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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

The Honorable George M. McFaddin, Jr., Circuit Court Judge

Appellate Case No: 2022-001409
Lower Court Case No: 2017-CP-40-07564

ANTHONY PORTERFIELD, RESPONDENT,

v.

STATE OF SOUTH CAROLINA PETITIONER.

APPENDIX
Volume II of IV

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that address and the house there, those are in black and white. Can you explain why those are in black and white?

A The way they print -- this was taken with my county-issued cell phone, which has a photo or a camera attachment, and I just snapped some pictures while I was there at the scene.

Q In this case did you ever get any search warrants in this case?

A I did not.

Q Why not?

A We were never able to verify where he was staying in a permanent sense of the word.

Q Were you ever able to recover any of the items that were stolen?

A No.

Q Were you ever able to identify the Co-Defendant in this case?

A No, ma'am.

Q Is that investigation still ongoing?

A It is.

Q The Defendant's appearance here in court this week, has it changed?

A Somewhat. Just I think the length of his hair.

THE COURT: Say that again. I couldn't quite

hear you.

THE WITNESS: Just the length of his hair, Your Honor.

BY MS. CAMPBELL:

Q I want to show you State's Exhibit 26. Do you recognize that?

A I do.

Q And what is that?

A That would be a booking photo.

Q Of the Defendant on the date he was arrested?

A Yes, ma'am.

MS. CAMPBELL: Your Honor, at this time we would offer State's Exhibit 26 in evidence.

MR. BANK: No objection, Your Honor.

THE COURT: 26?

MS. CAMPBELL: 26, Your Honor.

THE COURT: State's 26 in evidence, without objection.

(WHEREUPON, State's Exhibit No. 26 was marked for identification and received into evidence.)

BY MS. CAMPBELL:

Q And would this have been taken -- how long did he stay at the hospital that night?

A I'm not 100 percent certain. I do not think he was

admitted. I think he went from that night to Alvin S. Glenn Detention Center.

Q And this was taken shortly thereafter?

A Yes, ma'am.

Q So this is how he appeared?

A Yes.

Q And that is how he looked back then?

(Exhibit shown to jury.)

A (WHEREUPON, there was no response.)

Q In this case I notice there were some cameras on the interior of the house. Did you try to attempt to retrieve video?

A I did. And those cameras I was told were inoperable, they were not working.

Q So there was no video to be retrieved?

A No, ma'am.

Q I want to backtrack for a minute and make sure I got something straight. The conversation you had on the phone with the Defendant in this case, what date did that first conversation take place?

A That conversation would have been on July 17th of 2012.

Q And then when he called back, when was the meeting set up for, was it that same day?

A That very same day.

Q And then he called back that same day to cancel?
A Yes, ma'am.
Q And that is when he gave you that additional information?
A Correct.
Q At any point -- and I want you to review the warrants that were served on the Defendant in this case. In the body of the warrant does it give information about what happened?
A It does.
Q Does it say the date?
A It does.
Q Does it give the address where it happened?
A It does.
Q Does it describe the offense?
A It does.
Q And does it talk about the victims identifying him?
A Yes, it does.
Q At any point in any of those four warrants -- and review all of them -- does it ever say this happened at 2:00 o'clock in the afternoon?
A No, it does not.
Q At any point in your conversations with the Defendant, either on the phone or after you Mirandized him that day, did you ever tell him this

happened at 2:00 o'clock in the afternoon or any time?

A Tell him that it happened 2:00 o'clock? No, I would not have told him that.

Q So that information was not provided to him?

A No, ma'am. Not by me.

Q And it is not on the warrants?

A No, ma'am.

Q You are aware of the description of the car in this case?

A I am.

Q A gold-colored sedan?

A Gold-colored sedan is what the two witnesses spoke of.

Q And did you recently have an opportunity to interview a young woman named Ms. Gale, Nazirah, I think?

A Nazirah.

Q Nazirah. And what kind of car did she have back in the summer of 2012?

A She had a four-door champagne goldish-colored Chevrolet.

Q And, finally, you were also aware of the victims giving a description of the gun that was produced by the Defendant that he pulled from a case?

VOLUME II OF III

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANTHONY PORTERFIELD,

APPELLANT

APPELLATE CASE NO. 2015-000631

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT # 23 (PHONE CALLS)

A Yes.
Q And you have been here in court today?
A I have.
Q Have you ever been able to observe the Defendant in possession of a case?
A I have. It actually was handed to him.
Q By whom?
A Someone behind him. A witness.
Q And what does the case look like?
A It looks like a laptop case or a bag, satchel.
Q And that was handed to the Defendant in court?
A Yes, ma'am. We made mention of it in court.
Q And is that the description of what the young ladies described, or Ms. Rabia Nathani described him pulling the gun from?
A From a laptop case. Exactly.
Q The person that you talked to on the phone that was later arrested in this case, is he in the courtroom?
A Yes.
Q Can you identify him for the jury?
A I can. He is sitting at the Defense table wearing a white shirt, collared shirt.
Q Seated between his lawyers?
A That is correct.

MS. CAMPBELL: Your Honor, may the record reflect he identified the Defendant.

THE COURT: So reflected, Solicitor.

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

THE COURT: Thank you. Mr. Bank?

MR. BANK: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

MR. BANK: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, sir.

MR. BANK: Your Honor, is it all right if I have my clerk come up? I brought this up to the Court about this calendar and I have talked about it with the Solicitors and they are fine with me using this calendar. Do you mind if he comes up and helps me put this calendar we have right up there?

MS. CAMPBELL: I can help him.

THE COURT: Are you volunteering, Ms. Campbell?

MS. CAMPBELL: I am volunteering.

(Pause.)

CROSS-EXAMINATION

BY MR. BANK:

Q Investigator Clarke, how are you doing today?
A Doing well, Counselor. How are you?
Q Doing well. Outside of speaking in passing, me and you have never spoken about this case, or anything, have we?
A I'm sorry?
Q Outside of just in passing, like outside the courthouse, me and you have never spoken about this case before, have we?
A That's correct.
Q Now, you were the lead investigator on the case as you stated; correct?
A Yes.
Q And being the lead investigator, you are informed of all relevant material in the case; right?
A Yes.
Q That is available, anyway?
A Correct.
Q You make decisions on what needs to be done in the case; is that correct?
A Yes.
Q In terms of following up on things, making sure things get researched, whatever it might be; is that correct?
A Correct.

Q Essentially in terms of what law enforcement does for the case, the lead investigator makes sure that everything that needs to be done in the investigation is done; right?
A The primary responsibility falls on the lead investigator, but he has other sources that help him as well.
Q Right. But you are in charge of getting those other sources and do what you think needs to be done; correct?
A That is a fair assumption, yes.
Q Now, what I want to do and why I have this calendar -- can you read that from where you are sitting?
A I can.
Q You can? Okay.
A I will warn you, I am hard of hearing on the right-hand side, I am legally deaf on the right-hand side. I'm getting hearing aids in March. So if I say repeat, I'm not messing with you.
Q Absolutely. Well, from what you see on this calendar, does this look like an accurate representation of June, the last week of June, 2012, and then July of 2012. From what you know --

I know you probably can't remember if the days fall on Monday or Tuesday, but --
A I think it is a fair representation, yes, sir.
Q Okay. So this row right here on the top is the last week of June. And we got lucky because the 1st starts on Sunday.
A Okay.
Q Now, this incident occurred on the 27th of June; is that correct? Correct?
A That is correct.
Q So it would be fair to label this day -- I'll just write "incident" on the 27th?
A Yes, sir.
Q And on the 28th the case is assigned to you; correct?
A Correct.
Q So that is the first day you get any information about it?
A Correct.
Q So we'll write "assigned on the 28th," is that a fair --
A Fair enough.
Q All right. Now, on the 28th when the case is assigned to you -- and I know that some of these things might be done later, and everything else,

but I want to go through what was done on the 28th when you got the case versus what was not done on the 28th, taking into account some of the things that aren't done we know will be done later, okay?

On the 28th you get the initial report; is that correct?

A That is correct.

Q You understand that CSI has already been done on the house; correct?

A Yes.

Q So you didn't have to call CSI out there to go do it, somebody before you had already called them in; correct?

A Correct.

Q You made contact with Mr. Nathani by phone; is that correct?

A Yes.

Q And you got the name Amp, A-M-P; right?

A Yes.

Q And then through probably a couple of sources, but mostly Captain McDonald, you confirmed the name and the phone number as belonging to Anthony Porterfield; correct?

A Correct.

Q And according to your investigation at that point

in your file, it was Rabia who ID'd Amp to Mr. Nathani, who told that to Bass, who you said was the first officer on the scene; correct?

A He would be the first investigator on the scene.

Q First investigator, excuse me.

A Yes, sir.

Q And that's correct?

A That is correct.

Q Okay. Now, in terms of other things that happened on the 28th, you didn't go to the scene; correct?

A That is correct.

Q You didn't go talk to any of the neighbors regarding any of the businesses or houses that were around the house, did you?

A On the 28th? No, sir.

Q Did you look for any surveillance either -- at that point had you looked for the surveillance at the Nathani household?

A I had not been to the Nathani household.

Q Okay. I didn't know if somebody might have retrieved it and brought it to you. That didn't occur?

A No.

Q And did you attempt to locate any other businesses right there on [redacted] that would have had any

surveillance?
A On the 28th? No.
Q Okay. You didn't get any written statements that day; is that correct?
A Correct.
Q You didn't talk to [redacted]; is that correct?
A Correct.
Q And at that point you didn't attempt to get any car title on Anthony, even though you had a car description; is that correct?
A I did not attempt to get car title --
Q Any car title information?
A No, I did not -- I did not get car title information on that day, no, sir.
Q And, I'm sorry, because you had Anthony Porterfield's name, did you run that day Anthony's name through any kind of car title database that you might have had?
A I did not, no, sir.
Q And I made that question unclear. And at that point you have no arrests and no search warrants?
A That is correct.
Q Okay. Now, the next day that we have something is -- any involvement in this case is on the 30th; is that correct?

A Correct.
Q And essentially it is another phone call to Mr. Nathani; right?
A That is correct.
Q So on the 30th is it all right if I write "follow-up on the 30th"?
A Sure.
Q Now, it is in this conversation that you find out what the nature of Mr. Nathani's business is; correct.
A That is correct.
Q Could you explain to the jury what your understanding of Mr. Nathani's business was at that point?
A Mr. Nathani related that he is in the business of repairing, sales, some sales of laptops, and whatnot. Primarily it seemed like his business is a repair type business and that he, you know, dabbled in some electronic business, repair or sales or trade.

He explained that he had -- it was a home-based business on [redacted] Road. That is where he both lived and worked and that was his primary work station. And that at Metro US 1 flea market he had a satellite location, if you will.

Q And did that strike you as a typical type of business?
A Typical in what way, sir?
Q Well, typical in the sense that, one, we have a business running out of a house whose only kind of extension outside of the residence is at a flea market. Does that strike you as a typical type of business that you deal with, or that you see in your day-to-day job?
A Put that way, atypical, sure. Okay.
Q Was it typical enough for you to try to look into it at all? Try to find out if there was any business licensing, or anything like that?
THE COURT: Any what?
MS. CAMPBELL: Objection, Your Honor.
MR. BANK: Business licensing.
THE COURT: Any what?
MR. BANK: Business licensing. Whether they have a business license.
THE COURT: I sustain that objection. Move on. Plenty of home businesses.
BY MR. BANK:
Q Now, at that point you found out that Mr. Nathani -- and you have been saying it correctly, I have been saying it incorrectly --

Mr. Nathani had done business with Anthony before; is that correct?

A Correct. That is what Mr. Nathani actually told me.

Q And at this point you also realized that Anthony wasn't his only customer; correct?

A That would be a safe assumption, yes.

Q And at that point, according to your investigation, Mr. Nathani's big fear or suspicion in this case was that Anthony had called Mr. Nathani multiple times that day, almost like he was tracking Mr. Nathani to figure out where he was? Was that your understanding with your investigation?

A In speaking with Mr. Nathani, that is the inclination I picked up. And that is basically what he told me is that he alluded that he had spoken -- he felt that Anthony was tracking his movements. That would be a word he would use. Or trying to find out where he was.

Q With multiple phone calls?

A Correct.

Q Now, the next date that we have that something is done on the case we know of is July 2nd; is that correct?

A That is correct.

Q That is essentially the day the lineups were shown; correct?
A Yes, sir.
Q So I'll write "lineup on the 2nd," if that is all right?
A Sure.
Q So this is the first day that you actually go to the incident location; is that correct?
A That is correct.
Q And it is at this point that you show the lineups that you explained during direct examination; correct?
A On that day, yes, sir.
Q And at the time of creating lineups and presenting them to the girls, you had knowledge that the girls said that they had seen Anthony before; correct?
A Yes, they had seen him in the house before.
Q So what you essentially did was show them a lineup of six people, one of which you knew they had seen before, just in the normal course of business of dealing, and then five people who they very likely would not have known?
A I showed them a photo lineup of someone they identified as the subject that included -- that was Anthony Porterfield's face and -- his name and

image.
Q I understand. But that is also the exact same picture of someone that they indicated that they knew before the robbery; right?
A That's correct.
Q And you got one statement; is that correct?
A I had a statement from the older daughter, Rabia, yes.
Q Now, the next date that we have something happen is July 10th, which is when you get arrest warrants; right?
A Yes, sir.
Q So that is going to be one, two, three, four, five, six, seven, eight days from the lineup, and one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen days since the incident is when you get the arrest warrants?
A Correct.
Q And I'll write "arrest warrants," if that is all right?
A Fair enough.
Q Now, the next date that we have noted is -- in your notes anyway -- is July 17th, and that is when you finally call Anthony on the cell phone number that you had; is that correct?

A Yes, following my investigative follow-up, yes, sir.
Q So on the 17th I'll write "call Anthony."
A Uh-huh.
Q Now, you've had Anthony's name and phone number since Day 1 when you were involved on the 28th; correct?
A Yes, sir.
Q And all of the other folks involved in the investigation before you even had it on the 27th; is that correct?
A That's what I was told, yes, sir.
Q So we're dealing with one, two, three almost, one day short of three weeks, before anybody calls the cell phone number that they know belongs to Anthony; is that correct?
A Before I call it, yes, sir.
Q Was it your understanding somebody else in the investigation --
A No, I just know that I didn't call it until the 17th.
Q And none of your other officers called, to your knowledge?
A Not that I'm aware of, no, sir.
Q Did you have any reason to believe that that number

wasn't accurate?
A Accurate?
Q Accurate?
A No, sir.
Q The next thing we have is July 18th when Anthony is arrested. And I'll write "arrested," if that is all right?
A Certainly.
Q Which is one, two, three weeks exactly to the day after the incident; correct?
A Correct.
Q Now, by the 18th -- I want to talk a couple of things about your investigation. I notice that on direct you said something about how sometimes things take a while because you are following up and doing investigative work, I take it, all of this time; right?
A Yes, sir.
Q Some of those things you noted I believe were statements and ID review; right?
A Correct.
Q And you got one statement in this case; right?
A Correct.
Q And you did that the same day that you did the ID review; right?

A Correct.
Q On the 2nd?
A Yes, sir.
Q Did that take all day?
A I don't know how long it took, but it took -- definitely got it done that day.
Q And then you mention how you do records checks. That is typically through whatever variety of databases you might use to look through somebody, the typical type of databases you might look through, does it typically take an extraordinarily long time to run a name?
A It doesn't take an extraordinary long time. Sometimes we go to outside resources to get that done. We have analysts that work with us. We task them with certain things. Captain McDonald works the phones. He is quite versed in that. You saw that. He is working that angle. I have to review with a supervisor to make sure that I have the appropriate charges in mind of making those charges. Then there is the contacts that I have, which is contacts when I was a burglary investigator for four years, people that I know on the street, informants, fences that I know, and, more importantly, pawn brokers. And then on top of

that, you are waiting for some of that to come in.

Keep in mind, I am also juggling a case load. It is the summertime in Richland County. And we are very busy during the summertime. And so I am triaging other cases and working those cases as well. I don't have just this case and I can't just work on this case alone. I wish I could. That would be great. But I can't.

Q Oh, I understand. No, I wish -- I wish -- Anthony wishes you could work on the case a little bit more over the summer?

MS. CAMPBELL: Objection.

THE COURT: Is that a question?

MR. BANK: No, sir. Withdrawn.

BY MR. BANK:

Q Were there ever any informants that came through on this case to tell you anything about it?

A No. Not to me personally, no.

Q And you said you had trouble finding where he was or where he lived or confirming where he was; is that right?

A I wouldn't call it trouble, we just couldn't -- we couldn't log down where he was.

Q Right. Well, on the date of the arrest, you give the information over the Fugitive Task Force;

right?
A I give the phone number to the Fugitive Task Force, and I had spoken to them.
Q You have the phone number and his name and that you had spoken to him; correct?
A That is correct.
Q And it took them how many hours to find him exactly physically where he was?
A I don't know exact, but they found him within that day.
Q Less than 12 hours?
A I think it is a fair assumption.
Q Now, in terms of some of this investigative work that you were doing during all this time, you obviously went and talked to Anthony's family and his work; right?
A I did not.
Q You knew where he worked, didn't you?
A I did not.
Q Did you ever find out where he worked?
A After the fact when the Fugitive Team located where he was.
Q So you never interviewed anybody to try to figure out what Anthony might have been doing that day way back on the 27th; is that correct?

A No.
Q Outside of talking to Anthony?
A Correct. I would like to talk to Anthony on that, certainly, if he had anything that could --
Q But you never went and talked to anybody else; correct?
A I wouldn't say I never went and talked to anybody else. I was conducting an investigation. I didn't talk -- you know, I don't quite understand the question.
Q You never went and talked to anybody else about anybody -- to anybody that would have had knowledge of where Anthony would have been that day other than at the Nathani household; is that correct?
A I would have talked to co-workers at the department and seen if somebody can log down where he is, that kind of thing.
Q And did you do that?
A I did.
Q You talked to his co-workers at the --
A No, I talked to -- I'm sorry, my co-workers. I'm sorry, Richland County co-workers.
Q But not his co-workers?
A No. I didn't know where he was employed at the time.

Q After you found out where he was employed, did you go talk to anybody?
A Not at his place of business, no, sir. Not where he worked.
Q Now, you spoke about how you couldn't get the search warrant or any search warrant because you couldn't nail down exactly where he was living; correct?
A Correct.
Q When he was arrested, did he have a driver's license on him?
A I was not there during the arrest. I don't know what articles he had on him at the time.
Q Did you ever think to ask what his driver's license said to see where his address might be or somewhere else to --
A Well, I had run his DMV already. I had done that.
Q And you had done a search warrant on that house?
A No, I did not.
Q And what is the importance of a search warrant in this type of case?
A In this particular situation, what would be important is obviously we were looking for a weapon that had been used in the crime, we're looking for any clothing description that was maybe mentioned

by a victim or witness, whatnot. And certainly if we could find any of the property that had been taken from the house that was still at that location.

Q And those were the three major things. They were all present in this case. A gun, a clothing description, which was in the 9-1-1 call, and then property that was missing; correct?

A Correct.

Q None of that was ever recovered; correct?

A No, sir, it wasn't. That is not uncommon in burglary. We get very little back.

Q Now, did you ever establish whether Anthony ever owned a champagne or golden sedan?

A Establish? No. He did not -- and his DMV file did not appear -- I guess in a way I did establish he did not appear to own a vehicle of that make or model.

Q What did show up on his DMV file?

A I don't have that in front of me.

Q Would it help you if -- I think I have a copy of it right here actually. Would it help if I show it to you real quick?

A Certainly. Yes, sir.

Q And what did the report show?

A It shows a Crown Victoria.
Q Did it appear that he owned it at the time of 2012?
A If I can review it again I could tell you.
Q Okay. Absolutely. I took it away from you too quick.
A Decal was expired in 2009 and the plate was expired in 2011. So the decal and the plate would both be expired at that point. There is no -- the current title was listed as his, but then it has to catch up with DMV.
Q Right.
A So you don't know whether a sale or it was abandoned or what happened to it.
Q Right. Now, I very briefly want to get your attention to some handwritten notes that you made in this case. Do you remember making any handwritten notes in this case?
A I do.
Q And when is the last time you reviewed those, sir?
A I'd like to look at them now, if I could.
Q Absolutely.
(Pause.)
BY MR. BANK:
Q When were those notes written, Investigator Clarke?
A I don't know exactly when they were written. It is

my policy, or the way I have always conducted when I get an incident report, there is a couple of things I do just so that I can explain and put it in context.

The first thing I do is I make a red check mark at the top. And if you went back and looked at every report I have ever looked at since 2006 when I became an investigator, you are going to find this red mark. The red mark means that I have made entry into our computer. I won't waste your time with the acronym for it, but it says that this case has been assigned to me. I have acknowledged that. I have checked it off on the computer.

The second thing you will see on every report I have ever done since '06 is you will see a black check mark. That black check mark says I have made initial contact with the victim in this case. That sometimes means that the best I could do was a voicemail, but I at least reached out and left a message with very detailed call-back information.

Secondly, another thing I have done, and you can look at every report I have ever done since '06 that I have done an investigation, particularly if I have made an arrest, I will staple a couple of these to the back of them -- it will be blank.

This is an investigative follow-up sheet or a supplemental form. I use it because it is lined and I make bad notes, and it is easier to use a lined copy. And then I make notes. I make those notes in sort of a chronological order. Sometimes I will make an asterisk next to something that is important. Sometimes I will put a date next to it. But usually, Counselor, to answer your question, what I am doing is kind of a running total of kind of what I'm working on or something I want to go back and review or look at later.

Q Right. Now, in this case there has been evidence that the girls in the case ID'd Anthony immediately; correct?

A Correct.

Q Now, do you notice a spot on there where you note how the girls identified Anthony? Do you see a characterization that you write next to it that says tentative? Tentative ID?

A Yes.

Q Can you see that?

A And I can explain that.

Q Well, first can you explain --

THE COURT: He can explain his answer.

MR. BANK: Oh, I thought --

THE COURT: If you ask him a question, he can explain his answer.

MR. BANK: My apologies.

BY MR. BANK:

Q Go ahead, Investigator Clarke.

A That may be a bad usage of that English word "tentative" in its present tense of the word. What I was saying was, I have been told they have tentatively identified him as Amp. That isn't that they were hesitant.

Q The word "tentative" is on the report, Investigator Clarke?

A Oh, is the word "tentative" on the report?

Q Yes, sir.

A It is in my investigative follow-up -- in my notes.

Q Can I have the report back?

Now, something you mentioned on direct was how there has been no other person arrested in this case; right? Is that correct?

A I was asked that, yes.

Q And our answer was nobody else has been arrested; correct?

A That is correct.

Q And you said something along the lines that the victims were unable to see the face of the other

person; correct?
A They were -- the victims told me that the person was trying to hide their identity by pulling a shirt over their face in varying ways. They did not know who the person was.
Q Now, you have heard the 9-1-1 tape just like everybody else has; right?
A I have.
Q And in that 9-1-1 tape, can you hear her clearly say that both of the people that came to the house were regular customers?
A I do remember hearing something about they were customers. I don't know if I heard regular, but I did hear the phrase "customers."
Q And it being both of them, speaking about both of the people that were in the house; correct?
A I believe that is correct.
Q Now, your interaction with Anthony at the hospital -- you went to the hospital after he was -- had the encounter with the Fugitive Task Force; correct?
A Correct.
Q Now, according to your notes, he was told about a robbery and he denies any involvement; right?
A Correct.

Q And you are saying for the first time today, or at least presenting for the first time in front of any of us, that you are sure that you said nothing about the time of the incident?
A I wouldn't have said anything about the time of the incident.
Q You wouldn't have said -- how can a person possibly deny being involved if they don't know what you are talking about? And by that I mean, don't you have to somewhat explain what they are being accused of for them to deny it?
A I think that you can make that assumption, but I think also the fact that he also at that point had the warrants read to him, I certainly identified myself and told him what I was coming to talk to him about, but what specific details I would have given him in a hospital room with an uncontrolled environment, I wouldn't have been giving very detailed information at all.
Q So at this point he knows the substance of what he is charged with; right?
A Correct.
Q He is read the warrants that are now in evidence; correct?
A I don't know if he has read them, but he has had

them read to him.
Q Right.
A And they have been served on him. Right.
Q He had access to them from Day 1; correct?
A Sorry?
Q He had access to those warrants from Day 1 in terms of when he was arrested on the 18th, when you went to go talk to him at the hospital; right?
A At that point he was aware of what his charges were and the warrants had been read to him, yes.
Q And if I understand you correctly, sir, with all the information that was in the warrants and it being a hospital environment, you thought it was too uncontrolled to tell him the time that this occurred?
A What is -- I don't --
Q You said that it was too --
THE COURT: Let him answer the question you asked.
Q Go ahead.
A I was just explaining, the -- kind of the -- the triage situation in an ER, it is certainly not a good situation to take a good detailed statement. Certainly if he had made any kind of -- I would have written something down at that point if I was

talking to him. But I didn't -- I'm not sure I understand your question.

Q My question is that in your notes, in your report, you say nothing about how you left out specifically there being -- the crime happening at 2:00 o'clock; right? That is nowhere in your notes that you left that fact out?

A Are you talking about my handwritten notes or my investigative follow-up?

Q Any file notes? You never wrote down, I specifically left out when I talked to Anthony that this happened at 2:00 o'clock?

A No, I did not specifically write that down, no.

Q And two and a half years later you remember very specifically that, I told him about the crime and gave him the warrants, but I certainly didn't tell him about the time?

A I didn't say that at all. I never gave him the warrants. The warrants were served on him by the Fugitive Team. He was already under arrest and in custody. All I wanted to do is talk to him to see if he wanted to talk about this incident. At that point I Mirandized him.

Q I understand, sir. But at that point he has already seen or been read the warrants; correct?

A As far as I understand he had been -- they had been served on him and he was aware of the charges and the warrants, yes, sir.

Q And you thought it strategic, or whatever word you might use, and you can use whatever word you want, to not mention that it happened at 2:00 o'clock?

MS. CAMPBELL: Objection, Your Honor. Asked and answered.

THE COURT: I am going to allow this officer to answer it.

A Question one more time, Counselor?

Q Can you characterize what your thought process was about not telling him now that you are testifying today that you wouldn't have told him the time?

A I would -- the easiest answer to that is that I would have not gotten into that specificity at that location, because I don't do that anyway, so I wouldn't have done that.

Keep in mind, this is a situation where I'm in a triage ER room. He is not happy, okay? He has been arrested. He has been bitten by a dog. He is hot and sweaty. You know, there is people coming in and out. There is a lot of noise, ambient noise, and things like that. It is not a conducive place to do a good thorough interview. So at that

point I know that anything he says, any utterance he says after he has been placed in custody and now been charged, he's been -- well, been served the warrants, that anything -- if I ever wanted to use it -- and, Counselor, you know this -- if I want to use it, I have to make sure he was aware of his rights. And if he chose to speak further, he needed to waive his rights. And so that was my first primary focus. He made it real clear he was not happy and really didn't want to talk to us at all, and we left it at that.

MR. BANK: Beg the Court's indulgence?

THE COURT: Yes, sir. Certainly.

(Pause.)

MR. BANK: No further questions right now, Your Honor.

THE COURT: Redirect, Solicitor?

MS. CAMPBELL: Just a couple of questions.

THE COURT: All right.

REDIRECT EXAMINATION

BY MS. CAMPBELL:

Q He asked you about your notes and that you said that the victims made a tentative ID. Is that verbiage you use?

A Verbiage I use.

Q And was that prior to showing the photo lineup?
A Absolutely.
Q And that is just verbiage you use in your notes. And that was prior to the photo lineup?
A Yes, ma'am.
Q When they were shown the photo lineups, was there any hesitance?
A No hesitation, no.
Q And you showed the photo lineups for what purpose?
A To confirm that they knew -- they could point out the person that came in the house.
Q Did they ever hesitate?
A No, they did not.
Q Have they ever?
A No, ma'am, they have not.
Q Thank you.

THE COURT: Recross, Mr. Bank?

MR. BANK: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

MR. BANK: No further questions, Your Honor.

THE COURT: Thank you, Mr. Bank.

Thank you, Sergeant. You may step down.

THE WITNESS: Thank you, sir.

(Witness steps down.)

THE COURT: Perhaps now would be a good time to take our evening recess, Mr. Foreman, and ladies and gentlemen of the jury panel.

I remind you during this recess do not discuss this case with anyone, your fellow jurors, family, friends, or anyone else. Do not watch, read, listen to any news accounts of the case. Do not do any independent investigation or any investigation on the internet. Remember to keep an open mind. Do not begin your deliberations until you have heard all the evidence, all the testimony, closing arguments by the attorneys, instruction on the law by the Court, and then directed by the Court to begin your deliberations with your fellow jurors in your jury room.

The Circuit Court and other courts of South Carolina have been directed by the Chief Justice of the Supreme Court that we are, due to potential inclement weather, to follow the directions of the county in which we are presiding.

I think what that means, in other words, if there is any notification that for some reason Richland County may be on a delay, or what have you, that would be the schedule we would follow.

I am going to direct you to be here by 9:30 in

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the morning unless it is directed otherwise by those with emergency management or the county government, unless they direct otherwise the county office is on a delay. There are websites you can go to, both South Carolina Emergency Management website and/or the county website.

I wish I was a weatherman sometimes, because you only have to get it right half the time, 50/50, you know what I'm saying? I can probably do that. But be that as it may, if there is some notification that there is a delay, please follow that notification. I direct you to be back at 9:30 in the morning unless there is some other notification.

Any questions?

Thank y'all very much for your focus and attention today, your patience you have shown the Court, and the manner in which you have observed and paid attention to all the parties in this case.

You are now excused until 9:30 in the morning unless otherwise directed. And I hope y'all have a pleasant evening.

Thank you. Thank you very much.

(WHEREUPON, the jury retires to the jury room at 6:08 p.m.)

THE COURT: Anything from the State before we take our recess?

MS. CAMPBELL: No, sir.

THE COURT: Defense?

MS. A. WALKER: Your Honor, I would note a scheduling issue, obviously. We have a witness that is flying in from Florida and, as you know, with the inclement weather, his flight is coming from Florida and in a very sensical fashion is going to Charlotte and then coming to Columbia. I don't know if that will cause an issue, but just to put the Court on alert. But I'm not sure how that will affect us. We are planning on picking him up from the airport at 10:00 o'clock tonight, as long as everything is fine.

THE COURT: All right. Certainly. Well, we will deal with scheduling as it comes.

Do you have any more witnesses, Solicitor, or you just want to think about it overnight?

MS. CAMPBELL: We wanted to think about it. If we do, it will be very, very short.

THE COURT: All right. So odds are, even if you have other witnesses, you would be to the point of resting your case --

MS. CAMPBELL: Very quickly.

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THE COURT: -- at a reasonable time in the morning, I assume?

MS. CAMPBELL: Yes, sir. And we may not have any. There is a good possibility of that.

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

Anything further, Ms. Walker?

MS. A. WALKER: Nothing further, Your Honor.

THE COURT: Ma'am?

MS. A. WALKER: Nothing further, Your Honor. I apologize.

THE COURT: Thank you. Thank you very much. I hope y'all have a pleasant evening. I hope to see you at 9:30 in the morning.

(WHEREUPON, the proceedings concluded at 6:09 p.m.)

(WHEREUPON, the proceedings resumed at 9:31 a.m.)

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THE COURT: Anything from the State?

MS. CAMPBELL: Ms. Walker gave me a copy of her expert's CV. A lot of what she does her studies in -- and I was going to hand up her CV to the Court so you just could review it and we can argue this later -- is how jurors are affected by,

say, lineups, IDs, DNA, things of that nature.

We wanted the Court to review it because I think some of that -- a lot of what she does is inappropriate to go in front of a jury as far as how jurors should interpret things.

So I just wanted to hand that up at this point for you to review so that when we get to it later for a ruling on exactly what she can testify to.

THE COURT: Any objection to her handing it up at this time, Ms. Walker?

MS. A. WALKER: No, Your Honor.

THE COURT: All right. Thank you.

MS. CAMPBELL: Thank you, sir.

THE COURT: All right. Anything else, Solicitor?

MS. CAMPBELL: No, sir, Your Honor. We should rest.

THE COURT: All right. So the State is not calling any other witnesses or presenting any other evidence in the State's case?

MS. CAMPBELL: No, Your Honor. Case in chief.

THE COURT: All right. Anything from the Defense, Ms. Walker?

MS. A. WALKER: We do have a couple of issues.

THE COURT: All right.

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MS. A. WALKER: In traditional trial fashion. Your Honor, this trial was scheduled for about two weeks ago, I believe February 9th. We were granted a continuance because there was a crucial alibi witness that was located at the last minute -- pardon me -- in Tampa, Florida. He agreed to fly up here so we did not have to go through the out-of-state subpoena process.

Unfortunately, due to the inclement weather last night, his flight was canceled, so we were unable to get him up here.

We are currently working on trying to get a replacement flight. On the news this morning I heard that Charlotte was expecting more snow this morning -- or tonight. So I'm not sure where we are going to be with that process. I know that he won't be here today. I don't know that he will get here tomorrow. But he is a vital witness to our defense.

I'm not sure what Your Honor's position is on that, but we're kind of stuck between a rock and a hard place in this position with that witness.

THE COURT: All right. Thank you.

Ms. Campbell?

MS. CAMPBELL: She is not saying that he is

uncooperative, it is just a problem with scheduling?

MS. A. WALKER: No, he is not uncooperative at all, Your Honor. It is just a matter of getting him here.

MS. CAMPBELL: I do know that they do have investigators in their office that they could -- if the flight option is not working out for them, perhaps they could send somebody down to pick him up.

THE COURT: Well, I'll leave that to y'all. I'm not going to -- well, I haven't been asked to continue the case, so when the witness gets here we'll be here -- that is all I can say -- whether it is today, Friday, Saturday, Sunday, Monday, Tuesday, whenever. I mean, whenever you can get him here.

MS. A. WALKER: Certainly, Your Honor.

THE COURT: I know you don't have control --

MS. A. WALKER: Right. It is just kind of an act of God.

THE COURT: -- over the flights.

MS. A. WALKER: I believe we should be able to secure a flight today. I just -- it is kind of up in the air at this point.

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THE COURT: And I assume some -- up in the air -- that is a great pun too -- trying to secure a flight.

MS. A. WALKER: Sorry.

THE COURT: I'm assuming somebody is working very diligently on trying to get the witness here?

MS. A. WALKER: Yes, Your Honor.

THE COURT: Well, just keep me posted. We will just have to see how it goes.

MS. CAMPBELL: Beg the Court's indulgence.

(Pause.)

MS. A. WALKER: Second of all, Your Honor, we do have another alibi witness who has been less than happy to be subpoenaed. We did speak with him last night. He indicated -- yesterday. He indicated he would call us back. And we indicated we would need him this morning. He indicated he would call us back. We have not heard from him, nor have we seen him. But he was subpoenaed. We have spoken with him numerous times over the past couple of weeks. As I said before, he was less than enthused, for lack of a better term. But we have been unable to secure his appearance here today.

MR. BANK: Your Honor?

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THE COURT: Yes, sir?

MR. BANK: I don't mean to -- I have actually been the one who has been in contact with him most recently.

THE COURT: With the individual subpoenaed that is local?

MR. BANK: Yes, sir. When we first got in contact with him a couple of weeks ago for the first trial before it got continued, we weren't able to contact him, but we were able to subpoena him. He really didn't like being subpoenaed without knowing what was going on, obviously.

THE COURT: And he is really not going to like being arrested on the bench warrant, whether he knows what is going on or not.

MR. BANK: Well, sir, after we spoke with him a few times and over the course of the last week or two, once he has understood that nobody is accusing him of doing anything wrong, or anything like that, he has really gotten back in touch with me every time that I called him. Even if he has not picked up, he calls right back usually within the hour.

We spoke this weekend. He actually called and said, Do I need to be there Monday? And I said, Well, no, as long as you keep in touch with us, we

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will probably need you Wednesday or Thursday. Just let's talk every night and stay in touch. And we have done that, we talked every night. When we spoke yesterday afternoon, I told him it was very likely we would need him either Thursday morning or Thursday afternoon and asked which would be more convenient.

He said, Well, let me check and I'll get right back to you, which wasn't unusual because he does -- he did get back to us. We called him again last night and called him twice this morning. I was kind of hoping he would just be here because he showed up for court two weeks ago. But we haven't been able to get in touch with him as of last night or this morning. I think it might be something that maybe by lunch if we aren't able to find him, maybe we will need somebody to go out and find him.

MS. CAMPBELL: I think -- are they asking for a bench warrant? I think that might be the prudent thing to do at this point.

THE COURT: Well, that was going to be my next question, What are you asking me to do?

MR. BANK: Well, I think first just make sure it is in front of the Court's attention right now. I think that if -- I think we have enough

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witnesses, enough issues with directed verdict and then potentially any issues regarding the Defendant testifying that maybe we can wait until lunch to see if we can find him and then send out a bench warrant. But if the Court is inclined to send one now, we wouldn't be opposed to it.

THE COURT: I'm inclined to issue one now if you show me the documentation where he has been subpoenaed.

(Complies.)

MR. BANK: He was served with this subpoena in person over the weekend with our law clerk. They actually contacted him and they met at a gas station so he could be personally served.

THE COURT: And the most recent contact you had with him, you indicated for him to be here today?

MR. BANK: Yes. When I spoke to him yesterday afternoon I said, We need you tomorrow, it will either be the morning or the afternoon, just let us know which is more convenient. And then we haven't been able to make contact with him since.

THE COURT: Typically what I will do, and I will do, is issue a bench warrant for his arrest. And then the next thing I typically do is to have

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an investigator initially with the Solicitor's Office attempt to contact him and have him come in and tell him that there is a bench warrant. And if that does not work, turn it over to the Sheriff's Office. Do you object to that, or either have him go directly to the Sheriff's Office?

MR. BANK: Would it be all right -- if we sent -- if I was able to talk with one of our investigators and see if we can get him to go out there rather than the Solicitor's Office investigators?

THE COURT: Are they certified law enforcement officers?

MR. BANK: No, sir.

THE COURT: I don't know that they have the authority to execute a bench warrant. I don't mind avoiding the -- I'm not -- when I was sitting out there, most judges would say, Solicitor, why don't you have their witness here? And, you know, I'd say, I don't know, Judge, but I will get them here. It is not your fault he is not here. It is not their fault. I don't mind going straight to the Sheriff's Office. But I don't know what else to do. But I want an officer to call him up, talk to him, if that gets him in here. If not, then go to

the next level. And if that doesn't work, go to the next level.

MR. BANK: Yes, sir. Well, I think that we are all right doing it the way that you usually do it. So we'll go along with that process.

THE COURT: You don't have any objection to me ordering one of the investigators with the Solicitor's Office attempt to locate him?

MR. BANK: Not at this point. No objection, no, sir.

THE COURT: All right. Madam Clerk, would you prepare me a bench warrant for this gentleman?

MS. CAMPBELL: Do you want us to prepare it?

THE COURT: Ma'am?

MS. CAMPBELL: I think that they would request that we prepare the bench warrant.

THE COURT: Oh. Whoever prepares bench warrants in Richland County can do it.

MS. CAMPBELL: Can I get somebody and I'll prepare it. Your Honor, if they could just turn over any and all contact information they do have so I can give it to the investigator. And if you'll give me just a minute or two, I'll run upstairs and get this process going.

THE COURT: Thank you.

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(Pause.)

MS. CAMPBELL: We are preparing the bench warrant as we speak. I turned over the information she gave me, the contact information, to Cambo Streater in our office. He is attempting to contact him by phone first, and then as the bench warrant is served on him, bring him down here as soon as the deputies find him, and then will go after him.

THE COURT: All right. Thank you, Ms. Campbell.

All right. My understanding is the State is going to rest formally. Do y'all object if I hear the motions now rather than bring the jury out and have them rest in front of the jury?

MS. A. WALKER: No, not at all, Your Honor.

THE COURT: All right. I'll be glad to hear any motions you may have, Ms. Walker, or Mr. Bank.

MS. A. WALKER: Thank you, Your Honor. May it please the Court? Your Honor, at this stage in the proceeding we would move for a directed verdict. Taking the evidence in the light most favorable to the State, as we must at this stage in the proceedings, we would ask that Your Honor grant a directed verdict.

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We would argue that the State has failed to provide the jury a basis to find the Defendant guilty beyond a reasonable doubt with the evidence provided.

Your Honor, specifically I would direct your attention to a burglary first degree in this case. I have a case by the name of State v. Hill. If Your Honor will allow me to approach the Solicitor and the bench?

THE COURT: Yes, ma'am, certainly.

(Complies.)

MS. A. WALKER: Your Honor, as you heard in this case, the building where the incident took place is a --

THE COURT: Is this a DSS killing in Aiken?

MS. A. WALKER: Yes, Your Honor.

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

MS. A. WALKER: What happened in this case was it was a DSS building. The perpetrator entered the building in a place where the public was allowed to enter and then later went to a place that was usually secured and not allowed to the public.

Here in this case, Your Honor, this is a place located at It was a business that was being operated out of the home.

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I would refer specifically to State's Exhibit 4 and 3.

As Your Honor can see, first and foremost, right here in front of the house --

THE COURT: Excuse me one moment, please.

MS. A. WALKER: Oh, certainly, Your Honor.

(Pause.)

THE COURT: Going back to Hill, State v. Hill.

MS. A. WALKER: Yes, Your Honor. Your Honor, what I'm focusing on here is the definition of a dwelling house. Here we have -- I apologize. Are you ready, Your Honor?

THE COURT: Go right ahead.

MS. A. WALKER: Here I'm focusing on the definition of a dwelling house. What we have here is a home that, as you can see from State's Exhibit 3, they have a home. There is clearly a business sign on the front of the building indicated that it is called Comp Mart, has a phone, and what the business is.

Your Honor, on State's Exhibit 4 we have the side entrance of the home, which I believe Investigator Schroder indicated this was a side entrance that goes to the business entry of the home.

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And also you see here a sign that indicates additional parking in the rear, and it says, For customers.

Your Honor, there are photographs here that you can see of the business. This is State's Exhibit No. 8 of the room that indicates the business where you can enter from the side door.

And then, Your Honor, there are various pictures from the business that enter into the rest of the home.

And that has no indication of "Do not enter, this is the home, this is no longer the business," anything of that nature.

Your Honor, I think for purposes of dwelling house and for purposes of burglary first degree that the State has failed to prove the elements of burglary first degree in order for the jury to take the facts to the jury and render a verdict beyond a reasonable doubt for the Defendant, specifically taking into light the case of State v. Hill.

And, Your Honor, I would just emphasize that according to the pictures it seems that it is a open business, that it doesn't have any indication of hours that it is open to the public, that it indicates that there is a parking for the public in

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the rear and that there is a side entrance for the customers.

And we just ask Your Honor to consider that as far as directed verdict. I would have additional motions after that.

THE COURT: All right. Thank you. Thank you very much, Ms. Walker.

Solicitor?

MS. CAMPBELL: May it please the Court, Your Honor? I do not think that Hill is on point here. In that case there is a separate office within a building. Here, Your Honor, the testimony has been that this was a home first and he ran his business out of it.

In the entry, in the area, at the very least the testimony has been that the Defendant was outside, he pulled a gun, he forced his way into the door, into the home, into the area where the business was run out of. Then at gunpoint he also forced the two girls into the hallway area. That he then, while two girls were under the kidnapping, they were -- the people went into the bedroom area where I think it is not in controversy they went into those areas where clearly everyone slept.

And the testimony in this case is, first and

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foremost, this is their home. He did run a business out of it, but that does not negate the fact that it was a dwelling where they reside, where they come to every night, where they slept, and which they considered their home. That has been the testimony, Your Honor.

I believe that Hill is distinguishable as to that issue. And we would ask that you deny their directed verdict motion.

THE COURT: All right. Thank you.

Anything in reply, Ms. Walker?

MS. A. WALKER: Your Honor, I would just direct your attention to the appearance of the building on the outside. It appears to be a business rather --

THE COURT: Would you hand me those photographs, please?

MS. A. WALKER: I would, Your Honor. I apologize. And, again, for the record, that is State's Exhibit 3 and 4, I believe.

(Complies.)

THE COURT: Thank you. Thank you very much.

All right. Well, applying the standard both under -- that I apply at this stage of the proceedings -- under State v. Palmer and State v.

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Buckner, and that line of cases, and in reviewing first the burglary statute, 16-11-310, the definition of a dwelling, dwelling means -- the definition is found in 16-11-10-- it also means:

> The living quarters of a building which is used or normally used for sleeping, living, or lodging by the person.

When you go to 16-11-10, the definition of dwelling house defined in cases of burglary, arson, and other criminal offenses, it says:

> With respect to the crime of burglary, in any dwelling house, any house, outhouse, apartment, building, erection, shed, or box in which there sleeps a proprietor, tenant, watchman, clerk, laborer, or a person who lodges there with a view to the protection of the property shall be deemed a dwelling house. And in such a dwelling house or of any other dwelling house, all houses, outhouses, buildings, sheds, and erections which are within 200 yards of it and are appurtenant to it or to the same establishments of which it is an appurtenance shall be deemed parcels.

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There is -- I have reviewed all the evidence during the course of the trial, but specifically what has been handed up by the Defense, State's Exhibit 3 and 4. I think the fact that there is a home business within the house does not change the nature of its being a dwelling house.

Further, there is testimony that people that resided there was mother, father, two sisters, and children of mom and dad, and a brother, child of mom and dad.

It is further testimony that items, a television, I believe, and perhaps an iPad, was removed from the bedroom of the children.

So the fact that there is a home business within the house does not make it not a dwelling house.

So for purposes of the burglary statute, I would -- and based on the evidence and testimony, both the eyewitness testimony and the substantial circumstantial evidence, including the evidence of flight, I would respectfully deny the motions, both as to burglary first, armed robbery. There is testimony a weapon was used. Testimony that Mr. Porterfield at some points in time had the weapon, initially had the weapon, removed it from

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the computer bag. And both the kidnappings and the manner in which the two female victims were present and directed to get down on the floor. And that of course would be under State v. Benjamin Hall.

So I respectfully deny the motions for directed verdict.

Anything -- any other motions, Ms. Walker?

MS. A. WALKER: Yes, Your Honor. We would just renew any other motions previously denied or overruled by Your Honor, specifically the motions regarding jail phone calls, the motion to exclude the statement of the Defendant with Investigator Clarke over the phone, our motion yesterday regarding information that wasn't turned over that was testified by Investigator Clarke regarding the search warrant issue and returning to the location where Mr. Porterfield was located later when he was arrested that wasn't turned over by the State previously. I would renew those motions specifically, as well as any other motions that were previously denied or any objections that were previously overruled.

Your Honor, additionally, I would ask for something, the failure on my part to contemporaneously object. I believe that

Investigator Clarke testified that he was able to connect a gold-colored car to Ms. Nazirah Gale. That information was also not turned over to us. As Hill v. State requires, whether documented or not documented, if that is information that the Prosecution had and did not turn over to us, I believe that that should have been provided to us. And that is our failure to contemporaneously object, but I would put that on the record at this point.

THE COURT: All right. Solicitor?

MS. M. WALKER: Your Honor, they turned that information over to us about the gold in color Impala. They -- when we were initially set to go to trial, they were ordered to turn over statements from their witnesses to us, and that information is in information that they provided to us and we shared with the investigator in the case. So for them to say that they were unaware of it is -- I mean, I don't know what to call it. They literally handed us the documents with that information in it.

MS. A. WALKER: Your Honor, there is a statement in this case, one of the witnesses said that he believed that Ms. Gale had a brown Impala.

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That is the only information that was turned over to the State.

For them to say that the investigator verified that Ms. Gale owned a gold-colored Impala is something I would characterize as something different.

But that being said, we didn't contemporaneously object, but I am putting it on the record now.

THE COURT: All right. Thank you. Thank you, Ms. Walker.

I would reaffirm all my previous trial rulings.

Further, as you have pointed out, there was no contemporaneous objection. It came in unobjected to. Even if it had been objected to, I would have -- I believe it is admissible as circumstantial evidence and it goes to the weight and not the admissibility of the testimony. And I would find that it was not a Brady violation in that regard.

I do not see how if you link an individual to the Defendant and that individual is linked to a gold or champagne four-door vehicle, that the description matches the description generally given

by the young ladies that were victims of the burglary, armed robbery, and kidnapping, how that could be exculpatory or Brady material.

All right. Any other motions, Ms. Walker?

MS. A. WALKER: Nothing at this time, Your Honor.

THE COURT: Thank you. Thank you very much.

Does the State intend -- excuse me, does the Defense intend to present evidence or testimony?

MS. A. WALKER: We do, Your Honor.

THE COURT: And you are prepared to go forward?

MS. A. WALKER: Yes. We do -- we are prepared to go forward with I believe two witnesses, I believe we have.

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

Anything before we bring in our jury?

MS. A. WALKER: Your Honor, before we bring the jury, if we could take up the issue regarding Mr. Porterfield's testimony and his prior record if you would like to take that up at this time while the jury is out? Or we could do that before lunch or however you see fit.

THE COURT: All right. Yes, come around,

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please, Mr. Porterfield, to the microphone.

(Complies.)

THE COURT: All right, Madam Clerk, would you place Mr. Porterfield under oath for me, please?

(The Defendant approaches.)

THE CLERK: Raise your right hand.

(The Defendant complies.)

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: I do.

THE COURT: Mr. Porterfield, I need to go over some things with you. I have to do this with everyone who is on trial. I need your responses to be under oath, and that is why I had the clerk place you under oath.

How old are you, Mr. Porterfield?

THE DEFENDANT: I'm 28 years old.

THE COURT: How much education do you have?

THE DEFENDANT: I have a GED. I made it past ninth grade, and some college education.

THE COURT: We have reached the stage of the trial where the State has rested. And your side, the Defense, now has the opportunity to present evidence for the jury to consider. In fact,

through cross-examination, your side has already presented certain physical items of evidence for the jury to consider.

Do you understand where we are at in the trial of your case?

THE DEFENDANT: Yes, sir.

THE COURT: In that regard, you, through your attorneys, may call witnesses to testify on your behalf and, if you choose to, you may testify yourself. You may do so. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: No one can force you to testify, Mr. Porterfield. You have the absolute right to remain silent. And if you choose not to testify, I will tell this jury that they cannot hold your silence against you in any way. I will tell them that they are not to even discuss that in the jury room. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Since your side has already offered evidence in the case, the Solicitor will get to make -- the Prosecutor will get to make the last argument to the jury. Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Solicitor, Ms. Walker, does the

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Defendant have any prior criminal history that would subject him to impeachment under Rule 609?

MS. CAMPBELL: Your Honor, the only one that would be possible to subject to impeachment is a 2004 conviction for attempted burglary in the second degree. He did receive an active YOA sentence and his parole was revoked on that during the ten-year period.

THE COURT: All right. Ms. Walker?

MS. A. WALKER: Your Honor, Mr. Bank has prepared an argument in order to address that.

THE COURT: Certainly. Mr. Bank?

MR. BANK: Would you like to hear that argument now, Your Honor?

THE COURT: Yes. Well, I thought we wanted to get his record straight now.

MR. BANK: Absolutely. What we have -- and I have handed this -- this is just -- this really isn't a motion, it is really just a two-page thing. And I handed this to the Solicitor. May I approach? But it has got a two-page description of Bryant v. Broadnax, which I know the Court is familiar with.

Obviously in this situation we have got a little 609(2) and 609(1). I think -- we don't have

any objection to the timeline. This did happen more than ten years ago, but the sentence happened within the ten years. So we are not making an argument there that it is per se inadmissible. But as to whether it is just absolutely admissible under 609(2), we believe that Bryant and Broadnax are pretty clear in the state. It defines burglary and armed robbery and the like are not per se within 609(2) or not per se out of 609(2), but what it does require is something other than just the charge of attempted burglary second non-violent, which he was convicted of, to be able to come in under 609(2). Once it doesn't come in under there, obviously we move on to 609(1).

I don't know of any information -- we pulled the warrants, looked into the case. I don't know of any indication that indicates that his attempted burglary second back in 2004 had any element of deceit or false information or any other types of elements that Broadnax and Bryant reference. I believe that burden would be on the State to make that type of showing. And I'll defer to them on that, unless you would like me to continue under 609(1).

THE COURT: You may continue.

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MR. BANK: If we stay on 609(2) and there is no showing that this was a crime of deceit, then we obviously have to use a scale to weigh prejudice with probative value to see whether it is admissible.

I cite a couple of references right here at the end, right here on Page 3, that the courts ask the trial courts to look at when in light of 609(1). Those factors include: The impeachment value of the prior crime; the point of time of conviction and the witness's subsequent history; the similarity of the past crimes and the crime charged; the importance of the Defendant's testimony; and the centrality of the credibility issue.

Here, Judge, even though we are not following 609(B) and having any issues with the time limit, this is a crime that happened ten years ago, over ten years ago now at this point, without any other convictions being anywhere close to being admissible since that time.

Moreover, Your Honor, he is charged with burglary in this case. The prejudicial value of having the jury know of him having a prior burglary conviction when he is currently on trial for a

burglary is a mess.

THE COURT: Well, if you have a prior burglary conviction, that is not correct. He has a prior -- I mean, the precision of it is he has a prior attempted burglary second degree, not a prior burglary conviction. But you may continue.

MR. BANK: Yes, sir. And it is an attempted burglary second non-violent. This is a burglary first with no attempt. I think that the fact that there is some type of burglary, I think that is what the jury is going to hear. I don't know if the jury is going to know the distinction between first and second degrees. I suppose they may between attempt and actual burglary. I don't believe they are going to get the benefit of having a legal analysis explaining the differences in elements. I think they are going to hear what burglary is, and that is going to be enough to create an immense amount of prejudice.

Your Honor, in this case, the Defendant's testimony is going to be crucial and he should be able to testify without having his record hanging over his head. His defense in this case, along with the State having insufficient evidence, is that there is an alibi.

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We have other witnesses that can help corroborate this, but he has to get on the stand and say where he was, Your Honor. And he has to get on the stand and explain this shell case. So his testimony is crucial.

And having this attempted burglary second from 2004 hanging over his head is I think completely unnecessary, completely prejudicial, and not that probative.

So I think under the -- when weighing the factors under 609(A)(1), once we get there, we would just still be excluded.

THE COURT: What does attempted burglary second degree non-violent carry?

MR. BANK: I believe -- I don't know that we have the non -- but it carries more than a year, certainly. I don't believe that statute still exists anymore, the attempted burglary statute. I can certainty have Mr. Tate try to look that up for us very quickly. Is your concern that it might have carried --

MS. A. WALKER: It carries ten, Your Honor, I believe.

THE COURT: Say again?

MS. A. WALKER: I believe it carries ten

years, Your Honor. I believe the attempted --

THE COURT: I believe an attempt carries the same as the actual offense.

MS. A. WALKER: Other than attempted murder and --

THE COURT: I believe that too.

All right. Anything further, Mr. Bank?

MR. BANK: Not at this time, no, Your Honor.

THE COURT: Solicitor?

MS. CAMPBELL: Your Honor, I am having my paralegal pull the actual indictment as well as the warrant, underlying warrant.

THE COURT: Well, that's fine, Solicitor, but I think under (A)(1), when I weigh the factors against the prejudicial effect that Mr. Bank points out, the credibility of the parties is very significant. The credibility is very significant, and that makes the fact that he has a prior criminal charge, which is a felony, that would go to the weight and value of his testimony that the jury would want to give to it.

I do realize attempted burglary is not a burglary first, and I appreciate the argument that the jury wouldn't get the benefit of that. However, it is an E felony, so he may be asked if

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he has a conviction for a felony offense at that time.

MS. CAMPBELL: Okay.

THE COURT: Under (A)(1). If credibility wasn't the issue, it would be probative. And, of course, I charge the jury that that only goes to the issue, if at all, if they use it, if at all, as to the evaluation of a Defendant's credibility.

MS. CAMPBELL: We have no problem with that, Your Honor. We will question if he has a felony conviction.

THE COURT: So, again, you can't say he has a conviction --

MS. CAMPBELL: For burglary.

THE COURT: -- for attempted burglary. I have always thought that cuts both ways, of course. The jury could think he has a conviction for something higher, but since it is the same, and that is the law, that will be my ruling in that regard.

MS. CAMPBELL: Thank you, Your Honor.

THE COURT: But they could ask you if you take the stand, Mr. Porterfield, if you have a prior conviction for a felony offense from 2004; is that correct?

MS. CAMPBELL: Yes, sir.

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THE COURT: If that happens, if you took the stand, they ask you that question, if that happens, I would tell the jury that they can only consider that evidence against you if they consider at all on the issue of whether your testimony is believable or not and for no other purpose whatsoever. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: The decision about whether you testify or not is your decision to make, and yours alone. I expect that you may confer, and have conferred, with your attorneys or others whose opinion you value on very important decisions in life. But the decision about whether you testify or not is your call to make and your decision. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Has anyone exercised any undue influence over you to get you to choose to testify or not to testify?

THE DEFENDANT: No, sir.

THE COURT: Today are you under the influence of any medication, drugs, or alcohol, or anything that negatively affects your thinking ability?

THE DEFENDANT: No, sir.

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THE COURT: Do you suffer from any physical or mental problems that affect your thinking today?

THE DEFENDANT: No, sir.

THE COURT: Have you understood my questions?

THE DEFENDANT: Yes, sir.

THE COURT: Is there anything that you would like to ask me about your right to testify or not to testify?

THE DEFENDANT: I guess not. I guess not. I heard you mention that she will make mention that it was in 2004, so they will get a clear understanding that it was over ten years ago.

THE COURT: Correct.

THE DEFENDANT: Yes. I guess so. I guess I do understand everything you pretty much --

THE COURT: If you have any other questions --

THE DEFENDANT: No, sir. No, sir.

THE COURT: I am not going to ask you what your decision is right now anyway.

THE DEFENDANT: No, sir.

THE COURT: I am going to give you an opportunity to speak further with your attorneys before I ask you, you know, your final decision. But I did want to give you the opportunity now if you have any questions you would like to ask me

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about your right to testify or not to testify. I will certainly attempt to answer them for you, or have your attorney answer them for you.

THE DEFENDANT: As of this moment, I kind of want to -- I have so much on my mind. I have no questions for you, Your Honor, right now. No, sir.

MS. A. WALKER: And, Your Honor, we'll speak to Mr. Porterfield over lunch further about his testifying.

THE COURT: Sure. But I'm going to give him the opportunity, of course, to speak with y'all further.

I do make a find finding that the Defendant appears to knowingly and voluntarily and intelligently understand his right to testify or not testify.

MS. A. WALKER: Certainly, Your Honor.

THE COURT: So we'll revisit it at a later time.

Thank you. Thank you very much.

MS. A. WALKER: Thank you, Your Honor.

MS. CAMPBELL: Thank you, Your Honor.

THE COURT: Anything else you would like me to ask him, Ms. Walker, about his right to testify or not testify?

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MS. A. WALKER: No, Your Honor. I believe he understands.

THE COURT: All right. Solicitor?

MS. CAMPBELL: Your Honor, I was just handed the order for the bench warrant, as well as the bench warrant itself, which needs to be signed. It says on there, though, that "I so move." Can I just mark through that? I am not moving for the bench warrant.

THE COURT: All right. Are you going to step out a moment, Solicitor?

MS. CAMPBELL: I will take it to the clerk's office and the clerk can sign it.

(WHEREUPON, a break was taken at 10:19 a.m.)

(WHEREUPON, the proceedings resumed at 10:32 p.m.)

THE COURT: Anything from the State before we bring the jury?

MS. A. WALKER: A couple of things, Your Honor?

THE COURT: Yes, sir.

MS. A. WALKER: Mr. Deberry just called my cell phone. Mr. Bank is outside talking to Mr. Deberry right now, and we may be sending out a

clerk to go pick him up.

I believe we found a flight for Mr. Griffin. That means he would be here this evening, so we would have him available to testify tomorrow morning.

THE COURT: Well, that's wonderful news. I'm delighted, Ms. Walker.

MS. A. WALKER: So at this point, with our schedule being just not quite what we anticipated, I believe we have two witnesses for this morning, Ms. Nazirah Gale and Ms. Diana Addison.

We would like lunch to speak with Mr. Porterfield about testifying. And then we have one more witness after lunch that should be very short. And I believe that would be all we have for today.

And then with Mr. Griffin arriving tonight, we should have him tomorrow, as well as our expert, and then be prepared to close at that point.

THE COURT: All right. Thank you.

MS. A. WALKER: If you will give us a moment for Mr. Bank to speak with Mr. Deberry, I think we should be ready to go.

THE COURT: I would share this with you in our continuing saga of notes from the jury. Dated 26th

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February, '14. Actually I think it is '15. I don't think they wrote this note a year ago. Perhaps they did.

Please, waters and drinks for jury.

The bailiffs are taking care of that now. And I guess that is water non-expired.

MS. CAMPBELL: Your Honor, I had just spoken to our investigator. He was getting ready to go out of the building and continue the search for Mr. Deberry. Should we call him back in at this point?

MR. BANK: I have an update, Your Honor. We have one of our clerks going to pick Mr. Deberry up right now. He sent us -- he called us like four times and sent three text messages saying, I overslept, I am so sorry. So we have our clerk going to pick him up who is just leaving the building, so if we could maybe hold off on the bench warrant.

THE COURT: In other words, call off the dogs, Mr. Bank?

MR. BANK: Call off the dogs, Your Honor.

THE COURT: Thank you.

MR. BANK: And the second matter, just trying to keep you as updated as we can, it looks like we

have a flight for our Florida witness that leaves Tampa in about three hours. We are still talking to him to make sure we can get him from his job right now since he went in, because the flight was canceled and he is losing money, trying to get him to the airport to catch that flight. But we'll keep you updated as that goes along.

THE COURT: Thank you. Thank you very much.

And you took care of calling off the investigator?

MS. CAMPBELL: Yes, sir. Ms. Outen just went outside to call him and tell him.

THE COURT: Thank you. Thank you very much.

All right, if you would bring us our jury, please.

(WHEREUPON, the jury came into open court at 10:36 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you. Thank you, Mr. Bailiff.

Mr. Foreman, and ladies and gentlemen of the jury, good morning.

THE JURY: Good morning.

THE COURT: I apologize again for the delay. I many times tell jurors, you find out certain

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things about the South Carolina Circuit Court judges. Many of them have no personality, Number 1. And, Number 2, none of them can tell time. I apologize for the delay. It had nothing to do with the parties. The parties were here, present, and working very diligently to continue the matter of this case before you.

Solicitor, you may call your next witness.

MS. M. WALKER: Your Honor, at this time the State rests.

THE COURT: Thank you. Thank you very much, Solicitor.

Ms. Walker, your motions are noted for the record. And I would reaffirm all my previous rulings in that regard.

MS. A. WALKER: Thank you, Your Honor.

THE COURT: Ladies and gentlemen, as you have now heard, the State has rested. You have heard all the evidence and all the testimony you are going to hear from the State in its case in chief.

The Defense may certainly present additional evidence and/or testimony. I believe there are several items of evidence that have already been introduced by the Defense. However, they may present additional evidence, testimony, witnesses,

or the like.

A criminal Defendant is never required to prove himself innocent. A criminal Defendant in South Carolina, regardless of the seriousness of the charge or charges, is always presumed to be innocent. The State always bears the burden of proving the case beyond a reasonable doubt.

The burden never shifts from the State to the Defense. However, the Defendant may present evidence and testimony if the Defense chooses to do so.

So we will turn our attention to Ms. Walker, to Mr. Bank, and say, Do you intend to present any testimony and evidence, Ms. Walker?

MS. A. WALKER: We do, Your Honor.

THE COURT: All right. If you would please call your first witness.

MS. A. WALKER: The Defense calls Nazirah Gale.

THE COURT: All right. Ms. Gale, if you would please come around, please, and be sworn.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat.

(Witness complies.)

THE CLERK: And state your name for the record.

THE WITNESS: My name is Nazirah D. Gale.

NAZIRAH D. GALE,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. A. WALKER:

Q And could you spell your name for the court reporter?

A N-A-Z-I-R-A-H, middle initial D, last name G-A-L-E.

Q I'll just move this microphone to make sure everyone can hear you.

A Okay.

Q How are you doing today, Nazirah?

A I'm fine. And yourself?

Q Good. Nazirah, do you know Anthony Porterfield?

A Yes.

Q How long have you known Mr. Porterfield?

A About two, three years on and off.
Q On and off?
A (Nods affirmatively.)
Q When do you think you first met him?
A In late 2009, early 2010.
Q And how do you think you -- how did you meet him?
A I met him -- he was walking a dog. I was driving on North Main. And I asked him has he ever bred his dog with any other breed.
Q Okay. Then what happened?
A We talked briefly about 10 -- about 10, 15 minutes. And then I drove -- I gave him my cell phone number, and drove off -- I drove off.
Q Okay. And then did you continue your friendship?
A Yes. I text him a couple of times. We met up about three weeks later after that, after I met him at the stop sign walking his dog.
Q Okay. And then did you meet again later?
A We hung out a few times.
Q And then did you, I guess, rekindle your friendship?
A Oh, yes, we rekindled our friendship in like early 2012. It was kind of cold. I think it was like in January or February sometime.
Q You remember something around that time?

A Yeah.
Q And what happened then?
A I met him at the -- I saw him at the City gas station. I was with someone else. And I looked at him and said, You look familiar. And he had told me his name. And that is when I remember seeing him again.
Q So you just kind of ran into him by chance again?
A Yes.
Q And then at this time did you have a relationship with him, or how would you characterize it?
A We were just friends with benefits, you could say.
Q Okay. So you had -- you engaged in a sexual relationship with him?
A Yes, we did.
Q For about how long?
A About two or three months. Then it ended.
Q Okay. And do you recall in June of 2012 speaking to an Investigator Watkins?
A Yes.
Q Okay.
A He -- the first time I met him was -- actually saw him face-to-face was in June, but I don't remember the exact date. But he had called. My mother had called my cell phone because he had came to our

house to talk to me, but I wasn't at home at the time. I was in the country. And he had talked to me over the phone.

And I told him I will be back in town the next day and we could meet up then, and I would talk about how I met Mr. Porterfield and everything of that nature.

Q And, Investigator Watkins, did he work for Mr. Porterfield's attorney?

A I'm not sure. I don't -- I believe so, because he was an investigator asking about him, so I believe so. I'm not sure.

Q And did he ask you about things that happened on June 27th, 2012?

A Yes.

Q And do you remember that day?

A Somewhat, yes, I do.

Q Did you give a statement about that day?

A Yes, I did.

Q And before you came to court today, were you able to review that statement?

A Yes.

Q Because this was two and a half years ago?

A Yes.

Q And this is a specific date two and a half years

ago?
A Yes, ma'am.
Q And if I told you that Investigator Watkins interviewed you on August 1st, 2012, would that sound about right?
A Yes.
Q Okay. And on 2012 -- June 27th, 2012 -- what happened?
A I was at home doing my hair, and I got a text message from Mr. Porterfield asking me to come pick him up from work. I said I will be there around 12:00, 12:30, because I was doing my hair.

When I arrived to his job he was still working, but I went inside and filled out an application -- because he was still working at the time -- filled out an application.

And during that time everybody was being relieved for a break, for their 12:00 o'clock break.

I filled out the application. Spoke to a couple of people. We got in the car. Then left.

We went to his apartment. I dropped him off at his apartment for a minute. Then I went to the shell station right there on North Main.
Q Okay. So hold on.

A Oh.
Q So you went to Mr. Porterfield's work?
A Yes.
Q I just want to break this up just a little bit.
A Okay.
Q And then you said you went inside?
A Yes.
Q And filled out an application?
A Yes.
Q Spoke to a couple of guys at work?
A Yes. There was also another guy there named Martrelle. He was filling out an application also.
Q Okay. And then you picked up Mr. Porterfield?
A Yes.
Q And then where did y'all go?
A I took him to his apartment on Colonial Drive. Took him there. And I guess he picked up something to eat. But I had went to the shell station briefly for a second to grab something to drink and something to snack on.

When I got back, his friend TK was there. He was packing his stuff up. That was his roommate. He was packing his stuff up. So -- excuse me -- he was packing his stuff up to put in his mother's car. Mr. Porterfield got back in my car, and I

took him back to work.
Q Okay. So -- and where did Mr. Porterfield work?
A It was a recycling place on Corporate Boulevard, I believe is the name of it. Creative Recycling, I believe.
Q And what time do you think you picked him up about?
A It was between 12:00 and 12:20.
Q Okay.
A 12:20-ish.
Q And then you went to the apartment and you said you saw Mr. TK?
A Yes.
Q Do you know TK's real name by chance?
A No.
Q Do you know why TK was moving out?
A No. He was moving to Charlotte. That is all I remember. I don't know why he moved out, or anything.
Q And how long -- did you know TK?
A Through Mr. Porterfield. I met him through Mr. Porterfield. That is the only way I knew him.
Q Okay. And at the time you went to pick Mr. Porterfield up from work, were y'all having a sexual relationship then?
A On and off, yes.

Q Okay. And do you know when you -- so you took him back to work after that?
A Yes.
Q And dropped him off?
A Yes.
Q Okay. And at the time -- do you recall about what time you dropped him off at work?
A It was probably about like 1:00 or so, I believe.
Q You think it was about 1:00 or so?
A Uh-huh.
Q Could it have been a little later?
A It could have been. I mean, I wasn't looking at the time of me picking him up and dropping him off, but I believe it was around -- probably about 1:00, 1:30-ish.
Q Okay. And then when you dropped him off, did you go into work at all, into his job?
A No, I just dropped him off and I drove off.
Q And did you see Anthony at all later that day?
A No.
Q Did Anthony call you by any nickname?
A NaNa.
Q NaNa?
A Uh-huh.
Q And what kind of car did you drive back in 2012?

A I drove a gold Impala.
Q Did Anthony ever drive that gold Impala?
A Sometimes.
Q He did sometimes drive it?
A Yes.
Q That day did you let Anthony borrow that gold Impala?
A No.
Q What was the only time he was in that gold Impala that day?
A When I picked him up.
Q When you picked him up. And you dropped him off back at work?
A Yes.
Q And then -- let's see, Friday of last week would have been February 19th. Did Investigator Clarke come and talk to you?
A Yes.
Q And did he ask you a couple of questions about the nature of your relationship with Mr. Porterfield?
A Yes, ma'am, he did.
Q Is that the first time you had ever talked to Investigator Clarke?
A Yes, ma'am.
Q And did he ask you if the statement that you had

given to Investigator Watkins was true?
A Yes.
Q And did he ask you if you had ever been asked by Anthony to lie?
A Yes.
Q And what did you tell Investigator Clarke?
A I told him, no, I never spoke to Mr. Porterfield about any incident.
Q And did you tell him that the statement you gave Mr. Watkins was true?
A Yes.
Q And that -- specifically, Investigator Clarke asked you if you had any concerns about perjury in court. Do you recall that?
A Yes.
Q And what did you tell him?
A I told him no.
Q And Anthony never asked you -- did Anthony ever ask you to provide an alibi for him?
A No, ma'am.
Q For June 27th?
A No ma'am.
Q Did anybody else ever call you and ask you to provide an alibi for Anthony Porterfield for June 27, 2012?

A No, ma'am.

MS. A. WALKER: Beg the Court's indulgence?

THE COURT: Yes, ma'am.

(Pause.)

MS. A. WALKER: Nothing further at this time, Your Honor.

THE COURT: Thank you, Ms. Walker.

Solicitor?

MS. M. WALKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. M. WALKER:

Q Good morning. My name is Meghan. You and I have never spoken about this case; right?

A No, ma'am.

Q And you only spoke to Investigator Clarke I guess last week?

A Yes.

Q Did you know that Anthony had been arrested?

A No. I knew about him being arrested before, but not for what this incident is.

Q Okay.

A Because when I first met him he --

THE COURT: Wait just a minute, Solicitor. Step up here a moment.

(WHEREUPON,a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Thank you. Thank you, Solicitor. Thank you, Ms. Walker.

BY MS. M. WALKER:

Q Okay. Let's stick to --

A This incident?

Q Yes. Did you know that he had been arrested for this incident?

A No.

Q Okay. When the investigator, his investigator, came and talked to you, you didn't know he had been arrested?

A No.

Q Okay. But your communication with him stopped at some point; right?

A Yes.

Q Did you wonder where he had gone?

A No.

Q That really wasn't your concern because y'all were just friends?

A Yes.

Q Okay. I understand. Now, you walked us through a timeline of June 27th; right?

A Yes.
Q I just want to make sure, because this is the first time that we have spoken, that I understand the timeline. Okay?
A Okay.
Q You say that you received a phone call from him on the 27th at 10:18 a.m.?
A Yes.
Q A phone call from him at 10:18 a.m. Do you remember his phone number back then?
A No.
Q Do you remember your phone number back then?
A No.
Q If I gave you a statement where you had written your phone number down for the investigator, would that refresh your memory?
A A little bit, yes.
Q Here you go. Is that your phone number?
A Yes.
Q Okay. So your phone number was what?
A (803)979-0447.
Q 0447?
A Yes.
Q And you say that that was a phone call from him at 10:18; right?

A Uh-huh.
Q Could it have been a text message?
A Yes, it could have been a text, because I don't believe he could have dialed out while at work.
Q He couldn't be on the phone at work; right?
A No.
Q Because he is busy. So he can't be making phone calls the whole time he is at work?
A No.
Q I understand. So it could have been a text message?
A Yes, ma'am.
Q Okay. So a text message at that time. 979-0447?
A Yes.
Q So a text message from you to him?
A (Nods affirmatively.)
Q At that time?
A (Nods affirmatively.)
Q Do you mind if I just write your last name?
A No.
Q G-A-L-E; right?
A Yes.
Q Did you call him Amp?
A Yes.
Q Was that kind of what everybody called him?

A Yes.
Q Okay. So there was a text message from you to Amp at 10:18?
A Yes.
Q And I'm confused. You told him you would come pick him up?
A Yes. It was around -- it is around -- usually around his break time.
Q Did you usually pick him up around break time?
A Sometimes, but not all the time.
Q Okay. But y'all were friends, and you told him that day, for whatever reason, you'd pick him up?
A Yes.
Q Via text message?
A Yes.
Q Now, when you got there, you said you could remember -- you know what time you got there because you had to call him to let him know you were outside?
A I don't remember. It was in my -- I mean, it was in my phone. I don't remember.
Q Let me do this. That statement -- do you still have the statement?
A Yes.
Q And did you give the statement to the investigator

for this -- for Mr. Porterfield?
A Excuse me?
Q You gave the statement to the investigator for Mr. Porterfield?
A Yes.
Q And you remember making the statement? This is the statement you gave?
A Yes.
Q Okay. So you say, After I finished my hair I got in the car and I drove to Mr. Porterfield's place of employment. Do you remember that?
A Yes.
Q And you sent him a text saying that you were outside?
A Yes.
Q And that would --
A He never --
Q -- have been around noon?
A Yes. He never responded back, so I went inside.
Q So you went inside? Okay. Help me out here. Could it have been that you called him when you got there?
A (Nods affirmatively.)
Q You could have called him?
A I could have called him around his break.

Q Around his break. And then he wouldn't have responded because he is at work?
A (Nods affirmatively.) Yes.
Q And he can't be on his phone at work?
A Yes.
Q So you called him at some point once you got there; right?
A Yes.
Q And it would be -- I guess the easiest way to remember exactly what time you picked him up is to look at the phone records to figure out when you called him that day; right?
A Yes.
Q Because that would correspond to when you picked him up?
A Yes.
Q Okay. So let's say -- and what is that number again?
A My number or his? Mine?
Q Yours?
A (803)979-0447.
Q Okay. So that phone call -- I see it. 1:38. So you called him once you got there, 1:38?
A (Nods affirmatively.)
Q I'm sorry. Just -- and the only reason I keep

asking you to answer out loud --
A Yes.
Q Because she is --
A She is typing.
Q Yes, she is typing it down. I'm not trying to be difficult.
A Yes.
Q Thank you. So you get there. You pick him up at 1:38?
A Okay.
THE COURT: Is that a yes or a no?
THE WITNESS: Yes.
THE COURT: Thank you.
BY MS. M. WALKER:
Q And then y'all go to -- what were you driving that -- were you driving the gold Impala that day?
A Yes, I was.
Q And then y'all go to his house?
A Yes.
Q According to your testimony?
A Yes.
Q And, at that point, how long are y'all gone?
A I'd say about 30, 35 minutes. Not that long.
Q You are gone for 35 minutes total?
A All together from picking him up and taking him --

Q From picking him up at work to dropping him off?
A Oh, from dropping him off to his job it takes about five -- about ten minutes to get from the job to his place of residence.
Q Okay. Where was his job?
A On Corporate Boulevard.
Q Okay. So -- and then you took him to?
A Colonial Drive.
Q To Colonial Drive. So that you say is ten minutes total?
A Yes, ma'am.
Q So five minutes both ways?
A From -- yes.
Q Okay. So you drop him off there?
A Yes. And then I drove to the shell station that is approximately -- if you was to walk, it would be about five minutes, but to drive it is two.
Q Couple of minutes?
A Yes.
Q So 25 minutes total, is what you are saying?
A Yes.
Q And so then you dropped him off that day?
A Yes.
Q All right. And you then, I guess, never spoke to him again?

A No.
Q Okay. So that is the timeline that you have today, right, 25 minutes total?
Will you look at that statement you gave back then for me?
A Yes.
(Pause.)
A Okay.
Q Okay. Do you see where it says, How long was Mr. TK at Mr. Porterfield's home while you were there?
A While I was there -- I wasn't there the whole time.
Q Do you see where it says, How long --
A Yes.
Q Okay. What was your answer then?
A Approximately 30 to 45 minutes.
Q So I guess back then -- and your memory was probably better then than it is now about that day?
A Yes.
Q Okay. But back then you remembered the time that they were actually at the house being 45 minutes?
A Yes.
Q Okay. So this kind of changes the timeline a little bit; right? Let's add 20 -- 20 minutes to it? Or do you have to add more time than that to

it. Because that was 25 minutes total, which only put you guys at the house for 15 minutes.

A For me to get to his job from where I live -- I live in Irmo.

Q Right.

A To get to his job, it takes me about five minutes to get to his job.

Q Yes. I'm not even including your travel time.

A Okay.

Q I'm just talking about the time where you --

MS. A. WALKER: Your Honor, counsel needs to ask a question. She is testifying at this point.

THE COURT REPORTER: I'm sorry, I can't hear.

MS. A. WALKER: I said, counsel needs to ask a question. She is testifying at this point.

MS. M. WALKER: I was just trying to clarify my answer -- question.

THE COURT: Ask your next question, Solicitor.

MS. M. WALKER: Thank you.

BY MS. M. WALKER:

Q Not including the time -- your travel time -- you are saying that 45 minutes was the time y'all were at Mr. Porterfield's house with TK?

A Yes.

Q 30 to 45 minutes?

A Yes.
Q So that kind of changes this; right?
A Yes.
Q Okay. So y'all were actually away from his office for about how long?
A I guess about 30, 45 minutes from his job.
Q Okay. Y'all were away -- 45 minutes was the amount of time you were at the house; right?
A Yes, about that.
Q Okay. And then the ten-minute travel time?
A Yes.
Q So about 55 minutes y'all were away from the Recycling Center?
A No. The travel time to his house you might as well put it 30 minutes, because when he got to his house, they were not there that long, because by the time I got back from going to the store and coming back to pick him up, Mr. TK was finished putting his items in his mother's car, because he was moving out. And Mr. Porterfield got into my car and we left.
Q Okay. So you are saying total now 45 minutes?
A Yes.
Q Okay. I understand.
A That was the total amount of time that he was away

from work, about 45 minutes.
Q Then you said that you never spoke to him again?
A No. The last time I spoke to Mr. Porterfield was via Facebook, and that was in August after I had my son, and he was congratulating me on my son.
Q Okay. That is your testimony today. When you gave this statement, you said that he sent you a text message telling you to move your car --
A Oh, yes.
Q -- from in front of his house on July 17th?
A Yes.
Q So you saw him again because your car was at his house?
A No, I just had -- I had a key to my own car. I mean, I went to the back yard and got in my car and left. I just got a text. That was it.
Q How did your car end up in his back yard?
A My car got pulled over and I didn't have insurance on it at the time. So the officer took the tag off the car when it got pulled. When it got towed to the tow place on North Main, his house was the closest place from the tow area where I could go without a tag on my car to get it from them so they would not charge me.
Q So you just had the tow truck take it to his house?

A No. I went to the tow -- I went to the impound lot and got my car myself.
Q Okay.
A And drove it off the impound lot to his apartment and parked it in his back yard.
Q And then -- so then y'all talked again about the car being towed?
A I just told him I was coming to pick it up and move it. That was it. We didn't talk. We just -- he said, Will you move your car? And that was it. And then it was over with.
Q Okay. And back in 2012, you guys were pretty close?
A We were just friends.
Q Close friends, though?
A Yes.
Q And just so I'm 100 percent clear, back when you gave that statement --
A Yes.
Q -- you told the investigator that you picked him up between 12:00 and 12:30?
A Yes. I never really looked at the time before I picked him up. I just remember that was the time around his break that I would pick him up.
Q But the easiest time would be to go by phone

records; right?
A Yes.
Q Okay. But back then you said you picked him up between 12:00 and 12:20; right?
A Yes.
Q That you were at the Defendant's residence at 12:35?
A Yes.
Q That TK got there at 1:00?
A (Nods affirmatively.) I believe so.
Q And that y'all were there for another 30 to 45 minutes after TK got there?
A Yes.
Q And then at 1:50 y'all left the apartment to go back to the job?
A Yes.
Q And that apartment was on Colonial Drive?
A Yes.
Q And that is the timeframe -- not the timeframe you have given today, but the timeframe you gave back then?
A Yes.
Q All right, thank you. I appreciate it.
MS. M. WALKER: I don't have any further questions.

THE COURT: Redirect, Ms. Walker?

MS. A. WALKER: Please, Your Honor.

REDIRECT EXAMINATION

BY MS. A. WALKER:

Q I think we got a little confused here.

MS. M. WALKER: Thank you. Sorry about that.

Q Okay. And originally she wrote on here I believe 10:18?

A Yes.

Q Up to date?

A Yes.

Q I know this is a little hard to see. Okay. So we have about 10:27 a.m. here?

THE COURT: What is that item, Ms. Walker?

MS. A. WALKER: Your Honor, this is the State's -- these are the telephone records of Mr. Porterfield. This is June 27th.

THE COURT: And what page of those records?

MS. A. WALKER: Page 64, Your Honor.

THE COURT: All right. Thank you.

MS. A. WALKER: You're welcome, Your Honor.

BY MS. A. WALKER:

Q Your number actually appears at 10:27; right?

A Yes, ma'am.

Q Okay. Does that look about right from this board?

A Yes, ma'am.
Q Okay. And Amp actually dials your number; right?
A Yes.
Q His number to your number, elapse time, 26 seconds; right?
A Yes.
Q Okay. And you said that he had called you that morning asking for a ride; is that right?
A Yes.
Q Okay. And later on you said that you either called him or text messaged him when you got to work?
A Yes.
Q Could you be mistaken about that?
A It happened a while back, so, yes, ma'am.
Q You could be?
A Yes.
Q You could have just gone in to work?
A Yes.
Q And then Ms. Walker showed you -- not this Ms. Walker, that Ms. Walker -- showed you this one at 1:38?
A Yes.
Q Okay. And that is where Amp called you at 1:38; right?
A Yes.

Q And that wasn't necessarily when you picked him up; right?
A No, ma'am.
Q That could have been while you were at the shell station?
A Yes, ma'am.
Q These records don't indicate where you were when these phone calls were made?
A (Nods affirmatively.)
Q Is that correct?
A Yes, ma'am.
Q Okay. And when you gave the statement, Investigator Watkins was asking you about events that happened on June 27th; is that right?
A Yes, ma'am.
Q And this statement was given on August 1st; right?
A Yes.
Q So about a month after it happened?
A Yes, ma'am.
Q So you were giving events to the best of your memory?
A Yes, ma'am.
Q So it is possible that the times may have been a little off?
A Yes, ma'am.

Q But the major events you remember are that you picked him up from work?
A Yes, ma'am.
Q That you took him to his apartment?
MS. M. WALKER: Objection to the leading, Your Honor.
THE COURT: Yes. Please do not lead.
MS. A. WALKER: Certainly, Your Honor.
BY MS. A. WALKER:
Q What are the major events that you remember that day?
A Picking him up from work, going to -- seeing Mr. TK at his house, picking up some clothes or items, packing them in his mother's car, me going to the shell station, and me dropping him off back at work.
Q And when you were at the shell station, about how long were you gone?
A Possibly two, three minutes, not counting the time that it got me to get there, so about five all total.
Q And earlier you testified that originally you met Mr. Porterfield in late 2009, early 2010?
A Yes.
Q And that afterwards you didn't speak to him for

about two years, is that what you said?
A Yes, but -- yes.
Q And then you met him again in 2012?
A Yes.
Q And then is it fair to say that you -- and then Ms. Walker asked you that after this you didn't speak to him again?
A No, ma'am, not until via Facebook. He asked me about my son.
Q And then the towing of your car?
A Yes, about the towing of the car, then Facebook.
Q Right.

MS. A. WALKER: Beg the Court's indulgence.

(Pause.)

BY MS. A. WALKER:

Q And then after you gave the statement to Mr. Watkins, when is the next time that you had to think about all this?
A When I got subpoenaed on -- two weeks ago. I believe two weeks ago.
Q Okay. Thank you so much, Ms. Gale.
A You're welcome.

THE COURT: Recross, Solicitor?

MS. M. WALKER: Thank you, Your Honor.

RECROSS-EXAMINATION

BY MS. M. WALKER:

Q But the statement that you gave, you were very specific about that timeline; right?

A Back then, yes, I was.

Q And that is the timeline that we went over earlier where back then you picked him up between 12:00 and 12:20?

A Yes.

Q That you got to his residence around 12:35?

A Yes.

Q That TK arrived at 1:00 o'clock?

A I don't remember that part. I don't see it here. Oh, I see it now. Yes.

Q You see it?

A Yes.

Q That he was there -- y'all were there 30 to 45 minutes?

A Yes.

Q And at 1:50 y'all left the apartment to take him back to his job?

A Yes.

Q Okay. Thank you, ma'am. I don't have any further questions. Thank you for coming.

A Uh-huh.

THE COURT: Thank you, Ms. Gale. You may step

down.

(Witness steps down.)

MS. A. WALKER: May this witness be excused, Your Honor?

THE COURT: No, ma'am, she is still under subpoena. Thank you.

You may call your next witness.

MR. BANK: Your Honor, before we do that, can I approach very quickly with one of the Solicitors?

THE COURT: Yes, sir. Of course.

(WHEREUPON,a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Thank you.

MR. BANK: The Defense at this time calls Diana Addison.

THE COURT: All right. Ms. Addison, if you would come forward and be sworn for me, please.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and

nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

(Witness complies.)

THE CLERK: State your full name for the record.

DIANA ADDISON,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANK:

Q Ms. Addison, would you introduce yourself to the jury?

A I'm Diana Addison. Currently reside in Columbia, South Carolina.

Q Ms. Addison, have you ever testified before?

A No.

Q First time?

A Yes.

Q Do you know Anthony Porterfield?

A Yes.

Q And what is your relationship with Anthony?

A His fiancée.

Q You are his fiancée? And you have been sitting in the courtroom this whole time?

A Yes.

Q So you are voluntarily here? You haven't -- you are not only here because you have been subpoenaed, or anything like that; is that correct?
A That's correct.
Q When did you and Anthony start dating?
A Spring of 2012.
Q And y'all are still dating now? Do y'all live together?
A Yes.
Q Y'all live together currently?
A Yes.
Q And where do y'all live together?
A At my home at
Q Okay. Anybody live there with you?
A My three girls.
Q Okay. Anybody else?
A No.
Q So you, Anthony, and three girls; right?
A Yes.
Q How long have you lived at that house?
A I have been there since 2011.
Q Before you started dating Anthony?
A Yes.
Q Okay. And when did Anthony start living there?
A In October of 2012.

Q Now, you said you started dating in the spring of 2012. So that would mean y'all were dating in June of 2012, which is the month we keep talking about; right?
A Yes.
Q How long had y'all been stating at that point?
A Couple of months.
Q And y'all hadn't been living together you said?
A No.
Q Now, back in June of 2012, y'all had just start dating. What is the typical week like back then in terms of your work or personal lives or just what y'all's weekly life was like in June of 2012?
A We would either talk or sometimes we went on walks, to work out on Wednesdays in the middle of the week or seeing each other and hung out on the weekends after work.
Q Did y'all hang out more on the weekends or the week -- or during the week?
A At that time it was a lot. You know, it was new and we wanted to see each other. So a couple of times during the week. Of course you spend more time when you are off on the weekend.
Q You said off on the weekends? Did both of y'all work back in June 2012?

A Yes. Sometimes I worked on Saturdays, every other Saturday of the month. He wasn't working all weekend.
Q Okay. Did you work during the week?
A Yes.
Q And what was his schedule like during the week?
A Normally went in at 8:00 and I believe got off at 4:30 or 5:00.
Q Was that -- do you remember what days it was? Was it sporadic or was it a set date that he was working?
A Monday through Friday.
Q Monday through Friday? And your schedule was also Monday through Friday and maybe Saturday?
A Yes.
Q You said when y'all weren't working sometimes y'all took trips or walks; is that what you said?
A We took -- we worked out or just hang out, watch TV, or catch something to eat. We have been on a few trips to the beach.
Q Okay. Do you remember how many trips you went on that June of 2012?
A Two.
Q Two trips?
A Yes.

Q Could you tell the jury a little bit about those trips? Not in detail, just where you went and about when in June it was.
A The first time we went to the beach it was Father's Day weekend. And we went back two days -- not two days, but two weekends later. It was the weekend before the Fourth of July.
Q Okay. Now, on June 27th, which was the specific date we have been talking about, were you with Anthony during the day that day?
A No.
Q No? Would it have been typical for you to have been with him in the middle of the day on Wednesday?
A No.
Q And you know by sitting in this trial, obviously now, what day of the week is June 27?
A On a Wednesday.
Q Ms. Addison, do you remember Anthony eventually getting arrested for the allegations we have been talking about?
A Yes.
Q When he got arrested was he able -- was he taken to jail?
A Yes. He -- to my knowledge, he was taken to the

hospital, and then taken to jail.

Q Okay. When he got to jail, did he get out right away?

A No.

Q About how long was he in?

MS. CAMPBELL: Objection. Relevance.

THE COURT: I sustain.

MS. CAMPBELL: Thank you.

MR. BANK: May we approach, Your Honor?

THE COURT: Yes, sir.

(WHEREUPON,a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. Step out, please, ladies and gentlemen. Do not discuss the case during this brief recess.

(WHEREUPON, the jury retires to the jury room at 11:24 a.m.)

THE COURT: All right, you may offer the testimony, Mr. Bank.

(Pause.)

THE COURT: Thank you. I'm waiting on Ms. Walker. She asked to step out.

(Pause.)

MS. A. WALKER: Your Honor, she had a small

child. She is just sitting right outside the courtroom with her child.

THE COURT: All right. Thank you. Thank you, Ms. Walker.

All right, Mr. Bank.

MR. BANK: Thank you, Your Honor. The testimony we'd like to proffer so that we don't open the door to anything.

PROFFERED TESTIMONY

BY MR. BANK:

Q Ms. Walker -- I mean, excuse me -- Ms. Addison, did you make phone calls to Mr. Porterfield or did Mr. Porterfield make phone calls to you while he was at the jail?

A He made phone calls to me.

Q He made phone calls to you?

A Yes.

Q On the phone calls that we heard earlier, I think yesterday, was that, for the most part, you that he was talking to on the phone?

A Yes.

Q And how often did y'all talk on the phone?

A A lot.

Q A lot?

A (Nods affirmatively.)

Q How many phone calls in total do you think Anthony made to you while he was in jail?
A I do not know an exact total. I can say on average between two to four calls a day.
Q Two to four calls a day?
A A day.
Q So knowing how long he was in there, how many phone calls would that be?
A Well, if you do it at the least, 90 times 2 is 180, or 90 times 4 is 360.
Q Phone calls between you and Anthony?
A 180 to 360 calls.

MR. BANK: At this point, Your Honor, I was going to go into the specific jail calls that the State has already offered. But I think that that is the only testimony we would have as to the nature of them talking on the phone. If I can add maybe one more question to the proffer, if it is all right with Your Honor?

THE COURT: Certainly. Yes, sir.

BY MR. BANK:

Q On your phone calls with him -- and you heard the phone calls yesterday; right?
A Yes.
Q Was his -- did -- was y'all's conversations and

relationship the same when y'all were talking on the phone versus y'all's relationship when y'all aren't talking on the jail phone? By that I mean when he was not in jail? And could you explain that a little bit?

MS. CAMPBELL: I'm sorry, Your Honor, I didn't understand the question.

BY MR. BANK:

Q Was your relationship with Anthony while he was in jail on the phone different from your relationship with him when he wasn't in jail and not on the jail phone?

A The relationship when he was in jail, it was intense because of the situation that he was in. So the way he talked sometimes wasn't, you know, of course pleasing by me, but I know -- I understood the situation. So he was stressed.

MR. BANK: Judge, I think that would be -- that would at this point be the extent of the proffer.

THE COURT: All right. Solicitor, do you have any questions of this witness in regard to the proffer?

MS. CAMPBELL: Not at this time.

THE COURT: Do you have any objections?

MS. CAMPBELL: No, Your Honor, we have -- I mean, at this point we would withdraw our objection. If he wants to go into the remaining phone calls, we have no problem with that. But, Your Honor, our position would be then the substance of the phone calls which he just asked her about would be open.

THE COURT: Well, if you slice it thin, I think -- Did you receive phone calls from Mr. Porterfield while he was in jail? And the answer is yes. That is already in evidence. That is in the record.

MS. CAMPBELL: Uh-huh.

THE COURT: Did you -- among those phone calls that you received -- was that you primarily on the phone calls we heard yesterday? I think the answer is yes. I think that is inferentially already in the record.

Now, when you get into the numbers, both of which are wrong -- they might be within the range, but both of which are wrong -- and then her characterizing the calls, it is not so much the relationship as perhaps the verbal demeanor, if you will, of Mr. Porterfield because of the intensity of the situation. You know, if there are calls

that are relevant to that that are separate and distinct from the intensity of the situation, it may be impeachable in that regard. I haven't heard the calls. I don't know what the other calls contain.

So, like I say, when I slice it thin, the first two I think are clearly admissible without opening the door.

MR. BANK: Yes, sir.

THE COURT: I'm not -- the characterization and the numbers, when you bind those two issues together, if there are other calls that would impeach this witness in that regard, I mean, it appears to me the testimony would -- I would take it that all the calls were very intense because of the situation that Mr. Porterfield and his fiancée was in because of the situation.

I'm not sure -- others may have been intense, but not because of the charges, is all I'm saying, Mr. Bank. I don't know how clearer to say it.

MR. BANK: Yes, sir. And we'd be willing not to go into the intensity or the character of the calls. We are really not trying to describe the rest of them. I think what we're trying to show to the jury is that -- I think the Government is

presenting three calls. We are able to present half a phone call to the jury. And leave them to believe that is the only communication Anthony had. And I think without the Alvin S. Glenn person being able to testify as to how many phone calls there actually were, that her testimony as there being -- even if we are allowed to say, Did you have other phone calls besides the three and a half we heard, and leave it at that, we'd be willing to do that. We don't want to do that if it is going to open the door.

I guess in the alternative, Your Honor, we could subpoena the Alvin S. Glenn clerk, have them go back and look at what they found, or we could call the Solicitor's Office paralegal who put the jail calls on tape and just ask her how many jail phone calls did you find. I'm not sure if that opens the door to them listening to them, it just combats their inference that these are the only three there are.

THE COURT: I think Sergeant Waters testified that there were other jail calls, but he didn't know the exact number when you asked him on cross-examination could it have been 247. He just didn't know the number.

To me, I don't think you can hamstring the State by saying they just cherry-picked three calls and somehow they are hiding "X" so many calls from the jury, that there is some kind of inference, but the dots don't connect in that regard, to me.

I think it is misleading to the jury for them to speculate what those 200 and however many other calls, what the substance of them was.

Obviously both the State and the Defense pick and present evidence that they believe is helpful to their case. Obviously. Obviously. But I don't think you can draw that negative inference that the State is hiding 200 and however many calls without them saying, All right, well, here is what we are hiding. You know, Here is what they say we are hiding in that regard.

That is kind of how I track it, that it misleads the jury in the direction kind of down a blind alley. There is no reasonable inference to be drawn from that. If there are other calls -- I mean, I think if you leave it at, Were there other calls, and don't get into the specific numbers, you know, and don't get into the characterization, perhaps -- you know, obviously if a young man is in jail -- or an old man is in jail -- for a period of

time, he would call his or her -- his support system, I mean, in other words. So he is going to make calls. But at the same time, if it runs afoul of the inference that all of them are based on the intensity of the situation and there is other factors involved that have -- that may have to do with the fact that he is incarcerated and she's not, I think that draws an inference that is not appropriate.

MR. BANK: Just to be clear with your ruling, that as long as we just leave it at, You received phone calls from him, that was you we heard on the phone in the recordings, and the third one, which is, I just want to be clear, if I say, Were there other calls besides the three and a half we heard, and she says yes, and I leave it at that --

THE COURT: Solicitor?

MS. CAMPBELL: I agree.

THE COURT: I think that is my ruling. And I further think that it sounds like they are not going to object in that regard, Mr. Bank.

MR. BANK: Thank you. We'll limit the question to that, then, Your Honor.

THE COURT: Thank you. Anything further?

MR. BANK: No, sir.

THE COURT: Ms. Campbell?

MS. CAMPBELL: No, sir.

THE COURT: Thank you. Bring us our jury, please.

Is this your last witness before lunch? Is that a true statement?

MS. A. WALKER: We have found our other witness. It just depends on how Your Honor --

THE COURT: I'd like to break about 1:00. I have a commitment at 1:00 if possible.

MS. A. WALKER: Oh, you'd like to break at 1:00? I think that can be accomplished. And we can get another witness in, if that is okay with Your Honor. I think we will be done by 1:00. I think we can do that.

(WHEREUPON, the jury came into open court at 11:38 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Thank you, Mr. Bailiff.

If you will please continue to give the parties your complete and undivided attention.

Thank you, Mr. Bank. Thank you, Solicitor.

You may continue, Mr. Bank.

MR. BANK: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MR. BANK:

Q Diana, did you receive phone calls from Anthony from the jail?

A Yes, sir.

Q And you were in the courtroom yesterday when we heard about three and a half phone calls, or three phone calls and a portion of another phone call, from the jail; right?

A Yes, sir.

Q You were in the courtroom? And for the most part, was that you on the other end of the line?

A Yes, sir.

Q And were there other calls besides those three and the portion that we heard?

A That were made?

Q Yes?

A Yes.

Q Okay. Now, out of the ones that we heard yesterday, the three and then the portion, when you hear Anthony, is he telling you to call a lot of different people?

A Yes, sir.

Q Do you remember the names or nicknames of some of the people that he was trying to have you call?

A Cripp, TK, Blacc, and Bongo. I don't remember the rest of them. And then family members.
Q And maybe family members?
A And family members.
Q Let's see if we can get you to speak in here a little bit. Speak a little bit louder, okay?
A Okay.
Q Did you hear more names than that when you actually heard the recording yesterday?
A Yes, sir.
Q You just can't recall all the names?
A No, sir.
Q There we go. And do you recall why he wanted you to call all these people?
A He wanted me to contact people, like I said, for -- to come support him, to let them know what was going on, or to gather money for a lawyer. And the ones that could account his whereabouts.
Q And by his whereabouts, could you tell the jury what you mean by that?
A When he was at work that day.
Q And what day was that?
A June 27th.
Q Now, at one point, in one of the phone calls, I believe the first one made, do you remember hearing

Anthony say anything along the lines of, You tell TK he was with me that day, don't ask him, tell him?

A Yes, sir.

Q You remember that being played yesterday? And what did you take that to mean?

A I took that as he was trying to get -- well, talk to -- I call him TK -- about the day that it happened, that was the day he moved his stuff out.

Q Okay. Did you take it as that you need to tell TK to lie or to come up with a story, or anything like that?

A No, sir.

Q And I have gone back to all these names we heard. What we mostly heard, were those nicknames? Is that your understanding of all the names that he was saying on the phone?

A Yes, sir.

Q Do you know all of their real names, some of their real names, none of their real names?

A No. I only learned Cripp's real name after the fact, his boss.

Q And were most of the names that we heard, besides obviously his family, were these people that Anthony knew or people that you knew or people that

you both knew?
A People that Anthony knew.
Q Okay. You didn't actually know any of these people?
A No.
Q Or most of them?
A Well, TK, I had seen him, but I didn't -- wasn't like personal relationship or friend, or anything.
Q Now, out of all the names that he asked you to reach out to, who did you actually reach out to?
A Spoke with Cripp. Aaron Griffin is his real name, his boss at his job.
Q Okay. So Cripp, whose real name is Aaron Griffin, who is the boss at Anthony's job?
A He was the manager -- his boss at Creative Recycling.
Q Okay. Was there anybody else besides Mr. Griffin that you reached out to?
A I don't -- I don't recall -- don't remember all the names on the list. I just remember speaking with Aaron Griffin at first, and then I did speak to TK.
Q Okay.
A This was like a couple -- I don't remember the exact time. It was before the investigator -- Investigator Watkins, I believe was his name -- he

contacted me to see if I could contact TK because he was trying to get in touch with him and he wasn't getting a return call. He needed a statement.

Q Okay. And I want to get to Investigator Watkins for a second. Out of -- you said you contacted TK, you contacted Mr. Griffin. What did you do with the rest of all these names and numbers that he had given to you?

A I relayed the information to his lawyer at the time that he had.

Q And was his lawyer at the time somebody in this room, or was it somebody else?

A I don't see him in here. It was somebody else.

Q He is not his attorney anymore?

A No.

Q And you say that you gave it to his attorney. What was your intention of giving him all this information?

A It is, to my understanding, the lawyer investigator's job to seek this information. So whatever he told me to remember, the names, I gave it to him.

Q Did you give any of this information to law enforcement?

A No, sir.
Q Well, why didn't you give it to law enforcement?
A I wasn't -- I was speaking with his lawyer who was representing him.
Q You thought his lawyer was the person that could be able to do something with the information?
A His lawyer was the one who would need that information, yes.

MR. BANK: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

BY MR. BANK:

Q Now, of the phone calls that we heard, and I think -- did the phone calls, when they were played in court yesterday, did they sound like they were in order in terms of chronological order?
A Yes. It seemed like they was in order, yes.
Q Did you notice in some of the jail calls any difference between whether Anthony knew where he was on the 27th or other phone calls that we listened to yesterday where he doesn't quite seem to know where he is on the 27th?

MS. CAMPBELL: Objection, Your Honor. Her interpretation of what Anthony knew.

THE COURT: I would sustain the objection.

BY MR. BANK:

Q Do you remember on the phone calls conversations about what weekends fell within the month of June?

A Yes, sir.

Q You heard those on the jail calls yesterday?

A Yes, sir.

Q And in your conversation with him, you are speaking -- I think something is mentioned about Father's Day; is that correct?

A Yes, sir.

Q And was there anything else, maybe a trip or something --

MS. CAMPBELL: Objection, Your Honor. If he could just stop leading quite so much.

THE COURT: All right. Rephrase your question, Mr. Bank.

BY MR. BANK:

Q What were some of the activities that y'all were referencing in that phone call?

A Whether we went for a walk that week, when did we go to the beach, did we see each other that day.

Q And while you were -- why were these all things that you were trying to remember and talk to him about?

A Well, we were trying to -- speaking of trying to

remember the day the incident occurred, just to get a map of events that happened that week.

Q And why was it that y'all were having trouble remembering what day it was?

A Well, he -- from the time of the conversation, which was in July when he got arrested, it was a couple of weeks prior to the incident, so it wasn't like a day that just passed that I can remember, Oh, yes, that was a Friday or a Monday, or something.

Q Okay. So there had been a gap in time?

A Yes.

Q Now, on the phone before these -- again that we heard yesterday -- do you remember any type of electronic message or anything that comes up at the beginning of the phone call?

A Yes, sir.

Q And what was that message?

A I don't remember word-for-word, but it was to the effect of, This call may be recorded or monitored for -- I can't remember the rest. It was something like that.

Q Okay. Did you know you were being listened to?

A Yes, sir.

Q You know -- it indicated it was recording you?

A Yes, sir.
Q Who was it -- what was your understanding as to who had access to these recordings?
A Anybody who wanted to listen that was authorized to pull the call.
Q Does that include law enforcement?
A I would believe so, yes.
Q And then the calls that we heard that you knew were being recorded, y'all are talking about him being at work?
A Yes, he -- yes, he mentioned being at work.

MR. BANK: Beg the Court's indulgence.

THE COURT: Yes, sir.

(Pause.)

BY MR. BANK:

Q Ms. Addison, I don't want you to say anything about what type of hearing it was or anything, but do you remember there being a hearing regarding Anthony in October of 2012?
A Yes, sir.
Q And was Ms. Campbell or anybody else from the Solicitor's Office present at that hearing?
A I remember Ms. Campbell and Investigator Clarke.
Q And at that hearing was there any information presented about where Anthony was on the 27th?

A I'm sorry, can you repeat that?
Q At that hearing was there any information presented about where Anthony was on the 27th?
A Yes, his time card.
Q Now, we have the phone recordings we heard yesterday, which were in about July of 2012; right?
A Yes, sir.
Q And then we have this hearing from October of 2012; right?
A Yes. Yes, sir.
Q Has anybody from the Solicitor's Office or government or law enforcement ever contacted you about anything regarding this case?
A No, sir.
Q Was there anybody that contacted you, say, two or three weeks ago?
A Yes.
Q Tell the jury about that. Not the details of the conversation, but just who contacted you and when?
A Ms. Walker, about two and a half, three weeks ago.
Q So two and a half, three weeks ago was the first time that anybody from law enforcement or the Solicitor's Office ever asked you about this case?
A Yes.
Q Now, Ms. Addison, I think you can only testify as

to 2012, but in 2012 did you ever see Anthony being in possession or own a gun?

A No, sir.

Q In the summer of 2012, did you see Anthony walking around with $10,000 worth of electronics?

A No, sir.

Q Around this incident, did you ever see a time where Mr. Anthony had a sudden influx of cash or money?

A No, sir.

Q And, Ms. Addison, you obviously care for Anthony; isn't that right?

A Yes, sir.

Q Y'all have been together almost three years now; right?

A Yes, sir.

Q Ms. Addison, would you lie for Anthony right now?

A No, sir.

Q Have you told anybody else to lie for Anthony?

A No, sir.

Q Did you personally do anything with the information discussed on those jail calls?

A No, I gave it to the lawyer.

Q And, Ms. Addison -- whose bag is this, Ms. Addison?

A It belongs to me.

Q It belongs to you? Did Anthony have access to this

bag in 2012?

A No, sir.

MR. BANK: That's all the questions I have right now, Your Honor.

THE COURT: All right. Thank you.

Solicitor?

MS. CAMPBELL: May it please the Court?

CROSS-EXAMINATION

BY MS. CAMPBELL:

Q So when you handed this bag to your fiancé yesterday, what did it have in it?

A The same notebooks that has been in it since the trial began.

Q That is his stuff?

A Yes. His notebook. One of my notebooks is in there. And that is my bag.

Q And that is why you handed it to him, because it has his stuff in it?

A It has his notebook in it.

Q Okay. And the jail phone calls that have been published to the jury, that is you on the phone calls talking to him?

A Yes, ma'am.

Q And those accurately reflect y'all's conversations on those occasions; right?

A Yes, ma'am. From what -- yes, on the calls.
Q And, to be sure, he talks about how no one in law enforcement contacted you. At what point did you come forward to law enforcement and tell them you had information that could help him in this case?
A I gave -- any information I gave, I gave to the lawyer.
Q The lawyer. And you don't know that the lawyer didn't forward any of that to us?
A I don't know your proceedings with each other.
Q Obviously, you don't. I'm sorry, I am just making a point. And you didn't know at what point we actually finally came in possession of your phone number?
A I don't.
Q So we could pull the call?
A I don't.
Q For the record, on Wednesday, June 27th, of 2012, that day, as far as you know, Anthony was at work?
A Yes, ma'am.
Q Do you have a car?
A Yes, ma'am.
Q Did you have a car back then?
A Yes, ma'am.
Q Did you ever give Anthony rides?

A I picked him up, dropped him off at work in the morning.
Q In the morning? But, to be clear for this jury, on Wednesday the 27th -- and I'll get back to when y'all's relationship started -- but you didn't pick him up from work any time that day while he was working?
A No, ma'am.
Q Did you pick him up when he got off work?
A No, ma'am.
Q Did you know who had picked him up that day?
A No, ma'am.
Q At the time was Anthony living with you?
A No, ma'am.
Q And you said that you might have seen TK before?
A I have seen -- I have seen him before.
Q But you didn't know him?
A But I didn't know him.
Q Okay. And that was his roommate. And let me back up a little bit. When did y'all meet?
A Spring, 2012.
Q Would that be April, May, June? Do you remember?
A Around -- let's see --
Q March?
A Like March.

Q Just a ballpark?
A Like end of March.
Q End of March. 2012; right?
A Yes, ma'am.
Q You met. And was your relationship -- I don't know -- boyfriend/girlfriend -- I mean, at first was it friends or --
A At first it was friends who -- well, two people that was interested in each other.
Q Normal type.
A Right.
Q Dating?
A Yes.
Q And I use old-fashioned terms. If I say something wrong, just correct me. So y'all were dating for a period of time. From March -- the end of March, 2012, forward?
A Yes.
Q And the relationship developed?
A Yes.
Q And would you have considered y'all's self girlfriend/boyfriend? Fiancée?
A Before he -- yes, before he got arrested it went to that point.
Q When did y'all get engaged?

A We were engaged -- it has been a couple of times.
Q In this time period? From March 2012 until June the 27th of 2012, did y'all get engaged in that time period?
A From March the when?
Q March till June 27th of 2012 when this occurred?
A Oh, no.
Q You weren't engaged at that point?
A No. We talked about it.
Q Talked about it, but hadn't quite gotten there yet?
A Right. It wasn't like -- we were good friends.
Q And on that phone call, I believe y'all talked about you had only known each other for a short period of time, but he loved you? That was accurate?
A Yes, ma'am.
Q And at the time that you were living in that same house that you have been since 2011?
A (Nods affirmatively.)
Q And do you have children there?
A I do.
Q And I think you have?
A I have three girls.
Q Three girls?
A Yes, ma'am.

Q And Anthony has children?
A He has two girls. We have five together.
Q Okay. And during this period of time you mentioned that y'all went on some trips?
A Yes.
Q And where would you go?
A We went to Myrtle Beach. We went --
Q Myrtle Beach?
A Now, I think -- we went to Charlotte one weekend also.
Q Would that have been in June? Do you know?
A I cannot recall.
Q You went to Charlotte one weekend?
A We went to the beach.
Q Myrtle Beach?
A Yes, Myrtle Beach. Father's Day weekend and the weekend before the Fourth of July.
Q So that was Myrtle Beach again. And when y'all went on these trips, did y'all stay with friends or just hotels or --
A Stayed in hotels.
Q Okay. And y'all like taking trips together like normal couples do?
A Well, that -- really that is like the only time besides one other time a couple of years ago that

we have been able to go on a trip.
Q Okay. So it was just during that time period in June that y'all were able to take these trips?
A Yes.
Q And you also mentioned your work schedule. You are off on Wednesdays?
A No, I did not say that.
Q I'm sorry.
A I said I work Monday through Friday, on some Saturdays. I work every other Saturday.
Q Every other Saturday?
A Yes.
Q And typically he also worked Monday through Friday?
A Yes.
Q And where did you work?
A Chase. I work for Chase Bank. They are now -- they closed their office here.
Q And he worked at the recycling place?
A Yes, ma'am.
Q Did you know what they did at the recycling place?
A I don't know specifics. I know recycling --
MR. BANK: Objection, Your Honor. Relevance.
THE COURT: Overruled.
A -- recycling electronics.
Q Recycling electronics. And that is what he -- that

was his work?
A That is what the name -- that is what the company --
Q Electronics, such as computers?
A -- is described as. Yes.
Q And TVs, stuff like that? All electronics? You don't know?
A I don't know. I don't know what it came to, you know, what exactly they did. I don't know the exact job duties of each employee.
Q And then I thought you testified, but I may be wrong, that on that Wednesday -- or you testified at some point some on Wednesdays y'all would take walks?
A Some Wednesdays, yes.
Q And what kind of walks are we talking about?
A Like at Finlay Park, or I think it is called River Front Park. I know it is a park where there is different locations in Columbia that you can access. I don't --
Q Exercise?
A Yes.
Q And then on weekends sometimes you exercised?
A We might take a walk. For the most part go on dinner dates.

Q I interrupted. I apologize.
A That's --
Q As I recall, you also said that Wednesday you were working, the 27th?
A I did not say that.
Q Okay. What did you say?
A I said I didn't see him, Mr. Porterfield, that Wednesday.
Q Where were you that Wednesday?
A I was at home.
Q At home?
A Yes. I had -- was dealing with anxiety attacks, and I had called in to work. I was at home all day.
Q At home that day?
A Yes.
Q With anxiety attacks?
A Yes. I talked to him later that evening.
Q The phone number you had at that time, do you remember what the phone number was?
A The same number I have now.
Q What is that number?
A (803)354-1172.
Q At that time what kind of car did you drive?
A Same car I'm driving now, 2009 Dodge Avenger.

Q Dodge Avenger?
A Yes.
Q Is it a sedan or SUV or what?
A It is a sedan, a four-door car.
Q Four-door? What color is it?
A Teal green.
Q Teal green. And do you remember what time of day it was when Anthony got home that day, that Wednesday the 27th?
A I don't know what time he got home. I didn't see him.
Q You didn't see him?
A I don't -- no.
Q Do you know how he got home that day?
A He didn't have a car, so he caught a ride. I don't know who took him home, or I don't know how he got home.
Q Okay. In the phone call he asked you to contact a number of people?
A Yes, ma'am.
Q Specifically he talked about Cripp. Is that a nickname?
A For his boss.
Q For his boss? And what is his boss's real name, Cripp?

A I was told Aaron Griffin.
Q And he goes through a number of names for you to contact. Cripp is one of them?
A Yes.
Q I believe one was Q maybe?
A I think that is one of the names. I don't remember the whole list.
Q Blacc. He actually spelled it out, B-L-A-C-C. Bongo?
A I know Bongo.
Q Did he ever tell you to contact Ms. Hale?
A Ms. who?
Q Ms. Hale?
A Who is Ms. -- I don't know who Ms. Hale is.
Q Did you see the young lady that testified yesterday?
A Ms. Gale?
Q Ms. Gale. I apologize. Ms. Gale.
A No. No. Not that I recall.
Q Okay. Do you remember some of those other things he said to you in those phone calls we heard yesterday? Do you remember when he said what you were supposed to tell TK, and he tells him specifically to, Do it for them. I think he even spelled it out.

A I remember -- I remember, yes, by listening to the phone calls.
Q Okay. Did you know what that meant?
A No.
Q And during the phone call, repeatedly -- and you knew they were being recorded; right?
A Yes.
Q And eventually you were able to access them?
A Yes, ma'am.
Q You tell him over and over and over not to talk about what happened. Why?
A His lawyer instructed me to tell him not to speak about the situation or respond to anyone but him.
Q Not even to you?
A Right.
Q Because they were being recorded; is that right?
A I don't know if that is why he said it. He said to tell him to only speak to him about the situation.
Q And you also said that you didn't go to law enforcement to give any of this information because you just told his lawyer?
A You said -- I'm sorry, repeat what you just said?
Q You didn't go to law enforcement because you gave the information to his lawyer?
A I was only -- yes, giving it to the lawyer.

Q Okay. And you never personally contacted any of the people he asked you to contact; is that right?
A I did speak to Aaron Griffin.
Q Cripp?
A Yes. And I spoke to TK after Investigator Watkins asked me if I would be able to get him to return his phone call because he hasn't been able to get in touch with him.
Q And you actually did get in touch with TK?
A Yes. On the phone.
Q Is TK here today?
A No.
Q He is not here at all that you see?
A I don't see him.
Q And those phone calls accurately reflect y'all's conversation?
A Listening to them, yes.
Q Thank you, ma'am.

MS. CAMPBELL: I don't have anything further.

THE COURT: Redirect, Mr. Bank?

MR. BANK: Yes, Your Honor. Actually just one question.

REDIRECT EXAMINATION

BY MR. BANK:

Q Ms. Addison, did Anthony live with you in June of

2012?

A No.

MR. BANK: That's all the questions I have.

THE COURT: Recross, Solicitor?

MS. CAMPBELL: No.

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

(Witness steps down.)

THE COURT: All right. You may call your next witness.

MR. BANK: Your Honor, if I could -- if we could take a -- I know you are trying to get out of here at 1:00. If I can take about five --

THE COURT: No, I correct you on that. Nothing comes ahead of my judicial duties, Mr. Bank. I don't make a commitment that is non-judicial. You know, this is my life. Some people have a life outside of the courtroom. I do not, Mr. Bank.

MR. BANK: I understand.

THE COURT: I will be here as long as you need me. If you need a break, about a ten-minute recess, we'll take a ten-minute recess. If you need a break now and come back after lunch, we'll do that, whichever you prefer.

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MR. BANK: I think just five minutes will do. And we can get it in before lunch.

THE COURT: It has been my experience further, it is very difficult to give the jury a five-minute recess. So we will take about a ten-minute recess. Please step to your jury room. Do not discuss the case during this brief recess.

(WHEREUPON, the jury retires to the jury room at 12:08 p.m.)

THE COURT: All right. Anything further, Mr. Bank?

MR. BANK: I would just like to apologize if I referred to something --

THE COURT: Not at all. You don't need to apologize to me, Mr. Bank. If you do, I accept it, but you don't.

Thank you very much. We will be in about a ten-minute recess.

(WHEREUPON, a break was taken at 12:09 p.m.)

(WHEREUPON, the proceedings resumed at 12:22 p.m.)

MR. BANK: We are prepared to call our last witness before lunch.

MS. CAMPBELL: In the statement that was taken

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he gives his opinion on whether or not the Defendant had enough time to commit the offense. I assume we are not going into that.

MR. BANK: No, sir. And he also says something in the statement about good character, and we are not going into any of that either.

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

(WHEREUPON, the jury came into open court at 12:23 p.m.)

THE COURT: Mr. Bank, call your witness.

MR. BANK: Adrian Deberry.

THE COURT: Mr. Deberry, if you will come around and be sworn for us, please.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

(Witness complies.)

THE BAILIFF: State your full name.

ADRIAN DEBERRY,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANK:

Q Mr. Deberry, could you introduce yourself to the jury?

A My name is Adrian Deberry.

Q Deberry?

A Deberry.

Q That is how you pronounce it?

A D-E-B-E-R-R-Y.

Q Mr. Deberry, can I call you Adrian?

A (Nods affirmatively.)

Q Have you ever testified before? I saw you walk right past --

A No, first time.

Q And, Adrian, do you -- I mean, obviously you are here. Do you particularly want to be here today?

A I don't, but, I'm here to look out for a co-worker. You know, he seem to be a good guy, so, you know, I'll help support him.

Q Could you tell the jury where you live now, what you do for a living?

A I'm in -- I live in Blythewood, and I run a barber

shop.
Q Okay. Do you have a nickname?
A Bongo.
Q Bongo?
A Uh-huh.
Q B-O-N-G-O?
A Uh-huh.
Q Did you live or work in Columbia in June 2012?
A Yes.
Q Where did you live?
A I lived in Blythewood also.
Q Okay. And where did you work in the summer of 2012?
A Creative Recycling.
Q Creative Recycling?
A Uh-huh.
Q And were you a supervisor there?
A Employee. Just employee.
Q Okay. And what were the typical work hours or days for employees at Creative Recycling?
A We worked -- we worked in the mornings from like 7:30, 8:00 till 3:00, 4:00, around that time, as I recall.
Q Was it always the same days that you worked?
A Yes, Monday through Friday.

Q Nobody worked on weekends?
A No.
Q And did everybody have the same kind of break schedule?
A Yes.
Q And what was that?
A First we had like, I think a little 15-minute break, and then it went to a 30-minute break the next break, the next initial break, if I can recall.
Q Okay.
A Yes.
Q And can you explain to the jury how Creative Recycling kept up with y'all's time, how y'all kept up with y'all's time with clocking in or out?
A First we used to have to write our time out on a card, a time sheet. And then we got a little clock and we had to, you know, clock in, you know. And we had a little machine to, you know, put our -- stamp our little cards and things that we had collected by the time box.
Q And there was a physical sheet of paper?
A Uh-huh.
Q And you would put it in to mark your time?
A Yes. Yes, sir.

Q Now, when you were working at Creative Recycling in June of 2012, did you know Anthony?
A Yes. I worked with him.
Q Can you explain to the jury any relationship professionally or personally that y'all had?
A Hard worker.
Q No, I mean -- not -- what I mean is, what kind of relationship did y'all have? Were y'all co-workers? Were y'all --
A He was a team leader. He was a team leader. So I pretty much, you know, worked under him, so to speak, you know.
Q Okay. And did y'all socialize outside of work or anything like that?
A I mean, we probably talked about it, but we never really got together on it, you know what I'm saying? He came by the barber shop to get a tape up from time to time. That's about it.
Q Okay.
A Yes.
Q So the only -- the biggest reason you know him is because you worked together?
A Job. And, you know, and then after the job he come in and get a tape up, or something like that.
Q All right. Now, do you remember a time in June of

2012 where he took kind of a longer lunch break?
A Yes. I remember one time he we was working and he told me that he had to go home, to leave the job for a quick little minute. It was a 30-minute break, but he left and he came back about 15, 20 minutes after the break was over. And he was talking about dealing with TK being in his house and, you know, going through his items, and all such things like that there. That is pretty much the reason why he left and came back. He told the supervisor that he had to go home for a quick little minute and he was coming back.
Q And who was his supervisor?
A Cripp.
Q Cripp?
A Yes.
Q Do you know Cripp's real name?
A I can't recall. I just called him Cripp. That was it, you know. That is the name he wanted to be called by, so --
Q That's fine. And did you know who TK was?
A He was another co-worker.
Q Okay.
A He was, yes.
Q Was he working there at that time or had he left?

A No. He had already been fired.
Q Okay.
A Yes.
Q Now, do you remember -- in establishing and remembering the day this happened -- do you remember the exact day that this happened?
A I don't recall, but, you know, the incident in itself of him having to leave and go, you know, talk to TK, you know, but I can remember him telling me that, but I don't remember the exact day, you know. I remember he left around lunchtime, you know. So we clocked out for lunch. He left and came back I'd say 15 minutes, a little bit -- 15, 20 minutes after.
Q Whichever -- whatever day that was with dealing with TK moving out of the house --
A Yes .
Q -- was he back before 2:00 o'clock?
A To say that I have to say what time exactly we went to break. I can't recall when we went -- exactly the time we went to break.
Q What time did y'all typically go on break?
A The first break I think we got in like -- we get in like an hour or so, hour or two, and then after that we get that 30-minute break.

Q What I am concerned about is the long break.
A Yes.
Q The lunch break.
A That was more so like -- like we got off at 3:00 or 4:00, so it was probably -- I'd say about 12:00, 12:00 or 1:00, something like that.
Q Okay. And that day when Anthony got back, was he acting unusual or any different than you usually see him?
A No. Just, you know, he had like a justified look on his face like, Yeah, I tell him to get up out my house and, you know, get my stuff back, because he was rummaging through his things, and all this type of mess. So, I mean, he just had a look in his face like, Yeah, I told him, you know.
Q Now, you said you couldn't remember the exact day this happened on.
A Yes.
Q When was the first time that anybody asked you whether you remembered what happened on the 27th?
A I can recall probably like three -- I'd say three, four weeks, roughly. You know, we heard what went down on the situation, whatever the case may be. And that is when I got a call from, I think his name is Inspector Hathaway was his name? I'm not

sure of the inspector or detective.
Q The investigator?
A Investigator, excuse me. The investigator came. He called me up and came to the job and came to the barber shop, and that is when we discussed, you know, what was going on.

And he said that Amp was incarcerated, you know, for this foolishness.
Q So you weren't asked on -- you aren't asked on June 28th or 29th what happened on the 27th? You are not asked till much later what happened on the 27th?
A Yes. Like I said, to my recollection, it was pretty much like, I would say about, it was a couple of weeks. A couple of weeks, you know.
Q Besides that investigator -- do you know who that investigator worked for?
A No.
Q Do you remember his name? If I showed you a copy of the statement you gave to him --
A Yes, I would recognize his name. I mean, recall his name. But, yes. He used to wear a cowboy hat and cowboy boots. Where is his name?
Q Right at the top.
A Right at the top? Where at? Investigator Watkins.

Q Investigator Watkins?
A Yes.
Q Now, before or after Investigator Watkins talked to you --
A Uh-huh.
Q -- did Anthony or his girlfriend Diana come and speak to you about any situation on 27th?
A No, sir.
Q Did anybody ask you to lie about what happened?
A No, sir.
Q That day that he went to go to see TK?
A No, sir.
Q Did you have any reason to lie?
A No, sir.
Q When was the last time you spoke to Anthony?
A The times when I would trim his hair, the time he brought his nephew through to the barber shop. That is pretty much the only time.
Q When was the last time that you spoke with him?
A This is like about a year or so ago, you know. It has been some time. Been some time.
Q Since Mr. Watkins interviewed you --
A Uh-huh.
Q -- before that time or after that time -- has anybody from law enforcement or the Solicitor's

Office or anybody contacted you about any of this information?

A I mean, I got in contact with -- the Solicitor's Office got in contact with me recently, but during that period of time I didn't talk to anybody else but Watkins.

Q And how recent was that?

A As far as talking to the Solicitor?

Q Yes.

A That was probably about like a week or so ago to let me know that I would be summonsed to court. I mean, that is about it.

Q Okay. So the first time that the Solicitor's Office or law enforcement contacted you in the last two and a half years was about two weeks before this trial; is that correct?

A Yes.

MR. BANK: Beg the Court's indulgence.

(Pause.)

MR. BANK: No further questions at this time.

THE COURT: All right. Thank you.

Solicitor?

MS. CAMPBELL: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. CAMPBELL:

Q Do you have a nickname?
A Yes, ma'am.
Q What is your nickname?
A Bongo.
Q Bongo?
A Yes, ma'am.
Q And you mentioned that we tried to get in touch with you the last couple of weeks?
A Uh-huh. You did. You did.
Q And were you aware the first time anyone in my office became aware of your real name was two weeks ago?
A You said -- say again now?
Q The first time anyone knew your real name was two weeks ago?
A I mean, people on the job knew my name.
Q And let me back up a little bit. You talked about this event and what you knew and didn't know.
A Uh-huh.
Q You were actually out there that day when police officers came to the job looking for him?
A Yes.
Q The Defendant.
A Yes.

Q Did you know who they were looking for?
A They were looking for Anthony.
Q And was he there when they came looking for him?
How were those people dressed? Do you remember?
The police officers?
A Plain clothes.
Q Plain clothes?
A Yes.
Q Did they have vests on to identify themselves?
A No. No. They pulled their badges out.
Q Pulled their badges out?
A That is about it.
Q And did you know who they were looking in?
A They said they were looking for Anthony.
Q And at that point was Anthony there?
A No.
Q Did Anthony come back to work that day?
A Not that I recall, because I left early myself. I
don't even know.
Q You left early that day too?
A Yes. As a matter of fact, after lunch break.
Q You left after the lunch break?
A Uh-huh.
Q So you don't know whether he came back or not?
A Not that I recall.

Q Did you contact him to tell him they were looking for him?
A No, ma'am.
Q Did you know if anyone else contacted him to tell him they were looking for him?
A No, ma'am.
Q Did you know where Anthony lived?
A I knew the area, but I didn't know exactly where. I didn't know the specific house. I had never been there.
Q Did you know that -- of any of his girlfriends that lived on [redacted] Street?
A No. I never knew where anybody that dealt with him like that lived.
Q And just so we can be clear for the jury, you don't remember that exact date because it was a month or so later that they actually -- anybody contacted you?
A Say again now?
Q You don't know the exact date that this --
A The incident happened?
Q -- happened?
A No, huh-uh.
Q And the events you were talking about where he left to go meet TK -- and, by the way, is TK here today?

A No, he isn't.
Q The events that you just related to the jury about you remember him leaving and coming back talking about TK --
A Uh-huh.
Q -- moving out and stuff?
A Uh-huh.
Q Do you remember exactly what date that occurred?
A No. I know it was summertime. It was hot.
Q Summertime. It was hot.
A Pretty much it.
Q And that's it?
A Yes.
Q And did you ever miss work during June or July that year?
A No. I was skating on thin ice myself, so I had to be on the job. I was coming to work a little late sometimes. And, you know, I had to be on top of my game.
Q And to be clear, did you know him as Anthony or another name?
A Amp. We called him Amp.
Q Amp?
A Yes, ma'am.
Q To be clear, Amp was your boss?

A He was like a team leader. Team leader.
Q Team leader?
A Yes.
Q I believe you said that is who you work for? I don't want to --
A No. I worked for Creative Recycling, but he was my team leader. I had supervisors, but he was the one -- in our section where we worked at, which was triage, I mean, he was our team leader.
Q And what did you do at Creative Recycling?
A We recycled electronics. We pretty much destroyed and, you know, took apart all types of electronic equipment.
Q And then the taken apart equipment would be resold?
A I mean, I guess that is, yes, what the company did, yes.
Q And the manager there at that place, his name was what?
A We used to call him Cripp.
Q Did you ever hear him called June?
A We had a supervisor, another supervisor that had come up from out of Florida named June.
Q A different supervisor?
A Yes, ma'am.
Q But Cripp was the one that was kind of over --

A Yes, ma'am.
Q -- Amp, who then was a team leader for y'all?
A Yes, sir.
Q And who all was on your team?
A At that point in time we had TK, it was me, Amp, one guy named Blacc. We had some people who came in and they didn't stay long, they left, so --
Q Those were the main ones, though?
A Yes.
Q Did you ever know Q?
A Yes. He was our forklift driver.
Q And y'all's relationship, y'all worked together every day?
A Yes, pretty much.
Q Y'all pretty tight?
A I mean, yes, to get the job done.
Q Get the job done.
A Yes.
Q And the job was to take electronics, break them down, and resell them for profit?
A Exactly.
Q And by the time -- well, let's get back to it. You said he asked you about the time on the day you do remember when Amp left and came back late from lunch?

A Okay.
Q Do you remember what time it was he checked out that day?
A Like I said, our lunch breaks were probably around about -- that 30-minute break came right around about 12:00 or so, about 12:00 o'clock, if I can recall.
Q And just to be clear, you talk about several breaks during the day.
A Two.
Q The only time you had to clock out was during the lunch break; is that right?
A We had to clock out -- clock in to work, clock out for lunch, clock back in for lunch, and clock out.
Q So a typical day is four different marks?
A Yes.
Q And at that time, I believe you said it would have been around noon. And back when you gave this statement, do you remember -- have you had a chance to look at your statement?
A I looked over it. I will take a look at it again.
Q You were very precise about what time he left?
A Uh-huh.
Q That it was 12:00 noon?
A Okay.

Q And would your memory have been better back then?
A Yes. It is a little tired, but it is around -- roughly around the same time, 12:00 o'clock, you know, 30-minute breaks, you know.
Q Unless somebody, like you said, you had to leave earlier one day?
A Leave early or, you know, let the supervisor know what you had to do or, you know.
Q But that is not what happened this day with Amp because he came back; right?
A You said who, Amp?
Q Amp?
A Amp. Yes, he came back. He came back 15, 20 minutes after our lunch break was over.
Q In fact, you said your lunch break -- you said he left around 12:00 noon?
A Yes, 12:00 noon.
Q And then the lunch breaks were 30 minutes?
A Uh-huh.
Q And that he came back five or ten minutes after the lunch break was over?
A Yes. As a matter of fact, that is what -- on the statement there, that is what it was.
Q Is that right?
A Yes, ma'am.

Q That is your testimony?
A That is my testimony.
Q Which is a little different from earlier, but this is accurate now?
A This is accurate.
Q Okay. So this time is accurate?
A Yes.
Q And you testified on direct he would have clocked out at -- when he left at 12:00 noon?
A He clocked out at 12:00 noon.
Q And then would have clocked back in when --
A He clocked back in. Uh-huh.
Q Okay. Do you remember seeing a young woman you know as Little Mama that day?
A Yes, I recall -- as a matter of fact, she had pulled up, and she was the one that took Amp to the house so I guess you could say talk to TK about the incident, the stuff at the house, at his house, yes.
Q That day you said -- did you know Little Mama's real name?
A No.
Q You didn't know her last name was Gale?
A No.
Q I said it incorrectly earlier.

A Yes. I didn't know her name.
Q Do you remember what she drove, though?
A A brown Impala.
Q Okay. You describe it as a brown Impala?
A Yes.
Q Even though it is kind of a light brown Impala?
A Yes, like a brown Impala.
Q Kind of brown, tannish-looking?
A Tannish brown.
Q You had seen her pick him up or drop him off at work on multiple occasions?
A Yes, from time to time, or his family drop him off or --
Q His family?
A Yes. But, yes, I seen her a couple of times. A few times, let's say.
Q And back then you said that that girl gave him a ride home that day?
A Yes.
Q That would have been after work too?
A Yes. Uh-huh.
Q But you didn't mention that she picked him up for lunch in your statement, you just said she took him home that day?
A Well, my understanding, when he left -- the job was

right down the street from my barber shop, so when I left early that particular day -- you know, I left early after lunch, and then when I -- the time we normally get off work, I seen them riding past going leaving the job. You know, when I say leaving the job, they were leaving clocking out getting off work, and I could see the car pass by my barber shop, so I knew they just got off work.

Q That evening?

A That day.

Q Or later that afternoon?

A Later on that afternoon, yes.

Q And you said typically that was somewhere between 3:00 and 4:00?

A Yes. We normally get off 3:00 or 4:00 o'clock in the afternoons.

Q But you had left early that day?

A I left early that day.

Q What time did you leave?

A I left after -- I say around about -- I say about 1:00 o'clock, 2:00. I left early that day.

Q But you were on thin ice?

A Yes, I was on thin ice, but I talked to Cripp, and we had a very -- a good understanding.

Q Cripp and Amp, they had a really good relationship,

didn't they?
A Yes. He was a cool guy. I mean, Cripp was a cool guy.
Q He looked out for y'all?
A Yes. I wouldn't say he looked out. He was hard on us. There wasn't no looking out, you know.
Q But he was particularly close with Amp?
A All of us.
Q All of you. But Amp too?
A Yes. I mean, he was a team leader. He gave him the position.
Q After the police came and they were looking for him in July?
A Uh-huh.
Q You never contacted him?
A No. I never had his number. But he knew exactly where I was to come get his tape up, and things like that. I always had time for my business at the shop.
Q The woman that you are now testifying picked him up and took him that day and picked him up again after work?
A Yes.
Q That is now your testimony? That is not what you put in your statement, though, but that is what you

remember now?
A As far as who picked him up from lunch -- for lunch was Little Mama.
Q Okay. But that is not in your statement, you admit that?
A I don't recall.
Q I'll be glad to show it to you.
A Thank you.
(Complies.)
Q It is the last paragraph, just to help you.
A Uh-huh. Uh-huh. She would come and picked him up and dropped him off, yes.
Q Uh-huh. But in that statement you don't say that she picked him up and took him and then brought him back at lunchtime?
A At lunchtime I saw him get into her car.
Q I'm asking what is in statement, sir. That's all I'm asking.
A Well, in that statement right there, ma'am, when I said -- her name is known as Little Mama.
Q Little Mama?
A Okay. She drove a brown Impala.
Q Impala we are talking about?
A Yes, uh-huh. The same day she dropped him off, picked him up, yes.

Q You talk about you had seen her drop him off and pick him up before.
A Yes.
Q But you don't mention that that is who picked him up that day, do you? At lunch?
A She was the one who picked him up.
THE COURT: Answer the question, please.
A Yes, ma'am. I'm saying she was the one that picked him up. Is that the question you asked me?
THE COURT: No, sir. She is asking you --
THE WITNESS: I don't understand.
THE COURT: Please don't interrupt me.
THE WITNESS: I don't understand.
THE COURT: Please don't interrupt me again.
THE WITNESS: Yes, sir.
THE COURT: She is asking you what it says in the statement.
THE WITNESS: Uh-huh.
THE COURT: Ask the question, please, Solicitor.
BY MS. CAMPBELL:
Q Anywhere in the statement does it say that Little Mama picked him up at lunch and brought him back?
A No, ma'am. I don't see that.
Q That is all.

A Okay. All right.
Q And, finally, when Little Mama came and picked him up -- now that you are testifying that she picked him up at lunch -- did she come inside or did he go out and meet her?
A No.
Q She didn't come inside?
A No, huh-uh.
Q And, finally, back then, that summer, do you remember -- you mentioned you had time cards?
A Uh-huh.
Q Do you remember that it was that fall that y'all actually went to computerized time cards?
A I don't remember the time, but I remember the shift when we did change over, yes.
Q And if I told you it was that fall, you couldn't disagree with that, you just don't remember exactly?
A That is the only thing I can recall.
Q And maybe Cripp would be the one we would ask that?
A Yes, he would be the one.
Q Okay. Thank you.
MS. CAMPBELL: I don't have anything further.
THE COURT: Mr. Bank?
MR. BANK: Nothing further from the Defense.

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

THE WITNESS: Uh-huh. Thank you, sir.

(Witness steps down.)

THE COURT: All right, Mr. Foreman, and ladies and gentlemen of the jury, perhaps now would be a good time to take our luncheon recess. I would remind you again during this recess you may not discuss this case with others, including your fellow jurors, lunch mates, family, friends, or anyone else. Do not read, watch, or listen to any news accounts or reports of the case, should there be any. Do not use your computer, cellular phone, or any other electronic device to view or obtain information which is prohibited, which includes but is not limited to information about a party, a witness, an attorney, a court officer, news accounts of the case, past or present, information collected through juror research on any topics raised or testimony offered by any witness, or information collected through juror research on any other topic the juror might think would be helpful in deciding the case.

Remember to keep an open mind and do not begin your deliberations until you are directed to do so

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by the Court.

With that being said, we will take our luncheon recess now. I ask you to please be back at 2:30. If you would please be back promptly at 2:30.

Thank you very much. I hope y'all have a pleasant lunch.

(WHEREUPON, the jury retires to the jury room at 12:48 p.m.)

THE COURT: All right. Anything further from the State before we take our recess?

MS. M. WALKER: No, Your Honor.

THE COURT: Defense?

MR. BANK: Your Honor, very briefly. Ms. Campbell, with the last two witnesses, has made a comment about how -- or asked whether TK is in the room, whether TK is in the courtroom. I think what that is getting at is we may not call him as a witness or whatever else. I think it is burden shifting again. I think it is the same as during closing they are not allowed to say, The Defense didn't call this person, the Defense didn't call this person. I think that is what is being inferred to the jury.

I would ask for you to consider refraining her

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from being able to ask that during questions. I think it is irrelevant. I think it is just trying to draw the jury's attention to the fact that we may not be calling him as a witness.

THE COURT: All right. Solicitor?

MS. CAMPBELL: Your Honor, there is case law on point, I will be glad to get it for the Court, I think you are aware of it, in order -- I mean, once they choose to put up a case, we have the right to question it the same way -- anything. I mean, at this point there is no burden shifting involved. And there is case law on point that says that we can comment in closing, I believe, if the witness is available.

THE COURT: There is a recent case on the missing witness rule, I guess for lack of another term. I agree the burden cannot be shifted. I can recall an older case, but I can't recall a recent case right now. I think she can ask that question as far as TK present. But let me review that case. I think it is a 2014 case.

MR. BANK: I believe it is SVP case is the one you are --

THE COURT: Pardon?

MR. BANK: I think it is a SVP case, a

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sexually violent predator case. I'll try to look for it during lunch too myself, Your Honor.

THE COURT: All right. Let me look at that case. I agree there can't be burden shifting, but I'm not sure that question necessarily -- I don't think that question shifts the burden, but I need to think through that and look at that research as far as closing, something of that nature.

MS. CAMPBELL: Okay.

THE COURT: Ms. Campbell?

MS. CAMPBELL: Your Honor, another thing, Defense counsel informed me that their expert -- because I was talking about the limitations on some of the articles and stuff she has written -- they indicate she relied on one or two studies and that they would provide those to me. I just ask them to provide them to me so we don't have to break tomorrow. And she agreed I think to provide them to me. I'd like them maybe right after lunch, if possible.

MR. BANK: We are getting it together as soon as we can. She is trying to do two things at once because she is doing the expert and she is trying to deal with Mr. Porterfield's potential testimony. So I'll take a look for it. And we'll get it

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certainly by the end of the day, if not at lunch.

THE COURT: Thank you.

MR. BANK: Can Mr. Deberry be released from his subpoena at this point?

THE COURT: Yes, he may. And Ms. Gale may also.

MS. A. WALKER: Thank you, Your Honor.

MR. BANK: Thank you, Judge.

THE COURT: Now, give me an idea of this afternoon just time-wise.

MS. A. WALKER: Your Honor, I believe we --

THE COURT: Do you want to review -- revisit with Mr. Porterfield his right to testify or not testify at this time, or do you want to wait until after lunch?

MS. A. WALKER: After lunch would be appropriate, Your Honor. I'll speak with Mr. Porterfield during the lunch hour. And he would testify, if he chooses to, after lunch. And then we have one short witness after lunch as well. And that will be all for today.

THE COURT: And then tomorrow we'll have the lady and/or gentleman from Tampa and the expert?

MS. A. WALKER: Yes, Your Honor.

THE COURT: And as far as reviewing her CV,

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which I have not done yet, you intend to offer that jury information or attempt to offer that jury expertise? As I say, I haven't looked at the CV yet.

MS. A. WALKER: Expertise regarding how?

THE COURT: Jury, how --

MS. A. WALKER: How a jury perceives DNA evidence and the like?

THE COURT: Yes, ma'am.

MS. A. WALKER: No, Your Honor. She'd be -- I'd be offering her as an expert in eyewitness testimony -- or in eyewitness identification and memory. She would be testifying generally about those subjects, and not how jurors perceive such.

MS. CAMPBELL: That is still my concern. And how much she is going to go into. Because most of what she has got in her CV is dissertations and/or articles she has written on those subjects regarding juror interpretation of ID, DNA, sequential identification lineups, all those.

THE COURT: I'll look at it.

MS. CAMPBELL: Your Honor, if I might hand up the bench warrant. We just need to vacate it.

THE COURT: Yes, ma'am.

All right. Anything further? Ms. Walker?

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MS. A. WALKER: No, Your Honor.

THE COURT: Thank you very much. Court will be in recess until 2:30.

(WHEREUPON, a lunch break was taken at 12:55 p.m.)

(WHEREUPON, the proceedings resumed at 2:31 p.m.)

THE COURT: Ms. Walker, do I need to address your client again?

MS. A. WALKER: Your Honor, if you would like to address him, you can, yes.

THE COURT: If you would just step around here to the podium for me, please, Mr. Porterfield.

MS. A. WALKER: I believe Mr. Bank just had to step out because, in what seems to be a pattern here, we had to go pick up our next witness.

(The Defendant approaches.)

THE COURT: All right. All right, Mr. Porterfield, you are still under oath. Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: And, of course, it has been several hours, I guess, since I first spoke with you concerning your right to testify or not to testify.

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THE DEFENDANT: Yes.

THE COURT: Do you recall?

THE DEFENDANT: Yes, sir.

THE COURT: Have you had an opportunity to speak with your attorneys concerning your decision of whether or not you wish to testify or not testify?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions you would like to ask me about your decision?

THE DEFENDANT: No, sir, not at this -- no.

THE COURT: And is your decision, whatever it is, made of your own free will and accord?

THE DEFENDANT: Yes, sir.

THE COURT: And what is your decision?

THE DEFENDANT: I choose to go on the stand. I choose to go on the stand.

THE COURT: All right. So you choose to testify; is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Thank you. Thank you very much, Mr. Porterfield. You may return to your seat.

(The Defendant is seated.)

THE COURT: Ms. Walker, we're waiting on our

next witness; is that correct?

MS. A. WALKER: Your Honor, our next witness would be Mr. Porterfield. We can take care of him while we are waiting on the next witness.

I would make a request of the Court. If Your Honor would be so inclined that we can remove the foot shackles of Mr. Porterfield so that he could walk up to the stand as every other witness has in the courtroom so far just for his testimony purposes.

By the time Mr. Porterfield's testimony should be completed, the next witness should be here.

THE COURT: Ms. Campbell?

MS. CAMPBELL: And what we have done in the past is just have him to be on the stand when the jury comes in so the shackles do not show.

In addition to that, we would ask that a deputy be somewhere in the vicinity around -- between him and the jury.

THE COURT: All right. Yes, I would agree with that. He can come around prior to bringing the jury out and be seated in the witness stand. And the clerk can swear him in.

If he is your next witness, he can come around now.

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MS. A. WALKER: Certainly, Your Honor. And I would ask that the deputy not stand between him and the jury. If a deputy would like to sit over here, I don't have an objection to that, but if the deputy is going to stand up there, I would object to that.

THE DEPUTY: There is a chair right there.

MS. A. WALKER: No problem.

THE COURT: All right. So y'all agree?

THE DEPUTY: Yes, sir.

THE COURT: Mr. Porterfield, if you would come around, please, and take the witness stand.

(Witness approaches.)

THE COURT: All right. Anything before we bring in the jury from the State, Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Defense?

MS. A. WALKER: Nothing, Your Honor.

THE COURT: All right. Bring us our jury.

(WHEREUPON, the jury came into open court at 2:36 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you. Thank you very much. Madam Clerk, would you place our next witness under oath for us, please?

THE CLERK: Place your left hand on the Bible and raise your right.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: I do.

THE CLERK: If you'll state your full name for the record.

THE WITNESS: My name is Anthony Markale Porterfield, Jr.

THE COURT: Thank you, Mr. Porterfield.

Ms. Walker?

MS. A. WALKER: Thank you, Your Honor. The Defense calls Anthony Porterfield.

ANTHONY MARKALE PORTERFIELD,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. A. WALKER:

Q How are you doing, Anthony?

A I'm fine.

Q How long have you been in Columbia?

A Pretty much all my life.

Q And where do you work currently?

A Angelica Corporation. It is a linen company.
Q A linen company?
A Yes.
Q And what do you do there?
A I do -- my position is flat work. I basically feed a machine with the sheets, and stuff like that.
Q Okay. And are you engaged to anyone?
A Yes.
Q And who is that?
A Diana Addison.
Q And do you have any children?
A Yes.
Q How many?
A I have five girls.
Q And does that include Diana's children?
A Yes. Two biological.
Q And are you a little nervous today?
A Yes, I am. I'm going to try. I'm a little nervous.
Q So let's talk a little bit about 2012, which is what we have been talking about with this trial. Where were you working back then?
A I was working at Creative Recycling at the time.
Q Okay. And what did you do there?
A I was a team leader. I think it had a different

name. I couldn't really put a title on it. I was a team leader.

Q I am going to push this microphone just a little closer.

A Okay.

Q I'm just going to make sure everybody even towards the back can hear you, okay?

A Okay.

Q Go right ahead.

A All right. I was a team leader at that time. I'm not sure exactly, okay, but labeled that position at that time. I kind of graduated to that level from being in the company from the beginning, pretty much.

Q And what did you -- and so what did you there?

A Basically I was the one who took all of the information. I was the one who would walk around with a clipboard. It was mandatory for me to take invoices of all the stuff that was coming in off that shipment. As the trucks come in, they unload, then I take the number of all the stuff that was coming in and all the stuff that was going out and shipped out. I basically tell the team what to wrap and what to unwrap and, you know, how to -- you know, pretty much I ran the floor. I pretty

much was that guy that they had to get the information from. So I'm pretty much their go-to guy on the floor.

Q Okay. And how long did you work at Creative Recycling?

A About a year.

Q And did you have a boss at this location?

A Yes.

Q And what was his name?

A Well, he was my supervisor at that time. Cripp and Jude -- not Cripp, Aaron Griffin -- and Jude Yancey.

Q People at work called him Cripp, though?

A Yes.

Q Okay. And Jude Yancey was another supervisor?

A Yes. He was like a -- he was higher than Cripp. He was like -- he was -- yes, he was like a higher position than Cripp.

Q Oh, I'm sorry, I misunderstood. So he was like Cripp's supervisor?

A Yes.

Q Okay. Did you have any co-workers at this location?

A Yes.

Q Do you remember some of their names?

A Yes.
Q Like who?
A Like Bongo, I meant Adrian, Q -- I still don't know his real name. I knew most everybody by nicknames. None of us was really friends, so we kind of just knew each other by nicknames. Blacc. All of them are not coming to my mind. Q. Blacc. Bongo. Everybody is not coming to my mind right now.
Q Okay. And you said you knew them by nickname?
A Yes.
Q And some of them -- did you know some of their actual names?
A Not too many of them. I didn't -- no, not really.
Q You said Adrian earlier; right?
A That is because I found out. I never knew his real name.
Q Okay. And you said that you were co-workers?
A Uh-huh. Yes, ma'am.
Q Were you best friends with these people?
A No, not at all.
Q Okay. Did you get along at work, though?
A Yes. We were just -- yes, relationship.
Q And at the time you worked at Creative Recycling in 2012, were you dating Diana?
A Yes.

Q Do you remember when you started dating Diana?
A It was in spring. March, I think, or a little later -- a little earlier.
Q Somewhere around there?
A It was spring of 2012.
Q Okay. So now we're going to go to June 27th.
A Okay.
Q The date we have all been talking about. Do you remember that day?
A Yes.
Q Did you go to work that day?
A Yes.
Q What time?
A I went to work at 8:00 o'clock that morning.
Q Is that what time you normally went to work?
A Yes.
Q And do you remember anything different about that day?
A Yes.
Q Tell me about that.
A I had a roommate who used to work at Creative Recycling with me. He was also, you know, under me. As much as he was my roommate and like a friend, he didn't like working. He eventually -- as much as I tried to help him out and stay on the

clock and stuff, he eventually got fired.

After he was fired, after receiving his last check, he no longer helped me with my bills. You know, I was helping him move in -- by moving in with me. And he no longer wanted to pay bills no more. And he didn't want to work, he just wanted to party. So he left. Never came back.

And on that day, or the day before, he -- well, he contact me and he said that he wanted to go get his stuff, basically his belongings. And my apartment at that time, all he brought was furniture. His mother donated a sofa and a love -- well, like a loveseat with two seats, and a longer chair. And, you know, like a little desk or something. And that is all he had. So he wanted to collect that stuff. And I didn't trust him in my home by hisself. He was a rolling stone. You know, he moved so much I didn't trust him to go in my house by himself.

Q Okay.

A So I went with him. I asked my boss could I go.

Q Did you know TK before y'all started working over at Creative Recycling together?

A Yes.

Q Okay. And so that day you went -- that particular

day you had to go to your apartment?
A Yes.
Q Okay. And how did you get to your apartment?
A Actually, I remember TK coming to get me. My recollection is he came to get me and he brought me -- he took me to my apartment and we went straight there.
Q Okay. Hold on. Let me just stop you there.
A Uh-huh.
Q Just so we get this straight. He picked you up from where?
A He picked me up from my job, from the job.
Q Okay. From Creative Recycling?
A Yes.
Q And where is that located again?
A Farrow Road. On Farrow Road. Corporate Corporation. Sorry.
Q Okay.
A Corporate Boulevard. I'm not sure of the exact name, but off Farrow Road.
Q So what you recall is TK picking you up?
A I recall TK picking me up.
Q Do you remember about what time?
A I know around 12:00 o'clock before -- the reason why I say that is because I remember asking Cripp,

Look, you know, Cripp, could I go prior to that? Before we go on our 12:00 o'clock break, we do a ritual clean-up, which is normal for a production company, because we tear so much plastic and we have so much glass and stuff that be around, so we have to do a natural clean-up for a production company. So we have to clean up before we do it. So I was in the clean-up and had the fellows, instructed the fellows to clean up a little bit before I left. And I told Cripp that I need to go and I warned him and told him I needed to go and leave.

Q I'm sorry, I didn't mean to interrupt you. Keep going.

A Just told him I need to leave. And I told him why.

Q You told him why?

A Yes.

Q That it had somebody to do with TK?

A Yes.

Q Did your boss know who TK was?

A Yes. He --

Q I'm sorry.

A He was the one that fired him.

Q Oh. Okay. And so did your boss let you leave a little early for lunch?

A Yes.
Q So -- and don't let me put words in your mouth, but was that a little before noon then?
A Yes.
Q Okay. And when you went back and forth to work, did you clock in and out?
A Yes. The awkward thing -- this is a fairly new machine. When we first started the company -- I started with the company before we had any machines or clock or anything. I honestly just remember today from hearing Adrian speak just out of honesty, I didn't even remember how we was documenting our time. And we was documenting by a book we was writing our name in, but they would write our hours by knowing it for the day. We just got that machine maybe a few weeks before, you know, that incident occurred.

And this machine, it is like old. It is kind of -- you just push it down and it pushes the numbers down. Yes.

Q Okay.
A We were just having complications with it. But I remember going to Cripp with it.
Q So would you clock in when you came in in the morning?

A I would clock in when I came in the morning.
Q And would you clock out when you left for lunch?
A Yes, but, sometimes -- yes. I didn't -- sometimes I would be in a rush. I could have forgot.
Q Okay. But you were supposed to?
A Yes.
Q And then you were supposed to clock back in from lunch?
A Yes.
Q And then I guess after you left from work?
A Yes.
Q Okay. And then -- so -- and we'll get back to -- so TK came and picked you up?
A Yes.
Q And where did you go?
A We went straight to my house.
Q Okay. And then what did you do there?
A Got some of TK's stuff. When I got to the house, some of my stuff was already bundled. TK, he lived with me, like I said, prior -- a couple of weeks before then.

I had a window in my home that was a little shaky. He knew how to get in. It was behind the TV.

When I came into my home, I already had stuff,

like my clothes and stuff together, like he had already been there.

And, you know, I questioned him. I didn't really get into it. I know TK, so I knew he probably just wanted my hats, and stuff like that, stuff he had inside.

So instead of saying anything, I gave him a book sack, which he asked could he have. And I just told him, Come on, let's get your stuff. So we was pulling his furniture out. First the loveseat, and then the other sofa.

Q And so you moved his stuff out?

A Yes. We didn't move all of it out. We was moving it out. And then -- he came in his mother's car, which couldn't possibly fit neither chair. It couldn't possibly fit neither chair. So that was where the time started, you know, stretched it past 10 to 20 minutes. Because I was wondering how we were going to move this. You came this far. How are we going to move this furniture?

So at this time we was waiting. He was on the phone trying -- he was telling me something about a U-Haul coming. And then after a while, you know, he is saying that, you know, just leave it. So that is what we end with that.

Q Okay. And so while you are at the apartment, did anybody show up?
A Yes.
Q Who was that?
A I called Nazirah prior to that. Actually I believe I called her earlier. I'm not sure exactly what time. But I contacted her and I told her to meet me at the house.
Q And what else did you call Nazirah?
A NaNa.
Q And did you ever date NaNa?
A We had a relationship.
Q Okay. And so she comes to the apartment?
A Yes.
Q Okay. And what does she do?
A She came for a while. She stopped, and then she went to the store. She came, and then she left. But she told me she would be right back. Because I told her I definitely need her to come back because I knew I wasn't going to ride back with TK. I thought we was -- TK was like a best friend/brother, and stuff like that, and he was a good friend to me, but at the same time we were living two different lives, lifestyles and everything. I thought we were going to bump heads

that day. So that is how I can remember that day so well. And I told her to come -- definitely come back, because I knew I wasn't going to be able count on him to carry me back to work.

Q So when NaNa came back, what did you do?

A She came in. I'm not sure what she had -- not sure what she had to eat or anything, but she came back and sat around for a minute. And we -- we -- me and TK -- pulled his furniture to my back yard and left it in the back yard. And she took me back to work.

Q Okay. She took you back to Creative Recycling?

A Yes, she took me back to Creative Recycling.

Q And about what time do you think you got back there?

A A little after -- I want to say a little after lunch break, but with that being said, the guys were still -- the guys, the co-workers, my co-workers -- were still in the lunch room. Like it is a break area as soon as you walk in by the office. They were still like in there. I can't recall if they was just waiting on me or -- but I know I wasn't -- it wasn't no 20, maybe 30 minutes after, because I know Cripp would have definitely told me to get on the floor and, you know, start

working.
Q Okay.
A So maybe 5 to 10 minutes after the 30-minute mark. 12:30. After 12:30. Maybe about 12:45, something like that.
Q Okay. And then what did you do after that?
A Went back to work.
Q And then?
A I think -- if you are implying -- if I'm implying right -- I gave Cripp my card because at that time, you know, a few minutes late.
Q Okay.
A So I gave Cripp my card.
Q Okay. And then you said you went back to work?
A Yes.
Q And then how long did you work?
A I worked all day.
Q What does that mean?
A I worked until -- actually I'm the last person. I have to be the last person. So I worked all day until 4:30, I guess what time I believe we got off. The only reason why I'm a little confused is because we -- at the beginning we had a schedule like from 7:00 to 3:30, at first. And then we went to a schedule of 8:00 to 4:30? Yes. Something

like that.
Q So at some point it switched, you are just not -- you just don't quite remember?
A A lot was changing within the company. It was a new company. The company just built. I was with them from when they first started with just three people and one forklift operator.
Q And do you happen to remember what you did that night?
A I can't -- not really. I can't say exactly what I did.
Q Okay.
A Yes.
Q And do you remember anything maybe from June 26th? The day before?
A Not no specific details, no.
Q What about anything from June 27th?
A The day --
Q The day after?
A The day after?
Q The day after TK moved out. Do you remember anything from that day?
A No, not -- no, not -- no, ma'am. Pretty much I worked. Monday through Friday I worked.
Q Okay. And so your normal work schedule was 8:00 to

4:30 you think about this time?
A Yes.
Q And that was Monday through Friday?
A Yes. Yes.
Q Okay. Do you know somebody named Gulzar Nathani?
A Yes.
Q And how do you know him?
A I knew Nate through meeting him at the flea market. I met him at the flea market.
Q Okay. And you called him Nate?
A Yes. He told me to call him Nate.
Q Okay. And how did you meet him at the flea market?
A I met him at the flea market. I had a laptop that needed repair. I had a broken screen. I just needed to repair it. And, you know, I came to him. And it is actually quite a few guys at the flea market that do repairs and all kind of stuff. He was one of the ones that, you know, when I stopped by he caught my attention. He had a pretty big podium kind of thing. So I figured he was equipped for the job.
Q Okay. And then did you continue to meet with Mr. Nathani for any reason?
A Yes, I did. Because Nathani, at that time, being I just had a cracked screen, he told me that he would

replace it, or he can replace it, and it wouldn't be no more than $50, $60. It was a fairly old computer, but he made a price I couldn't refuse on it.

Then he went into details and telling me what parts he can use for it and how he do it. And so at that time it was a fairly old computer. Like I said, he offered me almost about $200 for it. So it was like a win/win. So I was like, yes. And he -- I had two friends with me also. And they sold him merchandise also.

And ever since then -- he gave me his card and told me if I had anything else, you know, to call him.

Q When you say merchandise, what do you mean?

A Anything electronic.

Q And where did you get these electronics you are talking about?

A Sometimes, you know, because I'm into music, and even in the house they was doing --

THE COURT REPORTER: I'm sorry, I can't understand you.

A I'm into music. I love studio. So I have a lot of friends that have studios. Most of the studios around Columbia, actually. And my friend house

that y'all went to on [redacted] Street actually have a studio, recording studio in his home. So -- and I'm a recording artist also. I know plenty of guys with different electronics.

So, you know, I come across different things. I come across broken laptops, I come across iPhones, I come across tablets, and stuff like that. So sometimes -- I did have a job. So if I came across somebody who said, I'm willing -- you know, can I sell this.

And sometimes I go places and just because I met Nathani if I go somewhere and somebody had a, you know, an old laptop or an old microphone or an old TV or something, I ask them would they want to sell it. And if they ask me -- you know, they say they are interested in selling it, I call him and ask him how much he willing to pay for it. He never really asked the rest of the people. He didn't really care. So I didn't really care to ask -- to inform him.

Q Okay. So you just had this bargaining relationship with old electronics?

A Basically, yes.

Q And how long did this go on with Mr. Nathani?

A A couple of months.

Q Okay. And this was just something you did on the side?
A Yes.
Q And is that the extent of your relationship with Mr. Nathani?
A That was it.
Q Anything else outside of that?
A No.
Q And did you ever see the rest -- and Mr. Nathani's business, where was that primarily?
A Flea market or his home. He had a -- he requested that I start coming to his house.
Q Okay. So he had two places of business?
A Yes. I always -- the first couple of times I met him at the flea market. Until he start realizing that, you know, some people may have, you know, a different thing going. So he start requiring that I come to the house.
Q Okay. And then, so did you ever see any of Mr. Nathani's family?
A I seen them, yes.
Q And who were the people that you saw?
A I saw mostly Mr. Nathani's son. I seen his son most of the time. And I seen his wife. And I seen his wife. And I seen his two daughters eventually.

Yes.
Q So you did see them?
A I seen them, yes.
Q But you didn't do business with them?
A I never, never met them, been in the same room with them, never. I couldn't possibly recognize them until I seen them recently.
Q Okay. So, and now we are just going to take a little bit of a jump. You have been in this courtroom throughout the trial. Investigator Clarke said that he gave you a call on your cell phone?
A He did.
Q Do you recall that? And since we have been sitting here, did he call you on your cell phone?
A Yes.
Q And about how long after this incident did he call you?
A A couple of weeks, almost a month after the incident.
Q Okay. And without saying exactly what he told you, you learned some information. Is that true?
A That's correct.
Q Okay. And did Investigator Clarke ask you to meet up with him?

A Yes.
Q And what information did you learn that Investigator Clarke wanted to meet up with you about?
A Without saying what he said?
Q What is the information he wanted to talk to you about?
A I was given information that -- well, that it was an incident that occurred.
Q Okay.
A The time, place, and date. And without letting me know what the crime -- what anything was, he said the incident pertaining to Mr. Gulzar Nathani. Do you know anything about an incident that took place, such and such at this time?
Q Okay.
A I answered him at that time as, No, I don't. And then he went on to say that, I need to meet with you. And --
Q Okay.
A -- I need to see you today. Everything he was saying at the time -- you know, I knew the business that I had with Mr. Nathani. And I knew that, you know -- I knew everything wasn't legitimate. You know, I didn't know, you know, anything else. I

didn't know of any crimes. I didn't know of any charges, or anything about anything. I just knew that he said, you know, I just need to see you something pertaining to him.

Q Okay. So hold on.

A Yes.

Q So you just knew there was an incident with Mr. Nathani?

A Yes. And knew --

Q About a place and a time?

A Yes.

Q Okay. And so did he ask to meet you?

A Yes.

Q And where did he first ask if he could meet you?

A It wasn't more so of an ask. He -- he did not -- I don't know what his position is, but I ran into -- I'm a 28-year-old black man. I ran into --

THE COURT: That is not responsive.

THE WITNESS: I'm sorry. I'm trying to respond.

THE COURT: Please don't interrupt me.

MS. A. WALKER: Hold on. We'll just go on --

THE COURT: Please don't interrupt me.

MS. A. WALKER: Oh, I'm sorry, Judge.

THE COURT: That is not responsive to the

question. Reask the question, Ms. Walker.

BY MS. A. WALKER:

Q Mr. Clarke, Investigator Clarke --

A Uh-huh.

MS. A. WALKER: Beg the Court's indulgence. I'm trying to remember my question.

THE COURT: Where did he first ask to meet you.

MS. A. WALKER: Yes.

BY MS. A. WALKER:

Q Where did he first ask to meet you?

A He didn't ask. It was at the Exxon.

Q Okay. He asked to meet you at the Exxon?

A He did not ask me. He --

Q He told you to meet you at the Exxon?

A He was telling me to do everything.

Q Okay. And did you agree at that time?

A I agreed out of fear of not knowing what is going to happen.

Q Okay. And then did you get off the phone?

A Yes.

Q And who did you call after that?

A The only friend I really had. I called my mother.

Q Okay.

A That was the only person I called.

Q Okay. And that is just one of the questions that I'm asking you, okay?
A Yes, ma'am.
Q I know you are nervous. So you called your mother.
A Yes.
Q Without telling me what your mother said --
A Uh-huh.
Q -- what did you decide to do?
A I decided to call him back.
Q Okay.
A I decided to tell him that I didn't want to meet with him because, for one, it didn't seem like I had no reason to. He never said anything about I had to. He never said that it was a specific situation with me. He never said that -- he never said anything -- he was asking, but it was like I didn't feel like I had to.
Q Okay.
A But I feel like he just really, really, really wanted me to.
Q Okay.
A So at that time I was like, well -- even with listening to him, I was like, Do I have to? I asked him that. He was like, No, you don't have to, but I need you to. And, you know, he was very

intimidating.
Q Okay. So you decided not to meet him?
A I decided not to meet him.
Q Okay. So we're going to jump to the next day. So this was -- so the day after Investigator Clarke called you on the phone --
A Uh-huh.
Q -- the police eventually came and arrested you; right?
A Yes, ma'am.
Q And was this the day after Investigator Clarke called you on the phone?
A Yes.
Q And where were you?
A I was at work. And --
Q When they arrested you, where were you?
A I had just went to lunch break. I had just went to lunch. Me and my co-worker, which happened to be my brother, went to lunch. At the same Exxon station in which he asked me to meet him the day prior.
Q Okay. And then -- hold on. Listen to my question.
A Okay.
Q So when the officers came to arrest you, where were you?

A I was at the Exxon -- I was at the Exxon station when they -- oh, I'm sorry. When they came to arrest me -- you mean where they got me from?
Q Right. Where did they arrest you at?
A I was on [redacted] Street.
Q [redacted] Street?
A Uh-huh.
Q Everybody was having trouble with that word.
A Okay.
Q What is at [redacted] Street?
A What is it?
Q Yes, what is that? What is that place at [redacted] Street?
A That is my -- that is the home of one of my best friends, one my closest friends. He has like a recording studio in there. It is like my home away from home. It is actually around the corner from my home.
Q So you are at your friend's house?
A Yes.
Q And then what happened?
A I was there for about approximately five to ten minutes.
Q And what happened?
A And I heard bam at the door.

Q You heard banging at the door?
A Yes, banging at the door.
Q And what kind of banging?
A Well, I didn't know at first. I was in the room looking for a lawyer. I was in the studio. I was in the studio, had the phone book open and everything. I was looking for a lawyer at the time.
Q And why were you looking for a lawyer?
A Because I didn't know what -- I just heard officers was at the job and I didn't know what was going on.
Q So somebody had called you from the job?
A Somebody did.
Q And told you that officers were looking for you?
A Yes.
Q And so that is -- so what were you doing at the house again?
A I --
Q Looking for a lawyer, is that what you said?
A Yes. I went in the house. I went there to talk to -- I just felt like -- I just felt safe there.
Q How were you feeling at the time?
A I was -- I was scared.
Q You were scared?
A I was scared. I didn't know what was going on.

Q Okay. And so you heard banging on the door?
A Yes.
Q Did you know who it was?
A No, I didn't know who it was. Not at first.
Q Okay. Did you eventually know who it was?
A Yes.
Q And then what did you do?
A I proceeded to the back room. I thought -- before I heard them in the room, I literally -- the house is a big house. They have a long hallway. It is a door before you get to the back of the hallway. I actually was fighting -- battling within myself. I didn't know what was going on. At the same time I was scared. So I was actually in the hallway for about three or four minutes when they first, like, come in. And I was debating whether or not to go in or should I just wait till they leave and see if I can proceed with calling a lawyer. And so I didn't -- I didn't decide to stay. My nerves were rattling.
Q Hold on. Hold on a second. I know this is -- so you said you were struggling between two decisions?
A Yes.
Q Okay. And you decided not to turn yourself in?
A I decided not to.

Q Do you regret the decision?
A Yes. I definitely do.
Q Okay. So what did you end up doing?
A I end up going to the back -- back bedroom, which is -- which is another room that was built on connected to another room that was built on. It is like a pool room/bedroom. My godmother basically had built another room there. And inside that room, you go in that room and is an entrance of another room, and then that room is a bathroom. And the bathroom had one window. And through that window, I decided to go outside.

And I wasn't -- I was already tired. So I went out the window under the deck. I did. So I ran out the window, I went through the window, and I went under the little deck, the dock.

Q So you went under the deck?
A Yes.
Q And how long were you under there?
A About -- I was under there for a while. I was under there for about 20 minutes.
Q You think so?
A I think longer. Because they was in the house for a while.
Q And what was that like, being under the deck?

A That was scary. And, personally, with me already not being locked up, I didn't went far in, I only went about ten, maybe ten feet in. It was real dark in there. It was real cold, even though it was sandy, it was dirty. It was an experience you never want to experience. Something I never would feel like I would ever do. Even if I had a job doing it, I probably would never even go in there with it. My adrenaline was pumping so much that I didn't care. I just didn't want to get caught.

Q Right. And so while you are under the house, what happened?

A I was under there for a while, and then -- I don't know. I was just under there sitting. And then I just seen them coming to the back. Not seen them come to the back. I really didn't have no vision under there. A confined dark space. I was between like these little gray things. I'm not sure if it was a ventilation system, or something like that. It was like some big gray things that hold fiberglass and stuff. I was like between there.

Q Okay.

A And I heard them come to the back yard. I heard them mostly because I heard the dogs bark in the

back yard. And I kind of figured they were coming to the back yard.

Q And then what happened?

A And then they came to the opening of the under-passage under the house. And I heard them scream out then. And basically --

Q What were they yelling?

A At that time they was just -- they was screaming to see if I was under there. They were saying, you know, If you are under there, come out. I can't remember word-for-word. I guess procedure things. I don't remember word-for-word what they said.

Q Okay. And then what happened?

A They sent a K-9 in. And I have never seen anything like it. I was pretty -- I was fairly dirty that day. Real dirty. And dusty from the dirt. But the dog came in. And he smelled me. Kind of like circled around me. And kind of like did a scratch. And then went back out.

And, yes, it was kind of awkward. I thought he was going to full attack. I looked him dead in his eyes. He kind of looked me dead in my eyes. He did like a scratch and then he went back out. And they did some little thing with him. I don't know what they -- I don't know exactly what they

did, but I guess -- I guess something maybe dogs do when they tell them to come back in. So he came back in. And my belief -- I love dogs, so I wasn't thinking he wanted to bite me. But he ended up being in a very short space. So when he started biting me I couldn't kind of get him off me. He started biting my shoulder. It was my left shoulder. And he started biting my left shoulder, my left arm.

Q Then what did you do?

A With all respect, I pushed the dog, and I kind of hold him off me. And by that time I was calling them and, you know, Hold the dog off me. And we're in a very tight space, so he couldn't get no more to me. Then they kind of called him. I seen his attention went to them. And he ran to them. And I crawled out.

Q Okay. And so what happened when you crawled out?

A I crawled out. You know, they snatch me up, threw me down, and stuff they do. And they locked me up. They put me in the cuffs.

Q Okay. They put you in cuffs. And then what?

A Then I asked them what am I -- what am I being charged with and what are the crimes and like what is this all about.

This is when I gave in. I just -- what is this all about? I didn't make mention that I went to the hospital weeks prior.

Q Hold on.

A I'm sorry.

Q Hold on. Let's just answer one question.

A Okay.

Q We'll get there.

A I asked them what the charges was and basically what was this all about. When they told me the charges, I felt a sense of relief instantly. And then a feeling of like burden, like, why me? So I felt that at the same time. And then --

Q Can you explain that a little more?

A The relief came from -- it wasn't nothing that I felt like I did, you know, because I knew I had business with Mr. Nathani, nothing of which I felt like I did, you know, nothing that -- but when I heard the charges and the crimes and stuff that happened, that is not me. I didn't do any of them things. So I was relieved that it wasn't nothing that, you know, I felt like I did.

Q I understand. So in this whole situation with the dog and the running and -- is this how you would have handled the situation?

A No, definitely not. If I would have heard anything about this, I would have, you know, definitely told him what -- he asked what my job was. I told him I was at work that day. I definitely would have told him to come to my job if I felt that way.

Q Okay.

A If I would have known.

Q And are you a little wary of police officers in general?

A Yes.

Q Is that just your nature?

A No. I mean, that is not my nature. That is not just my nature. I don't think that is my nature.

Q Okay.

A My culture nature, I think that is something that I was raised -- I was raised having. It is not that I dislike cops. Cops don't like me. I always been scared of cops. It didn't matter if it was bubblegum being stole, it didn't matter if it was anything. I just seen family members choked out. I have done seen people shot in my family. I have done seen people --

MS. M. WALKER: Objection, Your Honor.

A -- brutally beaten by cops.

THE COURT: How is any of this relevant?

MS. A. WALKER: Your Honor, I can move on. I apologize.

THE COURT: That is stricken from the record. All of that last response, the question, both are stricken from the record and is not to be considered in any manner whatsoever by the jury.

MS. A. WALKER: Your Honor, I'll move on.

THE COURT: Thank you. Thank you.

BY MS. A. WALKER:

Q We're going to move on.

A Okay.

Q So you were arrested?

A Yes.

Q And the cops -- and the police officers, they arrested you and they -- and were you treated by EMS?

A Kind of, sort of. The reason why I say that, that is another reason why -- I told them to take me to the hospital. They didn't want to treat me. They treated me as if I committed those crimes.

Q Well, hold on. I'm talking about medical treatment. Did you get stitches for your --

A No. EMS didn't -- they had a water bottle. They literally just sprayed it on my arm. There wasn't no antibiotic, there wasn't nothing. My back was

hurting. My chest had a tight cramp. I already been taking medication for that.

Q Okay.

A So they didn't know -- they didn't do anything.

Q But they ended up taking you to the hospital?

A They took me to the hospital. I requested to go to the hospital. I was bleeding.

Q Okay. And when you were in the hospital, you were accompanied by police officers?

A Yes.

Q Okay. And while you were in the hospital, did you have an occasion to go meet with Investigator Clarke?

A Yes.

Q Okay. And did he come and question you?

A Yes.

Q And did he ask you multiple questions?

A Yes.

MS. A. WALKER: Beg the Court's indulgence?

THE COURT: Yes, ma'am.

(Pause.)

BY MS. A. WALKER:

Q I'm showing you what is marked as State's Exhibit 22. Does that look familiar to you?

A To be honest, it is like the paper I signed before

he left.
Q Okay. Do the words "Miranda rights" sound familiar to you?
A Sound familiar.
Q You have heard them on TV?
A Yes.
Q You have the right to remain silent, anything you say --
A Yes.
Q Okay. And so you recall Investigator Clarke coming to the hospital and talking to you?
A Yes.
Q And he read you your Miranda rights?
A I --
Q That form that we just went over?
A Yes.
Q Okay. And did he question you after that?
A He questioned me before that.
Q Okay. And after?
A No. He left after. I wasn't -- obviously I didn't give him what he wanted. I signed that paper. After I signed that paper he left. I don't remember seeing him no more.
Q Did he mention anything about the incident?
A Yes.

Q At the Nathani home?
A Yes.
Q He did give you some information about that?
A He repeated the whole -- the conversation that he had on the day before.
Q Okay.
A He kept questioning about -- he said, What was you doing at 2:00 o'clock on the 27th? And he said, Did you do this? Did you do this? He was very forceful with his words. He sounded the same intimidating guy. He looked exactly how he sound when I pictured him. Big guy. And that --
Q And he left after you signed that paper?
A Yes. He did all of that. And then he said, I am going to need you to sign these papers.
Q Okay. And so now we are going to move on. So after the hospital, they transported you to the Alvin S. Glenn Detention Center; is that right?
A That's correct.
Q And that is a Detention Center, for the lack of a better term, that is a jail?
A Yes.
Q Right? And let's talk about jail. How is it?
A It is the worst. And nobody wants to experience it.

MS. CAMPBELL: Objection, Your Honor. Relevance.

THE COURT: Yes, ma'am. I will sustain that objection.

MS. A. WALKER: Your Honor, if you will allow me to lay a little more foundation. Can I approach the bench?

THE COURT: I'm sorry?

MS. A. WALKER: Can I approach the bench?

THE COURT: Yes, ma'am. Certainly.

(WHEREUPON,a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Thank you. Thank you very much. Thank you, Ms. Walker.

MS. A. WALKER: May I continue, Your Honor?

THE COURT: Yes, ma'am, please. You may ask your next question. Thank you.

MS. A. WALKER: Thank you, Your Honor.

BY MS. A. WALKER:

Q So you did go to jail on this charge?

A I did.

Q Okay. And so you were in the courtroom when a number of phone calls were played between you and Diana; right?

A Yes.
Q Okay. And so I'm just going to go over a couple of things about those phone calls, okay?
A Yes.
Q And I'm going to try to -- I think the phone calls are a little out of order, so I'm going to try to go chronologically.
A Okay.
Q So -- and this phone call --

MS. A. WALKER: Beg the Court's indulgence?

THE COURT: Yes, ma'am.

(Pause.)

BY MS. A. WALKER:
Q All right. In one of those phone calls you talked to Diana and you asked her, "Don't ask TK, tell TK"?
A Yes.
Q Do you recall that?
A Yes.
Q Okay. Why were you telling that to Diana?
A Multiple reasons. I had no help. I was indigent. I had no family, friends, nobody I can contact. I didn't even ask -- all the money I had, I owned at that time, was with me. I had nobody to resource to. And TK happened to be -- one of the phone

calls -- you said you was going to go in chronologic order, but that end up being one of the phone calls that was after.

Q And I apologize. I think this one was on the 22nd. I did go out of order.

A The reason why I remember that day is because once hearing all them days, I been in from Day 1. And foremost, I was desperate to get home. I just had a job. I just got my duplex apartment. I had bills. I took out a loan to get that apartment. I had to get back home. I was a team leader at the job. And I wanted my life back. I wanted to get back home.

Q Okay.

A Yes. So. All right. Well, I did say that, yes.

Q So what you said to Diana, though --

A Uh-huh.

Q -- was, "Don't ask TK, tell TK." What did you mean by that?

A TK is a hothead. He don't listen. Even when I was trying to give him constructive criticism in the house, he didn't wash one dish. It don't matter what it is. He wouldn't have came through for me at all. I don't even think he would have did any research for me.

Q And I'll stop you there. Were you and TK getting along at this time?

A No, we wasn't. I just kicked him out my house. We wasn't friends. He didn't even like Diana because -- he didn't even like Diana. He just didn't like her over there.

Q And you used the phrase, you said, "Tell him Amp said do this for them, T-H-E-M, write it like that, capitalize it, T-H-E-M." What does that mean?

A T-H-E-M, The Hottest Elevated Music. We created a group that we -- well, we broke up -- that we -- it was just me and him. And by "THEM," we are saying -- every time we made a song, this is one of THEM. And any time we come together and we make a song, it is like, yes, this is one of THEM, so it is going to put under one of THEM. It takes me and him in order to make it one of THEM. Any time we ever use the term THEM it was because me and him came together.

At that time, with some people on the street, we used a new metaphor we used to connect, but that was my term I knew what attracted my -- that I could use in order to get him to understand, I really need you, and I haven't forgotten about us.

Q I understand.

A Because he don't answer my phone calls. Every time I call him prior to that incident, any time I call him asking for money, asking for the deposit, asking for half of the lights, asking for him to put in groceries that he ate. I be at work, he played all day. I come back home, the house is trashed. When I say trashed, it is trashed. I call. He don't answer. My way of telling Diana to convince him to help me.

Q Okay.

A I'm in a situation I'm not supposed to be in. Help me. And I chose the wrong -- you know -- you know, hearing it back, it hit me across the head too.

Q Okay.

A So.

Q So when you are in jail, you have to pay for your phone calls?

A Yes.

Q And you can only make phone calls at certain times?

A Yes.

Q And so you were able to call Diana?

A Yes.

Q So did you need Diana's help?

A Desperately. I wasn't in regular confinement. If you heard on the phone calls, I told her I was

shackled on my feet and my arms. I had chest pains that they didn't agree with. When I came in, not only did I have bites and marks on my back, they was telling me to walk upright going down the hallway. I wasn't breathing well. My anxiety up. My chest at this time felt like it crumbled. And when I was at work, it was like that. And Cripp was the one who advised me to go to the hospital. I had chest -- it cramps up real bad. And they consider that a medical problem when you first get intake in jail. But they don't put you in a medical dorm. They don't even -- they don't even take care of you. They just put you in a special housing unit. If they feel like you have any defect, any flaw, any problems, they put you in Special Housing Unit.

Q So that is where you were?

A They sent me straight to Special Housing Unit, which means I had special housing -- special housing privileges.

Q Okay. So, and then -- so in these phone calls are you wanting Diana -- are you trying to figure out what happened?

A Yes. And on top of that, I had to -- I'm in a position where I get on the phone once every other

day if -- if the officer want you to, allow you to. And then you can't get on it until what -- you know, if they want you to. And so I desperately needed her. I had no -- I had no other number. I didn't have no other number. I had no other resource. My family -- members out of my family didn't have cell phones. And if they did, a lot of people I wasn't in contact with when I was on the street. So I had nobody else. She was the only person. She was literally my only resource.

So when I got on the phone with her, I told her everything I felt like I had -- so I heard the recording. I knew it was recording. At this time I didn't care. I just wanted to be free. Not just want to be free, I wanted, you know, a life. But that is all I had. She all I had.

Q And I'm going to talk about something a little bit in your past. How old are you, Anthony?

A I'm 28 years.

Q You are 28 years old?

A Uh-huh.

Q Have you ever been convicted of a felony in your life?

A Yes.

Q And when was that?

A About ten years ago. 2004 I was convicted of --
Q That's okay. In 2004?
A Yes.
Q Now, Anthony, do you own a car?
A No.
Q In 2012 did you own a gold car?
A No.
Q Did you own a gold sedan?
A No.
Q When the Government asked you to supply a sample of your DNA, did you willingly give it over?
A Yes.
Q And did they ever come to your house, your mom's house, or anywhere where you live and execute a search warrant?
A I never been contacted. I never -- no. No search. No nothing.
Q Did you ever tell Investigator Clark that you didn't do this?
A Yes. I told him I didn't do it. Plenty of times. Plenty of times.
Q Did you -- I'm sorry?
A I said it plenty of times.
Q Did you ever hold Rabia Nathani at gunpoint?
A No. Absolutely not.

Q Did you ever hold S. N. at gunpoint?
A No.
Q Did you ever rob the Nathani home?
A No.

MS. A. WALKER: Beg the Court's indulgence?

THE COURT: Yes, ma'am.

(Pause.)

MS. A. WALKER: Thank you, Your Honor. No further questions.

Q Please answer any questions by the Prosecution.
A Okay.

THE COURT: Thank you, Ms. Walker.

Solicitor?

MS. CAMPBELL: May it please the Court?

CROSS-EXAMINATION

BY MS. CAMPBELL:

Q So where were you living?
A I was living on Colonial Drive.
Q On Colonial Drive?
A Yes, ma'am.
Q Do you remember the address?
A No, but I can give you specific details of exactly where it is at. I didn't -- I wasn't even living there that long. I lost the apartment a couple of weeks prior to getting it. That's why I was so

much in a rush to get back home. I didn't even pay my full first month's rent.

Q Who lived on [redacted] Street?

A My mother. [redacted]. I just left from her house.

Q Let me just start. In listening to your testimony, you were pretty much mistreated by the police?

A Yes, ma'am.

Q You were mistreated by EMS?

A Yes, ma'am.

Q You were barely treated and released by the hospital?

A Yes, ma'am. That's correct.

Q And then you were mistreated at the jail?

A Yes, ma'am.

Q And you have been falsely accused in this crime?

A Yes, ma'am.

Q So you are just a victim?

A Yes, ma'am. In your words --

Q I'm sorry?

A In your words, of course.

Q No, sir, I'm asking you your words. I don't mean to put words in your mouth.

A Uh-huh.

Q How far did you go in school?

A Well, I made it to tenth, but I didn't graduate.

And, like I said, I didn't get much credit college -- I mean, yes, college credit. But I studied some.

Q Studied some?

A I got a GED.

Q Obviously intelligent. You got your GED?

A I'm not intelligent. But I hold my head on my shoulder well.

Q And, in fact, you said that you started at this job about a year beforehand?

A Yes. I been working there for about a year.

Q At the recycling plant?

A Yes. About a year.

Q And when you started there, you said you worked your way up to, not exactly a management position, but definitely a position of authority?

A Not too much of authority. I didn't really call no shots.

Q Well, what did the recycling place do?

A It recycles. We break down materials.

Q And material. But let's talk about what material you break down.

A Any kind of electronics. Actually it goes from anything as simple as a little toy. All kinds of electronics. It came to us -- it took a very rare

client. It is not even -- I never really heard of it until it came to South Carolina. Basically any kind of electronics. Electronics can't be -- it can't be -- I can't find the right word, but you know if anything is on landfills -- and TVs, they don't really -- like wood and dirt, they don't really go through the soil, so they need a place to break it down.

Q Harbor usable parts?

A Not even usable parts.

Q It doesn't have to be usable?

A It don't even have to be useable. It can be plastic, it can be glass, it can be stuff that have wires in it, it can be stuff that has motherboards in it.

Q When you started with this company, you said it was a three-man shop?

A No, it was never a three-man shop.

Q What did you mean when you said it was three of you and a fork --

A And plus one. It was a big facility. At the time when they came we was using the bigger part of the factory. When we first started it was just a smaller part, just the opposite side. It was just a smaller warehouse. And it was about a handful of

us. It was me and two other guys.
Q I'm just using your words.
A Yes. Okay.
Q And you and two other guys would be three?
A Yes. Plus the forklift driver.
Q And who were the two other guys who started this with you?
A It wasn't a guy. One was a woman. One was a Jonathan -- actually they didn't last. They didn't -- they didn't -- they didn't last that long.
Q So when did Cripp come in the picture?
A A couple of months after.
Q And Cripp was your supervisor?
A Yes.
Q And Cripp was your friend?
A No.
Q Cripp wasn't tight with you?
A No.
Q What about you and Bongo?
A No. I knew Bongo. We -- none of us was friends.
Q Okay.
A Make that clear. None of us was friends.
Q Okay. Not Q?
A Q?

Q Q?
A He wasn't a friend.
Q Okay. What about Blacc?
A None of us was friends.
Q You even knew how to spell Blacc's name. He doesn't spell it like the regular word black, does he?
A No, he doesn't.
Q And you had met Ms. Addison that spring?
A Yes.
Q And started a relationship with her, it was developing?
A Yes. We had a friendship first.
Q A friendship at first. And then it got more serious than that. She ended up being your fiancée?
A Yes.
Q And that June y'all went on several trips?
A Uh-huh.
Q Who would pay for them?
A She did.
Q She did?
A Yes. On Father's Day, I haven't seen my own daughter for a year. I was having problems with my -- the mother of my child and --

Q Which one?
A I have two daughters. And I have -- she is now seven. At that time I believe she was four. And I was having problems with her, and she wouldn't let me see my daughter. Diana, having three daughters, and knowing how good of -- I guess in her eyes, how good a guy I was, she decided to take me on a trip at that time. She paid for everything. She even bought me a watch that was way beyond I can pay for. I forgot what kind of watch it was, but I knew it cost about $600. Her money was way more than mine. And I'm not sure where she got it from. And, trust me, I was the type, all I had was my check, and all I could spend was about $100. I think she allowed me to pay for the meal, but for the most part she said she just wanted to take care of me this weekend.
Q That one weekend.
A And that is what she did. Yes.
Q And then that other weekend, she paid for those too?
A Oh, she paid for everything, yes.
Q For everything?
A Yes.
Q And how much did you get paid on hour?

A At that time I was getting paid $10 an hour.
Q Ten dollars an hour?
A Uh-huh.
Q And you were in charge -- you said your job included being in charge of telling people where to go, what to do with things, and kind of keeping up with the merchandise?
A Kind of. Yes.
Q Okay. And you talked about June 27th. And you remember that day. You got to work around 8:00 a.m.?
A Yes.
Q And at that point did you use your time card?
A Yes.
Q And once you clocked in, you then said you took a break, because the day before TK had called you and wanted to get his stuff?
A It was the day before, day of. I can't --
Q I don't want to put words in your mouth. You said day before. Is it the day before or you just don't remember?
A I don't remember.
Q Okay. So now you don't remember. And then -- and, anyway, you set it up so that you could meet TK over lunch?

A No.
Q That is not what you testified to?
A I didn't say I set it up where we would meet over lunch. TK was on the way from -- he told me was coming from Garners Ferry. I remember it was like this. And most likely I had talked to him that day. He told me he was coming from Garners Ferry and that he was, you know, headed to me. And by that time I just informed Cripp that I needed to leave.
Q Okay. And at that point you didn't have any idea TK had been in your house, because you had the key? You hadn't given him a key, did you?
A No. I didn't -- I had a chain, it looked like a chain --
Q Suddenly that morning it occurred to you that you needed to get home to see if TK was in your house?
A Oh, no, I didn't infer that I needed to get home to see if he was in my house. I felt as if I needed to go with him to my house. I was under the impression that he was coming to my job to come get me to go to my house, because what he wanted to do is come to the job to get the key. That is how I remember him coming, because he kept asking me, Can I get the key?

Q So to be perfectly honest with this jury --
A Uh-huh.
Q -- Ms. Gale --
A Uh-huh.
Q -- didn't pick you up that day?
A No, she didn't pick me up.
Q And Ms. Gale didn't come in then when she picked you up and filled out an application?
A She did do that. I think -- I can't speak for Ms. Gale, but --
Q Well, what did you see Ms. Gale do that day?
A Oh, she came into the -- she actually talked to Cripp that day too. She came in and put an application in. Like I say, I can't speak for her, but I feel like she just didn't know, or whatever, but I can't speak for her.
Q Well, let's speak about what you can speak to.
A Okay.
Q You got in the car with TK?
A From the job?
Q Uh-huh?
A Yes.
Q That's your testimony here today?
A Yes.
Q And then TK drove to your house somewhere on

Colonial Drive?
A Yes.
Q That you had just moved into?
A Yes.
Q And once you got there, that is when you went inside?
A Yes.
Q And once you were inside, he had four pieces of furniture that you named: Sofa, a loveseat, a table, I think you said -- or was it a desk -- and a chair?
A No.
Q Okay. Correct me.
A It is a loveseat, like two seat -- let me make sure -- loveseat, two seat. And then like a longer couch. And then like a little like desk, a little desk table type thing. Yes, three pieces.
Q And -- okay. So he had three pieces now?
A Uh-huh.
Q And once you got there, you noticed that there were some things bundled up?
A Yes.
Q Or something you said like that.
A Yes.
Q And it hadn't been like that when you left that

morning?
A No.
Q And then that is when it occurred to you that, oh, TK knew about a window?
A No, it didn't occur to me that he knew about a window. He lived in the house.
Q Okay. And how long had TK lived in the house prior to moving out when you had just moved in?
A He moved in when I moved in.
Q And when was that?
A I can't remember the specific date.
Q Uh-huh.
A But I know I haven't been in there long. I only been in there a couple of weeks.
Q A couple of weeks?
A Yes.
Q And TK had been fired the month before, a month before, and moved out at that time?
A I don't recall when he got fired.
Q It's hard to remember. Anyway, when you got there, you found this stuff bundled up by your door?
A No, it wasn't by the door, it was on the table.
Q I'm sorry, on the table now?
A Uh-huh.
Q And when you saw it bundled up, what did you think?

A I actually didn't think. I kind of knew. I knew he had been in. And I wasn't -- I wasn't mad at him. He was -- he was like that. Like I said, he is a rolling stone. I knew he wanted some of the stuff that I had, some of my clothes, outfits. I had a back sack, a JanSport, that he liked. He liked it because it matched some of his outfits. It was like to take to work. And I had some hats and clothes and some stuff that I just knew he would like to have. But he didn't ask for them and they was on my table. So I gave him what I felt like he should have instead of letting him feel like, you know, whatever.

Q Take your stuff?

A Yes.

Q So when you got back and you talked to the guys and stuff, you were pretty riled up that he had been trying to take your stuff?

A I told the guys about it.

Q Yes. Okay. Well, let's back up a minute. What time was it when you left work that day?

A It was little before 12:00.

Q A little before 12:00?

A Yes.

Q I believe you originally testified 12:00 o'clock or

a little before; right?
A Yes.
Q And then you went over to the house?
A Yes.
Q And when you got there TK was there?
A No.
Q You went with TK. I'm sorry. I'm sorry, I apologize. You went with TK there.
A Uh-huh.
Q And when you got there, you saw the stuff bundled up on the table?
A Uh-huh.
Q And then you decided what you were going to give him. And then I believe -- and I could be wrong about this -- you testified that you moved some of the stuff out in the yard?
A Yes, moving the loveseat and the other long couch.
Q And who all was there when you were moving the furniture out into the yard.
A It was me and him and NaNa. She came.
Q At what point did Nazirah show up?
A She showed up a few minutes shy of the two of us being there.
Q How did she know to come there? Did you call her?
A I contacted her.

Q Okay. Did you contact her on the phone or did you contact her through the -- I don't know.
A To be honest, I don't know either.
Q Normally, in order to contact Nazirah for her to come and get you -- she gave you rides all the time, didn't she?
A Sometimes, if I --
Q Did she give you a ride home that day?
A I couldn't recall that.
Q Okay. And she -- but everybody knew her as Little Mama?
A I -- to be honest, I didn't really call her Little Mama, so --
Q Well, how many times before had she given you a ride there --
A She gave me plenty of rides.
Q And y'all were still in a relationship, be it friends with benefits, whatever you want to call it?
A Yes. Somewhat.
Q So she came to your apartment on Colonial Drive?
A Yes.
Q After you told her to come?
A Yes.
Q After you somehow contacted her. You can't

remember how now; right?
A I don't know if I -- I can't say if I didn't call her or text her, but I know I contacted her. I contacted her and she came. Yes.
Q And this was after she had already been at your work and put in an application?
A That is why I think it became confusing with her. I can't speak for Nazirah's point of view. And I don't choose to, if that is what you are asking me to do.
Q I am just talking about your point of view. I'm not trying --
A Okay. Well, my point of view is she -- when we got back to the job, she put in an applicable. She talked to Cripp. And she, you know, and that is when she -- I told her -- I advised her to put in an application. We had two females that worked there. And she needed a job.
Q So that was afterwards now?
A When you say "now," are you talking about my statement or are you talking hers?
Q Your statement, what you have testified to here today?
A Yes.
Q Okay. And she showed up. Do you remember her

leaving to go to the shell station to get something to eat?

A Are you -- what are you referring to, at my -- showed up where?

Q Colonial Drive. Still at Colonial Drive. Once she got there, did she then leave and go get something to eat?

A She did.

Q And then she came back?

A Yes.

Q And then y'all had the stuff out in the yard?

A Most of it.

Q Okay. And at that point you got with Nazirah and you went back to work?

A Yes.

Q And how long were you gone?

A Everybody's time seem different. I'd say -- I thought we took about 30 minutes.

Q About 30 minutes?

A It may be a little more.

Q Maybe 40?

A Maybe.

Q So you did all that in that 30- or 40-minute period of time and got back to work. And then you didn't clock back in, I think was your testimony?

A At that time I remember giving Cripp my card. Being that I told Cripp I was leaving and, you know, he trusted that, you know, I was coming back in due time, so, like I said, all the guys was still in the break room. And I knew I was a few minutes shy, like that. And I'm not sure if it was just the machine's fault, or whatever, I'm not going to make an excuse for that. We did have flaws with that, with the machine. But I do remember giving him the card. Or, you know, for whatever reason. Sometimes the machine -- there has been plenty of times where we press it and it will press the same number, or the ink ran out one day, or something. It was something simple. So at that time, when we had problems like that, they used to write our time in. Not only did Cripp do this, this is something that Jude did also. This was something that Jude -- well, I will let Cripp speak on that, that he advised Jude --

Q But it was definitely Cripp that day?

A Yes, it was definitely Cripp that day. Yes.

Q So then you gave him your card?

A Yes.

Q And you went back to work?

A I went back to work.

Q You don't remember what you did on June 26th?
A The day before?
Q Yes, sir?
A I can't say I recall.
Q You don't remember what you did June 28th?
A No, I can't say I recall. I know I was at work.
Q Then you start talking about how you met Mr. Nathani?
A Yes.
Q You called him Nate?
A Nate, uh-huh.
Q That you met him through a cracked screen on your laptop?
A I met him at the flea market.
Q At the flea market. And that you started having some business dealings with him?
A Yes. Correct.
Q And as time progressed, you kind of got good at it, and you had access to a lot of electronics?
A That's wrong.
Q Well, what did you testify to?
A I testified that I did business with him and that I had sources. And those same sources I spoke on was sources of the studios that I went to. Anything -- he always -- he will tell you anything that I

brought to him wasn't brand new merchandise. This was things that I got from talking to my friends, at studios I went to, people who I had bought things off, like I said.

Q You got all your stuff legally, didn't you?

A Yes. I mean, well, what I did, I didn't buy anything from Best Buy, I didn't buy any materials, I didn't buy extra laptop, I didn't buy extra tablets and stuff from businesses, Wal-Marts, and stuff like that. I knew other kids and other people who had merchandise. And, you know, like I said, most of the stuff I got was from going to studios and Quantum Beats and most of the studios I know around South Carolina. Most of the places I go around, and I travel, so --

Q If I come up to you and you offer to sell me a laptop, there is nothing illegal about that, is there?

A Oh, no, I wouldn't went about it like that. That is not how we go about it. And I never would have came to me like that.

Q Well, somehow you purchased these items or got them legally?

A I wouldn't speak on --

MS. A. WALKER: Objection, Your Honor. It has

been asked and answered.

THE COURT: Overruled.

A Say again? The question again?

Q Somehow you purchased or got these items legally and then sold them to Mr. Nathani? That is what your testimony was?

A I wouldn't say I got them. I would say that I purchased them. I didn't take them from nobody.

Q That is legal to purchase --

A Okay. Well, yes. Well, legally, I got them legally, yes.

Q And then you legally sold them to Mr. Nathani?

A Yes.

Q And you would make money in these deals?

A Yes.

Q That is all legal; right?

A Yes.

Q So there was nothing that wasn't aboveboard about you and Mr. Nathani's dealing?

A I just --

Q Was there anything you did that wasn't aboveboard?

A I think that worked two ways.

Q He had a business booth at the flea market, along with, you said, a lot of other vendors just like him?

A Uh-huh.
Q And he had a business in his home where you had gone on multiple occasions; right?
A Uh-huh.
Q And you called him about every other day the month before this happened?
A Uh-huh.
Q In order to conduct your business -- I mean, were y'all friends or was it business?
A We wasn't friends. It was business.
Q Okay. That is all I'm getting at. I'm not trying to do anything else.

And then you said that you got a phone call from Investigator Clarke. You say it was between a couple of weeks or a month after this occurred that you didn't know about?
A Uh-huh.
Q Up until talking to Investigator Clarke, you didn't know anything about anything, did you?
A I didn't know anything about a robbery, or anything like that, or a kidnapping, or nothing like that. Bless you.
Q And you testified that he wanted to meet up with you -- he wanted to meet with you -- on the phone? He called you on the phone?

A Uh-huh.
Q Now, when he called --
A Yes.
Q -- you on the phone, did you answer or did you call him back?
A I answered it. I called him back. I think he called me. I'm not sure. I think he called me. I think he called me.
Q Did he identify himself?
A Yes.
Q Did he say he was with the Richland County Sheriff's Department?
A Yes.
Q And that he wanted to speak to you personally?
A Yes.
Q And once he gave you that information, you said that then he told you -- and this is what -- these are my notes, if I'm wrong you correct me.
A Okay.
Q Because you are good at that.
A All right.
Q That the incident had occurred. He told you the time, place, and date?
A Uh-huh.
Q So he calls you up and says, Are you so-and-so?

And then says, I need to talk to you or meet with you and talk to you about an incident that occurred on June the 27th on [redacted] Road? Is that what he told you?

A At 2:00 o'clock?

Q At 2:00 o'clock?

A There you go. Yes.

Q You don't recall him introducing himself and explaining that he had a job at the Sheriff's Department?

A Yes.

Q So you recall him asking if you would be willing to come in and speak with him?

A Yes.

Q Do you remember getting excited on the phone and telling him you didn't know why he needed to speak to you?

A Oh, no. That was --

Q And that you kept repeating that out loud all the questions he was asking you about trying to meet?

A None of that happened. None of that happened.

Q That he never ever told you about any details of the event, just that he needed to talk to you?

A No, I didn't say that didn't happen, but I said that -- what you had repeated the first time, that

didn't happen.
Q So all that didn't happen?
A No.
Q But he did not tell you any of the details, but told you he needed to meet you?
A Excuse me, repeat that again?
Q You just said he didn't tell you any details?
A I'm sorry. It is a little confusing with the questions you ask, like you -- I'm sorry.

He told me -- the way you repeated it the first time -- that I am Joseph Clarke, I'm with the Richland County Sheriff's Department. I'm calling you -- is this Anthony Porterfield? I said, Yes. He said, I'm calling you about an incident, an incident that occurred with Gulzar Nathani. He said that, you know, on 27th. He said -- he didn't never state the crime. He said at 2:00 o'clock, you know. Do you know anything about this?

I was like, No. And he -- then, you know, then he got a little -- I'm not sure exactly the word he got -- real aggressive. Are you sure you don't know?

Q He got aggressive?
A He got very aggressive.
Q On the phone?

A He got very aggressive. His demeanor --
Q And that's when he started telling you what you were going to have to do; right?
A Oh, he was telling me. I was -- I was cornered. It was like a pit bull and a little cat. He was cornering me in the conversation. He basically feared me into going to meet him.
Q How did it end up that he agreed to meet with you at the gas station where you went all the time anyway?
A Because he didn't give up. He didn't give up the first answer. He didn't give up my second answer. Where is your job? I didn't want to -- I didn't want to, you know --
Q You didn't tell him, did you?
A No, I didn't want to. I didn't tell him -- I didn't want to tell him where I worked at.
Q And at that point he told you that you were supposed to meet him. Eventually you got to the point he was supposed to meet you at the local Exxon station that happened to be near where you worked; right?
A Yes.
Q At 11:00 a.m.?
A No.

Q Okay. So it wasn't at 11:00 a.m.?
A No. It wasn't 11:00 a.m. when they came to my job. It wasn't 11:00 a.m. when he called me. Well, when he wanted to meet me. I told him specifically that my lunch break is at 12:00 o'clock. He said, Can you meet me at 12:00 o'clock or come to my office? Can I meet you? Can I meet you somewhere now? Can I meet you at a stop sign? Can I meet you here? Can I meet you there?

I was saying, No, no, I don't want to meet now. I'm at work. I can't get off work right now.

Well, I need you, I need you, I need you. I need to speak to you.

It got to the point I said, okay, okay, okay, okay, okay, okay, I will meet you. I will meet you somewhere.

He never told me what he wanted or anything else. He was very -- Well, thank you. Well, I will meet you there at 12:00 o'clock. And he hung up.

Q Okay. So your testimony now is he was going to meet you there at 12:00 o'clock at the Exxon station?
A My testimony now? It is my first time I am giving that testimony.

Q Okay.
A Yes.
Q And is that your testimony?
A Yes.
Q But then before 12:00 o'clock you called him back?
A Yes.
Q And in between that you called, I believe you said your only friend in the world, the only person you could depend on?
A At that time I called my mother.
Q Yes.
A Yes.
Q And then after speaking with your mother, you called him back and said what?
A I said I didn't want to meet him. I said -- I told him -- he asked why, of course. And I told him that, you know, I didn't feel comfortable. I said, Is it -- I asked him questions after that. I was like, Is it something -- you know, I didn't know. You know, I was basically trying to figure out if I needed -- needed to see him. He wanted to see me.

At this time I heard what he said about probable case. I don't know the exact terminology of probable cause. You know, he probably explained it, but I don't know exactly what it means.

At that time I was telling him that, you know, Do I have to see you?

No, you don't, but you better come see me now or I am going to come see you.

And at this time I'm scared. He is an investigator. I don't know what he is investigating.

I heard what you said about -- about, you know, all the things I bought. I don't know if everything was clean. That is a question we don't ask. That is a question Nate don't ask. Nate always had a rule, Don't tell me the source.

Q Can we get back to talking about what you said to him?

A Yes.

Q Okay. What did you say to him?

A What I said to who, Mr. Clarke?

Q Yes?

A I told him I did not want to see him. I did not want to.

Q Okay. Is that the extent of what you said to him?

A Yes. I told him I didn't want to. He said, That's fine, you don't have to see me.

Q Okay. Do you remember saying to him that the reason you couldn't meet with him is that things in

your life being what they are?
A I never said that.
Q That you didn't feel comfortable speaking to him?
A Oh, I said that.
Q You then told him you had talked to a friend?
A No.
Q That explained probable cause to you?
A No. I talked to my mother. My education is up to the ninth grade.
Q Didn't you just say he explained the term probable cause?
A No, I didn't. I said that I don't know the -- I never knew the term of probable cause and I wouldn't -- and he said that I learned the word probable cause. I said I didn't know the proper terminology. I heard him say that it was -- what's his name -- I said probable cause.

Listen, my -- I talked to my mother. I told him I talked to my mother. And he went in on me at that very moment about everything that he feel I should do, and all this other stuff. He was very aggressive about the way he was.

And I asked him, did I need to see you. I specifically, before I got off the phone -- he was screaming. I wasn't the one excited. I was the

one nervous and feared. I didn't get excited with him on the phone. He was excited from when he first got on the phone with me.

Q Okay. So he was out of control? He was screaming at you?

A Uh-huh.

Q Do you recall him telling you at that point that he had warrants for your arrest?

A He never told me that. He never said that.

Q So at that point you hung up with him?

A Yes.

Q So you had been on the phone with this abusive investigator with the Richland County Sheriff's Department?

A Verbal abuse.

Q Verbal abuse. I'm not saying it was physical. You weren't in the same room, were you?

A No.

Q So at that point did you call the Sheriff's Department and complain?

A Oh, no.

Q Did you ever file a complaint in this case on Investigator Clarke?

A File a complaint?

Q Yes, sir?

A No, ma'am. He didn't harass me. He didn't call back.
Q So your testimony is you didn't know there were warrants out on you?
A I did not know there were warrants out on me. He did not say that.
Q So the next day you went to work?
A Yes, ma'am. Like I always do.
Q You said you were nervous because of what you had been doing -- I don't know which time -- with Mr. Nathani?
A Yes.
Q So did you get any advice that afternoon about your situation?
A Which afternoon?
Q That afternoon after you talked to Mr. Clarke?
A Did I get any advice?
Q Uh-huh?
A From?
Q Anyone?
A Did I? No.
Q Okay. So let's move to the next day. You went to work?
A Yes.
Q And then you went to lunch, I think you said with

your brother?
A Yes.
Q And was that at the Exxon?
A Yes.
Q And how far is the Exxon from where Creative Recycling was?
A I wouldn't know exactly how to explain it.
Q Is it close-by, though?
A It is not that far. It is not really that close.
Q Well, let me ask you this. What time did you leave work that day?
A The day after?
Q The day you were arrested?
A What time I left for lunch break?
Q Yes?
A 12:00 o'clock.
Q 12:00 o'clock? So then you went to the Exxon station to get lunch?
A Yes.
Q And then you went to your friend's house over on -- I don't know how -- [redacted] Street?
A [redacted] That was incorrect. I just didn't go there to hide. I went there because -- because the cops was at --
THE COURT REPORTER: I'm sorry, I didn't hear

you.
A I went to my friend's house because the cops were at my job.
Q Well, who called you and warned you?
A I don't even know.
Q Well, the person they talked to was Cripp. Was it Cripp that called you?
A No, it wasn't Cripp.
Q You went to the house to hide from the police?
A Not to hide.
Q Well, the police that had shown up at your work --
A Well --
Q -- had they been abusive toward you in any way?
A The cops that showed up to my --
Q Your job?
A If they was the same ones who had pulled me from under the house and threw me on the ground and put their foot in the back of my neck and put their other foot on my face, the ones who had spread my legs apart until I couldn't feel my crotch, if these were the same ones that abused me in the back yard before they pulled me to the front yard, I would say that is a yes.
Q So we'll get to the second set of abusive police officers involved with you.

A Okay.
Q So you are doing what? Why are you at the [redacted]
house? You are hiding?
A Because I don't understand what is going on.
Q So at that point do you go down to the Sheriff's Department so that you can find someone you can talk to who is reasonable about what is going on?
A I wasn't raised to go to the cops. They scare me.
Q Then you heard officers at the door banging on the door?
A I didn't hear them at first. But when they did came to the door I was -- I was aware that they was at the front door. I was.
Q Was your brother still with you at that point?
A No.
Q He had left you there?
A Yes. He didn't even understand what was going on. I didn't really even tell him what was going on. He was about to go back to the job. I practically told him if he don't take me to the house I'm going to get out of here.

His whole question was, Where are you going? Where are you going?

I said, I just don't want to go back right now. Take me -- something is going on. I don't

know what is going on.
Q You didn't even tell your own brother you were being abused by the police?
A No, not that I was being abused. I wasn't abused yet. Was I verbally abused? They didn't make no contact with we, so they didn't abuse me that day, until they got their hands on me.
Q Well, by your own admission, you heard them come in the house, didn't you?
A Did I hear them come in the house?
Q Uh-huh.
A Yes, I heard them, eventually heard them.
Q Did you hear them yelling for you to surrender yourself?
A They didn't say that at first, when they first came in the house.
Q Who else was in the house when they got there?
A My friend.
Q What friend?
A Jerrell Nunez.
Q Jerrell?
A Yes. His girlfriend. And I believe a family member of mine came, a cousin.
Q A cousin?
A Yes.

Q A girl cousin or a boy cousin?
A Girl.
Q She showed up because you asked her to come there?
A Yes.
Q Because you were hiding from the police?
A Because she know lawyers. She can better help me than I could. She had a better understanding of how I could deal with this situation.
Q Well, would you agree with me that when the police knocked on the door the three of them went outside?
A Say again?
Q The three people that were with you in the house, they all went outside when the police knocked on the door?
A I didn't know. I can imagine they probably did.
Q So you were the only one that went through the window and hid under the house?
A Yes.
Q And the reason you were hiding under the house is so that they wouldn't catch you?
A Well, that is generally the reason for running.
Q Then when the dog was sent in, your testimony is the dog came in once, sniffed you, and turned around and went away?
A When the dog came in where?

Q The first time. When you were under the house was the only time you had any contact with the dog?
A Yes. When the dog came in the first time, yes, that is what he did.
Q And then the dog was sent back in, and that is when he bit you on the arm?
A Yes.
Q And then you mentioned how EMS was called?
A I didn't mention it, but EMS was called.
Q Well, you said EMS didn't hardly treat you and that is why you requested to go to the hospital?
A I didn't say -- I mentioned EMS had came. They called EMS. That was proper procedure, I guess. Once they sic a dog on you, or once you are bit, I guess they got to call EMS to make sure that -- I guess that is police procedure. I'm not sure. I didn't call them. They was already outside sitting. Like soon as I came out the gate they was already there.
Q And if I were to tell you that EMS was dispatched out there after 2:00 o'clock that afternoon, would that be about the right time period?
A I wouldn't know. I didn't -- I didn't even have a watch on.
Q And once you got transported to the hospital, how

long were in the hospital?
A That same day. I got out that same day. I wasn't in there long, I don't think.
Q And, in fact, your wounds were referred to in the medical records as lacerations, no puncture wounds, no stitches, and basically they put a dressing or a patch on it?
A They didn't want to give me stitches. Even the nurses there -- the EMS and the nurses, wherever they hold you at, they all treated me as if I committed those crimes. They treated me just as if I did it. The nurse even was, Be quiet. And I did had puncture wounds. I had deep wounds. The ones that were on my back were so deep they said I should have had four stitches. Apparently we have some nice medical personnel at the jailhouse -- maybe because they was black women -- they said I should have got stitches. And I remember the whole time she -- well, they personally patched up some of mine and they dressed it up way better at Richland County than Richland Memorial Hospital personnel did.
Q So now it is the Richland Memorial Hospital personnel as well?
A I guess they all a team.

Q Okay. And your wounds were characterized as abrasions, superficial lacerations?
A Well, they been characterized so far, so --
Q And then while you are at the hospital, Investigator Clarke, you finally see him for the first time, and he looks just like you thought he would?
A Yes.
Q And at that point, prior to reading you your rights, he asked you some questions?
A He did.
Q And you told him you didn't do anything; right?
A Yes, I told him that.
Q Well, at that point, according to your testimony, you knew he was asking you about June 27th at 2:00 o'clock; right?
A Uh-huh. He mentioned it.
Q And he had mentioned that to you the day before?
A Yes.
Q So you knew that time period was important?
A I mean, that is what he was saying.
Q So why didn't you tell him then?
A Didn't tell him what?
Q Tell him that you had been with TK that day?
A How was I supposed to put all this together? That

is June 27th.
Q You got it put together the next day on the jail phone call.
A That is when I realize I'm locked up. I'm locked up now. You came and dragged me -- I'm supposed to figure out all this sitting on a hospital bed with a bite mark on my leg, and in chest pain at that. And they didn't even characterize none of my wounds right. I was literally bleeding down my side. I can actually show the courtroom the wound if you actually want me to. They are still very, very vivid.
Q Okay. And then he read you your rights and you signed this form after he --
A No, no, he didn't give me that. He didn't even come up with a paper until he was ready to leave. Until he felt like he got everything he wanted out of me. Because he literally told me that -- I was rough on my language because he was rough on his language. He is an investigator. He don't talk nice. He didn't come in there and pat me on my back, Mr. Porterfield. He didn't say, I know you are a nice guy. I know you -- he came in there very high strung. He was very sure that I did this crime. He wasn't hearing nothing else. He didn't

want to hear nothing else. He didn't ask nothing else. He said what he wanted me to repeat. And I was telling him I didn't do these crimes in the midst of me having chest pains, laying on my back. He just -- you know, I had cuffs on my back at that point. They was on my back. They wasn't even on my front, which means that I had to lay like this, I had to lay like this on the side. They took off one cuff and put the other on the bed when they wanted me to write.

Q They checked you out of the hospital and you didn't have any chest pain that you were complaining of then?

A I did. They didn't write them down. Once again, they characterized everything all wrong.

Q And then you go to jail that day?

A I did.

Q And did you have to go back to the hospital at any point because of the extent of your wounds?

A Say again? I apologize, I'm not --

Q Did you have to go back to the hospital at any point? Or was that the last time you were at the hospital?

A After I was released?

Q Uh-huh?

A The chest pains wasn't something that was a cancer or anything. It was something that occurred. And now I feel like it was something that more so had accumulated from anxiety, stress, and work. At the job that I work, we not only lift heavy material, but we lift TVs. I have back braces for days. I had to take medicine daily. Pain medicines. The medication that they gave me was pretty much inflammatory medication, Naproxen, and things like that, to help me out with, you know, the severe chest pains that I was having, but they was telling me more so it was from stress and not that I was living a stressful lifestyle.

Q I know you were.

THE COURT: Would you reask the last question, please, Solicitor? I didn't hear the answer.

Q You didn't have to go back to the hospital, did you?

A No.

Q Thank you, sir. Once you were in there, you started calling Diana because you said she was the only one left for you; right?

A Yes. She was the only one I could call and contact them from the jail.

Q Did you try to call anybody else?

A I didn't know anybody else number.
Q Did try to call Ms. Gale?
A I didn't know Ms. Gale's number.
Q Did you try to call TK?
A I didn't know TK's number. TK didn't have a phone.
Q Did you try to call Blacc or Q?
A I didn't know -- they wasn't my friends.
Q Or Cripp?
A They wasn't my friends.
Q So the only person you are saying you called was Ms. Addison?
A Yes. That was the only person I could rely on.
Q And in one of those conversations your lawyer went over some of what you said?
A Uh-huh.
Q And do you remember saying, "Now, what I want you to do is contact TK and tell TK do he remember."
A Uh-huh.
Q Now, this is the same TK who suddenly is going to come to your aid, the one that burglarized your house; right?
A He didn't really burglarize my house.
Q Well, you went back to the job and were complaining bitterly about how he had taken your stuff and it was a good thing you went home?

A I didn't complain bitterly either. I did make -- I did make some jokes about TK. TK -- in a short story, he is younger than I am. I'm 28.
Q You have got to stick to my --
A Okay.
Q You have got to stick to something responsive to my questions.
A Okay.
Q Do you remember in that phone call telling Mr. Addison, "Tell him the situation what is going on. And tell him the day was on the 27th. Tell him that day was on the 27th, okay? Don't ask him. Tell him that day was on the 27th. You feel me? Tell him that day was on the 27th. Tell him the investigator is going to be contacting him. Know what I'm saying? Tell him on them. Know what I'm saying? Tell him this is his boy right here. And he already knows what time it is. Know what I mean? Know what I'm saying? And we need him. I need him to whatever and go ahead and talk to this investigator. Tell him the investigator is going to be coming down there. Tell him if he possibly can -- as a matter of fact, not more than possibly can, tell him this came out of Amp's mouth. Amp said to do this for him. Do this for him. Do this

for them."

A Do this for them. And she didn't contact them. And I do remember saying that. And that was at the time I was in the Special Housing Unit and I wasn't going to be on the phone again for a while. Everything I -- everything that I had said to him was a SOS. TK end up not even answering none of her calls. She did eventually get in contact with him for another investigator. And she didn't speak to him at all. She didn't tell him none of them comments and --

Q You can't talk about what she said, okay?

A Oh, well. I apologize. Well, I did say those things. And I needed -- I needed help. I needed him to come through. And I knew he wouldn't for just me, I guess at that time. And being in the situation like that -- I never been in a situation like this ever in my life before.

MS. CAMPBELL: Your Honor, we have a matter of law.

THE COURT: All right. Thank you, Solicitor.

Mr. Foreman, ladies and gentlemen, if you would step back momentarily. Do not discuss the case during this recess.

(WHEREUPON, the jury retires to the jury

room at 4:15 p.m.)

THE COURT: All right, Solicitor?

MS. CAMPBELL: May it please the Court, Your Honor? I believe the last thing out of his mouth, which I will admit was not in response to my questions, was that he had never been in a situation like this, or something to that effect. We can get the court reporter to play it back.

Your Honor, at this time we would submit that he opened the door to all prior incarcerations because he has been in that situation on multiple occasions.

THE COURT: Ms. Walker?

MS. A. WALKER: Thank you, Your Honor. May it please the Court? Your Honor, I believe what Mr. Porterfield is responding to, which I believe also the jail phone calls puts into context, is that he has never been in the situation where he has been in jail falsely accused. That is where he is -- I believe that is what he meant.

He indicates in the jail phone calls, you know, Tell my family to believe me. Tell -- you have got to believe me. Get these people to get -- get in touch with these people.

I don't believe that opened the door

whatsoever to his prior incarcerations. The situation --

THE COURT: Let me stop you a minute. I don't know what he was referring to. Somebody ask him?

THE WITNESS: Can I answer?

THE COURT: No.

MS. A. WALKER: Beg the Court's indulgence.

THE COURT: Somebody ask him what he was referring to. I don't know what he was referring to.

He said, I have never been in a situation like this before in my life. I can't surmise what he is talking about.

BY MS. CAMPBELL:

Q What did you mean when you said you had never been in a situation like this before in your life?

A Being falsely accused, such as kidnapping. This is a terrible situation. I have never been in a situation like -- such as --

THE COURT: Is there any indication in the prior criminal history that he has ever taken the position that he was falsely accused in the past?

MS. CAMPBELL: Your Honor, as far as that resulted in conviction -- the pleas -- let me check on that.

(Pause.)

MS. CAMPBELL: Your Honor, it has come to my attention, I believe Defense counsel may be signaling him to stop talking.

MS. A. WALKER: Your Honor, I believe --

THE COURT: Wait just a minute. Sheriff, take him into custody and take him outside of the courtroom there.

(WHEREUPON, the Defendant was taken out of the courtroom at 4:18 p.m.)

THE COURT: All right. At 4:18 or 1618 hours, the Defendant was taken into custody by a deputy of the Richland County Sheriff's Department and removed from the courtroom during this in-camera hearing.

Ms. Walker, you may continue.

MS. A. WALKER: I apologize, Your Honor. I thought that he was repeating the same answer he had just given. I wasn't trying to signal him to give testimony or anything, but in the safety of -- certainly I do not want to be accused of getting involved.

THE COURT: And I didn't observe anything, Ms. Walker.

MS. A. WALKER: I apologize.

THE COURT: As a precaution.

MS. A. WALKER: Certainly. By all means.

THE COURT: Yes, ma'am.

MS. A. WALKER: Is there any -- I believe your last question, was there anything in his record that indicated that he had been falsely accused in the past.

THE COURT: Or that he has alleged to have been falsely accused in the past.

MS. A. WALKER: There is nothing -- I'm sorry.

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

MS. A. WALKER: There is nothing that I'm aware of that he has indicated to me that he's been falsely accused of in the past. There are things on his record that indicate -- that don't indicate conviction. I don't know anything about anything falsely accused in the past. He has a prior felony conviction that we have taken up in a prior motion.

THE COURT: Ms. Campbell?

MS. CAMPBELL: I don't think I can surmise from this that he has alleged to have been falsely accused in the past. I don't think I can do that from this record at this point.

Your Honor, perhaps instead of me going into his past, if we could just strike that one response

from the record, instead of me trying to explore whether or not he said he had been falsely accused in the past.

THE COURT: That one response being, Never been in a situation like this before in my life?

MS. CAMPBELL: Just that response. Just strike it from the record.

MS. A. WALKER: I'm certainly in agreement with that, Your Honor.

THE COURT: All right, Mr. Bailiff, if you will have our sheriff return Mr. Porterfield to the witness stand, please.

THE BAILIFF: I will, Your Honor.

(WHEREUPON, the Defendant returns to the witness stand at 4:21 p.m.)

THE COURT: All right, at 4:21 Mr. Porterfield has returned to the courtroom.

All right. Upon the return of the jury, I advise him that the last question and the last response I order stricken from the record.

Two different thoughts about that is whether or not I repeat that part of the response, which replants it in their mind, or not.

Do you have a preference? Ms. Walker? Solicitor?

MS. CAMPBELL: Whatever you think is appropriate, Your Honor.

THE COURT: The last time I thought a jury response was appropriate, the Supreme Court reversed me.

MS. A. WALKER: What was Ms. Campbell's question, Your Honor?

MS. CAMPBELL: That's a good question.

THE COURT: What was Ms. Campbell's last question, Madam Court Reporter?

(Question read back by the court reporter.)

MS. A. WALKER: Considering I couldn't quite remember what the question was and the response, I don't know that the jury would either, Your Honor. I'm certainly happy to do whatever Your Honor would --

THE COURT: I will give a general instruction.

MS. CAMPBELL: Starting with, you can't say what she said?

THE COURT: Yes.

MS. CAMPBELL: And strike -- okay. I just want to make sure the original question, which was about -- a while before that -- doesn't get stricken, because that was --

THE COURT: I thought the original question

was -- the substance of the original question had to do with the explanation of Mr. Porterfield's statement on the taped telephone call in reference to TK. Is that right, TK?

MS. A. WALKER: I believe so, Your Honor.

THE COURT: And I thought that was -- that would be the original question.

MS. CAMPBELL: Which I don't want that one stricken necessarily.

THE COURT: No.

MS. CAMPBELL: It would be just that last part.

THE COURT: I think I could say it was non-responsive.

MS. CAMPBELL: Just the non-responsive part at the end.

THE COURT: And then you can reask the question.

MS. CAMPBELL: I just need to make sure I know what it is.

THE COURT: So you need part of your question?

MS. CAMPBELL: Yes. I'm sorry.

THE COURT: That's fine.

(Confers with court reporter.)

MS. CAMPBELL: Your Honor, the question I

posed, reading off the transcript, do you just want me to reask that one then? Because then I stop him and I say, You can't talk about what she said, or something to that effect. And then that is when he goes into the non-responsive part. Or can we just strike from where I stop him and say, You can't talk about what she said? Or I'll ask it again. I have no problem.

THE COURT: I don't --

MS. A. WALKER: I think we can just strike that, you can't say what she said. I think that is --

MS. CAMPBELL: From there forward?

MS. A. WALKER: Right. I think we can recall that.

THE COURT: All right. That's fine.

MS. CAMPBELL: Thank you, sir.

MS. A. WALKER: And, Your Honor, before we bring the jury in, just so we don't have to send them back out, I think there is a document that Ms. Campbell seeks to impeach Mr. Porterfield with regarding phone calls that were made to a phone number that appears to have been to Nazirah Gale at one point. I don't know if the document shows that those phone calls were made by Mr. Porterfield or

to impeach him with that document. So I'm not sure --

MS. CAMPBELL: I can just go to the date and not show him the document. Then I can get --

MS. A. WALKER: Okay. The document itself doesn't show that --

MS. CAMPBELL: I agree.

MS. A. WALKER: -- Mr. Porterfield made those phone calls.

THE COURT: All right.

MS. CAMPBELL: I will quickly go through the dates.

THE COURT: Of course, there is a lot of questions and a lot of answers in the record alleging Mr. Porterfield made and/or received certain phone calls. And you never know whose possession those phones are in at the time the calls were made or received. But, be that as it may, y'all have agreed on it, so press on.

Thank you. Thank you, Ms. Walker, Ms. Campbell.

(WHEREUPON, the jury came into open court at 4:28 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you, Mr. Bailiff.

Mr. Foreman, and ladies and gentlemen of the jury, the most recent question that was asked by the Solicitor of Mr. Porterfield, that was a very lengthy question concerning part of the transcript of one of the telephone conversations that have been placed into evidence. At a point in time the response when Mr. Porterfield was responding, he began commenting on statements that another person has made. And if you recall, Ms. Campbell cut him off and said something to the effect that, You can't go into what anyone else said. And from that point on, You can't go into what anyone said, or, Never been in a situation like this before, that is non-responsive. I'm striking that part of the comment from the record as being non-responsive to that question. So do not consider that in any manner whatsoever in your deliberations in reaching your verdicts in this case. Do not even discuss that in the jury room.

Thank you. Thank you very much.

Solicitor, you may ask your next question.

MS. CAMPBELL: Just a few more questions.

CROSS-EXAMINATION CONTINUES

BY MS. CAMPBELL:

Q Your testimony was once you were booked in that you

didn't contact anybody but Diana Addison? You didn't know anyone else's phone number or anything?

A That was my testimony, but I believe that for the most part the only person I called was Diana.

Q Do you remember calling Nazirah Gale on July the 18th around 7:16 that evening?

A July 18th?

Q Uh-huh. Attempting to call her?

A From jail?

Q From jail?

A I can't say I remember.

Q And again on August the 9th?

A I can't --

Q Twice on August the 10th?

A I can't say I remember.

Q Twice on August the 11th?

A Can't say I remember.

Q Once on August the 12th?

THE COURT: What is your response?

THE WITNESS: I can't say I remember.

THE COURT: All right. Thank you. I just couldn't quite hear. Thank you.

Q And then finally on August the 16th?

A I can't say I remember.

Q Not that you couldn't call? And, finally, would

you agree with me that after June 27th of 2012 you had no more contact about any business with Nate or Mr. Nathani?

A After that, I agree.

MS. CAMPBELL: I don't have anything further.

THE COURT: Thank you, Solicitor.

Ms. Walker?

MS. A. WALKER: No redirect, Your Honor.

THE COURT: Thank you. Thank you very much.

Mr. Foreman, ladies and gentlemen of the jury, if you will please step back to your jury room. We will see where we are at administratively with witnesses for the remainder of today. So we'll take about a ten-minute recess.

Thank you. Thank you very much.

(WHEREUPON, the jury retires to the jury room at 4:32 p.m.)

THE COURT: Thank you. Thank you very much, Mr. Porterfield. You may step down and return to your seat.

(Defendant returns to seat.)

THE COURT: Do you have another witness for today?

MS. A. WALKER: We do, Your Honor. I believe it is a short witness.

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THE COURT: As you believed this was a short day, Ms. Walker? That is quite all right.

MS. A. WALKER: Actually, I was going to defer to Mr. Bank now.

THE COURT: That is kind of like that baseball player that stole third. The problem was there was somebody already on third. He was on second. He said, Well I had such a great jump on the pitcher, I couldn't resist.

I couldn't resist.

We will take about a 15-minute break.

MR. BANK: And our witness is right outside. He should go last. And hopefully he shouldn't be long.

THE COURT: Anything from the State, Solicitor?

MS. CAMPBELL: No, sir, Your Honor. I have a request to charge I'll hand up to you today.

THE COURT: We'll take about a 15-minute break. Thank you.

(WHEREUPON, a break was taken at 4:34 p.m.)

(WHEREUPON, the proceedings resumed at 4:44 p.m.)

THE COURT: Let's see. We have one more

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witness for the day?

MS. A. WALKER: One more, Judge.

THE COURT: Anything additional before we bring in our jury, Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Mr. Bank?

MR. BANK: No, sir.

(WHEREUPON, the jury came into open court at 4:45 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you, Mr. Bailiff.

Welcome back, ladies and gentlemen. We have got one more witness for the afternoon. I would like to press on and present the testimony of that witness.

If you will please continue to give the parties your complete and undivided attention.

Mr. Bank, you may call your next witness.

MR. BANK: Thank you, Your Honor. The Defense calls Hakeem Coffeil.

THE COURT: Yes, sir. If you will please come around and be sworn for us, please.

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Have a seat.

(Witness complies.)

THE CLERK: State your full name.

HAKEEM COFFEIL,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANK:

Q And could you state your name for the record?

A My name is Hakeem Coffeil.

Q And could you spell your first and last name for the court reporter?

A H-A-K-E-E-M C-O-F-F-E-I-L.

Q Mr. Coffeil, could you introduce yourself to the jury panel, tell them where you are from?

A From Dillon, South Carolina.

Q From Dillon, South Carolina?

THE COURT: Dillon, did you say?

THE WITNESS: Yes, sir.

THE COURT: I just didn't hear you.

BY MR. BANK:

Q Thank you. Mr. Coffeil, are you under subpoena to be here today?

A Excuse me?

Q Is the reason that you are here is because you were subpoenaed to be here?

A Yes, sir.

Q And where do you currently reside? I don't need an address. Just what town? Or do you still reside in South Carolina?

A Yes.

Q Where at in South Carolina?

A In Hopkins.

Q Okay. In June, or the summer generally, of 2012, where did you live?

A I stayed in Hopkins.

Q In the same town?

A Yes, sir.

Q And that summer of 2012, where did you work?

A Creative Recycling.

Q Creative Recycling?

A Yes, sir.

Q Could you explain to the jury a little bit about what you did. Were you an employee? Were you a supervisor?

A Employee.
Q You were an employee?
A Yes, sir.
Q Okay. Could you explain to the jury a little bit about what your normal schedule or work week was like?
A Monday through Friday, I think like 8:00 to 4:00, 4:30. I think 8:00 to 4:00.
Q Okay. Did you have lunch break at all?
A Yes, sir.
Q About when -- could you explain to the jury about what time you take it, how long it would be?
A We get like an hour lunch break, like 12:00 to 1:00.
Q 12:00 to 1:00?
A Yes, sir.
Q Okay. Now, working at Creative Recycling, did you ever get to know somebody by the name of Anthony Porterfield?
A Yes, sir.
Q Did you know him by a nickname?
A I knew him by Amp.
Q Amp? A-M-P?
A Yes, sir.
Q Could you explain to the jury what your

relationship with Anthony was like? Were y'all just co-workers? Friends?

A Co-workers.

Q Did y'all socialize outside of work at all?

A Like if I see him, you know, we would be like, hey, that is my co-worker, you know.

Q Could you say that last part again?

A You know, like you are co-workers with somebody, you see them and speak to them, you know. No going to parties, or nothing like that, you know.

Q That was the extent of y'all's relationship?

A Yes, sir.

Q Now, do you remember at the time around the end of the month of June 2012 when Anthony had to take a little bit longer lunch break than usual?

A Yes, sir.

Q Do you remember exactly what day that was on?

A I don't recall what day it would be exactly on.

Q Okay. Do you remember what you saw that day, what your understanding of what Anthony was doing that day?

A Yes, sir.

Q Could you explain that to the jury?

A He was staying with a roommate. He left with his roommate to get his clothes and stuff out the

house, make sure his roommate got the right clothes out his house, or something. I guess the roommate was moving at the time. He just had to make sure.

Q Do you remember what his roommate's name was?

A TK. He went by the name TK. I don't know his name.

Q Okay. And you said you remember this happening, but you don't remember what day?

A I don't recall like what day, any days of the month. I just remember when it happened at the time.

Q Okay. When was the first time -- was there a first time that anybody came and talked to you about this day at lunch with TK?

A Well, an investigator came to the job, or I think it was an investigator. Some guy came asking questions at the job.

Q Do you remember what his name was?

A I can't recall right now, to be honest with you.

Q Do you remember writing a statement with him?

A Yes, sir, I remember talking to him, but I don't recall his name, or nothing like that.

Q If I show you a copy of the statement, could you -- would you recognize the name of the investigator?

A I don't recall his name. If I seen it I wouldn't

know if that was him or not.
Q Okay. Do you remember who he worked for? Did he work for the Government? Did he work for a Defense attorney? Did he work for law enforcement? Do you remember any of that?
A Law enforcement. He had a badge, so --
Q You thought he worked for law enforcement?
A Yes, sir.
Q Okay. And about how --
A He said he was an investigator.
Q He said he was an investigator. Did he actually --
A That I can recall.
Q Did he actually say he was with law enforcement?
A No, sir.
Q Okay. And do you remember about what month that this investigator came and spoke to you?
A No, sir.
Q If I show you a copy of the statement with the date on it, would that help refresh your memory? If you saw it, would it help refresh your memory as to when you sat down with him?
A If the date on it, then I guess, you know, that is when it happened. I don't recall. Because it has been like 2012, something like that.
Q It has been a couple of years?

A Yes. I don't remember the month and date on it.
Q Okay. Well, let me show you a copy of it. And do you recognize that?
A Yes, sir.
Q Does it have a date anywhere there near the top of the first page or on the second page?
A Yes, sir.
Q And what is that date?
A August 3rd, 2012.
Q And that is the date you talked to the investigator?
A Apparently, yes, sir.
Q Now, that day that Anthony left to go deal with TK and the moving situation, when he came back to the -- to work, was he acting unusual in any way?
A No, sir. Just a regular work day.
Q Do you remember about what time he got back that day?
A Between -- it was probably like 1:00, 1:30. It was between -- it was after he had came back from lunch.
Q Okay. And you said about 1:00 or 1:30, you think?
A Yes. I don't know exactly. It wasn't no later than that. It wasn't too far from my lunch, though.

Q Okay. Now, when you were working there, did they have a way of tracking y'all's time when you were coming and going?
A Yes, sir.
Q And what was that?
A We had like cards you punch in, like old alpha print like clock in. We had those.
Q So you had a card?
A Yes, sir.
Q And then you put it into the mechanism; right?
A Yes, sir.
Q And it would --
A It would stamp on the card.
Q Okay. And when were the times that you would clock in and out?
A We clock in lunch, back from lunch, and clock out. So we have like four times.
Q Four times. You clock in, and then you clock out for lunch, clock back in from lunch, and then you clock out?
A Yes, sir.
Q Okay. Now, at any time before this investigator came and spoke to you and any time after, did Mr. Porterfield or anyone named Diana Addison speak to you about this incident with TK?

A No, sir.
Q Has anybody asked you to make this story up, or anything like that?
A No, sir.
Q Do you remember the last time that you even spoke with Anthony?
A No, sir. I been gone. I just came back down here.
Q How long were you gone for?
A I was gone for a little over a year.
Q Where were you?
A I was staying in Virginia.
Q Virginia?
A Yes, sir.
Q And you hadn't heard from -- you didn't hear from Anthony since before that time?
A No, sir.
Q Okay. Now, let me ask this. Besides this investigator on August 3rd of 2012 --
A Yes, sir.
Q -- has anybody else, any other type of investigator or law enforcement or Solicitor or anybody contacted you about this?
A No, sir.
Q Anybody ask you about it?
A No, sir.

Q When is the first contact that you had about any of this recently?
A When I got subpoenaed.
Q Okay.

MR. BANK: Beg the Court's indulgence?

THE COURT: Yes, sir.

(Pause.)

BY MR. BANK:

Q I don't have any further questions. Please answer any questions that either Ms. Campbell or Ms. Walker have for you.

THE COURT: Thank you. Thank you very much, Mr. Bank.

Solicitor?

MS. M. WALKER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. M. WALKER:

Q Hi, Mr. Coffeil.
A How are you doing?
Q I'm all right. How are you?
A I'm doing pretty good.
Q Good. My name is Meghan. You and I have never talked about this case before; right?
A No, ma'am.
Q I want to go over some additional stuff that is in

your statement, okay?
A Yes, ma'am.
Q Do you still have that up there with you?
A Yes, ma'am.
Q That day that Anthony had to leave and go -- I guess Amp -- that day Amp had to leave and go home, do you remember who picked him up?
A I guess his friend at the time. I don't -- I don't know who it was, exactly who it was, though.
Q Don't worry. I know it has been a long time. You can use this to refresh your memory.
A Yes. His friend, whoever it was.
Q It was a girlfriend that picked him up?
A I'm not saying that is his girl. I don't know who it was.
Q A female who picked him up?
A Yes, ma'am. I meant -- yes, ma'am.
Q Okay. And what kind of car was this female friend driving?
A Like a champagne car. I don't know what type of car it was.
Q Was it like an SUV or was it --
A It wasn't no SUV.
Q Like a sedan?
A No, it wasn't no sedan. It is like -- looked like

a champagne-looking car. I don't know what type of car it was.

Q But it was champagne-colored?

A Yes, ma'am.

Q Okay. And were you looking at a clock or anything when he left, or are you kind of guessing?

A No, because we all break out at the same time.

Q Okay. But you don't know if he left before or after you took your break?

A That I can't recall. But normally any time -- we all go to lunch at the same time, so when one person breaks, we all break.

Q Okay.

A So, you know, when we break was like 12:00 o'clock, so.

Q Okay. I understand. And y'all's break was an hour?

A Yes, ma'am.

Q And he came back shortly after that?

A Yes, ma'am.

Q And back to -- I hate to go back to this, but the car -- what type of car was she driving? It is in your statement. If you just read it it will -- it can refresh --

A Okay.

Q Take your time. We're not in a rush. I don't want you to get your words mixed up.
A They are not mixed up.
Q There you go.
A Okay.
Q What kind of car was it?
A Tan color Impala.
Q So an Impala. Would you agree with me that an Impala is a sedan? It is like a four-door car?
A Yes. When you say -- I was thinking more like the hatchback, little sedan like cars, you know what I'm saying, like a Volvo, or something like that.
Q Okay.
A With a little -- that is what I'm thinking about.
Q I think we are on the same page now. I'm sorry, I'm not trying to confuse you.
A All right.
Q And how long had you been at Creative Recycling at this time?
A As in what time?
Q Like in terms of how long you had been working at that particular company?
A I worked for them like seven months. It was like seven months when I was them.
Q And y'all did what there?

A We did -- we separated recycling goods. Like we break down like TVs and stuff which come in and just separate it from each style of what it is.
Q Computers?
A Yes, ma'am. Laptops, radios, batteries.
Q And you said that y'all were -- they kept track of you by time card?
A Yes, ma'am.
Q At some point, though, before then y'all wrote in your time?
A Our manager wrote them in. Our boss man.
Q Right. What was his name?
A I don't know his real name. We used to call him Cripp.
Q Cripp?
A I don't know his real name.
Q That's fine. You can give me his nickname. So Cripp would write in the times?
A Yes. Like he will verify -- like we had the card -- because when I got there, they was already there when I got there. You know, so when I got there we clocked in, so I don't know how it was prior to me because the business was already there before I even got there. You understand what I'm saying?

Q Yes, I understand.
A It was like we had to write it in once before, I don't recall that part. I just know that if we had to clock out or we had to verify something, like if we didn't punch in right, sometimes it would come in like crooked or whatever, and the manager would verify everything with it, Cripp.
Q And that is Cripp?
A Yes, ma'am.
Q But on that particular day -- you don't know what day.
A No.
Q But on one day a girl came and picked him up in a tan-colored Impala?
A Yes, ma'am.
Q And he left for about an hour and a half?
A I'm not going to say exactly, hour and a half probably, roughly between those times. I don't know what time because I wasn't really paying attention what time he came back because, you know, I just knew it was like around the time by the time he got back.
Q He left when y'all went on break; right?
A Yes, ma'am.
Q And y'all broke for an hour?

A Yes, ma'am.
Q And then he came back sometime after that?
A Yes, ma'am.
Q So over an hour, but less than two hours?
A Yes, ma'am. Yes.
Q Okay.
Q I don't have any further questions. Thank you.
A You are welcome.

THE COURT: Mr. Bank?

REDIRECT EXAMINATION

BY MR. BANK:

Q You mentioned something about the time card getting marked or didn't stamp right, or something like that?
A Yes, sir.
Q You said at that point Mr. Griffin, or Cripp, would then initial to correct it?
A Yes, sir.
Q Okay. And then, just to be clear, in the statement from August 3rd of 2012, you described this Impala as brown or tan. Is that correct on the statement?
A Yes, sir. Well, that is tan. That's what I mean like champagne-looking color.
Q All right.

MR. BANK: That's all the questions I have.

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MS. M. WALKER: I don't have anything further.

THE COURT: Thank you. Thank you very much sir. You may step down. And you may be excused.

(Witness steps down and is excused.)

THE COURT: All right. Perhaps now would be a good time to take our evening recess. I remind you during this recess, do not discuss this case with anyone, fellow jurors, family, friends, or anyone else. Do not watch, read, listen to any news accounts about the case, should there be any. Do not do any independent investigation or any investigation on the internet. Please remember to keep an open mind. Do not begin your deliberations until I instruct you to do so.

Ladies and gentlemen, the Defense has not rested. They have two more witnesses, I believe, one of which had flight problems -- travel problems, I should say, in getting here today because of where that individual had to come from. But we should conclude the trial testimony sometime by mid-day or prior thereto in the morning. And then we'll continue to press on during the afternoon hours also.

I appreciate y'all's patience and attention and the attention that you have shown all the

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parties throughout the trial of this case. I know you will continue to do so.

With that being said, you are now excused. I'd ask you to please be back promptly at 9:30 in morning. Promptly at 9:30 in the morning.

Thank you. Thank you very much.

(WHEREUPON, the jury retires for the evening at 5:02 p.m.)

THE COURT: Anything from the Defense, Ms. Walker, Mr. Bank?

MR. BANK: Unless anybody is opposed, we would just ask for Mr. Coffeil to be released from his subpoena, if it is all right with the Court.

THE COURT: Yes, certainly. He may be released.

Anything from the State?

MS. M. WALKER: Nothing, Your Honor.

THE COURT: All right. Thank you. Thank you very much. I hope y'all have a pleasant evening. 9:30 in the morning.

(WHEREUPON, the proceedings concluded at 5:03 p.m.)

(WHEREUPON, the proceedings resumed at 9:35 a.m.)

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THE COURT: Anything before we bring out the jury?

MS. CAMPBELL: Yesterday we put on the record that we had requested copies of the articles they said that their expert was relying on. They gave us cites. Last night when we tried to go to those cites, we were able to get one of them. The other two we were not able to get.

At that point, Ms. Walker then emailed them, since we needed copies of the actual studies that they were actually relying on, this morning at 6:00 a.m.

I believe then Ms. Walker forwarded to us from Ms. McQuiston these same cites again that she had given us yesterday. We still don't have the studies. I don't want to cause any delay.

Additionally, Your Honor, reviewing the law last night, I think in this case -- it was mentioned earlier -- under State versus White that we might need to do a hearing outside the presence of the jury as far as --

THE COURT: White?

MS. CAMPBELL: Yes, sir.

THE COURT: Ms. Walker?

MS. WALKER: Your Honor, I have turned the

studies that -- I have not reviewed the studies that my expert has relied on in terms of her testimony to what she would be testifying as far as eyewitness testimony and memory, but I did turn over those cites as soon as I got them to the Prosecution as they requested.

THE COURT: What are you asking me to do, Solicitor?

MS. CAMPBELL: I would ask, Number One, that she give me copies of the studies. I assume her expert has them. I can't access them, or we couldn't last night because we had to go online and pay for them, and even then I don't know if we could have gotten them. If she can turn over copies of what her expert is relying on, that will be helpful to us.

And the second thing I am going to be asking for is just a brief hearing outside the presence of the jury before she puts her up, at whatever point that would be.

THE COURT: Is Dr. --

MS. A. WALKER: Dr. McQuiston is here, Your Honor.

THE COURT: -- McQuiston present?

MS. A. WALKER: I don't believe Dr. McQuiston

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brought those articles with her today either.

THE COURT: Is there a way to access them? I mean, can the doctor show you or someone how to access them where they can be printed out?

MS. A. WALKER: I can certainly ask her, Your Honor.

THE COURT: Ma'am?

MS. A. WALKER: I can certainly ask her, Your Honor. Beg the Court's indulgence.

THE COURT: Certainly. Yes, ma'am.

(Pause.)

MS. A. WALKER: My expert can access the articles she is going to specifically refer to in her testimony.

As to all of the materials she has referred to throughout her testimony, she has not brought every single book, paper, material, everything she referred to, and I don't believe that she would have -- we would be able to provide all of that to the Prosecution at this point.

But as to the specific things that she is going to refer to in her testimony, she would be able to, if you would take a short recess, be able to -- if she has access to a computer -- be able to access those and get a copy of those.

MS. CAMPBELL: That would be great. If they would have another witness we can put up, I think -- or that they were going to put -- I don't know if you are.

THE COURT: I forgot his or her name, the witness from Tampa?

MR. BANK: Yes.

THE COURT: Is that person going to testify also?

MR. BANK: Yes, sir.

MS. A. WALKER: That's fine. But I just want to be clear, Your Honor, that the articles that we are providing the Prosecution are only the ones that she is mentioning in name in her testimony. Those are not all the articles that she is basing her testimony on. As an expert in eyewitness testimony and memory, she has obviously studied way more than three meta-analyses.

THE COURT: Oh, I'm sure she has, Ms. Walker. But don't they say if you are going to cut down a tree and it is going to take nine hours, six hours should be sharpening knives? Well, I guess the Solicitor just wants to sharpen their knives.

MS. A. WALKER: Certainly, Your Honor.

THE COURT: And then take three hours to cut

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the tree. Whatever she can provide.

MS. A. WALKER: Certainly, Your Honor.

THE COURT: Whatever she has. However y'all want to do it. If you want to call -- do you want to call another witness?

MS. A. WALKER: We can do that. If you will just gave me three minutes, I'll send a clerk with her to get access to a computer and we will get her -- yes, certainly.

THE COURT: Does that suit, Solicitor?

MS. CAMPBELL: Yes, sir.

THE COURT: Mr. Tate, you will take care of that?

MR. TATE: I'll take care of it, Your Honor.

THE COURT: All right. Anything further before we bring in our jury? From the State?

MS. CAMPBELL: Nothing, Your Honor.

THE COURT: From the Defense?

MR. BANK: Nothing, Your Honor. I don't believe there is any issues with Mr. Griffin's criminal record that the State is planning on going over, that I know of.

THE COURT: And Mr. Griffin is your next witness?

MR. BANK: Yes, sir.

MS. CAMPBELL: Oh, he has -- I believe he has a got a homicide conviction, but I think it is past the ten-year period.

MR. BANK: I believe a vehicular manslaughter, I believe, from 1992.

MS. CAMPBELL: That's what I recall, Your Honor.

THE COURT: You do not intend to attempt to use that all? All right.

MR. BANK: That's all from the Defense.

THE COURT: All right. Is the jury here?

THE BAILIFF: Yes, sir.

(WHEREUPON, the jury came into open court at 9:45 a.m.)

THE BAILIFF: The jurors are seated, Your Honor.

THE COURT: Thank you. Thank you, Mr. Bailiff.

Mr. Foreman, ladies and gentlemen of the jury, good morning.

THE JURY: Good morning.

THE COURT: I hope y'all had a pleasant evening.

As you recall, we are continuing the trial of the case by the presentation of evidence and

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testimony by the Defense in its case in chief.

If you would please continue to give the parties your complete and undivided attention.

Ms. Walker? Mr. Bank?

MR. BANK: Yes, sir.

THE COURT: Mr. Bank, you may call your next witness.

MR. BANK: Thank you, Your Honor. The Defense calls Aaron Griffin.

THE COURT: All right. Mr. Griffin, if you will please come around to my front left and be sworn in.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE DEFENDANT: Yes, ma'am.

THE CLERK: Please have a seat.

(Witness complies.)

THE CLERK: And state your full name for the record.

THE WITNESS: Aaron Griffin.

AARON GRIFFIN,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BANK:

Q Mr. Griffin, how are you doing today?

A I'm doing okay.

Q Are you a little tired today?

A Yep, a little bit.

Q Did you travel from out of town?

A Yes, I did.

Q What time did you end up getting here to Columbia?

A 1:30 this morning.

Q What time?

A 1:30.

Q Mr. Griffin, can you introduce yourself to the jury? Just tell them where you live, what you do for a living, just a little bit about yourself.

A Tampa, Florida. I used to work for Creative Recycling, which is now out of business. I now do tile, tile work.

Q Okay. Are you originally from Tampa or originally from Columbia?

A Tampa.

Q Okay. Mr. Griffin, are you under subpoena to be

here today?
A No.
Q Could you tell the jury where you lived and worked in June of 2012?
A Columbia, South Carolina.
Q And where was it that you worked? Was it a business?
A I worked for Creative Recycling here in Columbia. We opened up a hub to clean up the landfills of electronic waste.
Q Okay. Was that -- June of 2012, was that when you started working at Creative Recycling? How long did you work there?
A I worked for Creative Recycling 23 years.
Q For 23 years? Until they went out of business?
A Right.
Q And what exactly -- you mentioned a little bit about it, but could you explain a little bit more about what Creative Recycling does?
A Well, what they did was -- certain items the public would have to pay to get rid of, which was a television, anything with CRT which contains mercury and hazardous materials.

So what they did was took those materials and wouldn't have to actually pay for them to process

to get rid of that glass at CRT, any other electronics it didn't cost you anything to get rid of.

So we would go out to the public and take in any bad or unused electronics, you know what I'm saying, to keep it out of the landfill.

Q And then what did the actual facility that you worked at here in Columbia do with all that stuff?

A Well, we separated it, stacked it, whatever the case may be, and shipped it off to a different facility.

Q Okay. And what was your role at Creative Recycling here in Columbia?

A I was supervisor/manager.

Q Okay.

A Until they brought in a permanent manager for this location.

Q Okay. So you were basically the person they sent to help open it?

A Yes.

Q And could you explain to the jury, while you were supervisor at the Columbia site, before they brought in somebody new, what some of your roles as supervisor was?

A Well, to make sure that the guys were there on

time, for one. And everybody was safe, for two. To make sure that they was properly separating the materials, packing the material, you know what I'm saying, getting the shipments ready for transporting to a different facility.

We would do -- making sure the guys know how to separate the materials, because everything wasn't just throwed into one box, it would have to be separated by itemized separation, basically.

Q Okay. And you mentioned something right at the beginning there about making sure that the guys were on time. Were you in charge of monitoring their schedules or when they worked or didn't work?

A Yes. I mean, the shift was from 8:00 to 4:30, you know what I'm saying? You got -- you work from 8:00 to 4:30. You got a 30-minute lunch. You got two breaks, one at 10:00 o'clock and one at 2:00 o'clock.

Q Okay. And was there any mechanism for keeping track of when people came and go -- went?

A Well, not at the beginning. Probably, oh my God, I would think -- let me see -- September, November, somewhere in there we actually got a time clock.

Q Okay.

A Where we actually had physical time cards.

Q And what was the direction for when people clock in or clock out? Did they clock in and out every time they left for the 15-minute break or the 30-minute break?
A No, only for lunch when they clock in and then out for lunch, back in for lunch, and then out at 4:30.
Q Okay. So the 15-minute breaks at 10:00 and 2:00, there was no clock out?
A No.
Q In or out? Was there generally enough time for people to leave for those 15-minute breaks the site?
A Yes. Yeah. I mean, it depends on where you was actually going, which, I mean, a store probably about a mile away, I guess, close to a mile away.
Q Do you happen to remember if that was an Exxon store?
A Vaguely.
Q Now, outside of just when people came in and out, what was the kind of daily schedule? What I mean by that is, is this a Monday through Friday, or a weekend thing, or is it kind of all over the place?
A Well, it is basically Monday through Friday unless -- unless we had to go over and help one of the other sites do a public collection, which then

we went out and collected from the public.
Q How would that affect the schedule?
A Actually, it would be from, I think they normally range from 7:00 to 2:00 o'clock in the afternoon.
Q Okay.
A So we would meet at the actual job site and then go over to the collection site.
Q Okay. Now, with your time working at Creative Recycling in June of 2012, did you have an opportunity to work with or get to know Anthony Porterfield?
A Yeah, I got to know Anthony. Anthony was the lead guy in what we call the triage area. And I would basically go over everything, how things needed to be separated, and then he would make sure the guys was actually doing the separation properly.
Q Okay. So you were over Anthony; right?
A Right.
Q And then how many people was Anthony over?
A Anthony wasn't really over anybody.
Q Okay.
A But the guys -- it was either four to five guys working in the area with him. Some guys was newer, you know what I'm saying, so they didn't know how to separate, so that is him making sure that

everything was in order if I was in a different side of the building.

Q Okay. And was your relationship with Anthony strictly with work, or did y'all have a personal relationship?

A Just work.

Q Just work?

A Yes.

Q No personal relationship?

A No.

Q Now, June 27th of 2012, two and a half, almost three years ago, sitting on that stand by yourself without anything, can you remember what happened on June 27th of 2012?

A No.

Q Just like -- can you remember what happened on June 26th of 2012?

A No.

Q Do you remember about a month after June 27th of 2012 somebody -- an investigator coming to see you?

A Vaguely I remember a guy named Cowboy, or something, something like that. I don't remember exactly what his name was.

Q Did he have a cowboy hat?

A Yes.

Q And do you remember sitting down with him and writing a statement?
A That I remember. I remember giving him a statement.
Q Okay.
A As far as I can remember.
Q And the statement was in regard to a specific date; is that right?
A Yes.
Q If I gave you a copy of the statement, would it help refresh your memory as to what happened on June 27th, 2012?
A Possibly.

MR. BANK: May I approach, Your Honor?

THE COURT: Yes, sir.

(Complies.)

A Yes, I remember this.
Q After refreshing your memory, is it your recollection that Anthony Porterfield was working on --

MS. CAMPBELL: Object to leading.

THE COURT: Rephrase the question, please, Mr. Bank.

MR. BANK: Absolutely, Your Honor.

BY MR. BANK:

Q After refreshing your memory, do you have a recollection of any days that Anthony Porterfield may have been working in June of 2012? Specifically?
A That he may have been working?
Q That he was working?
A I mean, that has been a while. I mean, I can't --
Q Do you recall the investigator asking you about specific dates in June of 2012?
A Yes.
Q And do you recall what that date was?
A No.
Q Would it help you to see your statement again?

THE COURT: His written statement? You can give it to him again, but he has read it.

Would it help you, Mr. Griffin, to read your statement again?

THE WITNESS: Yes, please.

(Complies.)

BY MR. BANK:
Q Is there a specific date you remember, Mr. Griffin?
A Yes.
Q What was that date?
A June 27th, Wednesday.
Q June 27th of 2012?

A Yes.
Q Do you recall Wednesday you saw Anthony working on that day?
A Yes, sir. I recall Anthony working that day.
Q Can you tell the jury and explain to the jury what you remember about that day?
A Well, we all got in 8:00 o'clock. We started work at 8:00 o'clock. And then he came to me maybe 11:30 saying he needed to go, needed to leave, someone was taking something from his home.

And from there I told him to go ahead, just make sure you clock in and clock out when you get back, you know what I'm saying? Or clock out and clock back in when you get back.

Q Do you remember whether he came back after going --
A Yes, he did.
Q Okay. And after he got back, around what time do you think that might have been?
A He might have been gone 35 minutes, or something like that. But, I mean, it could have been 11:45, something. I'm not sure.
Q Okay. Was he gone longer than an hour and a half?
A I don't think so. Like I said, I can't remember, but I don't think it was that long.

THE COURT: What is your answer?

THE WITNESS: No.
BY MR. BANK:
Q Mr. Griffin, when he got back to work, did he leave again?
A 4:30.
Q And 4:30 is when everybody left?
A Yes.
Q And, Mr. Griffin, I'm going to hand something up to you and ask you if you recognize it. This is Defendant's Exhibit 18. Do you know what that is, Mr. Griffin?
A A copy of a time card.
Q Is that the typical time card that Creative Recycling was using in June 2012?
A Yes.
Q And can you tell who that time card belongs to?
A Mr. Anthony Porterfield.
Q And how can you tell that?
A His name is at the top of the time sheet.
Q Okay. And are those your initials on the left side?
A Yes.
Q And what do those initials do, verify the time?
A It shows that he either didn't clock back in or didn't clock out for lunch.

Q Okay.
A And then --
MR. BANK: Your Honor, do you mind if I take the witness down in front of the jury so he can show the time card to the jury and -- well, actually, I'm getting ahead of myself.
Q Mr. Griffin, is that your signature on the time card?
A Yes.
Q From what you could see on there, has it been altered or --
A No.
Q In any way?
A No.
MR. BANK: Your Honor, at this time we move to introduce the time card into evidence.
THE COURT: All right. Solicitor?
MS. M. WALKER: No objection, Your Honor.
THE COURT: This is Defense 18?
MR. BANK: Yes, sir.
THE COURT: Defense 18 is in evidence, without objection.
(WHEREUPON, Defendant's Exhibit No. 18 was marked for identification and received into evidence.)

BY MR. BANK:
Q Mr. Griffin, would you mind coming down off the stand so we can get in front of the jury and show the time card to them?
A (Witness steps down.)
Q And can you explain to them a little bit what all these markings are here?
A Yes. This right here is the hours he actually worked today -- that day -- right there. And --
THE COURT: I can't -- I apologize, I can't hear. You will have to ask him to speak up for me, please, Mr. Bank.
BY MR. BANK:
Q Just make sure you speak up a little bit while you are explaining it.
A Well, here is the -- that is the time they clock in and out. Here is where I would go and add up the hours that they actually worked that day. And if they didn't clock in and out, you know what I'm saying, I would put my signature and put the name of the actual person working that day at the top with the date they worked, the week of the work week. And that is basically the time card. Just a basic time card.
Q Mr. Griffin, you mentioned something about the

numbers on the left. What are these eights down the side, or in the middle?
A Like the hours that they actually worked that day.
Q Okay. And could you explain to the jury why a couple of these days look like they have four times to clock in and clock out, clock in, clock out, on these two, but these first three don't appear to have that.
A Right. Either they forget to clock in or clock out, and I would go through and put a signature beside it so they would know to go back and, you know what I'm saying, so we can correct that time. If not, they didn't get paid for their lunch, so that would mean they would get a deduction.
Q Mr. Griffin, is that what the eight here indicates?
A Right.
Q And what is the eight one more time?
A The hours they actually worked for the day, eight hours a day.
Q Okay. And there isn't an eight down on Friday, is there?
A No.
Q And why is there not an eight down on Friday?
A Because he came in at 12:00 o'clock and left at 12:56.

Q So he didn't work eight hours that day?
A Right.
Q And can you point to the jury which of those days is June 27th?
A That will be Wednesday.
Q And could you explain to the jury what that -- it looks like there is a marker next to that eight, maybe something is scratched out. Can you explain what that is?
A Because he was probably not gone a complete half hour and I just went ahead and paid him for it. And, I mean, that is as far as I can remember. I mean, I don't -- it has been a long time.
Q Absolutely. Thank you. You can go back to the stand now.
(Witness returns to witness stand.)
Q Mr. Griffin, when you were verifying and marking numbers, would you be doing it that day or that week, or would you be doing it later when you were initialing and verifying?
A Actually on Friday.
Q On Friday?
A Friday of each week, or Thursday, because time ran out on Friday.
Q Okay. Mr. Griffin, was it typical that you had to

correct the time cards every once in while for people?

A Yes.

Q Was that because people would forget --

MS. A. WALKER: Object to the leading, Your Honor.

THE COURT: All right. Rephrase the question, please.

BY MR. BANK:

Q What are some of the reasons why you would have to fix people's time cards?

A Well, if they wasn't going further than the gas station down the street, you know what I mean, they would just leave and I would just make sure that they -- that reason they didn't clock out, but they -- they didn't clock, actually clock out for lunch, but they would clock back in.

Q And is there a specific reason that you would want to verify these numbers and verify when somebody is there and not there?

A Yes. That was because if they took longer than 30 minutes for lunch, then they would be deducted at the end.

Q So essentially you want to make sure that they weren't getting paid for what they weren't doing?

A Right. Exactly.
Q Mr. Griffin, I have got just a few more questions. Is there any reason that you have to try to protect Anthony or lie for him?
A No.
Q Has Anthony ever contacted you about this time card or asked you to make anything up about it?
A No.
Q When is the first time anybody approached you and asked you about the time card?
A A couple of weeks ago.
Q Do you remember whether anybody approached you earlier than that? Whether you ever gave a copy to anybody earlier than that?
A I think it was his girlfriend at the time, and I don't know if they are together now, but I think --
Q And can you tell the jury what you remember about that?
A It is just that she needed a copy of the time card for his lawyer, or whatever, I guess showing him, you know what I mean -- I don't know what it was for.
Q And when she asked for that time card, was there any reason that you needed to write up a new one, or did you just go pull the original time card that

already had markings on it?
A I took his time card and made a copy of it.
Q Okay.
A I never gave anyone the actual time card.
Q But it was a copy of the original time card that already had markings on it?
A Right.
Q Has anybody from law enforcement or the Solicitor's Office ever contacted you?
A Yeah. Like I was saying, two weeks ago I started getting phone calls to actually come here, but other than that, no.
Q Was that the first time you ever heard from law enforcement or the Solicitor's Office since this whole incident happened?
A Other than the time of the 27th -- 26th, 27th -- that Wednesday. I mean, that was the only other time.
Q Okay. To be clear, you recall Mr. Porterfield leaving around 11:20; is that right? Or 11:30?
A Yes, right, 11:20, 11:30.
Q And then you said he was gone for about how long you think?
A I think about 45 minutes.
Q Okay. Mr. Griffin, you are not under subpoena

today, you said; is that correct?
A That's right.
Q Why did you come up here from Florida?
A Well, for one, it was becoming a hassle to me, you know what I'm saying? I'm trying to live my life, and I ain't had nothing to do with this, and I just I got tired of being hassled.
Q You were being hassled?
A Yes.
Q A lot of people calling you?
A Yes.

MR. BANK: Beg the Court's indulgence.

THE COURT: Yes, sir, Mr. Bank.

(Pause.)

BY MR. BANK:
Q Mr. Griffin, could -- in terms of the business, Creative Recycling, was there any opportunity or way for an employee to bring electronics to the place themselves, legitimately or illegitimately, and make a profit off of it?
A No.
Q Was there any money being exchanged at Creative Recycling, like cash in hand, in the business practice?
A No.

Q Do you have any favoritism over -- with Anthony over any of the other employees?
A No.
Q Mr. Griffin, do you have a nickname that folks used to call you?
A Cripp.
Q Cripp? Does anybody call you that anymore?
A No.
Q Why does nobody call you that anymore?
A Well, I mean, that was 23 years of working with the same people, and it was just a nickname I had when I was younger, so it just carried over to the workplace. But nobody at this new job I have knows me by Cripp.
Q Mr. Griffin, could you explain to the jury where you got that nickname from?
A It was a childhood motorcycle accident.
Q Could you expound on that a little bit?
A Yes. I was in a cast just about a year and a half, and my best friend gave me a nickname of Cripp, and it just stuck with me.

MR. BANK: Beg the Court's indulgence?

THE COURT: Yes, sir.

(Pause.)

BY MR. BANK:

Q That's all the questions I have. Please answer any questions that the Government might have for you.

CROSS-EXAMINATION

BY MS. M. WALKER:

Q Good morning, Mr. Griffin.

A Good morning.

Q My name is Meghan. I'm one of the Prosecutors here in Columbia. You said -- when did you leave Columbia? When did you leave Columbia?

A January -- January of 2012. It may have been 2013.

Q Okay. And is this your first time back since then?

A Yes.

Q He asked you some questions about June 27th. I want to kind of go into that in more detail. Do you remember who picked Anthony Porterfield up that day?

A There was a female.

Q And did you know this female?

A No, not personally.

Q It was definitely a female that picked him up?

A Yes.

Q This time card, you said that y'all got -- y'all had one way of doing it, and then in September or October y'all switched to the automated time card?

A Right.

Q But before September or October, they would have been writing in the time?
A Yes.
Q So they weren't stamping the times in then?
A No.
Q Okay.
A Let me correct you.
Q Yes.
A Prior to getting the time clock, which came October, September, somewhere in there --
Q Right.
A -- I would make -- I had copies of one time card that I would make copies of. Each card was just a copy of a time card where everything was written in, because we didn't have a way to stamp the card.
Q But in September or October, that is when y'all got the automated system?
A Yes, ma'am.
Q But before then it was handwritten?
A Yes.
Q Okay. So in I guess August it would have been handwritten?
A Yes.
Q Time cards. July handwritten?
A Yes.

Q And in June it was handwritten?
A Yes.
Q Okay. I just have one question. You see these letters here? I'm just not familiar with the particular card. These letters?
A Yes. This -- like I say, I had one blank time card.
Q Uh-huh.
A I took the copy machine and I made a copy of the time card.
Q Right.
A You know what I'm saying? So all your lettering --
Q Not these letters. I get those. Those are the days of the week; right?
A Yes.
Q But these right here? Like these little marks right here, do you know what that is? That SEP?
A That's -- I'm thinking that is the time in, time out, you know what I'm saying?
Q Okay, I see what you're saying.
A Yes.
Q And this particular format was September, October?
A Yes.
Q And on that particular day -- let me hand this back to you. On that Wednesday it looks like he got

eight and a half hours of time?
A That was a mistake on my part.
Q Okay. So the company paid him for time he wasn't there?
A No. It was a mistake on my part. It didn't go in that way. When I actually emailed the time, the time did not show eight and a half hours that day.
Q So the time card isn't an accurate representation of the company's business record. Is that erroneous, I guess?
A Well, I think I was trying to scratch that out.
Q Okay. I see. I'm on the same page with you now.
And at some point you gave a copy of this to Mr. Porterfield's girlfriend?
A Yes.
Q Was it the same girl that picked him up that day?
A I don't remember.
Q Or if you don't remember, that's fine. It was a long time ago.
A I don't remember.
Q Okay. But this particular time card y'all got in September or October?
A Yes.
Q Thank you, sir. I don't have any further questions. Thank you for being here, though.

A Okay.

THE COURT: Redirect?

MR. BANK: Very quickly.

REDIRECT EXAMINATION

BY MR. BANK:

Q Just to verify. This time card that was used in June of 2012?

A Right.

Q And on Wednesday there is a time that is missing on June 27th; right?

A Yes.

Q And you went back to correct that, to add in to -- to verify he had actually worked eight hours?

A Right.

MR. BANK: That's all the questions I have.

THE COURT: Recross, Solicitor?

MS. M. WALKER: No further questions, Your Honor.

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

(Witness steps down.)

THE COURT: All right. Mr. Foreman, if you will please step to your jury room. We'll take about a 15-minute recess. Do not discuss the case during this brief recess.

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Thank you. Thank you very much.

(WHEREUPON, the jury retires to the jury room at 10:17 a.m.)

THE COURT: All right. Solicitor, you mentioned a White hearing; is that correct?

MS. CAMPBELL: Yes, sir.

THE COURT: And I take that, that is 676 S.E.2d. 684, State v. White, a Richland County armed robbery case?

MS. CAMPBELL: Yes, sir.

THE COURT: All right. And we will need our expert witness.

MS. A. WALKER: Certainly, Your Honor. I'll get our clerk to go see. I'm sure she is printing out those articles for the Prosecutor.

THE COURT: We will take a recess and let's see where the articles are, Solicitor.

MS. CAMPBELL: Perfect.

THE COURT: Let's take about a 15-minute recess.

Mr. Bank?

MR. BANK: Your Honor, Mr. Griffin is not under subpoena. I just want to make sure it is all right if I tell him he can go on about his business?

MS. M. WALKER: No objection.

THE COURT: Th ank you. Thank you for being with us, Mr. Griffin.

MR. GRIFFIN: You're welcome.

(Mr. Griffin excused.)

THE COURT: We'll take about a 15-minute recess. Thank you very much.

(WHEREUPON, a break was taken at 10:19 a.m.)

(WHEREUPON, the proceedings resumed at 10:32 a.m.)

THE COURT: Solicitor?

MS. CAMPBELL: During the break we were provided a copy of the articles she is going to reference. And at this point if we could have a hearing, that is all we request.

THE COURT: All right. Ms. Walker?

MS. A. WALKER: Thank you, Your Honor. The Defense calls Dr. Dawn McQuiston to the stand.

(Witness approaches.)

THE COURT: Do you solemnly swear the testimony you give before the Court will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE COURT: Thank you. If you will please take the stand.

(Witness complies.)

THE COURT: And spell your last name.

THE WITNESS: It is Dawn McQuiston. And that is M-C-Q-U-I-S-T-O-N.

DAWN MCQUISTON,

after being duly sworn, testified as follows:

DIRECT EXAMINATION(IN CAMERA)

BY MS. A. WALKER:

Q Dr. McQuiston, what is your current occupation?

A Associate professor of psychology at Wofford College.

Q And how many years has this been your occupation?

A It has been my occupation in general for 12 years. And at Wofford College for two of those years.

Q Okay. And what kind of education and degrees do you have?

A I have a bachelor's degree in psychology, a master's degree in experimental psychology, and a PhD in experimental psychology.

Q And your faculty position at Wofford, what does that consist of?

A I teach classes and do research.

Q And what is your general research area?

A My general research area is eyewitness memory.
Q And what is eyewitness memory?
A Examining different factors that can affect memory of people who witness a crime.
Q And how long have you been doing this type of research?
A I've been doing this type of research for about 15 years or so.
Q And do you belong to any psychological organizations, national or international?
A I do. Both. Society for Research in Memory and Cognition, Society for Empirical Legal Studies, the American Psychology-Law Society.
Q And have you published any of your research?
A I have.
Q And has it been peer reviewed?
A It has.
Q And can you explain what peer review mean?
A Sure. Peer review is the process by which scholars submit their research for publication, and it goes out to experts in any given field to be reviewed for its quality before it is published.
Q And have you yourself done any peer review articles?
A I have.

Q And have you done those for any academic journal?
A I have, yes.
Q And have you presented your research at any psychological conferences?
A Yes.
Q And have those conferences been both national and international?
A Yes.
Q And have you ever been qualified as an expert in memory?
A I have.
Q Have you been qualified as an expert in eyewitness identification?
A Yes.
Q And has that been in both state and federal court?
A Yes.
Q And in what states?
A In South Carolina, North Carolina, Tennessee, Arizona, and Washington.

MS. A. WALKER: And, Your Honor, at this time we would offer Dr. McQuiston as an expert in memory and eyewitness identification.

THE COURT: All right. Thank you.

Solicitor?

MS. CAMPBELL: No questions for this hearing,

Your Honor.

THE COURT: No questions as far as the expertise?

MS. CAMPBELL: Your Honor, I guess I need to ask her a couple of questions at this point.

EXAMINATION(IN CAMERA)

BY MS. CAMPBELL:

Q Doctor, you mentioned you have a PhD in experimental psychology?

A Yes, ma'am.

Q What is that?

A It is a general research degree. A lot of questions in research methodology and statistics. And my specific field is psychology and law. The name of my degree is experimental psychology.

Q Okay. Can you be more specific than that? I mean, it is just generally -- experimental psychology is what it says it is?

A Yes.

Q Which is you experiment in the field of psychology?

A That's right. With a specialization in law and psychology, yes.

Q And you mentioned that you have been qualified before as an expert in memory?

A That's right.

Q Can you tell the judge specifically what your testimony -- or how you are an expert in memory?
A Sure. As I mentioned, I study psychological factors that influence eyewitness identification, such as memory perception, attention, the way all of those work together to influence witnesses to a crime.
Q So that is actually kind of a subset of the eyewitness identification area?
A I wouldn't call it a subset, but as it relates to. As it applies to that field.
Q So those two are interrelated?
A Right.
Q So you have basically been qualified as an expert in eyewitness identification, specifically as to memory?
A Right.
Q You mentioned that you have been in multiple different states?
A I have.
Q South Carolina, North Carolina, Tennessee, Arizona, and Washington?
A That's right.
Q And when you testified, are those all in criminal trials, civil trials, or what kind of trials?

A All criminal.
Q And did you testify for the Prosecution or the Defense?
A It has always been for the Defense.
Q And how many times have you testified? Do you know a total?
A About 25.
MS. CAMPBELL: Beg the Court's indulgence?
THE COURT: Yes, ma'am.
(Pause.)
MS. CAMPBELL: Your Honor, as far as qualifications, we have nothing further.
THE COURT: All right. Thank you. Thank you very much.
THE COURT: Ms. Walker, you may continue.
MS. A. WALKER: Thank you, Your Honor. Do you want me to proffer her entire testimony at this point?
THE COURT: You are asking me?
MS. A. WALKER: I guess as to reliability is what we're going into for the White testimony -- or for the White hearing?
MS. CAMPBELL: Your Honor, additionally, because of our concerns about certain areas she may be going into, we would like for her to generally

outline her entire testimony, or what she intends to go into.

MS. A. WALKER: I'll continue, Your Honor.

THE COURT: Well, as I understand White, the Court must first assess a threshold foundation of requirements of qualification.

I believe the doctor is qualified. And the areas in which you have questioned her about, Ms. Walker, the next issue is the reliability and, further, that the proposed evidence will assist the trier of fact. And I'm reading directly from State v. White.

So I think she is qualified. She testified before. She has an undergraduate and two graduate degrees, including a PhD. She has testified in South Carolina courts and other courts, in state courts throughout our country and in federal court.

So I think now it goes to the particular area of her expertise and reliability of that area and whether or not that would assist the trier of facts.

MS. A. WALKER: Certainly, Your Honor. I'll continue.

THE COURT: Thank you.

MS. A. WALKER: May it please the Court?

THE COURT: Yes, ma'am.

DIRECT EXAMINATION CONTINUES(IN CAMERA)

BY MS. A. WALKER:

Q Is there a generally accepted theory about how memory works?

A There is. It was put forth by a couple of psychologists back in 1960, Atkinson and Shiffrin. And it has to do with the idea that there are several stages through which memory or information passes in order to be acquired as a memory.

So the basic idea is that memory doesn't necessarily work like a videotape, instead there are these theories of stages through which information passes before making it to long-term memory.

Q Okay. And so what is the first stage of memory?

A The first stage is sensory memory. And that -- sensory memory is -- we only hold information in sensory memory for a fleeting moment. It is the things that we're thinking about right in any given moment. And unless we rehearse information in that moment, it will not make it into the next stage, which is short-term memory. We can hold information in short-term memory for about 30 seconds. Again, if you don't rehearse it, it won't

move past that stage. But if you do, then it can make it into long-term memory, the last stage, which is information that you can later recall.

Q Okay. So there are three stages?

A Right.

Q Okay. And could you just repeat those stages?

A Sensory memory, short-term memory, long-term memory.

Q Okay. And so generally people don't remember a photograph of what they have seen?

A That's right.

Q And then what is it they do remember if it is not an exact photograph?

A Typically, information that people process is filled with gaps. Memory theorists believe that information that we process in code typically is full of gaps. It is the normal way that perception and attention work. And we tend to fill in those gaps with information from a lot of sources: Our expectation, our experiences, information that other people say. So those gaps get filled in with lots of -- can get filled in with lots of information.

Q And how do psychologists study memory?

A They typically are -- as applies to an eyewitness

identification situation, they are typically assessing the circumstances under which people tend to be more accurate versus less accurate.

Q Okay. And then what do scientists mean when they use the term "attention"?

A Attention is this cognitive mechanism that we use to filter out information that we don't need and hang onto or focus on information that we do need. Because there is so much happening in the world around us at any given moment, we can't possibly pay attention to or attend to all of that information at once. And so our attention helps us focus on specifically that information that is going to be important.

Q Okay. So how does attention affect memory?

A We can't later remember the things that we don't attend to. We will only remember the things we attend to.

Q And under what kind of circumstances would someone fail to attend to some certain thing?

A Attention is limited. We can't possibly attend to every single thing that is happening at once. And, also, if you don't know that you'll need that information later, you may not attend to it in a given moment.

Q So there is another term. What do scientists mean by the term "perception"?
A Perception is another cognitive process we use to process information.
Q And do people sometimes make errors in perception?
A All the time.
Q And what is something that could influence the quality of information that is perceived?
A As it applies to an eyewitness situation, it could be the amount of time that you have to process information, the quicker something happens the less information that you are able to get; therefore, you might have a poorer memory for it later.
Q And does the quality of view that you have during the event, does that affect the memory for that event?
A Sure. Again, it has to do with how much information you can get. So if you have a poorer view, then you might get less information. If you have a great view, then you get more information.
Q And let's talk about familiarity. Are people more accurate regarding their identification if they previously interacted with that person?
A Sometimes yes and sometimes no.
Q Does that automatically mean there will be no

mistakes?
A Not necessarily, no.
Q So familiarity doesn't guarantee accuracy?
A Right.
Q And why is that?
A People tend to -- research shows that people think that they clearly remember the details from someone that they know better than they actually do. It is relatively counterintuitive. So that can potentially be a problem. And also information related to people who we are familiar with tend to be readily accessible, readily available, that we can draw on that information very easily. And so people tend to make those kinds of mental shortcuts sometimes.
Q And what happens if a perpetrator looks like somebody a person knows?
A This can particularly be a problem in that situation.
Q And does that also affect an eyewitness's confidence?
A It can. The more familiar we feel like we are with someone the greater confidence we tend to express with our memory for that person.
Q And making these sorts of mistakes in perception,

is that normal?
A That is right. The extent of mistakes happen to everyone.
Q And is there a phenomenon called the cross-race effect?
A There is, yes.
Q And what is that?
A The cross-race effect is a term applied to a phenomenon that has been studied for decades that shows that people tend to have a poorer memory for others that are of a different race or ethnicity than their own.
Q And have you reviewed any scientific research examining the effects of cross-racial identification on eyewitness accuracy?
A I did. There has been so many research studies in this particular field that a meta-analysis was done. That is one of the articles that I provided. And it was published in 2001 by researchers, Meissner and Brigham. And they included dozens of studies, about 5,000 participants.
Q And can you explain what a meta-analysis is?
A Sure. Sure. In a field where there has been a lot of research done, a scientist can conduct a meta-analysis where the results of many individual

studies are combined into one overall average result.

Q And how many studies went into the meta-analysis you just referred to?

A About 40 studies went into this particular meta-analysis, and about 5,000 participants.

Q Okay. And of the participants, who were those participants?

A They were all adults, males and females over age 18.

Q Okay. And how does this phenomenon exactly occur?

A There are several theories, but the theory that has received the -- the most important in literature is what researchers call the contact hypothesis, and it simply has to do with the more contact you might have with a particular group the less susceptible you would be to this effect, so it is the amount and quality of contact.

Q And has this been found among different racial groups?

A It has been studied all over the world, in the United States, in particular, in the UK, and Africa. And many studies find this effect with different ethnic groups.

Q And is there also a phenomenon called weapon focus?

A There is. That is the term that researchers apply to a situation where a weapon is present during a crime. And the phenomenon is described as the idea that people tend to focus on a threatening object, perhaps at the expense of focusing on other information that might be happening at that same time.

Q And did you review any scientific research regarding weapon focus?

A I did. Again, there are many studies done in the field relating to weapon focus, and so a meta-analysis was published by Researcher Steblay in 1992, and she combined the results of -- I believe this one was 19 -- 19 studies, 2- to 3,000 participants in the same manner as the cross-race.

Q And what is -- I apologize. Keep going.

A I don't remember what I was saying.

Q I apologize. And what does a meta-analysis allow you to do?

A It allows you to take the result of many studies and combine them into one overall average result.

Q And do researchers in your field often rely on meta-analyses?

A They do. They can be very handy in describing the average result of a whole field of studies.

Q And how are studies that examine weapon focus in particular generally conducted?
A Typically it would be some sort of simulated event where participants were exposed to some kind of threatening object and perhaps physiological measures of stress are taken at that time to ensure that it is having the effect that we presume that it is having. And people ask questions about their level of stress. And so they are in an event. And so one group would be exposed to that sort of object -- a weapon, for example -- and the other group would not be. And then in the end there would be an identification procedure to see how well they remembered information during the event.
Q And what kind of weapons were used in these studies?
A Guns, knives. One study used a syringe. Those kinds of -- anything that people might be afraid of.
Q And what types of individuals make up the participants in these studies?
A The same as the others. All adults, male and females over age 18.
Q And what was the result of this particular meta-analysis?

A What we find in general is that when there is a weapon present in these situations, people tend to be less accurate in their identification of the person than when there is no weapon present.
Q And how does this phenomenon happen?
A It has to do with attention, that there is a narrowing of attention, and people tend to focus their attention on the weapon. And that means that they are getting less information that is happening otherwise. So they might have -- they might in some situations have great memory for exactly what they are focusing on, but not a great memory for other details.
Q And do researchers find the weapon focus effect when different methods were used?
A Right. Different laboratories, different researchers have found this effect when different weapons are used. They generally find the same effect.
Q And how about different levels -- I think you called it physiological arousal. Could you explain that a little bit?
A Right. That is the mechanism that is underlying what researchers think is -- can be underlying this effect. It is related to the stress that someone

feels in that moment. And people tend to focus on their physiological arousal in that moment, the stress and fear response that they might have.

Q So a person could have a heightened feeling of stress when a weapon is present?

A That's right.

Q And can that affect witness identification?

A Yes. Studies show there that the extreme levels of stress, again, there is this narrowing of attention, people focus on that stress response. And it can diminish accuracy for details.

Q Okay. And have researchers looked at whether there is a relationship between confidence expressed by an eyewitness and the accuracy of the identification?

A Yes. Many studies have looked at the relationship between confidence and accuracy.

Q And did you again review some research in this field?

A I did. That was a third meta-analysis that was published in 1995, Researcher Sporer and three others, in a great journal heavily relied upon by researchers. Again, this one was dozens of studies, about 4,000 participants. Like the others, all males and females over age 18

participated in those studies.
Q And do you know about how many studies went into this meta-analysis?
A A couple of dozen.
Q Okay. And is there a relationship between a person's confidence in memory and the accuracy of that memory?
A There is a relationship, but the relationship is weaker than you would think. It turns out that in reviewing all of these studies where people make an identification, report their confidence in that identification, the relationship between those can be weak, meaning confidence is not a 100 percent reliable predictor of accuracy.
Q And how might confidence and accuracy not be related?
A There are a lot of things that can affect eyewitness confidence. Confidence can fluctuate. It can fluctuate depending on talking to other people about the event. Information that you might hear from anybody. There are a lot of sources that can influence a person's sense of confidence in their identification. So because that can fluctuate, it turns out that the relationship between confidence and accuracy isn't as stable as

people might think.
Q And is there any difficulties in assessing the reliability of in-court identification?
A I think in-court identifications can be tough because it is not a fresh identification. The only identification that is fresh would be the very first one that is made in the eyes of memory researchers and eyewitness identification researchers. Any other identification after that made of the same person isn't considered as -- necessarily as reliable as that first identification. Not to mention, everybody in the courtroom knows where the Defendant is sitting.
Q All right.

MS. A. WALKER: And, Your Honor, that would be all we have for Dr. McQuiston.

THE COURT: All right. Thank you.

Solicitor?

MS. CAMPBELL: Just a few questions, Your Honor.

CROSS-EXAMINATION(IN CAMERA)

BY MS. CAMPBELL:
Q You mentioned that the 2001 meta-whatever you are talking about where there were about 5,000 participants in a study?

A That's right.
Q Was it over 40 studies or less then 40 studies?
A I believe it was -- I believe it was 39 or 40 studies.
Q Okay. And those were all adults over 18 years of age?
A That's right.
Q And, again, typically what type of -- just give me an example of what one of those studies was.
A Sure. And that was a meta-analysis on the cross-race effect. And so the way the study in general would be conducted would be people would be exposed to some simulated situation where they are reviewing a person of either their own ethnic group or a different ethnic group under some kind of circumstances, and then later on tested for that to see how well they remember either details or could recall specifically that face.
Q Okay. And if I needed to get more details about how that was conducted, you could give that to me?
A Sure.
Q Like typically -- walk me through one, a typical -- that was used in one of those studies?
A A typical what?
Q How it was presented, what information was

presented, how they saw the person, and then what happened?

A If you needed something exactly specific from one of those 40 studies, I probably would have to go to review one of those 40 studies. But, in general, that is the basic procedure to study that phenomenon.

Q Okay. Well, can you give me an example of a study that you have reviewed in the past, how the study was conducted as far as exposing the person and then ultimately asking them to identify someone?

A Sure. There would be probably a mock event, a simulated event where you bring --

Q Such as a crime?

A Such as a crime, exactly. And you bring people into wherever it is going to take place.

Q Typically these take place in classrooms?

A Somewhere on the university campus. Not all the time, but typically, yes.

Q Yes.

A And so participants would view an event, but there would be different conditions. Like I mentioned, that the perpetrator or the central focus would be of either the same ethnic group as the participants or of a different ethnic group, depending on where

you were studying this. So people would be in these different conditions and view this event. And then sometime later, probably the next day, then you would be asked to come back and view a lineup to see if you could remember.

Q Okay. And that is typically how those were conducted?

A That's right.

Q Okay. And that would have been the extent of that -- one -- just an example of one?

A Right. Right.

Q And then in '92 you were talking about weapon focus?

A That's right.

Q And, again, it would be also done I believe in -- I mean, in a university type setting?

A That's right.

Q And, again, just as you said before, but at this point a weapon was involved?

A That's right.

Q And then they may come back the next day or a day later, or whenever, and present them with pictures or photos or something?

A Exactly.

Q And, finally, confidence versus accuracy. How is

that tested?
A Anytime anybody is asked to make a lineup identification in research, they are asked following the identification to give an assessment of how confident they are in that identification.
So in that moment then researchers have a measure of whether or not that person is accurate and they are controlling -- the researchers are controlling the situation. Then they know who is accurate and who isn't. And then they have a measure of that person's confidence. And then you are able to assess how high or low a person's confidence is and whether or not they were accurate.
Q And, again, that would be like a simulation, say, in a classroom or on a campus somewhere?
A Sure. Most --
Q Where they would observe and then later asked how confident they were about identifying that person?
A That's right.
MS. CAMPBELL: I don't have anything further, Your Honor.
THE COURT: All right. Do you have any objections to the admissibility of that testimony?
MS. CAMPBELL: Your Honor, the only thing we

have any issue with is the last part she testified to, which is the accuracy versus -- I believe she talked about a study. I don't want to misquote.

THE COURT: Accuracy versus confidence?

MS. CAMPBELL: Yes.

THE COURT: Confidence versus accuracy. Of other people fluctuates.

MS. CAMPBELL: I believe that would be in the purview of this jury, Your Honor. I believe it is up to them to do that. I would liken it to say in a case where a forensic interviewer testifies and they talk about, you know, signs you look for -- and I don't want to use the word bolstering -- I just read that case. That may not be the best way. But I think that is totally up to the jury to decide that. And, in fact, you would instruct the jury on parameters they would use to do that.

MS. A. WALKER: And, Your Honor, I think she is generally giving -- she has reviewed a meta-analysis. This has been a well-studied subject about confidence and the relationship between confidence and accuracy. It is not always the case.

Investigator Clarke took the stand earlier and said that he specifically asked both witnesses to

give a numerical assessment as to what their confidence was in this situation.

I think it directly would assist the trier of fact in this case regarding the witness's confidence and accuracy.

The study is reliable. It is a meta-analysis that includes 30 studies, as well as tons of participants as well, Your Honor. And I don't think that I directly tell the jurors whether or not -- it still leaves them certainly whether or not what to do with the information from the expert, as you will direct them from the bench. But I don't think it directs them as to what weight to give it. They can do with what they want with the information. But I do believe that it does assist the trier of fact regarding an issue in this trial.

THE COURT: Well, I guess the reverse of the testimony or the extension -- the common sensical extension of the testimony is that the less confident, the less accurate. In other words, if you ask somebody, How confident are you? And they say, four out of ten, you know, or something like that. I guess that would be less accurate as opposed to you ask somebody, How confident are you?

And they say nine or ten. I certainly don't have a degree in any psychology or undergraduate or graduate, I don't mean it like that. But if she is just addressing the factors looked at, I think it is admissible.

If you go back to State v. Whaley, 406 S.E.2d 369, it is clear. I think this case is a 1991 case. It was tried in Richland County, by the way. It seems like all the cases y'all have handed me have been tried in Richland County.

It says: Nothing in this opinion should be construed as allowing an expert to give his or her opinion as to a particular witness' identification.

And I would agree that that is the law. And I -- nobody cares whether I agree with the law or not, but I think that is an appropriate law. And that was the only eyewitness identification case I could find in South Carolina. So in no way can she or any witness give their opinion as to the accuracy of the eyewitnesses in this case.

MS. A. WALKER: And, Your Honor, she is not particularly talking about an eyewitnesses in this case, she is just talking about the relationship between -- definitely she is not giving any opinion about any of the particular facts in this case.

THE COURT: And I'm curious, as the gatekeeper of the testimony and the reliability, have there been cross-race effect analysis that have involved eyewitnesses that have been members of the Asian race versus -- their identification with members of the African-American race?

THE WITNESS: I believe so, Judge.

THE COURT: I just heard US, UK, and Africa. And I just wanted to make sure that encapsulated in that research it would include individuals that were from the -- I don't know my geography very well, I apologize, but members from Pakistan, and such as that?

THE WITNESS: I believe so, Judge.

THE COURT: Any other objections, Ms. Campbell?

MS. CAMPBELL: If I could follow up on that question, Your Honor.

THE WITNESS: Sure.

EXAMINATION(IN CAMERA)

BY MS. CAMPBELL:

Q You stated you believe so. Do you know of any studies? And can you give me the cites?

A I couldn't give you the cite off the top of my head, no.

THE COURT: But, I mean, you are telling me under oath as an expert that there are studies in which members of the Asian race were used in cross-racial examination -- cross-racial identification with members of -- I said African-American, but also members of the White race, Caucasian also?

THE WITNESS: Right. I believe so, Judge.

MS. CAMPBELL: Your Honor, does she believe so or know so?

THE COURT: Well, I don't know. Do you believe so or you know so?

THE WITNESS: I believe so.

THE COURT: Do you think, Doctor, that you can -- if you are not certain, do you think that cross-racial effect studies can be extrapolated -- if that is a -- I might have just made up a new term -- could go extrapolated from members of the Caucasian race identifying members of the African-American race versus members of the African-American race identifying members of the White race? Can those studies be extrapolated and used as a foundation of your opinions if the eyewitnesses in this case are not members of either the Caucasian or the African-American race?

THE WITNESS: Yes.

THE COURT: All right. Well, I think -- anything further, Ms. Campbell?

MS. CAMPBELL: No, sir.

THE COURT: I think looking back at Whaley, it appears that it does meet at least the -- I don't think it meets the first prong of Whaley where the eyewitness is mentally retarded. That was the term, by the way, at the time.

MS. A. WALKER: Certainly.

THE COURT: Suffering from mental problems or has some other type of mental or physical disability that could impair perception. Although, the eyewitnesses in this case were young, young ladies. I wouldn't find that as an impairment in any way.

But the second instance where the identity of the perpetrator -- although Whaley said the sole evidence of identity is eyewitness identification, and I think there is additional circumstantial evidence, but, however, I think it meets the Court's reasoning in Whaley. So I would allow the testimony.

MS. CAMPBELL: Yes, sir.

THE COURT: All right. Anything before we

bring in our jury? Do y'all want to press on?

MS. A. WALKER: And, Your Honor, just to be clear, regarding the issue of confidence and accuracy, she is allowed to testify to that as long as it has nothing to do with specificity to witnesses in this case?

THE COURT: Correct. She can't give any opinion about the accuracy of the identification of eyewitnesses in this case, nor can she give examples of cases in which the eyewitness identification was found later on to be inaccurate, which I didn't hear her testify.

MS. A. WALKER: No, Your Honor. I just want to be clear. Thank you, sir.

THE COURT: Are you ready to press on?

MS. CAMPBELL: The State is ready.

THE COURT: Ms. Walker?

MS. A. WALKER: Certainly, Judge.

THE COURT: It you would step back down for us, Doctor. You have to be sworn in in front of the jury.

THE WITNESS: Sure.

THE COURT: Thank you.

(Witness steps down.)

THE COURT: All right, Mr. Bailiff, please get

our jury for us, please.

(WHEREUPON, the jury came into open court at 11:10 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you. Thank you very much, Mr. Bailiff.

Welcome back, ladies and gentlemen of the jury panel. We will continue in the trial of the case by the presentation of evidence and testimony by the Defense in their case in chief.

Ms. Walker, you may call your next witness.

MS. A. WALKER: Thank you, Your Honor. May it please the Court?

The Defense calls Dr. Dawn McQuiston.

THE COURT: All right. Doctor, if you would come around and join us, please.

(Witness approaches.)

THE BAILIFF: Place your left hand on the Bible, and raise your right hand, please.

(Witness complies.)

THE CLERK: Do you solemnly swear or affirm that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Please have a seat.

(Witness complies.)

THE CLERK: And state your full name for the record.

DAWN MCQUISTON,

after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. A. WALKER:

Q And could you say your name for the court, and spell your last name?

A Sure. Dawn McQuiston. And the last name is M-C-Q-U-I-S-T-O-N.

Q Good morning, Dr. McQuiston.

A Good morning.

Q What is your current occupation?

A I'm an associate professor of psychology at Wofford College.

Q And how many years has this been your occupation?

A In total, 12 years. I was on the faculty at Arizona State University for ten years before coming to Wofford.

Q And so how many years have you been working at Wofford?

A Two years.

Q Okay. And what type of education and degrees do

you have?
A I have a bachelor's degree in psychology, a master's degree in experimental psychology, and a PhD in experimental psychology.
Q And your faculty position, what does that consist of?
A I teach and do research.
Q And what is your general research area?
A My general research area is memory as it applies to an eyewitness identification situation.
Q And what does that mean?
A It means people who do that sort of research, they examine the circumstances under which people tend to have good memories for things versus not great memory.
Q Okay. And how long have you been doing this type of research?
A For about 15 or so years.
Q And do you belong to any psychological organizations, national or international?
A I do. Both. The American Psychology-Law Society, the Society for Empirical Legal Studies, and the Society for Research in Memory and Cognition.
Q And have you published any of your research?
A I have.

Q And has it been peer reviewed?
A It has.
Q And could you explain to the jury what peer review means?
A Sure. Peer review is a process by which scholars submit their work to be published, and their work is sent out to different experts in a given field to review for its quality, and then a journal editor takes those reviews under advisement and decides whether or not to publish something.
Q And have you done any peer review of articles for other academic journals?
A I have.
Q And have you presented your research at any conferences?
A I have.
Q And have you been qualified as an expert in memory and eyewitness identification?
A Yes.
Q And has that been done in both state and federal court?
A Yes.
Q And what states have you been qualified as an expert?
A In South Carolina, North Carolina, Tennessee,

Arizona, and Washington.

MS. A. WALKER: Your Honor, at this time we would offer Dr. Dawn McQuiston as an expert in eyewitness identification and memory.

THE COURT: All right. Solicitor?

MS. CAMPBELL: Just a couple of questions, Your Honor.

THE COURT: All right. Certainly.

EXAMINATION

BY MS. CAMPBELL:

Q Doctor, I just have a couple of questions. You mentioned that you have been qualified in multiple states?

A Yes.

Q Approximately how many times have you been qualified as an expert in order to testify in court?

A I have testified about 25 times.

Q And in all these cases, were those civil cases or criminal cases, or what?

A They were all criminal cases.

Q And in each case did you testify for the Prosecution, the Defense, or both?

A For the Defense.

Q Every time?

A Yes.
Q All 25?
A Right.

MS. CAMPBELL: Thank you. I don't have anything further, Your Honor.

THE COURT: All right. Mr. Foreman, and ladies and gentlemen of the jury, again, normally a person cannot give opinion testimony. Normally when a person testifies they must testify as to either what they saw, heard, or sensed by smell, or something of that nature. However, there is an exception when someone is qualified because of education or experience or training in a particular art, science, craft, or profession. They are permitted to give their opinions and the basis for their opinions in certain areas if the Court qualifies them that way.

This witness, Dr. Dawn McQuiston, will be qualified in the area of eyewitness identification and memory to give her opinion testimony in that area and the basis for those opinions.

That does not mean you must accept the opinion, but it is evidence for you, the jury, to use in any way you see fit.

Thank you, Ms. Walker. You may continue.

MS. A. WALKER: Thank you, Your Honor.

DIRECT EXAMINATION CONTINUES

BY MS. A. WALKER:

Q Is there a generally accepted theory of how memory works?

A There is. It was put forth in the 1950s by a couple of psychologists, Atkinson and Shiffrin. And what this theory says is that, unlike what many of us might have thought, video -- or memory doesn't work necessarily like a videotape. Instead, when people process information, that information passes through a series of stages in order to make it into long-term -- ultimately long-term memory.

Q So what is the first stage of memory called?

A The first stage is called sensory memory. And that is information that you are thinking about right in a given moment, what is happening right at a moment. And unless you rehearse that information, then you lose it. Or if you rehearse it, it may make it on to the next stage.

Q And so what is the second stage?

A The next stage is short-term memory. And people can hold information to short-term -- in short-term memory for about 30 seconds. Once again, if you

don't rehearse it -- think of it like a phone number, when you learn a phone number, if you don't rehearse it immediately, it is gone. If you rehearse it, then maybe it can make it into long-term memory.

And then that is the last stage. Long-term memory is of course information that can be accessed at any point.

Q And so there are three stages of memory?

A That's right.

Q And so people don't exactly remember a photograph of what they saw?

A Right.

Q And so if they don't remember a photograph, what is it that they do remember?

A Typically our memory is filled with gaps. When we process information, what makes it in really is full of gaps. And we naturally fill in that information with stuff from all kinds of sources. Maybe our expectations, what we thought was going to happen, or from previous experience, or information that we have learned from other people. We tend to very naturally fill in whatever those gaps may be.

Q And how do psychologists study memory?

A They typically study the circumstances under which people have good memories versus bad memories, things that influence people to have a good or bad memory.
Q And what do scientists mean by the term "attention"?
A Attention is a cognitive mechanism that -- by which we process information or filter information. And so we can't possibly pay attention to or attend to everything that is going on all at once around us. And so we need a filter. We need to be able to filter out irrelevant information and hang onto relevant information. And that is what attention helps us do. It is like a spotlight. It is a focus. It helps us focus on what is important and get rid of things that aren't important.
Q So how does attention relate to memory?
A Attention relates to memory in that we can't remember things that we didn't originally attend to.
Q And under what circumstances could somebody fail to attend to an important thing?
A You may not attend to something if you don't think you are going to need it later. If you don't think you need that information later, then you may not

attend to it in the moment.

Also, attention is limited. We can't possibly pay attention to everything that is going on in the world around us at any moment. We can only focus on one thing at a time.

Q And what do scientists mean by the term "perception"?

A Perception is another mechanism by which we process and enter information.

Q And do people sometimes make errors in perception?

A Yes.

Q And what sort of things happen that influence the quality of information that is perceived and accepted into memory?

A Sure. Lots of things. Perhaps how much time a person has to experience an event and very intuitive. The longer you have to experience an event, the more information you are going to get. The more information you get, the better your memory might be. The distance that you are away from something. Of course, the further away you are, the less information you are going to get. The closer you are, the more information you'll get.

Q And does the quality of view that you have during

the event affect your memory?
A Yes. Of course, again, intuitive. The better view you have of whatever it is that is happening, the more information you will get and the better memory you will have for it later.
Q And what about familiarity? Are people more accurate in their identification if they are familiar with a person they have interacted with?
A Sometimes they are and sometimes they are not.
Q So being familiar doesn't automatically guarantee accuracy?
A That's right.
Q And why is that?
A Studies show that people tend to think that they can remember the details of someone with whom that they are familiar better than they really can. It is an interesting phenomenon.

And, also, information about someone who is familiar to us is readily accessible. We can access that information very quickly. We can go to it quickly, like a mental shortcut. People take mental shortcuts all the time. And this can be one of them.
Q And what happens if the perpetrator looked similar to the familiar person?

A This can particularly be a problem in that situation.
Q And could this affect a witness's confidence?
A It can. We tend to be even more confident when we are describing something related to someone with whom we are familiar.
Q And these mistakes in perception, is that normal?
A Yes. Everybody makes these kind of mistakes.
Q And is there this phenomenon called a cross-race effect?
A Yes.
Q And what is that?
A The cross-race effect is a term given by memory researchers in eyewitness identification, researchers that describe the idea that people have a -- people tend to have a tougher time recognizing and identifying faces that are of a different race or ethnicity than of their own.
Q And did you review any scientific research examining cross-racial identifications and accuracy of the eyewitness?
A I did. I reviewed a meta-analysis that was published in the early 2000s by Researchers Meissner and Brigham.
Q And can you explain to the jury what a

meta-analysis is?

A Sure. A meta-analysis is a statistical technique for combining the results of a large group of studies.

So in this case the cross-race effect is something that has been studied for decades. So there are many studies that have been published examining this effect. So a meta-analysis takes all of those individual studies and combines them into one overall average result.

Q And do you know how many studies went into this particular meta-analysis?

A Either 39 or 40 studies went into this one.

Q And who are the participants that were in these studies?

A These participants are adults over the age of 18. And in this particular meta-analysis, there were around 5,000 participants.

Q And how does this phenomenon occur?

A There are a lot of theories that researchers have put forth to explain why it is that people on average have this problem. But the one that has received the most support is what researchers have called the contact hypothesis. Simply the more contact the more quality of contact. Those are the

things that tend to affect whether a person is susceptible to this or not. So if you have a lot of contact with a certain group that is not of your own, you are less susceptible to this effect.

Q And has this been found among different sorts of racial groups?

A Yes. This effect has been studied and found with many racial groups across the country -- across the world.

Q So it has been across the entire globe?

A That's right.

Q Okay. And is there also a phenomenon called weapon focus?

A There is. And that is a term, again, that researchers give to the study of how people process information when there is a weapon, a threatening object present during a crime.

Q And did you review any scientific research regarding weapon focus?

A I did. There was another meta-analysis published in this area. There have been dozens of studies that have examined how people are able -- how well people are able to process information and remember things that have happened when a weapon is present.

Q And do researchers in your field often rely on

meta-analyses?
A They do. They can be a really handy way of describing the results of a large group of studies.
Q And in this particular meta-analysis, do you remember how many studies went into that one?
A I believe there were 19 studies that went into this one, and several thousand participants.
Q And how are studies examining weapon focus generally conducted?
A Sure. People would be separated into groups, and one group would be exposed to perhaps a simulated event, a simulated crime. And in one group there would be a weapon, and the other group there would not be a weapon. And then later at some point they would be tested for the details of whatever they were exposed to.
Q And what types of weapons were used in the study?
A Guns, knives, syringes.
Q And who would make up the participants in these studies as well?
A The same as the others ones, all adults, males and females over age 18.
Q And what was the result of this meta-analysis?
A This shows that there is this effect called weapon focus that people tend to focus their attention on

a weapon during a crime. And so people on average are less accurate in their identification when there is a weapon present versus when there is not.

Q And how does that phenomenon occur?

A It has to do with attention and focus, this narrowing of attention. And so when there is a weapon present, people tend to focus on that at the expense of processing other information that might be happening.

Q And do researchers find the weapon focus effect when different methods are used?

A Yes, these different weapons that I described. It is generally the same thing that you find, so it really doesn't have to do with the specific weapon, it is the physiological process that is happening in that moment that people focus on.

Q And can you explain what that term, "physiological" --

A So a person's stress reaction is your physical reaction to stress and researchers believe that that is what is happening in driving this weapon focus effect, that it results in fear and physiological arousal, and people are tending to focus on that stress at the expense of being able to process everything else that is going on.

Q So do people experience a heightened level of stress when a weapon is involved?
A Right.
Q And does this affect eyewitness identification?
A It does. At very high levels of stress we find that people can be less accurate in their identification.
Q And how does that affect memory?
A People can -- they tend to not be able to remember things as well at these very high levels of stress.
Q And has there been research looking at the relationship between the amount of confidence expressed by an eyewitness and the accuracy of an identification?
A Yes, there have been many studies. Again, a meta-analysis that has combined the results of several studies examining when people make identification, whether that is correct or incorrect, and looking at the relationship between that and how confident they report being in that identification.
Q And did you review a meta-analysis in this particular area?
A I did. This one was published in 1995, including several dozen studies, several thousand

participants again.
Q And, again, who were the types of people that made up those participants?
A All adults over age 18, males and females.
Q And is there a relationship between a person's confidence and the accuracy of that memory?
A There is a relationship -- excuse me -- but it isn't as strong as researchers thought it would be and the people in general think that it would be. So in statistical terms, we would describe it as a weak to moderate relationship, meaning that you -- that one doesn't necessarily predict the other with 100 percent accuracy.
Q So how might not confidence and accuracy be related?
A People's confidence in their identification can fluctuate. It is said to be malleable. Researchers have studied how confidence can change over time. A person's confidence in their identification can be influenced by all kinds of things. Over time it can naturally change based on what other people might say to you after the event that might change. As you rehearse it in your mind, as you might see things on television. So confidence can fluctuate. And then in terms of the

identification, either it was accurate or not accurate.

Q And are there any difficulties in assessing reliability of in-court identification?

A In-court identification, researchers tend to view that as not adding much, necessarily, to an original identification that was made. We tend to think that only the first identification, the very first one, is made fresh, a fresh identification. So anything subsequent to that isn't necessarily viewed as being reliable like the first one.

Q Thank you so much, Dr. McQuiston. Please answer any questions that the Prosecution has.

THE COURT: Thank you. Thank you, Ms. Walker. Solicitor?

MS. CAMPBELL: Thank you. May it please the Court?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

BY MS. CAMPBELL:

Q Doctor, you are not here to testify that if a person is a victim of a crime that they aren't able to identify who did it, are you?

A I'm sorry, repeat that question?

Q Your testimony here today is not that if a person

is a victim of a crime that they can't identify the person who did it?
A Right.
Q What do you mean "right"? Is that what you are saying, that they can't identify anyone?
A I'm saying that you are right in your question, that that is not the purpose that I'm here for today.
Q And basically you have been retained by the Defense in this case?
A Yes, ma'am.
Q Is that correct?
A Uh-huh.
Q And when did they first contact you? Do you recall?
A I think early January maybe.
Q Early January of this year?
A I think so. I can't be sure, though.
Q In the last couple of months, is that fair?
A I think so, yes.
Q And I didn't get a copy of your report in this case?
A I didn't write a report in this case.
Q Okay. So you don't have a report?
A That's right.

Q Okay. And are you being paid for your testimony here today?
A I am.
Q How much have you been paid so far?
A I haven't been paid at all so far.
Q What is your rate or how much do you expect to be paid or?
A Sure. My rate is $295 per hour.
Q $295 per hour?
A That's right.
Q And how many hours have you put in so far?
A Probably about ten or so.
Q Ten or so hours? And does that include -- is your rate the same when you testify in court, or is that more or less?
A It is the same.
Q So that wouldn't include the time you spent here in court today?
A That's right.
Q And what time did get here today?
A About 9:30. Court started at 9:30.
Q And it is 11:30 now. And are you also reimbursed, or do you get paid for your travel time?
A I do.
Q And how many hours have you been traveling?

A It took me two, about two -- a little less than two hours to get here this morning.
Q And then your return home?
A Right.
Q And when you are talking about the ten hours you have already put in, that is in preparation for court?
A Including being here today, yes.
Q I want to talk a little about your testimony. And you kind of broke it down into -- first you talked about how memory works, the sensory memory, fleeting, I believe you used the term, then short-term memory, and that lasts 30 seconds?
A Correct.
Q And then long-term memory. How does long-term memory develop?
A Long-term memory, anything can make it into long-term memory that has been rehearsed. And so when things -- when we access information, we're exposed to information in short-term memory, the idea is in order to make it into long-term memory you have to rehearse it over and over. Like studying for an exam. The more you rehearse, the better chance you have to make into long-term.
Q Well, how do you rehearse to get a person's face

into long-term memory?
A Oh, you might imagine it over and over again.
Q Or would seeing the person over and over again help?
A That could certainly help, uh-huh.
Q So, say, if it is not -- seeing a person for the first time, of course, is different than when you see a person the second time or the third time?
A Right.
Q And the more times, you would agree with me, that you see a person, the more it is going to become part of your long-term memory?
A Certainly.
Q So if the person has seen someone even two or three times, that could get it into the long-term memory?
A Sure.
Q And if they have seen somebody four or five times, it goes up; correct?
A I think so.
Q Five or six times?
A (Nods affirmatively.)
Q Six or seven times? Eight or nine times?
A Sure.
Q And if they know the person to the point where when they see them they can even recall their -- maybe

not their full name, but their nickname, that is what we call kind of recognition -- or what term do you use for that?

A Sure. I use recognition. Sure.

Q And so recognition is a term you are familiar with?

A Right.

Q You talked about attention and the things that can affect it?

A Yes.

Q And then you talked about perception?

A Yes, sir.

Q And familiarity?

A Yes.

Q And those are all just, again, factors you are talking about?

A That's right.

Q Because you can't -- and you would agree with me -- and I don't know how to put this really, because I don't know anything about your field -- but you would agree with me, some people are better at recognizing people than others?

A Yes.

Q And everybody, though, the more they are exposed to a person, their ability to recognize them goes up?

A What is the last thing? Goes up?

Q Uh-huh.
A Can you repeat that question? I'm sorry.
Q The more a person -- like you just testified to -- I'm not trying to contradict your earlier testimony -- the more a person is exposed to a person, the more their ability to recognize them goes up?
A Yes.
Q You talked about -- I believe you referred to it as a phenomenon of cross-racial identification?
A Right.
Q And you talked about a study. And you also talked about part of what made a person be able to recognize another person's race -- a different race from their own -- better is contact hypothesis?
A That's right.
Q And what does that mean?
A It simply means the more contact that a person has with a group that is not the same as them, the less susceptible they are to this cross-race effect.
Q So, say, if a person is friends, co-workers, whatever, of another race --
A Uh-huh.
Q -- the better the likelihood of being able to recognize them?

A That's right.
Q And that definitely affects cross-racial identification?
A Researchers believe so, yes.
Q Thank you. You also talk about the weapon phenomenon. And then you went on to say -- you didn't really talk about how it affects a person's ability to see a face, but you talk about how it affects their ability to talk about details of what happened. Is that what we are talking about now?
A It is both -- it is both of those.
Q Okay. So now you are saying it is not just -- specifically -- and I wrote it down -- you said you were able to later test it for details?
A Details concerning both the event and what the person looked like.
Q And, finally, you talked about confidence versus accuracy?
A Uh-huh.
Q And one of the factors in determining that is whether or not they have ever misidentified somebody else, things of that nature? That would be a factor?
A Whether they have ever misidentified somebody?
Q Uh-huh. Or identified someone else? I think you

talked about the quality of their identification.
A I don't -- I don't think that is what I said.
Q Okay. Well, would that affect the confidence?
A Whether they misidentified someone?
Q Is that a factor to be considered?
A In terms of confidence/accuracy relationship? I'm not sure about that.
Q Okay. But you did talk about certain factors that affect a person's ability to, I guess, later identify someone?
A Sure. All of the factors that I have talked about today.
Q Saying stuff like how long or short a time that is available. I believe you mentioned something about -- I may not be using your words.
A Sure.
Q How far or close the witness was?
A Right.
Q So if a person is like face-to-face with a person, that could affect it?
A Yes.
Q What the lighting conditions, whether or not in a dark room?
A Right.
Q Whether a witness has had an occasion to see or

know the person in the past?
A Right.
Q And things of that nature are all important factors to be considered; is that correct?
A That's right.
Q And just to be sure, on the weapon effect, if a person has already recognized, say, a perpetrator before they pull out a gun, that is not going to affect their ability to still have that long-term memory of the person they recognize?
A It is hard to say.
Q The studies that you are talking about, you mentioned that all those were done with adults 18 years of age or older?
A Right.
Q And, typically, were those done in university settings?
A Typically.
Q And in all those studies, typically -- tell the jury kind of how those studies are done.
A Sure.
Q The staging and what happens and then they are later asked to identify someone.
A Sure. In general, that is how researchers are able to isolate these factors to study them one at a

time to have control -- do a controlled experiment. So it would be done, as you mentioned, as a simulated mock event where participants are exposed to a set of events and put in a different group. For example, if we are studying the presence of a weapon, one group -- in one group there would be a weapon, in one group there would not be a weapon. That would be the one thing that experimenters are able to isolate to control that variable. And then later at some point participants would be tested for their memory of either the details of the event or the person's face or what the weapon looked like, et cetera.

Q And the studies I'm talking about, you know, your cross-racial studies you referred to?

A Uh-huh.

Q As well as the weapon effect, as well as the accuracy?

A Right. Well, all those are just general.

Q All those studies in general --

A Yes.

Q -- were like that?

A Right.

Q And those were always strangers, were they not? It wouldn't be people they knew?

A Most of the time they are strangers, but there certainly have been some studies looking at this idea of how familiarity to someone affects your ability to recognize them later.
Q And, again, the factors that are important are whether -- how long they were able to see the person?
A That is important, yes.
Q How far or close they got?
A Right.
Q Whether the witness has seen a person in the past?
A Sure. Yes.
Q Thank you, ma'am. I appreciate it.

THE COURT: Redirect, Ms. Walker?

MS. A. WALKER: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MS. A. WALKER:

Q Ms. Campbell asked you about long-term memory. And I believe you indicated things, when they make it to long-term memory, often it is rehearsed?
A Right.
Q And that you have to rehearse it, often like studying for an exam; is that right?
A Right.
Q And just because something makes it into long-term

memory, does that necessarily mean that the information is accurate?

A No.

MS. A. WALKER: Thank you, Your Honor. I have no further questions.

THE COURT: Recross, Solicitor?

MS. CAMPBELL: No, Your Honor.

THE COURT: Thank you. Thank you very much. Thank you, Doctor. Thank you for being with us today. You may step down.

(Witness steps down.)

THE COURT: Any objections to the doctor being excused?

MS. A. WALKER: None at all.

THE COURT: Ms. Campbell?

MS. CAMPBELL: No, Your Honor.

THE COURT: You may be excused.

THE WITNESS: Thanks, Judge.

(Witness excused.)

THE COURT: All right. Ms. Walker, Mr. Bank, you may call your next witness.

MS. A. WALKER: Your Honor, at this time the Defense rests.

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

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Solicitor, does the State intend to present any evidence or testimony in reply?

MS. CAMPBELL: Beg the Court's indulgence?

THE COURT: All right.

(Pause.)

MS. CAMPBELL: Your Honor, we do not.

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

Mr. Foreman, ladies and gentlemen of the jury panel, you have now heard all the evidence and all the testimony you are going to hear in the trial of this case.

The stage we're at now is the stage of the closing arguments by the attorneys. In a case such as this, the State has the right to open on the law, thereafter being followed by the Defense to close on behalf of Mr. Porterfield, thereafter followed by the State, being the party that bears the burden of proving this case beyond a reasonable doubt.

After the closing arguments by the attorneys, it will then be my responsibility to instruct you on the law which you are to apply to the case, apply to the facts as you find them to be in reaching your verdict in this case.

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The clerk has informed me that she has ordered your lunch and has them notified to have it delivered at 12:30.

Madam Clerk, is that right?

THE CLERK: Yes, Your Honor.

THE COURT: I have to meet with the attorneys one final time. I have to meet with the attorneys outside of your presence prior to the closing arguments, so what I think I'm going to do is give you a recess until 12:30. If you will be back in your jury room promptly at 12:30 for your lunch.

Mr. Foreman, and ladies and gentlemen of the jury, as soon as you have completed your lunch -- I'm not saying don't take an hour. If you are done in 30 minutes or 45 minutes, please just let me know and we'll reassemble at that time.

During this recess do not discuss this case with anyone. That includes your fellow jurors or anyone else. Do not read, watch, listen to any news accounts of the case. Do not do any independent research or any research on the internet or otherwise.

So you are free until 12:30. If you will be back in the jury room promptly at 12:30. You may certainly remain in your jury room until 12:30.

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I'm not trying to hold you captive in any way. If you want to go out and walk around, or what have you, you are certainly -- you certainly may do so. But be back by 12:30 for your luncheon recess.

Any questions?

(WHEREUPON, there was no response.)

THE COURT: All right. Thank you. Thank you very much. You are now excused until 12:30. Be back in the jury room at 12:30. Let me know when you have completed lunch.

(WHEREUPON, the jury is excused for lunch at 11:46 a.m.)

THE COURT: All right. Any motions, Ms. Walker, Mr. Bank?

MR. BANK: Your Honor, at this time we would just like to renew our objections, any pretrial objections, objections made through the course of trial, and our directed verdict motions.

THE COURT: All right. I would renew my previous trial rulings in that regard, and I would respectfully deny any motions for directed verdict based both on the State v. Palmer and State v. Buckner.

Any requests to charge, Mr. Bank?

MR. BANK: Yes, sir. These are actually all

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just the charges from basically the Supreme Court website. We picked out the jury instructions. I can hand a copy up to you. Your Honor, I assume actually you probably have most of these covered, but I'll bring a copy up to you just in case.

May I approach?

THE COURT: Yes, sir.

(Complies.)

MR. BANK: First, obviously, presumption of innocence, which is just a standard charge.

The second is a charge that the indictment not be in evidence.

A multiple charges charge because he has been served with multiple offenses.

We ask for a credibility of witness's charge.

THE COURT: I charge all of these.

MR. BANK: Of course.

THE COURT: I charge all of these standard. I compare them against mine also. I charge all of these.

MR. BANK: I believe the only ones that might not be standard are identification and alibi. I believe we presented --

THE COURT: I do have the standard alibi and identification charge, and I will compare -- is

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yours any different than the standard?

MR. BANK: I don't believe it is.

THE COURT: I'll compare it with mine.

MR. BANK: The only one that, I don't know, that might be different is the circumstantial evidence charge.

THE COURT: Has that got the Charleston case in it?

MR. BANK: It has got the Logan case.

THE COURT: I think that is the Charleston case. And I charge that upon request, because I think I'm required to.

MR. BANK: All right.

THE COURT: Yes, sir.

MR. BANK: Thank you, Your Honor.

THE COURT: And you have a copy of that, Ms. Campbell or Ms. Walker?

MS. M. WALKER: Yes, Your Honor, we have a copy.

THE COURT: All right. And the State has requested the kidnapping charge is a continuing crime and also the hand of one, hand of all. I assume with the hand of one, hand of all y'all would want mere presence?

MR. BANK: Yes, Your Honor.

THE COURT: Anything further?

MR. BANK: Not from the Defense, Your Honor.

THE COURT: State?

MS. CAMPBELL: No, sir.

THE COURT: All right. Well, y'all heard what I told the jury. So I would probably be ready to start back about 1:00, 1:15, something like that. Whenever they say they are ready, I'm ready.

MS. A. WALKER: Certainly, Your Honor.

MS. M. WALKER: Your Honor, can we do one more thing? I'm sorry, I neglected to mention this.

THE COURT: Yes, ma'am.

MS. M. WALKER: The redaction, I think they corrected that. They want to put that tape into evidence.

Additionally, I spoke with them yesterday, Your Honor, when I put the phone records into evidence, I forgot to put the text messages with them. They don't have a problem with me attaching the text messages to those cell phone records that are already in evidence.

THE COURT: Is that correct, Ms. Walker?

MS. A. WALKER: Yes, Your Honor. It is not the substance of the text messages, it is just when they were sent and to whom.

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THE COURT: All right.

MS. M. WALKER: Thank you, Your Honor.

(Text messages added to exhibit.)

THE COURT: All right. Thank you. Thank you very much. It will be about 1:15.

(WHEREUPON, a lunch break was taken at 11:50 a.m.)

(WHEREUPON, the proceedings resumed at 1:15 p.m.)

MS. CAMPBELL: Are you charging criminal intent?

THE COURT: Yes, ma'am, generally.

MS. CAMPBELL: Generally? And are you charging voluntariness of statement?

THE COURT: Are you requesting it?

MS. CAMPBELL: No, sir.

THE COURT: Are you requesting it?

MS. A. WALKER: We would request the standard charge, Judge.

THE COURT: All right. I'll charge it. I'll put it in. All right.

MS. CAMPBELL: Finally, Your Honor, I did look at the case that we referred to the other day about the missing-witness rule. I think it was a 2014 case that refers to State v. Charping. And it

still says that with fact witnesses that still can be appropriate. I do not think, though, that out of an abundance of caution we will not be mentioning anything in closing about that. But I do think it did support the questions that were asked during the cross-examination.

THE COURT: All right. Thank you. Thank you, Solicitor. Anything further, Solicitor?

MS. CAMPBELL: Nothing, Your Honor.

THE COURT: Ms. Walker?

MS. A. WALKER: No, Your Honor.

THE COURT: All right.

(WHEREUPON, the jury came into open court at 1:16 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you. Thank you, Mr. Bailiff.

All right. Welcome back, ladies and gentlemen of the jury panel.

As you recall, we are now at the stage of the closing arguments by the attorneys. Again, the order we follow is the State has the right to open on the law. It will be followed by the closing argument by one of the attorneys for Mr. Porterfield, followed finally by the closing

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argument in full by the State, and the party bearing the burden of proof.

Ladies and gentlemen that are in the audience, I would advise you that I do not allow any movement whatsoever in or out of the courtroom while an attorney is addressing the jury panel.

If you wish to leave, you may certainly leave between the arguments. In other words, when the Solicitor sits down after the opening on the law, you may leave at that time. You will not be allowed back in until that next attorney completes his or her argument. The same goes with the final argument by the Solicitor.

If after the closing arguments you wish to leave prior to my instructions to the jury, you may certainly do so. You would not be allowed back in until the instructions are complete.

So, to recap that, I do not allow any movement in the courtroom in or out of the courtroom while an attorney is addressing the jury. And, again, you may leave between the arguments, you may leave before my instructions to the jury. But if you are in here for a penny, you are in here for a pound.

Sheriff, if anyone should violate that rule, if you would please take them into custody, I will

deal with them as if it were contempt of court.

Thank you. Thank you very much.

Ms. Campbell?

MS. CAMPBELL: May it please the Court?

THE COURT: You may address the jury.

CLOSING STATEMENT

MS. CAMPBELL: Good afternoon. The first thing I want to do on behalf of the State of South Carolina and the citizens of Richland County is to thank for your service in this case.

I know when you showed up for jury duty on Monday morning, you might have tried to anticipate what kind of case you might sit on. Would it be a civil case: A car wreck, a contract dispute? Or a criminal case? But I think it has become apparent to you over the past several days that this case is very important, both to the State of South Carolina and to the Defendant in this case, Anthony Porterfield.

Now, you have heard -- at this point I'm going to talk to you a little bit about the law in the case. Then the Defense is going to have an opportunity to get up here and address you. And then finally you will hear from Ms. Walker, on behalf of the State, again talk more about the

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facts.

But you have heard all the evidence that you can consider in the case now. And you alone must determine what the credible evidence is in this case, what is believable, and what is not believable in this case. And you must base your verdict on the evidence.

And what is evidence, as the judge will tell you? The evidence is the sworn testimony from the stand, and the exhibits, the physical exhibits, that will go back with you into your jury room once you are asked to deliberate, once you have heard from all the parties, and the judge has told you what the law is.

What is not evidence? Speculation, conjecture, innuendo, or just plain wishful thinking. That is not evidence.

The evidence is whatever you find to be credible that came from that witness stand, combined with the evidence that is going to go back with you.

Now, the roles in this courtroom are defined, and are defined for a purpose. The State's role is to present all the relevant admissible evidence that you can hear about the events that occurred

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just on that day and subsequent up, leading to his arrest. The Defense's role is obvious. It is to defend the client to the best of her ability. And the judge's role, as you have seen, has been kind of a gatekeeper to determine what is admissible, to determine what evidence you can hear. And then, ultimately, once you hear from us, he will tell you what the law is, the law that you must apply to the facts as you find them about what happened back on June 27th of 2012.

And I want to take this opportunity, if over the course of the last several days, if Ms. Walker or I have offended you in any way, at times my questions have been inartful, clumsy, evidence is not admissible, later admissible. You have been sent out continuously and had to sit back there in that room because of arguments. I apologize. Please don't hold that against the State of South Carolina or against these two victims. And no one is going to dispute that. They are true victims in this case, in this courtroom, with this evidence. So if we have done everything to offend you, please don't hold it against them.

Now, in criminal cases, they are unique because the Defendant, as he should, has an

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absolute right to confront each and every witness against him. That is guaranteed by the constitution. In criminal cases you have live testimony. You have heard about statements from witnesses. Those weren't entered, because you have the right to hear from the actual person themselves. You heard from experts in the case. Even if they had the report, they still come before you to testify. And the reason for that is simple. Because in criminal cases it is very important that you, the jury, individually and then once collectively when you go back there, have had the right to observe the demeanor, to judge the credibility of each and every witness.

And I submit it is no more important than in this case that you are able to judge the credibility of witnesses. As you have seen over the last couple of days, that is very important. And that is the reason each and every witness must come before you.

Now, I will talk a little bit about the law. The burden, as I said in the beginning, as the judge has told you, as the constitution guarantees, is on the State of South Carolina to prove this Defendant's guilt beyond a reasonable doubt.

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As I said in the beginning, that is a burden the State welcomes in this case, with these facts and these witnesses.

The judge will instruct you on what reasonable doubt is. And I want to talk to you a little bit about that, because our courts have gone so far as to define reasonable doubt and what level of proof the State must meet.

The Defense may get up here and they may have a board that has got like eight different ways of how a person can be found not guilty, but listen carefully to the judge, because he is not going to be quoting, but what he will do is very simple, ladies and gentlemen. That there is proof in civil cases that must rise to a preponderance of the evidence, that it is more likely than not. But the proof in criminal cases, as it should, has to be more powerful than that.

But the courts have defined it in this manner. 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. And in criminal cases, the law does not require proof that

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overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crime charged, you must find him guilty.

If, on the other hand, you think there is a real possibility he is not guilty, then give him the benefit of the doubt and find him not guilty.

Listen to the judge. He will tell you, I submit, that that is what the law is you are to apply in this case.

The law recognizes that no one in any courtroom can overcome every possible doubt. All that we have to prove is give you proof that leaves you firmly convinced of the Defendant's guilt.

And I submit, ladies and gentlemen, in this case, with what you have heard this week, we have gone far beyond just firmly convinced. But that is the only level we have to meet. Firmly convinced of the Defendant's guilt.

Now, as the judge told you in the beginning of this case, there are four different indictments. There are actions that happened back on July 27th that gave rise to four different charges. Four different indictments with actually three different

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types of charges on them. And I'm going to talk to you a little bit about them. I don't know what order the judge will instruct you on. Just in order as to what we must prove.

One indictment the Defendant is charged in is armed robbery. And, very simply, the law in our state for armed robbery is that a person who commits a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or any other deadly weapon, at times, the judge will instruct you, even a fist can be considered a deadly weapon, depending on how it is used. In this case there is no dispute, and I submit no one is going to get up here and argue that this wasn't a gun. But we don't even have to prove it was an actual gun, because also it can be armed robbery if they are alleging, either by action or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon is guilty of armed robbery.

Ladies and gentlemen, in this case the only testimony before you is that there was a gun. No one, I submit, is going to get up here and argue that this crime, what happened to those girls was

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not an armed robbery.

Very simply. It is going up to someone while armed with a deadly weapon, with force or intimidation, taking something from the other person. In other words, it is stealing from the person or presence of, with the aggravated circumstance of the deadly weapon.

The judge may define this in a different way, but this is the statute that applies.

Now, burglary in the first degree. And listen carefully, because the judge will define to you the terms such as what is entering in a burglary in the first degree, what is a dwelling, what is the definition of that. And, very simply, ladies and gentlemen, in our state, codified in our law:

A person is guilty of burglary in the first degree if the person entered the dwelling without consent and with the intent to commit a crime in the dwelling and either while effecting entry or while in the dwelling or in immediate flight thereof -- in this case, all of those apply -- he or another participant in the crime displays what or appears to be a knife, pistol, revolver.

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A deadly weapon. A gun. Again, I submit no one will argue that this isn't burglary in the first degree.

Very simply, though, some of the terms in here -- because you notice this isn't like breaking and entering. It is called burglary in the first degree. Nothing in the statute says that there has to be a forcible entry, kicking in a door. Very simply, when you are entering a building, a dwelling, without consent.

What does the term "entry" mean? Entering a building is defined as follows: Entering a building -- or in this case a dwelling, and I'll get to that in a minute -- means to enter a building or dwelling without the consent of the person in lawful possession. There is no dispute that he entered unlawfully. Or to enter a building or a dwelling by using deception, artifice, trick, or misrepresentation to gain consent to enter from the person in lawful possession.

These young women, this was their home. It was also a business. But this was their home. Did he use misrepresentation to get up on the porch and then force his way in? It doesn't matter. He did not have to kick in the door. And listen carefully

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to the judge when he defines it for you. We will not have to prove that.

He will also define for you what a dwelling is, because this was also a building. But that doesn't mean it wasn't a dwelling.

With respect to the crime of burglary and to all criminal offenses which are constituted aggravated by being committed in a dwelling house: Any house, outhouse, apartment, building, erection, shed, or box in which there sleeps a proprietor, tenant, watchman, a clerk, laborer, or a person who lodges there with a view to the protection of the property shall be deemed a dwelling house. And of such dwelling house, or of any other dwelling house, all houses, outhouses, buildings, sheds, erections which are within 200 yards of it or appurtenant to it in the same establishment shall be deemed parcels of that same thing.

That is not in dispute here. It is not like an outhouse or a garage. All it is is that you have to prove, to put it simply -- and listen to the judge -- to be a dwelling, very simply, is that people live there, they sleep there, they eat there. Listen to the judge as he defines these.

Finally, it also means the living quarters of

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a building which is used or normally used for sleeping, living, or lodging by a person. That is the simplest definition. He will define them for you.

There are also two indictments for kidnapping. And, very simply, in our Code of Laws, kidnapping is defined in this manner: Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away -- we don't have to prove all of them, remember it is an "or" -- any other person by any means whatsoever without authority of law shall be guilty of kidnapping.

And typically when you think of kidnapping, I always think of someone getting someone and putting them in the trunk of their car and driving them across state lines. That is not what the definition of kidnapping is. Very simply, we just have to prove that in some way this person kidnapped the person, confined the person, or seized the person for any amount of time. Listen carefully to the judge. He is not going to say that they had to kidnap these people for a day and a half, that they had to kidnap them for any amount of time. The slightest confinement is enough to constitute kidnapping. And we have much more than

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that here. But listen to what the judge charges you.

Now, some of these terms may or may not apply here, as the judge will define them for you, we only have to prove that he did any one of these. But what do these terms mean?

Very simply, the judge will define for you, to seize means to take hold of, suddenly or forcibly.

Confine means to limit, restrict, or enclose within bounds, imprison, or shut or keep in.

To limit or restrict. Did these two young women, was their freedom taken from them when they were forced from the front room into the hallway, told to get down on the floor in almost a fetal position, and told them if they would just cooperate that they'd be okay? That is the very element to seize or confine.

He may also define other terms for you, including inveigle or decoy. Inveigle means to lure, entice, or lead astray by false representation -- such as getting her to call her father -- promises, or other deceitful means.

Decoy means to lure by or as if by decoy. Decoy is something to entice a person into a trap. And if that doesn't define what Anthony Porterfield

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did by getting the girls to go in and call her father, I submit, any one of those, the slightest confinement, seizure, or anything.

The judge will also charge you kidnapping is a continuing offense which commences when one is wrongfully deprived of freedom and continues until freedom is restored.

And for that 10 to 20 minutes they were there in the house, very simply put, their freedom was not their own.

Now, another part of the law that I want to talk about is referred to in our state as the "hand of one is the hand of all." That is kind of the acronym that is given for it. And very basically stated: If a crime is committed by two or more people, who are acting together in committing a crime, the act of one is the act of all. A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happened as a probable or natural consequence of the act done in carrying out the common plan and purpose.

For example, two people can be guilty of killing another person when only one of the two had a gun, there was only one bullet, and only one of

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the two fired the shots that caused the death, if two or more people are together, acting together, assisting each other in committing the offense, the act of one is the act of all, or, as is sometimes said, the hand of one is the hand of all.

So it doesn't matter at what point who had the gun. It doesn't matter at what point which one took which item. If the two of them are there for a common purpose, they are there aiding and abetting, is the simplest way to think of it, the law recognizes that even, say, if I am the lookout in a robbery, even if I go up to another person and I look at the person with a gun who is going in the store if I'm the lookout and tell him, Don't shoot anybody once you get in there, because I am there aiding and abetting in any way, I am as guilty as the shooter. That is our law.

The judge will tell you, mere presence at a scene is not enough. There has to be some overt act. And in this case, ladies and gentlemen, there is no question, both these men -- and one was never apprehended -- were there aiding and abetting each other in a robbery, in a burglary, and then a kidnapping. One had the gun at one point, the other had a gun at another point. Different ones

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took different items. The hand of one is the hand of all.

Now, the Defense, as you are aware, has absolutely no burden. They have no burden to prove anything. However, once they choose to put up evidence, you judge that evidence the same way you do the State's case. You judge that credibility. And once they choose to put up what is known as alibi, the judge will instruct you: In order to establish an alibi, it must be shown that a Defendant was at another specified place at the time the crime was committed and that it was impossible for the Defendant to have been at the scene of the crime.

The burden is on the State of South Carolina to prove beyond a reasonable doubt the Defendant was actually present at the scene of a crime, actually participated in it, and was not somewhere else. In other words, the State has the burden of disproving the Defendant's alibi defense. That is the way it should be.

And I submit, ladies and gentlemen, we have more than disproved the alibi defense in this case. Ms. Walker will talk to you about that.

As you have seen over the last -- today and

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yesterday, there are what is known in the law as prior inconsistent statements. And the purpose of those, ladies and gentlemen, is there has been evidence presented that witnesses have made prior statements which are not consistent with the witness's testimony. You may use this evidence to decide whether to believe the witness. You may also use the evidence of the earlier contradictory statement to determine the truth of those statements. It is up to you to decide whether to believe the earlier statement or the testimony given at trial.

If a witness has shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony. As to other matters, you may reject all the testimony of the witness or give all or part of the testimony the weight you feel it deserves. That is the purpose of those statements.

Now, generally there are two types of evidence that are presented in a case, in a criminal case. And in this case we have both. What is called direct evidence, which is typically known as eyewitness evidence. It is evidence that is

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perceived through the senses. And then there is also circumstantial evidence. In this case there is a combination of eyewitness testimony, such as the girls, as well as circumstantial evidence that points to the guilt of this Defendant.

The judge will instruct you, generally submitted during a trial is 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.

Evidence may be proven by circumstantial evidence, that alone. In this case you don't have to rely on that. 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, all 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 proof has failed. The State has the burden of proving the Defendant guilty beyond a reasonable doubt and it remains

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with the State regardless of whether we rely on direct evidence, circumstantial evidence, or some combination of the two.

In this case, ladies and gentlemen, luckily, we have the direct evidence of what the girls saw, who they identified, that is totally corroborated by the circumstantial evidence, such as the Defendant's statements, the phone calls, the telephone records, his witnesses. But that is the beauty of this case. You have got direct evidence that is corroborated by the circumstantial evidence.

Now, in every case it is up to the State to prove criminal intent. And, ladies and gentlemen, I submit this case reeks of criminal intent. He forced two young girls at gunpoint to the floor while you rob their home, their sanctuary. That is criminal intent.

The law defines it as this: 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. It doesn't even have to be an overt act.

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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. For the law says that criminal intent may be inferred from the circumstances shown to have existed. This is how you make a determination whether or not the elements requiring intent was present. It is not necessary to establish intent by direct or positive evidence. Intent may be established by inference in the same way as any other fact, by taking into consideration the acts of the parties and all the facts and circumstances. It is a mental state. A conscious wrongdoing. Perhaps that is the easiest way to think of it. Was what they did wrong? You don't have to pull out a gun unless it is wrong.

It is up to you to determine what this Defendant intended to do. Criminal intent can arise from action, or a failure to act. It may arise from negligence, recklessness, or any indifference to do or to consequences that are considered by the law to be the equivalent of criminal intent.

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Now, as you have heard over the last few days, identification is very important. And as you heard me ask this expert questions, there are elements that the judge will instruct you about identification which you must consider in determining the credibility of those two girls separately and independently identifying this Defendant as the person who held them at gunpoint, who robbed them, who burglarized them.

Identification testimony is an expression or 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 as any other witness.

You may consider whether the witness had an adequate opportunity to observe the offender. In other words, how long? Was it one where his face was half covered and you got a fleeting look? Or in this case, they walked up, saw them in the driveway, recognized him, went into the house. He came to the door. How close did he get to you? This far apart.

This will be affected by things like how long or short a time was available, how far or close the

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witness was, the lighting conditions, and whether the witness had the chance to see or know the person in the past. The law recognizes that that is critical to identification.

These girls had not just had a chance to see him once or twice in the past, but on multiple occasions. Consider that when determining whether or not they -- and with every witness -- what bias, what prejudice did they have against Anthony Porterfield? Ask yourself that. Why would these girls want to come in and falsely accuse poor Anthony Porterfield of a crime he didn't commit? Did they ever waiver in their identification? Each and every time.

Those are all things that you can consider. This isn't a case where they have some agenda. Don't you think they want the person who did this to them held responsible?

Now, the judge will also charge you that there were some statements made by the Defendant which aren't really that much in dispute then because he testified, and once he testifies. But in order to consider any statements made by the Defendant, you must determine they were voluntarily made, that no one beat him or forced him into making any

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statement.

And I submit, ladies and gentlemen, no one beat or forced Anthony Porterfield to immediately say, I didn't do it.

That applies only to police interrogation, not to the jail phone calls, which Ms. Walker will address, because those are separate considerations.

Lastly, ladies and gentlemen, this case boils down to credibility. And what is credibility? Believability. Because in this case, there are two very different stories. Because either you believe his alibi or you believe these young women.

Credibility. And some of the factors you can consider when determining the credibility of a witness who has testified, it becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth. Because there is two different stories.

In determining the believability of witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a

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witness in its entirety, or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case. You also may consider the appearance and manner of a witness while on the stand. Bias. Prejudice. Something to gain or something to lose.

And those jail calls. After he is arrested -- he thought he got away with it. After he is arrested, huh-oh, Tell TK it was the 27th. Don't ask him. Just tell him.

All the State asks is for you to use your common sense and to hold him responsible. He thought he got away with it. All we ask you to do is hold him responsible for his choices when he chose to prey upon two young women. I guess he never thought he would have the fortitude to come into a courtroom. His choices, not theirs.

Thank you.

THE COURT: Thank you. Thank you, Solicitor.

Ms. Walker?

MS. A. WALKER: May it please the Court, Your Honor?

THE COURT: Yes, ma'am.

CLOSING STATEMENT

938

MS. A. WALKER: Good afternoon, ladies and gentlemen.

I want to thank you very much for your attentiveness throughout this process. I understand this has been a very long week. And watching television and courtroom dramas seems very exciting, but as you have learned 80 percent of the courtroom isn't quite as exciting as you probably thought it might be. So I want to thank you so much for your attentiveness throughout this process.

As you heard the judge tell you, the rules of court allow me to speak to you at this time. And this is the last time that I'll be able to speak to you from the Defense.

The State can get up here and tell you that the sky is purple with pink polka dots. That still will not allow me to get up here and talk to you again, because this is the absolute last time that I will be able to talk to you and to give you our theory of the case. I just ask you to consider that.

When Mr. Bank talked to you at the beginning of this case, he was afraid, scared to death. These two girls, Rabia and S. N., young ladies now,

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were scared to death. They were robbed. And Ms. Campbell was right, I'm not disputing that. They faced their worst fear. They had guns pointed at them. They were put in a hallway, put in a fetal position, and they were praying for their lives, and just hoping to get out alive. They were terrified. And that happened.

They called 9-1-1 and they gave all the information they could. That was the first opportunity that they had to give the information of who did this to them, these violent criminals, regular customers. Gave physical descriptions and told them what happened.

But there was a key element missing. Who? Who robbed them? I'm not disputing that these young ladies were robbed. I'm disputing who.

Now, we heard from Investigator Clarke, who was the lead investigator. He told you that he was assigned the day after this occurred and that he was the lead investigator, who received a report, gathers information. But we never heard from the officer that responded to the scene. We never heard from Deputy Stone. We never heard from Investigator Bass. We never heard from the two officers that --

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MS. CAMPBELL: Objection, Your Honor. May we approach?

THE COURT: Yes, ma'am.

(WHEREUPON, a bench conference was held in the presence of the jury but out of the hearing of the jury.)

THE COURT: Thank you. Thank you, Ms. Walker. Thank you, Ms. Campbell.

MS. CAMPBELL: Thank you, Your Honor.

CLOSING CONTINUES

MS. A. WALKER: The first time that we hear the identification of who robbed them is in the 9-1-1 call. And we don't hear a name.

And, ladies and gentlemen, the 9-1-1 call is not the first call that was made. The first call that is made is actually the girls to their father, a 37-second phone call at 2:20. That phone call is first made before 9-1-1 was even called.

After that 9-1-1 call, their father tries to call them, but they don't answer. They were on the phone with 9-1-1. And you can hear that in the 9-1-1 call.

She says, Hold on, my father is calling.

And he says, Wait, wait, wait, don't put me on hold.

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And she doesn't. She listens to the instructions of the 9-1-1 operator.

And then after she gets off the phone with 9-1-1, home is able to call dad again. They speak on the phone for a minute and 41. And then even after that dad is able to call home one more time. They are able to speak for another 34 seconds. We have these phone calls in between 9-1-1 and the police arriving on the scene.

Mr. Nathani operates a business. I believe Investigator Clarke admitted that he called it somewhat atypical, a business that operates out of the home and a satellite business operates at the flea market.

He indicated that he bought parts in order to fix various electronics, things of that nature. He is able to rush home with his girls. But how does Amp's name get to the police? There is no dispute his nickname was Amp. His friends call him Amp, co-workers call him Amp. You hear it on the jail phone call, he calls himself Amp. But how does Amp's name eventually get there? We're not quite sure.

Ladies and gentlemen, I want to focus your attention actually to one of the jail calls. I

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think there is -- I think in one of the beginning of -- one of the calls Anthony says, Watch that Will Smith move, when he has to prove his innocence. It took me a minute. I think I was somewhat of a movie buff in my younger days, not so much now. But I remembered it. It is called Enemy of the State, a Will Smith movie. And I'm sure I'm oversimplifying it, because it had to do all with government conspiracy and the NSA and all kinds of planted evidence, and that is certainly not the circumstance here.

But essentially what happens is Will Smith is trying to stay one step ahead of the authorities in order to prove his innocence so he can show that he is not the one.

Anthony was arrested. He told you at one point he was trying to get some lawyers before. And then he was arrested. He made some dumb decisions. Took off running. Went under a house. We are all not in dispute that that was not the brightest idea at the time, or ever.

But that being said, he went to jail. He made some phone calls. You are going to have those phone calls. You are going to take these phone calls back with you. They are labeled. You are

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going to have them in their entirety. You are going to have a computer.

And, ladies and gentlemen, I want you to listen to these phone calls. In these phone calls he uses the one resource he has, Diana Addison, his girlfriend. He called her and he is begging for help.

Ms. Campbell said you came in here with your own common sense. Use your own common sense. You characterize these phone calls. Are these the phone calls of a man that is trying to make things up? Call these people. Make this up for me. Get all these people to lie for me. Or is this the phone call of a desperate man trying to piece together what is going on and how am I going to show my innocence?

I had a friend that -- he is in a band here in town. It reminded me of a song lyric of his: I just want one phone call. That's all I'm asking for. It is like a court of law. Behind the jailhouse door.

When you are in jail, time is not your own. In one of the phone calls you can even hear him say, I'm cuffed by my hands and my feet. And he is calling Diana, and he is calling the one person he

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can for help.

And you can hear him on there. He yells. He curses. He even cries. And both of them told you, they knew these phone calls are being recorded. And you'll hear it yourself, These phone calls are being recorded.

Now, ladies and gentlemen, you all met Anthony. He got on the stand. He is a young man. Talkative man. Not a perfect man. He gets a little animated at times, a little editorial, a little agitated. And he is a man of many words. And sometimes there are so many words they all try to escape at once.

But that was Anthony's day in court, and Anthony took this stand and he told you what happened. He told you what he knew and he told you what he did and he told you how he handled it. Is that how he would have handled it now? No. But that is how he handled it then. And he was honest about it.

Now, ladies and gentlemen, at the beginning of this case Ms. Campbell came before you, she told you in opening statement, told you about how Mr. Nathani had a business, he had customers in and out picking stuff up, dropping stuff of. He told

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you what poor Rabia and S. N. were subjected to.

I believe she told you that Amp held a gun on the girls while they were on the floor, but actually what turned out to be was the girls testified that the other guy held the gun on them while Amp supposedly ran around the room taking $10,000 worth of merchandise, all around the house.

I also believe Ms. Campbell said that they called 9-1-1 immediately as soon as they could. But that wasn't quite true either, because they called their father first.

And I believe Ms. Campbell also said that Amp had been calling Mr. Nathani all day long asking about his whereabouts. But none of that can be found on the phone record. There is one phone call at 1:04 where they talk about 50 seconds.

The State also says that they intend to prove their case. They have a burden and they intend to welcome it with evidence.

They don't have a car. You know the gold car, champagne car, a Hyundai maybe, a sedan.

Now, Nazirah had a car, but Nazirah got up here. She told you that she did pick him up earlier in that day. It wasn't at 2:00 o'clock. And she told you that Anthony never had the car.

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And that she had a gold Impala. But they never connect this car that Anthony ever had and that Anthony had possession of that day. They never found a gun of Anthony's. They never did a search warrant. No search warrant at any residence that Anthony had stayed at.

There was no DNA. No fingerprints. We heard from Investigator Schroder and we heard from John Barron they were not able to get DNA or fingerprints. There was no testimony from any party that anybody was wearing gloves, anything of that nature.

John Barron said Anthony Porterfield was 100 percent excluded from the DNA. And John Barron said that he never even tested any other known samples of the family to know who else's DNA was there. That it was a mixture. That they were able to find DNA, they just don't know whose it was.

They never found any of the stolen property. Nobody ever testified that they ever saw Anthony with any influx of cash or any influx of electronics, or anything of that nature. And he was never found with any of it.

He never said he did it. All he said was he was never involved. He never told Investigator

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Clarke or any investigator that he had anything to do with this.

They never found another person. There was another man. Another man was there. Another black man, another regular customer was at the scene, apparently, and was never caught. Never found. We know nothing else about him.

Furthermore, there is no clothing. In the 9-1-1 call you'll get a clothing description: Red hat, gray shirt, things of that nature. There has been absolutely nothing that corroborates any clothing associated with Anthony found with him at any other point, at any other time.

Later on in this case the State called Captain McDonald. And please forgive me if I use any of their wrong titles. I do my best. I believe it is Captain McDonald. And he testified about some phone records. He is very good with phone records. I've seen him testify many times before about them. He said that there were phone calls between -- they have the entire month of June of Anthony's phone calls. And we have 12 phone calls between Anthony and Mr. Nathani, 12 during the month of June.

So out of 27 days in June, there were 12 phone calls. And then all of a sudden -- all of a

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sudden, three days left in June, there are none. And that -- that is extremely suspicious. Out of the 12 phone calls in 27 days, that leaves 15 days without phone calls, but those three days without phone calls, real suspicious.

Now, Mr. Bank went over a little bit of a calendar with Investigator Clarke regarding this case.

The incident happened here on the 27th of June. Investigator Clarke is assigned on the 28th. On the 28th, Investigator Clarke has a phone number and a name of a possible suspect. A phone number and a name.

Two days later he gives Mr. Nathani a call. He doesn't go to see him. He gives Mr. Nathani a call. Hey, how about you tell me what happened?

Two days after that, he goes to the crime scene. Finally goes to the crime scene. Talks to the girls. Where he gets two lineups and one statement. One statement. And then he says he needs some time to evaluate this evidence.

So here we have an incident on the 27th. We have a name and a phone number. And then there is all this time that passes. Then we get some arrest warrants here. One, two, three, four, five, six,

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seven, eight, nine, ten, eleven, twelve, thirteen, fourteen. Fourteen days later we get arrest warrants after all this time.

And he says during this time he is investigating the lineup and the statements. Then we'll get some arrest warrants. Still, names, phone numbers. We haven't -- we haven't used that yet. No address has been attained. Nothing like that.

Richland County Sheriff's Department hasn't been able to locate Anthony Porterfield in all this time is what is being told to us.

So on the 17th, another week after the arrest warrants have been obtained, I guess we'll dial that phone number, that backup plan. Where he immediately called back. How simple was that?

And during this time you are telling me that they couldn't find an accurate address for him?

On the 18th, Clarke turns over information to the Fugitive Task Force, and they find Anthony in half a day.

Three weeks later from the day of the incident we have a name and a telephone number. That doesn't change.

And Clarke told you that there is no way he

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would have told Anthony any of this happened at 2:00 o'clock. There is no way he could have found out that that happened at 2:00 o'clock, that any of this happened at 2:00 o'clock. Anthony told you they told him it happened at 2:00 o'clock. Any number of people could have told him it happened at 2:00. Any number of people could have asked him where he was at 2:00 o'clock. It doesn't take a genius to figure that one out.

Now, ladies and gentlemen, I want to talk to you a little bit about alibi. The word "alibi" actually means excuse, believe it or not. But, honestly, if you think about it, the courtroom is an alibi for all of us right now. It is where we are. As opposed to where else we could be.

We provided four witnesses for an alibi. Four witnesses. First we had Ms. Gale come talk before you. An old fling of Mr. Porterfield's. She told you she picked him up that day. She told you where she went with him that day. She told you there were periods where she hadn't talked to him for two years, and then they would pick up where they left off. She told you that she did not let him use her car that day. She came up here and told you exactly what she remembered that day.

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And then we had Mr. Deberry, a former co-worker. And he told you what he remembered that day. He remembered hearing about TK moving some items out. And that he left during his lunch break, and then he came back to work, and then he worked the rest of the day.

You heard from Mr. Coffeil, who said the same thing. He left sometime during his lunch break, came back, worked until the end of the day.

Then you heard from Mr. Griffin, who came all the way from Tampa, Florida to tell you that he was his supervisor and that he recalls that day that he left on his lunch break, took a little longer than usual, to go move some stuff out of his house, he came back and worked to the end of the day.

We have Defense Exhibit 18, the time card that you'll be able to take back with you and go over. It was something that we got back in 2012. Eight hours that he worked that day. That he was given credit for working that day. And being at work. An individual that we're able to say that he was at work.

Now, ladies and gentlemen, there were some times that were off. This incident happened on June 27th, 2012. If you ask anybody if I remember

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what happened or anybody what happened December 16th, 2013. Unless some specific event happened, I might not remember, but if I can have a chance to think about it. These individuals were all interviewed about four weeks after it happened. And they were giving their memories to the best of their knowledge. And their times were off, 30 minutes to an hour. But not by much. And there may be -- they all say that someone picked him up and dropped him off. Anthony remembered that TK picked him up. Most people remember that Nazirah picked him up. Does that mean anybody is lying to you? No. It is what they remember.

And you heard from our own expert that memories aren't perfect. But they gave their statements. And they gave those statements in 2012. And those statements, they were able to read over them and refresh their memory at that time as to what they remembered. And they remember Anthony Porterfield being at work at 2:00 o'clock that day.

And you heard from our identification expert. She told you a little bit about memory, how it works. And not all of it is common sense. But I think that once you hear some of those things, that it does make sense.

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She told you that the first identification is the most reliable. The first identification that we have recorded is the 9-1-1 call. That is the first identification that we have.

And, ladies and gentlemen, I want you to listen to these. I want you to listen to these jail calls. I want you to listen to the 9-1-1 call. I want you to go over all of this evidence when you take it back to the jury room with you.

Ladies and gentlemen, there is nothing to talk about reasonable doubt. I think Ms. Campbell alluded to this a little bit. The State says that they welcome their burden. They have to prove guilt beyond a reasonable doubt. Is that proof beyond every doubt? No. The judge is going to say that to you.

But the only thing that is going to mean guilty, guilty beyond a reasonable doubt. If you think he is likely guilty, probably guilty, could be guilty, not sure if he is guilty, Anthony Porterfield is not guilty. Where in any of this realm Anthony Porterfield remains before you an innocent man, as he has been the entire trial.

Ladies and gentlemen, I think at some point during this trial the State mentioned a laptop bag,

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that Mr. Porterfield had brought a black laptop bag with him that had his notes. And if anybody bought a laptop over the years, you have got a black laptop bag that you have received from any number of laptops that have been received from work or any personal items that you order from computers over the years. Black laptop bags. And this is just what I've been able to obtain this morning.

THE COURT: Those aren't in evidence. You can't present anything to the jury that is not in evidence. They would have to disregard that.

MS. A. WALKER: Certainly, Your Honor.

THE COURT: Remove those, please, Mr. Tate.

MS. A. WALKER: Certainly, Your Honor.

(Complies.)

MS. A. WALKER: Your Honor -- or, ladies and gentlemen, as Ms. Campbell told you, this is an important case for the State, this is an important case for the Nathanis, this is an important case for Mr. Porterfield.

I think when I went to college I always used pencils. I used pencils because I always liked being able to erase. I never liked being able -- having mistakes on a page and having to scratch them out.

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Today, ladies and gentlemen, you are going to go back into that room and discuss all the evidence and discuss all the evidence that has been presented to you. And you are going to render a verdict. Ladies and gentlemen, you are going to make a mark on that paper. And on that paper there is one mark that will not be erased.

Ladies and gentlemen, we're asking you to return a verdict of not guilty for Anthony Porterfield.

Thank you so much for your attention.

THE COURT: Thank you very much, Ms. Walker.

All right. Solicitor?

MS. M. WALKER: Thank you, Your Honor. May it please the Court?

THE COURT: Yes, ma'am.

CLOSING STATEMENT

MS. M. WALKER: I am the second to last person y'all are going to have to listen to. I appreciate your attention. I am going to try to be as brief as I can, but showing this courtroom and these victims the respect that they deserve, because this too is their day in court.

Like Ms. Campbell, like Ms. Walker, I want to thank y'all for your attention.

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Ms. Campbell talked to you about anticipating what type of trial you were going to be on. And there was no way that the 13 of you, when you were driving to the courthouse Monday, knew that you were going to have to sit here and listen to these teenage girls relive the most horrific day of their lives. But because of the actions of that man, that is exactly what you had to do. And I thank you for your time and attention to that.

But while you were anticipating what type of trial you were going to be listening to, we were anticipating what type of defense Mr. Porterfield and his three attorneys would offer you. Because it is not good for the Defendant when the witnesses who he thought that no one would care about, that no one would believe, maybe that no one would even understand, are willing to come into a courtroom, take this witness stand, and point him out as the man who walked into their home, took a gun out, and pointed it in their face.

What type of defense is there for that when they know you by name and sight?

So then it is the spaghetti defense, where you throw everything against the wall and see what sticks.

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They are from Pakistan. They won't be able to identify a black man. Can't believe them.

Mr. Nathani had a business out of his house. It seemed shady. You can't believe him. Except sometimes it was shady, sometimes it wasn't shady, depending upon how Anthony wanted to answer the question at that point. And I'll get back to that.

And when that is not going well, get on the stand and talk about how poorly you have been treated because you are a 28-year-old black man and how the only people who are nice to you are black women, and play on the sympathies of the jurors.

Talk about how you had a dog unleashed on you while you were under a house, as though he is marching the streets of Selma when this happened.

It is almost laughable if it wasn't so offensive the comparisons that Anthony Porterfield got on that stand and made. He wasn't standing up for anybody's rights when he was being mistreated, he was a criminal hiding under a house after he held a gun in the face of teenage girls. It is offensive the comparisons and the sympathies and the strategies that he used in this case.

Before I talk about the defense in this case, his multiple alibi witnesses who say multiple

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things, I want to talk to you about the relevant, credible evidence in this case.

I think this is their reasonable doubt chart, I guess, of all of the things that were not proven over the course of this case.

There is no car. That couldn't be further from the truth. Y'all sat here as person after person after person -- his friends linked him to the gold in color or champagne in color car. On that day. Yes, he had access to it. So that is incorrect.

There was no gun. The testimony was that that is not uncommon. Criminals don't usually keep the weapon on them to make it more convenient for the cops to make an arrest.

There was no search warrant. Where were they supposed to search? He took the stand and couldn't give you his address. He said he would have to take you and show you where it was.

Investigator Clarke said that he went to the house where he was arrested and was not able to search there.

That we don't have the Co-Defendant. That search is ongoing.

The statement that Mr. Bank made at the

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beginning of this trial was that, No one in this courtroom knows who the Co-Defendant is. I submit that there is one person who knows. He is sitting over there beside Mr. Bank. He knows who the Co-Defendant is. He is not saying. That is not helpful.

There is no clothing. They are right. The clothing that Mr. Porterfield had on that day was never discovered. But I don't think that in any case or any case that has ever come in this courtroom that you have to have the clothing of someone to make them guilty of the crime.

The clothing isn't going to change what he looked like. He is wearing a different outfit right now than he was this morning. That doesn't make him any less Anthony Porterfield sitting over there. Everybody in the courtroom can identity him despite the fact that he changed his outfit.

That there is no admission. If criminal cases are going to start requiring that Defendants admit their guilt in order for them to be convicted, we might as well shut down the courthouses and fire all the law enforcement officers. That is why we have trials, because the person is not admitting their guilt.

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The stolen property was never recovered. Yes. We didn't recover the electronics from the Defendant who works at the company that breaks down electronic equipment for resale. They are right about that.

DNA. Fingerprints. This one is interesting, though, because in most cases where we do present DNA and fingerprints, the defense that they use then is, Well, that person is there all the time, of course their DNA and fingerprints are going to be there. But in this case, where he admits to being at the house all the time, the fact that we don't have his DNA and fingerprints means that he was never there? Does that make sense? Does that sound credible? Does that ring true to anybody in this courtroom?

They are right. There are no DNA and fingerprints in this case. Because everything that this Defendant and his Co-Defendant touched they took with them, and I submit to you broke down and resold.

We'll talk about the witnesses because, as Ms. Campbell said, it is going to come down to credibility. You are either going to believe the witnesses in this case, or you are not.

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Rabia Nathani. Graduated from Columbia High School. That summer she was actually going into her senior year. She was with her little sister. They went to Chick-fil-A. They got milkshakes. They came back home. And when they came back home, there was a man on the porch that they recognized.

And you know what was so interesting about that to me? Is that the person who was on the porch wasn't at the front door, they were at the side door.

Remember the girls testified that you couldn't get into the house through the front door, you had to go to the side door. So whoever the person was knew that. Someone who had been in the house before, knew the layout, knew that trying to kick in the front door really wasn't going to work.

That person, Anthony Porterfield, who then walked up to and talked to in broad daylight -- they trusted him at that point enough to know, This is Amp, he does business with our father -- he tells them to go inside, that they -- that he needed to talk to their father.

And when they go inside, he forces the door open, puts the children -- the teenagers, excuse me -- on the ground where they are praying for

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their lives.

They had the opportunity to talk to him. This isn't a situation where someone kicked in the door and immediately put them on the ground. They spoke to them outside in the middle of the summer in broad daylight. They knew who they were talking to. And to suggest that they didn't is absurd. I mean, it borders on ridiculous.

Then they want to criticize them because the first call they make after these intruders, who had them on the ground praying for their lives and hope they live, isn't to 9-1-1, it is to their father. I'm 30 years old, and that is still going to be my first call. So, yes, teenage girls who are held at gunpoint, the first thing they did was call their dad. And he told them to call 9-1-1. And they did. And you have the phone call.

That phone call to 9-1-1 is going to tell you it came in at 2:21 p.m. And Rabia took the stand and she said, I called them, I was excited, I said they were regular business customers, but I couldn't see the other guy. I meant he was a regular business customer. We knew him. It was Amp.

Why would she make it up? What motive does

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she have to frame that guy? There is no reason for that. No one suggested any animosity between this family and this Defendant.

You heard from Mr. Nathani. And he told you about the phone call that he had to his daughters, that they told him that Amp robbed them, and that he said call 9-1-1.

And he talked to Amp earlier that day. That he called Amp again that night, or that afternoon, once he figured out what had happened. The number went to voicemail. That he never heard from him again.

Remember when Captain McDonald testified? He said that this -- that 445-8598 is the originating number and that terminating number is that (980)253-9037, which means it went to voicemail?

He didn't return that voicemail, despite the fact that they have been doing business together for months. He didn't return that voicemail.

According to his own testimony -- you don't have to believe the three pages or the three days of phone calls, as Ms. Walker suggested, that don't show a phone number -- a phone call between the two of them -- he admits he never called the man again that day, despite being out for three weeks and not

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knowing anything about this.

Yes, that is suspicious. He can't very well call the man and try to do business with him after putting his little girls on the ground at gunpoint.

You heard from investigators in this case. Shawn Schroder. He is a CSI investigator who went out and took swabs and took the pictures that you guys are going to have back there. And Investigator Barron. He was the DNA expert. His report was actually entered into evidence. And he said that there was no blood there where you could get DNA, that there was no semen at the scene where you could get DNA, that it is touch DNA. And sometimes when you touch stuff you leave DNA, and sometimes when you touch stuff you don't leave DNA.

You know what was so interesting about that if you listen to the jail phone calls? Anthony Porterfield said on one of those phone calls, They don't even have DNA in this case. And that was in July of 2012. And the report in this case showing there was no DNA wasn't done until July of 2014. How did he know there was no DNA? Because he knew he didn't bleed, he knew he didn't spit on anybody or anything in there, he knew he didn't leave any semen on the scene. He knew what he did while he

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was there. That is how he knew there was no DNA. And he knew that the things he touched he took with him.

And I guess they are going to say that Joe Clarke somehow knew two years before the report was done that there was no DNA and send him that information too.

You heard from Andrew Caldwell. He is the -- he was on the Fugitive Task Force, tracked down wanted individuals in Richland County. And I guess he, according to Mr. Porterfield, is the first person who physically abused him at this point. After he jumps out of a window and hides under a house.

That they went in there. They sent the dog in. The dog alerted. Mr. Porterfield started coming out after he was bitten. We're not hiding that he was bitten. He was bitten. That's what happens when you run from the cops under a house and they have to unleash the K-9, the K-9 bites you.

But he testified too that he never told him anything about the time of the incident. And that he was with Joe Clarke and Joe Clarke never told him anything about the time of the incident.

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Judge their credibility. Because either the two of them have gotten together and lied and conspired and agreed to commit perjury on the stand and put their careers on the line, or Anthony Porterfield knows what time the incident happened because he was there. One of those two things is true.

You heard from Dana Outen in our office. She was the one who told you about when the discovery was actually given in this case: The warrant, the incident report, statements, photo lineups, things of that nature. And that wasn't until September 12th, 2012, some two months after this Defendant knew that there was no DNA and that he knew the time of the incident.

And then the case got really interesting. Because we rested, and they started putting up their alibi witnesses. And alibi is a term I'm using very loosely. Because the alibi witnesses are supposed to say where you were when the crime happened. And it would be helpful if the alibi witnesses all said that you were with the same person at the same time.

But in this case there are at least two different alibis. He was either with TK -- who

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still hasn't made it -- or he was with NaNa Gale. Because he contradicts his own alibi witness. She says, as do all of the other alibi witnesses, that she went and picked him up in her champagne-colored sedan on that day.

But you know why he has to get on the stand and say that it wasn't her, it was TK, because he listened to the jail phone calls too. He realizes that he said to tell TK it was him and that it was that date. So he had to change that story because he can't deviate that far from the script.

And then they brought you all the way from Tampa, Florida the witness for this time sheet, this machine-clocked time sheet, who testified they didn't even have the machine until September. And they want you to believe that this happened in June? Is that credible?

And even this time sheet is all over the place. Because he gives him credit for eight and a half hours of work that day when everybody agrees that on that day he was gone for at least an hour. On that machine-clocked time card that they did not get until September or October. That was not an answer Mr. Bank was anticipating when he asked him how that time clock was managed.

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I submit, ladies and gentlemen, that if you can't -- you can't even trust this card because the machine didn't exist at the time that made it. Credibility. Believability. Reliability. Corroboration. That is lacking from every aspect of their case.

There was Bongo. He was the barber. He said he came here to look out for a co-worker. That Little Mama picked up the Defendant, but she never went inside, despite her saying she went inside to fill out some sort of job application that we still haven't seen either, because that would be a good reference of date and time; right? But he doesn't really remember that day, but he thinks he left at 1:00 o'clock.

We had Hakeem Coffeil. And these are alibi witnesses who don't know what happened on this particular day that the crime happened. No idea what day it was, but there was one day where a female came and picked him up in a champagne-colored Impala. He got back between 12:00 and 1:00.

You heard from Aaron Griffin who came in and presented the time sheet that they didn't have at the time.

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They had the expert witness that came in. And I agree with 95 percent of what she said. If I would have known she existed, I would have put her up. The more you see somebody, the easier it is to recognize them. It goes into your long-term memory. That cross-racial identification can be problematic, but it is cured the more people are around people of a different race.

They went to Columbia High in Irmo. I submit to you that they are around black people. And the longer you see someone, the brighter it is, the better your view is, the more likely it is that your memory is correct.

And I agree with all of that. They talked to them outside in the middle of the day in the summer. They saw them. They knew them.

It is no different than if you work in a restaurant or you work at a store and you have regular customers who come in. You know their face. This time they knew his face and his name.

And finally we had the testimony of Mr. Porterfield. Before I mention that, his fiancée, his current fiancée, Ms. Addison -- seems like a very nice lady -- wasn't with him that day, don't know what he did. She was at home sick. So

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I guess she wasn't an alibi witness. I think -- I don't know what her testimony -- what that purpose was. She wasn't with him that day.

Well, then you had the Defendant's testimony. And it was all over the place. Because he contradicted his own alibi witnesses. He said he got back to work no later than 1:00 o'clock. Remember? But he also said that while he was still at home with TK, that is when he called NaNa and told her to come get him. That call didn't happen until 1:38. That is inconsistent. It refutes his own testimony.

Then Ms. Campbell on cross-examination -- and his demeanor changed. And that is something you can judge about somebody's credibility. Was their demeanor the same on direct as it was on cross-examination? And his demeanor was quite different with Ms. Campbell, but that is not uncommon of criminals in Richland County. They are not big Luck Campbell fans. His demeanor changed. He became very defensive, almost aggressive in tone.

He said that everything that he was doing with Nate was above the board. He knew music executives from studios all throughout the State of South

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Carolina. And that when they don't want something anymore, he would get it and take it and give it to Nate to fix.

But this above the board operation, this above the board business that he has been engaged in is the same business that caused him to run from the police and hide under a house to the point where he gets attacked by a dog? That above the board trading of computers? Does that make sense? Or was he running because he knew he had finally gotten caught? That the girls recognized him, that they had the courage to tell the police it was him.

They said that there was no hesitation in their identification of the Defendant. I think Mr. Bank questioned Investigator Clarke about the word "tentative" that was written on his report. And that was before he showed them the photo lineup. At that point he didn't have accurate ID. He had a tentative ID because no one had picked this man out of a photo lineup. That is what he meant by that. And once he circled them, great. He can go get the warrants.

He said that he was in the jail. He was indigent. He didn't have any money. He had taken out a loan. Moved into his apartment. North

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American Title Loans had been calling him that day of the robbery. And that he talked to the only person he knew that would help him.

That thing he did with the Arab is catching up to him. And then he says -- and this is a quote that he used, and I don't want to offend anyone on the jury, but I am just quoting this Defendant's words.

I'm looking at the work and shit. And they say -- on top of the fact that they say burglary, kidnapping, and armed fucking robbery, this ain't none of my fucking style. No, they say 2:00 o'clock?

This isn't his style. But he did it. And he knew the time when no one, no credible evidence had been submitted that anyone had ever told him the time of the crime. And that is a common law enforcement technique. Withhold certain evidence. You see it on Law & Order all the time. So that the person who commits the crime can reveal themself through statements and knowledge of the crime.

And, lastly, this part of the jail phone call:

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TK came to pick me up. We went to the house. He had my stuff piled up, and stuff like that. Now what I want you to do -- and also get TK number, you know what I mean? Because they going to have to contact TK. Now, what I want you to do is contact TK and tell TK do he remember, know what I'm saying, tell him do he remember that day when he came up to the job to come and get some of his clothes. He called and asked me for the key so he can, you know, know what I'm saying, so he can go to my house. So he can go to my house. Tell him the situation, what is going on, right? Tell him the situation, what is going on. And tell him that day was on the 27th. Tell him that day was on the 27th, okay? Don't ask him, tell him that day was on the 27th. You feel me? Tell him that day was on the 27th. Tell him the investigator is going to be contacting him, know what I'm saying? Tell him on them, you know what I'm saying? Tell him this is his boy right

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here, and he already knows what time it is. Know what I mean? Know what I'm saying? And we need him. I need him to, you know, whatever, and go ahead and talk to this investigator. Tell him the investigator is going to be coming down there. Tell him if he possibly can -- as a matter of fact, not more than possibly can, tell him this came out of Amp's mouth. Amp said do this for him. Do this for him. Do this for them. Don't say -- make sure you write that word, Amp said do this for them, T-H-E-M, and he will know what I'm talking about. Capitalize T-H-E-M. Tell him Amp said do this for them. You feel me? And tell him just like that. Tell him just like that. Tell him Amp said do this for them. And tell him that day was on the 27th. That day was on the 27th when he came to my house. And that was the day we had called Arab, money, or whatever like that. You know what I mean? I ended up going to the doggone -- I ended up going back to

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work.

I guess TK didn't fall in line with that.

Ladies and gentlemen, this is going to come down to common sense and credibility. Who do you believe?

You can believe him and any version of events that he has chosen to put out there, because they are all over the place. None of his witnesses can actually tell you what date any of this happened. They presented a time sheet of a machine that they didn't even have until two months later at least -- I'm sorry, three months later at least. Or you believe the Nathani girls and what they saw on that hot summer day when they were held at gunpoint.

I ask you, and I beg you, to decide this case on credibility.

Thank you for your time and attention.

THE COURT: Thank you. Thank you very much, Solicitor.

Mr. Foreman, and ladies and gentlemen of the jury, my charge may take about 30, 35 minutes. If anybody wants a break, please indicate that to me now, or we are going to press on.

All right. You need a break? All right. Thank you. Thank you very much. We will take

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about a ten-minute recess. Do not discuss the case during this brief recess.

(WHEREUPON, the jury retires to the jury room at 2:51 p.m.)

THE COURT: All right, we will take about ten minutes.

(WHEREUPON, a break was taken at 2:51 p.m.)

(WHEREUPON, the jury came into open court at 3:01 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you. Thank you very much, Mr. Bailiff.

JURY CHARGE

THE COURT: Mr. Foreman, and ladies and gentlemen of the jury, I am now going to begin instructing you on the law that you are to apply to the facts of the case as you find them to be.

The way I charge or instruct a jury is I charge the general criminal law that applies to all criminal cases in South Carolina. Thereafter, I will instruct you on the law that applies to the offenses of the specific indictments: Burglary in the first degree, armed robbery, and kidnapping. Thereafter, I will charge you on the form of the

verdict.

I will generally give you the topic of the area of the law I'm fixing to cover, and when I change from one topic to another topic I will follow up with that next section.

If you would please give me your complete and undivided attention.

Charge, arrest, indictments are not evidence. The indictments charge the Defendant with burglary in the first degree, armed robbery, and two counts of kidnapping. I remind you the fact that this Defendant was arrested, charged, and indicted in this case is not evidence and cannot be considered by you as evidence of guilt in the case, nor does it create any presumption or inference of guilt.

These documents, the indictments, are simply the formal written instruments which contain the charges made and brought against the Defendant. They are the formal document by which this case is brought into court.

Multiple charges. The indictments in the case allege several different offenses against the Defendant. The charges, are as to Indictment Number One, burglary in the first degree. As to Indictment Number Two, armed robbery. As to

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Indictment Number Three, kidnapping of S. N.

And as to Indictment Number Four, kidnapping of Rabia Nathani.

Each indictment charges a separate and distinct offense. You must decide each indictment separately on the evidence and the law that applies to it uninfluenced by your decision as to any other indictment.

The Defendant may be convicted or acquitted on any or all of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment.

Duty of jury and trial judge. I remind you that during this trial you and I have certain distinct duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case, and I also have the duty to rule on the admissibility of evidence offered during the trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during the trial, you must disregard that testimony. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made part of the record.

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I have the additional duty to instruct you on the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case, and it is your duty as jurors to accept the law and to apply the law as I now state it to you.

If you already have any idea as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon it. You must set aside your idea because you are sworn, you have taken an oath, to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and exclusive judge of the facts in a case. A trial judge cannot intimate, state, comment on, or make any statement to a trial jury about the facts in a case.

Since you, the jury, are the sole judges of the facts in this case, you are not to infer from what I have said during the process of this trial in ruling upon the admissibility of evidence, or otherwise, or anything that I say now during the course of this instruction to you, that I have any opinion about the facts in this case.

The law does not allow me to have an opinion

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about the facts in this case. That is a matter solely for you, the jury, to determine. As jurors, it is your duty to determine the effect, the value, the weight, and the truth of the evidence that has been presented in this trial.

Presumption of innocence. The Defendant has pled not guilty to the indictments and that plea puts the burden on the State to prove the Defendant guilty.

A person charged with committing a criminal offense in South Carolina is never required to prove himself innocent. I charge you that it is an important rule of the law that the Defendant in a criminal case, no matter what the seriousness of the charges may be, will always be presumed to be innocent of the crimes for which the indictments were issued unless guilt has been proven by evidence satisfying you of that guilt beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the Defendant throughout the trial until you reach a verdict of guilt based on the evidence satisfying you of that guilt beyond a reasonable doubt.

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The presumption of innocence has been said to be like a robe of righteousness placed about the shoulders of a Defendant which remains with the Defendant until it has been stripped from the Defendant by evidence satisfying you of the Defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every Defendant is entitled unless you, the jury, are satisfied from the evidence of the Defendant's guilt beyond a reasonable doubt.

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. The State has the burden of proving the Defendant guilty beyond a reasonable doubt. Some of you in the past may have served as jurors in civil cases where you were told that it is only necessary to prove that a fact is more likely true than not true, such as by the greater weight or the preponderance of the evidence. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that

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leaves you firmly convinced of the Defendant's guilt. There are very few things we know in this world with absolute certainty. And in criminal cases, the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence, you are firmly convinced that the Defendant is guilty of the crimes charged, you must find the Defendant guilty.

If, on the other hand, you think there is a real possibility that the Defendant is not guilty, you must give the Defendant the benefit of that doubt and find him not guilty.

There are two types of evidence which are generally presented during the 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. The law, our law, makes absolutely no distinction between the weight or the value to be given to either direct evidence or circumstantial evidence. However, to the extent the State relies

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on circumstantial evidence, all of 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 proof has failed.

The State has the burden of proving the Defendant guilty beyond a reasonable doubt. The burden rests on the State regardless of whether the State relies on direct evidence, circumstantial evidence, or some combination of the two.

Credibility of witnesses. Necessarily, you, the jury, must determine the credibility of the witnesses who have testified in this case. As you all know, credibility simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of the witnesses who have testified in this case, you may believe one witness over several witnesses, or several witnesses over one. You may believe a part of the testimony of a witness, and reject the remaining part of the testimony of that same witness. You may believe the testimony of a

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witness in its entirety, or reject the testimony of a witness in its entirety. You may consider whether any witness has exhibited to you any interest, any bias, any prejudice, or other motive in this case. You may also consider the demeanor, the appearance, the manner of a witness while on the witness stand. Remember, you are the sole judges of the facts in this case and of the believability of any and all of the witnesses.

Prior inconsistent statements. There has been evidence presented that witnesses have made prior statements which are not consistent with the witness's present testimony. You may use this evidence to decide whether to believe a witness. You may also use evidence of the earlier contradictory statement to determine the truth of those statements. It is up to you to decide whether to believe the earlier statements or the testimony given at trial.

If a witness is shown to have knowingly testified untruthfully concerning any material matter, you may consider this in determining whether to trust the witness's testimony as to other matters. You may reject all testimony of that witness, or give all or part of the testimony

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the weight you think it deserves. Remember, credibility of the witnesses is entirely within the province of the jury as the fact finders.

Prior record of the Defendant is limited for impeachment. You have heard evidence that the Defendant was convicted of a crime other than the one for which the Defendant is now on trial. This evidence may be considered by you if you conclude it is true only in deciding whether the Defendant's testimony is believable, and for no other purpose whatsoever. You must not consider the Defendant's prior record as any evidence of the Defendant's guilt on the charge or charges we are trying today, but only as to the issue of credibility.

Again, please remember, that is solely within the province of the jury to determine the credibility and believability of the witnesses who have testified in this case.

Statement of the Defendant. A statement alleged to have been made by the Defendant has been admitted into evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the Defendant made the statement.

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If a Defendant did make the statement, you must determine whether the statement was made by the Defendant voluntarily and of his own free will. This means that the statement was not caused by pressure, force, fear, threat, coercion, or intimidation, or by hope or a promise of leniency or a reward of any kind.

In determining whether the statement was voluntary, you should consider both the characteristics of the Defendant and the details of the questioning.

Some of the factors that you must consider are: The age of the Defendant; the Defendant's education, or lack thereof; the Defendant's mental ability and capacity; the Defendant's IQ or intelligence; the Defendant's background and environment; the place and length of detention; and the nature of the questioning; and the advice, or the lack thereof, to the Defendant of his constitutional rights, including, but not limited to: The right to remain silent; that any statement could be used against him in a court of law; the right to have a lawyer present; that if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost; and that he could

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stop making a statement at any time.

You must carefully consider all of the surrounding circumstances before you give any weight to any alleged statement.

The State has the burden of proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine it was, you may give the statement any other consideration that you deem proper. You must decide what weight, if any, should be given to any alleged statement.

If you determine the alleged statement was not the free and voluntarily statement of the Defendant, you should not consider the statement at all.

Expert witnesses. And you have heard this charge during the course of the trial. The Rules of Evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses that we call expert witnesses.

A witness who, by education or experience, has become expert in some art, science, profession, or calling may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the reasons for

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holding such opinion.

You should consider any expert opinion received in evidence in this case and, like any other evidence, give it the weight you think it deserves.

If you decide that the opinion of an expert witness is not based on sufficient education and experience, or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you may disregard the opinion entirely.

An expert witness's testimony is to be given no greater weight than that of any other witness simply because the witness is an expert. You are not required to accept an expert's opinion even though it is uncontradicted.

Identification. An issue in this case is the identification of the Defendant as the person who committed the crime or crimes charged. The State has the burden of proving identification 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

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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 as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This will be affected by things like: How long or short a time was available; how far or close the witness was; the lighting conditions; and whether the witness had the opportunity or chance to see or know the person or offender in the past.

Once again, I instruct you the burden of proof on the State extends to each element of the crime charged, and this specifically includes the burden of proof beyond a reasonable doubt the identity of the Defendant as the person who committed the crime or crimes.

If, after examining the testimony, you have a reasonable doubt as to the accuracy of the identification, you must find the Defendant not guilty.

Hand of one, hand of all. Ladies and gentlemen, if the crime is committed by two or more people who are acting together in committing a

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crime, the act of one is the act of all.

A person who joins with another to commit an unlawful act is criminally responsible for everything done by the other person which happens as a probable or natural consequence of the act done in carrying out the common plan or purpose.

For example, two people can be guilty of killing another person when only one of the two had a gun and there was only one bullet and only one of the two fired the shot that caused the death.

If two or more people are together, acting together, assisting each other in the commission of an offense, the act of one is the act of all or, as it is sometimes said, the hand of one is the hand of all.

Prior knowledge that a crime is going to be committed without more is not sufficient to make a person guilty of that crime. Mere knowledge that another person is going to commit a crime, even if the Defendant is present when the crime is committed, is not sufficient to convict a Defendant as a principal.

Guilt as a principal is shown by actual or constructive presence at the scene as a result of prior arrangement. Therefore, a finding of a prior