is
18 a picture of?

19 A State's 11 shows Placard Number 2. Placard Number 2
20 is sitting next to what I described in my report as the
21 black head scarf, which is the covering that was used over
22 the face.

23 Q Is that a fair and accurate depiction of the head scarf
24 that you found that night?

25 A It is.

1 MR. SHEDD: At this time, State moves State's
2 Exhibit 11 into evidence.

3 MS. DUQUE: No objection.

4 THE COURT: Without objection.

5 (State's Exhibit 11 was entered into evidence).

6 BY MR. SHEDD:

7 Q I will now show you what has been marked for
8 identification as State's Exhibit 15. Tell me if you recognize
9 that.

10 A I do.

11 Q What is that?

12 A That is the black head scarf that was collected and
13 submitted for evidence.

14 Q When you collected that black head scarf, what did you do?
15 Did you put it in a container?

16 A I did.

17 Q What type of container?

18 A It would have been placed into this bag.

19 Q What would you have done with it after that?

20 A It would have been secured on scene until we
21 transported it to Port Royal Police Department evidence
22 locker where it would have been processed into evidence.

23 Q Do you know who sealed that item?

24 A I see my initials and 7-16-2018, as well as Detective
25 Carters', initials, 7-18-2018.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q While that item was under your custody and control, did
2 you change or alter it in any way?

3 A I did not.

4 Q Did you tamper with it?

5 A I did not.

6 Q Did you maintain the integrity of the item?

7 A I did.

8 Q Move now to State's Exhibit 12. Tell me what that is a
9 picture of?

10 A This is a picture of Placards 3 and 4. Placard 3 is
11 sitting next what I describe as the slippers or Nike
12 slides. Placard 4 is sitting next to another piece of
13 currency, a ten-dollar bill, which I already identified.

14 Q Is that a fair and accurate depiction of those items?

15 A It is.

16 Q MR. SHEDD: At this time State moves State's 12 into
17 evidence.

18 MS. DUQUE: No objection.

19 THE COURT: Without objection.

20 (State's Exhibit 12 was entered into evidence).

21 THE COURT: Let's take a stretch for a moment.

22 Stand up. I will tell you that this will be our last
23 witness for today. When we are done with this witness, we
24 will go ahead and break for the evening. I think we are
25 all getting a little tired.

1 BY MR. SHEDD:

2 Q I will show you what has been marked as State's Exhibit
3 14. Can you tell me what that is?

4 A This is the bag that I placed the slippers into. I
5 have labeled them Nike.

6 Q Did you collect that item?

7 A I did.

8 Q Did you put it into that bag?

9 A I did.

10 Q Did you seal it?

11 A I did.

12 Q While it was under your custody or control, did you do
13 anything to tamper with it?

14 A I did not.

15 Q Did you maintain the integrity of the item?

16 A I did.

17 Q Now, I'm going to show you State's Exhibit Number 17.
18 Tell me if you recognize what that is.

19 A I do.

20 Q What is it?

21 A The bag containing the Adidas shoes that Officer
22 Kopylov located in his search.

23 Q Did you put those into the bag?

24 A I did.

25 Q Did you seal it?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A I did.

2 Q Did you do anything to alter or tamper with it in any
3 way?

4 A I did not.

5 Q Did you maintain the integrity of the item?

6 A I did.

7 Q I am going to show you this. Will this help you explain
8 your testimony as far as where the items are located to the
9 jury?

10 A It would.

11 MR. SHEDD: Have the witness step down.

12 THE COURT: You may step down, sir.

13 (Witness exits witness stand.)

14 BY MR. SHEDD:

15 Q Can you tell the jury where each of these items is found.
16 This is State's 10.

17 A So obviously this is the entire area that we were
18 looking at. This is Midtown Shopping Village with the
19 BiLo, the storage facility area, your Shell Point
20 Apartments. Midtown Drive, the pumps, EnMarket, and the
21 McDonald's in this area.

22 Placard Number 1 is right about here. This is where
23 it was located and photographed. See it on the asphalt. In
24 this general area right here.

25 Q I will show you State's 11. Can you indicate to the jury

1 where this is at.

2 A With Placard Number 2, State's 11 is right about
3 here. That is where I located it on this path. Right
4 about there. You can still see it in the general area.

5 A The dot is showing it closer into the grass, I would
6 say it was more right about there. Regardless, that is
7 our general area where Number 2 was located.

8 Q State's Exhibit 12.

9 A State's Exhibit 12 is 3 and 4. They were located
10 back in this general direction. If you recall from the
11 video, they ran in this direction. Here we have what we
12 refer to as our Nike slip-ons or slides located here,
13 along with the ten-dollar bill located here.

14 The slides and ten-dollar bill and then the head
15 scarf.

16 Q This is State's Number 7.

17 A In this one you can see that it's Placard Number 5.
18 Obviously, this was our dog track, but this is the
19 direction that Ms. Lesene said that she returned with the
20 Levy and Dequan in this direction that she returned.
21 Officer Kopylov located Number 5, the black with sort of
22 white-and-black pattern on the side shoes. Right about
23 there.

24 Q Thank you. Officer Hogue, you can sit back in the witness
25 stand.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 After you collected these items, what did you do next?

2 A We collected the items. We conferred with officers
3 on scene. We sort of figured out what we had going on.
4 At some point in time during the night, I had been
5 informed by Officer Kopylov about his encounter earlier
6 with Levy Larkin Brown and Dequan Blue, what they were
7 wearing. We were also notified that Mr. Brown had been
8 seen next door at the EnMarket gas station. We went next
9 door to make contact with the store clerk there and learn
10 a little bit more information.

11 Q You collected surveillance from EnMarket that we have
12 seen?

13 A I did and spoke briefly with the staff on scene.

14 Q What happened the following day, July 16, 2018? Did you
15 receive a call from McDonald's?

16 A I did. We received a call from the on-duty manager
17 that another head scarf had been located. This one was
18 located in the recycling bin. I don't know if you recall
19 from the picture, where the drive-thru area is of the
20 McDonald's and the area that our suspects had run, are two
21 large sort of rubbish bins, maybe 4-yard or 8-yard bins.
22 One is specifically for recycling and one is specifically
23 for garbage. The one specifically for recycling had
24 sitting directly on top in prominent view was the black
25 head scarf. The manager didn't know what to do with it,

1 so she just called us.

2 I arrived on scene. I observed it myself. I
3 photographed it in place and collected it.

4 Q I will show you what has been marked as State's Exhibit
5 13. You said you took a photograph of it. Can you tell me
6 what that is?

7 A That is the photograph that I took of the item
8 sitting directly on top of the carport.

9 Q Is that a fair and accurate depiction of the way the scarf
10 appeared when you discovered it?

11 A It is.

12 MR. SHEDD: At this time State moves State's 13
13 into evidence.

14 THE COURT: Without objection.

15 MS. DUQUE: No objection.

16 (State's Exhibit 13 was entered into evidence.)

17 BY MR. SHEDD:

18 Q Show you what has been marked as State's Exhibit 18. Tell
19 me if you recognize what that is.

20 A I do.

21 Q What is it?

22 A This is the bag that I placed the scarf into. I
23 placed it into evidence.

24 Q Did you seal it?

25 A Based off of the signature, it does not appear I

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 did.

2 Q Who sealed it?

3 A Detective Carter.

4 Q While under your custody and control, did you maintain the
5 integrity of the item?

6 A I did.

7 Q Did you tamper with it in any way?

8 A I did not.

9 Q At some point were you contacted by a manager at
10 McDonald's about surveillance from earlier in the day?

11 A We were. We had specifically asked the owner to
12 review earlier footage to see if anything stood out to
13 them. I was contacted by the on-duty manager, I believe
14 his name was Andre. He informed us that he had video
15 available and it was a video of two persons that came into
16 the store.

17 Those persons -- one was ultimately identified as
18 Levy Brown. They had come into the store. They didn't really
19 do much of anything. Then they left.

20 They got us that video, called me and provided me
21 with that video, which I reviewed.

22 Q Show you what has been marked as State's Exhibit 9 for
23 identification. Tell me if you recognize that.

24 A I do. It's a still image of those two individuals
25 walking into the store.

1 Q Why did -- did you take that still image?

2 A I did. I took that still image from surveillance.

3 Of note in the still image --

4 Q Let me stop you right there. Is that a fair and accurate
5 depiction of what was on the video?

6 A It is indeed.

7 MR. SHEDD: At this point, State moves State's
8 Exhibit 9 into evidence.

9 MS. DUQUE: No objection.

10 THE COURT: Without objection.

11 (State's Exhibit 9 was entered into evidence.)

12 BY MR. SHEDD:

13 Q Explain to the jury what this is and why you took this
14 still shot.

15 Q There are a couple of things that are important about this
16 still shot. The biggest one, you will note that in my previous
17 testimony, in Placard 4 we have a pair of Nike slides that are
18 sitting off the side of the road bundled up as if they were to
19 be used later.

20 Here you can see Mr. Brown walking into the store
21 wearing a pair of Nike slides. Now, the other thing that you
22 can also note in this is that he is wearing a light-colored
23 shirt and a pair of shorts.

24 If you recall from the EnMarket video, that is what
25 he was wearing but not what he was wearing an hour before the

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 incident occurred.

2 Q At some later time did you obtain DNA standards from the
3 defendant as well Mr. Dequan Blue?

4 A I did.

5 Q Did you collect those yourself?

6 A I did.

7 Q I will show you what has been marked for identification as
8 State's 19 and 20. Can you tell me what State's 19 is.

9 A State's 19 is a DNA standard, a buccal swab for Levy
10 Brown.

11 Q You collected that item?

12 A I did.

13 Q How did you secure it after you collected it?

14 A The same as I would any DNA sample. The swab would
15 be placed inside of a box. That box, that sterile box,
16 would be placed in here and transported to evidence for
17 lock-up.

18 Q Would you seal that packaging?

19 A Yes.

20 Q While it was under your custody and control, did you
21 maintain the integrity of the item?

22 A Yes.

23 Q You didn't tamper with it in any way?

24 A No. I did not tamper with it.

25 Q As for State's 20, tell me what that is.

1 A This is another buccal swab, DNA standard. This one
2 is for Dequan Blue.

3 Q Did you collect that standard as well?

4 A I did.

5 Q After you collected it, did you store it in the same way
6 you did with the Brown standard?

7 A I did.

8 Q Did you maintain the integrity of the item?

9 A I did.

10 Q You didn't tamper with it?

11 A Correct.

12 Q Just a few more questions.

13 Showing you what has been previously identified as
14 State's 21 and 22. Can you tell the jury what those items are.

15 A State's 22 is a DNA standard for Timothy Garvin.
16 State's 21 a DNA standard for Shanya Higgins. Both of
17 these are buccal swabs.

18 Q Who sealed those two items?

19 A These items are sealed by Detective Carter.

20 Q Was that part of your regular practice for sealing
21 items?

22 A Yes.

23 Q Can you explain that a little bit?

24 A So these items would have been turned over to the
25 detective that would have processed them in.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 Q Were some of these items submitted for testing?

2 A Yes.

3 Q What were those items?

4 A I don't have the full report in front of me.

5 Q Would it refresh your recollection to see the report?

6 A It would, yes.

7 Q Two separate reports here. Please tell me which items
8 were submitted for testing.

9 A We submitted the flip-flops, which were previously
10 noted. We submitted both head scarves, the black Adidas
11 shoes, buccals from all of the staff as well as Mr.
12 Garvin, who was there that night on this report.

13 As well as the swabs from the refrigerator door.

14 Q Were the defendant's buccal swab as well as Dequan Blue's
15 swab also submitted for testing?

16 A Yes.

17 Q Where were they sent for testing?

18 A Sent to the Beaufort County DNA lab.

19 Q How did they get there?

20 A Transported by a detective there. These particular
21 items, I believe were transported by Detective Carter.

22 MR. SHEDD: Court's indulgence. Thank you,
23 Detective Hogue. I don't have any further questions for
24 you. Please answer any questions the defense may have.

25 MS. DUQUE: Thank you.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A That would be accurate.

2 Q If I may show you State's Exhibit 8, can you tell me if
3 you are able to see just from looking at that photo, if you can
4 tell if the person in there is black, white, or Hispanic?

5 A I cannot.

6 Q You can't see who it is. Then when you interviewed Ms.
7 Krebs that night, did she tell you whether or not she
8 recognized the voice of the person who essentially robbed her
9 at gunpoint?

10 A She did not.

11 Q Then also as part of your investigation, you reviewed the
12 security footage from McDonald's, right?

13 A Correct. And the manager, Mr. Garvin, he provided
14 you with the footage from McDonald's from earlier that
15 day, right?

16 A Correct.

17 Q Earlier in your testimony -- you reviewed that video,
18 right?

19 A Yes.

20 Q Not too long into your testimony you said that my client
21 went into McDonald's earlier and he didn't do much?

22 A Correct.

23 Q But if you did review the video, you would see that my
24 client goes, gets a drink and eats.

25 A He is only in there for about two minutes.

1 Q But he actually does get a drink?

2 A Okay.

3 Q And then he leaves. Then he leaves and then
4 essentially -- he was wearing not all black. He was wearing a
5 shirt and the khakis and carrying a bookbag.

6 A Correct.

7 Q Let's talk about the robbery. Moments prior to the
8 robbery, you received footage from McDonald's from before the
9 robbery, right? The entirety. You were able to observe in the
10 footage one of the employees leave and come back, right?

11 A Yes.

12 Q When she comes back to the restaurant, essentially she
13 puts her hand behind to leave the door open so that it wouldn't
14 lock, right?

15 A Correct.

16 Q The night of this robbery, this one person -- she was
17 considered a victim, right?

18 A Correct.

19 Q As you conducted your investigation, she was developed as
20 a suspect, right?

21 A Correct.

22 Q On the night of this investigation, she wrote a statement,
23 right?

24 A I believe so, yes.

25 Q Then as you develop more leads on your investigation and

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 she became a suspect, you call her in to give you an interview
2 at the station?

3 A Correct.

4 Q That was July 18?

5 A That sounds accurate.

6 Q When you interview her, she gives you a second statement,
7 right?

8 A Yes.

9 Q On the second statement, she is not being forthcoming with
10 you, correct?

11 A Correct.

12 Q At this time you show her the video or you tell her about
13 her leaving the door open essentially, right?

14 A Yes, ma'am.

15 Q At this point she provides you with another statement,
16 right?

17 A Correct.

18 Q On this statement she provides you with a name of somebody
19 who was involved in this robbery, right?

20 A Correct.

21 Q The name of that person wasn't Levy Brown's name, right?

22 A No. It was the person with Levy Brown.

23 Q It was the person with Levy Brown, Mr. Blue, right?

24 A Correct.

25 Q Then she also allowed you to conduct a search on her

1 phone, right?

2 A Yes, ma'am.

3 Q All of the calls and all of the text messages for July 15
4 2018, had already been deleted, right?

5 A It appeared so.

6 Q So there is really no way of knowing whether or not she
7 had called my client or texted my client or Blue about this
8 incident, right?

9 A It did not look like it.

10 Q No way of knowing. You were the lead investigator in this
11 case, right?

12 A Yes, ma'am.

13 Q Earlier you said you had 11 years, approximately 11 years
14 of law enforcement experience?

15 A Yes.

16 Q So back then it would have been what?

17 A About eights.

18 Q And you were an investigator already back then, right?

19 A Yes.

20 Q As far as your investigation, you tried to gather as much
21 as evidence as you can because that would just give you more
22 leads?

23 A Correct.

24 Q For example, you collected all of these items of evidence,
25 right?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Yes.

2 Q You also collected the videos?

3 A Yes.

4 Q The more video you have, the better?

5 A Correct.

6 Q Now, let's talk a little bit about this area. I will use
7 State's 27 for a moment. This is a commercial area, right?

8 A Yes.

9 Q You will agree with me that that is a commercial area.
10 Right here, do you need me to hold it up for you?

11 MS. DUQUE: May the witness step down, Your Honor.

12 THE COURT: Yes.

13 BY MS. DUQUE:

14 Q This is a commercial area, right?

15 A Yes.

16 Q You were able to obtain footage from McDonald's and
17 EnMarket?

18 A Yes.

19 Q The BiLo has cameras.

20 A The BiLo has cameras. Their cameras points in this
21 direction. It was not useful for me that night. We did
22 check with the tobacco shop that sits right there. They
23 had a camera that points directly across the lot. It did
24 not catch anything.

25 This unit here was occupied. No external cameras.

1 So there was nothing that we could get there. These guys
2 had internal cameras, which really didn't do much of any
3 good. We went back in this direction and tried over here.
4 Here is Dr. Mohler's office. It points directly in the
5 direction that we want it. We asked him. His cameras did
6 not pick anything up that night.

7 Right here is Shell Point Optical. We stopped by
8 Shell Point Optical. We spoke with Dr. Johannes. She
9 indicated that she did have an exterior camera, but for
10 whatever reason, she did not have any video that she could
11 provide us that night.

12 Q Back here, it's called something else now.

13 A Yes.

14 Q It used to be Low Country --

15 A Medical Group.

16 Q There you go. Did you go back there to see if they had
17 any cameras or -- now they have something else now. That
18 camera points in this direction. How about the bank right
19 here?

20 A I checked with the bank. We have had shoplifting
21 instances and other significant instances at EnMarket
22 before, so I was familiar with the cameras at CPM Federal
23 Credit Union, which mostly point in both of these
24 directions. Because of the shrubby, the way the cameras
25 are set up, we don't really see anything outside of the

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 parking lot.

2 Q The cameras here point in this direction. The camera
3 possibly could have picked up any action in this direction?

4 A Correct. Since I was looking at this direction, I
5 did not consider this one.

6 Q This is where the shoes were found, is that correct?

7 A Correct.

8 Q The Shell Point Apartments, they also have cameras. Did
9 you collect any videos from them?

10 A At the time I don't believe that they did have
11 cameras. They have since put up cameras near the refuse
12 or dumpster storage area. As far as we were led to
13 believe, there was no video available at Shell Point
14 Apartments. At least that is what we were led to
15 believe.

16 Q Are you familiar with that area of the Shell Point
17 Apartments and whatever else is back there, all of that back
18 there?

19 A Yes.

20 Q There are a lot of cut-paths back there?

21 A There is.

22 Q When this incident happened and there was a perimeter was
23 set up, were there units back there?

24 A The units that we had available were very limited.
25 We are a small department. We were primarily concerned

1 with preserving the evidence that we had available,
2 securing the scene, and preventing people from coming
3 through the main areas that we could control. Because of
4 our limited number of personnel.

5 To the best of my knowledge, the furthest back unit
6 you will see is the corner back parking lot of the BiLo
7 Shopping Center, which is near the Shell Point Apartments.
8 Where you are describing is about another 75 yards further
9 where that cut-back is. I don't believe there was a unit
10 there.

11 Q When you set up a perimeter, the purpose of that perimeter
12 is to keep people in?

13 A The primary purpose of that perimeter is, obviously
14 if you have more people who can do it, you want to lock it
15 down.

16 Q In a perfect world where we have all of these resources at
17 our disposal. The purpose of these units in setting up the
18 perimeter is for these people to pretty much keep the traffic
19 from coming or going. You don't want people to leave and you
20 don't want people to come into the areas that you trying to
21 preserve or an area of interest, right?

22 A Correct.

23 Q Again, you wouldn't let anyone leave the perimeter while
24 you are conducting your investigation or while things are going
25 on in, for example, the dog tracking?

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 A Correct.

2 So specifically that perimeter that you are talking about
3 would be held during the dog track. We do have vehicles coming
4 in and out. They are not coming in and out without us being
5 able to identify them in some way knowing who they are. As
6 Master Sergeant Fraser mentioned earlier, we are not
7 necessarily detaining them, but we do want to know who they
8 are?

9 Q So you do want to know who they are. You wouldn't just
10 let them go without at least asking them for identification.

11 A Correct.

12 Q About this McDonald's, just the last thing I have, I
13 believe. It was robbed before, right?

14 A Correct.

15 Q In 2017. December of 2017?

16 A Yes.

17 Q Pretty much similar set of facts, right, people were
18 placed in the freezer?

19 A They were. In that particular case, I think the
20 suspect was already inside the locked store. If I recall
21 correctly -- it is a four-year-old case now, but I think
22 in that particular case, the suspect was in the bathroom.

23 Q We do not need to get into the details of that one
24 robbery, just that it had happened.

25 THE COURT: He can explain his answer if he

1 would like to.

2 BY MS. DUQUE:

3 Q If you would like to further explain. The person was in
4 the bathroom?

5 A Exactly. It was just a different set of
6 circumstances.

7 Q Essentially, the only difference is he was in the
8 bathroom, and again robbed Ms. Krebs and everybody in the
9 freezer, right?

10 A Ask the question again.

11 Q In that one armed robbery, the person was in the freezer,
12 right? After he robs the manager, he places the individuals in
13 the fridge?

14 A Yes.

15 Q I do have one more question. When you got there, based on
16 your conversations with Officer Kopylov, the people had already
17 been taken out of the freezer, and it was Timothy Garvin who
18 let them out of the fridge?

19 A Correct, yes.

20 Q So to your knowledge, how did he know that they were
21 there?

22 A As you can see from the video, the lobby is wide
23 open. There were not any people there. The cashier area
24 is wide open as well as the cooking area as well as the
25 cleaning area. There is really only two places they could

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 have been effectively if they were still inside the store.

2 One was the office; one is the refrigeration area. I
3 would be guessing if I said that he flipped a coin and assumed
4 that they were in there.

5 Q Only one of the employees was able to run out of
6 McDonald's after the suspects walked in, rightP McDonald's ?

7 A Exactly. When the suspects entered, there were two
8 employees that the original suspect completely bypassed.
9 One was in the cooking area. She sort of froze and became
10 confused. The other one seemed to kind of understand what
11 was going on and fled immediately.

12 Q And that was Mr. Garvin's girlfriend?

13 A Yes.

14 MS. DUQUE: Court's indulgence. Those are all
15 the questions I have.

16 THE COURT: Anything further?

17 MR. SHEDD: No, Your Honor.

18 THE COURT: You may step down, sir.

19 (Witness exits witness stand.)

20 THE COURT: Ladies and gentlemen, this is a very good
21 point to break for the evening. Everyone is okay to start up
22 at 9:30. I need to talk to that one, the dental hygienist to
23 see what we are doing with you.

24 Again, ladies and gentlemen, do not discuss this
25 case. It wouldn't be appropriate to do so. Do not do any

1 independent research. Don't drive by the McDonald's in Port
2 Royal, ladies and gentlemen.

3 Go home. Get a good night's sleep. We will be here
4 for awhile tomorrow. I will tell you that I anticipate
5 bringing in sandwiches or some kind of lunch for you all so we
6 can move it along so we can get the case to you. Good night
7 everyone. See you in the morning.

8 (Jury exits courtroom.)

9 THE COURT: She could not find coverage. So I just
10 need to know if you both are willing to go ahead and allow her
11 to go off the jury and just put the first alternate in her
12 place. That is what I suggest we do. If not, she has to
13 reschedule all of her cleanings.

14 MR. SHEDD: The State doesn't have any objection.

15 MS. DUQUE: We don't have any objection.

16 THE COURT: So that is what we are going to do.
17 I will go tell her. I will tell her not to talk to
18 anyone. Anything else we need to do tonight?

19 MS. DUQUE: Just briefly, Your Honor. I think I
20 failed to mention this earlier. I have one more witness.
21 My investigator is not here. Timothy Ball. That is it.

22 THE COURT: Okay. It sounds to me like we have
23 Tim French tomorrow, and then you have three witnesses
24 potentially, is that correct?

25 Ms. DUQUE: Potentially, Your Honor.

STATE v. LEVY LARKIN BROWN - VOLUME II - 2018-GS-07-01281

1 THE COURT: Potentially, of course. All right.
2 I actually so far -- obviously, we haven't heard all the
3 evidence, but we have already done the jury charge for the
4 most part. It's pretty straightforward.

5 If you have any special requests to charge, let me
6 know for anything you think is extraordinary in this case.
7 With that said, I mean, it's pretty straightforward. I think
8 there is an ID charge. Obviously, a robbery charge. The rest
9 of it is pretty straightforward. Okay.

10 I will see you all tomorrow morning. We will start
11 at 9:15 and bring them in at 9:30.

12 MR. SHEDD: Judge, will there be a hand of one,
13 hand of all charge? I request that on the basis that
14 there are two -- it's not an ID necessarily. It's the
15 who's-who and the what's-what.

16 THE COURT: Let me think about that. Maybe,
17 yeah.

18 (At 5:37 p.m. the proceedings were continued to the
19 following day without interruption.)

20 * * *

21 END OF VOLUME II
22
23
24
25

1 STATE OF SOUTH CAROLINA IN THE COURT OF GENERAL SESSIONS
2 COUNTY OF BEAUFORT 14TH JUDICIAL CIRCUIT

3 STATE OF SOUTH CAROLINA,

4 vs.

CASE NO.: 2018-GS-07-01281

6 LEVY LARKIN BROWN,

TRANSCRIPT OF JURY TRIAL VOLUME III
PAGES 244 - 337

8 Defendant.

9

HEARING BEFORE: THE HONORABLE CARMEN T. MULLEN

11 DATE: APRIL 23, 2021

12 LOCATION: BEAUFORT COUNTY COURTHOUSE

14 TRANSCRIBED BY: KYMBERLEE M. WILLIAMS, CSR/RPR

16 APPEARANCES:

18 FOR THE STATE OF SOUTH CAROLINA

19 JARED SHEDD, ESQ.
20 SAMANTHA MOLINA, ESQ.
21 BEAUFORT COUNTY SOLICITOR'S OFFICE
 102 RIBAUT ROAD
 BEAUFORT, SOUTH CAROLINA 29902

22 FOR THE DEFENDANT

23 MELISSA DUQUE, ESQ.
24 COURTNEY GIBBS, ESQ.
 1905 DUKE STREET
 BEAUFORT, SOUTH CAROLINA 29902

I N D E X

1		
2	Proceedings	
3		
4	WITNESS: TIM FRENCH	
5	Direct Examination	251
6	Cross-Examination	264
7	Redirect Examination	267
8		
9	WITNESS: JOHN JAMBRISKA	
10	Direct Examination	275
11	Cross-Examination	277
12		
13	WITNESS: TIMOTHY BALL	
14	Direct Examination	278
15	Cross-Examination	288
16		
17	END OF PROCEEDINGS	341
18		
19	CERTIFICATE OF REPORTER	342
20		
21		
22		
23		
24		
25		

1	EXHIBIT LIST		
2			
3	ITEM NUMBER	DESCRIPTION	PAGE
4	S-14	NIKE SLIDES	254
5	S-15	SCARF #1	255
6	S-17	SHOES	256
7	S-18	SCARF #2	256
8	S-19	BROWN BUCCAL	259
9	S-20	BLUE BUCCAL	259
10	S-28	AERIAL MAP	258
11			
12	D-2	DVD DASHCAM	276
13	D-3	PHOTO	280
14	D-4	PHOTO	281
15	D-5	PHOTO	282
16	D-6	PHOTO	282
17	D-7	PHOTO	283
18	D-8	U.S. CURRENCY	284
19	D-9	ROBBERY VIDEO	284
20			
21			
22			
23			
24	FRIDAY, APRIL 23, 2021		
25	BEAUFORT, SOUTH CAROLINA		

* * *

(The following proceedings were held in open court. The defendant was present along with his attorney as well as the attorneys for the State.)

THE COURT: Anything we need to put on the record before we bring in the jury this morning?

MR. SHEDD: Nothing from the State, Your Honor.

MS. DUQUE: Nothing from the defense.

THE COURT: Let's bring them in

(Jury enters courtroom.)

THE COURT: Good morning, ladies and gentlemen.

It's good to see you. My first alternate, I wanted to let you know the young lady that had to be at work today, I excused her for the remainder of this trial. I appreciate your willingness to serve. Thank you all very much.

We will finish this case today, ladies and gentlemen. We do have witnesses this morning, closing arguments, and I will charge you on the law.

As I told you before, we are going to order you in lunch to streamline this process. That way, we can break for about 20 or 30 minutes for lunch rather than give you the full hour. If you need anything, let me know, and we will be happy to help in any way we can.

Ladies and gentlemen, at this time the State will call its next witness.

1 MR. SHEDD: The State calls Tim French.

2 TIM FRENCH, being first duly sworn testified as
3 follows:

4 * * *

5 DIRECT EXAMINATION

6 BY MR. SHEDD:

7 Q. Good morning, Mr. French. Can you tell the jury
8 where you work?

9 A. I work for the Beaufort County Sheriff's Office in
10 the Department in the forensic laboratory.

11 Q. How long have you been in that position?

12 A. 13 years.

13 Q. What are some of your duties?

14 A. I test biological evidence that comes into the lab
15 looking for DNA.

16 Q. Are there any education or training requirements
17 for that job?

18 A. I have a Bachelor's of Science degree from State
19 University of New York in Portland. Since working in the field
20 of forensics, I have had trainings at the FBI Academy in
21 Quantico, Virginia in conventional forensic serology;
22 Serological Research Institute.

23 I completed a course in bloodstain analysis system
24 and advanced DNA training at Marshalls University in West
25 Virginia. You mentioned serology. What is serology?

1 A. Biological fluids: Blood, semen, saliva.

2 Q. Is this the only forensics lab you have worked in
3 in your career?

4 A. No. Prior to working here, I worked for ten years
5 at the Charlotte-Mecklenburg Police Lab and nine years before
6 that at Syracuse Police Lab in New York.

7 Q. Have you ever testified as an expert before?

8 A. Yes, I have.

9 MR. SHEDD: At this time, State moves Tim French --
10 moves to qualify Tim French as an expert in forensic DNA
11 analysis

12 THE COURT: Any objection?

13 MS. DUQUE: No objection.

14 THE COURT: Ladies and gentlemen, in this case
15 Mr. French is being qualified as an expert in the area of
16 forensic DNA analysis. That allows him to give his opinion and
17 the reasons for his opinion. Again, that is for you to use as
18 you see appropriate and as compared to other evidence in this
19 case

20 BY MR SHEDD:

21 Q. Mr. French, can you explain touch DNA?

22 A. Touch DNA is where you are looking to get DNA from
23 a surface or an item where someone may have touched it. What
24 we are looking for basically is skin cells.

25 Q. Are there multiple ways that touch DNA can end up

1 on an item?

2 A. Yes.

3 Q. What are some of those ways?

4 A. The person can come into direct contact with that
5 item, or that item could come into contact with something that
6 someone has previously touched, such as -- say I touched that
7 bottle of hand sanitizer there and then someone else touches it
8 and picks up my DNA and transfers my DNA to another source.

9 Q. Do some people leave more skin cells behind, more
10 touch DNA than others?

11 A. Yes.

12 Q. Is there a term for those peoples?

13 A. People that shed a lot are termed shedders.

14 Q. Is the Beaufort County Sheriff's Department lab
15 that you work in accredited?

16 A. Yes, it is.

17 Q. What does it take for the lab to be credited?

18 A. We get periodical audits from our accrediting body,
19 ANAB, National Accreditation Board and ANSI National Standards
20 Institute. They audit the logs looking at qualifications of
21 examiners, record-keeping, standard operating procedures, the
22 physical facility, making sure that we do what we say we do and
23 we look properly.

24 Q. Are you familiar with True Allele?

25 A. Yes.

1 Q. Explain what that is?

2 A. A piece of software that we purchased in the lab.
3 We use it for sorting out mixtures of DNA from multiple
4 individuals.

5 Q. How long has the lab that you work in used True
6 Allele?

7 A. Online for casework since 2016.

8 Q. Who is certified to use True Allele in the lab?

9 A. Right now, there are three of us.

10 Q. Have you been certified since the lab first started
11 using it?

12 A. Yes.

13 Q. Have you testified about True Allele before?

14 A. Yes, I have.

15 Q. MR. SHEDD: At this time the State moves to
16 qualify Tim French as an expert in True Allele.

17 MS. DUQUE: No objection.

18 THE COURT: All right, ladies and gentlemen.

19 Again, as I qualified Mr. French in the area of DNA
20 analysis. He is also being qualified as an expert witness in
21 the area of True Allele as well.

22 BY MR. SHEDD:

23 Q. Mr. French did you perform testing in this case?

24 A. Yes, I did.

25 Q. I will show you some items. This is previously

1 identified as State's Exhibits 14, 15, 18, and 17. Can you
2 tell me if you recognize those?

3 A. Yes, I do.

4 Q. Let's start with State's 14. What is State's 14?

5 A. This is a pair of flip-flops that I examined in
6 this case.

7 Q. When they showed up in the lab, were they sealed?

8 A. Yes.

9 Q. Other than testing, did you do anything to that
10 item to alter in any way?

11 A. I would label it with with my initials and case
12 number.

13 MR. SHEDD: Move to admit State's 14 into evidence.

14 MS. DUQUE: Subject to my previous objection.

15 THE COURT: Over your previous objection, it's in
16 evidence.

17 (State's Exhibit 14 was admitted into evidence.)

18 BY MR. SHEDD:

19 Q. Moving on to State's 15. Can you tell me what that
20 item is?

21 Q. 15 is a black head scarf.

22 A. Is that an item that you tested in relation to this
23 case?

24 A. Yes.

25 Q. Other than testing and labeling, did you do

1 anything to alter it in any way?

2 A. No.

3 MR. SHEDD: At this time State moves State's 15
4 into evidence

5 MS. DUQUE: Subject to my previous objection

6 THE COURT: Subject to your previous objection,
7 it's in evidence.

8 (State's Exhibit 15 was admitted into evidence.)

9 BY MR. SHEDD:

10 Q. Moving on to State's 17. Tell the jury what that
11 item is.

12 A. This is a pair of shoes that I examined in this
13 case.

14 Q. Other than testing and initialing, did you do
15 anything to alter that in any way?

16 A. No.

17 MR. SHEDD: At this time State moves State's 17
18 into evidence

19 MS. DUQUE: Subject to my previous objection

20 THE COURT: Subject to your previous objection,
21 it's in evidence.

22 (State's Exhibit 17 was admitted into evidence.)

23 BY MR. SHEDD:

24 Q. Finally moving on to State's 18. Tell the jury
25 what that item is.

1 A. This is a second head scarf that I examined in this
2 case.

3 Q. Other than testing and initialing, did you alter
4 that item?

5 A. No.

6 MR. SHEDD: At this time State moves State's 18
7 into evidence

8 MS. DUQUE: Subject to my previous objection

9 THE COURT: Subject to your previous objection,
10 it's in evidence.

11 (State's Exhibit 18 was admitted into evidence.)

12 BY MR. SHEDD:

13 Q. Mr. French, can you start by opening up State's
14 Exhibit 14 and take out what is in the bag.

15 (Witness complies.)

16 BY MR. SHEDD:

17 Q. Is it open?

18 A. Yes.

19 Q. Can you show the jury where on those shoes you
20 swabbed for testing.

21 A. On shoes like this, I swab the soles and then
22 underneath here where someone's skin would be in contact.

23 Q. Were you able to obtain DNA from that?

24 A. I did not get any DNA from the swabbings on the
25 shoes.

1 Q. Thank you. I will ask you now to open up State's
2 15.

3 Did you swab that for DNA?

4 A. Yes, I did.

5 Q. Explain to the jury how you swabbed that item for
6 DNA.

7 A. I just swabbed the whole thing. If there were eye
8 holes and mouth, I would swab the whole thing.

9 Q. Did you obtain any DNA on that?

10 A. Yes, I did.

11 Q. Was it a mixture?

12 A. Yes. It was a DNA mixture.

13 Q. Moving on to State's 18. Did you swab that item?

14 A. Yes, I did.

15 Q. Did you swab the entirety of that as well?

16 A. Yes.

17 Q. Did you obtain DNA?

18 A. A DNA mixture, yes.

19 Q. Now State's 17.

20 Did you swab those items for DNA?

21 A. Yes.

22 Q. Where did you swab them?

23 A. In the soles where someone's skin would be in
24 contact.

25 Q. Were you able to obtain a DNA from that?

1 A. Yes.

2 Q. Mr. French, now I will show you what has been
3 previously identified as State's Exhibit 28. Can you tell me
4 what that item is.

5 A. This is a swab that I tested that came from a
6 refrigerator, door handle of a refrigerator.

7 Q. Were you able to obtain a mixture from that?

8 A. Yes.

9 Q. Other than testing, did you do anything to alter
10 that item in any way?

11 A. No.

12 MR. SHEDD: At this time, State moves State's
13 Exhibit 28 into evidence

14 MS. DUQUE: Subject to my objection

15 THE COURT: In evidence subject to your previous
16 objection

17 (State's Exhibit 28 was admitted into evidence.)

18 BY MR. SHEDD:

19 Q. I will now show you what has been identified as
20 State's 21 and 22. Do you recognize those items?

21 A. Yes, I do.

22 Q. I will start with State's 21. What is State's 21?

23 A. A buccal standard from Shayna Higgins.

24 Q. Explain what a buccal standard is?

25 A. A cotton swab that you rub on someone's cheek,

1 inside of their mouth, in order to get their DNA to use for a
2 profile.

3 Q. State's 22. What is that?

4 A. A buccal swab from Timothy Garvin.

5 Q. Did you do anything to alter either of those items
6 in any way?

7 A. No.

8 MR. SHEDD: At this time, State moves State's
9 Exhibits 19 and 20 into evidence

10 MS. DUQUE: Subject to my objection

11 THE COURT: In evidence subject to your previous
12 objection

13 (State's Exhibit 19 and 20 were admitted into evidence.)

14 BY MR. SHEDD:

15 Q. The items -- I know we covered this a second ago.
16 Can you tell the jury what items again you obtained mixtures
17 from?

18 A. I obtained mixtures from both of the head scarves,
19 the shoes, and the swabs from the refrigerator door.

20 Q. Starting with the refrigerator door, were you able
21 to match any known standard to a contributor of that mixture?

22 A. Yes.

23 Q. Who was that person?

24 A. On the refrigerator door, a match to Timothy
25 Garvin. Since he was an employee of the place -- I believe he

1 is listed as an elimination, someone whose DNA should be there.
2 We do not report stats on that.

3 Q. Moving to Item Number 2, were you able to obtain a
4 mixture off of that, and did that match any known standard?

5 A. Yes. A match to Levy Brown is 199 octillion times
6 more likely than a coincidental match to an unrelated
7 individual.

8 Q. How many zeros is that?

9 A. 27. There was an additional match to that. When
10 we have mixtures like that, we are able to reprocess that
11 mixture, telling the computer that this person is in the
12 mixture. Who else could there be.

13 Initially, on this sample it's looking for three
14 contributors, get a match to someone. Then we re-processed it
15 and say, we think this person is in the mixture, look at the
16 other two.

17 After assuming Levy Brown is a known contributor, a
18 match to Dequan Blue is 8,790 times more likely than a
19 coincidental match to an unrelated individual.

20 In our lab we have a policy that anything that is
21 under 1,000,000 we report false/positive. A false/positive
22 would occur if a non-contributor, someone whose DNA was not
23 there had a matched statistic equal to that. So 8,790. The
24 chance of a false/positive for this comparison is 1 in 359,000.

25 Q. That is the match for Dequan Blue?

1 A. Yes.

2 Q. Assuming contributors. Explain to the jury how you
3 assume contributors or what happens.

4 A. That means what I explained earlier. We believe
5 that person's DNA is in there. Basically you are subtracting
6 it from what it's trying to look for.

7 Q. When you first admit a sample into True Allele1
8 software, do you have to assume contributors from the
9 beginning?

10 A. Yeah. You tell it how many people are in there.

11 Q. So how many people you believe to be in there?

12 A. Yes.

13 Q. That is based on your training and experience?

14 A. Yes.

15 Q. Your Item Number 4. Were you able to form an
16 opinion as to DNA Blue on that item?

17 A. Item 4?

18 Q. Yes.

19 A. DNA Dequan Blue was excluded as a contributor of
20 that mixture.

21 Q. Were you able to form an opinion as to Shanya
22 Higgins on Item 4?

23 A. Yes. A match to Shanya Higgins is 9 billion times
24 more likely than a coincidental match to an unrelated
25 individual.

1 Q. Were you able to form an opinion as to whether or
2 not Levy Brown's DNA was on that item?

3 A. Yes. A match to Levy Brown, is 32 septillion more
4 likely than a coincidental match to an unrelated individual.

5 Q. How many zeros is that?

6 A. 24.

7 Q. As to Item Number -- these are the shoes. This is
8 State's Exhibit 12 and your Item Number 3.

9 Were you able to form an opinion as to whether or
10 not Dequan Blue was present in that mixture?

11 A. Dequan Blue was excluded as a contributor to the
12 mixture.

13 Q. Were you able to form an opinion about whether Levy
14 Brown's DNA was part of that mixture?

15 A. The match to Levy Brown is 372 quadrillion times
16 more likely than a coincidental match to an unrelated
17 individual.

18 Q. How many zeros is that?

19 A. 15.

20 MR. SHEDD: I don't have any further questions,
21 Mr. French. Please answer any questions Ms. Duque has.

22 * * *

23 CROSS-EXAMINATION

24 BY MS. DUQUE:

25 Q. Good morning.

1 A. Good morning.

2 Q. DNA science. The science of possibilities, right?

3 A. Sure.

4 Q. Just DNA, right. DNA cannot tell you whether a
5 person is innocent or guilty, right?

6 A. No.

7 Q. It can just tell you whether or not a person came
8 into contact with an item, right?

9 A. Correct.

10 Q. Or whether a person for some reason left their DNA
11 behind somewhere on an item and that item then touched some
12 other item and it was transferred that way, right?

13 A. That's correct.

14 Q. DNA can easily transfer from one place to another
15 and from one item to another, right?

16 A. DNA is a relative term, but it can be done, yes.

17 Q. Most samples nowadays, like in this case, there are
18 mixture, right?

19 A. When they involve touch DNA, yes.

20 Q. That means that there is more than one contributor
21 to that item, right?

22 A. That's correct.

23 Q. Let's just say for example that this pen -- I am
24 holding this pen and I am rubbing it and holding it. It has my
25 DNA, right?

1 A. I would expect so.

2 Q. If for some reason, Investigator Hogue touches this
3 pen, now my DNA and his DNA are on it, right?

4 A. Possibly.

5 Q. Let's just say that he held the pen for a long
6 time, just like I did. His DNA might be there or definitely
7 there. He he is walking out of the courthouse, he drops his
8 pen and a third body picked it up and places it somewhere in
9 his backpack or his pocket.
10 Our DNA could potentially end up on that item, shirt, pocket,
11 or his backpack?

12 A. True.

13 Q. If that person was to go and commit a crime and
14 those items get collected into evidence and you swab
15 everything, you will come across my DNA and his DNA, although
16 we were not involved in the crime, right?

17 A. In theory, yes.

18 Q. Just to summarize. DNA can only tell you who is a
19 contributor to a mixture?

20 A. True.

21 Q. DNA testing, True Allele testing, cannot tell you
22 when the DNA was deposited on that item, right?

23 A. No.

24 Q. I hear that scientists are working to get to that,
25 but it's not something that you are doing right now, right?

1 A. When it was deposited?

2 Q. When DNA was deposited on this item?

3 A. No. We don't do that.

4 Q. In your testing that you do at the lab, they don't
5 tell you how the DNA got there, right?

6 A. No.

7 Q. It just tells you, we have DNA here?

8 A. Yes.

9 Q. For this case, are you able to tell me or state,
10 15, 17, 18 when the DNA got there?

11 A. No.

12 Q. Can you tell me how the DNA got there on those
13 items?

14 A. No.

15 Q. And there is a possibility that DNA could be
16 transferred directly or indirectly to those items, right?

17 A. That's correct.

18 Q. Just briefly, this is another hypothetical, per se.
19 Let's say I donate my shoes to the Salvation Army and the
20 person who buys them later on -- if they buy them and wear them
21 and they are a victim of a crime or a suspect in a crime, if
22 you swab those insoles, it will have my DNA potentially, that
23 person's DNA and anybody else's DNA, right?

24 A. Yes.

25 Q. Just one last one. Let's say when we go bowling

1 and we leave those DNA on those shoes, right?

2 A. Yes.

3 Q. Would the DNA disintegrate when they clean them up?
4 They are supposed to clean the shoes when you go bowling.
5 Would our DNA disintegrate, potentially?

6 A. Potentially, yes.

7 MS. DUQUE: Those are all the questions I have for
8 you. Thank you.

9 THE COURT: Anything further, Mr. Shedd?

10 MR. SHEDD: Very briefly, Judge.

11 THE COURT: Okay.

12 * * *

13 REDIRECT EXAMINATION

14 BY MR. SHEDD:

15 Q Mr. French, Ms. Duque asked you about indirect transfer
16 possibilities. Can you explain to the jury the difference
17 between a potential major and minor contributor on an item.

18 A. That is just the relative amount of DNA in a
19 mixture. A major contributor is someone who is more than half
20 of the mixture. A minor is someone who is less than that.

21 Q. Were you able to form an opinion as to whether the
22 defendant, Levy Brown, was a major contributor on any of these
23 items?

24 A. That is one of the thing when it sorts out the
25 mixture, it looks at not only the possible contributors but how

1 much of that mixture that person can be.

2 In these mixture, the swab of the scarf Item 2.1, I
3 am not sure what exhibit that is.

4 Q. Exhibit 15.

5 A. Is 89 percent of that mixture.

6 Item 3.1, the shoes, he is only 29 percent. On the
7 second scarf, he is 64 percent.

8 Q. Is it, in your opinion, more or less likely to be a
9 secondary transfer if the person is deemed to be a major
10 contributor on the item?

11 A. Less likely.

12 MR. SHEDD: Thank you. I don't have any further
13 questions.

14 THE COURT: Anything further?

15 MS. DUQUE: Nothing further

16 THE COURT: Any objection to Mr. French being
17 excused?

18 MR. SHEDD: None from the State

19 THE COURT: None from you as well?

20 MS. DUQUE: No, Your Honor

21 THE COURT: You are excused, sir. Thank you.

22 MR. SHEDD: Your Honor, at this time the State
23 rests.

24 * * *

25 STATE RESTS

1 THE COURT: Thank you. Ladies and gentlemen, at
2 this time the State has rested their case. There is a matter
3 of law I need to take up with the attorneys. I will send you
4 over to the other courtroom. I will tell you again, do not
5 discuss this case. It will not be appropriate to do so. I
6 will bring you back shortly and let you know where we are going
7 from here.

8 Thank you. Grab a cup of coffee.

9 (Jury exits courtroom.)

10 THE COURT: All right. You may be seated

11 MS. DUQUE: Your Honor, at this time the defense
12 moves, Your Honor, for a directed verdict. Taking the light in
13 light of the evidence more favorable to the State, we believe
14 that the State has failed to present evidence that will prove
15 my client's guilt beyond a reasonable doubt in front of the
16 jury.

17 Specifically, we believe the State has failed to
18 prove that my client was one of the robbers who entered into
19 McDonald's on July 15, 2018 and committed this robbery.

20 There was no testimony from the witness stand --
21 witnesses who were actually at the scene who happened to be
22 there when this happened that were able to identify my client
23 as one of the suspects and unable to recognize that it was his
24 voice.

25 Therefore, Your Honor, we request that Your Honor

1 grants us our motion for directed verdict

2 THE COURT: Mr. Shedd.

3 MR. SHEDD: Thank you, Your Honor. The evidence
4 indicates and shows there is certainly, to begin with,
5 circumstantial evidence that puts Mr. Levy Brown in the area
6 both before and after the robbery as well as his being sweaty
7 and he admitted to throwing his gun, the information he had
8 about the robbery shortly thereafter.

9 Most importantly there is DNA evidence that was
10 found at the crime scene that links back to Mr. Levy Brown.
11 Certainly, for the purposes of directed verdict, as Your Honor
12 is aware, it's the existence of evidence and not his weight.

13 There certainly is evidence from which the jury
14 believes that they could find him guilty.

15 So we would ask that you deny the motion.

16 THE COURT: Do you want to respond? MS.

17 DUQUE: No, Your Honor.

18 THE COURT: Obviously, taking the evidence in the
19 light most favorable to the State, I do think there is adequate
20 evidence to send this case to the jury. I would agree with
21 Mr. Shedd. There is certainly circumstantial evidence. His
22 testimony of throwing a gun.

23 Obviously, he had information about it. He was
24 found in the breezeway afterward, very shortly after being
25 tracked. He was sweaty. Certainly, there is DNA evidence on

1 the trail. So it's a jury issue clearly

2 MS. DUQUE: Thank you, Your Honor. I also renew
3 all of my previous motions and objections. I request that Your
4 Honor again grant our motion for a directed verdict.

5 THE COURT: I appreciate that.

6 So at this time, do I need to go through your
7 client's rights with him? Do you intend on putting witnesses
8 up this morning?

9 MS. DUQUE: Two.

10 THE COURT: Who are your two witnesses?

11 MS. DUQUE: It's going to be Mr. John Jambriska,
12 who was previously identified and my investigator.

13 THE COURT: All right. If you would, Mr. Brown
14 raise your hand.

15 LEVY BROWN, being first duly sworn testified as
16 follows:

17 THE COURT: We have come to that point in the
18 trial, sir, where you are able to put up your defense. That
19 means that you can or can't testify, but that is completely up
20 to you whether or not you want to. The Constitution of the
21 United States and the South Carolina Constitution says that no
22 person in a criminal trial is ever required to be a witness
23 against themselves.

24 What that simply means is this. You don't have to
25 testify in this case. Sir, if you do choose to testify, I want

1 you to know that if you do, you will be subject to
2 cross-examination just like any other witnesses. They will be
3 allowed to ask you any questions that I deem relevant.

4 So at this point, sir, have you had an opportunity
5 to talk with your lawyers as to whether or not you wish to
6 testify?

7 THE DEFENDANT: Yes, ma'am

8 THE COURT: Do you want to testify in this case,
9 Mr. Brown?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Is that your choice?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right, sir. Thank you. I find
14 that's freely, voluntarily, and willfully made. I appreciate
15 it. At this time if you guys are ready, I will bring the jury
16 back out again.

17 Also, I will tell, Mr. Shedd I found -- or Jamie
18 found -- the hand of one, hand of all charge yesterday. I
19 think it's appropriate in this case. So I have inserted that
20 in the jury charge as well.

21 MS. GIBBS: Your Honor, I will just object to the
22 hand of one, hand of all charge. I will point out State v.
23 Barber. I am happy to hand up a copy. I would argue that the
24 State's theory is unequivocal. Their theory is that there were
25 two principal defendants that committed this armed robbery.

1 They both were equally responsible. They both had weapons.

2 State v. Barber case, to me it's clear that if
3 there are competing theories from the defense and the State as
4 to whether -- let's say maybe there is four people
5 participating, and maybe there were only two guns. If there
6 were different arguments as to liability, that would be more
7 appropriate.

8 I think in the case of Shanya Higgins, in this case
9 it would be appropriate to do hand of one, hand of all. It's
10 very clear that the State has charged Mr. Brown as a principal
11 and not an accomplice. So I would say it's not appropriate,
12 Judge

13 THE COURT: Mr. Shedd, where was the second person
14 who was armed in this case? We saw the one on the video
15 getting the money from Ms. Krebs. Where was that second
16 person?

17 MR. SHEDD: The second robber was escorting
18 employees into the freezer at that time. In the video that was
19 shown, it was prepared that way, but the time actually overlaps
20 where while the robbery was occurring in the manager's office,
21 the other robber is forcing employees into the freezer. The
22 first gets the money in the back and then runs out, and then
23 the second one follows.

24 THE COURT: I hope that is clear to the jury. It
25 wasn't clear to me. I would think in that case, Ms. Gibbs,

1 because we have one person who was actually with Ms. Krebs
2 taking the physical money and the other person is leading them
3 into the -- people into a refrigerator, I do think the hand of
4 one, hand of all is an appropriate charge in this case since we
5 only have one person specifically demanding, which is the
6 carrying and taking away.

7 I would arguably say I guess that the second
8 secretary person was also committing a crime, semi-kidnapping
9 or making them be forced into a secluded area. I think that's
10 a bit tenuous. I think the jury is going to want to understand
11 that it was all part of one. So I think it's proper in this
12 case. Had they both been standing there, it would be have been
13 a different story.

14 THE COURT: All right. Let's bring the jury out.

15 (Jury enters courtroom)

16 THE COURT: Thank you, ladies and gentlemen. It's
17 my understanding that the defense will be offering evidence in
18 this case.

19 Ms. Duque, call your first witness.

20 MS. DUQUE: Thank you, Your Honor. The defense
21 calls John Jambriska.

22 JOHN JAMBRISKA being first duly sworn testified as
23 follows:

24 * * *

25 DIRECT EXAMINATION

1 BY MS. DUQUE:

2 Q. Good morning, Mr. Jambriska. Please tell the jury
3 where you work.

4 A. I work for the Beaufort County Sheriff's Office,
5 now the communications division.

6 Q. Prior to working in the communications division,
7 what did you do?

8 A. I was a deputy.

9 Q. What was your rank?

10 A. At this time I was a deputy sheriff. I left as a
11 patrolman, first class.

12 Q. Were you working on July 15, 2018?

13 A. I was.

14 Q. On that day did you have an opportunity to respond
15 to an armed robbery at McDonald's?

16 A. I did.

17 Q. What did you do when you got there?

18 A. As I responded, they were setting up a perimeter at
19 that time. I asked where I was needed. I was placed at the
20 Shell Point Apartments.

21 Q. What is the purpose of the perimeter?

22 A. The perimeter is to keep containment.

23 Q. That means?

24 A. Basically, keep individuals inside the perimeter
25 that need to be inside.

1 Q. Where did you respond to again?

2 A. Shell Point Apartments.

3 Q. I will show you what has been previously been
4 marked for identification as Defense 2.

5 Do you recognize that?

6 A. I do.

7 Q. How do you recognize it?

8 A. By my initials.

9 Q. Did you have an opportunity to review that?

10 A. I did.

11 MS. DUQUE: At this time, defense moves Defense 2
12 into evidence

13 MR. SHEDD: No objection.

14 THE COURT: Without objection.

15 (Defendant's Exhibit 2 was entered into evidence.)

16 MS. DUQUE: I have nothing further. Please answer
17 any questions Mr. Shedd may have for you

18 MR. SHEDD: Thank you.

19 THE COURT: Mr. Shedd.

20 MR. SHEDD: Thank you.

21 * * *

22 CROSS-EXAMINATION

23 BY MR. SHEDD:

24 Q. Mr. Jambriska, presumably you were dispatched to
25 this call?

1 A. Yes.

2 Q. You were given information that there was a
3 robbery?

4 A. Yes.

5 Q. And also that a dog track was going to be
6 conducted?

7 A. Correct.

8 Q. And you were told to go to the perimeter?

9 A. Correct.

10 Q. And you were given a description of the suspects.

11 A. Yes.

12 Q That they were not all black.

13 Q. To my knowledge at this time, I can't remember what
14 was description was that I was given.

15 Q. But a description was given?

16 A. Yes.

17 Q. Had these individuals matched that description,
18 would you have questioned them further?

19 A. If they had matched, yes.

20 Q. You would have questioned them further?

21 A. Correct.

22 MR. SHEDD: Thank you. I have no further questions

23 MS. DUQUE: Nothing further.

24 THE COURT: Any objection to this witness being
25 excused?

1 MS. DUQUE: No, ma'am.

2 MR. SHEDD: No, Your Honor.

3 THE COURT: Thank you, sir. You are excused.

4 (Witness exits witness stand)

5 TIMOTHY BALL, being first duly sworn testified as
6 follows:

7 * * *

8 DIRECT EXAMINATION

9 BY MS. DUQUE:

10 Q. State your name for the record.

11 A. My name is Timothy Ball.

12 Q. Thank you, sir.

13 Mr. Ball, where do you work?

14 A. I work for the Beaufort County Public Defender's
15 Office.

16 Q. What do you do for the Public Defender's Office.

17 A. I'm an investigator.

18 Q. Prior to working for the Public Defender's Office,
19 where did you work?

20 A. I worked for the State of Tennessee.

21 Q. For how long?

22 A. Eighteen years.

23 Q. What did you do for the State of Tennessee?

24 A. I was an investigator.

25 Q. Mr. Ball, in preparation for this trial, what did

1 you do?

2 A. I went to the scene near McDonald's, including
3 Shell Point Apartments, Shell Point Park. I inspected scene.
4 I photographed the topography.

5 Q. When you went to that location, what did you
6 observe?

7 A. I observed some clothing in the wooded area between
8 the apartments and Shell Point Park. Several cut-throughs were
9 observed.

10 Q. Did you take photos of these places?

11 A. I did.

12 Q. MS. DUQUE: Permission to approach, Your Honor.
13 BY MS. DUQUE:

14 Q. I am going to pass you what has been previously
15 marked as Defendant's Exhibits 3 through 9 for identification.
16 Let's start with Defense 3. Do you recognize it?

17 A. Yes, I do.

18 Q. What is it?

19 A. Shell Point Park looking east, just south of the
20 wooded area between Shell Point Apartments and Shell Point
21 Park.

22 Q. Is that a fair and accurate representation of the
23 photo you took?

24 A. It is.

25 MS. DUQUE: At this time we would move Exhibit 3

1 into evidence, Your Honor.

2 MR. SHEDD: I will object, Judge, on relevance
3 grounds. It sounds like the pictures were taken in preparation
4 for the trial, I believe very recently.

5 THE COURT: Can you establish a relevance?

6 MS. DUQUE: They are relevant, Your Honor, in that
7 there was testimony from the witness stand that there were
8 cut-throughs in the Shell Point Apartments area that led to
9 this park where one of the officers who just testified let
10 these people go. The Shell Point Apartments have a lot of
11 cut-throughs that go to the woods

12 THE COURT: What are these pictures of? I haven't
13 seen them.

14 Can I see the attorneys?

15 (Discussion off the record.)

16 THE COURT: Go ahead

17 MS. DUQUE: We move Number 3 into evidence, Your
18 Honor.

19 THE COURT: Subject to the State's objection, I
20 will let it into evidence, as long as he can lay a foundation
21 for the actual photos.

22 (Defendant's Exhibit 3 was admitted into evidence)

23 BY MS. DUQUE:

24 Q. Mr. Ball, let's go to Defendant's 4. Do you
25 recognize that?

1 A. I do.

2 Q. What is it?

3 A. It's a wide-angle view of the park looking south.

4 Q. Do you recall when you took that photo?

5 A. On April 20th.

6 Q. Of what year?

7 A. 2021.

8 Q. Is that a fair and accurate representation of the
9 photo you took on April 20th?

10 A. Yes.

11 MS. DUQUE: At this time we move Exhibit Number 4
12 into evidence

13 THE COURT: Subject to the prior objection, it's in
14 evidence

15 (Defendant's Exhibit 4 was admitted into evidence.)

16 BY MS. DUQUE:

17 Q. This is Defense 5, Mr. Ball. Do you recognize it?

18 A. I do.

19 Q. What is it?

20 A. it's a cut-through from Shell Point Park into Shell
21 Point Apartments.

22 Q. When did you take that photo?

23 A. On April 20th.

24 Q. Is Number 5 a fair and accurate representation of
25 the photos you took an April 20th?

1 A. It is.

2 MS. DUQUE: We move Number 5 into evidence, Your
3 Honor

4 THE COURT: Subject to prior objection, admitted
5 into evidence.

6 (Defendant's Exhibit 5 was admitted into evidence)

7 BY MS. DUQUE:

8 Q. Number 6, do you recognize it?

9 A. I do.

10 Q. What is it?

11 A. A photograph of the sign Shell Point Recreation
12 Pike, leading into the entrance of Shell Point Park.

13 Q. When did you take it?

14 A. April 20th.

15 Q. Is that a fair and accurate representation of the
16 photo you took that day?

17 A. It is.

18 MS. DUQUE: At this time we move Exhibit 6 into
19 evidence, Your Honor.

20 THE COURT: Subject to prior objection

21 (Defendant's Exhibit 6 was admitted into evidence)

22 BY MS. DUQUE:

23 Q. Let's go to Number 7. Do you recognize it?

24 A. I do.

25 Q. What is it?

1 A. A photo of the wooded area, looking north towards
2 Shell Point Apartments. Showing the wooded area right at the
3 end of Shell Point Recreation hike.

4 Q. When did you take that photo?

5 A. April 20th.

6 Q. Is that a fair and accurate representation of the
7 photo you took that day?

8 A. It is.

9 MS. DUQUE: At this time we would move 7 into
10 evidence, Your Honor.

11 THE COURT: Subject to the prior objection. It's
12 in evidence

13 (Defendant's Exhibit 7 was admitted into evidence)

14 BY MS. DUQUE:

15 Q. Let's go to Number 8. Mr. Ball, do you recognize
16 it?

17 A. I do.

18 Q. What is it?

19 A. It's A photograph of a clump of clothing in the
20 wooded area, which is located between Shell Point Apartments
21 and Shell Point Park.

22 Q. When did you take that photo?

23 A. April 20th.

24 Q. Is it a fair and accurate representation of the
25 photo you took that day?

1 A. It is.

2 MS. DUQUE: At this time we move Exhibit 8 into
3 evidence

4 THE COURT: Subject to prior objection, in
5 evidence.

6 (Defendant's Exhibit 8 was admitted into evidence)

7 BY MS. DUQUE:

8 Q. Number 9. Do you recognize it?

9 A. Yes.

10 Q. What is it?

11 A. It's a black zipper jacket. It's the same clearing
12 as the other area described.

13 Q. When did you take that photo?

14 A. On April 20th.

15 Q. Is it a fair and accurate representation of the
16 photos that you took that day?

17 A. It is.

18 MS. DUQUE: At this time we move that one into
19 evidence, Your Honor

20 THE COURT: Subject to prior objection, it's in
21 evidence

22 (Defendant's Exhibit 9 was admitted into evidence)

23 BY MS. DUQUE:

24 Q. Mr. Ball, if I can have you step down.

25 I will show you what has been previously identified as

1 Defense Exhibit 1.

2 MR. SHEDD: I will object. This is not a demonstrative aid to
3 be shown to the jury without a proper foundation.

4 MS. DUQUE: This is mine

5 THE COURT: I need you to obviously lay a
6 foundation for it.

7 BY MS. DUQUE:

8 Q. Okay, Mr. Ball, in preparation for this trial, did
9 you obtain this map that is a figure of the Shell Point
10 Apartments area?

11 A. I did.

12 Q. When was it ordered? When did you order it?

13 A. I didn't order it. I picked it up.

14 Q. When was it picked up?

15 A. I don't recall the date.

16 Q. But it was sometime in preparation for this trial?

17 A. Yes.

18 Q. Is that map a fair and accurate representation of
19 what was ordered for this trial?

20 A. To the best of my knowledge.

21 MS. DUQUE: At this time, for demonstrative
22 purposes, Your Honor, we ask that we are allowed to publish
23 this to the jury

24 MR. SHEDD: No objection

25 THE COURT: Without objection.

1 MS. DUQUE: At this time, Your Honor. Permission
2 to publish to the jury.

3 THE COURT: You may.

4 BY MS. DUQUE:

5 Q. I am showing you what has been previously into
6 evidence as Defendant's Exhibit 3. Do you recognize that?

7 A. I do.

8 Q. Can you tell the jury exactly where we are looking
9 at in the map?

10 A. Approximately this area, which is covered by the
11 legend box. It's right in this area right in here.

12 Q. I will show you Defendant's Exhibit 4. Can you
13 please show the jury on that map where this area is located.

14 A. That is the same location that is looking towards
15 the park.

16 Q. I am going to show you Number 5. Again, you are
17 showing the map to the jury, where it is located?

18 A. It's located in the cut-through right in here near
19 the bathrooms to the park looking north towards the apartments
20 through the cut-through.

21 Q. Are these the apartments?

22 A. It is.

23 Q. I will show you what has been entered into evidence
24 as Number 6. Tell the jury where in the map this is located.

25 A. This right down here is the entrance to Shell Point

1 Recreation. You probably can't see the end of it, because it
2 is not in the photograph. It would be down here.

3 Q. What has been previously entered into evidence as
4 Number 7. Can you please tell the jury what are we looking at
5 here.

6 A. I am in this location right here between these two
7 trees looking north this way. That represents there what you
8 are looking at from the photograph, this canopy of trees here.

9 Q. What is back here?

10 A. That is the rooftops of the Shell Point Apartments.

11 Q. Show you what has been entered into evidence as
12 Number 8. What are we looking at here?

13 A. We are looking at a clump of clothing.

14 Q. Where in the map did you take this photo?

15 A. That would be in this location right here, in this
16 canopy of trees. It's a wooded clearing there.

17 Q. I will show you what has been previously entered
18 into evidence as Defendant's Exhibit 9. What are we looking at
19 here?

20 A. A black zipper jacket.

21 Q. Where was it? Where did you find it on the map?

22 A. In the same location, in this area here.

23 Q. Thank you, Mr. Ball. You can sit back down.

24 Please answer any questions that Mr. Shedd may have.

25 * * *

1 CROSS-EXAMINATION

2 BY MR. SHEDD:

3 Q. Mr. Ball, how are you doing?

4 A. Good.

5 Q. I believe I heard your testimony to be that all of
6 these photos were taken on April 20?

7 A. Yes.

8 Q. Of this year?

9 A. Yes.

10 Q. So this week. Is that Tuesday?

11 A. Tuesday was the 20th. Yes.

12 Q. You have no idea how long those clothing items have
13 been in that location, do you?

14 A. I do not.

15 Q. All that those photos tell you is that there was
16 clothing there on April 20, 2021?

17 A. Yes.

18 Q. But nothing about July 15, 2018?

19 A. No.

20 MR. SHEDD: Thank you. No further questions

21 MS. DUQUE: No further questions, Your Honor

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

23 Anything further from the defendant?

24 MS. DUQUE: No, Your Honor. The defense rests

25 * * *

1 DEFENSE RESTS

2 THE COURT: Ladies and gentlemen at this time the
3 defense also rests its case. Again, there is a matter of law I
4 need to take up with the attorneys. I also have a quick
5 conference call at 11:00 that I need to take in reference to
6 another case that I am hearing in a couple weeks from now in
7 Charleston. Go just back to the jury room. Give me a few
8 minutes. We will put things together. What we have left to do
9 is hear the closing arguments from the lawyers, and I need to
10 charge you on the law that is applicable to this case. Then we
11 will give it to you for your deliberations.

12 Do not discuss the case. Even though you have
13 heard all the evidence, you haven't heard the closing
14 arguments. It would not be appropriate for you to begin
15 discussing the case. Thank you.

16 (Jury exits courtroom.)

17 THE COURT: All right.

18 MS. DUQUE: Your Honor, at this time I renew my
19 previous motion for directed verdict. In looking at the
20 evidence in the light most favorable to the State, it is our
21 position that they still haven't been able to prove beyond a
22 reasonable doubt that my client, Mr. Levy Brown, is guilty of
23 armed robbery; therefore, we renew our previous objections and
24 motion for directed verdict, your Honor

25 THE COURT: Thank you.

1 MR. SHEDD: We would just stand on the same grounds
2 that we made at the original time. There is evidence in which
3 a jury could infer guilt.

4 THE COURT: I do think there is evidence for this
5 jury to decide that Mr. Brown is guilty of armed robbery.
6 Therefore, I am going to send it to the jury for their decision
7 and determination of the facts.

8 I will give you all roughly -- you all know as far
9 as -- we talked about the jury charge. You know what I am
10 charging. There wasn't any objection from the State. I am
11 putting in the hand of one, hand of all.

12 Subject to your objection, Ms. Gibbs, on the hand
13 of one is the hand of all, is everything else fine? Is that
14 what we are looking at?

15 MS. GIBBS: Yes, ma'am.

16 THE COURT: I will get on this call. It will
17 probably take me roughly 20 minutes or so. So you will have
18 about 20 minutes to get yourselves together.

19 Let's all be back here at 11:20, if that is
20 acceptable to you all. Then we will go ahead and hear closing
21 arguments. obviously, you put up evidence. So you are going
22 to open and then you are going to go and then you are going to
23 do a rebuttal, correct?

24 MR. SHEDD: That's correct, Judge.

25 THE COURT: Very good.

1 (A recess was held.)

2 THE COURT: Is the State ready?

3 MR. SHEDD: The State is ready, Judge

4 THE COURT: Defense ready?

5 MS. DUQUE: Yes, ma'am.

6 THE COURT: Bring in the jury. For the record,
7 there was no objection to the verdict forms from the State?

8 MR. SHEDD: No objections, Judge.

9 THE COURT: And from the defense no objection.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Ladies and gentlemen, as I
12 told you, what we have left to do is hear the closing arguments
13 from the lawyers and then I will charge you on the law that's
14 applicable to this case. Depending on how long it goes we may
15 take a short break. It's my understanding or hope that we'll
16 have lunch sometime around noon-ish here. That's what we are
17 looking towards.

18 So whenever you are ready, Mr. Shedd.

19 MR. SHEDD: Thank you, Your Honor. May it please
20 the Court

21 THE COURT: Yes, sir.

22 * * *

23 CLOSING ARGUMENT BY MR. SHEDD

24 MR. SHEDD: Ladies and gentlemen, at the start of
25 this case I told you that this entire case is about taking and

1 leaving. And, as the testimony was presented and evidence was
2 admitted, it turns out that, that is exactly what this case is
3 about.

4 I know that the testimony flowed very quickly in
5 this case. We were trying to get through it as quickly as
6 possible. I do want to take a minute to slow down and
7 emphasize a few points that I think are important.

8 So the first thing is that I think the time line in
9 this case is very important because with the exception of the
10 DNA, which we'll talk about later, and the dog tracking
11 evidence, which I'll also talk about later, this case is built
12 on circumstantial evidence.

13 Now, you saw surveillance from, we'll start at
14 around 5:45, 5:50 on July 15, 2018, which is the time in which
15 the Defendant, Mr. Levy Brown, and DeQuan Blue are seen at
16 McDonald's.

17 At that time Mr. Levy Brown is wearing a white
18 shirt, a light-colored shirt and shorts that, I guess, could be
19 described as light khaki. They're very light. With black crew
20 socks and slide-on flip flops. He's also wearing a bookbag.
21 That bookbag is black and white. And you saw it on the
22 surveillance video, which you have in evidence. So that's
23 where we start.

24 Let's jump forward to 9:30 that night,
25 approximately 9:30. You heard from Sergeant Kopylov that he

1 was doing extra patrol behind McDonald's. He was doing patrol
2 in this area. He sees Mr. Levy Brown and DeQuan Blue. Levy
3 Brown is no longer wearing that white-colored shirt and khaki
4 shorts. He's now wearing all black. This is, approximately,
5 an hour and 15 minutes before the robbery occurred.

6 Fast forward to 10:49. That's when you saw the
7 surveillance footage of two masked gunmen, each of which was
8 completely covered from head to toe in black, had big black
9 overcoats. They had gloves, black pants. One of them was
10 wearing black shoes.

11 They entered McDonald's and systematically -- they
12 each knew their role. They first went straight to the
13 manager's office. You saw the video of Suzanne Krebs. I want
14 to play this video briefly, a certain portion of it. If I can
15 direct your attention to the television screen.

16 (Video played.)

17 MR. SHEDD: At this point Suzanne is trying to
18 figure out where these, who she thought, customers were. Look
19 at that reaction.

20 She also told you how quickly she jumped to do
21 whatever the robber said because she didn't want to die.

22 All the while you heard that one of the robbers
23 said: I should just shoot your ass.

24 Now, I know there was -- during Ms. Krebs'
25 testimony she certainly was emotional, understandably so. She

1 was cross-examined by the defense regarding whether or not she
2 recognized Levy's voice.

3 In that moment, you can see exactly how scared
4 Suzanne Krebs is. She crumbled to the floor immediately;
5 started pleading for her life. The only thing going through
6 her head was: I don't want to die.

7 She's not focused on his voice. She's not focused
8 on a potential trial that's going to happen three years later.

9 During that time while that robber is sticking up
10 Suzanne, the second robber is escorting employees into the
11 freezer at gunpoint. You heard that from Ms. Sandy Whitmore,
12 and you also heard it from Ms. Suzanne Krebs. After she was
13 robbed, she was then forced into the freezer by the other
14 robber, at which point, as she testified from the stand, she
15 pulled the door shut because it was the only way she felt safe;
16 so they couldn't come back and kill them. The entire robbery
17 took less than two minutes.

18 About -- shortly thereafter the robbery, you heard
19 from Ms. Petreia Lesene that she goes out on her porch and she
20 sees Levy Brown. She wouldn't point him out, but she ID'd Levy
21 Brown as a person who was sitting on her porch and that he was
22 sweaty. And he wasn't invited, and she didn't expect it.
23 That's how she learned about the robbery was because Levy Brown
24 told her.

25 Levy Brown told her that there was a robbery and

1 that they put a gun to Shanya's head. So Ms. Petreia,
2 listening to her motherly instincts, goes straight up to
3 McDonald's. She doesn't go alone. She told you that she
4 walked the Midtown Drive side, back up here (indicating) and
5 spoke to the police over here (indicating). During this walk,
6 she's not alone. DeQuan Blue and the Defendant, Levy Brown,
7 are walking with her.

8 Now, 11:21, you'll see that, that is on the
9 surveillance. It's the time that you saw on the video.
10 Mr. Levy Brown walks into the EnMarket and immediately catches
11 the attention of Ms. Brandy Dewitt because he's not wearing
12 shoes, and he's profusely sweating; his clothes are wet. That
13 struck her as odd. That's not why she went and talked to the
14 police. She went and talked to the police because Levy Brown
15 said: I had to throw my gun.

16 Approximately 11:45 or so, Copper is finally on
17 scene. And they are putting him in last known location that
18 they know the suspects fled from. Less than ten minutes later,
19 Copper is tracking back. He's going from the \$10 bill straight
20 to this do-rag or scarf. Then goes all the way around, through
21 this walking path, across. As they're coming through here --
22 you heard from Jeremiah. Jeremiah Fraser, Master Sergeant
23 Fraser. He immediately sees two black males on the balcony of
24 this building. That's exactly where Copper goes and then he
25 circles.

1 Then you heard the testimony of both Sergeant
2 Tafoya and Master Sergeant Fraser, that per procedure, they
3 start trying to widen this circle to see if they can find an
4 exit scent. But Copper kept pulling them back closer.

5 Copper was indicating: I can't leave this area,
6 this is where the scent is, this is where the freshest scent
7 is.

8 You heard from Master Sergeant Fraser, the expert,
9 that the dog is not going to leave there if that's where the
10 freshest scent is. Despite the fact that we know Levy Brown
11 and DeQuan Blue and Petreia Lesene had walked back this way
12 after the robbery and before Copper circled. We know why that
13 is. They're high up and their skin cells are falling down in a
14 wider area. That's why the dog is circling.

15 As the dog is circling the building, Master
16 Sergeant Fraser looks up in an attempt to gather information
17 and he asks the two individuals on the balcony: Have you seen
18 anything? Do you know about this robbery? Who are you? What
19 are their names.

20 The Defendant, Levy Brown, identifies himself. You
21 also heard that from Sergeant Thomas, who was right there with
22 Master Sergeant Fraser.

23 Now, I want to get back to this idea of taking and
24 leaving. Certainly, as I said in my opening, those -- that's
25 necessary proof for the offense of armed robbery. Certainly,

1 there has to be proof that property was taken away from the
2 scene. That's all on surveillance footage.

3 I really want to focus just like I asked you-all to
4 do at the outset of this trial. I really want to focus on what
5 was left behind. Not just left behind, but left behind by Levy
6 Brown.

7 So placard number 1, the area where the last known
8 location was struck with Copper. Law enforcement finds one of
9 these \$10 bills right there in the parking lot where the scent
10 is struck.

11 Then where did you hear Copper went? He went
12 straight to placard number 2, which is described here as the
13 black head scarf. This is the black head scarf that the dog
14 went to. That's in State's 15. You'll have that back there
15 with you.

16 Also found in the area was a \$10 bill, another \$10
17 bill, and the Nike slides. You can see in this picture -- it's
18 very hard to tell but you'll have these pictures with you.
19 There are two evidence placards here. Three is next to the
20 slides, which are in evidence. Right next to number 4 there
21 appears to be slightly crumbled or folded \$10 bill. That's
22 where this is located as well as these Nike slides, which were
23 tested. They didn't have DNA on them.

24 Now, you also heard from Sergeant Kopylov, that
25 after Detective Hogue arrived on scene and took over the

1 investigation, Sergeant Kopylov was canvassing the area for
2 evidence. These items have already been located. He tells you
3 that he finds a pair of Adidas tennis shoes, and they are
4 thrown in the bush. This is State's 6. I know it's hard to
5 see from this distance. Again, you will have this picture back
6 there with you.

7 This is the bushes. This is the Public Storage
8 building. That's shoe number 1. That's shoe number 2. You
9 will see them in the picture. There is also a closer picture
10 which makes it certainly easier to see how these shoes looked.

11 I want you to pay particularly close attention to
12 that. You also will have the shoes back there with you, which
13 were also tested for DNA. The reason the appearance of these
14 shoes is so important is -- while I wish McDonald's had better
15 surveillance, I think this picture does pretty good justice.

16 You can see -- again, when you have this back there
17 with you, you will be able to see that these shoes are visually
18 similar to these shoes. You'll also have the video back there
19 or you can absolutely re-watch the video if that is something
20 that you would like.

21 Now, you also heard the next morning, Detective
22 Hogue got a phone call from a McDonald's employee that said
23 they had located what appeared to be a head scarf or do-rag in
24 the recycling bin, which is what stood out. If it had been in
25 the trash can, she probably would not think to call anyone, but

1 it was in the recycling bin.

2 You can see from this picture, State's 13, why it
3 stood out so much. It's laying on a pile of cardboard; it's
4 out of place. This item, State's 18, which you will have back
5 there with you, was also tested for DNA.

6 Most importantly, it's not just about the items
7 that were left behind. It's about the biological material that
8 was left behind on him. You heard this morning from Tim French
9 that Levy Brown's DNA was on State's 18, State's 15. And these
10 are both of the head scarves, and State's 17, which is the
11 Adidas tennis shoes.

12 You also heard this morning from a couple of
13 witnesses from the defense that there was a perimeter
14 established and that this one car was parked. Former Deputy
15 Jambriska let them go. He also said that, that's because they
16 didn't match the description. You don't set up a perimeter to
17 just keep everybody hostage until they find what they're
18 looking for. That makes perfect sense.

19 You heard from Master Sergeant Fraser that the
20 reason Levy Brown and DeQuan Blue weren't arrested or detained
21 on the spot was because they weren't wearing all black. They
22 didn't match the description.

23 But what you'll also see is that, when Levy Brown
24 goes back here to the EnMarket at 11:21, he is wearing a white
25 polo, light khaki shorts, crew socks, black crew socks and no

1 shoes.

2 I can tell you why he's not wearing shoes. He
3 dropped one pair here (indicating) as he was running from the
4 scene. And he dumped the other pair right there (indicating)
5 when he was walking back up. And the reason why is because
6 these shoes are pretty distinctive. He had just robbed
7 everybody at this store at gunpoint wearing these shoes.

8 So when that group, Levy and Ms. Petreia and DeQuan
9 Blue, started that journey back up to the EnMarket, he said I
10 can't be wearing these shoes. He tossed them in a bush.
11 Thankfully Sergeant Kopylov was standing in the area and found
12 them. They can be tied back to Levy Brown just like all of
13 this other evidence.

14 Now, ladies and gentlemen, I know there were two
15 armed robbers. But only one of them is on trial today. While
16 one of them was sticking up Suzanne Krebs, the other one was
17 putting employees in the freezer, you'll hear when the Judge
18 charges you on the law, that because they were both acting in
19 concert in an effort to rob McDonald's, that they are both
20 responsible for all of their actions. So it makes no
21 difference whether you believe that Levy Brown was the one who
22 had the bookbag or if he's the one putting people in the
23 freezer.

24 I will tell you that there is some reason to
25 believe that he is the one with the bookbag. The reason for

1 that is because, as you saw on the surveillance footage from
2 earlier in the day, Levy Brown, a black-and-white bookbag,
3 wearing the same clothing that I just described. Do you know
4 who else is wearing a black-and-white bookbag? The armed
5 robber. The one who actually stuck up Suzanne Krebs. Actually
6 forced her to put that money in the bag and then ran out of
7 there, as money was falling out.

8 Now, I told you also at the outset of this case
9 that it was the State's -- my burden -- to prove this case
10 beyond a reasonable doubt. The evidence that's been presented
11 through the witnesses, through the physical evidence, through
12 the photographs, all the demonstrative stuff that you've seen
13 blown up, has proven beyond a reasonable doubt that Levy Brown
14 is guilty of armed robbery. I'm going to ask that you find him
15 guilty.

16 THE COURT: Yes, ma'am

17 MS. DUQUE: Thank you. May it please the Court.

18 * * *

19 CLOSING ARGUMENT BY MS. DUQUE

20 MS. DUQUE: The men who robbed McDonald's the night
21 of July 15, 2018, they took off running, and they are still
22 running today. (Video played.)

23 MS. DUQUE: This video that was introduced by the
24 defense shows one man running, the other man running.

25 If you pay close attention, there goes your first

1 responder, Officer Kopylov. He goes inside with Timothy
2 Garvin. He gets there.

3 You can stop now.

4 (Video stopped playing)

5 MS. DUQUE: He gets there within seconds of when
6 these two men run out after robbing McDonald's. He gets there
7 within seconds, yet, we don't have videos of him responding to
8 the scene. He could have seen them as they were running away
9 to the Shell Point Apartments. He could've seen them. He
10 could've stopped them. His dash cam wasn't recording that day
11 although it was operating. He let them go at that moment.

12 You also heard from Officer Kopylov that when he
13 got there, Timothy Garvin -- it makes sense to him, that all of
14 these people who worked at the McDonald's will be inside the
15 freezer. He just goes right behind Officer Kopylov and goes
16 straight to the freezer and opens it. Why? I have no idea.

17 Then Officer Kopylov was also, during his patrol,
18 finds these shoes that the State wants you to believe -- and we
19 agree. This case is about taking and leaving because someone
20 took from McDonald's. We agree. Two men who we are not able
21 to see their faces or their descriptions or anything other than
22 two men wearing all black, they took from McDonald's. They
23 sure did.

24 Now, what we don't agree with is the fact that they
25 say that it was my client who left all of these items behind.

1 Now, this shoe right here that you will have with you back
2 there, State's 17, you heard from their expert, Timothy French,
3 who told you that there was a mixture of these shoes. My
4 client's DNA was there, as well as four or five other people.

5 Now, both of those masks that were recovered -- one
6 the night of and then the one the morning after -- it has my
7 client's DNA but there's also two other people on each of
8 those. Just because someone's DNA is in any of these items
9 doesn't mean that they directly contributed to their mixture.

10 Their expert, Timothy French, told you their
11 testing doesn't tell you when or how my client's DNA got there.
12 It is there, but they can't tell you when or how it got there.
13 We don't know whether or not the shoes were disposed of. You
14 saw the photos that my investigator took. There are clothes
15 laying around all over. We just don't know.

16 There was testimony from several witnesses, two
17 witnesses, Ms. Lasene and Ms. Dewitt, who told you it wasn't
18 hot. It doesn't make sense that my client was sweating. It is
19 South Carolina. It gets hot in here; very hot and very humid.

20 Ms. Krebs, when she was watching the video of these
21 two suspects on the driveway of McDonald's, when she found out
22 about these two individuals, they were wearing sweats. And it
23 was hot. And she was able to see the fumes on the ground when
24 she was watching those videos. It was hot.

25 My client was hanging out on a breezeway on the

1 third floor doing what a typical 22-year-old does. Hanging out;
2 perhaps waiting for his friend, who had left the door open in
3 the McDonald's.

4 We know Shanya Higgins left that door opened. What
5 we don't know is who she left the door open to. We heard from
6 their lead investigator, Investigator Hogue. He told you she
7 gave him the night of this incident, she provided him with one
8 statement. Then she provides another statement, which comes
9 later on the 18th. She provides another statement. She gives
10 him a second statement different from the previous one.

11 And then he confronts her with the video of her
12 leaving the door behind open. And then she provides a third
13 statement. Her third statement in which she implicates DeQuan
14 Blue. DeQuan Blue. Did not say Levy Brown. She said DeQuan
15 Blue on that statement. At this point she has already given
16 them three statements. Why should they believe her?

17 Not only did she also allow Investigator Hogue to
18 obtain data from her phone, the messages on her phone were
19 already erased. So there's no way of knowing who texted her,
20 what number texted her, who she called.

21 How did my client know that this armed robbery had
22 happened? Because she called him. They were friends. You
23 heard from her mother. She was friends with Levy. They worked
24 together. They spent time together.

25 Tim French testified earlier that DNA can transfer.

1 He's friends with Shanya Higgins. She's friends with DeQuan
2 Blue. His DNA could've been transferred to any of those items
3 or long exposure to any of these items could've made him a
4 major contributor to the DNA in these items. But that doesn't
5 mean that he's the man who went inside McDonald's and committed
6 this armed robbery because none of the witnesses were able to
7 identify him or see him.

8 Now, I know that Ms. Krebs was very, very emotional
9 yesterday. She even looked very, very emotional when this man,
10 this man that we don't know who it is, goes and robs her. And
11 she had a right to be scared because this man is armed.

12 She didn't recognize him as being my client. She
13 didn't say that was Levy's voice. She didn't say to the
14 officers that responded to the scene immediately. She didn't
15 say it here on the stand when she testified. She just didn't
16 recognize him.

17 She trusted him. She trusted my client, because if
18 this had been Levy Brown and you heard her say yesterday, she
19 had given my client a code to enter the safe. If this was my
20 client, he would've had her go in the freezer with everybody
21 else, use her code, opened the safe and taken the money out and
22 happily walk away. That's it.

23 Instead, this man who we don't know who it is, says
24 to her: Where is the safe? My client worked at McDonald's.
25 He knows where the safe is.

1 Then asks her: Give me all the money. Give me the
2 bag. At this point she had already opened the safe. He
3 could've seen the bag. This man is probably someone who worked
4 at McDonald's before and was familiar with their operation. We
5 don't know because we never saw their faces.

6 All we saw was these two men; one robbing Ms. Krebs
7 at gunpoint and the other one putting everybody in the freezer.

8 Then what we saw, both men running out of
9 McDonald's, running towards the Shell Point Apartments. That's
10 all we know. They ran to the Shell Point Apartments. That was
11 the last location that witnesses saw those two individuals
12 running. What happened after that, we don't know.

13 Law enforcement, like I told you in the beginning,
14 were quick to judge and accuse the first people that they saw.
15 I say that why? Because, yes, their dog leads them to the
16 Shell Point Apartments. He leads them back there. Who is
17 hanging out on the third floor? My client and DeQuan Blue,
18 waiting for perhaps Shanya Higgins to get out of work so they
19 can hang out or do what young kids do at that age.

20 The first thing that they see is these two men
21 hanging out. If these two men or maybe just my client had
22 robbed the McDonald's moments earlier, he wouldn't -- he
23 wouldn't have been hanging out there. He wouldn't have walked
24 to the EnMarket.

25 What happens? They approached them. Master

1 Sergeant Fraser gets their names and asked them if they saw
2 anything. What did Officer Jambriska say? He didn't ask for
3 their names. There was just an armed robbery and he let them
4 go although he was part of the perimeter. The perimeter that
5 was meant to keep people in. He let those two go.

6 You heard from my investigator there's a lot of cut
7 throughs in this neighborhood. The people who robbed the
8 McDonald's could've easily gone that way, somehow or near
9 building 273. And they went back there. We just don't know.
10 And all we know is that, because my client happened to be
11 hanging out on the third floor, law enforcement zoomed in on
12 them; those two men.

13 I'm here because my client is a victim of the
14 circumstances. He's the victim of being at the wrong place at
15 the wrong time, and ultimately gets charged for an armed
16 robbery that he didn't do.

17 Now, the State wants you to believe that because my
18 client's DNA is here, that he's guilty. DNA don't prove.
19 Doesn't identify a person. DNA evidence can tell you that
20 person, because their DNA is there, that means that they are
21 guilty. It just means that their DNA is there.

22 Now, one of these two masks was retrieved the
23 morning before -- the morning after. My client worked at
24 McDonald's. If I'm not mistaken, it was in here where all the
25 recycling boxes go. My client's DNA could've been in any of

1 these boxes. Just because this mask is placed there, it was
2 transferred to this man. We don't know.

3 There's a lot of things that we just don't know,
4 but what we do know is that the cops, when they saw Levy and
5 DeQuan Blue hanging out on the third floor, those were the guys
6 who robbed McDonald's. Their dog didn't even go to the shoes.

7 Their dog didn't go to EnMarket. My client had
8 been in those places also. If anything, the fresh scent for my
9 client is the EnMarket. He had just been there minutes prior.
10 Instead, the dog went to the Shell Point Apartments and circled
11 around the building twice. He didn't go up the stairs. He
12 didn't go up to find a person he was looking for.

13 He didn't run to my client. You heard from
14 Sergeant Tafoya that's what the dog did. The dog ran up to the
15 person he was looking for. My client was there. He just
16 didn't run to him, because he wasn't looking for Levy. He was
17 looking for somebody else. Because Levy was hanging out on the
18 third floor with one of his friends, he was -- that was the
19 person they were going off.

20 My client is seen later at the EnMarket, and he's
21 wearing no shoes. I mean, I sometimes walk outside with no
22 shoes on just to get something from my car or just to go get
23 the mail. I will not do that in New York. Something about
24 southern living just makes it that you can just go outside
25 without shoes on or in your socks. I do that a lot.

1 This is the south. It was hot. It was summertime;
2 not today and yesterday. It's been a little chilly. It is
3 starting to get hot. July, already in the summer, to say that
4 it was unreasonable for my client to be sweaty just makes no
5 sense. It's humid. It's hot here in the south. It makes a
6 lot of sense. We're humans. We sweat.

7 My husband sweats a lot. Even when he's not that a
8 hot. Imagine when it's hot.

9 Again, why was he sweating? It was hot. It was
10 summertime. We live in Beaufort County, South Carolina. Why
11 was he without shoes at EnMarket? Because some people do that.
12 That doesn't make him guilty of this armed robbery.

13 When you guys go back and you guys are looking at
14 all of this evidence, I want you to pay close attention to
15 these sandals. Pay attention to the details that are in all of
16 this evidence because, you know, what is in the details? The
17 devil is in the details.

18 When you go and you watch the sandals, pay
19 attention to the color of the writing. It's red. Now, when
20 you go back and watch the video of my client being at the
21 McDonald's moments earlier, the sandals he's wearing, if you
22 pay close attention, the writing on the sandals is white. Not
23 the same shoes, not the same sandals.

24 Pay attention to the details. Why? Because the
25 devil is in the details. When you go back to your jury room,

1 pay attention to those bookbags that are alleged to be the same
2 bookbag used for the armed robbery and the bookbag that was
3 used by my client earlier that afternoon. Pay attention to
4 that bookbag. Pay attention to the way it opens and closes.
5 Pay attention to that zipper. The devil is in the details

6 I am sure that you will see it, too. Those are not
7 the same bookbags. Why? Not the same man. Not my client.
8 There's a lot of things we just don't know. We don't know how
9 the DNA got there or how long the DNA had been there. We don't
10 know. The expert didn't testify to that because he is not
11 qualified to do that.

12 What we do know, in this case when the cops saw
13 Levy hanging out on the third floor, he was the person they
14 were looking for because they needed this case to be done and
15 over with. What I want for you-all to do is go back to the
16 jury room and please pay attention to the details, because the
17 man who robbed the McDonald's were running that night, and they
18 are still running today. Thank you.

19 MR. SHEDD: Thank you, Your Honor.

20 * * *

21 FINAL CLOSING ARGUMENT BY MR. SHEDD

22 I just want to highlight a few things that
23 Ms. Duque brought up. Several times she emphasized that law
24 enforcement was quick to accuse as soon as they saw these two
25 gentlemen up on the third story floor, Building 273. They

1 needed the case to be over; just wanted to end it.

2 They didn't detain him. They didn't arrest him
3 that night. That's because, as you heard from Master Sergeant
4 Fraser, the dog is a tool. It was not conclusive proof that
5 where they were was that. It got them from a piece of evidence
6 to the next and then eventually to the location where Levy
7 Brown was.

8 Importantly, you also heard Ms. Duque mention that
9 the freshest scent was at EnMarket. The freshest scent is
10 going to be where he is. He's standing there. As Master
11 Sergeant Fraser told you, we're shedding skin cells all the
12 time. If he's standing in a location, I don't care where I was
13 20 minutes ago, this is the freshest scent.

14 There was a few points made, again, about these
15 pictures that the investigator for the Public Defender's Office
16 took on Tuesday of discarded clothing behind the area of Shell
17 Point Apartments where there's lots of wooded area. As you
18 heard the investigator himself admit on the stand, that's only
19 evidence of what it looked like on Tuesday. That has nothing
20 to do with July 15, 2018.

21 Also, Ms. Duque mentioned that this was summertime
22 in South Carolina. And so it was not unreasonable for Mr. Levy
23 to be sweaty that night. She emphasizes that Ms. Suzanne said
24 that it stuck out to her that these people were wearing hoodies
25 and were all bundled up head-to-toe

1 Ladies and gentlemen, there's a difference between
2 too hot for sweats and a hoodie pulled and something keeping
3 your face warm and a big winter jacket and not hot enough to be
4 drenched in sweat as Brandy Dewitt described it, covered in
5 sweat, sweating profusely.

6 There's also been another theme throughout this
7 trial from defense Counsel that no one at the scene of the
8 robbery was able to identify who did it. That should surprise
9 no one. They are covered from head-to-toe with black face
10 coverings.

11 She said DNA doesn't identify anybody. These black
12 face masks that were found at the scene of the crime both had
13 that man's DNA on it.

14 She also mentioned that because Levy Brown had
15 worked at McDonald's, that he wouldn't have had to ask where
16 the safe was, that he would've known that. He did know.
17 That's why he went straight to the office and stuck up the
18 manager, who could get into the safe. That's why he went at
19 closing time while the deposits was being counted.

20 We can agree on that, that if it's a McDonald's
21 employee or former McDonald's employee, that it was Mr. Levy
22 Brown.

23 Again, ladies and gentlemen, I'm not going to
24 belabor the point. These items, particularly these shoes, this
25 scarf, and that scarf, do-rag, however you want to describe it,

1 are all present at the scene. And their locations are all
2 corroborated by independent evidence; the dog track, Petreia's
3 statement of where they walked back.

4 These shoes and those scarves all have two things
5 in common. One, they were used in that robbery and, two, they
6 had that man's DNA on it. Thank you.

7 THE COURT: Does anyone need a break? Ready to go?

8 * * *

9 JURY CHARGE

10 Madam Foreperson, members of the jury, you followed
11 very carefully and listened very attentively to the
12 presentation of the evidence in this case. I want to thank you
13 for that.

14 It now becomes the duty of the trial judge
15 to charge and instruct you on the law that's applicable in this
16 case. It is your duty as jurors to accept and apply the law as
17 the Court will now state it to you.

18 As jurors, it is your exclusive duty to decide all
19 the issues of fact. You must determine the effect, the value,
20 the weight, and the truth of the evidence. Both the State and
21 the Defendant, Mr. Brown, have a right to expect that you will
22 carefully consider and evaluate the evidence and apply the law
23 that pertains to the evidence. By doing so, both the State and
24 the Defendant, Mr. Brown, will receive and obtain a fair and
25 impartial trial.

1 Now, the State of South Carolina by an indictment
2 in this case charges the Defendant, Levy Larkin Brown, with
3 armed robbery. Now, I remind you that the fact the Defendant
4 was arrested, charged, and indicted in this case is not
5 evidence in this case and cannot be considered by you as
6 evidence of guilt in this case, nor does it create any
7 presumption or inference of guilt.

8 An indictment is simply the formal written
9 instrument which contains the charge that's made against the
10 Defendant. It's the formal document by which the case is
11 brought into the courtroom. Now, the Defendant, Mr. Brown, has
12 pled not guilty to this indictment. That plea puts the burden
13 on the State to prove the Defendant guilty beyond a reasonable
14 doubt.

15 Now, a person charged with committing a criminal
16 offense in South Carolina is never required to prove himself
17 innocent. I charge you that it's an important rule of law that
18 a Defendant in a criminal trial, no matter what the seriousness
19 of the charge may be, will always be presumed to be innocent of
20 the crime for which the indictment was issued, unless guilt has
21 been proven by evidence satisfying you, the jury, of that guilt
22 beyond a reasonable doubt.

23 This presumption of innocence does not end when you
24 begin your deliberations. It accompanies the Defendant
25 throughout the trial until you reach a verdict of guilt based

1 on evidence satisfying you of that guilt beyond a reasonable
2 doubt.

3 The presumption of innocence is like a robe of
4 righteousness that is placed about the shoulders of the
5 Defendant and it remains with the Defendant until it's been
6 stripped away by evidence satisfying you of the Defendant's
7 guilt beyond a reasonable doubt.

8 The presumption of innocence is not a mere legal
9 theory. It's not just a legal phrase we use. It is the
10 substantial right to which every Defendant is entitled unless
11 you, the jury, are satisfied from the evidence of the
12 Defendant's guilt beyond a reasonable doubt.

13 So what is a reasonable doubt in the law? A
14 reasonable doubt is the kind of doubt that would cause a
15 reasonable person to hesitate to act in their most important
16 decisions. The State has the burden of proving the Defendant
17 guilty beyond a reasonable doubt. Again, the term reasonable
18 doubt must be given its plain and ordinary meaning.

19 Again, to the extent that I may define it for you,
20 a reasonable doubt is the kind of doubt that would cause a
21 reasonable person to hesitate to act in the most important of
22 their personal decisions.

23 The Defendant is entitled to every reasonable doubt
24 arising in the case. If upon any issue of fact essential to a
25 conviction you have a reasonable doubt as to how that issue

1 should be resolved, you must resolve that reasonable doubt in
2 favor of the Defendant.

3 Now, some of you have served as jurors in civil
4 cases where you were told that it was only necessary to prove
5 that a fact is more than likely true than not true, such as
6 what we call the greater weight or the preponderance of the
7 evidence.

8 In criminal cases, the State's proof must be more
9 powerful than that. It must be beyond a reasonable doubt.
10 Proof beyond a reasonable doubt is proof that leaves you firmly
11 convinced of the Defendant's guilt.

12 Now, there are very few things in this world that
13 we know with absolute certainty. In criminal cases, the law
14 does not require proof that overcomes every possible doubt.

15 If, based on your consideration of the evidence,
16 you are firmly convinced of the Defendant is guilt of the crime
17 charged, you must find the Defendant guilty. If on the other
18 hand you think there is a real possibility the Defendant is not
19 guilty, you must give the Defendant the benefit of the doubt
20 and find him not guilty.

21 Now, I remind you that during this trial you and I
22 have certain duties to perform. As the judge, it's my
23 responsibility to preside over the trial of the case. And I
24 also have the duty to rule on the admissibility of the evidence
25 that's offered during the trial. You are to consider only the

1 competent evidence before you. You are to consider only the
2 testimony which was presented from the witness stand and the
3 other evidence which was made a part of the record.

4 I have the additional duty to charge you the law
5 that's applicable to this case. I am the sole judge of the law
6 in this case. It's your duty as jurors to accept and apply the
7 law as I now state it to you.

8 If you have any ideas to what the law is or what
9 you think the law ought to be and it does not agree with what I
10 now tell you, you must abandon this idea because you are sworn
11 to accept the law and apply the law exactly as I state it to
12 you.

13 Now, in every case tried in this court before a
14 jury, the jury is the exclusive and sole judge of the facts. A
15 trial judge cannot intimate, comment upon, or make any
16 statement to a trial jury about the facts in the case. Since
17 you, the jury, are the sole judge of the facts in this case,
18 you are not to infer from what I said during the progress of
19 this trial, in ruling upon the admissibility of evidence or
20 otherwise or anything that I say now during the course of this
21 instruction to you, that I have any opinion about the facts in
22 this case. The law does not allow me to have an opinion about
23 the facts in this case. This is a matter solely for you, the
24 jury, to determine.

25 Now, there are two types of evidence which are

1 generally presented during a jury trial; direct evidence and
2 circumstantial evidence. Direct evidence directly proves the
3 existence of a fact and does not require deduction.

4 Circumstantial evidence is proof of a chain of
5 facts and circumstances indicating the existence of a fact.
6 Crimes may be proven by circumstantial evidence. The law makes
7 absolutely no distinction between the weight or the value to be
8 given to either direct or circumstantial evidence.

9 However, to the extent that the State relies on
10 circumstantial evidence, all of the circumstances must be
11 consistent with each other and, when taken together, point
12 conclusively to the guilt of the accused beyond a reasonable
13 doubt. If these circumstances merely portray the Defendant's
14 behavior as suspicious, the proof has failed.

15 The State has the burden of proving the Defendant
16 guilty beyond a reasonable doubt. This burden rests with the
17 State regardless of whether the State relies on direct
18 evidence, circumstantial evidence, or some combination of the
19 two.

20 Now, necessarily you must determine the credibility
21 of witnesses who have testified in this case. Credibility
22 simply means believability. It's your duty as jurors to
23 analyze and to evaluate the evidence and determine which
24 evidence convinces you of its truth.

25 In determining the believability of the witnesses

1 who have testified in this case, you may believe one witness
2 over several witnesses or several witnesses over one witness.
3 You may believe a part of the testimony of a witness and reject
4 the remaining part of the testimony of that same witness. You
5 may believe the testimony of a witness in its entirety or
6 reject the testimony of a witness in its entirety.

7 You may consider whether any witness has exhibited
8 to you any interest, bias, prejudice or other motive in this
9 case. And you may also consider the appearance and manner of a
10 witness while on the witness stand.

11 Ladies and gentlemen, I instruct you and emphasize
12 that the fact that the Defendant did not testify is not a
13 factor to be considered by you in any way in your deliberation
14 and in your consideration on the question of the guilt or
15 innocence of the Defendant. It must not be considered by you
16 in any manner whatsoever.

17 A Defendant has the Constitutional right to remain
18 silent. And the assertion of this right must not be considered
19 by you in your deliberations. I repeat: Under your oath, you
20 are to draw no conclusion whatsoever from the fact that the
21 Defendant in this case did not testify. The fact that the
22 Defendant didn't testify should not even be discussed in the
23 jury room.

24 The burden of proof, as I stated to you, is on the
25 State. The Defendant is not required to prove his innocence.

1 And the burden of proof remains on the State to prove guilt
2 beyond a reasonable doubt.

3 Now, the Rules of Evidence ordinarily do not permit
4 witnesses to testify to opinions or conclusions. An exception
5 to this Rule exists for witnesses we call expert witnesses; a
6 witness who by education and experience has become an expert in
7 some art, science, or profession may give an opinion as to the
8 subject the witness claims to be an expert in and may also give
9 the reasons for the opinion.

10 You should consider any expert opinion given by a
11 witness and, like any other evidence, give it the weight you
12 think it deserves. If you decide that an expert witness'
13 opinion is not based on sufficient education and experience, or
14 if you decide that the reasons given in support of the opinion
15 are not sound or that the opinion is outweighed by other
16 evidence, you may disregard the opinion entirely.

17 An expert witness' testimony is to be given no
18 greater weight than that of other witnesses simply because the
19 witness is an expert. You do not have to accept an expert
20 witness' opinion even though it is uncontradicted.

21 Now, an issue in this case is the identification of
22 the Defendant as the person who committed the crime charges.
23 The State has the burden of proving identity beyond a
24 reasonable doubt. You must be satisfied beyond a reasonable
25 doubt of the accuracy of the identification of the Defendant

1 before you may convict the Defendant.

2 Identification testimony is an expression of belief
3 or impression by a witness. You must determine the accuracy of
4 the identification of the Defendant. You must consider the
5 believability of each identification witness in the same way as
6 any other witness.

7 You may consider whether the witness had an
8 adequate opportunity to observe the offender at the time of the
9 events. This will be affected by things like how long or short
10 a time was available; how far or close the witness was, the
11 lighting conditions, and whether the witness had a chance to
12 see or know the person in the past.

13 Once again, I instruct you the burden of proof on
14 the State extends to every element of the crime charged. This
15 specifically includes the burden of proving beyond a reasonable
16 doubt the identity of the Defendant as the person who committed
17 the crime.

18 If, after examining testimony, you have a
19 reasonable doubt as to the accuracy of the identification, you
20 must find the Defendant not guilty.

21 Now, if a crime is committed by two or more people
22 who are acting together in committing a crime, the act of one
23 is the act of all. A person who joins with another to commit
24 an unlawful act is criminally responsible for everything done
25 by the other person, which happens as a probable or natural

1 consequence of the acts done in carrying out the common plan
2 and purpose.

3 For example, two people can be guilty of killing
4 another person when only one of the two had a gun, there was
5 only one bullet and only one of the two fired the shot that
6 caused the death. If two or more people are together, acting
7 together, assisting each other in committing the offense, the
8 act of one is the act of all or it's sometimes said the hand of
9 one is the hand of all.

10 Prior knowledge that a crime is going to be
11 committed without reward is not sufficient to make a person
12 guilty of that crime. Mere knowledge that another person is
13 going to commit a crime, even if the Defendant is present when
14 the crime is committed is not sufficient to convict the
15 Defendant as a principle

16 Guilt as a principle is shown by actual or
17 constructive presence at the scene as a result of prior
18 arrangement; therefore, a finding of a prior arranged plan or
19 common scheme is necessary for a finding of guilt as a
20 principle. The State must prove beyond a reasonable doubt by
21 competent evidence the theory that the hand of one is the hand
22 of all.

23 A principal in a crime is one who actually commits
24 the crime or who is present, aiding, abetting, or assisting in
25 committing the crime. When a person does an act in the

1 presence of and with the assistance of another, the act is done
2 by both.

3 Where two or more acts with a common plan or intent
4 are present at the commission of a crime, it does not matter
5 who actually commits the crime. All are guilty. Again, the
6 hand of one is the hand of all.

7 The Defendant in this case has been charged with
8 the offense of armed robbery. Now, in order to prove this
9 defense, first the State must prove beyond a reasonable doubt
10 the Defendant took personal property from the person or
11 presence of another person.

12 Property is in the presence of a person if it is
13 within the person's reach, inspection, observation, or control
14 so that the person could, if not overcome with violence or
15 prevented by fear, keep possession of the property.

16 Second, the State must also prove beyond a
17 reasonable doubt the Defendant carried the property away,
18 intending to permanently deprive the owner of the property and
19 to keep the property for the Defendant's own use.

20 The slightest removal of the property or the
21 complete possession of the property, even for an instance by
22 the Defendant, is sufficient to show a taking and carrying away
23 of the property. The taking and carrying away of the property
24 must also be done with violence or by putting the owner of the
25 property in fear of violence

1 Lastly, the State must prove beyond a reasonable
2 doubt the Defendant was armed with a deadly weapon or by
3 alleging either by actions or words he was armed while using a
4 representation of a deadly weapon or any object which a person
5 present during the commission of the robbery reasonably
6 believed to be a deadly weapon during the robbery. Now, the
7 following are just a few examples of instruments which could be
8 deadly weapons; a pistol, a shotgun, a rifle, a dirk, a dagger,
9 a knife, or a sling shot. Ladies and gentlemen, a gun may also
10 be a deadly weapon even if it's not operating.

11 Madam Foreperson and members of the jury, there are
12 two possible verdicts in this case. Guilty and not guilty.
13 There's no significance whatsoever in the order in which I
14 state these on the verdict form. It's simply that one must be
15 stated before the other.

16 I remind you, madam foreperson, that your verdict
17 must be unanimous. It must be the verdict of all 12 jurors.
18 To that end, again, Jamie has prepared for me a verdict form.
19 It simply has the case caption with the indictment number, and
20 it has simply one question. It asks: As to the indictment
21 number and the charge of armed robbery, we, the jury,
22 unanimously find the Defendant, Levy Larkin Brown, either not
23 guilty or guilty.

24 Madam Foreperson, you will either check not guilty
25 or guilty. Then there's a place for you to sign underneath

1 that. It states that: I certify that this is a unanimous
2 decision of the jury. There's also a line for you to date the
3 form.

4 When the jury has reached a unanimous verdict,
5 Madam Foreperson, I need you to knock on your door, and the
6 bailiff is going to come to you. And he's going to bring you
7 back to the courtroom so we can accept your verdict. All
8 right.

9 For the very last time, I am going to send you back
10 to the other courtroom and tell you not to begin deliberating
11 yet. If there's something further the lawyers want me to
12 charge you on the law of this case, I will bring you back here
13 and charge you further. However, if and when -- what comes to
14 you is the verdict form, Madam Foreperson, as well as what I
15 just read to you, which is the charge on the law. Both of
16 these things will be back with you as well as all the other
17 evidence in the case. All right.

18 Once you received those things, that is your signal
19 to begin your deliberations. I will tell you, I don't know if
20 there's food back there yet -- does anyone know?

21 THE BAILIFF: Yes, ma'am.

22 THE COURT: There is. Ladies and gentlemen, while
23 you are waiting on us to get back with you and to send all the
24 evidence back to you, start eating, please. All right.

25 Also, I know that there was a number of videos that

1 what you all wanted to see?

2 THE FOREPERSON: Yes.

3 THE COURT: I will send you back to your
4 deliberation room for further deliberations. Thank you.

5 (Jury exits courtroom)

6 THE COURT: All right. We will be at ease until we
7 hear back from them

8 (Court was in recess while the jury deliberated
9 upon their verdict.)

10 (The following proceedings were held in open court.
11 The defendant was present along with his attorney as well as
12 the attorneys for the State.)

13 (Jury enters courtroom.)

14 * * *

15 READING OF THE VERDICT

16 THE COURT: Jury enters courtroom. Madam
17 foreperson, I understand the jury has reached a verdict.

18 MS. FOREPERSON: Yes, we have

19 THE COURT: Please hand the verdict form to the
20 bailiff, please.

21 Mr. Brown, stand, please.

22 State of South Carolina v. Levy Brown, defendant,
23 as to Indictment Number 2018-GS-07-01281, the charge of armed
24 robbery, the jury unanimously finds the defendant, Levy Brown,
25 guilty. Signed by the foreperson and dated today's date.

1 Thank you.

2 Would you like me to poll this jury?

3 MS. DUQUE: Yes, Your Honor

4 THE COURT: Ladies and gentlemen, if you would look
5 at your badge number again. I will ask you if this is your
6 verdict. And the answer is yes or no. Is this still your
7 verdict, yes or no.

8 If you don't mind, when I call your number, wave to
9 me so I know exactly who I am speaking with.

10 (The jury was individually polled, and all assented
11 to the verdict.)

12 THE COURT: All right. The jury has been polled.
13 Is there anything required of this jury, from the State?

14 MR. SHEDD: Not from the State.

15 THE COURT: From the defense?

16 MS. DUQUE: Nothing for the defense

17 THE COURT: Ladies and gentlemen, I get to give you
18 my thanks at this time. You have performed your duty for the
19 next three years. We are grateful for time you have spent with
20 us.

21 I believe I will sentence the defendant probably
22 right now. Ladies and gentlemen, you are welcome to stay or
23 not stay for that.

24 Sentencing is my job. It has always been my job.
25 It's your job to determine whether or not someone is guilty.

1 After that, the sentencing is up to me. At this time you can
2 go home and talk to anyone, but you are not required to any
3 way. Sometimes the attorneys like to hear what your thoughts
4 are about the case, but you are never required to talk about
5 your verdict with anybody.

6 You have earned your exemption if you would like to
7 go at this time. If you want to stay for the sentencing, you
8 may stay. It is completely up to you, ladies and gentlemen.
9 Again, thank you for your service. We appreciate it.

10 We will help you get back to your cars. Again, if
11 you want to stay for the sentencing, just stay right there.
12 It's up to you all.

13 (Jurors exited the courtroom.)

14 * * *

15 SENTENCING HEARING

16 THE COURT: All right. So the State has to print
17 up the sentencing sheet. In the meantime, I am certainly happy
18 to here any mitigation. I know you are here for that purpose

19 MS. DUQUE: I will pass up what I have prepared for
20 you.

21 THE COURT: All right. Who would like to begin? I
22 do need his prior record.

23 MR. SHEDD: Absolutely, Judge.

24 THE COURT: I want to hear his prior record first.

25 THE COURT: Ms. Molina confirmed the sentencing

1 range for robbery in South Carolina. It's 10 to 30.

2 THE COURT: His prior record?

3 MR. SHEDD: 2016, possession with intent to
4 distribute marijuana, for which he received a YOA. That is the
5 extent of his record, Judge. He does have a slew of other
6 pending charges

7 THE COURT: What are those?

8 MR. SHEDD: From March 15, 2020 armed robbery and
9 possession of a weapon during the commission of a violent
10 crime. Proximity charge related to that one. Possession with
11 intent to distribute Xanax and a proximity charge accompanying
12 that. Possession with intent to distribute crack cocaine,
13 first offense, and an accompanying proximity charge.
14 Trafficking in cocaine and trafficking in MDMA, and pointing
15 and presenting a firearm at a person.

16 April 2, 2020, he has a throwing bodily fluids and
17 threatening the life of a public official.

18 THE COURT: How many separate incidents were those,
19 or is it just one? The drugs were all in one?

20 MR. SHEDD: This was when he was on bond for these
21 charges. The pointing and presenting, it was a spree. So he
22 had pointing and presenting at at Walgreens. Then I believe it
23 was later that day he then robbed an individual that he had
24 been riding around with that day. Then they tracked him back.

25 From witness statements, they tracked him back to a

1 hotel room. When they knocked on the door, another female
2 opened the door. There were drugs in plain view. They got a
3 search warrant and they got the drugs. So they were separate
4 occurrences, but they all happened very quickly

5 THE COURT: That is why he was in jail?

6 MR. SHEDD: That's correct. His bond was revoked.

7 THE COURT: All right. Miss Price, whenever you
8 are ready. Before I stop with the State, is there anything
9 else from the victims or -- I understand Ms. Krebs is not here
10 or anyone else

11 MR. SHEDD: Nobody is here on behalf of the
12 victims. On behalf of the victims and the ones who were put at
13 gunpoint, I would just say that this was a very violent act
14 that put a lot of people in fear and it affected their lives
15 and continues to this day -- as you can see from Ms. Krebs on
16 the stand, continues to this day. So the State would ask for
17 20 years

18 THE COURT: Ms. Price

19 MS. PRICE: Good afternoon, Your Honor. I just
20 want to tell you a little bit about Mr. Brown and his life. He
21 was born on Christmas Day in 1995. His parents were not
22 married. At the time his father did not understand or know the
23 depth of his mother's mental illness. Due to her pregnancy,
24 she did not continue on her medication. It was ultimately
25 discovered that she was a paranoid schizophrenic and has a deep

1 history of issues resulting from that.

2 Shortly thereafter, their relationship, his
3 parents, deteriorated and based -- they separated. They are
4 still pretty contentious, but they are still in touch regarding
5 him.

6 Mr. Brown was born a little early. For the first
7 four months of his life, his father had him. But his mom came
8 and asked for her son back. His father did not have much
9 contact with him. A lot of that early life is kind of a gray
10 area.

11 You can imagine with -- it wasn't ever really
12 determined that she got back on her medications regularly.
13 Mr. Brown, his father, is a retired Beaufort County school
14 teacher. He was at school one day. He got a phone call from
15 the sheriff out of the blue that he needed to come pick up his
16 son; that there had been some issues. And if he didn't come
17 get him, Levy was going to be placed with DSS.

18 So, again, gray area because a parent was able to
19 get him. Mr. Brown, father, realized early on that there was a
20 lot of issues with his child.

21 Mr. Levy Brown began using drugs at age 7, between
22 7 and 8. I looked and looked for studies. As you can imagine,
23 there are not that many about the repercussions of a developing
24 brain that young and what can happen.

25 Mr. Brown, his father, is a Special Ed teacher. He

1 recognized a lot of the things. He fought for years to get his
2 son help. He did the cycle of MUSC then go back to Coastal
3 Empire and tried this medication. It just never was enough.

4 Levy had a very difficult time in school. He was
5 constantly in trouble. He had a very hard time maintaining
6 grades. He was labeled emotionally handicapped. If he had
7 been a wheelchair, there would have been more services for him
8 than an emotional handicap that affects every area of your
9 life.

10 He basically has a failure to thrive in life. He
11 was also diagnosed as bi-polar, which does cause, obviously,
12 mania and can lead to crime sprees and excessive and everything
13 that you do, including drugs.

14 He has a quite a history, obviously, with starting
15 at age 7. He quickly moved up to Xanax and pills and meth.
16 Basically, there wasn't anything that he wouldn't do. He was
17 self-medicating. At that point, his father -- when you reach a
18 certain age, he doesn't have to make him go to school.

19 He did not graduate. He did get picked up by DJJ
20 for a time, and he did go to school there. Once he was out
21 again, he did not finish.

22 He just kind of bounces from job to job. He was
23 working at McDonald's. He also has a history of ADHD. He
24 hasn't had a good mental health evaluation in quite awhile. So
25 early 20s is when schizophrenia shows up in young men.

1 That could be something he is dealing with. He has
2 had a lot of trauma in his life. He was shot. He lost his
3 spleen. He had to go into emergency surgery. He was in a very
4 severe car accident where he sustained quite a bit of injury.
5 He struggles with anxiety, depression, and PTSD.

6 Clearly, he was born with severe emotional
7 handicapped problems. He has never found anything that works,
8 as far as medication and therapy. Thank you.

9 THE COURT: Does his father want to speak on his
10 behalf? Yes, sir.

11 MR. BROWN, SR. Your Honor, my name is R.C. Brown.
12 I got custody of Levy when he was 7. I enrolled him at
13 elementary school. There were behavioral problems. I took him
14 to the pediatrician, who diagnosed him with ADHD.

15 I took him to MUSC to a child psychiatrist.
16 Bipolar. I took him to an environmental health counselor in
17 town. I think he has substance abuse after that. That is all
18 I can say.

19 THE COURT: Anything else from you all?

20 MS. DUQUE: Yes, Your Honor, just briefly. We just
21 ask Your Honor to consider based on the information provided to
22 the Court by Ms. Price and take into consideration that my
23 client is only 25 years old.

24 We do realize the seriousness of this crime and the
25 impact that it has had on the people involved. We don't think

1 it's an excuse that he has had several issues throughout his
2 life.

3 We just ask that Your Honor show a little mercy
4 when it comes to sentencing, Your Honor.

5 THE COURT: Does Mr. Brown want to address me at
6 all?

7 MS. DUQUE: No, Your Honor.

8 THE COURT: Yes, sir

9 THE DEFENDANT: I am not going to say that I am
10 perfect. I kind of lost my mind for a good while. I got
11 memory lapses from being on Xanax where I don't remember what I
12 be doing. I decided to do something to try to help me
13 remember. My father has tried over and over to help me.

14 I can't -- all I can say is, I didn't try to hurt
15 nobody. I promise I ain't never killed no one. I almost lost
16 my life a week after this robbery. I haven't been able to
17 sleep right ever since

18 THE COURT: Thank you, sir.

19 On Indictment 2018-GS-07-01281, for armed robbery.
20 The sentence of this Court is you be committed to the
21 Department of Corrections for a period of 16 years. I am
22 giving you credit for the time you served.

23 Good luck to you, sir.

24 MS. DUQUE: Just briefly for the record, Your
25 Honor, at this point I will renew all of my previous motions

1 ands objections. I also make my motion for a new trial, Your
2 Honor

3 THE COURT: Thank you. I appreciate that.
4 Respectfully, your motion is denied.

5 MS. DUQUE: Thank you, Your Honor.

6 THE COURT: We will be adjourned
7 Thank you you all.

8 That will conclude this matter.

9 (At 4:37 p.m. the proceedings were
10 concluded.)

11 * * *

12 END OF VOLUME III

13 END OF TRANSCRIPT

14

15

16

17

18

19

20

21

22

23

24

25

WITNESSES

Hogue - Port Royal

DOCKET NO. 2018GS0701281

The State of South Carolina
County of Beaufort

COURT OF GENERAL SESSIONS

March Term 2019

THE STATE

vs.

LEVY LARKIN BROWN

Indictment For

Robbery - Armed or Alleging Armed
 With Deadly Weapon

SC Code: 16-11-330(A)

CDR Code: 0139

After being fully advised as to my
 legal rights, I hereby waive
 presentment to the Grand Jury.

Defendant

I
 hereby appear in my own proper
 person and plead guilty to the within
 indictment or to

ARREST WARRANT NUMBER

2018A0720400100

ACTION OF GRAND JURY

True Bill

Stephanie Datz
 Foreperson of Grand Jury

Date: 3/21/19

VERDICT

Guilty

[Signature]
 Foreperson of Petit Jury

Date:
 INDICT

4/23/21

Defendant

Witness:

C.C.C. PLS. and G.S.

RECEIVED

MAY 03 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

INDICTMENT

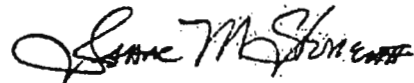
2018GS0701281

At a Court of General Sessions, convened on March 21, 2019, the Grand Jurors of Beaufort County present upon their oath:

Robbery - Armed or Alleging Armed With Deadly Weapon

That in Beaufort County, South Carolina, on or about July 15, 2018, the Defendant, LEVY LARKIN BROWN, did commit robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, Defendant was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of Section 16-11-330(A), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor**True Bill**

STATE OF SOUTH CAROLINA

) IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

LEVY LARKIN BROWN

AKA:

Race: Black Sex: Male Age: 25

DOB: SS#:

Address:

DL# SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: Armed Robbery

In violation of § 16-11-330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

(Solicitor) 104251 (SC Bar #) (Defendant) (Attorney for Defendant) 103867 (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 16 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment of \$ _____
plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of
Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to
ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: Public Defender Application Fee

*Fine:	\$ 40.-
§14-1-206 (Assessments 107.5%)	\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100 \$ 100.-
§14-1-211 (A)(2)(DUI Surcharge)	\$100 \$
§56-5-2995 (DUI Assessment)	\$12 \$
§56-1-286 (DUI Breath Test)	\$25 \$
Proviso 61.6 (Public Def/Prob)	\$500 \$
§14-1-212 (Law Enforce. Funding)	\$25 \$ 25.-
§14-1-213 (Drug Court Surcharge)	\$150 \$
§50-21-114 (BUJ Breath Test Fee)	\$50 \$
§56-5-2942(J) (Vehicle Assessment)	\$40/each \$
3% to County (if paid in installments)	\$ 3.75

TOTAL

\$ 168.75

Clerk of Court/Deputy Clerk

Court Reporter: *[Signature]*

MP-SCCA/217 (04/2018)

☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp.☐ May serve W/E beginning☐ Substance Abuse Counseling☐ Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before any other fees.

Presiding Judge:

Judge Code: 2142

Sentence: 8-23-21

Certified - A True Copy

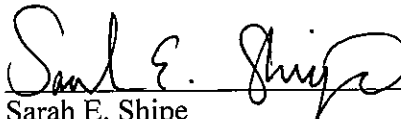
[Signature]
 Janet Ann Rosewell - Clerk of Court
 Beaufort County, SC - Joseph Henson

 RECEIVED
 MAY 03 2021
 SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Sarah E. Shipe", written over a horizontal line.

Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 22nd day of July, 2022.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

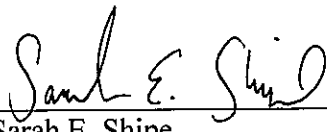
LEVY LARKIN BROWN,

APPELLANT

APPELLATE CASE NO. 2021-000485

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon David Spencer, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), this 22nd day of July, 2022.



Sarah E. Shipe
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT