

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

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Jun 08 2020

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSEPH LAMAR BROWN, JR.

APPELLANT

APPELLATE CASE NO. 2019-000781

AMENDED RECORD ON APPEAL

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COUNTY OF CHARLESTON	)	DOCKET NO. 2017-GS-10-4077
	)	2017-GS-10-4079
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STATE OF SOUTH CAROLINA	)	
	)	
	)	
vs.	)	
	)	
	)	
JOSEPH LAMAR BROWN	)	
	)	
Defendant	)	
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_____	)	TRANSCRIPT OF RECORD
		November 5, 2018
		Charleston, South Carolina

Volume 1 (of 5)

B E F O R E:

THE HONORABLE J.C. NICHOLSON, JR., JUDGE

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DOUBLE JEOPARDY MOTION

MS. NORRIS: Your Honor, basically, back in June we did this trial all the way through and the jury came back a number of times with notes. One of those notes said that they couldn't decide on anything except they were unanimous, not guilty, on the armed robbery charge. Judge Harrington gave them an Allen Charge and ---

THE COURT: --- tell me how that note was presented. Was it presented with the -- with the bailiff giving it to the judge and the judge showing it to the lawyers and then making it -- marking it as a Court's exhibit, or what?

MS. NORRIS: Yes. And the problem is I did not realize that if a jury was hung that they didn't keep the Court exhibits. But I don't think Mr. Durant contests that that was one of the notes.

THE COURT: Okay. But you -- at that point in time, no one made a motion to ask the Court to accept that verdict on -- I believe you said -- which one was it?

MS. NORRIS: Armed robbery.

THE COURT: Armed robbery; is that correct?

MS. NORRIS: We did not, Your Honor. My brain was out to lunch, I imagine. But Judge Harrington gave an Allen charge and they went back for another couple of hours, and then at the end the Foreperson announced that

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1 they could not reach a verdict but --

2 THE COURT: --- and no one asked them about the
3 armed robbery?

4 MS. NORRIS: Judge Harrington did not. I did not.
5 That was my failure. So we're standing here now.

6 THE COURT: So why do you think that's double
7 jeopardy?

8 MS. NORRIS: I think its double jeopardy because
9 there are two jurors that attest that they already made a
10 decision, all twelve of them, on the armed robbery
11 charge. And, now, there is the issue of Rule 606(B) that
12 addresses that jurors can't impeach testimony.

13 But I submit that there -- that this is not
14 impeachment of the verdict, they're just clarifying that
15 they already reached that verdict. And with that, we
16 presented two affidavits, juror Heather Sharkey and juror
17 Lajune Hollands [phonetic]. They are here in the event
18 that the Court wants to take testimony.

19 THE COURT: Well, do you want testimony from the
20 State, or do you want me to accept the affidavits?

21 MR. DURANT: I don't think you should consider
22 either.

23 THE COURT: But she's entitled to offer the
24 testimony of the affidavits.

25 MR. DURANT: Oh, I know. I'm saying the affidavits

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1 are attached to a motion. I'm saying that you, as a
2 matter of law, should not consider the affidavits because
3 they don't fall within 606(B) of the South Carolina Rules
4 of Evidence so ---

5 THE COURT: --- well, then, I'll let her -- I'll let
6 her call the jurors, then. Your choice. Which is it?

7 MR. DURANT: My choice is that the Rule says
8 testimony or affidavits.

9 THE COURT: I'm sorry. What?

10 MR. DURANT: The Rule says testimony -- no testimony
11 or affidavits unless it involves a matter concerning
12 extraneous influence on the jury from outside the jury is
13 what the Rule says.

14 The only exception to that is in the Hunter case,
15 which basically says they can -- the Court can consider
16 juror testimony when there are allegations of internal
17 juror misconduct such as racial discrimination, which we
18 don't have here, either. So there is no basis under Rule
19 606 --

20 THE COURT: Alright. I understand. Let me hear
21 you, Ms. Norris.

22 MS. NORRIS: Your Honor, on that, the federal Rules,
23 our -- our Rule was initially in 1995, had not been from
24 the federal Rule. The federal Rule has since been
25 amended to specifically allow instances where the jurors

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1 are only -- the exception is, quote, about whether a
2 mistake was made in entering the verdict on the verdict
3 form. And I submit that that should be accepted in South
4 Carolina.

5 You know, although it's not technically written in
6 the Rule, the federal Rule accepts that and I submit,
7 just as a matter of due process, that the jurors ought to
8 be heard when they are telling us that the verdict they
9 entered has taken no effect.

10 And this man's got rights under the federal
11 Constitution and the South Carolina Constitution that
12 prohibit double jeopardy. He's already been tried on
13 this, and the twelve jurors that sat in the box said not
14 guilty.

15 [Whereupon, the court reviews documents]

16 THE COURT: Ms. Norris, I guess my problem is the
17 time to have raised this was when the Foreman or
18 Forelady, or whoever, announced that they had reached
19 that verdict. Either you or the State or the judge, or
20 someone, had to say I accept that verdict.

21 That verdict's never been accepted by the Court at
22 all, or by the parties, so I'm not even sure we even get
23 to the what the jurors thought. Yeah, they thought they
24 reached a decision, but it's never been documented by
25 anyone other than I guess when the Forelady stood up and

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1 said we're hung up except for armed robbery, gave them an
2 Allen charge, then they came back and said we're hung up
3 again, and inquiry was not made at that time.

4 So I guess what I'm saying, I don't know if it's
5 even been preserved to even be heard at this time before
6 I even address the issue of affidavit or testimony. If
7 you want to address the issue that I'm concerned with?

8 MS. NORRIS: I think you're absolutely right, Judge.
9 I missed it. So if we don't address this issue now and
10 Mr. Brown is convicted of armed robbery, I'll guarantee
11 you a PCR is going to be filed. And all I can say then
12 is what I'm saying now. I missed it. I should have
13 asked right then when the note came back.

14 THE COURT: Okay. So you acknowledge you had missed
15 it. How can it be corrected at this time?

16 MS. NORRIS: Your Honor can hear the motion and can
17 rule. You can -- you can decide did they make -- did
18 they reach that verdict or did they not.

19 THE COURT: What does the transcript -- or is there
20 a transcript of what the Forelady actually told the
21 Court?

22 MS. NORRIS: The transcript, that page is attached
23 to the motion, Judge.

24 THE COURT: Okay.

25 MR. DURANT: And it's attached to my response, too,

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1 Your Honor. And I'll tell you what it says: the jury
2 has been unable to reach a verdict on any indictment, is
3 what she said to the Court.

4 THE COURT: Was that at -- was that at the end when
5 the mistrial ---

6 MR. DURANT: --- that was at the end ---

7 THE COURT: --- was granted --

8 MR. DURANT: --- when she declared ---

9 THE COURT: --- or before she gave the Allen charge?

10 MR. DURANT: That was after the Allen charge.

11 THE COURT: I'm talking about before the Allen
12 charge.

13 MR. DURANT: The note came out. They continued to
14 deliberate. There was an Allen charge. They sent them
15 back. The Forelady came back after the Allen charge and
16 they were in there for another ---

17 THE COURT: --- so the note is what -- the note is
18 how you know or you think that they had decided on armed
19 robbery; is that correct?

20 MR. DURANT: The note that they sent ---

21 THE COURT: --- the note itself, not in the
22 transcript.

23 MR. DURANT: The note that they sent out, not what
24 the Forelady said.

25 THE COURT: Alright. I understand. Thank you ---

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1 MR. DURANT: --- okay ---

2 THE COURT: --- for clearing that up. I just wasn't
3 sure.

4 MS. NORRIS: I agree with him, actually.

5 THE COURT: Pardon?

6 MS. NORRIS: I said I agree with him, actually.

7 That was an accurate factual summation.

8 MR. DURANT: She said that they were unable to reach
9 a verdict on any indictment, were her exact words. And
10 it was based upon that that the judge declared a
11 mistrial.

12 She didn't really have any choice to declare a
13 mistrial, or to take a jury on the previous note at that
14 time -- a verdict on the previous note because the case
15 law, as I pointed out to you, says until such time as
16 that -- is that a verdict is delivered to the Court and
17 accepted by the Court, then they are free to change their
18 minds any way that they want to up until that time -- the
19 time that the judge does accept the verdict and makes it
20 a judgment of the Court. That never happened in this
21 case. It is unquestioned that it never happened in this
22 case.

23 And the fact of the matter is if you're going to,
24 you know, let jurors with their buyer's remorse come in
25 and reopen cases by filing an affidavit, no verdict will

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1 ever be final in this state.

2 THE COURT: No, that's not true. In this particular
3 situation, it was brought to everybody's attention with a
4 note. And very seldom do you see those type of notes.
5 So that's not a very -- I don't agree with what you just
6 said.

7 MR. DURANT: Okay.

8 THE COURT: Okay. You're not going to walk in with
9 an affidavit and set aside a verdict because some juror
10 said it's wrong.

11 In this particular case, it was brought to your
12 attention, the defense counsel's attention, and the
13 Court's attention that they reached a verdict by note.
14 Now, no action was taken on that, and that's my problem.

15 MR. DURANT: And that's the case that we -- that was
16 cited in both of our briefs the Blueford v Arkansas case,
17 a U.S. Supreme Court case, which -- precisely the same
18 facts almost. It was a capital murder case. It went to
19 the -- to the jury with capital murder, and they also
20 charged three lesser included offenses: murder first
21 degree, manslaughter, and negligent homicide.

22 During the course of deliberations, the jury came
23 back and advised the Court that they had reached verdicts
24 of not guilty on capital murder and first degree murder
25 and they had split on the manslaughter charge and had not

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1 even reached the negligent homicide charge. The judge
2 sent them back to further deliberate. They went and
3 further deliberated and came back and said we have not
4 been able to reach a verdict. The Court declared a
5 mistrial.

6 They, in that case, as Ms. Morris did in this case,
7 raised the double jeopardy issue and the Court, the U.S.
8 Supreme Court, said it was no verdict, until such time as
9 a verdict is taken and accepted by the Court, you go back
10 to square one. And that's exactly what we have in this
11 case.

12 THE COURT: Ms. Norris, let me say this. I guess I
13 should remember the name of the case, but I don't. There
14 was a death penalty case up in Greenville and a very
15 similar thing happened. They'd been found guilty in the
16 guilt phase, and during the penalty phase the jury had
17 been out for something like six or seven, eight hours,
18 and the jury came back and said that they were ten to two
19 for the death penalty.

20 And there were two jurors -- very easy to identify
21 the two because they were sitting on the jury box
22 boo-hooing. There was no motion made in that case. Okay?
23 So an Allen charge was given and two hours and thirty
24 minutes later the jury came back and found for death.
25 That case went to the Supreme Court and the Supreme Court

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1 upheld it because, basically what I'm telling you, it was
2 not protected at the time. No action was taken.

3 Now, that's a little different facts. I don't know
4 if you're familiar with the case or not but I -- I'm
5 sorry, I just -- the name of the case slips my mind.
6 Okay? How is that different from this?

7 MS. NORRIS: Well, Your Honor, the ---

8 THE COURT: --- in other words, a mistrial was not
9 granted on the death issue when it came out ten to two.
10 An undue pressure from the ten against the two was the
11 issue, and no motion was ever made.

12 MS. NORRIS: I think that's a little different,
13 Judge, because in this particular case, in that same note
14 or around those notes, they were sending other notes
15 saying we're hung on these other things. And that is the
16 proper place for the Allen charge.

17 But this, this, I submit, is just different. They
18 sent we've only been able to reach a unanimous verdict on
19 not guilty on armed robbery. It wasn't hung. The Allen
20 charge, by its very nature, tells them to continue
21 deliberating about what they're stuck on. They weren't
22 stuck on this.

23 And that's what our juror affidavits say, that they
24 went back and they deliberated on the other three
25 charges. In that last two hours after the Allen charge,

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1 they deliberated on what they were stuck on. They never
2 went back to this, because they all agreed. That's the
3 difference. But you're right, Judge, it wasn't
4 preserved. I missed it, but I also submit that Judge
5 Harrington had a duty at that point to properly ---

6 THE COURT: --- now, that issue -- that issue I just
7 addressed was raised on appeal about the undue influence.

8 MS. NORRIS: Well, you know, that's an Allen charge
9 issue, but that's not -- and I agree with you, Judge, the
10 defense lawyer should have said something in that case,
11 but that's different. I'm not ---

12 THE COURT: --- well, quite frankly, I probably
13 should have done it sua sponte, because I was expecting a
14 motion. I didn't get it. I probably could have done it
15 sua sponte, but I didn't.

16 MS. NORRIS: No. Just like I wish now Judge
17 Harrington had done it. I wish I had thought of it at
18 the time, you know. But I can't go back and recreate
19 that situation. All I can do is -- it's brought to my
20 attention again, so I'm here. And if we don't address it
21 today and things go badly for this young man, I can
22 guarantee you there's a lawyer like me out there ---

23 THE COURT: --- I understand that ---

24 MS. NORRIS: --- that's going to raise this.

25 THE COURT: Let me see the lawyers up here just a

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1 second. Turn off the microphone.

2 [Whereupon, an off-the-record bench conference is
3 held]

4 THE COURT: Alright. I'm going to take that motion
5 under advisement and I'll give you a decision in the
6 morning before you start to make opening statements.

7 What's your next motion?

8 MS. NORRIS: Your Honor, if I could, I just need to
9 mark that motion, and addendum to it, as a Court's
10 Exhibit so I can ---

11 THE COURT: --- okay. You can mark it as Court's
12 Exhibit Number 1.

13 THE COURT REPORTER: Actually, 4. Is this all one?

14 MS. NORRIS: Yes. They're together.

15 THE COURT: Alright. What's the next motion?

16 THE COURT REPORTER: Hang on one second, Judge.

17 MS. SEMAN: Judge, our next ---

18 THE COURT: --- hold on one second.

19 [Whereupon, Court's Exhibit Number 4 is marked for
20 identification by the court reporter]

21

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25

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion
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1 THIRD PARTY GUILT MOTION

2 MS. SEMAN: Judge, our next motion is going to be
3 the third-party guilt issue.

4 THE COURT: Okay.

5 MS. SEMAN: And I believe that Mr. Durant is
6 interested in presenting some testimony to Your Honor,
7 and we will also be presenting some testimony in response
8 to that.

9 THE COURT: You're offering some testimony?

10 MR. DURANT: Very, very briefly, Your Honor.

11 THE COURT: Okay. Call you -- well, do you have
12 testimony?

13 MS. SEMAN: Yes, Your Honor, from Detective
14 Goldstein, but I think it's more relevant in rebuttal.

15 THE COURT: It doesn't matter who call -- who are
16 you going -- who are you going to call?

17 MS. SEMAN: Detective Goldstein, Your Honor.

18 THE COURT: Y'all are going to call the same person?

19 MS. SEMAN: No, Your Honor.

20 MR. DURANT: I was going -- I was going to call
21 Detective Goldstein, too, just very briefly.

22 MS. NORRIS: Then we just have cross of his
23 witnesses.

24 THE COURT: Okay. That's fine. Call whoever you
25 want to call.

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1 [Whereupon, Mr. Goldstein comes forward]

2 [Whereupon, Mr. Goldstein is duly sworn by the Clerk
3 of Court]

4 THE CLERK OF COURT: You can have a seat. For the
5 record, please state your name and spell your last name.

6 [Whereupon, the witness takes the witness stand]

7 THE WITNESS: Barry Goldstein. G-O-L-D-S-T-E-I-N.

8 - - - - -

9 BARRY GOLDSTEIN,

10 Having Been First Duly Sworn,

11 was Examined and Testified as Follows:

12 DIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Good afternoon, Detective Goldstein. You are a
15 detective with the Charleston County Sheriff's Office;
16 correct?

17 A. Yes, I am.

18 Q. And you are the case agent in this particular murder
19 case; correct?

20 A. Yes.

21 Q. And you have been a detective for getting on close
22 to how many years?

23 A. Forty-one years.

24 Q. Okay. This case, of course --

25 MR. DURANT: Do you mind if I lead to get to the

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1 point where ---

2 MS. SEMAN: ---no.

3 THE COURT: Please do.

4 MR. DURANT: -- we need to go?

5 Q. [Mr. Durant] This case involved a home invasion
6 during the course of a robbery, and the death of the
7 intended victim; is that correct?

8 A. Yes.

9 Q. And it occurred at [REDACTED] East Thomas Street in
10 Lincolnville, South Carolina; is that correct?

11 A. Yes.

12 Q. And that is in Charleston County?

13 A. Yes, it is.

14 Q. Did you respond to the scene of the crime?

15 A. Yes, I did.

16 Q. Was there a third party in the house at the time
17 that this home invasion took place?

18 A. Yes. There was a witness in there, yes, sir.

19 Q. And that would be Hugh Potter Pritchard; correct?

20 A. Yes.

21 Q. Who was the cousin of the deceased victim?

22 A. Yes, sir.

23 Q. And if you could just tell us what happened with the
24 victim in that case. Tell us what...

25 A. The victim was out earlier, just prior to -- just

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1 prior to his death. He came home, was in the front room.
2 It's a little small apartment-type structure. Hugh
3 Potter Prichard was in a back room. An assailant came to
4 the front door. The victim was shot in the front room.
5 And the assailant fled.

6 I took a statement from Hugh Potter Prichard and --
7 as to what he saw, and that was what he saw.

8 Q. And his description of the assailant was what?

9 A. He put it -- he put the assailant at five eight to
10 five ten, black male, wearing all black clothing, about
11 170 pounds, with facial cover, some type of facial cover.

12 Q. Okay. No mention of dreads or long hair or
13 anything?

14 A. No, sir.

15 Q. Okay. Now, immediately after this shooting, was
16 someone observed running from the direction of the crime
17 scene?

18 A. Yes, sir.

19 Q. By whom?

20 A. That would have been an individual by the name of
21 Celest McBride.

22 Q. Okay. And where did she live in relation to the
23 crime scene?

24 A. She lives -- the address is [REDACTED] East Owen Street,
25 which I would estimate to be 50 to 100 yards from the

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1 scene of where the shooting took place.

2 Q. Okay. And pretty much right next to the shooting

3 location; correct?

4 A. You could see both locations, yes.

5 Q. Okay. Next-door neighbors so to speak?

6 A. Yeah.

7 Q. And she observed this person do what?

8 A. She observed the -- an individual running down East

9 Owen Street.

10 Q. Away from?

11 A. Away from where the shooting took place. And she

12 observed something fall out of his pockets; a couple of

13 things. It was -- it ended up to be money and his cell

14 phone.

15 Q. Okay ---

16 A. --- fall on the street in front of her house.

17 Q. Okay. And what happened with the cash; the money?

18 A. The case was picked up by the individual. The cell

19 phone fell into the little ditch, drainage ditch, right

20 there in front of her house.

21 Q. Okay. And that was an iPhone; correct?

22 A. Yes.

23 Q. And that iPhone was recovered by the Charleston

24 County Sheriff's Office?

25 A. It was.

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1 Q. And that iPhone was determined to belong to the
2 defendant, Joseph Lamar Brown; correct?
3 A. Yes.
4 Q. In fact, it had his picture on it?
5 A. It did.
6 Q. Had a picture of his girlfriend on it?
7 A. Yes.
8 Q. And he was subsequently arrested and provided a
9 statement to you admitting that that was his cell phone;
10 correct?
11 A. Yes, sir.
12 Q. But claiming that he had just happened to lose it
13 right about the time Mr. Prichard had died?
14 A. Yes.
15 Q. And Ms. Celest McBride do you recall what
16 description she provided of the suspect?
17 A. She gave a description of a black male, stone-gray
18 pants, dreads, five ten to six foot, with medium build.
19 Q. Okay. And about the same time that this individual
20 was seen dropping money and the phone, was he also
21 observed by another witness?
22 A. Yes.
23 Q. And did you have a chance to talk to that witness?
24 A. I did.
25 Q. And what was his name?

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1 A. Merit -- Merit Lafond Williams.

2 Q. Okay. And where was Mr. Williams when this was
3 going on?

4 A. Mr. Williams had left -- the address will be [REDACTED]
5 Colpat. That's a mobile home behind where the victim was
6 shot, and it -- so, again, we're about 50 yards to 100
7 yards.

8 Mr. Williams was driving a vehicle, which was
9 described to me by Ms. Celest McBride. She said it was
10 an older model green SUV. Mr. Williams was driving down
11 East Owen Street in the same direction as the person who
12 dropped his cell phone and dropped the money was running.

13 Q. Okay. So he kind of was going in the same direction
14 as this person?

15 A. Yes.

16 Q. And he observed this person dropping stuff, as well;
17 is that correct?

18 A. Yes.

19 Q. And how did he describe this person?

20 A. He described him as a young black male, dark skin,
21 black hoodie with the number 23 on the back of it.

22 Q. What about the number 23? Wasn't it like a
23 multicolored 23?

24 A. It had different coloring. It was on this black
25 hoodie.

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1 Q. An actual twenty -- digit, the two and the three
2 were multicolored, according to his statement; correct?
3 A. Yes, sir.
4 Q. Okay. He was wearing a black hoodie; correct?
5 A. That's correct.
6 Q. What color were his pants?
7 A. Black warm-up pants.
8 Q. And his shoes, by make?
9 A. They were red Converse sneakers.
10 Q. Okay. And was he specific about the Converse
11 sneakers?
12 A. I asked him how he knew that they were red Converse
13 by brand. He told me he had sold sneakers in the past so
14 he knew the brand.
15 Q. Okay. And he said dreads, too; right?
16 A. Yes, sir.
17 Q. Okay. Now, later that day, I believe around three
18 o'clock or something like that ---
19 A. --- yes, sir ---
20 Q. --- could you tell us what happened at the end of
21 one -- between -- at the end of Brenda B Drive?
22 A. Brenda B. Individual male figure who resides in the
23 neighborhood saw all the police activity. His name was
24 Mr. Perez. Mr. Perez came up to detectives and said that
25 he had video surveillance on the top of his mobile home.

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1 Q. We'll get into that later. But that ---
2 A. --- okay ---
3 Q. --- for purposes of this hearing, what did you see
4 that attracted your attention when you were at ---
5 A. --- when I went down I saw an individual that had
6 dreads, wearing a red-and-black jacket with a 23 on the
7 back. And this individual had dreads, also, as I
8 testified to.
9 Q. Okay. So what alerted your suspicion was he had a
10 jacket with the number 23 on the back of it; is that
11 correct?
12 A. Yes, sir.
13 Q. Was it a black hoodie that had the number 23 on it?
14 A. No. It was like a leather-type jacket.
15 Q. What color, predominately?
16 A. Red.
17 Q. Okay. Was he wearing black pants, as Mr. Williams
18 had stated that he was?
19 A. No.
20 Q. What color were his pants?
21 A. I believe they were red.
22 Q. And he was wearing red shoes; correct?
23 A. He was, but a different brand.
24 Q. But they weren't Converse shoes; is that correct?
25 A. Correct.

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1 Q. And you talked to Mr. Felder; correct?

2 A. Yes, sir.

3 Q. And he agreed to come down to headquarters and talk
4 to y'all?

5 A. He did.

6 Q. And he had an alibi; correct?

7 A. Yes, sir.

8 Q. And that alibi was corroborated by two other
9 witnesses; correct?

10 A. Yes.

11 MR. DURANT: Your Honor, could I have this marked as
12 a Court's exhibit just for the purposes of this hearing?

13 THE COURT: Is that the photographs?

14 MR. DURANT: There are five photographs, Your Honor.

15 THE COURT: Any objection?

16 MS. SEMAN: No objection.

17 THE COURT: Okay.

18 [Whereupon, Court's Exhibit Numbers 5, 6, 7, 8 and 9
19 are marked for identification by the court reporter]

20 Q. [Mr. Durant] I want to show you first what's been
21 marked as Court's Exhibit Number 5, which I believe is
22 this photo right here. Who is that?

23 [Whereupon, the witness is shown photograph]

24 A. The green shirt is myself, the black shirt is
25 Detective Michael Thompson, and the individual with the

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1 multicolored coat will be David Felder.

2 THE COURT REPORTER: David?

3 THE WITNESS: Felder. F-E-L-D-E-R.

4 Q. [Mr. Durant] Okay. Next, I want to ask you about
5 State -- what I believe to be -- this is Court's Exhibit
6 Number 6.

7 [Whereupon, the witness is shown photograph]

8 Q. Is that the clothing Mr. Felder was wearing that day
9 from face-on?

10 A. Yes.

11 Q. He had like a red stocking cap in his right hand?

12 A. Yeah. In his hand there appears to be some type of
13 red cap.

14 Q. And red pants, obviously?

15 A. Yes.

16 Q. And a jacket that's...

17 A. It's got the black, a lot of red, and I see the red
18 sneakers at the bottom.

19 Q. Okay. And next, Court's Exhibit Number 7, which is
20 this photograph; correct?

21 [Whereupon, the witness is shown photograph]

22 A. That's correct.

23 Q. Okay. And that's the 23 that you saw that attracted
24 your attention?

25 A. Yes, sir.

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1 Q. Okay. So other than that number 23, and the fact
2 that he had dreads, did he match the description in other
3 ways?

4 A. No.

5 Q. Because he didn't have black pants on?

6 A. No, sir.

7 Q. Or stone-gray pants on?

8 A. No, sir.

9 Q. And showing you Court's 8 and 9.

10 [Whereupon, the witness is shown photographs]

11 Q. Were those the shoes that he was wearing?

12 A. Yes, sir.

13 Q. Which are not Converse?

14 A. No, those are not Converse.

15 Q. Okay. Now, during your interview with Mr. Felder,
16 he provided you -- where did he say that he had been at
17 the time?

18 A. Said he had to meet his attorney up at Dorchester
19 County courthouse. He told me who the attorney was.

20 Q. In Saint George; correct?

21 A. Yes, sir.

22 Q. And that he was meeting that attorney at one
23 o'clock?

24 A. Yes, sir.

25 Q. And that he had been taken up to Saint George by two

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1 other people; correct?

2 A. One by his girlfriend and somebody else, another
3 female who was there.

4 Q. Okay. And that he had not been in Lincolnville at
5 the time this incident occurred because it occurred right
6 at -- just before one o'clock; correct?

7 A. That's correct. The time of the call was 12:56.

8 Q. Okay. And he did not -- did not get to Lincolnville
9 that day until like 2:00 to 3:00 to four o'clock in the
10 -- or 3:00 to four o'clock in the afternoon; is that
11 correct ---

12 A. --- when we had confronted each other. Yes, sir.
13 That'd be between 3:00 and 4:00.

14 Q. As a matter of fact, he had just gotten there when
15 you saw him; correct?

16 A. Yes.

17 Q. And he was with these two other ladies?

18 A. Yes.

19 Q. Now, you are aware that while you were interviewing
20 him down at Charleston County Sheriff's Office, he was --
21 the two ladies were being interviewed by detective -- by
22 Charles Gillard, the deputy; is that correct?

23 A. Yes.

24 Q. And what did they tell Deputy Gillard?

25 A. The same story that they were taking him to the

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1 courthouse to meet with his attorney at -- for another
2 matter.

3 Q. Okay. And then they had gone to -- they went there
4 to meet the attorney, the attorney wasn't there?

5 A. They went someplace else.

6 Q. They rescheduled, and then went to Cordesville on
7 the other side of Moncks Corner?

8 A. Yes, sir.

9 Q. And then ended up coming back to Moncks Corner -- I
10 mean, excuse me -- Lincolnville?

11 A. Lincolnville, when we met up.

12 Q. And then right after they got to Lincolnville is
13 when you confronted them; correct?

14 A. Yes, sir.

15 Q. And that was done out of the presence of Mr. Felder,
16 with them having -- not even knowing what Mr. Felder had
17 told you; correct?

18 A. No. I had already -- I had already left with Mr.
19 Felder.

20 Q. Was Mr. Felder arrested?

21 A. No, he wasn't.

22 Q. Why wasn't he arrested?

23 A. He had an alibi that I needed to check out. I had
24 interviewed him. He was very cooperative. The pictures
25 that are in front of us was -- he was surrendering his

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1 clothing to be examined, voluntarily, after I had asked
2 him. He said there was no problem. So he was very
3 cooperative in the whole matter.

4 Q. Right. And his alibi checked out; correct?

5 A. It checked out.

6 Q. You had -- you had no reason to charge him; correct?

7 A. No, sir.

8 Q. You had no evidence whatsoever that he had committed
9 this crime involving Johnny Prichard?

10 A. No, sir.

11 MR. DURANT: Could you please answer any questions
12 Ms. Seman may have for you.

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State v Joseph Lamar Brown, Jr.
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1 CROSS-EXAMINATION

2 BY MS. SEMAN:

3 Q. Good afternoon, Detective.

4 A. Good afternoon.

5 Q. As you were just talking with Mr. Durant about, you

6 did respond on December 23rd to the actual crime scene

7 itself; right?

8 A. Yes, ma'am.

9 Q. You were there right after this had happened?

10 A. Oh no. I was notified at 1:50. I was in an off-

11 duty capacity so I was notified by my supervisor at 1:50,

12 and so I would have to go home, and then clothes, and

13 then drive to Lincolnville. So I'm not trying to put it

14 off, but around two o'clock.

15 Q. But within a couple of hours --

16 A. Oh, yeah. Yes. Yes, ma'am.

17 Q. Of when this crime happened. And you actually were

18 able to speak to all these witnesses yourself and

19 interview them yourself ---

20 A. --- yes ---

21 Q. --- is that right? In fact, you interviewed

22 specifically three different witnesses yourself, that Mr.

23 Durant mentioned to you that gave you descriptions.

24 A. Yes.

25 Q. Of somebody that they had seen in the neighborhood

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1 at that time; right?

2 A. [No response]

3 Q. And I'm not going to belabor the point because I
4 know that you went through these descriptions with Mr.
5 Durant. But you would agree with me that these three
6 descriptions vary pretty wildly?

7 A. Yes, ma'am.

8 Q. Okay. The first description that was Mr. Potter,
9 Hugh Potter Prichard, he said there was one assailant;
10 right?

11 A. One assailant.

12 Q. A black man wearing all black, with a facemask and a
13 hat; right?

14 A. I didn't say anything about a cap.

15 Q. Okay.

16 A. But there was no mention of dreads, 170 pounds, all
17 black clothing, five eight to five ten.

18 Q. And would it refresh your memory to see a copy of
19 his statement?

20 A. That would help.

21 MS. SEMAN: I beg the Court's indulgence.

22 [Whereupon, Ms. Seman reviews documents]

23 MS. SEMAN: May I approach the witness, Your Honor?

24 THE COURT: That's fine.

25 Q. [Ms. Seman] Okay. Here's a copy of Mr. Hugh

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1 Prichard's statement that we've had transcribed.

2 A. Okay.

3 [Whereupon, the witness is shown document]

4 Q. It was actually an interview with you. I'm
5 referring specifically -- I believe it's to page 5, line
6 17 through 19.

7 A. Okay. I have probably five eight, nine ten; that's
8 about it; he wasn't a big guy; you know, probably about
9 170 pounds.

10 Q. Okay. And I'm sorry. It's actually line -- page 4,
11 line 7 through 15.

12 A. Alright. Page 4?

13 Q. Yes, sir.

14 A. He was a black male in his thirties, could have been
15 in his late twenties, but he wasn't a teenager; I
16 couldn't tell exactly how old he was, but he wasn't an
17 old man.

18 He was a younger man; he was dressed in black; and
19 had some kind of mask on his face; and a hat on; and
20 that's -- and that's it; that's all I know.

21 Q. So does that refresh your memory that he actually
22 told you that the suspect did have a hat on?

23 A. Yes. I took an -- it would have been an audio tape
24 recording.

25 Q. Yes, sir. And, again, he said late twenties or

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1 thirties, not a teenager; right?

2 A. Yes.

3 Q. He said five eight to five ten, weight 170; right?

4 A. Yes.

5 Q. And then there is a second description from somebody

6 named Celest McBride that you mentioned on direct with

7 Mr. Durant; right?

8 A. That's correct.

9 Q. She says gray sweatpants, right, stonewashed?

10 A. Stonewashed -- stone-gray pants. Yeah.

11 Q. And that she included in her statement, right, to

12 you; her written statement?

13 A. Hers would have been audio by me, also.

14 Q. Yes, sir.

15 A. That's all I took.

16 Q. Yes, sir. And then there was also a written

17 statement done, and maybe ---

18 A. --- maybe one of ---

19 Q. --- it wasn't by yourself ---

20 A. --- the road deputies may have done it prior to my

21 arrival.

22 Q. Sure. She said that the man was tall with shoulder-

23 length dreads; right?

24 A. Right. She has: dreads, five ten, six foot, medium

25 build.

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1 Q. And that -- the fact that he had dreads was a fact
2 that she repeated several times when y'all talked to her
3 that day?

4 A. I don't recall, but the audio, you know, if I heard
5 it, it would --

6 Q. But it wouldn't surprise you ---

7 A. --- no ---

8 Q. --- if she repeated that ---

9 A. --- she had ---

10 Q. --- fact several times?

11 A. --- no, she had mentioned dreads.

12 Q. Okay. She said he had an average build and a
13 medium-dark complexion. Do you remember that, as well?

14 A. You know, I -- just a medium build. I -- you know,
15 I remember that.

16 Q. Okay. And then again there was a third description,
17 and that was from Merit Williams, you said the man that
18 came from [REDACTED] Colpat; right?

19 A. Yeah.

20 Q. He said it was a young boy; right?

21 A. Yes.

22 Q. That it was a black sweatshirt with a multicolored
23 number 23?

24 A. Yes.

25 Q. Right? With jogging pants; right?

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1 A. Right.

2 Q. Red shoes; right?

3 A. Red Converse sneakers. Yes, ma'am.

4 Q. And he also said that the man had dreads?

5 A. He did.

6 Q. He said he was wearing a hat with white writing;
7 right?

8 A. I have skully cap.

9 Q. He said skully cap. Yes. He said he was shorter
10 than six foot one, and skinny; right?

11 A. I don't have the numbers on my notes.

12 Q. Would it help you to see a copy of that, as well?

13 A. Sure.

14 MS. SEMAN: May I approach, Your Honor?

15 THE COURT: Yes, ma'am.

16 [Whereupon, Ms. Seman proffers documents to the
17 witness]

18 Q. [Ms. Seman] Alrighty. There you are. And I'm
19 referring specifically, I believe, to page 8, lines 12 to
20 14.

21 A. Alright. I'm at page 8. It was -- it was jet black
22 but it had a multicolored ratio on the back, for 23; I
23 never seen that, just all different colors and 23 symbol;
24 it was all in the 23; it had all different colors in the
25 number.

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1 Okay. Now I'm at his build: shorter than you; how
2 about his build; his build, oh, he was a skinny guy.

3 Q. Okay. And that's -- and that's what I was asking
4 you about.

5 A. Right.

6 Q. He was shorter than six one and that he was skinny;
7 right?

8 A. That's correct.

9 Q. Okay. And you were familiar with these three
10 descriptions?

11 A. Yes. I had taken them all.

12 Q. And, again, as I said, they certainly varied?

13 A. Yes, they do.

14 Q. And as you said earlier, the 911 call came in at
15 about 12:56 p.m.; right?

16 A. Yes.

17 Q. And after you responded to the crime scene you said
18 about two o'clock, you were involved in canvassing the
19 area?

20 A. Yes.

21 Q. Including obtaining that surveillance footage from
22 Mr. Perez that you mentioned?

23 A. Detective Thompson got it, but I reviewed it.

24 Q. But you walked down there and that's how you had the
25 occasion to see Mr. Felder at ---

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1 A. --- that's correct. Later on. Yes, ma'am.

2 Q. Okay. And that was at about 4:45; right?

3 A. Between -- I don't know about -- between 3:00 and

4 4:00. Around four o'clock, ma'am.

5 Q. Okay. And so that was about four hours after?

6 A. That's correct.

7 Q. Less than four hours after the fact.

8 A. Uh-huh. Yeah.

9 Q. And Mr. Felder does live pretty close to the crime

10 scene; right?

11 A. I went to his residence, and he probably lived

12 approximately twenty to thirty minutes away.

13 Q. Mr. Felder?

14 A. I was at a trailer. If I was at a trailer at [REDACTED]

15 Brenda B?

16 Q. Yes, sir.

17 A. I went to another house to change out his clothes

18 after I had taken his clothes.

19 Q. Okay.

20 A. So what he's doing at Brenda B, if that's his

21 trailer, that's within two or three blocks. I went to a

22 house in Summerville, off 17-A, where he brought out some

23 clothing. So where he's, excuse the phrase, laying his

24 head, I'm not sure.

25 Q. I understand. Okay. But you would agree with me

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1 that ---
2 A. --- I just wanted to be correct on that point ---
3 Q. --- where you stopped him at the end of Brenda B was
4 within walking distance of the victim's house?
5 A. Oh. Yes.
6 Q. About 920 feet away, with my Google Map. Would that
7 surprise you?
8 A. It could be, yes, ma'am.
9 Q. Okay. And at that point in time, when you
10 approached Mr. Felder he was wearing red sneakers; right?
11 A. Yes.
12 Q. He did have the number 23 on his clothing; right?
13 A. Yes, ma'am.
14 Q. And he did have shoulder-length dreadlocks?
15 A. Yes, he did.
16 Q. Right? That's what caught your attention initially?
17 A. Yes.
18 Q. Because he fit Mr. Williams' description; right?
19 A. Yes.
20 Q. And as a side note, you spoke to a lot of different
21 people that know Mr. Brown; right?
22 A. A lot? I'm trying to think.
23 Q. For example, the Alston Manigault family?
24 A. Well, yeah. I spoke to three people there.
25 Q. Okay. Not a single person ever said that he had

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1 dreads; right?
2 A. No.
3 Q. And you went over to Mr. Felder's house, or to [REDACTED]
4 Brenda B?
5 A. [REDACTED] Brenda B. Yes.
6 Q. And y'all detained Felder, Mr. Felder; right?
7 A. Yes.
8 Q. And you took him to be interrogated; right?
9 A. Yes.
10 Q. You interrogated him?
11 A. I did.
12 Q. You seized his clothes; right?
13 A. Yes.
14 Q. They're still in evidence now?
15 A. Yes.
16 Q. You tested him for GSR?
17 A. I did.
18 Q. You tested the clothes for GSR?
19 A. I did.
20 Q. And he said that he didn't own and had not fired a
21 gun; right?
22 A. That's correct.
23 Q. And Detective Khan, who was interviewing Mr. Felder
24 with you, right, he drafted a search warrant to search
25 Mr. Felder's house?

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1 A. He -- well, yeah ---

2 Q. --- while y'all were ---

3 A. --- yeah, we did search that house. That's correct.

4 MR. DURANT: I'm going to object to relevance at
5 this point, Your Honor. It has nothing to do with third-
6 party guilt.

7 MS. SEMAN: Your Honor, my point is that it's clear
8 that these officers believed he fit one of their
9 descriptions and that's why they obtained a search
10 warrant for his home. I'm not going to go in -- I mean,
11 that was really the only question I'm going to ask about
12 it.

13 THE COURT: Alright. Just make it brief. I'm not
14 sure it ties in. I'll let you go...

15 MS. SEMAN: Yes, sir.

16 THE COURT: A couple more -- a couple more
17 questions, please.

18 MS. SEMAN: Yes, sir.

19 Q. [Ms. Seman] And when you spoke to Mr. Felder he did
20 tell you he had an alibi; right?

21 A. Yes.

22 Q. He said he had gone -- he had gone to court that
23 day?

24 A. Yes.

25 Q. And this was on December 23rd of 2016; right?

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1 A. That's correct.

2 Q. And you were able to confirm that court was not in
3 session in Dorchester County that day?

4 A. I called the Dorchester -- on that day, being a
5 couple of days prior to Christmas, I was aware Charleston
6 County had a holiday but I wasn't aware of Dorchester
7 County. So it would be the following week that I would
8 have to check with Dorchester County, which I did. I
9 called up there.

10 Q. Uh-huh.

11 A. But at the time of his interview, I took his
12 information and that's all I could do.

13 Q. But you agree that you were later able to confirm
14 that there was no court for ---

15 A. --- no court ---

16 Q. --- in Dorchester County that day?

17 A. I did -- I did do that.

18 Q. Okay. And you also later obtained GSR results;
19 right?

20 A. I did.

21 Q. And those did show that Mr. Felder's jacket tested
22 positive for GSR?

23 A. Yes.

24 MS. SEMAN: That's all I have, Your Honor.

25 THE COURT: Redirect?

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Third Party Guilt Motion-Barry Goldstein-Redirect Examination by Mr. Durant
November 5, 2018

1 MR. DURANT: Yes, sir, Your Honor.
2 REDIRECT EXAMINATION
3 BY MR. DURANT:
4 Q. The fact of the matter is he didn't say that he had
5 gone to court. He said he went to Saint George to meet
6 his lawyer; correct?
7 A. Mr. Smiley.
8 Q. Jim Smiley; correct?
9 A. That's correct.
10 Q. And he got there and Mr. Smiley wasn't there so they
11 called his office and rescheduled?
12 A. That's correct.
13 Q. And then went to Cordesville?
14 A. He did.
15 Q. And that was confirmed by the other two witnesses?
16 A. Yes.
17 Q. And y'all did search where he -- where y'all found
18 him in Brenda B; correct?
19 A. [REDACTED] Brenda B.
20 Q. There was no gun there?
21 A. No, sir.
22 Q. And the GSR -- let's talk about the dog. We've got
23 to talk about the dog. When you met -- went to meet, or
24 when you confronted, Mr. David Felder at [REDACTED] Brenda B,
25 did he have a dog?

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Third Party Guilt Motion-Barry Goldstein-Redirect Examination by Mr. Durant
November 5, 2018

1 A. Yes.

2 Q. And did that dog become aggressive with a Deputy
3 Gillard?

4 A. Yes.

5 Q. And where were you standing in relation to Deputy
6 Gillard?

7 A. I was -- Gillard was to my right. I mean, he was
8 like within a foot, standing right next to me.

9 Q. Okay. And what did Deputy Gillard do?

10 A. The dog started running towards Gillard -- both of
11 us. Gillard pulled his service handgun and discharged it
12 one time. The bullet hit the ground, ricocheted, struck
13 the dog, the dog ran off.

14 Q. And you were standing right next to him; correct?

15 A. He was right to my right, within a foot.

16 Q. And you also had your service weapon on that day;
17 correct?

18 A. Yes.

19 Q. And you also had your hand on that service weapon;
20 correct?

21 A. I did. Due to the seriousness of the offense we
22 were investigating, and the description, I did have my
23 hand on my weapon.

24 Q. And then right after that incident involving the
25 dog, you and Detective Thompson cuffed Mr. Felder before

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Third Party Guilt Motion-Barry Goldstein-Redirect Examination by Mr. Durant
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1 taking him down to Charleston County headquarters?

2 A. We ran over -- being the weather that it was, with
3 his coat, not knowing if he was armed or not, I -- once
4 the gun went off, I ran over with Michael Thompson,
5 detective, and we cuffed him up so if he was armed, we
6 had already at least had him restrained.

7 Q. And when doing that, you had your hand -- both of
8 y'all had your hands all over his jacket sleeves;
9 correct?

10 A. Well, we had to, to get his handcuffs. Yes, sir.

11 Q. And that's where they found GSR; correct?

12 A. On the coat, on the sleeve.

13 Q. On the sleeve of the coat.

14 MR. DURANT: I have nothing further.

15 THE COURT: Any recross?

16 MS. SEMAN: No, Your Honor.

17 THE COURT: Okay. You may step down. Thank you so
18 very much.

19 [Whereupon, the witness is excused and exits the
20 witness stand]

21

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Direct Examination by Mr. Durant
November 5, 2018

1 MR. DURANT: We would call Celest McBride.

2 [Whereupon, Ms. McBride comes forward]

3 [Whereupon, Ms. McBride is duly sworn by the Clerk
4 of Court]

5 THE CLERK OF COURT: You can have a seat. For the
6 record, please state your name and spell your last name.

7 [Whereupon, the witness takes the witness stand]

8 THE WITNESS: Celest McBride, M-C-B-R-I-D-E.

9 - - - - -

10 CELEST MCBRIDE,

11 Having Been First Duly Sworn,

12 was Examined and Testified as Follows:

13 DIRECT EXAMINATION

14 BY MR. DURANT:

15 Q. Good afternoon, Ms. McBride.

16 A. Good afternoon.

17 Q. Could you tell the Judge where you were living on
18 December the 23rd of 2016?

19 A. [REDACTED] East Elms Drive, Lincolnville, South Carolina.

20 Q. And where is that in relation to where Mr. Johnny
21 Prichard was living at the time?

22 A. It was a couple of houses down the road, but the
23 same street.

24 Q. I'm showing you what is State's Exhibit Number 61.

25 [Whereupon, the witness is shown photograph]

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Third Party Guilt Motion-Celest McBride-Direct Examination by Mr. Durant
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1 Q. That's where the shooting took place; is that
2 correct?

3 A. Yes.

4 Q. And this would be -- and this would be your house
5 right here [indicates], is that correct?

6 A. Yes.

7 Q. Okay. Do you remember the day that Mr. Pritchard
8 was shot?

9 A. It's a little fuzzy, but I do.

10 Q. Okay. And right after he was shot, what did you
11 see? Or what did you hear, I should say?

12 A. I heard a sound, and at the time I just thought it
13 was like someone getting into a wreck or something had
14 fallen out of someone's vehicle, so I was looking to see
15 if they needed help, because I'm nosey like that.

16 So I looked out of my window and I saw someone
17 running from Johnny's house, from my right to my left,
18 down to around Bell Drive.

19 Q. Okay. So they would have been running in this
20 direction [indicates]?

21 A. Uh-huh.

22 THE COURT REPORTER: Is that yes?

23 A. Yes.

24 Q. [Mr. Durant] Okay. And what did -- what did you
25 observe this person do when he got in front of your

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Direct Examination by Mr. Durant
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1 house?

2 A. In front of my house, an object had fallen out of
3 his pocket. I didn't know what it was at the time.

4 Q. What did it look like?

5 A. It was just a black rectangular box.

6 Q. Okay. And that happened where?

7 A. Directly in front of my house, over by a telephone
8 pole.

9 Q. Okay. And when he got a little farther down the
10 road, he -- did you see him dropping something else?

11 A. A little further down the road, I saw him drop a
12 large amount of money.

13 Q. Okay. And once he dropped this large amount of
14 money, what did he do?

15 A. He picked it up.

16 Q. But he never picked up the phone?

17 A. He never picked up the phone.

18 Q. Okay. And did he just continue running down the
19 road in that direction?

20 A. Yes.

21 Q. And do you recall what that person was wearing at
22 the time, to the best of your recollection?

23 A. When I saw him, I saw stone-grain -- stone-gray
24 sweatpants and a dark hoodie, but at the time I described
25 it as dreads.

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Third Party Guilt Motion-Celest McBride-Direct Examination by Mr. Durant
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1 Q. Okay. And let me ask you specifically. I want to
2 show you Court's Exhibit -- I believe this one is 5.

3 [Whereupon, the witness is shown photograph]

4 Q. And then I want to show you State's -- Court's
5 Exhibit Number 6 and Court's Exhibit Number 7.

6 [Whereupon, the witness is shown photograph]

7 Q. Was that the person you saw running?

8 A. No.

9 Q. Any question about that?

10 A. No.

11 Q. Look anything like the guy that you saw running down
12 the road?

13 A. No.

14 MR. DURANT: I have nothing further. Could you
15 please answer any questions ---

16 THE COURT: --- cross-examination.
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State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Cross-Examination by Ms. Norris
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CROSS-EXAMINATION

BY MS. NORRIS:

Q. Good afternoon, Ms. McBride. I'm sorry you had to wait in the hallway all day.

A. It's fine.

Q. Now, you indicated before that you don't know where the runner started; right?

A. I do not know where he generated from. He just was coming from the direction of Johnny's house.

Q. And when you saw him, it was just a couple of seconds after you heard the sound?

A. Uh-huh.

Q. And ---

A. --- I didn't think any correlation.

Q. And he was already in front of your house, basically, then?

A. He was a little bit on the right side of the driveway to my house when I first saw him.

Q. And your house is about 100 yards down the road from Mr. Prichard?

A. I believe so.

Q. And you indicated today that the person you saw had a dark top. But do you recall that on that day there were a number of police officers out there that you talked to, including Detective Goldstein, and you

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Cross-Examination by Ms. Norris
November 5, 2018

1 indicated then that you didn't -- you didn't get a good
2 look at his top?

3 A. All I know is that it was dark colored and at the
4 time it appeared that it could have been dreads but it
5 could have also been a hood over his head.

6 Q. And the person you saw didn't have a scarf?

7 A. I could not see a scarf on him.

8 Q. And you didn't see a gun?

9 A. I did not see a gun on him.

10 Q. And the person you saw was just sort of jogging, not
11 a full-out run; right?

12 A. It was more of a fast jog, yes.

13 Q. And, now, the pictures that -- the picture of the
14 guy in red that Mr. Durant showed you, you didn't look at
15 that picture that day; right?

16 A. I did not.

17 Q. And it was probably a year later when you met with
18 the Solicitor and you were shown that picture; right?

19 A. Correct.

20 Q. So you didn't have an opportunity that day, on the
21 scene, to say that is or that isn't the guy I saw?

22 A. I did not have the opportunity.

23 MS. NORRIS: I don't have anything further. Thank
24 you, ma'am.

25 MR. DURANT: I have nothing further, Your Honor.

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Cross-Examination by Ms. Norris
November 5, 2018

1 THE COURT: Okay. You may step down ---

2 MR. DURANT: --- oh, excuse me. I do have one
3 question.

4 THE COURT: Okay.

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State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Celest McBride-Redirect Examination by Mr. Durant
November 5, 2018

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REDIRECT EXAMINATION

BY MR. DURANT:

Q. How long after you saw this guy did the police get there?

A. It was about five or ten minutes later.

Q. Okay. It wasn't until after the police got there that you found out that Johnny Prichard had been shot; right?

A. It was a few moments after the police had arrived.

MR. DURANT: Okay. Thank you. I have nothing further.

THE COURT: Any recross?

MS. NORRIS: No, sir.

THE COURT: You may step down. Thank you very much.

[Whereupon, the witness is excused and exits the witness stand]

MR. DURANT: I need to excuse her for today, Your Honor, but she'll be back in the morning.

THE COURT: That's fine. Wait a minute. Ms. Norris, do y'all need her?

MS. NORRIS: No sir, not today.

THE COURT: Okay.

MS. NORRIS: She's been patient with us, waiting outside all day.

[Off the record momentarily]

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Third Party Guilt Motion-Merit Williams-Direct Examination by Mr. Durant
November 5, 2018

1 MR. DURANT: Mr. Williams, come on -- come on
2 forward, please.

3 [Whereupon, Mr. Williams comes forward]

4 [Whereupon, Mr. Williams is duly sworn by the Clerk
5 of Court]

6 THE CLERK OF COURT: You can have a seat. For the
7 record, state your full name and spell your last, please.

8 THE WITNESS: Okay. My name is Merit Williams.

9 MR. DURANT: You can have a seat, sir.

10 THE WITNESS: Alright.

11 [Whereupon, the witness takes the witness stand.]

12 THE WITNESS: My last name is spelled W-I-L-L-I-A-M-
13 S.

14 MR. DURANT: Okay.

15 - - - - -

16 MERIT WILLIAMS,

17 Having Been First Duly Sworn,

18 was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. DURANT:

21 Q. And, Mr. Williams, I want to get straight to the
22 point here and talk about December the 23rd of 2016. Did
23 you have the occasion that morning to be over at James
24 Jordan's trailer on East Colpat in Lincolnville?

25 A. Yes.

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Merit Williams-Direct Examination by Mr. Durant
November 5, 2018

1 Q. Okay. And Mr. Jordan is a friend of yours; correct?

2 A. Yes, sir.

3 Q. And that -- sometime that morning, or around
4 noonish, you left to go to Torres to buy some beer;
5 right?

6 A. Yes, sir.

7 Q. Okay. And you provided a statement to Detective
8 Goldstein that you saw a guy running?

9 A. Yes, sir.

10 Q. And he was running away from Johnny Prichard --

11 MS. NORRIS: Your Honor, I'm going to object to the
12 leading.

13 MR. DURANT: Okay.

14 THE COURT: I'll let him lead until he gets to the
15 crucial.

16 Q. [Mr. Durant] He was running away from the direction
17 of Johnny Prichard's house; correct?

18 A. Yes, sir.

19 Q. And he was running down East Owens towards
20 Summerville; correct?

21 A. Yes, sir.

22 Q. And I know it's been a while, but do you recall what
23 he was wearing?

24 A. Yes, sir. I still remember exactly what he was
25 wearing. It was a hoodie -- a hood-type jacket with

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Merit Williams-Direct Examination by Mr. Durant
November 5, 2018

1 number 23 on the back, a pair of black pants, red
2 Converse shoes, and like a skull cap with some writing on
3 it.
4 Q. With some writing on it? His clothing was all
5 black; correct?
6 A. Yes, sir.
7 Q. And I believe you also told Detective Goldstein that
8 the 23 on the back of his hoodie was like multicolored.
9 Do you remember telling him that?
10 A. Yes, sir.
11 Q. All different colors?
12 A. [No response]
13 Q. I want to show you Court's Exhibit 5. Do you
14 recognize that guy?
15 [Whereupon, the witness is shown photograph]
16 A. Yes sir, I do.
17 Q. And how do you recognize him?
18 A. I know him from around the area.
19 Q. The neighborhood?
20 A. Yes, sir.
21 Q. And how many years have you known that guy?
22 A. I've known this guy for about like fifteen years; a
23 long time.
24 Q. Okay. You don't know his real name; right?
25 A. No, sir.

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Third Party Guilt Motion-Merit Williams-Direct Examination by Mr. Durant
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1 Q. Okay. But you've seen him around for years?

2 A. Yes, sir.

3 Q. Okay. My question is this. Was this the guy you
4 saw running down the road?

5 A. No, sir. No, sir.

6 Q. Any question in your mind about that?

7 A. No, sir.

8 Q. Okay. And to be clear, this guy you saw running
9 down the road, did you see him doing anything or dropping
10 anything or?

11 A. Yes, sir. I can't remember exactly what he was
12 dropping, but he was trying to get out of Dodge quick in
13 a hurry.

14 Q. Okay. And just to be clear, that was State's --
15 Court's Exhibit Number 5. I want to show you Court's
16 Exhibit Number 6 and Court's Exhibit Number 7.

17 [Whereupon, the witness is shown photographs]

18 Q. Was that the clothing worn by the person you saw
19 running away from Johnny Prichard's house that day?

20 A. No, sir.

21 THE COURT: If you need 8 and 9, here's 8 and 9. I
22 don't...

23 MR. DURANT: Okay.

24 THE COURT: -- I had it right here.

25 Q. [Mr. Durant] And you used to be a shoe salesman;

State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Merit Williams-Direct Examination by Mr. Durant
November 5, 2018

1 right?

2 A. Sir?

3 Q. You used to sell some shoes; right?

4 A. No, sir.

5 Q. Are you -- weren't you in the shoe business or have
6 some connection with the shoe business?

7 A. No. No, sir.

8 Q. Because you said something about him wearing
9 Converse and they looked to be a size nine.

10 A Oh, no. I just -- I'm good at eyeballing size of
11 shoes.

12 Q. Okay. But you noted Converse; correct?

13 A. Yes, sir.

14 Q. Now, when you said Converse, were you just meaning
15 tennis shoes? Or when you said Converse, were you
16 talking about the specific shoes that he was wearing?

17 A. The specific shoes that he was wearing.

18 Q. Okay. And I want to show you 9 -- Court's 8 and 9
19 and ask you are -- is -- are those the shoes that you saw
20 this guy running by wearing?

21 [Whereupon, the witness is shown photographs]

22 A. No, sir.

23 MR. DURANT: Could you please answer any questions
24 defense counsel may have for you.

25

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Third Party Guilt Motion-Merit Williams-Cross-Examination by Ms. Norris
November 5, 2018

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CROSS-EXAMINATION

BY MS. NORRIS:

Q. Hey, Mr. Williams. I'm Teresa Norris. You also told the police that day that the guy you saw had shoulder-length dreadlocks; right?

A. That is correct, yes. Yeah. That's right.

Q. And the first time that anybody showed you the picture of this guy from the neighborhood was just recently; right?

A. Yes, sir [sic].

Q. So nobody asked you almost two years ago, when this happened, was that the guy or not?

A. No, ma'am.

Q. And you indicated back then that you just thought the guy was running for exercise; right?

A. Yes, ma'am. That's what I assumed when I was going to the store.

Q. You didn't know anything had happened; right?

A. No ma'am, I did not.

Q. So you just thought it was somebody out jogging?

A. Yes, ma'am.

Q. Was he -- was he jogging, or was he running full speed?

A. Oh, he was -- he was getting it. He was moving.

Q. Getting it. Alright. And now, you knew the victim,

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Third Party Guilt Motion-Merit Williams-Cross-Examination by Ms. Norris
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1 right, Mr. Johnny Prichard?

2 A. Yes, I did.

3 Q. You were friends with him?

4 A. Yes. A really good friend.

5 MS. NORRIS: I don't have anything else. Thank you,
6 sir.

7 THE COURT: Any redirect?

8 MR. DURANT: No redirect, Your Honor.

9 THE COURT: Mr. Williams, you may step down. Thank
10 you very much.

11 MR. DURANT: Thank you, Mr. Williams. We'll see you
12 in the morning.

13 [Whereupon, the witness is excused and exits the
14 witness stand]

15 THE COURT: Any more witnesses?

16 MR. DURANT: I have no other witnesses, Your Honor.

17 THE COURT: Ms. Norris, do you have any -- I'm
18 sorry.

19 MS. SEMAN: No, Your Honor, we do not have any other
20 witnesses.

21 THE COURT: Okay. Arguments?

22 MS. SEMAN: Yes, sir. I'm happy to proceed.
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State v Joseph Lamar Brown, Jr.
Third Party Guilt Motion-Argument of Counsel
November 5, 2018

ARGUMENT OF COUNSEL

MS. SEMAN: Your Honor, I would like to incorporate all the arguments that I made in the pretrial motion that we filed with the Court that's marked as Court's Exhibit 3. I just don't want to forget to do that first.

THE COURT: Has it already been marked?

MS. SEMAN: Yes, sir.

THE COURT: Okay.

MS. SEMAN: And I will leave it with the court reporter when I leave.

Your Honor, we believe the evidence of Mr. Felder's guilt is inconsistent with Mr. Brown's guilt. We think it raises a reasonable presumption of his innocence.

Hugh Prichard, who you'll see tomorrow, but we do -- we did include some information from him in our motion -- said that there was one assailant. And Celest McBride confirmed that, as well, that there was one person that she saw running.

There was no evidence of Mr. Brown and Mr. Felder acting together. There were no calls or texts between them. The iPhone is certainly something we'll be dealing with at another point in our pretrial today. But, Your Honor, we believe that proving his guilt would exculpate Mr. Brown. And the reason that we believe we can introduce evidence of his guilt is that he fits this very

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1 specific description that was given by Mr. Williams at
2 the time of the crime. Mr. Felder meets a lot of this
3 description. And I think it's clear, based on how
4 deputies approached him that day, that he did meet the
5 description.

6 He was still wearing the clothing that was described
7 by Mr. Williams, who just testified, wearing the number
8 23 with the black shirt and red shoes. It's clear that
9 officers thought he was similar enough to that
10 description to be immediately detained, immediately
11 interrogated, and have his clothing taken.

12 THE COURT: That's not -- I mean, if I heard it
13 correctly, Mr. Felder had on a leather jacket. I assume
14 a hoodie means cloth; maybe my assumption is wrong. And
15 it's a lot of reds there. And Mr. Williams, as well as
16 Ms. McBride, said it was black.

17 MS. SEMAN: Yes, Your Honor.

18 THE COURT: Ms. McBride said dark gray, but Mr.
19 Williams said black. And, clearly, there was a lot of
20 red in those pictures.

21 MS. SEMAN: And I agree with Your Honor.

22 THE COURT: I mean, so how is that -- I mean, I
23 guess what I'm having trouble with is, yeah, this may be
24 a mere suspicion. But how is it more than that?

25 MS. SEMAN: Yes, Your Honor.

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1 THE COURT: I mean, basically that's the test I've
2 got to look at, whether there's a reasonable presumption
3 versus a mere suspicion.

4 MS. SEMAN: Yes, sir.

5 THE COURT: I mean, why isn't that just a suspicion?

6 MS. SEMAN: And if I may address that, Your Honor, I
7 think ---

8 THE COURT: --- I mean, you keep saying the
9 descriptions match. They don't match. And he just
10 identified Mr. Felder on the pictures saying that's not
11 the man he saw running.

12 MS. SEMAN: Yes, sir. I agree that they don't
13 match. I agree that no one could match these widely
14 varying descriptions.

15 However, I do believe that there are certain
16 portions of these descriptions that match Mr. Felder and
17 that match Mr. Felder's clothing that he was wearing
18 exactly that day. Now, I don't know -- you know, I know
19 that the State has recently provided these two witnesses
20 with these screen shots of Mr. Felder ---

21 THE COURT: --- I mean the only thing you possibly
22 have is the residue, gun residue, on the sleeve.

23 MS. SEMAN: Yes, sir. That, and the 23 ---

24 THE COURT: --- and then the question I have for
25 you: if it's on the sleeve, why wasn't it on the hand?

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1 MS. SEMAN: Yes, sir. And we do have a gunshot
2 residue expert that we would call to testify about that.

3 THE COURT: Okay.

4 MS. SEMAN: And, you know, Ms. Norris would be
5 handling that witness, but that would be something that
6 we would absolutely be addressing.

7 And, you know, one of the things that the gunshot
8 residue expert would testify to is that even if one fires
9 a weapon, it's not necessarily guaranteed to be on one's
10 hand.

11 And so I understand that the State has qualms with
12 where exactly the gunshot residue comes from, but we
13 don't -- we believe that the jury should be able to hear
14 this evidence and decide for themselves. And ---

15 THE COURT: --- well, did they execute a search
16 warrant on Mr. Felder's house?

17 MS. SEMAN: Yes, Your Honor.

18 THE COURT: Did they find any .9mm shell casings
19 that matched the ones they found in Mr. Brown's house?

20 MS. SEMAN: No, Your Honor, they did not.

21 THE COURT: Okay.

22 MS. SEMAN: So they're -- and there has been no
23 weapon recovered in this case. There -- the State does
24 not -- it does not contend --

25 THE COURT: I didn't say weapon. I said shell

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1 casings.

2 MS. SEMAN: Yes, Your Honor. I understand. There
3 were to my understanding no shell casings at all found in
4 Mr. Felder's house.

5 THE COURT: Well, tell me -- tell me where it gets
6 to -- factually, where does it get above a mere
7 description [sic] as a reasonable presumption, a
8 reasonable probability, that Felder may have committed
9 the crime?

10 MS. SEMAN: Yes, Your Honor. I believe that because
11 of these various -- again, I don't think that any person
12 in this earth could match these three wildly varying
13 descriptions that these witnesses have given and that you
14 will continue to hear throughout the rest of this trial.

15 But I do think that when you take out some of these
16 identifying details, again, like the 23, like the black
17 shirt, like the red shoes, things that would stick out in
18 someone's mind, that you can see -- oh, and the shoulder-
19 length dreadlocks, and especially the shoulder-length
20 dreadlocks.

21 This -- you know, Mr. Brown has never had shoulder-
22 length dreadlocks, and all of the witnesses will testify
23 to that. And, too, two of the State's ---

24 THE COURT: --- well, you can bring -- that's cross-
25 examination material, not third-party guilt.

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1 MS. SEMAN: Your Honor, I disagree with you, because
2 I believe that Mr. Felder meets these -- again, these
3 very specific discrete portions of these witnesses'
4 descriptions.

5 Again, two people said that he had shoulder-length
6 dreadlocks. Two people -- or one person said he was
7 wearing the number 23. One person said he was wearing
8 red shoes. And, ultimately, he's found ---

9 THE COURT: --- I'll concede they both had 23s and
10 they both had red shoes, one was a Converse and one was
11 something else.

12 MS. SEMAN: And ultimately ---

13 THE COURT: --- I don't -- I didn't recognize ---
14

15 MS. SEMAN: --- he was found 920 feet away from the
16 victim's home. He lived right nearby. Your Honor, he
17 was detained that day. I mean, officers were so -- they
18 were so suspicious of him that they came out, guns drawn
19 ---

20 THE COURT: --- but then they -- but then they
21 investigated what he said. They checked with the alibi.
22 They checked him out.

23 MS. SEMAN: And that ---

24 THE COURT: --- there was nothing to verify that he
25 was responsible, so they didn't charge him.

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1 MS. SEMAN: And I understand Your Honor's point.

2 However, the alibi that he supposedly had that he
3 was in court that day, it just certainly ---

4 THE COURT: --- well, there was ---

5 MS. SEMAN: --- doesn't check out.

6 THE COURT: --- a dispute there whether he said
7 court or whether he said lawyer. I don't know.

8 MS. SEMAN: He certainly said in court, Your Honor.

9 And, in fact, that's part of our exhibit, is his --
10 a transcription of his statement. So you can certainly
11 look at that, and I do refer to it very discretely in the
12 motion.

13 But he certainly says that he had a court appearance
14 that day at 1 o'clock.

15 THE COURT: That's what's in his statement?

16 MS. SEMAN: Yes, Your Honor.

17 THE COURT: Well, go ahead.

18 MS. SEMAN: And he does go back and forth about
19 that. And I'm not going to tell you that he was -- that
20 he told everyone the whole time that he had to go see his
21 lawyer or that he had to go to court. He does go back
22 and forth about whether he actually had court that day.

23 He says, I don't know whether court was closed or
24 not. He says, I don't remember where we parked. He says
25 all these things that, to me, make his alibi seem very

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1 shaky. And we think that all of those things together
2 make it much more than mere suspicion. Again, the
3 clothing that matches these portions of these witness
4 statements, the fact that he is found ---

5 THE COURT: --- what portions match the description,
6 other than multicolored 23 and red shoes?

7 MS. SEMAN: It's the shoulder-length dreadlocks.

8 THE COURT: Pardon?

9 MS. SEMAN: The shoulder-length dreadlocks.

10 THE COURT: Okay. Alright.

11 MS. SEMAN: Which I think Your Honor would agree is
12 a very unusual hair feature. It's not a feature that you
13 see in everyone. Shoulder-length dreadlocks is the
14 phrase that's been used by these witnesses multiple
15 times, regardless of what they said here on the stand
16 today. And they think it might be a hoodie now, you
17 know, two years later.

18 Your Honor, we think that he does match very
19 important portions of these descriptions and we think
20 given that, the shaky alibi, where exactly his house was
21 located, and where he was found that same day, that it
22 certainly rises above mere suspicion.

23 We also think that Mr. Brown should have a
24 meaningful opportunity to present his defense under the
25 Sixth Amendment. We think that ---

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1 THE COURT: --- under what? I'm sorry.

2 MS. SEMAN: Sir?

3 THE COURT: Mr. Brown should have a what?

4 MS. SEMAN: We think that Mr. Brown should have a
5 meaningful opportunity to present his defense under the
6 Sixth Amendment. We think that excluding him from the
7 trial means that the jury is not going to hear the whole
8 story, that officers detained someone matching much more
9 of the description than he does. So we would ask that
10 Your Honor admit that evidence. Thank you.

11 THE COURT: Okay. Thank you very much.

12 MR. DURANT: Your Honor, you hit the nose right on
13 the head, the first question you asked her. And I'm
14 reading from Gregory, which is the -- evidence which can
15 have no other effect than to cast bare suspicion upon
16 another, or to raise a conjectural inference as to the
17 commission of the crime by another is not admissible.

18 Before such testimony can be received, there much be
19 such proof of connection with it, such a train of facts
20 or circumstances, as tends to clearly point out such
21 other person as the guilty party.

22 There is no evidence in this case pointing out David
23 Felder as the guilty party. None. No witness puts him
24 there ---

25 THE COURT: --- other than the possible dreadlocks.

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1 MR. DURANT: Judge, you have dreadlocks that
2 probably a third of the black community will have ---

3 THE COURT: --- well, I understand ---

4 MR. DURANT: --- a young black community ---

5 THE COURT: --- but I've got to ---

6 MR. DURANT: --- and you have the number 23, which
7 is Michael Jordan's number ---

8 THE COURT: --- I didn't say 23 ---

9 MR. DURANT: --- that another third of them have ---

10 THE COURT: --- I said dreadlocks. I assume Mr.
11 Brown didn't have dreadlocks the day they arrested him;
12 is that ---

13 MR. DURANT: --- no, Mr. Brown did not have
14 dreadlocks.

15 THE COURT: Okay. Alright.

16 MR. DURANT: We've never claimed that he -- that he
17 had dreadlocks. And you're right. It doesn't prevent
18 them from cross-examining those two witnesses concerning
19 what they testified to as to the hairstyle.

20 But that's a completely different story than trying
21 to prove that David Felder was responsible for this
22 crime, because there's no evidence whatsoever pointing to
23 him as being responsible for this crime, other than the
24 fact that he had dreads and he wore Michael Jordan's
25 number. Period. As a matter of fact, you have testimony

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1 from Mr. Williams, who gave the most specific description
2 of this suspect, who has known David Felder for fifteen
3 years and says that ain't -- wasn't him.

4 You also have testimony from Celest Williams, the
5 other person that mentioned the dreadlocks, that says
6 that wasn't him.

7 So you've got no witness that puts him at the scene
8 of the crime, no forensic evidence that puts him at the
9 scene of the crime, other than this GSR that is -- number
10 one, doesn't put him at the scene of the crime; number
11 two, is certainly explainable under the circumstances;
12 number three, he did not match the description.

13 They keep saying match, but as Your Honor pointed
14 out, at the very most, dreads, 23. It wasn't even the
15 same 23. Mr. Williams said it was a multicolor 23.
16 Those pictures are a black 23. Mr. Williams says red
17 Converse, not those shoes.

18 So we have the clothing that David Felder was
19 wearing that day, and these two witnesses they rely on to
20 establish him clearly being guilty of this and saying
21 that that wasn't him.

22 Not to mention the fact that he has an alibi that
23 was corroborated by two other people. There's simply no
24 proof that Mr. Felder was involved in this shooting at
25 all. And they have to show such a fact, a train of facts

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1 or circumstances tending to clearly point out Mr. Felder
2 as the guilty party.

3 And I would ask Your Honor to look at State v.
4 Mansfield. I think they cited it in their brief. I
5 cited it in my response. And I'll have -- I'll leave
6 this for Your Honor to look at, if you care to.

7 [Whereupon, Mr. Durant proffers documents to the
8 Court]

9 MR. DURANT: But it's this case. Here's an
10 attempted burglary. An eyewitness is on the phone,
11 talking to the 911 operator, describing what the robber
12 has on. The witness follows the robber or the burglar to
13 a nearby housing complex, or, excuse me, apartment
14 complex.

15 A little while later the police arrest the
16 defendant, at that apartment complex, who partially
17 matches the description that he gave -- that they gave.
18 And they bring the eyewitness and he identifies that
19 person as the -- as the burglar.

20 At the defendant's trial, he sought to introduce
21 evidence that there was another man that lived in the
22 same apartment complex that matched the description
23 better than the defendant did, which was true, but the
24 Court said basically just what you said: that is nothing
25 but mere suspicion. There is nothing to place that man

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1 at that apartment or to prove that he was guilty of the
2 offense and proof of you putting up evidence of that is
3 nothing but third-party guilt and it's not admissible in
4 the courts of this state.

5 THE COURT: Thank you, very much. Very briefly in
6 reply, please.

7 MS. SEMAN: Yes, Your Honor, very briefly. I just
8 wanted to address the State's argument about State v.
9 Mansfield. And I think where our case differs from that
10 case is that this suspect was found near the scene of the
11 crime the same day, detained, and interrogated that same
12 day.

13 Now, in Mansfield, it's different because in
14 Mansfield there is a description of a burglar that's
15 given out and at some point an officer says to someone,
16 hey, that kind of sounds like this guy Perry. That's
17 what the -- that's what the officer says, hey, that kind
18 of sounds like this guy Perry. And, ultimately, that's
19 what the defense wanted to introduce at trial, was that
20 this guy Perry had been mentioned by an officer as
21 fitting a description.

22 Now, we're not saying that if David Felder had not
23 been found at the scene of the crime that day that we
24 would get to introduce evidence of anybody that's ever
25 worn number 23 on their clothing and had shoulder-length

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1 dreadlocks. But in this case Mr. Felder was staying at
2 [REDACTED] Brenda B Lane, lived 920 feet away, was detained and
3 interrogated that same day, and had GSR on his jacket.

4 So we think that that's what pushes this case beyond
5 State versus Mansfield, beyond mere conjecture. That's
6 all I have to say in response to the Mansfield argument.
7 Thank you.

8 THE COURT: Okay. Thank you very much.

9 Alright. I'm going to take it under advisement
10 because I want to read the case. I've read a good
11 portion of what y'all gave me, but I want to finish
12 reading before I finalize my decision. Okay?

13 Alright. What's your next motion?

14 MS. SEMAN: Judge, we also have a Motion to Suppress
15 the evidence found in a search warrant of Mr. Brown's
16 house, a Franks motion.

17 THE COURT: Okay.

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1 MOTION TO SUPPRESS SEARCH WARRANT

2 MS. SEMAN: We would call Detective Goldstein,
3 Judge.

4 THE COURT: Was that -- let me ask y'all a couple of
5 questions real quick.

6 MS. SEMAN: Yes, sir.

7 THE COURT: Is that because of the affidavit?

8 MS. SEMAN: Yes, sir.

9 THE COURT: And what do you say is wrong with the
10 affidavit? It's false, or he left out something
11 exculpatory, or what?

12 MS. SEMAN: Both. And it has to do with this exact
13 same issue that we've been discussing, Your Honor, the
14 fact that in the affidavit, the affidavit says that Mr.
15 Brown fit the description of these witnesses at the scene
16 of the crime.

17 As Your Honor I think has seen, the descriptions
18 vary wildly. Ultimately, I don't think any person on
19 this earth could fit all of these descriptions at the
20 same time because everyone's describing different
21 clothing and different heights and different weights and
22 different hair features, and things like that.

23 And in the search warrant affidavit used to
24 articulate probable cause to search Mr. Brown's home,
25 they say that he fits the physical description of the

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1 suspect. We take issue with that. We don't believe he
2 fit the physical description of the suspect, because we
3 don't think there was a physical description of any
4 suspect.

5 Ultimately, they also use as probable cause the fact
6 that a phone attributed to him was found 200 feet from
7 the crime scene, 219 feet from the crime scene, and there
8 is no information in this warrant about where that
9 information comes from. So we believe that without ---

10 THE COURT: --- I'm sorry. Who was found 219 feet
11 from the...

12 MS. SEMAN: There was a cell phone. Ms. McBride
13 testified to an object being dropped.

14 THE COURT: Okay. It was found 219 feet from the...

15 MS. SEMAN: Yes, Your Honor.

16 THE COURT: Okay.

17 MS. SEMAN: Yes, Your Honor.

18 THE COURT: Alright. Go ahead.

19 MS. SEMAN: And so that was also included in their
20 search warrant. And part of their reason for
21 articulating probable cause to search his home was that a
22 phone they believe was his was found 219 feet from the
23 crime scene. That's the only other thing that could tie
24 him to the crime in that -- in that search warrant
25 affidavit, that he matches the description, and that his

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1 phone was found nearby.

2 THE COURT: Well, I mean, I don't understand your
3 argument about the phone. I think the eyewitness said
4 she saw it fall. And I'm sure she -- she didn't say
5 this, but I assume she showed the police where it was and
6 they retrieved it.

7 MS. SEMAN: Yes, Your Honor ---

8 THE COURT: --- what's your argument about the
9 phone?

10 MS. SEMAN: My argument about the phone is that
11 that's not ---

12 THE COURT: --- obviously, they hadn't got into the
13 phone yet to see whose it was, but she said the man
14 running dropped it.

15 MS. SEMAN: Yes, Your Honor.

16 THE COURT: If I remember correctly.

17 MS. SEMAN: Yes, Your Honor, she did say the man
18 running dropped it.

19 THE COURT: Okay.

20 MS. SEMAN: My point about the phone was merely that
21 that's not enough to articulate probable cause to search
22 his home because at that -- in the warrant, first of all,
23 there is no attribution of that statement, which South
24 Carolina requires.

25 THE COURT: Well, what do you think he left out of

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1 the affidavit as far as description? All he was doing
2 was saying -- we discussed his description. I believe he
3 said he was a young -- one said young, one said twenty to
4 thirty, and dressed in black-and-red tennis shoes and
5 number 23, with dreadlocks.

6 MS. SEMAN: Yes, Your Honor. And we believe that
7 some of these facts should have been included, especially
8 the ones that were consistently testified to by multiple
9 witnesses like the fact that two witnesses described this
10 person as having long dreads.

11 THE COURT: Well, do you have any case that says a
12 police officer has got to sit down and put in great
13 detail what the descriptions are, other than putting a
14 conclusion or a statement in there under oath in his
15 affidavit that he matched these descriptions in his
16 opinion? Because that's all he's saying, in his opinion
17 he matched the description.

18 So do you have a case that says they've got to put
19 down so-and-so said so-and-so is five -- he's six ten --
20 or excuse me -- five ten, 170 pounds, someone else says
21 that he's five ten to six feet? I mean is that what
22 you're telling me?

23 MS. SEMAN: No, I'm not telling you that I think
24 that every time that police want to search a suspect's
25 home that they need to include every description, by

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1 every witness that's ever seen them, in the affidavit.

2 THE COURT: Well, what are you telling me?

3 MS. SEMAN: What I'm telling you, that that's their
4 reason for probable cause in this case. That's what
5 they're saying is the reason that they could search his
6 home, that he ---

7 THE COURT: --- well, I would assume the ---

8 MS. SEMAN: --- fits the description of the guy
9 running.

10 THE COURT: -- phone and the description. I haven't
11 read the affidavit. I know y'all presented it, but I
12 actually haven't read it.

13 MS. SEMAN: Yes, sir. And I actually included that
14 in the exhibit to my motion, and it's also included on
15 page 4, as well, so if you want to take a look at it.

16 THE COURT: Alright. Go ahead. Anything else?

17 MS. SEMAN: Your Honor, we believe it's a -- it's a
18 false statement, its reckless to say that he fit the
19 description of any witness at the scene. Again, because
20 they just vary so wildly. And we do believe the
21 information that David Felder ---

22 THE COURT: --- well, when you say description, what
23 are you talking about? I mean, in this particular case,
24 obviously the description is more about what clothes he
25 was wearing, not him personally. So, I mean, what --

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1 when you use the word description, what are you referring
2 to? I mean, what do you -- what are you saying?

3 MS. SEMAN: I use -- and I use the word description
4 very broadly. And I believe that that encompasses not
5 only the suspect's clothing, but also his age and his
6 height and his weight.

7 You know, Mr. Prichard said that he was in his
8 twenties or thirties, he wasn't a teenager, he wasn't a
9 big guy, he's 170 pounds, he was wearing all black. Ms.
10 McBride couldn't give an age, she said he had an average
11 build, she said he was wearing gray sweatpants.

12 Mr. Williams said he's a young boy, he's skinny,
13 he's wearing black jogging pants, black sweatshirt with
14 multicolor number 23, and red shoes. So I believe that
15 all of those things constitute descriptions, not just the
16 height and weight, but also the clothing.

17 THE COURT: Okay.

18 MS. SEMAN: And I -- and I think that he doesn't fit
19 -- he couldn't fit those description because, again, they
20 just vary so wildly. And I think, you know, the State's
21 argument in response to that is that he is a black male
22 of medium build and so he would, I guess, potentially fit
23 all three of these descriptions.

24 Unfortunately, though, that puts every black male of
25 medium build at potential harm for his home being

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1 searched just because he's a black male of medium build.
2 And, again, I think reading those descriptions together
3 isn't really fair just because they're so different. So
4 we believe that that's a false statement to say that he
5 matched those descriptions. Again, that's at least
6 reckless.

7 And combined with the fact that information was left
8 out about a suspect that was stopped that same day that
9 matched some of this description -- some of these
10 descriptions; Mr. Felder as we've just been talking
11 about.

12 We think that combined together, that shows that
13 there was -- that there was some sort of intent, at least
14 at least recklessness, and we think that entitles Mr.
15 Brown to a hearing challenging the search warrant.

16 THE COURT: Okay. Anything else?

17 MS. SEMAN: No, Your Honor.

18 THE COURT: Solicitor?

19 MR. DURANT: Your Honor, as you said and she's got
20 to confirm too, Detective Goldstein doesn't know what
21 this guy was wearing or what his hairstyle was. He had
22 -- he had basically three descriptions of a black male of
23 medium build. Okay? And all he was saying in that
24 affidavit is when they got the DMV information for Mr.
25 Brown from the DMV; he was a black male of medium build.

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1 That's what he was trying to state in the affidavit.
2 Because the DMV indicate -- record indicated he was a
3 black male, five feet nine inches tall, 165 pounds, which
4 put him the ballpark of what all of these other witnesses
5 described being a medium black male -- black male of
6 medium build.

7 That's not what is essential to the finding of
8 probable cause in this case. What is essential to the
9 finding of probable cause in this case is Johnny Prichard
10 is shot, black male is seen running from the -- from the
11 direction of the residence, dropping a phone in the
12 ditch. That phone belongs to him without question.

13 THE COURT: Well, did they know that at the time?

14 MR. DURANT: They did. They did know that at the
15 time when they got -- when they -- when they did the
16 search warrant, because that's how they found out they --
17 I told you it had a picture on it.

18 THE COURT: Had the phone already been opened ---

19 MR. DURANT: --- no --

20 THE COURT: -- at that time ---

21 MR. DURANT: --- no, it had a picture on it. Okay?
22 The phone -- the lock screen had a picture on it. Had
23 his picture on it, and the ---

24 THE COURT: --- oh, so the lock screen had a picture
25 on it ---

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1 MR. DURANT: --- right. And a black female. They
2 found the black female, which was his girlfriend.

3 THE COURT: Was that in the affidavit? I guess I
4 probably need to read the affidavit.

5 MR. DURANT: It just said I think -- I think the
6 affidavit just says that the cell phone was determined to
7 belong to him.

8 THE COURT: Okay.

9 MR. DURANT: Okay? I think -- I think that's what
10 it says. But please read it. And they determined that
11 the cell phone belonged to him ---

12 THE COURT: --- I'm not going to read it again. I
13 haven't read it the first time yet, okay? But I do want
14 to read it.

15 MR. DURANT: But they determined that the picture
16 was of him. The girlfriend identified him being the guy
17 on the phone, and that's how they got to the DMV record.
18 And that's -- and that's how -- why they would search
19 that residence because that was his residence on the DMV
20 record.

21 THE COURT: Okay.

22 MR. DURANT: So, basically, the probable cause was
23 the guy running away from the crime scene dropped a phone
24 and the phone belonged to him.

25 THE COURT: Alright. Let me look at the affidavit

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Motion to Suppress Search Warrant-Franks Motion
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1 real briefly.

2 MS. SEMAN: Yes, Your Honor.

3 THE COURT: Oh. Go ahead and very briefly reply.

4 MS. SEMAN: And the only very brief reply I have is
5 that in the warrant itself, if they're going to say that
6 this phone belonged to him, they not only have to say
7 that in the warrant, but they have to say how they found
8 out that information. And they don't.

9 THE COURT: Well, who's got it with their stuff?

10 MR. DURANT: Do you want just a quick one?

11 THE COURT: Yeah. Just let me have it. I've got
12 more papers up here ---

13 MR. DURANT: --- this is just -- this is just the
14 affidavit.

15 THE COURT: I just want to read the affidavit.

16 [Whereupon, Mr. Durant proffers documents to the
17 Court]

18 THE COURT: Thank you, sir.

19 [Whereupon, the Court reviews documents]

20 THE COURT: Thank you, sir. Alright. That motion
21 is denied, having reviewed the affidavit and then I
22 listened to the arguments. What's the next motion?

23

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PROCEEDINGS

THE COURT: Alright. As far as the motion yesterday that I took under advisement on the third party guilt, we heard arguments and took testimony and I took it under advisement and told the parties that I would rule this morning.

I'm going to grant the State's Motion to Suppress any evidence concerning third party guilt as to Mr. Felder. I do not think it meets the qualifications. At best, it's a mere suspicion that he had dreadlocks and some residue on his sleeve.

As far as the identification, the clothing identification, all three of the witnesses stated that it was dark. And I think one said a hoodie, and the Court's interpretation of a hoodie is some type of cloth or sweatshirt. And Mr. Felder was dressed in a leather jacket, and there was a lot of red on the leather jacket, as well as surrounding it, and even it had a black-and-white -- looked like black-and-white prints on the arm. It was dark. It was -- had some black on it. And the only similarity would be the colored 23.

And I think it just raises a mere suspicion and doesn't meet the qualification of any reasonable presumption or conjecture that the fellow possibly had committed the crime, after listening to all the testimony

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1 and hearing arguments. Now, the only thing that leaves
2 is the issue of the cell phone. And what I'm going to do
3 on that is whenever you get to that issue, Solicitor, I'm
4 going to take some in-camera testimony from the
5 detective, or whoever you're going to call, or the
6 codefendant, or whoever you're going to call, to
7 authenticate.

8 I will say this. I do think it's a non-fungible
9 item and the chain of custody is not necessary. I know
10 the defense argued chain of custody. I think it's a non-
11 fungible item and custody is not necessary. But I do
12 think there has to be some type of authentication of the
13 text messages themselves and I'm going to take that and
14 listen to that in camera. Okay?

15 MR. DURANT: Yes, sir, Your Honor. We also had the
16 issue of the double jeopardy thing you were going to take
17 up.

18 THE COURT: I was getting ready to get to that.

19 MR. DURANT: Oh, I'm sorry.

20 THE COURT: Number 3. Okay. But thank you for -- I
21 was doing that last, okay?

22 As far as double jeopardy is concerned, I'm going to
23 deny that motion primarily because the -- no one raised
24 that issue at the prior trial. I think the time to have
25 raised that issue was at the trial. And it was not

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1 raised by the Court or the Solicitor or the defense
2 counsel, and the guilty plea [sic] was never accepted by
3 the Court, documented by the Court, therefore, I don't
4 think there's any double jeopardy involved. So that
5 motion is denied.

6 Anything else that we had pending from yesterday
7 that y'all think that I haven't addressed this morning?

8 MR. DURANT: I don't believe so, Your Honor.

9 MS. NORRIS: No, sir. But on the third party guilt,
10 I would ask to mark as a Court's exhibit our last
11 transcript because I submit that that significantly
12 favors the defense. Let me find that transcript, Your
13 Honor.

14 THE COURT: I'll be happy for you to mark anything
15 you want to mark, okay?

16 MS. NORRIS: Yes, sir.

17 THE COURT: Anything the State would like to mark?

18 MR. DURANT: No, sir.

19 THE COURT: Alright. This is what, now?

20 MS. NORRIS: This is the transcript from the trial
21 proceedings June 11 through 14th.

22 THE COURT: The whole trial?

23 MS. NORRIS: Yes sir, because from the beginning of
24 the case to the end, there's going to be discussion about
25 David Felder. We -- I questioned Detective Goldstein

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1 significantly about that. The State even put in the
2 video.

3 THE COURT: I guess my question to you -- I don't
4 have any problem with you marking it. But do y'all want
5 to do -- do you want to do some excerpts at a later date
6 rather than putting in the whole transcript?

7 MS. NORRIS: No, sir. I think for the appellate
8 record, they need to see the whole thing. In the event
9 things go south here, they need to see the whole thing
10 and how it changes our case.

11 And, you know, the last time, I didn't argue that
12 David Felder did this. I argued in closing that there
13 was just as much evidence against him as there is against
14 this man.

15 THE COURT: Right.

16 MS. NORRIS: And I take it, from Your Honor's
17 ruling, I can't do that this time.

18 THE COURT: Right.

19 MS. NORRIS: So I do ask to mark that just so -- if
20 he is convicted, that the appellate court will have that.

21 THE COURT: Alright. Any objection from the State?

22 MR. DURANT: No, sir, Your Honor.

23 THE COURT: Alright. We'll mark it whatever the
24 next Court exhibit is. What?

25 THE COURT REPORTER: Number 10.

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1 THE COURT: Number what?

2 THE COURT REPORTER: 10.

3 THE COURT: 10 and 11?

4 THE COURT REPORTER: Well, it's just one exhibit?

5 MS. NORRIS: Yeah ---

6 THE COURT REPORTER: --- it's one trial. Okay.

7 THE COURT: Okay. Court's Exhibit Number 10.

8 That's fine.

9 [Whereupon, Court's Exhibit Number 10 is marked for
10 identification by the court reporter]

11 THE COURT: Alright. Anything else?

12 MS. NORRIS: Yes, Your Honor. We ask that the
13 witnesses be sequestered, with the exception of Detective
14 Goldstein. We understand that he's necessary, and our
15 investigator, Harry Long. And there were two witnesses
16 on the tail end of our witness list that I discussed with
17 Mr. Durant, that's Rhiannon Parker and Lauren Scruggs.
18 They would only be relevant, potentially, to Trey Colman
19 so they will only be excluded during that -- during his
20 testimony, if that's acceptable to the Court.

21 THE COURT: That's fine. I don't have any problem.
22 The only thing I would ask the attorneys to do is please
23 tell these witnesses once they testify, if they go back
24 out in the hall, don't discuss anything with any
25 witnesses that have been sequestered.

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1 [Whereupon, the jurors all comply]

2 CLERK OF COURT: Do you swear or affirm that you
3 shall well and truly try and a true deliverance make
4 between the State of South Carolina and the Defendant at
5 the bar whom you shall have in charge and a true verdict
6 render according to the evidence and the law so help you
7 God?

8 [Whereupon, all jurors respond in the affirmative]

9 CLERK OF COURT: If you accept the oath, please
10 have a seat.

11 [Whereupon, all jurors are seated]

12 THE COURT: Solicitor.

13 MR. DURANT: Thank you, Your Honor.
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2 BY MR. DURANT:

8 He wasn't going to be there much longer. He had
9 been involved in an automobile accident and had received
0 a settlement and he needed some of the money to buy him a
1 mobile home. And he was actually packing up that morning
2 to -- in preparation to move to his new mobile home and
3 his cousin, Hugh Prichard, was over at his house that
4 morning to help him pack up.

15 Well, he never got to move into his new mobile home
16 and that's because at about ten minutes to 1:00, he
17 [indicating] came through the front door. And he came
18 through the front door with a .9mm pistol in his hand.
19 And he demanded that Mr. Prichard give up his money. And
20 in the course of robbing Mr. Prichard, he shot him, Mr.
21 Prichard, in the neck severing his artery and causing him
22 to bleed out before EMS got there.

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1 and in shock. Hugh ran out the back door, jumped over a
2 fence, ran to the neighbor who lived behind Mr. Prichard,
3 where 911 was called.

4 He [indicating] ran out the front door, the door
5 that he had come in, and ran up East Owens Street towards
6 Summerville. At [REDACTED] East Owens Street, which is about
7 200 feet away from the crime scene, next-door neighbors,
8 essentially, a neighbor sees him running by in front of
9 her house.

10 He drops an iPhone inadvertently out of his pocket
11 and it falls into a ditch. A little farther up, he drops
12 a bunch of cash on the ground. He stops and picks up the
13 cash but apparently didn't know he had dropped the phone,
14 and it's left there.

15 Just past his neighbor's house he takes a left on a
16 street called Brenda B Lane or Brenda B Drive, which is
17 kind of a short street with a dead-end or a circle at the
18 end of it. And he runs down to the end of that street,
19 where another person driving a dark car picks him up and
20 drives him away.

21 We know this because a resident that lives at the
22 end of that street, Mr. Martin Alto Perez sees him. But,
23 more importantly, he has a pretty sophisticated home
24 video surveillance system that records it. This case was
25 investigated by the Charleston County Sheriff's Office.

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1 And in starting the investigation, all they had pretty
2 much was this iPhone that had been dropped in the ditch,
3 some wildly varying descriptions of the suspect that
4 dropped it in the ditch, and the surveillance video from
5 Mr. Perez' house.

6 The iPhone was protected by a passcode, as most of
7 them are, but it did have a lock screen and on the lock
8 screen was a picture. And the picture was of a black
9 male and a black female with the caption Joe-Joe and
10 Nauti.

11 They were able to identify the female as Nautica
12 Manigault and they go and interview her. And from
13 interviewing her they discover that Joe-Joe is her
14 boyfriend, Joseph Lamar Brown, and that, yes, that is his
15 iPhone, we both have the same pictures on our lock
16 screens.

17 So based upon that, they pick up Mr. Brown. And Mr.
18 Brown admits, yes, that's my iPhone, that's my picture, I
19 just happened to lose that phone on the day that Mr.
20 Prichard was killed and about the time Mr. Prichard was
21 killed. But, of course, that's what he would say.

22 Unfortunately, they were not able to search that
23 iPhone at that time because it was protected by a
24 passcode and the technology did not exist at that time to
25 do so. But they did continue their investigation,

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1 because they did know that somebody else was involved.
2 They knew this because they had the video from Mr. Perez
3 showing this Defendant being picked up after the robbery
4 and murder.

5 But during the investigation, they learned that Mr.
6 Prichard had a neighbor that lived right behind him;
7 actually the same neighbor's house that Hugh Prichard ran
8 to call -- to have them call 911 after the shooting. One
9 of the people that lived there was Trey Colman, and Trey
10 Colman was Mr. Prichard's friend.

11 And they discovered that that morning, prior to Mr.
12 Prichard being shot, that he had been out with Trey
13 Colman doing Trey Colman a favor, as he often did. He
14 gave Trey Colman a ride to Summerville to get his check
15 cashed at a liquor store and to pick up some groceries at
16 the Family Dollar store, and had been with Mr. Prichard
17 all morning.

18 Well, they went and pulled the surveillance video
19 from the liquor store and the Family Dollar store and
20 sure enough, Trey Colman was at both locations -- you'll
21 see the video -- wearing some very distinctive clothing.
22 They went back and looked at the body cam videos of all
23 the deputies that responded to the scene of the shooting
24 and they discovered -- and discovered that a few minutes
25 after the police arrived, Mr. Trey Colman shows up at the

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1 scene of the shooting wearing the same clothes that he
2 was seen wearing at the Family Dollar store and at the
3 liquor store.

4 And then they went and looked at Mr. Perez' video
5 and they discovered that the guy that picked up Joseph
6 Brown after this was wearing the exact same clothes as
7 Trey Colman. So as a result of that, Mr. Colman was
8 arrested and charged with this -- with these offenses.
9 But his case is not before you today. You are here today
10 to decide the case of Joseph Lamar Brown.

11 In March of 2017 Cellebrite, which is a company that
12 basically creates software and hardware to extract data
13 from devices such as cell phones, were able to -- or able
14 to come to the point where they could crack iPhone pass
15 codes. And the FBI agreed to pay for three cell phones
16 to be unlocked. At the Charleston County Sheriff's
17 Office one was unlocked and they picked this to be one of
18 them; the one that was found in front of the ditch.

19 MS. SEMAN: Continuing objection, Your Honor.

20 THE COURT: Yes, ma'am.

21 MR. DURANT: The one that was dropped by this
22 Defendant. So they send the phone to Cellebrite and
23 Cellebrite does nothing other than provide the passcode,
24 which they provide to Charleston County Sheriff's Office.
25 And Detective -- and Paul McManigal, a deputy with the

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1 sheriff's office, is the one that actually extracts the
2 data from the phone. And in doing so they learn that
3 Joseph Brown has a friend in his contacts named Red, and
4 Red uses the phone number ---

5 THE COURT: --- Solicitor, until I -- let's don't go
6 into those until I make a ruling. Okay? The context
7 obviously you can they are there. But the context don't
8 go into them until I make a ruling on admissibility.
9 Okay?

10 Take a few minutes to recollect your thoughts.
11 Okay? I'm not going to let you go into context of what
12 was taken off the phone until I make a ruling on
13 admissibility. Okay?

14 MR. DURANT: Yes, sir, Your Honor.

15 And you will hopefully be able to see what was on
16 that phone. The only thing missing at that time was who
17 was Red, and they were able to determine that Red was
18 Trey Colman, and they were able to determine that through
19 Facebook.

20 And as a result, we are now here today. And what
21 this boils down to is a case of greed. Trey Colman was a
22 friend and neighbor of Mr. Johnny Prichard. Trey Colman
23 knew that Johnny Prichard had money because he knew about
24 Johnny's accident settlement. Trey Colman set up Johnny
25 Prichard to be robbed. He set up his friend. And Trey

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1 Colman used his friend, Joe-Joe Brown, to execute that
2 robbery. And in executing that robbery, he executed
3 Johnny Prichard. And now Johnny Prichard is dead and now
4 Joe-Joe Brown is charged with murder and burglary and
5 armed robbery and possession of a weapon during the
6 commission of a violent crime.

7 And I am confident that once you have heard all of
8 the evidence in this case, you will have no alternative
9 but to find him guilty beyond a reasonable doubt of each
10 and every one of those offenses. Thank you.

11 THE COURT: Alright.

12 MS. SEMAN: May it please the Court?

13 THE COURT: Yes, ma'am.

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In this room, we care about evidence, not about assumptions. The State just told you about a terrible crime, the worst crime a person can possibly commit, murder, the unjustified killing of another person.

The State's witnesses this week will tell you that no physical evidence places Mr. Brown in Mr. Prichard's home: no fingerprints, no DNA, no hair, no blood, no sweat, no physical evidence. The State's own witnesses will tell you that they never recovered a murder weapon.

No one will be able to tell you that they can identify Mr. Brown at Mr. Prichard's house. And there are some eyewitnesses, but they won't be able to identify Mr. Brown. Hugh Pritchard, an eyewitness to the shooting of his cousin, will tell you there was one assailant, one

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1 suspect, one killer. And there will be other witnesses
2 that will tell you they saw a person running through the
3 neighborhood shortly after this happened. But nobody
4 will be able to tell you that that person they saw
5 running came from Mr. Prichard's house. Nobody will be
6 able to tell you that that person that they saw running
7 had a gun.

8 But the State wants you to assume that these two
9 people, the one inside Mr. Prichard's house and the one
10 seen running outside of the neighborhood after this
11 happened, are the same. And the State wants you to
12 assume that the person running through the neighborhood
13 after this happened is the same person that sent the text
14 messages. And then they want you to assume that the
15 person who sent those text messages was planning a
16 murder. And, finally, they want you to assume that that
17 person is him [indicating].

18 We ask you to listen closely to the wildly-varying
19 witness descriptions who they saw running through the
20 neighborhood shortly after this happened. And we ask you
21 to do that and decide whether you can tell whether it was
22 him. And even if you think it was, does that mean he
23 killed somebody?

24 We believe that this week, the State's witnesses are
25 going to make a series of small but important shifts in

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1 their testimony. And we ask you to pay attention to
2 these stretches, where and in whose favor they occur. We
3 are going to call your attention to them not because
4 we're trying to pick on anyone, but because we think you
5 will agree that these stretches, these shifts, are
6 important because the State wants you to ignore fingers
7 that point away from him [indicates].

8 They want to clean up these inconsistencies and
9 discrepancies and wrap them in a bright, shiny package
10 with a bow and tell you to convict him anyway. But we
11 think that the more stretches you see in these State's
12 witnesses, the more you will believe that he just doesn't
13 fit. We believe that these stretches are reasonable
14 doubt.

15 In criminal law 101, us lawyers learn about what the
16 essence of a crime is. And, basically, a crime has two
17 parts: mens rea and actus reus.

18 Mens rea means intent. It's literally from the
19 Latin for a guilty mind. A person has to intend to
20 commit a crime. It means knowledge and purpose. For
21 example, a person can't commit a crime on accident.

22 The second element of a crime is actus reus. It
23 means guilty acts or conduct, so what a person actually
24 does. A crime has to have both actus reus and mens rea;
25 a guilty mind and a guilty act. So the State has to

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Opening Statements-Remarks by Ms. Seman
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1 prove not only that Mr. Brown did commit -- that he
2 intended to commit a burglary, armed robbery, and murder,
3 but that he did commit a burglary, armed robbery, and
4 murder; not only that he intended to commit a crime, but
5 that he did commit this crime.

6 In this country, we do beyond a reasonable doubt.
7 We do presumption of innocence. We do innocent until
8 proven guilty. We do free speech and free thought and
9 free. In this country, and especially in this room, we
10 do not do assumptions. We do not assume that because of
11 what a person looks like, his appearance or his demeanor
12 or his clothing or what he does on the weekends, or the
13 kinds of selfies he takes, or even what he talks about in
14 his text messages, that he committed a murder.

15 We are confident that you will not allow the State
16 to pull the wool over your eyes, that you will not be
17 blinded by their attempts to get you to assume that he
18 committed this terrible crime. That's why we are
19 confident that when you go back to your jury room and you
20 take with you the evidence that you have heard in this
21 case, and the law as Judge Nicholson will instruct you,
22 and your common sense, that you will find Mr. Brown not
23 guilty, because assumptions are not what we do here.

24 THE COURT: Solicitor, if you'll call your first
25 witness, please.

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Hugh Pritchard-Direct Examination by Mr. Durant
November 6, 2018

1 MR. DURANT: I believe I was -- the State calls Hugh
2 Pritchard.

3 THE COURT: Okay.

4 [Whereupon, Mr. Pritchard comes forward]

5 [Whereupon, Mr. Pritchard is duly sworn by the Clerk
6 of Court]

7 THE CLERK OF COURT: You can have a seat.

8 [Whereupon, the witness takes the witness stand]

9 THE CLERK OF COURT: And for the record, if you
10 would please state your name and spell your last name.

11 THE WITNESS: My name is Hugh Potter Pritchard.
12 Pritchard is spelled P-R-I-T-C-H-A-R-D.

13 - - - - -

14 HUGH PRITCHARD,

15 Having Been First Duly Sworn,

16 was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MR. DURANT:

19 Q. Mr. Pritchard?

20 A. Yes, sir.

21 Q. Could you tell our jury how old you are? How old
22 are you?

23 A. Fifty-nine.

24 Q. And how far did you go in school?

25 A. Twelfth grade. I graduated Saint ---

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1 Q. --- where did you graduate high school?
2 A. Saint Johns High School.
3 Q. Over on Johns Island?
4 A. Yes, sir.
5 Q. And did you have any schooling past high school?
6 A. Yes. I went to a year of junior college and I went
7 -- I'm in the union, Sheet Metal Worker Local 399, seven
8 years and, you know, went to school for that.
9 Q. Okay. So you're ---
10 A. --- so I've been doing heating and air for, you
11 know, all my life.
12 Q. You're a sheet-metal mechanic?
13 A. Yes, sir.
14 Q. And mostly in the heating-and air-conditioning area?
15 A. Yes, sir. But I can do all kind of other metal
16 work.
17 Q. Okay. Are you currently employed?
18 A. Yes.
19 Q. Who do you work for?
20 A. Glenn Postell [phonetic].
21 Q. And that's kind of on a subcontract basis?
22 A. Yes, sir.
23 Q. And it's true, Mr. Pritchard, you have had a
24 drinking problem; correct?
25 A. Yeah. I'm giving that up.

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Hugh Pritchard-Direct Examination by Mr. Durant
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1 Q. You need to give it up, don't you?

2 A. Yes, sir. Seen a lot of...

3 Q. Because it's caused a lot of problems in your life;
4 correct?

5 A. Uh-huh.

6 THE COURT REPORTER: Is that yes?

7 Q. [Mr. Durant] Is that a yes?

8 A. Yes.

9 MR. DURANT: You have to answer yes or no so this
10 lady ---

11 THE WITNESS: ---oh. I'm sorry ---

12 A. Yes.

13 MR. DURANT: --- so this lady can take down what
14 you're saying.

15 THE COURT: Let me interrupt. Mr. Pritchard, pull
16 your chair up and speak into that microphone a little
17 better, please, so everybody can hear you.

18 THE WITNESS: Yes, sir.

19 THE COURT: Just pull your chair up a little bit
20 closer. Okay?

21 THE WITNESS: Okay.

22 [Whereupon, the witness complies]

23 THE COURT: Thank you. Please proceed.

24 THE WITNESS: Thank you.

25 MR. DURANT: And if you lean up and talk to that

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1 microphone, then we won't have any trouble hearing you.
2 THE WITNESS: Okay.
3 Q. [Mr. Durant] Who is Johnny Pritchard?
4 A. My cousin.
5 Q. And first cousin, second cousin, third cousin?
6 A. Second cousin.
7 Q. Okay. And, obviously, you've known him your whole
8 life?
9 A. Yes, I have.
10 Q. What was your personal relationship with Johnny?
11 A. You know, we just good friends. And the best
12 cousin.
13 Q. In fact, you lived him for a while; correct?
14 A. Yes, sir.
15 Q. Was Johnny older or younger than you?
16 A. Younger.
17 Q. And how long had you lived with him?
18 A. Well, I've been knowing him all my life and I lived
19 with him probably about a year and a half I'd say.
20 Q. Do you know what years that was during?
21 A. '89, maybe, I think.
22 Q. Okay. Had you lived with him at his place at [REDACTED]
23 East Thomas?
24 A. Yes, I did.
25 Q. How long did you live with him when he was at [REDACTED]

State v Joseph Lamar Brown, Jr.
Hugh Pritchard-Direct Examination by Mr. Durant
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1 East Thomas?

2 A. About a couple of months, maybe. You know, he had

3 just -- you know, I met him -- and I went over there and

4 I was helping him move.

5 Q. Yeah. Now, before that, you actually lived with him

6 over at [REDACTED] East Thomas ---

7 A. --- yes, I did ---

8 Q. --- is that right? And do you recall how long you

9 had actually lived over there? Was it a year, was it two

10 years, was it a year and a half? If you know.

11 A. Probably a year and a half, maybe.

12 Q. Okay. Now, were you living with him on the day he

13 was murdered?

14 A. Yes. I mean, I wasn't living with him but I was

15 helping him move.

16 Q. Okay. So you weren't living with him then?

17 A. No.

18 Q. But you were over there; correct?

19 A. Yes, sir.

20 Q. From the time that you lived with him, did you know

21 a fellow named Trey Colman?

22 A. Yes. I met Trey Colman.

23 Q. And where did Trey Colman live in relation to

24 Johnny?

25 A. The trailer right behind where Johnny lived at.

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1 Q. And what was Trey Colman's relationship with Johnny?

2 A. Friend.

3 Q. Now, during the time that you lived with Johnny, did
4 Trey frequently come over to visit him?

5 A. Yes. Not every day but, you know, probably two or
6 three times a week.

7 Q. Okay. And was it unusual for Johnny to go visit
8 over where Trey Colman lived?

9 A. He didn't go out about too much, but he did know
10 exactly who he is and...

11 Q. Okay. And --

12 MR. DURANT: Your Honor, we would offer State's 61,
13 I believe without objection. 61.

14 MS. NORRIS: No objection.

15 THE COURT: 61 is that correct? No objection?

16 MS. NORRIS: No objection.

17 THE COURT: Alright. State's 61 admitted without
18 objection.

19 [Whereupon, State's Exhibit Number 61 is admitted
20 into evidence by the Court]

21 [Whereupon, photo is published to the jury]

22 Q. [Mr. Durant] Okay. Do you recognize State's 61,
23 sir?

24 A. Yes, sir.

25 Q. And what does that red dot signify over there

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1 [indicates]?
2 A. Johnny's house, I -- yes, sir.
3 Q. Okay. So this would be Johnny's house there
4 [indicates]?
5 A. Yes, sir.
6 Q. And you can circle on that board up there. Where
7 did -- where did Trey Colman live?
8 A. Well, in a mobile home. I guess right there
9 [indicates].
10 Q. Okay. So right behind Johnny, like you said; right?
11 A. Yes, sir.
12 Q. Thank you.
13 A. Yes, sir.
14 Q. Do you know who else lived at that house with Trey
15 Colman?
16 A. His brother and his father and his mother.
17 Q. Okay. And his father's name is -- or step-father's
18 name is James Jordan; is that correct?
19 A. I thought it was Eric or something.
20 Q. You called him Eric; right?
21 A. Yes, sir.
22 Q. Okay. And his mother was Barbara?
23 A. Yes, sir.
24 Q. And his brother's name was Aaron Cooper?
25 A. Yes, sir.

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1 Q. And tell us about the money that Johnny had come
2 into sometime before his murder. What do you know about
3 that?
4 A. He got a sizeable amount. I -- and he had close to
5 20,000 dollars in cash.
6 Q. From what?
7 A. From a lawsuit.
8 Q. Resulting from what?
9 A. From a car -- bad car accident.
10 Q. Okay. He had been in a car wreck; right?
11 A. Yes, sir.
12 Q. In fact, he had almost been killed in a car wreck?
13 A. Yes, sir.
14 Q. And do you know what he had used the money for?
15 A. He bought a mobile home.
16 Q. Okay. And do you know where that mobile home was?
17 A. Yes. It's off of Royal Road in Summerville.
18 Q. Okay. Which is fairly close to where he lived on
19 Thomas Street; right?
20 A. Yes, sir.
21 Q. In fact, he was planning to move to that mobile
22 home; right?
23 A. Yes, sir.
24 Q. And is that why you were over at his house that day?
25 A. Yes, sir.

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1 Q. Do you know whether Trey Colman knew about Johnny
2 having the money?
3 A. Everybody knew that Johnny had gotten money ---
4 Q. --- from the car wreck ---
5 A. --- you know, for -- you know, for him. You know
6 three or four people.
7 Q. Or the people that knew Johnny, anyway?
8 A. Yeah. Yes, sir.
9 Q. And let's talk about Friday, December the 23rd,
10 2016. You said you were over there that morning. Did
11 you come over there that morning or did you come over the
12 day before?
13 A. Day before.
14 Q. Okay. So you had spent the night with Johnny?
15 A. Yes, sir.
16 Q. And y'all woke up, and what did y'all do?
17 A. I just started -- you know, I got up and I started
18 boxing up the dishes under the cabinet in the kitchen.
19 Q. Okay. And Johnny was boxing up things, as well?
20 A. He was helping out somewhat and -- but he went to
21 the store.
22 Q. Okay. He ended up going somewhere; right?
23 A. Yes, sir.
24 Q. And who did he go with?
25 A. Trey went with him. I believe so.

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1 Q. As a matter of fact, he was taking Trey to run some
2 errands?
3 A. Yes, sir.
4 Q. You don't know where they went; correct?
5 A. No, sir. I didn't know exactly where they went.
6 Q. Do you know how long they were gone?
7 A. Hour, hour and a half, about, to the most.
8 Q. Okay. And did you talk to Johnny when he was out
9 with Trey Colman?
10 A. I talked to him on the phone.
11 Q. And tell us about that.
12 A. I asked him to get me a couple of drinks to drink
13 and --
14 Q. And when you say drinks to drink, you mean beer;
15 right?
16 A. Yes, sir.
17 Q. Because you drink beer; correct?
18 A. Yes, sir.
19 Q. Had you been drinking up to that point?
20 A. I had a couple of beers the night before that.
21 Q. Okay. But you hadn't been drinking that morning?
22 A. No, sir.
23 Q. So what happened -- what did Johnny do when he got
24 back to the house?
25 A. He had a sandwich from McDonald's and he had my two

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1 beers. And he came in and he sat on the edge of the
2 couch in the living room and he said, Potter, here, I've
3 got you this, you know, these -- this sandwich and these
4 two beers.

5 And so I came from the kitchen and I got them from
6 him, and I went back in the kitchen and I set them on the
7 table right there, and then I went back to boxing up the
8 dishes.

9 Q. And then what happened?

10 A. And then the front door knocked -- came open and a
11 man came in, had a black handgun -- and it was an
12 automatic, it wasn't a revolver -- and he pointed it at
13 Johnny and he said, give me the money.

14 And Johnny was surprised, and he jumped up off the
15 couch and went at the guy. And the guy shot him in the
16 -- in the neck, in the head, and killed him. I mean, he
17 shot him in -- where he was going to die.

18 Q. Then what happened?

19 A. And Johnny fell on the floor, and the guy went into
20 his pockets and started rumbling through them and
21 evidently -- I don't know how much money he got from him,
22 but he -- I just don't know that, how much money he did
23 have on him at the time.

24 Q. And what did you do?

25 A. I was in shock, because I knew being the gun went

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1 off and I -- I thought I was going to -- in fear of my
2 life.

3 And so as soon as the guy finished Johnny and ran
4 out the front door, I jumped to my feet in the kitchen
5 and went out the back door and ran across the lawn and
6 jumped the chain-link fence. And his dad was there,
7 Aaron, Eric.

8 Q. And you're talking about Trey Colman's stepdad?

9 A. Yes, sir.

10 Q. Okay. So you ran to the mobile home that you just
11 put the circle around?

12 A. Yes, sir.

13 Q. Okay. And what happened when you got over there?

14 A. Me and his father went on the front -- on the side
15 street. I guess that was East Thomas or...

16 Q. Well, before that, did he -- did he call 911 or did
17 you call 911?

18 A. He called 911.

19 Q. Okay. And then he gave the phone to you and you
20 talked to the 911 operator; right?

21 A. Yes, I did.

22 Q. And I believe that conversation took place as y'all
23 were walking back down to the house; right?

24 A. Yes, sir.

25 Q. Do you recall what the guy that came -- no question

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1 you can't identify the guy that came into the house;
2 correct?
3 A. No, sir. I didn't, you know --
4 Q. And why is that?
5 A. He had something over his face and...
6 Q. Was he black or white?
7 A. He was black.
8 Q. And was his face covered or not?
9 A. I believe it was covered, I mean, to -- far as I
10 can, you know, remember, but...
11 Q. And it was covered -- you remember telling everybody
12 back then his face was covered; correct?
13 A. Yes, sir.
14 Q. Color of his clothing?
15 A. It was dark clothes.
16 Q. Black or white?
17 A. Black. Dark color.
18 Q. And race? Black or white?
19 A. He was black.
20 Q. Do you know -- remember whether or not he had a hat
21 or anything on his head?
22 A. I can't remember that too well.
23 Q. Okay. Do you remember was he big and thick?
24 A. No, sir. He was kind of not a big frame. You know,
25 just a small-frame man.

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1 Q. Okay. Medium height?

2 A. Yes, sir. Say five eight, five nine, something like
3 that.

4 Q. What did the gun look like?

5 A. It was a black pistol, automatic handgun.

6 Q. Okay. Not a revolver, you said?

7 A. No, sir.

8 MR. DURANT: Your Honor, we would offer State's 78
9 at this time, I believe without objection.

10 THE COURT: Any objection?

11 MS. NORRIS: No, sir.

12 THE COURT: 78 admitted without objection.

13 [Whereupon, State's Exhibit Number 78 is admitted
14 into evidence by the Court]

15 MR. DURANT: Court's indulgence. The Court's
16 indulgence; we're having technical difficulties.

17 [Off the record momentarily]

18 MR. DURANT: Your Honor, may we have a recess and
19 then get somebody in here?

20 THE COURT: Okay. Alright. Mr. Foreman, ladies and
21 gentlemen of the jury, we're going to have to take a
22 short break so we can get this technology working.
23 Sometimes it's great, sometimes it's not, but we'll get
24 it working and hopefully in a very short order. I think
25 y'all have been in here about forty-five, fifty minutes,

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1 so we'll go ahead and take our morning break. If you
2 have any smokers, let the bailiffs know. They'll take
3 you to the proper place for smoking.

4 Please don't discuss the case amongst yourselves.
5 We'll take about a fifteen or twenty-minute break.
6 Thank you very much. You may follow the bailiffs.

7 [Whereupon, the jury exits at 10:33 a.m.]

8 THE COURT: Alright. Mr. Pritchard, you may step
9 down but during the break don't discuss the case with
10 anybody. Understand?

11 THE WITNESS: Yes, sir.

12 THE COURT: Alright. You may step down.

13 [Whereupon, the witness exits the witness stand]

14 THE COURT: Alright. We'll take about a fifteen,
15 twenty-minute break.

16 [Whereupon, Court is in recess from 10:34 a.m. to
17 10:53 a.m.]

18 THE COURT: Mr. Pritchard? Mr. Pritchard, you want
19 to come around?

20 THE WITNESS: Yes, sir.

21 THE COURT: Please, sir.

22 [Whereupon, the witness retakes the witness stand]

23 THE COURT: Are we working now and ready to go?

24 MR. DURANT: I tested it while you were out and it
25 was working, so hopefully it will continue to work.

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1 THE COURT: Well, that's good.

2 Alright. Anything from the State before we bring
3 the jury?

4 MR. DURANT: I am having an issue with the
5 interpreter.

6 THE COURT: I understand we're still looking for
7 her. Did we find her?

8 MR. DURANT: I had arranged through Mr. Malone, and
9 Mr. Malone had arranged for two to be here this morning.
10 Neither one of them showed up, so we've asked him to try
11 to run down somebody else and...

12 THE COURT: Is it an interpreter that can only be
13 here today, or is it the witness?

14 MR. DURANT: What we were told was, when we were
15 trying to arrange this, was -- because the guy who I was
16 going to need the interpreter for was most likely to come
17 up this afternoon.

18 THE COURT: Okay.

19 MR. DURANT: James emailed me and said the
20 interpreters could be here this morning or all day
21 tomorrow but they couldn't be here this afternoon. So I
22 said, fine, I'll call the guy out of order, we'll get him
23 up Tuesday morning. And he made arrangements with two --
24 I think two different interpreters ---

25 THE COURT: --- and he's looking for them?

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1 MR. DURANT: Yeah, he's looking for them. They're
2 just not answering their phones and ---

3 THE CLERK OF COURT: --- he's going down the list.

4 MR. DURANT: So he made arrangements, I thought,
5 with two different interpreters to be here this morning
6 and neither one of them showed up.

7 THE COURT: Do you know if they're upstairs sitting
8 in the audience by mistake or something?

9 THE CLERK OF COURT: I can check.

10 THE COURT: I mean they could be sitting upstairs in
11 that other trial by mistake. I don't know. Get James to
12 check upstairs with the audience up there and see if
13 they're sitting up there by mistake.

14 THE CLERK OF COURT: Yes, sir.

15 THE COURT: Well, we'll work it out one way or the
16 other. If you've got to call him tomorrow, can Perez be
17 here tomorrow?

18 MR. DURANT: I guess so, Your Honor. I hate to drag
19 him down here again, but, you know...

20 THE COURT: Well, we'll ---

21 MR. DURANT: --- but we'll do whatever we have ---

22 THE COURT: --- however it falls out, we'll work
23 around it. Okay?

24 MR. DURANT: We'll do what we have to do. I know
25 James is actively trying to find somebody, so ---

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1 THE COURT: --- alright. Anything else?

2 MR. DURANT: No. That's the only thing I've got
3 logistic-wise, anyway.

4 THE COURT: Anything from the defendant?

5 MS. NORRIS: No, sir.

6 THE COURT: Alright. Bring us the jury, please.

7 [Whereupon, the jury enters at 10:57 a.m.]

8 THE BAILIFF: All jurors are present, Your Honor.

9 THE COURT: Thank you. If you'll please proceed.

10 MR. DURANT: Thank you, Your Honor.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. DURANT:

13 MR. DURANT: Permission to publish State's Exhibit
14 78.

15 [Whereupon, State's Exhibit Number 78, the 911 call,
16 plays for the jury, with questions from Mr. Durant]

17 Q. [Mr. Durant] Do you know whose voice that is?

18 A. That was my voice, I believe so.

19 Q. In the background? Who's making the phone call?

20 A. The neighbor, Mr. Aaron.

21 Q. Eric Jordan?

22 A. Yes, sir.

23 Q. That would be Mr. Jordan?

24 A. Yes, sir.

25 Q. Now, that is you; correct?

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1 A. Yes, sir.

2 Q. You said you're walking around. Are you walking
3 back to -- where are you walking back to?

4 A. I was walking in front of the house that Johnny
5 lived at.

6 Q. So you walked from where Mr. Jordan lived back to
7 where Johnny lived; correct?

8 A. Yes, sir.

9 Q. And who was with you?

10 A. Mr. Jordan.

11 Q. Do you know what that's going on in the background
12 there?

13 A. They're just talking about Johnny getting shot.

14 Q. And was Mr. Jordan over there then?

15 A. Yes.

16 Q. Did his -- Aaron Cooper -- had Aaron Cooper showed
17 up by then?

18 A. I believe so. I can't -- you know, I know he did
19 show up, you know, right after it happened and he did
20 show up.

21 Q. Mr. Pritchard, can you explain the confusion
22 regarding the address?

23 A. Yes. They didn't know exactly where we were at, and
24 I didn't know the street names too good that was around
25 me. There was three and -- two around the corner.

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1 Q. Three streets that basically come together all at
2 the same intersection; correct?

3 A. Yes, sir.

4 Q. And [REDACTED] is right there where those three come
5 together; is that correct?

6 A. Yes, sir.

7 Q. Do you remember the name of those three streets?

8 A. East Owens, Colpat, and East Thomas.

9 Q. Okay.

10 [Whereupon, State's Exhibit Number 78, the 911 call,
11 concludes]

12 Q. [Mr. Durant] Safe to say you were upset during that
13 call?

14 A. Yes, sir.

15 Q. Were you frustrated during that call?

16 A. Yes, sir.

17 Q. Now, I just wanted to ask you a couple of questions
18 about that 911 call. You ask -- they asked you one time
19 about how long ago it was and you said fifteen to twenty
20 minutes.

21 A. Yes, sir. I believe I did.

22 Q. Is there any way it could have been that long?

23 A. It could have been longer.

24 Q. Okay. So, Hugh, tell me this. You ran out the back
25 door; right?

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1 A. Yes, sir.
2 Q. Soon as it happened?
3 A. Yes, sir.
4 Q. Jumped the fence?
5 MS. NORRIS: Object to leading.
6 THE COURT: Don't lead the witness, please.
7 Q. [Mr. Durant] What did you do?
8 A. I met the father, the step-father.
9 Q. And what did he do?
10 A. We went around ---
11 Q. --- what did he do with his phone?
12 A. He was calling -- he was calling 911 for me.
13 Q. So are you telling this jury that it took you
14 fifteen minutes to go from that [REDACTED] East Thomas to the
15 trailer right behind you?
16 A. No, sir. It would have been...
17 Q. So it was a lot less than fifteen ---
18 A. --- yes, sir ---
19 Q. --- twenty minutes. Okay? Is that correct?
20 A. Yes, sir.
21 Q. Okay.
22 A. I'm talking about the time that ---
23 Q. --- I asked you ---
24 A. --- before the police got there ---
25 Q. --- between the time of the shooting and -- because

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1 you were on the phone with her you said fifteen or twenty
2 minutes. Okay? Correct?

3 A. Uh-huh.

4 Q. It may have seemed like that long to you; correct?

5 A. Uh-huh.

6 THE COURT REPORTER: Is that yes?

7 A. Yes.

8 Q. [Mr. Durant] Okay. And then right at the end, she
9 asked you about the race of the party and what did you
10 say?

11 A. Well, he was black. And I believe I stated that
12 before that he was.

13 Q. You definitely said that to the deputies that showed
14 up; correct?

15 A. Yes.

16 Q. And you told a bunch of different deputies what had
17 happened?

18 MS. NORRIS: Objection to leading.

19 A. Yes, sir.

20 THE COURT: Overruled. Go ahead.

21 Q. [Mr. Durant] And you told what happened several
22 times?

23 A. Yes, sir.

24 Q. To several different deputies?

25 A. Yes, sir.

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1 Q. Okay. And also gave a written -- or a recorded
2 statement to Detective Goldstein; is that correct?

3 A. Yes, sir.

4 Q. And what race did you tell all of them the assailant
5 was?

6 A. Black.

7 Q. And what did you tell them the person was wearing?

8 A. Dark clothes.

9 Q. And what did you tell them about his face?

10 A. I -- he must have had it covered up, because I
11 didn't get a good look at his face too good. I had seen
12 his -- you know, face around whatever he had on.

13 Q. But he had something on the bottom half of his face;
14 is that ---

15 A. --- yes, I believe so ---

16 Q. --- true or not?

17 A. Yes, sir.

18 Q. And you told them that; correct?

19 A. Yes, sir.

20 Q. Did you tell him about the gun?

21 A. Yes, sir.

22 Q. Did you tell them about Johnny giving him the money?

23 A. I didn't exactly see how much money that -- Johnny I
24 don't believe gave him cash right off -- when he got up
25 off the couch and went at him. I don't know if he did

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1 give him -- give him cash but I --
2 Q. Do you remember telling Deputy Hamill that Johnny
3 gave him the money and then, pow, he shot Johnny?
4 A. Yes.
5 Q. You told him that; correct?
6 A. Yes, sir.
7 Q. Do you recall telling Deputy Hamill, about three
8 minutes later, that Johnny gave him the money and then he
9 shot Johnny?
10 A. Yes, sir.
11 Q. Do you remember telling him, at the same time, that
12 the guy's hair was not long?
13 A. It wasn't long.
14 Q. Do you recall telling Sergeant Siemlach [phonetic]
15 he said give me your money and Johnny evidently gave it
16 and then, pow, he jumped -- and he shot Johnny and jumped
17 out -- and you jumped out the back door?
18 A. Yes, sir.
19 Q. And, finally, at 1:45, do you recall telling Hamill
20 again, he said give me the money, shot him, and you ran
21 out the back door?
22 A. Yes, sir.
23 Q. He said give me the money, Johnny did, and then he
24 shot Johnny?
25 A. Yes, sir.

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1 Q. Which is a little bit different than what you said
2 today; correct?

3 A. Yes. Yes, it was.

4 Q. But what you said today is what you remember? Is
5 that a true -- a fair statement?

6 A. Yes, sir.

7 MR. DURANT: Okay. Court's indulgence.

8 [Whereupon, Mr. Durant and Mr. Heggelke confer]

9 MR. DURANT: Could you please answer any questions
10 defense counsel may have for you.

11 THE WITNESS: Yes, sir.

12 THE COURT: Cross-examination.

13

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1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Good morning, Mr. Pritchard.

4 A. Yes, ma'am. Good morning.

5 Q. Mr. Pritchard, your cousin Johnny was friendly with

6 his neighbors; right?

7 A. Yes, he was.

8 Q. And he hung out with Eric Jordan you said that lives

9 right behind, and Trey Colman?

10 A. Yes, he did.

11 Q. And he talked with neighbors on either side of him;

12 right?

13 A. Yes.

14 Q. And he told all those folks about coming into money

15 from a settlement; right?

16 A. Yes, he did.

17 Q. So it wasn't a secret in that neighborhood that he

18 had come into at least 20,000 dollars, maybe more?

19 A. Yes.

20 Q. In fact he bought him -- bought him a new Jeep;

21 right?

22 A. Yes, he did.

23 Q. Alright. Everybody saw that. And everybody knew

24 that he had bought him a new trailer?

25 A. Yes, he did.

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1 Q. And now that morning when Johnny went to the store
2 and you asked him to pick up a couple of beers, are we
3 talking about twelve-ounce size beers or are we talking
4 twenty-four ounce? Or what size are we talking about?
5 A. Twenty-four ounce.
6 Q. So that would be like two beers in one? Two
7 regular-sized beers?
8 A. Yes.
9 Q. And what kind of beer was that?
10 A. [No response]
11 Q. You didn't have a favorite brand?
12 A. No. No, ma'am.
13 Q. Okay. So you just said bring me a couple of beers?
14 A. That's all.
15 Q. Okay. And, now, you said that he brought you a
16 McDonald's sandwich or biscuit?
17 A. It was a biscuit, I believe it was.
18 Q. And did you -- did you drink your beers and eat your
19 biscuit? Or what did you do with them?
20 A. No. I didn't even touch the beers or the biscuit.
21 Q. Did you put it on the kitchen table?
22 A. I put it on the kitchen table.
23 Q. Oh. And, now, the Solicitor asked you about the
24 drinking problem. And I don't want to go into that much,
25 other than to say the problems that you've had from that

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1 is that at times you've been out of work because of that;
2 right?

3 A. Yes.

4 Q. And you've basically been homeless a couple of
5 times?

6 A. Yes.

7 Q. And the Solicitor helped you out with that by
8 putting you up in a hotel a couple of times; right?

9 A. Yes, he did.

10 Q. Alright. So the 911 call that the Solicitor played,
11 you recall saying that the man came in, shot your cousin,
12 and then ran out?

13 A. Yes.

14 Q. Nothing about rumpling through his pockets?

15 A. From what I seen, I believe he did go through his
16 pockets ---

17 Q. --- alright ---

18 A. --- when he was on the floor.

19 Q. Right now I'm just asking you about the 911 call.

20 A. Yes, ma'am.

21 Q. The first thing you said right after it happened,
22 whether it was fifteen minutes or fifteen seconds, the
23 first time you told this story, you didn't say anything
24 about going through his pockets and you didn't say
25 anything about give me the money; right?

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1 A. I believe I did say that he, give me the money,
2 didn't I? I believe -- I don't -- I mean, it's been so
3 long.

4 Q. Alright. And you also said in that 911 call that
5 you didn't see the shooter leave; right?

6 A. No, I didn't. I went out the back door and went
7 over to his father's house, where he lived at in a mobile
8 home behind Johnny.

9 [Whereupon, Ms. Norris and Mr. Durant confer]

10 Q. Alright. Mr. Pritchard?

11 A. Yes, ma'am.

12 Q. Again, do you recall specifically in the 911 call
13 saying the man came in, shot your cousin, and ran?

14 A. Yes.

15 Q. And do you recall saying that you didn't see the
16 shooter leave?

17 A. That's right.

18 Q. You didn't see him leave?

19 A. I didn't see him.

20 Q. Okay. And you also said in there that you were
21 unsure of the race of the shooter; right?

22 A. Well, he was black. I know that.

23 Q. I'm asking you what you -- what you told the 911
24 dispatch. We just heard it.

25 A. Yeah. Yes. Yes, ma'am. Maybe I said that when I

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1 was ---
2 Q. --- and the nice lady on the other end of the phone
3 even said is he Asian, is he black, is he white, and ---
4 A. --- yes ---
5 Q. --- you said, I don't know.
6 A. Yeah. He was black. I seen that, as far as with my
7 own eyes.
8 Q. But you told the 911 dispatcher, the first person
9 you talked to, you didn't know; right? That's all I'm
10 asking you.
11 A. Well, I said that because I was in fear of my life
12 at the present time.
13 Q. And who were you in fear of?
14 A. Anyone who had a -- was -- that had --
15 Q. Any black person?
16 A. No. Anybody that was involved with that crime,
17 involved with it, you know.
18 Q. Well, who was next to you when you were on the 911
19 call? Eric Jordan?
20 A. Yes.
21 Q. Who else?
22 A. His son, I believe, Aaron.
23 Q. And those people were at their house when you went
24 out the back door; right?
25 A. Yes.

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1 Q. So you knew they weren't involved?

2 A. Right.

3 Q. Alright. So you're saying that you told the first
4 person that you're asking for help, on that call, you
5 don't know the race because you were afraid? Is that
6 what you're telling this jury?

7 A. Yes. I was afraid of my -- afraid -- afraid for my
8 life, yeah. My cousin just got shot to death.

9 Q. Well, I understand your cousin got shot. But I'm
10 asking you when you're calling for help, you did not tell
11 them the person's black. You said, specifically, I don't
12 know; right?

13 A. I believe so. But, he was black.

14 Q. Alright. And, now, the first officer you talked to,
15 Deputy Gillard, do you remember him?

16 A. I believe so.

17 Q. Okay. And you told him you didn't see the shooter
18 leave; right?

19 A. Right.

20 Q. And you didn't know which way he ran ---

21 A. --- right ---

22 Q. --- right? For all you know, he could have jumped
23 in a car and hauled it down the road?

24 A. He sure could have.

25 Q. Could have run right? Or, I'm sorry, that's my

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1 left. He could have gone left, could have gone right, or
2 he could have gone on that third street; right?
3 A. Right, he could have went ---
4 Q. --- you just don't know?
5 A. I didn't know where he went after he left the house,
6 went out the front door.
7 Q. And Deputy Siemlach [phonetic] the Solicitor asked
8 you about him -- he was out there with a body camera, as
9 well; right?
10 A. Right.
11 Q. Alright. And you told him you jumped for the back
12 door as soon as you heard the shot; right?
13 A. Yes.
14 Q. You told him the shooter did not know that you were
15 there; right?
16 A. Exactly.
17 Q. You were under the table?
18 A. Yeah. Yes, ma'am.
19 Q. And then later on, at 1:32 or thereabouts, you told
20 Deputy Siemlach [phonetic] you didn't see a robbery, you
21 just heard cash was taken; right?
22 A. Yes.
23 Q. And when Deputy Siemlach [phonetic] specifically
24 asked you if the bad guy went through his pockets, you
25 said no; right?

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1 A. I believe I did but I -- I meant that he -- the
2 reason why he was there was he robbed my cousin and
3 murdered him.

4 Q. Mr. Pritchard, I'm just asking you what you told the
5 cops.

6 A. Yes, ma'am.

7 Q. The cops that you called ---

8 A. --- I was upset real bad. I didn't -- I was in fear
9 of my life at that present time.

10 Q. Were you afraid of the cop asking you if the bad guy
11 had went through his pockets? You're telling me that
12 you're afraid of the cop?

13 A. No. I was afraid of being at that scene at the
14 time.

15 Q. Well, at that point there were at least ten police
16 officers on the scene; right?

17 A. Yes.

18 Q. And one of them specifically asked you, with a
19 camera right on his chest, pointed at you, did the bad
20 guy go through his pockets and you said no; right?
21 That's all I'm asking you.

22 A. I believe I did say that.

23 Q. And you also told Deputy Siemlach [phonetic] that
24 Johnny had just walked in the door and the shooter
25 apparently came in right behind him; right?

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1 A. Yes.

2 Q. Nothing about going and sitting on a couch, nothing
3 about handing you beers and a biscuit; right? Walked in,
4 shooter right behind him?

5 A. Well, it wasn't right exactly as soon as he walked
6 in ---

7 Q. --- I'm asking ---

8 A. --- the door ---

9 Q. --- what you told the deputy that day. That's ---

10 A. --- I was ---

11 Q. --- all I'm asking you ---

12 A. --- upset. That's why I said, you know, things like
13 that.

14 Q. And you told Deputy Hamill, another deputy on the
15 scene, along about 1:30 or so, within thirty, forty-five
16 minutes of your cousin being shot, that you thought the
17 guy was middle-aged, like thirty something; right?

18 A. Yes. I didn't know exactly how old he was, but he
19 was older than eighteen years old.

20 Q. And you said that his face was covered. He also had
21 a hat on; right? That's what you told the cops?

22 A. Yes. I believe he did have a hat on.

23 Q. Was it a baseball cap? Cowboy hat?

24 A. I don't know what kind of hat it was.

25 Q. Something?

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1 A. There was something on his head.
2 Q. A hat?
3 A. Some kind of hat.
4 Q. Okay. And, now, you talked to this gentleman over
5 here [indicates], Detective Goldstein, a little while
6 later, maybe an hour or so later; right?
7 A. Yes, ma'am.
8 Q. Alright. And you told him also the shooter was a
9 black male in his late twenties. Now -- now you've added
10 the black male part, that he was a black male in his late
11 twenties or thirties; right?
12 A. Exactly.
13 Q. And, specifically, you said he wasn't a teenager;
14 right?
15 A. Exactly.
16 Q. And you -- and you told Detective Goldstein about
17 the mask on his face?
18 A. Yes.
19 Q. And the hat on his head?
20 A. Yes.
21 Q. You also told him he could have even had sunglasses
22 on, right, but you weren't sure?
23 A. I didn't know. I didn't know exactly what he had on
24 his face, exactly. But I -- I don't believe he had
25 sunglasses on.

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1 Q. And, now, the first time that you told anybody that
2 Johnny was sitting on the couch when the shooter came in
3 was when you talked to this gentleman over here
4 [indicates]; right?

5 A. Yes.

6 Q. And so did you love your cousin, Mr. Pritchard?

7 A. Yes, I did.

8 Q. And you want to help the State get a conviction?

9 A. Yes, I do.

10 Q. And you're beholden to them for putting you up in a
11 hotel and helping you out?

12 A. I was down on my luck at that time. I'm not always
13 been down on my luck.

14 Q. And so ---

15 A. --- I'm a sheet-metal worker.

16 Q. And so let's talk about how many statements you've
17 made. You made one to 911; right?

18 A. Uh-huh.

19 Q. And then I've listed at least three officers, Deputy
20 Siemlach [phonetic], Deputy Hamill, Deputy Gillard, there
21 on the scene. So that's four of them. Detective
22 Goldstein; right?

23 A. Uh-huh.

24 Q. How many times did you talk to this gentleman?

25 A. Several times.

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1 Q. Three? Four?
2 A. Three.
3 Q. Okay. So that's ---
4 A. --- Almost three ---
5 Q. --- so that's eight times. And then you testified
6 once before at a hearing; right?
7 A. Yes.
8 Q. So there's nine, and then today. So at least ten
9 times?
10 A. Yes, ma'am.
11 Q. And you probably told your family and friends about
12 it?
13 A. I hadn't talked about this to ---
14 Q. --- not at all ---
15 A. --- anyone.
16 Q. Okay. So at least ten times. And from that first
17 911 call, where you didn't know race, now we've got a
18 black man; right?
19 A. Yes, ma'am.
20 Q. Okay. And from that first call, when you didn't see
21 the shooter, you were under the table, now you saw him,
22 he's black; right?
23 A. Yes, ma'am.
24 Q. Would you agree with me that the story has changed a
25 bit?

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1 A. Yes. But I -- what I seen was with my own eyes.

2 When I -- when I seen the man come in that door, he was
3 black, had a black handgun, a Glock I guess it was. It
4 wasn't a revolver. And he shot my cousin pointblank.

5 Q. But you didn't tell the 911 operator that; right?

6 A. Yes, ma'am, I thought I did ---

7 Q. --- you told ---

8 A. --- but I didn't, evidently.

9 Q. You told her you didn't know race, you didn't see
10 the shooter.

11 A. I did see the shooter.

12 Q. From under the table?

13 A. Yes, ma'am. I was looking over the table and I seen
14 him perfect.

15 MS. NORRIS: Alright. Thank you, Mr. Pritchard.

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Any redirect?

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1 A. Yes.

2 Q. Wearing a hat?

3 A. Yes. I said that and...

4 Q. Face covered?

5 A. Yes, sir.

6 Q. Okay. Well, my one question is how old -- can you

7 tell how old he is if he's got his face covered up,

8 anyway?

9 A. By his hands and stuff like that. Just the one

10 flesh I seen.

11 Q. Okay. Now ---

12 A. --- he wasn't ninety years old.

13 Q. Now, have I ever tried to influence you?

14 A. No, sir ---

15 Q. --- on what you have said about what happened that

16 day?

17 A. No. No, sir.

18 Q. Okay. And you didn't come here and say, I recognize

19 this guy as being the guy that came in there and killed

20 him, did you?

21 A. No, sir.

22 Q. Now, if you were trying to help me out, that's what

23 you would be saying, wouldn't it?

24 A. Yes, sir.

25 Q. And, really, the only thing that's really changed in

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1 your testimony, from when you were talking to the police
2 way back then and what you've talked about today, was
3 whether the money came before or after he shot him;
4 correct?

5 A. Yes.

6 Q. Because you told everybody back then that Johnny
7 gave him the money and then he shot him, and then you
8 said today that he shot Johnny and then he went through
9 the pockets and took the money?

10 A. Yes. I didn't know exactly how that came about.

11 Q. But isn't ---

12 A. --- I know he -- he -- he went to get the money from
13 Johnny. And he asked Johnny for the money and when he
14 shot Johnny, then that's when he went through his pockets
15 and ---

16 Q. --- like I said, I'm not trying to tell you how to
17 testify. I only ---

18 A. --- yes, sir ---

19 Q. --- want you to testify how you remember it. But
20 would you agree that that is the principal difference
21 between what you've said today and what you said way back
22 then?

23 A. Yes, sir.

24 Q. But in both cases you said that Johnny got robbed?

25 A. Yes, sir.

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1 Q. It's just a question of whether it was before or
2 after he got shot; correct?

3 A. It was after he got shot.

4 Q. Okay. I know that's what you said now. But would
5 you admit that you said to others that he gave him the
6 money and then got shot? Way back in December.

7 A. Yes, sir.

8 Q. And when you were telling the officers that you did
9 not see where he went, you just saw him run out the front
10 door; correct?

11 A. Yes, sir.

12 Q. But after he ran out the front door, you did not
13 know which direction he went; correct?

14 A. No, I didn't.

15 Q. Okay.

16 MS. NORRIS: Just briefly ---

17 THE COURT: --- recross ---

18 MS. NORRIS: --- if I may, Judge.

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1 A. I believe so.
2 MS. NORRIS: Nothing further, Judge.
3 THE COURT: You may step down. Thank you very much.
4 Call your ---
5 THE WITNESS: Thank you, sir.
6 THE COURT: Call your next witness, please.
7 THE WITNESS: So I'm done?
8 THE COURT: Come on down. Go.
9 THE WITNESS: Okay. Thanks.
10 MR. DURANT: The State would call ---
11 THE COURT: --- any reason this witness can't be
12 excused?
13 MR. DURANT: This witness can -- may be excused,
14 Your Honor.
15 THE COURT: How about from the State -- I mean,
16 defense?
17 MS. NORRIS: No objection, Your Honor.
18 THE COURT: Alright. You may be excused. Thank you
19 very much. You're welcome to stay, if you so choose.
20 [Whereupon, the witness is excused and exits the
21 witness stand]
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Celest McBride-Direct Examination by Mr. Durant
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1 [Whereupon, Ms. McBride comes forward]
2 [Whereupon, Ms. McBride is duly sworn by the Clerk
3 of Court]
4 THE CLERK OF COURT: Okay. You can have a seat.
5 [Whereupon, the witness takes the witness stand]
6 THE CLERK OF COURT: And for the record, please
7 state your full name and spell your last.
8 THE WITNESS: Celest McBride. M-C-B-R-I-D-E.
9 - - - - -
10 CELEST MCBRIDE,
11 Having Been First Duly Sworn,
12 was Examined and Testified as Follows:
13 DIRECT EXAMINATION
14 BY MR. DURANT:
15 Q. Good morning Ms. McBride. How are you?
16 A. I'm good. How are you?
17 Q. Good, thank you. Could you tell our jury how old
18 you are?
19 A. I'm twenty.
20 Q. Okay. And are you employed?
21 A. Yes.
22 Q. What do you do for a living?
23 A. I am a front worker at Marco's Pizza.
24 Q. Okay. And do you go to school?
25 A. No.

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1 Q. Planning to go to school?

2 A. Not in the future.

3 Q. Okay. And I think at one time when we talked you
4 had mentioned about going to cosmetology school. That's
5 why I asked. That kind of fell by the boards?

6 A. Yes.

7 Q. Okay. Could you tell our jury where you were living
8 on Friday, December the 23rd of 2016?

9 A. [REDACTED] East Owens Drive, Lincolnville, South Carolina.

10 Q. And who else lived at that address with you?

11 A. My mom, my dad, and my little brother.

12 Q. And did you have the occasion to be home that day
13 shortly before 1:00 p.m. in the afternoon?

14 A. Yes.

15 Q. Could you tell our jury what happened?

16 A. I heard a sound outside, it was like a boom, and I
17 was being nosey and I looked outside because I thought
18 maybe someone had gotten into a car crash or something
19 had fallen out of someone's vehicle onto the concrete.

20 And when I looked outside, I saw someone running
21 from my right to my left, which was a little odd because
22 people don't go running around in that neighborhood just
23 because. And just in front of my house, by a telephone
24 pole, I saw an object fall out of his pocket and ---

25 Q. --- okay. I'm going to get to that, but first I

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1 want to kind of orient the jury, if we could. And I'd
2 like to direct your attention to State's Exhibit Number
3 61. I believe that it's in evidence.

4 [Whereupon, the photo is published]

5 Q. And if you would -- have you seen this exhibit
6 before?

7 A. Yes.

8 Q. And could you point out to -- and you can actually
9 write on the screen, if you want. If you -- if you
10 would, could you just point out to the jury where you
11 lived or were living at that time?

12 [Whereupon, the witness complies]

13 Q. Okay. And that's 330 East Owens; is that correct?

14 A. Yes.

15 Q. Okay. And to kind of further orient, what is this
16 street running this way [indicates] and going around to
17 the corner this way [indicates]?

18 A. That is East Owens.

19 Q. Okay. And do you know what this street is going
20 that way [indicates]?

21 A. East Colpat, if I remember correctly.

22 Q. And running that goes kind of from that intersection
23 that way [indicates]?

24 A. East Thomas.

25 Q. Okay. Now, could you tell the jury -- when you said

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1 you saw this person running, could you show on the map
2 State's Exhibit 61 which direction he was running?

3 A. [Whereupon, the witness complies]

4 Q. Okay. And now we'll talk about what you saw when
5 this person got right in front of your house. Okay?
6 What did you see?

7 A. I saw him drop an object, directly in front of my
8 house, over by a telephone pole.

9 Q. Okay. And what did that object look like?

10 A. It was a black rectangular box.

11 Q. Okay. And later, what did you discover that object
12 was?

13 A. I discovered later that it was a cell phone.

14 Q. And where in relation to the front of your house was
15 that phone dropped? Was it like in the middle, toward
16 the East Thomas side, or toward the Bell Drive side?

17 A. Towards the East Thomas side of the telephone pole.

18 Q. Okay. And also, the little red pin on that State's
19 Exhibit 61, that's where Mr. Johnny Pritchard lived; is
20 that correct?

21 A. Correct.

22 Q. Now, after he dropped that black object, what did he
23 do?

24 A. It appeared that he was bending down to pick it up.
25 But he didn't. He continued running. And a little ways

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1 down the road from the telephone pole, he'd dropped a
2 large amount of cash and he picked that up.

3 Q. Okay. And then what did he do after he picked up
4 the cash?

5 A. He continued running.

6 Q. And in the -- that same direction?

7 A. Uh-huh.

8 Q. And when did you lose sight of him?

9 A. Around Bell Drive.

10 Q. Okay. And can you show us where Bell Drive is on
11 that?

12 A. [Whereupon, the witness complies]

13 Q. Alright. And do you recall what this person looked
14 like? Was he black or white?

15 A. Black.

16 Q. And what was -- what other ---

17 A. I noticed that he was wearing stone-gray sweatpants
18 and a dark-colored shirt, and I described him at the time
19 to have dreads.

20 Q. Okay. And when you say you saw that black -- he had
21 dropped that black object; do you know which pocket that
22 came out of?

23 A. I believe it was the pocket that was farthest away
24 from me.

25 Q. Now, do you recall whether or not -- was anybody

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1 else home with you at the time that this happened?

2 A. At the time my dad and my little brother were in the
3 house with me.

4 Q. Okay. And did you tell your father what you had
5 seen?

6 A. I told him that I saw someone drop a phone by the
7 telephone pole.

8 Q. And your father's name is what?

9 A. Allan McBride.

10 Q. Okay. And what did your father do?

11 A. He went out and he picked it up and he brought it
12 back onto our front porch and set it on the side of his
13 grill.

14 Q. And why did he do that?

15 A. We were being good Samaritans and we wanted the
16 rightful owner to pick it up because there were thieves
17 in the neighborhood.

18 Q. Okay. At that time, was it -- y'all didn't know
19 anything about what had happened down at the Pritchard
20 house; correct?

21 A. We had no idea.

22 Q. So y'all picked it up, just in case the guy came
23 back looking for it?

24 A. Yes.

25 Q. And how long after this did the police show up?

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1 A. Oh. I believe about five or ten minutes.

2 Q. And did they come to your house, or did they go to
3 somebody else's house?

4 A. Directly to Johnny's house.

5 Q. And do you recall telling the police what had -- you
6 had seen that day?

7 A. My dad went down to tell them that we had a cell
8 phone, I believe. And they had come up to talk to me
9 about what I had seen, and I told them the entire thing
10 that I had saw.

11 Q. Okay. And when did you find out that Johnny had
12 actually been shot?

13 A. When they had me follow them down to the police car
14 to give a witness statement, papers to fill out, and I
15 had heard the man that was living with Johnny say that he
16 had been shot.

17 Q. Okay. And what happened, eventually happened, with
18 the phone that your father had picked up and put on the
19 grill?

20 A. The police took it in for evidence.

21 MR. DURANT: Your Honor, at this time we would offer
22 State's Exhibits 1 through 12, I believe without
23 objection.

24 MS. NORRIS: No objection.

25 THE COURT: 1 through 12 without objection; is that

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1 correct?

2 MS. NORRIS: [No response]

3 THE COURT: Is that correct?

4 MS. NORRIS: That's correct, Your Honor.

5 THE COURT: Thank you, ma'am.

6 [Whereupon, State's Exhibit Numbers 1 through 12 are
7 admitted into evidence by the Court]

8 Q. [Mr. Durant] And we're going to run through these
9 real quick, Ms. McBride.

10 [Whereupon, State's Exhibits 1 through 12 are
11 published]

12 Q. This is -- okay. And that's basically obviously
13 just showing you the intersection; correct? That's
14 State's Exhibit 1.

15 A. Yes.

16 Q. State's Exhibit 2?

17 A. That is the view from Johnny's house looking down
18 Owens Drive, to my house, in the direction that I had
19 seen the man running.

20 Q. He was coming from that direction? If that was shot
21 from the direction -- that would be going in the
22 direction you had seen the man running; correct?

23 A. Yes.

24 Q. Okay. Down there where those vehicles are farther
25 down the road is where you live?

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1 A. I believe so, yes.

2 Q. State's Exhibit 3. And that's continuing to go down
3 the same way?

4 A. Yes.

5 Q. State's Exhibit 4?

6 A. That is the view, from my driveway in the direction
7 that I had seen the man running.

8 Q. Okay. That [indicates] is your mailbox; is that
9 correct?

10 A. Yes.

11 Q. State's Exhibit 5?

12 A. That is around the area that I had seen the cell
13 phone drop out of his pocket.

14 Q. And could you show the jury the approximate location
15 that you saw him drop the cell phone?

16 A. [Whereupon, the witness complies]

17 Q. Okay. You had also mentioned seeing him drop some
18 cash. Could you mark the location of where you saw him
19 drop the cash, roughly?

20 A. [Whereupon, the witness complies]

21 Q. So out toward the end of your yard?

22 A. Yes.

23 Q. Okay. State's Exhibit 6?

24 A. That is the view from where I saw the cell phone
25 drop to my house.

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1 Q. And what window were you looking out of?

2 A. [Whereupon, the witness indicates]

3 Q. Okay. State's 7? That's the same window right
4 there?

5 A. Yes. And that is the view that I had from inside of
6 my house looking out to where I saw the cell phone drop.

7 Q. Okay. That would be State's Exhibit, I believe,
8 Number 8.

9 State's Exhibit Number 9?

10 A. That is the front porch and that is a picture of the
11 grill that we had set the cell phone on.

12 Q. 10?

13 A. And that is the cell phone on the side of the grill.

14 Q. 11?

15 A. That is the cell phone still on the grill.

16 Q. And 12?

17 A. And that is still a picture of the cell phone on the
18 grill.

19 MR. DURANT: Your Honor, at this time we would offer
20 State's Exhibit Number 71, I believe without objection.

21 MS. NORRIS: No objection.

22 THE COURT: Thank you, ma'am.

23 [Whereupon, State's Exhibit Number 71 is admitted
24 into evidence by the Court]

25 MR. DURANT: I want to publish a portion of State's

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1 Exhibit Number 71.

2 [Whereupon, State's Exhibit Number 71, DVD video, is
3 played for the jury, with questions from Mr. Durant]

4 Q. [Mr. Durant] Have you seen that video before? That
5 is a portion of State's Exhibit Number 71.

6 A. Yes.

7 Q. Do you know whether or not this person could be the
8 person that you saw running in front of your house?

9 A. He looks very similar, yes.

10 Q. And I'm trying to stop this at a -- now, can you see
11 the color of his pants there?

12 A. Those are the same color that I had seen.

13 Q. Now, is that what you referred to as stone-gray?

14 A. Yes.

15 [Whereupon, State's Exhibit Number 71 concludes]

16 MR. DURANT: Your Honor, at this point we would
17 offer State's 73 and 74, 75 and 76, I believe without
18 objection.

19 THE COURT: 74, 75, 76 [sic] without objection;
20 correct?

21 MS. NORRIS: Correct.

22 THE COURT: Thank you, ma'am.

23 [Whereupon, State's Exhibit Numbers, 73, 74, 75 and
24 76 are admitted into evidence by the Court]

25 Q. [Mr. Durant] I first want to show you 73. And

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1 these are some enhanced videos from the video you just
2 saw, or enhanced photos.

3 [Whereupon, photos are published]

4 Q. This is 73, 74, 75, and 76. Clothing-wise, does
5 that appear to be the same person you saw?

6 A. Yes.

7 Q. Would you agree that this person does not have
8 dreadlocks?

9 A. He does not have dreadlocks.

10 Q. And would you admit that you told the police that
11 you thought he did have dreadlocks?

12 A. I did tell them that.

13 Q. And looking back at 74 and 75, can you tell whether
14 or not -- what type of garment he is wearing on the top
15 part?

16 A. It would be ---

17 MS. NORRIS: Objection. It speaks for itself, Your
18 Honor.

19 THE COURT: Overruled. Go ahead.

20 Q. [Mr. Durant] What does it appear like to you?

21 A. It appears to be a hoodie.

22 Q. And is it possible that that's what you mistook for
23 dreads?

24 A. Yes.

25 MR. DURANT: Thank you very much, Ms. McBride.

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

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CROSS-EXAMINATION

BY MS. NORRIS:

Q. Ms. McBride, your house at the time, that you showed us on the map, was about a hundred yards down the road from Mr. Pritchard's?

A. I would believe so.

Q. Okay. So that's about a football field. Or it is a football field, I think.

A. I would assume so. I didn't take a tape measure to it.

Q. Okay. And you showed us on the pictures, let me show you, if I can.

[Whereupon, a photo is shown]

Q. And that's State's Exhibit 2. And, now, the yellow truck that we see in there, is that your dad's work truck?

A. That was his work vehicle.

Q. Okay. So that's from the front of Mr. Pritchard's house down to your house; right?

A. Uh-huh. Yes.

Q. Okay.

[Whereupon, a photo is shown]

Q. And then in State's Exhibit 4, you said that's your -- that was your mailbox; correct?

A. That was the mailbox.

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Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 Q. And this was taken that day?

2 A. Yes.

3 Q. So the bushes there are the same as they were when
4 you saw the runner go by?

5 A. Yes.

6 Q. Okay. And in this one, that trashcan that you see
7 down by the Big B Sign, is that where you said that the
8 -- that the money was dropped?

9 A. Around that general area, yes.

10 Q. Alright.

11 [Whereupon, a photo is shown]

12 Q. And, again, in State's Exhibit 6, that post out
13 there is around where you said the cell phone was
14 dropped?

15 A. The little gray post is a little bit closer to the
16 location.

17 Q. Okay. And so basically behind that star is the
18 window that you're saying that you were looking out of?

19 A. Yes.

20 Q. Okay.

21 [Whereupon, a photo is shown]

22 Q. And that's State's Exhibit 8 from inside the house;
23 right?

24 A. Yes.

25 Q. And it was taken that day?

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 A. Yes.

2 Q. So the screen and everything else is the same?

3 A. Yes.

4 Q. Alright. And, now, when you saw the runner go by,
5 you were trying to make sure that he didn't see you;
6 right?

7 A. I wasn't aware that he was involved in anything
8 suspicious, so I didn't try to hide myself from view.

9 Q. You didn't tell the police officers that day that
10 you were trying to hide yourself?

11 A. I didn't tell them that I was trying to hide at all.

12 Q. Do you recall telling Detective Goldstein,
13 specifically, that you were trying to stay out of sight?

14 A. I do not recall telling him that at all.

15 Q. Would it help you if I showed you a transcript of
16 your statement to him?

17 A. Yes.

18 Q. Okay. I'm going to show you the transcript of you
19 talking to Detective Goldstein and ask you to look at
20 page 3, lines 13 to 15, and see if that helps you recall.

21 [Witness reviews document]

22 A. Looking through here, it does say that I said that I
23 was trying to make sure that he didn't see me.

24 Q. And you said that again -- if you'll turn to page 9,
25 lines 13 to 15 -- right?

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
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1 [Witness reviews document]

2 A. It does say that.

3 Q. And do you recall telling one of the -- well,
4 actually, it was Detective Goldstein. If you look on
5 page 9 there, right before lines 9 to 11, do you recall
6 telling him that once the runner went by, that you moved
7 from the window to the front door?

8 A. I did.

9 Q. Alright. Let me get that transcript back from you.

10 [Whereupon, the witness proffers documents to Ms.
11 Norris]

12 Q. And, now, the runner that you saw, how long after
13 you heard the sound was it until you saw the runner?

14 A. It was not even a full minute.

15 Q. It was a couple of seconds; right?

16 A. I would say about thirty to forty-five seconds.

17 Q. Do you recall making a written statement out there
18 on the scene?

19 A. Yes.

20 Q. Okay. Let me show you a copy of that statement.

21 [Witness reviews document]

22 Q. Is that your signature at the bottom?

23 A. It is.

24 Q. Alright. And in that statement you were asked
25 specifically from the time you heard noise, how long

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 until you saw the person running. And your response was,
2 a few seconds, about two or three. Right?

3 A. Uh-huh. Yes.

4 Q. And you made this statement when it was fresh in
5 your mind?

6 A. Yes.

7 Q. And, now, you told us today that the person you saw
8 had what color top?

9 A. Dark.

10 Q. Back then, you told the officers that you couldn't
11 remember the color of his shirt or his top; right?

12 A. I wasn't very well paying attention to the color of
13 the top that he was wearing.

14 Q. I'm just asking did you tell the officers that day
15 that you didn't get a good look or you couldn't remember
16 the top?

17 A. I told them that I didn't really see it.

18 Q. Okay. And you also told the officers that he had
19 dreadlocks; right?

20 A. It appeared at the time that he did have dreadlocks.

21 Q. And you testified in a -- in a previous hearing that
22 you were in cosmetology school; right?

23 A. Yes.

24 Q. Okay. And so I assume you know what dreadlocks are?

25 A. Yes.

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 Q. Okay. Can you define for our jurors what dreadlocks
2 are?

3 A. Dreadlocks are twisted pieces of hair that become
4 matted over time.

5 Q. Okay. And it's very distinctive; right?

6 A. Yes.

7 Q. Do you know who Whoopi Goldberg is?

8 A. Yes.

9 Q. Okay. Does Whoopi Goldberg have dreads?

10 A. Yes.

11 MS. NORRIS: Your Honor, I would like to have this
12 marked as a defense exhibit and move it into evidence,
13 without objection I believe.

14 THE COURT: Number 1; is that correct? That's
15 number 1?

16 THE COURT REPORTER: That is correct.

17 THE COURT: Without objection?

18 MR. DURANT: Without objection, Your Honor.

19 THE COURT: Okay.

20 [Whereupon, Defendant's Exhibit Number 1 is marked
21 by the court reporter]

22 [Whereupon, Defendant's Exhibit Number 1 is admitted
23 into evidence by the Court]

24 Q. [Ms. Norris] And is that Whoopi Goldberg that we
25 were just talking about?

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 A. Yes.

2 Q. And, now, that's not the person you saw that day ---

3 A. That's not ---

4 Q. --- correct ---

5 A. --- the person I saw.

6 Q. We're not accusing Ms. Goldberg of anything. But

7 these are dreads; right?

8 A. Yes.

9 Q. Okay. And, now, the Solicitor showed you a video of

10 a guy running; right?

11 A. Yes.

12 Q. And you weren't shown that video that day; right?

13 A. I was not shown that video that day.

14 Q. You didn't see that video for a year and a half?

15 A. I did not see it for a year and a half.

16 Q. And today, just sitting in here while the Solicitor

17 was trying to figure out his buttons, we watched it four

18 times. How many times have you watched it before that?

19 A. I would believe about four or five times.

20 Q. And it's been enhanced and slowed down; right?

21 A. Yes. I would believe so.

22 Q. And so they stop it. And how many times have you

23 met with this gentleman?

24 A. Two or three.

25 Q. And so, a year and a half later, at least, they've

State v Joseph Lamar Brown, Jr.
Celest McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 shown you this video multiple times, enhanced, slowed
2 down, stopped, and asked you about who you saw that day;
3 right?

4 A. Yes.

5 Q. And, again, that day, the best you could tell the
6 officers was stone-gray pants; right?

7 A. Yes.

8 Q. You didn't get a look or you -- you couldn't
9 remember the color of top?

10 A. Yes.

11 Q. You couldn't say anything about the shoes?

12 A. Yes.

13 Q. Dreadlocks?

14 A. Yes.

15 MS. NORRIS: Alright. Ms. McBride, I don't have
16 anything further. Thank you.

17 THE COURT: Redirect?

18 MR. DURANT: Just one.

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State v Joseph Lamar Brown, Jr.
Celest McBride-Redirect Examination by Mr. Durant
November 6, 2018

REDIRECT EXAMINATION

BY MR. DURANT:

Q. In all of our meetings, have I ever coached you about what to say?

A. No.

Q. Okay. And when you said that that person that you were shown the video could have been the person you saw, why did you say that?

A. I said that he looked very similar to the person that I had seen.

Q. Okay. And did I make you say that?

A. No.

Q. And could that have been a -- been a video of the person that you saw?

A. That could have been the video of the person that I saw.

MR. DURANT: Okay. Thank you.

THE COURT: Any redirect -- I mean, excuse me -- recross?

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State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 MR. DURANT: The State would call Allan McBride.

2 [Whereupon, Mr. McBride comes forward]

3 [Whereupon, Mr. McBride is duly sworn by the clerk
4 of court]

5 THE CLERK OF COURT: You can have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: And for the record, please
8 state your full name and spell your last.

9 THE WITNESS: Allan Keith McBride. M-C-B-R-I-D-E.

10 THE COURT: Mr. McBride, pull that chair up close to
11 that microphone so we can hear you. Sort of talk in the
12 microphone, please, sir.

13 THE WITNESS: Yes, sir.

14 THE COURT: Thank you very much.

15 - - - - -

16 ALLAN MCBRIDE,

17 Having Been First Duly Sworn,

18 Was Examined and Testified as Follows:

19 DIRECT EXAMINATION

20 BY MR. DURANT:

21 Q. How old are you, Mr. McBride?

22 A. Fifty-two.

23 Q. And could you tell our jury where you work?

24 A. Truly Known Pest Control.

25 Q. Okay. And you've been with them for a lot of years;

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 right?
2 A. Yes, sir.
3 Q. Are you married?
4 A. Yes, sir.
5 Q. You have two children, I believe?
6 A. Yes, sir.
7 Q. And one of them was Celest McBride that just
8 testified; correct?
9 A. Yes, sir.
10 Q. Could you tell the jury where you were living on
11 Friday, December the 23rd of 2016?
12 A. [REDACTED] Owens Drive.
13 Q. And that's in Lincolnville?
14 A. Yes, sir.
15 Q. And I believe that's right next door to where Johnny
16 Pritchard was living at the time; correct?
17 A. Close to. Yes.
18 Q. Okay. So it was his house, and then East Colpat,
19 and then your house is right down the road; correct?
20 A. Yes.
21 Q. Did you have the occasion to be home that afternoon
22 shortly before 1:00 p.m.?
23 A. Yes, sir.
24 Q. What happened?
25 A. I was in the kitchen, and the next thing I heard --

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 well, we heard some -- a gunshot but I didn't pay any
2 attention to it because it's happened quite a few times
3 in the neighborhood.

4 And then after that, I just heard my daughter
5 screaming that he dropped something. Went out to the
6 front of the yard ---

7 Q. --- out in the yard? So you went out. When you
8 went -- she -- you heard her say he dropped something,
9 where did you -- where were you at that time?

10 A. In the kitchen.

11 Q. And where did you go?

12 A. Out the front door ---

13 Q. --- could you ---

14 A. --- through the living room, out the front door.

15 Q. Could you see anybody when you went out the front
16 door?

17 A. I had seen somebody, but I really didn't -- couldn't
18 see his face or anything like that. He was running away
19 from me.

20 Q. Okay. And what do you remember about his
21 appearance, if anything?

22 A. Dark clothes.

23 Q. Black or white?

24 A. Black.

25 Q. Okay. And so what did you do when you went out the

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 front door?

2 A. I went out to the ditch to find out what he dropped,
3 and I found a cell phone in the ditch.

4 Q. And when you say he was running, in what direction
5 did you see him running?

6 A. He was running towards Summerville, Bell Drive.

7 Q. Okay. So he had been running from the direction of
8 where Johnny Pritchard lived, up Bell drive in front of
9 your house; correct?

10 A. Yes.

11 Q. So he had been running, if you're looking from your
12 house out the window, from your right to your left?

13 A. Yes.

14 Q. Okay. So you went out. And what did you find in
15 the ditch?

16 A. A cell phone.

17 Q. And where did you find that in the ditch?

18 A. It was right next to a telephone pole that's right
19 in my front yard.

20 Q. Okay. And could you tell -- was -- what kind of a
21 phone was it? Was it a Smartphone or a flip phone or ---

22 A. --- smart phone.

23 [Whereupon, the witness is shown exhibit]

24 Q. And -- now I hand you -- hand you what's been marked
25 as State's Exhibit Number 63, for identification, and ask

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 if this appears to be the iPhone that you saw, found, in
2 front of your house.

3 A. Yes, it is.

4 Q. It was an iPhone?

5 A. Yes.

6 Q. And what did you do with that iPhone?

7 A. I brought it from the ditch up to my front porch and
8 set it on my barbeque grill, thinking that somebody would
9 come back and get it.

10 Q. And once again, at that time did you happen to know
11 of anything out of the ordinary that had been going on
12 down the road?

13 A. No.

14 Q. And how did you find out something had gone on down
15 the road?

16 A. The police showed up.

17 Q. And they showed up where?

18 A. Right in front of Johnny's house.

19 Q. Okay. And what did you do when the police showed up
20 right in front of Johnny's house?

21 A. I went down to kind of see what was happening, and
22 told them that I had found a phone; somebody was running
23 from that direction.

24 Q. Okay. And what did the police do?

25 A. They came up, took some pictures of it where it was

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 at, and took it.

2 Q. Okay. And your reasoning for putting it on the
3 grill to begin with was why?

4 A. I was thinking somebody would come back and claim
5 it.

6 Q. Okay. And like I said, at time you didn't know
7 anything was going on; correct?

8 A. No.

9 Q. And I just want to show you -- this is State's
10 Exhibit 5.

11 [Whereupon, a photo is shown]

12 Q. Does that show the area where you located the cell
13 phone?

14 A. Yes.

15 Q. And if you'll mark with an X in the general location
16 that you picked up the cell phone.

17 [Whereupon, the witness complies]

18 A. I'd say it was right in that area right there.

19 Q. You can go -- you can mark on that screen, if you
20 want. You can actually touch the screen.

21 A. Yes, I did.

22 Q. Oh. It's not working.

23 A. It's showing an X up here.

24 Q. So it's -- okay. Sorry. It's not showing up.

25 Okay.

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 [Off the record momentarily]

2 Q. [Mr. Durant] And this is State's Exhibit 9.

3 [Whereupon, a photo is shown]

4 Q. Is this the grill you were referring to?

5 A. Yes.

6 Q. Do you recall the lock screen on that phone?

7 A. Sir?

8 Q. The -- was there a picture on that phone?

9 A. Yes, there was.

10 Q. And what was it a picture of?

11 A. A man and a woman.

12 Q. Okay. And, in fact, referring to State's Exhibit

13 12, you can see part of that picture; is that correct?

14 [Whereupon, a photo is shown]

15 A. Yes, sir.

16 MR. DURANT: Your Honor, at this time we would offer

17 State's Exhibit 52, I believe without objection.

18 THE COURT: 52, without objection?

19 MS. NORRIS: No objection.

20 THE COURT: Thank you, ma'am.

21 [Whereupon, State's Exhibit Number 52 is admitted

22 into evidence by the Court]

23 Q. [Mr. Durant] I'm showing you State's 52.

24 [Whereupon, a photo is shown]

25 Q. Is that the lock screen that was on the phone that

State v Joseph Lamar Brown, Jr.
Allen McBride-Direct Examination by Mr. Durant
November 6, 2018

1 you picked up?

2 A. Yes.

3 Q. And that was the lock screen you observed on State's
4 Exhibit Number 63 ---

5 A. --- yes ---

6 Q. --- for identification? And would you agree that
7 that's the guy that's on the phone?

8 A. Yes.

9 MR. DURANT: Would you please answer any questions
10 defense counsel may have for you.

11 THE WITNESS: Certainly.

12 THE COURT: Cross-examination.

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State v Joseph Lamar Brown, Jr.
Allen McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Good afternoon Mr. McBride. That neighborhood out

4 there in Lincolnville is a pretty high-crime area; right?

5 A. Somewhat, yes.

6 Q. So it wasn't unusual to hear gunshots?

7 A. We've heard a few before that day.

8 Q. But, now, that day, you didn't hear anything; right?

9 A. I didn't hear anything. My daughter did.

10 Q. Okay ---

11 A. --- from what I understand.

12 Q. Okay. So you didn't hear gunshots?

13 A. No. I was in the kitchen prepping ---

14 Q. --- and you didn't hear any noise that caused you to

15 look outside, other than your daughter saying dad?

16 A. That -- that he was running and dropped a phone.

17 Q. Okay.

18 A. Or dropped something.

19 Q. Okay. And when the -- when the first officer on the

20 scene -- did you -- did you walk down to Mr. Pritchard's

21 house when you saw the police officers?

22 A. Yes.

23 Q. And you told them about the phone; right?

24 A. Yes.

25 Q. Okay. And when the officer asked you if you saw the

State v Joseph Lamar Brown, Jr.
Allen McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 runner you said, my daughter did; right?

2 A. Well, I didn't see his face, is what I said. I
3 didn't see him directly. All I saw was the back of him
4 running.

5 Q. Okay. So you don't disagree that when the officer
6 said did you see the runner, your response was my
7 daughter did?

8 A. Yes.

9 Q. You do disagree ---

10 A. --- that he ---

11 Q. --- or you agree that ---

12 A. --- I ---

13 Q. --- you might have said that?

14 A. I agree that's what -- that you're saying what had
15 happened, that she saw him out in the front yard.

16 Q. Okay. And you told the officer that day -- and this
17 is Deputy Gillard, that first officer you talked to, you
18 told him what you just said; right? That you saw the
19 back of the runner?

20 A. Yes.

21 Q. And you told him you didn't -- you couldn't describe
22 the clothes; right?

23 A. Just dark clothes, is what I saw.

24 Q. You didn't say that that day, though, did you?

25 A. I -- I can't remember. It's been a while back.

State v Joseph Lamar Brown, Jr.
Allen McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 Q. Alright. Do you recall making a written statement
2 out there to the police?

3 A. I -- yeah.

4 Q. Let me show you a copy of it.

5 [Witness shown document]

6 Q. Is that your signature down there at the bottom?

7 A. Yes, it is.

8 Q. Alright. And you see there about the middle of the
9 page where the officer asked can you describe any of the
10 clothing or physical features of the man running? What
11 was your response?

12 A. No.

13 Q. And that's the first officer, or one of the first
14 officers, you talked to on the scene; right?

15 A. But right above that it says I did see a black man
16 running down the road.

17 Q. Alright. But I'm asking specifically to the
18 clothes. You told the police that day ---

19 A. --- I couldn't ---

20 Q. --- you couldn't describe ---

21 A. --- couldn't make out any of the clothes, no.

22 Q. Thank you. And you also made a statement to
23 Detective Goldstein that day; right?

24 A. I believe so, yes.

25 Q. And you also told him that you couldn't describe

State v Joseph Lamar Brown, Jr.
Allen McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 anything about the clothes; right?

2 A. No. I mean, yes, I did say that I couldn't describe
3 anything. But, again, like I said, he was quite a
4 distance from the house.

5 Q. Okay. And the guy that you saw from the back wasn't
6 running all that hard; correct?

7 A. I'd -- I don't know how hard you are ---

8 Q. --- was it a jog or was it a full run ---

9 A. --- oh, it was ---

10 Q. --- like a running back ---

11 A. --- it was a -- a kind of a jog.

12 Q. So other than the possibility that he dropped the
13 phone, dropped something, there wasn't anything about the
14 guy jogging down the road that you thought was unusual;
15 right?

16 A. No.

17 Q. And the picture -- I show you State's Exhibit 52
18 again.

19 [Whereupon, a photo is shown]

20 Q. When Detective Goldstein asked you about the guy you
21 saw from the back, you told him the guy you saw had
22 longer hair than that; right?

23 A. He -- I really can't remember. It was a while back.

24 Q. Alright. I'm going to show you a transcript of your
25 statement and see if that helps.

State v Joseph Lamar Brown, Jr.
Allen McBride-Cross-Examination by Ms. Norris
November 6, 2018

1 [Witness shown document]

2 Q. [Ms. Norris] Page 6, lines 12 through 16, I
3 believe. You see there where Detective Goldstein asked
4 you about hair features and you said longer hair?

5 [Witness reviews document]

6 A. Yes.

7 Q. And that's what you told the police that day just an
8 hour or so later; right?

9 A. Yes.

10 MS. NORRIS: Thank you, Mr. McBride. I don't have
11 anything further.

12 THE COURT: Redirect.
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State v Joseph Lamar Brown, Jr.
Allen McBride-Redirect Examination by Mr. Durant
November 6, 2018

1	REDIRECT EXAMINATION
2	BY MR. DURANT:
3	Q. You didn't say dreadlocks, did you?
4	A. No.
5	Q. And you know what dreadlocks are?
6	A. Yes.
7	Q. You didn't see any dreadlocks, did you?
8	A. No.
9	MR. DURANT: Thank you.
10	THE COURT: Recross?
11	MS. NORRIS: No, sir.
12	THE COURT: You may step down. Thank you very much.
13	THE COURT: Call your next witness.
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State v Joseph Lamar Brown, Jr.
 Merit Williams-Direct Examination by Mr. Durant
 November 6, 2018

1 MR. DURANT: We would call Merit Williams.

2 THE COURT: I'm sorry. Who?

3 MR. DURANT: Merit Williams.

4 THE COURT: Thank you.

5 MR. DURANT: I would ask that Mr. McBride and Ms.

6 McBride can be excused ---

7 THE COURT: --- any objection?

8 [Whereupon, Mr. Durant and Ms. Norris confer]

9 MS. NORRIS: No objection to those two McBrides.

10 THE COURT: They may be excused.

11 [Whereupon, Mr. McBride is excused and exits the
 12 witness stand]

13 [Whereupon, Mr. Williams comes forward]

14 [Whereupon, Mr. Williams is duly sworn by the Clerk
 15 of Court]

16 THE CLERK OF COURT: You may have a seat.

17 [Whereupon, the witness takes the witness stand]

18 THE CLERK OF COURT: For the record, please state
 19 your name and spell your last name.

20 THE WITNESS: My name is Merit Williams. My last
 21 name is spelled W-I-L-L-I-A-M-S.

22 - - - - -

23 MERIT WILLIAMS,

24 Having Been First Duly Sworn,

25 was Examined and Testified as Follows:

State v Joseph Lamar Brown, Jr.
Merit Williams-Direct Examination by Mr. Durant
November 6, 2018

1 DIRECT EXAMINATION

2 By MR. DURANT:

3 Q. Good afternoon, Mr. Williams. Could you tell our

4 jury how old you are, sir?

5 A. I am thirty-eight years old.

6 Q. And how far did you go in school?

7 A. I graduated.

8 Q. Okay. And where did you graduate high school at?

9 A. Seymour, Indiana. Christian academy.

10 THE COURT REPORTER: What was the name of the

11 school?

12 A. Liberty Christian Academy.

13 Q. [Mr. Durant] Are you currently employed?

14 A. No, sir, I'm not.

15 Q. When you worked in the past, what kind of work have

16 you done?

17 A. Handyman services.

18 Q. Okay. I'd like to talk to you about Friday,

19 December the 23rd of 2016, the day that Johnny Pritchard

20 was murdered. Do you remember that day?

21 A. Yes, sir.

22 Q. Did you happen to be in the area that day?

23 A. Yes, sir.

24 Q. And who were you visiting with?

25 A. A good friend of mine, Eric Jordan.

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- 1 Q. Okay. His real name is James Jordan?
- 2 A. James Jordan.
- 3 Q. Okay. And where does he live, James Jordan live, in
4 relation to Johnny Pritchard, where Johnny Pritchard was
5 living?
- 6 A. Right behind him.
- 7 Q. And what is Eric Jordan or James Jordan's
8 relationship with Trey Colman?
- 9 A. That is his stepdad.
- 10 Q. Okay. So Eric is Trey's stepfather; correct?
- 11 A. [Indicates]
- 12 THE COURT REPORTER: Is that yes?
- 13 A. Yes.
- 14 Q. [Mr. Durant] Did you know -- did you also know
15 Johnny Pritchard?
- 16 A. Yes, sir.
- 17 Q. And how did you get to know Johnny Pritchard?
- 18 A. Just more of drinking, hanging out.
- 19 Q. Okay. Because he was -- you were good friends with
20 Eric Jordan. And Eric and Johnny were friends, too,
21 weren't they?
- 22 A. That's correct.
- 23 Q. And then so you became friends with him, as well?
- 24 A. That is correct.
- 25 Q. In fact, had you seen Johnny that very day?

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- 1 A. Yes sir, I did.
- 2 Q. And where did you see Johnny that day?
- 3 A. In Eric -- in James Jordan's yard, front yard.
- 4 Q. Now, do you know what Johnny was doing that day?
- 5 A. Yes. He was getting ready to move. He was packing
- 6 up to move.
- 7 Q. Okay. And do you know where he was moving to?
- 8 A. Not exactly.
- 9 Q. Okay. But do you know if anybody was over at his
- 10 house?
- 11 A. The only people I can recall was Trey. Trey was
- 12 over there. I know he was there.
- 13 Q. That was later on; correct?
- 14 A. Yes. It was about ---
- 15 Q. --- but, I mean, he was there early, too, because
- 16 didn't -- didn't Mr. Pritchard take Trey somewhere? Do
- 17 you recall that?
- 18 A. I can't remember.
- 19 Q. Okay. Now, do you recall leaving Mr. Jordan's house
- 20 to go to the store to get some beer?
- 21 A. Yes, sir.
- 22 Q. And the store you were going to is Torres?
- 23 A. Yes, sir.
- 24 Q. Is that correct? And where is Torres the store
- 25 Torres in relation to where Mr. Jordan lives?

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1 A. About three minutes down the road.

2 Q. Okay. And when you say three minutes down the road,
3 can we take a look at State's Exhibit 61?

4 [Whereupon, a photo is shown]

5 Q. And can you tell the jury what -- where Mr. Jordan
6 lived? And you can draw on that screen, if you want.

7 [Whereupon, the witness complies]

8 A. Okay. Can I blow it up?

9 Q. Okay. And that's -- that pin there, that red pin,
10 is that Mr. Johnny Pritchard's house?

11 A. I cannot tell.

12 Q. You can't? That's okay if you can't tell. Can you
13 at least tell us which way it is to Torres from that
14 location? If you were going to drive to Torres which ---

15 [Whereupon, the witness complies]

16 Q. Okay.

17 A. That'd be going past this way here [indicates].

18 Q. Okay. Now, as you were there making that turn, do
19 you recall seeing someone?

20 A. Yes, sir.

21 Q. And if you would, tell us what you -- what you saw.
22 First of all, what -- do you remember what you were
23 driving at the time?

24 A. Yeah. A 1999 green Blazer.

25 Q. Okay. That's like an SUV; is that correct?

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- 1 A. Yes, sir.
- 2 Q. And what do you -- what did you see?
- 3 A. I saw a young man running from the direction from
- 4 Johnny's house.
- 5 Q. In the same direction you were headed?
- 6 A. That is correct.
- 7 Q. Okay. He was running on which side of the road --
- 8 the left side, the right side -- in relation to where you
- 9 were?
- 10 A. The left side.
- 11 Q. Okay. And do you recall what this person was
- 12 wearing
- 13 A. Yes, sir. Red converse, black pants, a hoodie with
- 14 the number 23 on it multicolored, skull cap.
- 15 Q. Okay.
- 16 A. That's about it.
- 17 Q. And I believe at the time you said that you believed
- 18 he had dreads; is that correct?
- 19 A. Yes, sir.
- 20 Q. And was this guy walking or jogging or running?
- 21 A. Oh. He was running.
- 22 Q. And what did you think when you saw him?
- 23 A. I thought he was just a young kid, you know, maybe
- 24 into sports or something.
- 25 Q. Just kind of staying athletic?

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1 A. That's what I figured.
2 Q. And did you see him dropping anything?
3 A. Yeah. He was dropping a couple of different things,
4 but I can't recollect it.
5 Q. Could you -- so you couldn't tell what it was? You
6 just saw something ---
7 A. --- something ---
8 Q. --- he dropped something ---
9 A. --- that he dropped and he tried to pick up and...
10 Q. And as you continued to go on up the road, could you
11 see which direction he went?
12 A. Yes, sir. Out my side-view mirror, he made a left.
13 Q. Okay. So he would have been -- you saw him turn off
14 of East Owens going down this way [indicates]?
15 A. No ---
16 Q. --- not necessarily on that street, but on one of
17 these streets?
18 A. Yeah. I believe it was Brenda B.
19 Q. Okay.
20 A. Could have been Joshua ---
21 Q. --- but one of those streets going to the left;
22 correct?
23 A. Yes, sir.
24 Q. Mr. Williams, I'd like to direct your attention to
25 State's Exhibit Number 71 and ask you -- you've seen that

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1 video before; correct?

2 [Whereupon, the video clip is shown]

3 A. Yes, sir.

4 Q. And where did you see it?

5 A. Inside of the office.

6 Q. And when you say the office, you're talking about my

7 office; correct?

8 A. Yes, sir.

9 Q. Did that appear to be the person, or not, that you

10 saw running that day?

11 A. That is -- that was -- that was the person I saw

12 running that day.

13 Q. Okay. And he had on red Converse; correct?

14 A. Yes, sir.

15 Q. And dark pant -- black pants?

16 A. Yes, sir.

17 Q. Black hoodie?

18 A. Yes, sir.

19 Q. But we can't really tell what his hairstyle is from

20 there; correct?

21 A. That is correct.

22 Q. And after you got back from Torres what did you find

23 out had happened over at Johnny Pritchard's house?

24 A. I found out that he got shot.

25 MR. DURANT: Thank you. Could you please answer any

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1 questions the defense counsel may have for you?

2 THE WITNESS: Yes, sir.

3 THE COURT: Cross-Examination.

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Merit Williams-Cross-Examination by Ms. Norris
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1	CROSS-EXAMINATION
2	BY MS. NORRIS:
3	Q. Good afternoon Mr. Williams.
4	A. Good afternoon.
5	Q. Your SUV that you were driving that day it had dark-
6	tinted windows on it, didn't it?
7	A. That's correct.
8	Q. And you said there at the stop sign you saw the
9	runner; right?
10	A. That's correct.
11	Q. You didn't hear a gunshot; correct?
12	A. No, ma'am.
13	Q. And you don't know where the runner started; right?
14	A. That is correct.
15	Q. Could have been ten miles from there?
16	A. He was just in the direction from ---
17	Q. --- okay. And then when you saw him running were
18	you driving slow, or were you driving fast, by him?
19	A. I was driving starting off from a turn.
20	Q. So pretty slow?
21	A. Pretty slow.
22	Q. So you were able to get a good look, at least of the
23	back of him; right?
24	A. I got a good look at him.
25	Q. And that day, to the police officers, you said

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1 dreadlocks; right?

2 A. That is correct.

3 Q. And you're familiar with dreadlocks; correct?

4 A. Yes. I see them around.

5 Q. Let me show you what's in evidence as Defendant's
6 Exhibit 1.

7 [Whereupon, a photo is shown]

8 Q. Now, we're not saying that Ms. Whoopi Goldberg had
9 anything to do with this. But are those dreadlocks?

10 A. Those are dreadlocks.

11 Q. Okay. And that's what you saw that day, dreadlocks?

12 A. That's correct.

13 Q. And you didn't see a gun? Didn't see a gun on the
14 runner or in the runner's ---

15 A. --- no ---

16 Q. --- hand?

17 A. No, I didn't.

18 Q. And you said that he had a skully cap. Tell me what
19 a skully cap is.

20 A. It's just a cap made of wool or cotton that's used
21 to warm the head and the ears.

22 Q. Okay. Like a winter toboggan-type thing?

23 A. Yes, ma'am.

24 Q. And the skully cap that you saw -- the runner had
25 the skully cap, it had white writing on it; right?

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1 A. It had writing on it. Yes, ma'am.

2 Q. Okay. And the Solicitor showed you this video. You
3 said you first saw it in his office; right?

4 A. That is correct.

5 Q. So you didn't get to look at the video that day;
6 right?

7 A. Which day are we referring to?

8 Q. The video of the guy running.

9 A. Yes, I saw that in the -- in the Solicitor's office.

10 Q. And it was -- it was very recently that you first
11 saw that; right?

12 A. Yes, ma'am.

13 Q. So nobody asked you two years ago is that the guy?
14 They asked you two years later is that the guy you saw?

15 A. That is correct.

16 MS. NORRIS: Thank you, Mr. Williams. I don't have
17 anything further.

18 THE COURT: Any redirect?

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1 REDIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. And when you were asked if that was the guy, what
4 did you say?

5 A. That's the guy.

6 MR. DURANT: Thank you.

7 THE COURT: Recross?

8 MS. NORRIS: No, sir.

9 THE COURT: Mr. Williams, you may step down. Thank
10 you so very much.

11 THE WITNESS: Okay.

12 MR. DURANT: Your Honor, I'd ask that Mr. Williams
13 be excused at ---

14 THE COURT: --- any ---

15 MR. DURANT: --- this time ---

16 THE COURT: --- any objection?

17 MS. NORRIS: No, sir.

18 THE COURT: Alright. Mr. Williams, you may --
19 you're welcome to stay but you may be excused, also.
20 Okay? Thank you very much.

21 [Whereupon, the witness is excused and exits the
22 witness stand]

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1 THE COURT: Mr. Foreman, ladies and gentlemen of the
2 jury, I'm going to let y'all go to lunch at this time.

3 I've got to listen to some testimony to make a
4 determination whether it's admissible under the rules of
5 evidence or not admissible, so I'm going to be doing that
6 for probably the next twenty or thirty minutes and then
7 we'll take our lunch break.

8 So if you'll be back in the jury room at 2:30, we'll
9 continue with the testimony at that time. Please don't
10 discuss the case amongst yourselves or with anyone else.
11 I'll see you then. If you'll follow the bailiff to the
12 jury room.

13 [Whereupon, the jury exits at 12:40 p.m.]

14 THE COURT: Before I forget it, I would like the
15 State and the defense -- do y'all have any request to
16 charge? If you do, during lunch if you would pull -- get
17 them and get us -- get them to us, copies of what you
18 requested, after lunch.

19 MS. SEMAN: Yes, Your Honor.

20 THE COURT: Does the State have any requests?

21 MR. DURANT: It's a little early ---

22 THE COURT: --- I know it is ---

23 MR. DURANT: --- for my purposes. I -- I know -- I
24 know one thing. Based upon my experience with the last
25 jury, we will be asking for a lesser included on the

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1 armed robbery charge to attempted armed robbery.

2 THE COURT: You're going to be asking for a lesser
3 included?

4 MR. DURANT: On the armed robbery charge, to
5 attempted armed robbery, because the last ---

6 THE COURT: --- okay. Well, just -- that's fine.
7 But just give me whatever requesting charge you -- on the
8 attempt. Okay?

9 MR. DURANT: Okay.

10 THE COURT: And anything else you request.

11 MR. DURANT: Not that I know of at this time.

12 THE COURT: Okay. Alright. First of all I want to
13 clear up the record real quick, if I may.

14 On the transcript that was submitted, and I believe
15 it was marked as Court's Exhibit Number 10; I want the
16 record to be very clear that I have not read that
17 transcript. That was not part of my decision-making on
18 the third party guilt.

19 I allowed the -- quite frankly, I don't think it's
20 probably admissible for purposes of my determination in
21 the motion because it was not presented when we took live
22 testimony and affidavits at the time. However, I will
23 allow the defense to mark it as whatever proffered
24 evidence they want to present. Okay?

25 I want the record to be very clear I've never seen

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1 it, never read it, don't know what's in them, and I don't
2 -- I had asked you earlier whether you wanted to mark any
3 excerpts from that deposition. But I want to be very
4 clear that was not part of this Court's decision-making
5 process. It was based upon the testimony I heard and the
6 in-camera hearing. But I will let you proffer it. Okay?

7 MS. NORRIS: Yes, sir. I ---

8 THE COURT: --- I just wanted to put that on the
9 record.

10 MS. NORRIS: I don't dispute that at all. I just --
11 I offered that to show what I would have done
12 differently. And after each witness, I will inform the
13 Court I would have asked these questions. But it just
14 makes the record clear what I did ask.

15 THE COURT: That's fine. I just wanted to make sure
16 the record was clear that I had never seen it until this
17 morning, still haven't seen it, as far as reading it is
18 concerned. Okay?

19 Now, is our interpreter here and Mr. Perez here?

20 MR. DURANT: I believe both are here, Your Honor.

21 THE COURT: Do you want to bring them in the
22 courtroom.

23 MR. DURANT: Yes, sir.

24 [Whereupon, Mr. Perez and the interpreter enter the
25 courtroom]

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1 MR. DURANT: The State would call Martin Perez.

2 THE COURT: Alright. Do we have the interpreter?
3 Would the interpreter come around and the clerk is going
4 to swear you, please, ma'am.

5 Mr. Perez, you can come have a seat on the witness
6 stand for now.

7 [Whereupon, Mr. Perez takes the witness stand]

8 [Whereupon, the interpreter is duly sworn by the
9 Clerk of Court]

10 [Whereupon, Mr. Perez is duly sworn by the Clerk of
11 Court]

12 THE CLERK OF COURT: You may have a seat. For the
13 record, please state your name and spell your last.

14 [Whereupon, the interpreter and Mr. Perez confer]

15 THE INTERPRETER: Good afternoon. My name is Martin
16 Alto Perez. It's M-A-R-T-I-N A-L-T-O P-E-R-E-Z.

17 - - - - -

18 MARTIN PEREZ,

19 Having Been First Duly Sworn,

20 was Examined and Testified as Follows:

21 DIRECT EXAMINATION

22 BY MR. DURANT:

23 Q. Good afternoon Mr. Perez. Could you tell our jury
24 your age? How old you are?

25 A. [Through the interpreter] Thirty years old.

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1 Q. What do you do for a living?

2 A. [Through the interpreter] I work in construction.

3 Q. And could you tell our jury where you were living on

4 December 23 of 2016?

5 A. [Through the interpreter] 12 -- [REDACTED] Blenda, B-L-E-

6 N-D-A, [sic] Lane, Summerville, South Carolina.

7 Q. And how long have you lived at [REDACTED] Brenda B?

8 A. [Through the interpreter] Ten years.

9 [Whereupon, a photo is shown]

10 Q. Referring to State's Exhibit Number 61 in evidence,

11 could you point out to the jury where your home is

12 located on Brenda B Lane?

13 THE INTERPRETER: Where do you want him to...

14 MR. DURANT: He can mark on the screen.

15 [Whereupon, the witness complies]

16 Q. [Mr. Durant] That's Brenda B Lane? Okay. And do

17 you have a surveillance video system?

18 A. [Through the interpreter] Yes.

19 Q. Why?

20 A. [Through the interpreter] So approximately eight

21 years ago, I was coming outside to take the trash out and

22 someone fired at me with a rifle.

23 Q. Has your home also been burglarized?

24 A. [Through the interpreter] Yes. Two times.

25 MR. DURANT: Your Honor, at this time we would offer

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1 State's Exhibit Number 62, I believe without objection.

2 MS. NORRIS: No objection.

3 THE COURT: 62 admitted without objection.

4 [Whereupon, State's Exhibit Number 62 is admitted
5 into evidence by the Court]

6 [Whereupon, a photo is shown]

7 Q. [Mr. Durant] Do you recognize State's Exhibit 62 on
8 the screen in front of you?

9 A. [Through the interpreter] Yes. That is my house.

10 Q. Okay. And do those little triangles accurately
11 represent the location of his cameras back in December of
12 2016?

13 A. [Through the interpreter] Yes.

14 Q. And could you on State's Exhibit 62, could you show
15 the jury your house?

16 A. [Through the interpreter] It's right there
17 [indicates].

18 Q. And could you show the jury where the end of Brenda
19 B Drive is?

20 A. [Whereupon, the witness complies]

21 Q. And could you show the jury where Bell Road or Bell
22 Drive is?

23 A. [Whereupon, the witness complies]

24 Q. Okay. Which direction is East Owens Drive on
25 State's Exhibit 62?

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1 A. [Whereupon, the witness complies]
2 Q. So it would be up to the top?
3 A. [Witness answers in Spanish] Sí.
4 Q. Were you home on December 23 of 2016?
5 A. [Through the interpreter] Yes. I was outside
6 cleaning.
7 Q. And were you outside cleaning at around 12:55 p.m.?
8 A. [Through the interpreter] Yes.
9 Q. What did you see that was unusual?
10 A. [Through the interpreter] A car that arrived very
11 fast, quickly, and he parked on the side of my house.
12 Q. Could you show us on State's Exhibit 62 from which
13 direction that car came?
14 A. [Through the interpreter] It came this way
15 [indicates], and he parked here [indicates].
16 Q. And would you put an X at the approximate location
17 where that person parked?
18 A. [Whereupon, the witness complies]
19 Q. Thank you. Now, afterwards, what did the driver of
20 that car do?
21 A. [Through the interpreter] He got out of the car and
22 he ran to this point [indicates], and then he yelled at a
23 person in the car to hurry up.
24 Q. And would he mark again where he was going to that
25 person.

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1 A. [Whereupon, the witness complies]
2 Q. Do you recall what he said?
3 A. [Through the interpreter] Yes.
4 Q. What did he say?
5 A. [Through the interpreter] To run faster, that it
6 was through here.
7 Q. Did you see another person?
8 A. [Through the interpreter] Yes.
9 Q. And from which direction did that person come?
10 A. [Through the interpreter] He was coming from here
11 [indicates].
12 Q. And then what happened?
13 A. [Through the interpreter] He got into the car with
14 the other person and they left the place.
15 Q. In which direction did the car leave?
16 A. [Through the interpreter] Through here [indicates].
17 Q. Do you remember what the car looked like?
18 A. [Through the interpreter] It was a black car.
19 Q. Do you recall what the driver of the car was
20 wearing?
21 A. [Through the interpreter] Yes.
22 Q. What do you recall about his clothing?
23 A. [Through the interpreter] He had a red cap with
24 black and a tee-shirt, a black tee-shirt.
25 [Whereupon, the interpreter and the witness confer]

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1 A. [Through the interpreter] With white figures,
2 design, in it.

3 [Whereupon, Mr. Durant and Ms. Norris confer]

4 MR. DURANT: Your Honor, at this time we would offer
5 State's Exhibits 139 through 143, I believe without
6 objection.

7 MS. NORRIS: No objection.

8 THE COURT: Alright. 129 through what?

9 MR. DURANT: 143.

10 THE COURT: Okay. Admitted ---

11 MR. DURANT: --- 139 through 143.

12 THE COURT: --- without objection.

13 MR. DURANT: 139 through 143. It's a total of five
14 pages.

15 [Whereupon, State's Exhibit Numbers 139, 140, 141,
16 142 and 143 are admitted into evidence by the Court]

17 Q. [Mr. Durant] Let's start at 139. This is State's
18 Exhibit 139.

19 [Whereupon, the exhibits are published]

20 Q. [Mr. Durant] State's Exhibit 140, State's Exhibit
21 141, State's Exhibit 142, and State's Exhibit 143. Do
22 you recognize the clothing in those exhibits?

23 A. [Through the interpreter] Yes.

24 Q. And where do you recognize that clothing from?

25 A. [Through the interpreter] The same person who got

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1 out of the car. And it's the same person who took the
2 other person who was coming -- running.

3 Q. Did you recognize the driver of the car?

4 A. [Through the interpreter] Yes.

5 Q. From where?

6 A. [Through the interpreter] Because he used to visit
7 my neighbor across the street often.

8 Q. Okay. And do you know where he lived?

9 A. [Through the interpreter] Yes.

10 MR. DURANT: Could we have State's Exhibit 61 back,
11 please.

12 [Whereupon, the exhibit is published]

13 Q. [Mr. Durant] Does State's Exhibit 61 show where you
14 believe this person to live?

15 A. [Through the interpreter] Yes.

16 Q. Could you point it out to the jury, please.

17 A. [Whereupon, the witness complies]

18 Q. Now, later that day, did you have the occasion to
19 encounter the police?

20 A. [Through the interpreter] Yes.

21 Q. Could you tell us how that came about?

22 A. [Through the interpreter] After the car stopped
23 with the other person, I went out to my sister's house.
24 When I returned, the street that has access to my home
25 was blocked. And the police asked me if I had seen

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1 anything suspicious. I said yes. They asked me if I
2 remembered anything from that moment or if I had seen
3 someone. I said yes. And I told them that I had cameras
4 in my home and that showed something strange that had
5 occurred.

6 Q. Okay. And did you take them into your house?

7 A. [Through the interpreter] Yes.

8 Q. And did you show them your video surveillance
9 system?

10 A. [Through the interpreter] Yes.

11 Q. What did they do with your DVR?

12 A. [Through the interpreter] They took it with them.

13 MR. DURANT: Your Honor, at this time we'd like to
14 publish State's Exhibit 71. I believe it's in evidence.

15 [Whereupon, the exhibit is published]

16 Q. [Mr. Durant] This is State's Exhibit 71. Can you
17 tell which camera this is?

18 A. [Through the interpreter] Yes. It's camera number
19 six on the front of my home.

20 Q. Okay. And that's State's -- camera number six on
21 State's Exhibit Number 62; correct?

22 A. [Through the interpreter] Yes.

23 Q. And what is this building? What is this building
24 here?

25 A. [Through the interpreter] This is my house.

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1 Q. And what is this road here?
2 A. [Through the interpreter] That is Brenda Drive.
3 Q. And which way is East Owens?
4 THE INTERPRETER: Sorry. What was that?
5 Q. [Mr. Durant] Which way -- which direction is East
6 Owens?
7 A. [Through the interpreter] That direction
8 [indicates].
9 Q. Going to the right as you're looking at that;
10 correct?
11 A. [Through the interpreter] Yes.
12 Q. Going to clip two, State's Exhibit 61. Okay. Whose
13 porch?
14 A. [Through the interpreter] Mine.
15 Q. Whose perro?
16 A. [Through the interpreter] Mine.
17 Q. And is this the gentleman you saw getting picked up?
18 A. [Through the interpreter] Yes.
19 Q. Let's go to clip three. Do you know which camera
20 that is?
21 A. [Through the interpreter] Yes.
22 Q. Which camera is that?
23 A. [Through the interpreter] One that is in the corner
24 across from his house -- I'm sorry -- in the front of his
25 house.

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1 Q. Okay. Can you identify it on State's Exhibit 62?
2 A. [Through the interpreter] Yes.
3 Q. Which number?
4 A. [Witness answers in Spanish]
5 Q. Number 2?
6 A. [Witness indicates]
7 Q. Clip number four. That car that drove up, is that
8 the car you were talking about?
9 A. [Through the interpreter] Yes.
10 Q. And that would be camera number seven; correct?
11 A. [Through the interpreter] Yes.
12 Q. And that shows behind your house; is that correct?
13 A. [Through the interpreter] Yes.
14 Q. Is the date and the time at the top?
15 THE INTERPRETER: Can you repeat that, please.
16 Q. [Mr. Durant] The date and time at the top of this
17 clip, is it accurate?
18 A. [Through the interpreter] Yes.
19 Q. And this was at 12:55 p.m.; is that correct?
20 A. [Through the interpreter] Yes.
21 Q. On December 23 of 2016?
22 A. [Through the interpreter] Yes.
23 Q. Clip number five. And what camera is this?
24 A. [Through the interpreter] Number four.
25 Q. And who is this person?

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1 A. [Through the interpreter] My neighbor. That's the
2 person that lives where I signaled earlier.

3 Q. The one that was driving the car; correct?

4 A. [Through the interpreter] Yes.

5 Q. What is he doing there?

6 A. [Through the interpreter] He's shouting out to the
7 other person to hurry up and to run faster.

8 Q. Who is this right here?

9 A. [Through the interpreter] That's me.

10 MR. DURANT: Could you please answer any questions
11 defense counsel has for you.

12 THE WITNESS: Okay.

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State v Joseph Lamar Brown, Jr.
Martin Perez-Cross-Examination by Ms. Norris
November 6, 2018

1	CROSS-EXAMINATION
2	BY MS. NORRIS:
3	Q. Good afternoon, Mr. Perez.
4	A. [Through the interpreter] Good afternoon.
5	Q. That neighborhood that you live in is a pretty bad
6	neighborhood; right?
7	A. [Through the interpreter] Yes.
8	Q. You said -- you said you had been burglarized at
9	least three times?
10	A. [Through the interpreter] Yes.
11	Q. You had been shot at?
12	A. [Through the interpreter] Yes.
13	Q. And there was even a murder in the back about where
14	that car was parked; correct?
15	A. [Witness answers in Spanish] Sí.
16	Q. And, now, that day when you came back and you found
17	the road blocked off by the police, did you learn that
18	there had been a murder down the street?
19	A. [Through the interpreter] Yes.
20	Q. And you told the police that you saw these people
21	and you had a video; right?
22	A. [Through the interpreter] Yes.
23	Q. You didn't tell them that you recognized the person
24	driving the car; right?
25	A. [Through the interpreter] Correct.

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1 Q. And you didn't tell them that for at least a year
2 and a half; right?

3 A. [Through the interpreter] No.

4 Q. Are you agreeing that it was at least eighteen
5 months later when you told them?

6 A. [Through the interpreter] Because after I turned in
7 the evidence on the videos, they never contact me again
8 until after -- during this year.

9 Q. But that day, they did talk to you; right?

10 A. [Through the interpreter] Yes.

11 Q. And you didn't tell them you recognized anybody?

12 A. [Through the interpreter] No, because I was afraid
13 something would happen to me.

14 Q. And at that time, you had not looked at the pictures
15 of your neighbor; right?

16 A. [No response]

17 Q. They didn't show you State's Exhibit 139 and say is
18 this the guy you saw?

19 A. [Through the interpreter] No. No, I just turned in
20 the evidence.

21 MS. NORRIS: I don't have anything further. Thank
22 you.

23 THE COURT: Any redirect?

24 MR. DURANT: Just one.

25

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Martin Perez-Redirect Examination by Mr. Durant
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1 REDIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. Did the police ever ask you if you recognized the

4 driver of the car?

5 A. [Through the interpreter] No, not until after when

6 they contacted me and told me I had to come to court.

7 Q. And that was me; right?

8 A. [Through the interpreter] Yes.

9 Q. And did I ask you that question?

10 A. [Through the interpreter] Yes.

11 Q. And what did you tell me?

12 A. [Through the interpreter] That he was my neighbor.

13 Q. And you pointed out to me where he lived on that

14 map?

15 A. [Through the interpreter] Yes.

16 Q. The fact of the matter is, no -- you never gave any

17 statement to the police, did you?

18 A. [Through the interpreter] No.

19 MR. DURANT: Thank you.

20 THE COURT: Any recross?

21 MS. NORRIS: No, sir.

22 THE COURT: Tell Mr. Perez he may step down.

23 [Whereupon, the interpreter and Mr. Perez confer]

24 MR. DURANT: Your Honor, I would ask that Mr. Perez

25 be excused ---

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1 [Whereupon, Mr. McElroy comes forward]

2 [Whereupon, Mr. McElroy is duly sworn by the Clerk
3 of Court]

4 THE CLERK OF COURT: You may have a seat. For the
5 record, if you would state your name and spell your last.

6 [Whereupon, the witness takes the witness stand]

7 THE WITNESS: Hershel McElroy. M-C-E-L-R-O-Y.

8 - - - - -

9 HERSHAL MCELROY,

10 Having Been First Duly Sworn,

11 was Examined and Testified as Follows:

12 DIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Could you tell our jury where you're employed, sir?

15 A. Charleston County Sheriff's Office.

16 Q. And how long have you been with the Sheriff's
17 office?

18 A. Since 2014.

19 Q. Now, do you have any prior law enforcement -- law
20 enforcement experience before coming to the Sheriff's
21 office?

22 A. I started law enforcement in 2001 in North Carolina.
23 I worked for two agencies up there for approximately
24 eight years before moving to South Carolina and started
25 with Isle of Palms.

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1 Q. How long ---
2 A. --- before moving.
3 Q. How long were you with Isle of Palms?
4 A. Approximately six years.
5 Q. And what are your current duties at the Charleston
6 County Sheriff's Office?
7 A. Investigator with the Crime Scene Unit.
8 Q. And that's what -- y'all call it the Forensic
9 Services Unit; correct?
10 A. Yes, sir.
11 Q. Now, have you been in the Forensic Services Unit
12 during your entire tenure with the Charleston County
13 Sheriff's Office?
14 A. No, sir.
15 Q. What did you do beforehand?
16 A. I was a patrol deputy.
17 Q. And when did you start -- with the Forensic Services
18 Unit?
19 A. Around February of 2016.
20 Q. Okay. And I believe you were the lead crime-scene
21 investigator in this case; is that correct?
22 A. Yes, sir.
23 Q. And was this your first murder case?
24 A. Yes, sir.
25 Q. Directing your attention to December 23 of 2016 did

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1 you have the occasion to respond to [REDACTED] East Owens
2 Street?
3 A. I did.
4 Q. And that is located in what county?
5 A. Charleston County.
6 Q. And in reference to what did you respond to that
7 location?
8 A. Originally I was advised that there was someone
9 there deceased.
10 Q. What time were you notified?
11 A. 1319 hours.
12 Q. And so 1:19 p.m.?
13 A. Yes, sir.
14 Q. Correct? And do you recall what time it was when
15 you actually arrived on the scene?
16 A. Approximately 1:50, 1:49.
17 Q. And what did you do upon arriving at [REDACTED] East Owens?
18 A. I spoke ---
19 Q. --- or excuse me, East Thomas.
20 A. I spoke with Deputy Hamill.
21 Q. And did Deputy Hamill brief you on what they had
22 found when they got to that location?
23 A. Yes, sir.
24 Q. And based upon your briefing, what were you there to
25 investigate?

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1 A. A burglary, a robbery, and a murder.
2 Q. Now, prior to actually entering the crime scene at
3 ■■■ East Thomas, did you have the occasion to respond to
4 ■■■ East Owens Street?
5 A. Yes.
6 Q. Why?
7 A. I was advised there was a witness down there that
8 seen a subject drop a phone and some cash.
9 Q. And where is ■■■ East Owens in relation to ■■■ East
10 Owens -- excuse me -- East Thomas?
11 A. Kind of next-door neighbor. It's across the street
12 and then it's the next house.
13 Q. Okay. And could you show me 661 [sic] again?
14 [Whereupon, the witness complies]
15 Q. Could you point out ■■■ East Thomas?
16 A. It's this one [indicates].
17 Q. Okay. And ■■■ East Owens?
18 A. It's this one [indicates].
19 Q. Now, so did you walk down to ■■■ East Owens?
20 A. I did.
21 Q. And according to the scale on State's Exhibit 61
22 there, about how far away is that?
23 A. Couple hundred feet, I guess.
24 Q. Did you speak to a Mr. McBride and his daughter,
25 Celest McBride?

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1 A. Yes.

2 Q. Were you shown where the -- where the phone had been
3 dropped?

4 A. I was.

5 Q. Were you shown where the money had been dropped?

6 A. An area where it had been dropped. Yes.

7 Q. Were you able to locate any cash?

8 A. No, sir.

9 Q. And why is that?

10 A. Well, the woman said that ---

11 MS. NORRIS: --- objection. It's hearsay.

12 THE COURT: Alright. I'll sustain it. Don't say
13 what somebody told you. Just say what you observed.
14 Okay?

15 Q. [Mr. Durant] Where was the phone when you got there?

16 A. Sitting on the grill in front of the residence.

17 Q. And what did you do at that location?

18 A. I photographed the area I was advised the phone had
19 fell at, and then photographed the phone on the grill.

20 Q. And those phones -- those pictures are State's
21 Exhibits 1 through 12 previously introduced into
22 evidence; is that correct?

23 A. Yes.

24 Q. And I just want to refer to State's Exhibit Number
25 9.

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1 [Whereupon, a photo is shown]

2 Q. Is that the grill you're referring to?

3 A. Yes.

4 Q. And number 12, is that the phone you're referring
5 to?

6 [Whereupon, a photo is shown]

7 A. Yes.

8 Q. And I noticed when you photographed that phone, you
9 had a lock-screen picture; is that correct?

10 A. Yes, sir.

11 Q. That phone was collected by the sheriff's office?

12 A. It was.

13 Q. I hand you what's previously been marked as State's
14 Exhibit Number 63 and ask you if this was the phone that
15 was collected.

16 [Whereupon, the witness is shown exhibit]

17 A. Yes.

18 Q. And how do you know that?

19 A. It's the same picture.

20 Q. And would you display that picture --

21 MR. DURANT: We'd offer 63 into evidence, Your
22 Honor.

23 MS. NORRIS: Your Honor, we have a continuing
24 objection to the contents but not the phone itself.

25 THE COURT: Well, we hadn't gotten to the contents

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1 yet. Okay?

2 MR. DURANT: And I understand. But with the Court's
3 permission, those are two different issues.

4 THE COURT: Right.

5 Q. [Mr. Durant] And -- but you recognize that as being
6 the screen?

7 A. Yes, sir.

8 MR. DURANT: Is it admitted or not?

9 THE COURT: Pardon?

10 MR. DURANT: Did you -- did you admit it?

11 THE COURT: Which one is that?

12 MR. DURANT: State's Exhibit 63.

13 THE COURT: Alright. You're offering it.

14 And what's your legal objection to the phone itself,
15 not necessarily the contents? I'm trying to separate the
16 two at this point in time.

17 MS. NORRIS: Nothing to the phone itself.

18 THE COURT: Alright. I'll admit it as to the phone
19 itself, no -- nothing -- not as to the contents at this
20 time.

21 MR. DURANT: Okay.

22 THE COURT: 63 admitted as stated by the Court.

23 [Whereupon, State's Exhibit Number 63 is admitted
24 into evidence by the Court]

25 Q. [Mr. Durant] And is the lock screen still on that

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1 phone?

2 A. Yes.

3 Q. And would you show it to the jury?

4 [Whereupon, the witness complies]

5 Q. Now, after you finished up there in [REDACTED] East Owens,
6 where did you go?

7 A. I went back to [REDACTED] East Colpat.

8 Q. East Colpat or East Thomas?

9 A. East Thomas. When I arrived, dispatch was telling
10 me it was Colpat, so that's what my documentation said.

11 Q. To be -- to be fair, there was quite a bit of
12 confusion about which one of these residences [REDACTED] was on;
13 correct?

14 Q. Yes, sir.

15 Q. And why is that?

16 A. The way the intersection comes in. It's -- the
17 driveway comes out of the intersection of those two
18 roads. Dispatch was saying it was one thing, and then
19 later on it was changed.

20 Q. And how do you go about processing a crime scene, in
21 general terms?

22 A. Beginning, to take an overall photograph from the
23 outside and then work my way in, photographing everything
24 in place as it is, then as you're photographing, making
25 notes, mental notes of where things are that look out of

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1 place.

2 Then you mark the evidence with placards, go back
3 and photograph again. Then you go back and start
4 collecting evidence.

5 Q. Okay. What did you observe when you entered the
6 residence at [REDACTED] East Thomas?

7 A. When you first walk in the front door, it's a
8 living-room area. Standing in the doorway, I could see a
9 spent-shell casing on the floor in the living room
10 towards the middle.

11 I seen the victim laying on the left side, partially
12 up under a small table, with a pool of blood up under his
13 head.

14 Q. And what injuries did you observe on the victim
15 Johnny Pritchard?

16 A. I noticed an injury to his neck.

17 Q. And what did that injury appear to be?

18 A. It was a hole, later determined to be a gunshot
19 wound.

20 Q. And were you present when the coroner went through
21 the victim's pockets?

22 A. I was.

23 Q. Did he have any cash on him?

24 A. A couple of coins and some keys.

25 Q. No folding cash?

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1 A. No, sir.

2 Q. No wallet?

3 A. No, sir.

4 Q. And what did you locate on the coffee table?

5 A. Noticed some other cell phones, and then a

6 handwritten note. There was a handwritten note from

7 Johnny Pritchard to Trey Colman for \$200.

8 Q. And the note kind of indicated that Mr. Colman owed

9 Mr. Pritchard \$200; correct?

10 A. That's the way it read.

11 Q. What did you do with the spent-cartridge case you

12 located?

13 A. Collected it and turned it in over to our IBIS unit.

14 THE COURT REPORTER: To your?

15 THE WITNESS: IBIS.

16 THE COURT REPORTER: I-B-I-S?

17 THE WITNESS: Yes, ma'am.

18 Q. [Mr. Durant] I hand you what's previously been

19 marked as State's Exhibit Number 64.

20 [Whereupon, the witness is shown exhibit]

21 MR. DURANT: I believe we would offer 64 without

22 objection, Your Honor.

23 MS. NORRIS: No objection.

24 THE COURT: 64, without objection.

25 [Whereupon, State's Exhibit Number 64 is admitted]

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1 into evidence by the Court]

2 Q. [Mr. Durant] And could you please tell the jury
3 what State's Exhibit 64 is?

4 A. It's a Speer .9mm Luger shell casing that was
5 recovered from the living-room floor of the residence.

6 [Whereupon, Mr. Durant and Ms. Norris confer]

7 MR. DURANT: And, Your Honor, we need to be heard on
8 some photographs that I intend to introduce.

9 THE COURT: Okay. Do you want to bring them up
10 here, let me take a look at them real quick?

11 Turn off the microphone, please.

12 [Whereupon, an off-the-record bench conference is
13 held]

14 THE COURT: Mr. Foreman, ladies and gentlemen of the
15 jury, I'm going to have to send you out of the courtroom.
16 And the reason I do that is I'm not permitted to comment
17 on the facts during the course of a trial.

18 And when I'm trying to make a decision on whether
19 something's admissible under our rules of evidence, I may
20 have to comment on the facts when I'm discussing it with
21 the attorneys; therefore, I send you out of the courtroom
22 until I can make a decision on whether the particular
23 evidence is being offered by the State or the defendant
24 is admissible under our rules of evidence. And,
25 basically, that's why I'm sending you out of the

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1 CONTINUED DIRECT EXAMINATION

2 BY MR. DURANT:

3 Q. Okay. And let's start with -- Mr. McElroy, we'll

4 start with State's Exhibit Number 13 and tell us what

5 this depicts.

6 [Whereupon, the photograph is shown]

7 A. This is standing in the roadway looking at the [REDACTED]

8 East Thomas.

9 Q. Okay. So you would actually -- you're standing,

10 actually, in -- on East Thomas Street?

11 A. Yes.

12 Q. And do you know which street is off to the right-

13 hand side of that post there?

14 A. It is East Owens, I believe.

15 Q. Is that Colpat or Owens?

16 [Witness reviews documents]

17 Q. If you don't know, that's fine, too. I'll ask

18 somebody else.

19 A. It is Colpat.

20 Q. Okay. State's 14?

21 [Whereupon, the photograph is shown]

22 A. Just a closer view of the front of the residence

23 showing the address on the residence.

24 Q. State's 15?

25 [Whereupon, the photograph is shown]

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1 A. Standing in the doorway, looking into the residence.
2 Q. Okay. So that's from the front door?
3 A. Yes, sir.
4 Q. Depicted in the previous photo; is that correct?
5 A. Yes, sir.
6 Q. And what's the room in the back?
7 A. That is the kitchen in the back.
8 Q. Okay. And obviously that's a couch. That would be
9 the deceased over on the left side?
10 A. Yes, sir.
11 Q. State's 16?
12 [Whereupon, the photograph is shown]
13 A. Just a little farther -- once you go into the door,
14 a step -- couple steps to the right, that's a view
15 towards the left side; it's just another shot of the
16 victim.
17 Q. State's 17?
18 [Whereupon, the photograph is shown]
19 A. That's standing in the back corner of the living
20 room, looking back towards the front door.
21 Q. And that shows the proximity of the deceased to the
22 front door; is that correct?
23 A. Yes.
24 Q. State's 18?
25 [Whereupon, the photograph is shown]

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1 A. That's standing back in approximately the middle of
2 the front living room. It's got a shell casing down here
3 on the floor and I was showing that in relation to the
4 victim.

5 Q. Okay. State's 19?

6 [Whereupon, the photograph is shown]

7 A. The shell casing, just a closer view of it.

8 Q. State's 20?

9 [Whereupon, the photograph is shown]

10 A. This is after my first round of photographs after I
11 went back and started marking everything, taking pictures
12 again, marking the projectiles -- or shell casing as
13 placard number 1, and then so on and so forth with the
14 victim and other items that I found.

15 Q. What is number 2 for?

16 A. The victim.

17 Q. Okay. 3 and 4 are on the coffee table?

18 A. Cell phones.

19 Q. And there appears to be one right here, over here
20 toward the back door. Do you recall what that is?

21 A. I believe that was a cell phone battery.

22 Q. State's 21?

23 [Whereupon, the photograph is shown]

24 A. A midrange view of the shell casing that was in the
25 floor with the placard.

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1 Q. State's 22?

2 [Whereupon, the photograph is shown]

3 A. A picture of the head-stamp of the shell casing with
4 the placard.

5 Q. And what is the head stamp on that shell casing?

6 A. Speer .9mm Luger.

7 Q. Speer is a brand?

8 A. Yes, sir.

9 Q. This would be State's 23.

10 [Whereupon, the photograph is shown]

11 A. This is standing in that little doorway, so to
12 speak, in between the living room and the kitchen,
13 showing the kitchen and the back door.

14 Q. And that number 5, again, was the cell phone battery
15 you found?

16 A. Yes, sir.

17 Q. State's 24?

18 [Whereupon, the photograph is shown]

19 A. The items that were recovered out of the victim's
20 pocket.

21 Q. And to your knowledge, that was the only cash that
22 this victim had on him?

23 A. Correct.

24 Q. 26?

25 [Whereupon, the witness is shown photograph]

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1 A. Showing the bullet-hole path that went through the
2 clothing before it struck the victim.

3 Q. And that would be the bullet hole there [indicates]?

4 A. Yes, sir.

5 Q. 27?

6 [Whereupon, the witness is shown photograph]

7 A. The jacket, just showing the path of the bullet
8 again, that it went through the jacket before it went
9 through his collar of the shirt.

10 Q. Okay. And State's Exhibit 28?

11 [Whereupon, the witness is shown photograph]

12 A. The note that I later found on the coffee table, for
13 John Pritchard to Trey Colman, for 200 dollars.

14 Q. And what does that say?

15 A. I, John Pritchard, loan Trey Colman 200 dollars and
16 promise to pay back by -- and then it has a blank line.

17 Q. So kind of an IOU; is that correct?

18 A. Correct.

19 Q. Now, did you make any effort to collect any latent
20 fingerprints?

21 A. I did on the front door.

22 Q. And were you able to -- and what part of the front
23 door?

24 A. Around the door-handle area and a little higher
25 where people would normally grab the door to open and

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1 close it.

2 Q. And were you successful in recovering any latent
3 fingerprints?

4 A. I was not.

5 Q. Did you make any effort to collect any DNA samples?

6 A. No, sir, not from the door.

7 Q. Or anywhere else ---

8 A. --- or anywhere else in the house.

9 Q. -- for that matter?

10 A. No, sir.

11 Q. Why not?

12 A. By the time we got there, or I -- by the time I
13 arrived, so many people had already gone in and out of
14 the house, deputies and I was told other people had got
15 in before the deputies could get the scene secured.

16 Q. Was there anything that you identified inside, that
17 potentially came from the assailant, other than the shell
18 casing?

19 A. No, sir.

20 Q. Did you make any effort to fingerprint or obtain DNA
21 sample from the shell casing?

22 A. No, sir.

23 Q. Why?

24 A. My experience, and the experience that I've been
25 told by the other people that I work with, that you've

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1 never had any luck because of the shell casing going off
2 inside the closed chamber of the gun kind of burns
3 everything away.
4 Q. Because, basically, the shell casing is encompassing
5 an explosion?
6 A. Yes, sir.
7 Q. And heat?
8 A. Yes, sir.
9 Q. And what is a fingerprint?
10 A. It's just the oil from your skin on an object that's
11 real delicate.
12 Q. It's moisture; correct?
13 A. Correct.
14 Q. And in your experience, has anybody in your -- in
15 the crime-scene unit ever recovered any DNA or
16 fingerprints from a -- from a spent shell casing?
17 A. No, sir.
18 Q. Despite what you see on TV?
19 A. Correct.
20 Q. And I believe that during your investigation, you
21 came into possession of Mr. Martin Perez' DVR; is that
22 correct?
23 A. Correct.
24 Q. And that was logged into evidence by you?
25 A. Yes, sir.

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1 Q. Now, moving ahead a couple of days to December 28,
2 did you have an occasion to go to the Medical University
3 of South Carolina?

4 A. I did.

5 Q. For what purpose?

6 A. To gather the victim's belongings.

7 Q. And in addition, some evidence that had been
8 collected by the medical examiner; is that correct?

9 A. Correct.

10 Q. And among the evidence you collected did you acquire
11 possession of a fired bullet that had been removed from
12 the victim Johnny Pritchard?

13 A. Yes.

14 MR. DURANT: Your Honor, at this time we would offer
15 State's Exhibit 65, I believe without objection.

16 MS. NORRIS: No objection.

17 THE COURT: 65 admitted without objection.

18 [Whereupon, State's Exhibit Number 65 is admitted
19 into evidence by the Court]

20 Q. [Mr. Durant] And what is State's Exhibit 65?

21 A. The projectile recovered from autopsy.

22 Q. Okay. So you had a shell casing and you had a fired
23 bullet; correct?

24 A. Yes, sir.

25 Q. Do you know whether or not those two items were sent

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1 to the SLED firearms lab in Columbia for analysis?

2 A. They were.

3 Q. Moving ahead to January 3 of 2017. Did you have an
4 occasion to assist in the service of a search warrant at
5 Apartment [REDACTED] of an apartment complex located at [REDACTED] East
6 Third North Street in Summerville?

7 A. Yes.

8 Q. And those would be the Abby Lane Townhouses?

9 A. Yes.

10 MS. NORRIS: Your Honor, we have a continuing
11 objection to this search.

12 THE COURT: Okay.

13 Q. [Mr. Durant] And what did you do during the
14 execution of the search warrant?

15 A. Photographed the scene, searched the residence for
16 evidence pertaining to the crime, photographed what we
17 located and seized from his house.

18 Q. And who else was present from Charleston County when
19 y'all searched that apartment, if you recall?

20 A. Detective Thompson and Detective Khan.

21 THE COURT REPORTER: Detective what?

22 Q. [Mr. Durant] And how many bedrooms ---

23 THE WITNESS: --- Khan ---

24 Q. [Mr. Durant] --- were in that apartment?

25 A. Apologize, sir. What?

State v Joseph Lamar Brown, Jr.
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1 Q. How many bedrooms were in that apartment?

2 A. Two.

3 Q. And where were the bedrooms located?

4 A. Upstairs.

5 Q. And one was in the front and one was in the back, I
6 believe?

7 A. Yes, sir.

8 Q. What did you locate in the front -- did y'all locate
9 in the front bedroom?

10 A. In the front bedroom we located a box -- two boxes
11 of ammunition.

12 Q. And where were those two boxes of ammunition found?

13 A. Up under a box-spring mattress that was laying on
14 the floor.

15 Q. Anything --

16 MR. DURANT: I'm going to offer 66 and 67, and I
17 assume 67 was the box spring.

18 MS. NORRIS: Continuing objection. Also, relevance.

19 THE COURT: That's 56 and 57?

20 MR. DURANT: 66 and 67.

21 THE COURT: 66 and 67.

22 As far as the previous objection concerning the
23 search warrant, that's denied.

24 Now, as far as relevance, you need to establish the
25 relevance with this witness.

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1 MR. DURANT: Well, I can do that, but I've got
2 to ---

3 THE COURT: --- pardon ---

4 MR. DURANT: --- I have to give it to him.

5 THE COURT: I know you need to give it to him, so
6 I'm not going to admit it at this time because she's
7 objecting on relevancy.

8 MR. DURANT: Okay.

9 Q. [Mr. Durant] Let's start with ---

10 THE COURT: --- at this time, I'll sustain that
11 objection. Okay? But not as to the search warrant.

12 MR. DURANT: Okay.

13 Q. [Mr. Durant] Let me hand you what's been marked as
14 State's Exhibit Number 66.

15 [Whereupon, the witness is shown exhibit]

16 Q. What is State's Exhibit 66?

17 A. It's a box of twenty-five cartridges of Hornady
18 Critical Defense.

19 Q. Is what's on the outside of the box; is that
20 correct?

21 A. Yes, sir.

22 Q. And what caliber are those bullets?

23 A. .9mm Luger.

24 Q. Okay. And at the request of this office, did you --
25 were you asked to look into that box to determine whether

State v Joseph Lamar Brown, Jr.
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1 they were all Hornady Critical Defense bullets?

2 A. I was.

3 Q. And what did you discover?

4 A. I discovered that part of the box was CCI .9mm Luger
5 and the other was Speer .9mm Luger.

6 Q. And I believe the shell casing you collected at the
7 crime scene was Speer .9mm Luger; is that correct?

8 A. Correct.

9 MR. DURANT: That's my relevance, Your Honor.

10 THE COURT: I'll admit, what is it, 66, 67, with
11 objection.

12 [Whereupon, State's Exhibit Numbers 66 and 67 are
13 admitted into evidence by the Court]

14 [Whereupon, Mr. Durant and Ms. Norris confer]

15 MR. DURANT: Your Honor, at this time we would offer
16 State's Exhibits 29 through 42, I believe without
17 objection other than her continuing objection as to the
18 search warrant.

19 THE COURT: 22 through what?

20 MR. DURANT: Excuse me. 29 through 42.

21 THE COURT: Alright. 22 ---

22 MR. DURANT: --- 29 ---

23 THE COURT: --- I'm sorry. 29 through 42 admitted
24 with objection.

25 THE COURT REPORTER: With or without objection?

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1 THE COURT: Pardon?

2 THE COURT REPORTER: I didn't -- with or without
3 objection?

4 THE COURT: 29 through 42; correct?

5 MR. DURANT: That's correct.

6 THE COURT: Admitted with objection. Okay?

7 [Whereupon, State's Exhibit Numbers 29 through 42
8 are admitted into evidence by the Court]

9 Q. [Mr. Durant] And let's start with State's Exhibit
10 29. What does that show?

11 [Whereupon, the photograph is shown]

12 A. The front of the residence.

13 Q. State's Exhibit 30?

14 [Whereupon, the witness is shown photograph]

15 A. The front door to the residence.

16 Q. State's Exhibit 31?

17 [Whereupon, the witness is shown photograph]

18 A. A view from the front door, looking in, with a
19 stairway going upstairs.

20 Q. State's Exhibit Number 32?

21 [Whereupon, the witness is shown photograph]

22 A. The top of the stairs, and a view of the back
23 bedroom.

24 Q. Okay. State's Exhibit 33?

25 [Whereupon, the witness is shown photograph]

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1 A. Very top of the stairs. Left side is the back
2 bedroom, front side is the front bedroom.

3 Q. State's Exhibit 34?

4 [Whereupon, the witness is shown photograph]

5 A. Another view of the front bedroom.

6 Q. State's Exhibit 35?

7 [Whereupon, the witness is shown photograph]

8 A. Another view looking straight into the front
9 bedroom.

10 Q. State's Exhibit 36?

11 [Whereupon, the witness is shown photograph]

12 A. A mattress and box springs laying on the floor, with
13 clothing around.

14 Q. State's Exhibit 37?

15 [Whereupon, the witness is shown photograph]

16 A. The box spring turned over with the two boxes, up
17 close to the front of the wall, of ammunition.

18 Q. State's Exhibit 38?

19 [Whereupon, the witness is shown photograph]

20 A. Another close-up shot of the ammunition.

21 Q. State's Exhibit 39?

22 [Whereupon, the witness is shown photograph]

23 A. Just another shot of the ammunition, a little
24 closer.

25 [Whereupon, the witness is shown photograph]

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1 Q. State's Exhibit 40?

2 [Whereupon, the witness is shown photograph]

3 A. Up close shot of just the Hornady rounds.

4 Q. State's Exhibit 41?

5 [Whereupon, the witness is shown photograph]

6 A. Another shot of the other box of ammunition.

7 Q. And State's Exhibit 42?

8 [Whereupon, the witness is shown photograph]

9 A. The other side of that same box.

10 Q. Now, I believe at my request you also took some
11 photographs of the bullets contained in State's Exhibits
12 66 and 67?

13 A. Yes.

14 MR. DURANT: Your Honor, I think we need to admit
15 48, 49, 50, and 51, subject to Ms. Norris' previous
16 relevancy.

17 THE COURT: What numbers again? I'm sorry.

18 MR. DURANT: 48, 49, 50 and 51.

19 THE COURT: Alright. Admitted with objection.

20 [Whereupon, State's Exhibit Numbers 48, 49, 50 and
21 51 are admitted into evidence by the Court]

22 Q. [Mr. Durant] And this is State's Exhibit 48;
23 correct?

24 [Whereupon, the witness is shown photograph]

25 A. Yes.

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1 Q. And what is that?

2 A. That is the Blazer box of ammunition with the
3 ammunition tray pulled out and ammunition inside of it.

4 Q. And State's Exhibit 49?

5 [Whereupon, the witness is shown photograph]

6 A. Up-close view of the head stamps of that same
7 ammunition out of that box.

8 Q. And those were all CCI .9mm rounds; is that correct?

9 A. Yes.

10 Q. State's Exhibit 50?

11 [Whereupon, the witness is shown photograph]

12 A. This is the box of Hornady Critical Defense ammo,
13 with the shell-casing case outside of the box.

14 Q. And State's Exhibit 51?

15 [Whereupon, the witness is shown photograph]

16 A. Up-close view of the head stamps of the ammunition
17 that's inside.

18 Q. And what is the make of these rounds right here
19 [indicates]?

20 A. Those are the Speer Luger .9mm rounds.

21 Q. Which is the same round, or type of round, or
22 manufacturer of rounds, that killed Johnny Pritchard in
23 this case; correct?

24 A. Correct.

25 Q. You previously indicated that you collected the

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1 DV -- y'all collected a DVR from Mr. Perez' home; is that
2 correct?

3 A. Correct.

4 Q. And did you go back and actually examine the footage
5 contained on that video?

6 A. I did.

7 Q. And what did you see from looking at the video?

8 A. The subject running up Brenda B towards the dead-
9 end. Another subject pulling up, in the far distance, at
10 the dead end of Brenda B, running towards the actual end
11 of it, waving -- appeared to be waving towards the first
12 person that I seen, and then they ran together, got in
13 the car, and drove away.

14 Q. And did you prepare some enhanced photographs from
15 that video?

16 A. Yes.

17 Q. I'm going to now State's Exhibits 73 through 76,
18 already in evidence.

19 [Whereupon, the witness is shown photograph]

20 Q. What enhancement did you make with that?

21 A. Just stopped the video in the best view that I could
22 find, of the person running, and then zoomed in on the
23 person to where it was still clear enough to kind of sort
24 of make out the facial features.

25 Q. Okay. 74?

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1 [Whereupon, the witness is shown photograph]

2 A. Again, just a still shot of the video as the subject
3 was running towards the end of Brenda B. One of the
4 better shots that I could find.

5 Q. 75?

6 [Whereupon, the witness is shown photograph]

7 A. That's him turning the corner at Brenda B. It's
8 just another still shot from the video, running towards
9 the vehicle that had pulled up on the other -- another
10 camera.

11 Q. And 76?

12 [Whereupon, the witness is shown photograph]

13 A. Just a zoomed-in view of the subject that was
14 running -- the first subject that was running up Brenda
15 B, with the sunlight in his face, to try to identify him.

16 Q. Did you also do some enhancements with regard to the
17 actual video on the Perez DVR?

18 A. Yes.

19 MR. DURANT: Your Honor, at this time we would offer
20 State's Exhibit Number 72, I believe without objection.

21 MS. NORRIS: No objection.

22 THE COURT: 72 admitted without objection.

23 [Whereupon, State's Exhibit Number 72 is admitted
24 into evidence by the Court]

25 [Whereupon, State's Exhibit Number 72, clips from

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1 the video, are played with questions from Mr. Durant]

2 Q. [Mr. Durant] Lets go clip number 1. What

3 enhancements did you make to that video?

4 A. Just slowed the video down, so that you could get a
5 better look at the person that was walking through there,
6 and then kind of zoomed in a little.

7 Q. And clip 2?

8 A. I believe this one was enhanced just a little bit
9 and then just, again, slow motion or slower motion of the
10 first subject running down Brenda B.

11 [Whereupon, State's Exhibit Number 73, clips from
12 video, conclude]

13 MR. DURANT: Your Honor, at this time we would offer
14 State's 43, 44, 45, 46 and 47, I believe without
15 objection.

16 THE COURT: No objection?

17 MS. NORRIS: No objection.

18 THE COURT: Alright. 43 through 47 admitted without
19 objection.

20 [Whereupon, State's Exhibit Numbers 43, 44, 45, 46
21 and 47 are admitted into evidence by the Court]

22 Q. [Mr. Durant] And what's 43?

23 [Whereupon, the witness is shown photograph]

24 A. That was the second subject that I seen on the
25 video. This is the back side of the residence. He's

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1 walking towards the end of Brenda B.

2 Q. Okay. 44?

3 [Whereupon, the witness is shown photograph]

4 A. Just another shot of him a little bit farther
5 towards the dead-end.

6 Q. 45?

7 [Whereupon, the witness is shown photograph]

8 A. It's the second subject turned around, coming back
9 towards the car that was parked to the left.

10 Q. 46?

11 [Whereupon, the witness is shown photograph]

12 A. Another shot, still shot, of him where he's turned
13 back looking over his shoulder towards the dead-end.

14 Q. 47?

15 [Whereupon, the witness is shown photograph]

16 A. The same gentleman, running towards the car.

17 Q. Could you please answer any questions that Ms.
18 Norris may have for you?

19 A. Yes, sir.

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State v Joseph Lamar Brown, Jr.
Hershel McElroy-Cross-Examination by Ms. Norris
November 6, 2018

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CROSS-EXAMINATION

BY MS. NORRIS:

Q. Good afternoon, investigator.

A. Good afternoon.

Q. So as I understand it, basically your job is just to document the crime scene?

A. Yes, ma'am.

Q. To show what's there and what's not there?

A. Yes, ma'am.

Q. And so, for example, in State's Exhibit 23 was there anything of significance, other than that placard number 5, that you thought might be relevant to the crime?

A. No, ma'am.

[Whereupon, the witness is shown photograph]

Q. Alright. So -- but that just shows, in the event a witness were to testify about, say, a McDonald's biscuit being on the table, we can look at that and see whether it was or wasn't; correct?

A. Correct.

Q. Just documenting?

A. Yes, ma'am.

[Whereupon, the witness is shown photograph]

Q. And same thing. On that kitchen table there looks like one big beer can, Ice?

A. Yes.

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1 Q. And you testified that you didn't attempt to
2 fingerprint the shell casing; right?

3 A. Correct.

4 Q. You didn't attempt the DNA?

5 A. Correct.

6 Q. Did you attempt to fingerprint at the front door to
7 see if the suspect had left some fingerprints?

8 A. I fingerprinted it. I didn't DNA it.

9 Q. Okay. So you tried, but you couldn't find anything
10 usable?

11 A. Correct.

12 Q. And you didn't find any signs of forced entry at the
13 front door; right?

14 A. Correct.

15 Q. And now at the apartment where you talked about this
16 ammunition, State's Exhibit 66, did you make any attempt
17 to fingerprint the box?

18 A. No, ma'am.

19 Q. Did you make any attempt to fingerprint any of the
20 bullets in the box?

21 A. No, ma'am.

22 Q. Alright. And Exhibit 67, same thing. Did you try
23 to get the fingerprints?

24 A. No, ma'am.

25 Q. Try to get any DNA off of it?

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1 A. No, ma'am.

2 Q. Either one of them?

3 A. No, ma'am.

4 Q. Okay. I don't think I have any further questions.
5 Thank you, sir.

6 A. Yes, ma'am.

7 THE COURT: Any redirect?

8 MR. DURANT: Nothing on redirect, Your Honor.

9 THE COURT: You may step down. Thank you very much.

10 [Whereupon, the witness is excused and exits the
11 witness stand]

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State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: The State would call Charles Gillard.

2 [Whereupon, Mr. Gillard comes forward]

3 [Whereupon, Mr. Gillard is duly sworn by the Clerk
4 of Court]

5 THE CLERK OF COURT: You can have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: For the record, please state
8 your name -- if you can scoot up a little closer -- and
9 spell your last name.

10 THE WITNESS: My name is Charles Gillard. Last name
11 is G-I-L-L-A-R-D.

12 - - - - -

13 CHARLES GILLARD,

14 Having Been First Duly Sworn,

15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Good morning Deputy Gillard. Could you tell the
19 jury where you're employed, sir?

20 A. Charleston County Sheriff's Office.

21 Q. And how long have you been with the Sheriff's
22 Office?

23 A. Four and a half years now.

24 Q. And what are your current duties at the Sheriff's
25 Office?

State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
November 7, 2018

1 A. Currently it's districts nine and ten, which are
2 Johns and James Island.

3 Q. You're a patrol deputy; is that correct?

4 A. Yes, sir.

5 Q. And what was your area in December of 2016?

6 A. North area. That includes Lincolnville, Ladson, and
7 North Charleston areas.

8 Q. In that capacity, did you have any opportunity or
9 occasion to be dispatched to [REDACTED] East Thomas Street,
10 Lincolnville, South Carolina, on December the 23rd of
11 2016?

12 A. Yes, sir.

13 Q. And do you recall in reference to what?

14 A. It was an assault with a weapon.

15 Q. And in what county is that address located?

16 A. Charleston.

17 Q. What time were you dispatched?

18 A. 12:57 p.m.

19 Q. And what time did you actually arrive on the scene?

20 A. Approximately 1:03 p.m.

21 Q. Any other deputies respond to that location?

22 A. Deputy Hamill.

23 Q. And you and him arrived at about the same time?

24 A. Yes, sir.

25 Q. What did you and Deputy Hamill do upon arriving at

State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
November 7, 2018

1 the residence?

2 A. Upon arriving at the residence, we entered the
3 residence and noticed -- we ran into Hugh Pritchard, who
4 said his cousin had been shot who was in the front living
5 room floor. When we saw him, he was -- he had blood
6 pooling from his head, which he ---

7 Q. --- you entered the residence? Y'all entered the
8 residence?

9 A. Yes, we went -- we went into the residence. As you
10 walk in the door we saw, I believe it was to the left a
11 little bit underneath the table, and he was laying in a
12 pool of blood.

13 Q. Did he appear to be alive at the time y'all entered
14 the residence?

15 A. No, sir. There was no movement or anything. He
16 didn't appear to be alive at the time we got there.

17 Q. When EMS arrived, did they confirm that Mr.
18 Pritchard was dead?

19 A. Yes.

20 Q. And what was the deceased's name?

21 A. That was John Glenn Pritchard.

22 Q. And you had indicated earlier you had the occasion
23 to speak to his cousin, Mr. Hugh Potter Pritchard; is
24 that correct?

25 A. Yes, sir.

State v Joseph Lamar Brown, Jr.
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November 7, 2018

1 Q. And do you recall what description was provided to
2 you by Hugh Pritchard?

3 A. Yes, sir. He ---

4 MS. NORRIS: --- objection, Your Honor. Hearsay.

5 MR. DURANT: I don't think the description is under
6 the rules.

7 THE COURT: I'll overrule the objection. Go ahead.

8 Q. [Mr. Durant] Do you recall the description provided
9 to you by Mr. Hugh Pritchard?

10 A. Yes, sir. The description that Mr. Hugh Pritchard
11 gave us was a black male, and his face was covered, about
12 medium height, five eight-ish, somewhere around there,
13 give or take, and he had dark clothing on.

14 Q. Now, while you were at the scene, were you provided
15 with any information concerning a direction of flight by
16 a potential suspect?

17 A. Yes, sir.

18 Q. And what was that direction of flight?

19 A. When you exited 705 East Thomas, you'll be on East
20 Owens, and he had made a left going towards Berlin G.
21 Myers on East Owens.

22 Q. And that information came from whom, if you recall?

23 A. Hugh Pritchard.

24 Q. Was it Mr. Pritchard or was it the McBrides?

25 A. It -- oh, it was Celest McBride and her father,

State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
November 7, 2018

1 Allan McBride.

2 Q. And where did the McBrides live?

3 A. Approximately -- there was a street, and then it was
4 pretty much next door. I guess you could say it was next
5 door.

6 Q. And let's just orient the jury.

7 MR. DURANT: Could we have State's Exhibit Number
8 61, please.

9 [Whereupon, the photograph is shown]

10 Q. [Mr. Durant] I'm now referring you to State's
11 Exhibit Number 61, which I believe you've seen before;
12 correct?

13 A. Yes, sir.

14 Q. And could you identify how East Owens runs on that
15 map?

16 A. If you walk out into the street, you'll hit East
17 Thomas and then East Owens will run out towards Highway
18 78. And then if you take East Owens to the left, it'll
19 run out to Berlin G towards Summerville.

20 Q. Okay. Well, first of all, just mark East Owens on
21 your -- on -- you can use the screen and it'll show up on
22 it. Use your finger.

23 [Whereupon, the witness complies]

24 Q. Okay. So from that orientation, if you go to the
25 left which direction are you going?

State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
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1 A. If you go this direction, that's towards
2 Summerville.
3 Q. Okay. And how about the other direction? Where
4 does it go that way?
5 A. That'll take -- this direction will take you over to
6 Highway 78.
7 Q. Okay. And where is East Colpat?
8 A. East Colpat will run right here [indicates].
9 Q. And where is East Thomas?
10 A. East Thomas is right here [indicates]. This is --
11 it's a funky intersection.
12 Q. Okay. And you had -- now, and what -- the red pin
13 on that map designates what, sir?
14 A. That's the crime scene.
15 Q. And where do the McBrides live?
16 A. Right here [indicates].
17 Q. And how far away is that from the actual crime
18 scene?
19 A. About a hundred yards, possibly.
20 Q. And could you point out Bell Drive on that map?
21 A. Bell Drive is right here [indicates].
22 Q. And Brenda B Drive on that map?
23 A. Brenda B is right here [indicates].
24 Q. And are you aware of a cut between those two that
25 runs off of Bell Drive to ---

State v Joseph Lamar Brown, Jr.
Charles Gillard-Direct Examination by Mr. Durant
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1 A. --- yes. There's several different cuts that you
2 can go through. Some of these houses and back yards you
3 can cut through. They're -- Brenda B and Joshua are
4 joined, as well.

5 Q. Okay. Also get around this way [indicates] can't
6 you?

7 A. Yes, sir.

8 Q. Now, did you go down to where the McBrides lived
9 that day?

10 A. Yes, sir.

11 Q. And what did you learn from Celest McBride?

12 A. Celest ---

13 MS. NORRIS: --- objection. Hearsay.

14 THE COURT: Don't testify to what somebody else
15 said. And I'll sustain the objection if he's going to
16 testify to what somebody told him. Okay?

17 MR. DURANT: I was just asking what he learned.

18 THE COURT: I understand that.

19 MR. DURANT: Okay.

20 Q. [Mr. Durant] Was there a cell phone there at the
21 residence? Was it ---

22 A. --- yes, there was a cell phone at their residence.

23 Q. Okay. And where was it when you got there?

24 A. It was in the barbeque on the front porch.

25 Q. The grill on the front part -- porch?

State v Joseph Lamar Brown, Jr.
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- 1 A. Yes. Yes, sir.
- 2 Q. And did Ms. Celest McBride provide you a description
3 of a potential suspect?
- 4 A. Yes, sir.
- 5 Q. And do you recall what race she said the suspect
6 was?
- 7 A. The race of the suspect?
- 8 Q. Right.
- 9 A. Black male.
- 10 Q. And what about hair style?
- 11 A. I believe she said dreads.
- 12 Q. And what about color of his pants?
- 13 A. Gray.
- 14 Q. Now, before you went down to the McBrides' house,
15 did you recall speaking to a fellow named Trey Colman?
- 16 A. Yes, sir.
- 17 Q. And do you recall -- and where did you speak to him
18 at?
- 19 A. It was right out front of East Thomas and East Owens
20 area and Colpat, right up there.
- 21 Q. And was he there at the time y'all arrived out
22 there?
- 23 A. No, sir. He showed up a few minutes afterwards.
- 24 Q. Okay. And you were wearing a body camera that day;
25 correct?

State v Joseph Lamar Brown, Jr.
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1 A. Yes, sir.

2 Q. And I want to show you what's been marked -- in
3 evidence as State's 139 and 143.

4 [Whereupon, photographs are shown]

5 Q. 139, 140, 141, 142, 143. Is that Trey Colman?

6 A. Yes, sir.

7 Q. And those are screenshots from your body cam;
8 correct?

9 A. Yes, sir.

10 Q. Could you please answer any questions the defense
11 counsel may have for you?

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State v Joseph Lamar Brown, Jr.
Charles Gillard-Cross-Examination by Ms. Norris
November 7, 2018

1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Deputy Gillard, were you actually the person that
4 taped off the scene where the cell phone was found?

5 A. Yes, ma'am.

6 [Whereupon, Ms. Norris and Mr. Durant confer]

7 MS. NORRIS: And we ask the court reporter to mark
8 these for identification.

9 And, Your Honor, I will offer those into evidence, I
10 believe without objection.

11 MR. DURANT: No objection, Your Honor.

12 THE COURT: What numbers?

13 THE COURT REPORTER: I haven't marked them yet.

14 [Whereupon, Defendant's Exhibit Numbers 2, 3 and 4
15 are marked by the court reporter]

16 THE COURT REPORTER: It's 2, 3 and 4, Judge.

17 THE COURT: Alright. 2, 3 and 4 are defense. 2, 3
18 and 4 admitted without objection.

19 [Whereupon, Defendant's Exhibit Numbers 2, 3 and 4
20 are admitted into evidence by the Court]

21 Q. [Ms. Norris] Let me show you Defendant's Exhibit 2.

22 [Whereupon, the photograph is shown]

23 Q. And is -- do you recall what area that is right
24 there?

25 A. This looks to be the front of the McBrides'

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1 residence.

2 Q. Alright. And down there where the -- where the
3 police cars are, that's the direction of the victim's
4 home; right?

5 A. Yes, ma'am.

6 Q. Alright. And your body camera was active as you
7 were out there, so I assume you would agree with me that
8 that is the way the scene looked that afternoon?

9 A. Yes.

10 Q. The shrubbery, cars, everything, that's what you
11 saw?

12 A. Yes, ma'am.

13 Q. Let me show you Defendant's Exhibit 3. Let me pull
14 it down a little bit. And in the bottom left-hand corner
15 there [indicates], is that the corner of the trashcan
16 that you used to tie off your scene tape with?

17 A. It looks to be, from what I can see of it.

18 Q. And that -- that's the front of the McBrides' home?

19 A. The front door. Yes, ma'am.

20 Q. And Defendant's Exhibit 4 is just a similar shot
21 from that area; right?

22 [Whereupon, the photograph is shown]

23 A. Yes, ma'am.

24 Q. And are you familiar with the Abby Lane apartments
25 in Summerville?

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1 A. Yes, ma'am.

2 Q. Alright. And would you agree with me that that's
3 only about point 6-tenths of a mile down the road?

4 A. It's pretty close. I don't know the exact distance.

5 MS. NORRIS: I don't have any further questions,
6 Your Honor, but may we approach?

7 THE COURT: Yes, ma'am.

8 [Whereupon, an off-the-record bench conference is
9 held]

10 MR. DURANT: I have ---

11 THE COURT: --- any redirect ---

12 MR. DURANT: --- no redirect, Your Honor.

13 THE COURT: Alright. You may step down. Thank you
14 so very much.

15 [Whereupon, the witness is excused and exits the
16 witness stand]

17 THE COURT: If you'll call your next witness,
18 please, sir.

19

20

21

22

23

24

25

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1 MR. DURANT: The State would call Nautica Manigault.

2 [Whereupon, Ms. Manigault comes forward]

3 [Whereupon, Ms. Manigault is duly sworn by the Clerk
4 of Court.

5 THE CLERK OF COURT: Okay. And have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: And for the record, please
8 state your name and spell your last.

9 THE WITNESS: Nautica Manigault. M-A-N-I-G-A-U-L-T.

10 - - - - -

11 NAUTICA MANIGAULT,

12 Having Been First Duly Sworn,

13 was Examined and Testified as Follows:

14 DIRECT EXAMINATION

15 BY MR. DURANT:

16 Q. Good morning Ms. Manigault. Could you tell our jury
17 how old you are?

18 A. Eighteen.

19 MR. DURANT: And if you would, could you slide up to
20 that microphone because everybody needs to hear what you
21 have to say.

22 Q. [Mr. Durant] And where do you live?

23 A. Goose Creek.

24 Q. And how far did you go in school?

25 A. I graduated.

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1 Q. Where did you graduate from?
2 A. Stratford High School.
3 Q. And when did you graduate from Stratford?
4 A. June 6, 2018.
5 Q. Of what year?
6 A. 2018.
7 Q. 2018? So you just graduated from high school this
8 summer; correct?
9 A. Yes, sir.
10 Q. Are you currently employed?
11 A. Yes, sir.
12 Q. What -- doing what?
13 A. I'm a sales -- a sales associate.
14 Q. And I believe you're selling shoes; is that correct?
15 A. Yes, sir.
16 Q. I understand at one time you had plans to go to
17 cosmetology school. Is that still on the horizon for
18 you?
19 A. Yes, sir.
20 Q. Who is that [indicates]?
21 A. Joseph.
22 Q. Joseph what?
23 A. Brown.
24 Q. And what is his nickname, or what did you call him?
25 A. Joe-Joe.

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1 Q. And how did you get to know Joe-Joe?
2 A. We met in Abby Lane.
3 Q. And Abby Lane is an apartment complex; correct?
4 A. Yes, sir.
5 Q. Did you live there?
6 A. No, sir.
7 Q. Were you staying there at the time?
8 A. Yes, sir.
9 Q. Didn't you have a grandmother that you were staying
10 there with?
11 A. Yes, sir.
12 Q. Pardon me?
13 A. Yes, sir.
14 Q. Okay. Were you actually staying there ---
15 A. Yes, sir.
16 Q. --- in December of 2016, I'm talking about.
17 A. Yes, sir.
18 THE COURT REPORTER: Did you say yes?
19 THE WITNESS: Uh-huh.
20 Q. [Mr. Durant] In fact, that's how you got to know
21 him?
22 A. Yes, sir.
23 Q. Why -- how? Where did he live?
24 A. In Abby Lane.
25 Q. And while you were staying with your grandmother in

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1 Abby Lane in December of 2016, did you become involved in
2 a relationship with him?
3 A. Yes, sir.
4 Q. That's a yes?
5 A. Yes, sir.
6 Q. And was it a pretty serious relationship?
7 A. Yes, sir.
8 Q. Y'all were, in fact, boyfriend-girlfriend; correct?
9 A. Yes, sir.
10 Q. Now, do you recall the Sheriff's Office coming to
11 your grandmother's house on December 26th of 2016?
12 A. Yes, sir.
13 Q. And what did they want?
14 A. To question me.
15 Q. And what did they want to question you about?
16 A. About a phone they found.
17 Q. And what kind of phone did they find?
18 A. An iPhone.
19 Q. And whose iPhone was it?
20 A. Joe-Joe.
21 Q. And how did you know it was Joe-Joe's cell phone?
22 A. My picture was on there.
23 Q. And I show you what's been marked as State's Exhibit
24 Number 52.
25 MR. DURANT: Would you put in 52, please.

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1 [Whereupon, the photograph is shown]

2 Q. [Mr. Durant] which is in evidence, and that is the
3 picture that was on his cell phone; is that correct?

4 A. Yes, sir.

5 Q. And what did you tell the police about who those
6 people were?

7 A. That that was me and him.

8 Q. Okay. And you're -- he was Joe-Joe and you were
9 Nauti; right?

10 A. Yes, sir.

11 Q. And, in fact -- and, in fact --

12 MR. DURANT: Your Honor, at this time we would offer
13 State's 53 and State's 54, I believe without objection.

14 MS. NORRIS: No objection.

15 THE COURT: 53 and 54 admitted without objection.

16 [Whereupon, State's Exhibit Numbers 53 and 54 are
17 admitted into evidence by the Court]

18 Q. [Mr. Durant] And with regard to State's Exhibit 53,
19 which is this one, basically is the same picture on your
20 phone; correct?

21 [Whereupon, the photograph is shown]

22 A. Yes, sir.

23 Q. So y'all both shared that same photograph as your
24 lock screen; correct?

25 A. Yes, sir.

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1 Q. And what did he call you in his text messages to
2 you?

3 A. [No response]

4 Q. Did you ever see wifey?

5 A. Oh. Yeah.

6 Q. Okay. And you had him in your contacts as what?

7 A. [No response]

8 Q. State's 54.

9 A. Future husband.

10 Q. Future husband? That's how you referred to him, and
11 he referred to you as wifey; is that correct?

12 A. Yes, sir.

13 MR. DURANT: Could we have State's Exhibit 54,
14 please.

15 [Whereupon, the photograph is shown]

16 Q. [Mr. Durant] And State's Exhibit 54 says future
17 husband. Who's that a picture of up at the top?

18 A. Joe-Joe.

19 Q. Okay. And there's a couple of phone numbers from
20 him; is that correct?

21 A. Yes, sir.

22 Q. And one of those numbers is from his iPhone;
23 correct?

24 A. Yes, sir.

25 Q. Which one?

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- 1 A. The first one.
- 2 Q. The one at the top; correct?
- 3 A. Yes, sir.
- 4 Q. 557-3277. And is that the number that you always
- 5 used to contact Joseph Brown during the time you were in
- 6 a relationship with him?
- 7 A. Yes, sir.
- 8 Q. And how long did you and Mr. Brown actually date or
- 9 were seeing each other?
- 10 A. About a month.
- 11 Q. Okay. And during that month, you always used that
- 12 iPhone number to contact him?
- 13 A. Yes, sir.
- 14 Q. Pardon me?
- 15 A. Yes, sir.
- 16 Q. And to text him?
- 17 A. Yes, sir.
- 18 Q. And to call him?
- 19 A. Yes, sir.
- 20 Q. And I'll show you what's been marked as State's
- 21 Exhibit 63, in evidence.
- 22 [Whereupon, the witness is shown exhibit]
- 23 Q. Is that his iPhone?
- 24 A. Yes, sir.
- 25 Q. And that is the phone that you always saw him have?

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1 A. Yes, sir.

2 Q. And that is the phone that you always saw him use?

3 A. Yes, sir.

4 Q. Until when?

5 A. He lost it.

6 Q. And do you recall when he lost it?

7 A. No, sir.

8 Q. Okay. Do you remember when Mr. Johnny Pritchard got

9 killed?

10 A. Yes, sir.

11 Q. Pardon me?

12 A. Yes, sir.

13 Q. Was it around the time that Mr. Pritchard got

14 killed?

15 A. Yes, sir.

16 Q. And after that, he started using a different number;

17 correct?

18 A. Yes, sir.

19 Q. And the different number is the bottom number on

20 here, State's Exhibit 54; correct?

21 A. Yes, sir.

22 Q. Did he tell you how he lost his phone?

23 A. Coming home from work.

24 Q. What did he say?

25 A. Sir?

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1 Q. What did he tell you?

2 A. He was coming home from work and he heard gunshots
3 and he started running, and that's when he lost his
4 phone.

5 Q. Okay. Did he say anything about going to Red's
6 house?

7 A. Yeah. He ran over there for safety, but he wasn't
8 home.

9 Q. Okay. And who is Red?

10 A. His friend.

11 Q. So did you know who Red was?

12 A. Not until he had showed me a picture.

13 Q. Okay. In fact, you told the police at first you
14 didn't know who Red was; right?

15 A. Yeah.

16 Q. And you later saw a picture of Red?

17 A. Yes, sir.

18 MR. DURANT: And I would offer State's 144, I
19 believe without objection.

20 MS. NORRIS: No objection.

21 THE COURT: 144?

22 MR. DURANT: 144, Your Honor.

23 THE COURT: 144 admitted without objection.

24 [Whereupon, State's Exhibit Number 144 is admitted
25 into evidence by the Court]

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1 Q. [Mr. Durant] And is that Red?
2 A. Yes, sir.
3 Q. Had you seen him before?
4 A. Yes, sir.
5 Q. Where had you seen him before?
6 A. Around Abby Lane.
7 THE COURT REPORTER: I'm sorry?
8 A. Around Abby Lane.
9 Q. [Mr. Durant] And why was he around Abby Lane?
10 A. He was with Joe Joe.
11 THE COURT REPORTER: He was what? I'm sorry.
12 A. With Joe Joe.
13 Q. [Mr. Durant] Because he and Joe Joe were friends;
14 right?
15 A. Yes, sir.
16 Q. As a matter of fact, you told the police that they
17 were best friends?
18 A. Yes, sir.
19 Q. And your phone number back in December of 2016 was
20 557-3932?
21 A. Yes, sir.
22 Q. Thank you. Could you answer any questions defense
23 counsel may have you.
24 THE COURT: Cross-examination.
25

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1	CROSS-EXAMINATION
2	BY MS. NORRIS:
3	Q. Good morning, Ms. Manigault. Now, you dated Joe-Joe
4	for about a month or so; right?
5	A. Yes, ma'am.
6	Q. And Joe-Joe didn't have a car; right?
7	A. No, ma'am.
8	Q. And we -- was he working at McDonald's then?
9	A. Yes, ma'am.
10	Q. And he would walk to work; right?
11	A. Sometimes, yeah.
12	Q. And he on -- Abby Lane is on -- do you know-- do you
13	know the neighborhood right there in Lincolnville where
14	Mr. Pritchard lived?
15	A. No, ma'am.
16	Q. Okay. You know it was close to Abby Lane; right?
17	A. Yes, ma'am.
18	Q. About a half mile, six-tenths of a mile?
19	A. I guess so.
20	Q. Okay. And so it wasn't unusual for Joe-Joe to walk
21	through that area; right?
22	A. I don't know.
23	Q. Now, are you familiar with dreadlocks?
24	A. Uh-huh.
25	Q. Dreads?

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1 A. Yes, ma'am.

2 Q. Let me show you what's in evidence as Defendant's

3 Exhibit 1.

4 [Whereupon, the photograph is shown]

5 Q. Ms. Whoopi Goldberg; are those dreads?

6 A. Yes.

7 Q. And Joe-Joe never had dreads in the month that you

8 knew him; right?

9 A. No, ma'am.

10 THE COURT REPORTER: Is that no?

11 Q. [Ms. Norris] Not aware that ---

12 A. No.

13 Q. Not aware that he's ever had dreads?

14 A. No.

15 Q. And he didn't have dreads on December the 23rd,

16 2016?

17 A. No.

18 Q. And, in fact, his hair was pretty similar then to

19 what it is now; right?

20 A. Yes.

21 Q. Now, do you recall talking to this gentleman over

22 here [indicates] Detective Goldstein? The one right

23 there [indicates] on the end.

24 A. No.

25 Q. Do you recall telling him that -- or let me rephrase

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1 that. Is it true that you told him, the first time, that
2 Mr. Brown told you that he was running away from Red's
3 house when he heard the shot and lost his phone?

4 A. I can't remember.

5 Q. I'm sorry?

6 A. I can't remember.

7 Q. I can't ---

8 THE COURT REPORTER: I can't remember?

9 MR. DURANT: She can't remember.

10 Q. [Ms. Norris] Will it help you if I show you a
11 transcript of what you said?

12 A. Yes, ma'am.

13 [Whereupon, the witness is shown document]

14 Q. [Ms. Norris] Alright. I'm going to show you page
15 14 of your statement to Detective Goldstein. And down
16 there at the bottom, line 20, the detective asked you:
17 does he have -- well, who's got dreads. And your
18 response was what?

19 A. Do he have dreads?

20 Q. Oh. I'm sorry. I meant -- I meant to find for you
21 the other one.

22 MS. NORRIS: Give me just a second, Your Honor. Let
23 me find this.

24 [Whereupon, Ms. Norris reviews documents]

25 Q. [Ms. Norris] All right Ms. Manigault. On page 19 I

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1 believe down line 12. You said, yeah. Because he said
2 something about he had lost his phone coming from one of
3 his friend's house. Do you see that?

4 A. Yes.

5 Q. And you indicated that he was coming from Red's
6 house; right?

7 A. Yes.

8 Q. And then you changed it later to say, no, he was
9 going towards Red's house, like you did today; right?

10 A. Yes.

11 Q. All I'm getting at is you don't really know which
12 way he was running; right? You just know that he told
13 you he lost his phone after hearing a gunshot in that
14 neighborhood and he took off running?

15 A. Yes.

16 MS. NORRIS: Alright. Let me get that back from
17 you.

18 [Whereupon, Ms. Norris retrieves document]

19 Q. I don't have anything else. Thank you, ma'am.

20 THE COURT: Redirect?

21 MR. DURANT: No, sir.

22 THE COURT: You may step down. Thank you very much.

23 MR. DURANT: I would ask that Ms. Manigault be
24 excused, if there's no objection.

25 THE COURT: Any objection?

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1 [Whereupon, Mr. Thompson comes forward]

2 [Whereupon, Mr. Thompson is duly sworn by the Clerk
3 of Court]

4 THE CLERK OF COURT: Okay. You can have a seat.

5 [Whereupon, the witness takes the witness stand]

6 THE CLERK OF COURT: For the record, please state
7 your name and spell your last name.

8 THE WITNESS: Mike Thompson, T-H-O-M-P-S-O-N.

9 - - - - -

10 MIKE THOMPSON,

11 Having Been First Duly Sworn,

12 was Examined and Testified as Follows:

13 DIRECT EXAMINATION

14 BY MR. DURANT:

15 Q. Good afternoon or morning, Detective. Could you
16 tell our jury where you're employed?

17 A. I'm a detective with the Charleston County Sheriff's
18 Office.

19 Q. And how long have you been with Charleston County?

20 A. I've actually been with Charleston County since
21 1998, and I was with the City police before that, since
22 1989.

23 Q. And how long have you been a detective at the
24 Sheriff's Office?

25 A. Since 2012.

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1 Q. And in that capacity, did you have an occasion to
2 participate in the investigation involving the murder of
3 Johnny Pritchard?

4 A. Yes, sir. I'm on a call-out team with Detective
5 Goldstein, and we were called to that residence on the
6 holiday weekend.

7 Q. Okay. And y'all were called out on December 23rd of
8 2016 ---

9 A. --- yes, sir ---

10 Q. --- is that correct?

11 A. Yes, sir.

12 Q. And do you recall when you -- when you got to
13 Lincolnville?

14 A. I had to go to see Judge Gosnell to get a search
15 warrant for the residence. So not long behind Detective
16 Goldstein, but not right behind him.

17 Q. Okay. And did you have an occasion to participate
18 in a canvass of the area to locate any of the potential
19 witnesses?

20 A. I did, sir.

21 Q. And during that canvass, did you have the occasion
22 to be over on Brenda B Lane?

23 A. Yes, sir. I had contact with a Mr. Martin Perez,
24 and he has a home-security system in his house he wanted
25 to show us.

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1 Q. Okay. And he resides at where?

2 A. [REDACTED].

3 Q. Brenda B Lane; correct?

4 A. Yes, sir.

5 Q. And did -- you said he had some video that he wanted
6 you to see?

7 A. Yes, sir.

8 Q. Where did he take you?

9 A. To his bedroom in his -- in his residence.

10 Q. And did he show you some video?

11 A. He has a monitor in his room and he showed me a
12 video that he thought might be important for us to watch.

13 Q. Okay. And after watching it, did you think it was
14 important to you?

15 A. I did.

16 Q. And, in fact, you kind of took a cell phone video of
17 a portion of it; is that correct?

18 A. The reason I did that was the -- I knew we were
19 going to take his -- the DVR, you know, the master
20 machine that runs his system. We took that as evidence.
21 He gave that to us.

22 I needed a video that I could show Detective
23 Goldstein and our supervisors what I was looking at, so I
24 made a video with a cell phone I had at the time so I
25 could share that with others because it's a weekend and

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1 the lab wasn't open and we wouldn't have the machine to
2 hook up. Because, you know, you need the monitor and
3 everything else. We just took the head, the control
4 head, and I don't have access to that in the lab so I
5 made a video so I could share it with others.

6 Q. Okay. And what do you -- what do you recall seeing
7 on the video?

8 A. He showed me a video of -- he has a camera that
9 faces the back of his property where there's a vacant lot
10 that goes out to Bell Drive. And he showed -- he could
11 see a black vehicle pull up, a black male get out, take a
12 few steps away from the car, go like this [indicates],
13 like come on.

14 There's no audio. There's like a motions hand
15 signal, come on, come on, come on. And then you could
16 see another black male join that black male. They get in
17 the black car and they drive away.

18 MR. DURANT: Okay. And, Your Honor, at this time we
19 would offer State's Exhibit Number 128, I believe without
20 objection.

21 MS. NORRIS: No objection.

22 THE COURT: 128 admitted without objection.

23 [Whereupon, State's Exhibit Number 128 is admitted
24 into evidence by the Court]

25 MR. DURANT: Could you publish 128 to the jury,

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1 please.

2 Q. [Mr. Durant] This is the video you took with your
3 cell phone; correct?

4 A. Yes, sir.

5 [Whereupon, State's Exhibit Number 128, video, is
6 shown to the jury, with questions from Mr. Durant]

7 A. Now, there's another view, another camera view, that
8 shows him going like that [indicates], but you can see
9 the two running back together. This is the main one
10 where you can see them. And there's the driver. And
11 there's the passenger.

12 Q. [Mr. Durant] Okay. With regard to the time stamp
13 on that video, was that accurate?

14 A. Yes, sir.

15 [Whereupon, State's Exhibit Number 128, video,
16 concludes]

17 Q. [Mr. Durant] Now, I want to move ahead about ten
18 days or so, ten or eleven days.

19 A. Yes, sir.

20 Q. Did you have the occasion to go to apartment [REDACTED] at
21 [REDACTED] East Third North Street in Summerville?

22 A. I did.

23 Q. Do you know what the name of that apartment complex
24 is?

25 A. Abby Lane.

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1 Q. And for what purpose did you go to that location?

2 A. Detective Goldstein had prepared -- by that time, he
3 had identified the defendant as his suspect and he had
4 prepared ---

5 Q. --- prepared that, meaning Joseph Brown; correct?

6 A. Yes, sir. He had prepared an arrest warrant, which
7 was on file, and we were actively looking for him. And
8 he had prepared a search warrant for his residence. And
9 once the arrest warrant was served, he wanted the search
10 warrant served not long after -- as soon as possible
11 after that.

12 So as it worked out, when the defendant was
13 identified and the arrest warrant found him, Barry was
14 unable -- Detective Goldstein was unable to go to the
15 residence so he asked me to take his warrant and get it
16 signed and do the search.

17 MS. NORRIS: Your Honor, we have a continuing
18 objection to this search.

19 THE COURT: Yes, ma'am, I'll -- the Court so
20 acknowledges.

21 Q. [Mr. Durant] And whose apartment did y'all search?

22 A. The defendant's.

23 Q. And how did y'all know it was the defendant's?

24 A. It's the same address as on his driver's license.
25 And his mother was there, you know, with -- it's his

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1 house. He lives there. He has a room on the top floor.
2 It's a two -- it's a second -- two-story, like a, what do
3 you call it, an apartment like a -- I can't think of the
4 word I'm thinking of right now, but it's ---
5 Q. --- like a townhouse?
6 A. A townhouse. That's it. So, you know, living room,
7 kitchenette downstairs, stairs, two bedrooms upstairs.
8 Q. Okay. And which bedroom upstairs belonged to the
9 defendant, Joseph Brown?
10 A. The one that faces ---
11 MS. NORRIS: --- objection ---
12 A. --- the parking lot.
13 MS. NORRIS: --- calls for hearsay.
14 THE COURT: Overruled ---
15 THE WITNESS: I'm sorry?
16 THE COURT: Go ahead.
17 A. The one that faces the parking lot, the front.
18 Q. [Mr. Durant] The front of the building?
19 A. Yes, sir.
20 Q. And what was found under ---
21 A. --- some ---
22 Q. --- the box springs?
23 A. Some ammunition. And there was a box spring. It's
24 not -- not a bed with a frame, but a box spring on the
25 floor with a mattress on top of it and underneath that

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1 was a box of ammunition.

2 MR. DURANT: And could you please show State's 36,
3 37 and 38.

4 [Whereupon, photographs are shown]

5 A. That's the bed and the box spring. And you look
6 under it and there's a box of ammunition up under a
7 corner there.

8 Q. And 38.

9 [Whereupon, the photograph is shown]

10 A. And there they are right there [indicates].

11 Q. Okay. Could you please answer any questions
12 defense counsel may have for you?

13 THE WITNESS: Yes, sir.

14

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State v Joseph Lamar Brown, Jr.
Michael Thompson-Cross-Examination by Ms. Norris
November 7, 2018

1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Good morning, Detective Thompson.

4 A. Hey.

5 Q. Mr. Perez did not indicate to you that he recognized
6 anybody in that video; right?

7 A. No, ma'am. He -- I believe what he relayed to me
8 was he knew that something had happened in the
9 neighborhood and he reviewed his footage and he wanted me
10 to look at it.

11 MS. NORRIS: And I believe that's all I have, Your
12 Honor. May we approach?

13 THE COURT: Yes, ma'am.

14 [Whereupon, an off-the-record bench conference is
15 held]

16 MR. DURANT: I have nothing further.

17 THE COURT: You may step down. Thank you very much.

18 MR. DURANT: Your Honor ---

19 THE COURT: --- call your next witness ---

20 MR. DURANT: --- may Detective Thompson be excused?

21 THE COURT: Any objection?

22 MS. NORRIS: No, sir.

23 THE WITNESS: Thank you, Judge.

24 [Whereupon, the witness is excused and exits the
25 witness stand]

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: The State would call Detective Zack
2 Khan.

3 [Whereupon, Mr. Khan comes forward]

4 [Whereupon, Mr. Khan is duly sworn by the Clerk of
5 Court]

6 THE CLERK OF COURT: You may have a seat.

7 [Whereupon, the witness takes the witness stand]

8 THE CLERK OF COURT: For the record, please state
9 your name and spell your last name.

10 THE WITNESS: Detective Zulifqar Khan. Last name is
11 K-H-A-N.

12 - - - - -

13 ZULIFQAR KHAN,

14 Having Been First Duly Sworn,

15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. And people call you Zack; right?

19 A. They do, sir.

20 Q. Because it's harder than -- easier than Zulifqar;
21 correct?

22 A. It makes it easy, sir.

23 Q. Could you tell our jury where you're employed?

24 A. Sheriff's -- Charleston County Sheriff's Office.

25 Q. And you've been with the Sheriff's Office how long,

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 sir?

2 A. Round about seventeen years, sir. I started in
3 2002.

4 Q. What are your current duties there?

5 A. I'm assigned to CID, Criminal Investigations
6 Division, and I'm also TFO.

7 Q. Okay.

8 THE COURT REPORTER: You're also a?

9 THE WITNESS: A TFO.

10 Q. [Mr. Durant] And that is a?

11 A. A task-force officer, sir.

12 Q. Okay. And you're a task-force officer with what
13 task force?

14 A. With the gang task force.

15 Q. Okay. Now, you were a detective back in December of
16 2016, January of 2017; correct?

17 A. Yes, sir.

18 Q. And did you have the occasion to participate in the
19 murder investigation involving the deceased, Johnny
20 Pritchard?

21 A. Yes, sir.

22 Q. Specifically in January of 2017, were you tasked
23 with obtaining some surveillance video from a liquor
24 store and a Family Dollar store in Summerville, South
25 Carolina?

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 A. Yes, sir.

2 Q. By whom?

3 A. By Detective Goldstein. His investigation had led
4 him to believe that one of -- Trey Colman was one of the
5 parties involved in this ---

6 MS. NORRIS: -- objection to relevance to this
7 defendant.

8 THE COURT: Let me see the lawyers up here just a
9 second on that.

10 [Whereupon, an off-the-record bench conference is
11 held]

12 THE COURT: Alright. You may provisionally --
13 what's the number?

14 MR. DURANT: There are two, Your Honor; 95 and 97.

15 THE COURT: 95 and 97? Alright. It's provisionally
16 introduced with the objection. I assume it would be tied
17 up at a later date. However, the jury is not going to
18 look at it in the courtroom until it is tied up.

19 [Whereupon, State's Exhibit Numbers 95 and 97 are
20 provisionally admitted into evidence by the Court]

21 THE COURT: Okay. Please proceed.

22 MR. DURANT: Okay.

23 THE COURT: To that extent, the motion is granted.

24 Q. [Mr. Durant] And you were going to these two
25 locations for what purpose, sir?

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 A. To obtain the video.
2 Q. Obtain video of whom?
3 A. Surveillance video. Detective Goldstein's
4 investigation had led him to believe that ---
5 Q. --- to obtain video of who?
6 A. Trey Colman.
7 Q. Okay. And did you go to the liquor store?
8 A. I did, sir.
9 Q. And where was that liquor store located?
10 A. That's the -- in Summerville, in the town of
11 Summerville. It's 110 West Second North Street.
12 Q. Okay. And did they have a video surveillance
13 system?
14 A. They did, sir.
15 Q. Were you able to obtain a copy of the surveillance
16 video for the relevant time period?
17 A. I did, sir.
18 Q. And what did you do upon securing the video from the
19 liquor store?
20 A. Once I got the video, I went back to headquarters
21 and reviewed the video.
22 Q. And were you able to locate Trey Colman on the
23 video?
24 A. I was, sir. He ---
25 MS. NORRIS: --- objection to foundation.

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: I'm laying the foundation.

2 THE COURT: He's trying. Yeah. Overruled. Go
3 ahead. He's trying to lay it. Okay?

4 Q. [Mr. Durant] Were you able ---

5 THE COURT: --- go ahead.

6 Q. [Mr. Durant] Were you able to locate Trey Colman on
7 the video?

8 A. I was, sir. He's seen walking into that liquor
9 store at 10:59 -- well, 10:55 a.m., roundabout there, and
10 he's leaving maybe four or five minutes later. Like
11 10:59-ish, he's leaving that -- that location.

12 Q. Okay. And that would be on December 23 of -- and
13 when you say 10:55, 10:59, we're talking about in the
14 morning?

15 A. In the morning. Yes, sir.

16 Q. Okay. And that would be on December 23 of 2016; is
17 that correct?

18 A. Yes, sir.

19 Q. And is this a copy of the video that you obtained
20 from the liquor store; State's Exhibit Number 95.

21 [Whereupon, the witness is shown exhibit]

22 A. Yes, sir. It's got my name and initials on it.
23 It's got my initials on it, and 4/26 of '18 is when I
24 reviewed it.

25 Q. Now, did you also have an occasion to go to the

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
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1 Family Dollar Store in Summerville?

2 A. I did, sir.

3 Q. For the same purpose?

4 A. Yes, sir. Also to obtain some of their surveillance
5 video.

6 Q. And you obtained that on DVD format; is it correct?

7 A. Yes sir, I did.

8 Q. What did you do after obtaining the video from the
9 Family Dollar store?

10 A. The same as from the liquor store, sir. I took it
11 back to headquarters and watched it.

12 Q. Okay. And were you able to locate Trey Colman on
13 that video?

14 A. Yes, sir, we did. He's -- he walks into the store
15 into the Family Dollar now. He walks in like 11:36 a.m.
16 He can be seen walking throughout the aisles doing some
17 shopping. And then at 11 -- I think 11:43:42 a.m. is
18 about when he leaves.

19 Q. And so he's there five or six minutes?

20 A. Yes, sir. Not very long.

21 Q. And that was also on December 23rd of 2016?

22 A. Yes, sir.

23 Q. Show you what's been marked as State's Exhibit 97
24 and ask if you recognize that?

25 [Whereupon, the witness is shown exhibit]

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Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 A. Yes, sir. That's the ---
2 Q. --- video?
3 A. --- clips from the Dollar General [sic]. My name --
4 initials are on it in my handwriting. Reviewed in your
5 office on 4/26.
6 [Whereupon, Mr. Durant and Ms. Norris confer]
7 Q. [Mr. Durant] I hand you what now -- what's been
8 marked as State's Exhibits 135, 136, 137 and 138, and ask
9 if you recognize those.
10 [Whereupon, the witness is shown photographs]
11 A. Yes, sir.
12 Q. What are those?
13 A. 135, that's ---
14 MS. NORRIS: --- Your Honor, we have the same
15 relevance objection.
16 THE COURT: Alright. Well, let me see what it --
17 what it is first. Go ahead.
18 A. It's at 1:30 ---
19 Q. [Mr. Durant] --- go ahead.
20 A. It's at 1:35. That's Trey Colman at the counter.
21 And about 1:36, that's him walking back out on the -- on
22 the ---
23 Q. --- those two -- those two are at which ---
24 A. That's at the ---
25 Q. --- location ---

State v Joseph Lamar Brown, Jr.
Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 A. --- liquor store, sir.

2 Q. Okay. And...

3 A. And 137, that's Trey Colman inside the Family
4 Dollar. And then 138, that's -- I think that's a picture
5 taken at -- at the exit door as he's walking back out.

6 Q. Okay. And that's at the Family Dollar store, as
7 well; correct?

8 A. Yes, sir. That's on Main Street in Summerville.
9 208 West Main Street.

10 Q. And those are basically screen shots of the --
11 obtained from the videos that have previously been marked
12 ---

13 A. --- yes, sir ---

14 Q. --- as State's Exhibits 95 and 97; correct?

15 A. Yes, sir.

16 THE COURT: Alright. Based upon the same objection
17 made by the defendant, I'll provisionally introduce
18 those, provided relevance is tied up at a later time.
19 But they won't be shown to the jury until then. Thank
20 you.

21 [Whereupon, State's Exhibit Numbers 135, 136, 137,
22 and 138 are provisionally admitted into evidence by the
23 Court]

24 THE COURT: Anything else?

25 MR. DURANT: Court's indulgence for just a moment.

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Zulifqar Khan-Direct Examination by Mr. Durant
November 7, 2018

1 [Whereupon, Mr. Durant reviews documents]

2 MR. DURANT: I think that's all the questions I
3 have at this time, Your Honor.

4 THE COURT: Cross-examination.

5 MS. NORRIS: No questions, Your Honor.

6 THE COURT: You may step down. Thank you very much.

7 THE WITNESS: Thank you, Your Honor.

8 [Whereupon, the witness is excused and exits the
9 witness stand]

10 MR. DURANT: May we approach, Your Honor?

11 THE COURT: Yes, sir.

12 [Whereupon, an off-the-record bench conference is
13 held]

14 THE COURT: Alright. Mr. Foreman, ladies and
15 gentlemen of the jury, the next witness is probably going
16 to be rather lengthy so what we're going to do is take
17 our morning break at this time and it'll be about fifteen
18 or twenty minutes. Please don't discuss the case amongst
19 yourselves, and we'll get you back in about twenty
20 minutes. Follow the bailiff to the jury room.

21 [Whereupon, the jury exits at 10:45 a.m.]
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November 7, 2018

1 THE COURT: Ms. Norris, I understand that you want
2 to proffer some testimony that's part of the transcript
3 that's marked as Court's Exhibit Number 10. Based upon
4 my ruling on the third-party guilt, and excluding that
5 testimony, I'll be happy for you to proffer whatever you
6 would like to proffer now.

7 MS. NORRIS: Yes, Your Honor. With respect to
8 Deputy Charles Gillard, with him, had I been allowed to
9 go into third-party guilt, I would have offered a portion
10 of a body camera taken at David Felder's home, that I'll
11 ask to mark as a Court Exhibit.

12 THE COURT: Be I guess number 11; is that correct?
13 Number 11?

14 [Whereupon, Court's Exhibit Number 11 is marked for
15 identification by the court reporter]

16 MS. NORRIS: And essentially what that video shows
17 is that they approached David Felder's home, who, of
18 course, is the gentleman -- and I have two photos that
19 were taken. These may -- are these marked?

20 [Whereupon, Ms. Norris and Mr. Durant confer]

21 MR. DURANT: I think they were marked as Court's
22 Exhibits for the third-party guilt motion.

23 [Whereupon, Ms. Norris reviews exhibits]

24 MS. NORRIS: Court's 5, Court's 6, Court's 7, Court
25 8 and Court 9 are all photos taken related -- are taken

1 of David Felder for his clothing. And David Felder, of
2 course, is a gentleman that had dreadlocks and a number
3 23. But when Detective Goldstein, who I believe will be
4 our next witness, when they went down to Brenda B to
5 Perez' house, right across the street they see this guy
6 with the dreadlocks, the number 23, the red shoes.

7 Detective Goldstein called in backup, and Deputy
8 Gillard went in with his weapon drawn. The dog, I guess,
9 is aggressive or does something that prompts the
10 detective to discharge -- or the deputy to discharge his
11 weapon. And then also in that video, you see Mr. Felder
12 being taken into custody.

13 And so I would have questioned Deputy Gillard that
14 he was high alert enough to have his weapon drawn, they
15 thought that was the guy, and so they took him in. With
16 respect to Detective Thompson, Detective Thompson I
17 believe was also present for that. He did a report that
18 I'll ask to mark as a Court's Exhibit.

19 [Whereupon, Court's Exhibit Number 12 is marked for
20 identification by the court reporter]

21 MS. NORRIS: This is Court's 12. And he indicated
22 in his report that conducted a second canvass -- that he
23 and Detective Goldstein conducted a second canvass of the
24 neighborhood. And the subject that was described to
25 Detective Goldstein, by a witness that he had interviewed

State v Joseph Lamar Brown, Jr.
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1 earlier, was observed near the dead-end on Brenda B near
2 Joshua Lane wearing a red running suit identified as
3 David Felder.

4 And, again, an indication that a witness had
5 described to Detective Goldstein this guy. They thought
6 he was the guy.

7 And then with respect to Detective Goldstein, he --
8 I'll go ahead and proffer him because ---

9 THE COURT: --- okay ---

10 MS. NORRIS: --- I believe he's next. I did
11 question him extensively about David Felder. In fact,
12 the State put in the video of the dog-shooting and
13 questioned him before I ever got out of my chair. But I
14 examined him extensively.

15 And it would be similar to what is in Court's 1, the
16 transcript from before, that he saw him, he thought that
17 was the guy, they went in on high alert, he called in
18 backup, they thought that was their suspect. The dog is
19 shot, take him in, and all that sort of thing. And with
20 respect to ---

21 THE COURT: --- what kind of dog was it?

22 MS. NORRIS: It -- I believe it was a Pit Bull.

23 MR. DURANT: I think it was a Pit, yes, sir.

24 THE COURT: Okay. Did they kill the dog?

25 MS. NORRIS: No.

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1 MR. DURANT: No, it ---

2 MS. NORRIS: --- I found out ---

3 MR. DURANT: --- it did not. But, unfortunately,
4 the dog has since passed away.

5 THE COURT: Oh. Okay.

6 MR. DURANT: But not -- I don't -- I don't think
7 necessarily from the gunshot wound.

8 MS. NORRIS: Yeah. No. I think it was actually a
9 ricochet that hit the car or something. But in any
10 event, the dog lived through this.

11 But, again, you know, the descriptions given by the
12 witnesses out there, Celest McBride, Allan McBride, Merit
13 Williams, those folks who said that they saw somebody
14 running, their description of the runner fits David
15 Felder better than it fits him.

16 And so -- but, again, I did do that with Detective
17 Goldstein. Detective Thompson didn't testify last time.
18 And Deputy Gillard, I did not ask him about shooting the
19 dog because as I understand, he feels bad about it, but I
20 would have this time.

21 THE COURT: Well, do you want to call those two
22 witnesses and proffer whatever you want to proffer since
23 it's not in the transcript previously?

24 MS. NORRIS: I don't -- I don't think I need to,
25 Your Honor.

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1 THE COURT: Okay.

2 MS. NORRIS: I mean, it ---

3 THE COURT: --- okay ---

4 MS. NORRIS: --- it would basically just be the same
5 questions and I think the answers would be the same.

6 Obvious -- it's obvious from the body camera that he went
7 in ---

8 THE COURT: --- okay ---

9 MS. NORRIS: --- with his weapon drawn, shoots the
10 dog.

11 THE COURT: Alright. I guess, also for purposes of
12 clarification, anything in the transcript marked as
13 Court's Exhibit Number 1 concerning Mr. Felder you'll be
14 proffering that or similar-type testimony; is that
15 correct?

16 MS. NORRIS: Yes.

17 THE COURT: Alright.

18 MS. NORRIS: Detective Goldstein did testify last
19 time. And, again, I questioned him extensively. I also
20 need to mark some screenshots from that video. Give me
21 just a second, Your Honor.

22 [Whereupon, Ms. Norris reviews documents]

23 MS. NORRIS: If we can, Judge, if you want to go
24 ahead and take a break, I'll find those.

25 THE COURT: Alright. Anything else you want to say

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1 will. If we won't, we'll do it in camera. Okay?

2 MS. SEMAN: Yes, Your Honor.

3 THE COURT: And if you want to do it in camera, just
4 let me know and I'll be happy to do that.

5 MS. SEMAN: Will do. Thank you.

6 THE COURT: Okay. I'll leave that up to y'all
7 because y'all know more about all this than I do. I'm
8 hearing it for the first time. Thank y'all very much.

9 [Whereupon, court is recess from 10:59 a.m. to 11:29
10 a.m.]

11 [Whereupon, Court's Exhibit Number 13 is marked for
12 identification by the court reporter]

13 THE COURT: Alright. Anything from the State before
14 we bring the jury?

15 MR. DURANT: No, sir.

16 THE COURT: Anything from the defendant?

17 MS. NORRIS: Yes, sir, Judge. I need to correct
18 myself. I was referring to the transcript earlier as
19 Court's 1. I believe its Court's 10. And I also have
20 Court's 13, which is not marked, that is a series of
21 fifteen screenshots from the video of David Felder's dog
22 being shot and that scenario. That is Court's 11.

23 THE COURT: Okay.

24 MS. NORRIS: And the only other thing, Your Honor,
25 again, when Detective Goldstein testifies, I'll just

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1 proffer that I would have asked him the same questions
2 that I did that is in Court's 10. And the defense also
3 would have called the gunshot-residue expert, Jennifer
4 Nates [phonetic] as we did in the last trial.

5 THE COURT: Okay. Anything else?

6 MS. NORRIS: No.

7 THE COURT: Bring us the jury, please.

8 [Whereupon, the jury enters at 11:31 a.m.]

9 THE COURT: Call your next witness please, sir.

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State v Joseph Lamar Brown, Jr.
Barry Goldstein-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: The State would call Barry Goldstein.
2 [Whereupon, Mr. Goldstein comes forward]
3 [Whereupon, Mr. Goldstein is duly sworn by the Clerk
4 of Court]
5 THE CLERK OF COURT: Have a seat.
6 [Whereupon, the witness takes the witness stand]
7 THE CLERK OF COURT: Please state your name and
8 spell your last name.
9 THE WITNESS: Barry Goldstein, G-O-L-D-S-T-E-I-N.
10 - - - - -
11 BARRY GOLDSTEIN,
12 Having Been First Duly Sworn,
13 was Examined and Testified as Follows:
14 DIRECT EXAMINATION
15 BY MR. DURANT:
16 Q. Where are you employed, Detective?
17 A. Charleston County Sheriff's Office.
18 Q. And in what capacity?
19 A. I'm a detective.
20 Q. And how long have you been a detective?
21 A. Forty-one years.
22 Q. Has all of that been with the Charleston County
23 Sheriff's Office?
24 A. No. I did thirty-five years at the City of
25 Charleston, and I've done six at the Charleston County

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1 Sheriff's Office.

2 Q. And what was your role in the investigation of the
3 death of Johnny Pritchard?

4 A. I was the case agent, manager, and I was called,
5 dispatched, to go to [REDACTED] East Thomas Street in reference
6 to a homicide.

7 Q. And that was on what date?

8 A. It should have been December 23rd, 2016.

9 Q. Okay. And when did you become involved in the
10 investigation?

11 A. My cell phone went off about 1:15 in the afternoon,
12 so it would have taken me about forty-five minutes to get
13 there. I had left my residence.

14 Q. Okay. And you were -- you were on call that
15 weekend; is that correct?

16 A. Yes, I was.

17 Q. And as part of your investigation, did you review
18 the computer-assisted dispatch record in this case?

19 A. Yes, I did.

20 Q. And what time was the 911 call made?

21 A. It was at 12:56 p.m.

22 Q. And what time did the first deputy arrive on scene?

23 A. The first deputy will be be, according to the
24 records 13:03, which is military, translated to 1:03 p.m.

25 Q. Okay. So probably nine minutes after; is that

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Direct Examination by Mr. Durant
November 7, 2018

1 correct? No. Excuse me. Seven minutes after?
2 A. Should be seven minutes. Yes, sir.
3 Q. Seven minutes after the 911 call?
4 A. [No response]
5 Q. What did you do upon first arriving at the scene?
6 A. After meeting with my supervisor, the first
7 individual that I interviewed would be Hugh Pritchard.
8 Q. Okay. And who was Hugh -- who is Hugh Pritchard?
9 A. He would have been a witness that was located inside
10 the residence at the time of the incident. And related
11 to ---
12 MS. NORRIS: --- objection. Hearsay.
13 THE COURT: Overruled. Go ahead.
14 A. Related to the victim.
15 Q. [Mr. Durant] Okay. He's the victim's cousin;
16 right?
17 A. Yes.
18 Q. And did Mr. Pritchard -- or Hugh Pritchard provide
19 you with a description of a potential suspect?
20 A. Yes.
21 Q. And do you recall what description he provided?
22 MS. NORRIS: Objection. Hearsay.
23 THE COURT: Overruled. Go ahead.
24 A. The individual had facial cover, something covering
25 his face; five seven, five ten; approximately 170; black

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Direct Examination by Mr. Durant
November 7, 2018

1 clothes.
2 Q. [Mr. Durant] Race?
3 A. That would have been a black male.
4 Q. Any mention of dreads?
5 A. No.
6 Q. What did you do after interviewing Mr. Pritchard?
7 A. It was brought to my attention that a cell phone was
8 recovered down the street from the scene.
9 Q. And that would be at [REDACTED] East Owens Street?
10 A. Yes, sir.
11 Q. And that is -- previous testimony has indicated its
12 right next door to the crime scene; correct?
13 A. Yes.
14 Q. Did you interview Celest McBride and Allan McBride?
15 A. Yes, I did.
16 Q. Were you shown the location where the phone was
17 dropped?
18 A. Yes, I was.
19 Q. Was the phone still present when you interviewed the
20 McBrides?
21 A. It was not in the original place.
22 Q. Why not?
23 A. It had been moved by Mr. McBride.
24 Q. To his front porch; correct?
25 A. Yes, sir.

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Barry Goldstein-Direct Examination by Mr. Durant
November 7, 2018

1 Q. And then subsequently taken into evidence by your
2 department?

3 A. Yes, sir.

4 Q. What did you do at the McBrides?

5 A. I had Mr. McBride show me where he located it, and
6 then I took a statement. When I got done with him -- I
7 had taken some pictures of my own, for my own case, and
8 then I interviewed Celest McBride.

9 Q. Okay. And did Ms. Celest McBride provide you with a
10 description of a potential suspect?

11 A. She did.

12 Q. And do you recall what description she provided?

13 A. It would have been a ---

14 MS. NORRIS: --- objection. Hearsay.

15 THE COURT: Overruled.

16 A. Black male, medium build, stone gray pants, dreads,
17 about five ten, six foot, with medium build.

18 Q. [Mr. Durant] And after talking to the McBrides, did
19 you have an encounter with a fellow named Merit Williams?

20 A. I did.

21 Q. How did that come about?

22 A. When I was interviewing Celest McBride, she had
23 mentioned a green SUV older-type vehicle was driving down
24 East Owens, which would have been away from the crime
25 scene and it would have been the same direction as the

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Direct Examination by Mr. Durant
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1 individual she saw running. She described this green car
2 to me. While I was doing a canvass of the neighborhood,
3 I observed a green SUV, I believe it was a Chevrolet, an
4 old-style Blazer, and I asked the yard it was in who owns
5 this truck and Merit Williams said he did.

6 Q. And where was that Blazer located?

7 A. [REDACTED] East Colpat.

8 Q. Okay. And that is also the address of Trey Colman;
9 is that correct?

10 A. Yes, it is.

11 Q. And do you recall what description was provided by
12 Mr. Williams?

13 A. That would have been a young black male; dark skin;
14 black hoodie, with a 23, the symbol number 23 on the
15 back; black warm-up pants; red Converse sneakers; dreads;
16 with a skully cap; medium build.

17 Q. Okay. I believe you also said the 23 was kind of a
18 multicolored 23 or...

19 A. Yes.

20 Q. So were the three descriptions you had of the
21 potential suspect consistent?

22 A. They were all different.

23 Q. And is that unusual in your line of business?

24 A. No, it's not unusual. You get different variations.
25 People see different things, they remember different

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Direct Examination by Mr. Durant
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1 things, but very seldom do you get the exact description
2 when you speak to different people.

3 Q. But the descriptions were consistent in what regard?

4 A. It would have been the race, it would have been
5 build, the gender, and that would be it.

6 Q. And kind of the color of the clothes, anyway;
7 correct?

8 A. What's that, sir?

9 Q. The color of the clothing, anyway?

10 A. It'd be dark whether it's dark, whether it's gray.

11 Q. Did you attempt to make contact with a fellow named
12 Trey Colman that day?

13 A. Yes, I did.

14 Q. Why?

15 A. I had learned that he was with the victim prior to
16 the criminal offense.

17 Q. And did you contact him?

18 A. Yes, I did.

19 Q. How?

20 A. I contact -- I met with his mother, asked her if she
21 would give me his phone number, cell phone -- cell phone
22 number, which she would not. I asked her if she would
23 get him on the cell phone for me, which she did.

24 Q. Okay. So you talked to him on the cell phone?

25 A. Yes, I did.

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1 Q. And he identified himself as Trey Colman?

2 A. Yes.

3 Q. Based upon your conversation, did he confirm that he
4 had been with the victim that day?

5 A. Yes.

6 Q. And where did the victim take him?

7 A. The ---

8 MS. NORRIS: --- objection to hearsay. Relevance.

9 THE COURT: I'm sorry. What was the question again?

10 MR. DURANT: He said the -- testified that he talked
11 to Trey Colman on the phone and Trey Colman had
12 acknowledged that he had been with the victim that day.

13 THE COURT: And what was your question?

14 MR. DURANT: And then the next question is where had
15 he been with the victim.

16 THE COURT: I'll sustain the objection.

17 Q. [Mr. Durant] Where was he when you talked to him on
18 the phone?

19 MS. NORRIS: Objection. Hearsay.

20 MR. DURANT: I'm not asking him for anything the guy
21 said. I'm asking him ---

22 THE COURT: --- overruled ---

23 MR. DURANT: --- if he knew where he was.

24 THE COURT: Ask him did he know where he was, and
25 then you can ask the question.

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1 Q. [Mr. Durant] Do you know where he was when you
2 talked to him on the phone?

3 A. No. He had told me, you know, someplace, but I
4 don't know what it was.

5 Q. Do you recall whether or not he was in town?

6 A. Not from what he told me.

7 Q. Based upon your conversation with him, what did you
8 ask Detective Khan to do?

9 A. To go to two locations to get the video.

10 Q. And what two locations were those?

11 A. Those were a liquor store in Summerville and a
12 Family Dollar.

13 Q. And was Detective Khan successful in obtaining video
14 from both of those locations?

15 A. Yes, he was.

16 Q. Did you review the video?

17 A. Yes, I did.

18 Q. And what did you learn from reviewing the video?

19 A. That Trey Colman was at both locations, based on the
20 clothing he was wearing and his face.

21 Q. And when you say both locations, you mean the liquor
22 store and the ---

23 A. --- family Dollar ---

24 Q. --- Family Dollar Store. Now, moving on to the next
25 day, December the 24th of 2016, which would have been

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1 Christmas Eve, did you have an occasion to examine the
2 iPhone previously introduced as State's Exhibit Number
3 63? Did you ---

4 A. --- did I examine it?

5 Q. Did you look at it that day or have -- or try to
6 look at it that day?

7 A. Yes.

8 Q. And do you recognize that as being the phone?

9 [Whereupon, the witness is shown exhibit]

10 A. Yes.

11 Q. How?

12 A. From the screensaver that's on there.

13 Q. It's got a picture of the defendant and Nautica on
14 there; correct?

15 A. Yes.

16 Q. Were you able -- what did you want to do with regard
17 to the phone?

18 A. I wanted to identify the male figure, but I also
19 wanted to identify the female because it may lead me to
20 the identity of who the male figure was.

21 Q. You also wanted to have the phone what's called
22 dumped in the law enforcement community; correct?

23 A. Yes.

24 Q. In fact, you prepared a search warrant to get it
25 dumped; correct?

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1 A. I did. I was in the middle of preparing, yes.
2 Q. Okay. And did you ever get that search warrant
3 signed?
4 A. No, I did not.
5 Q. Why not?
6 A. Deputy Paul McManigal, who works for the Sheriff's
7 Office and is responsible for the examining of phones,
8 told me that he was not able to enter the phone.
9 Q. Why?
10 A. It was passcode protected.
11 Q. Okay. And it was an iPhone; correct?
12 A. Yes.
13 Q. And he was unable to do a data dump on the phone --
14 iPhone that's password protected?
15 A. That's correct.
16 Q. Now, we've talked about this photograph. How did
17 you -- and we've seen pictures of it. It's a black male
18 and a black female, the defendant and his girlfriend,
19 Joe-Joe and Nauti. How did you go about identifying who
20 those were pictures of?
21 A. I sent the picture to my supervisor, Sergeant
22 Christy Moyer Smith. She's more familiar with using the
23 web. And she had called me and told me that ---
24 Q. --- don't want her to tell you -- based upon her
25 investigation, were you able to learn the identity of the

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1 female?
2 A. Yes.
3 Q. And who was the female on -- depicted on the phone?
4 A. Nautica Manigault.
5 Q. Were y'all able to determine where Nautica Manigault
6 was living at the time?
7 A. Yes.
8 Q. Where?
9 A. The Abby Townhouses.
10 Q. Abby Lane Townhouses?
11 A. Abby Lane Townhouses.
12 Q. That's located in Summerville; correct?
13 A. That's correct.
14 Q. And do you recall about how far Abby Lane Townhouses
15 are from the scene of this incident?
16 A. It's about a half a mile to a mile.
17 Q. Okay. Moving ahead to December 26th did you have the
18 occasion to speak with Ms. Manigault?
19 A. I did.
20 Q. Where?
21 A. It would have been at her grandmother's residence.
22 Q. Which is where?
23 A. Building 7 at the Abby Lane Townhouses.
24 Q. Okay. And she was staying with her grandmother at
25 the time; correct?

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1 A. Yes, she was.
2 Q. And you interviewed her and recorded the interview;
3 correct?
4 A. Yes.
5 Q. And was she able to identify the male on the phone?
6 A. Yes.
7 Q. As who?
8 A. Joseph Lamar Brown.
9 Q. And what was Mr. Brown's relationship to Nautica
10 Manigault?
11 A. Boyfriend and girlfriend.
12 Q. And did you have -- during this interview did you
13 have the occasion to examine her phone?
14 A. Yes.
15 Q. In fact, took some pictures of it; is that correct?
16 A. Yes, I did.
17 Q. And one of those being State's 53, which is a
18 picture of her cell phone; correct?
19 A. Yes.
20 Q. She had the same lock screen?
21 A. Yes, sir ---
22 Q. --- or the same picture on her lock screen? And
23 what is State's 54?
24 A. It'll be phone numbers. It's got phone numbers.
25 And it says, for a title, future husband.

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1 Q. And that was her contact for whom?

2 A. It would have been Joseph Brown.

3 Q. Okay. And that top number was the phone number to
4 the cell phone; correct?

5 A. Yes, sir. It's 55 -- its 843-557-3277.

6 Q. Okay. What did you do based upon your -- that
7 information you obtained from Ms. Manigault?

8 A. I wanted to verify his address and his description,
9 and then I applied for arrest warrants.

10 Q. Okay.

11 MR. DURANT: Madam Court Reporter, could you mark
12 this as State's 149, I think is our next one.

13 THE COURT: I'm sorry. What number?

14 MR. DURANT: I think it's 149, if I'm not mistaken.

15 THE COURT: 149. Thank you.

16 [Whereupon, State's Exhibit Number 149 is marked for
17 identification by the court reporter]

18 MR. DURANT: I believe we would offer 149 without
19 objection, Your Honor.

20 MS. NORRIS: No objection.

21 THE COURT: 149 admitted without objection.

22 [Whereupon, State's Exhibit Number 149 is admitted
23 into evidence by the Court]

24 Q. [Mr. Durant] And what is State's Exhibit 149?

25 A. This is Joseph Lamar Brown, Jr.'s motor vehicle

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1 information.

2 Q. Okay. And there's a photograph of him; is that

3 correct?

4 A. Yes.

5 Q. It's kind of hard to see on that copy, but it

6 appears to be this defendant; correct?

7 A. Yes.

8 Q. And what is his address -- was his address?

9 A. [REDACTED] East Third North Street, Apartment [REDACTED].

10 Q. And that is located in what apartment complex?

11 A. That's the Abby Lane Townhouses.

12 Q. Okay. And which is the same place that you had

13 talked to Nautica Manigault at; correct?

14 A. Yes.

15 Q. And the same place that y'all -- you obtained a

16 search warrant?

17 A. Yes, sir.

18 Q. And he's listed as a black male; correct?

19 A. Yes.

20 Q. And what is his listed height?

21 A. His height is five nine.

22 Q. And weight?

23 A. 155.

24 Q. Okay. So he's a black man of medium height and

25 build; correct?

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1 A. Yes.

2 Q. Now, moving on to January the 3rd, was Mr. Brown
3 taken into custody?

4 A. Yes, he was.

5 Q. Did you have the opportunity to interview him?

6 A. Yes, I did.

7 Q. Where?

8 A. The Charleston County Sheriff's Office.

9 Q. Did you advise him of his constitutional rights
10 under Miranda?

11 A. Yes, I did.

12 Q. And in doing so, did you use a -- your standard
13 Miranda form?

14 A. Yes, I did.

15 MR. DURANT: Your Honor, at this point we would
16 offer State's Exhibit 130, I believe without objection.

17 MS. NORRIS: No objection.

18 THE COURT: 130 without objection.

19 [Whereupon, State's Exhibit Number 130 is admitted
20 into evidence by the Court]

21 Q. [Mr. Durant] And you read him each and every right
22 that's contained on that form; is that correct?

23 A. Yes.

24 Q. Did he appear to understand you?

25 A. Yes.

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- 1 Q. Did he say he understood you?
- 2 A. Yes.
- 3 Q. Did he have -- exhibit any difficulty in
- 4 understanding what you were saying that day?
- 5 A. No, sir.
- 6 Q. Did he appear to be under the influence of anything?
- 7 A. No, sir.
- 8 Q. Did he agree to waive his rights and talk to you?
- 9 A. Yes.
- 10 Q. Did you promise him anything?
- 11 A. No, I did not.
- 12 Q. Did you threaten him in any way?
- 13 A. No.
- 14 Q. Did you offer him any reward or inducement to talk
- 15 to you?
- 16 A. No.
- 17 Q. And what did he tell you, in general terms?
- 18 A. General terms, he said -- I asked him about the cell
- 19 phone. He identified the cell phone as his. He said
- 20 that you'll see me on body cams; I was up there looking
- 21 for my phone; I lost my phone up around where the
- 22 incident took place.
- 23 Q. Okay. Did y'all go back and search the body cams?
- 24 A. Yes.
- 25 Q. Y'all never did see him on the body cams searching

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1 for his cell phone, did you?

2 A. No, sir.

3 Q. Was your interview with him audio and video
4 recorded?

5 A. Yes, it was.

6 MR. DURANT: Your Honor, at this time we would offer
7 State's 101, I believe without objection.

8 THE COURT: 101 without objection; correct?

9 MS. NORRIS: No objection.

10 THE COURT: 101 admitted.

11 [Whereupon, State's Exhibit Number 101 is admitted
12 into evidence by the Court]

13 Q. [Mr. Durant] State's 101 is not the entire
14 interview but a portion of the interview; is that
15 correct?

16 A. Yes.

17 [Whereupon, State's Exhibit Number 101, video, is
18 played for the jury]

19 [Whereupon, State's Exhibit Number 101, video,
20 concludes]

21 Q. [Mr. Durant] And he claimed to have been out there
22 looking for his phone; correct?

23 A. Yes, sir.

24 Q. And talking to people -- deputies with body cams on?

25 A. Yes.

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1 Q. And did you see anybody that met any of the
2 descriptions that he gave because he kept changing what
3 he was wearing that day; correct?
4 A. Correct.
5 Q. Sometimes he was wearing an American flag outfit;
6 sometimes he's wearing a black tee-shirt and green
7 shorts. But he was very specific; correct?
8 A. Yes.
9 Q. But he kept changing what he had on?
10 A. Correct.
11 Q. And he told you he had lost his phone and didn't
12 know anything about what had gone on; correct?
13 A. That is correct.
14 Q. Did you believe him?
15 A. No.
16 MS. NORRIS: Objection.
17 THE COURT: I'll sustain the objection. Please
18 disregard the last question and answer. Go ahead.
19 Q. [Mr. Durant] Let's jump ahead to March 21 of 2017.
20 What did you do in reference to this case that day?
21 A. I applied for a search warrant for the cell phone
22 belonging to Joseph Brown.
23 Q. And that would be State's Exhibit Number 63; is that
24 correct?
25 A. Yes, sir.

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1 Q. Why? You just told us that they couldn't get into
2 the cell phone.

3 A. Deputy McManigal had contacted me, and other
4 detectives in the office, that there was twenty-five ---

5 MS. NORRIS: --- objection to hearsay.

6 THE COURT: I'll sustain the objection. I'm not
7 going to let him ---

8 MR. DURANT: --- I'm not offering it for its truth
9 Your Honor ---

10 THE COURT: --- testify to what somebody told him.
11 Pardon?

12 MR. DURANT: I'm offering it to explain why he got
13 -- ended up getting a search warrant for the phone.

14 THE COURT: Alright. Just ask him to explain why he
15 got the search warrant what somebody else told him -- not
16 what somebody else told him. Go ahead.

17 Q. [Mr. Durant] Bottom line: were you provided with any
18 information indicating that that had changed?

19 A. Yeah. Money -- money became available.

20 Q. Money became available for what?

21 A. To examine cell phones.

22 Q. By whom?

23 A. The FBI.

24 Q. By the FBI or Cellebrite?

25 A. It was money that would go to Cellebrite to examine

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1 -- to get pass codes, or however Deputy McManigal
2 examines these phones but money became available for the
3 examination of phones.

4 Q. Okay. Because Cellebrite was able to defeat the
5 pass code; is that right?

6 A. Yes.

7 Q. And what was the FBI's role in this?

8 MS. NORRIS: Objection, Your Honor. Relevance.

9 THE COURT: Overruled. Go ahead.

10 A. They provided the money.

11 Q. [Mr. Durant] To have how many cell phones opened
12 that the Sheriff's Office had?

13 A. Well, I know I used it for this phone.

14 Q. Okay. So you know you at least had money to try to
15 get this phone opened. Okay?

16 A. That's correct.

17 Q. That's why you did the search warrant?

18 A. That's correct.

19 Q. And after getting the search warrant signed, who did
20 you deliver it to?

21 A. Deputy McManigal.

22 Q. And moving ahead a few weeks. Was Mr. McManigal
23 able to successfully dump the contents of that iPhone?

24 A. Yes.

25 Q. Okay. Without letting me know anything about the

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1 contents, were there text messages on that cell phone
2 that were relevant to your investigation of this
3 particular case?

4 A. Yes, sir.

5 Q. And the text messages were on that cell phone,
6 State's Exhibit 63?

7 A. Yes, sir.

8 Q. And do you know who these text messages were to and
9 from?

10 MS. NORRIS: Objection.

11 THE COURT: Overruled ---

12 MS. NORRIS: Continuing ---

13 THE COURT: --- I mean ---

14 MS. NORRIS: --- objection, Your Honor ---

15 THE COURT: --- he asked him did he know, yes, or
16 no. Overruled. Go ahead.

17 Q. [Mr. Durant] Do you know who these text messages
18 were to and from?

19 A. Yes.

20 Q. And who were they to and from?

21 A. It would be Trey Colman and an individual with a
22 nickname.

23 Q. Actually, it was Joe-Joe and Red; correct?

24 A. Well, that's correct. The communication would be
25 Trey Colman and ---

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1 Q. --- okay. Because the text messages came from Joe-
2 Joe's cell phone?

3 A. Yes.

4 Q. And he was texting with an individual named what?

5 A. Red.

6 Q. Okay. And at a specific phone number; correct?

7 A. Yes.

8 Q. And there were a number of text messages between
9 these two in the hour right before Mr. Johnny Pritchard's
10 death; is that correct?

11 A. Yes.

12 Q. And were the text messages on the phone related to
13 Mr. Pritchard's death?

14 MS. NORRIS: Continuing objection.

15 THE COURT: I'll sustain the objection until -- from
16 this witness. Okay you're getting into the context of
17 the texts.

18 Q. [Mr. Durant] Were y'all able to identify a phone
19 number, attributable to this Red fellow, from the phone
20 extraction?

21 A. Yes.

22 Q. Did you know what Red's real name was at that time?

23 A. No.

24 Q. Did you suspect who -- what Red's real name was at
25 that time?

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1 A. Yes.

2 Q. Why?

3 A. The ---

4 Q. --- well, first of all, who did you suspect Red was?

5 A. Trey Colman.

6 Q. And why did you suspect Red was Trey Colman?

7 A. The messaging.

8 Q. Not talking about the messaging right now. First of

9 all, let's start with the video at ---

10 A. --- the video ---

11 Q. --- at the liquor store.

12 A. The video at the liquor store and Family Dollar had

13 a multicolored shirt and a complexion the same as Trey

14 Colman. The shirt was very unique, had a lot of colors

15 in it. We had that shirt; we had pictures of Trey Colman

16 and...

17 Q. And let me show you what's previously been marked as

18 State's Exhibits Number 135 and 136, which testimony has

19 indicated came from the video at the -- at the liquor

20 store.

21 [Whereupon, the witness is shown exhibits]

22 A. Put them up like this. As you can see, the ---

23 MS. NORRIS: --- continuing ---

24 Q. [Mr. Durant] --- no ---

25 MS. NORRIS: --- objection, Your Honor. Those are

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1 not in evidence ---

2 Q. [Mr. Durant] --- no, don't show them to the jury.

3 A. --- oh, I'm sorry ---

4 Q. --- I'm just asking you for identifying -- you can
5 show them to the Judge, if you want.

6 A. Alright. I'm sorry. The color of the shirt, the
7 hat, and the complexion in the picture, is Trey Colman.

8 Q. Okay.

9 THE COURT: I'm sorry. You had an objection. What
10 was your objection?

11 MS. NORRIS: My objection was that he was turned
12 around showing them to the jury and they're not in
13 evidence as of yet.

14 THE COURT: Okay. Alright.

15 Q. [Mr. Durant] The same with State's Exhibits 137 and
16 138.

17 [Whereupon, the witness is shown exhibits]

18 A. Okay. The shirt is the same, the hat's the same;
19 it's a picture of Trey Colman.

20 Q. And those came from the Family Dollar video;
21 correct?

22 A. Yes.

23 Q. And both of those videos, in terms of time, were
24 before or after Mr. Pritchard's murder?

25 A. Oh. They were before.

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1 Q. And you had the video pulled from those two
2 locations based upon your conversation with Trey Colman;
3 correct?

4 A. Yes.

5 Q. Did you go back and look at the video of the body
6 cams, from all the deputies that responded to the scene
7 of this murder, after the police got there?

8 A. Yes, I did.

9 Q. I show you what's been -- I believe 139 through 143,
10 in evidence.

11 [Whereupon, the witness is shown photographs]

12 Q. And those are pictures from I believe Deputy
13 Gillard's body cam; correct?

14 A. Yes, sir.

15 Q. And those are all photos of Trey Colman; correct?

16 A. Yes, sir.

17 Q. And what is the clothing in those photographs
18 compared to the ones taken at the liquor store and the
19 one at the Family Dollar store?

20 A. Clothing is the same.

21 Q. Exactly the same; correct?

22 A. Yes.

23 Q. Hat, shirt, pants, shoes; correct?

24 A. Yes, sir.

25 Q. And then handing you 43, 44, 45 and 46 and 47, I

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1 believe in evidence, which are photographs obtained from
2 Mr. Perez' video.

3 [Whereupon, the witness is shown photographs]

4 Q. What conclusion did you reach with regard to the
5 clothing worn by that individual?

6 MS. NORRIS: Objection, Your Honor. This is a
7 question for the jury.

8 THE COURT: Overruled. Go ahead.

9 A. The clothing is the same.

10 Q. [Mr. Durant] Okay. So you have reason to believe
11 that this person picked up at the end of Brenda B was
12 picked up by Trey Colman; correct?

13 A. Yes.

14 Q. And based upon your investigation, did you have
15 reason to believe that Trey Colman and Mr. Pritchard had
16 been together that day?

17 A. Yes.

18 Q. And right before Mr. Pritchard was killed; correct?

19 A. Yes.

20 Q. And based upon this information, you also arrested
21 Trey Colman; is that correct?

22 A. Yes, sir.

23 Q. And Mr. Colman was also charged with the murder and
24 robbery and burglary of Mr. Johnny Pritchard; correct?

25 A. Yes, sir.

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1 Q. As part of your investigation, were you able to
2 access the victim's bank records?

3 A. Yes, I was.

4 Q. And had he withdrawn any cash from his account
5 around the time of his murder?

6 A. Yes.

7 Q. How much?

8 A. I received a number of 700 dollars.

9 Q. That information was provided by his mother?

10 A. From his mother to me. Yes.

11 Q. Who had access to his bank records?

12 A. Yes.

13 MR. DURANT: Could you please answer any questions

14 Ms. Norris ---

15 THE COURT: --- cross-examination ---

16 MR. DURANT: --- may have for you?

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1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Good afternoon, Detective.

4 A. Afternoon, ma'am.

5 Q. Now, when you picked up Joseph Brown, he was

6 cooperative with you, wasn't he?

7 A. Yes.

8 Q. You asked him for a buccal swab so you could do any

9 DNA potential, and he didn't give you any problem about

10 that?

11 A. He gave me no problem.

12 Q. And he voluntarily waived his rights and talked to

13 you?

14 A. Yes, ma'am.

15 Q. And that was about -- what day was it that he was

16 arrested?

17 A. Should have been ---

18 Q. --- January 3rd?

19 A. January 3rd.

20 Q. So that was about ten, eleven days after Mr.

21 Pritchard died?

22 A. Yes, ma'am.

23 Q. Detective, you can't tell this jury what you were

24 wearing twelve days ago; right?

25 A. No, ma'am.

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1 Q. Now, as a case agent, you also reviewed the 911
2 call?

3 A. Yes.

4 Q. And you're aware that Mr. Pritchard, Hugh Potter
5 Pritchard, first told dispatch that he couldn't say what
6 race the shooter was; right?

7 A. Yes.

8 Q. And he also made a number of statements. And
9 particularly to you he also indicated that the person he
10 saw had a hat on; right?

11 A. Yes.

12 Q. And he specifically told you that it was not a
13 teenager?

14 A. That's correct.

15 Q. And do you recall that on that day, December 23rd
16 and still on January 3rd, that Mr. Brown was eighteen
17 years old?

18 A. Yes, ma'am.

19 Q. And he lived near there; right?

20 A. Yes.

21 Q. Abby Lane apartments are only .6-tenths of a mile
22 from the crime scene; right?

23 A. Yes.

24 MS. NORRIS: I'm going to ask the court reporter to
25 mark this for me, please.

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1 [Whereupon, Defendant's Exhibit Number 5 is marked
2 by the court reporter]

3 MS. NORRIS: Your Honor, I offer Defendant's Exhibit
4 5 into evidence.

5 THE COURT: Any objection?

6 MR. DURANT: No, sir.

7 THE COURT: Without objection.

8 [Whereupon, Defendant's Exhibit Number 5 is admitted
9 into evidence by the Court]

10 Q. [Ms. Norris] That's a Google map. And you see on
11 there the [REDACTED] East Third North Street?

12 A. I see it. Yes, ma'am.

13 Q. Alright. And can you show the jury on there where
14 the -- where Mr. John Pritchard lived?

15 A. Right there [indicates].

16 Q. So it's very close by, walking or driving?

17 A. That's correct.

18 Q. And now, you mentioned a withdrawal from Mr.
19 Pritchard's account. Do you -- do you have that bank
20 record up there with you?

21 A. No, I don't.

22 Q. I'll show you -- show you a copy, then.

23 [Whereupon, the witness is shown document]

24 Q. Is that the record that you were shown by Mr.
25 Pritchard's mother?

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Cross-Examination by Ms. Norris
November 7, 2018

1 A. I had asked her about a withdrawal and I did not see
2 a formal document.

3 Q. Okay. But that indicates that he withdrew 700
4 dollars on December 20th; right?

5 A. Alright. Let's see.

6 [Whereupon, the witness reviews documents]

7 A. Withdrawal is 700 dollars on December 20th. That's
8 correct.

9 Q. And on December 23rd, the day that he died, he used
10 a debit card to pay 5 dollars and 51 cents at the Dollar
11 General; right?

12 A. That's correct.

13 Q. Let me get that back from you.

14 [Whereupon, Ms. Norris retrieves document from the
15 witness]

16 Q. And I believe you've indicated that two of your
17 witnesses out there, Celest McBride and Merit Williams,
18 told you the person they saw had dreadlocks; right?

19 A. Yes, ma'am.

20 Q. And you never had, and haven't had since, any
21 information that this young man's ever had dreadlocks;
22 right?

23 A. That's correct. I never had information.

24 MS. NORRIS: I don't have anything further. Thank
25 you.

State v Joseph Lamar Brown, Jr.
Barry Goldstein-Redirect Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: I just have a couple on redirect, Your
2 Honor.

3 THE COURT: Okay.

4 REDIRECT EXAMINATION

5 BY MR. DURANT:

6 Q. He didn't -- when he was telling you about his
7 clothing on this day, he didn't say he didn't remember
8 what he was wearing; right?

9 A. No, sir. He kept giving me different clothing
10 descriptions.

11 Q. Exactly. He was very specific about what he was
12 wearing. He just kept changing it?

13 A. Yes.

14 Q. So it wouldn't have raised a red flag to you if he
15 had just said I don't remember what I was wearing ten
16 days ago, would it?

17 A. No, sir.

18 MR. DURANT: Thank you.

19 THE COURT: Any recross?

20 MS. NORRIS: No, sir.

21 THE COURT: Alright. You may step down. Thank you
22 very much.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25

State v Joseph Lamar Brown, Jr.
Paul McManigal-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: The State would call Paul McManigal.

2 [Whereupon, Mr. McManigal comes forward]

3 [Whereupon, Mr. McManigal is duly sworn by the Clerk
4 of Court]

5 THE CLERK OF COURT: Okay. You may have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: For the record, please state
8 your name and spell your last.

9 THE WITNESS: My name is Paul David McManigal. My
10 last name is spelled M-C-M-A-N-I-G-A-L.

11 - - - - -

12 PAUL MCMANIGAL,

13 Having Been First Duly Sworn,

14 was Examined and Testified as Follows:

15 DIRECT EXAMINATION

16 BY MR. DURANT:

17 Q. Where are you employed, Mr. McManigal?

18 A. I'm employed with the Charleston County Sheriff's
19 Office.

20 Q. And how long have you been with the Sheriff's
21 Office?

22 A. A little over thirty years.

23 Q. And when did you -- what did you do at the Sheriff's
24 Office when you began in 1988?

25 A. I started in patrol unit, where I worked as a patrol

1 officer. I then moved into the crime scene unit in 1997,
2 where I became a crime scene investigator for the next
3 nine years.

4 I then took over as the supervisor of forensic
5 services, which I did for another nine years. And
6 eventually I moved into a position with the United States
7 Secret Service on their Electronic Crimes Task Force.

8 Q. And what is your current rank at the Charleston
9 County Sheriff's Office?

10 A. I'm currently a Master Deputy.

11 Q. And what is your current position at the Sheriff's
12 Office?

13 A. I'm a computer forensic examiner.

14 Q. And you had mentioned something about being assigned
15 to a task force. Which task force is that?

16 A. That's the United States Secret Service Electronic
17 Crimes Task Force.

18 Q. And how long have you been a forensic examiner,
19 computer forensic examiner, with the task force?

20 A. Since 2011.

21 Q. And you've been doing that full time since when?

22 A. Since 2015.

23 Q. What is the nature of your work with the Secret
24 Service task force?

25 A. I process computers, cell phones, tablets, any

State v Joseph Lamar Brown, Jr.
Paul McManigal-Direct Examination by Mr. Durant
November 7, 2018

1 electronic device to try to gather evidence from that
2 device.

3 Q. And what training have you had in the area of
4 computer forensic examination?

5 A. I was trained at the National Computer Forensic
6 Institute in basic computer evidence recovery, advanced
7 computer forensics, MAC forensics, advanced mobile device
8 examiner, and network intrusion response.

9 I was trained at the National White Collar Crime
10 Center in McIntosh, Triage, and Imaging, Apple I device
11 forensics, and I was trained by Cellebrite in advanced
12 JTAG extraction, which is spelled J-T-A-G.

13 Q. And Cellebrite is what?

14 A. Cellebrite is the industry leader in cell phone
15 forensic equipment.

16 Q. They are a multinational corporation; is that
17 correct?

18 A. That is correct.

19 Q. And have you been trained by Cellebrite?

20 A. I have been.

21 Q. And what certifications do you hold from Cellebrite?

22 A. I am a certified Cellebrite physical and logical
23 examiner.

24 Q. And what's the nature of Cellebrite's business?

25 A. Cellebrite designs, manufactures, and sells cell

1 phone forensic devices. And in my case, it's a
2 Cellebrite UFED touch, which is able to get data from
3 cell phones.

4 Q. And they're kind of the industry standard in doing
5 data extractions from cell phones; is that correct?

6 A. Among law enforcement, they are.

7 Q. They are an Israeli corporation, I understand?

8 A. I'm sorry?

9 Q. Israeli corporation, I understand?

10 A. Their headquarters is based in Israel. They also
11 have a home office in New Jersey.

12 Q. And have you been certified by Cellebrite in the use
13 of both their hardware and software?

14 A. I have been.

15 Q. And for how long?

16 A. Since 2015.

17 Q. And what exactly does their software do?

18 A. Their software will extract the electronic data from
19 a phone bit by bit. They will then parse out the data
20 and put it into a report that can be read by the average
21 person.

22 Q. Pursuant to a search warrant, did you have the
23 occasion to perform a Cellebrite examination of an iPhone
24 Five model 1429 relative to this case?

25 A. I did.

State v Joseph Lamar Brown, Jr.
Paul McManigal-Direct Examination by Mr. Durant
November 7, 2018

1 Q. I hand you what's been marked as State's Exhibit
2 Number 63 in evidence and ask if you can identify that
3 cell phone as being the phone that you extracted the data
4 from.

5 [Whereupon, the witness is shown exhibit]

6 A. It is.

7 Q. And how do you know that, sir?

8 A. On the back of the phone is listed the IMEI number,
9 which stands for International -- one moment, please --
10 International Mobile Equipment Identity, and it's a
11 number assigned to each and every cell phone to identify
12 it on the network.

13 Q. Okay. And so that IMEI number is unique to that
14 particular cell phone; is that correct?

15 A. That is correct.

16 Q. And every cell phone has its own IMEI number; is
17 that correct?

18 A. That is correct.

19 Q. And when did you originally dump the data from that
20 phone?

21 A. The first time when I received it, it was locked so
22 once it was unlocked, I processed it on April -- or sorry
23 -- May 17th of 2017.

24 Q. And were the times contained on the May 2017
25 extraction converted to local time?

1 A. They were not. All of the times were in UTC, or
2 Greenwich Mean Time, which means they were not adjusted
3 for the local time zone. That's the native format for
4 cell phones.

5 Q. And that is the native format for iPhones, as well;
6 correct?

7 A. That is correct.

8 A. And UTC is?

9 A. UTC is Universal Coordinated Time. Its abbreviated
10 UTC because of the language ---

11 Q. --- okay ---

12 A. --- translation.

13 Q. And because I'm mathematically challenged, did I ask
14 you to re-dump the phone to convert the times into local
15 time?

16 A. Yes, sir.

17 Q. And what is the difference between UTC time and
18 local time in December of that year?

19 A. December was Eastern Standard Time, which is UTC
20 minus five hours.

21 Q. Okay. So UTC will be five hours ahead of local time
22 in December?

23 A. Correct. You would have to subtract five from each
24 UTC time to get the local time.

25 Q. So in April of this year, 2018, were you asked to

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Paul McManigal-Direct Examination by Mr. Durant
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1 dump the phone again and convert it to local time?

2 A. Yes, sir.

3 Q. And did you do so?

4 A. I did.

5 Q. And that is done by the software that you use; is
6 that correct?

7 A. The Cellebrite UFED Touch. Yes, sir.

8 Q. So that all the times on the documents that we are
9 about to go over have been adjusted to local time for
10 December of 2016; correct?

11 A. That is correct.

12 Q. I want to go through some of the documents from your
13 report, starting with State's Exhibit Number 108.

14 MS. SEMAN: We just have a continuing objection,
15 Judge.

16 THE COURT: Yes, ma'am.

17 MR. DURANT: Your Honor, at this time we would offer
18 State's Exhibit 108, subject to their continuing
19 objection.

20 THE COURT: Alright. 108 admitted with objection.

21 [Whereupon, State's Exhibit Number 108 is admitted
22 into evidence by the Court]

23 Q. [Mr. Durant] And what is State's Exhibit 108,
24 Deputy McManigal?

25 A. It's the first few pages of my extraction report,

1 which includes the summary of the extraction.

2 Q. Okay. And does that indicate that the time has been
3 adjusted to UTC time minus five hours?

4 A. It does.

5 Q. And what is the phone number for the phone that you
6 extracted the data from?

7 A. The phone number is 843-557-3277.

8 Q. And does the IMEI number from your report match the
9 IMEI number on State's Exhibit Number 63, the iPhone that
10 you dumped the data from?

11 A. It does.

12 MR. DURANT: Your Honor, at this time we would offer
13 State's Exhibit 109, I believe subject to their previous
14 objection.

15 MS. SEMAN: Yes, Your Honor.

16 THE COURT: Alright. 109 admitted with objection.

17 [Whereupon, State's Exhibit Number 109 is admitted
18 into evidence by the Court]

19 Q. [Mr. Durant] Alright. I hand you what's been
20 marked as State's Exhibit Number 109 and ask you what
21 that document is.

22 A. This is a section from the contact list.

23 Q. And the contact list basically is the address book
24 in that phone; is that correct?

25 A. Correct.

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1 Q. And what is the contact listed at lines 1053 to 1056
2 on Exhibit 109?

3 A. The name listed is Red, R-E-D. The phone number is
4 843-609-9577.

5 [Whereupon, Mr. Durant and Ms. Seman confer]

6 MR. DURANT: Your Honor, at this time we would offer
7 State's 112, I believe subject to their previous
8 objection.

9 MS. SEMAN: Yes, Your Honor.

10 THE COURT: 112 admitted with objection.

11 [Whereupon, State's Exhibit Number 112 is admitted
12 into evidence by the Court]

13 [Whereupon, the witness is shown document]

14 Q. [Mr. Durant] And what is State's Exhibit Number 112?

15 A. This is a section of the text messages from the
16 report.

17 Q. And what is the date on that?

18 A. The date highlighted is December 15th, 2016.

19 Q. And at lines 935 and 934 are text messages between
20 what two people?

21 A. The owner of the phone and the contact listed as
22 Red.

23 Q. Okay.

24 [Whereupon, Mr. Durant and Ms. Seman confer]

25 MR. DURANT: Your Honor, at this time we would offer

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1 State's 111 and, once again, subject to the defense's
2 previous objection.

3 MS. SEMAN: And we would also add a relevance
4 objection, Your Honor.

5 THE COURT: Okay. Admitted with objection.

6 [Whereupon, State's Exhibit Number 111 is admitted
7 into evidence by the Court]

8 [Whereupon, the witness is shown document]

9 Q. [Mr. Durant] And what is State's Exhibit 111?

10 A. This is also a section of the text messages from the
11 report.

12 Q. Between who?

13 A. Between Red and the user of the phone.

14 Q. Between Red and?

15 A. Between Red and the owner of the phone.

16 Q. And what is the date of that text message?

17 A. December 18th, 2016.

18 Q. Okay.

19 MR. DURANT: Your Honor, at this time we would offer
20 State's Exhibit Number 110, once again subject to the
21 defense's prior objection.

22 THE COURT: Alright. Admitted with objection.

23 MS. SEMAN: Yes, Your Honor. Thank you.

24 [Whereupon, State's Exhibit Number 110 is admitted
25 into evidence by the Court]

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1 Q. [Mr. Durant] Could you tell us what State's Exhibit
2 Number 110 is?

3 [Whereupon, the witness is shown document]

4 A. This is a section of the timeline from the
5 extraction report.

6 Q. What is a timeline?

7 A. A timeline is created by the Cellebrite software.
8 It lists every action on the phone, whether it be a text
9 message or a phone call or a photo being taken, and it
10 lists everything in chronological order.

11 Q. So whatever happens on that phone, it just -- you
12 know, whatever it is, if you're taking a picture or
13 anything, it just starts at one time and goes to another
14 time, lists everything that happened anywhere?

15 A. That's correct.

16 Q. And does it include phone calls?

17 A. It does.

18 Q. Does it include text messages?

19 A. It does.

20 Q. Does it include photo -- when photographs are taken?

21 A. It does.

22 Q. And on that particular exhibit, State's Exhibit
23 Number 110, what time period does it cover?

24 A. This is December 23rd, 2016.

25 Q. From what time to what time?

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1 A. The highlighted section is from 12:47 p.m. --
2 correction. It begins at 12:55 a.m. to 12:47 p.m.

3 Q. 12, what, now?

4 A. 12:55 a.m., December 23rd.

5 Q. Okay. So that's early on the -- in the morning of
6 the 23rd?

7 A. Yes, sir. Shortly after midnight.

8 Q. Okay.

9 A. And it ends at 12:47 p.m., shortly after noon.

10 Q. Which is the last use of the phone?

11 A. That is correct.

12 Q. And also on many of these exhibits there are some
13 things that are blacked out, there are some things that
14 are highlighted. That was not done by you; is that
15 correct?

16 A. That is correct.

17 Q. Okay.

18 MR. DURANT: At this time we would offer 113, Your
19 Honor, I believe that's over the previous objection.

20 MS. SEMAN: And we would also add a relevance
21 objection, Judge.

22 THE COURT: Alright. 113 admitted with objection.

23 [Whereupon, State's Exhibit Number 113 is admitted
24 into evidence by the Court]

25 [Whereupon, the witness is shown document]

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Paul McManigal-Direct Examination by Mr. Durant
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1 Q. [Mr. Durant] And give you 113. And ask you what
2 that document is.

3 A. This is the phone-call log from the report.

4 Q. And from what period of time does that call log --
5 what is the time span for that call log?

6 A. November 7th, 2016, to December 23rd, 2016.

7 [Whereupon, Mr. Durant and Ms. Seman confer]

8 MR. DURANT: We would offer 114, subject to the same
9 objection, Your Honor.

10 MS. SEMAN: And we would also add a relevance
11 objection, Your Honor. Thank you.

12 THE COURT: Alright. 114 admitted with objection.

13 [Whereupon, State's Exhibit Number 114 is admitted
14 into evidence by the Court]

15 Q. [Mr. Durant] And what is 114?

16 [Whereupon, the witness is shown document]

17 A. This is the section of text messages, specifically
18 SMS messages, from the report.

19 Q. What is an SMS message?

20 A. SMS is a plain-text message, meaning it's just text
21 with nothing attached.

22 Q. Okay. And that's from this -- what period of time?
23 Did you already say? I'm sorry.

24 A. This one is also from November 7th, 2016, to
25 December 23rd, 2016.

State v Joseph Lamar Brown, Jr.
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1 Q. Okay. And those are just plain text messages?

2 A. Yes sir, plain text messages.

3 Q. What is an MMS message?

4 A. MMS is a multimedia message, meaning it's a text
5 message with something attached like a photograph or a
6 document.

7 [Whereupon, Mr. Durant and Ms. Seman confer]

8 MR. DURANT: Your Honor, at this time we would offer
9 State's 115, subject to defense's previous objection.

10 MS. SEMAN: Yes, Your Honor.

11 THE COURT: Alright. 115 admitted with objection.

12 [Whereupon, State's Exhibit Number 115 is admitted
13 into evidence by the Court]

14 Q. [Mr. Durant] And what is 115?

15 [Whereupon, the witness is shown document]

16 A. This is a section from the multimedia message of the
17 report.

18 Q. And what is the date on that?

19 A. December 12th, 2016, is the highlighted section.

20 Q. And what is the multimedia attached to that --- that
21 is from whom to whom?

22 A. This is between the owner of the phone and a contact
23 listed as wifey, phone number is 843-557-3932, and
24 attached to the message is a photograph of a man and a
25 woman.

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1 MR. DURANT: Okay.

2 [Whereupon, Mr. Durant and Ms. Seman confer]

3 MR. DURANT: Your Honor, at this time we would offer
4 State's Exhibit Number 117, subject to defense's previous
5 objection.

6 MS. SEMAN: Continuing ---

7 THE COURT: --- admitted ---

8 MS. SEMAN: --- objection, Judge.

9 THE COURT: --- with objection.

10 [Whereupon, State's Exhibit Number 117 is admitted
11 into evidence by the Court]

12 Q. [Mr. Durant] Would you tell us what State's Exhibit
13 117 is.

14 [Whereupon, the witness is shown document]

15 A. These are more multimedia messages from the report.

16 Q. And those multimedia messages are between who again?

17 A. The owner of the phone and the contact listed as
18 wifey.

19 Q. And is there a date of that text message?

20 A. December 3rd, 2016.

21 MR. DURANT: Your Honor, at this time we would offer
22 State's Exhibit Number 118, subject to defense previous
23 -- subject to the defense's previous objection and
24 subject to me tying it up with a later witness.

25 THE COURT: And also 119; is that correct?

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1 MR. DURANT: That's 119, as well. As a matter of
2 fact, I probably should do both of those at the same
3 time.

4 MS. SEMAN: We just have a continuing objection,
5 Judge.

6 THE COURT: I understand. Admitted provisionally,
7 subject to it being tied later, okay.

8 [Whereupon, State's Exhibit Numbers 118 and 119 are
9 provisionally admitted by the Court]

10 Q. [Mr. Durant] And what is 118?

11 [Whereupon, the witness is shown document]

12 A. This is a section from the multimedia message report
13 on the phone.

14 Q. And the date on that?

15 A. December 15th, 2016.

16 Q. And was that sent from the owner of the phone?

17 A. That was sent from the phone.

18 Q. And the multimedia attached is what?

19 A. It's a photograph of a pistol in somebody's lap.

20 Q. Okay. And State's 119?

21 [Whereupon, the witness is shown document]

22 A. This is a section from the I-Message section of the
23 report.

24 Q. And what is an I-Message?

25 A. I-Message is similar to a multimedia message except

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1 that it is proprietary to Apple software.
2 Q. And rather than go the regular route, it goes
3 through Apple's own servers; is that correct?
4 A. That's correct.
5 Q. And that I-Message is from who?
6 A. The participants are the owner of the phone.
7 Q. Is that the owner of the phone the sender?
8 A. The owner's phone is the sender.
9 Q. And the sender is designated on that message by what
10 name?
11 A. Joe-Joe.
12 Q. To someone named Big Bruh; correct?
13 A. Big Bruh spelled B-R-U-H.
14 Q. And what is the multimedia attached to that
15 particular exhibit?
16 A. It is a photograph of a ---
17 MS. SEMAN: --- objection ---
18 A. --- semiautomatic pistol ---
19 MS. SEMAN: --- objection.
20 THE COURT: Pardon?
21 MS. SEMAN: Judge, until he ties it up.
22 THE COURT: Alright. He can testify. He's not
23 offering the document. He can testify to what's on the
24 picture.
25 MS. SEMAN: Yes, Judge.

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1 Q. [Mr. Durant] And what is the photograph of?

2 A. A semiautomatic pistol on what appears to be a
3 mattress.

4 [Whereupon, Mr. Durant and Ms. Seman confer]

5 MR. DURANT: We would offer State's 120, subject to
6 their prior -- previous objection, Your Honor.

7 MS. SEMAN: Yes, Your Honor. Continuing objection.

8 THE COURT: Okay. Thank you.

9 [Whereupon, State's Exhibit Number 120 is admitted
10 into evidence by the Court]

11 Q. [Mr. Durant] And what is that?

12 [Whereupon, the witness is shown photograph]

13 A. This is a photograph of a man and a woman.

14 Q. Okay. And when you use an iPhone to take a
15 photograph, does the iPhone store those photographs?

16 A. It does.

17 Q. And did the iPhone store that photograph, State's
18 Exhibit Number 120?

19 A. It did.

20 MR. DURANT: And we would also offer State's Exhibit
21 Number 122, once again subject to the previous objection,
22 Your Honor.

23 MS. SEMAN: Continuing objection, Judge.

24 THE COURT: Okay. Admitted with objection.

25 [Whereupon, State's Exhibit Number 122 is admitted

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1 into evidence by the Court]

2 [Whereupon, the witness is shown photograph]

3 Q [Mr. Durant] Is that also a photograph, referring to
4 122, extracted from that iPhone?

5 A. It is.

6 Q. And was it taken by that iPhone?

7 A. It was.

8 Q. And it is a photograph of what?

9 A. A man holding a pistol.

10 Q. Wearing what?

11 A. It's a United States flag jersey and pants.

12 Q. And wearing what on his feet?

13 A. Bright red shoes. Sneakers.

14 MR. DURANT: Your Honor, I don't believe I have any
15 other questions of Deputy McManigal at this time.

16 THE COURT: Cross-examination.

17 MS. SEMAN: Judge, I have no questions for this
18 witness.

19 THE COURT: Pardon?

20 MS. SEMAN: I have no questions for the witness.

21 THE COURT: Have no -- okay. You may step down.
22 Thank you very much.

23 [Whereupon, the witness is excused and exits the
24 witness stand]

25

State v Joseph Lamar Brown, Jr.
Raymond Haupt-Direct Examination by Mr. Durant
November 7, 2018

1 MR. DURANT: Ray Haupt.

2 [Whereupon, Mr. Haupt comes forward]

3 [Whereupon, Mr. Haupt is duly sworn by the Clerk of
4 Court]

5 THE CLERK OF COURT: Okay. You can have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: For the record please state
8 your full name, and spell your last.

9 THE WITNESS: Raymond Haupt, H-A-U-P-T.

10 - - - - -

11 RAYMOND HAUPT,

12 Having Been First Duly Sworn,

13 was Examined and Testified as Follows:

14 DIRECT EXAMINATION

15 BY MR. DURANT:

16 Q. Could you please tell the jury where you're
17 employed, sir?

18 A. The Ninth Circuit Solicitor's Office.

19 Q. My office; correct?

20 A. Correct.

21 Q. And what is your position in the Ninth Circuit
22 Solicitor's Office?

23 A. I'm the chief investigator.

24 Q. And do you have any previous law enforcement
25 experience?

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Raymond Haupt-Direct Examination by Mr. Durant
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1 A. I do.

2 Q. And where is that at?

3 A. The Mount Pleasant Police Department.

4 Q. For how long?

5 A. Eleven-and-a-half years.

6 Q. And what did you do when you were with the Mount
7 Pleasant Police Department?

8 A. I was a police officer, crime scene investigator,
9 evidence technician, detective, and marijuana analyst.

10 Q. And as part of your position as being chief
11 investigator at the Ninth Circuit Solicitor's Office, did
12 you have an opportunity to participate in the preparation
13 of this case we're about?

14 A. I did.

15 Q. Directing your attention to October the 13th, 2017,
16 did you have the occasion to search Facebook for an
17 account by someone using the name Moneybag Fly?

18 A. Yes.

19 Q. Could you please tell the jury why?

20 A. At that time the chief investigator was Jeff
21 Osborne. He came to me with some phone records that
22 showed the Facebook name Moneybag Fly and asked me to
23 perform a search on Facebook for that account.

24 Q. Okay. And I hand you what's been previously
25 introduced as State's Exhibit Number 112 in evidence and

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1 ask you what that document is.

2 [Whereupon, the witness is shown document]

3 A. It's one of the pages from a phone dump, an iPhone
4 dump.

5 Q. And the iPhone dump would be the iPhone dump of the
6 defendant's phone; is that correct?

7 A. Correct.

8 Q. And what is the date of that text message?

9 A. December 15th, 2016.

10 Q. And who is the text message from; the first in time?

11 A. It's from Red.

12 Q. Okay. Was that the first one, or the second one, in
13 time?

14 A. Oh. I'm sorry.

15 [Witness reviews documents]

16 A. It's from -- from Joseph Brown.

17 Q. And so there's a text from Joseph Brown to Red;
18 correct?

19 A. Correct.

20 Q. And what does Joseph Brown ask Red?

21 A. Aye, what's your name on the book?

22 THE COURT REPORTER: What's your name -- say it
23 again.

24 A. A, like A-Y-E, what's your name on the book.

25 Q. [Mr. Durant] And what is the response from Red to

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- 1 Joseph Brown?
- 2 A. Moneybag Fly.
- 3 Q. And what was the phone -- and what is the phone
4 number associated with the person named Red?
- 5 A. 843-609-9577.
- 6 Q. And what is the number associated with the iPhone?
- 7 A. I don't see it here, but its 843-557-3277.
- 8 Q. Now, so from the text messages from the phone, y'all
9 had a phone number for who?
- 10 A. Red.
- 11 Q. And was any effort made to obtain information from
12 Verizon regarding the identity of Red?
- 13 A. Yes.
- 14 Q. Through that phone?
- 15 A. Correct.
- 16 Q. What did y'all do?
- 17 A. It was determined to be a Verizon phone number, so a
18 subpoena was sent to them asking for the subscriber
19 information and call-detail records.
- 20 Q. And was that provided by Verizon?
- 21 A. It was.
- 22 Q. And was that of any help to you?
- 23 A. Yes and no.
- 24 Q. And why do you say that?
- 25 A. No, because in the subscriber information there was

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1 no name associated with the account.

2 Q. Why is that?

3 A. It was a prepaid phone.

4 Q. So then why was it of any help at all?

5 A. In the call-detail records, there were several
6 numbers that I was able to associate as ---

7 MS. SEMAN: --- objection to the hearsay, Judge.

8 THE COURT: Overruled.

9 A. So there were several numbers in the call-detail
10 records that I was able to associate with known
11 acquaintances of Trey Colman.

12 Q. [Mr. Durant] Do you recall, with regard to that
13 number that Verizon gave you the records for, how long
14 that account was open with them?

15 A. I believe it was November 4th, 2016, through
16 December 23rd, 2016.

17 Q. Now, getting back to -- did you search Facebook for
18 an account under the name Moneybag Fly?

19 A. I did.

20 Q. And what did you find?

21 A. Found an account, a Facebook account, with Moneybag
22 Fly for Trey Colman.

23 Q. And whose name was in the URL of that account that
24 you looked up?

25 A. Trey Colman.

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1 Q. And what profile picture came up associated with
2 Moneybag Fly?

3 A. There was a photo of Trey Colman.

4 Q. And upon obtaining this information, what did you
5 do?

6 A. We sent a search warrant to Facebook for that
7 account profile.

8 Q. And did Facebook comply with the search warrant?

9 A. They did.

10 Q. And...

11 [Whereupon, Mr. Durant and Ms. Seman confer]

12 Q. State's 105 do you know what this DVD is?

13 [Whereupon, the witness is shown exhibit]

14 A. Yes.

15 Q. And what is that?

16 A. It's a DVD that contains the Facebook profile for
17 Trey Colman.

18 MR. DURANT: Your Honor, at this time we would offer
19 State's Exhibit 127, I believe without objection.

20 THE COURT: 127 admitted without objection.

21 MS. SEMAN: Judge, we would just object to the
22 relevance. I apologize for being late.

23 THE COURT: 127 admitted with objection.

24 [Whereupon, State's Exhibit Number 127 is admitted
25 into evidence by the Court]

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1 Q. [Mr. Durant] And what's 127?

2 [Whereupon, the witness is shown exhibit]

3 A. It's a certificate of authenticity from Facebook for
4 the Moneybag Fly Trey Colman Facebook account.

5 [Whereupon, Mr. Durant and Ms. Seman confer]

6 MR. DURANT: Your Honor, at this time we would offer
7 State's Exhibit 79 and 80.

8 MS. SEMAN: We object to the relevance, Judge.

9 THE COURT: Overruled. Admitted with objection.

10 [Whereupon, State's Exhibit Numbers 79 and 80 are
11 admitted into evidence by the Court]

12 Q. [Mr. Durant] Could you tell us what State's Exhibit
13 Number 179 is -- or excuse me -- 79?

14 [Whereupon, the witness is shown exhibit]

15 A. It's the first page of the Facebook business record
16 for the Moneybag Fly account.

17 Q. So basically what was on that DVD we previously got
18 -- printed off some documents; is that correct?

19 A. Correct.

20 Q. And that's one of the documents printed off of that
21 DVD; correct?

22 A. Correct. Page 1.

23 Q. And what is the name on that account?

24 A. Moneybag Fly.

25 Q. And what is the old name?

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1 A. Trey Colman.

2 Q. And what is the vanity name?

3 A. Trey period Colman period 73932.

4 Q. And when is the registration date of that -- date of
5 that account?

6 A. November 27th, 2016.

7 Q. And what is the verified cell number associated with
8 that account?

9 A. 1-843-609-9577.

10 Q. And is that the same phone number attributed to the
11 contact Red from the dump of the defendant Joseph Brown's
12 cell phone?

13 A. It is.

14 MR. DURANT: And State's 180 I believe -- excuse me
15 -- 80, I believe subject to...

16 MS. SEMAN: A relevance objection, Judge.

17 THE COURT: Yes, ma'am. Admitted with objection.

18 Q. [Mr. Durant] What is State's Exhibit 80?

19 [Whereupon, the witness is shown exhibit]

20 A. This is page 3 of the Facebook business record for
21 the Moneybag Fly account and it shows the beginning --
22 well, it shows activity log.

23 MR. DURANT: Your Honor, at this time we would offer
24 81, 82, 83, 84, 86, 87, subject to their relevance
25 objection.

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1 THE COURT: Alright. 81 through ---
2 MR. DURANT: 81 ---
3 THE COURT: --- through 87; right?
4 MR. DURANT: 81 -- no. It's not completely
5 consecutive. Its 81, 82, 83, 84, 86 and 87.
6 THE COURT: Alright. Objection?
7 MS. SEMAN: Judge, just to the relevance.
8 THE COURT: Alright. Those are admitted with
9 objection.
10 [Whereupon, State's Exhibit Numbers 81, 82, 83, 84,
11 86 and 87 are admitted into evidence by the Court]
12 Q. [Mr. Durant] And without going into a lot of detail,
13 all of those are pictures of a female and a child; is
14 that correct?
15 [Whereupon, the witness is shown photographs]
16 A. That's correct.
17 Q. And what is the relevance of those pictures to this
18 particular case?
19 A. The female is Laquisha Curtis [phonetic]. And ---
20 Q. --- and who is Laquisha Curtis [phonetic]?
21 A. It was Trey Colman's girlfriend.
22 Q. And the child pictured is her child; is that
23 correct?
24 A. Correct. Isaiah [phonetic].
25 [Whereupon, Mr. Durant and Ms. Seman confer]

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1 MR. DURANT: We would offer State's 85, Your Honor,
2 basically subject to their relevance objection.

3 THE COURT: 85 admitted with objection.

4 [Whereupon, State's Exhibit Number 85 is admitted
5 into evidence by the Court]

6 Q. [Mr. Durant] And what is that exhibit, sir?

7 [Whereupon, the witness is shown exhibit]

8 A. It's a portion of the Facebook business record for
9 the Moneybag Fly account, and it is the messaging thread
10 between Trey Colman and Laquisha Kiki Curtis [phonetic].

11 Q. And just over what period of time that covers?

12 [Witness reviews documents]

13 A. It looks like December 5th, 2016, through December
14 16th, 2016.

15 MR. DURANT: Okay. Your Honor, at this time we
16 would offer 88, 89, 90 and 91 from the Facebook records,
17 subject once again to the defense's relevance objection.

18 THE COURT: Is that ---

19 MS. SEMAN: --- yes, Your Honor, just to the
20 relevance.

21 THE COURT: Alright. 88, 89, 90, 91 admitted
22 without -- with objection.

23 [Whereupon, State's Exhibit Numbers 88, 89, 90 and
24 91 are admitted into evidence by the Court]

25 Q. [Mr. Durant] And what are all of those?

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1 A. Again, this is from the Facebook business record for
2 Moneybag fly, Trey Colman, and these are profile pictures
3 from the account.

4 Q. And the profile pictures from the account are
5 pictures of whom?

6 A. All four of them are of Trey Colman.

7 [Whereupon, Mr. Durant and Ms. Seman confer]

8 MR. DURANT: Your Honor, at this time we would offer
9 State's 92 and 93 from the Facebook records, subject once
10 again to the relevance objection.

11 THE COURT: 91 -- I mean, excuse me. 92, 93, with
12 objection. Admitted.

13 [Whereupon, State's Exhibit Numbers 92 and 93 are
14 admitted into evidence by the Court]

15 Q. [Mr. Durant] And could you tell us what 92 is?

16 [Whereupon, the witness is shown exhibit]

17 A. Again, this is from the Facebook business record for
18 Trey Colman.

19 Q. And what is the highlight portion of that --
20 highlighted portion of that exhibit?

21 A. It is a message or a comment on the account of
22 Moneybag Fly between Barbara Ross and Trey Colman.

23 Q. And what is the date of that?

24 A. December 7th, 2016.

25 Q. And what was his post and what was her comment, and

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1 why is Barbara Ross relevant to this?

2 A. The post said eight hours down, four more to go.

3 And Barbara Ross responded make that honest pay, son.

4 And Barbara Ross is Trey Colman's mother.

5 Q. And State's Exhibit Number 93? If you would just
6 describe what that is.

7 [Whereupon, the witness is shown exhibit]

8 A. Again, it's page 47 of the Facebook business record
9 for Moneybag Fly Trey Colman account. And the author is
10 Romell [phonetic] Middleton.

11 Q. Do you know who Romell [phonetic] Middleton is?

12 A. Its Joseph Brown's cousin, I believe.

13 Q. Cousin or stepfather?

14 A. Cousin or stepfather.

15 Q. Is it his stepfather?

16 A. I believe so. He's a relative.

17 Q. And what is the date of that?

18 A. November 30th, 2016.

19 Q. And by what name does Mr. Middleton refer to
20 Moneybag fly as?

21 A. Red.

22 Q. Let's move on to the phone dump. Starting with
23 State's Exhibit Number 108 already in evidence --

24 MR. DURANT: Could you pull up 108, please.

25 [Whereupon, the exhibit is shown]

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1 Q. And do you know what 108 is?

2 A. Its page 1 and page 2 of the Apple iPhone extraction
3 report for the phone belonging to Joseph Brown.

4 Q. And that would be the phone, State's Exhibit Number
5 63?

6 A. Correct.

7 Q. And what is the phone number associated with that
8 device?

9 A. 843-557-3277.

10 MR. DURANT: And could you put up State's Exhibit
11 Number 19 --- 109, please.

12 [Whereupon, the exhibit is shown]

13 Q. What is the highlighted portion of State's Exhibit
14 Number 109?

15 A. It's a contact, known as Red, in the iPhone dump for
16 Joseph Brown.

17 Q. And what is the number associated with Red in that
18 contact?

19 A. 843-609-9577.

20 Q. And is that the same number that appeared in the
21 Facebook account?

22 A. Correct.

23 Q. And what was -- when was that contact first created?

24 A. There's several contacts, and the first creation was
25 November 5th, 2016.

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1 MR. DURANT: Okay. Let's put up State's Exhibit
2 Number 110 that's in evidence.

3 [Whereupon, the exhibit is shown]

4 Q. What is State's Exhibit Number 110?

5 A. Again, it's a portion of the iPhone extraction for
6 Joseph Brown, and this is part of the timeline on the
7 device.

8 Q. And the timeline for what period of time?

9 [Whereupon, the witness reviews documents]

10 A. It's predominately December 23rd, 2016.

11 Q. And what are the entries highlighted in yellow?

12 A. These are the -- it's the call log and the text
13 messages between Joseph Brown and Trey Colman.

14 Q. On that particular day?

15 A. On December 23rd, 2016.

16 Q. Okay. Let's go through the timeline starting with
17 line 17061. You got that?

18 A. Yes.

19 Q. And it's a text message?

20 A. Correct.

21 Q. And what time is that text message?

22 A. 12:55 a.m.

23 Q. And who is that text message from?

24 A. It's from Red.

25 Q. And this call log indicated a call or an attempted

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1 call?
2 [Whereupon, the witness reviews documents]
3 A. Farther down.
4 Q. Okay. Can I see the exhibit, please?
5 [Whereupon, Mr. Durant reviews exhibit]
6 Q. Okay. Let's go to 17071.
7 [Whereupon, the witness complies]
8 Q. What is at 7 -- line 17071?
9 A. It's a text message from Trey Colman to ---
10 Q. --- to?
11 A. Joseph Brown.
12 Q. Okay. And what is Trey Colman asking him? First of
13 all, what is the date and time of that text message?
14 A. December 23rd, 2016, at 1:10 a.m.
15 Q. And what is the substance of that text -- text
16 message?
17 A. Trey Colman comments or sends a text message shit,
18 let me get the tone.
19 Q. And what is a tone?
20 MS. SEMAN: Objection, Judge.
21 THE COURT: What is your legal objection?
22 MS. SEMAN: Characterization.
23 THE COURT: Overruled.
24 Q. [Mr. Durant] What is a tone?
25 A. It's a gun.

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1 Q. And what is Joseph Brown's response at 1707 -- at 17
2 -- 17072?

3 A. Bruh, you know what I need; my tone; since I just
4 been about to get robbed in front my door. I got to stay
5 on point, Bruh; you know that.

6 Q. Moving on down that timeline, there are entries at
7 17081, 17084, and 17087, at about 1:27 a.m. Do you know
8 what those lines indicate on the timeline?

9 A. Those were photographs taken with that phone.

10 [Whereupon, Mr. Durant and Ms. Seman confer]

11 Q. [Mr. Durant] I hand you what's been previously
12 introduced into evidence as State's Exhibit Number 122.

13 [Whereupon, the witness is shown exhibit]

14 THE COURT: What?

15 MR. DURANT: 122. I believe it's in evidence, Your
16 Honor, if I'm not mistaken, subject to their previous
17 objection.

18 Q. [Mr. Durant] And do you recognize that photo as
19 being one of the photographs taken at around 1:00 or 1:30
20 in the morning on December 23rd of 2016?

21 A. Yes.

22 Q. And how do you know that?

23 A. Going back through the images on the phone and
24 through the timeline, this was one of the photos that was
25 taken during that time.

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1 Q. Okay. And --
2 [Whereupon, Mr. Durant and Ms. Seman confer]
3 [Whereupon, the witness is shown photograph]
4 Q. Do you recognize that photograph?
5 A. Yes.
6 Q. And it was taken the early morning of December the
7 23rd?
8 A. Correct.
9 Q. And can you tell where that photograph was taken?
10 A. I ---
11 MS. SEMAN: --- objection, Judge.
12 THE COURT: What's ---
13 MS. SEMAN: --- to the characterization ---
14 THE COURT: --- what's your legal objection?
15 MS. SEMAN: To the characterization, Judge.
16 THE COURT: Pardon?
17 MS. SEMAN: To the characterization of where -- of
18 where the photograph was taken.
19 THE COURT: Where was it taken? Does he know?
20 Overruled. Go ahead.
21 Q. [Mr. Durant] Can you tell where that was taken?
22 A. Abby Lane Townhomes.
23 Q. Okay. You've been to Abby Lane Townhomes; right?
24 A. Correct. Several times.
25 Q. And that's where Joseph Brown lives; is that

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1 correct?

2 A. Correct.

3 Q. And what is that in his hand?

4 A. In his ---

5 Q. --- right hand ---

6 A. --- right hand is a handgun.

7 Q. Okay. And what are the shoes he's wearing?

8 A. Red Converse with white toes.

9 Q. Okay. And referring to State's Exhibit Number 74

10 taken from the Perez video --

11 [Whereupon, Mr. Durant and Ms. Seman confer]

12 [Whereupon, the witness is shown photograph]

13 Q. Does it appear to be the same type and color of

14 shoes as being worn by the person in that exhibit?

15 MS. SEMAN: Objection, Judge. We believe that's for

16 the jury.

17 THE COURT: Overruled.

18 A. It does. It appears to be the same red Converse

19 style shoes with the white toes.

20 MR. DURANT: Could we have 110 back again, please.

21 [Whereupon, the exhibit is shown]

22 Q. [Mr. Durant] Okay. I want to start back on this

23 timeline at 17116, when the parties began communicating

24 again. What time is it now?

25 [Whereupon, the witness reviews documents]

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1 Q. Or when did they start communicating the next
2 morning, I should ask.

3 A. December 23rd, 2016, at 11:50 a.m.

4 Q. Okay. And what does Colman ask Brown?

5 A. Where you.

6 Q. And Brown responds he's where?

7 A. My house.

8 Q. And let's just go through this text-message stream
9 between them. I want you to say -- tell us basically who
10 the text message is from, when it was sent, and what was
11 said.

12 A. Okay. The next one is at 11:53 a.m. from Trey
13 Colman to Joseph Brown: man, you got to rob dude today;
14 I'm with him now.

15 That's followed up with a message from Joseph Brown
16 to Red: pull up my hood right now; with -- I don't give a
17 -- I don't give a fuck; I'm going to rob him now.

18 Trey Colman responds --

19 Q. --- does he respond ---

20 A. --- no. sorry ---

21 Q. --- or does Joe-Joe?

22 A. Joseph Brown responds: pull up with him, blood; for
23 real, for real.

24 That's followed by two missed phone calls from
25 Joseph Brown to Trey Colman.

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1 Q. Okay. And then the next message down at 17125, I
2 believe it is?
3 A. That's from Trey Colman to Joseph Brown.
4 Q. What time?
5 A. 11:54:50 a.m.
6 Q. And what does it say?
7 A. Nigga, we can't do it like that; then he going to
8 know I set him up.
9 Q. That's from Trey Colman; right?
10 A. Yes, from Trey Colman.
11 Q. Okay.
12 A. And then ---
13 Q. --- and then Brown responds at what time?
14 A. 11:55:56 a.m. to Trey Colman from Joseph Brown:
15 man, Bruh, just act like you pulling up to get one of
16 your peoples and I'm going to rob both of y'all to make
17 it look real; Christmas bumming up; I ain't got shuck for
18 my peoples; I'm going to make it look like I'm robbing
19 both of y'all.
20 Q. And then he sends another one to Red at what time?
21 A. 11:56:17 a.m. I'm just going to bum from around the
22 building.
23 Q. And then he sends another text to Red at what time?
24 A. 11:58:29 a.m. This one is: where you at; at your
25 house; I'll act like you my homeboy and rob you in the

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1 yard; he ain't going to think you set him up then because
2 I came to your yard; I'm telling you, Bruh, it's now or
3 never; what's up; let me eat, Bruh.

4 Q. Okay. So they move from he wanted to rob him at his
5 house?

6 A. Correct.

7 Q. And then they moved to?

8 A. To Trey Colman's house.

9 Q. Trey Colman's house. And what does Trey Colman
10 respond?

11 A. At 12:17 p.m.: not my house; the fuck; just wait
12 till you get to his house and I'm going to come in then;
13 and Bruh, don't try and shit me; we split fifty-fifty.

14 Q. Okay. And keep going through.

15 A. At 12:01:11 p.m., from Joseph Brown to Trey Colman:
16 yeah, nigga, you know that; when y'all going -- when
17 y'all going be at his house; and you want me to just
18 knock on his door.

19 Trey Colman responds at 12:05:31 p.m.: I'll let you
20 know when we get there; I'm going to be home when you do
21 it; just do it and go to the back of Bell Street or to
22 the circle by Smokey them house; you ball me and I bum --
23 get you from there.

24 Q. And do you know where the circle is?

25 A. Yes. It's over by Martin Perez' house.

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1 Q. At the end of Brenda B?

2 A. Correct. One -- yeah, at the very end of Brenda B.

3 Q. And at 12:10, Brown asks Red what?

4 A. This a white man or black, and who all in the house.

5 Q. And go down to 17138. This is from who to who?

6 A. It's from Trey Colman to Joseph Brown: his fat-ass
7 brother and him; the skinny one got the money, though; I
8 want you to run his pockets and take his wallet and all;
9 the fat one ain't got nothing; but do whatever to take
10 it; hell, take his pants off him and take his phone, too.

11 Q. And keep going.

12 A. Joseph Brown responds to Trey Colman at 12:19:30
13 p.m.: Aye, Balmy.

14 Trey Colman responds at 12:20:43 p.m.: we bumming
15 down Royal Road.

16 Q. Okay. And Royal -- do you know where Johnny
17 Pritchard was moving to?

18 A. Royal Road.

19 Q. Okay. Keep going.

20 A. Alright. At -- Joseph Brown responds to Trey Colman
21 at 12:23:23 p.m.: so you want me to go in there when
22 they both in there.

23 Trey Colman responds at 12:25:09 p.m.: they packing
24 because he about to move; they some pussies and ain't no
25 gun in the house.

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1 Joseph Brown responds to Trey Colman at 12:37:34
2 p.m.: where y'all at.
3 And then...
4 Q. There's a call?
5 A. There's a call from Trey Colman ---
6 Q. --- to Joseph ---
7 A. --- to Joseph Brown at 12:27:54 p.m.
8 Q. That lasts for how long?
9 A. It's a minute and forty-eight seconds.
10 Q. Okay. And then there's a text message at line
11 17162.
12 A. From Trey Colman to Joseph Brown at 12:49:59 p.m.:
13 hold on; he out here talking to my peoples in my yard;
14 I'll let you know when he leaves my house.
15 To which Joseph Brown responds to Trey Colman at
16 12:41:16 p.m.: where his brother.
17 Trey Colman responds at 12:41 p.m.: in his house.
18 And then Trey Colman calls Joseph Brown at 12:42:09
19 p.m.
20 Q. And speaks for how long?
21 A. Three minutes and thirty-two seconds.
22 Q. And then there's a final call at?
23 A. It's at ---
24 Q. --- 12:47 p.m.?
25 A. Correct.

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1 Q. From who to who?

2 A. From Trey Colman to Joseph Brown. And that one's
3 for forty-eight seconds.

4 Q. And is there any other activity from that phone
5 after that time?

6 A. No.

7 Q. I hand you what's 113 and 114 already in evidence, I
8 believe, and ask you what those are.

9 [Whereupon, the witness is shown exhibits]

10 A. 113 is the call log for Joseph Brown's iPhone, and
11 114 is the text-message log for Joseph Brown's Iphone,
12 from -- both of them from the extraction report.

13 Q. And the only thing I want to get out of this was
14 was December 23rd the only time these two had ever
15 communicated with one another?

16 A. No.

17 Q. How long -- far back did those -- that call log and
18 text log go?

19 A. Text log goes back from 12/23/2016. It began on
20 November 7th of 2016.

21 Q. And how many text messages between the two of them
22 did you count during that period of time?

23 A. I believe there were 262 text messages between the
24 two.

25 Q. And did you do the same thing with the phone --

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1 phone calls?

2 A. I did.

3 Q. And does the phone-call record cover the same period
4 of time, November the 7th to December the 23rd?

5 A. Yes, it does.

6 Q. And how many phone calls were there between the two
7 of them during that period of time?

8 A. 253, I believe.

9 Q. Just a few more documents from that phone dump that
10 I want to ask you about, starting with State's Exhibit
11 Number 111.

12 [Whereupon, Mr. Durant and Ms. Seman confer]

13 [Whereupon, the witness is shown exhibit]

14 Q. Okay. And this is what?

15 A. It's an excerpt of the text-message log between Trey
16 Colman and Joseph Brown.

17 Q. Okay. And at 9:42, Trey Colman asked what?

18 A. Let me hold tone while you at work.

19 Q. And Joseph Brown responds at 8:43? Or is that 9:43?
20 I can't see.

21 A. That's -- the first one from Trey Colman was at 8:42
22 p.m. on 12/18/2016.

23 Q. Okay.

24 A. And then Joseph Brown responds on 12/18/2016, 8:43:
25 my peoples Tony got um, that's why I ain't been toting

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1 when you pull up; I got to get that back ASAP.

2 Q. Okay. So we know that Joseph Brown had a gun at
3 least back on December the 18th; correct?

4 A. Correct.

5 Q. And we also know, from the photograph you
6 identified, he had a gun at 1:30 a.m. on the date that
7 Mr. Pritchard was killed?

8 A. Correct.

9 Q. And we also know, from the text messages that Trey
10 Colman has asked to borrow that gun at least twice?

11 A. Yes. That's correct.

12 Q. So he's well aware that Joseph Brown has a gun?

13 A. He is.

14 Q. State's Exhibit 115. That is a multimedia message;
15 is that correct?

16 [Whereupon, the witness is shown exhibit]

17 A. It is.

18 Q. What's the date of that multimedia message?

19 A. December 12th, 2016, at 9:33 a.m.

20 Q. And first of all, let's see the message and then
21 we'll see the -- that's the photograph associated with
22 that message; right?

23 A. Yes.

24 Q. And the message is from who to who?

25 A. It's from wifey to Joseph Brown.

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1 Q. Okay. And that photograph is attached to it?

2 A. It is.

3 Q. And the date on that again is what?

4 A. December 12th, 2016.

5 [Whereupon, Mr. Durant and Ms. Seman confer]

6 Q. State's Exhibit 117.

7 MR. DURANT: Could you put up 117. The text message
8 -- could you scroll down to the highlighted portions.

9 Q. This is State's 117.

10 [Whereupon, the witness is shown exhibit]

11 A. Yes.

12 Q. There are two text messages on that. From who to
13 who?

14 A. Well, they're multimedia messages from Joseph Brown
15 to wifey; both of them.

16 Q. And on what date is that?

17 A. December 3rd, 2016.

18 MR. DURANT: And could we see the images, please.

19 [Whereupon, the photograph is shown]

20 Q. [Mr. Durant] Those were all sent to wifey on the
21 same day?

22 A. Correct.

23 Q. And he's wearing those same clothes?

24 A. Correct.

25 Q. And he's wearing those same -- apparently, those

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1 same tennis shoes that were depicted in State's Exhibit
2 122, the American flag outfit; correct?

3 A. Correct.

4 [Whereupon, Mr. Durant and Ms. Seman confer]

5 Q. I'm going to hand you what's been marked as State's
6 Exhibits 118 and 119.

7 A. [Whereupon, the witness is shown exhibits]

8 Q. Do you recognize those documents?

9 A. I do.

10 Q. And let's start with 118. What is that?

11 A. 118 is a portion of the multimedia message log for
12 the extraction of Joseph Brown's iPhone.

13 Q. And what is the date of that multi message?

14 A. It's 12/15/2016 at 9:20 a.m.

15 Q. And it's from who?

16 A. It's from Joseph Brown.

17 Q. And it's sent to who?

18 A. It just has a number listed. I don't -- it doesn't
19 have a name associated with it, but the number is 1-540-
20 204-7125.

21 Q. And is there a photograph associated with that
22 multimedia message?

23 A. There is.

24 Q. And what is it a photograph of?

25 A. It's a black semiautomatic Smith & Wesson handgun.

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1 Q. And it is of sufficient quality that you can see a
2 serial number on that handgun, isn't it?

3 A. Correct.

4 Q. And with regard to the photograph attached, is there
5 anything about -- well, just describe the photograph, if
6 you would.

7 A. It's a -- so in the middle part of the photograph
8 you see the black semiautomatic Smith & Wesson handgun,
9 and it is taken on the lap of an individual wearing
10 clothes that are very similar to the ones that Joseph
11 Brown were seen in prior and -- on 12/3/2016.

12 Q. Appears to be the same clothes attached to State's
13 Exhibit Number 117; is that correct?

14 [Whereupon, the witness is shown photograph]

15 A. Correct.

16 Q. Black tee-shirt, stone-washed jeans with a hole in
17 the left leg?

18 A. Correct.

19 Q. State's 119, what is that?

20 A. 119 is a message involving Joseph Brown and the
21 contact known as Big Bruh. And that was on December --
22 or began on December 15th, 2016.

23 Q. And what is the message to -- that's from Joe-Joe
24 Brown to Big Bruh. What is the message?

25 A. The message says: Aye, Big Bruh, I just finished

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1 -- just finished this nine, that bitch clap word.

2 Q. What does this bitch clap word mean?

3 MS. SEMAN: Objection to the characterization,
4 Judge.

5 THE COURT: Overruled. Go ahead.

6 A. It shoots.

7 THE COURT REPORTER: It what?

8 THE WITNESS: It shoots.

9 Q. [Mr. Durant] And if you would describe that
10 photograph.

11 A. It is the same black Smith & Wesson semiautomatic
12 handgun but instead of being on a lap, it is -- appears
13 to be on a light-blue mattress with purple pink floral
14 designs.

15 Q. And when you observed that picture, did anything pop
16 into your mind?

17 A. Yes.

18 Q. What?

19 A. During the search warrant on Joseph Brown's ---

20 MS. SEMAN: --- objection, Judge. We think that's a
21 jury question.

22 THE COURT: I'm sorry. What?

23 MS. SEMAN: We think that what he's about to say is
24 a jury question.

25 THE COURT: Rephrase your question. Okay?

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1 Q. [Mr. Durant] What struck you about that photograph?

2 A. The mattress that the handgun is on looked like the
3 same mattress that was ---

4 MS. SEMAN: --- objection, Judge.

5 THE COURT: Overruled. Go ahead.

6 A. --- looked like the mattress that was found in
7 Joseph Brown's room at the Abby Lane Townhomes.

8 Q. [Mr. Durant] And that would be --

9 MR. DURANT: Could you put up State's 36, I believe.

10 [Whereupon, the photograph is shown]

11 Q. And that would be that mattress?

12 A. That's correct.

13 MR. DURANT: Can you zoom in on that --

14 Q. Appears to be the same mattress as that gun is
15 sitting on; is that correct?

16 A. Correct. The same light-blue color with the pink-
17 purple floral designs.

18 Q. And was that photograph attached to State's Exhibit
19 119 also of sufficient quality to determine the serial
20 number?

21 A. Correct.

22 Q. And was it the same serial number that was contained
23 in the previous exhibit?

24 A. It was.

25 Q. And based upon that information, did you have the

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1 Department of Alcohol, Tobacco and Firearms run a trace
2 report on that weapon?

3 A. I did.

4 [Whereupon, Mr. Durant and Ms. Seman confer]

5 Q. I hand you what's been marked as State's Exhibit
6 Number 134 and ask you what that is.

7 [Whereupon, the witness is shown exhibit]

8 A. This would be what is referred to as the ATF e-trace
9 report ---

10 THE COURT REPORTER: E-trace?

11 THE WITNESS: E-trace.

12 A. When I requested it from the description of the
13 handgun as seen in the two previous photographs, along
14 with the serial number.

15 Q. [Mr. Durant] And what is the make and model of that
16 gun?

17 A. Smith ---

18 MS. SEMAN: --- Judge, I apologize. Is this
19 admitted?

20 MR. DURANT: I will move to admit it. I'm going to
21 move to admit it.

22 THE COURT: I don't think he's got to that point
23 yet, but ---

24 MS. SEMAN: --- okay.

25 MR. DURANT: Okay.

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1 Q. [Mr. Durant] What is the make and model of that
2 gun?

3 A. Smith & Wesson MMP 9-C.

4 Q. And that is what caliber?

5 A. .9mm.

6 Q. And what is the serial number of that gun?

7 A. HPL6641.

8 Q. And is it the same serial number as depicted in
9 State's Exhibits 118 and 119?

10 A. It is.

11 Q. And when was that gun purchased?

12 MS. SEMAN: Objection to relevance, Judge.

13 THE COURT: As far as when it was purchased,
14 overruled. Go ahead.

15 A. February 21st, 2014.

16 Q. [Mr. Durant] And the -- and to be clear the
17 purchaser was not Joseph Brown; correct?

18 A. That's correct. It was not.

19 Q. What was the address of the purchaser?

20 A. [REDACTED] East Third North Street, Apartment [REDACTED].

21 Q. And that is in what apartment complex?

22 A. Abby Lane Townhomes.

23 MR. DURANT: Your Honor, at this time we would offer
24 State's Exhibit 137.

25 MS. SEMAN: We have a continuing objection to

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1 relevance, and 104(b), Judge.

2 THE COURT REPORTER: Is it 134 or 137?

3 MR. DURANT: What's the number on that?

4 THE WITNESS: 134.

5 MR. DURANT: I'm sorry. 134.

6 THE COURT: 134 admitted with objection.

7 [Whereupon, State's Exhibit Number 134 is admitted
8 into evidence by the Court]

9 Q. [Mr. Durant] And lastly, 120. If we can publish
10 that?

11 [Whereupon, the photograph is shown]

12 Q. That's just basically another picture from the
13 iPhone?

14 A. Correct.

15 Q. Mr. Brown wearing the same clothes?

16 A. Correct. Black tee-shirt, the jeans with the holes
17 in it, and the red-and-white Converse-style shoes.

18 MR. DURANT: I don't believe I have any other
19 questions.

20 THE COURT: Cross-examination.

21 MS. SEMAN: Yes, Your Honor.

22 THE COURT: Alright. Mr. Foreman, ladies and
23 gentlemen of the jury, we're going to take about a five
24 or ten-minute break before we start cross. Don't discuss
25 the case amongst yourselves. I'll get you back in about

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1 CROSS-EXAMINATION

2 BY MS. SEMAN:

3 Q. Investigator Haupt, so we just saw these text
4 messages on direct so I want to draw your attention to
5 some of those. And I think you have Exhibit 110 up there
6 with you; right?

7 A. I do.

8 Q. So let's talk about that series of texts. You would
9 agree with me that the discussion that day was initiated
10 by Red; right?

11 [Whereupon, the witness reviews document]

12 A. Yes.

13 Q. The first text was: man, you got to rob the dude
14 today; I'm with him now. Right? 17120 is the line I'm
15 talking about.

16 A. Well, earlier -- you are correct about that line.
17 But earlier that morning, the one that you were -- hold
18 on one second. Let me...

19 [Whereupon, the witness reviews document]

20 Q. [Ms. Seman] So you're talking about texts that were
21 at 1:00 in the morning, not the 11:50 a.m. series of
22 texts; right?

23 A. Right. You said that day. The -- so the one you're
24 referring to was at 11:53 a.m. But, actually, that day
25 at 12:58:48 a.m. was from Joseph Brown.

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1 Q. Okay. But that was ---
2 A. --- to Red ---
3 Q. --- the previous evening. I understand you're
4 saying that, yes, it technically was December the 23rd.
5 But that was the previous evening; right?
6 A. Same day. Yes.
7 Q. Okay. And Red was the one that started talking
8 about a robbery; right?
9 A. Correct.
10 Q. And he said he was currently with who y'all believe
11 to be the victim; right?
12 A. [No response]
13 Q. I'm with him now. Line 17120.
14 A. I've got to find it.
15 [Whereupon, the witness reviews documents]
16 A. Correct.
17 Q. And he doesn't say anybody's name, he just says him;
18 right?
19 A. That's correct.
20 Q. And he told the other contact what the plan was;
21 right? He said: not my house. Just wait till we get to
22 his house and you come in then. Right?
23 A. Well, that was after Joseph Brown was trying to
24 direct him to come to his house.
25 Q. Okay ---

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1 A. --- to rob a guy.

2 Q. But he does say that. He does say not my house. He

3 says: wait until we get to his house and you come in

4 then. Right?

5 A. Yes. After.

6 Q. And he says in the exchange that he set Mr.

7 Pritchard up or he set him up; right?

8 A. [No response]

9 Q. He doesn't say ---

10 A. --- yes ---

11 Q. --- he set him up. He says: I set him up.

12 A. Which one are you...

13 Q. I'm referring to ---

14 A. --- I'm just trying to get to it so ---

15 Q. --- I apologize. 17125.

16 [Whereupon, the witness reviews documents]

17 A. Yes. You're correct.

18 Q. And that's the contact Red; right?

19 A. Yes. From Red, from Trey Colman.

20 Q. And in these texts, Red is giving some directions,

21 isn't he?

22 A. He is. But Joseph Brown also is, as well.

23 Q. He says: I'll let you know when I get there. I'm

24 going to be home when you do it; just do it and go to the

25 back of Bell Drive or to the circle by Smokey them house;

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1 you call me and I come get you from there. 17131. Is
2 that what he says?
3 A. That's correct.
4 Q. And Red told the other person when to do it; right?
5 A. Correct.
6 Q. Specifically, he told the person to wait because the
7 -- Mr. Pritchard was in his yard; right?
8 A. That his peoples were in his yard.
9 Q. He says: he out here talking to my people in my
10 yard. Right?
11 A. Correct.
12 Q. He said where to do it; right? Not his house.
13 A. Again, that's after Joseph Brown tried to have them
14 come to him.
15 Q. But he does say not his house; right?
16 A. Yes.
17 Q. And he tells him how to do it, doesn't he?
18 A. Yes.
19 Q. He says: I want you to run his pockets and take his
20 wallet and all; but do whatever to take it; hell, take
21 his pants off of him and take his phone, too. Right?
22 A. Correct.
23 Q. He said how they were going to split it?
24 A. That's correct.
25 Q. And he told him where he was going to pick him up,

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1 too?

2 A. Yes.

3 Q. And in the exchange between Red and the other person

4 that starts at 11:50 that morning, no -- there's no

5 mention of either Red or the other person having a gun,

6 is there?

7 A. Well, not exactly, no. When he says: you gonna rob

8 dude today.

9 Q. He doesn't say anything about a gun?

10 A. No.

11 Q. He doesn't say anything about a knife?

12 A. No.

13 Q. He doesn't say anything about a baseball bat?

14 A. No.

15 Q. No mention of any weapon?

16 A. No.

17 Q. And in that exchange, you'd agree that these two

18 people are being forthcoming with each other, wouldn't

19 you?

20 A. I believe so.

21 Q. They're talking about some pretty specific plans.

22 Wouldn't you agree?

23 A. They are.

24 Q. Who, what, where, when, and why?

25 A. That's ---

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1 Q. --- correct ---
2 A. --- correct. Yes.
3 Q. And how they would get away; right?
4 A. Yes. That's correct.
5 Q. Don't seem to be holding a lot back?
6 A. No. No, they do not.
7 Q. And in that exchange there's no mention of anybody
8 getting hurt, is there?
9 A. Not exactly. But he does say do whatever it takes.
10 Q. There's no mention of an assault on Mr. Pritchard?
11 A. Of a robbery.
12 Q. There's no mention of an assault on Mr. Pritchard?
13 A. No.
14 Q. There's no mention of hitting?
15 A. No.
16 Q. There's no mention of stabbing?
17 A. No, there is not.
18 Q. No mention of shooting?
19 A. There is not.
20 Q. In fact, in these text messages, Red was worried
21 that Mr. Pritchard might find out that Red set him up,
22 wasn't he?
23 A. Yes.
24 Q. He said he didn't want this robbery to happen at his
25 house because Mr. Pritchard would know that he set him

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1 up; right?

2 A. No, he didn't say that. He didn't say Mr. Pritchard
3 at all.

4 Q. Correct. But the individual that the State assumes
5 is Mr. Pritchard, he says: then he going to know I set
6 him up.

7 A. Yes. That's correct.

8 Q. He didn't want this to happen at his house because
9 the victim would know he set him up; right?

10 A. That's correct.

11 MS. SEMAN: I beg the Court's indulgence.

12 [Whereupon, Ms. Seman and Ms. Norris confer]

13 MS. SEMAN: I have nothing further, Judge.

14 THE COURT: Okay. Any redirect?

15 MR. DURANT: Just a couple.

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REDIRECT EXAMINATION

BY MR. DURANT:

Q. It's clear from the text messages dumped from that cell phone that Red knows that Joe-Joe has a gun?

A. Yes, he did.

Q. He's asked to borrow that gun twice?

A. Yes. That's correct.

Q. And is robbery a type of an assault?

A. It can be, yes.

MR. DURANT: Nothing further.

THE COURT: Any recross?

MS. SEMAN: No, Judge.

THE COURT: You may step down. Thank you so very much.

THE WITNESS: Thank you.

[Whereupon, the witness is excused and exits the witness stand]

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Michelle Eichenmiller-Direct Examination by Mr. Durant
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1 MR. DURANT: The State would call Michelle
2 Eichenmiller.

3 [Whereupon, Ms. Eichenmiller comes forward]

4 [Whereupon, Ms. Eichenmiller is duly sworn by the
5 Clerk of Court]

6 THE CLERK OF COURT: Okay. You may have a seat.

7 [Whereupon, the witness takes the witness stand]

8 THE CLERK OF COURT: For the record, please state
9 your name and spell your last name.

10 THE WITNESS: My name is Michelle Eichenmiller.

11 E-I-C-H-E-N-M-I-L-L-E-R.

12 - - - - -

13 MICHELLE EICHENMILLER,

14 Having Been First Duly Sworn,

15 was Examined and Testified as Follows:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Good morning, Ms. Eichenmiller.

19 A. Good morning.

20 Q. Could you please tell our jury where you work?

21 A. I work at the South Carolina Law Enforcement
22 Division, commonly known as SLED. I work in the Forensic
23 Lab and Firearms Department.

24 Q. And what do you do in the Firearms Department?

25 A. It's my job to examine any fired evidence, bullets

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1 or cartridge casings, and any firearms that are recovered
2 in crime. I also have other duties like serial number
3 restoration, tool-mark examination, and any other duties
4 I'm assigned.

5 Q. Okay. And what is your educational background?

6 A. I have a Bachelor's degree in Biology and I have a
7 Master of Science in Forensic Science.

8 Q. And you are, in fact, a forensic scientist with
9 SLED; correct?

10 A. Correct.

11 Q. What specialized training have you had in the area
12 of firearms identification?

13 A. In order to be a firearms examiner, you have to go
14 through an apprentice-like program. There's no college
15 that you can attend. So once I got to SLED, I completed
16 the in-house training program, which is a three to four
17 year program where I watch other trained firearms
18 examiners do their job.

19 I prep cases for them. I do a lot of reading and
20 examinations on my own. And at the end of those couple
21 of years, I'll take a test. Once I pass the test, then
22 I'm deemed able to do casework on my own.

23 Q. And you are authorized by SLED to conduct firearms
24 identification; is that correct?

25 A. I am.

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1 Q. Are you a member of any professional organizations
2 related to firearms identification?

3 A. I'm a member of the Association of Firearm and Tool-
4 Mark Examiners, which is an international organization of
5 people in my field.

6 Q. And have you previously been qualified as an expert
7 in the area of firearms identification?

8 A. I have.

9 Q. On how many occasions?

10 A. Approximately seventy times.

11 Q. And in what courts?

12 A. The State Courts of South Carolina.

13 Q. Okay.

14 MR. DURANT: Your Honor, at this time we would offer
15 Ms. Eichenmiller as an expert in the field of ---

16 THE COURT: --- any objection?

17 MS. NORRIS: No, sir.

18 THE COURT: Alright. The Court so finds.

19 Q. [Mr. Durant] With regard to our case, your lab
20 number L17-00010, did you happen to come into possession
21 of some evidence submitted to you by the Charleston
22 County Sheriff's Office?

23 A. I did.

24 Q. And what did you receive from them, initially?

25 A. Initially, I received one fired bullet.

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1 Q. Okay. And then later I believe you received a shell
2 casing; is that correct?

3 A. Correct.

4 Q. I'm going to hand you what's previously been marked
5 as State's Exhibit 65 in evidence and ask if you
6 recognize that item.

7 [Whereupon, the witness is shown exhibit]

8 A. Whenever I receive evidence in a case, I mark it
9 with the item number, my initials, and the case number,
10 and then I'll place it in a heat-sealed bag with my
11 initials and the date. This is the bullet I examined in
12 this case.

13 Q. Okay. And you know because you initialed it;
14 correct?

15 A. Correct.

16 Q. And that was the bullet obtained from the victim in
17 this case at his autopsy; correct?

18 A. Yes, according to the packaging.

19 Q. And what examination did you do with that item?

20 A. In the absence of a firearm, we'll examine a bullet
21 for any characteristics we can get off of it that would
22 help to either find a gun or to give a list that could be
23 helpful to the investigators.

24 So with just one bullet, I will examine the
25 diameter, measure it, measure the lands and grooves,

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1 measure the width of the lands and grooves, and then I
2 can put it into a database where it will tell me what
3 manufacturers manufacture firearms with those
4 specifications.

5 Q. Okay. And based upon your examination of that item,
6 do you have an opinion as to the caliber of that
7 particular projectile?

8 A. It was most consistent with .9mm Luger caliber
9 bullet.

10 Q. And that's based upon the weight and width -- or
11 circumference, and things of that nature; correct?

12 A. Correct.

13 Q. And were you able to perform a microscopic
14 examination of the lands and grooves on State's 65 as
15 part of your analysis?

16 A. I was.

17 Q. And could you just explain briefly what lands and
18 grooves are for the jury's benefit?

19 A. Lands and grooves are the number of cuts that a
20 manufacturer will put in the barrel in order to give
21 rotation to the bullet as it exits.

22 Manufacturers can pick whatever numbers they like.
23 I've seen three all the way up to sixteen or more.

24 Q. And what conclusion did you reach from the rifling
25 configuration of State's Exhibit 65?

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1 A. It was a .9mm Luger caliber bullet with five
2 grooves, right-hand twist.

3 Q. Okay. And based upon that configuration of lands
4 and grooves, and the right-hand twist, were you able to
5 come up with a list of firearms manufacturers which use
6 those particular rifling characteristics?

7 A. I was. Once I put the measurements of the lands and
8 grooves into the database, it gave me a list.

9 Q. Which consisted of?

10 A. Fabrique Nationale, Ruger, or Smith & Wesson.

11 Q. Okay. And Fabrique Nationale is a Belgium brand; is
12 that correct?

13 A. Correct.

14 Q. And that's not particularly -- it's not common for
15 you to get in pistols and/or ammunition where you are, is
16 it?

17 A. Not usually.

18 Q. Now, moving ahead a little bit. Did you have the
19 occasion in March of this year to come into possession of
20 a cartridge case associated with this investigation?

21 A. I did.

22 Q. I hand you what's been marked as State's Exhibit
23 Number 64, in evidence, and ask if you recognize that.

24 [Whereupon, the witness is shown exhibit]

25 A. This is the cartridge case I examined in this case.

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1 Q. And you know that because of your initials again?

2 A. Correct.

3 Q. And what analysis did you perform with regard to the
4 cartridge case?

5 A. When we receive a cartridge case by itself, with no
6 firearm or no other cartridge cases, I'll just examine it
7 for make, model -- or make, caliber, to see if there's
8 any marks on it that I would be able to use if a firearm
9 were to become available.

10 And then I'll also enter it into the IBIS database,
11 which a database of cartridge cases, either evidence from
12 crimes or testifiers from firearms -- and then it will
13 correlate to see if that firearm was used in any other
14 cases.

15 Q. And what is the make and caliber of State's Exhibit
16 Number 64?

17 A. It's a Speer manufacturer .9mm Luger caliber
18 cartridge case.

19 Q. And caliber-wise, is it consistent with the fired
20 bullet you previously examined, State's Exhibit Number
21 65?

22 A. Yes. They're both .9mm Luger caliber.

23 Q. With regard to the 64, the cartridge case, were you
24 able to locate marks of value which would be suitable for
25 identification to a specific firearm?

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1 A. I was.

2 Q. Specifically, is there anything unusual about the
3 firing-pin impression on State's Exhibit 64?

4 A. When we examine cartridge cases, like I said, I'll
5 take down caliber or any other characteristics. I'll
6 also mark down what the shape of the firing ---

7 THE COURT REPORTER: --- I'm sorry. I'm sorry. I
8 need you to slow down just a little.

9 A. The shape of the firing pin we see circles,
10 rectangles. In this case I saw a teardrop-shaped firing-
11 pin impression.

12 Q. [Mr. Durant] And in your experience, what
13 manufacturer or firearms manufacturers use a firing pin
14 that's teardrop shaped?

15 A. In my experience, Smith & Wesson was the first that
16 had a teardrop shape. Later model Glocks also have a
17 teardrop shape.

18 Q. Okay. But not Fabrique Nationale and not Ruger?

19 A. Not that I've seen.

20 Q. In your experience, does a Smith & Wesson model
21 MNP9C .9mm pistol use a teardrop firing -- shaped firing
22 pin?

23 A. That's the make and model that I've seen with the
24 teardrop shape.

25 Q. And it's true that in this case, you did not have a

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1 specific firearm to compare the fired projectile and the
2 shell casing to; is that correct?

3 A. Correct. I did not receive a firearm.

4 Q. And would you -- were you provided with a
5 photograph, by my office, concerning a -- with a picture
6 of a firearm associated with this case?

7 A. I was.

8 Q. And I hand you what's been -- a photograph attached
9 to State's Exhibit Number 118 and ask you if that was a
10 firing -- photograph sent to you?

11 [Whereupon, the witness is shown photograph]

12 A. This was the photograph I viewed.

13 Q. Okay. And that photograph is sufficient quality
14 that there's a serial number on it; correct?

15 A. Correct.

16 Q. And you've also had the opportunity to review the
17 ATF trace report indicating that's a Smith & Wesson MNP9C
18 .9mm pistol; is that correct?

19 A. Correct.

20 MS. NORRIS: Your Honor, we have a continuing
21 objection to this.

22 THE COURT: I understand. He hasn't offered it yet.
23 I think he's getting ready to.

24 MR. DURANT: At this time, I'm going to ask about
25 two more questions and then I'm going to offer it.

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1 THE COURT: Okay. Alright.

2 Q. [Mr. Durant] Okay. Are the lands and grooves on
3 the spent projectile you examined consistent with having
4 been fired by a Smith & Wesson MNP9C pistol?

5 A. They are.

6 Q. Is the cartridge case that you examined consistent
7 with having been fired by a Smith & Weston MNP9C pistol
8 because of the teardrop firing pin?

9 A. It is.

10 Q. Because assuming those -- that bullet and that
11 cartridge case were fired by the same weapon; it could
12 not be a Fabrique Nationale or a Ruger, could it?

13 A. No, not in my experience.

14 Q. Because of the land -- because of the teardrop
15 firing pin; right?

16 A. Correct.

17 Q. And it also could not be a Glock, could it?

18 A. No, because the bullet has conventional rifling and
19 Glock has polygonal rifling.

20 THE COURT REPORTER: They have what?

21 THE WITNESS: Polygonal.

22 Q. [Mr. Durant] And so the pistol depicted in State's
23 Exhibit Number 118 is consistent with having fired the
24 bullet that killed Johnny Pritchard in this case?

25 A. It is.

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1 MR. DURANT: Your Honor, at this time we would offer
2 State's 118 and 119.

3 MS. NORRIS: Continued objection.

4 THE COURT: Alright. 118, 119 admitted with
5 objection.

6 [Whereupon, State's Exhibit Numbers 118 and 119 are
7 admitted into evidence by the Court]

8 MR. DURANT: And could you show 118 and 119 to the
9 jury.

10 Q. [Mr. Durant] This is State's Exhibit 118.

11 [Whereupon, the photograph is shown]

12 MR. DURANT: Could you zoom in on that a little bit,
13 Jason?

14 Q. [Mr. Durant] That is the firing -- the serial
15 number; correct?

16 A. Correct.

17 Q. HBL6641?

18 A. Yes.

19 Q. Being held by somebody wearing a black tee-shirt and
20 beat-up blue jeans with a hole in the left thigh;
21 correct?

22 A. That's what I see.

23 Q. Okay. Let's take a look at the picture associated
24 with State's Exhibit 119.

25 [Whereupon, the photograph is shown]

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1 MR. DURANT: And could you zoom in on that, please,
2 sir.

3 Q. [Mr. Durant] That appears to be the same weapon; is
4 that correct?

5 A. It does.

6 Q. Same serial number?

7 A. Correct.

8 Q. And that one appears to be taken on a mattress;
9 correct?

10 A. It ---

11 Q. --- but.

12 A. It appears so.

13 Q. Which appears to be the same mattress that's
14 depicted in State's Exhibit Number 136?

15 MS. NORRIS: Objection, Your Honor. She's not an
16 expert in mattresses.

17 THE COURT: I'll sustain the objection.

18 Q. [Mr. Durant] One other thing I wanted to ask you
19 about. I'm now opening State's Exhibit 66, I believe it
20 is.

21 And you can see these better than I can. Can you
22 see if there are any rounds in that box that are
23 consistent with the two items you examined, State's
24 Exhibit Number 64 and 65?

25 [Whereupon, the witness reviews exhibits]

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1 A. There are a few in here that have a Speer-head stamp
2 with the same color case and type of bullet that I
3 examined in this case.

4 MR. DURANT: Thank you, very much. Could you please
5 answer any questions defense counsel may have for you?

6 THE COURT: Cross-examination.
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1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Good morning, Agent Eichenmiller.

4 A. Good morning.

5 Q. The fired bullet, Exhibit 65, you indicated in your
6 report that it's consistent with some .9mm Luger caliber
7 cartridges; correct?

8 A. Correct.

9 Q. Okay. And it's not consistent with all of them.
10 That's why you said some?

11 A. Correct.

12 Q. And there are many different manufacturers and types
13 of .9mm Luger caliber rounds; right?

14 A. Yes.

15 Q. And other than saying it's consistent with some .9mm
16 cartridges, you can't say anything more, really, about
17 this projectile?

18 A. No.

19 Q. Alright. Other -- now, you've talked about the
20 rifling. Can you tell the -- I think you mentioned
21 polygonal and conventional. Tell us basically what that
22 means.

23 A. Conventional is cut rifling. You can see real
24 squared-off shoulders on a bullet under my microscope.
25 Polygonal rifling is more rounded, so you don't see as

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1 squared shoulders.

2 Q. And conventional is what you found in this case?

3 A. Correct.

4 Q. And is that by far the most common type of rifling?

5 A. I would say it's more common than polygonal.

6 Q. And you mentioned -- you told us what lands and

7 grooves are. And they're five grooves here; right?

8 A. Correct.

9 Q. Alright. And how many have you seen before?

10 A. I'm sorry?

11 Q. I said how many have you seen before? I think you

12 said three to sixteen ---

13 A. Oh. Yeah. Some manufacturers will use three lands

14 and grooves. I've seen up to sixteen or more.

15 Q. And five or six grooves is the most common that you

16 see; right?

17 A. I would say it's probably one of the top couple that

18 we see in the lab.

19 Q. And is there also a characteristic that you look at

20 in terms of twist?

21 A. Yes, there is. It's either right or left twist.

22 Q. And what do we -- what do we have in this case?

23 A. We have right twist in this case.

24 Q. And, again, that's the most common; right?

25 A. It's more common than left, in my experience.

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1 Q. And, in fact, .9mm itself is one of the most common
2 in the United States; right?

3 A. Correct.

4 Q. A lot of law enforcement use it?

5 A. A good -- a good number.

6 Q. Military?

7 A. Yes.

8 Q. Now, typically, if you get a case where you're asked
9 to say -- say a murder weapon is found, or what the
10 police think is a murder weapon, you would take that and
11 do a -- do test-fires with it; right?

12 A. Correct.

13 Q. And you would fire it more than once?

14 A. Yes.

15 Q. At least three to four?

16 A. That is typically what I do.

17 Q. So that -- so that you can make sure that the
18 markings that you see on the projectile are the same
19 every time the weapon is fired; right?

20 A. At least consistent over time, yes.

21 Q. And then you would take that and compare it to what
22 there was from the autopsy to see if it's the same;
23 right?

24 A. Yes.

25 Q. And in this case we don't have that.

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1 A. I never received a firearm in this case.

2 Q. You got a picture; right?

3 A. I did.

4 Q. Okay. And, now, you talked -- you talked about this
5 database that you inserted the information in concerning
6 the twist and the lands and grooves, et cetera. Tell me
7 about that database.

8 A. The database that we use is kept up by firearms
9 examiners as part of our professional organization. It's
10 updated pretty regularly.

11 If you have a new manufacturer or a new rifling that
12 you see, you can submit it and then someone will verify
13 the measurements and then upload it to the database. So
14 it's a work -- working database.

15 Q. And so in order to get uploaded or included in that
16 database, a weapon or a type of weapon has to been seen
17 basically in a law enforcement lab; right?

18 A. Correct.

19 Q. So if a gun manufacturer makes a new pistol, that
20 information doesn't come to you until some law
21 enforcement involvement is seen; right?

22 A. Correct. There's no law or anything that says a
23 manufacturer who makes a new rifling has to give it to us
24 to put in the database.

25 Q. And so the database is not exhaustive; right?

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1 A. Correct.

2 Q. So even though we can say that the tear-drop-shaped
3 firing pin impression that you saw is consistent with
4 those three brands, it's not exclusive to those three
5 brands; right?

6 A. Well, the database I use is for the measuring on the
7 bullets.

8 Q. Well, that -- okay. Okay. And it was that bullet
9 projectile that you input to say that it was fired by
10 Fabrique Nationale, Ruger, or Smith & Wesson; right?

11 A. Yes.

12 Q. And that's what I'm talking about. We can't say,
13 from your database, that those are the only three
14 possibilities here?

15 A. Correct; for the bullet.

16 Q. And, now, well, let's talk about it. Assuming
17 you're correct, and I don't have any reason to think
18 you're not, that it's consistent with .9mm caliber Luger
19 that could be fired from a .40 caliber pistol, couldn't
20 it?

21 A. In some instances, you're able to fire a caliber not
22 made for a firearm in certain firearms.

23 Q. And, now, from the -- from the firing-pin
24 impression, the tear-shaped, I believe you said that
25 Smith & Wesson has that and some Glocks, as well; right?

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1 A. Yes. Later model Glocks.

2 Q. And there are a lot of different types of Smith &
3 Wesson pistols, aren't there?

4 A. Yes.

5 Q. And so even if we assume, and it's an assumption,
6 right, that it was a Smith & Wesson in this particular
7 case, we can't say specifically that it was Smith &
8 Wesson MNP9C?

9 A. Smith & Wesson actually changed the shape of their
10 firing pin for the MNP series, the most recent version of
11 it.

12 Q. Changed it to what?

13 A. To teardrop shapes. Normally, Smith & Wessons are
14 hemispherical or circular.

15 Q. Well, my question is this: is MNP the only model
16 pistol that Smith & Wesson makes?

17 A. No. But it's the only model they make with a
18 teardrop-shaped firing pin.

19 Q. Okay. And that's a pretty popular model of pistol,
20 isn't it?

21 A. It's become more popular recently.

22 Q. So there could be, as far as we know, 10,000 of
23 those pistols in Charleston County?

24 A. There could be.

25 Q. So the best that we can say here is that it's

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1 consistent with the pistol in those pictures but it's
2 also consistent with any other Smith & Wesson .9mm;
3 right?

4 A. Any other Smith & Wesson MNP in .9mm, yes.

5 Q. And, now, you've been shown pictures -- and I assume
6 you were sent information about the serial number and the
7 trace on the pistol in those pictures; correct?

8 A. I was sent a copy of the ATF trace.

9 Q. And that doesn't help you as a scientist, does it?

10 A. No.

11 Q. The science is the science?

12 A. Correct.

13 Q. So all you can say is, this is what I found, maybe
14 it's this pistol, maybe it's one of 10,000?

15 A. Correct. Without a firearm, I can't say for sure
16 which pistol.

17 MS. NORRIS: Alright. Thank you, ma'am. I don't
18 have anything further.

19 THE COURT: Redirect?

20 MR. DURANT: No, sir.

21 THE COURT: Alright. You may ---

22 MR. DURANT: --- may Ms. Eichenmiller be excused,
23 Your Honor?

24 THE COURT: Any objection?

25 MS. NORRIS: No, sir.

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1 MR. DURANT: The State would call Angelina Phillips.

2 [Whereupon, Dr. Phillips comes forward]

3 [Whereupon, Dr. Phillips is duly sworn by the Clerk
4 of Court]

5 THE CLERK OF COURT: Okay. You may have a seat.

6 [Whereupon, the witness takes the witness stand]

7 THE CLERK OF COURT: For the record, please state
8 your name and spell your last name.

9 THE WITNESS: Angelina Indira Phillips, P-H-I-L-L-I-
10 P-S.

11 THE COURT REPORTER: Tell me the middle -- what was
12 the second name?

13 THE WITNESS: Indira, I-N-D-I-R-A.

14 - - - - -

15 ANGELINA PHILLIPS, M.D.,

16 Having Been First Duly Sworn,

17 was Examined and Testified as Follows:

18 DIRECT EXAMINATION

19 BY MR DURANT:

20 Q. Good morning, Doctor.

21 A. Good morning.

22 Q. Could you tell our jury where you're employed?

23 A. I work at the Medical University of South Carolina.

24 Q. And what do you do at the Medical University of
25 South Carolina?

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1 A. I am a forensic pathologist.

2 Q. And how long have you been with the Medical
3 University?

4 A. Three years.

5 Q. And you are a licensed physician in the state of
6 South Carolina?

7 A. Yes.

8 Q. And how long have you been practicing medicine?

9 A. Seven years.

10 Q. Where did you receive your medical training?

11 A. In Syracuse at the University, State University, of
12 New York.

13 Q. And what is your area of specialty or expertise?

14 A. Forensic pathology.

15 Q. And could you tell us, in general terms, what the
16 area of forensic pathology consists of? What do forensic
17 pathologists do?

18 A. Forensic pathology is a subsection of the field of
19 pathology. It involves the examination of the body for
20 the purposes of determining the cause and manner of
21 death.

22 Q. And I believe you said you've been with Med U for
23 three years; is that correct?

24 A. Correct.

25 Q. And during that three years, have you had the

1 occasion to perform autopsies?

2 A. Yes.

3 Q. And how many autopsies have you performed during
4 your career?

5 A. Upwards of 800.

6 Q. Are you board certified in the area of forensic
7 pathology?

8 A. Yes.

9 Q. And the board certification is a national
10 certification; is that correct?

11 A. Correct.

12 Q. What are the requirements for obtaining
13 certification in forensic pathology?

14 A. One needs to complete a fellowship in forensic
15 pathology, and prior to that have completed your basic
16 pathology training and be board certified in one or both
17 fields of pathology.

18 Q. Do you hold any teaching positions in the area of
19 pathology or forensic pathology at the Medical
20 University?

21 A. Yes.

22 Q. What do you -- you're a professor there, as well?

23 A. I am an assistant professor at the Medical
24 University.

25 Q. And are you a member of any specialized groups or

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1 associations related to the field of forensic pathology?

2 A. Yes.

3 Q. And what association is that?

4 A. The National Association of Medical Examiners and
5 the American Association of Forensic Scientists.

6 Q. And have you previously been qualified as an expert
7 witness in the area of forensic pathology?

8 A. Yes.

9 Q. On how many occasions?

10 A. This will be my eighth.

11 Q. And in what courts?

12 A. Jasper County, Marion County, Berkeley, and Florence
13 and, of course, Charleston.

14 Q. Okay.

15 MR. DURANT: Your Honor, at this time we would offer
16 Doctor Phillips as a expert ---

17 THE COURT: --- Any objection ---

18 MR. DURANT: --- in the field of ---

19 MS. NORRIS: --- no, sir.

20 THE COURT: Alright. The Court so finds.

21 Q. [Mr. Durant] While affiliated with the Medical
22 University, did you have an occasion in this case to
23 perform an autopsy on Johnny Pritchard?

24 A. I did.

25 Q. And do you recall when that was?

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1 A. That would be on December 24th, 2016.
2 Q. And does your -- do your notes indicate what Mr.
3 Pritchard's age was?
4 A. He was -- I'll have to make sure I get it correct.
5 [Whereupon, the witness reviews documents]
6 A. Forty-six.
7 Q. And his height?
8 THE COURT REPORTER: I'm sorry. Forty-six?
9 THE WITNESS: Forty-six.
10 Q. [Mr. Durant] And his height? Do you have his
11 height?
12 A. I do. He was seventy-one inches in length.
13 Q. So that's five eleven?
14 A. Yes.
15 Q. And how much did he weigh?
16 A. 152 pounds.
17 Q. And I believe Mr. Pritchard's clothing and personal
18 effects were also transported to the autopsy; is that
19 correct?
20 A. Yes.
21 Q. Do your notes reflect whether or not the victim had
22 any money on him?
23 A. Yes, they do.
24 Q. And how much money did he have on him?
25 A. He had two quarter coins, that's fifty cents, and

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1 one dine, ten cents; a total of sixty cents.

2 Q. Did he have any -- a wallet on him?

3 A. I believe he did, yes.

4 Q. Did you check the wallet? Would you check your
5 notes? Did his personal effects indicate there was any
6 wallet there?

7 A. I will double-check.

8 [Whereupon, the witness reviews documents]

9 A. My apologies. A wallet is not listed.

10 Q. [Mr. Durant] Okay. Now, as part of your autopsy,
11 do you take photographs?

12 A. Yes.

13 Q. And I want to hand you what's been previously marked
14 as 55 -- State's 55, 56, 57, 58, 59 and 60, and ask you
15 if those are some of the photos that were taken during
16 the autopsy in this case.

17 [Whereupon, the witness is shown photographs]

18 MS. NORRIS: Your Honor, we have a continuing
19 objection to 57 and 58.

20 THE COURT: Okay.

21 MR. DURANT: And I understand I need to tie up one
22 of them.

23 THE COURT: Yes, sir.

24 MR. DURANT: That's 58, I believe.

25 THE COURT: Right.

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1 MR. DURANT: Correct?

2 THE COURT: Right.

3 A. Yes, these were photographs taken at the time of
4 autopsy.

5 Q. Okay.

6 MR. DURANT: Your Honor, we at this time would offer
7 55 through -- excuse me -- it's actually 55 through 60.
8 And...

9 THE COURT: You're tying up 58.

10 MR. DURANT: Okay. And I will tie up 58, Judge.

11 THE COURT: Alright. 55 through 60 is admitted with
12 objection, except for 58 which needs to be tied by the
13 doctor. Okay?

14 MR. DURANT: Yes, sir.

15 [Whereupon, State's Exhibit Numbers 55, 56, 57, 59
16 and 60 are admitted into evidence by the Court]

17 Q. [Mr. Durant] Okay. As part of your autopsy, did
18 you perform an external examination of Mr. Pritchard's
19 body?

20 A. I did.

21 Q. And what evidence of recent injury did you observe
22 from your examination?

23 A. He had a gunshot wound to the neck, and a small
24 laceration to the back of the head.

25 Q. Okay. And let's start with the gunshot wound to the

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1 neck.

2 MR. DURANT: And at this point, I would like to put
3 up State's Exhibit 57.

4 [Whereupon, the photograph is shown]

5 Q. [Mr. Durant] And that is one of the pictures taken
6 at your autopsy; is that correct?

7 A. Correct.

8 Q. And you know because it's got your autopsy number on
9 it?

10 A. Yes.

11 Q. And could you kind of just orient the jury as to
12 where that is?

13 A. So this is a picture of the decedent's neck as it's
14 extended. You'll notice the stubble on the right side is
15 his chin, and his ear is at the top of the photograph,
16 and then you can see his shoulder and lower part of the
17 body.

18 Q. Okay. And your autopsy report notes a dried
19 circumferential abrasion border at the nine and three
20 o'clock position. What does that mean?

21 A. The abrasion border is referring to the dried edges
22 of the wound.

23 Q. And by the way, you can use this -- you can mark on
24 the screen, if it -- if it will help. If it doesn't,
25 that's fine.

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1 A. Okay. I've never used this technology before. I
2 apologize if I do it incorrectly.

3 Q. Well, we're still learning, too.

4 A. The -- here [indicates] is the dried abrasion that
5 is being referred to.

6 Q. Uh-huh.

7 A. It is a feature that you will see on entrance
8 gunshot wounds. It is from the grazing of the bullet on
9 the skin.

10 Q. Okay. And is that kind of referring to those
11 discolorations off to each side of your...

12 A. Are you referring to the redness on the skin?

13 Q. Yes.

14 A. No. It's precisely referring to the dark, almost
15 black-appearing areas of the wound.

16 Q. Okay. Now, your report further indicates there --
17 that there was no soot or stippling. What's that?

18 A. Soot and stippling refers to things that we may see
19 on the skin of an entrance wound. It is from the
20 elements that come out of the end of the gun with the
21 bullet.

22 So, burning gunpowder, the regular gunpowder, other
23 burning material that may be coming out of the end of the
24 gun that might leave an imprint on the skin. It would
25 help us to determine a range.

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1 Q. And that's what it's used for in forensic pathology?
2 If you've got like burn marks around the wound, it
3 usually means he was pretty -- the shooter was pretty
4 close; is that correct?

5 A. Correct.

6 Q. But in this case you had an indication that he was
7 shot through fabric; is that correct?

8 A. Correct.

9 Q. So even if it was close there would, in all likely,
10 be no soot or stippling on the skin; correct?

11 A. Correct.

12 Q. Now, could you describe for our jury the pathway
13 taken by the bullet once it entered Mr. Pritchard's body
14 and what damage was caused by that?

15 A. Okay. The bullet goes through the skin and the
16 subcutaneous tissue on the side of the neck. It then
17 goes through the sternocleidomastoid and strap muscles,
18 which are the large muscles in your -- into your neck.

19 It goes through the right lobe of the thyroid gland,
20 which it's in the neck as a little butterfly gland right
21 here [indicates].

22 It goes also through the thyroid cartilage, which is
23 the portion of the trachea that underlies your thyroid
24 gland, then hits the sixth cervical vertebra. There are
25 seven vertebrae in your neck and the sixth one is --

1 would be the one up from the last in the neck. Soft
2 tissue and strap muscles on the left side of the neck; so
3 again, the muscles on this side [indicates] of the neck.

4 It hits, also, the left subclavian artery. That's
5 one of the major arteries that runs off of your aorta and
6 goes to supply the blood flow to your neck and shoulder,
7 also, going through parts of the left first rib and left
8 clavicle.

9 The clavicle is this bone that goes right here
10 [indicates]. And the first rib runs right under that and
11 along it. It hits the left scapula that is the shoulder
12 blade, and also the soft tissue in the posterior aspect
13 of the left shoulder. And that's where the bullet comes
14 to rest.

15 Q. So it went through a lot of different places, did it
16 not?

17 A. It did.

18 Q. Were any of those particular areas would you
19 consider more lethal or -- than others?

20 A. The most lethal ---

21 Q. --- or what is most likely lethal ---

22 A. --- most lethal injury would have been the
23 subclavian artery. It would have ---

24 Q. --- did it ---

25 A. --- caused a fair amount of bleeding.

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1 Q. Did it sever that artery?
2 A. It did.
3 Q. And so, essentially, he bled out?
4 A. Yes.
5 Q. But not necessarily bled out. A lot of it internal,
6 too, I'm assuming?
7 A. There was some blood internally, yes.
8 Q. Okay. And what was the trajectory of the bullet?
9 A. The bullet went from right to left, down and
10 slightly to the back.
11 Q. Okay. So from this side [indicates] to this side
12 [indicates], downward ---
13 A. --- and towards the back.
14 Q. --- and right in the back?
15 A. Correct.
16 Q. Was the projectile recovered?
17 A. It was.
18 Q. And from where?
19 A. From the left side of the back.
20 Q. And I don't know if you can tell, but does that
21 appear to be the projectile that was recovered by you in
22 this case?
23 [Whereupon, the witness is shown exhibit]
24 Q. And I'm now referring to State's Exhibit Number 65.
25 A. This appears to be one of our packaging materials,

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1 and that does look consistent with the bullet that ---

2 Q. --- okay ---

3 A. --- we recovered.

4 Q. Has your autopsy number on it; correct?

5 A. Yes.

6 Q. And that bullet was retrieved by you and turned over
7 to who?

8 A. That was transferred to a Hershel McElroy,
9 representing the Charleston County Sheriff's Office.

10 MR. DURANT: And could you show 59, please.

11 [Whereupon, the photographs are shown]

12 Q. [Mr. Durant] And 59 and 60 -- this is State's
13 Exhibit 59 and State's Exhibit 60. Those are the bullets
14 you removed in this case; is that correct?

15 A. Yes.

16 Q. Now, let's talk a little bit about the laceration
17 you noted on the back of the head. First of all, could
18 you just kind of tell the jury, or show the jury, on your
19 head roughly where it was located?

20 A. Uh-huh. So he had a half an inch what I described
21 as a split-like laceration to the left side of the back
22 of the head. So, it is about two-and-a-half inches
23 posterior to the lateral midline.

24 So the lateral midline is referring to this portion
25 [indicates] of the body on the lateral side of the head,

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1 and posterior to two inches on the left, so right about
2 here [indicates].

3 Q. Okay. And it -- you refer to it as a laceration.
4 Most people think a laceration means being cut by a sharp
5 object. Was this cut by a sharp object?

6 A. That is the commonly assumed definition. In medical
7 terms what we use a laceration to describe is blunt
8 trauma, blunt trauma being something that has been
9 inflicted by a blunt object.

10 And that would include lacerations or commonly
11 called cuts. More like tears of the skin is what we're
12 describing as a laceration. There's contusions or
13 bruising or abrasions, also known as scrapes, and that's
14 what we consider blunt injury.

15 Q. And you considered this particular laceration as
16 having been caused by a blunt injury; correct?

17 A. Correct.

18 Q. Is that consistent with him having fallen and
19 hitting -- hit his head on the floor?

20 A. That's possible.

21 Q. Is it consistent with him falling and having hit his
22 head on a table?

23 A. Also possible.

24 MR. DURANT: Your Honor, at this time we would offer
25 it.

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1 THE COURT: Subject to a previous objection, fifty
2 -- what is it? Fifty?

3 MR. DURANT: 58.

4 MS. NORRIS: 57 and 58.

5 THE COURT: 58 admitted without objection -- I mean,
6 with objections. Excuse me.

7 [Whereupon, State's Exhibit Number 58 is admitted
8 into evidence by the Court]

9 MR. DURANT: Can you show 58, please.

10 [Whereupon, the photograph is shown]

11 Q. [Mr. Durant] So that's the laceration -- now
12 referring to State's 58. That's the laceration to which
13 you were referring?

14 A. Correct.

15 Q. Okay. Now, and just to show you the two other
16 pictures, State's 55

17 [Whereupon, the photograph is shown]

18 Q. And -- which appears to have a defect in it right
19 here [indicates]?

20 A. Yes.

21 Q. And State's 60 -- 56, which appears to have a defect
22 in it right here [indicates]. This is an interior view.

23 A. Correct.

24 Q. Did you examine the clothing?

25 A. To determine that there was this defect on it, yes.

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1 Q. Okay. And was the defect in the clothing consistent
2 with the location of the wound you found in the
3 decedent's neck?

4 A. Yes.

5 Q. Was a toxicology screen for alcohol and drugs
6 performed?

7 A. It was ---

8 Q. --- as part of your autopsy in this case?

9 A. Yes.

10 Q. And what were the results of that?

11 A. He had positive for caffeine and cotinine. Caffeine
12 ---

13 THE COURT REPORTER: Caffeine. And what was the
14 other?

15 THE WITNESS: Cotinine.

16 A. It's a metabolite of nicotine.

17 Q. [Mr. Durant] Okay. So it indicates that he
18 probably drank coffee and smoked cigarettes; correct?

19 A. Correct.

20 Q. But no alcohol?

21 A. None was detected.

22 Q. And no illicit drugs?

23 A. None were detected.

24 Q. Based upon the history you obtained and your autopsy
25 you performed, do you have an opinion based upon a

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1 reasonable degree of medical certainty as to the cause of
2 death in this case?

3 A. Yes.

4 Q. And what is that opinion?

5 A. A gunshot wound to the neck.

6 Q. Which severed an artery; correct?

7 A. Correct.

8 Q. Which caused Mr. Pritchard to bleed out?

9 A. Correct.

10 Q. Thank you. Would you please answer any questions
11 defense counsel may have for you?

12 THE COURT: Cross-examination.

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1 CROSS-EXAMINATION

2 BY MS. NORRIS:

3 Q. Doctor Phillips, just briefly, there was one

4 gunshot; right?

5 A. Yes.

6 Q. And one bullet?

7 A. Correct.

8 Q. The Solicitor showed you two pictures. But that's

9 one bullet?

10 A. That is one bullet from different angles.

11 Q. Alright. Thank you, ma'am.

12 THE COURT: Any redirect?

13 MR. DURANT: No, sir.

14 THE COURT: Excuse me. Doctor Phillips, you may

15 step down. Thank you so very much. You may be excused.

16 Thank you.

17 THE WITNESS: Thank you.

18 [Whereupon, the witness is excused and exits the

19 witness stand]

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1 MR. DURANT: The State would call Trey Lorenzo
2 Colman.

3 THE COURT: Mr. Colman, if you'll come around and
4 have a seat, please.

5 [Whereupon, Mr. Colman comes forward]

6 [Whereupon, Mr. Colman is duly sworn by the Clerk of
7 Court]

8 THE CLERK OF COURT: Okay. You can have a seat.

9 [Whereupon, Mr. Colman takes the witness stand]

10 THE CLERK OF COURT: And for the record, please
11 state your name and spell your last name.

12 THE WITNESS: Trey Colman. C-O-L-M-A-N.

13 - - - - -

14 TREY COLMAN,

15 Having Been First Duly Sworn,

16 was Examined and Testified as Follows:

17 DIRECT EXAMINATION

18 BY MR. DURANT:

19 Q. Mr. Colman, what's your nickname?

20 A. Red.

21 Q. And that's what most people call you?

22 A. Yes, sir.

23 Q. And also you -- a couple of years ago you had a
24 Facebook account. What was your Facebook name?

25 A. Moneybag Fly.

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- 1 Q. How old are you, Mr. Colman?
- 2 A. Twenty-six.
- 3 Q. And how far did you go in school?
- 4 A. Up to tenth grade.
- 5 Q. You dropped out in the tenth grade?
- 6 A. Yes, sir.
- 7 Q. Did you ever get a GED?
- 8 A. No. I was on the -- just before getting it now,
- 9 but, no.
- 10 Q. And obviously you've had some prior involvement with
- 11 the law?
- 12 A. Yes, sir ---
- 13 Q. --- correct? I believe you were convicted of
- 14 pointing and presenting a firearm back in 2004; is that
- 15 correct?
- 16 A. Yes, sir.
- 17 Q. Where was that at?
- 18 A. In Lexington County.
- 19 Q. And that's kind of where you grew up; in Lexington
- 20 County?
- 21 A. Yes, sir.
- 22 Q. And do you remember when you moved down to this
- 23 area?
- 24 A. Maybe like the middle or end of 2014.
- 25 Q. And when you moved down here, who did you move in

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1 with?
2 A. My mother and step-father ---
3 Q. --- what's your mother's name?
4 A. Barbara Ross.
5 Q. And you have a stepfather, too?
6 A. Yes, sir.
7 Q. What's his name?
8 A. Eric Jordan.
9 Q. His real name is James ---
10 A. --- James ---
11 Q. --- right?
12 A. Yes, sir.
13 Q. But he goes by Eric?
14 A. Yes, sir.
15 Q. And you have a half-brother, too; is that correct?
16 A. Yes, sir.
17 Q. What's his name?
18 A. Aaron Cooper.
19 THE COURT REPORTER: I'm sorry. Say it again.
20 THE WITNESS: Aaron Cooper.
21 Q. [Mr. Durant] Now, when you moved down to this area,
22 did you move down to move in with your mom?
23 A. Yes, sir.
24 Q. Where was she living at the time?
25 A. On Bell Street.

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1 Q. Okay. And then did she move from Bell Street to
2 somewhere else?
3 A. Yes, sir.
4 Q. Where was that?
5 A. East Colpat Street.
6 Q. And do you remember the address at [REDACTED] East Colpat
7 -- or excuse me -- on East Colpat?
8 A. [REDACTED]? No. It was 750 ---
9 Q. Okay ---
10 A. --- East Colpat.
11 Q. Well, anyway.
12 MR. DURANT: Could we have State's 61.
13 [Whereupon, the photograph is shown]
14 Q. [Mr. Durant] Do you recognize where you lived on
15 this map, State's 61?
16 A. Yes, sir.
17 Q. And could you put a circle around it? You can --
18 I'm sorry; you've got to kind of...
19 A. [Witness complies]
20 Q. Okay. And do you remember when y'all moved into
21 there?
22 A. No, sir. Not right off of hand, no, sir.
23 Q. And who was the guy who lived right in front of
24 y'all where that little red pin is?
25 A. Johnny.

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- 1 Q. Johnny who?
- 2 A. Pritchard.
- 3 Q. Now, you're obviously in the South Carolina
- 4 Department of Corrections; correct?
- 5 A. Yes, sir.
- 6 Q. And you're there because of this case?
- 7 A. Yes, sir.
- 8 Q. And you pleaded guilty to manslaughter?
- 9 A. Yes, sir.
- 10 Q. And armed robbery?
- 11 A. Yes, sir.
- 12 Q. And burglary in the first degree?
- 13 A. Yes, sir.
- 14 Q. And you're serving a forty-five-year sentence?
- 15 A. Yes, sir.
- 16 Q. And you don't want to be here today, do you?
- 17 A. No, sir.
- 18 Q. But you need to be here today, don't you?
- 19 A. Yes, sir.
- 20 Q. Why?
- 21 A. So the truth can be told.
- 22 Q. And, also, you're hoping that if you come and
- 23 testify, that you'll get some consideration from the
- 24 State down the road, don't you?
- 25 A. Yes, sir.

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1 Q. And in order for the State to consider that, what
2 have you been told you have to do?

3 A. Tell the truth.

4 Q. And to be clear, who was responsible for setting up
5 Johnny Pritchard?

6 A. Me.

7 Q. And who did you enlist to help rob Johnny Pritchard?

8 A. Joe-Joe.

9 Q. Tell us a little bit about Joe-Joe. How long have
10 you known him?

11 A. Maybe it been like -- before this happened, maybe
12 like a year maybe; year and a half, maybe.

13 Q. Before this happened?

14 A. Yes, sir.

15 Q. Okay.

16 A. Maybe a year.

17 Q. And when you say Joe-Joe, you're talking about the
18 Defendant, Joseph Brown; is that ---

19 A. --- yes, sir ---

20 Q. --- correct?

21 A. Yes, sir.

22 Q. How did you meet?

23 A. Through his stepfather.

24 Q. What's his stepfather's name?

25 A. Rommel [phonetic] Middleton.

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1 Q. And what was your relationship with Rommel
2 [phonetic] Middleton?
3 A. Just a friend.
4 Q. Okay. And what is Rommel [phonetic] Middleton's
5 relationship with the Defendant, Joseph Brown?
6 A. That's his stepfather.
7 Q. So you were friends with his stepfather and through
8 that relationship you became friends with him, as well?
9 A. Yes, sir.
10 Q. And where did Joseph Brown live?
11 A. In Abby Lane.
12 Q. And what is Abby Lane?
13 A. It's apartments.
14 Q. And where are those apartments located in reference
15 to where Mr. Pritchard was killed?
16 A. Down Owens Drive.
17 Q. Okay. And when you say -- I know you're kind of
18 restrained, but you're talking about down that way
19 [phonetic]; correct?
20 A. Yes, sir.
21 Q. Do you know who he lived there with?
22 A. His mom.
23 Q. And what was your nature of your relationship with
24 Joseph Brown?
25 A. Been friend.

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- 1 Q. Y'all hung out?
- 2 A. Yes, sir.
- 3 Q. You had a car.
- 4 A. Yes, sir ---
- 5 Q. --- correct?
- 6 A. Yes, sir.
- 7 Q. I don't think you had a driver's license, but you
- 8 had a car?
- 9 A. Right.
- 10 Q. You would sometimes give him rides when he needed
- 11 rides?
- 12 A. Yes, sir.
- 13 Q. And y'all knew each other for maybe a year, maybe a
- 14 year and a half?
- 15 A. Yes, sir.
- 16 Q. And were friends during that time?
- 17 A. Yes, sir.
- 18 Q. And because of that, you knew that he had a gun?
- 19 A. Yes, sir.
- 20 Q. And, specifically, you knew he owned this gun?
- 21 [Whereupon, the exhibit is shown]
- 22 A. Yes, sir.
- 23 Q. In fact, you'd asked to borrow his gun a couple of
- 24 times, hadn't you?
- 25 A. Yes, sir.

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- 1 Q. As late as the early morning that Mr. Pritchard was
2 killed?
- 3 A. Yes, sir.
- 4 Q. Now, let's talk a little bit about Johnny Pritchard.
5 How did you get to know Johnny Pritchard?
- 6 A. Through my -- it was -- it was through my stepfather
7 and mamma.
- 8 Q. Okay. And did he live -- y'all live right next to
9 one another the whole time that y'all lived there at --
10 on East Colpat?
- 11 A. Yes, sir.
- 12 Q. And what was the relationship between Johnny
13 Pritchard and your stepfather?
- 14 A. He was a good friend.
- 15 Q. They liked each other and hung out together; right?
- 16 A. Yes, sir.
- 17 Q. Eric would go over to his house?
- 18 A. Yes, sir.
- 19 Q. Johnny would go over to your house on Colpat?
- 20 A. Yes, sir.
- 21 Q. And from that, what was your relationship with
22 Johnny Pritchard?
- 23 A. He was a friend.
- 24 Q. You knew him pretty well?
- 25 A. Yes, sir.

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1 Q. Matter of fact, you went to see him in the hospital,
2 didn't you?

3 A. Yes, sir.

4 Q. When he had his automobile accident?

5 A. Yes, sir.

6 Q. And you knew Johnny had come into some money?

7 A. Yes, sir.

8 Q. How did that happen?

9 A. From the car accident.

10 Q. And tell us what you know about the car accident.

11 A. I just knew he had a wreck and one of his people
12 passed away in the wreck.

13 Q. And he was in the hospital ---

14 THE COURT REPORTER: -- Sir, can you speak a little
15 bit louder?

16 MR. DURANT: I'm sorry. Yeah. If you would just
17 speak up so that she can hear you.

18 THE COURT REPORTER: Thank you.

19 Q. [Mr. Durant] You knew he had a wreck and one of his
20 people passed away? Is that what you said?

21 A. Yes, sir.

22 Q. Okay. And, obviously, Johnny was in the hospital
23 himself; correct?

24 A. Yes, sir.

25 Q. He got some money from that accident?

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- 1 A. Yes, sir.
- 2 Q. What did he use the money for?
- 3 A. To buy a trailer and a vehicle.
- 4 Q. And, in fact, what was he getting ready to do?
- 5 A. Move.
- 6 Q. And he was getting ready to move into a new mobile
- 7 home that he bought; right?
- 8 A. Yes, sir ---
- 9 Q. --- or at least a used mobile home; but one that he
- 10 had bought?
- 11 A. Yes, sir.
- 12 Q. Do you know where that mobile home was going to be
- 13 at?
- 14 A. Royal Road.
- 15 Q. And I don't need directions, but is that pretty
- 16 close to this same area?
- 17 A. Yeah, it's close but a couple of miles.
- 18 Q. Okay. How was Johnny with you?
- 19 A. Sir?
- 20 Q. How was Johnny with you?
- 21 A. A friend.
- 22 Q. Did he ever help you out?
- 23 A. Yes, sir.
- 24 Q. And in what ways did he help you out?
- 25 A. One way he helped me, he gave me a couple of dollars

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1 -- a couple of hundred -- well, two-hundred bucks to get
2 my car out of the impound one time.

3 Q. Uh-huh. And if you needed money, did you have any
4 problem going to Johnny and asking for it?

5 A. No, sir ---

6 Q. --- to borrow?

7 A. No, sir.

8 Q. And was he the kind that would lend it to you?

9 A. Yes, sir.

10 Q. In fact, he was helping you out the day he got
11 killed, didn't he?

12 A. Yes, sir.

13 Q. How?

14 A. He gave me a ride to cash my check and go to the
15 store to get laundry detergent.

16 Q. Okay. And you had a car; right?

17 A. Yes, sir.

18 Q. You just didn't have a license?

19 A. Yes, sir.

20 Q. Didn't keep you from driving all the time, did it?

21 A. No.

22 Q. But if you could get a ride, you got a ride?

23 A. Yes, sir.

24 Q. I want to show you what's been marked as -- for
25 identification as State's Exhibit 135.

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1 [Whereupon, the witness is shown photograph]

2 Q. And do you recognize this photograph?

3 A. Yes, sir.

4 Q. And who is that person there [indicates] with the
5 striped shirt on?

6 A. That's me.

7 Q. And where is this at?

8 A. The liquor store.

9 Q. And 136, who is the person there?

10 [Whereupon, the witness is shown photograph]

11 A. That's me.

12 Q. And that's at the liquor store, too?

13 A. Yes, sir.

14 MR. DURANT: Your Honor, at this time we would offer
15 State's 135 and 136.

16 THE COURT: Admitted with the previous objection;
17 correct?

18 MS. SEMAN: Yes, Your Honor.

19 THE COURT: Okay.

20 [Whereupon, State's Exhibit Numbers 135 and 136 are
21 admitted into evidence by the Court]

22 Q. [Mr. Durant] And now I'm showing you State's 137.

23 [Whereupon, the witness is shown photograph]

24 A. Yes, sir.

25 Q. And 138.

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1 [Whereupon, the witness is shown photograph]

2 Q. Do you know where those photos were -- are from?

3 A. The Family Dollar.

4 Q. And the person depicted in both of those photos is
5 who?

6 A. That's me.

7 Q. Okay.

8 MR. DURANT: Okay. Your Honor, at this time we
9 would offer 137 and 138.

10 THE COURT: Admitted with the previous objection.

11 MS. SEMAN: Thank you.

12 [Whereupon, State's Exhibit Numbers 137 and 138 are
13 admitted into evidence by the Court]

14 Q. [Mr. Durant] And let's just show these briefly to
15 the jury. 135.

16 [Whereupon, the photograph is shown]

17 MR. DURANT: Can you double click that please?
18 Okay.

19 Q. [Mr. Durant] This is the liquor store; correct?

20 A. Yes, sir.

21 Q. And this is where you went to get your paycheck
22 cashed?

23 A. Yes, sir.

24 Q. And the person with the striped shirt is who?

25 A. Me.

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1 Q. And this is on December 23rd, 2016, shortly before
2 11:00 a.m.?

3 A. Yes, sir.

4 Q. And 136, showing you leaving the liquor store;
5 correct?

6 [Whereupon, the photograph is shown]

7 A. Yes, sir.

8 Q. Then 137.

9 [Whereupon, the photograph is shown]

10 Q. Oh, by the way, in those two photographs, where was
11 Johnny?

12 A. Outside.

13 Q. He was waiting in the car?

14 A. Yes.

15 [Whereupon, the photograph is shown]

16 Q. Now, this is 137. Where is this taken?

17 A. Family Dollar.

18 Q. And that's you with the hat on; correct?

19 A. Yes, sir.

20 Q. And this is about 11:38 that same morning; correct?

21 A. Yes, sir.

22 Q. And, finally, 138.

23 [Whereupon, the photograph is shown]

24 Q. And there's no question that that's you leaving the
25 Family Dollar store; right?

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- 1 A. Yes, sir.
- 2 Q. At 11:42:06. And, once again, where was Jerry --
- 3 where was Johnny when you were in the Family Dollar?
- 4 A. Outside.
- 5 Q. Now, were y'all going somewhere else that morning?
- 6 A. He was going to take me by to see his trailer but
- 7 there were some people he was trying to get in touch with
- 8 that were supposed to be there, that wasn't there, so we
- 9 didn't go.
- 10 Q. Okay. So you never did actually go by to see where
- 11 his new trailer was going to be?
- 12 A. No, sir.
- 13 Q. About ten minutes after you left that store, you
- 14 started texting somebody, didn't you?
- 15 A. Yes, sir.
- 16 Q. And who did you start texting?
- 17 A. Joe-Joe.
- 18 Q. And what were you texting Joe-Joe about?
- 19 A. Robbing Johnny.
- 20 Q. And why did you want to rob Johnny?
- 21 A. Money.
- 22 Q. I'm going to show you State's Exhibit Number 110.
- 23 [Whereupon, the witness is shown document]
- 24 Q. You have seen this, have you not?
- 25 A. Yes, sir.

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- 1 Q. You don't like looking at it, do you?
- 2 A. No, sir.
- 3 Q. And the person showing up under the name Red on
- 4 those text messages and phone calls is who?
- 5 A. Me.
- 6 Q. And your number at the time was 843-609-9577; right?
- 7 A. Yes, sir.
- 8 Q. That's the phone you had; right?
- 9 A. Yes, sir.
- 10 Q. And these are just from that day, December 23rd, but
- 11 you had known him for a number of months?
- 12 A. Yes, sir.
- 13 Q. And texted and called him frequently?
- 14 A. Yes, sir.
- 15 Q. And at line 17071 -- this is on December the 23rd,
- 16 at about 1:10 in the morning. Roughly twelve hours
- 17 before Johnny was killed, you asked or texted, shit, let
- 18 me get the tone. What is a tone?
- 19 A. A gun.
- 20 Q. Why did you need a gun?
- 21 A. Because I be out doing --
- 22 THE COURT REPORTER: --- because what? I'm sorry.
- 23 Q. [Mr. Durant] Because you'd be out what?
- 24 A. Doing illegal activities.
- 25 Q. Doing illegal activities like what?

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- 1 A. Selling drugs.
- 2 Q. But he said you couldn't have it; right?
- 3 A. Yes, sir.
- 4 Q. So no question you knew he had a gun?
- 5 A. Yes, sir.
- 6 Q. You've seen that gun before?
- 7 A. Yes, sir.
- 8 Q. You had seen it more than once, didn't you?
- 9 A. Yes, sir.
- 10 Q. Okay. Let's move to line 17120. Now we're talking
- 11 about about twelve hours later at 11:53 in the morning.
- 12 This is probably ten minutes after y'all left the Family
- 13 Dollar store. You text Joe-Joe, man, you've got to rob
- 14 dude today; I'm with him now. Is that correct?
- 15 A. Yes, sir.
- 16 Q. Okay. And when he responded, he didn't say rob who,
- 17 did he?
- 18 A. No, sir.
- 19 Q. And he didn't have to say that because why?
- 20 A. Because I had already tell him.
- 21 Q. Y'all discussed this on other occasions, had you
- 22 not?
- 23 A. Yes, sir.
- 24 Q. And where did he want to rob the guy?
- 25 A. In his -- in his apartment complex.

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- 1 Q. Which is?
- 2 A. Abby Lane.
- 3 Q. And what was your response?
- 4 A. No.
- 5 Q. And why?
- 6 A. Because he would know I set him up.
- 7 Q. Exactly. If you pull up to Abby Lane and this guy
- 8 comes out and robs you, he's going to know that you set
- 9 it up; right?
- 10 A. Yes, sir.
- 11 Q. So where was the next place he suggested that he rob
- 12 y'all -- rob y'all at?
- 13 A. My house.
- 14 Q. Which is on East Colpat; right?
- 15 A. Yes, sir.
- 16 Q. And he says: going to rob you in the yard. He
- 17 won't know I set him up because I come around the yard
- 18 and telling you -- and I'm telling you, Bruh, it's now or
- 19 never; what's up; let me eat, Bruh.
- 20 What does let me eat, Bruh, mean?
- 21 A. Rob him.
- 22 Q. Huh?
- 23 A. Let him rob him.
- 24 Q. He was kind of eager to do this, wasn't he?
- 25 A. Yes, sir.

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1 Q. And you say, not at my house. Why not?

2 A. Because of my family.

3 Q. Exactly. Your mom's there, your brother's there,
4 your stepfather's there. And why would you worry about
5 that?

6 A. Because that would put them involved with it.

7 Q. It would also put them in danger, wouldn't it?

8 A. Yes, sir.

9 Q. Because you knew when he was coming, he was coming
10 with what?

11 A. A gun.

12 Q. Also, in that same text, y'all agreed to the split.
13 Which was?

14 A. Fifty-fifty.

15 Q. You wanted half the take; right?

16 A. Yes, sir.

17 Q. And where did you tell him that you wanted him to do
18 it?

19 A. Wait for him to go home.

20 THE COURT REPORTER: I'm sorry?

21 THE WITNESS: Wait for him to go home.

22 Q. [Mr. Durant] And when he went home, what were you
23 going to do?

24 A. I would have picked him -- would let Joe-Joe know.

25 Q. Okay. And then you made arrangements in this text

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1 message to meet him somewhere? And I'm talking about
2 line 17131.

3 [Whereupon, the document is shown]

4 Q. [Mr. Durant] And you say: I'm going to be home
5 when you do it; just do it and go to the back of Bell
6 Street or to the circle by Smokey and them house. You
7 ball me, and I'm bum get you from there.

8 What does that mean?

9 A. To go to the circle and I'll -- and I'll pick him up
10 from there.

11 Q. And...

12 [Whereupon, State's exhibit 61 is shown]

13 Q. And when you say the circle, you are meaning right
14 here [indicates] at the end of Brenda B Drive; right?

15 A. Yes, sir.

16 Q. Now, going down to line 17136, you text: his fat-ass
17 brother with him; the skinny one got the money, though.
18 I want you to run his pockets and take his wallet and
19 all; the fat one ain't got nothing; but do whatever to
20 take it; hell, take his pants off of him and take his
21 phone, too.

22 Now, who are you talking about being the fat-ass
23 brother?

24 A. Potter.

25 Q. Okay. Hugh Pritchard, right; Hugh Potter Pritchard?

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- 1 A. Yes, sir.
- 2 Q. Okay. And who did you mean being the skinny one?
- 3 A. Johnny.
- 4 Q. But do whatever to take it. What did you mean by
- 5 that?
- 6 A. Just get it.
- 7 Q. And at 12:20, you tell him y'all are coming down
- 8 Royal Road; right?
- 9 A. Yes, sir.
- 10 Q. Heading back toward your house?
- 11 A. Yes, sir.
- 12 Q. And then at 12:25, you text him, line 17154: they
- 13 packing because he's about to move. They some pussies
- 14 and ain't no gun in the house.
- 15 And you knew that how?
- 16 A. Because I be over there.
- 17 Q. You've been over there a lot of times, haven't you?
- 18 A. Yes, sir.
- 19 Q. And then at line 17162, and now we're at 12:40 p.m.,
- 20 you text him: hold on; he's out there -- he's out here
- 21 talking to my people in my yard; I'll let you know when
- 22 he leaves my house.
- 23 And what does that mean?
- 24 A. That's when he leave my house, that's when to do it.
- 25 Q. He was out there talking to who?

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1 A. My mother and my stepfather.
2 Q. Then he texts you at 12:41 asking where the brother
3 was. And when you say the brother, it was really his
4 cousin. But Potter Pritchard is who you're talking
5 about; right?
6 A. Yes, sir.
7 Q. And you text him back at 12:41, telling him that
8 he's in the house?
9 A. Yes, sir.
10 Q. Meaning the brother?
11 A. Yes, sir.
12 Q. Then at 12:42, you have a telephone conversation
13 with him for three minutes and thirty seconds?
14 A. Yes, sir.
15 Q. And then at 12:47 and change, you have a forty-eight
16 second conversation with him; correct?
17 A. Yes, sir.
18 Q. And is that when you tell him he's in his house?
19 A. Yes.
20 Q. And where did you go?
21 A. I went to Torres.
22 THE COURT REPORTER: You went to where?
23 THE WITNESS: Torres.
24 Q. [Mr. Durant] And then you went to where?
25 A. Back to Brenda B.

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- 1 Q. And you went there why?
- 2 A. To pick up Joe-Joe.
- 3 Q. Because that's where you had arranged to pick him
- 4 up; right?
- 5 A. Yes, sir.
- 6 MR. DURANT: Go to State's 71.
- 7 [Whereupon, the video plays]
- 8 Q. [Mr. Durant] Referring to State's Exhibit Number
- 9 71. You see that car arriving at the top?
- 10 A. Yes, sir.
- 11 Q. And whose car is that?
- 12 A. Mine.
- 13 Q. And who's driving that car?
- 14 A. Me.
- 15 Q. And who's that getting out of that car?
- 16 A. Me.
- 17 Q. And this is about at 12:55 p.m. That's you going
- 18 back to the car?
- 19 A. Yes, sir.
- 20 Q. And who is that coming back to the car with you?
- 21 A. Joe-Joe.
- 22 Q. And you pulled in there from Bell Drive; right?
- 23 A. Yes, sir.
- 24 Q. And you went back out that way?
- 25 A. Yes, sir.

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- 1 Q. And where did you go?
- 2 A. Abby Lane.
- 3 Q. To take -- to go -- went to Abby Lane why?
- 4 A. To drop Joe-Joe off.
- 5 Q. Also State's 71.
- 6 [Whereupon, the video plays]
- 7 Q. Who is that?
- 8 A. Me.
- 9 Q. And who are you waving to there?
- 10 A. Joe-Joe.
- 11 Q. And what are you saying to him?
- 12 A. Telling him to come on.
- 13 Q. And who is that?
- 14 A. Joe-Joe.
- 15 Q. And that's what Joe-Joe was wearing that day?
- 16 A. Yes, sir.
- 17 Q. And who is that?
- 18 A. Joe-Joe.
- 19 Q. How much money did you get?
- 20 A. None.
- 21 Q. What do you mean none?
- 22 A. Nothing.
- 23 Q. What makes you think he didn't get any money?
- 24 A. Because I asked him.
- 25 Q. And what did he tell you?

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- 1 A. He didn't get nothing.
- 2 Q. And what do you think about that? You knew Johnny
- 3 had money.
- 4 A. Yes, sir.
- 5 Q. Did you believe him?
- 6 A. I had no choice.
- 7 Q. How was he acting?
- 8 A. Not himself.
- 9 Q. What do you mean not himself?
- 10 A. I mean just wasn't acting like how he usually act
- 11 when I was being around him.
- 12 Q. And in what way was that different?
- 13 A. I mean, it just wasn't usual.
- 14 Q. So you took him to Abby Lane and dropped him off;
- 15 right?
- 16 A. Yes.
- 17 Q. And what did you find out when you got back home?
- 18 A. That Johnny had been shot.
- 19 Q. How did you find that out?
- 20 A. My family. And then I had went over there.
- 21 Q. So when you got back, your stepfather and brother
- 22 were over at his place; right?
- 23 A. Yes, sir.
- 24 Q. And you found out Johnny had been shot?
- 25 A. Yes, sir.

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1 Q. Did you see him?
2 A. Yes, sir.
3 Q. And how did you see him?
4 A. I walked over there.
5 Q. Did you go inside?
6 A. I stood at the door.
7 Q. And what did you see when you stood at the door?
8 A. Him laying on the floor bleeding.
9 Q. He was dead, wasn't he?
10 A. Yes, sir.
11 Q. How did it make you feel seeing Johnny Pritchard
12 dead?
13 A. Bad.
14 Q. Because you helped kill him, didn't you?
15 A. Yes, sir.
16 Q. Just as surely as if you'd had your finger on that
17 trigger, too; right?
18 A. Yes, sir.
19 Q. How did that make you feel about him?
20 MS. SEMAN: Objection to the relevance, Your Honor.
21 THE COURT: I'll sustain that objection.
22 Q. [Mr. Durant] Did you ever confront him about it?
23 A. I asked him.
24 Q. Why did you ask him?
25 A. Because I wanted to know.

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1 Q. So what did you do? Because he wasn't arrested for
2 like ten, eleven days.

3 A. I went to see him.

4 Q. You went to see him where?

5 A. Home.

6 Q. And when you say home, his home?

7 A. Yes, sir.

8 Q. And did you confront him?

9 A. Yes, sir.

10 Q. And what did he tell you?

11 A. He ain't want to talk about it.

12 Q. And you just left it at that didn't you?

13 A. Yes, sir.

14 MR. DURANT: Court's indulgence.

15 [Whereupon, Mr. Durant and Mr. Heggelke confer]

16 Q. [Mr. Durant] Could you please answer any questions
17 defense counsel may have for you.

18 THE COURT: Cross-examination.

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1	CROSS-EXAMINATION
2	BY MS. SEMAN:
3	Q. Good morning, Mr. Colman.
4	A. Good morning.
5	Q. As you said, Johnny was your next-door neighbor,
6	wasn't he?
7	A. Yes, ma'am.
8	Q. He was your buddy?
9	A. Yes, ma'am.
10	Q. He was a good friend of yours?
11	A. Yes, ma'am.
12	Q. And as you said on direct, when he was in a car
13	accident you even visited him in the hospital, didn't
14	you?
15	A. Yes, ma'am.
16	Q. He helped you?
17	A. Yes, ma'am.
18	Q. Helped you get your car out of impound?
19	A. Yes, ma'am.
20	Q. He loaned you money?
21	A. Yes, ma'am.
22	Q. He gave you rides?
23	A. Yes, ma'am.
24	Q. Even the day that this happened, he gave you a ride?
25	A. Yes, ma'am.

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- 1 Q. And you liked him?
- 2 A. Yes, ma'am.
- 3 Q. You would not have wanted him to be hurt?
- 4 A. No, ma'am.
- 5 Q. And you knew Joe-Joe before this day; right?
- 6 A. Yes, sir.
- 7 Q. You said ---
- 8 A. --- yes, ma'am; excuse me.
- 9 Q. You said about a year and a half before; right?
- 10 A. Yes, ma'am.
- 11 Q. And he's younger than you?
- 12 A. Yes, ma'am.
- 13 Q. But y'all kind of run in the same crowd?
- 14 A. Yes, ma'am.
- 15 Q. You had some of the same friends?
- 16 A. Yes, ma'am.
- 17 Q. He certainly wasn't your only friend?
- 18 A. No, ma'am.
- 19 Q. And he wasn't your only friend involved in illegal
- 20 activities?
- 21 A. No, ma'am.
- 22 Q. And you've had a chance to go over these text
- 23 messages that we've been talking about; right?
- 24 A. Yes, ma'am.
- 25 Q. And in these text messages, you were the one that

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1 started talking about a robbery; right?

2 A. Yes, ma'am.

3 Q. And you've testified before at another hearing in

4 this case, haven't you?

5 A. Yes, ma'am.

6 Q. And you never previously said anything about

7 discussing a robbery with him before that day, did you?

8 A. No, ma'am.

9 Q. You knew Mr. Pritchard had money; right?

10 A. Yes, ma'am.

11 Q. You said what the plan was?

12 A. Yes, ma'am.

13 Q. You gave the direction?

14 A. Yes, ma'am.

15 Q. You said when to do it?

16 A. Yes, ma'am.

17 Q. Where to do it?

18 A. Yes, ma'am.

19 Q. How to do it?

20 A. Yes, ma'am.

21 Q. And how you were going to split it?

22 A. Yes, ma'am.

23 Q. And despite your plan to rob Mr. Pritchard, you

24 didn't think he would be hurt, did you?

25 A. No, ma'am.

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- 1 Q. And when you said in a text message, do whatever to
2 take it, you didn't mean to hurt him, did you?
- 3 A. No, ma'am.
- 4 Q. You didn't talk to him about hurting Mr. Pritchard?
- 5 A. No, ma'am.
- 6 Q. And you didn't want Mr. Pritchard to be hurt?
- 7 A. No, ma'am.
- 8 Q. Never thought he would hurt Mr. Pritchard?
- 9 A. No, ma'am.
- 10 Q. Otherwise, you never would have talked about a
11 robbery with him, would you?
- 12 A. Yes, ma'am.
- 13 Q. Because you liked Mr. Pritchard?
- 14 A. Yes, ma'am.
- 15 Q. And that day when you picked up Joe-Joe at the end
16 of Bell -- or Brenda B Drive, you didn't see any signs of
17 a struggle, did you?
- 18 A. No, ma'am.
- 19 Q. Didn't see any blood on him?
- 20 A. No, ma'am.
- 21 Q. Never saw a gun?
- 22 A. No, ma'am.
- 23 Q. In fact, you testified previously that you didn't
24 know he had a gun?
- 25 A. No, ma'am.

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1 Q. Didn't see any cash?

2 A. No, ma'am.

3 Q. Certainly he didn't give you any cash?

4 A. No, ma'am.

5 Q. No marks or injuries on him; right?

6 A. No, ma'am.

7 Q. And you testified today that Joe-Joe was not

8 himself; is that right?

9 A. Yes, ma'am.

10 Q. But, again, you've testified before in this case and

11 you never said anything about him acting differently, did

12 you?

13 A. No, ma'am.

14 Q. And you also mentioned, when you were speaking with

15 the Solicitor, that you talked to Joe-Joe about this

16 after it happened; right?

17 A. Yes, ma'am.

18 Q. And you said you asked him what happened and he said

19 he didn't want to talk about it?

20 A. Yes, ma'am.

21 Q. And you never told anybody that before a week or so

22 ago, did you?

23 A. No, ma'am. It just really wasn't asked to me that

24 way.

25 Q. But, again, you testified previously in this case;

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1 right?
2 A. Yes, ma'am.
3 Q. You -- there was a judge there; right?
4 A. Yes, ma'am.
5 Q. You were under oath, just like you are now?
6 A. Yes, ma'am.
7 Q. Sitting in the witness box, just like you are now?
8 A. Yes, ma'am.
9 Q. And there was a court reporter there, too. And when
10 you testified before, you said that the only thing Joe-
11 Joe told you afterwards was that he didn't have any money
12 to give you?
13 A. Yes, ma'am.
14 MS. SEMAN: I beg the Court's indulgence.
15 [Whereupon, Ms. Seman and Ms. Norris confer]
16 MS. SEMAN: Just a few more questions, Mr. Colman.
17 Q. [Ms. Seman] As the State mentioned, you're here
18 today hoping for a benefit, aren't you?
19 A. Yes, ma'am.
20 Q. Hoping to get a reduction in your sentence?
21 A. Yes, ma'am.
22 Q. Right? You want to help the State?
23 A. Yes, ma'am.
24 Q. You want to make them happy, don't you?
25 A. Yes, ma'am.

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1 Q. Because you want your sentence reduced?
2 A. Yes, ma'am.
3 Q. And in order to do that, you have to help them.
4 A. Tell the ---
5 Q. --- don't you ---
6 A. --- truth. Yes, ma'am.
7 Q. But you have to give them substantial assistance,
8 don't you?
9 A. Yes, ma'am.
10 Q. That means you've got to help them.
11 A. [No response]
12 Q. Then they can ask to reduce your sentence, can't
13 they?
14 A. Yes, ma'am.
15 Q. Because you can't do that on your own, can you?
16 A. No, ma'am.
17 Q. They have to ask?
18 A. [Indicates]
19 THE COURT REPORTER: Is that a yes?
20 A. Yes, ma'am.
21 Q. [Ms. Seman] And because they have to ask, they get
22 to decide whether you've helped or not, don't they?
23 A. Yes, ma'am.
24 Q. So, again, you want to make them happy, don't you?
25 A. Yes, ma'am.

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1 Q. And when you were first interviewed by officers, you
2 told them that Joe-Joe was the other person in that video
3 didn't you?

4 A. Yes, ma'am.

5 Q. You identified yourself, too?

6 A. Yes, ma'am.

7 Q. You said that's me, on that video, didn't you?

8 A. Yes, ma'am.

9 Q. That video of you picking up Joe-Joe at the back of
10 Brenda B Drive?

11 A. Yes, ma'am.

12 Q. And that was -- you told them that the same day you
13 were picked up and questioned about this case, didn't
14 you?

15 A. Yes, ma'am.

16 Q. And that was true?

17 A. Yes, ma'am.

18 Q. And you initially pled guilty, hoping that you would
19 get a benefit; right?

20 A. Yes, ma'am.

21 Q. You were hoping for a lighter sentence?

22 A. Yes, ma'am.

23 Q. You were looking at life in prison?

24 A. Yes, ma'am.

25 Q. But you didn't get life in prison?

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- 1 A. No, ma'am.
- 2 Q. And they want you to say he did it, don't they?
- 3 A. They want the truth.
- 4 Q. They want you to come in here, though, and say that
- 5 he did it, I saw him, don't they?
- 6 A. Not that I saw him. They just want to know the
- 7 truth.
- 8 Q. Because you didn't see him; right?
- 9 A. No, ma'am.
- 10 Q. And you can't say that he did it, can you?
- 11 A. I mean, wasn't nobody else in on it.
- 12 Q. But you don't know whether he did it, do you?
- 13 A. I mean, I wasn't there. I can't say that. But
- 14 wasn't nobody else in on the -- on the robbery.
- 15 Q. But as you just said you weren't there, were you?
- 16 A. No, ma'am.
- 17 Q. You didn't see anything, did you?
- 18 A. No, ma'am.
- 19 Q. And that's what you testified previously in this
- 20 case, too?
- 21 A. Yes, ma'am.
- 22 Q. It would be stretching the truth to say that you
- 23 know exactly what happened, wouldn't it?
- 24 A. Yes, ma'am.
- 25 Q. Because you weren't there?

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1 A. Yes, ma'am.
2 MS. SEMAN: That's all I have, Judge.
3 THE COURT: Redirect?
4 MR. DURANT: Not very much.
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CLOSING ARGUMENT

BY MR. DURANT:

Good afternoon, ladies and gentlemen. I want to thank you for your service as jurors in this case.

And at this point in the trial, the law allows me to do what's known as opening on the law, which I get to explain the law to you. The judge is going to charge you the law, so if anything I say is different from what he tells you, you listen to him and not me. Okay? The defendant in this case is charged with murder. And there's really not a whole lot to it in this state.

[Whereupon, a slide is shown]

MR. DURANT: Those are the elements of murder: the killing of another person with malice aforethought.

Malice aforethought does not mean premeditation. You heard some arguments in opening that there was no premeditative plan to kill Johnny Pritchard. Not required. Premeditation is not an element of murder. Malice aforethought is the element of murder and malice just has to exist in the mind of the Defendant at the time he pulls that trigger.

Murder also does not mean that they intended to kill anybody, or that there was a -- no plan that anybody was going to get killed. You can be convicted of murder in this state and have no intent to have killed anyone,

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1 because you acted so recklessly, with such a depraved
2 heart, that malice can be inferred from your conduct.
3 For example, if I were to shoot into an occupied dwelling
4 trying to scare the people in that dwelling and I kill
5 one of them, I may not have kill -- meant to kill them.
6 But the law says I'm guilty of murder because what I did
7 was so reckless that you can infer malice from my
8 conduct.

9 I could get rip-roaring drunk and drive a hundred
10 miles an hour through a school zone, and run over a child
11 and kill them, and God knows I didn't mean to do that,
12 but under the law in this state you can convict me of
13 murder because of my conduct because you can infer malice
14 from the recklessness of my conduct. So intent to kill,
15 premeditation, has nothing to do with it.

16 Malice need only exist in the mind and in the heart
17 of the defendant at the time he pulls that trigger. And
18 malice can be inferred by his conduct, and it can be
19 inferred by the fact that he went into that house with a
20 gun with the intention of robbing Johnny Pritchard.

21 And you can infer malice from the fact that he
22 killed someone during the commission of a felony; whether
23 or not he intended to do it when he went in, whether or
24 not there was any plan that he do it before he went in.
25 And burglary and armed robbery are felonies. Next slide,

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1 please.

2 [Whereupon, the next slide is shown]

3 MR. DURANT: He's also charged with burglary in the
4 first degree. And those are basically the elements:
5 entering a dwelling, somewhere where someone lives,
6 without consent. Going through the door without being
7 invited in constitutes entering without consent and with
8 an intent to commit a crime therein. In this case the
9 crime of armed robbery.

10 And if during the course of that entry and the
11 attempt to commit that -- and the intent to commit that
12 crime, the person is armed with a deadly weapon, causes
13 physical injury to a non-participant in the crime, uses a
14 threat to use a dangerous instrument or displays what
15 appears to be a knife or a firearm, that makes it
16 burglary in the first degree; all of which were done in
17 this case. Next slide, please.

18 [Whereupon, the next slide is shown]

19 MR. DURANT: Armed robbery is simply that taking
20 and carrying away the personal property of another with
21 an intent to -- and deprive them of possession by use of
22 force, threats, or intimidation while armed with a deadly
23 weapon. And yes, in this case there is some
24 inconsistency testimony as to whether or not anything was
25 actually taken. I know Hugh Pritchard said money was

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1 taken or something was taken. I know that Johnny
2 Pritchard didn't have anything but sixty cents in his
3 pocket by the time he got to the morgue. I know that
4 this person seen running away from the scene of the crime
5 was dropping cash as they went.

6 And if you're convinced beyond a reasonable doubt
7 that Brown actually got something from Mr. Pritchard in
8 this armed robbery, if you're not convinced beyond a
9 reasonable doubt that he actually got something, if you
10 believe what he told Trey Colman that he didn't have any
11 money, then it's attempted armed robbery. But it's one
12 or the other, because that was the object of the entire
13 conspiracy, was the robbery. Next one, please.

14 [Whereupon, the next slide is shown]

15 MR. DURANT: And the last thing with which he's
16 charged is this one. And all this means, that if you
17 convict him, find him guilty of murder or armed robbery
18 or attempted armed robbery or burglary, and you find that
19 at the time that he did one of those things, he had a
20 pistol or visibly displayed what appeared to be a pistol,
21 then he's guilty of this offense, as well.

22 And, lastly, I want to talk to you a little bit
23 about circumstantial evidence, because this is a
24 circumstantial evidence case. And I'm sure the Defendant
25 will talk to you a bunch about circumstantial evidence.

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1 There are two kinds of evidence. There's direct evidence
2 and there's circumstantial evidence. Direct evidence is
3 I look out the window and I see that it's raining and I
4 say it's raining outside.

5 Circumstantial evidence is I get up, I look out the
6 window, it is not raining but the sky is leaden, there's
7 water dripping off the trees, the ground is soaking wet,
8 there are raindrops on the window, you can conclude that
9 it had rained. And the law makes no distinction between
10 direct or circumstantial evidence in the trial of a
11 criminal case.

12 You need to consider all of the evidence in the
13 case. And if you consider all of the evidence in the
14 case, direct evidence and circumstantial evidence, and if
15 you can come to the conclusion after considering all the
16 evidence that Joseph Brown is guilty beyond a reasonable
17 doubt, then you find him guilty.

18 Now, let's talk a little bit about December 23 of
19 2016. On Tuesday morning, I stood before you and told
20 you a story about how Johnny Pritchard came to his end on
21 that day. And over the last two or three days, I hope
22 that we have proven to you that that story is true. The
23 issue in this case is not whether Johnny Pritchard was
24 the victim of a crime. We know that Johnny Pritchard was
25 the victim of murder. We know that Johnny Pritchard was

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1 a victim of a robbery or an attempted robbery. And we
2 know that he was a murder victim. The only issue for you
3 to decide in this case, as a jury, is he [indicates] the
4 one responsible for these crimes.

5 And it is true that the witnesses in this case, Hugh
6 Pritchard, Celest McBride, and Merit Williams gave
7 varying descriptions of this suspect involved in this
8 case. And that is not unusual. It's certainly not
9 unusual in my business. If you have five people that
10 witness an event and then you interviewed them all
11 separately from one another, you would be hard-pressed to
12 believe that they even saw the same thing, because when
13 it comes to evidence, human perception is the most
14 unreliable type of evidence that you can consider as a
15 juror.

16 And if the descriptions of this suspect were the
17 only evidence that you had in this case, we would not be
18 here today because this case would have been dismissed.
19 Because the only consistencies you have between those
20 descriptions are that it was a black male, that he was
21 wearing all dark clothing, and that he was of medium
22 height and build.

23 But you have much, much more to consider in this
24 case than that. To begin with, you have the video
25 evidence beginning with the home-surveillance video from

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1 Martin Perez' home. Immediately after this murder, in
2 five or six minutes, the black male is running down
3 Brenda B Drive from the area of East Owens. Build-wise,
4 he is similar to Mr. Brown. He's wearing all dark
5 clothing. He's wearing red Converse tennis shoes.

6 He doesn't have dreads but he is wearing some sort
7 of black hoodie that has some sort of emblem on the back
8 that you can't quite make out on the video. And the
9 quality is not sufficient that you can establish that
10 that person is Joseph Brown, but it sure could be.

11 This person is picked up by Trey Colman at the end
12 of Brenda B Drive, driving his dark Chevy Prism. And
13 when that video is shown to Celest McBride after the
14 fact, she says, yeah, that looks like the guy I saw
15 running in front of my house and dropping that cash and
16 dropping that phone.

17 And when that video was shown to Merit Williams, who
18 had the best view of this suspect than anybody involved
19 in this case, he didn't say it looks like the guy I saw,
20 he says that was the guy I saw, despite the fact that
21 it's clear that that person doesn't have dreads. And we
22 later learn from Trey Colman that that person who got
23 picked up at the end of Brenda B is him [indicates].

24 You have Mr. Perez' testimony that confirms what is
25 shown on the video. He sees the car pull up behind his

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1 house, he sees the driver get out and go wave to the
2 other guy to come, he sees them get in the car together
3 and drive away, and he recognizes the driver, because
4 he's seen him in this neighborhood before. And he even
5 knows where he lives. And where does he live? The same
6 place Trey Colman lives, the same trailer.

7 Next, you have the iPhone, State's Exhibit 63, I
8 believe it is. There's no question that that [indicates]
9 is his phone. There's a picture of him on the lock
10 screen with his girlfriend, captioned Joe-Joe and Nauti.
11 His girlfriend identified the phone as belonging to him.
12 When he is picked up and questioned, he tells the phone
13 belongs to him. He just happened to lose it, to lose it,
14 in the same area and at the exact same time that Johnny
15 Pritchard was murdered.

16 Next, you have this, the dump from the phone, which
17 is the most reliable and probative -- probative evidence
18 that you have in this case of what went on that day, in
19 his phone. This is not a situation where he loses his
20 phone and somebody just comes and picks it up and starts
21 texting back and forth with a guy named Red about robbing
22 somebody, because they'd been texting back and forth on
23 that phone for weeks.

24 And the phone dump resulted in a wealth of
25 information regarding this case. If you do nothing else

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1 in the jury room, please go back and read State's Exhibit
2 110 and look at the timeline developed by State's Exhibit
3 110.

4 If there's any evidence which establishes his guilt
5 beyond a reasonable doubt, it is that. Beginning at
6 11:53 a.m. roughly an hour before Johnny Pritchard was
7 killed: man, you've got to rob dude today; I'm with him
8 now.

9 And for the next hour, they plan how the robbery can
10 take place, where the robbery will take place. They want
11 you to believe that it was all Trey Colman. And, yeah,
12 Trey Colman was in it up to here. But he [indicates] was
13 all in. Yeah, man, bring him to my house; I'll rush out
14 and -- and then rob him there. No man, he'll know I'm
15 setting him up. Well, let me rob him -- let me rob him
16 at your house. No man, my people are there.

17 So they decide on robbing Johnny Pritchard when
18 Johnny Pritchard is back in his house. And Red would
19 let, Trey Colman would let, Joe-Joe Brown know when that
20 happened. They discussed how they were going to split
21 the proceeds, they discuss where Trey Colman would pick
22 him up after the deed was done, which just happens to be
23 at the end of Brenda B Drive and was captured by Mr.
24 Perez' video. And there's also no doubt about who they
25 were planning to rob: His fat-ass brother and him, the

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1 skinny one got the money, though; I want you to run his
2 pockets and take his wallet and all that; and the fat one
3 ain't got nothing; do whatever it take; hell, take his
4 pants off and take his phone, too. Brown says: So you
5 want me to go in there when they're both in there; they
6 packing because he about to move. They some pussies;
7 there ain't no gun in that house.

8 We also know who the target -- we know who the
9 target of this robbery is just from reading the text
10 messages. But you also know because Trey Colman tells
11 you.

12 Next, I would ask you to look at the timeline. It
13 starts at 11:53 a.m., about seven minutes before noon on
14 that day with, man, you got to rob the dude today; I'm
15 with him now. The last text between the two of them is
16 at 12:41 p.m., almost an hour later, when Brown asked
17 Colman where the brother is and Colman says he's in the
18 house.

19 A minute later, Colman calls Joe-Joe Brown and talks
20 to him for three minutes and thirty-two seconds. At
21 12:47 and change, Colman calls Brown, talks to him for
22 forty-eight seconds, to let him know that Johnny
23 Pritchard is back in his house. That phone call
24 concludes at about 12:48. By 12:55 -- 12:54 or 12:55,
25 Joe-Joe Brown is being picked up at the end of Brenda B

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1 about six minutes later. The phone -- the 911 call is
2 made two minutes after that at 12:56 and the first police
3 officer arrives at 1:03. So, you've got a span of about
4 six minutes between that last phone call and Joseph Brown
5 being picked up by Colman, and it's in that period of
6 time that Johnny Pritchard left this world.

7 And we know from this phone dump that he and Red,
8 Trey Colman, were not strangers to one another. They're
9 friends. They've been texting and calling each other for
10 weeks. They've been friends, according to Trey Colman,
11 for a year and a half. They are partners in crime.

12 And we know that Red is Trey Colman because Facebook
13 establishes that beyond any reasonable doubt and Trey
14 Colman tells you that he is Red. And that phone number
15 that was in State's Exhibit 110 was his and that the
16 person he was communicating was him [indicates].

17 We also learn from the Perez video that this person
18 was wearing red Converse tennis shoes. And, you know,
19 ten days later or so, Joseph Brown's apartment was
20 searched and they didn't find red Converse tennis shoes.
21 But he sure had them. And we know that from State's 117.

22 [Whereupon, the photograph is shown]

23 MR. DURANT: This is December 3rd, red Converse
24 tennis shoes. He also likes black tee-shirts and these
25 pants. State's 120, red tennis shoes.

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1 [Whereupon, the photograph is shown]

2 MR. DURANT: State's 122.

3 [Whereupon, the photograph is shown]

4 MR. DURANT: Which, interestingly enough, was taken
5 the day of the murder at about 1:30 in the morning in
6 front of his apartment, with the same red Converse tennis
7 shoes on, and his pistol.

8 And next, you have the gun. Once again, we've
9 learned from that phone dump that he had a Smith & Wesson
10 model 9 -- or MNP9C .9mm pistol with a serial number of
11 HPL6641. And, once again, no pistol was found when they
12 searched his apartment. But we know he had one. We know
13 he had one through State's Exhibit 118.

14 [Whereupon, the photograph is shown]

15 MR. DURANT: And he had one from State's Exhibit
16 119.

17 [Whereupon, the photograph is shown]

18 MR. DURANT: These were taken on his phone and
19 emailed by -- or text messaged by him to other people.
20 Wearing the same clothes that he's wearing in those other
21 photographs, taken on a mattress which looks very much
22 like the mattress they found in his bedroom, under which
23 they found the ammunition.

24 We know from the ATF trace report that that is a
25 model MNP9C .9mm pistol, and you've heard testimony from

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1 Ms. Eichenmiller. We know that the bullet that killed
2 Johnny Pritchard is consistent with having been fired by
3 this gun. We know that the shell casing was consistent
4 with having been fired by this gun.

5 And we also learned that the combination of the
6 rifling characteristics and the firing-pin impression was
7 pretty much unique to a Smith & Wesson MNP9C pistol. And
8 yes, there are more than one of these in the world. So,
9 no, no murder weapon was recovered. But you've got a
10 picture of it. You've got a picture of the murder weapon
11 right here.

12 [Whereupon, the photograph is shown]

13 MR. DURANT: Then you have the ammo, the Speer .9mm
14 Luger rounds found under his box spring. And, yes, there
15 are other people in the world that have Speer .9mm Luger
16 ammunition.

17 Ladies and gentlemen, you can't look at any one
18 fact, as you have seen this week, in isolation. You've
19 got to take it all together. And we know that that make
20 and -- the make and caliber of that ammunition was the
21 same as the one that killed Johnny Pritchard.

22 And, lastly, you have Trey Colman, a/k/a Red, a/k/a
23 Moneybag Fly; Joseph Brown's friend, Joseph Brown's
24 associate, Joseph Brown's coconspirator. The man who set
25 up Johnny Pritchard, the man who had Johnny Pritchard

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1 killed. And his testimony confirmed every aspect of the
2 case you've heard this week as he was the one that set up
3 Johnny, that he did it out of greed for money, that he's
4 the one that conspired with Brown to rob him, that he was
5 the one that picked up Brown after the deed was done.
6 And like he says, man, it was only us, it was just he and
7 I, we the only ones in on it.

8 So I ask you to look at everything, to put
9 everything together in this case: the testimony of the
10 witnesses, the video evidence, the text messages from the
11 iPhone, the pictures from the iPhone, the ballistics
12 information, and the testimony of Trey Colman. And if
13 you do so, all arrows point to one person as being
14 responsible for the death of Johnny Pritchard.

15 And although this is a circumstantial evidence case,
16 all the circumstances point in one direction and that one
17 direction is sitting at that [indicates] table. Because
18 the fact of the matter is, Joseph Brown killed Johnny
19 Pritchard. And if you look at the timeline, it's the
20 only reasonable conclusion you can come to in this case.

21 And as I have pointed out, there is a swing of about
22 six minutes between that last phone call to Colman --
23 from Colman to Brown letting him know that Johnny
24 Pritchard was back in his house, to him being picked up
25 at -- to Brown being picked up by Colman at the end of

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1 Brenda B. To believe that there was anyone other than
2 him, you would have to believe that in that six-minute
3 period that Brown went from a willing participant, man,
4 Bruh, let me eat, to completely abandoning this robbery.

5 But in that six minutes, he lost his cell phone,
6 that in that six minutes someone else came along and
7 picked up his cell phone, that in that six minutes this
8 person that just happened to find his cell phone also
9 happened to own a Smith & Weston MNP9C pistol, that in
10 this six minutes this person had to be wearing the exact
11 same clothes that he was wearing, that in this six
12 minutes this person independently decided that he was
13 going to rush into Johnny Pritchard's house and rob him
14 at 12:55 in the middle of the day at the exact same time
15 that Trey Colman and he was planning to rob Johnny
16 Pritchard.

17 And that this person rushes in there and robs Johnny
18 Pritchard and shoots him in the neck and runs away, and
19 in that same six minutes drops the cell phone that he
20 just found in front of Celest McBride's house and that --
21 and the cash, and at that very same time Joseph Brown,
22 who went from, man, let me eat, Bruh to, I'm giving this
23 up, just happened to be picked up by Trey Colman at the
24 end of Brenda B. That is just not reasonable. And it's
25 not reasonable because it did not happen.

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1 So I'm asking you to retire to your jury room and
2 arrive at a verdict in this case which speaks the truth,
3 a verdict which provides justice for the family of Johnny
4 Pritchard, a verdict which holds him accountable for the
5 crimes that he committed, a verdict finding Joseph Lamar
6 Brown guilty of burglary in the first degree, armed
7 robbery or attempted armed robbery, of murder, and
8 possession of a weapon during the commission of a violent
9 crime. Because there is no reasonable doubt, no
10 reasonable doubt that he is guilty of all of those
11 offenses. Thank you.

12 THE COURT: Ms. Norris.

13 MS. NORRIS: May it please the Court.

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1 CLOSING ARGUMENT

2 MS. NORRIS: Good afternoon, ladies and gentlemen.
3 I know this has been a long trial. And I agree with the
4 Solicitor, we all appreciate your being here and your
5 attention. But the hardest part of your week is yet to
6 come.

7 It's an awesome responsibility serving as a juror,
8 and there aren't many lawyers that get the opportunity to
9 do that, but I've had that opportunity. As Judge
10 Stillwell told you that it's the highest civic duty
11 perhaps outside of service in the military. A very long
12 time ago, I also had the honor of serving as a captain in
13 the United States Army. And I'm not sure that one
14 outweighs the other. It is a heavy responsibility.

15 For the last two years, I have been representing
16 this young man. And that's an awesome responsibility to
17 represent someone facing these charges. But in a short
18 while, when I sit down, I'm going to hand that
19 responsibility to you and it will be your job to decide
20 his fate.

21 Now Mr. Durant and I, it's our job to bring you the
22 evidence and I think we've done the best we both could.
23 The Judge will tell you very shortly what the law is and
24 then you take all the evidence and the law and you decide
25 the facts: is that young man guilty of murder, burglary,

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1 armed robbery, possession of a weapon during a violent
2 crime. It is your job. The Judge will tell you that you
3 are to deliberate, to discuss it, and try to reach a
4 unanimous decision. It is a collective decision. But
5 there is not a person in this courtroom, not a person in
6 this state, not a person in this country that can take
7 your vote away from you. You have to vote your
8 conscience. Nobody in the jury room, nobody anywhere,
9 can take that away from you.

10 Now, let's talk about what's not in dispute in this
11 case. It is not disputed that Johnny Pritchard did not
12 deserve to die. This man did absolutely nothing wrong.
13 But it's also not in dispute that he lived in a bad
14 neighborhood. Allan McBride told you, just down the
15 street, a hundred yards or so, it was not uncommon to
16 hear gunshots in that neighborhood.

17 A couple of blocks away, Mr. Perez, he's had three
18 burglaries in his home, he's been shot at outside his
19 home, he had a murder in his back yard. It's also not in
20 dispute that pretty much everybody in this neighborhood
21 knew that Mr. Pritchard came into money after this car
22 wreck. He talked to his neighbor behind him, Trey
23 Colman, and his family. Mr. Potter Pritchard told you he
24 talked to neighbors on either side. Everybody out there
25 saw that he bought him a new car, and everybody out there

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1 knew that he bought a mobile home. It's also not in
2 dispute about these text messages.

3 And I agree with the Solicitor to the extent of I do
4 want you to look very closely at Exhibit 110. Yes, they
5 were texting about robbing him. There's nothing about
6 hurting him, there's nothing about a weapon. And what
7 these texts don't tell you is what happened after that.

8 The last highlight the Solicitor made for us at
9 12:47, that forty-eight-second call from Trey Colman. If
10 you look back at State's Exhibit 71, the video from
11 Perez, I think its 12:55 when you see Trey Colman out
12 there picking somebody up. By my calculation that's not
13 six minutes, it's at least eight.

14 The text messages indicate a conspiracy to rob.
15 He's not charged with that. That young man is not
16 charged with a conspiracy to rob. He's charged with
17 doing it. Did he do it? Did somebody else do it? The
18 State presented the evidence that at the time he told his
19 girlfriend, I heard a gunshot and took off running.

20 So what Trey Colman picked him up? There is
21 absolutely, positively, nothing criminal about being in
22 that neighborhood and being picked up. It's what
23 happened at Johnny Pritchard's house that matters. It is
24 also not in dispute that not a single witness can
25 identify that young man and say, I saw him at Johnny

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1 Pritchard's house. Not a single one. There are no
2 fingerprints that put him in that house, there's no DNA
3 to put him in that house. The State didn't even try to
4 get fingerprints or DNA. They just assumed that because
5 his phone was a hundred yards down the road that he had
6 to be the guy. And all that rendition that the Solicitor
7 gave you, a very persuasive argument, but there's --
8 there were a lot of assumptions in there.

9 The runner that Celest McBride saw, that young lady
10 told you the best she could that she heard a noise, it
11 may have been a gunshot, maybe not, but she heard a noise
12 and she looked out two to three seconds later and sees a
13 guy jogging by her house.

14 I don't know a great deal about football, but I know
15 that even a running back, the fastest man they got in the
16 NFL, Usain Bolt, the Olympian, who does sprints, could
17 not get a hundred yards down the road in two to three
18 seconds. It's just not possible. She also told you, her
19 dad told you, the person they saw was jogging. Does that
20 indicate that that's a person that probably just shot
21 somebody right down the road?

22 I mean, you can bet that if you're going to commit a
23 murder on foot, you're going to be booking it; you're not
24 going to be jogging. Merit Williams, at the house right
25 next door, did not hear a shot. He sees a guy as he's

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1 turning the corner at a stop sign right beside Mr.
2 Pritchard's house, he sees a guy running by, and he's
3 driving right behind him, right next to him, on the
4 street. He sees dreadlocks.

5 Celest Bride -- McBride sees dreadlocks. They're
6 very distinctive. That young man's hair never has been
7 like that. If you're driving in a car right beside a guy
8 running down the road, you know whether he's got
9 shoulder-length dreadlocks or not.

10 Nobody out there, even assuming, and again, it's a
11 big assumption, even assuming the guy they see running is
12 him [indicates], so what? The State presented the
13 evidence, not me. The State presented the evidence he
14 heard a shot, he took off running. Nobody sees a runner
15 with a gun. Celest McBride said -- well, let's talk for
16 a minute about what else is not in dispute.

17 Trey Colman. Trey Colman can't tell you who shot
18 Johnny Pritchard. He knows that he was setting him up
19 for a robbery. He knows that he was texting Joseph
20 Brown. He knows that he was calling him at 12:47. He
21 knows he picked him up at 12:55. He has no idea what
22 happened in that eight minutes.

23 Trey Colman was not there. He can't tell you. He
24 assumes. He assumed. When that man asked him, he said,
25 I assume he did it. The law requires more than an

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1 assumption. There is zero direct evidence in this case.
2 We've got a cell phone out there and from there, every
3 step the State wants to take is an assumption.

4 One of the charges that the Court will give you is
5 circumstantial evidence. To the extent the State relies
6 on circumstantial evidence, all of the circumstances must
7 be consistent with each other and when taken together
8 point conclusively to the guilt of the accused beyond a
9 reasonable doubt. If these circumstances merely portray
10 the defendant's behavior as suspicious, the proof has
11 failed.

12 Now, let's talk about robbery, specifically. Mr.
13 Hugh Potter Pritchard, the first thing he says to 911, he
14 ran in, he shot my cousin, he ran out. After that he
15 tells the deputy on scene, I heard somebody saw some cash
16 drop so I assume he was robbed.

17 They tell you that he withdrew 700 dollars a few
18 days before. If you've got 700 dollars in cash on you,
19 why are you going to pay five dollars and 51 cents at the
20 Dollar General [sic] that day I assume when he was out
21 with Trey Colman.

22 Why is he going to use a debit card if he's got 700
23 dollars in cash on him? We didn't hear anything about
24 the victim carrying a wallet, so that's a red herring.
25 We didn't hear anything at all about that. The question

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1 is do you believe money was taken? And Celest McBride
2 again, well-meaning young lady, but she wants -- the
3 State wants to tell you that she can say for certain,
4 through all of these bushes out there in front of her
5 house, and you'll have these pictures back in the jury
6 room with you, that through all of these bushes, when
7 she's trying to hide and stay out of sight, that she can
8 tell you many yards down the road, through a rusty
9 screen, trying to hide, that this guy dropped a wad of
10 cash and picked it up. It's for you to decide whether
11 that happened or whether it did not.

12 And the State -- you know, assuming they can't prove
13 armed robbery, want to say, well, you know, he's
14 definitely guilty of an attempted robbery, you know,
15 based on the text messages and based on Potter Pritchard.
16 That poor man can't even tell you whether he had a
17 McDonald's biscuit or not.

18 One of these pictures in evidence, I -- I think I
19 asked the deputy about it. Potter was very specific that
20 Johnny gave him a biscuit and a couple of beers and he
21 put them on the kitchen table. And one of these exhibits
22 in here, if I can put my hands on it, Exhibit 23, State's
23 Exhibit 23.

24 [Whereupon, the photograph is shown]

25 MS. NORRIS: You can see the kitchen table.

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1 There's no McDonald's biscuit. There's one big beer.
2 Potter told you he jumped out the back door. Look at
3 this picture. It looks like tape around that door to me,
4 but that's for you to decide.

5 But did the guy run in, shoot him, run off? Did he
6 say give me your money? Did he go through his pockets
7 afterwards? This guy's story changes so much you can't
8 keep up, hardly. But that's for you to decide.

9 But an attempt, under the law, and this will also be
10 in the Judge's charge, is an act falling short of an act
11 intended. It has to be more than mere preparation and
12 intent. So these text messages, you can't convict based
13 on that. That's a discussion of it, but it's not actual
14 evidence that Mr. Brown actually went and carried this
15 out. It has to be an overt act.

16 And, now, let's talk about some of these witnesses.
17 I think I've probably beat up enough on Hugh Potter
18 Pritchard. But, then again, he told the 911 operator --
19 and you've got the 911 audio in evidence. The Solicitor
20 played it in court. He didn't know the race of the
21 suspect.

22 Deputy on the scene, now he thinks the suspect was
23 black. So now he's dead certain he was black. So the
24 911 operator, the man came in, shot cousin and ran.
25 Nothing about robbery. To the deputies on scene, he

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1 heard money was dropped. One of the deputies'
2 specifically asked, bad guy go through his pockets. No.
3 Now the suspect ran in, said, give me your money. Mr.
4 Johnny Pritchard rushed him, he was shot, and then the
5 suspect went through his pockets.

6 Celest McBride: the deputies on the scene, she was
7 trying to hide, wanted to make sure the runner didn't see
8 her. Now she's not hiding. To the deputies on the
9 scene, she did not know the color of the runner's shirt.
10 But now it was definitely a dark top.

11 Then the deputies on the scene, two to three seconds
12 between the noise she heard and the person she saw a
13 hundred yards down the road. Now it was about forty-five
14 seconds. Then Celest -- and, again, she was a
15 cosmetology student. She knows what dreadlocks are. To
16 the officers on the scene, the guy she saw running had
17 dreadlocks.

18 Now she realizes it might have been a hoodie.
19 Because she's been shown a video, Exhibit 71. And,
20 again, it was played about four times just while she was
21 on the witness stand. Two years later they show her this
22 video and she says, well, yeah, that looks similar to the
23 guy I saw. Is that reliable evidence? That's for you to
24 decide. Allan McBride: the first officer on the scene
25 asked her [sic], did you see the runner. Response: my

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1 daughter did. Tells me he didn't. Then he saw the back
2 of the runner. He couldn't describe clothes, but the
3 hair was longer than in the picture on the screen. Now
4 he saw the back of the runner and he's sure those clothes
5 were dark. Again, none of these -- neither Celest nor
6 Allan can say they saw a gun.

7 And then Martin Perez. Then, he just told the
8 officers that he had a video of these people out there,
9 one picking up the other. Didn't say anything about
10 recognizing anybody. Now he recognizes Trey Colman from
11 the neighborhood, knows where he lives.

12 Nautica: Then she said, heard a gunshot -- that
13 Joseph Brown told her he heard a gunshot, he ran, dropped
14 his phone, he was running away from Trey Colman's house.
15 Then she adjusted it: Maybe he was going towards Trey's
16 house.

17 You know, I grew up in the Blue Ridge Mountains and
18 my grandparents a lot of times were quoting things to me
19 as I was growing up, and I didn't know where they came
20 from. I just thought, you know, they were wise old
21 people.

22 But one of the things that they talked about is a
23 wise man builds his house on rock, a foolish man builds
24 his house on shifting sands. And that's what we've got
25 going on in this case. The law does not allow a

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

J. C. Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

JOSEPH LAMAR BROWN, JR.

APPELLANT

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 Amended Record on Appeal in the above-referenced case has been served upon Caroline M. Scrantom, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS), which is cscrantom@scag.gov, this 8th day of June, 2020.

s/Susan B. Hackett

Susan B. Hackett
Appellate Defender