VOLUME I of II

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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Robert J. Bonds, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TYREEK L. ROBINSON,

APPELLANT

APPELLATE CASE NO. 2022-000874

RECORD ON APPEAL

BREEN RICHARD STEVENS
Appellate Defender

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

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3372

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
IN GENERAL SESSIONS
COUNTY OF BEAUFORT

State of South Carolina,

vs.

Tyreek Robinson,

defendant.

Transcript of Record
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2020-GS-07-2062
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2020-GS-07-0037

June 13, 2022
Beaufort, South Carolina
Volume I of III

B E F O R E:

The HONORABLE ROBERT BONDS

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

Hunter Swanson, Solicitor
Juan Tolley, Representing the defendant

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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THE BAILIFF: All rise. The Honorable Bobby Bonds presiding.

THE COURT: Please be seated. Let's go ahead and put some things on the record. The jury is not here?

THE CLERK: Rick, hold up the jury. He wants to put something on the record.

THE COURT: All right.

Counsel, I just wanted to take a brief moment before we get the jury in here. We had a pretrial conference in my chambers just a few moments ago. We discussed -- as I understand it, we discussed the voir dire that the defendant presented to me. The State didn't have any voir dire. They just want whatever standard voir dire I would ask. And, as I indicated, most of my standard voir dire is included in the defendant's voir dire. I also made some of the modifications, that is to some of the questions, and I also indicated there was some questions that I was not going to inquire about.

We also went and I was presented with the State's potential witness list and the defendant's potential witness list. I believe that's been exchanged by both sides, and I'm going to read

those names. I would read the names for the jury.

I don't believe there was anything else of significance. I think we're going to go ahead and move forward. Select the jury. Send the jury to an extended lunch. We would take lunch -- or argue some motions, take lunch, and then argue some more motions depending on the situation, and bring the jury back probably around three o'clock, have opening statements, and call, at least, the first witness.

We also discussed the fact that I'm not going to be here on Friday because of a procedure I've got to accompany my wife to.

I don't think there was anything else. Was there anything else we discussed of any substance?

Oh, we also went over the indictments. And the indictments, I'm going to read the indictments. I believe that they are pled via the elements. I'm going to read those indictments to the jury when the case is called. I don't think we discussed anything else.

Let me first ask this: Is there anything else of any substance that we discussed from the State?

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MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: Now, as it relates to the modifications and that which I'm not going to be charging from the defendant's voir dire, let me just ask: Miss Tolley, do you have anything that you need to state on the record as it relates to what we went over in my chambers concerning your voir dire, the modifications, and the questions that I've excluded?

MS. TOLLEY: I don't, Your Honor. Thank you.

THE COURT: All right. Is there anything else concerning this matter, or the matters that we talked about in chambers that need to be brought up or put on the record from the State?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense, Miss Tolley?

MS. TOLLEY: I guess I will put this one thing on the record.

THE COURT: Yes, ma'am.

MS. TOLLEY: We had talked about adding the elements for the particular crimes that are

alleged in this case into whether or not a jury member or a family member had ever been a victim of a crime, and this particular crime, and I believe we decided that those would not be listed.

THE COURT: Right now, I'm thinking that I'm not going to do that. I may start reading and, at the last minute, decide to do that. But if I don't, I note your objection for the record, ma'am. Okay?

MS. TOLLEY: Thank you, Your Honor.

THE COURT: And those are the crimes of burglary, assault, sexual assault, voyeurism, and petty larceny; is that correct?

MS. TOLLEY: That's correct, sir.

THE COURT: All right. I note that for the record. Thank you.

Is there anything else we need to discuss before we bring the jury in from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense.

MS. TOLLEY: Nothing, Your Honor.

THE COURT: All right. Thank you.

(Jury panel enters the courtroom at 10:00 a.m.)

THE COURT: We are going to start in just

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a moment. We told everybody to be here at 10:00, right?

THE CLERK: No.

THE COURT: I'm just joking.

This is going to be a good week for you to serve. I know there's a million places you'd rather be, but this is still going to be a good week because we've got basically two trials. Judge Fulp, who is your probate judge who is seated to my right -- or to my left, excuse me, he has a probate case that will be a jury trial this week. I'm informed that that case will basically take probably a day, day and a half. The one case that I have here for trial I think will take a little bit longer. But other than those two cases, that's it.

So, I have a strong feeling that if you're not selected on the first two cases today, you will have served your jury service for three years, but that doesn't apply to magistrate's court, federal court, or to city court. But as far as what we would call big court here, general sessions and common pleas, you're good for three years. Okay?

And even if you get selected, number 1, I

think Judge Fulp's probate trial, they are very unusual -- unusual in a sense they don't happen that often. I think it's going to be very interesting.

And so, to that extent, I think it's a good week for you to serve.

I want you to know that I don't live here in Beaufort. I live next door in Colleton County. I'm a resident -- my name is Bobby Bonds. I'm a resident judge in the 14th Circuit. That's comprised of Colleton, Hampton, Allendale, Jasper, and Beaufort counties.

And so, having a good crowd here and seeing that, what I got to say is, I appreciate your honoring your summons to be here. Jury duty is important. These are important cases to the litigants, and we deal with very important matters.

The other thing I want you to know is this: We're not in the back goofing off. Okay? I was here this morning. I drove from Walterboro and I was here at this courthouse before 9:00. My point is, we're not -- we're not taking your time lightly. I want you to know that. I'm very serious about that. And we're going to do

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everything we can -- I was meeting with the lawyers earlier this morning because we want to do everything we can to streamline these cases so we imposed on you as little as possible.

So, what I'm going to do now is, I'm going to ask that your clerk of court, she's going to introduce herself, and she's got some information concerning the week that she's going to present to you, and call the roll. And, thereafter, then I'm going to ask a couple of questions that the State requires me to ask to determine your eligibility to serve. Okay?

And, folks, this is going to be time consuming this morning. I'm going to let you know that right now. I'm sorry about that. But these are very important matters and we have to go at what I consider to be a slow and deliberative process. This is not Judge Judy. It's not a 30-minute TV show. These are the real and very serious matters, and so I want you to know that. Thank you.

Madame clerk.

THE CLERK: Thank you, Judge.

(Roll call from 10:06 a.m. to 10:38 a.m.)

THE COURT: All right. Thank you-all.

Now, ladies and gentlemen, what I'm going to do now is, I'm going to basically go and ask some questions that I'm required to ask by State law to determine your qualifications to serve as jurors in this court. And I will tell you that some of these questions are personal and you may not want to stand and disclose the information in the presence of your fellow jurors, and I understand that. So after each question, I'm going to ask -- if any juror needs to respond, I'm going to ask you to stand. But if you don't want to stand, that's fine. At the end of this process, I'll give you a chance to come forward and speak privately with me and the clerk. Don't want to cause anybody any embarrassment. So if you don't want to stand, just make a mental note and remember to come forward at the end when I ask you to do so.

All right. So the first question: Is any member of the jury panel not a citizen of the United States? If so, please stand. (No response.)

We're off to a great start.

All right. Is any member of the jury panel not a citizen and resident of

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Beaufort County, South Carolina. If so, please stand. (No response.)

All right. Is any member of the jury panel unable it read, write, or speak, or understand the English language? If so, please stand. (No response.)

Does any member of the jury panel have less than a sixth-grade education or its equivalent? If so, please stand. (No response.)

Is any member of the jury panel unable because of physical or mental infirmities to render efficient jury service this week? If so, please stand.

All right. Ma'am, come on forward.

THE BAILIFF: Juror 60, Your Honor.

THE COURT: Yes, ma'am. What's going on?

JUROR 60: I'm having flare-ups from taking tremadol and methotrexate, and the tremadol makes me fall asleep.

THE COURT: All right. So now, you've been transferred once before?

JUROR 60: Yes, I have. This is ongoing.

THE COURT: I need something from your doctor saying that you fall asleep and you can't

serve.

JUROR 60: Okay.

THE COURT: Because without that, I'm not going to be able to excuse you. I'm going to excuse her this time.

JUROR 60: I can't -- she's just not in this week.

THE COURT: I'm going to excuse you from service this week, so you're golden. But if you don't bring a doctor's excuse -- when will she be transferred to?

JUROR 60: September.

THE COURT: We're going to transfer you to September.

JUROR 60: Or August. This will actually be over.

THE COURT: Which one do you want?

JUROR 60: Let's do August.

THE COURT: Let's transfer you to August, that will give you some time to report.

JUROR 60: Okay.

THE COURT: If you've got a flare-up, you're going to need to bring a doctor's excuse. If you don't bring a doctor's excuse --

JUROR 60: Okay.

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THE COURT: Then what's going to happen is, the judge may or may not make you serve, but they'll make you sit here all week.

JUROR 60: Yeah.

THE COURT: So just get a doctor's excuse, if you got a flare-up. Okay?

JUROR 60: Okay.

THE COURT: I'm going to excuse from this week. You're good. Thank you.

JUROR 60: Thank you.

THE COURT: All right.

All right. Ladies and gentlemen, has any member of the jury panel been convicted by guilty plea or trial in a state or federal court of record of a crime punishable by imprisonment for more than one year and your civil rights have not been restored by pardon or amnesty? And, ladies and gentlemen punishable by one year means you could have received more than one year regardless of what sentence you may actually have received. If that applies to you, I need you to please stand.

All right. Sir, come on up.

THE BAILIFF: Juror 77, Your Honor.

THE COURT: Hey, buddy. Good morning,

what's up?

JUROR 77: I've been convicted for drugs back in '98.

THE COURT: '98. That's a lifetime ago.

JUROR 77: Yeah.

THE COURT: What were you convicted of?

JUROR 77: Cocaine.

THE COURT: Possession of cocaine?

JUROR 77: Yeah.

THE COURT: All right. So if you've been convicted of possession of cocaine, in that case I'm going to have to excuse you from jury duty this week. Okay, sir?

JUROR 77: Okay.

THE COURT: Thank you for coming in. They'll talk to you right there.

All right. Ladies and gentlemen, is any member of the jury panel a clerk, deputy clerk of court, constable, sheriff or other commissioned law enforcement officer, probate judge, county commissioner, magistrate, or other county officer, or employed within the walls of a courthouse? If so, please stand. (No response.)

All right. Is there any member of the jury panel who's previously served on jury duty in

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circuit court, not city court, magistrate's court, or federal court during this calendar year? If so, please stand. (No response.)

All right. Has any member of the jury panel served as a member of the Beaufort County Grand Jury during the past several years? If so, please stand. If you served on the Beaufort County Grand Jury in the past several years. (No response)

All right. Ladies and gentlemen, we now move to jury exemptions, and state law provides for several exemptions to jury service. An exemption does not mean that you're not qualified to service, it simply means that you have a right to say, I choose not to serve.

Now, the very first one is pretty easy. If you are 65 years old or older and you wish not to serve, that is, you want to do something else this week, or part of this week because I told you it's not going to take all week, but if you're 65 years or older and you want to choose not to serve, you can stand now. If you're 65 or older and you want to stay and serve, we want you. But, if you're 65 and older and don't want to serve, please stand. We have no one over 65 in here.

That's great. That's great. I used to think 65 was old.

All right. Ladies and gentlemen another exemption concerns prior jury service. No person is required to serve as a juror more often than once every calendar year. Therefore, if any member of the jury panel has serviced on jury duty during the last two calendar years, you may be exempt from service this week if you choose to be exempted. Please note again, this does not apply to magistrate's court, federal court, or city court.

All right. So if this exemption applies to you and you wish to be exempted, please stand. (No response.)

All right. Ladies and gentlemen, persons who served as grand jurors in the last five calendar years may also be exempt from jury service. Is there any member of the jury panel who served on the grand jury during the last five calendar years? You may be exempt from service this week if you choose to be exempted. If this exemption applies to you, please stand. (No response.)

All right. Ladies and gentlemen, this

next exemption deals with you who have legal custody of young children. Please listen very carefully because the question has several parts and all of the parts must apply to you to be able to claim an exemption on this basis. You may be exempted from jury service if you have a child under the age of seven years, you have legal custody of your child or children, and you're unable -- excuse me -- and you have the principal care, custody, and control of these child or children and you are you unable to make arrangements for the adequate care of your child or children while performing jury duty. If all of these requirements apply to you, then you may be -- it's possible you may be exempted on this basis. If this exemption applies to you and you wish to be exempted, please stand.

All right, ma'am. Come on up.

THE BAILIFF: Jury 130, Your Honor.

THE COURT: All right. Hey, ma'am. How are you doing?

JUROR 130: I have a migraine.

THE COURT: What's that?

JUROR 130: I have a migraine.

THE COURT: You have a migraine? Okay.

Yes, ma'am. Do you have a child under seven; is that right?

JUROR 130: I have a six-year-old son.

THE COURT: Okay. And you have custody of your son?

JUROR 130: I don't have specific custody arrangements, but he's with me, yes.

THE COURT: Well, who has custody of your son? Who has -- have you been to family court concerning your son?

JUROR 130: No, he lives with me, though.

THE COURT: Right, I understand. So you're his mom?

JUROR 130: Uh-huh.

THE COURT: All right. So you have legal custody of him.

JUROR 130: Yeah.

THE COURT: That's why I'm asking. And he's six years old?

JUROR 130: Uh-huh.

THE COURT: And you also told me you have a migraine?

JUROR 130: Yes.

THE COURT: Do you have a problem with

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migraines?

JUROR 130: Yes, sir. I was sick this morning.

THE COURT: All right. Well, what I'm going to do, ma'am, I'm going to excuse you from service this week, okay?

JUROR 130: Okay.

THE COURT: Thanks for coming in. Hope you feel better.

JUROR 130: Thank you.

THE COURT: I'm going to excuse her from service this week. I'm going to excuse her from service this week.

All right. Ladies and gentlemen, if you are the primary caretaker of a person 65 years or older and you're unable to provide adequate care for the person while performing jury service, you may be exempt from jury duty. If this exemption applies to you, ladies and gentlemen you wish to be exempted, please stand. (No response.)

All right. Ladies and gentlemen if you're the primary caretaker of a severely disabled person who's unable to care for himself or herself and cannot be left unattended and you're unable to provide adequate care for the

person while performing jury service, you may be exempt from jury duty. If this exemption applies to you, please stand.

Yes, ma'am, come on up.

THE BAILIFF: Juror 48, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 48: I'm a caregiver. I do home health and I take care of a disabled person, and he's -- I work for a company and --

THE COURT: All right. I'm glad you came forward, but the problem is, they're not talking about somebody who basically serves as a caregiver for your job or employment.

JUROR 48: Okay.

THE COURT: I think they're talking about, in this case, somebody who is staying at home as a private citizen, you know, like your mom or your aunt.

JUROR 48: Okay.

THE COURT: You're doing this as your job.

JUROR 48: Right.

THE COURT: That's not going to -- you're not going to be able to claim an exemption there.

JUROR 48: Right.

THE COURT: Now, let me ask you: You do this full time?

JUROR 48: Yes.

THE COURT: Now, what I will tell you is this: We got plenty of people this week. I mean, if this week is a worse week for something, I could transfer you. Has she been transferred before?

JUROR 48: No, this is my first time.

THE COURT: I could transfer you to another week. But the problem is, I'll tell you right now, we got a big crowd of jurors. It's very possible you might not even be selected for either one of the cases. And, two, if you don't get selected, you may be finished for the whole week. But I'll doing whatever you want me to do. I think this would be a good week to get your service over with. But if you want me to transfer you, I'll transfer you.

JUROR 48: But I'm leaving out of town tomorrow.

THE COURT: We went through all that and you're leaving out of town.

JUROR 48: I was going to tell you, certainly.

THE COURT: What are you doing?

JUROR 48: My husband's aunt is not doing too good.

THE COURT: Where you-all going?

JUROR 48: D.C.

THE COURT: You driving?

JUROR 48: Yes, we are driving.

THE COURT: Oh, Lord.

JUROR 48: I mean to tell you that at the end.

THE COURT: I'm going to ask that at the end. The other thing is, I just hope you bring a bucket of money with gas prices.

JUROR 48: I know.

THE COURT: Listen, I hope she improves. I'm going to excuse you. You're going to get transferred. You need to understand, when you get that notice in the future, since you've been transferred once, it's very unlikely the judge is going to transfer you again. I certainly understand that situation with the aunt.

JUROR 48: My husband's aunt.

THE COURT: Your husband's.

JUROR 48: Yes.

THE COURT: I understand that. So I'm

going to excuse you from service this week. Okay?

JUROR 48: Okay.

THE COURT: I'm going to excuse number 48 from service this week.

JUROR 48: Thank you.

THE COURT: Put her back -- or pull her sometime in August or September.

THE CLERK: Yes, sir.

THE COURT: Thank you.

All right. The next exemption involves those of you who may be attending school at this time or working in some capacity with a school. If this exemption applies to you and you wish to be exempted, we'll transfer your service to another term of court at which time will not be in conflict with your school responsibilities. Is there any member of the jury panel who is a full-time student, school crossing guard, school bus driver, or who serves in any other school-related function who is unable to serve on jury duty this week as a result of that school involvement? If that applies to you, you certainly can stand.

All right.

INVESTIGATOR: Judge, you got one behind

you.

THE COURT: Come on up, buddy.

THE BAILIFF: Juror 129, Your Honor.

THE COURT: Hey, sir.

JUROR 129: I'm at May River High School, and we are hosting our youth camp this week starting tomorrow, Wednesday, Thursday that runs from eight o'clock in the morning until 2:00 in the afternoon.

THE COURT: You've already been transferred twice, sir.

JUROR 129: Once.

THE COURT: Once?

JUROR 129: Yeah.

THE COURT: When is camp over with?

JUROR 129: After this week.

THE COURT: What's week -- what's our next term of court?

THE CLERK: Next week.

THE COURT: Not next. Oh, yeah. Next week. You're available next week?

JUROR 129: I am. Yes, sir.

THE COURT: You're being transferred right now to next week.

JUROR 129: That's sound perfect.

THE CLERK: General sessions.

THE COURT: All right. I'm giving you notice of that right now.

JUROR 129: Okay.

THE COURT: And so they will probably mail notice to you, but it's also possible you might not get the notice in the mail because it's only a week, so I'm giving you notice.

JUROR 129: Come Monday.

THE COURT: Come Monday at 9:30. Good luck with camp this week.

All right. I'm going to excuse him to court -- he's going to serve next week.

All right. Is there any member of the jury panel who's employed within the department of corrections at a penitentiary? If so and you would like to be exempted, please stand. (No response.)

All right. Now, ladies and gentlemen I'm going to read this last question, but I'm going to preface it in this respect, I know what it is to be self-employed. I was self-employed for many, many years. And I know that your being here is a sacrifice and that general inconvenience is not going to be an excuse that's going to allow you to

be transferred to another term of court. But I will -- I preface that question by saying that. Is there any juror who performs services for a business, commercial, or agricultural enterprise which are so essential to the operation of the enterprise that if you were required to perform duty, the enterprise would have to close or stop functioning? If so and you wish to be exempted, please stand.

Come on up, ma'am -- sir, come on up.

THE BAILIFF: Juror 214, Your Honor.

THE COURT: Come on up, sir. 214?

JUROR 214: Yes, sir.

THE COURT: What's up, buddy?

JUROR 214: I got bids due tomorrow on a Marine Corp air station for a hanger. I'm the point man.

THE COURT: Is that pretty important? I'm being sarcastic. That's a joke.

JUROR 214: I got you. All the bids are going to come to me throughout the day.

THE COURT: You got a bid deal going on this week. I understand that. When is a good time for you to serve? You tell me.

JUROR 214: Any time past tomorrow. It's

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due tomorrow, so Wednesday, Thursday, Friday.

THE COURT: Do you want to serve next week, or do you want to go and have you come back in August?

JUROR 214: Next week will be fine.

THE COURT: All right. So we're going to put you next week. I want you to know this, she'll mail the notice, but it's possible you might not get the notice because we're so close to next week. I'm giving you notice right now that you will be back here at 9:30 on Monday morning.

JUROR 214: Okay.

THE COURT: You understand that?

JUROR 214: I'll be here.

THE COURT: Good luck with the bids.

JUROR 214: Thank you.

THE COURT: Yes, sir. Bye-bye. That gentleman will help you right there. He'll be excused this week. He will be back here next Monday morning at 9:30.

THE BAILIFF: Juror 166, your Honor.

THE COURT: Hi.

JUROR 166: I'm not sure if I fall in this category or not.

THE COURT: You might. Yes, ma'am.

What's going on?

JUROR 166: I'm a retail manager at a downtown store. I'm not the owner but I am the only employee. If I'm not there, they're probably going to have to be closed because the owner lives in Greenville.

THE COURT: Well, what I will tell you is this, I think that that does not fall within --

JUROR 166: Okay.

THE COURT: Hold on.

JUROR 166: I wasn't sure. I wanted to ask.

THE COURT: Listen, I rather folks err on the side of asking questions than not asking a questions.

But what I'll do it this, if you want to be excused this week, I'll excuse you this week. However, I'm only going to transfer you to another term. And if you get that notice, number 1, there's a little mark that's going to say, oh, look she's been transferred before.

JUROR 166: Sure.

THE COURT: And then in the meantime, sometimes the owners have got to do something. I'm not meaning that your owner doesn't do

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anything.

JUROR 166: Right, right.

THE COURT: But you might be able to make arrangements for him or her to come down and do that.

JUROR 166: Right.

THE COURT: What I want to ask you is this: Do you want me to transfer you to another term, probably sometime in August or September, or do you want to go ahead and serve this week? Completely up to you.

JUROR 166: I'll probably go ahead and serve this week.

THE COURT: You sure? I'll do whatever you want.

JUROR 166: I have given her forewarning that I was coming here and that that might be an option and she would have to high tail from Greenville to take care her own business.

THE COURT: I got you. Then you'll stay with us.

JUROR 166: But it is a little slower now.

THE COURT: Well, good. Or bad. Sorry that it's slower.

JUROR 166: Appreciate it.

THE COURT: Thank you. She'll remain with us.

Ladies and gentlemen that concludes the statutory list of questions and exemptions for jury service. It may be that you are qualified and no exemption applies to you, but jury service this week would constitute an extreme hardship on you for a particular reason. I cannot permanently excuse a qualified juror from jury service, but under extreme, ladies and gentlemen and compelling circumstances I may excuse a jury from this term of court and transfer the juror to another term of court, particularly jurors who have not been transferred previously.

Please understand general convenience is not a sufficient reason to transfer you to another term of court. To justify a transfer to another term of court, service this week must constitute an extreme hardship.

So folks, this is a chance for those of you who did not respond earlier to any questions that I asked and those of you who have a compelling reason to request a transfer of your jury service of another week to come forward. If

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you believe you are disqualified or exempt from jury service or if you have any questions about whether you are disqualified or exempt, or if you want to be transferred to another term of court, now would be the time to please come forward, ladies and gentlemen.

Hey, sir.

THE BAILIFF: Juror 339.

THE COURT: 339.

JUROR 339: How are you?

THE COURT: I'm doing great.

JUROR 339: I'm retired from the sheriff's office here and I'm owner and operator of a private investigation firm.

THE COURT: I'm not going to hold that against you.

JUROR 339: You see how happy I am.

THE COURT: Let me tell you, I appreciate you bringing that up. As we get into actually voir dire related to the particular case, I think there would be appropriate questions for you to come up and disclose that. I think that's fine. It's just that right now is not the time to do that. I appreciate you coming forward and doing that. For right now you remain with us.

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JUROR 339: Yes, sir.

MS. SWANSON: I'll see you again.

THE BAILIFF: Juror 216, your Honor.

THE COURT: Hey, good morning. What's up?

JUROR 216: So, I'm a Marine. I have temporary assigned duty in Africa on the 1st, and I have to do medical work this week. And in order to go, it's due by Friday. I don't remember the specifics. I have to get a lot of shots.

THE COURT: You got to gets some shots this week because you're being deployed to Africa.

JUROR 216: It's not deployment, but it's temporary assigned duty.

THE COURT: All right. In that case, sir, I'm going to excuse you from jury service this week.

JUROR 216: Thank you.

THE COURT: Good luck to you. Thank you.

I'm going to excuse that juror from service this week.

THE BAILIFF: Juror 91, Your Honor.

JUROR 91: Good.

THE COURT: How you doing?

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JUROR 91: Good.

THE COURT: What's up, ma'am?

JUROR 91: I'm going on vacation this week. Is there any way --

THE COURT: Ma'am, you've been excused four times.

JUROR 91: I was in school. I just graduated.

THE COURT: Where are you going on vacation?

JUROR 91: Nashville.

THE COURT: Nashville. Very popular place.

JUROR 91: Yeah.

THE COURT: It's not a bridal shower, is it? All the bridesmaids go to Nashville for their -- what do you call it?

THE CLERK: Bachelorette.

THE COURT: Bachelorette party. It's amazing. Everybody knew that at one time.

So when are you getting back?

JUROR 91: Sunday.

THE COURT: Sunday.

JUROR 91: I can come back Monday.

THE COURT: You can come back next week?

JUROR 91: Uh-huh.

THE COURT: Ma'am, I'm transferring you to next week.

JUROR 91: Okay.

THE COURT: You're going to get notice, but because of the proximity, that is the closeness here between mailing this thing and when it gets to you, it's possible you might not get it. I'm giving you notice right now --

JUROR 91: Okay.

THE COURT: -- that you got to be back here at 9:30 Monday morning.

JUROR 91: Perfect.

THE COURT: Is that satisfactory?

JUROR 91: That works perfect. Thank you.

THE COURT: Have a great trip. Hope you have a good time.

JUROR 91: Thank you.

THE BAILIFF: Juror 263, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 263: I don't know if I can do this right now. My father is Officer Steve Rainard. I don't know if that's like a conflict of interest. I hear a lot of what he deals with.

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THE COURT: Sure. And what I will tell you is this: There would be an appropriate time for you to come forward before we get into the voir dire questioning about this actual case. Okay? You certainly can come forward at that time, and we'll -- and the attorneys will make a note of that. I don't know if that's going to excuse you from service in this case. I appreciate you making that fact known to us, but there will also be a time in the next few minutes where I'll be doing some questions where that would apply to you also. If you think that applies, you can come forward.

Right now, you will stay with us. Thank you for letting us know.

JUROR 263: Okay.

THE BAILIFF: Juror 250, your Honor.

THE COURT: Is that a Philadelphia Eagle --

JUROR 250: Yes, sir.

THE COURT: That's a Dallas Cowboys hat.

JUROR 250: It is. I should be qualified just by that.

THE COURT: You're sharp. I like that. What's going on, friend?

JUROR 250: The truth is, I got exempted a couple months ago. I'm a subcontractor. I don't know what kind of job I'm going to have at a certain time. I mean, if you want to -- I got a couple jobs going and I got a guys waiting for -- concrete jobs going today. And I got some people hoping they can get the job done, but I don't know. And I'm not there --

THE COURT: What number are you, sir?

JUROR 250: 250.

THE COURT: Sir, you've been excused one time?

JUROR 250: Yes, sir. I know it.

THE COURT: Let me tell you what I'm going to do, okay, what I'm going to do is this: You're a subcontractor. Now, you are telling me you got a cement pour today, and I understand that. And I know that sometimes there's nothing more time sensitive and delicate in the contracting business than the cement pour. I understand that.

Now, what I will tell you is this: You're either going to serve this week, or I'll continue you to next Monday and you're going to serve next Monday. So whatever you want to do,

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I'll give it to you.

JUROR 250: No. If that's the case, I'm on vacation next week, so I will not take a chance.

THE COURT: I understand. All right.

JUROR 250: Yes, sir.

THE COURT: So you'll remain with us.

THE BAILIFF: Juror 255, Your Honor.

THE COURT: Hey, ma'am.

JUROR 255: Hi.

THE COURT: Yes, ma'am.

JUROR 255: I'm actually starting a new job and moving this week.

THE COURT: New job and moving.

JUROR 255: Yes.

THE COURT: Where are you moving?

JUROR 255: I'm moving to Columbia.

THE COURT: You're moving to Columbia?

JUROR 255: Yes.

THE COURT: So if you're moving to Columbia, you're not going to be eligible, so I can't let you go this week because then we couldn't get you next week.

You're moving this week?

JUROR 255: I'm moving this week. My

permanent residence is in Beaufort County. I live with my family here, but I also have an address there.

THE COURT: Well, let me tell you what I'm going to do. I'm going to transfer you to another term of court.

JUROR 255: Okay.

THE COURT: And you're telling me you're moving this week. Moving is a real hassle, and I certainly think that's an extreme hardship, so I'm going to transfer you to another term of court. Okay, ma'am?

JUROR 255: Thank you.

THE COURT: Good luck with your move.

JUROR 255: Thank you.

THE CLERK: Juror 162, Your Honor.

THE COURT: Hey, sir.

JUROR 162: How you doing, sir?

THE COURT: I'm doing great. Yes, sir.

JUROR 162: I'm on Workmen's Comp.

THE COURT: What's your Workmen's Comp for? I heard you say that.

JUROR 162: I've had two surgeries on my intestines and knee surgery and a multi-neck injury, and I'm on pain management. These pills

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that I'm taking now -- I mean ...

THE COURT: What's your number?

JUROR 162: 162.

THE COURT: All right. What type of work do you do?

JUROR 162: I'm a heavy equipment operator, and a truck driver, too. I'm not working right now because the medicines messed me up so bad.

THE COURT: Sir, are you still under doctor's care?

JUROR 162: Yes, sir.

THE COURT: So your case isn't resolved and you're still under doctor's care?

JUROR 162: Yes, sir.

THE COURT: When is your next doctor's visit?

JUROR 162: I think it's next month on the 5th. A pain management doctor here. I go to another doctor there in Bluffton/Okatie there.

THE COURT: But your worker's comp case is open right now? You receive benefits weekly benefits?

JUROR 162: Yes, sir.

THE COURT: All right. Sir, if you're

receiving weekly benefits and you're under care from both your doctor and your medication for your treatment, sir, I'm going to transfer you to another term. We'll probably transfer you to sometime into the fall.

JUROR 162: I'll be on medication the rest of my life.

THE COURT: And that's fine. We'll deal with that then. In other words, I can't just permanently excuse you. You're qualified -- you're a qualified juror. I'm just transferring you this week, sir, because you're telling me that you're under doctor's care this week and you're worker's comp case is open.

JUROR 162: Yes, sir.

THE COURT: You can deal with me or some other at that time. I would suggest that if the medication adversely effects you --

JUROR 162: It does.

THE COURT: -- that you have a doctor's excuse or a doctor's explanation as it relates to how that medication affects you in the future. For today, we don't need that. I'm going to transfer you. Okay?

JUROR 162: All right, sir.

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THE COURT: Good luck. Hope you feel better.

JUROR 162: Thank you.

THE BAILIFF: Juror 234, Your Honor.

JUROR 339: I'm a student in this semester. I'm taking two classes. I work about 35 hours a week. My manager is going away for two weeks, and I would be acting manager in place of him. I would be working from, like, Wednesday through Sunday this week, and there's no one else to cover for him besides me.

THE COURT: How about if you come next Monday and serve?

JUROR 339: Okay.

THE COURT: You've already been transferred once or twice?

JUROR 339: Uh-huh.

THE COURT: What I'm going to do is this: You tell me your manager is going on vacation this week, you're needed there this week.

JUROR 339: Uh-huh. I could do next week.

THE COURT: They're going to put you on the list for next week. They're going to send you notice. It's possible that you might not get the

notice because of the proximity to next week, you know, six days away.

JUROR 339: Yeah.

THE COURT: All right. So I'm giving you notice right now.

JUROR 339: Okay.

THE COURT: You are to be back here in the courtroom or the jury assembly room at 9:30 next Monday. Is that okay?

JUROR 339: Yeah. I just wanted to let you know so if I did get chosen on a case this week --

THE COURT: It doesn't work that way. Either you're in the pot and you may get chosen to serve or you're out of the pot.

JUROR 339: Yeah.

THE COURT: So what I'm going to do is take you out of the pot this week, but you're going to be in it next week.

JUROR 339: Okay.

THE COURT: Does that work? I mean, I want to accommodate you, but I can't just let you not serve or put you off indefinitely. Okay?

JUROR 339: Okay.

THE COURT: Great, thank you. See you

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next week. Yes, ma'am.

Now, ladies and gentlemen, believe it or not those are not even the questions that are going to take a lot of time. Okay? Actually, they are but, bear with me because, again, ladies and gentlemen, jury duty is a service. You don't come up that often. You're not called upon to serve often. And, again, this is a very important case, very important matters, and we appreciate that and appreciate you being here?

All right. What I will do at this time, I believe that the panel that remains is, in fact, qualified and I do qualify them to serve this week.

Now, ladies and gentlemen this is a term of general sessions, or criminal court, and I've been assigned by the chief justice of the Supreme Court to preside over this term of court this week. And if you're not selected on this jury, it's possible that you may be summoned to another courtroom. I think maybe courtroom 3, but the clerk will tell you when and where and who needs to go down there. You will be hearing a probate matter in courtroom 3 if you are summoned there.

So having said that, Solicitor, are you going to call your case?

MS. SWANSON: Yes, Your Honor.

THE COURT: All right.

MS. SWANSON: The State calls Tyreek Robinson. These are indictment numbers 2020-GS-07-2061 for assault and battery in the first degree, 2020-GS-07-2062 for aggravated voyeurism, 2020-GS-07-0263 burglary in the first degree, and 2020-GS-07-0037 for petty larceny.

THE COURT: All right. Thank you, Solicitor.

All right. Ladies and gentlemen, the solicitor has called the case, and, at this time, what I'm to do as part of my obligations is, I'm going to -- she has announced those indictments, but I am going to read those indictments to you.

Now, I'm going to say this now and I'm going to repeat it when I finish. Ladies and gentlemen, these indictments are not proof or evidence. They are merely the charging documents that get this case into court. Okay? That's all they are. They are not evidence and they are not proof. I'm going to say that now and I'm going to repeat it again when I finish reading these indictments, these charging documents.

So the charges in this case, ladies and

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gentlemen, burglary in the first degree. It is alleged, ladies and gentlemen in Beaufort County, South Carolina, on or about September 19, 2020, the defendant Tyreek Lorenzo Robinson did enter a dwelling without the consent and intent to commit a crime therein, and the entering occurred in the nighttime in violation of South Carolina code of law 16-11-311(A)(3).

Aggravated voyeurism. It's alleged, ladies and gentlemen in Beaufort County, South Carolina, on or the September 19th, 2020, that Tyreek Lorenzo Robinson did knowingly distribute a photograph, audio recording, video recording, digital electronic file, or film of A.M.N. [redacted] taken or made in violation of Section 16-17-470 of the South Carolina code of laws which prohibits a peeping Tom to be on or about the premises of another for the purposes of spying or invading the privacy of another.

Ladies and gentlemen it's alleged -- or assault and battery in the first degree. It's alleged, ladies and gentlemen that the defendant in Beaufort County, South Carolina, on or about September 19th, 2020, the defendant Tyreek Lorenzo Robinson did injure A.M.N. [redacted] in that --

in that act involved nonconsensual of private parts of A.M.N. [redacted] either above or -- under or above her clothing with lewd and lascivious intent all in violation of South Carolina code of laws section 16-3-600(c)(1)(a)(1).

And finally, ladies and gentlemen, petty larceny. And, ladies and gentlemen again it's alleged -- that's all these are, allegations -- that in Beaufort County, South Carolina, on or about September 19th, 2020, the defendant Tyreek Lorenzo Robinson did take and carry away the property of A.M.N. [redacted] with the intent to deprive the owner of such property which was valued at the time of the offense at 2000 or less all in violation of 16-13-30(a) of the South Carolina code of laws.

Now, again, ladies and gentlemen, these indictments that I just read to you, they are nothing more than charging documents and it's basically what, again, gets the case into court. Okay? They are not evidence and they are not proof.

Now, ladies and gentlemen, the defendant in this case is, Tyreek Lorenzo Robinson. And,

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Mr. Robinson, sir, I ask if you could please stand. If you would also, sir, for the purpose of this matter, if you pull down your mask so the jury can see you.

And so what I want to ask is: Is any member of the jury panel related by blood, connected by marriage, or have may personal relationship, business relationship with Mr. Tyreek Lorenzo Robinson? If that applies, I need you to please stand. All right. I'm going to let the record reflect that nobody is standing.

And while I have counsel standing, now would be a good time, I would appreciate it if counsel for Mr. Robinson would introduce themselves.

MS. TOLLEY: Good morning. I'm Juan Tolley. I'm a defense attorney here in town. This is my client Tyreek Robinson and my co-counsel is Courtney Gibbes.

THE COURT: All right. Any member of the jury panel related by blood or marriage, have any personal relationship, or business relationship, or ever been represented by Mr. Robinson's lawyers, Miss Tolley and Miss Gibbes? If that applies to you, if you would please stand. (No

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response.)

Thank you-all. You can have a seat. I appreciate that.

All right. Ladies and gentlemen in this case, if the solicitor would stand and introduce herself and those who will be assisting her, I'd appreciate that.

MS. SWANSON: Thank you, Your Honor.

Good morning. My name is Hunter Swanson. I am an assistant solicitor here in the 14th Circuit. I prosecute in our five counties, and have worked for our elected solicitor, Duffie Stone, for 15 years. Seated with me is Makia Jonese, also an assistant solicitor with our circuit, as well as Bill White, investigator with BCSO.

THE COURT: All right. Thank you-all very much.

Now, ladies and gentlemen is any member of jury panel related by blood, connected by marriage, have any type of personal relationship, or business relationship, or have ever been represented by any of these individuals representing South Carolina in this matter? If so, please stand.

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All right. Sir, let me get you to come around.

THE BAILIFF: Juror 339, your Honor.

THE COURT: All right. Sir, you are the retired law enforcement officer?

JUROR 339: Yes.

THE COURT: Who also now runs the private investigator service?

JUROR 339: Yes.

THE COURT: Let me ask you this, sir: Who is it that you know? Are you related by blood or marriage.

JUROR 339: Personal relationship. My best friend is her boyfriend.

THE COURT: Okay.

JUROR 339: I also want to mention, my firm, I'm also on the indigent defense fund list for the state. I investigate those cases.

THE COURT: Let me ask you this, sir: The fact that your best friend is the solicitor's boyfriend, do you think that as a result of that relationship it may be difficult for you to provide fair service in this case? Is that going to potentially influence you? I mean, you bring your life experiences of who you know and who you

don't know into court. So what I want to know is, given that relationship, given your past experience, do you think that it would be difficult for you to be fair and impartial in this case? That's the question.

JUROR 339: On a personal note, no. It would just be difficult on the professional side with all the other work that I do on both sides.

THE COURT: Well, in that case, sir, if you're telling me it's going to be difficult, I certainly understand and I respect that. I'm going to excuse you from service in this case.

JUROR 339: Thanks.

MS. SWANSON: That makes sense. Thank you.

THE CLERK: Just this case?

THE COURT: Just this case, yes, ma'am. He can still go back in the hopper and potentially serve, yes, ma'am.

Sir, you can go back --

JUROR 339: I'm the investigator in those cases, too.

THE COURT: Unfortunately, that will be a question for another judge.

JUROR 339: Okay.

THE BAILIFF: Juror 22, Your Honor.

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THE COURT: Hey, yes, ma'am.

JUROR 22: So, I don't know if this matters or not, but I testified for the solicitor's office before.

THE COURT: Okay. Let me ask you if you were involved in some type of forensic -- you do forensic interviewing?

JUROR 22: I work at Hopeful Horizons.

THE COURT: You work for Hopeful Horizons. I'm very familiar with Hopeful Horizons. I was a defense attorney for many years.

So, let me just ask you: With Hopeful Horizons -- which, by the way, they just got the office in Walterboro.

JUROR 22: I work out of that office.

THE COURT: That was needed. They needed that.

JUROR 22: Yes.

THE COURT: Now, what I want to ask you is this: So, do you do -- you interview folks through the -- the solicitor's office, do they pay you-all? How does that work?

JUROR 22: Absolutely not. No, I work only for Hopeful Horizons.

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THE COURT: Right. Hopeful Horizons -- I know you get your money from Hopeful Horizons. Do they pay Hopeful Horizons for interviewing?

JUROR 22: No.

THE COURT: So let me ask you this: The fact that you have worked closely with the solicitor's office in the past -- is that fair?

JUROR 22: Yes.

THE COURT: And given your experience at Hopeful Horizons and the life experiences that you got through your employment and training, do you think that that would make it difficult for you to be fair and impartial to this case, ma'am?

JUROR 22: I do not.

THE COURT: You do not.

JUROR 22: I do not.

THE COURT: In that case, I'm going to have you stay with us. Thank you for disclosing that information, though. That gentlemen will help you right there.

THE BAILIFF: Juror 260, Your Honor.

THE COURT: Hey, sir.

JUROR 260: How's it going?

THE COURT: I'm doing good.

JUROR 260: I wanted to err on the side

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of caution.

THE COURT: Absolutely.

JUROR 260: I don't know how, but I believe I went to high school with Miss Gibbes.

THE COURT: Okay.

JUROR 260: I don't know what that may entail.

MS. GIBBES: I think we did.

THE COURT: Let me ask you, sir: The fact that you may have gone to high school with Miss Gibbes, do you think that's going to influence you in any way in this case, make it difficult for you to be fair and impartial?

JUROR 260: I don't, but I didn't want it to present problems later on down the road.

THE COURT: Hey, I appreciate your erring on the side of caution. Thank you. I'm going to have you stay with us. Okay?

JUROR 260: Okay.

THE COURT: All right. Ladies and gentlemen, I'm informed we had a juror step out for a something. Let's give that individual a second to get back in here.

Counsel approach.

(Bench conference.)

THE COURT: Are the strikes five and five?

MS. SWANSON: Yes.

MS. TOLLEY: Yes, Your Honor.

THE COURT: Thank you.

So, ladies and gentlemen, what I'm going to do now is, I'm going to read the names of the potential witnesses in this case. There's a bunch of them. They're potential witnesses. Sometimes I'll get them and there will be 60 names on there and people are, oh, my, gosh. They are potential witnesses. And so to that extent, every one may be called or very few may be called. Don't know. What we got to do is, we got to err on the side of including everybody who might be called. So to that extent, I'm going to basically go and read those names.

What I'm going to do is, I'm going to basically read in, what I would call, batches. I'm going to read probably about 10 names, and then give everybody an opportunity to come forward if you know that individual or have some relationship with that individual. And then, when that finishes, I'll ask the remaining names.

So, to that extent, possible witnesses in

this case, Allison Moreira is a 911 records custodian, I guess, with Beaufort County; Gavin D'Adamo, Beaufort County Sheriff's Office; Brian Bell, Hilton Head Island; James DeMars, Beaufort County Sheriff's Office; Andrew Garinger, Beaufort County Sheriff's Office, DNA lab; Lara Gorick, wit SLED; Jeff maxwell with the Beaufort County -- it looks like sheriff's office.

MS. SWANSON: Detention.

THE COURT: Detention Center, excuse me. That's Jeff Maxwell with Beaufort County Detention Center; Erin Morris Beaufort County Sheriff's Office; Derrick Nelson with the Solicitor's Office; A.M.N. , Hilton Head Island, South Carolina.

Ladies and gentlemen if you are related by blood, connected by marriage, if you know any of the individuals who I just named, or if you think you know any of the individuals I just named, have any type of relationship, personal, business, or otherwise, I need you to please stand at this time.

All right. If you're standing, just come on around, folks. That will be great. Thank you.

THE BAILIFF: Juror 82, Your Honor.

THE COURT: Hey, ma'am. Is it one or more than one of these folks?

JUROR 82: More than one.

THE COURT: Okay. So Number 82, yes, ma'am. Who is it that you know?

JUROR 82: Jeff Maxwell.

THE COURT: Tell me about how you know Jeff Maxwell.

JUROR 82: I am actually the current commodore for the Beaufort Water Festival. And Erin Morris was the commodore last year, and Jeff Maxwell is a current staff member.

THE COURT: With the water festival?

JUROR 82: Uh-huh.

THE COURT: Ma'am, the fact -- is that how you know them, through the water festival?

JUROR 82: Volunteers, yes.

THE COURT: And so let me just ask you, ma'am, the fact that you know them through working on the water festival as a volunteer, do you think that may make it difficult for you, if they are witnesses in this case --

JUROR 82: Yeah.

THE COURT: -- to be fair and impartial?

JUROR 82: No.

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THE COURT: It will not.

JUROR 82: No.

THE COURT: All right, ma'am. Thank you. I'm going to have you remain with us.

THE BAILIFF: Juror 200, Your Honor.

JUROR 200: Brian Bell.

THE COURT: Brian Bell. Yes, ma'am. How do you know him?

JUROR 200: He's my neighbor and his daughter goes to my school. We're friends. But if it's the Brian Bell -- I mean, there could be other Brian Bells.

THE COURT: Let me ask you this --

JUROR 200: He's a pilot.

THE COURT: All right. Yes, ma'am.

Let me ask you this: The fact that this is Mr. Bell who is your neighbor, is that right, and friend?

JUROR 200: Uh-huh.

THE COURT: Yes? I'm sorry. We're making a record, so I just need you to answer out loud.

JUROR 200: Oh, okay. Yes.

THE COURT: You're doing great. Do you believe that that would make it difficult for you

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to be fair and impartial in this case?

JUROR 200: No.

THE COURT: No?

JUROR 200: No.

THE COURT: Great. I'll have you stay with us, ma'am. Thank you.

THE BAILIFF: Juror 263, Your Honor.

THE COURT: Yes, ma'am.

JUROR 263: My father is a police officer. I'm pretty sure my family knows all the Beaufort County Sheriff's Office.

THE COURT: Well, let me just ask you this, ma'am: The fact that you -- is it your father who's a police officer or retired police officer?

JUROR 263: He's currently active police officer with Port Royal.

THE COURT: All right.

JUROR 263: He's currently on duty at the Port Royal entry.

THE COURT: All right. Let me just ask you this question: The fact that you may know of or have heard of these individuals as a result of your dad being involved in Port Royal law enforcement, do you think it would make it

difficult to be fair and impartial in this case?

JUROR 263: With this case, yes.

THE COURT: I'm going to excuse you from this case, but you can stay with us because it's very possible, ma'am, that you'll be selected for the probate case. Okay?

JUROR 263: Okay.

THE COURT: Thank you very much.

So she's going to be excused from this case, but she's going to remain in the hopper because she may be on the probate matter. Okay?

All right.

THE BAILIFF: Judge, we're missing a juror, Your Honor.

THE COURT: That's all right. I'll move that juror to the probate jury. Do we know what jury number that is? If not, we'll get it. Okay?

THE BAILIFF: Yes, sir.

THE COURT: All right. I think the last name I read was A.M.N. [redacted], but I'm going to pick up from there. Adam Paul, Beaufort County Sheriff's Office; William Redman of Hilton Head Island; Seth Reynells of Beaufort County Sheriff's Office; Ryan Snyder, Beaufort County Sheriff's Office; Nicholas Whaling, former Beaufort County

Sheriff's Office; William Wiech, W-i-e-c-h, Beaufort County Sheriff's Office; Laura Wuller, Hilton Head Island, and the defendant Mr. Tyreek Lorenzo Robinson. If anyone is connected by blood or marriage, related in any way, knows or has any personal contact with these individuals either personally or professionally, I need you to come forward.

THE BAILIFF: Juror 22, Your Honor.

THE COURT: Yes, ma'am.

JUROR 22: Same reason as before. I have worked with a couple of the investigators before.

THE COURT: Again, let me just ask you: The fact that you've worked with some of these investigators before in connection with your employment with Hopeful Horizons, do you think that would affect your ability to be fair and impartial in this case?

JUROR 22: I do not.

THE COURT: Thank you very much, ma'am.

THE BAILIFF: Juror 9, Your Honor.

THE COURT: Yes, ma'am.

JUROR 9: My daughter used to be friends with Seth Reynells's daughter, but we haven't been

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in contact for the past, probably, five years.

THE COURT: Let me just ask you this: The fact that your daughter may have been friends or have some relationship with Seth Reynells's daughter and he's a witness in this case, do you think that's going to affect your ability to be fair and impartial in any way?

JUROR 9: No.

THE COURT: No? Great.

JUROR 9: I got another question.

THE COURT: Yes, ma'am.

JUROR 9: The last name you said, you said -- was that Lorin Wuller or Laura Wuller.

MS. SWANSON: Laura.

THE COURT: Laura Wuller, W-u-l-l-e-r.

JUROR 9: She, up until last year, was my across-the-street neighbor for 10 years.

THE COURT: Let me just ask you this, ma'am: The fact that you were neighbors for 10 years --

JUROR 9: And I teach her children.

THE COURT: -- and you teach her children -- I mean, we you bring your life experiences when you come into the courtroom, and so there's no right answer or a wrong answer to

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the question, do you think the fact that she's your former neighbor, and do you think the fact that you teach her kids, do you think that will make it difficult for you to be fair and impartial in this case? That's what I'm asking. And it's got to be yeah or no. You can't say, well, maybe. I'm not trying to pin you down -- I mean, I kind of am. But you understand what I'm saying.

JUROR 9: I do. I do.

THE COURT: So what do you think?

JUROR 9: I don't think it will affect my -- no.

THE COURT: I will not?

JUROR 9: No.

THE COURT: And you think you can fair and impartial in this case?

JUROR 9: Yes.

THE COURT: She'll remain with us. Number 9.

THE BAILIFF: Juror 89, your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 89: So I'm personal friends with Nick Whaling with the sheriff's department.

THE COURT: Okay.

JUROR 89: I grew up with him when he was

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a little toddler and still great friends and a business partner.

THE COURT: Okay. Now, hold on. You're a business partner with him?

JUROR 89: His family. Family business.

THE COURT: Tell me about the family business.

JUROR 89: Real estate transactions.

THE COURT: Okay. Is he involved in that at all.

JUROR 89: He's done some renovations. He showed me how to do title work.

THE COURT: All right. Well, Ma'am, I'll tell you, given the fact that it's possible there's a relationship there, I'm going to excuse you from service on this case but you may end up serving on the probate case. Okay?

JUROR 89: Yes. I just went through --

THE COURT: So what will happen is, you can disclose that information to that judge.

JUROR 89: Thank you.

THE COURT: I don't know what questions may be involved in that.

JUROR 89: Sure.

THE COURT: Thank you. She's going to be excused from this pot, but she's going to remain in the probate pot.

THE BAILIFF: Juror 150, Your Honor.

THE COURT: Yes, ma'am.

JUROR 150: Laura Wuller of Hilton Head.

THE COURT: Tell me about it.

JUROR 150: A friend and business. She's done proper management -- or she has a property management company, I used to work with her as well.

THE COURT: So, she refers business to you or you refer business to her?

JUROR 150: I refer business to her, because we used to do real estate and she does rentals. We also have sold a few of her homes through our company.

THE COURT: Are you a company?

JUROR 150: No, I'm the operations manager.

THE COURT: Are you paid a salary or commission?

JUROR 150: Salary.

THE COURT: Do you make any commission?

JUROR 150: No.

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THE COURT: Not on the sale of a house, but maybe if the company does well, is what I'm asking.

JUROR 150: A bonus?

THE COURT: Yeah.

JUROR 150: I didn't get one last year.

THE COURT: I'm sorry. I'm sorry to hear that. I don't mean to invade your privacy --

JUROR 150: It's okay.

THE COURT: But you can see we're dealing with important matters.

JUROR 150: Of course.

THE COURT: Let me ask you: The fact that you have this relationship with this individual, if she's a witness in this case, do you think that having that relationship with her, do you believe that it might interfere with your ability to be fair and impartial in this case?

JUROR 150: Possibly.

THE COURT: All right. Then I'm going to excuse you, ma'am, because the fact that it may be a business relationship, I'm going to excuse you from service in this case. But don't go anywhere.

JUROR 150: Okay.

THE COURT: Because you may be serving on

this gentleman's jury. So I'm going to remove you from the pool of candidates for this jury, but we'll keep you there for the probate matter.

JUROR 150: Okay. Do I stay in here?

THE COURT: Yes, ma'am. You'll stay right here.

JUROR 150: Okay.

THE COURT: Yes, ma'am.

THE BAILIFF: Jury 139, Your Honor.

THE COURT: Hey ma'am. Yes, ma'am.

JUROR 139: Adam Paul.

THE COURT: Adam Paul. Yes, ma'am.

JUROR 139: He's going to be my son's basketball coach, but --

THE COURT. All right.

JUROR 139: His first practice is tomorrow.

THE COURT: So he is going to be your son's basketball coach. All right. The fact that he may be a witness in this matter, and that your son is going to be -- he's going to be your son's basketball coach, do you think it might make it difficult for you to be fair and impartial in this case.

JUROR 139: I've never met him, so I

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don't think so.

THE COURT: So the answer will be no. You can be fair and impartial? You've never met him?

JUROR 139: Yes.

THE COURT: All right. I'm going to have you stay with us. Thank you.

All right. Has any member of the jury panel, or has any member of the jury panel had a close family member or friend ever been a victim of a crime? If that applies to you, ladies and gentlemen I'm talking about -- this is going to take a while. But I'm talking about if you've been a victim, or a family member's been a victim, or friend has been a victim of a crime, I'm going to need you to please come forward at this time.

All right. Ladies and gentlemen, let me have your attention. All right. Now, with that having been said, I would also want to know at the same time, has any member of the jury panel close friends ever been the victim of a crime and whether the crime was prosecuted by the 14th Circuit Solicitor's Office. For instance, you could have a crime locally that you were a victim of or that a friend was a friend victim of or a

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relative and it was investigated by the 14th Judicial Solicitor's Office. If it was, I want to know that.

Also, though, you could have a crime that happened in Ohio, and so, obviously, that would not -- you could have been a victim of a crime in Ohio and that certainly would not have been prosecuted by the 14th Circuit Solicitor's Office.

So I wanted to add that caveat, but come on forward.

THE BAILIFF: Jury 102, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 102: Not here, but I was a victim of assault.

THE COURT: Assault. All right. Hold on.

THE BAILIFF: Maintain order, please.

THE COURT: Not here. You were the victim.

JUROR 102: By a black man.

THE COURT: Okay. You were a victim of a crime where you assaulted and then -- by a black man. Yes, ma'am.

JUROR 102: I had a stalker.

THE COURT: It involved a stalker.

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JUROR 102: This is a different one.

THE COURT: You have a different one. Yes, ma'am.

JUROR 102: I hired a lawyer. I've had someone break into my house.

THE COURT: You had a lawyer. Yes, ma'am.

JUROR 102: I'm the unluckiest person in the world.

THE COURT: Well, let me just ask you this: The fact that you have had a stalker in the past, a voyeur in the past.

JUROR 102: I don't know if I can be objective.

THE COURT: That's all I wanted to know. I certainly understand that. So I'm going to excuse you from service from this jury, but you may remain in the pot, because it's possible you can serve on the other one.

JUROR 102: Thank you.

THE COURT: Yes, ma'am.

THE BAILIFF: Juror 47, Your Honor.

THE COURT: Yes, ma'am.

JUROR 47: Home invasion in DC. I was home. 2014, I had a gun pointing in Chicago. And

this weekend, our neighborhood was hit, a target.

THE COURT: Let me just ask you this, given those experiences on both personal and in the neighborhood, do you think it might be hard for you --

JUROR 47: Yes.

THE COURT: Then I'm going to excuse you.

JUROR 47: Okay.

THE COURT: I'm going to have you stay with us, because you may serve on the other one.

JUROR 47: Of course.

THE COURT: Folks, if I end up excusing you from this jury, don't leave because what happens is, you may end up serving on the probate matter. Thank you.

THE BAILIFF: Juror 105, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 105: I had an uncle that was murdered in 2012.

THE COURT: All right. Let me ask you: The fact that you have an uncle that was murdered and this matter was investigative by and prosecuted by the solicitor's office, do you think it might make it difficult for you to be fair and impartial in this case?

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JUROR 105: No.

THE COURT: Okay. I'm going have you stay with us.

MS. SWANSON: Can I ask the name?

JUROR 105: Lauren Greene. Also, I don't know him, but I live on Hilton Head and I don't know if I know his parents.

THE COURT: So you know Tyreek Robinson because he's from Hilton Head, but you don't know if you know him or his parents?

JUROR 105: I may know his parents.

THE COURT: Do you know his parents' names?

MS. SWANSON: Asia Andrews and Tyrone Robinson.

JUROR 105: I went to school with Asia.

THE COURT: Number 1, thank you. Thank you for erring on the side of disclosing information because it's a very important case to the State. It's a very important case for the defense.

I want to ask you if you know or, perhaps, have some type of relationship with Mr. Robinson's parents, do you think you can still be fair and impartial in this case?

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JUROR 105: Yes.

THE COURT: And the answer is yes?

JUROR 105: Yes.

THE COURT: Great. I'm going to have you stay with us. Don't look so excited.

THE BAILIFF: Jury 136, your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 136: My cousin, George Holmes, just got sentenced to 15 years.

THE COURT: Okay. He got sentenced?

JUROR 136: Uh-huh.

THE COURT: I appreciate that. But let me ask you this: Do you know -- he wasn't the victim of the crime, was he?

JUROR 136: Uh-huh.

THE COURT: He was a victim?

JUROR 136: Uh-huh.

THE COURT: Let me ask you this: The fact that -- this is your cousin?

JUROR 136: My first cousin.

THE COURT: Your first cousin was a victim of a crime. Do you think it's going to be difficult for you to serve in this case?

MS. SWANSON: He was the defendant. We just prosecuted him.

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THE COURT: Do you think it's going to make it difficult for you to serve in this case?

JUROR 136: Uh-huh.

THE COURT: All right. I'm going to excuse you from service in this case, ma'am. Thank you.

THE BAILIFF: Juror 9, Your Honor.

THE COURT: Welcome back.

JUROR 9: Thank you.

THE COURT: Yes, ma'am.

JUROR 9: My house was burgled.

THE CLERK: What's your number?

JUROR 9: 9.

THE COURT: Let me ask you this, ma'am: The fact that you were the victim of a burglary in the past, do you think that might make it difficult for you to serve on this case?

JUROR 9: I think it might.

THE COURT: All right. I'm going to excuse you from this case.

JUROR 9: Thank you.

THE BAILIFF: Jury 53, Your Honor.

THE COURT: Let the record reflect she appeared to be about to start crying when she acknowledged that answer.

Yes, ma'am.

JUROR 53: I was sexually assaulted.

THE COURT: The fact you have been sexually assaulted in the past, do you think it may make it difficult for you to be fair and impartial in this case?

JUROR 53: (Nods head.)

THE COURT: All right. I'm going to excuse you from the service in this case. Thank you, ma'am.

She's going to be excused.

THE BAILIFF: Juror 252, Your Honor.

THE COURT: All right. Hey, ma'am. Come up. Yes, ma'am.

JUROR 254: My daughter is the victim of a recent break-in.

THE COURT: All right.

JUROR 254: She was not home at the time. They pretty much took everything they could carry.

THE COURT: The fact that your daughter was a victim of a burglary or some type of home invasion, do you think that's going to make it difficult to be fair and impartial in this case? Can you listen to the law and facts in this case

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and be fair and impartial?

JUROR 254: Yes.

THE COURT: All right. I'm going to have you stay with us.

THE BAILIFF: Juror 74, Your Honor.

THE COURT: Hey, ma'am.

JUROR 74: How are you?

THE COURT: Doing great. Yes, ma'am.

JUROR 74: My daughter on this past Sunday was shot twice. She was walking. I'm lucky she's alive and she's good.

THE COURT: The fact that your daughter was shot twice, do you think you can be fair and impartial in this case? Listen to the law and the facts of the case and you're not allow --

JUROR 74: I can try.

THE COURT: Well --

JUROR 74: I don't know, because it's still very new.

THE COURT: I understand that. And what I'm going to have to tell you is this: I'm going to have to excuse you.

JUROR 74: I understand. I get that.

THE COURT: Your bring your life experiences. I think there's nothing wrong with

that. In fact, I appreciate you giving us the honest answer that you gave. So I'm going to basically excuse you from this case, but you may end up staying on in the next case in probate. Thank you.

JUROR 74: Thank you.

THE BAILIFF: Juror 263, Your Honor.

THE COURT: I've excused you from this case. It's okay. I don't need that.

THE BAILIFF: Juror 276, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 276: I was a victim of an attempted robbery.

THE COURT: I'm sorry to hear that. Let me ask you this: The fact that you were a victim of an attempted robbery, do you think that's going make it difficult for you to be fair and impartial in this case? Listen to the law and the facts and make a decision based on just that in this case?

JUROR 276: Yes.

THE COURT: All right. I'm going to have you stay with us.

THE BAILIFF: Juror 169, Your Honor.

THE COURT: Sir, I'm loving that you wore a blazer. You are styling. Thank you. What's

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up?

JUROR 169: My daughter was once a victim of a sexual assault case.

THE COURT: Let me ask you this, sir: The fact that your daughter was the victim of sexual assault, do you believe that that's going to make it difficult for you to be fair and impartial in this case? Would you be able to listen to the law that I instruct you, the facts that you hear, and then render a verdict that's fair to both sides, both to the State and to the defense? Could you do that?

JUROR 169: I think so.

THE COURT: "I think" is a fair answer, except I got to have, yeah, judge, I can be fair.

JUROR 169: Oh, yeah.

THE COURT: Or, no, "I don't think I can." So if you don't think you can, I'm going to have to excuse you. There's no right or wrong answer.

JUROR 169: I've only stood forward because you asked.

THE COURT: Absolutely.

JUROR 169: I am absolutely certain I can

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be fair and impartial.

THE COURT: All right. That's great. I'll have you stay with us. Thank you, sir.

THE BAILIFF: Juror 170, Your Honor.

THE COURT: Hey, ma'am.

JUROR 170: I was confused if it was crime in this area?

THE COURT: No, no, no. Anywhere.

JUROR 170: Okay. A friend of mine was raped as a child.

THE COURT: A close friend of yours was sexually assaulted.

JUROR 170: Yes.

THE COURT: All right. Let me just ask you this, ma'am: The fact that you have a close friend that was sexually assaulted, do you think that that's going to impact you or prohibit you from being fair and impartial in this case, understanding that you bring your life experience into the courtroom? But, in this case, you're basically going to hear the facts and the evidence and then you're going to hear the law from me.

So what I want to know is: Can you basically take those facts, take the law that I give you, and be fair and impartial in this case,

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fair to the State and fair to the defendant?

JUROR 170: I think it would be super challenging because I was a licensed practicing attorney in Ohio.

THE COURT: Well, the fact that you think it's going to be very difficult for you, I appreciate your honesty in telling me that. So as a result of that, I'm going to excuse you from the service in this case. Thank you.

JUROR 170: Okay.

THE BAILIFF: Juror 323, Your Honor.

THE COURT: I think I've excused you. I've excused you from this case?

THE CLERK: No, I'm sorry.

THE COURT: Yes, ma'am.

JUROR 323: My -- back in 2016, my son had some kids over and one of the kids brought another group of friends with them and they stole my safe. That child was initially picked up.

THE COURT: Let me just ask you this: Based on the fact you were a victim of some type of robbery at your house --

JUROR 323: Right.

THE COURT: -- and I appreciate you disclosing that. All I want to know is, do you

think that's going to prohibit you from being fair and impartial in this case?

JUROR 323: No.

THE COURT: Yes, ma'am.

JUROR 323: And then I do have a neighbor that's a police officer. I just know his name is Seth. I don't know the last name.

THE COURT: The fact that you have a neighbor who is a police officer --

JUROR 323: On the other side.

THE COURT: -- is that going to affect your ability to be fair and impartial in this case?

JUROR 323: No, I don't know him.

THE COURT: Great. Thank you, ma'am. Thank you for letting us know that. I'm going to have you stay with us.

JUROR 323: Okay.

THE COURT: Thank you. I'm going to have you say with us.

THE BAILIFF: Jury 343, Your Honor.

THE COURT: Hey, sir.

JUROR 343: How you doing?

THE COURT: I'm doing great, man. What's up?

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JUROR 343: Good to see you. My daughter was a victim of rape in 2020.

THE COURT: All right. Let me just ask you this: The fact that your daughter was sexually assaulted, sir, do you think that that's going to make it hard for you --

JUROR 343: Absolutely.

THE COURT: Then I'm going to excuse you from this case. I appreciate your honesty.

JUROR 343: Yes, sir.

THE BAILIFF: Juror 333, Your Honor.

THE COURT: Hey, sir.

JUROR 333: My brother, my younger brother is a deputy sheriff with the Beaufort County Sheriff's Office.

THE COURT: All right.

JUROR 333: Now he's been assaulted many times. But I don't know -- what is important is his current job. I think the Court should know, he manages the sexual convictions registry.

THE COURT: So he works for the Beaufort County Sheriff's Office and he basically oversees all the folks in the registry.

JUROR 333: Yes, that have been convicted. I thought that needed to be --

THE COURT: I appreciate that. So the assaults would be the assaults that he --

JUROR 333: Yeah, he was assaulted when he was a school resource officer at Battery Creed. I don't know if they were prosecuted. He didn't talk about it.

THE COURT: Let me ask you this, sir.

JUROR 333: Sure.

THE COURT: The fact that your brother is employed with the sheriff's office, and, in fact, runs the sexual -- runs the registry for the department, oversees the registry --

JUROR 333: Right.

THE COURT: Sir, do you think that would make it difficult --

JUROR 333: No.

THE COURT: -- to be fair and impartial in this case?

JUROR 333: Not at all. He doesn't talk about work.

THE COURT: Thank you. Stay with us.

THE BAILIFF: Juror 213, Your Honor.

THE COURT: Yes, sir.

JUROR 213: My mother's brother was murdered in '95. My uncle was murdered in '97. I

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was friends with John Sherpa that was murdered in Bluffton. I don't know if you guys tried that case or not. I don't know.

THE COURT: Let me ask you this --

JUROR 213: I don't think so.

THE COURT: -- the fact that you have these tragedies with relatives and other folks that you know, sir, is that going to make it difficult for you to be fair and impartial in this case? That's what I want to know. That's the key here. Are you going to be able to put those things aside, listen to the facts and the evidence and make a fair decision both fair to the State and fair to the defendant?

JUROR 213: I believe so.

THE COURT: All right. So the answer is, you can?

JUROR 213: Yes, I think I can be.

THE COURT: Well, there is no room for "I think" in there. I hope you understand that.

JUROR 213: Yes, sir.

THE COURT: I think -- there's no right answer. There's no wrong answer. But I can't have somebody saying they think they can be. I need to know can they be or can't you be. If you

can't, you won't be doing anything wrong. Do you follow me?

JUROR 213: Yeah. No, sir.

THE COURT: You don't think you can?

JUROR 213: No, sir.

THE COURT: All right. Then I'm going to excuse from service this week -- or from this case.

JUROR 213: Thank you. Just wait for the next one.

THE BAILIFF: Juror 342, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 342: People that I know, friends.

THE COURT: Let's just name the closest friends. Are there any relatives that are victims of crime?

JUROR 342: No.

THE COURT: So what would be the closest friend?

JUROR 342: My best friend was killed in a boating accident a few years ago.

THE COURT: All right.

JUROR 342: The driver was under the influence. I was part of the depositions. And the driver --

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MS. SWANSON: Mallory Beach.

JUROR 342: Yes.

THE COURT: Let me ask you this: The fact that you have been involved in depositions being taken due to your friend being in a boating accident, do you think that's going to prevent you from being fair and impartial in this case, ma'am?

JUROR 342: No, it won't.

THE COURT: Great, you can stay with us.

THE BAILIFF: Juror 138, Your Honor.

THE COURT: Come on up. Yes, ma'am.

JUROR 138: I've had -- the defendant's home is --

THE COURT: Hold on. You have what?

JUROR 138: The defendant's home is in my neighborhood.

THE COURT: Okay.

JUROR 138: The DNA they found, I don't believe they found a match. I don't know where it is in the victim's home.

I also been assaulted.

THE COURT: Let me ask you this, ma'am: You bring your life experiences in the courtroom. I understand that. But what I want to know is,

given the fact that you have been the victim of a sexual assault --

JUROR 138: Not sexual.

THE COURT: Some type of assault. I can tell -- I'm looking at you. You're emotional.

JUROR 138: I mean -- yes.

THE COURT: What I want to know is, the fact that you have been a victim of an assault in the past, do you think you can be fair and impartial in this case?

JUROR 138: In this case?

THE COURT: Yes or no?

JUROR 138: I don't, honestly. I'm just being honest.

THE COURT: I want you to. I want you to. So the answer then is -- I want to know, can you be fair and impartial in this case? Or do you think it's going to be very difficult or difficult for you to be fair and impartial? Because, if you tell me it's difficult, then I'm going to excuse you from this case. If you tell me, I can, I'm going to keep you. There's not a right or a wrong answer. I just got to know.

JUROR 138: I have OCD.

THE COURT: Well, that's not -- she

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indicated she has OCD.

JUROR 138: I ask a lot of questions and everything.

THE COURT: So the question I have for you right now is: Can you be fair and impartial in this case?

JUROR 138: Yeah.

THE COURT: Then you can have a seat. Thank you.

THE BAILIFF: Juror 127, Your Honor.

THE COURT: Yes, ma'am. Yes, ma'am.

JUROR 127: My son was assaulted in Cincinnati, Ohio.

THE COURT: Okay.

JUROR 127: Resulting in reconstructive surgery to his face.

THE COURT: I'm sorry to hear that.

JUROR 127: It was a --

THE BAILIFF: Remain quiet please.

THE COURT: Let me ask you this, ma'am: The fact that your son went through that in the recent past, do you think it's going to make it difficult for you to be fair and impartial in this case?

JUROR 127: Probably so.

THE COURT: It will affect you?

JUROR 127: Uh-huh.

THE COURT: All right. Then I'm going to excuse you from service in this case.

THE BAILIFF: Juror 310, Your Honor.

THE COURT: Yes, sir.

JUROR 310: My girlfriend's daughter was sexually assaulted in this jurisdiction and the perpetrator was tried in this court system.

THE COURT: Let me ask you this: The fact that your girlfriend's daughter was a victim of some type of sexual assault and had to undergo a trial, do you think that's going affect your ability to be fair and impartial in this case?

JUROR 310: No.

THE COURT: It will not.

JUROR 310: No.

MS. SWANSON: Can I ask who the defendant's name was?

JUROR 310: I don't know that. But I know the plaintiff's name, or who was perpetrated.

MS. SWANSON: I understand. How long ago?

JUROR 310: It was about eight years ago. She was like 15 at the time.

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MS. SWANSON: Thank you.

THE BAILIFF: Juror 180, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 180: I was sexually assaulted in college.

THE COURT: You were sexually assaulted in college?

JUROR 180: (Nods head.)

THE COURT: Let me just ask you this -- what's your juror number? I'm sorry.

JUROR 180: 180.

THE COURT: 180. Ma'am, the fact that you were sexually assaulted when you were in college, do you think it would make it difficult to serve --

JUROR 180: Yes.

THE COURT: -- on this jury?

JUROR 180: Yes.

THE COURT: I understand that. Very logical. Very reasonable. So I'm going to go and excuse you from service on this jury. Okay?

JUROR 180: Thank you.

THE COURT: Thank you, ma'am.

THE BAILIFF: Jury 223, Your Honor.

JUROR 223: I have a cousin who was a

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victim of rape.

THE COURT: Let me ask you this, ma'am: The fact that you have a cousin who was sexually assaulted in the past, would that make it difficult for you to serve on this jury?

JUROR 223: Yes.

THE COURT: I'm going to excuse you, ma'am.

THE BAILIFF: Juror 206, Your Honor.

JUROR 206: How are you?

THE COURT: Doing great. Yes, ma'am.

JUROR 206: I was married for 20 years and I'm a survivor of domestic violence.

THE COURT: Let me ask you this, ma'am: The fact that you are a survivor of domestic violence and subjected to domestic violence in the past, let me just ask you this: Do you think it's going to make it difficult for you to be fair and impartial in this case?

JUROR 206: No.

THE COURT: Do you think that's going to affect your ability to be fair and impartial or can you be fair and impartial?

JUROR 206: I can be fair.

THE COURT: All right. That's great.

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Thank you, ma'am. I'll have you stay.

Number 206.

THE BAILIFF: Juror 167, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 167: My sister was a victim of a crime with similar charges.

THE COURT: Let me ask you this: The fact that -- was it your sister? Was your sister sexually assaulted?

JUROR 167: Attempted.

THE COURT: Attempted. Let me just ask you this: Do you think that that life experience will make it difficult for you to be fair and impartial in this case?

JUROR 167: Perhaps that's why I came up here.

THE COURT: I appreciate that. But ultimately, the decision has to be yours. If you say, Judge, it's not going to affect me, then fine. But if you're going to tell me, hey, judge, I think it's going to be real hard for me to be fair and impartial given this life experience that I have, then I'm going to say fine too. I kind of got to know one way or the other.

JUROR 167: I want to be fair, so I

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should be not.

THE COURT: You probably should not serve?

JUROR 167: Yeah.

THE COURT: Then I'm going to excuse you from service this week. Okay?

JUROR 167: Thanks.

THE COURT: All right.

THE BAILIFF: Juror 27, Your Honor.

THE COURT: Yes, ma'am.

JUROR 27: So I had somebody stay in my car. I had somebody break into my apartment on September 10th and I had someone break in my car on the 17th.

THE COURT: The fact that you had two cars broken into and a home broken into, do you think that's going to make it difficult for you to serve in this case, or that you go, listen to the facts in this case, the law that I charge you and render a fair decision, fair to both the State and fair to the defendant? That's all I want to know.

JUROR 27: I mean, I don't think it really hinders me. When you asked --

THE COURT: That's what I want to know.

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JUROR 27: It's not a big deal.

THE COURT: You can be fair and impartial in this case?

JUROR 27: Yes.

THE COURT: Great. Yes, ma'am. You can stay with us.

THE BAILIFF: Juror 85, Your Honor.

THE COURT: Yes, ma'am.

JUROR 85: I was a victim of a peeping Tom case.

THE COURT: You were the victim of a peeping Tom?

JUROR 85: Uh-huh.

THE COURT: Yes?

JUROR 85: Yes.

THE COURT: Thank you. So let me ask you this, ma'am, the fact that you were the victim of a peeping Tom matter, do you think it might make it difficult for you to be fair and impartial in this case, or can you set that aside and listen to the law and the facts as I instruct you and make a fair decision, fair to the State and fair to the defendant?

JUROR 85: It's concerning. I feel like after --

THE COURT: All right. Then I'm going to excuse you from service in this case.

THE BAILIFF: Juror 82, Your Honor.

JUROR 82: A couple things.

THE COURT: All right. I'm listening.

JUROR 82: First, I'm risk manager for the hospital so I deal with assaults on staff and patients and follow-up to the end.

Second, my niece was murdered in Virginia four years ago. He got convicted as well.

THE COURT: All right. Well, let me ask you this: The fact that you deal with folks who are sexually assaulted at the hospital, that you've had family members who have been a victim of a crime, do you think that that's going to affect your ability to be fair and impartial in this case, or do you think you can set that aside, listen to the facts, listen to the law that I instruct, and render a decision that's fair, fair to the State but fair to the defendant also? I kind of want to know. I mean, if you say, I'm not sure, maybe --

JUROR 82: I probably would be a little partial because I deal with it all the time.

THE COURT: I'm going to excuse from

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serving in this case.

JUROR 82: Thank you.

THE COURT: I'm going to read some more questions.

MS. SWANSON: Judge, one thing that kind of concerned me, it seemed like there were some people that said, oh, neighbors of mine, we might want to tell the jury the address of where this happened because I know that neighborhood has a group chat and they have, like, a neighborhood watch. I don't want --

THE COURT: If you give me the address, I'll end up asking that, sort of, as a last question.

MS. SWANSON: Great.

THE COURT: I'll ask all that as the last question.

MS. SWANSON: Do you want me to write it down?

THE COURT: All right. Ladies and gentlemen, I got a few other questions. But, again, I appreciate your patience, but you understand we're dealing with very important and very serious matters here. It's important that we get -- that we get the information. And I also

want to thank you -- two or three people have come forward and said, I just wanted to tell you, always err on the side of disclosing. It just makes it easier, and so I appreciate that.

All right. Does any member of the jury panel hold a religious or philosophical believe that would prevent them from passing judgment on another?

I'm going to read, basically, two or three questions right now, so that's one.

Does any member of the jury panel hold religious or philosophical belief that would prevent them from passing judgment on another?

Does any member of the jury panel have a moral belief against the consumption of alcoholic beverages?

And the next would be: Is any member of the jury panel involved with law enforcement, the legal system, or penal system in such a way that it would prevent you from being fair and impartial in this matter? Or --

Let me just ask those three questions. If any of those questions apply to you, I need you to come forward, okay? Religious or philosophical belief that would prevent you from passing

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judgment on another, any member have a moral belief against the consumption of alcoholic beverage, and anybody who is involved with law enforcement or the legal system or the penal system in such a way that would prevent you from being fair and impartial? If any of those questions apply to you, please come forward.

THE BAILIFF: Juror 189, Your Honor.

THE COURT: Hey, ma'am.

JUROR 189: Yes. Against the alcohol consumption.

THE COURT: Okay. And so do you believe you have a moral or religious believe about consuming alcohol?

JUROR 189: Yes.

THE COURT: The fact that this may involve -- and I don't know that it does, but if it does involve the consumption of alcohol, would you be able to set your beliefs aside and render a judgment both fair to the State and fair to the defendant?

JUROR 189: I believe so.

THE COURT: So is that a yes?

JUROR 189: Yes.

THE COURT: Great. You can stay with us.

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Thank you, ma'am.

THE BAILIFF: Juror 159, Your Honor.

THE COURT: Yes, ma'am.

JUROR 159: My family member is a criminal defense attorney.

THE COURT: Your family is a criminal --

JUROR 159: He shares a lot of stories with me.

THE COURT: All right. Let me ask you this: The fact -- a brother?

JUROR 159: Brother-in-law.

THE COURT: The fact that you have a brother-in-law who is a criminal defense attorney and has shared stories with you in the past, do you think you would be able to put those stories aside, listen to the evidence in this case, the law that I instruct you, render a fair decision, fair to the State, fair to the defense?

JUROR 159: I do.

THE COURT: You can stay with us, thank you.

All right. Ladies and gentlemen, I'm going to ask probably three more questions. Some of them may have a lot of response, but I think we're getting close to the end as it relates to

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the questions. Okay?

So my next question is: Is any member of the jury panel employed by law enforcement or have a family member or close friend who's employed by law enforcement?

Does any member of the jury panel hold any social, racial, or ethnic views which would prevent you from being a fair or impartial juror?

Is any member of the jury panel a member of any organization such as CAPE, People Against Rape, Mothers Against Drunk Driving, or any similar group?

And then my final question is --

Counsel approach one second.

I'm going to ask, does anybody think they know anything about or read anything about this matter which occurred -- alleged to have occurred on or about September 19th, 2020, [redacted] Wildlife View in the --

MS. SWANSON: Tansyleaf.

THE COURT: Tansyleaf neighborhood on Hilton Head? Is that satisfactory to you?

MS. SWANSON: Yes.

THE COURT: I'll go ahead and ask that.

And, ladies and gentlemen my final

question is going to be: Is there anybody who knows anything or thinks they know anything about this alleged incident that may have occurred on or about September 19, 2020, at [redacted] Wildlife View in Tansyleaf neighborhood on Hilton Head?

So if any of those questions, ladies and gentlemen apply to you, I'd ask that you come forward.

THE BAILIFF: Jury 39, Your Honor.

THE COURT: Hey, sir. Which question or questions apply to you?

JUROR 39: Several family member in law enforcement. My brother-in-law is retired now but now works for the sheriff's office. It doesn't affect anything.

THE COURT: Well, you answered it. Again, erring on the side of disclosure. You're doing exactly what I asked. You can be fair and impartial in this case?

JUROR 39: Yes.

THE COURT: That will be fine. Stay with us.

THE BAILIFF: Jury 200, Your Honor.

THE COURT: Yes, ma'am.

JUROR 200: My father-in-law is a retired New York State Trooper.

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THE COURT: Okay. And the fact --

JUROR 200: I can.

THE COURT: You can be fair and impartial?

JUROR 200: Yes.

THE COURT: Thank you, ma'am.

THE BAILIFF: Juror 66, Your Honor.

THE COURT: Hey, ma'am.

JUROR 66: My father is retired from the Beaufort County Sheriff's Office.

THE COURT: Your father is retired from the Beaufort County Sheriff's Office?

JUROR 66: Yes.

THE COURT: The fact that he's retired Beaufort County, could you still be fair and impartial in this case?

JUROR 66: Yes.

THE COURT: All right. Thank you, ma'am.

THE BAILIFF: Juror 136, Your Honor.

THE COURT: Yes, ma'am.

LAW CLERK: She's already excused.

THE COURT: I excused you from this case. Not the next one.

JUROR 136: Oh.

THE COURT: Just go back and have a seat. You're great, though. Thank you.

THE BAILIFF: Juror 272, Your Honor.

THE COURT: Yes, sir.

JUROR 272: Just my cousin is married to a police officer and my wife is -- her cousin is a police officer as well.

THE COURT: The fact that you've got some relatives that are police officers, is that going to affect your ability to be fair and impartial in this case?

JUROR 272: I don't believe so.

THE COURT: No?

JUROR 272: No.

THE COURT: Yes or no?

JUROR 272: No.

THE COURT: You can be fair and impartial?

JUROR 172: I can be fair and impartial.

THE COURT: Thank you. You're great. Thank you.

THE BAILIFF: Juror 172, Your Honor.

THE COURT: Hey, ma'am. Yes, ma'am.

JUROR 172: My fiance is Hampton County

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Sheriff's Office.

THE COURT: You have a fiance who is with the Hampton County Sheriff's Office?

JUROR 172: Yes.

THE COURT: Can you be fair and impartial?

JUROR 172: Yes.

THE COURT: All right. Thank you very much.

THE BAILIFF: Juror 252, Your Honor.

THE COURT: Hey, ma'am.

JUROR 252: My first husband is with the Beaufort County Sheriff's Office. And I also got some friends who are officers on Parris Island.

THE COURT: You got a first husband who is an officer or was an officer, you've got some friends that's involved in law enforcement. Is that going to prohibit you from being fair and impartial in this case, ma'am?

JUROR 252: No.

THE COURT: Thank you very much.

THE BAILIFF: Juror 313, Your Honor.

JUROR 313: My ex-husband is a sergeant for the Alexandria police department.

THE COURT: Okay.

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JUROR 313: And I also had a sexual offense when I was younger.

THE COURT: What?

JUROR 313: I was date raped.

THE COURT: Okay. So, hold on. The fact that you were the victim of a sexual assault and you got some family that's in law enforcement, would that prohibit you -- or prevent you from being fair and impartial?

JUROR 313: No.

THE COURT: Now, my next question is this: You were the victim of a sexual assault some years ago; is that correct?

JUROR 313: Yes. I was 18.

THE COURT: You were 18. All right. So what I want to know is this, ma'am: The fact that you were the victim of sexual assault in the past, do you think that that might affect your ability in this case to be fair and impartial?

JUROR 313: I don't know.

THE COURT: Let me tell you what, I understand that. It's completely reasonable. What you're telling me is, that life experience --

JUROR 313: It's going to make me cry.

THE COURT: I don't need to say any more.

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I'm going to excuse you from service in this case.

JUROR 256: Thank you.

THE COURT: Thank you, ma'am.

THE BAILIFF: Jury 256, Your Honor.

THE COURT: Hey, sir.

JUROR 256: How are you?

THE COURT: I'm doing great. Yes, ma'am.

JUROR 256: I wasn't sure about your first question, if you have any relatives in Beaufort County or nationwide?

THE COURT: Let me tell you what, while you're up here, tell me anything you want.

JUROR 256: My sister is an assistant attorney general in the state Vermont.

THE COURT: Good for her.

JUROR 256: She was a public defender before that. I've heard both sides.

THE COURT: I want to ask you this: The fact that your sister is, I guess, a prosecutor for the U.S. Attorney's Office --

JUROR 256: Attorney general. Vermont attorney general.

THE COURT: Right. The fact that she is, is that going to affect your ability to be fair and impartial in this case?

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JUROR 256: I don't think so. I just wanted to disclose.

THE COURT: I appreciate you disclosing, but now that you have, what I got to have from you is, Judge, I can listen to the facts and I can make decision on this case and be fair and impartial, fair to the State, fair to the defense. That's what I got to know. If you think that you can, that's fine, too. But it's kind of I got to know. Do you follow me?

JUROR 256: Yeah. I think I can be.

THE COURT: You can be fair?

JUROR 256: I think I can.

THE COURT: Well, sir, I got to have more than an "I think." It's not a wrong answer if you don't know that you can. It's not a bad answer. It's a truthful answer.

JUROR 256: I can once I hear all the facts.

THE COURT: All right, sir. I'm going to excuse you from service in this case.

JUROR 256: You sure?

THE COURT: No. Nothing wrong with that. You're fine. You may be serving on this case.

JUROR 256: Okay.

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THE COURT: You're great.

All right. Ladies and gentlemen, has anybody formed any opinion about any issue in this case including guilt? If so, please stand. (No response.)

All right. Is there anybody for any reason should not serve or feels that they should not serve on this case with the emphasis on your ability to be fair and impartial? That is, does every juror here believe they can be fair and impartial? That's what I want to know. (No response).

All right. Does the State have any additional questions?

MS. SWANSON: No, Your Honor.

THE COURT: All right. Does the defense have any additional questions?

MS. TOLLEY: No, Your Honor.

THE COURT: Counsel approach.

(Bench conference.)

THE COURT: Is there any question concerning juror qualifications or the process? Any objections from the State?

MS. SWANSON: No.

THE COURT: Anything from the defense?

MS. TOLLEY: No.

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THE COURT: I'm going to find the jury qualified, pick a jury, and I think the jury instructions are fine.

MS. SWANSON: Oh, absolutely. I'll be finished with my case tomorrow.

THE COURT: That's sounds great.

All right. Ladies and gentlemen I'm going to find that the panel is qualified. And so what's going to happen now is this: The clerk is going to have the computer electronically, randomly select a list of names. And they're then going to call these names out, and the State and the defense each will then have an opportunity to decide whether or not to accept and seat a juror or to excuse a juror.

A couple of things: Who knows what the rhyme or reason is as to why somebody may be stricken. Okay? The fact that they're going to say, no, we don't want you. Okay? Who knows? I don't know. I was a lawyer for 30 years. And sometimes you just do this. I mean, you don't know. So I don't want anybody to take that personally.

Number two, I'll also tell you my favorite story, one of my favorite stories that

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kills a few minutes while they go and have the computer pull these random names out.

And that is, I practiced law long enough to know and to remember that the names used to be in capsules. When you walked into the Colleton County courthouse in Walterboro, there was this big barrel where, basically, there's like 20 capsules. Then they go and they pull them out and they have 150 of them there. They go into the barrel. And the law actually stated that a blind person or a child had to pull the capsules out of the barrel. Okay? It did for many years.

Well, I have three children. Now, $10 doesn't get them too excited. But they were six, and five years old, they thought this was the greatest thing in the world. Not when I tried cases. That wouldn't be fair. Somebody would think they were reaching in there and pulling somebody out I know, which would have been impossible, but who knows. But when someone else was trying a case in Walterboro, they go to court, sit there, pull the capsules out, hand them to the clerk who would then read the names. Two weeks later, they get a check from the clerk for $10. They thought that was the greatest thing in the

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world, to sit there and get 10 bucks for doing nothing but reaching in and pulling a capsule out of a barrel.

That thrill for children is gone, I guess, and the computer has replaced that.

As soon as they pull the list of names, we will give those to the lawyers and then we'll commence and move forward with the selection and seating of this jury.

Counsel strikes are 10 and five. Is that correct from the State?

MS. SWANSON: That's correct.

THE COURT: All right. From the defense?

MS. TOLLEY: Yes, sir.

THE COURT: All right. Madame Clerk.

THE CLERK: If you will please stand when you call your number.

Juror number 250. What say the State?

MS. SWANSON: Please excuse this juror.

THE BAILIFF: Have a seat, sir.

THE CLERK: Juror number 42. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

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MS. TOLLEY: Please excuse the juror.
THE BAILIFF: You can sit down, sir.
THE CLERK: Juror 43. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please excuse the juror.
THE BAILIFF: You can sit down, sir.
THE CLERK: Juror 27. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please excuse the juror.
THE BAILIFF: Sit down, ma'am. Thank you.
THE CLERK: Juror 276. What say the State?
THE BAILIFF: You got two, Judge.
THE COURT: Hold on. We got two people standing up.
THE CLERK: Juror 276. What say the State?
MS. SWANSON: Please present this

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juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE BAILIFF: Sit down, ma'am.

THE CLERK: Juror 312. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please present the juror.

THE BAILIFF: Come forward, please.

THE CLERK: Juror 80. What say the State?

MS. SWANSON: Please excuse this juror.

THE BAILIFF: You can sit down, ma'am. Thank you.

THE CLERK: Juror 287. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE BAILIFF: You may sit down, ma'am.

THE CLERK: Juror 290. What say the State?

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MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE CLERK: Juror 76. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please present the juror.

THE BAILIFF: Come forward, please, ma'am. If you get picked, be sure to bring all your belongings with you.

THE CLERK: Juror 22. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE BAILIFF: You may sit down, ma'am.

THE CLERK: Juror 232. What say the State?

MS. SWANSON: Please excuse this juror.

THE BAILIFF: You can sit down, sir.

THE CLERK: Juror 107. What say the

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State?

MS. SWANSON: I'm sorry. What was the number again?

THE CLERK: 107.

MS. SWANSON: Thank you. Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please present the juror.

THE BAILIFF: Please come forward, sir.

THE CLERK: Juror 294. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please present the juror.

THE BAILIFF: Come forward, please, ma'am.

THE CLERK: Juror 71. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please swear the juror.

THE BAILIFF: Come forward, please, sir.

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THE CLERK: 193. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please swear the juror.
THE BAILIFF: Come forward, please, ma'am.
THE CLERK: Juror 201. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please swear the juror.
THE BAILIFF: Come forward please, sir.
THE CLERK: Juror 341. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please present this juror.
THE BAILIFF: Come forward, sir.
THE CLERK: Juror 225. What say the State?
MS. SWANSON: Please present this juror.
MS. TOLLEY: Please swear the juror.

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THE COURT: Come forward, please, ma'am.
THE CLERK: Juror 105.
MS. SWANSON: Please excuse this juror.
THE BAILIFF: You may sit down, ma'am.
THE CLERK: Juror 177. What say the State?
MS. SWANSON: Please present this juror.
THE COURT: What say the defense?
MS. TOLLEY: Please present the juror.
THE BAILIFF: Come forward, please, ma'am.
THE CLERK: Jury number 11. What say the State?
MS. SWANSON: Please present this juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please present the juror.
THE BAILIFF: Come forward, please, sir.
THE CLERK: Juror 66. What say the State?
MS. SWANSON: Please present the juror.
THE CLERK: What say the defense?
MS. TOLLEY: Please excuse the juror.
THE BAILIFF: You can sit down, ma'am.

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Thank you.

THE CLERK: Juror 63. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please swear the juror.

THE BAILIFF: Come forward please, sir.

THE CLERK: Choosing for alternate number 1. Juror 336. Strikes are one and two.

What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please swear the juror.

THE BAILIFF: Come forward, please, sir.

THE CLERK: Alternate number 2. Juror 68. What say the State?

MS. SWANSON: Please present this juror?

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE BAILIFF: You can sit down, ma'am. Thank you.

THE CLERK: Juror 78, what say the State?

MS. SWANSON: Please excuse this juror.

THE BAILIFF: You can sit down, sir.

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THE CLERK: Number 270. What say the State?

THE COURT: For cause.

MS. SWANSON: No strike for cause.

THE CLERK: What say the defense?

MS. TOLLEY: Please excuse the juror.

THE BAILIFF: You can sit down, ma'am.

THE CLERK: Juror 298. Strike for cause?

MS. SWANSON: No strike for cause.

THE CLERK: Strike for cause for the defense?

MS. TOLLEY: No cause.

THE BAILIFF: Come forward, please ma'am.

THE CLERK: Juror 332. What say the State?

MS. SWANSON: Please present this juror.

THE CLERK: What say the defense?

MS. TOLLEY: Please seat the juror.

THE BAILIFF: Come forward, please, ma'am.

THE COURT: All right. Are there any matters from the State, any motions from the State concerning jury selection?

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MS. SWANSON: None from the State.

THE COURT: All right. And from the defense, any matters at all concerning jury selection or any other matter that need to be brought to the Court's attention at this time from the defense?

MS. TOLLEY: None from the defense.

THE COURT: All right. Congratulations. Thank you. Thank you for your willingness to serve. Thank you for honoring your summons.

What I'm going to do is this: I am going to send you to lunch and -- I'm with you -- but I don't want to you talk about the case or what you don't know about the case. And you're going to hear me repeat this a lot during the week. Don't talk about the case amongst yourself or anybody else. Only at the end of all the evidence and when I give you the law, then you talk about the case and only in the jury room to your fellow jurors. So, for right now, no talking about the case.

I'm going to have you come back at 3:00. Don't worry. I'm not taking a two-hour lunch. We got several motions and matters that we're going to being working on during that period of time.

I'm going to ask you to come back at three o'clock. You're going to come back to the jury room. They're probably going to take you to the jury room, show you where you're going to be, that's where you report back to.

I also want you to do this, I want you-all to decide on somebody to be your foreperson. The foreperson merely is the spokesman for the jury. If they got a question, the foreperson is going to write that question down, hand it to the bailiff, who then gives it to me, and I will deal with that question appropriately. Okay?

The foreperson also at the end is going to go and make sure that everybody has an opportunity to speak their mind. The foreperson is going to sign the verdict form. But it's not the foreperson's verdict. It's the entire jury's verdict.

So, really, no additional authority. Nobody is the boss. But what I need you to do is to, if you would, get together and see if you-all can decide on somebody who is willing to serve. Sometimes it's the last person back from lunch. That person just gets picked to be the foreperson.

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It's happened.

The only other thing I'd add is this, my alternates, my alternates cannot be the foreperson. So it's got to be one of the 12, and not my three alternates.

So thank you very much. I'll see you back at three o'clock. Okay? Thank you.

THE BAILIFF: Follow me, please.

(Jury exits the courtroom at 12:54 p.m.)

THE COURT: Ladies and gentlemen, thank you. Thank you for your patience this morning. What I need you to do is this, there is going to be one more jury pulled. Now, it's possible that there might be -- no, I don't think there's going to be another case this week. I think this is it. So, to that extent, what I tell you is this, if you're selected on the next case, great. If you're not, at that point, Madame Clerk, they would be cut loose for the week.

THE CLERK: Yes, sir.

THE COURT: All right. So you're that much closer to being cut loose for the week. I don't see anybody smiling.

In all seriousness, thank you for being here. Thank you for honoring your summons.

You-all need to be back here in the jury assembly room at 2:15, and then they will tell you where to go from there. And Judge Fulp will pick his jury on that case. So thank you so much. Don't talk about the case, or his case, not that you know anything about it.

Is there anything else?

Hold on one second, folks.

All right. Let me tell you what I'm going to do --

THE BAILIFF: Quiet, please.

THE COURT: Ladies and gentlemen, it is theoretically possible that there's another case this week. I don't think that's going to be the case. What I'm going to do is this, come back at 2:15, but I want you -- the clerk will remind you, I want you to call back tomorrow after six o'clock. Okay? I want you to call back. They will give you a number to call. Call back tomorrow after six o'clock and you will get instructions as to whether you need to come back. Most likely not. But I want you to call that number back.

So back at 2:15 in the jury assembly room. If you're not selected on Judge Fulp's

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order -- or on his jury, then call back tomorrow at 6:00.

Is that satisfactory, Madame Clerk?

THE CLERK: That's fine. Could you ask the attorneys to see Judge Fulp?

THE COURT: If the attorneys in the probate matter will see Judge Fulp as soon as we let the jury go, that will be great. Thank you-all very much. See you back at 2:15.

(Jury pool exits the courtroom at 12:57 p.m.)

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THE COURT: My lawyers --

THE BAILIFF: Let's have order for a second. In my state versus Robinson case, I want have my lawyers back at two o'clock and start arguing motions. I don't want to keep the jury waiting too long. Is that satisfactory to the State?

MS. SWANSON: Yes, sir.

MS. TOLLEY:

THE COURT: From the defense.

MS. TOLLEY: Yes, sir.

THE COURT: Thank you-all very much see you back in here at two o'clock.

(Jury exits the courtroom at 1:00 p.m.)

THE COURT: I think we got some motions. Do we have some motions that need to be heard in Mr. Singleton's case -- or Mr. Robinson's case. I just said Singleton. I mean, Mr. Robinson's case.

All right. What do we got?

MS. TOLLEY: I guess out first motion would be the motion to sequester the witnesses, and we're going to present testimony on anything else, Your Honor.

THE COURT: Any objection to sequestering the witnesses?

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MS. SWANSON: No, Your Honor. I would just ask that my victim and that my investigator be allowed to remain in the courtroom. Also, I am removing Brian Bell, the victim's boyfriend, from the witness list so that he may sit with her throughout the trial.

THE COURT: The defense, any objection to that?

MS. TOLLEY: I know -- no objections, Your Honor. If we could just make sure that the investigator knows he's not supposed to discuss the case with anyone else, any of the other officers as they come forward.

THE COURT: The boyfriend doesn't. Is he going to sit in here when the jury is out so he will be able to listen to -- that's all right. That's all right.

MS. SWANSON: He won't be testifying.

THE COURT: Another case I was thinking of. Another case I was thinking of. Not a problem. All right.

MS. SWANSON: Okay. And, Your Honor, Erin Morris is currently in the courtroom, but he will be the first of my witnesses to testify in pretrial. So is it okay if he just sits in here

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for now?

MS. TOLLEY: Sure.

THE COURT: All right.

And so what's next, Miss Tolley?

MS. TOLLEY: Jackson v. Denno regarding any statements, Your Honor.

THE COURT: Is the State going to put on the witnesses now?

MS. SWANSON: Yes.

THE COURT: That would be great, thank you.

MS. SWANSON: State calls Erin Morris.

Judge, so that you're aware, as we move through Deputy Morris's testimony, just for the purposes of this hearing so that the Court understands how he came into contact with the defendant, there will be some reference to another incident that the defendant is involved in. However, I do not intend to get into that in the case in chief. This is simply for admissibility purposes of his statement.

THE COURT: All right. I understand. Any objection?

MS. TOLLEY: None, Your Honor.

THE COURT: As it relates to the

information coming in for this hearing from the defense?

MS. TOLLEY: None, Your Honor.

THE COURT: Thank you.

THE CLERK: Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: If you could state your name for the record, please.

THE WITNESS: First name Erin, E-r-i-n. Last name is Morris, Morris, Beaufort County Sheriff's Office.

WHEREUPON:

ERIN MORRIS,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Deputy Morris, did you have an occasion to come into contact with Tyreek Robinson on October, I believe, it was 15th? Tell us when you came into contact with him.

A It was October 15, 2020, at about ten o'clock in the morning in the town of Hilton Head in the county of Beaufort, state of South Carolina.

Q And where were you?

A I was at [redacted] Cordillo Parkway, also known as Cordillo Courts. With the hedges, it's got, kind of, two apartments combined into one.

Q What sort of call did you respond out to?

A The initial call was a man with a gun that was shooting at the premises. Myself and Sergeant Swinehammer were the first to arrive and we were met by a female that came walking up to us who was on the phone pretty frantic. That female was still on the phone with the Beaufort County communication center. And she started telling us the story about what happened.

At that point, a black male emerged out from behind the A Building which was probably from here to the backside of the courtroom away from us.

I looked at her and I said, *Is that him*, and she started screaming, *Yes*.

At that point, myself and Sergeant Swinehammer, because there was a weapon involved, drew our service pistols. I actually had my service pistol. He had his service rifle. And we challenged the subject, who was later identified as Mr. Robinson there in the blue jacket, at which

point he was detained in a set of handcuffs by myself.

Q All right. So he was, at that point, in custody?

A Correct. He was put down on the ground, taken into custody, in a set of handcuffs.

Q Okay. Were you equipped with the body-worn camera at the time?

A I believe I was.

Q And did you Mirandize him before asking him any questions or him making any statements?

A I did. As soon as we got up off the ground, I believe I asked him first what his name was. He had told me it was Mr. Robinson. And then I -- he responded with Tyreek Robinson. And, at that point, I advised him that he was under arrest for those charges and advised him -- verbally advised him of his Miranda warning rights.

Q Okay. And -- let's see. Did he ask for a lawyer or anything at that time?

A No, ma'am.

Q All right.

A I believe, at that point, he was put into the back of a patrol car and then was transported up to the Hilton Head office.

Q All right. Did he request to go to investigations or do you know?

A I'll be honest with you, I don't recall that exact fact. I'd have to go back and look at the body camera for that.

Q Thank you. Deputy Morris, if you can please answer any questions that the defense might have for you.

THE COURT: Hold on one second.

All right. Miss Tolley, go right ahead.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Officer Morris, who was the female that came to the patrol car?

A Can I look at my report?

Q Sure. Was that Miss Phillippe?

A Phillippe. I was just trying to find her first name. I'm sorry.

Q And was there a gentlemen also involved in the incident?

A I have in here Michael, Ehmann, E-h-m-a-n-n.

Q Okay.

A I believe he was in a car that Mr. Robinson was initially in.

Q And Mr. Ehmann gave a statement?

A I don't recall if he gave a direct statement to me.
Q Okay.
A Hang on one second. I'll refer back to my report again. There were multiple deputies out there, so he may have given a statement, but I don't recall if he gave one directly to me.
Q Okay. And is it your understanding that, prior to the alleged shooting that, Miss Philippe indicated they were trying to get him out of a car?
A Yes, ma'am, according to my report.
Q Did they indicate he was possibly intoxicated?
A I never noted anything in my report about that, ma'am.
Q Okay. Did they say that -- was the report reflecting the fact that Mr. Ehmann contacted Miss Phillippe to help get Mr. Robinson out of the car?
A Yes. I believe it was after he had given them to ride to Walmart.
Q Okay. Did they indicate that Mr. Robinson was falling asleep in the car as well?
A Give me one second. No, ma'am. Actually, quite the opposite. I have in here that Mr. Robinson, once he realized that Phillippe was on

the phone with law enforcement, that's when he stood up outside the passenger seat and retrieved a silver pistol from his side.

Q But did they say before that Phillippe -- let's see. Robinson woke up.

A Hang on one second.

MS. SWANSON: Your Honor, we're getting into statements made by people that are not here to testify, so the State would object on the basis of hearsay.

MS. TOLLEY: This goes to state of mind.

THE COURT: I'm going to overrule and give her some leeway. Go right ahead, Miss Tolley.

THE WITNESS: Can you help me find it? I'm sorry. I'm not finding it on mine.

MS. TOLLEY: Beg the Court's indulgence.

THE COURT: Yes.

BY MS. TOLLEY:

Q On your incident report, page 14 of what was provided to us.

A If I may, please.

MS. SWANSON: I do want to make sure that

the deputy is reading from his incident report and not somebody else's because there were several deputies out on scene.

THE WITNESS: Yeah, this is going to be somebody else's report because this is somebody saying that they confirmed with me, so I can't testify to that. I'm sorry. I don't know that.

THE COURT: So the document she showed you is not your incident report?

THE WITNESS: No, sir.

THE COURT: All right.

THE WITNESS: That's a different deputy's report.

THE COURT: All right.

BY MS. TOLLEY:

Q Were you the chief investigating officer on this case?

A I was the charging officer.

Q Okay. So, as the charging officer, you have access to the information that other officers had gathered in the case.

A Correct. I think I referred to -- in my report, to refer to the supplemental report that was prepared by Sergeant Reynells detailing the full investigation into this incident.

Q And so if one of the officers involved in the incident reported that Miss Phillippe reported that a black male was asleep in the passenger seat of the car would you have any reason to question that?

A No.

MS. SWANSON: Your Honor, I would object. I just don't see how we're testifying to other -- what's contained in other officers' reports. If Deputy Morris doesn't have any direct knowledge of that and that's not his report, I don't think it's proper questioning.

THE COURT: He was the -- what did you say you were? I forget. Not the investigator.

THE WITNESS: I was charging officer, Your Honor.

THE COURT: He was the charging officer. I think he had access to it. I'm going to overrule your objection.

Go ahead, ma'am.

BY MS. TOLLEY:

Q So in the interview with Miss Phillippe, the officer wrote that she advised she walked down to Ehmann's vehicle and observed a black male asleep in the passenger seat. If that's in the report, do you have any questions about that?

A If that's what somebody else wrote, then okay.

Q Okay. At some point, he did wake up, according to the report; is that correct?

A If that's what's written there, then that's what's written there, yes, ma'am.

Q And also in the report, they said that at one point he got out of the car and went and peed; is that correct?

A I have no knowledge of that, ma'am.

MS. SWANSON: Your Honor, these are not questions. She's just reading.

THE COURT: I'll sustain the objection.

MS. SWANSON: Thank you.

BY MS. TOLLEY:

Q Was there -- were there photos taken?

A I don't think I took any photos, ma'am.

Q Okay.

A Again, I believe I was wearing a body camera at the time.

Q Did Mr. Robinson -- how old is Mr. Robinson?

A Off the top of my head, I couldn't tell you, Your Honor. I'm sorry. Ma'am.

Q He's under 25, would that be accurate?

A Yes, ma'am.

Q And did he appear to be -- what was his appearance at that time?
A As far as his clothing appearance?
Q Uh-huh. Did he appear to be a little disheveled?
A Oh, I don't know the answer to that, ma'am. It's my understanding he was running after Miss Phillippe while discharging a firearm.
Q Okay.
A So that could very well be, considering he was running through some bushes.
Q And was he -- did you actually take a statement from him at that time?
A I don't believe I talked to him very long at all. Again, I have not watched the body camera video, so I believe I -- we put him down on the ground. I took the gun off of his person, which he was ultimately charged with, and stood him up, got his name, advised him of his Miranda warning rights. And I believe from there, Lance Corporal Aaron had just arrived and I passed him off to Lance Corporal Aaron so that he could be secured in a patrol vehicle because I still had a gun laying out on the ground that I had to do something with.
Q Okay.

MS. TOLLEY: I don't think I have anything else for this witness, Your Honor.

THE COURT: Anything further?

MS. SWANSON: No, nothing from this witness. Thank you.

THE COURT: All right. You can be excused. Any objection?

MS. SWANSON: No objection from the State.

THE COURT: Anything from defense?

MS. TOLLEY: No, Your Honor.

THE COURT: Thank you, sir. Thanks for coming in.

MS. SWANSON: The State calls Seth Reynells.

Just so that the Court is aware, there is an officer, a deputy in training, that is observing in the back of the courtroom, if you're wondering who that is.

THE COURT: He is not going to be a witness?

MS. SWANSON: He is not at all involved in this case.

THE CLERK: Raise your right hand. Do you solemnly swear or affirm to truthfully answer

all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Adjust this accordingly and state your name for the record, please.

THE WITNESS: Seth Reynells. S-e-t-h, R-e-y-n-e-l-l-s.

WHEREUPON:

SETH REYNELLS,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Investigator Reynells, did you have the opportunity to come into contact with Tyreek Robinson on October 15th of 2020?

A Yes, I did.

Q All right. And where was that?

A Initially, I made contact with Mr. Robinson at [redacted] Cordillo Parkway on the town of Hilton Head within Beaufort County, South Carolina, in reference to an unrelated investigation.

Q Okay.

A And then follow-up at my office at 70 Shelter Cove Lane.

Q All right. I understand. We previously stated that we will not be getting into anything to do with the pointing and presenting a firearm, but that you came into contact with him initially at a different location. Did he request to speak with you at the investigations office?

A Yes, he did.

Q All right. And did you receive any information about him having been Mirandized?

A I received information from Staff Sergeant Morris when I arrived on scene that he had been Mirandized because upon my arrival he was already in custody. However, I make it a policy to -- if I'm not present for the Miranda to go ahead and have it redone when I arrive.

Q Okay. So you recall re-Mirandizing him?

A He was walked over in front of one of the patrol vehicles, and I was with the Sergeant Swinehammer who had physical custody of Mr. Robinson and he was re-Mirandized in my presence, yes.

Q Did he ask for a lawyer at that time?

A No.

Q Did he wish to talk to you?

A He immediately started, what I would refer,

excited utterances about the circumstances surrounding the other case of which we are not discussing. And then at the completion of my contact with Mr. Robinson at that particular location, I continued investigating other matters and then I was advised by Staff Sergeant Morris that the defendant had requested an opportunity to further speak with me at my office, so he had been transported there for follow-up.

Q Okay. So once you guys get to the south end investigations on Hilton Head --

A Yes.

Q -- what transpires before your actual interview begins?

A I have to activate the audio/video recording in the interview room. Mr. Robinson -- and that was done prior to him entering the room. Once he enters the room, I sit down with him. I confirmed that he was still under Miranda because I had been the individual who most recently Mirandized him, and that he still understood his rights and still wishes to speak with me, at which time he did, so I conducted an interview.

Q Okay. At one point, was he in the room by himself?

A Yes.
Q Okay. And what was he doing in the room by himself?
A Relaxing.
Q Did you ask him to cool it at one point, or chill out?
A Yes, you're correct. He was fired up at one point.
Q Once you asked him to chill out, did he, in fact, chill out?
A Yes, ma'am, he did.
Q All right. Did he tell you he had been drinking?
A Yes.
Q All right. After that initial outburst, whatever his erratic behavior was, was he able to answer your questions intelligently?
A Yes, he was.
Q Did he seem to understand you?
A Yes.
Q Was he slurring?
A Not really.
Q Did you smell alcohol on him?
A I didn't, no.
Q Did he ever pass out?

A No, he did not.

Q And, in fact, what did you ask him and what did he tell you regarding this incident? And you can refer to your report. Do I need to hand it up to you?

A That's fine. I have the word version of the supplements you have, but you're welcome to pass that up.

Q You can refer to it.

A Okay. I was asking him, specifically in reference to this incident, I started asking if he could identify a phone that we believed belong to him. And he initially stated, *Yeah, that's my phone*. And he confirmed the phone number that belonged to the device as being his phone number. And then I pulled out a piece of paper that had a picture of the phone and said, *Well, if that's your phone then please sign this right here saying that's my phone, indicating that is in fact your phone*.

And, at that point, he stated, *Is there something else in that phone that you want to tell me about before I sign my name on there?* And then I proceeded to question him and confront him about the content on the phone relevant to this investigation both in terms of the media that was generated and

distributed, as well as context of communications conducted on that phone as it pertained to the defendant.

Q Okay. Did you ask him about who "mom" was on the phone?

A I did. I asked him about "mom" on the phone because he did have a contact in the phone listed as "mom" with a phone number of (843) 298-[redacted].

Q What else did you ask him about?

A If you would bear with me for just a second.

Q Sure.

A I asked him about communications with his mom. And based on being able to run that phone number through our Spillman Records system, I identified the owner of the number in his contacts as a Miss Asia Andrews. So I asked him about the fact that the phone was named Ty the Destroyer, or Tyreek the Destroyer and the contact listed as "mom," specifically I asked him about Asia Andrews. He replied saying there could be a lot of Asia Andrews in the world and it didn't necessarily mean it was anyone that had anything to do with him.

I asked him specifically about communications

on the device referencing conversations about his mother paying for pizza and food orders, and he subsequently agreed that they were legitimate purchases.

And then there was even some discussion between the defendant and his mom about a relative, a brother.

Q Did ask you him about a text conversation with his mom regarding a SLED composite sketch?

A Yes.

Q Okay. Tell us about that.

A I asked him specifically if there was a text message sent to the defendant's phone by the contact mom on 9/23 of 2020, and in that text the mom says, haircut -- excuse me. She says, "In reference to the text conversation observed in Robinson's phone, which his own mother, Asia Andrews, sent him to SLED to identify sketch." Asked if he was in any trouble. Andrews types, "Haircut so you ain't wrongfully accused." Robinson relies to this moments later typing, "Okay, can I come back to Mississippi too if I cut my hair?"

Q Okay. And then --

A And then attached to that text message was

like an image PDF file of that SLED sketch.

Q The Nixle alert?

A Yes, ma'am.

Q And then did he have any reply to that? Did he tell you that he had his phone the whole time? Or what did he tell you about where his phone was?

A In reference to the dates during which -- and if you could, Counselor, could you tell me exactly what day the -- this particular incident at Tansyleaf occurred?

Q Yes, sir. September 19th.

A September 19th. I would have been flush with that date at the time.

Q Right.

A In reference to this incident, Mr. Robinson stated that he had lost his phone prior to that incident occurring in Tansyleaf, and said he had nothing to do with it. We had the wrong person.

Subsequently, he was -- then he stated that he cut his hair long before that incident occurred; and, therefore, he could not have been the person in the house. And then further examination of the phone communications indicated that while, in fact, his hair was cut, it was not cut until approximately October 1st of that year.

Q In your review of the cell phone extraction, were there communications that you inferred to be between him and his mother prior to September 19th as well as after September 19th?

A Yeah. So if he lost his phone prior to this incident, he recovered it in the interim between that point and losing it in the car incident.

Q Did you ask him about some scarring on his hands and take photos of those?

A I did.

Q All right. Tell us about that.

A While the content time in question from Tansyleaf, the suspect who took that video, when they dropped down to the floor to get out of the victim's line of sight captured their hand clearly posting up on the floor, back of the left hand. And you could see a very distinct scar on the padding between the thumb and the first finger.

During an interview conducted by our road deputies on their body cameras, subsequent to that in the weeks following, I noticed what I thought was a very similar scar on the defendant's hand, and, therefore, while I was conducting my interview with him on the 15th, I also photo documented and scaled out what I believe is the same scar on the back of his

left hand.
Q And you confronted him about those scars?
A I did.
Q And what was his response?
A If you'll just bear with me for a second.
Q Sure. I believe it's close to the top.
A He said, "That's not my hand. That's not my hand. I promise, it's not my hand." And then a few minutes later he just said, "You definitely have the wrong person unless you can show me my face on that video."
Q Okay.

MS. SWANSON: I don't have any further questions regarding these statements at this time. Thank you, Your Honor.

THE COURT: All right. Miss Tolley, do you have any cross-examination?

MS. TOLLEY: Okay.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q So, he did tell you that he was drinking?
A Yes, ma'am. He did.
Q You do know that he was under the age of 21 at the time?
A Yes.

Q Okay. And did -- if I were to show you a photograph, would this be an accurate representation of how he came in to -- can I ask you if you recognize it, first of all?

A Yes, ma'am. That would be an accurate representation of how he came into the office.

Q Okay. Does it appear that his eyes are closed?

A At the time that that picture was taken, they are not wide open, yes.

Q Does it appear that his shirt is opened and a little disheveled?

A Yes, it does.

Q And were you privy to some of the information regarding what happened immediately prior to his arrest?

A I was, during the course of my being on scene at [redacted] Cordillo Parkway. I was not immediately aware of that, no.

Q Okay. So, you would have been made aware that he, one, had been drinking, correct?

A I discovered that during my subsequent contact with the victim and the witnesses.

Q Okay. And so you didn't know that at the time you questioned him?

A No.

Q Okay.
A What I was immediately aware of when I arrived on scene was that he had been taken into custody after a firearm was found on his person.
Q After, okay. Got you.
Then you would have subsequently found out that Miss Phillippe had said that he was so drunk that he was asleep in the car?
A I did hear her say that, yes.
Q And that when he, at one point, got up and went and peed outside, were you made aware of that fact?
A Yeah, I believe it was near the dumpster.
Q Okay. And then got back in the car?
A That's what she said, yes, ma'am.
Q Okay. And started to fall asleep again?
A Uh-huh.
MS. TOLLEY: Okay. I don't think I have any other questions, Your Honor.
THE COURT: All right. Thank you. Any redirect?
MS. SWANSON: Just briefly.

REDIRECT EXAMINATION

BY MS. SWANSON:
Q Do you know if Mr. Robinson has ever been through the criminal justice system before?

A In Beaufort County or just in general?
Q Just in general.
A Yes.
Q Okay. So he's familiar with how this works?
A Yes, ma'am. I would believe he is.
Q Okay. And, in fact, he's been the subject of multiple investigations and a witness in some cases, right?
A That is correct.
Q Okay. So, were you familiar with him as a witness in an incident around Muddy Creek?
A Yes, I am. I was.
Q Okay.

MS. TOLLEY: I'm going to object to this. I'm not sure where she's going with this.

MS. SWANSON: Well, I just would like to --

THE COURT: Hold on. What's your objection, Miss Tolley?

MS. TOLLEY: It's outside of the scope of cross.

THE COURT: Well, that's interesting. Where are we on that?

MS. SWANSON: I do agree that it is, Judge. While investigator Reynells is on the

stand, I think law enforcement is going to have to explain without referring to any prior bad acts how they know Mr. Robinson and are familiar with him. He was a witness in a shooting in Muddy Creek that they have recently been in contact with him about.

And so I just want everyone on the same page that we're not referring to other criminal acts, but he is familiar with him as a witness in a case in the neighborhood and from the neighborhood, and familiar with his appearance.

THE COURT: Well, I mean, can't you just ask him if he's familiar with him and how he generally appears?

MS. SWANSON: Sure.

THE COURT: For purposes of this hearing --

MS. SWANSON: That's fine. I just didn't want --

THE COURT: For the purposes of this hearing, I mean --

MS. SWANSON: I understand.

THE COURT: -- he's familiar with him.

MS. SWANSON: Okay.

THE COURT: Okay.

MS. SWANSON: That's all I have. Thanks.

THE COURT: Thank you. Anything else, Miss Tolley, in response to that?

RECROSS-EXAMINATION

BY MS. TOLLEY:

Q Just to -- this is an accurate representation of how he came into -- of how he was that particular day?

A That is an accurate representation of what he looked like when I arrived on scene.

MS. TOLLEY: Can we mark that as an exhibit, Your Honor.

THE COURT: Sure. You want to mark that as Defense 1.

MS. TOLLEY: Yes.

THE COURT: Any objection, Counsel?

MS. SWANSON: No, Your Honor.

THE COURT: Admitted without objection as Defense 1.

(DFT. EXH. 1, Photo, was marked and admitted into evidence.)

THE COURT: Anything else?

MS. TOLLEY: No, Your Honor.

THE COURT: Call your next witness.

MS. SWANSON: Thank you, Your Honor. I

would ask that investigator Reynells be allowed to be excused until his testimony in the case in chief.

And that concludes the State's testimony regarding defendant's statements.

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

THE WITNESS: Thank you, Your Honor.

THE COURT: All right. Miss Tolley, do you have any motions? You don't have anything to put on.

MS. TOLLEY: No, sir.

THE COURT: All right. So do you have any motions?

MS. TOLLEY: We would move that this statement not be admitted into evidence, Your Honor. We believe that the statement was not knowing, intelligently, or voluntarily made. There was testimony that Mr. Robinson may have been drinking just prior to this incident, just prior to being brought in the station, just prior to being questioned. There were witness statements from Miss Elizabeth Phillippe who said that he was drunk and was asleep in the car. That he got out. He peed publicly outside the car.

That he got back into the car and started to fall asleep again.

Prior to the incident happening with the police to -- coming on scene, there was testimony from officer Reynells who said that he didn't know that Mr. Robinson had been drinking prior to taking the statement. He said that information came to him after he had already taken the statement. I think that was the last thing he testified to.

So based on that -- also, his age. He was under 21 at the time of the incident. We believe that any statements that he made were not freely, voluntarily, and intelligently given.

And based on that, we would ask that the State suppress any statements made at that time.

THE COURT: Solicitor?

MS. SWANSON: Thank you, Your Honor. The State does believe that these admissions -- or, actually, they're really self-serving statements at the end of the day -- were made voluntary and are admissible. The defendant was made aware of his rights. He never invoked those rights.

There are plenty of defendants that had been drinking or drank prior to being interviewed.

He was not falling asleep in the interview room. Investigator Reynells did testify that he was able to have a back-and-forth question-and-answer conversation that he never requested to stop.

So I would ask that the Court rule that these are admissible statements should the State choose to get into them.

MS. TOLLEY: I would just add one other thing, Your Honor.

THE COURT: Yes, ma'am.

MS. TOLLEY: Officer Reynells didn't Mirandize Mr. Robinson once he got to the station. I think, at that point, it was necessary to be Mirandized again. The fact that he had been Mirandized earlier and chose not to exercise -- and chose to exercise his right to remain silent is indicative of the fact that he needed to be Mirandized a second time.

MS. SWANSON: I believe the testimony was that he was Mirandized twice, and then he also -- Reynells also received information that the defendant requested to speak to investigations.

THE COURT: I thought the testimony was that he was Mirandized twice and one of them was at this location.

MS. SWANSON: No. I believe he was still on scene at Cordillo.

THE COURT: All right. Anything further from defense?

MS. TOLLEY: Just one other thought.

THE COURT: Yes, ma'am.

MS. TOLLEY: The fact that -- just to review everything that we already said, he was Mirandized based on the incident occurring on October 15 involving the discharging of a firearm. He was never Mirandized to be questioned about any separate incident unrelated to the shooting on that particular day.

THE COURT: You got case law that says he's got to?

MS. TOLLEY: We would argue that the law requires it.

THE COURT: Well, show me something that says that. Show me something that says that if he's Mirandized for one reason, then they can't talk to him about another -- something else. Because that's what you're asking -- that's what you're telling me, right? I just want to make sure I understand your argument. Your argument is, hey, they Mirandized him for this shooting

event. They didn't Mirandize him about anything else. Is that what you're tell me?

MS. TOLLEY: We're making two arguments.

THE COURT: All right.

MS. TOLLEY: One is that he was Mirandized at the scene but never Mirandized at the police department. That's my first argument.

THE COURT: Okay.

MS. TOLLEY: My second argument is that when he was Mirandized at the scene, he was Mirandized about being questioned about anything that happened on scene that day with regard to that particular incident.

THE COURT: I'm with you a hundred percent. So my question -- I mean, when I say I'm with you, I follow your argument. My question to you is, shows me case law. Show me something that says that because he's Mirandized at the scene and he goes in and is making the statement at the station that's he got to go and he's got to be re-Mirandized.

Honestly, I think that probably there isn't anything that says that.

Solicitor, are you aware of any cases that say they got to be re-Mirandized? For

instance, if they're Mirandized at the scene and then are questioned at the headquarters, I guess, for lack of a better words, is that what we're talking about?

MS. SWANSON: Yes. I don't believe that anyone has to be re-Mirandized or Mirandized multiple times. I also do not believe that Miranda is case specific when it comes to questioning.

I would point out that he was not even under arrest for the case at bar or in custody on this case when he was Mirandized.

Now, he was in custody, I agree, it was proper that Miranda was given, but it was, and it was testified to that it was given twice prior to any questioning.

Thank you.

THE COURT: I give you the final say.

MS. TOLLEY: The fact that he was in custody under the age of 21, possibly intoxicated, being questioned about another incident that he had never been questioned about before when he had been arrested for something entirely different poses all kinds of problems and is precisely the reason that we have Miranda.

And based on that, we would ask that these statements be suppressed.

THE COURT: All right. You know, the burden is on the State to prove by a preponderance of the evidence that his rights were voluntarily waived, and the State must show that the statement was voluntary and taken in compliance with Miranda. I've got to look at all this and look at the totality of the circumstances and determine whether the statement was knowingly and intelligently and voluntarily made.

What I will say is this: You know, the evidence that the State is presented, I think they presented evidence from a witness -- two witnesses, both of whom, I think, certainly presented truthful and competent testimony from my observations of these witnesses. I think that there is little doubt that he was Mirandized, not only once, but twice.

While I understand Miss Tolley's argument that he was not Mirandized at the station or wherever the questioning took place where he was videotaped with Officer Reynells, I don't think the law requires that he be given another Miranda once that video starts, or once that questioning

starts. I don't think so. I don't think there's a law, nor was I presented with any case law that reflects that.

And, in addition to that, I don't believe that -- you know, the officer said that he didn't appear to be intoxicated. The officer stated that he didn't smell alcohol on his breath. That he was presented. That appeared to be truthful testimony.

And, again, the fact that he may have been questioned about something different, again, I don't know that Miranda is going to require him Mirandized every time they go from A to B as it relates to a separate charge. I asked for case law. Wasn't presented with any.

Based upon all that, I think preponderance is a relatively low burden, so I find that the State has, in fact, met their burden of preponderance of the evidence and has shown by the totality of the circumstances that the statement was voluntarily and taken in -- taken along with Miranda.

So that would be my finding as it relates to this statement.

All right. Miss Tolley, what else we

got? The statements are going to be admissible.

MS. TOLLEY: We would inquire about whether or not there are going to be any other statements, statements made to lay witnesses or anything else that they intend to introduce.

MS. SWANSON: Your Honor, I would like to address a statement that was made to Investigator Wiech. The defendant was stopped for some sort of paperwork issue on his moped, and Investigator Wiech came into contact with him on October 4th and he asked him --

THE COURT: So this is sometime later?

MS. SWANSON: This is prior to him being questioned regarding the contents of the phone. This is after the incident occurred, but prior to him being arrested.

THE COURT: Okay.

MS. SWANSON: So there is a traffic stop --

THE COURT: So you're talking about arrested. He was arrested that night. You're talking about now an arrest for the underlying charges in this case? Was he arrested that night on the gun charge?

MS. SWANSON: Well, yes. And he was not

charged in this case until after that arrest.

THE COURT: Okay. Go ahead.

MS. SWANSON: This incident occurred in this case on September 19th.

THE COURT: Right.

MS. SWANSON: And then he was arrested on October 15th.

THE COURT: And so what day was he interviewed by Officer Reynells?

MS. SWANSON: October 15th.

THE COURT: Okay. And that's the day he was arrested for this case?

MS. SWANSON: Warrants were obtained at that time, yes.

THE COURT: Okay. So when was he stopped with the moped?

MS. SWANSON: On October 4th of 2020. And he was not Mirandized, but he was also free to go once he got his ticket for -- I think it was insurance or proof of insurance or something. But Investigator Wiech responded to the traffic stop because he was a person of interest at this time, and he asked him about when he cut his hair.

Should I call Wiech to the stand to testify.

THE COURT: Yup.

MS. SWANSON: State calls Investigator Wiech to the stand.

THE CLERK: Raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Adjust this accordingly and state your name for the record, please.

THE WITNESS: First name is William, last name is Wiech, W-e-i-c-h.

WHEREUPON:

WILLIAM WIECH,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q All right. Investigator Wiech, on October 4th of 2020, did you respond to a traffic stop?

A Yes, I did.

Q Involving Tyreek Robinson?

A That is correct.

Q And why did you respond there?

A I happened to be right next door to where the

traffic stop was conducted. I heard the name broadcast over the radio, and he was a person of interest in this case that we're discussing now.

Q All right. And did you make contact with him?

A Yes, I did.

Q What did you ask him?

A I really didn't recognize him immediately when I saw him. He was wearing aviator glasses. He had a close-cut haircut. It wasn't until I was able to look at his driver's license and was able to confirm that it was him. I asked him, *Hey, man, what happened to all your hair?*

Q Okay. And what did he say?

A He said that he cut it off because his mom -- his mom told him he was looking "dummy."

Q And when did he say that he cut his hair off?

A He speculated that he did it a long time ago. I believe he said it was sometime in July.

Q All right. Thank you.

MS. SWANSON: That's the extent of the testimony the State would like to get into regarding that traffic stop.

THE COURT: Miss Tolley.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Officer Wiech, was it Officer DeMars who conducted that traffic stop?
A Yes, it was.
Q And are you aware that Officer DeMars did not issue a traffic ticket at that time?
A I was not aware of what was or was not issued to Mr. Robinson.
Q Okay. Are you aware that that decision was made prior to your coming on scene?
A No, ma'am. Not to my recollection.
Q Okay. And are you aware that the only reason he was still being held there was for you to come?
A No, I have not.
Q And when you arrived, you arrived with the photo; is that correct?
A Yes, I did.
Q Okay. And that was a photo of Tyreek Robinson, a mug shot.
A That is correct.
Q And you arrived for the purpose of questioning him with regard to this incident on September 19th; is that correct?
A Could you repeat your question?
Q You arrived for the purpose of questioning him about the incident on September 19th; is that

correct?

A Essentially, to inquire if he would be willing to speak with me regarding this incident, yes.

Q And he politely declined; is that correct?

A Yes, ma'am.

MS. TOLLEY: I don't have any other questions right now, Your Honor.

THE COURT: Solicitor, anything further?

MS. SWANSON: Thank you.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q So Miss Tolley confirmed that you asked if he would be willing to come to the station to talk to you about a matter and he said no?

A That is correct.

Q All right. Thank you.

MS. SWANSON: That's all I have.

THE COURT: Anything else? Let me ask something. What was the probable cause for the stop for the bike, the moped? What was the PC?

Sir, I'm asking you.

THE WITNESS: Oh, you're asking me.

THE COURT: Yes, sir.

THE WITNESS: I apologize.

THE COURT: That's all right. I'm asking you. What was the probable cause for the stop?

THE WITNESS: I really don't recall.

THE COURT: So you got the call. You heard it.

THE WITNESS: No, sir. I heard it over my in-car radio.

THE COURT: And you were the close by?

THE WITNESS: Yes, sir.

THE COURT: And you happened to have a picture in your pocket?

THE WITNESS: No, sir. I had the case file for this case in my car, as it was a ever -- an ongoing case, an ongoing investigation.

THE COURT: And so you don't know if he was given a warning or received a ticket?

THE WITNESS: No, I do not.

THE COURT: And you don't know if that ticket or warning, if any, was written before or after you arrived, do you?

THE WITNESS: I indicated in my report that I provided Robinson with my business card, left the scene prior to DeMars concluding his traffic stop.

THE COURT: How long did the traffic stop

last, do you know?

THE WITNESS: On average?

THE COURT: No, I'm asking about this one. You don't know anything about that traffic stop, do you?

THE WITNESS: No, sir, I do not.

THE COURT: And so you don't know -- do you know how long he had him stopped before he called -- was he calling in his moped license or his ID card?

THE WITNESS: I believe so, yes, sir.

THE COURT: So you don't know how long he was stopped before he called that in, do you?

THE WITNESS: I seem to recall hearing him call the traffic stop over the radio, and the sheriff's office headquarters for Hilton Head is located approximately a quarter mile away from where the traffic stop ended.

THE COURT: All right. Any questions from the State regarding my questions? Any questions? Any additional questions?

MS. SWANSON: No.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q Just to clarify, you did leave before DeMars

concluded the traffic stop?

A To the best of my recollection, yes.

Q Okay, thank you.

THE COURT: Anything else?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: I'm not going to allow that. I'm not going to allow the stop. He doesn't know anything about the probable cause. He doesn't know anything about the stop. He doesn't -- he heard this. He had the photograph.

There's just something that I'm -- I'm not going to allow that. I don't think that that statement was freely and voluntarily given in this case, so I'm going to exclude that.

MS. SWANSON: Thank you, Your Honor.

THE COURT: What else, Miss Tolley?

You can step down, sir. Thank you, very much.

THE WITNESS: Thank you, sir.

MS. TOLLEY: We would inquire about whether or not there's going to be any identification issues under Neil v. Biggers, Your Honor.

MS. SWANSON: Your Honor, the victim was unable to pick the defendant out of a photo

line-up. However, I was going to present her with the photo line-up to show and the investigator show that there was one presented. Everyone looks similar.

I have made it black and white because they were all in orange jumpsuits. And it notes "not pictured." But that is the way the defendant appeared in the third slot.

THE COURT: Not pictured, I'm sorry, what does that mean?

MS. SWANSON: That means the victim was not able to pick him out. That was her note.

THE COURT: Thank you.

MS. SWANSON: So because she was not able to pick him out of a photo line-up, I do not believe that she could ID him in court either, so there is not going to be an ID on the part of the victim.

THE COURT: Right. And so then -- let me just ask: So why do you want to show her this if she can't identify the defendant?

MS. SWANSON: Well, I would be showing the investigator because Tyreek Robinson was placed in there and he looks drastically different now than at the time of his arrest.

THE COURT: All right. Miss Tolley?

MS. TOLLEY: We would object to that.

THE COURT: Have you seen this, ma'am?

MS. TOLLEY: Not that particular version, but I've seen the line-up.

We would object to it coming in. There was no identification made. This is, therefore, irrelevant. And if it were put in, it would be -- the prejudicial effect would outweigh the value of it.

So we are asking that that not be placed into evidence, Your Honor.

MS. SWANSON: Well, Your Honor, if it's not placed into evidence then I would object to anything about her not being able to pick him out of the photo line-up. I think it's very clear that everyone looks extremely similar in this photo line-up.

THE COURT: Well, if she can't pick him out of a photo line-up, what's that got to do -- why do we have to show -- why does she have to be shown the photographs?

MS. SWANSON: She doesn't have to be shown them.

THE COURT: All right.

MS. SWANSON: It would --

THE COURT: Hold on. So we agree that she's not going to be shown that line-up, correct?

MS. SWANSON: Sure.

THE COURT: All right. Now, in regard to you want to have -- who showed the line-up?

MS. SWANSON: Investigator Wiech.

THE COURT: And that's for the purpose of the hair?

MS. SWANSON: Yes, Your Honor.

THE COURT: What's behind -- okay.

Miss Tolley, what do you say?

MS. TOLLEY: Well, we would object, Your Honor. I guess there are a number of reasons. The first is that the identification was made not from any independent source. And he was placed in a line-up for reasons that we find suspect.

There allegedly was a video being circulated around the neighborhood of someone who had dreadlocks, who was black male, who had taken some slippers off the porch of one of the neighbors, and that was captured on video, and it was circulated among the neighbors. That video was had by one of the witnesses who's going to testify today, as well as to the victim.

When that video was sent to the police department, the police department, someone there said, *Oh, that's Tyreek Robinson.* And from that point forward they presented this mug shot saying that this was somehow Tyreek Robinson when there's no proof that the person in the video, the original video, was Tyreek Robinson. He was never arrested or charged with anything related to that.

And based on that, we think that all of that should be suppressed.

THE COURT: "All of that." What do you mean by "All of that"?

MS. TOLLEY: I know. I got confused too.

We would assert that the photo line-up came about as a result of this other video that didn't even involve Tyreek Robinson, so that's how his name came up.

MS. SWANSON: He was included in this line-up because of the description and the fact that he lives nearby. As well as that video -- but I wasn't going to get into the video because we could never verify whose Ring door camera that was. And so I can't really get into the video.

Yes, the victim saw the video. Yes, she said, *That looks like the same man that invaded my*

home. Police looked at that video and said, *Yup, that looks like Tyreek Robinson*. But that's also him doing another prior bad act. So I didn't believe the Court was going to allow that to be admissible anyway.

So it doesn't matter how he became a suspect.

THE COURT: Right.

MS. SWANSON: I mean, I don't believe how he became a suspect and was included in a photo line-up renders it irrelevant when we're talking about his physical appearance.

THE COURT: Well, you know -- I mean, I'll be honest, I think that the photographs, quite frankly, make it look like he's got a prior record. I mean, basically what you've done is, and of course what -- you've darkened the photographs such that the orange doesn't show, I think. And so in addition to that, it makes every face on there appear, certainly to me, darker and difficult. And I think that the photographs themselves imply that the defendant has a criminal record. And, quite frankly, I think that it -- on top of that, she can't even identify him.

What were you -- you maybe were going to

show me something. Go right ahead.

MS. SWANSON: Yes, Your Honor. This is how it appeared before. And obviously the orange -- everyone being in orange is problematic. And so how the State has tried to address that concern is by making it a black and white photo.

Again, the purpose -- I mean, I don't think -- I think the jury has a right to see the photo line-up if there's going to be testimony that she could not pick him out of one.

THE COURT: Why? I don't understand. If she can't -- why should they see it if she can't go and pick him out? What purpose does that serve? She's telling the truth. She couldn't pick him out.

MS. SWANSON: Right.

THE COURT: So why does the jury need to see this?

MS. SWANSON: She didn't have her contacts in and everyone looks extremely similar.

THE COURT: But --

MS. SWANSON: And the people included match -- all of them match the description that she gave law enforcement.

THE COURT: Well, that -- there could be

thousands that would fit that description.

MS. SWANSON: And the --

THE COURT: Correct? I mean, she gave the description.

MS. SWANSON: Sure.

THE COURT: But all look so close. I'm not going to allow these photographs. I think they're prejudicial. Extremely prejudicial. They don't have any probative value, particularly given the fact that she has not even been able to identify the defendant. I also think the photographs, even darkened, tend to indicate that they're -- quite frankly, they all look like they're in the same top. Everyone is going to infer that basically those are, in fact, orange suits, or some kind of jail suits that have been made dark.

So I think I'm not going to allow the photographs in. That will be by ruling.

MS. SWANSON: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MS. SWANSON: Since we are on the subject of photographs. There are two photographs that the defendant took of himself that come off of the cell phone.

I'm showing these to the defense. Is there going to be an objection to any of these photos?

MS. TOLLEY: We would just inquire about what the context of them would be.

MS. SWANSON: To show that his appearance --

THE COURT: May I see it, please?

MS. SWANSON: I'm sorry.

THE COURT: That's okay.

MS. SWANSON: The purpose again, just as we were discussing before would be to show that the defendant changed his appearance after the incident occurred. They do have time stamps on them. The one with the longer hair is from September 8th of 2020. The clean-cut hair is October 1st of 2020. And those would be coming in through the whole cell dump and all that kind of stuff. I just wanted to make sure defense was aware.

THE COURT: All right. Miss Tolley?

MS. TOLLEY: Independent of any testimony, we don't have any objection. But we may want to reserve our right to object to the introduction of them at the time that she tries to

introduce them.

THE COURT: I think she's going to lay a proper foundation for that.

MS. SWANSON: Oh, of course.

THE COURT: And I expect that she'll probably do that. I would see nothing wrong in admitting those photographs.

MS. SWANSON: Okay. Thank you.

THE COURT: Yes, ma'am.

All right. Miss Tolley, anything else?

MS. TOLLEY: Other than what she's already provided, are there going to be any -- is there going to be any other physical evidence admitted into evidence?

MS. SWANSON: There will be the cell phone that was the subject of this cell phone extraction. There will be content from the cell phone on there. And there will be some photographs of the outside and inside of the victim's residence, as well as photographs of the scars on the defendant's hands, taken along with still shots from the video in question for the jury to be able to make their own comparison of the scars on the hands from the video from Mr. Robinson.

THE COURT: Miss Tolley, you've been provided all that.

MS. TOLLEY: Yes.

THE COURT: Okay. So if there's a specific objection as to a photograph or something coming in, I think you just make that at that time and we can -- I can make a ruling on that. Is that satisfactory, ma'am?

THE WITNESS: Yes, sir.

THE COURT: Anything else, ma'am?

MS. TOLLEY: Does she intend to introduce any prior record if he decides to testify?

MS. SWANSON: He does have several auto break-ins on his record within the 10-year time frame that could be relevant if he opened the door should he take the stand.

THE COURT: Okay. Well, we can address again later, but certainly I'll take that. Thank you, Solicitor. We can deal with that at the appropriate time. It seems to me, as long as he doesn't open the door, then potentially that may not be coming in. I'm not necessarily holding you to that. Thank you.

Anything else, Miss Tolley?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Anything, Solicitor?

MS. SWANSON: No, Your Honor.

THE COURT: How about we take probably about ten minutes?

MS. SWANSON: Sure.

THE COURT: And then we can bring the jury in. And also just to let you-all know, the Foreperson is Matthew T. Collins, juror number 63. I will make this Court's Exhibit 1. So if we can have everybody back in here 20 till and we'll get the jury in here. And, at a minimum, I'll read some introductory statements to them, and then we'll go and allow you-all to move forward with your opening statements. Is that okay?

MS. TOLLEY: Yes.

THE COURT: Thank you-all. We'll be at ease.

(COURT EXH. 1, Foreperson, was marked for identification.)

(A break was taken from 3:23 p.m. to 3:34 p.m.)

THE COURT: Anything from the State before we bring the jury in?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: Nothing from the defense.

THE COURT: Can we get the jury, please?

THE BAILIFF: Jurors entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury entering the courtroom at 3:45 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: All right. Thank you.

Mr. Collins, you're serving as the foreperson?

JUROR 63: Yes, Your Honor.

THE COURT: Thank you. I appreciate that.

Folks, sorry to keep you waiting. We've been working on legal matters and matters of law that had to be taken up and had to be taken up outside of your presence. I also want to let you know before I get started on some information that I need to give you -- and, actually, first, I'm going to have the clerk swear you in. It's either burning up back there and freezing in this courtroom, or it's burning up here and good and cool back there. But they promised me they're working on trying to do that. I think it's like that almost in every courthouse. It's like that

in Walterboro. So hopefully they're working on trying to get a little more circulation in here. Please bear with us.

Madame Clerk, could you please swear the jury in.

THE CLERK: Yes, Your Honor.

THE COURT: Thank you.

THE CLERK: If you would, please raise your right hand. Do you solemnly swear or affirm that you shall well and truly try and true deliverance make between the State of South Carolina and the accused on the true verdict give according to the evidence so help you God?

JURY PANEL: Yes, I do.

THE COURT: Ladies and gentlemen begin the trial of the case of the State vs. Tyreek Robinson. And before I begin the trial, I got something that I need to tell you and I want to tell you.

This trial is going to be different than what you might expect. Many people don't have the opportunity to come to court, sit down, and actually attend a court session. And folks think from watching movies or TV or reading books, that trials are always full of high drama, intense

action, and riveting circumstances. While all these things may be true at times, this trial is not for entertainment. It's a fundamental part of our democracy and it's often slow, deliberative, and repetitive. I've already said that earlier this morning and I'll say it again. It is often slow, deliberative, and repetitive.

Now, folks, that's because we got to get it right. In a movie, they can take a second take, second scene, shoot the scene again. We don't have that ability, and so we need to get it right. And that's the opposite of what you may see on TV or in movies or in books.

The courtroom is a place of honor dedicated to the protection and preservation of citizens' rights through what many have called the greatest justice system ever created. The attorneys who are going to be appearing before you are advocates for the parties they represent, but first and foremost they are officers of the court sworn to uphold the integrity and fairness of our judicial system, and you should expect them to be professional, competent, and ethical in their representations of their client's interest.

And, ladies and gentlemen, you've taken an oath, and we also expect you to be

professional, reasonable, and ethical.

I want to thank you for accepting the important responsibility of jury service and for your contribution to our justice system.

Now, I want you to know that what I'm going to say right now is intended to serve as an introduction to the trial of this case, and these remarks are not a charge in the law and I'm going instruct you on the law at the end of the trial before you retire to consider your verdict.

This is merely an explanation of the procedure that we will follow in the trial of this case so you may better understand what may be happening.

Now, I want to tell you right now, I'm going to ask you not to take notes during the trial, and let me just explain why. Different folks, different judges, may have a different philosophy. Mine is, I prefer that my jurors not take notes. One, some people are better note takers than others, and just because they're writing something down or writing more down, they can be writing something down that's incorrect and there could be a tendency to want to lean on what may be written down that's incorrect. Taking

notes sometimes can be distracting. Someone might have a tendency to have their attention distracted by taking notes.

But I think the main reason that I'm going to ask you not to take notes is because, folks, you're the folks who determine what the fact are in this case. And the facts are going to come from witnesses or exhibits. And what happens is, when you look at these witnesses, you got to observe these witnesses. You got to look at their demeanor. And that's an important aspect of what you're going to be doing as you look at and determine what the facts are.

And sometimes when you're talking notes and looking down, you're missing out on observing the demeanor of that witness.

And so for those reasons, I'm going to ask you not to take notes and please pay your best attention to the witnesses and to the exhibits that are entered into evidence. Okay?

Now, folks, the indictment -- the defendant is charged in this case with a document that's called an indictment and the crimes are, and we went through these early, the crime of aggravated voyeurism, burglary first degree,

assault and battery first degree, and petty larceny. The elements of each one of these crimes, or these charges, will be explained to you later. But what I want you to know is that these indictments are not evidence. Again, they are just charging documents that get this case into court.

And so, again, I want to let you know, that the indictment is simply the charge by which the case is brought into court and is not in any sense evidence of the allegations it contains.

The defendant has pled not guilty to these indictments. The State, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt, and it will be your duty, ladies and gentlemen to decide whether the State has met that burden.

Your purpose as juries is to find and determine the facts. You are the sole judges of the facts. If at any time I make any comment regarding the facts you must disregard it. You are to determine the facts from the testimony you hear and the other evidence that's introduced in court, and it's up to you, ladies and gentlemen to determine the inferences which you feel may be

properly drawn from the evidence.

It's especially important that you perform your duty of determining the facts diligently and conscientiously because ordinarily there is no way to correct an erroneous determination of facts by a jury.

On the other hand and with equal emphasis, the same law that makes you the judges of the facts makes me the judge of the law. The law as given by the court is the only law you may consider. You must accept it and follow it even though you may disagree with it. I cannot tell you what the facts are and you cannot disagree with me about what the law is or should be.

Your job is to take the law as I give it to you, apply it to the facts as you find them from the testimony of the witnesses and other evidence that's introduced. After doing that, you will render your verdict under the solemn oath that you just took as jurors.

Now, until I advise you to begin your deliberations you must not discuss this case with anyone including your fellow jurors, family, friends, and anyone involved in the case. This includes face-to-face discussions, those by

telephone, email, text, blogs, or any other method of communication. You may not use a computer, or cellular phone, or other electronic device with communication capacities at any time while in the courtroom or during deliberations.

Now, during your breaks for meals or overnight, if necessary, you may use these devices. However, you may not at any time use these devices to get or send information about a case. This includes information about a party, a witness, an attorney, a court officer, news accounts about the case, research on any topics raised, any topic you may think may be helpful in deciding the case, or any testimony presented by any weapons. Don't investigate. No going back and Googling in issue that you think might be helpful. You are to base your decision on the facts presented to you in this case and the law that I instruct you.

During the trial, I don't want you to read, listen to, or watch any news reports about that case. I don't know that there are going to be any. But I'm going to tell you right now, I don't want you to listen, read, watch any new reports about the case and that would include

anything that may be in newspapers or in the Internet, radio, or television. You must not consider anything you may have heard or read about the case outside this courtroom whether before or during the trial.

After the case is submitted to you, you must discuss it only in the jury room with your fellow jurors. The attorneys and parties in this case have been advised that they are not to talk to you at all. So if you see anybody involved in this case and you go by and say hello or they don't even say hello or nod at you, or whatever the case may be, they are not being unfriendly or rude. They are following my instructions that I have given them.

It's important that you keep an open mind and not decide any issue in the case until all of the evidence, ladies and gentlemen has been presented. The parties have made their closing arguments and I have instructed you on the law in this case. It's your solemn responsibility to determine whether the State has proven the defendant guilty beyond a reasonable doubt, and your verdict must be based solely on the evidence as it is presented to you in this trial and on the

law as I instruct you during and at the close of the trial.

Now, in just a moment, I want you to know, the solicitor is going to make what I call an opening statement in which the solicitor will explain to you the issues in this case or at least what the solicitor thinks the issues are in the case.

The attorney for the defendant may also make an opening statement, although she is not required to do that. What the attorneys tell you during their opening statement is not evidence. It's only their contention as to what the issues are. The evidence in the case, again, is going to come and will be presented to you by the testimony of sworn witnesses from the witness stand and any exhibits that may be introduced to you -- or entered into evidence. Excuse me.

Now, from time to time, you're going to hear one of the lawyers say something like, Your Honor, I believe we have a question of law or a matter of law to discuss with you, or Your Honor may we with approach the bench. Or sometimes I might find it necessary to excuse you from the courtroom for a short while so the attorneys and I

can discuss a matter of the law. And the reasons for that, folks, is because you are the judges of the facts and I am the judge of the law. And sometimes it might be necessary for me to make some comment as to the facts in connection with a ruling on whether or not a particular law applies. I'm not supposed to tell you what I think the facts are, so I'll excuse you from the courtroom while these discussions take place so that in no way you will be influenced by anything that I might say or do in connection with the facts.

In determining what the facts are, you must decide whether or not the testimony of the witnesses are believable. It will be my responsibility to rule as a matter of law as to whether certain testimony is admissible or not. But once the testimony is admitted, whether or not you believe it is solely for you to determine.

In the deciding whether to belief a witness, you have a right to consider the interest of any witness, the bias of any witness, the prejudice of any witness, the opportunity for the witness to have seen the matters and things by which the witness may testify, and the way the witness acts on the witness stand.

You, ladies and gentlemen have the right to consider anything that is in the record that will help you evaluate the testimony of the witnesses. That means it's your duty to pay close attention to these witnesses, to observe the witnesses, to listen to the witness, and pay close attention to the attorneys, and to the Court. Please do not let your thoughts wonder but give strict attention to the testimony in this case so that at the end of all the testimony, after the arguments of counsel and the charge on the law by the Court, you will then be in a position, ladies and gentlemen to determine what the facts are and to apply the law to those facts and thus render a verdict.

It is your duty -- additional duty, Mr. Foreman, to preside in the jury room and to be the jury spokesperson here in court. It will also be your duty to write the verdict, but I will give you further instructions about that at the conclusion of the case.

Now, in order to preserve everyone's right, I want to give the parties an opportunity to object to anything that I've said or if there's anything that needs to be added. From the State?

MS. SWANSON: None from the State, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: Nothing from the defense, Your Honor.

THE COURT: Thank you-all very much.

All right. That having been said, ladies and gentlemen, we're now ready to begin the trial.

Solicitor.

MS. SWANSON: Thank you, Your Honor. May it please the court?

THE COURT: Yes, ma'am.

OPENING STATEMENT

MS. SWANSON: In the early morning hours on September 19th, 2020, A.M.N. woke up to a literal nightmare. There was a stranger in her home crouched beside her bed. Tyreek Robinson had entered her home through a garage door that had been left open by her step-daughter the night before when she was over visiting. A.M.N. who lay at her most vulnerable, home alone, boyfriend out of town on business, he's a pilot, lay asleep and naked. She was also three months pregnant at the time.

So Tyreek, when he enters the garage, he

rifles through her Mercedes, Amazon packages are opened. He goes in through the interior door. There's some steps up to the interior door. Goes in the interior. Goes to the kitchen, rifles through cabinets, helps himself to a breakfast sandwich from the refrigerator, as well as some Crown Royal before, the worst part, entering A.M.N.'s bedroom to film her and himself touching her on her vagina. He makes a video of this and ends up disseminating it to a friend of his, Kareem.

She doesn't know what wakes her up, but clearly it is this nonconsensual, unwanted touching. She notices a cell phone held up at the end of her bed with the camera light on. At first she thought what she heard underneath the bed was one of the three cats that they have. But no. It was Tyreek Robinson.

Bizarrely, he tells her, *I just wanted to let you know that your garage door is open*. She begins to scream. She says, *Get the fuck out of my house*, and continues to scream as loud as she can so that someone will hear her. He does bolt. He bolts right back through that garage door.

In panic and shock, she calls her

boyfriend, Brian, and then she calls 911. While she is on the phone with 911 after she has closed the garage door, the front door, which remained locked, is where Mr. Robinson comes next. He starts to jiggle the door handle. He's trying to get back inside. He's banging on the door. You're going to hear that 911 phone call where A.M.N. tells dispatch all of this. You're going to hear her start to panic about the stranger who is trying to get back into her house.

She gives a detailed description of the suspect to law enforcement. Unfortunately, she is unable to identify him in a photo line-up. At the time, Tyreek Robinson had dreadlocks. She gave that description. Young black male, lived in the area, lives on [redacted] Muddy Creek, which is very close to Tansyleaf, the neighborhood in which A.M.N. lives.

It's almost a month later when Tyreek Robinson's phone is found at [redacted] Muddy Creek where a Chevy Blazer has been overturned in a traffic accident. There were no passengers or drivers found in it, but his cell phone is found in it.

Law enforcement is able to link this

phone to him. All of the information on the phone is taken off after a search warrant is executed, so the contents of the phone were dumped by someone in our office who is trained on the Cellebrite system. So that takes any text messages, instant messages, you know, selfies, time stamps, videos.

In their review of the extraction, the video of the sexual assault of A.M.N. was found. It was taken at 5:55 a.m. on Saturday, September 19th, just minutes before A.M.N. reports the home invasion. This video did not just appear on his phone. The cell phone information will show that the phone is Tyreek's. Tyreek had this phone before and after the incident. Tyreek changed his appearance after a police sketch comes out after the accident.

Investigator Wiech, who is right here, calls A.M.N. into the office and provides her images, still images taken from his phone but he has her naked body blacked out. They're called sanitized images. He shows them to her so that she can identify her clothing and her bedding in her bedroom. She does.

He does this before he tells her what's actually depicted in the video and she breaks down

feeling violated, but also validated that she wasn't going crazy. This actually happened.

Now, the bulk of the evidence is going to come from A.M.N.'s testimony, which is corroborated by the information that is contained on the cell phone belonging to Tyreek Robinson. We will get into the details of the cell phone evidence as we move through the case. This will not be a long case. I believe I will probably have all the evidence I'm going to put before you in by tomorrow. Okay?

Now, as the judge stated to you, it is the State's burden to prove Tyreek guilty beyond a reasonable doubt. And so I do that as the prosecutor by providing you with witness testimony and any physical evidence or photos or anything that might aid you in reaching that decision.

Your job as jurors is to determine what the fact of the case are. What happened? Who did this? How you come to that decision is by using your collective experiences and common sense applying the law that Judge Bonds charges you.

I will tell you that this case is circumstantial. The defendant was not caught in her bedroom by law enforcement. All right? So

you have to follow a chain of events that can conclusively point to Mr. Robinson. And I'm going to tell you at the end of the case you will have that evidence. Circumstantial evidence carries the same weight as direct evidence, and the judge will tell you that at the charge on the law at the end of the case.

For you to find Mr. Robinson guilty you must be firmly convinced of his guilt. He sits in the courtroom indicted for several crimes, which the judge has already told you about. And both the victim and the defendant have put their faith in the judicial system -- put their faith and trust in you to make the correct decision.

This incident is a scary one. And it's important to not only the defendant but the State and the victim. Waking up in total shock, naked and afraid of a home invader who violated her in the most humiliating way. Everyone deserves to feel safe in their own home, and I doubt that A.M.N. ever will.

We have the evidence for you to hold Tyreek Robinson accountable for his actions and find him guilty. I hope you feel the same at the end of the case.

Thank you.

THE COURT: All right. Thank you, Solicitor.

Miss Tolley.

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

OPENING STATEMENT

MS. TOLLEY: Good afternoon. This was a nightmare. This was a nightmare for Tyreek Robinson. He has been arrested and charged for things he didn't do. This is an important day for him. He gets to come here and have you listen to the evidence and make a decision about all of this; about what happened, who was involved, whether or not it was a crime, and, if so, who committed that crime. And, in this case, they have the wrong person.

Somebody might have done the things that the solicitor is talking about, but it wasn't Tyreek Robinson. He sits here today presumed innocent under our laws, and the State has the burden of proving him guilty beyond a reasonable doubt and we're going to ask you to hold the State to this burden.

What we want you to know as we begin this

case and move into testimony is that things are not always black and white. Things are not always as they seem. We're just going to ask you to listen carefully, consider the credibility of the witnesses, consider what it is you're hearing, and make a decision at the end of the case.

We're confident that the chain of events that the solicitor said she'll describe won't lead to Tyreek Robinson.

We're going to ask you to end this nightmare. When we come to the end of this case, we're going to ask you to find Tyreek not guilty.

THE COURT: Thank you. Solicitor, you ready to call your first witness?

MS. SWANSON: Yes, Your Honor. The State calls Allison Moreira.

THE COURT: Thank you.

THE CLERK: Raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. If you would just state your name for the record and spell your last name.

THE WITNESS: Allison Moreira, M-o-r-e-i-r-a.

WHEREUPON:

ALLISON MOREIRA,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Hey, Allison. Who do you work for?

A The Beaufort County Sheriff's Office.

Q All right. In what department?

A The records department.

Q All right. And as part of your duties, do you keep and house 911 recordings?

A Yes.

THE COURT: Can all my jurors hear? I just want to make sure because the microphones, I mean, literally, you got to be within an inch for them to pick up. I just want to make sure everybody can hear. If there's a time that you cannot hear, get this gentleman's attention, if you get my attention, we'll make sure because it's very important. We want to make sure everyone hears everything.

Thank you. Solicitor, go ahead.

MS. SWANSON: Thank you.

BY MS. SWANSON:

Q And at the State's request, did you make a recording of a 911 call placed on September 19th of 2020 at approximately 6:00 a.m.?

A I did.

(STATE EXH. 1, 911 recording, was marked for identification.)

BY MS. SWANSON:

Q All right. I'm going to show you what has been marked as State's Exhibit 1 and ask if that is the call, or a recording of the call that you made.

A It is.

Q All right. And how do you know that?

A It has my initials on it.

Q So you reviewed that call?

A I did.

Q And is it a fair and accurate depiction of the call?

A It is.

Q Thank you.

MS. SWANSON: The State would move to enter the 911 call at this time and move to publish.

THE COURT: Any objection?

MS. TOLLEY: None, Your Honor.

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THE COURT: Admitted without objection.

MS. SWANSON: Your Honor, I have it saved in my computer, so I'll be playing it from here.

THE COURT: Is that State's 1.

MS. SWANSON: 1.

(STATE EXH. 1, 911 recording, was entered into evidence.)

(911 call played.)

MS. SWANSON: Your Honor, I have nothing further for this witness.

THE COURT: Miss Tolley, any cross-examination?

MS. TOLLEY: No questions, Your Honor.

THE COURT: Thank you very much.

MS. SWANSON: I would ask that Miss Moreira be allowed to be released from her subpoena at this time.

THE COURT: No objection?

MS. TOLLEY: No objection.

THE COURT: Thank you so much, ma'am.

THE WITNESS: Thank you.

THE COURT: Counsel approach.

(Bench conference off the record.)

THE COURT: All right. Ladies and gentlemen. Our next witness I expect may take

some time, so what I'm going to do is, I'm going to go ahead and let you go for the evening. I'd ask that you not talk about the case amongst yourselves or with anyone else. I'd also ask that you don't do any research on this case and that you be back in the jury room tomorrow morning at 9:30.

Has everybody had the opportunity to vote? I don't want to infringe on anybody's ability to vote tomorrow. I know tomorrow is an election day. If I give you to 9:30, does that give you enough time in the morning? Certainly, we'll be breaking at around 5:00 and I know the poles are generally open to 7:00, 7:00 to 7:00 usually.

Everybody, is that going to give everybody enough time? I don't want to make impossible that you couldn't go vote if you wanted to vote. Okay? Everybody looks like they're nodding.

So I'll see everybody the 9:30 tomorrow morning. Don't talk about the case. Thank you so much. You'll report back to the jury room. Okay? Thank you.

(Jury exits the courtroom at 4:20 p.m.)

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THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Thank you. Anything from the State before we break for the day?

MS. SWANSON: Nothing from the State.

THE COURT: Anything from the defense?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: All right. We'll see everybody back here a few minutes before 9:30 in the morning.

MS. SWANSON: Thank you, Your Honor.

(Trial adjourned at 4:20 p.m.)

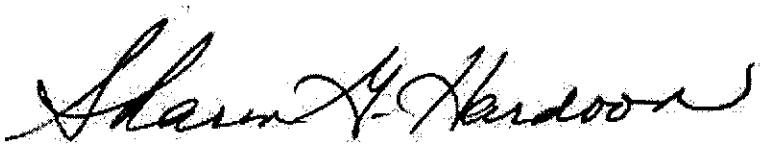
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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

January 16, 2023



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

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STATE OF SOUTH CAROLINA
IN GENERAL SESSIONS
COUNTY OF BEAUFORT

State of South Carolina,

vs. Transcript of Record
2020-GS-07-2061
2020-GS-07-2062
2020-GS-07-2063
2020-GS-07-0037

Tyreek Robinson,

defendant.

June 14, 2022
Beaufort, South Carolina
Volume II of III

B E F O R E:

The HONORABLE ROBERT BONDS

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

Hunter Swanson, Solicitor
Juan Tolley, Representing the defendant

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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THE BAILIFF: All rise.

THE COURT: All right. Any matters from the State before we get the jury in here?

MS. SWANSON: I do need to disclose, Your Honor, Jose Mario Lopez, who is the officer that is observing in the courtroom today, I observed a very brief conversation between him and one of the jurors. I pulled him aside and asked him if he knew that juror, what they had discussed. Apparently he and jury number 11, Keith Babb, used to work together and they just exchanged pleasantries. He said he knew not to talk about the case, but I now told him not to have any contact with the jurors at all.

I'm not sure how you or Miss Tolley want to handle that. I don't know if that juror needs to be questioned, or if you'd like to question Mr. Lopez.

THE COURT: All right. Miss Tolley.

MS. TOLLEY: We may need to question the juror. We can handle that however Your Honor deems appropriate.

THE COURT: Question him as to -- how? What is it that you would want or want the court to ask him?

MS. TOLLEY: I guess --

THE COURT: I guess the question is -- go ahead.

MS. TOLLEY: I guess now we know that he has some sort of connection with law enforcement, and I'm not sure whether or not that was something that was brought out previously in voir dire, and whether or not the fact that he knows somebody that is here watching the case, whether that would affect his ability to be fair and impartial.

THE COURT: Why don't we just replace this juror with an alternate?

MS. TOLLEY: Who is the juror?

THE COURT: I'm sorry?

MS. TOLLEY: Number 11.

THE COURT: What is the State's position -- we can get in here and spend 15 minutes questioning him, I have a feeling that -- I just have a feeling that defense is going to say, blah, blah, blah, we don't want him. And I probably will end up replacing him anyway.

What's the State's position?

MS. SWANSON: I do believe, if he can be fair and impartial, I mean, he is who we chose.

THE COURT: All right. Let's get the

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juror out here.

MS. SWANSON: It's jury number 11.

And he wouldn't have known he had a connection to law enforcement, because this is a rookie. And he's not a witness or anything in this case.

THE COURT: All right.

MS. SWANSON: It was someone he used to work with.

THE COURT: I understand.

MS. TOLLEY: We're okay with keeping him on the jury, your Honor.

THE COURT: Excellent.

We don't need the juror. Miss Tolley, you're telling me that you don't have a problem with keeping this individual on the jury then?

MS. TOLLEY: That's correct.

THE COURT: That makes that one easy. Thank you.

Sir, please don't talk to any jurors, okay?

DEPUTY: Yes, Your Honor. I apologize.

THE COURT: All right. Any other matters, Solicitor?

MS. SWANSON: None from the State.

THE COURT: All right. Miss Tolley, any

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matters we need to take up?

MS. TOLLEY: Thank you, Your Honor. We do.

THE COURT: Yes, ma'am.

MS. TOLLEY: Just a couple of things, Your Honor. We would ask that we have in-camera hearings with regard to items that might be introduced into evidence prior to them being introduced into evidence. I know that we talked about some of these things yesterday, but, before I forget, I feel like we're getting it piecemeal. So I guess --

THE COURT: Go ahead.

MS. TOLLEY: In particular, one of the issues is whether or not photos of the hand are going to come in, and we would like have an in-camera hearing with regard to that prior to them coming in.

In addition, there seems to be an assumption that items from the phone are going to come in and we're not sure that they should come in.

THE COURT: Right.

MS. TOLLEY: So we need to have an in-camera hearing about those prior to.

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THE COURT: Solicitor.

MS. SWANSON: I believe all I need to do is lay a foundation. I mean, the phone was dumped. That's just the contents on the phone. There was a search warrant. But, in addition to that, it was abandoned property. So there's no reason that would be inadmissible evidence. If there is a specific objection for a specific reason from the defense that would be something that we could address. But just a blanket proffer of what the testimony is going to be does not seem to be appropriate.

THE COURT: I think the appropriate thing to do would be -- I mean, she's provided you all the documents.

MS. TOLLEY: Well, I'm not sure. We keep getting things piecemeal. Like, today, for example, I was just handed this document from Lara Gorick, who is the person who did the sketch, with no other information with regard to it.

THE COURT: Well, let me see it.

MS. TOLLEY: We were provided --

THE COURT: Let me see it.

MS. TOLLEY: Yes, sir.

THE COURT: Please.

MS. SWANSON: Your Honor, Lara Gorick is the woman from SLED who did the sketch. I asked her this morning if she was relying on any notes for her testimony and asked to make a copy of it, and that's what I turned over today.

Miss Tolley has the entire Cellebrite cell phone dump.

THE COURT: Whoa, whoa, whoa. Let's talk about this.

MS. SWANSON: All right.

THE COURT: This is her notes that she took and then drew the composite sketch?

MS. SWANSON: Correct. We did not have those before. We had the sketch. I asked her if she had notes that she was going to rely on for her testimony and she said she had her personal notes, and I made a copy and turned it over to the defense.

MS. TOLLEY: I think it's just a little late to be getting things like this. If it were the only thing that would be great, but yesterday, just before the jury --

THE COURT: Hold on. I'm dealing with this right now.

MS. SWANSON: Miss Tolley, I emailed that

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to you about three weeks ago.

THE COURT: Hold on. I'm dealing with this. I'm dealing with this note.

Let me ask you this, Solicitor, how do you want to use this document?

MS. SWANSON: Oh, I'm not using it. It may be that the witness refers to it in her testimony and I wanted everyone to be aware. I'm not trying to enter it as evidence.

THE COURT: I'm not -- I don't know what you're trying to do. That's why I asked.

MS. SWANSON: No. I'm simply turning over any notes that she may be referencing in her testimony?

THE COURT: All right.

All right. What else, Miss Tolley? What else did you receive?

MS. TOLLEY: Yesterday we received this Cellebrite report. And for the first time we were advised that the video was allegedly sent to someone by the name of Kareem, and that is -- I heard that in her opening statement and she gave that to me before the jury came back in after lunch and I didn't have a chance to look at it before opening statements.

THE COURT: So this Cellebrite report, Solicitor, when was that provided to the defense?

MS. SWANSON: The disk of the whole cell dump, which includes the information in this report --

THE COURT: Okay.

MS. SWANSON: -- was provided probably a couple of months ago. This is not new information. This was just in a different format.

THE COURT: Okay. So you got the disk?

MS. TOLLEY: I have the disk.

THE COURT: You obviously reviewed the disk in preparation for trial, correct?

MS. TOLLEY: That's correct.

THE COURT: And so is this information on the disk or not on the disk?

MS. TOLLEY: There is information on there that I did not see on the disk.

THE COURT: No, no, no. What I'm asking is this: You reviewed the disk in preparation for trial.

MS. TOLLEY: I did.

THE COURT: What I'm asking is: This information that's contained in this report, the

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solicitor says that this information is on the disk. I'm asking you: Is it on the disk or not on the disk? Because if it's on the disk, then I don't see any prejudice. If it's not on the disk, well then there's a problem.

MS. TOLLEY: If it's on the disk, I don't know where it is.

MS. SWANSON: Derrick Nelson pulled it from the disk. He's here. I can show Miss Tolley where it is.

THE COURT: Sure, absolutely. Because this is an easy fix.

MS. SWANSON: And, obviously, Derrick Nelson -- I'm sorry, Judge.

THE COURT: I'm listening.

MS. SWANSON: -- will be testifying that the disk contains all of the information. This is some of the information.

THE COURT: No, no. I'm not -- I'm not -- all I want is that. I want to see if that information is on the disk. Because if it is, then this is -- we don't need to get into anything but that.

MS. SWANSON: Okay.

All right. So you have to do some

linking. This number (indicating).

MS. TOLLEY: Where is that on there?

MS. SWANSON: It corresponds under call log to Kareem New. And when I put that number into the call log, there are nine calls between the two of them, under that number that the video was sent to. Now, he obviously changes numbers at some point because then he's in the phone with a different number as New Kareem.

THE COURT REPORTER: I can't hear.

MS. SWANSON: I'm sorry. I didn't know this was on the record.

What did you need me to pull up?

MS. TOLLEY: Specifically on here, the call that says -- the call that says it went to Kareem.

MS. SWANSON: There's not -- there's a phone number and that phone number is associated with Kareem in the phone logs. That phone number is listed in the call logs as Kareem New. But then it's obviously taken out of the contacts because meanwhile he has switched his phone number and now he's New Kareem with a new number, so now he is New Kareem with a new phone number. It's just putting this together.

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THE COURT: Let me tell you what we're going to do. You can use the disk. You're not using this. I mean, that's just -- you can use the disk. You can have somebody testify to it, whatever. But I mean you have this thing cataloged three different ways. She's trying to analyze it and figure it out. You're sitting here trying to explain it to her.

MS. SWANSON: Judge, this is --

THE COURT: Yes.

MS. SWANSON: This is just information that came off the disk. This is the relevant information.

THE COURT: Is the information on the disk or not, Miss Tolley?

MS. TOLLEY: That's what I'm being told. When I pulled the specific call that said the video was sent, there was a question mark about whether or not the video was even sent.

MS. SWANSON: I think there's some confusion on the defense side as to how to read this extraction.

MS. TOLLEY: Well, I went through it a couple of times, so I can look at it again.

THE COURT: Hold on one second. In her

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defense, she has never been provided a copy of this document. This information is on the disk, but not in this format, correct?

MS. SWANSON: Yes.

THE COURT: All right.

MS. SWANSON: So I tried to whittle down all of the content, you know, so that we could streamline the testimony from Derrick Nelson to what was relevant. And that's simply done by checking things that you want to include in a report. I mean, this is normal course of action when we have a cell phone dump.

THE COURT: I understand your normal course of action, Solicitor. I don't doubt that.

So as it relates to this document, what is your problem? I mean, do you understand this document? Do you not understand it? Is there a particular issue on this document that you don't understand or you got a question about, Miss Tolley? That's what I want to know.

MS. TOLLEY: I think I understand that particular document.

THE COURT: Okay.

MS. TOLLEY: The confusion was where she's indicating that the disk shows that the

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phone calls went to Kareem, where there was a question.

THE COURT: All right. Well, then wouldn't that be grounds for cross-examination? If there's a question mark, can't you ask, whoever this witness is, about that, ma'am?

MS. TOLLEY: We can certainly do that.

THE COURT: What that means.

MS. SWANSON: Okay. I see where this is coming from. Because in one of the deputy's reports, it's referenced 9/19 to question mark because the phone number didn't have a contact listed. But the phone number that the video is sent to does appear in the call logs as belonging to Kareem New. So that's why I included the call logs. I mean, it's just a matter of matching up the phone number to the information in the phone.

THE COURT: All right. And so your witness will be able to, assuming he's qualified, or she's qualified, they would be able to explain that. Is that correct?

MS. SWANSON: Yes.

THE COURT: I think you can cross-examine on that.

All right. Is there any reason -- I'll let you put anything on the record you want, ma'am. I tell you, having taken a third look at this document, I think that -- I think that the entries are fairly self-explanatory. And the question mark and that concern you have there, I think, can be adequately addressed in cross-examination and there may or may not be a good explanation for it.

I think I'm going to go ahead, though -- I know I said I wasn't, but I think I'm going to allow that -- allow this document to come in. Because I do believe that it is information that's on the disk. I don't doubt that.

It's unfortunate it was provided in such a way that's different than what was on the document. I think this information was all there, and I think that you received this, and I think that it's -- I think that it's just not the form it was in, but I believe this information was all in the document that was provided.

Now, as it relates to phone dump, you got a concern about the phone dump itself?

Because this information came from the phone dump, Solicitor?

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MS. SWANSON: It did. Yes, sir.

THE COURT: Miss Tolley?

MS. TOLLEY: We do, Your Honor.

THE COURT: Well, why don't you just take that up -- I think we just put your witness on the stand and she got an objection, then we'll let you take it up at that time. We send the jury out and we'll take it up. I mean, she's going to have to lay her foundation and go ahead and do that.

MS. TOLLEY: If that's how Your Honor wants to proceed.

THE COURT: That's what I want to do with that one.

The note -- you know, I think you should have gotten the note earlier. I understand you talked to the witness recently, Solicitor. You may or may not have known that she had notes. I think the notes -- it would seem to me that, you know, we need to be asking if people have notes on an official SLED form as part of their job. I think it's something that should have been provided to her earlier.

However, it looks to me like the information that's contained on this is nothing more than, basically, what looks to me to be description that was given to her more than likely

by the victim in that matter. And from there, she put together her composite. I think she can testified to that.

I think, certainly, if there's questions concerning these notes, Miss Tolley can certainly ask her about that. I just don't see any harm there.

I do understand her concern with it being provided to her -- you know, and there may be things in this document that on cross-examination that she may want to make reference to or question her about.

MS. SWANSON: Yes, Your Honor.

THE COURT: But my understanding is, you're not entering this or going to be asking she may be referencing her notes. But there may be things on this document, ma'am, that you may want to question about, or may not want to.

MS. SWANSON: Correct. And that's why I Q provided it. And I apologize for being late on that. We typically don't have sketch artists testify. I don't know. It was certainly not something that came over.

I do want to inquire, though, if it's a search issue, we may need to proffer some

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testimony because that would include two deputies testifying about the cell phone. So I don't know if -- I'm not sure what the basis for the objection of the cell dump is.

THE COURT: Well, are the deputies here?

MS. SWANSON: They are.

THE COURT: Are they your next witness.

MS. SWANSON: Not necessarily.

THE COURT: Well, Solicitor, you want to go ahead and put them on and knock this out?

MS. SWANSON: And just figure it out, yes.

THE COURT: That's fine. I'm very flexible.

THE CLERK: If you would raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE COURT: Hey, sir. Good morning.

THE WITNESS: Good morning, sir.

THE CLERK: You can adjust the microphone as needed and just speak clearly and state your name for the record and spell your last name, please.

THE WITNESS: Yes, ma'am.

WHEREUPON:

DEPUTY ADAM PAUL,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Good morning, Deputy Paul.

A Good morning. Adam Paul, P-a-u-l.

Q Were you on duty on October 7th of 2020?

A Yes, ma'am.

Q And did you respond to a report of a wrecked vehicle on that day?

A I did.

Q All right. Was there anyone in that vehicle?

A There was nobody in the vehicle.

Q What was the registration on the vehicle, do you recall?

A I believe the registries did not belong on the vehicle. It actually belonged on another sedan that was not on scene.

Q Okay. Did you find anything in the vehicle that contained any identifying information?

A Yes, I did.

Q What did you find?

A I found a cell phone.

Q Were you able to get into that cell phone?
A I was.
Q All right. Did you need to refer to your report?
A If I may, that would be good.
Q That's the police report. This is the supplement.
(STATE EXH. 2, Cell phone, was marked for identification.)
BY MS. SWANSON:
Q All right. So let me ask you -- I'm going to show you what has been marked as State's Exhibit 2 and ask if this is the cell phone that you found in that wrecked vehicle.
A Yes, ma'am.
Q Okay.
MS. SWANSON: State would enter 2 for the purposes of this hearing.
THE COURT: Any objection?
MS. TOLLEY: Without objection.
THE COURT: Yes, ma'am. Go ahead.
(STATE EXH. 2, Cell phone, was marked for identification.)
BY MS. SWANSON:
Q So when you opened that phone up, what did you find?

A When I opened the phone on scene?
Q Yes.
A I noted that the cell phone number was (843) 592-[redacted] and under phone context under me it was listed as Ty the Destroyer.
Q Was there a phone number for someone listed as mom?
A There was.
Q And what phone number was that?
A That phone number was (843) 298-[redacted].
Q And did you do a database search?
A I did search our Spillman database and that phone number hit with a name of Asia Andrews.
Q Okay. Do you know who Asia Andrews is? Who she was linked to?
A She was also linked in our database to Erin Green. And I've known Erin Green to have a half-brother Tyreek Robinson.
Q All right. So at that point, did you get a search warrant for the phone?
A I did.
(STATE EXH. 3, Search warrant; cell phone, was marked for identification.)
BY MS. SWANSON:
Q I'm going to show you State's Exhibit 3 and ask if

that's the search warrant you got for the phone?
A That's my search warrant.
MS. SWANSON: State would enter exhibit 3 for the purposes of this hearing at this time.
THE COURT: Any objection?
MS. TOLLEY: Without objection.
THE COURT: Thank you.
(STATE EXH. 3, Search warrant; cell phone, was entered into evidence.)
BY MS. SWANSON:
Q And who did you take the phone to?
A I took it to the special investigator Derrick Nelson of the solicitor's office.
Q All right. And did you stay there while he performed the phone dump?
A I did.
Q And then did you -- what did you get; a thumb drive or a disk?
A He placed the extracted data on the thumb drive.
Q And did you turn that into evidence?
A I did. Put it on a CD-ROM and put that into evidence.
Q And did you turn the phone back into evidence?
A I did.

MS. SWANSON: I have nothing further at this time for deputy Paul in this matter.

THE COURT: All right.

Cross-examination.

CROSS EXAMINATION

BY MS. TOLLEY:

Q Good morning.

A Good morning.

Q On your search warrant, was it for a specific period of time?

A No, ma'am. I don't believe so.

Q Was it for a specific property?

A It was for the cell phone.

Q And was it designated for something specific that you needed to look for?

A I was trying to find the owner and any identifying information in the phone of the owner.

Q Okay. Was there anyone in the car?

A No, ma'am.

MS. TOLLEY: I don't have any other questions, Your Honor.

BY MS. TOLLEY:

Q Oh, was there a return with the search warrant?

A Yes, I can pull the return on the search

warrant.
Q Where is that?
A It should be attached to the search warrant.
Q Okay.
MS. SWANSON: It's really hard to see.
MS. TOLLEY: I got you. Okay.
BY MS. TOLLEY:
Q And what does the return reflect?
A You mean, the search warrant inventory?
Q Yes. Is that what you'd consider the return on the search warrant?
A The return would -- what I refer to it as is the part that I sign with the judge stating what is on there. I believe on that search warrant in particular it says, "Please see attached inventory," for what I found. And the search warrant inventory would have stated something to the effect of a CD-ROM containing extracted data from Samsung cell phone and placed into evidence under BCSO property and the property number for that cell phone.
Q Okay. And do you have that information?
A I don't have it on me.
MS. TOLLEY: I don't have any other

questions. I don't have the returns, though, so I guess that's it, Judge.

THE COURT: All right.

MS. SWANSON: Beg the Court's indulgence.

Do you have this sheet of paper?

MS. TOLLEY: I do.

MS. SWANSON: Okay. Unfortunately it's -- you can see it, it just didn't come through on the copy. But what he's saying is that that's what's written there, thumb drive with information located by Paul, twelve o'clock.

So that is the return. I don't know why it came out like that. And that was sent to you.

MS. TOLLEY: Okay.

MS. SWANSON: Okay.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q All right. So Deputy Paul, you are stating that the return -- and I'm going to show you right here. It's very difficult to see. The return states that it was the disk that you turned in to evidence with the information from the Cellebrite dump?

A Yes. It says data extracted from Samsung phone, serial number and the property number.

Q Okay, thank you.

MS. SWANSON: I have nothing further for Deputy Paul.

THE COURT: Anything else for this witness, Miss Tolley?

RECROSS-EXAMINATION

BY MS. TOLLEY:

Q Did you reference that there was an attachment as well in addition to what you described as a return?

A The paper that has that written on it with the data extracted that is the "see attached" inventory page. I believe at the top of that page it says search warrant inventory.

MS. TOLLEY: I'm going to approach the witness, if that's okay.

THE COURT: Sure. Yes, ma'am.

BY MS. TOLLEY:

Q So where does it say "see attachment," I guess is my question?

A It would be in the other portion.

Q I'm going to let you look at it.

A Yes, ma'am. Right here on this page. On inventory, "See attached inventory."

Q I got you. Thank you.

THE COURT: Anything else from this

witness from Miss Tolley or the State?

MS. SWANSON: No, Your Honor.

MS. TOLLEY: No, Your Honor.

THE COURT: Okay.

MS. SWANSON: Deputy if you can step down and just await your testimony for the case in chief.

THE WITNESS: Yes, ma'am.

MS. SWANSON: Thank you.

The State calls Derrick Nelson.

THE CLERK: Good morning.

THE WITNESS: Good morning.

THE CLERK: Raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You may adjust the microphone as needed and just state your name for the record and spell your last name.

THE WITNESS: My name is Derrick Nelson, N-e-l-s-o-n.

WHEREUPON:

DERRICK NELSON,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Investigator Nelson, who do you work for?

A I work for the 14th Circuit Solicitor's Office.

Q And what do you do for us?

A I'm a digital forensic examiner.

Q What did you do before you came to our office?

A I worked for the Beaufort County Sheriff's Office. While I'm there, as a criminal investigator and also digital forensic examiner.

Q All right. So how many years have you been examining things forensically, digital items forensically?

A About eight years now.

Q And what system do you use to do so?

A In particular, for mobile forensics, I use the Cellebrite. It's called UFED, Universal Forensic Extraction Device.

Q How long have you been using the Cellebrite system?

A For my tenure. For eight years.

Q Have you received specialized training?

A Yes, ma'am.

Q And just tell us, when you receive a phone, you

hook up the machine, what happens?

A The quick version is, basically, attach the phone to the device. It creates a back up of all the data on the device. And then I use a software that is written by Cellebrite. It's called physical analyzer software. It then parses the information and puts all the data from the phone into a user-friendly format.

Q Okay. And that goes on the thumb drive or a disk?

A It can. I can export it in multiple facets.

Q Okay. None of this information is information that's not on the phone, correct?

A Correct.

Q So this is only what is physically on the phone that's being examined?

A Yes, ma'am.

Q I'm going to ask if you did a Cellebrite dump at the request of BCSO on State's Exhibit Number 2, the Samsung Galaxy cell phone?

A I did.

Q Okay. Who delivered that phone to you for that dump?

A It was Sergeant Adam Paul.

Q All right. And did he provide you with a signed search warrant?

A He did.

(STATE EXH. 6, Cell phone dump, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you what's been marked as State's Exhibit 6 for the purposes of this hearing and ask if this is a copy of the cell phone dump.

A It is.

Q All right. And how do you know that?

A I've reviewed this disk and signed it and dated it when I reviewed it.

Q So that contains all the Cellebrite information?

A This is the complete extraction that I completed.

Q Complete extraction.

MS. SWANSON: The State would enter six for the purpose of this hearing at this time.

THE COURT: Any objection?

MS. TOLLEY: No objection.

THE COURT: Go ahead. Admitted without objection.

(STATE EXH. 6, Cell phone dump, was entered into evidence.)

(STATE EXH. 5, Video; extraction from cell phone, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you what's been marked as State's Exhibit 5. Can you described what this item is?

A This is a disk containing one particular video from that extraction.

Q And was that a video that I requested be placed on a disk?

A It was.

Q All right. And is it a fair and accurate depiction of that video?

A It is.

Q And how do you know that?

A Because I have reviewed this disk as well.

Q And initialed it?

A Yes.

MS. SWANSON: State would move 5 into evidence for the purposes of this hearing at this time.

THE COURT: Any objection?

MS. TOLLEY: No objection.

THE COURT: Thank you.

(STATE EXH. 5, Video; extraction from cell

phone, was entered into evidence.)

(STATE EXH. 4, Cell phone extraction; abridged, was marked for identification.)

BY MS. SWANSON:

Q Derrick, I'm going to hand you State's Exhibit 4. Can you identify what this document is?

A This is a -- I guess an abridged portion of the cell phone extraction. This is an extraction report that I gave at your request of the specific items that you wished for purposes of the hearing, for trial.

Q Correct. So it's an abridged version of specific items that I requested you place in a smaller report?

A Correct.

Q Okay. Did all of these items in this report come from the Cellebrite extraction?

A That is on that disk, yes, ma'am.

Q Okay, thank you.

MS. SWANSON: I have nothing further at this time.

THE COURT: Thank you.

Cross-examination.

MS. TOLLEY: Beg the Court's indulgence.

THE COURT: Yes, ma'am. No problem.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Did you provide this information in multiple forms for the solicitor?

A In multiple --

Q The information that was provided in the Cellebrite report that she just entered into evidence?

A Technically, it's only going to be in two forms; a PDF report and also in the full extraction.

Q I got you. Was there -- when you actually pull up the call on this particular -- was there an item that said that a video was sent related to this particular incident?

A The video in question sent via, like, text message you mean?

Q That's correct.

A Yes, ma'am, there was.

Q And when you pull up that text message in the cell dump, how does it show up?

MS. SWANSON: Here you go.

THE WITNESS: I don't understand. When you say how does it show up. It can -- you can

click on the link and actually view the video itself, but it will also show you the originating time and date of the message itself and where it went.

BY MS. TOLLEY:

Q Okay, got you.

All right. In this particular case, it didn't specifically say the name of the person that it went to, is that correct, when you pull it up.

A In the message, who did it specifically go to.

Q That's correct.

A It has a phone number listed. Would you like to know the phone number?

Q Sure.

A It's are code (863) 441-[redacted].

Q And beside that phone number, there's not a name; is that correct?

A Not for this particular entry.

Q Okay, thank you.

MS. TOLLEY: No other questions.

THE COURT: All right. Thank you.

Yes, ma'am.

MS. SWANSON: Just briefly.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q When that phone is searched under call logs, is it associated with a name?

A It is.

Q And what is that name?

A It's Kareem New.

Q All right. And how many calls take place between Kareem New and Tyreek's phone number?

A There are nine total calls.

Q Okay. And now going into contacts, was there a Kareem listed under contacts?

A There was. There was a New Kareem.

Q Okay.

A The associated number with that contact was (843) 592-[redacted].

Q Okay. So a different number?

A Correct.

Q All right. And in the instant messages, did New Kareem appear? If you'll go down to number 9.

A It did.

Q Okay. What did he text on 9/25/2020?

A The body of the text was, "I'm on my way to Savannah right now. I see police everywhere."

Q And then what did Tyreek text back in number 8?

A Okay. It was "Word. Good looking out."

Q Okay. And then shortly after that, what text comes from Tyreek's phone number?

A After that entry is one going to a different phone number. The body of that is, "This Tyreek."

Q Thank you.

MS. SWANSON: That's all I have at this time.

THE COURT: Anything else, Miss Tolley?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Okay. Is that it?

MS. SWANSON: Yes, sir. That concludes the cell phone information.

Investigator Nelson, if you can step down and just await your testimony for the case in chief.

THE COURT: Thank you, sir.

MS. SWANSON: Thank you.

THE COURT: Miss Tolley, I'm happy to hear from you, ma'am.

MS. TOLLEY: Thank you, Your Honor. May it please the Court? We have a couple of objections to the entering of this information. One, it references the incident that happened with the Chevy Blazer. And we believe that the reference to that, in linking Tyreek to that, puts

into evidence prior bad act inappropriately.

We also believe that putting it in is a way of back dooring identification of the person who did this particular incident inappropriately.

We believe that it is hearsay as it effectively is an out-of-court statement being offered to prove that he was the person in this car and left the phone.

And for those reasons, we think that this should not be admitted into evidence.

And then, as a follow-up, we would say the fact that she's referencing the Chevy Blazer incident at this time when we weren't provided with information or discovery with regard to that particular incident until Friday is inappropriate.

That, in conjunction with the other items, that we've only recently received creates an accumulative effect of being prejudicial and harmful.

And for those reasons, we're asking that it not be included.

THE COURT: The Blazer incident, is that just where it was found?

MS. SWANSON: That's correct. I'm not talking about the Blazer incident. Adam Paul had

to testify to it because that's where the phone was found, yes.

THE COURT: What's the harm in him just saying where he found the phone? I don't understand. If he mentioned Blazer -- that's the first time I heard that. I didn't hear anything about a Chevy Blazer.

MS. TOLLEY: Well, I heard back in her opening statement yesterday when she said that there was a Chevy Blazer incident on Muddy Creek Road and somehow linking it to Tyreek in her opening statement.

MS. SWANSON: Because the phone belonging to him was found in there. I said nobody else was found in there.

THE COURT: Well, she didn't -- I don't think she said anything to indicate that anything was done wrong other than there was a wrecked car or words to that effect.

MS. SWANSON: Right.

THE COURT: But she certainly didn't say anything about him or anybody whether there was one person, ten people. I think anybody would say that. He came upon a car and found this phone in it, which ended up being his phone.

MS. SWANSON: That's correct. And also, it was not objected to at the time.

MS. TOLLEY: But I did make the motion previously asking that there be a hearing with regard to admission of any type of evidence related there to, or physical evidence that's going to be admitted into evidence which would include the phone.

MS. SWANSON: But that's not how trials work.

THE COURT: Yeah, I'm not familiar with just basically saying, hey, I want to have a hearing for whatever you're going to put into evidence, which is kind of what I've been hearing. That's just not my experience. They provide you with it. And they may use some of it or may not use some of it. I don't know that they're under an obligation to tell you what they're going to use. When you go -- and they give you a hundred photographs and they only want to use two, I don't know that they necessarily have to tell which two they're going to use ahead of time.

All right.

MS. TOLLEY: That's --

THE COURT: Solicitor -- go ahead.

MS. TOLLEY: Nothing further, Your Honor.

THE COURT: All right. Solicitor, let me hear from you in regard to the back door of the ID and the hearsay. I think those are the other arguments she made.

MS. SWANSON: Well, cell dumps are routinely used as evidence. These are, you know, statements that are better made by a party opponent. Things that are made by a party opponent which are not subject to hearsay.

The back door idea, I don't know that there is such a thing. It's circumstantial evidence because there is a lot of identifying information on the phone. Yes, of course it helps prove ID as to who the perpetrator is because of all the identifying information on the phone as well as the video that exists on the phone.

THE COURT: All right. What I'm going to do on this is basically, I think she's laid the proper foundation. I think she has gone and they've provided substantial testimony, believable testimony as it relates to how the phone came into law enforcement's possession. I that the individual who testified concerning the cell dump

that basically -- he certainly is qualified. He's used the software and hardware as it relate to the cell dump on numerous times over eight years. And, quite frankly, I think that he explained what he provided to the solicitor and what was on the CD, and also explained the circumstances concerning the actual report that Miss Tolley made referenced to earlier, that it was nothing but a -- basically an abridged version of some of the information that's contained on there, on the phone.

Certainly, there's been no testimony he altered this phone in any way.

I think, certainly, it's fair cross-examination as to whether it's his phone, and I think he can certainly inquire there, that maybe things -- to go from there.

But as it relates to the phone and its contents, I think she's laid the proper foundation here. And assuming that happens in the trial itself when we get the jury back in here, I'd be inclined to allow it.

I'll certainly let you state your objection. I think you stated your objection on the record. I'll allow you to put whatever you

want in the record or renew your objections at the appropriate time when the jury is back out here. Okay?

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

I do want to say that I don't think referencing the wreck is prejudicial or indicates, really, a bad act. I don't think there's any details. And, quite frankly, I just don't think that that's really -- I think it's a wrecked vehicle or an abandoned vehicle, or a vehicle on the side of the road or a ditch, or whatever it may have been, I don't think that constitutes a bad act, or prejudicial in any way to the defendant. I certainly think that the probative value in this case is going to outweigh any prejudicial effect, if there even is any.

Anything else before we bring the jury back in?

MS. SWANSON: No, Your Honor.

MS. TOLLEY: Nothing, Your Honor.

THE COURT: All right. Let's take ten minutes and we'll start back right around 10:30. Okay?

MS. SWANSON: Thank you, Your Honor.

(A break was taken from 10:10 a.m. to 10:31 a.m.)

THE COURT: Anything from the State before we bring the jury in?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Okay, great.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: All right. Thank you.

(Jury enters the courtroom at 10:32 a.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: All right. Ladies and gentlemen, I'm sorry to keep you waiting. We have been working this morning on several matters that hopefully will streamline the case. The good news is that the air is working a little better in here. It's like they took it and moved the duct over here, because I know it's warm back there. It's warm in the chambers where I am. Hopefully, they can find the perfect solution and get both areas cool.

I think we're ready for the State to continue with their case. Is that correct,

Solicitor?

MS. SWANSON: That's correct, Your Honor.

THE COURT: You can call your next witness.

MS. SWANSON: The State calls Nicholas Whaling.

THE CLERK: Good morning. If you would raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You can adjust that mic and speak directly into it. If you would, state your name and spell your name for the record.

THE WITNESS: My name is Nicholas Whaling N-i-c-h-o-l-a-s, W-h-a-l-i-n-g.

WHEREUPON:

NICHOLAS WHALING,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Okay. Nick, where were you working in September of 2020?

A I was working with the Beaufort County Sheriff's Office in Hilton Head.

Q Okay. And in what capacity?

A I was a road deputy.

Q So were you on duty September 19th of 2020?

A I was.

Q Were you just coming on or just finishing up?

A I was just coming on that day.

Q All right. And what was the first call and at what time did you respond to that?

A The first --

Q I can hand you your report, or do you have it?

A I have a copy, yes, ma'am.

Q Okay, great. Thank you.

A It was about six o'clock in the morning. It was for a burglary in progress at [redacted] Wildlife.

Q What was the address again?

A [redacted] Wildlife View, Hilton Head Island, South Carolina.

Q Is that within Beaufort County?

A It is within Beaufort County. It's on Hilton Head.

Q And do you know what the name of the neighborhood is?

A I believe it was Tansyleaf.

Q And can you describe that neighborhood for me?
A It's a small neighborhood off of Spanish Wells to the right. And you go down the street and it's a small turn. And then another little street that goes down to the water.
Q What time did you arrive at the [redacted] Wildlife View?
A I'm not sure what time I arrived, but I got the call at about 6:09, and then I was just down the street so it only took me probably about five minutes.
Q Okay.

(STATE EXH. 8, Still shot from body-cam; residence, was marked for identification.)

BY MS. SWANSON:
Q Were you equipped with a body-worn camera?
A I was.
Q I'm going to hand you what has been marked as State's 8 and ask if you recognize what's in this photo.
A Yes. That's right when I walked up to the residence, or before I walked up to the residence, the staircase to the front door.
Q And is that a fair and accurate depiction of a still shot from your body-worn camera of the residence and how it appeared when you arrived?

A It is.

MS. SWANSON: State would move 8 into evidence and request to publish.

THE COURT: Any objection?

MS. TOLLEY: Without objection.

THE COURT: Okay. Admitted without objection.

(STATE EXH. 8, Still shot from body-cam; residence was entered into evidence.)

BY MS. SWANSON:

Q So it was pretty dark outside, right?

A It was. There was no sun on the horizon, I don't believe. If any, very little.

Q All right. And if you read the time stamp on there?

A 6:19 in the morning.

Q All right. So once you arrived on the residence, where was the victim?

A I walked up the stairs. And then, as I was walking up the stairs, I think she turned the light on and then she just came out the front door. That's where I first made contact with her.

Q All right. And did you interview her at that time?

A I did. I started asking her initial questions about where the suspect was and if he was still there, and what was just generally going on at the time.

Q Okay. Of course, without telling us what she told you, was she able to provide a description of the suspect?

A She was. She provided a detailed description. It was --

Q And she was able to tell you where all the suspect went through the house?

A Right. She said, you know, where she was sleeping. And then she initially saw him -- or heard him and then saw him, and then he left.

Q Okay. So she described all that to you.

A She did.

Q As you did a walk-through?

A She did.

Q Did she point out some shoe prints to you?

A She did. At the base of the bed where the foot board is --

Q Okay.

A -- she described footprints there. And she said there shouldn't be any footprints in there because she just vacuumed. I think she said that

she doesn't wear shoes in her bedroom.
Q Were you able to observe them?
A I believe I did. I don't remember if I put that in the report or not, but I definitely looked at them and saw footprints, shoe prints.
Q In the carpet?
A In the carpet, yes, ma'am.
(STATE EXH. 10, Photo, was marked for identification.)
BY MS. SWANSON:
Q Now I'm going to show you what has been marked as State's Exhibit 10 and ask if you recognize what's in this picture.
A Yes, that's where the victim said she was sleeping. And in that bed -- and at the base of the foot rest right there is where the shoe print was.
Q And that's a fair and accurate depiction?
A It is.
MS. SWANSON: State would move 10 into evidence and request to publish.
THE COURT: Any objection?
MS. TOLLEY: Without objection.
THE COURT: Admitted without objection, State's 10.

(STATE EXH. 10, Photo, was entered into evidence.)

BY MS. SWANSON:

Q So we're looking at the victim's bedroom right here.

(STATE EXH. 9, Photo, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you a picture marked State's Exhibit 9 and ask if you recognize what's contained in this picture.

A This is the living room where we walked out of the bedroom -- or, excuse me. We then went into the kitchen area, and that's where she described finding a Crown Royal bottle that she then put in the trash just out of habit. She then realized it shouldn't have been there and it should have been half full. I believe she said it was. And it was empty and manipulated by someone.

Q And so that's where that was found? Where she found it?

A Right, on top of the counter.

Q Okay. And this is a fair and accurate depiction of the kitchen?

A It is.

MS. SWANSON: State would move 9 into evidence and request to publish.

THE COURT: Any objection?

MS. TOLLEY: Without objection, Your Honor.

THE COURT: Thank you. Admitted without objection, State's 9.

(STATE EXH. 9, Photo, was entered into evidence.)

BY MS. SWANSON:

Q State's 9, and it's the island counter that you're referring to?

A Yes. Where the paper towels are, it would have been -- if you're looking at the picture, just to the left of that, I believe she said.

Q Okay.

(STATE EXH. 7, Crown Royal bottle, was marked for identification.)

BY MS. SWANSON:

Q You mentioned the Crown Royal bottle. I'm going to hand you State's 7 and ask if you recognize what that item is.

A Yes.

Q What is this?

A It's the Crown Royal bottle.
Q That you collected?
A That I collected. I collected the whole thing.
MS. SWANSON: State would move 7 into evidence at this time.
THE COURT: Any objection?
MS. TOLLEY: Without objection.
THE COURT: State's 7 admitted without objection.
(STATE EXH. 7, Crown Royal bottle, was entered into evidence.)
BY MS. SWANSON:
Q All right. After doing the walk-through with the victim, did you decide to take any swabs of anything?
A I did. She showed me where she had a wallet and her school bag. And she noticed that $100 was missing and so we went over there. I took DNA of the wallet. And then --
Q Or attempted?
A Or attempted, yes.
Q Sure.
A Excuse me. And then we went around the rest of the house to make sure nothing else was missing or disturbed. And then we finally went down to

her car and then there was a package -- an Amazon package in the back of her car that she realized it was a halloween flag that somebody had taken. She said that her step-daughter had left the garage door open, so the garage door -- or the garage is right here and then it has a staircase that leads up into the house. There's an access door under there. So I swabbed the doorknob that goes from the garage to access into the house. Those are the two swabs I took and then collected the whole bottle.

Q Okay. And then four days later, did you make contact with a neighbor regarding a person of interest?

A I did. She said that one of her neighbors had a video of somebody stealing.

MS. TOLLEY: Objection.

BY MS. SWANSON:

Q No, I'm sorry.

THE COURT: Hold on, hold on, hold on. Your objection.

MS. TOLLEY: I think it's information that's not admissible.

THE COURT: All right. Are we good on that? I'm going to sustain her objection.

MS. SWANSON: Yes.

THE COURT: Go ahead, Solicitor.

BY MS. SWANSON:

Q No, no, no. I'm referring to a tip that was made on 9/23 and you went out and interviewed a neighbor regarding a possible suspect. Do you recall that? And without saying what that neighbor said, I believe --

A Right. I think it was a few doors down, I when over and spoke to somebody.

Q A male?

A I believe it was.

Q Okay.

MS. TOLLEY: May we approach, Your Honor?

THE COURT: Yes, ma'am.

(Bench conference.)

MS. TOLLEY: There's a sketch as a result of the tip.

THE COURT: So what is this? He went out as a result of a tip?

MS. SWANSON: There was a tip about a sketch four days later, and he just interviewed the guy. But that's all I want to ask him about. Because the guy is going to come testify. He can't identify him.

THE COURT: All right. You're just going to ask him if he went out and spoke to --

MS. SWANSON: Yes, sir.

THE COURT: -- the tipster, and if he interviewed him. And what else?

MS. SWANSON: That's it.

THE COURT: I mean, I think that's fine. I would expect he would be able to testify as to what he saw.

MS. SWANSON: Yes.

THE COURT: I think if you're just going to go and you're going to ask him did he go out four days later, you know, to an address or whatever, I think that's fine. So I'm going to overrule your objection. Okay?

And you go ahead and inquire as to that. Is there a reason you need to show him this?

MS. SWANSON: Oh, I just think he wasn't recalling and was getting to reference something else, but we were not getting into it.

THE COURT: I don't have a problem with her showing this to him to refresh his memory as to whether he saw somebody.

MS. TOLLEY: Got you.

MS. SWANSON: Thank you.

THE COURT: I'm going to overrule the objection.

Solicitor, you can proceed.

BY MS. SWANSON:

Q Nick, I'm going to hand up a supplemental from 9/23 just to refresh your memory. I just wanted to know if you went out and interviewed a specific person about a tip that was called in, without going into detail about the tip.

A Yeah, so -- sorry, I misunderstood your question earlier.

Q It's okay. Who did you interview?

A It was William Redman.

Q Okay. And that's all I needed to know.

A Sorry about that.

Q That's okay.

MS. SWANSON: I have no further questions at this time for this witness.

THE COURT: Thank you.

Cross-examination.

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Good morning.

A Good morning.
Q Officer, you said you got a call about 6:09 in the morning; is that correct?
A That's correct.
Q And the time stamp on the picture that we introduced was 6:19 in the morning; is that correct?
A I believe it was.
Q Now, you weren't there when this incident allegedly occurred, were you?
A No.
Q Okay. When you came -- were you the first officer on the scene?
A No, I was not the first officer in the neighborhood but I was first one to make contact with the victim.
Q Okay. Were there officers present who were searching the area?
A There were.
Q And when you came to the area, did you see anybody fitting a description that had been put out?
A I did not.
Q Okay. Did any of the other officers find anybody fitting the description that was put out?
A Not at that time.
Q When you go out and investigate -- and you said

you took a statement from the alleged victim; is that correct?

A That's correct.

Q You base your investigation on what the victim tells you; is that correct?

A Correct.

Q And one of the things that she told you was that there was a Crown Royal bottle that she thought she might have -- that the perpetrator might have touched; is that correct?

A Yes.

Q And as a result of that, you took a swab?

A No. I collected the whole bottle instead of just taking a DNA swab, I collected the whole bottle to be processed.

Q Okay. And that bottle was processed?

A I believe it was.

Q And are you aware that the DNA that came back on that bottle was for the alleged victim?

A I didn't see the report.

Q Okay. If I provided you with that report, would that --

MS. SWANSON: Your Honor, I believe the proper person to ask would be the DNA analyst.

THE COURT: All right. I'm going to

sustain the objection. I think you can ask him -- I think you can ask him if he knows about it or knows the results of it. He indicated that he did not. I'm not going to allow you to question him about that report. Okay?

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

BY MS. TOLLEY:

Q And are you aware that Tyreek Robinson was excluded from having DNA connected to this particular incident?

A I was not.

Q Not from the wallet?

A I have not seen the fringe report for any of the DNA that I took or collected that day.

Q Okay.

A For the swabs that I collected.

Q So, are you aware that also he was excluded from the match on the door?

A I was not aware.

MS. SWANSON: Your Honor, this is back dooring in hearsay.

THE COURT: I'm going to sustain the objection. Let's move along.

MS. TOLLEY: Okay.

BY MS. TOLLEY:

Q You mentioned that there was --

THE COURT: I'm going to ask that the jury disregard the last question.

Go ahead, ma'am.

And the answer thereto.

Go ahead.

BY MS. TOLLEY:

Q You mentioned that there was a potential footprint; is that correct?

A Correct.

Q Was that footprint only in one place?

A I don't recall.

Q Okay. And do you have a crime scene unit at the Beaufort County Sheriff's Office?

A We do.

Q Did the crime scene unit come out?

A I don't believe they responded. I'm not sure. I did not call them.

Q Okay. So no one collected the footprint and tried to process it?

A I'm not sure. I did not.

Q Okay.

MS. TOLLEY: I don't have any other questions, Your Honor.

THE COURT: Thank you.

Any redirect?

MS. SWANSON: Just briefly.

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q Nick, you saw A.M.N. handle the Crown Royal bottle several times, right?

A Several times, yes.

Q Because she had actually initially thrown it away.

A Right.

Q And then pull it out of the trash.

A Right. And I think she threw it away an additional time.

Q Again.

A Even after we spoke about it just out of habit.

Q Okay. Also, are you aware of any way to somehow preserve a footprint on the carpet?

A I don't know of one.

Q Okay. And you're not in a uniform because you moved on to another job, right?

A Yes, ma'am.

Q Okay.

A I'm no longer with the sheriff's office.

MS. SWANSON: That's all I have.

THE COURT: Anything else, Miss Tolley?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Sir, thank you so much. You are excused. Have a good day.

THE WITNESS: Thank you.

MS. SWANSON: Thank you.

The State calls A.M.N.

THE COURT: All right.

THE CLERK: If you would, raise your right hand, please. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE COURT: Good morning.

THE CLERK: You can adjust the microphone and speak directly into it. If you would, state your name for the record and spell your last name.

THE WITNESS: Okay. My name is A.M.N. A.M.N. My last name is spelled A.M.N.

WHEREUPON:

A.M.N.,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q I think I've been back and forth on A.M.N. and A.M.N. It's A.M.N.?

A A.M.N..

Q I think I got it right yesterday, not today.

MS. SWANSON: Beg the Court's indulgence.

BY MS. SWANSON:

Q All right. A.M.N. where do you live?

A [redacted] Wildlife View in Hilton Head, South Carolina.

Q And what neighborhood is that within?

A It's Waterside by Tansyleaf.

Q If you could pull that a little bit closer.

THE COURT: You actually have to get right up on it for it to work. You're doing great. Yes, ma'am.

THE WITNESS: Thank you.

BY MS. SWANSON:

Q Okay. Is that within Beaufort County?

A Yes, ma'am.

Q Who do you live at that residence with?

A I live with my boyfriend, Brian, our son MINOR and his four children.

Q Okay. Do you have any animals?

A We have three cats.

Q Okay. And do you remember what was going on

Friday, September 18th of 2020 the night before this incident that we're here for?

A I was at home studying for school the next day. And Brian's daughter and her friend came over and used the golf cart and went out to dinner at a restaurant very close to our home, and then returned around eight o'clock. And I was just getting into bed at the time.

Q Was your boyfriend there?

A No, he was not. He was away on a business trip.

Q What does he do for a living?

A He's a pilot.

Q Do you recall about what time you fell asleep?

A I believe I fell asleep closer to ten o'clock at that point.

Q And where were you studying?

A I was in bed.

Q What was going on in your life at the time?

A I was in school to become an aesthetician.

Q Were you pregnant?

A I was three months pregnant at the time.

Q What did you wear to bed that night?

A I initially went to bed in a sleep shirt that I normally wear, and then removed it in the middle

of the night because I was hot.
Q And when you go to bed at night, do you typically keep your door open or closed?
A I usually keep it closed to keep the cats out of the room. The door, I believe, was open. Opened at some point in the night, but I went in there with the door closed.
Q Tell us what you awoke to.
A I woke to hearing noise. Initially, I thought one of the cats was in the room. And then I focused and then woke to a bright light and then I saw a hand on the banister of my bed, and then realized that somebody was in the room.
MS. SWANSON: If I can bring the witness off the stand and have her refer to State's Exhibit 10.
THE COURT: Yes, ma'am.
MS. SWANSON: Okay, thank you.
BY MS. SWANSON:
Q Miss A.M.N., just come off the stand. I'm going to put this on the screen so you can describe to the jury where this man was in your bedroom. First of all, I'm showing you State's 10. Is this your bedroom?
A Yes.

Q And if you want to use this pen, you can point out what you observed when you woke up.
A Okay.
Q Let me get you close to this microphone.
A So I awoke to seeing the phone over the banister and a man's hand, and then somebody crouched underneath the banister.
Q What happened next?
A I started to focus and said, *"What the fuck is going on?"* And the person stated, *"I just wanted to let you know your garage door was open."*
Q You can retake the stand.
A Okay.
Q All right. At that point, did you leave the bedroom?
A I did get out of bed and start to go towards the man in the bedroom and he ran out of the house.
Q Okay. Which way did he run out of the house?
A Through the door leading up from the garage.
Q Okay.

(STATE EXH. 11, Photo; house, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you what's been marked as State's 11 and ask if you recognize what's contained in this exhibit?
A Yes, I do.
Q Is that your house?
A That is my home.
Q Okay. And is that a fair and accurate depiction of the house?
A Yes, it is.
Q And is that the garage door that was open?
A Yes.
Q All right.

MS. SWANSON: State would move 11 into evidence at this time and request to publish.

THE COURT: Any objection?

MS. TOLLEY: Without objection.

THE COURT: Admitted without objection, State's 11.

(STATE EXH. 11, Photo; house, was entered into evidence.)

BY MS. SWANSON:

Q So it was this bay that was left open?
A Yes.
Q And then that is where he exited?
A Yes.

Q Had you locked the front door that night?
A Yes, I did.
Q Who do you call first?
A I called my boyfriend, Brian.
Q All right. And then who did you call?
A I called 911.
Q All right. And what happens while you're on the phone with 911?
A While I was on the phone, he tried to get back into the house through the front door.
Q Was he banging on the door?
A He was trying to get -- open the door. You know, use the door handle to get back in and was staring at me while I was standing there with the phone.
Q Okay. Was he saying anything?
A No.
Q Was he doing like this (indicating) with the doorknob?
A Yes.
Q Twisting it?
A Yes.
Q Do you wear contacts?
A I do.
Q Did you have them in that morning?

A I did not have them in that morning. But while I was on the phone with 911 prior to him returning to the door, I put them in, you know, while I had the phone on speaker.

Q Okay. Were you able to get a pretty good look at him?

A I was when he returned to the door.

Q Was the front porch light on?

A Yes, it was.

Q And how did you describe him to the police?

A I described him as young black male with a red shirt and dreads.

Q All right. Did he have facial hair at the time?

A He did not.

Q What were you able to determine was out of place at your house?

A I saw my wallet pulled out of the bag. I saw the Crown Royal bottle. There was a cabinet that had been opened. When I when downstairs, my car was rummaged through. That's what I noticed was out of place.

Q Okay. Was there anything taken out of your wallet?

A There was money taken out of my wallet.

Q Was there anything else on that kitchen island

counter?
A There was a breakfast sandwich sitting on the kitchen counter. Is that what you're asking? Yeah, there was breakfast sandwich sitting on the kitchen counter that was not from me.
Q Okay. And did it appear that someone had eaten it?
A There was a bite taken out of it.
Q Okay. And that was next to the empty bottle of Crown Royal?
A Yeah.
Q What did you see at the foot of your bed that you pointed out to police?
A I saw two footprints. Two large footprints at the end of the bed.
Q Did you attempt to photograph that, do you recall?
A I believe -- yes, I did photograph it, actually, because I believe I sent it to my boyfriend at the time. Or showed him when he return home from his trip that morning.
Q Did it really come through in the photograph?
A It did not.
Q Okay. Later on, did you realize that anything else was missing from the garage?
A We did realize that our JBL speaker had been

missing, out blue tooth speaker. Brian was missing boxes of bullets.

Q And you stated that the man in your house had a flashlight on?

A Yes. I said he had a flashlight, but I also express concern that I believe he was recording me and that it was not just the flashlight. It was the light from the camera.

Q Okay. The day after the incident, do you remember Deputy Wiech coming out to your house?

A Yes, I do.

Q Do you recall describing the incident to him?

A Yes, I do.

Q And did he show you a photo line-up?

A Yes, he did.

Q Were you able to pick anyone out of it?

A I was not.

Q Okay. Do you recall meeting with Investigator Wiech again on October 14th of 2020?

A Yes, I do.

Q Where do you meet with him?

A At the Beaufort County Sheriff's Office in Hilton Head.

Q The investigations office on Hilton Head?

A The investigations office, yes.

Q And did he show you some photos for identification purposes?

A Yes, he did.

(STATE EXH. 12, Photo, was marked for identification.)

(STATE EXH. 13, Photo, was marked for identification.)

(STATE EXH. 14, Photo, was marked for identification.)

MS. TOLLEY: Without objection, Your Honor.

THE COURT: Thank you.

BY MS. SWANSON:

Q I'm going to show you a series of three photos marked State's 12, 13, and 14 and ask you if these are fair and accurate depictions of what Investigator Wiech showed you during that interview.

A Yes, they are.

Q Okay.

MS. SWANSON: And State would move 12, 13, 14 into evidence at this time.

THE COURT: That's without objection, correct, Miss Tolley?

MS. TOLLEY: That's correct, Your Honor.

THE COURT: Could I see those, please? Thank you.

MS. SWANSON: All right. Move to publish at this time.

THE COURT: Yes, ma'am.

(STATE EXH. 12, Photo, was entered into evidence.)

(STATE EXH. 13, Photo, was entered into evidence.)

(STATE EXH. 14, Photo, was entered into evidence.)

BY MS. SWANSON:

Q Okay. So what are we looking at, A.M.N., here in this photo that Investigator Wiech showed you?

A There's a blue Hilton Head sweatshirt. The sleep shirt that I originally went to sleep in that evening, and then it's the comforter that was on my bed at the time.

Q Okay. And then in 13, I believe this is a sanitized version.

A Yes.

Q So this is where you would be.

A Yes.

Q But what are we looking at here?

A We are looking at the rest of the bed.

Q Okay. And I believe he noted it blue striped sleep shirt, beige comforter on bed, blue Hilton Head shirt from Walmart, initialed and dated 10/14?

A Yes.

Q And then right here, front of bed, beige carpet, dated and initialed --

A Yes.

Q -- as your bed?

A Uh-huh.

THE COURT: Yes?

THE WITNESS: Yes.

THE COURT: Thank you.

BY MS. SWANSON:

Q And did Investigator Wiech tell you that a video had been found?

A Yes, he did.

Q What was your reaction?

A I was devastated and humiliated.

Q Did you sit down with a sketch artist from SLED at some point?

A Yes, I did.

Q Did you provide physical details?

A Yes, I did.

Q A.M.N., I have to ask you what may seem to be a silly question, but, did you know Tyreek Robinson at

all?
A No, I did not.
Q Did you allow him into your house?
A No, I did not.
Q Did you have any consensual relationship with him?
A No, I did not.
Q Thank you, A.M.N.. That's all I have at the moment?
A Thank you.
THE COURT: Miss Tolley, cross-examination.
MS. TOLLEY: I do, Your Honor.
THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. TOLLEY:
Q How are you?
A Good. How are you?
Q Good.
So, on the morning of this incident, you weren't wearing your contact lenses?
A No, I was not.
Q Okay. And you weren't able to pick him out -- pick an assailant out of a line-up?
A I was not.

Q And you mentioned that there was a Crown Royal bottle; is that correct?
A Yes, I did.
Q Okay. And do you drink?
A I do not drink.
Q Have you ever drank?
A Yes, I have.
Q Have you ever drank to the point where you needed to go to alcoholics anonymous?
A Yes, I have.
Q And you struggled with that for a number of years?
A I did struggle with alcoholism for a couple of years.
Q And have you also struggled with the use of sleep medications?
A No, I have not.
Q Were you involved in a lawsuit a few years ago?
A A lawsuit pertaining to?
MS. SWANSON: Your Honor, I would ask for relevance. I don't know --
THE COURT: Let's approach.
MS. SWANSON: -- what she's referring to.
THE COURT: Let's approach.

(Bench conference off the record.)

THE COURT: I'm going to have to send you back to the jury room for a moment. I'll get you back here as soon as I can.

(Jury exits the courtroom at 11:05 a.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: All right. Thank you.

All right. So you had an objection, I think to relevance as it relates to some questions that Miss Tolley appeared to be going into concerning some prior litigation that the victim was involved in; is that correct?

MS. SWANSON: That is correct. I have not seen any of these documents. I don't know what she's referring to.

Judge, she has testified that she is -- she was not drinking at the time. On her 911 call she says, well, I'm not drinking because I'm pregnant.

THE COURT: Right.

MS. SWANSON: She did have some struggles after this horrible home invasion and sexual assault, which I was made aware of and the defense was made aware of.

THE COURT: Right.

MS. SWANSON: But that's after the fact. That's not when this incident occurred.

THE COURT: Okay. So what is it you were trying to get into, Miss Tolley, when the objection was made? So tell me about the -- you asked her with a lawsuit?

MS. TOLLEY: That's correct.

THE COURT: When was this lawsuit filed?

MS. TOLLEY: This was back in -- it looks like about between 2007 and 2013, Your Honor, where there's reference to sleep medication. There's reference to mental health struggles and suicide attempts. All of these prior to this particular incident.

MS. SWANSON: Your Honor, that's well removed from the 2020.

MS. TOLLEY: Well, I think it goes and creates a logical connection. I think that the liquor bottle is an important piece of evidence. The fact that there's no DNA linking my client to the bottle. There's DNA linking her --

THE COURT: The bottle is just a liquor bottle that's in the house.

MS. TOLLEY: Well, I think it also goes to her state of mind, and --

THE COURT: But she said she didn't drink and she wasn't drinking at the time.

MS. TOLLEY: Well, I think it goes to credibility as well, Your Honor.

THE COURT: Yes, ma'am.

MS. SWANSON: This is character assassination.

THE COURT: Yeah. I'll tell you what, I'm going to sustain the objection. I'm not going to let you get into the merits of the lawsuit. It does seem like it's rather remote. This is a lawsuit that may have been filed or involved things perhaps six, seven, eight years before this incident.

And also, ma'am, I think you've made your point to the jury. I think she admitted that she had been -- that she had issues or some concern about alcohol in the past and that it's something that she was dealing with or had to deal with.

I think that, you know, there's a Crown Royal bottle in the house, I think that's pretty removed. I mean, you'll find a Crown Royal bottle, perhaps, in my house and my wife doesn't drink. Okay? Or doesn't drink Crown Royal.

So I mean, the fact that the bottle is there,

I just -- I'm not going to allow you to get into this lawsuit, ma'am.

If there's anything else you want to state on the record. I think it gets into some -- I think it starts to move outside the scope of what I would contend to be normal cross-examination of a witness and getting into the character or habits of a witness. I think it goes too far. And I think it's not proper. It's not close in time.

And so, I think there's a prejudicial effect here, and I just don't think that the probative value -- I think it's going to outweigh any probative value, and I just don't think -- I don't think it's relevant also.

I'll let you state anything else you want on the record, ma'am.

MS. TOLLEY: We would just renew our objections, Your Honor. We believe that it is relevant. The fact that there is alcohol involved, that there's a history of alcoholism. That there's a history also of, apparently, using sleep medication and pain medication over a period of time, and recently. I think there's a connection there that's very important in this

particular case, particularly when the allegation is that it's my client who handled this particular bottle of Crown Royal. The DNA supports the fact that he did not handle this Crown Royal. The DNA links only her to this bottle of Crown Royal. I think all of that is critical and it goes to credibility and believability, Your Honor.

THE COURT: All right. I note your objection for the record.

Do we need to take a break before we bring the jury back in?

MS. SWANSON: None from the State.

THE COURT: Miss Tolley?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: All right. Let's get the jury back in, please.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

(Jury enters the courtroom at 11:22 a.m.)

THE COURT: All right. Ladies and Gentlemen, I'm going to sustain the State's objection.

Miss Tolley, you can certainly move forward with your cross.

MS. TOLLEY: Okay. May we approach

quickly? I just want to clarify with one question.

THE COURT: Yes, ma'am.

(Bench conference.)

MS. TOLLEY: I want to start with the struggle just to pick up where I left off.

THE COURT: I'm going to allow that. I'm going to allow that.

MS. TOLLEY: Okay, thank you.

BY MS. TOLLEY:

Q So you say you had struggles with alcoholism?

A Yes, I have.

Q And with regard to this particular incident, did you have -- you had multiple opportunities to see the alleged assailant; is that correct?

A Yes. And I did see him once I put my contacts in and returned to my home.

Q Okay. Was there another time, a third time after that, that you saw him?

A I did not.

Q Okay. With these multiple incidents, you still weren't able to pick him out of the -- a line-up; is that correct?

A Yes.

MS. TOLLEY: I'm looking for number 11.

State Number 11. Okay, here we go.

I'm going to approach the witness.

THE COURT: Yes, ma'am.

BY MS. TOLLEY:

Q You've previously seen State's Exhibit Number 11; is that correct?

A Yes, I have.

Q Can you make out a date stamp on this?

A It's September 20, 2020.

Q So that wasn't the day of this incident; is that correct?

A It was the next day.

Q Okay, thanks.

MS. TOLLEY: That's all I have, Your Honor?

THE COURT: Solicitor, any redirect?

MS. SWANSON: Just briefly.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q A.M.N., just to be clear, were you drinking the night of the incident when you were three months pregnant?

A No, I was not.

Q Did you struggle after this incident?

A Yes, I did unfortunately suffer from severe

depression and went back into my battle with alcohol after the incident occurred, after my pregnancy. I chose to go get help to be a better mom for my son, so I am a recovered alcoholic.

Q Right. Did this incident, kind of, spiral you?

A It did.

Q Thank you.

A You're welcome.

THE COURT: Miss Tolley, anything else?

RECROSS-EXAMINATION

BY MS. TOLLEY:

Q You struggled before this; is that correct?

A In reference to what you mentioned prior, and what you are reading that is not allowed, no, I did not. What you are reading was in reference to something previous, and it was not a struggle with alcohol.

MS. SWANSON: Objection. This is getting into the stricken material.

MS. TOLLEY: I think she's opened the door, Your Honor.

THE COURT: I think she's answered the question as it relates to the -- well, as it relates to the struggle. I don't believe we need to ask any more about that, Miss Tolley. I'm

going to sustain the objection.

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MS. SWANSON: No further questions for this witness, and I would ask that she be allowed to be excused from the stand.

THE COURT: Yes, ma'am.

Thank you very much, ma'am.

THE WITNESS: Thank you. Thank you.

MS. SWANSON: The State calls Lara Gorick.

THE CLERK: Good morning. Please raise your right hand for me. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. Come right up here. You can adjust this microphone how you need to so you can speak directly into it. If you would, state your name for the record and also spell your last name.

THE WITNESS: My name is Lara Gorick. Last name is G-o-r-i-c-k.

WHEREUPON:

LARA GORICK,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q All right. You're going to have to pull that microphone up close and speak up.

Who do you work for Lara?

A I currently work for the State Law Enforcement Division, SLED.

Q And what do you do there?

A I'm a forensic artist.

Q Okay. And what does that mean in layman's terms.

A A forensic artist is an individual who produces artwork that aids in a criminal or legal investigation.

Q All right. Tell us how that process goes. Do you meet with someone that can provide you details about a suspect?

A We meet with particularly victims or witnesses and they provide us details in the case. We usually focus on a suspect or an individual related to the case's face, and pretty much just draw what they tell us. The witness or victim leads the whole entire sketch.

Q Just a little bit more. Did you have the opportunity to meet with A.M.N. regarding her

description of her assailant?
A Yes.
Q Did you complete a sketch based on that?
A Yes, I did.
Q When did you meet with her?
A It would have been November 21, 2020.
Q Okay. Would that be September 21st?
A September, yes.
Q That confused me.

All right. So September 21, 2020.

A Yes.

(STATE EXH. 15, Forensic sketch; 9/21/20, was marked for identification.)

BY MS. SWANSON:
Q I'm going to hand you what's been marked as State's 15 and ask if this is the sketch that you produced?
A Yup, that is.
Q All right.

MS. SWANSON: I would move State's 15 into evidence and request to publish.

THE COURT: Miss Tolley, any objection, ma'am?

MS. TOLLEY: Without objection, Your Honor.

THE COURT: All right. Thank you.

State's 15 admitted into evidence without objection.

(STATE EXH. 15, Forensic sketch; 9/21/20, was marked for identification.)

BY MS. SWANSON:

Q All right. And what did you do with this sketch once it was complete?

A Once the sketch is completed, I just hand it over to the investigators working on the case and they use it how they see fit in the investigation.

Q All right. Thank you. Please answer any questions that the defense may have.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q Good morning.

A Good morning.

Q So you didn't actually see the perpetrator; is that correct?

A No.

Q And you based your drawing solely on what the person tells you?

A Yes. The victim or witness leads the whole entire sketch.

Q Was there a video of your meeting with her?
A No, not that I am aware of.
Q Audio of the meeting with her?
A Not that I'm aware of, no.
Q And where would you have met with her?
A I believe it was the Hilton Head office of Beaufort County Sheriff's Department.
Q Okay.

THE COURT: Any other questions?

MS. SWANSON: No, Your Honor. I would ask that Miss Gorick be allowed to be excused.

THE COURT: Oh, sure. Thank you, ma'am.

Call your next witness.

MS. SWANSON: Thank you. The State calls Derrick Nelson.

THE CLERK: Good morning. Raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You can adjust the microphone and speak clearly. If you would, state your name for the record and also spell your last name.

THE WITNESS: My name is Investigator

Derrick Nelson, N-e-l-s-o-n.

WHEREUPON:

DERRICK NELSON,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Investigator Nelson, who do you work for?

A I work for the 14th Circuit Solicitor's Office.

Q And in what capacity?

A I'm an investigator and a digital forensic examiner.

Q Okay. And where did you work before you worked for our office?

A I worked for the Beaufort County Sheriff's Office.

Q And what did you do there?

A I was an investigator and also a digital forensic examiner.

Q All right. Tell the jury what a digital forensic examiner does?

A We collect the data from pieces of evidence of digital, meaning from a computer, cell phone, up to routers, so on and so forth.

Q All right. And I'm going to have you identify

what's been marked as State's Exhibit 2 and ask if this is a piece of evidence that you forensically examined.

A I did. This is a Samsung Galaxy cell phone that I examined.

Q Who provided this item to you?

A As provided to my sergeant, Adam Paul, at the Beaufort County Sheriff's Office.

Q All right. And did he bring you a search warrant?

A He did.

Q What sort of extraction did you do on this phone?

A On this particular phone, I did two types of extractions and then merged them together. Essentially, one called a filed system level extraction, which does contain some deleted portions of a phone, and also one called an advance logical extraction which is simply what the user sees if you were to open up your phone and look at it and scroll through it. It's the same stuff. I then merged those two extractions together for my final report.

Q Okay. And what system were you using?

A I used the Cellebrite universal -- it's called universal forensic extraction device. It's

a proprietary hardware and software combination used for digital forensics.

Q And essentially it just pulls whatever is physically on that phone?

A Correct.

Q Okay. I am going to show you State's Exhibit 6 and ask if this is the complete cell phone extraction.

A It is.

Q How do you know that?

A I reviewed this disk and then initialed it and signed it.

MS. SWANSON: I would move 6 into evidence at this time.

THE COURT: Any objection, Miss Tolley?

MS. TOLLEY: We would renew our previous objection, Your Honor.

THE COURT: All right. Admitted subject to your previous objection.

(STATE EXH. 6, Cell phone dump, was entered into evidence.)

BY MS. SWANSON:

Q Okay. I'm now going to hand you State's Number 5 and ask if you recognize what's contained on this disk and how.

A This is a disk containing a single cell phone

video that was extracted off of the cell phone.

Q Did you watch that video?

A I did.

Q All right. What did it depict?

A It depicted a nude female laying on her stomach and then a person that touch her genitalia behind in surprise.

Q Okay. And that came off the phone?

A It did.

Q And is contained within the general cell phone dump?

A It is.

MS. SWANSON: State would move 5 into evidence. I'm going to wait to publish.

THE COURT: Any objection, Miss Tolley?

MS. TOLLEY: We would simply renew our previous objection, Your Honor.

THE COURT: Yes, ma'am. All right. It's going to be submitted subject to defense's previous objection.

(STATE EXH. 5, Video; extraction from cell phone, was entered into evidence.)

Q All right. I'm going to hand you what has been marked as State's Number 4 and ask if you can identify this document.

A Yes, ma'am. This is an abridged extraction report. So this is essentially items that were determined to be of evidentiary value. Instead of the entire extraction, it's consolidated down to just the things that are relevant for this particular case.

Q Right. So are those items that I requested that you abridge and compile in a single document?

A Correct.

Q Okay. Now, let me ask you this: Reviewing the contents on that phone, did you see any other sexual content on that phone?

MS. TOLLEY: Objection, Your Honor.

THE COURT: All right.

MS. SWANSON: Would you like us to approach?

THE COURT: Yes, ma'am.

MS. SWANSON: There are videos of other women sleeping while being penetrated by men. So it's like what he did.

THE COURT: Do you have --

I'm going to have to send you out, ladies and gentlemen.

(Jury exits the courtroom at 11:41 p.m.)

THE BAILIFF: Jury is clear, Your

Honor.

THE COURT: All right. Solicitor, there was an objection. You were about to ask the witness about other, I guess, videos on -- from the phone dump; is that correct?

MS. SWANSON: That's correct. There were some videos that depicted women sleeping and being touched sexually, which is what the defendant is accused of doing and creating a video for.

THE COURT: Miss Tolley?

MS. TOLLEY: We would object, Your Honor.

THE COURT: Tell me about it.

MS. TOLLEY: We think they're not relevant, highly prejudicial. And I don't know if I would describe those videos as that. They appear, to me, to be consensual acts.

But, in addition to that, they are -- I think the purpose of doing the extraction based on our pretrial hearing was for purposes of identification of the person. And once they have the identification of the person, that going beyond that, goes beyond the search warrant and is inappropriate. In addition to all the rules of evidence that we think it breaks.

THE COURT: Solicitor, what do you know about the videos? I mean, do you know who filmed them? Were they consensual? Were they -- is it just porn that's been downloaded? What is it?

MS. SWANSON: It looks like porn that's been download to his phone. I wasn't going to show any videos. I was just going to ask about other sexual content and what it depicted. Because there is certainly a video where the woman appears to be sleeping and is being penetrated. It's just -- I mean, it goes towards identity and motive here.

THE COURT: I mean, I think that goes beyond the pale in this case. I think --

MS. SWANSON: Okay, Your Honor.

THE COURT: I think that this is extremely prejudicial and it's going to substantially outweigh the probative value. It's -- I just don't see that. You're basically trying to show the guy's got porn or something else on there. Look, if he did that, then this is him doing it. There's no evidence of who filmed it. I mean, the fact -- just the mere fact that it's on the phone --

MS. TOLLEY: There's no basis.

THE COURT: Hold on.

MS. SWANSON: It's just a copycat kind of thing. That is what he's into and here he is doing it.

THE COURT: The fact that he is into it or likes looking at that in pornography, I'm not going to allow that in to draw the inference that the fact that he looks at this that he's committed this act. I'm not going to allow it.

So what I'm going to do is, I'm going to sustain the objection and tell the jury to disregard that.

MS. SWANSON: Okay. Thank you, Your Honor.

THE COURT: Anything further before we bring the jury in?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: From the State?

MS. SWANSON: No, Your Honor.

THE COURT: All right. Let's get the jury in.

THE BAILIFF: Jury is entering the courtroom.

THE COURT: Thank you.

(Jury enters the courtroom at 11:45 a.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Ladies and gentlemen, I'm going to sustain objection of the defense in this matter. I'm going to instruct you to disregard the last question from any and all consideration. Thank you.

Solicitor, you can move ahead.

MS. SWANSON: Thank you.

BY MS. SWANSON:

Q In reference to the abridged extraction report, there were two thumbnails pulled, correct?

A Images, yes, ma'am.

Q Yes, images.

MS. TOLLEY: Your Honor, we're going to need to approach.

THE COURT: All right.

(Bench conference off the record.)

THE COURT: Yes, ma'am.

MS. TOLLEY: There is no authentication. There's no indication that indication -

THE COURT: Hold on. Hold on. I think she just asked him if those were two things that were pulled off in the dump. I note your objection. But, I mean, as it relates to that, there may be some cross-examination, but I'll note

your objection for the record. Okay?

MS. TOLLEY: Okay.

THE COURT: You're going to ask him --

MS. SWANSON: If these were the images that were pulled off.

THE COURT: I think that's appropriate. I note your objection.

MS. SWANSON: Thank you.

THE COURT: All right. I note your objection, Counsel, for the record. And I would overrule and allow you to proceed, Solicitor.

MS. SWANSON: Thank you, Your Honor.

(STATE EXH. 16, Images from cell phone extraction, was marked for identification.)

(STATE EXH. 17, Images from cell phone extraction, was marked for identification.)

BY MS. SWANSON:

Q I'm showing you State's Exhibit 16 and 17. Are these images that were pulled off of the phone?

A Yes, ma'am.

Q And those are fair and accurate depictions of those smaller -- this one has been cropped -- but the smaller version that's in the report that's been entered?

A That's correct.

MS. SWANSON: I would move to publish at this time.

THE COURT: All right. Same objection?

MS. TOLLEY: Yes, sir.

THE COURT: I'm going to allow it. Go ahead. I'll allow to you publish it subject to the objection.

(STATE EXH. 16, Images from cell phone extraction, was entered into evidence.)

(STATE EXH. 17, Images from cell phone extraction, was entered into evidence.)

BY MS. SWANSON:

Q I'm publishing State's 16 at this time. Can you tell us what date is associated with this image?

A That image was created on the device on September 8, 2020, at approximately 4:26 a.m.

Q Okay.

A And that's UTC time.

Q And then State's 17?

A That also exists on the phone in the phone's camera roll, and that was created on October 1st, 2020 at approximately 6:55 p.m.

Q Okay. Kind of moving backwards through this report because that's the chronological way to do it. Starting at the message number 26 from 9/8/2020, what

does the message say?

A The body of the message is: "Welcome to Straight Talk. We are happy you are with us. Please reply PHONE to get your phone number and the last date of service."

Q What does that mean to you?

A It's the set up of the device.

Q So device is set up on 9/8. Can you go through the message number 25?

A Yes, ma'am. That is an outgoing text message to the contact listed as "mom." The body of it is: "This is Tyreek. I got a new phone."

Q All right. Message number 24.

A That is also an outgoing text message on September 11th at approximately 12:17 p.m. that says -- the out message to contact listed as "Mean," and it says, "Hi. This is Tyreek. I'm at [redacted] Muddy Creak Road, Hilton Head Island, South Carolina, 29926."

Q And then the message number 23?

A Message 23 is a -- it's also a text message, but it has attached a video of the video in question, the young lady laying on her stomach. That video was then sent to a cell phone number of (843) 441-[redacted] on September 19th, 2020, at

approximately 7:06 a.m. And then there's no body. It's just the attachment of the actual video.

Q Okay. And when we searched the call log in the phone for that number --

A I did find other phone calls associated with that particular phone number listed as Kareem New.

Q Okay. And how many calls between Tyreek's number and Kareem New's number?

A There were a total of nine calls in the log of the phone.

Q Okay. Did you find another number for a Kareem?

A I did. There was a second number listed for Kareem, and it is (843) 592-[redacted].

Q All right. And what was the contact called this time?

A It was reversed. This time it was called New Kareem.

Q So Kareem New with the other phone number that the video was sent to, and now New Kareem with a new phone number?

A Correct.

Q All right. Going back to the messages. Message 22.

A That is an outgoing text message to the phone

number listed in the phone contact as Sequena. It says -- at approximately 4:43 p.m. on September 19th. It says, "This is Tyreek. Play by birthday [redacted]. Love you. Be safe and may God bless you."

Q And 9/19 the same date that the video was taken and disseminated?

A That is correct.

Q All right. Message number 21.

A That is an outgoing text message to phone number listed in the contacts as Marie. It says -- the body of that is, "This is Tyreek. I got a new number."

Q All right. Message number 20.

A That is an incoming text message from contact listed as "mom" on the September 23, 2020, and it's simply -- the body of that is, "You okay?"

Q All right. Message 19.

A The reply to that which was two minutes later, same date, to mom saying, "Yeah, I wish I could live somewhere else that's nice."

Q Message 18.

A That is an incoming from contact listed as "mom." The body of that is, "You had somewhere nice."

Q Number 17.
A That is a second incoming about 15 seconds after the last. The body of that is, "Are you in trouble," question mark.
Q Number 16.
A That's an outgoing text message back to the contact listed as "mom" about a minute later. It says, "No, why do you ask?"
Q Number 15.
A Then another outgoing to contact listed as "mom" about a minute after that that simply says, "What happened?"
Q Okay.
A And then number 14 is incoming from "mom" -- contact listed as "mom" about another minute after the last one that says, "Can I talk -- "I can't talk right now, I'll call you back shortly."

And then number 13, which was about two minutes after the last text, an incoming from "mom" that simply just says, "See stretch."

And then number 12, about eight minutes after "mom" after that last -- about the "See sketch," eight minutes later mom send another -- or contact as "mom" sends one saying -- the body of it is, "Haircut so you ain't wrongly confused -- "wrongly accused." Excuse

me.
Q Okay. And then same day 9/23 back to mom, message 11.
A Message 11, the body of that is going back to mom that says, "Okay. Can I come back to MS?" I believe it's referring to Mississippi, the state code. "Can I come back to MS if I cut my hair?"
Q All right. Message 10 from mom.
A Message 10, the body is -- it's incoming from contact listed as "mom," "You need to get help."
Q All right. And then on 9/25, message 9.
A That is going to the New Kareem number -- I'm sorry. It's coming in from New Kareem that says, "I'm on my way to Savannah right now. I see police everywhere."
Q Okay. And the next message?
A About 35 minutes after receiving that one, outgoing back to the New Kareem number, body of that is, "Word. Good looking out."
Q All right. And the same day, 23 minutes later, message 7?
A It is outgoing to a number not in the contacts at (843) 929-[redacted] that says, "This is Tyreek."
Q 9/26.

A 9/26, that is an outgoing to contact listed as "Matt." The body of that is, "My birthday's today. Let's chill."

Q Also on 9/26.

A There's an incoming from contact listed as "mom" of "Happy birthday."

Q All right. Once again on 9/26 from mom?

A From mom, incoming contact is, "Cut your hair before I get there and you can get an apartment in Mississippi."

Q The response?

A The response is, "Okay. Deal."

Q All right. And then on 10/1, October 1st of 2020, from Tyreek?

A Outgoing to mom that says, "I'm ready for the haircut."

Q And then message number 1, what is that?

A It is an outgoing to a contact listed as "DJ." And it is simply a picture that can -- one of pictures that I just already identified as State's exhibit.

Q State's Exhibit 17?

A That's correct.

Q Derrick, let me ask you this: If this video had been sent to this phone number and saved on the phone,

would it say "created" on a specific date?
A It would be in a different -- it would have a different file path on the phone. It would be in a different physical location.
Q Okay. So you can say it was created from that phone?
A Yes, absolutely.
Q Okay. It was not just sent to that phone?
A No.
Q But was it sent from that phone to another number?
A It was.
Q And that number was linked to?
A The Kareem New.
MS. SWANSON: Thank you. That's all I have at this time.
THE COURT: All right. Cross-examination.

CROSS-EXAMINATION

BY MS. TOLLEY:
Q Good afternoon. So you work for the solicitor's office; is that correct?
A I do.
Q And you pull these calls at the request of the solicitor; is that correct?

A Pulled the specific calls that I was reading, yes, that's correct.

Q Okay. So, there are other calls on the phone; is that correct?

A Oh, absolutely.

Q So, there are other calls that indicate that other people are using the phone; is that correct?

A There could be. Yes, ma'am.

Q Okay. And one of those calls is listed in instant message number 325 that says, "Hey, Sarge, this is Kareem," on September 20th.

A I'd have to see it in front of me. I don't have that particular message in front of me.

Q I think we have it.

MS. TOLLEY: It is okay if my assistant uses the computer to show him?

THE COURT: I don't have any objection.

MS. TOLLEY: Thank you.

THE COURT: Is that okay, Solicitor?

MS. SWANSON: Yes.

THE COURT: Thank you.

THE WITNESS: You said number 325.

BY MS. TOLLEY:

Q That's correct.

A Yes, ma'am. That text message does exist,

yes, ma'am.
Q And what about message number 338? The letter to Kareem from Geico, September 20th.
A I'm sorry. Did you say 328 or 338?
Q 338.
A Yeah, that is an outgoing -- it's an outgoing text to listed as "mom," but it looks like a JPEG of an insurance document.
Q Right. So it was -- but the letter is a letter to Kareem, is that correct, the JPEG document?
A We're blowing it up now. Hold on a second.
Q Okay.
A I'm sorry. The computer is thinking, but it will get there.
Q Okay.
THE COURT: It must be a state computer, folks.
THE WITNESS: It is. You go try and run Ferrari software. I'm sure it will open. It just might take it a minute.
BY MS. TOLLEY:
Q Do you mind if I ask you another question so we can proceed?
A Sure.
Q Just because the -- your basing the number based

on the call log. How are you determining who the call supposedly made from, I guess is my question?

A Well, all the outgoing calls are all referenced to the phone. The base phone number assigned to it.

Q So the call log is based on a name and a number that's input into the phone?

A No, not necessarily. There's the contact list of people that are manually --

Q The contact list.

A That's people that are manually inputted into the device as a contact.

Q Right. So the contact list is what you're basing the name assignment to the numbers?

A But that is a user-inputted name that's assigned to the phone.

Q Okay, got you.

A It's not automatically generated. It's generated by the user.

Q Okay, good. So it's possible that whoever the name and number it's associated with isn't using the phone?

A I'm sorry?

Q It's possible that the name associated with a number in the call log isn't using the telephone.

They're not the one actually making the call.

A You mean the contact person "mom" is not mom, is that what you're trying to --

Q Not on those particular calls. I'm talking about on those calls as well. On those call too. Uh-huh.

A I'm sorry. I'm not following the logic.

Q The question is -- I guess, you've already testified that there are other people -- it's possible that other people are using the telephone.

A Absolutely.

Q Okay. That's the question.

A Okay.

Q One other question.

A Yes, ma'am.

Q You didn't get records from Straight Talk, did you?

A No, ma'am.

Q Okay. And if that's not coming up, I think it's okay.

THE COURT: Counsel, approach. Oh, we got it.

THE WITNESS: We got it, sir.

BY MS. TOLLEY:

Q There we go.

A The question was, who was it addressed to?

Q That's correct.
A Okay. It looks like Geico insurance claims letter, but it does start out with, "Dear Kareem Stevens."
Q Okay, great. There's one more, and I hope this one is quick. There are others, but I'm giving these as examples. Number 209, Matt to Kareem.
A Yes, ma'am. This is a text message from contact listed as "Matt" to this device. It says, "Yeah, my phone about dead. Tell Kareem to holler at me."
Q Okay, thank you.
THE COURT: Was that all, Miss Tolley?
MS. TOLLEY: Yes.
THE COURT: Thank you. Anything else, Solicitor?
MS. SWANSON: Nothing else for this witness. Thank you very much.
THE COURT: All right. Great. Thank you, sir.
THE WITNESS: Thank you, Your Honor.
THE COURT: You want to call your next witness?
MS. SWANSON: Thank you. State calls Adam Paul.

THE CLERK: Good afternoon. If you would raise your right hand for me. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE COURT: Hello.

THE WITNESS: Hello, sir.

THE CLERK: Thank you. You can adjust this microphone and move it around and speak clearly and just state your name for the record and also spell your last name.

THE WITNESS: Adam Paul, P-a-u-l.

WHEREUPON:

DEPUTY ADAM PAUL,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q How are you, Deputy Paul?

A I'm good, ma'am. How are you?

Q Good.

Let's see. Were you working on October 7th, of 2020?

A I was.

Q All right. And did you respond to a wrecked vehicle?

A I did.
Q Did you find anyone in that vehicle?
A No one was in the vehicle.
Q What did you find in the vehicle?
A I found a Samsung telephone.
Q All right. I'm going to show you what has been marked as State's Exhibit 2 and ask if this is the cell phone that you found in that vehicle.
A Yes, it is.
Q Was there any identifying information that you were able to see on that phone by just opening it?
A Yes, there was.
Q All right. Tell us about that.
A Under the "me," or what was described as "me," it said, "Ty the Destroyer." There's also a phone number associated with the phone. I don't recall the exact phone number.
MS. TOLLEY: Just for the record, we'll renew our objection, Your Honor.
THE COURT: All right. Yes, ma'am.
BY MS. SWANSON:
Q After you collect that phone --
MS. SWANSON: Well, first of all, State would like to enter item 2 at this.
THE COURT: All right. Is that your

objection, ma'am, to item 2, the cell phone?

MS. TOLLEY: That's correct.

THE COURT: Admitted subject to objection from the defense.

(STATE EXH. 2, Cell Phone, was marked and entered into evidence.)

BY MS. SWANSON:

Q So after you collect that cell phone, what do you do with it?

A I took it to -- I submitted it to evidence. I later recovered it from evidence. Took it to Special Investigator Derrick Nelson in the 14th Circuit Solicitor's Office so he could extract the data off of it.

Q Prior to that, did you get a search warrant for the phone?

A I did get a search warrant, yes.

Q And so were you there during the extraction?

A I was.

Q All right. And what did Investigator Nelson give you after the extraction?

A He give me a thumb drive of all the data.

Q All right. And did you turn that into evidence?

A I believe I turned the -- transferred the information from the thumb drive to a CD-ROM and

placed that into evidence.

Q Okay. And then is the thumb drive what you reviewed?

A Yes, it is.

Q Okay. So, in your review of the cell phone dump, what are some of the things that you noted?

A Many text messages, outgoing text messages that said, "This is Tyreek," "This is LT," "I'm at [redacted] Muddy Creek." There were screen shots. There's a video.

Q Okay. Did you pull certain screen shots and information from that extraction?

A I did take snippets of the extraction.

Q Okay.

A Yes, ma'am.

MS. TOLLEY: We would just renew our objection.

THE COURT: Yes, ma'am.

(STATE EXH. 18, Photo, was marked for identification.)

(STATE EXH. 19, Photo, was marked for identification.)

(STATE EXH. 20, Photo, was marked for identification.)

(STATE EXH. 21, Photo, was marked for

identification.)

(STATE EXH. 22, Photo, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you a series of exhibits that have been marked 18, 19, 20, 21, 22 and ask if these are all items that you pulled from the extraction.

A Yes, ma'am.

Q Okay.

MS. SWANSON: Your Honor, at this time, I would like to move 18 through 22 in and publish separately.

THE COURT: Any objection?

MS. TOLLEY: Just renew our same objection.

THE COURT: Yes, ma'am. I noted that for the record. I'll admit them subject to the objection. Thank you.

(STATE EXH. 18, Photo, was entered into evidence.)

(STATE EXH. 19, Photo, was entered into evidence.)

(STATE EXH. 20, Photo, was entered into evidence.)

(STATE EXH. 21, Photo, was entered into

evidence.)

(STATE EXH. 22, Photo, was entered into evidence.)

BY MS. SWANSON:

Q I'm first going to publish State's 18. Can you see the date on that, Investigator?

A Yes, ma'am. Next to created?

Q Yes.

A 9/19/2020, 5:55 a.m. and 22 seconds.

Q And what is it that we're looking at here?

A That is a picture of a vagina.

Q State's 19, this came off the phone as well?

A Yes, ma'am.

Q What are we looking at?

A That is a hand reaching up very close to a female vagina.

Q Thank you. State's 20. I'll let you read that out. Text message from mom. You can start at "Call Progressive insurance."

A From mom, "Call progressive insurance. It's in your name." "I know, but I need the policy number for my insurance." "Policy number -- "Phone number 1-877-689-[redacted]." "Okay. Repeat the number." "Call and get it." "Policy number [redacted]." "Okay." "Do you have the claim

number?"

Q Okay. And then what is this?

A It was a Progressive Insurance ID card, policy number [redacted]. Name insured, Tyreek Robinson.

Q Okay. Thank you. And then I'm showing you State's 22, which is -- I'll back it up. Which is what?

A It's a South Carolina Department of Motor Vehicle bill of sale for a moped.

Q And who is selling?

A I don't recall. I can't read it. I see a name of -- signature of buyer, Tyreek Robinson.

Q Oh, okay. What is the address listed as? Can you see that?

A [redacted] Muddy Creek.

Q Okay, thank you.

All right. So were you aware of Investigator Weich's investigation involving a home invasion in the area?

A I was.

Q All right. And did you review the video of the sexual assault that was contained in that cell dump?

A I did.

Q Okay. And what did you do after you reviewed

it?

A I notified Investigator Wiech and told him he needed to look at it.

Q Thank you.

MS. SWANSON: That's all I have.

THE COURT: All right. Miss Tolley, do you have any cross-examination?

MS. TOLLEY: Just one question.

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q There wasn't anyone in the vehicle when you arrived; is that correct?

A That's correct.

THE COURT: All right. Any redirect?

MS. SWANSON: No, Your Honor.

THE COURT: All right. Sir, thank you very much.

Counsel approach.

(Bench conference.)

THE COURT: Is this a good time for break?

MS. SWANSON: We can take a bathroom break. I only have a few witnesses left.

THE COURT: All right. Ladies and

gentlemen, I think what we're going to do is, we're going to go ahead and take a break for lunch. I'm going to ask that you be back in your jury room at two o'clock and look forward to seeing you there, and we'll continue with the State's case. Don't talk about the case. Thank you.

(Jury exits the courtroom at 12:19 p.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Solicitor, I wanted to inquire: The disk concerning, I guess, the document dump, for lack of a better word, did it contain everything that was on the phone?

MS. SWANSON: Yes, sir.

THE COURT: All right.

MS. SWANSON: That can't go back.

THE COURT: Okay. I just want to make sure. We're not sending the other -- I don't want the jury to have any -- inquiring minds might want to know, and so I want to make sure that the other videos or photographs that may have been on the phone, that those are not going back. And you may have already known that.

MS. TOLLEY: I don't know.

THE COURT: I just want to make sure that that's not going to go back.

MS. SWANSON: Of course.

THE COURT: I don't want them to have any opportunity to do that.

MS. SWANSON: Right. And I'll put a note on it right now. Also, they're not going to be familiar with how to work it or anything.

THE COURT: Well, you know, the young people on that jury --

MS. SWANSON: Well, maybe.

THE COURT: -- they'll tell me they don't know how to work something. So I just want to make sure --

MS. SWANSON: Yes, sir.

THE COURT: -- that is not going back. I do not want to run the risk of somebody saying, hey, I can look through this and find everything. Okay?

MS. SWANSON: Okay.

THE COURT: Hold on one second.

How many witnesses do you have?

MS. SWANSON: Let's see. I have three remaining.

THE COURT: I'm not holding you to that,

I'm just trying to get an idea.

MS. SWANSON: Sure.

THE COURT: Really, I'm looking at planning for tomorrow and when to start pleas.

All right. Folks, Monica is going to send you the proposed jury charges and so you certainly can take a look at that. If you've got issues concerning the jury charges or suggestions -- one of the things I think we -- there's not an aggravated voyeurism charge in my charge book. Is that correct?

LAW CLERK: That's correct.

THE COURT: So we sort of fashioned one or she did. So, again, I'm open to considering anything as it relates particularly to that one, and other ones also. We'll have a charge conference. But she's going to be sending that to you. And so I'd like for you-all to take a look at that and maybe this evening, depending on when we break, get that to me so we can discuss the charges perhaps -- it's probably going to end up being in the morning.

Anything else from the State that we need to bring up before we take a break for lunch?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: All right. Thank you-all. I'll see you back at two o'clock.

(A break was taken from 12:30 p.m. to 2:00 p.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: Have a seat, please. Thank you.

Anything from the State before we begin?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: Let's get the jury.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury enters the courtroom at 2:00 p.m.)

THE BAILIFF: Jury is seated.

THE COURT: I bet after 40 minutes and keeping you late this morning, I bet nobody thought that I'd have you in here with five seconds to go before two o'clock. I know you didn't think that. I know you didn't.

But again, I'm glad that we are able to

start on time. It might end up being the last time this week as we work on this case.

But, again, thank you. And we understand the sacrifice that you're making in being here. As I said throughout the week, it's an important case. Important to the State. Important to the defense.

Solicitor, you want to call your next witness?

MS. SWANSON: Yes, Your Honor. The State calls Bill Redman.

(Bench conference off the record.)

THE CLERK: Good afternoon. If you would raise your right hand for one second. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you.

THE WITNESS: I do.

THE CLERK: Thank you.

THE COURT: I'll note your objection. But for right now, I'll overrule your objection. I'll listen to what foundation she has.

THE CLERK: Speak directly into the

microphone and you can adjust it accordingly, and then state your name for the record and also spell your last name.

THE WITNESS: William Redman, R-e-d-m-a-n.

WHEREUPON:

WILLIAM REDMAN,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q And William, you go by Bill, correct?

A I do.

Q Okay. Tell us where you live.

A I now live at [redacted] Hobonny Place on Hilton Head Island, South Carolina.

Q All right. And back in September or the summer of 2020, where were you living?

A [redacted] Tansyleaf Drive on Hilton Head.

Q Okay. What did you used to do for a living?

A Among other things, I was an EMT for about 11 years, and I was also head of research for an oil and gas consulting firm.

Q Okay. Do you recall making a call to Beaufort County Sheriff's Office on September 23rd of 2020?

A I do.

Q And what prompted that call?
A I had seen a picture, a composite sketch of the suspect in a crime that occurred on our street. I recognized that person immediately and called the police to tell them I think that I had information pertinent to them.
(STATE EXH. 29, Sketch; suspect, was marked for identification.)
BY MS. SWANSON:
Q I'm going to show you what's been marked as State's Exhibit 29 and ask if this is the sketch that you were referring to.
A Yes, it is.
Q Did you actually initial the back of that?
A I did.
Q Thank you.
MS. SWANSON: State enters 29 into evidence.
THE COURT: Subject to your objection?
MS. TOLLEY: Yes, sir.
THE COURT: All right. It's going to be admitted subject to defense objection. Yes, ma'am.
MS. SWANSON: And I move to publish.
THE COURT: All right.

(STATE EXH. 29, Sketch; suspect, was entered into evidence.)

MS. SWANSON: And I move to publish.

THE COURT: All right.

BY MS. SWANSON:

Q All right. So, Bill, this is the sketch that you were referring to. So when the police came out and met you, what did you tell them about your contact with this individual? Or who you believed to be this individual.

A I had mentioned that several months before, which I would say was late June of 2020, I was bicycling on Marshland Road, had a gentleman in front of me on a bicycle that turned the handle bars and basically flipped over the bike and landed in the middle of the street. I stopped to render assistance. Eventually he had some friends or at least folks that were nearby that ended up assisting him down Muddy Creek Road, and it was the last I saw of that gentlemen until I thought I saw him in that sketch.

Q How close did you get to the individual?

A Easily a foot and a half, face-to-face.

Q And you said that they left from Marshland Road down Muddy Creek?

A Yes, ma'am.
Q Thank you.
MS. SWANSON: That's all I have for you. Please answer any questions that the defense attorney may have.
THE COURT: Miss Tolley.
MS. TOLLEY: Thank you.
THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. TOLLEY:
Q How are you doing, sir?
A I'm good, ma'am.
Q So you were not present on September 19, 2020, when this incident allegedly occurred. This incident meaning what we're here about today, not when you saw somebody?
A I was not present in the house where it occurred, no.
Q Okay. And you were not -- you were not a witness to anybody riding their bike off in the neighborhood on that particular night?
A No, ma'am. I was not.
Q Okay. And your incident happened back in June you said?
A Yes, ma'am.

Q So about four months before?
A About two months before, I think.
Q June --
A June to September.
Q July, August, September?
A New math. Sorry.

MS. TOLLEY: Thank you, sir.

THE COURT: Anything else, Solicitor?

MS. SWANSON: Nothing else. I would just ask that Mr. Redman be excused from his subpoena.

THE COURT: All right. Thank you so much, sir. Have a good day.

THE WITNESS: My pleasure.

MS. SWANSON: Thank you, sir.

The State calls Seth Reynells.

THE CLERK: Raise your right hand. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you.

THE WITNESS: Thank you.

THE CLERK: You can adjust the microphone accordingly, and just state your name for the

record and also spell your last name, please.

THE WITNESS: Yes. My name is Seth Reynells, R-e-y-n-e-l-l-s.

WHEREUPON:

SETH REYNELLS,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Investigator Reynells, who do you work for?

A I work with the Beaufort County Sheriff's Office. I am an investigator with the southern investigation section.

Q How long have you been working investigations on the south end?

A Since January of 2015, so a little over seven years now.

Q Okay. Did you assist the investigation into the home invasion that occurred at Tansyleaf?

A Yes, I did.

Q All right. Are you familiar with, and can you ID Tyreek Robinson?

A Yes, ma'am. I can.

Q All right. Where is Mr. Robinson?

A Mr. Robinson is seated in a blue Blazer, white shirt and tie over there next to his

attorney.

MS. TOLLEY: Objection.

THE COURT: Yes, ma'am.

MS. TOLLEY: This is an inappropriate identification.

THE COURT: I'm going to overrule that. Go ahead.

BY MS. SWANSON:

Q Have you ever known Mr. Robinson to have dreadlocks?

A I have.

Q All right. Do you recall when the last time you saw him with dreadlocks was, approximately?

A August of 2020.

Q Okay.

(STATE EXH. 30, Photo, was marked for identification.)

BY MS. SWANSON:

Q All right. I'm going to approach and show you what's been marked as State's Exhibit 30. Can you identify who is contained in this picture?

A Yes. That is Mr. Tyreek Robinson.

Q All right. And does that depict him accurately with dreadlocks as he was the last time you saw him with dreadlocks in August of 2020?

A It does.
Q All right.
MS. SWANSON: State would move 30 into evidence and request to publish at this time.
THE COURT: Any objection?
MS. TOLLEY: We would renew our objection.
THE COURT: Yes, ma'am. I'll note your renewal of objection for the record. Admitted subject to objection.
(STATE EXH. 30, Photo, was entered into evidence.)
BY MS. SWANSON:
Q Now, did you have an opportunity to photograph Mr. Robinson's hands on October 2020?
A Yes, I did.
Q All right.
(STATE EXH. 23, Photo, was marked for identification.)
(STATE EXH. 24, Photo, was marked for identification.)
(STATE EXH. 25, Photo, was marked for identification.)
BY MS. SWANSON:
Q I'm going to show you what's been marked as

State's 23, 24, and 25 and ask if you these are photos that you took of Mr. Robinson's hands and if they are fair and accurate depictions of how his hands appeared on October 15th.

A Yes to all of those.

Q Thank you.

MS. SWANSON: State would move 23, 24, and 25 into evidence.

MS. TOLLEY: We would object and request an in-camera hearing.

THE COURT: All right. Let me send you-all back to your jury room. Thank you.

(Jury exits the courtroom at 2:14 p.m.)

THE BAILIFF: Jury is clear Your Honor.

THE COURT: All right. Tell me what your objection is to the photographs. Those photographs of the hands that I think he said he took, correct?

MS. SWANSON: Yes.

THE COURT: What's your objection?

MS. TOLLEY: Our objection is that they were obtained in violation of 4th Amendment, search and seizure. There was no search or consent to take these pictures. And based on that, we think that they are inappropriate, highly

prejudicial, and should be excluded.

THE COURT: What's prejudicial about them?

MS. TOLLEY: What's prejudicial about them is that they've been taken and are being offered for purposes of identification and proving that Mr. Robinson is the person who did this.

THE COURT: All right. How about asking questions, Solicitor, about how -- I guess, how photographs came to be taken?

MS. SWANSON: Oh, okay.

THE COURT: She asked for an in-camera hearing about that. Let's go ahead and, for the record --

MS. SWANSON: Sure.

THE COURT: -- let me hear about how they were taken, what's going on, so we can address Miss Tolley's objection. Okay?

MS. SWANSON: Okay. So I'm going to go ahead.

BY MS. SWANSON:

Q Investigator Reynells, did you review the video of the sexual assault on A.M.N. ?

A Yes.

Q Okay. And did you review and take some still

shots of whoever's hand appears in this video?
A Yes.
(STATE EXH. 26, Photo, was marked for identification.)
(STATE EXH. 27, Photo, was marked for identification.)
(STATE EXH. 28, Photo, was marked for identification.)
Q All right. I'm going to show you 26, 27, and 28 for identification.
A Yes.
Q Why did you pull still shots from that video of the left hand?
A Because when I'm reviewing any security video and trying to identify anyone involved, I'm looking for any unique characteristics, marks, tattoos, scars that might help me further the investigation.
In this particular instance, the only unique thing I personally viewed on that video was that scar on the hand as it's positioned and supporting that individual.
Q Okay. And then when you were with him at investigations on October the 18th in a consensual encounter, you took photographs of his hands?

A I did.
Q Okay. And these are his hands right here?
A Those are them, yes, ma'am.
Q Do you usually obtain a search warrant to photograph potential suspects?
A No.
Q All right.
A Certainly, I generally, as a rule, will go consensual -- encounter or consensual first, and then if I have to reorganize myself later, I'll take the appropriate steps as necessary.
Q Okay.

MS. SWANSON: Your Honor, I don't believe that taking a photo of a suspect's hands is a seizure.

THE COURT: Well, cross-examination.

MS. TOLLEY: Okay. Beg the Court's indulgence. We have five people talking.

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q So this was from October 15th; is that correct?
A That is correct, yes.
Q And so Mr. Robinson was in custody at that time?
A He was.

Q Okay. And did you Mirandized him?
A Yes.
Q When?
A Prior to my interview with him, prior to the activation of the audio/video recording in that room.
Q So you're saying that on October 15th you Mirandized him?
A Well, okay. Let me rephrase that. I asked for him to be re-Mirandized when I first came into contact with him, so I was standing next to him when he was being Mirandized by one of the deputy sheriffs that I work with, yes, ma'am.
Q Who was that deputy sheriff?
A I'm not sure if he was sergeant at the time, but it was Deputy David Swinehammer. I believe he is a sergeant now. He may have been a corporal then.
Q Okay. So that would have been before he was brought to the police station.
A Correct.
Q Is that correct?
A Yes.
Q That would have been on an incident that happened that's completely unrelated to this?

A Yes.
Q And that would have been out in the field?
A Correct. Actually, I was not intending to return to the office and interview Mr. Robinson until I was advised he had requested to do so.
Q And did you do -- there's a form that sometimes police officers use when they Mirandize people?
A Yes.
Q In this particular case, did you use that form?
A I did not.
Q Okay. And the first time that he was Mirandized, was that form used?
A No, he was Mirandized with a Miranda card by Deputy Swinehammer, because unfortunately the Miranda form requires that somebody be able to initial and sign it. And, in that particular instance, he was already under arrest and his physical position would not allow for that.
Q Okay. And when you say physical position, he was face down on the ground; is that correct?
A No. When I Mirandized him, he was standing up in front of a vehicle but he was handcuffed.
Q Okay. When -- who was the other person who Mirandized him?
A I believe it was Staff Sergeant Erin Morris.

Q Okay. And when Erin Morris Mirandized him, he was on the ground.

A I was not present when that happened, so you would have to ask Staff Sergeant Morris.

Q If I showed you a video of that, would that refresh your recollection?

A Is it a body-cam video?

Q Yes.

A Then I'm sure what you're saying is the case.

Q Okay, got you.

And if the second Miranda happened would that be on video too?

A Yes, ma'am.

Q Okay. Do you recall that on that date there was a witness, Miss Phillippe, who said that he was drunk?

A I recall that someone mentioned he had had some alcohol, yes, ma'am.

Q And, as a matter of fact, the bottle of alcohol was taken away from him that day; is that correct?

A Not by me. I'm not sure.

Q Okay. If I say that it was taken by one of the other officers would that seem accurate?

A Again, if it's on a body-cam video, I'm not going to dispute that it happened. I'm not

familiar with that, no, ma'am.
Q Okay. It was on a body-cam video.
A Okay, there you go.
Q So all that happened out on the street?
A In the world?
Q In the world.
A Yeah.
Q And so the first time, what you say was with a card, he wasn't in a position to sign a statement.
A He wasn't in a position to initial or sign a form, correct.
Q And then the second time, the form was not used at all?
A Correct.
Q Okay. And at the station, he wasn't Mirandized at all?
A Correct, because he had already agreed to speak with me and I was the last officer who Mirandized him within the last 45 minutes or so. And he asked to speak to me specifically. So prior to asking him any further questions at the station, I reminded him that he had already waived his Miranda rights and did he wish to continue speaking with me and he indicated, yes, he did.
Q And, at that time, he wasn't anticipating speaking

with you about this particular incident.

A We didn't set, like, an appointment and discuss beforehand what we were going to talk about, no.

Q Okay. And did you -- did he request a cigarette at some point?

A I do not recall.

Q Okay. If it were on video that he did, would that suffice for you?

A Uh-huh.

Q Okay. Did you say -- I'm sorry.

So you discussed several things with him; is that correct?

A Yes, ma'am.

Q Okay. And when you got to the point of asking him about this particular incident, he said, *You-all should have told me you were going to talk to me about this. I don't want to talk to you about this.*

A Okay.

Q Okay?

A If he said that, he said that.

Q All right.

A But he's neither revoking his right to remain silent nor his right to an attorney in a statement such as that.

Q Oh, no?
A Uh-uh.
Q Okay. And, at some point, you stopped the interview; is that correct?
A Like, stop and step out, or terminate it altogether?
Q Yeah. But that was a while after he said that you went on for a little bit; is that correct?
A Correct.
Q And you were asking about this incident and he denied it 50 to 60 times, according to you.
A Correct.
Q And, at one point, you came back with the camera and started to take his photo, is that correct, of the hands?
A Correct.
Q And he said, *I got to consent to this*?
A It's on the video, I believe you.
Q Okay.
A I'm not disputing that.
THE COURT: All right. Let's play the video.
MS. TOLLEY: Okay.
THE WITNESS: Thank you.
MS. SWANSON: If it helps the Court at

all, I'm not getting into any statements.

THE COURT: No, no, no, no. I want to play the video because, basically, I want to see whether or not, in my opinion, the taking of the photographs during this interview was appropriate.

MS. TOLLEY: Sure.

THE COURT: That's what this whole objection is about, is the photographs that were taken. And I just -- I mean, that's the best evidence right there.

MS. SWANSON: Yes, sir.

THE COURT: Let me just ask: Sir, would this be the beginning of the interview that you had with him?

THE WITNESS: No, sir. This is close to the end of that interview.

THE COURT: Well, let me ask you -- what I want to do -- how long is this interview?

MS. SWANSON: About 24 minutes, I believe.

THE COURT: We'll watch it all. I've watched much longer video.

THE WITNESS: Fair enough.

THE COURT: Now, what I want to ask you is this: When you approached him in the field,

what day was that?

THE WITNESS: The same day. October 15th of 2020.

THE COURT: All right.

THE WITNESS: It was about 45 minutes prior to this interview.

THE COURT: Okay. And at the scene, you were there when someone -- you personally observed someone administer Miranda rights to the defendant?

THE WITNESS: Correct. At my request, using their Miranda card on video.

THE COURT: All right. Not video. The video meaning the body-cam.

THE WITNESS: It would have been a combination of the body-cameras and the in-car camera or both.

THE COURT: All right. So 45 minutes later, he then goes and you begin this video, and you're questioning him; is that right?

THE WITNESS: Correct.

THE COURT: And so how did he get, who transported him from the scene to the room that you're in?

THE WITNESS: Deputy Aaron, who is one of

our -- A-a-r-o-n, who is one of our deputies who was one of the initial first responders on scene, who was the gentleman who transported him. And I was advised when I finishing up out at the scene in the real world that Mr. Robinson had requested to speak with me further at the office.

THE COURT: All right. Let's go ahead and play the video.

Any objection to the playing the video from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: None, Your Honor.

THE COURT: Okay.

(Video of Deputy Reynells's interview played in its entirety.)

THE COURT: Can we move it forward? How much longer before he comes back in? Thank you.

(Video resumed playing.)

THE COURT: Is that it? We'll be at ease for about ten minutes.

(A break was taken from 3:03 p.m. to 3:11 p.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: Be seated. Thank you.

Miss Tolley, is there anything that you want to add by way of an argument as it relates to, I guess, the photographs?

MS. TOLLEY: No, sir. 4th Amendment, 5th Amendment.

THE COURT: All right. Solicitor?

MS. SWANSON: Thank you. The State would argue that in order for there to be a 4th Amendment violation, the defendant must demonstrate that he had some reasonable expectation of privacy.

Here, he was in police custody as a suspect. His hands were in plain view. It was not a search, nor was it a seizure. There was no intrusion.

Additionally, you know, this comes down to a display of physical characteristics. Scars are things that can heal over time. The State in trial is actually allowed to put the defendant on display for that purpose when physical characteristic are at issue. And that comes from State v. Hart, which is still good law, 306 S.C. 344.

I mean, the photographs had to be taken because these are things that can heal over a

two-year period of time before it gets to trial.

So I would say that there is actually no violation of his 4th Amendment rights.

THE COURT: All right. Let me just say, number 1, I appreciate you-all indulging me in allowing me to watch the video. The video was helpful, as far as I was concerned.

Clearly, I think it confirms the testimony, and sort of what we talked about a little bit yesterday concerning the admissibility of the statement.

Clearly, he acknowledged on the video that the defendant had just been Mirandized a few moments ago. I think that corroborates his testimony that he gave yesterday concerning this matter.

MS. TOLLEY: Your Honor, I'm sorry.

THE COURT: Yes, ma'am.

MS. TOLLEY: Before you rule, there is another video that we believe shows that he was not Mirandized previously. The second time, allegedly.

THE COURT: Okay. Well, they're not offering -- what video it this?

THE BAILIFF: This is the Swinehammer

video that he references.

THE COURT: The what?

MS. TOLLEY: It's one of the officers, Swinehammer. I think the officer testified that Swinehammer gave him the Miranda the second time.

MS. SWANSON: Your Honor, I'm not offering those statements anyway in my case in chief. And we've litigated this issue.

THE COURT: Yeah, we have.

I note your objection. We're not getting into that. I'm going to overrule it. I'm making my objection based on what we have here.

Quite frankly, if that was going to be brought up, it should have been brought up yesterday, amongst other things.

MS. TOLLEY: We weren't aware --

THE COURT: Ma'am, I'm not getting into it. Okay? I'm not getting into it.

He was Mirandized. He was coherent. He was not slurring words. He was engaging. He didn't ask for a lawyer.

I think the officer was using an investigative techniques when he made the switch, for lack of better words, or when he basically

pivoted and moved and started talking about other matters.

I don't think Miranda means that he has to basically go and re-address and re-Mirandize somebody every time they go and talk about a crime or a second crime or some collateral matter. I don't think he's got to do that.

In addition to that, I think that -- I don't think he has a reasonable right of expectation to his knuckles. And he's in police custody. And the solicitor mentioned I think -- was it the Riser case?

MS. SWANSON: It was State v. Hart.

THE COURT: Hart. I don't know where I got Riser from. The State v. Hart case.

At a minimum also, he could have been taking photographs for identification purposes. I think that the jail -- the police can take photographs of someone's body for identification purposes.

Also, this was not intrusive. He didn't even have to roll up sleeves. I mean, it's about as intrusive as getting a buccal swab.

So, to that extent, I just don't think he's got a 4th Amendment right or any type of

right to privacy as it relates to this. He kept engaging. He did say he didn't want to talk about it, but then he just continued to engage and move forward with talking to the officer about this.

So for those reasons, ma'am, I'm going to respectfully deny your motion -- or your objection, and I'm going to allow him -- I'm going to allow the State to enter the photographs, assuming he documents that those are photographs that he took and what they reflect.

MS. SWANSON: Yes, Your Honor.

Would you like me -- I have a disk of the interview, would you like that for a court's exhibit for the record?

THE COURT: Yes, ma'am.

(COURT EXH. 2, Disk; Reynells's interview, was marked for identification.)

THE COURT: All right. Is there anything before we bring the jury in from the State?

MS. SWANSON: Nothing from the State.

THE COURT: Anything from the defense?

MS. TOLLEY: Nothing from the defense, Your Honor.

THE COURT: Okay, great. Let's get the jury, please.

Solicitor, you have one more witness after this?

MS. SWANSON: That's correct.

THE COURT: All right.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury enters the courtroom at 3:19 p.m.)

THE COURT: Thank you.

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Thank you.

Solicitor, you can continue with your direct examination of this witness, please.

MS. SWANSON: Thank you.

THE COURT: Yes, ma'am.

BY MS. SWANSON:

Q Investigator Reynells, I was asking you if you had viewed the video of the sexual assault from the Tansyleaf incident.

A Yes, I had. I viewed it on October 14th of 2020.

Q Okay. And did you notice anything about the suspect's hands in that video?

A Yes, with what little can be seen of the suspect in the video. When the individual is

dropping down to get on the floor as the victim awakes, they are hoisting themselves, or positioning, they put their left hand out, and, if you stop the frame, you can see very obvious unique scars on the back of that hand.

Q I'm going to show you a series of pictures 26, 27, and 28 and ask if this these are still shots of that video from the suspect's left hand.

A Yes. All three, Exhibit 26, 27, 28, are from that video.

Q Thank you.

MS. SWANSON: State would move 26, 27, and 28 into evidence at this time.

THE COURT: Miss Tolley?

MS. TOLLEY: With the objection.

THE COURT: Yes, ma'am.

All right. We're going to admit those subject to defense counsel's objection.

(STATE EXH. 26, Photo, was entered into evidence.)

(STATE EXH. 27, Photo, was entered into evidence.)

(STATE EXH. 28, Photo, was entered into evidence.)

BY MS. SWANSON:

Q And then, of course, this incident occurred -- video was taken from when?

A 9/19 of 2020.

Q Okay. And then did you have an occasion to come into contact with the defendant and photograph his hands on October the 15th of 2020?

A Yes, I did.

Q All right. I'm going to show you what has been marked as State's 23, 24, and 25 and ask if these are photos that you took of Tyreek Robinson's hands.

A Yes. All three of these are photos that I took of Mr. Robinson's hands at 70 Shelter Cove Lane.

MS. SWANSON: I would move 23, 24, 25 in at this time and move to publish both sets.

THE COURT: Miss Tolley, subject to your objection?

MS. TOLLEY: Yes, sir.

THE COURT: Yes, ma'am. I just wanted to get that on the record.

So we're going to admit those subject to the defense's objection.

(STATE EXH. 23, Photo, was entered into evidence.)

(STATE EXH. 24, Photo, was entered into

evidence.)

(STATE EXH. 25, Photo, was entered into evidence.)

THE COURT: Yes, ma'am.

MS. SWANSON: All right. I'm am publishing State's 26.

BY MS. SWANSON:

Q What is this a still shot from?

A This is a still shot from the video, which is the video evidence of the assault at Tansyleaf Drive in September of that year.

Q Okay. This is State's 27.

A And this is either just a split second later or a little bit more zoomed in.

Q And 28?

A Same thing.

Q Okay.

A Same video. Same source.

Q Okay. Now, I'm showing you State's 23.

A That is the photograph I took of Mr. Robinson's hand on the 15th of October.

Q 24.

A Also a photo I took of Mr. Robinson on 10/15/2020.

Q And then 25.

A The same photograph I took of Mr. Robinson.
Q Okay. And, actually, it would be like this, if we're looking at the left hand. This is the left hand?
A That is correct. I was standing over him and he was seated at the table facing away from me.
Q Okay.
MS. SWANSON: Thank you, Investigator Reynells. That's all I have for you.
THE COURT: Miss Tolley, cross-examination.

CROSS-EXAMINATION

BY MS. TOLLEY:
Q You've been officer for a while now?
A Yes, ma'am.
Q You know that identification can sometimes be a little difficult?
A It can be, yes.
Q Particularly in cross-racial identification; is that correct?
A It can be. Yes, ma'am.
MS. TOLLEY: Thank you.
MS. SWANSON: I don't have any further questions. And I would just -- is Miss Tolley finished?

THE COURT: Is that it, Miss Tolley? Is there any other questions you have for this witness? Take your time. Take your time.

MS. TOLLEY: Yes, that's it, Your Honor.

THE COURT: Okay. Anything else?

MS. SWANSON: Nothing further.

THE COURT: Thank you so much, officer.

THE WITNESS: Thank you, Your Honor.

THE COURT: Yes, sir.

MS. SWANSON: The State calls William Wiech.

THE CLERK: Raise your right hand for me. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

THE WITNESS: I do.

THE CLERK: Thank you. You can adjust the mic; just speak directly into it. If you would, state your name for the record and also spell your name.

THE WITNESS: My name is William Wiech, W-e-i-c-h.

WHEREUPON:

INVESTIGATOR WILLIAM WIECH,

after having been sworn, testified as follows:

DIRECT EXAMINATION

BY MS. SWANSON:

Q Okay. Investigator Wiech, who do you work for?

A I work for the Beaufort County Sheriff's Office.

Q How long have you been with BCSO?

A Eight years this month.

Q Okay. And you're an investigator there?

A Yes, ma'am.

Q How did you get assigned the case involving the Tansyleaf home invasion and sexual assault?

A I was the duty investigator that weekend, which just means I was on call all weekend. And part of that responsibility is come in and review reports over the weekend. Just review the reports and see if there was anything that needed immediate attention.

Q When was the first time you made contact with A.M.N. ?

A I believe it was on Sunday following the incident.

Q All right. So that would be September 20th of 2020?

A That's correct.

Q Okay. So is that when you presented her with the photo line-up?
A Yes, it was.
Q Okay. Did you meet with her to meet with the SLED sketch artist?
A Yes, I did.
Q And were there -- when was the first time there was some leads in the case?
A Well, immediately, upon reviewing the initial report, I noted that Tyreek Robinson was listed as a person of interest in the case, and a physical description was provided by the victim in the initial report.
Q Okay. But she was unable to pick him out of a line-up, correct?
A That's correct.
Q Okay. I'm going to show you State's Exhibit 30, which has been entered, and ask if you recognize who is in this picture.
A That is the defendant, Tyreek Robinson.
Q Okay. That's him with dreads?
A Yes, ma'am.
Q Is that what he looked like around the time of the incident?
A Yes.

Q All right. So Adam Paul gives you some information, right?
A Yes, ma'am.
Q All right. What information does he give you?
A He provided me with a working copy of the digital extraction from the cell phone recovered from the vehicle.
Q And, at that point, did you meet with A.M.N. again?
A After I reviewed the extraction, yes, ma'am.
Q Okay. State's Exhibit 5 has been entered into evidence and testified to that it is the extraction of the cell photograph video. Is that what you reviewed?
A Yes, ma'am.
MS. SWANSON: Beg the Court's indulgence. I just need to talk to my investigator for two seconds regarding the playing of this video.
THE COURT: I'll give you five seconds. I'm just joking. Take your time. Yes, ma'am.
Go ahead.
MS. SWANSON: All right. I apologize. I'm just getting some technical assistance.
And, Jennifer, may we get the HDMI cord out

so we can hook it up here, please, ma'am? Thank you.

MS. TOLLEY: For the record, we object.

THE COURT: Okay. And so what are we about to play, Solicitor?

MS. SWANSON: The video that came from the cell phone dump that depicts the sexual assault.

THE COURT: All right. I note your objection for the record.

MS. SWANSON: Go ahead.

(Video played in its entirety.)

MS. SWANSON: Thank you.

BY MS. SWANSON:

Q And, Investigator, the video that we just watched was the one that you reviewed prior to meeting with A.M.N.?

A That is correct.

Q Okay. And did you pull some still shots from that video?

A I did.

Q Okay. And these have been entered as 12, 13, and 14. Are these the stills that you pulled and presented to the victim to verify that that was her bedding, that was her on the bed, or that was her bedroom?

A Yes, ma'am.
Q Okay. Were there certain buccal swabs that were sent off to the lab?
A Yes, there were.
Q Okay. Were any suspects developed as a result of those analysis?
A No, ma'am.
Q Okay. When you brought A.M.N. in to identify the still shots and told her about the existence of the video, what was her demeanor like?
A At first, she was shocked. As I put the images down in front of her, I sanitized her body out of it because I was able to observe certain items on the bed that I believe to be relevant. And she was immediately -- said, oh, my God. That's my bed. Those are my items. And I believe -- I don't want to misquote but it was, *Get the fuck out of here*, or something to that extent. And just, she was shocked and she essentially broke down and cried.
Q Can you tell us what Tyreek Robinson's date of birth and address is?
A I believe it's [redacted]. I cannot remember the year.
Q Okay.

A But his address is [redacted] Muddy Creek Road.
Q And I'm going to show you a map of the area, and for demonstrative purposes ask if you recognize this area.
A Yes, I do.
Q Okay. And what does this map depict?
A This is the Cross Island Expressway (sic).
THE COURT: Hold on. Miss Tolley, if you need to move, feel free to move about the courtroom. I want to make sure you see everything.
THE WITNESS: So this is the Cross Island Expressway just before the bridge that leads to the south end of the island. This is Marshland Road that then turns into Spanish Wells Road. This is Muddy Creek Road right here. And Tansyleaf Drive is down there where it says [redacted] Wildlife Trail.
Q Approximately how far is [redacted] Muddy Creek to [redacted] Wildlife Trail?
A Without actually measuring it, I'd say it's less than a mile.
Q Okay. And then, of course, Marshland is right in the area as well?
A Yes, it is.

Q You were in the courtroom when the defense alluded to the fact that Kareem Stevens had been using Tyreek Robinson's phone?

A Yes, ma'am.

(STATE EXH. 31, Photo, was marked for identification.)

BY MS. SWANSON:

Q I'm going to show you what has been marked as Exhibit 31.

MS. TOLLEY: I do object.

MS. SWANSON: What's your objection?

THE COURT: Yeah, what's your objection?

MS. TOLLEY: It's highly --

THE COURT: Come on up.

(Bench conference.)

THE COURT: All right. What's your objection?

MS. TOLLEY: She's going to introduce a picture of cunnilingus, allegedly.

MS. SWANSON: It came from their system. It has his identifying information. I think that's what Kareem Stevens looked like. He didn't have dreads, and it's been alluded to, the fact that he was using Tyreek's phone.

MS. TOLLEY: They cannot use this because

she brought him up initially.

MS. SWANSON: Because he's all over his phone.

THE COURT: All right. I'm going to have to send them out.

Folks, I'm going to have to send you out. I'm sorry. I got to take this up outside of your presence. Thank you.

(Jury exits the courtroom at 3:37 p.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: All right. So, Solicitor, tell me about why you want to have this photograph identified and then I'm assuming entered into evidence.

MS. SWANSON: Yes, Your Honor.

THE COURT: Tell me about that, please.

MS. SWANSON: Because when Miss Tolley was questioning Derrick Nelson about whether or not someone else could have been using Tyreek Robinson's phone, she brought up Kareem Stevens, alluding to the fact that he could have been the one to have made the video. This shows that he had clean-cut hair on August 26th of 2020, less than a month before the incident date where the victim described someone with dreads.

Not to mention he's quite a bit older, but he does live in the neighborhood.

THE COURT: All right. Counsel, let me hear from you?

MS. TOLLEY: We object, Your Honor, on the fact that the only reason we mentioned Kareem is because it was first mentioned by the solicitor in her direct exam, and that that introduces another element that we think is irrelevant and highly prejudicial. And we would ask that it not be admitted.

THE COURT: All right. I think that the prejudicial effect outweighs the probative value in this case. I'm not going to allow this into evidence.

MS. SWANSON: Okay. Well, then I would ask that the defense not be allowed to third-party guilt and blame it on Kareem Stevens when I've not been allowed to get this evidence in closing.

THE COURT: I'm going to overrule you.

MS. SWANSON: So she get to argue that --

THE COURT: She does. She does. She can -- I'm going to let her argue --

MS. SWANSON: Okay.

THE COURT: -- what she's already asked

and what's already come up into evidence. I'm not going to get into a gentleman in a jumpsuit sitting here with a shaved head, I'm not getting into that.

MS. SWANSON: Well, he's not the one on trial.

THE COURT: I understand that.

MS. SWANSON: I am going to ask Investigator Wiech, however, if he knows what Kareem Stevens looked like on August 26th of 2020.

THE COURT: I think that's completely appropriate.

MS. SWANSON: Okay, thank you.

THE COURT: Miss Tolley, I didn't mean -- you had an objection. You said objection concerning the photographs that were admitted a few moments ago of the victim.

MS. TOLLEY: Okay.

THE COURT: Or the video. What was your objection for the record, ma'am? You just said, "Objection."

MS. TOLLEY: I wasn't clear at that time about what she was entering, but now that I know that it was a video, it's our continuous objection

about anything being admitted with regard to the phone and information found on the phone.

THE COURT: All right. So your objection has nothing to do with anything other than a continuing objection that was made early on, and that is, you don't think anything concerning the phone should come in. There's nothing special about that photograph or video.

MS. TOLLEY: No, sir.

THE COURT: Great, thank you. I'll note your objection and we can move forward.

Are we ready to bring the jury back in?

MS. SWANSON: Yes, sir.

THE COURT: Let's do that.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury enters the courtroom at 3:42 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Thank you, ladies and gentlemen.

Solicitor, you can proceed.

MS. SWANSON: Thank you, Your Honor.

BY MS. SWANSON:

Q We were talking about Kareem Stevens and the fact

that Miss Tolley alluded to him, perhaps, using Tyreek Robinson's phone. Are you familiar with Kareem Stevens's appearance?

A Yes, I am.

Q All right. Do you know what kind of hairstyle he had in August of 2020?

A Very close cut.

Q All right. So he did not have dreads?

A No, ma'am.

Q And, ultimately, who was the only person that you obtained warrants for this home invasion and sexual assault?

A Tyreek Robinson.

Q Can you identify him?

A Yes, ma'am. He's seated at that table with the face mask on and the blue blazer, blue and white tie.

Q Thank you.

MS. SWANSON: That's all I have.

THE COURT: Thank you.

Cross-examination, Miss Tolley.

MS. TOLLEY: Yes, sir.

CROSS-EXAMINATION

BY MS. TOLLEY:

Q You're the chief investigating officer?

A Yes, ma'am.

Q As the chief investigating officer, you have access to all of the documents in this case?

A Yes, ma'am.

Q Okay. And I think you testified that there was DNA taken for -- swabs taken for DNA; is that correct?

A That is correct.

Q Okay. And there was a swab taken from a Crown Royal bottle; is that correct?

A Yes, ma'am.

Q And that was really around the mouth of the bottle; is that right?

A And then subsequently the entire bottle, yes, ma'am.

Q And from a wallet?

A That is correct.

Q And so the results of the mixture from the Crown Royal bottle excluded Tyreek Robinson; is that right?

MS. SWANSON: I would object, Your Honor. If Miss Tolley wants the results in, I believe she needs to call Andrew Garinger. This would be hearsay.

MS. TOLLEY: She's already asked about

DNA.

THE COURT: Hold on. Go ahead, Miss Tolley. What were you saying?

MS. TOLLEY: She's already asked him about the DNA. She did that on direct exam.

MS. SWANSON: I asked if there were any leads established from the DNA. I did not ask about the specific results.

THE COURT: Well, I'm going to allow her to ask it. Go ahead.

MS. SWANSON: Okay.

BY MS. TOLLEY:

Q So with regard to the Crown Royal bottle, there was no DNA -- Tyreek Robinson was excluded as someone containing DNA on that bottle; is that correct?

A To the best of my recollection, the report read -- and I would have to refer to it, ma'am, but there was language in there that the mixtures obtained were so diluted that it was impossible for any type of comparison.

Q Well, I think this one is pretty clear.

MS. SWANSON: Your Honor --

THE COURT: No. Go ahead and state your objection.

MS. SWANSON: I object. That is hearsay.

He cannot read a DNA analyst report.

THE COURT: That I agree with you completely, Solicitor. He can tell you what he knows or what his general understanding is, I think, as to lead investigator in this matter. But he's not going to be able to look at, interpret, read a report, ma'am.

I will sustain that, Solicitor.

MS. SWANSON: Thank you.

BY MS. TOLLEY:

Q As the lead investigator, you have access to all of the reports; is that correct?

A Yes, ma'am.

Q And if there was a report that said Tyreek Robinson was excluded as a contributor to the DNA mixture obtained from the Crown Royal bottle, the swab of the wallet, the swab of the door --

MS. SWANSON: I object. Now she's just reading the report.

THE COURT: Hold on. Hold on. State your objection. State your objection, Solicitor.

MS. SWANSON: The defense attorney is simply reading the report in a way to back door all of this information in.

THE COURT: I sustain it. Ask a concise question. You've already asked one concerning this matter, but don't read the report, ma'am.

MS. TOLLEY: All right.

BY MS. TOLLEY:

Q Tyreek Robinson was excluded from the Crown Royal bottle?

A That is correct.

Q Tyreek Robinson was excluded from the wallet?

A That is correct.

Q Tyreek Robinson was excluded from the doorknob?

A That's correct.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q Do you know anything about DNA?

A I do. A little bit.

Q In your experience as an investigator, do you always get results on swabs that are taken?

MS. TOLLEY: We're going to object. If she's going to ask these questions that she said I needed to ask Andrew Garinger --

THE COURT: No, whoa, whoa, whoa. Solicitor, hold on. I'm overruling it. You've opened the door on all this. I've given you a lot of leeway on it. And I'm going to allow her to

ask a few questions in general about what his knowledge and experience is as it relates to DNA.

BY MS. SWANSON:

Q In your experience, do you always get results or a DNA profile from the lab on items that are submitted?

A Contrary to television shows and what you may hear, no, we do not always get DNA.

Q All right. And did multiple people live in this household?

A Yes, ma'am.

MS. SWANSON: Thank you. That's all I have.

THE COURT: Anything else, Miss Tolley?

RECROSS-EXAMINATION

BY MS. TOLLEY:

Q And the only person who matched, out of the people in this house and Tyreek, to the bottle was A.M.N. [redacted].

MS. SWANSON: Is that a question, Your Honor?

THE COURT: Yeah. Is there an objection?

MS. SWANSON: Objection, that was not a question. It was a statement.

THE COURT: I sustain. Ma'am, I sustain the objection. That was not a question.

BY MS. TOLLEY:

Q Was A.M.N. matched to the Crown Royal bottle?

A Yes, it was her house.

Q It was her house and she said she wasn't drinking, but hers was on the swab of the mouth of the bottle?

A If that's what the report says, yes, ma'am.

Q Okay.

REDIRECT EXAMINATION

BY MS. SWANSON:

Q Do you know if that's what the report says?

A To the best of my recollection.

Q Okay. And were you in here for the testimony about how many times she touched the bottle that she threw away before Whaling collected it?

A I was.

Q And do you know if there was a cap on it or not?

A I do not know.

MS. SWANSON: Okay.

THE COURT: All right. Are we finished, Miss Tolley.

MS. TOLLEY: Yes, sir.

THE COURT: Thank you, sir. You can

step.

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All right. Solicitor, you can call your next witness.

MS. SWANSON: Thank you. At this time, the State rests its case. That is the conclusion of the State's presentation of evidence.

THE COURT: Okay.

All right. Ladies and gentlemen, there's going to be some matters of law that I've got to take up. I'm going to send you back to your jury room. And let's see where that goes and we'll continue from there. But I'm going to send you back to your jury room right now. Thank you. Please don't talk about the case.

(Jury exits the courtroom at 3:51 p.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: All right. Thank you.

Motions? We got motions from the defense?

MS. TOLLEY: Yes, sir.

THE COURT: Yes, ma'am.

MS. TOLLEY: We would move for a directed verdict at this time. We believe that the State has not met its burden. That the evidence viewed in the light most favorable to the State does not warrant moving forward.

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There is no DNA. There is no evidence identification from a photo line-up. There is evidence that other people may have been using the cell phone. There was -- there are no finger prints, no hair samples. And the truth of the matter is, we don't even know what happened.

So based on that, we would move for a directed verdict, Your Honor.

THE COURT: Solicitor, any response?

MS. SWANSON: Thank you, Your Honor. As you are aware, the evidence is taken in the light most favorable to the State at this time.

I do believe that there has been plenty of circumstantial evidence that directly and consistently points to the defendant in this case. The bulk of the evidence does come from the cell phone that is linked to him in any number of ways. That video of the victim was taken -- was created on that cell phone.

The defendant does match the description and very much appeared consistent with the sketch artist's sketch based on the victim's description.

The video would place him, along with the scars that are consistent on his left hand in the video and in person. The video places him in

A.M.N.'s dwelling. She has testified that that was without consent in the hours of darkness, and that video that was then disseminated and taken without her permission for lewd and lascivious purposes is in evidence, and that would constitute aggravated voyeurism.

Additionally, the nonconsensual touching that is shown in the video of her private parts.

And then there was testimony regarding the $100 that was taken out of her wallet.

Thank you, Your Honor.

THE COURT: Yes, ma'am.

Anything in reply?

MS. TOLLEY: Nothing, Your Honor. I would just review our motion.

THE COURT: All right. Well, what I would say is this: I think clearly one of the things that the solicitor said in opening argument, this was a circumstantial case, and I think there is plenty of circumstantial evidence from which the jury could move forward with this case.

I think that -- Miss Tolley, I just think there's plenty of evidence regarding all of the allegations, the four charges in this matter,

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plenty of circumstantial evidence.

And so when I look at this in the light most favorable to the non-party, the State in this case, unfortunately I think I'm looking for the existence of evidence, direct or circumstantial. And, to that extent, I believe that it does exist and as such I believe that I'm required to deny your motion which I'm going to do.

Thank you.

MS. TOLLEY: Thank you, Your Honor.

THE COURT: All right. Miss Tolley, are you ready for me to address your client as it relates to his rights to testify?

MS. TOLLEY: If you could give us just one minute.

THE COURT: Sure. We'll be at ease for about ten minutes. That will be great. Thank you.

(A break was taken from 3:55 p.m. to 4:07 p.m.)

THE BAILIFF: All rise. Court is back in session.

THE COURT: Have you had a chance to talk to your client about testifying?

MS. TOLLEY: Yes, sir, I have.

THE COURT: Are you ready for me now to

place him under oath and instruct him concerning those rights?

MS. TOLLEY: Yes, sir.

THE COURT: Okay. Sir, if you would please stand for me. Thank you.

THE CLERK: Raise your right hand for me. Do you solemnly swear or affirm to truthfully answer all questions asked of you by this court so help you God?

MR. ROBINSON: Yes, ma'am.

THE CLERK: Thank you.

THE COURT: All right. Mr. Robinson, could you state your name for the record, sir?

MR. ROBINSON: Tyreek Lorenzo Robinson.

THE COURT: All right, Mr. Robinson.

All right. Mr. Robinson, at this time, sir, I am going to explain to you your rights. If you do not understand anything I say, please let me know. If you want me to explain anything in more detail, please let me know. Do you understand that, sir.

MR. ROBINSON: Yes, sir.

THE COURT: You need to speak up for me.

MR. ROBINSON: Yes, sir.

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THE COURT: Thank you.

All right. Mr. Robinson, we now have reached the stage of the trial where you may present your defense, sir. You have the right to claim the protections given to you by the 5th Amendment to the Constitution of the United States. This amendment states in part, sir, "No person shall be compelled in any criminal case to be a witness against himself." This means that you cannot be required to testify in this case, sir.

Sir, you have the right to testify on your own behalf. However, no one can make you testified. This is a personal right and no one can waive this right except you.

Do you understand that, sir?

MR. ROBINSON: Yes.

THE COURT: Mr. Robinson, if you decide to testify, you will be subject to the same rules that govern other witnesses and you may be examined and cross-examined on any relevant issue in the case. In addition, if you have any convictions involving dishonesty or false statements or for crimes punishable by imprisonment for more than one year and this court

determines that the probative value of admitting this evidence outweighs its prejudicial effect to you, the solicitor will be able to introduce your record and attack your credibility.

Do you understand that, sir?

MR. ROBINSON: Yes, sir.

THE COURT: Now, Mr. Robinson, if you decide to testify, this decision on your part, sir, must be freely, voluntarily, and intelligently made with knowledge of the protections given to you by the 5th Amendment and the consequences of your decision to testify.

Do you understand that, sir?

MR. ROBINSON: Yes, sir.

THE COURT: If you decide not to testify, Mr. Robinson, I will instruct the jurors that they cannot give the fact that you did not testify any consideration whatsoever, and that there is to be absolutely no prejudice to you because you did not testify. It is left entirely up to you, Mr. Robinson, whether or not you testify. You may talk with your attorney, your family and friends, or anyone else, but the final decision will be left entirely up to you.

Do you understand that, sir?

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MR. ROBINSON: Yes, sir.
THE COURT: Do you understand what I've explained to you, Mr. Robinson?
MR. ROBINSON: Yes, sir.
THE COURT: Do you have any questions about what I've explained to you, sir?
MR. ROBINSON: No, sir.
THE COURT: Okay. Have you discussed with your lawyer whether you should testify or not, sir?
MR. ROBINSON: Yes, sir.
THE COURT: Do you wish to talk to your lawyer any more at this time? Have you had an opportunity to talk to her thoroughly and completely about this issue concerning testifying?
MR. ROBINSON: Yes, sir.
THE COURT: And, Mr. Robinson, let me ask you, sir, do you wish to testify?
MR. ROBINSON: No, sir.
THE COURT: Okay, I understand. Thank you, sir. You can be seated.
MR. ROBINSON: You're welcome.
THE COURT: All right. Miss Tolley, are you going to put on any testimony or call any witnesses?

MS. TOLLEY: We do not plan to.

THE COURT: You're not going to?

MS. TOLLEY: No, sir.

THE COURT: Then what I'd like to do is to go ahead, let's bring the jury back. And at that point, I would have you rest, Miss Tolley. Or Miss Tolley, excuse me. I'm close most of the time. Have you rest. And then I would discharge the jury for the day. And I think that would give us adequate time to then have you-all look at the jury charges and come back in tomorrow and we can have a charge conference, and then have you-all argue and close -- or argue and then I would instruct the jury on the law.

Is this satisfactory to the State?

MS. SWANSON: Yes, Your Honor.

THE COURT: Would that be satisfactory to you, ma'am?

MS. TOLLEY: Yes, sir.

THE COURT: Okay.

All right. In this case, why don't we get the jury back in here.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: All right.

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(Jury enters the courtroom at 4:14 p.m.)

THE COURT: Ladies and gentlemen, you've heard the State's case and they have rested, and now I would look to the defense. Miss Tolley?

MS. TOLLEY: Your Honor, we would rest.

THE COURT: All right. Thank you very much.

All right. Ladies and gentlemen, the defense has rested. So what that means is, you have heard all of the evidence in this matter. There are several other legal issues that I'm going to have to take up with these folks tonight and then several matters concerning my charges to you tomorrow, so I'm going to ask you-all to come in at ten o'clock tomorrow morning. You will hear closing arguments, my charge to you on the law, and then you will have the case to then deliberate and reach a verdict.

Now, ladies and gentlemen, same instructions as last night: Please do not research this matter in any way, please don't talk about this matter amongst yourselves, or with anyone else, and we'll see you-all back here tomorrow morning at 10:00 a.m.

Is that satisfactory to the State?

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MS. SWANSON: Yes, Your Honor.

THE COURT: Miss Tolley?

MS. TOLLEY: Yes, Your Honor.

THE COURT: Great. Folks, thank you very much.

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Any motions at the close of the evidence?

MS. TOLLEY: No, Your Honor.

THE COURT: Anything from the State?

MS. SWANSON: No, Your Honor.

THE COURT: All right. In that case, what we're going to end up doing is, tomorrow I'd like to meet probably around 9:00, if that's okay. We can look at the -- we can look at the jury charges and then maybe probably around 9:30 or so, Miss Sharon, could get here and then what we'd end up doing is basically having a charge conference on the record. And I think we'd then be ready for you-all to go ahead and argue and have me go ahead and charge the law.

Have you also sent them a proposed verdict form?

LAW CLERK: Yes.

THE COURT: So you've got a proposed

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verdict form. Be sure to take a look at that because we'll discuss that tomorrow too.

All right?

MS. SWANSON: Thank you, Your Honor.

THE COURT: Anything further from the State?

MS. SWANSON: No. If we're just going to save charges for tomorrow, I'll address it then.

THE COURT: Is that okay?

MS. SWANSON: Oh, yeah.

THE COURT: All right. I just didn't know if there's something you wanted to bring up now.

MS. SWANSON: I just wanted everyone to look at lesser includeds for A&B second, and also voyeurism, instead of aggravated voyeurism. I didn't know. Maybe you-all can maybe take a look at that as well. And then there weren't any expert witnesses presented, so that one can come out.

THE COURT: All right. We'll talk about the rest of those tomorrow. And, certainly, you can take a gander at what she's just mentioned and you-all let us know. I look forward to seeing you-all about nine o'clock tomorrow morning.

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MS. SWANSON: Thank you, Your Honor.

(The trial was adjourned at 4:17 p.m.)

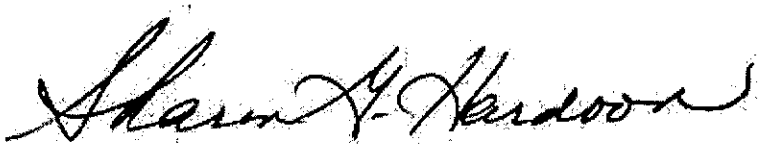
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CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

January 16, 2023



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

STATE OF SOUTH CAROLINA
IN GENERAL SESSIONS
COUNTY OF BEAUFORT

State of South Carolina,

vs. Transcript of Record
2020-GS-07-2061
2020-GS-07-2062
2020-GS-07-2063
2020-GS-07-0037

Tyreek Robinson,

defendant.

June 15, 2022
Beaufort, South Carolina
Volume III of III

B E F O R E:

The HONORABLE ROBERT BONDS

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

Hunter Swanson, Solicitor
Juan Tolley, Representing the defendant

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

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THE BAILIFF: All rise. Court is now in session. The Honorable Bobby Bonds presiding.

THE COURT: Thank you. You can be seated.

She just sent you-all, I think, the charges. Have you-all had a chance to go print them out, if you want to print them out, or do you have them on your computers so we can through them? From the State?

MS. SWANSON: Yes, sir.

THE COURT: All right. From the defense?

MS. TOLLEY: Yes, Your Honor.

THE COURT: Great, thank you.

All right. Good morning to everybody. I just wanted to put on the record very briefly, we had a charge conference in my chambers just a few moments ago and discussed several matters. Discussed the charges -- proposed charges that my clerk forwarded to the State and to the defense. And to that extent, understand -- we're going to go through them here, but understood that there were no objections to the proposed charges. I think we took out a charge concerning experts and we took out -- or we added a charge about the defendant not testifying.

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There is a specific charge, sir, that I will be instructing the jury on as I indicated to you when we spoke yesterday.

MR. ROBINSON: Yes, sir.

THE COURT: In addition to that, there was some discussion concerning the verdict form and the inclusion or exclusion of lesser included offenses in regard to assault and battery in the first degree and possible lesser included offenses there, and lesser included offenses regarding the aggravated voyeurism charge.

There was briefly a discussion about burglary in the first degree. I don't think that -- I don't think the defense is entitled to a lesser included offense given the evidence that's been presented as it relates to burglary in the first degree.

As it relates to the assault and battery in the first degree and the lesser included offense and the voyeurism, aggravated voyeurism lesser included offense, I think we discussed in chambers. The State basically said that they did not -- they did not take the position as to whether or not the lesser included offenses were added. And to that extent, I then looked to the

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defense and indicated that they didn't really take a position on that.

And so for that reason, I have not included the lesser included offenses and have prepared a verdict form that I believe you-all have had an opportunity to look at, and we're going to go over that individually right now.

Does that summarize the significant discussions in chamber from the State?

MS. SWANSON: Yes, sir.

THE COURT: Anything that needs to be added concerning my summary of the discussions?

MS. SWANSON: No, sir.

THE COURT: All right. And from the defense?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Okay, great. Thank you-all very much.

I want to go through the jury charges briefly, and I basically have some initial or introductory language on page 1 and 2 and deal with the charges that were contained in the indictment.

Is there any objection to my charges found on page 1 and 2 of the jury charges from the

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State?

MS. SWANSON: No, sir.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. And the title that I'm referring to here, the titles, I'm not going to be reading the titles. I'm going to be reading the text. I just want to let you know that.

On page 3 charge, arrest, indictment not in evidence, any objection to that charges from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: None, Your Honor.

THE COURT: All right. Page 4, multiple charges, any objection to that charge from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: None, Your Honor.

THE COURT: Page 5 going on to page 6, duties of the judge any objection from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

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MS. TOLLEY: No, Your Honor.

THE COURT: All right. Page 7 and page 8, credibility of the witnesses, any objection from the State?

MS. SWANSON: No, Your Honor.

THE COURT: Any objection from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. Page 9 and 10, presumption of innocence, any objection to that charge as I provided it to you from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: Page 11 and 12, reasonable doubt, any objections from the State?

MS. SWANSON: No, Your Honor.

THE COURT: All right. Any objection from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. On page 13 and 14, I provided the proposed charge on direct and circumstantial evidence. Any objection from the State?

MS. SWANSON: No, Your Honor.

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THE COURT: And from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. On page 15, 16 and 17, I've included failure of defendant to testify. Any objections to that charge from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. Page 18 and 19, identification.

LAW CLERK: You skipped intent.

THE COURT: I skipped intent.

Thank you. The pages wanted to stick together on me.

All right. On page 16 and 17, I've sent to you the proposed charge as it relates to intent. Any objection to that charge from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: And then I think identification on 18 and 19. Any objection from the State?

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MS. SWANSON: No, Your Honor.
THE COURT: From the defense?
MS. TOLLEY: No, Your Honor.
THE COURT: All right. And I've also then on page 21, 20 -- 20, 21, and 22, we got the first degree burglary charge. Any objection from the State?
MS. SWANSON: No, Your Honor.
THE COURT: From the defense?
MS. TOLLEY: No, Your Honor.
THE COURT: Thank you. Page 23 and 24, we have the aggravated voyeurism charge. Is there any objection from the State?
MS. SWANSON: No, Your Honor.
THE COURT: From the defense?
MS. TOLLEY: No, Your Honor.
THE COURT: We got on page 25, I've got the petty larceny charge. Any objection from the State?
MS. SWANSON: No, Your Honor.
THE COURT: Defense?
MS. TOLLEY: No, Your Honor.
THE COURT: All right. Page 26, I've got the assault and battery first degree charge. Any objection from the State?

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MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: And then finally, folks, on page 27, 28, 29 and 30, I have basically some conclusionary language there. Any objection from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. Is there any issue concerning the jury charges that we need to take up? From the State?

MS. SWANSON: None from the State.

THE COURT: From the defense?

MS. TOLLEY: None from the defense, Your Honor.

THE COURT: All right. Folks, I now want to turn our attention to the verdict form, and I believe that's been forwarded to you. It's a two-page form. We, the jury, in the above-captioned case on the charge of burglary in the first degree find the defendant, the foreperson will check one, guilty, not guilty. We, the jury in the above-captioned case, on the

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charge of assault and battery in the first degree find the defendant, the foreperson will check one, not guilty, guilty. We, the jury, in the above-captioned case, on the charge of aggravated voyeurism find the defendant, the foreperson will check one, not guilty, guilty. Number 4 on page 2, we, the jury, in the above-captioned case on the charge of petty larceny, find the defendant, the foreperson will check one, not guilty, guilty. I've got a place or the foreperson to sign.

Any objection to the verdict form from the State?

MS. SWANSON: None.

THE COURT: From the defense?

MS. TOLLEY: None.

THE COURT: All right. I also want to let you know, more than likely, I will step down and show the foreman and get a little closer to the jury and go through the verdict form briefly. And, also, I will tell them not to attach any significance to the fact that we put not guilty before guilty, but I just have to pick one and we had put something down and they are not to draw any conclusions or inferences from that.

Is that satisfactory from the State?

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MS. SWANSON: Yes, sir.

THE COURT: Is that satisfactory from the defense?

THE WITNESS: Yes.

THE COURT: Is there anything else, folks, that we need to talk about before we bring the jury in? From the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: So you will open in full and then we will hear from the defense in their closing. Okay?

MS. SWANSON: Correct.

THE COURT: That sounds great. Yes, ma'am.

All right. Let me ask you-all something: Do you want the jury charges to go back with the jury? Some judges will send them back. What I do is, I default old school, which is, I don't send them back unless both the State and the defense would agree to have them go back. If one person does not want them to go back, I do not send them back. If both of them say, I don't care, I don't send them back.

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Do you have any preference, Solicitor, as to whether or not the jury charges as a whole -- in other words, I would send that back with the jury verdict form.

MS. SWANSON: I do like charges to go back just because some people are better visually than --

THE COURT: I understand.

MS. SWANSON: Than audibly.

THE COURT: I understand. And so what I would ask you, Miss Tolley, is, what is your preference?

MS. TOLLEY: Probably not unless they ask for them.

THE COURT: All right. If that's the case, if the defense does not want the jury charges to go back, then, in that case, I would default to not sending those charges back. That's the position I take.

All right. We'll be at ease for about ten minutes and we'll look to get the jury in here and get started.

Also, on your closing, take as long as you want. I'm not somebody that wants to limit folks to a few minutes.

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(A break was taken from 9:50 a.m. to 10:05 a.m.)

THE BAILIFF: All rise. Court is back in session.

THE COURT: Be seated. Thank you.

All right. Is there anything from the State before we bring the jury in?

MS. SWANSON: No, Your Honor.

THE COURT: Anything from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: Thank you. We'll bring the jury in. Thank you.

THE BAILIFF: Jury is entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury enters the courtroom at 10:07 a.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Good morning, ladies and gentlemen. Ladies and gentlemen, the parties have presented their evidence in this case and it's now time for the attorneys to make their closing arguments. Now, the arguments of the attorneys are not evidence, ladies and gentlemen, in this case. I want you to know that. The arguments of the attorneys are not evidence in the case. Their

statements and arguments are meant to help you understand the evidence and apply the law to the evidence. You should disregard any remark, statement or argument which is not supported by the evidence presented during the trial or the law that I will explain to you, ladies and gentlemen, after these arguments.

All right. Thank you.

Solicitor.

MS. SWANSON: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, ma'am.

CLOSING STATEMENT

MS. SWANSON: What Tyreek Robinson did to A.M.N. in the early morning hours of September 19th of 2020 was vile and disgusting. We can all agree that A.M.N. deserved to feel safe in her own home.

The defense claims that this was a case of mistaken identity. That's the matter that you're going to have to deliberate on. Not whether or not A.M.N. was victimized, not whether or not these crimes were committed, but who did it. I beg you not to agree that this was a mistaken identity.

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Tyreek Robinson is the man who did this and he faces judgment today for the right reasons because we have the evidence. There is absolutely no evidence in the record that somebody else took this recording with his phone, the recording that proves the act that he is indicted for.

Now, the defense may argue that. They get to speak to you last. So this is the only time I'm going to be able to address you, and I have to anticipate some of the arguments that they may make to you.

I know that you heard when Miss Tolley was cross-examining Derrick Nelson on the cell phone records Kareem Stevens got brought up, right? She was arguing or inferring by her questioning that maybe Kareem Stevens had used Tyreek's phone at some point in time.

Well, there is simply no evidence that Kareem was using his phone on September 19th of 2020 at 5:55 a.m. That's the time stamp. That's exactly when the home invasion and sexual assault occurred.

You also heard Investigator Wiech was familiar with Kareem Stevens who had a close haircut in August of 2020 and is quite a bit older

than Tyreek. He does not at all match the description of the assailant that A.M.N. identifies and is able to give a detailed description of. No dreadlocks.

Beyond Kareem, there is simply no evidence in the record that anybody else used Tyreek's phone or that it was missing around the time of this home invasion. The only time it apparently got lost was well after when it's found in a wrecked car off of Muddy Creek Road, and that was about a month later. And that is what cracked the case.

The messages pulled from the phone reveal that Tyreek had it in his possession before the incident and after the incident. He is consistently identifying himself as Tyreek. I live at [redacted] Muddy Creek, my birthday is [redacted]. All of that evidence that you can put together identifying, this is Tyreek's phone, he has it, he's using it.

Another thing that the defense will probably talk to you about and alluded to, kind of, beat a dead horse with was the victim's alcohol abuse. Not sure what that has to do with anything in this case. She had a very hard time

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after this traumatic experience. Vilifying a victim who has been violated in the most disgusting way is simply character assassination. You can re-listen to her 911 call.

I mean, is she trying to claim she was drunk and, you know, got all of these details of this assailant wrong? She didn't sound drunk on the 911 call. She was very coherent. She was shocked. She was in shock. Kind of out of it because she had just woken up. But she certainly wasn't slurring her words and she was extremely consistent. She gave a lot of detail. She was pregnant and she told you she was not drinking.

There was testimony that when she woke up in a fog she threw that Crown Royal bottle away, thinking, like, why is this here? And the breakfast sandwich. She actually threw it away twice. She touched that Crown Royal bottle multiple times. That's why her DNA is on it.

Speaking of DNA, another red herring that I would like to dispel is that if law enforcement swabs a doorknob or a bottle, or something like that, that DNA is always going to be come back. It just doesn't work that way. This is not CSI. This is the real world. As Investigator Wiech

told you, in his experience, yes, we try because why not? But it doesn't always reveal a suspect or there's not enough to reveal a suspect. We're talking about a house that multiple people lived in. Multiple people touch that doorknob every single day.

Let's talk about the phone. Ty the Destroyer's phone. Coincidence, I think not. You know, mom is constantly sending him insurance information that comes back to Tyreek Robinson. There is a bill of sale from his moped that is seller, Tyreek Robinson -- or buyer Tyreek Robinson, [redacted] Muddy Creek, Progressive insurance identification card, Tyreek L. Robinson. Multiple messages identifying him as Tyreek. And his birthday, which Investigator Wiech was able to testify to as well as his address of [redacted] Muddy Creek. Which, of course, is about half a mile from the incident location. So, we're all up in this area.

You can read through, because you're going to have all of this back there. You can read through those messages in that report. I know it's hard to just listen to the messages and the date and time stamps that Derrick Nelson read.

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I needed it in the record. But -- and I will tell you, I'll give you a helpful hint, they are chronological, if you go backwards. All right? So when you get this back there, definitely take a look. The phone is his. There is absolutely no doubt about it.

And while A.M.N. was not certain enough to pick out someone from a photo line-up, she did give that detailed description to the SLED sketch artist. The defendant's own mother was concerned enough, all the way in Mississippi, that it may be him, warned him to cut his hair.

Not only that, but we had a Tansyleaf resident, a neighbor of A.M.N.'s, call in a tip to the sheriff's office four days after the incident when that sketch was released because he's like, oh, no, I've seen that guy on Marshland Road, right over here. And he fell over his handle bars, wrecked his bike. Maybe that's where those scars on his hand came from.

And then his buddies came over and took him down Muddy Creek. Well, who lives on Muddy Creek? Tyreek Robinson.

As I asked you in my opening, keep your common sense in your collective experiences in

mind when you're reviewing this evidence. While the State certainly does have the burden in this case, we are not shying away from it and believe that Tyreek Robinson is sitting in this courtroom for the right reasons.

I want to go through a brief PowerPoint to review some of the evidence that you heard about on this stand.

What does the cell phone tell us? Well, according to the Cellebrite records, September 8, 2020, Tyreek gets a new phone. He texts his mom the same day to say, *This is Tyreek. I got a new phone.*

September 11, 2020, *Hi, this is Tyreek. I'm at* [redacted] *Muddy Creek Road, Hilton Head Island, South Carolina, 29926.* Address and mother are confirmed and identify the phone as Tyreek and Tyreek being the one using it.

We've covered the bill of sale from his moped with his name and address, the progressive insurance policy with his name on it, and the selfies.

September 19, 2020, video created on Tyreek's phone of the sexual assault of sleeping A.M.N. [redacted] in her bedroom, 9/19/20 at 5:55 a.m.

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A.M.N. reports the burglary on 9/19/20 at 6:09 a.m. after the chasing the man out of her house.

How do we know Tyreek made the video? He had his phone before and after the incident. Lives in close proximity to the victim's house. The video, as Derrick Nelson testified, cannot just appear or be saved on his phone. It was created with his phone.

Same day of the incident, he is messaging Sequena, *This is Tyreek. Plan by B-day,* [redacted]. *Love you, be safe and may God bless you.* Scars on his hands match the scars seen in the video. The description of the suspect and composite drawing that his mother believes to be him.

The cutting of the hair on 10/1/2020. Tyreek had the means and the opportunity.

All right. Tyreek'd birthday is [redacted]. I think we covered that. That's very clear from the messages. And on [redacted], a week after the incident, it's still Tyreek. Still Tyreek's phone with all of his identifying information.

Here are the hand photos. The left is a photo of the left hand from the sexual assault

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video. And then, of course, on the right -- his left hand appears on the right, and you can see that scar. And you will able to take a closer look with the actual photos that are in evidence. You will have these back there to make your own comparisons.

The sketch. 9/23/20 mom texts, "Are you in trouble? Immediately Tyreek responds, "No, why you ask that?"

Mom: "What happened?"

Tyreek: "Can't talk now. I'll call you back shortly."

Mom sends Nixle alert with sketch. "See sketch." Mom: "Haircut, so you ain't wrongfully accused."

Tyreek: "Okay. Can I come back to Mississippi if I cut my hair."

Mom: "You need to get help."

This is how Tyreek looked in August of 2020, just before the September 19th incident before he cut his dreads.

Then he gets a haircut. 9/26/20, mom texts Tyreek, "Cut your hair before I get there and you can get an apartment in Mississippi."

9/26/20 Tyreek responds, "Okay, deal."

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10/1, "I'm ready for the haircut."

10/1, Tyreek sends a selfie of haircut to someone named DJ. And this is how he has drastically changed his appearance while knowing that he is a suspect in this home invasion.

Dissemination of the video. That is part aggravated voyeurism, the fact that Tyreek sent the video to someone else. Okay? The video is sent from Tyreek to (843) 441-[redacted] at 11:06 on the day of the incident. That number links back in the call logs to Kareem New. The Cellebrite report indicates that there are nine calls between Kareem New and Tyreek between September 10th and September 18th.

Sometime after September 19th, Kareem New gets a new phone number, because his new contact, according to the Cellebrite report, is New Kareem. New Kareem texts Tyreek on 9/25, "I'm on my way to Savannah right now. I see police everywhere."

Tyreek responds about 40 minutes later, "Word, good looking out."

You know why he does that? Because he's received the video. He knows what Tyreek did. He knows that police are looking for Tyreek. He's

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telling Tyreek, watch out, police are all around. He saw what he did, because Tyreek sent it to him.

Now, I want to discuss a little bit about the law. The judge is going to charge you on it and take the judge for his word. Of course, he is the judge of the law. But I do want to highlight circumstantial evidence. Because as I told you in the beginning, this is a circumstantial case.

All of the circumstances must be consistent with each other when taken together and point conclusively to the guilt of the accused beyond a reasonable doubt. We have that here. All right? Tyreek's phone is consistently in his possession. His communications are consistently him. We can rely on the circumstantial evidence. It carries the same weight as direct evidence.

Reasonable doubt, the evidence needs to leave you firmly convinced of the defendant's guilt. The law does not require proof that overcomes every possible doubt. This is not beyond the shadow of a doubt. This is reasonable doubt. You must have a firm conviction in your belief of the defendant's guilt.

If based on the consideration of the

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evidence you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. Doubt must be reasonable and certainty is not required.

I want to remind you that this is a court of record, so if there is testimony that you need to rehear, you can request that. You will receive the documents and photos that were entered in the jury room and you can take all the time you want to look at that. You know, piece it together. This is work. I get it. Because he was not caught in the act. How many people are. Rarely is there an independent witness to a home invasion of a single female home alone who gets sexually assaulted.

A.M.N. endured a woman's worst nightmare and Tyreek Robinson needs to be held accountable. He entered the dwelling at night in the hours of the darkness. Sexually her. Neither one with her consent. Took a video of it. Sent it to his buddy Kareem, and took money from her wallet. That is all in evidence. And, ultimately, it conclusively points to Tyreek as the perpetrator. Justice needs to be served and everyone needs to feel safe in their own homes.

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I thank you for your attention to this case. It's been a short one, but there's been a lot of information that's been given to you. I trust that you'll make the right decision.

I'm asking that you find Tyreek Robinson guilty on all indictments. Thank you.

THE COURT: Thank you, Solicitor.

Miss Tolley.

MS. TOLLEY: Thank you, Your Honor.

THE COURT: Yes, ma'am.

MS. TOLLEY: May it please the Court?

THE COURT: Yes, ma'am.

CLOSING STATEMENT

MS. TOLLEY: Good morning. So I told you yesterday that things are not always black and white, and that's still the case today. Things are not always black and white. Things are not always as they seem. They got the wrong guy. It's that simple.

No DNA, no identification, other people using the phone, no fingerprints, no hair samples. All of those things are reasonable doubt. Each one of those things is a reason to cause you to hesitate to act. A reason to cause you to hesitate to find Tyreek Robinson guilty of these

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charges.

You can bet if they had any of those things, they'd be waiving them around. The fact that they don't have any DNA is huge. They make it seem like they don't ever get DNA, like it's only in the TV shows. Routinely, they swab things and get a result, and that's what happened in this case.

The only thing they have is a cell phone. A cell phone that was found in a car almost a month later than this incident. A car that was empty. A car where Tyreek Robinson was not present. By the way, the phone was not found on Tyreek. All of those, any one of those things is reasonable doubt.

You heard that there was a phone dump done. They didn't get any phone records. I mean, the best evidence about what was happening with the phone would be to contact the phone company. Get the records from the phone company. Why didn't they do that? Things are not always black and white. And in each of those instances, there is room for reasonable doubt.

In this case, it seems that the police assumed that it was Tyreek Robinson based on this

phone, and a lot of assumptions thereafter followed. You didn't hear anything about them swabbing the car, or swabbing the phone to see whose is fingerprints were on it, or whose DNA was on it, or anything like that. If they had that information linking him to this, you would have heard about that. They got the wrong guy.

A.M.N., she couldn't pick him out of a photo line-up. And that's a huge deal, too. I don't know if you guys know what a photo line-up is, but, in this case, it would be where six people of similar description are placed on a sheet of paper, each in a row so that the victim -- alleged victim can take a look at them and see if she can pick him out of a photo line-up. She could not pick him out of a photo line-up.

You don't get -- you haven't been presented with a picture of the photo line-up. You've only been given one picture.

MS. SWANSON: Objection, Your Honor.

THE COURT: Hold on. Let's get everybody to come up.

What's your objection?

MS. SWANSON: Miss Tolley, is saying that

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I haven't presented them with line-up when she was the one who objected to it. And you sustained that objection, so I don't think that's proper.

MS. TOLLEY: I'm just saying --

THE COURT: You just what?

MS. TOLLEY: I'm just saying that they haven't seen -- they haven't seen it.

MS. SWANSON: Because of Miss Tolley.

THE COURT: Hold on. You stated that she was unable to pick the defendant out in a photo line-up. You stated that just a moment ago. Okay?

MS. TOLLEY: Uh-huh.

THE COURT: You took the them what a photo line-up was. I think that's appropriate and that's fine.

But the beyond that, I'm not going to let you -- I understand your objection. I'm going to sustain the objection because there was an objection to the photo line-up going in from you. I sustained that. I didn't let it in. But I think that you sufficiently explained what a photo line-up is, what it consists of, and that she could not go and identify him.

So beyond that, I'm going to exclude you

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from talking about the photo line-up.

So I'm going to sustain the objection because I think what you've done up to this point is completely appropriate. But I understand and I don't think the Solicitor disagrees with that.

But I think going beyond that, I think it's outside of -- I think it gets outside of where we are in the reality of this case because you didn't allow -- I think they can draw an inference. If she didn't present that line-up, I don't think that's fair.

MS. TOLLEY: Should we put the ruling on that after we finish closing arguments?

THE COURT: I got the ruling right here.

MS. TOLLEY: Okay.

THE COURT: Is there something else you want to put on the record?

MS. TOLLEY: No.

THE COURT: Tell me right now. She's recording everything we're saying.

MS. TOLLEY: I'm good. Thank you.

THE COURT: Is that okay?

MS. TOLLEY: Uh-huh.

THE COURT: I don't want to cut you off.

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If there's something you want to tell me, go ahead. I don't want to send them out.

MS. SWANSON: No, no.

THE COURT: That's why I was, kind of, explaining in detail what my ruling was. If there's something else you want to put on the record. Whatever you want.

MS. TOLLEY: I'm good. Thank you.

THE COURT: Is there anything else you need to be heard on on this?

MS. SWANSON: No, sir.

THE COURT: Okay, great.

All right. I'll sustain the objection. And Miss Tolley, you can please proceed. Okay.

MS. TOLLEY: So we were talking about the phone line-up and how you've only been presented with one picture and that picture is of Tyreek Robinson. And if you're only presented one picture, of course you're going to say that's him.

We were talking about A.M.N., the alleged victim. You heard what she said. She said she didn't drink, and yet her DNA and only her DNA was on the mouth of the bottle of the Crown Royal. She said my client drank it.

Further, you heard testimony from the

police officer about the fact that Tyreek Robinson's DNA was not on the wallet, not on the doorknob, not anywhere that they swabbed in this house. Those are powerful -- that's powerful evidence.

Honestly, we just don't know what happened in this case. We don't know what happened that day, and that's reasonable doubt.

This has been like a game of gossip that you play when you're a little kid. One person whispers something to someone and then another person whispers it to the person, and then the next person to the next person, and then off we go. A.M.N. said it was a black guy with dreadlocks. So we get Lara Gorick who is the sketch artist. She draws up a black guy with dreadlocks. And the next thing you know, we're looking for a black guy with dreadlocks. Thousands of men, more than thousands of black men with dreadlocks.

There's talk about the distance between the residences. Hilton Head Island is only so big. There are lots of black men with dreadlocks on Hilton Head Island. There are lots of black men with dreadlocks who live on Muddy Creek Road.

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Reasonable doubt.

I'm going to talk to you a little bit about the charges. He is charged with burglary in the first degree. Miss A.M.N.'s version of the story is that the person who came into the house said, *I just want to tell your garage is open. I just want to tell your garage is open.* The person kept repeating that. Someone who just wanted to tell the person that the garage door was open, is not entering the house for the purpose of committing a crime. You have to have intent to commit a crime. And, in this case, we believe there is no intent to commit a crime when he entered the home. Whoever he is.

And the intent, if the intent is formed after he got inside the house -- for example, if he went in to say, *Hey, your garage door is open, and* then he got in there and he saw that she was asleep, saw an opportunity to do something, that would not be a burglary in the first degree. That is an important point.

MS. SWANSON: Your Honor, objection. I believe that's a misstatement of the law.

MS. TOLLEY: There are other elements. That's --

THE COURT: Hold on one second. I heard the objection.

MS. SWANSON: Because intent to commit a crime can be after entry.

THE COURT: Come on up.

All right.

MS. TOLLEY: It wouldn't be burglary in the first degree if it was after entry.

MS. SWANSON: Yes, it would.

THE COURT: What happens is this. I'm going to instruct them on what the law is. Now, to that extent, I think that you can look to -- if you want to look to my charge that I'm going to read them as it relates to what burglary is, then I think that's where you need to be looking and not provide an interpretation of what you understand the law to be. Because I'm going to instruct them that they are to listen to me on what the law is.

I don't want to -- I'm going to -- I'm going to sustain the objection, and I'm going to ask that you move on from that. I'm going to tell them that -- I'm going to tell them right now that I want them to understand that there have been some arguments by the State and made by the

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defense as it relates to what the law is. And I want them to understand that I am going to instruct them on what the law is. They need remember that.

Is that satisfactory to the State?

MS. SWANSON: Yes, sir.

THE COURT: Miss Tolley, is that okay with you?

MS. TOLLEY: Yes, sir.

THE COURT: Great, thank you.

I'm going to sustain the objection.

And one of the things that I want to mention very briefly to the jury is that when I read to you just a moment ago -- and some of these things I read, ladies and gentlemen, is because they are very important and I want to make sure that I am saying and relaying to you exactly what needs to be said and relayed to you.

So what I want you to know is, and one of the things that I told you, is that I'm the person who is in charge and finds and instructs you on the law. And that the law is what I explain to you at the close all of evidence and the arguments.

The State, the solicitor has made some

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reference to the law. Miss Tolley has made some references to the law. I just want each of you to know that the law is going to be -- the law of this case is going to be the law that I instruct you on when Miss Tolley is finished with her arguments.

Is there any objection to the information that I provided the jury from the State?

MS. SWANSON: None from the State.

THE COURT: Miss Tolley?

MS. TOLLEY: None from the defense.

THE COURT: All right. Thank you. Please proceed, ma'am.

MS. TOLLEY: So we were talking about intent to commit a crime and that's a critical aspect. Some of the things show that there was no intent to commit a crime upon entering is the fact that, one, there is no forced entrance, Two, is there is no damage to any doors, no damage to any windows. No property is broken or destroyed. There is no talk of him entering with a weapon. There is no rummaging through the house. There's is only one foot print. There is no threatening language or tone. The person simply ran out when she allegedly woke up. All of those things are

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reasonable doubt, and these are things that -- there was no intent to commit a crime upon entering.

He is also charged with assault and battery in the first degree. And with assault and battery in the first degree, you have to have some sort of injury. And, again, the judge has told you he's going to instruct you on the law.

But, in this case, there's simply no physical injury. No testimony about her going to the doctor. No testimony about EMS being called. No testimony about medical records or anything like that. There's no injury. That's one element of a assault and battery.

There are other elements. The judge is going to tell you about those things. I'm just pointing out a few that I think you should be thinking about when you start thinking about this case.

He is also charged with petty larceny. Taking some things from the house. I mean, I simply don't believe that there were any theft at all. There's nothing to indicate the person left the house with anyone in his hands. Nothing to indicate that -- there's nothing in the report of

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her seeing him leave with anything. And that's to Tyreek. There is no physical evidence that he was even in the house. His DNA was not on the wallet. It was not on the doorknob. It was not on the Crown Royal liquor bottle. So there was nothing to indicate that.

On the voyeurism, you heard testimony about the video being sent to Kareem. Kareem's name has come up a couple of times. You heard the officer, Derrick Nelson, testify about the fact that just because a phone belongs to somebody that other people can use the phone too. And, in this case, Kareem could be using the phone, or any other person using the phone. In fact, there was evidence presented to you that Kareem was using the phone. There was one text message that said, *Hey, serg, this is Kareem.* There was an email with a Geico letter. A letter from Geico to Kareem in JPEG in the phone. You heard that there were multiple entries for Kareem in the phone.

You also heard that these text messages were on or about the month of September. One in particular was on September 20th of 2020. *Hey, serg, this is Kareem.* That is reasonable doubt.

Kareem, if he had the phone, or anybody

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if they had the phone, could have taken the picture, boom, and send it to himself, Kareem, on another phone to his new number. Reasonable doubt.

The burden in this case is on the State, and we're going to ask you to hold them to that burden. There's circumstantial evidence. They talked about that. But all of the circumstances need to be consistent and there are some things in this particular case that are just not consistent. And that's what we would like you to focus on.

You haven't heard testimony from Tyreek. He has a right to remain silent, and the judge is going to tell you about that. This is a very important day for him, a very important week, and he has chosen to exercise that right.

But no DNA, no identification, no fingerprints, those are the things that don't complete the puzzle in this particular case. You got the wrong guy. Things are not always black and white. And we're going to ask you to find Tyreek not guilty.

There was talk about a haircut, and we think that's a red herring. Kareem had a short haircut. People can get dreadlocks put in their

hair. You don't have to wait for them to come in. You can have them put in.

No DNA, no identification by the victim, no fingerprints, no hair samples. They got the wrong guy, and we're going to ask you to find Tyreek not guilty.

THE COURT: All right. Thank you very much.

Folks, I want everybody to stand up and stretch for the minute before I start reading these instructions. I don't want to send you out, but if you just stand up and stretch and relax, that would be great.

All right. Thank you-all.

JURY CHARGE

THE COURT: All right. Ladies and gentlemen, it's now my duty as trial judge under the constitution of the State to charge and instruct you, ladies and gentlemen, on the law applicable to this case. It's your duty as jurors to accept the law as I will now state it to you.

Furthermore, it's your exclusive duty to decide all issues of fact in this case and to determine the effect, value, and weight of the evidence. Both the State and defendant have a

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right to expect that you will carefully consider and evaluate the evidence and apply the law of this case to it so that in the end, ladies and gentlemen, both the State of South Carolina and the defendant will receive a fair and impartial trial.

I want you to understand that when I use the word "defendant," I refer to Mr. Tyreek Robinson. Furthermore, it's important to understand that the State of South Carolina charges the defendant with the offenses known as assault and battery first degree, aggravated voyeurism, burglary first degree, and petty larceny. To those charges, the defendant has entered a plea of not guilty. This plea of not guilty places the burden of proof on the State to prove the guilt of the defendant to you, the jury, beyond a reasonable doubt.

Now, folks, I want to remind you, the fact that the defendant was arrested, charged, and indicted in the case is not evidence. And, in this case -- and you can't consider it -- it cannot be considered by you as evidence of guilt in the case, nor does it create any presumption or inference of guilt. The indictment -- as I've

told you before, the indictment is simply the formal written instrument which contains the charge made against the defendant. It's the formal document by which this case is brought into court. That's it.

Now, ladies and gentlemen, the indictments in this case allege several different offenses against the defendant. The charges are: Assault and battery first degree, aggravated voyeurism, burglary first degree, and petty larceny. Now, each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it uninfluenced by your decision on any other indictment.

Now, during the trial, folks, you and I have had separate duties to perform. As trial judge, it's my responsibility to preside over this trial and I also have the duty to rule upon the admissibility of the evidence offered during the process of this trial. In this regard, you are to consider only the competent evidence before you and you are to disregard from your mind any testimony ordered stricken from the record of this case during the process of the trial, and you are

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to consider only the testimony which has been presented from the witness together with any exhibits admitted into the record of this case.

Ladies and gentlemen -- and I don't think there were any stipulations by counsel made in this case.

All right. Furthermore, ladies and gentlemen, I have the additional duty to charge you on the applicable law of the case. In that regard, I am the sole judge of the law of the case. It's your duty to accept and apply the law as I state it to you. If you have any preconceived ideas as to what the law is or what the law ought to be and it doesn't agree with what I tell you the law is, you're obligated under your oath to abandon these preconceptions because you are sworn to accept the law precisely as I state it to you.

Ladies and gentlemen, in this trial, you're the sole and exclusive judges of the facts and I am the judge of the law. Do not infer that I have an opinion about the facts in this case from anything that I may have said during the course of this trial in ruling upon the admissibility of evidence or otherwise, or from

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anything that I said during the course of the trial or this charge. In this regard, the law simply does not permit me to have an opinion about the facts. As jurors, it's your duty alone to determine the effect, the value, and weight of the evidence presented during the course of the trial.

Now, in the determining what the facts in the case are, you must judge the credibility, which simply means the believability of the witnesses and the value or weight to be given to their testimony. You alone must decide the force and effect of the testimony. In making this decision there are many things that you may and should take into consideration. Such as, the appearance and manner of the witness on the stand, a characteristic often referred to as the demeanor of the witness. Was the witness forthright or hesitant? Was the witness's testimony consistent or did it contain discrepancies? What was the ability of the witness to know the facts about which he or she testify? Did the witness have a cause or reason to be bias or prejudice in favor of the testimony he or she gave? Was the testimony of the witness corroborated or made stronger by other testimony in evidence, or was it

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made weaker or impeached by such other testimony in evidence?

As jurors, please understand that you have a right to believe a small portion of a witness's testimony and disregard a larger portion, or vice versa. You may believe all of a witness's testimony or none. You may believe the testimony of a single witness against that of many witnesses or the other way around.

In exercising your mental processes and attempting to decide the verdict, the law simply requires that you exercise your good judgment, your common sense, and your experiences in life, and then you apply those attributes to the evidence and the law as I state it to you and arrive at a verdict.

Now, ladies and gentlemen, it is absolutely vital to understand that the defendant is presumed under the law to be innocent of these charges. The defendant has no obligation to prove his innocence. It's a fundamental rule of our law that a defendant irrespective of the seriousness of the charges against him is always presumed innocent of the crimes for which he is charged unless and until his guilt has been proven by

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evidence that satisfies you, ladies and gentlemen of the jury, beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory or legal phrase. The presumption of innocence is very important and you need to understand that this presumption accompanies the defendant from the time of his arrest and appearance in this court and continues with the defendant even after you retire to the jury room to deliberate.

In other words, the defendant receives the benefit of the presumption of innocence until the very end of this trial when you, ladies and gentlemen of the jury, will deliberate upon the evidence and decide whether the State has proven guilt beyond a reasonable doubt.

Now, ladies and gentlemen, what is a reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty. So even in criminal cases, the law does not require a proof that overcomes

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every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of crimes charged, you must find him guilty.

If, on the other hand, ladies and gentlemen, you think there's a real possibility that he's not guilty, you must give him the benefit of the doubt and find him not guilty.

Jurors, please understand that the reasonable doubt may arise from evidence which has been presented in the case or from lack of evidence in the case. It's your responsibility to determine whether or not reasonable doubt exists as to the guilt of the defendant.

I charge you that the defendant is entitled to every reasonable doubt arising in the whole case. If, upon any issues of fact essential to conviction and a verdict of guilty, you have a reasonable doubt as to how that issue should be resolved, it would be your duty to resolve that reasonable doubt in favor of the defendant. Thus, in summary, it's important to understand that a defendant is not required to prove his innocence. Instead, the State is required to prove every essential element of the offense charged against

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the defendant by evidence which satisfies you of his guilt beyond a reasonable doubt. Only then can you convict the defendant and find him guilty.

Now, ladies and gentlemen, that are two type of evidence which are generally presented during a trial; direct evidence and circumstantial evidence.

Direct evidence directly proves the existence of a fact and does not require deduction.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact.

Crimes may be proven by circumstantial evidence and the law makes no distinction between the weight or value to be given to either direct or circumstantial evidence. However, to the extent the State relies on circumstantial evidence, the circumstances must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray the defendant's behavior as suspicious, the prove has failed.

The State has the burden of proving the

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defendant guilty beyond a reasonable doubt. This burden rests with the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

Now, ladies and gentlemen, I instruct you and I emphasize the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations and in your consideration on the question of guilt or the innocence of the defendant. It must not be considered by you in any manner whatsoever. A defendant has the constitutional right to remain silent, and the assertion of this right must not be considered by you in your deliberations. I repeat: Under your oath, ladies and gentlemen, you are to draw no conclusions whatsoever from the fact that the defendant in this case did not testify. The fact that this defendant did not testify should not even be discussed in the jury room. The burden of proof, as I stated to you, is on the State. The defendant is not required to prove his innocence. The burden of proof remains on the State to prove guilt beyond a reasonable doubt.

Now, ladies and gentlemen, in order to establish criminal liability, criminal intent is required. For example, the mental state required to be proven by the State for a particular crime might be purpose, intent, knowledge, recklessness, or criminal negligence.

Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation. There is no way to prove intent to a mathematical certainty. There is no way medical science can dissect a person's brain and determine what the person had in mind, so the law says that criminal intent may be shown from the circumstances shown to have existed. This is how you make a determination of whether or the not the element requiring intent was present. It's not necessary for you to establish intent by direct and positive evidence, but intent may be established in the same way or, as any other fact, by taking into consideration the acts of the parties and all the facts and circumstances in the case.

Criminal intent a mental state, a

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conscience wrongdoing. It's up to you to determine what the defendant intended to do based on the circumstances shown to have existed.

Criminal intent can arise from action or failure to act. It may arise from negligence, recklessness, or an indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Now, ladies and gentlemen, I want you to know that an issue in this case is the identification of the defendant as the person who committed the crime charged. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant before you may convict the defendant.

Identification testimony is an expression of belief or impression by a witness. You must determine the accuracy of the identification of the defendant. You must consider the believability of each identification witness in the same way any as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time the offense. This will be affected by things like

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how long or short a time was available, how far or close the witness was, the lighting conditions, and whether the witness had a chance to see or know the person in the past.

Once again, I instruct you that the burden on the State extends to every element of the crime charged, and this specifically includes the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the crime.

If, ladies and gentlemen, after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find the defendant not guilty.

Ladies and gentlemen, the defendant is charged with first degree burglary. The State must prove beyond a reasonable doubt that the defendant entered a dwelling without consent. A dwelling is any building or portion of a building in which a person ordinarily sleeps. A building constructed as a dwelling that has never been occupied cannot be considered a dwelling for purposes of burglary. But a building is a swelling even if the residence are temporarily absent from the building.

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In order to prove the defendant entered the dwelling, the State does not have to show that the defendant's entire body entered the dwelling. The smallest entry is sufficient. It may be any part of the body, such as a hand or foot, or even an instrument such as a hook or other instrument.

In addition, the State does not have to prove that force was used to gain entry. If a person enters a building by using deception, artifice, trick, or misrepresentation to get consent to enter, this is entry without consent.

Next, the State must prove beyond a reasonable doubt the defendant intended to commit a crime, either a felony or misdemeanor, at the time of entry. The mere entry into a dwelling without consent is not burglary. If the intent to commit a crime is formed after the entry, it is not burglary.

On the other hand, if the defendant intended to commit a crime at the time of the entry, it is burglary, even if the intent was abandoned after the entry. It does not matter that the intended crime was not completed.

Intent may be shown by acts and contact of the defendant and other circumstances from

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which you may naturally and reasonably infer intent.

Finally, I state to you that the State must prove beyond a reasonable doubt that the defendant entered or remained in the dwelling, in the nighttime. Nighttime is the period between sunset and sunrise during which there is not enough daylight to recognize a person's face except by artificial light or moonlight.

Now, ladies and gentlemen, the defendant is charged with aggravated voyeurism. The State must prove beyond a reasonable doubt that, one, the defendant knowingly sold or distributed any photo, video recording, or digital, or electronic file, two, of another person, three, the recording or file was created by an eavesdropper or peeping Tom on or about the premises of another for the purpose of becoming an eavesdropping or peeping Tom, that the person eavesdropping or peeping did so for the purpose of arousing or gratifying sexual desire from knowingly, viewing, photographing, audio recording, video recording, filming, or producing a digital electronic file of another person without that person's knowledge or consent while that person is in a place where she

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would have reasonably -- had a reasonable expectation of privacy.

Peeping Tom is defined as a person who peeps through windows, doors, or other similar places, on or about the premises of another, or uses audio or video for the purpose of spying upon or invading the privacy of the person being spied upon or similar in nature.

A place where a person could have a reasonable expectation of privacy is a place where a person would reasonably expect to be safe from hostile intrusion or surveillance, or a person would have a reasonable belief that they could disrobe in privacy without concern for being photographed, filmed, or videotaped by another while undressing.

The defendant is charged with petty larceny, ladies and gentlemen. The State must prove beyond a reasonable doubt that the defendant took and carried away the property of another against the will or without the consent of the other person. The slightest removal of the property or the complete possession of the property, even for an instance by the defendant, is enough to show a taking and carrying away of

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the property. The State must also prove beyond a reasonable doubt that the defendant intended to permanently deprive the owner of the property. Finally, the State must prove that the value of the thing taken was $2,000 or less.

Ladies and gentlemen, the defendant is charged with assault and battery in the first degree. A person commits the offense of assault and battery in the first degree if the person unlawfully injures another person and the act either involves non-consensual touching of the private parts of an adult either upon or -- excuse me -- either under or above clothing with lewd and lascivious intent or occurred during the commission of a robbery, burglary, kidnapping, or theft.

Private parts, ladies and gentlemen, means the genital area or buttocks of a male or female or the breast of a female.

Now, ladies and gentlemen, I want you to clearly understand that you are not partisans or advocates for the State of South Carolina or the defendant. It's your duty by your joint deliberations to determine the facts in this case giving to the defendant the benefit of every

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reasonable doubt on each and every issue. Then to the facts which you determine to be true, you should take the law and apply the law that I have given to you by this court and thus arrive at a verdict in the case. When you've accomplished these responsibilities, you will have satisfied your oath, ladies and gentlemen, as jurors and you will have discharged your duty to this court.

Now, once you retire to the jury room, the bailiff will give you the verdict form. That's going to be given to the foreman. And when you, the jury, arrive at a verdict as to the offenses charged in this case, the foreperson will select the verdict as to that offense on the verdict form.

If the State has failed to prove the guilt of the defendant beyond a reasonable doubt, your verdict will be not guilty.

Likewise, if the State has proven the guilt of the defendant beyond a reasonable doubt, your verdict will be guilty.

Once a decision has been made, the foreperson will be check whichever choice is the verdict of the jury as to the offense charged.

The verdict that you render in this case,

folks, must be the verdict of each and every juror. It must be your unanimous verdict. All 12 jurors must agree on the verdict which you authorized the foreperson to write for the jury.

Now, ladies and gentlemen, I want you to further understand that the order in which the choices of the verdict appear on the verdict form are not suggestive of any verdict on the part of this court. The verdict in this case is to be determined by you, the jury, not the court.

Further, ladies and gentlemen, please understand that even though I will give the verdict form to the foreperson, or to the foreman in this case, it is not his verdict alone. It's the verdict of all 12 of you. And again, I emphasize, the verdict must be unanimous.

You must consider the instructions that I've given as a whole and not follow some and ignore others.

Now, I'm going to ask you in just a moment to require to the jury room, but do not begin your deliberations. Okay? You heard me say that over and over. I'm going to ask you to retire to the jury room, but do not begin in your deliberations until you are told to do so.

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The law requires that I now consult the attorneys to make sure that I've left nothing out of these instructions. After I've checked with the attorney, the bailiff will bring the verdict form. He will also bring the exhibits that have been entered into evidence. He'll bring those along with the verdict form, and the bailiff will then tell you that you can then begin your deliberations. So don't begin your deliberations until the bailiff brings you the verdict form and the exhibits. Okay?

Now, the bailiff, ladies and gentlemen, will be placed outside the jury room door during your deliberations. And if you have a question okay, please write that question down, give that piece of paper to the bailiff, and he will bring it to me and we will then deal with that question. I want you to know, if you have a question, I don't want you to any time to indicate what any breakdown or division, numerically, may be between the jurors. Don't ever write that down. I don't want that information. But if something comes up and there's a question, Mr. Foreman, if you would write that question down, give it to the bailiff, he'll bring it to me. Okay?

Now, once you've reached your verdict, please knock on the jury door, ask the bailiff to the advise the Court that you've reached a verdict and we will have you return to the courtroom as soon as possible.

All right. Now, what I want to do very briefly is just show you-all. This is the verdict form. Okay? It's two pages. And to that extent, what it's going to basically say -- and it starts -- as you recall, there were four indictments -- "We, the jury, in the above-captioned case on the charge of burglary in the first degree find the defendant," Mr. Foreperson, you would check one. Not guilty, guilty. And, again, nothing as it relates to the fact that not guilty is first. I got to put one down. So don't attach any significance to the order in which I've done that.

All right. "We, the jury, in the above-captioned case on the charge of assault and battery in the first degree," again, the foreperson is going to check once you-all have reached that decision. Not guilty, guilty.

Again, going to number 3, same thing. "We, the jury in the above-captioned case on the

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charge of aggravated voyeurism," the foreperson checks one, whatever that is in terms of you-all's verdict.

And then fourth dealing with the petty larceny, "We, the jury, in the above-captioned case on the petty larceny charge find," not guilty or guilty.

Mr. Foreperson, what I would appreciate your doing is, at the bottom of first page put your initials after you check. And also, sir, if you would so kind to sign your name right here. Again, this is not your verdict, sir. This is the verdict of entire jury.

So I'm going to ask you-all if you would go back to the jury room and don't start deliberating. I got a couple questions I need to ask these folks. Thank you very much.

(Jury exits the courtroom at 11:28 a.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Thank you. As it relates to the jury charge that I read to the jury, any exceptions or additions from the State?

MS. SWANSON: No, Your Honor.

THE COURT: All right. As it relates to

the jury charge, any exceptions or additions from the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. As it relates to the verdict form, the instructions that I gave the jury concerning the verdict form, any exceptions or additions from the State?

MS. SWANSON: No, Your Honor. And in regard to the verdict form as I presented that to the jury, any exceptions or additions from the State? Excuse me. From the defense? I apologize.

MS. TOLLEY: None, Your Honor.

THE COURT: All right. Thank you. What I'd like to do is, I would like if you-all could come up and make sure that everything that's going back and supposed to be going back and what's not supposed to be going back, you-all agree to that. And then I'm going to have you-all agree on the record what's going back. And I'm going to then have the bailiff take that back along with the verdict form.

Is satisfactory from the State?

MS. SWANSON: Yes, Your Honor.

THE COURT: Is that satisfactory from the

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defense?

MS. TOLLEY: Yes, Your Honor.

THE COURT: Great. Take a few minutes.

(Off the record.)

THE COURT: So let me just ask: Have you-all had an opportunity to review the evidence that is being sent back to the jury? From the State?

MS. SWANSON: Yes, sir.

THE COURT: From the defense?

MS. TOLLEY: Yes, sir.

THE COURT: All right. Is there an agreement as to what is going back? From the State?

MS. SWANSON: Yes, sir.

THE COURT: From the defense?

MS. TOLLEY: Yes, sir.

THE COURT: Okay. So everything that's supposed to be going back and parts and stuff that's not supposed to be is not going back. Is that right from the State?

MS. SWANSON: That is correct.

THE COURT: Is that correct?

MS. TOLLEY: Yes, sir.

THE COURT: All right, great. So I'm

going to go and have Rick take the evidence and the verdict form back to the jury.

Now, I'm going to ask that he -- any objection to bringing out the three alternates and discharging them at this time? From the State?

MS. SWANSON: No, Your Honor.

THE COURT: Miss Tolley?

MS. TOLLEY: No, Your Honor.

THE COURT: So we're going to bring the three alternates out. I'm going to thank them for their service. Discharge them. At the same time, he will tell the jury that they can begin their deliberations. Is that satisfactory? From the State?

MS. SWANSON: Yes, sir.

THE COURT: And from the defense?

MS. TOLLEY: Yes, sir.

THE COURT: That's great. Thank you, sir.

(Jury begins deliberations at 11:25 a.m.)

THE BAILIFF: Judge, I have the three alternates here.

THE COURT: I want to thank you so much for your service this week. It may be that you're glad, you're ready to go. It may be that you

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would like to have participated in the deliberations having now spent three days here. Unfortunately, the law provides that only 12 folks can deliberate in that room. So the parties agreed and I believe it's appropriate that we would remove the alternates and that we would discharge you at this time. I want to thank you.

You're done three years, okay? That's some good news. Of course, not what? Not federal court, not magistrate's court, and not city court. They may have a chance to get you.

But in all seriousness, I thank you for your time. I think you realize the seriousness of the nature of issues that we're dealing with here. It does take time. It is a repetitive process, unlike TV.

Thank you for your attention this week. You're free to go.

(Alternates excused at 11:28 a.m.)

THE COURT: We will be at ease.

(Question from jury at 11:33 a.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: All right. Hardly had time to take my robe off back there and we got a

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question. The question is: Can we see the defendant without his mask on in person? Okay? That is the question.

So, what would be the State's position on that?

MS. SWANSON: I believe that's appropriate and allowed under State vs. Hart, the case that I referenced earlier.

THE COURT: Miss Tolley?

MS. TOLLEY: Your Honor, I think all the evidence has been presented. And if that were going to happen, it should have happened during the trial. This would be entering new information into evidence. And if that's what we're going to do, then I'd like to rethink a few things myself.

MS. SWANSON: That's not new evidence.

THE COURT: Well, what I'm going to do is this: You know, during the jury qualifications, I did ask him to remove his mask and face the jury panel. I will say this. I don't think it's new evidence and I don't think that it's unreasonable to allow him to stand where he is -- I mean, he's not going to go over in front of the injury. But to stand where he is -- as far as I'm concerned,

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if you want to stand beside him and stand with him, you can. But I don't think it's unreasonable for him to stand where he is, face the jury with his mask off. I don't think that's unreasonable. But other than that, that would be it.

So, that's what I would do. And I think that's reasonable. Again, because identification is an issue in this matter. And I don't think it -- I just don't think allowing him to show his face is going to be adding new information.

Is there anything else you want to state for the record before we bring the jury back in from the State?

MS. SWANSON: No, Your Honor.

THE COURT: From the defense, anything else you want to add?

MS. TOLLEY: No, Your Honor.

THE COURT: In that case, let's bring the jury in. Hold on one second. Hold on one second.

Sir, I ask you to stand and remove your mask. In fact, if you want, remove your mask when they come in. however, you want to do that is fine with me. But I'm going to ask you to stand and just look over the jury. I'm going to have you stand for a few seconds, and then I'm going to

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have you sit down. I'm not going to have anybody ask you anything. But that's what I plan on doing. All right, sir?

MR. ROBINSON: Yes, sir.

THE COURT: I'll make the question a court exhibit.

(COURT EXH. 3, Question from jury, was marked for identification.)

THE BAILIFF: Jurors entering the courtroom, Your Honor.

THE COURT: Thank you.

(Jury enters the courtroom at 11:37 a.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Mr. Foreman, ladies and gentlemen, I received the question that says: "Can we see the defendant without his mask on in person?" And the answer to that is yes, and I've got Mr. Robinson and he's removed the mask.

Mr. Robinson, do you mind standing up facing the jury? All right. Mr. Robinson, thank you very much, sir.

All right. Ladies and gentlemen you can retire back to your jury room and continue with your deliberations. Thank you.

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(Jury exits the courtroom at 11:38 a.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Thank you.

Any objections to the information that I've provided to the jury by way of introduction and then having the defendant stand? From the State?

MS. SWANSON: No, Your Honor.

THE COURT: All right. From the defense?

MS. TOLLEY: No, Your Honor. Just what I said previously.

THE COURT: Yes, ma'am. We'll be at ease until we get a question or a verdict.

(Jury deliberations resume at 11:39 a.m.)

(Question from jury at 11:47 a.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: You-all be seated. Thank you.

All right. We got another question. The question is: Is it still aggravated voyeurism if someone else sent the video from Tyreek's phone?

Okay. So, that is the question. Is it still aggravated voyeurism if someone else sent the video from Tyreek's phone.

And so I would think that the proper

response would be to simply reread the aggravated voyeurism charge to the jury. I don't know that we could do anything else, because, at that point, it could potentially be commenting on some facts. And so I think that the only thing that we can do is reread the charge.

Now, I'm certainly willing to listen. And so to that extent, let me hear from the State.

MS. SWANSON: I agree with Your Honor.

THE COURT: Miss Tolley?

MS. TOLLEY: We don't have any objection to that, Your Honor.

THE COURT: Okay. So I'm going to mark that. I'm going to mark that as Number 4, I think. I'm going to read the question to the jury when they get in. Let me find my aggravated voyeurism charge, and I'll tell them that I'm going to recharge them on aggravated voyeurism. Is that satisfactory? And then recharge them. Is that satisfactory from the State?

MS. SWANSON: Yes, sir.

THE COURT: Miss Tolley?

MS. TOLLEY: Yes, sir.

THE COURT: Thank you.

All right. Get the jury.

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THE BAILIFF: Yes, sir.

Jury is entering the courtroom, Your Honor.

THE COURT: All right.

(Jury enters the courtroom at 11:50 a.m.)

THE COURT: All right. Ladies and gentlemen, I've got a question and the questions reads: Is it still aggravated voyeurism if someone else sent the video from Tyreek's phone? I believe that was the question. I'll make this Court's Exhibit Number 4.

(COURT EXH. 4, Question from jury, was marked for identification.)

THE COURT: Ladies and gentlemen, what I will do is, I will recharge you on the charge of aggravated voyeurism. Okay? So I'm going to recharge you on that one charge. Not 35 pages. Okay. I'm going to recharge you on the charge of aggravated voyeurism.

Ladies and gentlemen, the defendant is charged with the aggravated voyeurism. The State must prove beyond a reasonable doubt that the defendant knowingly sold or distributed any photo, video recording, or digital electronic file of another person, the recording or file was created

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by an eavesdropper or peeping Tom on or about the premises of another for the purpose of becoming an eavesdropper or peeping Tom, that the person eavesdropping or peeping did so for the purpose of arousing or gratifying sexual desire from knowingly viewing, photographing, audio recording, video recording, filming, or producing a digital electronic file of another without that person's knowledge or consent while that person is placed where she would have a reasonable expectation to privacy. A peeping Tom is defined as a person who peeps through windows, doors, or other similar places, on or about the premises of another and uses audio or video for the purpose of spying upon or invading the privacy of the person being spied upon, or conduct similar in nature. A place where a person would have a reasonable expectation of privacy is a place where a person would reasonably expect to be safe from hostile intrusion or surveillance, or a person would reasonably believe that they could disrobe in privacy without concern for being photographed, filmed, or videotaped by another while undressing.

That would be the charge of aggravated voyeurism.

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All right. Any exceptions from the State?

MS. SWANSON: No, sir.

THE COURT: From the defense?

MS. TOLLEY: No, sir.

THE COURT: Thank you. Ladies and gentlemen, you can retire to your jury room and please continue your deliberations.

(Jury exits the courtroom at 11:53 a.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: Miss Sharon, we got that right there.

We'll be at ease.

(Jury resumes deliberations at 11:54 a.m.)

(Verdict reached at 12:00 p.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: Thank you. Be seated.

Folks, I'm informed that we have a verdict. And so any matters before we bring the jury back in from the state?

MS. SWANSON: No, sir.

THE COURT: From the defense?

MS. TOLLEY: No, Your Honor.

THE COURT: All right. Let's go ahead and bring the jury in.

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THE BAILIFF: Jury is entering the courtroom, Your Honor.

(Jury enters the courtroom at 12:02 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

Mr. Foreman, I'm informed that the jury has reached a verdict.

MR. FOREMAN: Yes, we do, your Honor.

THE COURT: If you could hand that to bailiff, who will in turn hand the verdict form to me, sir.

Thank you. Thank you, Mr. Bailiff.

All right. Madame Clerk, I'd appreciate you're publishing the verdict.

THE CLERK: Yes, Your Honor.

THE COURT: If the defendant would stand please. Thank you.

THE CLERK: State of South Carolina vs. Tyreek Lorenzo Robinson. We, the jury, in the above-captioned case, burglary in the first degree, find the defendant guilty.

We, the jury, in the above-captioned case on the charge of assault and battery in the first degree find the defendant guilty.

We, the jury, in the above-captioned case on the charge of aggravated voyeurism find the

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defendant guilty.

We, the jury, in the above-captioned case on the charge on petty larceny find the defendant not guilty.

THE COURT: All right. Thank you, Madame Clerk.

All right. Are there any motions from the State or any matters from the State before I would discharge the jury.

MS. SWANSON: No, Your Honor.

THE COURT: Is there any matters from the defense before I would -- or any motions from the defense before I discharge the jury?

MS. TOLLEY: We would ask that the jury be polled, Your Honor.

THE COURT: Yes, ma'am.

All right. Madame Clerk, would you please pole the jury?

THE CLERK: Yes, Your Honor. Would you like me to read their numbers?

THE COURT: Yes, ma'am, if you would.

THE CLERK: Okay. When I call your name if you would just say yes.

THE COURT: Well, what she's going to do, polling the jury simply is a way, and the defense

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has a right, to basically have the jury polled, which means that the clerk is going to ask each of you a question.

And that question is what, Miss Clerk? Read that question for me.

THE CLERK: Is this your verdict? Is this still your verdict?

THE COURT: All right. So she's going to call you out by jury number, okay, and she's going to ask you that question. If this is your verdict, and it's still your verdict, you would indicate that it is. If for some reason, it's not your verdict, or was not your verdict, or isn't your verdict now, you would indicate that that's it. Okay?

All right. Madame Clerk, go right ahead.

THE CLERK: Juror Number 312, is this your verdict.

JUROR 312: Yes, ma'am.

THE CLERK: Is it still your verdict?

JUROR 312: Yes, ma'am.

THE COURT: Juror Number 76, Is this your verdict?

JUROR 76: Yes.

THE CLERK: Is it still your verdict?

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JUROR 76: Yes.
THE CLERK: Juror Number 107, is this your verdict?
JUROR 107: Yes.
THE CLERK: Is it still your verdict?
JUROR 107: Yes.
THE COURT: Juror Number 294, is this your verdict?
JUROR 294: Yes.
THE CLERK: Is it still your verdict?
JUROR 294: Yes.
THE CLERK: Your Number 71, is this your verdict?
JUROR 71: Yes, ma'am.
THE CLERK: Is IT still your verdict?
JUROR 71: Yes, ma'am.
THE CLERK: Your Number 193, is this your verdict?
JUROR 193: Yes.
THE CLERK: Is it still your verdict?
JUROR 193: It is.
THE CLERK: Juror Number 341, is this your verdict?
JUROR 341: Yes.
THE CLERK: Is it still your verdict?

JUROR 341: Yes.
THE COURT: Juror Number 225, is this your verdict?
JUROR 225: Yes.
THE CLERK: Is it still your verdict?
JUROR 225: Yes.
THE CLERK: Juror Number 177, is this your verdict?
JUROR 177: Yes.
THE CLERK: Is it still your verdict?
JUROR 177: Yes.
THE CLERK: Juror Number 11, is this your verdict?
JUROR 11: Yes.
THE CLERK: Is it still your verdict?
JUROR 11: Yes.
THE CLERK: Jury Number 63, is this your verdict?
JUROR 63: Yes, ma'am.
THE CLERK: Is it still your verdict?
JUROR 63: Yes, ma'am.
THE CLERK: Jury Number 336? I think that was an alternate.
THE COURT: I think that was.
THE CLERK: Jury Number 298. Alternate.

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Juror 232.

Juror Number 201, is this your verdict?

JUROR 201: Yes.

THE CLERK: Is it still your verdict?

JUROR 201: Yes.

THE COURT: Madame Clerk, thank you very much.

Anything further from the State?

MS. SWANSON: No, Your Honor.

THE COURT: Miss Tolley, anything further before I discharge the jury?

MS. TOLLEY: Nothing at this time, Your Honor.

THE COURT: All right. Thank you, ladies and gentlemen. Thank you so much for your service this week. Your county thanks you because, really, you choose to live in this county, and, as a result, this is where you are summoned to come and serve, to sit and listen.

And I will tell you, you-all paid attention this week. I periodically check over, look over, and make sure folks are paying attention. And I'll tell you, you did, and you were. And each us appreciate that.

The good news is, you're finish for the

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week. And so, to that extent, I want to thank you for your service. You're free for three years. Of course, as I've said several times during the week, that doesn't apply to magistrate's court, doesn't apply to federal court, and doesn't apply to city court. But that having been said, as it relates to general sessions and common pleas court, you're free for three years.

Now, I also want to let you know that we will have some brief post-trial motions, and then shortly thereafter would go into sentencing, and a sentence would be imposed after the motions are heard. Depending on what the outcome of those motions are, a sentence would then be imposed. And that would take place today.

I will tell you that given the hour, I plan on breaking before we have our post-trial motions and before then -- after the hearing of the post-trial motions, if appropriate, we'll move into sentencing. So, if you want to go, hey, I understand. You can go. No problem. But if you do want to stick around, I mean, you certainly can stick around. You can go sit back in the gallery here. But what I would expect to do is that at one o'clock I would entertain post-trial motions.

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And then depending on then the results of post-trial motions, we would then move into sentencing.

Is that satisfactory from the State?

MS. SWANSON: Yes, sir, Your Honor.

THE COURT: Miss Tolley, is that okay?

MS. TOLLEY: Yes, sir.

THE COURT: Okay. All right, folks, so you're free to go. I know that the clerk maybe has ordered some lunch. Did we order lunch?

THE CLERK: We did, Your Honor, but it hasn't arrived.

THE COURT: All right. So I will also tell you there was some lunch that was ordered. Again, if you want to stick around, lunch is going to be coming, you can eat. If you want to leave, I understand.

But at this time, I'm going to discharge you from your service.

One other thing, you're free to talk about this case now. You know, all throughout this week, I told you, man, don't talk about case. If you want to talk about this case now, you can. If somebody approaches you and they want to ask you about the case, you can talk to them. If you

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don't want to talk to them, you don't have to talk to them. If you don't want to talk to them and they continue to indicate that they want to talk to you, or they won't leave you alone, not that I think that's going to happen, but if they did, you let the clerk know, they let me know. That person will not be bothering you again. Okay? So I just want to let you know that. You are free discuss this matter.

Again, I thank you so much for your service this week. Thank you.

(Jury is excused and exits the courtroom at 12:13 p.m.)

THE BAILIFF: Jury is clear, Your Honor.

THE COURT: I wanted to go ahead and take a break and get something to eat. I'll just be honest, I'm a little hungry. I don't want to be hungry as I'm listening to arguments and then having to make any other decisions. So I wanted to take a break. So, I think lunch may be arriving by then. And I'm sorry if it's created any inconvenience by not going immediately into motions. But I think, if anything, it gives everybody an opportunity to think about those

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motions, whatever needs to be done, and I'm happy to entertain those. We'll start back at one o'clock.

Is that okay from the State?

MS. SWANSON: Yes, sir.

THE COURT: Miss Tolley?

MS. TOLLEY: Yes, sir.

Thank you, very much.

(A break was taken from 12:14 p.m to 1:00 p.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: All right. Let me just ask: Miss Tolley, do you have some motions you would like to make, ma'am?

MS. TOLLEY: We would make a motion for new trial, Your Honor, based on the quick verdict of the jury and the lack of time to consider sentencing -- or consider the evidence.

THE COURT: Yes, ma'am. All right. Any other matters or issues concerning --

MS. TOLLEY: We renew all of our prior motions and objections, Your Honor.

THE COURT: Yes, ma'am.

Solicitor, I'm happy to hear from you in response.

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MS. SWANSON: I believe that the jury paid very good attention. It was simply one day of testimony and they seemed resolved in their verdicts, particularly when they were polled.

Thank you.

THE COURT: All right. As it relates to the prior motions and renewal of your prior motions, I certainly note that for the record, Miss Tolley.

As it relates to your motion for a new trial, I'm going to deny your motion for a new trial, ma'am. With all due respect, I believe -- I believe that the evidence that was presented in this case, though the vast majority, if not all of it, was circumstantial, I think that there was plenty of circumstantial evidence in this matter for the jury's consideration.

And while the jury didn't take long to deliberate, I do believe that the jury gave careful and deliberate consideration by virtue of the questions that they asked. I think that the questions that the jurors asked when they came out and inquired about wanting to be able to observe the defendant without the mask on, I think that that showed the jury was thinking, considering,

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and asking. To me, that's a jury that's doing their job.

I think that when a jury brings out and comes out with a question and asked about aggravated voyeurism, which, quite frankly, as both know, was a charge that is not found in my charge book, and a charge, perhaps, that might have been a little tricky. Okay? One that you-all agreed to.

I think it showed that the jury was paying deliberate attention to it. They wanted to come back and they wanted to focus on that charge because they had a concern. And I think that the fact that they, again, asked that question -- I really think, oftentimes, when they ask those questions, I think it goes to show that jurors are deliberating and giving careful consideration to their duties and to their oath.

I just think that -- beyond that, I think it's an indication that they believe the evidence was clear and concise, and I believe that what was presented certainly -- even there was a brief time-wise in terms of their decision, I don't think that that gives rise to the fact that they did not deliberately carry out their duties and

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their oath. I think they did.

And, of course, they were also polled and individually had an opportunity to express that that was and still is their verdict.

So for those reasons, ma'am, I'm going to respectfully deny your motion.

All right. Anything further for the record as it relates to that, Miss Tolley?

MS. TOLLEY: Nothing, Your Honor.

THE COURT: Okay, thank you.

Anything, Solicitor?

MS. SWANSON: No, Your Honor.

THE COURT: Is there any reason we wouldn't move into sentencing now, Solicitor?

MS. SWANSON: No, Your Honor.

THE COURT: Any reason we would not move into sentencing, Miss Tolley?

MS. TOLLEY: No, Your Honor.

THE COURT: I'm happy to hear from you, Solicitor.

MS. SWANSON: Your Honor, does the defendant needs to sign these sentencing sheets?

THE COURT: I don't -- not that I'm aware of.

MS. SWANSON: Not for guilty at trial,

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okay.

I am passing up sentencing sheets.

THE COURT: Have you seen these, Miss Tolley?

MS. TOLLEY: Yes, sir, I have.

THE COURT: Thank you. Yes, ma'am.

MS. SWANSON: And also a permanent restraining order that the State is requesting for A.M.N. . She was unfortunately not able to come back today because she started a new job and she just simply had to work today, but she is happy that this matter is now behind her.

Regarding Mr. Robinson's prior record, he began his general sessions career at the age of 17. This was a case -- a string of auto break-ins in 2016. In 2018, he had more auto break-ins. And some point, between 2018 and 2020, he lived in Mississippi. And upon coming back here and getting arrested on slew of charges here, there was DNA hit in Mississippi on a burglary there.

Of course, you heard about all of the contact that law enforcement had with him surrounding the events that we were here in trial for. I was kind of surprised that we were able to get through trial tip-toeing around all of that

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law enforcement contact. He is very well-known by law enforcement in the Muddy Creek area.

He was, quite frankly, a terror to the neighborhood.

THE COURT: So, Solicitor, let me ask you: When are his prior convictions?

MS. SWANSON: 2016, I believe it was three auto break-ins. And 2018, at least two more auto break-ins. And then he's been locked up since 2020, and has pending charges with the pointing and presenting.

THE COURT: Okay. And how old was he at the time of the crime in this case?

MS. SWANSON: He was 21 years old. He is 23 now.

THE COURT: Thank you. Anything else, Solicitor, that you want to tell me?

MS. SWANSON: No, Your Honor.

THE COURT: All right, thank you.

Miss Tolley, I'm happy to hear from you.

MS. TOLLEY: Thank you. May it please the Court?

THE COURT: Yes, ma'am.

MS. TOLLEY: As you've heard, Tyreek is

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23 years old. He's in the courtroom today with his mother, sister, and his aunt. Other family members have been here throughout the week, including his grandfather and uncles and a cousin. His family is from Beaufort County. He was raised here. His mom, as you see, is in uniform. She's in the Navy. She's a master chief in the Navy.

Tyreek grew up as a military brat. They lived in Virginia, Florida, Mississippi, and California.

He came back to live in South Carolina in Beaufort County with his family because of COVID. He was living with his mom in the barracks. But when COVID hit, they shut down the barracks to people who were not in the military and who were not minors, and he was, at the time, over the age of 18. So he couldn't live there with his mother anymore. During that time is when he fell into these particular issues.

What I can tell you about Tyreek is, in my dealings with him, he is smart. He is considerate. He's kind. He's thinking, and worthy of Your Honor considering the least possible sentence that you can given these circumstances. Giving his age and giving his

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background.

His mom says that his goal was to go to college. He got his GED in 2020. She got him the Montgomery GI Bill to pay for his college.

And so we're hoping that, at some point, Your Honor, he will have the opportunity to come out and be a productive member of society.

While he was in jail, we did have him evaluated, and I know that one of the concerns of the Court was whether or not these kinds of incidents would possibly occur in the future, and we had him evaluated by Dr. Jeffrey McGee, and I'll just read the portion of his opinion --

THE COURT: Yes, ma'am.

MS. TOLLEY: -- to the Court, if that's okay.

THE COURT: Certainly.

MS. TOLLEY: "It is my opinion that Mr. Robinson does not meet the South Carolina definition of a sexually violent predator because he does not meet the DSM-V diagnosis of sexual sadism disorder or voyeuristic disorder, or any other sexual deviant disorder. The criminal sexual conduct first degree and aggravated voyeurism charges against him are based on a

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single episode, and there is no evidence that he has ever been previously charged or convicted of a prior sex offense. This opinion is based on my 35 years of evaluating, treating, and conducting peer reviewed public research on sex offenders, including 13 years in South Carolina reviewing over 6,000 cases of adolescent and adult sex offenders as part of the multi-disciplinary sentence."

THE COURT: Remind me, Dr. McGee, I know I've heard his name. Is he a Ph.D. or is he an M.D.?

MS. TOLLEY: He is a Ph.D., Your Honor.

THE COURT: Yes, ma'am. That's what I thought. I wanted to make sure. Thank you.

Go ahead.

MS. TOLLEY: And I think his mom would maybe like to address the Court.

THE COURT: Sure. Yes, ma'am. Come on right up here, ma'am. Come on up.

MS. ANDREWS: Good afternoon, Your Honor.

THE COURT: Good afternoon, could state your name, ma'am?

MS. ANDREWS: Yes. Asia Andrews.

THE COURT: Thank you. I'm happy to hear

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from you. Yes, ma'am.

MS. ANDREWS: Okay. So Tyreek is a really good child. When he was younger, he had some psychiatric stuff that he dealt with. After that, he has really good future now. Like she said, I transferred him. I got him on the GI Bill. But he has a GED, so that way he has a future to get his associate's degree, and his plan is to join the U.S. Marine Corp. But a lot of that was delayed when the pandemic came along.

I'm not aware of any charges in Mississippi. He didn't get in any trouble or anything. Once the pandemic hit, base was locked down to strictly just military and dependents under 18, so he went back to Hilton Head and hang around some bad crowds.

When this incident occurred, he was only 20 years old. Also, it takes a man's brain to develop at 26 years old. And even seeing some of the stuff they showed today, like it was an alcohol problem as well.

So, Your Honor, I respectfully request that you please give my son the most lenient sentence because he does have a bright future ahead, and his family support system is here for

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him as well.

Thank you for your time.

THE COURT: Thank you very much, ma'am.

Anybody else? Or anything else you want to tell me, Miss Tolley?

And I'm happy to hear from your client. However, I do understand that there may be an appeal and issues associated with that. And for that reason, it may be that he does not want to address the Court, and I certainly understand that. But I want to give anybody and everybody an opportunity to speak.

Is there anything that you want to tell me, ma'am?

MS. TOLLEY: Nothing else, Your Honor.

THE COURT: All right. Great.

MS. TOLLEY: He's been in jail for 607 days.

THE COURT: 607 days, okay.

All right. Solicitor, is there anything else you want it tell me, ma'am?

MS. SWANSON: Yes. I did neglect to request from the State that we would like Your Honor to consider sexual registry.

THE COURT: All right. I want to confirm

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this: In regard to the aggravated voyeurism charge, I see that it is denoted as a violent offense, and it carries anywhere from zero to 10 years. Is that your understanding, Solicitor?

MS. SWANSON: Yes, we looked it up earlier.

THE COURT: And, again, I want to just get this on the record. Is that also your understanding, Miss Tolley?

MS. TOLLEY: Yes, Your Honor.

THE COURT: All right. In regard to first degree burglary, Solicitor, I understand that, obviously, that's a violent and a most serious offense, and so what I want to confirm is the fact that it is, in fact, a minimum of 15 years up to life in prison; is that correct?

MS. SWANSON: Yes, for the burglary first.

THE COURT: Burglary first, yes, ma'am.

Is that correct, Miss Tolley?

MS. TOLLEY: Yes, sir.

THE COURT: All right. And in regard to the assault and battery first degree, I want to confirm that is anywhere from zero to 10 years; is that correct, Solicitor?

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MS. SWANSON: That is correct.

THE COURT: All right. And, Miss Tolley, is that your understanding also?

MS. TOLLEY: Yes, sir.

THE COURT: All right. As it relates to the State's request concerning offender registry, is that based on assault and battery first degree and this being facts involving -- facts involving a sexual nature, Solicitor?

MS. SWANSON: Yes, Your Honor, that's correct.

THE COURT: All right. We'll be at ease, and I'll be back in here in just a few moments. Thank you.

(A break was taken from 1:28 p.m. to 1:52 p.m.)

THE BAILIFF: All rise. This court is back in session.

THE COURT: Thank you. Be seated.

All right. I've had an opportunity to review the sentencing sheet and to consider the sentence in this matter. And while I understand that the defendant maintains his innocence, and I know he does, and has felt that way, but for him, unfortunately, the jury has stripped that away and has found him guilty beyond a reasonable doubt.

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And as I then look at these crimes, and they're just terrible. They're just terrible. To be asleep in your house and then have someone touch you and to film, it's just beyond the pale. And I just don't -- I don't know what else to say about that.

So I will say that in 2020-GS-07-02063, which is the burglary in the first degree, Mr. Robinson, I'm going to sentence you to the state department of corrections for 16 years, and I'm going to give you credit for the 607 days time that you served, sir.

And the sentences that I'm going to pass on the aggravated voyeurism and the assault and battery will run consecutive to the sentence that I've just imposed for the first degree burglary.

In 2020-GS-07-02062, on the charge of aggravated voyeurism, sir, I'm going to sentence you to the state department of corrections for a period of six years. And I'm going to run that, sir, again, consecutive to the burglary charge that I just passed sentence on and the charge of assault and battery first degree. So I'm running those concurrent -- excuse me -- consecutive to this charge of aggravated voyeurism.

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Sir, in 2020-GS-07-02061, that's for assault and battery in the first degree, I'm going to sentence you, sir, to the state department of corrections for a period of five years. I'm going to give you credit for the 607 days time that you served. And, of course, I'm running that consecutive to the two charges that I just passed judgment on as to burglary and the aggravated voyeurism.

And I am going to impose that he register with sexual offender's registry pursuant to South Carolina Code of Law section 23-34-30.

Finally, I have signed a permanent restraining order and that he is to have no contact with Miss Robinson (sic) until 6/15/2122.

And that would be the sentence of the Court in these matters, and I think that brings this matter to a close.

Anything further from the State concerning sentencing?

MS. SWANSON: No, sir.

THE COURT: From the defense, Miss Tolley.

MS. TOLLEY: Nothing, Your Honor, at this time.

MS. SWANSON: Thank you, Your Honor.

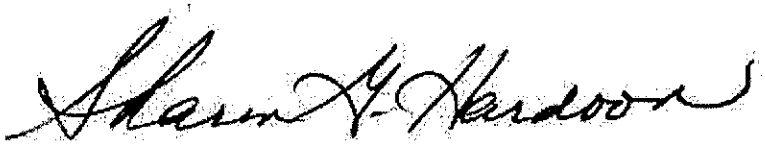
(The trial was concluded.)

CERTIFICATE OF REPORTER

I, SHARON G. HARDOON, Official Circuit Court Reporter, III for the State of South Carolina at Large, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in General Sessions for Beaufort County, South Carolina.

I do further certify that I am neither kin, counsel, nor interest to any party hereto.

January 16, 2023



_____

Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

WITNESSES

BCSO Todd Cacadon

ARREST WARRANT NUMBER

2020A0710300379

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: APR 15 2021

VERDICT

Guilty

Foreperson of Petit Jury

Date: 6/15/22

INDICT

DOCKET NO. 2020GS0702061

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

April Term 2021

THE STATE

vs.

TYREEK LORENZO ROBINSON

Indictment For

Assault and Battery 1st Degree

SC Code: 16-3-600(C)(1)(a)(i)

CDR Code: 3412

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I

hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

INDICTMENT

2020GS0702061

At a Court of General Sessions, convened on April 15th, 2021, the Grand Jurors of Beaufort County present upon their oath:

Assault and Battery 1st Degree

That in Beaufort County, South Carolina, on or about September 19, 2020, the Defendant, TYREEK LORENZO ROBINSON, did injure A.M.N. [redacted] and that act involved nonconsensual touching of the private parts of A.M.N. [redacted], either under or above her clothing, with lewd and lascivious intent, all in violation of Section 16-3-600(C)(1)(a)(i), et al. of the Codes of Law of South Carolina.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Solicitor